

## A Summary of Cases

October 16, 2019

2017/0833 On June 8, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a neighboring farmer allegedly drifted onto her trees and livestock.

**Disposition:** Curt J. 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. 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.

2018/0142 On April 25, 2016, Dave Scott, OISC Pesticide Administrator and Bob Brewer, Pesticide Investigator, conducted a marketplace inspection at Rural King on St. Joseph Avenue in Evansville, Indiana. They made contact with store manager, Mr. Brad Cooper. They identified themselves to Mr. Cooper and began their inspection.

**Disposition:**

A. On December 21, 2017, this information was forwarded to the Pesticide Registration Section for a label review.

B. On January 23, 2018, the label review was completed and revealed the following:

- a. The product was missing the registrant's address and contact information
- b. The product claimed to be "natural" but contained sodium laurel sulfate, an ingredient not found in nature
- c. "Help control flying insects" and other claims are too generic and could possibly refer to organisms that pose a threat to human health

C. RediFlame aka Woodshed Renewables was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was their second violation of similar nature. See case number 2016/0744.

D. RediFlame aka Woodshed Renewables was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that contained false or misleading statements. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was also given to the fact this was their second violation of similar nature. Case number 2016/0744.

E. As of May 6, 2019, RediFlame aka Woodshed Renewables 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.

F. The second letter sent on May 6, 2019, was returned to our agency as "unclaimed" on June 4, 2019.

G. On June 4, 2019, the reminder letter was sent again, both regular and certified mail, with a "Respond By/Pay By Date" of July 8, 2019. After that date, the case will be closed and forwarded to collections.

H. On June 14, 2019, our agency received a fax with information that the Skeeterlog Trademark had been purchased by Tree of the Field LLC. The address in Berea, Kentucky is for Tree of the Field LLC and not RediFlame aka Woodshed Renewables.

I. As of October 14, 2019, RediFlame aka Woodshed Renewables had not paid the \$1,000.00 civil penalty assessed. The case was forwarded to collections.

2018/0239      On June 18, 2017, Melissa Rosch, Investigator with Office of Indiana State Chemist, wrote an Action Order against No Natz, Inc., for No Natz while performing a marketplace inspection at Ace Hardware. This was connected with case number 2017/0910.

**Disposition:**

A. On July 12, 2019, a label review was requested from the Pesticide Product Registration Specialist.

B. On August 13, 2019, Big R Stores was warned for four (4) counts (2 products for 2017 & 2018) of violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale pesticide products that were not registered for sale in Indiana.

C. NoNatz was cited for four (4) counts (2 products for 2017 & 2018) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were 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. NoNatz was cited for four (4) counts (2 products for 2017 & 2018) of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that were misbranded. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.

E. The total amount of civil penalty issued in this investigation is \$2,000.00.

F. On September 3, 2019, an Informal Conference was held by phone. Representing NoNatz were Kay and David Damino. Present for OISC were Sarah Caffrey, Joni Herman and George Saxton.

G. At the conclusion of the Informal Conference, it was decided by OISC that the original penalty would stand with the exception of a reduction of \$250.00 from the penalty in paragraph "C" above since NoNatz had already been cited and fined for the NoNatz product in 2017 for the investigation in case number 2017/0910. The final civil penalty would be \$1,750.00.

2018/0363      On April 26, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report while surveying in a field, a neighboring farmer sprayed her during his agricultural application. She stated she is pregnant and had to go to the hospital. No clothing is available for analysis.

**Disposition:**

A. Benjamin Stoller, Philip Huber and Huber Seeds 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 there was potential for human harm.

B. At the request of Huber Seeds, an informal conference was held at Huber Seeds on June 24, 2019. Present were Brian and Philip Huber of Huber Seeds and Melissa Rosch and George Saxton from OISC.

C. Brian Huber indicated that he mainly objected to the “tone” of the report. He stated that they did not refuse to cooperate with Mr. Wilson. It was just that Mr. Stoller was taken aback when initially confronted by Mr. Wilson.

D. Brian and Philip Huber also stated that they disagreed with the statement in paragraph #2 regarding Mr. Stoller being about 50’ from Mrs. Wilson. They indicated that the distance was more likely 150’.

E. Philip Huber stated that they were not saying that they didn’t do anything wrong, they just thought the tone of the report was harsh. Philip Huber also indicated that it would have been better if Mr. Stoller stopped and talked with Mrs. Wilson.

2018/0688      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 west of his field.

**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.

As of May 6, 2019, Co-Alliance 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. On July 15, 2019, I spoke to Dustin Coombs and he was going to handle getting the civil penalty payment into OISC.

As of August 19, 2019, the civil penalty had not been received. The case was forwarded to collections. In addition, the licenses issued to Bruce Horner, Ty Breedlove, and Co-Alliance were suspended. The licenses can be reinstated upon receipt of all civil penalties due.

2018/0747      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 from the bean field to the east of his residence.

**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 both the off-target drift restrictions and the drift management restrictions on the label for the herbicide Xtendimax.

As of May 6, 2019, Co-Alliance 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.

On July 15, 2019, I spoke to Dustin Coombs and he was going to handle getting the civil penalty payment into OISC.

As of August 19, 2019, the civil penalty had not been received. The case was forwarded to collections. In addition, the licenses issued to Bruce Horner, Ty Breedlove, and Co-Alliance were suspended. The licenses can be reinstated upon receipt of all civil penalties due.

2018/0789

On July 13, 2018, the Office of Indiana State Chemist (OISC) received a written complaint by US mail regarding dicamba drift to soybeans and trees. Kathy Smith, the complainant, wrote the soybean field south of her property was sprayed with dicamba when the wind was blowing directly toward their property. Ms. Smith further wrote that her small Liberty soybean field and trees on her property definitely show signs of dicamba injury.

**Disposition:**

A. Kirk Rutherford, Jesse Kelich and Hartley Grain 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 \$1,000.00 was assessed to Hartley Grain for this violation. In addition, the category 1 pesticide applicator certification of Kirk Rutherford and the technician registration of Jesse Kelich were suspended for a period of six (6) months beginning July 1, 2019, and continuing through August and September 2019 and beginning again April 1, 2020, and continuing through May and June of 2020. Consideration was given to the fact this was their fourth violation of similar nature, using a restricted use pesticide. See case numbers 2018/0731, 2018/0947 and 2018/1014. *(This six-month suspension period is based on a projected estimate that the effective date of this enforcement action notice will occur on or about July 1, 2019.)*

B. On June 27, 2019, OISC received a letter from Bruce Hartley of Hartley Grain requesting a formal hearing. David E. Scott, Secretary to the Indiana Pesticide Review Board (IPRB) was notified.



C. On June 28, 2019, OISC received an email with a letter attached dated June 25, 2019 with Mr. Bruce Hartley's rebuttal.

D. On July 5, 2019, an email was sent to Bruce Hartley indicating that the license suspensions would be lifted but the \$1,000.00 civil penalty would still be assessed.

E. On July 9, 2019, the civil penalty payment was received by OISC and the licenses were reinstated.

2018/0796 On July 16, 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.

David Harper 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.

2018/0798 On July 16, 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:** Gregory Rice 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 first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

2018/0835 On July 18, 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:** Bryan Brost 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 second violation of similar nature (see case number 2018/0723) and a restricted use pesticide was involved.

2018/0836 On July 18, 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:** Travis Stephen and Jeff Haurt 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 as well as for failure to follow label directions on the Fusilade II label for applying to agricultural fields when the label indicated the pesticide product is for other sites. A civil penalty in the amount of \$100.00 was assessed for this

violation. Consideration was given to the fact that a restricted use pesticide was involved and this was their second violation of similar nature. See case number 2017/1234.

2018/0849 On July 18, 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:** Travis Stephen and Jeff Haurt 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 as well as for failure to follow label directions on the Fusilade II label for applying to agricultural fields when the label indicated the pesticide product is for other sites. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact that a restricted use pesticide was involved and this was their second violation of similar nature. See case number 2017/1234.

2018/0871 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 her beans.

**Disposition:** Greg Meyer 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.

PS19-0049 On November 15, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report the apartment complex maintenance man made an application of a pesticide in his apartment and now his skin is burning. Complainant also stated there was white powder everywhere.

**Disposition:** Max Valladares was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application rates and application site. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

PS19-0073 On December 19, 2016, the Office of Indiana State Chemist (OISC) received a pesticide product application for BushDoctor Force of Nature Insect Repellent and BushDoctor Force of Nature Miticide.

**Disposition:**

A. Gold Leaf Hydroponics LLC was warned for four (4) counts (2 products for 2018 & 2019) of violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale pesticide products that were not registered for sale in Indiana.

B. Fox Farm Soil and Fertilizer Company was cited for four (4) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for

distributing two (2) misbranded pesticide products in 2018 & 2019. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed. C. Fox Farm Soil and Fertilizer Company was cited for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing two (2) pesticide products in 2018 & 2019 that were 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. However, the civil penalty was held in abeyance and will not assessed provided Fox Farm Soil and Fertilizer Company properly registers these pesticide products within thirty (30) days from receipt of this notice.

PS19-0147 On April 20, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Michaelis Corp used Champion liquid chlorinator for the control of mold in their crawlspace and now the odor is so strong they can't be in the garage or house.

**Disposition:** Michaelis Corp. 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 for this violation. However, the civil penalty was reduced to \$2,025.00. Consideration was given to the fact Michaelis Corp. cooperated during the investigation; corrective action was taken and no restricted use pesticides were involved.

Michaelis Corp. was cited for eighteen (18) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions of the pesticide product used by applying in a crawl space contrary to label directions. A civil penalty in the amount of \$4,500.00 (18 counts x \$250.00 per count) was assessed for this violation. However, the civil penalty was reduced to \$2,025.00. Consideration was given to the fact Michaelis Corp. cooperated during the investigation; corrective action was taken and no restricted use pesticides were involved.

Michaelis Corp. was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order of the state chemist by applying a pesticide for hire after being issued an Action Order to cease for-hire pesticide applications. A civil penalty in the amount of \$250.00 was assessed for this violation.

On August 14, 2019, Stephanie Toney sent an email indicating that the date on the invoice in question was the date the invoice was sent out and not the date of the application. The citation for violation of section 65(6) was rescinded. The total amount of civil penalty assessed for this investigation is \$4,050.00.

PS19-0163 On December 6, 2018, Office of Indiana State Chemist (OSIC) pesticide registration department received an application for four (4) Greenerways 25(b)<sub>1</sub> pesticide products. The application included:

- a. Deet Free Bug Repellent Spray;
- b. Deet Free Bug Repellent for Kids;

- c. All Natural Mosquito Bite-Freezone; and
- d. All Natural 2 in 1 SPF 30 Sunscreen & Bug Repellent.

**Disposition:**

- A. On May 6, 2019, the information was forwarded to the Pesticide Product Registration Specialist for a label review for both pesticide products.
- B. Meijer was warned for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale pesticide products that were not registered in the state of Indiana.
- C. Based on the label review of May 7, 2019, Greenerways LLC was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing pesticide products that were 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.
- D. Greenerways LLC was cited for two (2) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that were misbranded. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.
- E. In addition, the pesticide products listed above are not compliant and cannot be sold or distributed in the state of Indiana. These products must be recalled and returned to the distributor from all Indiana locations before any pending registrations, of compliant products and labels, can be processed. Documentation of the recalls must be submitted to OISC within 30 days of receipt of this Case Summary.
- F. On September 3, 2019, an informal conference was held via telephone with Sharon Neiburg of Greenerways LLC. Representing OISC were Sarah Caffrey, Joni Herman and myself. Ms. Neiburg indicated she would send something in writing about the recall process. She also stated that this product is in the Meijer stores and nowhere else.

PS19-0164      On May 2, 2019, I performed a marketplace inspection at Meijer located in Warsaw, Indiana. I spoke with the Produce Team Lead, James Shirey, and informed him of the process of the marketplace inspection. I also advised him that OISC had received an anonymous complaint about a Bonide brand pesticide product alleging that it may be unregistered and was being sold at this store.

**Disposition:**

- A. On May 6, 2019, a label review was requested by the Pesticide Product Registration Specialist.
- B. Meijer was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.
- C. Bonide Products, Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was false and

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

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

PS19-0172 On May 7, 2019, Ronald Land, a volunteer at Jennings County High School, emailed the Office of the Indiana State Chemist (OISC) regarding a pesticide application made by Morgan's Lawn Care at the high school in May of 2019. Mr. Land was concerned about the application being made during school hours. He was especially bothered because during the application: students were moving about on the grounds for PE (physical education); there were sports games scheduled for a few hours after the application; spectators were sitting in the grass during sporting events shortly after the application.

**Disposition:** Roger Morgan, John Helm and Morgan's Lawn Care were cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-6(a), for applying pesticides at a school during normal instructional hours when school is in session. 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 Morgan's Lawn Care cooperated during the investigation. Consideration was also given to the fact there was potential for human harm.

Jennings County School Corporation was warned for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-6(c)(2), for allowing students to enter a pesticide treatment area within four (4) hours or minimum reentry time specified on the label, after a pesticide application.

PS19-0196 On May 20, 2019, I performed a for-cause marketplace inspection at Big R located at 3660 Commerce Dr. Warsaw, Indiana. I spoke with the Assistant Store Manager, Landon Deel, and informed him of the process of the marketplace inspection and that OISC had received an anonymous complaint about possible unregistered pesticide products being sold in the store.

**Disposition:**

A. On May 22, 2019, a label review was requested by the Pesticide Product Registration Specialist.

B. Big R was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in Indiana.

C. Bonide Products, Inc. was cited for five (5) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that

are not registered in the state of Indiana. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed.

D. Bonide Products, Inc. was cited for three (3) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that are misbranded. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed.

PS19-0197 On April 2, 2019, the Office of Indiana State Chemist (OISC) received a pesticide registration application from Beaumont Products Inc. At the time of this inspection, the application had not been reviewed and there had been no communication with the company about the registration.

**Disposition:**

A. On May 22, 2019, a label review was requested by the Pesticide Product Registration Specialist.

B. Big R was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in Indiana.

C. Beaumont Products, Inc. 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.

D. Beaumont Products, Inc. was cited for 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 \$250.00 was assessed for this violation. However, this civil penalty was held in abeyance and not assessed provided Beaumont Products, Inc. properly registers this pesticide product within thirty (30) days from receipt of this notice.

PS19-0223 On June 6, 2019, OISC Agent Sarah Caffery and I performed a routine marketplace inspection at Target located at 3630 E. South Street, Lafayette, Indiana. I spoke with a customer service representative and informed her of the process of the marketplace inspection. She explained that Bob Metz would be the employee in charge that I would need to speak with. She radioed for Mr. Metz explaining the scope of the inspection and he responded saying that we could go ahead and do the inspection and he would meet with us when we were finished. I then issued a Notice of Inspection.

**Disposition:**

A. On June 12, 2019, a label review was requested from the Pesticide Product Registration Specialist.

B. As a result of the investigation and the label review, Target was warned for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that is not registered in the state of Indiana.

C. The Companion Group was cited for two (2) 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 \$500.00 (2 counts x \$250.00 per count) was assessed.

D. The Companion Group was cited for two (2) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that were misbranded. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

PS19-0224 On January 10, 2019, Office of Indiana State Chemist (OISC) received an application for a new pesticide registration from Aunt Fannie Inc. for the 25(b), minimum risk pesticide product, Aunt Fannie's Mosquito Wipes.

**Disposition:**

A. On June 12, 2019, a label review was requested from the Pesticide Product Registration Specialist.

B. Target was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered for sale in Indiana.

C. Aunt Fannie, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for distribution in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS19-0251 On May 30, 2014, we received a pesticide product registration form for Para'Kito USA Corp. to register Mosquito Repellent Pellets and Mosquito Repellent Roll-on Gel.

**Disposition:**

A. On June 25, 2019, a label review was requested from the Pesticide Product Registration Specialist.

B. Wal-Mart was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered for sale in Indiana.

C. Para'Kito USA, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered for sale in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

D. Para'Kito USA, Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was false or misleading. A civil penalty in the amount of \$250.00 was assessed for this violation.

## CASE SUMMARY

Case #2017/0833

**Complainant:** Denise Berry-Aaji  
Azzedine Berry-Aaji  
831 S 200 E  
Fowler, Indiana 47944

**Respondent:** Curt J. Sondgerath  
803 S. James Avenue  
Fowler, Indiana 47944

Private Applicator

1. On June 8, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a neighboring farmer allegedly drifted onto her trees and livestock.
2. On June 12, 2017, I met the complainant Denise Berry-Aaji. Ms. Berry-Aaji stated that the respondent was making an agricultural pesticide application in the field next to the west of her property. Ms. Berry-Aaji stated the vegetation on her property has signs of damage.



Figure 1



Figure 2



Figure 3



Figure 4

\*Figures 1-4 are photographs of the damage on the complainant's property



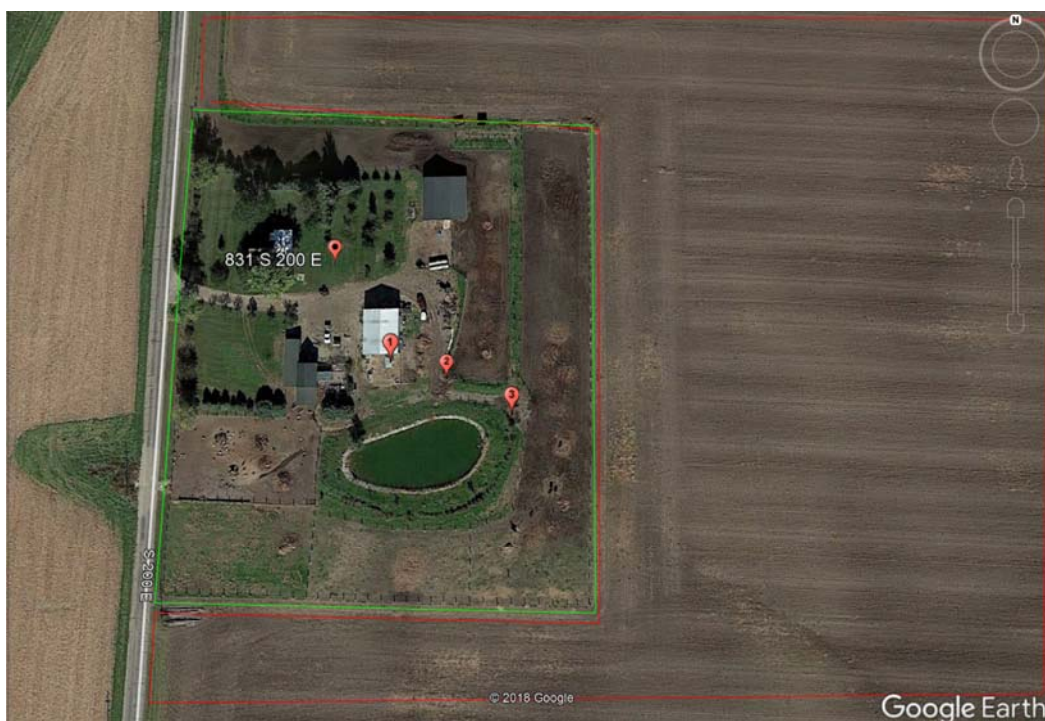


Figure 5

\*Figure 5 is a google earth image of the complainant's property outlined in green

\*The marker numbers correlate with the sample analysis in paragraph 5 for location's 1, 2, and 3

\*The red outlined area is the target field

3. On June 13, 2017, I spoke to Curt Sondgerath and he stated that he does farm the field to the east of the complainant. Mr. Sondgerath's new application records stated on May 27, 2017, at approximately 9:00am to 10:15am, he applied the following pesticides:

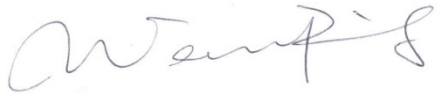
- **Resicore, EPA #62719-693, Active Ingredients Acetochlor 31%, Mesotrione 3.3%, Clopyralid 2.7%**
- **Atrazine 4L, EPA #34704-69, Active Ingredient Atrazine 42.6%**

4. I checked the weather history for May 27, 2017 for Fowler, In:

- On May 27, 2017 at the time of application 9:00am to 10:15am

|   |         |         |     |          |         |       |         |   |     |          |
|---|---------|---------|-----|----------|---------|-------|---------|---|-----|----------|
| 8:55 AM   | 62.6 °F | 59.0 °F | 88% | 29.91 in | 10.0 mi | NNW   | 5.8 mph | - | N/A | Overcast |
| METAR KRZL 271355Z AUTO 34005KT 10SM OVC006 17/15 A2991 RMK AO2 |         |         |     |          |         |       |         |   |     |          |
| 9:15 AM   | 62.6 °F | 59.0 °F | 88% | 29.91 in | 10.0 mi | NNW   | 6.9 mph | - | N/A | Overcast |
| METAR KRZL 271415Z AUTO 34006KT 10SM OVC006 17/15 A2991 RMK AO2 |         |         |     |          |         |       |         |   |     |          |
| 9:35 AM   | 64.4 °F | 59.0 °F | 83% | 29.91 in | 7.0 mi  | North | 8.1 mph | - | N/A | Overcast |
| METAR KRZL 271435Z AUTO 36007KT 7SM OVC008 18/15 A2991 RMK AO2  |         |         |     |          |         |       |         |   |     |          |
| 9:55 AM   | 64.4 °F | 60.8 °F | 88% | 29.91 in | 10.0 mi | North | 6.9 mph | - | N/A | Overcast |
| METAR KRZL 271455Z AUTO 35006KT 10SM OVC008 18/16 A2991 RMK AO2 |         |         |     |          |         |       |         |   |     |          |
| 10:15 AM  | 64.4 °F | 60.8 °F | 88% | 29.90 in | 10.0 mi | North | 9.2 mph | - | N/A | Overcast |
| METAR KRZL 271515Z AUTO 01008KT 10SM OVC008 18/16 A2990 RMK AO2 |         |         |     |          |         |       |         |   |     |          |

5. I received the final results from the OISC Residue Laboratory. The chart below shows the sample results from the initial drift complaint for the May 27, 2017 application:

| Case # 2017/0833   |   |               | Investigator: M. Rosch        |             |
|--|---|---------------|-------------------------------|-------------|
| Sample #   | Sample Description  | Sample Matrix | Amount Found (ppb or ng/swab) |             |
|  |   |               | Atrazine                      | Topramezone |
| 2017-35-5376   | Trip blank swab   | Swab          | BDL                           | BDL         |
| 2017-35-5377   | Control blank - Acetone   | Swab          | 11.2                          | BDL         |
| 2017-35-5378   | Control blank - Water   | Swab          | Not tested                    | Not tested  |
| 2017-35-5379   | Acetone swab 1 - Barn door  | Swab          | 11.1                          | BDL         |
| 2017-35-5380   | Water swab 1 - Barn door  | Swab          | Not tested                    | Not tested  |
| 2017-35-5381   | Acetone swab 2 - Vegetation along inside fence                                      | Swab          | 31.3                          | BDL         |
| 2017-35-5382   | Water swab 2 - Vegetation along inside fence  | Swab          | Not tested                    | Not tested  |
| 2017-35-5383   | Acetone swab 3- Vegetation along property line                                      | Swab          | 45.3                          | BDL         |
| 2017-35-5384   | Water swab 3 - Vegetation along Property line                                       | Swab          | Not tested                    | Not tested  |
| 2017-35-5385   | Acetone vegetation swab - Target field  | Swab          | 30.6                          | BDL         |
| 2017-35-5386   | Water vegetation swab - Target field  | Swab          | Not tested                    | Not tested  |
| 2017-35-5387   | Vegetation sample from area 2- Along inside fence                                   | Vegetation    | 77.7                          | BDL         |
| 2017-35-5388   | Vegetation sample from area 3- Tree along property line                             | Vegetation    | 153                           | BDL         |
| 2017-35-5389   | Target field vegetation   | Vegetation    | 6.94                          | BDL         |
| 2017-35-5390   | Target field soil   | Soil          | 25.4                          | 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  |               | 0.3                           | 0.3         |
| LOQ (ng/swab)  | Swab  |               | 1                             | 1           |
|  |   |               |                               |             |
| Signature  |  | Date          | 11/30/17                      |             |

6. I received the analysis from the Purdue Plant and Pest Diagnostic Laboratory which states the following:

*“Cupping and strapping of leaves is indicative of a grown regulator herbicide. Bleaching of new leaves is indicative of a HHPD-inhibiting herbicide like mesotrione. Necrosis and chlorosis from leaf margin into middle of leaf is indicative of a photosystem II inhibitor like atrazine. There was no evidence of significant disease on the viburnum and grape samples. The raspberry had Septoria leaf spot which typically causes some stress but will not kill plants.”*

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

**Atrazine 4L EPA #34704-69, Active Ingredient: Atrazine 42.6%**

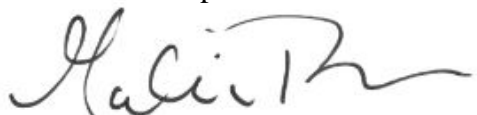
Page 6 of the label reads:

*“The pesticide must only be applied 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.”*

8. In this case, Mr. Sondgerath made a pesticide spray application to his agricultural crop field on May 27, 2017. The pesticide products he used are listed in paragraph 3 of this report. It appears there was a drift of the pesticide products he used in this case based on the following points:

- The respondent stated he did make pesticide applications to the agricultural field adjacent to the complainant while the wind was blowing towards a sensitive area.
- The active ingredient in the respondent's tank mix matches the active ingredient found in the complainant's effected vegetation.

9. The complainant Ms. Aaji-Berry stated when she made the initial contact with OISC she believed the respondent did not have permission to farm and/or apply pesticides to the target field, which she owns. Ms. Aaji-Berry stated in July 2019 there was a judgement in favor of the respondent.



Melissa D. Rosch  
Investigator

Date: August 8, 2019

**Disposition:** Curt J. 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. 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  
Compliance Officer

Draft Date: August 12, 2019  
Case Closed: October 11, 2019

## CASE SUMMARY

Case #2018/0142

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, IN 47907  
765-494-1492

**Respondent:** Big R Stores  
Jasmine Bolinger Asst. Manager  
1550 N. Cass Street  
Wabash, IN 46992

**Registrant:** RediFlame aka Woodshed Renewables      Mail Address per S. Caffery  
116 Industrial Drive      P.O. Box 717  
Finley, ND 58230      Berea, KY 40403

1. On April 25, 2016, Dave Scott, OISC Pesticide Administrator and Bob Brewer, Pesticide Investigator, conducted a marketplace inspection at Rural King on St. Joseph Avenue in Evansville, Indiana. They made contact with store manager, Mr. Brad Cooper. They identified themselves to Mr. Cooper and began their inspection.
2. During their inspection, Scott and Brewer found two pesticide products which were not registered for sale in the state of Indiana. The first product was Eco Bedbug Assassin produced by Aunt Jill Earthy Products that was received at Rural King on October 1, 2014. The second product was Skeeterlog produced by Woodshed Renewables LLC that was received at Rural King on March 8, 2016. Brewer contacted the Product Registration Section of OISC and confirmed the pesticide products were not registered in the state of Indiana.
3. On April 28, 2016, I, Sarah Caffery, OISC Pesticide Registration Secretary, spoke with David Fiebelkorn, Woodshed Renewables, about the pesticide registration process for 25b, minimum risk pesticide products in Indiana.
4. On May 4, 2016, the OISC Pesticide Registration Section reviewed the application.
5. On May 18, 2016, OISC sent notification via email about missing parts and label revisions of the application. Deadline of June 8 was given to receive all documents.
6. On July 28, 2016, OISC sent a Certified Letter to Woodshed Renewables confirming that the application had been denied and that products were not registered for sale in Indiana.
7. Case number 2016-0744 was finalized on April 27, 2017. Woodshed Renewables LLC was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing

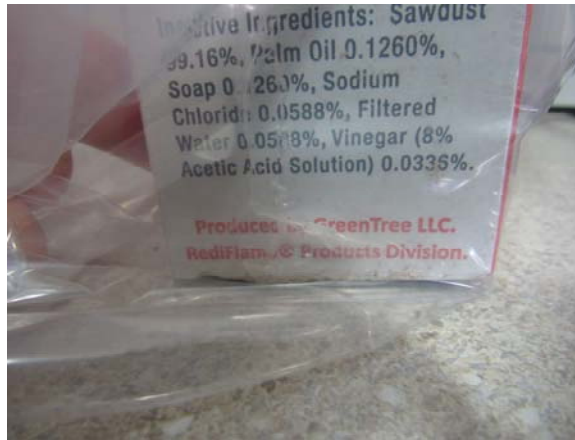
a pesticide product that was not registered for sale in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

  
Sarah K. Caffery  
Pesticide Registration Section

8. On December 14, 2017, I, Garret Creason, Pesticide Investigator, performed a routine marketplace inspection at Big R Stores located at 1550 N Cass St. Wabash, Indiana. I spoke with the Asst. Manager Jasmine Bolinger and informed her of the process of the marketplace inspection.
9. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the Big R store. I spoke with Ms. Caffery, OISC Pesticide Registration, and she confirmed that the pesticide product was unregistered. The product was as follows:
  - a. Skeeterlog 3-Pack, a 25(b)<sup>1</sup> Product.
10. I spoke with Mrs. Bolinger and informed her of the unregistered product I had located. I informed Mrs. Bolinger that I would be issuing an Action Order instructing them to remove the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed her that I would be retaining an evidentiary sample of the product for my case. I asked Mrs. Bolinger if she was able to provide me with any information for when the last shipment came to the store and she provided me with an inventory log stating that the last shipment was received on June 26, 2014 for the 3-pack of the Skeeterlog. Mrs. Bolinger also informed me that they have Skeeterlogs in single packs as well in the back room. She provided me with an inventory log for the Skeeterlog single stating the last shipment was received on June 26, 2014. There were 20 single Skeeterlogs at the store and 52 of the 3-packs. Both sizes of Skeeterlog were placed under an Action Order.
11. While speaking with Ms. Caffery, she informed me that the Skeeterlog had been placed under an Action Order in 2016 by our Office. Reference case number 2016/0744.
12. On December 15, 2017, I delivered the sample to the formulation lab.



<sup>1</sup> Minimum Risk Pesticide



Garret A. Creason  
Investigator

Date: December 21, 2017

**Disposition:**

- A. On December 21, 2017, this information was forwarded to the Pesticide Registration Section for a label review.
- B. On January 23, 2018, the label review was completed and revealed the following:
  - a. The product was missing the registrant's address and contact information
  - b. The product claimed to be "natural" but contained sodium laurel sulfate, an ingredient not found in nature
  - c. "Help control flying insects" and other claims are too generic and could possibly refer to organisms that pose a threat to human health
- C. RediFlame aka Woodshed Renewables was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was their second violation of similar nature. See case number 2016/0744.
- D. RediFlame aka Woodshed Renewables was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that contained false or misleading statements. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was also given to the fact this was their second violation of similar nature. Case number 2016/0744.
- E. As of May 6, 2019, RediFlame aka Woodshed Renewables 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.
- F. The second letter sent on May 6, 2019, was returned to our agency as "unclaimed" on June 4, 2019.

- G. On June 4, 2019, the reminder letter was sent again, both regular and certified mail, with a "Respond By/Pay By Date" of July 8, 2019. After that date, the case will be closed and forwarded to collections.
- H. On June 14, 2019, our agency received a fax with information that the Skeeterlog Trademark had been purchased by Tree of the Field LLC. The address in Berea, Kentucky is for Tree of the Field LLC and not RediFlame aka Woodshed Renewables.
- I. As of October 14, 2019, RediFlame aka Woodshed Renewables had not paid the \$1,000.00 civil penalty assessed. The case was forwarded to collections.



George N. Saxton  
Compliance Officer

Draft Date: June 4, 2019  
Case Closed: October 14, 2019

## CASE SUMMARY

Case #2018/0239

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, IN 47907  
765-494-1492

**Respondent:** Big R Stores  
Allen Engel  
2100 Peace Tree Village  
Rochester, IN 46975  
Store Manager

**Registrant:** No Natz  
1129 Jasmine Road  
Dublin, GA 31021

1. On June 18, 2017, Melissa Rosch, Investigator with Office of Indiana State Chemist, wrote an Action Order against No Natz, Inc., for No Natz while performing a marketplace inspection at Ace Hardware. This was connected with case number 2017/0910.
2. On August 11, 2017, Office of Indiana State Chemist pesticide registration department received an application for the registration of No Natz.
3. On September 15, 2017, I sent a letter with the intent to terminate the application we received from No Natz. No Natz was unable to provide efficacy for the label claims.
4. On October 26, 2017, the Action Order was modified to allow Ace Hardware the ability to return the products to their supplier.
5. No Natz representatives and I continued to discuss label revisions and efficacy requirements for a new submission. No new applications have been received.

Sarah K. Caffery  
Pesticide Product Registration Specialist

Date: August 13, 2019

6. On March 12, 2018, I performed a routine marketplace inspection at Big R located at 2100 Peace Tree Village Rochester, Indiana. I spoke with the Store Manager Allen Engel and informed him of the process of the marketplace inspection.



7. Upon completion of the inspection, I located two (2) unregistered pesticide products that were being offered for sale in the Big R store. I spoke with Sarah Caffery, Pesticide Registration, and she confirmed that the pesticide products were unregistered. The products were as follows:
- No Natz, 25(b)<sup>1</sup> product.
  - No Mosquitoz, 25(b) product.
8. I spoke with Mr. Engel and informed him of the unregistered pesticide products I had located. I informed Mr. Engel that I would be issuing an Action Order instructing them to remove the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed him that I would be retaining an evidentiary sample of the product for my case. I asked Mr. Engel if he was able to provide me with any information for when the last shipment came to the store. Mr. Engel was able to show me inventory sheets for the products. NoNatz arrived to the store on April 6, 2017 and the No Mosquitoz arrived at the store on August 17, 2015.
9. On March 15, 2018, I delivered the evidentiary samples to the Formulation Lab.



  
Garret A. Creason  
Investigator

Date: March 19, 2018

<sup>1</sup> Minimum Risk Pesticide

10. On August 13, 2019, I completed the label review for the products found in distribution.

- a. No Natz
  - i. Product includes non-natural ingredients. The statement “all natural using the finest ingredients” is false and misleading and a violation of EPA condition #6.
  - ii. Lavender oil is not an acceptable inert ingredient, this is a violation of EPA condition #2
  - iii. Distilled water is not the approved label display name, this is a violation of EPA condition #3.
  - iv. Additional label concerns include:
    - 1. The use of WARNING as a signal word
    - 2. Keep Out of Reach of Children statement is not prominently printed on the front of the label
    - 3. Minimal use directions
- b. No Mosquitoz
  - i. Product includes non-natural ingredients. The statement “all natural using the finest ingredients” is false and misleading and a violation of EPA condition #6.
  - ii. Additional label concerns include:
    - 1. The use of WARNING as a signal word
    - 2. Keep Out of Reach of Children statement is not prominently printed on the front of the label
    - 3. Minimal use directions

11. Review was only completed on the product/labels that were found in distribution. Additional concerns might become apparent with review of application documents and websites.

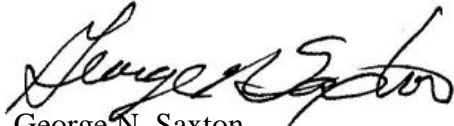
  
Sarah K. Caffery  
Pesticide Product Registration Specialist

Date: August 13, 2019

**Disposition:**

- A. On July 12, 2019, a label review was requested from the Pesticide Product Registration Specialist.
- B. On August 13, 2019, Big R Stores was warned for four (4) counts (2 products for 2017 & 2018) of violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale pesticide products that were not registered for sale in Indiana.
- C. NoNatz was cited for four (4) counts (2 products for 2017 & 2018) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were 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. NoNatz was cited for four (4) counts (2 products for 2017 & 2018) of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that were misbranded. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.
- E. The total amount of civil penalty issued in this investigation is \$2,000.00.
- F. On September 3, 2019, an Informal Conference was held by phone. Representing NoNatz were Kay and David Damino. Present for OISC were Sarah Caffrey, Joni Herman and George Saxton.
- G. At the conclusion of the Informal Conference, it was decided by OISC that the original penalty would stand with the exception of a reduction of \$250.00 from the penalty in paragraph "C" above since NoNatz had already been cited and fined for the NoNatz product in 2017 for the investigation in case number 2017/0910. The final civil penalty would be \$1,750.00.



George N. Saxton  
Compliance Officer

Draft Date: September 3, 2019  
Case Closed: October 10, 2019

## CASE SUMMARY

Case #2018/0363

**Complainant:** Breanna Wilson  
2163 N 1650 W  
Medaryville, Indiana 47957

**Respondent:** Benjamin Stoller  
Philip Huber  
Huber Seed Sales & Service  
2755 Mar Casa Court  
Monticello, Indiana 47960

Registered Technician  
Certified Applicator

1. On April 26, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report while surveying in a field, a neighboring farmer sprayed her during his agricultural application. She stated she is pregnant and had to go to the hospital. No clothing is available for analysis.
2. On April 27, 2018, I spoke to the complainant Breanna Wilson. Ms. Wilson stated on April 25, 2018, she was in a field doing a property survey for Turning Point Surveying Company, when an agricultural sprayer started spraying an unknown substance in the adjacent field. Ms. Wilson stated she saw the sprayer coming towards her location (from the west), turn around, and start spraying (heading north). Ms. Wilson stated she was approximately 50 feet away from the sprayer and the wind was blowing directly at her. Ms. Wilson stated she could feel the spray hit her face and she could smell it. Ms. Wilson also stated she believed there was no way the applicator could not have seen her because of where she was standing which was near her vehicle, survey equipment (figures 1 and 2), and pink surveying tape. Ms. Wilson was wearing a light grey sweatshirt, blue jeans, cowboy boots, and a bright blue headband. Ms. Wilson stated she is currently eight weeks pregnant and she started having abdominal cramping immediately after feeling the spray mist hit her in the face. Ms. Wilson called her husband Chad Wilson (his statement in Paragraph 3) and then immediately went to Jasper County Hospital for observation. Ms. Wilson provided copies of the medical evaluations as well. Ms. Wilson does not have any clothing available to sample because the hospital told her to wash everything she was wearing.



Figure 1

\*Figure 1 is a photograph provided by the complainant of the survey equipment she was using when she was sprayed by the agricultural sprayer.

3. I spoke to Chad Wilson, husband of the complainant. Mr. Wilson stated his wife called him at 10:59 am Eastern time when she was sprayed by the agricultural sprayer. Mr. Wilson stated he works in the agricultural industry and made a few phone calls to find out who the applicator was. Mr. Wilson found out it was Ben Stoller making the agricultural application and he called him directly to inform him that he did in fact spray the complainant. Mr. Wilson stated Mr. Stoller told him that he did see the complainant, but thought she was far enough away from him. Mr. Wilson stated Mr. Stoller was reluctant to give him the chemical information of what was being sprayed. Mr. Wilson then went to Huber Farms (where Mr. Stoller was located) and found the sprayer parked to the east of the grain bins, still running, and a bunch of people standing outside. Mr. Wilson stated he walked up to the sprayer, went inside, and pulled the labels for the products. Mr. Wilson then relayed the information to the complainant around 11:52 am when she was already on her way to the hospital.
4. On April 30, 2018, OISC Investigator Nathan Davis and I took swab samples from the survey stakes, a soil sample from the target field, and submitted them to the OISC Pesticide Residue Laboratory for analysis.

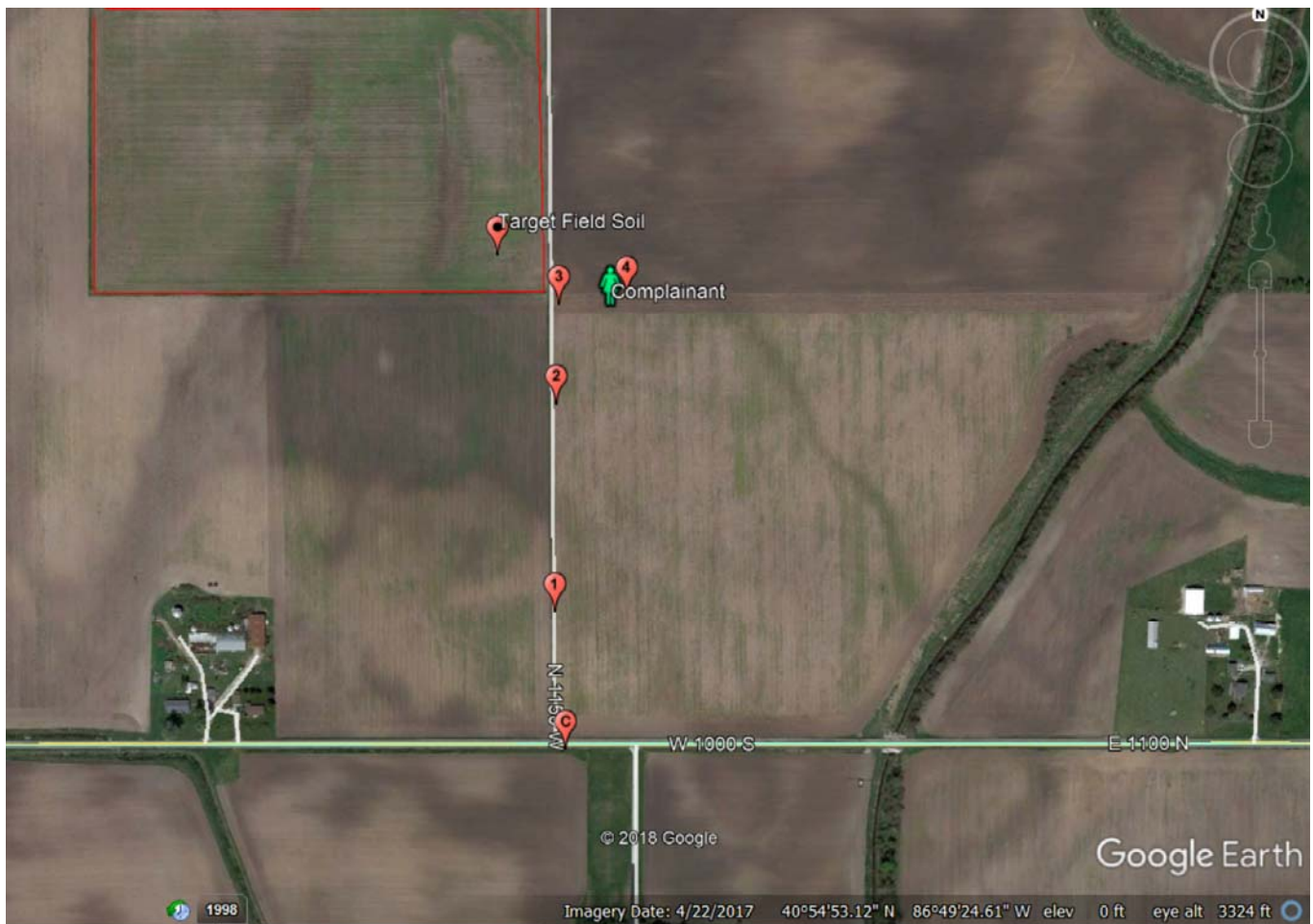


Figure 2

\*Figure 2 is a Google Earth Image of the area the complainant was surveying at the time she was sprayed by an agricultural sprayer

\*The markers correlate with the sample locations noted in the laboratory results





Figure 3



Figure 4

\*Figure 3 is a photograph of the survey flag at the corner where the target property meets the property being surveyed

\*Figure 4 is a survey stake that was swabbed for the control sample near the roadway

5. On May 1, 2018, I spoke to Ben Stoller by phone. Mr. Stoller stated he pulled into the field (outlined in red in Figure 2) and backed up to the southeast corner. Mr. Stoller stated he did see the complainant, two vehicles, and a tri-pod. Mr. Stoller did not think the complainant would have been hit with the pesticide because the wind was out of the east, which conflicts with 'g' below taken from the pesticide investigative inquiry filled out by Mr. Stoller. Mr. Stoller stated he was "finishing off a tank" and then drove back to Huber Seed Sales & Svc. Located at 10491 N 300 E, Monon, IN 47959. Mr. Stoller stated he did go back the following day (4-26-18) and finished spraying the same field with the same tank mix as the day prior.
6. I received the Pesticide Investigation Inquiries from the respondent that shows:
  - a. Applicator: Benjamin Stoller
  - b. Pesticide License # RT251272
  - c. Target Field: Corn stubble going to soybeans in 2018
  - d. Application Date: 4-25-18
  - e. Application Time: 10:30am to 11:00 am
  - f. Acreage or size of area treated: 152
  - g. Wind: start 11mph NNW to end 11mph N
  - h. Application Equipment: John Deere 4930
  - i. Nozzle make, model #, pressure: AIC Teejet FlatSpray 1004, 28 PSI
  - j. Boom height: 36"
  - k. Application ground speed: 13mph
  - l. Total amount of diluted material applied: 10 gallons/acre
  - m. Pesticides used:
    - i. Boundary 24 oz./acre EPA #100-1162, (S-metolachlor 58.2% and Metribuzin 13.8% );
    - ii. Buccanner 24 oz./acre EPA #55467-15 (Glyphosate 53.8%); and
    - iii. Shredder 2-4D lv4 16oz/acre EPA #1381-102
  - n. Adjuvant trade names: Boost AMS Replacement AD2 Xtra
  - o. Size of in-field buffer: n/a
  - p. Name of mixer/loader: Ben Stoller

-Second Application

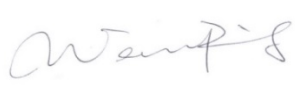
- a. Applicator: Benjamin Stoller
- b. Pesticide License # RT251272
- c. Target Field: Corn stubble going to soybeans in 2018
- d. Application Date: 4-26-18
- e. Application Time: 12:15 pm to 1:35 pm
- f. Acreage or size of area treated: 152
- g. Wind: start 5mph NNW to end 6mph NNW
- h. Application Equipment: John Deere 4930
- i. Nozzle make, model #, pressure: AIC Teejet FlatSpray 1004, 25 PSI
- j. Boom height: 36"
- k. Application ground speed: 15 mph
- l. Total amount of diluted material applied: 10 gallons/acre
- m. Pesticides used:
  - i. Boundary 24 oz./acre EPA #100-1162;
  - ii. Buccanner 24 oz./acre EPA #55467-15; and
  - iii. Shredder 2-4D Iv4 16oz/acre EPA #1381-102
- n. Adjuvant trade names: Boost AMS Replacement AD2 Xtra
- o. Size of in-field buffer: n/a
- p. Name of mixer/loader: Ben Stoller

7. I received the sample analysis from the OISC Pesticide Residue Laboratory. The results show the following:

| Case #       | 2018/0363  | Investigator                       |       |             |            |            | M. Rosch |
|--------------|--|------------------------------------|-------|-------------|------------|------------|----------|
| Sample #     | Sample Description                               | Amount of Analyte (ng/swab or ppb) |       |             |            |            |          |
|              |  | Matrix                             | 2,4-D | Metolachlor | Metribuzin | Glyphosate | AMPA     |
| 2018-35-7018 | TB   | Swab                               | BDL   | BDL         | BDL        | BDL        | BDL      |
| 2018-35-7019 | Control sample acetone swab                      | Swab                               | BDL   | BDL         | BDL        | NA         | NA       |
| 2018-35-7020 | A1 105 yards to CS wood post                     | Swab                               | 45.4  | 26.6        | BDL        | NA         | NA       |
| 2018-35-7021 | W1 105 yards to CS wood post                     | Swab                               | NA    | NA          | NA         | 11.6       | BDL      |
| 2018-35-7022 | A2 325 yards to CS wood post                     | Swab                               | 40.4  | 48.1        | BDL        | NA         | NA       |
| 2018-35-7023 | W2 325 yards to CS wood post                     | Swab                               | NA    | NA          | NA         | 32.8       | BDL      |
| 2018-35-7024 | A3 wood post template swab                       | Swab                               | 30.7  | 5.87        | 1.26       | NA         | NA       |
| 2018-35-7025 | W3 wood post template swab                       | Swab                               | NA    | NA          | NA         | 68.8       | BDL      |
| 2018-35-7026 | A4 wood post 106 yards to TF soil                | Swab                               | 15.0  | 4.98        | BDL        | NA         | NA       |
| 2018-35-7027 | W4 wood post 106 yards to TF soil                | Swab                               | NA    | NA          | NA         | 27.3       | BDL      |
| 2018-35-7028 | Target field soil 62 yards to A3 sample location | Soil                               | 183   | 417*        | 92.7       | 542        | 95.3     |
| 2018-35-7029 | Control sample water swab                        | Swab                               | NA    | NA          | NA         | 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 (ng/swab)    | Swab  | 2   | 4 | 1   | 10          | 50       |
| LOQ (ppb)        | Soil  | 0.7 | 1 | 0.3 | 5           | 25       |
|                  |   |     |   |     |             |          |
| <b>Signature</b> |  |     |   |     | <b>Date</b> | 06/14/18 |

It is unclear if the residue moved off-target on April 25<sup>th</sup> or 26<sup>th</sup>.

8. I checked the weather and wind conditions on April 25, 2018 at the nearest weather station.

**Jasper County Station (CST) Located approximately 19 miles to the West of target field**

|          |        |        |      |   |        |        |         |        |        |      |
|----------|--------|--------|------|---|--------|--------|---------|--------|--------|------|
| 9:35 AM  | 50 ° F | 32 ° F | 50 % | N | 16 mph | 23 mph | 29.3 in | 0.0 in | 0.0 in | Fair |
| 9:55 AM  | 52 ° F | 32 ° F | 47 % | N | 17 mph | 25 mph | 29.3 in | 0.0 in | 0.0 in | Fair |
| 10:15 AM | 54 ° F | 32 ° F | 44 % | N | 17 mph | 24 mph | 29.3 in | 0.0 in | 0.0 in | Fair |
| 10:35 AM | 54 ° F | 30 ° F | 41 % | N | 18 mph | 26 mph | 29.3 in | 0.0 in | 0.0 in | Fair |
| 10:55 AM | 55 ° F | 28 ° F | 36 % | N | 17 mph | 25 mph | 29.3 in | 0.0 in | 0.0 in | Fair |

**Purdue University Airport (EST) Located approximately 35 miles to the South West of target field**

|          |        |        |      |     |        |        |         |        |        |      |
|----------|--------|--------|------|-----|--------|--------|---------|--------|--------|------|
| 9:54 AM  | 62 ° F | 41 ° F | 46 % | NNW | 13 mph | 18 mph | 29.4 in | 0.0 in | 0.0 in | Fair |
| 10:54 AM | 62 ° F | 38 ° F | 41 % | NNW | 20 mph | 0 mph  | 29.4 in | 0.0 in | 0.0 in | Fair |
| 11:54 AM | 61 ° F | 38 ° F | 42 % | N   | 15 mph | 0 mph  | 29.4 in | 0.0 in | 0.0 in | Fair |

**South Bend Airport (EST) Located approximately 58 miles to the North East of the target field**

|          |        |        |      |    |        |        |         |        |        |      |
|----------|--------|--------|------|----|--------|--------|---------|--------|--------|------|
| 9:54 AM  | 53 ° F | 32 ° F | 45 % | N  | 17 mph | 26 mph | 29.2 in | 0.0 in | 0.0 in | Fair |
| 10:54 AM | 52 ° F | 32 ° F | 47 % | NW | 20 mph | 25 mph | 29.2 in | 0.0 in | 0.0 in | Fair |
| 11:54 AM | 51 ° F | 31 ° F | 46 % | NW | 18 mph | 24 mph | 29.2 in | 0.0 in | 0.0 in | Fair |

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

a. **Boundary EPA #100-1162:**

-Page 6 of the label reads,

*“Do not apply this product in a way that will contact workers or other persons, either directly or through drift.”*

-Page 13 of the label reads,

*“Do not apply this product in a way that will contact workers or other persons, either directly or through drift.”*

b. **Buccaneer 5 Extra EPA #55467-15:**

-Page 2 of the label reads,

*“Do not apply this product in a way that will contact workers or other persons, either directly or through drift.”*

c. **Shredder 2-4D LV4 EPA #1381-102:**

-Page 2 of the label reads,

*“Do not apply this product in a way that will contact workers or other persons, either directly or through drift.”*


-Page 4 of the label reads,

*“Do not apply at wind speeds greater than 15 mph.”*



10. There appears to be a violation in this case because of the following:

- The label violations noted in paragraph 9.



Melissa D. Rosch  
Investigator

Date: May 7, 2019

**Disposition:**

- A. Benjamin Stoller, Philip Huber and Huber Seeds 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 there was potential for human harm.
- B. At the request of Huber Seeds, an informal conference was held at Huber Seeds on June 24, 2019. Present were Brian and Philip Huber of Huber Seeds and Melissa Rosch and George Saxton from OISC.
- C. Brian Huber indicated that he mainly objected to the “tone” of the report. He stated that they did not refuse to cooperate with Mr. Wilson. It was just that Mr. Stoller was taken aback when initially confronted by Mr. Wilson.
- D. Brian and Philip Huber also stated that they disagreed with the statement in paragraph #2 regarding Mr. Stoller being about 50’ from Mrs. Wilson. They indicated that the distance was more likely 150’.
- E. Philip Huber stated that they were not saying that they didn’t do anything wrong, they just thought the tone of the report was harsh. Philip Huber also indicated that it would have been better if Mr. Stoller stopped and talked with Mrs. Wilson.



George N. Saxton  
Compliance Officer

Draft Date: June 28, 2019  
Final Date: August 19, 2019

## CASE SUMMARY

Case #2018/0688

**Complainant:** Brett Middlesworth  
4711 W 200 S  
Marion, Indiana 46953

|                    |  |  |
|--------------------|--|--|
| <b>Respondent:</b> | Ty Breedlove<br>Bruce Horner<br>Co-Alliance<br>2655 S 600 W<br>Marion, Indiana 46953 | Registered Technician<br>Certified Supervisor<br>Licensed Business |
|--------------------|--|--|

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 west of his field.
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. In the field directly to the south, there was also an application of acetochlor. Therefore, the OISC Pesticide Laboratory result for acetochlor will be null for this case.
  - 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.
  - 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

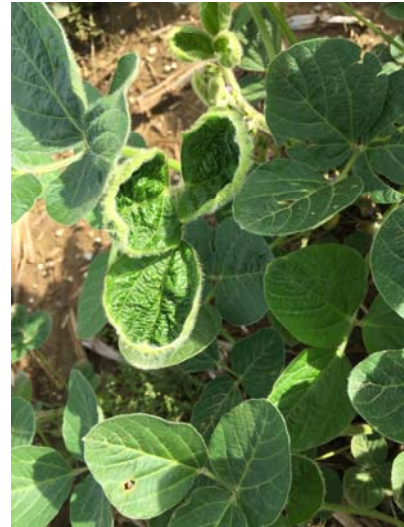


Figure 3

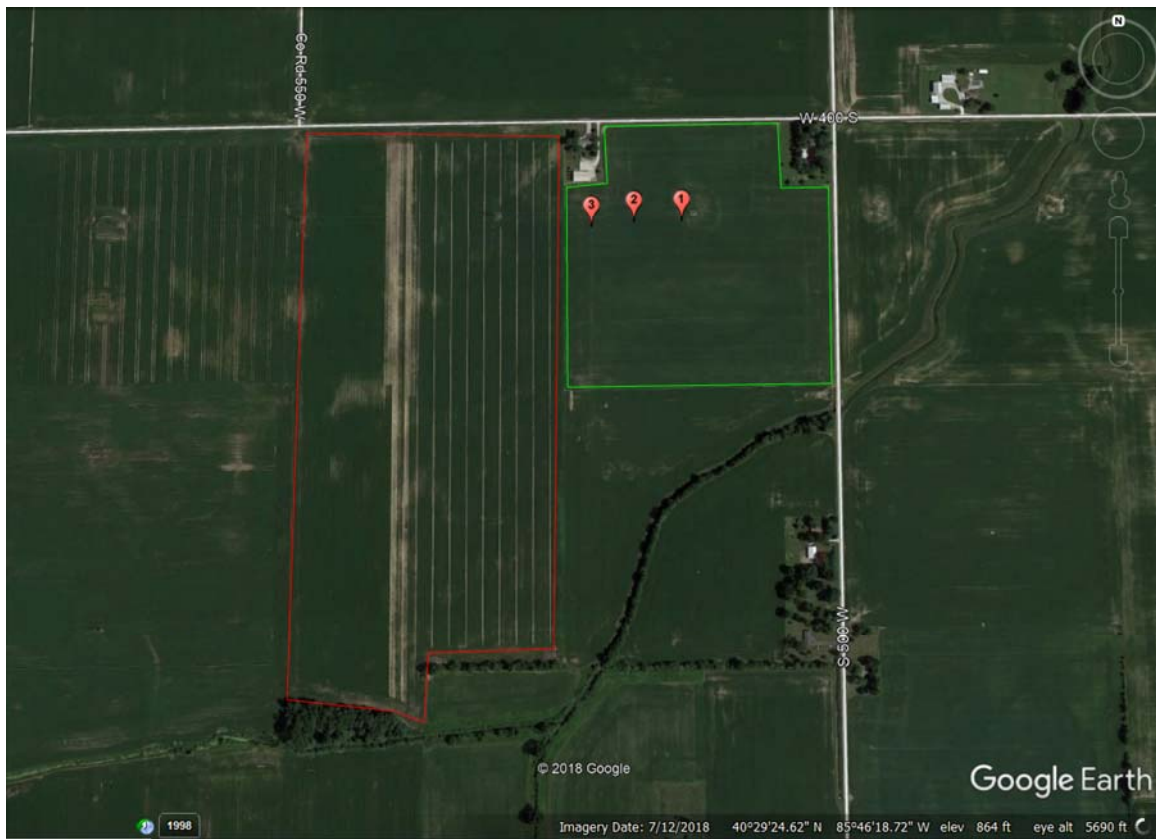


Figure 4

\*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 16, 2018; 2:46pm to 3:30pm.
- b) Target field: 61 of 80 acres; 500 W & 400 S SE Corner

- 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 32 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: **6 to 7 mph SSW 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:

|         |       |       |     |      |       |       |         |        |        |               |
|---------|-------|-------|-----|------|-------|-------|---------|--------|--------|---------------|
| 2:35 PM | 0 ° F | 0 ° F | 0 % | CALM | 0 mph | 0 mph | 29.1 in | 0.0 in | 0.0 in | Fair          |
| 2:55 PM | 0 ° F | 0 ° F | 0 % | CALM | 0 mph | 0 mph | 29.1 in | 0.0 in | 0.0 in | Partly Cloudy |
| 3:15 PM | 0 ° F | 0 ° F | 0 % | WSW  | 3 mph | 0 mph | 29.1 in | 0.0 in | 0.0 in | Partly Cloudy |
| 3:35 PM | 0 ° F | 0 ° F | 0 % | W    | 9 mph | 0 mph | 29.1 in | 0.0 in | 0.0 in | Haze          |

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

| Case #   | 2018/0688          |  |              |              | Investigator | M. Rosch     |
|--|--------------------|--|--------------|--------------|--------------|--------------|
| Sample #   | Sample Description | Amount of Analyte (ppb)  |              |              |              |              |
|  |                    | Matrix   | Acetochlor   | Dicamba      | 5-OH Dicamba | DCSA         |
| 2018-35-7165   | Control veg        | Vegetation   | BDL          | 1.09         | BDL          | BDL          |
| 2018-35-7166   | Control soil       | Soil   | Did not test | Did not test | Did not test | Did not test |
| 2018-35-7167   | Veg 1              | Vegetation   | 4.22         | 1.94         | BDL          | BDL          |
| 2018-35-7168   | Soil 1             | Soil   | Did not test | Did not test | Did not test | Did not test |
| 2018-35-7169   | Veg 2              | Vegetation   | BDL          | 5.35         | BDL          | BQL          |
| 2018-35-7170   | Soil 2             | Soil   | Did not test | Did not test | Did not test | Did not test |
| 2018-35-7171   | Veg 3              | Vegetation   | BDL          | 4.15         | BDL          | BQL          |
| 2018-35-7172   | Soil 3             | Soil   | Did not test | Did not test | Did not test | Did not test |
| 2018-35-7173   | Target soil        | Soil   | 308          | 1.64         | BQL          | 71.1         |
| 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               |  | 3            | 0.2          | 0.2          | 2            |
| LOQ (ppb)  | Vegetation         |  | 3            | 0.2          | 2            | 0.2          |
| Signature  |                    |  |              | Date         | 2/20/19      |              |

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.



Melissa D. Rosch  
Investigator

Date: February 23, 2019

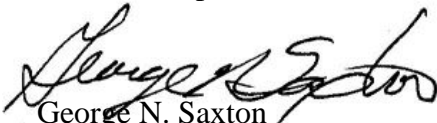
**Disposition:** Registered Technician Ty Breedlove and Certified Applicator Bruce Horner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed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

As of May 6, 2019, Co-Alliance 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.

On July 15, 2019, I spoke to Dustin Coombs and he was going to handle getting the civil penalty payment into OISC.

As of August 19, 2019, the civil penalty had not been received. The case was forwarded to collections. In addition, the licenses issued to Bruce Horner, Ty Breedlove, and Co-Alliance were suspended. The licenses can be reinstated upon receipt of all civil penalties due.



George N. Saxton  
Compliance Officer

Draft Date: May 6, 2019  
Final Date: August 19, 2019

## CASE SUMMARY

Case #2018/0747

**Complainant:** Jason Cates  
891 S 500 W  
Marion, Indiana 46953

|                    |                       |                       |
|--------------------|-----------------------|-----------------------|
| <b>Respondent:</b> | Ty Breedlove          | Registered Technician |
|                    | Bruce Horner          | Certified Supervisor  |
|                    | Co-Alliance           | Licensed Business     |
|                    | 2655 S 600 W          |                       |
|                    | Marion, Indiana 46953 |                       |

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 from the bean field to the east of his residence.
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 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.
  - 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

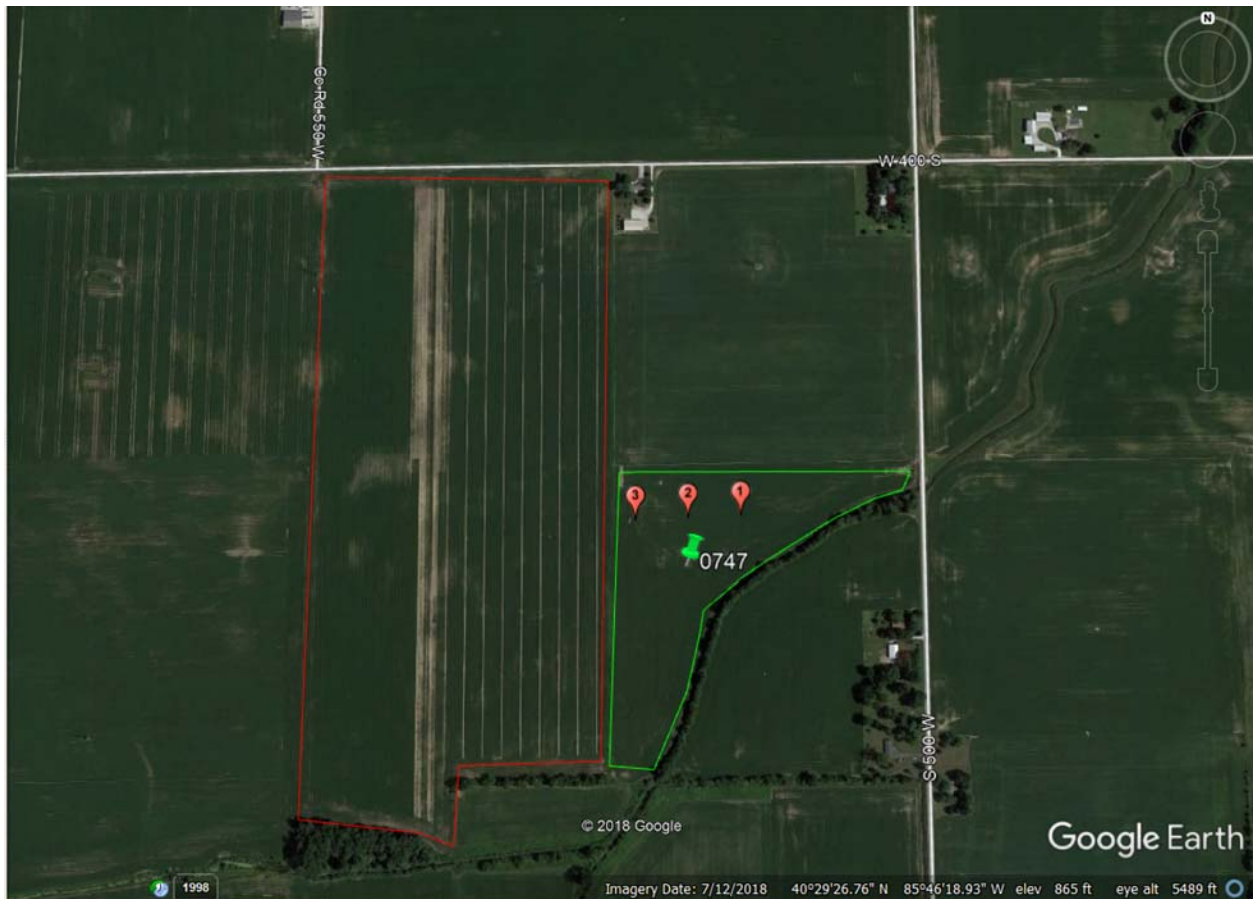


Figure 4

- \*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

- Application date & time: June 16, 2018; 2:46pm to 3:30pm.
- Target field: 61 of 80 acres; 500 W & 400 S SE Corner
- 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)**
- Application rate: Xtendimax 22oz/acre, Roundup PowerMax 32 oz/acre, Warrant 3pts/acre
- Adjuvants: Astonish & Capsule
- Nozzles: UR 110-08 Wilger, 35 PSI
- Boom height: 24"
- Ground speed: 14 mph
- Winds: 6 to 7 mph SSW for duration
- Applicator: Ty Breedlove
- Certified supervisor: Bruce Horner
- Left a 110' untreated buffer next to non-target site: yes
- Checked registrant's web site before application: yes
- Checked Field Watch before application: yes
- 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:

|         |       |       |     |      |       |       |         |        |        |               |
|---------|-------|-------|-----|------|-------|-------|---------|--------|--------|---------------|
| 2:35 PM | 0 ° F | 0 ° F | 0 % | CALM | 0 mph | 0 mph | 29.1 in | 0.0 in | 0.0 in | Fair          |
| 2:55 PM | 0 ° F | 0 ° F | 0 % | CALM | 0 mph | 0 mph | 29.1 in | 0.0 in | 0.0 in | Partly Cloudy |
| 3:15 PM | 0 ° F | 0 ° F | 0 % | WSW  | 3 mph | 0 mph | 29.1 in | 0.0 in | 0.0 in | Partly Cloudy |
| 3:35 PM | 0 ° F | 0 ° F | 0 % | W    | 9 mph | 0 mph | 29.1 in | 0.0 in | 0.0 in | Haze          |

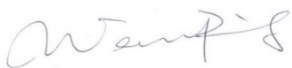
6. The report from the OISC Pesticide Residue Laboratory states:

| Case #       | 2018/0747          |            |                         | Investigator |      | M. Rosch     |              |              |
|--------------|--------------------|------------|-------------------------|--------------|------|--------------|--------------|--------------|
| Sample #     | Sample Description | Matrix     | Amount of Analyte (ppb) |              |      |              |              |              |
|              |                    |            | Acetochlor              | Dicamba      | DCSA | 5-OH Dicamba | Glyphosate   | AMPA         |
| 2018-35-7207 | Control veg        | Vegetation | 785                     | 0.713        | BQL  | BDL          | Did not test | Did not test |
| 2018-35-7208 | Veg 1              | Vegetation | 12                      | 0.715        | BDL  | BDL          | Did not test | Did not test |
| 2018-35-7209 | Veg 2              | Vegetation | 5.27                    | 0.967        | BQL  | BDL          | Did not test | Did not test |
| 2018-35-7210 | Veg 3              | Vegetation | 138                     | 5.00         | BQL  | BDL          | Did not test | Did not test |
| 2018-35-7211 | Target soil        | Soil       | 353*                    | 3.05         | 165  | BDL          | 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

\* Minimum concentration reported due to amount exceeding calibration curve range.



|                  |   |   |     |     |             |              |              |
|------------------|---|---|-----|-----|-------------|--------------|--------------|
| LOQ (ppb)        | Soil  | 3 | 0.2 | 2   | 0.2         | Did not test | Did not test |
| LOQ (ppb)        | Vegetation  | 3 | 0.2 | 0.2 | 2           | Did not test | Did not test |
|                  |   |   |     |     |             |              |              |
| <b>Signature</b> |  |   |     |     | <b>Date</b> | 02/20/19     |              |

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

a) 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.***”

b) The Warrant label states, “*Do not apply when wind conditions favor drift to non-target sites.*” “*Apply this product only 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).*”

8. The complainant also provided drone photographs for his field on 6/22/18 and 7/3/18. See page 5.

6/22



Neighbor called around 6/22 to make us aware that they had damage in their field. The field was too wet to walk, so flew the drone could not find any symptoms of Dicamba. Returned from trip on 7/2 and walked them on 7/3 to find large area affected all along west border going several hundred feet to the east.

7/3



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 and acetochlor applications were made when the wind was blowing towards a sensitive crop.



Melissa D. Rosch  
Investigator

Date: February 23, 2019

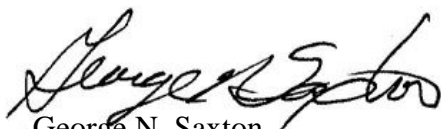
**Disposition:** Registered Technician Ty Breedlove and Certified Applicator Bruce Horner were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$250.00 was assessed 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 both the off-target drift restrictions and the drift management restrictions on the label for the herbicide Xtendimax.

As of May 6, 2019, Co-Alliance 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.

On July 15, 2019, I spoke to Dustin Coombs and he was going to handle getting the civil penalty payment into OISC.

As of August 19, 2019, the civil penalty had not been received. The case was forwarded to collections. In addition, the licenses issued to Bruce Horner, Ty Breedlove, and Co-Alliance were suspended. The licenses can be reinstated upon receipt of all civil penalties due.



George N. Saxton  
Compliance Officer

Draft Date: May 6, 2019  
Final Date: August 19, 2019



## CASE SUMMARY

Case #2018/0789

**Complainant:** Kathy Smith  
16764 N. State Road 37  
Elwood, IN 46063

|                    |   |  |
|--------------------|---|--|
| <b>Respondent:</b> | Jesse Kelich<br>Kirk Rutherford<br>Hartley Grain<br>100 S. Cob Street<br>Elwood, IN 46036 | Registered Technician<br>Certified Applicator<br>Licensed Business |
|--------------------|---|--|

1. On July 13, 2018, the Office of Indiana State Chemist (OISC) received a written complaint by US mail regarding dicamba drift to soybeans and trees. Kathy Smith, the complainant, wrote the soybean field south of her property was sprayed with dicamba when the wind was blowing directly toward their property. Ms. Smith further wrote that her small Liberty soybean field and trees on her property definitely show signs of dicamba injury.
2. On July 23, 2018, Agent Becovitz and I met with Kathy Smith at her residence. She led us around her property and show us the vegetation she believed was affected by the dicamba application made by Jesse Kelich of Hartley Grain. There were visible signs of cupping and curling on multiple types of vegetation around Mrs. Smith's property. The injury that caused Mr. Smith's complaint can be seen in Figures 1-3.



Figure 1



Figure 2



Figure 3

3. In addition to a control sample taken from Mrs. Smith's property, I collected three vegetation samples from the complainant's field:
  - a. 45' into the field;
  - b. 135' into the field; and
  - c. 240' into the field
4. I collected a vegetation sample (Target Field Weeds) and a soil sample from the target field. All samples were submitted to the OISC residue lab for analysis. I collected vegetation samples of

Liberty soybeans and from a Bradford pear tree to submit to the Plant and Pest Diagnostic Lab at Purdue (PPDL). The location of these samples can be seen in Figure 4.

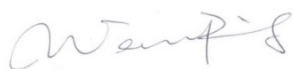


Figure 4

5. On July 23, 2018, I received a Pesticide Investigation Inquiry (PII) from David Holloway on behalf of Jesse Kelich. The application was made on July 7, 2018, from 6:00 PM to 7:08 PM and consisted of:
  - A. Buccaneer Plus (EPA Reg. #55467-9, active ingredient glyphosate)
  - B. Volunteer (EPA Reg. #42750-72-55467, active ingredient clethodim)
  - C. Zidua SC (EPA Reg. #7969-374, active ingredient pyroxasulfone)
  - D. Battle Star GT (EPA Reg. #42750-307, active ingredient sodium salt of fomesafen and glyphosate)
  - E. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
  - F. Cornbelt Vaporgard + DRA (surfactant/drift retardant)
  - G. Cornbelt Locktite MSO (surfactant/drift retardant)

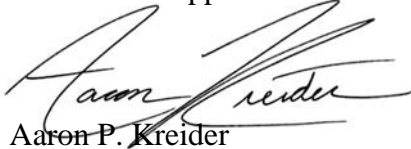
There was no wind data reported on the PII for the start of the application. At the end of the application, the wind was 4 MPH from the south. This means that the wind was blowing towards the property of Mrs. Smith. There was also no indication that a sensitive crop registry or registrant's website was checked.

6. The report from PPDL stated, “Soybean sample: Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba. Necrosis and bronzing is indicative of injury from a PPO-inhibitor like fomesafen. Trees: Cupping and twisted leaves, with curled and corkscrewed petioles is indicative of injury from a growth regulator like dicamba. Dead growing point of pear is indicative of injury from a systemic herbicide like dicamba or glyphosate (likely dicamba).”
7. The lab results from the OISC residue lab are as follows:

| Case #   | 2018/0789   |            | Investigator            |              | A. Kreider   |              |
|--|---|------------|-------------------------|--------------|--------------|--------------|
| Sample #   | Sample Description  | Matrix     | Amount of Analyte (ppb) |              |              |              |
|  |   |            | Dicamba                 | DCSA         | 5-OH Dicamba | Fomesafen    |
| 2018-54-0108   | Bradford Pear 45' in  | Vegetation | Did not test            | Did not test | Did not test | BQL          |
| 2018-54-0109   | Liberty Beans 135' in   | Vegetation | Did not test            | Did not test | Did not test | BDL          |
| 2018-54-0110   | Liberty Beans 240' in   | Vegetation | Did not test            | Did not test | Did not test | BDL          |
| 2018-54-0111   | Target Field Weeds  | Vegetation | Did not test            | Did not test | Did not test | 73.0         |
| 2018-54-0112   | Target Field Soil   | Soil       | Did not test            | Did not test | Did not test | Did not test |
| 2018-54-0113   | Control Veg   | Vegetation | Did not test            | Did not test | Did not test | 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 | 1            |
| LOQ (ppb)  | Soil  |            | Did not test            | Did not test | Did not test | Did not test |
|  |   |            |                         |              |              |              |
| Signature  |  |            |                         |              | Date         | 10/25/18     |

8. 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: 2. The intended product tank-mix with **Engenia** is identified on that list of tested and approved products.” The label also states, “Document that the applicator checked an applicable sensitive crop registry; or document that the applicator surveyed neighboring fields for any sensitive areas or sensitive crops prior to application.”
9. The Battlestar GT label states in part . . . “This pesticide is to be applied only when the potential for drift to adjacent sensitive areas (e.g. residential areas bodies of water non-target plants) is minimal (i.e. when the wind is blowing away from the sensitive area.”
10. The report from PPDL indicates that the injury seen on Mrs. Smith’s property is from the application made by Mr. Kelich. Based on the evidence collected in this investigation, it has been determined that Mr. Kelich 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. Mr. Kelich did violate the Engenia and Battle Star GT labels by making an application when winds were blowing towards neighboring sensitive crops and by using Battle Star GT, which is not an approved tank mix partner.



Aaron P. Kreider  
Investigator

Date: May 30, 2019

**Disposition:**

- A. Kirk Rutherford, Jesse Kelich and Hartley Grain 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 \$1,000.00 was assessed to Hartley Grain for this violation. In addition, the category 1 pesticide applicator certification of Kirk Rutherford and the technician registration of Jesse Kelich were suspended for a period of six (6) months beginning July 1, 2019, and continuing through August and September 2019 and beginning again April 1, 2020, and continuing through May and June of 2020. Consideration was given to the fact this was their fourth violation of similar nature, using a restricted use pesticide. See case numbers 2018/0731, 2018/0947 and 2018/1014. *(This six-month suspension period is based on a projected estimate that the effective date of this enforcement action notice will occur on or about July 1, 2019.)*
- B. On June 27, 2019, OISC received a letter from Bruce Hartley of Hartley Grain requesting a formal hearing. David E. Scott, Secretary to the Indiana Pesticide Review Board (IPRB) was notified.
- C. On June 28, 2019, OISC received an email with a letter attached dated June 25, 2019 with Mr. Bruce Hartley's rebuttal.
- D. On July 5, 2019, an email was sent to Bruce Hartley indicating that the license suspensions would be lifted but the \$1,000.00 civil penalty would still be assessed.
- E. On July 9, 2019, the civil penalty payment was received by OISC and the licenses were reinstated.



George N. Saxton  
Compliance Officer

Draft Date: July 5, 2019  
Final Date: August 19, 2019

## CASE SUMMARY

Case #2018/0796

**Complainant:** Garry Fox  
16127 West Base Road West  
Medaryville, Indiana 47957

Private Applicator

**Respondent:** David Harper  
Scott Harper  
AgriVista Farms LLC  
15408 W 200 N  
Medaryville, Indiana 47957

Private Applicator  
Non-certified Applicator

1. On July 16, 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 19, 2018, I met with Garry Fox at his non-DT soybean field he believed was affected by dicamba drift. The injury seemed to be concentrated on the border that Mr. Fox's field shares with the DT soybean field farmed by Scott Harper. There was a large area that had no soybeans growing in it and it appeared to be an area that had standing water as some point that did not allow the beans to grow. The beans around that area were weak and seemed to be the most affected. The border between the two fields can be seen in Figure 1. The injury that resulted in Mr. Fox's complaint can be seen in Figures 2 and 3.



Figure 1



Figure 2



Figure 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 (Non-DT Soybean)



These samples were submitted to the OISC residue lab for analysis. I collected a non-DT soybean sample for analysis by the Plant and Pest Diagnostic Lab at Purdue (PPDL). The location of these samples can be seen in Figure 4.



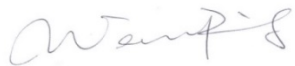
Figure 4

4. On July 25, 2018, I received a Pesticide Investigation Inquiry (PII) from Scott Harper. The application he made was on June 18, 2018 from 1:30 PM to 5:00 PM and consisted of:
  - A. Buccaneer 5 Extra (EPA Reg. #55467-15, active ingredient glyphosate)
  - B. Engenia (EPA Reg. #7969-345, active ingredient dicamba)

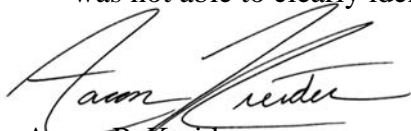
The wind data that was reported on the PII was 10 MPH from the west-southwest at the start of the application and 10 MPH from the west-southwest at the end of the application. This would mean that the wind was blowing away from Mr. Fox's non-DT soybeans at the time of the application. I could not find any instances where Mr. Harper violated the Engenia label required record keeping from the information he provided on the PII.

5. I collected wind data from Jasper County Airport (KRZL) which is 16.5 miles from the target field, Starke County Airport (KOXI) which is 21.3 miles from the target field, and Porter County Municipal Airport (KVPZ) which is 23.6 miles from the target field. The wind data is as follows:
  - A. KRZL: 11 MPH with 18 MPH gusts from the southwest at the start of the application. 7-16 MPH with 0-23 MPH gusts from the south-southwest during the application. 13 MPH with 18 MPH gusts from the southwest at the end of the application.
  - B. KOXI: 14 MPH with 18 MPH gusts from the southwest at the start of the application. 5-20 MPH with 0-25 MPH gusts from the southwest during the application. 10 MPH with 21 MPH gusts from the southwest at the end of the application.
  - C. KVPZ: 15 MPH with 23 MPH gusts from the west at the start of the application. 15-18 MPH with 22-25 MPH gusts from the west-southwest during the application. 16 MPH with 22 MPH gusts from the west-southwest at the end of the application.

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 lab results from the OISC residue lab are as follows:

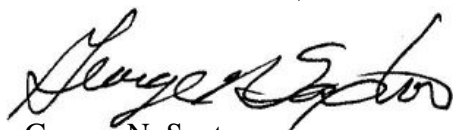
| Case #   | 2018/0796  |            |                         | Investigator |              | A. Kreider   |              |
|--|--|------------|-------------------------|--------------|--------------|--------------|--------------|
| Sample #   | Sample Description   | Matrix     | Amount of Analyte (ppb) |              |              |              |              |
|  |  |            | Dicamba                 | DCSA         | 5-OH Dicamba | Glyphosate   | AMPA         |
| 2018-54-0094   | Affected field 30' in  | Vegetation | Did not test            | Did not test | Did not test | BDL          | BDL          |
| 2018-54-0095   | Affected field 90' in  | Vegetation | Did not test            | Did not test | Did not test | BDL          | BDL          |
| 2018-54-0096   | Affected field 150' in   | Vegetation | Did not test            | Did not test | Did not test | BDL          | BDL          |
| 2018-54-0097   | Affected field soil  | Soil       | Did not test            | Did not test | Did not test | Did not test | Did not test |
| 2018-54-0098   | Target field veg   | Vegetation | Did not test            | Did not test | Did not test | 683          | BDL          |
| 2018-54-0099   | Target field soil  | Soil       | Did not test            | Did not test | Did not test | Did not test | Did not test |
| 2018-54-0100   | Control veg  | 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 | 5            | 125          |
|  |  |            |                         |              |              |              |              |
| Signature  |  |            |                         |              |              | Date         | 10/2/18      |

8. The Engenia label states, “*Apply **Engenia** at wind speeds between 3 and 10 mph.*”
9. Based on the evidence collected in this investigation, it has been determined that Mr. Harper 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.

  
 Aaron P. Kreider  
 Investigator

Date: June 14, 2019

**Disposition:** David Harper 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: July 12, 2019  
 Final Date: August 19, 2019

## CASE SUMMARY

Case #2018/0798

**Complainant:** Jim Clark  
1020 E. Monon Road  
Monon, Indiana 47959

Private Applicator

**Respondent:** Gregory Rice  
Rice Grain Farms, Inc.  
5180 N 300 E  
Monon, Indiana 47959

Private Applicator

1. On July 16, 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 19, 2018, I met with Jim Clark at his residence. He led me to his non-DT soybean field (Roundup Ready Soybeans) he believed was affected by dicamba drift. The injury seemed to cover the majority of the field but was most severe at the south border that separates Mr. Clark's field and the DT soybean field farmed by Gregory Rice. There was an area on the southwest corner of Mr. Clark's field that seemed to be unaffected due to a woods separating the two fields. The border between the two fields can be seen in Figure 1. The injury that caused Mr. Clark's complaint can be seen in Figures 2 and 3.



Figure 1



Figure 2



Figure 3

3. I collected three vegetation samples (30' into the complainant's field; 90' into the complainant's field; and 150' into the complainant's field), a soil sample, and a control sample (Roundup Beans) from Mr. Clark's field. I collected a vegetation sample (Target Field Veg.) and a soil sample from the target field farmed by Mr. Rice. These samples were submitted to the OISC residue lab for analysis. I collected a sample of the 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.

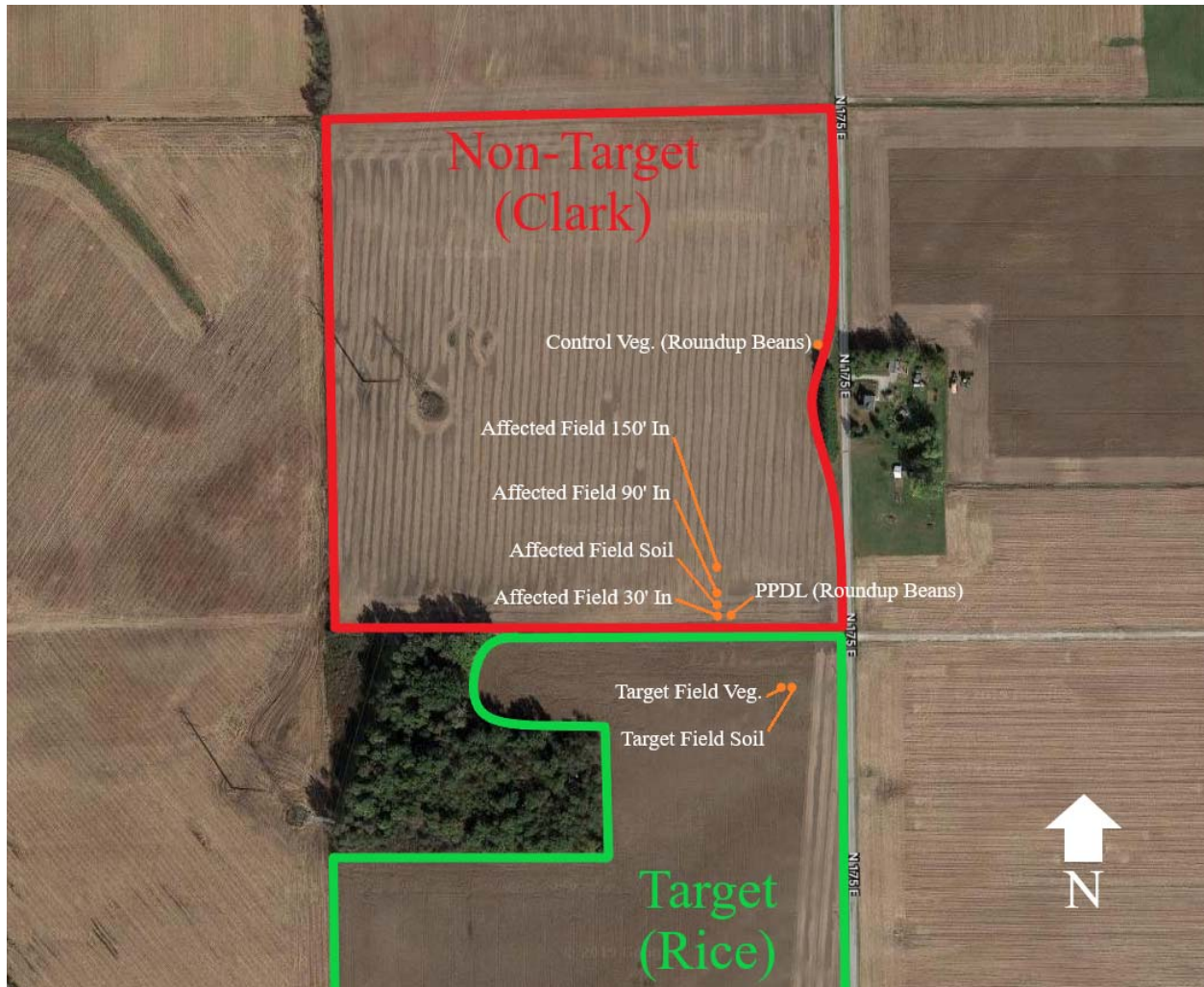



Figure 4

4. On July 21, 2018, I received a Pesticide Investigation Inquiry (PII) from Mr. Rice. Mr. Rice made his application on June 28, 2018 from 12:35 PM to 2:21 PM and it consisted of:
  - A. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
  - B. Roundup PowerMAX (EPA Reg. #524-549, active ingredient glyphosate)

The wind data Mr. Rice reported was 3 MPH from the southeast at the start of the application and 4.1 MPH from the southeast at the end of the application. This means that the wind was blowing towards Mr. Clark's non-DT soybean field.

5. 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.*"
6. The lab results from the OISC residue lab are as follows:

| Case #   | 2018/0798   |              |                         | Investigator | A. Kreider    |
|--|---|--------------|-------------------------|--------------|---------------|
| Sample #   | Sample Description  | Matrix       | Amount of Analyte (ppb) |              |               |
|  |   |              | Dicamba                 | Glyphosate   | AMPA          |
| 2018-54-0101   | Affected Field 30' In   | Vegetation   | Did not test            | 2190         | BQL           |
| 2018-54-0102   | Affected Field 90' In   | Vegetation   | Did not test            | 2000         | BQL           |
| 2018-54-0103   | Affected Field 150' In  | Vegetation   | Did not test            | 1240         | BQL           |
| 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            | 4810         | BQL           |
| 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            | 394          | 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          |               |
|  |   |              |                         |              |               |
| Signature  |  |              |                         |              | Date 02/01/19 |

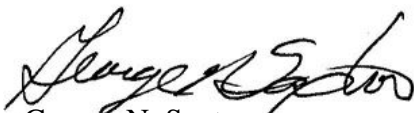
7. The Engenia label states, ***“DO NOT apply when wind is blowing in the direction of neighboring sensitive crops.”***
8. The report from PPDL supports the decision that the injury seen on Mr. Clark’s non-DT soybeans is likely from Mr. Rice’s application. The samples were not run for glyphosate since both Mr. Rice and Mr. Clark had applied glyphosate to their respective fields. Mr. Rice did violate the Engenia label by making his application when winds were blowing towards Mr. Clark’s non-DT soybean field.



Aaron P. Kreider  
Investigator

Date: June 14, 2019

**Disposition:** Gregory Rice 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 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 18, 2019  
Final Date: August 19, 2019

## CASE SUMMARY

Case #2018/0835

**Complainant:** Scott Durflinger  
Tom Durflinger  
2278 S 1200 E  
Otterbein, Indiana 47970

**Respondent:** Jake Hurst  
Bryan Brost  
Brost Farms  
4466 S 850 E  
Oxford, Indiana 47971

Non-Certified Applicator  
Private Applicator

1. On July 18, 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 25, 2018, I met with Scott and Tom Durflinger at their residence. Scott led me to the non-DT soybean field he believed was affected by dicamba drift. The injury seemed to be concentrated on the south border of Mr. Durflinger's field where it is across the road from the DT soybean field where Jake Hurst made his application. The border between the target field and the non-target field can be seen in Figure 1. The injury that caused Mr. Durflinger's complaint can be seen in Figures 2 and 3.



Figure 1



Figure 2



Figure 3

3. I collected three vegetation samples from the complainant's field: (0' into the complainant's field; 60' into the complainant's field; and 120' into the complainant's field), a soil sample, and a control sample (Liberty Beans) from Mr. Durflinger's affected field. I collected a soil sample from the target field where Mr. Hurst made his application. These samples were submitted to the OISC residue lab for analysis. I collected a sample of Liberty beans from the affected 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 November 1, 2018, I received a Pesticide Investigation Inquiry (PII) from Bryan Brost on behalf of Jake Hurst. It states that Mr. Hurst made his application on June 6, 2018 from 3:00 PM to 6:00 PM. The application consisted of:
  - A. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
  - B. Roundup PowerMAX (EPA Reg. #524-549, active ingredient glyphosate)
  - C. Zidua (EPA Reg. #7969-338, active ingredient pyroxasulfone)
  - D. AG16098 (Surfactant)
  - E. Class Act Ridion (Surfactant)

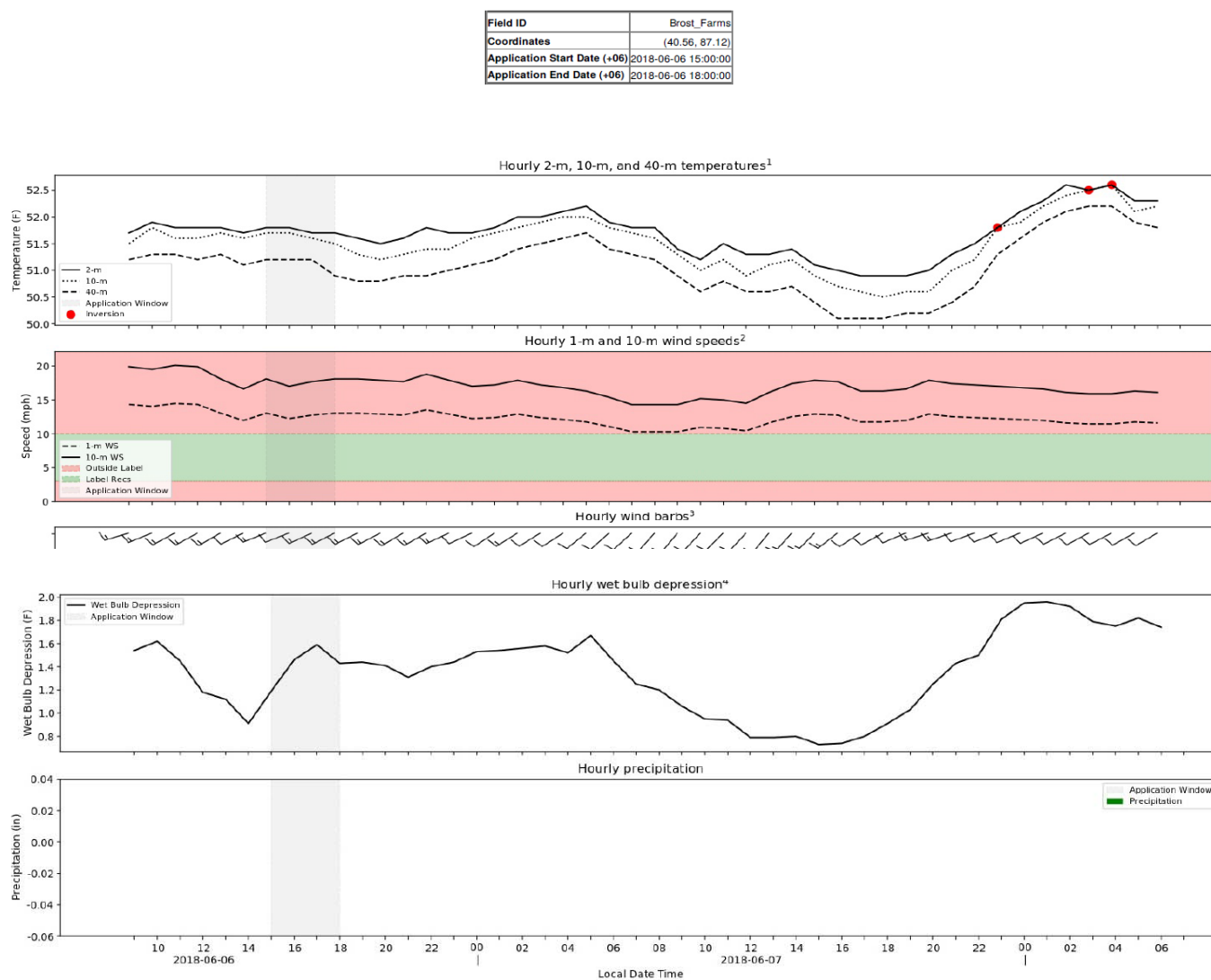
The wind data reported on the PII was 6 MPH from the northwest at the start of the application and 6 MPH from the northwest at the end of the application. This means that the wind was blowing away from Mr. Durflinger's non-DT soybean field.

5. I collected wind data from the Purdue University Airport (KLAF) which is 14.2 miles from the target field, the Jasper County Airport (KRZL) which is 26.7 miles from the target field, and the Logansport/Cass County Airport (KGGP) which is 40.5 miles from the target field. The data from these weather stations is as follows:
  - a. KLAF: 5 MPH with no gusts from variable direction at the start of the application. 0-7 MPH with no gusts from the south-southeast during the application. 3 MPH with no gusts from the east-southeast at the end of the application.
  - b. KRZL: 8 MPH with no gusts from the southeast at the start of the application. 6-10 MPH with no gusts from the southeast during the application. 6 MPH with no gusts from the southeast at the end of the application.



c. KGGP: 0 MPH with no gusts at the start of the application. 0-11 MPH with no gusts from the southeast during the application. 6 MPH with no gusts from the southeast at the end of the application.

6. The weather model from the National Oceanic & Atmospheric Administration (NOAA) High-Resolution Rapid Refresh (HRRR) model indicates during the time of application, the wind was between 10 and 14 miles per hour and the wind direction was from the southwest.



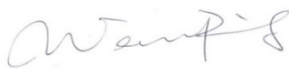
<sup>1</sup>Red dots indicate that the weather conditions for a surface temperature inversion may have been present. 10 and 40 meter temperatures are approximate heights AGL.

<sup>2</sup>Wind speed displays the sustained 1-meter (~3 feet) wind speed, based on a 2-minute average. Wind speeds typically increase with height due to increased surface friction near the surface so these wind speeds will be typically lighter than general wind reports, which are at 10-meters (~33 feet).

<sup>3</sup>The wind barbs indicate both wind speed and direction. The barb points in the direction 'from which' the wind is blowing.

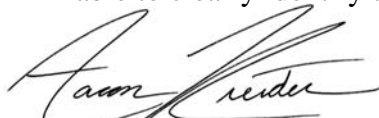
7. The report from PPDL stated, “Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba.”

8. The lab results from the OISC residue lab are as follows:

| <b>Case #</b>  | <b>2018/0835</b>   |              |                         | <b>Investigator</b> |              | <b>A. Kreider</b> |              |
|--|--|--------------|-------------------------|---------------------|--------------|-------------------|--------------|
| Sample #   | Sample Description   | Matrix       | Amount of Analyte (ppb) |                     |              |                   |              |
|  |  |              | Dicamba                 | DCSA                | 5-OH Dicamba | Glyphosate        | AMPA         |
| 2018-54-0134   | Affected Liberty Field 0' In   | Vegetation   | Did not test            | Did not test        | Did not test | BDL               | BDL          |
| 2018-54-0135   | Affected Liberty Field 60' In  | Vegetation   | Did not test            | Did not test        | Did not test | BDL               | BDL          |
| 2018-54-0136   | Affected Liberty Field 120' In   | Vegetation   | Did not test            | Did not test        | Did not test | BDL               | BDL          |
| 2018-54-0137   | Affected Liberty Field Soil  | Soil         | Did not test            | Did not test        | Did not test | Did not test      | Did not test |
| 2018-54-0138   | Target Field Soil  | Soil         | Did not test            | Did not test        | Did not test | Did not test      | Did not test |
| 2018-54-0139   | Control (Liberty Beans)  | 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)  | Soil   | Did not test | Did not test            | Did not test        | Did not test | Did not test      | Did not test |
| LOQ (ppb)  | Vegetation   | Did not test | Did not test            | Did not test        | 5            | 125               |              |
| <b>Signature</b>   |  |              |                         |                     |              | <b>Date</b>       | 11/16/18     |

9. The Engenia label states, ***“DO NOT apply when wind is blowing in the direction of neighboring sensitive crops.”***

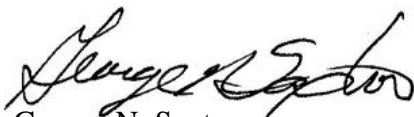
10. Based on the evidence collected in this investigation, it has been determined that Bryan Brost failed to comply with the drift management restrictions on the label for the herbicide Engenia. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the 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.



Aaron P. Kreider  
Investigator

Date: June 14, 2019

**Disposition:** Bryan Brost 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 second violation of similar nature (see case number 2018/0723) and a restricted use pesticide was involved.



George N. Saxton  
Compliance Officer

Draft Date: July 9, 2019  
Final Date: August 19, 2019

## CASE SUMMARY

Case #2018/0836

**Complainant:** Scott Durflinger  
Tom Durflinger  
2278 S 1200 E  
Otterbein, Indiana 47970

Private Applicator

**Respondent:** Jeff Haurt  
Travis Stephen  
Crossroad Farms  
4012 W 300 N  
Williamsport, IN 47993

Non-Certified Applicator  
Private Applicator

1. On July 18, 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 25, 2018, I met with Scott and Tom Durflinger at their residence. Scott led me to the non-DT soybean field he believed was affected by dicamba drift. The injury seemed to be concentrated on the west side where it shares a border with the DT soybean field where Jeff Haurt's application was made. The border between the two fields can be seen in Figure 1. The injury that caused Mr. Durflinger's complaint can be seen in Figures 2 and 3.



Figure 1



Figure 2



Figure 3

3. I collected the following samples:
  - A. Affected Liberty Field 30' In
  - B. Affected Liberty Field 90' In
  - C. Affected Liberty Field 150' In
  - D. Affected Liberty Field Soil
  - E. Target Field Weeds
  - F. Target Field Soil
  - G. Control (Liberty Beans)

These samples were submitted to the OISC residue lab for analysis. I collected a non-DT soybean sample from the affected field to submit for analysis by the Plant and Pest Diagnostic Lab at Purdue (PPDL). The location of these samples can be seen in Figure 4.

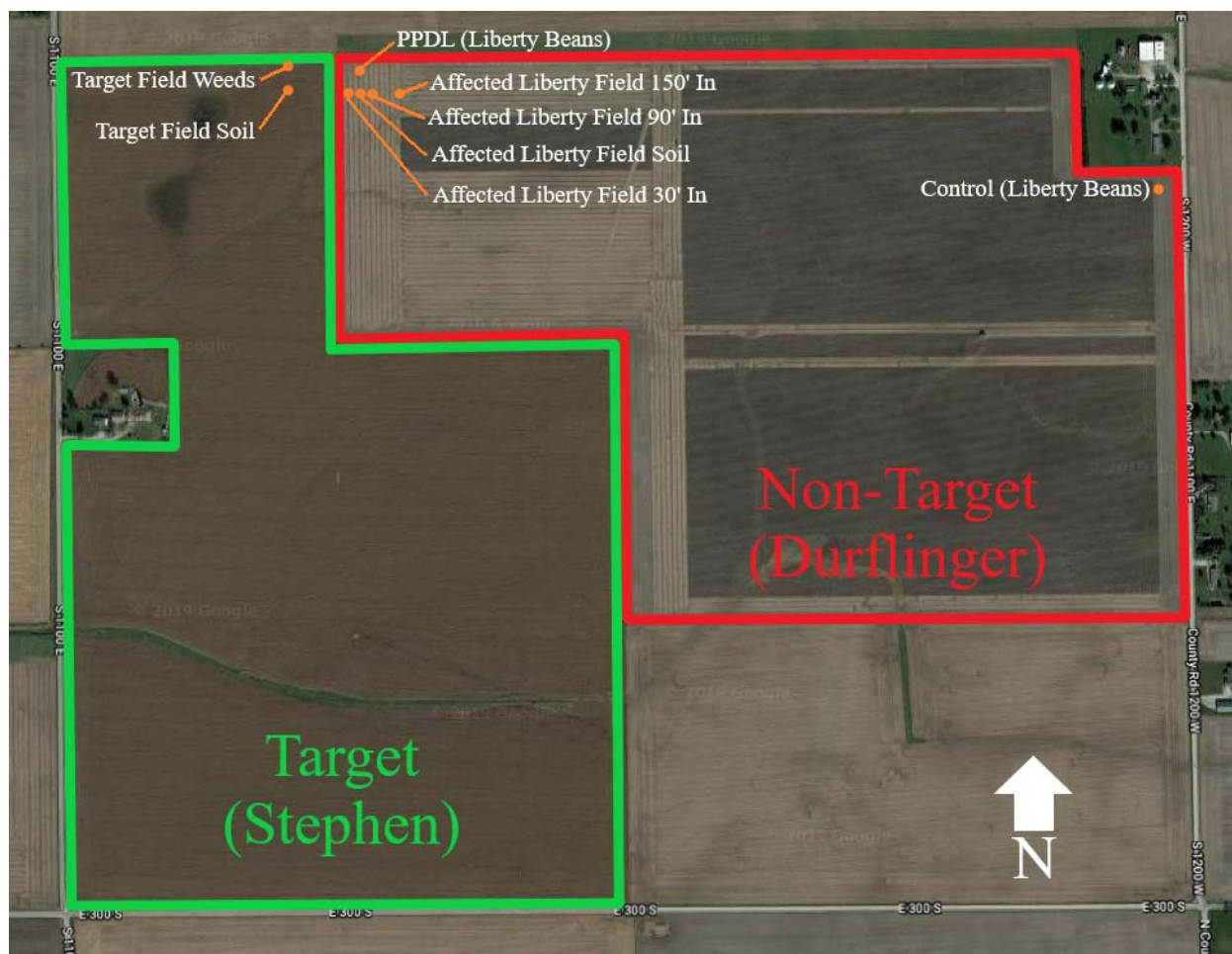


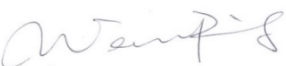
Figure 4

4. On January 25, 2019, I received a Pesticide Investigation Inquiry from Mr. Stephen on behalf of Jeff Haurt. The application was made on June 26, 2018 from 10:30 AM to an unknown end time. The application consisted of:


- A. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
- B. Tomahawk 5 (EPA Reg. #33270-15, active ingredient glyphosate)
- C. Fusilade II (EPA Reg. #100-1084, active ingredient fluazifop-P-butyl)
- D. Class Act Ridion (Surfactant)
- E. AG16098 (Surfactant)

The wind data on the PII states that the wind speed was 9 MPH from the west at the start of the application and 7 MPH from the south at the end of the application. This means that the wind was blowing towards Mr. Durflinger's non-DT soybean field. The EPA registration number 100-1084, which is exactly as written on the PII, is for Fusilade II, which is a turf and ornamental product and not an agriculture use product, nor is it an approved tank mix partner for Engenia. Mr. Stephen stated he had, but did not provide dates for when he checked DriftWatch or for when he checked the registrant's website for approved tank mixes.

- 5. 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.*"
- 6. The results from the OISC residue lab are as follows:

| Case #   | 2018/0836   |            | Investigator            |              |              | A. Kreider   |              |              |
|--|---|------------|-------------------------|--------------|--------------|--------------|--------------|--------------|
| Sample #   | Sample Description  | Matrix     | Amount of Analyte (ppb) |              |              |              |              |              |
|  |   |            | Fluazifop-p-butyl       | Dicamba      | DCSA         | 5-OH Dicamba | Glyphosate   | AMPA         |
| 2018-54-0140   | Affected Liberty field 30' in   | Vegetation | BDL                     | 5.78         | BQL          | BDL          | BDL          | BDL          |
| 2018-54-0141   | Affected Liberty field 90' in   | Vegetation | BDL                     | 5.30         | BQL          | BDL          | BDL          | BDL          |
| 2018-54-0142   | Affected Liberty field 150' in  | Vegetation | BDL                     | 2.92         | BQL          | BDL          | BDL          | BDL          |
| 2018-54-0143   | Affected Liberty field soil   | Soil       | Did not test            | Did not test | Did not test | Did not test | Did not test | Did not test |
| 2018-54-0144   | Target field weeds  | Vegetation | 371*                    | 66500*       | 472*         | 55.6         | 65800        | 1280         |
| 2018-54-0145   | Target field soil   | Soil       | Did not test            | Did not test | Did not test | Did not test | Did not test | Did not test |
| 2018-54-0146   | Control Liberty beans   | Vegetation | BDL                     | BDL          | BDL          | BDL          | 81.1         | BDL          |
| PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC |   |            |                         |              |              |              |              |              |
| * Minimum concentration reported due to amount exceeding calibration curve rage  |   |            |                         |              |              |              |              |              |
| LOQ (ppb)  | Vegetation  | 0.3        | 0.2                     | 0.4          | 2            | 10-25        | 50           |              |
|  |   |            |                         |              |              |              |              |              |
| Signature  |  |            |                         |              |              | Date         | 03/22/19     |              |

7. 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** and 2. The intended product tank-mix with **Engenia** is identified on that list of tested and approved products.”
8. The Fusilade II label states, “For the control of grass weeds in landscape areas, roadsides, nurseries, greenhouses, flower beds, groundcovers, interiorscapes, parks, sports fields, golf courses, commercial and residential areas.”
9. Based on the evidence collected in this investigation, it has been determined that Mr. Haurt 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 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: June 5, 2019



**Disposition:** Travis Stephen and Jeff Haurt 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 as well as for failure to follow label directions on the Fusilade II label for applying to agricultural fields when the label indicated the pesticide product is for other sites. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact that a restricted use pesticide was involved and this was their second violation of similar nature. See case number 2017/1234.

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

George N. Saxton  
Compliance Officer

Draft Date: June 28, 2019  
Case Closed: October 10, 2019

## CASE SUMMARY

Case #2018/0849

**Complainant:** Scott Durflinger  
Tom Durflinger  
2278 S 1200 E  
Otterbein, IN 47970

Private Applicator

**Respondent:** Jeff Haurt  
Travis Stephen  
Crossroad Farms  
4012 W 300 N  
Williamsport, IN 47993

Non-Certified Applicator  
Private Applicator

1. On July 18, 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 25, 2018, I met with Scott and Tom Durflinger at their residence. Scott led me to his non-DT soybean field he believed was affected by dicamba drift. The injury seemed to be concentrated on the west side where a road separates Mr. Durflinger's field and the DT soybean field where Jeff Haurt made his application. The border between the two fields can be seen in Figure 1. The injury that caused Mr. Durflinger's complaint can be seen in Figures 2 and 3.



Figure 1



Figure 2



Figure 3

3. I collected the following samples:
  - A. Affected Liberty Field 30' In
  - B. Affected Liberty Field 90' In
  - C. Affected Liberty Field 150' In
  - D. Affected Liberty Field Soil
  - E. Target Field Soil
  - F. Control (Liberty Beans)

These samples were submitted to the OISC residue lab for analysis. I collected a sample of non-DT soybeans from the affected field for analysis by the Plant and Pest Diagnostic Lab at Purdue (PPDL). The location of these samples can be seen in Figure 4.



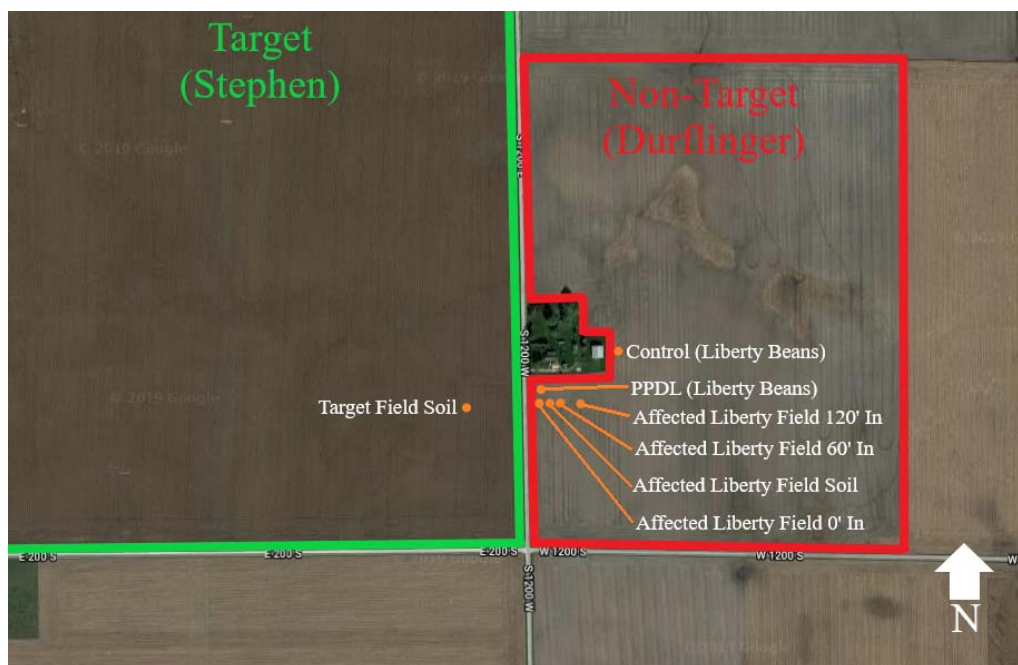


Figure 4

4. On January 25, 2019, I received a Pesticide Investigation Inquiry (PII) from Travis Stephen on behalf of Jeff Haurt. The application was made on June 26, 2018 from 12:00 PM to 3:00 PM. The application consisted of:

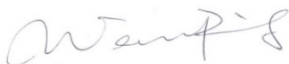
- A. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
- B. Tomahawk 5 (EPA Reg. #33270-15, active ingredient glyphosate)
- C. Fusilade II (EPA Reg. #100-1084, active ingredient fluazifop-P-butyl)
- D. Class Act Ridion (Surfactant)
- E. AG16098 (Surfactant)

The wind data reported on the PII states that the wind was 8 MPH from the south at the start of the application and 8 MPH from the south-southwest at the end of the application. This would mean that the wind was blowing towards the non-DT soybean field of Mr. Durflinger. The EPA registration number 100-1084, which is exactly as written on the PII, is for Fusilade II which is a turf and ornamental product and not an agriculture use product, nor is it an approved tank mix partner for Engenia. Mr. Stephen stated he had, but did not provide dates for when he checked DriftWatch or for when he checked the registrant's website for approved tank mixes.

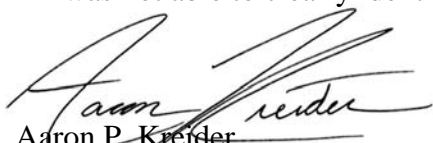
5. The report from PDDL stated, *"Cupped/puckered leaves with parallel leaf veins and cream or tan-colored leaf tips are indicative of injury from dicamba."*

6. The results from the OISC residue lab are as follows:

| Case #       | 2018/0849                     |            |                         | Investigator |       |              | A. Kreider |      |
|--------------|-------------------------------|------------|-------------------------|--------------|-------|--------------|------------|------|
| Sample #     | Sample Description            | Matrix     | Amount of Analyte (ppb) |              |       |              |            |      |
|              |                               |            | Fluazifop-p-butyl       | Dicamba      | DCSA  | 5-OH Dicamba | Glyphosate | AMPA |
| 2018-54-0147 | Affected Liberty field 0' in  | Vegetation | BDL                     | 7.14         | 0.692 | BDL          | BDL        | BDL  |
| 2018-54-0148 | Affected Liberty field 60' in | Vegetation | BDL                     | 1.42         | 0.493 | BDL          | BDL        | BDL  |

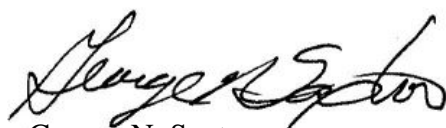
|  |   |            |              |              |              |              |              |              |
|--|---|------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 2018-54-0149   | Affected Liberty field 120' in  | Vegetation | BDL          | 1.85         | BQL          | BDL          | BDL          | BDL          |
| 2018-54-0150   | Affected Liberty field soil   | Soil       | Did not test | Did not test | Did not test | Did not test | Did not test | Did not test |
| 2018-54-0151   | Target field soil   | Soil       | Did not test | Did not test | Did not test | Did not test | Did not test | Did not test |
| 2018-54-0152   | Control Liberty beans   | Vegetation | BDL          | 0.859        | 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  | 0.3        | 0.2          | 0.4          | 2            | 10-25        | 50           |              |
|  |   |            |              |              |              |              |              |              |
| <b>Signature</b>   |  |            |              |              | <b>Date</b>  | 03/22/19     |              |              |

7. 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** and 2. The intended product tank-mix with **Engenia** is identified on that list of tested and approved products.” The Fusilade II label states, “For the control of grass weeds in landscape areas, roadsides, nurseries, greenhouses, flower beds, groundcovers, interiorscapes, parks, sports fields, golf courses, commercial and residential areas.”
8. Based on the evidence collected in this investigation, it has been determined that Mr. Haurt 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 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: June 5, 2019

**Disposition:** Travis Stephen and Jeff Haurt 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 as well as for failure to follow label directions on the Fusilade II label for applying to agricultural fields when the label indicated the pesticide product is for other sites. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact that a restricted use pesticide was involved and this was their second violation of similar nature. See case number 2017/1234.

  
 George N. Saxton  
 Compliance Officer

Draft Date: June 25, 2019  
 Case Closed: September 17, 2019

## CASE SUMMARY

Case #2018/0871

**Complainant:** Imogene Mensendiek  
11491 S. Jonesville Road  
Columbus, IN 47201

**Respondent:** Greg Meyer  
15210 S 300 W  
Columbus, IN 47201

Private Applicator

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 her beans.
2. On August 1, 2018, I met with Louis Mensendiek (husband of Imogene) at the field he believed was affected by dicamba drift. The injury seemed to be the worst at the south end of Mr. Mensendiek's non-DT soybean field where it is closest to the DT soybean field of Greg Meyer. There was little to no injury north of the woods that sits on the southwest corner of the affected field. The border between the two fields can be seen in Figure 1. The injury that caused Mr. Mensendiek's complaint can be seen in Figures 2 and 3.



Figure 1



Figure 2



Figure 3

3. I collected the following samples:
  - A. Affected Liberty Beans 30' In
  - B. Affected Liberty Beans 90' In
  - C. Affected Liberty Beans 150' In
  - D. Affected Liberty Field Soil
  - E. Target Field Weeds
  - F. Target Field Soil
  - G. Control (Liberty Beans)

These samples were submitted to the OISC residue lab for analysis. I collected a non-DT soybean sample to have analyzed by the Plant and Pest Diagnostic Lab at Purdue (PPDL). The location of these samples can be seen in Figure 4.

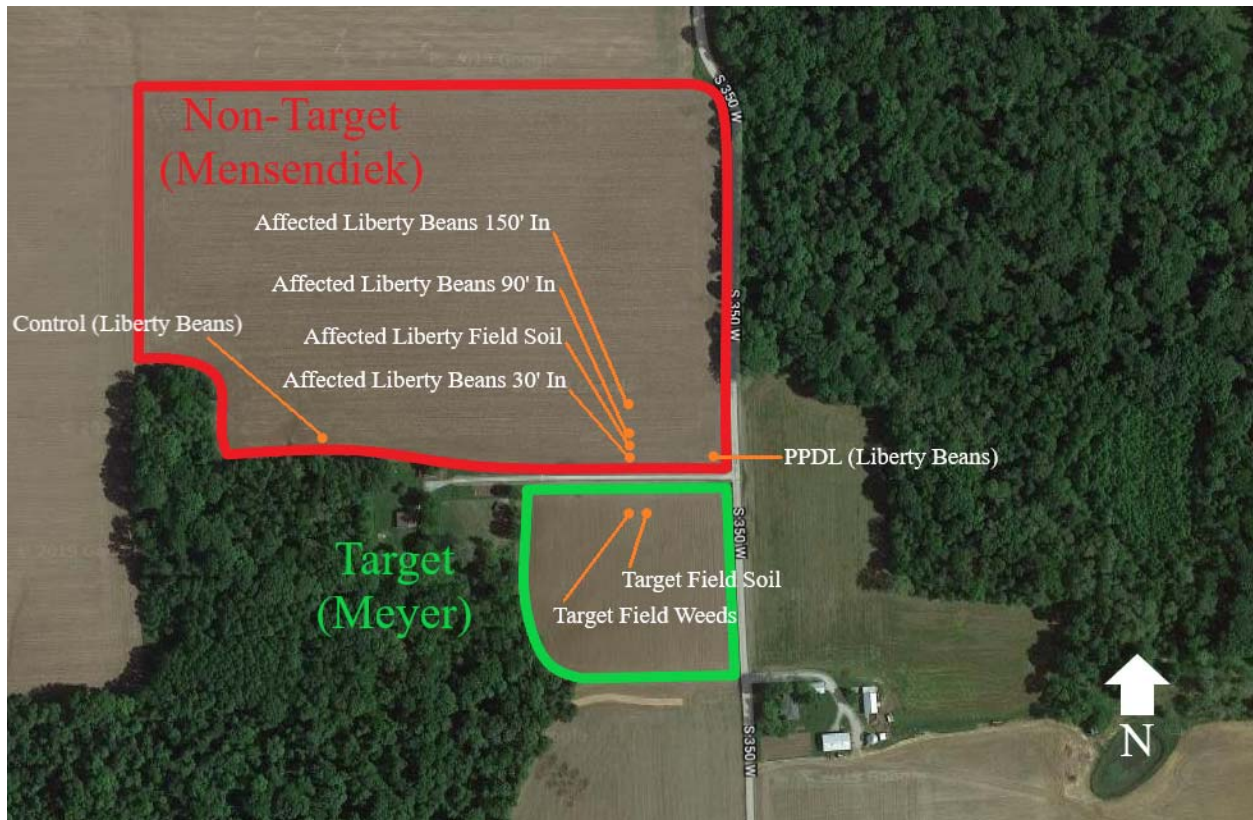


Figure 4

4. On August 3, 2018, I received a Pesticide Investigation Inquiry (PII) from Mr. Meyer. It states that he made the application on July 4, 2018 from 9:00 AM to 2:30 PM. The application consisted of:

- A. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
- B. Buccaneer Plus (EPA Reg. #55467-9, active ingredient glyphosate)
- C. Cornbelt VaporGard + DRA (Drift Retardant/Surfactant)

The wind data reported on the PII states that the wind was 3 MPH from the north at the start of the application and 5 MPH from the north at the end of the application. This would mean that the wind was blowing away from the affected field. Mr. Meyer reported that he checked the registrant's website for approved tank mixes on June 1, 2018, which is more than 7 days before the application was made. I could not find any other instances where Mr. Meyer violated the Engenia label required record keeping from the information he provided on the PII.

5. I obtained wind data from Columbus Bakalar Municipal Airport (KBAK) which is 12.8 miles from the target field, Monroe County Airport (KBMG) which is 34.5 miles from the target field, and Shelbyville Municipal Airport (K3SM) which is 35.5 miles from the target field. The data from these weather stations is as follows:

- A. KBAK: 3 MPH with no gusts from the southeast at the start of the application blowing towards the complaint's beans. 0-5 MPH with no gusts from the southeast during the application blowing towards the complaint's beans. 3 MPH with no gusts from the southeast at the end of the application blowing towards the complaint's beans.

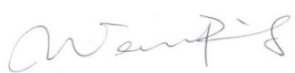


B. KBMG: 3 MPH with no gusts from the south-southeast at the start of the application blowing towards the complaint's beans. 0-6 MPH with no gusts from the southwest during the application blowing towards the complaint's beans. 0 MPH with no gusts at the end of the application.

C. K3SM: 0 MPH with no gusts at the start of the application. 0-5 MPH with no gusts from the southwest during the application blowing towards the complaint's beans. 0 MPH with no gusts at the end of the application.

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.*"

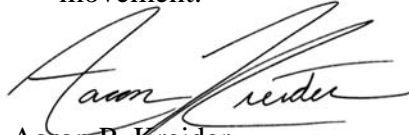
7. The results from the OISC residue lab are as follows:

| Case #   | 2018/0871   |            | Investigator            |              | A. Kreider   |              |              |
|--|---|------------|-------------------------|--------------|--------------|--------------|--------------|
| Sample #   | Sample Description  | Matrix     | Amount of Analyte (ppb) |              |              |              |              |
|  |   |            | Dicamba                 | DCSA         | 5-OH Dicamba | Glyphosate   | AMPA         |
| 2018-54-0161   | Affected Liberty Beans 30' In   | Vegetation | Did not test            | Did not test | Did not test | BDL          | BDL          |
| 2018-54-0162   | Affected Liberty Beans 90' In   | Vegetation | Did not test            | Did not test | Did not test | BDL          | BDL          |
| 2018-54-0163   | Affected Liberty Beans 150' In  | Vegetation | Did not test            | Did not test | Did not test | BDL          | BDL          |
| 2018-54-0164   | Affected Liberty Soil   | Soil       | Did not test            | Did not test | Did not test | Did not test | Did not test |
| 2018-54-0165   | Target Field Weeds  | Vegetation | Did not test            | Did not test | Did not test | 4140         | BDL          |
| 2018-54-0166   | Target Field Soil   | Soil       | Did not test            | Did not test | Did not test | Did not test | Did not test |
| 2018-54-0167   | Control (Liberty Beans)   | 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         | 01/20/19     |              |

8. 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***." The Engenia label states, "***DO NOT*** apply when wind is blowing in the direction of neighboring sensitive crops."

9. Based on the evidence collected in this investigation, it has been determined that Mr. Meyer failed to comply with the drift management restrictions on the label for the herbicide

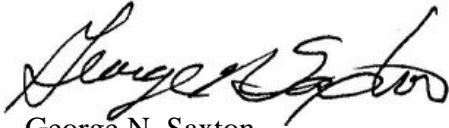
Engenia. It should also be noted that OISC was not able to determine whether the herbicide moved off-target as the result of drift, application into an inversion, or volatilization at some point after the application, and was not able to clearly identify the source of the off-target movement.



Aaron P. Kreider  
Investigator

Date: June 6, 2019

**Disposition:** Greg Meyer 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  
Compliance Officer

Draft Date: July 5, 2019  
Final Date: August 19, 2019

## CASE SUMMARY

Case #PS19-0049

**Complainant:** Brock Besterda  
2305 Florida Drive, Apt. C-7  
Fort Wayne, IN 46805

**Respondent:** Max Valladares  
Metro Real Estate  
2042 Broadway  
Fort Wayne, IN 46802

Not Licensed

1. On November 15, 2018, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report the apartment complex maintenance man made an application of a pesticide in his apartment and now his skin is burning. Complainant also stated there was white powder everywhere.
2. On November 16, 2018, I spoke with Brock Besterda who reported his apartment was sprayed several times for bedbugs by Metro Real Estate, the management company for his apartment complex. He indicated that his skin became irritated after returning to and sleeping in the apartment. Mr. Besterda stated it appears everything in the apartment was sprayed with the pesticide.
3. On November 19, 2018, I met with Mr. Besterda at his apartment in Hampton Court Apartments on Florida Drive in Fort Wayne. He reported the skin irritation had subsided but he had been spending a lot of time at a friend's apartment in the complex since the symptoms began. A white residue was visible on a video game system, table legs, magazines and baseboards in the apartment. Mr. Besterda indicated he believed everything in the apartment, including couch cushions and bedding, had been sprayed during the most recent application. I collected swab samples from the table legs, the magazines and the flat, seating portion of the fabric couch cushion. The samples were submitted to the OISC Residue Lab for analysis.
4. I then went to Metro Real Estate and informed Property Manager, Angela Rakoczy, of the complaint. She confirmed that Mr. Besterda's apartment had a bedbug problem and that Max Valladares, a Metro maintenance technician, had sprayed the apartment three times since mid-October with Tempo SC Ultra (EPA Reg. #432-1363), active ingredient cyfluthrin. I provided Ms. Rakoczy a Pesticide Investigation Inquiry which she and Mr. Valladares later completed for the applications. Photos of the pesticide container and the sprayer were forwarded to the OISC in addition to application information which listed spray dates as October 16, October 29 and November 8. The pesticide was reportedly mixed at 3 oz. per two gallons of water (1.5 oz. per gallon) in a pump sprayer. A list of areas sprayed included baseboards, vents, outlets and seams of mattresses and furniture.
5. The OISC Residue Lab analyzed the samples for cyfluthrin and reported the following:



| OCM Collection #   | 59951              | Case # | PS19-0049                   | Investigator | A. Roth |
|--|--------------------|--------|-----------------------------|--------------|---------|
| Sample #   | Sample Description | Matrix | Amount of Analyte (ng/swab) |              |         |
|  |                    |        | Cyfluthrin                  |              |         |
| 19-4-4201-3  | Trip Blank         | Swab   | BDL                         |              |         |
| 19-4-4202-1  | Couch Cushion      | Swab   | 50700*                      |              |         |
| 19-4-4203-2  | Magazine           | Swab   | 126000*                     |              |         |
| 19-4-4204-5  | Table Leg          | Swab   | 284000*                     |              |         |
| 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 (ng/swab)  |                    | Swab   | 10                          |              |         |

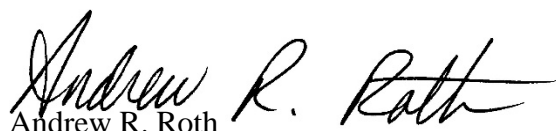
6. Cyfluthrin was detected in the three samples collected from inside the apartment.

7. The Tempo SC Ultra label lists application rates as follows:

- 0.025% -- 8 ml (0.27 fl oz) per gal water
- 0.05% -- 16 ml (0.54 fl oz) per gal water

The label states, **“Do not exceed label rates.”** It further states, **“Do not apply to furniture or upholstery where prolonged contact by humans will occur.”**

8. Based on the information provided, Mr. Valladares exceeded the high-end application rate in mixing the pesticide for application. I contacted Metro Real Estate to inform Ms. Rakoczy and Mr. Valladares of my findings and was informed by Kristie Mahoney that Ms. Rakoczy left the company at the end of November. She also noted that Temprid SC is the pesticide *normally* used for bedbug applications; Ms. Rakoczy had apparently ordered the Tempo SC Ultra used in the applications in this case when Ms. Mahoney was not there. I informed Ms. Mahoney that, while the pesticide labels for the two products are similar, they are different and have product-specific instructions and precautions.

  
Andrew R. Roth  
Investigator

Date: April 22, 2019

**Disposition:** Max Valladares was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application rates and application site. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

  
George N. Saxton  
Compliance Officer

Draft Date: August 28, 2019  
Case Closed: October 10, 2019

## CASE SUMMARY

Case #PS19-0073

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, IN 47907  
765-494-1492

**Respondent:** Gold Leaf Hydroponics LLC  
Kyle Billman Owner  
5081 S. Production Drive, Suite B  
Bloomington, IN 47403

**Registrant:** Fox Farm Soil and Fertilizer Company  
United Compost and Organics  
P.O. Box 787  
Arcata, CA 95518

**Distributor:** BWGS LLC  
1410 Hancel Parkway  
Mooresville, IN 46158

1. On December 19, 2016, the Office of Indiana State Chemist (OISC) received a pesticide product application for BushDoctor Force of Nature Insect Repellent and BushDoctor Force of Nature Miticide.
2. On July 25, 2017, I contacted United Compost & Organics/Fox Farm to inform the company of concerns our department had with the labeling.
3. On September 15, 2017, we denied the registration, as submitted by United Compost & Organics/Fox Farm because we did not receive the requested documents or revisions to the labels as requested on 7/25/17.

  
Sarah K. Caffery  
Pesticide Product Registration Specialist

4. On January 2, 2019, I performed a routine marketplace inspection at Gold Leaf Hydroponics LLC located at 5081 S. Production Drive, Ste. B in Bloomington, Indiana. I spoke with the Owner Kyle Billman and informed him of the process of the marketplace inspection.

5. Upon completion of the inspection, I located two (2) unregistered pesticide products that were being offered for sale in the Gold Leaf Hydroponics store. I spoke with Ed White, Assistant Pesticide Administrator, and he confirmed that the pesticide products were unregistered. The products are as follows:
  - a. Bushdoctor Insect Repellent, a 25(b) product.
  - b. Bushdoctor Miticide, a 25(b) Product.
6. I spoke with Mr. Billman and informed him of the unregistered products I had located. I informed Mr. Billman that I would be issuing an Action Order instructing them to remove any remaining bottles of the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed him that I would be retaining an evidentiary sample of the product for my case. Mr. Billman informed me that the evidentiary samples that I retained were the only two containers in the store and that they would not receive any more. I asked Mr. Billman if he was able to provide me with any information for when the last shipment came to the store. Mr. Billman was able to provide me with an invoice for the two pesticide products. The products were distributed to Gold Leaf Hydroponics by BWGS LLC on July 16, 2018.
7. I placed the evidentiary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.
8. On January 4, 2019 I delivered the evidentiary sample to the Formulation Lab.



Fig 1. Sample photos of the unregistered pesticide product.

9. All supporting documents and photos have been electronically attached to the OISC case management system.

Garret A. Creason  
Investigator

Date: February 14, 2018

10. On January 30, 2019, the Immediate Notification Letter (INL) was sent to United Compost & Organics/Fox Farm informing them of the Action Order (AO) that was placed on their products.
11. On February 22, 2019, I spoke with Vicki Childs and Nathan Burger in regards to the INL and AO. They stated that they were unaware that the language in Indiana law includes distribution. During our conversation, Ms. Childs indicated that BWGS has since closed and gone out of business. Ms. Childs also indicated that they have already started working on revising the label based on our 2017 review.
12. On March 7, 2019, I conducted my label review for the products that were found in distribution.
  - a. Bushdoctor Miticide
    - i. The label is in violation of EPA condition 6 and Indiana Law, IC 15-16-4-25
      1. The main graphic on the label is false and misleading because it is not indicative of the target pests. The graphic representation of praying mantises as pests is also false and misleading because these insects are considered to be beneficial and their image on the label could be misinterpreted by the consumer.
    - ii. There are some label revisions that are recommended:
      1. With the statements included under “personal protective work clothing” and “first aid” directions, the statement “non-toxic to humans and animals” should be qualified with the addition of “when used as directed”.
      2. We recommend that the KEEP OUT OF REACH OF CHILDREN and signal word (CAUTION) are on the front of the label
  - b. Bushdoctor Insect Repellent
    - i. The label is in violation of EPA condition 6 and Indiana Law, IC 15-16-4-25
      1. The main graphic on the label is false and misleading because it is not indicative of the target pests. The graphic representation of praying mantises as pests is also false and misleading because these insects are considered to be beneficial and their image on the label could be misinterpreted by the consumer.
    - ii. There are some label revisions that are recommended:
      1. With the statements included under “personal protective work clothing” and “first aid” directions, the statement “non-toxic to humans and animals” should be qualified with the addition of “when used as directed”.
      2. We recommend that the KEEP OUT OF REACH OF CHILDREN and signal word (CAUTION) are on the front of the label
  - c. Additional label concerns may be presented upon review of efficacy data and the statement of formula.



Sarah K. Caffery  
Pesticide Product Registration Specialist

**Disposition:**

- A.** Gold Leaf Hydroponics LLC was warned for four (4) counts (2 products for 2018 & 2019) of violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale pesticide products that were not registered for sale in Indiana.
- B.** Fox Farm Soil and Fertilizer Company was cited for four (4) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing two (2) misbranded pesticide products in 2018 & 2019. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed.
- C.** Fox Farm Soil and Fertilizer Company was cited for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing two (2) pesticide products in 2018 & 2019 that were 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. However, the civil penalty was held in abeyance and will not assessed provided Fox Farm Soil and Fertilizer Company properly registers these pesticide products within thirty (30) days from receipt of this notice.

  
George N. Saxton  
Compliance Officer

Draft Date: August 1, 2019  
Case Closed: September 17, 2019

## CASE SUMMARY

Case #PS19-0147

**Complainant:** Brian Holtzleiter  
810 Central Avenue  
Anderson, IN 46012

|                    |   |                              |
|--------------------|---|------------------------------|
| <b>Respondent:</b> | Michaelis Corp.<br>Richard Michaelis<br>2601 East 56th Street<br>Indianapolis, IN 46220 | Unlicensed Business<br>Owner |
|--------------------|---|------------------------------|

1. On April 20, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Michaelis Corp used Champion liquid chlorinator for the control of mold in their crawlspace and now the odor is so strong they can't be in the garage or house.
2. On April 22, 2019, I met with Brian Holtzleiter at his residence. Mr. Holtzleiter stated pursuant to a real estate transaction at a home he was selling located at 3031 Hawthorne Drive in Lapel, Indiana (46051), Michaelis Corp. was hired to perform mold remediation in the crawlspace by the Buyer's realtor. Mr. Holtzleiter became concerned after he consulted a pest control company to give him an estimate for the mold remediation in the crawlspace totaling \$375.00. Michaelis Corp. quoted the mold remediation at \$1,250.00. See figure 1. In addition, Mr. Holtzleiter became more concerned when he observed the product being applied by Michaelis sitting on the tailgate of a Michaelis service vehicle. See figure 2. The product applied was Champion Pool Shock Liquid Chlorinator (EPA Reg. #55852-3, active ingredient sodium hypochlorite). Furthermore, Mr. Holtzleiter provided a detailed chronological account of the real estate transaction and a copies of videos he collected from a trail camera he installed in the crawlspace. Mr. Holtzleiter's account is contained in case file.
3. On April 22, 2019, I went to the house located at 3031 Hawthorne Drive in Lapel, Indiana (46051). I only had access to the exterior of the structure. I could smell a distinct chlorine odor emanating from the crawlspace vents around perimeter of the structure.
4. On April 23, 2019, Agent Reid and I met with members of the Michaelis Corp, Nick Spina, (Production Coordinator), Stephanie Toney (Office Manager), and Mike Gardner (Indoor Air Quality). Mr. Spina confirmed the use of Champion Pool Shock product. Mr. Spina stated the pool shock is mixed with a non-pesticidal product GoldMarr. Mr. Michaelis provided a copy of the purchase of the Pool Shock. In addition, Mr. Spina stated he would provide copies of all application in which Pool shock was used. Furthermore, Mr. Spina stated he would reach out to the buyer of the home in Lapel, Indiana to re-mediate the crawlspace. Agent Reid and I were given access to Michaelis' stock of Champion Pool Shock inventory. See figure 3.





GET TO KNOW US BEFORE YOU NEED US

**Michaelis Corporation**  
2601 E. 56th Street  
Indianapolis, IN. 46220  
317.251-1935 phone

## WORK COMPLETED

**Michaelis job # 19-0893WP**

**BID DATE:** Thursday, April 18, 2019

**FROM:** Dell Phillips

**CELL:** 317.501-7484

**E-MAIL:** dphillips@michaeliscorp.com

**TO:** \_\_\_\_\_  
**EMAIL:** \_\_\_\_\_  
**PHONE:** \_\_\_\_\_

**JOB NAME:** \_\_\_\_\_  
**ADDRESS:** 3031 Hawthorn Drive  
**CITY & ZIP CODE:** Lapel 46051

### CRAWLSPACE MOLD REMEDIATION & VAPOR BARRIER \$2,300

**INCLUDES:**

- \$0** Mold remediation per IICRC guidelines. This includes all subfloor, floor joists, sill plate, band board etc.
- \$400** Using HEPA vacuums to clean off the visible mold spores from the wood decking and floor joists
- \$200** Removing and hauling offsite the pink batt insulation on the bandboard and the plastic vapor barrier
- \$1,250** Applying an anti-microbial clear solution to all wood surfaces (wood subfloors, floor joists, band boards, sill plate, etc)
- \$400** Installing a new heavy duty 10 mil plastic vapor barrier over the entire footprint of the crawlspace. This will help keep the moisture from the dirt evaporating into the wood floor joists & decking. We'll overlap the seams 12" for coverage.
- \$50** Installing rigid styrofoam on the inside of the vents to keep the hot humid air out of the crawlspace in the summer & fall

**\$2,300 = TOTAL PRICE**

**EXCLUDES:**

- 1 Any mold remediation work in the garage, main floor living areas or attic
- 2 Cleaning the house furnace & HVAC ducts
- 3 Pre or post sample testing to give a mold spore count. ADD \$500 if you want us to do this work.  
  
We will do the mold work the same method whether you do or do not do these air sample tests.
- 4 Installing any new batt insulation on the bandboards. (It's just a place for mice to live and mold to grow)
- 5 Any exterior work...such as downspout extensions or grading work

**TOTAL OF ALL THE ABOVE WORK (without any adds or deducts) = \$2,300**

We can schedule your work after we get a signed contract plus a 30% down payment (this % is negotiable). We want to do the work BEFORE your closing. You can pay us the final balance after we get the work completed. OR >> at your closing, the title company can make out a check ONLY to Michaelis for final balance. IF we don't get the work completed before closing then the new buyer, can keep our check until we are done. IF for some reason the transaction with this buyer falls through then you will have 45 days to pay us the final balance without any interest charges (from the date we complete the work). After 45 days then it's \$10 per day late charges until paid in full. You are liable for our attorney fees if we need to collect this money. We will place a "friendly lien" on the house after 50 days of our work completion IF you have NOT paid us the final balance. Fill out the attached title company authorization & return if we're getting the final payment from the title company.

THE ABOVE PRICES & PROVISIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED.

X \_\_\_\_\_  
Date

Dell Phillips 4/18/2019  
Dell Phillips Date

Figure 1-Michaelis invoice for "work completed"



Figure 2-Champion Pool Shock



Figure 3-Michaelis Pool Shock Inventory

5. On April 23, 2019, I issued Mr. Spina an Action Order to cease making for-hire pesticide applications without a license from OISC and cease using a pesticide not labeled for application not on label.
6. On April 23, 2019, I spoke with Richard Michaelis, owner of Michaelis Corp. Mr. Michaelis wanted to schedule a meeting to discuss the investigation and to become compliant with Indiana pesticide laws. Mr. Michaelis and I agreed on May 3, 2019, at 10:00am for a follow-up meeting.
7. On May 3, 2019, Agent Reid and I met with Richard Michaelis, Bill Verhonik, James Porter, Mike Gardner, and Stephanie Toney of Michaelis Corp. We discussed the investigation and what constitutes a pesticide and for-hire pesticide application. Furthermore, we discussed how to get into compliance (get licensed or stop using pesticides for-hire). We agreed on May 17, 2019, to submit copies of invoices of applications using "Pool Shock".
8. On May 16, 2019, Richard Michaelis of Michaelis Corp. emailed copies of invoices for jobs Michaelis Corp used Pool Shock to treat for mold for customers in addition to Mr. Holtzleiter's property. Michaelis records indicated the following jobs in which Champion Pool Shock was applied;

|                |                |
|----------------|----------------|
| Invoice #23556 | Date: 10/25/18 |
| Invoice #23830 | Date: 12/7/18  |
| Invoice #23845 | Date: 12/10/18 |
| Invoice #23938 | Date: 1/8/19   |
| Invoice #24011 | Date: 1/17/19  |
| Invoice #24021 | Date: 1/21/19  |
| Invoice #24049 | Date: 1/28/19  |
| Invoice #24134 | Date: 2/11/19  |
| Invoice #24151 | Date: 2/14/19  |
| Invoice #24164 | Date: 2/18/19  |
| Invoice #24166 | Date: 2/19/19  |
| Invoice #24248 | Date: 3/4/19   |

Invoice #24317 Date: 3/13/19  
Invoice #24326 Date: 3/14/19  
Invoice #24437 Date: 3/25/19  
Invoice #24534 Date: 4/8/19  
Invoice #24687 Date: 4/30/19

9. A review of the Champion Pool Shock Label did not have label language for the use of this product in crawlspaces. Furthermore, the label states in part, . . . :
- a. Swimming Pool Water Disinfection;
  - b. Winterizing pools;
  - c. Use in well-ventilated area;
  - d. Avoid breathing vapors;
  - a. Chlorine must be allowed to dissipate from treated pool water before discharge;
10. The Material Safety Data Sheet states, "Recommended Use . . . Pool sanitizer/shock.
11. Upon reviewing the invoices submitted by Michaelis, I noticed Invoice #24687 (Dated 4/30/19) was after Michaelis was issued an Action Order (April 23, 2019) to cease making for-hire pesticide applications without a license. See figure 4.



2601 E. 56th Street  
Indianapolis IN 46220  
317-251-1935  
Fax 317-251-2599  
EIN #35-1660135

**Invoice**  
Invoice#: 24687  
Date: 04/30/2019

**Billed To:** **Project:** 18-2010RR  
18-2010RR

| Description             | Amount |
|-------------------------|--------|
| Revised Contract Amount |        |

|                     |      |
|---------------------|------|
| Non-Taxable Amount: | 0.00 |
| Taxable Amount:     | 0.00 |
| Sales Tax:          | 0.00 |
| <b>Amount Due</b>   |      |

The above balance represents the amount due upon receipt of this invoice. If applicable, please contact your insurance company to confirm the status of payments. In accordance with our company policy, if full payment is not received within 30 days, we reserve the right to stop work on your project. If paying with a credit card, there will be a 3% Convenience Fee. If payment is not received within 60 days, Michaelis Corp. will enforce its mechanic's lien rights. A charge of 18% per annum will be charged on all amounts overdue. Should you have any questions or concerns regarding the status of this account, please contact Amanda Schutte at 317-251-1935. Thank you for your prompt payment.

Figure 4-Invoice dated after Action Order

  
Paul J. Kelley  
Investigator

Date: June 3, 2019

**Disposition:** Michaelis Corp. 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 for this violation. However, the civil penalty was reduced to \$2,025.00. Consideration was given to the fact Michaelis Corp. cooperated during the investigation; corrective action was taken and no restricted use pesticides were involved.

Michaelis Corp. was cited for eighteen (18) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions of the pesticide product used by applying in a crawl space contrary to label directions. A civil penalty in the amount of \$4,500.00 (18 counts x \$250.00 per count) was assessed for this violation. However, the civil penalty was reduced to \$2,025.00. Consideration was given to the fact Michaelis Corp. cooperated during the investigation; corrective action was taken and no restricted use pesticides were involved.

Michaelis Corp. was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order of the state chemist by applying a pesticide for hire after being issued an Action Order to cease for-hire pesticide applications. A civil penalty in the amount of \$250.00 was assessed for this violation.

On August 14, 2019, Stephanie Toney sent an email indicating that the date on the invoice in question was the date the invoice was sent out and not the date of the application. The citation for violation of section 65(6) was rescinded. The total amount of civil penalty assessed for this investigation is \$4,050.00.



George N. Saxton  
Compliance Officer

Draft Date: August 21, 2019  
Case Closed: October 1, 2019

## CASE SUMMARY

Case #PS19-0163

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, IN 47907  
765-494-1492

**Respondent:** Meijer  
James Shirey  
1200 Lake City Hwy.  
Warsaw, IN 46580

Produce Team Lead

**Registrant:** Greenerways LLC  
668 Stony Hill Rd., Suite 143  
Yardley, PA 19067

1. On December 6, 2018, Office of Indiana State Chemist (OSIC) pesticide registration department received an application for four (4) Greenerways 25(b)<sup>1</sup> pesticide products. The application included:
  - a. Deet Free Bug Repellent Spray;
  - b. Deet Free Bug Repellent for Kids;
  - c. All Natural Mosquito Bite-Freezone; and
  - d. All Natural 2 in 1 SPF 30 Sunscreen & Bug Repellent.
2. On January 29, 2019, I communicated with Sharon Neiburg at Greenerways about specific label concerns and revisions that would need to be completed for the products to be registered for sale and distribution in the state of Indiana. I indicated that the communication on 1/29 was not a complete review and only included the review of the labels.
3. Since January, I have had numerous conversations with Ms. Neiburg to confirm revisions and reviews of the labels and application packet. Final revisions to the labels were received by OISC on April 18, 2019 and are pending review.



Sarah K. Caffery  
Pesticide Product Registration Specialist

4. On May 2, 2019, I, Garret Creason, performed a marketplace inspection at Meijer in Warsaw, Indiana. I spoke with the Produce Team Lead, James Shirey, and informed him of the process of the marketplace inspection.

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<sup>1</sup> Minimum Risk Pesticide



5. Upon completion of the inspection, I located two (2) unregistered pesticide products that were being offered for sale in the Meijer store. I confirmed through Ed White, Assistant Pesticide Administrator, that the pesticide products were unregistered. The products were as follows:
  - a. DEET Free Bug Repellent, 25(b) product.
  - b. All Natural 2 in 1 SPF 30 Sunscreen & Bug Repellent, 25(b) product.
6. I spoke with Mr. Shirey and informed him of the unregistered pesticide products I had located. I informed Mr. Shirey that I would be issuing an Action Order instructing them to remove the five remaining packages of each of the unregistered pesticide products 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 a documentary sample of each of the products for my case. I asked Mr. Shirey if he was able to provide me with any information for when the last shipment came to the store. Mr. Shirey was able to provide me with a product inquiry for both of the pesticide products. The product inquiries listed that the products were last received on April 12, 2019. Mr. Shirey stated that this was the first any only time they have received the products.
7. I placed the documentary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.
8. On May 3, 2019, I delivered the documentary samples to the Formulation Lab.



Fig. 1) DEET Free Bug Repellent



Fig. 2) All Natural 2 in 1 SPF 30  
Sunscreen & Bug Repellent

9. All supporting documents and photos have been electronically attached to the OISC case management system.

*Garret A. Creason*

Garret A. Creason  
Investigator

Date: May 6, 2019



10. On May 7, 2019, I completed the label review for the products found in distribution. The products in distribution are the same labels that Ms. Neiburg was told on January 29, 2019 would not be approved for sale and distribution.

a. DEET Free Bug Repellent Spray

- i. Label Statement: "Repels mosquitoes, ticks, flying insects, green headed flies"
  1. "Flying insects" is too broad and is a violation of Condition 6 with EPA
  2. Company has no efficacy data for ticks or green headed flies and therefore, removed these claims from the label. Including claims for the control of ticks and green headed flies is false and misleading. This is a violation of Indiana Pesticide Registration Law and EPA Condition 6.
- ii. The label cannot include "USDA Organic" logo and claims. This is a misleading claim and a violation of EPA Condition 6.
- iii. The ingredient statements are not complete. Rosemary is within the soap formulation, and is not listed as an active. This was agreed upon and changed on the revised labels submitted by Ms. Neiburg to OISC on April 18, 2019. Without listing the Rosemary as an ingredient, this current label is in violation of Condition 3 by EPA.

b. All Natural 2 in 1 SPF 30 Sunscreen & Bug Repellent

- i. Label Statement: "Repels mosquitoes and fling insects"
  1. "Flying insects" is too broad and is a violation of Condition 6 with EPA
- ii. Label statements: "ALL NATURAL" – "natural ingredients"
  1. These statements must be removed. The product includes synthetic chemicals that are not natural
    - a. Hydrogenated soybean oil is not natural
    - b. Glyceryl Monostearate is not natural
  2. All Natural and natural ingredient claims are a violation of Indiana Pesticide Registration Law and Condition 6 of EPA for False and Misleading.



Sarah K. Caffery  
Pesticide Product Registration Specialist


Date: May 7, 2019

**Disposition:**

- A. On May 6, 2019, the information was forwarded to the Pesticide Product Registration Specialist for a label review for both pesticide products.
- B. Meijer was warned for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale pesticide products that were not registered in the state of Indiana.
- C. Based on the label review of May 7, 2019, Greenerways LLC was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly

distributing pesticide products that were 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.

- D. Greenerways LLC was cited for two (2) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that were misbranded. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.
- E. In addition, the pesticide products listed above are not compliant and cannot be sold or distributed in the state of Indiana. These products must be recalled and returned to the distributor from all Indiana locations before any pending registrations, of compliant products and labels, can be processed. Documentation of the recalls must be submitted to OISC within 30 days of receipt of this Case Summary.
- F. On September 3, 2019, an informal conference was held via telephone with Sharon Neiburg of Greenerways LLC. Representing OISC were Sarah Caffrey, Joni Herman and myself. Ms. Neiburg indicated she would send something in writing about the recall process. She also stated that this product is in the Meijer stores and nowhere else.

  
George N. Saxton  
Compliance Officer

Draft Date: September 3, 2019  
Case Closed: September 19, 2019

## CASE SUMMARY

Case #PS19-0164

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, IN 47907  
765-494-1492

**Respondent:** Meijer  
James Shirey  
1200 Lake City Hwy  
Warsaw, IN 46580  
Produce Team Lead

**Registrant:** Bonide Products, Inc.  
6301 Sutliff Road  
Oriskany, NY 13424

1. On May 2, 2019, I performed a marketplace inspection at Meijer located in Warsaw, Indiana. I spoke with the Produce Team Lead, James Shirey, and informed him of the process of the marketplace inspection. I also advised him that OISC had received an anonymous complaint about a Bonide brand pesticide product alleging that it may be unregistered and was being sold at this store.
2. Upon completion of the inspection I located one (1) unregistered pesticide product that was being offered for sale in the Meijer store. I confirmed through Ed White, Assistant Pesticide Administrator, that the pesticide product was unregistered. The product is as follows:
  - a. Chipmunk, Squirrel and Rodent Repellent, 25(b)<sup>1</sup> product.
    - i. Bonide Products Inc.
3. I spoke with Mr. Shirey and informed him of the unregistered pesticide product I had located. I informed Mr. Shirey that I would be issuing an Action Order instructing them to remove the 5 remaining 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 him that I would be retaining a documentary sample of the product for my case. I asked Mr. Shirey if he was able to provide me with any information for when the last shipment came to the store. Mr. Shirey was able to provide me with a product inquiry for the Chipmunk, Squirrel and Rodent Repellent. The product inquiry listed that the product was last received on January 11, 2019. Mr. Shirey stated that this was the first any only time they have received the product.

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<sup>1</sup> Minimum Risk Pesticide

4. I placed the documentary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
5. On May 3, 2019, I delivered the documentary sample to the Formulation Lab.



6. All supporting documents and photos have been electronically attached to the OISC case management system.



Garret A. Creason  
Investigator

Date: May 6, 2019

7. On May 29, 2019, I completed the label review for the product found in distribution.
  - a. Chipmunk, Squirrel and Rodent Repellent
    - i. The product includes Sodium Lauryl Sulfate, a non-natural ingredient; therefore, claims like “Naturally drives rodents away...” are false and misleading. This is a violation of EPA Condition 6 and Indiana Law
8. Review was only completed on the product/label that was found in distribution. Additional concerns might become apparent with review of application documents and websites.



Sarah K. Caffery  
Pesticide Product Registration Specialist

**Disposition:**

- A. On May 6, 2019, a label review was requested by the Pesticide Product Registration Specialist.
- B. Meijer was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.
- C. Bonide Products, Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was false and misleading. A civil penalty in the amount of \$250.00 was assessed for this violation.
- D. Bonide Products, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation. However, this civil penalty will be held in abeyance and not assessed provided Bonide Products, Inc. properly registers this pesticide product within thirty (30) days from receipt of this notice.

  
George N. Saxton  
Compliance Officer

Draft Date: August 21, 2019  
Case Closed: October 8, 2019

## CASE SUMMARY

Case #PS19-0172

**Complainant:** Ronald Land  
360 East CR 350 North  
North Vernon, Indiana 47265

**Respondent:** Morgan's Lawn Care  
Roger Morgan  
John Helm  
2020 W. CR 200 N.  
North Vernon, Indiana 47265

Owner and Certified Applicator  
Registered Technician

Jennings County School Corporation  
Roy Herr  
34 W. Main Street  
North Vernon, Indiana 47265

Maintenance Director

1. On May 7, 2019, Ronald Land, a volunteer at Jennings County High School, emailed the Office of the Indiana State Chemist (OISC) regarding a pesticide application made by Morgan's Lawn Care at the high school in May of 2019. Mr. Land was concerned about the application being made during school hours. He was especially bothered because during the application: students were moving about on the grounds for PE (physical education); there were sports games scheduled for a few hours after the application; spectators were sitting in the grass during sporting events shortly after the application.
2. On May 14, 2019, I went to Jennings County School Corporation. I spoke with Mr. Roy Herr, the Maintenance Director. I issued him a Notice of Inspection and explained the complaint to him. He then produced all of the school corporation's records. (The corporation had multiple licensed applicators on staff.) The records for the in-house applications were found to be sufficient. I then inquired about the applications made by Morgan's Lawn Care. Mr. Herr said he did not have any paperwork from Morgan's. He stated he had a verbal commitment from Roger Morgan that his company would maintain the records for the school. We discussed that the school really needs a written agreement or records at time of application. I then asked if the school had a pesticide notification registry in place. Mr. Herr said they did and showed me the notice for the registry. Mr. Herr stated no one signed up though.
3. I then showed Mr. Herr an aerial image of the school grounds and asked where the herbicide application was made. He identified the following areas: the baseball field, the softball field, a practice field, a main entrance to the school building, and a main entrance to the school grounds. These areas have been marked approximately by the red boxes below. We then visited the school grounds. It seemed apparent that the areas sprayed were adjacent to the school and in areas where students could be when entering or leaving the school.



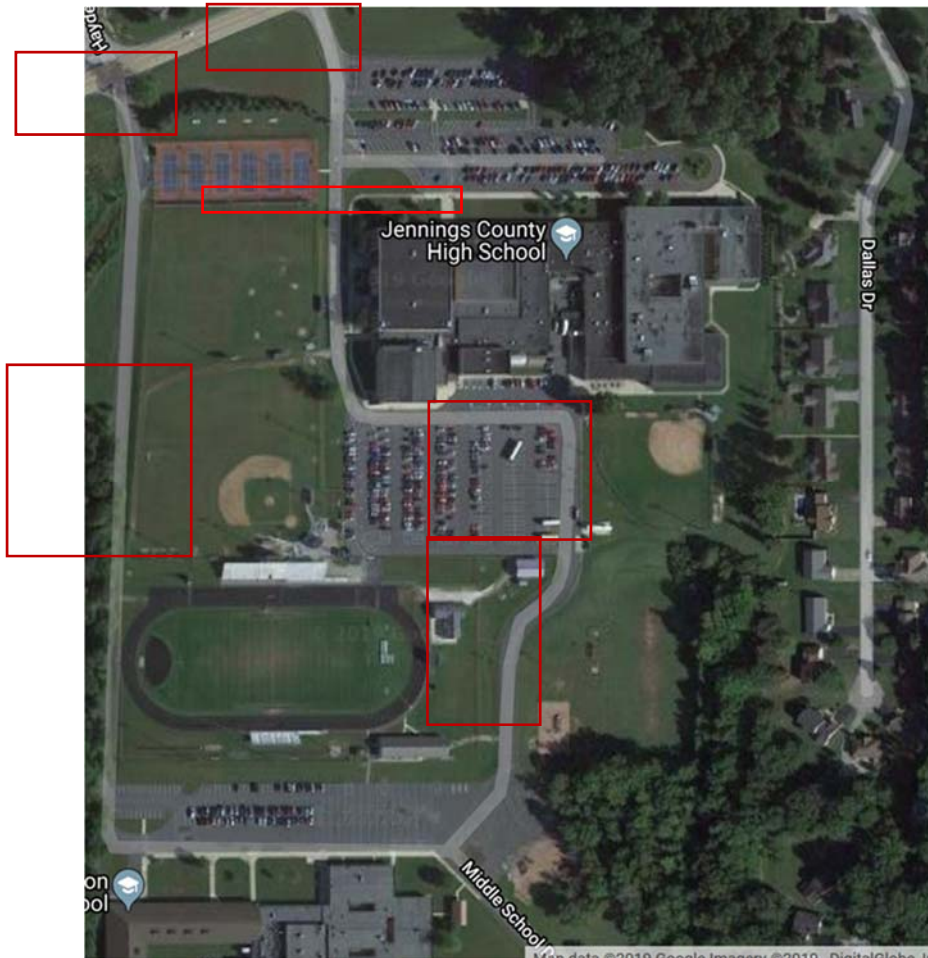


Fig 1: Diagram of School

4. Then we both went to Morgan's Lawn Care. The owner, Roger Morgan, was not available, but I did speak with Darian Patterson, the secretary. She gave me a partial application record. It listed the following:
  - 4/22/19- Pre-emergent Barricade with fertilizer; softball field, baseball field, high school practice field, and around school; applied by John Helm 10:40 AM
  - 5/6/19 Weed Control 3 way; practice field, softball field, baseball field, around school; applied by John Helm 12:23 PM

I then asked to have Mr. Morgan call me when he got back to the office.

5. On May 21, 2019, I received complete records from Morgan Lawn Care regarding the applications at the high school. The information was consistent with what I received from Mrs. Patterson. The school corporation was also given this information, so they had complete records of application.
6. Per Mr. Herr, it was verified school was in session on April 22 and May 6, 2019. The high school start time is 8:20 AM and end time is 3:05 PM

*Elizabeth C. Carter*  
 Elizabeth C. Carter  
 Investigator

Date: May 22, 2019

**Disposition:** Roger Morgan, John Helm and Morgan's Lawn Care were cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-6(a), for applying pesticides at a school during normal instructional hours when school is in session. 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 Morgan's Lawn Care cooperated during the investigation. Consideration was also given to the fact there was potential for human harm.

Jennings County School Corporation was warned for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-6(c)(2), for allowing students to enter a pesticide treatment area within four (4) hours or minimum reentry time specified on the label, after a pesticide application.

  
George N. Saxton  
Compliance Officer

Draft Date: August 27, 2019  
Case Closed: October 10, 2019

## CASE SUMMARY

Case #PS19-0196

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, IN 47907  
765-494-1492

**Respondent:** Big R  
Landon Deel  
3660 Commerce Drive  
Warsaw, IN 46580  
Asst. Store Manager

**Registrant:** Bonide Products, Inc.  
6301 Sutliff Road  
Oriskany, NY 13424

1. On May 20, 2019, I performed a for-cause marketplace inspection at Big R located at 3660 Commerce Dr. Warsaw, Indiana. I spoke with the Assistant Store Manager, Landon Deel, and informed him of the process of the marketplace inspection and that OISC had received an anonymous complaint about possible unregistered pesticide products being sold in the store.
2. Upon completion of the inspection, I located five (5) unregistered pesticide products that were being offered for sale in the Big R store. I confirmed through the National Pesticide Information Retrieval System(NPIRS) the pesticide products were unregistered. The products are follows:
  - a. Shot Gun Repels-All Animal Repellent Granules, 25(b)<sup>1</sup> product.
    - i. 8, three pound units in stock
    - ii. Lot Number: 201844250
    - iii. Arrived April 17, 2019
  - b. Shot Gun Repels-All Animal Repellent Concentrate, 25(b) product.
    - i. 5, 32fl. oz. in stock
    - ii. Lot Number: 201947012
    - iii. Arrived April 17, 2019
  - c. Go Away Rabbit Dog and Cat Repellent 25(b) product.
    - i. 10, One pound units in stock
    - ii. Lot Number: 201843607
    - iii. Arrived April 11, 2019
  - d. Shot Gun Repels-All Animal Repellent Ready to Use, 25(b) product.
    - i. 7, 32fl. oz. units in stock
    - ii. Lot Number: 201946757
    - iii. Arrived April 17, 2019

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<sup>1</sup> Minimum Risk Pesticide

- e. Molemax Mole and Vole Repellent, 25(b) product.
  - i. 7, 10 pound units in stock
  - ii. Lot Number: 201950374
  - iii. Arrived April 17, 2019

3. I spoke with Mr. Deel and Nathan Terrel, Assistant Store Managers, and informed them of the unregistered pesticide products I had located. I informed them that I would be issuing an Action Order instructing them to remove the remaining products of the unregistered pesticide products 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 them that I would be retaining an evidentiary sample of the product for my case. I asked Mr. Terrel if he was able to provide me with any information for when the last shipment came to the store. Mr. Terrel was able to provide me with an inventory transaction for all five pesticide products. Mr. Terrel stated that this would be the oldest receiving record they have on file.
4. I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
5. On May 21, 2019 I delivered the evidentiary samples to the Formulation Lab.



Fig. 1



Fig. 2

- Fig. 1) Photo showing Shot Gun Repels-All Animal Repellent Granules, Shot Gun Repels-All Animal Repellent Ready to Use, and Go Away Rabbit Dog and Cat Repellent.
- Fig. 2) Photo showing Shot Gun Repels-All Animal Repellent concentrate.



Fig. 3

- Fig. 3) Photo showing Molemax Mole and Vole repellent.

6. All supporting documents and photos have been electronically attached to the OISC case management system.

*Garret A. Creason*

Garret A. Creason  
Investigator

Date: May 22, 2019

7. On June 10, 2019, I completed the label review for the products found in distribution.
- Shot Gun Repels-All Animal Repellent Granules.
    - Claims/statements like “Repels-All” and “animal repellent”, without a qualifier for specific animals, is too broad and a violation of EPA Condition 6
    - We have concerns about wintergreen oil in this product as an inert. This will need to be addressed when the application is received.
  - Shot Gun Repels-All Animal Repellent Concentrate
    - Claims/statements like “Repels-All” and “animal repellent”, without a qualifier for specific animals, is too broad and a violation of EPA Condition 6
    - We have concerns about wintergreen oil in this product as an inert. This will need to be addressed when the application is received.
  - Go Away Rabbit Dog and Cat Repellent
    - Upon label review, the product complies with the first 5 conditions outlined by EPA. We will need efficacy data on all label claims to confirm that the label is not misbranded and complies with EPA condition 6.



- d. Shot Gun Repels-All Animal Repellent Ready to Use
  - i. Claims/statements like “Repels-All” and “animal repellent”, without a qualifier for specific animals, is too broad and a violation of EPA Condition 6.
  - ii. We have concerns about wintergreen oil in this product as an inert. This will need to be addressed when the application is received.
- e. Molemax Mole and Vole Repellent
  - i. Upon label review, the product complies with the first 5 conditions outlined by EPA. We will need efficacy data on all label claims to confirm that the label is not misbranded and complies with EPA condition 6.

- 8. Review was only completed on the product/label that was found in distribution. Additional concerns might become apparent with review of application documents and websites.
- 9. On June 11, 2019, I spoke with Audra Zenter of Bonide. Ms. Zenter informed OISC that they currently do not have the efficacy available to register the products so they will not be pursuing product registration at the current time.



Sarah K. Caffery  
Pesticide Product Registration Specialist

Date: June 11, 2019

**Disposition:**

- A. On May 22, 2019, a label review was requested by the Pesticide Product Registration Specialist.
- B. Big R was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered in Indiana.
- C. Bonide Products, Inc. was cited for five (5) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that are not registered in the state of Indiana. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed.
- D. Bonide Products, Inc. was cited for three (3) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that are misbranded. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed.



George N. Saxton  
Compliance Officer

Draft Date: August 23, 2019  
Case Closed: October 8, 2019



## CASE SUMMARY

Case #PS19-0197

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, IN 47907  
765-494-1492

**Respondent:** Big R  
Landon Deel  
3660 Commerce Drive  
Warsaw, IN 46580  
Asst. Store Manager

**Registrant:** Beaumont Products, Inc.  
1560 Big Shanty Drive  
Kennesaw, GA 30144

1. On April 2, 2019, the Office of Indiana State Chemist (OISC) received a pesticide registration application from Beaumont Products Inc. At the time of this inspection, the application had not been reviewed and there had been no communication with the company about the registration.

Sarah K. Caffery  
Pesticide Product Registration Specialist

Date: May 29, 2019

2. On May 20, 2019, I performed a for-cause marketplace inspection at Big R located at 3660 Commerce Dr. Warsaw, Indiana. I spoke with the Assistant Store Manager, Landon Deel, and informed him of the process of the marketplace inspection and that OISC had received an anonymous complaint about possible unregistered pesticide products being sold in the store.
3. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the Big R store. I confirmed through the National Pesticide Information Retrieval System(NPIRS) the pesticide product was unregistered. The product is as follows:
  - a. BugBand Tick Plus Insect Repellent, 25(b)<sup>1</sup> product.
    - i. 12, three fl. oz. units in stock
    - ii. Arrived May 3, 2019
4. I spoke with Mr. Deel and Nathan Terrel, Assistant Store Managers, and informed them of the unregistered pesticide product I had located. I informed them that I would be issuing an Action Order instructing them to remove the remaining units of the unregistered pesticide products 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 them that I would be retaining an evidentiary sample

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<sup>1</sup> Minimum Risk Pesticide

of the product for my case. I asked Mr. Terrel if he was able to provide me with any information for when the last shipment came to the store. Mr. Terrel was able to provide me with an inventory transaction for the pesticide product. Mr. Terrel stated that this would be the oldest receiving record they have on file.

5. I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
6. On May 21, 2019, I delivered the evidentiary samples to the Formulation Lab.



Fig. 1

- Fig. 1) Photo of BugBand Tick Plus Insect Repellent

7. All supporting documents and photos have been electronically attached to the OISC case management system.

Garret A. Creason  
Investigator

Date: May 22, 2019

8. On May 29, 2019, I completed the label review for the product found in distribution.
  - a. BugBand Tick Plus Insect Repellent
    - i. The claim “scientifically proven” implies safety, and therefore, cannot be used as a claim on a minimum risk product. This is a violation of EPA’s Condition 4.
    - ii. The symbol for “dermatologically tested” is not permitted on the label as it implies the safety of the product. This is a violation of EPA’s Condition 4.

9. The review for this case summary was on the product/label that was found in distribution. Additional concerns might become apparent with review of application documents and websites.

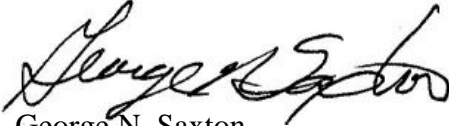


Sarah K. Caffery  
Pesticide Product Registration Specialist

Date: May 29, 2019

**Disposition:**

- A. On May 22, 2019, a label review was requested by the Pesticide Product Registration Specialist.
- B. Big R was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for sale in Indiana.
- C. Beaumont Products, Inc. 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.
- D. Beaumont Products, Inc. was cited for 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 \$250.00 was assessed for this violation. However, this civil penalty was held in abeyance and not assessed provided Beaumont Products, Inc. properly registers this pesticide product within thirty (30) days from receipt of this notice.



George N. Saxton  
Compliance Officer

Draft Date: August 23, 2019  
Case Closed: October 8, 2019

## CASE SUMMARY

Case #PS19-0223

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, IN 47907  
765-494-1492

**Respondent:** Target  
Lauren Hopkins  
3630 E. South Street  
Lafayette, IN 47905

**Registrant:** The Companion Group  
1250 9th Street  
Berkeley, CA 94710

1. On June 6, 2019, OISC Agent Sarah Caffery and I performed a routine marketplace inspection at Target located at 3630 E. South Street, Lafayette, Indiana. I spoke with a customer service representative and informed her of the process of the marketplace inspection. She explained that Bob Metz would be the employee in charge that I would need to speak with. She radioed for Mr. Metz explaining the scope of the inspection and he responded saying that we could go ahead and do the inspection and he would meet with us when we were finished. I then issued a Notice of Inspection.
2. Upon completion of the inspection, I located two (2) unregistered pesticide products that were being offered for sale in the Target store. I confirmed through the National Pesticide Information Retrieval System (NPIRS) the pesticide products were unregistered. The products are follows:
  - a. Not in my Backyard Wristband, 25(b)<sup>1</sup> product.
    - i. 1 unit in stock
    - ii. Inventoried April 7, 2019
  - b. Wristband Insert Refill Pack, 25(b) product.
    - i. 1 unit in stock
    - ii. Inventoried April 7, 2019
3. Upon completion of the inspection, I spoke with Lauren Hopkins, who was filling in for Mr. Metz, and informed her of the unregistered pesticide products I had located. I informed her that I would be issuing an Action Order instructing them to remove the remaining products of

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<sup>1</sup> Minimum Risk Pesticide

the unregistered pesticide products 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. Hopkins if she was able to provide me with any information for when the last shipment came to the store. Mrs. Hopkins was able to provide me with an item inventory for both pesticide products. Mrs. Hopkins stated that this would be the oldest receiving record they have on file.

4. I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
5. On June 7, 2019 I delivered the evidentiary sample to the Formulation Lab.



Fig. 1



Fig. 2

- Fig. 1) Photo showing Not in my Backyard Wristband
- Fig. 2) Photo showing Wristband Insert Refill Pack,

6. All supporting documents and photos have been electronically attached to the OISC case management system.

Garret A. Creason  
Investigator

Date: June 10, 2019

7. On July 19, 2019, I completed the label review for Not in my Backyard Wristband and Wristband Refill pack. Both products are presented as 25(b) minimum risk pesticide products.

8. Per the conditions outlined by EPA, here are the concerns with the labeling:
- a. Not in my Backyard Wristband
    - i. Violation of Condition 4 – 25(b) products cannot state or imply that the product can or will control or reduce organisms that pose a threat to human health, or insects or rodents carrying specific diseases. Label includes Zika Virus.
    - ii. The label has unqualified safety terms. Claims such as “Safe” or “Safe around children and pets” are acceptable only when accompanied by the qualifier “...when used as directed”.
  - b. Wristband Insert Refill Pack
    - i. Violation of Condition 4 – 25(b) products cannot state or imply that the product can or will control or reduce organisms that pose a threat to human health, or insects or rodents carrying specific diseases. Label includes Zika Virus.
    - ii. The label has unqualified safety terms. Claims such as “Safe” or “Safe around children and pets” are acceptable only when accompanied by the qualifier “...when used as directed”.

Per the review, both products are misbranded. The review was only completed on the product/label that was found in distribution. Additional concerns might become apparent with review of application documents and websites.

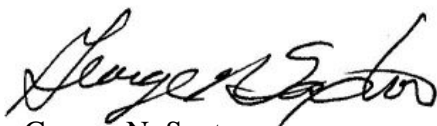


Sarah K. Caffery  
Pesticide Product Registration Specialist

Date: July 19, 2019

**Disposition:**

- A. On June 12, 2019, a label review was requested from the Pesticide Product Registration Specialist.
- B. As a result of the investigation and the label review, Target was warned for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that is not registered in the state of Indiana.
- C. The Companion Group was cited for two (2) 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 \$500.00 (2 counts x \$250.00 per count) was assessed.
- D. The Companion Group was cited for two (2) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that were misbranded. 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: August 5, 2019  
Case Closed: September 19, 2019



## CASE SUMMARY

Case #PS19-0224

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, IN 47907  
765-494-1492

**Respondent:** Target  
Lauren Hopkins  
3630 E. South Street  
Lafayette, IN 47905

**Registrant:** Aunt Fannie, Inc.  
724 NE 28th Avenue  
Portland, OR 97232

1. On January 10, 2019, Office of Indiana State Chemist (OISC) received an application for a new pesticide registration from Aunt Fannie Inc. for the 25(b), minimum risk pesticide product, Aunt Fannie's Mosquito Wipes.
2. On March 26, 2019, I completed the review of the application and informed Kim Davis at Aunt Fannie's submitting company, RegWest Company LLC, that the efficacy provided for the mosquito wipes was insufficient. Within the review, we provided Aunt Fannie's with the opportunity to provide adequate data.
3. On March 29, 2019, Ms. Davis confirmed that the registration for Aunt Fannie's Mosquito Wipes would be denied. Aunt Fannie's confirmed that they will work on generating appropriate data and submit a new registration.



Sarah K. Caffery  
Pesticide Product Registration Specialist

4. On June 6, 2019, OISC Agent Sarah Caffery and I performed a routine marketplace inspection at Target located at 3630 E. South Street, Lafayette, Indiana. I spoke with a customer service representative and informed her of the process of the marketplace inspection. She explained that Bob Metz would be the employee in charge that I would need to speak with. She radioed for Mr. Metz explaining the scope of the inspection and he responded saying that we could go ahead and do the inspection and he would meet with us when we were finished. I then issued a Notice of Inspection.

5. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the Target store. I confirmed through the National Pesticide Information Retrieval System (NPIRS) the pesticide product was unregistered. The product is as follows:
  - a. Aunt Fannie's Mosquito Wipes, 25(b)<sup>1</sup> product.
    - i. 4 units in stock
    - ii. Inventoried April 7, 2019
6. Upon completion of the inspection I spoke with Lauren Hopkins, who was filling in for Mr. Metz, and informed her of the unregistered pesticide product I had located. I informed her that I would be issuing an Action Order instructing them to remove the remaining products of the unregistered pesticide products 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. Hopkins if she was able to provide me with any information for when the last shipment came to the store. Mrs. Hopkins was able to provide me with an item inventory for the pesticide product. Mrs. Hopkins stated that this would be the oldest receiving record they have on file.
7. I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
8. On June 7, 2019 I delivered the evidentiary sample to the Formulation Lab.



Fig. 1

- Fig. 1) Photo showing Aunt Fannie's Mosquito Wipes

<sup>1</sup> Minimum Risk Pesticide

9. All supporting documents and photos have been electronically attached to the OISC case management system.



Garret A. Creason  
Investigator

Date: June 10, 2019

**Disposition:**

- A. On June 12, 2019, a label review was requested from the Pesticide Product Registration Specialist.
- B. Target was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered for sale in Indiana.
- C. Aunt Fannie, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for distribution in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: August 5, 2019  
Case Closed: September 17, 2019

## CASE SUMMARY

Case #PS19-0251

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University Street  
West Lafayette, IN 47907  
765-494-1492

**Respondent:** Wal-Mart  
Danielle Morris  
400 W. Northfield Drive  
Brownsburg, IN 46112

OPG/ASM

**Registrant:** Para'Kito USA, Inc.  
2040 NW 29th Street  
Ft. Lauderdale, FL 33311

1. On May 30, 2014, we received a pesticide product registration form for Para'Kito USA Corp. to register Mosquito Repellent Pellets and Mosquito Repellent Roll-on Gel.
2. On October 9, 2015, the application was denied because the company could not provide required efficacy.
3. On July 12, 2016, OISC received an application to register Mosquito Repellent Pellets and Mosquito Repellent Roll-on Gel. On August 16, 2016, OISC received an application for Para'Kito Mosquito Repellent Pellets with clip and Para'Kito Mosquito Repellent Pellets with band.
4. The initial review for the 2016 applications was performed on February 10, 2017. There were concerns with the statements of formula, label language and efficacy reports. The full review has been added to the end of this report.
5. On August 25, 2017, OISC responded to Para'Kito questions, and requested documents and revised labels by September 29, 2017.
6. The application was denied on October 19, 2017.

Sarah K. Caffery  
Pesticide Product Registration Specialist

Date: June 27, 2019

7. On June 17, 2019, I performed routine marketplace inspection at Wal-Mart located at 400 W Northfield Dr. Brownsburg, Indiana. I spoke with the OPG/ASM Danielle Morris, and informed her of the process of the marketplace inspection. I issued a Notice of Inspection and informed Mrs. Morris that I would follow up with her once the inspection was completed.

8. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale in the Lowes store. I confirmed through Sarah Caffery that the pesticide product was unregistered. The product is as follows:
- a. Para'Kito Mosquito Repellent Clip, a 25(b)<sup>1</sup> product
    - i. Lot Number: A3015
    - ii. 2 units in stock
9. I spoke with Mrs. Morris and informed her of the unregistered pesticide product I had located. I informed her that I would be issuing an Action Order instructing them to remove the remaining units of the unregistered pesticide products 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. Morris if she was able to provide me with any information for when the last shipment came to the store. Mrs. Morris stated that she had no way of looking that up but if she or anyone else was able to locate anything they would let me know.
10. I placed the evidentiary sample into a clear evidence bag and sealed for transportation to the OISC formulation lab.
11. On June 19, 2019, I delivered the evidentiary samples to the Formulation Lab.



Fig. 1

- Fig. 1) Photo of Para Kito Mosquito Repellent Clip.

12. All supporting documents have been electronically attached to this case in the OISC case management system.

  
Garret A. Creason  
Investigator

Date: June 20, 2019

<sup>1</sup> Minimum Risk Pesticide

## Review from February 10, 2017:

This message is in regards to a Pesticide Registration Application for the following products which you represent qualifies for exemption from federal registration under Section 25(b) of FIFRA:

| Registrant Company | Brand/Product Name                             |
|--------------------|--|
| Para'kito USA Corp | Para'Kito Mosquito Repellent Pellets (Refill)  |
|                    | Para'Kito Gel Mosquito Repellent Roll-On       |
|                    | Para'Kito Mosquito Repellent Pellets with Clip |
|                    | Para'Kito Mosquito Repellent Pellets with Band |

The registration cannot be processed as submitted for the following reason(s):

Mosquito Repellent Pellets:

- **Statement of Formula**

- All Ingredients are not included in the listed ingredients.
  - What makes the product a pellet? All the ingredients listed are liquids
  - Cinnamon Oil is on the label but not listed on the statement of formula
  - Vanillin percentage does not match the label
- **Citronella Oil** and the **given CAS# 91771-18-5** do not match. The CAS Number supplied matches **Amines, N-(3-aminopropyl)-N (or N')-coco alkyltrimethylenedi-**, this ingredient is not an acceptable ingredient for formulating a FIFRA 25(b) product. Please refer to EPA's Final Rule, published December 2015. (attached)
- **Mint Oil** and the **given CAS# 68917-46-2** do not match.
- **Mint Oil** is not the approved label display name as documented by EPA in the Final Rule, published December 2015 (attached).
- **Clove Oil** and the **given CAS# 84961-50-2** do not match. The CAS Number supplied matches **syzygium aromaticum l. bud extract**, this ingredient is not an acceptable ingredient for formulating a FIFRA 25(b) product. Please refer to EPA's Final Rule, published December 2015. (attached)
  - Labels for each ingredient and SDS reports will be needed for the 4 ingredients listed above when resubmitting.

Gel Mosquito Repellent Roll-On

- **Statement of Formula**

- All Ingredients are not included in the listed ingredients.
- The following ingredients are listed on the label but not on the statement of formula: glycerin, glyceryl stearate, lecithin and sodium benzoate
  - **Citronella Oil** and the **given CAS# 91771-18-5** do not match. The CAS Number supplied matches **Amines, N-(3-aminopropyl)-N (or N')-coco alkyltrimethylenedi-**, this ingredient is not an acceptable ingredient for formulating a FIFRA 25(b) product. Please refer to EPA's Final Rule, published December 2015. (attached)
  - **Mint Oil** and the **given CAS# 68917-46-2** do not match.
  - **Mint Oil** is not the approved label display name as documented by EPA in the Final Rule, published December 2015 (attached).
  - **Clove Oil** and the **given CAS# 84961-50-2** do not match. The CAS Number supplied matches **syzygium aromaticum l. bud extract**, this ingredient is not an acceptable ingredient for formulating a FIFRA 25(b) product. Please refer to EPA's Final Rule, published December 2015. (attached)

Band and Clip label:

- What does "Essential Oil Diffusion" mean?

Band Product:

- **Kids vs Adult version**

- Labeling received is specifically for kids (kids 3-7). If the bands have two different labels (or an adult version), these would be considered two different products.
- Please send an application, adult label, statement of formula and \$170 application fee All products



- **Dermatologically Tested**
  - Must be removed from labels and website
    - Per Condition 4, this is an unacceptable statement
- **Caution warning statement and Keep Out of Reach of Children**
  - Must appear on the front of the labels.
  - This is currently imbedded in the website and booklet included

#### Efficacy Report

- Efficacy must be provided for all claims. Please note where the efficacy provides the following claims (a page number is fine)
  - Pellets/Refills: 15 consecutive days efficacy per refill
  - Pellets/Refills: mask the human scent
  - Pellets/Refills: waterproof and efficacy of the refill pellet is not affected by placing it in water
  - Booklet: How is the efficacy affected by: perspiration, swimming, bathing, wind, time of day, degree of mosquito infestation, amount of exposed skin, type of clothing worn, movement (all listed as factors to reduce the efficacy of this product)
  - Gel Roll-on, Clip & Band: All Climate Zones
  - Gel Roll-on & Clip: For all your activities
- We only received ONE efficacy report. At this time we have not fully reviewed the report. If you would like to send additional reports to support your claims, please send them with any other revisions.

#### Website

- Please note that there are products listed for sale on the website that are not included in this registration.
  - Those products must either be registered for sale in Indiana or a block must be placed on the products to restrict the sale in Indiana
    - Includes but is not limited to: Mosquito Repellent Gel Unidose



Sarah K. Caffery  
Pesticide Product Registration Specialist

Date: June 27, 2019

#### Disposition:

- A. On June 25, 2019, a label review was requested from the Pesticide Product Registration Specialist.
- B. Wal-Mart was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered for sale in Indiana.
- C. Para'Kito USA, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was not registered for sale in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.
- D. Para'Kito USA, Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for offering for sale a pesticide product that was false or misleading. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton  
Compliance Officer

Draft Date: August 26, 2019  
Case Closed: October 10, 2019