A Summary of Cases

January 18, 2021

2018/0448 On May 10, 2018, the Office of Indiana State Chemist (OISC) received information that a pond dye called Ecolox was making pesticide-type claims on its label and was being sold at Tractor Supply stores. The product does not appear to be state or federally registered.

Disposition:
A. On October 2, 2018, the information was forwarded to USEPA for federal review.

B. Tractor Supply Distribution 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. Consideration was given to the fact this was their first violation of similar nature.

C. Annulox 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.

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

E. As of October 15, 2020, Annulox LLC had not paid the $500.00 civil penalty. The case was forwarded to collections.

PS19-0091 On January 24, 2019, I performed a routine marketplace inspection at BWGS LLC. I spoke with the Tony Bayt, Business Affairs and Compliance with BWGS and informed him of the process of the marketplace inspection.

Disposition:
A. Bloomington Wholesale Garden Supply LLC (BWGS LLC) was warned for twelve (12) counts (6 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. Sierra Natural Science, Inc. was cited for twelve (12) counts (6 products for 2018 & 2019) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered in the state of Indiana. A civil penalty in the amount of $3,000.00 (12 counts x $250.00 per count) was assessed. However, the allowable civil penalty will be held in abeyance and not assessed provided Sierra Natural Science, Inc. ceases distribution until the products are properly registered.

C. Sierra Natural Science, Inc. was cited for twelve (12) counts (6 products for 2018 & 2019) of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing or offering for sale pesticide products in the state of Indiana that were misbranded. A civil penalty in the amount of $3,000.00 (12 counts x $250.00 per count) was assessed.

D. On September 13, 2019, a 30-day extension was granted to Sierra Natural Science on payment of the civil penalty or registration of their pesticide product(s). No hearing was requested.

E. On October 14, 2019, Chad Dempsey of Sierra Natural Science called requesting an extension for payment of the civil penalty and/or product registration. An extension was granted until December 31, 2019.

F. On March 6, 2020, a $3,000.00 civil penalty payment was received from Sierra Natural Science.

G. As of September 11, 2020, Sierra Natural Science, Inc. was continuing their efforts to complete their product registration with Sarah Caffery / OISC. The case was closed.

PS19-0108 On March 4, 2019, I performed a routine marketplace inspection at Home Depot in Seymour, IN. I met with Store Manager, Jenny Hauck, and explained the scope of the inspection. I also explained that OISC was conducting a product integrity sampling initiative of pesticide products containing Neem Oil. I advised that if I were to locate any that I would be sampling them for the OISC Formulation Lab to analyze. I presented state credentials and issued a Notice of Inspection.

Disposition: This case was forwarded to U.S. E. P.A. for federal review.

PS19-0142 On April 12, 2019, I performed a routine virtual marketplace inspection at Domyown.com. The reason for this virtual marketplace inspection was to locate and procure a pesticide product for the OISC Formulation Lab to analyze for the AAPCO check sample program.

Disposition: Voluntary Purchasing Groups Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated. A civil penalty in the amount of $250.00 was assessed for this violation.

PS19-0235 On June 11, 2019, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC), via the Indiana Department of Environmental Management (IDEM), and stated Joe Frey *"is storing chemicals without secondary containment and some tanks are on a hillside"*.

Disposition:
A. Shelby Frey and Union Ag LLC were cited for thirty-six (36) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-

4-1(a), for storing bulk storage containers outside of secondary containment. A civil penalty in the amount of $9,000.00 (36 counts x $250.00 per count) was assessed. Consideration was given to the fact a restricted use pesticide was involved. By rule, this violation may not be mitigated by the Office of Indiana State Chemist.

B. On October 3, 2019, I received an email from Shelby Frey indicating the $9,000.00 civil penalty was 'very unfair'. I returned the email indicating that I was not allowed to mitigate the civil penalty but would propose reducing the penalty to $1,800.00 to the Indiana Pesticide Review Board (IPRB).

C. On October 4, 2019, I receive another email from Shelby Frey indicating that the $1,800.00 civil penalty was too high and that a 'warning' should have been issued. Mr. Frey requested a formal hearing before the IPRB. This information was immediately forwarded to David Scott, Secretary to the Board.

D. On February 21, 2020, a formal hearing was held with a panel of the IPRB, at the Daniel's Turf Center. The panel upheld the $1,800.00 civil penalty.

E. On July 9, 2020, the full IPRB reviewed this case and confirmed the civil penalty in the amount of $1,800.00.

F. On September 10, 2020, the $1,800.00 civil penalty payment was received by OISC.

PS19-0241 On June 13, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report on or about June 7th, a pesticide application was made to a neighboring farm field that drifted onto his trees causing pesticide exposure symptoms.

Disposition: Keith Pierce and Ceres Solutions were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved. However, the civil penalty was reduced to $188.00. Consideration was given to the fact Ceres Solutions cooperated during the investigation.

PS19-0246 On June 18, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist and stated a field near his home was sprayed a week or so ago and now he has pesticide exposure symptoms to his ornamentals.

Disposition:
A. Eric L. Miller was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for failure to make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection. A civil penalty in the amount of $100.00 was assessed for this violation. In addition, the Private Applicator permit issued to Eric L. Miller was suspended until such time as he complies with the records request.

B. On March 13, 2020, Mr. Miller complied with the request for reports. This case was returned to the investigator for further investigation based on the information received. The suspension was lifted.

C. Based on the information provided and obtained through the investigation, Eric L. Miller 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 also assessed. 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.

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

PS19-0267 On June 26, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Co-Alliance made a pesticide application to a neighboring farm field on June 26, 2019 that drifted on him while he was in his yard. He stated he has a shirt he will give to the investigator with the understanding the shirt will not be returned.

Disposition: Bradley Baker, Jon R. Coy and Co-Alliance LLP were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

PS19-0268 On June 26, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that someone from Hudson Farms made a pesticide application of 2,4-D to a neighboring farm field that allegedly drifted onto his DT beans. Complainant stated that the applicator actually allowed his boom to reach over into the complainant's beans.

Disposition: Christopher B. Hudson and Hudson Farms were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allowed it to drift to a non-target area in sufficient quantity as to cause harm to a non-target site. A civil penalty in the amount of $100.00 was assessed for this violation. Consideration was given to the fact this was Mr. Hudson’s second violation of similar nature. See case number 2018/0726.

PS19-0277 On June 28, 2019, the licensing division of the Office of Indiana State Chemist (OISC) requested an investigation for the above-mentioned company Deans Lawn & Landscaping. On November 5, 2018, Dean Savarino mailed the pesticide business renewal form, but his certified applicator license associated with the company was non-renewable due to insufficient continuing credit hours (CCH) and/or re-taking the category

3b pesticide license exam. The OISC Licensing division mailed Mr. Savarino a letter notifying him of the license statuses and the steps needed to be in compliance with the Indiana Pesticide Laws, specifically referencing, *"A person may not engage in or profess to engage in the business of using a pesticide on the property of another for hire at any time without a pesticide business license issued by the state chemist…."*.

Disposition: Dean Savarino and Deans Lawn & Landscaping were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of $250.00 was assessed for this violation. Dean Savarino and Deans Lawn & Landscaping were cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing to make reports and supply information when requested in the course of an investigation or inspection. A civil penalty in the amount of $250.00 was assessed for this violation.

PS19-0317 On July 3, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a recent pesticide application to a neighboring farm field has caused pesticide exposure symptoms to her garden and ornamentals.

Disposition: Scott Snider and Co-Alliance LLP 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 that this was Mr. Snider's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Scott Snider and Co-Alliance LLP were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for apply a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.

PS19-0320 On July 8, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that last week, Scott Odle made a pesticide application to a corn field that drifted onto the complainant's beans.

Disposition: Scott Odle 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.

Scott Odle was cited for seventy-two (72) counts of violation of section 65(10) for using a restricted use pesticide without having an applicator who is licensed in direct supervision. A civil penalty in the amount of $7,200.00 (72 counts x $100.00 per count) was assessed. However, the civil penalty was reduced to $720.00. Consideration was given to the fact Mr. Odle cooperated during the investigation; corrective action was

taken; there was no previous history of similar nature; no potential for harm since Mr. Odle had been licensed in the past and a there was a good-faith effort to comply.

PS19-0324 On July 8, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that he believes he has dicamba injury to his non-DT soybeans from a neighboring DT soybean field.

Disposition: Mark Keller and Keller Farms were warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management by not checking the registrant's website within seven days of application.

Mark Keller and Keller Farms 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 by applying in winds greater than ten (10) miles per hour. 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.

PS19-0332 On July 9, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a pesticide application was made to a neighboring railroad right-of-way (ROW) and runoff from the site has adversely affected his soybeans.

Disposition: Josh Clark and HD Machines were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding allowing contact with desirable vegetation. A civil penalty in the amount of $500.00 was assessed for this violation. Consideration was given to the fact this was their second offense of similar nature. See case number 2017/0849.

PS19-0337 On July 12, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that last week, the neighboring farmer made a pesticide application to a field that got onto about seven feet of the complainant's pasture where he has horses.

Disposition: Josh Ellett and Co-Alliance were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved. However, the civil penalty was reduced to $188.00 for cooperation.

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

PS19-0344 On July 15, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Trugreen made a lawn application to his yard and now most of his trees are dead and dying. Complainant stated that Trugreen allegedly admitted the wrong chemical was used so they fired their applicator.

Disposition: Christopher Garcia and TruGreen were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding mixing with water. 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 environmental harm.

Christopher Garcia and TruGreen were warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to a Registered Technician.

PS19-0353 On July 17, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring farm field was treated with a pesticide and now he has pesticide exposure symptoms to his ornamentals.

Disposition: Todd Harris, Ron Biddle and Nutrien Ag Solutions 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 the first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Todd Harris, Ron Biddle and Nutrien Ag Solutions were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.

PS19-0365 On July 22, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that one of his neighboring farmers applied dicamba to their soybeans that drifted onto his Roundup Ready soybeans.

Disposition: David Leon Allen and D&A Farms Inc. were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of $100.00 was assessed for this violation. Consideration was given to the fact this was Mr. Allen's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

David Leon Allen and D&A Farms Inc. was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.

PS19-0383 On July 24, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a suspected application of dicamba was made to a neighboring farm field that drifted onto his Roundup Ready soybeans.

Disposition: Jason Willeford and Xcel Custom Ag 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 a restricted use pesticide was involved.

PS19-0420 On July 31, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that she believes pesticide runoff from a neighboring field has caused death and deformity to her cows.

Disposition: Charlie Houin and Houin Grain Farms were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding runoff. 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.

PS19-0486 On August 5, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that "Ag Vision" sprayed a neighboring field with dicamba that drifted onto his Liberty beans.

Disposition: Stan Robertson and Vision Ag, Inc. were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

PS19-0499 On August 12, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring farmer applied dicamba to a field that drifted onto his non dicamba-tolerant (DT) soybeans.

Disposition: Scott Brown 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.

PS19-0516 On August 15, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighbor applied dicamba to a field and it adversely affected his soybeans.

Disposition: Aaron Dirksen 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.

PS19-0542 On August 20, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Risner Farms made a dicamba application to a neighboring farm field that has drifted onto his beans.

Disposition: Michael Risner was cited for violation of section 65(8) of the Indiana Pesticide Use and Application Law for making false records, invoices or reports. A civil penalty in the amount of $100.00 was assessed for this violation.

Keith Risner was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use only by a certified applicator. A civil penalty in the amount of $100.00 was assessed for this violation.

PS19-0585 On August 26, 2019, I conducted a virtual marketplace inspection of Monofoilusa.com. The purpose of the inspection was to review the labeling of products produced by MonoFoil USA, LLC for pesticidal claims, for accuracy in comparison to their EPA approved master labels and to determine if the website made any false or misleading claims in conjunction with these products.

Disposition:
A. MonoFoil USA, LLC was cited for one count of 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.

B. MonoFoil USA, LLC was cited for three (3) counts of violation of section 57(2) of the Indiana Pesticide Registration Law for distributing a pesticide product that makes claims different than those made in connection with its registration. A civil penalty in the amount of $300.00 (3 counts x $100.00 per count) was assessed for this violation.

C. MonoFoil USA, LLC was cited for four (4) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that are adulterated or misbranded. A civil penalty in the amount of $1,000.00 (4 counts x $250.00 per count) was assessed for this violation.

D. MonoFoil USA, LLC was cited for four (4) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that violates the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 et seq). A civil penalty in the amount of $1,000.00 (4 counts x $250.00 per count) was assessed for this violation.

E. This case was also forwarded to U.S. E.P.A. region V and U.S. E.P.A. Criminal Investigation division.

PS19-0600 On August 26, 2019, I conducted a virtual marketplace inspection of Westlandcovers.com. This inspection was to collect screenshots of and to conduct a marketplace label review of MonoFoil Marine, which was being sold on Westlandcovers.com.

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

Apply Guard LLC. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated or mis-branded. A civil penalty in the amount of $250.00 was assessed for this violation.

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

PS19-0606 On September 4, 2019 I performed a virtual marketplace inspection on Walmart.com.

Disposition: This case was forwarded to EPA for federal review.

PS19-0612 On August 20, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Risner Farms made a dicamba application to a neighboring farm field that has drifted onto his beans.

Disposition: Michael Risner was cited for violation of section 65(8) of the Indiana Pesticide Use and Application Law for making false records, invoices or reports. A civil penalty in the amount of $100.00 was assessed for this violation.

Keith Risner was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use only be a certified applicator. A civil penalty in the amount of $100.00 was assessed for this violation.

PS19-0615 On September 12, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring farmer applied dicamba that has adversely affected his beans. Not sure which neighbor sprayed the dicamba.

Disposition: Jim Clifton Curry and The Andersons Inc. were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of $250.00 was

assessed for this violation. Consideration was given to the fact this was Mr. Curry's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

PS19-0621 On September 13, 2019, the Certification & Licensing section of OISC contacted the Compliance Officer to report Michael Holley's certification expired December 31, 2018 invalidating his license.

Disposition:
A. Turf Care Lawns was cited for fourteen (14) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of $3,500.00 (14 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $1,050.00. Consideration was given to the fact Turf Care Lawns cooperated during the investigation; there was no previous history of similar nature; no potential for harm; a good-faith effort to comply and no restricted use pesticides were involved.

B. On May 21, 2020, OISC received a letter from Turf Care Lawns requesting the $1,050.00 civil penalty payment be divided up in four (4) monthly payments. It was agreed that payment would be due:

a. $262.50 due by June 30, 2020;
b. $262.50 due by July 30, 2020;
c. $262.50 due by August 30, 2020;
d. $262.50 due by September 30, 2020.

PS20-0007 On October 3, 2019, I Agent Melissa Rosch saw a male with T & J Svcs Inc. making what appeared to be a pesticide application on a ride-a-long spreader at the Hanover Central High School in Cedar Lake, Indiana around 4:30 pm CST.

Disposition: James B. Propst and T & J Services, Inc. were cited for sixty (60) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of $7,500.00 (60 counts x $125.00 per count) was assessed. However, the civil penalty was reduced to $750.00. Consideration was given to the fact Mr. Propst cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; no potential for harm and a good faith effort to comply.

PS20-0047 On December 2, 2019, I performed a virtual marketplace inspection on Harvestdirect.com

Disposition:
A. Fabriclear, LLC was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for producing two (2) pesticide products that were distributed into Indiana that were not state registered. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

B. Fabriclear, LLC was cited for two (2) counts of violation of section 57(4) of the Indiana Pesticide Registration Law for producing two (2) pesticide products that were distributed into Indiana that do not have a complete label. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

C. Fabriclear, LLC was cited for two (2) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for producing two (2) pesticide products that were distributed into Indiana that violate the Federal Insecticide, Fungicide, and Rodenticide Act (U.S.C. 136 et seq.) or regulations adopted under the Act. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

D. Fabriclear, LLC was cited for one count of violation of section 57(5) of the Indiana Pesticide Registration Law for producing a pesticide product (FabriClear Fast-Trap) that was distributed into Indiana that is misbranded. A civil penalty in the amount of $250.00 was assessed for this violation.

E. Harvest Direct/Trading Group was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing two (2) pesticide products in Indiana that are not state registered. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

F. Harvest Direct/Trading Group was cited for two (2) counts of violation of section 57(4) of the Indiana Pesticide Registration Law for distributing two (2) pesticide products in Indiana that do not have a complete label. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

G. Harvest Direct/Trading Group was cited for two (2) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing two (2) pesticide products in Indiana that violate the Federal Insecticide, Fungicide, and Rodenticide Act (U.S.C. 136 et seq.) or regulations adopted under the Act. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

H. Harvest Direct/Trading Group was cited for one count of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product (FabriClear Fast-Trap) in Indiana that is misbranded. A civil penalty in the amount of $250.00 was assessed for this violation.

I. On April 24, 2020, Mark Panagiotes called requesting an informal hearing. He stated he would call back Monday, April 27, 2020 because he did not have the paperwork in front of him.

J. On April 28, 2020, I spoke with Mark Panagiotes. He gave me the name and phone number of the FBI agent, Derrick Gerega. I called Special Agent Gerega (I.D.# 27227 – Boston office) and he confirmed that there WAS an FBI investigation and in 2019 and they purchased X-out from Harvest Direct; pealed back the label; and discovered that

Harvest Direct was putting a different label on the Fabriclear product without Fabriclear's permission, and distributing it. He said that the federal prosecutor determined this was more of a civil matter and they dropped the case. Mr. Panagiotes maintains that instead of shipping out his product with the X-out label after they got caught, Harvest Direct started shipping out his product with his label without his permission. Mr. Panagiotes still maintains that the 'device' is just a bug 'trap' and he doesn't believe it needs to be registered.

K. As a result of this new information, Fabriclear, LLC was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for producing a pesticide product (fast-trap) that was distributed into Indiana that is not state registered. A civil penalty in the amount of $250.00 was assessed for this violation.

L. Fabriclear, LLC was cited for violation of section 57(4) of the Indiana Pesticide Registration Law for producing a pesticide product (fast-trap that was distributed into Indiana that does not have a complete label. A civil penalty in the amount of $250.00 per count) was assessed for this violation.

M. Fabriclear, LLC was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for producing a pesticide product (FabriClear Fast-Trap) that was distributed into Indiana that is misbranded. A civil penalty in the amount of $250.00 was assessed for this violation.

N. Fabriclear, LLC was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for producing a pesticide product (fast-trap that was distributed into Indiana that violated the Federal Insecticide, Fungicide, and Rodenticide Act (U.S.C. 136 et seq.) or regulations adopted under the Act. A civil penalty in the amount of $250.00 was assessed for this violation.

O. On July 10, 2020, OISC received the civil penalty payment from Fabriclear, LLC.

P. As of September 17, 2020, Harvest Direct/Trading Group had not paid their civil penalty. The case was closed and the civil penalty forwarded to the Indiana Attorney General for collection.

PS20-0051 On January 9, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC), via U.S.E.P.A., to report that the company for whom he used to work, was illegally mixing Goldmorr GM 6000 with Clorox bleach and treating structures for mold remediation. Complainant stated employees are instructed by the company to remove label from the bleach containers and dispose of them off of company grounds. Complainant stated as a result, he received second degree burns on his neck. Complainant stated he did go to a doctor for treatment. Complainant also stated there are approximately six other technicians who know about this illegal mixture.

Disposition:
A. Michaelis Corp was cited for ten (10) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of $5,000.00 (10 counts x $500.00 per count) was assessed. Consideration was given to the fact this was their second offense for the same violation. See case number PS19-0147. However, the civil penalty was reduced to $3,750.00. Consideration was given to the fact they cooperated during the investigation.

B. Michaelis Corp was cited for ten (10) counts of violation of 15-16-5-65(6) of the Indiana Pesticide Use and Application Law for failure to follow an Order of the state chemist. A civil penalty in the amount of $2,500.00 (10 counts x $250.00 per count) was assessed for this violation. However, the civil penalty was reduced to $1,875.00. Consideration was given to the fact Michaelis Corp cooperated during the investigation.

C. Michaelis Corp was cited for ten (10) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide contrary to label directions. A civil penalty in the amount of $2,500.00 (10 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $1,875.00. Consideration was given to the fact Michaelis Corp cooperated during the investigation.

D. Michaelis Corp was cited for sixteen (16) counts of violation of section 59(1) of the Indiana Pesticide Registration Law for detaching, altering, defacing, or destroying a pesticide product label or labeling. A civil penalty in the amount of $4,000.00 (16 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $3,000.00. Consideration was given to the fact Michaelis Corp cooperated during the investigation.

PS20-0052 On January 8, 2020 I conducted a routine inspection for bulk pesticide storage secondary containment requirements at Posey County Coop located at 10420 Winery Rd. Wadesville, IN. I met with Tony Martin, applicator, and informed him of the process of the inspection. I then issued a Notice of Inspection.

Disposition: Posey County Co-op was cited for nine (9) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for storing bulk containers outside of secondary containment. A civil penalty in the amount of $2,250.00 (9 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $1,125.00. Consideration was given to the fact Posey County Co-op cooperated during the investigation and corrective action was taken.

PS20-0053 On January 14, 2020, an anonymous complainant, via a consultant, contacted OISC. The complainant indicated U.S. Enzyme is selling unregistered and non-compliant 25(b) pesticide products.

Disposition:
A. U.S. Enzymes, LLC was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide device that was not registered in the state of Indiana.

B. U.S. Enzymes, LLC was cited for ten (10) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for distribution in the state of Indiana. A civil penalty in the amount of $2,500.00 (10 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $1,875.00 for cooperation.

C. U.S. Enzymes, LLC was cited for two (2) counts of violation of section 57(4)(c) of the Indiana Pesticide Registration Law for distributing pesticide products that did not have the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $375.00 for cooperation.

D. U.S. Enzymes, LLC was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that contained a false and misleading statement (fogger). A civil penalty in the amount of $250.00 was assessed for this violation. However, the civil penalty was reduced to $188.00 for cooperating.

E. U.S. Enzymes, LLC was cited for ten (10) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing pesticide products that were in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of $2,500.00 (10 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $1,875.00 for cooperating.

F. Total amount of civil penalty assessed is $5,750.00. However, the civil penalty was reduced to $4,313.00. Consideration was given to the fact U.S. Enzymes, LLC cooperated during the investigation.

PS20-0147 On June 1, 2020, the complainant contacted the Office of Indiana State Chemist (OISC) to report a neighboring farmer sprayed a field and it drifted all over the complainant. Complainant has a shirt he can give for analysis.

Disposition: Matt Mutchman and Wagner Turkey Farm, Inc. were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of $100.00 was assessed for this violation.

Matt Mutchman and Wagner Turkey Farm, Inc. were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.

PS20-0150 Complainant stated Superior Ag made a pesticide application of dicamba to a neighboring farm field and now complainant has exposure symptoms to his Enlist beans.

Disposition Summary
Superior Ag Resources Co Op was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

Craig A Woods 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. Consideration was given to the fact a restricted use pesticide was involved.

Superior Ag Resources Co Op was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a nontarget site.

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

PS20-0214 Complainant stated neighbor (believed to be a "Mr. Franklin" sprayed a boundary fence and got the spray onto the complainant's yard. Not sure if it was an accident or intentional. Complainant was advised we do not investigate 'intentional' overspray.

Disposition Summary
Mark Franklin was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for applying pesticides to a property that is not his own. A civil penalty in the amount of $250.00 was assessed for this violation.
Robin Franklin was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for applying pesticides to a property that is not her own.

PS20-0224 On June 23, 2020, Agent Joe Becovitz and I performed a routine marketplace inspection at Able Paper and Janitorial Supply located at 8200 Utah St Merrillville, IN. I spoke with General Manager, Scott Borrmann, and informed him of the process of the marketplace inspection. I then issued a Notice of Inspection.

Disposition: Able Paper and Janitorial Supply was warned for two (2) counts (2019 & 2020) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana.

Questspecialty Corporation was cited for two (2) counts (2019 & 2020) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide

product that was not registered in the state of Indiana. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed.

PS20-0225 On June 24, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a farmer made an application to a neighboring field and now she has pesticide exposure symptoms to her garden.

Disposition: Bryan W. 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. 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. Consideration was also given to the fact this was Bryan Brost's third violation of similar nature. See cases 2018/0835 and 2018/0723.

In addition, the Private Applicator permit issued to Bryan W. Brost was suspended for six (6) months beginning April 1, 2021 through September 30, 2021.

PS20-0323 On June 22, 2020, I performed a routine marketplace inspection Retailers Supply located at 4398 Security Parkway New Albany, IN. I spoke with General Manager, Tom Pope, and informed him of the process of the marketplace inspection. I then issued a Notice of Inspection.

Disposition: This case was forwarded to U.S. E.P.A for federal review.

PS20-0342 On July 28, 2020, Kenneth Berry contacted the Office of Indiana State Chemist (OISC) via email, to express concerns about a pesticide product he had received. Mr. Berry stated that he had received a sample of a product to use for his pressure washing business. Mr. Berry stated he was concerned about the active ingredient in the product. Mr. Berry was told that the product was hypochlorous acid. When Mr. Berry received the product, he checked the EPA Reg# on the label through the EPA website and found that the active ingredient was Sodium Dichloroisocyanurate dihydrate. Mr. Berry also included a photo of the product sample he received. The product Mr. Berry received indicated it was "ECS-1200HPSAMPLE Sani-Powder 8 grams".

Disposition: This case was forwarded to U.S. E.P.A for federal review.

PS20-0396 On July 29, 2020, I contacted Brenntag Great Lakes LLC via telephone to advise that OISC would be conducting a routine Producer Establishment Inspection. I spoke with Ray Knight, Warehouse Supervisor, and advised that I was calling to set up a meeting time and to provide them with information on what documentation was needed. This was being done so that we could lessen the amount of time for the in-person portion of the inspection. Due to scheduling we were unable to meet until September 2, 2020. Mr. Knight stated that he would provide the information on the needed documentation to Kaoni Mazoch, Health, Safety, Quality, & Environment Manager, as she was the one with access to most paperwork.

Disposition: This case was forwarded to U.S. E.P.A for federal review.

CASE SUMMARY

Case #2018/0448

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

Respondent: Tractor Supply Distribution
Matt Layman — Operations Manager
320 Enterprise Drive
Pendleton, IN 46064

Registrant: Annulox LLC
3475 Castleton Hill
Lexington, KY 40517

1. On May 10, 2018, the Office of Indiana State Chemist (OISC) received information that a pond dye called Ecolox was making pesticide-type claims on its label and was being sold at Tractor Supply stores. The product does not appear to be state or federally registered.

2. On May 21, 2018, I conducted a marketplace inspection at the Tractor Supply Distribution facility located in Pendleton. When I arrived, I met with the Operations Manager Matt Layman. I informed Mr. Layman of the process of the marketplace inspection and informed him of the pesticide product Ecolox, which is unregistered. Mr. Layman stated that he did know of the product and was able to look it up in the records system and informed me that there were 54 units (one-gallon containers) at the facility.

3. Mr. Layman then took me to where the pesticide product was located. The pesticide product is:
    a. Ecolox Pond & Lake Dye

4. On the front label of the Ecolox product is states "Aquatic Plant Growth Inhibitor" which is a pesticidal claim.

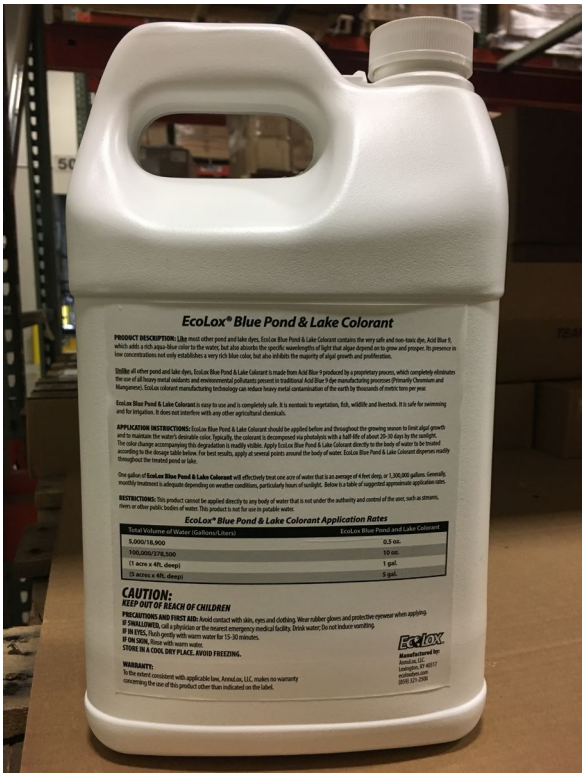
5. The Ecolox product was in a box containing four, one-gallon containers. Mr. Layman opened a box, as there were not any open and pulled a container out. I photographed the pesticide product and placed an evidentiary sample sticker directly to the container. I informed Mr. Layman that I would be sampling the product for evidence.

6. Mr. Layman and I then walked the remainder of the facility and I did not locate any other pesticide products in violation.

7. Mr. Layman was able to provide me copies of the inventory list showing 54 units were available on hand. The inventory list also shows that the product first arrived at the facility on February 10, 2018 with 220 units. I issued an Action Order instructing them to remove the remaining 53 containers of the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC.

8. I then placed the evidentiary sample in a clear plastic evidence bag and sealed it to transport it to the formulation lab.

9. On May 23, 2018, I delivered the evidentiary sample to the Formulation Lab.



Garret A. Creason
Investigator

Date: May 30, 2018

10. On November 8, 2019, I completed the label review for the product found in distribution. Ecolox Pond & Lake Dye. As stated in the case summary, "Aquatic Plant Growth Inhibitor" is a pesticidal claim and requires registration with EPA.

    The product is missing labeling requirements as outlined by EPA through FIFRA. Some of the requirements include, but are not limited to:

    a. EPA Registration Number;
    b. EPA Establishment Location;
    c. statement of formula;
    d. first aid and storage; and
    e. disposal sections.

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

Sarah K. Caffery
Pesticide Product Registration Specialist

Date: November 8, 2019

Disposition:

A. On October 2, 2018, the information was forwarded to USEPA for federal review.

B. Tractor Supply Distribution 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. Consideration was given to the fact this was their first violation of similar nature.

C. Annulox 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.

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

E. As of October 15, 2020, Annulox LLC had not paid the $500.00 civil penalty. The case was forwarded to collections.

George N. Saxton
Compliance Officer

Draft Date: November 11, 2019
Case Closed: October 15, 2020

CASE SUMMARY

Case #PS19-0091

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

Respondent: Bloomington Wholesale Garden Supply LLC (BWGS LLC)
Tony Bayt — Business Affairs and Compliance
1410 Hancel Parkway
Mooresville, IN 46158

Registrant/ Distributor: Sierra Natural Science, Inc.
Chad Dempsey — CEO/Owner
1031 Industrial Street, Unit C
Salinas, CA 93901

1. On January 24, 2019, I performed a routine marketplace inspection at BWGS LLC. I spoke with the Tony Bayt, Business Affairs and Compliance with BWGS and informed him of the process of the marketplace inspection.

2. Upon completion of the inspection, I located six (6) unregistered pesticide products that were being offered for sale and distributed in the BWGS facility. Ed White, Assistant Pesticide Administrator, confirmed that the pesticide products were unregistered. The products are as follows:

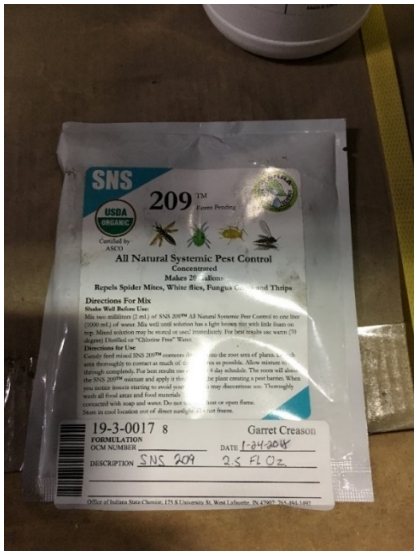
    a. SNS 209, a 25(b)[1] product, 4 units.
    b. SNS 217 All Natural Spider Mite Control, a 25(b) Product, 27 units.
    c. SNS 203 Concentrate, a 25(b) Product, 105 units.
    d. SNS 244C All Natural Concentrate, a 25(b) Product, 13 units.
    e. SNS 244 All Natural Fungicide, a 25(b) Product, 44 units.
    f. SNS 217C All Natural Spider Mite Control, a 25(b) Product, 32 units.

3. I spoke with Mr. Bayt and informed him of the unregistered products I had located. I informed Mr. Bayt that I would be issuing an Action Order instructing them to no longer distribute or sell the unregistered pesticide products until contacted in writing by OISC. I also informed him that I would be retaining evidentiary samples of the products for my case. I asked Mr. Bayt if he was able to provide me with any information for when BWGS received the pesticide products. Mr. Bayt was able to email me all the information later that day. On the document Mr. Bayt provided me, it stated that all the products were received on 10/13/2018.

[1] Minimum Risk Pesticide

4. I placed the evidentiary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.

5. On January 28, 2019, I delivered the evidentiary 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: February 25, 2019

7. On January 30, 2019, the Immediate Notification Letter (INL) was sent to Sierra Natural Science, Inc. informing them of the Action Order (AO) that was placed on their products.

8. On March 5, 2019, I was requested to do a label review for these pesticide products.

9. On March 15, 2019, I completed the label review for the Sierra Natural Science, Inc. products.

a. SNS 209
    i. Per the label review, this product does not meet all of the conditions as outlined by EPA, and therefore is non-compliant.
        1. "Rosemary Extract" – is not an approved active ingredient. This is a violation of EPA's Condition 1
        2. "Quillaja Saponin" is not the approved label display name, this is a violation of EPA's Condition 3
        3. "Humic Acid" is not the approved label display name, this is a violation of EPA's Condition 3
        4. "USDA ORGANIC" logo is not approved on pesticide products
b. SNS 217 All Natural Spider Mite Control
    i. Per the label review, this product does not meet all of the conditions as outlined by EPA, and therefore is non-compliant.
        1. The product includes Polyglyceryl Oleate
            a. Polyglyceryl Oleate [aka polyglycerol oleate] is not a natural product but rather must be produced via synthetic chemistry.
            b. Therefore, NATURAL claims are false and misleading. This is a violation of EPA's Condition 6
    ii. As stated, under the How it Works section: "Rosemary extracts and oils disrupt the insect cell…"
        1. Per this statement, we are concerned that this product also includes Rosemary Extract, which is an unapproved active ingredient.
c. SNS 203 Concentrate All Natural Pesticide Soil Drench/Foliar Spray
    i. Per the label review, this product does not meet all of the conditions as outlined by EPA, and therefore is non-compliant.
        1. The product includes Polyglyceryl Oleate
            a. Polyglyceryl oleate [aka polyglycerol oleate] is not a natural product but rather must be produced via synthetic chemistry.
            b. Therefore, NATURAL claims are false and misleading. This is a violation of EPA's Condition 6
d. SNS 244C All Natural Concentrate Fungicide
    i. Per the label review, this product does not meet all of the conditions as outlined by EPA, and therefore is non-compliant.
        1. The product includes Polyglyceryl Oleate
            a. Polyglyceryl oleate [aka polyglycerol oleate] is not a natural product but rather must be produced via synthetic chemistry.
            b. Therefore, NATURAL claims are false and misleading. This is a violation of EPA's Condition 6
        2. "Quillaja Saponin" is not the approved label display name, this is a violation of EPA's Condition 3
e. SNS 244 All Natural Fungicide RTU
    i. Per the label review, this product does not meet all of the conditions as outlined by EPA, and therefore is non-compliant.
        1. The product includes Polyglyceryl Oleate
            a. Polyglyceryl oleate [aka polyglycerol oleate] is not a natural product but rather must be produced via synthetic chemistry.
            b. Therefore, NATURAL claims are false and misleading. This is a violation of EPA's Condition 6

f. SNS 217C All Natural Spider Mite Control Concentrate

i. Per the label review, this product does not meet all of the conditions as outlined by EPA, and therefore is non-compliant.
    1. The product includes Polyglyceryl Oleate
        a. Polyglyceryl oleate [aka polyglycerol oleate] is not a natural product but rather must be produced via synthetic chemistry.
        b. Therefore, NATURAL claims are false and misleading. This is a violation of EPA's Condition 6

ii. As stated, under the How it Works section: "Rosemary extracts and oils disrupt the insect cell…"
    1. Per this statement, we are concerned that this product also includes Rosemary Extract, which is an unapproved active ingredient.

10. 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. Bloomington Wholesale Garden Supply LLC (BWGS LLC) was warned for twelve (12) counts (6 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. Sierra Natural Science, Inc. was cited for twelve (12) counts (6 products for 2018 & 2019) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered in the state of Indiana. A civil penalty in the amount of $3,000.00 (12 counts x $250.00 per count) was assessed. However, the allowable civil penalty will be held in abeyance and not assessed provided Sierra Natural Science, Inc. ceases distribution until the products are properly registered.

C. Sierra Natural Science, Inc. was cited for twelve (12) counts (6 products for 2018 & 2019) of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing or offering for sale pesticide products in the state of Indiana that were misbranded. A civil penalty in the amount of $3,000.00 (12 counts x $250.00 per count) was assessed.

D. On September 13, 2019, a 30-day extension was granted to Sierra Natural Science on payment of the civil penalty or registration of their pesticide product(s). No hearing was requested.

E. On October 14, 2019, Chad Dempsey of Sierra Natural Science called requesting an extension for payment of the civil penalty and/or product registration. An extension was granted until December 31, 2019.

F. On March 6, 2020, a $3,000.00 civil penalty payment was received from Sierra Natural Science.

G. As of September 11, 2020, Sierra Natural Science, Inc. was continuing their efforts to complete their product registration with Sarah Caffery / OISC. The case was closed.

George N. Saxton
Compliance Officer

Draft Date: January 27, 2020
Case Closed: September 11, 2020

CASE SUMMARY

Case #PS19-0108

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

Respondent: Home Depot
Jenny Hauck — Store Manager
1714 East Tipton Street
Seymour, IN 47274

Registrant: Southern Agricultural Insecticides
PO Box 218
Palmetto, FL 34220-0218

1. On March 4, 2019, I performed a routine marketplace inspection at Home Depot in Seymour, IN. I met with Store Manager, Jenny Hauck, and explained the scope of the inspection. I also explained that OISC was conducting a product integrity sampling initiative of pesticide products containing Neem Oil. I advised that if I were to locate any that I would be sampling them for the OISC Formulation Lab to analyze. I presented state credentials and issued a Notice of Inspection.

2. During the inspection, I located One pesticide product containing Neem Oil as the active ingredient. The product was currently registered for sale in the State of Indiana. The product was as follows:

    a. Triple Action Neem Oil, EPA Reg# 70051-2-829
        i. Lot No.: 31118030

3. I photographed the pesticide product and issued an OISC Formulation sample number. I then placed the pesticide product into a clear evidence bag. I then sealed the bag for transportation to the OISC Formulation Lab.

4. I asked Mrs. Hauck if Home Depot had receiving records for the product. Mrs. Hauck was only able to provide an electronic inventory log showing that the last date it was received was January 15, 2019. Mrs. Hauck allowed me to take a photo of the screen as she was unable to print it.

5. On March 5, 2019, I delivered the pesticide products to the OISC Formulation Lab.

6. On July 22, 2020, I received the analysis results from the OISC Formulation Lab. The products were analyzed for any general insecticide contaminants. The results indicated that Malathion and Piperonyl Butoxide were found. These ingredients are not listed on the product label. The results are below:

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	**73766**	**Case #**	**PS19-0108**	**Investigator**	**G. Creason**
Sample #	Product Description				Sample Size
19-3-0030 1	**Southern Ag Triple Action Neem Oil**				1 x 8 fl oz
TEST					**RESULTS** *Compounds Found*
General insecticide Screen					**Malathion Piperonyl Butoxide**
Remarks:					
Signature				**Date**	07/22/2020

7. All supporting documents and photographs will be electronically attached to this case via the OISC case management system.

Garret A. Creason — Date: October 15, 2020
Pesticide Product Investigator

On October 15, 2020, I completed the labeling review for TRIPLE ACTION NEEM OIL. The label is found to be compliant. However, according to 40 CFR, a pesticide product cannot claim to be natural. This claim is considered false or misleading and in violation of 40 CFR 156.10(a)(5). Within 40 CFR, the Label Review Manual and Q&A document provided by EPA, natural claims suggest a pesticide is safe and are not acceptable. The master label for the basic product (70051-2) does not include natural claims. As a distributor product, Southern Agriculture cannot add any claims that are not found on the master label. The product cannot be marketed/advertised as natural.

Sarah K. Caffery — Date: October 15, 2020
Pesticide Product Registration Specialist

Disposition: This case was forwarded to U.S. E. P.A. for federal review.

George N. Saxton — Case Closed: October 19, 2020
Compliance Officer

CASE SUMMARY

Case #PS19-0143

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

Respondent: Do My Own Pest Control
Domyown.com
4260 Communications Dr.
Norcross, GA 30093

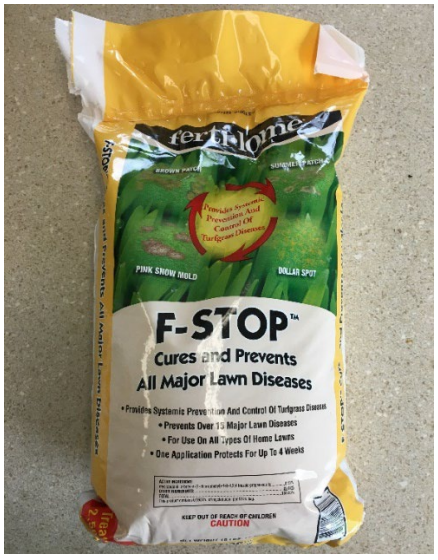
Registrant: Voluntary Purchasing Groups Inc
230 FM 87
Bonham, TX 75418

1. On April 12, 2019, I performed a routine virtual marketplace inspection at Domyown.com. The reason for this virtual marketplace inspection was to locate and procure a pesticide product for the OISC Formulation Lab to analyze for the AAPCO check sample program.

2. I was able to locate for sale, the pesticide product that was needed to be collected. The product is as follows:
    a. Ferti Lome F Stop Lawn Fungicide, EPA Reg. #62719-461-7401
        i. Active Ingredient: Myclobutanil

3. I was able to purchase the pesticide product from domyown.com. I took photos of each of the web screens as I went through the purchasing process.

4. On April 18, 2019, the pesticide product was delivered. I took photos of the product as it arrived. I then placed the pesticide product into a clear evidence bag and sealed it for transport to the OISC formulation lab.



5. On April 19, 2019, I delivered the evidentiary samples to the OISC Formulation Lab.

6. On December 4, 2019, I was notified by the OISC formulation lab that the pesticide product had failed low. The analysis is as follows:

OFFICE OF INDIANA STATE CHEMIST

Pesticide Formulation Laboratory

Lab Report

OCM Collection #	**84282**	**Case #**	**PS19-0143**	**Investigator**	**G. Creason**
Sample #	Product Description				Sample Size
19-3-0045 4	**Ferti-lome F-Stop Lawn Fungicide**				1 x 10 lbs.

ACTIVE INGREDIENT	**% GUARANTEE**	**% FOUND**
Myclobutanil	**0.39**	**0.254**

Remarks:

Product failed low according to AAPCO adopted Horwitz label claim requirements.

Signature		**Date**	12/04/2019

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

Garret A. Creason
Investigator

Date: May 28, 2020

Disposition: Voluntary Purchasing Groups Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated. A civil penalty in the amount of $250.00 was assessed for this violation.

George N. Saxton
Compliance Officer

Draft Date: June 1, 2020
Case Closed: September 29, 2020

CASE SUMMARY

Case #PS19-0235

Complainant: Anonymous Complainant

Respondent: Joe Frey
Shelby Frey — Certified Applicator
Union Ag LLC
4999 East 150 North
Crawfordsville, Indiana 47933

1. On June 11, 2019, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC), via the Indiana Department of Environmental Management (IDEM), and stated Joe Frey *"is storing chemicals without secondary containment and some tanks are on a hillside"*.

2. On June 12, 2019, I went to the Frey Farm and met with Shelby Frey. I observed eight (8) bulk pesticide containers that were out of containment located at 1303 N 425 E Crawfordsville, Indiana. Mr. Frey was advised to place the containers in containment and was issued an Action Order.

3. The shuttles contained the following products:
   a. Prefix (EPA Reg. #100-1268) active ingredients metolachlor and fomesafen;
   b. Rifle (EPA Reg. #34704-861) active ingredient dicamba;
   c. Mad Dog Plus (EPA Reg. #34704-890) active ingredient glyphosate; and
   d. Atrazine 4L (EPA Reg. #34704-69) active ingredient atrazine.

4. I then obtained from Nutrien Ag in Clarks Hill, Indiana invoices which indicate the Mad Dog Plus and the Atrazine 4L were received on March 7, 2019 and the Prefix and Rifle were received on March 28, 2019.

5. This would then indicate that the Mad Dog Plus and Atrazine 4L were out of containment according to regulations for a total of sixty-six (66) days on my visit. The Prefix and Rifle were out of containment for a total of forty-five (45) days. This is a 'per day' violation. After considering the thirty (30) day grace period for shuttles out of containment, the remaining thirty-six (36) days would count as violations.

Kevin W. Neal
Investigator

Date: June 12, 2019

Disposition:

A. Shelby Frey and Union Ag LLC were cited for thirty-six (36) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for storing bulk storage containers outside of secondary containment. A civil penalty in the amount of $9,000.00 (36 counts x $250.00 per count) was assessed. Consideration was given to the fact a restricted use pesticide was involved. By rule, this violation may not be mitigated by the Office of Indiana State Chemist.

B. On October 3, 2019, I received an email from Shelby Frey indicating the $9,000.00 civil penalty was 'very unfair'. I returned the email indicating that I was not allowed to mitigate the civil penalty but would propose reducing the penalty to $1,800.00 to the Indiana Pesticide Review Board (IPRB).

C. On October 4, 2019, I receive another email from Shelby Frey indicating that the $1,800.00 civil penalty was too high and that a 'warning' should have been issued. Mr. Frey requested a formal hearing before the IPRB. This information was immediately forwarded to David Scott, Secretary to the Board.

D. On February 21, 2020, a formal hearing was held with a panel of the IPRB, at the Daniel's Turf Center. The panel upheld the $1,800.00 civil penalty.

E. On July 9, 2020, the full IPRB reviewed this case and confirmed the civil penalty in the amount of $1,800.00.

F. On September 10, 2020, the $1,800.00 civil penalty payment was received by OISC.

George N. Saxton
Compliance Officer

Draft Date: July 23, 2020
Case Closed: December 18, 2020

CASE SUMMARY

Case #PS19-0241

Complainant: Dale Keegan
4251 South 13th Street
Terre Haute, Indiana 47802

Respondent: Keith Pierce — Certified Applicator
Ceres Solutions Cooperative — Licensed Business
500 North 2nd Avenue
Farmersburg, Indiana 47850

1. On June 13, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report on or about June 7th, a pesticide application was made to a neighboring farm field that drifted onto his trees causing pesticide exposure symptoms.

2. On June 18, 2019, I met with the complainant at his property. The complainant stated he had injury to his sassafras tree, grapes, milkweed garden, and dogwood tree.

3. During my on-site investigation I did the following:
   a. Looked for and found one potential source of herbicide application in the area. The target field for this case is located to the northeast of the complainant's property (See Fig. 4).
   b. Observed and photographed milkweeds with cupped and curled leaves, grape vines with curled leaves and necrotic leaf spots, raspberry bushes with discolored leaves.
   c. Collected samples of injured grape, raspberry, milkweed, cherry tree, apple tree, and sassafras tree from the complainant's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPPDL)
   d. Collected a composite soil and vegetation sample from the target field. Collected composite soil and vegetation samples from the complainant's property (See Fig. 4). The residue samples were submitted to the OISC Residue Laboratory for analysis.


Fig. 1


Fig. 2


Fig. 3

- Fig. 1 is the complainant's milkweed garden with curled leaves.
- Fig. 2 is the complainant's grape vine with cupped leaves and necrotic leaf spots.
- Fig. 3 is the complainant's raspberry bush with discolored leaves.

Fig. 4

- Fig. 4 is an aerial diagram including wind direction, property lines, and where soil and vegetation samples were taken from.

4. On June 20, 2019, I contacted Shane McCullough the branch manager for Ceres Solutions Cooperative located in Farmersburg, Indiana. I advised Mr. McCullough I was a Pesticide Investigator for OISC and of the complaint I was investigating. Mr. McCullough confirmed Ceres Solutions made a pesticide application to the field to the northeast of the complainant's property. I advised Mr. McCullough I would send him via email a pesticide investigation inquiry to be completed for the application.

5. On June 21, 2019, I received a completed the pesticide investigation inquiry from Mr. McCullough for the application which indicated the following:

    a. Certified Applicator: Keith Pierce
    b. Application Date and Time: June 7, 2019, 8:30am to 9:10am
    c. Pesticide Applied:
    Trivence, EPA Reg.# 352-887, Active = metribuzin, chlorimuron, flumioxazin, 8oz/acre
    Gramoxone 2.0 SL, EPA Reg.# 100-1431, Active = paraquat, 48oz/acre
    Dimetric EXT, EPA Reg.# 1381-197, Active = metribuzin, 4oz/acre
    Shredder LV6, EPA Reg.# 1381-250, Active = 2,4-D
    d. Adjuvants: Destiny, Class Act NG, Interlock
    e. Target Field Location and Size: Field #495 on Canal, 59.82 Acres
    f. Pre- or Post- Emergent Application: Pre
    g. Wind Blowing from Which Direction: Start- NE, End- NE
    h. Wind Speed at Boom Height: Start- 5mph, End- 5mph
    i. Nozzle and Pressure: TeeJet 11008, 25psi
    j. Boom Height: 20 inches

6. Weather history data was obtained at www.wunderground.com from the closest official weather station to the application site. The location and weather data for June 7, 2019 follows:

- Terre Haute Regional Airport (KHUF) located in Terre Haute, Indiana 5 miles to the northeast of the application site:

Date	Time	Temperature	Wind Direction	Wind Speed	Wind Gust
6/7/2019	7:53 AM	68 F	NE	10 MPH	0 MPH
6/7/2019	8:53 AM	72 F	ENE	10 MPH	0 MPH
6/7/2019	9:53 AM	75 F	ENE	12 MPH	0 MPH

7. The wind data from the Terre Haute Regional Airport (KHUF) indicates the wind speed during the application was between 10 mph and 12 mph with no gusts out of the north and east.

8. The PPPDL report stated: *No herbicide injury on raspberry. Likely to be disease related, nutrient deficiency, or environmental stress. Milkweed showed symptoms that resemble very light levels of exposure to an auxin herbicide such as 2,4-D. The necrotic lesions and leaf curling on the grapes appear to be disease related rather than herbicide exposure, although 2,4-D may cause somewhat similar leaf curling. the necrotic spots do not resemble exposure to gramoxone. The other plant sample submitted did not show any significant symptoms that could be associated with herbicide exposure.*

   Grape: Small black spots are associated with Phomopsis cane and leaf spot, some necrosis might be associated with anthracnose, but unable to find pathogen growing in tissue. I am not entirely certain what could be causing damage to cause the leaf curling unless it is anthracnose as well or potential insect injury. Blackberry/raspberry: general yellowing and unthriftyness indicates that there is likely an issue farther down in the plant, which could be caused by cultural conditions that are poor for the root system and crown or it could be a possible root rot/crown rot. Cherry: leaves seem to have severe insect feeding. Apple: the spots are likely caused by Botryosphaeria obtusa, which causes a frog-eye leaf spot, but is also known as black rot on apples. Sassafras: we were able to find the fungus Discula growing from two spots on the leaves closely associated with the veins, but the other spots are slightly different. These could be caused by a fungus or an insect. There is a small pocket between the epidermal layers in this spot, which is quite abnormal. Not suspected to be caused by chemical injury. A sample has been sent to an ornamental entomology specialist for consultation. The spots on sassafras leaves submitted for entomology consultation has been determined to be not caused by insects.

9. The OISC Residue Laboratory analyzed the vegetation samples collected for the active ingredients 2,4-D, chlorimuron-ethyl, flumioxazin, and metribuzin and reported the following:

OCM Collection #	**98373**	**Case #**	**PS19-0241**	**Investigator**	**N. Davis**			
Sample #	Sample Description			Matrix	Amount of Analyte (ppb)			
					2,4-D	Chlorimuron-ethyl	Flumioxazin	Metribuzin
19-4-0754-5	Soil, composite, E target field, target site			Soil	N/A	N/A	N/A	N/A
19-4-0755-0	Vegetation, composite, E target field (weeds), target site			Veg	11200	142	720*	959*
19-4-0756-6	Soil, composite, off target composite soil, affected site			Soil	N/A	N/A	N/A	N/A
19-4-0757-8	Vegetation, composite, off target composite veg, affected site			Veg	900	BDL	BDL	213
19-4-758-4	Soil, control, comparative control soil			Soil	N/A	N/A	N/A	N/A
19-4-0759-7	Vegetation, control, comparative control veg			Veg	23.9	BDL	BDL	23.0
LOQ (ppb)				Soil	N/A	N/A	N/A	N/A
LOQ (ppb)				Veg	0.3 – 0.7	1	3	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

N/A = Not Analyzed

*Minimum amount detected.

Signature		**Date**	07/15/2020

10. The OISC Residue Laboratory analysis detected the active ingredients 2,4-D and metribuzin in the off target composite vegetation samples.

11. According to the application record and wind data the winds were out of the northeast, blowing towards the complainant's property. According to the Google Maps measuring tool the complainant's property is located 125 feet to the southwest of the application site. The label for *Shredder LV6, EPA Reg.# 1381-250, Active = 2,4-D* states: "**Only apply this product if the wind direction favors on-target deposition and there are not sensitive areas (including, but not limited to, residential areas, bodies of water, known habitat for non-target species, non-target crops) within 250 feet downwind."**

12. According to the OISC Residue Laboratory analysis the active ingredient metribuzin was detected at 213 PPB in the off target composite vegetation sample, which is an amount high enough to indicate off target movement from the application site. The label for *Dimetric EXT, EPA Reg.# 1381-197, Active = metribuzin* states: **"Do not allow sprays to drift on to adjacent desirable plants".**

Nathan J. Davis
Investigator

Date: July 16, 2020

Disposition: Keith Pierce and Ceres Solutions were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved. However, the civil penalty was reduced to $188.00. Consideration was given to the fact Ceres Solutions cooperated during the investigation.

George N. Saxton
Compliance Officer

Draft Date: November 3, 2020
Case Closed: January 14, 2021

CASE SUMMARY

Case #PS19-0246

Complainant: Eli Anderson
5351 North 400 East
Peru, IN 46970

Respondent: Eric L. Miller — Private Applicator
1764 E. Chili Cemetery Road
Denver, IN 46926

1. On June 18, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist and stated a field near his home was sprayed a week or so ago and now he has pesticide exposure symptoms to his ornamentals.

2. On June 18, 2019, I spoke with Eli Anderson via telephone. I asked him to describe what had occurred and he stated that he was home when someone made an application to the field across from his residence. He stated that he could see the spray coming at him and he also stated that he could smell and taste it. Mr. Anderson stated that he thought the application took place on June 13 or June 14.

3. On June 20, 2019, I met with Mr. Anderson at his residence. I had him show me the vegetation that he believed was affected by pesticide drift. There were multiple juvenile trees with leaves that had burnt edges and reddish/tan blotches. There were also other juvenile trees that were completely brown and some that had cupped/curled leaves. While I was surveying Mr. Anderson's property, I noticed that the field that wraps around his property looked as though it had not been sprayed yet this year and was all grown up with undesirable vegetation. The border between the suspected source of pesticide drift can be seen in Figure 1. The injury that caused Mr. Anderson's complaint can be seen in Figure 2 and 3.


Figure 1


Figure 2


Figure 3

4. I collected the following samples:

   A. Affected Veg. 21' In
   B. Affected Veg. 102' In
   C. Affected Veg. 204' In
   D. Target Field Soil
   E. Control Veg.

These samples were submitted to the OISC residue lab for analysis. I also collected a vegetation 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

5. On June 18, 2019, I made contact with Eric Miller via phone. He stated that he had made an application to the field across the road from Mr. Anderson. He stated he thought the application was on either June 11 or June 12, but was not sure of the exact day. The application consisted of the following:

   A. Durango DMA (EPA Reg. #62719-556, active ingredient glyphosate)
   B. SureStart (EPA Reg. #62719-570, active ingredient acetochlor, flumetsulam, and clopyralid)
   C. Class Act (Surfactant)

   During this conversation, I informed Mr. Miller that I would send him a Pesticide Investigation Inquiry (PII) via email. Mr. Miller stated he would fill it out and email it back to me.

6. As of July 4, 2019, I had not received a completed PII from Mr. Miller.

7. On July 29, 2019, I called Mr. Miller and left a voicemail stating that I had not received a completed PII.

8. On October 10, 2019, I called Mr. Miller and left a voicemail stating that I had not received a completed PII.

9. On February 7, 2020, a PII was mailed to Mr. Miller via certified mail.

10. On February 12, 2020, the PII was signed for. Mr. Miller would have until February 27, 2020 to return a completed copy.

11. As of February 27, 2020, I had not received a completed PII nor any type of communication from Mr. Miller.

12. The report from PPDL states, "*The curled up leaves closer to the apical meristem in the sycamore tree are characteristic of exposure to synthetic auxin herbicides such as clopyralid (active ingredient in SureStart). The leaves also show chlorosis (yellowing), which are symptoms of exposure to glyphosate (Durango) or ALS-herbicides (flumetsulam in SureStart). Other trees shown in the pictures also show some yellowing that could be from exposure to glyphosate or flumetsulam, but can also be caused by nutrient deficiencies or plant stress (cool and wet). The necrotic spots (leaf dark/brown lesions) on the plants are not from herbicide exposure*."

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

OCM Collection #	**99005**	**Case #**	**PS19-0246**	**Investigator**	**A. Kreider**	
Sample #	Sample Description		Matrix	Amount of Analyte (ppb)		
				Acetochlor	**Atrazine**	**Flumetsulam**
19-4-1472-7	Vegetation, grab/spot, affected veg 21' in, affected site		Veg	BQL	920*	4.44
19-4-1473-6	Vegetation, grab/spot, affected veg 102' in, affected site		Veg	10.2	299	3.67
19-4-1474-3	Vegetation, grab/spot, affected veg 204' in, affected site		Veg	10.2	756*	4.75
19-4-1475-8	Soil, grab/spot, target field soil, target site		Soil	N/A	N/A	N/A
19-4-1476-2	Vegetation, control, affected site		Veg	12.6	170	1.82

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

N/A = Not Analyzed

*Minimum concentration reported due to amount exceeding calibration curve range

LOQ (ppb)	Veg	3	0.1	0.7
LOQ (ppb)	Soil	N/A	N/A	N/A

Signature		**Date**	08/01/2019

14. The reports from PPDL shows that the vegetation on the Anderson property was showing symptoms from the active ingredients in Mr. Miller's application. The lab report from the OISC residue lab shows that active ingredients in Mr. Miller's application were found on the Anderson property. Based on the evidence, it is most likely that the injury seen on the Anderson property is due to the application made by Mr. Miller. Mr. Miller has violated Pesticide Use and Application Law 15-16-5-65 (7)(B) by not providing a completed PII.

15. On March 13, 2020, I received a PII from Eric Miller. It stated that he made an application to the target field on June 12, 2019 from 8 AM to 9 AM. The application consisted of the following:

    A. Durango DMA (EPA Reg. #62719-556, active ingredient glyphosate)

B. SureStart (EPA Reg. #62719-570, active ingredients acetochlor, flumetsulam, and clopyralid)
C. Ravine (EPA Reg. #83100-47-91935, active ingredients metolachlor, atrazine, and mesotrione)
D. Class Act (Surfactant)

The reported wind conditions were 6 MPH from the west at the start of the application and 8 MPH from the west at the end of the application. This would mean that the winds were blowing towards Mr. Anderson's property during the application.

16. The PII from Mr. Miller shows that his application consisted of the active ingredient atrazine, which was found in significant amounts on the Anderson property. This fact supports the determination that Mr. Miller's application drifted from the target field to Mr. Anderson's property.

17. The Ravine label states in part, *"Avoid drift onto adjacent crops and non-target areas."*

Aaron P. Kreider Date: March 2, 2020
Investigator

Disposition:

A. Eric L. Miller was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for failure to make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection. A civil penalty in the amount of $100.00 was assessed for this violation. In addition, the Private Applicator permit issued to Eric L. Miller was suspended until such time as he complies with the records request.

B. On March 13, 2020, Mr. Miller complied with the request for reports. This case was returned to the investigator for further investigation based on the information received. The suspension was lifted.

C. Based on the information provided and obtained through the investigation, Eric L. Miller 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 also assessed. 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.

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

George N. Saxton Draft Date: July 20, 2020
Compliance Officer Case Closed: January 13, 2021

CASE SUMMARY

Case #PS19-0267

Complainant: Jacob Fearnow
5205 South Co Road 200 West
Frankfort, Indiana 46041

Respondent: Jon R. Coy — Registered Technician
Bradley Baker — Certified Applicator
Co-Alliance LLP — Licensed Business
161 West 650 South
Frankfort, Indiana 46041

1. On June 26, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Co-Alliance made a pesticide application to a neighboring farm field on June 26, 2019 that drifted on him while he was in his yard. He stated he has a shirt he will give to the investigator with the understanding the shirt will not be returned.

2. On June 28, 2019, I met with Jessica Fearnow, wife of Jacob, at their residence. Mrs. Fearnow provided me with both her and her husband's shirts that they were wearing the day of the incident. I had Mrs. Fearnow show me where Mr. Fearnow had stood when he felt the suspected pesticide drift. While I was looking around the property, I noticed a few trees with injured leaves. The location where Mr. Fearnow was standing in comparison to the field where the application was made can be seen in Figure 1. The injured vegetation I observed can be seen in Figures 2 and 3.


Figure 1


Figure 2


Figure 3

3. I collected the following samples:

   A. Mailbox Swab (Acetone)
   B. Mailbox Swab (Water)
   C. Driveway Swab (Acetone)
   D. Driveway Swab (Water)
   E. Garage Swab (Acetone)
   F. Garage Swab (Water)
   G. Trip Blank (Acetone)
   H. Trip Blank (Water)
   I. Affected Veg. 18' In

J. Affected Veg. 132’ In
K. Affected Veg. 258’ In
L. Target Weeds
M. Target Soil
N. Control Veg.
O. Complainant’s Shirt #1
P. Complainant’s Shirt #2

The following samples were submitted to the OISC residue lab for analysis. I also collected a vegetation sample to submit to the Plant and Pest Diagnostic Lab at Purdue (PPDL). The location of these samples can be seen in Figure 4.

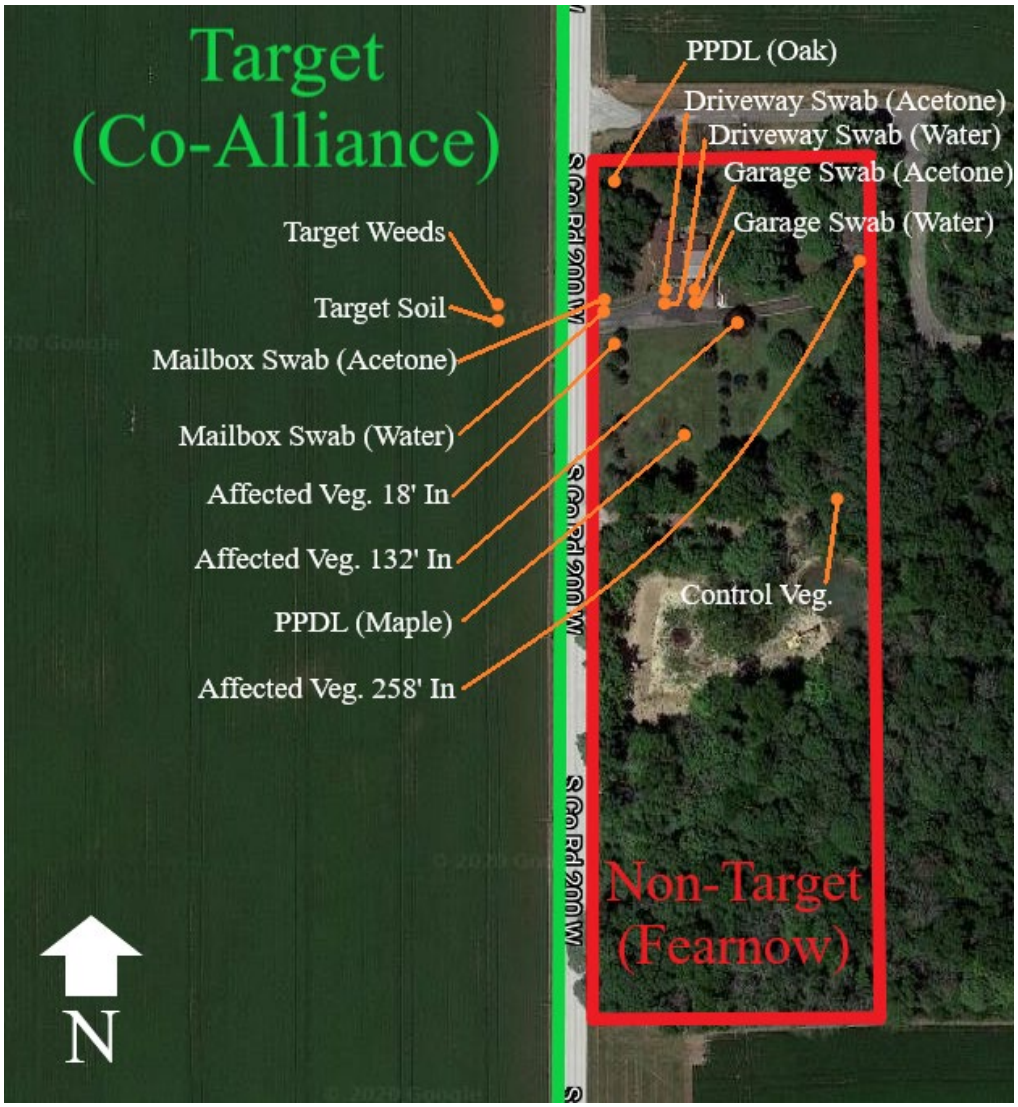


Figure 4

4. On July 5, 2019, I received a Pesticide Investigation Inquiry (PII) from Jennifer Barnett on behalf of Bradley Baker of Co-Alliance. It states that Jon Coy made an application on June 25, 2019 from 5:05 PM to 6:00 PM. The application consisted of the following:

   A. Range Star (EPA Reg. #42750-55, active ingredients dicamba and 2,4-D)
   B. Durango DMA (EPA Reg. #62719-556, active ingredient glyphosate)
   C. Plexus (Surfactant)
   D. Array (Conditioner)

The wind data reported on the PII was 10 MPH from the south-southwest at the start of the application and 10 MPH from the south-southwest at the end of the application. This would mean that the wind was blowing towards the Fearnow property during the application. In an additional weather station read-out that was provided, the wind gusts were 23 MPH at the start and end of the application. Mr. Baker had initially reported the wrong application times due to a misunderstanding. I called him and we were able to obtain the accurate information which is represented above.

5. I obtained wind data from the Purdue University Airport (KLAF) which is 24.7 miles from the target field. It confirms the data on the PII along with the additional weather station read-out that was provided.

6. The report from PPDL states, "*The oak and maple branches in sample 19-00844 and the other vegetation in the pictures do not show any symptoms that can be associated with herbicide exposure. The leaf necrotic spots on the maple appear to be disease related. Dicamba and 2,4-D do not cause the leaf necrotic spots like shown in the pictures, but rather cause leaf cupping/strapping, leaf droop, and stem twisting*."

7. The report from the OISC residue lab is as follows:

OCM Collection #	**101175**	**Case #**	**PS19-0267**	**Investigator**	**A. Kreider**			
Sample #	Sample Description			Matrix	Amount of Analyte (ppb, ng/swab, or ng/cloth)			
					2,4-D	**Dicamba**	**Glyphosate**	**AMPA**
19-4-1488-6	Swab (acetone), grab/spot, mailbox swab, affected site			Swab	28.3	45.6	N/A	N/A
19-4-1489-3	Swab (water), grab/spot, mailbox swab, affected site			Swab	N/A	N/A	262	79.8
19-4-1490-3	Swab (acetone), grab/spot, driveway swab, affected site			Swab	25.4	19.7	N/A	N/A
19-4-1491-9	Swab (water), grab/spot, driveway swab, affected site			Swab	N/A	N/A	248	57.6
19-4-1492-6	Swab (acetone), grab/spot, garage swab, affected site			Swab	6.64	5.28	N/A	N/A
19-4-1493-5	Swab (water), grab/spot, garage swab, affected site			Swab	N/A	N/A	380	BDL
19-4-1494-2	Swab (acetone), trip blank, affected site			Swab	BDL	BDL	N/A	N/A
19-4-1495-7	Swab (water), trip blank, affected site			Swab	N/A	N/A	BDL	BDL
19-4-1496-1	Vegetation, grab/spot, affected veg 18' in, affected site			Veg	138	41.6	1120	BDL
19-4-1497-4	Vegetation, grab/spot, affected veg 132' in, affected site			Veg	82.2	32.2	319	BDL
19-4-1498-8	Vegetation, grab/spot, affected veg 258' in, affected site			Veg	41.2	29.4	375	BDL
19-4-1499-0	Vegetation, grab/spot, target field weeds			Veg	36800*	21100*	66300	1210
19-4-1500-8	Soil, grab/spot, target field soil			Soil	N/A	N/A	N/A	N/A
19-4-1501-2	Vegetation, control, affected site			Veg	13.5	13.0	53.7	BDL
19-4-1502-0	Clothing, grab/spot, shirt, affected site			Cloth	108	BDL	31500	BDL
19-4-1503-1	Clothing, grab/spot, shirt, affected site			Cloth	92.7	BDL	1920	BDL

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

N/A = Not Analyzed

*Result reported as Minimum Detected due to concentration exceeded calibration curve range.

LOQ (ng/swab)	Swab	1	1	10	50
LOQ (ppb)	Veg	0.7	3	5	50
LOQ (ppb)	Soil	N/A	N/A	N/A	N/A
LOQ (ng/cloth)	Cloth	50	50	1000	5000

Signature		**Date**	07/29/2019

8. The Range Star label states, "*Do not apply at wind speeds greater than 15 mph*." The Range Star label and the Durango DMA label state, "*Do not apply this product in a way that will contact workers or other persons, either directly or through drift*."

9. The lab results from the OISC residue lab show that active ingredients from Mr. Coy's application were found, in a gradient pattern, on the Fearnow property. Mr. Coy violated the Range Star label by making an application when wind speeds exceeded 15 MPH.

Aaron P. Kreider — Date: February 18, 2020
Investigator

Disposition: Bradley Baker, Jon R. Coy and Co-Alliance LLP were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

George N. Saxton — Draft Date: May 11, 2020
Compliance Officer — Case Closed: January 14, 2021

Cc: Elizabeth A. South, VP & General Counsel
Co-Alliance LLP
5250 E. US Hwy 36, Bldg. 1000
Avon, Indiana 46123

CASE SUMMARY

Case #PS19-0268

Complainant:	Bryan E. Shelby 3211 West 800 South Lafayette, Indiana 47909	Private Applicator
Respondent:	Sam Harshbarger Christopher B. Hudson Hudson Farms 8399 North 150 East Crawfordsville, Indiana 47933	Unlicensed Applicator Private Applicator

1. On June 26, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that someone from Hudson Farms made a pesticide application of 2,4-D to a neighboring farm field that allegedly drifted onto his DT beans. Complainant stated that the applicator actually allowed his boom to reach over into the complainant's beans.

2. On June 28, 2019, I met with Bryan Shelby at the location of his affected DT soybean field. I had him show me the area where the injury occurred and the field where the source of drift potentially came from. The beans that had been drifted upon did not appear to be showing symptoms of growth regulator injury but the weeds around them had already began to twist and curl. Mr. Shelby stated that although he utilizes dicamba tolerant soybeans, he was unable to spray this particular area of his field with dicamba. The border between the two fields can be seen in Figure 1. Mr. Shelby's DT soybeans can be seen in Figure 2. The weeds from Mr. and the weeds from 3.

Figure 1

Figure 2

Figure 3

3. I collected the following samples:

   A. Affected DT Beans 3 (Closest)
   B. Affected DT Beans 2 (Middle)
   C. Affected DT Beans 3 (Farthest)
   D. Affected Field Weeds (10' In)
   E. Affected Field Weeds (24' In)

F. Target Field Weeds
G. Target Field Soil
H. Control Veg.

The following samples were submitted to the OISC residue lab for analysis. I also collected a sample of Mr. Shelby's 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.

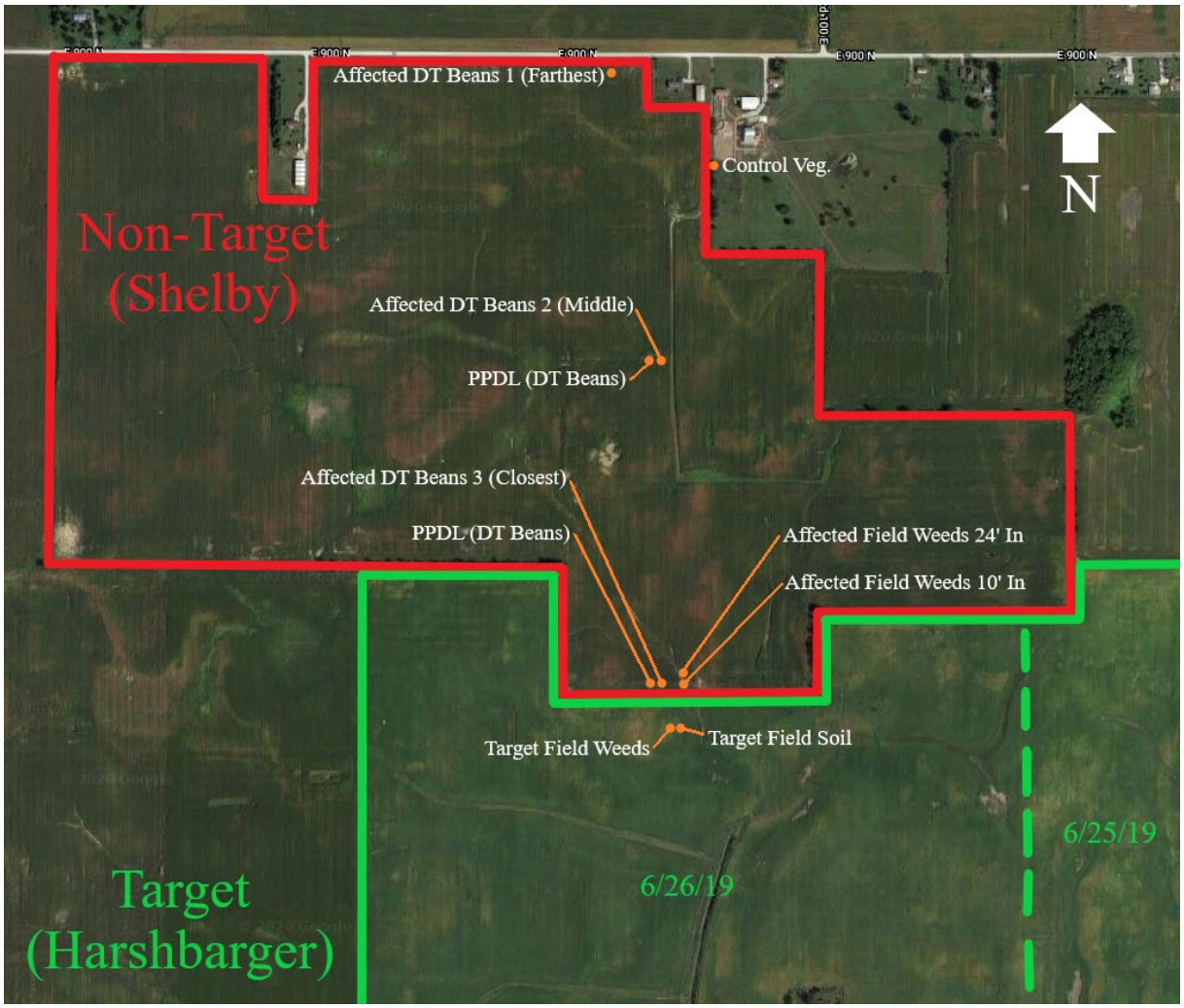


Figure 4

4. On July 12, 2019, I received a Pesticide Investigation Inquiry (PII) from Christopher Hudson. It stated that Sam Harshbarger started the application on June 25, 2019 from 9:33 AM to 11:43 AM then stopped due to wind conditions. The application resumed on June 26, 2019 from 9:51 AM to 2:02 PM. The application consisted of the following:

   A. Enlist Duo (EPA Reg. #62719-649, active ingredients 2,4-D and glyphosate)
   B. Ammonium Sulfate

   The wind data reported on the PII was 9 MPH from the west-southwest at the start of the application and 10 MPH from the west when the application ended on June 25. No wind data was reported when the application resumed on June 26.

5. I collected wind data from the Purdue University Airport (KLAF) which is 17.83 miles from the target field. I was able to confirm the wind data that was reported on the PII for June 25. The wind data I obtained for June 26 is as follows:

   KLAF: 5 MPH from the southwest at the start of the application. 5-7 MPH from the west-southwest during the application. 7 MPH from the southwest at the end of the application.

6. The report from PPDL states, "*The soybean plants in sample 19-00845 show leaf droop and stem twisting. These symptoms occur soon after exposure to 2,4-D in soybeans. Other symptoms may develop within 1 to 3 weeks after exposure, such as callous formation on the stem and leaf strapping in the new trifoliates. The pictures also show 2,4-D injury on weeds and a drift pattern from the neighboring field*."

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

OCM Collection #	**101181**	**Case #**	**PS19-0268**	**Investigator**	**A. Kreider**	
Sample #	Sample Description				Matrix	Amount of Analyte (ppb) **2,4-D**
19-4-1504-9	Vegetation, grab/spot, affect DT beans 3 (closest), affected site				Veg	1550
19-4-1505-4	Vegetation, grab/spot, affected DT beans 2 (middle), affected site				Veg	17.2
19-4-1506-5	Vegetation, grab/spot, affected DT beans 1 (farthest), affected site				Veg	11.7
19-4-1507-7	Vegetation, grab/spot, affected field weeds 10' in, affected site				Veg	2400
19-4-1508-3	Vegetation, grab/spot, affected field weeds 24' in, affected site				Veg	574
19-4-1509-6	Vegetation, grab/spot, target field weeds, target site				Veg	84400
19-4-1510-6	Soil, grab/spot, target field soil, target site				Soil	N/A
19-4-1511-0	Vegetation, control, affected site				Veg	28.5
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC N/A = Not Analyzed						
LOQ (ppb)					Veg	0.3
LOQ (ppb)					Soil	N/A
Signature					**Date**	07/30/2019

8. The Indiana Pesticide Drift Rule (357 IAC 1-12) states, "*A person may not apply a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a nontarget site*."

9. The lab results from the OISC residue lab show that the active ingredient from Mr. Harshbarger's application was found on the DT soybeans in the Shelby field. These results, along with the report from PPDL, support the decision that Mr. Harshbarger's application

drifted onto Mr. Shelby's DT soybean field. Mr. Harshbarger violated the Indiana Pesticide Drift Rule by allowing the product to drift onto sensitive crops.

Aaron P. Kreider
Investigator

Date: February 25, 2020

Disposition: Christopher B. Hudson and Hudson Farms were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allowed it to drift to a non-target area in sufficient quantity as to cause harm to a non-target site. A civil penalty in the amount of $100.00 was assessed for this violation. Consideration was given to the fact this was Mr. Hudson's second violation of similar nature. See case number 2018/0726.

George N. Saxton
Compliance Officer

Draft Date: May 11, 2020
Case Closed: September 29, 2020

CASE SUMMARY

Case #PS19-0277

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Deans Lawn & Landscaping — Unlicensed Business
Dean Savarino — Business Owner/Unlicensed Applicator
238 Kennedy Avenue
Schererville, Indiana 46375

1. On June 28, 2019, the licensing division of the Office of Indiana State Chemist (OISC) requested an investigation for the above-mentioned company Deans Lawn & Landscaping. On November 5, 2018, Dean Savarino mailed the pesticide business renewal form, but his certified applicator license associated with the company was non-renewable due to insufficient continuing credit hours (CCH) and/or re-taking the category 3b pesticide license exam. The OISC Licensing division mailed Mr. Savarino a letter notifying him of the license statuses and the steps needed to be in compliance with the Indiana Pesticide Laws, specifically referencing, *"A person may not engage in or profess to engage in the business of using a pesticide on the property of another for hire at any time without a pesticide business license issued by the state chemist…."*.

2. On June 30, 2019, I visited the business website of www.deanslandscaping.com. The website shows the following advertisement for "Deans Lawn & Landscaping Fertilization and Weed Control" in Indiana:

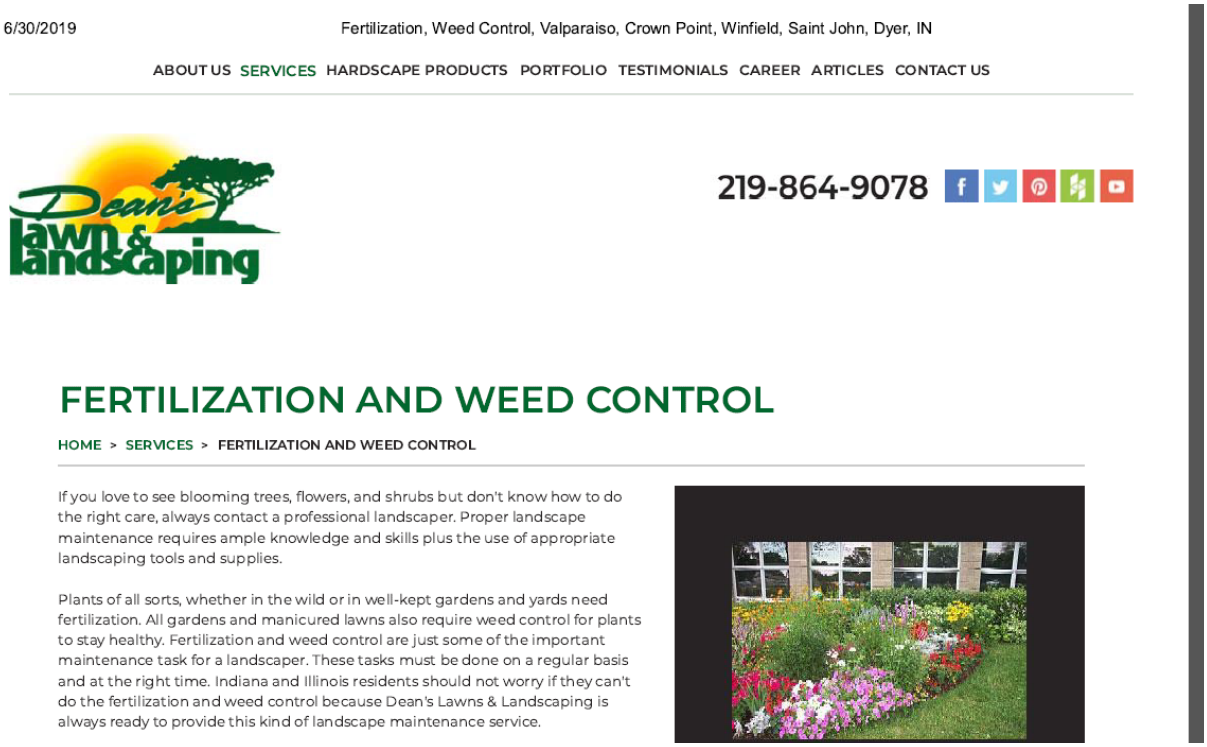


Figure 1

*Figure 1 is a screen shot of the Deans Lawn & Landscaping website advertisement for lawn care services including pesticide (weed control) and fertilizer for hire in Indiana

3. On July 1, 2019, I called Mr. Savarino and he stated he did not know his license was expired. Mr. Savarino stated he would email me the records for any pesticide and/or fertilizer applications made for hire from January 1, 2019 until today's date. Mr. Savarino also stated he will take the category 3b pesticide licensing exam to renew his certified applicator's license.

4. On July 11, 2019, I emailed Mr. Savarino and requested the application records and asked him if he had taken the licensing exam to renew his credentials. Mr. Savarino replied and stated he was out of town until next Tuesday and he did register for the licensing exam.

5. As of February 21, 2020, Deans Lawn and Landscaping has not renewed their Indiana Pesticide Business License. Mr. Savarino has not renewed his certified applicator license or taken the applicator licensing exam. Additionally, the website associated with the unlicensed business continues to show the advertisement in Figure 1.

Melissa D. Rosch
Investigator

Date: February 21, 2020

Disposition: Dean Savarino and Deans Lawn & Landscaping were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of $250.00 was assessed for this violation.

Dean Savarino and Deans Lawn & Landscaping were cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing to make reports and supply information when requested in the course of an investigation or inspection. A civil penalty in the amount of $250.00 was assessed for this violation.

George N. Saxton
Compliance Officer

Draft Date: April 28, 2020
Case Closed: September 29, 2020

CASE SUMMARY

Case #PS19-0317

Complainant: Jeanette Jaskula
4100 Snaffle Bit Road
Lebanon, Indiana 46052

Respondent: Scott Snider — Certified Applicator
Co-Alliance LLP
7250 E St Rd 47
Lebanon, Indiana 46052

1. On July 3, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a recent pesticide application to a neighboring farm field has caused pesticide exposure symptoms to her garden and ornamentals.

2. I spoke with Mrs. Jaskula by telephone. She stated she observed a pesticide application being made to the farm field located directly west of her property on June 29, 2019. She stated she observed symptoms to her garden and trees around her yard on July 2, 2019. She stated she observed yellowing, spotting and curling of leaves. I asked Mrs. Jaskula if they had applied any pesticides to her property. She stated they had not.

3. On July 5, 2019, I went to the Jaskula residence. I walked the property and observed the symptoms she had described, to leaves on trees and plants in the garden. I took photographs of the scene and collected swab and vegetation samples from the Jaskula property and soil samples from the target field. All of the samples were labeled and submitted to the OISC Residue Lab. I also collected a plant sample and submitted it to the Purdue Plant and Pest Diagnostic Lab (PPDL). The following photographs show the location of the target field in relationship to the Jaskula property and the symptoms to the plants and trees.




4. I then made contact with Mr. Doug Quear, Manager of Co-Alliance LLP. He stated Mr. Scott Snider made a pesticide application to the target corn field (Gerald Padgett farm) on June 29, 2019. He stated Mr. Snider applied Halex GT herbicide EPA Reg. #100-1282 with the active ingredients metolachlor, glyphosate and mesotrione. Atrazine 4L herbicide EPA Reg. #1381-158 with the active ingredient atrazine to the target field. He stated the application was between 10:00 am – 11:00 am. Mr. Quear provided me with the application record for this pesticide application. I sent a Pesticide Investigation Inquiry (PII) to Mr. Snider, of which he received, completed and returned to me. The PII confirmed the information given to me by Mr. Quear. The PII further indicated the winds at the time of the application were SW between 8 – 10 mph and the temperature was 88 degrees F.

5. I received a report from PPDL. The report stated *"The plants in the physical sample (apple and cucumber) as well as the plants in the photos, show chlorosis of the new growth (symptom of glyphosate and /or mesotrione exposure) and interveinal chlorosis in older leaves (symptom of atrazine exposure). The apple leaves also show necrosis of the leaf edges (symptom of atrazine)". "A few of the leaf spots on the apple sample were caused by Cedar-apple rust but the yellowing is not disease related. There was no evidence of disease on the cucumber leaf".*

6. I received a report from the OISC Residue Lab. The report indicated the active ingredients glyphosate, metolachlor, atrazine and mesotrione were detected in some of the swab samples I collected and all of the vegetation samples, I collected from the Jaskula property. The following is a copy of the OISC Residue Lab report.

OCM Collection #	101752	Case #	PS19-0317	Investigator	R. Brower

Sample #	Sample Description	Matrix	Amount of Analyte (ppb or ng/swab)				
			Glyphosate	AMPA	Metolachlor	Atrazine	Mesotrione
19-4-0108-1	Swab (trip blank), other/more	Swab	BDL	BDL	BDL	BDL	BDL
19-4-0109-9	Swab (acetone), control, mailbox, front yard	Swab	N/A	N/A	BQL	11.9	BDL
19-4-0110-9	Swab (water), control, mailbox, front yard	Swab	BDL	BDL	N/A	N/A	N/A
19-4-0111-3	Swab (acetone), composite, post in garden, affected site	Swab	N/A	N/A	91.0	113	BDL
19-4-0112-1	Swab (water), composite, post in garden, affected site	Swab	20.1	BDL	N/A	N/A	N/A
19-4-0113-2	Swab (acetone), composite, west side of house, west	Swab	N/A	N/A	BQL	35.7	BDL
19-4-0114-5	Swab (water), composite, west side of house, west	Swab	BDL	BDL	N/A	N/A	N/A
19-4-0115-0	Swab (acetone), composite, east side of house, east	Swab	N/A	N/A	BQL	11.7	BDL
19-4-0116-6	Swab (water), composite, east side of house east	Swab	BQL	BDL	N/A	N/A	N/A
19-4-0117-8	Soil, composite, target field, target site	Soil	N/A	N/A	N/A	N/A	N/A
19-4-0118-4	Vegetation, composite, compl. property 15 ft in, gradient 1	Veg	578	BDL	71.7	823	9.03
19-4-0119-7	Vegetation, composite, compl. property 40 ft in, gradient 2	Veg	129	BDL	48.7	411	4.56
19-4-0120-4	Vegetation, composite, compl. property 60 ft in, gradient 3	Veg	26.1	BDL	49.2	292	BDL

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

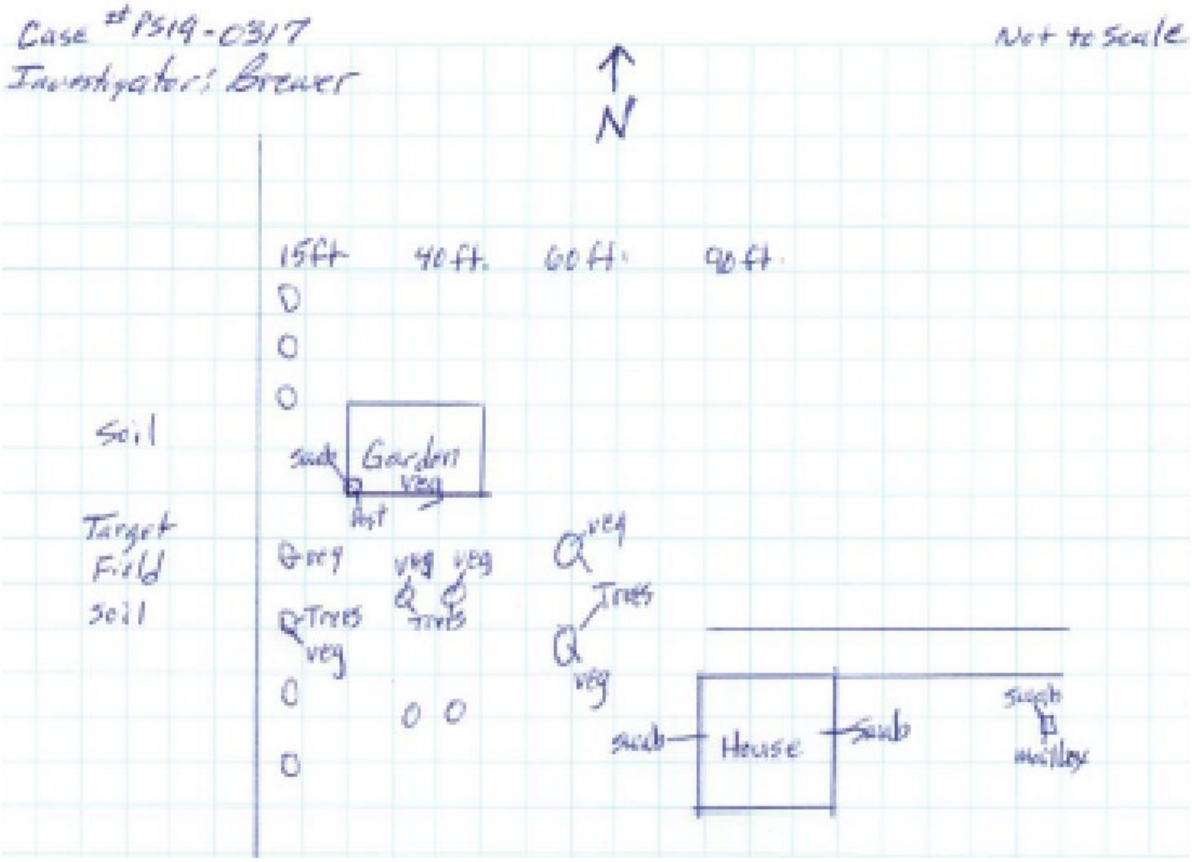
N/A = Not Analyzed

LOQ (ng/swab)	Swab	20	100	4	0.2	4
LOQ (ppb)	Soil	N/A	N/A	N/A	N/A	N/A
LOQ (ppb)	Veg	10	125	3	0.3	3

Signature		Date	08/13/2019

7. I reviewed the most recent updated label for Halex GT herbicide. The label stated on page 14, *"Apply the pesticide 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). Do not apply when weather conditions may cause drift to non-target areas".*

8. The following is a diagram of the scene, showing the target field and the Jaskula property, along with the sample collection locations.



9. The results of the OISC Residue Lab Report indicated the active ingredients in the tank mix partners applied by Mr. Snider were detected in samples collected from the Jaskula property. The PPDL report, indicated the symptoms on the samples submitted, were consistent with exposure to the active ingredients applied by Mr. Snider. The PII completed by Mr. Snider, indicated the winds at the time of the pesticide application, were SW between 8 – 10 mph, which would have been blowing towards the Jaskula property. The above mentions factors would indicate pesticides from the pesticide application made by Mr. Snider, did drift off target and onto the Jaskula property.

Robert D. Brewer
Investigator

Date: January 29, 2020

Disposition: Scott Snider and Co-Alliance LLP 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 that this was Mr. Snider's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Scott Snider and Co-Alliance LLP were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for apply a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.

George N. Saxton
Compliance Officer

Draft Date: March 20, 2020
Case Closed: November 25, 2020

CASE SUMMARY

Case #PS19-0320

Complainant: Daniel C. Gwin
9346 North 100 West
Linden, Indiana 47955

Respondent: Scott Odle — Private Applicator
3668 East 1000 North
Linden, Indiana 47955

1. On July 8, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that last week, Scott Odle made a pesticide application to a corn field that drifted onto the complainant's beans.

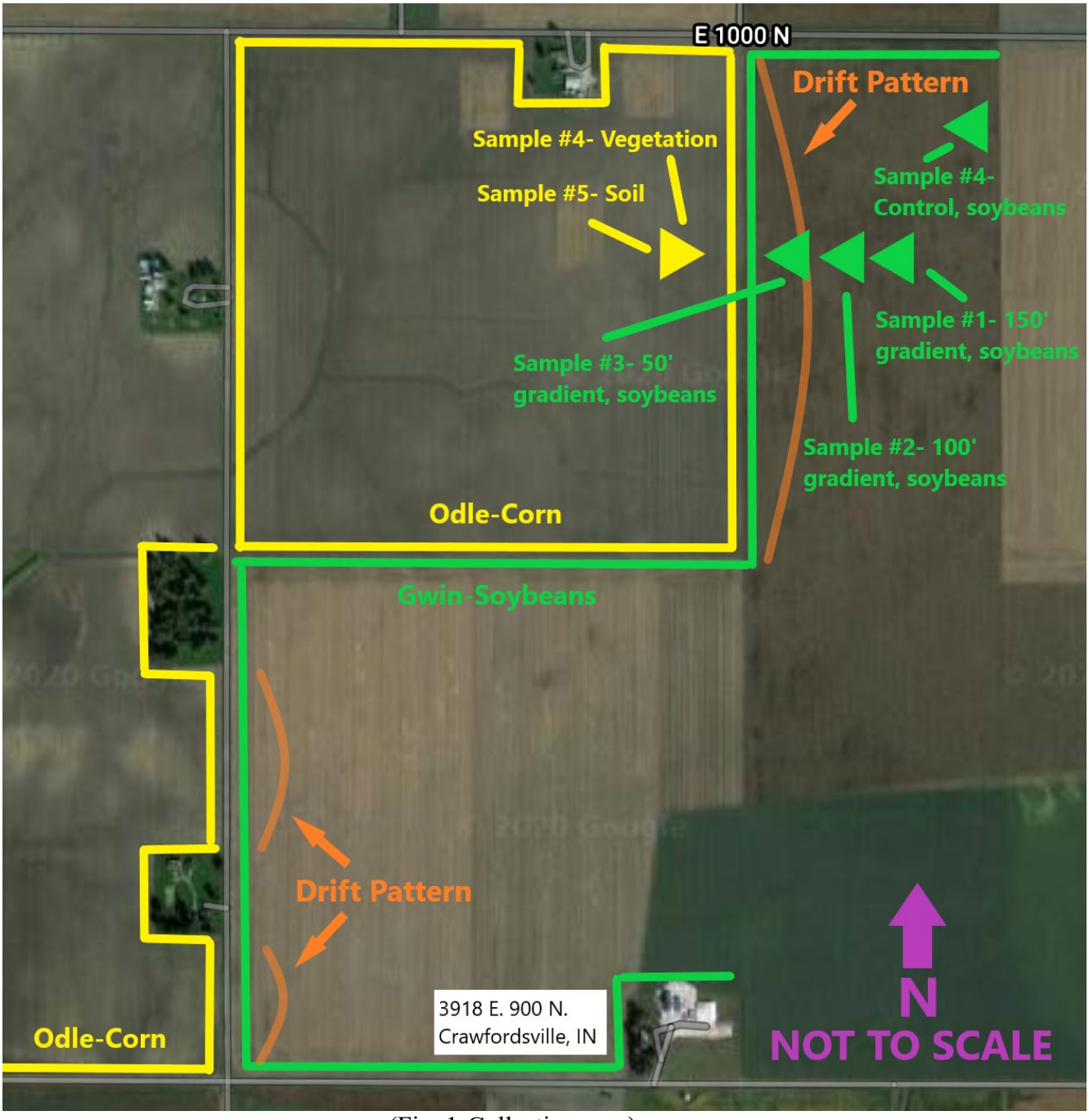
2. On July 9, 2019, I met with the complainant, Daniel Gwin, at 3918 E. 900 N., Crawfordsville, IN. Mr. Gwin reported that he first observed injury to his soybeans on July 5, 2019 and believed the injury was caused by herbicide drift from two corn fields that are located to the west of his soybean fields. Mr. Gwin stated the two corn fields in question were both treated by Scott Odle. Mr. Gwin stated there have been past incidents of Mr. Odle injuring his crops from herbicide drift and has previously made a report to OISC, see case #2017/0922.

3. After observing the "injury" to his soybeans, Mr. Gwin stated he immediately attempted to contact Mr. Odle, via telephone, to question him about the injury to his soybeans. Mr. Gwin stated Mr. Odle didn't answer the telephone call but responded to him the next morning, July 6, 2019, via text message, admitting he had injured Mr. Gwin's soybeans. Mr. Gwin shared the text message from Mr. Odle, which advised, *"You should be aware I am very conscious when I'm spraying next to you. It was sprayed 20 pounds pressure with the tip down. I hate being a bad neighbor. I'm sorry. I'll be expecting a call from Purdue. As always let me know the damages and I'll gladly compensate you."*

4. During my on-site investigation, I did the following:

   a. Observed and photographed symptoms of the herbicide injury to Mr. Gwin's soybeans. I observed the injury to the soybeans to include stunted growth, burnt edges and spotting on the leaves, leaf chlorosis, and leaf necrosis. I observed the injuries of spotting and burnt edges on the soybean's leaves to be consistent with atrazine exposure.
   b. Looked for potential sources of herbicide drift. I identified the corn fields to the west of Mr. Gwin's soybean field as the potential source of drift. I observed a drift pattern along the west border of Mr. Gwin's soybean field, where a curved pattern of the injured soybeans followed the borders of the corn fields. Furthermore, I observed two plots of unfarmed land along the east edge of the southwest corn field that the applicator had to navigate around during the field's treatment. I observed the pattern of injury to the soybeans directly across from the two plots of unfarmed land to be healthy and match the contours of the corn field, further suggesting herbicide drift had occurred.

c. Collected soybean plants exhibiting the signs of injury from Mr. Gwin's soybean field for assessment by the Purdue Plant Diagnostic Lab (PPDL).
d. Collected three gradient samples of the affected soybeans and one control sample from Mr. Gwin's soybean field. A soil and vegetation sample were also collected from Mr. Odle's corn field. All samples were submitted to the OISC Residue Lab for analysis. See figure 1 for sample collection map and drift observations.



(Fig. 1-Collection map)

(Fig. 2-Observed drift pattern along C.R. 350 E., facing north from the southeast corner)

(Fig. 3-Observed drift pattern, facing south from the northwest corner)

(Fig. 4 & 5- Injury to soybeans)

5. I then met with Scott Odle, who confirmed he was the applicator to the corn fields in question. Mr. Odle admitted his application must have drifted onto Mr. Gwin's soybean field by the injury he observed to the soybeans but didn't understand how it could have drifted because he believed the application was completed correctly. Mr. Odle stated he had treated the corn

fields in question with Atrazine and Armezon. Mr. Odle was sent a Pesticide Investigation Inquiry (PII), via email.

6. Being that Atrazine, a restricted use pesticide (RUP), was applied by Mr. Odle to his corn fields, I searched the OISC database for Mr. Odle's applicator's license. I was unable to locate a valid license for Mr. Odle through the database and confirmed through the OISC Licensing Department that Mr. Odle's Private Applicator's license had expired on 12/31/2015. Without a valid license, Mr. Odle was no longer legally allowed to purchase or use a RUP. I found Mr. Odle has passed the CORE exam in 2016 but had not sent his application and monetary fee to OISC to complete his certification.

7. Mr. Odle was contacted, via phone, and advised of what I have found regarding his license. Mr. Odle advised me he was not aware his license had expired and believed he had fulfilled the requirements to become recertified. Mr. Odle provided me with what he thought was his license number, #PA40838, which he stated he had received in the mail from OISC a few years back but was unable to provide the document he referred to or had a physical copy of his license. OISC license #PA40838 was found to be Mr. Odle's old private applicator's number but had since been reassigned to another individual.

8. Mr. Odle was given an "Action Order", which advised him to stop purchasing and applying restricted use pesticides until he had obtained an OISC certification. Mr. Odle was advised to gather and send me all of his receipts for RUP purchases and his RUP application records since the expiration of his license.

9. On July 18, 2019, I received Mr. Odle's completed PII, which advised:

    a. Applicator: Scott Odle
    b. Application date and time: July 1, 2019, 7:08-8:00 PM
    c. Wind speed & from which direction at start: 5 MPH, WSW
    d. Wind speed & from which direction at end: 6 MPH, WSW
    e. Air temperature: 80
    f. Time period application stopped due to shifting wind speed or direction: Stopped for evening at 8 PM
    g. Pesticides:
        i. Atrazine 4L (EPA Reg. #34704-69, active ingredient of Atrazine)
        ii. Armezon (EPA Reg. #7969-262, active ingredient of Topramezone)
    h. Adjuvant: Boost
    i. Target crop: Corn
    j. Crop height: 12"-16"
    k. Target field: See map
    l. Pre or post application: Post
    m. Method or equipment used to measure wind & temp: Weather Underground App
    n. Method or equipment used to determine if a temperature inversion existed: Purdue Weather Station
    o. Application equipment: 2015 Hagie STS12 120' booms 15" spacing
    p. Nozzle make, model #, pressure: XR TeeJet 8005vs
    q. Boom height: 18"-24"
    r. Application ground speed: 13.2-14.6 MPH
    s. Total amount of diluted material applied: 14.4 gal/acre

10. The PPDL report advised: *"The soybean plants in sample 19-909 and in the photos show interveinal chlorosis followed by necrosis as well as necrosis of the leaf edges of older leaves. These symptoms are characteristic of exposure and/or carryover of triazine herbicides (group 5) such as atrazine (Aatrex, others) or metribuzin (Sencor, Tricor, others). These symptoms can occur due to drift or tank contamination on emerged plants or carryover from preplant applications. The symptoms will be more severe under high soil pH conditions if caused by carryover. Metribuzin is labeled for preemergence applications on soybeans, but can cause soybean injury depending on soil pH, organic matter, and soil texture."* It further stated, *"The foliar symptoms observed are not consistent with a fungal disease and it is not likely to be caused by either two major bacterial wilt diseases that affect soybean due to distribution of symptoms in the field and the symptom type in this age of soybean plants. The secondary roots are all very thin and sparse, which can be caused by a root rot, but it would be expected to cause similar symptoms on other species of plants, like the corn planted right beside the soybean, because they are subject to the same conditions. However, the corn is looking quite healthy in comparison. This could be subject to weather patterns and age of the plants, as well. Interveinal necrosis and spotting could be caused by chemical injury or some other abiotic factor. There is some necrosis and burn like symptoms at the base of some of the plants with relatively healthy tissue below the epidermis, indicating a possible chemical injury as well."*

11. The OISC Residue Lab report advised:

OCM Collection #	102076	**Investigator**	TRIMBLEJ
Collection Date	07/09/2019		

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-6501 5	Vegetation; Grab/Spot; soybean, 150 yds; Gradient 1;	Vegetation	Atrazine	220 ppb	0.7 ppb
			Topramezone	5.09 ppb	3 ppb
19-4-6502 7	Vegetation; Grab/Spot; soybean 100 yds; Gradient 2;	Vegetation	Atrazine	201 ppb	0.7 ppb
			Topramezone	15.3 ppb	3 ppb
19-4-6503 6	Vegetation; Grab/Spot; soybean, 50 yds; Gradient 3;	Vegetation	Atrazine	246 ppb	0.7 ppb
			Topramezone	15.2 ppb	3 ppb
19-4-6504 3	Vegetation; Control; soybean; Affected Site;	Vegetation	Atrazine	111 ppb	0.7 ppb
			Topramezone	BDL ppb	3 ppb

19-4-6505 8	Vegetation; Composite; unknown weeds in corn field; Target S	Vegetation	Atrazine	5200 ppb	0.7 ppb
			Topramezone	976 ppb * Minimum amount detected	3 ppb
19-4-6506 2	Soil; Composite; soil from corn field; Target Site;	Soil	No Analysis Performed	Done	

12. The above results from the OISC Residue Lab show both pesticides applied by Mr. Odle, Atrazine and Armezon, had drifted off-target in sufficient quantity from his corn fields onto Mr. Gwin's non-target soybean field, causing harm to the soybeans.

13. The Atrazine 4L 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).** Mr. Odle's PII confirmed that his application had been completed with the wind coming out of the west, southwest (towards Mr. Gwin's soybean field), which was not in accordance with the above label directions.

14. On August 16, 2019, I received Mr. Odle's records of his RUP purchases and RUP applications. I found the following illegal RUP purchases and applications:

    a. Purchases from Nutrien Ag. Solutions; 13934 S. 700 E., Clarks Hill, IN 47930 (See case #PS19-0374)

        i. Invoice #33971738, 07/24/2017
            1. Tombstone (EPA Reg. #34704-978, active ingredient of Cyfluthrin)
        ii. Invoice #37131806, 07/19/2018
            1. Gramaxone SL 2.0 (EPA Reg. #100-1431, active ingredient of Paraquat)

    b. Purchases from Windy Ridge Ag., LLC; 6869 S. 1150 E., West Lafayette, IN 47906 (See case #PS20-0043)

        i. Invoice #2198, 05/01/2016
            1. Nirvana RTU (EPA Reg. #89168-36-91395, active ingredient of Bifenthrin)
            2. Parallel Plus (EPA Reg. #66222-132, active ingredients of Atrazine & Metolachlor)
            3. Reveal (EPA Reg. #89168-19-89391, active ingredient of Bifenthrin)
            4. Parazone 3SL (EPA Reg. #5481-615, active ingredient of Paraquat)
        ii. Invoice #2426, 04/20/2017
            1. Nirvana RTU
        iii. Invoice #2502, 06/30/2017
            1. Ravine (EPA Reg. #83100-47-91395, active ingredient of Atrazine)
        iv. Invoice #2575, 08/17/2017
            1. Unknown Bifenthrin product
        v. Invoice #2723, 05/31/2018
            1. Corvus (EPA Reg. #264-1066, active ingredients of Thiencarbazone & Isoxaflutole)
            2. Nirvana RTU
            3. Atrazine 4L (EPA Reg. #34704-69, active ingredient of Atrazine)

vi. Invoice #2790, 08/07/2018
    1. Blanco (EPA Reg. #89167-24-91395, active ingredient of Paraquat)
vii. Invoice #2933 & #2934, 05/02/2019
    1. Capture LFR (EPA Reg. #279-3302, active ingredient of Bifenthrin)
    2. Corvus
    3. Atrazine 4L

c. Mr. Odle's RUP applications:

i. 2016 - 16 applications on 5 different dates:

Date of Application	RUP Brand	EPA Reg. #	Chemical	Field Treated
04/19/16	Parallel Plus, Parazone 3SL	66222-132, 5481-615	Atrazine, Paraquat	German Home
04/20/16	Capture	279-3302	Bifenthrin	German Home
04/20/16	Parallel Plus, Parazone 3SL	66222-132, 5481-615	Atrazine, Paraquat	Home
04/20/16	Parallel Plus, Parazone 3SL	66222-132, 5481-615	Atrazine, Paraquat	Warren 160
04/20/16	Parallel Plus, Parazone 3SL	66222-132, 5481-615	Atrazine, Paraquat	West 80
04/20/16	Parallel Plus, Parazone 3SL	66222-132, 5481-615	Atrazine, Paraquat	Good Hopkins
04/26/16	Parallel Plus, Parazone 3SL	66222-132, 5481-615	Atrazine, Paraquat	Gray South
04/26/16	Parallel Plus, Parazone 3SL	66222-132, 5481-615	Atrazine, Paraquat	SF
04/26/16	Capture	279-3302	Bifenthrin	Home
04/26/16	Capture	279-3302	Bifenthrin	West 40
04/26/16	Capture	279-3302	Bifenthrin	West 80
05/11/16	Atrazine 4L	34704-69	Atrazine	German Home
07/25/16	Stratego YLD	264-1093	Prothioconazole, Trifloxystrobin	German N 40
07/25/16	Stratego YLD	264-1093	Prothioconazole, Trifloxystrobin	German S 40
08/09/16	Warrior II	100-1295	Lambda-cyhalothrin	West 40
08/09/16	Stratego YLD	264-1093	Prothioconazole, Trifloxystrobin	Mennen

ii. 2017 – 19 applications on 9 different dates:

Date of Application	RUP Brand	EPA Reg. #	Chemical Name	Field Treated
06/01/17	Ravine	83100-47-91395	Atrazine	German N 40
06/06/17	Ravine	83100-47-91395	Atrazine	Andrews
07/05/17	Ravine	83100-47-91395	Atrazine	Andrews
07/19/17	Fanfare	66222-99	Bifenthrin	Gray South
08/01/17	Warrior II	100-1295	Lambda-cyhalothrin	Good Hopkins
08/01/17	Warrior II	100-1295	Lambda-cyhalothrin	Home
08/01/17	Warrior II	100-1295	Lambda-cyhalothrin	Hunsicker East
08/01/17	Warrior II	100-1295	Lambda-cyhalothrin	Hunsicker West
08/01/17	Warrior II	100-1295	Lambda-cyhalothrin	SF
08/02/17	Fanfare	66222-99	Bifenthrin	Houser
08/02/17	Fanfare	66222-99	Bifenthrin	German S 40
08/02/17	Warrior II	100-1295	Lambda-cyhalothrin	Nkirk
08/02/17	Warrior II	100-1295	Lambda-cyhalothrin	Warren 160
08/02/17	Fanfare	66222-99	Bifenthrin	West 40
08/03/17	Fanfare	66222-99	Bifenthrin	Andrews
08/03/17	Fanfare	66222-99	Bifenthrin	SF
08/08/17	Fanfare	66222-99	Bifenthrin	German N 40
08/08/17	Fanfare	66222-99	Bifenthrin	Mennen
08/09/17	Fanfare	66222-99	Bifenthrin	Royer

iii. 2018 – 10 applications on 6 different dates:

Date of Application	RUP Brand	EPA Reg. #	Chemical	Field Treated
04/26/18	Distinct	7969-150	Dicamba	German Home
05/10/18	Ravine	83100-47-91395	Atrazine	German Home
05/12/18	Ravine	83100-47-91395	Atrazine	Warren 160
05/12/18	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Gray South
05/13/18	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	German Home
05/13/18	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	SF
05/13/18	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	West 80
05/14/18	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Good Hopkins
05/14/18	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Home
05/29/18	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Good Hopkins

iv. 2019 – 27 applications on 11 different dates:

Date of Application	RUP Brand	EPA Reg. #	Chemical	Field Treated
05/15/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	German S 40
05/16/19	Capture	279-3302	Bifenthrin	German Home
05/21/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Gary Houser
05/21/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	German Home
05/21/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Hunsicker East
05/21/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Hunsicker West
05/21/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Mennen
05/21/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	SF
06/02/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Gray North
06/02/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Gray South
06/02/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Nkirk
06/02/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Royer
06/02/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Warren 160
06/11/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	Andrews
06/11/19	Corvus, Atrazine 4L	264-1066, 34704-69	Thiencarbazone & Isoxaflutole, Atrazine	West 40
06/28/19	Atrazine 4L	34704-69	Atrazine	Royer
07/01/19	Atrazine 4L	34704-69	Atrazine	German N 40

07/01/19	Atrazine 4L	34704-69	Atrazine	German S 40
07/01/19	Atrazine 4L	34704-69	Atrazine	Nkirk
07/01/19	Atrazine 4L	34704-69	Atrazine	Warren 160
07/01/19	Atrazine 4L	34704-69	Atrazine	West 40
07/02/19	Atrazine 4L	34704-69	Atrazine	German Home
07/02/19	Atrazine 4L	34704-69	Atrazine	Hunsicker East
07/02/19	Atrazine 4L	34704-69	Atrazine	Hunsicker West
07/03/19	Atrazine 4L	34704-69	Atrazine	Gary Houser
07/04/19	Atrazine 4L	34704-69	Atrazine	Mennen
07/06/19	Atrazine 4L	34704-69	Atrazine	Andrews

15. Mr. Odle was found to have had 9 separate purchases of an RUP while being a noncertified user. Mr. Odle was found to have had 72 applications of an RUP on 31 different days while being a noncertified user. Mr. Odle has since completed his Private Applicator certification with OISC, effective 07/18/2019.

James M. Trimble
Investigator

Date: February 25, 2020

Disposition: Scott Odle 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.

Scott Odle was cited for seventy-two (72) counts of violation of section 65(10) for using a restricted use pesticide without having an applicator who is licensed in direct supervision. A civil penalty in the amount of $7,200.00 (72 counts x $100.00 per count) was assessed. However, the civil penalty was reduced to $720.00. Consideration was given to the fact Mr. Odle cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; no potential for harm since Mr. Odle had been licensed in the past and a there was a good-faith effort to comply.

George N. Saxton
Compliance Officer

Draft Date: May 11, 2020
Case Closed: September 29, 2020

CASE SUMMARY

Case #PS19-0324

Complainant: Dennis Reinholt
3641 North 775 West
Rochester, Indiana 46975

Respondent: Mark Keller — Private Applicator
Keller Farms
11243 West 550 North
Rochester, Indiana 46975

1. On July 8, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that he believes he has dicamba injury to his non-DT soybeans from a neighboring DT soybean field.

2. On July 11, 2019, I met with Dennis Reinholt at his residence. I had him lead me to his field that he believed was affected by dicamba pesticide drift. The injured soybeans had cupped/curled leaves with whitish leaf tips. The injury was concentrated in the northwest and west sides of the affected field. The injured area in the northwest shares a border with the DT soybean field of Mark Keller. The border between the two fields can be seen in Figure 1. The injury that caused Mr. Reinholt's complaint can be seen in Figures 2 and 3.


Figure 1


Figure 2


Figure 3

3. I collected the following samples:

   A. N to S 4 (G1 North)
   B. N to S 3 (G1)
   C. N to S 2 & W to E 3 (G1 & G2)
   D. N to S 1 (G1 South)
   E. W to E 4 (G2 West)
   F. W to E 2 (G2)
   G. W to E 1 (G2 East)
   H. W to E 2 (G3 West)
   I. W to E 1 (G3 East)
   J. N & W Target Weeds

K. N & W Target Soil
L. S Target Weeds
M. S Target Soil
N. Control (Roundup Beans)

These samples were submitted to the OISC residue lab for analysis. I also collected a sample 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.

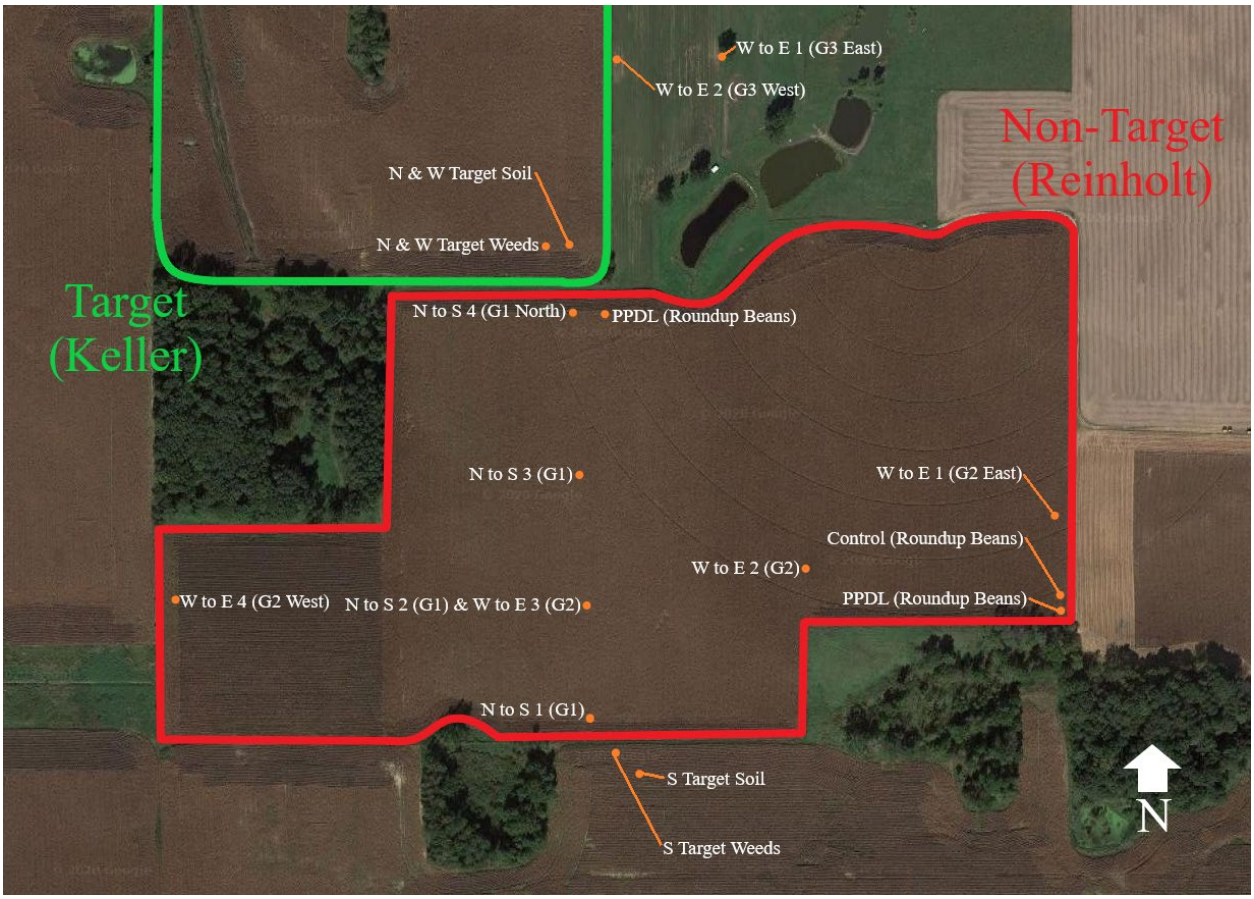


Figure 4

The letters N, E, S, W indicate directions and the letter G stands for Gradient.

4. On July 11, 2019, I received a Pesticide Investigation Inquiry (PII) from Mr. Keller. It stated that he made an application to the target field on June 25, 2019 from 1:30 PM to 2:10 PM. The application consisted of the following:

A. FeXapan (EPA Reg. #352-913, active ingredient dicamba)
B. Volunteer (EPA Reg. #42750-72-55467, active ingredient clethodim)
C. Abundit Edge (EPA Reg. #352-922, active ingredient glyphosate)
D. Cornbelt Vaporgard + DRA (Drift Retardant)

The wind data that was reported on the PII was 7 MPH from the south at the start of the application and 7 MPH from the south at the end of the application. This would mean that the wind was blowing away from Mr. Reinholt's non-DT soybean field. Mr. Keller indicated that he checked the registrant's website for approved tank mix partners, "In the off season." This would mean that he did not check it within 7 days prior to application.

5. I collected wind data from Fulton County Airport (KRCR) which is 11.54 miles from the target field, La Porte Municipal Airport (KPPO) which is 36.26 miles from the target field, and Logansport/Cass County Airport (KGGP) which is 27.85 miles from the target field. The data is as follows:

   A. KRCR: 17 MPH with 22 MPH gusts from the southwest at the start of the application. 15-17 MPH with 22-24 MPH gusts from the southwest and south-southwest during the application. 17 MPH with 24 MPH gusts from the west-southwest at the end of the application.
   B. KPPO: 16 MPH with 23 MPH gusts from the south-southwest at the start of the application. 16-17 MPH with 23-26 MPH gusts from the south-southwest and southwest during the application. 17 MPH with 25 MPH gusts from the southwest at the end of the application.
   C. KGGP: 18 MPH with 23 MPH gusts from the southwest at the start of the application. 16-18 MPH with 0-28 MPH gusts from the southwest during the application. 16 MPH with no gusts from the southwest at the end of the application.

6. The report from PPDL states, "*The soybean plants in sample 19-946 show small cupped leaves with whitish leaf tips. These symptoms are characteristic of exposure to dicamba*."

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

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-1512 3	Vegetation; Grab/Spot; N to S (G1 North); Affected Site, Gra	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	2.92 ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	0.461 ppb	0.3 ppb
			Clethodim-sulfoxide	3.24 ppb	0.3 ppb
19-4-1513 4	Vegetation; Grab/Spot; N to S 3 (G1); Affected Site, Gradien	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	3.86 ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	BQL ppb	0.3 ppb
			Clethodim-sulfoxide	0.426 ppb	0.3 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-1514 7	Vegetation; Grab/Spot; N to S 2 (G1) & W to E (G2); Affected	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	2.52 ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	BQL ppb	0.3 ppb
			Clethodim-sulfoxide	0.579 ppb	0.3 ppb
19-4-1515 2	Vegetation; Grab/Spot; N to S 1 (G1 South); Affected Site, G	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	BQL ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	BQL ppb	0.3 ppb
			Clethodim-sulfoxide	1.00 ppb	0.3 ppb
19-4-1516 8	Vegetation; Grab/Spot; W to E 4 (G2 West); Affected Site, Gr	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	4.56 ppb	0.4 ppb
			Dicamba	67.2 ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	1.72 ppb	0.3 ppb
			Clethodim-sulfoxide	4.25 ppb	0.3 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-1517 5	Vegetation; Grab/Spot; W to E 2 (G2); Affected Site, Gradien	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	BQL ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	BQL ppb	0.3 ppb
			Clethodim-sulfoxide	0.765 ppb	0.3 ppb
19-4-1518 1	Vegetation; Grab/Spot; W to E 1 (G2 East); Affected Site, Gr	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	BQL ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	BQL ppb	0.3 ppb
			Clethodim-sulfoxide	1.08 ppb	0.3 ppb
19-4-1519 9	Vegetation; Grab/Spot; W to E 2 (G3 West); Affected Site, Gr	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BQL ppb	0.4 ppb
			Dicamba	14.9 ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	BQL ppb	0.3 ppb
			Clethodim-sulfoxide	1.49 ppb	0.3 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-1520 1	Vegetation; Grab/Spot; W to E 1 (G3 East); Affected Site, Gr	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	6.76 ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	BQL ppb	0.3 ppb
			Clethodim-sulfoxide	0.509 ppb	0.3 ppb
19-4-1521 7	Vegetation; Grab/Spot; N & W Target Field Weeds; Target Site	Vegetation	5OH-Dicamba	18.5 ppb	2 ppb
			DCSA	27.8 ppb	0.4 ppb
			Dicamba	4350 ppb * Minumum Reported	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	24.5 ppb	0.3 ppb
			Clethodim-sulfoxide	48.1 ppb	0.3 ppb
19-4-1522 9	Soil; Grab/Spot; N & W Target Field Soil; Target Site, North	Soil	No Analysis Performed	Done	

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-1523 8	Vegetation; Grab/Spot; S Target Weeds; Target Site, South;	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	13.5 ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	BDL ppb	0.3 ppb
			Clethodim-sulfoxide	BQL ppb	0.3 ppb
19-4-1524 0	Soil; Grab/Spot; S Target Soil; Target Site, South;	Soil	No Analysis Performed	Done	
19-4-1525 5	Vegetation; Control; Control (Roundup Beans); Affected Site;	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	BQL ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	BDL ppb	0.3 ppb
			Clethodim-sulfoxide	BQL ppb	0.3 ppb

8. Samples 19-4-1523 8 and 19-4-1524 0 were not used for this investigation. They were collected from a field that was a potential source of dicamba. It was determined that this field was not a source of dicamba due to dicamba not being applied to it. Samples 19-4-1519 9 and 19-4-1520 1 were not used for this investigation. They are samples from another field farmed by Mr. Reinholt that was affected by the same application as the field highlighted in this investigation.

9. The FeXapan label states, "*DuPont™ FeXapan™ herbicide Plus VaporGrip® Technology may only be tank-mixed with products that have been tested and found not to adversely affect the offsite movement potential of DuPont™ FeXapan™ herbicide Plus VaporGrip® Technology. A list of those products may be found at*

www.fexapanapplicationrequirements.dupont.com

no more than 7 days before applying DuPont™ FeXapan™ herbicide Plus VaporGrip® Technology." The FeXapan label states, "*Do not apply when wind speeds are* ***less than 3 MPH or greater than 10 MPH***."

10. The results from the OISC residue lab show that active ingredients from Mr. Keller's application were found in Mr. Reinholt's non-DT soybean field. Based on the evidence collected in this investigation, it has been determined that Mr. Keller failed to comply with

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

Aaron P. Kreider
Investigator

Date: February 25, 2020

Disposition: Mark Keller and Keller Farms were warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management by not checking the registrant's website within seven days of application.

Mark Keller and Keller Farms 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 by applying in winds greater than ten (10) miles per hour. 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: April 28, 2020
Case Closed: September 28, 2020

CASE SUMMARY

Case #PS19-0332

Complainant: Wade Isnogle
2325 E. CR1050 North
Ossian, IN 46777

Respondent: Joshua Clark — Certified Applicator
HD Machines — Licensed Business
414 Hwy 11 & 80
East Meridian, MS 39301

1. On July 9, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a pesticide application was made to a neighboring railroad right-of-way (ROW) and runoff from the site has adversely affected his soybeans.

2. On July 10, 2019, I spoke with Wade Isnogle who reported his soybeans were again affected after the railroad was sprayed. I conducted a similar investigation at the site two years prior (Case#2017/0849). Drainage from the ROW, which borders the east side of the field, is an ongoing problem as surface water drains to the west across the field. Mr. Isnogle reported that nothing had been done to improve the drainage at the site since the last investigation.

3. On July 10, 2019, I went to the field at the property of Mr. Isnogle on the north side of CR1050 North in northern Wells County. Soybeans in the field were emerged and there was a swath of affected plants which started at the ROW, north of the county road. Soybeans were dead within the swath and plants on the edges of the swath were stunted with discolored and cupped leaves. The area of affected soybeans in the field went to the west and around the back of the Isnogle property before symptoms dissipated. Weeds and grasses in the ROW along the tracks were dead. A culvert under the tracks drained surface water from the east side of the tracks to the west side where excess water entered the field. I photographed the site and collected soybean plants exhibiting symptoms for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected vegetation and soil samples from the ROW, from the east side of the field, from 200-feet into the field and from the fence line along the west side of the field (comparative control samples). Those samples were submitted to the OISC Residue Lab for analysis.

Fig.1 Aerial photo of the site


Fig.2 ROW and field


Fig.3 Edge of ROW and field


Fig.4 Swath, east side of property


Fig.5 Swath, north side of property


Fig.6 Affected soybeans

4. I contacted Brooke Smith, office manager at HD Machines, the company responsible for the application during the prior investigation and informed her of the complaint. She confirmed that HD Machines still had the contract to spray the ROW. I forwarded a Pesticide Investigation Inquiry (PII) to her for the application. Ms. Smith provided application information and later returned the completed PII which indicated Josh Clark made the application on May 28, 2019, with a tank mix containing the following herbicides, EPA Reg.#s and active ingredients:

   - Viewpoint (EPA Reg. #432-1580), metsulfuron, imazapyr, aminocyclopyrachlor
   - Oust Extra (EPA Reg. #432-1557), sulfometuron, metsulfuron
   - Detail (EPA Reg. #7969-297), saflufenacil

5. The PPDL report stated, *"The Xtend soybeans on sample 19-939 show leaf strapping on the new growth and plant stunting. These symptoms are characteristic of exposure to synthetic auxin herbicides (group 4). Viewpoint herbicide contains aminocyclopyrachlor, a synthetic auxin herbicide for weed management of noncrop areas. This herbicide active ingredient is readily absorbed by plant leaves and roots and translocates in both the xylem and phloem and accumulates in the meristematic areas of the plant."* It further stated, *"The sample included a healthy plant and those that were suspected to be affected by a chemical injury. All plants have some root necrosis and evidence of a potential compaction issue. The root growth of the affected plants is severely stunted in comparison to the healthy plant. Stunting and chlorosis can be caused by root rot and compaction, but leaf cupping and strapping is not normally associated with these issues. The fact that there is a path of affected plants lends more to a chemical injury. The soil texture is not drastically different in the areas affected compared to the healthier plants, so I would not expect a distinct difference, just based on extra water from rain, however, it is no impossible. Root issues can be exacerbated by secondary fungi which is more severe in seedlings compared to more mature plants."*

6. The OISC Residue Lab analyzed the samples for the active ingredients reportedly applied to the ROW. The results for the vegetation samples are summarized as follows:

Sample	Metsulfuron	Sulfometuron	Imazapyr	Saflufenacil
Target veg	3.83ppb	55.9ppb	34.5ppb	4.07ppb
Beans, east	4.7ppb	BDL	BDL	1.89ppb
Beans, 200ft	2.7ppb	BDL	BDL	1.52ppb
Control veg	BDL	BDL	BDL	BDL

ppb=parts per billion
BDL=Below Detection Limits (analyte not detected)

7. The Viewpoint label reads, in part, **"Do not apply this product if site-specific characteristics and conditions exist that could contribute to movement and unintended root zone exposure to desirable trees or vegetation unless injury or loss can be tolerated."** It further states, **"Do not apply or otherwise permit this product or sprays containing this product to come into contact with any non-target crop or desirable vegetation."** The Oust Extra label reads, in part, **"If prevailing local conditions may be expected to result in off-site movement and cause damage to neighboring desirable vegetation or agricultural crops, do not apply OUST EXTRA HERBICIDE."**

Andrew R. Roth
Investigator

Date: February 19, 2020

Disposition: Josh Clark and HD Machines were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding allowing contact with desirable vegetation. A civil penalty in the amount of $500.00 was assessed for this violation. Consideration was given to the fact this was their second offense of similar nature. See case number 2017/0849.

George N. Saxton
Compliance Officer

Draft Date: April 13, 2020
Case Closed: September 29, 2020

CASE SUMMARY

Case #PS19-0337

Complainant: Jason Henshilwood
4217 West US 36
Danville, Indiana 46122

Respondent: Josh Ellett — Certified Applicator
Co-Alliance — Licensed Business
1 East Lincoln Street
Danville, Indiana 46122

1. On July 12, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that last week, the neighboring farmer made a pesticide application to a field that got onto about seven feet of the complainant's pasture where he has horses.

2. On July 15, 2019, I met with Jason Henshilwood's daughter at their residence. I had her show me where the suspected injury had occurred. There was a wavy strip of yellow and brown grass along the fence that is the border between the Henshilwood property and the target corn field. The border between the target corn field and the Henshilwood property can be seen in Figure 1. The injury that caused Mr. Henshilwood's complaint can be seen in Figures 2 and 3.


Figure 1


Figure 2


Figure 3

3. I collected the following samples:

   A. Affected Area Veg. (Dead Grass)
   B. Affected Area Soil
   C. Target Field Weeds
   D. Target Field Soil
   E. Control Veg. (Maple)

   These samples were submitted to the OISC residue lab for analysis. The location of where the samples were collected can be seen in Figure 4.

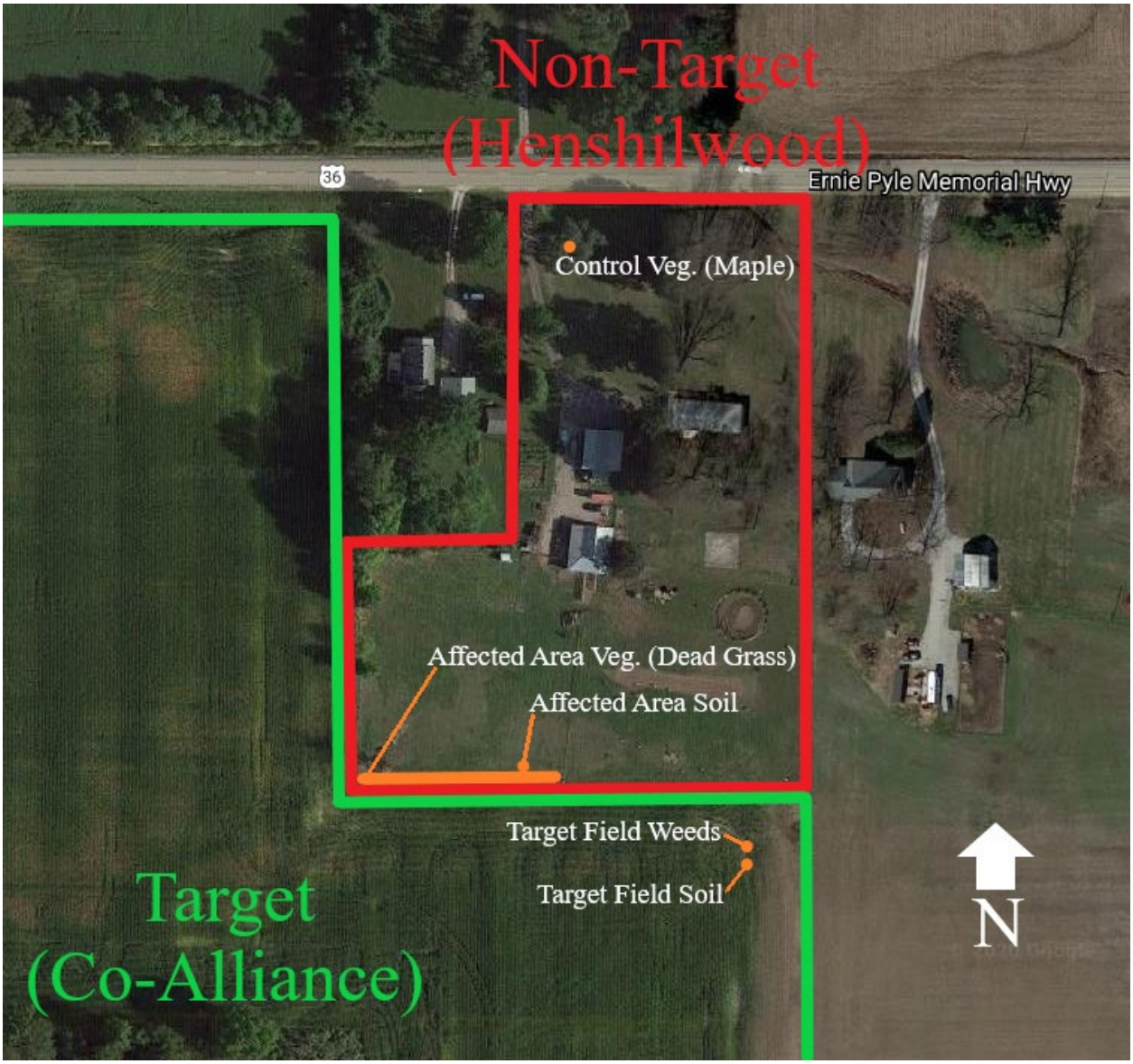


Figure 4

4. On July 23, 2019, I received a Pesticide Investigation Inquiry (PII) from Chris Woodrum of Co-Alliance. It stated that Josh Ellett made the application to the target field on June 26, 2019 from 4:00 PM to 5:00 PM. The application consisted of the following:

   A. Capreno (EPA Reg. #264-1063, active ingredients theincarbazon-methyl and tembotrione)
   B. Atrazine 90 DF (EPA Reg. #9779-253, active ingredient atrazine)
   C. Destiny HC (Adjuvant)
   D. Ammonium Sulfate

   The wind data reported states that winds were 5-7 MPH from the north at the start of the application and 5-7 MPH from the north at the end of the application. This would mean that the wind was blowing away from the Henshilwood property during the application.

5. I collected wind data from Indianapolis International Airport (KIND) which is 16.87 miles from the target field, Indianapolis Eagle Creek Airport (KEYE) which is 16.77 miles from the target

field and Terre Haute Hulman Airport (KHUF) which is 42.91 miles from the target field. The wind data is as follows:

A. KIND: 10 MPH with no gusts from the southwest at the start of the application. 10-11 MPH with no gusts from the southwest and south-southwest during the application. 11 MPH with no gusts from the south-southwest at the end of the application.
B. KEYE: 3 MPH with no gusts from the southwest at the start of the application. 3-9 MPH with no gusts from the southwest and south-southwest during the application. 9 MPH with no gusts from the south-southwest at the end of the application.
C. KHUF: 9 MPH with no gusts from the southwest at the start of the application. 9-10 MPH with no gusts from the southwest and south-southwest during the application. 10 MPH with no gusts from the south-southwest at the end of the application.

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

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-1526 4	Vegetation; Grab/Spot; Affected Area Veg. (Dead Grass); Affe	Vegetation	Atrazine	1530 ppb * minimum amount detected	0.3 ppb
			Thiencarbazone-methyl	128 ppb	3 ppb
19-4-1527 2	Soil; Grab/Spot; Affected Area Soil; Affected Site;	Soil	No Analysis Performed	Done	
19-4-1528 6	Vegetation; Grab/Spot; Target Field Weeds; Target Site;	Vegetation	Atrazine	1430 ppb * minimum amount detected	0.3 ppb
			Thiencarbazone-methyl	152 ppb	3 ppb
19-4-1529 3	Soil; Grab/Spot; Target Field Soil; Target Site;	Soil	No Analysis Performed	Done	
19-4-1530 3	Vegetation; Control; Control Veg. (Maple); Affected Site;	Vegetation	Atrazine	297 ppb	0.3 ppb
			Thiencarbazone-methyl	BQL ppb	3 ppb

7. The Capreno label states, "*Only apply this product when potential for drift to adjacent non-target areas is minimal (e.g., when the wind is **10 MPH or less** and is blowing away from sensitive areas*."

8. The lab results show that active ingredients from Mr. Ellett's application were found on the Henshilwood property. Based on the lab results and wind data, Mr. Ellett violated the Capreno label by making his application while winds were blowing towards the Henshilwood property.

Aaron P. Kreider
Investigator

Date: March 3, 2020

Disposition: Josh Ellett and Co-Alliance were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved. However, the civil penalty was reduced to $188.00 for cooperation.

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

George N. Saxton
Compliance Officer

Draft Date: September 17, 2020
Case Closed: January 14, 2021

CASE SUMMARY

Case #PS19-0344

Complainant: Todd Dapshis
237 Stone Creek Lane
Valparaiso, Indiana 46383

Respondent: Trugreen — Licensed Business
Christopher Garcia — Certified Applicator
9171 Louisiana Street
Merrillville, Indiana 46308

1. On July 15, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Trugreen made a lawn application to his yard and now most of his trees are dead and dying. Complainant stated that Trugreen allegedly admitted the wrong chemical was used so they fired their applicator.

2. On July 24, 2019, I met the complainant Todd Dapshis at his residence 237 Stone Creek Lane, Valparaiso, Indiana. Mr. Dapshis stated he hired TruGreen to make an insecticide and disease control treatment to his ornamental plants. Mr. Dapshis stated on June 28, 2019, a TruGreen Registered Technician Daniel Martinez came to his property and sprayed what was supposed to be the TruGreen insecticide and disease control mix two products: **Tristar EPA #8033-106-1001, Active Ingredient 8.5% Acetamiprid; Tourney EPA #59639-144, Active Ingredient 50% Metconazole**. Mr. Dapshis stated within eleven (11) hours all of the ornamental vegetation which was sprayed by Mr. Martinez for the insecticide and disease control treatment had turned brown and appeared to be dead. Mr. Dapshis stated he called TruGreen and they admitted to applying the incorrect tank mix. Mr. Dapshis stated the two above-mentioned products should have been tank mixed with water, but instead they were mixed with fertilizer. I took a sample from the ornamental vegetation and the mulch immediately adjacent to the vegetation sample (figure 4). I submitted the samples to the OISC Pesticide Residue Laboratory for residue analysis.


Figure 1


Figure 2


Figure 3


Figure 4


Figure 5


Figure 6


Figure 7


Figure 8


Figure 9


Figure 10


Figure 11


Figure 12


Figure 13


Figure 14

*Figures 1-14 are photographs of the complainant's damaged vegetation

3. On October 8, 2019, I went to TruGreen at 9171 Louisiana Street, Merrillville, Indiana. I took a recorded statement from Bryan Seddon (General Manager) and Christopher Garcia (Licensed Applicator/Supervisor). Mr. Seddon stated Mr. Garcia is the lead tree/shrub employee and would have been the certified supervisor for the registered technician Mr. Martinez. Mr. Seddon stated Mr. Martinez was getting the products ready for his daily insecticide applications, and instead of mixing the insecticides with water, Mr. Martinez mixed the insecticides with concentrated fertilizer. Mr. Seddon stated they sent some of the tank mix to be analyzed for the fertilizer and did confirm it in the tank mix (copy provide in case file). I asked Mr. Seddon if TruGreen had a procedure for reviewing the supervision fact sheet before the registered technicians leave for the day and he said

no. Mr. Seddon stated Mr. Martinez was terminated as a TruGreen employee following this incident. Mr. Seddon did not have any contact information for Mr. Martinez.

4. Mr. Garcia confirmed Mr. Seddon's statement and sequence of events. I asked Mr. Garcia about his responsibilities and role as the certified supervisor. I read him the site assessment fact sheet (page 5 of transcribed statement) which states in part,
"This fact sheet can serve as written instructions to a registered technician covering a variety of site-specific precautions to prevent injury to persons or the environment or damage to property. The certified pesticide applicator supervising the registered technician is responsible for determining the need for additional site-specific precautions. This fact sheet must be in the possession of the registered technician at the work site and must be reviewed by the registered technician prior to each pesticide application...I have the proper pesticide(s) loaded for this application site."

   I asked Mr. Garcia if there was a process in which Mr. Martinez would have had to check with him before he left the TruGreen facility for his daily route, and he said no. Mr. Garcia provided an example of a work manifest, which is what the registered technician would follow to carry out his work orders. A copy is located in the case file.


Figure 15


Figure 16


Figure 17


Figure 18

*Figures 15-18 are photographs of the TruGreen tank mixing area

5. I received the OISC Pesticide Laboratory Residue Report which shows the following:

OCM Collection #	105900	**Investigator**	ROSCHM
Collection Date	07/24/2019		

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
Sample 19-4-5052 9 was previously reported to OCM pre-Labworks					
19-4-5052 9	Vegetation; Grab/Spot; Veg Ornamental Front; Affected Site;	Vegetation	Acetamiprid * Minimum Detected	2730 ppb	0.7 ppb
			Metconazole	54700 ppb	3 ppb
			Previously Reported to OCM		
Sample 19-4-5053 8 was previously reported to OCM pre-Labworks					
19-4-5053 8	mulch; Grab/Spot; Mulch; Affected Site;	mulch	Acetamiprid * Minimum Detected	136 ppb	0.7 ppb
			Metconazole	3310 ppb	3 ppb
			Previously Reported to OCM		

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

Tourney EPA #59639-144, Active Ingredient 50% Metconazole
Page 8- *"Fill clean spray tank 1/2to 2/3 of desired level with clean water."*

Tristar EPA #8033-106-1001, Active Ingredient 8.5% Acetamiprid
Page 6- *"Mix TriStar 8.5SL Insecticide with sufficient water and apply as a foliar spray to obtain thorough and uniform spray coverage of the plants."*

7. There appears to be a violation in this case based on the information below:
    - The pesticide products listed in paragraph 6 were used in a manner inconsistent with its labeling.
    - Christopher Garcia failed to provide the technician Daniel Martinez with the site assessment fact sheet.

Melissa D. Rosch
Investigator

Date: February 15, 2020

Disposition: Christopher Garcia and TruGreen were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding mixing with water. 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 environmental harm.

Christopher Garcia and TruGreen were warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to a Registered Technician.

George N. Saxton
Compliance Officer

Draft Date: April 13, 2020
Case Closed: September 28, 2020

CASE SUMMARY

Case #PS19-0353

Complainant: John Perrine
25980 Centennial Road
Sheridan, Indiana 46069

Respondent: Todd Harris — Certified Applicator
Ron Biddle — Registered Technician
Nutrien Ag Solutions
4747 East 266th Street
Arcadia, Indiana 46030

1. On July 17, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring farm field was treated with a pesticide and now he has pesticide exposure symptoms to his ornamentals.

2. On July 19, 2019, I met with Mr. Perrine at his residence. He advised me in mid- May, he began noticing symptoms on many of the trees on his property. He stated he observed curling and yellowing on the leaves, along with brown spots on them. He stated the first of June, he observed his lawn was turning brown as well. He stated he believed the pesticide application made to the farm field located just SE of his property drifted onto his property and caused the symptoms to his property. He stated Nutrien Ag Solutions made the application in early May. Mr. Perrine stated he had not sprayed any pesticides on his property, but the soybean field south of his property and a small strip north side of his property were farmed by his relative, who had applied Makaze herbicide EPA Reg. #34704-890 with the active ingredient glyphosate.

3. Mr. Perrine took me around and showed me the symptoms on his property and the target field in question. I observed the symptoms to the trees he was referring to. I observed heavy symptoms of curled, yellowing leaves with brown spots, on the trees lining the east edge of his property along the roadway. I then took photographs of the scene and collected swab and vegetation samples from Mr. Perrine's property and a soil sample from the target field. I labeled the samples and submitted them to the OISC Residue Lab. I also collected full branch samples of which I submitted to the Purdue Plant and Pest Diagnostic Lab (PPDL). The following photographs show the location of the target field in relationship to Mr. Perrine's property and the symptoms to the trees on Mr. Perrine's property.




4. I made contact with Nutrien Ag Solutions. I was advised Mr. Ron Biddle made a pesticide application to the target field on May 8, 2019. Mr. Biddle has a Registered Technician license through OISC. Mr. Todd Harris is the Certified Applicator/Supervisor, responsible for Mr. Biddle. I received an application report, which indicated Mr. Biddle applied:
    a. Surestart II herbicide EPA Reg. #62719-679 with the active ingredients acetochlor, flumetsulam and clopyralid;
    b. Atrazine 4L herbicide EPA Reg. #34704-69 with the active ingredient atrazine; and Abundit Edge herbicide EPA Reg. #524-549-352 with the active ingredient glyphosate.

    I sent a Pesticide Investigation Inquiry (PII) to Mr. Harris, of which he received, completed and returned to me. The PII confirmed the information provided to me. It also indicated the winds at the time of the pesticide application were SE @ 11 – 13 mph and the temperature was 57 degrees F.

5. I received a report from PPDL. The report stated *"The oaks in sample submitted, showed chlorosis of older leaves (symptoms of exposure to atrazine) and epinasty/cupping of leaves (symptom of synthetic auxin herbicides such as clopyralid – active ingredient in SureStart). The maple samples showed necrosis of leaf edges or entire leaves (symptom of exposure to PS II herbicides such as atrazine)".*

6. I received a report from the OSIC Residue Lab. The report indicated the active ingredients atrazine and acetochlor were detected in swab samples and vegetation samples collected from the Perrine property. The following is a copy of the OISC Residue Lab report.

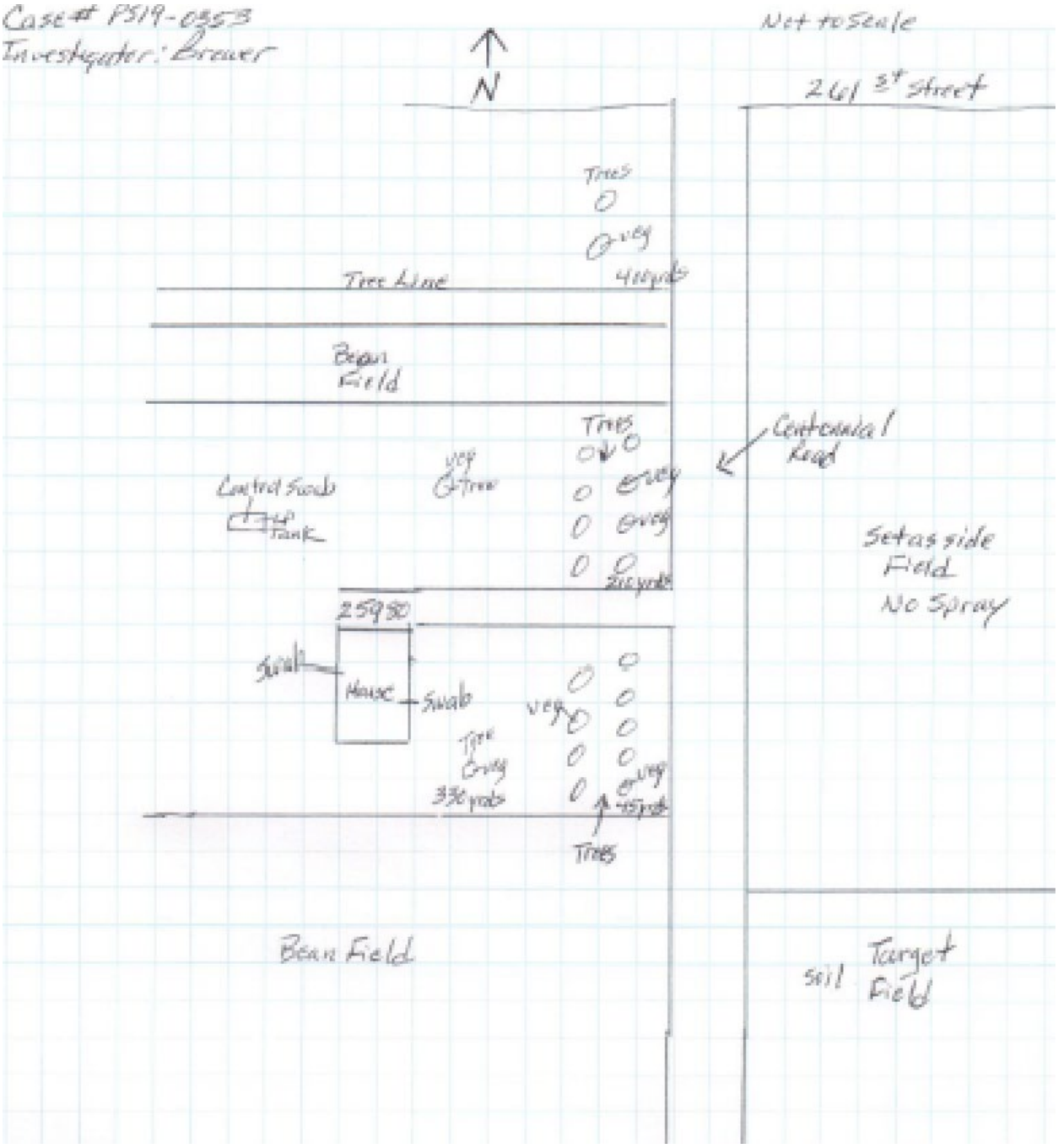
OCM Collection #	105359	Investigator	BREWERR
Collection Date	07/19/2019		

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-0129 1	Swab (trip blank); Trip Blank; trip blank; trip blank;	Swab (trip blank)	Acetochlor	BDL ng/swab	2 ng/swab
			Atrazine	BDL ng/swab	0.2 ng/swab
			Flumetsulam	BDL ng/swab	0.4 ng/swab
19-4-0130 1	Swab (Acetone); Control; LP tank back yard; Back Yard;	Swab (Acetone)	Acetochlor	BDL ng/swab	2 ng/swab
			Atrazine	1.13 ng/swab	0.2 ng/swab
			Flumetsulam	BDL ng/swab	0.4 ng/swab
19-4-0131 7	Swab (Acetone); Composite; east side of house; East;	Swab (Acetone)	Acetochlor	2.22 ng/swab	2 ng/swab
			Atrazine	2.31 ng/swab	0.2 ng/swab
			Flumetsulam	BDL ng/swab	0.4 ng/swab
19-4-0132 9	Swab (Acetone); Composite; west side of house; West;	Swab (Acetone)	Acetochlor	4.33 ng/swab	2 ng/swab
			Atrazine	7.11 ng/swab	0.2 ng/swab
			Flumetsulam	BDL ng/swab	0.4 ng/swab

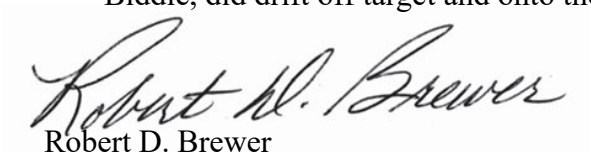
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-0133 8	Swab (Acetone); Composite; electric box back yard; Back Yard	Swab (Acetone)	Acetochlor	BQL ng/swab	2 ng/swab
			Atrazine	1.30 ng/swab	0.2 ng/swab
			Flumetsulam	BDL ng/swab	0.4 ng/swab
19-4-0134 0	Soil; Composite; target field; Target Site;	Soil	Acetochlor	9.36 ppb	1 ppb
			Atrazine	9.24 ppb	0.3 ppb
			Flumetsulam	2.45 ppb	0.7 ppb
19-4-0135 5	Vegetation; Composite; vegetation compl. property; Gradient	Vegetation	Acetochlor	BQL ppb	3 ppb
			Atrazine	74.4 ppb	0.7 ppb
			Flumetsulam	BDL ppb	1 ppb
19-4-0136 4	Vegetation; Composite; vegetation compl. property; Gradient	Vegetation	Acetochlor	BQL ppb	3 ppb
			Atrazine	66.6 ppb	0.7 ppb
			Flumetsulam	BDL ppb	1 ppb
19-4-0137 2	Vegetation; Composite; vegetation compl property; Gradient	Vegetation	Acetochlor	9.84 ppb	3 ppb
			Atrazine	37.3 ppb	0.7 ppb
			Flumetsulam	BQL ppb	1 ppb
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-0138 8	Vegetation; Composite; vegetation compl property; Gradient	Vegetation	Acetochlor	7.47 ppb	3 ppb
			Atrazine	92.9 ppb	0.7 ppb
			Flumetsulam	BDL ppb	1 ppb

7. I researched the latest updated label for SureStart herbicide. The label stated on page 14, *"Do not apply when weather conditions favor drift to non-target sites"*. I also researched the latest updated label for Atrazine 4L herbicide. The label stated on page 6, *"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. The following is a diagram of the scene, showing the locations of the target field from the Perrine's property and the distances and locations of the sample collections.



9. The OISC Residue Lab report indicated the active ingredients found in the products applied by Mr. Biddle during the pesticide application to the target field, were detected in the samples collected from the complainant's property. The PPDL report, indicated the symptoms detected on the samples collected from the complainant's property were characteristics of exposure to the active ingredients in the products applied by Mr. Biddle. The PII provided by Mr. Harris, indicated the winds at the time of the pesticide application made by Mr. Biddle were SE, which would have been blowing towards the complainant's property. The factors mentioned above, would indicate the pesticide from the application made to the target field by Mr. Biddle, did drift off target and onto the complainant's property.



Robert D. Brewer
Investigator

Date: February 6, 2020

Disposition: Todd Harris, Ron Biddle and Nutrien Ag Solutions 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 the first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Todd Harris, Ron Biddle and Nutrien Ag Solutions were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.

George N. Saxton
Compliance Officer

Draft Date: March 20, 2020
Case Closed: November 25, 2020

CASE SUMMARY

Case #PS19-0365

Complainant: James L. Clark
1020 East Monon Road
Monon, Indiana 47959

Respondent: David Leon Allen — Private Applicator
D&A Farms Inc.
3897 North 100 East
Monon, Indiana 47959

1. On July 22, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that one of his neighboring farmers applied dicamba to their soybeans that drifted onto his Roundup Ready soybeans.

2. On July 23, 2019, I met with James Clark at his residence. I had him show me to the field he believed was affected by dicamba drift. The injured beans were cupped/curled and had whitish leaf tips. The target field 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 the following samples:

   A. Affected Beans #3 (Closest)
   B. Affected Beans #2
   C. Affected Beans #1 (Farthest)
   D. Target Field Weeds
   E. Target Field Soil
   F. Control (Roundup Beans)

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

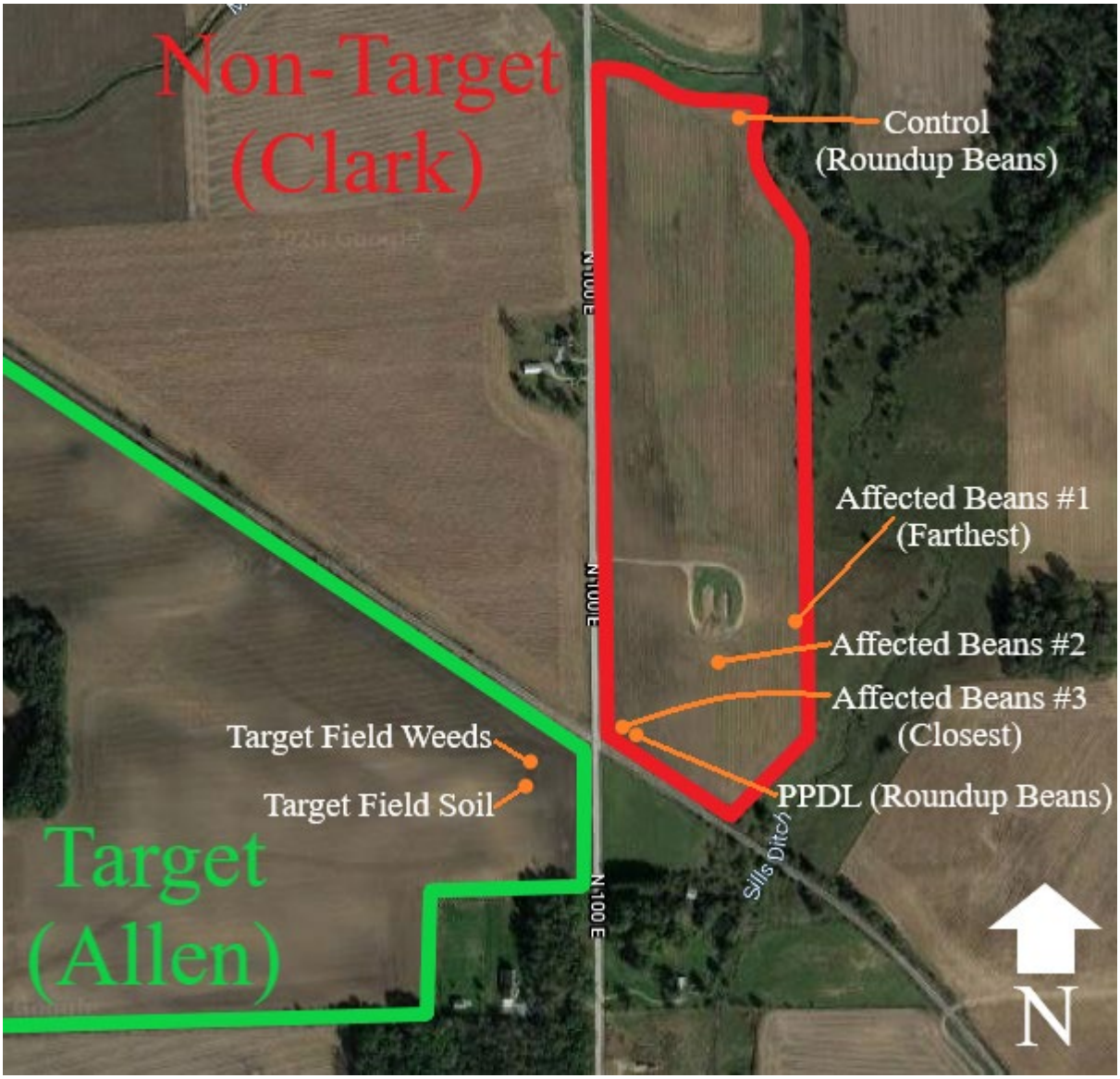


Figure 4

4. On July 30, 2019, I received a Pesticide Investigation Inquiry (PII) from David Allen. It stated that Mr. Allen made the application on July 11, 2019 from 12:00 PM to 4:00 PM. The application consisted of the following:

   A. XtendiMax (EPA Reg. #524-617, active ingredient dicamba)
   B. Warrant (EPA Reg. #524-591, active ingredient acetochlor)
   C. Roundup PowerMAX (EPA Reg. #524-549, active ingredient glyphosate)

   The wind data that was reported was 5 MPH from the west at the start of the application and 9 MPH from the north-northwest at the end of the application. This would mean that the wind was blowing towards Mr. Clark's non-DT soybean field.

5. The report from PPDL states, "*The soybeans in sample 19-1045 showed cupped leaves with whitish/yellowish leaf tips. The plants also showed reduced growth of the apical meristem and increased number of nodes. There was no tissue callous formation on stems or stem twisting (symptoms of 2,4-D). The symptoms observed in this sample are characteristic of*

exposure to dicamba. Even though some of the leaves also showed leaf strapping (symptom of 2,4-D), it can also occur for dicamba at low rates. The majority of the injured leaves were cupped instead of strapped."

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

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-1540 5	Vegetation; Grab/Spot; Affected Beans #3 (Closest); Affected	Vegetation	2,4-D	0.460 ppb	0.2 ppb
			5OH-Dicamba	BDL ppb	2 ppb
			DCSA	0.536 ppb	0.2 ppb
			Dicamba	5.10 ppb	0.2 ppb
			Acetochlor	18.7 ppb	3 ppb
19-4-1541 4	Vegetation; Grab/Spot; Affected Beans #2; Affected Site, Gra	Vegetation	2,4-D	BQL ppb	0.2 ppb
			5OH-Dicamba	BDL ppb	2 ppb
			DCSA	0.271 ppb	0.2 ppb
			Dicamba	6.12 ppb	0.2 ppb
			Acetochlor	44.1 ppb	3 ppb
19-4-1542 2	Vegetation; Grab/Spot; Affected Beans #1 (Farthest); Affecte	Vegetation	2,4-D	BQL ppb	0.2 ppb
			5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BQL ppb	0.2 ppb
			Dicamba	5.18 ppb	0.2 ppb
			Acetochlor	25.8 ppb	3 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-1543 3	Vegetation; Grab/Spot; Target Field Weeds; Target Site;	Vegetation	2,4-D	9.18 ppb	0.2 ppb
			5OH-Dicamba	84.8 ppb	2 ppb
			DCSA	29.5 ppb	0.2 ppb
			Dicamba	7890 ppb * Minimum detected	0.2 ppb
			Acetochlor	7400 ppb * minimum amount detected	3 ppb
19-4-1544 6	Soil; Grab/Spot; Target Field Soil; Target Site;	Soil	2,4-D	BQL ppb	2 ppb
			5OH-Dicamba	BDL ppb	0.2 ppb
			DCSA	40.0 ppb	0.2 ppb
			Dicamba	3.04 ppb	0.2 ppb
			Acetochlor	391 ppb * Minimum amount detected	1 ppb
19-4-1545 1	Vegetation; Control; Control (Roundup Beans); Affected Site;	Vegetation	2,4-D	BQL ppb	0.2 ppb
			5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.2 ppb
			Dicamba	1.33 ppb	0.2 ppb
			Acetochlor	4.35 ppb	3 ppb

7. The XtendiMax label states, "***DO NOT APPLY*** *this product when the wind is blowing toward adjacent non-dicamba tolerant sensitive crops; this includes* ***NON-DICAMBA TOLERANT SOYBEAN AND COTTON***."

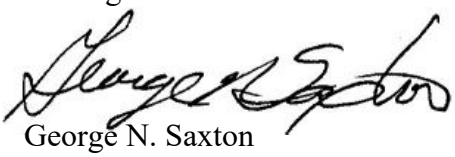
8. Based on the evidence collected in this investigation, it has been determined that Mr. Allen failed to comply with both the off-target drift restrictions and the drift management restrictions on the label for the herbicide XtendiMax.

Aaron P. Kreider
Investigator

Date: March 3, 2020

Disposition: David Leon Allen and D&A Farms Inc. were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of $100.00 was assessed for this violation. Consideration was given to the fact this was Mr. Allen's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

David Leon Allen and D&A Farms Inc. was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.



George N. Saxton
Compliance Officer

Draft Date: August 7, 2020
Case Closed: January 14, 2021

CASE SUMMARY

Case #PS19-0383

Complainant: Eric Fogle
3173 W. CR200 South
Winchester, IN 47394

Respondent: Jason Willeford — Certified Applicator
Xcel Custom Ag — Licensed Business
35 N. CR300 West
Winchester, IN 47394

1. On July 24, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a suspected application of dicamba was made to a neighboring farm field that drifted onto his Roundup Ready soybeans.

2. On July 25, 2019, I spoke with Eric Fogle who reported he had a couple of fields which he thought may have been affected by off-target movement of dicamba. He indicated his agronomist was going to check the fields and, after the weekend, he would let me know how many complaints he needed to file.

3. On July 30, 2019, I met Mr. Fogle and we looked at the two fields. He noted that something was causing the soybean plants in a field off CR200 West to grow abnormally but he would continue to monitor it. Ultimately, he decided to file one complaint for a field of non-dicamba tolerant (DT) soybeans on the south side of CR150 South in Randolph County. The adjacent soybean field, which was planted to DT soybeans, was reportedly sprayed by Jason Willeford of Xcel Custom Ag. Mr. Willeford arrived at the field during the on-site investigation and confirmed he sprayed the adjacent field and noted he left a 120-foot buffer along the Fogle field. He stated he had all the needed application information.

4. During my on-site investigation, I did the following:

   a) Looked for but did not find any other potential sources of dicamba adjacent to the Fogle soybean field. The target field bordered the Fogle field to the west (Fig1) with no fence line or other biological barriers between the crops.
   b) Observed and photographed cupping and puckering of leaves on non-DT soybeans across the northern portion of the Fogle field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba. The symptoms were most visible in the northwest portion of the Fogle field and dissipated to the east.
   c) Collected soybean plants exhibiting symptoms from the Fogle field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
   d) Collected four gradient plant samples from soybeans across the northern portion of the Fogle field, from west-to-east, at 300-foot increments. Collected a soil sample from the adjacent target field, several rows into the field from where it abutted the Fogle field. Those samples were submitted to the OISC Residue Lab for analysis.

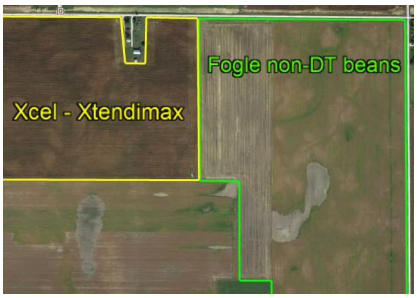


Fig.1 Aerial photo of fields


Fig.2 Border between fields


Fig.3 Affected non-DT soybeans

5. On August 12, 2019, the OISC received a completed Pesticide Investigation Inquiry, application records and field maps from Mr. Willeford. The buffer area along the Fogle field was reportedly sprayed with Roundup PowerMax (glyphosate) and Cadet (fluthiacet) on July 8, 2019. The information from Mr. Willeford indicated the following:

    a. Certified applicator: Jason Willeford
    b. Application date and time: July 10, 2019, from 1237pm – 130pm
    c. Pesticides: Roundup PowerMax (glyphosate), EPA Reg. #524-549
       Volunteer (clethodim), EPA Reg. #66330-353-55467
       Xtendimax (dicamba), EPA Reg. #524-617
    d. Adjuvants: Fieldgoal, Clasp, Vincero 90
    e. Target field: 3401 W150S
    f. Pre or post application: Post
    g. Wind speed/direction at start: 7mph from south (away from Fogle field)
    h. Wind speed/direction at end: 7mph from southwest (toward Fogle field)
    i. Nozzles: TTAI 11004
    j. Boom Height: 24 inches
    k. Downwind Buffer: 120'
    l. Checked registrant's website before application: April 2019
    m. Checked DriftWatch before application: 7-10-19
    n. Dicamba mandatory training attended: 2-25-19 (Greenville, OH)

6. The PPDL report stated, *"Soybeans show injury symptoms consistent with exposure to dicamba."* It further indicated, *"Septoria brown spot was found on the lower leaves. No other significant disease or insect problems were found on the sample."*

7. The OISC Residue Lab analyzed the vegetation samples for dicamba and its breakdown products DCSA and 5OH dicamba. The results are summarized as follows:

Sample	Dicamba	DCSA	5OH Dicamba
Target soil	BQL	4.82ppb	BDL
Non-DT beans, west	1.65ppb	BDL	BDL
Non-DT beans, 300ft	BQL	BDL	BDL
Non-DT beans, 600ft	BQL	BDL	BDL
Non-DT beans, 900ft	0.239ppb	BDL	BDL

ppb = parts per billion
BQL = Below Quantification Limits (analyte detected, but not quantifiable)
BDL = Below Detection Limits (analyte not detected)

8. While the lab results did not establish a gradient pattern across the non-DT soybeans, the evidence at the site and the lab reports suggest dicamba from the application to the target field moved off-target to the Fogle soybean field. Without the detection of a tank partner (both fields were sprayed with glyphosate and clethodim), it is difficult to determine whether dicamba moved off-target due to direct particle drift, application into an inversion or volatility at some point after the application. However, the application was made while winds, as reported by Mr. Willeford, were blowing from the southwest, toward the sensitive non-DT soybeans in the Fogle field.

9. The Xtendimax label reads, in part, **"DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant sensitive crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON."**

Andrew R. Roth
Investigator

Date: March 2, 2020

Disposition: Jason Willeford and Xcel Custom Ag 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 a restricted use pesticide was involved.

George N. Saxton
Compliance Officer

Draft Date: May 11, 2020
Case Closed: September 29, 2020

CASE SUMMARY

Case #PS19-0420

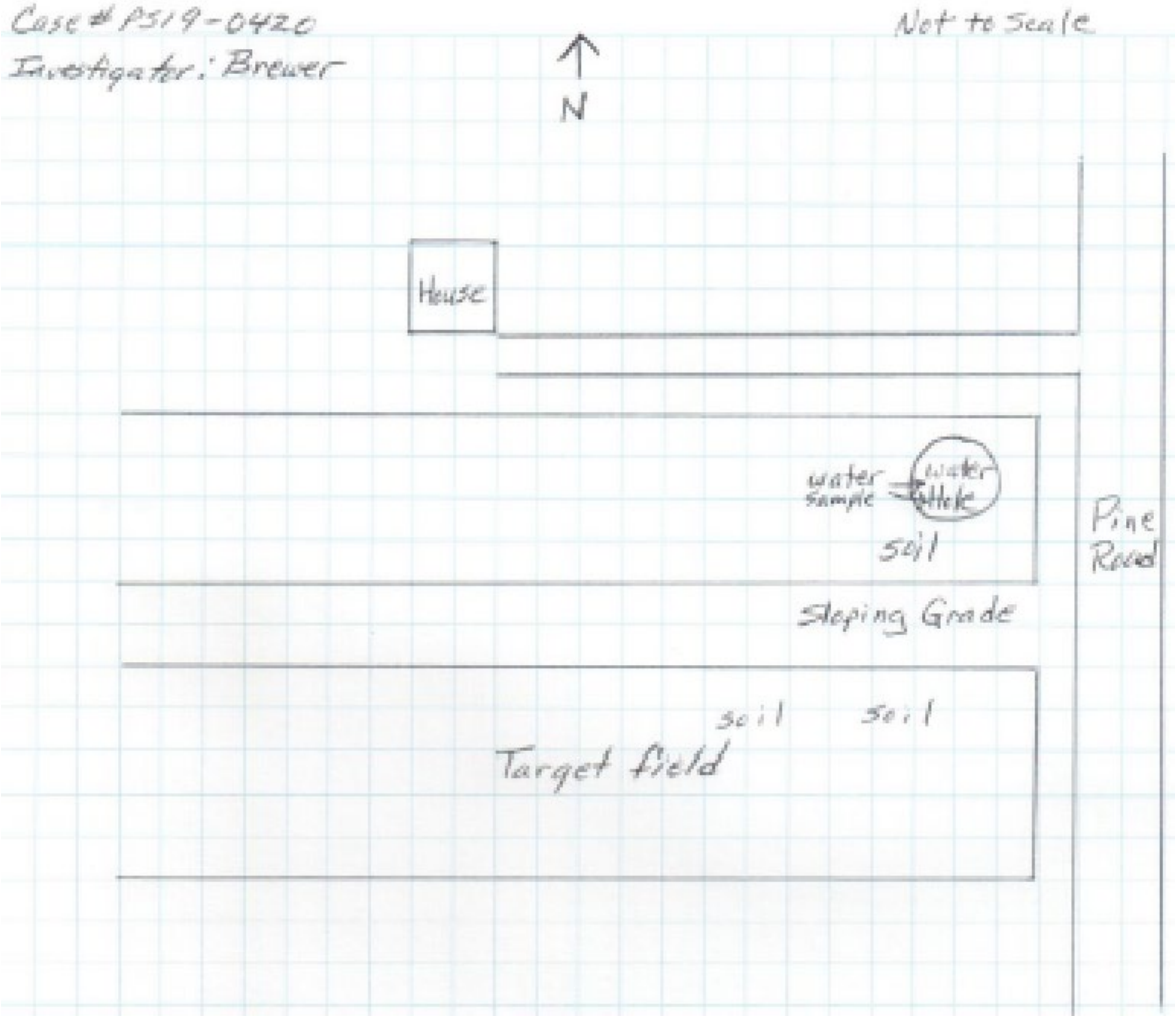
Complainant: Kimberly & Brian Zimmerman
67447 Pine Road
North Liberty, Indiana 46554

Respondent: Charlie Houin — Private Applicator
Houin Grain Farms
5125 W. Shore Drive
Bremen, Indiana 46506

1. On July 31, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that she believes pesticide runoff from a neighboring field has caused death and deformity to her cows.

2. On August 5, 2019, I met with Mrs. Zimmerman at her residence. She advised me she had lost two Belted Galloway calves the first of May. She stated one had a cleft lip. She stated she was concerned that pesticide runoff from the neighboring field to the south of her property, may have been a factor in the death and deformation of her calves. She showed me a water hole on the east end of her pasture of which she feels the pesticide ran off into from the farm field. She stated the water in the water hole had a chemical smell to it and the cattle would not go into the water. She further stated the grown cattle had lost weight and in July they lost some hair. She stated she has two fair show calves in another pen, which have no symptoms. She stated she had observed the farmer spraying the field on June 11 and on days prior. She further stated there were heavy rains the week after the application was made.

3. I then collected soil samples from the target field and from the complainant's pasture in the path of the alleged run off. I collected a water sample from the water hole and a milk sample from one of the cows of which Mrs. Zimmerman's daughter milked for me. All of the samples were labeled and submitted to the OISC Residue Lab. I explained to Mrs. Zimmerman, my job and jurisdiction was to determine if the was or was not a violation committed. She would have to proceed with a civil proceeding, if she wished to seek any retribution for the lost cattle. The following is a diagram of the scene, showing the location of the target field in relationship to the complainant's property and water hole. I did observe a definite grade in the terrain from the target field down and across the complainant's pasture. There was a bare hard packed path from the target field to the water hole, which appeared consistent to a path made by water running across a surface.



4. I learned the target field was farmed by Mr. Charlie Houin. I made contact with Mr. Houin and advised him of the complaint. He advised me he had made a pre-emergent pesticide application to the target field on June 11, 2019. He stated he had applied:
    a. Acuron herbicide EPA Reg# 100-1466 with the active ingredients metolachlor, atrazine and mesotrione;
    b. Atrazine 4F herbicide EPA Reg# 100-497-5905 with the active ingredient atrazine; and
    c. Roundup Powermax EPA Reg# 524-549 with the active ingredient glyphosate.

    He also advised he had made a burn down pesticide application to the target field during the week of May 25, 2019- June 2, 2019. He stated he applied Barrage HF herbicide EPA Reg# 5905-529 with the active ingredient 2,4-D and Roundup Powermax EPA Reg# 524-549 with the active ingredient glyphosate. Mr. Houin stated there were several rains throughout the spraying and planting season.

5. I received a report from the OISC Residue Lab. The report indicated the active ingredients atrazine, 2, 4-D, AMPA, glyphosate, mesotrione and metholachlor were detected in the soil samples collected from the target field and the complainant's pasture. The active ingredients 2,4-D and atrazine were detected in the water sample collected from the water hole. No active ingredients were detected in the milk sample collected. The following is a copy of the OISC Residue Lab report.

OCM Collection #	109112	Investigator	BREWERR
Collection Date	08/05/2019		

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-0153 3	Soil; Composite; target field; Target Site;	Soil	2,4-D	27.4 ppb	2 ppb
			AMPA	417 ppb	125 ppb
			Glyphosate	43.5 ppb	5 ppb
			Atrazine	7.63 ppb	0.3 ppb
			Mesotrione	BDL ppb	0.7 ppb
			Metolachlor	BDL ppb	1 ppb
19-4-0154 6	Soil; Composite; compits. pasture; compits. pasture;	Soil	2,4-D	BQL ppb	2 ppb
			AMPA	144 ppb	125 ppb
			Glyphosate	22.8 ppb	5 ppb
			Atrazine	20.3 ppb	0.3 ppb
			Mesotrione	BDL ppb	0.7 ppb
			Metolachlor	BDL ppb	1 ppb
19-4-0155 1	water from compit. water hole; Composite; Pond; compits. pas	water from compit. water	2,4-D	0.0290 ppb	0.002 ppb
			AMPA	BDL ppb	25 ppb
			Glyphosate	BDL ppb	1 ppb
			Atrazine	4.76 ppb	0.02 ppb
			Mesotrione	BDL ppb	0.05 ppb
			Metolachlor	BDL ppb	0.2 ppb

Sample #	Sample Description	Matrix
19-4-01567	milk; milk from cow; milk from cow; compits. cow;	milk

Analyte	Amount of Analyte	LOQ
2,4-D	BDL ppb	0.4 ppb
Atrazine	BDL ppb	0.04 ppb
Mesotrione	BDL ppb	0.2 ppb
Metolachlor	BDL ppb	0.8 ppb

6. I spoke with the OISC Lab Supervisor and was informed in regard to the LD50 toxicity of the active ingredients detected in the water, it would not be possible for the amounts of the ingredients to have caused death to cattle. This is based on the LD50 level researched in mice at 2000 mg/kg, which would have to be multiplied by the weight of each given cow.

7. I researched the labels for Atrazine and Acuron herbicide. The label for Acuron stated on page 10, *"Do not apply under conditions which favor runoff or wind erosion of soil containing the product to non-target areas".* As stated previously, I observed a definite grade in the topography of the land from the target field, down and across the complainant's property leading on to the water hole.

8. I made contact with Mrs. Zimmerman and advised her of my findings. She was still concerned what caused the death of her cattle. I advised her to have her Veterinarian collect samples and submit them to Purdue Animal Disease Diagnostic Lab (ADDL) to analyze further for possible related disease. She contacted me later, advising me, her Veterinarian did collect blood and liver samples out of another dead cow, which occurred after the first of the year 2020 and submitted it to ADDL for analysis.

9. The OISC Residue lab results indicated the active ingredients in the pesticides applied by Mr. Houin, were detected in the samples collected from the complainant's property. This would indicate the pesticides from the application made by Mr. Houin did run off target and onto the complainant's property, which is a label violation for Acuron herbicide. I advised both Mr. Houin and Mrs. Zimmerman, the sloping terrain from the target field to the pasture, would need to be corrected to eliminate any further run off problems in the future.

Robert D. Brewer
Investigator

Date: March 23, 2020

Disposition: Charlie Houin and Houin Grain Farms were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding runoff. 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: August 14, 2020
Case Closed: January 14, 2021

CASE SUMMARY

Case #PS19-0486

Complainant: Jim Nesius
11602 South 280 West
Remington, Indiana 47977

Respondent: Stan Robertson — Certified Applicator
Vision Ag, Inc. — Licensed Business
911 Cullen Street
Rensselaer, Indiana 47978

1. On August 5, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that "Ag Vision" sprayed a neighboring field with dicamba that drifted onto his Liberty beans.

2. On August 12, 2019, I met with Jim Nesius at his residence. I had Mr. Nesius show me on a map where his field was located and where he saw the injury. I noticed that the injured soybeans were cupped/curled and had whitish leaf tips. The injury was concentrated on the east side of Mr. Nesius's field where it shares a border with the target field. The border between Mr. Nesius's field and the target field can be seen in Figure 1. The injury that caused Mr. Nesius'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 Gradient 4 (Closest)
   B. Affected Field Gradient 3
   C. Affected Field Gradient 2
   D. Affected Field Gradient 1 (Farthest)
   E. Target Field Weeds
   F. Control (Liberty Beans)

   These samples were submitted for analysis by the OISC residue lab. I also collected a sample of Mr. Nesius's injured soybeans to submit for analysis by the Plant and Pest Diagnostic Lab at Purdue (PPDL). The location of where these samples were collected can be seen in Figure 4.

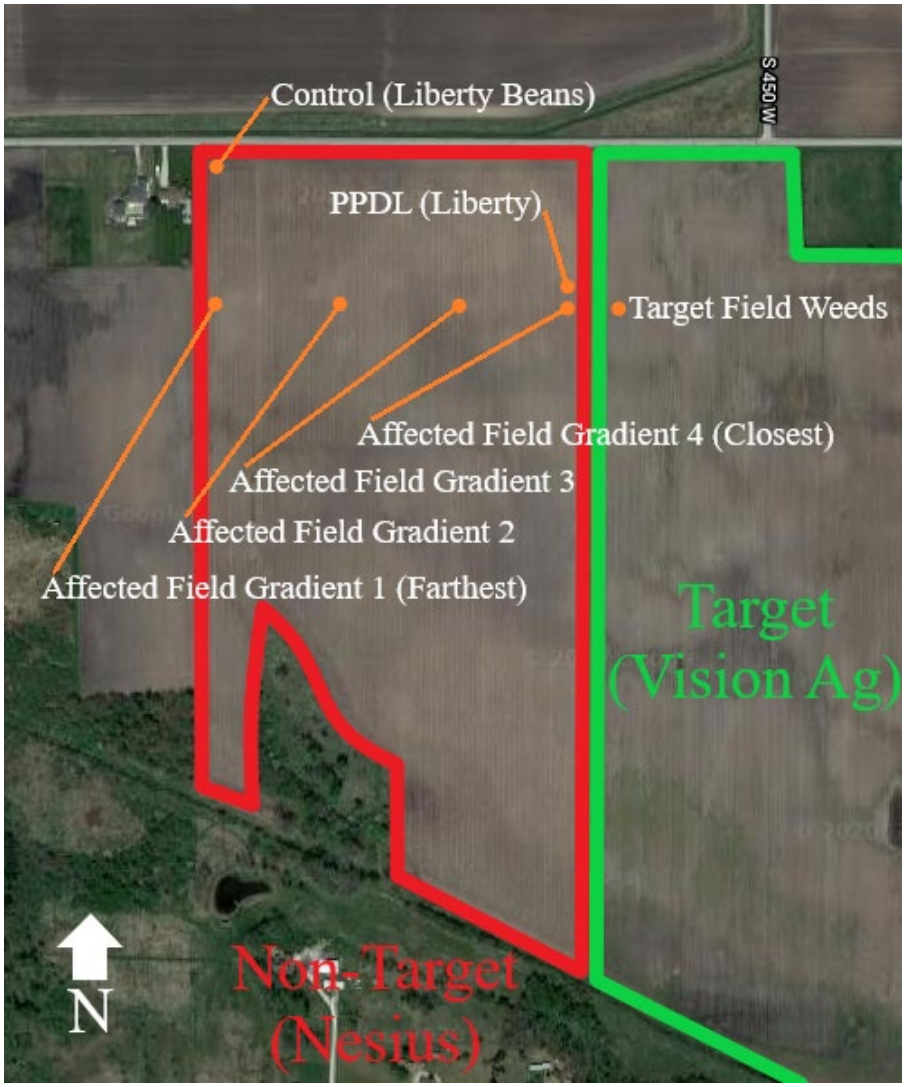


Figure 4

4. On August 26, 2019, I received a Pesticide Investigation Inquiry (PII) from Nate Brown of Vision Ag. It states that Stan Robertson made an application to the target field on July 11, 2019 from 9:20 AM to 9:50 AM. The application consisted of the following:

   A. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
   B. Buccaneer 5 Extra (EPA Reg. #55467-15, active ingredient glyphosate)
   C. Zidua (EPA Reg. #7969-338, active ingredient pyroxasulfone)
   D. Astonish (Drift Retardant)

   The wind conditions that were reported were 7 MPH from the south-southwest at the start of the application and 7 MPH from the south-southwest at the end of the application. This would mean that the winds were blowing away from Mr. Nesius's non-DT soybean field.

5. I collected wind data from the Jasper County Airport (KRZL) which is 3.59 miles from the target field, Purdue University Airport (KLAF) which is 35.72 miles from the target field, and Logansport/Cass County Airport (KGGP) which is 41.95 miles from the target field. The data is as follows:

A. KRZL: 0 MPH with no gusts at the start of the application. 0 MPH with no gusts during the application. 0 MPH with no gusts at the end of the application.
B. KLAF: 3 MPH with no gusts from variable/unknown direction at the start of the application. 0-3 MPH with no gusts from variable/unknown direction during the application. 0 MPH with no gusts at the end of the application.
C. KGGP: 0 MPH with no gusts at the start of the application. 0 MPH with no gusts during the application. 0 MPH with no gusts at the end of the application.

6. The report from PPDL stated, "*Soybeans show injury symptoms consistent with exposure to dicamba*."

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

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-1589 4	Vegetation; Grab/Spot; Affected Field Gradient 4; Affected S	Vegetation	Pyroxasulfone	BDL ppb	0.7 ppb
19-4-1590 4	Vegetation; Grab/Spot; Affected Field Gradient 3; Affected S	Vegetation	Pyroxasulfone	BDL ppb	0.7 ppb
19-4-1591 5	Vegetation; Grab/Spot; Affected Field Gradient 2; Affected S	Vegetation	Pyroxasulfone	BDL ppb	0.7 ppb
19-4-1592 7	Vegetation; Grab/Spot; Affected Field Gradient 1 (Farthest);	Vegetation	Pyroxasulfone	BDL ppb	0.7 ppb
19-4-1593 6	Vegetation; Grab/Spot; Target Field Weeds; Target Site;	Vegetation	Pyroxasulfone	7.99 ppb	0.7 ppb
19-4-1594 3	Vegetation; Control; Control (Liberty Beans); Affected Site;	Vegetation	Pyroxasulfone	BDL ppb	0.7 ppb

8. The Engenia label states, "***DO NOT*** *apply* ***Engenia*** *if wind speed is less than 3 mph or greater than 10 mph*."

9. Based on the evidence collected in this investigation, it has been determined that Mr. Robertson 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: March 20, 2020

Disposition: Stan Robertson and Vision Ag, Inc. were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

George N. Saxton
Compliance Officer

Draft Date: August 14, 2020
Case Closed: January 14, 2021

CASE SUMMARY

Case #PS19-0499

Complainant: Tim Highley
3295 N. CR900 West - 27
Converse, IN 46919

Respondent: Scott Brown — Private Applicator
10639 S. CR1050 East
Converse, IN 46919

1. On August 12, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring farmer applied dicamba to a field that drifted onto his non dicamba-tolerant (DT) soybeans.

2. On August 12, 2019, I spoke with Tim Highley who reported he observed leaf-cupping across an entire 10-acre field of Liberty Link soybeans on the east side of CR900 West in Grant County. He indicated the field was planted late and now is even more stunted.

3. On August 12, 2019, I met Mr. Highley at his farm to discuss the complaint. He indicated there were two fields, one of which was farmed by Scott Brown, across the road to the west of his field which may have been sprayed with dicamba.

4. On August 13, 2019, during my on-site investigation, I did the following:

   a) Identified two potential sources of dicamba adjacent to the Highley soybean field. The target field in this case (Brown) was directly across the road to the west of the Highley field (Fig.1).
   b) Observed and photographed mostly uniform, widespread cupping and puckering of leaves on non-DT soybean plants across the Highley field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba. Symptoms were more prominent on the west side of the field, adjacent to the target field, but were also prominent along the northern border where the field abutted another field with affected non-DT soybeans which was being farmed by Moormans (Case PS19-0483).
   c) Collected soybean plant samples from the Highley field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
   d) Collected four gradient plant samples from soybeans exhibiting symptoms across the Highley field, from west-to-east, at 250-foot increments. Collected a soil sample from the Brown field. Those samples were submitted to the OISC Residue Lab for analysis. *It should be noted that the gradient samples collected from the Highley field are representative samples and may be referenced in other investigations involving the site.*

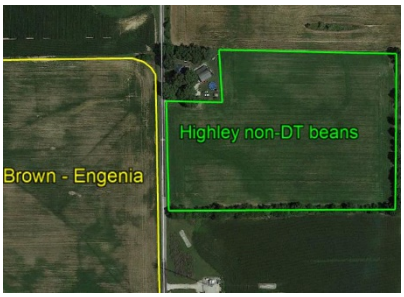


Fig.1 Aerial photos of fields


Fig.2 Non-DT soybeans near road


Fig.3 Cupped/puckered soybeans

5. On August 12, 2019, I contacted Mr. Brown and informed him of the complaint. He indicated he sprayed his field with Roundup on July 2, 2019, and then went back in to spray dicamba in mid-July. Mr. Brown completed a Pesticide Investigation Inquiry for the application and returned it to the OISC with other requested information. The information provided indicated the following:

    a. Certified applicator: Scott Brown
    b. Application date and time: July 15, 2019, from 217pm – 245pm
    c. Pesticides: Engenia (dicamba), EPA Reg. #7969-345
    d. Adjuvants: Strike Force, Reign
    e. Target field: Carmack
    f. Pre or post application: Post
    g. Wind speed/direction at start: 5mph from east-southeast (away from Highley)
    h. Wind speed/direction at end: 5mph from east-southeast
    i. Nozzles: Monsanto TeeJet TTI 11004
    j. Boom Height: 24”
    k. Downwind Buffer: Woods
    l. Checked registrant’s website before application: 07-07-19
    m. Checked DriftWatch before application: 07-07-19
    n. Dicamba mandatory training attended: 01-18-19

6. I checked wind data at the closest official weather station to the site, but the Marion Municipal Airport did not have recordings for the date of the application. I triangulated wind data from the Kokomo Regional Airport (12 miles west), the Fort Wayne International Airport (43 miles northeast) and the Delaware County Airport at Muncie, IN (33 miles southeast) for July 15, 2019. None of the recordings indicated the winds were blowing from an easterly direction as reported by Mr. Brown. While there were no recordings taken during the reported time of the application, the airport data is as follows:

Kokomo	1:56pm	8mph from west (toward Highley field)
	2:56pm	11mph from west (toward Highley field)
Muncie	1:53pm	8mph from west-southwest (toward Highley field)
	2:53pm	6mph from west-northwest (toward Highley field)
Fort Wayne	1:54pm	10mph from west-southwest (toward Highley field)
	2:54pm	10mph from west-southwest (toward Highley field)

Any wind from a westerly direction would have been blowing toward the sensitive non-DT soybeans in the Highley field.

7. The PPDL report indicated, *"Soybeans show injury symptoms consistent with exposure to dicamba."* It further stated, *"There was no evidence of significant disease found."*

8. Because there were two potential sources of dicamba at the site, the OISC Residue Lab did not analyze the samples for dicamba. Ultimately, the samples were analyzed for acetochlor, a tank partner in the application to the other adjacent field, in an attempt to establish a gradient pattern of off-target movement. Acetochlor was detected in the soil from the target field; the results for the soybean samples were reported as Below Detection Limits, meaning the analyte was not detected.

9. Since there was more than one potential source of dicamba at the site, determining the extent of exposure from any single source was not possible. However, the evidence at the site and the PPDL report suggest dicamba applied to the Brown field moved off-target to the Highley soybean field. While it is difficult to determine whether dicamba moved off-target through direct particle drift, application into an inversion or volatility at some point after the application, the wind data from the airports supports Engenia was applied to the Brown field while winds were blowing toward the sensitive non-DT soybeans in the Highley field.

10. The Engenia label reads, in part, **"DO NOT apply when wind is blowing in the direction of neighboring sensitive crops or residential areas."**

Andrew R. Roth
Investigator

Date: February 26, 2020

Disposition: Scott Brown 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: May 11, 2020
Case Closed: November 25, 2020

CASE SUMMARY

Case #PS19-0516

Complainant: Dennis Horn
579 S. Como Road
Portland, IN 47371

Respondent: Aaron Dirksen — Private Applicator
6871 West SR 26
Portland, IN 47371

1. On August 15, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighbor applied dicamba to a field and it adversely affected his soybeans.

2. On August 15, 2019, while conducting an on-site investigation (Case PS19-0482) in Jay County, I learned that Dennis Horn also had a field of soybeans at the site which were suspected to have been affected by the same dicamba application.

3. On August 15, 2019, I spoke with Mr. Horn who reported leaf-cupping on his non dicamba-tolerant (DT) Liberty Link soybeans was discovered the week prior by a Harvest Land Co-op employee. The affected field was on the west side of CR650 West, north of SR 26. The neighboring field, which was reportedly being farmed by Aaron Dirksen, was suspected to have been sprayed with dicamba at some point after the Horn soybean field was sprayed with Liberty on July 20.

4. During my on-site investigation, I did the following:

   a) Looked for but did not find any other potential sources of dicamba adjacent to the Horn soybean field. The target field (Dirksen) was north of the Horn field (Fig.1) with a tree line separating the crops. The other affected field at the site, farmed by Michael Bowen, was east of the target field.
   b) Observed and photographed widespread cupping and puckering of leaves on non-DT soybeans across the Horn field. These symptoms are commonly associated with exposure to a growth-regulator type herbicide such as dicamba. Symptoms were more severe on soybeans in the northern portion of the field near the target field.
   c) Collected soybean plants which exhibited symptoms from the Horn field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue.
   d) Collected four gradient samples of soybeans across the Horn field from north-to-south at 250-foot increments. Those samples were submitted to the OISC Residue Lab for analysis. It should be noted that a vegetation sample (affected weeds) was collected from the south side of the target (Dirksen) field during the on-site investigation for the other complaint (Bowen) at the site.

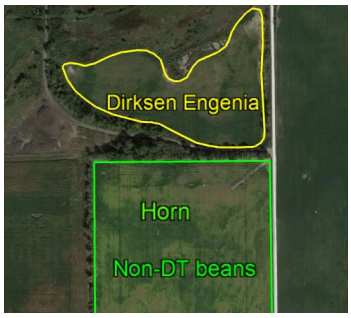


Fig.1 Aerial photo of fields


Fig.2 Cupped beans, north end of field


Fig.3 Cupped leaves on non-DT beans

5. I spoke with Mr. Dirksen and informed him of the complaint. He confirmed he spot-sprayed the field in question with Engenia (dicamba) after an earlier application of Roundup and Sinister did not effectively control some of the weeds. The farm, known as "peat moss" was dissected into two fields by a pond and marsh area, with the smaller field to the east near CR650 West and the Horn field. Mr. Dirksen later provided a completed Pesticide Investigation Inquiry and application records which indicated the following:

    a. Certified applicator: Aaron Dirksen
    b. Application date and time: August 1, 2019, from 4:00pm – 4:30pm
    c. Pesticides: Engenia (dicamba), EPA Reg. #7969-345
    d. Adjuvants: Diversify, Clasp
    e. Target field: 650W
    f. Pre or post application: Post
    g. Wind speed/direction at start: 8mph from east-northeast (toward Horn soybeans)
    h. Wind speed/direction at end: 6mph from east-northeast
    i. Nozzles: Monsanto TTI-004
    j. Boom Height: 24" above crop
    k. Downwind Buffer: 120ft up to 180ft
    l. Checked registrant's website before application: 07/31/19
    m. Checked DriftWatch before application: 08/01/19
    n. Dicamba mandatory training attended: 02/28/19

6. Although there was a tree line separating the target field from the Horn field, a wind from the northeast would have been blowing toward the sensitive non-DT soybeans in the Horn field.

7. The PPDL report indicated, *"Soybeans show injury symptoms consistent with exposure to dicamba."* It further stated, *"No significant disease observed."*

8. The OISC Residue Lab analyzed the samples for fomesafen, the active ingredient in Sinister, which was originally thought to have been in the tank mix with the Engenia, and for glyphosate and its breakdown product AMPA. Fomesafen was detected in all four samples; all but one were reported as Below Quantification Limits, meaning the analyte was detected but not quantifiable. Glyphosate and AMPA were reported as Below Detection Limits, meaning the analytes were not detected in the samples. The samples were not analyzed for dicamba.

9. The evidence at the site, the PPDL report and the wind direction reported by Mr. Dirksen suggest dicamba from the application to the target field moved off-target to the Horn soybeans. While it is difficult to determine whether the off-target movement occurred due to direct

particle drift, application into an inversion or volatility at some point after the application, Mr. Dirksen applied Engenia to the target field while winds were blowing toward the sensitive non-DT soybeans in the Horn field.

10. The Engenia label reads, in part, **"DO NOT apply when wind is blowing in the direction of neighboring sensitive crops or residential areas."**

Andrew R. Roth
Investigator

Date: February 17, 2020

Disposition: Aaron Dirksen 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: April 13, 2020
Case Closed: September 28, 2020

CASE SUMMARY

Case #PS19-0542

Complainant: Cody Kozubik
5671 East Shady Lane
Knox, Indiana 46534

Respondent: Michael B Risner — Private Applicator
9035 E Hwy 8
Knox, Indiana 46534

1. On August 20, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Risner Farms made a dicamba application to a neighboring farm field that has drifted onto his beans.

2. On September 10, 2019, I, Investigator Melissa Rosch, met with the complainant Cody Kozubik at the field location near SR 23 (S 900 E) and E 400 S in Knox, Indiana. Mr. Kozubik stated he believed his non-dicamba soybeans were drifted on by an agricultural pesticide application that was made to the adjacent target soybean field. Mr. Kozubik stated he saw cupping and curling on the soybean vegetation. Mr. Kozubik stated he only used glyphosate on his soybeans.

3. During my on-site investigation, I did the following:

    a) Observed and photographed what appears to be fairly uniform dicamba exposure symptoms

    b) Collected soybean vegetation samples from the complainant's impacted field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPPDL)

    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
        iii. Vegetation from control sample area

Figure 1

*Figure 1 is a Google Earth Image of the complainant and target field areas
*Target field is outlined in red
*Complainant field is outlined in green
*The Markers labeled C, T, 1, 2, and 3 are the approximate locations for each sample listed in paragraph 6

Figure 2

Figure 3

*Figures 2 and 3 are photographs from the approximate location for Sample Marker 1

Figure 4

Figure 5

*Figures 4 and 5 are photographs of the approximate location for Sample Marker 2

Figure 6

Figure 7

*Figures 6 and 7 are photographs of the approximate location for Sample Marker 3

4. I received the visual analysis report performed by the Purdue Plant and Pest Diagnostic Lab (PPPDL) and it shows the following information:

9/13/19

The soybeans in sample 19-1659 showed very light leaf cupping.
These symptoms are characteristic of exposure to low rates of dicamba.

Marcelo Zimmer
Weed Science Program Specialist
Purdue University - Weed Science Lab
Office: (765) 496-2121
email: zimmer6@purdue.edu

9-16-19
The physical sample did not seem to have, or had very light, symptoms of a growth regulator exposure. Symptoms were more apparent in the photos submitted. The physical sample showed a significant root rot which can cause stunting, yellowing, and exacerbate potential nutrient deficiency symptoms, but are not associated with the leaf deformation/crinkling observed.

John Bonkowski

CC Marcelo Zimmer

5. I received a pesticide investigation inquiry (PII) from the target applicator and it shows the following information:
-Applicator: Michael B Risner
-Application Date: 7/4/2019
-Application Start Time: 9:05am / End Time: 9:50pm
-Target Crop: Soybeans
-Acreage of area treated: 27.5 acres
-Wind direction at start time: West / End Time: West
-Wind speed at boom height at start time: 4mph / End Time: 6mph
-Method used to measure wind: Pock Spray Smart by "Agribie"
-Application Equipment: Miller 5240 Sprayer
-Nozzle Make/model/pressure: ULD 12006 Hypro, 32 psi
-Boom Height: 24"
-Application Ground Speed: 8.5 mph
-Total Amount of Diluted material applied: 440 gallons total (10.31 gallons enlist)
-Pesticide Brand Names/ application rate: **Enlist Duo-62719-649**, 15 gallons per acre
(Note: **Enlist Duo, EPA# 62719-649, Active Ingredients: glyphosate 22.1%, 2,4-D 24.4%)**
-Adjuvant trade names: none
-Name of person mixing/loading: Keith Risner
-Date sprayer last cleaned before application: 6/29/2019
-Name of person cleaning sprayer: Keith Risner

6. I received the OISC Pesticide Residue Laboratory report which shows the following sample result information:

Sample #	Sample Description	Matrix
19-4-5077 7	Vegetation; Control; control; Affected Site;	Vegetation

Analyte	Amount of Analyte	LOQ
2,4-D	1.85 ppb	0.2 ppb
5OH-Dicamba	BDL ppb	2 ppb
DCSA	BQL ppb	0.2 ppb
Dicamba	BDL ppb	0.2 ppb
AMPA	BDL ppb	300 ppb
Glyphosate	BDL ppb	25 ppb

19-4-5078 3	Vegetation; Grab/Spot; v1; Gradient 1;	Vegetation	2,4-D	1.10 ppb	0.2 ppb
			5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BQL ppb	0.2 ppb
			Dicamba	BDL ppb	0.2 ppb
			AMPA	BDL ppb	300 ppb
			Glyphosate	5840 ppb	25 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-5079 6	Vegetation; Grab/Spot; v2; Gradient 2;	Vegetation	2,4-D	0.895 ppb	0.2 ppb
			5OH-Dicamba	BDL ppb	2 ppb
			DCSA	0.313 ppb	0.2 ppb
			Dicamba	BDL ppb	0.2 ppb
			AMPA	BDL ppb	300 ppb
			Glyphosate	7750 ppb	25 ppb

19-4-5080 6	Vegetation; Grab/Spot; v3; Gradient 3;	Vegetation	2,4-D	7.10 ppb	0.2 ppb
			5OH-Dicamba	BQL ppb	2 ppb
			DCSA	1.59 ppb	0.2 ppb
			Dicamba	6.11 ppb	0.2 ppb
			AMPA	BDL ppb	300 ppb
			Glyphosate	4770 ppb	25 ppb

Sample #	Sample Description	Matrix
19-4-5081 0	Soil; Grab/Spot; target; Target Site;	Soil

Analyte	Amount of Analyte	LOQ
2,4-D	BQL ppb	2 ppb
5OH-Dicamba	BQL ppb	0.2 ppb
DCSA	94.1 ppb * Minimum Detected	0.2 ppb
Dicamba	20.6 ppb	0.2 ppb
AMPA	2660 ppb	125 ppb
Glyphosate	1280 ppb	5 ppb

7. I spoke with the OISC Pesticide Residue Laboratory manager to confirm the laboratory report results in paragraph 6. The lab report did not indicate any quantifiable residue level of the analyte 2,4-D to the target field soil (Sample # 19-4-5081 0). The analyte (2,4-D) is one of the two product analytes (along with glyphosate) in the product Enlist Duo, which the target applicator stated he used in his initial PII in paragraph 5. Additionally, the laboratory results did indicate the pesticide analyte "dicamba" had been directly applied to the target field soil.

8. I spoke to the target applicator Mr. Risner and he stated he did not look at the correct records when he filled out his PII. Mr. Risner stated he used Xtendimax beans and Enlist beans for the planting season and believed he made an error in his record keeping. Mr. Risner stated he did use Engenia on some of the fields he farmed and will submit a corrected PII for the agricultural pesticide application.

9. I received the second PII from the target applicator Mr. Risner and it shows the following information:
   -Applicator: Michael B Risner
   -Application Date: 7/4/2019
   -Application Start Time: 9:05am / End Time: 9:50pm
   -Target Crop: Soybeans
   -Acreage of area treated: 27.5 acres
   -Wind direction at start time: West / End Time: West
   -Wind speed at boom height at start time: 4mph / End Time: 6mph
   -Method used to measure wind: Pock Spray Smart by "Agribie"
   -Application Equipment: Miller 5240 Sprayer
   -Nozzle Make/model/pressure: ULD 12006 Hypro, 32 psi
   -Boom Height: 24"
   -Application Ground Speed: 8.5 mph
   -Total Amount of Diluted material applied: 15 gallons per acre
   -Pesticide Brand Names/ application rate: **Engenia EPA#5905-IA-001, 12.8oz of Engenia Per Acre; Roundup EPA#524-549, 22oz of Roundup per acre**
   -Adjuvant trade names: Kabak Ultra
   -Name of person mixing/loading: Keith Risner and Mike Risner
   -Date sprayer last cleaned before application: 6/29/2019
   -Name of person cleaning sprayer: Keith Risner and Mike Risner

10. I checked the website www.weatherunderground.com for the weather conditions on the date and time of application:

Gary International Airport approximately 54 miles NW of field

8:45 AM	72 °F	66 °F	83 %	N	8 mph	0 mph	29.41 in	0.0 in	Cloudy
9:45 AM	70 °F	66 °F	88 %	N	15 mph	0 mph	29.41 in	0.0 in	Cloudy

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

- Mr. Risner provided false information in his initial PII in paragraph 5 by stating he used Enlist Duo when the OISC Pesticide Residue Analysis showed that was not true.
- The **Engenia** label states on page 1, *"RESTRICTED USE PESTICIDE. For retail sale to and use only by Certified Applicators."* Mr. Risner stated Keith Risner (an unlicensed applicator) was a mixer/loader in paragraph 9 for a Restricted Use Dicamba Product.

12. 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.

Melissa D. Rosch
Investigator

Date: April 29, 2020

Disposition: Michael Risner was cited for violation of section 65(8) of the Indiana Pesticide Use and Application Law for making false records, invoices or reports. A civil penalty in the amount of $100.00 was assessed for this violation.

Keith Risner was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use only by a certified applicator. A civil penalty in the amount of $100.00 was assessed for this violation.

George N. Saxton
Compliance Officer

Draft Date: August 31, 2020
Case Closed: January 14, 2021

CASE SUMMARY

Case #PS19-0585

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: MonoFoil USA, LLC
Nate Richardson
2635 S. F Street
Elwood, IN 46306

1. On August 26, 2019, I conducted a virtual marketplace inspection of Monofoilusa.com. The purpose of the inspection was to review the labeling of products produced by MonoFoil USA, LLC for pesticidal claims, for accuracy in comparison to their EPA approved master labels and to determine if the website made any false or misleading claims in conjunction with these products.

2. I was able to screenshot all pages of the website while I went through the purchasing process of each product produced. The following products were available to be purchased:

    a. MonoFoil M, EPA Reg. #90856-2-92366
    b. MonoFoil X, EPA Reg. #90856-1-92366
    c. MonoFoil D, EPA Reg. #90856-4-92366
    d. MonoFoil M, All Purpose Cleaner
    e. Car Oder Eliminator
    f. Pet Odor and Stain Eliminator
    g. Shoe Odor Eliminator
    h. Laundry Odor Eliminator

3. The products were shipped via UPS and were delivered on August 28, 2019. A chain of custody seal was placed on the box and then photographed.

Fig.1) Received package upon delivery with seal attached.

4. On August 29, 2019, I transported the samples to OISC. Ed White, Sarah Caffery, an OISC formulation analyst and I were present when the package was opened and the contents were photographed, documented and verified for chain of custody. Once all of the samples were reviewed, I took them to the OISC formulation lab for analysis.

Fig. 2) Received package at OISC office.

Fig.3) MonoFoil M

Fig.4) Monofoil X

Fig.5) MonoFoil D

Fig.6) Monofoil M, All Purpose Cleaner

5. On February 24, 2020, the OISC Formulation Lab made notification of analysis results. The products analyzed were:
    a. MonoFoil M, EPA Reg. #90856-2-92366
        i. Analysis Results: Failed- tested high for label claim according to AAPCO adopted Horwitz limits
    b. MonoFoil X, EPA Reg. #90856-1-92366
        i. Analysis Results: passed for label claim according to AAPCO adopted Horwitz limits

c. MonoFoil D, EPA Reg. #90856-4-92366
    i. Analysis Results: Failed- tested high for label claim according to AAPCO adopted Horwitz limits.
d. MonoFoil M, All Purpose Cleaner, NO EPA Reg. #
    i. passed for label claim according to AAPCO adopted Horwitz limits.

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	**114026**	**Case #**	**PS19-0585**	**Investigator**	**G. Creason**
Sample #	Product Description				Sample Size
19-3-0066 9	**MonoFoil M**				1 x 32 oz

ACTIVE INGREDIENT	**% GUARANTEE**	**% FOUND**
3-(Trihydroxysilyl)propyl dimethyl octadecyl ammonium chloride	**1.3**	**N/A**
Tested as Quaternary Nitrogen Equivalent	**0.0401**	**0.0619**
Tested as Chloride Equivalent	**0.1015**	**0.164**

Remarks:

Failed- tested high for label claim according to AAPCO adopted Horwitz limits

Signature		**Date**	02/24/2020

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	**114026**	**Case #**	**PS19-0585**	**Investigator**	**G. Creason**
Sample #	Product Description				Sample Size
19-3-0067 6	**MonoFoil X**				1 x 32 oz

ACTIVE INGREDIENT	**% GUARANTEE**	**% FOUND**
3-(Trihydroxysilyl)propyl dimethyl octadecyl ammonium chloride	**3.6**	**N/A**
Tested as Quaternary Nitrogen Equivalent	**0.111**	**N/A**
Tested as Chloride Equivalent	**0.281**	**0.266**

Remarks: passed for label claim according to AAPCO adopted Horwitz limits

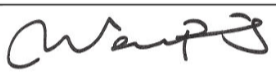
Signature		**Date**	02/24/2020

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	114026	Case #	PS19-0585	Investigator	G. Creason
Sample #	Product Description				Sample Size
19-3-0068 2	**MonoFoil D**				3 x 16 oz

ACTIVE INGREDIENT	% GUARANTEE	% FOUND
3-(Trihydroxysilyl)propyl dimethyl octadecyl ammonium chloride	**0.13**	**N/A**
DBAC (5% C12, 60% C14, 30% C16, 5% C18)	**0.25**	**N/A**
DEAC (68% C12, 32% C14)	**0.25**	**N/A**
Tested as Quaternary Nitrogen Equivalent	**0.0226**	**0.0378**
Tested as Chloride Equivalent	**0.0571**	**0.100**

Remarks:
Failed- tested high for label claim according to AAPCO adopted Horwitz limits

Signature		Date	02/24/2020

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	114026	Case #	PS19-0585	Investigator	G. Creason
Sample #	Product Description				Sample Size
19-3-0069 5	**MonoFoil M**				1 x 32 oz

ACTIVE INGREDIENT	% GUARANTEE	% FOUND
3-(Trihydroxysilyl)propyl dimethyl octadecyl ammonium chloride (ApplyGuard ™)	**1.3**	**N/A**
Tested as Quaternary Nitrogen Equivalent	**0.0401**	**N/A**
Tested as Chloride Equivalent	**0.1015**	**0.146**

Remarks: passed for label claim according to AAPCO adopted Horwitz limits

Signature		Date	02/24/2020

6. On, April 22, 2020, Agent Becovitz and I met with Nate Richardson at Monofoil USA LLC in Elwood, IN. Mr. Richardson was issued an Action Order for Monofoil USA LLC and ApplyGuard LLC. The scope of the Action Orders was explained. A draft of the case summary was also provided to Mr. Richardson. The Action Order for Monofoil USA LLC instructed to stop production, distribution and sale of:

    a. MonoFoil M, EPA Reg. #90856-2-92366
    b. MonoFoil X, EPA Reg. #90856-1-92366
    c. MonoFoil D, EPA Reg. #90856-4-92366
    d. MonoFoil M, All Purpose Cleaner, NO EPA Reg. #

The action order for ApplyGuard LLC instructed to stop production, distribution and sale of:

e. Monofoil MF-05, EPA Reg. #90856-1
f. Monofoil M1, EPA Reg. #90856-2
g. Monofoil D, EPA Reg. #90856-4

7. When asked if any product was on site Mr. Richardson advised that there is no production on site and that Kafko in Skokie, IL produces all of the product. This was all verbal and no documentation was collected.

8. Further research found an active EPA Establishment in Skokie, IL listed as:

    a. 54292-IL-1, KAFKO INTL LTD
    3555 W. HOWARD ST. SKOKIE, IL 60076

9. All supporting documents and photographs from this investigation have been electronically attached to this case in the OISC case management system.

Garret A. Creason Date: April 22, 2020
Investigator

On April 17, 2020, I completed the labeling review of the MonoFoil USA LLC products included in this case. Based on the findings of this case, OISC will indefinitely suspend the 2020 registration of the three pesticide products by MonoFoil USA LLC and the basic registrant, APPLYGAURD, until the all concerns are addressed and corrected.

BACKGROUND INFORMATION

OISC Review Process:
For the Office of Indiana State Chemist (OISC), the label review process during registrations prior to 2019 included the review of basic label elements. In 2019 the process was updated to include a word-for-word review of the marketplace labels to the master labels to ensure that language and claims are consistent with that provided by the registrants during the label submission process with EPA. Review of labels connected to cases and investigations follow the word-for-word review process.

Distributor (or sub-registrant) Pesticide Products:
The products in review are all distributor products. Distributor products cannot add any additional language that is not on the master label. In such, the distributor label also cannot change the language to differ from what is on the master label. The label of the distributor product must be the same of the registrant with the exception that:

- the product name may be different;
- the name and address of the distributor may appear instead of that of the registrant;
- the registration number of the registered product must be followed by the distributor's company number;
- the establishment number must be that of the final establishment where the product was produced; and
- specific claims may be deleted provided no other changes are necessary.

The registrant must ensure that the EPA-approved labeling of the registered product includes appropriate statements for refillable containers in accordance with 40 CFR 156 Subpart H. Products that do not comply with 40 CFR 152.132 are violative. The basic registrant is responsible for the contents of both the distributor product and the distributor label. According to 40 CFR 152.132 and EPA's Label Review Manual, "The distributor is considered an agent of the registrant for all purposes under FIFRA and both the distributor and the registrant can be held liable for violations pertaining to the distributor product" (LRM, Chapter 4.II.A, page 4-2).

Misbranded – False or Misleading

FIFRA Section 2(q)(1)(A) defines a pesticide product as misbranded if its labeling bears any statement, design or graphic representation which is false or misleading. FIFRA Section 12(a)(1)(E) states that it is unlawful to distribute or sell any pesticide product which is misbranded.

Examples of statements that are considered misbranded can be found at 40 CFR 156.10(a)(5). Examples that connect with this case include:

1. A false or misleading statement concerning the composition of the product;
2. A false or misleading statement concerning the effectiveness of the product as a pesticide or device
3. A false or misleading comparison with other pesticides or devices
4. Any statement directly or indirectly implying that the pesticide or device is recommended or endorsed by an agency of the Federal Government;
5. A true statement used in such a way to give a false or misleading impression to the purchaser
6. Safety claims of the pesticide, or its ingredients, including statements such as trusted, safe, nonpoisonous, noninjurious, harmless or nontoxic to humans and pets with or without such a qualifying phrase as when used as directed
7. Non-numerical and/or comparative statements on the safety of the product, including but not limited to: "Contains all natural ingredients", "Among the least toxic chemicals known", and "Pollution approved"

Examples of unacceptable claims, as outlined in the Label Review Manual and are relevant to this case include:

1. Statements that imply or suggest that the product can or will prevent or control disease or offer health protection
2. Organic claims are examples of misleading label claims as to safety. Under the National Organic Program (NOP), the phrase, "For Organic Production", and "For Organic Gardening" located on the front panel of the label in close proximity to the product name are examples of acceptable labeling statements relating to the term "organic".
3. Claims Such as "Prevents Infection", "Controls Infection", or "Prevents Cross Infection" or that the product will control or mitigate any disease, infection or pathological conditions constitute public health claims and are not acceptable
4. Statements that imply indefinite or all encompassing protection against bacteria, fungi or algae such as "germ-free", or "algae-free" are not acceptable

Product Names

A product cannot be named the same as another pesticide or non-registered product. If the same name is used between a pesticide and non-pesticide the name can be considered false and misleading. There are also concerns of imitation and generic claims being used between both the pesticide and non-pesticide interchangeably. Reference FIFRA 2(q)(1)(A) and (C).

Cleaning Products

As provided on EPA's Determining If a Cleaning Product Is a Pesticide Under FIFRA site:

> FIFRA defines a "pesticide" as "any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest." FIFRA § 2(u), 7 U.S.C. § 136(u). A product is considered to be intended for a pesticidal purpose if, among other things, the person who distributes or sells it claims, states, or implies that the product prevents, destroys, repels or mitigates a pest.
>
> Therefore, once a product label (or other statement made in connection with the sale or distribution of the product) includes any claim of pest mitigation, under 40 CFR § 152.15, the product is one that is intended for a pesticidal purpose and becomes subject to the registration provisions of FIFRA. When a claim or implication is made in connection with the sale or distribution of a cleaning product that its use will mitigate a pest, either by itself or in combination with any other substance, the product would be considered to be intended for a pesticidal purpose and would therefore be required to be registered.

Claims on Antimicrobials

As stated in the misbranded section, a statement is considered false or misleading if it implies indefinite or all encompassing protection. According to FIFRA 2(t) and 40 CFR 152.5, the label must clearly state the pest(s) that are controlled by the product. In regards to public health antimicrobials, each strain of a pest listed must be supported by appropriate efficacy data.

Websites

EPA states that a website is considered labeling if the label of a product references a company's website. EPA's label review manual continues to state that "regardless of whether a website is referenced on a product's label, claims made on the website may not substantially differ from approved claims related to that product. Claims that do substantially differ from what was approved may result in a pesticide product that is unlawful to sell or distribute under FIFRA 12(a)(1)(B)." (LRM Chapter 3.II.J, page 3-6)

EPA's List N: Disinfectants for Use Against SARS-CoV-2

EPA has compiled a very comprehensive list of products that meet EPA criteria for use against SARS-CoV-2. Products included on List N have not been tested specifically against SARS-Cov-2 however these products are effective against harder to kill viruses or have demonstrated efficacy against another type of human coronavirus similar to SARS-CoV-2. Disinfectants are not included on this list if EPA's has not reviewed appropriate data to support claims to kill this type, or harder to kill, viruses.

Details for EPA Registrations 90856-1 and 90856-2

These products have claims connected with pests that are not of public health concerns. These products, as accepted on the master labels, can make residual claims on non-public health organisms. All barrier and/or inhibiting growth claims must be qualified with specific types including

1. Odor causing bacteria
2. Deterioration caused by bacteria
3. Growth of fungi
4. Mold, mildew, odor
5. Bacteria that causes staining and discoloration

Since these products cannot make any health-related claims, no barrier or residual effects claims can be associated with viruses or bacteria that are a public health concern.

For these products, the effectiveness against any bacteria is specific to bacteria that causes staining, odor or discoloration.

Details for EPA Registration 90856-4
This product is registered for public-health claims and use. This product is approved for use on hard, non-porous surface hospital/healthcare disinfection claims. However, EPA has not received the appropriate data to support claims such as implied residual efficacy, the ability to provide an antimicrobial "shield" or the ability of the product to provide disinfection control that leaves the surfaces cleaner longer.

Therefore, any reference to implied residual efficacy of this product is false and misleading.

Important Reference Links:
40 CFR 156.10
https://www.law.cornell.edu/cfr/text/40/156.10
EPA Label Review Manual:
https://www.epa.gov/sites/production/files/2018-04/documents/lrm-complete-mar-2018.pdf
PR Notice 2003-1: Labeling of Pesticide Products under the National Organic Program:
https://www.epa.gov/pesticide-registration/prn-2003-1-labeling-pesticide-products-under-national-organic-program
EPA's List N and FAQ page:
https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2
EPA's Determining if a Cleaning Product is a Pesticide Under FIFRA page:
https://www.epa.gov/pesticide-registration/determining-if-cleaning-product-pesticide-under-fifra

SUMMARY OF VIOLATIONS

The summary of violations includes the review of the individual marketplace labels received with the case and the review of websites, marketing, and social media.

INDIVIDUAL MARKETPLACE LABEL REVIEWS & SPECIFIC WEBSITE PRODUCT LINK

90856-2-92366 MONOFOIL M (2018083863)

In order to include industrial, commercial and residential use sites on one product label, the layout, as provided in the master label must be maintained. Therefore, the formatting of the master label must be maintained for this product to ensure that the marketplace label does not provide any false claims.

As referenced previously, distributor products are required to use the same language and claims as the master label of the basic registrant. There are many examples where the marketplace label differs from the master label. This distributor product label requires revisions to be compliant with 40 CFR. Currently, as distributed, these products are non-compliant and misbranded.

Here are some examples of how this marketplace label differs from the master label:

1. MONOFOIL M TEACHNOLOGY
    a. Marketplace label: "MONOFOIL M Teachnology imparts durable biostatic activity"
    b. Master label: "(This product) imparts durable biostatic activity"
    c. Revision: Teachnology is not part of the master label, nor part of the product name, as indicated on PPLS. Teachnology is also misspelled (technology).
2. Provided Insert
    a. Marketplace label: "See Directions for Use for additional approved commercial, industrial, and residential uses on the attached brochure"
    b. The master label does not indicate that the product will use an insert or brochure.
    c. Revision: the marketplace labeling will need to be revised to have an attached booklet or the master label will need to be revised to include insert language/options. Language on the insert must match the master label. This is not acceptable for the distributor product to use, and the language on the insert was not reviewed as part of the label.
3. Safety/Precautionary language
    a. Marketplace label (located under DIRECTIONS FOR USE): "Wear safety glasses and ruber gloves when using this product. Dry treated areas and articles such as clothing before use. Remove children and pets from treated area until completely dry. Clean surfaces prior to application"
    b. Master label (located under PRECAUTIONARY STATEMENTS): "Wear protective eyewear. Wash thoroughly with soap and water after handling and before eating, drinking, using tobacco or using the toilet"
    c. Revision: statement must match the master label, and be located under Precautionary Statements, within the HAZARD TO HUMANS AND DOMESTIC ANIMALS section
4. Directions for Use Language Missing:
    a. Under each use type on the master label (DIRECTIONS FOR USE, APPROVED COMMERCIAL AND INDUSTRIAL APPLICATIONS and DIRECTIONS FOR USE FOR RESIDENTIAL APPLICATIONS) include the following statement: "The active ingredient in (this product) is effective against odor causing bacteria and fungi (mold and mildew), bacteria and fungi (mold and mildew) which cause staining and discoloration, and algae as a static agent." There are two other statements under DIRECTIONS for use that are also not on the marketplace label.
    b. Revision: These statements must be added, as required, to the marketplace label
5. Commercial and Industrial section
    a. Marketplace label: separated into two different sections
    b. Master label: header "Approved Commercial and Industrial Applications"
    c. Revision: headers must match the master label
6. Approved Commercial Uses (header on marketplace label)
    a. Marketplace label: "Incorporate MonoFoil M Antimicrobial directly into formulations used to make end-use products or dilute with water and then apply it to organic and inorganic surfaces to give 0.1 to 1.0 percent by weight of active ingredient."
    b. Master label does not include this language
    c. Revision: marketplace label must match the master label
7. Industrial Uses (header on marketplace label)
    a. Marketplace label: "This product is registered for formulation into Antimicrobial products or as a microbiostatic agent for material preservation. Antimicrobial

product formulations containing MonoFoil M require approval by the US EPA for antimicrobial claims made. Formulators are responsible for satisfying registrat on requirements for their formulated products. This product is registered for as a microbiostatic agent for material preservation; neither this product nor the articles treated with this product may state or imply any public health claims. Articles or substances treated with this product will be exempt from FIFRA regulation pursuant to 40 CFR 152.25(a) if the intended use for incorporating this material into a treated article or substance is for the protection of the article or substance itself."

   b. Master label does not include any of the above language. The master label does not have any "material preservation" language or for use in other antimicrobial products.

8. Storage and Disposal
   a. Section must be clearly set apart/distinguishable on the marketplace label. The marketplace label has the Storage and Disposal section separated on two different panels and is not set apart/distinguishable.
   b. Container handling header should be within the storage and disposal section, this header is a larger font and draws more attention than the Storage and Disposal header.
   c. Master label has specific directions for household/residential and industrial/commercial.
   d. Revision: marketplace label must also distinguish the differences since this product includes directions for use for both use types. Storage and Disposal should be all contained in one segment of the label. Specific language must be used for the household/residential and industrial/commercial directives.
9. Environmental Hazards section
   a. Marketplace label does not match master label
   b. Revision: revise statement language to match master label

There are also many spelling and grammatical mistakes on the marketplace label. Please proof and correct.

Monofoil M: https://monofoilstore.com/products/monofoil-m?pr_prod_strat=copurchase&pr_rec_pid=617189081120&pr_ref_pid=617180168224&pr_seq=uniform

1. "mild enough to use without gloves" is contradictory to the label safety requirements
2. Monofoil M and Monofoil D have different data sets submitted to EPA. Monofoil M is not approved for any public health claims. Therefore, stating that Monofoil M is "10 times the durable protection of MonoFoil•D", this is considered false and misleading.
3. Claims like "protective barrier to treat surfaces that will work for you in between cleanings" are false and misleading because it implies heightened residual efficacy, extended protection, or preventative properties that are not acceptable and include public health pests. Claims must be consistent with the non-public health claims as approved on the master labels.

90856-1-92366 MONOFOIL X (2018083862)

There are similar concerns with this label as listed above. Label revisions are required to ensure that the marketplace label matches the master label. If the distributor product does not match the language, format and headers provided by the master label, the product is misbranded.

Here are some examples of how this marketplace label differs from the master label. Note this list is not all encompassing:

1. Provided Insert
    a. Marketplace label: "See Directions for Use for additional approved commercial, industrial, and residential uses on the attached brochure"
    b. The master label does not indicate that the product will use an insert or brochure.
    c. Revision: the marketplace labeling will need to be revised to have an attached booklet or the master label will need to be revised to include insert language/options. Language on the insert must match the master label. This is not acceptable for the distributor product to use, and the language on the insert was not reviewed as part of the label.
2. Safety/Precautionary language
    a. Marketplace label (located under DIRECTIONS FOR USE): "Wear safety glasses and ruber gloves when using this product. Dry treated areas and articles such as clothing before use. Remove children and pets from treated area until completely dry. Clean surfaces prior to application"
    b. Master label (located under PRECAUTIONARY STATEMENTS): "Wear protective eyewear. Wash thoroughly with soap and water after handling and before eating, drinking, using tobacco or using the toilet"
    c. Master label (located under the header HOW TO USE, under Industrial Uses): Wear protective eyewear (goggles or face shield) and rubber gloves when using this product. Dry treated areas and articles such as clothing before use. Remove children and pets from treated area until completely dry. Clean surfaces prior to application"
    d. Revision: statement must match the master label, and be located under HOW TO USE, within the Industrial Use directions. Master label must be revised to provide consistent and proper protective wear.
3. Section Headers
    a. Marketplace label: headers are "Approved Commercial Uses", "Industrial Uses" and "Approved Residential Uses"
    b. Master label: headers are "Industrial Use Products", "Commercial Use Products" and "Consumer Use Products"
    c. Revision: headers must match the master label. If all three use sites are being represented on the same marketplace labels, the layout must be consistent with the master label and include the different use directions, as accepted on the master label.
4. Storage and Disposal
    a. Section must be clearly set apart/distinguishable on the marketplace label. The marketplace label has the Storage and Disposal section separated on two different panels and is not set apart/distinguishable.
    b. Container handling header should be within the storage and disposal section, this header is a larger font and draws more attention than the Storage and Disposal header.
    c. Master label has specific directions for household/residential and industrial/commercial.
    d. Revision: marketplace label must also distinguish the differences since this product includes directions for use for both use types. Storage and Disposal should be all contained in one segment of the label. Specific language must be included for the household/residential and industrial/commercial directives.

Monofoil X Concentrate: https://monofoilstore.com/products/monofoil-x-concentrate-laundry?pr_prod_strat=copurchase&pr_rec_pid=617223192608&pr_ref_pid=617189081120&pr_seq=uniform

1. Claims like "create antimicrobial laundry for up to 15 washes" implies residual efficacy, extended protection, or preventative properties are not acceptable. These claims were not acceptable on the master label because EPA has not received required data connected to these claims.
2. The master label does not include refillable language within the Storage and Disposal section for household products or small packages. Refillable container language is only included in the Pails, Drums and Intermediate Bulk Containers. Website claim "Use this to refill the MonoFoil MF-05 kit" cannot be confirmed if the kit includes appropriate product sizes.

90856-4-92366 MONOFOIL D (2018084036)

There are similar concerns with this label as listed above. Label revisions are required to ensure that the marketplace label matches the master label. If the distributor product does not match the language, format and headers provided by the master label, the product is misbranded.

The label that we received with this case is based off an old label version – which our office has already communicated concerns with MONOFOIL USA/APPLY GUARD and with EPA headquarters. Upon receiving and approving the new master label, EPA provided 18 months for MONOFOIL USA/APPLY GUARD to distribute and sell the old label. Note that the last day to sell or distribute this label is June 6, 2020.

Indiana, however, did not accept the previous label version. In the letter to Monofoil USA and Apply Guard (August 2018), OISC stated that the previous label version was misbranded and false/misleading. We specifically stated that this label version could not be sold or distributed in the state of Indiana.

> "Per our review of the label and communication with EPA, we have determined that this product, as labeled, cannot be registered for sale or distribution in the state of Indiana. Per EPA: *MonoFoil D (Reg. No. 90856-4) is approved for hard, non-porous surface hospital/healthcare disinfection claims based on the efficacy data reviewed by the Agency. However, certain claims such as "Healthcare grade disinfectant with an antimicrobial shield", and "Disinfection control formula leaves healthcare, household surfaces cleaner longer," imply residual efficacy for the product, which it does not have data to support."*

Therefore, any reference to "implied residual efficacy" of this product is false and misleading. The claim "Inhibits growth between cleanings" is not an accepted claim and is false and misleading.

Monofoil D: https://monofoilstore.com/products/monofoil-d-daily-disinfectant

3. Unqualified and exaggerated safety claims are not acceptable and are considered false or misleading. An example of an unqualified safety claim on the link provided above:
    a. "safe to use in nurseries, pet areas, kitchens, play rooms, and other areas throughout the home"
4. "mild enough to use without gloves" is contradictory to the label safety requirements
5. Claims like "protective barrier" or "active barrier technology" that implies residual efficacy, extended protection, or preventative properties are not acceptable. These claims were not acceptable on the master label because EPA has not received required data connected to these claims.

Monofoil M (non-EPA registered product)
A product cannot be named the same as another pesticide or non-registered product. If the same name is used between a pesticide and non-pesticide the name can be considered false and misleading. There are also concerns of imitation and generic claims being used between both the pesticide and non-pesticide interchangeably. Reference FIFRA 2(q)(1)(A) and (C).
The label indicates the following concerns that have potential to cross over:

1. Product has the same name as an EPA registered pesticide
2. Label identifies and Active Ingredient. Cleaners do not have active ingredients; this identification is specific to the active ingredients within a pesticide product. The active ingredient percentage is the same percentage as the active ingredient in the EPA Registered Monofoil M product.
3. Biostatic is defined as something that inhibits the growth or multiplication of an organism, especially a microorganism. Claims to clean, or remove a habitat, in which a germ, allergen or microorganism can grow are considered pesticidal.
4. Claims to prevent, protect or block a bacteria that causes an odor are considered pesticidal; therefore, the specific claims "instantly eliminate odors and provide a biostatic barrier to any surface" and "easily clean surfaces and leave behind a nano-barrier that protects surfaces" is pesticidal.

Based on this label review, it is determined that this product is an unregistered pesticide. This product is also misbranded because it does not include all the labeling requirements for a pesticide product and per IC 15-16-4-25, a pesticide product is misbranded if it is an imitation of another product.

ONLINE REVIEWS – WEBSITES, MARKETING, SOCIAL MEDIA

Statements and marketing made in reference to these products must also comply with the acceptable label language and cannot make false or misleading claims. MONOFOIL USA has three EPA registered products, only one product has the ability to make public health claims. Accepted public health claims do not include the use of the product on/for the use against SARS-CoV-2 because the product does not meet EPA's criteria for this use.

Website Review – 4/15/20 www.Monofoilusa.com

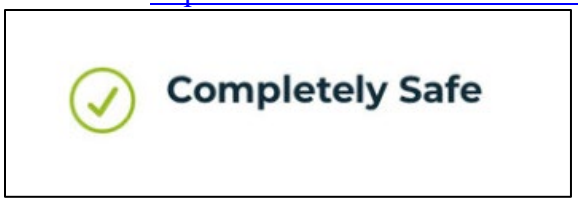
Example of false or misleading claims for point #1

> Safety claims without qualifying phrase "when used as directed" are considered misbranding under 40 CFR 156.10(a)(5).
>
> "Long-lasting" is an example of a false or misleading claim concerning the effectiveness of the products. More long lasting claims connected with point # 4

Screenshot from https://monofoilusa.com/

Eliminate The Poison And Perfume Method And Choose A Safer, More Effective Alternative:

Screenshot from https://monofoilusa.com/how-it-works



Screenshot from https://monofoilusa.com/how-it-works

Max is harmless to kids and pets. But he's mold and odor's worst enemy.

"Max" is the animated character to depict the Monofoil products
Screenshot from https://monofoilusa.com/how-it-works

Example of false or misleading claims for point #2

See use of "safe" from point #1

Claim to "improve your health and well-being" will offer health protection is considered misbranding

MonoFoil USA is committed to providing solutions to improve your health and well-being. We provide safe, effective and affordable antimicrobial and disinfectant technologies to manufacturers and consumers.

Screenshot from https://monofoilusa.com/who-we-are

We provide a broad spectrum of antimicrobial and disinfectant technologies and applications that support wellness and prevention.

Screenshot from https://monofoilusa.com/who-we-are

Example of false or misleading claims for point # 3

Organic claims are examples of misleading label claims as to safety.

MonoFoil USA is a research and development company specializing in organic/green antimicrobial technology. Relying on a global sales force, **MonoFoil USA** is committed to the

Screenshot from https://monofoilusa.com/who-we-are

Example of false or misleading claims for point # 4

Statements that imply indefinite or all encompassing protection against bacteria and microbes are false or misleading.

Claims that imply the product will control or mitigate any disease, infection or pathological conditions constitute public health claims and are not acceptable

Claims of extended or exaggerate efficacy of the product like: long lasting, barrier, extended surface protection time, shield, coating, bonds to surfaces, etc… are false and misleading.

Screenshot from https://monofoilusa.com/how-it-works

A Barrier is Formed

Protection That Lasts

The problem with microbes, mold, and odor is that they're so persistent. But MonoFoil's cutting edge products act as a shield that continue to eliminate any microbes, mold, and odor that try to settle on your surfaces.

Screenshot from https://monofoilusa.com/how-it-works

Our disinfectant solutions are food contact certified, effective against a broad range of bacteria, virus, fungi and algae. Our Antimicrobial coating technologies impart durable biostatic activity to the surface of a wide variety of substrates.

Screenshot from https://monofoilusa.com/who-we-are

THE GERM ELIMINATOR THAT GIVES YOU A SHIELD OF CONFIDENCE.

Screenshot from https://monofoilusa.com/monofoil-d

(mold and mildew). Simply apply MonoFoil•D to surfaces in your kitchen, bathrooms, and living areas, you provide a long-lasting durable barrier of protection for your home and family.

Screenshot from https://monofoilusa.com/monofoil-d

HOW LONG WILL IT PROTECT A SURFACE?

Studies show; 24 hours

Screenshot from https://monofoilusa.com/monofoil-d

MONOFOIL•D KILLS 99.9% OF BACTERIA* FOUND IN COMMONLY TOUCHED SURFACES IN YOUR HOME, PUBLIC PLACES AND IN THE HOSPITAL. MONOFOIL•D PROVIDES A SHIELD OF PROTECTION AND HELPS SURFACES STAY CLEANER LONGER

Screenshot from https://monofoilusa.com/monofoil-d

Example of false or misleading claims for point # 5

Non-numerical and/or comparative statements on the safety of the product. Stating that other products are "toxic cleaners" implies that Monofoil products are "non-toxic". This is also a false or misleading comparison to other pesticides.

Reducing "chemical usage" is false or misleading because this product is made up of chemicals.

Image also includes claims violations explained in other points.

Screenshot from https://monofoilusa.com/monofoil-d

Example of false or misleading claims for point #6

Statements concerning the effectiveness of the product as a pesticide are false and misleading when they are inconsistent with the claims accepted by EPA on the master labels.

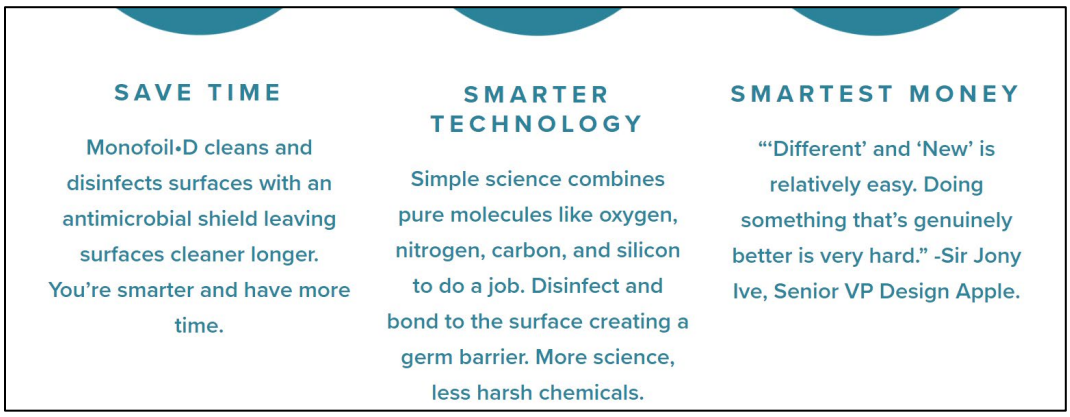
The products do not have claims of immediate, elimination, or annihilation

Screenshot from https://monofoilusa.com/how-it-works

Example of false or misleading claims for point # 7

A statement concerning the composition of the product that is not true is considered false and misleading. The Monofoil products are quat antimicrobial products, these products do not list oxygen, nitrogen, carbon or silicon as the active ingredients. The statement below implies that those ingredients have active properties.

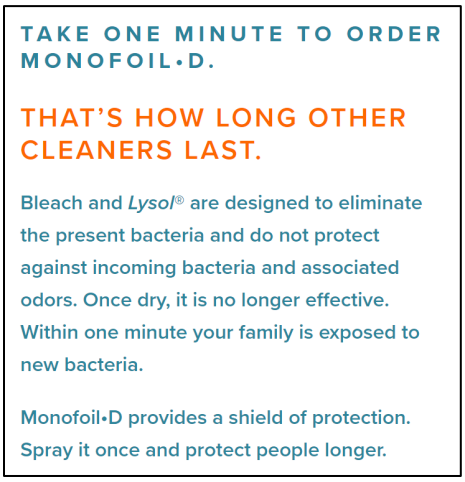
Additional claims below connect with other examples in points listed above.



Screenshot from https://monofoilusa.com/monofoil-d

Example of false or misleading claims for point # 8

A false or misleading claim comparing Monofoil products effectiveness as superior to other pesticide products.

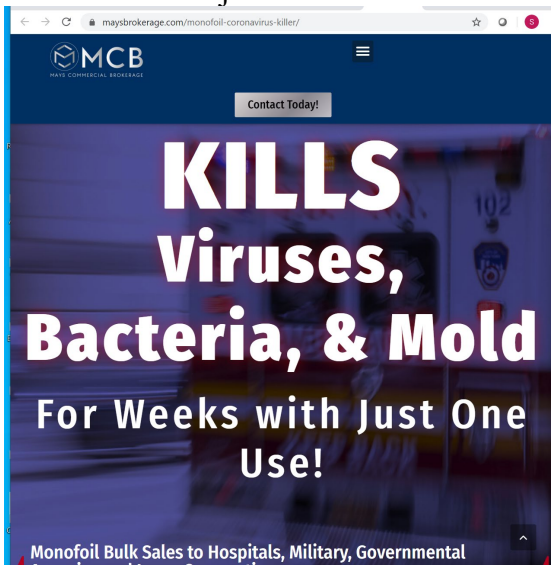


Screenshot from https://monofoilusa.com/monofoil-d

Website for Mays Commercial Brokerage sells bulk Monofoil products to hospitals, military, governmental agencies. https://www.maysbrokerage.com/monofoil-coronavirus-killer/

False and misleading claim #1

Extended efficacy - "for weeks with just one use"



False and misleading claim #2

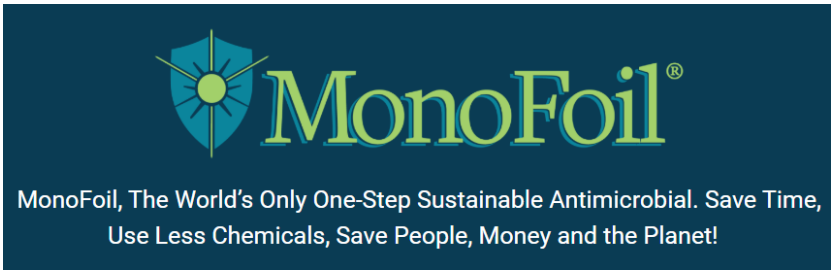
By including "only EPA approved disinfectant" implies that this pesticide is endorsed or recommended by the EPA. This is a false or misleading statement.

The claims "instant" and "30 day killing power protection" are also false and misleading statements about the effectiveness of the product.

> **The only EPA approved disinfectant that offers instant and 30 day killing power protection.**

False and misleading claim #3

The image below includes a false and misleading statement about the safety of the product with the use of "sustainable" and "use less chemicals"



False and misleading claim #4

The statement "current disinfectant products provide no barrier or long term protection…" is an example of a true statement used in such a way to give a false or misleading impression to the purchaser and a misleading comparison to other pesticides.

"Monofoil is the only product that has durability on the surfaces" is a false statement about the effectiveness of the products as a pesticide.

"easily and safely apply a durable barrier that inhibits and eliminates bacteria, virus, mold on surfaces for extended periods of time" is a false statement about the safety of this product and the effectiveness of the product.

> **MonoFoil Technology is the Answer!**
>
> Utilizing MonoFoil within all your public areas from transportation, office buildings to airlines is an absolute MUST.
>
> Current disinfectant products provide NO barrier or long term protection. They are short lived for 3-5 minutes or until the surface it touched again.
>
> MonoFoil is the ONLY product that has durability on the surfaces, which drastically reduces cross contamination and stays active on the surface for extended periods of time *(active on the surface for days, weeks or years).*
>
> Being able to easily and safely apply a durable barrier that inhibits and eliminates bacteria, virus, mold on surfaces for extended periods of time is what is needed to drastically reduce, or virtually eliminate cross-contamination on **ALL** surfaces hard and soft.
>
> Monofoil has been providing services in the height of the coronavirus epidemic and has helped in preventing further casualties.

False and misleading claim #5

Unqualified safety claims such as "safe for pets and children" and "non-toxic" are misleading.

False and misleading claim #6

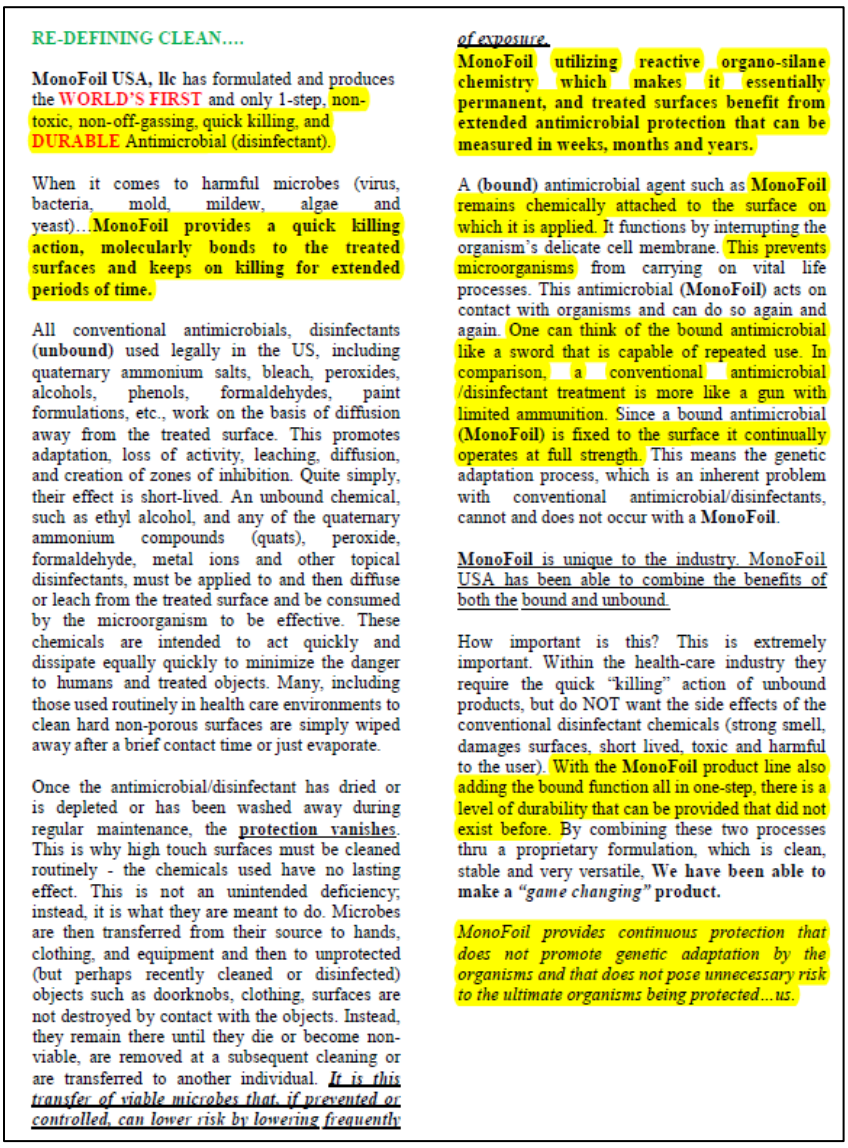
No Monofoil products can make any claims connected to use against SARS-CoV-19 because these products do not meet EPA's criteria. EPA has not received the appropriate data to support these claims.

Statements that imply that the product will prevent or "contain the spread of Coronavirus, bacteria, mold and improve the sanitation in all area of human contact" is false.

Provided on Mays Brokerage website are a collection of informational marketing documents. The next page is the PDF titled "Redefining Clean" with the misbranded, false and misleading, statements highlighted. The following are the types of false and misleading statements:

- Safety claims of the pesticide, or its ingredients, including statements such as trusted, safe, nonpoisonous, no injurious, harmless or nontoxic to humans and pets with or without such a qualifying phrase as when used as directed.
- A false or misleading statement concerning the effectiveness of the product as a pesticide
- A false or misleading comparison with other pesticides or devices

https://www.maysbrokerage.com/wp-content/uploads/2020/03/Redefining_Clean_Overview.pdf
downloaded 4/17/20



RE-DEFINING CLEAN....

MonoFoil USA, llc has formulated and produces the WORLD'S FIRST and only 1-step, non-toxic, non-off-gassing, quick killing, and DURABLE Antimicrobial (disinfectant).

When it comes to harmful microbes (virus, bacteria, mold, mildew, algae and yeast)…**MonoFoil provides a quick killing action, molecularly bonds to the treated surfaces and keeps on killing for extended periods of time.**

All conventional antimicrobials, disinfectants **(unbound)** used legally in the US, including quaternary ammonium salts, bleach, peroxides, alcohols, phenols, formaldehydes, paint formulations, etc., work on the basis of diffusion away from the treated surface. This promotes adaptation, loss of activity, leaching, diffusion, and creation of zones of inhibition. Quite simply, their effect is short-lived. An unbound chemical, such as ethyl alcohol, and any of the quaternary ammonium compounds (quats), peroxide, formaldehyde, metal ions and other topical disinfectants, must be applied to and then diffuse or leach from the treated surface and be consumed by the microorganism to be effective. These chemicals are intended to act quickly and dissipate equally quickly to minimize the danger to humans and treated objects. Many, including those used routinely in health care environments to clean hard non-porous surfaces are simply wiped away after a brief contact time or just evaporate.

Once the antimicrobial/disinfectant has dried or is depleted or has been washed away during regular maintenance, the **protection vanishes**. This is why high touch surfaces must be cleaned routinely - the chemicals used have no lasting effect. This is not an unintended deficiency; instead, it is what they are meant to do. Microbes are then transferred from their source to hands, clothing, and equipment and then to unprotected (but perhaps recently cleaned or disinfected) objects such as doorknobs, clothing, surfaces are not destroyed by contact with the objects. Instead, they remain there until they die or become non-viable, are removed at a subsequent cleaning or are transferred to another individual. ***It is this transfer of viable microbes that, if prevented or controlled, can lower risk by lowering frequently of exposure.***

MonoFoil utilizing reactive organo-silane chemistry which makes it essentially permanent, and treated surfaces benefit from extended antimicrobial protection that can be measured in weeks, months and years.

A **(bound)** antimicrobial agent such as **MonoFoil** remains chemically attached to the surface on which it is applied. It functions by interrupting the organism's delicate cell membrane. This prevents microorganisms from carrying on vital life processes. This antimicrobial **(MonoFoil)** acts on contact with organisms and can do so again and again. One can think of the bound antimicrobial like a sword that is capable of repeated use. In comparison, a conventional antimicrobial /disinfectant treatment is more like a gun with limited ammunition. Since a bound antimicrobial **(MonoFoil)** is fixed to the surface it continually operates at full strength. This means the genetic adaptation process, which is an inherent problem with conventional antimicrobial/disinfectants, cannot and does not occur with a **MonoFoil**.

MonoFoil is unique to the industry. MonoFoil USA has been able to combine the benefits of both the bound and unbound.

How important is this? This is extremely important. Within the health-care industry they require the quick "killing" action of unbound products, but do NOT want the side effects of the conventional disinfectant chemicals (strong smell, damages surfaces, short lived, toxic and harmful to the user). With the **MonoFoil** product line also adding the bound function all in one-step, there is a level of durability that can be provided that did not exist before. By combining these two processes thru a proprietary formulation, which is clean, stable and very versatile, **We have been able to make a *"game changing"* product.**

MonoFoil provides continuous protection that does not promote genetic adaptation by the organisms and that does not pose unnecessary risk to the ultimate organisms being protected…us.

Monofoil was featured on Fox 59 on March 13, 2020, for the segment "Latest on Coronavirus: Disinfectant Demonstration". The President for Monofoil USA, Nate Richardson, is interviewed.
https://www.youtube.com/watch?v=IGIbwSrSiOs

One of the products featured is NOT an EPA registered disinfectant. Presenting this product within this context gives people a false understanding to the effective nature of the cleaning product. See above review of this product. At no time does Mr. Richardson specify which Monofoil product is able to make public health claims.

Here are the times that Mr. Richardson provides false and misleading statements:

At 1:30 - that Monofoil is an active barrier
At 1:45 - the product is physically bonding and becoming part of the surface
At 1:56 - the product inhibits and pushes out all microbes.
At 2:10 - confirms that this is not a chemical
At 2:20 - the product will remove/kill any new germ
At 2:30 - calls Clorox wipes a poison and discusses the inability of Clorox/Lysol – because it is a chemical
At 2:40 – Mr. Richardson is asked how long the products will continue to kill Staph or MRSA,
Mr. Richardson states that no one can claim to kill Coronavirus
But because Monofoil is indiscriminative, it kills them all (virus and bacteria)
At 3:15 - the product can kill for 30 days, 90 days, 120 days… dependent to the surface it is applied to

Facebook

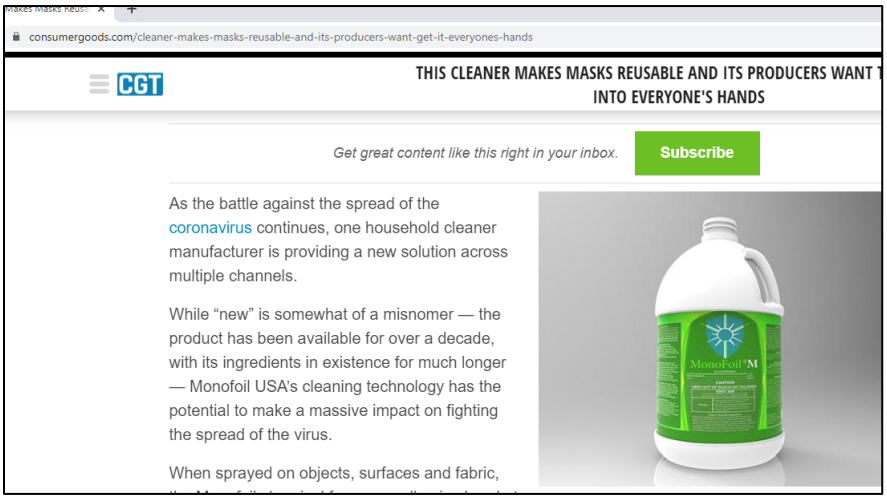
Monofoil USA LLC are also expressing false and misleading claims on their facebook page: https://www.facebook.com/monfoil/

Monofoil USA has a specifically long post from March 26 "COVID-19: the truth will set you free…." At the end of a long list of things to or not to do, the company states **"* And, "yes"... MonoFoil's product physically destroys microbes on a continual basis."**
This statement is false and misleading about the effectiveness of the product.
Reading through the comments, a person asked "Why is your product not on the EPA N List" Company replied with" We chose not to be on that list. Every company on that list is now out of product. We allocate our product based on DOD requirements of "Essential" and "Non Essential" businesses." This statement is false and misleading, Monofoil products do not qualify for List N and do not meet EPA's criteria.

Consumer Goods Interview and Article:

The website ConsumerGoods.com presented an article about Monofoil USA in connection with Covid-19 on April 6, 2020 by Lisa Johnston. There are many statements within the article that are false and misleading.
https://consumergoods.com/cleaner-makes-masks-reusable-and-its-producers-want-get-it-everyones-hands

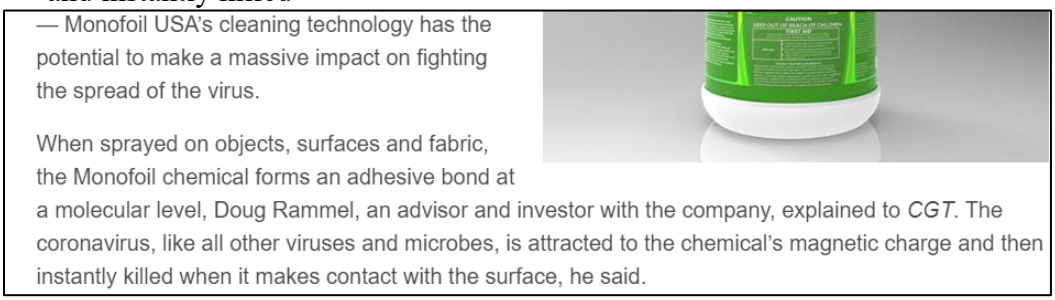
1. The product image shared on the site is for Monofoil M. This product is not approved for any public health claims. By showing this product, and not clarifying which product has the ability to make public health claims, Monofoil USA is misrepresenting the effectiveness of their products and providing a true statement (Monofoil D is approved for public health claims) by generically claiming Monofoil can provide public health claims.



2. The following examples would be considered false or misleading:

   Implying or suggesting that the product can or will prevent or control disease, like "fighting the spread of the virus"

   Statements that imply a greater range of effectiveness than labeled, like implying that all viruses and microbes, including coronavirus, are attracted to this product and instantly killed



3. Additional false or misleading statements:

The product can not imply to prevent or protect people from a virus or infection. Nor can the product state that the product can inhibit the growth of bacteria without being qualified.

> Prior to the coronavirus health crisis, Monofoil was primarily used by hospitals, hotels and municipalities to inhibit bacteria, mold and fungus growth in large environments. It's been used by the Los Angeles Metro to kill bacteria and eliminate foul odors in its transportation system, while the Indiana Pacers NBA team uses Monofoil in their locker rooms to protect players and personnel from viruses and infection.

4. None of Monofoil USA's products can be used in connection to the mitigation of SARS-CoV-2. Their products do not meet EPA's criteria for List N and therefore, EPA has not received or reviewed the appropriate data to support these claims.

   Because Monofoil USA's products do not meet EPA's criteria to make any claims and/or be used against SARS-CoV-2, the use of the products on masks to make the masks reusable is non-compliant with the master label language.

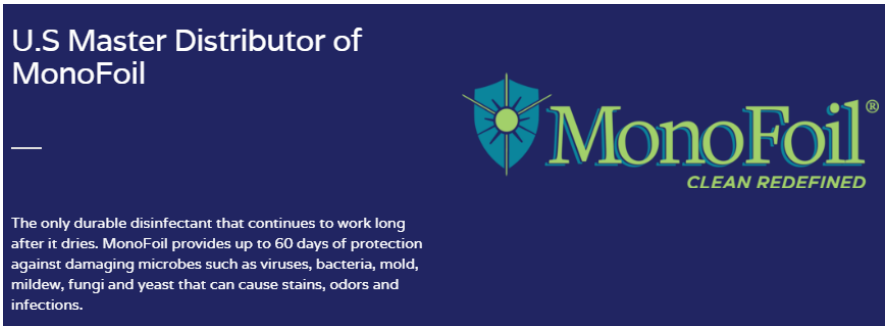
   There are safety concerns related to using these masks multiple times and seeing different patients without retreating the masks. There is not the appropriate data within the registration of this product to support extended efficacy and killing/or protecting people from the transfer of a virus.

   The statement that masks can be "used to see multiple patients consecutively, as the virus cannot survive on the treated material and can't be transferred to anyone else" is an unsupported safety claim and provides a false sense of security.

   There is no proof, as provided to EPA with the registration of these products, to support claims that the products can treat a mask and maintain effectiveness for up to 10 washes.

> Now it's gaining wider attention because of its ability to be sprayed on a medical masks, making them safer and reusable when treating patients with COVID-19.
>
> *Monofoil-treated cloth masks can be washed up to 10 times without losing the formula's effectiveness.*
>
> Most current paper-filtered masks are designed as single-use to prevent cross-contamination between patients and caregivers. These same masks, treated with Monofoil, can be used to see multiple patients consecutively, as the virus cannot survive on the treated material and can't be transferred to anyone else, Rammel said.
>
> He noted that the cloth masks and other personal protective equipment (PPE) currently being produced and donated by Hanesbrands and others are not as dense or safe in their filtering ability as the designed paper masks. But the cloth masks can be made more effective and safer when treated with Monofoil, he said, and can be washed up to 10 times without losing the formula's effectiveness.

Additional Website of Concern: www.soliro.com
The Soliro site states that they are a distributor of MONOFOIL USA LLC products. The site includes the same false or misleading claims. The site also states many public health concerns as identified above.



Sarah K. Caffery
Pesticide Product Registration Specialist

Date: April 17, 2020

Disposition:

A. MonoFoil USA, LLC was cited for one count of 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.

B. MonoFoil USA, LLC was cited for three (3) counts of violation of section 57(2) of the Indiana Pesticide Registration Law for distributing a pesticide product that makes claims different than those made in connection with its registration. A civil penalty in the amount of $300.00 (3 counts x $100.00 per count) was assessed for this violation.

C. MonoFoil USA, LLC was cited for four (4) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that are adulterated or misbranded. A civil penalty in the amount of $1,000.00 (4 counts x $250.00 per count) was assessed for this violation.

D. MonoFoil USA, LLC was cited for four (4) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that violates the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 et seq). A civil penalty in the amount of $1,000.00 (4 counts x $250.00 per count) was assessed for this violation.

E. This case was also forwarded to U.S. E.P.A. region V and U.S. E.P.A. Criminal Investigation division.

George N. Saxton
Compliance Officer

Draft Date: April 28, 2020
Case Closed: November 25, 2020

CASE SUMMARY

Case #PS19-0600

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Westland Industries
222 S. Vermillion Road
Brownsville, TX 78521

Distributor: Great Lakes Boat Top
15 Quality Circle
Vonore, TN 37885

EPA Establishment: Coeus Technology, Inc.
5540 W. 53rd St. Parkway
Anderson, IN 46013

Apply Guard LLC.
2635 S. F Street
Elwood, IN 46306

1. On August 26, 2019, I conducted a virtual marketplace inspection of Westlandcovers.com. This inspection was to collect screenshots of and to conduct a marketplace label review of MonoFoil Marine, which was being sold on Westlandcovers.com.

2. During the course of the virtual marketplace inspection, screenshots were taken of each page of the westlandcovers.com website that advertised MonoFoil Marine. MonoFoil Marine was able to be purchased from westlandcovers.com

3. On September 3, 2019, the MonoFoil Marine product was received via FedEx. The package was shipped from Westland Industries in Brownsville, Texas. The label on the MonoFoil Marine product stated that it was distributed by Great Lakes Boat Top of Vonore, Tennessee. Also, on the MonoFoil Marine label was EPA Est. No. 087250-IN-002. That EPA Establishment Number is assigned to Coeus Technology, Inc. It was also located that "MonoFoil Marine" is listed on EPA's PPLS database as an alternate brand name for EPA Reg. # 90856-2.

4. MonoFoil Marine was not registered in the State of Indiana in 2019.

5. On September 6, 2019, the MonoFoil Marine product was photographed and placed in a clear evidence bag, then transported to the OISC Formulation Lab.

Fig. 1) Fig. 2)

- Fig. 1) Package from Westland Industries as it arrived from FedEx.
- Fig. 2) Photo of MonoFoil Marine.

6. On February 24, 2020, I received analysis results from the OISC Formulation Lab. The results are as follows:

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	**115243**	**Case #**	**PS19-0585**	**Investigator**	**G. Creason**
Sample #	Product Description				Sample Size
19-3-0075 7	**MonoFoil Marine**				1 x 32 oz

ACTIVE INGREDIENT	**% GUARANTEE**	**% FOUND**
3-(Trihydroxysilyl)propyl dimethyl octadecyl ammonium chloride	**1.3**	**N/A**
Tested as Quaternary Nitrogen Equivalent	**0.0401**	**N/A**
Tested as Chloride Equivalent	**0.1015**	**0.122**

Remarks: passed for label claim according to AAPCO adopted Horwitz limits

Signature		**Date**	02/24/2020

7. All supporting documents and photos will be electronically attached to this case via the OISC Case Management system.

8. Copies of the Action Orders, identifying MonoFoil Marine as the product in violation, are attached to this case summary for each respondent identified in this case. The Action Orders are being mailed with this case summary.

Garret A. Creason
gcreaso@purdue.edu
Investigator

Date: April 30, 2020

On April 28, 2020, I completed the labeling review the product sampled and the website claims.

Per the label, the registrant is under the impression that this product qualifies as a treated article under 40 CFR 152.25(a). The product does not qualify – per PR Notice 20001: "The exemption covers qualifying treated articles and substances bearing claims to protect the article or substance itself". The substance is bearing claims to protect other surfaces, not the substance itself and therefore does not meet the exemption.

Ingredients and some of the language on the label are consistent with Apply Guard LLC's MonoFoil M1 (EPA Reg. #90856-2). The master label for this product on EPA's PPLS includes the alternate brand name MonoFoil Marine. Based on this information, the sampled product is an unregistered distributor pesticide product.

Transfer of Product Registrations
Upon receipt and approval by EPA of the documents described in 40 CFR 152.135(b), the registration is transferred to the new registrant. At that point, the new registrant is responsible for all actions concerning that registration and is liable as the registrant under FIFRA and the regulations. The new registrant is then permitted to distribute and sell the registered pesticide without having to apply for a new registration.

On April 26, 2017, Coeus Technology, Inc. transferred the registration of MonoFoil M1 to Apply Guard LLC.

Details for EPA Registrations 90856-2
This product has claims connected with pests that are not of public health concerns. This product, as accepted on the EPA master label, can make residual claims on non-public health organisms. All barrier and/or inhibiting growth claims must be qualified with specific types including

1. Odor causing bacteria
2. Deterioration caused by bacteria
3. Growth of fungi
4. Mold, mildew, odor
5. Bacteria that causes staining and discoloration

Since this product cannot make any health-related claims, no barrier or residual effects claims can be associated with viruses or bacteria that are a public health concern. For this product, the effectiveness against any bacteria is specific to bacteria that causes staining, odor or discoloration.

The product is misbranded per FIFRA Section 2(q)(1)(A) and IC 15-16-4-25, because 1) the product includes false or misleading claims, 2) the label is missing the Keep Out of Reach of

Children Statement and the signal word which are public safety concern and required by FIFRA, and 3) the label is missing the EPA Registration Number.

The product sampled is considered a federally misbranded and unregistered pesticide product because the distributor product does not have an appropriately identified EPA Registration Number through the signed agreement between the basic registrant and the distributor company via the 8570-5 form with EPA.

Distributor (or sub-registrant) Pesticide Products:
Products that do not comply with 40 CFR 152.132 are violative. The basic registrant is responsible for the contents of both the distributor product and the distributor label. According to 40 CFR 152.132 and EPA's Label Review Manual, "The distributor is considered an agent of the registrant for all purposes under FIFRA and both the distributor and the registrant can be held liable for violations pertaining to the distributor product" (LRM, Chapter 4.II.A, page 4-2).

Cleaning Products
As provided on EPA's Determining If a Cleaning Product Is a Pesticide Under FIFRA site:

> FIFRA defines a "pesticide" as "any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest." FIFRA § 2(u), 7 U.S.C. § 136(u). A product is considered to be intended for a pesticidal purpose if, among other things, the person who distributes or sells it claims, states, or implies that the product prevents, destroys, repels or mitigates a pest.
>
> Therefore, once a product label (or other statement made in connection with the sale or distribution of the product) includes any claim of pest mitigation, under 40 CFR § 152.15, the product is one that is intended for a pesticidal purpose and becomes subject to the registration provisions of FIFRA. When a claim or implication is made in connection with the sale or distribution of a cleaning product that its use will mitigate a pest, either by itself or in combination with any other substance, the product would be considered to be intended for a pesticidal purpose and would therefore be required to be registered.

Identified Pesticide Claims through the OISC Review Process
The identified pesticidal claims below may also be false and misleading if they do not mirror the claims on the EPA master label for EPA Reg. No. 90856-2. Per this review, OISC did not do a word for word review of the master label connected with 90856-2 and the product sampled. The review below is to 1) indicate which claims are pesticidal and therefore requiring the registration of the product with EPA and Indiana, and 2) which claims are considered false or misleading per FIFRA and EPA guidance.

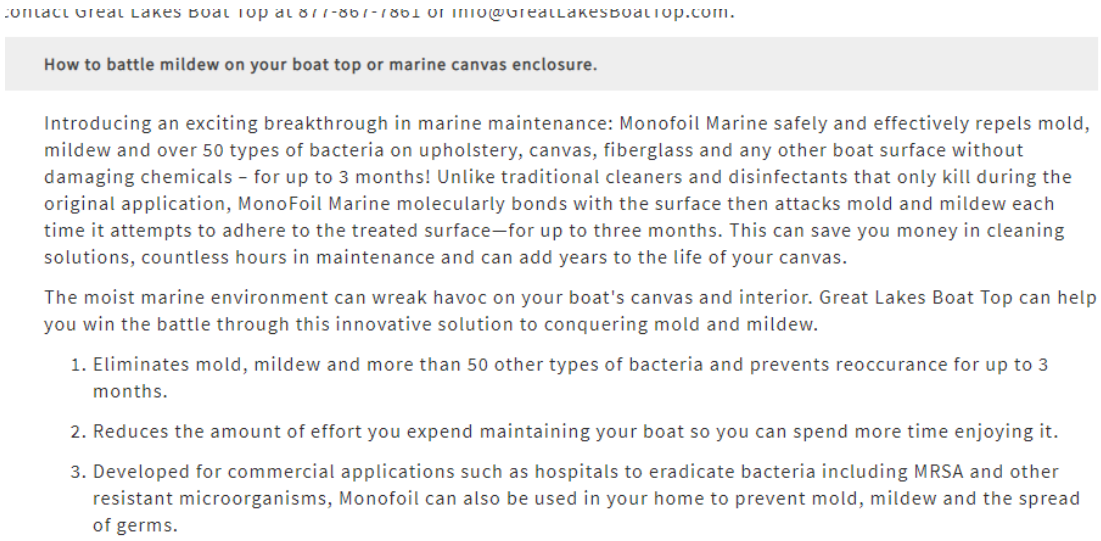
Pesticide Claims as identified on the product label:

- "imparts durable biostatic activity to the surface of a wide variety of substrates…"
- "Increase of efficiency – through proper application, durable bacteriostatic, fungistatic and algistatic surfaces can be attained with a minimum amount of MonoFoil Marine"
- "Provides freshness and combats deterioration and discoloration caused by odor causing bacteria, fungi and algae"
- Ingredient statement laid out with active and inert ingredients. Active ingredients indicate that there is an active pesticidal function of those ingredients.
- "The MonoFoil Marine Antimicrobial formulation comes ready to use"
- Lists cutting boards as a use site – a cutting board is a food contact surface/use site

- Label includes an EPA Establishment number (087250-IN-002, Coeus Technology). EPA Est. Number is for the production of pesticide products. An EPA Est. Number cannot be on an exempt product

The following two websites were reviewed for the pesticidal claims connected to MonoFoil Marine.

1. **Great Lakes Boat Top**
   https://greatlakesboattop.com/canvas-care
   Website titled: General Marine Canvas Care and Maintenance



Contact Great Lakes Boat Top at 877-867-7861 or info@GreatLakesBoatTop.com.

How to battle mildew on your boat top or marine canvas enclosure.

Introducing an exciting breakthrough in marine maintenance: Monofoil Marine safely and effectively repels mold, mildew and over 50 types of bacteria on upholstery, canvas, fiberglass and any other boat surface without damaging chemicals – for up to 3 months! Unlike traditional cleaners and disinfectants that only kill during the original application, MonoFoil Marine molecularly bonds with the surface then attacks mold and mildew each time it attempts to adhere to the treated surface—for up to three months. This can save you money in cleaning solutions, countless hours in maintenance and can add years to the life of your canvas.

The moist marine environment can wreak havoc on your boat's canvas and interior. Great Lakes Boat Top can help you win the battle through this innovative solution to conquering mold and mildew.

1. Eliminates mold, mildew and more than 50 other types of bacteria and prevents reoccurance for up to 3 months.
2. Reduces the amount of effort you expend maintaining your boat so you can spend more time enjoying it.
3. Developed for commercial applications such as hospitals to eradicate bacteria including MRSA and other resistant microorganisms, Monofoil can also be used in your home to prevent mold, mildew and the spread of germs.

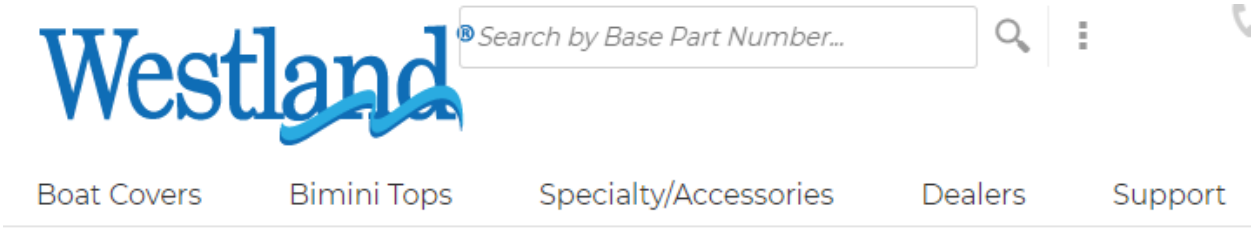
   Pesticide Claims include:

   - "Repel mold, mildew and over 50 types of bacteria… for up to 3months"
   - "Eliminates mold, mildew and more than 50 other types of bacteria and prevents reoccurrence for up to 3 months"
   - "eradicate bacteria including MRSA and other resistant microorganisms"

   False or Misleading Claims include:

   - "molecularly bonds with the surface then attacks mold and mildew"
   - "MonoFoil can be used in your home to prevent mold, mildew and the spread of germs"

2. **Westland Covers**
   https://westlandcovers.com/blog/MonoFoil-antimicrobial-spray-experiment/
   Blog page titled: MonoFoil Antimicrobial Spray 101



Monofoil Antimicrobial Spray 101

Monofoil™ antimicrobial spray is the only mechanically bound, non-leaching additive that provides unmatched safety and performance. MonoFoil™ antimicrobial spray has a new approach to eliminating microbial cells. MonoFoil™ physically punctures the cell membrane with its molecular "sword", and then the microbe is drawn down on the "Sword", and electrocuted by the central atom.

Since it does not "poison" the offending microbe to kill it, this invisible "bed of nails" of non-leeching protection DOES NOT lose effectiveness like ALL other competing products. MonoFoil™ antimicrobial spray is engineered to provide your treated surfaces protection for 30 days or longer. Current disinfectants, cleaners and antimicrobial products utilize toxic chemicals to penetrate the microbe cells, thus poisoning the organism causing genetic changes in the bacteria that lead to "super bugs." These products rid the surface of the germs, but they can re-grow in less than 30 seconds providing minimal protection. MonoFoil™ also removes organic odors, and eliminates and protects from virus, mold, mildew and other fungus.

Monofoil™ Antimicrobial spray creates a Non-Toxic, Non-Leaching, Non-Staining, GREEN, invisible Antimicrobial barrier. Once dried on the surface MonoFoil™ will not wash off even after being cleaned by another disinfectant. It can be applied by sponge, spray, mop, fog or dip.

This commercial level grade product is currently utilized in Hospitals, Universities, Medical laboratories, Janitorial Services, and the United States Military. This versatility makes MonoFoil™ perfect for multi-purpuse use on your boat's interior and exterior. Monofoil&trade Antimicrobial Spray is a natural molecule that is embedded in or coated on products. MonoFoil™ specifically creates a mechanical barrier, which prohibits the growth of a broad range of microorganisms. As a result, MonoFoil™ enables virtually every surface (treated article) to prevent the growth and over proliferation of many offending microbes long term. MonoFoil™ Technology will eliminate pathogenic bacteria such as MRSA, STAPH, E. Coli and black Mold. It will also form a permanent barrier to inhibit the growth of pathogenic bacteria and other microbes such as fungi, algae, yeast and viruses.

Pesticide Claims include:

- "Antimicrobial Spray"
- "MonoFoil antimicrobial spray has a new approach to eliminating microbial cells."
- "MonoFoil™ also removes organic odors, and eliminates and protects from virus, mold, mildew and other fungus."
- "These products rid the surface of the germs"
- "MonoFoil Technology will eliminate pathogenic bacteria such as MRSA, STAPH, E. Coli and black Mold."

False or Misleading Claims include:

- "MonoFoil physically punctures the cell membrane with its molecular 'sword', and then the microbe is drawn to the 'sword', and electrocuted by the central atom"

- "invisible 'bed of nails' of non-leeching protection DOES NOT lose effectiveness like ALL other competing products"
- "MonoFoil Antimicrobial spray creates a Non-Toxic, Non-Leaching, Non-Staining, GREEN, invisible Antimicrobial barrier"
- "MonoFoil will not wash off even after being cleaned by another disinfectant."
- "MonoFoil Antimicrobial Spray is a natural molecule that is embedded in or coated on products."
- "MonoFoil specifically creates a mechanical barrier, which prohibits the growth of a broad range of microorganisms."
- "As a result, MonoFoil™ enables virtually every surface (treated article) to prevent the growth and over proliferation of many offending microbes long term"
- "It will also form a permanent barrier to inhibit the growth of pathogenic bacteria and other microbes such as fungi, algae, yeast and viruses."

Important Reference Links:
40 CFR 156.10
https://www.law.cornell.edu/cfr/text/40/156.10
EPA Label Review Manual:
https://www.epa.gov/sites/production/files/2018-04/documents/lrm-complete-mar-2018.pdf
EPA's Determining if a Cleaning Product is a Pesticide Under FIFRA page:
https://www.epa.gov/pesticide-registration/determining-if-cleaning-product-pesticide-under-fifra

Proposed Compliance Assistance Plan

On April 29, 2020, OISC developed the proposed compliance assistance plan for MonoFoil Marine. In order to continue any sales, distribution, or use, in the State of Indiana, the following steps will need to be completed.

1. **Federal & State Registration**
   Product must be registered with EPA and Indiana
   - As a distributor product, Great Lakes Boat Tops will need to acquire an EPA Company number
   - Apply Guard LLC and Great Lakes Boat Tops will need to submit the distributor agreement, form 8570-5, to EPA.
   - State registration application can be found on our website: https://www.oisc.purdue.edu/pesticide/pesticide_products.html

2. **Marketplace Label**
   Provide OISC the revised marketplace labels
   - Supply the printer's proof version for all labels that will be distributed
   - This must include any brochures or booklets not attached to the bottle
   - Include SDS and any product spec/marketing documents for each product
   - OISC will review all labels and statements against the EPA accepted labels and EPA Label Review Manual and Q&A page. We recommend that you do the same prior to submitting labels to our office.

3. **Labeling Claims – Websites, social media, etc…**
   Labeling must be updated, websites, etc…
   - All false and misleading claims must be removed
   - Provide OISC with website links

- OISC will review all claims and statements against the EPA accepted labels
- Please note that there may be additional false or misleading claims not identified in the draft case. Refer to the links provided in the case to assess if a claim is false or misleading

4. **List of Distributions/Sales**
   Provide OISC with a copy of the most recent production record, distribution record, or inbound receiving record as applicable.
   - Records should include business name, contact information, quantity ordered, produced, or distributed.

Once the compliance steps are completed, compile all the requirements for each section and email all documents to Garret Creason and Sarah Caffery. OISC will review the documents and assess if the changes are sufficient. The pesticide product application and payment for registration are the only portions of the compliance assistance that will need to be mailed directly to OISC.

In accordance with IC 15-16-4-64(c)(2), the products cannot be registered for sale and distribution in the state of Indiana until all connected outstanding judgements, resulting in a violation of Indiana Code, have been satisfied and are finalized under section 64.5.

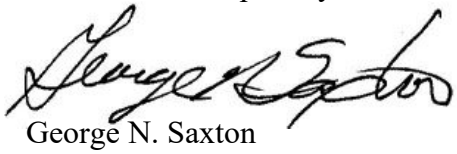
Sarah K. Caffery
scaffery@purdue.edu
Pesticide Product Registration Specialist

Date: April 29, 2020

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

Apply Guard LLC. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated or mis-branded. A civil penalty in the amount of $250.00 was assessed for this violation.

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



George N. Saxton
Compliance Officer

Draft Date: May 5, 2020
Case Closed: November 25, 2020

Office of
Indiana State Chemist and Seed Commissioner
Purdue University
175 S. University Street
West Lafayette, Indiana 47907-2063
800-893-6637
www.oisc.purdue.edu

ACTION ORDER

Subject to I.C. 15-16-4-77 and I.C. 15-16-5-70, any person who knowingly violates the terms or provisions of this ORDER commits a Class C misdemeanor, punishable by a fine of up to $500.00 and sixty (60) days in jail. In accordance with I.C. 15-16-4-64.5 and I.C. 15-16-5-67, a person aggrieved by this ORDER may obtain a review by the Indiana Pesticide Review Board, if the person files a written petition with the Board not later than thirty (30) days after issuance of this ORDER at scottde@purdue.edu.

Issued to: Westland Industries

Address: 222 S Vermillion Rd. Brownsville, TX 78521

E-Mail: _____ Phone (____) _____

☑ Subject to I.C. 15-16-4-73, you are hereby ordered to remove the below listed non-compliant products from sale and hold them at your location until released in writing by the state chemist.

Quantity	Product Brand Name	EPA Registration #	Registrant
—	Monofoil Marine		

☐ Subject to I.C. 15-16-5-65(6), you are hereby ordered to:

_____

_____

_____

Details regarding the non-compliant issue(s) referenced above and any additional guidance on what steps to take to bring the issue(s) into compliance can be found on the reverse side of this ORDER, at www.oisc.purdue.edu/pesticide/order, by contacting saxtong@purdue.edu, or by calling (800) 893-6637 Mon-Fri, 8:00-5:00.

Garret Creason
State Chemist Agent (PRINT)

Agent Signature

4/30/2020
Date

_____
Recipient (PRINT)

_____
Recipient Signature

_____
Date

PS19-0600
Case #

Form 51 Rev. 00 05/18/2016 MTD 0180-IV Page 1 of 1

Office of
Indiana State Chemist and Seed Commissioner
Purdue University
175 S. University Street
West Lafayette, Indiana 47907-2063
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www.oisc.purdue.edu

ACTION ORDER

Subject to I.C. 15-16-4-77 and I.C. 15-16-5-70, any person who knowingly violates the terms or provisions of this ORDER commits a Class C misdemeanor, punishable by a fine of up to $500.00 and sixty (60) days in jail. In accordance with I.C. 15-16-4-64.5 and I.C. 15-16-5-67, a person aggrieved by this ORDER may obtain a review by the Indiana Pesticide Review Board, if the person files a written petition with the Board not later than thirty (30) days after issuance of this ORDER at scottde@purdue.edu.

Issued to: Great Lakes Boat Top

Address: 15 Quality Circle Vonore, TN 37885

E-Mail: _____ Phone (____) _____

☑ Subject to I.C. 15-16-4-73, you are hereby ordered to remove the below listed non-compliant products from sale and hold them at your location until released in writing by the state chemist.

Quantity	Product Brand Name	EPA Registration #	Registrant
—	Monofoil Marine		

☐ Subject to I.C. 15-16-5-65(6), you are hereby ordered to:

_____

_____

_____

Details regarding the non-compliant issue(s) referenced above and any additional guidance on what steps to take to bring the issue(s) into compliance can be found on the reverse side of this ORDER, at www.oisc.purdue.edu/pesticide/order, by contacting saxtong@purdue.edu, or by calling (800) 893-6637 Mon-Fri, 8:00-5:00.

Garret Creason
State Chemist Agent (PRINT)

_____
Recipient (PRINT)

[signature]
Agent Signature

4/30/2020
Date

_____
Recipient Signature

_____
Date

PS14-0600
Case #

Office of
Indiana State Chemist and Seed Commissioner
Purdue University
175 S. University Street
West Lafayette, Indiana 47907-2063
800-893-6637
www.oisc.purdue.edu

ACTION ORDER

Subject to I.C. 15-16-4-77 and I.C. 15-16-5-70, any person who knowingly violates the terms or provisions of this ORDER commits a Class C misdemeanor, punishable by a fine of up to $500.00 and sixty (60) days in jail. In accordance with I.C. 15-16-4-64.5 and I.C. 15-16-5-67, a person aggrieved by this ORDER may obtain a review by the Indiana Pesticide Review Board, if the person files a written petition with the Board not later than thirty (30) days after issuance of this ORDER at scottde@purdue.edu.

Issued to: Apply Guard LLC

Address: 2635 S. F St. Elwood, IN 46036

E-Mail: _____ Phone (____) _____

☑ Subject to I.C. 15-16-4-73, you are hereby ordered to remove the below listed non-compliant products from sale and hold them at your location until released in writing by the state chemist.

Quantity	Product Brand Name	EPA Registration #	Registrant
—	Monitor Marine		

☐ Subject to I.C. 15-16-5-65(6), you are hereby ordered to:

_____

_____

_____

Details regarding the non-compliant issue(s) referenced above and any additional guidance on what steps to take to bring the issue(s) into compliance can be found on the reverse side of this ORDER, at www.oisc.purdue.edu/pesticide/order, by contacting saxtong@purdue.edu, or by calling (800) 893-6637 Mon-Fri, 8:00-5:00.

Garret Creason
State Chemist Agent (PRINT)

_____
Recipient (PRINT)

[signature]
Agent Signature

4/30/2020
Date

_____
Recipient Signature

Date

PS19-0600
Case #

Form 51 Rev. 00 05/18/2016 MTD 0180-IV Page 1 of 1

The ACTION ORDER detailed on the front side of this form is an order from the Office of Indiana State Chemist (OISC) to cease the non-compliant activity immediately. Guidance on steps to take to correct the observed non-compliance can be found at ***www.oisc.purdue.edu/pesticide/order*** *or the below referenced specific sites. Please note that any corrective steps taken immediately to address the non-compliant conditions may be considered as a mitigating factor in any associated enforcement action.*

1. Stop offering pesticide product(s) for sale until the product(s) is registered by OISC. Instructions for registering a pesticide product are available at **http://oisc.purdue.edu/pesticide/pesticide_products.html**

2. Stop offering restricted use pesticides (RUP's) for sale until your business location is registered by OISC as a Restricted Use Pesticide Dealer. Instructions for registering as a RUP Dealer are available at **http://oisc.purdue.edu/pesticide/restricted_use_pesticide_dealers.html**

3. Stop storing bulk pesticides at this location until the indicated bulk storage requirements have been met. Instructions for compliance with the bulk storage and containment rules are available at **http://oisc.purdue.edu/pesticide/pdf/bulk_storage_containment_summary.pdf**

4. Stop refilling the identified portable refillable containers (PRCs/minibulks) until all U.S. EPA requirements are met. Instructions for refilling PRCs are available at **http://www.oisc.purdue.edu/pesticide/pdf/refillable_container_requirements.pdf**

5. Stop advertising or making pesticide applications for hire until your business location is credentialed by OISC as a Licensed Pesticide Business. Instructions for licensing for your business are available at **http://oisc.purdue.edu/pesticide/how_do_i_pbl.html**

6. Stop performing wood destroying pest inspections for hire until your business is licensed OISC in category 12. Instructions for licensing your business are available at **http://oisc.purdue.edu/pesticide/12.html**

7. Stop pesticide applications on school property until you obtain a Pesticide Applicator License from OISC. Instructions for applicator licensing are available at **http://oisc.purdue.edu/pesticide/how_do_i_ca.html**

8. Stop pesticide applications on your school property until the school and any related pesticide applicators are in compliance with the legal requirements for applicator certification, advance notification of application, application record keeping, and application restrictions. Instructions for compliance with the requirements in the "School Rule" are available at **http://oisc.purdue.edu/pesticide/pest_use_at_school.html**

9. Stop pesticide applications on your golf course until you obtain a category 3b (turf management) Pesticide Applicator License from OISC. Instructions for category 3b applicator licensing are available at **http://oisc.purdue.edu/pesticide/3b.html**

10. Stop pesticide or fertilizer applications for hire until you obtain a Registered Technician (RT) credential from OISC. Instructions for obtaining a RT credential are available at **http://oisc.purdue.edu/pesticide/registered_technician.html**

11. Stop pesticide or fertilizer applications for hire until the indicated direct supervision requirements have been met. Instructions for complying for direct supervision requirements are available at **http://oisc.purdue.edu/pesticide/supervision_app_tech.html**

12. Stop advertising or making pesticide applications in a category for which you or your business are not currently licensed. Instructions for obtaining certification and licensing in the additional category are available at **http://oisc.purdue.edu/pesticide/continuing_certification_program.html#categories**

CASE SUMMARY

Case #PS19-0606

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

Respondent: VMInnovations
2021 Transformation Drive, Suite 2500
Lincoln, NE 68508

Respondent: Walmart.com
702 SW 8th Street
Bentonville, AR 72716

Registrant: Clearon Corporation
95 Maccorkle Avenue Southwest
South Charleston, WV 25303

1. On September 4, 2019 I performed a virtual marketplace inspection on Walmart.com.

2. I was able to view and order the unregistered pesticide product listed below being advertised for sale on Walmart.com. I was able to confirm through the National Pesticide Information Retrieval System (NPIRS) that the pesticide product was unregistered in the State of Indiana.

    i. Simply Genius Multi-Functional Chlorinating System
        1. EPA Reg. #69470-26-91296.

3. I received the unregistered pesticide product on September 9, 2019. The packaging and unregistered pesticide product were photographed and placed into a clear evidence bag and sealed for transport to the OISC formulation lab.

- Photo of Simply Genius Multifunctional Chlorinating System

4. On September 10, 2019, I delivered the unregistered pesticide product to the formulation lab.

5. On September 11, 2019 I issued an Action Order to Walmart.com instructing them to not sell the unregistered pesticide product into the State of Indiana until contacted by OISC in writing. I was notified that VMInnovations is the seller, who sells the product through Walmart.com

6. On January 28, 2020, I received lab results from the OISC formulation lab. The product sample failed low. The results are as follows:

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	115534	Case #	PS19-0606	Investigator	G. Creason
Sample #	Product Description				Sample Size
19-3-0076 1	**Simply Genius Multi-Functional Chlorinating System**				1 x 1.41 oz.

ACTIVE INGREDIENT	% GUARANTEE	% FOUND
Trichloro-s-Triazinetrione	99	N/A
Tested as Available Chlorine	90.61	42.66

Remarks:

Sample failed low according to Horwitz allowable limits.

Signature		Date	01/28/2020

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

Garret A. Creason
Investigator

Date: February 11, 2020

Label Review

8. On November 27, I completed the label review for the product found in distribution, Simply Genius Multi-functional chlorinating system (EPA Reg. No. 69470-26-91296).

Our review confirmed the following concerns:

Per confirmation with EPA, the basic product, EPA Reg. No. 69470-26, is not formulated as a copack/kit, so the supplemental distributor product cannot be packaged as a copack/kit.

This is a DANGER product, full First Aid must be visible on the front panel of the label/packaging.

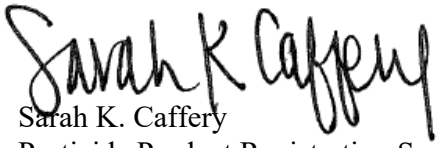
The companies listed on the outer package include (distributed by) Clearon Corp and Special Water Works BV (manufactured by). Neither company is represented in the EPA Reg. No listed on the label (69470-26-91296) – 91292 indicates that Aqua Finesse LLC is the company responsible.

Inner packaging for the pesticide:
Full labeling is required to be present on the tablet packaging. The tablet packaging does not include the full labeling. This is a DANGER product, full First Aid must be visible on the front panel of the label.

The precautionary statements differ from the master label; the statements must be identical to the master label.

The label is missing net content.

9. 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: November 27, 2019

Disposition: This case was forwarded to EPA for federal review.

George N. Saxton
Compliance Officer

Case Closed: October 16, 2020

CASE SUMMARY

Case #PS19-0612

Complainant: Cody Kozubik
5671 East Shady Lane
Knox, Indiana 46534

Respondent: Michael B Risner — Private Applicator
9035 E Hwy 8
Knox, Indiana 46534

1. On August 20, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Risner Farms made a dicamba application to a neighboring farm field that has drifted onto his beans.

2. On September 12, 2019, I, Investigator Melissa Rosch, met with the complainant Cody Kozubik at the field location near 2460 S 800 E, Knox, Indiana. Mr. Kozubik stated he believed his non-dicamba soybeans were drifted on by an agricultural pesticide application that was made to the adjacent target soybean field. Mr. Kozubik stated he saw cupping and curling on the soybean vegetation. Mr. Kozubik stated he has only used glyphosate on his soybeans.

3. During my on-site investigation, I did the following:

    a) Observed and photographed what appears to be fairly uniform dicamba exposure symptoms

    b) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:

        i. Impacted soybean plants from complainant's non-target soybean field
        ii. Soil from target field
        iii. Vegetation from control sample area

Figure 1

*Figure 1 is a Google Earth Image of the complainant and target field areas
*Target field is outlined in red
*Complainant field is outlined in green
*The Markers labeled C, T, 1, 2, and 3 are the approximate locations for each sample listed in paragraph 6

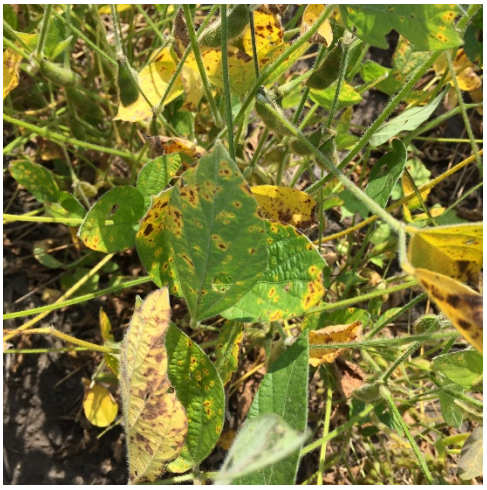


Figure 2

Figure 3

*Figure 2 and 3 are photographs from the approximate location for Sample Marker 1

Figure 4

Figure 5

*Figures 4 and 5 are photographs of the approximate location for Sample Marker 2

Figure 6

Figure 7

*Figures 6 and 7 are photographs of the approximate location for Sample Marker 3

4. I received a pesticide investigation inquiry (PII) from the target applicator and it shows the following information:
   -Applicator: Michael B Risner
   -Application Date: 6/19/2019
   -Application Start Time: 9:30 am / End Time: 10:45 am
   -Target Crop: Soybeans
   -Acreage of area treated: 58 acres
   -Wind direction at start time: East / End Time: East

-Wind speed at boom height at start time: 4mph / End Time: 6mph
-Method used to measure wind: Pock Spray Smart by "Agribie"
-Application Equipment: Miller 5240 Sprayer
-Nozzle Make/model/pressure: ULD 12006 Hypro, 32 psi
-Boom Height: 24"
-Application Ground Speed: 8.5 mph
-Total Amount of Diluted material applied: 870 gallons total (21.75 gallons enlist)
-Pesticide Brand Names/ application rate: **Enlist Duo-62719-649**, 15 gallons per acre
(Note: **Enlist Duo, EPA# 62719-649, Active Ingredients: glyphosate 22.1%, 2,4-D 24.4%)**
-Adjuvant trade names: none
-Name of person mixing/loading: Keith Risner
-Date sprayer last cleaned before application: 6/18/2019
-Name of person cleaning sprayer: Keith Risner

5. I received the OISC Pesticide Residue Laboratory report which shows the following sample result information:

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-5067 0	Vegetation; Control; control; Affected Site;	Vegetation	2,4-D	1.44 ppb	0.4 ppb
			5OH-Dicamba	3.46 ppb	2 ppb
			DCSA	BDL ppb	0.2 ppb
			Dicamba	0.400 ppb	0.2 ppb
			AMPA	BDL ppb	125 ppb
			Glyphosate	BDL ppb	5 ppb
19-4-5068 9	Vegetation; Grab/Spot; v1; Gradient 1;	Vegetation	2,4-D	0.433 ppb	0.4 ppb
			5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BQL ppb	0.2 ppb
			Dicamba	BDL ppb	0.2 ppb
			AMPA	BDL ppb	125 ppb
			Glyphosate	49.4 ppb	5 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-5069 1	Vegetation; Trip Blank; v2; Gradient 2;	Vegetation	2,4-D	BQL ppb	0.4 ppb
			5OH-Dicamba	BDL ppb	2 ppb
			DCSA	1.68 ppb	0.2 ppb
			Dicamba	BQL ppb	0.2 ppb
			AMPA	BDL ppb	125 ppb
			Glyphosate	68.9 ppb	5 ppb
19-4-5070 8	Vegetation; Grab/Spot; v3; Gradient 3;	Vegetation	2,4-D	0.564 ppb	0.4 ppb
			5OH-Dicamba	BDL ppb	2 ppb
			DCSA	5.70 ppb	0.2 ppb
			Dicamba	3.62 ppb	0.2 ppb
			AMPA	179 ppb	125 ppb
			Glyphosate	936 ppb	5 ppb
19-4-5071 2	Soil; Grab/Spot; target soil; Target Site;	Soil	2,4-D	0.766 ppb	0.2 ppb
			5OH-Dicamba	BDL ppb	0.4 ppb
			DCSA	136 ppb	2 ppb
			Dicamba	6.02 ppb	0.2 ppb
			AMPA	3530 ppb	125 ppb
			Glyphosate	2290 ppb	5 ppb

6. I spoke with the OISC Pesticide Residue Laboratory manager to confirm the laboratory report results in paragraph 5. The lab report indicated a small residue level consistent with atmospheric deposition of the analyte 2,4-D to the target field soil (Sample # 19-4-5071 2). The analyte (2,4-D) is one of the two product analytes (along with glyphosate) in the product Enlist Duo, which the target applicator stated he used on his initial PII in paragraph 4. Additionally, the laboratory results did indicate the pesticide analyte “dicamba” had been directly applied to the target field soil.

7. I spoke to the target applicator Mr. Risner and he stated he did not look at the correct records when he filled out his PII. Mr. Risner stated he used Xtendimax beans and Enlist beans for the planting season and believed he made an error in his record keeping. Mr. Risner stated he did use Engenia on some of the fields he farmed and would send me the updated PII.

8. I received the second PII from Mr. Risner and it shows the following:
-Applicator: Michael B Risner
-Application Date: 6/19/2019
-Application Start Time: 9:30 am / End Time: 10:45 am
-Target Crop: Soybeans
-Acreage of area treated: 58 acres
-Wind direction at start time: East / End Time: East
-Wind speed at boom height at start time: 4mph / End Time: 6mph
-Method used to measure wind: Pock Spray Smart by "Agribie"
-Application Equipment: Miller 5240 Sprayer
-Nozzle Make/model/pressure: ULD 12006 Hypro, 32 psi
-Boom Height: 24"
-Application Ground Speed: 8.5 mph
-Total Amount of Diluted material applied: 15 gallons per acre
-Pesticide Brand Names/ application rate: **Engenia EPA#5905-IA-001, 12.8oz of Engenia Per Acre; Roundup EPA#524-549, 22oz of Roundup per acre**
-Adjuvant trade names: Kabak Ultra
-Name of person mixing/loading: Keith Risner and Mike Risner
-Date sprayer last cleaned before application: 6/18/2019
-Name of person cleaning sprayer: Keith Risner and Mike Risner

9. I checked the weather conditions on www.weatherunderground.com and it showed the following information for the date/time of application (9:30-10:45 CST):

Gary International Airport approximately 54 miles NW of field (CST)

8:45 AM	66 °F	63 °F	88 %	CALM	0 mph	0 mph	29.17 in	0.0 in	Mostly Cloudy
9:45 AM	70 °F	64 °F	83 %	CALM	0 mph	0 mph	29.16 in	0.0 in	Mostly Cloudy
10:45 AM	66 °F	61 °F	83 %	NNE	6 mph	0 mph	29.17 in	0.0 in	Cloudy

La Porte Airport approximately 27 miles N of the field (CST)

9:15 AM	0 °F	0 °F	0 %	NW	3 mph	0 mph	28.93 in	0.0 in	Fair
9:35 AM	0 °F	0 °F	0 %	N	5 mph	0 mph	28.92 in	0.0 in	Fair
9:55 AM	0 °F	0 °F	0 %	N	3 mph	0 mph	28.92 in	0.0 in	Fair
10:15 AM	0 °F	0 °F	0 %	NNW	6 mph	0 mph	28.92 in	0.0 in	Fair
10:35 AM	0 °F	0 °F	0 %	N	5 mph	0 mph	28.91 in	0.0 in	Fair
10:55 AM	0 °F	0 °F	0 %	N	3 mph	0 mph	28.91 in	0.0 in	Fair

White County Airport Station 50 miles S of the field (EST)

10:15 AM	74 °F	65 °F	74 %	CALM	0 mph	0 mph	29.05 in	0.0 in	Fair
10:35 AM	74 °F	66 °F	74 %	CALM	0 mph	0 mph	29.05 in	0.0 in	Fair
10:55 AM	76 °F	65 °F	69 %	CALM	0 mph	0 mph	29.05 in	0.0 in	Partly Cloudy
11:15 AM	78 °F	63 °F	61 %	CALM	0 mph	0 mph	29.05 in	0.0 in	Partly Cloudy
11:35 AM	78 °F	62 °F	59 %	SSE	3 mph	0 mph	29.05 in	0.0 in	Fair
11:55 AM	79 °F	63 °F	58 %	SSE	3 mph	0 mph	29.04 in	0.0 in	Fair

10. There appears to be a violation in this case based on the following:
    - Mr. Risner provided false information on his initial PII in paragraph 4 by stating he used Enlist Duo when the OISC Pesticide Residue Analysis showed that was not true.
    - The **Engenia** label states on page 1, *"RESTRICTED USE PESTICIDE. For retail sale to and use only by Certified Applicators."* Mr. Risner stated Keith Risner (an unlicensed applicator) was a mixer/loader in paragraph 4 for a Restricted Use Dicamba Product.

11. Although off-target movement of the dicamba herbicide was documented, 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.

Melissa D. Rosch
Investigator

Date: April 30, 2020

Disposition: Michael Risner was cited for violation of section 65(8) of the Indiana Pesticide Use and Application Law for making false records, invoices or reports. A civil penalty in the amount of $100.00 was assessed for this violation.

Keith Risner was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use only be a certified applicator. A civil penalty in the amount of $100.00 was assessed for this violation.

George N. Saxton
Compliance Officer

Draft Date: August 31, 2020
Case Closed: January 14, 2021

CASE SUMMARY

Case #PS19-0615

Complainant: Matthew Ozenbaugh
1571 East 100 North
North Manchester, Indiana 46962

Respondent: The Andersons, Inc. — Licensed Business
Jim Clifton Curry — Certified Applicator
4806 West State Road 14
North Manchester, Indiana 46961

1. On September 12, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring farmer applied dicamba that has adversely affected his beans. Not sure which neighbor sprayed the dicamba.

2. On September 20, 2019, I met with the complainant Matt Ozenbaugh at his soybean field located north of intersection of SR 16 and Gene Stratton Porter Road in North Manchester Indiana. Mr. Ozenbaugh told me he checked his field on September 12 to find what appeared to be dicamba exposure symptoms to his non-dicamba tolerant soybeans. He said he believed it was due to a pesticide application made to the field directly south of his field. I learned the fields north and west of the complainant's field were also non-dicamba tolerant soybean fields. (see satellite image below)

3. I checked the complainant's soybeans for pesticide exposure symptoms. I observed some slightly cupped and crinkled soybean leaves. It was difficult to assess the extent of injury to the field due to some of the soybeans were starting to yellow. (see photos below)

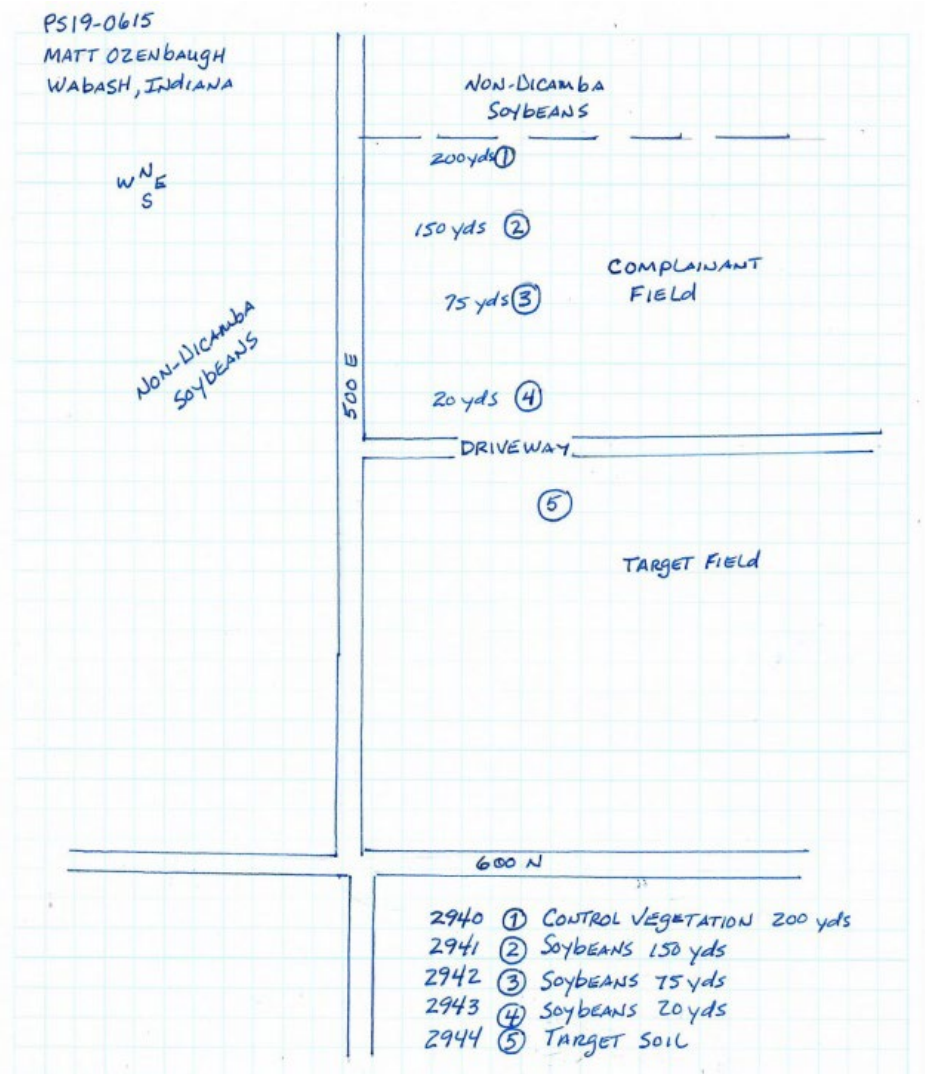



4. I obtained some soybean samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPPDL) for analysis.

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

2940	control vegetation	2941	soybeans
2942	soybeans	2943	soybeans
2944	soil from target field		

(see diagram below)



6. I learned The Andersons Inc. made a pesticide application of dicamba to the farm field south of the complainant's field. I made contact with The Andersons located in North Manchester Indiana. Applicator Jim Curry agreed to complete and return a Pesticide Investigation Inquiry (PII) concerning the pesticide application to the field in question.

7. On September 25, I received a telephone call from the complainant Mr. Ozenbaugh. Mr. Ozenbaugh told me he learned Wendel Farms made a dicamba application to a field southwest from his field. I checked the satellite map and found the field was at least ½ mile from the complainant's field and it was not adjacent to the complainant's field. I made contact with the complainant to advise him Mr. Wendel's field would not be considered as part of the investigation. (see satellite image below)

8. I received the following information from PPPDL: "*The soybeans in sample 19-1761 showed leaf cupping and whitish leaf tips. These symptoms are characteristic of exposure to synthetic auxins such as dicamba. No significant diseases were observed that would be associated with present symptoms. Growth regulator exposure is suspected to cause the stunted, cupped and crinkled leaves.*"

9. I received a completed PII from applicator Jim Curry. The PII had the following information:

   - Applicator Jim Curry is a licensed applicator
   - Applicator Curry made a pesticide application of:
     Engenia (EPA # 7969-345; active ingredient: dicamba)
     Roundup PowerMax (EPA #524-549; active ingredient: glyphosate)
     Warrant (EPA #524-591; active ingredient: acetochlor)
   - The adjuvant used was **Cornbelt Vaporgard**
   - Application date and time was June 27, 2019 between 2:26pm and 3:26pm
   - Wind was recorded blowing at 5 miles per hour in a northeast direction at the beginning and end of application with a Kestrel 3000 wind and temperature meter
   - Application was made with approved TTI1104 nozzles
   - Checked DriftWatch on June 27, 2019
   - Checked registrant web-site for approved tank mixes on January 1, 2019
   - Applicator Curry received his dicamba training on January 8, 2019 through BASF in Maumee Ohio
   - Boom height at time of application was 24"
   - Equipment speed during application was 13 miles per hour

10. I obtained weather data from the **National Climate Data Center** (**NCDC**) at **ncdc.noaa.gov** for (3) separate sites listed below:

    - Fort Wayne International Airport located in Fort Wayne (25 miles east of site) recorded the wind blowing at 7 miles per hour in variable directions at the time of the application.

- Grissom Air Force Base located in Peru (22 miles southwest of site) recorded the wind blowing at 5 miles per hour in a northeast direction toward the complainant's field at time of application
- Fulton County Airport located in Rochester (23 miles northwest of site) recorded the wind blowing at 5-6 miles per in a northeast and northwest direction toward the complainant's field at time of application

11. I checked the labels for **Engenia**, **Roundup PowerMax** and **Warrant** for possible label violations.

12. The label for **Engenia** reads in part, "***DO NOT*** *apply when wind is blowing in the direction of neighboring sensitive crops. Sensitive crops include non-DT soybeans.*"

13. The label for **Roundup PowerMax** reads in part, "*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.)"*

14. The label for **Warrant** reads in part, "*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.)"*

15. Based on available information, (site observations, PPPDL report, PII information and weather data (wind information from three different triangulated airports)) Mr. Jim Curry was in violation of the **Engenia** label by *applying it when the wind was blowing in the direction of sensitive crops such as non-DT soybeans*. He was in violation of the **Roundup PowerMax** label by failing to apply it *when the potential for drift to adjacent areas (non-target crops) was minimal (wind blowing away from the sensitive areas).* He was also in violation of the **Warrant** label by failing to apply it *when the potential for drift to adjacent areas (non-target crops) was minimal (wind blowing away from the sensitive areas).* **No residue samples were analyzed due to obvious label violations.**

Kevin W. Gibson
Investigator

Date: January 10, 2020

Disposition: Jim Clifton Curry and The Andersons Inc. were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact this was Mr. Curry's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

George N. Saxton
Compliance Officer

Draft Date: March 18, 2020
Case Closed: September 29, 2020

CASE SUMMARY

Case #PS19-0621

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, Indiana 47907-2063
765-494-1492

Respondent: Michael Holley
Turf Care Lawns
9404 Bobcat Trail
Leo, Indiana 46765

1. On September 13, 2019, the Certification & Licensing section of OISC contacted the Compliance Officer to report Michael Holley's certification expired December 31, 2018 invalidating his license.

2. On February 4, 2020, I stopped by the address listed for Turf Care Lawns. There was no answer when I knocked on the door. On the notice of inspection form I left a message for them to call the Office of Indiana State Chemist.

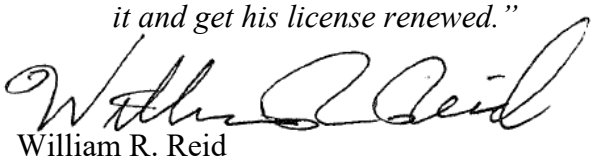
3. On February 6, 2020, Judy Holley sent me an email explaining the history of the case. The email was in reference to an email chain with Leo Reed from Office of Indiana State Chemist (OISC). Mr. Leo Reed explained in the email what needed to happen for the company to be licensed with the OISC. Michael Holley did not pass his test to be a licensed applicator. The business didn't have a licensed applicator and therefore, didn't have a licensed business.

   In the email that Judy Holley sent me on February 6, 2020, she stated:

   "I was planning on using our $90 credit to transfer her license over to Turf Care, but I could not find the application and then we just didn't do a great job finishing out the season with our customers. Last year, we fertilized for 2 residential homes and 1 commercial account which had 12 locations."

   She also concluded the email with explaining her plan for 2020.

   "We completely understand the importance of staying current with our licenses. Unfortunately, our business struggled the past few years with the workforce and so we went from about 100 maintenance customers to only 2 last year. We have switched over to landscape renovations and installations which has been working a lot better for us. With our 1 maintenance contract this coming 2020 season, we plan on subcontracting our fertilizing out until Michael decides to tackle it and get his license renewed."



William R. Reid
Investigator

Date: March 5, 2020

Disposition:

A. Turf Care Lawns was cited for fourteen (14) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of $3,500.00 (14 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $1,050.00. Consideration was given to the fact Turf Care Lawns cooperated during the investigation; there was no previous history of similar nature; no potential for harm; a good-faith effort to comply and no restricted use pesticides were involved.

B. On May 21, 2020, OISC received a letter from Turf Care Lawns requesting the $1,050.00 civil penalty payment be divided up in four (4) monthly payments. It was agreed that payment would be due:

a. $262.50 due by June 30, 2020;
b. $262.50 due by July 30, 2020;
c. $262.50 due by August 30, 2020;
d. $262.50 due by September 30, 2020.

George N. Saxton
Compliance Officer

Draft Date: May 21, 2020
Case Closed: January 14, 2021

CASE SUMMARY

Case #PS20-0007

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, Indiana 47907-2063
765-494-1492

Respondent: T & J Services, Inc. — Licensed Business
James B. Propst — Certified Applicator
12638 Wicker Avenue
Cedar Lake, Indiana 46303

1. On October 3, 2019, I Agent Melissa Rosch saw a male with T & J Svcs Inc. making what appeared to be a pesticide application on a ride-a-long spreader at the Hanover Central High School in Cedar Lake, Indiana around 4:30 pm CST.

2. On October 4, 2019, I contacted T & J Svcs Inc. to verify the license and product that was being used the day prior. I spoke with the Snow and Lawn Maintenance Supervisor James Propst who is also the Category 3b Certified Applicator. Mr. Propst verified an employee Porfirio Jaimes was making a fertilizer application at the school. Mr. Propst stated he believed Mr. Jaimes was licensed with OISC and he showed me a copy of the core exam text results dated in 2015. I confirmed with the OISC Licensing division that Mr. Jaimes had taken the core exam in 2015 but did not send in the pesticide license application. Mr. Propst stated he thought the core exam results sheet was the verification needed to fulfill the requirements. Mr. Jaimes did not realize there was an on-site requirement if Mr. Jaimes was making pesticide/fertilizer applications for hire without a license. Mr. Jaimes started working for T & J Svc Inc. in 2018 and had transferred his certified applicator license from Illinois.

3. On October 11, 2019, I received an email from Mr. Propst stating Mr. Jaimes had passed his core exam and he would be sending in the pesticide license application form to OISC.

4. On October, 22, 2019, I verified with OISC Licensing division Mr. Jaimes had passed the core exam and the pesticide license application. Mr. Jaimes' registered technician license was approved.

5. Mr. Propst provided the application records for sixty (60) days when Mr. Jaimes was making pesticide/fertilizer applications for hire without direct supervision.

6. There appears to be a violation in this case because Mr. Jaimes was not under the direct supervision of a certified applicator for a total of sixty (60) days.

Melissa D. Rosch
Investigator

Date: February 21, 2020

Disposition: James B. Propst and T & J Services, Inc. were cited for sixty (60) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of $7,500.00 (60 counts x $125.00 per count) was assessed. However, the civil penalty was reduced to $750.00. Consideration was given to the fact Mr. Propst cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; no potential for harm and a good faith effort to comply.

George N. Saxton
Compliance Officer

Draft Date: April 28, 2020
Case Closed: September 28, 2020

CASE SUMMARY

Case #PS20-0047

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Harvest Direct, LLC
Harvest Trading Group, LLC
83 Woodrock Road
East Weymouth, MA 02189-2335

Respondent: Fabriclear, LLC
24 Ashby State Road
Fitchburg, MA 01420

1. On December 2, 2019, I performed a virtual marketplace inspection on Harvestdirect.com

2. I was able to view and order the unregistered pesticide products listed below, that were being advertised for sale on Walmart.com. I was able to confirm through the National Pesticide Information Retrieval System (NPIRS) that the pesticide product was unregistered in the State of Indiana.
   i. Fabriclear Spray, a 25(b)[1] product.
   ii. Fabriclear Fast-Trap, pesticide device.

3. I received the unregistered pesticide products on December 11, 2019. The packaging and unregistered pesticide products were photographed and placed into a clear evidence bag and sealed for transport to the OISC formulation lab.

Photo of Fabriclear Spray (Multiple Sizes)

Photo of Fabriclear Fast-Trap

[1] Minimum Risk Pesticide

4. On December 12, 2019, I delivered the unregistered pesticide product to the formulation lab.

5. On December 18, 2019, I issued an action order to HarvestDirect.com instructing them to not sell the unregistered pesticide products into the State of Indiana until contacted by OISC in writing.

6. On December 26, 2019, I received an email from Jim Lewis, Harvest Trading Group, inquiring how to get the products registered.

7. On February 12, 2020, I spoke with Mark Panagiotes, Fabriclear LLC, and he explained why the products were not registered. Mr. Panagiotes stated that Harvest Trading Group LLC used to be connected with Fabriclear LLC, however, Fabriclear LLC separated from Harvest Trading Group after personnel changes had occurred. Since that time Harvest Trading Group has allegedly been distributing and selling the Fabriclear Spray with different labels.

8. Mr. Panagiotes stated that he believed the Fast Trap was exempt from any registration. Mr. Panagiotes also informed me that the Fast Trap device was not owned by Fabriclear LLC. He stated that Fast Trap has its own LLC. However, the front of the packaging states "*FABRICLEAR*" and on the bottom of the packaging it states "*Manufactured by: Fabriclear, LLC.*

- Photo Showing bottom of Fast Trap packaging.

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

Garret A. Creason
Investigator

Date: February 12, 2020

10. On February 13, 2020, I completed the label review for the product(s) found in distribution.

Fabriclear Ready-To-Use

This product was previously registered with the state of Indiana but lapsed in the registration/renewal for 2019. With the 2020 renewals, OISC announced to all 25(b) companies that products registered prior to 2020 would undergo an audit. This audit would bring all labeling, claims, and formulations up to the standards set by the AAPCO 25(b) workgroup. This will make sure that all products are held to the same standards. Please review the guidances provided on the AAPCO website to confirm that FabriClear meets the standards.

In preparation of that audit, the following label revisions are noted for FabriClear Ready To Use:

- Safety claims must be qualified with "when used as directed"
- Non-toxic is not an acceptable statement or claim

The label includes two companies:

- Manufactured by FabriClear, LLC
- Distributed by Harvest Trading Group INC, Norwell, MA

11. Label does not include the full address and contact information for company responsible. This is a violation of EPA Condition 5. The product is in violation of IC 15-16-4-57(4)(A) as the immediate container does not include the name and address of the manufacturer or registrant.

12. The label found in distribution differs from the label we received from FabriClear, via email, on January 2, 2020. Both labels list Harvest Trading Group INC as the company who distributes the product. The label provided via email matches the label we reviewed and accepted in 2018. The acceptable label does not include the same audit concerns or violations as listed above for the label that was distributed into Indiana.

Fabriclear Fast-Trap

This product has never been registered with the state of Indiana. A pesticide device, as defined by OISC (IC 15-16-4-10) is "any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents…" EPA's definition of a device is very similar.

13. Without the confidential statement of formula for the attractant substance, OISC cannot determine if the device requires registration through EPA or is exempt. Per EPA, a device requires registration with EPA when it includes a substance that is intended to destroy, repel, prevent or mitigate (lessen the severity of) a pest unless it qualifies for an exemption. The attractant within the device mitigates the pest by attracting them into a trap, where they will die of starvation. With this assessment from EPA, Fabriclear Fast-Trap requires EPA registration as a pesticide product.

14. The device does not include an EPA Establishment Number on the device nor does it include one on the package. This is a violation of FIFRA and IC 15-16-4-25(2)(I), a product is misbranded if the immediate container does not clearly display the United States

Environmental Protection Agency establishment number indicating the specific location where the pesticide product was produced.

15. The packaging does not include the full contact information for the company responsible. The labeling includes three different company names:

    Outside package:

    Manufactured by: Fabriclear LLC

    Distributed by: Harvest Direct LLC (Norwell, MA)

    Inside manual:

    Fast-Trap LLC

    A product is in violation of IC 15-16-4-57(4)(A) if the immediate container does not include the name and address of the manufacturer or registrant.

    False and misleading claims cannot be assessed without the submission of a full application packet including efficacy.

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.

References:
https://www.oisc.purdue.edu/pesticide/pesticide_products.html
https://www.epa.gov/safepestcontrol/pesticide-devices-guide-consumers
https://www.epa.gov/pesticide-registration/pesticide-registration-manual-chapter-13-devices
https://www.epa.gov/pesticide-registration/pest-control-devices-and-device-producers-1976-federal-register-notice
https://aapco.org/2015/07/02/fifra-25b-workgroup/

Sarah K. Caffery

Sarah K. Caffery
Pesticide Product Registration Specialist

Date: February 13, 2020

Disposition:

A. Fabriclear, LLC was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for producing two (2) pesticide products that were distributed into Indiana that were not state registered. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

B. Fabriclear, LLC was cited for two (2) counts of violation of section 57(4) of the Indiana Pesticide Registration Law for producing two (2) pesticide products that were distributed into Indiana that do not have a complete label. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

C. Fabriclear, LLC was cited for two (2) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for producing two (2) pesticide products that were distributed into Indiana that violate the Federal Insecticide, Fungicide, and Rodenticide Act (U.S.C. 136 et seq.) or regulations adopted under the Act. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

D. Fabriclear, LLC was cited for one count of violation of section 57(5) of the Indiana Pesticide Registration Law for producing a pesticide product (FabriClear Fast-Trap) that was distributed into Indiana that is misbranded. A civil penalty in the amount of $250.00 was assessed for this violation.

E. Harvest Direct/Trading Group was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing two (2) pesticide products in Indiana that are not state registered. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

F. Harvest Direct/Trading Group was cited for two (2) counts of violation of section 57(4) of the Indiana Pesticide Registration Law for distributing two (2) pesticide products in Indiana that do not have a complete label. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

G. Harvest Direct/Trading Group was cited for two (2) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing two (2) pesticide products in Indiana that violate the Federal Insecticide, Fungicide, and Rodenticide Act (U.S.C. 136 et seq.) or regulations adopted under the Act. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed for this violation.

H. Harvest Direct/Trading Group was cited for one count of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product (FabriClear Fast-Trap) in Indiana that is misbranded. A civil penalty in the amount of $250.00 was assessed for this violation.

I. On April 24, 2020, Mark Panagiotes called requesting an informal hearing. He stated he would call back Monday, April 27, 2020 because he did not have the paperwork in front of him.

J. On April 28, 2020, I spoke with Mark Panagiotes. He gave me the name and phone number of the FBI agent, Derrick Gerega. I called Special Agent Gerega (I.D.# 27227 – Boston office) and he confirmed that there WAS an FBI investigation and in 2019 and they purchased X-out from Harvest Direct; pealed back the label; and discovered that Harvest Direct was putting a different label on the Fabriclear product without Fabriclear's permission, and distributing it. He said that the federal prosecutor determined this was more of a civil matter and they dropped the case. Mr. Panagiotes maintains that instead of shipping out his product with the X-out label after they got caught, Harvest Direct started shipping out his product with his label without his permission. Mr. Panagiotes still maintains that the 'device' is just a bug 'trap' and he doesn't believe it needs to be registered.

K. As a result of this new information, Fabriclear, LLC was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for producing a pesticide product (fast-trap) that was distributed into Indiana that is not state registered. A civil penalty in the amount of $250.00 was assessed for this violation.

L. Fabriclear, LLC was cited for violation of section 57(4) of the Indiana Pesticide Registration Law for producing a pesticide product (fast-trap that was distributed into

Indiana that does not have a complete label. A civil penalty in the amount of $250.00 per count) was assessed for this violation.

M. Fabriclear, LLC was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for producing a pesticide product (FabriClear Fast-Trap) that was distributed into Indiana that is misbranded. A civil penalty in the amount of $250.00 was assessed for this violation.

N. Fabriclear, LLC was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for producing a pesticide product (fast-trap that was distributed into Indiana that violated the Federal Insecticide, Fungicide, and Rodenticide Act (U.S.C. 136 et seq.) or regulations adopted under the Act. A civil penalty in the amount of $250.00 was assessed for this violation.

O. On July 10, 2020, OISC received the civil penalty payment from Fabriclear, LLC.

P. As of September 17, 2020, Harvest Direct/Trading Group had not paid their civil penalty. The case was closed and the civil penalty forwarded to the Indiana Attorney General for collection.

George N. Saxton
Compliance Officer

Draft Date: June 1, 2020
Case Closed: September 17, 2020

CASE SUMMARY

Case #PS20-0051

Complainant: Richard Ricotta
7883 West Division Road
Tipton, Indiana 46072

Respondent: Michaelis Corp
2601 East 56th Street
Indianapolis, Indiana 46220

1. On January 9, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC), via U.S.E.P.A., to report that the company for whom he used to work, was illegally mixing Goldmorr GM 6000 with Clorox bleach and treating structures for mold remediation. Complainant stated employees are instructed by the company to remove label from the bleach containers and dispose of them off of company grounds. Complainant stated as a result, he received second degree burns on his neck. Complainant stated he did go to a doctor for treatment. Complainant also stated there are approximately six other technicians who know about this illegal mixture.

2. On January 10, 2020, I contacted the complainant, Richard Ricotta, via telephone. Mr. Ricotta stated that on approximately December 19th or 20th, 2019 he was spraying a crawlspace as an employee for Michaelis Corp. Mr. Ricotta stated he had mixed a product called RMR 86 to be sprayed in the crawlspace. Mr. Ricotta stated that he purged the line for the application equipment as he was instructed to do. However, during the application of the product he felt discomfort on his neck. He believed it was the tape or the personal protective equipment (PPE) possibly causing an irritation. Mr. Ricotta also stated he smelled a "chlorine" odor in the crawlspace as he was making the application. Once Mr. Ricotta finished the application, he stated he removed the PPE and looked at his neck, noticing what appeared to be a chemical burn (See fig. 1). Mr. Ricotta stated that he believes GM6000 mixed with Clorox was used in the equipment prior to his use as he had seen these types of burns on other employees in the past from that mixture.

3. Mr. Ricotta also informed me that Michaelis Corp buys Clorox and removes the labels. He stated he had screenshots of a text message conversation when an employee bought Clorox for Michaelis. The text message conversation had a photo of boxes of Clorox in the back of a van. Underneath the photo it read that James Porter instructed "Labels off", "No boxes on site" (See fig. 2). After our conversation Mr. Ricotta provided a written statement and photos via email, which will be included in this case.

Fig. 1) photo of Mr. Ricotta's neck approximately 30 minutes after exposure.

Fig. 2) Screenshot of conversation from Mr. Ricottas cellular device.

4. On January 10, 2020, I was able to locate a previous case where OISC had issued an Action Order to Michaelis Corp. instructing them too "cease making for-hire pesticide applications without a license from OISC and cease using a pesticide not labeled for application not on label". The Action Order was issued on April 23, 2019. Reference case PS19-0147.
5. On January 13, 2020, I, along with OISC Agent Nathan Davis, met with Richard Michaelis, James Porter, and Bill Verhonik at Michaelis Corp. located at 2601 East 56th Street.

Indianapolis, Indiana. I informed them all of the complaint that OISC had received from Mr. Ricotta. They stated they were familiar with his complaints. I first inquired about the availability of PPE. Mr. Porter stated that Michaelis provides all necessary PPE and has even gotten additional PPE when requested.

6. I then inquired about the GM6000 product. I was informed by Mr. Porter that since OISC had issued the Action Order on April 23, 2019, Michaelis had stopped using the GM6000 product and was using RMR 86 instead. I asked what the GM6000 and RMR 86 products were used for and was informed that they are used in mold remediation work.

7. I then went on to ask Mr. Porter about what they might use bleach for, and he stated he did not know. I then showed him the copy of the screenshot I had with the Clorox in the van and his responses below. I asked Mr. Porter if it was him that had responded with those messages and he stated yes but he doesn't remember why. Mr. Porter did inform me that bleach is used to mix with GM6000 but to his knowledge they have not been using GM6000. Mr. Porter advised me that the bleach containers were still in the shop. I then asked if they could provide documentation of any mold remediation work they had done since April 23, 2019. Mr. Porter said he would have the front office work on that while we went to look at the shop.

8. Mr. Porter then took Agent Davis and me to his office and showed us the locked cabinet that contained the GM6000 (See Fig. 3). Mr. Porter stated he had put it in there since the Action Order was issued. Mr. Porter also showed us PPE that was available to the employees and said there was more PPE available out in the shop. We then went down to the shop to look further into the available PPE and the bleach products. When we got into the shop, I could see multiple types and sizes of PPE readily available (See Fig. 4 and 5). Mr. Porter showed us all the PPE available and the tape they would use to seal the seams. Mr. Porter did state that at times the tape would separate from the suits and could allow skin to be exposed but they try to provide all PPE possible for their needs.

Fig. 3

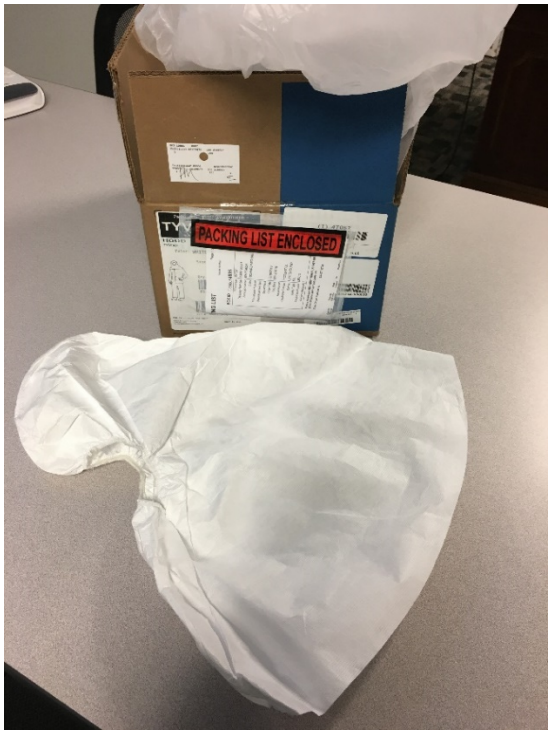


Fig.4 and 5) Multiple boxes of PPE in different styles and sizes.

9. Adjacent to where the PPE was stacked was a utility shelf with 16 white jugs that did not bear any label (See Fig. 6). Mr. Porter stated this was all the bleach from the photo I had shown him. The white jugs appeared to be 1 gallon in size and were embossed with “Clorox”. I informed Mr. Porter that I would be collecting an evidentiary sample to take to the OISC formulation lab for analysis. I issued a sample identification sticker to the evidentiary sample and placed it into a clear plastic bag and sealed it for transportation to the OISC formulation lab.

Fig. 6

10. We returned back to the conference room where we met again with Mr. Verhonik. Mr. Verhonik advised us that he was able to locate the inventory logs for GM6000. The logs stated that 10 applications of GM6000 had been made for mold remediation since the issuance of the Action Order on April 23, 2019. Mr. Verhonik provided me with copies of the inventory log. The application dates are as follows:
    - September 2019, Job# 19-2288WP
    - October 11, 2019, Job# 19-2173WP
    - October 25, 2019, Job# 19-2915MA
    - November 1, 2019, Job# 19-1704MA
    - November 5, 2019, Job# 19-2799WP
    - November 5, 2019, Job# 19-1769MA
    - November 23, 2019, Job# 19-3225MA
    - November 21, 2019, Job# 19-3146MA
    - December 17, 2019, Job# 19-3147MA
    - January 2, 2020, Job# 191372RR

11. After reviewing the information that Mr. Verhonik provided, I asked them if the bleach product would have been mixed with the GM6000 for the applications. Mr. Porter advised that the GM6000 product is very expensive and that the only way the product gets applied is if it is mixed with a bleach product.

12. On January 13, 2020, I issued an Action Order to Michaelis Corp instructing them to "Do not remove unlabeled white containers, embossed with "Clorox", until contacted in writing by OISC.

13. On January 14, 2020, I delivered the evidentiary sample to the OISC formulation lab.

14. I was able to locate and SDS for GM6000. The products intended use states it is a Black Mold Remover. Under the Stability and Reactivity on the SDS for GM6000 it states:

    a. "Conditions to avoid: strong acids, oxidizing agents"

    The SDS also stated under Health Effects, that it is corrosive to skin.

15. On January 21, 2020, I provided the lot number off the sample I collected from Michaelis to Sarah Caffery, Pesticide Registration, and she was able to send it to the Clorox Company to attempt to confirm what product it was.

16. On January 22, 2020, the Clorox company provided the corresponding label to the product that was collected. The product is as follow:

    a. Clorox Performance Bleach1, EPA Reg.# 5813-114.

17. Upon review of the label for Clorox Performance Bleach1 I found that in the label states:

    a. "Product contains a strong oxidizer. Always flush drains before and after use. **Do not use or mix with other household chemicals**, such as toilet bowl cleaners, rust removers, acids or products containing ammonia. To do so will release hazardous irritating gases."

18. According to the GM6000 SDS and the Clorox Performance Bleach1 label, the two products would not be compatible to mix.

19. On January 28, 2020, I was notified by the OISC formulation lab of the analysis results. The results are as follows:

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	**131473**	**Case #**	**PS20-0051**	**Investigator**	**G. Creason**
Sample #	Product Description				Sample Size
20-3-0112 9	**Unlabeled white bottle with "Clorox" embossed in the plastic**				1 x 1 gal

ACTIVE INGREDIENT	**% GUARANTEE**	**% FOUND**
Sodium Hypochlorite Tested as Available Chlorine	**Unk** **5.71 (estimated)**	**N/A** **5.79**

Remarks:

Bottle was unlabeled and was suspected to be Clorox Bleach with 6.0% sodium hypochlorite. Conversion factor from sodium hypochlorite to available chorine is 0.9523.

Signature		**Date**	01/28/2020

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

Garret A. Creason
Investigator

Date: February 17, 2020

Disposition:

A. Michaelis Corp was cited for ten (10) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of $5,000.00 (10 counts x $500.00 per count) was assessed. Consideration was given to the fact this was their second offense for the same violation. See case number PS19-0147. However, the civil penalty was reduced to $3,750.00. Consideration was given to the fact they cooperated during the investigation.

B. Michaelis Corp was cited for ten (10) counts of violation of 15-16-5-65(6) of the Indiana Pesticide Use and Application Law for failure to follow an Order of the state chemist. A civil penalty in the amount of $2,500.00 (10 counts x $250.00 per count) was assessed for this violation. However, the civil penalty was reduced to $1,875.00. Consideration was given to the fact Michaelis Corp cooperated during the investigation.

C. Michaelis Corp was cited for ten (10) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide contrary to label directions. A civil penalty in the amount of $2,500.00 (10 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $1,875.00. Consideration was given to the fact Michaelis Corp cooperated during the investigation.

D. Michaelis Corp was cited for sixteen (16) counts of violation of section 59(1) of the Indiana Pesticide Registration Law for detaching, altering, defacing, or destroying a pesticide product label or labeling. A civil penalty in the amount of $4,000.00 (16 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $3,000.00. Consideration was given to the fact Michaelis Corp cooperated during the investigation.

George N. Saxton
Compliance Officer

Draft Date: August 27, 2020
Case Closed: January 14, 2021

Cc: Abigail Wesley
Enforcement Officer
Pesticides & Toxics Compliance Section
U.S. EPA, Region 5 (ECP-17J)
77 West Jackson Boulevard
Chicago, Illinois 60604

CASE SUMMARY

Case #PS20-0052

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Posey County Coop
10420 Winery Rd.
Wadesville, IN 47638

1. On January 8, 2020 I conducted a routine inspection for bulk pesticide storage secondary containment requirements at Posey County Coop located at 10420 Winery Rd. Wadesville, IN. I met with Tony Martin, applicator, and informed him of the process of the inspection. I then issued a Notice of Inspection.

2. I asked Mr. Martin if they stored any mini-bulk containers of bulk pesticides. He advised they did have some out in the seed barn. Mr. Martin showed me to the seed barn. While there, I observed nine mini-bulk pesticide containers, containing product, being stored out of containment. The floor of the seed barn was gravel and there was no perimeter wall (see fig.1). I asked Mr. Martin how long these products had been stored there and he said that he wasn't sure and that I should speak with the manager, Jared Reyher, to get that information. I documented each of the products and took photographs.

Fig. 1

3. After finishing the inspection, later that day, Mr. Reyher contacted me via telephone. I asked Mr. Reyher if he had any documentation for how long the mini-bulks had been in the seed barn, out of containment. He stated that most of them had been in there from November 2019 when they filled them to make room for new product in the larger bulk storage tanks. Mr. Reyher stated that he would look for the records and email them to me. I advised Mr. Reyher that I would be issuing an Action Order to Posey County Coop stating "Place mini-bulk pesticide containers into secondary containment and notify OISC when complete. See #3 on back". I asked Mr. Reyher to sign and send back to me with the other documents. Mr. Reyher stated that he would and that the mini-bulks would be moved by the end of the day on 1/8/2020.

4. On January 10, 2020 Mr. Reyher contacted me via email to provide me with the scale tickets for when the products were filled and moved into the seed barn. He also provided the signed Action Order along with a photograph showing that the mini-bulk containers had been placed into containment.

Fig. 2) Mini-bulks in contained facility.

5. On January 14, 2020, I reviewed the documents Mr. Reyher had provided and noticed that it did not contain information for two of the products out of containment, Abundit Edge and Round Up PowerMax. I contacted Mr. Reyher to attempt to obtain more information. Mr. Reyher was able to locate the needed information for the Abundit Edge and email it to me. Mr. Reyher stated it was moved to his facility in the spring of 2019. The invoice Mr. Reyher provided is dated March 13, 2019. He stated that he did not have any documentation for the Round Up Power Max. The pesticide products that were out of containment and the length of time out of containment are listed below:

    a. Abundit Edge, EPA Reg. # 352-922, two units
        i. 272 days out of containment
    b. Sequence, EPA Reg. # 100-1185, one unit
        i. 17 days out of containment
    c. Halex GT, EPA Reg. # 100-1282, three units
        i. Two units out of containment 117 days, one unit has no documentation

d. Resicore, EPA Reg. # 62719-693, one unit
    i. 18 days out of containment
e. Engenia, RUP, EPA Reg. # 7969-345, one unit
    i. 18 days out of containment
f. Round Up Power Max, EPA Reg. # 524-549, one unit
    i. No documentation

6. The label for Sequence Herbicide, EPA Reg. # 100-1185, states: "*S-metolachlor, one of the active ingredients in Sequence Herbicide, is known to leach through soil into ground water under certain conditions as a result of use. This chemical may leach into ground water if used in areas where soils are permeable, particularly where the water table is shallow.*"

7. The label for Halex GT, EPA Reg. # 100-1282, states: "*The active ingredient, S-metolachlor, has the potential to leach through soil into groundwater under certain conditions as a result of agricultural use. Groundwater may be contaminated if this product is used in areas where soils are permeable, particularly where the water table is shallow."*

8. The label for Resicore, EPA Reg. # 62719-693, states: "*This pesticide is toxic to fish. Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment wash waters.*

    Acetochlor demonstrates the properties and characteristics associated with chemicals detected in groundwater. The use of this chemical in areas where soils are permeable, particularly where the groundwater is shallow, may result in groundwater contamination.

    Clopyralid is known to leach through soil into ground water under certain conditions as a result of agricultural use. Use of this product where soils are permeable, particularly where the water table is shallow, may result in leaching to ground water."

9. The label for Engenia, EPA Reg. # 7969-345, states: "*This chemical is known to leach through soil into ground-water under certain conditions as a result of agricultural use. Use of this chemical in areas where soils are permeable, particularly where the water table is shallow, may result in groundwater contamination*." The label also states: "*States may have in effect additional requirements regarding wellhead setbacks and operational containment*."

10. In reviewing these label statements, it appears that storing these products outside of secondary containment and in a gravel area poses a potential risk of groundwater contamination if a spill were to occur.

11. All calculations for time out of containment have been made in consideration with the 30-day grace period. All supporting documents and photographs will be electronically attached to this case in the OISC Case Management system.

Garret A. Creason
Investigator

Date: February 28, 2020

Disposition: Posey County Co-op was cited for nine (9) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for storing bulk containers outside of secondary containment. A civil penalty in the amount of $2,250.00 (9 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $1,125.00. Consideration was given to the fact Posey County Co-op cooperated during the investigation and corrective action was taken.

George N. Saxton
Compliance Officer

Draft Date: July 22, 2020
Case Closed: October 16, 2020

CASE SUMMARY

Case #PS20-0053

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: U.S. Enzymes, LLC
Julie Nicoll Partner
137 Production Drive
Avon, IN 46123

1. On January 14, 2020, an anonymous complainant, via a consultant, contacted OISC. The complainant indicated U.S. Enzyme is selling unregistered and non-compliant 25(b) pesticide products.

2. On January 16, 2020, Agent Sarah Caffery and I went to US Enzyme LLC located in Avon, IN. When we arrived, we were met at the front desk by Karren Hasse, Executive Assistant, and Jacquie Brummett, Office Manager. OISC credentials were presented and an NOI was issued. I explained to Mrs. Hasse and Mrs. Brummett that OISC had received a complaint about products and we needed to look at what products were produced. Mrs. Brummett took us to the conference room so that we could speak and look at the products.

3. Mrs. Brummet provided a comprehensive list of the products US Enzyme produces along with current inventory for each product. The products US Enzyme produces are:
    a. MoldKlear
    b. MoldKlear Interior
    c. MoldKlear Crawl and Attic
    d. MoldToxinKlear
    e. ToxinKlear
    f. PassKlear
    g. Fresh'nKlear
    h. Duct-Coil Klear
    i. Car Klear

4. US Enzymes also produces two "crew use" products for American Mold Experts, a related firm of US Enzymes located at the same address. The products are MTR94 and MTR94+.

5. I asked Mrs. Brummett if any of these products were in stock. The below listed products were packaged, labeled, and ready for shipment and able to be sampled:
    a. MoldKlear, 32oz
    b. ToxinKlear, 1 gallon
    c. MoldKlear Crawl and Attic, 1 gallon

d. MoldToxinKlear, 1 gallon
e. Renew Air, 1 gallon
f. Pass Klear, 1 gallon

6. Mrs. Brummet was also able to provide printed labels for each of the products US Enzyme produces.

7. Upon reviewing the products and labels that were provided it was found that some products made pesticidal claims but were not registered with US EPA or the State of Indiana. I issued an Action Order to US Enzymes to stop the sale of the following products:
   a. MoldKlear
   b. ToxinKlear
   c. MoldKlear Crawl and Attic
   d. MoldToxinKlear
   e. Car Klear
   f. Duct-Coil Klear
   g. MoldKlear Interior

Fig.1) Photo of MoldKlear Crawl & Attic, 1 gallon.

8. I explained the Action Order to Mrs. Brummett and Mrs. Hasse. Mrs. Brummett asked if she had any personal liability by signing the Action Order. I explained that the Action Order was issued to US Enzymes and she held no liability personally and that her signature was an acknowledgment that US Enzyme had received the order. Mrs. Brummett stated she understood and signed the Action Order.

9. Mrs. Brummett stated that she wanted me to speak with the owners of US Enzyme, Julie Nicoll and Bill Nicoll. I called and spoke with Mr. and Mrs. Nicoll on speakerphone with Mrs. Brummett and Mrs. Hasse present. I explained to Mr. and Mrs. Nicoll the reason for the investigation along with the findings and the reason for the issuance of the Action Order. Mrs.

Nicoll stated that they used to produce a different product which was the same formulation but had a different name and label. She stated that in 2018 they created these new labels and she did not intend for them to be pesticide products. Mrs. Nicoll stated they could change the labels to be sold as mold stain cleaners. Mr. Nicoll then explained how the product was intended to work. He stated that the enzymes in the product "hydrolyze the mold" by turning mold into water. I then explained to Mr. and Mrs. Nicoll that the products and labels present at that time were considered pesticide products and that is why an Action Order had been issued. I stated that products intended to be used as mold stain cleaners would not be considered pesticide products.

10. I issued formulation sample numbers and photographed all products sampled. I placed all samples in clear evidence bags and sealed them for transport to the OISC Formulation Lab.

11. Shortly after leaving US Enzymes Mrs. Nicoll called. She stated that she was emailed the Action Order by the office staff and she did not agree with the order. She asked to speak with a supervisor. I informed her to speak with OISC Compliance Officer, George Saxton.

12. On January 17, 2020, I delivered the samples to the OISC Formulation Lab.

13. On January 17, 2020, Mrs. Nicoll called and asked the status of the case. Mrs. Nicoll also asked if relabeling the current stock with labels that do not make pesticidal claims would be an option. I informed her that the products that were on hand were still under Action Order and could not be moved/sold until released in writing. I informed Mrs. Nicoll that products produced as mold stain cleaners that did not have any pesticidal claims would not be regulated by OISC or EPA.

14. Between January 17 and January 20, 2020, I received several emails from Mrs. Hasse. All of which will be included in this case.

15. On January 23, 2020, after much communication with Mrs. Nicoll, I delivered a letter to US Enzymes asking them to submit a written plan to OISC for what corrective action they would take to come into compliance.

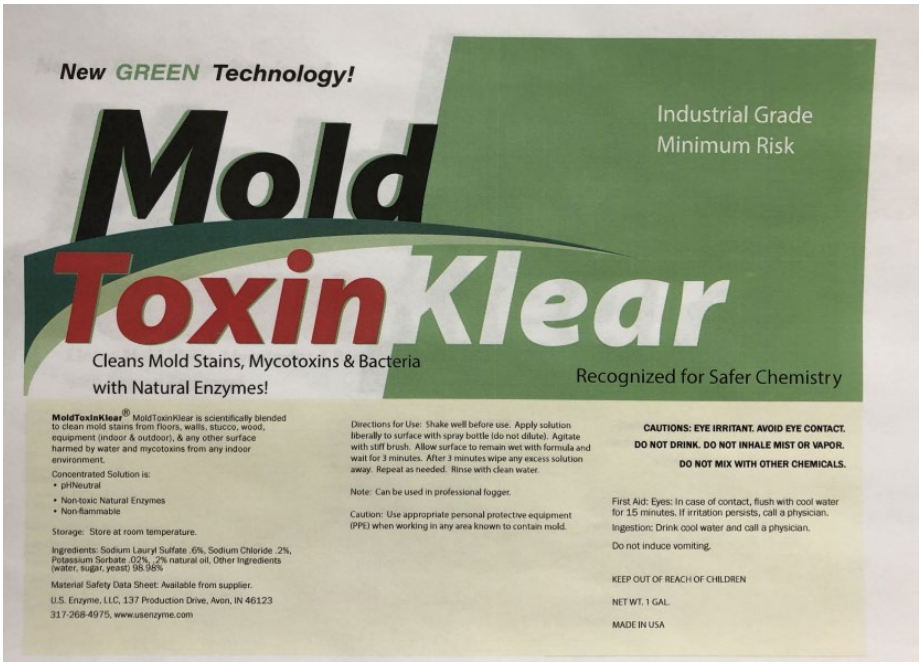
16. Mrs. Nicoll contacted OISC and stated they would like to meet and have a conversation with the Compliance Officer, George Saxton, and the Pesticide Administrator, Dave Scott. On February 14, 2020 we met to discuss the information of the case. Information was provided on what makes a product a pesticide, how to register pesticides, and options for moving forward with the current case. OISC agreed to assist US Enzymes in any questions they had with pesticide product registrations and provide guidance to any helpful resources.

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

Garret A. Creason
Investigator

Date: March 31, 2020

18. On January 23, 2020, Ms. Hurst-Nicoll requested a label review for pesticidal claims of the label below.



We supplied our review to Ms. Hurst-Nicoll via email on January 27, 2020. Per the review, OISC determined that toxin, mycotoxin and bacteria are all pesticidal. Our review also indicated that the use of "MOLD TOXIN KLEAR" or "MOLD KLEAR" implies the removal or clearing out mold or mold toxin and therefore is also considered a pesticidal claim.

This review did not include a review of 25(b) minimum risk requirements and/or violations.

19. On January 28, 2020, L.E. Bradford, Pesticide Product Registration Assistant, compiled a review of pesticidal claims from the website (www.usenzyme.com) and social media accounts. This compilation is included at the end of this document.

20. On February 3, 2020, I completed the labeling review for the product(s) found in distribution. This review includes the products sampled, labels collected, literature, social media, and websites.

Per review of all materials - mold, bacteria and mycotoxin removal, remediation and elimination claims are found on product labels, websites and social media.

The product labels claim to "eliminate mold (and/or mycotoxins, bacteria) with natural enzymes". This statement implies that the enzymes are the active ingredients. Yeast is not an acceptable active ingredient for 25(b) minimum risk pesticide products. This is a violation of EPA Condition 1.

Mold is considered an organism that poses a threat to human health; therefore, these products do not qualify for 25(b) minimum risk pesticide products. It is specifically stated on EPA's 25(b) website that neither mold remediation nor mold control claims can be used with a minimum risk pesticide because those claims imply sterilization or disinfection. This is a violation of EPA condition 4.

Bacteria is also considered an organism that poses a threat to human health.

The website indicates that the foggers continuously capture and destroy all spores, this claim implies a misleading range of effectiveness. This is a violation of EPA Condition 6. See page 7 of the website review.

The website includes mold removal protocol, mold remediation, and other pesticidal claims, a collection of instances is documented in the website review.

We were unable to review the full directions provided for the use of the product because specific details on how to use the product are provided via email, per "how do I find out how to use your products." See page 6 of website review.

Since mold and bacteria control or remediation are not acceptable with section 25(b) minimum risk pesticide products, we did not provide a full review of 25(b) label guidelines as provided by AAPCO. The review does not include labeling statements that are missing from a Section 3, EPA registered pesticide product.

Claims specific to each product:

Duct-CoilKlear contains the following pesticidal claims:

- Cleans mold & bacteria
- Cuts through biofilm
- Remove mold & bacteria
- Duct-Coil Klear
- Pesticide claims on the website, see page 9 of the website review
  - "blended to remove mold & bacteria from air ducts"

CarKlear contains the following pesticidal claims:

- Eliminates mold & bacteria
- Remove mold
- CarKlear
- Pesticide claims on the website, see page 9 of the website review
  - "for use in remediation of vehicle interiors"

Mold ToxinKlear contains the following pesticidal claims:

- Eliminates mold, mycotoxins & bacteria
- Remove mold
- Mold ToxinKlear
- Pesticide claims on the website, see page 9 of the website review
  - "remove the hazardous mycotoxins they produce, including endotoxins"

MoldKlear Crawl & Attic contains the following pesticidal claims:

- Eliminates mold
- Remove mold
- MoldKlear
- Pesticide claims on the website, see page 9 of the website review
  - "use this for all mold and mycotoxin concerns"

MoldKlear contains the following pesticidal claims:

- Eliminates mold
- Remove mold
- MoldKlear

ToxinKlear contains the following pesticidal claims:

- Eliminates mycotoxins and bacteria
- Remove mycotoxins and bacteria
- ToxinKlear
- Pesticide claims on the website, see page 9 of the website review
  - "use this to ensure mycotoxins are eliminated"

Renew-Air contains the following pesticidal claims:

- No pesticidal claims on the product label
- Pesticide claims on website, see page 4 of website review
  - "Designed to clean air of mold and particulate"

PassKlear contains the following pesticidal claims:

- PassKlear – implies mold remediation
- Website includes details on mold clearance test & inspections - passing test based on the use of this product
- **Details on mold clearance test & inspections**

Fresh'nKlear contains the following pesticidal claims:

- No pesticidal claims on the product label

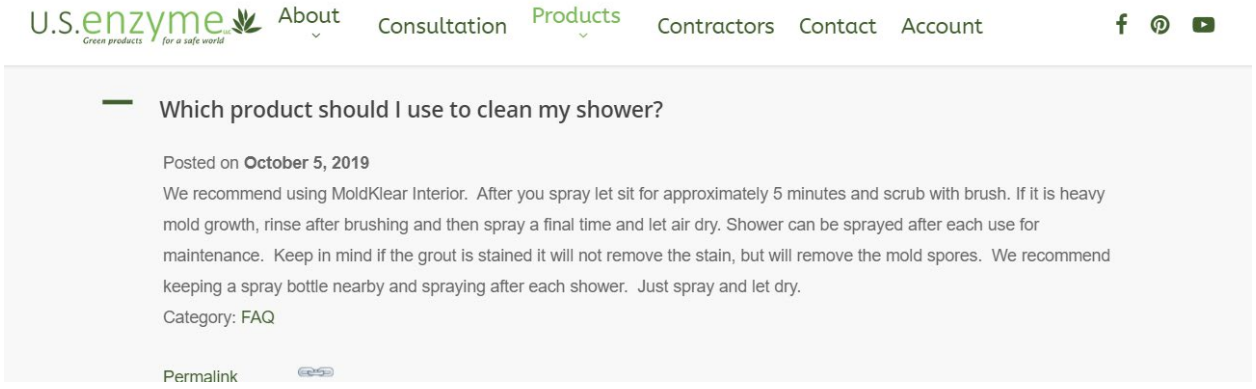
Interiors (Crew use only) contains the following pesticidal claims:

- Clean mold
- Label does not include net weight

Attics and Crawl – spaces only (Crew use) contains the following pesticidal claims:

- Clean mold
- Label does not include net weight

Based on documentation of the review of the website, US Enzyme LLC indicates that their products do not clean stains. The products are specifically intended to remove mold spores. This is documented on page 7 of the website review and below from the FAQ on https://usenzyme.com/faq/



Unregistered Pesticide Device

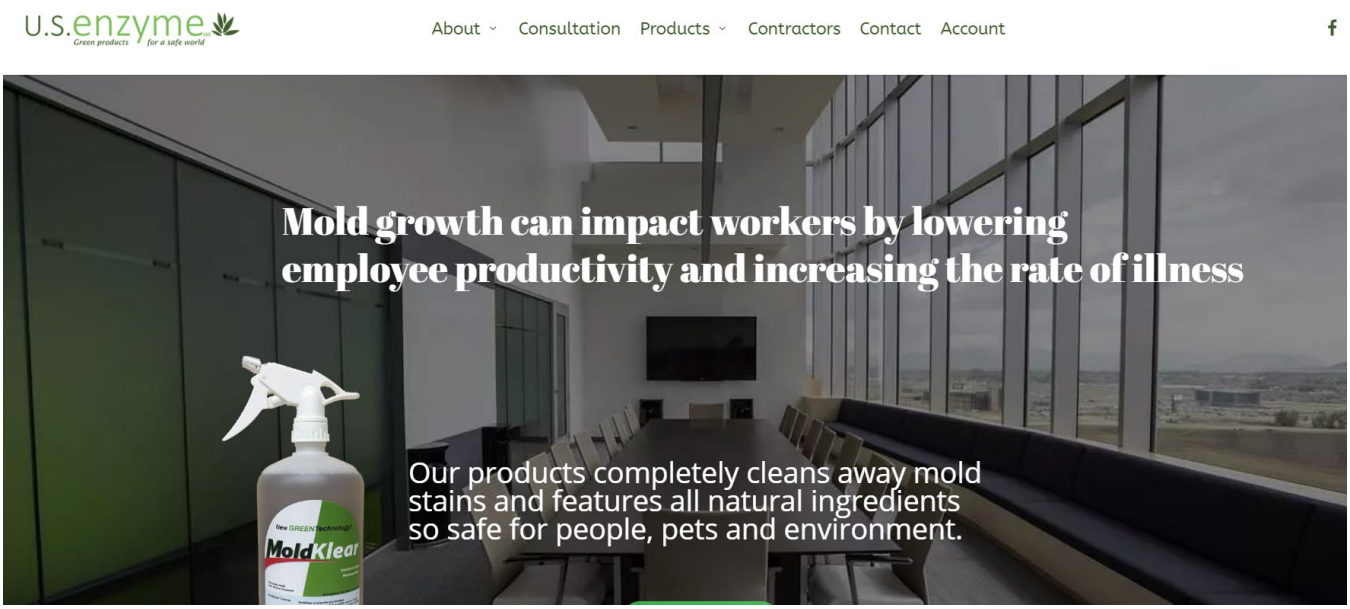
From the review of the website, see page 10 and 11 of the website review document, Omega Supreme Plus Electric Vacuum and/or its replacement filters are considered pesticide devices and require registration in the state of Indiana. A pesticide device also requires an EPA producer establishment. To complete this review, please provide all labeling, directions and claims connected with the product.

- Pesticide claim: "it includes immediate containment, critical=application ULPA cartridge for bacteria, asbestos, mold, lead dust, arsenic, and other small hazardous particles"

Website Reviewed – 1/28/2020
Reviewed by – L.E. Bradford

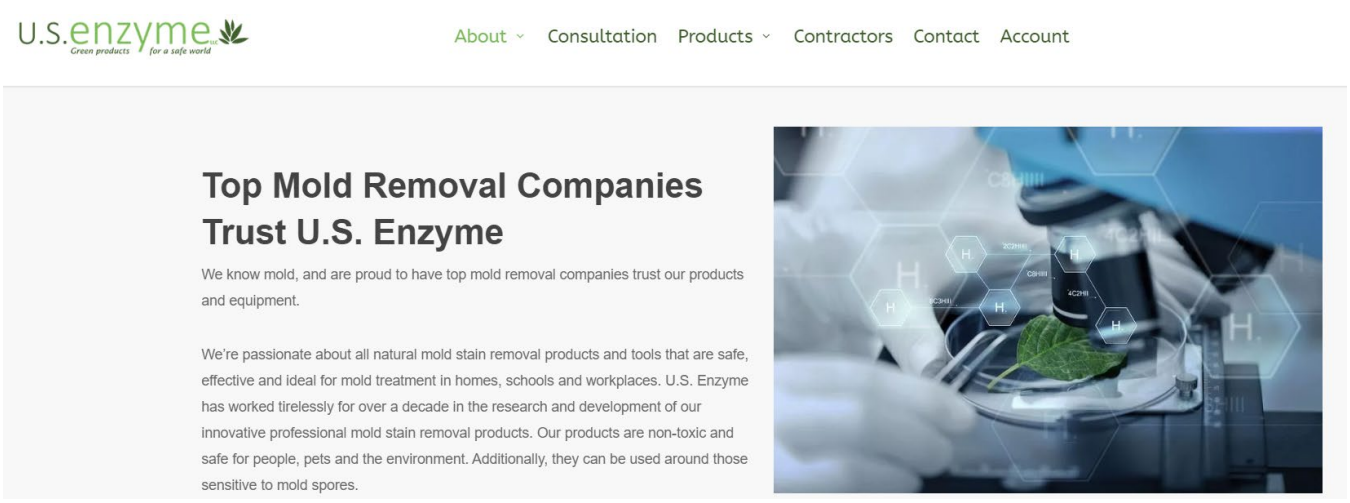
Health Claims

- Referencing mold in relation to "rate of illness," https://usenzyme.com/

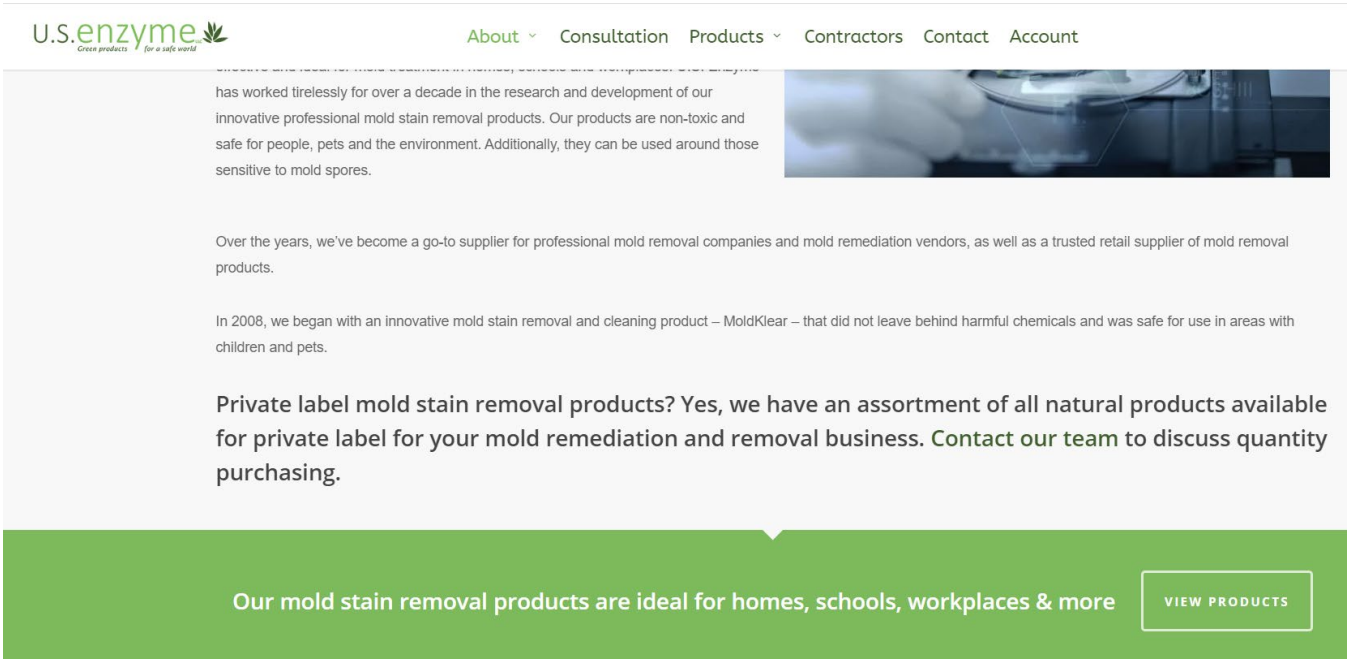


Mold Removal

- "Top Mold Removal" URL - https://usenzyme.com/top-mold-removal/
- "Top Mold Removal Companies Trust U.S. Enzyme," https://usenzyme.com/top-mold-removal/



- "for your mold remediation and removal business," https://usenzyme.com/top-mold-removal/



- "Mold Removal Supplies and Equipment," https://usenzyme.com/become-a-dealer/

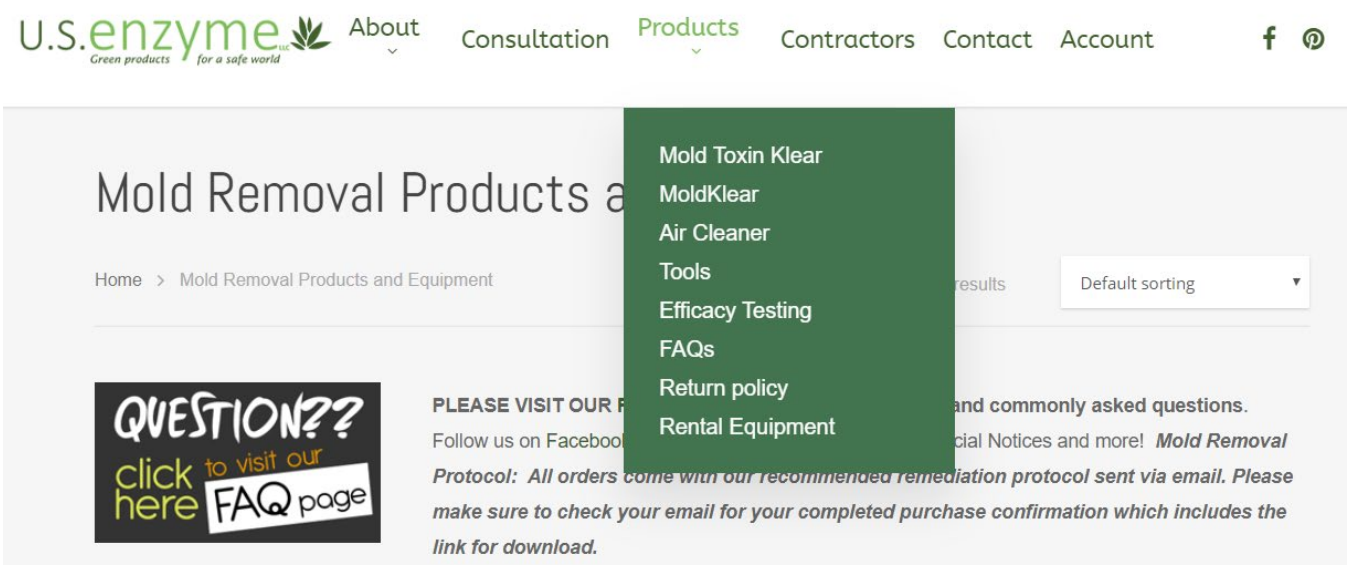
Professional Mold Removal Supplies and Equipment

Are you a mold remediation and removal specialist committed to proper mold and mycotoxin removal practices? To unlock U.S. Enzyme dealer/contractor pricing by completing the below application.

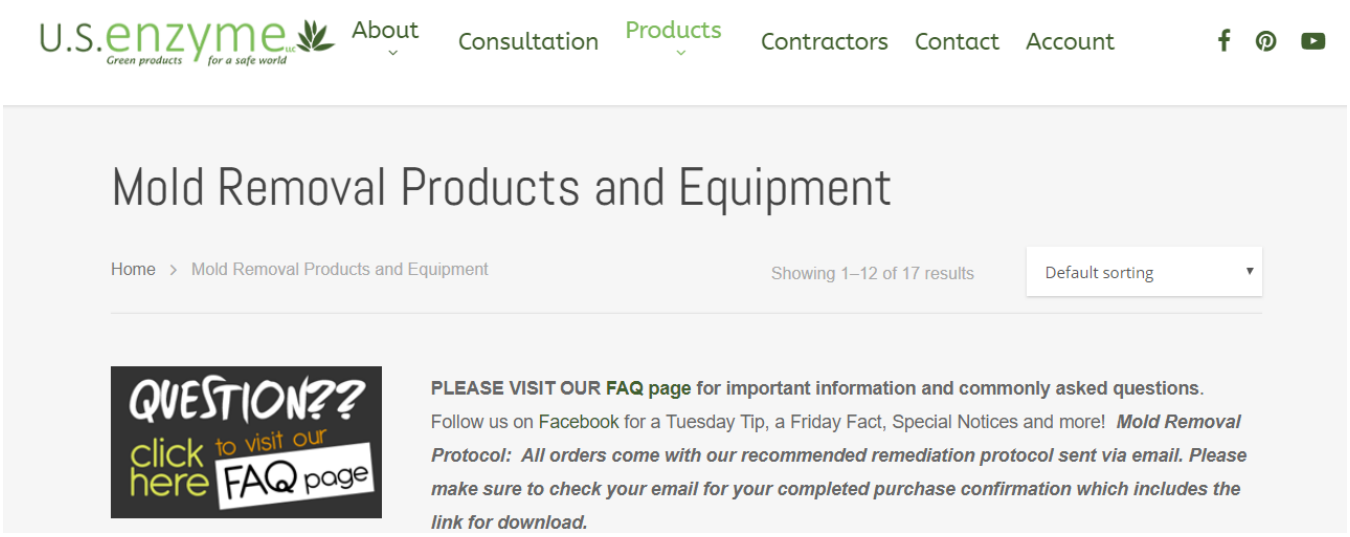
Contractors

For special contractor pricing, complete the attached application. We will then create a contractor account on our store to give access to

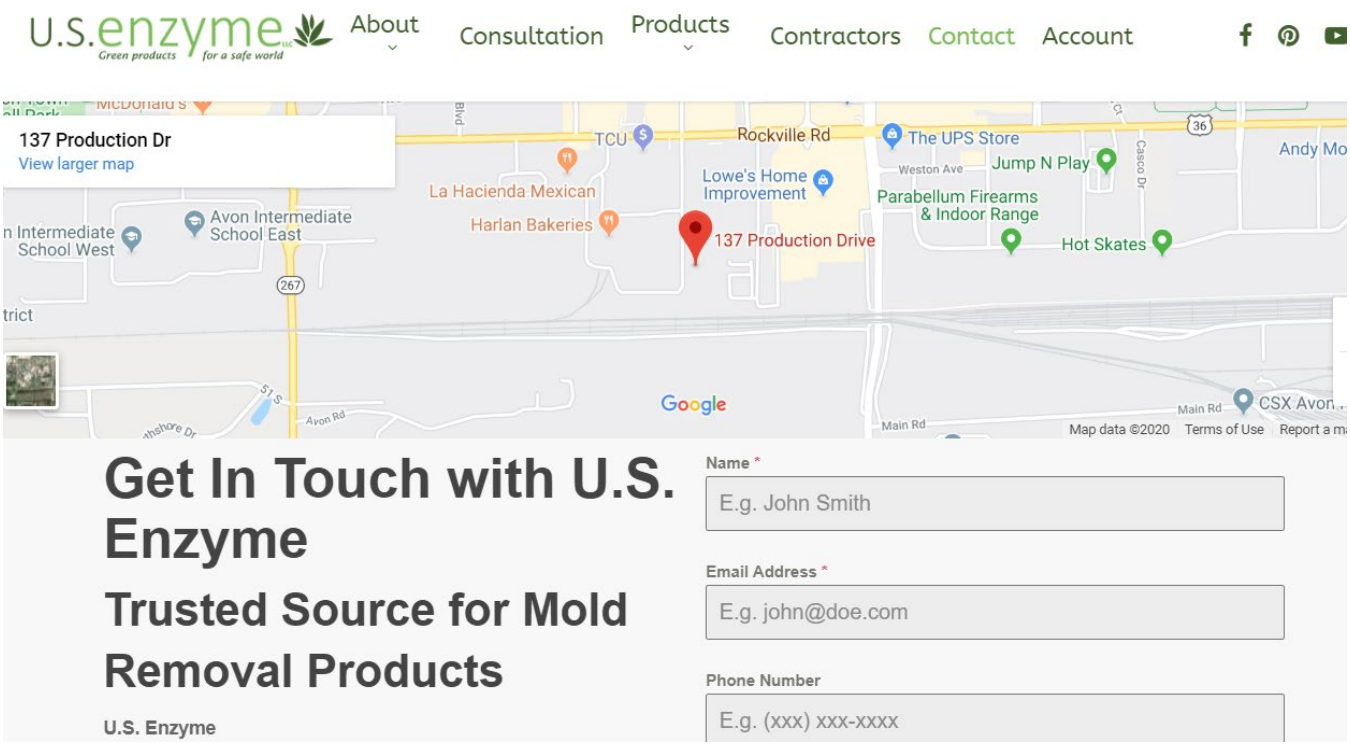
- "Mold Toxin Klear, MoldKlear," https://usenzyme.com/shop/



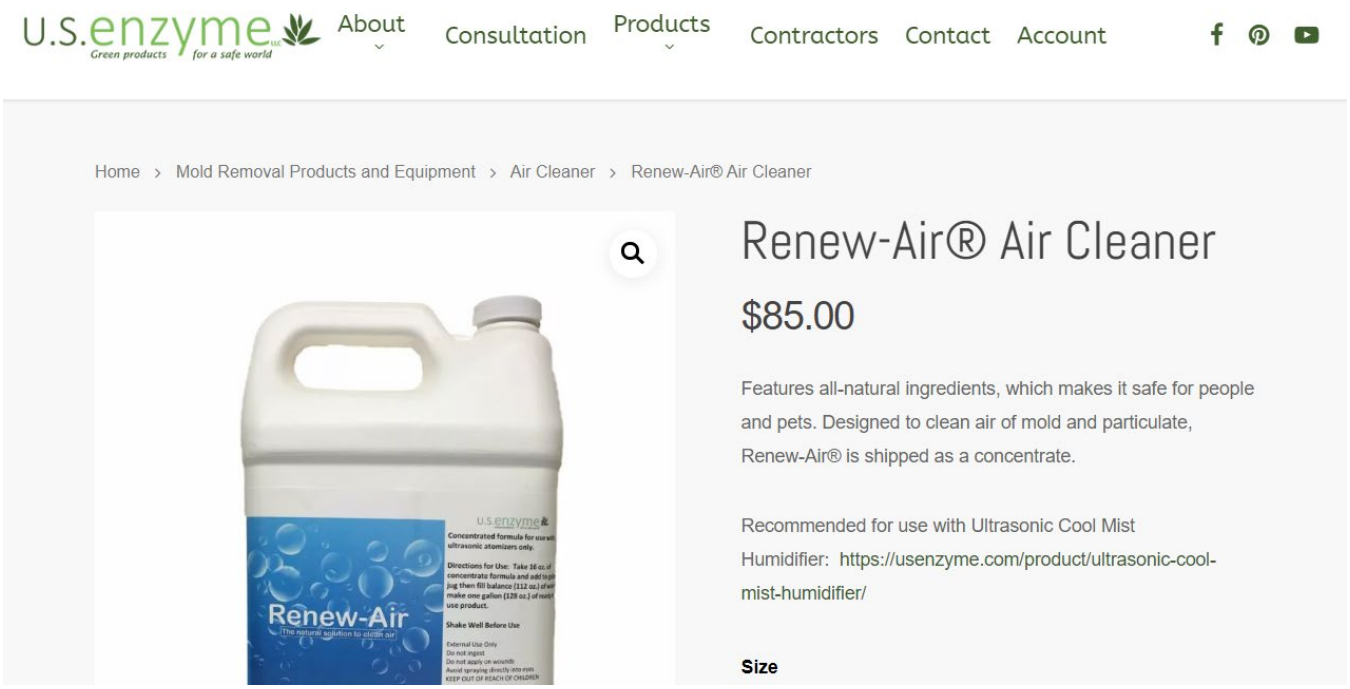
- "Mold Removal Products and Equipment," "Mold Removal Protocol," https://usenzyme.com/shop/



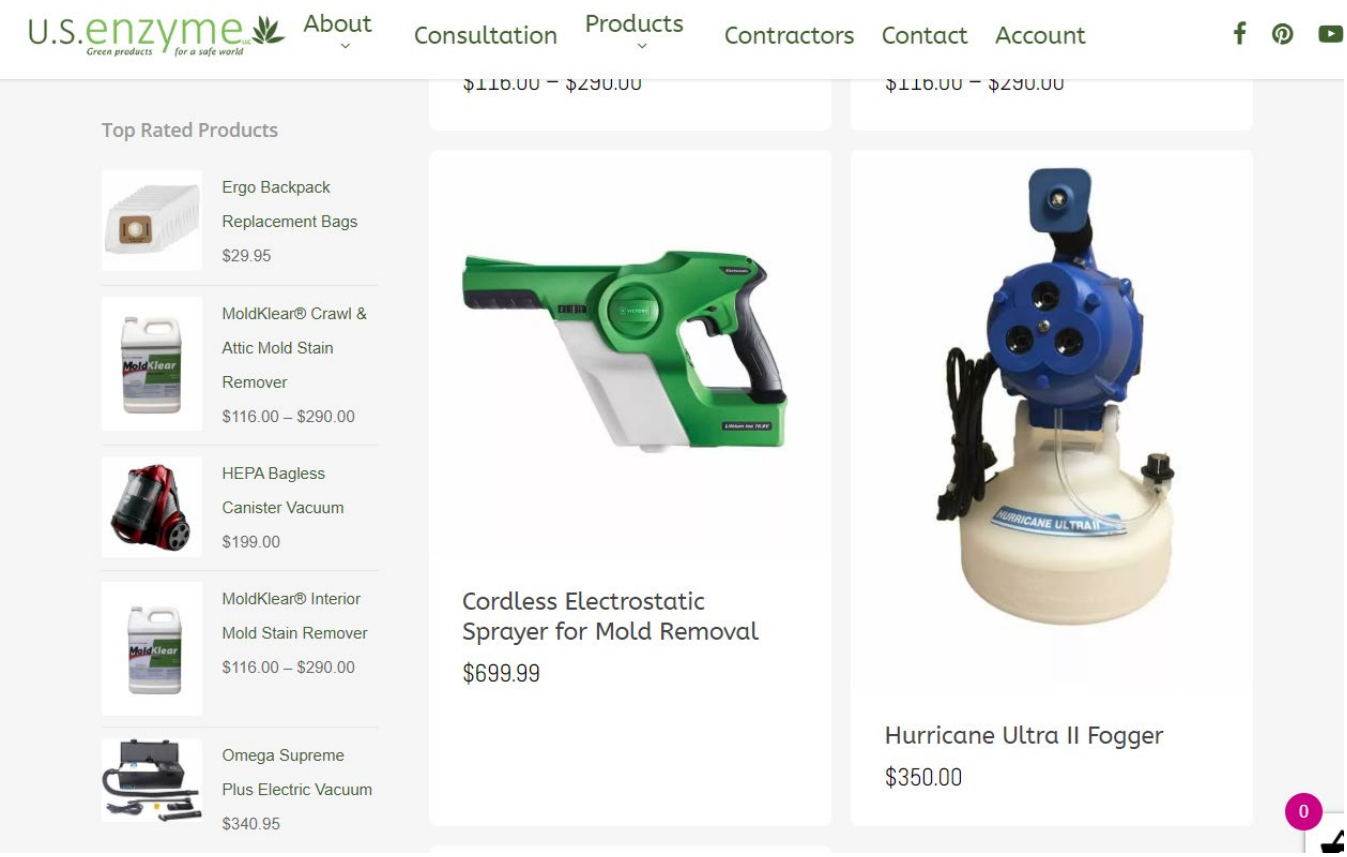
- “Source for Mold Removal Products,” https://usenzyme.com/contact/



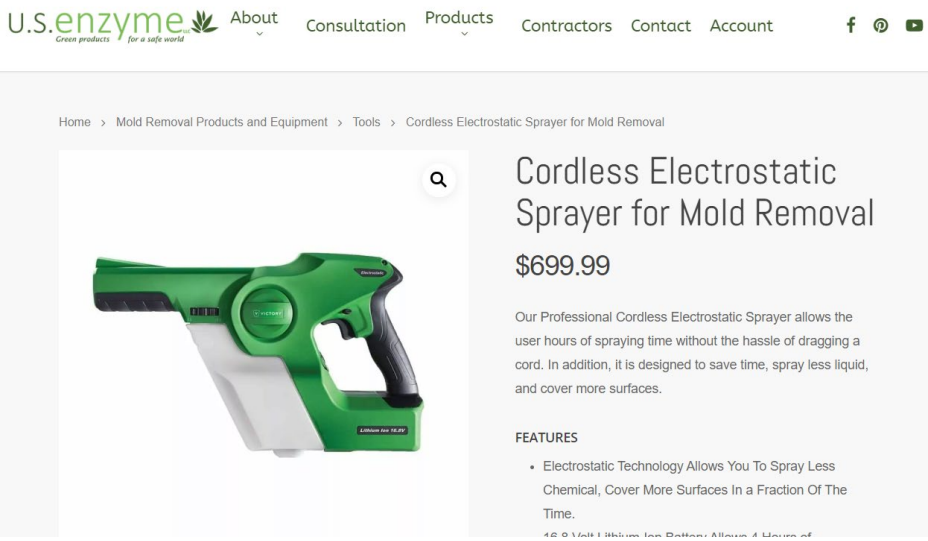
- “Clean air of mold,” https://usenzyme.com/shop/air-cleaner/renew-air-air-cleaner/



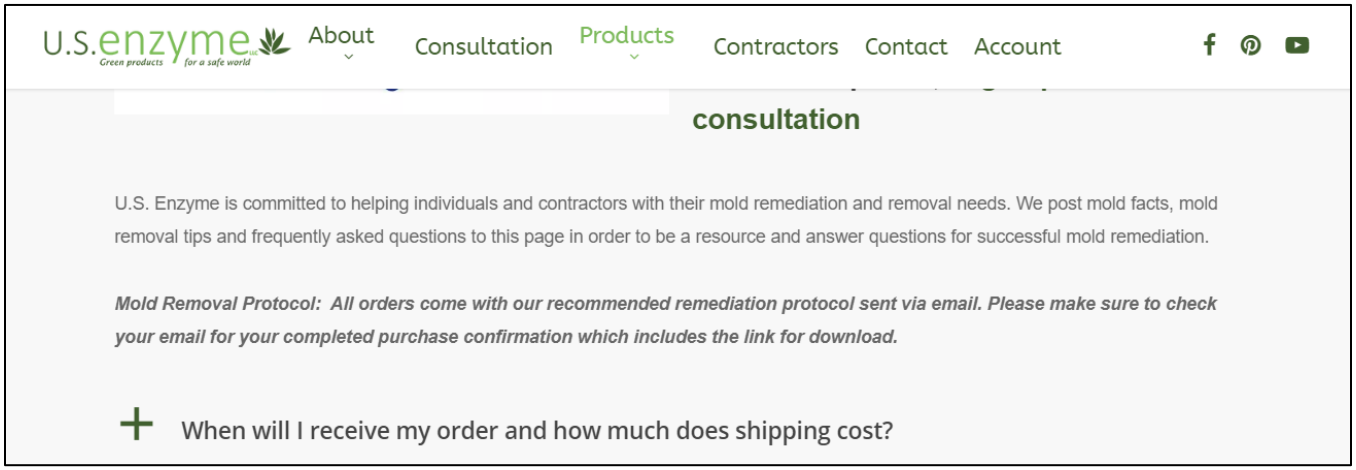
- "Electrostatic Sprayer for Mold Removal," https://usenzyme.com/product-category/retail/page/2/

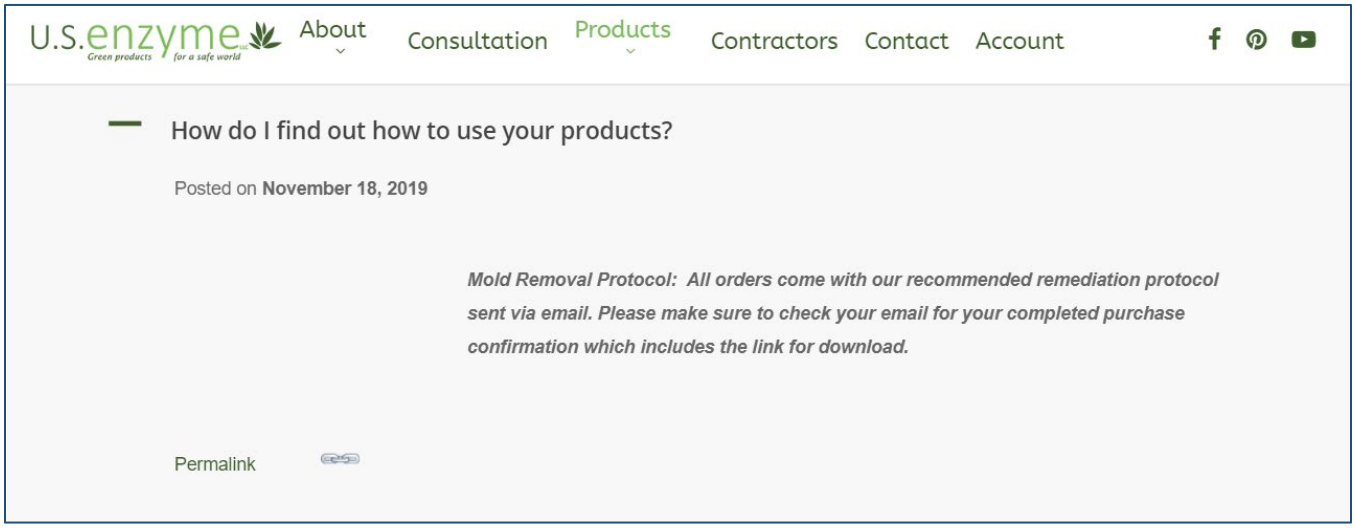


- "Electrostatic Sprayer for Mold Removal," https://usenzyme.com/shop/tools/cordless-electrostatic-sprayer-for-mold-removal/

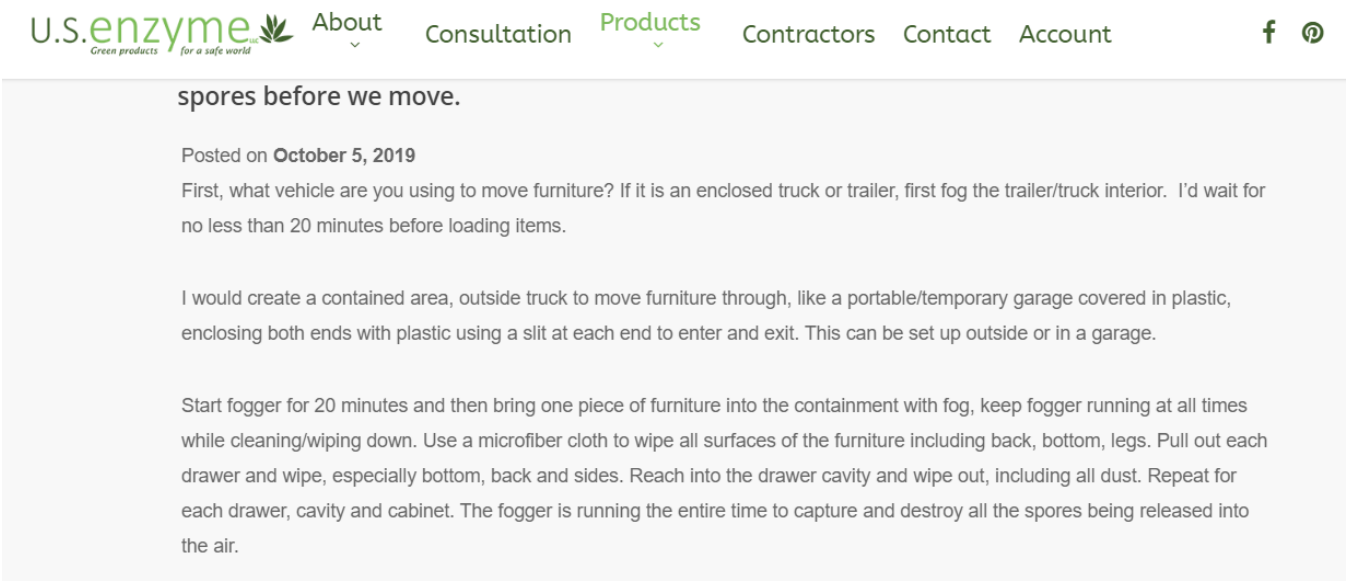


- "Mold Removal Protocol," https://usenzyme.com/faq/

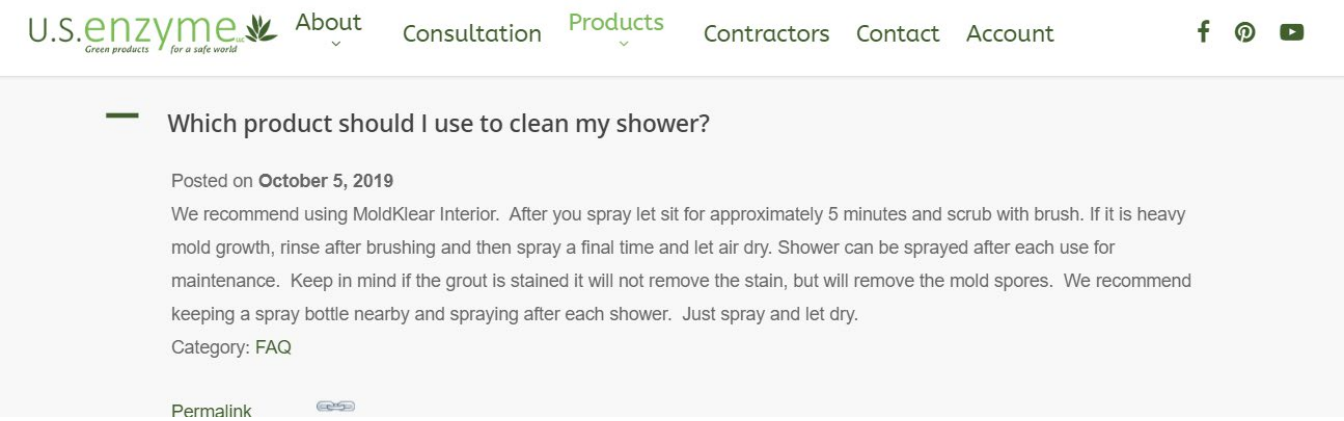




- "The fogger is running the entire time to capture and destroy all the spores," https://usenzyme.com/faq/

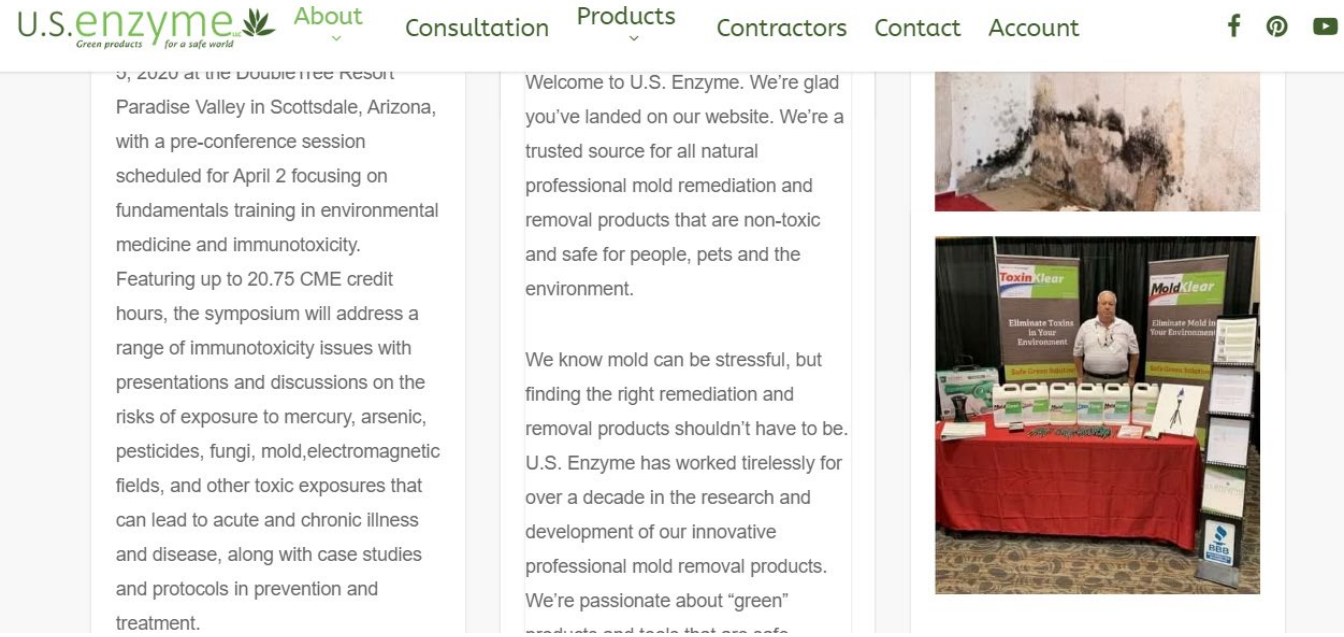


- "if the grout is stained it will not remove the stain, but will remove the mold spores," https://usenzyme.com/faq/

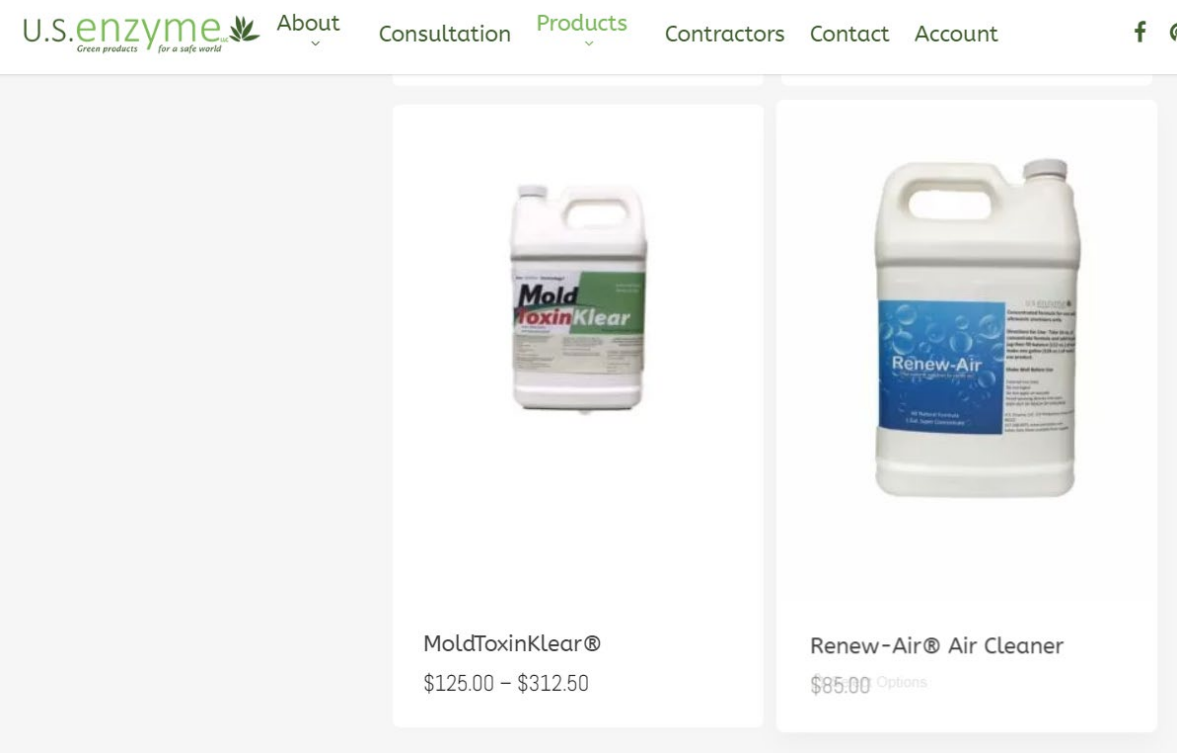


"ToxinKlear," "Toxins," "Mycotoxins"

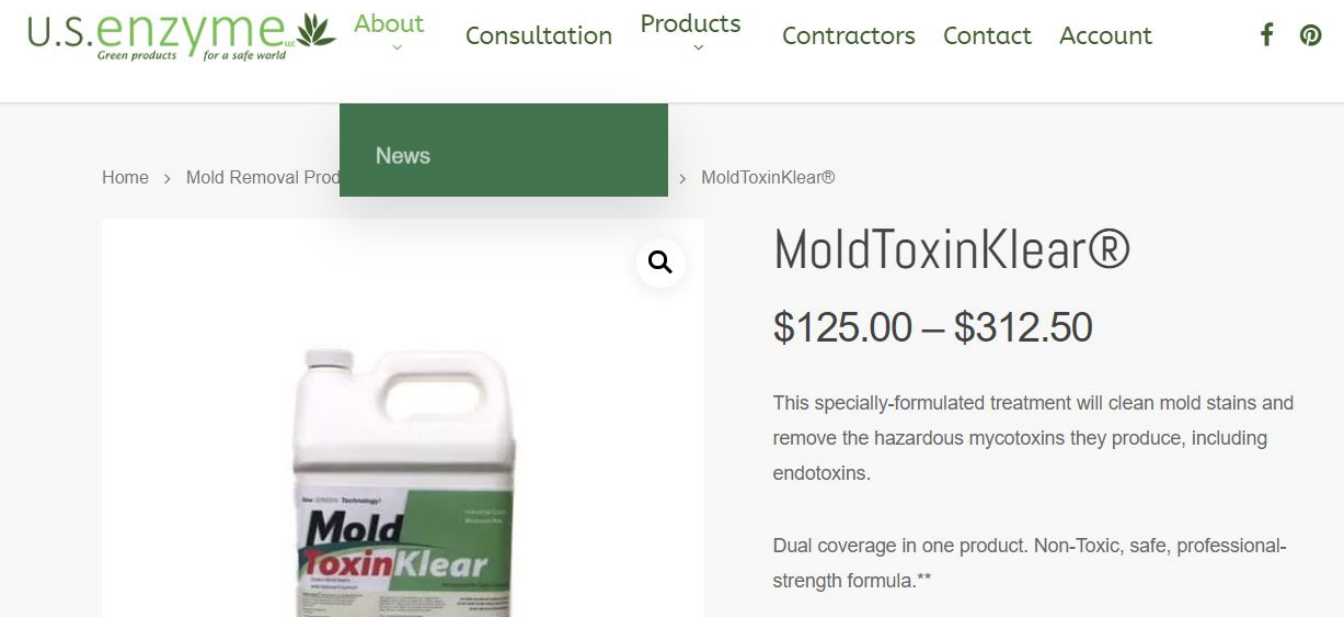
- "Eliminate Toxins in Your Environment," https://usenzyme.com/blog/



- “Mold ToxinKlear,” https://usenzyme.com/shop/



- “Remove the hazardous mycotoxins they produce,” https://usenzyme.com/shop/mold-toxin-klear/moldtoxinklear/



- “Use this to ensure mycotoxins are eliminated,” “Use this for all mold and mycotoxin concerns,” “Used to remove mold & bacteria from air ducts and evaporator & condenser coils, cuts through biofilm,” “https://usenzyme.com/faq/

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Which product should I use?

Posted on **October 5, 2019**

***MoldKlear Interior*:** Use for fogging and cleaning contents in interiors.

***MoldKlear Crawl & Attic*:** Use ONLY for crawlspaces and attics. Can be used on wood studs before drywall has been installed.

***ToxinKlear*:** If you have had your home previously remediated and it was not tested for mycotoxins, use this to ensure mycotoxins are eliminated.

***MoldToxinKlear*:** Use this for all mold and mycotoxin concerns.

***Renew-Air*:** For use in ultrasonic humidifiers. Product should not be used in a heated humidifier.

CarKlear: For use in remediation of vehicle interiors.

***Duct-CoilKlear*:** Blended to remove mold & bacteria from air ducts and evaporator & condenser coils, cuts through biofilm.

Filters (device?)

- "ULPA cartridge for bacteria, asbestos, mold, lead…" https://usenzyme.com/shop/tools/omega-supreme-plus-electric-vacuum/

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Home › Mold Removal Products and Equipment › Tools › Omega Supreme Plus Electric Vacuum

Omega Supreme Plus Electric Vacuum

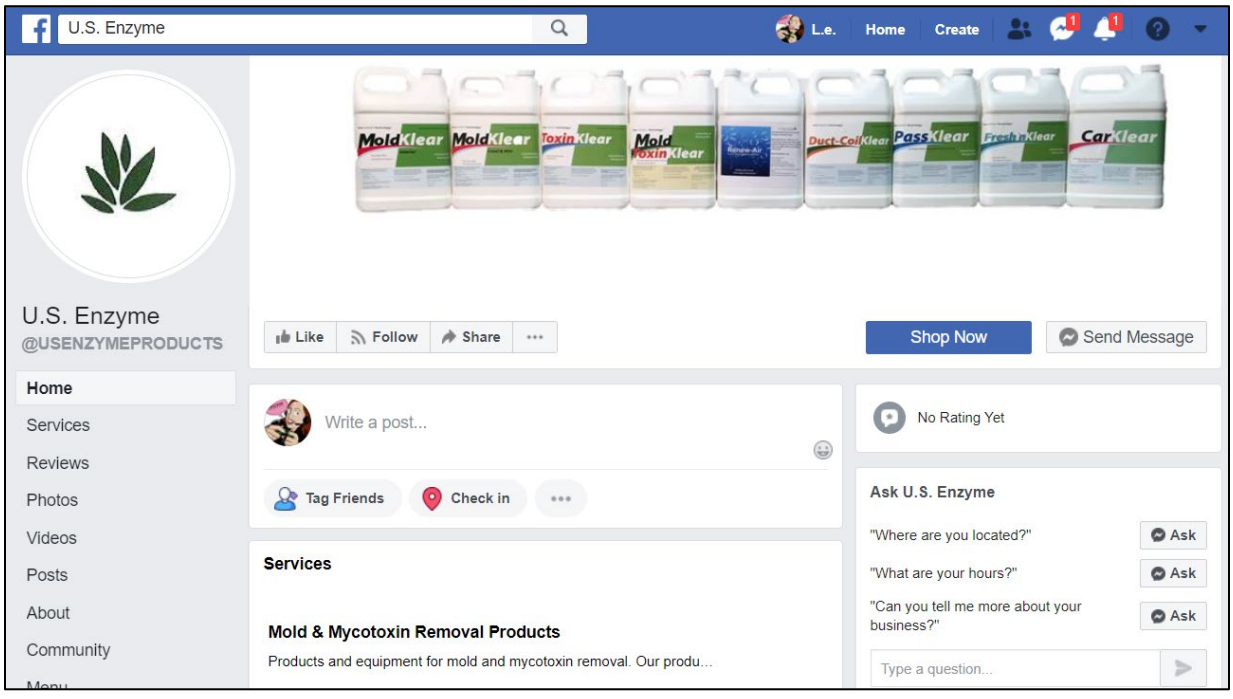
$340.95

The Omega Supreme Plus Vacuum is ESD safe, quiet, powerful, and the new motor uses less energy than standard vacuums. Replacement Filters are designed to capture fumes, atmospheric dust, black toner and all color toner and other ultra-fine particulate. Compatible with 3M vacuums. This vacuum features an electronic line filter that supresses EMI/RFI line noise. It includes immediate containment, critical-application ULPA cartridge for bacteria, asbestos, mold, lead dust, arsenic, and other small hazardous particles. The Omega Supreme Plus Vacuum also features over-heat protection and field replaceable latches.

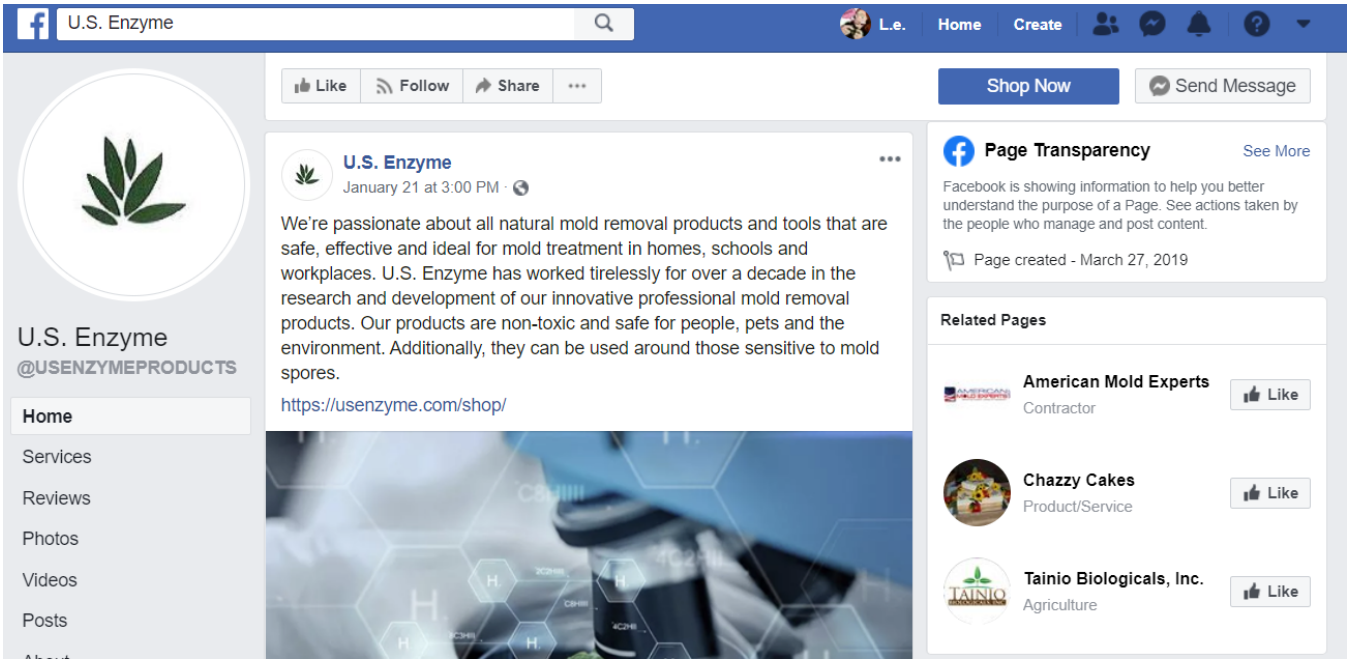
- "The ULPA, immediate containment filter [sic] captures everything from hazardous particulate to lead paint dust/chips-RRP (Renovation, Repair and Painting), cement dust, silica dust, engineered stone, mold, etc," https://usenzyme.com/shop/tools/omega-ulpa-filter-cartridge/

Facebook

- "Mold & Mycotoxin Removal Products," https://www.facebook.com/USENZYMEPRODUCTS, https://www.facebook.com/pg/USENZYMEPRODUCTS/services/



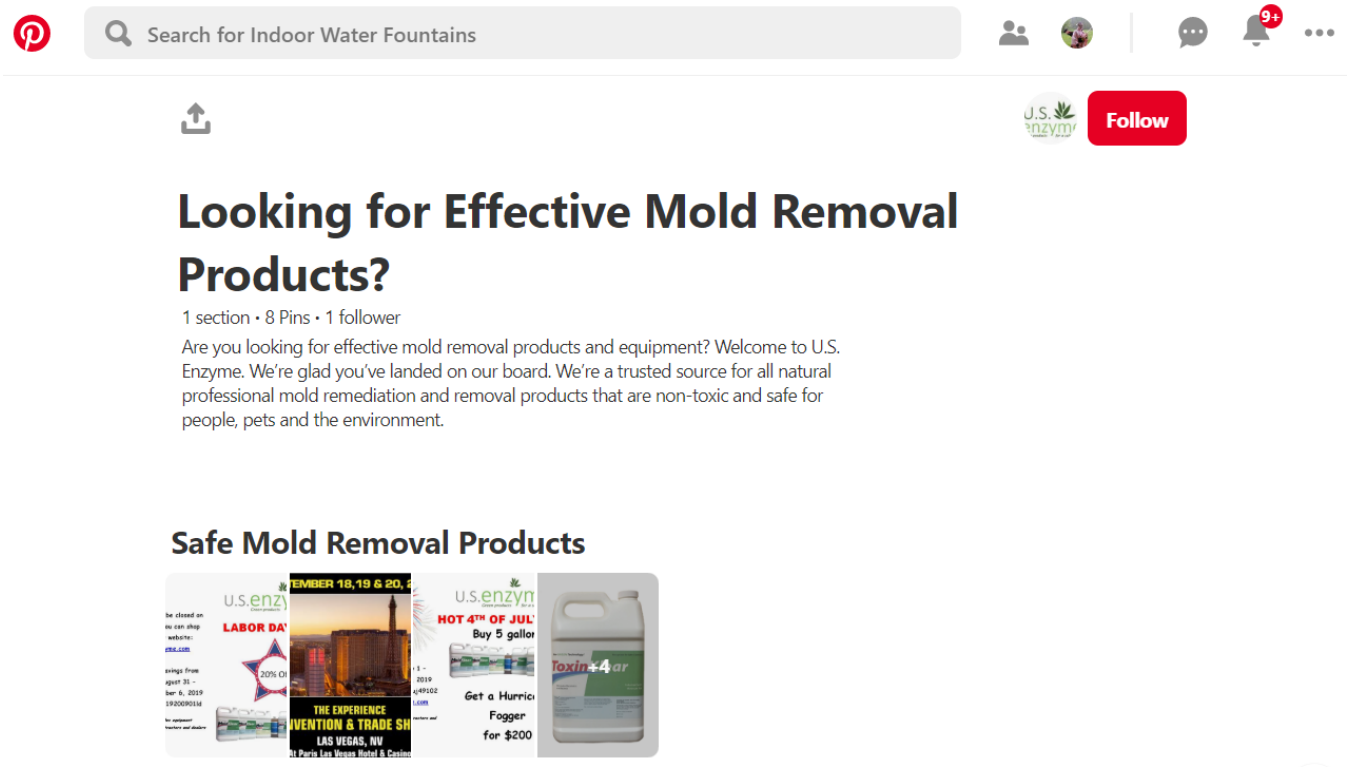
- "our innovative mold removal products," https://www.facebook.com/USENZYMEPRODUCTS



- “clean mold and remove mycotoxins,” https://www.facebook.com/USENZYMEPRODUCTS/photos/a.269643350650287/4643716445107 89/?type=3&theater

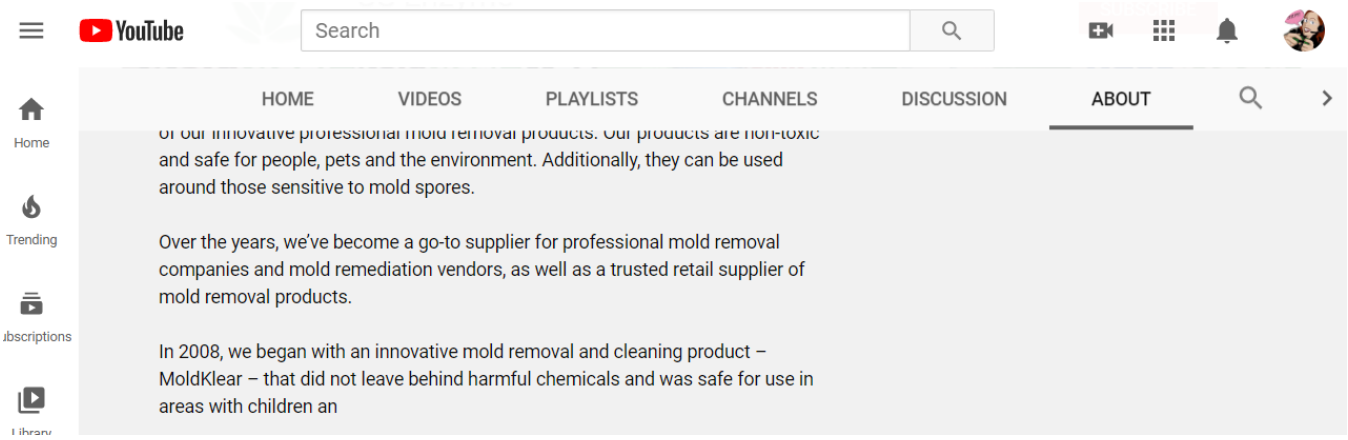
Pinterest

- “Effective Mold Removal Products,” “Safe Mold Removal Products,” https://www.pinterest.com/usenzyme1/looking-for-effective-mold-removal-products/?autologin=true



Youtube

- "an innovative mold removal and cleaning product," https://www.youtube.com/channel/UCO90YezoZNyMqDUvbv9FbDA/about



On April 24, 2020, I reviewed the revised labels as received by Mrs. Hurst on April 15. Labels were reviewed with the Disposition Plan that was received by Mrs. Hurst on April 21. OISC received revised labels for the following:

MoldKlear – Attic & Crawl Formula
MoldKlear – Interior Formula
CarKlear
Duct-CoilKlear
Mold ToxinKlear

Per the Disposition Plan, U.S. Enzyme LLC is moving forward with only one product being identified as either EPA Registered or as a (25)b minimum risk, which is identified as MoldToxinKlear. Many pesticidal claims still remain on the revised labels and therefore, these labels are not acceptable for use as non-pesticide, cleaning products.

1. The product names still imply pesticidal claims with the use of "KLEAR", see review supplied to Mrs. Hurst on 1/27/2020, documented, with detail, in the label review section of this case under point 1, page 4. OISC recommends removing the word KLEAR from the product names or qualify the word with an appropriate statement that indicates what KLEAR means.

2. The claim to remove mold was identified in the previous label reviews as a nonacceptable claim; this claim is pesticidal. This will need to be revised to "mold stains". To be completely clear on the labeling, OISC recommends the statement "mold & mildew stain cleaner" to also be revised to "mold stain & mildew stain cleaner".

3. The labels include "safely clean fungus". The ability to clean fungus does not appear on the EPA list of acceptable claims for a cleaning product. In connection with our previous conversations related to the fact that a person does not clean a bacteria, a person would also not clean a fungus. Instead a person would use a product to remove a bacteria or fungus and those claims are pesticidal. Any claims to remove fungus must be removed from your labeling. A link to EPA's cleaning product site is included below in the References.

4. The Duct-CoilKlear label includes the statement "cuts through biofilm". Per EPA's cleaning product site (referenced in point 3), the ability to cut through or impact a biofilm in any manner is considered a pesticidal claim. Any claims connected to biolfilms must be removed from your labeling.

5. The revised label for MoldToxinKlear does not meet EPA label requirements or 25(b) label requirements, per EPA or the AAPCO 25(b) workgroup. Links to both requirements have been provided below in the Reference section. No further review was conducted on the MoldToxinClear label as provided on 4/15/20. Please refer to the previous reviews on this label.

Reference:
https://www.epa.gov/minimum-risk-pesticides/conditions-minimum-risk-pesticides
https://aapco.org/2015/07/02/fifra-25b-workgroup/
https://www.oisc.purdue.edu/pesticide/pesticide_products.html
https://www.epa.gov/pesticide-registration/determining-if-cleaning-product-pesticide-under-fifra#example-a

Sarah K. Caffery

Sarah K. Caffery
Pesticide Product Registration Specialist

Date: April 24, 2020

Disposition:

A. U.S. Enzymes, LLC was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide device that was not registered in the state of Indiana.

B. U.S. Enzymes, LLC was cited for ten (10) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for distribution in the state of Indiana. A civil penalty in the amount of $2,500.00 (10 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $1,875.00 for cooperation.

C. U.S. Enzymes, LLC was cited for two (2) counts of violation of section 57(4)(c) of the Indiana Pesticide Registration Law for distributing pesticide products that did not have the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $375.00 for cooperation.

D. U.S. Enzymes, LLC was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that contained a false and misleading statement (fogger). A civil penalty in the amount of $250.00 was assessed for this violation. However, the civil penalty was reduced to $188.00 for cooperating.

E. U.S. Enzymes, LLC was cited for ten (10) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing pesticide products that were in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the

amount of $2,500.00 (10 counts x $250.00 per count) was assessed. However, the civil penalty was reduced to $1,875.00 for cooperating.

F. Total amount of civil penalty assessed is $5,750.00. However, the civil penalty was reduced to $4,313.00. Consideration was given to the fact U.S. Enzymes, LLC cooperated during the investigation.

George N. Saxton
Compliance Officer

Draft Date: June 12, 2020
Case Closed: January 14, 2021

CASE SUMMARY

Case #PS20-0147

Complainant: Richard Dauby
5606 Attic Road
Tell City, IN 47586-8938

Respondent: Matt Mutchman — Private Applicator
Wagner Turkey Farm Inc.
19156 Candy Road
St. Meinrad, IN 47577-9735

1. On June 1, 2020, the complainant contacted the Office of Indiana State Chemist (OISC) to report a neighboring farmer sprayed a field and it drifted all over the complainant. Complainant has a shirt he can give for analysis.

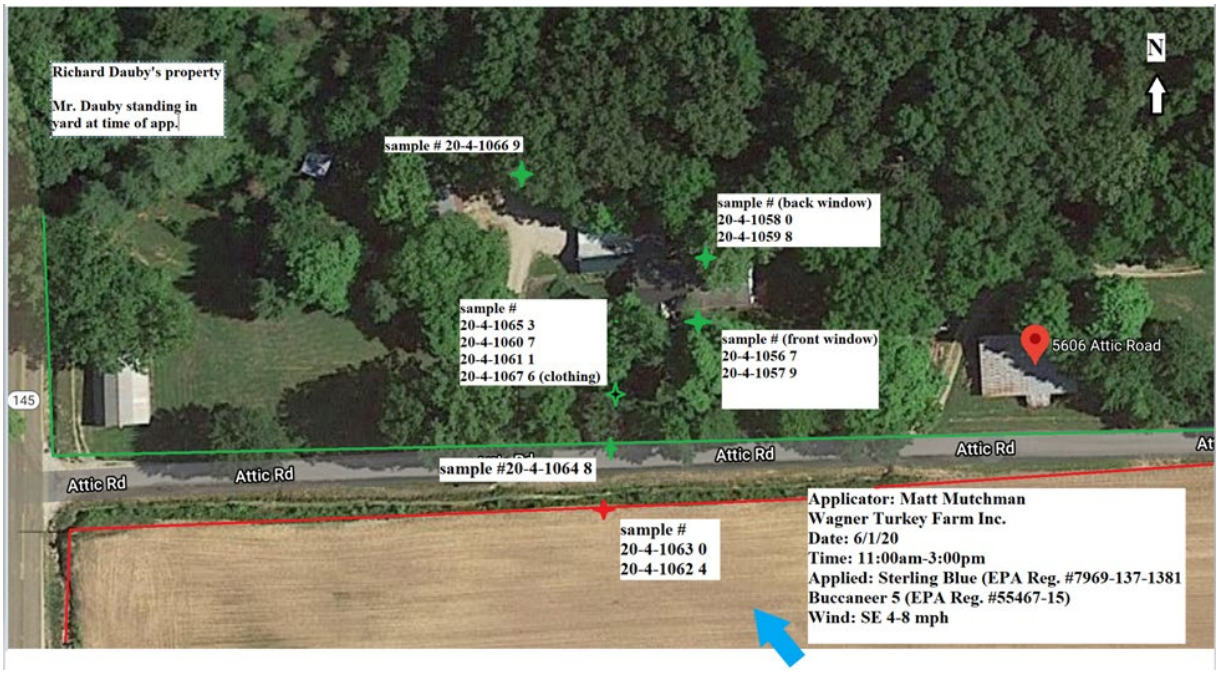
2. On June 2, 2020, the Office of Indiana State Chemist (OISC) received an email from Kasey Wagner. The email described her encounter with Richard Dauby by telephone. Mrs. Wagner's family recently obtained farm ground adjacent to Mr. Dauby. Email contained in OISC's case management system.

3. On June 3, 2020, I spoke with Kasey Wagner. Mrs. Wagner stated she received a telephone call from Mr. Dauby regarding a field pesticide application on June 2020, adjacent to his property. Mrs. Wagner stated the applicator made special effort to make an extended setback from Mr. Dauby's property because of information the Wagner's received about previous problems with Mr. Dauby and applications. Mrs. Wagner stated the applicator did not see or observe Mr. Dauby on his property during the application.

4. On June 3, 2020, I emailed Mrs. Wagner a Pesticide Investigation Inquiry (PII) form to complete and return. I explained to Mrs. Wagner that all questions must be answered with a response. I explained one product she identified as being applied was a dicamba product requiring additional answers on the PII.

5. On June 8, 2020, I met with Mr. Dauby at his residence. I collected clothing from Mr. Dauby he was wearing on the date of the application adjacent to his property. Mr. Dauby showed the approximate location in his yard he was standing at the time of the application. I photographed the site, collected a vegetation sample to be visually analyzed by Purdue's Plant and Pest Diagnostic Lab (PPDL), and collected investigative samples for OISC's Residue Lab.

6. I created a site diagram of sample locations. See Site Diagram. Furthermore, I documented possible symptoms of pesticide exposure. See figures 1-2.



Site Diagram


Figure 1-Leaf distortion


Figure 2-Leaf stunting and yellowing

7. On June 9, 2020, PPDL reported the following:

Diagnosis and Recommendations

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

Final Report

A couple of plants in sample 20-00490 show light leaf cupping and chlorosis.
These symptoms can be associated with exposure to dicamba + glyphosate mix.
Symptoms are very light and plants should recover quickly with no lasting effects on plant growth.

Marcelo Zimmer
Weed Science Program Specialist
Purdue University - Weed Science Lab
Office: (765) 496-2121

The sycamore sample had necrotic leaf lesions and dieback caused by anthracnose, a common fungal disease that appears on sycamore every year. https://www.purduelandscapereport.org/article/sycamore-anthracnose-dont-let-the-rains-get-you-down/

The other tree (Catalpa?) had old dieback from last year, cause undetermined.
The photos show very few symptoms I would associate with herbicide injury except the weeds in/near the field.

Tom Creswell
Director, Plant and Pest Diagnostic Lab
creswell@purdue.edu
765-494-8081

8. On June 10, 2020, I received the PII from Casey Wagner. The PII indicated Matt Mutchman made an application on June 1, 2020, between 11:am and 3:00pm using Sterling Blue (EPA Reg. #7969-137-1381, active ingredient dicamba) and Buccaneer 5 (EPA Reg. #55467-15, active ingredient glyphosate). The PII indicated the wind was out of the south east at 4-8 mph blowing toward Mr. Dauby and his property.

9. On July 8, 2020, OISC's Residue Lab reported the following lab results:

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-1054 6	Swab (Acetone); Trip Blank	Swab (Acetone)	5OH-Dicamba	BDL ng/swab	0.2 ng/swab
			DCSA	BDL ng/swab	0.4 ng/swab
			Dicamba	BDL ng/swab	0.2 ng/swab
20-4-1055 1	Swab (Water); Trip Blank	Swab (Water)	AMPA	BDL ng/swab	50 ng/swab
			Glyphosate	BDL ng/swab	5 ng/swab
20-4-1056 7	Swab (Acetone); Grab; Front Yard	Swab (Acetone)	5OH-Dicamba	BDL ng/swab	0.2 ng/swab
			DCSA	BDL ng/swab	0.4 ng/swab
			Dicamba	6.08 ng/swab	0.2 ng/swab
20-4-1057 9	Swab (Water); Grab; Front Yard	Swab (Water)	AMPA	BDL ng/swab	50 ng/swab
			Glyphosate	66.2 ng/swab	5 ng/swab
20-4-1058 0	Swab (Acetone); Grab; Back Yard	Swab (Acetone)	5OH-Dicamba	BDL ng/swab	0.2 ng/swab
			DCSA	BDL ng/swab	0.4 ng/swab
			Dicamba	12.6 ng/swab	0.2 ng/swab

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-1059 8	Swab (Water); Grab; Back Yard	Swab (Water)	AMPA	BDL ng/swab	50 ng/swab
			Glyphosate	22.4 ng/swab	5 ng/swab
20-4-1060 7	Swab (Acetone); Grab; Dauby standing	Swab (Acetone)	5OH-Dicamba	BQL ng/swab	0.2 ng/swab
			DCSA	BDL ng/swab	0.4 ng/swab
			Dicamba	1.31 ng/swab	0.2 ng/swab
20-4-1061 1	Swab (Water); Grab; Dauby standing	Swab (Water)	AMPA	BDL ng/swab	50 ng/swab
			Glyphosate	BDL ng/swab	5 ng/swab
20-4-1062 4	Soil; Grab; 0-2"; Target Site	Soil	5OH-Dicamba	BQL ppb	0.2 ppb
			DCSA	125 ppb	0.2 ppb
			Dicamba	169 ppb	0.2 ppb
			AMPA	462 ppb	25 ppb
			Glyphosate	666 ppb	2 ppb
20-4-1063 0	Veg; Comp; Target Site	Veg	5OH-Dicamba	11.3 ppb	0.2 ppb
			DCSA	28.5 ppb	0.2 ppb
			Dicamba	34500 ppb	2 ppb
			AMPA	263 ppb	50 ppb
			Glyphosate	22700 ppb	10 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-1064 8	Veg; Comp; Front Yard, Grad1, 10yd	Veg	5OH-Dicamba	9.02 ppb	0.2 ppb
			DCSA	BQL ppb	0.2 ppb
			Dicamba	91.9 ppb	2 ppb
			AMPA	BDL ppb	50 ppb
			Glyphosate	53.4 ppb	10 ppb
20-4-1065 3	Veg; Comp; Grad2, 25yd, Dauby standing	Veg	5OH-Dicamba	6.43 ppb	0.2 ppb
			DCSA	0.975 ppb	0.2 ppb
			Dicamba	17.0 ppb	2 ppb
			AMPA	BDL ppb	50 ppb
			Glyphosate	BQL ppb	10 ppb
20-4-1066 9	Veg; Comp; Back Yard, Grad3, 60yd	Veg	5OH-Dicamba	1.16 ppb	0.2 ppb
			DCSA	0.249 ppb	0.2 ppb
			Dicamba	85.9 ppb	2 ppb
			AMPA	BDL ppb	50 ppb
			Glyphosate	69.8 ppb	10 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-1067 6	Clothing; Comp; Front Yard	Clothing	5OH-Dicamba	BDL ng/clothing	140 ng/clothing
			DCSA	582 ng/clothing	140 ng/clothing
			Dicamba	3770 ng/clothing	140 ng/clothing
			AMPA	BDL ng/clothing	6100 ng/clothing
			Glyphosate	11800 ng/clothing	610 ng/clothing

10. Vegetation samples visually analyzed by PPDL indicated symptoms similar to exposure to glyphosate and dicamba. Furthermore, Samples analyzed by OISC's Residue lab reported dicamba

and glyphosate in most samples. Clothing worn by Mr. Dauby on the dated of application detected dicamba and glyphosate.

11. Label language for Buccaneer 5 states in part, "*Do not apply this product in a way that will contact workers or other persons, either directly or through drift."* In addition, "*AVOID DRIFT. EXTREME CARE MUST BE USED WHEN APPLYING THIS PRODUCT TO PREVENT INJURY TO DESIRABLE PLANTS AND CROPS. Do not allow the herbicide solution to mist, drip, drift or splash onto desirable vegetation since minute quantities of this product can cause severe damage or destruction to the crop, plants or other areas on which treatment was not intended.*"

12. Label Language for Sterling Blue states in part. "DO *NOT apply this product in a way that will contact workers or other persons, either directly or through drift*." And "*Avoid off-target movement. Use extreme care when applying STERLING BLUE to prevent injury to desirable plants and shrubs*."

Paul J. Kelley III

Paul J. Kelley
Investigator

Date: July 20, 2020

Disposition: Matt Mutchman and Wagner Turkey Farm, Inc. were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of $100.00 was assessed for this violation.

Matt Mutchman and Wagner Turkey Farm, Inc. were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.

George N. Saxton
Compliance Officer

Draft Date: October 12, 2020
Case Closed: December 17, 2020

Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER
Protecting Indiana's Agriculture and Environment
Purdue University • 175 S University Street
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Telephone (765) 494-1492 • Facsimile (765) 494-4331
www.oisc.purdue.edu

Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

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Official records may only be obtained directly from the Office of Indiana State Chemist.

In Re: Case PS20-0150

Department	Pesticide
Originated	06/03/2020
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant	**Travis J Jochim** Owensville, IN 47665	
Respondent	**Superior Ag Resources Co Op** Owensville, IN 47665	Licensed Business
Respondent	**Craig A Woods** Owensville, IN 47665	Certified Applicator
Respondent	**Travis J Jochim** Owensville, IN 47665	

Overviews

08/31/2020 **Investigation Summary**

Complainant stated Superior Ag made a pesticide application of dicamba to a neighboring farm field and now complainant has exposure symptoms to his Enlist beans.

I contacted Superior Ag Resources located in Owensville, Indiana. I spoke with branch manager Philip Garrett. I advised Mr. Garrett I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Garrett advised Superior Ag Resources made a pesticide application to the field to the south of the complainant's field.

I met with the complainant at his soybean fields located near the intersection of County Road 525 West and County Road 250 South in Gibson County, Indiana. The complainant stated Superior Ag Resources made a pesticide application to the field to the south of his non-dicamba tolerant (non-DT) soybean field. The complainant stated several days after Superior Ag Resources made the pesticide application his non-DT soybean field started showing symptom of what he believed to be dicamba injury. During my on-site investigation I did the following: Looked for, and found one potential sources of herbicide application in the area made during the time frame the complainant advised. The target field is located to the south of the complainant's non-DT soybean fields across a county road. Observed and photographed mostly uniform cupping of leaves and whitish/yellow leaf tips on non-DT soybean plants across the complainant's soybean field. Symptoms were visible throughout the complainant's soybean fields. Symptoms were notably more severe on the south end of the complainant's field. Collected samples of injured soybean plants from the complainant's non-DT soybean fields for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPPDL) Collected composite soil sample from the target field. Collected gradient vegetation samples from the complainant's non-DT soybean fields. The residue samples were submitted to the OISC Residue Laboratory for analysis.

Purdue Plant and Pest Diagnostic Lab Final Report: List of Diagnosis/ID(s) Suspected for Herbicide injury; Exposure (Abiotic disorder) Soybean plants in sample 20-00508 show leaf cupping of newer leaves. Some of these cupped leaves also show a whitish leaf tip. These symptoms are characteristic of exposure to dicamba. The lower leaves show quite a bit of necrotic spotting, which is not disease related. The new growth has light leaf cupping. No significant disease observed.

The OISC Residue Laboratory analyzed the off target gradient vegetation samples collected for the active ingredients dicamba, bifenthrin, cyfluthrin, and cypermethrin and reported the following laboratory report. Only the active ingredients dicamba and cyfluthrin were used in the target field tank mix. The OISC Residue Laboratory analysis detected the active ingredient dicamba in all three off target gradient vegetation samples. The active ingredient bifenthrin was detected in all three off target gradient vegetation samples, but was below quantification limits.

The wind data from the Evansville Regional Airport (KEVV) indicate the wind speed during the application was between 0 and 3 mph with no gusts out of the south. According to the application record and wind data, during the application the wind was out of the south blowing towards the complainant's non-DT soybean field.

According to the application record and confirmed by the wind data from the Evansville Regional Airport (KEVV), during the application the wind was out of the south and would have been blowing towards the complainant's non-DT soybean field. The label for *Xtendimax, EPA Reg.# 524-617, Active Ingredient = dicamba* states: **"DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant sensitive crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON"**.

Submitted By: Nathan J. Davis
Role: Investigator

10/09/2020 **Disposition Summary**

Superior Ag Resources Co Op was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of $250.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

Craig A Woods 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. Consideration was given to the fact a restricted use pesticide was involved.

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

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

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/03/2020 **Intake Referral Filed**

Complainant stated Superior Ag made a pesticide application of dicamba to a neighboring farm field and now complainant has exposure symptoms to his Enlist beans.

Original Event: Intake Referral (Pesticide) #1343
Complainant: Travis J Jochim
Respondent: Superior Ag Resources Co Op
Submitted By: George Saxton
Assigned To: Nathan J. Davis

06/03/2020 **Case Created**

Original Event: Case PS20-0150
Submitted By: George Saxton
Assigned To: Nathan J. Davis

06/04/2020 **Investigator Called Business**

On June 4, 2020 I contacted Superior Ag Resources located in Owensville, Indiana. I spoke with branch manager Philip Garrett. I advised Mr. Garrett I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Garrett advised Superior Ag Resources made a pesticide application to the field to the south of the complainant's field. I advised Mr. Garrett I would be sending him via email a pesticide investigation inquiry to complete for the application and return to me.

Original Event: Investigation Activity (Pesticide) #1599
Subject: Superior Ag Resources Co Op
Submitted By: Nathan J. Davis

06/04/2020 **Investigator Received Fax/Email from Business**

On June 4, 2020 I received a completed pesticide investigation inquiry from Mr. Garrett for the application which indicated the following:

Certified Applicator: Craig Woods
Application Date and Time: June 1, 2020, 8:00pm to 8:19pm
Pesticide Applied:
Xtendimax, EPA Reg.# 524-617, Active = dicamba, 32oz/acre
Sultrus, EPA Reg.# 5905-599, Active = cyfluthrin, 1.6oz/acre
Roundup Powermax, EPA Reg.# 524-549, Active = glyphosate, 32oz/acre
Adjuvants: On Target, Class Act Ridion
Target Field Location and Size: W 250S/525W, 26 acres
Wind Blowing from Which Direction: Start- S, End- S
Wind Speed at Boom Height: Start- 3mph, End- 3mph
Nozzle and Pressure: Hypro FCULD 120-04 30-50psi
Boom Height: 20 inches
Size of in-field downwind buffer: NA

Pesticide Investigation Inquiry

Completed pesticide investigation activity received on June 4, 2020.

Original Event:	Investigation Activity (Pesticide) #1600
Subject:	Superior Ag Resources Co Op
Respondent:	Craig A Woods
Submitted By:	Nathan J. Davis

06/09/2020 **Investigator Met with Complainant**

On June 9, 2020 I met with the complainant at his soybean fields located near the intersection of County Road 525 West and County Road 250 South in Gibson County, Indiana. The complainant stated Superior Ag Resources made a pesticide application to the field to the south of his non-dicamba tolerant (non-DT) soybean field. The complainant stated several days after Superior Ag Resources made the pesticide application his non-DT soybean field started showing symptom of what he believed to be dicamba injury.

During my on-site investigation I did the following:

Looked for, and found one potential sources of herbicide application in the area made during the time frame the complainant advised. The target field is located to the south of the complainant's non-DT soybean fields across a county road.

Observed and photographed mostly uniform cupping of leaves and whitish/yellow leaf tips on non-DT soybean plants across the complainant's soybean field. Symptoms were visible throughout the complainant's soybean fields. Symptoms were notably more severe on the south end of the complainant's field.

Collected samples of injured soybean plants from the complainant's non-DT soybean fields for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPPDL)

Collected composite soil sample from the target field. Collected gradient vegetation samples from the complainant's non-DT soybean fields. The residue samples were submitted to the OISC Residue Laboratory for analysis.

Photographs

Photographs taken during on-site investigation.

Original Event:	Investigation Activity (Pesticide) #1578
Location:	Travis J Jochim
Subject:	Travis J Jochim
Submitted By:	Nathan J. Davis
Photos:	


File 46867


File 46861


File 46862


File 46863

06/09/2020 **Residue Samples Collected**

Original Event:	Residue Collection #147943 (20-4-0283 6)
Client:	Travis J Jochim
Submitted By:	Nathan J. Davis
Sample:	20-4-0283 6 | Soil; Comp; 2-4"; Target Site, S
Sample:	20-4-0284 3 | Veg; Grab; Beans; Off Target, Grad1
Sample:	20-4-0285 8 | Veg; Grab; Beans; Off Target, Grad2
Sample:	20-4-0286 2 | Veg; Grab; Beans; Off Target, Grad3
Sample:	20-4-0287 0 | Veg; Ctrl; Woods; Off Target, E

06/09/2020 **External Lab Sample Collected**

Original Event:	External Lab Sample Collection #147946 (X20-1BF6C1)
Client:	Travis J Jochim
Submitted By:	Nathan J. Davis
Lab:	Purdue Plant and Pest Diagnostic Laboratory
Sample:	X20-1BF6C1 | Enlist E3 Soybeans

06/09/2020 **Lab Advised of Target Analytes**

Original Event:	Residue Collections Follow Up #274
Submitted By:	Nathan J. Davis
Target Analyte:	Roundup Powermax
Target Analyte:	Xtendimax
Target Analyte:	Sultrus
PPLS Labels:	000524-00549-20200225.pdf https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf 000524-00617-20181105.pdf

https://www3.epa.gov/pesticides/chem_search/ppls/000524-00617-20181105.pdf

062719-00649-20170112.pdf
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00649-20170112.pdf

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06/11/2020 **Received External Lab Report**

Purdue Plant and Pest Diagnostic Lab
Final Report

List of Diagnosis/ID(s)
Suspected for Herbicide injury; Exposure (Abiotic disorder)

Soybean plants in sample 20-00508 show leaf cupping of newer leaves.
Some of these cupped leaves also show a whitish leaf tip. These symptoms are characteristic of exposure to dicamba.
The lower leaves show quite a bit of necrotic spotting, which is not disease related. The new growth has light leaf cupping. No significant disease observed.

Original Event:	External Lab Report #148485 (X20-1BF6C1)
Submitted By:	Nathan J. Davis
Sample:	X20-1BF6C1

08/10/2020 **Received Residue Lab Report**

Lab Remarks

Released 08/10/2020

Investigatory Summary

The OISC Residue Laboratory analyzed the off target gradient vegetation samples collected for the active ingredients dicamba, bifenthrin, cyfluthrin, and cypermethrin and reported the following laboratory report. Only the active ingredients dicamba and cyfluthrin were used in the target field tank mix. The OISC Residue Laboratory analysis detected the active ingredient dicamba in all three off target gradient vegetation samples. The active ingredient bifenthrin was detected in all three off target gradient vegetation samples, but was below quantification limits.

Original Event:	Residue Lab Report #154952 (147943-R261)
Submitted By:	SYSTEM
Lab Report:	Lab Report 147943-R261.pdf

08/11/2020 **Online Investigation Activity**

Weather Data

Weather history data was obtained at www.wunderground.com from the closest official weather station to the application site. The location and weather data for June 1, 2020 follows:

Evansville Regional Airport (KEVV) located in Evansville, Indiana 20 miles to the southeast of the application site:

Time/Temperature/Wind Direction/Wind Speed/Wind Gust
7:54 PM 76 F CALM 0 mph 0 mph
8:54 PM 74 F S 3 mph 0 mph

The wind data from the Evansville Regional Airport (KEVV) indicate the wind speed during the application was between 0 and 3 mph with no gusts out of the south.

According to the application record and wind data, during the application the wind was out of the south blowing towards the complainants non-DT soybean field.

Original Event:	Investigation Activity (Pesticide) #2008
Subject:	Craig A Woods
Submitted By:	Nathan J. Davis

08/11/2020 **Wind Data Researched**

The wind data from the **Evansville Regional Airport (KEVV)** indicate the wind speed during the application was between 0 and 3 mph with no gusts out of the south.

According to the application record and wind data, during the application the wind was out of the south blowing towards the complainants non-DT soybean field.

Evansville Regional Airport (KEVV)

Evansville, Indiana (20 miles SE of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
7:54PM	76	CALM	0	0
8:54PM	74	S	3	0

Original Event:	Wind Data #5
Submitted By:	Nathan J. Davis
Date of Weather:	06/01/2020

08/11/2020 **Online Investigation Activity**

Photographs

An aerial diagram including wind direction, property lines, and where soil and vegetation samples were taken from.

PS20-0150.png (File 51432)

Original Event:	Investigation Activity (Pesticide) #2011
Subject:	Craig A Woods
Submitted By:	Nathan J. Davis
Attachments:	File 51432; PS20-0150.png

08/11/2020 **Online Investigation Activity**

According to the application record and confirmed by the wind data from the Evansville Regional Airport (KEVV), during the application the wind was out of the south and would have been blowing towards the complainant's non-DT soybean field. The label for *Xtendimax, EPA Reg.# 524-617, Active Ingredient = dicamba* states: **"DO NOT APPLY this product when the wind is blowing toward adjacent non-dicamba tolerant sensitive crops; this includes NON-DICAMBA TOLERANT SOYBEAN AND COTTON"**.

Original Event:	Investigation Activity (Pesticide) #2012
Subject:	Craig A Woods
Submitted By:	Nathan J. Davis

08/31/2020 **Compliance Activity**

On August 24, 2020, OISC received a letter from an attorney requesting records for this case.

Original Event:	Compliance Activity #566
Primary:	Travis J Jochim
Submitted By:	George Saxton
Attachments:	File 53368; PublicRecordsRequest-OISC-TravisJochim-08.24.2020.pdf

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08/31/2020 **Judgement; Civil Penalty Assessed**

Citation

Craig A Woods 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.
Consideration was given to the fact a restricted use pesticide was involved.

Citation

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

Citation

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

Civil Penalty

Superior Ag Resources Co Op was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of $250.00 was assessed for this violation.
Consideration was given to the fact a restricted use pesticide was involved.

Original Event:	Judgement #555
Primary:	Superior Ag Resources Co Op
Secondary:	Craig A Woods
Submitted By:	George Saxton
Legal Citations:	IC 15-16-5-65(2); 357 IAC 1-12-2
Penalty Amount:	250

09/02/2020 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #538
To:	Superior Ag Resources Co Op
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 3173
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 54492; PS20-0150EL~CP~Superior Ag Resources-Craig Woods.doc

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09/24/2020 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #788
Subject:	Superior Ag Resources Co Op
Submitted By:	Joni Herman
Payment Expected:	$250.00
Payment Received:	$250.00
Attachments:	File 59700; PS20-0150 ~ CP Received - SuperiorAgResources.pdf

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12/04/2020 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #757
Subject:	Superior Ag Resources Co Op
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 3173
Received:	09/14/2020
Attachments:	File 58875; CM 7018 0040 0000 3553 3173.pdf

Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER
Protecting Indiana's Agriculture and Environment
Purdue University • 175 S University Street
West Lafayette, IN 47907-2063
Telephone (765) 494-1492 • Facsimile (765) 494-4331
www.oisc.purdue.edu

Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

In Re: Case PS20-0214

Department	Pesticide
Originated	06/18/2020
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Complainant	**Mark Grubb** Spencer, IN 47460
Respondent	**Mark Franklin** Spencer, IN 47460
-	**Cody Drake** Spencer, IN 47460
Respondent	**Robin Franklin** Spencer, IN 47460
-	**Nichole Drake** Spencer, IN 47460
-	**Owen County Sheriff's Office** Spencer, IN 47460

Overviews

10/06/2020 **Investigation Summary**

On June 19, 2020, I spoke with Mark Grubb, who reported an off-target pesticide application by Mark & Robin Franklin, 918 Freeman Rd. Mr. Grubb stated the Franklins had treated a fence line with a herbicide that resulted in dead vegetation on the property of 736 Freeman Rd.

On June 22, 2020, I met with Mr. Grubb to conduct my on-site investigation, where I observed herbicide exposure symptoms to the vegetation on both sides of the fence line and the survey markers.

I then spoke with Mr. Franklin, who refused to cooperate with my investigation and wouldn't identify the pesticides used for the application around the fence line. With the herbicide exposure symptoms I observed to the affected vegetation, I believed the active ingredients of Glyphosate, 2,4-D, & Dicamba were used.

I collected vegetation and soil samples from 736 & 918 Freeman Rd., which were later submitted to the OISC Residue Lab for analysis. I advised the OISC Residue to screen for the above active ingredients. The OISC Residue Lab report confirmed that 2,4-D, Dicamba, & Glyphosate were found on both properties.

I found that Mr. Franklin and/or Mrs. Franklin had applied an unknown pesticide containing at least the active ingredients of Glyphosate, 2,4-D, & Dicamba in a careless or negligent manner which caused the herbicide to move off-target in sufficient quantity to cause harm to 736 Freeman Rd.

Submitted By: James M. Trimble
Role: Investigator

10/06/2020 **Disposition Summary**

Mark Franklin was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for applying pesticides to a property that is not his own. A civil penalty in the amount of $250.00 was assessed for this violation.

Robin Franklin was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for applying pesticides to a property that is not her own.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/18/2020 **Intake Referral Filed**

Complainant stated neighbor (believed to be a "Mr. Franklin" sprayed a boundary fence and got the spray onto the complainant's yard. Not sure if it was an accident or intentional. Complainant was advised we do not investigate 'intentional' overspray.

Original Event: Intake Referral (Pesticide) #1406
Complainant: Mark Grubb
Respondent: Unknown
Submitted By: George Saxton
Assigned To: James M. Trimble

06/18/2020 **Case Created**

Original Event: Case PS20-0214
Submitted By: George Saxton
Assigned To: James M. Trimble

06/19/2020 **Investigator Called Complainant**

On June 19, 2020, I spoke with Mr. Grubb, via telephone, who reported an off-target pesticide application to 736 Freeman Rd., Spencer, IN. Mr. Grubb stated Mark & Robin Franklin, 918 Freeman Rd., had applied an unknown herbicide to the vegetation under an electric fence located between the two properties on June 11, 2020. Mr. Grubb stated the Franklin's herbicide application to the fence line had gone off-target and killed the vegetation on the property of 736 Freeman Rd.

Mr. Grubb stated his grandson, Cody Drake, lives at 736 Freeman Rd. but explained that he was reporting the incident on Mr. Drake's behalf because he has Power of Attorney for all matters pertaining to the fence. Mr. Grubb stated there has been an ongoing legal dispute regarding the fence between the Drake and Franklin properties.

Mr. Grubb advised Mr. Drake's wife, Nichole Drake, had witnessed the Franklin's herbicide application. Mr. Grubb stated Mr. Drake had planned on using the pastures for his cows to graze but was worried the vegetation could now be contaminated from the herbicide exposure and cause the cows to become ill.

Original Event: Investigation Activity (Pesticide) #1680
Subject: Mark Grubb
Respondent: Mark Franklin
Submitted By: James M. Trimble

06/21/2020 **Investigator Received Fax/Email from Subject**

Original Event: Investigation Activity (Pesticide) #1681
Subject: Cody Drake
Submitted By: James M. Trimble
Attachments: File 47720; powerofatt.pdf
File 47721; survey.pdf

06/22/2020 **Investigator Met with Complainant**

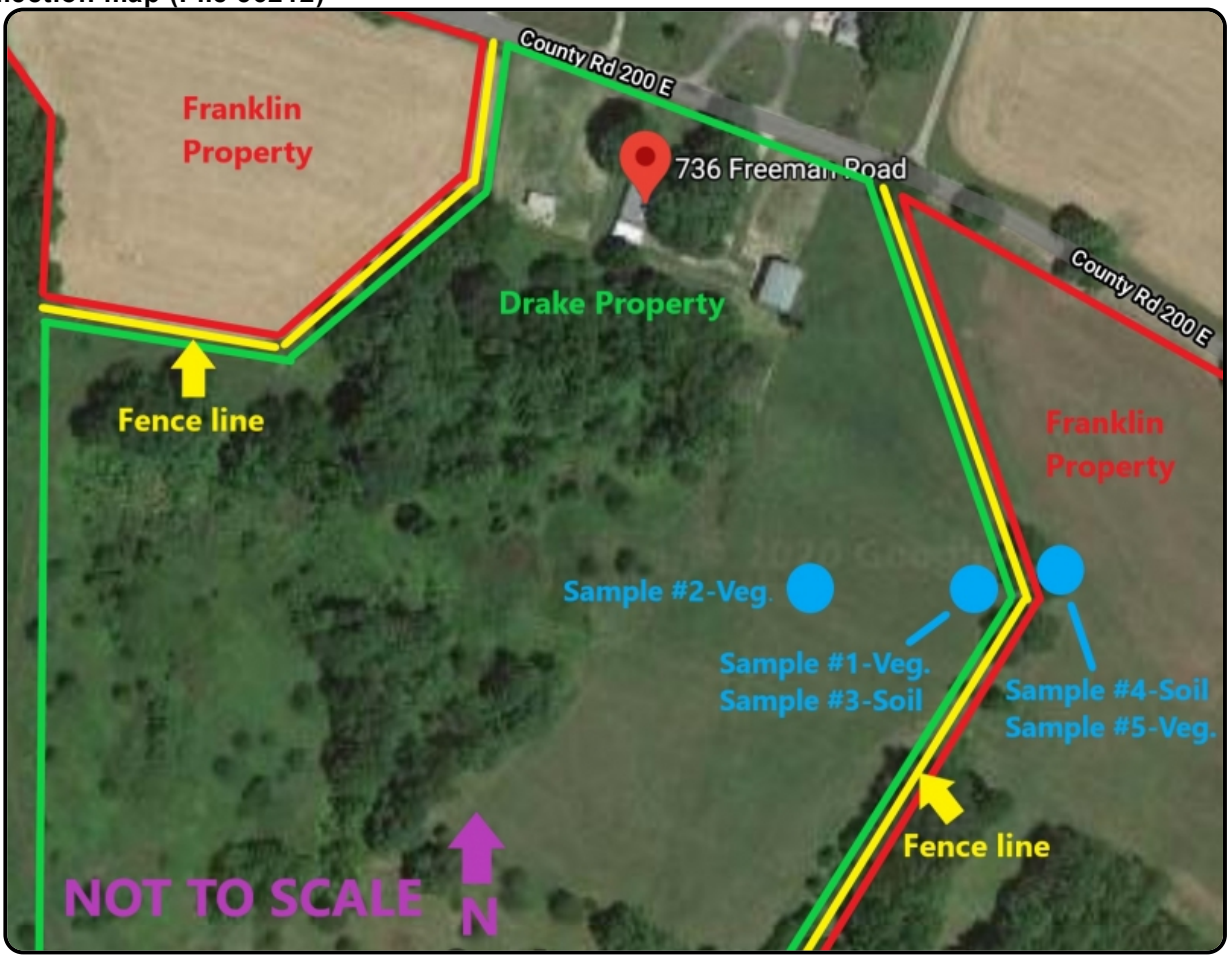
On June 22, 2020, I met with Mr. Grubb at 736 Freeman Rd. to conduct my on-site investigation, where he showed me the injured vegetation along the fence line in question and the survey markers that had been placed by the surveyor before the fence was erected to show the property line. During my on-site investigation, I observed and photographed herbicide exposure symptoms to the vegetation on both sides of the fence by the dead and/or decaying broadleaf and grassy plants along the fence line. I observed a defined spray line of the dead and/or decaying vegetation approximately 12"-20" out from the survey markers and onto the Drake property. I also observed the vegetation on both sides of the fence had been trimmed very close to the ground. I observed broadleaf weeds outside of the trimmed area to show symptoms consistent with growth regulator exposure, such as 2,4-D or Dicamba, by their leaf curling/drooping and stem twisting.

Mr. Grubb stated that neither he or Mr. Drake had made or authorized any pesticide applications to Mr. Drake's property. Mr. Grubb also stated they had not performed the trimming of the vegetation along the fence line.

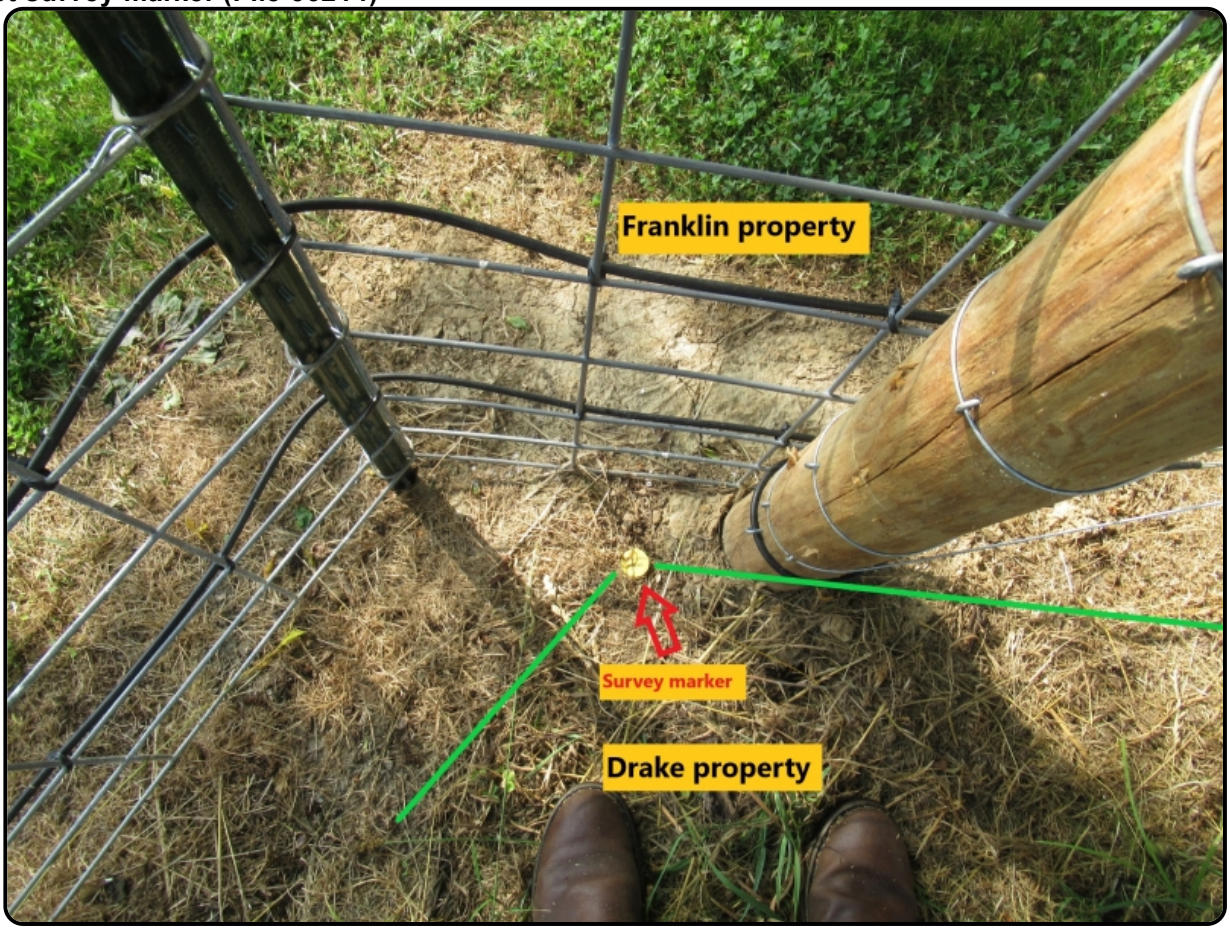
Mr. Grubb advised he had also made a police report with the Owen County Sheriff's Department regarding the off-target pesticide application. Mr. Grubb stated he would email me a copy of the police report.

I collected a sample of the affected vegetation, a soil sample, and a control vegetation sample from Mr. Drake's property. I also collected a vegetation and a soil sample from Mr. Franklin's property. All samples were submitted to the OISC Residue Lab for analysis. See attached collection map.

Collection map (File 56212)

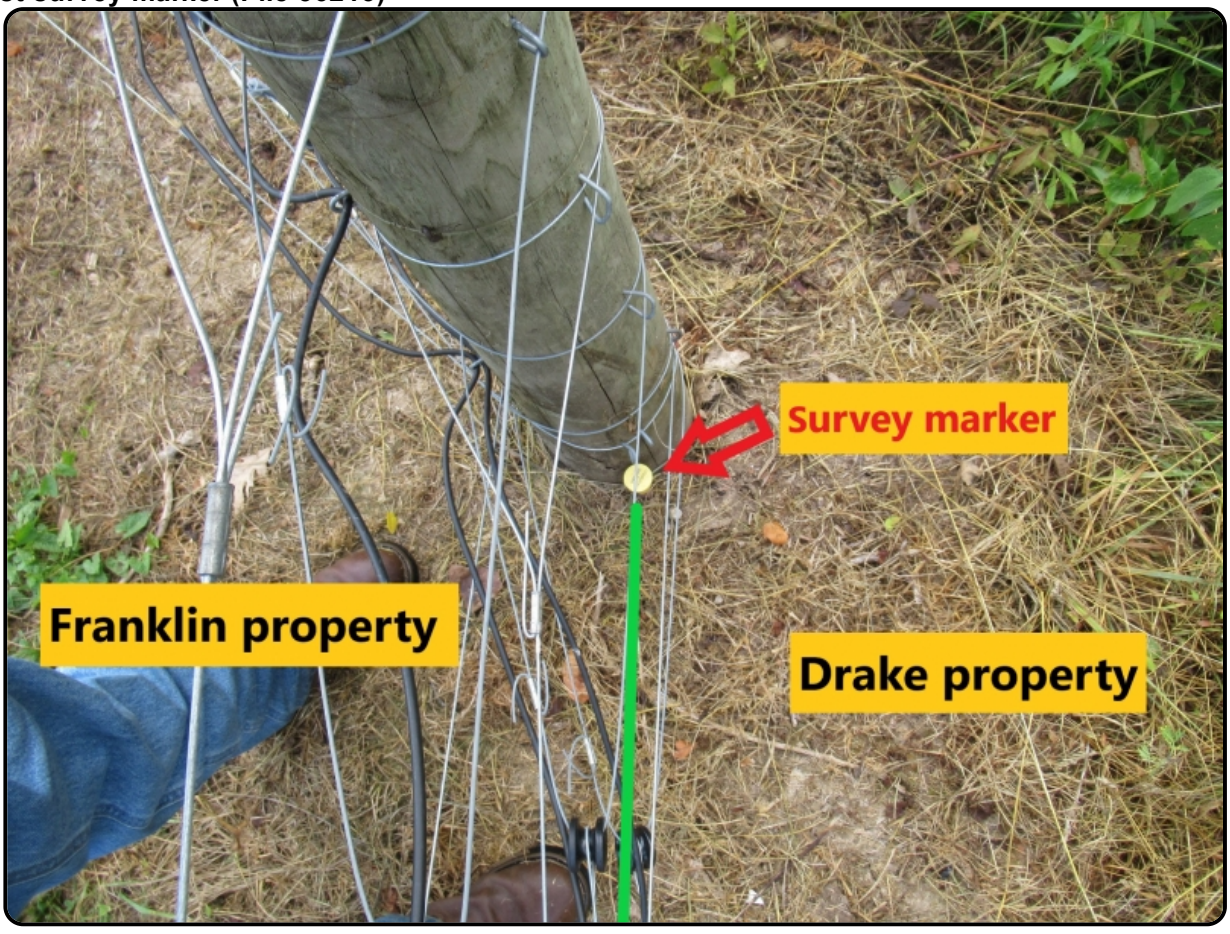


East survey marker (File 56214)



Fence line (File 47734)

West survey marker (File 56213)



Original Event: Investigation Activity (Pesticide) #1683
Location: Mark Grubb
Subject: Mark Grubb
Submitted By: James M. Trimble
Photos:


File 56212


File 56214


File 47722


File 47723


File 47724


File 47725


File 47726


File 47727


File 47728


File 47729


File 47730


File 47731


File 47732


File 47733


File 47734


File 47735


File 47736


File 47738


File 56213

06/22/2020 **Investigator Met with Responsible Party**

While I was completing my on-site investigation at 736 Freeman Rd., I observed an off-road vehicle traveling on the driveway of the Franklin residence. I observed the vehicle continued onto Freeman Rd. and towards my location, where I then stopped the vehicle and spoke with the male driver, who identified himself as Mr. Franklin. I identified myself to Mr. Franklin and informed him of my investigation. Mr. Franklin first declined to speak with me, advising I could instead talk to his lawyer. Mr. Franklin then agreed to speak with me if he could record our conversation, which I accepted.

I asked Mr. Franklin if he had treated the vegetation at the fence line in question or if someone else had completed it for him, which he responded they take care of their own property. I then asked what was applied to the vegetation, which he responded that he had bought it from Rural King but he wouldn't be more specific about the product's brand name or any other identifying information. I asked Mr. Franklin if he would show me the product he used so I could identify its EPA registration number and take a picture. Mr. Franklin declined and stated I could go take a picture of it at Rural King.

Mr. Franklin stated the fence in question was electric and the vegetation around it needed to be maintained. Mr. Franklin refused to cooperate further and declined to give me his phone number before he abruptly drove away.

Mr. Grubb witnessed my conversation with Mr. Franklin, who identified and confirmed the male I was speaking to was Mark Franklin.

Original Event: Investigation Activity (Pesticide) #1685
Subject: Mark Franklin
Submitted By: James M. Trimble

06/22/2020 **Investigator Sent Fax/Email to Complainant**

I emailed Mr. Grubb a copy of the Notice of Inspection and an affidavit for Mrs. Drake to describe her observations of the application she witnessed to the vegetation around fence line on June 11, 2020.

Original Event:	Investigation Activity (Pesticide) #1687
Subject:	Mark Grubb
Submitted By:	James M. Trimble

06/22/2020 **Investigator Received Fax/Email from Complainant**

Records

Mr. Grubb emailed me a copy of the Owen County Sheriff's Department incident report from June 17, 2020.

Original Event:	Investigation Activity (Pesticide) #1688
Subject:	Mark Grubb
Submitted By:	James M. Trimble
Attachments:	File 47745; police report.pdf

06/22/2020 **Residue Samples Collected**

Original Event:	Residue Collection #149542 (20-4-1857 1)
Client:	Mark Grubb
Submitted By:	James M. Trimble
Sample:	20-4-1857 1 | Veg; Comp; Off Target
Sample:	20-4-1858 5 | Veg; Ctrl; Off Target
Sample:	20-4-1859 2 | Soil; Grab; 2-4"; Off Target
Sample:	20-4-1860 3 | Soil; Grab; 2-4"; Target Site
Sample:	20-4-1861 9 | Veg; Comp; Target Site

06/22/2020 **Investigation Activity**

Activity

Due to Mr. Franklin's refusal to identify the pesticides that were used to treat the vegetation around the fence line, I was unable to advise the OISC Residue Lab of the exact product brand name, EPA registration number, or active ingredients. From my observations of the herbicide exposure symptoms I observed on the affected vegetation around the fence line, I believed the ingredients of glyphosate, 2,4-D, and dicamba were possibly used to kill the vegetation. The OISC Residue Lab was advised to analyze the samples collected for the above ingredients.

Original Event:	Investigation Activity (Pesticide) #2267
Submitted By:	James M. Trimble

06/22/2020 **Lab Advised of Target Analytes**

Original Event:	Residue Collections Follow Up #305
Submitted By:	James M. Trimble
Target Analyte:	glyphosate
Target Analyte:	dicamba
Target Analyte:	2,4-D

06/24/2020 **Investigator Received Fax/Email from Complainant**

On June 24, 2020, I received an email from Mr. Grubb containing the completed affidavit from Nichole Drake. The affidavit from Mrs. Drake stated, *"I witnessed Mark Franklin driving the Kubota UTV while Robin Franklin was spraying the fence row west of our house on or around the 11th day of June. Then on the next day I witnessed the Franklins spraying on the east side of our farm."*

Original Event:	Investigation Activity (Pesticide) #1722
Subject:	Nichole Drake
Respondent:	Robin Franklin
Submitted By:	James M. Trimble
Attachments:	File 48054; 6-24email.pdf File 48055; signedaffidavit.pdf

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08/05/2020 **Received Residue Lab Report**

Lab Remarks

released 08/05/2020

Investigatory Summary

The OISC Residue Lab report stated the samples collected from the non-target property (Mr. Drake's) were positive for 2,4-D, Dicamba, & Glyphosate, along with Dicamba's metabolites, DCSA & 5OH-Dicamba, and Glyphosate's metabolite, AMPA. The amounts of analytes detected in sample #1 (20-4-1857 1) & sample #5 (20-4-1861 9) showed similar results, suggesting a direct contact application to the non-target property. Sample #2 (20-4-1858 5), collected as the control on the off-target property and approximately 150' from the fence line, had detects of the analytes in amounts above their environmental baselines that showed further off-target pesticide movement.

The results also confirm that 2,4-D, Dicamba, & Glyphosate were all active ingredients used in the Franklin's pesticide application to the vegetation around the fence, though other pesticides could also have been used in combination but are not known.

Original Event:	Residue Lab Report #154145 (149542-R249)
Submitted By:	SYSTEM
Lab Report:	Lab Report 149542-R249.pdf

10/06/2020 **Investigation Activity**

Activity

Due to my on-site observations of off-target pesticide movement, Nichole Drake's affidavit of witnessing the application made by the Franklins, and the OISC Residue Lab's report of confirming the off-target pesticide movement, I found that Mark Franklin and/or Robin Franklin had applied an unknown pesticide containing at least the active ingredients of Glyphosate, 2,4-D, & Dicamba in a careless or negligent manner which caused the herbicide to move off-target in sufficient quantity to cause harm to Mr. Drake's property.

Original Event:	Investigation Activity (Pesticide) #2270
Subject:	Mark Franklin
Submitted By:	James M. Trimble

10/06/2020 **Judgement; Civil Penalty Assessed**

Citation

Robin Franklin was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for applying pesticides to a property that is not her own.

Civil Penalty

Mark Franklin was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for applying pesticides to a property that is not his own. A civil penalty in the amount of $250.00 was assessed for this violation.

Original Event:	Judgement #603
Primary:	Mark Franklin
Secondary:	Robin Franklin
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(5)
Penalty Amount:	250

10/23/2020 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #577
To:	Mark Franklin
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 2824
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 57124; PS20-0214EL~CP Mark&Robin Franklin.doc

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12/01/2020 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #773
Subject:	Mark Franklin
Submitted By:	Joni Herman
Payment Expected:	$250.00
Payment Received:	$250.00
Attachments:	File 59039; PS20-0214 ~ CP Received - Mark Franklin.pdf File 60158; PS20-0214 ~ Letter from Mark Franklin included with CP Payment.pdf

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12/03/2020 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #733
Subject:	Mark Franklin
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 2824
Received:	10/30/2020
Attachments:	File 58800; CM 7018 0040 0000 3553 2824.pdf

12/18/2020 **Case Summary Mailed to Subject**

Copy of our report sent to Owen County Sheriff's Dept. per George.

Original Event:	Outgoing Mail #640
To:	Owen County Sheriff's Office
Submitted By:	Joni Herman
Enclosed:	Case Summary
Enclosed:	Notice
Attachments:	File 59687; Police Report 6-17-2020.pdf

CASE SUMMARY

Case #PS20-0224

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Able Paper and Janitorial Supply
Scott Borrmann — General Manager
8200 Utah Street
Merrillville, IN 46410

Registrant: Questspecialty Corporation
PO Box 624
Brenham, TX 77834

1. On June 23, 2020, Agent Joe Becovitz and I performed a routine marketplace inspection at Able Paper and Janitorial Supply located at 8200 Utah St Merrillville, IN. I spoke with General Manager, Scott Borrmann, and informed him of the process of the marketplace inspection. I then issued a Notice of Inspection.

2. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale through Able Paper and Janitorial Supply. I confirmed through Sarah Caffery, Pesticide Registration Specialist, the pesticide product was unregistered in the State of Indiana. The product was as follows:

    a. Bug Ban Personal Insect Repellent, EPA Reg, #44446-30.
        i. 46 units in stock
        ii. Date first received June 21, 2019.

3. Upon completion of the inspection, I spoke with Mr. Borrmann and informed him of the unregistered pesticide product I had located. I informed him 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 him that I would be retaining an evidentiary sample of the product for my case. I asked Mr. Borrmann if he was able to provide me with any information for when the last shipment came to the store. Mr. Borrmann was able to provide me with an item inventory for all three pesticide products.

4. I placed the evidentiary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.

5. On June 26, 2020 I delivered the evidentiary sample to the Formulation Lab.

Fig. 1

- Fig. 1) Photo showing Bug Ban Personal Insect Repellent

6. On September 13, 2020 I received the Lab Analysis Report from the OISC Formulation Lab. Bug Ban Personal Insect Repllent met the label claim for active ingredient. The lab reports are as follows:

OFFICE OF INDIANA STATE CHEMIST

Pesticide Formulation Laboratory

Lab Report

OCM Collection #	**149835**	**Case #**	**PS20-0224**	**Investigator**	**G. Creason**
Sample #	Product Description				Sample Size
20-3-0123 4	**Quest Specialty Bug Ban Personal Insect Repellent**				4 x 6 oz

ACTIVE INGREDIENT	**% GUARANTEE**	**% FOUND**
DEET	**14.25**	**14.47**

Remarks:

A total of four aerosol cans were received. Three cans share the same lot number (9156107) while one can has a different log number (9114182). Only lot #9156107 was tested and reported.

Signature		**Date**	09/11/2020

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

Garret A. Creason
Investigator

Date: September 14, 2020

Label Review:

On July 13, 2020 I completed the labeling review for Bug Ban Personal Insect Repellant EPA Reg. #44446-30. This product is currently unregistered in the state of Indiana; OISC shows no record of a pending application.

The marketplace label is consistent with the EPA master label.

Sarah K. Caffery
Pesticide Product Registration Specialist

Date: July 13, 2020

Disposition: Able Paper and Janitorial Supply was warned for two (2) counts (2019 & 2020) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana.

Questspecialty Corporation was cited for two (2) counts (2019 & 2020) of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of $500.00 (2 counts x $250.00 per count) was assessed.

George N. Saxton
Compliance Officer

Draft Date: October 2, 2020
Case Closed: January 13, 2021

Compliance Assistance:

1. Questspecialty Corporation must submit pesticide registration application to OISC

CASE SUMMARY

Case #PS20-0225

Complainant: Donna Wilkinson
6912 East 500 South
Oxford, Indiana 47971

Respondent: Bryan W. Brost — Private Applicator
5841 E 600 S
Oxford, Indiana 47971

1. On June 24, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a farmer made an application to a neighboring field and now she has pesticide exposure symptoms to her garden.

2. On June 25, 2020, I met with James and Donna Wilkinson at their residence. They stated that they had noticed injury symptoms start to appear approximately two weeks prior. I had them show me the vegetation that they believed was affected by agricultural pesticide drift. The vegetation in the Wilkinson's garden had curling leaves. Other vegetation on the property had bleached leaves. The border between the target field and the Wilkinson's property can be seen in Figure 1. The injury that caused Mrs. Wilkinson's complaint can be seen in Figures 2 and 3.


Figure 1


Figure 2


Figure 3

3. I collected the following samples:

   A. Gradient 3 Closest (Maple): 20-4-0511 4
   B. Gradient 2 (Maple): 20-4-0512 2
   C. Gradient 1 Farthest (Redbud): 20-4-0513 3
   D. South Target Field Veg. (Weeds): 20-4-0514 6
   E. North Target Field Veg. (Weeds): 20-4-0515 1
   F. Control (Woods Line Grass): 20-4-0516 7

   These samples were submitted to the OISC residue lab for analysis. I also collected a vegetation sample from the Wilkinson's garden to have analyzed by the Plant and Pest Diagnostic Lab at Purdue (PPDL). The locations where these samples were collected can be seen in Figure 4.

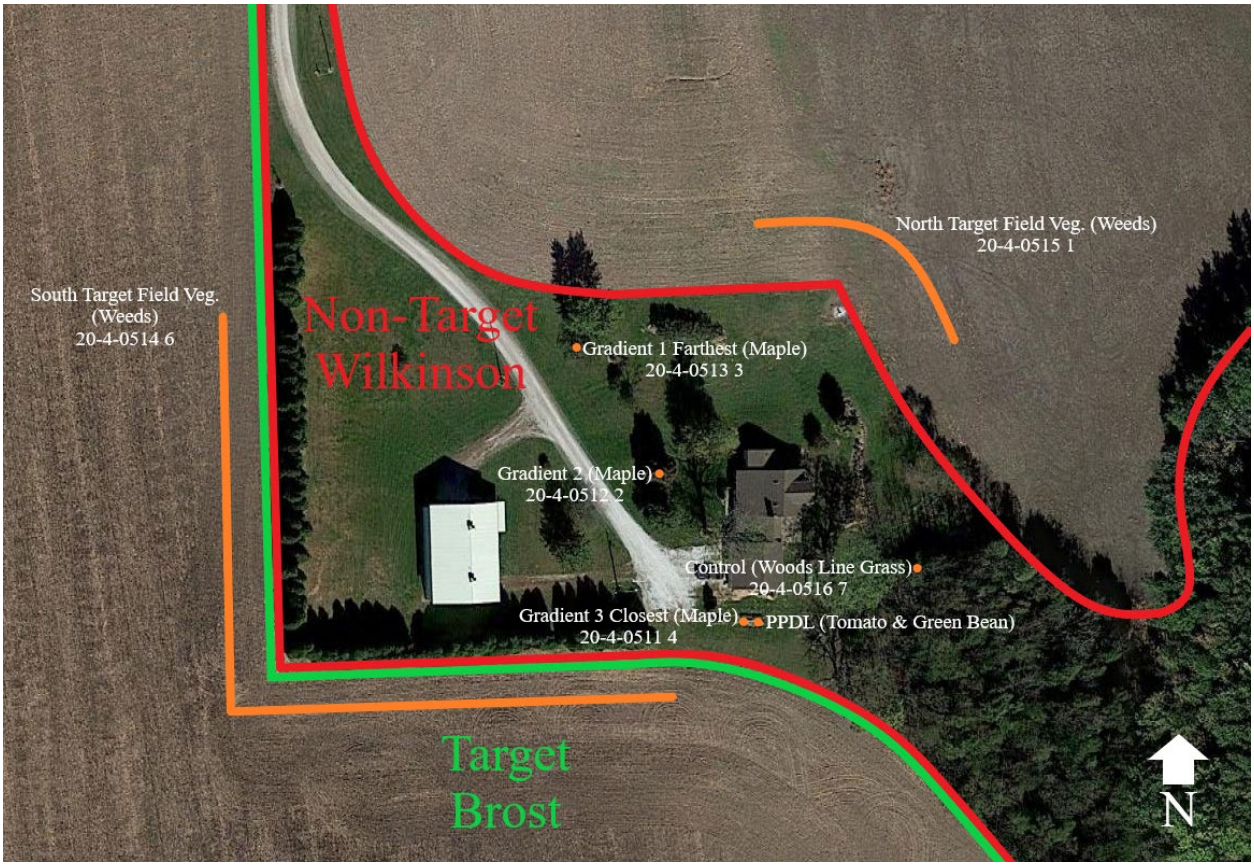


Figure 4

4. On July 7, 2020, I received a Pesticide Investigation Inquiry (PII) from Joel Amstutz on behalf of Bryan Brost. It states that Mr. Brost made an application to the target field on June 1, 2020 from 9:00 AM to 7:00 PM. The application consisted of the following:

   A. Capreno (EPA Reg. #264-1063, active ingredients thiencarbazone-methyl and tembotrione)
   B. LAUDIS (EPA Reg. #264-860, active ingredient tembotrione)
   C. Atrazine 4L (EPA Reg. #1381-158, active ingredient atrazine)
   D. Class Act NG (Surfactant)
   E. Destiny HC (Adjuvant)

   The wind conditions Mr. Brost reported were 5 MPH from the west at the start of the application and 10 MPH from the west at the end of the application. This would mean that the wind was blowing toward the Wilkinson property.

5. I collected wind data from Purdue University Airport (KLAF) which is 15.37 miles from the target field. The data is as follows:

   A. KLAF: 8 MPH with no gusts from the south at the start of the application. 5-9 MPH with 0-21 MPH gusts from south to southwest during the application. 5 MPH with no gusts from the south at the end of the application.

   I was able to confirm the wind speeds that Mr. Brost reported on the PII. I was not able to confirm wind direction. Both the PII and data collected from the Purdue University Airport show that winds were blowing towards the Wilkinson property.

6. The report from PPDL stated, "*The tomato plant in sample 20-00693 shows considerable leaf distortion and stem twisting. The green bean plant shows light leaf droop and/or leaf curling. These symptoms are characteristic of exposure to synthetic auxin herbicides such as 2,4-D, dicamba clopyralid, etc. Other plants in the landscape also show bleaching of leaves which is a characteristic symptom of exposure to HPPD inhibitor herbicides (mesotrione, tembotrione, isoxaflutole, topramezone) or clomazone*."

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

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-0511 4	Veg; Grab; Off Target, Grad3	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BQL ppb	0.4 ppb
			Dicamba	4.43 ppb	2 ppb
			Atrazine	229 ppb	0.1 ppb
			Tembotrione	6.84 ppb	3 ppb
20-4-0512 2	Veg; Grab; Off Target, Grad2	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BQL ppb	0.4 ppb
			Dicamba	10.4 ppb	2 ppb
			Atrazine	244 ppb	0.1 ppb
			Tembotrione	BQL ppb	3 ppb
20-4-0513 3	Veg; Grab; Off Target, Grad1	Veg	5OH-Dicamba	BQL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	6.82 ppb	2 ppb
			Atrazine	54.1 ppb	0.1 ppb
			Tembotrione	6.59 ppb	3 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-0514 6	Veg; Comp; Target Site, S	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	3.21 ppb	0.4 ppb
			Dicamba	2.68 ppb	2 ppb
			Atrazine	644 ppb	0.1 ppb
			Tembotrione	38.9 ppb	3 ppb
20-4-0515 1	Veg; Comp; Target Site, N	Veg	5OH-Dicamba	6540 ppb * Estimated	2 ppb
			DCSA	217 ppb * Estimated	0.4 ppb
			Dicamba	17500 ppb * Estimated	2 ppb
			Atrazine	23.3 ppb	0.1 ppb
			Tembotrione	BDL ppb	3 ppb
20-4-0516 7	Veg; Ctrl; Off Target	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	0.437 ppb	0.4 ppb
			Dicamba	BQL ppb	2 ppb
			Atrazine	27.1 ppb	0.1 ppb
			Tembotrione	BDL ppb	3 ppb

8. Sample 20-4-0515 1 was not used in this investigation. It is referenced in case PS20-0366.

9. The Capreno label states, "*Only apply this product when the potential for drift to adjacent non-target areas is minimal (e.g., when the wind is **10 MPH or less** and is blowing away from sensitive areas)*."

10. The lab report shows that ingredients from Mr. Brost's application were found on the Wilkinson property. The report from PPDL shows that visual symptoms of the active ingredients from Mr. Brost's application were observed on the Wilkinson property. Mr. Brost violated the Capreno label by making an application when winds were blowing towards the Wilkinson property. Based on this evidence, Mr. Brost's application contributed to the injury that the Wilkinson's observed on their property.

Aaron P. Kreider
Investigator

Date: September 24, 2020

Disposition: Bryan W. 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. 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. Consideration was also given to the fact this was Bryan Brost's third violation of similar nature. See cases 2018/0835 and 2018/0723.

In addition, the Private Applicator permit issued to Bryan W. Brost was suspended for six (6) months beginning April 1, 2021 through September 30, 2021.

George N. Saxton
Compliance Officer

Draft Date: October 13, 2020
Case Closed: January 13, 2021

CASE SUMMARY

Case #PS20-0323

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
765-494-1492

Respondent: Retailers Supply
Tom Pope — General Manager
4398 Security Parkway
New Albany, IN 47150

Registrant: Impact Products, Inc.
2840 Centennial Road
Toledo, OH 43617

1. On June 22, 2020, I performed a routine marketplace inspection Retailers Supply located at 4398 Security Parkway New Albany, IN. I spoke with General Manager, Tom Pope, and informed him of the process of the marketplace inspection. I then issued a Notice of Inspection.

2. Upon completion of the inspection, I located one (1) unregistered pesticide product that was being offered for sale through Retailers Supply. I confirmed through Sarah Caffery, Pesticide Registration Specialist, the pesticide product was unregistered in the State of Indiana. The product was as follows:

    a. Blood and Bodily Fluid Cleanup Kit, KIT containing 4oz spray disinfectant, EPA Reg# 1839-83-67161.
        i. 1 unit in stock
        ii. Date first received April 17, 2019.

3. Upon completion of the inspection, I spoke with Mr. Pope and informed him of the unregistered pesticide product I had located. I informed him 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 him that I would be retaining an evidentiary sample of the product for my case. I asked Mr. Pope if he was able to provide me with any information for when the last shipment came to the store. Mr. Pope was able to provide me with an item inventory for the product which indicated it was received on April 17, 2019.

4. I placed the evidentiary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.

5. On June 23, 2020, I delivered the evidentiary sample to the Formulation Lab.

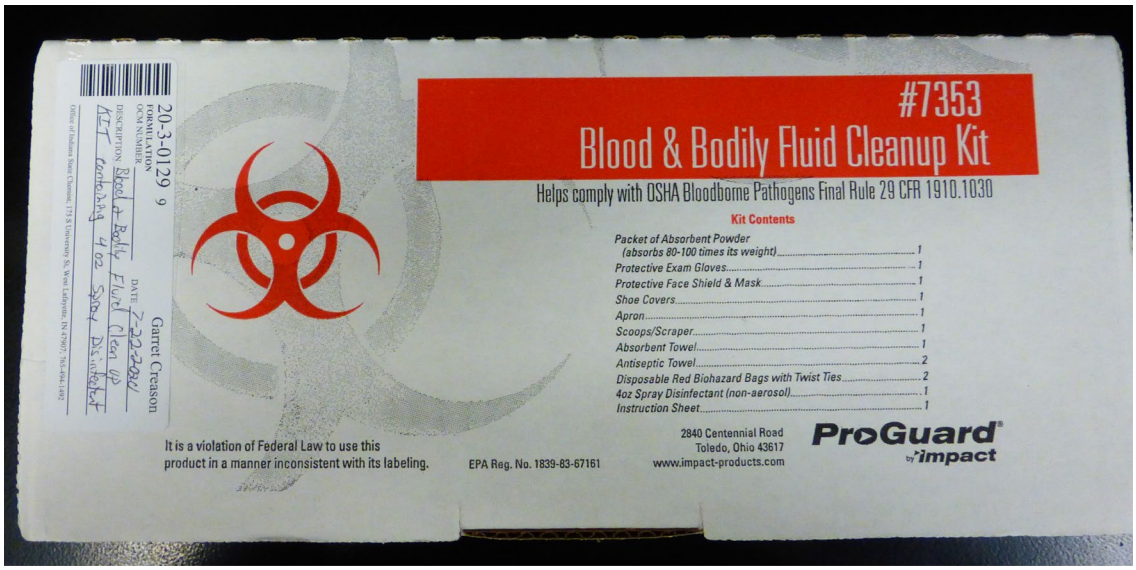


Fig. 1

- Fig. 1) Photo showing Blood and Bodily Fluid Cleanup Kit.

6. On September 13, 2020, I received the Lab Analysis Report from the OISC Formulation Lab. The lab reports are as follows:

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	**152771**	**Case #**	**PS20-0323**	**Investigator**	**G. Creason**
Sample #	Product Description				Sample Size
20-3-0129 9	**SaniZide Germicidal Solution (part of the ProGuard Blood &Bodily Fluid Cleanup Kit)**				1 x 4 oz

ACTIVE INGREDIENT	**% GUARANTEE**	**% FOUND**
DBAC (5% C12; 60% C14; 30% C16; 5% C18) DEAC (68% C12; 32% C14) Tested as Quaternary Nitrogen Equivalent	**0.105** **0.105** **0.0078**	**N/A** **N/A** **0.0084**

Remarks:

Signature		**Date**	09/13/2020

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

Garret A. Creason
Investigator

Date: September 24, 2020

Label Review:

The kit includes Safetec SaniZide Plus Germicidal Solution (EPA Reg Number 1839-83-67161) by Safetec of America. SaniZide is registered by itself in Indiana, but not within a kit.

The kit is a federally unregistered pesticide product for the following reasons:
1. The company identified on the outer package is not Safetec nor the basic registrant (Stepan Company)
2. The full marketplace label of the pesticide is not on the outer packaging
3. The master label does not identify the use of a kit
4. A distributor product cannot be marketed by a different company, sub-registrations are specific to the basic registrant and the distributor company. Each combination requires an 8570-5 form.
5. The repackaging of the pesticide (placing the pesticide in a kit) is required to happen at an EPA Establishment. This number is required to be printed on the outer package.

All points above are violations of 40 CFR 152.132.

Since this product is federally unregistered pesticide product, a complete label review for compliance with EPA Reg Number 1839-83 was not completed.

Sarah K. Caffery

Sarah K. Caffery
Pesticide Product Registration Specialist

Date: September 1, 2020

Disposition: This case was forwarded to U.S. E.P.A for federal review.

George N. Saxton
Compliance Officer

Case Closed: October 16, 2020

CASE SUMMARY

Case #PS20-0342

Complainant: Applies Pressure LLC
Kenneth Berry — Owner
2108 Galaxy Drive
Franklin, IN 46131

Respondent: Epic Chemical Solutions
Eric Malin — Owner/President
PO Box 761403
San Antonio, TX 78245

1. On July 28, 2020, Kenneth Berry contacted the Office of Indiana State Chemist (OISC) via email, to express concerns about a pesticide product he had received. Mr. Berry stated that he had received a sample of a product to use for his pressure washing business. Mr. Berry stated he was concerned about the active ingredient in the product. Mr. Berry was told that the product was hypochlorous acid. When Mr. Berry received the product, he checked the EPA Reg# on the label through the EPA website and found that the active ingredient was Sodium Dichloroisocyanurate dihydrate. Mr. Berry also included a photo of the product sample he received. The product Mr. Berry received indicated it was "ECS-1200HPSAMPLE Sani-Powder 8 grams"

Fig. 1) Photo of ECS-1200HPSAMPLE Sani-Powder 8 grams.

2. On July 29, 2020, I met with Mr. Berry to collect the product he had received. Mr. Berry also provided documentation and use instructions he had received along with the product.

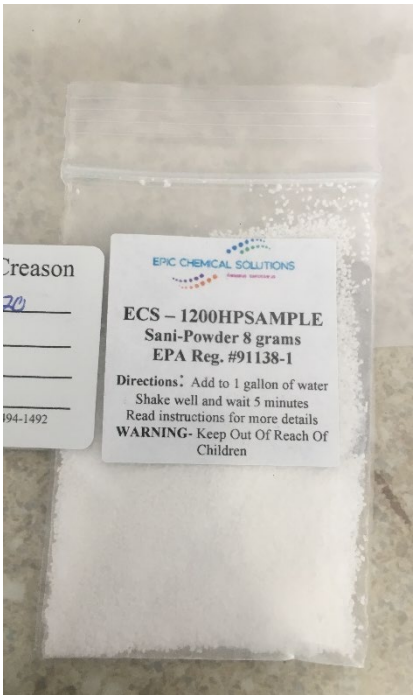


Fig. 2) Photo of ECS-1200HPSAMPLE Sani-Powder 8 grams as I collected it.

3. On July 30, 2020, I delivered the evidentiary sample to the OISC Formulation Lab.

4. On July 31, 2020, I confirmed with the OISC Lab Supervisor that this active goes through chain reactions when mixed with water to produce chlorine. Dichloroisocyanurate releases hypochlorous acid in water. Hypochlorous acid then reacts with chloride ions to produce chlorine.

5. On September 12, 2020, I was notified by the OISC Formulation Lab of the results of the lab analysis. The results are as follows:

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	**153443**	**Case #**	**PS20-0342**	**Investigator**	**G. Creason**
Sample #	Product Description				Sample Size
20-3-0133 2	**ECS-1200HP Sample Sani-Powder**				1 x 8 grams

ACTIVE INGREDIENT	**% GUARANTEE**	**% FOUND**
Sodium dichloroisocyanurate dihydrate Tested as Available Chlorine	**99** **54.84**	**98.72** **54.68**

Remarks:

Signature		**Date**	09/12/2020

6. The product that was sent to Mr. Berry was sent from Epic Chemical Solutions in San Antonio, TX. I was able to view and screenshot www.epicchemicalsolutions.com for further information about the product. Mr. Berry also provided screenshots of conversation between him and Epic Chemical Solutions about how to use the product.

7. OISC has not contacted Epic Chemical Solutions at this time. This information will be forwarded to EPA Region 5.

8. All documentation, photos, and screenshots will be electronically attached to this case via the OISC case management system.

Garret A. Creason
Investigator

Date: September 25, 2020

Labeling Review:

On September 2, 2020, I completed the labeling review for ECS-1200HP Sample Sani-Powder. This product is a federally unregistered and state unregistered pesticide product. The product does not include an accurate EPA Registration Number, EPA Establishment Number, and OISC cannot locate an EPA Company Number within the EPA Database.

The EPA Registration Number 91138-1 is for ECA Water Systems LLC, Sani-Powder. Marketing through EPIC CHEMICAL SOLUTIONS would require a supplemental distributor agreement (8570-5 form) between ECA and EPIC. Through a search of EPA Data, this agreement does not exist.

A full label review could not be completed because the labeling does not include the basic elements required under FIFRA for a pesticide product. Small containers must include ingredient statement, signal word, child hazard warning, EPA registration number, EPA establishment number and a reference statement to any accompanying pamphlets. As labeled, this product is misbranded. Within the master label for 91138-1, the packet label would include this:

{Text for pre-packaged packet}

Sani-Powder

ACTIVE INGREDIENT:
Sodium dichloroisocyanurate dihydrate 99%
OTHER INGREDIENTS 1%
TOTAL 100%
Provides 55% Available Chlorine

KEEP OUT OF REACH OF CHILDREN
DANGER

CORROSIVE: Causes irreversible eye damage and skin burns. Harmful if swallowed. Avoid breathing dust and fumes. Irritating to nose and throat. Do not get in eyes, on skin or clothing. Wear protective eyewear (safety glasses or goggles). Wear protective clothing and rubber gloves when handling this product. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet. Remove and wash contaminated clothing before reuse.

.FOR EMERGENCY MEDICAL INFORMATION, 1-800-222-1222

See outer carton for First Aid Statements, additional Precautionary Information and Directions for Use.

Use 1 packet, 1.5 oz. (42 grams) per 30 gallons of water to prepare a solution containing 200 ppm available chlorine.

CONTAINER DISPOSAL: Packet is destroyed by removing the product. Dispose of completely empty packet in trash, in a sanitary landfill or by incineration.

EPA Reg. No. 91138-
EPA Est. No. 91138-TN-001

ECA Water Systems, LLC
115 Dansworth Lane
Oak Ridge, TN 37830
(865) 207-6545

Net Wt. 1.5 oz. (42 grams)

The package label and the "pamphlet" provided, do not include the full pesticide label for 91138-1. The labeling does not clearly provide precautionary statements, directions for use, storage and disposal, full company contact information (including address).

The packaging does not meet the requirements of 40 CFR 157.20 and 157.21(b) as a child-resistant package. Child-Resistant Packaging (CRP) is defined as packaging that is designed or constructed to be significantly difficult for children under 5 years of age to open or obtain a toxic or harmful amount of the substance contained therein in a reasonable time and that it not be difficult for normal adults to use properly.

The website (epicchemicalsolutions.com) also includes false or misleading claims that are another violation of 40 CFR and Indiana Code. Some of the false or misleading claims include:

1. EPA Registered
2. 100x stronger than bleach
3. Safe for humans, plant and animals
4. Non-toxic
5. 100% biodegradable
6. All-natural product

The package does not include a batch code, lot number or other code identifying the production.

Through review of the website, the following products would also require federal registration:

1. Free Water Treatment Sample Kit (includes Antimicrobial agent, Biocide) Kit would require registration per product AND EPA would need to approve the kit. In the state of Indiana, the individual products and the kit would require registration.
2. Biocide – powdered biocide #1 H2O Soluble ECS-B116
3. Antimicrobial agent ECS-B170W
4. 12.5% Bleach ECS-B125 (marketed as a biocide)
5. Registered Biocide 14 Glut/2.5 Quat – ECS-MBC514
6. Hypochlorous Acid (powder)
7. Hypochlorous Acid (liquid)

Through the website, EPIC is also providing "human disinfectant" portals. The master label to 91138-1 does not include directives to spray on people. In discussions with the team responsible for HOCL product registrations at EPA headquarters, safety data has not been provided to EPA for the use of HOCL by means of fogging. The use of HOCL through fogging and/or "human disinfectant" portals presents concerns of human health. The product labeling does not provide adequate directions to assess the safety of users in this manner.

Sarah K. Caffery

Sarah K. Caffery — Date: June 9, 2020
Pesticide Product Registration Specialist

Disposition: This case was forwarded to U.S. E.P.A for federal review.

George N. Saxton

George N. Saxton — Case Closed: October 8, 2020
Compliance Officer

CASE SUMMARY

Case #PS20-0396

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

Respondent: Brenntag Great Lakes LLC
EPA Establishment Number 51087-IN-1
Ray Knight Warehouse Supervisor
Kaoni Mazoch Health, Safety, Quality & Environment Manager
1615 Estella Avenue
Ft. Wayne, IN 46803

1. On July 29, 2020, I contacted Brenntag Great Lakes LLC via telephone to advise that OISC would be conducting a routine Producer Establishment Inspection. I spoke with Ray Knight, Warehouse Supervisor, and advised that I was calling to set up a meeting time and to provide them with information on what documentation was needed. This was being done so that we could lessen the amount of time for the in-person portion of the inspection. Due to scheduling we were unable to meet until September 2, 2020. Mr. Knight stated that he would provide the information on the needed documentation to Kaoni Mazoch, Health, Safety, Quality, & Environment Manager, as she was the one with access to most paperwork.

2. On September 2, 2020, I performed a routine Producer Establishment Inspection (PEI) at Brenntag Great Lakes LLC. In Ft. Wayne, IN. A Notice of Inspection was issued, and state credentials were presented to Ray Knight, Warehouse Supervisor. I explained that this was a routine not-for-cause inspection and that I would be inspecting repackaging agreements, inbound, production and distribution records, bin labels and any product that was packaged, labeled and ready for shipment.

3. According to Mr. Knight, Brenntag Great Lakes LLC Repackages and distributes products for water treatment. Currently Sodium Hypochlorite 12.5%, EPA Reg# 75373-20001-51087, is the only pesticide product that Brenntag Great Lakes LLC produces. Brenntag Great Lakes LLC produces the Sodium Hypochlorite 12.5%from Bleachtech LLC Sodium Hypochlorite 12.5% EPA Reg# 75373-20001.

4. Inbound and Distribution records were examined and found to be sufficient. The production records did not contain the EPA Registration Number. Brenntag Great Lakes LLC currently provides a lot and is set up as: 00220HJFDBLE. 002= Load, 20= Day, H=- Month, J= Year, F= Location, D= Tank Identifier, BLE= Supplier Identifier.

5. Brenntag Great Lakes LLC does not import or export any pesticide products.

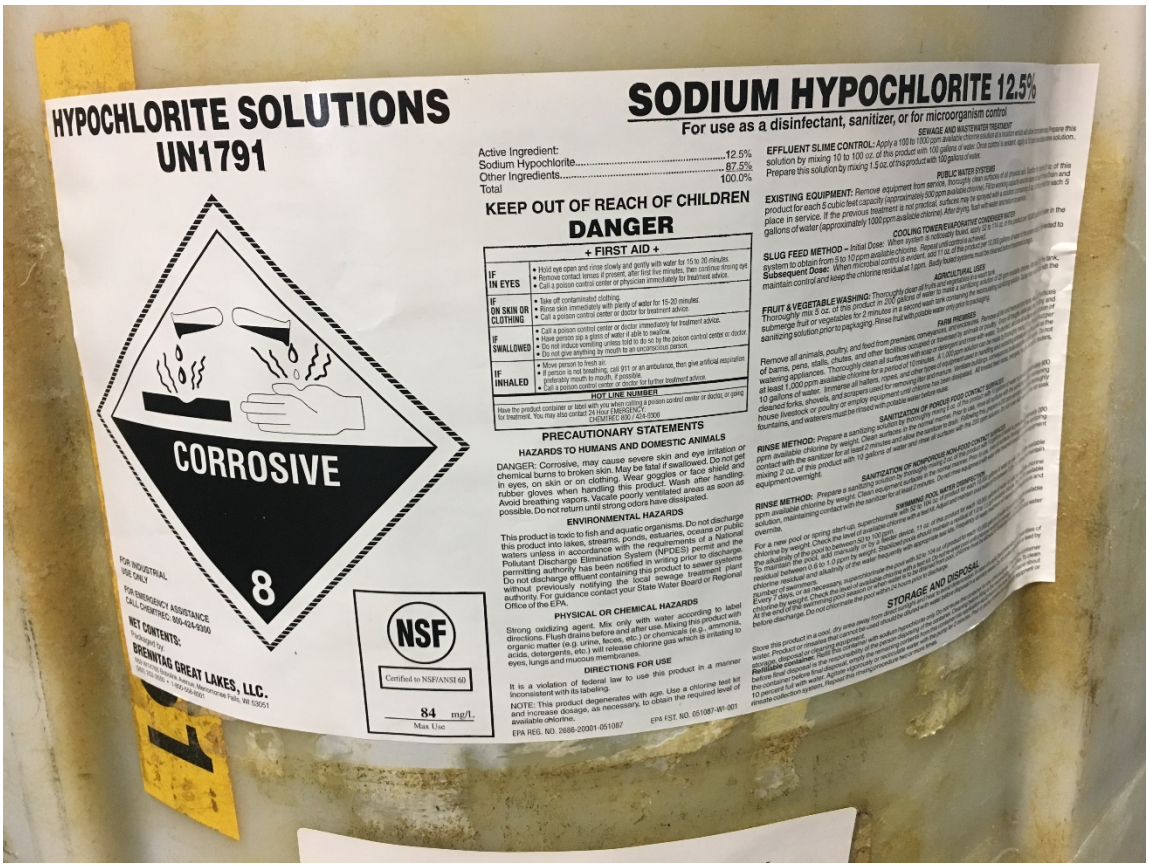
6. At the time of the inspection, there was Sodium Hypochlorite 12/5% packaged, labeled and ready for shipment, however, due to the large size of the packaging no samples were taken. Photos were taken of the packaged product. Mr. Knight did provide a bin label for Basic Copper Carbonate.

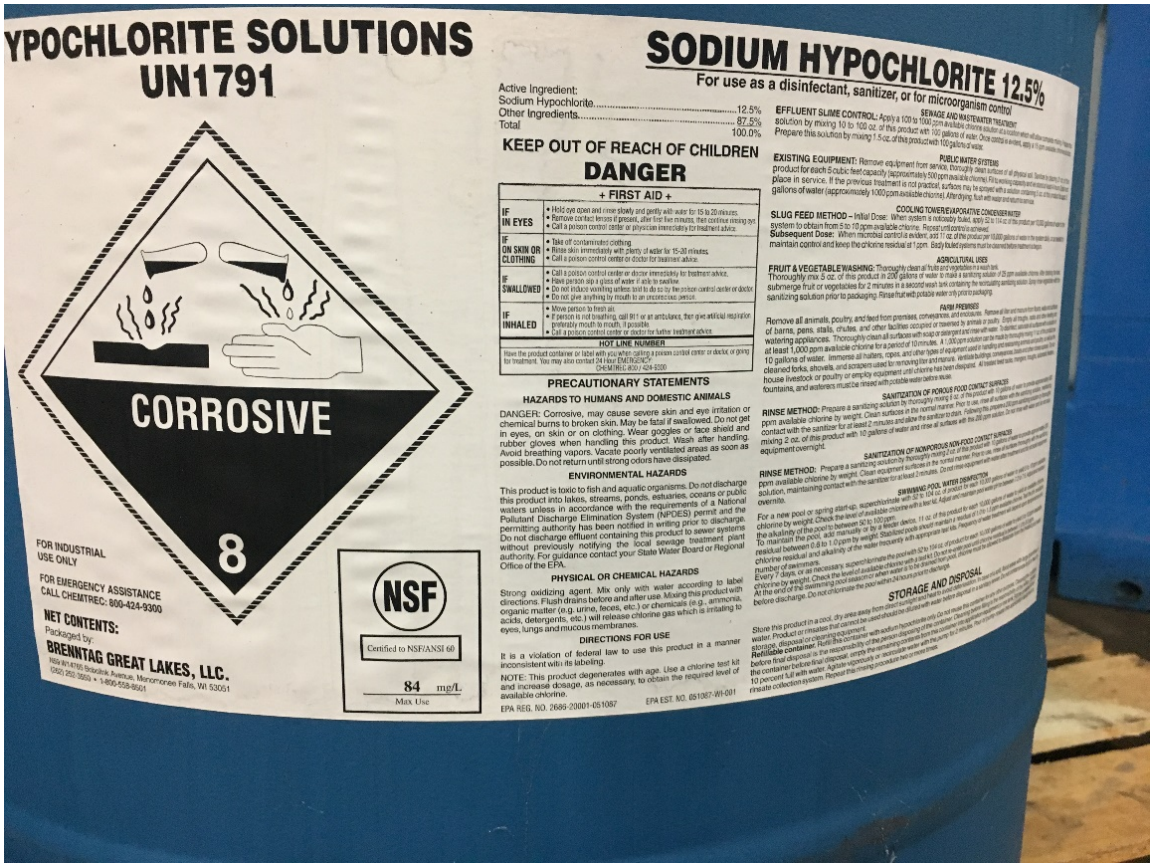
7. While Reviewing the label provided to me for Sodium Hypochlorite 12.5%, I noticed that the EPA Registration Number, EPA Establishment Number, and the address on the label were incorrect. The label that was provided to me indicated the following:

    a. EPA REG. NO. 2686-20001-051087
    b. EPA EST. NO. 051087-WI-001
    c. Address: N59 W14765 Bobolink Avenue, Menomonee Falls, WI 53051

    I advised Mr. Knight of the information I observed on the label provided. He stated that he must have received the incorrect labels, as they do not print the labels at that location. Mr. Knight contacted Mrs. Mazoch and advised her of the issues with the labels. Mr. Knight then informed me that the correct labels will be sent and should arrive later that day. Mr. Knight was able to locate an electronic version of the correct label and was able to print and provide me with a copy. The correct label did contain the correct EPA REG. NO., EPA EST. NO., and Address.

8. I asked Mr. Knight if the incorrect labels would have been affixed to the Sodium Hypochlorite 12.5% product and distributed and he stated yes. Mr. Knight and I then went to the warehouse and inspected the product on hand. I was able to observe and photograph the products ready for shipment.





9. I collected the following documents:

    a. Document 1- A bin label for Sodium Hypochlorite 12.5%, EPA Reg# 75373-20001-51087.

    b. Document 2- A copy of Inbound Records for Sodium Hypochlorite.

    c. Document 3- A copy of Production Records for Sodium Hypochlorite 12.5%

    d. Document 4- A copy of a Distribution Record for Sodium Hypochlorite 12.5%.

    e. Document 5- A copy of the corrected Bin Label for Sodium Hypochlorite 12.5%

10. I initialed and dated each of the documents. I requested at least 15 distribution records after finding the incorrect label was being affixed to the product. Mr. Knight stated that Mrs. Mazoch would email them to me.

11. Upon Completion of the inspection, I emailed all documentation to Mr. Knight, which he then signed and emailed back to me.

12. On September 4, 2020, Mr. Knight sent photos via email that showed the correct label applied to the Sodium Hypochlorite 12.5%.

13. On September 9, 2020, I received the rest of the distribution records for Sodium Hypochlorite 12.5% and added them into the OISC case management system.

14. All documentation and photos have been electronically attached to this case via the OISC case management system.

Garret A. Creason
Pesticide Product Investigation Specialist

Date: October 6, 2020

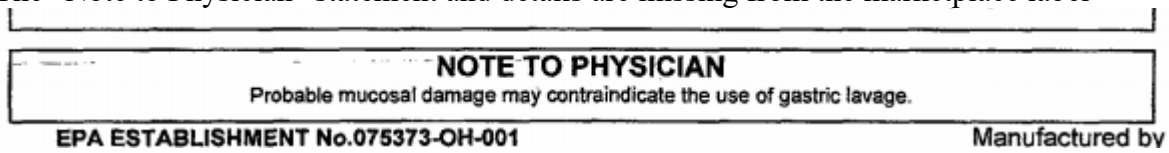
On October 16, 2020, I reviewed the labeling connected to the Brenntag Great Lakes LLC PEI.

Document 1: EPA Reg Number 2685-20001-51087
This product is not currently registered with the state of Indiana. Upon review of the label, the following has been identified:

1. The product is a distributor product.
2. "Hypochlorite Solutions" is not part of the distributor product name (per PPLS), nor is it identified as a stand-alone claim on the master label.
3. The master label also does not include "UN1791" nor the corrosive symbol.
4. The master label does not include the statement "For Industrial Use Only"
5. The master label includes the following statement that is missing from the marketplace label "READ AND UNDERSTAND LABEL AND MATERIAL SAFETY DATA SHEET BEFORE PRODUCT USE"

Document 5: EPA Reg Number 75373-20001-51087
This product is currently registered with the state of Indiana. Upon review of the label, the following has been identified:

1. This product is a distributor product.
2. The statement "For use as a disinfectant, sanitizer, or for microorganism control" is not located on the master label.
3. The statement "For Institutional and Industrial Uses. Do Not Store In or About Dwellings" is missing from the marketplace label
4. The "Note to Physician" statement and details are missing from the marketplace label



5. The statement "For Industrial Use Only" is not on the master label.
6. "Hypochlorite Solutions" is not part of the distributor product name (per PPLS), nor is it identified as a claim on the master label.
7. The master label also does not include "UN1791" nor the corrosive symbol.
8. The following statement is not complete on the marketplace label (the bolded section is missing) "NOTE: This product degrades with age. Use Chlorine test kit and increase dosage, as necessary, to obtain the required level of **available chlorine"**

Please note – a word for word review was not completed on either label.

Sarah K. Caffery
Pesticide Product Registration Specialist

Date: October 16, 2020

Disposition: This case was forwarded to U.S. E.P.A for federal review.

George N. Saxton
Compliance Officer

Case Closed: November 3, 2020