

A Summary of Cases

January 18, 2021

PS19-0245 Complainant called and stated Co-Alliance made a pesticide application to a neighboring farm field and now he has pesticide exposure symptoms to his hemp.

Disposition: Sean Johnson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application when the wind is blowing towards a sensitive crop. Consideration was given to the fact this was Mr. Johnson's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Co-Alliance LLP was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application when the wind is blowing towards a sensitive crop.. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Mr. Johnson's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

PS19-0252 On June 19, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural drift to his property.

Disposition: Dale Raymond Tuholski 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.

Dale Raymond Tuholski 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.

Dale Raymond Tuholski was warned for violation of section 65(12) of the Indiana Pesticide Use and Application Law for refusing or neglecting to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification. Consideration was given to the fact there was a good-faith effort to comply and corrective action was immediately taken.

PS19-0262 On June 24, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural drift to his property. The complainant stated a pesticide application made by the respondent Dale Tuholski has adversely affected his trees.

Disposition: Dale Raymond Tuholski 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 already assessed for this application date in case

number PS19-0252. Consideration was given to the fact a restricted use pesticide was involved.

Dale Raymond Tuholski 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.

Dale Raymond Tuholski was warned for violation of section 65(12) of the Indiana Pesticide Use and Application Law for refusing or neglecting to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification. Consideration was given to the fact there was a good-faith effort to comply and corrective action was immediately taken.

PS19-0269 On June 25, 2019, I performed a routine marketplace inspection at Home Depot in Evansville, Indiana. I met with Assistant Manager, Jonathan Boberg, 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: Bonide Products, Inc. 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, 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.

PS19-0270 On June 25, 2019, I performed a routine marketplace inspection at Lowes in Evansville, IN. I met with Assistant Manager, Tim Nixon, 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:

A. Schultz Company was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for producing 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.

B. On November 11, 2020, the Pesticide Product Registration Specialist advised that Schultz Company had corrected the product label and requested the \$250.00 civil penalty be held in abeyance. The civil penalty was held in abeyance for two (2) years and will not be assessed provided Schultz company does not commit further violations of the Indiana Pesticide Registration Law within that time.

PS19-0339 On July 12, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Co-Alliance sprayed a farm field, allegedly with dicamba, that adversely affected his property.

Disposition: Based on the evidence collected in this investigation, it has been determined that William Auxier failed to comply with the drift management restrictions on the label for the herbicide Xtendimax for applying when winds were blowing towards a sensitive crop. 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.

William Auxier and Co Alliance LLP-MCL 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.

PS20-0077 On August 5, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring field was sprayed with dicamba that drifted onto his Liberty beans.

Disposition: Garrett L. Molter and Round Grove Farm Center 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.

PS20-0079 On March 25, 2020, the Compliance Officer of the Office of Indiana State Chemist (OISC) received an email from David Stiver stating he believes the respondent Yardshark LLC had been making pesticide/fertilizer applications for hire without a license.

Disposition: Colin Avila and Yardshark LLC were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was reduced to \$75.00. Consideration was given to the fact Mr. Avila cooperated during the investigation; corrective action was attempted (no testing centers open due to Covid-19) and there were no previous violations of similar nature.

PS20-0081 On April 4, 2020, the Office of Indiana State Chemist (OISC) received information alleging Shaun Miller of Miller & Son Lawncare LLC is advertising and applying fertilizer for-hire without a license.

Disposition: Shaun Miller and Miller & Son Lawncare, LLC. were cited for three (3) violations of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$225.00. Consideration was given to the fact Mr. Miller cooperated during the investigation; corrective action was taken, and this was his first violation of similar nature.

PS20-0091 On April 20, 2020, the Office of Indiana State Chemist (OISC) learned the Orkin Branch in Evansville was using the certification of the Orkin's Regional Manager, Jason Shlater, to

obtain a business license in categories 7A and 7B. Mr. Shlater was not directly connected to the Evansville Branch and had no daily applicator supervisory role. Once the Evansville Orkin obtained a category 7B applicator, Greg Snyder, Mr. Shlater was not removed from the applicator ledger allowing Orkin to operate in category 7A.

Disposition: Orkin was cited for forty-four (44) counts of 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 non-certified individual. A civil penalty in the amount of \$5,500.00 (44 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,100.00. Consideration was given to the fact Orkin cooperated during the investigation; corrective action was taken, there was no previous history of similar nature and a good-faith effort to comply.

PS20-0092 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 on his non-DT soybeans from a neighboring DT soybean field.

Disposition: 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. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Mark Keller and Keller 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 allows it to drift from the target site in sufficient quantity to cause harm to a non-target site.

PS20-0093 On April 21, 2020, I, agent Kevin Gibson of the Office of Indiana State Chemist (OISC), performed a routine pre-construction termite treatment (pre-treat) inspection at 1105 W. 3rd Street in Bloomington Indiana. According to the pesticide application records supplied by Scott's Termite and Pest Control, an application of **Termidor SC (EPA #7969-210; active ingredient: fipronil)** was made at a rate of 0.06% dilution.

Disposition: Thomas Williams and Scott's Termite and Pest Control were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding label direction rates. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS20-0102 On March 6, 2020, I went to the Crop Fertility Specialists in Winamac, Indiana to perform a Restricted Use Product Sales and Restricted Product Custom Application Records inspection. I met with the front desk employee Kelley Wetnight and asked for the past two years of the Restricted Use Product Sales and Restricted Product Custom Application Records. As I was looking through the 2019 records she provided, I noticed there were not any of the records for products containing the active ingredient dicamba. I asked Ms. Wetnight if this facility sold or applied any pesticide products containing dicamba in 2019 and she stated yes but they did not appear on the annual report she provided. Ms. Wetnight stated she would address the issue with her corporate office and provide the updated records.

Disposition: Crop Fertility Specialists was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing or neglecting to keep and maintain the records required by IC 15-16-5 or 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 \$250.00 was assessed for this violation. However, the civil penalty was held in abeyance and not assessed provided Crop Fertility Specialists does not commit further violations of the Indiana Pesticide Use and Application Law for a period of two (2) years from the date of this report.

PS20-0109 While investigating case #PS20-0073, I had found that Ceres Solutions; Stateline, IN (Ceres), had sold William "Mike" Miller Restricted Use Pesticides (RUPs) in 2019 and 2020 while Mr. Miller was a non-certified user.

Disposition: William Miller was cited for eight (8) counts of violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having a certified supervisor. A civil penalty in the amount of \$800.00 (8 counts x \$100 per count) was assessed. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact Mr. Miller cooperated during the investigation and corrective action was taken.

PS20-0111 On May 12, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that TruGreen made an application to a property that he owns at 409 East Franklin Street in Delphi, which houses a daycare, instead of 405 East Franklin Street. TruGreen did not leave a lawn marker or a customer notification.

Disposition: Scott Overdorf, Chandler L. Henry and TruGreen were cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for applying pesticides in a careless and/or negligent manner by applying to a property without permission. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was TruGreen's second violation of similar Nature. See case number PS19-0134.

PS20-0125 The complainant contacted the Office of Indiana State Chemist Office (OISC) to report Mark Brookins was spraying a farm field and it was blowing directly towards his property.

Disposition: Justin 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 management. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was reduced to \$188.00. Consideration was given to the fact Mr. Miller cooperated during the investigation.

PS20-0126 Anonymous complainant stated Tobin Landscape applied chemicals to the lawn of Blackburn and Green and Bell Tower Retirement Center in Granger, Indiana. OISC database indicated they were not licensed to apply pesticides in Indiana.

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

PS20-0130 Complainant stated that on May 2, 2020, the neighboring farm field was sprayed and now he has exposure symptoms to his trees.

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

Timothy Higgins was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact a restricted use pesticide was involved.

Co Alliance 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.

Timothy Higgins 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.

PS20-041 Complainant stated that today, Superior Ag dumped a bunch of left over chemical by the fence on their property and drift and runoff has killed the complainant's trees and garden. He stated it is puddled up as he was filing this complaint.

Disposition: Superior Ag Resources Co Op was cited for seven (7) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding licensing and application of paraquat. A civil penalty in the amount of \$1,750.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was potential for human harm.

PS20-0143 Complainant stated a pesticide application took place recently to a neighboring farm field and now he has exposure symptoms to his trees and garden.

Disposition: Ceres Solutions Cooperative Inc 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 \$500.00 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 the second violation for Mr. Kixmiller of similar nature.

Curtis Allen Kixmiller was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact this was the second violation for Mr. Kixmiller of similar nature.

PS20-0146 On June 1, 2020, the complainant contacted the Office of Indiana State Chemist (OISC) to report that a neighboring farmer sprayed a field adjacent to his property on May 25, 2020, while winds were blowing toward his property at 10 mph. Willows and hackberries on the complainant's property were allegedly affected by drift from the application.

Disposition: William "Greg" Oren and Brandon Bertsch 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. Consideration was given to the fact a restricted use pesticide was involved.

William "Greg" Oren and Brandon Bertsch 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.

PS20-0149 Complainant stated that a pesticide application made to a neighboring family farm has adversely affected his garden and flowers.

Disposition: Drew Clark 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. 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.

PS20-0155 On June 3, 2020, I performed a routine marketplace inspection at Northern Tool and Equipment located at 9345 Waldemar Road Indianapolis, IN. I spoke with Store Manager, David Swank, and informed him of the process of the marketplace inspection. I then issued a Notice of Inspection.

Disposition: Northern Tool and Equipment was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide that was not registered for sale in the state of Indiana.

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

Simoniz USA Inc was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide that was in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$250.00 was assessed for this violation.

PS20-0162 On June 8, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring farmer sprayed an adjacent field and it adversely affected his soybeans. The complainant was concerned that impending rains may cause more damage to his beans as he has had runoff from the neighboring field in the past.

Disposition: Tom Krieger 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. Consideration was given to the fact a restricted use pesticide was involved.

PS20-0171 Complainant stated a neighboring farmer applied dicamba that has drifted onto the complainant's Enlist beans.

Disposition: Byron Bingham was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding being fully certified before use of dicamba. A civil penalty in the amount of \$100.00 was assessed for this violation.

Based on the evidence collected in this investigation, no drift violations of the Indiana pesticide laws or regulations were documented. 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, and was not able to clearly identify the source of the off-target movement.

PS20-0172 Complainant stated Mohler Family Farms made a pesticide application to their corn that drifted onto the complainant's beans.

Disposition: Allen W Mohler 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.

Justin Allen Mohler was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact a restricted use pesticide was involved.

Allen W Mohler 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. Consideration was given to the fact a restricted use pesticide was involved.

Justin A. Mohler 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. Consideration was given to the fact a restricted use pesticide was involved.

PS20-0178 On June 10, 2020, Mr. Brian Smith with the Indiana Department of Environmental Management (IDEM), contacted the Compliance Officer of the Office of Indiana State Chemist (OISC). Mr. Smith advised on June 8, 2020, he was contacted reference a fertilizer spill by Greenway Lawn and Tree Service.

Disposition: Greenway Lawn and Tree Service was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid pesticide business license. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$375.00. Consideration was given to the fact Greenway Lawn and Tree Service cooperated during the investigation; corrective action was taken, and this was their first offense of similar nature.

PS20-0183 Complainant stated Superior Ag of Patoka sprayed a field with dicamba that drifted onto the complainant's field designated as "Ford" field. Note the database does not show a Superior Ag as a pesticide business in Patoka.

Disposition: Superior Ag was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for drift management violation by applying when winds were blowing towards sensitive crop. 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.

Bobby Bean was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for drift management violation by applying when winds were blowing towards sensitive crop. Consideration was given to the fact a restricted use pesticide was involved.

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

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

PS20-0191 Complainant Amanda Boener reported to the Office of Indiana State Chemist (OISC) a neighboring farmer made a pesticide application on 5/31/20 that adversely affected her garden and trees.

Disposition: Crop Fertility Specialists and Adam Luhnow 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.

PS20-0199 In February of 2020, the Office of the Indiana State Chemist (OISC) sent a certified letter to River Pointe Country Club regarding a licensing issue; no certified applicator at the golf course. David Miloshoff had been the previous certified applicator at the course.

Disposition: River Pointe Country Club and David Miloshoff were cited for eight (8) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for using or supervising the use of a pesticide on a golf course without having a category 3b commercial applicator license. A civil penalty in the amount of \$2,000.00 (8 counts x \$250.00 per count) was assessed. However, the civil penalty was held in abeyance and not assessed provided River Pointe Country Club commits no further violations of the Indiana Pesticide Use and Application Law within the next two (2) years.

PS20-0202 On April 15, 2020, I was reviewing the license status of Dye's Walk Country Club and noticed that their certified applicator had recently transferred from Country Club of Indianapolis (CCI). I then reviewed the licensing status of CCI and noticed that they did not have a licensed applicator. I then contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to inform him of CCI's licensing status.

Disposition: Daniel Irons and Country Club of Indianapolis were cited for ten (10) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC for using or supervising the use of a pesticide on a golf course without having a category 3b commercial applicator license. A civil penalty in the amount of \$2,500.00 (10 counts x \$250.00 per count) was assessed. However, the civil penalty was held in abeyance and not assessed for two years provided Daniel Irons and Country Club of Indianapolis commit no further violations of the Indiana Pesticide Use and Application Law. Consideration was given to the fact Mr. Irons cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and a good-faith effort to comply.

Tom White and Country Club of Indianapolis were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding disposal of a pesticide. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for environmental harm.

PS20-0207 On April 15, 2020, Agent Kreider became aware that Dye's Walk Country Club (DWCC) did not have a licensed applicator. He then reported this to the Compliance Officer of the Office of Indiana State Chemist (OISC).

Disposition: Keegan A. Gray and Dye's Walk Country Club were cited for eighteen (18) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticide on a golf course without having a category 3b commercial applicator license. A civil penalty in the amount of \$4,500.00 (18 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,350.00. Consideration was given to the fact Mr. Gray cooperated during the investigation; corrective action was taken and there was no previous history of similar nature.

PS20-0209 On June 17, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that pesticide application to a neighboring field either drifted or was intentionally sprayed on his property just outside of Angola. The complainant believed Holman Farms owns the ground and likely made the application.

Disposition: Matthew Ridenour 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 restricted use pesticides were involved.

PS20-0218 Complainant gets his drinking water from a lake shared by a few other residents and the Seelyville Recreation Center. Complainant stated he observed members of the recreation center treating the lake for weeds on June 13 around 6 pm. Members stated they were applying copper sulfate and diuron. Complainant is concerned about using the water from the lake drinking, bathing and swimming.

Disposition: Seelyville Recreation Center was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide to a body of water contrary to label instructions. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS20-0223 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:

A. Able Paper and Janitorial Supply was warned for three (3) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale in Indiana

B. Zenex International was cited for three (3) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale in Indiana. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed for these violations.

C. Zenex International was cited for three (3) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that were misbranded. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed for these violations.

D. Zenex International was cited for one (1) count of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated (Zenkill III Long Shot) A civil penalty in the amount of \$250.00 was assessed for this violation.

E. Zenex International was cited for three (3) 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. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed for these violations.

F. On November 9, 2020, Frank Hanzl of Zenex requested an extension. An extension was granted until November 30, 2020.

G. On January 8, 2021, OISC received the civil penalty payment from Zenex International.

PS20-0226 On June 24, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a neighboring field was sprayed with dicamba and his non-DT beans have been adversely affected.

Disposition: Robert 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. 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.

PS20-0227 Complainant submitted a complaint form indicating spray to a neighboring farm field drifted onto his bean field.

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

PS20-0243 On June 30, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Nutrien Ag Solutions applied dicamba to a neighboring field that has adversely affected his beans.

Disposition: Based on the evidence collected in this investigation, it has been determined that Chad Sanders and Nutrien Ag Solutions failed to comply with the drift management restrictions on the label for the herbicide Xtendimax for applying when winds were blowing towards a sensitive crop. 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.

Chad Sanders 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 a restricted use pesticide was involved.

PS20-0255 Complainant stated a suspected dicamba application to a neighboring farm field has adversely affected his beans.

Disposition: Hunter Carter 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 off target in sufficient quantity to cause harm to a non-target site.

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

PS20-0265 On July 6, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an application to a neighboring field adversely affected his produce and ornamentals.

Disposition: Kaleb Thompson and Trico Farm Supplies 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 and this was their second violation of similar nature. See case number 2017/0828.

Kaleb Thompson and Trico Farm Supplies 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.

PS20-0277 On July 8, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that dicamba was applied to a neighboring field and now his non-dicamba tolerant (non-DT) soybeans are injured.

Disposition: Brad Stephenson and Crossroads Family 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. A civil penalty in the amount of \$100.00 was assessed for this violation under case number PS20-0272. Consideration was given to the fact a restricted use pesticide was involved.

Brad Stephenson and Crossroads Family Farms were cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having an applicator, who is licensed or permitted under IC 15-16-5, in direct supervision. A civil penalty in the amount of \$100.00 was assessed for this violation under case number PS20-0272.

Daniel W. Scott and Crossroads Family Farms were cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for aiding or abetting a person to evade IC 15-16-5, conspire with a person to evade IC 15-16-5, or allow a license, permit, registration, or certification to be used by another person. A civil penalty in the amount of \$100.00 was assessed for this violation under PS20-0272.

PS20-0282 Complainant Alan Hoffman reported to OISC a neighboring farmer made a pesticide application which adversely impacted his Non DT soybeans.

Disposition: George Kakasulef, Jared Kakasulef and Kakasulef 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. 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.

PS20-0309 Complainant stated a pest control company applied pellets in the apartment buildings that are clearly labeled for outdoor use only.

Disposition: Inter TEC Pest Division Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide product indoors contrary to label directions. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was held in abeyance for two (2) years from the date of this notice and will not be imposed provided Inter TEC Pest Division Inc commits no further violations of the Indiana Pesticide Use and Application. Consideration was given to the fact this was their first violation of similar nature and corrective action was taken.

PS20-0315 Complainant stated Above & Beyond Landscape removed some mulberry trees and shortly after, her Blue Spruce started to die. Two arborists and the local extension agent allegedly told her it looked like the spruce trees were 'poisoned'.

Disposition: Above & Beyond Landscape was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying Tordon RTU within the root zone of desirable trees. Consideration was given to the fact this was their first violation of similar nature.

Gerardo Martinez was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying Tordon RTU within the root zone of desirable trees. Consideration was given to the fact this was his first violation of similar nature.

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

PS20-0318 On June 21, 2020, I performed a routine marketplace inspection at E-Z Clean Corporation located at 2840 SR 63 Terre Haute, IN. I spoke with Customer Sales Rep, Joe Carzine, and informed him of the process of the marketplace inspection. I then issued a Notice of Inspection.

Disposition: E-Z Clean was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that is not registered for distribution in Indiana.

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

PS20-0319 On June 21, 2020, I performed a routine marketplace inspection at E-Z Clean Corporation located at 2840 SR 63 Terre Haute, IN. I spoke with Customer Sales Rep, Joe Carzine, and informed him of the process of the marketplace inspection. I then issued a Notice of Inspection.

Disposition: E-Z Clean was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that is not registered for distribution in Indiana.

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

On November 11, 2020, OISC received a letter from Mitch Whitney of QuestSpecialty Corporation indicating that they would recall remaining products from the distributor.

PS20-0331 On July 23, 2020, Corporal Ted Stine, Conservation Officer for the Indiana Department of Natural Resources (DNR) informed the Office of Indiana State Chemist (OISC) of a possible misuse of a granular product to kill raccoons. Corporal Stine stated a citizen contacted DNR stating James Barnett was bragging about purchasing a granular product from out of state because he could not buy it in Indiana to kill raccoons on his property.

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

James Barnett was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having a pesticide certification. A civil penalty in the amount of \$250.00 was assessed for this violation.

PS20-0351 Timothy Kruse's certification expired December 31, 2019 thereby invalidating his business license.

Disposition: Timothy Kruse and Kruse Seed SVC LLC were cited for twenty-one (21) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid Indiana pesticide business license. A civil penalty in the amount of \$10,500.00 (21 counts x \$500.00 per count) was assessed. However, the civil penalty was reduced to \$4,200.00. Consideration was given to the fact Kruse Seed SVC LLC cooperated during the investigation; there was no potential for damage and corrective action was taken. Consideration was also given to the fact this was their second violation of similar nature. See case number 2015/0698.

PS20-0353 Complainant stated fish started to die in his pond after an aerial application to a neighboring field. A snake also died.

Disposition: Although it could not be determined if the off-target residue was found because of drift or runoff, Ed Air Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying within 150 feet of aquatic habitats (such as, but not limited to, lakes; reservoirs; rivers; permanent streams; marshes; natural ponds, estuaries; and commercial fish ponds)". 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.

Although it could not be determined if the off-target residue was found because of drift or runoff, Scott Alan Crowe was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying within 150 feet of aquatic habitats (such as, but not limited to, lakes; reservoirs; rivers; permanent streams; marshes; natural ponds, estuaries; and commercial fish ponds)". Consideration was given to the fact a restricted use pesticide was involved.

PS20-0366 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: Ceres Solutions and Ethan Buchanan 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 and this was Mr. Buchanan's second violation of similar nature. See case number 2017/0946.

PS20-0370 Complainant stated today, himself and his property were sprayed by an aerial applicator. Complainant stated he bagged his clothes he had on when he was sprayed.

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

Brent Finley was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people.

PS20-0387 On August 24, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Trugreen has treated her yard twice now even though she does not have a contract with them.

Disposition: Trugreen was cited for two (2) counts of violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying pesticides to the wrong property. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. However, the civil penalty will be held in abeyance and not assessed provided Trugreen commits no further violations of similar nature within two (2) years from the date of this report.

PS20-0395 On July 23, 2020, I conducted a Worker Protection Standard (WPS) inspection at Anderson Orchard in Mooresville, Indiana. The inspection was a follow up inspection to one I conducted there last year (see case #PS19-0610).

Disposition: Anderson Orchards was cited for violation of 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$500.00 was assessed for this violation as this was their second violation of a similar nature in the last two years.

PS20-0409 On September 11, 2020, the Office of Indiana State Chemist (OISC) received an anonymous tip via email about a potentially unregistered pesticide product being sold at Rural King stores. The pesticide product in question appeared to be called "Xtreme Surface Sanitizer". OISC Pesticide Registration confirmed that the product was not registered in the State of Indiana.

Disposition: Rural King was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for distributing a pesticide product that is not registered for distribution in the state of Indiana. The Safecid information was forwarded to U.S. EPA for federal review.

PS20-0414 On September 25, 2020, OISC was notified by the Purdue Department of Botany and Plant Pathology of a potentially unregistered pesticide product. OISC was informed that a product called "Topbuxus Boxwood Restore and Protect Mix" was being sold as a product that could restore and protect from boxwood blight.

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

Topbuxus USA was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that is in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$250.00 was assessed for this violation.

PS20-0415 Complainant submitted a complaint form indicating spray to a neighboring farm field drifted onto his bean field. This is an extension to Case PS20-0227, as I had located two applicators responsible for the surrounding fields.

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

PS21-0027 I was assigned a new business inspection with Hazen Lawn Care & Snow Plowing Inc.

Disposition: Hazen Lawn Care & Snow Plowing Inc was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing or neglecting to keep and maintain the records required by IC 15-16-5 or 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 \$250.00 was assessed for this violation. The \$250.00 civil penalty was held in abeyance and not assessed provided Hazen Lawn Care & Snow Plowing Inc commits no further violations of similar nature for a period of two (2) years from the date of this notice.

Lance Hazen was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing or neglecting to keep and maintain the records required by IC 15-16-5 or to make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection.



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
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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 PS19-0245

Department	Pesticide
Originated	06/14/2019
Assigned To	Kevin Gibson
Status	Closed

Involved Parties

Complainant	Austin Rhodus Russiaville, IN 46979	
Respondent	Co Alliance LLP Kempton, IN 46049	
-	Austin Rhodus Forest, IN 46039	
-	Allen Davidson Forest, IN 46039	
Respondent	Sean Dean Johnson Kempton, IN 46049	
-	Co Alliance LLP Avon, IN 46123	General Counsel
-	Joseph D Becovitz Indianapolis, IN 46214	
-	Kevin W Gibson Lafayette, IN 47909	
-	Ping Wan West Lafayette, IN 47907	

Overviews

No overview found

Chronology of Events

06/14/2019 **Intake Referral Filed**
Same as above

Complainant called and stated Co-Alliance made a pesticide application to a neighboring farm field and now he has pesticide exposure symptoms to his hemp.

Original Event: Intake Referral (Pesticide) #461
Complainant: Austin Rhodus
Target: Co Alliance LLP
Submitted By: George Saxton
Assigned To: Kevin Gibson

06/14/2019 **Case Created**

Original Event: Case PS19-0245
Submitted By: George Saxton
Assigned To: Kevin Gibson

06/18/2019 **Residue Samples Collected**

Original Event: Residue Collection #98566 (19-4-2858 7)
Client: Austin Rhodus
Submitted By: Kevin Gibson
Sample: 19-4-2858 7 | Vegetation; Control; Burning Bush; Front Yard
Sample: 19-4-2859 4 | Vegetation; Composite; vegetation; Back Yard
Sample: 19-4-2860 0 | Soil; Composite; Target Field; Target Site
Sample: 19-4-2861 6 | Swab (Acetone); Trip Blank; none; Front Yard
Sample: 19-4-2862 8 | Swab (Acetone); Control; Chevy Equinox window; Front Yard
Sample: 19-4-2863 7 | Swab (Acetone); Grab/Spot; Greenhouse south door (outer); South
Sample: 19-4-2864 4 | Swab (Acetone); Grab/Spot; Greenhouse west wall (inside); West
Sample: 19-4-2865 9 | Swab (Acetone); Grab/Spot; Greenhouse north door (outer); North

06/18/2019 **Complainant Called Investigator**

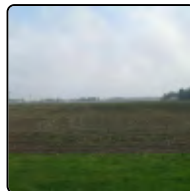
Complainant reported a pesticide application drifted onto his property and negatively impacted his hemp crop

Original Event: Investigation Activity (Pesticide) #241
Subject: Austin Rhodus
Submitted By: Kevin Gibson
Attachments: File 36428; Atrazine 4L.pdf
File 36429; Durango DMA.pdf
File 36427; Surestart II.pdf
File 37143; Weather (Indianapolis).pdf
File 37144; Weather (Kokomo).pdf
File 37145; Weather (Logansport).pdf
File 37146; weather (Purdue West Lafayette).pdf

Photos:



File 36431



File 21323



File 21324



File 21325



File 21326



File 21327



File 21328



File 21330



File 21331



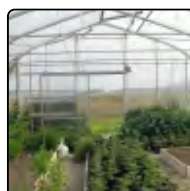
File 21332



File 21333



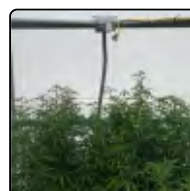
File 21334



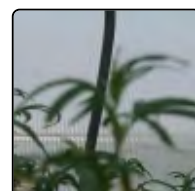
File 21335



File 21336



File 21337



File 21338



06/18/2019 **Encounter**

Subject is co-complainant with Austin Rhodus

Original Event:	Encounter #136
Location:	Austin Rhodus
Subject:	Allen Davidson
Submitted By:	Kevin Gibson

06/18/2019 **Lab Advised of Target Analytes**

Original Event:	Residue Collections Follow Up #84
Submitted By:	Kevin Gibson
Target Analyte:	Surestart
Target Analyte:	Atrazine
Target Analyte:	Durango
PPLS Labels:	001381-00158-20180124.pdf https://www3.epa.gov/pesticides/chem_search/ppls/001381-00158-20180124.pdf 062719-00556-20190306.pdf https://www3.epa.gov/pesticides/chem_search/ppls/062719-00556-20190306.pdf 062719-00679-20140227.pdf https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20140227.pdf

Attachments: File 19273; Application Record (Co-Alliance).pdf

06/19/2019 **Investigator Called Applicator**

On 6/19/19 I emailed a PII to licensed applicator Sean Johnson to be completed and returned to kwgibson@purdue.edu.

Original Event: Investigation Activity (Pesticide) #799
Subject: Co Alliance LLP
Submitted By: Kevin Gibson

06/19/2019 **Investigator Sent Fax/Email to Applicator**

On 6/8/19, licensed applicator Sean John made a pesticide application of Surestart; Atrazine and Durango to a field near the complainant's property.

Pesticide Investigation Inquiry

On 6/19/19, I received a completed PII from licensed applicator Sean Johnson.

Original Event: Investigation Activity (Pesticide) #800
Subject: Co Alliance LLP
Submitted By: Kevin Gibson
Attachments: File 33254; Application Record (Co-Alliance).pdf

09/24/2019 **Received Residue Lab Report**
Lab Remarks

Previously reported manually prior to Labworks; See legacy report

Original Event: Residue Lab Report #118790 (98566-R30)
Submitted By: SYSTEM
Lab Report: Lab Report 98566-R30.pdf

09/30/2019 **Received Residue Lab Report**
Lab Remarks

Previously reported manually prior to Labworks; See legacy report

Original Event: Residue Lab Report #119038 (98566-R54)
Submitted By: SYSTEM
Lab Report: Lab Report 98566-R54.pdf

10/02/2019 **Received Residue Lab Report**
Lab Remarks

Previously reported manually prior to Labworks; See legacy report

Original Event: Residue Lab Report #119077 (98566-R61)
Submitted By: SYSTEM
Lab Report: Lab Report 98566-R61.pdf

01/09/2020 **Judgement; Civil Penalty Assessed**
Citation

Sean Johnson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact this was Mr. Johnson's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Citation

Co-Alliance LLP 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 such a manner as to allow it to drift from the target site in sufficient quantity as to cause harm to a non-target site.

Citation

Sean Johnson 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 such a manner as to allow it to drift from the target site in sufficient quantity as to cause harm to a non-target site.

Civil Penalty

Co-Alliance LLP was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

Original Event: Judgement #301
Primary: Co Alliance LLP
Secondary: Sean Dean Johnson
Submitted By: George Saxton
Legal Citations: IC 15-16-5-65(2); 357 IAC 1-12-2
Penalty Amount: 250

02/26/2020 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #351
To: Co Alliance LLP
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 4767
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 57760; PS19-0245EL~CoAlliance - Sean Johnson.doc

03/02/2020 **Requested Documents Mailed to Subject**

All regulatory and licensing actions correspondence for Co-Alliance LLP or one of its employees are to be cc'd and sent to the attention of Elizabeth South, General Counsel for Co-Alliance at the Avon location (5250 E. US Hwy 36, Bldg. 1000, Avon IN 46123).

Original Event: Outgoing Mail #364
To: Co Alliance LLP
Submitted By: Joni Herman
Enclosed: Requested Documents

03/13/2020 **Hearing Requested**

On March 13, 2020, OISC received email notification of Co-Alliance's desire for a hearing.

Original Event: Compliance Activity #356
Primary: Co Alliance LLP
Submitted By: George Saxton
Stage: Informal Review
Attachments: File 43164; request for Hearing for Case# PS19-0245.pdf

03/31/2020 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #495
Subject: Co Alliance LLP
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 4767
Received: 03/02/2020
Attachments: File 44029; CM 7018 0040 0000 3553 4767.pdf

04/14/2020 **Informal Review Occurred**

On April 14, 2020, an informal conference was held by telephone.

Original Event: Compliance Activity #384
Primary: Co Alliance LLP
Submitted By: George Saxton
Stage: Informal Review

06/01/2020 **Compliance Activity**

Co Alliance, via their attorney, sent a letter dated June 1, 2020 outlining their arguments.

Original Event: Compliance Activity #440
Primary: Co Alliance LLP
Submitted By: George Saxton
Attachments: File 46214; hempOISCdisputeletter.june12020.pdf

08/06/2020 **Compliance Activity**

The Indiana Pesticide Review Board, via David E. Scott, Secretary to the Board, sent an email to Co-Alliance and the OISC Compliance officer regarding hearing options.

Original Event: Compliance Activity #523
Primary: Co Alliance LLP
Submitted By: George Saxton
Attachments: File 50921; Request for Formal Hearing under IC 15-16-5-67.pdf

10/22/2020 **Hearing Scheduled**

On October 22, 2020, David E. Scott, Secretary to the IPRB, sent a notification scheduling the formal hearing for December 14, 2020 at 9:00 am at the Daniels Turf Center.

Original Event: Compliance Activity #658
Primary: Co Alliance LLP
Submitted By: George Saxton
Stage: Informal Review

11/17/2020 **Subpoena Mailed to Complainant**

Original Event: Outgoing Mail #634
To: Austin Rhodus
Submitted By: Joni Herman
USPS: 7019 2280 0000 6272 5144
Enclosed: Subpoena
Attachments: File 59209; Subpoena to appear 12-14-2020 -- Austin Rhodus ~ PS19-0245.pdf

11/17/2020 **Subpoena Mailed to Witness**

Original Event: Outgoing Mail #635
To: Joseph D Becovitz
Submitted By: Joni Herman
Enclosed: Subpoena
Attachments: File 59211; Subpoena to appear 12-14-2020 -- Joseph Becovitz ~ PS19-0245.pdf

11/17/2020 Subpoena Mailed to Witness

Original Event: Outgoing Mail #636
To: Kevin W Gibson
Submitted By: Joni Herman
Enclosed: Subpoena
Attachments: File 59214; Subpoena to appear 12-14-2020 -- Kevin Gibson ~ PS19-0245.pdf

11/17/2020 Subpoena Mailed to Witness

Subpoena was hand delivered to Ping at the OISC.

Original Event: Outgoing Mail #637
To: Ping Wan
Submitted By: Joni Herman
Enclosed: Subpoena
Attachments: File 59216; Dave-Jill-Joni Email ~ Subpoenas 12-14-2020.pdf
File 59215; Subpoena to appear 12-14-2020 -- Ping Wan ~ PS19-0245.pdf

12/01/2020 Hearing Canceled

On December 1, 2020, David E. Scott, Secretary to the IPRB, sent a notification cancelling the formal hearing for December 14, 2020 at 9:00 am at the Daniels Turf Center.

Original Event: Compliance Activity #711
Primary: Co Alliance LLP
Submitted By: Joni Herman
Stage: Panel Review
Attachments: File 59220; Cancelled 12-14-2020 IPRB Appeal Hearing (PS 19-0245) - Per Dave Email 12-1-2020.pdf

12/08/2020 Compliance Activity

On December 8, 2020, I spoke with Attorney Elizabeth regarding a plea agreement. See attached.

Original Event: Compliance Activity #712
Primary: Co Alliance LLP
Submitted By: George Saxton
Attachments: File 59221; Co-Alliance 19-0245.pdf

12/08/2020 Amended Judgement; Civil Penalty Assessed Citation

Sean Johnson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application when the wind is blowing towards a sensitive crop. Consideration was given to the fact this was Mr. Johnson's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Civil Penalty

Co-Alliance LLP was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application when the wind is blowing towards a sensitive crop.. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Mr. Johnson's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Original Event: Judgement #661
Primary: Co Alliance LLP
Secondary: Sean Dean Johnson
Submitted By: George Saxton
Level: Informal Review
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 250

12/09/2020 Notice of Amended Enforcement Mailed to Target

Original Event: Outgoing Mail #641
To: Co Alliance LLP
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0288
Enclosed: Notice of Amended Enforcement
Enclosed: Draft Case Summary
Attachments: File 59707; PS19-0245EL~CoAlliance - Sean Johnson.doc

12/09/2020 Requested Documents Mailed to Subject

All regulatory and licensing actions correspondence for Co-Alliance LLP or one of its employees are to be cc'd and sent to the attention of Elizabeth South, VP & General Counsel for Co-Alliance at the Avon location (5250 E. US Hwy 36, Bldg. 1000, Avon IN 46123).

Original Event: Outgoing Mail #642
To: Co Alliance LLP
Submitted By: Joni Herman
Enclosed: Requested Documents
Enclosed: Case Summary
Attachments: File 59709; PS19-0245 Summary ~ Modified 12-9-2020.docx

12/21/2020 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #922
Subject: Co Alliance LLP
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0288
Received: 12/21/2020
Attachments: File 62519; CM 7018 0040 0000 3553 0288.pdf

12/30/2020 **Received Mail Confirmation for Complainant**

Original Event: Compliance Receipt #789
Subject: Austin Rhodus
Submitted By: Joni Herman
USPS: 7019 2280 0000 6272 5144
Received: 11/24/2020
Attachments: File 59710; CM 7019 2280 0000 6272 5144.pdf

01/22/2021 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #948
Subject: Co Alliance LLP
Submitted By: Joni Herman
Payment Expected: \$250.00
Payment Received: \$250.00
Attachments: File 62567; PS19-0245~Co-Alliance~CP Received.pdf

<p>This record was generated on February 24, 2021, 09:54 AM EST. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>

CASE SUMMARY

Case #PS19-0252

Complainant: Russell Gant
6686 East 100 South
Mill Creek, Indiana 46365

Respondent: Dale Tuholski
3564 E 400 S
La Porte, IN 46350

Certified Applicator

1. On June 19, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural drift to his property.
2. On June 19, 2019, I met the complainant Russell Gant at his property. Mr. Gant stated he believes his property was drifted on by an adjacent agricultural pesticide application. Mr. Gant notices cupping and curling on some of the tree leaves near the property line adjacent to the agricultural field.
3. I took vegetation samples from the complainant's property in addition to a soil sample and submitted them to the OISC Pesticide Residue Laboratory for chemical residue analysis. I also took a vegetation sample to the Purdue Plant and Pest Diagnostic Lab (PPDDL) for visual analysis.



Figure 1



Figure 2



Figure 3



Figure 4

*Figures 1-4 are photographs of the complainant's damaged vegetation



Figure 5

*Figure 5 is a Google Earth Image of the complainant's field outlined in green

*The target field is outlined in red

*The Sample Marker T shows the approximate area of the target sample

*The Sample Markers 1-3 show the approximate area of the corresponding vegetation sample

*The Sample Marker C shows the approximate area of the control sample

4. I received the Pesticide Investigation Inquiry (PII) from the target applicator Dale Tuholski. The records show the following information:
 - Date: June 14,2019
 - Time: 12:00 pm to 3:30 pm CST
 - Applicator: Dale Tuholski
 - Application Equipment: Miller 5275 Sprayer
 - Nozzle make, model, #, pressure: TeeJet AIXR 11004, 40 PSI
 - Boom Height: 24”
 - Application Ground Speed: 10 mph
 - Pesticides: **Acuron Flexi EPA #100-1568, Active Ingredients: 31% S-Metolachlor, 3% Mesotrione, .87% bicyclopyrone; Helena Atrazine 90-DG EPA #100-585-5905, Active Ingredient: 88% Atrazine; Status EPA #7969-242, Active Ingredient: 38% Sodium Salt of Dicamba**
5. I searched the weather conditions on June 14, 2019 at the nearest certified AWOS/ASOS weather stations. The weather reports show the following:

**South Bend International Airport (KSBN) Eastern Standard Time
Located approximately 15 miles to the north east from the complainant’s field**

12:54 PM	73 °F	43 °F	34 %	SW	13 mph	26 mph	29.18 in	0.0 in	Fair
1:54 PM	75 °F	41 °F	29 %	SW	20 mph	26 mph	29.15 in	0.0 in	Fair
2:54 PM	76 °F	39 °F	26 %	SSW	20 mph	29 mph	29.12 in	0.0 in	Fair
3:54 PM	76 °F	40 °F	27 %	WSW	21 mph	31 mph	29.11 in	0.0 in	Fair / Windy
4:54 PM	75 °F	42 °F	31 %	SSW	18 mph	28 mph	29.08 in	0.0 in	Fair

6. I received the PPPDL Report that shows the following visual analysis:

June 20, 2019

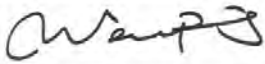
The oak branches in sample 19-00754 all show leaf curling and stem twisting that are characteristic of exposure to synthetic auxin herbicides such as 2,4-D or dicamba. It is important to notice that the newer leaves closer to the growing point are bigger and less injured than older leaves down the branches, suggesting that the drift incident may have occurred much earlier than the suspected application 4-5 days ago and the plants are now starting to grow out of it.

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

There was no significant disease or insect damage on the sample.

Tom Creswell

7. I received the OISC Pesticide Residue Laboratory Report that shows the following chemical residue analysis:

OCM Collection #	99011	Case #	PS19-0252	Investigator	M. Rosch				
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)						
			Dicamba	5-OH Dicamba	DCSA	Metolachlor	Diflufenzopyr	Atrazine	Mesotrione
19-4-4988-1	Vegetation, control, affected site	Veg	4.02	BDL	BDL	3.78	BDL	28.2	BDL
19-4-4989-9	Vegetation, grab/spot, veg 1, gradient 1	Veg	35.8	3.62	BDL	24.3	4.22	393	118
19-4-4990-9	Vegetation, grab/spot, veg 2, gradient 2	Veg	10.2	1.39	BDL	25.5	0.520	106	21.5
19-4-4991-3	Vegetation, grab/spot, veg 3, gradient 3	Veg	37.4	4.83	BDL	36.2	3.10	280	78.0
19-4-4992-1	Soil, grab/spot, target soil, target site	Soil	1.77	BDL	18.1	>410	56.5	31.9	167
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC									
LOQ (ppb)		Veg	0.2	0.4	0.2	3	0.4	1	3
LOQ (ppb)		Soil	0.2	0.4	0.4	3	0.2	1	0.07
Signature					Date	03/21/2020			

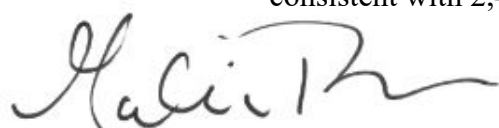
8. The product label violation in this case is the following:

a) **Acuron Flexi EPA# 100-1568, Active Ingredients: 31% S-Metolachlor, 3% Mesotrione, .87% bicyclopyrone** - Page 13 of the label reads, *"Do not apply Pesticide when the product may drift to non-target areas (i.e. residential areas, Bodies of water, known habitat for threatened or endangered species, non-target Crops)."*

9. During the course of the investigation, it was learned that Mr. Tuholski had a commercial category 1 license which was attached to the business "Dale R Tuholski Company" which would not suffice for restricted use pesticide applications on his farm.

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

- The product label violation stated in paragraph 8.
- The residue analysis in paragraph 7 shows the active ingredients used in the agricultural pesticide went off target and onto the complainant's property (non-target area).
- The PPPDL report in paragraph 6 states the vegetation symptomology is consistent with 2,4-d or dicamba exposure.



Melissa D. Rosch
Investigator

Date: September 23, 2020

Disposition: Dale Raymond Tuholski 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.

Dale Raymond Tuholski 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.

Dale Raymond Tuholski was warned for violation of section 65(12) of the Indiana Pesticide Use and Application Law for refusing or neglecting to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification. Consideration was given to the fact there was a good-faith effort to comply and corrective action was immediately taken.


George N. Saxton
Compliance Officer

Draft Date: December 10, 2020
Case Closed: February 23, 2021

CASE SUMMARY

Case #PS19-0262

Complainant: Steve Holifield
6782 E 100 S
Mill Creek, IN 46365

Respondent: Dale Tuholski
3564 E 400 S
La Porte, IN 46350

Certified Applicator

1. On June 24, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural drift to his property. The complainant stated a pesticide application made by the respondent Dale Tuholski has adversely affected his trees.
2. On July 1, 2019, I met the complainant Steve Holifield at the target field. Mr. Holifield stated he believed his property was drifted on by an adjacent agricultural pesticide application.
3. I took vegetation samples from the complainant's property in addition to a soil sample and submitted them to the OISC Pesticide Residue Laboratory for chemical residue analysis. I also took a vegetation sample to the Purdue Plant and Pest Diagnostic Lab (PPDDL) for visual analysis.



Figure 1



Figure 2

*Figures 1 and 2 show the damaged vegetation on the left side of the photograph and target corn vegetation on the right side



Figure 3



Figure 4

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



Figure 5

*Figure 5 is a Google Earth Image of the complainant's field outlined in green

*The target field is outlined in red

*The Sample Marker T shows the approximate area of the target sample

*The Sample Markers 1-3 show the approximate area of the corresponding vegetation sample

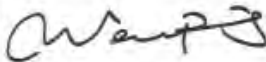
*The Sample Marker C shows the approximate area of the control sample

4. I received the Pesticide Investigation Inquiry (PII) from the target applicator Dale Tuholski. The records show the following information:
- Date: June 14,2019
 - Time: 12:00 pm to 3:30 pm CST
 - Applicator: Dale Tuholski
 - Application Equipment: Miller 5275 Sprayer
 - Nozzle make, model, #, pressure: TeeJet AIXR 11004, 40 PSI
 - Boom Height: 24"
 - Application Ground Speed: 10 mph
 - Pesticides: **Acuron Flexi EPA #100-1568, Active Ingredients: 31% S-Metolachlor, 3% Mesotrione, .87% bicyclopyrone; Helena Atrazine 90-DG EPA #100-585-5905, Active Ingredient: 88% Atrazine; Status EPA #7969-242, Active Ingredient: 38% Sodium Salt of Dicamba**
 - Note: Target field restricted use pesticide application was not-for-hire and was for his own field.
5. I searched the weather conditions on June 14, 2019 at the nearest certified AWOS/ASOS weather stations. The weather reports show the following:

**South Bend International Airport (KSBN) Eastern Standard Time
Located approximately 15 miles to the north east from the complainant's field**

12:54 PM	73 °F	43 °F	34 %	SW	13 mph	26 mph	29.18 in	0.0 in	Fair
1:54 PM	75 °F	41 °F	29 %	SW	20 mph	26 mph	29.15 in	0.0 in	Fair
2:54 PM	76 °F	39 °F	26 %	SSW	20 mph	29 mph	29.12 in	0.0 in	Fair
3:54 PM	76 °F	40 °F	27 %	WSW	21 mph	31 mph	29.11 in	0.0 in	Fair / Windy
4:54 PM	75 °F	42 °F	31 %	SSW	18 mph	28 mph	29.08 in	0.0 in	Fair

6. I received the OISC Pesticide Residue Laboratory Report that shows the following chemical residue analysis:

OCM Collection #		101567	Case #	PS19-0262			Investigator		M. Rosch
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)						
			5OH Dicamba	DCSA	Dicamba	Diflufenzopyr	Atrazine	Metolachlor	Mesotrione
19-4-4998-4	Vegetation, control, other/more	Veg	BDL	BQL	3.51	BDL	45.9	4.13	BDL
19-4-4999-7	Vegetation, grab/spot, veg 1, gradient 1	Veg	BDL	BQL	6.78	BDL	35.9	10.8	BDL
19-4-5000-0	Vegetation, grab/spot, veg 2, gradient 2	Veg	BDL	BQL	4.76	BDL	57.7	15.3	BDL
19-4-5001-6	Vegetation, grab/spot, veg 3, gradient 3	Veg	BDL	1.31	137	19.0	218	464	78.7
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC									
LOQ (ppb)		Veg	0.4	0.2	0.2	0.4	0.7	3	3
Signature							Date	02/04/2020	

*Target soil taken in case 2019-0252 on 6/19/19- see report below (same target field)

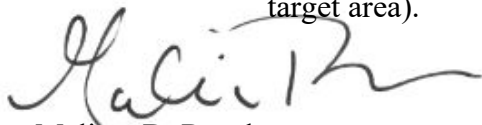
OCM Collection #	99011	Case #	PS19-0252	Investigator		M. Rosch				
Sample #	Sample Description	Matrix	Amount of Analyte (ppb)							
			Dicamba	5-OH Dicamba	DCSA	Metolachlor	Diflufenzopyr	Atrazine	Mesotrione	
19-4-4988-1	Vegetation, control, affected site	Veg	4.02	BDL	BDL	3.78	BDL	28.2	BDL	
19-4-4989-9	Vegetation, grab/spot, veg 1, gradient 1	Veg	35.8	3.62	BDL	24.3	4.22	393	118	
19-4-4990-9	Vegetation, grab/spot, veg 2, gradient 2	Veg	10.2	1.39	BDL	25.5	0.520	106	21.5	
19-4-4991-3	Vegetation, grab/spot, veg 3, gradient 3	Veg	37.4	4.83	BDL	36.2	3.10	280	78.0	
19-4-4992-1	Soil, grab/spot, target soil, target site	Soil	1.77	BDL	18.1	>410	56.5	31.9	167	

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

- a) **Acuron Flexi EPA# 100-1568, Active Ingredients: 31% S-Metolachlor, 3% Mesotrione, .87% bicyclopyrone** - Page 13 of the label reads, *"Do not apply Pesticide when the product may drift to non-target areas (i.e. residential areas, Bodies of water, known habitat for threatened or endangered species, non-target Crops)."*

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

- a) The label violation stated in paragraph 7
b) The residue analysis in paragraph 6 shows the active ingredients used in the agricultural pesticide went off target and onto the complainant's property (non-target area).



Melissa D. Rosch
Investigator

Date: September 24, 2020

Disposition: Dale Raymond Tuholski 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 already assessed for this application date in case number PS19-0252. Consideration was given to the fact a restricted use pesticide was involved.

Dale Raymond Tuholski 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.

Dale Raymond Tuholski was warned for violation of section 65(12) of the Indiana Pesticide Use and Application Law for refusing or neglecting to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification. Consideration was given to the fact there was a good-faith effort to comply and corrective action was immediately taken.



George N. Saxton
Compliance Officer

Draft Date: December 10, 2020
Case Closed: February 23, 2021

CASE SUMMARY

Case #PS19-0269

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

Respondent: Home Depot
Jonathan Boberg
5230 Pearl Dr.
Evansville, Indiana 47712
Assistant Manager


Registrant: Bonide Products, Inc.
6301 Sutliff Road
Oriskany, New York 13424

1. On June 25, 2019, I performed a routine marketplace inspection at Home Depot in Evansville, Indiana. I met with Assistant Manager, Jonathan Boberg, 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 is as follows:
 - a. Bonide Neem Oil, EPA Reg. #70051-13-4
3. I photographed the pesticide product and issued an OISC Formulation sample number. I then placed the pesticide product into a clear evidence bag and sealed the bag for transportation to the OISC Formulation Lab.



4. On June 26, 2019, I delivered the pesticide product to the OISC Formulation Lab.
5. On July 22, 2020, I received the analysis results from the OISC Formulation Lab. The product was analyzed for any general insecticide contaminants. The results indicated that no contaminants were found. The results are below:

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	100305	Case #	PS19-0269	Investigator	G. Creason
Sample #	Product Description				Sample Size
19-3-0058 0	Bonide Neem Oil				1 x 32 fl oz
TEST				RESULTS	
General insecticide Screen				None Detected	
Remarks:					
Signature				Date	07/22/2020

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



Garret A. Creason
Investigator

Date: July 28, 2020

Label Review:

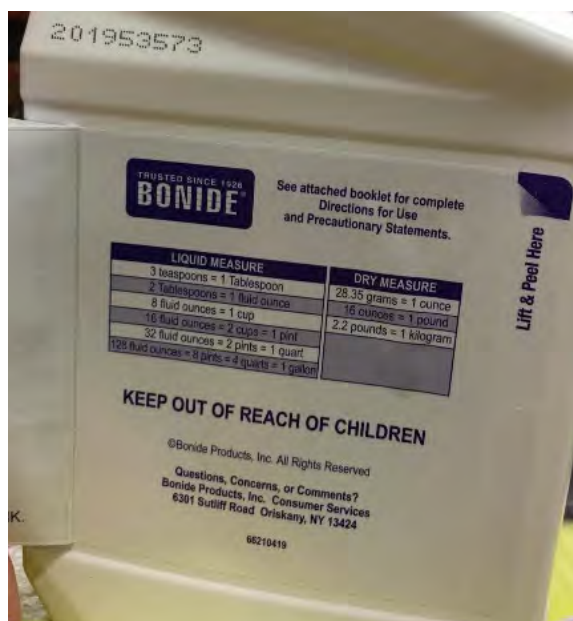
On July 31, 2020, I completed the labeling review for BONIDE NEEM OIL FUNGICIDE-MITICIDE-INSECTICIDE READY TO USE (EPA Reg. Number 70051-13-4) by Bonide Products Inc.

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:

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

The following chart for liquid measure and dry measure is not on the master label and therefore, according to the 40 CFR, cannot be included on this distributor product. This is a violation of 40 CFR, IC 15-16-4-57 (9).



Sarah K Caffery

Sarah K. Caffery
Pesticide Product Registration Specialist

Date: July 6, 2020

Disposition: Bonide Products, Inc. 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, 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.

George N. Saxton

George N. Saxton
Compliance Officer

Draft Date: October 28, 2020
Case Closed: January 22, 2021

CASE SUMMARY

Case #PS19-0270

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

Respondent: Lowes
Tim Nixon
103 S. Red Bank Road
Evansville, IN 47711

Assistant Manager


Registrant: Schultz Company
PO Box 4406
Bridgeton, MO 63044

1. On June 25, 2019, I performed a routine marketplace inspection at Lowes in Evansville, IN. I met with Assistant Manager, Tim Nixon, 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 two pesticide products containing Neem Oil as the active ingredient. The products were currently registered for sale in the State of Indiana. The products were as follows:
 - a. Garden Safe Neem Oil Extract, EPA Reg. #70051-2-39609
 - b. Garden Safe Fungicide 3, EPA Reg. #70051-13-39609
3. I photographed the pesticide products and issued OISC Formulation sample numbers. I then placed the pesticide products into a clear evidence bag. I then sealed the bag for transportation to the OISC Formulation Lab.



4. On June 26, 2019, I delivered the pesticide products to the OISC Formulation Lab.
5. 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 no contaminants were found. The results are below:

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
 Lab Report

OCM Collection #	100399	Case #	PS19-0270	Investigator	G. Creason
Sample #	Product Description				Sample Size
19-3-0059 8	Garden Safe Neem Oil Extract Concentrate				1 x 16 fl oz
19-3-0060 7	Garden Safe Fungicide 3				1 x 24 fl oz
TEST					RESULTS
General insecticide Screen					None Detected
Remarks:					
Signature					Date 07/22/2020

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



Garret A. Creason
Investigator

Date: July 28, 2020

Label Review

On July 31, 2020, I completed the labeling review for GARDEN SAFE BRAND NEEM OIL EXTRACT CONCENTRATE (EPA Reg Number 70051-2-39609) and GARDEN SAFE BRAND FUNGICIDE 3 RTU (EPA Reg Number 70051-13-39609).

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

Based on 40 CFR § 152.132 - Supplemental distribution <https://www.govinfo.gov/content/pkg/CFR-2011-title40-vol24/pdf/CFR-2011-title40-vol24-sec152-132.pdf>, the supplemental registrant would not be able to employ a foreign language translation on their label without first being on the primary registrant's product label.



Sarah K. Caffery
Pesticide Product Registration Specialist

Date: July 31, 2020

Disposition:

- A. Schultz Company was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for producing 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.
- B. On November 11, 2020, the Pesticide Product Registration Specialist advised that Schultz Company had corrected the product label and requested the \$250.00 civil penalty be held in abeyance. The civil penalty was held in abeyance for two (2) years and will not be assessed provided Schultz company does not commit further violations of the Indiana Pesticide Registration Law within that time.



George N. Saxton
Compliance Officer

Draft Date: January 8, 2021
Case Closed: February 23, 2021

CASE SUMMARY

Case #PS19-0339

Complainant: Frank Boardman
4491 West 950 South
Star City, Indiana 46985

Respondent: William Auxier
Co Alliance LLP-MCL
200 N 950 E
Monticello, Indiana 47960

Certified Applicator
Licensed Business

1. On July 12, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Co-Alliance sprayed a farm field, allegedly with dicamba, that adversely affected his property.
2. On July 18, 2019, I met with the complainant Frank Boardman at 4491 West 950 South, Star City, Indiana. Mr. Boardman stated he believed his soybeans were drifted on by an agricultural pesticide application.
3. During my on-site investigation I did the following:
 - a) Looked for and discovered one dicamba application made in the area of the impacted site.
 - b) Observed and photographed what I believed to be fairly uniform dicamba exposure symptoms (figure 1) throughout the complainant's non-target, non-DT soybean field (figure 2).
 - c) Collected soybean plant samples from impacted areas of the complainant's non-target soybean field for visual analysis by the Purdue Plant and Pest Diagnostic Lab (PPDDL).
 - d) Collected samples for chemical analysis by the OISC Pesticide Residue Laboratory from the following areas:
 - i) Impacted soybean plants from complainant's non-target soybean field;
 - ii) Soil from target field



Figure 1



Figure 2

*Figures 1 and 2 are photographs of the complainant's soybean vegetation

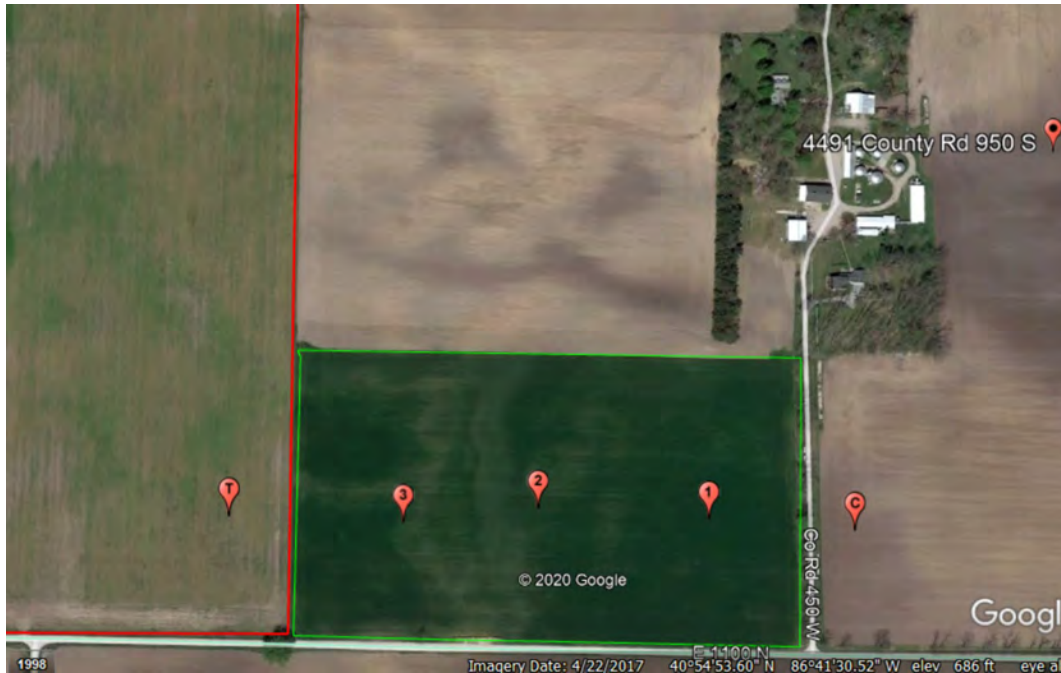


Figure 3

*Figure 3 is a google earth map of the complainant's field outlined in green

*The target field is outlined in red

*Markers C, 1, 2, 3, and T are the approximate location for each sample area

4. I collected written records from the applicator Mr. Auxier. The written records and statements addressed the below items:
 - a) Application date & time: June 25, 2019; from 10:30am to 12:30pm;
 - b) Target field: soybean field to the west of complainant's soybean field;
 - c) **Pesticides: RoundUp Powermax, Active Ingredient Glyphosate, EPA Reg. #524-549; Xtendimax, Active Ingredient Dicamba, EPA Reg. #524-617; -Buffer: Flexstar, Active Ingredient Sodium Salt of Fomesafen, EPA Reg. #100-1101; Roundup Powermax, Active Ingredient Glyphosate, EPA Reg. #524-549;**
 - d) Nozzles: Hypro FC-UID120-05 Pressure 30
 - e) Boom height: 32 inches
 - f) Ground speed: 10 mph
 - g) Winds: start 4 mph end 4 mph from the southwest;
 - h) Applicator: William Auxier
 - i) Certified supervisor: not applicable;
 - j) Left a 120' untreated buffer next to non-target site: yes
 - k) Checked registrant's web site before application: yes
 - l) Checked Field Watch before application: yes
 - m) Surveyed application site before application: yes
5. I searched wind data from www.weatherunderground.com for zip code 46985 for Star City, Indiana and the reported date and time of the application. The results of that search indicated that wind speeds and directions during the application were as follows:

Purdue University Station, West Lafayette, IN – SW/WSW 8-10mph

9:54 AM	72 °F	63 °F	73 %	SW	10 mph	0 mph	29.30 in	0.0 in	Fair
10:54 AM	75 °F	64 °F	69 %	SW	9 mph	0 mph	29.31 in	0.0 in	Fair
11:54 AM	78 °F	64 °F	62 %	WSW	8 mph	0 mph	29.32 in	0.0 in	Fair
12:54 PM	80 °F	63 °F	56 %	WSW	9 mph	18 mph	29.32 in	0.0 in	Fair

6. The report from PPPDL states:

The soybeans plants in the sample had cupped leaves.
The cupped leaves also showed a whitish/yellowish leaf tip.
These symptoms are characteristic of exposure to synthetic auxin herbicides such as dicamba.
The pattern of injury shown in the photos also resembles off-target movement of dicamba.

The soybean sample had leaf cupping, leaf crinkling, and rugosity-type symptoms. This could be caused by a growth regulator or similar herbicide, but is not suspected to be a disease at this time.

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

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-5037 9	Vegetation; Control; Wheat Field East of Soybeans; East;	Vegetation	5OH-Dicamba	BDL ppb	0.2 ppb
			DCSA	1.46 ppb	0.2 ppb
			Dicamba	1.87 ppb	0.2 ppb
			AMPA	304 ppb	250 ppb
			Glyphosate	79.2 ppb	5 ppb
			Fomesafen	BQL ppb	0.07 ppb
19-4-5038 0	Soil; Control; Wheat Field East of Soybeans; East;	Soil	No Analysis Performed	Done	
19-4-5039 8	Vegetation; Grab/Spot; Veg 1; Gradient 1;	Vegetation	5OH-Dicamba	BDL ppb	0.2 ppb
			DCSA	BQL ppb	0.2 ppb
			Dicamba	12.3 ppb	0.2 ppb
			AMPA	975 ppb	250 ppb
			Glyphosate	15600 ppb	5 ppb
			Fomesafen	BQL ppb	0.07 ppb
19-4-5040 3	Soil; Grab/Spot; Soil 1; Gradient 1;	Soil	No Analysis Performed	Done	

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-5041 9	Vegetation; Grab/Spot; Veg 2; Gradient 2;	Vegetation	5OH-Dicamba	BDL ppb	0.2 ppb
			DCSA	BQL ppb	0.2 ppb
			Dicamba	1.77 ppb	0.2 ppb
			AMPA	220 ppb	250 ppb
			Glyphosate	5470 ppb	5 ppb
			Fomesafen	BQL ppb	0.07 ppb
19-4-5042 6	Soil; Grab/Spot; Soil 2; Gradient 2;	Soil	No Analysis Performed	Done	
19-4-5043 5	Vegetation; Grab/Spot; Veg 3; Gradient 3;	Vegetation	5OH-Dicamba	0.374 ppb	0.2 ppb
			DCSA	0.343 ppb	0.2 ppb
			Dicamba	5.42 ppb	0.2 ppb
			AMPA	112 ppb	250 ppb
			Glyphosate	3170 ppb	5 ppb
			Fomesafen	BDL ppb	0.07 ppb
19-4-5044 2	Soil; Grab/Spot; Soil 3; Gradient 3;	Soil	No Analysis Performed	Done	

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-5045 7	Soil; Grab/Spot; Target Soil; Target Site;	Soil	5OH-Dicamba	BDL ppb	0.4 ppb
			DCSA	91.1 ppb	2 ppb
			Dicamba	1.65 ppb	0.2 ppb
			AMPA	663 ppb	125 ppb
			Glyphosate	282 ppb	5 ppb
			Fomesafen	7.91 ppb	0.07 ppb

8. I discussed the OISC Pesticide Residue Laboratory report in paragraph 7 with the lab manager and concluded the pesticide residue levels that were detected are not consistent with drift. The complainant had also applied glyphosate which would account for the higher levels of that active ingredient. But, since the active ingredient Fomesafen was not detected in any of the complainant's target vegetation and the levels of the active ingredient Dicamba did not follow the typical drift pattern (higher levels of the active ingredient closer to the target field then decreasing as you move further away), we cannot confirm drift from an agricultural pesticide application in this case.

9. The label violation in this case is the following:

- **Xtendimax, Active Ingredient Dicamba, EPA Reg. # 524-617**

Page 4 of the 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."*



Melissa D. Rosch
Investigator

Date: October 2, 2020

Disposition: Based on the evidence collected in this investigation, it has been determined that William Auxier failed to comply with the drift management restrictions on the label for the herbicide Xtendimax for applying when winds were blowing towards a sensitive crop. 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.

William Auxier and Co Alliance LLP-MCL 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: December 11, 2020
Case Closed: February 23, 2021

CASE SUMMARY

Case #PS20-0077

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

Respondent: Garrett L. Molter
MEM Ventures LLC Round Grove Farm Center
9976 South US 231
Brookston, Indiana 47923

Certified Applicator

1. On August 5, 2019, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring field was sprayed with dicamba that drifted onto his Liberty beans.
2. On August 12, 2019, I met with Jim Nesius at his residence. I had him show me the field that he believed was affected by dicamba drift. The injured non-DT soybeans were cupped/curled and had whitish leaf tips. The injury was concentrated in the east and southeast along with the north and northeast of the field. The target field as seen from Mr. Nesius's non-DT soybean 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

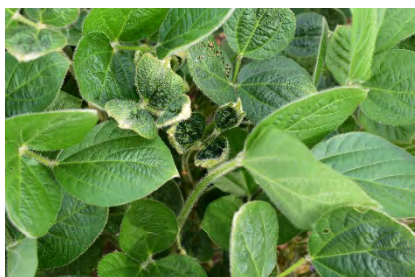


Figure 2

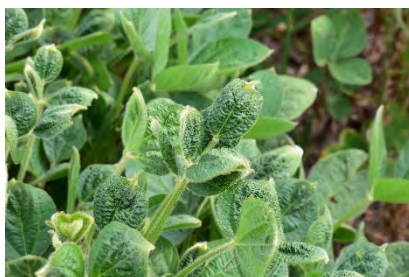


Figure 3

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. East Target Field Weeds
 - F. Southeast Target Field Weeds
 - G. Control (Liberty Beans)

These samples were submitted for analysis by the OISC residue lab. I also collected a sample of Mr. Nesius's injured non-DT soybeans 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.

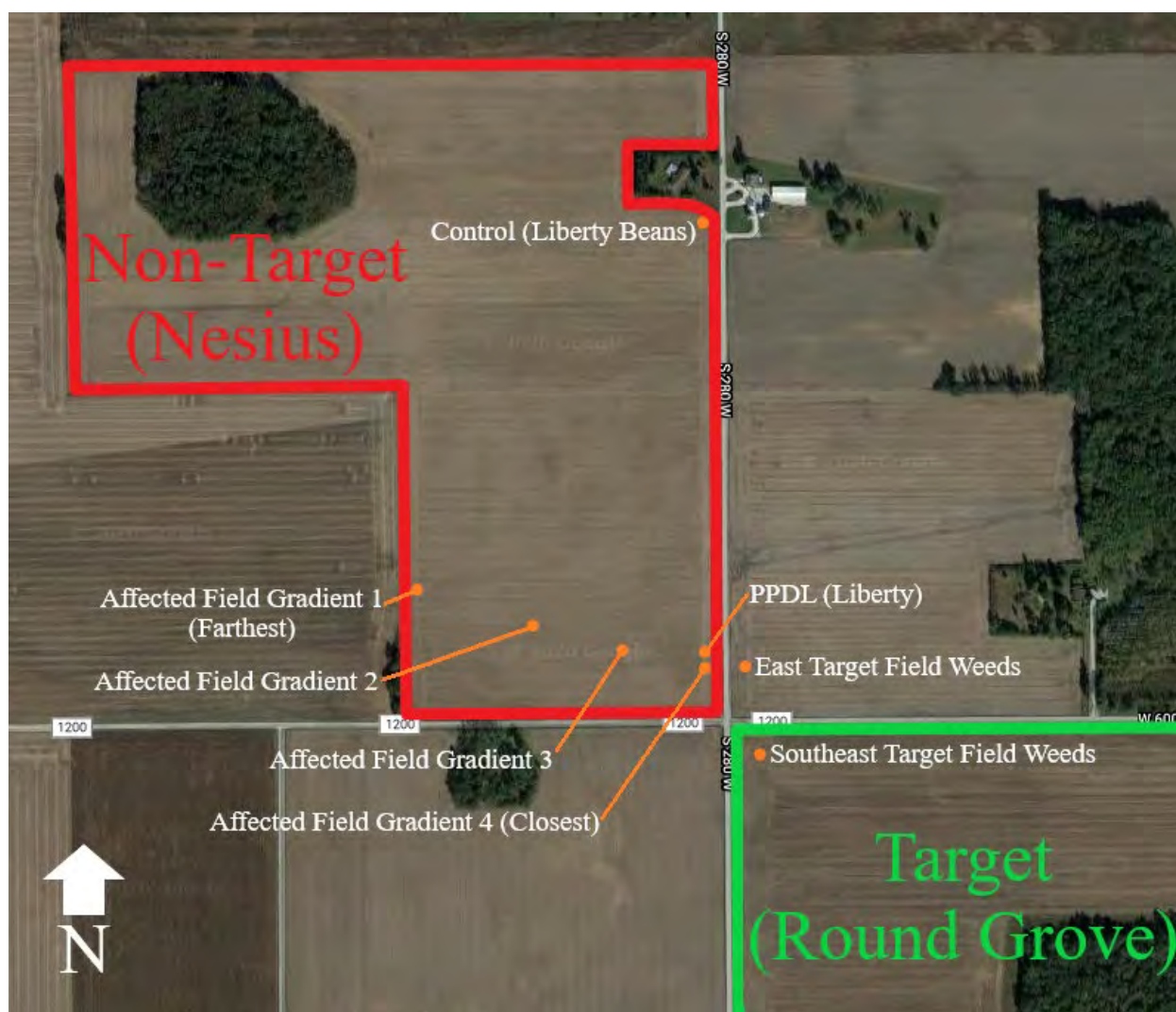


Figure 4

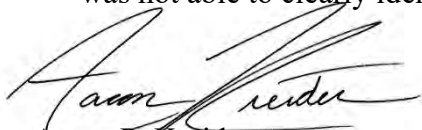
4. On September 13, 2019, I received a Pesticide Investigation Inquiry (PII) from James Schlotman of Round Grove Farm Center. It stated that Garrett Molter made an application to the target field on July 18, 2019 from 2:30 PM to 2:45 PM. The application consisted of the following:

- A. Buccaneer 5 Extra (EPA Reg. #55467-15, active ingredient glyphosate)
- B. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
- C. Cornbelt Vaporgard + DRA (Surfactant/Drift Retardant)
- D. Cornbelt Locketite (Surfactant)

The reported wind conditions stated that winds were 5 MPH from the south at the start of the application and 5 MPH from the south at the end of the application. This would mean that the wind was not blowing towards Mr. Nesius's non-DT soybeans.

5. I collected wind data from Jasper County Airport (KRZL) which is 8.66 miles from the target field, Purdue University Airport (KLAF) which is 30.42 miles from the target field, and Logansport/Cass County Airport (KGGP) which is 38.80 miles from the target field. The data is as follows:

- A. KRZL: 13 MPH with no gusts from the east-southeast at the start of the application. 10-13 MPH with no gusts from the east-southeast during the application. 10 MPH with no gusts from the east-southeast at the end of the application.
 - B. KLAF: 7 MPH with no gusts from the southeast at the start of the application. 7-9 MPH with no gusts from the southeast and south during the application. 9 MPH with no gusts from the south at the end of the application.
 - C. KGGP: 7 MPH with no gusts from the east-southeast at the start of the application. 3-7 MPH with no gusts from the east-southeast during the application. 3 MPH from the east-southeast 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 were not used for this investigation. There was a neighboring application, reference in case PS19-0447, that had the same active ingredients as Mr. Molter's application. This would mean that OISC would be unable to differentiate between the two applications as potential sources of drift.
8. Sample 19-4-1579 2 (East Target Field Weeds) was not used for this case. It is referenced in case PS19-0447.
9. The Engenia label states, "***DO NOT*** apply when wind is blowing in the direction of neighboring sensitive crops or residential areas."
10. Based on the evidence collected in this investigation, it has been determined that Mr. Molter 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: Garrett L. Molter and Round Grove Farm Center 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 29, 2021

CASE SUMMARY

Case #PS20-0079

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

Respondent:	Colin Avila	Unlicensed Applicator
	Yardshark LLC	Unlicensed Business
	P.O. Box 2101	
	Michigan City, Indiana 46360	

1. On March 25, 2020, the Compliance Officer of the Office of Indiana State Chemist (OISC) received an email from David Stiver stating he believes the respondent Yardshark LLC had been making pesticide/fertilizer applications for hire without a license.
2. On April 12, 2020, I, Agent Melissa Rosch, spoke to David Stiver who stated he believes Yardshark LLC had made pesticide/fertilizer lawn applications for hire without a license. Mr. Stiver stated Yardshark LLC has placed numerous contract bids to do pesticide/fertilizer applications for hire for the City of Goshen. Mr. Stiver stated he believes Yardshark LLC has been awarded the contract with the City of Goshen for at least two (2) years. Mr. Stiver stated he contacted the City of Goshen's legal contracts and claims manager Keitha Windsor after the first time Yardshark LLC was awarded the pesticide/fertilizer application contract. Mr. Stiver advised Ms. Windsor of the Indiana Pesticide Use laws and licensing requirements, as he is the owner of an OISC licensed business. Mr. Stiver stated he believed it was a violation of the contract eligibility requirements for the City of Goshen if a company was not licensed.
3. On April 13, 2020, I spoke to the respondent Colin Avila and he stated he has only made one lawn pesticide application for hire in the past. Mr. Avila stated he did have a previous contract with the City of Goshen where it stated he was supposed to make herbicide treatments, but he never actually did any of them. Mr. Avila stated when he surveyed the sites for pesticide treatments for the City of Goshen, the site area did not need it. I issued Mr. Avila an ACTION ORDER which prohibits him and/or his company from advertising for or making pesticide applications for hire until his business was properly licensed with OISC. I also gave Mr. Avila the reference information from the OISC website to complete the licensing requirements.
4. On April 16, 2020, I spoke to the respondent Colin Avila and he stated he was not able to take the licensing exam at this time for the applicator categories because the sites were closed. Mr. Avila stated he will be purchasing the exam materials to study until the exam is available again.

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

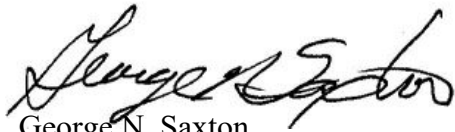
- The respondent admitted to making one (1) pesticide application for hire



Melissa D. Rosch
Investigator

Date: April 16, 2020

Disposition: Colin Avila and Yardshark LLC were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was reduced to \$75.00. Consideration was given to the fact Mr. Avila cooperated during the investigation; corrective action was attempted (no testing centers open due to Covid-19) and there were no previous violations of similar nature.



George N. Saxton
Compliance Officer

Draft Date: August 24, 2020
Case Closed: January 29, 2021

Cc: City of Goshen
Mayor Jeremy Stutsman
202 S. 5th Street
Goshen, IN 46528

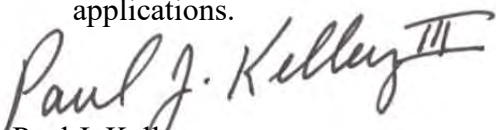
CASE SUMMARY

Case #PS20-0081

Complainant: Jeff Byerly
2500 German Ridge Rd NE
Corydon, IN 47112-7404

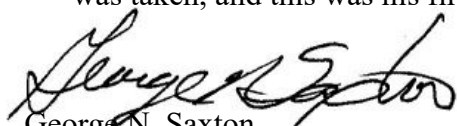
Respondent: Miller & Son Lawncare, LLC Unlicensed Business
Shaun Miller Unlicensed Applicator
5329 Corydon Ramsey Road Northwest
Corydon, IN 47112-7128

1. On April 4, 2020, the Office of Indiana State Chemist (OISC) received information alleging Shaun Miller of Miller & Son Lawncare LLC is advertising and applying fertilizer for-hire without a license.
2. On March 6, 2020, I went to the business address for Miller & Son Lawncare, LLC. Shaun Miller was not at the address at the time of my visit. I was able to speak with Mr. Miller by telephone. Mr. Miller stated he had made applications of fertilizer for-hire in the 2020 season. Mr. Miller stated he contacted his local Purdue Extension agent, who informed him If he is only applying granular fertilizer, he does not need a license. I informed Mr. Miller he was given inaccurate information. I requested Mr. Miller to provide me with copies of fertilizer applications he has made in 2020. Furthermore, I informed Mr. Miller I would issue him an Action Order to stop advertising or making pesticide/fertilizer applications for hire until your business location is credentialed by OISC as a Licensed Pesticide Business.
3. On March 6, 2020, Mr. Miller removed from his Facebook pages advertisement for fertilization. Mr. Miller provide copies of three (3) invoices, dated 3-28-20, 3-29-20, and 4-4-20, for fertilizer applications.


Paul J. Kelley
Investigator

Date: March 7, 2020

Disposition: Shaun Miller and Miller & Son Lawncare, LLC. were cited for three (3) violations of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$225.00. Consideration was given to the fact Mr. Miller cooperated during the investigation; corrective action was taken, and this was his first violation of similar nature.


George N. Saxton
Compliance Officer

Draft Date: August 24, 2020
Case Closed: January 29, 2021

CASE SUMMARY

Case #PS20-0091

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

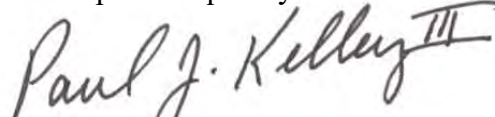
Respondent:	Orkin Eddie Beier 1320 N. Royal Avenue Evansville, IN 47715	Licensed Business Branch Manager
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1. On April 20, 2020, the Office of Indiana State Chemist (OISC) learned the Orkin Branch in Evansville was using the certification of the Orkin's Regional Manager, Jason Shlater, to obtain a business license in categories 7A and 7B. Mr. Shlater was not directly connected to the Evansville Branch and had no daily applicator supervisory role. Once the Evansville Orkin obtained a category 7B applicator, Greg Snyder, Mr. Shlater was not removed from the applicator ledger allowing Orkin to operate in category 7A.
2. On April 20, 2020, I performed a general inspection via telephone. I spoke with Eddie Beier, branch manager. I learned from our conversation that a certified applicator associated with the Evansville Orkin branch was unknown (Jason Shlater) to Mr. Beier. During my investigation, I ascertained Mr. Shlater was the Regional Manager for Orkin, who was attached to the Evansville Orkin branch to temperately act as the certified supervisor for category 7B activities. Mr. Shlater held a category 7A and 7B credential. Once Greg Snyder completed the requirements to obtain the 7B credential, he would take over as the certified supervisor. However, once Mr. Snyder came into compliance, Mr. Shlater was not removed from the Evansville Orkin business allowing for the branch to operate in category 7A. Mr. Shlater stated he was unaware his 7A credential was being used at the Evansville branch. Mr. Shlater stated he did not supervise any registered technicians at the Evansville branch for category 7A (email dated May 8, 2020, in OISC's Computer Management system). Mr. Beier, being a new branch manager stated he did not realize the Evansville Orkin branch's category 7A was due to Mr. Shlater's credential.
3. On April 20, 2020, I issued an Action Order to the Evansville Orkin branch via email to cease operating in category 7A until a category 7A certified applicator was associated with the branch. Mr. Beier was asked to provide copies of invoices for all applications made by all applicators from February 27, 2020, until April 20, 2020. Mr. Beier was given until May 1, 2020, to comply. I instructed OISC Licensing to remove Mr. Shlater from the Evansville Orkin's applicator ledger.

4. The following registered technicians were making pesticide applications without supervision in category 7A;

Eric Cate
Greg Snyder
Derek Embry
Tyler Tynes
Patrick Meeks
Paul White
Anthony Ketchum

5. On April 21, 2020, through correspondence with OISC Licensing, Mr. Beier was able to transfer a category 7A applicator from the Terre Haute Orkin Branch to physically supervise the registered technicians at the Evansville Orkin branch. Furthermore, Mr. Beier stated he signed up several registered technicians to take the category 7A test at a remote testing site.
6. On April 30, 2020, I received 2,566 invoices from the Evansville Orkin Branch. From February 29, 2020, (date Mr. Shlater was added to Evansville Orkin's business ledger) to April 20, 2020, (date Evansville Orkin issued Action Order) Orkin failed to supervise its registered technicians for forty-four (44) days. Invoices are contained in OISC's Computer Management System.
7. Mr. Beier and Mr. Shlater of Orkin were fully compliance with all request made by OISC and responded quickly to return to compliance.



Paul J. Kelley
Investigator

Date: May 19, 2020

Disposition: Orkin was cited for forty-four (44) counts of 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 non-certified individual. A civil penalty in the amount of \$5,500.00 (44 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,100.00. Consideration was given to the fact Orkin cooperated during the investigation; corrective action was taken, there was no previous history of similar nature and a good-faith effort to comply.



George N. Saxton
Compliance Officer

Draft Date: September 8, 2020
Case Closed: January 29, 2021

CASE SUMMARY

Case #PS20-0092

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

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

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 on 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 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 on the west side 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 April 21, 2020, I received a Pesticide Investigation Inquiry (PII) from Mr. Keller. It states that he made an application to the target field on June 27, 2019 from 3:00 PM to 5:15 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 reported wind conditions were 8 MPH from the south at the start of the application and 9 MPH from the south at the end of the application. This would mean that the wind was reported 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 11.87 miles from the target field, La Porte Municipal Airport (KPPO) which is 36.48 miles from the target field, and

Logansport/Cass County Airport (KGGP) which is 27.46 miles from the target field. The data is as follows:

- A. KRCR: 6 MPH with no gusts from the west at the start of the application. 3-6 MPH with no gusts from the west to south during the application. 5 MPH with no gusts from the southwest at the end of the application.
 - B. KPPO: 6 MPH with no gusts from the south at the start of the application. 5-8 MPH with no gusts from the south to southwest during the application. 5 MPH with no gusts from the south-southwest at the end of the application.
 - C. KGGP: 5 MPH with no gusts from the west at the start of the application. 0-8 MPH with no gusts from the west to south-southwest during the application. 8 MPH with no gusts from the west-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 report from the OISC residue lab is 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

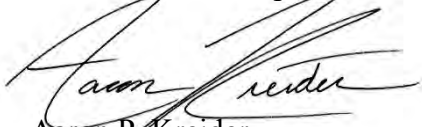
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
19-4-1517 5	Vegetation; Grab/Spot; W to E 2 (G2); Affected Site, Gradien	Vegetation	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.4 ppb
			Dicamba	BQL ppb	2 ppb
			Clethodim	BDL ppb	0.3 ppb
			Clethodim-sulfone	BQL ppb	0.3 ppb
			Clethodim-sulfoxide	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 * Minimum 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 an application reference in case PS19-0324. Samples 19-4-1521 7 and 19-4-1522 9 were not used in this investigation. They are samples from the target field referenced in case PS19-0324.
9. The FeXapan 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.” 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.”

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: April 22, 2020

Disposition: 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. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact this was their first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Mark Keller and Keller 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 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 26, 2020
Case Closed: January 29, 2021

CASE SUMMARY

Case #PS20-0093

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

Respondent: Thomas Williams
Scott's Termite and Pest Control
1701 W. Allen Street
Bloomington, Indiana 47403

Licensed Applicator

1. On April 21, 2020, I, agent Kevin Gibson of the Office of Indiana State Chemist (OISC), performed a routine pre-construction termite treatment (pre-treat) inspection at 1105 W. 3rd Street in Bloomington Indiana. According to the pesticide application records supplied by Scott's Termite and Pest Control, an application of **Termidor SC** (EPA #7969-210; **active ingredient**: fipronil) was made at a rate of 0.06% dilution.
2. Due to the corona virus pandemic, I spoke to pesticide applicator Thomas Williams by telephone while at the site. I reviewed the application records with Mr. Williams. The records indicated 1200 gallons of **Termidor SC** at 0.06% dilution were used for the application. The diagram included in the records showed 13,000 square feet for the structure. I made the following calculations based on a by-the-label horizontal treatment for **Termidor SC**:

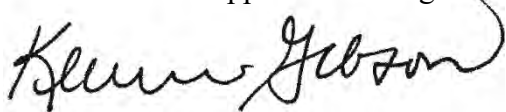
13,000 square feet x 1.0 gallon per 10 square feet (0.06% dilution) = 1300 gallons

3. I asked Mr. Williams about the discrepancy between the 1300 gallons required for a by-the-label horizontal treatment and the 1200 gallons listed in the records. He told me he estimated the 1200 gallons for the entire pre-treat job. Mr. Williams said he used approximately 900 gallons for the horizontal. I then asked him if he made an "inside vertical" application of **Termidor SC** as required by the label for pre-construction treatment. He told me he did not because he didn't know he needed to do so. I told him the application records were incomplete since he only listed the total amount estimated for the interior and exterior applications. I requested he submit the actual total gallons he used for the interior application of **Termidor SC** since he had not completed the exterior application.
4. On April 21, 2020, I received an email with further explanation of Mr. Williams's pesticide application of **Termidor SC** at 1105 W. 3rd Street. In the email Mr. Williams reported he applied 930 gallons of Termidor SC for a horizontal treatment. For the vertical treatment, he applied 65 gallons of termiticide around drains and conduit which would have been penetrating the slab. He also reported, "*I did not perform a vertical pesticide treatment around the inside of the slab because I was unaware that it was necessary*". According to the job site superintendent, this was not a monolithic slab so an interior vertical treatment should have been applied.

5. Based on available information (application records, diagram, email statement from applicator), the calculations for the pre-treat application of Termidor at 0.06% dilutions rate is as follows:

$$\begin{array}{rcl} 13,000 \text{ square feet} \times 1 \text{ gallon per 10 square feet} & = & 1,300 \text{ gallons} \\ 530 \text{ inside linear feet} \times 4 \text{ gallons per 10 linear feet} \times 2 \text{ feet d-t-f} & = & \underline{424 \text{ gallons}} \\ & = & 1,724 \text{ gallons} \end{array}$$

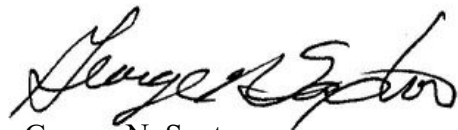
6. Mr. Williams admitted he applied 930 gallons for a by-the-label horizontal of 0.06% dilution rate of **Termidor SC** or 72% of the required termiticide. He also admitted except for the application around the drains and conduit (65 gallons), he did not make an inside vertical treatment. No outside vertical treatment has been applied as of this date since the backfill was not complete.
7. The label for **Termidor SC** reads in part for **Vertical Treated Zones**: “*Apply Termidor SC termiticide/insecticide at rate of 1 gallon finished dilution/square foot around anything penetrating the slab (e.g. utility services, plumbing lines) and at 4 gallons of finished dilution per 10 linear feet per foot depth along the inside and outside perimeter of foundation walls. The applicator must trench and rod into the trench or trench along the foundation walls and around pillars and other foundation elements. Make this treatment along the inside of foundation walls at the rate of 4 gallons finished dilution (0.06%, 0.09% or 0.125% Termidor SC) per 10 linear feet per foot of depth, or if the footing is more than 4 feet below grade, to a minimum depth of 4 feet below grade*”.
8. The label for **Termidor SC** also reads in part for **Horizontal Treated Zones**: “*Apply an overall treatment of Termidor SC to the entire surface to be covered beneath the concrete slab. This includes the slab under the actual living areas, plus carports, porches, basement floors and any extended entrances. Make this treatment at the rate of 1-1.5 gallons finished dilution per 10 square feet*”.
9. Licensed applicator Thomas Williams was in violation of the **Termidor SC** label when he applied 72% (930 gallons versus 1,300 gallons) of the required termiticide for a “horizontal” treatment. He was also in violation of the **Termidor SC** label for failing to make a “vertical” termiticide application along the inside foundation walls.



Kevin W. Gibson
Investigator

Date: April 23, 2020

Disposition: Thomas Williams and Scott's Termite and Pest Control were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding label direction rates. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: August 26, 2020
Case Closed: January 29, 2021

CASE SUMMARY

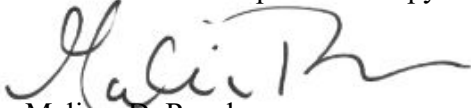
Case #PS20-0102

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

Respondent: Crop Fertility Specialists
302 N CR 300 W
Winamac, IN 46996

Licensed Business

1. On March 6, 2020, I went to the Crop Fertility Specialists in Winamac, Indiana to perform a Restricted Use Product Sales and Restricted Product Custom Application Records inspection. I met with the front desk employee Kelley Wetnight and asked for the past two years of the Restricted Use Product Sales and Restricted Product Custom Application Records. As I was looking through the 2019 records she provided, I noticed there were not any of the records for products containing the active ingredient dicamba. I asked Ms. Wetnight if this facility sold or applied any pesticide products containing dicamba in 2019 and she stated yes but they did not appear on the annual report she provided. Ms. Wetnight stated she would address the issue with her corporate office and provide the updated records.
2. On March 13, 2020, I received an email from Craig Coon at Crop Fertility Specialists in Winamac. Mr. Coon attached the updated Restricted Use Product Sales and Restricted Product Custom Application Records which included products containing the active ingredient dicamba.
3. On May 6, 2020, I received an email from Christopher Menkedick with Kova Fertilizer, Inc. Mr. Menkedick stated, *"there was a coding error with our billing software and an issue with the procedure when running the restricted use reports. I have worked with our programmer and those issues have been resolved."*
4. There does appear to be a violation in this case because the respondent Crop Fertility Specialists did not provide an accurate report of the Restricted Use Product Sales and Restricted Product Custom Application Records when asked to provide a copy of it.



Melissa D. Rosch
Investigator

Date: October 8, 2020

Disposition: Crop Fertility Specialists was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing or neglecting to keep and maintain the records required by IC 15-16-5 or 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 \$250.00 was assessed for this violation. However, the civil penalty was held in abeyance and not assessed provided Crop Fertility Specialists does not commit further violations of the Indiana Pesticide Use and Application Law for a period of two (2) years from the date of this report.



George N. Saxton
Compliance Officer

Draft Date: December 17, 2020
Case Closed: February 23, 2021



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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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

This record was generated on **February 9, 2021, 10:48 AM EST**. Information displayed may contain errors or omissions.
Official records may only be obtained directly from the Office of Indiana State Chemist.

In Re: Case PS20-0109

Department	Pesticide
Originated	05/06/2020
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Respondent Issued To	William M Miller Williamsport, IN 47993
Complainant	Office of Indiana State Chemist

Overviews

05/22/2020 Investigation Summary

While investigating case #PS20-0073, I had found that Ceres Solutions; Stateline, IN (Ceres), had sold William "Mike" Miller Restricted Use Pesticides (RUPs) in 2019 and 2020 while Mr. Miller was a non-certified user.

On May 6, 2020, I contacted and informed Mr. Miller he was not legally eligible to purchase or apply RUPs while being a non-certified user. Mr. Miller stated he had already been made aware by Ceres Solutions of his unlawful RUP purchases. Mr. Miller confirmed he did not have an OISC certification and was not aware that the products he purchased from Ceres were RUPs. Mr. Miller stated he had personally applied the RUPs to the fields he farms. Mr. Miller stated he had handwritten spray records for his 2019 & 2020 RUP applications and would mail them to me. Mr. Miller was read and emailed an "Action Order", advising him to "stop making pesticide applications in a category for which you are not currently licensed", along with instructions to sign the order and send it with the spray records.

I received Mr. Miller's RUP application records and the signed Action Order on May 15 & May 18, 2020, via text message and mail. My review of Mr. Miller's application records found that he had applied RUPs on 7 different dates in the form of 8 separate applications while being a non-certified user.

Submitted By: James M. Trimble
Role: Investigator

05/22/2020 Disposition Summary

William Miller was cited for eight (8) counts of violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having a certified supervisor. A civil penalty in the amount of \$800.00 (8 counts x \$100 per count) was assessed. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact Mr. Miller cooperated during the investigation and corrective action was taken.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/06/2020 Investigator Called Applicator

While investigating case #PS20-0073, I had found that Ceres Solutions; Stateline, IN, had sold Mr. Miller restricted use pesticides (RUPs) in 2019 and 2020 while Mr. Miller was a non-certified user.

On May 6, 2020, I contacted Mr. Miller, via phone. Mr. Miller advised he had recently been made aware by Ceres Solutions that he had unlawfully purchased RUPs from them and reaffirmed he did not have a license. Mr. Miller stated when he was made aware of the situation by Ceres Solutions, he enrolled in a Private Applicator's training course in effort to become certified but the course had been cancelled due to COVID-19.

Mr. Miller stated he had applied the RUPs he had purchased from Ceres Solutions to his fields while being a non-certified user. Mr. Miller advised me he had purchased and applied the following RUPs; Atrazine, Capture, and Sterling Blue. Using the records I received from Ceres Solutions, I identified the products specifically to be Atrazine 4L (EPA Reg. #1381-158, active ingredient of Atrazine), Capture LFR (EPA Reg. #279-3302, active ingredient of Bifenthrin), and Sterling Blue (EPA Reg. #7969-137-1381, active ingredient of Dicamba).

Mr. Miller advised me he was not aware that the above products were RUPs and he didn't recall if Ceres Solutions had asked for his OISC certification before being able to purchase the products. Mr. Miller was informed he was not legally eligible to purchase or apply RUPs while being a non-certified user. Mr. Miller stated he had handwritten records of the 2019 & 2020 RUP applications. Mr. Miller was verbally and later emailed instructions to send me his spray records within 15 days. Mr. Miller was also sent an "Action Order", advising him not make further applications in a category for which he is not licensed. Mr. Miller was instructed to sign the Action Order and send that along with the records, which he agreed to do.

Original Event: Investigation Activity (Pesticide) #1413
Subject: William M Miller
Submitted By: James M. Trimble
Attachments: File 45405; 2020 sales2.xlsx
File 45406; atrazine.PDF
File 45399; Capture.PDF
File 45400; Copy of Michael Miller.xlsx
File 45401; Michael Miller.xlsx
File 45402; Miller, Mike part 1.pdf
File 45403; Miller, Mike part 2.pdf
File 45404; Sterling Blue.PDF

05/06/2020 **Intake Referral Filed**

Respondent was found to have been purchasing RUPs as a non-certified user from Ceres Solutions; State Line, see case #PS20-0073.

Original Event: Intake Referral (Pesticide) #1294
Complainant: Office of Indiana State Chemist
Respondent: William M Miller
Entered By: James M. Trimble
Submitted By: George Saxton

05/06/2020 **Action Order Issued**

Stop advertising or making pesticide applications in a category for which you or your business are not currently licensed.

Original Event: Action Order #153
Issued To: William M Miller
Firm Representative: William "Mike" Miller
Submitted By: James M. Trimble
Attachments: File 45297; action order back.pdf
File 45298; Action Order.pdf

05/06/2020 **Investigator Sent Fax/Email to Applicator**

The above email was sent to Mr. Miller.

Original Event: Investigation Activity (Pesticide) #1424
Subject: William M Miller
Submitted By: James M. Trimble
Attachments: File 45408; 5-6-20 email.pdf

05/06/2020 **Case Created**

Original Event: Case PS20-0109
Submitted By: George Saxton
Assigned To: James M. Trimble

05/08/2020 **Applicator Called Investigator**

Mr. Miller contacted me, via phone, which he advised he was in the process of gathering his spray records and asked if he could mail the spray records and Action Order instead of emailing or texting them to me. I advised him he could mail them to OISC if he preferred but to send me an email or text when he had mailed the documents so I know to look for them. Mr. Miller stated he had the address for OISC and would let me know when they are in the mail.

Shortly thereafter, Mr. Miller notified me, via text, that the records were being mailed on this date, May 8, 2020.

Original Event: Investigation Activity (Pesticide) #1425
Subject: William M Miller
Submitted By: James M. Trimble

05/11/2020 **Investigator Sent Fax/Email to Applicator**

After final review of the RUP records provided by Ceres Solutions of Mr. Miller's sales, I identified a RUP sale of Engenia (EPA Reg. #7969-345, active ingredient of Dicamba) that I questioned whether it was a direct sale to Mr. Miller and or a custom application by Ceres. I was unable to interpret Ceres' records as to which type of transaction it was. Mr. Miller originally advised me that all sales of Engenia from Ceres were custom applications and he had not made any applications of Engenia.

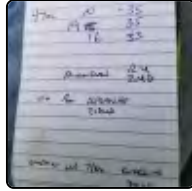
Mr. Miller was sent the attached email, asking if he had applied the Engenia. Mr. Miller was honest and replied that he had purchased the Engenia from Ceres and had applied it. Mr. Miller was asked and agreed to send me his Engenia application record.

Original Event: Investigation Activity (Pesticide) #1433
Subject: William M Miller
Submitted By: James M. Trimble
Attachments: File 45450; 5-11-20 email.pdf
File 45452; Copy of Michael Miller2.xlsx
File 45451; Engenia.PDF
File 45453; EngeniaSale.pdf

05/15/2020 **Applicator Sent Text Message to Investigator**

Mr. Miller sent me a picture of his handwritten spray records for Engenia, via text message, which listed he had treated 30 acres on July 24, 2019 as "clean-up".

Original Event: Investigation Activity (Pesticide) #1447
Subject: William M Miller
Submitted By: James M. Trimble
Photos:



File 45571

05/19/2020 **Investigator Received Mail from Applicator Records**

The attached spray records and signed Action Order from Mr. Miller were received by OISC on May 18, 2020.

Original Event: Investigation Activity (Pesticide) #1456
Subject: William M Miller
Submitted By: James M. Trimble
Attachments: File 45630; PS20-0109 Records~William Mike Miller - JMT.pdf

05/20/2020 **Online Investigation Activity**

I created a spreadsheet to represent my interpretation of the spray records Mr. Miller had sent me (see attached). I emailed Mr. Miller a copy of the spreadsheet to check for accuracy and asked him to respond if anything needed corrected.

Original Event: Investigation Activity (Pesticide) #1457
Subject: William M Miller
Submitted By: James M. Trimble
Attachments: File 45632; myspradsheet.xlsx

05/21/2020 **Investigator Received Fax/Email from Applicator**

Mr. Miller emailed me with corrections needed to the spray record spreadsheet. I have updated the spreadsheet (see attached). I found Mr. Miller had applied RUPs on 7 different dates in the form of 8 separate applications while being a non-certified user.

Original Event: Investigation Activity (Pesticide) #1465
Subject: William M Miller
Submitted By: James M. Trimble
Attachments: File 45680; 5-21-20 email.pdf
File 45681; myspradsheet.xlsx

05/22/2020 **Judgement; Civil Penalty Assessed Civil Penalty**

William Miller was cited for eight (8) counts of violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having a certified supervisor. A civil penalty in the amount of \$800.00 (8 counts x \$100 per count) was assessed. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact Mr. Miller cooperated during the investigation and corrective action was taken.

Original Event: Judgement #496
Primary: William M Miller
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(10)
Penalty Amount: 400

09/08/2020 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #540
To: William M Miller
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 3197
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 54564; PS20-0109EL~CP~William M. Miller.doc

09/18/2020 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #827
Subject: William M Miller
Submitted By: Joni Herman
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 59899; PS20-0109 ~ William M. Miller ~ CP Received.pdf

01/06/2021 **Mail Service Returned for Target**

Certified Mail returned as "No Such Number - Unable to Forward". Since the regular mail did not come back to the agency and the civil penalty payment was received on September 18, 2020, it is assumed the regular mail was delivered to William Miller.

Original Event: Compliance Receipt #828
Subject: William M Miller
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 3197
Returned: 09/22/2020
Attachments: File 59900; CM 7018 0040 0000 3553 3197 -Returned to OISC.pdf
File 59901; CM 7018 0040 0000 3553 3197 Additional Info.~USPS.pdf

01/06/2021 **Mail Confirmation Assumed for Target**

Since the regular mail did not come back to the agency and the civil penalty payment was received on September 18, 2020, it is assumed the regular mail was delivered to William Miller.(Assumed date is the date on the check)

Original Event: Compliance Receipt #829
Subject: William M Miller
Submitted By: Joni Herman

CASE SUMMARY

Case #PS20-0111

Complainant: Todd Price
5810 North 9th Street
Delphi, Indiana 46923

Respondent: Chandler L. Henry
Scott Overdorf
TruGreen
3308 Imperial Parkway, Suite E
Lafayette, Indiana 47909

Registered Technician
Certified Applicator
Licensed Business

1. On May 12, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that TruGreen made an application to a property that he owns at 409 East Franklin Street in Delphi, which houses a daycare, instead of 405 East Franklin Street. TruGreen did not leave a lawn marker or a customer notification.
2. On May 12, 2020, I contacted Todd Price regarding his complaint. He stated that the incident took place at one of his rental properties where a daycare is located. He was notified that someone had observed a TruGreen applicator on the property. He contacted who he thought was TruGreen in Lafayette and was told that they did not have a technician in that area. Mr. Price continued to contact different offices of TruGreen and received a call from Scott Overdorf of the Lafayette branch. Mr. Overdorf informed Mr. Price that they had made a mistake and were supposed to make the application to 405 East Franklin Street. Mr. Price asked Mr. Overdorf for records from the application to know what actions to take to protect the occupants of the daycare. Mr. Overdorf sent Mr. Price the application record and Safety Data Sheets (SDS) for the products used.
3. On May 13, 2020, I met with Mr. Price at 409 East Franklin Street in Delphi. I had him show me around the property. I noticed that the weeds located in the front and side yard appeared to be twisting and curling as if they had been exposed to a growth regulator herbicide. The weeds in the back yard appeared to look normal. The front yard of Mr. Price's property can be seen in Figure 1. The injured weeds can be seen in Figures 2 and 3.



Figure 1



Figure 2



Figure 3

4. I collected the following samples:

- A. Front Yard Composite Veg. (Weeds)
- B. Front Yard Composite Soil
- C. Back Yard Composite Veg. (Weeds)
- D. Picnic Table Swab (Acetone)
- E. Slide Swab (Acetone)
- F. Trip Blank (Acetone)
- G. Control Veg. (Front Yard Maple)

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



Figure 4

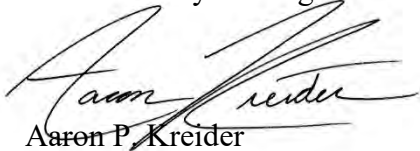
5. On May 13, 2020, I met with Scott Overdorf of TruGreen in Lafayette. He stated that he was made aware of the incident when he received a call from another office. He also stated that Mr. Price was most likely contacting a call center when he initially attempted to contact TruGreen's Lafayette branch. Mr. Overdorf stated that Chandler Henry had made the application and that it was made to the wrong address. Mr. Henry didn't realize that he had made the application to the wrong address until he went to deliver the customer notification and saw the house number. Mr. Overdorf provided me with a copy of the misapplication report

from this application. I informed Mr. Overdorf that Mr. Price sent me the SDS and application record. I asked him if what he sent Mr. Price was correct and he stated that it was.

6. The application record states Chandler Henry made the application to 409 East Franklin Street on May 11, 2020 at 2:05 PM. The application consisted of the following:

- A. 17-0-5 (Liquid Fertilizer)
- B. Dimension 2EW (EPA Reg. #62719-542, active ingredient dithiopyr)
- C. TruPower (EPA Reg. #228-551, active ingredients 2,4-D, mecoprop-p, and dicamba)

7. Mr. Henry violated the Indiana Pesticide Use and Application Law in a careless and negligent manner by treating the wrong lawn which also happened to be a daycare center that was open.



Aaron P. Kreider
Investigator

Date: May 20, 2020

Disposition: Scott Overdorf, Chandler L. Henry and TruGreen were cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for applying pesticides in a careless and/or negligent manner by applying to a property without permission. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was TruGreen's second violation of similar Nature. See case number PS19-0134.



George N. Saxton
Compliance Officer

Draft Date: September 17, 2020
Case Closed: February 2, 2021



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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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 PS20-0125

Department	Pesticide
Originated	05/21/2020
Assigned To	Kevin Gibson
Status	Closed

Involved Parties

Complainant	Dennis Chupp New Paris, IN 46553
Respondent	Mark Brookins New Paris, IN 46553
Respondent	Justin Miller New Paris, IN 46553

Overviews

07/13/2020 Investigation Summary

The complainant contacted the Office of Indiana State Chemist Office (OISC) to report Mark Brookins was spraying a farm field and it was blowing directly towards his property.

I met with complainant Dennis Chupp. I took photographs and environmental samples for the Purdue Plant and Pest Diagnostic Lab (PPDL) and the OISC Residue Lab for analysis.

I learned from Mark Brookins (field farmer) he hired licensed applicator Justin Miller to make the pesticide application to the field in question. I made contact with Mr. Miller. He confirmed he made the pesticide application in question. He agreed to complete a Pesticide Investigation Inquiry (PII).

Based on the completed PII, applicator Justin Miller made a pesticide application of Cinch ATZ (EPA# 352-624; active ingredient: atrazine and metolachlor), Abundit Edge (EPA #352-922; active ingredient: glyphosate) and Explorer (EPA #100-1131; active ingredient: mesotrione) on 5/21/20 while the wind was blowing in a westerly direction away from the complainant's property at the beginning of the application and in a northwesterly direction toward the complainant's property at the end of the application. Weather data from South Bend International Airport, Warsaw Municipal Airport and Fort Wayne International Airport reported the wind blowing in a northwesterly direction toward the complainant's property at the time of the application.

Submitted By: Kevin Gibson
Role: Investigator

07/13/2020 Disposition Summary

Justin 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 management. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was reduced to \$188.00. Consideration was given to the fact Mr. Miller cooperated during the investigation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/21/2020 Intake Referral Filed

Complainant stated Mark Brookins is spraying a farm field as we speak and it is blowing directly towards his property.

Original Event:	Intake Referral (Pesticide) #1310
Complainant:	Dennis Chupp
Respondent:	Mark Brookins
Submitted By:	George Saxton
Assigned To:	Kevin Gibson

05/21/2020 Investigator Called Complainant

Complainant Dennis Chupp told me he believed Mark Brookins was making an application to the farm field surrounding the complainant's property as we spoke on the telephone. Mr. Chupp said the wind was blowing more than 11 miles per hour (mph) toward his property. When he was outside to video the application, he said he could not only smell an odor but also "taste" it. Mr. Chupp also said this happened last year but he didn't report it because he was trying to get along with his neighbors. I told Mr. Chupp it was an application of a herbicide (growth regulator), I would need to wait a few days for any exposure symptoms to occur. This meant I would meet with him late next week to check his property and take samples.

Evidence From Subject

Satellite image of complainant's property.

Original Event:	Investigation Activity (Pesticide) #1478
Subject:	Dennis Chupp
Submitted By:	Kevin Gibson
Photos:	



File 46627

05/21/2020 Case Created

Original Event:	Case PS20-0125
Submitted By:	George Saxton
Assigned To:	Kevin Gibson

05/22/2020 Investigator Called Farmer

I spoke to Mark Brookins who was identified by complainant Dennis Chupp as the pesticide applicator in this case. Mr. Brookins told me the field in question was being farmed by him but he hired another pesticide applicator to make the application. He hired Justin Miller who made the application yesterday (5/21/20).

Original Event:	Investigation Activity (Pesticide) #1476
Subject:	Mark Brookins
Respondent:	Justin Miller
Submitted By:	Kevin Gibson

05/22/2020 Investigator Called Applicator

I learned from farmer/field owner Mark Brookins that he hired Justin Miller to make a pesticide application to his (Brookins) field surrounding the complainant's property. I spoke to Mr. Miller. He confirmed he made the application yesterday. I asked he send me a completed PII concerning the application to which he agreed. A check of OISC licensing database revealed Mr. Miller is a licensed "for hire" pesticide applicator.

Original Event:	Investigation Activity (Pesticide) #1479
Subject:	Justin Miller
Submitted By:	Kevin Gibson

05/26/2020 Residue Samples Collected

Original Event:	Residue Collection #146802 (20-4-0840 6)
Client:	Dennis Chupp
Submitted By:	Kevin Gibson
Sample:	20-4-0840 6 Swab (Acetone); Trip Blank
Sample:	20-4-0849 9 Swab (Acetone); Ctrl; Off Target
Sample:	20-4-0841 0 Veg; Comp; Back Yard, Grad1, 85yd NW
Sample:	20-4-0842 3 Veg; Comp; Back Yard, Grad2, 85yd NW
Sample:	20-4-0843 4 Swab (Acetone); Grab; Grad3, 53yd NW, sideyard
Sample:	20-4-0844 7 Swab (Acetone); Grab; Grad4, 43yd NW, sideyard
Sample:	20-4-0845 2 Veg; Comp; Grad5, 40yd, sideyard
Sample:	20-4-0846 8 Veg; Comp; Grad6, 38yd NW, sideyard
Sample:	20-4-0847 5 Veg; Comp; Grad7, 28yd NW, sideyard
Sample:	20-4-0848 1 Soil; Grab; 2-4"; Target Site, 40yd SE

05/26/2020 Investigator Met with Subject

I obtained vegetation samples from various trees (red maple, maple, pear, red bud, hawthorne) for submission to the Purdue Plant and Pest Diagnostic Lab (PPDL).

Original Event:
Location:
Submitted By:
Photos:

Investigation Activity (Pesticide) #1492
Dennis Chupp
Kevin Gibson



File 45967

05/26/2020 Investigator Met with Complainant

On 5/26/20, I met with complainant Dennis Chupp at his residence. He told me a pesticide application was made the the farm field surrounding his house. It has happened to him in the past and he has not called. This time he said the wind was gusting and blowing toward his property. He told me he actually went to a place on the southeast corner of his property and video the application as it was being made. At that time he said he could smell a distinct odor and taste it. He said he was fearful how it would affect his trees. He further said it has been so bad in the past, he has been unable to grow a garden. I obtained vegetation samples from various trees (red maple, maple, red bud, bear and hawthorne) for submission to PPDL. I also photographed the various trees and the property. I obtained environmental samples for submission to the Residue Lab for analysis. When checking the property and vegetation for herbicide exposure symptoms, I observed what appeared to be leaf yellowing on the maple tree leaves (glyphosate).

Evidence Regarding Location

Created satellite map depicting environmental sampling.

Original Event:
Location:
Subject:
Submitted By:
Attachments:
Photos:

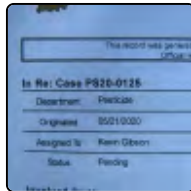
Investigation Activity (Pesticide) #1493

Dennis Chupp

Dennis Chupp

Kevin Gibson

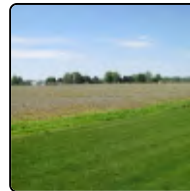
File 46041; Satellite image environmental samples.png



File 45969



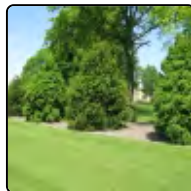
File 45970



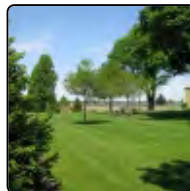
File 45971



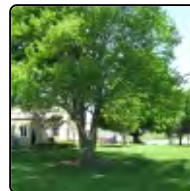
File 45972



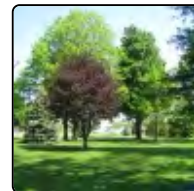
File 45973



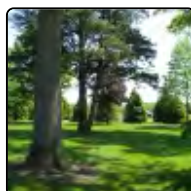
File 45974



File 45975



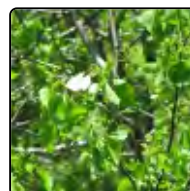
File 45976



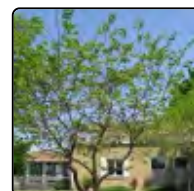
File 45977



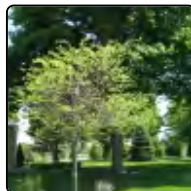
File 45978



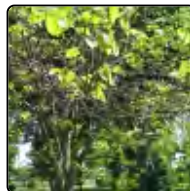
File 45979



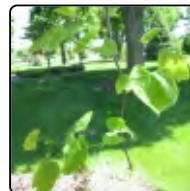
File 45980



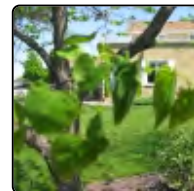
File 45981



File 45982



File 45983



File 45984



File 45985



File 45986



File 45987



File 45988



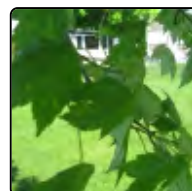
File 45989



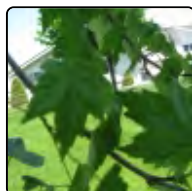
File 45990



File 45991



File 45992



File 45993



File 45968

05/26/2020 External Lab Sample Collected

Original Event: External Lab Sample Collection #146877 (X20-7EB203)
 Client: Dennis Chupp
 Submitted By: Kevin Gibson
 Lab: Purdue Plant and Pest Diagnostic Laboratory
 Sample: X20-7EB203 | Various tree samples of red bud, pear, maple, red maple and hawthorn were submitted to PPDL for analysis.

Photos:



File 46020

05/27/2020 Investigator Received Fax/Email from Applicator

Based on the PII information supplied by applicator Justin Miller and the label information from Explorer, Mr. Miller was in violation when he applied Explorer when the winds exceeded 10 mph.

Pesticide Investigation Inquiry

On 5/27/20 I received a completed PII from licensed applicator Justin Miller via email. According to the PII, Mr. Miller made a pesticide application of Cinch ATZ (EPA 352-624; active ingredient: atrazine, metolachlor), Abundit Edge (EPA 352-922; active ingredient: glyphosate) and Explorer (EPA 100-1131; active ingredient: mesotrione) on 5/21/20 between 11:30am and 5:30pm while the wind was blowing at 12-13 miles per hour in a west to northwest direction toward the corner of the complainant's property.

Original Event: Investigation Activity (Pesticide) #1491
 Subject: Justin Miller
 Submitted By: Kevin Gibson
 Attachments: File 45965; PII (Justin Miller).pdf

05/27/2020 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #256
 Submitted By: Kevin Gibson
 Target Analyte: Cinch ATZ
 Target Analyte: Abundit Edge
 Target Analyte: Explorer
 PPLS Labels: [000100-01131-20180313.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01131-20180313.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-01131-20180313.pdf
[000352-00624-20200115.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000352-00624-20200115.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000352-00624-20200115.pdf
[000352-00922-20200501.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000352-00922-20200501.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000352-00922-20200501.pdf

Attachments: File 45966; PII (Justin Miller).pdf

05/28/2020 **Received External Lab Report**

On 5/28/20 I received the following information from PPDL: Photos show very slight chlorosis of maple trees which can be caused by several environmental factors including nutrient deficiency, water stress (too wet or too dry), etc. Glyphosate can also cause chlorosis, however, no drift pattern was observed in the landscape where the samples were collected. This suggests herbicide drift was not the cause of the chlorosis observed on the maple trees. And the trees submitted exhibited various environmental problems such as rust gall, pear blister mite, cicada injury and chlorosis. Some of the dead branches along the fence line could be related to winter injury sustained this year.

Original Event: External Lab Report #146878 (X20-7EB203)
Submitted By: Kevin Gibson
Sample: X20-7EB203
Attachments: File 46021; PPDL Final Report.pdf

05/28/2020 **Online Investigation Activity**

There is no new information.

Evidence Gathered Online

Uploaded label information: Cinch ATZ (352-624; active ingredient: atrazine, metolachlor), Abundit Edge (352-922; active ingredient: glyphosate) and Explorer (100-1131; active ingredient: mesotrione).

Original Event: Investigation Activity (Pesticide) #1499
Submitted By: Kevin Gibson
Attachments: File 46042; Abundit Edge.pdf
File 46043; Cinch ATZ.pdf
File 46044; Explorer.pdf
File 46148; Fort Wayne Weather Station.pdf
File 46149; South Bend Weather Station.pdf
File 46150; Warsaw Weather Station.pdf

06/03/2020 **Received Residue Lab Report**
Lab Remarks

Released 6/12/2020

Investigatory Summary

Respondent violated Abundit Edge (EPA 352-624: active ingredient: glyphosate) when he applied it when the wind was blowing toward the complainant's property during application.

Original Event: Residue Lab Report #149466 (146802-R210)
Submitted By: SYSTEM
Lab Report: Lab Report 146802-R210.pdf

06/04/2020 **Investigator Received Fax/Email from Applicator**

Email from target with photos taken by target with his cell phone of the field in question.

Evidence From Subject

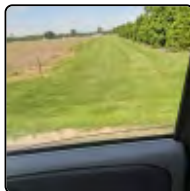
Email from target with photos taken by target with his cell phone of the field in question.

Original Event: Investigation Activity (Pesticide) #1544
Subject: Justin Miller
Submitted By: Kevin Gibson
Attachments: File 46314; screenshot-1 from target.png
File 46316; Screenshot-3 from target.png
File 46317; Screenshot-4 from target.png

Photos:



File 46313



File 46315

07/08/2020 **Online Investigation Activity**

I created a satellite image depicting the environmental sampling at the site.

Screenshots

Satellite environmental sampling image of site.

Original Event: Investigation Activity (Pesticide) #1786
Submitted By: Kevin Gibson
Attachments: File 48557; Satellite image environmental samples.png

07/13/2020 **Judgement; Civil Penalty Assessed**

Civil Penalty

Justin 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 management. A civil penalty in the amount of \$250.00 was assessed for this violation. However, the civil penalty was reduced to \$188.00. Consideration was given to the fact Mr. Miller cooperated during the investigation.

Original Event:	Judgement #521
Primary:	Justin Miller
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(2)
Penalty Amount:	188

10/27/2020 Notice of Enforcement Mailed to Target

Original Event:	Outgoing Mail #580
To:	Justin Miller
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 2671
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 57439; PS20-0125EL~CP~Justin Miller.doc

12/02/2020 Received Penalty Payment for Target

Original Event:	Compliance Receipt #867
Subject:	Justin Miller
Submitted By:	Joni Herman
Payment Expected:	\$188.00
Payment Received:	\$188.00
Attachments:	File 60132; PS20-0125~Justin Miller~CP Received.pdf

01/04/2021 Received Mail Confirmation for Target

Original Event:	Compliance Receipt #799
Subject:	Justin Miller
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 2671
Received:	11/12/2020
Attachments:	File 59775; CM 7018 0040 0000 3553 2671.pdf

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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

This record was generated on **February 9, 2021, 10:53 AM EST**. Information displayed may contain errors or omissions.
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In Re: Case PS20-0126

Department	Pesticide
Originated	05/21/2020
Assigned To	Kevin Gibson
Status	Closed

Involved Parties

Complainant	Anonymous
-	Blackburn & Green Law Office Granger, IN 46530
Respondent	Tobin Landscape LLC Niles, MI 49120

Overviews

07/13/2020 **Investigation Summary**

Anonymous complainant stated Tobin Landscape applied chemicals to the lawn of Blackburn and Green and Bell Tower Retirement Center in Granger, Indiana. OISC database indicated they were not licensed to apply pesticides in Indiana.

I spoke to owner/operator Dan Tobin of Tobin Landscape LLC in Niles Michigan. Mr. Tobin admitted his company did not have an Indiana business license to apply pesticides or fertilizers in Indiana.

Mr. Tobin emailed fertilizer applications to me. An "Action Order" was issued to Tobin Landscape LLC. Records indicated Tobin Landscape LLC (Andrew Crothers) made fertilizer applications for hire to two addresses in Granger Indiana in May 2020.

Submitted By: Kevin Gibson
Role: Investigator

07/14/2020 **Disposition Summary**

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

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/21/2020 **Intake Referral Filed**

Anonymous stated Tobin Landscape, possibly with a Michigan address although we have an expired Tobin Landscape in Granger, applied lawn chemicals to the lawn of Blackburn & Green and Bell Tower Retirement Center. OISC database indicates they are not licensed.

Original Event: Intake Referral (Pesticide) #1311
Complainant: Anonymous
Location: Blackburn & Green Law Office
Respondent: Tobin Landscape LLC
Submitted By: George Saxton
Assigned To: Kevin Gibson

05/21/2020 **Case Created**

Original Event: Case PS20-0126
Submitted By: George Saxton
Assigned To: Kevin Gibson

06/01/2020 **Investigator Called Business**

I spoke to officer manager Sherry Barrick. I explained our office (OISC) received a complaint Tobin Landscape LLC had made at least two pesticide applications in Indiana. She told me it was possible applications were made. However she thought Indiana practiced reciprocity with Michigan licensing. I explained we do, but a license application must be made with OISC and received in order to make legal applications in Indiana. OISC Licensing Section Jill Davis confirmed Tobin Landscape was not licensed in Indiana to do pesticide/fertilizer application. I advised her I would email a license application to her office for submission.

Original Event: Investigation Activity (Pesticide) #1522
Subject: Tobin Landscape LLC
Submitted By: Kevin Gibson

06/10/2020 **Investigator Called Business**

I spoke to Tobin Landscape Inc. owner Dan Tobin. He told me he was trying to rectify the pesticide licensing situation with the state of Michigan. Once he is able to rectify that situation, he will submit the paper work for Office of Indiana State Chemist (OISC) to be licensed in Indiana. I explained OISC received a complaint his company made at least two pesticide applications in Indiana (Blackburn and Green Law Office located in Granger and Bell Tower Health and Rehabilitation Center located in Granger). Therefore I would need the application records for those locations and any other location they made a pesticide application in Indiana. He agreed to cooperate.

Original Event: Investigation Activity (Pesticide) #1585
Subject: Tobin Landscape LLC
Submitted By: Kevin Gibson
Photos:



File 46749

07/13/2020 **Investigator Received Fax/Email from Business**

I received application information from respondent/owner of Tobin Landscape LLC.

Records

I received partial pesticide application records from respondent Dan Tobin of Tobin Landscape. The records indicated Tobin Landscape made fertilizer applications (22-0-4) to Bell Tower Health and Rehabilitation Center (5805 N. Fir Road in Granger) on 5/22/20 and Blackburn and Green Law Office (1450 University Dr. Ct. in Granger) on 5/20/2020. I verified the address information with Mr. Tobin.

Original Event: Investigation Activity (Pesticide) #1838
Subject: Tobin Landscape LLC
Submitted By: Kevin Gibson
Photos:



File 48875



File 48880



File 48883



File 48873

07/14/2020 **Judgement; Civil Penalty Assessed**
Civil Penalty

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

Original Event: Judgement #522
Primary: Tobin Landscape LLC
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(9)
Penalty Amount: 375

10/27/2020 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #579
To: Tobin Landscape LLC
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 2664
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 57438; PS20-0126EL~CP~Tobin Landscape.doc

11/24/2020 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #861
Subject: Tobin Landscape LLC
Submitted By: Joni Herman
Payment Expected: \$375.00
Payment Received: \$375.00
Attachments: File 60122; PS20-0126~TobinLandscape~CP Received.pdf

12/04/2020 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #759
Subject: Tobin Landscape LLC
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 2664
Received: 11/05/2020
Attachments: File 58877; CM 7018 0040 0000 3553 2664.pdf

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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

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In Re: Case PS20-0130

Department	Pesticide
Originated	05/23/2020
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Complainant	Brian Woolums Greencastle, IN 46135
Respondent	Co Alliance LLP Bainbridge, IN 46105
Respondent	Eric Wayne Earley Bainbridge, IN 46105
Respondent	Timothy Wayne Higgins Bainbridge, IN 46105

Overviews

09/02/2020 **Investigation Summary**

On May 26, 2020, I spoke with Mr. Woolums, who reported pesticide injury to several trees on his property caused by a neighboring field's application, which he stated his wife had witnessed on May 2, 2020. Mr. Woolums stated the wind was blowing from the Southwest, with wind gusts of 20 MPH during the field's application. Mr. Woolums stated the field located to the West of his residence was responsible for the pesticide drift.

On May 27, 2020, I met with Mr. Woolums at his residence, where I observed herbicide injury to a mixed variety of trees on his property. I observed recent herbicide activity to three fields surrounding his property, Field #1-Northwest of residence, Field #2-West of residence, & Field #3-East of residence. Due to the three field's locations, layouts, and the pattern of drift I observed on Mr. Woolums' property, I believed the herbicide drift had originated from Field #1 or Field #2.

I collected vegetation samples from Mr. Woolums' property for assessment by the Purdue Pest and Plant Diagnostic Lab (PPDL). I also collected residue samples from Mr. Woolums' property and from Fields #1, #2, & #3. The residue samples were submitted to the OISC Residue Lab for analysis.

Co-Alliance later confirmed that they made the pesticide applications for all three fields and provided me with their application records to the three fields.

I found that Field #2's location, along with a wind coming from the Southwest during its application, would cause favorable drift conditions onto Mr. Woolums' property. The OISC Residue Lab results also showed evidence that Field #2's application had moved off-target and onto Mr. Woolums' property.

A pesticide applied only to Field #1, Metribuzin, was also found to have moved off-target onto Mr. Woolums' property and onto Field #3. With the listed wind direction during Field #1's application, it is not known how Field #1's application moved off-target.

I then reviewed the labels for the pesticides applied to Field #2. I found label violations for the use of Durango DMA and Shredder LV6 for using the pesticides while the wind was blowing towards Mr. Woolums' property.

Submitted By: James M. Trimble
Role: Investigator

09/03/2020 **Disposition Summary**

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

Timothy Higgins was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact a restricted use pesticide was involved.

Co Alliance 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.

Timothy Higgins 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.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/23/2020 Intake Referral Filed

Complainant stated that on May 2, 2020, the neighboring farm field was sprayed and now he has exposure symptoms to his trees.

Original Event: Intake Referral (Pesticide) #1315
Complainant: Brian Woolums
Respondent: Unknown
Submitted By: George Saxton
Assigned To: James M. Trimble

05/23/2020 Case Created

Original Event: Case PS20-0130
Submitted By: George Saxton
Assigned To: James M. Trimble

05/26/2020 Investigator Called Complainant

On May 26, 2020, I spoke with Mr. Woolums, via telephone, who reported he had observed injury to several trees on his property. Mr. Woolums stated he believed the injury, described as leaf curling, had been caused by pesticide drift from a neighboring field's application. Mr. Woolums stated his wife had witnessed what she thought was a pesticide application to the neighboring field on May 2, 2020. Mr. Woolums stated he first observed the leaf curling to his trees and that many dandelions in his lawn were beginning to lay over on May 3, 2020.

Mr. Woolums advised this has been an ongoing issue over the years and he has made a previous report with our office, see case #2017/0744. Mr. Woolums stated he believes the responsible party for the application is Hillside Farms Inc. An appointment was set to meet Mr. Woolums at his residence on May 27, 2020.

Original Event: Investigation Activity (Pesticide) #1482
Subject: Brian Woolums
Submitted By: James M. Trimble

05/27/2020 Investigator Met with Complainant

On May 27, 2020, I met with Mr. Woolums at his residence, where he showed me the injury to the vegetation on his property. I observed Mr. Woolums' residence to have fields located to its Northwest, West, and East. Mr. Woolums stated his wife had witnessed the application to the West field on May 2, 2020. Mr. Woolums stated he had found the wind on May 2 was coming from the Southwest, with gusts up to 20 MPH. Due to the suspected wind direction and witnessed application, Mr. Woolums believed the West field was responsible for the drift occurrence.

During my on-site investigation, I observed and photographed symptoms of what I believed to be herbicide injury to a mixed variety of trees on Mr. Woolums' property, including Tulip-Poplar trees, Walnut trees, Maple trees, and Oak trees. I observed the trees on the property to have injury consistent with what I believed to be growth regulator exposure, including leaf curling and distortion, brown and decaying leaves, and leaf loss.

I looked for potential sources of herbicide drift. As previously stated, I observed Mr. Woolums' residence to have three separate fields adjacent to it, Field #1-Northwest of residence, Field #2-West of residence, & Field #3-East of residence. The three fields all showed evidence of a recent herbicide treatment by their dead & decaying weeds throughout the fields.

Field #1's East border had a treeline that showed signs of off-target movement with many of the trees showing symptoms of herbicide injury, suggesting a wind coming out of the West or Southwest.

Field #2's East border, which is shared with Mr. Woolums' West property line, had multiple trees next to the property line that showed symptoms of herbicide injury and signs of herbicide drift, suggesting a wind coming out of the West or Southwest.

Field #3's West border is partly shared with Mr. Woolum's East property line and had a large treeline between the two properties. I did not observe herbicide injury to the trees along the treeline, suggesting herbicide drift did not originate from Field #3.

I observed the vegetation along the West border of Mr. Woolums' property showed the most significant amount of injury and became noticeably lighter the further East I walked. Due to the three field's locations, layouts, and the pattern of drift I observed on Mr. Woolums' property, I believed the herbicide drift had originated from Field #1 or Field #2.

I collected samples of vegetation from the multiple trees that exhibited symptoms of injury from Mr. Woolums' property for assessment by the Purdue Pest and Plant Diagnostic Lab (PPDL).

I collected three gradient composite samples of the affected vegetation, a control vegetation sample, two swab samples, and a control swab sample from Mr. Woolums' property. Composite soil samples were taken from Fields #1, #2, & #3. All samples were submitted to the OISC Residue Lab for analysis. (See attached for collection map)

Collection map (File 46143)



Injured tree (File 45935)



Walnut leaf loss (File 45937)



Original Event:
Location:
Subject:
Respondent:
Submitted By:
Attachments:
Photos:

Investigation Activity (Pesticide) #1486
Brian Woolums
Brian Woolums
Co Alliance LLP
James M. Trimble
File 45882; WoolumsNOI.pdf



File 46143



File 45910



File 45913



File 45915



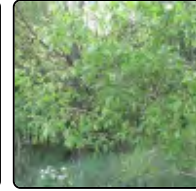
File 45917



File 45919



File 45921



File 45923



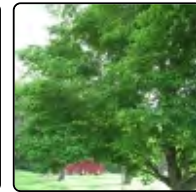
File 45925



File 45927



File 45929



File 45931



File 45932



File 45933



File 45935



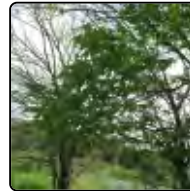
File 45934



File 45936



File 45937



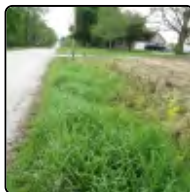
File 45938



File 45939



File 45940



File 45941



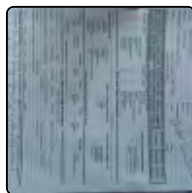
File 45942

05/27/2020 **Residue Samples Collected**

Original Event: Residue Collection #146811 (20-4-1808 9)
Client: Brian Woolums
Submitted By: James M. Trimble

05/27/2020 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #146819 (X20-6D8CED)
Client: Brian Woolums
Submitted By: James M. Trimble
Attachments: File 45872; ResponseSummary (1).pdf
Photos:



File 45876



File 45878

05/27/2020 Investigator Met with Farmer

Mr. Woolums stated he believed Hillside Farms Inc. was responsible for the application to the West field and advised me of their location. I then made contact with a representative for Hillside Farms at 4757 N. County Rd. 25 W, who confirmed that they farm the West field but they hire Co-Alliance of Bainbridge, IN, to complete their field's pesticide treatments.

Original Event: Investigation Activity (Pesticide) #1511
 Subject: Hillside Farms Inc.
 Submitted By: James M. Trimble

05/27/2020 Investigator Called Business

On May 27, 2020, I contacted Co-Alliance and spoke with Sam Fry, who confirmed they make the pesticide applications for Hillside Farms. I explained the locations of the three fields in question with Mr. Fry, who stated he believed they treat all three fields. I informed Mr. Fry that I would send him an email containing a Pesticide Investigation Inquiry (PII) and a map of the three fields in question to confirm their applications to the three fields.

Original Event: Investigation Activity (Pesticide) #1512
 Subject: Co Alliance LLP
 Submitted By: James M. Trimble

05/27/2020 Investigator Sent Fax/Email to Business

On May 27, 2020, I emailed a map of the three fields in question with instructions to complete a separate PII for each field within 15 days of the email to Sam Fry of Co-Alliance, Bainbridge, IN.

Original Event: Investigation Activity (Pesticide) #1513
 Subject: Co Alliance LLP
 Submitted By: James M. Trimble
 Attachments: File 46145; may 27 email.pdf
 Photos:



File 46146

05/27/2020 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #257
 Submitted By: James M. Trimble
 Target Analyte: Tricor
 Target Analyte: Corvus
 Target Analyte: Atrazine
 PPLS Labels: [001381-00158-20180124.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00158-20180124.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00158-20180124.pdf
[001381-00250-20171213.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf
[000264-01066-20170316.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-01066-20170316.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000264-01066-20170316.pdf
[062719-00556-20190306.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00556-20190306.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00556-20190306.pdf
[070506-00103-20191213.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/070506-00103-20191213.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/070506-00103-20191213.pdf

Attachments: File 46831; atrazine.PDF
 File 46830; Corvus.PDF
 File 46828; durango.PDF
 File 46829; shredder.PDF
 File 46832; tricor.pdf

05/28/2020 Received External Lab Report

The PPDL report stated, "The oaks and tulip in sample 20-00396 show leaf distortion and curling that are characteristic symptoms of exposure to synthetic auxin herbicides such as 2,4-D or dicamba." It further stated, "The tulip poplar and oak leaves have significant leaf curling/rolling that appears to be caused by exposure to a growth regulator. No disease is suspected."

Original Event: External Lab Report #146882 (X20-6D8CED)
Submitted By: James M. Trimble
Sample: X20-6D8CED
Attachments: File 46040; Final Report_Mitch Trimble .pdf

06/05/2020 **Investigator Received Fax/Email from Business**

On June 5, 2020, I received the completed PIs for Fields #1, #2, and #3 by Co-Alliance.

Field #1 was completed by Eric Earley on 5/02/2020 with Durango DMA (EPA Reg. #62719-556, active ingredient of Glyphosate), Shredder LV6 (EPA Reg. #1381-250, active ingredient of 2,4-D), & Tricor (EPA Reg. #70506-103, active ingredient of Metribuzin) with a wind from the Northeast at 10 MPH.

Field #2 was completed by Tim Higgins on 5/02/2020 with Durango DMA, Shredder LV6, Corvus (EPA #Reg. #264-1066, active ingredients of Thiencarbazone & Isoxaflutole), and Atrazine 4L (EPA Reg. #1381-158, active ingredient of Atrazine) with a wind from the Northeast at 10 MPH.

Field #3 was completed by Tim Higgins on 5/02/2020 with Durango DMA, Shredder LV6, Corvus, and Atrazine 4L with a wind from the Northeast at 10 MPH.

Original Event: Investigation Activity (Pesticide) #1596
Subject: Co Alliance LLP
Respondent: Eric Wayne Earley
Submitted By: James M. Trimble
Attachments: File 46826; 6-5-20.pdf
File 46837; atrazine.PDF
File 46833; Corvus.PDF
File 46834; durango.PDF
File 46827; Pesticide Investigation Inquiry PS320-0130.pdf
File 46835; shredder.PDF
File 46836; tricor.pdf

08/25/2020 **Received Residue Lab Report**
Lab Remarks

Released 08/25/2020

Investigatory Summary

The OISC Residue Lab Report showed that Atrazine was located all of the vegetation samples I collected from the Woolums property. Metribuzin was also located in vegetation samples #2 & #3.

Atrazine was found in soil sample #9, which was collected from Field #1. Atrazine was not listed as a pesticide used on Field #1 from Co-Alliance's PI.

Metribuzin was found in soil sample #11, which was collected from Field #3. Metribuzin was not listed as a pesticide used on Field #3 from Co-Alliance's PI.

Atrazine was found in the control swab sample #7, which was taken from an inside wall of Mr. Woolums' West barn.

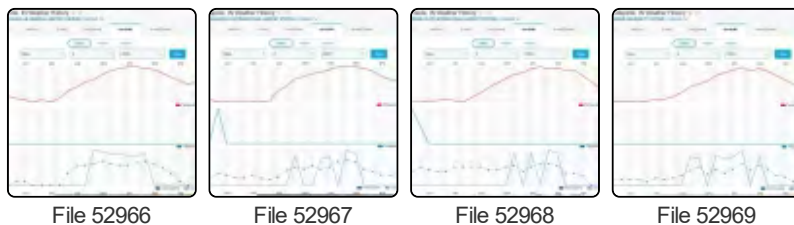
Original Event: Residue Lab Report #156939 (146811-R285)
Submitted By: SYSTEM
Lab Report: Lab Report 146811-R285.pdf

08/27/2020 **Online Investigation Activity**
Weather Data

Co-Alliance's weather data for Field #1, #2, & #3 on their completed PI's listed the winds blowing from the Northeast at 10 MPH from their start time of 8:25 AM to their end time of 12:54 PM.

The four attached weather data sheets were taken from the weather stations of the Terre Haute International Airport, West Lafayette-Purdue University Station, Indianapolis International Airport, and Evansville Regional Airport. I found all four of the weather stations listed the wind direction coming from the South to the Southwest with wind speeds ranging from 6-17 MPH with 26 MPH wind gusts during their listed application times.

Original Event: Investigation Activity (Pesticide) #2089
Subject: Co Alliance LLP
Respondent: Timothy Wayne Higgins
Submitted By: James M. Trimble
Photos:



08/27/2020 **Investigator Sent Fax/Email to Business**

Being that the wind data I collected from the four listed weather stations showed that the winds were coming from the opposite direction to what Co-Alliance had listed on their PII, I emailed Mr. Fry asking if their listed wind direction was where the wind was blowing **to** not **from** during their applications.

Original Event: Investigation Activity (Pesticide) #2112
 Subject: Co Alliance LLP
 Submitted By: James M. Trimble
 Attachments: File 53953; 8-27email.pdf

09/01/2020 **Investigator Received Fax/Email from Business**

I received an email back from Mr. Fry, stating that their applicators had recorded the wind direction as "going" instead from "coming from". This explains the difference in the wind direction and I will record their wind directions during their time of applications as being opposite of what was listed on their PIIs. All three PIIs stated the wind direction was coming from the "ne", which I will now determine to be from the Southwest.

Original Event: Investigation Activity (Pesticide) #2113
 Subject: Co Alliance LLP
 Submitted By: James M. Trimble
 Attachments: File 53954; 9-1email.pdf

09/02/2020 **Online Investigation Activity**

After confirming the Southwest wind direction during the applications of Fields #1, #2, & #3 with Co-Alliance, I compared the wind direction with the locations of the fields, in relation to Mr. Woolums' property. I found Field #2's location, along with a wind coming from the Southwest during its application, would cause favorable weather conditions for a pesticide drift occurrence onto Mr. Woolums' property. The OISC Residue Lab results of finding Atrazine in samples #1, #2, #3, #4, & #7 further shows the Co-Alliance application moved off-target and onto Mr. Woolums' property. Atrazine was also found in the soil sample taken from Field #1 (sample #9), which would also suggest an off-target movement from Field #2's application.

A pesticide applied only to Field #1, Metribuzin, was found in samples #2, #3, & #11, which signifies that it also moved off-target onto Mr. Woolums' property and onto Field #3. With the listed wind direction during Field #1's application, it is not known how Field #1's application moved off-target.

Co-Alliance's listed wind speed of 10 MPH for the duration of the applications to Fields #1, #2, & #3 are within 5 MPH of the winds speeds I collected from the four weather stations, though all four weather stations showed wind gusts in excess of 20 MPH during their application times.

I then reviewed the labels for the products applied by Co-Alliance/Tim Higgins to Field #2, Corvus, Durango DMA, Shredder LV6, and Atrazine 4L, which I found the following label violations by Mr. Higgins:

Durango DMA-*"Apply this 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)."*

Shredder LV6-*"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, not-target crops) within 250 feet downwind."*

Original Event: Investigation Activity (Pesticide) #2115
 Subject: Co Alliance LLP
 Submitted By: James M. Trimble

09/03/2020 **Judgement; Civil Penalty Assessed**

Citation

Timothy Higgins was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact a restricted use pesticide was involved.

Citation

Co Alliance 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

Timothy Higgins 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.

Civil Penalty

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

Original Event: Judgement #561
Primary: Co Alliance LLP
Secondary: Timothy Wayne Higgins
Submitted By: George Saxton
Legal Citations: IC 15-16-5-65(2); 357 IAC 1-12-2
Penalty Amount: 250

12/02/2020 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #626
To: Co Alliance LLP
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0493
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 58847; PS20-0130EL~CP~Co-Alliance--Timothy Higgins.doc

12/11/2020 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #923
Subject: Co Alliance LLP
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0493
Received: 12/11/2020
Attachments: File 62522; CM 7018 0040 0000 3553 0493.pdf

01/08/2021 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #887
Subject: Co Alliance LLP
Submitted By: Joni Herman
Payment Expected: \$250.00
Payment Received: \$250.00
Attachments: File 60900; PS20-0130 ~ Co-Alliance ~ CP Received.pdf

<p>This record was generated on February 24, 2021, 10:03 AM EST. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

This record was generated on **February 9, 2021, 10:55 AM EST**. Information displayed may contain errors or omissions.
Official records may only be obtained directly from the Office of Indiana State Chemist.

In Re: Case PS20-0141

Department	Pesticide
Originated	05/27/2020
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant	William Bailey Boonville, IN 47601	
Respondent	Superior Ag Resources Co Op Boonville, IN 47601	Licensed Business
Respondent	David W Adams Boonville, IN 47601	Registered Technician
Respondent	Joseph C Lashley Boonville, IN 47601	Registered Technician

Overviews

06/22/2020 **Investigation Summary**

Complainant stated that today, Superior Ag dumped a bunch of left over chemical by the fence on their property and drift and runoff has killed the complainant's trees and garden. He stated it is puddled up as he was filing this complaint.

On June 1, 2020 I met with the complainant at his property. The complainant stated on May 27, 2020 he observed an agricultural sprayer on Superior Ag Resources property next to his property open the booms and then turn on the booms and run the sprayer stationary in Superior Ag Resources gravel lot. The complainant advised he could smell pesticide and observed foamy water pooling in the Superior Ag Resources gravel lot. The complainant advised he was concerned about potential run off from the lot and potential health concerns when he is sitting outside when Superior Ag Resources is running the sprayer in their lot. The complainant advised at this time he did not observe any injury to trees or ornamental plants on his property. During my on-site investigation I did the following: Looked for, and found the Superior Ag Resources gravel lot, located according to the google maps measuring tool 124 feet to the south of the complainant's property. The complainant's property is separated from the Superior Ag Resources gravel lot by a large open area of grass and a house. The complainant does not own the large area of grass or house separating the two properties. I did not observe any pesticide injury symptoms to trees or ornamental plants on the complainants property. I observed a large open area of grass separating the complainants property from the Superior Ag Resources gravel lot, the large open grass area borders the Superior Ag Resources gravel lot. Within the large open grass area I observed green grass throughout the area and up to the Superior Ag Resources gravel lot. I did not observe any pattern of runoff leading from the Superior Ag Resources Gravel lot into the large open area of grass. Purdue Plant and Pest Diagnostic Lab and OISC Residue Laboratory samples were not taken due to not observing any pesticide injury symptoms to the complainant's property and the large open grass area.

On June 1, 2020 I went to Superior Ag Resources located in Booneville, Indiana. I met with operations manager Mark Jackson. I advised Mr. Jackson I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Jackson advised his applicator David Adams completed the clean out procedure of the sprayer on May 27, 2020. Mr. Jackson supplied me with the application record for the application made prior to the clean out of the sprayer and a clean out procedure applicator David Adams wrote out for the clean out of the sprayer. According to the application record the tank mix prior to the clean out included the following pesticides: Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat Prefix, EPA Reg# 100-1268, Active Ingredient= metolachlor, fomesafen. According to clean out procedure written out by applicator David Adams he conducted the following clean out procedure: 1. Spray out of all chemicals. 2. Run 50 to 70 gallons of rinse water in tank then spray booms at farmers field. 3. Come back to office drain what is left in the tank out put 50 to 75 gallons of fresh water in tank and drain out, do this three times. 4. Put 100 to 150 gallons of fresh water in tank got to other lot unfold and lower booms as low to ground as possible then spray out. 5. Go back over to load out drain tank again and fill back up with fresh water. During my on-site investigation Mr. Jackson walked me out into the load/unload area of the facility. Mr. Jackson advised the load/unloading area was diked and drained into a sump pump, which was then pumped into a rinse tank for proper disposal. Further, Mr. Jackson walked me to the northeast gravel lot where applicator David Adams turned on the booms after final clean out. I observed a soil berm around the perimeter of the gravel lot. I did not observe any pattern of runoff on the other side of the soil berm.

On June 8, 2020 I contacted Superior Ag Resources located in Booneville, Indiana. I spoke with operations manager Mark Jackson. I asked Mr. Jackson to send me the label for Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat affixed to the bulk tank used to fill the sprayer for the application made by applicator David Adams. Mr. Jackson advised he would send me a picture of the front of the label on the bulk tank. Further Mr. Jackson stated the bulk tank was filled on February 10, 2020.

On June 8, 2020 I received a photograph of the label for Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat affixed to the bulk tank used for the application. On the front of the label Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat sent to me by Mr. Jackson it states: Not to be used by uncertified persons working under the supervision of a certified applicator.

On June 8, 2020 I contacted Superior Ag Resources located in Booneville, Indiana. I spoke with operations manager Mark Jackson. I advised Mr. Jackson the label for Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat states: Not to be used by uncertified persons working under the supervision of a certified applicator. Further, I advised Mr. Jackson according to the OISC Licensing Database applicator David Adams is a registered technician and per the label cannot legally apply Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat. Mr. Jackson advised he thought registered technician only had to take the paraquat online training to apply pesticides containing paraquat. I asked Mr. if any other registered technician at Superior Ag Resources in Booneville applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat. Mr Jackson advised registered technician Joseph Lashley also applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat. I advised Mr. Jackson to send me all application records made by David Adams and Joseph Lashley that contained Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat.

On June 8, 2020 I received the application records for applications made by David Adams and Joseph Lashley that contained Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat. According to the application records registered technician David Adams applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat on a total of four separate days 5-26-2020, 6-1-2020, 6-2-2020, and 6-8-2020. According to the application records registered technician Joseph Lashley applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat on a total of three separate days 4-6-2020, 4-7-2020, and 5-1-2020.

On June 8, 2020 I sent an email to Superior Ag Resources operations manager Mark Jackson outlining the label requirements for applications of pesticides containing the active ingredient paraquat, specifically that only certified applicators could apply pesticides containing the active ingredient paraquat. Further, I attached the OISC New Paraquat Requirements Frequently Asked Questions document. I received a read receipt for the email on June 8, 2020.

The evidence in this case indicates in regard to run off from Superior Ag resources a sufficient clean out procedure was conducted and no runoff from the Superior Ag Resources gravel lot was documented. During the investigation it was discovered registered technician David Adams applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat on a total of four separate days 5-26-2020, 6-1-2020, 6-2-2020, and 6-8-2020 and registered technician Joseph Lashley applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat on a total of three separate days 4-6-2020, 4-7-2020, and 5-1-2020. The label for Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat states: Not to be used by uncertified persons working under the supervision of a certified applicator.

Submitted By: Nathan J. Davis
Role: Investigator

07/01/2020 Disposition Summary

Superior Ag Resources Co Op was cited for seven (7) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding licensing and application of paraquat. A civil penalty in the amount of \$1,750.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was potential for human harm.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/27/2020 Intake Referral Filed

Complainant stated that today, Superior Ag dumped a bunch of left over chemical by the fence on their property and drift and runoff has killed the complainant's trees and garden. He stated it is puddled up as he was filing this complaint.

Original Event:	Intake Referral (Pesticide) #1334
Complainant:	William Bailey
Respondent:	Superior Ag Resources Co Op
Submitted By:	George Saxton
Assigned To:	Nathan J. Davis

05/27/2020 **Case Created**

Original Event:	Case PS20-0141
Submitted By:	George Saxton
Assigned To:	Nathan J. Davis

06/01/2020 **Investigator Met with Complainant**

On June 1, 2020 I met with the complainant at his property. The complainant stated on May 27, 2020 he observed an agricultural sprayer on Superior Ag Resources property next to his property open the booms and then turn on the booms and run the sprayer stationary in Superior Ag Resources gravel lot. The complainant advised he could smell pesticide and observed foamy water pooling in the Superior Ag Resources gravel lot. The complainant advised he was concerned about potential run off from the lot and potential health concerns when he is sitting outside when Superior Ag Resources is running the sprayer in their lot. The complainant advised at this time he did not observe any injury to trees or ornamental plants on his property.

During my on-site investigation I did the following:

Looked for, and found the Superior Ag Resources gravel lot, located according to the google maps measuring tool 124 feet to the south of the complainant's property. The complainant's property is separated from the Superior Ag Resources gravel lot by a large open area of grass and a house. The complainant does not own the large area of grass or house separating the two properties.

I did not observe any pesticide injury symptoms to trees or ornamental plants on the complainants property. I observed a large open area of grass separating the complainants property from the Superior Ag Resources gravel lot, the large open grass area borders the Superior Ag Resources gravel lot. Within the large open grass area I observed green grass throughout the area and up to the Superior Ag Resources gravel lot. I did not observe any pattern of runoff leading from the Superior Ag Resources Gravel lot into the large open area of grass.

Purdue Plant and Pest Diagnostic Lab and OISC Residue Laboratory samples were not taken due to not observing any pesticide injury symptoms to the complainant's property and the large open grass area.

Photographs

Photographs taken during the on-site investigation.

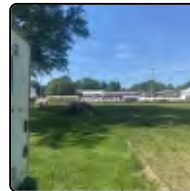
Original Event:	Investigation Activity (Pesticide) #1569
Location:	William Bailey
Subject:	William Bailey
Submitted By:	Nathan J. Davis
Photos:	



File 46519



File 46523



File 46524



File 46526

06/01/2020 **Investigator Met with Business**

On June 1, 2020 I went to Superior Ag Resources located in Booneville, Indiana. I met with operations manager Mark Jackson. I advised Mr. Jackson I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Jackson advised his applicator David Adams completed the clean out procedure of the sprayer on May 27, 2020. Mr. Jackson supplied me with the application record for the application made prior to the the clean out of the sprayer and a clean out procedure applicator David Adams wrote out for the clean out of the sprayer.

According to the application record the tank mix prior to the clean out included the following pesticides:

Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat
Prefix, EPA Reg# 100-1268, Active Ingredient= metolachlor, fomesafen.

According to clean out procedure written out by applicator David Adams he conducted the following clean out procedure:

1. Spray out of all chemicals.
2. Run 50 to 70 gallons of rinse water in tank then spray booms at farmers field.
3. Come back to office drain what is left in the tank out put 50 to 75 gallons of fresh water in tank and drain out, do this three times.
4. Put 100 to 150 gallons of fresh water in tank got to other lot unfold and lower booms as low to ground as possible then spray out.
5. Go back over to load out drain tank again and fill back up with fresh water.

During my on-site investigation Mr. Jackson walked me out into the load/unload area of the facility. Mr. Jackson advised the load/unloading area was diked and drained into a sump pump, which was then pumped into a rinse tank for proper disposal. Further, Mr. Jackson walked me to the northeast gravel lot where applicator David Adams turned on the booms after final clean out. I observed a soil berm around the perimeter of the gravel lot. I did not observe any pattern of runoff on the other side of the soil berm.

Records

Superior Ag Resources application record prior to clean out and clean out procedure.

Photographs

Photographs taken during the on-site investigation.

Original Event: Investigation Activity (Pesticide) #1675
Location: Superior Ag Resources Co Op
Subject: Superior Ag Resources Co Op
Respondent: David W Adams
Submitted By: Nathan J. Davis
Photos:



File 47652



File 47653



File 47654



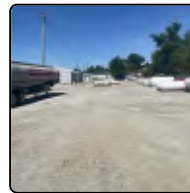
File 47655



File 47656



File 47657



File 47658

06/08/2020 Investigator Called Business

On June 8, 2020 I contacted Superior Ag Resources located in Booneville, Indiana. I spoke with operations manager Mark Jackson. I asked Mr. Jackson to send me the label for Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat affixed to the bulk tank used to fill the sprayer for the application made by applicator David Adams. Mr. Jackson advised he would send me a picture of the front of the label on the bulk tank. Further Mr. Jackson stated the bulk tank was filled on February 10, 2020.

Original Event: Investigation Activity (Pesticide) #1676
Subject: Superior Ag Resources Co Op
Submitted By: Nathan J. Davis

06/08/2020 Investigator Received Fax/Email from Business

On June 8, 2020 I received a photograph of the label for Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat affixed to the bulk tank used for the application. On the front of the label Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat sent to me by Mr. Jackson it states: Not to be used by uncertified persons working under the supervision of a certified applicator.

Evidence From Subject

Photograph sent to me by Mr. Jackson of the front of the label for Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat.

Original Event: Investigation Activity (Pesticide) #1677
Subject: Superior Ag Resources Co Op
Submitted By: Nathan J. Davis
Photos:



File 47709

06/08/2020 Investigator Called Business

On June 8, 2020 I contacted Superior Ag Resources located in Booneville, Indiana. I spoke with operations manager Mark Jackson. I advised Mr. Jackson the label for Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat states: Not to be used by uncertified persons working under the supervision of a certified applicator. Further, I advised Mr. Jackson according to the OISC Licensing Database applicator David Adams is a registered technician and per the label cannot legally apply Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat. Mr. Jackson advised he thought registered technician only had to take the paraquat online training to apply pesticides containing paraquat. I asked Mr. if any other registered technician at Superior Ag Resources in Booneville applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat. Mr Jackson advised registered technician Joseph Lashley also applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat. I advised Mr. Jackson to send me all application records made by David Adams and Joseph Lashley that contained Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat.

Original Event: Investigation Activity (Pesticide) #1678
Subject: Superior Ag Resources Co Op
Respondent: Joseph C Lashley
Submitted By: Nathan J. Davis

06/08/2020 **Investigator Received Fax/Email from Business**

On June 8, 2020 I received the application records for applications made by David Adams and Joseph Lashley that contained Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat.

According to the application records registered technician David Adams applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat on a total of four separate days 5-26-2020, 6-1-2020, 6-2-2020, and 6-8-2020.

According to the application records registered technician Joseph Lashley applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat on a total of three separate days 4-6-2020, 4-7-2020, and 5-1-2020.

Original Event: Investigation Activity (Pesticide) #1679
Subject: Superior Ag Resources Co Op
Submitted By: Nathan J. Davis

06/08/2020 **Investigator Sent Fax/Email to Business**

On June 8, 2020 I sent an email to Superior Ag Resources operations manager Mark Jackson outlining the label requirements for applications of pesticides containing the active ingredient paraquat, specifically that only certified applicators could apply pesticides containing the active ingredient paraquat. Further, I attached the OISC New Paraquat Requirements Frequently Asked Questions document. I received a read receipt for the email on June 8, 2020.

Original Event: Investigation Activity (Pesticide) #1682
Subject: Superior Ag Resources Co Op
Submitted By: Nathan J. Davis

06/08/2020 **Online Investigation Activity**

The evidence in this case indicates in regards to run off from Superior Ag resources a sufficient clean out procedure was conducted and no runoff from the Superior Ag Resources gravel lot was documented. During the investigation it was discovered registered technician David Adams applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat on a total of four separate days 5-26-2020, 6-1-2020, 6-2-2020, and 6-8-2020 and registered technician Joseph Lashley applied Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat on a total of three separate days 4-6-2020, 4-7-2020, and 5-1-2020. The label for Gramoxone SL 3.0, EPA Reg# 100-1652, Active Ingredient= paraquat states: Not to be used by uncertified persons working under the supervision of a certified applicator.

Original Event: Investigation Activity (Pesticide) #1684
Subject: Superior Ag Resources Co Op
Submitted By: Nathan J. Davis

07/01/2020 **Judgement; Civil Penalty Assessed**
Civil Penalty

Superior Ag Resources Co Op was cited for seven (7) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding licensing and application of paraquat. A civil penalty in the amount of \$1,750.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was potential for human harm.

Original Event: Judgement #514
Primary: Superior Ag Resources Co Op
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 1750

10/01/2020 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #559
To: Superior Ag Resources Co Op
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 2954
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 57106; PS20-0141EL~CP~Superior Ag Resources.doc

11/05/2020 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #856
Subject: Superior Ag Resources Co Op
Submitted By: Joni Herman
Payment Expected: \$1,750.00
Payment Received: \$1,750.00
Attachments: File 60117; PS20-0141~SuperiorAgResources~CP Received.pdf

12/04/2020 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #758
Subject:	Superior Ag Resources Co Op
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 2954
Received:	10/21/2020
Attachments:	File 58876; CM 7018 0040 0000 3553 2954.pdf

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Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

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In Re: Case PS20-0143

Department	Pesticide
Originated	05/29/2020
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant	Paul Askew Bicknell, IN 47512	
Respondent	Ceres Solutions Cooperative Inc Vincennes, IN 47591	Licensed Business
Respondent	Curtis Allen Kixmiller Vincennes, IN 47591	Certified Applicator

Overviews

09/23/2020 **Investigation Summary**

Complainant stated a pesticide application took place recently to a neighboring farm field and now he has exposure symptoms to his trees and garden.

I contacted the complainant via telephone. The complaint advised on or around May 27, 2020 he observed herbicide injury to plants in his garden and trees. The complainant advised he was unable to be on-site during the on-site investigation. I advised the complainant I could conduct the on-site investigation without him being on-site.

I contacted Ceres Solutions located in Vincennes, Indiana. I spoke with branch manager Kim Wampler. I advised Mr. Wampler I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Wampler advised Ceres Solutions made a pesticide application to the field to the southeast of the complainant's property. I advised Mr. Wampler I would be sending him via email a pesticide investigation inquiry to complete for the application and return to me. On June 2, 2020 I received a completed pesticide investigation inquiry from Mr. Wampler for the application.

I conducted an on-site investigation at the complainants property. During my on-site investigation I did the following: Looked for, and found one potential sources of herbicide application in the area. The target field is located to the south of the complainants property across a road Observed and photographed plants in the complainants garden, including corn plants with burnt leaf tips, spinach plants with large necrotic spots on the edges of leaves, and tomato plants with new growth that was cupped and curled. Collected samples of injured garden plants from the complainant's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL) Collected composite soil and vegetation sample from the target field. Collected composite soil and vegetation samples from the complainant's property. 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) Tomatoes in sample 20-00459 show light leaf curling and stem twisting and small necrotic spots on leaves. These symptoms resemble exposure to a synthetic auxin herbicide (2,4-D) and Gramoxone, respectively. Spinach and Pepper plants also show small necrotic spots that resemble Gramoxone exposure. The watermelon (or melon or cucumber??) shows small necrotic spots as well as chlorosis towards the leaf edges. These symptoms resemble exposure to Gramoxone and metribuzin (Dimetric), respectively. Corn plants do not show any symptoms of Gramoxone exposure (corn is very sensitive to Gramoxone, but is tolerant to 2,4-D and metribuzin). The injury to the corn is not consistent with herbicide exposure and is likely due to environmental stress or nutrient deficiencies. Overall, the symptoms indicate light levels of herbicide exposure, however, the small necrotic spots can also be caused by disease. The sample shows leaf and petiole twisting/distortion of tomato plants, necrotic spots on spinach, pepper, and a cucurbit which also has some marginal chlorosis. The symptoms on the tomato look like a growth regulator exposure. The necrotic spots on spinach and pepper appear to be caused by a contact burn, which could indicate a chemical exposure. Multiple spots on pepper do not extend to the undersides of the leaf which indicate that it is likely injury. The marginal chlorosis does not appear to be related to a disease. It looks like it might be caused by an environmental effect or chemical exposure. The corn plants show interveinal chlorosis, shortened internodes, some marginal burn. These symptoms appear to be related to a nutritional deficiency (likely zinc) which can be caused by multiple factors -- root rot, low soil zinc, high pH soils, and cool soil temperatures. The roots do not look rotten, but they are growing outward, which could indicate

The OISC Residue Laboratory analyzed the off target soil and vegetation samples collected for the active ingredients 2,4-D and metribuzin and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredients 2,4-D and metribuzin in the off target composite vegetation sample, 2,4-D was also detected in the off target composite soil sample.

The wind data from the Lawrenceville-Vincennes International Airport (KLWW) indicate the wind speed during the application was between 13 and 16 mph with no gusts, out of the south and east. The application record indicated the wind speed was between 9 and 10 mph, out of the south and east.

According to the application records and wind data at the time of the application the wind was out of the south and east blowing towards the complainant's property. The label for *Gramoxone SL 3.0, EPA Reg.# 100-1652, Active = paraquat* states: **"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 (i.e. when wind is blowing away from the sensitive areas).** Further, according to the Google Maps measuring tool the complainant's property is 48 feet from the north property line of the target field. The label for *2,4-D LV6, EPA Reg.# 33270-22, 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 nontarget species, nontarget crops) within 250 feet downwind".**

Submitted By: Nathan J. Davis
Role: Investigator

09/25/2020 Disposition Summary

Ceres Solutions Cooperative Inc 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 \$500.00 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 the second violation for Mr. Kixmiller of similar nature.

Curtis Allen Kixmiller was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact this was the second violation for Mr. Kixmiller of similar nature.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/29/2020 Intake Referral Filed

Complainant stated a pesticide application took place recently to a neighboring farm field and now he has exposure symptoms to his trees and garden.

Original Event: Intake Referral (Pesticide) #1336
Complainant: Paul Askew
Respondent: Unknown
Submitted By: George Saxton
Assigned To: Nathan J. Davis

05/29/2020 Investigator Called Complainant

On May 29, 2020 I contacted the complainant via telephone. The complaint advised on or around May 27, 2020 he observed herbicide injury to plants in his garden and trees. The complainant advised he was unable to be on-site during the on-site investigation. I advised the complainant I could conduct the on-site investigation without him being on-site.

Original Event: Investigation Activity (Pesticide) #1530
Subject: Paul Askew
Submitted By: Nathan J. Davis

05/29/2020 Investigator Called Business

On May 29, 2020 I contacted Ceres Solutions located in Vincennes, Indiana. I spoke with branch manager Kim Wampler. I advised Mr. Wampler I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Wampler advised Ceres Solutions made a pesticide application to the field to the southeast of the complainant's property. I advised Mr. Wampler 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) #1515
Subject: Ceres Solutions Cooperative Inc
Submitted By: Nathan J. Davis

05/29/2020 **Case Created**

Original Event: Case PS20-0143
Submitted By: George Saxton
Assigned To: Nathan J. Davis

06/02/2020 **Investigator Met with Complainant**

On June 2, 2020 I conducted an on-site investigation at the complainants property.

During my on-site investigation I did the following:

Looked for, and found one potential sources of herbicide application in the area. The target field is located to the south of the complainants property across a road

Observed and photographed plants in the complainants garden, including corn plants with burnt leaf tips, spinach plants with large necrotic spots on the edges of leaves, and tomato plants with new growth that was cupped and curled.

Collected samples of injured garden plants from the complainant's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)

Collected composite soil and vegetation sample from the target field. Collected composite soil and vegetation samples from the complainant's property. The residue samples were submitted to the OISC Residue Laboratory for analysis.

Original Event: Investigation Activity (Pesticide) #1528
Location: Paul Askew
Subject: Paul Askew
Submitted By: Nathan J. Davis
Attachments: File 46241; NOI-Complainant 6-2-2020.pdf
Photos:



File 46227



File 46228



File 46229



File 46231



File 46232



File 46234

06/02/2020 **Residue Samples Collected**

Original Event: Residue Collection #147158 (20-4-0272 5)
Client: Paul Askew
Submitted By: Nathan J. Davis
Sample: 20-4-0272 5 | Soil; Comp; 2-4"; Target Site, S
Sample: 20-4-0273 9 | Veg; Comp; Weeds; Target Site, S
Sample: 20-4-0274 1 | Veg; Comp; Off Target
Sample: 20-4-0275 6 | Soil; Comp; 2-4"; Off Target
Sample: 20-4-0276 0 | Soil; Ctrl; 2-4"; Off Target, Back Yard
Sample: 20-4-0277 3 | Veg; Ctrl; Off Target, Back Yard

06/02/2020 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #147160 (X20-60A3C1)
Client: Paul Askew
Submitted By: Nathan J. Davis
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X20-60A3C1 | Plants taken from the garden including tomato, corn, pepper, and spinach.

06/02/2020 **Investigator Received Fax/Email from Business**

On June 2, 2020 I received a completed pesticide investigation inquiry from Mr. Wampler for the application which indicated the following:

Certified Applicator: Curtis Kixmiller
Application Date and Time: May 26, 2020, 6:50pm to 7:22pm

Pesticide Applied:
Gramoxone SL 3.0, EPA Reg.# 100-1652, Active = paraquat, 2.5pt/acre
2,4-D LV6, EPA Reg.# 33270-22, Active = 2,4-D, 1pt/acre
Dimetric EXT, EPA Reg.# 1381-197, Active = metribuzin, 6oz/acre
Adjuvants: Preference
Target Field Location and Size: Jim Myers, 4 Acres
Wind Blowing from Which Direction: Start- SSE, End- SSE
Wind Speed at Boom Height: Start- 10mph, End- 9mph
Nozzle and Pressure: Flat Fans 11005, 20 to 25psi
Boom Height: 18 inches

Pesticide Investigation Inquiry

Completed pesticide investigation activity received on June 2, 2020.

Original Event: Investigation Activity (Pesticide) #1553
Subject: Ceres Solutions Cooperative Inc
Respondent: Curtis Allen Kixmiller
Submitted By: Nathan J. Davis

06/02/2020 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #262
Submitted By: Nathan J. Davis
Target Analyte: 2,4-D LV6
Target Analyte: Gramoxone SL 3.0
Target Analyte: Dimetric EXT
PPLS Labels: [000100-01652-20191104.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01652-20191104.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-01652-20191104.pdf
[001381-00197-20170811.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf
[033270-00022-20150115.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/033270-00022-20150115.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/033270-00022-20150115.pdf

06/05/2020 **Received External Lab Report**

Purdue Plant and Pest Diagnostic Lab
Final Report

List of Diagnosis/ID(s)
Suspected for Herbicide injury; Exposure (Abiotic disorder)

Tomatoes in sample 20-00459 show light leaf curling and stem twisting and small necrotic spots on leaves. These symptoms resemble exposure to a synthetic auxin herbicide (2,4-D) and Gramoxone, respectively. Spinach and Pepper plants also show small necrotic spots that resemble Gramoxone exposure. The watermelon (or melon or cucumber??) shows small necrotic spots as well as chlorosis towards the leaf edges. These symptoms resemble exposure to Gramoxone and metribuzin (Dimetric), respectively. Corn plants do not show any symptoms of Gramoxone exposure (corn is very sensitive to Gramoxone, but is tolerant to 2,4-D and metribuzin). The injury to the corn is not consistent with herbicide exposure and is likely due to environmental stress or nutrient deficiencies. Overall, the symptoms indicate light levels of herbicide exposure, however, the small necrotic spots can also be caused by disease.

The sample shows leaf and petiole twisting/distortion of tomato plants, necrotic spots on spinach, pepper, and a cucurbit which also has some marginal chlorosis. The symptoms on the tomato look like a growth regulator exposure. The necrotic spots on spinach and pepper appear to be caused by a contact burn, which could indicate a chemical exposure. Multiple spots on pepper do not extend to the undersides of the leaf which indicate that it is likely injury. The marginal chlorosis does not appear to be related to a disease. It looks like it might be caused by an environmental effect or chemical exposure. The corn plants show interveinal chlorosis, shortened internodes, some marginal burn. These symptoms appear to be related to a nutritional deficiency (likely zinc) which can be caused by multiple factors -- root rot, low soil zinc, high pH soils, and cool soil temperatures. The roots do not look rotten, but they are growing outward, which could indicate some horizontal compaction below. It is hard to say.

Original Event: External Lab Report #147483 (X20-60A3C1)
Submitted By: Nathan J. Davis
Sample: X20-60A3C1

09/21/2020 **Received Residue Lab Report** **Lab Remarks**

Released 09/22/2020

Investigatory Summary

The OISC Residue Laboratory analyzed the off target soil and vegetation samples collected for the active ingredients 2,4-D and metribuzin and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredients 2,4-D and metribuzin in the off target composite vegetation sample, 2,4-D was also detected in the off target composite soil sample.

Original Event: Residue Lab Report #159138 (147158-R300)
Submitted By: SYSTEM
Lab Report: Lab Report 147158-R300.pdf

09/23/2020 Wind Data Researched

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 May 26, 2020 follows:

The wind data from the Lawrenceville-Vincennes International Airport (KLWW) indicate the wind speed during the application was between 13 and 16 mph with no gusts, out of the south and east. The application record indicated the wind speed was between 9 and 10 mph, out of the south and east.

Lawrenceville-Vincennes International Airport (KLWW)

Lawrenceville, Illinois (15 miles W of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
6:53pm	0	SSE	16	0
7:53pm	0	SSE	13	0

Original Event: Wind Data #14
Submitted By: Nathan J. Davis
Date of Weather: 05/26/2020

09/23/2020 Online Investigation Activity

Photographs

An aerial diagram including wind direction, property lines, and where soil and vegetation samples were taken from.

PS20-0143.png (File 55287)



Original Event: Investigation Activity (Pesticide) #2188
Subject: Curtis Allen Kixmiller
Submitted By: Nathan J. Davis
Attachments: File 55287; PS20-0143.png

09/23/2020 Online Investigation Activity

According to the application records and wind data at the time of the application the wind was out of the south and east blowing towards the complainant's property. The label for *Gramoxone SL 3.0*, EPA Reg.# 100-1652, Active = paraquat states: "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 (i.e. when wind is blowing

away from the sensitive areas). Further, according to the Google Maps measuring tool the complainant's property is 48 feet from the north property line of the target field. The label for 2,4-D LV6, EPA Reg.# 33270-22, 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 nontarget species, nontarget crops) within 250 feet downwind**".

Original Event: Investigation Activity (Pesticide) #2189
Subject: Curtis Allen Kixmiller
Submitted By: Nathan J. Davis

09/25/2020 **Judgement; Civil Penalty Assessed**

Citation

Curtis Allen Kixmiller was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact a restricted use pesticide was involved. Consideration was also given to the fact this was the second violation for Mr. Kixmiller of similar nature.

Civil Penalty

Ceres Solutions Cooperative Inc 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 \$500.00 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 the second violation for Mr. Kixmiller of similar nature.

Original Event: Judgement #579
Primary: Ceres Solutions Cooperative Inc
Secondary: Curtis Allen Kixmiller
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 500

12/11/2020 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #653
To: Ceres Solutions Cooperative Inc
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0387
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 59721; PS20-0143EL CP ~ Ceres Solutions - Curtis A. Kixmiller.doc

12/23/2020 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #930
Subject: Ceres Solutions Cooperative Inc
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0387
Received: 12/23/2020
Attachments: File 62530; CM 7018 0040 0000 3553 0387.pdf

01/12/2021 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #895
Subject: Ceres Solutions Cooperative Inc
Submitted By: Joni Herman
Payment Expected: \$500.00
Payment Received: \$500.00
Attachments: File 60924; PS20-0143 ~ Ceres Solutions Co-op ~ CP Received.pdf

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CASE SUMMARY

Case #PS20-0146

Complainant: John Greene
12676 W. Stoney Creek Lane
Parker City, IN 47368

Respondent: Brandon Bertsch
William “Greg” Oren
12637 W. Stoney Creek Ln
Parker City, IN 47368

Not Licensed
Private Applicator

1. On June 1, 2020, the complainant contacted the Office of Indiana State Chemist (OISC) to report that a neighboring farmer sprayed a field adjacent to his property on May 25, 2020, while winds were blowing toward his property at 10 mph. Willows and hackberries on the complainant's property were allegedly affected by drift from the application.
2. On June 1, 2020, I spoke with John Greene who reported his neighbor, Greg Oren, farms the field south of his property. Mr. Greene had corresponded with Joe Becovitz, OISC Pesticide Program Specialist, about concern for his trees and possibly filing a complaint after the field was initially sprayed earlier in May. Mr. Greene indicated he talked to Mr. Oren about his drift concerns and was subsequently notified prior to the May 25 application to the field, but when hackberry trees began dropping leaves, he decided to file a complaint.
3. On June 2, 2020, I met with Mr. Greene and we walked the large property, looking at a variety of trees and plants. A 30-foot grass strip and partial tree line separated the Oren field from the Greene property and, while hackberry trees were dropping leaves, other deciduous trees, ornamentals and garden plants appeared unaffected. There was some minor leaf distortion on random ornamentals but there was no pattern of symptoms. Near the fence line to the west of the house, ornamental willows exhibited distinct leaf-cupping and twisting of stems which are symptoms consistent with exposure to growth-regulator herbicides. Thistles on the other side of the fence exhibited similar symptoms, suggesting there was a separate application made to the grass strip. I photographed the site and collected plant samples for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I collected weeds from the target field and hackberry leaves from a tree near the driveway bridge, approximately 250 feet from the field. Those samples were submitted to the OISC Residue Lab for analysis.



Fig.1 Aerial photo of site



Fig.2 Ornamentals near fence line



Fig.3 Unaffected garden plants



Fig.4 Tree line, grass strip & field



Fig.5 Thistles, fence & willows



Fig.6 Healthy spruces open to field

4. On June 3, 2020, I contacted Mr. Oren and informed him of the complaint. He reported that his employee, Brandon Bertsch, sprayed the field in question on May 25, 2020, because the initial application (glyphosate) to the field did not control all the grasses. I asked about the application to the thistles in the grass strip along the fence and informed him there appeared to be overspray onto the willows. He indicated Mr. Bertsch sprayed weeds in the grass strip with smaller sprayer on a separate day. Mr. Oren cited there were several cold nights with frost in May which could have contributed to some of the symptoms observed on the Greene property; the possibility of frost damage was discussed in earlier emails between Mr. Becovitz and Mr. Greene. Mr. Oren agreed to provide information for the applications.
5. According to information provided by Mr. Oren, Mr. Bertsch sprayed the thistles with Low Vol 6 Ester (EPA Reg#34704-152), active ingredient 2,4-D, early in the day on May 21, 2020, while winds were from the southeast. He sprayed the field in question with a tank mix containing Halex GT (EPA Reg#100-1282), active ingredients metolachlor, mesotrione and glyphosate, and Atrazine 90DF (EPA Reg#35915-3-60063), from 9-11am on May 25, 2020. Winds were reportedly out of the south-southeast at 8mph at the beginning of the application and out of the south at 9mph at the end of the application. Wind data from the Muncie Airport, approximately 13 miles northwest of the site, indicated winds were from the south-southwest, blowing toward the Greene property, at 8mph at 953am on May 25, 2020.
6. I checked the OISC database and learned Mr. Bertsch is not a private applicator permit holder. I contacted Mr. Oren to inform him that Atrazine 90 DF is a restricted-use pesticide and must be applied by a certified applicator or someone under the direct (on-site) supervision of a certified applicator. He stated he had been unable to schedule an exam for Mr. Bertsch due to the OISC testing centers being closed; he cited that he was on-site, at the farm on the other side of the field, while the Halex and Atrazine application was made.
7. The PPDL report indicated, *"The photos for sample 20-00456 do not show any herbicide injury symptoms or drift patterns that could indicate that herbicide drift occurred. The large necrotic spots and dead growing points indicate possible freeze injury and are not consistent with herbicide injury."* It further stated, *"There are no symptoms of drift in the photos provided. The red twig dogwood shows some marginal scorch and dieback. There is a canker farther down the stem that looks to be cutting off the vascular system. We were able to find a fungus growing within that looks like Discula, causal agent of dogwood anthracnose, which could cause the twig dieback. Sycamores, although I didn't see them in the images, are likely affected by Sycamore anthracnose, leading to a poor appearance, given the cool and moist weather we have been experiencing. The hackberry appears to have some kind of contact burn that has led to a shot-hole appearance of affected spots. The rosaceous plant has some marginal burn, which could be water related, leaf deformation, and two kinds of leaf spots. The deformation*

is caused by erineum gall mites, which are found on the underside of the leaf in trichome dense galls. The leaf spots include areas of beetle larvae feeding with skeletonization observed on the underside and small yellow-orange pustules which are caused by a rust fungus. Some of the interveinal necrosis is present without deformation or mites, which we are unsure of its cause."

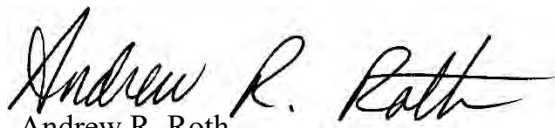
8. The OISC Residue Lab analyzed the samples for atrazine, metolachlor, mesotrione and glyphosate and its breakdown product AMPA. The results are summarized as follows:

Sample	Atrazine	Metolachlor	Mesotrione	Glyphosate	AMPA
Hackberry	732ppb	190ppb	9.74ppb	384ppb	BDL
Target weeds	2420ppb	56.7ppb	30.9ppb	38200ppb	453ppb

ppb = parts per billion

BDL = Below Detection Limits

9. While the PPDL assessed a variety of plant samples which were much closer to the field than the hackberry and did not see visual symptoms consistent with exposure to the herbicides applied to the field, the OISC Residue Lab confirmed the presence of the herbicide active ingredients in the hackberry foliage from the Greene property.
10. The Halex GT label reads, in part, **"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."** Regarding the separate 2,4-D application made to the grass strip, the symptoms on the willows near the fence line on the Greene property suggest the herbicide moved off-target to the ornamentals. The Low Vol 6 label reads, in part, **"Do not spray when the wind is blowing towards susceptible crops or ornamental plants."**

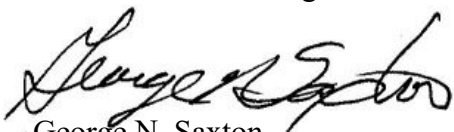


Andrew R. Roth
Investigator

Date: September 24, 2020

Disposition: William "Greg" Oren and Brandon Bertsch 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. Consideration was given to the fact a restricted use pesticide was involved.

William "Greg" Oren and Brandon Bertsch 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: December 11, 2020
Case Closed: February 23, 2021



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
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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

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In Re: Case PS20-0149

Department	Pesticide
Originated	06/02/2020
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Complainant	Josh Fedor Whitestown, IN 46075
Respondent	Drew Clark Whitestown, IN 46075
-	Co Alliance LLP Lebanon, IN 46052

Overviews

09/14/2020 **Investigation Summary**

On June 2, 2020, I contacted Mr. Fedor, who reported the vegetation across his property were showing herbicide injury that he described as burnt leaf edges and yellowing leaves. Mr. Fedor believed the injury was caused by herbicide drift from a field located to the South of his property.

On June 3, 2020, I arrived at Mr. Fedor's residence to conduct my on-site investigation, where I observed symptoms of what I believed to be herbicide injury to the vegetation on Mr. Fedor's property. I observed the South corn field to be the most likely origin of pesticide drift by the signs of a recent herbicide application and drift pattern coming from it. I collected vegetation and soil samples from Mr. Fedor's property and from South field for assessment by the Purdue Pest and Plant Diagnostic Lab (PPDL) and the OISC Residue Lab for analysis.

I later spoke with Mr. Clark, who stated he was responsible for applying the pesticide treatments to the South corn field. Mr. Clark admitted the wind was blowing towards Mr. Fedor's property during the time of his application. Mr. Clark's PII listed that he had applied Resicore & Atrazine to the South corn field while the wind was blowing towards Mr. Fedor's property.

Due to Mr. Clark's listed wind direction of East, Southeast during his application (towards Mr. Fedor's property), the OISC Residue Lab results of locating Mesotrione from the samples collected from Mr. Fedor's property, and Mr. Clark's statement that he had completed the application while the wind was blowing towards Mr. Fedor's property, I found Mr. Clark had applied a pesticide (Atrazine 4L & Resicore) on May 27, 2020, to Field #1, in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a nontarget site (Mr. Fedor's property).

Submitted By: James M. Trimble
Role: Investigator

09/14/2020 **Disposition Summary**

Drew Clark 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. 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.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/02/2020 **Intake Referral Filed**

Complainant stated that a pesticide application made to a neighboring family farm has adversely affected his garden and flowers.

Original Event:	Intake Referral (Pesticide) #1342
Complainant:	Josh Fedor
Respondent:	Clark Family Farms
Submitted By:	George Saxton
Assigned To:	James M. Trimble

06/02/2020 **Investigator Called Complainant**

On June 2, 2020, I made my initial contact with Mr. Fedor, via phone, who reported the vegetation across his property, including vegetable plants, clover, trees, and flowers, were all showing injury that he described as burnt leaf edges and yellowing leaves. Mr. Fedor believes the injury was caused by herbicide drift from the neighboring field, located to the south of his property. Mr. Fedor stated he first observed the injury to his plants on Sunday, May 31, 2020.

An appointment was set with Mr. Fedor for June 3, 2020.

Original Event:	Investigation Activity (Pesticide) #1532
Subject:	Josh Fedor
Submitted By:	James M. Trimble

06/02/2020 **Case Created**

Original Event:	Case PS20-0149
Submitted By:	George Saxton
Assigned To:	James M. Trimble

06/03/2020 **Investigator Met with Complainant**

On June 3, 2020, I arrived at Mr. Fedor's residence to conduct my on-site investigation. During my on-site investigation, I observed and photographed symptoms of what I believed to be herbicide injury to the mixed variety of vegetation on Mr. Fedor's property, including apple trees, mixed vegetable plants, sweet potato vines, and clover. I observed the herbicide injury to the vegetation to be consistent with Atrazine and/or Mesotrione exposure, including leaf spotting, leaf discoloration, and burnt leaf edges.

I looked for potential sources of herbicide drift. I observed Mr. Fedor's residence to have four separate fields surrounding it that I identified as Field #1-South of residence, Field #2-West of residence, Field #3-Northwest of residence, and Field #4-North of residence.

I observed Field #1 to be planted in corn and showed signs of a recent herbicide application. The field's noxious weeds were yellowed and decaying. I also observed the corn's leaves throughout the field to also show signs of herbicide injury, as they had yellowed and/or burnt edges with yellow streaking. I observed the field's corn to show the same symptoms of injury as the vegetation on Mr. Fedor's property.

I observed Field #2 to be planted in corn with no signs of a recent herbicide application. The field was clean with no dead or dying noxious weeds in the field. I observed the field's corn to be healthy with no signs of injury.

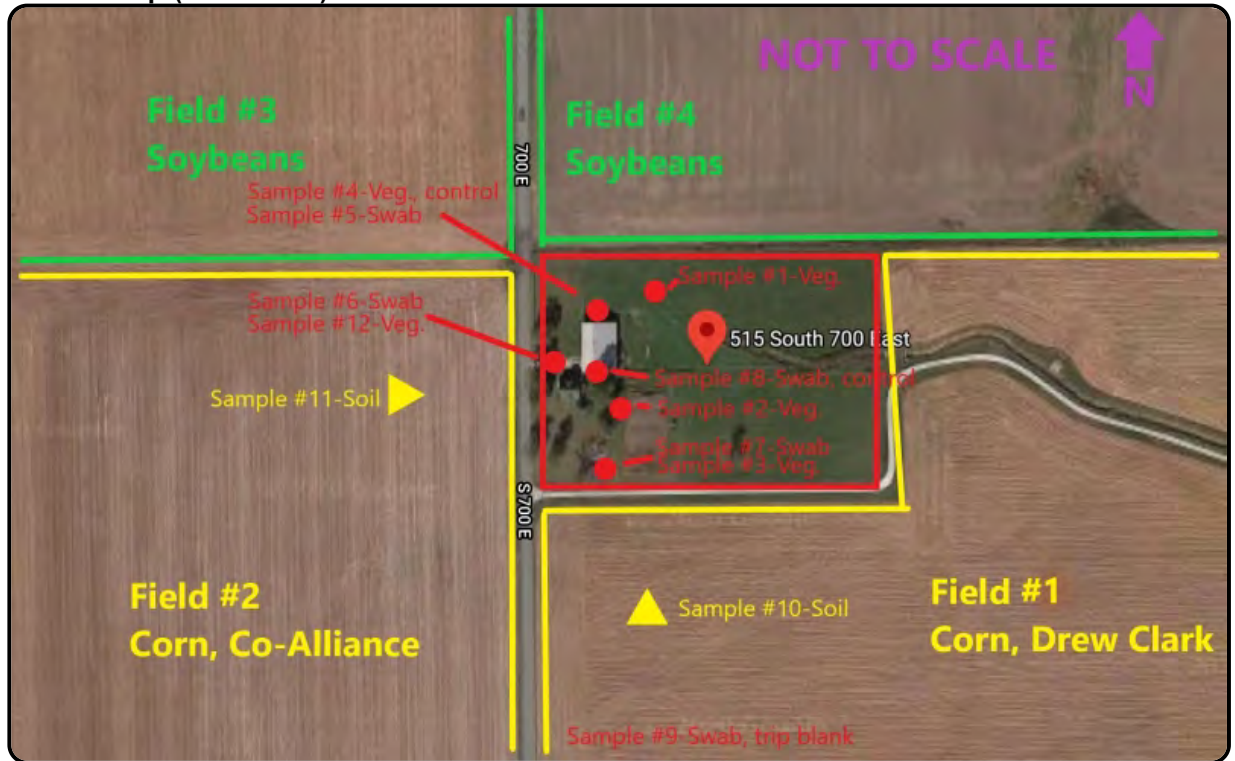
I observed Field #3 to be planted in soybeans with no signs of a recent herbicide application. The field was full of healthy and green noxious weeds.

I observed Field #4 to be planted in soybeans with signs of a recent herbicide application. The field was full of dying, yellow and/or brown noxious weeds.

I observed what I believed to be a pesticide drift pattern beginning on the South end of Mr. Fedor's property, which showed the most consistent and most significant amount of injury with the injury symptoms becoming less pronounced the further North I walked. Due to the drift pattern I observed on Mr. Fedor's property, the recent herbicide activity I observed to Field #1, and the similar symptoms of injury I observed on the vegetation to both Field #1 and the Fedor property, I believed the herbicide drift had originated from Field #1. Being that Field #2 was also planted in corn and its location compared to Field #1 and the Fedor property, Field #2 was not ruled out as the possible source of drift. Due to the above listed information, I ruled out the soybean fields (Field #3 & Field #4) as possible origins of the off-target pesticide movement.

I collected samples of vegetation that exhibited symptoms of injury from Mr. Fedor's property and corn from Field #1 for assessment by the Purdue Pest and Plant Diagnostic Lab (PPDL).

I collected three gradient composite samples of the affected vegetation, a control vegetation sample, three swab samples, and a control swab sample from Mr. Fedor's property. I collected a composite soil sample from Field #1 and Field #2. All samples were submitted to the OISC Residue Lab for analysis. See attached for collection map.



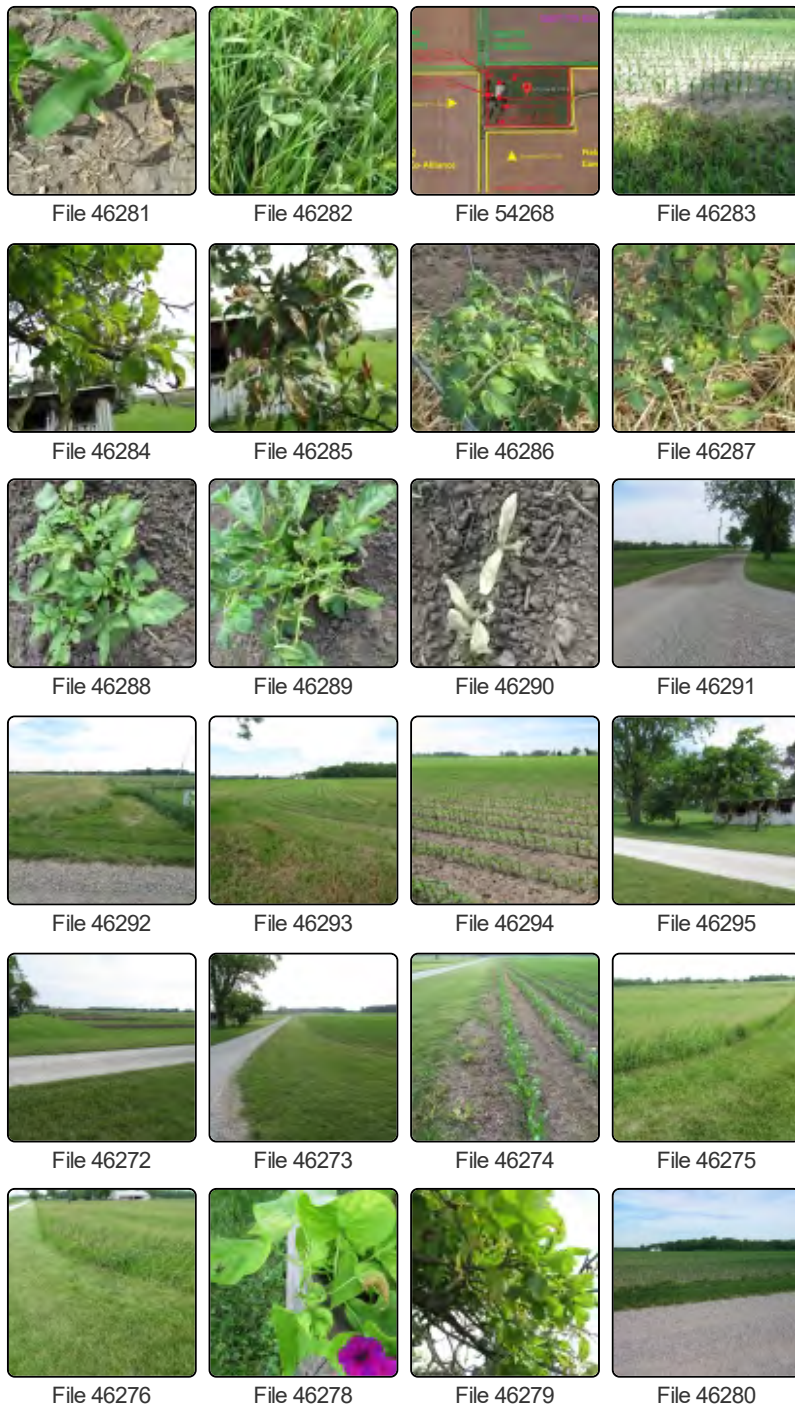
Cucumber plant injury (File 46290)



Tomato plant injury (File 46287)



Original Event:	Investigation Activity (Pesticide) #1534
Location:	Josh Fedor
Subject:	Josh Fedor
Respondent:	Drew Clark
Submitted By:	James M. Trimble
Attachments:	File 46254; fedornoi.pdf
Photos:	



06/03/2020 Investigator Met with Applicator

I was unable to make contact with the possible applicator to Field #1, Clark Family Farms, as the phone number listed was not working. I then traveled to the address for the business and spoke with Drew Clark. I describe to Mr. Clark the location of the Field #1, which he confirmed to me that he was responsible for applying the pesticide treatments to that field. Mr. Clark stated he had treated Field #1 on May 27, 2020, with Atrazine and Resicore. Mr. Clark recalled the wind was gusty, possibly 10-12 MPH, and blowing in the direction of Mr. Fedor's property. Mr. Clark admitted he did not want to be spraying during those weather conditions and tried to mitigate any herbicide drift by lowering the sprayer's boom.

I advised Mr. Clark that I would be sending him an email with a Pesticide Investigation Inquiry (PII) form later that day with instructions to complete it and return to me within 15 days of the email.

Original Event:	Investigation Activity (Pesticide) #1535
Location:	Drew Clark
Subject:	Drew Clark
Submitted By:	James M. Trimble
Attachments:	File 46255; clarknoi.pdf

06/03/2020 Investigator Sent Fax/Email to Applicator

Mr. Clark was emailed the Pesticide Investigation Inquiry with instructions to complete and return to me within 15 days.

Original Event: Investigation Activity (Pesticide) #1537
Subject: Drew Clark
Submitted By: James M. Trimble
Attachments: File 46256; clarkemail 6-3-20.pdf

06/03/2020 **Residue Samples Collected**

Original Event: Residue Collection #147214 (20-4-1824 7)
Client: Josh Fedor
Submitted By: James M. Trimble
Sample: 20-4-1824 7 | Veg; Comp; Off Target, Grad1, 350ft N
Sample: 20-4-1825 2 | Veg; Comp; Off Target, Grad2, 175ft N
Sample: 20-4-1826 8 | Veg; Comp; Off Target, Grad3, 50ft N
Sample: 20-4-1827 5 | Veg; Ctrl; Off Target
Sample: 20-4-1828 1 | Swab (Acetone); Grab; Siding; Off Target
Sample: 20-4-1829 9 | Swab (Acetone); Grab; mailbox; Off Target
Sample: 20-4-1830 9 | Swab (Acetone); Grab; Window; Off Target
Sample: 20-4-1831 3 | Swab (Acetone); Ctrl; Window; Off Target
Sample: 20-4-1832 1 | Swab (Acetone); Trip Blank
Sample: 20-4-1833 2 | Soil; Comp; 2-4"; Target Site
Sample: 20-4-1834 5 | Soil; Comp; 2-4"; Target Site
Sample: 20-4-1835 0 | Veg; Grab; Off Target

06/03/2020 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #147476 (X20-B5C7F4)
Client: Josh Fedor
Submitted By: James M. Trimble
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X20-B5C7F4 | Mixed vegetation of target and non-target sites.
Attachments: File 46331; ResponseSummary (3).pdf
Photos:



File 46332

06/03/2020 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #264
Submitted By: James M. Trimble
Target Analyte: Resicore
Target Analyte: Surestart II
Target Analyte: Balance Flexx
PPLS Labels: [001381-00158-20180124.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00158-20180124.pdf)
[000264-01067-20170316.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-01067-20170316.pdf)
[033270-00010-20170918.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/033270-00010-20170918.pdf)
[062719-00679-20140227.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20140227.pdf)
[062719-00693-20170524.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00693-20170524.pdf)
Attachments: File 46824; Atrazine.PDF
File 47418; atrazine.PDF
File 47416; balance.PDF
File 46825; Resicore.PDF
File 47417; surestart.PDF

06/04/2020 **Investigator Received Fax/Email from Applicator
Pesticide Investigation Inquiry**

On June 4, 2020, I received an email from Mr. Clark with the completed PII. The PII confirmed his application to Field #1, 523 S. 700 E., Whitestown, IN, had occurred on May 27, 2020, at 1:27-2:04 PM, with the wind coming from the East, Southeast at 12 MPH at the application's start time and the East at 10 MPH at the application's end time. Pesticides used during Mr. Clark's application was listed as Resicore (EPA Reg. #62719-693, active ingredients of Acetochlor, Mesotrione, and Clopyralid) and Atrazine 4L (EPA Reg. #33270-10, active ingredient of Atrazine).

Original Event: Investigation Activity (Pesticide) #1549
Subject: Drew Clark
Submitted By: James M. Trimble
Attachments: File 46341; Atrazine.PDF
File 46340; clarkemail 6-4-20.pdf
File 46339; PII-clark.pdf
File 46342; Resicore.PDF

06/04/2020 **Investigator Called Business**

On June 4, 2020, I contacted Co-Alliance, via phone, and spoke with Brian Hoffman. Mr. Hoffman confirmed that Co-Alliance was responsible for the pesticide applications to Field #2. Mr. Hoffman was advised I would sent him an email containing a PII with instructions to complete and return to me with 15 days of the email.

Original Event: Investigation Activity (Pesticide) #1550
Subject: Co Alliance LLP
Submitted By: James M. Trimble

06/04/2020 **Investigator Sent Fax/Email to Business**

Brian Hoffman with Co-Alliance was emailed a PII with instructions to complete and return to me within 15 days of the email.

Original Event: Investigation Activity (Pesticide) #1551
Subject: Co Alliance LLP
Submitted By: James M. Trimble
Attachments: File 46347; Coemail 6-4-20.pdf

06/05/2020 **Received External Lab Report**

The PPDL reported stated, *"The apple tree has necrotic spots that resemble exposure to a PPO-inhibitor herbicide or Gramoxone, however, these herbicides were not listed in the submission form. The necrotic spots could also be caused by disease. Sweet potato and pumpkins (??) show interveinal chlorosis that could be associated with exposure to atrazine + mesotrione, but could also be a result of environmental stress or nutrient deficiencies. Tomato plants show chlorosis of newer leaves that resemble exposure to mesotrione. However, the tomato plants surprisingly do not show any symptoms of exposure to synthetic auxins such as clopyralid, which they are very sensitive to. Injury to the corn plants resembles atrazine phytotoxicity (high pH soils) but could also be caused by fertilizer misapplication."* It further stated, *"The corn plants appear to be planted fairly shallow and have J-rooting of the mesocotyl. This could indicate potential compaction that could lead to root stress. There does appear to be some injury to the leaves (marginal burning and direct spotting) which could be related to salt stress or a chemical application. The apple tree has circular necrotic spots which resemble one of two things: chemical injury or black rot of apple caused by Botryosphaeria obtusa. Black rot has a leaf spot phase, described as a frog-eye leaf spot which matches the symptoms observed. Unfortunately, since it can be difficult to get the pathogen sporulate from leaf tissue and it normally produces its structures later in the season, it is hard to confirm this disease. If there are stem cankers above or near where the worst affected leaves are present, it is likely caused by Botryosphaeria. The tomato plants have some leaf distortion and an odd chlorotic pattern. It looks more like chemical injury and not like a nutritional deficiency. Similarly, the cucurbit has significant leaf distortion and interveinal necrosis which I suspect is related to a chemical application."*

Original Event: External Lab Report #147477 (X20-B5C7F4)
Submitted By: James M. Trimble
Sample: X20-B5C7F4
Attachments: File 46333; Final Report_Mitch Trimble .pdf

06/17/2020 **Investigator Received Fax/Email from Business**

On June 17, 2020, I received the PII from Co-Alliance, which stated they had made an application to Field #2 on April 22, 2020, at 8:35-9:40 PM, using the pesticides Surestart II (EPA Reg. #62719-679, active ingredients of Acetochlor, Flumetsulam, & Clopyralid), Atrazine 4L (EPA Reg. #1381-158, active ingredient of Atrazine), and Balance Flexx (EPA Reg. #264-1067, active ingredient of Isoxaflutole), with the wind coming from the North at 9 MPH. Comparing Co-Alliance's application date of April 22, 2020, to Mr. Clark's application date of May 27, 2020, with Mr. Fedor's first observation of the injury to his property's vegetation was on May 31, 2020, suggested the pesticide drift had originated from Field #1.

The OISC Residue Lab was notified of the pesticides used on Field #2.

Original Event: Investigation Activity (Pesticide) #1651
Subject: Co Alliance LLP
Submitted By: James M. Trimble
Attachments: File 47420; atrazine.PDF
File 47421; balance.PDF
File 47414; Giles - Peters North Spray Sheet.pdf
File 47413; pii.pdf
File 47422; surestart.PDF

08/03/2020 **Received Residue Lab Report
Lab Remarks**

Released 08/03/2020

Investigatory Summary

The OISC Residue Lab report showed a gradient of Mesotrione coming from Field #1. The Acetochlor found in the samples was used on both Field #1 & Field #2 and therefor not accounted for drift. Flumetsulam was not detected in any of the samples collected from the Fedor property, suggesting the herbicide drift did not originate from Field #2. The lab results indicate the pesticide drift had originated from Field #1.

Original Event: Residue Lab Report #153707 (147214-R242)
Submitted By: SYSTEM
Lab Report: Lab Report 147214-R242.pdf

09/14/2020 Online Investigation Activity

Due to Mr. Clark's listed wind direction of East, Southeast during his application (towards Mr. Fedor's property), the OISC Residue Lab results of locating Mesotrione from the samples collected from Mr. Fedor's property, and Mr. Clark's statement that he had completed the application while the wind was blowing towards Mr. Fedor's property, I found Mr. Clark had applied a pesticide (Atrazine 4L & Resicore) on May 27, 2020, to Field #1, in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a nontarget site (Mr. Fedor's property).

Original Event: Investigation Activity (Pesticide) #2140
Subject: Drew Clark
Submitted By: James M. Trimble

09/14/2020 Judgement; Civil Penalty Assessed Civil Penalty

Drew Clark 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. 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.

Original Event: Judgement #570
Primary: Drew Clark
Submitted By: George Saxton
Legal Citation: 357 IAC 1-12-2
Penalty Amount: 100

12/02/2020 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #629
To: Drew Clark
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0462
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 58861; PS20-0149EL~CP~Drew Clark.doc

01/05/2021 Received Mail Confirmation for Target

Original Event: Compliance Receipt #805
Subject: Drew Clark
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0462
Received: 12/11/2020
Attachments: File 59821; CM 7018 0040 0000 3553 0462.pdf

01/13/2021 Received Penalty Payment for Target

Original Event: Compliance Receipt #897
Subject: Drew Clark
Submitted By: Joni Herman
Payment Expected: \$100.00
Payment Received: \$100.00
Attachments: File 60926; PS20-0149 ~ Drew Clark ~ CP Received.pdf

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CASE SUMMARY

Case #PS20-0155

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

Respondent: Northern Tool and Equipment
David Swank
9345 Waldemar Road
Indianapolis, IN 46268
Store Manager

Registrant: Simoniz USA Inc
201 Boston Turnpike
Bolton, CT 06043-7203

1. On June 3, 2020, I performed a routine marketplace inspection at Northern Tool and Equipment located at 9345 Waldemar Road Indianapolis, IN. I spoke with Store Manager, David Swank, 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 at Northern Tool and Equipment. I confirmed through Sarah Caffery, Pesticide Registration Specialist, the pesticide product was unregistered in the State of Indiana. The product was as follows:
 - a. Simoniz Antimicrobial All Purpose Disinfectant Cleaner
 - i. EPA Reg. #1839-83-18305.
 - ii. 83 units in stock
 - iii. Date last received April 24, 2020.
3. Upon completion of the inspection, I spoke with Mr. Swank 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. Swank if he was able to provide me with any information for when the last shipment came to the store. Mr. Swank allowed me to take a photo of the Item Activity Inquiry screen for the Simoniz Product.
4. I placed the evidentiary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.

5. On June 5, 2020, I delivered the evidentiary sample to the Formulation Lab.

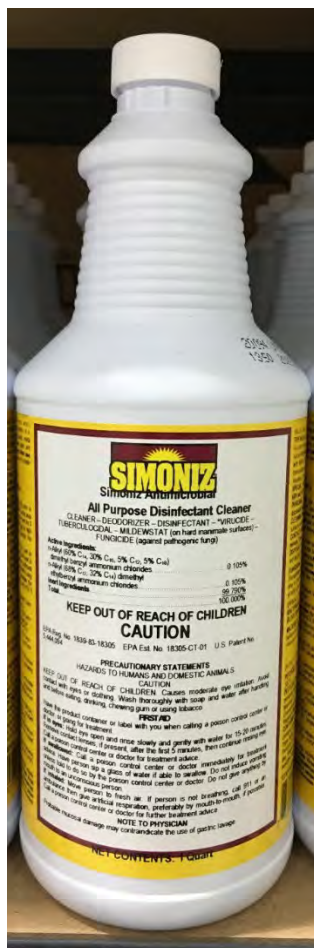


Fig. 1

- Fig. 1) Photo showing Simoniz Antimicrobial All Purpose Disinfectant Cleaner

6. On August 8, 2020, I received the Lab Analysis Report from the OISC Formulation Lab.
The lab report is as follows:

OCM Collection #	147472	Case #	PS20-0155	Investigator	G. Creason
Sample #	Product Description				Sample Size
20-3-0120 6	Simoniz Antimicrobial All Purpose Cleaner				1 x 1 qt
ACTIVE INGREDIENT				% GUARANTEE	% FOUND
DBAC (5% C12; 60% C14; 30% C16; 5% C18)				0.105	N/A
DEAC (68% C12; 32% C14)				0.105	N/A
Tested as Quaternary Nitrogen Equivalent				0.0078	0.0066
Remarks:					
Signature				Date	08/08/2020

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



Garret A. Creason
Investigator

Date: September 8, 2020

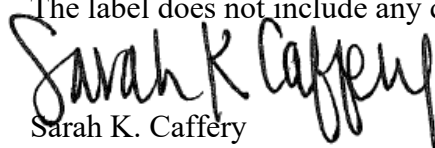
Label Review: Simoniz Antimicrobial All Purpose Disinfectant Cleaner (EPA Reg #1839-83-18305)

On June 9, 2020, I completed the labeling review for Simoniz Antimicrobial All Purpose Disinfectant Cleaner (EPA Reg #1839-83-18305). This product is currently unregistered in the state of Indiana; OISC shows no record of a pending application.

Per the label review, parts of the label are illegible. This is a violation of FIFRA 40 CFR 156.10a.2.i

"All words, statements, graphic representations, designs or other information required on the labeling by the Act or the regulations in this part must be clearly legible to a person with normal vision, and must be placed with such conspicuousness (as compared with other words, statements, designs, or graphic matter on the labeling) and expressed in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use."

This product is a supplemental, distributor product. Therefore, per 40 CFR 152.132(d)(2), the company name must be qualified by phrases such as "Packed for," "Distributed by," or "Sold by." The label does not include any qualifying phrase.



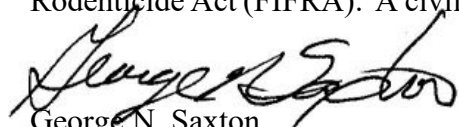
Sarah K. Caffery
Pesticide Product Registration Specialist

Date: June 9, 2020

Disposition: Northern Tool and Equipment was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide that was not registered for sale in the state of Indiana.

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

Simoniz USA Inc was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide that was in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: October 12, 2020
Case Closed: February 2, 2021

Compliance Assistance:

1. Submit pesticide registration application to OISC with legible label

CASE SUMMARY

Case #PS20-0162

Complainant: Richard Yager
6525 E. State Road 244
Rushville, IN 46173

Respondent: Tom Krieger
4051 N. CR500 East
Greensburg, IN 47240

Private Applicator

1. On June 8, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that a neighboring farmer sprayed an adjacent field and it adversely affected his soybeans. The complainant was concerned that impending rains may cause more damage to his beans as he has had runoff from the neighboring field in the past.
2. On June 8, 2020, I spoke with Richard Yager who reported beans were affected along two sides of his field where it borders a field farmed by Krieger Farms. He indicated he has tried to plant the same crop as the adjacent field to avoid herbicide exposure issues because there is no biological barrier or fence line between the fields, but Krieger planted corn this year.
3. On June 9, 2020, I met Mr. Yager at the farm on State Road 244 in southeastern Rush County and we walked the field. In several stretches along the south and west sides of the field, soybeans were dead in the outer row. In a couple of areas, leaves on recently emerged soybeans in the next few rows into the field were necrotic and discolored but symptoms were not widespread. Mr. Yager stated he was afraid a significant rain may wash herbicides from the corn field into his field. We discussed taking a wait-and-see approach wherein I would document the current observations and collect residue samples in case we needed them later. I explained that I could hold the samples and only analyze them if a runoff event caused additional adverse effects. I photographed the site and collected soybean plants which exhibited symptoms for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected weeds from the corn field and soybeans exhibiting symptoms from the Yager field. Those samples were submitted to the OISC Residue Lab and placed on hold.



Fig.1 Aerial photo of fields

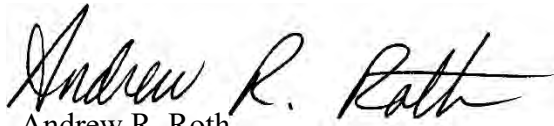


Fig.2 South border of field



Fig.3 Necrotic soybean plants

4. I contacted Tom Krieger and informed him of the complaint. He confirmed he sprayed the adjacent corn field the week prior. Mr. Krieger completed a Pesticide Investigation Inquiry which indicated he applied Halex GT (EPA Reg. #100-1282), active ingredients metolachlor, mesotrione and glyphosate, and Atrazine 4L (EPA Reg. #55467-13), from 10:30am-12:30pm on June 1, 2020. Winds were reportedly out of the southwest at 8-10mph at the time.
5. A check of recorded wind data at the closest official weather station, the Shelbyville Municipal Airport, which is approximately 25 miles west of the site, confirmed winds were from the southwest, blowing toward the Yager soybeans, at 11mph at 10:53am on June 1.
6. The PPDL report indicated, *"The soybeans in sample 20-00509 show interveinal necrosis of older leaves, mostly towards leaf edges (a symptom of atrazine exposure). Some plants also show bleaching of newer leaves (a symptom of mesotrione exposure) and drawstring (a symptom of s-metolachlor exposure)."* It further stated, *"The plants have interveinal and marginal necrosis, necrotic spotting, interveinal chlorosis and bleaching of new growth, and light leaf deformation. The roots do not look the healthiest, but it is not likely that root rot or nutrient deficiency is related to the symptoms observed. No significant disease observed."*
7. While the herbicide symptoms on the soybeans were primarily along the edges of the field and the residue samples were not analyzed, the PPDL report and the evidence at the site suggest the herbicides in the tank mix applied to the Krieger field moved off-target to soybeans in parts of the Yager field. Mr. Yager did not contact me to report additional exposure from the Krieger field. However, the Halex GT label reads, in part, **"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)."**


Andrew R. Roth
Investigator

Date: September 30, 2020

Disposition: Tom Krieger 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. Consideration was given to the fact a restricted use pesticide was involved.


George N. Saxton
Compliance Officer

Draft Date: December 16, 2020
Case Closed: March 1, 2021



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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West Lafayette, IN 47907-2063
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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

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In Re: Case PS20-0171

Department	Pesticide
Originated	06/09/2020
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant Respondent	Aaron Key Patoka, IN 47666	
Respondent	Byron Bingham Patoka, IN 47666	Unlicensed Applicator

Overviews

09/03/2020 **Investigation Summary**

Complainant stated a neighboring farmer applied dicamba that has drifted onto the complainant's Enlist beans.

I met with the complainant at his soybean fields located near the intersection of Cross Road and N. Old Hwy 41 in Gibson County, Indiana. The complainant stated on or around May 25, 2020 when he went to spray his non-dicamba tolerant (non-DT) soybean field he noticed injury symptoms to his non-DT soybean field. The complainant advised he believed the field to the south of his field had dicamba applied to it. During my on-site investigation I did the following: Looked for, and found one potential sources of a growth regulator type herbicide application in the area. The target field is located to the south of the complainant's non-DT soybean fields across Cross 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 (PPDDL) Collected composite soil sample from the target field. Collected composite vegetation samples from the complainant's non-DT soybean fields. The residue samples were submitted to the OISC Residue Laboratory for analysis.

I contacted the complainant in regard to the sprayer he shares with another farmer that he used to make the application to his field. The complainant advised that he and the farmer he shares the sprayer with use the same pesticide program for both of their farms. I asked the complainant if any dicamba containing pesticides were used by either farmer and he advised no they do not use any dicamba containing pesticides on either farm. Further, the complainant advised the day prior to spraying the field in the case he sprayed 300 acres with the same tank mix and those fields did not show any injury symptoms.

I contacted private applicator Timothy Bingham via telephone. I advised Mr. Bingham I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Bingham advised he farms the field to the south of the complainant's field. Mr. Bingham advised the field is a dicamba tolerant bean field, but has not had any dicamba containing pesticides applied to it this year. Further, Mr. Bingham advised the only application made to the field this year was a burndown application prior to planting.

I was contacted by Byron Bingham who is the owner of the dicamba tolerant field located to the south of the complainant's field. Mr. Bingham stated they only use premixed (hot loads) from Nutrien Ag Solutions in Patoka, Indiana for all of their pesticide application. Mr. Bingham stated the only application made to the target field was made on April 11, 2020 and did not include any dicamba containing pesticides. Further, Mr. Bingham stated he would send me the load out ticket for the application to the target field.

I contacted the complainant in regards to other potentially sources of dicamba containing pesticide applications in the area. The complainant advised all the other fields around the off target fields are his and the only dicamba tolerant field he knew of was the field to the south.

The OISC Residue Laboratory analyzed the off target gradient vegetation samples collected for the active ingredient dicamba and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredient dicamba in off target gradient vegetation samples 2 and 3. The active ingredient dicamba was detected in off target gradient vegetation 1, but was below quantification limits.

I contacted private applicator Timothy Bingham. I advised Mr. Bingham the OISC Residue Laboratory analysis detected the active ingredient dicamba in the composite soil sample I collected from his field to the south of the complainant's field. Mr. Bingham advised he did not apply any pesticides containing the active ingredient dicamba to the field. Further, Mr. Bingham advised it could be possible tank contamination from the prior year, as he did not clean the sprayer out after completion of the 2019 spraying season. Mr. Bingham advised he would have to check his application records to see if the target field was the first application made in 2020.

I was contacted by Byron Bingham the owner of the dicamba tolerant field located to the south of the complainant's field. Mr. Bingham advised the detection of the active ingredient dicamba in his field was not from tank contamination as multiple fields in 2020 were sprayed prior to the target field without any pesticides containing the active ingredient dicamba.

I was contacted by Byron Bingham the owner of the dicamba tolerant field located to the south of the complainant's field. Mr. Byron advised he believed the detection of the active ingredient dicamba in his field came from a spot spray application he made to the field with a backpack sprayer containing dicamba and glyphosate.

I contacted Byron Bingham. I asked Mr. Bingham if he would write out a statement explaining the application, he made to the target field. Mr. Bingham advised he would complete a statement and email it to me. Further, I asked Mr. Bingham what dicamba product he used; Mr. Bingham advised he used "Xtendimax" mixed with a glyphosate product.

I received an email from Byron Bingham. Included in the email was a typed statement dated August 13, 2020 and signed by Byron Bingham. The statement reads "This is to acknowledge that Byron Bingham used a two and half gallon sprayer with a mixture of dicamba and glyphosate to control johnsongrass and water hemp in the field and ditch across the road from Mr. Key's Field".

The evidence in this case indicates Byron Bingham used a two and half gallon sprayer to apply *Xtendimax*, EPA Reg.# 524-617, Active = *dicamba* and glyphosate to the target field. According to the OISC Licensing Database Byron Bingham does not currently hold any certifications with OISC. The label for *Xtendimax*, EPA Reg.# 524-617, Active = *dicamba* states: "**For retail sale to and use only by Certified Applicators**". It could not be determined if the application made by Mr. Bingham caused the injury to the complainant's non-DT soybeans.

Submitted By: Nathan J. Davis
Role: Investigator

09/03/2020 **Disposition Summary**

Byron Bingham was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding being fully certified before use of dicamba. A civil penalty in the amount of \$100.00 was assessed for this violation.

Based on the evidence collected in this investigation, no drift violations of the Indiana pesticide laws or regulations were documented. 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, and was not able to clearly identify the source of the off-target movement.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/09/2020 **Intake Referral Filed**
DOCUMENTARY ONLY

Complainant stated a neighboring farmer applied dicamba that has drifted onto the complainant's Enlist beans.

Original Event: Intake Referral (Pesticide) #1364
Complainant: Aaron Key
Respondent: Unknown
Submitted By: George Saxton
Assigned To: Nathan J. Davis

06/09/2020 **Case Created**
Original Event: Case PS20-0171
Submitted By: George Saxton
Assigned To: Nathan J. Davis

06/17/2020 **Investigator Met with Complainant**

On June 17, 2020 I met with the complainant at his soybean fields located near the intersection of Cross Road and N. Old Hwy 41 in Gibson County, Indiana. The complainant stated on or around May 25, 2020 when he went to spray his non-dicamba tolerant (non-DT) soybean field he noticed injury symptoms to his non-DT soybean field. The complainant advised he believed the field to the south of his field had dicamba applied to it.

During my on-site investigation I did the following:

Looked for, and found one potential sources of a growth regulator type herbicide application in the area. The target field is located to the south of the complainant's non-DT soybean fields across Cross 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 &

Collected composite soil sample from the target field. Collected composite 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 the on-site investigation.

Original Event: Investigation Activity (Pesticide) #1648
Location: Aaron Key
Subject: Aaron Key
Submitted By: Nathan J. Davis
Photos:



File 47594



File 47595



File 47596



File 47597



File 47598

06/17/2020 External Lab Sample Collected

Original Event: External Lab Sample Collection #149065 (X20-1F59F4)
Client: Aaron Key
Submitted By: Nathan J. Davis
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X20-1F59F4 | Enlist E3 Soybean

06/17/2020 Residue Samples Collected

Original Event: Residue Collection #149961 (20-4-0313 9)
Client: Aaron Key
Submitted By: Nathan J. Davis
Sample: 20-4-0313 9 | Soil; Comp; 2-4"; Target Site, S
Sample: 20-4-0314 1 | Veg; Grab; Off Target, Grad1
Sample: 20-4-0315 6 | Veg; Grab; Off Target, Grad2
Sample: 20-4-0316 0 | Veg; Grab; Off Target, Grad3
Sample: 20-4-0317 3 | Veg; Ctrl; Off Target, N

06/17/2020 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #292
Submitted By: Nathan J. Davis
Target Analyte: Dicamba

06/19/2020 Investigator Called Complainant

On June 19, 2020 I contacted the complainant in regards to the sprayer he shares with another farmer that he used to make the application to his field. The complainant advised that he and the farmer he shares the sprayer with use the same pesticide program for both of their farms. I asked the complainant if any dicamba containing pesticides were used by either farmer and he advised no they do not use any dicamba containing pesticides on either farm. Further, the complainant advised the day prior to spraying the field in the case he sprayed 300 acres with the same tank mix and those fields did not show any injury symptoms.

Original Event: Investigation Activity (Pesticide) #1763
Subject: Aaron Key
Submitted By: Nathan J. Davis

06/22/2020 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 20-00618 show cupped new leaves with whitish leaf tips.
These symptoms are characteristic of exposure to dicamba.

The symptoms, including leaf deformation, cupping, and white leaf tips are suggestive of exposure to a growth regulator. No significant disease observed.

Original Event: External Lab Report #149599 (X20-1F59F4)
Submitted By: Nathan J. Davis
Sample: X20-1F59F4

06/24/2020 **Investigator Called Farmer**

On June 24, 2020 I contacted private applicator Timothy Bingham via telephone. I advised Mr. Bingham I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Bingham advised he farms the field to the south of the complainants field. Mr. Bingham advised the field is a dicamba tolerant bean field, but has not had any dicamba containing pesticides applied to it this year. Further, Mr. Bingham advised the only application made to the field this year was a burndown application prior to planting.

Original Event: Investigation Activity (Pesticide) #1764
Subject: Timothy B Bingham
Submitted By: Nathan J. Davis

06/24/2020 **Farmer Called Investigator**

On June 24, 2020 I was contacted by Byron Bingham who is the owner of the dicamba tolerant field located to the south of the complainants field. Mr. Bingham stated they only use premixed (hot loads) from Nutrien Ag Solutions in Patoka, Indiana for all of their pesticide application. Mr. Bingham stated the only application made to the target field was made on April 11, 2020 and did not include any dicamba containing pesticides. Further, Mr. Bingham stated he would send me the load out ticket for the application to the target field.

Original Event: Investigation Activity (Pesticide) #1765
Subject: Byron Bingham
Submitted By: Nathan J. Davis

06/24/2020 **Investigator Called Complainant**

On June 24, 2020 I contacted the complainant in regards to other potentially sources of dicamba containing pesticide applications in the area. The complainant advised all the other fields around the off target fields are his and the only dicamba tolerant field he knew of was the field to the south.

Original Event: Investigation Activity (Pesticide) #1766
Subject: Aaron Key
Submitted By: Nathan J. Davis

06/25/2020 **Investigator Received Fax/Email from Farmer**

On June 25, 2020 I received an email from Byron Bingham which contained the following information:

Application Date: April 11, 2020
Pesticides Applied:
Roundup Weathermax, EPA Reg.# 524-537, Active Ingredient = glyphosate
Salvo, EPA Reg.# 34704-609, Active Ingredient = 2,4-D
Matador, EPA Reg.# 24704-1054, Active Ingredient = metribuzin, metolachlor, imazethapyr

Original Event: Investigation Activity (Pesticide) #1767
Subject: Byron Bingham
Submitted By: Nathan J. Davis

08/05/2020 **Received Residue Lab Report
Lab Remarks**

released 08/05/2020

Investigatory Summary

The OISC Residue Laboratory analyzed the off target gradient vegetation samples collected for the active ingredient dicamba and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredient dicamba in off target gradient vegetation samples 2 and 3. The active ingredient dicamba was detected in off target gradient vegetation 1, but was below quantification limits.

Original Event: Residue Lab Report #154146 (149961-R249)
Submitted By: SYSTEM
Lab Report: Lab Report 149961-R249.pdf

08/10/2020 **Investigator Called Farmer**

On August 10, 2020 I contacted private applicator Timothy Bingham. I advised Mr. Bingham the OISC Residue Laboratory analysis detected the active ingredient dicamba in the composite soil sample I collected from his field to the south of the complainant's field. Mr. Bingham advised he did not apply any pesticides containing the active ingredient dicamba to the field. Further, Mr. Bingham advised it could be possible tank contamination from the prior year, as he did not clean the sprayer out after completion of the 2019 spraying season. Mr. Bingham advised he would have to check his application records to see if the target field was the first application made in 2020.

Original Event: Investigation Activity (Pesticide) #2116
Subject: Timothy B Bingham
Submitted By: Nathan J. Davis

08/10/2020 **Farmer Called Investigator**

On August 10, 2020 I was contacted by Byron Bingham the owner of the dicamba tolerant field located to the south of the complainant's field. Mr. Bingham advised the detection of the active ingredient dicamba in his field was not from tank contamination as multiple fields in 2020 were sprayed prior to the target field without any pesticides containing the active ingredient dicamba.

Original Event: Investigation Activity (Pesticide) #2117
Subject: Byron Bingham
Submitted By: Nathan J. Davis

08/12/2020 **Farmer Called Investigator**

On August 12, 2020 I was contacted by Byron Bingham the owner of the dicamba tolerant field located to the south of the complainant's field. Mr. Byron advised he believed the detection of the active ingredient dicamba in his field came from a spot spray application he made to the field with a backpack sprayer containing dicamba and glyphosate.

Original Event: Investigation Activity (Pesticide) #2118
Subject: Byron Bingham
Submitted By: Nathan J. Davis

08/13/2020 **Investigator Called Farmer**

On August 13, 2020 I contacted Byron Bingham. I asked Mr. Bingham if he would write out a statement explaining the application, he made to the target field. Mr. Bingham advised he would complete a statement and email it to me. Further, I asked Mr. Bingham what dicamba product he used; Mr. Bingham advised he used "Xtendimax" mixed with a glyphosate product.

Original Event: Investigation Activity (Pesticide) #2119
Subject: Byron Bingham
Submitted By: Nathan J. Davis

08/13/2020 **Investigator Received Fax/Email from Farmer**

On August 13, 2020 I received an email from Byron Bingham. Included in the email was a typed statement dated August 13, 2020 and signed by Byron Bingham. The statement reads "This is to acknowledge that Byron Bingham used a two and half gallon sprayer with a mixture of dicamba and glyphosate to control johnsongrass and water hemp in the field and ditch across the road from Mr. Key's Field".

Original Event: Investigation Activity (Pesticide) #2120
Subject: Byron Bingham
Respondent: Byron Bingham
Submitted By: Nathan J. Davis

09/03/2020 **Online Investigation Activity**

The evidence in this case indicates Byron Bingham used a two and half gallon sprayer to apply *Xtendimax*, EPA Reg.# 524-617, Active = *dicamba* and glyphosate to the target field. According to the OISC Licensing Database Byron Bingham does not currently hold any certifications with OISC. The label for *Xtendimax*, EPA Reg.# 524-617, Active = *dicamba* states: "**For retail sale to and use only by Certified Applicators**". It could not be determined if the application made by Mr. Bingham caused the injury to the complainant's non-DT soybeans.

Original Event: Investigation Activity (Pesticide) #2123
Subject: Byron Bingham
Submitted By: Nathan J. Davis

09/03/2020 **Judgement; Civil Penalty Assessed**
Civil Penalty

Byron Bingham was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding being fully certified before use of dicamba. A civil penalty in the amount of \$100.00 was assessed for this violation.

Based on the evidence collected in this investigation, no drift violations of the Indiana pesticide laws or regulations were documented. 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, and was not able to clearly identify the source of the off-target movement.

Original Event: Judgement #562
Primary: Byron Bingham
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 100

11/13/2020 **Compliance Activity**

Attorney Rafael Garcia requested all documents wherein his client Aaron Key was the complainant.

Original Event: Compliance Activity #669
Primary: Aaron Key
Submitted By: George Saxton
Attachments: File 57938; Office of the Indiana State Chemist - Consent to Release.pdf

11/17/2020 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #612
To:	Byron Bingham
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0578
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 58047; PS20-0171EL~CP~Byron Bingham.doc

12/02/2020 **Compliance Activity**

Byron Bingham called wanting OISC to reconsider his \$100.00 fine. He stated he was 80 years old and was only using a hand sprayer. He stated he should probably be 'reprimanded' but not fined. He did state that he got the Xtendimax (dicamba) from Nutrien Ag in Patoka.

Original Event:	Compliance Activity #700
Primary:	Byron Bingham
Submitted By:	George Saxton

12/02/2020 **Amended Judgement; Warning**

Byron Bingham was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding being fully certified before use of dicamba. Consideration was given to the fact this was his first violation of similar nature. Based on the evidence collected in this investigation, no drift violations of the Indiana pesticide laws or regulations were documented. 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, and was not able to clearly identify the source of the off-target movement.

Original Event:	Judgement #655
Primary:	Byron Bingham
Submitted By:	George Saxton
Level:	Informal Review
Legal Citation:	IC 15-16-5-65(2)

12/02/2020 **Notice of Amended Enforcement Mailed to Target**

Original Event:	Outgoing Mail #632
To:	Byron Bingham
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0448
Enclosed:	Notice of Amended Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 58864; PS20-0171EL~WRN~Byron Bingham.doc

12/11/2020 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #909
Subject:	Byron Bingham
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0448
Received:	12/11/2020
Attachments:	File 62506; CM 7018 0040 0000 3553 0448.pdf

01/05/2021 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #811
Subject:	Byron Bingham
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0578
Received:	11/30/2020
Attachments:	File 59832; CM 7018 0040 0000 3553 0578.pdf



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

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In Re: Case PS20-0172

Department	Pesticide
Originated	06/09/2020
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Complainant	Daniel J Crowe Thorntown, IN 46071
Applicator	Justin Allen Mohler Lebanon, IN 46052
Supervisor	Allen W Mohler Lebanon, IN 46052

Overviews

09/25/2020 **Investigation Summary**

On June 9, 2020, I contacted Mr. Crowe, who reported his soybean plants were showing symptoms of herbicide injury. Mr. Crowe stated he believed the injury was caused by herbicide drift from an application to the corn field located to the south of his soybean field.

On June 10, 2020, I arrived at Mr. Crowe's soybean field to conduct my on-site investigation, where I observed herbicide injury to the soybean plants in his field. I observed a possible drift pattern on Mr. Crowe's soybean field, which I believed had originated from the corn field located to the south of his field. I collected samples from the soybean field and the south corn field for assessment by the PPDL and the OISC Residue Lab for analysis.

I later confirmed Justin Mohler was responsible for the corn field's application. Mr. Mohler completed a PII, which stated he had made a pesticide application to the corn field on June 2, 2020, while the wind was blowing towards Mr. Crowe's soybean field.

The OISC Residue Lab report confirmed a south to north gradient of pesticides on Mr. Crowe's soybean field. I found Mr. Mohler had applied pesticides in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site and in violation of the pesticide's labels.

Submitted By: James M. Trimble
Role: Investigator

09/28/2020 **Disposition Summary**

Allen W Mohler 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.

Justin Allen Mohler was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact a restricted use pesticide was involved.

Allen W Mohler 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. Consideration was given to the fact a restricted use pesticide was involved.

Justin A. Mohler 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. Consideration was given to the fact a restricted use pesticide was involved.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/09/2020 Intake Referral Filed

Complainant stated Mohler Family Farms made a pesticide application to their corn that drifted onto the complainant's beans.

Original Event:	Intake Referral (Pesticide) #1365
Complainant:	Daniel J. Crowe
Respondent:	Mohler Family Farms
Submitted By:	George Saxton
Assigned To:	James M. Trimble

06/09/2020 Investigator Called Complainant

On June 9, 2020, I contacted Mr. Crowe, via phone, who reported his soybean plants were showing symptoms of herbicide injury. Mr. Crowe stated he believed the injury was caused by herbicide drift from an application to the corn field located to the south of his soybean field. Mr. Crowe stated he believed Mohler Family Farms was responsible for the south field's application, as they have had past incidents of off-target pesticide movement.

An appointment was set for June 10, 2020.

Original Event:	Investigation Activity (Pesticide) #1582
Subject:	Daniel J. Crowe
Submitted By:	James M. Trimble

06/09/2020 Case Created

Original Event:	Case PS20-0172
Submitted By:	George Saxton
Assigned To:	James M. Trimble

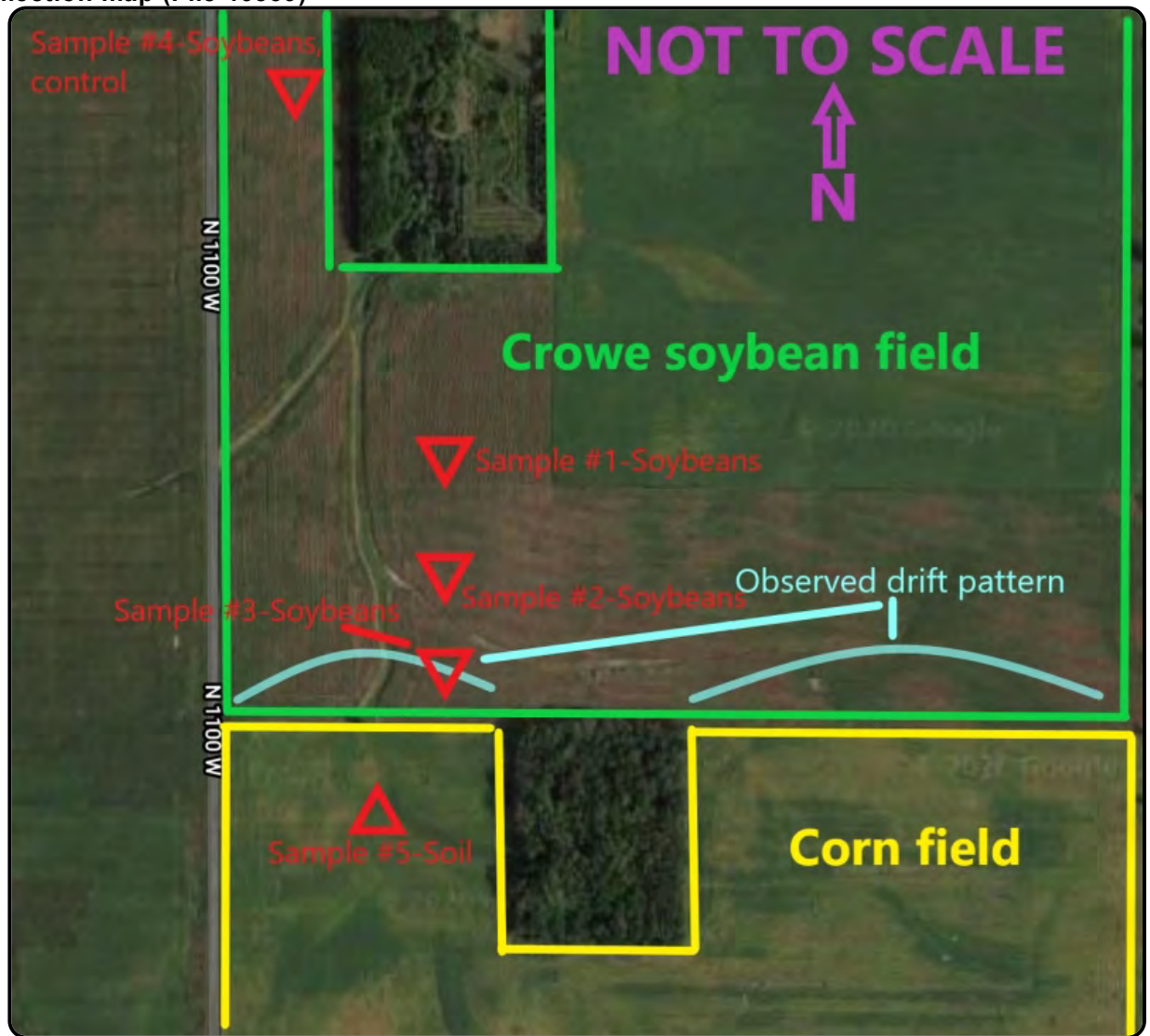
06/10/2020 Investigator Met with Complainant

On June 10, 2020, I arrived at Mr. Crowe's soybean field to conduct my on-site investigation. During my on-site investigation, I observed and photographed symptoms of what I believed to be herbicide injury to the soybean plants, which included bleached leaves, yellow and/or brown leaves, stunted growth, and burnt edges and spots on the leaves. I found the injury to the soybean plants to be consistent with Atrazine exposure.

I looked for potential sources of herbicide drift. I observed Mr. Crowe's soybean field and the corn field located to the south shared a border with a narrow buffer of vegetation in between the two fields. I observed the corn field to have a section of trees that was located on approximately 500' of their shared property line that would serve as a natural drift barrier. I observed the corn field to show signs of a recent herbicide application by the dead and/or decaying vegetation throughout the field. I observed what I believed to be a herbicide drift pattern coming from the south corn field and onto the soybean field by the arched injury pattern on the soybean field. I observed the soybean field's injury to be the most severe on its south border and become less significant the further north I went. I also observed there to be no symptoms of injury to the soybean field opposite of the tree line, where it prevented the pesticide drift from traveling onto Mr. Crowe's soybean field.

I collected samples of soybean plants that exhibited symptoms of injury from Mr. Crowe's soybean field for assessment by the Purdue Pest and Plant Diagnostic Lab (PPDL).

I then collected three gradient samples of the affected soybean plants and a control soybean plant sample from the soybean field. I also collected a composite soil sample from the corn field. All samples were submitted to the OISC Residue Lab for analysis. See attached for collection map.



Shared border and drift pattern (File 46694)



Soybean injury (File 46711)



Soybean injury (File 46713)



Original Event:
Location:
Subject:
Submitted By:
Attachments:
Photos:

Investigation Activity (Pesticide) #1583
Daniel J Crowe
Daniel J Crowe
James M. Trimble
File 46758; crowenoi.pdf



File 46839



File 46690



File 46691



File 46692



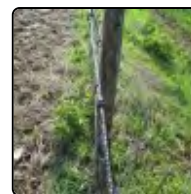
File 46693



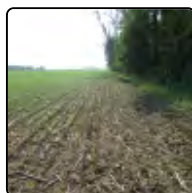
File 46694



File 46695



File 46696



File 46697



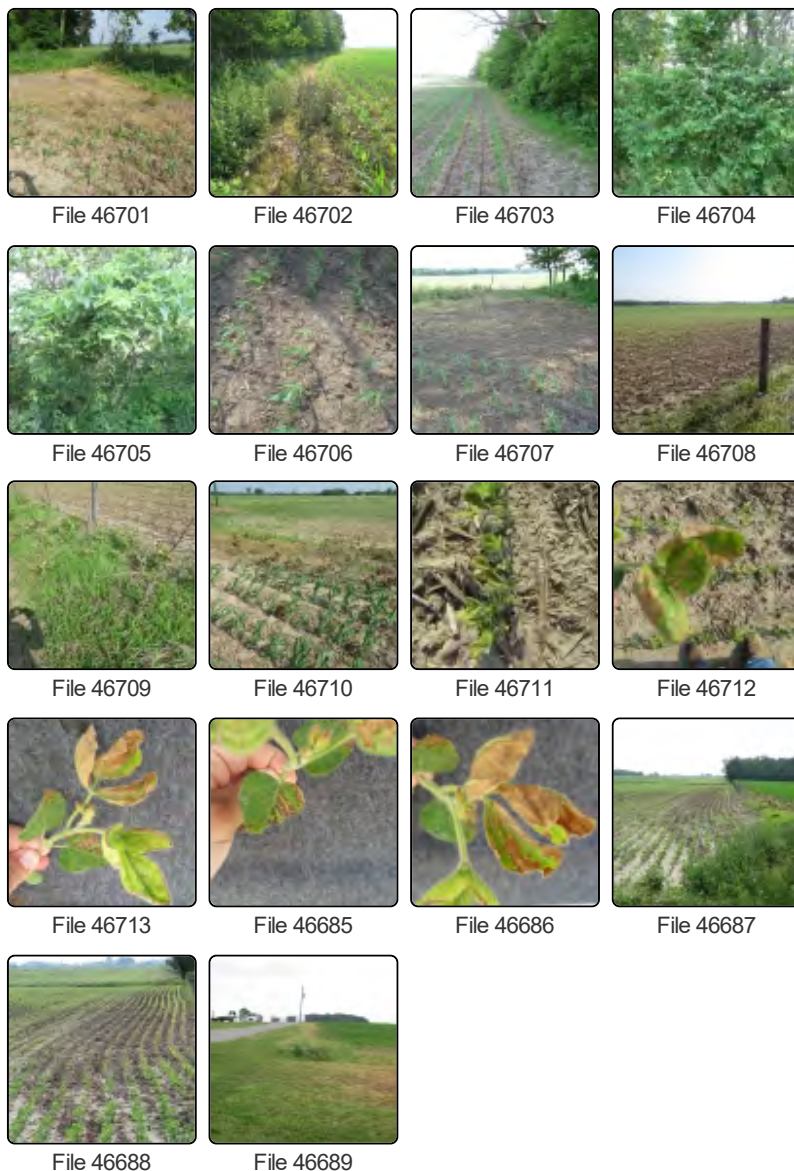
File 46698



File 46699



File 46700



06/10/2020 **Residue Samples Collected**

Original Event:	Residue Collection #148128 (20-4-1842 5)
Client:	Daniel J Crowe
Submitted By:	James M. Trimble
Sample:	20-4-1842 5 Veg; Comp; Off Target, Grad1, 175yd N
Sample:	20-4-1843 9 Veg; Comp; Off Target, Grad2, 75yd N
Sample:	20-4-1844 1 Veg; Comp; Off Target, Grad3, 10yd N
Sample:	20-4-1845 6 Veg; Ctrl; Off Target
Sample:	20-4-1846 0 Soil; Comp; 2-4"; Target Site

06/10/2020 **Investigator Met with Applicator**

After my on-site investigation at Mr. Crowe's soybean field, I attempted to contact Mohler Family Farms by telephone but was unsuccessful. I then arrived at the Mohler Family Farms listed address, where I met Justin Mohler. Mr. Mohler confirmed that he had treated the corn field in question. Mr. Mohler stated he was already made aware of the incident and had went to the fields in question to survey for possible injury. Mohler stated he observed what he described as "chemical injury" on Mr. Crowe's soybean field. Mr. Mohler stated the injury pattern he observed on the soybean field looked like his application to the corn field had drifted off-target and onto the soybean field. Mr. Mohler stated he had taken precautions before and during the corn field's application and believed the conditions were right.

I discussed the Pesticide Investigation Inquiry (PII) form with Mr. Mohler, which I gave him a physical copy of and advised him I would email him a copy as well. I instructed Mr. Mohler to have the completed form returned to me with 15 days, which he advised he understood.

Original Event:	Investigation Activity (Pesticide) #1584
Location:	Mohler Family Farms
Subject:	Justin Allen Mohler
Submitted By:	James M. Trimble
Attachments:	File 46840; mohlernoi.pdf

06/10/2020 External Lab Sample Collected

Original Event: External Lab Sample Collection #148375 (X20-148485)
Client: Daniel J Crowe
Submitted By: James M. Trimble
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X20-148485 | Soybeans from non-target field showing herbicide exposure injury.
Attachments: File 46760; ResponseSummary (6).pdf
Photos:



File 46759

06/10/2020 Received External Lab Report

The PPDL report stated, *"The soybean plants in sample 20-00510 show interveinal chlorosis followed by necrosis of newer leaves. Also, some of the new leaves are smaller than normal and have bleached edges. These symptoms are characteristic of exposure to HPPD inhibitor herbicides such as tembotrione (Laudis), mesotrione (Callisto), or isoxaflutole (Balance). Triazines such as atrazine can also cause somewhat similar symptoms on older leaves."* It further stated, *"The sample shows necrotic spotting, interveinal chlorosis and necrosis, and bleaching of leaves. The roots did not look very healthy, but poor function roots or root rot diseases do not produce these type and severity of symptoms. No significant disease observed that might cause reported symptoms."*

Original Event: External Lab Report #148377 (X20-148485)
Submitted By: James M. Trimble
Sample: X20-148485
Attachments: File 46761; Final Report_Mitch Trimble .pdf

06/10/2020 Investigator Sent Fax/Email to Applicator

I sent Mr. Mohler an email containing the PII with instructions for him to complete and return to me within 15 days of the email.

Original Event: Investigation Activity (Pesticide) #1598
Subject: Justin Allen Mohler
Submitted By: James M. Trimble

06/10/2020 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #276
Submitted By: James M. Trimble
Target Analyte: Capreno
Target Analyte: Atrazine 4L
PPLS Labels: [000264-01063-20190924.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-01063-20190924.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000264-01063-20190924.pdf
[055467-00013-20091123.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/055467-00013-20091123.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/055467-00013-20091123.pdf
Attachments: File 47015; capreno.PDF
File 47014; Tenkoz Atrazine.pdf

06/11/2020 Investigator Received Fax/Email from Applicator

On June 11, 2020, I received an email from Mr. Mohler containing the completed PII. The PII listed the application to the target corn field had occurred on June 2, 2020, at 8:00-10:00 PM, by Justin Mohler, with the pesticides Capreno (EPA Reg. #264-1063, active ingredients of Thiencarbazone & Tembotrione) & Atrazine 4L (EPA Reg. #55467-13, active ingredient of Atrazine), while the wind was coming from the Southwest at 8 MPH.

Justin Mohler was found to be a non-certified applicator, as his Private Applicator's license had expired on 12/31/2019. Justin's father, Allen Mohler was listed on the PII as the Certified Applicator/Supervisor.

Being that Atrazine 4L is a Restricted Use Pesticide (RUP) and Justin Mohler was a non-certified applicator at the time of application, I conducted a supervisory requirement check for the application. After discussing the supervisory requirements with Justin Mohler, it was found Justin and Allen Mohler were missing the Private Applicator Site Assessment Fact Sheet for the above application. Justin Mohler stated that the above application was his only 2020 application that involved a RUP. Justin Mohler stated Allen Mohler is normally responsible for making the RUP applications but Allen was tired the evening of the application and he was trying to help out his father.

Taking into consideration that this was Justin Mohler's only application of a RUP since his certification expired in 2019, that all other supervisory requirements had been met, and that Justin had no history of violations, I found the best corrective action to be compliance assistance. I discussed and emailed Justin Mohler the requirements needed to be in full compliance when making a RUP application while being a non-certified applicator.

Original Event: Investigation Activity (Pesticide) #1616
Subject: Justin Allen Mohler
Respondent: Allen W Mohler
Submitted By: James M. Trimble
Attachments: File 47052; capreno.PDF
File 47049; PII-2020- Moher OISC investigation.pdf
File 55495; Tenkoz Atrazine.pdf

Photos:



File 47050

08/03/2020 **Received Residue Lab Report**

Lab Remarks

Released 08/03/2020

Investigatory Summary

The OISC Residue Lab report showed a gradient of Atrazine on samples 1, 2, 3, & 4 (20-4-1842 5, 20-4-1843 9, 20-4-1844 1, & 20-4-1845 6), which confirmed pesticide movement had occurred in a south to north direction, from the target field and onto the non-target soybean field.

Original Event: Residue Lab Report #153708 (148128-R242)
Submitted By: SYSTEM
Lab Report: Lab Report 148128-R242.pdf

09/23/2020 **Online Investigation Activity**

Due to Mr. Mohler's listed wind direction as coming from the southwest during his June 2, 2020 application (towards Mr. Crowe's soybean field), my on-site observations of a drift pattern on the soybean field, and the OISC Residue Lab report of confirming a gradient of Atrazine found in the samples collected from the soybean field, I found Mr. Mohler had applied the pesticides, Capreno (EPA Reg. #264-1063, active ingredients of Thiencazabone & Tembotrione) & Atrazine 4L (EPA Reg. #55467-13, active ingredient of Atrazine) to the corn field in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site (Mr. Crowe's soybean field).

I then reviewed the labels for the products applied by Mr. Mohler to the target corn field, Capreno and Atrazine 4L, which I found the following label violations by Mr. Mohler:

Capreno - *"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)."*

Atrazine 4L - *"The pesticide may 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)."*

Original Event: Investigation Activity (Pesticide) #2190
Subject: Justin Allen Mohler
Submitted By: James M. Trimble

09/28/2020 **Judgement; Civil Penalty Assessed**

Citation

Justin Allen Mohler was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact a restricted use pesticide was involved.

Citation

Allen W Mohler 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. Consideration was given to the fact a restricted use pesticide was involved.

Citation

Justin A. Mohler 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. Consideration was given to the fact a restricted use pesticide was involved.

Civil Penalty

Allen W Mohler 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.

Original Event:	Judgement #584
Primary:	Allen W Mohler
Secondary:	Justin Allen Mohler
Submitted By:	George Saxton
Legal Citations:	IC 15-16-5-65(2); 357 IAC 1-12-2
Penalty Amount:	100

12/11/2020 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #652
To:	Allen W Mohler
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0394
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 59720; PS20-0172EL CP ~ Allen W. Mohler - Justin A. Mohler.doc

12/21/2020 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #928
Subject:	Allen W Mohler
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0394
Received:	12/21/2020
Attachments:	File 62528; CM 7018 0040 0000 3553 0394.pdf

01/08/2021 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #889
Subject:	Allen W Mohler
Submitted By:	Joni Herman
Payment Expected:	\$100.00
Payment Received:	\$100.00
Attachments:	File 60915; PS20-0172 ~ Allen W. Mohler ~ CP Received.pdf

<p>This record was generated on March 30, 2021, 08:50 AM EDT. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>
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CASE SUMMARY

Case #PS20-0178

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

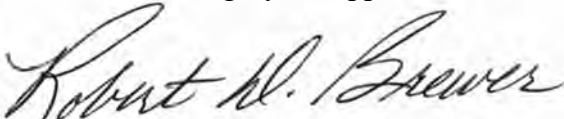
Respondent: Greenway Lawn and Tree Service
707 N. Miller Avenue
Marion, Indiana 46952

1. On June 10, 2020, Mr. Brian Smith with the Indiana Department of Environmental Management (IDEM), contacted the Compliance Officer of the Office of Indiana State Chemist (OISC). Mr. Smith advised on June 8, 2020, he was contacted reference a fertilizer spill by Greenway Lawn and Tree Service. Mr. Smith stated he was advised Mr. Elmer Jones, Registered Technician (RT) was in charge of the application site. Mr. Smith stated he spoke with a Mr. Charles Cox, employee with Greenway Lawn and Tree, who advised Mr. Smith that he was the one operating the ride on spray machine and was making the fertilizer and pesticide application at the time of the spill. Mr. Smith contacted OISC as a fertilizer and pesticide was involved. He stated the spill was cleaned up by Greenway Lawn and Tree and the pesticide did not leak out of the sprayer. Mr. Smith stated, during his investigation of the spill, he discovered Mr. Cox was not a certified applicator through OISC. He then turned the case over to OISC. A copy of Mr. Smith's IDEM report is attached to this case file.
2. On June 15, 2020, I met with Ms. Carol Hendrix, Office Manager of Greenway Lawn and Tree. During my investigation and interview with Ms. Hendrix, I found that Greenway Lawn and Tree Service, no longer had a Category 3B Certified Applicator on staff thereby invalidating their business license. She stated their Certified Applicator had left the company on June 5, 2020. She stated they had hired Mr. Trent Urquhart, but they had not submitted the proper documents to OISC to have his Category 3B Certified Applicator license transferred over to Greenway Lawn and Tree until June 11, 2020. I contacted the OISC Licensing Section and confirmed Greenway Lawn and Tree did not have a Certified Applicator on staff at the time of the application and spill, to supervise the Registered Technicians. I advised Ms. Hendrix, an RT could not supervise any one and they had to have a Certified Applicator on staff, before they could make any further pesticide or fertilizer applications. I issued an ACTION ORDER, ordering Greenway Lawn and Tree Service to stop all pesticide and fertilizer applications until obtaining a Certified Applicator to the business.
3. I requested all records for any pesticide applications made by Greenway Lawn and Tree since their Certified Applicator left the company. She provided me the records for the pesticide applications made up to the date I issued the ACTION ORDER. The following is a list of the applications made. A copy of the records is attached to this case file.

Date	No. of applications	Product and EPA Reg#
6/8/20	21	Quali-Pro 3D Herbicide 53883-378 PrimeraOne Prodiamine 65 WDG 60063-26


6/9/20	39	Quali-Pro 3D Herbicide 53883-378 PrimeraOne Prodiamine 65 WDG 60063-26
6/10/20	7	Quali-Pro 3D Herbicide 53883-378 PrimeraOne Prodiamine 65 WDG 60063-26
6/11/20	11	Quali-Pro 3D Herbicide 53883-378 PrimeraOne Prodiamine 65 WDG 60063-26
6/12/20	22	Quali-Pro 3D Herbicide 53883-378 PrimeraOne Prodiamine 65 WDG 60063-26

4. I spoke with Mr. Trent Urquhart. He stated he had been on staff with Greenway Lawn and Tree since April of 2020. He stated he did not realize he had to send in documentation to OISC, as he thought his license automatically transferred within the State of Indiana. He stated once he learned different during this investigation, they immediately sent proper documentation to OISC.
5. On June 18, 2020, I was contacted by the OISC Licensing Section and was advised the documents and fees for the transfer of Mr. Urquhart's Category 3B license had been received and he and Greenway Lawn and Tree were certified to conduct 3B business. I contacted Ms. Hendrix and advised her OISC had received the documents and the ACTION ORDER was lifted and they could resume Category 3B applications.


Robert D. Brewer
Investigator

Date: June 26, 2020

Disposition: Greenway Lawn and Tree Service was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid pesticide business license. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$375.00. Consideration was given to the fact Greenway Lawn and Tree Service cooperated during the investigation; corrective action was taken, and this was their first offense of similar nature.


George N. Saxton
Compliance Officer

Draft Date: October 1, 2020
Case Closed: February 2, 2021



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

This record was generated on **February 9, 2021, 11:00 AM EST**. Information displayed may contain errors or omissions.
Official records may only be obtained directly from the Office of Indiana State Chemist.

In Re: Case PS20-0183

Department	Pesticide
Originated	06/11/2020
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant Respondent	Aaron Key Patoka, IN 47666	
Respondent	Superior Ag Resources Co Op Princeton, IN 47670	Licensed Business
Respondent	Bobby Floyd Bean Princeton, IN 47670	Certified Applicator

Overviews

08/31/2020 Investigation Summary

Complainant stated Superior Ag of Patoka sprayed a field with dicamba that drifted onto the complainant's field designated as "Ford" field.

I met with the complainant at his soybean fields located near the intersection of Steelman Chapel Road and Pond Road in Gibson County, Indiana. The complainant stated he believed he had dicamba injury symptoms to his non-DT soybean field. The complainant advised he believed the field to the south of his field had dicamba applied to it. During my on-site investigation I did the following: Looked for, and found two potential sources of a growth regulator type herbicide application in the area. The target fields are located to the south and east of the complainant's non-DT soybean fields. The target field in this case is located to the south of the complainant's non-DT soybean field. In regards to other potential source of growth regulator type herbicide application located in the area reference case PS20-0255. 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 southeast corner 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 (PPDDL). Collected composite soil sample from the target fields. 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 20-00618 show cupped new leaves with whitish leaf tips. These symptoms are characteristic of exposure to dicamba. The symptoms, including leaf deformation, cupping, and white leaf tips are suggestive of exposure to a growth regulator. No significant disease observed.

I contacted Superior Ag Resources located in Patoka, Indiana. I spoke with branch manager Ike Belcher. I advised Mr. Belcher I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Belcher advised Superior Ag Resources made a pesticide application to the field to the south of the complainant's field. I advised Mr. Belcher I would be sending him via email a pesticide investigation inquiry to complete for the application and return to me. On June 29, 2020 I received a completed pesticide investigation inquiry from Mr. Belcher.

The OISC Residue Laboratory analyzed the off target gradient vegetation samples collected for the active ingredients acetochlor and imidacloprid and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredient imidacloprid in all three off target gradient vegetation samples. The active ingredient acetochlor was detected in only the off target gradient 1 vegetation samples. The active ingredient acetochlor was used in the tank mix for case PS20-0183. The active ingredient imidacloprid was used in the tank mix for case PS20-0255.

The wind data from the Lawrenceville-Vincennes International Airport (KLWW) indicates the wind speed during the application was between 7 and 8 mph with no gusts out of the south and east. According to the application record and wind data, during the application the wind was out of the south and east blowing towards the complainant's non-DT soybean field.

According to the application record and confirmed by the wind data from the Lawrenceville-Vincennes International Airport (KLWW), during the application the wind was out of the south and east and would have been blowing towards the complainant's non-DT soybean field. The label for *Engenia*, EPA Reg.# 7969-345, Active Ingredient = dicamba states: "**DO NOT apply when wind is blowing in the direction of neighboring sensitive crop**". The label for *Engenia*, EPA Reg.# 7969-345, Active Ingredient = dicamba list non-DT soybeans as a sensitive crop under the definition's section.

Submitted By: Nathan J. Davis
Role: Investigator

09/01/2020 **Disposition Summary**

Superior Ag was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for drift management violation by applying when winds were blowing towards sensitive crop. 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.

Bobby Bean was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for drift management violation by applying when winds were blowing towards sensitive crop. Consideration was given to the fact a restricted use pesticide was involved.

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

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

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/11/2020 **Intake Referral Filed**

Complainant stated Superior Ag of Patoka sprayed a field with dicamba that drifted onto the complainant's field designated as "Ford" field. Note the database does not show a Superior Ag as a pesticide business in Patoka.

Original Event: Intake Referral (Pesticide) #1376
Complainant: Aaron Key
Respondent: Unknown
Submitted By: George Saxton
Assigned To: Nathan J. Davis

06/11/2020 **Case Created**

Original Event: Case PS20-0183
Submitted By: George Saxton
Assigned To: Nathan J. Davis

06/17/2020 **Investigator Met with Complainant**

On June 17, 2020 I met with the complainant at his soybean fields located near the intersection of Steelman Chapel Road and Pond Road in Gibson County, Indiana. The complainant stated he believed he had dicamba injury symptoms to his non-DT soybean field. The complainant advised he believed the field to the south of his field had dicamba applied to it.

During my on-site investigation I did the following:

Looked for, and found two potential sources of a growth regulator type herbicide application in the area. The target fields are located to the south and east of the complainant's non-DT soybean fields. The target field in this case is located to the south of the complainant's non-Dt soybean field. In regards to other potential source of growth regulator type herbicide application located in the area reference case PS20-0255.

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 southeast corner 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 (PPDDL)

Collected composite soil sample from the target fields. 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 the on-site investigation.

Original Event: Investigation Activity (Pesticide) #1650
Location: Aaron Key
Subject: Aaron Key
Submitted By: Nathan J. Davis

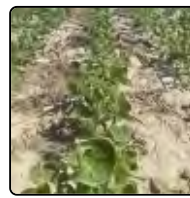
Photos:



File 47613



File 47614



File 47615



File 47610



File 47611



File 47612

06/17/2020 Residue Samples Collected

Original Event: Residue Collection #149069 (20-4-0323 0)
Client: Aaron Key
Submitted By: Nathan J. Davis
Sample: 20-4-0323 0 | Soil; Comp; 2-4"; Target Site, S
Sample: 20-4-0324 8 | Soil; Comp; 2-4"; Target Site, E
Sample: 20-4-0325 3 | Veg; Grab; Off Target, Grad1
Sample: 20-4-0326 9 | Veg; Grab; Off Target, Grad2
Sample: 20-4-0327 6 | Veg; Grab; Off Target, Grad3
Sample: 20-4-0328 2 | Veg; Grab; Off Target, N

06/17/2020 External Lab Sample Collected

Original Event: External Lab Sample Collection #149071 (X20-A100C4)
Client: Aaron Key
Submitted By: Nathan J. Davis
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X20-A100C4 | Enlist E3 Soybean

06/17/2020 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #294
Submitted By: Nathan J. Davis
Target Analyte: Engenia
Target Analyte: Roundup Powermax
Target Analyte: Warrant
Target Analyte: Xtendimax
Target Analyte: Roundup Powermax
Target Analyte: Advise Four
PPLS Labels: [001381-00219-20181101.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00219-20181101.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00219-20181101.pdf
[000524-00549-20200225.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf
[000524-00591-20180620.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00591-20180620.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00591-20180620.pdf
[000524-00617-20181105.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00617-20181105.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00617-20181105.pdf
[007969-00345-20181102.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00345-20181102.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00345-20181102.pdf

06/19/2020 Investigator Called Complainant

On June 19, 2020 I contacted the complainant in regards to the sprayer he shares with another farmer that he used to make the application to his field. The complainant advised that he and the farmer he shares the sprayer with use the same pesticide program for both of their farms. I asked the complainant if any dicamba containing pesticides were used by either farmer and he advised no they do not use any dicamba containing pesticides on either farm. Further, the complainant advised the day prior to spraying the field in the case he sprayed 300 acres with the same tank mix and those fields did not show any injury symptoms.

Original Event: Investigation Activity (Pesticide) #1763
Subject: Aaron Key
Submitted By: Nathan J. Davis

06/22/2020 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 20-00618 show cupped new leaves with whitish leaf tips.
These symptoms are characteristic of exposure to dicamba.

The symptoms, including leaf deformation, cupping, and white leaf tips are suggestive of exposure to a growth regulator. No significant disease observed.

Original Event: External Lab Report #149600 (X20-A100C4)
Submitted By: Nathan J. Davis
Sample: X20-A100C4

06/25/2020 **Investigator Called Business**

On June 25, 2020 I contacted Superior Ag Resources located in Patoka, Indiana. I spoke with branch manager Ike Belcher. I advised Mr. Belcher I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Belcher advised Superior Ag Resources made a pesticide application to the field to the south of the complainant's field. I advised Mr. Belcher 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) #1748
Subject: Superior Ag Resources Co Op
Submitted By: Nathan J. Davis

06/29/2020 **Investigator Received Fax/Email from Business**

On June 29, 2020 I received a completed pesticide investigation inquiry from Mr. Belcher for the application which indicated the following:

Certified Applicator: Bobby Bean
Application Date and Time: June 1, 2020, 11:00am to 12:00pm
Pesticide Applied:
Engenia, EPA Reg.# 7969-345, Active = dicamba, 12.8oz/acre
Roundup Powermax, EPA Reg.# 524-549, Active = glyphosate, 40oz/acre
Warrant, EPA Reg.# 524-591, Active = acetochlor, 3pt/acre
Adjuvants: On Target, Class Act Ridion, Destiny
Target Field Location and Size: Wietzul Bottoms, 40 Acres
Wind Blowing from Which Direction: Start- SSE, End- SSE
Wind Speed at Boom Height: Start- 7mph, End- 7mph
Nozzle and Pressure: Hydro ULD005, 40-45psi
Boom Height: 24 inches
Size of in-field downwind buffer: None

Pesticide Investigation Inquiry

Completed pesticide investigation inquiry received on June 29, 2020.

Original Event: Investigation Activity (Pesticide) #1749
Subject: Superior Ag Resources Co Op
Respondent: Bobby Floyd Bean
Submitted By: Nathan J. Davis

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 acetochlor and imidacloprid and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredient imidacloprid in all three off target gradient vegetation samples. The active ingredient acetochlor was detected in only the off target gradient 1 vegetation samples. The active ingredient acetochlor was used in the tank mix for case PS20-0183. The active ingredient imidacloprid was used in the tank mix for case PS20-0255.

Original Event: Residue Lab Report #154953 (149069-R261)
Submitted By: SYSTEM
Lab Report: Lab Report 149069-R261.pdf

08/31/2020 **Online Investigation Activity**

Weather Data

Weather history data was obtained at www.wunderground.com from the the closest official weather station to the application site. The location and weather data for June 1, 2020 follows:

Lawrenceville-Vincennes International Airport (KLWW) located in Lawrenceville, Illinois 23 miles to the northwest of the application site:

Time/Temperature/Wind Direction/Wind Speed/Wind Gust

10:53 AM Unavailable S 7 mph 0 mph

11:53 AM Unavailable SE 8 mph 0 mph

The wind data from the Lawrenceville-Vincennes International Airport (KLWW) indicates the wind speed during the application was between 7 and 8 mph with no gusts out of the south and east.

According to the application record and wind data, during the application the wind was out of the south and east blowing towards the complainant's non-DT soybean field.

Original Event: Investigation Activity (Pesticide) #2095
Subject: Bobby Floyd Bean
Submitted By: Nathan J. Davis

08/31/2020 Wind Data Researched

The wind data from the **Lawrenceville-Vincennes International Airport (KLWW)** indicates the wind speed during the application was between 7 and 8 mph with no gusts out of the south and east.

According to the application record and wind data, during the application the wind was out of the south and east blowing towards the complainant's non-DT soybean field.

Lawrenceville-Vincennes International Airport (KLWW)

Lawrenceville, Illinois (23 miles NW of site)

Time	Direction	Speed (mph)	Gust (mph)
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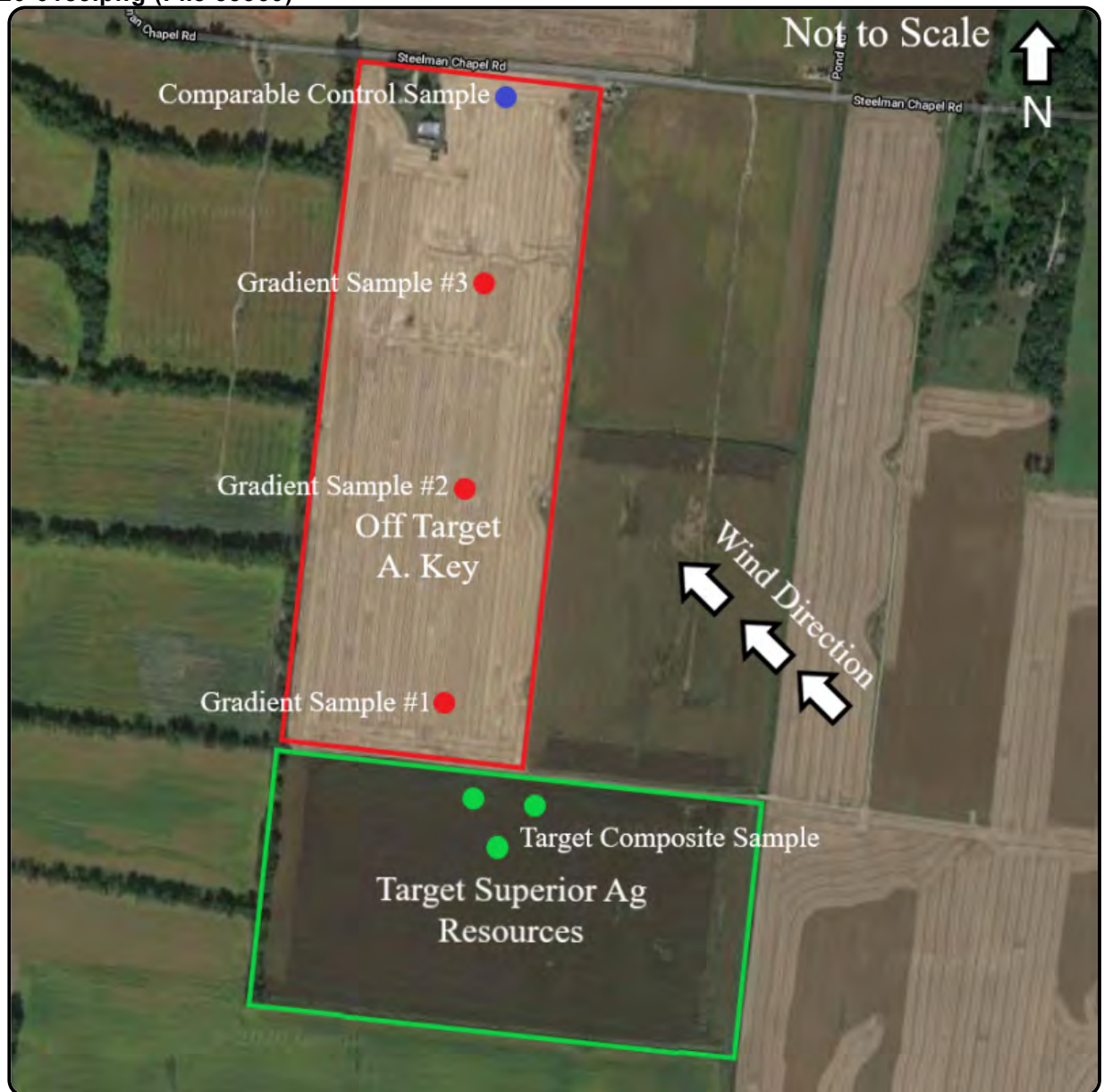
10:53AM	S	7	0
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11:53AM	SE	8	0
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Original Event: Wind Data #7
Submitted By: Nathan J. Davis
Date of Weather: 06/01/2020

08/31/2020 Online Investigation Activity Photographs

An aerial diagram including wind direction, property lines, and where soil and vegetation samples were taken from.



Original Event:	Investigation Activity (Pesticide) #2096
Subject:	Bobby Floyd Bean
Submitted By:	Nathan J. Davis
Attachments:	File 53360; PS20-0183.png

08/31/2020 Online Investigation Activity

According to the application record and confirmed by the wind data from the Lawrenceville-Vincennes International Airport (KLWW), during the application the wind was out of the south and east and would have been blowing towards the complainant's non-DT soybean field. The label for *Engenia*, EPA Reg.# 7969-345, Active Ingredient = *dicamba* states: "**DO NOT apply when wind is blowing in the direction of neighboring sensitive crop**". The label for *Engenia*, EPA Reg.# 7969-345, Active Ingredient = *dicamba* list non-DT soybeans as a sensitive crop under the definition's section.

Original Event:	Investigation Activity (Pesticide) #2097
Subject:	Bobby Floyd Bean
Submitted By:	Nathan J. Davis

09/01/2020 Judgement; Civil Penalty Assessed Citation

Bobby Bean was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for drift management violation by applying when winds were blowing towards sensitive crop. Consideration was given to the fact a restricted use pesticide was involved.

Citation

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

Citation

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

Civil Penalty

Superior Ag was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for drift management violation by applying when winds were blowing towards sensitive crop. 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 #557
Primary:	Superior Ag Resources Co Op
Secondary:	Bobby Floyd Bean
Submitted By:	George Saxton
Legal Citations:	IC 15-16-5-65(2); 357 IAC 1-12-2
Penalty Amount:	250

11/13/2020 Compliance Activity

Attorney Rafael Garcia requested all documents wherein his client Aaron Key was the complainant.

Original Event:	Compliance Activity #671
Primary:	Aaron Key
Submitted By:	George Saxton

11/17/2020 Notice of Enforcement Mailed to Target

Original Event:	Outgoing Mail #613
To:	Superior Ag Resources Co Op
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0561
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 58048; PS20-0183EL~CP~Superior Ag--Bobby Bean.doc

12/10/2020 Received Penalty Payment for Target

Original Event:	Compliance Receipt #868
Subject:	Superior Ag Resources Co Op
Submitted By:	Joni Herman
Payment Expected:	\$250.00
Payment Received:	\$250.00
Attachments:	File 60133; PS20-0183~SuperiorAgResources~CP Received.pdf

01/04/2021 Received Mail Confirmation for Target

Original Event:	Compliance Receipt #790
Subject:	Superior Ag Resources Co Op
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0561
Received:	11/25/2020
Attachments:	File 59757; CM 7018 0040 0000 3553 0561.pdf

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Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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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

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In Re: Case PS20-0191

Department	Pesticide
Originated	06/15/2020
Assigned To	Kevin Gibson
Status	Closed

Involved Parties

Complainant	John Boener Plymouth, IN 46563
Respondent	Ancilla Beef and Grain Plymouth, IN 46563
Respondent	Crop Fertility Specialists Kewanna, IN 46939
Respondent	Adam Michael Luhnnow Kewanna, IN 46939

Overviews

07/10/2020 **Investigation Summary**

Complainant Amanda Boener reported to the Office of Indiana State Chemist (OISC) a neighboring farmer made a pesticide application on 5/31/20 that adversely affected her garden and trees.

I met with complainant Amanda Boener at her property. I took photographs and environmental samples for the Purdue Plant and Pest Diagnostic Lab (PPDL) and the OISC Residue Lab for analysis.

I learned Crop Fertility Specialists licensed pesticide applicator Adam Luhnnow made a pesticide application to the field south of the complainant's property. Mr. Luhnnow sent a completed Pesticide Investigation Inquiry (PII) for OISC records.

Based on the completed PII, Mr. Luhnnow made a pesticide application of Durango (EPA # 62719-556; active ingredient: glyphosate); AAtrex (EPA #100-497-55467; active ingredient: atrazine) and Staunch (EPA #62719-679-55467; active ingredient: flumetsulam, clopyralid, acetochlor) on 6/1/20 while the wind was blowing toward the complainant's property.

Submitted By: Kevin Gibson
Role: Investigator

07/10/2020 **Disposition Summary**

Crop Fertility Specialists and Adam Luhnnow 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.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/15/2020 **Intake Referral Filed**

Complainant stated that on May 31, 2020, Respondent made a pesticide application that adversely affected their garden and trees.

Original Event: Intake Referral (Pesticide) #1384
Complainant: John Boener
Respondent: Ancilla Beef and Grain
Submitted By: George Saxton
Assigned To: Kevin Gibson
Attachments: File 46994; complaint_form 5-31-2020.pdf

06/15/2020 **Investigator Called Complainant**

I spoke to complainant Amanda Boener by telephone. She told me two pesticide applications were made to the field immediately south of her property. She believed both pesticide applications drifted onto her property because the wind was blowing toward her house at the time of the applications. She was told the application was roundup (glyphosate) on both occasions. We set a date of 6/16/20 for a site visit and investigation.

Original Event: Investigation Activity (Pesticide) #1613
Subject: John Boener
Submitted By: Kevin Gibson

06/15/2020 **Case Created**

Original Event: Case PS20-0191
Submitted By: George Saxton
Assigned To: Kevin Gibson

06/16/2020 **Investigator Met with Complainant**

I met with complainant Amanda Boener at her residence. She told me a pesticide application was made on 5/31/20. I told her I had discussions with the company which made the application. They reported the application taking place on 6/1/20 by their log books. Ms. Boener stated she was going by the time stamp on her camera when she took video of the event. After looking at her camera she told me the time stamp seemed a "little off" so it could have been 6/1/20 and not 5/31/20. In explaining what occurred on the application date (6/1/20), she said it was a very windy day and the wind was blowing toward her property at the time of the application. A few days after the application, she noticed some small "bleaching spots" on the leaves of the vegetation on her property. Therefore she decided to contact OISC to file a complaint.

I checked her property for pesticide exposure symptoms. I did find small "bleaching spots" on the leaves of vegetation on her property.

I took photographs of the "spotting". The "spots" were found on the lilac bushes, garden vegetation and grape vine leaves.

I obtained vegetation samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDL) for analysis.

I also took environmental samples for submission to the OISC Residue Lab for analysis.

Photographs

I took photographs of various vegetation on the complainant's property. I also obtained vegetation samples for submission to Purdue Plant and Pest Diagnostic Lab (PPDL).

Original Event: Investigation Activity (Pesticide) #1630
Location: John Boener
Subject: John Boener
Submitted By: Kevin Gibson
Photos:



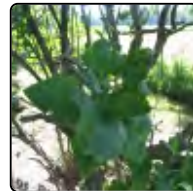
File 47204



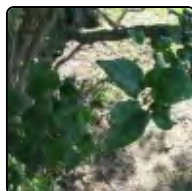
File 47205



File 47206



File 47207



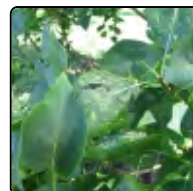
File 47208



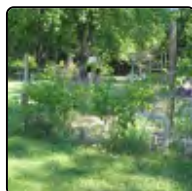
File 47209



File 47210



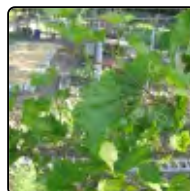
File 47211



File 47212



File 47213



File 47214



File 47215



File 47216



File 47219

06/16/2020 External Lab Sample Collected

None

Original Event: External Lab Sample Collection #148809 (X20-B29B4E)
 Client: John Boener
 Submitted By: Kevin Gibson
 Lab: Purdue Plant and Pest Diagnostic Laboratory
 Sample: X20-B29B4E | I Collected samples of two (2) different lilac bush leaves, grape vine leaves for submission to PPDL for analysis.

Photos:



File 47227

06/16/2020 Residue Samples Collected

Original Event: Residue Collection #148813 (20-4-0855 4)
 Client: John Boener
 Submitted By: Kevin Gibson
 Sample: 20-4-0855 4 | Veg; Ctrl; Front Yard
 Sample: 20-4-0856 5 | Veg; Comp; Garden, Grad1, 45yd
 Sample: 20-4-0857 7 | Veg; Comp; Back Yard, Grad2, 18yd
 Sample: 20-4-0858 3 | Veg; Comp; Back Yard, Grad3, 3yd
 Sample: 20-4-0859 6 | Soil; Grab; 2-4"; Target Site

06/17/2020 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #290
 Submitted By: Kevin Gibson
 Target Analyte: Staunch II
 Target Analyte: Atrazine
 Target Analyte: Durango
 PPLS Labels: [000100-00497-20121121.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-00497-20121121.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-00497-20121121.pdf
[062719-00556-20190306.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00556-20190306.pdf)
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https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20140227.pdf

Photos:



File 47556



File 47557

06/18/2020 Investigator Received Fax/Email from Applicator

I received an email from applicator Adam Luhnow with a Pesticide Investigation Inquiry (PII) attached.

Pesticide Investigation Inquiry

Received a PII from applicator Adam Luhnow. He reported he made an application of Staunch II (EPA# 62719-679-55467; active ingredient acetochlor, clopyralid, flumetsulam), Atrazine (EPA# 100-497-55647; active ingredient: atrazine) and Durango (EPA# 62719-556; active ingredient: glyphosate) on 6-1-20 between 10:45am and 12:45pm. He recorded the wind from the SSW at 13-10 mph blowing in a NNE direction toward the complainant's property.

Original Event: Investigation Activity (Pesticide) #1657
 Subject: Crop Fertility Specialists
 Submitted By: Kevin Gibson

Photos:



File 47498



File 47499



File 47500



File 47501

06/22/2020 **Received Residue Lab Report**

Lab Remarks

Released 6/22/2020

Investigatory Summary

Applicator Adam Luhnnow violated the label for Durango (62719-556; glyphosate) when he applied it while the wind was blowing at 13 mph toward the complainant's property at time of application.

Original Event: Residue Lab Report #149659 (148813-R214)
Submitted By: SYSTEM
Lab Report: Lab Report 148813-R214.pdf

06/22/2020 **Received External Lab Report**

One plant in the physical sample shows light stem twisting and leaf droop that resembles exposure to a synthetic auxin herbicide such as clopyralid (one of the active ingredients in Surestart) All other plants had no symptoms of herbicide exposure. (Marcelo Zimmer).

The small single-stem plant had powdery mildew on the leaves. The lilac had dieback that is probably caused by a fungus (Botryosphaeria), although some old bacterial canker may be present. The new growth on the lilac may have been injured by insect feeding. The grape had some minor insect damage but no disease was found (Tom Creswell)

Original Event: External Lab Report #150215 (X20-B29B4E)
Submitted By: Kevin Gibson
Sample: X20-B29B4E
Attachments: File 48133; PPDL Final Report.pdf

07/10/2020 **Online Investigation Activity**

I collected weather information documented above.

Weather Data

NOAA weather for South Bend Airport recorded the wind blowing at 9-11 miles per hour (mph) in a NNE direction toward the complainant's property on 6/1/20 between 10:45am and 12:45pm.

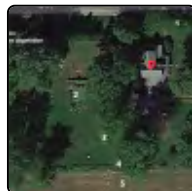
Fulton County Airport recorded the wind blowing at 7 mph in a NNE direction toward the complainant's property on 6/1/20 between 10:45am and 12:45pm.

Warsaw Airport recorded the wind blowing at 3-5 mph in a NNE direction toward the complainant's property on 6/1/20 between 10:45am and 12:45pm.

Valparaiso Airport recorded the wind blowing at 8-13 mph in a NNE direction toward the complainant's property on 6/1/20 between 10:45am and 12:45pm.

Original Event: Investigation Activity (Pesticide) #1803
Submitted By: Kevin Gibson
Attachments: File 48754; AAtrex 4L (Atrazine).pdf
File 48753; Durango DMA.pdf
File 48751; Fulton County Weather (6-1-20).pdf
File 48748; South Bend weather (6-1-20).pdf
File 48752; Staunch II Herb 09-14.pdf
File 48749; Valparaiso weather (6-1-20).pdf
File 48750; Warsaw weather (6-1-20).pdf

Photos:



File 48755

07/10/2020 **Judgement; Civil Penalty Assessed**

Citation

Adam Luhnnow 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 this was his first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Civil Penalty

Crop Fertility Specialists 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 #519
Primary:	Crop Fertility Specialists
Secondary:	Adam Michael Luhnnow
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(2)
Penalty Amount:	250

10/27/2020 Notice of Enforcement Mailed to Target

Original Event:	Outgoing Mail #581
To:	Crop Fertility Specialists
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 2688
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 57440; PS20-0191EL~ CP ~ CropFertilitySpecialist--Adam Luhnnow.doc

11/12/2020 Received Penalty Payment for Target

Original Event:	Compliance Receipt #859
Subject:	Crop Fertility Specialists
Submitted By:	Joni Herman
Payment Expected:	\$250.00
Payment Received:	\$250.00
Attachments:	File 60120; PS20-0191~CropFertilitySpecialists~CP Received.pdf

12/03/2020 Received Mail Confirmation for Target

Original Event:	Compliance Receipt #731
Subject:	Crop Fertility Specialists
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 2688
Received:	11/05/2020
Attachments:	File 58798; CM 7018 0040 0000 3553 2688.pdf

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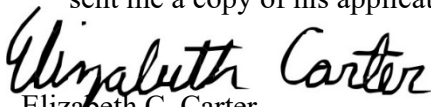
CASE SUMMARY

Case #PS20-0199

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


Respondent: River Pointe Country Club
David Miloshoff Unlicensed
6700 Country Club Road
Hobart, IN 46342

1. In February of 2020, the Office of the Indiana State Chemist (OISC) sent a certified letter to River Pointe Country Club regarding a licensing issue; no certified applicator at the golf course. David Miloshoff had been the previous certified applicator at the course.
2. In June of 2020, the Licensing Section of the OISC contacted the Compliance Officer of the OISC to report that River Pointe Country Club still did not have a licensed applicator.
3. On July 7, 2020, I called River Pointe Country Club and spoke with Mr. James Skolosky. I requested Mr. Skolosky send me the pesticide application records for River Pointe Country Club.
4. The following day, Mr. Skolosky texted me the records because of issues he was having with his email. The application records listed both Skolosky and Miloshoff as applicators. Pesticide applications were made on the following dates: April 1, April 3, April 21, May 16, June 6, June 18, June 28, and July 8. The complete records can be found in the case file.
5. On July 20, 2020, I spoke with Mr. Miloshoff regarding the situation. He stated he thought he was licensed with both White Hawk Golf Course and River Pointe Country Club. He told me both golf course had the same owner, and he worked with both. I asked him to please send me a copy of his pesticide applicator license then.
6. After further review, Mr. Miloshoff acknowledged he only had an applicator license at White Hawk Golf Course. We then discussed how he could renew his license at River Pointe. That same day, Mr. Miloshoff sent me a copy of his application form and check to be mailed to the OISC.


Elizabeth C. Carter
Investigator

Date: July 21, 2020

Disposition: River Pointe Country Club and David Miloshoff were cited for eight (8) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for using or supervising the use of a pesticide on a golf course without having a category 3b commercial applicator license. A civil penalty in the amount of \$2,000.00 (8 counts x \$250.00 per count) was assessed. However, the civil penalty was held in abeyance and not assessed provided River Pointe Country Club commits no further violations of the Indiana Pesticide Use and Application Law within the next two (2) years.


George N. Saxton
Compliance Officer

Draft Date: November 3, 2020
Case Closed: April 5, 2021

CASE SUMMARY

Case #PS20-0202

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

Respondent: Daniel Irons
Tom White
Country Club of Indianapolis
2801 Country Club Road
Indianapolis, Indiana 46234

Unlicensed Applicator
Non-Credentialed Applicator

1. On April 15, 2020, I was reviewing the license status of Dye's Walk Country Club and noticed that their certified applicator had recently transferred from Country Club of Indianapolis (CCI). I then reviewed the licensing status of CCI and noticed that they did not have a licensed applicator. I then contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to inform him of CCI's licensing status.
2. On June 16, 2020, I, accompanied by Agent Becovitz, initiated a licensing and golf course inspection at CCI. We met with Daniel Irons, the superintendent, and informed him that it appeared the course did not have a certified applicator. Mr. Irons informed us that he had passed the core and 3b exams and believed that he was in good standing with OISC. I explained to Mr. Irons that he apparently failed to apply for his license after passing both exams. I then issued Mr. Irons an Action Order to "*not make pesticide applications until license requirements are met.*"
3. During the inspection I asked Mr. Irons when he began working for CCI. He informed me that he started at CCI in February of 2020. This led me to ask for pesticide application records dating back to February of 2020. The dates of pesticide applications are as follows:

March 23, 2020	May 11, 2020	June 11, 2020
April 8, 2020	May 27, 2020	June 16, 2020
April 9, 2020	May 29, 2020	
April 20, 2020	June 1, 2020	

The records showed that 10 pesticide applications took place while Mr. Irons did not have a license.

4. While we were performing the inspection, Agent Becovitz and I observed non-credentialed applicator, Tom White, park the sprayer to the northeast of the maintenance facility and open the tank drain. A green liquid was pouring out and began running downhill towards a pond on the property of CCI. As soon as Mr. Irons noticed what was happening, he closed the drain on the spray tank. The sprayer discharge can be seen in Figures 1-3.



Figure 1



Figure 2



Figure 3

5. I collected the following sample:

A. Spill Soil Sample

This sample was submitted to the OISC residue lab but not analyzed pending the conclusion of this case. The location where this sample was collected can be seen in Figure 4.



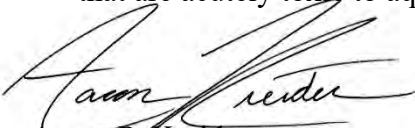
Figure 4

6. I asked Mr. Irons what products had been in the spray tank prior to the dumping. He informed me that the contents of the tank consisted of the following:
 - A. Tebuconazole 3.6F (EPA Reg. #66222-117, active ingredient tebuconazole)
 - B. Manicure 6FL (EPA Reg. #60063-7-10404, active ingredient chlorothalonil)
 - C. Optimizer Green Shade (Pigment)
 - D. Dispatch (Wetting Agent)
 - E. NOS 46-0-0 (Fertilizer)
7. On June 16, 2020, A representative of CCI contacted OISC via email to inform us that the license application and payment had been mailed. This email also included an attachment containing a copy of the license application and of a check.
8. On June 22, 2020, I was notified by the Licensing Division of OISC that Daniel Irons fulfilled the licensing requirements and was in good standing with OISC.
9. On June 29, 2020, I received application records from Mr. Irons. These application records included the application from the day Agent Becovitz and I were there to perform the inspection. This application record confirms what Mr. Irons stated was in the spray tank when it was dumped. The application record can be seen in Figure 5.

The Country Club of Indianapolis				
Chemical & Fertilizer Records Sheet				
Area Treated:		Fairways	Date: 6/16/2020	
Size of Area:		24 Acres	Turf Type: Bent	
Target Pest:		Fungi		
Chemicals:				
Products:		Rate:		Amount:
Nos		10 lbs/A		60 lbs/T
Secure		25 oz/A		150 oz/T
Manicure		1 gal/A		6 gal/T
Tebuconazole		25 oz/A		150 oz/T
Dispatch		16 oz/A		96 oz/T
Sprayer:				
Make/Model:	Toro 5600	Calibration:	50 GPA	Nozzles:
Spreader:				
Make/Model:		Setting:		Width:
Tractor:				
Make/Model:		MPH:		Gear:
Weather:				
Temp H/L:	88/61	Wind:	SW 4 MPH	Humidity:
				77%
Notes:				
2 tanks with secure				
2 tanks with tebuconazole/manicure				
Applicator:	Tom White			
Supervisor:	Daniel Irons			

Figure 5

10. The Manicure 6FL label under the Storage and Disposal section states, “**PESTICIDE DISPOSAL:** Pesticide wastes are toxic. Open dumping is prohibited. Improper disposal of excess pesticide, pesticide spray or rinsate is a violation of Federal law. If these wastes cannot be disposed of by use according to label instructions, contact your State Pesticide or Environmental Control Agency, or the Hazardous Waste representative at the nearest EPA Regional Office guidance.”
11. Although unintentional, it appears CCI was in violation of the Golf Course Rule by making pesticide applications without a licensed certified applicator. This violation is mitigated by the fact that Mr. Irons had passed the core and category exams but had failed to follow through and obtain his license. Of more concern was the dumping adjacent to a pond of two fungicides that are acutely toxic to aquatic invertebrates.



Aaron P. Kreider
Investigator

Date: August 18, 2020

Disposition: Daniel Irons and Country Club of Indianapolis were cited for ten (10) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC for using or supervising the use of a pesticide on a golf course without having a category 3b commercial applicator license. A civil penalty in the amount of \$2,500.00 (10 counts x \$250.00 per count) was assessed. However, the civil penalty was held in abeyance and not assessed for two years provided Daniel Irons and Country Club of Indianapolis commit no further violations of the Indiana Pesticide Use and Application Law. Consideration was given to the fact Mr. Irons cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and a good-faith effort to comply.

Tom White and Country Club of Indianapolis were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding disposal of a pesticide. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for environmental harm.



George N. Saxton
Compliance Officer

Draft Date: August 21, 2020
Case Closed: February 8, 2021

CASE SUMMARY

Case #PS20-0207

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

Respondent: Keegan A. Gray Unlicensed Applicator
Dye's Walk Country Club
2080 South State Road 135
Greenwood, Indiana 46143

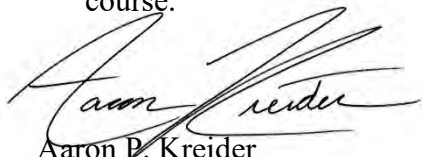
1. On April 15, 2020, Agent Kreider became aware that Dye's Walk Country Club (DWCC) did not have a licensed applicator. He then reported this to the Compliance Officer of the Office of Indiana State Chemist (OISC).
2. On June 16, 2020, Agent Becovitz and myself visited DWCC to perform a routine inspection. We met with the current superintendent Keegan Gray. I informed Mr. Gray that he did not have a license to make pesticide applications to the golf course. I then issued an Action Order for Mr. Gray to stop making pesticide applications until license requirements are met. Agent Becovitz and I then conducted the golf course inspection.
3. During the inspection, Mr. Gray informed us that he began working at DWCC in October of 2019. Since Mr. Gray had not been licensed since October, I ask to see the golf course pesticide application records dating back to October of 2019. The dates when pesticides were applied are as follows:

December 6, 2019	April 3, 2020	April 21, 2020
March 17, 2020	April 4, 2020	May 5, 2020
March 24, 2020	April 5, 2020	May 19, 2020
March 26, 2020	April 6, 2020	May 23, 2020
March 30, 2020	April 7, 2020	May 26, 2020
April 2, 2020	April 8, 2020	June 1, 2020

These dates show that there were 18 days of applications without a pesticide applicators license.

4. On June 16, 2020, Mr. Gray contacted the OISC Licensing Division to determine what was needed to obtain a pesticide applicators license. He then mailed in a license application along with payment.

5. On June 25, 2020, I received an email from the OISC Licensing Division informing me that Mr. Gray was in good standing with OISC and able to make pesticide applications to the golf course.



Aaron P. Kreider
Investigator

Date: August 17, 2020

Disposition: Keegan A. Gray and Dye's Walk Country Club were cited for eighteen (18) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticide on a golf course without having a category 3b commercial applicator license. A civil penalty in the amount of \$4,500.00 (18 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,350.00. Consideration was given to the fact Mr. Gray cooperated during the investigation; corrective action was taken and there was no previous history of similar nature.



George N. Saxton
Compliance Officer

Draft Date: November 23, 2020
Case Closed: February 8, 2021

CASE SUMMARY

Case #PS20-0209

Complainant: Brad Hickman
208 Clyde Avenue
Angola, IN 46703

Respondent: Matthew Ridenour
3485 E. CR 20 North
Angola, IN 46703

Private Applicator

1. On June 17, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that pesticide application to a neighboring field either drifted or was intentionally sprayed on his property just outside of Angola. The complainant believed Holman Farms owns the ground and likely made the application.
2. On June 18, 2020, I contacted Brad Hickman and let him know I was forwarded the email correspondence he had with the OISC Compliance Officer. Mr. Hickman reported that grass and vegetation at a small property he owns east of town were again affected by an application to the neighboring field. He indicated he has had issues from both fields which border his property but the field to the south appears to be the source of the problem this year. I later determined the field to the south was being farmed by Ridenour Farms.
3. On June 22, 2020, I met Mr. Hickman at his property on the west side of CR100E in Steuben County. Grass on the south side of his property along the field was chlorotic in swaths coming from the field. Flowers and raspberry plants on the south side of the property also exhibited minor leaf discoloration and necrosis. The property line was not clearly marked but it was evident the herbicide application made to the field was the source of the symptoms observed. Mr. Hickman indicated he just wanted the applicator to be more careful around his property. I told him I would follow up with the applicator and we agreed collection of plant samples was not necessary. I photographed the site, documenting the proximity of the field and the swaths observed on the Hickman property.

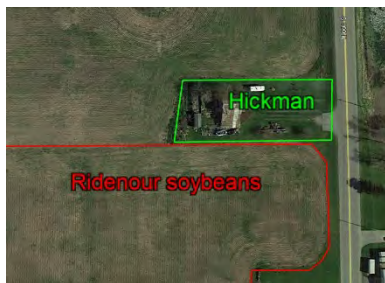


Fig.1 Aerial photo of site



Fig.2 Corner of field, looking west




Fig.3 Field and swath, looking east

4. I contacted Matt Ridenour and informed him of the complaint. He confirmed he sprayed the field south of the Hickman property and, while attempting to line up the sprayer in the corner of the field, lost track of the boom position; that ultimately resulted in herbicide being sprayed

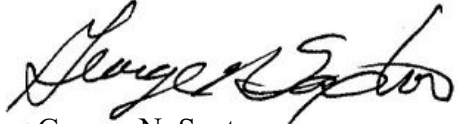
on the Hickman property. Mr. Ridenour later provided application information which indicated he applied Corvus (EPA Reg. #264-1066, Thiencarbazone-methyl and Isoxaflutole) and Atrazine (EPA Reg. #19713-76) from 11am-1130am on June 1, 2020. According to the information provided, winds were out of the southwest, blowing toward the Hickman property, at 6mph during the application.

5. While winds speeds were not excessive, the Corvus label, reads, in part, **“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).”**


Andrew R. Roth
Investigator

Date: October 29, 2020

Disposition: Matthew Ridenour 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 restricted use pesticides were involved.


George N. Saxton
Compliance Officer

Draft Date: February 5, 2021
Case Closed: April 5, 2021



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

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Official records may only be obtained directly from the Office of Indiana State Chemist.

In Re: Case PS20-0218

Department	Pesticide
Originated	06/22/2020
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Complainant	Robert Malone Brazil, IN 47834
Respondent	Outdoor Recreation Club Brazil, IN 47834
-	INCIDENTAL Larry Clark Brazil, IN 47834
-	Brian Owens Brazil, IN 47834

Overviews

08/03/2020 **Investigation Summary**

On June 22, 2020, I spoke with Mr. Malone, who reported that the lake where his residence receives its water from was treated with the pesticide Diuron, which is not to be used in water. Outdoor Recreation Club Inc. owns and maintains the lake, including the pond's pesticide treatments.

On June 23, 2020, I spoke with Outdoor Recreation Club Inc. Treasurer, Brian Owens. Mr. Owens confirmed Diuron and copper sulfate were used to treat their lake but he did not want to identify the individuals involved. Mr. Owens stated the club was not aware that they could not use Diuron in water.

On June 24, 2020, I met with Mr. Malone at his residence, where I observed and photographed the properties in question. I also collected water and soil samples from the lake.

I then met with Mr. Owens at Outdoor Recreation Club Inc., where he showed me the Diuron products used to treat the lake. Mr. Owens stated that there had been four, five pound bags of Diuron and one and a half, 50 pound bags of copper sulfate to treat the approximately 48 acres of water. Mr. Owens stated Outdoor Recreation Club Inc. did not want to identify the individuals involved in the lake's application of Diuron and that the club had agreed to take responsibility for the incident as an organization.

On July 7, 2020, I received the lab report from the OISC Residue Lab, which showed that all samples I collected and submitted to the lab had tested positive for Diuron.

I reviewed the labels for Alligare Diuron 80DF (EPA Reg. #81927-12) and Karmex DF (EPA Reg. #66222-51). It stated under the "Environmental Hazards" section on both of the above pesticides, "Do not apply directly to water, or to areas where surface water is present, or to intertidal areas below the mean high water mark."

Submitted By: James M. Trimble
Role: Investigator

10/09/2020 **Disposition Summary**

Seelyville Recreation Center was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide to a body of water contrary to label instructions. A civil penalty in the amount of \$250.00 was assessed for this violation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/22/2020 Intake Referral Filed

Complainant gets his drinking water from a lake shared by a few other residents and the Seelyville Recreation Center. Complainant stated he observed members of the recreation center treating the lake for weeds on June 13 around 6 pm. Members stated they were applying copper sulfate and diuron. Complainant is concerned about using the water from the lake drinking, bathing and swimming.

Original Event: Intake Referral (Pesticide) #1418
Complainant: Robert Malone
Respondent: Outdoor Recreation Club
Entered By: Joseph Becovitz
Submitted By: Joseph D. Becovitz
Assigned To: James M. Trimble

06/22/2020 Investigator Called Complainant

On June 22, 2020, I spoke with Mr. Malone, via telephone, who reported that the pond where his residence receives its water from was treated with a product not to be used in water. Mr. Malone stated the pond is approximately 10 acres and is owned and maintained by a recreation club.

Mr. Malone stated he had come home on Friday, June 12 or Saturday, June 13 to find a few men on a pontoon boat treating the pond by the pontoon dragging bags in the water and broadcasting a substance in the water. Mr. Malone stated he had asked the men what they were doing, which they confirmed to him they were treating the pond. Mr. Malone stated the men advised him they were using copper sulfate to treat the pond. Mr. Malone described both men as being older, with one being heavy-set and wearing shorts.

Mr. Malone stated the club was aware that he gets his water from the pond and they have previously notified him of when the pond was going to be treated and were careful with what they use for the pond's treatment but he had not been notified of this treatment. Mr. Malone stated he had spoken with the club's President, Larry Clark, after he witnessed the pond's treatment. Mr. Malone stated Mr. Clark advised a few of the club's members had took it upon themselves to treat the pond and he was not aware that they were going to do it. Mr. Malone stated Mr. Clark informed him he believed the pond was treated with copper sulfate and Diuron, as that is what he had found in the club's work shed. It is not known who had completed the application to the pond at this time.

Mr. Malone stated he found Diuron was not to be used in water and he is concerned for the health of him and his family, as the drinking water could be contaminated.

Original Event: Investigation Activity (Pesticide) #1694
Subject: Robert Malone
Submitted By: James M. Trimble

06/22/2020 Complainant Sent Text Message to Investigator Evidence From Subject

Mr. Malone sent me a text message of the picture Larry Clark had sent him of the pesticide Mr. Clark had found in the club's work shed and what was believed to have been used to treat the pond.

Original Event: Investigation Activity (Pesticide) #1695
Subject: Robert Malone
Submitted By: James M. Trimble
Attachments: File 47804; diuron.pdf
Photos:



File 47803



File 47802

06/22/2020 Case Created

Original Event: Case PS20-0218
Submitted By: Joseph Becovitz
Assigned To: James M. Trimble

06/23/2020 Investigator Called Subject

On June 23, 2020, I spoke with Outdoor Recreation Club Inc. President, Larry Clark, who advised me became aware of the treatment to their lake by Mr. Malone. Mr. Clark stated he was supposed to be notified of any treatment to the lake but he did not receive any notification that a treatment was planned or had been completed by the members of their club. Mr. Clark stated he could not identify the individuals who had treated the lake. Mr. Clark stated he had found an empty bag of Alligare Diuron 80DF in their maintenance garage and believed that was the product used to treat the lake. Mr. Clark stated he had taken a picture of the product and sent it to Mr. Malone.

Mr. Clark gave me the contact information for the club's Treasurer, Brian Owens, who he believed had more information regarding the application and would be able to meet me at the lake.

Original Event: Investigation Activity (Pesticide) #1718
Subject: Larry Clark
Respondent: Outdoor Recreation Club
Submitted By: James M. Trimble

06/23/2020 **Investigator Called Subject**

On June 23, 2020, I spoke with Outdoor Recreation Club Inc. Treasurer, Brian Owens, via telephone. Mr. Owens confirmed Diuron and copper sulfate was used to treat their lake. Mr. Owens stated four or five people had treated the lake but he did not want to identify the individuals involved. Mr. Owens stated they had bought the copper sulfate and Diuron from a local store and it was not known that they could not use Diuron to treat their pond. Mr. Owens stated they were not aware that the application to their pond was off-label until they were notified by Mr. Malone. Mr. Owens stated he had collected water samples from the lake and had taken them to the Indiana State Department of Health for testing, as they were trying to rectify the situation.

Mr. Owens stated he would meet me at the lake on the following day.

Original Event: Investigation Activity (Pesticide) #1719
Subject: Brian Owens
Submitted By: James M. Trimble

06/24/2020 **Investigator Met with Complainant**

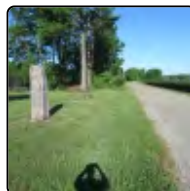
On June 24, 2020, I met with Mr. Malone at his residence to conduct my on-site investigation. During my on-site investigation, I observed and photographed the lake in question, the residence's proximity to the lake, and the land surrounding the properties. I observed the largest body of water that was referred to as the lake had smaller bodies of water that were connected by culverts, ditches, and creeks. Mr. Malone's water pump inlet, where he draws the residence's water from, is from one of the described smaller bodies of water connected to the main lake by several of the above means.

I collected water samples from the lake's main body of water, located west of Mr. Malone's residence. I also collected four soil samples from the water's banks, one from the small body of water where Mr. Malone receives his water from and the other three from the main body of water. All samples were submitted to the OISC Residue Lab for analysis. (see collection map)

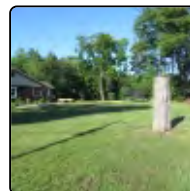
Original Event: Investigation Activity (Pesticide) #1699
Subject: Robert Malone
Submitted By: James M. Trimble
Photos:



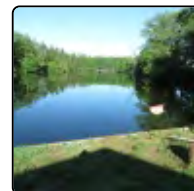
File 48041



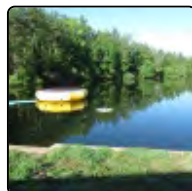
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File 48024



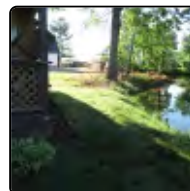
File 48025



File 48026



File 48027



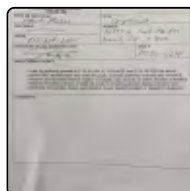
File 48028



File 48029



File 48030



File 48022

06/24/2020 **Residue Samples Collected**

Original Event: Residue Collection #149712 (20-4-1862 6)
Client: Robert Malone
Submitted By: James M. Trimble

06/24/2020 **Investigator Met with Subject**

After meeting with Mr. Malone, I met with Mr. Owens at Outdoor Recreation Club Inc. Mr. Owens first took me to the club's maintenance garage, where they stored the products used to treat their lake. In the garage, I observed a empty bag of "feed grade" copper sulfate, an empty bag of Alligare Diuron 80DF (EPA Reg. #81927-12, active ingredient of Diuron), and an unopened bag of Karmex DF (EPA Reg. #66222-51, active ingredient of Diuron). Mr. Owens confirmed that the above products were used to

treat the lake.

Mr. Owens stated that there had been four, five pound bags of Diuron and one and a half, 50 pound bags of copper sulfate to treat the approximately 48 acres of water. Mr. Owens stated he had the receipts for the club's purchases of the above products. The four bags of Karmex had been purchased on June 8, 2020 at Ceres Solutions; 113 S. Forest Ave., Brazil, IN.

Mr. Owens was advised of the dangers of using pesticides off-label. Mr. Owens stated again that they were not aware that they couldn't use Diuron in water and apologized. Mr. Owens stated they had learned from the incident and would not do it again. Mr. Owens was advised to return the unopened bag of Karmex and send me confirmation of their return, which he agreed.

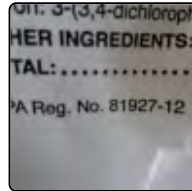
Mr. Owens stated Outdoor Recreation Club Inc. did not want to identify the individuals involved in the lake's application of Diuron and that the club had agreed to take responsibility for the incident as a whole.

Original Event: Investigation Activity (Pesticide) #1720
Subject: Outdoor Recreation Club
Submitted By: James M. Trimble
Attachments: File 48053; diuron.pdf
File 48052; karmex.PDF

Photos:



File 48045



File 48046



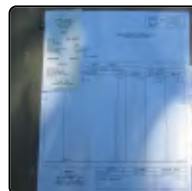
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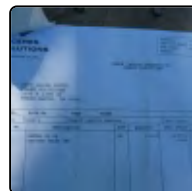
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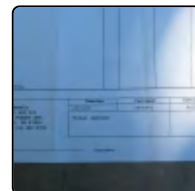
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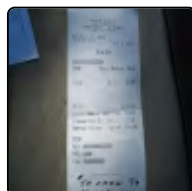
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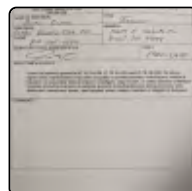
File 48042



File 48043



File 48044



File 48051

06/24/2020 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #306
Submitted By: James M. Trimble
Target Analyte: Karmex DF
PPLS Labels: [066222-00051-20200121.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/066222-00051-20200121.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/066222-00051-20200121.pdf
[081927-00012-20190221.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/081927-00012-20190221.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/081927-00012-20190221.pdf

Attachments: File 47815; diuron.pdf
File 47816; karmex.PDF

07/07/2020 Received Residue Lab Report

Lab Remarks

Released 07/07/2020

Investigatory Summary

The OISC Residue Lab report showed that all samples I collected and submitted to the lab had tested positive for Diuron.

Original Event: Residue Lab Report #151291 (149712-R222)
Submitted By: SYSTEM
Lab Report: Lab Report 149712-R222.pdf

07/30/2020 Subject Called Investigator

Mr. Owens left me a message, via voicemail, which stated he was unable to return the unopened package of Diuron to Ceres due to their current COVID restrictions. I advised Mr. Owens to properly discard or use the product.

Original Event:	Investigation Activity (Pesticide) #1962
Subject:	Brian Owens
Submitted By:	James M. Trimble

08/03/2020 **Online Investigation Activity**

I reviewed the labels for Alligare Diuron 80DF (EPA Reg. #81927-12) and Karmex DF (EPA Reg. #66222-51).

It stated under the "*Environmental Hazards*" section on both of the above pesticides, "*Do not apply directly to water, or to areas where surface water is present, or to intertidal areas below the mean high water mark.*"

Original Event:	Investigation Activity (Pesticide) #1964
Submitted By:	James M. Trimble

08/04/2020 **Judgement; Civil Penalty Assessed**
Civil Penalty

Seelyville Recreation Center was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide to a body of water contrary to label instructions. A civil penalty in the amount of \$250.00 was assessed for this violation.

Original Event:	Judgement #537
Primary:	Outdoor Recreation Club
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(2)
Penalty Amount:	250

11/03/2020 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #607
To:	Outdoor Recreation Club
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 2541
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 57632; PS20-0218EL~CP~Outdoor Recreation Club.doc

12/04/2020 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #755
Subject:	Outdoor Recreation Club
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 2541
Received:	11/09/2020
Attachments:	File 58873; CM 7018 0040 0000 3553 2541.pdf

12/10/2020 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #869
Subject:	Outdoor Recreation Club
Submitted By:	Joni Herman
Payment Expected:	\$250.00
Payment Received:	\$250.00
Attachments:	File 60134; PS20-0218~SeelyvilleRecreation~CP Received.pdf

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CASE SUMMARY

Case #PS20-0223

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

Respondent: Able Paper and Janitorial Supply
Scott Borrmann
8200 Utah Street
Merrillville, IN 46410
General Manager

Registrant: Zenex International
1 Zenex Circle
Cleveland, OH 44146

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 three (3) unregistered pesticide products that were being offered for sale through Able Paper and Janitorial Supply. I confirmed through Sarah Caffery, Pesticide Registration Specialist, the pesticide products were unregistered in the State of Indiana. The products were as follows:
 - a. Zenkill III Long Shot, EPA Reg. #67603-11-74424.
 - i. 18 units in stock
 - ii. Date first received March 29, 2019.
 - b. Zenatize Disinfectant Fresh Scented, EPA Reg. #67603-4-74424.
 - i. 18 units in stock
 - ii. Date first received March 29, 2019
 - c. Zenatize Country Disinfectant, EPA Reg. #67603-4-74424.
 - i. 125 units in stock
 - ii. Date first received March 29, 2019
3. Upon completion of the inspection, I spoke with Mr. Borrmann and informed him of the unregistered pesticide products 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. 2

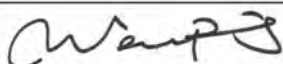


Fig. 3


- Fig. 1) Photo showing ZenKill III Long Shot
- Fig. 2) Photo showing Zenatize Disinfectant Fresh Scent
- Fig. 3) Photo showing Zenatize Country Disinfectant

6. On September 5, 2020, I received the Lab Analysis Report from the OISC Formulation Lab. Zenkill III Longshot failed to meet label claim for active ingredients. Zenatize Disinfectant Fresh Scent and Zenatize Country Disinfectant both passed lab analysis for label claim for active ingredient. The lab reports are as follows:


OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	149888	Case #	PS20-0223	Investigator	G. Creason
Sample #	Product Description				Sample Size
20-3-0124 7	Zenex ZenKill III Long Shot				4 x 13 oz
ACTIVE INGREDIENT				% GUARANTEE	% FOUND
Tetramethrin				0.10%	0.087%
Permethrin				0.25%	0.203%
Piperonyl Butoxide				0.50%	0.383% *
Remarks:					
*Failed low according to Horwitz acceptance criteria.					
Signature				Date	09/05/2020

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	149888	Case #	PS20-0223	Investigator	G. Creason
Sample #	Product Description			Sample Size	
20-3-0125 2	Zenex Zenatize Disinfectant			4 x 15 oz	
ACTIVE INGREDIENT				% GUARANTEE	% FOUND
Ethyl Alcohol				37.00	42.24
DBAC (5% C12; 60% C14; 30% C16; 5% C18)				0.05	N/A
DEAC (68% C12; 32% C14)				0.05	N/A
Tested as Quaternary Nitrogen Equivalent				0.0037	0.0046
Remarks:					
Signature				Date	08/08/2020

OFFICE OF INDIANA STATE CHEMIST
Pesticide Formulation Laboratory
Lab Report

OCM Collection #	149888	Case #	PS20-0223	Investigator	G. Creason
Sample #	Product Description			Sample Size	
20-3-0126 8	Zenex Zenatize Country Disinfectant			4 x 15 oz	
ACTIVE INGREDIENT				% GUARANTEE	% FOUND
Ethyl Alcohol				37.00	42.34
DBAC (5% C12; 60% C14; 30% C16; 5% C18)				0.05	N/A
DEAC (68% C12; 32% C14)				0.05	N/A
Tested as Quaternary Nitrogen Equivalent				0.0037	0.0046
Remarks:					
Four cans with two different lot numbers were available. One can from each lot was tested. Both lots pass for label claim.					
Signature				Date	08/08/2020

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


Garret A. Creason
Investigator

Date: September 7, 2020

Label Review:

On July 6, 2020, I completed the labeling review for three Zenex International products. These products are currently unregistered in the state of Indiana.

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.

Directions for Use

Directions for Use - 40 CFR 156.10 (i)(1) and (2)

(1) General requirements -

(i) Adequacy and clarity of directions. Directions for use must be [stated](#) in terms which can be easily read and understood by the average [person](#) likely to use or to supervise the use of the [pesticide](#). When followed, directions must be adequate to protect the public from fraud and from personal injury and to prevent unreasonable adverse effects on the environment.

(ii) Placement of directions for use. Directions may appear on any portion of the label provided that they are conspicuous enough to be easily read by the user of the [pesticide product](#). ...

(2) Contents of Directions for Use. The directions for use shall include the following, under the headings "Directions for Use":

(i) The statement of use classification as prescribed in [paragraph \(j\)](#) of this section immediately under the heading "Directions for Use."

(ii) Immediately below the statement of use classification, the statement "It is a violation of Federal law to use this [product](#) in a manner inconsistent with its labeling."

(iii) The site(s) of application, as for example the crops, animals, areas, or objects to be treated.

(iv) The target pest(s) associated with each [site](#).

(v) The dosage rate associated with each [site](#) and pest.

(vi) The method of application, including instructions for dilution, if required, and type(s) of application apparatus or equipment required.

(vii) The frequency and timing of applications necessary to obtain effective results without causing unreasonable adverse effects on the environment.

(viii) Worker protection statements meeting the requirements of [subpart K](#) of this part.

(ix) Specific directions concerning the [storage](#), residue removal and [disposal](#) of the [pesticide](#) and its [container](#), in accordance with [subpart H](#) of this part. These instructions must be grouped and appear under the heading, "Storage and [Disposal](#)." This heading must be set in type of the same [minimum](#) sizes as required for the child hazard warning. (See table in § 156.60(b))...

Review

Marketplace Label:

1. Zenatize Disinfectant, EPA Reg # 67603-4-74424 and Zenatize Disinfectant Country Scent, EPA Reg # 67603-4-74424
 - a. As identified above, a distributor product cannot include anything on the marketplace label that is not included on the master label. The following claims/statements are not on the master label:
 - i. Deodorant
 - ii. Disinfectant Group D identification/image
 - iii. Formula No. 495545
 - b. As identified above, the contents of the Directions for Use include the sites, targeted pests, dosage rate, frequency and timing. The following directions are not under the appropriate header (Directions for Use) on the marketplace label:
 - i. HIV-1 Directions
2. Zen Kill III Long Shot, EPA Reg # 67603-11-74424
 - a. The following claims/statements are not on the master label:
 - i. Formula No. 495975
 - ii. Pesticide Group P identification/image

Claim on website:

Zenatize Disinfectant, EPA Reg # 67603-4-74424 (<https://zenexint.com/products/495545>)

1. Kills 99.9% of Germs
 - a. As written on the website, the statement is unqualified. Per the master label, germs is required to be qualified as follows:
 - i. Kills 99.9% of Germs**
**Staphylococcus aureus (Staph) and Enterobacter aerogenes
2. Per the Product Information Sheet: <https://zenexint.com/files/pds/495545.pdf>
 - a. The requirements of a distributor product, the following claim is not on the master label
 - i. Broad-spectrum, anti-microbial agent in a one step disinfecting/deodorizing spray
 - b. Kills 99.9% of Germs
 - i. Statement is unqualified, see above.

Zen Kill III Long Shot, EPA Reg # 67603-11-74424

1. Per the Product Information Sheet: <https://zenexint.com/files/pds/495975.pdf>
 - a. Per the requirements of a distributor product, the following claims are not on the master label
 - i. Long-range, fast-acting Wasp and Hornet Killer with synthetic pyrethroid formula that literally stops wasps, hornets, yellow jackets, and bees in flight on contact
 - ii. anti-drift **stream twenty feet or more** to quickly and safely saturate nests and swarms
 1. Claim on master label is: “Jet Spray – will **reach up to 20 feet** above ground”
 - iii. Non-conductive formula has a dielectric strength of 41,000 volts/ cm
 1. Claim on master label is: “Dielectric Breakdown Voltage of 33,000 Volts (non-conductive up to 33,000 volts)”

Violations

Each product includes claims that are not on the master label; this is a violation of 40 CFR 152.132. This is also a violation of IC 15-16-4-57. As identified previously, the products are also not registered in the state of Indiana.

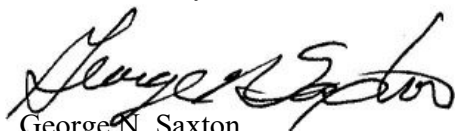


Sarah K. Caffery
Pesticide Product Registration Specialist

Date: July 6, 2020

Disposition:

- A. Able Paper and Janitorial Supply was warned for three (3) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale in Indiana
- B. Zenex International was cited for three (3) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale in Indiana. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed for these violations.
- C. Zenex International was cited for three (3) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that were misbranded. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed for these violations.
- D. Zenex International was cited for one (1) count of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated (Zenkill III Long Shot) A civil penalty in the amount of \$250.00 was assessed for this violation.
- E. Zenex International was cited for three (3) 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. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed for these violations.
- F. On November 9, 2020, Frank Hanzl of Zenex requested an extension. An extension was granted until November 30, 2020.
- G. On January 8, 2021, OISC received the civil penalty payment from Zenex International.



George N. Saxton
Compliance Officer

Draft Date: November 9, 2020
Case Closed: January 22, 2021

Compliance Assistance:

- 1. Revise labels, websites and marketing appropriately
- 2. Submit pesticide registration application to OISC if the products are intended to be sold or distributed within the state of Indiana.
- 3. Ensure product meets its label guarantee.

CASE SUMMARY

Case #PS20-0226

Complainant: Jim Haffner
2287 State Road 67
Bryant, IN 47326

Respondent: Robert Dirksen
6184 N Liberty Rd
Bryant, IN 47326

Private Applicator

Applicator: Ted Liechty
4748 S 000 Rd
Berne, IN 46711

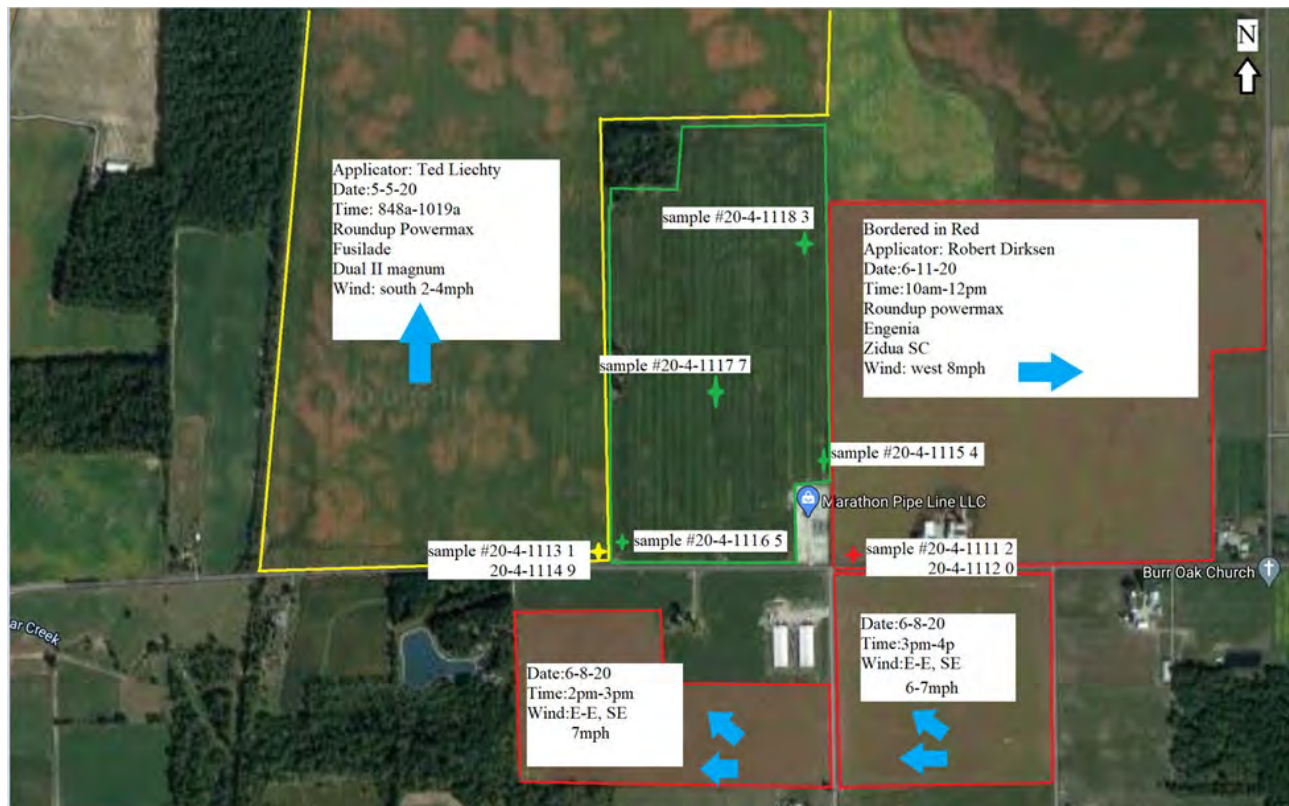
1. On June 24, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a neighboring field was sprayed with dicamba and his non-DT beans have been adversely affected.
2. On June 24, 2020, I spoke with Jim Haffner. Mr. Haffner stated his Liberty soybeans have symptoms of possible dicamba exposure. Mr. Haffner stated he had two (2) agronomist look at his field and they said the symptoms appear to be that of a dicamba exposure. Mr. Haffner stated symptoms are over the entire field. Mr. Haffner stated the farmer to his west, Ted Liechty, may have dicamba tolerant soybeans. The field is located on east 500 north in Bryant, Indiana near the Marathon Pipeline substation.
3. On June 25, 2020, I spoke to Ted Liechty. Mr. Liechty stated he does have dicamba tolerant soybeans, however, he did not apply dicamba to his field due to fear of off target movement of the dicamba. Furthermore, Mr. Liechty is not credentialed with the Office of Indiana State Chemist (OISC) to spray dicamba. I emailed Mr. Liechty a Pesticide Investigation Inquiry (PII) form to complete and return. On July 8, 2020, Mr. Liechty returned the PII. Mr. Liechty documented he applied Roundup Powermax (EPA Reg. #524-549, active ingredient glyphosate), Fusilade (EPA Reg. #100-1070, active ingredient fluazifop-P-butyl), and Dual II magnum (EPA Reg. #100-816, active ingredient s-metolachlor) on June 18, 2020. Wind was documented out of the south at 2-4mph, blowing parallel to Mr. Haffner's field.
4. On June 25, 2020, I investigated a complaint by Jim Haffner at his Liberty soybean field located at 1358 E. 500 N., Portland, Indiana. The entire Liberty soybean field appeared to be impacted. The soybean plants had stunted leaves and new growth along with cupped leaves. See figures 1-2. Symptomology was observed over entire field. No specific pattern was observed. Mr. Haffner believed Ted Liechty (field directly west) may have applied dicamba to his dicamba tolerant soybeans. See Site Diagram.



Figure 1-deformed leaves



Figure 2-cupped leaves



Site Diagram

5. Upon further investigation I learned Robert Dirksen (farmer directly east) applied Engenia (EPA Reg. # 7969-345, active ingredient dicamba) approximately 10 days ago.
6. On June 25, 2020, I spoke with Robert Dirksen. Mr. Dirksen has several dicamba soybean fields near Mr. Haffner's non-dicamba soybeans. See Site Diagram. Mr. Dirksen provided a PII for three (3) fields. Mr. Dirksen applied to all three fields Engenia (EPA Reg. #7969-345, active ingredient dicamba), Roundup Powermax (EPA Reg. #524-549, active ingredient glyphosate), and Zidua SC (EPA Reg. #7969-374, active ingredient pyroxasulfone). Mr. Dirksen's field east of Mr. Haffner was sprayed on 6-11-20, with the wind out of the west. Blowing away from the Haffner field. The fields south and southeast were sprayed on 6-8-20, with the wind out of the east and southeast. Blowing toward Mr. Haffner's field.
7. On June 26, 2020, Purdue's Pest and Plant Diagnostic lab reported;

Diagnosis and Recommendations

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

Final Report

6-26-20

Soybean plants in sample 20-00695 show cupping/curling of newer leaves.

The affected leaves also show whitish/yellowish leaf tips.

These symptoms are characteristic of exposure to dicamba.

Marcelo Zimmer

Weed Science Program Specialist

Purdue University - Weed Science Lab

Office: (765) 496-2121

The sample shows leaf deformation including cupping and white leaf tips. Symptoms are suggestive of exposure to a growth regulator.

John Bonkowski

CC Marcelo Zimmer

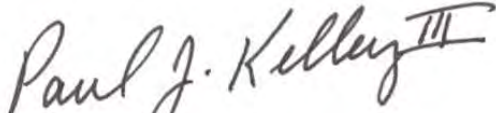
8. On September 28, 2020, OISC's Residue Lab reported;

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-1111 2	Soil; Comp; 0-2"; Target Site	Soil	5OH-Dicamba	BDL ppb	0.2 ppb
			DCSA	414 ppb * Result Estimated	20 ppb
			Dicamba	47.0 ppb	0.2 ppb
			Pyroxasulfone	350 ppb	0.07 ppb
20-4-1112 0	Veg; Comp; Target Site	Veg	5OH-Dicamba	19.0 ppb	2 ppb
			DCSA	116 ppb	0.2 ppb
			Dicamba	28800 ppb	2 ppb
			Pyroxasulfone	1560 ppb	0.3 ppb
20-4-1113 1	Soil; Comp; 0-2"; Target Site	Soil	5OH-Dicamba	BDL ppb	0.2 ppb
			DCSA	186 ppb	20 ppb
			Dicamba	2.37 ppb	0.2 ppb
			Pyroxasulfone	0.203 ppb	0.07 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-1114 9	Veg; Comp; Target Site	Veg	5OH-Dicamba	BQL ppb	2 ppb
			DCSA	3.68 ppb	0.2 ppb
			Dicamba	8.11 ppb	2 ppb
			Pyroxasulfone	0.708 ppb	0.3 ppb
20-4-1115 4	Veg; Ctrl; Hasser farm ground	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.2 ppb
			Dicamba	2.56 ppb	2 ppb
			Pyroxasulfone	BDL ppb	0.3 ppb
20-4-1116 5	Veg; Comp; Hasser soybeans	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BQL ppb	0.2 ppb
			Dicamba	3.06 ppb	2 ppb
			Pyroxasulfone	0.596 ppb	0.3 ppb
20-4-1117 7	Veg; Comp; Hasser soybeans	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.2 ppb
			Dicamba	2.29 ppb	2 ppb
			Pyroxasulfone	BDL ppb	0.3 ppb
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-1118 3	Veg; Comp; Hasser soybeans	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	0.2 ppb
			Dicamba	3.29 ppb	2 ppb
			Pyroxasulfone	BDL ppb	0.3 ppb

9. Label language for Engenia states in part, “*DO NOT allow herbicide solution to drip, physically drift, or splash onto desirable vegetation because severe injury or destruction to desirable broadleaf plants could result.*” and “*DO NOT apply when wind is blowing in the direction of neighboring sensitive crops or residential areas.*”

10. Based upon PPDL's report that the visual symptoms are consistent with exposure to dicamba, Dirksen's documentation of wind direction, and OISC's detection of the active ingredients in Engenia and Zidua SC were found in Mr. Haffner's field indicate the likelihood that dicamba and pyroxasulfone moved off target. Furthermore, Mr. Liechty was not the target because he could not purchase dicamba to apply to his field and residues were detected on his soybeans consistent to the Dirksen application.



Paul J. Kelley
Investigator

Date: October 14, 2020

Disposition: Robert 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. 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: December 17, 2020
Case Closed: March 1, 2021



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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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

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In Re: Case PS20-0227

Department	Pesticide
Originated	06/24/2020
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Complainant	Michael E Overmyer Culver, IN 46511
Respondent	Dale Hayn Plymouth, IN 46563

Overviews

10/22/2020 **Investigation Summary**

On July 2, 2020, I met with Mr. Overmyer, who reported his non-Dicamba tolerant (DT) soybeans were injured from a Dicamba application to a neighboring field.

During my on-site investigation, I observed Dicamba exposure symptoms to Mr. Overmyer's soybean field. I found the DT soybean fields to the east and south of Mr. Overmyer's property as possible origins of the off-target Dicamba movement. I identified the applicator to the east soybean field as Mr. Hayn and the south soybean field as Mr. Zechiel. I collected vegetation samples from Mr. Overmyer's property and soil samples from the east and south soybean fields for assessment by the PPDL and analysis by the OISC Residue Lab.

The OISC Residue Lab report confirmed positive amounts of Dicamba on the vegetation collected from Mr. Overmyer's non-DT soybean field. The PPDL report stated Dicamba exposure was the suspected cause of injury to the vegetation collected from Mr. Overmyer's non-DT soybean field.

Based on the evidence collected in this investigation, off-target movement of the Dicamba herbicide was documented but I could not determine if the source of the off-target movement had originated from the south soybean field's application (Mr. Zechiel) or from the east soybean field's application (Mr. Hayn). However, I found the applications completed by Mr. Hayn & Mr. Zechiel (Case #PS20-0415) had both failed to follow label directions regarding drift.

Submitted By: James M. Trimble
Role: Investigator

10/22/2020 **Disposition Summary**

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

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/24/2020 **Intake Referral Filed**

complainant submitted a complaint form indicating spray to a neighboring farm field drifted onto his bean field.

Original Event:	Intake Referral (Pesticide) #1427
Complainant:	Michael E Overmyer
Respondent:	Ronald Paul Hayn
Submitted By:	George Saxton
Assigned To:	James M. Trimble
Attachments:	File 47814; Complaint Statement~Michael Overmyer 6-22-2020.pdf

06/24/2020 **Case Created**

Original Event:	Case PS20-0227
Submitted By:	George Saxton
Assigned To:	James M. Trimble

06/29/2020 **Investigator Called Complainant**

On June 29, 2020, I spoke with the complainant's wife, Mrs. Overmyer, via telephone, who reported their Enlist soybeans were showing symptoms of Dicamba exposure injury from a herbicide application to a neighboring field. Mrs. Overmyer provided me with two names that may have been responsible for the neighboring field's application.

An appointment was set for my on-site investigation for July 2, 2020.

Original Event:	Investigation Activity (Pesticide) #1733
Subject:	Michael E Overmyer
Submitted By:	James M. Trimble

07/02/2020 **Investigator Met with Complainant**

On July 2, 2020, I met with Mr. Overmyer at his residence to conduct my on-site investigation, where he showed me his approximately 4 acres of Enlist soybeans that were showing symptoms of injury. Mr. Overmyer stated he believed the injury to his soybeans had been caused by a drift occurrence from a Dicamba application to the soybean field located to the east of his property. Mr. Overmyer believed the east soybean field had been treated on June 8, 2020 while the winds were blowing towards his property. Mr. Overmyer stated he had treated his soybean field on approximately June 1, 2020 with 2,4-D and Glyphosate.

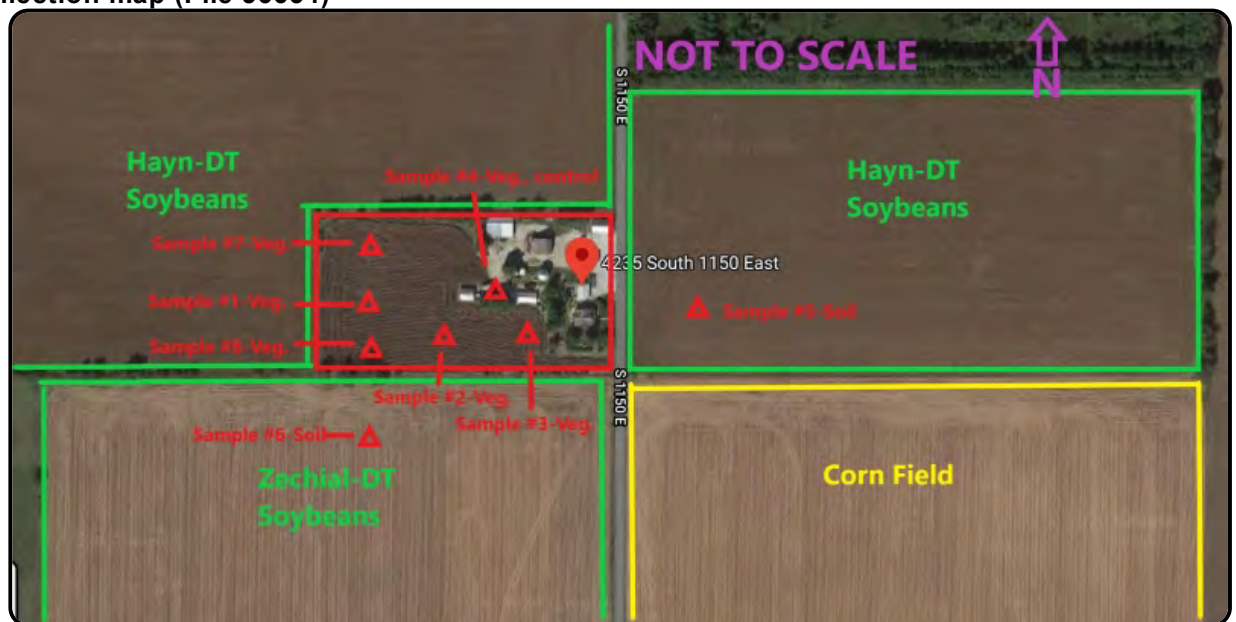
During my on-site investigation, I observed and photographed symptoms of what I believed to be herbicide exposure symptoms to his soybeans, which included cupped leaves, white leaf tips, and blistered leaves. I believed the above exposure symptoms I observed to Mr. Overmyer's soybeans to be consistent with Dicamba exposure. I observed the above injury symptoms across the entirety of Mr. Overmyer's field but observed the heaviest injury to be on the field's east edge and in a few small, random areas. I also observed Mr. Overmyer's mixed ornamental plants on his property's east edge to also show the same symptoms of herbicide injury.

I looked for potential sources of herbicide drift. I observed three soybean fields that surrounded Mr. Overmyer's property. Mr. Overmyer stated the soybean field that was located to the north and the west of his property, along with the east soybean field were treated on the same day and by the same applicators, Dale and/or Ron Hayn. Mr. Overmyer stated the soybean field located to the south of his property was treated by Dean Zechial. Mr. Overmyer stated he believed that all three of the above fields were planted with Dicamba-tolerant soybeans. I observed a possible east to west herbicide drift pattern on Mr. Overmyer's soybean field by the degree of injury observed to the soybeans. I also observed possible off-target movement from the south soybean field by the symptoms of injury found on the south edge of Mr. Overmyer's soybean field, though there was a vegetation buffer between the two fields. At the time of my onsite investigation, I believed both the east and south soybean fields may have contributed to the injury to Mr. Overmyer's soybean field.

I collected samples of soybeans that exhibited symptoms of injury from Mr. Overmyer's soybean field for assessment by the Purdue Pest and Plant Diagnostic Lab (PPDL).

I then collected five gradient samples of the affected soybeans and a control vegetation sample from Mr. Overmyer's property, as well as soil samples from the east and south soybean fields for analysis by the OISC Residue Lab.

Collection map (File 56654)



Ornamental injury (File 48369)



Soybean injury (File 48386)



Original Event:
Location:
Subject:
Submitted By:
Photos:

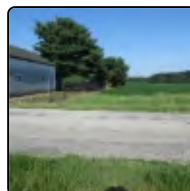
Investigation Activity (Pesticide) #1747
Michael E Overmyer
Michael E Overmyer
James M. Trimble



File 56654



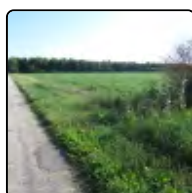
File 48378



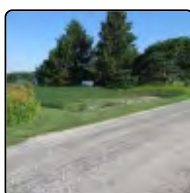
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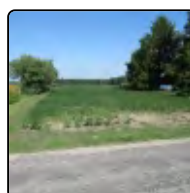
File 48380



File 48381



File 48382



File 48383



File 48384



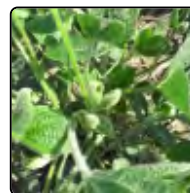
File 48385



File 48386



File 48363



File 48364



File 48365



File 48366



File 48367



File 48368



File 48369



File 48370



File 48371



File 48372



File 48373



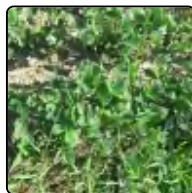
File 48374



File 48375



File 48376



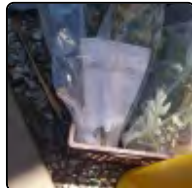
File 48377

07/02/2020 Residue Samples Collected

Original Event:	Residue Collection #150523 (20-4-1872 4)
Client:	Michael E Overmyer
Submitted By:	James M. Trimble
Sample:	20-4-1872 4 Veg; Comp; Off Target, Grad1, 600ft W
Sample:	20-4-1873 0 Veg; Comp; Off Target, Grad2, 300ft W
Sample:	20-4-1874 8 Veg; Comp; Off Target, Grad3, 50ft W
Sample:	20-4-1875 3 Veg; Ctrl; Off Target
Sample:	20-4-1876 9 Soil; Comp; 2-4"; Target Site, E, soybean
Sample:	20-4-1877 6 Soil; Comp; 2-4"; Target Site, S, soybean
Sample:	20-4-1878 2 Veg; Comp; Off Target, Grad4, 275ft N
Sample:	20-4-1879 5 Veg; Comp; Off Target, Grad5, 50ft N

07/02/2020 External Lab Sample Collected

Original Event:	External Lab Sample Collection #150674 (X20-29DEAE)
Client:	Michael E Overmyer
Submitted By:	James M. Trimble
Lab:	Purdue Plant and Pest Diagnostic Laboratory
Sample:	X20-29DEAE Samples of affected soybeans.
Attachments:	File 48359; ResponseSummary (10).pdf
Photos:	



File 48360

07/02/2020 Investigator Called Applicator

On July 2, 2020, after my onsite investigation, I called and spoke with Dale Hayn, who confirmed Hayn Farms was responsible for the applications to the east & north soybean fields. Mr. Hayn was advised of the Pesticide Investigation Inquiry (PII) and that I would email the form to him later in the day.

Original Event: Investigation Activity (Pesticide) #1836
Subject: Dale Hayn
Respondent: Dale Hayn
Submitted By: James M. Trimble

07/02/2020 **Investigator Sent Fax/Email to Applicator**

On July 2, 2020, I sent Mr. Hayn an email containing the PII, with instructions to complete and return to me with 15 days of my email.

Original Event: Investigation Activity (Pesticide) #1837
Subject: Dale Hayn
Submitted By: James M. Trimble
Attachments: File 48870; Hayn email.pdf

07/02/2020 **Investigator Called Applicator Interaction**

After speaking with Mr. Hayn, I contacted Mr. Zechiel, who confirmed he was responsible for the pesticide applications to the south soybean field. Mr. Zechiel was also emailed a PII for his completion. See Case #PS20-0415.

Original Event: Investigation Activity (Pesticide) #2315
Subject: Larry Dean Zechiel
Submitted By: James M. Trimble

07/02/2020 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #314
Submitted By: James M. Trimble
Target Analyte: Xtendimax
Target Analyte: Roundup Powermax
Target Analyte: Engenia
PPLS Labels: [000524-00549-20200225.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/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)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00617-20181105.pdf
[007969-00345-20181102.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00345-20181102.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00345-20181102.pdf
Attachments: File 48994; engenia.PDF
File 48995; roundup.PDF
File 48996; xtendimax.PDF

07/06/2020 **Received External Lab Report**

The PPDL report stated, "Soybean plants in sample 20-00764 show leaf cupping and whitish/yellowish leaf tips. Additionally, some plants are stunted due to reduced growth of apical meristem. These symptoms are characteristic of exposure to dicamba. It is not uncommon to see some leaf strapping with dicamba as well, but most leaves will be cupped. You will not see leaf cupping with 2,4-D though." It further stated, "Symptoms consist of leaf cupping, leaf deformation, and white leaf tips which is suggestive of growth regulator exposure."

Original Event: External Lab Report #150724 (X20-29DEAE)
Submitted By: James M. Trimble
Sample: X20-29DEAE
Attachments: File 48394; Final Report_Mitch Trimble_ (002).pdf

07/14/2020 **Investigator Received Fax/Email from Applicator**

On July 14, I received an email from Laurie Hayn, on behalf of Dale Hayn, that contained the completed PII. The PII listed Mr. Hayn's application to the soybean fields located to the East, North, & West of Mr. Overmyer's property was completed on June 8, 2020 at 7:30 PM - 8:30 PM, with the pesticides Engenia (EPA Reg. #7969-345, active ingredient of Dicamba) & Roundup Powermax (EPA Reg. #524-549, active ingredient of Glyphosate), while the winds were blowing from the Southeast at 9.8 - 8.1 MPH.

Original Event: Investigation Activity (Pesticide) #1860
Subject: Dale Hayn
Submitted By: James M. Trimble
Attachments: File 48990; engenia.PDF
File 48991; roundup.PDF
File 48988; state chemist map07142020.pdf
File 48989; state chemist07142020.pdf

09/25/2020 **Received Residue Lab Report Lab Remarks**

Released 09/25/2020

Investigatory Summary

The OISC Residue Lab report stated that it had only detected low amounts of Dicamba in Sample #8 (20-4-1879 5) and the Dicamba metabolites of 5OH-Dicamba and DCSA in Sample #4 (20-4-1875 3). Due to there only being two samples that tested positive for Dicamba or its metabolites and that both the south and east target fields had applied a Dicamba product, I was unable to identify a gradient on the non-target soybean field. I found the results to be inconclusive as to where the off-target pesticide movement had originated from.

The positive amounts of Glyphosate and its metabolite, AMPA, were excluded from my review due because it had been applied to the non-target field as well as both target fields.

Original Event: Residue Lab Report #159354 (150523-R303)
Submitted By: SYSTEM
Lab Report: Lab Report 150523-R303.pdf

09/29/2020 Case Created

Original Event: Case PS20-0415
Submitted By: George Saxton
Assigned To: James M. Trimble

10/19/2020 Online Investigation Activity Activity

Based on the evidence collected in this investigation, off-target movement of the Dicamba herbicide was documented but I could not determine if the source of the off-target movement had originated from the south soybean field's application (Mr. Zechiel) or from the east soybean field's application (Mr. Hayn). However, I found the applications completed by Mr. Hayn & Mr. Zechiel (Case #PS20-0415) had both failed to follow label directions regarding drift.

Mr. Hayn's June 8, 2020 application of **Engenia (EPA Reg. #7969-345, active ingredient of Dicamba) & Roundup Powermax (EPA Reg. #524-549, active ingredient of Glyphosate)** to the east soybean field, while the winds were blowing from the Southeast (towards Mr. Overmyer's property), was in violation of the Engenia label directions. The label directions stated:

Engenia-DO NOT apply when wind is blowing in the direction of neighboring sensitive crops or residential areas.

Original Event: Investigation Activity (Pesticide) #2305
Subject: Dale Hayn
Submitted By: James M. Trimble

10/22/2020 Judgement; Civil Penalty Assessed Civil Penalty

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

Original Event: Judgement #618
Primary: Dale Hayn
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 100

01/26/2021 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #683
To: Dale Hayn
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0066
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 61141; PS20-0227EL CP ~ Dale Hayn.doc

01/30/2021 Received Mail Confirmation for Target

Original Event: Compliance Receipt #936
Subject: Dale Hayn
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0066
Received: 01/30/2021
Attachments: File 62544; CM 7018 0040 0000 3553 0066.pdf

02/04/2021 Received Penalty Payment for Target

Original Event: Compliance Receipt #950
Subject: Dale Hayn
Submitted By: Joni Herman
Payment Expected: \$100.00
Payment Received: \$100.00
Attachments: File 62603; PS20-0227~Dale Hayn~CP Received.pdf

CASE SUMMARY

Case #PS20-0243

Complainant: Jack Study
1494 N. Brick Church Road
Cambridge City, IN 47327

Respondent: Chad Sanders
Nutrien Ag Solutions
P.O. Box 217
Straughn, IN 47387-0217

Certified Applicator
Licensed Business

1. On June 30, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Nutrien Ag Solutions applied dicamba to a neighboring field that has adversely affected his beans.
2. On July 2, 2020, I spoke with Chad Sanders from Nutrien Ag Solutions. Mr. Sanders stated he made a pesticide application of Xtendimax to an adjacent field east of Mr. Study. Mr. Sanders stated he has in-cab weather data showing wind blowing away from Mr. Study's field. He also stated at one point during his application he reset the in-cab weather system due to odd readings. I emailed Mr. Sanders a PII.
3. On July 2, 2020, Chad Sanders of Nutrien Ag Solutions stated in the Pesticide Investigative Inquiry (PII) form, Xtendimax (EPA Reg. #524-617, active ingredient dicamba) and Roundup Powermax (EPA Reg. #524-549, active ingredient glyphosate) were applied. Furthermore, Mr. Sanders stated the wind was out of the west, northwest on June 16, 2020, blowing away from Mr. Study's property.
4. On July 7, 2020, I investigated an alleged drift complaint filed by Jack Study. I observed cupped leaves with white tips and stunted leaves to Mr. Study's enlist soybeans located on the west side of Brick Church road in Cambridge City, Indiana. See figures 1-2. I observed a drift pattern (heavier symptoms closest to the Co-op sprayed dicamba tolerant soybeans, less as you move away to the west). In addition, symptoms tapered off moving north in Mr. Study's field.

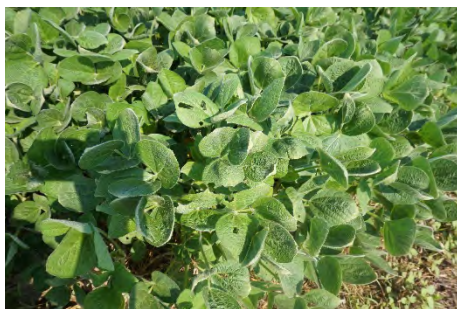
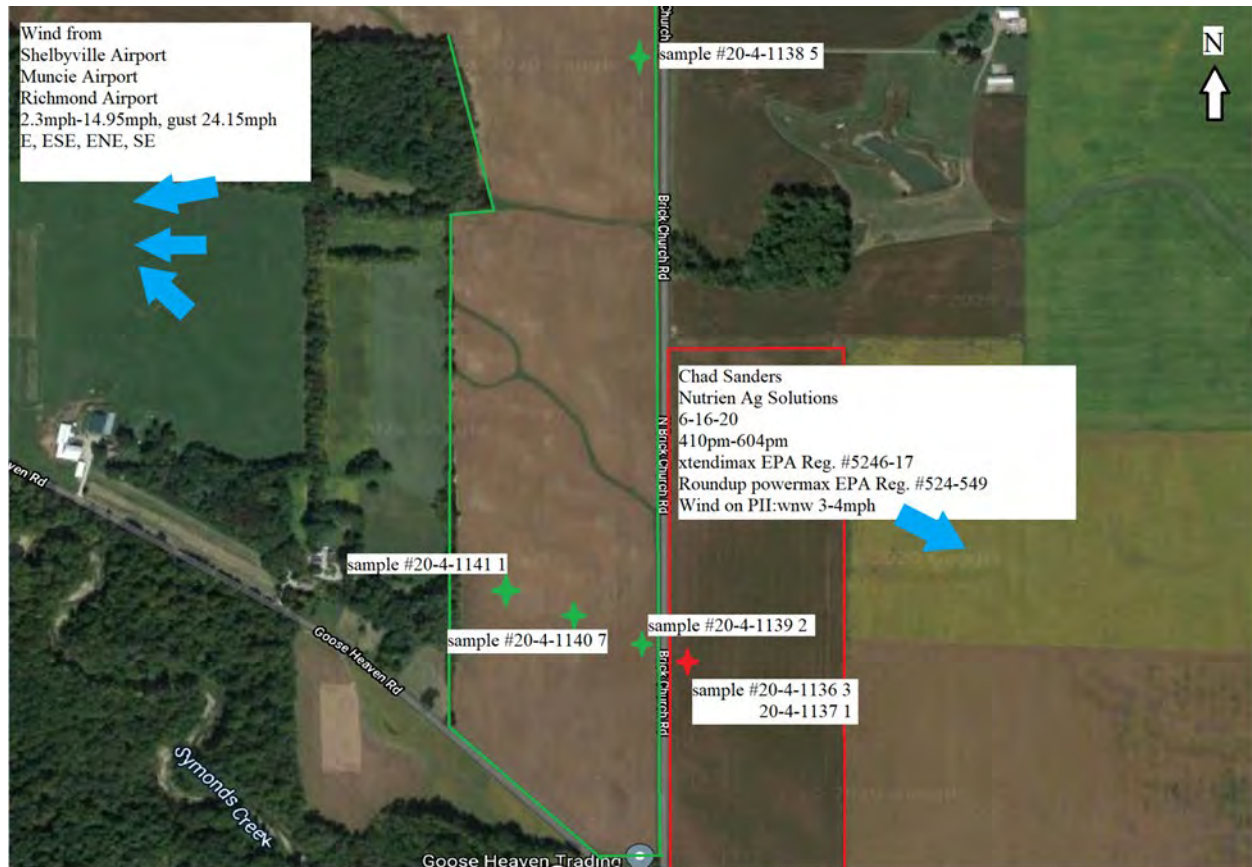


Figure 1- cupped leaves



Figure 2-distorted leaves

5. On July 7, 2020, I collected a vegetation sample to be visually analyzed by Purdue's Pest and Plant Diagnostic Lab (PPDL). Furthermore, I collected investigation samples to be analyzed by OISC's Residue Lab. See Site Diagram.



Site Diagram

6. On July 8, 2020, PPDL reported the following;

Diagnosis and Recommendations

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

Final Report

7-8-20

Soybean plants in sample 20-00823 show leaf cupping and whitish/yellowish leaf tips. These symptoms are characteristic of exposure to dicamba in susceptible soybeans.

Marcelo Zimmer

Weed Science Program Specialist
Purdue University - Weed Science Lab
Office: (765) 496-2121

The sample submitted shows cupping of new growth, stunting, and deformation which is suggestive of exposure to a growth regulator.

John Bonkowski

CC Marcelo Zimmer

7. On September 25, 2020, OISC's Residue Lab reported;

Sample #	Sample Description	Matrix
20-4-1136 3	Soil; Grab; 0-2"; Target Site	Soil

Analyte	Amount of Analyte	LOQ
5OH-Dicamba	BDL ppb	0.4 ppb
DCSA	76.9 ppb	0.2 ppb
Dicamba	1.48 ppb	0.2 ppb

20-4-1137 1	Veg; Comp; Target Site	Veg
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5OH-Dicamba	19.1 ppb	0.2 ppb
DCSA	15.7 ppb	0.4 ppb
Dicamba	1110 ppb * Estimated	2 ppb

20-4-1138 5	Veg; Ctrl; client soybeans	Veg
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5OH-Dicamba	BDL ppb	0.2 ppb
DCSA	BQL ppb	0.4 ppb
Dicamba	BDL ppb	2 ppb

20-4-1139 2	Veg; Comp; Grad1, 12yd, client soybeans	Veg
-------------	---	-----

5OH-Dicamba	BDL ppb	0.2 ppb
DCSA	BQL ppb	0.4 ppb
Dicamba	2.45 ppb	2 ppb

Sample #	Sample Description	Matrix
20-4-1140 7	Veg; Comp; Grad2, 102yd, client soybeans	Veg

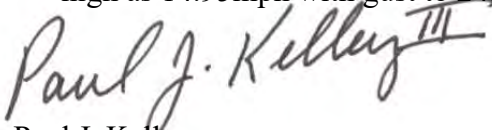
Analyte	Amount of Analyte	LOQ
5OH-Dicamba	BDL ppb	0.2 ppb
DCSA	BQL ppb	0.4 ppb
Dicamba	BDL ppb	2 ppb

20-4-1141 1	Veg; Comp; Grad3, 214yd, client soybeans	Veg
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5OH-Dicamba	BDL ppb	0.2 ppb
DCSA	BQL ppb	0.4 ppb
Dicamba	BDL ppb	2 ppb

8. Wind data generated by triangulating wind from the Richmond Airport, Muncie Airport, and Shelbyville Airport ASOS weather stations, wind was documented at 2.3mph-14.95mph with gust to 24.14 mph. Wind from all three station indicates the wind was out of the east, east southeast, east northeast, and southeast between 4:10pm and 6:05pm on June 16, 2020. Wind was blowing toward Jack Study's soybean field.

9. Label language for Xtendimax states in part, *“Do not allow herbicide solution to mist, drip, drift or splash onto desirable vegetation because severe injury or destruction to desirable broadleaf plants could result”*. In addition, the label states, *“Wind Speed. Do not apply when wind speeds are less than 3 MPH or greater than 10 MPH. Only apply when wind speed at boom height is between 3 and 10 mph”*. *“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.”*
10. Based upon PPDL’s report of visual symptoms constant with dicamba exposure, OISC’s report detecting dicamba in sample #20-4-1139 2, and triangulated wind data showing wind blowing toward Mr. Study’s property, it is likely a label violation occurred. Furthermore, wind data was recorded as high as 14.95mph with gust to 24.15mph.

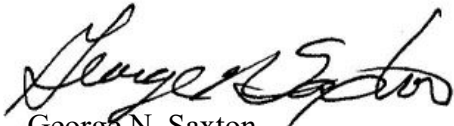


Paul J. Kelley
Investigator

Date: October 13, 2020

Disposition: Based on the evidence collected in this investigation, it has been determined that Chad Sanders and Nutrien Ag Solutions failed to comply with the drift management restrictions on the label for the herbicide Xtendimax for applying when winds were blowing towards a sensitive crop. 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.

Chad Sanders 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 a restricted use pesticide was involved.



George N. Saxton
Compliance Officer

Draft Date: December 17, 2020
Case Closed: March 1, 2021



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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West Lafayette, IN 47907-2063
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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 PS20-0255

Department	Pesticide
Originated	07/02/2020
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant Respondent	Aaron Key Patoka, IN 47666	
Respondent	Hunter B Carter Decker, IN 47524	Private Applicator

Overviews

08/31/2020 Investigation Summary

Complainant stated a suspected dicamba application to a neighboring farm field has adversely affected his beans.

I met with the complainant at his soybean fields located near the intersection of Steelman Chapel Road and Pond Road in Gibson County, Indiana. The complainant stated he believed he had dicamba injury symptoms to his non-DT soybean field. The complainant advised he believed the field to the south of his field had dicamba applied to it. During my on-site investigation I did the following: Looked for, and found two potential sources of a growth regulator type herbicide application in the area. The target fields are located to the south and east of the complainant's non-DT soybean fields. The target field in this case is located to the east of the complainant's non-DT soybean field. In regard to other potential source of growth regulator type herbicide application located in the area reference case PS20-0183. 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 southeast corner 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 (PPDDL) Collected composite soil sample from the target fields. 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 20-00618 show cupped new leaves with whitish leaf tips. These symptoms are characteristic of exposure to dicamba. The symptoms, including leaf deformation, cupping, and white leaf tips are suggestive of exposure to a growth regulator. No significant disease observed.

I contacted private applicator Craig Small. I advised Mr. Small I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Small advised his employee private applicator Hunter Carter made a pesticide application to the field to the east of the complainant's field. I advised Mr. Small I would be sending him via email a pesticide investigation inquiry to complete for the application and return to me. On July 1, 2020 I received a completed pesticide investigation inquiry from Mr. Small for the application.

The OISC Residue Laboratory analyzed the off target gradient vegetation samples collected for the active ingredients acetochlor and imidacloprid and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredient imidacloprid in all three off target gradient vegetation samples. The active ingredient acetochlor was detected in only the off target gradient 1 vegetation samples. The active ingredient acetochlor was used in the tank mix for case PS20-0183. The active ingredient imidacloprid was used in the tank mix for case PS20-0255.

The wind data from the Evansville Regional Airport (KEVV) indicates the wind speed during the application was between 3 and 7 mph with no gusts out of the north and east. According to the application record and wind data, during the application the wind was out of the north and east 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 north and east 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**". Further, it should be noted that this application took place after the initial complaint was filed and prior to my on-site investigation.

Submitted By: Nathan J. Davis
Role: Investigator

09/01/2020 **Disposition Summary**

Hunter Carter 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 off target in sufficient quantity to cause harm to a non-target site.

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

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/11/2020 **Intake Referral Filed**

Complainant stated a suspected dicamba application to a neighboring farm field has adversely affected his beans.

Original Event: Intake Referral (Pesticide) #1459
Complainant: Aaron Key
Respondent: Hunter B Carter
Entered By: Nathan J. Davis
Submitted By: George Saxton

06/17/2020 **Investigator Met with Complainant**

On June 17, 2020 I met with the complainant at his soybean fields located near the intersection of Steelman Chapel Road and Pond Road in Gibson County, Indiana. The complainant stated he believed he had dicamba injury symptoms to his non-DT soybean field. The complainant advised he believed the field to the south of his field had dicamba applied to it.

During my on-site investigation I did the following:

Looked for, and found two potential sources of a growth regulator type herbicide application in the area. The target fields are located to the south and east of the complainant's non-DT soybean fields. The target field in this case is located to the east of the complainant's non-DT soybean field. In regards to other potential source of growth regulator type herbicide application located in the area reference case PS20-0183.

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 southeast corner 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 (PPDDL)

Collected composite soil sample from the target fields. 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 the on-site investigation.

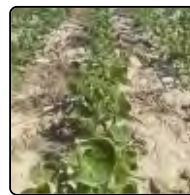
Original Event: Investigation Activity (Pesticide) #1752
Location: Aaron Key
Subject: Aaron Key
Submitted By: Nathan J. Davis
Attachments: File 48296; NOI-Complainant 6-17-2020.pdf
Photos:



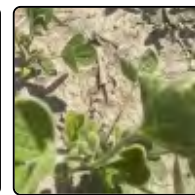
File 48300



File 48301



File 48302



File 48297



File 48298



File 48299

06/17/2020 Residue Samples Collected

Original Event: Residue Collection #149069 (20-4-0323 0)
 Client: Aaron Key
 Submitted By: Nathan J. Davis
 Sample: 20-4-0323 0 | Soil; Comp; 2-4"; Target Site, S
 Sample: 20-4-0324 8 | Soil; Comp; 2-4"; Target Site, E
 Sample: 20-4-0325 3 | Veg; Grab; Off Target, Grad1
 Sample: 20-4-0326 9 | Veg; Grab; Off Target, Grad2
 Sample: 20-4-0327 6 | Veg; Grab; Off Target, Grad3
 Sample: 20-4-0328 2 | Veg; Grab; Off Target, N

06/17/2020 External Lab Sample Collected

Original Event: External Lab Sample Collection #149071 (X20-A100C4)
 Client: Aaron Key
 Submitted By: Nathan J. Davis
 Lab: Purdue Plant and Pest Diagnostic Laboratory
 Sample: X20-A100C4 | Enlist E3 Soybean

06/17/2020 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #294
 Submitted By: Nathan J. Davis
 Target Analyte: Engenia
 Target Analyte: Roundup Powermax
 Target Analyte: Warrant
 Target Analyte: Xtendimax
 Target Analyte: Roundup Powermax
 Target Analyte: Advise Four
 PPLS Labels: [001381-00219-20181101.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00219-20181101.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00219-20181101.pdf
[000524-00549-20200225.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf
[000524-00591-20180620.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00591-20180620.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00591-20180620.pdf
[000524-00617-20181105.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00617-20181105.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00617-20181105.pdf
[007969-00345-20181102.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00345-20181102.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00345-20181102.pdf

06/19/2020 Investigator Called Complainant

On June 19, 2020 I contacted the complainant in regards to the sprayer he shares with another farmer that he used to make the application to his field. The complainant advised that he and the farmer he shares the sprayer with use the same pesticide program for both of their farms. I asked the complainant if any dicamba containing pesticides were used by either farmer and he advised no they do not use any dicamba containing pesticides on either farm. Further, the complainant advised the day prior to spraying the field in the case he sprayed 300 acres with the same tank mix and those fields did not show any injury symptoms.

Original Event: Investigation Activity (Pesticide) #1763
 Subject: Aaron Key
 Submitted By: Nathan J. Davis

06/22/2020 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 20-00618 show cupped new leaves with whitish leaf tips.
These symptoms are characteristic of exposure to dicamba.

The symptoms, including leaf deformation, cupping, and white leaf tips are suggestive of exposure to a growth regulator. No significant disease observed.

Original Event: External Lab Report #149600 (X20-A100C4)
Submitted By: Nathan J. Davis
Sample: X20-A100C4

06/25/2020 **Investigator Called Farmer**

On June 25, 2020 I contacted private applicator Craig Small. I advised Mr. Small I was a pesticide Investigator for OISC and of the complaint I was investigating. Mr. Small advised his employee private applicator Hunter Carter made a pesticide application to the field to the east of the complainant's field. I advised Mr. Small 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) #1753
Subject: Craig C Small
Submitted By: Nathan J. Davis

07/01/2020 **Investigator Received Fax/Email from Farmer**

On July 1, 2020 I received a completed pesticide investigation inquiry from Mr. Small for the application which indicated the following:

Private Applicator: Hunter Carter
Application Date and Time: June 15, 2020, 10:27am to 11:48am
Pesticide Applied:
Xtendimax, EPA Reg.# 524-617, Active = dicamba, 22oz/acre
Roundup Powermax, EPA Reg.# 524-549, Active = glyphosate, 32oz/acre
Advise Four, EPA Reg.# 1381-219, Active = imidacloprid, 1.5oz/acre
Adjuvants: Class Act Ridion, On Target
Nutrients: Symbol Release
Target Field Location and Size: Micks 27, 28 Acres
Wind Blowing from Which Direction: Start- NE, End- NE
Wind Speed at Boom Height: Start- 6mph, End- 7mph
Nozzle and Pressure: Teejet TTI11005,
Boom Height: 20 inches
Size of in-field downwind buffer: 175 feet

Pesticide Investigation Inquiry

Completed pesticide investigation inquiry received on July 1, 2020.

Original Event: Investigation Activity (Pesticide) #1756
Subject: Craig C Small
Submitted By: Nathan J. Davis

07/02/2020 **Case Created**

Original Event: Case PS20-0255
Submitted By: George Saxton
Assigned To: Nathan J. Davis

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 acetochlor and imidacloprid and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredient imidacloprid in all three off target gradient vegetation samples. The active ingredient acetochlor was detected in only the off target gradient 1 vegetation samples. The active ingredient acetochlor was used in the tank mix for case PS20-0183. The active ingredient imidacloprid was used in the tank mix for case PS20-0255.

Original Event: Residue Lab Report #154953 (149069-R261)
Submitted By: SYSTEM
Lab Report: Lab Report 149069-R261.pdf

08/31/2020 **Online Investigation Activity**

Weather Data

Weather history data was obtained at www.wunderground.com from the closest official weather station to the application site with available wind data. The location and weather data for June 15, 2020 follows:

Evansville Regional Airport (KEVV) located in Evansville, Indiana 27 miles to the south of the application site:

Time/Temperature/Wind Direction/Wind Speed/Wind Gust

9:54 AM 72 F VAR 3 mph 0 mph

10:54 AM 75 F ENE 7 mph 0 mph

11:54 AM 77 F N 6 mph 0 mph

The wind data from the Evansville Regional Airport (KEVV) indicates the wind speed during the application was between 3 and 7 mph with no gusts out of the north and east.

According to the application record and wind data, during the application the wind was out of the north and east blowing towards the complainant's non-DT soybean field.

Original Event: Investigation Activity (Pesticide) #2098
Subject: Hunter B Carter
Submitted By: Nathan J. Davis

08/31/2020 Wind Data Researched

The wind data from the **Evansville Regional Airport (KEVV)** indicates the wind speed during the application was between 3 and 7 mph with no gusts out of the north and east.

According to the application record and wind data, during the application the wind was out of the north and east blowing towards the complainant's non-DT soybean field.

Evansville Regional Airport (KEVV)

Evansville, Indiana (27 miles S of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
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9:54AM	72	VAR	3	0
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10:54AM	75	ENE	7	0
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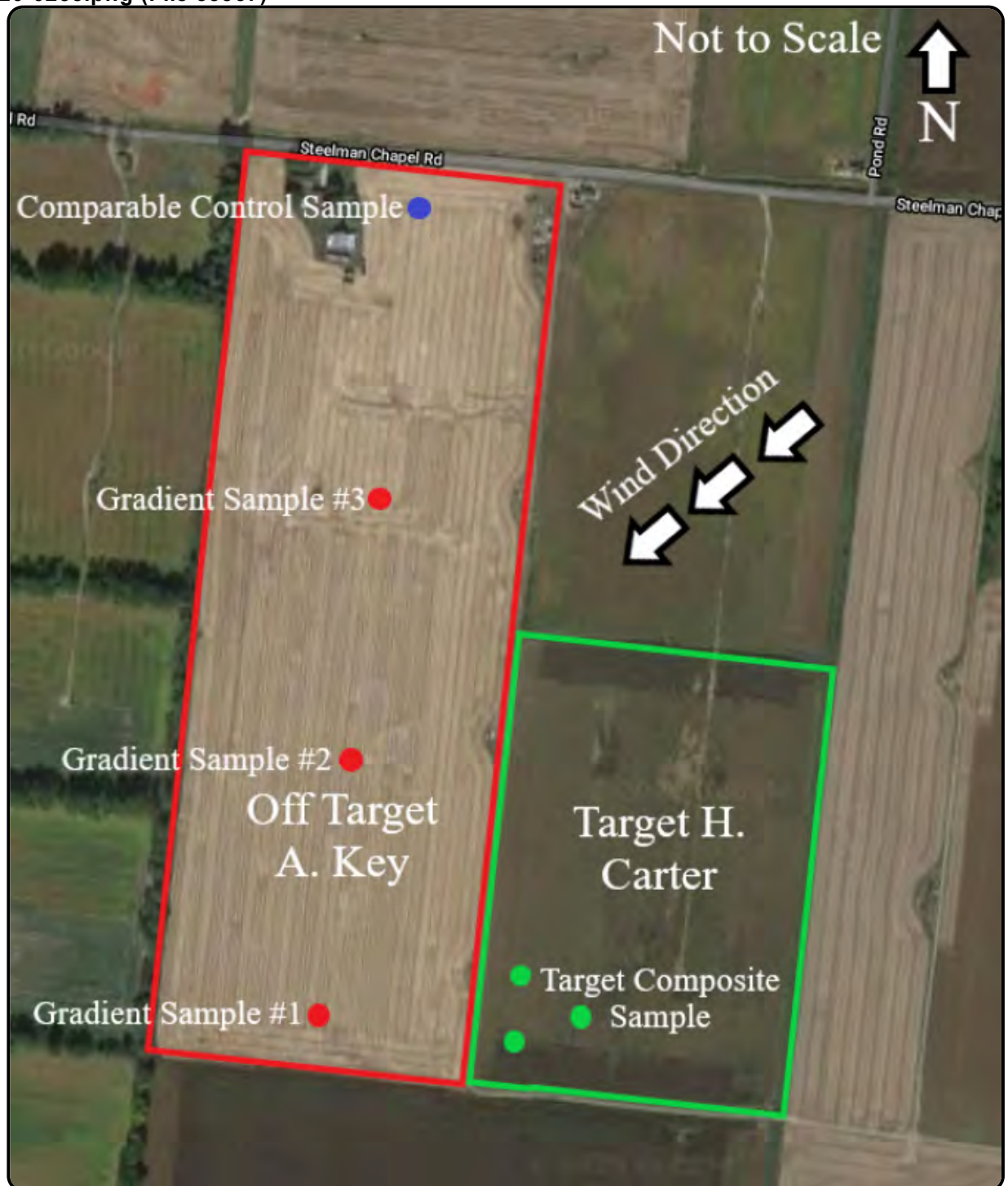
11:54AM	77	N	6	0
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Original Event: Wind Data #9
Submitted By: Nathan J. Davis
Date of Weather: 06/15/2020

08/31/2020 Online Investigation Activity

Photographs

An aerial diagram including wind direction, property lines, and where soil and vegetation samples were taken from.



Original Event:	Investigation Activity (Pesticide) #2099
Subject:	Hunter B Carter
Submitted By:	Nathan J. Davis
Attachments:	File 53367; PS20-0255.png

08/31/2020 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 north and east 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"**.

Further, it should be noted that this application took place after the initial complaint was filed and prior to my on-site investigation.

Original Event:	Investigation Activity (Pesticide) #2100
Subject:	Hunter B Carter
Submitted By:	Nathan J. Davis

09/01/2020 **Judgement; Civil Penalty Assessed**

Warning

Hunter Carter 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 off target in sufficient quantity to cause harm to a non-target site.

Civil Penalty

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

Original Event:	Judgement #558
Primary:	Hunter B Carter
Submitted By:	George Saxton
Legal Citations:	IC 15-16-5-65(2); 357 IAC 1-12-2
Penalty Amount:	100

11/13/2020 **Compliance Activity**

Attorney Rafael Garcia requested all documents wherein his client Aaron Key was the complainant.

Original Event:	Compliance Activity #672
Primary:	Aaron Key
Submitted By:	George Saxton
Attachments:	File 57940; Office of the Indiana State Chemist - Consent to Release.pdf

11/17/2020 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #614
To:	Hunter B Carter
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0585
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 58049; PS20-0255EL~CP~Hunter Carter.doc

12/16/2020 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #873
Subject:	Hunter B Carter
Submitted By:	Joni Herman
Payment Expected:	\$100.00
Payment Received:	\$100.00
Attachments:	File 60138; PS20-0255~Hunter Carter~CP Received.pdf

01/04/2021 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #798
Subject:	Hunter B Carter
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0585
Received:	11/25/2020
Attachments:	File 59774; CM 7018 0040 0000 3553 0585.pdf

<p>This record was generated on February 9, 2021, 11:05 AM EST. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>
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CASE SUMMARY

Case #PS20-0265

Complainant: John Gatrell
4815 State Highway 7
North Vernon, IN 47265

Respondent: Kaleb Thompson
Trico Farm Supplies
19541 E 300 S
Elizabeth, IN 47232

Certified Applicator
Licensed Business

1. On July 6, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an application to a neighboring field adversely affected his produce and ornamentals.
2. On July 6, 2020, I spoke with Trico Farm Supply. I was informed Kaleb Thompson made a pesticide application to a field adjacent to John Gatrell's property. Application was on July 3, 2020. I emailed a Pesticide Investigation Inquiry (PII) form to Trico. Mr. Thompson's PII indicated Mr. Thompson made a pesticide application on July 3, 2020, between 2:00pm and 3:00pm. Mr. Thompson documented he applied:
 - a. Atrazine (EPA Reg. #11773-1, active ingredient atrazine);
 - b. Explorer (EPA Reg. #10091131, active ingredient mesothrione);
 - c. Brawl II (EPA Reg. #100-818-55467, active ingredient metolachlor); and
 - d. Buccaneer % (EPA Reg. #55467-15, active ingredient glyphosate).

Wind was documented by Mr. Thompson as out of the north, northeast at 7mph, blowing toward Mr. Gatrell's property.

3. On July 9, 2020, I met with John Gatrell at his residence. Mr. Gatrell has an herbicide free garden on his property that is adjacent to a corn field to the north. Mr. Gatrell stated on July 3, 2020, Trico Farm Supply made a pesticide application to the corn field directly north of his property. Mr. Gatrell stated he took video of some of the application. Mr. Gatrell stated the wind was blowing toward his property and garden.
4. On July 9, 2020, I collected a vegetation sample to be visually analyzed by Purdue's Plant and Pest Diagnostic Lab (PPDL). In addition, I collected investigative samples to be analyzed by OISC's Residue Lab. See site Diagram. I observed vegetation on Mr. Gatrell's property that appeared stunted and deformed. See figure 1. Some garden plants where had white or discolored leaf margins. See figure 2.



Site Diagram



Figure 1-deformed/stunted



Figure 2-white edges

5. On July 10, 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

7-10-20

Multiple plants in the garden show symptoms of bleaching of new growth and interveinal chlorosis followed by necrosis. These symptoms are characteristic of exposure to mesotrione and atrazine.

Marcelo Zimmer

Weed Science Program Specialist
Purdue University - Weed Science Lab
Office: (765) 496-2121

The sample shows a cucurbit plant with veinal chlorosis and mottling or interveinal necrosis. Some of these symptoms I would suspect are caused by an herbicide exposure.

The other plant has deformed and dead new growth, with a scattering of what looks like wooly aphids. Aphid feeding can cause curling and deformation under high densities, but I do not think they would cause the symptoms observed unless there were a lot more present.

Images show general bleaching/chlorosis of various plants and some plants with strong interveinal necrosis (some of which looks like it could be associated with atrazine). I do not think this would be caused by a pathogen(s) on this scale.

John Bonkowski

CC Marcelo Zimmer


6. On August 25, 2020, OISC's Residue Lab reported the following;

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-1142 4	Soil; Comp; 0-2"; Target Site	Soil	Atrazine	1010 ppb * Minimum amount detected	0.7 ppb
			Mesotrione	99.4 ppb	0.3 ppb
			Metolachlor	496 ppb * Minimum amount detected	1 ppb
20-4-1143 0	Veg; Comp; Target Site	Veg	Atrazine	2260 ppb * Estimated	0.3 ppb
			Mesotrione	135 ppb	0.7 ppb
			Metolachlor	326 ppb * Estimated	1 ppb
20-4-1144 8	Veg; Ctrl; client woods	Veg	Atrazine	157 ppb	0.3 ppb
			Mesotrione	1.25 ppb	0.7 ppb
			Metolachlor	8.34 ppb	1 ppb
20-4-1145 3	Veg; Comp; Garden, Grad1, 10yd	Veg	Atrazine	90.2 ppb	0.3 ppb
			Mesotrione	7.54 ppb	0.7 ppb
			Metolachlor	15.6 ppb	1 ppb

Sample #	Sample Description	Matrix
20-4-1146 9	Veg; Comp; Garden, Grad2, 50yd	Veg
20-4-1147 6	Veg; Comp; Garden, Grad3, 100yd	Veg

Analyte	Amount of Analyte	LOQ
Atrazine	36.6 ppb	0.3 ppb
Mesotrione	3.16 ppb	0.7 ppb
Metolachlor	2.93 ppb	1 ppb
Atrazine	38.4 ppb	0.3 ppb
Mesotrione	1.50 ppb	0.7 ppb
Metolachlor	BDL ppb	1 ppb

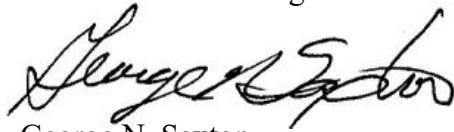
7. Label language for Atrazine states in part, *“The pesticide must only be applied when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, nontarget crops) is minimal (e.g., when wind is blowing away from the sensitive areas).”*
8. Label language for Explorer states in part, *“As with all crop protection products, it is important to avoid off-target movement onto adjacent land or crops, as even small amounts may injure sensitive plants.”*
9. Based upon PPDL’s report, OISC’s lab report, Mr. Thompson’s PII of the wind direction blowing toward Mr. Gatrell’s property, it is more likely than not that drift occurred.


Paul J. Kelley
Investigator

Date: August 27, 2020

Disposition: Kaleb Thompson and Trico Farm Supplies 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 and this was their second violation of similar nature. See case number 2017/0828.

Kaleb Thompson and Trico Farm Supplies 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: November 24, 2020
Case Closed: February 11, 2021

CASE SUMMARY

Case #PS20-0277

Complainant: Cody Freeman
7465 West County Road 100 South
Shirley, Indiana 47384

Respondent: Brad Stephenson Non-Credentialed Applicator
Daniel W. Scott Certified/Non-Credentialed Applicator
Crossroads Family Farms
1016 East 700 North
Fortville, Indiana 46040

1. On July 8, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that dicamba was applied to a neighboring field and now his non-dicamba tolerant (non-DT) soybeans are injured.
2. On July 15, 2020, I met with Cody Freeman at his residence. I had him show me the field that he believed was affected by dicamba off-target movement. Mr. Freeman's non-DT soybeans were cupped/curled and had whitish leaf tips. The border between the target field and Mr. Freeman's field can be seen in Figure 1. The injury that caused Mr. Freeman's complaint can be seen in Figures 2 and 3.



Figure 1



Figure 2

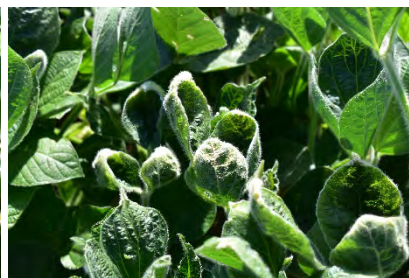


Figure 3

3. I collected the following samples:
 - A. Gradient 3 Veg. (Closest): 20-4-0546 6
 - B. Gradient 2 Veg.: 20-4-0547 8
 - C. Gradient 1 Veg. (Farthest): 20-4-0548 4
 - D. Target Field Veg. (Weeds): 20-4-0549 7
 - E. Control Veg. (Grass): 20-4-0550 6

These samples were submitted to the OISC residue lab for analysis. I also collected a sample of Mr. Freeman's non-DT soybeans to submit for analysis 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 23, 2020, I received a Pesticide Investigation Inquiry (PII) from Brad Stephenson. It stated that he made an application to the target field on June 6, 2020 from 9:00 AM to 10:00 AM. The application was performed under the supervision of Dan Scott. The application consisted of the following:
 - A. Makaze (EPA Reg. #34704-890, active ingredient glyphosate)
 - B. Rifle (EPA Reg. #34704-861, active ingredient dicamba)
 - C. Reign (Drift Retardant/Adjuvant)
 - D. Strike Force (Drift Retardant/Adjuvant)

The wind conditions that Mr. Stephenson reported on the PII were 7 MPH from the east at the start of the application and 7.5 MPH from the east at the end of the application. This would mean that winds were not blowing towards Mr. Freeman's non-DT soybean field. Rifle is a restricted use product (RUP) and requires a credentialed applicator to apply. Mr. Stephenson stated on his PII that he was the applicator and neither him, nor Mr. Scott are credentialed applicators.

5. I collected wind data from Muncie/Delaware County Airport (KMIE) which is 23.05 miles from the target field, Shelbyville Municipal Airport (KGEZ) which is 27.42 miles from the target field, and Columbus Bakalar Municipal Airport (KBAK) which is 49.04 miles from the target field. The data is as follows:
 - A. KMIE: 10 MPH with no gusts from the north-northeast at the start of the application. 8-10 MPH with no gusts from the north-northeast to north during the application. 8 MPH with no gusts from the north at the end of the application.
 - B. KGEZ: 6 MPH with no gusts from the northwest at the start of the application. 6-9 MPH with no gusts from the northwest to north-northwest during the application. 9 MPH with no gusts from the north-northwest at the end of the application.
 - C. KBAK: 3 MPH with no gusts from the north-northwest at the start of the application. 3-6 MPH with no gusts from the north-northwest to northwest during the application. 6 MPH with no gusts from the northwest at the end of the application.

Although these stations aren't in total agreeance in terms of the wind direction, they consistently show that winds were blowing towards Mr. Freeman's non-DT soybean field during the application.

6. The report from PPDL stated, *"Soybean plants in sample 20-00908 show cupping and strapping of newer leaves. Affected leaves also show whitish/yellowish leaf tips. These symptoms are characteristic of exposure to dicamba."*

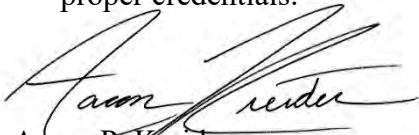
7. The lab results from the OISC residue lab are as follows:

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-0546 8	Veg; Grab; Off Target, Grad3, N	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BQL ppb	0.4 ppb
			Dicamba	BQL ppb	2 ppb
			AMPA	BDL ppb	50 ppb
			Glyphosate	20.9 ppb	2 ppb
20-4-0547 8	Veg; Grab; Off Target, Grad2	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BQL ppb	0.4 ppb
			Dicamba	BQL ppb	2 ppb
			AMPA	BDL ppb	50 ppb
			Glyphosate	41.9 ppb	2 ppb
20-4-0548 4	Veg; Grab; Off Target, Grad1, S	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BQL ppb	0.4 ppb
			Dicamba	BQL ppb	2 ppb
			AMPA	BDL ppb	50 ppb
			Glyphosate	548 ppb	2 ppb
20-4-0549 7	Veg; Grab; Weeds; Target Site	Veg	5OH-Dicamba	BQL ppb	2 ppb
			DCSA	11.0 ppb	0.4 ppb
			Dicamba	2880 ppb	2 ppb
			AMPA	BDL ppb	50 ppb
			Glyphosate	1180 ppb	2 ppb

Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
20-4-0550 6	Veg; Ctr; Grass; Off Target	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	0.870 ppb	0.4 ppb
			Dicamba	BQL ppb	2 ppb
			AMPA	BDL ppb	50 ppb
			Glyphosate	34.4 ppb	2 ppb

Glyphosate was found in samples collected from Mr. Freeman's field due to that ingredient being used on his field.

8. The Rifle label states, *"Do not spray near sensitive plants if wind is gusty or in excess of 5 mph and moving in the direction of adjacent sensitive plants."*
9. The report from PPDL shows that Mr. Freeman's non-DT soybeans were injured by the active ingredient from Mr. Stephenson's application. Mr. Stephenson violated the Rifle label by making an application when winds were blowing towards adjacent sensitive plants. Based on the evidence, Mr. Stephenson's application is responsible for the injury that caused Mr. Freeman's complaint. Mr. Stephenson also violated Indiana Pesticide Use and Application Law by applying a RUP without the proper credentials.

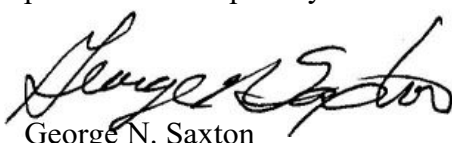

 Aaron P. Kreider
 Investigator

Date: September 15, 2020

Disposition: Brad Stephenson and Crossroads Family 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. A civil penalty in the amount of \$100.00 was assessed for this violation under case number PS20-0272. Consideration was given to the fact a restricted use pesticide was involved.

Brad Stephenson and Crossroads Family Farms were cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having an applicator, who is licensed or permitted under IC 15-16-5, in direct supervision. A civil penalty in the amount of \$100.00 was assessed for this violation under case number PS20-0272.

Daniel W. Scott and Crossroads Family Farms were cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for aiding or abetting a person to evade IC 15-16-5, conspire with a person to evade IC 15-16-5, or allow a license, permit, registration, or certification to be used by another person. A civil penalty in the amount of \$100.00 was assessed for this violation under PS20-0272.


 George N. Saxton
 Compliance Officer

Draft Date: December 11, 2020
 Case Closed: March 1, 2021



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

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In Re: Case PS20-0282

Department	Pesticide
Originated	07/10/2020
Assigned To	Kevin Gibson
Status	Closed

Involved Parties

Complainant	Alan Keith Hoffman Tipton, IN 46072
Respondent	Kakasuleff Farms Cicero, IN 46034
-	Alan Hoffman Tipton, IN 46072
Respondent	Jared Allen Kakasuleff Cicero, IN 46034
Respondent	George Lewis Kakasuleff Cicero, IN 46034

Overviews

07/15/2020 **Investigation Summary**

Complainant Alan Hoffman reported to OISC a neighboring farmer made a pesticide application which adversely impacted his Non DT soybeans.

I met with the complainant's father Jeff Hoffman at the site of investigation.

I made site observations of potential growth regulator plant injury. I took photographs of the impacted plants. I obtained environmental samples for the Purdue PPD and the OISC Residue Lab for analysis.

I learned Registered Technician Jared Kakasuleff of Kakasuleff Farms (pesticide business) made a pesticide application to the field west of the complainant's field. Mr. Kakasuleff submitted a completed Pesticide Investigation Inquiry (PII) for OISC records.

Based on the completed PII, Mr. Kakasuleff made a pesticide application of Diflexx (EPA #264-1173; active ingredient: diglycolamine) and Abundit Edge (EPA #352-922; active ingredient: glyphosate) on 6/21/20. He reported the wind blowing toward the complainant's field at time of application.

Submitted By: Kevin Gibson
Role: Investigator

07/22/2020 **Disposition Summary**

George Kakasulef, Jared Kakasulef and Kakasulef 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. 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.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

07/10/2020 Intake Referral Filed

Complainant stated Kakasuleff Farms made an alleged dicamba application to a neighboring corn field that has adversely affected his beans.

Original Event: Intake Referral (Pesticide) #1486
Complainant: Alan Keith Hoffman
Respondent: Kakasuleff Farms
Submitted By: George Saxton
Assigned To: Kevin Gibson
Attachments: File 48756; Hoffman complaint.pdf

07/10/2020 Investigator Called Complainant

Made an appointment for Tuesday July 14th at 9:00am.

Original Event: Investigation Activity (Pesticide) #1813
Subject: Alan Keith Hoffman
Submitted By: Kevin Gibson

07/10/2020 Case Created

Original Event: Case PS20-0282
Submitted By: George Saxton
Assigned To: Kevin Gibson

07/13/2020 Investigator Sent Fax/Email to Applicator

I made contact with applicator George Kakasuleff of Kakasuleff Farms. He confirmed he made a pesticide application to the field directly west of the complainant's field. I learned Registered Technician Jared Kakasuleff made the pesticide application in question. Licensed applicator George Kakasuleff was his supervisor for the application. He agreed to complete a Pesticide Investigation Inquiry (PII). A PII was emailed to him at kakygp@yahoo.com.

Original Event: Investigation Activity (Pesticide) #1830
Subject: Kakasuleff Farms
Submitted By: Kevin Gibson

07/14/2020 Investigator Met with Complainant

At the site I observed soybean leaf cupping to most of the complainant's field. The most impacted area of the complainant's Non DT soybean field was that closest part of the field east of the respondent field. As I walked east away from the respondent field, the impacted (injury) area of the soybean field was lessened in both growth regulator symptoms and plant height (plants were noticeably taller). Weather data was collected. I took photographs of the impacted field and several individual plants. I also obtained environmental samples for submission to Purdue Plant and Pest Diagnostic Lab (PPDL) for analysis and residue samples were obtained for the OISC Residue Lab for analysis.

Original Event: Investigation Activity (Pesticide) #1859
Location: Alan Hoffman
Subject: Alan Keith Hoffman
Submitted By: Kevin Gibson
Attachments: File 48982; Indianapolis Exec Airport weather (6-21-20).pdf
File 48983; Kokomo weather (6-21-20).pdf
File 48984; Lafayette weather (6-21-20).pdf

Photos:



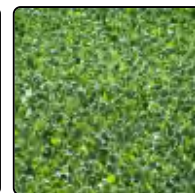
File 48978



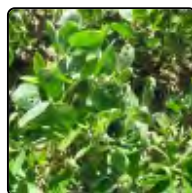
File 48979



File 48980



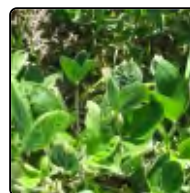
File 48981



File 48974



File 48975



File 48976



File 48977

07/14/2020 External Lab Sample Collected

None

Original Event: External Lab Sample Collection #151877 (X20-58535F)
Client: Alan Keith Hoffman
Submitted By: Kevin Gibson
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X20-58535F | I obtained several soybean plants from the complainant's field.
Photos:



File 48985

07/14/2020 **Residue Samples Collected**

Original Event: Residue Collection #151880 (20-4-0877 2)
Client: Alan Keith Hoffman
Submitted By: Kevin Gibson

07/15/2020 **Received External Lab Report**

"Soybean plants in sample #20-00887 show cupping or newer leaves. Affected leaves also show whitish/yellowish leaf tips. These symptoms are characteristic of exposure to dicamba." (Marcelo Zimmer) And "Symptoms show leaf cupping, leaf deformation and white leaf tips, which is suggestive of exposure to a growth regulator". (John Bonkowski)

Original Event: External Lab Report #151878 (X20-58535F)
Submitted By: Kevin Gibson
Sample: X20-58535F
Attachments: File 48986; PPD L Report.pdf

07/15/2020 **Online Investigation Activity**

Satellite sampling image and label information added as documentation.

Evidence Gathered Online

Satellite image created to depict the sampling at the site.

Original Event: Investigation Activity (Pesticide) #1865
Submitted By: Kevin Gibson
Attachments: File 49001; Abundit Edge.pdf
File 49002; Diflexx.pdf
File 49005; Satellite sampling image with wind.png
File 49000; Satellite sampling image.png
File 48999; Site Satellite image.png

07/15/2020 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #329
Submitted By: Kevin Gibson
Target Analyte: Diflexx
Target Analyte: Abundit Edge
PPLS Labels: [000264-01173-20191231.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-01173-20191231.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000264-01173-20191231.pdf
[000352-00922-20200501.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000352-00922-20200501.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000352-00922-20200501.pdf
Attachments: File 48998; PII (Kakasuleff).pdf

07/22/2020 **Judgement; Civil Penalty Assessed**
Citation

George Kakasulef 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.

Citation

Jared Kakasulef 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.

Civil Penalty

Kakasulef Farms 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 #531
Primary: Kakasuleff Farms
Secondary: George Lewis Kakasuleff
Additional: Jared Allen Kakasuleff
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 250

08/03/2020 **Received Residue Lab Report**

Lab Remarks

Released 08/03/2020

Investigatory Summary

Mr. Kakasuleff was found in violation for failing to follow the label per application.

Original Event: Residue Lab Report #153711 (151880-R242)
Submitted By: SYSTEM
Lab Report: Lab Report 151880-R242.pdf

11/03/2020 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #605
To: Kakasuleff Farms
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 2527
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 57630; PS20-0282EL~CP~Kakasuleff Farms--GeorgeKakasuleff--JaredKakasuleff.doc

11/20/2020 Received Penalty Payment for Target

Original Event: Compliance Receipt #860
Subject: Kakasuleff Farms
Submitted By: Joni Herman
Payment Expected: \$250.00
Payment Received: \$250.00
Attachments: File 60121; PS20-0282~Kakasuleff Farms~CP Received.pdf

01/04/2021 Received Mail Confirmation for Target

Original Event: Compliance Receipt #794
Subject: Kakasuleff Farms
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 2527
Received: 11/12/2020
Attachments: File 59770; CM 7018 0040 0000 3553 2527.pdf

<p>This record was generated on February 18, 2021, 12:13 PM EST. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>



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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

This record was generated on **April 8, 2021, 01:27 PM EDT**. Information displayed may contain errors or omissions.
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In Re: Case PS20-0309

Department	Pesticide
Originated	07/20/2020
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Complainant	Sonja Binder Bloomington, IN 47408
Respondent	Inter TEC Pest Division Inc Spencer, IN 47460
Respondent	Donald E Hynes Spencer, IN 47460
-	INCIDENTAL Cambridge Square Apartments Bloomington, IN 47408
-	INCIDENTAL Gregory Allen Parker Spencer, IN 47460

Overviews

10/23/2020 **Investigation Summary**

On June 20, 2020, I spoke with Ms. Binder, who reported a pesticide business had treated her apartment building, Cambridge Square Apartments, with a pesticide not labeled for residential use.

I later identified applicator Donald Hynes, employed by Inter Tec, Inc., had performed the application to the apartment buildings on June 24, 2020 with the pesticide Orthene PCO Pellets.

I found the label for Orthene PCO Pellets stated that it could not be used in an indoor residential area, therefore making Mr. Hynes' application to the apartments inconsistent with the pesticide's labeling.

Submitted By: James M. Trimble
Role: Investigator

10/24/2020 **Disposition Summary**

Inter TEC Pest Division Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide product indoors contrary to label directions. A civil penalty in the amount of \$250.00 was assessed for this violation.

However, the civil penalty was held in abeyance for two (2) years from the date of this notice and will not be imposed provided Inter TEC Pest Division Inc commits no further violations of the Indiana Pesticide Use and Application. Consideration was given to the fact this was their first violation of similar nature and corrective action was taken.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

07/20/2020 **Intake Referral Filed**

Complainant stated a pest control company applied pellets in the apartment buildings that are clearly labeled for outdoor use only.

Original Event:	Intake Referral (Pesticide) #1518
Complainant:	Sonja Binder
Respondent:	Unknown
Submitted By:	George Saxton
Assigned To:	James M. Trimble
Attachments:	File 49102; Binder complaint.pdf

07/20/2020 Investigator Called Complainant

On June 20, 2020, I called Ms. Binder, who reported her apartment building was treated with a pesticide not labeled for residential use. Mrs. Binder stated she had received notice from the apartment building's management, Cambridge Square Apartments, that they had hired a pesticide business to treat the apartment buildings for pests. Ms. Binder stated the notice advised that the pesticide business needed to access the interior of all of the apartments for the treatment. Ms. Binder stated she had called management and opted out of the pesticide treatment.

Ms. Binder stated that a few days later, she observed a vehicle with the name "Inter Tec" affixed to it parked in the parking lot of her apartment building. Ms. Binder stated she confronted the Inter Tec employee and asked him what he was treating the apartment buildings with. Ms. Binder stated the employee advised her he was using "Orthene PCO pellets". Ms. Binder stated she researched the above product and contacted the manufacturer, AMVAC, to inquire if the pesticide could be used "indoors in a 3 story apartment building". Ms. Binder stated she received a response from AMVAC, which stated no, it was not for indoor residential use. Ms. Binder stated she then called the apartment's management to inform them of the misapplication performed by the pesticide business.

Original Event:	Investigation Activity (Pesticide) #1929
Subject:	Sonja Binder
Respondent:	Inter TEC Pest Division Inc
Submitted By:	James M. Trimble

07/20/2020 Case Created

Original Event:	Case PS20-0309
Submitted By:	George Saxton
Assigned To:	James M. Trimble

07/21/2020 Investigator Met with Subject

On July 21, 2020, I arrived at Cambridge Square Apartments, where I spoke with Property Manager Dianna Cook and Assistant Manager Michael Niemi. I advised Mrs. Cook and Mr. Niemi of my investigation, who stated they were aware of Ms. Binder's complaint. I advised them that the product used to treat the apartments was off-label and shouldn't have been used inside the apartments.

I requested a copy of their invoice for the application to the apartments. I later received an email containing Inter Tec's invoice of application to Cambridge Square Apartments. The invoice listed the application took place on June 24, 2020, by technician Donnie Hynes.

Original Event:	Investigation Activity (Pesticide) #1930
Subject:	Cambridge Square Apartments
Respondent:	Donald E Hynes
Submitted By:	James M. Trimble
Attachments:	File 49893; CambridgeNOI.pdf File 49892; InterTec Invoice.pdf

07/21/2020 Investigator Called Business

On July 21, 2020, I called and spoke with the owner of Inter Tec, Greg Parker. Mr. Parker confirmed his business had performed the pesticide application of "Orthene" to Cambridge Square Apartments. Mr. Parker stated he was already aware of the complaint and admitted their applicator, Donald Hynes, had used the product off-label for cockroach control. Mr. Parker stated Mr. Hynes had used the pesticide off-label on his own accord and it was an isolated incident. Mr. Parker stated that Inter Tec does not teach the practice of using pesticides off-label. Mr. Parker stated Mr. Hynes had made a gross error in judgment and there would be an internal reprimand for Mr. Hynes' actions.

Mr. Parker stated that he already had a manager, James Todd Hinton, assigned to make contact with Cambridge Square Apartments to schedule corrective action for the misapplication. Mr. Parker stated he would document what action was taken and keep me informed.

Mr. Parker was asked to send me detailed records of their application to Cambridge Square Apartments, which he agreed.

Original Event:	Investigation Activity (Pesticide) #1931
Subject:	Gregory Allen Parker
Submitted By:	James M. Trimble

07/21/2020 Investigator Received Fax/Email from Business

On June 21, 2020, I received an email from Inter Tec containing their "Service Inspection Report" to Cambridge Square Apartments. Inter Tec's report stated, *"Inspected. Treated perimeter of kitchens and bathrooms of all accessible apartments. Building 303 was treated - Apartment 315 refused treatment. Apartments 102, 107, 113, 201, 208, 215, 216, 218, 301, 314, and 318 did not receive service. All other apartments besides the listed above received scheduled service."* The report stated the application was completed by Donnie Hynes on June 24, 2020, from 8:52 AM-10:37 AM, with the pesticide **Orthene PCO Pellets (EPA Reg. #5481-8973, active ingredient of Acephate)**.

Original Event: Investigation Activity (Pesticide) #1933
Subject: Inter TEC Pest Division Inc
Submitted By: James M. Trimble
Attachments: File 49894; Cambridge Square Apartments - Service Inspection Report.pdf
File 49895; Orthene.PDF

08/31/2020 **Investigator Received Fax/Email from Business**

On August 31, 2020, I received an email from Inter Tec, Inc. Quality Manager, Caitlin Parker, regarding their corrective action to their misapplication at Cambridge Square Apartments. Ms. Parker's email stated, "*our Technical Supervisor, James Hinton, reached out to the property manager at Cambridge Square Apartments and confirmed the areas as to where the product was applied and discovered that no clean-up was deemed necessary.*"

On a company level, Ms. Parker stated they conducted their monthly safety meeting on August 3, 2020, where they focused on label review and hands-on training. They also required their employees to complete the "*Label Review Training*" that the EPA has available on their website (<https://www.epa.gov/pesticide-labels/pesticide-label-review-training>). The employees were given one month to complete the five modules of training along with their quizzes. Ms. Parker stated Inter Tec would also give their employees a written follow-up quiz at their September safety meeting to ensure every applicator accomplished the course.

Original Event: Investigation Activity (Pesticide) #2104
Subject: Inter TEC Pest Division Inc
Submitted By: James M. Trimble
Attachments: File 53428; 8-31email.pdf
File 53429; Safety Meeting - 08032020 Sign-In Sheet.pdf

10/23/2020 **Online Investigation Activity**
Activity

I found Mr. Hynes' June 24, 2020 application of **Orthene PCO Pellets (EPA Reg. #5481-8973, active ingredient of Acephate)** to the indoor residential dwellings of Cambridge Square Apartments was used in a manner inconsistent with its labeling.

The label stated,

Orthene PCO Pellets - "*This product is not for indoor residential use.*"

Original Event: Investigation Activity (Pesticide) #2325
Subject: Inter TEC Pest Division Inc
Submitted By: James M. Trimble

10/24/2020 **Judgement; Civil Penalty Assessed**
Citation

Donald E. Hynes was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide product indoors contrary to label directions.

Civil Penalty

Inter TEC Pest Division Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide product indoors contrary to label directions. A civil penalty in the amount of \$250.00 was assessed for this violation.

Abeyance

However, the civil penalty was held in abeyance for two (2) years from the date of this notice and will not be imposed provided Inter TEC Pest Division Inc commits no further violations of the Indiana Pesticide Use and Application. Consideration was given to the fact this was their first violation of similar nature and corrective action was taken.

Original Event: Judgement #621
Primary: Inter TEC Pest Division Inc
Secondary: Donald E Hynes
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 250

01/26/2021 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #686
To: Inter TEC Pest Division Inc
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0042
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 61146; PS20-0309EL CP Abeyance ~ Inter TEC Pest Division--Donald Hynes.doc

02/01/2021 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #937
Subject: Inter TEC Pest Division Inc
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0042
Received: 02/01/2021
Attachments: File 62545; CM 7018 0040 0000 3553 0042.pdf



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State Chemist &
Seed Commissioner

This record was generated on **February 24, 2021, 10:07 AM EST**. Information displayed may contain errors or omissions.
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In Re: Case PS20-0315

Department	Pesticide
Originated	07/20/2020
Assigned To	Kevin Gibson
Status	Closed

Involved Parties

Complainant	Sandra Brody Granger, IN 46530
Respondent	Above & Beyond Landscape South Bend, IN 46614
-	Caleb Franklin South Bend, IN 46614
-	Michael J. Hays South Bend, IN 46601
Respondent	Gerardo Martinez South Bend, IN 46614

Overviews

08/27/2020 **Investigation Summary**

Complainant Sandra Brody reported to OISC Above and Beyond Landscape and Tree Service removed some mulberry trees from her backyard and shortly after, her blue spruce trees started to die. She asked two arborists to examine the trees. They told her it looked like the spruce trees were "poisoned".

I met with complainant Sandra Brody. I learned Above and Beyond Landscape and Tree Service removed two mulberry trees on 3/21/20 which were growing among three large blue spruce trees in her backyard. I obtained environmental samples of blue spruce tree limbs and soil for submission to Purdue Plant and Pest Diagnostic Lab and OISC Residue Lab for analysis.

I made contact with Above and Beyond Landscape and Tree Service owner Caleb Franklin. He admitted one of his employees- Gerardo Martinez made a pesticide application of Tordon RTU (EPA #62719-31; active ingredient: picloram) to the mulberry tree stumps growing among the blue spruce trees on the complainant's property. He admitted Mr. Martinez did not have a pesticide application license because the application was made as a favor to the complainant. An "Action Order" was emailed to Mr. Franklin "to cease all pesticide applications until properly licensed to do so through the Office of Indiana State Chemist."

After initial contact with company owner Caleb Franklin, I was contacted by his attorney Michael Hays. Mr. Hays requested all subsequent communication go through his office. A Pesticide Investigation Inquiry (PII) was emailed to Mr. Hays for employee Gerardo Martinez to complete and return to me.

A completed PII was returned to me along with a letter from Mr. Hays.

PPDL report indicated the necrosis present in the spruce tree sample may be due to root uptake of Tordon after the application to the mulberry stump which would have had a root system heavily intermixed with the spruce tree.

The lab report from OISC Residue Lab indicated the presence of the active ingredient (picloram) from Tordon RTU in both the soil and spruce tree limbs.

Mr. Gerardo Martinez did not possess a pesticide license when he made a pesticide application of Tordon RTU on the complainant's property which is located in Indiana.

Submitted By: Kevin Gibson
Role: Investigator

10/09/2020 **Disposition Summary**

Above & Beyond Landscape was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying Tordon RTU within the root zone of desirable trees. Consideration was given to the fact this was their first violation of similar nature.

Gerardo Martinez was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying Tordon RTU within the root zone of desirable trees. Consideration was given to the fact this was his first violation of similar nature.

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

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

07/20/2020 **Intake Referral Filed**

Complainant stated Above & Beyond Landscape removed some mulberry trees and shortly after, her Blue Spruce started to die. Two arborists and the local extension agent allegedly told her it looked like the spruce trees were 'poisoned'.

Original Event: Intake Referral (Pesticide) #1525
Complainant: Sandra Brody
Respondent: Above & Beyond Landscape
Submitted By: George Saxton
Assigned To: Kevin Gibson

07/20/2020 **Case Created**

Original Event: Case PS20-0315
Submitted By: George Saxton
Assigned To: Kevin Gibson

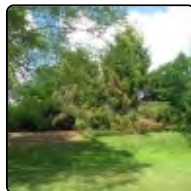
07/22/2020 **Investigator Called Complainant**

I made an appointment for Thursday 7/23/20 at 10:00am.

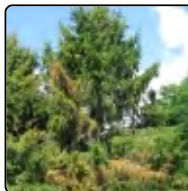
Original Event: Investigation Activity (Pesticide) #1909
Subject: Sandra Brody
Submitted By: Kevin Gibson

07/23/2020 **Residue Samples Collected**

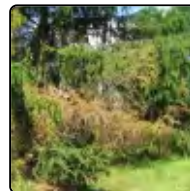
Original Event: Residue Collection #152908 (20-4-0883 5)
Client: Sandra Brody
Submitted By: Kevin Gibson
Photos:



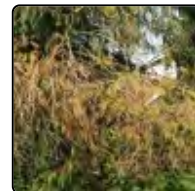
File 49540



File 49551



File 49552



File 49553



File 49554



File 49555

07/23/2020 **Investigator Met with Complainant**

I met with complainant Sandra Brody. She told me on March 21st she had a mulberry tree cut down which was growing within and next to a blue spruce tree. Above and Beyond Landscape cut the tree down and treated the stump with a stump killing product. By June, one of the spruce trees was dying. She had no idea what was causing tree to die. She contacted Above and Beyond Landscape. They looked at the tree but had no answer for her. She said she contacted two arborists. (Bill Zimmerman of American Tree Service and Matt Hogarth of Higher Ground). Both arborists told her it appeared the tree appeared to have been "poisoned". When told a tree service removed a mulberry tree and treated the stump, Mr. Hogarth told her the tree company probably used a product called Tordon which is highly toxic to plants, including trees. They removed the tree. By that time one of the other three spruce trees was starting to show signs of dying like the first one did. Ms. Brody also told me she contacted Dow/Agri Sciences

(producer of Tordon) for information about Tordon. She was told by a representative _Tordon should not be used in a residential setting; should not be used within areas of other trees; life in soil could be up to two years_. Ms. Brody was to supply me with the invoice from Above and Beyond Landscape for the work to her property. I took photographs of the site. I obtained environmental samples for submission to Purdue Plant and Pest Diagnostic Lab (PPDL) and OISC Residue Lab for analysis.

Original Event: Investigation Activity (Pesticide) #1918
Location: Sandra Brody
Subject: Sandra Brody
Submitted By: Kevin Gibson
Photos:



File 49756



File 49757



File 49758



File 49759



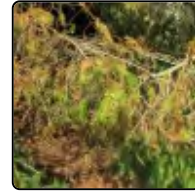
File 49760



File 49761



File 49762



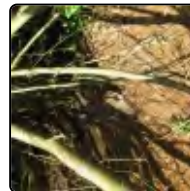
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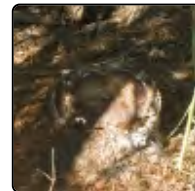
File 49752



File 49753



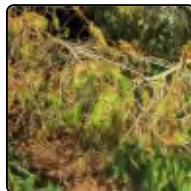
File 49754



File 49755

07/23/2020 External Lab Sample Collected

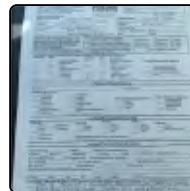
Original Event: External Lab Sample Collection #153021 (X20-48E8B1)
Client: Sandra Brody
Submitted By: Kevin Gibson
Photos:



File 49773



File 49774



File 49780

07/23/2020 Investigator Called Applicator

I made contact with Above and Beyond Tree Service owner Caleb Franklin. After I explained the reason for my call, I asked what type of product he used on the mulberry tree stump. At first he was very vague explaining it was a "stump killer". He then said he had used the same "stump killer" for the last five years. I explained to him I was concerned he needed a pesticide applicator license in order to make a "stump killer" application. When I pressed him for specifics, he "back-tracked" by saying he has sub-contracted other companies in the past to do fertilizer work. When I asked him about "other companies" making "stump killer" applications, he again "back-tracked", he said they didn't. Then he told me he had only used the "stump killer" on two occasions with one being the current case. He said the other occasion he couldn't remember the other occasion. I told him his company most likely needed a pesticide business license to much such applications. He then told me the "stump killer" was actually Tordon which he didn't need a license to buy. Then I told him you may not need a license to buy it but most likely you needed a pesticide license to apply it for hire. He then told me he did not charge the complainant for the application of Tordon. He said, in fact the invoice said "no charge". He then admitted he did not make the application but his employee Gerardo Martinez made it. He then said he would not do anymore "stump applications".

Evidence From Subject

Mr. Franklin identified Tordon RTU (EPA #62719-31; active ingredients: picloram and 2, 4-D) as the product his employee Gerardo Martinez used on the complainant's unwanted tree stumps.

Original Event: Investigation Activity (Pesticide) #1925
Subject: Caleb Franklin
Submitted By: Kevin Gibson
Attachments: File 50977; Tordon RTU.pdf

07/24/2020 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #338
Submitted By: Kevin Gibson
Target Analyte: Tordon RTU
PPLS Labels: [000228-00447-20100308.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000228-00447-20100308.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000228-00447-20100308.pdf
[062719-00031-20100422.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00031-20100422.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00031-20100422.pdf
Attachments: File 49890; Tordon RTU.pdf

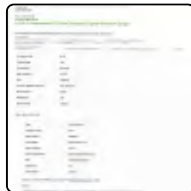
07/27/2020 **Investigator Called Business**

I made contact with Charlie's Lawn Service owner Charlie Fish. He confirmed his company made two pesticide applications to the complainant's property this year. He agreed to send me the information. He told me he did not apply any product containing picloram.

Records

Charlie's Lawn Service owner Charlie Fish sent application records for the complainant's property. According to the records, Mr. Fish made an application of LESCO Pre-emergent on 3/25/20 and an application of LESCO Momentum FX2 on 6/3/20. Neither product contains the active ingredient picloram.

Original Event: Investigation Activity (Pesticide) #1928
Subject: Charles Lawn SVC Inc
Submitted By: Kevin Gibson
Photos:



File 49889

07/27/2020 **Online Investigation Activity**

I created satellite images depicting the sampling strategy at the site (complainant's property).

Evidence Gathered Online

I created satellite images depicting the sampling strategy at the site (complainant's property).

Original Event: Investigation Activity (Pesticide) #1932
Submitted By: Kevin Gibson
Attachments: File 49897; Sampling Image-2.png
File 49896; Sampling satellite image.png

07/28/2020 **Received External Lab Report**

Received a final Purdue Plant and Pest Diagnostic Lab (PPDL) report. The report stated, "The spruce sample submitted had no evidence of disease or arthropod damage. This type of browning and necrosis in the absence if a disease or insect problem is consistent with an abiotic stress factor. Based on experience with past cases the decline may be due to root uptake of the Tordon by the Norway spruce after application to the mulberry stump, which would have a root system heavily intermixed with the spruce."
- Tom Creswell, Director PPDL

Original Event: External Lab Report #153320 (X20-48E8B1)
Submitted By: Kevin Gibson
Sample: X20-48E8B1
Attachments: File 49948; PPDL Report.pdf

07/30/2020 **Investigator Sent Fax/Email to Subject**

Received an email from the respondent's attorney Michael Hays including a letter. Letter stated attorney Michael Hays was representing Caleb Franklin and his company Above and Beyond Tree Service. All future communication was to be through Mr. Hays.

Original Event: Investigation Activity (Pesticide) #2062
Subject: Michael J. Hays
Submitted By: Kevin Gibson
Attachments: File 52486; Letter from respondent attorney.pdf
Photos:



File 52485

08/05/2020 **Received Residue Lab Report**

Lab Remarks

released 08/05/2020

Investigatory Summary

Analysis of soil and pine needles indicated the presence of picloram (23.2 ppb from soil near spruce tree removed from property; 2720 ppb from soil near dying spruce tree and 27.4 ppb from branches and needles from dying spruce tree).

Original Event: Residue Lab Report #154148 (152908-R249)
Submitted By: SYSTEM
Lab Report: Lab Report 152908-R249.pdf

08/06/2020 Investigator Sent Fax/Email to Subject

I sent an email to attorney Michael Hays for Above and Beyond Landscape and Tree Service requesting application information with an attached PII for the applicator to complete.

Original Event: Investigation Activity (Pesticide) #2064
Subject: Michael J. Hays
Submitted By: Kevin Gibson
Photos:

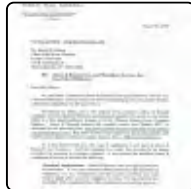


File 52487

08/20/2020 Investigator Received Fax/Email from Subject

Received a letter from attorney Michael Hays. The letter stated the requested information was listed in the letter.

Original Event: Investigation Activity (Pesticide) #2065
Subject: Michael J. Hays
Submitted By: Kevin Gibson
Photos:



File 52501



File 52502

08/20/2020 Investigator Sent Fax/Email to Subject

I emailed attorney Michael Hays. I advised him I needed the PII completed by applicator Gerardo Martinez because it required his signature.

Original Event: Investigation Activity (Pesticide) #2066
Subject: Michael J. Hays
Submitted By: Kevin Gibson
Photos:



File 52506

08/26/2020 Investigator Received Fax/Email from Subject

I received a completed Pesticide Investigation Inquiry (PII) from Above and Beyond Landscape and Tree Service attorney Michael Hays. According to the PII and its attached letter, on 3/21/20 Above and Beyond employee Gerardo Martinez applied Tordon Ready-To-Use (EPA #62719-31; active ingredient: picloram) to some freshly cut mulberry tree stumps. PII and Tordon RTU are attached.

In my recent conversations with Above and Beyond Landscape and Tree Service owner Caleb Franklin, Mr. Martinez has never had a pesticide license with OISC. I checked OISC pesticide applicator licensing data base for Gerardo Martinez as a licensed pesticide applicator. I found no current or former listing for Gerardo Martinez as a licensed pesticide applicator. Mr. Franklin told me "they" had used a stump killer on one other occasion. He could not remember the exact name of the product, when "they" used the product or where "they" used the product. At this point in time only one occasion and location could be proven for the use of Tordon by Mr. Martinez.

Pesticide Investigation Inquiry

I received a completed Pesticide Investigation Inquiry (PII).

Original Event: Investigation Activity (Pesticide) #2078
Subject: Michael J. Hays
Submitted By: Kevin Gibson
Attachments: File 52870; completed pesticide inquiry form 8-25-20 (00923074x9D84D).pdf
File 52872; Tordon RTU.pdf

08/26/2020 **Investigator Received Fax/Email from Applicator**

I received a completed PII from Gerardo Martinez via attorney Michael Hays.

Original Event: Investigation Activity (Pesticide) #2092
Subject: Gerardo Martinez
Submitted By: Kevin W. Gibson
Attachments: File 53240; completed pesticide inquiry form 8-25-20 (00923074x9D84D).pdf

08/31/2020 **Judgement; Civil Penalty Assessed
Warning**

Above & Beyond Landscape was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying Tordon RTU within the root zone of desirable trees. Consideration was given to the fact this was their first violation of similar nature.

Warning

Gerardo Martinez was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying Tordon RTU within the root zone of desirable trees. Consideration was given to the fact this was his first violation of similar nature.

Civil Penalty

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

Original Event: Judgement #556
Primary: Above & Beyond Landscape
Secondary: Gerardo Martinez
Submitted By: George Saxton
Legal Citations: IC 15-16-5-65(2); IC 15-16-5-65(9)
Penalty Amount: 250

11/23/2020 **Notice of Enforcement Mailed to Target**

As requested, a copy of the enforcement letter & case summary were sent to attorney also.

THK Law
Mr. Michael J. Hays
212 East Lasalle Avenue, Suite 100
South Bend, Indiana 46601-1225

Original Event: Outgoing Mail #617
To: Above & Beyond Landscape
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0547
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 58398; PS20-0315EL~CP~Above & Beyond Landscape--Gerardo Martinez.doc

01/05/2021 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #809
Subject: Above & Beyond Landscape
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0547
Received: 12/11/2020
Attachments: File 59830; CM 7018 0040 0000 3553 0547.pdf

01/13/2021 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #898
Subject: Above & Beyond Landscape
Submitted By: Joni Herman
Payment Expected: \$250.00
Payment Received: \$250.00
Attachments: File 60927; PS20-0315 ~ Above & Beyond Landscape ~ CP Received.pdf

CASE SUMMARY

Case #PS20-0318

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

Respondent: E-Z Clean
Mark Phillips President
2840 SR 63
Terre Haute, IN 47802

Registrant: Questspecialty Corporation
PO Box 624
Brenham, TX 77834

1. On June 21, 2020, I performed a routine marketplace inspection at E-Z Clean Corporation located at 2840 SR 63 Terre Haute, IN. I spoke with Customer Sales Rep, Joe Carzine, 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 E-Z Clean. I confirmed through Sarah Caffery, Pesticide Registration Specialist, the pesticide products were unregistered in the State of Indiana. The product was as follows:
 - a. Lights Out Bed Bug Killer, 25(b)¹ product.
 - i. 23 units in stock
 - ii. Shipped January 7, 2020.
3. Upon completion of the inspection, I spoke with Mark Phillips, President of E-Z Clean, 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. Phillips if he was able to provide me with any information for when the last shipment came to the store. Mr. Phillips was able to provide me with an invoice from Questspecialty Corporation showing the product shipped January 7, 2020.

¹ Minimum risk

4. I placed the evidentiary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.
5. On July 23, 2020, I delivered the evidentiary sample to the Formulation Lab.



Fig. 1

- Fig. 1) Photo showing Lights Out Bed Bug Killer.

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



Garret A. Creason
Investigator

Date: September 24, 2020

Label Review:

On August 31, 2020, I completed the labeling review for Lights Out Bed Bug Killer. This product is currently unregistered in the state of Indiana; OISC shows no record of a pending application.

OISC label review includes the guidelines provided by the AAPCO 25(b) Workgroup. The following labeling aspects would require revisions before the product can be registered in the state of Indiana:

1. Non-Toxic
 - a. Per 25(b) Product Label Guidance, point 8 – Non-toxic claims are not acceptable
 - b. Per 25(b) Product Label Guidance, point 11 – all safety claims must be qualified with “when used as directed”
2. Ingredient Content
 - a. Per 25(b) Product Label Guidance, point 4 – Inert ingredients are to be listed in order of
 - b. highest percentage first

We cannot provide review of the claims without the efficacy and statement of formula.



Sarah K. Caffery
Pesticide Product Registration Specialist

Date: August 31, 2020

Disposition: E-Z Clean was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that is not registered for distribution in Indiana.

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



George N. Saxton
Compliance Officer

Draft Date: October 29, 2020
Case Closed: April 5, 2021

Compliance Assistance for Questspecialty Corporation:

1. Address revisions identified above
2. Submit pesticide registration application to OISC

CASE SUMMARY

Case #PS20-0319

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

Respondent: E-Z Clean
Mark Phillips President
2840 SR 63
Terre Haute, IN 47802

Registrant: Questvapco Corporation
PO Box 624
Brenham, TX 77834

1. On June 21, 2020, I performed a routine marketplace inspection at E-Z Clean Corporation located at 2840 SR 63 Terre Haute, IN. I spoke with Customer Sales Rep, Joe Carzine, 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 E-Z Clean. I confirmed through Sarah Caffery, Pesticide Registration Specialist, the pesticide products were unregistered in the State of Indiana. The product was as follows:
 - a. Adios Drain Fly Repellent, 25(b)¹ product.
 - i. 16 units in stock
3. Upon completion of the inspection, I spoke with Mark Phillips, President of E-Z Clean, 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. Phillips if he was able to provide me with any information for when the last shipment came to the store. Mr. Phillips was not able to locate and documentation.
4. I placed the evidentiary samples into a clear evidence bag and sealed for transportation to the OISC formulation lab.

¹ Minimum risk pesticide

5. On July 23, 2020 I delivered the evidentiary sample to the Formulation Lab.

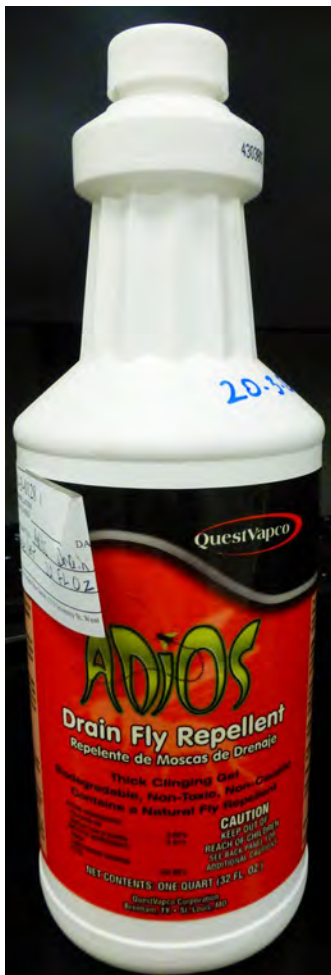


Fig. 1

- Fig. 1) Photo showing Adios Drain Fly Repellent.

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

Garret A. Creason
Investigator

Date: September 24, 2020

Label Review:

On August 31, 2020, I completed the labeling review for Adios Drain Fly Repellent. This product is currently unregistered in the state of Indiana; OISC shows no record of a pending application.

OISC label review includes the guidelines provided by the AAPCO 25(b) Workgroup. The following labeling aspects would require revisions before the product can be registered in the state of Indiana:

1. Non-Toxic
 - a. Per 25(b) Product Label Guidance, point 8 – Non-toxic claims are not acceptable
 - b. Per 25(b) Product Label Guidance, point 11 – all safety claims must be qualified with “when used as directed”
2. Natural
 - a. The product includes Sodium Lauryl Sulfate; this is not natural
 - b. Per (25)b Product Label Guidance, point 10 – Natural claims are not allowed if the product includes synthetic chemicals and those derived synthetically.
 - c. Natural claims are false or misleading; therefore, misbranded
3. EPA 25(b) condition 5 identifies the contact information that must be on a 25(b) label. Per this condition, the company must also provide their phone number. This is not included on the label.

We cannot provide review of the claims without the efficacy and statement of formula.



Sarah K. Caffery
Pesticide Product Registration Specialist

Date: August 31, 2020

Disposition: E-Z Clean was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that is not registered for distribution in Indiana.

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

On November 11, 2020, OISC received a letter from Mitch Whitney of QuestSpecialty Corporation indicating that they would recall remaining products from the distributor.



George N. Saxton
Compliance Officer

Draft Date: January 8, 2021
Case Closed: March 1, 2021

Compliance Assistance for Questvapco Corporation:

1. Address revisions identified above
2. Submit pesticide registration application to OISC

CASE SUMMARY

Case #PS20-0331

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

Respondent: James Barnett
7695 Mill Run
Columbus, IN 47201

1. On July 23, 2020, Corporal Ted Stine, Conservation Officer for the Indiana Department of Natural Resources (DNR) informed the Office of Indiana State Chemist (OISC) of a possible misuse of a granular product to kill raccoons. Corporal Stine stated a citizen contacted DNR stating James Barnett was bragging about purchasing a granular product from out of state because he could not buy it in Indiana to kill raccoons on his property.
2. On July 23, 2020, I received a telephone call from Corporal Ted Stine, Conservation Officer for DNR. Corporal Stine stated he was headed to Taylorsville, Indiana on a tip of an individual using a granular product to kill raccoons. Corporal Stine stated the information he received stated the product was purchased out of state because it was illegal to purchase in Indiana.
3. On July 23, 2020, I met with James Barnett at his residence in Taylorsville, Indiana. Corporal Ted Stine, Conservation Officer for DNR was also present. Mr. Barnett stated he purchased Golden Malrin in Carrolton, Kentucky, approximately 2 weeks ago. Mr. Barnett stated he purchased the Golden Malrin to kill raccoon on his property. Mr. Barnett stated he mixed the Golden Malrin granular with soda pop because he read the "how to" instruction on the internet. See figure 1. Mr. Barnett had approximately five (5) Tupperware containers around the exterior of his mini barn. See figures 2-3. Four (4) of the five Tupperware containers had a blue colored liquid in them. I collected all five containers. Furthermore, I collected a 10-pound container of Golden Malrin, and another container filled with what appeared to be Golden Malrin seized by Corporal Stine prior to my arrival. See figure 4.



Figure 1-Pop container



Figure 2- Three Tupperware containers



Figure 3-Tupperware container with GM



Figure 4-GM and “shaker” container of GM

4. Mr. Barnett completed an affidavit admitting to the misuse of the Golden Malrin.
5. Mr. Barnett on his mini barn had four chalk lines tallying four dead raccoons. See figure 5.



Figure 5-Tally on mini barn

6. Corporal Stine and I surveyed the surrounding woods and located the carcasses of fifteen (15) dead raccoons in various states of decomposition. See figure 6-7.

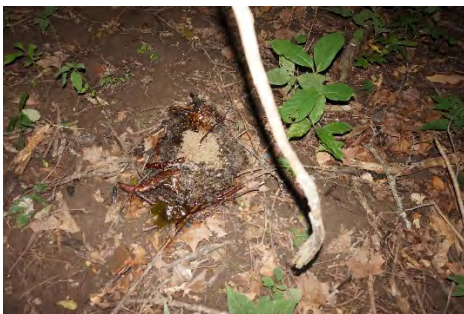


Figure 6- remains of 1 of 15 dead raccoons



Figure 7-Skeletal remains of raccoon.

7. On July 23, 2020, Mr. Barnett was instructed to clean up all the dead raccoon carcasses due to possible secondary kills from other animals consuming the carcasses. Corporal Stine returned to Mr. Barnett's residence to find he had not complied with our request.
8. Label language for Golden Malrin states in part, *“It is illegal to use this product with the intention to kill raccoons, skunks, opossums, coyotes, wolves, dogs, cats, or any other non-target species.”*

Paul J. Kelley III

Paul J. Kelley
Investigator

Date: August 6, 2020

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

James Barnett was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having a pesticide certification. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: November 4, 2020
Case Closed: February 17, 2021

CC: Corporal Ted Stine
tsine@dnr.IN.gov



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

This record was generated on **March 30, 2021, 08:43 AM EDT**. Information displayed may contain errors or omissions.
Official records may only be obtained directly from the Office of Indiana State Chemist.

In Re: Case PS20-0351

Department	Pesticide
Originated	08/03/2020
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant	Office of Indiana State Chemist	
Respondent	Kruse Seed SVC LLC Fort Branch, IN 47648	Unlicensed
Respondent	Timothy Clarence Kruse Fort Branch, IN 47648	Unlicensed
-	Kruse Seed SVC LLC	

Overviews

08/10/2020 **Investigation Summary**

Timothy Kruse's certification expired December 31, 2019 thereby invalidating his business license.

On August 4, 2020 I contacted Timothy Kruse of Kruse Seed Services. I advised Mr. Kruse I was a Pesticide Investigator with OISC and of the complainant I was investigation. I advised Mr. Kruse according to the OISC Licensing Database he failed to obtain the required amount of continuing credit hours (CCH's) or retake the category exam by December 31, 2019 for his certification in Category 4 (Seed Treatment). I advised Mr. Kruse by failing to complete either the required CCH's or retake the category exam by December 31, 2019 caused his certification in category 4 (Seed Treatment) to expire. Further, I advised Mr. Kruse due to his certification expiring it invalidated the OISC Pesticide Business License for Kruse Seed Services due to not have a certified applicator for category 4 (Seed Treatment).

I asked Mr. Kruse if he made for hire seed treatment applications in the year 2020. Mr. Kruse advised that he did. I asked Mr. Kruse if he was aware his category 4 (Seed Treatment) certification had expired. Mr. Kruse advised he did not know it had expired.

On August 5, 2020 I met with Timothy Kruse and Rick Kruse of Kruse Seed Services located in Fort Branch, Indiana. I advised Rick Kruse the President of Kruse Seed Services I would need the dates for all for hire category 4 (Seed Treatment) pesticide application Kruse Seed Services made in 2020. Rick Kruse advised his computer was locked and once he got it unlocked, he would send me the dates Kruse Seed Services made for hire category 4 (Seed Treatment) pesticide applications in 2020.

I issued Timothy Kruse and Kruse Seed Services an Action Order to Stop advertising or making pesticide applications for hire until your business location is credentialed by OISC as a Licensed Pesticide Business.

On August 7, 2020 I received an email from Rick Kruse of Kruse Seed Services which included the dates Kruse Seed Services made for hire category 4 (Seed Treatment) pesticide applications in 2020.

According to the email I received from Rick Kruse of Kruse Seed Services of the dates Kruse Seed Services made for hire category 4 (Seed Treatment) pesticide applications in 2020. Timothy Kruse of Kruse Seed Services made 21 for hire category 4 (Seed Treatment) pesticide applications in 2020 without having a valid certification in category 4 (Seed Treatment) and an invalid OISC Pesticide Business License.

Submitted By: Nathan J. Davis
Role: Investigator

08/10/2020 **Disposition Summary**

Timothy Kruse and Kruse Seed SVC LLC were cited for twenty-one (21) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid Indiana pesticide business license. A civil penalty in the amount of \$10,500.00 (21 counts x \$500.00 per count) was assessed. However, the civil penalty was reduced to \$4,200.00. Consideration was given to the fact Kruse Seed SVC LLC cooperated during the investigation; there was no potential for damage and corrective action was taken. Consideration was also given to the fact this was their second violation of similar nature. See case number 2015/0698.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

08/03/2020 Intake Referral Filed

Timothy Kruse's certification expired December 31, 2019 thereby invalidating his business license.

Original Event: Intake Referral (Pesticide) #1565
Complainant: Office of Indiana State Chemist
Respondent: Kruse Seed SVC LLC
Submitted By: George Saxton
Assigned To: Nathan J. Davis
Attachments: File 50600; Kruse Seed - part 1.pdf
File 50601; Kruse Seed - part 2.pdf

08/03/2020 Case Created

Original Event: Case PS20-0351
Submitted By: George Saxton
Assigned To: Nathan J. Davis

08/04/2020 Investigator Called Applicator

On August 4, 2020 I contacted Timothy Kruse of Kruse Seed Services. I advised Mr. Kruse I was a Pesticide Investigator with OISC and of the complainant I was investigation. I advised Mr. Kruse according to the OISC Licensing Database he failed to obtain the required amount of continuing credit hours (CCH's) or retake the category exam by December 31, 2019 for his certification in Category 4 (Seed Treatment). I advised Mr. Kruse by failing to complete either the required CCH's or retake the category exam by December 31, 2019 caused his certification in category 4 (Seed Treatment) to expire. Further, I advised Mr. Kruse due to his certification expiring it invalidated the OISC Pesticide Business License for Kruse Seed Services due to not have a certified applicator for category 4 (Seed Treatment).

I asked Mr. Kruse if he made for hire seed treatment applications in the year 2020. Mr. Kruse advised that he did. I asked Mr. Kruse if he was aware his category 4 (Seed Treatment) certification had expired. Mr. Kruse advised he did not know it had expired.

Original Event: Investigation Activity (Pesticide) #1984
Subject: Timothy Clarence Kruse
Submitted By: Nathan J. Davis

08/05/2020 Investigator Met with Business

On August 5, 2020 I met with Timothy Kruse and Rick Kruse of Kruse Seed Services located in Fort Branch, Indiana. I advised Rick Kruse the President of Kruse Seed Services I would need the dates for all for hire category 4 (Seed Treatment) pesticide application Kruse Seed Services made in 2020. Rick Kruse advised his computer was locked and once he got it unlocked, he would send me the dates Kruse Seed Services made for hire category 4 (Seed Treatment) pesticide applications in 2020.

I issued Timothy Kruse and Kruse Seed Services an Action Order to *Stop advertising or making pesticide applications for hire until your business location is credentialed by OISC as a Licensed Pesticide Business.*

I explained to Timothy Kruse on how to obtain his category 4 (Seed Treatment) certification. Timothy Kruse advised he would start the process to obtain his category 4 (Seed Treatment) certification.

Original Event: Investigation Activity (Pesticide) #1986
Location: Kruse Seed SVC LLC
Subject: Kruse Seed SVC LLC
Submitted By: Nathan J. Davis

08/05/2020 Action Order Issued

Stop advertising or making pesticide applications for hire until your business location is credentialed by OISC as a Licensed Pesticide Business.

Original Event: Action Order #169
Issued To: Timothy Clarence Kruse
Firm Representative: Timothy Kruse
Submitted By: Nathan J. Davis

08/07/2020 Investigator Received Fax/Email from Business

On August 7, 2020 I received an email from Rick Kruse of Kruse Seed Services which included the dates Kruse Seed Services made for hire category 4 (Seed Treatment) pesticide applications in 2020. The dates included in the email follow:

April - 6, 7, 8, 15, 16, 20, 21, 24

May - 4, 7, 11, 12, 15, 26, 27, 28, 30

June - 1, 3, 8, 13

Original Event: Investigation Activity (Pesticide) #1985
Location: Kruse Seed SVC LLC
Subject: Kruse Seed SVC LLC
Submitted By: Nathan J. Davis

08/07/2020 **Online Investigation Activity**

According to the email I received from Rick Kruse of Kruse Seed Services of the dates Kruse Seed Services made for hire category 4 (Seed Treatment) pesticide applications in 2020. Timothy Kruse of Kruse Seed Services made 21 for hire category 4 (Seed Treatment) pesticide applications in 2020 without having a valid certification in category 4 (Seed Treatment) and an invalid OISC Pesticide Business License.

Original Event: Investigation Activity (Pesticide) #1987
Subject: Timothy Clarence Kruse
Submitted By: Nathan J. Davis

08/10/2020 **Judgement; Civil Penalty Assessed Citation**

Timothy Kruse Seed was cited for twenty-one (21) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid Indiana pesticide business license.

Civil Penalty

Kruse Seed SVC LLC was cited for twenty-one (21) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a valid Indiana pesticide business license. A civil penalty in the amount of \$10,500.00 (21 counts x \$500.00 per count) was assessed. However, the civil penalty was reduced to \$4,200.00. Consideration was given to the fact Kruse Seed SVC LLC cooperated during the investigation; there was no potential for damage and corrective action was taken. Consideration was also given to the fact this was their second violation of similar nature. See case number 2015/0698.

Original Event: Judgement #540
Primary: Kruse Seed SVC LLC
Secondary: Timothy Clarence Kruse
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(9)
Penalty Amount: 4200

11/04/2020 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #611
To: Kruse Seed SVC LLC
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 2510
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 57636; PS20-0351EL~CP~Kruse Seed Svc--Timothy C. Kruse.doc

11/25/2020 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #864
Subject: Kruse Seed SVC LLC
Submitted By: Joni Herman
Payment Expected: \$4,200.00
Payment Received: \$4,200.00
Attachments: File 60128; PS20-0351~Kruse Seed Svc.~CP Received.pdf

12/08/2020 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #775
Subject: Kruse Seed SVC LLC
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 2510
Received: 11/09/2020
Attachments: File 59193; CM 7018 0040 0000 3553 2510.pdf



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

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In Re: Case PS20-0353

Department	Pesticide
Originated	08/04/2020
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant	Ronald Clark Bicknell, IN 47521	
Referred By	Indiana Department of Environmental Management	
Respondent	Ed Air Inc Oaktown, IN 47561	Licensed Business
Respondent	Scott Alan Crowe Oaktown, IN 47561	Certified Applicator

Overviews

10/01/2020 **Investigation Summary**

Complainant stated fish started to die in his pond after an aerial application to a neighboring field. A snake also died.

I met with complainant at his property. The complainant advised on or around August 1, 2020 he estimated around 600 fish had died in his pond. The complainant advised his pond had now turned a murky color. The complainant advised prior to the fish dying he observed an aerial application being made to a cornfield to the south of his property. Further the complainant advised after the aerial application it rained for four days and he got a total of five inches of rain. During my on-site investigation I did the following: Looked for, and found one potential sources of pesticide application in the area. The source of the pesticide application is an aerial application made to a cornfield, located to the south of the complainants property. Observed and photographed dead fish around the perimeter of the pond, observed and photographed murky water in the pond. Collected a composite vegetation samples from the target field. Collected composite water and sediment samples from the complainant's pond. The residue samples were submitted to the OISC Residue Laboratory for analysis.

I contacted Ed Air located in Oaktown, Indiana. I spoke with office manager Lisa Huddleston. I advised Ms. Huddleston I was a Pesticide Investigator for OISC and of the complaint I was investigating. Ms. Huddleston advised should would document the area and have have Eddie Huddleston contact me to confirm the application site. I advised Ms. Huddleston I would be sending her via email a pesticide investigation inquiry to complete for the application and return to me. On August 14, 2020 Eddy Huddleston of Ed Air contacted me. Mr. Huddleston confirmed Ed Air made an application to the target field. Mr. Huddleston advised he would complete the pesticide investigation inquiry and return it to me. On August 24, 2020 I received a completed pesticide investigation inquiry from Ed Air Inc. for the application.

The OISC Residue Laboratory analyzed the off target composite pond water and off target composite pond sediment samples collected for the active ingredients azoxystrobin, cyhalothrin, and propiconazole and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredients azoxystrobin and propiconazole in the off target composite pond sediment sample.

Weather history data was obtained at www.wunderground.com from the three closest official weather station to the application site. The location and weather data for July 9, 2020 follows: The wind data from the Lawrenceville-Vincennes International Airport (KLWW), Evansville Regional Airport (KEVV), and Terre Haute Regional Airport (KHUF) indicate the wind speed during the application was between Calm and 5 mph with no gusts, varying out of the south, north, and east. The application record indicated the wind speed was calm.

According to the Google Maps measuring tool the complainant's pond is 114 feet from the closet aerial pass indicated on the as applied map included with the application record. The label for *Trivapro*, EPA Reg.# 100-1613, Active = Propiconazole, Benzovindiflupyr, Azoxystrobin states: "**Do not apply by air within 150 ft of lakes, reservoirs, rivers, permanent streams, marshes or natural ponds, estuaries and commercial fish ponds**". Further, the label for *Grizzly Too*, EPA Reg.# 100-1295-1381, Active = Cyhalothrin states: "**Buffer Zone for Non-ULV Aerial Application: Do not apply within 150 feet of aquatic habitats (such as, but not limited to, lakes; reservoirs; rivers; permanent streams; marshes; natural ponds, estuaries; and commercial fish ponds)**".

Submitted By: Nathan J. Davis
Role: Investigator

10/01/2020 **Disposition Summary**

Although it could not be determined if the off-target residue was found because of drift or runoff, Ed Air Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying within 150 feet of aquatic habitats (such as, but not limited to, lakes; reservoirs; rivers; permanent streams; marshes; natural ponds, estuaries; and commercial fish ponds)". 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.

Although it could not be determined if the off-target residue was found because of drift or runoff, Scott Alan Crowe was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying within 150 feet of aquatic habitats (such as, but not limited to, lakes; reservoirs; rivers; permanent streams; marshes; natural ponds, estuaries; and commercial fish ponds)". Consideration was given to the fact a restricted use pesticide was involved.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

08/04/2020 **Intake Referral Filed**

Complainant stated fish started to die in his pond after an aerial application to a neighboring field. A snake also died.

Original Event: Intake Referral (Pesticide) #1567
Complainant: Ronald Clark
Respondent: Unknown
Referred By: Indiana Department of Environmental Management
Submitted By: George Saxton
Assigned To: Nathan J. Davis
Attachments: File 50704; Re_ Possible fish kill aerial application.pdf

08/04/2020 **Case Created**

Original Event: Case PS20-0353
Submitted By: George Saxton
Assigned To: Nathan J. Davis

08/06/2020 **Investigator Met with Complainant**

On August 6, 2020 I met with complainant at his property. The complainant advised on or around August 1, 2020 he estimated around 600 fish had died in his pond. The complainant advised his pond had now turned a murky color. The complainant advised prior to the fish dying he observed an aerial application being made to a cornfield to the south of his property. Further the complainant advised after the aerial application it rained for four days and he got a total of five inches of rain.

During my on-site investigation I did the following:

Looked for, and found one potential sources of pesticide application in the area. The source of the pesticide application is an aerial application made to a cornfield, located to the south of the complainants property.

Observed and photographed dead fish around the perimeter of the pond, observed and photographed murky water in the pond.

Collected a composite vegetation samples from the target field. Collected composite water and sediment samples from the complainant's pond. The residue samples were submitted to the OISC Residue Laboratory for analysis.

Photographs

Photographs taken during the on-site investigation.

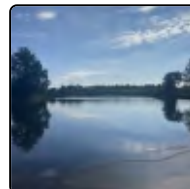
Original Event: Investigation Activity (Pesticide) #1978
Location: Ronald Clark
Subject: Ronald Clark
Submitted By: Nathan J. Davis
Photos:



File 50969



File 50970



File 50967



File 50968

08/06/2020 Residue Samples Collected

Original Event: Residue Collection #154415 (20-4-0358 6)
Client: Ronald Clark
Submitted By: Nathan J. Davis
Sample: 20-4-0358 6 | Veg; Comp; Corn; Target Site, S
Sample: 20-4-0359 3 | Sediment; Comp; Pond; Off Target
Sample: 20-4-0360 4 | Surface Water; Comp; Pond; Off Target

08/06/2020 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #354
Submitted By: Nathan J. Davis
Target Analyte: Grizzly Too
Target Analyte: Trivapro
PPLS Labels: [000100-01295-20141113.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01295-20141113.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-01295-20141113.pdf

[000100-01613-20200730.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01613-20200730.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-01613-20200730.pdf

08/10/2020 Investigator Called Business

On August 10, 2020 I contacted Ed Air located in Oaktown, Indiana. I spoke with office manager Lisa Huddleston. I advised Ms. Huddleston I was a Pesticide Investigator for OISC and of the complaint I was investigating. Ms. Huddleston advised should would document the area and have have Eddie Huddleston contact me to confirm the application site. I advised Ms. Huddleston I would be sending her via email a pesticide investigation inquiry to complete for the application and return to me.

Original Event: Investigation Activity (Pesticide) #2042
Subject: Ed Air Inc
Submitted By: Nathan J. Davis

08/14/2020 Business Called Investigator

On August 14, 2020 Eddy Huddleston of Ed Air contacted me. Mr. Huddleston confirmed Ed Air made an application to the target field. Mr. Huddleston advised he would complete the pesticide investigation inquiry and return it to me.

Original Event: Investigation Activity (Pesticide) #2043
Subject: Ed Air Inc
Submitted By: Nathan J. Davis

08/24/2020 Investigator Received Fax/Email from Business

On August 24, 2020 I received a completed pesticide investigation inquiry from Ed Air Inc. for the application which indicated the following:

Certified Applicator: Scott Crowe
Application Date and Time: July 9, 2020, 8:15am to 9:45am
Pesticide Applied:
Trivapro, EPA Reg.# 100-1613, Active = Propiconazole, Benzovindiflupyr, Azoxystrobin, 13.7oz/acre
Grizzly Too, EPA Reg.# 100-1295-1381, Active = Cyhalothrin, 2.0oz/acre
Adjuvants: Masterlock
Target Field Location and Size: Dan Mackey, 104 Acres
Wind Blowing from Which Direction: Start- Calm, End- Calm
Wind Speed at Boom Height: Start- Calm, End- Calm
Nozzle and Pressure: CP11TT, 30-35psi
Boom Height: Unknown

Pesticide Investigation Inquiry

Completed pesticide investigation inquiry received on August 24, 2020.

Original Event: Investigation Activity (Pesticide) #2093
Subject: Ed Air Inc
Respondent: Scott Alan Crowe
Submitted By: Nathan J. Davis

09/25/2020 Received Residue Lab Report**Lab Remarks**

Released 09/25/2020

Investigatory Summary

The OISC Residue Laboratory analyzed the off target composite pond water and off target composite pond sediment samples collected for the active ingredients azoxystrobin, cyhalothrin, and propiconazole and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredients azoxystrobin and propiconazole in the off target composite pond sediment sample.

Original Event: Residue Lab Report #159362 (154415-R305)
Submitted By: SYSTEM
Lab Report: Lab Report 154415-R305.pdf

09/30/2020 **Wind Data Researched**

Weather history data was obtained at www.wunderground.com from the three closest official weather station to the application site. The location and weather data for July 9, 2020 follows:

The wind data from the Lawrenceville-Vincennes International Airport (KLWV), Evansville Regional Airport (KEVV), and Terre Haute Regional Airport (KHUF) indicate the wind speed during the application was between Calm and 5 mph with no gusts, varying out of the south, north, and east. The application record indicated the wind speed was calm.

Lawrenceville-Vincennes International Airport (KLWV)

Lawrenceville, Illinois (15 miles W of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
7:53am	72	E	5	0
8:53am	77	ESE	5	0
9:53am	81	CALM	0	0

Evansville Regional Airport (KEVV)

Evansville, Indiana (49 miles S of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
7:54am	74	CALM	0	0
8:54am	79	CALM	0	0
9:54am	82	ENE	5	0

Terre Haute Regional Airport (KHUF)

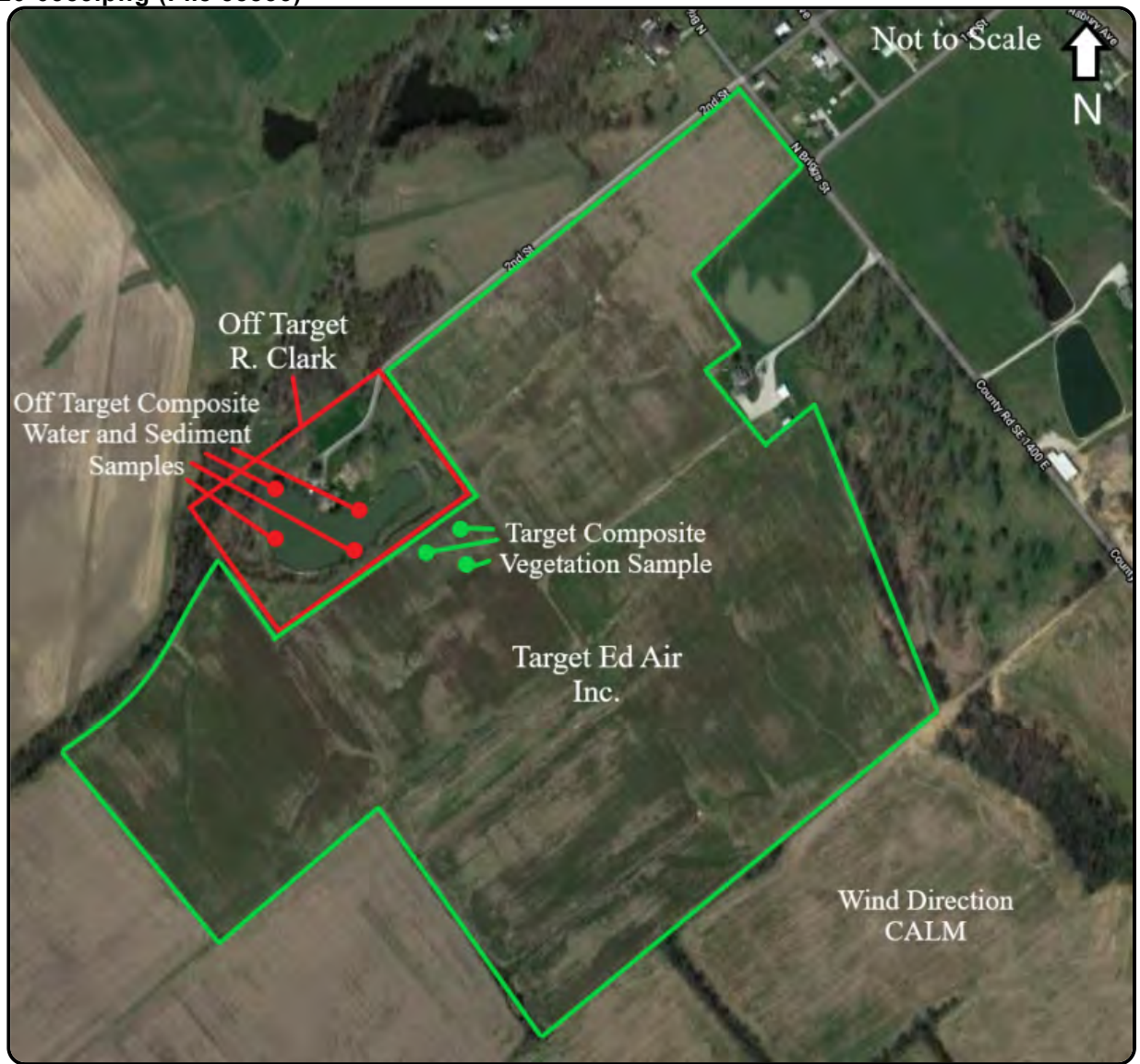
Terre Haute, Indiana (50 miles N of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
7:53am	73	CALM	0	0
8:53am	79	CALM	0	0
9:53am	82	SSW	3	0

Original Event:	Wind Data #18
Submitted By:	Nathan J. Davis
Date of Weather:	07/09/2020

09/30/2020 **Investigation Activity**
Photographs

An aerial diagram including wind direction, property lines, and where soil, sediment, and water were taken from.



Original Event:	Investigation Activity (Pesticide) #2241
Subject:	Scott Alan Crowe
Submitted By:	Nathan J. Davis
Attachments:	File 55836; PS20-0353.png

09/30/2020 **Investigation Activity
Photographs**

The as applied map included with the application record. The red indicates each aerial pass of the pesticide application.



Original Event:	Investigation Activity (Pesticide) #2242
Subject:	Scott Alan Crowe
Submitted By:	Nathan J. Davis
Attachments:	File 55837; As Applied Map .png

09/30/2020 **Investigation Activity
Label Use**

According to the Google Maps measuring tool the complainant's pond is 114 feet from the closet aerial pass indicated on the as applied map included with the application record. The label for *Trivapro*, EPA Reg.# 100-1613, Active = *Propiconazole*, *Benzovindiflupyr*, *Azoxystrobin* states: "**Do not apply by air within 150 ft of lakes, reservoirs, rivers, permanent streams, marshes or natural ponds, estuaries and commercial fish ponds**". Further, the label for *Grizzly Too*, EPA Reg.# 100-1295-1381, Active = *Cyhalothrin* states: "**Buffer Zone for Non-ULV Aerial Application: Do not apply within 150 feet of aquatic habitats (such as, but not limited to, lakes; reservoirs; rivers; permanent streams; marshes; natural ponds, estuaries; and commercial fish ponds)**".

Original Event:	Investigation Activity (Pesticide) #2243
Subject:	Scott Alan Crowe
Submitted By:	Nathan J. Davis
PPLS Labels:	000100-01295-20141113.pdf https://www3.epa.gov/pesticides/chem_search/ppls/000100-01295-20141113.pdf 000100-01613-20200730.pdf https://www3.epa.gov/pesticides/chem_search/ppls/000100-01613-20200730.pdf

Citation

Although it could not be determined if the off-target residue was found because of drift or runoff, Scott Alan Crowe was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying within 150 feet of aquatic habitats (such as, but not limited to, lakes; reservoirs; rivers; permanent streams; marshes; natural ponds, estuaries; and commercial fish ponds)". Consideration was given to the fact a restricted use pesticide was involved.

Civil Penalty

Although it could not be determined if the off-target residue was found because of drift or runoff, Ed Air Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying within 150 feet of aquatic habitats (such as, but not limited to, lakes; reservoirs; rivers; permanent streams; marshes; natural ponds, estuaries; and commercial fish ponds)". 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 #597
Primary:	Ed Air Inc
Secondary:	Scott Alan Crowe
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(2)
Penalty Amount:	250

12/11/2020 Notice of Enforcement Mailed to Target

Original Event:	Outgoing Mail #654
To:	Ed Air Inc
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0370
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 59722; PS20-0353EL CP ~ Ed Air, Inc. - Scott A. Crowe.doc

12/23/2020 Received Mail Confirmation for Target

Original Event:	Compliance Receipt #924
Subject:	Ed Air Inc
Submitted By:	Joni Herman
USPS:	7018 0040 0000 3553 0370
Received:	12/23/2020
Attachments:	File 62524; CM 7018 0040 0000 3553 0370.pdf

01/04/2021 Compliance Activity

Eddie Huddleston called requesting information on how to file a formal appeal. He stated he disputed some of the facts of the case. He was given information on filing for an appeal and was advised the investigator, Nathan Davis, would call him to discuss the disputed facts.

Original Event:	Compliance Activity #721
Primary:	Ed Air Inc
Submitted By:	George Saxton

01/21/2021 Received Penalty Payment for Target

Original Event:	Compliance Receipt #947
Subject:	Ed Air Inc
Submitted By:	Joni Herman
Payment Expected:	\$250.00
Payment Received:	\$250.00
Attachments:	File 62566; PS20-0353~Ed Air, Inc.~CP Received.pdf

CASE SUMMARY

Case #PS20-0366

Complainant: Donna Wilkinson
6912 East 500 South
Oxford, Indiana 47971

Respondent: Ethan Buchanan
Ceres Solutions
6221 East Old US Highway 52
Templeton, Indiana 47986

Certified Applicator
Licensed Business

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

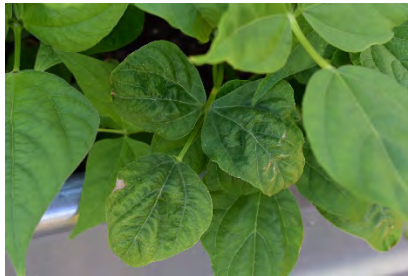


Figure 2



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 June 29, 2020, I received a Pesticide Investigation Inquiry (PII) from Mitch Sparenberg of Ceres Solutions. It stated that Ethan Buchanan made an application to the target field on June 16, 2020 from 7:50 AM to 8:25 AM. The application consisted of the following:
 - A. Roundup PowerMAX (EPA Reg. #524-549, active ingredient glyphosate)
 - B. Zidua SC (EPA Reg. #7969-374, active ingredient pyroxasulfone)
 - C. Engenia (EPA Reg. #7969-345, active ingredient dicamba)
 - D. On Target (Drift Retardant)
 - E. Class Act Ridion (Surfactant)

The wind conditions reported were 4 MPH from the east at the start of the application and 4 MPH from the east at the end of the application. This would mean that winds were blowing towards the Wilkinson property during the application.
5. I collected wind data from Purdue University Airport (KLAf) which is 15.12 miles from the target field. I was able to confirm what was reported on the PII.
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.”*

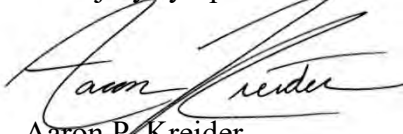
7. The lab results from the OISC residue lab are as follows:

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	2.88 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 20-4-0514 6 was not used for this case. It is referenced in PS20-0225.
9. The Engenia label states, “***DO NOT*** apply when wind is blowing in the direction of neighboring sensitive crops or residential areas.”
10. Mr. Buchanan violated the Engenia label by making an application when winds were blowing towards the Wilkinson property. Even though the Wilkinson’s noticed injury symptoms before Mr. Buchanan’s application, the PPDL report shows that there were injury symptoms consistent

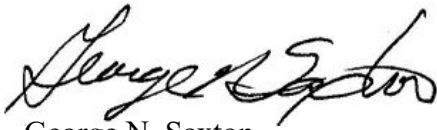
with dicamba injury. Based on this evidence, Mr. Buchanan's application contributed to the injury symptoms that were observed on the Wilkinson's property.



Aaron P. Kreider
Investigator

Date: September 24, 2020

Disposition: Ceres Solutions and Ethan Buchanan 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 and this was Mr. Buchanan's second violation of similar nature. See case number 2017/0946.



George N. Saxton
Compliance Officer

Draft Date: October 23, 2020
Case Closed: March 23, 2021



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

This record was generated on **March 30, 2021, 08:41 AM EDT**. Information displayed may contain errors or omissions.
Official records may only be obtained directly from the Office of Indiana State Chemist.

In Re: Case PS20-0370

Department	Pesticide
Originated	08/10/2020
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant	Gary L Stephenson Paoli, IN 47454	
Respondent	Custom Air LLC Louisville, MS 39339	Licensed Business
Respondent	Brent Finley Louisville, MS 39339	Certified Applicator

Overviews

09/22/2020 **Investigation Summary**

Complainant stated today, himself and his property were sprayed by an aerial applicator. Complainant stated he bagged his clothes he had on when he was sprayed.

I met with complainant at his property. The complainant advised on August 10, 2020 he observed an aerial application being made to the soybean field to the south of his property. The complainant advised he was inside the bay door of his barn cutting wood when he started smell and taste the pesticide and believed the pesticide from the aerial application came into contact with his person. Further, the complainant went to the doctor on August 11, 2020 for chest congestion and the doctor refereed him to an allergist. The complainant advised once he received the medical report, he would forward the document to me. During my on-site investigation I did the following: Looked for, and found one potential sources of herbicide application in the area. The source of the herbicide application is an aerial application made to a soybean field, located to the south of the complainant's property. Collected a composite vegetation sample and swab sample from the target field. Collected composite vegetation sample, swab samples, and the complainant's clothes he was wearing at the time of the exposure from the complainant's property. The residue samples were submitted to the OISC Residue Laboratory for analysis.

I contacted Massey Finley of Custom Air. I advised Mr. Finley I was a Pesticide Investigator for OISC and of the complaint I was investigating. Mr. Finley advised Custom Air made a pesticide application to the field to the south of the complainant's property. I advised Mr. Finley I would be sending him via email a pesticide investigation inquiry to complete for the application and return to me. On September 1, 2020 I received a completed pesticide investigation inquiry from Mr. Finley for the application.

The OISC Residue Laboratory analyzed the clothes worn by the complainant at the time of exposure, off target swab samples, and off target vegetation samples collected for the active ingredients imidacloprid, propiconazole, and trifloxystrobin and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredients imidacloprid, propiconazole, and trifloxystrobin in the off target composite vegetation sample. The OISC Residue Laboratory analysis detected the active ingredients imidacloprid and trifloxystrobin on the clothing worn by the complainant at the time of exposure, propiconazole was also detected, but was below quantification limits. The OISC Residue Laboratory analysis detected the active ingredients imidacloprid and trifloxystrobin in all of the off target swab samples, propiconazole was also detected, but was below quantification limits.

The wind data from the Owensboro-Daviess County Regional Airport (KOWB), Lawrenceville-Vincennes International Airport (KLWW) and Evansville Regional Airport (KEVV) indicate the wind speed during the application was between 5 and 8 mph with no gusts, out of the south and west. The application record indicated the wind speed was between 2 and 4 mph, out of the north and east.

According to the evidence in this case consisting of all three-wind data locations indicating the wind direction at the time of the application was out of the south and west blowing towards the complainants property and the OISC Residue Laboratory analysis detecting the active ingredients imidacloprid, propiconazole, and trifloxystrobin in the off target composite vegetation sample, off target swab sample, and on the clothing worn by the complainant at the time of exposure. Indicates during the application the pesticides moved from the target site onto the complainant's person and property. The label for *Delaro 325 SC, EPA Reg.# 264-1055, Active = prothioconazole, trifloxystrobin* states: "**Do not apply this product in a way that will contact workers or other persons either directly or through drift**". The label for *Swagger, EPA Reg.# 34704-1045, Active = bifenthrin, imidacloprid* states: "**Do not apply this product in a way that will contact workers or other persons either directly or through drift**".

Submitted By: Nathan J. Davis
Role: Investigator

09/22/2020 Disposition Summary

Custom Air was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

Brent finley was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

08/10/2020 Intake Referral Filed

Complainant stated today, himself and his property were sprayed by an aerial applicator. Complainant stated he bagged his clothes he had on when he was sprayed.

Original Event: Intake Referral (Pesticide) #1584
Complainant: Gary L Stephenson
Respondent: Unknown
Entered By: Nathan J. Davis
Submitted By: George Saxton

08/10/2020 Case Created

Original Event: Case PS20-0370
Submitted By: George Saxton
Assigned To: Nathan J. Davis

08/12/2020 Investigator Met with Complainant

On August 12, 2020 I met with complainant at his property. The complainant advised on August 10, 2020 he observed an aerial application being made to the soybean field to the south of his property. The complainant advised he was inside the bay door of his barn cutting wood when he started to smell and taste the pesticide and believed the pesticide from the aerial application came into contact with his person. Further, the complainant went to the doctor on August 11, 2020 for chest congestion and the doctor referred him to an allergist. The complainant advised once he received the medical report, he would forward the document to me.

During my on-site investigation I did the following:

Looked for, and found one potential source of herbicide application in the area. The source of the herbicide application is an aerial application made to a soybean field, located to the south of the complainants property.

Collected a composite vegetation sample and swab sample from the target field. Collected composite vegetation sample, swab samples, and the complainants clothes he was wearing at the time of the exposure from the complainants property. The residue samples were submitted to the OISC Residue Laboratory for analysis.

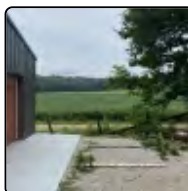
Photographs

Photographs taken during the on-site investigation.

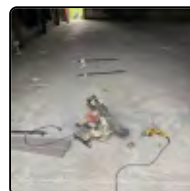
Original Event: Investigation Activity (Pesticide) #2023
Subject: Gary L Stephenson
Submitted By: Nathan J. Davis
Attachments: File 51532; NOI-Complainant 8-12-2020.pdf
Photos:



File 51536



File 51533



File 51534



File 51535

08/12/2020 Residue Samples Collected

Original Event: Residue Collection #155326 (20-4-0361 5)
Client: Gary L Stephenson
Submitted By: Nathan J. Davis

08/12/2020 **Investigator Called Business**

On August 12, 2020 I contacted Massey Finley of Custom Air. I advised Mr. Finley I was a Pesticide Investigator for OISC and of the complaint I was investigating. Mr. Finley advised Custom Air made a pesticide application to the field to the south of the complainant's property. I advised Mr. Finley 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) #2041
Subject: Custom Air LLC
Submitted By: Nathan J. Davis

08/12/2020 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #362
Submitted By: Nathan J. Davis
Target Analyte: Delaro 325 SC
Target Analyte: Swagger
PPLS Labels: [000264-01055-20200416.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-01055-20200416.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000264-01055-20200416.pdf
[034704-01045-20180213.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-01045-20180213.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/034704-01045-20180213.pdf

09/01/2020 **Investigator Received Fax/Email from Business**

On September 1, 2020 I received a completed pesticide investigation inquiry from Mr. Finley for the application which indicated the following:

Certified Applicator: Brent Finley
Application Date and Time: August 10, 2020, 10:40am to 10:50am
Pesticide Applied:
Delaro 325 SC, EPA Reg.# 264-1055, Active = prothioconazole, trifloxystrobin, 8oz/acre
Swagger, EPA Reg.# 34704-1045, Active = bifenthrin, imidacloprid, 8oz/acre
Adjuvants: Weather Gard Complete
Target Field Location and Size: West Pasture, 19 Acres
Wind Blowing from Which Direction: Start- NE, End- NE
Wind Speed at Boom Height: Start- 2-4mph, End- 2-4mph
Nozzle and Pressure: CP11TT, 40psi
Boom Height: 10 Feet Above Crop Canopy

Pesticide Investigation Inquiry

Completed pesticide investigation inquiry received on September 1, 2020.

Original Event: Investigation Activity (Pesticide) #2107
Subject: Custom Air LLC
Respondent: Brent Finley
Submitted By: Nathan J. Davis

09/17/2020 **Received Residue Lab Report**

Lab Remarks

Released 09/17/2020

Investigatory Summary

The OISC Residue Laboratory analyzed the clothes worn by the complainant at the time of exposure, off target swab samples, and off target vegetation samples collected for the active ingredients imidacloprid, propiconazole, and trifloxystrobin and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredients imidacloprid, propiconazole, and trifloxystrobin in the off target composite vegetation sample. The OISC Residue Laboratory analysis detected the active ingredients imidacloprid and trifloxystrobin on the clothing worn by the complainant at the time of exposure, propiconazole was also detected, but was below quantification limits. The OISC Residue Laboratory analysis detected the active ingredients imidacloprid and trifloxystrobin in all of the off target swab samples, propiconazole was also detected, but was below quantification limits.

Original Event: Residue Lab Report #159039 (155326-R294)
Submitted By: SYSTEM
Lab Report: Lab Report 155326-R294.pdf

09/22/2020 **Wind Data Researched**

Weather history data was obtained at www.wunderground.com from three official weather station around the application site. The location and weather data for August 10, 2020 follows:

The wind data from the Owensboro-Daviess County Regional Airport (KOWB), Lawrenceville-Vincennes International Airport (KLWW) and Evansville Regional Airport (KEVV) indicate the wind speed during the application was between 5 and 8 mph with no gusts, out of the south and west. The application record indicated the wind speed was between 2 and 4 mph, out of the north and east.

Owensboro-Daviess County Regional Airport (KOWB)*Owensboro, Kentucky (69 miles SW of site)*

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
9:56 am	78	SSW	5	0
10:56 am	83	SW	8	0

Lawrenceville-Vincennes International Airport (KLWV)*Lawrenceville, Illinois (70 miles NW of site)*

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
9:53 am	83	SSW	6	0
10:53 am	86	S	8	0

Evansville Regional Airport (KEVV)*Evansville, Indiana (71 miles SW of site)*

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
9:54 am	79	SSW	8	0
10:54 am	85	SW	6	0

Original Event:	Wind Data #13
Submitted By:	Nathan J. Davis
Date of Weather:	08/10/2020

09/22/2020 **Online Investigation Activity**

Photographs

An aerial diagram including wind direction, property lines, and where swab and vegetation samples were taken from.



Original Event: Investigation Activity (Pesticide) #2184
 Subject: Brent Finley
 Submitted By: Nathan J. Davis
 Attachments: File 55258; PS20-0370.png

09/22/2020 Online Investigation Activity

According to the evidence in this case consisting of all three-wind data locations indicating the wind direction at the time of the application was out of the south and west blowing towards the complainants property and the OISC Residue Laboratory analysis detecting the active ingredients imidacloprid, propiconazole, and trifloxystrobin in the off target composite vegetation sample, off target swab sample, and on the clothing worn by the complainant at the time of exposure. Indicates during the application the pesticides moved from the target site onto the complainant's person and property. The label for *Delaro 325 SC*, EPA Reg.# 264-1055, Active = *prothioconazole, trifloxystrobin* states: **"Do not apply this product in a way that will contact workers or other persons either directly or through drift"**. The label for *Swagger*, EPA Reg.# 34704-1045, Active = *bifenthrin, imidacloprid* states: **"Do not apply this product in a way that will contact workers or other persons either directly or through drift"**.

Original Event: Investigation Activity (Pesticide) #2185
 Subject: Brent Finley
 Submitted By: Nathan J. Davis

09/22/2020 Judgement; Civil Penalty Assessed

Citation

Brent Finley was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. Consideration was given to the fact there was potential for human harm.

Civil Penalty

Custom Air was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

Original Event: Judgement #575
Primary: Custom Air LLC
Secondary: Brent Finley
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 250

12/11/2020 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #655
To: Custom Air LLC
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0363
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 59723; PS20-0370EL CP ~ Custom Air - Brent Finley.doc

01/12/2021 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #891
Subject: Custom Air LLC
Submitted By: Joni Herman
Payment Expected: \$250.00
Payment Received: \$250.00
Attachments: File 60920; PS20-0370 ~ Custom Air LLC ~ CP Received.pdf

01/22/2021 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #931
Subject: Custom Air LLC
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0363
Received: 01/22/2021
Attachments: File 62532; CM 7018 0040 0000 3553 0363.pdf

<p>This record was generated on March 30, 2021, 08:41 AM EDT. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>
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CASE SUMMARY

Case #PS20-0387

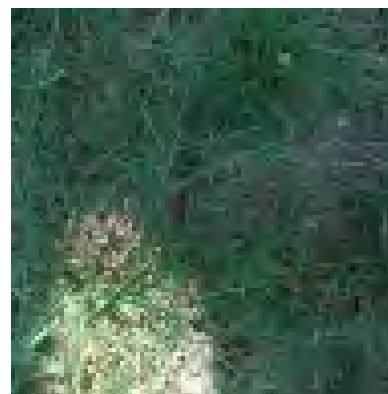
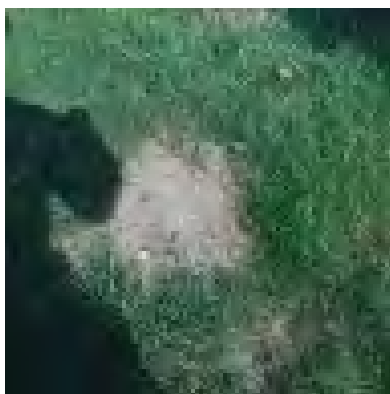
Complainant: Deborah West
7408 Tarragon Lane
Indianapolis, IN 46237-3650

Respondent: Doug Blankenbaker
Trugreen Lp-Ids
2121 Directors Row
Indianapolis, IN 46241-4901

1. On August 24, 2020, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report that Trugreen has treated her yard twice now even though she does not have a contract with them.
2. On August 25, 2020, I visited Deborah West's house and spoke with her regarding the complaint she filed with OISC. She stated that Trugreen made two applications at her property and that she has never hired them to do any treatments or applications at her property. She stated that she was concerned about the amount of chemical being used on her yard and what it may do to the grass.

While at Deborah West's property, I observed granules and some dead areas that appeared to be from a recent application. She also gave me the yard treatment sign left behind by Trugreen during the application made.

Below are some of the property photos of the yard and leave behind sign.





3. On August 26, 2020, I visited Trugreen's office and spoke with Doug Blankenbaker about the complaint against his company. He was aware of the complaint and provided me with more information. Mr. Doug Blankenbaker provided me with the invoices and application records from the property that was supposed to be treated. The property that Trugreen treated was at 7408 Tarragon Lane and not at 7408 Tarragon Place. He also stated that he would make it right and correct any damage that may occur from the applications.
4. On November 23, 2020, I spoke with Doug Blankenbaker and he updated me about the complaint and agreed to send me an email with a summary of what has occurred since my initial contact.

Below is a copy of that email.

Bill,
This is a follow up to an investigation you did on 8/28/2020.

The concern was over us treating Debbie West [7408 Tarragon Ln Indpls. In 46237](#). We were supposed to be treating Joe Huff 7408 Tarragon Pl. Indpls In. 46237. It was determined that we had treated Debbie West property on two occasions by mistake instead of treating Joe Huff's property. We met with Mrs. West on 9/28/2020 and we agreed to seed any areas that did not recover in the spring of 2021. Due to the extreme dry weather we were not able to determine if there was any turf loss currently.

We refunded Joe Huff's the 2 treatments we did not apply to his property in the amount of \$ [REDACTED] and Mr. Huff was satisfied with this.

Let me know if you need anything else.

Thank you
Doug

Doug Blankenbaker
Market General Manager

I also called Deborah West to verify that Trugreen has agreed to take care of the situation. She stated that Trugreen has agreed to slice and seed in the spring of 2021 if dead areas result from the wrong applications.

Below is a copy of the email.

Debbie West,

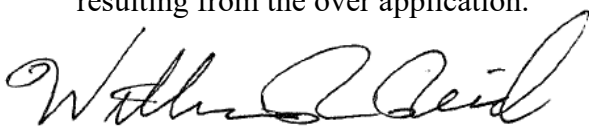
TruGreen will accept responsibility for any areas of the lawn that don't recover from our applications at the incorrect address on 8/10/20 and 8/18/20, TruGreen will slice seed these areas in the spring of 2021 if need be.

Respectfully,

Jerry Rhodes

Service Manager

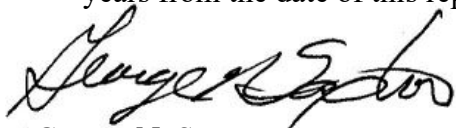
Trugreen had admitted to making two separate applications at the wrong address. Trugreen has also refunded Joe Huff's money for the missed applications. In addition, Trugreen has also offered to slice and seed Deborah West's yard if any damage is noted in the spring of 2021 resulting from the over application.



William R. Reid
Investigator

Date: November 23, 2020

Disposition: Trugreen was cited for two (2) counts of violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying pesticides to the wrong property. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. However, the civil penalty will be held in abeyance and not assessed provided Trugreen commits no further violations of similar nature within two (2) years from the date of this report.



George N. Saxton
Compliance Officer

Draft Date: February 16, 2021
Case Closed: April 2, 2021

CASE SUMMARY

Case #PS20-0395

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


Respondent: Robin Anderson
Anderson Orchard
369 East Greencastle Road
Mooresville, Indiana 46158

1. On July 23, 2020, I conducted a Worker Protection Standard (WPS) inspection at Anderson Orchard in Mooresville, Indiana. The inspection was a follow up inspection to one I conducted there last year (see case #PS19-0610). I issued a Notice of Inspection to Iran Sterling who holds a private applicator permit and does most of the pesticide applications for the orchard. Examination of the orchards pesticide application records revealed the application of Imidan 70 W (EPA Reg.#10163-169) which has WPS language on the label and requires the use of a respirator. At the conclusion of the inspection it was determined that although the orchard was in compliance with some of the WPS requirements, it still was failing to provide or maintain the following requirements:
 - No medical evaluation or fit test for handlers
 - No handler or worker training
 - No handler or worker training records
 - No Safety Data Sheets at the central information location
 - Pesticide application records were missing the EPA Reg.#, the REI, Active ingredients and the start and end times of the applications
2. I listed the deficiencies on the comments page of the WPS inspection form. Mr. Sterling signed and dated the comments page and made a copy for himself. I told Mr. Sterling that Anderson Orchards would likely receive an enforcement letter from OISC. Mr. Sterling stated he understood.
3. The Imidan label states, “*Ag Use Requirements: Use this product only in accordance with its labeling and the Worker Protection Standards 40 CFR Part 170.*”

Joseph D. Becovitz
Investigator

Date: September 4, 2020

Disposition: Anderson Orchards was cited for violation of 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$500.00 was assessed for this violation as this was their second violation of a similar nature in the last two years.


George N. Saxton
Compliance Officer

Draft Date: October 1, 2020
Case Closed: March 29, 2021

CASE SUMMARY

Case #PS20-0409

Complainant: Anonymous

Respondent: Rural King
Jason Bumm
2300 E. Morgan Avenue
Evansville, IN 47711

Assistant Manager

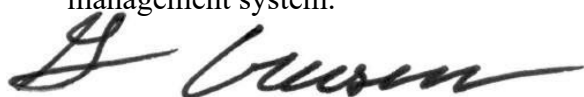
Registrant: SAFECID
Bill Mihelich
N58W39800 Industrial Road, Unit A
Oconomowoc, WI 53066

1. On September 11, 2020, the Office of Indiana State Chemist (OISC) received an anonymous tip via email about a potentially unregistered pesticide product being sold at Rural King stores. The pesticide product in question appeared to be called "Xtreme Surface Sanitizer". OISC Pesticide Registration confirmed that the product was not registered in the State of Indiana.
2. On September 22, 2020, I met with Jason Bumm, Assistant Manager, at Rural King located at 2300 E Morgan Ave. in Evansville, IN. I informed Mr. Bumm that OISC had received a tip about a pesticide product that was potentially unregistered. I advised Mr. Bumm the name of the pesticide product and he was able to show me where the store had it located for sale. I then issued a Notice of Inspection.



Fig. 1) Photo of Xtreme Surface Sanitizer being offered for sale at Rural King

3. I advised Mr. Bumm that I would be issuing an Action Order instructing them to remove the remaining stock of the unregistered pesticide product from the shelves and place them in storage and that they are not to be sold or removed from the store unless contacted in writing by OISC. I also informed him that I would be retaining an evidentiary sample of the product for my case. I asked Mr. Bumm if he was able to provide me with any information for when the last shipment came to the store. Mr. Bumm was able to provide me with an item inventory indicating that the product was received April 20, 2020 and that 74 units were in stock at the time.
4. I placed a Formulation Sample sticker on the pesticide product. I then placed the pesticide product into a clear evidence bag and sealed it for transportation to the OISC Formulation Lab.
5. On September 23, 2020, I delivered the evidentiary sample to the OISC Formulation Lab.
6. On September 24, 2020, I received an email from Bill Mihelich with SAFECID, asking the reasoning for the Action Order on the Xtreme Surface Sanitizer product. I explained to Mr. Mihelich that pesticide products must be registered in the State of Indiana. I also provided Mr. Mihelich with the applicable Indiana Pesticide Registration Laws.
7. All documentation and photos will be electronically attached to this case via the OISC case management system.



Garret A. Creason
Pesticide Product Investigation Specialist

Date: October 5, 2020

Label Review:

On October 1, 2020 I completed the labeling review for XTREME SURFACE SANITIZER. This product is currently unregistered in the state of Indiana. The product is identified as a 25(b) Minimum Risk Pesticide.

According to the conditions outlined by EPA for Minimum Risk Pesticides, this product does not qualify for the exemption. This product is misbranded as a minimum risk product and requires federal registration as a pesticide product.

According to EPA Condition 1, only identified eligible active ingredients can be used in 25(b) Minimum Risk Pesticides. Lemon Grass Extract is not an acceptable active ingredient.

According to EPA Conditions 2 and 3, the ingredient statement is not accurately identified for the inert ingredients. The “commonly consumed food...” statement is not part of the listed label display name.

EPA Condition 4 states that “The label cannot state or imply that the product can or will control or reduce organisms that pose a threat to human health, or insects or rodents carrying specific diseases.”

Also, EPA Condition 4 states that a 25(b) Minimum Risk Pesticide cannot claim to disinfect or sanitize.

The following claims, per the product label are unacceptable:

1. Sanitizer
2. Inactivates Viruses and Bacteria
3. Directions to disinfect
4. Directions to sanitize

Websites: <https://www.epa.gov/minimum-risk-pesticides>

In summary, this product does not qualify for the 25(b) exemption and therefore is a federally unregistered pesticide product.

On October 7, 2020, I completed the application review for three pesticide product applications submitted by Heartland Energy Group.

Company: Heartland Energy Group

Product: XTREME ANTIMICROBIAL SURFACE CLEANER

Company: Environmental Manufacturing Solutions

Product: PURGO ANTIMICROBIAL SURFACE CLEANER

Company: Safecid

Product: XTREME ANTIMICROBIAL

Per email communications with Mr. John MacDonald of Heartland Energy Group, all three products are the same product. Mr. MacDonald indicated that Heartland Energy Group is the company responsible for the formulation and efficacy connected to these products.

Our review indicates that these products do not qualify for the 25(b) exemption under FIFRA. Also, this product cannot make claims to control/protect against SARS-CoV-2. Please see our review below.

REVIEW

Per the AAPCO 25(b) Label Guidance, citric acid is not a natural ingredient, instead it is derived synthetically. Therefore, natural claims are not acceptable.

According to the conditions outlined by EPA for Minimum Risk Pesticides, this product does not qualify for the exemption. This product is misbranded as a minimum risk product and requires federal registration as a pesticide product.

According to EPA Condition 3, the ingredient statement is not accurately identified for the inert ingredients. The inclusion of “(Quillaja Saponin)” is not part of the listed label display name.

EPA Condition 4 states that “The label cannot state or imply that the product can or will control or reduce organisms that pose a threat to human health, or insects or rodents carrying specific diseases.”

EPA Condition 4 states that a 25(b) Minimum Risk Pesticide cannot state or imply that the product can or will control or reduce organisms that pose a threat to human health.

The following claims, per the product labels are unacceptable:

Xtreme Antimicrobial by Heartland Energy Group

5. Inactivates Viruses and Bacteria
6. Control of Microorganisms Infectious only to Animals
 - a. This claim must be qualified for specific and identified microorganisms.
7. Control of Bacteria in Cooling Towers
 - a. According to EPA, this claim must be specifically for “bacteria that causes spoilage, deterioration, or fouling of materials”
8. Controls the growth of algae
 - a. Must be qualified with specific use sites

Purgo by Environmental Manufacturing Solutions

1. Effectively controls the growth of algae
 - a. See point above
2. Kills and controls microorganisms infectious only to animals
 - a. See point above

Xtreme Antimicrobial by Safecid

1. Inactivates Viruses & Bacteria
2. Antimicrobial
 - a. Antimicrobial claims can only be used when specific qualification to control microorganisms of non-public health concern

EPA Condition 6 identifies that the manufacturer's websites and advertising materials cannot include any false or misleading statements.

Website Review: <https://xtremetestresults.com/>

The following claims are considered violations of the 25(b) exemption in FIFRA

1. Claims to control pests of public health concern:



- a. **Have been tested on various viruses. Test results have proven to kill viruses, including SARS, Human Coronavirus and Canine Coronavirus. COVID-19 is caused by SARS-COV-2.**
In efforts to protect yourself and those around you, Heartland Energy Group is offering their safe, non-toxic, antimicrobial multi-surface cleaning solution for fighting and killing germs, bacteria, and viruses that can be spread throughout the air or on surfaces.
- b. Xtreme Treatment Compound can be sprayed, fogged or wiped on contaminated surfaces. Our results show that Xtreme was still working on contaminated surfaces after 4 days. During and until completion of the 4-day test, Xtreme eradicated 99.9% of a variety of strains including Staphylococcus, E-Coli, Listeria and Salmonella among others. Xtreme will not harm health equipment and is safe to use in **hospitals, medical offices, nursing homes and schools**. It can be used in many applications, from your home to your business, even inside your car. The material will not harm or discolor upholstery or dashboards like commonly sold disinfectants.
- c. **Xtreme Test Results**
Products powered by Xtreme has been tested on various viruses and bacteria. Xtreme has undergone extensive testing over the past 14 years. To review the Xtreme test results please click on the "VIEW the test Results" button below.
- d.

Website Review: <https://www.safebeerlinecleaning.com/product-page/xtreme-surface-sanitizer>

SAFECID is sold as a surface sanitizer. Per condition 4, a minimum risk product cannot use the term “sanitizer”, nor can the product make any claims to reduce/impact public health pests. The label through this website indicates that the product can be used for sanitizing and disinfecting.

The label provided to OISC Pesticide Registration team differs from the product label as found in distribution (see case PS20-0409). The label found online includes the same claims as the label found in distribution in Indiana.

(label comparison on next page)

Label found in Distribution (20-0409)	Label provided through Registration Application
 	<div>Ready To Use!</div> <div>XTREME Antimicrobial Multi-Surface Treatment</div> <div>INACTIVATES VIRUSES & BACTERIA</div> <div>No Rinse Formulation Multi-Surface Application</div> <div>NEUTRALIZES & KILLS ODORS FRAGRANCE-FREE</div> <div>1 Gallon (3.78541 Liters)</div>



The following claims are considered violations of the 25(b) exemption in FIFRA

1. Claims to control pests of public health concern:

PRODUCT INFORMATION —

- Xtreme Surface Sanitizer is a ready-to-use formula that can be sprayed, fogged, or wiped on contaminated surfaces.
- Use Xtreme's safe, non-toxic disinfectant to protect yourself and those around you from the Human Coronavirus and Canine Coronavirus.
- Inactivates germs, bacteria, and viruses that spread throughout the air or on surfaces.


Website: <https://www.facebook.com/1772223699661003/posts/xtreme-surface-sanitizer-1-gallon-2499inactivates-viruses-and-bacteriano-rinse-m/2531896957027003/>

The product is also being advertised as a sanitizer through social media sites.



Website: <https://www.alignable.com/oconomowoc-wi/safecid/surface-sanitizer>

The product is distributed as a sanitizer and makes claims against germs, bacteria and viruses. The site implies that it is a disinfectant with the statement “unlike other commonly sold disinfectants, XTREME is safe to breath, non-toxic and safe for groundwater release”



XTREME

SURFACE SANITIZER

XTREME Surface sanitizer is highly effective at sanitizing schools, homes, offices, stores, restaurants, as well as in industrial applications to sanitize vehicles, appliances entryways, handrails, seating, tables, counters, production equipment, phones, and furniture.

XTREME Surface Sanitizer is an antimicrobial multi-surface cleaning solution that fights and kills germs, bacteria, and viruses that are spread throughout the air or on surfaces.

Unlike other commonly sold disinfectants, XTREME is safe to breath, non-toxic and safe for groundwater release.

XTREME Surface Sanitizer will not harm or discolor upholstery or dashboards and has a slight light fresh odor. XTREME can also be used as a laundry additive to control odors for unpleasant sporting related loads.

Contact SAFECID
Your Name

Website: <https://www.enviromfg.com/sanitizers> and <https://www.enviromfg.com/>

Purgo is marketed as a sanitizer. Per condition 4, a minimum risk product cannot use the term “sanitizer”, nor can the product make any claims to reduce/impact public health pests.

SANITIZERS/ANTIMICROBIALS



ANTIMICROBIAL SURFACE CLEANER

PURGO

Purgo, an antimicrobial surface cleaner, is an effective



FDA REGISTERED ALCOHOL FREE HAND SANITIZER

PURGO AF

Purgo AF is an alcohol-free, FDA registered hand

The website includes a false or misleading comparison to bleach and quat-based products. According to the AAPCO 25(b) labeling guidance, non-toxic claims are also not acceptable. The directions on the label do not provide adequate instructions for use through fogging.

PURGO

Purgo, an antimicrobial surface cleaner, is an effective replacement for bleach and quat-based products. Purgo is non-skin irritating, non-corrosive, non-toxic and non-staining.

- Spray and Wipe
- Spray and Leave
- Fog
- Purgo Surface Cleaning Wipes

Purgo test data and label can be viewed at

www.purgotestresults.com.

Our patented bleach replacement, Purgo, is available as an antimicrobial surface cleaner or FDA registered hand sanitizer.

Website: <https://www.purgotestresults.com/>

A minimum risk pesticide cannot make claims and/or provide efficacy that indicates that this product can be used against public health pests.

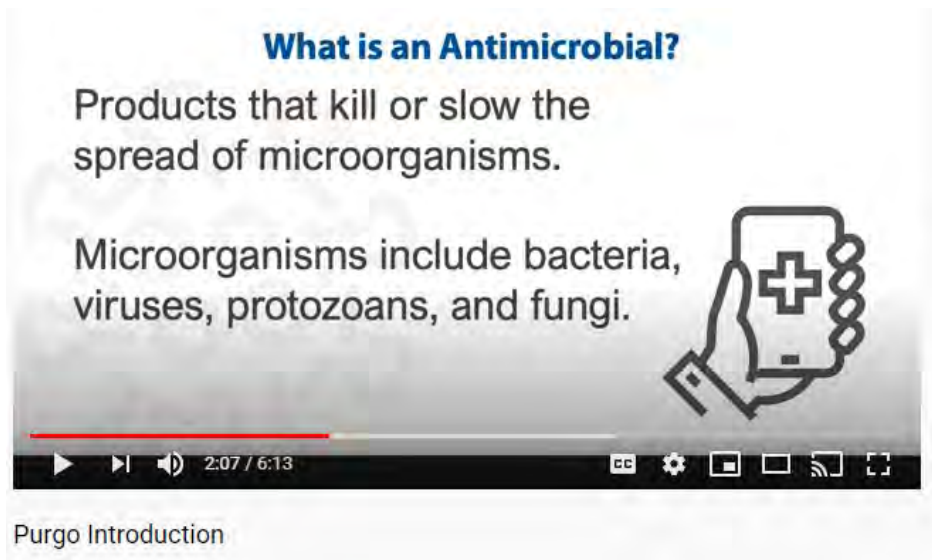


Youtube video about Purgo: <https://www.youtube.com/watch?v=7z2e0stUBgU>
The following clips include false or misleading claims.



At 1:35 – The video indicates that Purgo is not a pesticide. This is false and misleading.

At 2:05 – the video indicates that the product is not a disinfectant but is an antimicrobial. The slide indicates that the product can kill and control pests of public health concern.



At 2:42 – As a 25(b) exempt pesticide, this product can only make claims connected to non-public health pests. Specific claims to the protection/control of SARS, Human Coronavirus, Canine Coronavirus, COVID-19 are not permitted.

EPA has not reviewed the product ingredients or the efficacy connected to a 25(b) minimum risk product. This statement is false and misleading.

A 25(b) minimum risk pesticide cannot make claims against germs or viruses.



At 3:50 – There are no directions on the label per:

1. Spray & Wipe
2. Fogging/Electrostatic use



Efficacy

The efficacy provided does not use the formulation in the same manner as is instructed on the label. In the efficacy, the product was diluted 2oz/1 gallon of water.

HEARTLAND ENERGY and ENVIRONMENTAL MANUFACTURING SOLUTIONS - indicates 1:32, 1:64, 1:10, 100ppm and 20ppm dilution rates.

SAFECID – indicates DO NOT DILUTE

The efficacy is also for public health pests. Since a 25(b) product cannot claim use against public health pests, this efficacy is insufficient for the claims on the labels.

Sarah K. Caffery
Pesticide Product Registration Specialist

Date: October 7, 2020

Disposition: Rural King was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for offering for distributing a pesticide product that is not registered for distribution in the state of Indiana.

The Safecid information was forwarded to U.S. EPA for federal review.

George N. Saxton
Compliance Officer

Draft Date: October 13, 2020
Case Closed: January 28, 2021

CASE SUMMARY

Case #PS20-0414

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

Respondent: Topbuxus USA
5105 Griffith Road
Gaithersburg, MD 20882

1. On September 25, 2020, OISC was notified by the Purdue Department of Botany and Plant Pathology of a potentially unregistered pesticide product. OISC was informed that a product called “Topbuxus Boxwood Restore and Protect Mix” was being sold as a product that could restore and protect from boxwood blight.
2. On September 29, 2020, I was able to conduct a virtual marketplace inspection to view the Topbuxus Boxwood Restore and Protect Mix product on www.topbuxususa.com. I was able to take screenshots of all the pages of the website making pesticidal claims. I was able to order the product from the website. Screenshots were also taken of the ordering process.
3. On October 1, 2020, I received the product via UPS. I photographed the product as it had arrived in its packaging.



4. After photographing the product, I placed it into a clear evidence bag and sealed it for transportation to the OISC Formulation Lab.
5. On October 2, 2020, I delivered the evidentiary sample to the OISC Formulation Lab.
6. On October 27, 2020, an Action Order was issued to Topbuxus USA. The Action Order instructed Topbuxus USA to stop selling the unregistered pesticide product in the State of Indiana. The Action Order was sent via email to sales@topbuxususa.com. The Action Order has also been attached to the bottom of this case.
7. All documentation and photographs have been electronically attached to this case via the OISC case management system.



Garret A. Creason
Investigator

Date: October 27, 2020

On October 16, 2020, I reviewed the labeling for Topbuxus Boxwood Restore and Protect Mix. The following claims are pesticidal; in such, this is a federally and state unregistered pesticide product.

Pesticidal labeling claims from the product website: <https://topbuxususa.com/product/boxwood-restore-and-protect-mix/>

Overview Tab:

1. “Protects – Prevents Boxwood Blight”
2. “Stop Boxwood Blight. Help your boxwood recover from blight and increase its resistance to disease and insect attacks”
3. “Stop using chemical fungicides”
 - a. Implies that this product is a fungicide
4. “sustained results with the healing of boxwood blight”
 - a. Implies the product can reduce/remove a pest
5. “A targeted foliar treatment that heals and prevents blight fungal spores”

How to Use Tab:

1. “Protect Against Boxwood Blight”
2. “Using this spray treatment, there isn’t any risk of resistance like fungicides”
 - a. Implies that this product is a fungicide
3. “increase your boxwood’s resistance to disease”
4. “When Blight is suspected or confirmed, follow the instructions for Protect Against Boxwood Blight above, except modify the spray treatment schedule...”
 - a. Implies the product can reduce/remove a pest
5. “Infected boxwood plants can be healed...”

Pesticidal labeling claims from the product website: <https://topbuxususa.com/boxwood-blight/#disease-management>

1. “disease management”
2. “Boxwood Blight. It’s treatable! Use TOPBUXUS Restore & Protect Mix”

Protect Against Boxwood Blight section

1. “Protect against boxwood blight”
2. “To keep boxwood at its optimal health and to prevent it from becoming infected, TOPBUXUS recommends the following Professional Boxwood Care & Treatment Program...”
 - a. “Treat. Spray TOPBUXUS Boxwood Restore & Protect Mix”
 - b. “There is no risk of resistance like fungicides”
 - i. Implies that this product is a fungicide
 - c. “Regular use of this eco-friendly and bee friendly product means your boxwood will be healthier, stronger and more resistant to blight and other boxwood fungal diseases”
 - d.

Restore Blight Infected Boxwood to Health section

1. “Spray TOPBUXUS Restore & Protect Mix treatment to heal and restore your blight infected boxwood to health”
2. “The infected boxwood can be healed and restored to health with patience, routinely scheduled spray treatments (of TOPBUXUS Restore & Protect Mix) and proper disease management practices”

Summary section

1. “When the TOBUXUS products are used together the solution provides an absolute protection from Boxwood Blight and other fungal diseases”

Disease Management for Volutella Blight section

1. Disease management
2. “Volutella Boxwood Blight follows the same disease management protocol for prevention and restoration as Boxwood Blight...”

Additional and similar pesticidal claims can also be found on other pages on the website.

There are also pesticidal claims on the website for other products.

1. TOPBUXUS Boxwood Grow
 - a. Website: <https://topbuxususa.com/boxwood-blight/#disease-management>
 - i. “... make it more resistance to diseases” in regards to the use of Boxwood Grow
 - b. Website: <https://topbuxususa.com/product/boxwood-grow/>
 - i. “It helps keep the boxwood in optimum health increasing its resistance to disease and insect attacks”
2. TOPBUXUS Boxwood Carpet Mulch**
 - a. Website: <https://topbuxususa.com/boxwood-blight/#disease-management>
 - i. “The best way to heal and prevent these diseases is not only to focus on the plant, but also on the environment of the plant”
 - b. Website: <https://topbuxususa.com/product/boxwood-carpet/>
 - i. ** Website indicates that it is not for sale in the US
 - ii. “Prevents Boxwood Blight and other fungal diseases”

- iii. "The mulch is 'soft' because it absorbs the rain and stops water from splashing up from the ground potentially contaminating the plant leaves with fungal spores"
 - iv. "Creates a hygienic floor layer underneath and around the Boxwood to prevent Boxwood Blight and other Boxwood fungal diseases"
 - v. "TOPBUXUS® Boxwood Carpet Mulch together with TOPBUXUS® Boxwood Restore & Protect Mix treatment provides an absolute solution to heal and prevent Boxwood Blight and other Boxwood fungal diseases."
- c. Please note: The mulch is identified as not for sale in the US. Mulch would typically fall under the exemption from pesticide registration per 40 CFR 152.10 (c). Recommendation from OISC is to modify the language on this page to clearly identify that this product is intended to exclude pests by providing a physical barrier against pest access.
3. Additional information about the TOPBUXUS Moth Trap is needed to confirm that the product meets the exemption requirements in FIFRA for federal registration.



Sarah K. Caffery
Pesticide Product Registration Specialist

Date: October 16, 2020

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

Topbuxus USA was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that is in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: October 29, 2020
Case Closed: January 28, 2021

Compliance Assistance:

1. Product must be registered with EPA as a pesticide

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: Topboxus USA

Address: 5105 Griffith Rd. Gaithersburg, MD 20882

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
	<u>Topboxus Boxwood Restore & Protect Mix</u>	<u>None</u>	

☐ 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.

Garet Creason
State Chemist Agent (PRINT)

[Signature] 10/27/2020
Agent Signature Date

Recipient (PRINT)

Recipient Signature Date

Case #



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

This record was generated on **April 8, 2021, 01:23 PM EDT**. Information displayed may contain errors or omissions.
Official records may only be obtained directly from the Office of Indiana State Chemist.

In Re: Case PS20-0415

Department	Pesticide
Originated	09/29/2020
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Complainant	Michael E Overmyer Culver, IN 46511
Respondent	Larry Dean Zechiel Argos, IN 46501

Overviews

10/22/2020 Investigation Summary

On July 2, 2020, I met with Mr. Overmyer, who reported his non-Dicamba tolerant (DT) soybeans were injured from a Dicamba application to a neighboring field.

During my on-site investigation, I observed Dicamba exposure symptoms to Mr. Overmyer's soybean field. I found the DT soybean fields to the east and south of Mr. Overmyer's property as possible origins of the off-target Dicamba movement. I identified the applicator to the east soybean field as Mr. Hayn and the south soybean field as Mr. Zechiel. I collected vegetation samples from Mr. Overmyer's property and soil samples from the east and south soybean fields for assessment by the PPDL and analysis by the OISC Residue Lab.

The OISC Residue Lab report confirmed positive amounts of Dicamba on the vegetation collected from Mr. Overmyer's non-DT soybean field. The PPDL report stated Dicamba exposure was the suspected cause of injury to the vegetation collected from Mr. Overmyer's non-DT soybean field.

Based on the evidence collected in this investigation, off-target movement of the Dicamba herbicide was documented but I could not determine if the source of the off-target movement had originated from the south soybean field's application (Mr. Zechiel) or from the east soybean field's application (Mr. Hayn). However, I found the applications completed by Mr. Zechiel and Mr. Hayn (Case #PS20-0227) had both failed to follow label directions regarding drift.

Submitted By: James M. Trimble
Role: Investigator

10/22/2020 Disposition Summary

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

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/24/2020 Intake Referral Filed

Complainant submitted a complaint form indicating spray to a neighboring farm field drifted onto his bean field. This is an extension to Case PS20-0227, as I had located two applicators responsible for the surrounding fields.

Original Event:	Intake Referral (Pesticide) #1659
Complainant:	Michael E Overmyer
Respondent:	Larry Dean Zechiel
Entered By:	James M. Trimble
Submitted By:	George Saxton
Attachments:	File 55657; intake.pdf

06/24/2020 **Case Created**

Original Event:	Case PS20-0227
Submitted By:	George Saxton
Assigned To:	James M. Trimble

06/29/2020 **Investigator Called Complainant**

On June 29, 2020, I spoke with the complainant's wife, Mrs. Overmyer, via telephone, who reported their Enlist soybeans were showing symptoms of Dicamba exposure injury from a herbicide application to a neighboring field. Mrs. Overmyer provided me with two names that may have been responsible for the neighboring field's application.

An appointment was set for my on-site investigation for July 2, 2020.

Original Event:	Investigation Activity (Pesticide) #1733
Subject:	Michael E Overmyer
Submitted By:	James M. Trimble

07/02/2020 **Investigator Met with Complainant**

On July 2, 2020, I met with Mr. Overmyer at his residence to conduct my on-site investigation, where he showed me his approximately 4 acres of Enlist soybeans that were showing symptoms of injury. Mr. Overmyer stated he believed the injury to his soybeans had been caused by a drift occurrence from a Dicamba application to the soybean field located to the east of his property. Mr. Overmyer believed the east soybean field had been treated on June 8, 2020 while the winds were blowing towards his property. Mr. Overmyer stated he had treated his soybean field on approximately June 1, 2020 with 2,4-D and Glyphosate.

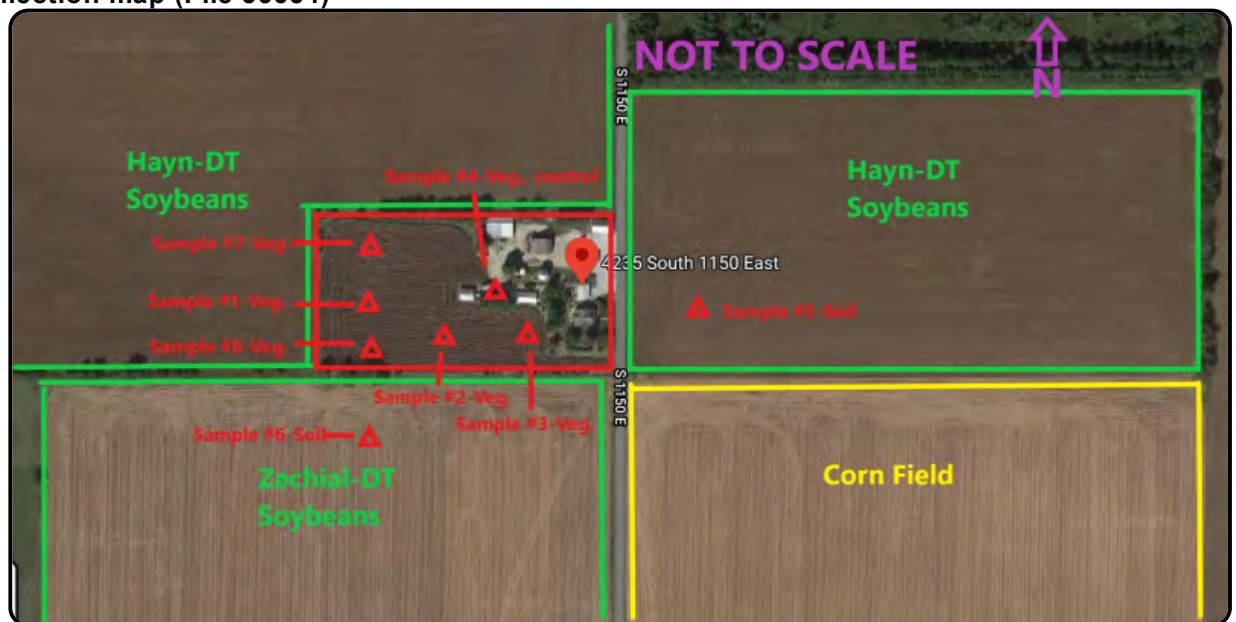
During my on-site investigation, I observed and photographed symptoms of what I believed to be herbicide exposure symptoms to his soybeans, which included cupped leaves, white leaf tips, and blistered leaves. I believed the above exposure symptoms I observed to Mr. Overmyer's soybeans to be consistent with Dicamba exposure. I observed the above injury symptoms across the entirety of Mr. Overmyer's field but observed the heaviest injury to be on the field's east edge and in a few small, random areas. I also observed Mr. Overmyer's mixed ornamental plants on his property's east edge to also show the same symptoms of herbicide injury.

I looked for potential sources of herbicide drift. I observed three soybean fields that surrounded Mr. Overmyer's property. Mr. Overmyer stated the soybean field that was located to the north and the west of his property, along with the east soybean field were treated on the same day and by the same applicators, Dale and/or Ron Hayn. Mr. Overmyer stated the soybean field located to the south of his property was treated by Dean Zechial. Mr. Overmyer stated he believed that all three of the above fields were planted with Dicamba-tolerant soybeans. I observed a possible east to west herbicide drift pattern on Mr. Overmyer's soybean field by the degree of injury observed to the soybeans. I also observed possible off-target movement from the south soybean field by the symptoms of injury found on the south edge of Mr. Overmyer's soybean field, though there was a vegetation buffer between the two fields. At the time of my onsite investigation, I believed both the east and south soybean fields may have contributed to the injury to Mr. Overmyer's soybean field.

I collected samples of soybeans that exhibited symptoms of injury from Mr. Overmyer's soybean field for assessment by the Purdue Pest and Plant Diagnostic Lab (PPDL).

I then collected five gradient samples of the affected soybeans and a control vegetation sample from Mr. Overmyer's property, as well as soil samples from the east and south soybean fields for analysis by the OISC Residue Lab.

Collection map (File 56654)



Ornamental injury (File 48369)



Soybean Injury (File 48386)



Original Event:
Location:
Subject:
Submitted By:
Photos:

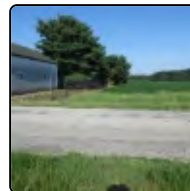
Investigation Activity (Pesticide) #1747
Michael E Overmyer
Michael E Overmyer
James M. Trimble



File 56654



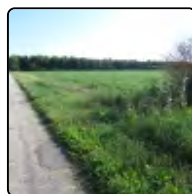
File 48378



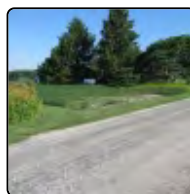
File 48379



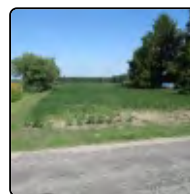
File 48380



File 48381



File 48382



File 48383



File 48384



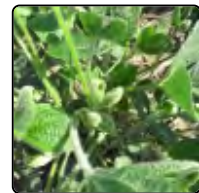
File 48385



File 48386



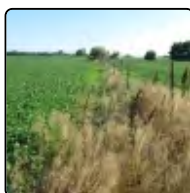
File 48363



File 48364



File 48365



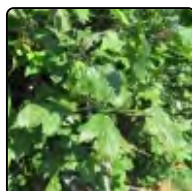
File 48366



File 48367



File 48368



File 48369



File 48370



File 48371



File 48372



File 48373



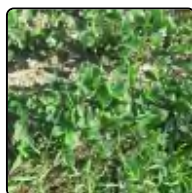
File 48374



File 48375



File 48376



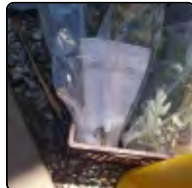
File 48377

07/02/2020 Residue Samples Collected

Original Event:	Residue Collection #150523 (20-4-1872 4)
Client:	Michael E Overmyer
Submitted By:	James M. Trimble
Sample:	20-4-1872 4 Veg; Comp; Off Target, Grad1, 600ft W
Sample:	20-4-1873 0 Veg; Comp; Off Target, Grad2, 300ft W
Sample:	20-4-1874 8 Veg; Comp; Off Target, Grad3, 50ft W
Sample:	20-4-1875 3 Veg; Ctrl; Off Target
Sample:	20-4-1876 9 Soil; Comp; 2-4"; Target Site, E, soybean
Sample:	20-4-1877 6 Soil; Comp; 2-4"; Target Site, S, soybean
Sample:	20-4-1878 2 Veg; Comp; Off Target, Grad4, 275ft N
Sample:	20-4-1879 5 Veg; Comp; Off Target, Grad5, 50ft N

07/02/2020 External Lab Sample Collected

Original Event:	External Lab Sample Collection #150674 (X20-29DEAE)
Client:	Michael E Overmyer
Submitted By:	James M. Trimble
Lab:	Purdue Plant and Pest Diagnostic Laboratory
Sample:	X20-29DEAE Samples of affected soybeans.
Attachments:	File 48359; ResponseSummary (10).pdf
Photos:	



File 48360

07/02/2020 Investigator Called Applicator

On July 2, 2020, after my onsite investigation, I called and spoke with Larry Dean Zechiel, who confirmed he was the applicator to the south soybean field. Mr. Zechiel was advised of the Pesticide Investigation Inquiry (PII) and that I would email the form to him later in the day. Mr. Zechiel advised me of his email address.

Original Event:	Investigation Activity (Pesticide) #1834
Subject:	Larry Dean Zechiel
Submitted By:	James M. Trimble

07/02/2020 **Investigator Sent Fax/Email to Applicator**

On July 2, 2020, I emailed the PII to Mr. Zechiel. Mr. Zechiel was advised to have the PII completed and returned to me within 15 days of my email.

Original Event: Investigation Activity (Pesticide) #1835
Subject: Larry Dean Zechiel
Submitted By: James M. Trimble
Attachments: File 48869; zechiel_email.pdf

07/02/2020 **Investigator Called Applicator Interaction**

I then contacted Mr. Hayn, who confirmed he was responsible for the pesticide applications to the east and north soybean fields. Mr. Hayn was also emailed a PII for his completion. See Case #PS20-0227.

Original Event: Investigation Activity (Pesticide) #2318
Subject: Dale Hayn
Submitted By: James M. Trimble

07/02/2020 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #314
Submitted By: James M. Trimble
Target Analyte: Xtendimax
Target Analyte: Roundup Powermax
Target Analyte: Engenia
PPLS Labels: [000524-00549-20200225.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/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)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00617-20181105.pdf

[007969-00345-20181102.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00345-20181102.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00345-20181102.pdf

Attachments: File 48994; engenia.PDF
File 48995; roundup.PDF
File 48996; xtendimax.PDF

07/06/2020 **Received External Lab Report**

The PPDL report stated, "Soybean plants in sample 20-00764 show leaf cupping and whitish/yellowish leaf tips. Additionally, some plants are stunted due to reduced growth of apical meristem. These symptoms are characteristic of exposure to dicamba. It is not uncommon to see some leaf strapping with dicamba as well, but most leaves will be cupped. You will not see leaf cupping with 2,4-D though." It further stated, "Symptoms consist of leaf cupping, leaf deformation, and white leaf tips which is suggestive of growth regulator exposure."

Original Event: External Lab Report #150724 (X20-29DEAE)
Submitted By: James M. Trimble
Sample: X20-29DEAE
Attachments: File 48394; Final_Report_Mitch_Trimble_(002).pdf

07/07/2020 **Investigator Received Fax/Email from Applicator**

On July 7, 2020, I received the completed PII, along with the required Dicamba documentation from Mr. Zechiel. The PII listed Mr. Zechiel's application to the soybean field located to the South of Mr. Overmyer's property was completed on June 2, 2020 at 10:00 AM - 12:00 PM, with the pesticides Xtendimax (EPA Reg. #524-617, active ingredient of Dicamba) & Roundup Powermax (EPA Reg. #524-549, active ingredient of Glyphosate), while the winds were blowing from the west, southwest at 12-14 MPH.

Original Event: Investigation Activity (Pesticide) #1839
Subject: Larry Dean Zechiel
Submitted By: James M. Trimble
Attachments: File 48877; Dicamba_training_2020.docx
File 48878; Extend_receipt.pdf
File 48871; Page 1.pdf
File 48874; Page 2.pdf
File 48876; Page 3.pdf
File 48879; Powermax_receipt.pdf
File 48993; roundup.PDF
File 48992; xtendimax.PDF

09/25/2020 **Received Residue Lab Report Lab Remarks**

Released 09/25/2020

Investigatory Summary

The OISC Residue Lab report stated that it had only detected low amounts of Dicamba in Sample #8 (20-4-1879 5) and the Dicamba metabolites of 5OH-Dicamba and DCSA in Sample #4 (20-4-1875 3). Due to there only being two samples that tested positive for Dicamba or its metabolites and that both the south and east target fields had applied a Dicamba product, I was unable to identify a gradient on the non-target soybean field. I found the results to be inconclusive as to where the off-target pesticide movement had originated from.

The positive amounts of Glyphosate and its metabolite, AMPA, were excluded from my review due because it had been applied to the non-target field as well as both target fields.

Original Event: Residue Lab Report #159354 (150523-R303)
Submitted By: SYSTEM
Lab Report: Lab Report 150523-R303.pdf

09/29/2020 Case Created

Original Event: Case PS20-0415
Submitted By: George Saxton
Assigned To: James M. Trimble

10/22/2020 Online Investigation Activity Activity

Based on the evidence collected in this investigation, off-target movement of the Dicamba herbicide was documented but I could not determine if the source of the off-target movement had originated from the south soybean field's application (Mr. Zechiel) or from the east soybean field's application (Mr. Hayn). However, I found the applications completed by Mr. Zechiel and Mr. Hayn (Case #PS20-0227) had both failed to follow label directions regarding drift.

I found Mr. Zechiel's June 2, 2020 application of **Xtendimax (EPA Reg. #524-617, active ingredient of Dicamba) & Roundup Powermax (EPA Reg. #524-549, active ingredient of Glyphosate)** to the south soybean field, while the winds were blowing from the west, southwest (towards Mr. Overmyer's property) at 12-14 MPH, was in violation of the Xtendimax label directions. The label directions stated:

Xtendimax - Wind Speed. Do not apply when wind speeds are less than 3 MPH or greater than 10 MPH. Only apply when wind speed at boom height is between 3 and 10 mph. 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) #2319
Subject: Larry Dean Zechiel
Submitted By: James M. Trimble

10/22/2020 Judgement; Civil Penalty Assessed Civil Penalty

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

Original Event: Judgement #619
Primary: Larry Dean Zechiel
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 100

01/26/2021 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #684
To: Larry Dean Zechiel
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0059
Enclosed: Notice of Enforcement
Enclosed: Draft Case Summary
Attachments: File 61142; PS20-0415EL CP ~ Larry D. Zechiel.doc

02/03/2021 Received Mail Confirmation for Target

Original Event: Compliance Receipt #946
Subject: Larry Dean Zechiel
Submitted By: Joni Herman
USPS: 7018 0040 0000 3553 0059
Received: 02/03/2021
Attachments: File 62554; CM 7018 0040 0000 3553 0059.pdf

02/08/2021 Received Penalty Payment for Target

Original Event: Compliance Receipt #951
Subject: Larry Dean Zechiel
Submitted By: Joni Herman
Payment Expected: \$100.00
Payment Received: \$100.00

Attachments:

File 62604; PS20-0415~Larry Zechiel~CP Received.pdf

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Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

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In Re: Case PS21-0027

Department	Pesticide
Originated	11/10/2020
Assigned To	Elizabeth C. Carter
Status	Closed

Involved Parties

Respondent	Hazen Lawn Care & Snow Plowing Inc Stevensville, MI 49127
Complainant	Office of Indiana State Chemist
Respondent	Lance C Hazen Stevensville, MI 49127

Overviews

11/10/2020 **Investigation Summary**

I was assigned a new business inspection with Hazen Lawn Care & Snow Plowing Inc. Due to COVID, I planned to complete the required new business inspection over the phone. I left voicemails on October 6, October 13, and November 3, but no one returned my calls. I also emailed the business asking for them to contact me. As of November 10, 2020, no one has responded to my request for an inspection.

On November 18, 2020, I spoke with Lance Hazen, the certified applicator and owner. He apologized for the delay and was very professional. He assured me this issue would not happen again and provided me with his direct cell phone number. We completed the new business inspection successfully.

Submitted By: Elizabeth C. Carter
Role: Investigator

11/11/2020 **Disposition Summary**

Hazen Lawn Care & Snow Plowing Inc was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing or neglecting to keep and maintain the records required by IC 15-16-5 or 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 \$250.00 was assessed for this violation. The \$250.00 civil penalty was held in abeyance and not assessed provided Hazen Lawn Care & Snow Plowing Inc commits no further violations of similar nature for a period of two (2) years from the date of this notice.

Lance Hazen was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing or neglecting to keep and maintain the records required by IC 15-16-5 or to make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

10/06/2020 **Investigator Called Business Communication**

I left a voicemail on October 6, October 13, and November 3, I also emailed Lance on November 3. He has yet to respond to any of my requests.

Activity

Email sent to Lance on November 3rd.

Original Event: Investigation Activity (Pesticide) #2386
Subject: Hazen Lawn Care & Snow Plowing Inc
Submitted By: Elizabeth C. Carter
Photos:



File 57685

11/10/2020 **Intake Referral Filed**

I was assigned a new business inspection with Hazen Lawn Care & Snow Plowing Inc. Due to COVID, I planned to complete the required new business inspection over the phone. I left voicemails on October 6, October 13, and November 3, but no one returned my calls. I also emailed the business asking for them to contact me. As of November 10, 2020, no one has responded to my request for an inspection.

Original Event: Intake Referral (Pesticide) #1733
Complainant: Office of Indiana State Chemist
Respondent: Hazen Lawn Care & Snow Plowing Inc
Entered By: Elizabeth C. Carter
Submitted By: Joseph D. Becovitz

11/10/2020 **Case Created**

Original Event: Case PS21-0027
Submitted By: Joseph D. Becovitz
Assigned To: Elizabeth C. Carter

11/11/2020 **Judgement; License Suspension
Civil Penalty**

Hazen Lawn Care & Snow Plowing Inc was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing or neglecting to keep and maintain the records required by IC 15-16-5 or 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 \$250.00 was assessed for this violation.

License Suspension

The pesticide license of Hazen Lawn Care & Snow Plowing Inc was suspended until such time as they comply with the new business inspection.

Original Event: Judgement #641
Primary: Hazen Lawn Care & Snow Plowing Inc
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(7)
Penalty Amount: 250

11/18/2020 **Applicator Called Investigator
Interaction**

Lance, the certified applicator with Hazen Lawn Care, returned my call. He apologized for the delay and was very professional. It appears that the phone number originally listed with the company was not the phone number to reach Lance. The preferred number is 269-208-6794. We completed the new business inspection successfully.

Original Event: Investigation Activity (Pesticide) #2416
Subject: Lance C Hazen
Submitted By: Elizabeth C. Carter

11/18/2020 **General Inspection Conducted
Credentials Inspection**

We discussed supervision; although currently, Lance has no employees.

Disposal Inspection

Inspection done over the phone dues to COVID.

Lawn & Landscape Inspection

Lance asked about email notification. We discussed that was allowable as long as it was done at time of application.

Storage & Handler Safety Inspection

We discussed storage and disposal.

Original Event: Pesticide Inspection (General) #1464
Client: Hazen Lawn Care & Snow Plowing Inc
Firm Representative: Lance Hazelton
Submitted By: Elizabeth C. Carter

11/24/2020 **Amended Judgement; Civil Penalty Assessed**

Citation

Lance Hazen was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing or neglecting to keep and maintain the records required by IC 15-16-5 or to make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection.

Civil Penalty

Hazen Lawn Care & Snow Plowing Inc was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing or neglecting to keep and maintain the records required by IC 15-16-5 or 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 \$250.00 was assessed for this violation.

Abeyance

The \$250.00 civil penalty was held in abeyance and not assessed provided Hazen Lawn Care & Snow Plowing Inc commits no further violations of similar nature for a period of two (2) years from the date of this notice.

Original Event:	Judgement #651
Primary:	Hazen Lawn Care & Snow Plowing Inc
Secondary:	Lance C Hazen
Submitted By:	George Saxton
Level:	Informal Review
Legal Citation:	IC 15-16-5-65(7)
Penalty Amount:	250

02/16/2021 Notice of Amended Enforcement Mailed to Target

Original Event:	Outgoing Mail #712
To:	Hazen Lawn Care & Snow Plowing Inc
Submitted By:	Joni Herman
USPS:	7017 2620 0000 1393 9930
Enclosed:	Notice of Amended Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 62195; PS21-0027EL CP Abeyance ~ Hazen Lawn Care - Lance Hazen.docx

04/06/2021 Received Mail Confirmation for Target

No CM green card was returned to OISC. Delivery on 2/20/2021 verified by USPS Tracking website.

Original Event:	Compliance Receipt #1010
Subject:	Hazen Lawn Care & Snow Plowing Inc
Submitted By:	Joni Herman
USPS:	7017 2620 0000 1393 9930
Received:	02/20/2021
Attachments:	File 65613; CM 7017 2620 0000 1393 9930 ~ USPS Tracking - No Green Card.pdf

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