

## A Summary of Cases

May 10<sup>th</sup>, 2022

PS21-0059 Fertilizer with pre-emergent product contains excessive fines which may have compromised product effectiveness.

### **Disposition Summary**

The Andersons of Seymour was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated. A civil penalty in the amount of \$250.00 was assessed for this violation. In addition, The Andersons must notify OISC of future production of this product so a sample may be taken again to check for formulation accuracy.

PS21-0091 Complainant stated Kelley Farms made an application to a neighboring field that drifted onto his property causing injury to a pasture and other vegetation.

### **Disposition Summary**

Kelley Farms was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label direction regarding drift and 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.

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

PS21-0113 Complainant wrote that she returned home at about 3 pm on May 20, 2021, to find two men from Fowler Pest Control applying Temprid FX to the outside of her home. Complainant further wrote she is concerned for the health of her two children, whose bedroom windows were open and also for the health of pollinators which may visit her pollinator attracting plants.

### **Disposition Summary**

Fowler Pest Control was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying a pesticide to the wrong yard. 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 Fowler Pest Control cooperated during the investigation.

Dustin Terrell was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying a pesticide to the wrong yard.

Joseph Lanie was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying a pesticide to the wrong yard.

- PS21-0136 The complainant stated an application was made to a soybean field adjacent to his pond on June 1, 2021, at approximately 3 pm. According to the complainant a large rain immediately following the application moved rainwater from the soybean field into his pond causing a fishkill.

**Disposition Summary**

Doug Delaunois 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 certification. A civil penalty in the amount of \$100.00 was assessed for this violation.

The \$100.00 civil penalty will be held in abeyance for a period of five (5) years and will not be assessed provided Doug Delaunois commits no further violations of the Indiana Pesticide Use and Application Law. Consideration was given to the fact there was a good-faith effort to comply and corrective action was taken.

- PS21-0149 Complainant stated an application to an adjacent farm field by Rippy Farms drifted onto his garden and killed it.

**Disposition Summary**

Ryan Scott Rippy 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 as to cause harm to a non-target site. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

- PS21-0252 Complainant stated drift from an adjacent farm field has injured his soybeans.

**Disposition Summary**

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

Ashley Carmony was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for applying a restricted use pesticide without having a certified applicator in supervision.

- PS21-0264 Complainant stated an application of dicamba applied to an adjacent corn field injured his Enlist soybeans.

**Disposition Summary**

Total Seed Production Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for violating the label regarding drift management by applying when the wind was blowing towards a sensitive crop. 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 Total Seed Production Inc. cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved.

Jeana Maria Cheek was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for violating the label regarding drift management by applying when the wind was blowing towards a sensitive crop. Consideration was also given to the fact a restricted use pesticide was involved.

Brandan D Johnson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for violating the label regarding drift management by applying when the wind was blowing towards a sensitive crop. Consideration was also given to the fact a restricted use pesticide was involved.

PS21-0266 Complainant stated an aerial application made to an adjacent farm field drifted onto his pasture and killed several of his fruit trees.

**Disposition Summary**

On Target Applicators LLC 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 no restricted use pesticides were involved. Consideration was also given to the fact this was Mr. Townsend's third violation of similar nature. See case numbers PS17-0799 and PS19-0517.

Brian Jeffrey Townsend 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 no restricted use pesticides were involved. Consideration was also given to the fact this was Mr. Townsend's third violation of similar nature. See case numbers PS17-0799 and PS19-0517.

PS21-0274 Conservation Officer Isaac Saxton contacted the Office of Indiana State Chemist to report the possible misuse of Avitrol at a Menards located in Fort Wayne, Indiana.

**Disposition Summary**

Rose Pest Solutions was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding entry restrictions. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved. However, the civil penalty was reduced to \$125.00. Consideration was given to the fact Rose Pest Solutions cooperated during the investigation and corrective action was taken.

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

PS21-0289 Complainant stated an aerial application to an adjacent farm field made on July 30, 2021 at 3:00 pm drifted across his property.

**Disposition Summary**

Vertical Vegetation Management LLC 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 and there were adverse effects by drifting onto items with which humans (especially children) normally come into contact.

Klint W Anderson 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there were adverse effects by drifting onto items with which humans (especially children) normally come into contact.

Vertical Vegetation Management LLC was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment for applicators and handlers.

Klint W Anderson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment for applicators and handlers. 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 but there were no documented adverse effects. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact Mr. Anderson cooperated during the investigation and corrective action was taken.

PS21-0324 Complainant stated an aerial application made to an adjacent farm field killed fish and a turtle in her 3 acre pond.

**Disposition Summary**

Southern Helicopters Inc was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by drifting pesticide to a pond, killing fish, and to areas with which humans normally come into contact. Consideration was given to the fact there was environmental harm and a potential for human harm.

Benjamin C. Seal was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by drifting pesticide to a pond, killing fish, and to areas with which humans normally come into contact. A



\$1,000.00 civil penalty was assessed for this violation. Consideration was given to the fact there was environmental harm and a potential for human harm.

PS21-0330 Anonymous complainant stated Turning Point Lawn Care owned by Nathan Donaghy, makes fertilizer and herbicide applications to lawns without a license.

**Disposition Summary**

Turning Point Lawn Care 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.

Nathan J. Donaghy 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 \$1,000.00 was assessed for this violation.

\$750.00 was held in abeyance and will not be assessed provided Nathan J. Donaghy 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 notice.

PS21-0342 Complainant stated an application of insecticide applied to an adjacent hayfield drifted onto his hemp crop. In addition, the complainant stated the application was made on September 1, 2021, when the wind was from the northeast at 13 miles per hour.

**Disposition Summary**

Andersons Agriculture Group LP 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 that caused an adverse effect.

Christopher Alan Hauptert 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved that caused an adverse effect.

PS21-0353 I observed two applicators, later identified as Daniel Gilbreath & Cole Burton, make a liquid pesticide application to 1107 Barberry Dr., Greenwood, IN. I found that Mr. Gilbreath was a Registered Technician and Mr. Burton was a non-credentialed user. I advised Mr. Burton that he could not make pesticide applications without having a RT credential or meet the direct supervision requirements. An Action Order was issued to Mr. Burton.

### **Disposition Summary**

Trugreen LP-GWD was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to a non-certified individual. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact this was Trugreen LP-GWD's third violation of similar nature. See case numbers PS19-0151 and PS19-0316.

Clint Gilmore was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to a non-certified individual.

Trugreen LP-GWD was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual.



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 PS21-0059**

Department	Pesticide
Originated	03/23/2021
Assigned To	Garret A. Creason
Status	Closed

**Involved Parties**

Complainant	<b>Lawn Cure of Southern Indiana Inc</b> Sellersburg, IN 47172
Respondent	<b>Unknown</b>
Distributor	<b>Advanced Turf Solutions</b> Louisville, KY 40299
Registrant	<b>The Andersons Lawn Fertilizer Div</b> Maumee, OH 43537
Registrant	<b>The Andersons</b> Seymour, IN 47274
Facility Respondent	<b>The Andersons</b> Seymour, IN 47274

**Overviews**

05/24/2021 **Product Registration Summary**

The product "10-0-3 FERTILIZER WITH 0.38% PRODIAMINE HERBICIDE," EPA No. 9198-163, is registered in Indiana, IND Reg. no. 2018082474. The product registration was first issued 01/26/2018 and is current for 2021.

Submitted By: Linda Bradford  
Role: Product Registration Specialist

07/19/2021 **Investigation Summary**

On March 24, 2021 I met with Patrick Hawkins, Manager, of Lawn Cure of Southern Indiana. Mr. Hawkins was able to show me where all the product was being stored. Mr. Hawkins informed me that approximately two weeks prior his employees were using the product "10-0-3 Fertilizer with 0.38% Prodiamine Herbicide" EPA Reg# 9198-163. While using this product the employees were being covered in a fine dust coming from the product. Some employees reported having to use facial masks to cover their face to keep the dust away. Mr. Hawkins then informed me that he had spoken to Advanced Turf Solutions, distributor of the product, and they instructed him to stop using all the product and they would exchange all his current inventory. Advanced Turf Solution did exchange all the product. While i was there i was able to sample two of the newer bags of product. One bag had a date code of "12-20" and the other bag a date code of "02-21"

On March 30, 2021 I conducted a Producer Establishment Inspection at The Andersons in Seymour Indiana. I was able to collect records for production and distribution for the 10-0-3 Fertilizer with 0.38% Prodiamine Herbicide product. I was also able to collect an additional sample of the product while at the facility.

Upon the completion of the lab analysis by the OISC Formulation lab it was found that all three product samples failed to meet label claim. All three product samples were from different production batches.

On April 29, 2021 i spoke with representatives from The Andersons, Joseph Reed, Deborah Ziehr, Chuck Anderson, Joseph Schmumski, and Paula Clark. In the conversation i advised them the findings of OISC lab analysis. I was advised that The Andersons had taken Approximately 30 truck loads of the product back and is storing it at the Seymour location until they figure out what to do with it. Mr. Reed advised they would work on a solution for the issues and advise OISC what they decide

On May 10, 2021 i spoke with Eric Dearth, Engineer in the Granules Division for The Anderson's. Mr. Dearth advised that the Anderson's facility in Seymour, IN has had other QA issues with other products recently since that facility began lawn care operation in 2019. Mr. Dearth also advised that 10-0-3 fertilizer with %0.38 Prodiamine Herbicide is made specifically for Advanced Turf Solutions. Mr. Dearth stated that The Anderson's plans to "re-work" the product they have taken back into the 2022 seasons product. Mr. Dearth plans to provide a detailed written summary to OISC of what The Anderson's has done and will do to correct this issue.

On May 27, 2021 Eric Dearth from The Anderson's sent information for the case via email. Included in the email was a copy of the letter to customers informing them of product issues. Also included was data from The Anderson's analytical lab. Mr. Dearth also advised in the email that The Anderson's Intends to re-blend the old product into new product. The original email and attachments will be attached to this case.

On June 18, 2021 Deb Klafter, Sr. Quality Analyst with the Andersons, provided a written response to how The Andersons plans to move forward with formulation issues with 10-0-3 Fertilizer with Prodiamine Herbicide. In the provided documents Mrs. Klafter explains that The Andersons plans to source a new granular lime product that will produce significantly less fines. Also, in the provided documents it is explained how The Andersons will re-blend the existing product that failed to meet the label claim, back into the new product. Mrs. Klafter also confirmed that The Andersons provided a letter to its customers on 3-24-2021 to notify and explain the formulation issues.

OISC has determined that the 10-0-3 Fertilizer with 0.38% Prodiamine Herbicide product was adulterated. OISC will sample the product again when production starts to determine if the formulation issues have been resolved.

Submitted By: Garret A. Creason  
Role: Investigator

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07/27/2021 **Disposition Summary**

The Andersons of Seymour was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated. A civil penalty in the amount of \$250.00 was assessed for this violation. In addition, The Andersons must notify OISC of future production of this product so a sample may be taken again to check for formulation accuracy.

Submitted By: George Saxton  
Role: Compliance Officer

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**Chronology of Events**

03/23/2021 **Intake Referral Filed**

Fertilizer with pre-emergent product contains excessive fines which may have compromised product effectiveness.

Original Event: Intake Referral (Pesticide) #1859  
Complainant: Lawn Cure of Southern Indiana Inc  
Respondent: Unknown  
Submitted By: Joseph D. Becovitz  
Assigned To: Garret A. Creason

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03/23/2021 **Case Created**

Original Event: Case PS21-0059  
Submitted By: Joseph D. Becovitz  
Assigned To: Garret A. Creason

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03/24/2021 **Formulation Samples Collected**

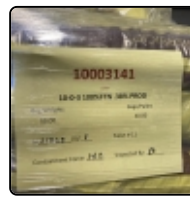
Original Event: Formulation Collection #171994 (21-3-0073 8)  
Distributor: Advanced Turf Solutions  
Registrant: The Andersons Lawn Fertilizer Div  
Client: Lawn Cure of Southern Indiana Inc  
Firm Representative: Patrick Hawkins  
Submitted By: Garret A. Creason  
Sample: 21-3-0073 8 | 10-0-3 Fertilizer with 0.38% Prodiamine Herbicide  
Sample: 21-3-0074 0 | 10-0-3 Fertilizer with 0.38% Prodiamine Herbicide  
Lab Report: 20210405145603@171994.pdf  
PPLS Labels: [009198-00163-20170420.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/009198-00163-20170420.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/009198-00163-20170420.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/009198-00163-20170420.pdf)  
Attachments: File 64778; scan0017.pdf  
Photos:



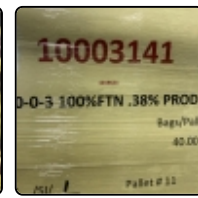
File 64716



File 64717



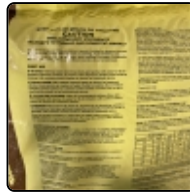
File 64719



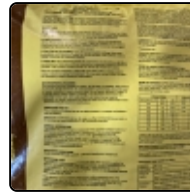
File 64721



File 64722



File 64723



File 64724



File 64725



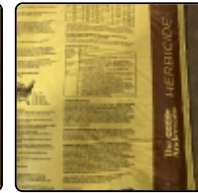
File 64726



File 64727



File 64728



File 64729



File 64730



File 64731



File 64732



File 64733



File 64734



File 64735



File 64736



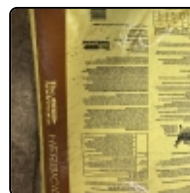
File 64737



File 64738



File 64739



File 64740



File 64741



File 64742



File 64743

## 03/24/2021 Investigator Met with Complainant Interaction

On March 24, 2021 I met with Patrick Hawkins, Manager, of Lawn Cure of Southern Indiana. Mr. Hawkins was able to show me where all the product was being stored. Mr. Hawkins informed me that approximately two weeks prior his employees were using the product "10-0-3 Fertilizer with 0.38% Prodiamine Herbicide" EPA Reg# 9198-163. While using this product the employees were being covered in a fine dust coming from the product. Some employees reported having to use facial masks to cover their face to keep the dust away. Mr. Hawkins then informed me that he had spoken to Advanced Turf Solutions, distributor of the product, and they instructed him to stop using all the product and they would exchange all his current inventory. Advanced Turf Solution did exchange all the product. While i was there i was able to sample two of the newer bags of product. One bag had a date code of "12-20" and the other bag a date code of "02-21".

Original Event: Investigation Activity (Pesticide) #2701  
Subject: Lawn Cure of Southern Indiana Inc  
Submitted By: Garret A. Creason

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03/24/2021 **Notice of Inspection Issued**

Original Event: Notice of Inspection #216  
Client: Lawn Cure of Southern Indiana Inc  
Firm Representative: Patrick Hawkins  
Submitted By: Garret A. Creason  
Attachments: File 64744; scan0016.pdf

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03/24/2021 **Investigator Received Fax/Email from Complainant Records**

Mr. Hawkins provided records showing that 10-0-3 Fertilizer with 0.38% Prodiamine Herbicide was shipped to Lawn Cure of Southern Indiana by Advance Turf Solutions on 02/15/2021.

Original Event: Investigation Activity (Pesticide) #2729  
Subject: Lawn Cure of Southern Indiana Inc  
Submitted By: Garret A. Creason  
Attachments: File 64957; Lawn Cure Trucker Invoice.pdf

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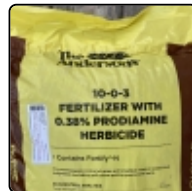
03/30/2021 **Formulation Samples Collected**

Original Event: Formulation Collection #172894 (21-3-0075 5)  
Registrant: The Andersons  
Client: The Andersons  
Firm Representative: Joseph Reed  
Submitted By: Garret A. Creason  
Sample: 21-3-0075 5 | 10-0-3 Fertilizer with 0.38% Prodiamine Herbicide  
Lab Report: 20210420112103@172894.pdf  
PLLS Labels: 009198-00163-20170420.pdf  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/009198-00163-20170420.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/009198-00163-20170420.pdf)

Photos:



File 65379



File 65380



File 65381



File 65382



File 65383



File 65384



File 65385



File 65386



File 65387



File 65388

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03/30/2021 **Producer Establishment Inspection Conducted Inspection Details**

The Batch ID/Lot ID was not present on the product that was sampled. This was pointed out to Mr. Reed. The production records provided did not contain a batch ID or the EPA Registration number. I provided Mr. Reed a copy of EPA's Keeping the Record Straight hand out.

Original Event: Producer Establishment Inspection #48  
Facility: The Andersons  
Firm Representative: Joseph Reed  
Submitted By: Garret A. Creason  
PLLS Labels: 000228-00610-20170825.pdf  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000228-00610-20170825.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000228-00610-20170825.pdf)  
000432-01349-20150310.pdf  
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[005481-00539-20070606.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/005481-00539-20070606.pdf)  
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[062719-00488-20200716.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00488-20200716.pdf)  
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[009198-00120-20170420.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/009198-00120-20170420.pdf)  
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[009198-00124-20160803.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/009198-00124-20160803.pdf)  
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[009198-00236-20090623.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/009198-00236-20090623.pdf)  
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[009198-00242-20161121.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/009198-00242-20161121.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/009198-00242-20161121.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/009198-00242-20161121.pdf)

Attachments:

File 65561; 10-0-3 Prodiamine Label.pdf  
File 65558; bin label.pdf  
File 65557; dist.pdf  
File 65555; inbound.pdf  
File 65562; Outbound-distribution Records.pdf  
File 65556; production.pdf  
File 65559; rfd.pdf  
File 65560; scan.pdf

Photos:



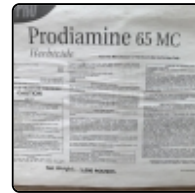
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File 65564



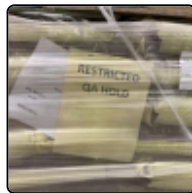
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File 65566



File 65567



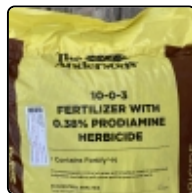
File 65568



File 65569



File 65570



File 65571



File 65572



File 65573



File 65574



File 65575



File 65576



File 65577



File 65578



File 65579

---

**03/30/2021 Notice of Inspection Issued**

Original Event: Notice of Inspection #257  
 Client: The Andersons  
 Firm Representative: Joseph Reed  
 Submitted By: Garret A. Creason  
 Attachments: File 65953; scan0002.pdf

---

**03/30/2021 Investigator Received Fax/Email from Complainant Statement**

Mr. Hawkins provided the order of events as it pertained to the 10-0-3 Fertilizer with 0.38% Prodiamine Fertilizer. I requested that the product that had failed lab analysis stay at his facility. Mr. Hawkins stated he would place those products to the side and keep them at his facility.

Original Event: Investigation Activity (Pesticide) #2803  
 Subject: Lawn Cure of Southern Indiana Inc  
 Submitted By: Garret A. Creason  
 Attachments: File 66389; Lawn Cure order of events.pdf  
 Photos:



File 66390

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**04/05/2021 Formulation Lab Report #191146 (171994-01-R55101830)**

Original Event: Formulation Lab Report #191146 (171994-01-R55101830)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 171994-01-R55101830.pdf

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**04/05/2021 Formulation Lab Report #191147 (171994-02-R55101830)**

Original Event: Formulation Lab Report #191147 (171994-02-R55101830)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 171994-02-R55101830.pdf

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**04/05/2021 Formulation Lab Report #191148 (171994-01-R55101831)**

Original Event: Formulation Lab Report #191148 (171994-01-R55101831)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 171994-01-R55101831.pdf

---

**04/05/2021 Formulation Lab Report #191149 (171994-02-R55101831)**

Original Event: Formulation Lab Report #191149 (171994-02-R55101831)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 171994-02-R55101831.pdf

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**04/05/2021 Formulation Lab Report #191150 (171994-01-R55101832)**

Original Event: Formulation Lab Report #191150 (171994-01-R55101832)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 171994-01-R55101832.pdf


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**04/05/2021 Formulation Lab Report #191151 (171994-02-R55101832)**



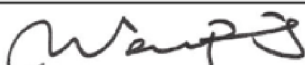
Original Event: Formulation Lab Report #191151 (171994-02-R55101832)  
Submitted By: SYSTEM  
Lab Report: Lab Report 171994-02-R55101832.pdf

04/05/2021 **Formulation Lab Report #191152 (171994-01-R55101852)**  
**First Page of Lab Report**

Lab Report					
OCM Collection #	171994	Case #	PS21-0059	Investigator	G. Creason
Sample #	Product Description				Sample Size
21-3-0073 8	The Andersons 10-0-3 Fertilizer with 0.38% Prodiamine Herbicide				1 x 50 lbs
ACTIVE INGREDIENT				% GUARANTEE	% FOUND
Prodiamine				0.38	0.82*
Remarks: *Exceeded label claim requirement. Adulterated.					
Signature				Date	4/5/2021

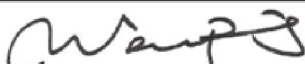
Original Event: Formulation Lab Report #191152 (171994-01-R55101852)  
Submitted By: SYSTEM  
Lab Report: Lab Report 171994-01-R55101852.pdf

04/05/2021 **Formulation Lab Report #191153 (171994-02-R55101852)**  
**First Page of Lab Report**

Lab Report					
OCM Collection #	171994	Case #	PS21-0059	Investigator	G. Creason
Sample #	Product Description				Sample Size
21-3-0073 8	The Andersons 10-0-3 Fertilizer with 0.38% Prodiamine Herbicide				1 x 50 lbs
ACTIVE INGREDIENT				% GUARANTEE	% FOUND
Prodiamine				0.38	0.82*
Remarks: *Exceeded label claim requirement. Adulterated.					
Signature				Date	4/5/2021

Original Event: Formulation Lab Report #191153 (171994-02-R55101852)  
Submitted By: SYSTEM  
Lab Report: Lab Report 171994-02-R55101852.pdf

04/20/2021 **Formulation Lab Report #191155 (172894-01-R55103849)**  
**First Page of Lab Report**

Lab Report					
OCM Collection #	172894	Case #	PS21-0059	Investigator	G. Creason
Sample #	Product Description				Sample Size
21-3-0075 5	The Andersons 10-0-3 Fertilizer with 0.38% Prodiamine Herbicide				1 x 50 lbs
ACTIVE INGREDIENT				% GUARANTEE	% FOUND
Prodiamine				0.38	0.30*
Remarks: *Failed low according to label claim requirement.					
Signature				Date	4/20/2021

Original Event: Formulation Lab Report #191155 (172894-01-R55103849)  
Submitted By: SYSTEM  
Lab Report: Lab Report 172894-01-R55103849.pdf

04/29/2021 **Investigator Called Registrant**

## Communication

On April 29, 2021 i spoke with representatives from The Andersons, Joseph Reed, Deborah Ziehr, Chuck Anderson, Joseph Schmumski, and Paula Clark. In the conversation i advised them the findings of OISC lab analysis. I was advised that The Andersons had taken Approximately 30 truck loads of the product back and is storing it at the Seymour location until they figure out what to do with it. Mr. Reed advised they would work on a solution for the issues and advise OISC what they decide.

Original Event: Investigation Activity (Pesticide) #2952  
Subject: The Andersons Lawn Fertilizer Div  
Submitted By: Garret A. Creason

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### 05/10/2021 Registrant Called Investigator Communication

On May 10, 2021 i spoke with Eric Dearth, Engineer in the Granules Division for The Anderson's. Mr. Dearth advised that the Anderson's facility in Seymour, IN has had other QA issues with other products recently since that facility began lawn care operation in 2019. Mr. Dearth also advised that 10-0-3 fertilizer with %0.38 Prodiamine Herbicide is made specifically for Advanced Turf Solutions. Mr. Dearth stated that The Anderson's plans to "re-work" the product they have taken back into the 2022 seasons product. Mr. Dearth plans to provide a detailed written summary to OISC of what The Anderson's has done and will do to correct this issue.

Original Event: Investigation Activity (Pesticide) #2953  
Subject: The Andersons Lawn Fertilizer Div  
Submitted By: Garret A. Creason

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### 05/24/2021 Label Review Conducted; Acceptable

On May 24, 2021, I reviewed the labeling connected to Formulation Sample Collection #172894

10-0-3 FERTILIZER WITH 0.38% PRODIAMINE HERBICIDE, EPA Reg Number 9198-163

The labeling corresponds with the master label as approved by EPA on April 20, 2017.

Original Event: Label Review (Pesticide) #139 (21-3-0075 5)  
Registrant: The Andersons  
Submitted By: Linda Bradford  
Sample: 21-3-0075 5  
Product: 10-0-3 Fertilizer with 0.38% Prodiamine Herbicide  
EPA Reg.: 9198-163  
EPA Est.: 9198-IN-3  
PPLS Labels: [009198-00163-20170420.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/009198-00163-20170420.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/009198-00163-20170420.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/009198-00163-20170420.pdf)

Attachments: File 68666; 9198-163.pdf

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### 05/27/2021 Investigator Received Fax/Email from Registrant Communication

On May 27, 2021 Eric Dearth from The Anderson's sent information for the case via email. Included in the email was a copy of the letter to customers informing them of product issues. Also included was data from The Anderson's analytical lab. Mr. Dearth also advised in the email that The Anderson's Intends to re-blend the old product into new product. The original email and attachments will be attached to this case.

Original Event: Investigation Activity (Pesticide) #3176  
Subject: The Andersons  
Submitted By: Garret A. Creason  
Attachments: File 69695; 0.38% Prodiamine Data.pdf  
File 69696; ATS\_CustomerLetter\_C21\_Final.pdf

Photos:



File 69694

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### 06/21/2021 Investigator Received Fax/Email from Registrant Statement

On June 18, 2021 Deb Klafter, Sr. Quality Analyst with the Andersons, provided a written response to how The Andersons plans to move forward with formulation issues with 10-0-3 Fertilizer with Prodiamine Herbicide. In the provided documents Mrs. Klafter explains that The Andersons plans to source a new granular lime product that will produce significantly less fines. Also, in the provided documents it is explained how The Andersons will re-blend the existing product that failed to meet the label claim, back into the new product. Mrs. Klafter also confirmed that The Andersons provided a letter to its customers on 3-24-2021 to notify and explain the formulation issues.

Original Event:	Investigation Activity (Pesticide) #3323
Subject:	The Andersons Lawn Fertilizer Div
Submitted By:	Garret A. Creason
Attachments:	File 71305; Barricade 10MAR20 DowElanco NA-AM-96-005 LABL0026.doc File 71306; Fertilizer 10-0-3 with Prodiamine information letter.docx

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07/27/2021 **Judgement; Civil Penalty Assessed**  
**Civil Penalty**

The Andersons of Seymour was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated. A civil penalty in the amount of \$250.00 was assessed for this violation. In addition, The Andersons must notify OISC of future production of this product so a sample may be taken again to check for formulation accuracy.

Original Event:	Judgement #762
Primary:	The Andersons
Submitted By:	George Saxton
Legal Citation:	IC 15-16-4-57(5)
Penalty Amount:	250

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07/29/2021 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #857
To:	The Andersons
Submitted By:	Joni Herman
USPS:	7019 0140 0000 6113 6568
Enclosed:	Notice of Enforcement
Enclosed:	Draft Case Summary
Attachments:	File 75393; PS21-0059EL CP ~ The Andersons of Seymour - Joseph Reed, Rep..docx

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08/02/2021 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #1235
Subject:	The Andersons
Submitted By:	Joni Herman
USPS:	7019 0140 0000 6113 6568
Received:	08/02/2021
Attachments:	File 79166; CM 7019 0140 0000 6113 6568.pdf

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08/09/2021 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #1226
Subject:	The Andersons
Submitted By:	Joni Herman
Payment Expected:	\$250.00
Payment Received:	\$250.00
Attachments:	File 76927; PS21-0059 ~ The Andersons of Seymour ~ CP Received 8-9-2021.pdf

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**Chain of Custody**

No electronic chain of custody found

<p>This record was generated on <b>March 8, 2022, 06:41 AM EST</b>. 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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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

This record was generated on **March 8, 2022, 06:44 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 PS21-0091

Department	Pesticide
Originated	04/26/2021
Assigned To	James M. Trimble
Status	Closed

### Involved Parties

Complainant	<b>John Kenneth Rayman</b> West Lafayette, IN 47906	
Employer	<b>INCIDENTAL Kevin Walter Kelley</b> Brookston, IN 47923	Owner
Respondent	<b>Timothy D Carberry</b> Brookston, IN 47923	
Respondent	<b>Kelley Engineering LLC</b> Brookston, IN 47923	

### Overviews

#### 11/01/2021 Investigation Summary

On April 26, 2021, Mr. Rayman reported an application to a neighboring field had drifted onto his property and caused injury to his vegetation.

On April 28, I met with Mr. Rayman at his property, where I found herbicide injury symptoms to his vegetation. I identified the field located to the north of his property as the possible origin of the pesticide drift. On April 28 & 29, I collected multiple swab and vegetation samples from Mr. Rayman's property for analysis by the OISC Residue Lab.

I later found that Mr. Carberry had made a pesticide application to the north field on April 17, 2021. My observations, the OISC Residue Lab report, and the weather report at the time of application was used to determine that Mr. Carberry's application had moved off-target and onto Mr. Rayman's property.

Submitted By: James M. Trimble  
Role: Investigator  
Drift: Confirmed

#### 11/02/2021 Disposition Summary

Kelley Farms was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label direction regarding drift and 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.

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

Submitted By: George Saxton  
Role: Compliance Officer

### Chronology of Events

#### 04/26/2021 Intake Referral Filed

Complainant stated Kelley Farms made an application to a neighboring field that drifted onto his property causing injury to a pasture and other vegetation.

Original Event:	Intake Referral (Pesticide) #1907
Complainant:	John Kenneth Rayman
Respondent:	Kevin Walter Kelley
Submitted By:	Joseph D. Becovitz
Assigned To:	James M. Trimble

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04/26/2021 **Case Created**

Original Event:	Case PS21-0091
Submitted By:	Joseph D. Becovitz
Assigned To:	James M. Trimble

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04/26/2021 **Investigator Called Complainant Communication**

On April 26, 2021, I spoke with John Rayman, via phone, who reported that the field located to the north of his property had a herbicide application that drifted on to his property and injured his turf and ornamentals. Mr. Rayman stated that he believed that Kevin Kelley or one of his employees was responsible for the application to the field. Mr. Rayman stated that he had not attempted to make contact with Mr. Kelley and stated this has been an ongoing problem. An appointment was made for April 28, 2021 for my onsite investigation.

Original Event:	Investigation Activity (Pesticide) #2880
Subject:	John Kenneth Rayman
Submitted By:	James M. Trimble

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04/28/2021 **Investigator Met with Complainant Photographs**

On April 28, 2021, I met with Mr. Rayman at his property to conduct my on-site investigation. Mr. Rayman showed me the injury to his turf and ornamental plants and north field he believed was the origin of the herbicide drift. Mr. Rayman stated he believed field had been treated with two applications or on two different days. Mr. Rayman stated the outer portion of the field was the field's first application and was most likely when the drift had occurred. Mr. Rayman was unsure of the date of the field's first application but believed the field's second application occurred on April 22, 2021. Mr. Rayman stated the second application was to the remaining middle portion of the field and approximately the same day he observed the injury to the vegetation on his property.

Mr. Rayman stated he had treated the turf on his property with Lesco Three-Way (EPA Reg. #10404-43, active ingredients of Dicamba, 2,4-D, and MCP-P) and Dimension 2EW (EPA Reg. #62719-542, active ingredient of Dithiopyr) approximately four weeks prior to my arrival. Mr. Rayman stated he had also treated the gravel driveway with Roundup PRO (EPA Reg. #524-529, active ingredient of Glyphosate) approximately two weeks prior.

During my on-site investigation, I observed and photographed symptoms of what I believed to be herbicide exposure symptoms to Mr. Rayman's vegetation, which included yellow & brown grass, speckled and discolored Maple tree leaves, and cupped leaves and twisted stems on the poeny. I observed uneven streaking of dead and/or decaying turf on the north edge of Mr. Rayman's property. I observed the injury to the vegetation to be more prominent on the north end of the property and become less noticeable the further south I went.

I looked for potential sources of herbicide drift. I observed the field located across the street and to the north of Mr. Rayman's property to have dead and/or decaying ryegrass throughout. I observed the field's outer and inner portion to have different stages of decaying ryegrass with a distinct spray line differentiating the two. I observed the south end of the field to have an uneven line of dead/decaying vegetation that had traveled south of its last row of ryegrass, onto and over the adjacent ditch, crossed the road, and onto Mr. Rayman's property, which was consistent with off-target herbicide movement. The pattern of injury I observed in the north field and Mr. Rayman's property was suggestive of a herbicide drift occurrence that came from the north field while the wind was blowing from the north.

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

I then collected gradient swab samples from the buildings on Mr. Rayman's property, as well as a vegetation sample from the north field for analysis by the OISC Residue Lab.



**South end of the north field (File 67048)**



**Maple tree injury (File 67042)**





**Peony injury (File 67037)**



Original Event:  
Subject:  
Submitted By:  
Photos:

Investigation Activity (Pesticide) #2900  
John Kenneth Rayman  
James M. Trimble



File 67028



File 67029



File 67030



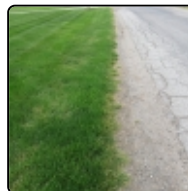
File 67032



File 67033



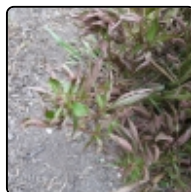
File 67034



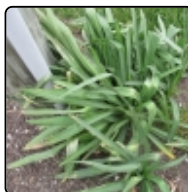
File 67035



File 67036



File 67037



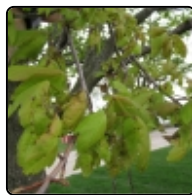
File 67039



File 67040



File 67041



File 67042



File 67043



File 67044



File 67045



File 67046



File 67047



File 67048



File 67049

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**04/28/2021 Notice of Inspection Issued**

Original Event: Notice of Inspection #299  
 Client: John Kenneth Rayman  
 Firm Representative: John Rayman  
 Submitted By: James M. Trimble  
 Attachments: File 67085; raymanNOI.pdf

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**04/28/2021 Residue Samples Collected**

Original Event: Residue Collection #176237 (21-4-1093 3)  
 Client: John Kenneth Rayman  
 Submitted By: James M. Trimble  
 Sample: 21-4-1093 3 | Swab (Acetone); Grab; Siding; OFF-T, Grad1, 120yd S  
 Sample: 21-4-1094 6 | Swab (Acetone); Grab; Wall; OFF-T, Grad2, 90yd S  
 Sample: 21-4-1095 1 | Swab (Acetone); Grab; Siding; OFF-T, Grad3, 60yd S  
 Sample: 21-4-1096 7 | Swab (Acetone); Grab; Siding; OFF-T, Grad4, 40yd S  
 Sample: 21-4-1097 9 | Swab (Acetone); Ctrl; Window; OFF-T  
 Sample: 21-4-1098 0 | Swab (Acetone); Trip Blank  
 Sample: 21-4-1099 8 | Veg; Comp; rye grass; Target, 50yd N

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**04/28/2021 External Lab Sample Collected**

Original Event: External Lab Sample Collection #176712 (X21-A6ED6B)  
 Client: John Kenneth Rayman  
 Submitted By: James M. Trimble  
 Lab: Purdue Plant and Pest Diagnostic Laboratory  
 Sample: X21-A6ED6B | Maple tree leaves showing spotting & bleaching. Peonies showing twisting and cupping.  
 Attachments: File 67100; ResponseSummary (23).pdf

---

**04/28/2021 Investigator Met with Farmer Interaction**

After leaving Mr. Rayman's property, I traveled to 3367 W. 1150 S., Brookston, where I met with Kevin Kelley. Mr. Kelley advised me their family farm was responsible for the pesticide applications to the field in question. Mr. Kelley stated his employee, Tim Carberry, had treated the field with paraquat and possibly a few other herbicides. I advised Mr. Kelley of the Pesticide Investigation Inquiry (PII), which he said that he would complete for Mr. Carberry.

Original Event: Investigation Activity (Pesticide) #2910  
 Subject: Kevin Walter Kelley  
 Submitted By: James M. Trimble

---

**04/28/2021 Notice of Inspection Issued**

Original Event: Notice of Inspection #300  
 Client: Kevin Walter Kelley  
 Firm Representative: Kevin Kelley  
 Submitted By: James M. Trimble  
 Attachments: File 67097; KelleyNOI.pdf

---

**04/28/2021 New Respondent Identified**

Original Event: Investigation Change #32  
 Respondent: Timothy D Carberry  
 Submitted By: James M. Trimble

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**04/28/2021 Investigator Sent Fax/Email to Farmer**



## Communication

On April 28, 2021, I sent Mr. Kelley an email containing the PII with instructions to have it complete and returned to me within 15 days.

Original Event: Investigation Activity (Pesticide) #2912  
Subject: Kevin Walter Kelley  
Submitted By: James M. Trimble  
Attachments: File 67146; 4-28-21 email.pdf

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### 04/28/2021 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #404  
Submitted By: James M. Trimble  
Target Analyte: Tribal  
Target Analyte: Satellite  
Target Analyte: Parazone 3SL  
PPLS Labels: [034704-01127-20191220.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-01127-20191220.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/034704-01127-20191220.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-01127-20191220.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](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf)  
  
[070506-00230-20201130.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/070506-00230-20201130.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/070506-00230-20201130.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/070506-00230-20201130.pdf)  
  
Attachments: File 67686; DIMENSION 2EW SPECIALTY HERBICIDE.pdf  
File 67684; ROUNDUP PRO CONCENTRATE HERBICIDE.pdf  
File 67685; Three-Way.pdf  
File 67676; Trimble 176237.pdf  
File 67677; Trimble 176532.pdf

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### 04/29/2021 Received External Lab Report

The PPDL report stated, "Maple branches in sample 21-00268 show necrotic leaf spots that resemble exposure to contact herbicides such as paraquat. The leaves and meristems on these branches also show epinasty and chlorosis. These symptoms can be associated with synthetic auxin herbicides (epinasty) and glyphosate (chlorosis). The peonies in the sample show epinasty but do not have any necrotic spots, which suggests that the injury to the peony plants may have been caused by another drift event (possibly the turf herbicide application). Many "3 way herbicides" applied to turf contain synthetic auxin active ingredients such as 2,4-D, dicamba, and MCPP or MCPA, which can cause epinasty to broadleaf plants. These symptoms can persist for several weeks after exposure." It further stated, "Symptoms point to chemical burn on the maple. Leaves on the peony were distorted, suggesting possible growth regulator damage. No disease observed."

Original Event: External Lab Report #176713 (X21-A6ED6B)  
Submitted By: James M. Trimble  
Sample: X21-A6ED6B  
Attachments: File 67101; ConsolidatedReport\_Mitch Trimble.pdf

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### 04/29/2021 Residue Samples Collected

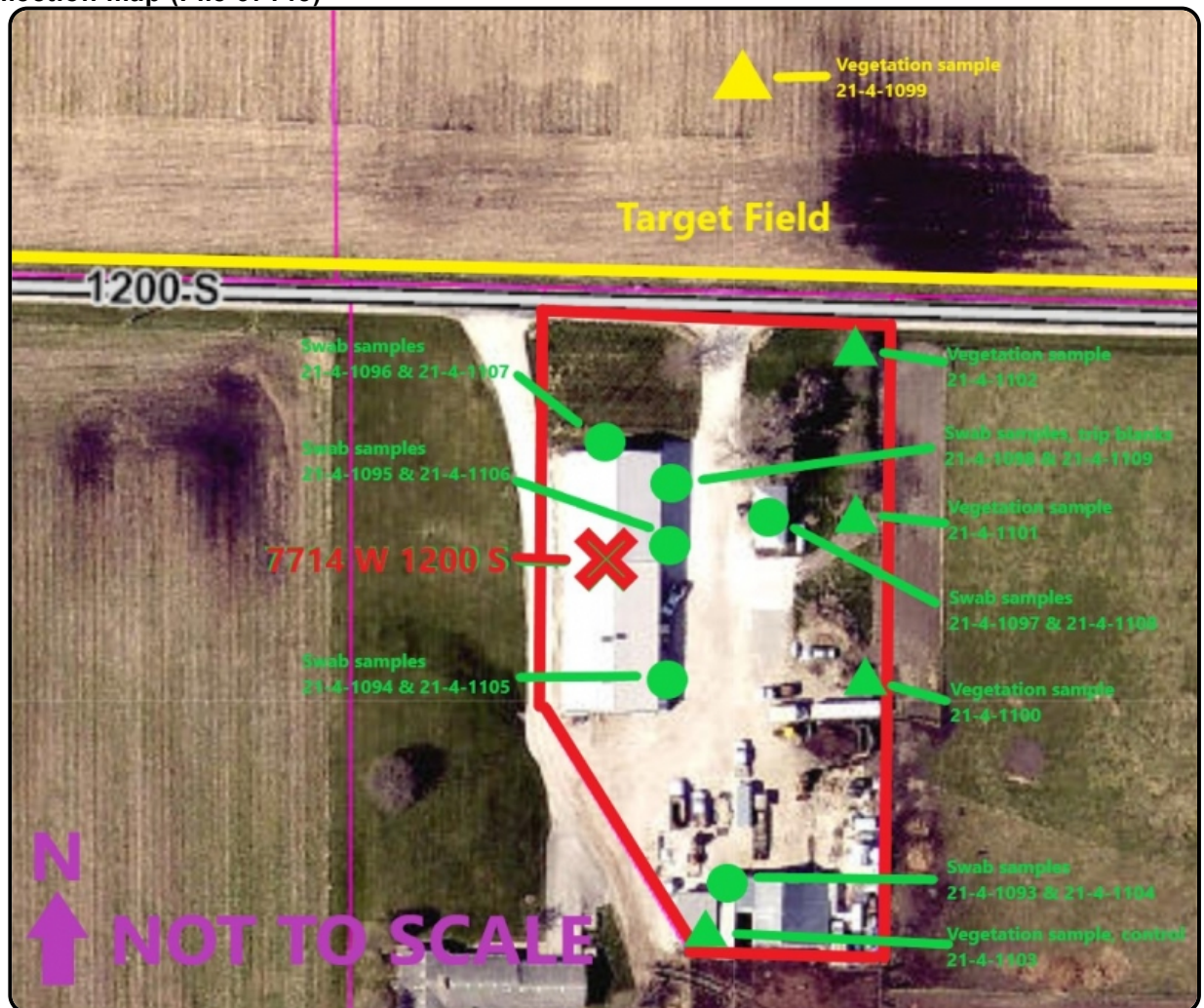
Original Event: Residue Collection #176532 (21-4-1100 2)  
Client: John Kenneth Rayman  
Submitted By: James M. Trimble  
Sample: 21-4-1100 2 | Veg; Comp; turf; OFF-T, Grad1, 90yd S  
Sample: 21-4-1101 8 | Veg; Comp; turf; OFF-T, Grad2, 50yd S  
Sample: 21-4-1102 5 | Veg; Comp; turf; OFF-T, Grad3, 15yd S  
Sample: 21-4-1103 9 | Veg; Ctrl; turf; OFF-T  
Sample: 21-4-1104 1 | Swab (Water); Grab; Siding; OFF-T, Grad1, 120yd S  
Sample: 21-4-1105 6 | Swab (Water); Grab; Wall; OFF-T, Grad2, 90yd S  
Sample: 21-4-1106 0 | Swab (Water); Grab; OFF-T, Grad3, 60yd S  
Sample: 21-4-1107 3 | Swab (Water); Grab; Siding; OFF-T, Grad4, 40yd S  
Sample: 21-4-1108 7 | Swab (Water); Ctrl; Window; OFF-T  
Sample: 21-4-1109 4 | Swab (Water); Trip Blank

---

### 04/29/2021 Investigator Met at Location Activity

After learning that paraquat had been used in the application to the north field, I returned to Mr. Rayman's property on April 29, 2021 to collect additional swab samples with water as the charging agent as the acetone used in my previous swab samples is not compatible with paraquat. Also due to the use of paraquat, I collected three gradient and one control vegetation sample from Mr. Rayman's property.

## Collection map (File 67145)



Original Event:  
Submitted By:  
Photos:

Investigation Activity (Pesticide) #2911  
James M. Trimble



File 67145

### 05/07/2021 Investigator Received Fax/Email from Farmer Investigation Inquiry

On May 7, 2021, Mr. Kelley emailed me the completed PII for Mr. Carberry's pesticide application to the north field on April 17, 2021, which stated that his application occurred while the wind was blowing towards Mr. Rayman's property at 15 MPH.

### Inquiry Overview

Certified Applicator Tim Carberry

Application Type Farmer

Target Field North side of the road, East side of the ditch, 1/2 E of US 231 on 1200 S White County

### Tank Mix

Product	EPA	Rate
Tribal	34704-1127	2.5 pt/ac
Satellite	70506-230	1.5 pt/ac
Parazone 3SL	66222-130	32 oz/ac
Roundup Powermax	524-549	32 oz/ac

**Application Date**

**Date Start End**  
04/17/2021 4:15 PM 5:15 PM

**Air Conditions**

**Time Temp Direction Speed**  
Start 62°F N 15mph  
End 62°F N 15mph

Original Event: Investigation Activity (Pesticide) #2961  
Subject: Kevin Walter Kelley  
Submitted By: James M. Trimble  
PPLS Labels: [034704-01127-20191220.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-01127-20191220.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/034704-01127-20191220.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-01127-20191220.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](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf)  
[070506-00230-20201130.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/070506-00230-20201130.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/070506-00230-20201130.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/070506-00230-20201130.pdf)

Attachments: File 67687; Kelley Ridge Form 80 - 2021-05-07.pdf

05/11/2021 **Investigator Sent Fax/Email to Farmer Records**

On May 11, 2021, I sent Mr. Kelley an email with a request for him to send me Mr. Carberry's Paraquat training certificate. Mr. Kelley sent me an email containing Mr. Carberry's certificate shortly thereafter.

Original Event: Investigation Activity (Pesticide) #2974  
Subject: Kevin Walter Kelley  
Submitted By: James M. Trimble  
Attachments: File 67767; 5-11-21email.pdf  
File 67766; TDC Paraquat training.pdf

06/25/2021 **Received Residue Lab Report Lab Remarks**

Released 6/25/21

**Investigatory Summary**

On June 25, 2021, I received the first report (1 of 2) from the OISC Residue Lab. The lab report stated it found positive amounts of Paraquat and Metribuzin from the vegetation samples collected from Mr. Rayman's property (samples #21-4-1100, #21-4-1101, #21-4-1102). The vegetation samples established a gradient of the analytes, from north to south, on Mr. Rayman's property.

**First Page of Lab Report**

Page 67 Data Report

OCM Collection #	176532	Investigator	TRIMBLEJ			
Collection Date	04/29/2021					
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ	
21-4-1100 2	Veg; Comp; turf; OFF-T, Grad1, 90yd S	Veg	Metribuzin	18.8 ppb	1 ppb	
			Paraquat	74.6 ppb	1 ppb	
21-4-1101 8	Veg; Comp; turf; OFF-T, Grad2, 50yd S	Veg	Metribuzin	25.8 ppb	1 ppb	
			Paraquat	75.6 ppb	1 ppb	
21-4-1102 5	Veg; Comp; turf; OFF-T, Grad3, 15yd S	Veg	Metribuzin	107 ppb	1 ppb	
			Paraquat	1730 ppb	1 ppb	
21-4-1103 9	Veg; Ctrl; turf; OFF-T	Veg	Metribuzin	10.5 ppb	1 ppb	
			Paraquat	BDL ppb	1 ppb	
21-4-1104 1	Swab (Water); Grab; Siding; OFF-T, Grad1, 120yd S	Swab (Water)	Paraquat	BDL ng/swab	6 ng/swab	
21-4-1105 6	Swab (Water); Grab; Wall; OFF-T, Grad2, 90yd S	Swab (Water)	Paraquat	BDL ng/swab	6 ng/swab	
21-4-1106 0	Swab (Water); Grab; OFF-T, Grad3, 60yd S	Swab (Water)	Paraquat	BDL ng/swab	6 ng/swab	

08/02/2021 **Received Residue Lab Report**  
**Investigatory Summary**

On August 2, 2021, I received the OISC Residue Lab report (2 of 2). The lab report stated it found positive amounts of Metolachlor on all the swab samples taken from Mr. Rayman's property (samples #21-4-1093 to #21-4-1096).

**First Page of Lab Report**

OCM Collection #		176237	Investigator		TRIMBLEJ
Collection Date		04/28/2021			
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
21-4-1093 3	Swab (Acetone); Grab; Siding; OFF-T, Grad1, 120yd S	Swab (Acetone)	Metolachlor	14.3 ng/swab	4 ng/swab
			Metribuzin	BDL ng/swab	2 ng/swab
21-4-1094 6	Swab (Acetone); Grab; Wall; OFF-T, Grad2, 90yd S	Swab (Acetone)	Metolachlor	45.8 ng/swab	4 ng/swab
			Metribuzin	BQL ng/swab	2 ng/swab
21-4-1095 1	Swab (Acetone); Grab; Siding; OFF-T, Grad3, 60yd S	Swab (Acetone)	Metolachlor	11.1 ng/swab	4 ng/swab
			Metribuzin	BDL ng/swab	2 ng/swab
21-4-1096 7	Swab (Acetone); Grab; Siding; OFF-T, Grad4, 40yd S	Swab (Acetone)	Metolachlor	19.2 ng/swab	4 ng/swab
			Metribuzin	BDL ng/swab	2 ng/swab
21-4-1097 9	Swab (Acetone); Ctrl; Window; OFF-T	Swab (Acetone)	Metolachlor	7.58 ng/swab	4 ng/swab
			Metribuzin	BDL ng/swab	2 ng/swab
21-4-1098 0	Swab (Acetone); Trip Blank	Swab (Acetone)	Metolachlor	BDL ng/swab	4 ng/swab
			Metribuzin	BDL ng/swab	2 ng/swab

11/01/2021 **Wind Data Researched**

On November 1, 2021, I reviewed the weather report for Mr. Carberry's April 17, 2021 application, which I found to be consistent with Mr. Kelley's PII.

**Purdue University Station**

*West Lafayette, Indiana (12 miles SE of site)*

**Time Temp (°F) Direction Speed (mph)**  
4:54 PM 63 N 16

Original Event: Wind Data #64  
Submitted By: James M. Trimble  
Date of Weather: 04/17/2021  
Photos:



File 83075

11/01/2021 **Online Investigation Activity**

## Label Use

After I reviewed all of the evidence collected in this case, I found Mr. Carberry's had applied the pesticides of **Parazone 3SL** (EPA Reg. #66222-130, active ingredient of paraquat), **Tribal** (EPA Reg. #34704-1127, active ingredients of metribuzin, S-metolachlor, & sulfentrazone), **Satellite** (EPA Reg. #70506-230, active ingredient of pendimethalin), and **Roundup Powermax** (EPA Reg. #524-549, active ingredient of glyphosate) to the field located to the north of 7714 W. 1200 S., West Lafayette, IN, on April 17, 2021 in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a nontarget site. In addition, I found the following violations of the above pesticide labels:

### Parazone 3SL

- "The pesticide must only be applied when the potential for drift to adjacent sensitive areas (eg., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when the wind is blowing away from the sensitive areas)."

### Tribal

- "This product 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)."
- "Applicators may spray only when wind speed is between 3 and 10 mph"

### Satellite

- "Apply the pesticide only when the potential for drift to adjacent sensitive areas (eg., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when the wind is blowing away from the sensitive areas)."

### Roundup Powermax

- "Apply this product only when the potential for drift to adjacent sensitive areas (eg., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when the wind is blowing away from the sensitive areas)."

Original Event:	Investigation Activity (Pesticide) #4040
Subject:	Timothy D Carberry
Submitted By:	James M. Trimble
PPLS Labels:	<a href="https://www3.epa.gov/pesticides/chem_search/ppls/034704-01127-20191220.pdf">034704-01127-20191220.pdf</a> <a href="https://www3.epa.gov/pesticides/chem_search/ppls/034704-01127-20191220.pdf">https://www3.epa.gov/pesticides/chem_search/ppls/034704-01127-20191220.pdf</a> <a href="https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf">000524-00549-20200225.pdf</a> <a href="https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf">https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf</a> <a href="https://www3.epa.gov/pesticides/chem_search/ppls/070506-00230-20201130.pdf">070506-00230-20201130.pdf</a> <a href="https://www3.epa.gov/pesticides/chem_search/ppls/070506-00230-20201130.pdf">https://www3.epa.gov/pesticides/chem_search/ppls/070506-00230-20201130.pdf</a>

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## 11/02/2021 Judgement; Civil Penalty Assessed Citation

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

### Civil Penalty

Kelley Farms was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label direction regarding drift and 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 #816
Primary:	Kelley Engineering LLC
Secondary:	Timothy D Carberry
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(2)
Penalty Amount:	100

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## 12/08/2021 Notice of Enforcement Mailed to Target

Original Event:	Outgoing Mail #928
To:	Kelley Engineering LLC
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2602 0889
Enclosed:	Notice of Enforcement
Attachments:	File 84900; PS21-0091EL CP ~ Kelley Engineering LLC - Timothy D. Carberry.docx

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## 12/16/2021 Received Mail Confirmation for Target

Original Event:	Compliance Receipt #1314
Subject:	Kelley Engineering LLC
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2602 0889
Received:	12/16/2021
Attachments:	File 86186; CM 7019 1640 0001 2602 0889 ~ Kelley Engineering.pdf

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01/24/2022 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #1356
Subject:	Kelley Engineering LLC
Submitted By:	Joni Herman
Payment Expected:	\$100.00
Payment Received:	\$100.00
Attachments:	File 87179; PS21-0091 ~ Kelley Engineering LLC ~ CP Received.pdf

### Chain of Custody

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No electronic chain of custody found

<p>This record was generated on <b>March 8, 2022, 06:44 AM EST</b>. 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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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 28, 2022, 11:39 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 PS21-0113

Department	Pesticide
Originated	05/21/2021
Assigned To	Melissa D. Rosch
Status	Closed

### Involved Parties

Complainant	<b>Jennifer Rogowski</b> Earl Park, IN 47942	
Respondent	<b>Fowler Pest Control Inc</b> Fowler, IN 47944	
Respondent	<b>Dustin C Terrell</b> Fowler, IN 47944	Certified Supervisor
Respondent	<b>Joseph W Lanie</b> Fowler, IN 47944	Registered Technician

### Overviews

#### 06/01/2021 Investigation Summary

The registered technician Joseph Lanie (certified supervisor Dustin Terrell) at Fowler Pest Control made a pesticide (insecticide) application with TEMPRID FX EPA# 432-1544 (active ingredient Imidacloprid 21%) at the wrong address. The address was incorrect in the computer system at the pest control company.

PPDL report states they do not suspect symptomology is disease related. Different formulations of insecticide used has potential for phytotoxicity in high heat.

OISC Pesticide Laboratory analysis confirmed the active ingredient Imidacloprid which was used by Mr. Lanie on the complainant's house as well as her ornamental plants.

Submitted By: Melissa D. Rosch  
Role: Investigator

#### 11/18/2021 Disposition Summary

Fowler Pest Control was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying a pesticide to the wrong yard. 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 Fowler Pest Control cooperated during the investigation.

Dustin Terrell was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying a pesticide to the wrong yard.

Joseph Lanie was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying a pesticide to the wrong yard.

Submitted By: George Saxton  
Role: Compliance Officer

### Chronology of Events

05/20/2021 Intake Referral Filed

Complainant wrote that she returned home at about 3 pm on May 20,2021, to find two men from Fowler Pest Control applying Temprid FX to the outside of her home. Complainant further wrote she is concerned for the health of her two children, whose bedroom windows were open and also for the health of pollinators which may visit her pollinator attracting plants.

Original Event: Intake Referral (Pesticide) #1957  
Complainant: Jennifer Rogowski  
Respondent: Fowler Pest Control Inc  
Submitted By: Joseph D. Becovitz  
Assigned To: Melissa D. Rosch  
Attachments: File 68350; Rogowski complaint form.pdf

---

05/21/2021 **Investigator Called Business Activity**

Called Fowler Pest Control and left a message with the secretary for a return phone call.

Original Event: Investigation Activity (Pesticide) #3057  
Subject: Fowler Pest Control Inc  
Submitted By: Melissa D. Rosch

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05/21/2021 **Unknown Subject Called Investigator Activity**

Received phone call from Dustin Terrell the Director of Operations with Fowler Pest Control. Mr. Terrell stated he spoke to the applicator Joe Laney and stated they did make a pesticide application at the wrong address. Mr. Terrell stated the house address numbers were obstructed and the applicator believed to be at the correct address. I stated I will send over the pesticide investigation inquiry.

Original Event: Investigation Activity (Pesticide) #3058  
Submitted By: Melissa D. Rosch

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05/21/2021 **Notice of Inspection Issued**

Original Event: Notice of Inspection #342  
Client: Fowler Pest Control Inc  
Firm Representative: Dustin Terrell  
Submitted By: Melissa D. Rosch  
Attachments: File 68596; Fowler PC NOI.pdf

---

05/21/2021 **Notice of Inspection Issued**

Original Event: Notice of Inspection #343  
Client: Jennifer Rogowski  
Firm Representative: Jennifer Rogowski  
Submitted By: Melissa D. Rosch  
Attachments: File 68597; Rogowski NOI.pdf

---

05/21/2021 **Investigator Sent Fax/Email to Complainant Communication**

Emailed noi to complainant.

Original Event: Investigation Activity (Pesticide) #3059  
Subject: Jennifer Rogowski  
Submitted By: Melissa D. Rosch

---

05/21/2021 **Investigator Sent Fax/Email to Business Communication**

Emailed the noi and pii to fowler pest control director Dustin Terrell.

Original Event: Investigation Activity (Pesticide) #3060  
Subject: Fowler Pest Control Inc  
Submitted By: Melissa D. Rosch

---

05/21/2021 **Online Investigation Activity Activity**

Verified pesticide business license and applicator license are up to date and the applicator Joe Laney is certified as a registered technician.

Original Event: Investigation Activity (Pesticide) #3063  
Submitted By: Melissa D. Rosch

---

05/21/2021 **Complainant Called Investigator Communication**

Spoke to complainant. She stated she came home and saw the pest control company finishing up an application at her residence which she did not hire. I asked the complainant to write a statement of events and also emailed her a notice of inspection.

Original Event: Investigation Activity (Pesticide) #3069  
Subject: Jennifer Rogowski  
Submitted By: Melissa D. Rosch

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05/21/2021 **Case Created**



Original Event:  
Submitted By:  
Assigned To:

Case PS21-0113  
Joseph D. Becovitz  
Melissa D. Rosch

---

05/24/2021 **Residue Samples Collected**

Original Event: Residue Collection #179711 (21-4-0799 1)  
Client: Jennifer Rogowski  
Submitted By: Melissa D. Rosch  
Sample: 21-4-0799 1 | Swab (Acetone); Trip Blank  
Sample: 21-4-0800 3 | Swab (Acetone); Ctrl; ornamental leaf; Front Yard  
Sample: 21-4-0801 9 | Swab (Acetone); Grab; ornamental second location; Front Yard  
Sample: 21-4-0802 6 | Swab (Acetone); Grab; siding; house side  
Sample: 21-4-0803 5 | Swab (Acetone); Grab; siding; back of house

---

05/24/2021 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #180410 (X21-BE4C73)  
Client: Jennifer Rogowski  
Submitted By: Melissa D. Rosch  
Lab: Purdue Plant and Pest Diagnostic Laboratory  
Sample: X21-BE4C73 | Mixed ornamental vegetation.  
Photos:



File 69245



File 69246



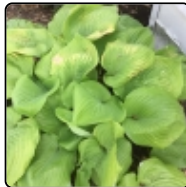
File 69247



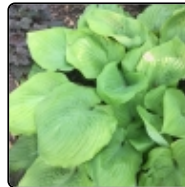
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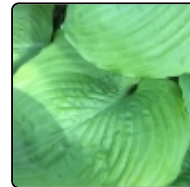
File 69249



File 69250



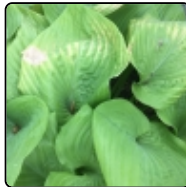
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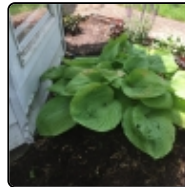
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File 69253



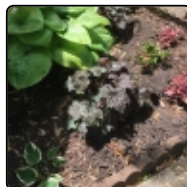
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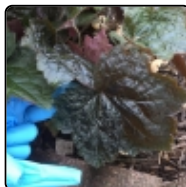
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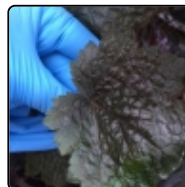
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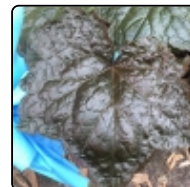
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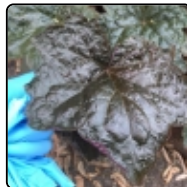
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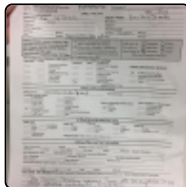
File 69259



File 69260



File 69261



File 69244

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05/26/2021 **Investigator Met with Supervisor Interaction**

I went to Fowler pest control in Fowler Indiana Anne received the completed pesticide investigation inquiry. I also received a statement from the registered technician.

Original Event: Investigation Activity (Pesticide) #3113  
Subject: Dustin C Terrell  
Submitted By: Melissa D. Rosch

---

05/26/2021 **Investigator Met with Technician**

## Investigation Inquiry

I received the pesticide investigation inquiry.

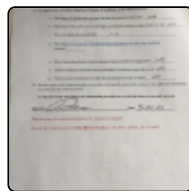
## Statement

I received a written statement from the applicator.

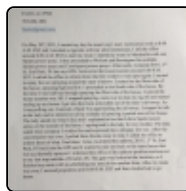
## Attachments



File 69203



File 69204



File 69205

Original Event: Investigation Activity (Pesticide) #3115  
Subject: Joseph W Lanie  
Submitted By: Melissa D. Rosch

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### 05/26/2021 Received External Lab Report

Original Event: External Lab Report #180411 (X21-BE4C73)  
Submitted By: Melissa D. Rosch  
Sample: X21-BE4C73  
Attachments: File 69262; FinalReport\_Melissa Rosch.pdf

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### 05/28/2021 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #428  
Submitted By: Melissa D. Rosch  
Target Analyte: temprid fx  
PPLS Labels: [000432-01544-20160810.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000432-01544-20160810.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000432-01544-20160810.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000432-01544-20160810.pdf)

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### 06/07/2021 Investigator Sent Text Message to Complainant Communication

I texted the complainant for a return call to update her on her case.

Original Event: Investigation Activity (Pesticide) #3137  
Subject: Jennifer Rogowski  
Submitted By: Melissa D. Rosch

---

### 06/08/2021 Complainant Called Investigator Communication

Received phone call from complainant requesting update on case.

Original Event: Investigation Activity (Pesticide) #3153  
Subject: Jennifer Rogowski  
Submitted By: Melissa D. Rosch

---

### 10/12/2021 Received Residue Lab Report First Page of Lab Report

OCM Collection #	179711	Investigator	ROSCHM			
Collection Date	05/24/2021					
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ	
21-4-0799 1	Swab (Acetone); Trip Blank	Swab (Acetone)	Imidacloprid	BDL ng/swab	0.2 ng/swab	
21-4-0800 3	Swab (Acetone); Ctrl; ornamental leaf; Front Yard	Swab (Acetone)	Imidacloprid	381 ng/swab	0.2 ng/swab	
21-4-0801 9	Swab (Acetone); Grab; ornamental second location; Front Yard	Swab (Acetone)	Imidacloprid	5310 ng/swab	0.2 ng/swab	
21-4-0802 6	Swab (Acetone); Grab; siding; house side	Swab (Acetone)	Imidacloprid	253 ng/swab	0.2 ng/swab	
21-4-0803 5	Swab (Acetone); Grab; siding; back of house	Swab (Acetone)	Imidacloprid	4860 ng/swab	0.2 ng/swab	

Original Event: Residue Lab Report #192586 (179711-R447)  
Submitted By: SYSTEM  
Lab Report: Lab Report 179711-R447.pdf

---

11/18/2021 **Judgement; Civil Penalty Assessed**

**Citation**

Dustin Terrell was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying a pesticide to the wrong yard.

**Citation**

Joseph Lanie was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying a pesticide to the wrong yard.

**Civil Penalty**

Fowler Pest Control was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by applying a pesticide to the wrong yard. 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 Fowler Pest Control cooperated during the investigation.

Original Event:	Judgement #844
Primary:	Fowler Pest Control Inc
Secondary:	Dustin C Terrell
Additional:	Joseph W Lanie
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(5)
Penalty Amount:	188

---

01/11/2022 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #956
To:	Fowler Pest Control Inc
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2601 8572
Enclosed:	Notice of Enforcement
Attachments:	File 85646; PS21-0113EL CP Mitigated ~ Fowler Pest Control, Inc. - Dustin C. Terrell -- Joseph W. Lanie.docx

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01/24/2022 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #1365
Subject:	Fowler Pest Control Inc
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2601 8572
Received:	01/24/2022
Attachments:	File 88537; CM 7019 1640 0001 2601 8572 ~ PS21-0113.pdf

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02/21/2022 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #1385
Subject:	Fowler Pest Control Inc
Submitted By:	Joni Herman
Payment Expected:	\$188.00
Payment Received:	\$188.00
Attachments:	File 91015; PS21-0113 Fowler Pest Ctrl ~ CP Received.pdf

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**Chain of Custody**

No electronic chain of custody found

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Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

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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 PS21-0136**

Department	Pesticide
Originated	06/04/2021
Assigned To	Aaron P. Kreider
Status	Closed

**Involved Parties**

Complainant	<b>Caleb Emrick</b> West Terre Haute, IN 47885
Respondent	<b>INCIDENTAL Unknown</b>
Respondent	<b>Doug Delaunois</b> Paris, IL 61944

**Overviews**

11/04/2021 **Investigation Summary**

The weather data collected shows that there was not a significant rain event following Mr. Delaunois's application. The lab report from the OISC residue lab shows that the amounts of ingredients that were detected in Mr. Emrick's pond could not have caused a fish kill. Based on this evidence, the fish kill Mr. Emrick experienced was not caused by Mr. Delaunois's application. Mr. Delaunois did violate Indiana pesticide use and application law by making an application using a restricted use product without an Indiana credential.

Submitted By: Aaron P. Kreider  
Role: Investigator

11/04/2021 **Disposition Summary**

Doug Delaunois 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 certification. A civil penalty in the amount of \$100.00 was assessed for this violation.

The \$100.00 civil penalty will be held in abeyance for a period of five (5) years and will not be assessed provided Doug Delaunois commits no further violations of the Indiana Pesticide Use and Application Law. Consideration was given to the fact there was a good-faith effort to comply and corrective action was taken.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

06/03/2021 **Intake Referral Filed**

The complainant stated an application was made to a soybean field adjacent to his pond on June 1, 2021, at approximately 3 pm. According to the complainant a large rain immediately following the application moved rainwater from the soybean field into his pond causing a fishkill.

Original Event: Intake Referral (Pesticide) #1980  
Complainant: Caleb Emrick  
Respondent: Unknown  
Submitted By: Joseph D. Becovitz  
Assigned To: Aaron P. Kreider

06/04/2021 **Case Created**

Original Event:	Case PS21-0136
Submitted By:	Joseph D. Becovitz
Assigned To:	Aaron P. Kreider

---

06/04/2021 **Investigator Called Complainant Communication**

On June 4, 2021, I contacted Caleb Emrick regarding his complaint. He stated that he saw the field across the road being sprayed on May 31, 2021. A heavy rain event occurred afterwards, which he believes washed the application ingredients into his pond and caused a fish kill. He stated that the fish kill started with a few larger bass, then affected lots of bluegill. Mr. Emrick stated that he did not notice an unusual smell until the fish started to decompose. He also stated that he believed that the person who farmed the target field was Doug Delaunois.

Original Event:	Investigation Activity (Pesticide) #3155
Subject:	Caleb Emrick
Submitted By:	Aaron P. Kreider

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06/04/2021 **Investigator Called Subject Communication**

On June 4, 2021 I spoke with Bob Curley who is the owner of the target field. He confirmed that Doug Delaunois is the person that farms his field.

Original Event:	Investigation Activity (Pesticide) #3169
Subject:	Robert J Curley
Submitted By:	Aaron P. Kreider

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06/07/2021 **Investigator Met with Complainant Interaction**

On June 7, 2021, I met with Mr. Emrick at his residence. I had him show me the pond where the suspected fish kill took place. Mr. Emrick stated that predatory birds had cleaned up most of the dead fish in the pond. I observed a few dead bluegill along the banks. I saw some young bass and a few large grass carp alive and swimming in the pond. I saw 2 culverts that had water flowing through them. The water was coming from the target field across the road farmed by Mr. Delaunois.

Original Event:	Investigation Activity (Pesticide) #3161
Subject:	Caleb Emrick
Submitted By:	Aaron P. Kreider

---

06/07/2021 **Notice of Inspection Issued**

Original Event:	Notice of Inspection #372
Client:	Caleb Emrick
Firm Representative:	Caleb Emrick
Submitted By:	Aaron P. Kreider
Attachments:	File 69516; PS21-0136 NOI (C. Emrick).pdf

---

06/07/2021 **Investigator Collected Photographs Photographs**

I collected these photographs during my on-site investigation. Figure 1 shows the west culvert on Mr. Emrick's property. Figures 2 and 3 show some of the dead fish that caused Mr. Emrick's complaint.



Figure 1 (File 69533)



Figure 2 (File 69524)



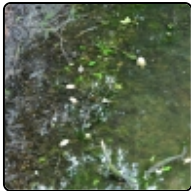


Figure 3 (File 69550)



Original Event:  
Submitted By:  
Photos:

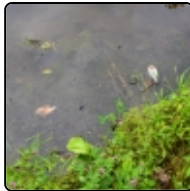
Investigation Activity (Pesticide) #3165  
Aaron P. Kreider



File 69524



File 69533



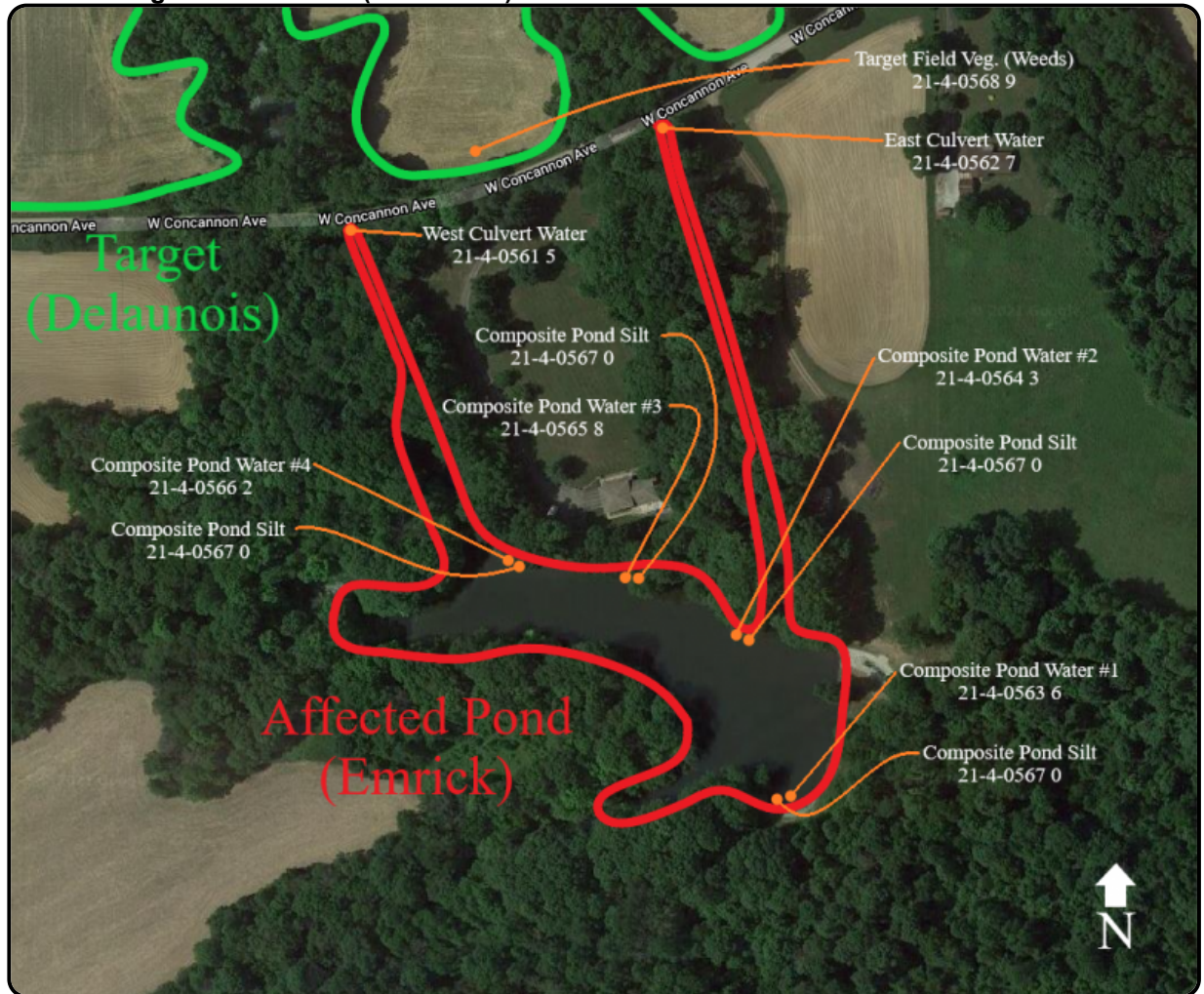
File 69550

06/07/2021 **Residue Samples Collected**

Original Event:	Residue Collection #180513 (21-4-0561 5)
Client:	Caleb Emrick
Submitted By:	Aaron P. Kreider
Sample:	21-4-0561 5   Surface Water; Grab; Culvert Water; Front Yard, W
Sample:	21-4-0562 7   Ground Water; Grab; Culvert Water; Front Yard, E
Sample:	21-4-0563 6   Surface Water; Comp; Number 1; OFF-T
Sample:	21-4-0564 3   Surface Water; Comp; Number 2; OFF-T
Sample:	21-4-0565 8   Surface Water; Comp; Number 3; OFF-T
Sample:	21-4-0566 2   Surface Water; Comp; Number 4; OFF-T
Sample:	21-4-0567 0   Sediment; Comp; Pond Silt; OFF-T
Sample:	21-4-0568 9   Veg; Grab; Weeds; Target

06/07/2021 **Sample Collection Diagram Activity**

This diagram shows the locations where samples were collected.



Original Event: Investigation Activity (Pesticide) #3166  
 Submitted By: Aaron P. Kreider  
 Attachments: File 69569; PS21-0136 Diagram Final.PNG

06/07/2021 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #434  
 Submitted By: Aaron P. Kreider  
 Target Analyte: Atrazine 4L  
 Target Analyte: BUCCANEER 5 Extra  
 Target Analyte: Cavallo 4 SC  
 PPLS Labels: [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](https://www3.epa.gov/pesticides/chem_search/ppls/055467-00013-20091123.pdf)  
[055467-00015-20180920.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/055467-00015-20180920.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/055467-00015-20180920.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/055467-00015-20180920.pdf)  
[091234-00075-20210223.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/091234-00075-20210223.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/091234-00075-20210223.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/091234-00075-20210223.pdf)

Attachments: File 83117; PS21-0136 CoC.pdf

06/08/2021 **Target Called Investigator Communication**

On June 8, 2021, I received a call from Mr. Delaunois. He stated that he farms the field across the road from Mr. Emrick. He also stated that he applied atrazine, Roundup, and Callisto to the target field.

**Photographs**

Mr. Delaunois sent me a copy of his Illinois private applicators license.

Original Event: Investigation Activity (Pesticide) #3171  
 Subject: Doug Delaunois  
 Submitted By: Aaron P. Kreider

06/10/2021 **Investigator Received Fax/Email from Target**



## Investigation Inquiry

On June 10, 2021, I received a Pesticide Investigation Inquiry (PII) from Mr. Delaunois. This application contained Atrazine 4L which is a restricted use product.

## Inquiry Overview

Non-Certified Applicator Doug Delaunois  
Application Type Farmer  
Target Field Corn

## Tank Mix

Product	EPA	Rate
Atrazine 4L	55467-13	1.5 qt/A
BUCCANEER 5 Extra	55467-15	24 oz/A
Cavallo 4 SC	91234-75	3 oz/A

## Application Date

Date	Start	End
05/31/2021	11:30 AM	12:30 PM

## Air Conditions

Time	Temp	Direction	Speed
Start	68°F	N	3mph
End	68°F	N	3mph

## Label Use

The attachments section contains the labels referenced during the investigation.

Original Event: Investigation Activity (Pesticide) #4053  
Subject: Doug Delaunois  
Submitted By: Aaron P. Kreider  
PPLS Labels: [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](https://www3.epa.gov/pesticides/chem_search/ppls/055467-00013-20091123.pdf)  
[055467-00015-20180920.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/055467-00015-20180920.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/055467-00015-20180920.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/055467-00015-20180920.pdf)  
[091234-00075-20210223.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/091234-00075-20210223.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/091234-00075-20210223.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/091234-00075-20210223.pdf)

Attachments: File 83110; Atrazine 4L Label.pdf  
File 83111; BUCCANEER 5 Extra Label.pdf  
File 83112; Cavallo 4 SC.pdf  
File 83195; PS21-0136 PII (D. Del.).pdf

## 10/25/2021 Received Residue Lab Report First Page of Lab Report

Page 67 of 73 Report

OCM Collection #	180513	Investigator	KREIDERA			
Collection Date	06/07/2021					
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ	
21-4-0561 5	Surface Water; Grab; Culvert Water; Front Yard, W	Surface Water	AMPA	BDL ppb	0.2 ppb	
			Glyphosate	BDL ppb	0.02 ppb	
			Atrazine	0.217 ppb	0.002 ppb	
			Mesotrione	BDL ppb	0.002 ppb	
			Metolachlor	0.0607 ppb	0.05 ppb	
21-4-0562 7	Ground Water; Grab; Culvert Water; Front Yard, E	Ground Water	AMPA	BDL ppb	0.2 ppb	
			Glyphosate	BDL ppb	0.02 ppb	
			Atrazine	0.0862 ppb	0.002 ppb	
			Mesotrione	BDL ppb	0.002 ppb	
			Metolachlor	BDL ppb	0.05 ppb	

Original Event: Residue Lab Report #193141 (180513-R469)  
Submitted By: SYSTEM  
Lab Report: Lab Report 180513-R469.pdf

11/02/2021 **Investigator Called Target Communication**

On November 2, 2021, I spoke with Mr. Delaunois. I informed him that even though he has an active Illinois private applicator license, he needed to have an Indiana private applicator permit to apply restricted use products in Indiana. I informed Mr. Delaunois that to obtain reciprocity, he would need to send in a completed application with a copy of his Illinois license and payment. I emailed him a copy of the Indiana private applicator permit application. He stated that he would take care of it right away. After this conversation I spoke with the licensing section of OISC and I was informed that through reciprocity, the Indiana private applicator permit expiration would be based on the Illinois private applicator license expiration. Since Mr. Delaunois's Illinois license expires on December 31, 2021, I called him back and left him a message that he should wait until he renews his Illinois license and then apply for an Indiana private applicator permit.

Original Event: Investigation Activity (Pesticide) #4056  
Subject: Doug Delaunois  
Submitted By: Aaron P. Kreider

---

11/03/2021 **Investigation Activity Activity**

On November 3, 2021, I researched weather data from around the time of Mr. Delaunois's application. The data was collected from Terre Haute/Hulman Regional Airport (KHUF) which is 10.11 miles from the target field. This data shows that rain was not detected until the late evening of June 1, 2021 and continued until the early morning of June 3, 2021. The total rainfall was .44 inches. This amount of rainfall, spread over approximately 30 hours, most likely did not cause off target movement of the ingredients from Mr. Delaunois application.

Original Event: Investigation Activity (Pesticide) #4062  
Submitted By: Aaron P. Kreider  
Attachments: File 83197; NOAA Data 5.31.21 - 6.1.21 (KHUF).pdf

---

11/04/2021 **Judgement; Civil Penalty Assessed Civil Penalty**

Doug Delaunois 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 certification. A civil penalty in the amount of \$100.00 was assessed for this violation.

**Abeyance**

The \$100.00 civil penalty will be held in abeyance for a period of five (5) years and will not be assessed provided Doug Delaunois commits no further violations of the Indiana Pesticide Use and Application Law. Consideration was given to the fact there was a good-faith effort to comply and corrective action was taken.

Original Event: Judgement #818  
Primary: Doug Delaunois  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(10)  
Penalty Amount: 100

---

12/09/2021 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #930  
To: Doug Delaunois  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2602 0902  
Enclosed: Notice of Enforcement  
Attachments: File 84902; PS21-0136EL CP Abeyance ~ Doug Delaunois.docx

---

12/28/2021 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1310  
Subject: Doug Delaunois  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2602 0902  
Received: 12/28/2021  
Attachments: File 86182; CM 7019 1640 0001 2602 0902 ~ Doug Delaunois.pdf

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**Chain of Custody**

No electronic chain of custody found



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

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## In Re: Case PS21-0149

Department	Pesticide
Originated	06/10/2021
Assigned To	James M. Trimble
Status	Closed

## Involved Parties

Complainant	<b>Wayne Campbell</b> Ladoga, IN 47954
Respondent	<b>Ryan Scott Rippy</b> Wingate, IN 47994

## Overviews

### 12/03/2021 Investigation Summary

On June 9, 2021, Mr. Campbell reported that a pesticide application to an adjacent field had drifted onto his property and caused injury to his property's vegetation.

On June 15, 2021, I arrived at Mr. Campbell's property to conduct my on-site investigation, where I observed herbicide injury symptoms to his property's vegetation. I also collected several vegetation samples for assessment by PPDL and analysis by the OISC Residue Lab.

I later found that Mr. Rippy had made an application to the adjacent field on May 8 & June 4, 2021. I found that the wind was blowing towards Mr. Campbell's property at the time of Mr. Rippy's June 4 application.

The OISC Residue Lab report found a gradient of Atrazine from Mr. Rippy's June 4 application, which showed his application had moved off-target and onto Mr. Campbell's property.

Submitted By: James M. Trimble  
Role: Investigator  
Drift: Confirmed

### 12/03/2021 Disposition Summary

Ryan Scott Rippy 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 as to cause harm to a non-target site. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

Submitted By: George Saxton  
Role: Compliance Officer

## Chronology of Events

### 06/09/2021 Intake Referral Filed

Complainant stated an application to an adjacent farm field by Rippy Farms drifted onto his garden and killed it.

Original Event: Intake Referral (Pesticide) #1995  
Complainant: Wayne Campbell  
Respondent: Ryan Scott Rippy  
Submitted By: Joseph D. Becovitz  
Assigned To: James M. Trimble

### 06/10/2021 Case Created

Original Event: Case PS21-0149  
Submitted By: Joseph D. Becovitz  
Assigned To: James M. Trimble

---

06/14/2021 **Investigator Called Complainant  
Communication**

On June 14, 2021, I called and spoke with Mr. Campbell, who reported a pesticide application to a neighboring farm approximately three weeks prior had drifted onto his property and caused injury to his fruit trees, vegetable garden, and turf. Mr. Campbell stated he first observed the injury to his vegetation approximately 7-10 days after the field's application.

Original Event: Investigation Activity (Pesticide) #3192  
Subject: Wayne Campbell  
Submitted By: James M. Trimble

---

06/15/2021 **Investigator Met with Complainant  
Photographs**

On June 15, 2021, I met with Mr. Campbell at his residence to conduct my on-site investigation. Mr. Campbell identified the corn field to his property's west and south as the origin of the pesticide drift and believed that Rippy Farms was responsible for the field's pesticide applications. Mr. Campbell stated that he had not applied herbicides to his property this year but had applied a fungicide and an insecticide.

During my on-site investigation, I observed and photographed Mr. Campbell's property. I observed the fruit trees, garden plants, and ornamental plants on Mr. Campbell's property to show symptoms of herbicide injury, including leaf bleaching/discoloration, burnt leaf edges, dying leaves, leaf curling, and leaf cupping. I observed the vegetation along the west and south edges of Mr. Campbell's property to show the most prominent symptoms of injury and became less visible the further I walked north and east. I found the broadleaf vegetation on Mr. Campbell's property showed more significant symptoms of injury when compared to the grassy leaf vegetation.

I looked for potential sources of herbicide drift. I observed the corn field that bordered Mr. Campbell's property was the only field that was adjacent to his property. I observed the corn field to show signs of a recent herbicide application by the dead and/or dying broadleaf noxious weeds within its borders. I observed what I believed to be a pattern of herbicide injury symptoms on Mr. Campbell's vegetation that was consistent with the shared border of his property and the corn field, which suggested a herbicide drift event that originated from the corn field.

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

I then collected five gradient vegetation samples and a control vegetation sample from Mr. Campbell's property, along with a soil sample from the corn field for analysis by the OISC Residue Lab.

Herbicide injury to tomato plant (File 70271)





Leaf discoloration & dying leaves (File 70289)





## Attachments



File 70261



File 70262



File 70263



File 70264



File 70265



File 70266



File 70267



File 70268



File 70269



File 70270



File 70272



File 70273



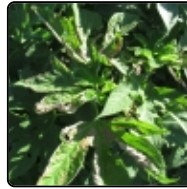
File 70274



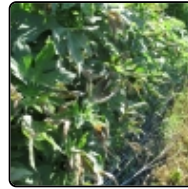
File 70275



File 70276



File 70278



File 70280



File 70281



File 70282



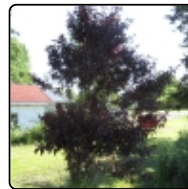
File 70283



File 70284



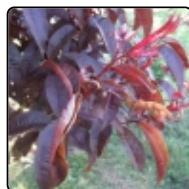
File 70285



File 70286



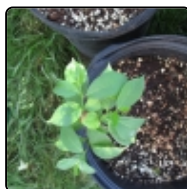
File 70287



File 70288



File 70290



File 70291



File 70292

Original Event: Investigation Activity (Pesticide) #3235  
 Subject: Wayne Campbell  
 Submitted By: James M. Trimble

### 06/15/2021 Notice of Inspection Issued

Original Event: Notice of Inspection #395  
 Client: Wayne Campbell  
 Firm Representative: Wayne Campbell  
 Submitted By: James M. Trimble  
 Attachments: File 70656; waynecampbellNOI.pdf

### 06/15/2021 Residue Samples Collected

Original Event: Residue Collection #181523 (21-4-1160 1)  
 Client: Wayne Campbell  
 Submitted By: James M. Trimble  
 Sample: 21-4-1160 1 | Veg; Comp; OFF-T, Grad1, 185yd N  
 Sample: 21-4-1161 7 | Veg; Comp; OFF-T, Grad2, 90yd N  
 Sample: 21-4-1162 9 | Veg; Comp; OFF-T, Grad3, 10yd N  
 Sample: 21-4-1163 8 | Veg; Comp; OFF-T, Grad1, 95yd E  
 Sample: 21-4-1164 0 | Veg; Comp; OFF-T, Grad3, 5yd E  
 Sample: 21-4-1165 5 | Veg; Ctrl; OFF-T  
 Sample: 21-4-1166 4 | Soil; Comp; 2-4"; Target

### 06/15/2021 External Lab Sample Collected

Original Event: External Lab Sample Collection #181933 (X21-8D8E21)  
Client: Wayne Campbell  
Submitted By: James M. Trimble  
Lab: Purdue Plant and Pest Diagnostic Laboratory  
Sample: X21-8D8E21 | On June 15, 2021, I collected vegetation samples exhibiting symptoms of herbicide exposure to the PPDL.  
Attachments: File 70986; ResponseSummary (26).pdf

---

06/15/2021 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #446  
Submitted By: James M. Trimble  
Target Analyte: Resicore  
Target Analyte: Roundup PowerMax  
Target Analyte: Atrazine 4L  
Target Analyte: Resicore  
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)  
  
[000524-00549-20200225.pdf](#)  
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[062719-00693-20170524.pdf](#)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/062719-00693-20170524.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00693-20170524.pdf)

Attachments: File 79124; Trimble 181523.pdf

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06/15/2021 **Investigator Called Applicator Communication**

On June 15, 2021, after leaving Mr. Campbell's property, I called and spoke with Mr. Rippy with Rippy Farms. Mr. Rippy confirmed that he had made a pesticide application to the corn field in question. I informed Mr. Rippy of the Pesticide Investigation Inquiry (PII) form, which I later emailed him with instructions to complete and have returned to me within 15 days my email.

Original Event: Investigation Activity (Pesticide) #3271  
Subject: Ryan Scott Rippy  
Submitted By: James M. Trimble

---

06/18/2021 **Received External Lab Report**

On June 18, 2021, I received the diagnostic report from the PPDL, which stated, *"Plants show interveinal bleaching/chlorosis of younger leaves followed by necrosis. These symptoms are consistent with exposure to HPPD-inhibiting herbicides such as mesotrione (Callisto, Acuron, others), tembotrione (Laudis), or isoxaflutole (Balance)." It further stated, "Photos show marginal leaf necrosis, and leaf chlorosis, bleaching, and distortion of new growth which are suspected to be related to chemical injury. The apple show rust leaf spots (orange in color with brown centers) and frog-eye leaf spot (circular to irregular lesions brown in color) which were scattered on the physical sample."*

Original Event: External Lab Report #181934 (X21-8D8E21)  
Submitted By: James M. Trimble  
Sample: X21-8D8E21  
Attachments: File 70987; FinalReport\_Mitch Trimble.pdf

---

06/21/2021 **Online Investigation Activity Activity**

On June 21, 2021, I created a map of my sample collection at Mr. Campbell's property and the corn field in question.

Attachments



File 70985

Original Event: Investigation Activity (Pesticide) #3272  
Submitted By: James M. Trimble

---

06/28/2021 **Investigator Received Fax/Email from Applicator Investigation Inquiry**

On June 28, 2021, I received an email from Mr. Rippy that contained PII's for both of his applications to the corn field (Field #1) on May 8, 2021 and June 4, 2021.

The PII listed the winds were blowing away from Mr. Campbell's property during the May 8, 2021 application.

## Inquiry Overview

Certified Applicator Ryan Rippy  
Application Type Farmer  
Target Field Pulham Field

## Tank Mix

Product	EPA	Rate
Resicore	62719-693	1.5qt/Ac
Roundup PowerMax	524-549	22oz/Ac

## Application Date

Date	Start	End
05/08/2021	3:40 PM	5:40 PM

## Air Conditions

Time	Temp	Direction	Speed
Start	55°F	NE	4.3mph
End	57°F	S	0mph

## Attachments

File 72093; PII 1.pdf

Original Event: Investigation Activity (Pesticide) #3358  
Subject: Ryan Scott Rippy  
Submitted By: James M. Trimble  
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)  
[062719-00693-20170524.pdf](#)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/062719-00693-20170524.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00693-20170524.pdf)

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## 06/28/2021 Investigator Received Fax/Email from Applicator Investigation Inquiry

On June 28, 2021, I received an email from Mr. Rippy that contained PII's for both of his applications to the corn field (Field #1) on May 8, 2021 and June 4, 2021.

The PII listed the winds were blowing towards Mr. Campbell's residence during his June 4, 2021 application.

## Inquiry Overview

Certified Applicator Ryan Rippy  
Application Type Farmer  
Target Field Pulham Field

## Tank Mix

Product	EPA	Rate
Atrazine 4L	1381-158	1.5pt/Ac
Resicore	62719-693	1.5qt/Ac

## Application Date

Date	Start	End
06/04/2021	4:23 PM	6:46 PM

## Air Conditions

Time	Temp	Direction	Speed
Start	86°F	S	4.3mph
End	84°F	W	6.8mph

## Attachments

File 72094; PII 2.pdf

Original Event: Investigation Activity (Pesticide) #3359  
Subject: Ryan Scott Rippy  
Submitted By: James M. Trimble  
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)  
[062719-00693-20170524.pdf](#)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/062719-00693-20170524.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00693-20170524.pdf)

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## 09/09/2021 Received Residue Lab Report

## Investigatory Summary

On September 9, 2021, I received the lab report from the OISC Residue Lab, which found positive detects of Glyphosate, Acetochlor, Atrazine, and Mesotrione in varying amounts across the Campbell property. The levels of Glyphosate found in samples #21-4-1161 through #21-4-1165 were all near the environmental baseline, which did not confirm off-target pesticide movement. The levels of Atrazine found in samples #21-4-1160 through #21-4-1164 established a gradient of the analyte from west to east and from south to north on Mr. Campbell's property, coming from the target field. The analytes of Acetochlor and Mesotrione were utilized in both applications to the target field and could not be used to determine off-target movement.

### First Page of Lab Report

OCM Collection #	181523	Investigator	TRIMBLEJ			
Collection Date	06/15/2021					
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ	
21-4-1160 1	Veg; Comp; OFF-T, Grad1, 185yd N	Veg	AMPA	BDL ppb	66 ppb	
			Glyphosate	BDL ppb	13 ppb	
			Acetochlor	BDL ppb	1 ppb	
			Atrazine	28.7 ppb	0.7 ppb	
			Mesotrione	BDL ppb	1 ppb	
21-4-1161 7	Veg; Comp; OFF-T, Grad2, 90yd N	Veg	AMPA	BDL ppb	66 ppb	
			Glyphosate	21.2 ppb	13 ppb	
			Acetochlor	BDL ppb	1 ppb	
			Atrazine	87.6 ppb	0.7 ppb	
			Mesotrione	BDL ppb	1 ppb	

Original Event: Residue Lab Report #189337 (181523-R417)  
Submitted By: SYSTEM  
Lab Report: Lab Report 181523-R417.pdf

### 11/30/2021 Wind Data Researched

I researched and reviewed the weather data for Mr. Rippy's May 8, 2021 application to Field #1. I found the wind speeds and direction to be consistent with the PII, which was blowing away from Mr. Campbell's property during the time of application.

### Attachments



Original Event: Wind Data #85  
Submitted By: James M. Trimble  
Date of Weather: 05/08/2021

### 11/30/2021 Wind Data Researched

I researched and reviewed the weather data for Mr. Rippy's June 4, 2021 application and found the wind speeds and direction to be consistent with the PII. I confirmed that Mr. Rippy's June 4, 2021 application to Field #1 was performed while the wind was blowing towards Mr. Campbell's property.

### Attachments



Original Event: Wind Data #86  
Submitted By: James M. Trimble  
Date of Weather: 06/04/2021

### 12/03/2021 Online Investigation Activity

## Label Use

On December 3, 2021, I reviewed the pesticide labels and evidence collected for Mr. Rippy's May 8, 2021 application to Field #1. I found no label violations or evidence that Mr. Rippy's May 8, 2021 application had moved off-target and onto Mr. Campbell's property.

Original Event: Investigation Activity (Pesticide) #4174  
Subject: Ryan Scott Rippy  
Submitted By: James M. Trimble  
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](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20200225.pdf)  
[062719-00693-20170524.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00693-20170524.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/062719-00693-20170524.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00693-20170524.pdf)

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## 12/03/2021 Online Investigation Activity

### Label Use

On December 3, 2021, I reviewed the pesticide labels and evidence collected for Mr. Rippy's June 4, 2021 application to Field #1. I found no label violations for his application of **Resicore** (EPA Reg. #62719-693, active ingredients of Clopyralid, Acetochlor, Mesotrione) and **Atrazine 4L** (EPA Reg. #1381-158, active ingredient of Atrazine).

Although no label violations were documented, I used the collective evidence from the OISC Residue Lab results, the herbicide injury symptoms PPDL and I observed on Mr. Campbell's vegetation, and the wind data to find that Mr. Rippy's June 4, 2021 application was applied in a manner that allowed it to drift from the target site (Field #1) in sufficient quantity to cause harm to a nontarget site (Mr. Campbell's property).

Original Event: Investigation Activity (Pesticide) #4173  
Subject: Ryan Scott Rippy  
Submitted By: James M. Trimble  
PPLS Labels: [001381-00158-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00158-20211110.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/001381-00158-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00158-20211110.pdf)  
[062719-00693-20170524.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00693-20170524.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/062719-00693-20170524.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00693-20170524.pdf)

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## 12/03/2021 Judgement; Civil Penalty Assessed

### Civil Penalty

Ryan Scott Rippy 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 as to cause harm to a non-target site. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

Original Event: Judgement #855  
Primary: Ryan Scott Rippy  
Submitted By: George Saxton  
Legal Citation: 357 IAC 1-12-2  
Penalty Amount: 100

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## 02/08/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #966  
To: Ryan Scott Rippy  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2601 8619  
Enclosed: Notice of Enforcement  
Attachments: File 87040; PS21-0149EL CP ~ Ryan S. Rippy.docx

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## 02/14/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1372  
Subject: Ryan Scott Rippy  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2601 8619  
Received: 02/14/2022  
Attachments: File 88543; CM 7019 1640 0001 2601 8619 ~ PS21-0149.pdf

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## 03/10/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1390  
Subject: Ryan Scott Rippy  
Submitted By: Joni Herman  
Payment Expected: \$100.00  
Payment Received: \$100.00  
Attachments: File 91069; PS21-0149 Ryan S. Rippy ~ CP Received.pdf

---

## Chain of Custody

No electronic chain of custody found







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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 PS21-0252**

Department	Pesticide
Originated	07/19/2021
Assigned To	Paul Jay Kelley
Status	Closed

**Involved Parties**

Complainant	<b>Tommy Ray Blair</b> Connersville, IN 47331
Respondent	<b>Unknown</b>
Respondent	<b>Ashley Carmony</b> Connersville, IN 47331

**Overviews**

10/29/2021 **Investigation Summary**

Complainant stated he has dicamba symptoms from application to neighboring field to his soybeans.

Applicator Ashely Carmony made a dicamba application 5/15/21.

PPDL indicated samples showed symptoms indicative of dicamba.

Residue lab found detection of dicamba at BQL.

Wind data from 3 triangulated ASAS stations indicated wind was blowing toward Mr. Blair's Enlist soybeans on 5/15/21. Wind data from stations different from what applicator reported.

label direction for Engenia says, "DO NOT apply when wind is blowing in the direction of adjacent sensitive crops or residential areas."

Submitted By: Paul Jay Kelley  
Role: Investigator

11/11/2021 **Disposition Summary**

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

Ashley Carmony was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for applying a restricted use pesticide without having a certified applicator in supervision.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

07/16/2021 **Intake Referral Filed**

Complainant stated drift from an adjacent farm field has injured his soybeans.

Original Event: Intake Referral (Pesticide) #2108  
Complainant: Tommy Ray Blair  
Respondent: Unknown  
Submitted By: Joseph D. Becovitz  
Assigned To: Paul Jay Kelley

**07/19/2021 Case Created**

Original Event: Case PS21-0252  
Submitted By: Joseph D. Becovitz  
Assigned To: Paul Jay Kelley

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**07/20/2021 Investigator Called Complainant Communication**

On July 20, 2021, I spoke with Tom Blair. Mr. Blair stated he has dicamba symptoms to his Enlist soybeans. Mr. Blair stated the farmer who has the adjacent field is Ashely Carmony.

Original Event: Investigation Activity (Pesticide) #3530  
Subject: Tommy Ray Blair  
Submitted By: Paul Jay Kelley

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**07/29/2021 Investigator Met with Complainant Photographs**

On July 29, 2021, I investigated a dicamba drift incident in Connersville, Indiana at the residence of Tom Blair. Mr. Blair has two (2) Enlist soybeans fields with symptoms of dicamba exposure. Symptoms include leaf cupping with white tips. Symptoms seem to be adjacent to dicamba field to the south. Symptoms extend north into the enlist field approximately 120 yards. Symptoms seem to decrease moving north. In Field #1, symptoms are noticeable where adjacent dicamba field line up. In Field #2, symptoms are observed across frontage of field extending 120 yards out (north). Symptoms do not appear to show a pattern of heavier to lighter. Heavier and lighter symptoms are sporadic. I collected a vegetation sample to be visually analyzed by Purdue's Plant and Pest Diagnostic Lab (PPDL). Furthermore, I collected investigative samples for OISC's Residue Lab.

**Screenshots**

Site Diagram of scene with lab samples.

Original Event: Investigation Activity (Pesticide) #3589  
Subject: Tommy Ray Blair  
Submitted By: Paul Jay Kelley  
Attachments: File 83036; Site Diagram.pdf  
Photos:



File 75399



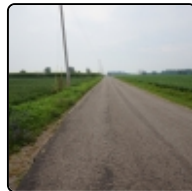
File 75400



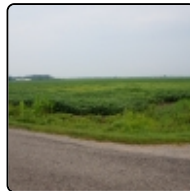
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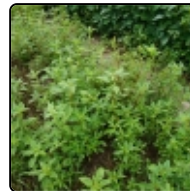
File 75402



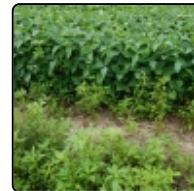
File 75403



File 75404



File 75405



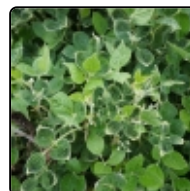
File 75406



File 75407



File 75408



File 75409



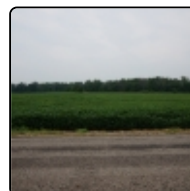
File 75410



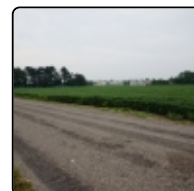
File 75411



File 75412



File 75413



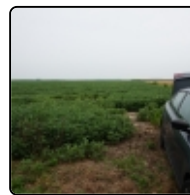
File 75414



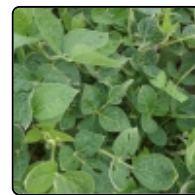
File 75415



File 75416



File 75417



File 75418



File 75419



File 75420



File 75421



File 75422



File 75423



File 75424

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07/29/2021 **Notice of Inspection Issued**

Original Event: Notice of Inspection #471  
Client: Tommy Ray Blair  
Firm Representative: Tom Blair  
Submitted By: Paul Jay Kelley  
Attachments: File 75426; noi.pdf

---

07/29/2021 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #185741 (X21-17C27B)  
Client: Tommy Ray Blair  
Submitted By: Paul Jay Kelley  
Lab: Purdue Plant and Pest Diagnostic Laboratory  
Sample: X21-17C27B | Enlist soybeans samples and vegetation from target field  
Attachments: File 75427; PPDL Blair ps21-0252.pdf

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07/29/2021 **Residue Samples Collected**

Original Event: Residue Collection #185748 (21-4-0481 1)  
Client: Tommy Ray Blair  
Submitted By: Paul Jay Kelley  
Sample: 21-4-0481 1 | Veg; Ctrl; OFF-T  
Sample: 21-4-0482 4 | Soil; Grab; 0-2"; Target  
Sample: 21-4-0483 0 | Veg; Comp; Target  
Sample: 21-4-0484 8 | Veg; Comp; OFF-T, Grad1  
Sample: 21-4-0485 3 | Veg; Comp; OFF-T, Grad2, 60yd  
Sample: 21-4-0486 9 | Veg; Comp; OFF-T, Grad3, 120yd  
Sample: 21-4-0487 6 | Veg; Ctrl; OFF-T  
Sample: 21-4-0488 2 | Soil; Grab; 0-2"; Target  
Sample: 21-4-0489 5 | Veg; Comp; Target  
Sample: 21-4-0490 5 | Veg; Comp; OFF-T, Grad1  
Sample: 21-4-0491 4 | Veg; Comp; OFF-T, Grad2, 60yd  
Sample: 21-4-0492 2 | Veg; Comp; OFF-T, Grad3, 120yd

---

07/29/2021 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #503  
Submitted By: Paul Jay Kelley  
Target Analyte: credit extreme  
Target Analyte: engenia  
PPLS Labels: [071368-00081-20200807.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/071368-00081-20200807.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/071368-00081-20200807.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/071368-00081-20200807.pdf)  
[007969-00472-20201105.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00472-20201105.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/007969-00472-20201105.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00472-20201105.pdf)

Attachments: File 76759; CREDIT EXTREME HERBICIDE.pdf  
File 76760; engenia.pdf  
File 79352; Kelley 185748.pdf

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07/30/2021 **Investigator Sent Fax/Email to Anonymous Subject Communication**

On July 30, 2021, I spoke with an anonymous farmer near the Blair fields. The anonymous farmer stated his farm had not used Dicamba in 2021.

Original Event: Investigation Activity (Pesticide) #3602  
Submitted By: Paul Jay Kelley  
Attachments: File 75527; email from farmer.pdf

---

08/05/2021 **Received External Lab Report**

Original Event: External Lab Report #186422 (X21-17C27B)  
Submitted By: Paul Jay Kelley  
Sample: X21-17C27B  
Attachments: File 76083; ConsolidatedReport\_Jay Kelley (003).pdf  
File 76084; FinalReport\_Jay Kelley.pdf

---

08/10/2021 **Investigator Received Fax/Email from Target Records**

On August 10, 2021, I received two (2) PII's from Ashley Carmony.

Original Event: Investigation Activity (Pesticide) #3649  
Subject: Ashley Carmony  
Submitted By: Paul Jay Kelley  
Attachments: File 76762; 20210810\_043501.pdf

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10/19/2021 **Received Residue Lab Report Investigatory Summary**

OISC detected dicamba levels at BQL (Below Quantifiable Limits) on samples collected from Mr. Blair's Enlist soybeans.

**First Page of Lab Report**

Page 07: Lab Report

OCM Collection #	185748	Investigator	KELLEYJ		
Collection Date	07/29/2021				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
21-4-0481 1	Veg; Ctrl; OFF-T	Veg	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	BDL ppb	2 ppb
			Dicamba	BQL ppb	2 ppb
			AMPA	102 ppb	66 ppb
			Glyphosate	549 ppb	6 ppb
21-4-0482 4	Soil; Grab; 0-2"; Target	Soil	5OH-Dicamba	BDL ppb * Minimum Detected Amount	2 ppb
			Aminopyralid	BDL ppb	20 ppb
			DCSA	BQL ppb	20 ppb
			Dicamba	2.43 ppb	2 ppb
			Triclopyr	BDL ppb	2 ppb
			AMPA	10300 ppb	40 ppb
			Glyphosate	3890 ppb	4 ppb

Original Event: Residue Lab Report #192648 (185748-R454)  
Submitted By: SYSTEM  
Lab Report: Lab Report 185748-R454.pdf

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10/26/2021 **Wind Data Researched**

Wind data for May 15, 2021, collected from Shelbyville, Batesville, and Richmond airports indicates the wind was blowing toward Mr. Blair's property at the time of Mr. Carmony's application.

**Richmond Municipal Airport**

*richmond, Indiana (24 miles NE of site)*

**Time Direction Speed (mph)**

1235pm S 3.45

215pm SSW 8.05

335pm SSW 5.75

**Batesville Airport***Batesville, Indiana (24 miles SW of site)***Time Direction Speed (mph)**

1255pm SSE 3.45

215pm S 8.05

335pm S 9.20

**Shelbyville Municipal Airport***Shelbyville, Indiana (29 miles SW of site)***Time Direction Speed (mph)**

1230pm SSE 2.30

215pm S 5.75

410pm S 12.65

Original Event: Wind Data #60  
Submitted By: Paul Jay Kelley  
Date of Weather: 05/15/2021  
Attachments: File 82852; Wind data-Richmons, Shelbyville, Batesville 5-15-21.pdf  
File 82853; Wind Direction slide.pdf

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**10/26/2021 Investigation Activity Activity**

Label language for Engenia states in part, "DO NOT apply when wind is blowing in the direction of adjacent sensitive crops or residential areas."

Original Event: Investigation Activity (Pesticide) #4026  
Subject: Ashley Carmony  
Submitted By: Paul Jay Kelley  
Attachments: File 82854; engenia.pdf

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**10/29/2021 Investigator Called Complainant Communication**

On October 29, 2021, I spoke with Tommy Blair to verify when he planted his Enlist soybeans. Mr. Blair stated his Enlist soybeans where planted May 1 and 2, 2021. Mr. Blair stated the soybeans were up and visible five (5) days after planting. Mr. Blair stated he noticed symptoms in June 2021.

Original Event: Investigation Activity (Pesticide) #4037  
Subject: Tommy Ray Blair  
Submitted By: Paul Jay Kelley

---

**11/05/2021 Investigation Activity Activity**

A review of OISC's data for licensing indicates Mr. Carmony dose not have a credential issued by OISC. Therefore, Mr. Carmony's application of Engenia, a Restricted Use Pesticide (RUP) requiring a credential by OISC, is violative.

Original Event: Investigation Activity (Pesticide) #4079  
Subject: Ashley Carmony  
Submitted By: Paul Jay Kelley

---

**11/11/2021 Judgement; Civil Penalty Assessed Civil Penalty**

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

**Civil Penalty**

Ashley Carmony was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for applying a restricted use pesticide without having a certified applicator in supervision.

Original Event: Judgement #830  
Primary: Ashley Carmony  
Submitted By: George Saxton  
Legal Citations: IC 15-16-5-65(2); IC 15-16-5-65(10)  
Penalty Amount: 200

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**12/14/2021 Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #943  
To: Ashley Carmony  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2601 9869  
Enclosed: Notice of Enforcement  
Attachments: File 84915; PS21-0252EL CP ~ Ashley Carmony.docx

---



01/13/2022 **Mail Service Returned for Target**

Certified Mail was returned to OISC as Unclaimed. Regular mail has not come back.

Original Event:	Compliance Receipt #1343
Subject:	Ashley Carmony
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2601 9869
Returned:	01/13/2022
Attachments:	File 86445; CM 7019 1640 0001 2601 9869 ~ Ashley Carmony ~ UNCLAIMED.pdf

---

01/25/2022 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #1359
Subject:	Ashley Carmony
Submitted By:	Joni Herman
Payment Expected:	\$100.00
Payment Received:	\$100.00
Attachments:	File 87182; PS21-0252 ~ Ashley Carmony ~ CP Received.pdf

---

02/02/2022 **Mail Confirmation Assumed for Target**

Regular Mail has not been returned to OISC.

Original Event:	Compliance Receipt #1344
Subject:	Ashley Carmony
Submitted By:	Joni Herman

**Chain of Custody**

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No electronic chain of custody found

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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 PS21-0264**

Department	Pesticide
Originated	07/21/2021
Assigned To	Aaron P. Kreider
Status	Closed

**Involved Parties**

Complainant	<b>John L Hinkle</b> Atlanta, IN 46031
Respondent	<b>Total Seed Production Inc</b> Tipton, IN 46072
Respondent	<b>Brandan D Johnson</b> Windfall, IN 46076
Respondent	<b>Jeana Maria Cheek</b> Tipton, IN 46072

**Overviews**

11/19/2021 **Investigation Summary**

The report from PPDL shows that the injury to Mr. Hinkle's soybean field was caused by the ingredient from TSP's application. However, OISC was unable to determine how the ingredient moved off-target, whether through drift, application into inversion, or volatilization at some point after the application. TSP did violate the Atrazine 4L label by making an application when winds were blowing towards a sensitive area. Since the only visible injury to Mr. Hinkle's field was due to dicamba the application containing Atrazine 4L could not have caused the injury.

Submitted By: Aaron P. Kreider  
Role: Investigator

11/19/2021 **Disposition Summary**

Total Seed Production Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for violating the label regarding drift management by applying when the wind was blowing towards a sensitive crop. 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 Total Seed Production Inc. cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved.

Jeana Maria Cheek was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for violating the label regarding drift management by applying when the wind was blowing towards a sensitive crop. Consideration was also given to the fact a restricted use pesticide was involved.

Brandan D Johnson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for violating the label regarding drift management by applying when the wind was blowing towards a sensitive crop. Consideration was also given to the fact a restricted use pesticide was involved.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

07/20/2021 **Intake Referral Filed**

Complainant stated an application of dicamba applied to an adjacent corn field injured his Enlist soybeans.

Original Event:	Intake Referral (Pesticide) #2120
Complainant:	John L Hinkle
Respondent:	Total Seed Production Inc
Submitted By:	Joseph D. Becovitz
Assigned To:	Aaron P. Kreider

---

07/21/2021 **Case Created**

Original Event:	Case PS21-0264
Submitted By:	Joseph D. Becovitz
Assigned To:	Aaron P. Kreider

---

07/21/2021 **Investigator Called Complainant Communication**

On July 21, 2021, I contacted John Hinkle regarding his complaint. Mr. Hinkle stated that his soybeans have been injured and he believes it was caused by an application of dicamba to the corn field south of his field. He stated that the field was sprayed by Total Seed Production (TSP). He also stated that he believed the injury was over the entire field.

Original Event:	Investigation Activity (Pesticide) #4021
Subject:	John L Hinkle
Submitted By:	Aaron P. Kreider

---

07/22/2021 **Investigator Met with Complainant Interaction**

On July 22, 2021, I met with Mr. Hinkle at the location of his injured soybean field. I had Mr. Hinkle show me the injured soybeans. The injured soybeans had cupped and strapping leaves with white/tan leaf tips. The injury appeared to be concentrated at the south end of the field. There appeared to be no injury at the north end of Mr. Hinkle's field. Mr. Hinkle provided me with a record of what he had applied to his field. He also informed me that he had spoken with TSP and they stated they used Status in their application.

Original Event:	Investigation Activity (Pesticide) #4023
Subject:	John L Hinkle
Submitted By:	Aaron P. Kreider
Attachments:	File 82828; PS21-0264 Hinkle Application Record.pdf

---

07/22/2021 **Notice of Inspection Issued**

Original Event:	Notice of Inspection #588
Client:	John L Hinkle
Firm Representative:	John Hinkle
Submitted By:	Aaron P. Kreider
Attachments:	File 82829; PS21-0264 NOI (J. Hinkle).pdf

---

07/22/2021 **Investigator Collected Photographs Photographs**

During my on-site investigation, I collected the following photographs. Figure 1 shows the road that separates Mr. Hinkle's field (left) and the target field where TSP's application took place (right). Figures 2 and 3 show the injury that caused Mr. Hinkle's complaint.

Figure 1 (File 82834)



Figure 2 (File 82838)



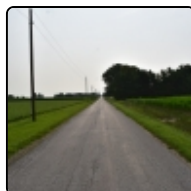


**Figure 3 (File 82839)**

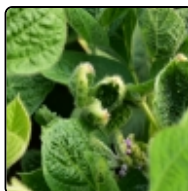


Original Event:  
Submitted By:  
Photos:

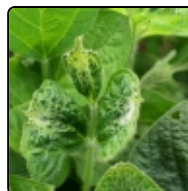
Investigation Activity (Pesticide) #4024  
Aaron P. Kreider



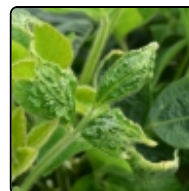
File 82834



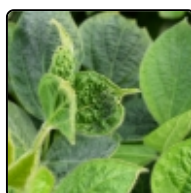
File 82838



File 82839



File 82840



File 82841

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07/22/2021 **Residue Samples Collected**

Original Event:	Residue Collection #185336 (21-4-0608 9)
Client:	John L Hinkle
Submitted By:	Aaron P. Kreider
Sample:	21-4-0608 9   Veg; Grab; S to N; OFF-T, Grad4
Sample:	21-4-0609 1   Veg; Grab; S to N; OFF-T, Grad3
Sample:	21-4-0610 1   Veg; Grab; S to N; OFF-T, Grad2
Sample:	21-4-0611 7   Veg; Grab; S to N Control; OFF-T, Grad1
Sample:	21-4-0612 9   Veg; Grab; Weeds; Target

---

07/22/2021 **External Lab Sample Collected**

During my on-site investigation, I collected a sample of Mr. Hinkle's injured Enlist soybeans to submit for analysis by the Plant and Pest Diagnostic Lab at Purdue (PPDL).

Original Event:	External Lab Sample Collection #192986 (X21-566411)
Client:	John L Hinkle
Submitted By:	Aaron P. Kreider
Lab:	Purdue Plant and Pest Diagnostic Laboratory
Sample:	X21-566411   This sample contained injured Enlist soybeans.
Attachments:	File 82842; PS21-0264 PPDL Submission Form.pdf

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**Activity**

This diagram shows the locations where samples were collected.

**Sample Collection Diagram (File 82981)**



Original Event:

Submitted By:

Attachments:

Investigation Activity (Pesticide) #4034

Aaron P. Kreider

File 82981; PS21-0264 Diagram Final.png

## Communication

On July 22, 2021, I spoke with Ryan Campbell of TSP regarding Mr. Hinkle's complaint. Mr. Campbell confirmed that they were responsible for applications made to the field south of Mr. Hinkle's field. He stated that he believed that the dicamba most likely moved off of their corn. Mr. Campbell informed me that they also have a non-DT soybean field down the road from Mr. Hinkle's field and that it was also injured. Mr. Campbell stated that they left a 90' buffer around the corn field sprayed with dicamba and that buffer had other products used on it. Mr. Campbell informed me that winds were blowing from the southwest during the application to the target corn field.

Original Event: Investigation Activity (Pesticide) #4025  
Subject: Total Seed Production Inc  
Submitted By: Aaron P. Kreider

---

### 07/22/2021 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #491  
Submitted By: Aaron P. Kreider  
Target Analyte: Status  
PPLS Labels: [007969-00242-20210402.pdf](#)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/007969-00242-20210402.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00242-20210402.pdf)

Attachments: File 79290; PS21-0264 CoC.pdf

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### 07/23/2021 Received External Lab Report

On July 23, 2021, I received a report from PPDL. The report stated, "*Soybean plants have cupped leaves with whitish leaf tips. These symptoms are characteristic of exposure to dicamba.*"

Original Event: External Lab Report #192988 (X21-566411)  
Submitted By: Aaron P. Kreider  
Sample: X21-566411  
Attachments: File 82843; PS21-0264 PPDL Report.pdf

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### 08/03/2021 Investigator Received Fax/Email from Target Investigation Inquiry

On August 3, 2021, I received a Pesticide Investigation Inquiry (PII) from Jeana Cheek of TSP. The information provided showed that winds were blowing towards Mr. Hinkle's field during the applications to the target field. An included map shows that a 75' border (Target Field #2) was sprayed with tank mix 2 (TM2)

#### Inquiry Overview

Supervisor Jeana Cheek  
Registered Technician Brandon Johnson  
Company Total Seed Production  
Application Type Commercial  
Target Field #1 Corn  
Target Field #2 Buffer

#### Tank Mix #1

Product	EPA	Rate
Status	7969-242	5 oz/A
Delta Lock		1%
Reign LC		.125%
Scanner		.25%

#### Tank Mix #2

Product	EPA	Rate
IMPACT	5481-524	.75 oz/A
Cadet	279-3338	.3 oz/A
Atrazine 4L	34704-69	32 oz/A
Ammonium Sulfate		2 #/A
Reign LC		.25%

#### Application Date

Mix	Field	Date	Start	End
TM1	F1	06/28/2021	11:45 AM	6:06 PM
TM2	F2	06/28/2021	9:45 AM	11:45 AM

#### Air Conditions During Application #1

Time	Temp	Direction	Speed
Start	75°F	SW	7mph
End	87°F	SW	6mph

## Air Conditions During Application #2

### Time Temp Direction Speed

Start 75.2°F SW 6.1mph

End SW 6.1mph

### Activity

The attachments below are the labels referenced during the investigation.

Original Event: Investigation Activity (Pesticide) #4028

Subject: Total Seed Production Inc

Submitted By: Aaron P. Kreider

PPLS Labels: [000279-03338-20110429.pdf](#)

[https://www3.epa.gov/pesticides/chem\\_search/ppls/000279-03338-20110429.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000279-03338-20110429.pdf)

[034704-00069-20130425.pdf](#)

[https://www3.epa.gov/pesticides/chem\\_search/ppls/034704-00069-20130425.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20130425.pdf)

[005481-00524-20210311.pdf](#)

[https://www3.epa.gov/pesticides/chem\\_search/ppls/005481-00524-20210311.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/005481-00524-20210311.pdf)

[007969-00242-20210402.pdf](#)

[https://www3.epa.gov/pesticides/chem\\_search/ppls/007969-00242-20210402.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00242-20210402.pdf)

Attachments:

File 82930; Atrazine 4L Label.pdf

File 82929; Cadet Label.pdf

File 82928; IMPACT Label.pdf

File 82926; PS21-0264 PII (Total Seed Production).pdf

File 82927; Status Label.pdf

## 08/18/2021 Received Residue Lab Report First Page of Lab Report

OCM Collection #	185336	Investigator	KREIDERA			
Collection Date	07/22/2021					
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ	
21-4-0608 9	Veg; Grab; S to N; OFF-T, Grad4	Veg	5OH-Dicamba	BDL ppb	0.4 ppb	
			DCSA	BQL ppb	2 ppb	
			Dicamba	2.10 ppb	0.4 ppb	
21-4-0609 1	Veg; Grab; S to N; OFF-T, Grad3	Veg	5OH-Dicamba	BDL ppb	0.4 ppb	
			DCSA	BDL ppb	2 ppb	
			Dicamba	BQL ppb	0.4 ppb	
21-4-0610 1	Veg; Grab; S to N; OFF-T, Grad2	Veg	5OH-Dicamba	BDL ppb	0.4 ppb	
			DCSA	BDL ppb	2 ppb	
			Dicamba	BQL ppb	0.4 ppb	
21-4-0611 7	Veg; Grab; S to N Control; OFF-T, Grad1	Veg	5OH-Dicamba	BDL ppb	0.4 ppb	
			DCSA	BDL ppb	2 ppb	
			Dicamba	BQL ppb	0.4 ppb	

Original Event: Residue Lab Report #187428 (185336-R402)

Submitted By: SYSTEM

Lab Report: Lab Report 185336-R402.pdf

## 11/18/2021 Wind Data Researched

This weather data shows conditions during TSP's application to the border around the target field. It shows that winds were blowing towards the complainant's field and confirms what was reported on the PII.

**Kokomo Municipal Airport (KOKK)***Kokomo, Indiana (15.77 miles NNE of site)*

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
8:56 AM	79	SE	5	0
9:56 AM	82	S	9	0
10:11 AM	82	SSW	7	0
10:56 AM	85	SW	9	0
11:56 AM	86	WSW	14	0

Original Event: Wind Data #78  
Submitted By: Aaron P. Kreider  
Date of Weather: 06/28/2021  
Attachments: File 83805; NOAA Data 6.28.21 (KOKK) Border.pdf

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**11/18/2021 Wind Data Researched**

This weather data shows the conditions during TSP's application to the target field. It shows that winds were blowing towards the complainant's field and confirms what was reported on the PII.

**Kokomo Municipal Airport (KOKK)***Kokomo, Indiana (15.77 miles NNE of site)*

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
10:56 AM	85	SW	9	0
11:56 AM	86	WSW	14	0
12:56 PM	87	SW	13	0
1:56 PM	87	WSW	11	0
2:56 PM	88	SSW	13	0
3:56 PM	88	SSW	11	0
4:56 PM	87	SW	13	0
5:56 PM	88	SW	11	20
6:56 PM	87	SSW	9	0

Original Event: Wind Data #79  
Submitted By: Aaron P. Kreider  
Date of Weather: 06/28/2021  
Attachments: File 83806; NOAA Data 6.28.21 (KOKK) Target.pdf

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**11/19/2021 Investigation Activity****Label Use**

The Atrazine 4L label 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 (e.g. when wind is blowing away from sensitive areas).*"

Original Event: Investigation Activity (Pesticide) #4148  
Submitted By: Aaron P. Kreider  
PPLS Labels: [034704-00069-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20211110.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/034704-00069-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20211110.pdf)

Attachments: File 83832; Atrazine 4L Label.pdf

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**11/19/2021 Judgement; Civil Penalty Assessed****Citation**

Jeana Maria Cheek was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for violating the label regarding drift management by applying when the wind was blowing towards a sensitive crop. Consideration was also given to the fact a restricted use pesticide was involved.

**Citation**

Brandon D Johnson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for violating the label regarding drift management by applying when the wind was blowing towards a sensitive crop. Consideration was also given to the fact a restricted use pesticide was involved.

**Civil Penalty**

Total Seed Production Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for violating the label regarding drift management by applying when the wind was blowing towards a sensitive crop. 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 Total Seed Production Inc. cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved.

Original Event:	Judgement #846
Primary:	Total Seed Production Inc
Secondary:	Jeana Maria Cheek
Additional:	Brandan D Johnson
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(2)
Penalty Amount:	188

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01/11/2022 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #955
To:	Total Seed Production Inc
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2601 8589
Enclosed:	Notice of Enforcement
Attachments:	File 85644; PS21-0264EL CP Mitigated ~ Total Seed Production Inc. - Jeana M. Cheek -- Brandan D. Johnson.docx

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01/24/2022 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #1364
Subject:	Total Seed Production Inc
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2601 8589
Received:	01/24/2022
Attachments:	File 88536; CM 7019 1640 0001 2601 8589 ~ PS21-0264.pdf

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02/15/2022 **Informal Review Requested**

Ryan Campbell of Total Seed Production sent a letter contesting the findings of this case.

Original Event:	Compliance Activity #1162
Primary:	Total Seed Production Inc
Submitted By:	George Saxton
Stage:	Informal Review
Attachments:	File 87163; Total Seed Production letter.pdf

---

02/28/2022 **Informal Review Occurred**

I spoke with Ryan Campbell of Total Seed Production. I explained that the violation was applying when the wind was blowing towards a sensitive area and not necessarily causing any harm. I also explained that the term 'adjacent' meant within 240' of the target field. He did not request a hearing.

Original Event:	Compliance Activity #1172
Primary:	Total Seed Production Inc
Submitted By:	George Saxton
Stage:	Informal Review

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## Chain of Custody

No electronic chain of custody found

This record was generated on **March 8, 2022, 06:50 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.





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 28, 2022, 11:51 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 PS21-0266

Department	Pesticide
Originated	07/22/2021
Assigned To	Aaron P. Kreider
Status	Closed

## Involved Parties

Complainant	<b>Rob Jakes</b> Clarks Hill, IN 47930
Respondent	<b>On Target Applicators LLC</b> Monticello, IN 47960
Respondent	<b>INCIDENTAL Townsend Aviation Inc</b> Monticello, IN 47960
Respondent	<b>Brian Jeffrey Townsend</b> Monticello, IN 47960

## Overviews

### 11/23/2021 Investigation Summary

The report from PPDL shows that the injury to Mr. Jakes's trees was primarily caused by factors unrelated to pesticide drift. The report from the OISC residue lab shows that the ingredients from Mr. Townsend's application were found on Mr. Jakes's property. Based on the evidence, Mr. Townsend violated the AVARIS 2XS label when his application drifted onto Mr. Jakes's property. However, Mr. Townsend's application isn't entirely responsible for the injured vegetation on Mr. Jakes's property.

Submitted By: Aaron P. Kreider  
Role: Investigator  
Drift: Confirmed

### 11/24/2021 Disposition Summary

On Target Applicators LLC 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 no restricted use pesticides were involved. Consideration was also given to the fact this was Mr. Townsend's third violation of similar nature. See case numbers PS17-0799 and PS19-0517.

Brian Jeffrey Townsend 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 no restricted use pesticides were involved. Consideration was also given to the fact this was Mr. Townsend's third violation of similar nature. See case numbers PS17-0799 and PS19-0517.

Submitted By: George Saxton  
Role: Compliance Officer

## Chronology of Events

### 07/21/2021 Intake Referral Filed

Complainant stated an aerial application made to an adjacent farm field drifted onto his pasture and killed several of his fruit trees.

Original Event: Intake Referral (Pesticide) #2122  
Complainant: Rob Jakes  
Respondent: Townsend Aviation Inc  
Submitted By: Joseph D. Becovitz  
Assigned To: Aaron P. Kreider

---

**07/22/2021 Case Created**

Original Event: Case PS21-0266  
Submitted By: Joseph D. Becovitz  
Assigned To: Aaron P. Kreider

---

**07/22/2021 Investigator Called Complainant Communication**

On July 22, 2021, I contacted Rob Jakes regarding his complaint. Mr. Jakes stated that the field around his house was sprayed by a helicopter on July 19, 2021. He began to notice injury symptoms to his apple trees soon after. He was also concerned that the application had got into his cattle pasture where his apple trees are located. Mr. Jakes made contact with Helena Ag who had contracted out the aerial application that was performed. Mr. Jakes believed that the aerial application was performed by Townsend Aviation. Helena Ag informed Mr. Jakes that the products used were AVARIS 2XS and SULTRUS. Mr. Jakes stated that Helena Ag had came out after the incident and collected samples. He also stated that Helena Ag told him to keep his cattle off the pasture for 7-14 days.

Original Event: Investigation Activity (Pesticide) #3646  
Subject: Rob Jakes  
Submitted By: Aaron P. Kreider

---

**07/27/2021 Investigator Met with Complainant Interaction**

On July 27, 2021, I met with Mr. Jakes at his residence. I had Mr. Jakes show me the vegetation he believed was injured by the aerial application. Mr. Jakes's fruit trees appeared to have brown spots and what appeared to be areas where insects had been feeding.

Original Event: Investigation Activity (Pesticide) #3647  
Subject: Rob Jakes  
Submitted By: Aaron P. Kreider

---

**07/27/2021 Notice of Inspection Issued**

Original Event: Notice of Inspection #490  
Client: Rob Jakes  
Firm Representative: Rob Jakes  
Submitted By: Aaron P. Kreider  
Attachments: File 76644; PS21-0266 NOI (R. Jakes).pdf

---

**07/27/2021 Investigator Collected Photographs Photographs**

These photographs were collected during my on-site investigation. Figure 1 shows the border between the target corn field and Mr. Jakes's property. Figures 2 and 3 show the injury that caused Mr. Jakes's complaint.

**Figure 1 (File 76645)**



Figure 2 (File 76653)



Figure 3 (File 76689)



Original Event:  
Submitted By:

Investigation Activity (Pesticide) #3648  
Aaron P. Kreider

---

07/27/2021 **Residue Samples Collected**

Original Event:	Residue Collection #185574 (21-4-0621 0)
Client:	Rob Jakes
Submitted By:	Aaron P. Kreider
Sample:	21-4-0621 0   Veg; Grab; Injured Apple Tree; OFF-T
Sample:	21-4-0622 3   Veg; Grab; Corn Leaves; Target
Sample:	21-4-0623 4   Veg; Ctrl; Maple Leaves; OFF-T

---

07/27/2021 **External Lab Sample Collected**

During my on-site investigation, I collected a sample of Mr. Jakes's injured apple trees to submit for analysis by the Plant and Pest Diagnostic Lab at Purdue (PPDL).



Original Event:	External Lab Sample Collection #195152 (X21-6DD4C9)
Client:	Rob Jakes
Submitted By:	Aaron P. Kreider
Lab:	Purdue Plant and Pest Diagnostic Laboratory
Sample:	X21-6DD4C9   This sample contained branches from an injured apple tree.
Attachments:	File 83811; PS21-0266 PPDL Submission Form.pdf

---

07/27/2021 **Sample Collection Diagram Activity**

This diagram shows the locations where samples were collected.

**Sample Collection Diagram (File 83810)**



Original Event: Investigation Activity (Pesticide) #4144  
Submitted By: Aaron P. Kreider

---

07/27/2021 **Investigator Called Business Communication**

On July 27, 2021, I contacted John Townsend regarding Mr. Jakes's complaint. Mr. Townsend stated that he does not use helicopters and that his son, Brian Townsend, uses helicopters to make applications.

Original Event: Investigation Activity (Pesticide) #4146  
Subject: Townsend Aviation Inc  
Submitted By: Aaron P. Kreider

---

07/27/2021 **Investigator Called Target Communication**

On July 27, 2021, I contacted Brian Townsend regarding Mr. Jakes's complaint. Mr. Townsend confirmed he made the application to the target field.

Original Event: Investigation Activity (Pesticide) #4145  
Subject: On Target Applicators LLC  
Submitted By: Aaron P. Kreider

---

07/27/2021 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #497  
Submitted By: Aaron P. Kreider  
Target Analyte: AVARIS 2XS  
Target Analyte: SULTRUS  
PPLS Labels: 000100-01324-20180614.pdf  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000100-01324-20180614.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01324-20180614.pdf)

Attachments:

File 83998; PS21-0266 CoC.pdf

07/28/2021 **Investigator Received Fax/Email from Target Investigation Inquiry**

On July 28, 2021, I received a Pesticide Investigation Inquiry (PII) from Mr. Townsend. Mr. Townsend reported that the winds were blowing towards Mr. Jakes's property during the application. Mr. Townsend included a statement in his email that stated, "I, nor the retailer were not aware of any apple trees on the property. I didn't see any livestock outside that day as well."

## Attachments

File 83813; PS21-0266 PII (OT Applicators).PDF

**Inquiry Overview**

Certified Applicator Brian Townsend  
 Company On Target Applicators  
 Application Type Commercial  
 Target Field Corn

**Tank Mix**

Product	EPA	Rate
AVARIS 2XS	100-1324-5905	10.5 oz/A
SULTRUS	5905-599	1.2 oz/A
Cide Winder (Adjuvant)		2 oz/A

**Application Date**

Date	Start	End
07/19/2021	2:55 PM	3:25 PM

**Air Conditions**

Time	Temp	Direction	Speed
Start	83°F	NE	5mph
End	83°F	NE	5mph

**Label Use**

The attachments section contains the labels referenced during the investigation.

## Attachments

File 83815; AVARIS 2XS Label.pdf

File 83816; SULTRUS Label.pdf

Original Event: Investigation Activity (Pesticide) #4147  
 Subject: On Target Applicators LLC  
 Submitted By: Aaron P. Kreider  
 PPLS Labels: [000100-01324-20180614.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01324-20180614.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000100-01324-20180614.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01324-20180614.pdf)  
[005905-00599-20170621.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/005905-00599-20170621.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/005905-00599-20170621.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/005905-00599-20170621.pdf)

08/09/2021 **Wind Data Researched**

This weather data shows conditions during the application made by Mr. Townsend. The wind data confirms what was reported on the PII.

**Lafayette Purdue University Airport (KLAF)**

West Lafayette, Indiana (19.38 miles NW of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
2:54 PM	82	NNE	3	0
3:54 PM	83	N	7	0

**Attachments**

File 83817; NOAA Data 7.19.21 (KLAF).pdf

Original Event: Wind Data #80  
 Submitted By: Aaron P. Kreider  
 Date of Weather: 07/19/2021

08/24/2021 **Received External Lab Report**

The report from PPD L states, "The images were provided to Dr. Janna Beckerman, Purdue Extension Plant Pathology Specialist for ornamentals, hemp and fruit trees for consultation. She indicated that the trees appear to be poorly grown and maintained and the majority of damage is caused by Japanese beetle feeding injury. No chemical damage observed." The report also states, "Photos show that there are cows present in the yard and near affected trees, which have no or little foliage on lower branches. Insect



damage observed on apple and peach trees include leaf skeletonization, leaf notching, and fruit boring, which are all caused by different types of insects. Branch dieback is observed on many of the trees present which could be caused by canker pathogens, injury to the tree by cattle, and by internal decay/root damage due to compaction. At least one tree shows a major crack in the trunk where co-dominance and dynamic stress has lead to a split in the middle of the trunk. There is a trace of leaf cupping present in some of the photos and stunting of foliage in the physical sample. Stunting could be associated with plant stress and may not be related to an herbicide application."

Original Event: External Lab Report #195155 (X21-6DD4C9)  
Submitted By: Aaron P. Kreider  
Sample: X21-6DD4C9  
Attachments: File 83812; PS21-0266 PPD L Report (Beckerman).pdf

10/20/2021 **Received Residue Lab Report**  
**First Page of Lab Report**

Page 67 of 68 Report

OCM Collection #	185574	Investigator	KREIDERA		
Collection Date	07/27/2021				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
21-4-0621 0	Veg; Grab; Injured Apple Tree; OFF-T	Veg	Azoxystrobin	223 ppb	0.3 ppb
			Propiconazole	200 ppb	3 ppb
21-4-0622 3	Veg; Grab; Corn Leaves; Target	Veg	Azoxystrobin	Detected  *exceeded calibration range	0.3 ppb
			Propiconazole	401 ppb * Estimated Amount	3 ppb
21-4-0623 4	Veg; Ctrl; Maple Leaves; OFF-T	Veg	Azoxystrobin	374 ppb	0.3 ppb
			Propiconazole	219 ppb	3 ppb

Original Event: Residue Lab Report #192660 (185574-R460)  
Submitted By: SYSTEM  
Lab Report: Lab Report 185574-R460.pdf

11/23/2021 **Investigation Activity**  
**Label Use**

The AVARIS 2XS label states, "AVOID SPRAY DRIFT."

Attachments  
File 84016; AVARIS 2XS Label.pdf

Original Event: Investigation Activity (Pesticide) #4170  
Submitted By: Aaron P. Kreider  
PPLS Labels: 000100-01324-20180614.pdf  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000100-01324-20180614.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01324-20180614.pdf)

11/24/2021 **Judgement; Civil Penalty Assessed**  
**Citation**

On Target Applicators LLC 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 no restricted use pesticides were involved. Consideration was also given to the fact this was Mr. Townsend's third violation of similar nature. See case numbers PS17-0799 and PS19-0517.

**Civil Penalty**

Brian Jeffrey Townsend 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 no restricted use pesticides were involved. Consideration was also given to the fact this was Mr. Townsend's third violation of similar nature. See case numbers PS17-0799 and PS19-0517.

Original Event: Judgement #851  
Primary: On Target Applicators LLC  
Secondary: Brian Jeffrey Townsend  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(2)  
Penalty Amount: 250

02/08/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #963  
To: On Target Applicators LLC  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2601 8640  
Enclosed: Notice of Enforcement  
Attachments: File 86927; PS21-0266EL CP ~ On Target Applicators - Brian J. Townsend.docx

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02/15/2022 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #1373
Subject:	On Target Applicators LLC
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2601 8640
Received:	02/15/2022
Attachments:	File 88544; CM 7019 1640 0001 2601 8640 ~ PS21-0266.pdf

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02/24/2022 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #1387
Subject:	On Target Applicators LLC
Submitted By:	Joni Herman
Payment Expected:	\$250.00
Payment Received:	\$250.00
Attachments:	File 91017; PS21-0266 On Target Applicators - Brian Townsend ~ CP Received.pdf

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**Chain of Custody**

No electronic chain of custody found

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

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**In Re: Case PS21-0274**

Department	Pesticide
Originated	07/23/2021
Assigned To	William R. Reid
Status	Closed

**Involved Parties**

Complainant	<b>Office of Indiana State Chemist</b>
-	<b>Menards</b> Fort Wayne, IN 46804
Respondent	<b>Rose Pest Solutions</b> Fort Wayne, IN 46808
-	<b>Menards</b> Fort Wayne, IN 46804
-	<b>Menards - Eastside</b> Fort Wayne, IN 46835
-	<b>Indiana Department of Natural Resources</b> Columbia City, IN 46725
Respondent	<b>Rhett D Zehner</b> Fort Wayne, IN 46808

**Overviews**

11/11/2021 **Investigation Summary**

On 7/23/2021 Conservation Officer Isaac Saxton contacted the Office of Indiana State Chemist to report the possible misuse of Avitrol at a Menards located in Fort Wayne, Indiana.

On 7/26/2021 I met with Officer Isaac Saxton at the Menards located on 6310 Illinois Road in Fort Wayne, IN. Officer Saxton and I walked the outdoor area of the store and found some bird feeders that were located high out of reach that contained a seed that may contain Avitrol. Officer Saxton gave me some of the seed he had collected from this site previously as evidence and I collected some more and took photos of the area. I also talked with the store manager regarding the treatment and asked for invoices and contracts of the service provided by Rose Pest Solutions. The Manager at Menards (Angela Hennegan) provided me with the contracts and information before I left the store. In the contract on page 1 under Description of Work section item 3 reads, "This service will be scheduled 1 time per month". I also took photos at the store that shows the seed and shells of the seed on store products (Photo file 75149).

Also on 7/26/2021 I visited the Eastside Menards in Fort Wayne IN located at 5510 Meijer Dr. and found another bird feeder by Rose Pest Solutions that had seed in it. I took this feeder for testing and evidence.

On 7/27/2021 I received an email from Adan Hernandez (District Manager for Rose Pest Solutions) that had all the invoices for the services at the Menards at 6310 Illinois Road in Fort Wayne, IN. from July 2019. The invoices showed about a one month time frame between each service and or monitoring of the bird feeder stations. The invoices also showed that Avitrol EPA REG # 11649-6 was being used in the feeders to help control Sparrows as stated in contract with Menards. On some of these invoices or service reports by Rose Pest Solutions the applicator noted Pigeons in the area at the stores and Sparrows in the area at the store.

On 8/3/2021 I collected a dead bird from Officer Isaac Saxton who received the dead bird from an Menards employee located at 6310 Illinois Road in Fort Wayne, IN. I took the sparrow to the Purdue Animal Disease Diagnostic Laboratory for Avitrol testing. The Sparrow tested positive for Avitrol (4-Aminopyridine). The seed tested at this location also tested positive for Avitrol. While consulting with Ping Wan from The OISC Pesticide Residue Laboratory the quantity levels of Avitrol found in the seed and bird can't be confirmed the reason this bird died.

According to the Avitrol label EPA Reg number 11649-6 the following items are found to be improper application of Avitrol. Pigeons are not noted on the list of birds to be controlled by Avitrol. The service report provided by Rose Pest Solutions noted Pigeons in the area of the Menards stores on several of the service reports. Also, the service contract states "This service will be scheduled 1 time per month". The use of Avitrol at the Menards is not being monitored regularly. The clean up and handling of the seed, feeders, dead birds are monitored once a month by Rose Pest Solutions. On the service reports by Rose Pest Solutions a lot of the reports noted missing or damage feeders. The missing feeders are more than likely not handled by proper pesticide applicators since the proper pesticide applicators don't know where the feeders are. The Avitrol label reads "Application continues until the dead birds and unused bait are retrieved-all participants in the application are pesticide handlers". According to the label proper PPE (chemical resistant gloves and long sleeve shirts) should be used when handling this product. There was also seed and shell of seeds noted on the product that could become in contact with consumers at the store. This again being a monitoring issue of how the bait is not being monitored properly by a pesticide professional and seed coming in contact with possible human exposer.

The Avitrol label EPA Reg. number 11649-6 reads, "ENTRY RESTRICTIONS Keep persons (other than authorized handlers) as well as pets and livestock, away from the treated bait and dead or dying birds at all times. Only protected handlers may be in the area during bait application until all dead birds and unused bait is retrieved." A Menards employee gave Officer Isaac Saxton a dead bird that later tested positive for Avitrol. The Menards store employee is not considered an authorized handler, therefore picking up a dead bird that tested positive for Avitrol is a violation according to the label. In addition, there was bait/seed noted on the store shelves, floor, and consumer products on 7/26/21 below the feeders at the 6310 Illinois Road store location. Again, treated bait must be kept away from people at all times and not come in contact with people under the Entry Restrictions section according to the Avitrol label.

Submitted By: William R. Reid  
Role: Investigator

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11/29/2021 **Disposition Summary**

Rose Pest Solutions was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding entry restrictions. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved. However, the civil penalty was reduced to \$125.00. Consideration was given to the fact Rose Pest Solutions cooperated during the investigation and corrective action was taken.

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

Submitted By: George Saxton  
Role: Compliance Officer

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## Chronology of Events

07/23/2021 **Intake Referral Filed**

Conservation Officer Isaac Saxton contacted the Office of Indiana State Chemist to report the possible misuse of Avitrol at a Menards located in Fort Wayne, Indiana.

Original Event: Intake Referral (Pesticide) #2131  
Complainant: Office of Indiana State Chemist  
Location: Menards  
Respondent: Rose Pest Solutions  
Submitted By: Joseph D. Becovitz  
Assigned To: William R. Reid

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07/23/2021 **Case Created**

Original Event: Case PS21-0274  
Submitted By: Joseph D. Becovitz  
Assigned To: William R. Reid

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07/26/2021 **Investigator Met with Business Photographs**

Photos of the Menards store at 6310 Illinois Rd, Fort Wayne IN and the bird feeders with seed and some seed on the ground locations.

**Records**

Contract with Rose PC and Menards in regards to the bird treatment.

**Records**

Invoices that Menards had of the services performed by Rose PC regarding the bird treatments.

**Records**

This is the chain of custody form filled out by Officer Isaac Saxton and I. He took some samples on his initial visit at this store location.

**Label Use**

Avitrol was being used in a Menards location(s) in Fort Wayne, IN. Samples were taken for testing and Officer Isaac Saxton and I are working on the case to determine if a label violation occurred.

**Attachments**



File 75149



File 75150



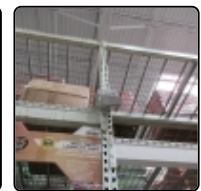
File 75151



File 75152



File 75153



File 75154



File 75155



File 75156



File 75157

File 75159; Avitrol EPA 11649-6.pdf

File 75160; COC from Officer Saxton to Reid. .pdf

File 75164; Contract Menards and Rose PC. .pdf

File 75162; Invoices from Rose PC. to menards..pdf

Original Event:

Investigation Activity (Pesticide) #3572

Subject:

Menards

Submitted By:

William R. Reid

PPLS Labels:

[011649-00006-20130924.pdf](#)

[https://www3.epa.gov/pesticides/chem\\_search/ppls/011649-00006-20130924.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/011649-00006-20130924.pdf)

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07/26/2021 **Notice of Inspection Issued**

Original Event:

Notice of Inspection #466

Client:

Menards

Firm Representative:

Angela Hennegan

Submitted By:

William R. Reid

Attachments:

File 75168; NOI for Angela Hennegan, (menards,Illinois Rd.).pdf

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07/26/2021 **Residue Samples Collected**

Original Event:

Residue Collection #185584 (21-4-0666 1)

Client:

Menards

Submitted By:

William R. Reid

Sample:

21-4-0666 1 | Food; Grab; Bird Seed mix; Target

Sample:

21-4-0665 7 | Food; Grab; Seed mix; Target

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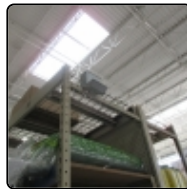
07/26/2021 **Investigator Met with Business Photographs**

Pictures from the Menards Eastside store in Fort Wayne at 5510 Meijer Dr.

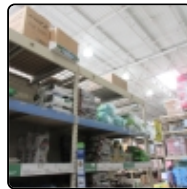
Attachments



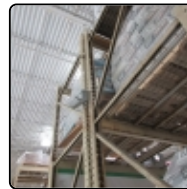
File 75171



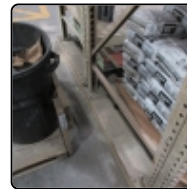
File 75172



File 75173



File 75174



File 75175



File 75176



File 75177



File 75178



File 75179

Original Event:

Investigation Activity (Pesticide) #3574

Subject:

Menards - Eastside

Submitted By:

William R. Reid

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07/26/2021 **Notice of Inspection Issued**



Original Event: Notice of Inspection #467  
Client: Menards - Eastside  
Firm Representative: Alex Springer  
Submitted By: William R. Reid  
Attachments: File 75180; NOI for Alex Springer (meijer ft.wayne).pdf

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07/26/2021 **Residue Samples Collected**

Original Event: Residue Collection #185588 (21-4-0667 4)  
Client: Menards - Eastside  
Submitted By: William R. Reid  
Sample: 21-4-0667 4 | Food; Grab; Bird Seed Mix; Target  
Photos:



File 75181

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07/27/2021 **Investigator Received Fax/Email from Business Records**

The attached are records indicating the treatment program for birds at the Menards on 6310 Illinois Rd, Fort Wayne IN and the email attached. This is a one time per month monitoring of the seed or corn chop with Avitrol in it.

Attachments



File 82186

File 82188; Invoice Menards Ft. Wayne.pdf

Original Event: Investigation Activity (Pesticide) #3955  
Subject: Rose Pest Solutions  
Submitted By: William R. Reid

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07/27/2021 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #499  
Submitted By: William R. Reid  
Target Analyte: Avitrol  
PPLS Labels: [011649-00006-20130924.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/011649-00006-20130924.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/011649-00006-20130924.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/011649-00006-20130924.pdf)

Attachments: File 83453; Reid 185584.pdf

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07/27/2021 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #500  
Submitted By: William R. Reid  
Target Analyte: Avitrol  
PPLS Labels: [011649-00006-20130924.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/011649-00006-20130924.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/011649-00006-20130924.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/011649-00006-20130924.pdf)

Attachments: File 83454; Reid 185588.pdf

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08/03/2021 **External Lab Sample Collected**

I picked up a Sparrow Bird that was collected by Officer Isaac Saxton. This bird was collected from the Menards located on Illinois Road in Fort Wayne and is going to be tested for Avitrol.

Original Event: External Lab Sample Collection #194588 (X21-5216DB)  
Client: Indiana Department of Natural Resources  
Submitted By: William R. Reid  
Lab: Indiana Animal Disease Diagnostic Laboratory  
Sample: X21-5216DB | Dead Bird. Sparrow. Testing for Avitrol  
Attachments: File 83464; A22-1517 SUBMISSION FORM.pdf  
File 83460; COCforSparrowBird.pdf  
File 83461; COCforSparrowBird.pdf

---

08/04/2021 **Received External Lab Report**

Lab report from ADDL for the Sparrow bird testing for Avitrol.

Original Event: External Lab Report #194589 (X21-5216DB)  
Submitted By: William R. Reid  
Sample: X21-5216DB  
Attachments: File 83462; A22-1517 AVITROL-DNR 23SEPT2021.PDF  
File 83463; A22-1517.pdf

09/15/2021 **Received Residue Lab Report**  
**Investigatory Summary**

Active ingredient (4-aminopyridine) for Avitrol were found in the bird seed mix results.

**First Page of Lab Report**

OCM Collection #	185584	Investigator	REIDW		
Collection Date	07/26/2021				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
21-4-0665 7	Food; Grab; Seed mix; Target	Food	4-aminopyridine	481000 ppb	40000 ppb
21-4-0666 1	Food; Grab; Bird Seed mix; Target	Food	4-aminopyridine	808000 ppb	40000 ppb

Original Event: Residue Lab Report #189646 (185584-R423)  
Submitted By: SYSTEM  
Lab Report: Lab Report 185584-R423.pdf

09/15/2021 **Received Residue Lab Report**  
**Investigatory Summary**

Active ingredient (4-aminopyridine) for Avitrol were found in the bird seed mix results.

**First Page of Lab Report**

OCM Collection #	185588	Investigator	REIDW		
Collection Date	07/26/2021				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
21-4-0667 4	Food; Grab; Bird Seed Mix; Target	Food	4-aminopyridine	1230000 ppb	40000 ppb

Original Event: Residue Lab Report #189647 (185588-R423)  
Submitted By: SYSTEM  
Lab Report: Lab Report 185588-R423.pdf

11/29/2021 **Judgement; Civil Penalty Assessed**  
**Citation**

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

**Civil Penalty**

Rose Pest Solutions was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding entry restrictions. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved. However, the civil penalty was reduced to \$125.00. Consideration was given to the fact Rose Pest Solutions cooperated during the investigation and corrective action was taken.

Original Event: Judgement #853  
Primary: Rose Pest Solutions  
Secondary: Rhett D Zehner  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(2)  
Penalty Amount: 125

02/08/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #965  
To: Rose Pest Solutions  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2601 8626  
Enclosed: Notice of Enforcement  
Attachments: File 87023; PS21-0274EL CP Mitigated ~ Rose Pest Solutions - Rhett D. Zehner.docx

02/14/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1371  
Subject: Rose Pest Solutions  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2601 8626  
Received: 02/14/2022  
Attachments: File 88542; CM 7019 1640 0001 2601 8626 ~ PS21-0274.pdf

02/28/2022 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #1389
Subject:	Rose Pest Solutions
Submitted By:	Joni Herman
Payment Expected:	\$125.00
Payment Received:	\$125.00
Attachments:	File 91020; PS21-0274 Rose Pest Solutions - Rhett Zehner ~ CP Received.pdf

**Chain of Custody**

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No electronic chain of custody found

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

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### In Re: Case PS21-0289

Department	Pesticide
Originated	08/02/2021
Assigned To	Aaron P. Kreider
Status	Closed

### Involved Parties

Complainant	<b>Jay E Martin</b> Flora, IN 46929
Respondent	<b>Vertical Vegetation Management LLC</b> Darlington, IN 47940
Respondent	<b>Klint W Anderson</b> Darlington, IN 47940

### Overviews

#### 11/23/2021 Investigation Summary

The lab report from the OISC residue lab shows that the ingredients from Mr. Anderson's application were found on Mr. Martin's property. Based on the evidence, Mr. Anderson violated the Trivapro label when his application moved off-target onto Mr. Martin's property. Mr. Villalpando violated the Trivapro and Kendo Insecticide labels by loading application equipment without label required PPE.

Submitted By: Aaron P. Kreider  
Role: Investigator  
Drift: Confirmed

#### 11/25/2021 Disposition Summary

Vertical Vegetation Management LLC 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 and there were adverse effects by drifting onto items with which humans (especially children) normally come into contact.

Klint W Anderson 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there were adverse effects by drifting onto items with which humans (especially children) normally come into contact.

Vertical Vegetation Management LLC was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment for applicators and handlers.

Klint W Anderson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment for applicators and handlers. 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 but there were no documented adverse effects. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact Mr. Anderson cooperated during the investigation and corrective action was taken.

Submitted By: George Saxton  
Role: Compliance Officer

### Chronology of Events

#### 07/31/2021 Intake Referral Filed

Complainant stated an aerial application to an adjacent farm field made on July 30, 2021 at 3:00 pm drifted across his property.

Original Event: Intake Referral (Pesticide) #2146  
Complainant: Jay E Martin  
Respondent: Vertical Vegetation Management LLC  
Submitted By: Joseph D. Becovitz  
Assigned To: Aaron P. Kreider

---

08/02/2021 **Case Created**

Original Event: Case PS21-0289  
Submitted By: Joseph D. Becovitz  
Assigned To: Aaron P. Kreider

---

08/02/2021 **Investigator Called Complainant Communication**

On August 2, 2021, I contacted Jay Martin regarding his complaint. Mr. Martin stated that he witnessed a pesticide application being performed by helicopter to the field north of his property and that the application drifted onto his property. Mr. Martin stated that he drove to the site where the helicopter was loading to talk to the applicator. Mr. Martin saw that the loader was wearing shorts and a t-shirt when loading the helicopter. Mr. Martin spoke with the applicator/pilot and was able to identify him as Klint Anderson of Vertical Vegetation Management (VVM). Mr. Martin sent me photos and a video to show the loader and the application.

**Photographs**

This section contains photos of the loader along with a video of the application.

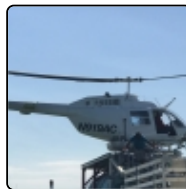
**Attachments**



File 83309



File 83310



File 83311

File 83312; Video 1.mp4

Original Event: Investigation Activity (Pesticide) #4085  
Subject: Jay E Martin  
Submitted By: Aaron P. Kreider

---

08/02/2021 **Investigator Called Target Communication**

On August 2, 2021, I spoke with Mr. Anderson regarding Mr. Martin's complaint. Mr. Anderson confirmed that he made the application to the target field north of Mr. Martin's property. Mr. Anderson identified Doug Villalpando as the person who was loading the helicopter. Mr. Anderson stated that he had checked DriftWatch and noticed that a neighboring property was listed as a sensitive area.

Original Event: Investigation Activity (Pesticide) #4158  
Subject: Vertical Vegetation Management LLC  
Submitted By: Aaron P. Kreider

---

08/03/2021 **Investigator Met with Complainant Interaction**

On August 3, 2021, I met with Mr. Martin at his residence. I had Mr. Martin show me around the property and identify the field where the application took place. Mr. Martin had a children's play set and a pool in his backyard. Mr. Martin informed me that he has grandchildren that use the play set. He sent me a video of the interaction he had with Mr. Villalpando at the site where the helicopter was being loaded.

**Attachments**

File 83952; Video 2.mp4

Original Event: Investigation Activity (Pesticide) #4157  
Subject: Jay E Martin  
Submitted By: Aaron P. Kreider

---

08/03/2021 **Notice of Inspection Issued**

Original Event: Notice of Inspection #622  
Client: Jay E Martin  
Firm Representative: Jay Martin  
Submitted By: Aaron P. Kreider  
Attachments: File 83953; PS21-0289 NOI (J. Martin).pdf

---

08/03/2021 **Investigator Collected Photographs Photographs**

During my on-site investigation I collected the following photographs. Figure 1 shows the road that separates the target field (left) and Mr. Martin's property (right). Figures 2 and 3 show the children's play set and pool in Mr. Martin's back yard.



Figure 1 (File 83965)



Figure 2 (File 83970)





Figure 3 (File 83971)



Original Event: Investigation Activity (Pesticide) #4160  
Submitted By: Aaron P. Kreider

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08/03/2021 **Residue Samples Collected**

Original Event: Residue Collection #186188 (21-4-0632 1)  
Client: Jay E Martin  
Submitted By: Aaron P. Kreider  
Sample: 21-4-0632 1 | Swab (Acetone); Grab; Telephone Pole; OFF-T, Front Yard  
Sample: 21-4-0633 2 | Swab (Acetone); Grab; Front Porch Window; OFF-T  
Sample: 21-4-0634 5 | Swab (Acetone); Grab; Pool Rail; OFF-T, Back Yard  
Sample: 21-4-0635 0 | Swab (Acetone); Grab; Playground Slide; OFF-T, Back Yard  
Sample: 21-4-0636 6 | Swab (Acetone); Ctrl; Large Rock; OFF-T, Back Yard  
Sample: 21-4-0637 8 | Swab (Acetone); Trip Blank

---

08/03/2021 **Sample Collection Diagram Activity**

This diagram shows the locations where samples were collected.

Sample Collection Diagram (File 83973)



Original Event: Investigation Activity (Pesticide) #4161  
Submitted By: Aaron P. Kreider

08/03/2021 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #510  
Submitted By: Aaron P. Kreider  
Target Analyte: Trivapro  
Target Analyte: Kendo  
PPLS Labels: [000100-01613-20201013.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01613-20201013.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/074530-00038-20140328.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/074530-00038-20140328.pdf)

Attachments: File 83997; PS21-0289 CoC.pdf

08/03/2021 **Investigator Received Fax/Email from Target Investigation Inquiry**

On August 3, 2021, I received a Pesticide Investigation Inquiry (PII) from Mr. Anderson. The reported wind data shows that winds were blowing towards Mr. Martin's property during the application. Mr. Anderson included 5 attachments that consist of an application map, buffer map, and application information.

**Inquiry Overview**

Certified Applicator Klint Anderson  
Company Vertical Vegetation Management  
Application Type Commercial  
Target Field Soybean

**Tank Mix**

Product	EPA	Rate
Trivapro	100-1613	13.7 oz/A
Kendo	74530-38	1.5 oz/A
Mitigate Plus (Stress Reliever)		8 oz/A
Nutri-poly (Nutrient)		32 oz/A
Plexus II (Adjuvant)		3 oz/A

**Application Date**

Date	Start	End
07/30/2021	2:30 PM	4:00 PM

**Air Conditions**

Time	Temp	Direction	Speed
Start	74°F	NNW	6mph
End	74°F	NNW	6mph

**Label Use**

The attachments section contains the labels referenced during the application.

**Attachments**

File 83978; Kendo Insecticide Label.pdf  
File 83981; PII Attachment 1.png  
File 83982; PII Attachment 2.png  
File 83983; PII Attachment 3.png  
File 83984; PII Attachment 4.png  
File 83985; PII Attachment 5.png  
File 83974; PS21-0289 PII (VVM).pdf  
File 83977; Trivapro Label.pdf

Original Event: Investigation Activity (Pesticide) #4165  
Subject: Vertical Vegetation Management LLC  
Submitted By: Aaron P. Kreider  
PPLS Labels: [000100-01613-20201013.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01613-20201013.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/074530-00038-20140328.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/074530-00038-20140328.pdf)

**First Page of Lab Report**

OCM Collection #		186188	Investigator	KREIDERA		
Collection Date		08/03/2021				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ	
21-4-0632 1	Swab (Acetone); Grab; Telephone Pole; OFF-T, Front Yard	Swab (Acetone)	Azoxystrobin	23300 ng/swab * Estimated Amount	1 ng/swab	
			Benzovindiflupyr	5900 ng/swab	0.4 ng/swab	
			Propiconazole	19200 ng/swab	10 ng/swab	
21-4-0633 2	Swab (Acetone); Grab; Front Porch Window; OFF-T	Swab (Acetone)	Azoxystrobin	162 ng/swab	1 ng/swab	
			Benzovindiflupyr	31.3 ng/swab	0.4 ng/swab	
			Propiconazole	169 ng/swab	10 ng/swab	
21-4-0634 5	Swab (Acetone); Grab; Pool Rail; OFF-T, Back Yard	Swab (Acetone)	Azoxystrobin	5760 ng/swab	1 ng/swab	
			Benzovindiflupyr	280 ng/swab	0.4 ng/swab	
			Propiconazole	1190 ng/swab	10 ng/swab	
21-4-0635 0	Swab (Acetone); Grab; Playground Slide; OFF-T, Back Yard	Swab (Acetone)	Azoxystrobin	1500 ng/swab	1 ng/swab	
			Benzovindiflupyr	257 ng/swab	0.4 ng/swab	
			Propiconazole	694 ng/swab	10 ng/swab	

Original Event: Residue Lab Report #191657 (186188-R435)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 186188-R435.pdf

**11/22/2021 Wind Data Researched**

This weather data shows the conditions during Mr. Anderson's application. It confirms what was reported on the PII and that winds were blowing towards Mr. Martin's property during the application.

**Grissom Air Force Base (KGUS)**

Peru, Indiana (10.86 miles ENE of site)

**Time Temp (°F) Direction Speed (mph) Gust (mph)**

1:56 PM	76	NNW	8	0
2:56 PM	76	N	7	0
3:56 PM	77	N	9	0
4:56 PM	75	NNW	9	0

**Attachments**

File 83996; NOAA Data 7.30.21 (KGUS).pdf

Original Event: Wind Data #81  
 Submitted By: Aaron P. Kreider  
 Date of Weather: 07/30/2021

**11/22/2021 Investigation Activity****Label Use**

The Trivapro label states, "Applicators and other handlers must wear: Long-sleeved shirt and long pants." The Kendo Insecticide label states, "Applicators and other handlers must wear: Coveralls over short-sleeved shirt and short pants." The Trivapro label states, "AVOID SPRAY DRIFT."

Original Event: Investigation Activity (Pesticide) #4166  
 Submitted By: Aaron P. Kreider  
 PPLS Labels: [000100-01613-20201013.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01613-20201013.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000100-01613-20201013.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01613-20201013.pdf)  
[074530-00038-20140328.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/074530-00038-20140328.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/074530-00038-20140328.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/074530-00038-20140328.pdf)

**11/25/2021 Judgement; Civil Penalty Assessed**



### Citation

Vertical Vegetation Management LLC 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 and there were adverse effects by drifting onto items with which humans (especially children) normally come into contact.

### Citation

Vertical Vegetation Management LLC was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment for applicators and handlers.

### Civil Penalty

Klint W Anderson 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there were adverse effects by drifting onto items with which humans (especially children) normally come into contact.

### Civil Penalty

Klint W Anderson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment for applicators and handlers. 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 but there were no documented adverse effects. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact Mr. Anderson cooperated during the investigation and corrective action was taken.

Original Event:	Judgement #852
Primary:	Vertical Vegetation Management LLC
Secondary:	Klint W Anderson
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(2)
Penalty Amount:	1300

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#### 02/08/2022 Notice of Enforcement Mailed to Target

Original Event:	Outgoing Mail #964
To:	Klint W Anderson
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2601 8633
Enclosed:	Notice of Enforcement
Attachments:	File 86986; PS21-0289EL CP Mitigated ~ Klint W. Anderson - Vertical Vegetation Mgmt..docx

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#### 02/14/2022 Received Mail Confirmation for Target

Original Event:	Compliance Receipt #1375
Subject:	Klint W Anderson
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2601 8633
Received:	02/14/2022
Attachments:	File 88546; CM 7019 1640 0001 2601 8633 ~ PS21-0289.pdf

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#### 02/28/2022 Received Penalty Payment for Target

Original Event:	Compliance Receipt #1388
Subject:	Klint W Anderson
Submitted By:	Joni Herman
Payment Expected:	\$1,300.00
Payment Received:	\$1,300.00
Attachments:	File 91019; PS21-0289 Klint Anderson - Vertical Vegetation ~ CP Received.pdf

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### Chain of Custody

No electronic chain of custody found

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

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**In Re: Case PS21-0324**

Department	Pesticide
Originated	08/20/2021
Assigned To	Paul Jay Kelley
Status	Closed

**Involved Parties**

Complainant	<b>Paula Schindler</b> New Washington, IN 47162
Respondent	<b>Unknown</b>
-	<b>William Alston Powell</b> Falkville, AL 35622
Respondent	<b>Benjamin C Seal</b> Sunshine, LA 70780
Respondent	<b>Southern Helicopters Inc</b> Sunshine, LA 70780

**Overviews**

11/04/2021 **Investigation Summary**

Client alleges after aerial application to adjacent field fish in farm pond died.

OISC's Residue lab detected A. I. in Trivapro on vegetation around pond, deck chairs on deck, lamp fixtures on bridge accessing pond island.

OISC Residue Lab detected Trivapro in water and pond sediment.

Wind blowing toward property and pond.

label language states, " Do not apply when weather conditions favor drift to aquatic areas."

Submitted By: Paul Jay Kelley

Role: Investigator

Drift: Confirmed

11/10/2021 **Disposition Summary**

Southern Helicopters Inc was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by drifting pesticide to a pond, killing fish, and to areas with which humans normally come into contact. Consideration was given to the fact there was environmental harm and a potential for human harm.

Benjamin C. Seal was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by drifting pesticide to a pond, killing fish, and to areas with which humans normally come into contact. A \$1,000.00 civil penalty was assessed for this violation. Consideration was given to the fact there was environmental harm and a potential for human harm.

Submitted By: George Saxton

Role: Compliance Officer

**Chronology of Events**

**08/19/2021 Intake Referral Filed**

Complainant stated an aerial application made to an adjacent farm field killed fish and a turtle in her 3 acre pond.

Original Event: Intake Referral (Pesticide) #2181  
Complainant: Paula Schindler  
Respondent: Unknown  
Submitted By: Joseph D. Becovitz  
Assigned To: Paul Jay Kelley

---

**08/20/2021 Investigator Called Complainant Communication**

On August 20, 2021, I spoke with Paula Schindler. Mrs. Schindler stated after a helicopter application to an adjacent corn field her 3 acre pond had dead fish. Mrs. Schindler stated the count to this date is over 800 fish. Mrs. Schindler stated a representative from Helena Agri Co-op, Rob Krausher was familiar with the incident.

Original Event: Investigation Activity (Pesticide) #3722  
Subject: Paula Schindler  
Submitted By: Paul Jay Kelley

---

**08/20/2021 Investigator Called Target Records**

On August 20, 2021, I spoke with Rob Krausher from Helena Agri. Mr. Krausher forwarded me copies of the Blend Ticket and Use Report for the aerial application made by Will Powell of Xtreme Aviation. Both Mr. Powell and Xtreme Aviation are licensed and credentialed by OISC. The Use Report states Mr. Powell made an aerial application on August 2, 2021, between 3:25pm and 4:56pm using Trivapro fungicide (EPA Reg. #100-1613, active ingredient propiconazole). Wind was listed at out of the east, northeast at 6mph. Wind was blowing toward Mrs. Schindler's pond.

Original Event: Investigation Activity (Pesticide) #3723  
Subject: William Alston Powell  
Submitted By: Paul Jay Kelley  
Attachments: File 78226; Boundary+Map\_Brian+A+Baird\_2021-08-19311.pdf  
File 78227; Fw Labs list.msg.pdf  
File 78228; HELENA.msg.pdf  
File 78229; Scanned Document.pdf

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**08/20/2021 Case Created**

Original Event: Case PS21-0324  
Submitted By: Joseph D. Becovitz  
Assigned To: Paul Jay Kelley

---

**08/23/2021 Investigator Met with Complainant Photographs**

On August 23, 2021, I collected investigative samples from the Schindler property. I collected fish, sediment, soil, vegetation, and swabs. I photographed the site.

I observed the corn field that a pesticide application took place on the north and east side of the property. The corn field in some places was 20 yards from the pond. The pond was a murky rust color with limited visibility. I observed small fish, tadpoles, and frogs in the pond. The pond appeared to be fed by two (2) ground water areas from the corn field to the pond on the north and north west side.

**Screenshots**

Site Diagram showing locations of sample collection.

Original Event: Investigation Activity (Pesticide) #3725  
Subject: Paula Schindler  
Submitted By: Paul Jay Kelley  
Attachments: File 83172; Site Diagram.pdf  
Photos:



File 78374



File 78375



File 78376



File 78377



File 78378



File 78379



File 78380



File 78381



File 78382



File 78383



File 78384



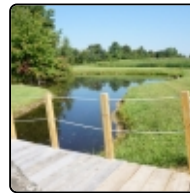
File 78385



File 78386



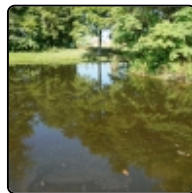
File 78387



File 78388



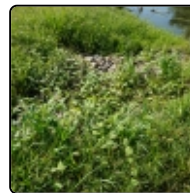
File 78389



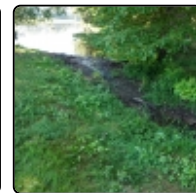
File 78390



File 78391



File 78392



File 78393

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08/23/2021 **Notice of Inspection Issued**

Original Event: Notice of Inspection #509  
Client: Paula Schindler  
Firm Representative: Paula Schindler  
Submitted By: Paul Jay Kelley  
Attachments: File 78396; noi.pdf

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08/23/2021 **Residue Samples Collected**

Original Event: Residue Collection #187493 (21-4-1452 1)  
Client: Paula Schindler  
Submitted By: Paul Jay Kelley  
Sample: 21-4-1452 1 | Fish; Comp; Pond; pond  
Sample: 21-4-1453 2 | Ground Water; Comp; Pond; pond  
Sample: 21-4-1454 5 | Sediment; Comp; W, pond  
Sample: 21-4-1455 0 | Sediment; Comp; E, pond  
Sample: 21-4-1456 6 | Soil; Grab; 0-2"; OFF-T  
Sample: 21-4-1457 8 | Soil; Grab; 0-2"; OFF-T  
Sample: 21-4-1458 4 | Veg; Comp; Target  
Sample: 21-4-1459 7 | Veg; Comp; OFF-T  
Sample: 21-4-1460 6 | Veg; Comp; OFF-T  
Sample: 21-4-1461 0 | Swab (Acetone); Trip Blank  
Sample: 21-4-1462 3 | Swab (Acetone); Grab; OFF-T  
Sample: 21-4-1463 4 | Swab (Acetone); Grab; OFF-T  
Sample: 21-4-1464 7 | Swab (Acetone); Grab; OFF-T  
Sample: 21-4-1465 2 | Veg; Ctrl; OFF-T

---

08/23/2021 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #529  
Submitted By: Paul Jay Kelley  
Target Analyte: TRIVAPRO FUNGICIDE  
PPLS Labels: [000100-01613-20201013.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01613-20201013.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000100-01613-20201013.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01613-20201013.pdf)

Attachments: File 79359; Kelley 187493.pdf  
File 78401; TRIVAPRO FUNGICIDE.pdf

09/01/2021 **Investigator Received Fax/Email from Target Records**

On September 1, 2021, I received the "As Applied" records from Will Powell of Extreme Aviation. Mr. Powell stated he hired Ben Seal of Southern Helicopter Inc. to make the August 2, 2021, application near the Schindler's pond.

Original Event: Investigation Activity (Pesticide) #3773  
Subject: Benjamin C Seal  
Submitted By: Paul Jay Kelley  
Attachments: File 79371; 2605665 unclipped Fish.pdf

09/01/2021 **Investigator Received Fax/Email from Target Activity**

Contracted helicopter company that made the application near the Schindler property.

Original Event: Investigation Activity (Pesticide) #3774  
Subject: Southern Helicopters Inc  
Submitted By: Paul Jay Kelley

09/01/2021 **New Respondent Identified**

Original Event: Investigation Change #105  
Respondent: Benjamin C Seal  
Submitted By: Paul Jay Kelley

10/19/2021 **Received Residue Lab Report First Page of Lab Report**

Page 67 of 68 Report

OCM Collection #	187493	Investigator	KELLEYJ		
Collection Date	08/23/2021				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
21-4-1452 1	Fish; Comp; Pond; pond	Fish	No Analysis Performed	Done	
21-4-1453 2	Ground Water; Comp; Pond; pond	Ground Water	Azoxystrobin	0.0330 ppb	0.005 ppb
			Benzovindiflupyr	BQL ppb	0.002 ppb
			Propiconazole	BDL ppb	0.05 ppb
21-4-1454 5	Sediment; Comp; W, pond	Sediment	Azoxystrobin	0.147 ppb	0.07 ppb
			Benzovindiflupyr	BQL ppb	0.1 ppb
			Propiconazole	BDL ppb	3 ppb
21-4-1455 0	Sediment; Comp; E, pond	Sediment	Azoxystrobin	0.505 ppb	0.07 ppb
			Benzovindiflupyr	0.357 ppb	0.1 ppb
			Propiconazole	BDL ppb	3 ppb

Original Event: Residue Lab Report #192649 (187493-R454)  
Submitted By: SYSTEM  
Lab Report: Lab Report 187493-R454.pdf

11/04/2021 **Investigation Activity Activity**

Label language for Trivapro states in part for aerial applications, " Do not apply when weather conditions favor drift to aquatic areas."

Original Event: Investigation Activity (Pesticide) #4061  
Subject: Benjamin C Seal  
Submitted By: Paul Jay Kelley

11/10/2021 **Judgement; Civil Penalty Assessed Citation**

Southern Helicopters Inc was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by drifting pesticide to a pond, killing fish, and to areas with which humans normally come into contact. Consideration was given to the fact there was environmental harm and a potential for human harm.



## Civil Penalty

Benjamin C. Seal was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and/or negligent manner by drifting pesticide to a pond, killing fish, and to areas with which humans normally come into contact. A \$1,000.00 civil penalty was assessed for this violation. Consideration was given to the fact there was environmental harm and a potential for human harm.

Original Event:	Judgement #826
Primary:	Southern Helicopters Inc
Secondary:	Benjamin C Seal
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(5)
Penalty Amount:	1000

---

### 12/14/2021 Notice of Enforcement Mailed to Target

Original Event:	Outgoing Mail #940
To:	Southern Helicopters Inc
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2601 9890
Enclosed:	Notice of Enforcement
Attachments:	File 84912; PS21-0324EL CP ~ Southern Helicopters, Inc. - Benjamin C. Seal.docx

---

### 01/19/2022 Compliance Activity

Benjamin Seal called and stated it appears that his civil penalty letter was late getting to him. He requested a thirty (30) day extension to make the payment. Extension was granted until February 19, 2022.

Original Event:	Compliance Activity #1137
Primary:	Benjamin C Seal
Submitted By:	George Saxton

---

### 01/31/2022 Received Penalty Payment for Target

Original Event:	Compliance Receipt #1362
Subject:	Benjamin C Seal
Submitted By:	Joni Herman
Payment Expected:	\$1,000.00
Payment Received:	\$1,000.00
Attachments:	File 87185; PS21-0324 ~ Southern Helicopters - Benjamin Seal ~ CP Received.pdf

---

### 03/03/2022 Received Mail Confirmation for Target

As of 3/3/2022, no CM green card was returned to OISC. Per USPS Tracking, the Certified Mail was delivered on 12/23/2021. No green card was returned to OISC. The civil penalty payment was received on 1/31/2022. The case was closed.

Original Event:	Compliance Receipt #1384
Subject:	Southern Helicopters Inc
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2601 9890
Received:	12/23/2021
Attachments:	File 88598; CM 7019 1640 0001 2601 9890 ~ PS21-0324 ~ Delivered 12-23-2021 Per USPS Tracking ~ No CM Card Returned.pdf

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## Chain of Custody

No electronic chain of custody found

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

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**In Re: Case PS21-0330**

Department	Pesticide
Originated	08/25/2021
Assigned To	William R. Reid
Status	Closed

**Involved Parties**

Complainant	<b>Anonymous</b>
Respondent Issued To	<b>Nathan J Donaghy</b> Bluffton, IN 46714
Respondent	<b>Turning Point Lawncare &amp; Snow Removal</b> Bluffton, IN 46714

**Overviews**

08/31/2021 **Investigation Summary**

Nathan Donaghy owner of Turning Point Lawn Care has passed his core, but didn't pass his 3b and therefore is not licensed properly to make applications. He has been applying fertilizer, pesticides and herbicides for hire in the Bluffton area. Nathan was cooperative during the investigation. He produced invoices that had a total of 16 applications that occurred on 13 different days. The dates of applications made by Nathan Donaghy were on 3/27, 4/7, 4/18, 4/23, 4/30, 5/8, 5/14, 5/27, 6/1, 6/8, 6/24, 7/12, 7/31 all in 2021. He also had some advertisement yard signs out in the area that has been taken down that were advertising his application services. Nathan is aware that he can not make applications until licensed and I gave him an action order stating the same.

Submitted By: William R. Reid  
Role: Investigator

11/09/2021 **Disposition Summary**

Turning Point Lawn Care 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.

Nathan J. Donaghy 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 \$1,000.00 was assessed for this violation.

\$750.00 was held in abeyance and will not be assessed provided Nathan J. Donaghy 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 notice.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

08/25/2021 **Intake Referral Filed**

Anonymous complainant stated Turning Point Lawn Care owned by Nathan Donaghy, makes fertilizer and herbicide applications to lawns without a license.

Original Event: Intake Referral (Pesticide) #2187  
Complainant: Anonymous  
Respondent: Nathan J Donaghy  
Submitted By: Joseph D. Becovitz  
Assigned To: William R. Reid

08/25/2021 **Case Created**

08/30/2021 **Investigator Met with Business Communication**

I stopped by Velocity Motors and talked with Steve Feasel the owner of Velocity motors and he produced an invoice that had round-up use on Turning Point's invoice form. I then stopped by Nathan's business address and talked with his wife who answered the door about the investigation. In his front yard was a sign that advertised "Lawn Care Yard Applications" and his contact information. I left a NOI for Nathan and then called and left a message for him to call me back. Nathan called me back later in the day and he admitted to not being fully licensed and that he made some applications. He told me the applications and then stated he would send me the invoices later when he gets back. He informed me over the phone that he treated at the YMCA in Bluffton and at the Velocity Motors. I was informed by another lawn company that he already serviced the YMCA and I had already stopped there and talked with the Maintenance contact Trent Fiedler. The YMCA had a couple more of the yard signs that Nathan was advertising "Lawn Care Yard Applications". Trent Fiedler couldn't produce any records that showed applications, but stated that he would continue looking.

**Records**

The owner of Velocity Motors produced this invoice from Turning Point and it had the use of round-up on it as a service provided.

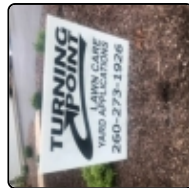
**Photographs**

Turning Point advertisement signs noted that were found in the front yard of his business location and at the YMCA in Bluffton, IN.

**Attachments**



File 79265



File 79266

File 79268; Turning Point invoice found at Velocity.pdf

Original Event:	Investigation Activity (Pesticide) #3764
Subject:	Nathan J Donaghy
Submitted By:	William R. Reid

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08/30/2021 **Notice of Inspection Issued**

I left a NOI for Nathan Donaghy at his business location.

Original Event:	Notice of Inspection #524
Client:	Nathan J Donaghy
Firm Representative:	Nathan Donaghy
Submitted By:	William R. Reid
Attachments:	File 79269; NOI for Turning POINT.pdf

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08/31/2021 **Investigator Received Fax/Email from Business Records**

Nathan sent me an email with all the application invoices he has made. There were a total of 16 total applications and 13 days of making applications.

**Attachments**

File 79278; Turning Point Lawn Care Invoice 10.pdf  
File 79279; Turning Point Lawn Care Invoice 11.pdf  
File 79280; Turning Point Lawn Care Invoice 12.pdf  
File 79270; Turning Point Lawn Care Invoice 2.pdf  
File 79271; Turning Point Lawn Care Invoice 3.pdf  
File 79272; Turning Point Lawn Care Invoice 4.pdf  
File 79273; Turning Point Lawn Care Invoice 5.pdf  
File 79274; Turning Point Lawn Care Invoice 6.pdf  
File 79275; Turning Point Lawn Care Invoice 7.pdf  
File 79276; Turning Point Lawn Care Invoice 8.pdf  
File 79277; Turning Point Lawn Care Invoice 9.pdf  
File 79281; Turning Point Lawn Care Invoice.pdf

Original Event:	Investigation Activity (Pesticide) #3765
Subject:	Nathan J Donaghy
Submitted By:	William R. Reid

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08/31/2021 **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 #215
Issued To:	Nathan J Donaghy
Firm Representative:	Nathan Donaghy
Submitted By:	William R. Reid
Attachments:	File 79285; action order Nathan Donaghy . .pdf

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11/09/2021 **Judgement; Civil Penalty Assessed**

**Citation**

Turning Point Lawn Care 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.

**Civil Penalty**

Nathan J. Donaghy 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 \$1,000.00 was assessed for this violation.

Original Event:	Judgement #822
Primary:	Turning Point Lawncare & Snow Removal
Secondary:	Nathan J Donaghy
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(9)
Penalty Amount:	1000

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12/09/2021 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #934
To:	Turning Point Lawncare & Snow Removal
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2602 0940
Enclosed:	Notice of Enforcement
Attachments:	File 84906; PS21-0330EL CP ~ Turning Point Lawncare & Snow Removal - Nathan J. Donaghy.docx

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12/16/2021 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #1318
Subject:	Turning Point Lawncare & Snow Removal
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2602 0940
Received:	12/16/2021
Attachments:	File 86191; CM 7019 1640 0001 2602 0940 ~ Turning Point Lawncare.pdf

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12/22/2021 **Informal Review Occurred**

On December 22, 2021, Nathan J. Donaghy called requesting the civil penalty be reduced since he fully cooperated with the investigation. It was decided the civil penalty would be fully assessed but \$750.00 would be held in abeyance for a period of two (2) years.

Original Event:	Compliance Activity #1113
Primary:	Nathan J Donaghy
Submitted By:	George Saxton
Stage:	Informal Review

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12/22/2021 **Amended Judgement; Civil Penalty Assessed**

**Citation**

Turning Point Lawn Care 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.

**Civil Penalty**

Nathan J. Donaghy 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 \$1,000.00 was assessed for this violation.

**Abeyance**

\$750.00 was held in abeyance and will not be assessed provided Nathan J. Donaghy 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 notice.

Original Event:	Judgement #865
Primary:	Turning Point Lawncare & Snow Removal
Secondary:	Nathan J Donaghy
Submitted By:	George Saxton
Level:	Informal Review
Legal Citation:	IC 15-16-5-65(9)
Penalty Amount:	1000

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02/09/2022 **Notice of Amended Enforcement Mailed to Target**

Original Event:	Outgoing Mail #968
To:	Nathan J Donaghy
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2427 0040
Enclosed:	Notice of Amended Enforcement
Attachments:	File 87046; PS21-0330EL CP-Partial Abeyance ~ Turning Point Lawncare & Snow Removal - Nathan J. Donaghy.docx

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02/14/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1378  
Subject: Nathan J Donaghy  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2427 0040  
Received: 02/14/2022  
Attachments: File 88549; CM 7019 1640 0001 2427 0040 ~ PS21-0330.pdf

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02/24/2022 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #1386  
Subject: Turning Point Lawncare & Snow Removal  
Submitted By: Joni Herman  
Payment Expected: \$250.00  
Payment Received: \$250.00  
Attachments: File 91016; PS21-0330 Nathan Donaghy - Turning Point LC ~ CP Received.pdf

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**Chain of Custody**

No electronic chain of custody found

<p>This record was generated on <b>April 28, 2022, 11:58 AM EDT</b>. 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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Office of  
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*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 8, 2022, 07:20 AM EST**. Information displayed may contain errors or omissions.  
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**In Re: Case PS21-0342**

Department	Pesticide
Originated	09/04/2021
Assigned To	Kevin W. Gibson
Status	Closed

**Involved Parties**

Complainant	<b>Earthpros LLC</b> Flora, IN 46929
Complainant	<b>Jay E Martin</b> Flora, IN 46929
Respondent	<b>Andersons Agriculture Group LP</b> North Manchester, IN 46962
Respondent	<b>Christopher Alan Haupert</b> North Manchester, IN 46962

**Overviews**

09/23/2021 **Investigation Summary**

Complainant and hemp grower Jay Martin stated an application of an insecticide was made to an adjacent hayfield which drifted onto his hemp crop. In addition, he stated when the application was made on September 1st, the wind was blowing toward the hemp field at 13 miles per hour. He said he was concerned the hemp would be contaminated and therefore unusable as a crop.

I met with the hemp field owner Anthony Burton. I took photographs of the hemp field and the hayfield. I did not obtain environmental samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDL) since there were no visible signs of pesticide exposure. I did obtain environmental samples for submission to the OISC Residue Lab for analysis.

I learned The Andersons, Inc. made the application to the adjacent hayfield. I received a completed Pesticide Investigation Inquiry (PII) from licensed applicator Chris Haupert. He applied Lambda T2 (EPA #100-129-5905; active ingredient: lambda-cyhalothrin) on 9/1/21 between 9:22am and 10:00am while the wind was blowing 9-11 mph from the northeast in a southwesterly direction toward the complainant's hemp field.

Weather data from the National Oceanic and Atmospheric Administration (NOAA) confirmed wind was blowing toward the complainant's hemp field at the time of the pesticide application.

Results from OISC Residue Lab analysis indicated environmental samples were positive for the pesticide Lambda T2 applied by licensed applicator Chris Haupert. Analysis results indicated a drift pattern across the hemp field. I spoke to complainant Jay Martin. I advised him of the residue analysis results. He told me because of the analysis results, the hemp was unusable.

I checked the label for Lambda T-2 (EPA #100-1295-5905; active ingredient: lambda cyhalothrin). I could find no label language violation(s) for its use in this investigation. However, because the active ingredient for Lambda T-2 was found in the hemp, there was harm from the drift onto the hemp field.

Submitted By: Kevin W. Gibson  
Role: Investigator  
Drift: Confirmed

11/11/2021 **Disposition Summary**

Andersons Agriculture Group LP 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 that caused an adverse effect.

Christopher Alan Hauptert 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved that caused an adverse effect.

Submitted By: George Saxton  
Role: Compliance Officer

## Chronology of Events

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### 09/03/2021 Intake Referral Filed

Complainant stated an application of insecticide applied to an adjacent hayfield drifted onto his hemp crop. In addition, the complainant stated the application was made on September 1, 2021, when the wind was from the northeast at 13 miles per hour.

Original Event: Intake Referral (Pesticide) #2200  
Complainant: Earthpros LLC  
Respondent: Unknown  
Submitted By: Joseph D. Becovitz  
Assigned To: Kevin W. Gibson

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### 09/04/2021 Case Created

Original Event: Case PS21-0342  
Submitted By: Joseph D. Becovitz  
Assigned To: Kevin W. Gibson

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### 09/07/2021 Investigator Called Complainant Interaction

Spoke to complainant Jay Martin. He told me he has a hemp field located in Peru Indiana. There is a hay field located next to his hemp field. He told me on 9/1/21 a pesticide application of an insecticide was made to the hayfield while the wind was blowing from the north-northeast across his hemp field. Now he believes his hemp is contaminated and unusable. We set an appointment for 9/8/21 for a site visit and investigation.

Original Event: Investigation Activity (Pesticide) #3794  
Subject: Jay E Martin  
Submitted By: Kevin W. Gibson

---

### 09/08/2021 Investigator Called Business Interaction

I learned "The Andersons" made a pesticide application to the hayfield in question in this case. I spoke to The Andersons representative Matt Shafer. Mr. Shafer confirmed the pesticide application made to the hay field. He told me product used for the application was Lambda T2 insecticide on 9/1/21. He sent me the application records via email. According to the application records, applicator Chris Hauptert checked "Drift Watch" the day before the application was made (8/31/21) and reported "nothing in the area". A search of the product database indicated the information as Lambda T2 (EPA #100-1295-5905; active ingredient: lambda-cyhalothrin).

Original Event: Investigation Activity (Pesticide) #3795  
Subject: Andersons Agriculture Group LP  
Submitted By: Kevin W. Gibson  
Attachments: File 79930; Andersons application record.pdf

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### 09/08/2021 Investigator Met with Complainant Interaction

I met with hemp land owner Anthony Burton at the investigation site. He told me the pesticide application was made to the neighboring hay field on 9/1/21. I took photographs of the hay field and the hemp field. I was aware an insecticide (Lambda T2) application was made to the hay field on 9/1/21 therefore I did not obtain any samples for Purdue Plant and Pest Diagnostic Lab (PPDL) because I did not observe and "insecticide" symptoms on the hemp plants. I obtained hemp samples and hay samples for submission to the OISC Residue Lab for analysis.

#### Photographs

I took photographs of the hay field and hemp field.

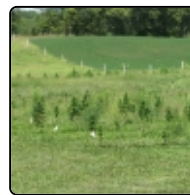
Original Event: Investigation Activity (Pesticide) #3796  
Subject: Jay E Martin  
Submitted By: Kevin W. Gibson  
Attachments: File 79931; Satellite image of sampling.png  
Photos:



File 79948



File 79949



File 79941



File 79942



File 79943



File 79944



File 79945



File 79946



File 79947

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09/08/2021 **Residue Samples Collected**

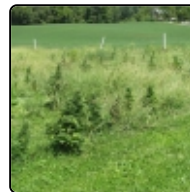
Original Event: Residue Collection #189073 (21-4-0333 9)  
Client: Jay E Martin  
Submitted By: Kevin W. Gibson  
Sample: 21-4-0333 9 | Veg: Comp; OFF-T, Grad1, 40yd W  
Sample: 21-4-0334 1 | Veg: Comp; OFF-T, Grad2, 30yd W  
Sample: 21-4-0335 6 | Veg: Comp; OFF-T, Grad3, 20yd W  
Sample: 21-4-0336 0 | Veg: Comp; OFF-T, Grad4, 10yd W  
Sample: 21-4-0337 3 | Veg: Comp; OFF-T, 10yd E  
Photos:



File 79954



File 79950



File 79952



File 79951



File 79953

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09/09/2021 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #543  
Submitted By: Kevin W. Gibson  
Target Analyte: Lambda T2  
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](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01295-20141113.pdf)

Attachments: File 79955; Andersons application record.pdf  
File 84876; PS21-0342.pdf

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09/22/2021 **Received Residue Lab Report  
Investigatory Summary**

Lab analysis indicated all samples were positive for Lambda T-2 (active ingredient: cyhalothrin) in a drift pattern.

**First Page of Lab Report**

Page 37 of 438 Report

OCM Collection #	189073	Investigator	GIBSONK		
Collection Date	09/08/2021				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
21-4-0333 9	Veg; Comp; OFF-T, Grad1, 40yd W	Veg	Cyhalothrin	3.28 ppb	0.5 ppb
21-4-0334 1	Veg; Comp; OFF-T, Grad2, 30yd W	Veg	Cyhalothrin	2.06 ppb	0.5 ppb
21-4-0335 6	Veg; Comp; OFF-T, Grad3, 20yd W	Veg	Cyhalothrin	4.51 ppb	0.5 ppb
21-4-0336 0	Veg; Comp; OFF-T, Grad4, 10yd W	Veg	Cyhalothrin	13.1 ppb	0.5 ppb
21-4-0337 3	Veg; Comp; OFF-T, 10yd E	Veg	Cyhalothrin	785 ppb	0.5 ppb

Original Event: Residue Lab Report #190545 (189073-R428)  
Submitted By: SYSTEM  
Lab Report: Lab Report 189073-R428.pdf

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**09/23/2021 Wind Data Researched**

Wind was blowing at 16 mph from the northeast in a westerly direction toward the complainant's hemp field at the time of application.

**Grisson Air Force Base**

*Peru, Indiana (14 miles N of site)*

**Time Temp (°F) Direction Speed (mph)**

9:29am	70	NE	16
9:59am	71	NE	16

Original Event: Wind Data #50  
Submitted By: Kevin W. Gibson  
Date of Weather: 09/01/2021  
Attachments: File 81153; Weather (Peru).pdf

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**11/11/2021 Judgement; Civil Penalty Assessed Citation**

Andersons Agriculture Group LP 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 that caused an adverse effect.

**Civil Penalty**

Christopher Alan Hauptert 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved that caused an adverse effect.

Original Event: Judgement #833  
Primary: Andersons Agriculture Group LP  
Secondary: Christopher Alan Hauptert  
Submitted By: George Saxton  
Legal Citation: 357 IAC 1-12-2  
Penalty Amount: 1000

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**12/06/2021 Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1309  
Subject: Andersons Agriculture Group LP  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2602 0896  
Received: 12/06/2021  
Attachments: File 86181; CM 7019 1640 0001 2602 0896 ~ Andersons Agriculture.pdf

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**12/08/2021 Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #929  
To: Andersons Agriculture Group LP  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2602 0896  
Enclosed: Notice of Enforcement  
Attachments: File 84901; PS21-0342EL CP ~ Andersons Ag Group - Christopher A. Hauptert.docx

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01/24/2022 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #1358
Subject:	Andersons Agriculture Group LP
Submitted By:	Joni Herman
Payment Expected:	\$1,000.00
Payment Received:	\$1,000.00
Attachments:	File 87181; PS21-0342 ~ Andersons Agriculture Grp ~ CP Received.pdf

### Chain of Custody

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No electronic chain of custody found

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

This record was generated on **March 8, 2022, 07:21 AM EST**. Information displayed may contain errors or omissions.  
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**In Re: Case PS21-0353**

Department	Pesticide
Originated	09/09/2021
Assigned To	James M. Trimble
Status	Closed

**Involved Parties**

Respondent	<b>Trugreen LP-GWD</b> Greenwood, IN 46143
Complainant	<b>Office of Indiana State Chemist</b>
Issued To	<b>Cole E Burton</b> Greenwood, IN 46143
Supervisor	<b>Clint Gilmore</b> Franklin, IN 46131
Applicator	<b>Daniel A Gilbreath</b> Greenwood, IN 46143

**Overviews**

09/16/2021 **Investigation Summary**

On September 8, 2021, I found Mr. Burton and Mr. Gilbreath making a lawn care application to 1107 Barberry Dr., Greenwood, IN, while not wearing proper PPE.

I later determined that Mr. Gilbreath was a RT and that Mr. Burton was making the application as a non-credentialed user without meeting the direct supervision requirements.

Submitted By: James M. Trimble  
Role: Investigator

11/11/2021 **Disposition Summary**

Trugreen LP-GWD was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to a non-certified individual. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact this was Trugreen LP-GWD's third violation of similar nature. See case numbers PS19-0151 and PS19-0316.

Clint Gilmore was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to a non-certified individual.

Trugreen LP-GWD was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

09/08/2021 **General Inspection Conducted**

## Credentials Inspection

I observed two applicators, later identified as Daniel Gilbreath & Cole Burton, make a liquid pesticide application to 1107 Barberry Dr., Greenwood, IN. I found that Mr. Gilbreath was a Registered Technician and Mr. Burton was a non-credentialed user. I advised Mr. Burton that he could not make pesticide applications without having a RT credential or meet the direct supervision requirements. An Action Order was issued to Mr. Burton.

Original Event: Pesticide Inspection (General) #1716  
Client: Trugreen LP-GWD  
Firm Representative: Daniel Gilbreath  
Submitted By: James M. Trimble

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### 09/08/2021 Notice of Inspection Issued

Original Event: Notice of Inspection #536  
Client: Trugreen LP-GWD  
Firm Representative: Daniel Gilbreath  
Submitted By: James M. Trimble  
Attachments: File 79957; TruGreen-Gilbreath.pdf

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### 09/08/2021 Intake Referral Filed

I observed two applicators, later identified as Daniel Gilbreath & Cole Burton, make a liquid pesticide application to 1107 Barberry Dr., Greenwood, IN. I found that Mr. Gilbreath was a Registered Technician and Mr. Burton was a non-credentialed user. I advised Mr. Burton that he could not make pesticide applications without having a RT credential or meet the direct supervision requirements. An Action Order was issued to Mr. Burton.

Original Event: Intake Referral (Pesticide) #2211  
Complainant: Office of Indiana State Chemist  
Respondent: Trugreen LP-GWD  
Entered By: James M. Trimble  
Submitted By: George Saxton

---

### 09/08/2021 Action Order Issued

Stop pesticide or fertilizer applications for hire until you obtain a Registered Technician (RT) credential from OISC.

Stop pesticide or fertilizer applications for hire until the indicated direct supervision requirements have been met.

Original Event: Action Order #218  
Issued To: Cole E Burton  
Firm Representative: Cole Burton  
Submitted By: James M. Trimble  
Attachments: File 79958; TruGreen-BurtonAO.pdf

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### 09/08/2021 Investigator Met with Applicator Interaction

On September 8, 2021, while performing routine inspections, I located a white truck with the name "TruGreen" affixed to its side, parked near 1107 Barberry Dr., Greenwood, IN. I observed a male, later identified as Cole Burton, applying a liquid substance with a hand sprayer attached to the above truck, via hose, to the above property's lawn. I also observed another male, later identified as Daniel Gilbreath, applying a liquid substance with a hand-held portable tank sprayer to the same property's lawn & landscape beds. I observed Mr. Burton to be wearing a short-sleeved shirt and Mr. Gilbreath to be wearing a long-sleeved shirt but with the sleeves pushed up to his elbows.

I then approached Mr. Gilbreath and identified myself as a Pesticide Investigator with the Office of Indiana State Chemist (OISC) and showed him my credential. I asked Mr. Gilbreath for his OISC applicator's credential, which he retrieved his phone and showed me a picture of his credential that identified him as a valid Registered Technician. Mr. Gilbreath stated that he believed he was applying a mixture of "Talstar" and "Dismiss". Mr. Gilbreath showed me his binder that had the Site Assessment Fact Sheet (SAFS) and the labels of the pesticides he believed he was applying. Mr. Gilbreath and the SAFS identified Clint Gilmore as his supervisor.

I then asked Mr. Gilbreath if Mr. Burton had his applicator's credential, which he stated that Mr. Burton was in training and was a non-certified user. Mr. Burton stated that he had been employed by TruGreen for approximately two weeks and was scheduled to take the CORE exam on the next day. I advised Mr. Gilbreath and Mr. Burton that only a on-site, fully certified applicator, not a RT, could supervise the use of pesticides or fertilizers by a non-certified user. Mr. Gilbreath stated that he had made the decision on his own to allow Mr. Burton to help with the lawn applications and that TruGreen had not instructed him or Mr. Burton to help. Mr. Burton and Mr. Gilbreath stated they were unaware of the Indiana Supervision rule.

Mr. Gilbreath was instructed to complete his last application for the day but to keep Mr. Burton in the truck and to properly wear his long-sleeved shirt.

Original Event: Investigation Activity (Pesticide) #3801  
Subject: Trugreen LP-GWD  
Submitted By: James M. Trimble

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### 09/08/2021 Investigator Met with Business

## Communication

After leaving 1107 Barberry Dr., I met with Mr. Gilmore to discuss the incident with Mr. Burton and Mr. Gilbreath. Mr. Gilmore stated that he had instructed Mr. Burton to only ride in the truck and observe while with Mr. Gilbreath or any other RT. Mr. Gilmore stated that their non-certified employees only help with pesticide and/or fertilizer applications when they are partnered with fully certified applicators. Mr. Gilmore was also advised of the missing or improperly worn PPE.

Original Event: Investigation Activity (Pesticide) #3802  
Subject: Clint Gilmore  
Submitted By: James M. Trimble

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### 09/09/2021 Investigator Sent Fax/Email to Applicator

#### Records

On September 9, 2021, I emailed Mr. Gilmore with a request for him to send me the application record for Mr. Gilbreath and Mr. Burton's application to 1107 Barberry Dr. Shortly thereafter, Mr. Gilmore sent me the requested documents.

Using the application records I received from Mr. Gilmore of TruGreen's application on September 8, 2021, to 1107 Barberry Dr., I found the following:

Mr. Gilbreath had applied the following mixture of herbicides while being a Registered Technician,

- **TruPower 3 (EPA Reg. #228-551, active ingredients of 2,4-D, Mecoprop-P, & Dicamba)**
- **Dismiss (EPA Reg. #279-3295, active ingredient of Sulfentrazone)**
- **Drive XLR8 (EPA Reg. #7969-272, active ingredient of Quinclorac)**

Mr. Burton had applied the following mixture of herbicide and fertilizer while being a non-certified user,

- **Talstar Professional (EPA Reg. #279-3206, active ingredient of Bifenthrin)**
- **17-0-5 Fertilizer**

Original Event: Investigation Activity (Pesticide) #3804  
Subject: Clint Gilmore  
Submitted By: James M. Trimble  
Attachments: File 79987; 9-9email.pdf  
File 79990; 9-9email.pdf  
File 79988; Dismiss.pdf  
File 79986; DRIVE XLR8 HERBICIDE.pdf  
File 79989; Talstar.pdf  
File 79985; TRUPOWER 3.pdf

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### 09/09/2021 Case Created

Original Event: Case PS21-0353  
Submitted By: George Saxton  
Assigned To: James M. Trimble

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### 09/10/2021 Online Investigation Activity Label Use

I found Mr. Burton in violation of the following label's PPE requirements by not wearing a long-sleeved shirt,

**Talstar-***"All pesticide handlers (mixers, loaders and applicators) must wear longsleeved shirt and long pants, socks, shoes and chemical-resistant gloves"*

I found Mr. Gilbreath in violation of the following label's PPE requirements by improperly wearing a long-sleeved shirt,

**TruPower 3-***"All mixers, loaders, applicators and other handlers must wear: Long-sleeved shirt and long pants"*

**Dismiss-***"Applicators and other handlers must wear: long-sleeved shirt and long pants, waterproof gloves, and shoes plus socks"*

**Drive XLR8-***"Applicators and other handler must wear: Long-sleeved shirt and long pants"*

Original Event: Investigation Activity (Pesticide) #3805  
Subject: Daniel A Gilbreath  
Submitted By: James M. Trimble  
PPLS Labels: [000228-00551-20160422.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000228-00551-20160422.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000228-00551-20160422.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000228-00551-20160422.pdf)  
[000279-03206-20161005.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000279-03206-20161005.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000279-03206-20161005.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000279-03206-20161005.pdf)  
[000279-03295-20160623.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000279-03295-20160623.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000279-03295-20160623.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000279-03295-20160623.pdf)  
[007969-00272-20191101.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00272-20191101.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/007969-00272-20191101.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00272-20191101.pdf)

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09/10/2021 **Investigator Met with Applicator Activity**

I found Mr. Burton's for-hire application on September 8, 2021, to 1107 Barberry Dr., with the mixture of the pesticide "Tacstar" and 17-0-5 fertilizer while being a non-certified user was in violation because he was not a Registered Technician and/or was not under direct supervision of a certified applicator at the time of application I had witnessed.

On September 13, 2021, Mr. Burton was issued his Registered Technician credential from OISC.

Original Event: Investigation Activity (Pesticide) #3806  
Subject: Cole E Burton  
Submitted By: James M. Trimble

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11/11/2021 **Judgement; Civil Penalty Assessed**

**Citation**

Clint Gilmore was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to a non-certified individual.

**Citation**

Trugreen LP-GWD was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual.

**Civil Penalty**

Trugreen LP-GWD was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to a non-certified individual. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact this was Trugreen LP-GWD's third violation of similar nature. See case numbers PS19-0151 and PS19-0316.

Original Event: Judgement #831  
Primary: Trugreen LP-GWD  
Secondary: Clint Gilmore  
Submitted By: George Saxton  
Legal Citations: 355 IAC 4-2-5; 355 IAC 4-2-3  
Penalty Amount: 1000

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12/15/2021 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #945  
To: Trugreen LP-GWD  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2601 8688  
Enclosed: Notice of Enforcement  
Attachments: File 84917; PS21-0353EL CP ~ Trugreen LP-GWD - Clint Gilmore.docx

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12/20/2021 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1317  
Subject: Trugreen LP-GWD  
Submitted By: Joni Herman  
USPS: 7019 1640 0001 2601 8688  
Received: 12/20/2021  
Attachments: File 86190; CM 7019 1640 0001 2601 8688 ~ Trugreen.pdf

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01/26/2022 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #1361  
Subject: Trugreen LP-GWD  
Submitted By: Joni Herman  
Payment Expected: \$1,000.00  
Payment Received: \$1,000.00  
Attachments: File 87184; PS21-0353 ~ Trugreen ~ CP Received.pdf

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**Chain of Custody**

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No electronic chain of custody found

This record was generated on **March 8, 2022, 07:21 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.