

A Summary of Cases

February 8, 2023, IPRB Meeting

- PS21-0120 On July 26, 2020, I completed the label review for Purgenex Surface Cleaning Wipes. Through the review I identified pesticidal claims on the label and labeling. Since there are pesticidal claims, the product is required to be either registered with Indiana and EPA as a Section 3 pesticide product or is exempt from registration with EPA but not Indiana as a 25(b) Minimum Risk pesticide product. The review has identified the product as an unregistered Section 3 product.

Disposition Summary

This case was forwarded to the United States Environmental Protection Agency for their review.

- PS21-0337 Complainant stated employees of Seasons Landscaping were directed to spray Killzall Super Concentrate II around the small ponds in Pine Island.

Disposition Summary

Season's Landscape Specialties, Inc was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to apply pesticides or products regulated by the Office of Indiana State Chemist without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for this violation.

- PS21-0368 As is, the product is non-compliant as a 25(b) because the ingredients used are not acceptable in a 25(b) pesticide product. Therefore, the product must either be registered with the EPA as a Section 3 pesticide or claims must be revised.

Disposition Summary

Telesis Animal Health, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.

Telesis Animal Health, Inc. was warned for violation of section 57(4) of the Indiana Pesticide Registration Law for distributing a pesticide product with incomplete or illegible label or in a container other than manufacturer's immediate, unbroken, and approved or authorized container.

Telesis Animal Health, Inc. was warned for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that is adulterated or misbranded.

Telesis Animal Health, Inc. was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$1,000.00 was assessed for this violation.

PS22-0074 Herbal Horse Fly Repellent Face and Body Wipes does not comply with FIFRA 25(b) Conditions as outlined in 40CFR. Therefore, this product must be registered with EPA. Registrant was aware that this product was not registered in the state of Indiana. The registrant was also aware of the identified needs in order to submit a successful application.

Disposition Summary

Esprey Animal Products Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Esprey Animal Products Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated or misbranded. A civil penalty in the amount of \$500.00 was assessed for this violation.

Esprey Animal Products Inc. was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that was in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$1,000.00 was assessed for this violation.

However, \$1,000.00 of the civil penalty will be held in abeyance and will not be assessed provided Esprey Animal Products Inc removes products from Indiana marketplace; blocks sales on online distribution sites and provides confirmation to the Office of Indiana State Chemist within 60 days of receipt of this notice.

Tractor Supply was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana.

PS22-0104 Ethan Storm was stopped on a routine inspection. He was out making applications and was not licensed. His company (MOXIE) he was working for is also not licensed properly with OISC. An Action Order was issued to Ethan Storm and his supervisors were notified. The action order also noted MOXIE pest control to stop advertising, making applications in Indiana until licensed with OISC.

Disposition Summary

Moxie Pest Control Indianapolis LLC and Garrett Davis were warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for neglecting to properly supervise a non-credentialed employee.

Moxie Pest Control Indianapolis LLC was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355

IAC 4-2-3, for refusing to properly supervise a non-credentialed employee after an Action Order was issued prohibiting such activity.

Garrett Davis was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for refusing to properly supervise a non-credentialed employee after an Action Order was issued prohibiting such activity. A civil penalty in the amount of \$3,000.00 (3 counts x \$1,000.00 per count) was assessed.

Moxie Pest Control Indianapolis LLC was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order (Action Order) of the state chemist or Board.

Garrett Davis was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order (Action Order) of the state chemist or Board. A civil penalty in the amount of \$3,000.00 (3 counts x \$1,000.00 per count) was assessed.

Moxie Pest Control Indianapolis LLC was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for unknowingly applying pesticides for hire without having an Indiana pesticide business license.

Garrett Davis was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for unknowingly applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for this violation.

PS22-0114 Complainant stated all of the trees and shrubs on her property show signs of herbicide injury.

Disposition Summary

Premier Ag Co Op Inc-Cortland was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management by applying when winds were blowing toward a sensitive area. Consideration was given to the fact this was their second violation of similar nature. See case number PS19-0506.

Jason P. Vaughn was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management by applying when winds were blowing toward a sensitive area. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his second violation of similar nature. See case number PS19-0506.

PS22-0120 Complainant stated an application by Charles Smith to a neighboring field on April 29, 2022, drifted onto his property injuring trees in his woods. Complainant stated the application was made when the wind was from the east at 15 mph.

Disposition Summary

Charles A Smith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$200.00. Consideration was given to the fact no restricted use pesticides were involved; there was adverse effect; Mr. Smith cooperated during the investigation; corrective action was taken and this was Mr. Smith's first violation of similar nature.

PS22-0125 Complainant stated TruGreen treated his lawn by mistake on April 29, 2022.

Disposition Summary

Joel A Williams 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 pesticides to the wrong address. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

PS22-0130 Complainant stated his trees are injured as the result of an Ag application to a neighboring farm field.

Disposition Summary

James A. Roberson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target area. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his first offense; a general use pesticide was involved and there were adverse effects.

PS22-0142 Complainant stated an application to a neighboring farm field has injured trees on his property.

Disposition Summary

Philip R. Colclessor was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact a general use pesticide caused an adverse effect. Consideration was also given to the fact this was Mr. Colclessor's first violation of similar nature and he cooperated during the investigation.

PS22-0183 Complainant stated The Forest at Bridge Water Way condo association has recently contracted with William (Bill) Sparks to spray the weeds in the lawn and perform pest control work at the condos. OISC records do not show any kind of license for William Sparks.

Disposition Summary

William E Sparks was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly 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. Consideration was given to the fact Mr. Sparks was licensed in 1999 and knew of the licensing requirements.

However, \$500.00 of the civil penalty will be held in abeyance for a period of two (2) years from the date of this notice and not assessed provided Mr. Sparks commits no further violations of the Indiana Pesticide Use and Application Law.

PS22-0204 Complainant stated a herbicide application made by Chris Goller when the winds were 30 mph injured trees on his property.

Disposition Summary

Christopher David Goller was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his first violation of similar nature, a general use pesticide was involved, Christopher David Goller cooperated during the investigation and there was an adverse effect.

PS22-0207 Complainant stated a herbicide application made to a neighboring farm field injured bald cypress and other trees on her property.

Disposition Summary

Brian Marlin 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 using paraquat without a certification as required by the label. 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 was an adverse effect.

William D. Marlin was cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for allowing a non-certified individual to use paraquat, a restricted use pesticide, labeled for use only by certified individuals. 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 was an adverse effect.

PS22-0214 Complainant stated a herbicide application made to a neighboring property injured trees on his property.

Disposition Summary

Schaefer Inc. was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact this was their first violation of similar nature, Schaefer Inc. cooperated during the investigation, and general use pesticides were involved. Consideration was also given to the fact there was an adverse effect.

Matthew William Noll was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his first violation of similar nature, Mr. Noll cooperated during the investigation, and general use pesticides were involved. Consideration was also given to the fact there was an adverse effect.

PS22-0224 Complainant stated Kyle Pfeifer of Pfeifer Home Inspections performed an inadequate wood destroying insect inspection related to the purchase of an existing home. The complainant further stated there is termite damage on three sides of the home.

Disposition Summary

Pfeifer Home Inspection LLC was cited for violation of section 65(14) of the Indiana Pesticide Use and Application Law for making false statements concerning infestation of pests. Consideration was given to the fact this was Pfeifer Home Inspection LLC's first violation of similar nature.

Kyle Pfeifer was cited for violation of section 65(14) of the Indiana Pesticide Use and Application Law for making false statements concerning infestation of pests. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was Kyle Pfeifer's first violation of similar nature.

PS22-0229 On February 24, 2022, I conducted a routine Restricted Use Pesticide (RUP) sales inspection I observed many pesticide mini bulk shuttles stacked in FBN's warehouse. Upon further inspection and questioning of Mark Pauli, General Manager, the warehouse did not appear to have secondary containment for liquid pesticides over 55 gallons. After email correspondence with Eric Carnell, Chief Legal Officer for FBN, did it appear that the FBN warehouse did not have secondary containment. On March 15, 2022, I spoke with Eric Carnel from FBN. I requested that he send me records with dates of individual inbound and corresponding dates for outbound shuttles. In addition, I informed Mr. Carnel that two (2) products (Mepit, EPA Reg. #82070-2-83772 and Setup 6L, EPA Reg. #66222-136) were not registered in Indiana.

Disposition Summary

Adama was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing an unregistered pesticide product. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

- PS22-0240 Complainant stated a herbicide application made to an adjacent soybean field by CFS killed two rows of his popcorn.

Disposition Summary

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

John Gilliam was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact that John Gilliam cooperated during the investigation and there was victim compensation. Consideration was also given to the fact this was John Gilliam's first violation, there was an adverse effect, and a general use pesticide was involved.

- PS22-0248 Complainant stated an application of dicamba made to a neighboring farm field injured his soybeans.

Disposition Summary

Richard A. Mort 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 Mr. Mort cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved and there was an adverse effect.

- PS22-0248 Complainant stated an application of dicamba made to a neighboring farm field injured his soybeans.

Disposition Summary

Richard A. Mort 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 Mr. Mort cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved and there was an adverse effect.

- PS22-0306 Anonymous complainant wrote: Multiple chemicals from weed control to fertilizer are being dumped and/or emptied on the property where there is a free flowing

creek. Dirt, debris and trash are also dumped and thrown out. Two 300 gallon 2.4-d Threeway containers are open and leaking into creek.

Disposition Summary

Landscape Solutions LLC was cited for five (5) counts of violation of section 52 of the Indiana Pesticide Registration Law, specifically 355 IAC 5-4-1(a), for storing bulk pesticides outside of secondary containment. A civil penalty in the amount of \$2,500.00 (5 counts x \$500.00 per count) was assessed. However, the civil penalty was reduced to \$1,500.00. Consideration was given to the fact and scape Solutions LLC cooperated during the investigation and corrective action was taken.

PS22-0390 Country Oaks Golf Club attempted to renew their 2022 license, but could not because the certification for their only certified applicator had expired.

Disposition Summary

Country Oaks Golf Club was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for knowingly applying pesticides to a golf course without having a pesticide applicator license.

Victor Max Nickless was cited for five (5) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for knowingly applying pesticides to a golf course without having a pesticide applicator license. A civil penalty in the amount of \$5,000.00 (5 counts x \$1,000.00 per count) was assessed.

However, \$4,000.00 of the civil penalty will be held in abeyance and not assessed for a period of two (2) years provided Mr. Nickless obtains his applicator license and commits no further violations of the Indiana Pesticide Use and Application Law within those two years of this notice.

PS22-0395 Complainant stated an application of dicamba made to a neighboring farm field injured his Enlist soybeans.

Disposition Summary

Tony Holtkamp was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was an adverse effect.

Tony Holtkamp was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without a license or permit or having someone with a license or permit supervising the application. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Tony Holtkamp was cited for violation of section 59(5) of the Indiana Pesticide Registration Law for using a highly volatile herbicide without written permission by

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

William H. Holtkamp was cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for aiding a person to evade the licensing requirements for use of restricted use pesticides. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

PS23-0015 The Producer stated to the Inspector that touch points of the door system are "coated" with the CuVerro I product which acts as a bactericidal finish. The components treated with the CuVerro I product are treated at the Aereus Technologies facility in Ontario, Canada. The components are then shipped to Schlage in Indianapolis to build the door latch assembly.

CuVerro I has two labels: alloy label and fabricated product label. There is no use for CuVerro I as a coating. OISC Staff confirmed with EPA Product Manager Steven Snyderman on 9/30/22 that this is not a use for CuVerro I. A search of CuVerro's website beginning July 11, 2022 had information regarding "CuVerro Shield", a process by which any product could be coated by "CuVerro Technology". CuVerro Shield is not an EPA Registered product, and no other CuVerro products have this use pattern. Making pesticidal claims in advertisements for a non-EPA Registered product is a violation of IC 15-16-4-57(9).

The review of CuVerro website on July 11, 2022 identified multiple false and misleading claims, as outlined in attached website review. There are multiple violations of IC 15-16-4-57(5) and IC 15-16-4-57(9). This website review will also be shared with EPA Region V. OISC noticed on 9/29/22 that the CuVerro website was down, and as of this label review, the website is still down. However, the parent company of CuVerro, Aereus Technology, also has false and misleading claims about the CuVerro products. Aereus Technologies is located in Ontario, Canada.

Disposition Summary

This case was referred to U.S. E.P.A. for federal review.



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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

This record was generated on **October 31, 2022, 07:25 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 PS21-0120

Department	Pesticide
Originated	05/26/2021
Assigned To	Garret A. Creason
Status	Closed

Involved Parties

Complainant	Office of Indiana State Chemist
Respondent Issued To	Menards Angola, IN 46703
Registrant Issued To Respondent	Crown Industries Inc Crown Point, IN 46307
Issued To Respondent	Menards, Inc. EAU Claire, WI 54703

Overviews

07/27/2021 **Product Registration Summary**

On July 26, 2020 I completed the label review for Purgenex Surface Cleaning Wipes. Through the review I identified pesticidal claims on the label and labeling. Since there are pesticidal claims, the product is required to be either registered with Indiana and EPA as a Section 3 pesticide product or is exempt from registration with EPA but not Indiana as a 25(b) Minimum Risk pesticide product. The review has identified the product as an unregistered Section 3 product.

Submitted By: Linda Bradford
Role: Product Registration Specialist

09/21/2022 **Investigation Summary**

On 5-25-2021 a marketplace inspection was conducted at Menards in Angola, IN. A federally unregistered pesticide product was located and being offered for sale. The pesticide product is "Purgenex Surface Cleaning Wipes". An Action Order was issued to Menards and an evidentiary sample was collected.

A full label review has classified the product as an unregistered Section 3 product.

On 8-20-2021 the OISC Formulation Lab found that the product failed to meet label claim for active ingredient.

On August 31, 2021 Agent Joe Becovitz and I met with Michael Paviadakis and John Paviadakis of Crown Industries. I explained to them that OISC had recently located an unregistered pesticide product at Menards in Angola, IN called Purgenex Surface Cleaning Wipes. They confirmed that this products was a distributor brand of Crown Industries. Michael Paviadakis explained that shortly after the pandemic started, Menards Corporate asked Crown Industries if they could produce/distribute a disinfectant wipe. Crown Industries agreed and worked with menards on the product labeling. Michael Paviadakis stated that Menards "approved" the pesticide labeling so Crown Industries had their supplier start producing the product. The product was then sent directly from the manufacturing facility in China to the Menards distribution centers. After the product had been in the marketplace for several months Menards decided to stop purchasing the product. I advised Crown Industries to locate/provide any documentation or communication between Crown Industries and Menards. Crown Industries is no longer having the product made and also advised that more than 40 cargo containers had been sent back to China once the agreement was dissolved.

I contacted Menards Inc legal counsel and was able to obtain inventory information for the Purgenex Surface Cleaning Wipes. Menards Inc. declared the documents confidential business information and therefore will not be attached to this case.

Multiple attempts to contact Crown Industries were made between September 2021 and March 2022. After no response from Crown Industries for the requested documents, a Subpoena was issued to Crown Industries on March 22, 2022.

On April 28, 2022 OISC received a letter from attorney Gordon E. Gouveia representing Crown Industries, Inc. indicating that they ceased doing business September, 2021 and no longer possess any distribution records.

Submitted By: Garret A. Creason
Role: Investigator

09/27/2022 **Disposition Summary**

This case was forwarded to the United States Environmental Protection Agency for their review.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/25/2021 **Intake Referral Filed**

During a Marketplace inspection i located "Purgenex Surface Cleaning wipes". This product is unregistered Federally and in the State of Indiana.

Original Event: Intake Referral (Pesticide) #1964
Complainant: Office of Indiana State Chemist
Respondent: Menards
Entered By: Garret A. Creason
Submitted By: George Saxton

05/25/2021 **Formulation Samples Collected**

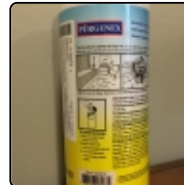
Original Event: Formulation Collection #179401 (21-3-0079 3)
Registrant: Crown Industries Inc
Client: Menards
Firm Representative: Shane Williams
Submitted By: Garret A. Creason
Sample: 21-3-0079 3 | Purgenex Surface Cleaning Wipes
Lab Report: 20210820122105@179401.pdf
Attachments: File 69046; scan0004.pdf
Photos:



File 69028



File 69029



File 69030



File 69031



File 69032



File 69033



File 69034

05/25/2021 **Action Order Issued**

Original Event: Action Order #205
Issued To: Menards
Firm Representative: Shane Williams
Submitted By: Garret A. Creason
Attachments: File 69049; scan0007.pdf

05/25/2021 **INCIDENTAL Notice of Inspection Issued**

Original Event: Notice of Inspection #357
Linked From: Pesticide Inspection (Product) #223
Client: Menards
Firm Representative: Shane Williams
Submitted By: Garret A. Creason
Attachments: File 68980; scan.pdf

05/25/2021 **Investigator Met with Distributor Interaction**

a marketplace inspection was conducted at Menards in Angola, IN> a federally unregistered pesticide product was located and being offered for sale. the pesticide product is "Purgenex Surface Cleaning Wipes"

Original Event: Investigation Activity (Pesticide) #3104
Subject: Menards
Submitted By: Garret A. Creason

05/25/2021 **Marketplace Inspection Conducted**
Marketplace

An action order was issued to Menards instructing them to stop sales of this product until released in writing by OISC.

Original Event: Pesticide Inspection (Product) #223
Client: Menards
Firm Representative: Shane Williams
Submitted By: Garret A. Creason

05/26/2021 **Case Created**

Original Event: Case PS21-0120
Submitted By: George Saxton
Assigned To: Garret A. Creason

07/26/2021 **Label Review Conducted; Not Acceptable**


The review has classified the product as an unregistered Section 3 product.

The pesticidal claims on the label are as follows:

- "Effective Against Common Household Germs & Viruses"
- "The Easy Way To Sanitize & Clean."
- "Sanitize Germs & Viruses around your office, home and classroom."
- "To Clean & Sanitize hard nonporous surfaces"
- "To Clean & Sanitize non-food-contact surfaces"

Original Event: Label Review (Pesticide) #142 (21-3-0079 3)
Registrant: Crown Industries Inc
Submitted By: Linda Bradford
Sample: 21-3-0079 3
Product: Purgenex Surface Cleaning Wipes
Attachments: File 75052; CROWN INDUSTRIES - PURGENEX SURFACE CLEANING WIPES.pdf

08/20/2021 **Received Formulation Lab Report**
First Page of Lab Report

Lab Report					
OCM Collection #	179401	Case #	PS21-0120	Investigator	G. Creason
Sample #	Product Description				Sample Size
21-3-0079 3	Purgenex Surface Cleaning Wipes				1 x 75 wipes
ACTIVE INGREDIENT				% GUARANTEE	% FOUND
Benzalkonium Chloride				0.4	N/A
DDAC				0.6	N/A
Tested as Quaternary Nitrogen Equivalent				0.0388	0.0120*
Remarks: * Sample failed low according to label claim requirements.					
Signature				Date	08/19/21

Original Event: Formulation Lab Report #191158 (179401-01-R55114638)
Submitted By: SYSTEM
Lab Report: Lab Report 179401-01-R55114638.pdf

08/31/2021 **Investigator Met with Distributor**
Interview

On August 31, 2021 Agent Joe Becovitz and I met with Michael Paviadakis and John Paviadakis of Crown Industries. I explained to them that OISC had recently located an unregistered pesticide product at Menards in Angola, IN called Purgenex Surface Cleaning Wipes. They confirmed that this product was a distributor brand of Crown Industries. Michael Paviadakis explained that shortly after the pandemic started, Menards Corporate asked Crown Industries if they could produce/distribute a disinfectant wipe. Crown Industries agreed and worked with Menards on the product labeling. Michael Paviadakis stated that Menards "approved" the pesticide labeling so Crown Industries had their supplier start producing the product. The product was then sent directly from the manufacturing facility in China to the Menards distribution centers. After the product had been in the marketplace for several months Menards decided to stop purchasing the product. I advised Crown Industries to locate/provide any documentation or communication between Crown Industries and Menards. Crown Industries is no longer having the product made and also advised they more than 40 cargo containers had been sent back to China once the agreement was dissolved.

Original Event: Investigation Activity (Pesticide) #3813
Subject: Crown Industries Inc
Submitted By: Garret A. Creason

08/31/2021 **Notice of Inspection Issued**

Original Event: Notice of Inspection #541
Client: Crown Industries Inc
Firm Representative: Michael Paviadakis
Submitted By: Garret A. Creason
Attachments: File 80145; scan0016.pdf

08/31/2021 **Stop Sale Order Issued**

the product is Federally and State Unregistered

Original Event: Action Order #219
Issued To: Crown Industries Inc
Firm Representative: Michael Paviadakis
Submitted By: Garret A. Creason
Attachments: File 80228; scan0018.pdf

09/13/2021 **Investigator Received Fax/Email from Distributor Communication**

On September 13, 2021 i received an email from Todd Lemanski, Senior Corporate Counsel for Mendard Inc. Mr. Lemanski provided documentation stating that the Purgenex product has been carried by Menards Inc since 2020. Mr. Lemanski asked that the documents be kept Confidential, therefore they will not be added into the OISC Case Management system.

Original Event: Investigation Activity (Pesticide) #3830
Subject: Menards, Inc.
Submitted By: Garret A. Creason

10/01/2021 **Investigator Received Fax/Email from Responsible Party Communication**

Email from Crown Industries on 10-1-2021 stating that they would send the required documentation. Original email attached.

Attachments

File 92969; Crown Brush Sept communication.png

Original Event: Investigation Activity (Pesticide) #4516
Subject: Crown Industries Inc
Submitted By: Garret A. Creason

01/01/2022 **Investigator Received Fax/Email from Responsible Party Communication**

Crown Industries response on 1-31-2022 stating that the required documents would be sent soon. Original email attached.

Attachments

File 92972; Crown Brush Jan communication.png

Original Event: Investigation Activity (Pesticide) #4517
Subject: Crown Industries Inc
Submitted By: Garret A. Creason

01/04/2022 **Investigator Called Distributor Communication**

I called Crown Brush to try and speak with Michael Paviadakis. I was told that Michael was still out with an extended illness and the best way to reach him would be through email. I then emailed Michael and John asking for inbound documentation and communication between Crown Brush and Menards as it relates to the unregistered pesticide product.

Original Event: Investigation Activity (Pesticide) #4205
Subject: Crown Industries Inc
Submitted By: Garret A. Creason

01/31/2022 **Investigator Sent Fax/Email to Registrant Communication**

On January 31, 2022 I emailed Crown Brush again stating that OISC needed to collect inbound and distribution records for the Purgenex product. I advised that if they are not provided by February 18, 2022 OISC would be issuing a subpoena for the records.

Attachments

File 86229; 1-31-22 Crown Brush email.png

Original Event: Investigation Activity (Pesticide) #4260
Subject: Crown Industries Inc
Submitted By: Garret A. Creason

03/22/2022 **Subpoena Mailed to Registrant**

Subpoena for business records of Crown Industries, Inc. concerning inbound receiving records as well as all distribution records for Purgenex Surface Cleaning Wipes.

Original Event: Outgoing Mail #1057
To: Crown Industries Inc
Submitted By: Joni Herman
USPS: 7019 1640 0001 2427 2372
Enclosed: Subpoena
Attachments: File 91001; PS21-0120 Email RE - Crown Industries.pdf
File 91000; PS21-0120 Subpoena to Crown Industries.pdf

03/25/2022 **Received Mail Confirmation for Registrant**

Original Event: Compliance Receipt #1398
Subject: Crown Industries Inc
Submitted By: Joni Herman
USPS: 7019 1640 0001 2427 2372
Received: 03/25/2022
Attachments: File 92780; CM 7019 1640 0001 2427 2372.pdf

04/28/2022 **Compliance Activity**

OISC received a letter from attorney Gordon E. Gouveia representing Crown Industries, Inc. indicating that they ceased doing business September, 2021 and no longer possess any distribution records.

Original Event: Compliance Activity #1224
Primary: Crown Industries Inc
Submitted By: George Saxton
Attachments: File 92961; MX-M565N_20220427_121652.pdf

05/20/2022 **Stop Sale Order Issued**

Original Event: Action Order #257
Issued To: Menards, Inc.
Firm Representative: Todd Lemanski
Submitted By: Garret A. Creason
Attachments: File 94963; SSURO Purgenex-Menards.pdf

07/19/2022 **Stop Sale Released for Return/Disposal
Pugenex Surface Cleaning Wipes**

on 6/28/22 Menards provided confirmation that none of the Purgenex product is available for sale or distribution in Indiana.

Original Event: Stop Sale Release (PS) #7
Issued To: Menards, Inc.
Submitted By: Sarah K. Caffery

09/27/2022 **Case Closed; Referred to Epa**

This case was forwarded to the United States Environmental Protection Agency for their review.

Original Event: Compliance Activity #1507
Primary: Menards, Inc.
Secondary: Crown Industries Inc
Submitted By: George Saxton

09/29/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1381
To: Menards
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110554; PS21-0120 - Menards - Case Closed Letter 9-29-2022.docx

09/29/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1382
To: Crown Industries Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110555; PS21-0120 - Crown Industries Inc. - Case Closed Letter 9-29-2022.docx

09/29/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1383
To: Menards, Inc.
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110556; PS21-0120 - Menards, Inc. - Case Closed Letter 9-29-2022.docx

No electronic chain of custody (CoC) found. Refer to paper CoC in instances where samples were collected.

This record was generated on **October 31, 2022, 07:25 AM EDT**. 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 **October 31, 2022, 07:26 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 PS21-0337

Department	Pesticide
Originated	09/02/2021
Assigned To	Melissa D. Rosch
Status	Closed

Involved Parties

Complainant	Zachary Bertossi Highland, IN 46322	
Respondent Issued To	Season's Landscape Specialties, Inc. Schererville, IN 46375	Unlicensed Business
-	Forever Green Lawn Care Inc Crown Point, IN 46307	Subcontracted Licensed Business
Issued To Respondent	Mitch Dikun Schererville, IN 46375	
Respondent	Joshua Lawrence Crown Point, IN 46307	PIRCA Board President
-	Cheryl Dikun Schererville, IN 46375	Landscape Designer/Employee Seasons Landscape Specialties
-	Anthony Richard Powell St John, IN 46373	Commercial Account Manager/ Forever Green Lawn Care

Overviews

04/05/2022 **Investigation Summary**

The complainant Zachary Bertossi contacted the Office of Indiana State Chemist (OISC) to report a possible pesticide misuse complaint. Mr. Bertossi stated while he was employed with Season's Landscape Specialties he witnessed another employee of Season's Landscape Specialties apply Hi Yield Super Concentrate Kill-Zall II Herbicide EPA Reg# 19713-526-7401, Active Ingredient 41% Glyphosate to the rip-rap areas of a pond in the Pine Island neighborhood in Crown Point, Indiana. On September 28, 2021, I went to Season's Landscape Specialties at 7111 Cline Ave, Schererville, Indiana and spoke the owner Mitch Dikun. Mr. Dikun stated he did not know you needed a license to apply pesticides for hire in Indiana and that he was "only applying aquatic glyphosate."

Pine Island Ridge Community Association (PIRCA) meeting minutes show Season's Landscape Specialties has entered into contract agreements with PIRCA since 2013 for weed control applications and fertilizer treatments. Subcontracted business (Forever Green Lawn Care) records show only seven (7) weed control applications at that location.

Submitted By: Melissa D. Rosch
Role: Investigator

04/19/2022 **Disposition Summary**

Season's Landscape Specialties, Inc was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to apply pesticides or products regulated by the Office of Indiana State Chemist without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for this violation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

09/01/2021 Intake Referral Filed

Complainant stated employees of Seasons Landscaping were directed to spray Killzall Super Concentrate II around the small ponds in Pine Island.

Original Event: Intake Referral (Pesticide) #2195
Complainant: Zachary Bertossi
Respondent: Seasons Landscaping
Submitted By: Joseph D. Becovitz
Assigned To: Melissa D. Rosch

09/02/2021 Case Created

Original Event: Case PS21-0337
Submitted By: Joseph D. Becovitz
Assigned To: Melissa D. Rosch

09/08/2021 Investigator Called Complainant Communication

I spoke to complainant and he stated he is a former employee of Seasons Landscape Specialties. The complainant stated that while he worked there from beginning of August 2021 to August 16, 2021 he witnessed employees applying herbicides to the rip-rap area of the Pine Island Apartment complex pond areas in Crown Point, In. The complainant stated the owner called the site foreman and the foreman was told to spray the chemical Hi Yield Kill-Zall II to the areas. The complainant stated he didn't believe the product was labeled for that specific site use.

Original Event: Investigation Activity (Pesticide) #3791
Subject: Zachary Bertossi
Submitted By: Melissa D. Rosch

09/28/2021 Investigator Met with Target

Photographs

On September 28, 2021, I went to 7111 Cline Avenue, Schererville, Indiana. This is the address listed for Seasons Landscape Specialties LLC. When I arrived at the location, I saw what appeared to be a residential area and a business/work-shop area. I walked towards the business/work-shop area and shouted to see if anyone was inside the building but did not hear anyone reply. I walked towards the residential area, intending to leave my business card but did not see anywhere specific I could leave it. I saw two signs (one at the front door and one at the rear door) that stated not to ring the doorbell but to call "Mitch" for employment at 218-808-2932. I dialed the number, and the call did not go through. I then tried the number 219-808-2932 (since 219 is the common area code in northwest Indiana) and spoke to Mitch Dikun. I identified myself to Mr. Dikun and stated I was there to investigate a complaint about using a pesticide without a license. Mr. Dikun asked who made the complaint and I stated it was Mr. Bertossi. He then asked when the complaint was made, and I stated a couple of weeks ago but I didn't have the casefile information in front of me at the moment. I asked Mr. Dikun if I could meet him to give him some paperwork and he stated no. I asked Mr. Dikun if I could have his email address to send him some paperwork and he stated no. Mr. Dikun stated I could speak to his attorney and I asked for the attorney's name and Mr. Dikun stated I could find it out for myself. As I ended the phone call with Mr. Dikun, I was standing adjacent to one of the landscaping work trucks and in the truck bed were two bottles of the pesticide "Kill-zall" and the packaging for a backpack sprayer. The product in the truck bed was Hi Yield Super Concentrate Kill-Zall II Herbicide EPA Reg# 19713-526-7401, Active Ingredient 41% Glyphosate. I took photographs of the truck and product bottles.

As I was walking back to my vehicle, I saw an elderly female coming out of the residence adjacent to the business/work-shop area and waved at me. I walked closer and said hello. I identified myself and asked the female if she could give Mr. Dikun my business card. She stated Mr. Dikun just called her and was on his way there right now. I asked if he wanted me to wait for him and she stated yes.

Shortly afterwards a white Toyota SUV pulled into the parking area and stopped behind my parked vehicle, perpendicular to it. I saw a male driver and a female passenger in the front seat. I asked if he was Mitch and he said yes. Mr. Dikun asked to see my credentials and I handed him my OISC badge. Mr. Dikun took a photograph of with a cell phone. I stated we received a complaint about his company possibly making pesticide applications using a product called "Killzall" from his former employee Mr. Bertossi. Mr. Dikun became very angry and hostile. Mr. Dikun stated it was an aquatic glyphosate and Mr. Bertossi is probably unemployed now and doesn't have anything else to do. Mr. Dikun then asked me in an angry, rude, and insolent manner what my relationship to Mr. Bertossi was. I was unsure what Mr. Dikun meant and asked him to repeat himself. Mr. Dikun stated how do you know him (Mr. Bertossi). I replied he was the complainant. Mr. Dikun yelled in an angry manner that he would find out if I did in fact have any kind of relationship with the complainant.

I explained to Mr. Dikun that he/his business needed a license to apply any pesticides or fertilizers for hire in Indiana and he stated he does subcontract Forever Green to make the fertilizer applications for him. Mr. Dikun stated he didn't know you had to have a license for pesticides as well. The female in the passenger seat also reiterated the same thing. I told Mr. Dikun to contact Forever Green to see if they can make the pesticide applications for him since he already does business with them and he said he would. I handed Mr. Dikun an OISC pamphlet regarding pesticide and fertilizer applications. I stated to Mr. Dikun I needed to give him some paperwork and asked if I could have his email address to send it to him and he stated no that I could give it to him now. Mr. Dikun asked if there was any evidence like photographs or video of making the pesticide applications and I stated no. Mr. Dikun stated oh then no one can prove anything if there is no evidence. Mr. Dikun stated there are other companies doing the same thing. I asked him for the names of the companies and stated I would be happy to check them out. Mr. Dikun replied that he wasn't going to say who it was because he's not that type of person.

I started to fill out the OISC Notice of Inspection form and asked Mr. Dikun which phone number he would like to use. Mr. Dikun stated the business number. Mr. Dikun then asked me how I got his cell phone number. I stated it was on the sign in the yard and as I was beginning to explain the 218 area code didn't work, Mr. Dikun interrupted me and yelled in an angry and insolent manner not to be smart with him. As I began to try to explain once again that the area code was 218, he interrupted me and said in an escalating angry and insolent manner in part, "do you want to know what happened to the last person who got smart with me? I called Todd Rokita. Do you know who Todd Rokita is?" I said yes I do actually he's my co-worker and you can tell him I said hello. Mr. Dikun stated he does work for Todd Rokita and he will call him. I told Mr. Dikun I was going to leave, and he can call whomever he wants to, but he wasn't going to threaten me. As I walked around to my driver's side door, Mr. Dikun stated never to come back onto his property again.

Attachments



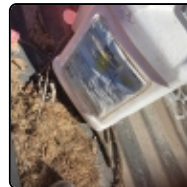
File 90634



File 90635



File 90636



File 90637



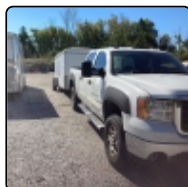
File 90638



File 90639



File 90640



File 90641

Original Event:
Subject:
Submitted By:

Investigation Activity (Pesticide) #4354
Seasons Landscaping
Melissa D. Rosch

Interaction

I went to the Forever Green office location and spoke to Jennifer Klasner. I asked Ms. Klasner if they are subcontracted by Season's Landscaping to do fertilizer applications at the Pine Island neighborhood location. Ms. Klasner stated Forever Green is only contracted with Season's Landscaping to make two (2) pesticide/weed control applications in 2021. Ms. Klasner stated they are not subcontracted with Season's Landscaping to make any fertilizer applications at the Pine Island neighborhood location. The pesticide Forever Green uses is Triad Select Herbicide EPA#89442-22, Active Ingredients: 30.98% of Dimethylamine Salt of 2,4-D, 8.23% Dimethylamine Salt of MCPA, and 2.77% Dimethylamine Salt of Dicamba. I requested records of any pesticide and fertilizer applications for hire by Forever Green contracted by Season's Landscaping.

Attachments

File 90644; Invoices and Accounts 9-28.pdf

Original Event: Investigation Activity (Pesticide) #4355
Subject: Forever Green Lawn Care Inc
Submitted By: Melissa D. Rosch

09/28/2021 Notice of Inspection Issued

Original Event: Notice of Inspection #763
Client: Forever Green Lawn Care Inc
Firm Representative: Jennifer Klasner
Submitted By: Melissa D. Rosch
Attachments: File 90645; ForeverGreenLawnCareNOI.pdf

10/12/2021 Investigation Activity Activity

I conducted covert surveillance in the Pine Island neighborhood. I met with the complainant Mr. Bertossi and asked him to show me the exact location where the pesticides were applied by Season's Landscape Specialties. Mr. Bertossi showed me the riprap areas on W 85th Pl and also stated they had gone by the playground area between Clark Pl. and Mathews St. Mr. Bertossi stated he remembered Mr. Dikun calling the foreman "Manny" on the phone while they were on site and told him to spray all around the pond to kill the weeds. Mr. Bertossi stated Manny then told another employee "Victor" they needed to be spraying the chemicals around the pond. Mr. Bertossi stated the application was done with a backpack sprayer. Mr. Bertossi's immediate supervisor's name was "Roger".

Original Event: Investigation Activity (Pesticide) #4007
Submitted By: Melissa D. Rosch

10/12/2021 Notice of Action Order Mailed to Target

Original Event: Outgoing Mail #924
To: Seasons Landscaping
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 7602
Enclosed: Notice of Action Order
Attachments: File 84534; PS21-0337 ~ Action Order to Seasons Landscape - Mitch Dikvn - Cline Ave. Schererville.pdf

10/12/2021 Notice of Action Order Mailed to Target

Original Event: Outgoing Mail #925
To: Seasons Landscaping
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 7619
Enclosed: Notice of Action Order
Attachments: File 84535; PS21-0337 ~ Action Order to Seasons Landscape - Mitch Dikvn - Bunker Dr. Schererville.pdf

10/12/2021 Action Order Issued

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

Original Event: Action Order #233
Issued To: Seasons Landscaping
Firm Representative: Certified Mail
Submitted By: Melissa D. Rosch
Attachments: File 84539; 7111 cline ave ao.pdf

10/12/2021 Action Order Issued

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

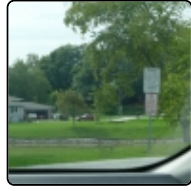
Original Event: Action Order #235
Issued To: Mitch Dikun
Firm Representative: Certified Mail
Submitted By: Melissa D. Rosch
Attachments: File 84872; 301 bunker dr ao.pdf

10/13/2021 Investigation Activity

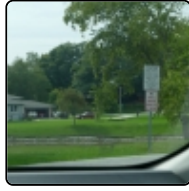
Photographs

I conducted covert surveillance in the Pine Island neighborhood area. I took photographs of the pond area/grass south of W 85th Pl. and east of Haney Ln. in Crown Point, Indiana.

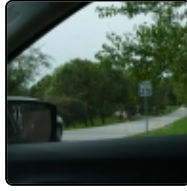
Attachments



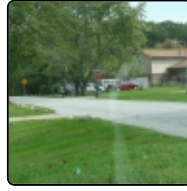
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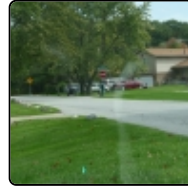
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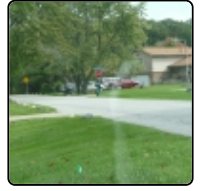
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File 90655



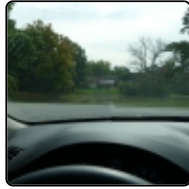
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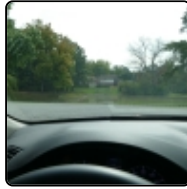
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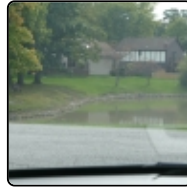
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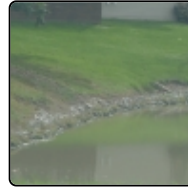
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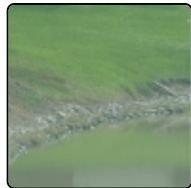
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File 90662



File 90663



File 90664



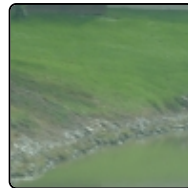
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File 90666



File 90667



File 90668



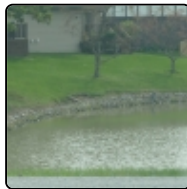
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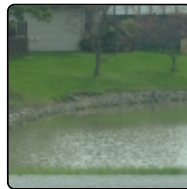
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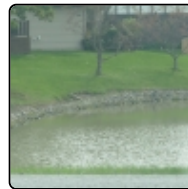
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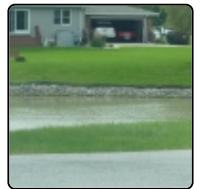
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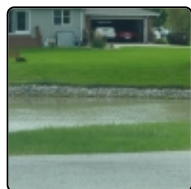
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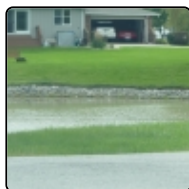
File 90647



File 90648



File 90649



File 90650



File 90651

Original Event:
Submitted By:

Investigation Activity (Pesticide) #4006
Melissa D. Rosch

10/14/2021 Investigation Activity Activity

I conducted covert surveillance.

Original Event:
Submitted By:

Investigation Activity (Pesticide) #4005
Melissa D. Rosch

10/15/2021 Residue Samples Collected

Original Event:
Client:
Submitted By:

Residue Collection #192553 (22-4-0701 4)
Seasons Landscaping
Melissa D. Rosch
Sample: 22-4-0701 4 | Veg; Comp; One; Target, E
Sample: 22-4-0703 3 | Veg; Comp; one; Target, N
Sample: 22-4-0705 1 | Veg; Comp; one; Target, W
Sample: 22-4-0707 9 | Veg; Comp; pg1a; Target
Sample: 22-4-0708 0 | Veg; Comp; pg2a; Target

10/15/2021 Residue Samples Collected

Original Event:	Residue Collection #192560 (22-4-0702 2)
Client:	Seasons Landscaping
Submitted By:	Melissa D. Rosch
Sample:	22-4-0702 2 Veg; Comp; two; Target, E
Sample:	22-4-0704 6 Veg; Comp; two; Target, N
Sample:	22-4-0706 7 Veg; Comp; two; Target, W
Sample:	22-4-0709 8 Veg; Comp; pg1b; Target
Sample:	22-4-0710 8 Veg; Comp; pg2b; Target

10/15/2021 **Investigation Activity**
Activity

I Conducted covert surveillance.

Original Event:	Investigation Activity (Pesticide) #4004
Submitted By:	Melissa D. Rosch

10/15/2021 **Investigation Activity**
Photographs

I conducted covert surveillance at the Pine Island neighborhood area at approximately 10:00 am. I saw the grass area immediately adjacent to the tennis court/playground (between Clark Pl. and Mathews St.) had fresh grass clippings and tire marks. The grass area appeared to be recently cut. I also saw grass clippings along the sidewalk on Clark Pl.

Attachments



File 91021



File 91022



File 91024



File 91025



File 91026



File 91027



File 91028



File 91029



File 91030



File 91031



File 91032



File 91033



File 91034



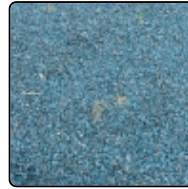
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File 91036



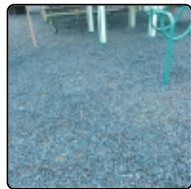
File 91037



File 91038



File 91039



File 91040



File 91041



File 91042



File 91043



File 91044



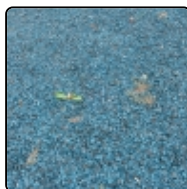
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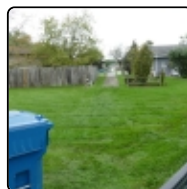
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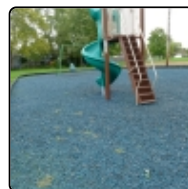
File 91047



File 91048



File 91049



File 91050



File 91051



File 91052



File 91053



File 91054



File 91055



File 91056

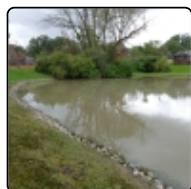
Original Event:
Submitted By:

Investigation Activity (Pesticide) #4365
Melissa D. Rosch

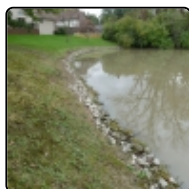
10/15/2021 Investigation Activity Photographs

I went to the pond area south of W 85th Pl and east of Haney Ln. The grass area also appears to be freshly cut. I took two (2) composite vegetation samples from the east rip rap/grass area. One sample will be tested for the active ingredient in the herbicide Hi Yield Super Concentrate Kill-Zall II Herbicide EPA Reg# 19713-526-7401, Active Ingredient 41% Glyphosate and the other sample will be tested for the active ingredients in the herbicide Triad Select Herbicide EPA#89442-22, 30.98% of Dimethylamine Salt of 2,4-D, 8.23% Dimethylamine Salt of MCPA, and 2.77% Dimethylamine Salt of Dicamba.

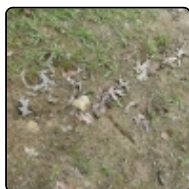
Attachments



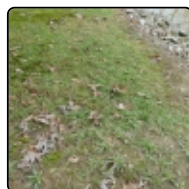
File 91057



File 91059



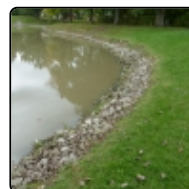
File 91060



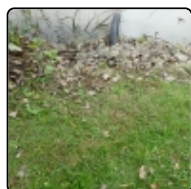
File 91061



File 91062



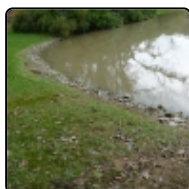
File 91063



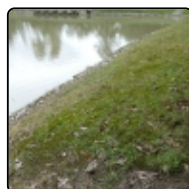
File 91064



File 91065



File 91066



File 91067

Original Event:
Submitted By:

Investigation Activity (Pesticide) #4366
Melissa D. Rosch

10/15/2021 Investigation Activity Photographs

I went to the pond area south of W 85th Pl and east of Haney Ln. The grass area also appeared to be freshly cut. I took two (2) composite vegetation samples from the north rip rap/grass area. One sample will be tested for the active ingredient in the herbicide Hi Yield Super Concentrate Kill-Zall II Herbicide EPA Reg# 19713-526-7401, Active Ingredient 41% Glyphosate and the other sample will be tested for the active ingredients in the herbicide Triad Select Herbicide EPA#89442-22, 30.98% of Dimethylamine Salt of 2,4-D, 8.23% Dimethylamine Salt of MCPA, and 2.77% Dimethylamine Salt of Dicamba.

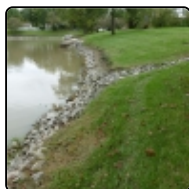
Attachments



File 91068



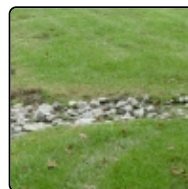
File 91070



File 91073



File 91071



File 91072

Original Event:
Submitted By:

Investigation Activity (Pesticide) #4367
Melissa D. Rosch

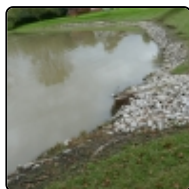
10/15/2021 Investigation Activity Photographs

I went to the pond area south of W 85th Pl and east of Haney Ln. The grass area also appeared to be freshly cut. I took two (2) composite vegetation samples from the west rip rap/grass area. One sample will be tested for the active ingredient in the herbicide Hi Yield Super Concentrate Kill-Zall II Herbicide EPA Reg# 19713-526-7401, Active Ingredient 41% Glyphosate and the other sample will be tested for the active ingredients in the herbicide Triad Select Herbicide EPA#89442-22, 30.98% of Dimethylamine Salt of 2,4-D, 8.23% Dimethylamine Salt of MCPA, and 2.77% Dimethylamine Salt of Dicamba.

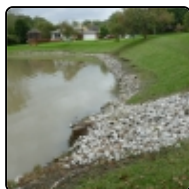
Attachments



File 91074



File 91075



File 91076



File 91077

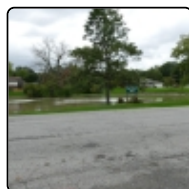
Original Event:
Submitted By:

Investigation Activity (Pesticide) #4368
Melissa D. Rosch

10/15/2021 Investigation Activity Photographs

I photographed the area south of W 85th Pl and east of Haney Ln. where it appeared the grass had been freshly cut. I saw grass clippings and tire marks in the area.

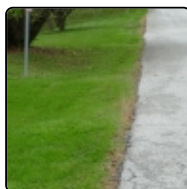
Attachments



File 91081



File 91082



File 91083

Original Event:
Submitted By:

Investigation Activity (Pesticide) #4369
Melissa D. Rosch

10/15/2021

**Investigation Activity
Photographs**

I went to the playground area 1 (east play ground) located between Mathews St. and Clark Pl. The grass area also appeared to be freshly cut. I took two (2) composite vegetation samples from the playground mulch weeds. One sample will be tested for the active ingredient in the herbicide Hi Yield Super Concentrate Kill-Zall II Herbicide EPA Reg# 19713-526-7401, Active Ingredient 41% Glyphosate and the other sample will be tested for the active ingredients in the herbicide Triad Select Herbicide EPA#89442-22, 30.98% of Dimethylamine Salt of 2,4-D, 8.23% Dimethylamine Salt of MCPA, and 2.77% Dimethylamine Salt of Dicamba.

Attachments



File 91101



File 91102



File 91103

Original Event:
Submitted By:

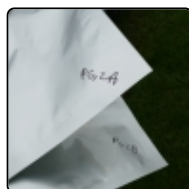
Investigation Activity (Pesticide) #4372
Melissa D. Rosch

10/15/2021

**Investigation Activity
Photographs**

I went to the playground area 2 (west play ground) located between Mathews St. and Clark Pl. The grass area also appeared to be freshly cut. I took two (2) composite vegetation samples from the playground mulch weeds. One sample will be tested for the active ingredient in the herbicide Hi Yield Super Concentrate Kill-Zall II Herbicide EPA Reg# 19713-526-7401, Active Ingredient 41% Glyphosate and the other sample will be tested for the active ingredients in the herbicide Triad Select Herbicide EPA#89442-22, 30.98% of Dimethylamine Salt of 2,4-D, 8.23% Dimethylamine Salt of MCPA, and 2.77% Dimethylamine Salt of Dicamba.

Attachments



File 91104



File 91105



File 91106

Original Event:
Submitted By:

Investigation Activity (Pesticide) #4373
Melissa D. Rosch

10/16/2021

Received Mail Confirmation for Target

Original Event:
Subject:
Submitted By:
USPS:
Received:
Attachments:

Compliance Receipt #1261
Seasons Landscaping
Joni Herman
7019 0140 0000 6113 7602
10/16/2021
File 85788; CM 7019 0140 0000 6113 7602 ~ PS21-0337.pdf

10/16/2021

Lab Advised of Target Analytes

Original Event:
Submitted By:
Target Analyte:
PPLS Labels:

Residue Collections Follow Up #557
Melissa D. Rosch
killzall II
[019713-00526-20151026.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/019713-00526-20151026.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/019713-00526-20151026.pdf

10/16/2021

Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #558
Submitted By: Melissa D. Rosch
Target Analyte: general herbicide screen
Target Analyte: triad select
PPLS Labels: 089442-00022-20210728.pdf
https://www3.epa.gov/pesticides/chem_search/ppls/089442-00022-20210728.pdf

10/18/2021 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1262
Subject: Season's Landscape Specialties, Inc.
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 7619
Received: 10/18/2021
Attachments: File 85789; CM 7019 0140 0000 6113 7619 ~ PS21-0337.pdf

10/27/2021 **Received Residue Lab Report**

Investigatory Summary

All of the samples in this group were vegetation composite samples and analyzed for Hi Yield Super Concentrate Kill-Zall II Herbicide EPA Reg# 19713-526-7401, Active Ingredient 41% Glyphosate . The OISC Pesticide Residue Lab report shows varying amounts of the residue in each sample location. The amounts of Glyphosate and AMPA (glyphosate metabolite) in Samples 22-4-0703, 22-4-0705, and 22-4-0708 can identify direct applications to that sample area but we are unable to determine when the applications were made (ranging from one (1) week to a couple of months). To note, the ground was wet from a recent rain shower that morning. This is depicted in some of the sample photographs taken on October 15, 2021 when the grass appeared to be cut that morning and the vegetation samples were collected. As I was finishing my sample collection at around 12:45pm, it started to rain again.

First Page of Lab Report

OCM Collection #	192553	Investigator	ROSCHM		
Collection Date	10/15/2021				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-0701 4	Veg; Comp; One; Target, E	Veg	AMPA	BDL ppb	66 ppb
			Glyphosate	467 ppb	13 ppb
22-4-0703 3	Veg; Comp; one; Target, N	Veg	AMPA	BQL ppb	66 ppb
			Glyphosate	1160 ppb	13 ppb
22-4-0705 1	Veg; Comp; one; Target, W	Veg	AMPA	4170 ppb	66 ppb
			Glyphosate	440 ppb	13 ppb
22-4-0707 9	Veg; Comp; pg1a; Target	Veg	AMPA	BDL ppb	66 ppb
			Glyphosate	54.2 ppb	13 ppb
22-4-0708 0	Veg; Comp; pg2a; Target	Veg	AMPA	405 ppb	66 ppb
			Glyphosate	1040 ppb	13 ppb

Original Event: Residue Lab Report #193145 (192553-R470)
Submitted By: SYSTEM
Lab Report: Lab Report 192553-R470.pdf

12/14/2021 **Received Residue Lab Report**

Lab Remarks

This is the qualitative report for the acid herbicide general screen. Quan results to follow.

Original Event: Residue Lab Report #197163 (192560-R508)
Submitted By: SYSTEM
Lab Report: Lab Report 192560-R508.pdf

01/07/2022 **Received Residue Lab Report**

Investigatory Summary

All of the samples in this sample group were vegetation composite samples and analyzed for Triad Select Herbicide EPA#89442-22, Active Ingredients: 30.98% of Dimethylamine Salt of 2,4-D, 8.23% Dimethylamine Salt of MCPA, and 2.77% Dimethylamine Salt of Dicamba. The OISC Pesticide Residue Lab report shows minimal amounts of active ingredients were detected. The vegetation was sampled on October 15, 2021 and last date of application was September 20, 2021 by Forever Green Lawn Care Inc. (subcontracted by Season's Landscape Specialties).

First Page of Lab Report

OCM Collection #	192560	Investigator	ROSCHM		
Collection Date	10/15/2021				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-0702 2	Veg; Comp; two; Target, E	Veg	2,4-D	4.35 ppb	3 ppb
			5OH-Dicamba	BDL ppb	3 ppb
			DCSA	BDL ppb	3 ppb
			Dicamba	BDL ppb	3 ppb
			MCPA	BQL ppb	33 ppb
			MCPP	BQL ppb	3 ppb
22-4-0704 6	Veg; Comp; two; Target, N	Veg	2,4-D	13.1 ppb	3 ppb
			5OH-Dicamba	BDL ppb	3 ppb
			DCSA	BDL ppb	3 ppb
			Dicamba	BDL ppb	3 ppb
			MCPA	BQL ppb	33 ppb
			MCPP	BDL ppb	3 ppb

Original Event: Residue Lab Report #197489 (192560-R515)
 Submitted By: SYSTEM
 Lab Report: Lab Report 192560-R515.pdf

03/30/2022 **Investigator Called Business Communication**

I contacted Forever Green Lawn Care Inc. (subcontracted by Season's Landscape Services) to get the last date of application for weed control at the Pine Island neighborhood. I spoke to Amber and she confirmed the dates of service for weed control were June 28, 2021 and September 20, 2021 using Triad Select Herbicide EPA Reg# 89442-22.

Original Event: Investigation Activity (Pesticide) #4370
 Subject: Forever Green Lawn Care Inc
 Submitted By: Melissa D. Rosch

03/31/2022 **Investigator Called Subject Activity**

On March 31, 2022, I spoke with the Pine Island Ridge Community Association (PIRCA) board president Joshua Lawrence. Mr. Lawrence stated he is the new board president this year. I asked Mr. Lawrence if he would be able to identify from an invoice or statement of service when Season's Landscape Specialties (recorded as Season's Landscaping on the PIRCA website minutes) performed any services in 2021. Mr. Lawrence stated he does not believe Season's Landscape Specialties provides specific dates of service in their invoicing and does not issue a statement of service for when any work is performed. I explained to Mr. Lawrence that Season's Landscape Specialties was an unlicensed business and it was illegal for them to make any pesticide or fertilizer treatments for hire, but they are able to subcontract those services to a licensed business. I stated I met with Mr. Dikun on September 28, 2021 and Mr. Dikun stated "its only aquatic glyphosate" and claimed he was unaware you needed a license to make any fertilizer or pesticide applications for hire. Mr. Dikun stated he does hire Forever Green Lawn Care to make fertilizer applications for him. I also advised Mr. Lawrence I issued Mr. Dikun/Season's Landscape Specialties an ACTION ORDER prohibiting them from making any unlicensed fertilizer or pesticide applications for hire. I advised Mr. Lawrence that I confirmed with Forever Green Lawn Care (licensed pesticide business) that they were subcontracted by Season's Landscape Services for two (2) weed control applications in 2021 and the dates of service were June 28, 2020 and September 20, 2021 and not for ANY fertilizer applications. I stated to Mr. Lawrence in the PIRCA meeting minutes (located on their website) it shows for February 15, 2021 (posted on March 18, 2021), "The new contract from Season's consists of the following: \$600 per cut, three applications of weed kill/fertilization \$2,700, weed kill around pond \$2,500, mulch \$1,900 and pruning \$1,500." I also identified the following treasurer reports for 2021 on the PIRCA website: Treasurer's report for May 2021 states, "The following bills have been paid...Season's \$2,542.00"; Treasurer's report for June 2021 states, "The following bills were paid...Season's \$3, 142.00"; Treasurer's report for July 2021 states, "The following bills were paid...Season's \$3,142.00 (mowing and weed control); Treasurer's report for August 2021 states, "The following bills were paid...Season's Landscaping \$3, 742.00"; Treasurer's report for September 2021 states, "The following bills were paid...Season's \$3, 742.00"; Treasurer's report for October 2021 states, "The following bills were paid...Season's \$3,742.00"; Treasurer's report for November 2021 states, "The following bills were paid...Season's \$3,142.00"; Treasurer's report for December 2021 states, "The following bills were paid...Season's \$2,400." I sent the PIRCA board a follow-up email with a Notice of Inspection as well as additional information from the OISC website including applicable state laws, administrative codes, and licensing requirements.

Attachments

File 91099; 2022 PinelandRidge.org - Meeting Minutes.pdf
 File 91098; April to Aug 21 PinelandRidge.org - Meeting Minutes 1.pdf
 File 91097; July to Aug 21 Pine Island Ridge Community Association (PIRCA).pdf
 File 91096; Oct 21 to June 2021 PinelandRidge.org - Meeting Minutes.pdf
 File 91095; Oct to March 2021 PinelandRidge.org - Meeting Minutes 2.pdf

Original Event: Investigation Activity (Pesticide) #4371
Subject: Joshua Lawrence
Submitted By: Melissa D. Rosch

03/31/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #767
Client: Joshua Lawrence
Firm Representative: Joshua Lawrence via Email
Submitted By: Melissa D. Rosch
Attachments: File 91100; Pine Island HOA Notice of Inspection.pdf

04/07/2022 **Subject Called Investigator Communication**

On April 6, 2022, I received a voice mail from Cheryl Dikun stating she wanted me to return her call. Ms. Dikun is listed as the landscape designer on the Season's Landscape Specialties website. On April 7, 2022, I called Ms. Dikun and (in a recorded phone call) she stated she wanted to tell me that Tony is her contact at Forever Green Lawn Care and that Tony said if I needed additional information to contact him. Ms. Dikun stated that Forever Green Lawn Care does all of their vegetation control and fertilizing. Ms. Dikun stated Forever Green Lawn Care assesses what the site needs and that Forever Green Lawn Care has always done their fertilizing for Season's Landscape Specialties. Ms. Dikun stated again that Season's Landscape Services does not do any fertilizer applications. I asked Ms. Dikun if Forever Green Lawn Care does the fertilizing applications at the Pine Island location and she stated yes, we don't do fertilizing. I asked Ms. Dikun if Season's Landscape Specialties has changed their contract or agreement with Forever Green Lawn Care since the last time I spoke with them (September 28, 2021 at the Season's Landscape Specialties business location) and she stated no. I asked Ms. Dikun if she had any invoices or contract agreement with Forever Green Lawn Care and she stated Forever Green Lawn Care would have all of that information. I stated I would contact Ms. Dikun if I had any further questions for her.

Original Event: Investigation Activity (Pesticide) #4376
Subject: Cheryl Dikun
Submitted By: Melissa D. Rosch

04/08/2022 **Investigator Met with Subject Interview**

On April 8, 2022, I took a recorded statement from Anthony (Tony) Richard Powell at the Forever Green Lawn Care business office located at 12531 Cedar Lake Road, Crown Point, Indiana. Mr. Powell stated he is the commercial lawn care manager and has worked at Forever Green Lawn Care for 10 years. Mr. Powell stated Forever Green Lawn Care has been subcontracted by Season's Landscape Specialties (recorded as Season's Landscaping in their records) since at least 2008. The contracts are renewed annually. Mr. Powell will get a list of accounts with services provided from the previous year and send them to the company to see if they want to change anything. Mr. Powell stated Forever Green Lawn Care has performed fertilizer, broadleaf weed control, and grub control treatments at approximately 25 locations for Season's Landscape Specialties in the past (and current as of 2022.) Mr. Powell stated that before this upcoming 2022 season, no one from Season's Landscape Specialties has contacted Forever Green Lawn Care to request additional services (not included with the annual contract agreement) at a site location. Mr. Powell stated to his knowledge no one from Forever Green Lawn Care has ever contacted Season's Landscape Specialties and advised them of additional services they might need at a site location. Mr. Powell stated any applications or services are recorded in their records. I asked Mr. Powell if Forever Green Lawn Care ever performed any services that could have been considered "promotional" as in a free service, bonus, or part of a customer rewards program which it may not be recorded or included in any billing statement and he stated any applications and products that are put down are always recorded, the customer is aware of what is put down, and what the cost is. Mr. Powell stated they do not do any kind of promotional treatments. I asked Mr. Powell the first date of service subcontracted by Season's Landscape Specialties, and he stated in 2008. Mr. Powell stated at the Pine Island Neighborhood location the services Forever Green Lawn Care performed were in 2008 Fertilizer, Broadleaf Weed Control, preventative crab grass control, second and third applications were balance fertilizer and broadleaf weed control (3 way selective herbicide). Mr. Powell stated Forever Green Lawn Care did not perform any services at the Pine Island Neighborhood location from 2009 until 2017. Since 2017, Forever Green Lawn Care has been going to the Pine Island Neighborhood location two (2) times a year they get two (2) treatments of broadleaf weed control using a 2, 4-d product (vessel or triad). Mr. Powell stated the last time he spoke with anyone from Season's Landscape Specialties was on April 6, 2022. Mr. Powell stated he spoke with Cheryl Dikun and she wanted to know if they could perform vegetation control (glyphosate product) this season and he said they could if they had areas that needed to be treated, she asked how many times they could do it, and what the cost was. I asked Mr. Powell if they requested an increase in the number of times they went to a location and he said no, only that they asked if they could incorporate a vegetation control (glyphosate product) application. Mr. Powell stated they would not perform any treatments unless someone confirmed with the company/customer beforehand.

Attachments
File 91718; 21-0337.html.pdf

Original Event: Investigation Activity (Pesticide) #4396
Subject: Anthony Richard Powell
Submitted By: Melissa D. Rosch

04/08/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #774
Client: Anthony Richard Powell
Firm Representative: Anthony Powell
Submitted By: Melissa D. Rosch
Attachments: File 91539; Powell NOI.pdf

04/12/2022 **Subject Called Investigator
Communication**

On April 12, 2022, I received a return phone call from Joshua Lawrence. I told Mr. Lawrence about the recorded phone call with Cheryl Dikun where she claimed Season's Landscape Specialties do not make any fertilizer applications, have never made any to the Pine Island Neighborhood location, and stated that Forever Green Lawn Care does them. I advised that Forever Green Lawn Care has no record of ever making any type of fertilizer treatment at the Pine Island Neighborhood location since 2009. I advised Mr. Lawrence of the OISC Pesticide Residue Laboratory results showing the pesticide glyphosate (product located in the back of the Season's Landscape Specialties truck bed) in the vegetation immediately adjacent to the pond area off of W 85th St. and Haney Ln. as well as in the vegetation inside the two (2) playground mulch areas. I advised Mr. Lawrence of the notification requirement and safety concerns it would present if a pesticide application was made to an area that was not marked or flagged, especially in the playground mulch. Mr. Lawrence stated they do not receive itemized billing from Season's Landscape Specialties as to when or what they do in the neighborhood.

Original Event:	Investigation Activity (Pesticide) #4405
Subject:	Joshua Lawrence
Submitted By:	Melissa D. Rosch

04/14/2022 **Online Investigation Activity**

Records

I reviewed the Pine Island Ridge Community Association (PIRCA) meeting minutes and they show the following information for "Season's Landscaping":

-2013-

January 2013:

*Bob Smith reported that he had received two bids for our lawn care services from Season's Landscaping and Hoogies. Each Board member was provided a copy of the estimates, which included prices for mowing, mulching, fertilizing, and weed control. Season's Landscaping 's total price was \$16,050.00, and Hoogies was \$15,750...Bob Smith stated that his main concern is that Hoogies has only 2 two-man crews, as opposed to Season's Landscaping, which has five crews. The concern is breakdown of equipment or if there is increased rain in the area, then the crews may fall behind on cutting the grass in our area. Bob Smith made a motion to have Season's Landscaping provide out lawn care services, and Don Guske seconded the motion. Motion passed unanimously. The Commons Area Committee will meet to decide the number of fertilizer applications that are needed. They will also have Season's Landscaping revise their contract to lock in the price for two years and add the stipulation that their contract will be terminated for just cause.

February: Commons Area/Landscape

*Bob Smith has the final contract from Season's Landscaping, which includes a clause for a thirty-day notice for termination of contract. A copy will be given to Secretary Blair.

ACTION: Bob Smith to meet with Season's Landscaping to receive a price for edging in the South Commons area. (Complete by next Board Mtg. - March 18th)

March: Commons Area/Landscape

*Bob Smith received a quote of \$1195.00 from Season's Landscaping for the edging in the South Commons area. This includes replacing all of the 44's and other materials. Season's Landscaping would expect a half-down payment, and the rest at completion time

April: Commons Area/Landscape

*Mulch has been placed around the entrance signs, and a bill totaling \$1,900.00 has been received.

May: Commons Area/Landscape

*Board members are noticing weeds in the playground area and some areas are not being cut. ACTION: Don Guske is to contact Season's Landscaping with the above concerns. (Complete by June mtg.)

July: Commons Area/Landscape

*Weeds in the playground area have been taken care of. Area looks good...Landscaper is waiting for ground to dry/harden so he can go over lawns with minimal damage to engage in tree removal.

September: Commons Area/Landscape

*Season's Landscaping will be asked to trim the willow trees by Timber Leaf Pond.
Season's Landscaping has been keeping up with removing weeds.

October:

- Vice President Palus reported extensive weed growth in the tennis courts.

ACTION: Bob Smith to contact Season's Landscaping to have them remove the weeds

2013 Annual Meeting: Bob Smith, Don Guske, and Laura Hatford

- A 2 year contract with Season's Landscaping was secured locking in a price. They will also be doing our fertilizing and weed control.

November: TREASURER'S REPORT FOR OCTOBER AND NOVEMBER 2013

- The lawn care bill for services up to the end of October has been received.

December :

- Bob Smith has spoken to Season's Landscaping and all tasks that needed to be done are completed for the year.

Attachments

File 91898; 2013-annual-meeting.docx
File 91893; April-2013-Minutes-3.doc
File 91900; December-minutes (1).docx
File 91891; February-Minutes.docx
File 91890; Januar-Minuten.docx
File 91895; July-2013-Minutes.doc
File 91892; March-2013-Minutes.doc
File 91894; May-Minutes (1).docx
File 91899; November-Minutes (1).docx
File 91897; October-minutes.docx
File 91896; September-Minutres.docx

Records

-2014-

April:

*Bob Smith to contact Season's Landscaping to set up a Saturday date for a walk around. Board members will be notified of the date. (Complete ASAP).

August: Commons Area/ Landscape

- Season's Landscaping stated they will keep their prices the same for the next 2 years.

*Bob Smith made a motion to accept the bid from Season's Landscaping for the period of April 2015-March 2017 and Vice President Palus seconded the motion. Motion passed unanimously.

*Bob Smith will ask Season's Landscaping to provide a more detailed invoice when fertilization or weed kill is completed.

2014 Annual Meeting Minutes: Commons Area/Landscape

*A 2 year contract with Season's Landscaping with no increase in fees was secured. Weed control and cleanup of overgrowth was maintained in the commons areas, playgrounds, and pond banks. Low areas at the playgrounds and Twin Lakes were filled and reseeded. Laura Hatford redesigned the landscaping around the signage. Season's Landscaping completed the planting.

November: TREASURER'S REPORT FOR NOVEMBER 2014

*It appears that all grass cutting and landscaping items have been completed for the year.

December: TREASURER'S REPORT FOR DECEMBER 2014

*An additional bill was received for grass cutting in early November.

Attachments

File 91903; 2014-Annual-Meeting-Minutes-10-13-14.doc

File 91901; April-2014-Minutes.doc

File 91902; August-20-14-Meeting-Minutes.docx

File 91905; December-2014-Minutes.doc

File 91904; November-2014-Minutes.doc

Records

-2015-

January:

*President Hodges reported that he received the police report, documentation and insurance information concerning the vehicular accident with landscape damage in the common area on Pine Island Drive at Twin Lakes. The landscaping needs repair and the debris from the accident needs to be cleaned up. The plan is to have Seasons Landscaping provide a quote for the repair as soon as the weather permits to present to the offender's insurance. Clean-up of the debris could be done by association members or a clean-up company if paid by the offender's insurance

February:

*Twin Lakes accident update - Filed claim with insurance company. Will submit estimates to the insurance company for repairs once the weather breaks and Seasons can review the damage and provide a quote.

April:

*Spring walk around was completed with the following observations:

Season's Landscaping to add mulch in both playground areas after Memorial Day.

Rut and low areas in both commons areas to filled in by Season's Landscaping.

Additional pea gravel to be applied to area in south commons area.

Season's Landscaping was asked to cut in closer towards the ditch in the north commons area.

Season's Landscaping asked to fill in ruts and move rock back in place by Timberleaf Pond. Completed

Shrubbery to be added to damaged area at TWIN Lakes. Completed

Season's Landscaping asked to clean up as much as possible the broken glass in the grass from the car accident at Twin Lakes.

Resident at 8497 W. 89th asked about possibility of having trees trimmed on path of commons area.

May: Commons Area/Landscape:

*Items from April 4 Walk Around involving Season's Landscaping to be discussed with them. Necessary weed killing and fertilizing will be clarified and reviewed with Seasons. Action: Bob Smith to contact Season's. An accident occurred when Season's was moving at Tree Branch. Mower slipped down incline leaving ruts and disturbing rip rap. They did nothing to remediate this. Dave Kwiatkowski performed work. It was agreed that Season's should be notified that this behavior was not appreciated. Action: Bob Smith to discuss with Season's. Damage at Twin Lakes - SH reported that check was to have been mailed.

June: Commons Area/Landscape

*Follow up from April 4 walk around-Weed treatment and fertilization of common areas

ACTION: Follow with Seasons and request itemized bills per park/pond area - (BS - Complete by June 22nd). John Brock will not pay unless bills are itemized.

Mulch was added to both playground areas

Low areas in south commons playground to be filled and reseeded

Additional pea gravel to be added to south commons playground

Clean up of broken glass from accident on Tree Branch pond

Tire ruts and rocks were replaced at Timber Leaf pond

Shrubbery was added to Tree Branch Pond

Dave K. reported Season's accident at Tree Branch Pond. Dave repaired and also staked the fallen tree.

August:

*Action Item: Bob Smith to follow up with Seasons for completion.

The broken glass from the auto accident that occurred at Twin Lakes has been cleaned up.

Grass and weed clean up at 8497 W. 89th has been completed.

Pond weed control does not look effective at this time. It was stated that Seasons had sprayed, and Dave will check with Seasons

September:

*Bob Smith stated that weed treatment and fertilization of common areas is taking place. The addition of pea gravel at the south commons playground will not be pursued.

Dying bushes at Twin Lakes. Bob Smith contacted Seasons. They will come out and evaluate situation and replace bushes if necessary.

2015 Annual Meeting Minutes:

*A 2 year lawn care contract with Season's Landscaping was secured locking in the same price as last year.

Low areas in both commons area and Twin Lakes have been filled and reseeded

October:

*ACTION: Dave Kwiatkowski to contact Aquatic Weed Control and Season's Landscaping to obtain quotes for weed control along the ponds. (Complete by next meeting)...Season's Landscaping reports that the 4 bushes at Twin Lakes may not be dead but in shock.

They will monitor the bushes and replace them if they are in fact dead.

November:

*Bob Smith to look over contract with Seasons to see if we have the right to cancel. Board is to decide if we will continue with Seasons treating the weeds

December:

*Bids for weed control will be reviewed in 2016. Season's Landscaping bid is \$2,500 and Aquatic Weed Control is \$800 per application which could be 3-4 applications.

Attachments

File 91914; Annual-Meeting-2015-minutes.docx
File 91908; April-2015-Minutes.doc
File 91917; December-2015-meeting-minutes.docx
File 91907; February-2015-Minutes.doc
File 91906; January-2015-Minutes.doc
File 91910; June-2015-Minutes.doc
File 91909; May-2015-Minutes.doc
File 91916; November-2015-meeting-minutes.docx
File 91915; October-2015-Board-Meeting-Minutes.docx
File 91911; PIRCA-August-2015-Minutes.doc
File 91912; PIRCA-September-2015-Board-Meeting-Minutes.docx

Records

-2016-

January:

*February meeting board to decide if we are going with Aquatics or Seasons

February:

*Commons Area/Landscaping

Ivone Palus suggested that a spring walk-around be tentatively scheduled for Saturday, April 2, at 8:30 a.m. Bob Smith to contact Seasons to see if they can participate.

Ponds-Weed control, \$3,000 is budget. Seasons sprays the weeds and charges \$800 per application. Aquatic treats the pond water.

Dave Kwiatkowski stated that Seasons addresses the cutting, but doesn't know if Aquatic will do the same.

Board decides to stay with Seasons

April: Homeowners John Gallagher and Dusanka Sovich reported that Season's Landscaping has not been mowing the commons area behind their homes at Mathews Ct.

ACTION: Neal Kostelyk was given the address 8566 Mathews Ct. and he will check into the situation.

July: There are thistles in Twin Lakes pond and in the North Commons that need to be removed. It was questioned whether the landscape company are removing. Mr. Smith to follow up with Seasons Landscaping on that and the weeds in the rocks.

August: Mr. Smith met with the landscapers (Mitch of Seasons) to address areas which may not be receiving enough attention in regard to regular mowings; but has not been able to follow-up further as of yet. Home owner stated that is has not been addressed fully; Mr. Smith agreed to contact Seasons again.

September: Mr. Smith reported that the area that was not being mowed by Seasons has now been mowed.

November: Neal Kostelyk reports that Bob Smith had Seasons come out and do one final cut.

Attachments

File 91920; April-2016-Board-meeting-minutes.docx
File 91919; February-2016-Board-Meeting-Minutes.docx
File 91921; Minutes-from-07.18.2016-1.docx
File 91922; Minutes-from-08.15.docx
File 91923; Minutes-from-09.19.2016.docx
File 91918; PIRCA January 2016 meeting minutes with corrections.pdf
File 91924; PIRCA MINUTES 11_21_16.pdf

Records

2017

February: Seasons landscaping presented us with a certificate of insurance.

2017 Proposals were received from Seasons Landscape Specialties and Mulder Maintenance & Services. After considering each proposal, a motion to retain Seasons for the upcoming year was introduced by Mr. Pocius and seconded by Ms. Blair.

April: A bill from Seasons for \$3650.00 for Spring cleanup / mulching was received. The funding for this was approved for this year - though we would like to look at other options for playground mulch in the future. A motion to pay this bill was made by Mr. Kwolek and seconded by Ms. Blair. Motion passed by voice vote.

May: A bill from Seasons Landscaping was received for 3 mowings and a weed killer application for \$2347.00 was received.

Mr. Mulder investigated the installation of riprap at Treebranch pond and determined it is not suitable for bulk purchase. He recommended going with Seasons' previous quote of \$180/ yard; 5-6 yards should be necessary. Mr. Mulder introduced a motion to request that Season's conduct the work provided the cost is accurate, this was seconded by Mr Smith. Motion passed by voice vote

June:

The following bills were received from Seasons:

\$5850.00 - Installation of mulch, cleanup of playgrounds, and three weed killer applications

\$1650.00 for landscaping work including dirt/seed application of selected area, installation of split rail fencing at 88th Ct., straightening of playground borders.

\$2140.00 May - four mowings

\$385.00 weed kill & trimming landscape beds in common areas.

A bill for the installation of riprap stone was received for \$1620.00 this will not be paid pending clarification.

We do not yet have late dues mailed out - Mr. Pocius expressed concern that this needs to be done.

Mr. Pocius will prepare a list of delinquent association fees for 2017 which he will forward to Mr. Onik (30 day); then the follow-up letter will come from the lawyer. A motion to pursue this course of actions was made by Mr. Kwolek and seconded by Ms. Sengupta. The motion passed by voice vote.

Mr. Lawrence requested further detail in future billing statements from Seasons in terms of specific locations and quantities.

A call for voice vote was called on each bill. All bills will be paid at this time with the exception of the bill for riprap installation.

July:

A bill for \$1,500.00 from Seasons for trimming was received. A motion to pay this bill was introduced by Mr. Kostelyk and seconded by Mr. Kwolek. The motion passed by voice vote

A bill for \$3,417.00 for 5 mowings was received from Seasons. There appeared to be a discrepancy in the total amount due; this bill will not be paid at this time pending clarification.

August:

The bill for the riprap installation was discussed with Seasons; he has agreed to split the difference between the quote and the bill which means we will pay an additional \$270.00.

The bill for \$3,417.00 for 5 mowings received from Seasons also included two weed killer applications. This is clarified on the itemized invoice and accounts for the discrepancy.

September:

A bill was received from Season's landscaping for \$3,417.00 for 5 mowings and weed killer application around the ponds.

October: Season's Lawn care sent a bill for \$2,882 for 4 cuts. President Lawrence made a motion to pay the bill and Mr. Kwolek seconded the motion. Motion passed unanimously.

November: * Received \$2,882 final bill from Season's. The budget for grass cutting went over by approximately \$1,000. Vice President Kostelyk made a motion for funds from tree trimming be transferred to grass cutting to make up the difference. President Lawrence seconded the motion and motion passed unanimously.

Attachments

File 91777; Minutes-from-02.20.2017.docx

File 91780; Minutes-from-05.15.2017.docx

File 91781; Minutes-from-06.19.2017.docx

File 91782; PIRCA Minutes 07.17.2017.pdf

File 91783; PIRCA Minutes 08.21.2017.pdf

File 91784; PIRCA Minutes 09.18.2017.pdf

File 91779; PIRCA- Minutes 04.17.2017.pdf

File 91786; PIRCA-Minutes-November-2017.docx

File 91785; PIRCA-Minutes-October-2017.docx

Records

2018

February: Mr. Smith will contact Season's owner in March to invite him to the spring walk around.

March: Spring walk around will be April 7th at 8:00am. Owner of Season's Landscaping will be present

April: Mr. Smith received an estimate from Season's Landscaping for the cost of projects that were identified during the spring walk around. Projects included removal of stump grindings and installation of dirt/seed/lawn starter fertilizer for area where 2 trees were removed, adding riprap to areas by ponds where erosion is noted and removal of tree branches and log debris by Twin Lakes pond. Mr. Onik will look up bill from last year to compare prices and Mr. Kwolek will try to get other estimates for the same projects. Mr. Lawrence made a motion to get competing bids and Mr. Smith seconded the motion. Motion passed unanimously.

May: Treasures report...Season's \$4,927.00

June: Treasurers report... Season's \$3,417.00,

July: TREASURER'S REPORT

\$1,500 invoice received from Season's for trimming of shrubs and ornamental trees. Also, removal of debris by ponds and signage. \$2,882 invoice from Season's for 4 cuts and weed killing.

Mr. Lawrence requested that future lawn contracts have more specific listing of their duties.

Mr. Smith to contact Season's with regards to removal of weeds in the playground areas and trimming the perimeter around the playground areas.

August: TREASURER'S REPORT

Invoice from Season's Landscaping totaling \$2,882.00 for 4 cuts and 2 occasions of weed spraying.

\$5,292.00 invoice for rubber mulch.

\$25 receipt for underlayment and stakes for north commons playground.

Mr. Lawrence checked on the weeds in the south common area and they appear to have been sprayed and not removed as requested.

September: payment to Season's for \$3,417.00.

October: Treasurer's report... Season's \$2,882

November: Treasurer's report...Season's \$2,882

Mr. Smith has informed Season's to do no more cuts for the year. Their contract has been renewed for next year.

Attachments

File 91795; PICRA Minutes 10-2018.pdf

File 91796; PICRA Minutes 11-2018.pdf

File 91792; PICRA Minutes 7-2018.pdf

File 91793; PICRA Minutes 8-2018.pdf

File 91794; PICRA Minutes 9-2018.pdf

File 91789; PINE-ISLAND-RIDGE-COMMUNITY-ASSOCIATION-April.docx

File 91787; PINE-ISLAND-RIDGE-COMMUNITY-ASSOCIATION-February.docx

File 91788; PINE-ISLAND-RIDGE-COMMUNITY-ASSOCIATION-March.docx

File 91790; PIRCA Minutes 5-2018.pdf

File 91791; PIRCA Minutes 6-2018.pdf

Records

2019

April: Season's Landscaping \$1,750.00

Seasons Landscaping has laid down mulch without approval from the board.

Mr. Smith will ask Seasons Landscaping for an hourly price estimate to lay down rubber mulch (9 tons) in the south commons area.

May: Seasons \$1900 (mulch for the entrance beds) and \$1812 (to mow, weed, and spray)

June: Seasons Landscaping \$3,417.00

- Horse's Landscaping will deliver the rubber mulch to the south commons area at a price of \$13,291.00, which includes the product delivery and taxes. Seasons Landscaping will install the rubber mulch for \$1100.00. Mrs. Blair made a motion to accept this payment, and Mr. Smith seconded the motion. Motion passed unanimously.
- In the south commons playground, there is an area which has pea gravel and may need to be refilled. The area will need to be looked over and possibly be made into a smaller area. Mr. Smith will have Seasons Landscaping look at it and assess whether they will be able to do so, as well as at what cost.

July: Seasons Landscaping \$1,500 (trimmed plants), Season's Landscaping \$2,882 (weed spraying around ponds)

Season's Landscaping will call the board 2 weeks prior to provide a date for when they are able to spread the mulch in the south commons playground. They will also clean up the weeds in the north commons area.

August: Seasons Landscaping \$2882.00;

Placement of rubber mulch in South Commons playground has been completed.

Season's will be contacted to be more vigilant with removal of weeds in both playground areas.

September: Seasons Landscaping

\$1,475 (South Commons playground mulch and pea gravel), Season's

Landscaping \$3,417 (lawn and weed kill)

October: Seasons Landscaping \$2,882.00

Mr. Smith will contact Season's with regards to trimming the peninsula at

Tree Branch pond.

2019 Annual Meeting Minutes:

Mr. Lisak stated that his phone landline was not working for 2 days because of the green electrical box was hit and wires exposed when a Season's worker hit the box. Season's will be notified to call the board if this situation occurs again.

Mr. Pike stated that Season's grass cutters were driving over garbage and not picking it up. This will be brought to Season's attention

November: Season's \$2882.00

Season's is done for the year with grass cutting.

December: Season's \$1,070 (2 cuts)

Season's contract is expiring and Mr. Smith will contact them to ask for a proposal.

Attachments

File 91804; 2019 Annual Meeting Minutes.pdf

File 91803; PICRA Minutes 10-2019.pdf

File 91805; PICRA Minutes 11-2019.pdf

File 91806; PICRA Minutes 12-2019.pdf

File 91797; PICRA Minutes 4-2019.pdf

File 91798; PICRA Minutes 5-2019.pdf

File 91799; PICRA Minutes 6-2019.pdf

File 91800; PICRA Minutes 7-2019.pdf

File 91801; PICRA Minutes 8-2019.pdf

File 91802; PICRA Minutes 9-2019.pdf

Records

2020

January: A certificate of liability from Season's has been obtained.
Season's has one more year on their contract.

June: Season's \$2,882.00
Season's has been contacted about the weeds in the playground areas but no response at this time

July: Season's (mowing and weeding) \$3,417.00, Season's (trimming) \$1,500.00

August: Season's \$2,882.00

September: Season's \$3,417.00

October: Season's \$2,882.00

November: Season's
\$2,882.00
Check to be completed if Season's is done with grass cuttings

December: Season's \$2,140.00

Attachments

File 91816; PICRA Minutes 1-2020.pdf
File 91821; PICRA Minutes 10-2020.pdf
File 91822; PICRA Minutes 11-2020.pdf
File 91823; PICRA Minutes 12-2020.pdf
File 91817; PICRA Minutes 6-2020.pdf
File 91818; PICRA Minutes 7-2020.pdf
File 91819; PICRA Minutes 8-2020.pdf
File 91820; PICRA Minutes 9-2020.pdf

Records

2021

February: The new contract from Season's consists of the following: \$600 per cut, three applications of weed kill/fertilization \$2,700, weed kill around pond \$2,500, mulch \$1,900 and pruning \$1,500.

March: Season's Landscaping and Aquatic Weed Control contracts have been renewed.

May: Season's \$2,542.00

June: Season's \$3,142.00

July: Season's \$3,142.00 (mowing and weed control)
Mr. Lawrence took pictures of the weeds in the north playground which was present during the Kiddie Parade. The pictures will be forwarded to Season's along with a letter stating our disappointment that they continually neglect the playground areas.

August: Season's Landscaping \$3,742.00

September: Season's \$3,142.00

October: Season's \$3,742.00

November: Season's \$3,142.00
Mr. Smith will contact Season's to tell them not to perform any more cuts.

December: Season's \$2,400,

Attachments

File 91831; PICRA Minutes 10-2021.pdf
File 91832; PICRA Minutes 11-2021.pdf
File 91833; PICRA Minutes 12-2021.pdf
File 91824; PICRA Minutes 2-2021.pdf
File 91825; PICRA Minutes 3-2021.pdf
File 91826; PICRA Minutes 5-2021.pdf
File 91827; PICRA Minutes 6-2021.pdf
File 91828; PICRA Minutes 7-2021.pdf
File 91829; PICRA Minutes 8-2021.pdf
File 91830; PICRA Minutes 9-2021.pdf

Original Event: Investigation Activity (Pesticide) #4467
Submitted By: Melissa D. Rosch

04/15/2022 **Investigator Received Fax/Email from Subject Records**

I attached additional records showing dates of service for Forever Green Lawn Care at the Pine Island neighborhood: 10/3/2017, 5/11/2018, 9/12/2018, 6/17/2019, 9/11/2019, 6/28/2021, and 9/20/2021. All of these weed control applications were made using Triad Select Herbicide EPA#89442-22, Active Ingredients: 30.98% of Dimethylamine Salt of 2,4-D, 8.23% Dimethylamine Salt of MCPA, and 2.77% Dimethylamine Salt of Dicamba. Forever Green Lawn Care stated Cheryl Dikun requested the account be put on hold on 5/7/2020 which is why there were not any applications made in 2020.

Attachments

File 91925; Pine Island HOA_04152022_105754.pdf

Original Event: Investigation Activity (Pesticide) #4475
Subject: Forever Green Lawn Care Inc
Submitted By: Melissa D. Rosch

04/19/2022 **Judgement; Civil Penalty Assessed Citation**

Season's Landscape Specialties, Inc was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to apply pesticides or products regulated by the Office of Indiana State Chemist without having an Indiana pesticide business license.

Civil Penalty

Mitch Dikun was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to apply pesticides or products regulated by the Office of Indiana State Chemist without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact Mr. Dikun stated he did not know that he needed to be licensed.

Original Event: Judgement #1236
Primary: Season's Landscape Specialties, Inc.
Secondary: Mitch Dikun
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(9)
Penalty Amount: 500

04/21/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1069
To: Season's Landscape Specialties, Inc.
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 9415
Enclosed: Notice of Enforcement
Attachments: File 92749; PS21-0337EL CIT ~ Season's Landscape Specialties.docx

04/21/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1070
To: Mitch Dikun
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 9408
Enclosed: Notice of Enforcement
Attachments: File 92750; PS21-0337EL CP ~ Mitch Dikun.docx

04/29/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1478
Subject: Season's Landscape Specialties, Inc.
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 9415
Received: 04/29/2022
Attachments: File 97602; CM 7019 0140 0000 6113 9415 ~ PS21-0337 Seasons Landscape.pdf

04/30/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1477
Subject: Mitch Dikun
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 9408
Received: 04/30/2022
Attachments: File 97533; CM 7019 0140 0000 6113 9408 ~ PS21-0337 Mitch Dikun.pdf

05/27/2022 **Informal Review Occurred**

John P. Reed of the law firm Abrahamson, Reed & Belise sent a letter to OISC requesting a hearing in this matter. The secretary to the IPRB was notified.

Original Event:	Compliance Activity #1254
Primary:	Mitch Dikun
Submitted By:	George Saxton
Stage:	Informal Review
Attachments:	File 96346; No. PS21-0337 - Mitch Dikun IPRB notified.pdf File 96345; PS21-0337 - Mitch Dikun.pdf

06/02/2022 **Compliance Activity**

Left a phone message for attorney John Reed regarding an informal conference. Mr. Reed returned my call and a phone conference was scheduled for June 17, 2022 at 11:00 Eastern Time.

Original Event:	Compliance Activity #1257
Primary:	Mitch Dikun
Submitted By:	George Saxton

06/17/2022 **Informal Review Occurred**

Spoke to attorney John Reed, representing Seasons Landscape Specialties. He agreed that OISC had the authority to investigate and inspect businesses that apply pesticides/fertilizers for hire. He also admitted that his client made for hire pesticide/fertilizer applications without a license but did not want to admit to anything for liability reasons. He agreed to plead "No Contest" to the charges and have his client pay the fine but wanted Seasons Landscape Specialties cited and not Mr. Dikun. I advised Mr. Reed an amended judgement would be sent to them once I received his letter pleading "No Contest".

Original Event:	Compliance Activity #1281
Primary:	Season's Landscape Specialties, Inc.
Submitted By:	George Saxton
Stage:	Informal Review

07/26/2022 **Compliance Activity**

Spoke to the secretary for attorney John P. Reed. She stated Mr. Reed had been in a car accident and had surgery twice. She stated that she will make sure we get the letter within a week.

Original Event:	Compliance Activity #1368
Primary:	Mitch Dikun
Submitted By:	George Saxton

08/22/2022 **Informal Review Occurred**

Left a message for attorney John Reed regarding this case.

Original Event:	Compliance Activity #1430
Primary:	Mitch Dikun
Submitted By:	George Saxton
Stage:	Informal Review

09/08/2022 **Compliance Activity**

On September 7, 2022, Melissa Rosch went to Attorney John Reed's office at 8230 Hohman Ave/Munster/IN and spoke with Mr. Reed. He stated he has returned from his medical leave and is catching up on his cases. Mr. Reed stated he will have a letter finalized by the end of this week. She asked Mr. Reed if he needed any further information from OISC regarding the case and he stated no.

Original Event:	Compliance Activity #1461
Primary:	Mitch Dikun
Submitted By:	George Saxton

09/22/2022 **Informal Review Occurred**

On September 22, 2022, Attorney John P. Reed sent in a Plea Agreement wherein it was agreed upon that sole responsibility for the enforcement action in this matter would be Season's Landscape Specialties, Inc. alone.

Original Event:	Compliance Activity #1492
Primary:	Season's Landscape Specialties, Inc.
Submitted By:	George Saxton
Stage:	Informal Review
Attachments:	File 109877; Plea Agreement.pdf

09/22/2022 **Amended Judgement; Civil Penalty Assessed**
Civil Penalty

Season's Landscape Specialties, Inc was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to apply pesticides or products regulated by the Office of Indiana State Chemist without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for this violation.

Original Event:	Judgement #1364
Primary:	Season's Landscape Specialties, Inc.
Submitted By:	George Saxton
Level:	Informal Review
Legal Citation:	IC 15-16-5-65(9)
Penalty Amount:	500

09/26/2022 **Informal Review Occurred**

A signed agreement of "No Contest" was entered into the record.

Original Event: Compliance Activity #1500
Primary: Mitch Dikun
Submitted By: George Saxton
Stage: Informal Review
Attachments: File 110414; Signed Plea Agreement.pdf
Photos:



File 110114

09/26/2022 **Notice of Amended Enforcement Mailed to Target**

Original Event: Outgoing Mail #1371
To: Season's Landscape Specialties, Inc.
Submitted By: Joni D. Herman
USPS: 7021 0950 0000 0607 8575
Enclosed: Notice of Amended Enforcement
Attachments: File 110274; PS21-0337EL CP ~ Seasons Landscape Specialties.docx

09/30/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1751
Subject: Season's Landscape Specialties, Inc.
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8575
Received: 09/30/2022
Attachments: File 110853; CM 7021 0950 0000 0607 8575 - PS21-0337 - 9-30-2022.pdf

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

Original Event: Compliance Receipt #1742
Subject: Season's Landscape Specialties, Inc.
Submitted By: Jacob A. Hatfield
Payment Expected: \$500.00
Payment Received: \$500.00
Attachments: File 110776; PS21-0337 - Season's Landscape Specialties, Inc. - 10-3-2022.pdf

10/05/2022 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #1416
To: Zachary Bertossi
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110858; PS21-0337 - Zachary Bertossi - Case Closed Letter 10-5-2022.docx

10/05/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1417
To: Season's Landscape Specialties, Inc.
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110864; PS21-0337 - Season's Landscape Specialties, Inc. - Case Closed Letter 10-5-2022.docx

10/05/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1418
To: Mitch Dikun
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110860; PS21-0337 - Mitch Dikun - Case Closed Letter 10-5-2022.docx

10/05/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1419
To: Forever Green Lawn Care Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110861; PS21-0337 - Forever Green Lawn Care Inc. - Case Closed Letter 10-5-2022.docx

10/05/2022 **Notice of Case Closure Mailed to Target**

Original Event:	Outgoing Mail #1420
To:	Anthony Richard Powell
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 110862; PS21-0337 - Anthony R. Powell - Case Closed Letter 10-5-2022.docx

10/05/2022 **Notice of Case Closure Mailed to Target**

Original Event:	Outgoing Mail #1421
To:	Joshua Lawrence
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 110863; PS21-0337 - Joshua Lawrence - Case Closed Letter 10-5-2022.docx

10/24/2022 **Mail Service Returned for Target**

On October 24, 2022, case closed letter was returned to OISC.

Original Event:	Compliance Receipt #1777
Subject:	Joshua Lawrence
Submitted By:	Jacob A. Hatfield
Returned:	10/24/2022
Attachments:	File 111972; PS21-0337 - Joshua Lawrence - Regular Mail Returned 10-24-2022.pdf

10/25/2022 **Compliance Activity**

The investigator requested an email copy to be sent to Mr. Lawrence after his case closed letter was returned.

Original Event:	Compliance Activity #1556
Primary:	Joshua Lawrence
Submitted By:	Jacob A. Hatfield
Attachments:	File 111981; PS21-0337 - Case Closed Letter Email to Joshua Lawrence.pdf

Chain of Custody

10/16/2021 **Sample 22-4-0701 4**

Original Event:	Chain of Custody #82 (22-4-0701 4)
10/15/2021 12:24:	Sample Collected by Melissa D. Rosch
10/16/2021 15:26:	Sample Delivered to 218
10/16/2021 15:26:	Delivery Affirmed by Vicki Vauters

10/16/2021 **Sample 22-4-0702 2**

Original Event:	Chain of Custody #87 (22-4-0702 2)
10/15/2021 12:27:	Sample Collected by Melissa D. Rosch
10/16/2021 15:28:	Sample Delivered to 218
10/16/2021 15:28:	Delivery Affirmed by Vicki Vauters

10/16/2021 **Sample 22-4-0703 3**

Original Event:	Chain of Custody #83 (22-4-0703 3)
10/15/2021 12:24:	Sample Collected by Melissa D. Rosch
10/16/2021 15:26:	Sample Delivered to 218
10/16/2021 15:26:	Delivery Affirmed by Vicki Vauters

10/16/2021 **Sample 22-4-0704 6**

Original Event:	Chain of Custody #88 (22-4-0704 6)
10/15/2021 12:27:	Sample Collected by Melissa D. Rosch
10/16/2021 15:28:	Sample Delivered to 218
10/16/2021 15:28:	Delivery Affirmed by Vicki Vauters

10/16/2021 **Sample 22-4-0705 1**

Original Event:	Chain of Custody #84 (22-4-0705 1)
10/15/2021 12:24:	Sample Collected by Melissa D. Rosch
10/16/2021 15:26:	Sample Delivered to 218
10/16/2021 15:26:	Delivery Affirmed by Vicki Vauters

10/16/2021 **Sample 22-4-0706 7**

Original Event:	Chain of Custody #89 (22-4-0706 7)
10/15/2021 12:27:	Sample Collected by Melissa D. Rosch
10/16/2021 15:28:	Sample Delivered to 218
10/16/2021 15:28:	Delivery Affirmed by Vicki Vauters

10/16/2021 **Sample 22-4-0707 9**

Original Event:	Chain of Custody #85 (22-4-0707 9)
10/15/2021 12:24:	Sample Collected by Melissa D. Rosch
10/16/2021 15:26:	Sample Delivered to 218
10/16/2021 15:26:	Delivery Affirmed by Vicki Vauters

10/16/2021 **Sample 22-4-0708 0**

Original Event:	Chain of Custody #86 (22-4-0708 0)
10/15/2021 12:24:	Sample Collected by Melissa D. Rosch
10/16/2021 15:26:	Sample Delivered to 218
10/16/2021 15:26:	Delivery Affirmed by Vicki Vauters

10/16/2021 **Sample 22-4-0709 8**

Original Event:	Chain of Custody #90 (22-4-0709 8)
10/15/2021 12:27:	Sample Collected by Melissa D. Rosch
10/16/2021 15:28:	Sample Delivered to 218
10/16/2021 15:28:	Delivery Affirmed by Vicki Vauters

10/16/2021 **Sample 22-4-0710 8**

Original Event:	Chain of Custody #91 (22-4-0710 8)
10/15/2021 12:27:	Sample Collected by Melissa D. Rosch
10/16/2021 15:28:	Sample Delivered to 218
10/16/2021 15:28:	Delivery Affirmed by Vicki Vauters

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

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In Re: Case PS21-0368

Department	Pesticide
Originated	09/21/2021
Assigned To	Garret A. Creason
Status	Closed

Involved Parties

Complainant	Central Garden & Pet Company Schaumburg, IL 60173
Respondent Registrant	Telesis Animal Health, Inc. Jacksonville, FL 32257

Overviews

11/18/2021 **Product Registration Summary**

As is, the product is non-compliant as a 25(b) because the ingredients used are not acceptable in a 25(b) pesticide product. Therefore, the product must either be registered with the EPA as a Section 3 pesticide or claims must be revised.

Submitted By: Sarah K. Caffery
Role: Product Registration Specialist

01/04/2022 **Investigation Summary**

On September 9, 2021 OISC received a complaint stating Equiderma was offering several unregistered pesticide products for sale on their website. A check of Office of Indiana State Chemist records did not find any registered products for Equiderma.

I conducted a virtual marketplace inspection. Screenshots of the product pages and ordering process were collected. Equiderma Neem and Aloe Horse Spray and Equiderma Neem Shampoo were able to be ordered from the website. On October 7, 2021 the products were delivered. Photos were taken of the packaging and the products.

On October 12, 2021 the products were delivered to the OISC formulation lab as documentary samples. Photos were submitted to the OISC case management system so a label review could be conducted.

The Neem Shampoo label review found that the Label does not include any pesticide claims. Website states "controls mites living in feather". If this claim is removed no pesticidal claims are present and no violations.

The Equiderma Neem and Aloe Horse Spray label review found that with the current ingredients, this product is a non-compliant 25(b) pesticide product. Since it is non-compliant as a 25(b), claims either need to be revised or the product must be registered with EPA as a Section 3 pesticide.

Submitted By: Garret A. Creason
Role: Investigator

01/14/2022 **Disposition Summary**

Telesis Animal Health, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.

Telesis Animal Health, Inc. was warned for violation of section 57(4) of the Indiana Pesticide Registration Law for distributing a pesticide product with incomplete or illegible label or in a container other than manufacturer's immediate, unbroken, and approved or authorized container.

Telesis Animal Health, Inc. was warned for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that is adulterated or misbranded.

Telesis Animal Health, Inc. was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

09/09/2021 Intake Referral Filed

Complainant stated Equiderma is offering several unregistered pesticide products for sale on their website. A check of Office of Indiana State Chemist records did not find any registered products for Equiderma.

Original Event: Intake Referral (Pesticide) #2226
Complainant: Central Garden & Pet Company
Respondent: Telesis Animal Health, Inc.
Submitted By: Joseph D. Becovitz
Assigned To: Garret A. Creason
Attachments: File 80819; Equiderma complaint form.pdf

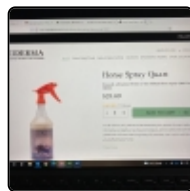
09/21/2021 Case Created

Original Event: Case PS21-0368
Submitted By: Joseph D. Becovitz
Assigned To: Garret A. Creason

10/04/2021 Online Investigation Activity Screenshots

I conducted a virtual marketplace inspection. i took screenshots of the product pages and ordering process.

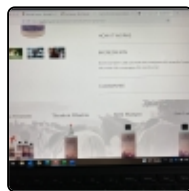
Attachments



File 82062



File 82063



File 82064



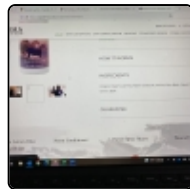
File 82065



File 82066



File 82067



File 82068



File 82069

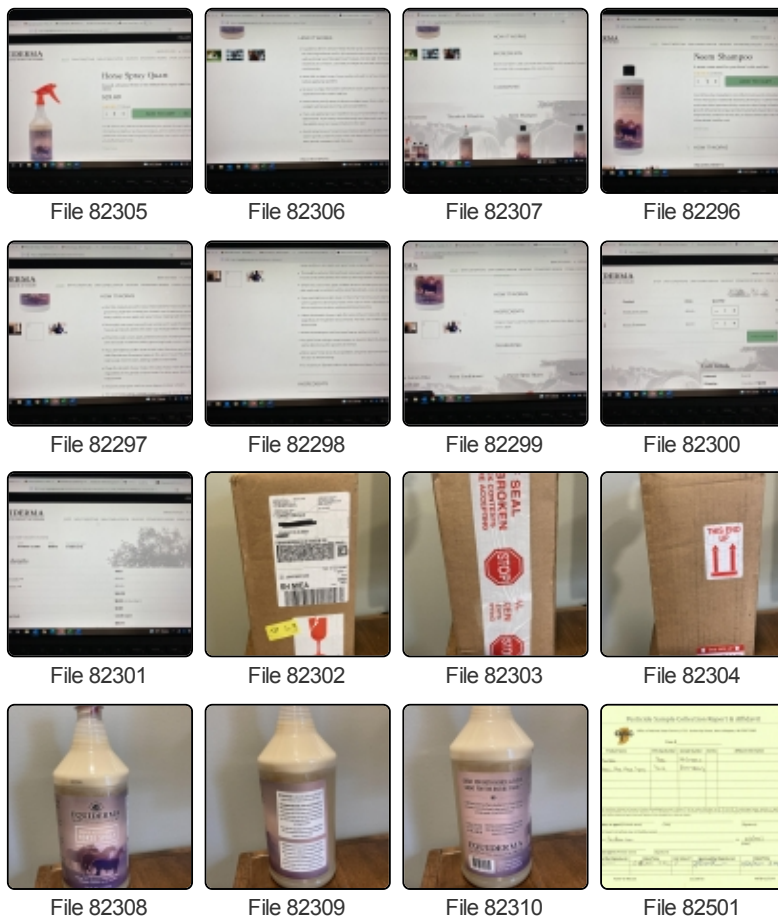


File 82070


Original Event: Investigation Activity (Pesticide) #3934
Subject: Telesis Animal Health, Inc.
Submitted By: Garret A. Creason

10/07/2021 Formulation Samples Collected

Original Event: Formulation Collection #191873 (22-3-0001 0)
Registrant: Telesis Animal Health, Inc.
Submitted By: Garret A. Creason
Sample: 22-3-0001 0 | Neem Shampoo
Sample: 22-3-0002 3 | Equiderma Neem and Aloe Horse Spray
Photos:




10/22/2021 **Received Formulation Lab Report**
First Page of Lab Report

 Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner	
		Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu	
PESTICIDE FORMULATION ANALYSIS REPORT			
PRODUCT NAME Neem Shampoo	INVESTIGATOR CREASONG	DATE SAMPLED 10/07/2021	REPORT DATE 10/22/2021
OCM COLLECTION 191873-01	SAMPLE NO. 22-3-0001 0	EPA REG NO.	
ACTIVE INGREDIENT		%GUARANTEE	%FOUND
Documentary - No Analysis Performed			
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee			

Original Event: Formulation Lab Report #192809 (191873-01-R467)
 Submitted By: SYSTEM
 Lab Report: Lab Report 191873-01-R467.pdf

10/22/2021 **Received Formulation Lab Report**

First Page of Lab Report

 Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner	
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu			
PESTICIDE FORMULATION ANALYSIS REPORT			
PRODUCT NAME Equiderma Neem and Aloe Horse Spray	INVESTIGATOR CREASONG	DATE SAMPLED 10/07/2021	REPORT DATE 10/22/2021
OCM COLLECTION 191873-02	SAMPLE NO. 22-3-0002 3	EPA REG NO.	
ACTIVE INGREDIENT		%GUARANTEE	%FOUND
Documentary - No Analysis Performed			
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee			

Original Event: Formulation Lab Report #192810 (191873-02-R467)
 Submitted By: SYSTEM
 Lab Report: Lab Report 191873-02-R467.pdf

11/11/2021 **Investigator Met with Registrant Photographs**

Photos of the Neem Shampoo.

Attachments



File 83471



File 83472



File 83473

Original Event: Investigation Activity (Pesticide) #4109
 Subject: Telesis Animal Health, Inc.
 Submitted By: Garret A. Creason

11/11/2021 **Label Review Conducted; Not Acceptable**

Label review does not include any pesticide claims. Website states "controls mites living in feather". If this claim is removed no pesticidal claims are present and no violations.

Original Event: Label Review (Pesticide) #165 (22-3-0001 0)
 Registrant: Telesis Animal Health, Inc.
 Submitted By: Sarah K. Caffery
 Sample: 22-3-0001 0
 Product: Neem Shampoo

11/11/2021 **Label Review Conducted; Not Acceptable**

With the current ingredients, this product is a non-compliant 25(b) pesticide product. Since it is non-compliant as a 25(b), claims either need to be revised or the product must be registered with EPA as a Section 3 pesticide. Full review attached.

Original Event: Label Review (Pesticide) #166 (22-3-0002 3)
 Registrant: Telesis Animal Health, Inc.
 Submitted By: Sarah K. Caffery
 Sample: 22-3-0002 3
 Product: Equiderma Neem and Aloe Horse Spray
 Attachments: File 83492; PS21-0368 Telesis Animal Health Inc Review.docx

01/14/2022 **Judgement; Civil Penalty Assessed Warning**

Telesis Animal Health, Inc. was warned for violation of section 57(4) of the Indiana Pesticide Registration Law for distributing a pesticide product with incomplete or illegible label or in a container other than manufacturer's immediate, unbroken, and approved or authorized container.

Warning

Telesis Animal Health, Inc. was warned for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that is adulterated or misbranded.

Civil Penalty

Telesis Animal Health, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.

Civil Penalty

Telesis Animal Health, Inc. was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Abeyance

The civil penalty in the amount of \$1,250.00 will be held in abeyance for a period of sixty (60) days and not assessed provided Telesis removes pesticidal claims from labels & labeling (including websites & reviews) or revise labeling to comply with FIFRA and register the pesticide product in Indiana.

Original Event:	Judgement #877
Primary:	Telesis Animal Health, Inc.
Submitted By:	George Saxton
Legal Citations:	IC 15-16-4-57(1); IC 15-16-4-57(4); IC 15-16-4-57(5); IC 15-16-4-57(9)
Penalty Amount:	1250

03/09/2022 Notice of Enforcement Mailed to Target

Original Event:	Outgoing Mail #1005
To:	Telesis Animal Health, Inc.
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2427 0248
Enclosed:	Notice of Enforcement
Attachments:	File 89208; PS21-0368EL CP Abeyance ~ Telesis Animal Health, Inc..docx

03/21/2022 Received Mail Confirmation for Target

Original Event:	Compliance Receipt #1434
Subject:	Telesis Animal Health, Inc.
Submitted By:	Joni Herman
USPS:	7019 1640 0001 2427 0248
Received:	03/21/2022
Attachments:	File 92874; CM 7019 1640 0001 2427 0248.pdf

04/12/2022 Pesticide Products Activity

Registrant reached out to Pesticide Product section via email. We confirmed that there were no labeling revisions required, only revisions to the labeling (website & marketing).

Original Event:	Pesticide Products Activity #9
Primary:	Telesis Animal Health, Inc.
Submitted By:	Sarah K. Caffery

07/15/2022 Pesticide Products Activity

Sent a follow up to the 4/12/22 communication with the Registrant. Requested confirmation that pesticidal claims have been removed by 7/20/22

Original Event:	Pesticide Products Activity #17
Primary:	Telesis Animal Health, Inc.
Submitted By:	Sarah K. Caffery

08/08/2022 Pesticide Products Activity

Registrant identified that the claims had been removed. However, per review of company website, social media posts and other available sites on the internet, insect repellent claims are still be utilized. The civil penalty will be assessed.

Original Event:	Pesticide Products Activity #19
Primary:	Telesis Animal Health, Inc.
Submitted By:	Sarah K. Caffery
Attachments:	File 105406; Equiderma Email 8.8.22.pdf

08/22/2022 Informal Review Occurred

Telesis failed to remove pesticidal claims from labels & labeling (including websites & reviews) or revised labeling to comply with FIFRA and registered the pesticide product in Indiana. Therefore, the civil penalty held in abeyance will be reinstated.

Original Event:	Compliance Activity #1429
Primary:	Telesis Animal Health, Inc.
Submitted By:	George Saxton
Stage:	Informal Review

08/22/2022 Amended Judgement; Civil Penalty Assessed Warning

Telesis Animal Health, Inc. was warned for violation of section 57(4) of the Indiana Pesticide Registration Law for distributing a pesticide product with incomplete or illegible label or in a container other than manufacturer's immediate, unbroken, and approved or authorized container.

Warning

Telesis Animal Health, Inc. was warned for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that is adulterated or misbranded.

Civil Penalty

Telesis Animal Health, Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.

Civil Penalty

Telesis Animal Health, Inc. was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Original Event:	Judgement #1344
Primary:	Telesis Animal Health, Inc.
Submitted By:	George Saxton
Level:	Informal Review
Legal Citations:	IC 15-16-4-57(1); IC 15-16-4-57(4); IC 15-16-4-57(5); IC 15-16-4-57(9)
Penalty Amount:	1250

08/25/2022 Notice of Amended Enforcement Mailed to Target

Original Event:	Outgoing Mail #1231
To:	Telesis Animal Health, Inc.
Submitted By:	Jacob A. Hatfield
USPS:	7022 0410 0001 2745 3967
Enclosed:	Notice of Amended Enforcement
Attachments:	File 107555; PS21-0368EL CP ~ Telesis Animal Health, Inc..docx

09/07/2022 Received Mail Confirmation for Target

Original Event:	Compliance Receipt #1693
Subject:	Telesis Animal Health, Inc.
Submitted By:	Jacob A. Hatfield
USPS:	7022 0410 0001 2745 3967
Received:	09/07/2022
Attachments:	File 109565; CM 7022 0410 0001 2745 3967 - PS21-0368 - 9-7-2022.pdf

09/29/2022 Received Penalty Payment for Target

Original Event:	Compliance Receipt #1740
Subject:	Telesis Animal Health, Inc.
Submitted By:	Jacob A. Hatfield
Payment Expected:	\$1,250.00
Payment Received:	\$1,250.00
Attachments:	File 110559; PS21-0368 - Telesis Animal Health Inc. - CP Received 9-29-2022.pdf

09/30/2022 Notice of Case Closure Mailed to Complainant

Original Event:	Outgoing Mail #1384
To:	Central Garden & Pet Company
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 110633; PS22-0368 - Central Garden & Pet Company - Case Closed Letter 9-30-2022.docx

09/30/2022 Notice of Case Closure Mailed to Target

Original Event:	Outgoing Mail #1385
To:	Telesis Animal Health, Inc.
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 110632; PS22-0368 - Telesis Animal Health, Inc. - Case Closed Letter 9-30-2022.docx

Chain of Custody

10/11/2021 Sample 22-3-0001 0

Original Event:	Chain of Custody #76 (22-3-0001 0)
10/11/2021 10:11:	Sample Collected by Garret A. Creason
10/12/2021 12:56:	Sample Delivered to 218
10/12/2021 12:56:	Delivery Affirmed by Natalie Wilson

10/11/2021 Sample 22-3-0002 3

Original Event:	Chain of Custody #77 (22-3-0002 3)
10/11/2021 10:11:	Sample Collected by Garret A. Creason
10/12/2021 12:56:	Sample Delivered to 218
10/12/2021 12:56:	Delivery Affirmed by Natalie Wilson



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

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In Re: Case PS22-0074

Department	Pesticide
Originated	03/31/2022
Assigned To	Garret A. Creason
Status	Closed

Involved Parties

Complainant	Office of Indiana State Chemist
Respondent Issued To	Tractor Supply Richmond, IN 47374
Registrant Respondent	Esprey Animal Products Inc Grapevine, TX 76051

Overviews

04/11/2022 **Product Registration Summary**

Herbal Horse Fly Repellent Face and Body Wipes does not comply with FIFRA 25(b) Conditions as outlined in 40CFR. Therefore, this product must be registered with EPA. Registrant was aware that this product was not registered in the state of Indiana. The registrant was also aware of the identified needs in order to submit a successful application.

Submitted By: Sarah K. Caffery
Role: Product Registration Specialist

04/26/2022 **Investigation Summary**

On March 31, 2022 a routine Marketplace inspection was conducted at Tractor Supply in Richmond, IN. I met with Interim Store Manager Erica Wesler and explained the process of the Marketplace inspection. During the inspection I located a state unregistered pesticide product. The product was Esprey Herbal Horse Fly Repellent Face and Body Wipes. I spoke with Sarah Caffery and we found that the product was denied registration in Indiana in 2019. A Stop Sale Order was issued to Tractor Supply in Richmond. An evidentiary sample of the unregistered pesticide product was collected.

A Stop Sale Order was issued to Tractor Supply for the Esprey herbal Horse Fly Repellent Face and Body Wipes. An Evidentiary sample was collected.

The OISC Pesticide Registration Team found that Herbal Horse Fly Repellent Face and Body Wipes does not comply with FIFRA 25(b) Conditions as outlined in 40CFR. Therefore, this product must be registered with EPA. Registrant was aware that this product was not registered in the state of Indiana. The registrant was also aware of the identified needs in order to submit a successful application.

Submitted By: Garret A. Creason
Role: Investigator

05/02/2022 **Disposition Summary**

Esprey Animal Products Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Esprey Animal Products Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated or misbranded. A civil penalty in the amount of \$500.00 was assessed for this violation.

Esprey Animal Products Inc. was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that was in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$1,000.00 was assessed for this violation.

However, \$1,000.00 of the civil penalty will be held in abeyance and will not be assessed provided Espree Animal Products Inc removes products from Indiana marketplace; blocks sales on online distribution sites and provides confirmation to the Office of Indiana State Chemist within 60 days of receipt of this notice.

Tractor Supply was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

03/31/2022 Intake Referral Filed

Unregistered 25b pesticide product located for sale at Tractor Supply in Richmond, IN.

Original Event: Intake Referral (Pesticide) #2417
Complainant: Office of Indiana State Chemist
Respondent: Tractor Supply
Entered By: Garret A. Creason
Submitted By: Joseph D. Becovitz

03/31/2022 Investigator Met with Distributor Communication

On March 31, 2022 a routine Marketplace inspection was conducted at Tractor Supply in Richmond, IN. I met with Interim Store Manager Erica Wesler and explained the process of the Marketplace inspection. During the inspection I located a state unregistered pesticide product. The product was Espree Herbal Horse Fly Repellent Face and Body Wipes. I spoke with Sarah Caffery and we found that the product was denied registration in Indiana in 2019. A Stop Sale Order was issued to Tractor Supply in Richmond. An evidentiary sample of the unregistered pesticide product was collected.

Original Event: Investigation Activity (Pesticide) #4358
Subject: Tractor Supply
Submitted By: Garret A. Creason

03/31/2022 Notice of Inspection Issued

Original Event: Notice of Inspection #764
Client: Tractor Supply
Firm Representative: Erica Wesler
Submitted By: Garret A. Creason
Photos:



File 90684

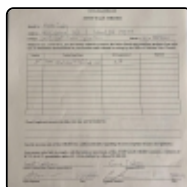
03/31/2022 Marketplace Inspection Conducted Marketplace

A Stop Sale Order was issued to Tractor Supply for the Espree herbal Horse Fly Repellent Face and Body Wipes.

Original Event: Pesticide Inspection (Product) #280
Client: Tractor Supply
Firm Representative: Erica Wesler
Submitted By: Garret A. Creason

03/31/2022 Stop Sale Order Issued

Original Event: Action Order #245
Issued To: Tractor Supply
Registrant: Espree Animal Products Inc
Firm Representative: Erica Wesler
Submitted By: Garret A. Creason
Photos:



File 90687

03/31/2022 Formulation Samples Collected

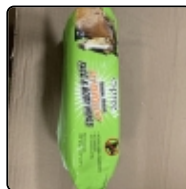
Original Event: Formulation Collection #205659 (22-3-0018 4)
 Registrant: Espree Animal Products Inc
 Client: Tractor Supply
 Firm Representative: Erica Wesler
 Submitted By: Garret A. Creason
 Sample: 22-3-0018 4 | Herbal Horse Fly Repellent Face and Body Wipes
 Photos:



File 90765



File 90766



File 90767



File 90768



File 90769



File 90770



File 90771



File 90772



File 90773



File 90774

03/31/2022 **Case Created**

Original Event: Case PS22-0074
 Submitted By: Joseph D. Becovitz
 Assigned To: Garret A. Creason


04/04/2022 **Notice of Stop Sale Sent**

SSURO Notification sent to registrant via email to submitting company (SRC)

Original Event: Pesticide Products Activity #7
 Primary: Espree Animal Products Inc
 Submitted By: Sarah K. Caffery
 Attachments: File 91086; INL-Espree Animal Products Email.pdf

04/06/2022 **Received Formulation Lab Report**

First Page of Lab Report

		Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu				
PESTICIDE FORMULATION ANALYSIS REPORT				
PRODUCT NAME Herbal Horse Fly Repellent Face and Body Wipes		INVESTIGATOR CREASONG	DATE SAMPLED 03/31/2022	REPORT DATE 04/06/2022
OCM COLLECTION 205659-01		SAMPLE NO. 22-3-0018 4	EPA REG NO.	
ACTIVE INGREDIENT		%GUARANTEE		%FOUND
Documentary - No Analysis Performed				
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #205964 (205659-01-R572)
 Submitted By: SYSTEM
 Lab Report: Lab Report 205659-01-R572.pdf

04/11/2022 **Label Review Conducted; Not Acceptable**

Herbal Horse Fly Repellent Face and Body Wipes

NOT Acceptable; As identified in the label review for the application received in 2019, with the current ingredients, this product does not comply with 25(b) Conditions as outlined in 40CFR.

Attachments

File 91477; 22-0074 Label Review.pdf

Original Event: Label Review (Pesticide) #182 (Esprey Animal Pro...)
Registrant: Esprey Animal Products Inc
Submitted By: Sarah K. Caffery

05/02/2022 Judgement; Civil Penalty Assessed

Civil Penalty

Esprey Animal Products Inc. was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Civil Penalty

Esprey Animal Products Inc. was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated or misbranded. A civil penalty in the amount of \$500.00 was assessed for this violation.

Civil Penalty

Esprey Animal Products Inc. was cited for violation of section 57(9) of the Indiana Pesticide Registration Law for distributing a pesticide product that was in violation of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA). A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Abeysance

However, \$1,000.00 of the civil penalty will be held in abeyance and will not be assessed provided Esprey Animal Products Inc removes products from Indiana marketplace; blocks sales on online distribution sites and provides confirmation to the Office of Indiana State Chemist within 60 days of receipt of this notice.

Original Event: Judgement #1255
Primary: Esprey Animal Products Inc
Submitted By: George Saxton
Legal Citations: IC 15-16-4-57(1); IC 15-16-4-57(5); IC 15-16-4-57(9)
Penalty Amount: 2500

05/02/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1075
To: Esprey Animal Products Inc
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 9446
Enclosed: Notice of Enforcement
Attachments: File 93236; PS22-0074EL CP with Abeysance ~ Esprey Animal Products, Inc..docx

05/17/2022 Mail Service Returned for Target

Both the Certified Mail and Regular Mail copy were returned to OISC (CM-Not Deliverable as Addressed / Reg.-Attempted, Not Known). Will need to see about a different address and resend.

Original Event: Compliance Receipt #1461
Subject: Esprey Animal Products Inc
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 9446
Returned: 05/17/2022
Attachments: File 94589; PS22-0074 Esprey Animal Products - EL Returned ~ CM 7019 0140 0000 6113 9446.pdf
File 94590; PS22-0074 Esprey Animal Products - EL Returned ~ Regular Mail.pdf

05/18/2022 Compliance Activity

Sarah Caffery supplied us with the name and address of the submitter for Esprey Animal Products, Inc.
Enforcement letters will be sent to: SCIENTIFIC & REGULATORY CONSULTANTS - 201 W VAN BUREN STREET, COLUMBIA CITY IN 46725; Phone: 260-244-6270

Original Event: Compliance Activity #1246
Primary: Esprey Animal Products Inc
Submitted By: Joni Herman
Attachments: File 94853; PS22-0074 ~ Email from Sarah Caffery with New Mailing Info 5-18-2022.pdf

05/19/2022 Notice of Enforcement Mailed to Target

Enforcement letters (CM & Regular Mail) to Esprey Animal Products, Inc. sent to their submitter Scientific & Regulatory Consultants.

Original Event: Outgoing Mail #1093
To: Esprey Animal Products Inc
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 9583
Enclosed: Notice of Enforcement
Attachments:

05/31/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1513
Subject: Espree Animal Products Inc
Submitted By: Joni Herman
USPS: 7019 0140 0000 6113 9583
Received: 05/31/2022
Attachments: File 98473; CM 7019 0140 0000 6113 9583 Scientific & Regulatory Consultants ~ PS22-0074.pdf

06/29/2022 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #1525
Subject: Espree Animal Products Inc
Submitted By: Joni Herman
Payment Expected: \$1,500.00
Payment Received: \$1,500.00
Attachments: File 100124; PS22-0074 Espree Animal Products~CP Received 6-29-2022 via Scientific & Regulatory Consultants.pdf

07/27/2022 **Stop Sale Released for Return/Disposal
Herbal Horse Fly Repellent Face and Body Wipes**

Espre Animal Products has recalled 78 cases from all TSC stores in Indiana. They are not going to register the product and the remaining products at this TSC store will be returned or destroyed.

Attachments

File 103723; SSURO Release Return Letter Tractor Supply co PS22-0074.pdf

Original Event: Stop Sale Release (PS) #9
Issued To: Tractor Supply
Registrant: Espree Animal Products Inc
Submitted By: Victoria J. Matsumura

08/23/2022 **Judgement; Warning
Warning**

Tractor Supply was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana.

Original Event: Judgement #1345
Primary: Tractor Supply
Submitted By: George Saxton
Legal Citation: IC 15-16-4-57(1)

08/25/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1229
To: Tractor Supply
Submitted By: Jacob A. Hatfield
USPS: 7022 0410 0001 2745 3943
Enclosed: Notice of Enforcement
Attachments: File 107553; PS22-0074EL WRN ~ Tractor Supply.docx

09/03/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1691
Subject: Tractor Supply
Submitted By: Jacob A. Hatfield
USPS: 7022 0410 0001 2745 3943
Received: 09/03/2022
Attachments: File 109562; CM 7022 0410 0001 2745 3943 - PS22-0074 - 9-3-2022.pdf

10/05/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1411
To: Tractor Supply
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110835; PS22-0074 - Tractor Supply - Case Closed Letter 10-5-2022.docx

10/05/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1412
To: Espree Animal Products Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110839; PS22-0074 - Espree Animal Products Inc. - Case Closed Letter 10-5-2022.docx

Chain of Custody

03/31/2022 **Sample 22-3-0018 4**

Original Event:

03/31/2022 10:56:

04/01/2022 17:24:

04/04/2022 17:04:

Chain of Custody #177 (22-3-0018 4)

Sample Collected by Garret A. Creason

Sample Delivered to 218

Delivery Affirmed by Natalie Wilson

This record was generated on **October 31, 2022, 07:28 AM EDT**. 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

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www.oisc.purdue.edu

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

This record was generated on **November 14, 2022, 02:04 PM 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 PS22-0104

Department	Pesticide
Originated	05/04/2022
Assigned To	William R. Reid
Status	Closed

Involved Parties

Complainant	Office of Indiana State Chemist	
Complainant	Office of Indiana State Chemist West Lafayette, IN 47907	
Respondent	Moxie Pest Control Indianapolis LLC Indianapolis, IN 46268	Business
Respondent	Garrett Davis Indianapolis, IN 46268	Owner
Respondent Issued To	Ethan Storm Indianapolis, IN 46268	Applicator
Agency	Attorney General Office / Litigation	

Overviews

06/08/2022 **Investigation Summary**

Ethan Storm from Moxie Pest Control was stopped on 5/3/22 while making an application. Ethan was not licensed and later to find out nor was his company (Moxie Pest Control). There were a total of 2 advertising people stopped in the neighborhood and Ethan as an applicator (not licensed). Brian Charles has a licensed (RT 281614) with another company Joshua's Pest Control, but not under Moxie. An Action Order was given to the Ethan Storm and the company to stop immediately until licensed properly on 5/3/22.

On 5/4/22 Brian from Moxie Pest Control dropped off applications and payment for proper licensing. Jill Davis from OISC okayed them to start working as of 5/4/22. Jill Davis noted in email that: "There was an application for Brian Charles (281614) who is currently at the Chicago location as a RT. His license was issued based on reciprocity with Minnesota. I explained to Brian he needs Indiana exams and if he makes an application, the licensed applicator needs to be on site." The licensed applicators as of 5/4/22 are Garrett Davis (F283154)-category 7a only Roqui Barajas (F276373)-category 7b only, RT Brady Adams RT282122. and update as of 6/8/22 are still the only licensed applicators.

The invoices provided from Moxie Pest Control reflected Ethan Storm made one application on 5/3/22. Brian Charles made one application on 5/3/22 and two on 5/17/22. Stephanie Morris made a total of three applications, one on 5/12/22, and two on 5/13/22. A total of 7 applications were made without being properly licensed on 4 different days. The responsible supervisor would be Garret Davis F283154.

Submitted By: William R. Reid
Role: Investigator

06/13/2022 **Disposition Summary**

Moxie Pest Control Indianapolis LLC and Garrett Davis were warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for neglecting to properly supervise a non-credentialed employee.

Moxie Pest Control Indianapolis LLC was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for refusing to properly supervise a non-credentialed employee after an Action Order was issued prohibiting such activity.

Garrett Davis was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for refusing to properly supervise a non-credentialed employee after an Action Order was issued prohibiting such activity. A civil penalty in the amount of \$3,000.00 (3 counts x \$1,000.00 per count) was assessed.

Moxie Pest Control Indianapolis LLC was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order (Action Order) of the state chemist or Board.

Garrett Davis was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order (Action Order) of the state chemist or Board. A civil penalty in the amount of \$3,000.00 (3 counts x \$1,000.00 per count) was assessed.

Moxie Pest Control Indianapolis LLC was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for unknowingly applying pesticides for hire without having an Indiana pesticide business license.

Garrett Davis was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for unknowingly applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for this violation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/03/2022 Intake Referral Filed

Ethan Storm was stopped on a routine inspection. He was out making applications and was not licensed. His company (MOXIE) he was working for is also not licensed properly with OISC. An Action Order was issued to Ethan Storm and his supervisors were notified. The action order also noted MOXIE pest control to stop advertising, making applications in Indiana until licensed with OISC.

Original Event: Intake Referral (Pesticide) #2448
Complainant: Office of Indiana State Chemist
Respondent: Ethan Storm
Respondent 2: Garrett Davis
Entered By: William R. Reid
Submitted By: Joseph D. Becovitz

05/03/2022 Action Order Issued

#4, #9, #11 on action order.
Stop advertising/applying/ pesticides for hire in Indiana until fully licensed with OISC. Noted for MOXIE and or DBA Joshua Pest Control

Original Event: Action Order #252
Issued To: Ethan Storm
Firm Representative: Ethan Storm
Submitted By: William R. Reid
Attachments: File 93279; action order Ethan Storm Moxie.pdf

05/03/2022 Notice of Inspection Issued

Ethan is working for Moxie Services. Moxie Services isn't licensed in Indiana. Moxie Doing Business As (DBA) Joshua Pest Control doesn't work either when I checked with Leo Reed. Moxie needs to be licensed and Ethan needs to be licensed properly.

Original Event: Notice of Inspection #859
Client: Ethan Storm
Firm Representative: Ethan Storm
Submitted By: William R. Reid
Attachments: File 93280; NOI Ethan Storm.pdf

05/04/2022 Investigator Sent Fax/Email to Subject Communication

Jill Davis from OISC sent over confirmation that Brian from Moxie Pest Control dropped off applications and told them that they could work as of 5/4/2022. Therefore two invoices were produced from services on 5/3 where the company and applicators were not licensed properly in Indiana.

Attachments
File 97513; Screenshot (62).png

Original Event: Investigation Activity (Pesticide) #4802
Subject: Office of Indiana State Chemist
Submitted By: William R. Reid

05/04/2022 Case Created

Original Event: Case PS22-0104
Submitted By: Joseph D. Becovitz
Assigned To: William R. Reid

05/12/2022 Storage & Handler Safety Inspection Conducted

Storage & Handler Safety Inspection

Stopped by on a follow up case and stop in the field. Facility looked clean, however, was unlocked when I first got there. Talked with Brian Charles and gave him the NOI. I was also following up on records that I got latter from Garrett.

Original Event: Pesticide Inspection (General) #1986
Client: Moxie Pest Control Indianapolis LLC
Firm Representative: Brian Charles
Submitted By: William R. Reid

05/12/2022 Notice of Inspection Issued

Stopped by the Moxie location on 5335 W. 86th Street. Follow up on getting records.

Original Event: Notice of Inspection #940
Client: Moxie Pest Control Indianapolis LLC
Firm Representative: Brian Charles
Submitted By: William R. Reid
Attachments: File 97555; Brian Charles Moxie NOI.pdf

05/18/2022 Investigator Received Fax/Email from Business Records

Garrett Davis sent me over records of services performed by Moxie in Indiana.

Attachments

File 97418; Indy Service Slip 2 5322.pdf
File 97417; Indy Service Slip 3 5622.pdf
File 97419; Indy Service Slip 4 5622.pdf
File 97420; Indy Service Slip 5 51222.pdf
File 97416; Indy Service Slip 5322.pdf
File 97423; Indy Service Slip 6 51222.pdf
File 97422; Indy Service Slip 7 51322.pdf
File 97424; Indy Service Slip 8 51622.pdf
File 97421; Indy Service Slip 9 51722.pdf

Original Event: Investigation Activity (Pesticide) #4798
Subject: Garrett Davis
Submitted By: William R. Reid

06/13/2022 Judgement; Civil Penalty Assessed Warning

Moxie Pest Control Indianapolis LLC and Garrett Davis were warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for neglecting to properly supervise a non-credentialed employee.

Citation

Moxie Pest Control Indianapolis LLC was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for refusing to properly supervise a non-credentialed employee after an Action Order was issued prohibiting such activity.

Citation

Moxie Pest Control Indianapolis LLC was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order (Action Order) of the state chemist or Board.

Citation

Moxie Pest Control Indianapolis LLC was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for unknowingly applying pesticides for hire without having an Indiana pesticide business license.

Civil Penalty

Garrett Davis was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for refusing to properly supervise a non-credentialed employee after an Action Order was issued prohibiting such activity. A civil penalty in the amount of \$3,000.00 (3 counts x \$1,000.00 per count) was assessed.

Civil Penalty

Garrett Davis was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order (Action Order) of the state chemist or Board. A civil penalty in the amount of \$3,000.00 (3 counts x \$1,000.00 per count) was assessed.

Civil Penalty

Garrett Davis was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for unknowingly applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for this violation.

Original Event: Judgement #1309
Primary: Moxie Pest Control Indianapolis LLC
Secondary: Garrett Davis
Submitted By: George Saxton
Legal Citations: 355 IAC 4-2-3; IC 15-16-5-65(6); IC 15-16-5-65(9)
Penalty Amount: 6500

07/08/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1132
To: Moxie Pest Control Indianapolis LLC
Submitted By: Joni D. Herman
USPS: 7019 0140 0000 6113 9903
Enclosed: Notice of Enforcement
Attachments: File 101456; PS22-0104EL WRN-CIT ~ Moxie Pest Control Indpls. LLC.docx

07/08/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1133
To: Garrett Davis
Submitted By: Joni D. Herman
USPS: 7019 0140 0000 6113 9910
Enclosed: Notice of Enforcement
Attachments: File 101458; PS22-0104EL CP ~ Garrett Davis - Moxie.docx

09/19/2022 **Mail Confirmation Assumed for Target**

As of September 19, 2022 the CM card has not been returned to OISC. According to USPS tracking it was delivered to the individual on July 20, 2022, and therefore is assumed to have been received. Regular mail has also not been returned.

Original Event: Compliance Receipt #1687
Subject: Garrett Davis
Submitted By: Jacob A. Hatfield
USPS: 7019 0140 0000 6113 9910
Attachments: File 109552; CM 7019 0140 0000 6113 9910 - PS22-0104 - 7-20-2022.pdf

09/19/2022 **Mail Confirmation Assumed for Target**

As of September 19, 2022 regular mail has not been returned to OISC. It is assumed to have been received.

Original Event: Compliance Receipt #1688
Subject: Garrett Davis
Submitted By: Jacob A. Hatfield

09/19/2022 **Mail Confirmation Assumed for Target**

As of September 19, 2022 the CM card has not been returned to OISC. According to USPS tracking it was delivered to the individual on July 18, 2022, and therefore is assumed to have been received. Regular mail has also not been returned.

Original Event: Compliance Receipt #1689
Subject: Moxie Pest Control Indianapolis LLC
Submitted By: Jacob A. Hatfield
USPS: 7019 0140 0000 6113 9903
Attachments: File 109558; CM 7019 0140 0000 6113 9903 - PS22-0104 - 7-18-2022.pdf

09/19/2022 **Mail Confirmation Assumed for Target**

As of September 19, 2022 regular mail has not been returned to OISC. It is assumed to have been received.

Original Event: Compliance Receipt #1690
Subject: Moxie Pest Control Indianapolis LLC
Submitted By: Jacob A. Hatfield

10/31/2022 **Penalty Payment Not Received for Target**

As of October 31, 2022, Garrett Davis has not paid the \$6,500.00 civil penalty. The case will be forwarded to collections.

Original Event: Compliance Receipt #1788
Subject: Garrett Davis
Submitted By: Jacob A. Hatfield
Payment Expected: \$6,500.00
Payment Received: \$0

10/31/2022 **Sent to Collections** (Pending)

As of October 31, 2022, Garrett Davis had not paid the \$6,500.00 civil penalty. The case was closed and forwarded to collections.

Original Event: Compliance Activity #1561
Primary: Garrett Davis
Agency: Attorney General Office / Litigation
Submitted By: Jacob A. Hatfield

10/31/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1524
To: Garrett Davis
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 112367; PS22-0104 - Garrett Davis - Case Closed Letter - CP FWD.docx

10/31/2022 **Notice of Case Closure Mailed to Target**

Original Event:
To:
Submitted By:
Enclosed:
Attachments:

Outgoing Mail #1525
Ethan Storm
Jacob A. Hatfield
Notice of Case Closure
File 112368; PS22-0104 - Ethan Storm - Case Closed Letter 10-31-2022.docx

Chain of Custody

No electronic chain of custody (CoC) found. Refer to paper CoC in instances where samples were collected.

This record was generated on **November 14, 2022, 02:04 PM EST**. Information displayed may contain errors or omissions.
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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

This record was generated on **January 19, 2023, 03:27 PM 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 PS22-0114

Department	Pesticide
Originated	05/11/2022
Assigned To	Paul Jay Kelley
Status	Closed

Involved Parties

Complainant	Cora Jessie Carter Columbus, IN 47201	
Respondent	Premier Ag Co Op Inc-Cortland Seymour, IN 47274	Business
Respondent	Jason Paul Vaughn Seymour, IN 47274	Applicator of North and East fields
-	James D Wischmeier Seymour, IN 47274	Applicator of South and West fields

Overviews

09/30/2022 **Investigation Summary**

Ms. Carter reported she had pesticide symptomology to vegetation on her property.
Symptoms on Ms. Carter's property appeared more brominate on the south and east sides.
PPDL indicated symptoms characteristic of pesticide volatility; however, temperatures at time of applications did not exceed 72 degrees F.
Two applicators made application adjacent to Ma. Carter's property.
On April 28, 2022, James Mischmeier made an application to field located west of property.
On April 30, 2022, Jason Vaughn of Premier Ag. made an application to a field east of the property.
On April 28, 2022, wind data from ASOS station indicated wind was out of the east and east southeast, blowing away from Ms. Carter's property at time of Mr. Wischmeier's application.
On April 30, 2022, wind data from ASOS station indicated wind was out of the east and east southeast, blowing toward Ms. Carter's property at time of Mr. Vaughn's application.
Though both applications used products with the same active ingredients, lab results indicate higher levels on south and east sides facing field Mr. Vaughn made an application.
Submitted By: Paul Jay Kelley
Role: Investigator
Drift: Confirmed

09/30/2022 **Disposition Summary**

Premier Ag Co Op Inc-Cortland was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management by applying when winds were blowing toward a sensitive area. Consideration was given to the fact this was their second violation of similar nature. See case number PS19-0506.
Jason P. Vaughn was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management by applying when winds were blowing toward a sensitive area. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his second violation of similar nature. See case number PS19-0506.

Submitted By:
Role:

George Saxton
Compliance Officer

Chronology of Events

05/09/2022 Intake Referral Filed

Complainant stated all of the trees and shrubs on her property show signs of herbicide injury.

Original Event: Intake Referral (Pesticide) #2459
Complainant: Cora Jessie Carter
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: Paul Jay Kelley

05/11/2022 Case Created

Original Event: Case PS22-0114
Submitted By: Joseph D. Becovitz
Assigned To: Paul Jay Kelley

05/16/2022 Investigator Called Target Records

On May 16, 2022, I received a completed Pesticide Investigation Inquiry (PII) form from Eric Hoene of Premier Ag in Seymour, Indiana. The PII indicated Jason Vaughn made an application to a field east and north of Ms. Carter's property on April 30, 2022, between 9:15am and 2:30pm. The PII indicates the wind was out of the south at 8 mph. Mr. Vaughn applied Cornerstone 5 Plus (EPA reg. # 47750-59-1381, active ingredient glyphosate), 2,4D LV6 (EPA reg. #1381-250, active ingredient 2, 4D), and Tendofo (EPA Reg. #100-1684, active ingredients metholachlor, metribuzin, and cloransulam-methyl).

Attachments

File 94333; 2022-05-16 (1).pdf

Original Event: Investigation Activity (Pesticide) #4613
Subject: Jason Paul Vaughn
Submitted By: Paul Jay Kelley

05/16/2022 Investigator Called Target Communication

On May 16, 2022, I spoke with James Wischmeier, private applicator. Mr. Wischmeier stated he made a pesticide application to the field that surrounds Ms. Carter on the north, west, and south. I sent Mr. Wischmeier a PII to complete and return.

Original Event: Investigation Activity (Pesticide) #4614
Subject: James D Wischmeier
Submitted By: Paul Jay Kelley

05/17/2022 External Lab Sample Collected

Original Event: External Lab Sample Collection #212122 (X22-BE8C9F)
Client: Cora Jessie Carter
Submitted By: Paul Jay Kelley
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X22-BE8C9F | Misc. vegetation
Attachments: File 94384; PPD L carter ps22-0114.pdf

05/17/2022 Residue Samples Collected

Original Event: Residue Collection #212123 (22-4-0233 2)
Client: Cora Jessie Carter
Submitted By: Paul Jay Kelley
Sample: 22-4-0233 2 | Swab (Water); Trip Blank
Sample: 22-4-0234 5 | Swab (Water); Grab; Window; OFF-T, N
Sample: 22-4-0235 0 | Swab (Water); Grab; Window; OFF-T, S
Sample: 22-4-0236 6 | Swab (Water); Grab; Window; OFF-T, W
Sample: 22-4-0237 8 | Swab (Water); Grab; OFF-T, E
Sample: 22-4-0238 4 | Swab (Acetone); Trip Blank
Sample: 22-4-0239 7 | Swab (Acetone); Grab; Window; OFF-T, N
Sample: 22-4-0240 2 | Swab (Acetone); Grab; Window; OFF-T, S
Sample: 22-4-0241 8 | Swab (Acetone); Grab; Window; OFF-T, W
Sample: 22-4-0242 5 | Swab (Acetone); Grab; Window; OFF-T, E
Sample: 22-4-0243 9 | Soil; Comp; 0-2"; coop field; Target
Sample: 22-4-0244 1 | Veg; Comp; coop field; Target
Sample: 22-4-0245 6 | Soil; Comp; 0-2"; wischmeier field; Target
Sample: 22-4-0246 0 | Veg; Comp; wischmeier field; Target
Sample: 22-4-0247 3 | Veg; Comp; OFF-T, W
Sample: 22-4-0248 7 | Veg; Comp; north middle of property; OFF-T
Sample: 22-4-0249 4 | Veg; Comp; south middle of property; OFF-T
Sample: 22-4-0250 0 | Veg; Comp; OFF-T, E

Records

On May 17, 2022, I received a PII from James Wischmeier. Mr. Wischmeier documented he made a pesticide application on April 28, 2022 between 4:30pm and 8:00pm using Mad Dog (EPA Reg. 34704-929, active ingredient glyphosate), Weedone LV4 (EPA Reg. #228-139-71368, active ingredient 2, 4D), Anthem Maxx (EPA Reg. #279-3468, active ingredients pyroxasulfone), and Glory FDF (EPA Reg. #66222-106, active ingredient metribuzin). Mr. Wischmeier documented the wind was out of the east, southeast. However, Mr. Wischmeier documented wind speed as "unknown".

Attachments

File 94403; P11-wischmeier.pdf

Original Event: Investigation Activity (Pesticide) #4624
Subject: James D Wischmeier
Submitted By: Paul Jay Kelley

05/17/2022 **Investigator Met with Complainant****Photographs**

On May 17, 2022, Agent Adam Brockman and I went to 3018 Hwy 11, Seymour, Indiana to investigate a possible drift incident. Photographs were taken of impacted sites at the address. Furthermore, vegetation samples were collected to be visually analyzed by Purdue Plant and Pest Diagnostic Lab (PPDL). Investigative sample were collected for OISC Residue lab for analysis. Leaves on small stick trees on the east side of the property appeared to be stunted, distorted, and cupped.

Attachments

File 94412



File 94413



File 94414



File 94415



File 94416



File 94417



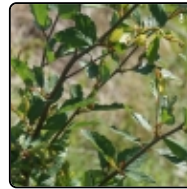
File 94418



File 94420



File 94421



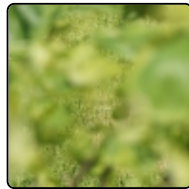
File 94422



File 94423



File 94424



File 94425



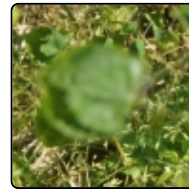
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File 94427



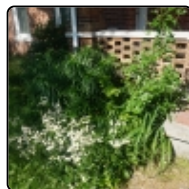
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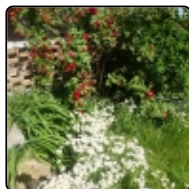
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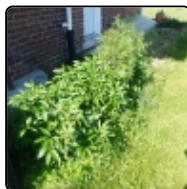
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File 94432



File 94433



File 94434



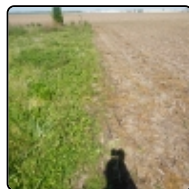
File 94435



File 94436



File 94437



File 94438

Screenshots

Site Diagram showing sample numbers and approximate locations collected.

Attachments

File 110643; Site Diagram.pdf

Original Event: Investigation Activity (Pesticide) #4626
Subject: Cora Jessie Carter
Submitted By: Paul Jay Kelley

05/17/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #883
Client: Cora Jessie Carter
Firm Representative: Cora Carter
Submitted By: Paul Jay Kelley
Attachments: File 94442; noi.pdf

05/17/2022 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #571
Submitted By: Paul Jay Kelley
Target Analyte: cornerstone 5 plus
Target Analyte: 2, 4D LV6
Target Analyte: Tendovo
Target Analyte: Mad dog
Target Analyte: weedone LV4
Target Analyte: Anthem Maxx
Target Analyte: Glory FDF
PPLS Labels: [000100-01684-20220105.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01684-20220105.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-01684-20220105.pdf
[001381-00250-20171213.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf)
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Attachments: File 94385; 2, 4D.pdf
File 94386; ANTHEM MAXX HERBICIDE.pdf
File 94387; cornerstone.pdf
File 94388; GLORY FDF.pdf
File 94389; MAD DOG.pdf
File 94390; NUFARM WEEDONE LV4 EC BROADLEAF HERBICIDE.pdf
File 94391; Tendovo Herbicide.pdf

05/19/2022 **Received External Lab Report**

Original Event: External Lab Report #213294 (X22-BE8C9F)
Submitted By: Paul Jay Kelley
Sample: X22-BE8C9F
Attachments: File 95422; FinalReport_Jay Kelley.pdf

07/01/2022 **Received Residue Lab Report**

First Page of Lab Report

OCM Collection #	212123	Investigator	KELLEYJ		
Collection Date	05/17/2022				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-0233 2	Swab (Water); Trip Blank	Swab (Water)	AMPA	BDL ng/swab	100 ng/swab
			Glyphosate	BDL ng/swab	10 ng/swab
22-4-0234 5	Swab (Water); Grab; Window; OFF-T, N	Swab (Water)	AMPA	BDL ng/swab	100 ng/swab
			Glyphosate	BDL ng/swab	10 ng/swab
22-4-0235 0	Swab (Water); Grab; Window; OFF-T, S	Swab (Water)	AMPA	BDL ng/swab	100 ng/swab
			Glyphosate	133 ng/swab	10 ng/swab
22-4-0236 6	Swab (Water); Grab; Window; OFF-T, W	Swab (Water)	AMPA	BDL ng/swab	100 ng/swab
			Glyphosate	BDL ng/swab	10 ng/swab
22-4-0237 8	Swab (Water); Grab; OFF-T, E	Swab (Water)	AMPA	BDL ng/swab	100 ng/swab
			Glyphosate	BQL ng/swab	10 ng/swab

Original Event: Residue Lab Report #217781 (212123-R591)
Submitted By: SYSTEM
Lab Report: Lab Report 212123-R591.pdf

09/30/2022 Wind Data Researched

Wind data is consistent with Mr. Wischmeier's PII documentation. Wind appears to be blowing away from Ms. Carter's property at the time of this application.

BAK

Columbus, Indiana (23 miles NE of site)

Time Direction Speed (mph)

450p ESE 10.35

BMG

Bloomington, Indiana (42 miles NW of site)

Time Direction Speed (mph)

430p SE 12.65

IMG

Madison, Indiana (26 miles SE of site)

Time Direction Speed (mph)

435p ESE 5.75

Attachments

File 110651; asos- 4-28.txt

Original Event: Wind Data #132
Submitted By: Paul Jay Kelley
Date of Weather: 04/28/2022

09/30/2022 Wind Data Researched

Wind data indicated the wind on April 30, 2022, was blowing toward Ms. Carter's property with gust at times reaching 20.70 mph.

BMG

Bloomington, Indiana (42 miles NW of site)

Time Direction Speed (mph) Gust (mph)

1153a SE 12.65 18.4

IMS

Madison, Indiana (26 miles SE of site)

Time Direction Speed (mph) Gust (mph)

1255p E 10.35 18.4

BAK

Columbus, Indiana (23 miles NE of site)

Time Direction Speed (mph) Gust (mph)

1245p ESE 13.80 20

Attachments

File 110654; asos.txt

Original Event: Wind Data #133
Submitted By: Paul Jay Kelley
Date of Weather: 04/30/2022

09/30/2022 **Investigation Activity**
Activity

Label language for Tendovo (EPA Reg. #100-1684, active ingredients metholachlor, metribuzin, and cloransulam-methyl), states in part, "DO NOT apply near desirable vegetation and allow adequate distance between target area and desirable plants to minimize exposure. AVOID all direct or indirect contact with non-target plants." Furthermore, the label states, "AVOID APPLICATIONS DURING GUSTY WIND CONDITIONS." And "Only apply Tendovo Herbicide when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, on-target crops) is minimal (e.g., when wind blowing away from the sensitive areas)."

Original Event: Investigation Activity (Pesticide) #5474
Subject: Jason Paul Vaughn
Submitted By: Paul Jay Kelley

09/30/2022 **Investigation Activity**
Activity

Language for Cornerstone 5 Plus states in part, "AVOID DRIFT. EXTREME CARE MUST BE USED WHEN APPLYING THIS PRODUCT TO PREVENT INJURY TO DESIRABLE PLANTS AND CROPS. Do not allow the herbicide solution to mist, drip, drift or splash onto desirable vegetation since minute quantities of this product can cause severe damage or destruction to the crop, plants or other areas on which treatment was not intended."

Original Event: Investigation Activity (Pesticide) #5475
Subject: Jason Paul Vaughn
Submitted By: Paul Jay Kelley

09/30/2022 **Judgement; Civil Penalty Assessed**
Citation

Premier Ag Co Op Inc-Cortland was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management by applying when winds were blowing toward a sensitive area. Consideration was given to the fact this was their second violation of similar nature. See case number PS19-0506.

Civil Penalty

Jason P. Vaughn was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management by applying when winds were blowing toward a sensitive area. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his second violation of similar nature. See case number PS19-0506.

Original Event: Judgement #1374
Primary: Premier Ag Co Op Inc-Cortland
Secondary: Jason Paul Vaughn
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 400

10/07/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1438
To: Premier Ag Co Op Inc-Cortland
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8759
Enclosed: Notice of Enforcement
Attachments: File 111104; PS22-0114EL CIT _ Premier Ag Co Op, Inc..docx

10/07/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1439
To: Jason Paul Vaughn
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8742
Enclosed: Notice of Enforcement
Attachments: File 111107; PS22-0114EL CP - Mitigated _ Jason P. Vaughn.docx

10/14/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1775
Subject: Premier Ag Co Op Inc-Cortland
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8759
Received: 10/14/2022
Attachments: File 111936; CM 7021 0950 0000 0607 8759 - PS22-0114 - 10-14-2022.pdf

10/14/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1776
Subject: Jason Paul Vaughn
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8742
Received: 10/14/2022
Attachments: File 111937; CM 7021 0950 0000 0607 8742 - PS22-0114 - 10-14-2022.pdf

10/31/2022 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #1789
Subject: Jason Paul Vaughn
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 112381; PS22-0114 - Jason P. Vaughn - CP Received 10-31-2022.pdf

11/21/2022 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #1597
To: Cora Jessie Carter
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113392; PS22-0114 - Cora J. Carter - Case Closed Leter 11-21-2022.docx

11/21/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1598
To: Premier Ag Co Op Inc-Cortland
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113393; PS22-0114 - Premier Ag Co Op, Inc. - Case Closed Leter 11-21-2022.docx

11/21/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1599
To: Jason Paul Vaughn
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113396; PS22-0114 - Jason P. Vaughn - Case Closed Leter 11-21-2022.docx

11/21/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1600
To: James D Wischmeier
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113397; PS22-0114 - James D. Wischmeier - Case Closed Leter 11-21-2022.docx

Chain of Custody

05/17/2022 **Sample 22-4-0233 2**

Original Event: Chain of Custody #902 (22-4-0233 2)
05/17/2022 10:00: Sample Collected by Paul Jay Kelley
05/18/2022 09:12: Sample Delivered to Vicki Vauters
05/18/2022 09:12: Delivery Affirmed by Vicki Vauters

05/17/2022 **Sample 22-4-0234 5**

Original Event: Chain of Custody #903 (22-4-0234 5)
05/17/2022 10:00: Sample Collected by Paul Jay Kelley
05/18/2022 09:12: Sample Delivered to Vicki Vauters
05/18/2022 09:12: Delivery Affirmed by Vicki Vauters

05/17/2022 **Sample 22-4-0235 0**

Original Event: Chain of Custody #904 (22-4-0235 0)
05/17/2022 10:00: Sample Collected by Paul Jay Kelley
05/18/2022 09:12: Sample Delivered to Vicki Vauters
05/18/2022 09:12: Delivery Affirmed by Vicki Vauters

05/17/2022	Sample 22-4-0236 6	
	Original Event:	Chain of Custody #905 (22-4-0236 6)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0237 8	
	Original Event:	Chain of Custody #906 (22-4-0237 8)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0238 4	
	Original Event:	Chain of Custody #907 (22-4-0238 4)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0239 7	
	Original Event:	Chain of Custody #908 (22-4-0239 7)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0240 2	
	Original Event:	Chain of Custody #909 (22-4-0240 2)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0241 8	
	Original Event:	Chain of Custody #910 (22-4-0241 8)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0242 5	
	Original Event:	Chain of Custody #911 (22-4-0242 5)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0243 9	
	Original Event:	Chain of Custody #912 (22-4-0243 9)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0244 1	
	Original Event:	Chain of Custody #913 (22-4-0244 1)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0245 6	
	Original Event:	Chain of Custody #914 (22-4-0245 6)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0246 0	
	Original Event:	Chain of Custody #915 (22-4-0246 0)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters
05/17/2022	Sample 22-4-0247 3	
	Original Event:	Chain of Custody #916 (22-4-0247 3)
	05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
	05/18/2022 09:12:	Sample Delivered to Vicki Vauters
	05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters

05/17/2022 **Sample 22-4-0248 7**

Original Event:	Chain of Custody #917 (22-4-0248 7)
05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
05/18/2022 09:12:	Sample Delivered to Vicki Vauters
05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters

05/17/2022 **Sample 22-4-0249 4**

Original Event:	Chain of Custody #918 (22-4-0249 4)
05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
05/18/2022 09:12:	Sample Delivered to Vicki Vauters
05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters

05/17/2022 **Sample 22-4-0250 0**

Original Event:	Chain of Custody #919 (22-4-0250 0)
05/17/2022 10:00:	Sample Collected by Paul Jay Kelley
05/18/2022 09:12:	Sample Delivered to Vicki Vauters
05/18/2022 09:12:	Delivery Affirmed by Vicki Vauters

<p>This record was generated on January 19, 2023, 03:27 PM EST. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>
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Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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

This record was generated on **October 31, 2022, 07:29 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 PS22-0120

Department	Pesticide
Originated	05/15/2022
Assigned To	Paul Jay Kelley
Status	Closed

Involved Parties

Complainant	John Wilson Arlington, IN 46104
Respondent	Charles A Smith Rushville, IN 46173

Overviews

09/01/2022 Investigation Summary

Client alleges that a field pesticide application drifted onto his property impacting his trees.
Applicator admitted to applying products on a day that the wind was blowing toward client.
PPDL indicated visual symptoms as 2,4D, a product applied by applicator.
PII indicated wind blowing toward client at 9mph.
OISC's Residue Lab detected active ingredients applied by applicator in samples on client property.
Submitted By: Paul Jay Kelley
Role: Investigator
Drift: Confirmed

09/02/2022 Disposition Summary

Charles A Smith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$200.00. Consideration was given to the fact no restricted use pesticides were involved; there was adverse effect; Mr. Smith cooperated during the investigation; corrective action was taken and this was Mr. Smith's first violation of similar nature.
Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/13/2022 Intake Referral Filed

Complainant stated an application by Charles Smith to a neighboring field on April 29, 2022 drifted onto his property injuring trees in his woods. Complainant stated the application was made when the wind was from the east at 15 mph.

Original Event: Intake Referral (Pesticide) #2465
Complainant: John Wilson
Respondent: Charles A Smith
Submitted By: Joseph D. Becovitz
Assigned To: Paul Jay Kelley

05/15/2022 Case Created

05/16/2022 **Investigator Called Complainant Communication**

On May 16, 2022, I spoke with John Wilson. Mr. Wilson stated Charles Smith made an application on April 29, 2022, at approximately 12:00pm to a field east of his property. Mr. Wilson stated trees on his property have deformed leaves. Mr. Wilson stated he has spoken to the applicator, Charles Smith, who stated he would take care of any damage.

Original Event: Investigation Activity (Pesticide) #4616
Subject: John Wilson
Submitted By: Paul Jay Kelley

05/16/2022 **Investigator Called Target Communication**

On May 16, 2022, I spoke with Charles Smith. Mr. Smith stated he made an application on April 29, 2022, east of Mr. Wilson's property. Mr. Smith stated he has spoken to Mr. Wilson and agreed to take care of any damages to Mr. Wilson's property. I emailed Mr. Smith a PII to complete and return. Mr. Smith stated he would fully cooperated with the investigation. On May 20, 2022, I received a copy of Mr. Smith's PII. Mr. Smith indicated he applied Roundup PowerMax3 (EPA Reg. #524-659, active ingredient glyphosate), Matador-S (EPA Reg. #34704-1067, active ingredient metholachlor, metribuzin, and imazethapyr), and Salvo (EPA Reg. #34704-609, active ingredient 2, 4D) on April 29, 2022. Wind was documented by Mr. Smith as out of the east at 9mph blowing toward Mr. Wilson's property.

Original Event: Investigation Activity (Pesticide) #4617
Subject: Charles A Smith
Submitted By: Paul Jay Kelley

05/24/2022 **Investigator Met with Complainant Photographs**

On May 24, 2022, Agent Adam Brockman and I met with John Wilson at his residence in Arlington, Indiana. Mr. Wilson stated miscellaneous vegetation and trees on his property are showing signs of pesticide exposure from a pesticide applications to a neighboring farm field. Vegetation leaves are deformed, cupped, stunted, and strapped. Mr. Wilson stated we had been in contact with the applicator to remedy the problem.

I photographed the property, collected a vegetation sample for Purdue's Plant and Pest Diagnostic Lab (PPDL) to be visually analysed. In addition I collected vegetation to be analyzed by OISC's Residue Lab.

Attachments



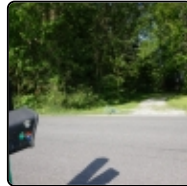
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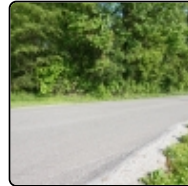
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File 95455



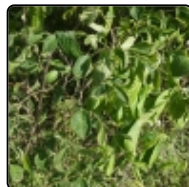
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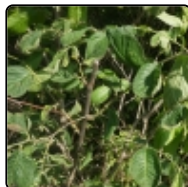
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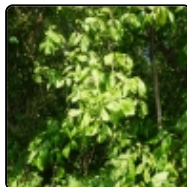
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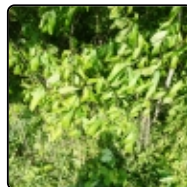
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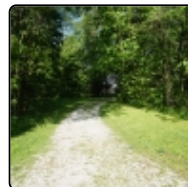
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File 95461



File 95462



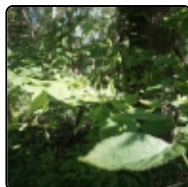
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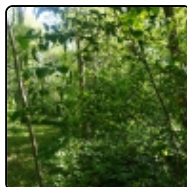
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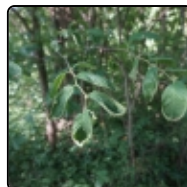
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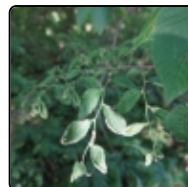
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File 95467



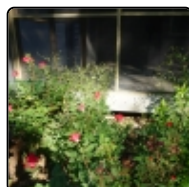
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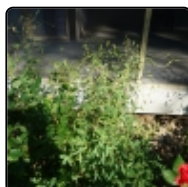
File 95469



File 95470



File 95471



File 95472

Screenshots

Site Diagram with samples listed.

Attachments

File 107961; Site Diagram.pdf

Original Event: Investigation Activity (Pesticide) #4705
Subject: John Wilson
Submitted By: Paul Jay Kelley

05/24/2022 Notice of Inspection Issued

Original Event: Notice of Inspection #908
Client: John Wilson
Firm Representative: John Wilson
Submitted By: Paul Jay Kelley
Attachments: File 95473; noi.pdf

05/24/2022 External Lab Sample Collected

Original Event: External Lab Sample Collection #213333 (X22-EBFAC8)
Client: John Wilson
Submitted By: Paul Jay Kelley
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X22-EBFAC8 | misc. vegetation
Attachments: File 95474; PPDL form Wilson ps22-0120.pdf

05/24/2022 Residue Samples Collected

Original Event: Residue Collection #213359 (22-4-0251 6)
Client: John Wilson
Submitted By: Paul Jay Kelley
Sample: 22-4-0251 6 | Soil; Grab; 0-2"; Target
Sample: 22-4-0252 8 | Veg; Comp; Target
Sample: 22-4-0253 7 | Veg; Ctrl; OFF-T
Sample: 22-4-0254 4 | Veg; Comp; OFF-T, Grad1, 12yd
Sample: 22-4-0255 9 | Veg; Comp; OFF-T, Grad2, 55yd
Sample: 22-4-0256 3 | Veg; Comp; OFF-T, Grad3, 100yd

05/24/2022 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #582
Submitted By: Paul Jay Kelley
Target Analyte: Roundup PM3
Target Analyte: Matador-s
Target Analyte: salvo
PPLS Labels: [034704-01067-20151110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-01067-20151110.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/034704-01067-20151110.pdf
[034704-00609-20121023.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00609-20121023.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/034704-00609-20121023.pdf
[000524-00659-20200317.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf
Attachments: File 95475; MATADOR-S.pdf
File 95476; ROUNDUP POWERMAX 3 HERBICIDE.pdf
File 95477; SALVO POSTEMERGENCE BROADLEAF HERBICIDE.pdf

05/26/2022 Received External Lab Report

Original Event: External Lab Report #214005 (X22-EBFAC8)
Submitted By: Paul Jay Kelley
Sample: X22-EBFAC8
Attachments: File 95919; FinalReport_Jay Kelley.pdf

07/14/2022 Received Residue Lab Report Investigatory Summary

On July 14, 2022, OISC's Residue Lab reported the detection of the active ingredients in Matador and Salvo.

First Page of Lab Report

OCM Collection #	213359	Investigator	KELLEYJ		
Collection Date	05/24/2022				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-0251 6	Soil; Grab; 0-2"; Target	Soil	2,4-D	3.45 ppb	0.4 ppb
			Acetochlor	BDL ppb	1 ppb
			Imazethapyr	4.61 ppb	0.3 ppb
			Metolachlor	103 ppb	3 ppb
			Metribuzin	11.3 ppb	3 ppb
22-4-0252 8	Veg; Comp; Target	Veg	2,4-D	59.0 ppb	6 ppb
			Acetochlor	BDL ppb	1 ppb
			Imazethapyr	BDL ppb	0.7 ppb
			Metolachlor	0.921 ppb	0.3 ppb
			Metribuzin	33.3 ppb	1 ppb

Original Event: Residue Lab Report #219344 (213359-R598)
 Submitted By: SYSTEM
 Lab Report: Lab Report 213359-R598.pdf

09/01/2022 **Investigation Activity**
Activity

Label language for Salvo states in part, "Avoid applications in the vicinity of susceptible plants or when winds are blowing toward nearby susceptible plants, or when temperature inversions are expected. Avoid direct application or spray drift to susceptible plants since very small quantities of this herbicide can cause severe injury in the growing or dormant period."

Attachments

File 107962; SALVO POSTEMERGENCE BROADLEAF HERBICIDE.pdf

Original Event: Investigation Activity (Pesticide) #5320
 Submitted By: Paul Jay Kelley

09/01/2022 **Investigation Activity**
Activity

Label language for Matador-S states in part, "Do not allow sprays to drift onto adjacent desirable plants."

Attachments

File 107963; MATADOR-S.pdf

Original Event: Investigation Activity (Pesticide) #5321
 Submitted By: Paul Jay Kelley

09/02/2022 **Judgement; Civil Penalty Assessed**
Civil Penalty

Charles A Smith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$200.00. Consideration was given to the fact no restricted use pesticides were involved; there was adverse effect; Mr. Smith cooperated during the investigation; corrective action was taken and this was Mr. Smith's first violation of similar nature.

Original Event: Judgement #1349
 Primary: Charles A Smith
 Submitted By: George Saxton
 Legal Citation: IC 15-16-5-65(2)
 Penalty Amount: 200

09/09/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1257
 To: Charles A Smith
 Submitted By: Joni D. Herman
 USPS: 7022 0410 0001 2745 3844
 Enclosed: Notice of Enforcement
 Attachments: File 109026; PS22-0120EL CP Mitigated ~ Charles A. Smith.docx

09/16/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1733
 Subject: Charles A Smith
 Submitted By: Jacob A. Hatfield
 USPS: 7022 0410 0001 2745 3844
 Received: 09/16/2022
 Attachments: File 110540; CM 7022 0410 0001 2745 3844 - PS22-0120 - 9-16-2022.pdf

10/03/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1743
Subject: Charles A Smith
Submitted By: Jacob A. Hatfield
Payment Expected: \$200.00
Payment Received: \$200.00
Attachments: File 110777; PS22-0120 - Charles A. Smith - CP 10-3-2022.pdf

10/05/2022 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #1413
To: John Wilson
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110843; PS22-0120 - John Wilson - Case Closed Letter 10-5-2022.docx

10/05/2022 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #1414
To: Charles A Smith
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 110844; PS22-0120 - Charles A. Smith - Case Closed Letter 10-5-2022.docx

Chain of Custody**05/24/2022 Sample 22-4-0251 6**

Original Event: Chain of Custody #1271 (22-4-0251 6)
05/24/2022 09:10: Sample Collected by Paul Jay Kelley
05/25/2022 09:24: Sample Delivered to Vicki Vauters
05/25/2022 09:24: Delivery Affirmed by Vicki Vauters

05/24/2022 Sample 22-4-0252 8

Original Event: Chain of Custody #1272 (22-4-0252 8)
05/24/2022 09:10: Sample Collected by Paul Jay Kelley
05/25/2022 09:24: Sample Delivered to Vicki Vauters
05/25/2022 09:24: Delivery Affirmed by Vicki Vauters

05/24/2022 Sample 22-4-0253 7

Original Event: Chain of Custody #1273 (22-4-0253 7)
05/24/2022 09:10: Sample Collected by Paul Jay Kelley
05/25/2022 09:24: Sample Delivered to Vicki Vauters
05/25/2022 09:24: Delivery Affirmed by Vicki Vauters

05/24/2022 Sample 22-4-0254 4

Original Event: Chain of Custody #1274 (22-4-0254 4)
05/24/2022 09:10: Sample Collected by Paul Jay Kelley
05/25/2022 09:24: Sample Delivered to Vicki Vauters
05/25/2022 09:24: Delivery Affirmed by Vicki Vauters

05/24/2022 Sample 22-4-0255 9

Original Event: Chain of Custody #1275 (22-4-0255 9)
05/24/2022 09:10: Sample Collected by Paul Jay Kelley
05/25/2022 09:24: Sample Delivered to Vicki Vauters
05/25/2022 09:24: Delivery Affirmed by Vicki Vauters

05/24/2022 Sample 22-4-0256 3

Original Event: Chain of Custody #1276 (22-4-0256 3)
05/24/2022 09:10: Sample Collected by Paul Jay Kelley
05/25/2022 09:24: Sample Delivered to Vicki Vauters
05/25/2022 09:24: Delivery Affirmed by Vicki Vauters



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

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In Re: Case PS22-0125

Department	Pesticide
Originated	05/17/2022
Assigned To	Aaron P. Kreider
Status	Closed

Involved Parties

Complainant	John Goodman Indianapolis, IN 46208
Respondent	Trugreen Lp-Ide Indianapolis, IN 46241
Respondent	Unknown
Respondent	Joel A Williams Indianapolis, IN 46241

Overviews

10/21/2022 **Investigation Summary**

The report from the OISC residue lab shows the ingredients from Mr. Williams's application were found on Mrs. Kunz's property at levels showing a direct application took place. The lawn flags and packet left behind for Mrs. Kunz show that TruGreen made an application to her property. Based on the evidence, Mr. Williams did not correctly identify his target property and instead made an application to Mrs. Kunz's property.

Submitted By: Aaron P. Kreider
Role: Investigator

10/27/2022 **Disposition Summary**

Joel A Williams 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 pesticides to the wrong address. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/16/2022 **Intake Referral Filed**

Complainant stated TruGreen treated his lawn by mistake on April 29, 2022.

Original Event: Intake Referral (Pesticide) #2471
Complainant: John Goodman
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: Aaron P. Kreider

05/17/2022 **Case Created**

Original Event: Case PS22-0125
Submitted By: Joseph D. Becovitz
Assigned To: Aaron P. Kreider

05/17/2022 **Investigator Called Complainant**

Communication

On May 17, 2022, I contacted Sarah Kunz regarding her and her husband's (John Goodman) complaint. She stated that on April 29, 2022, she returned home to find lawn flags from TruGreen in her yard. Mrs. Kunz stated that TruGreen mistakenly made an application to her lawn because she is not a customer. She stated they had been in contact with TruGreen to inform them they had treated the wrong lawn and to find out what was applied. After this conversation, TruGreen left a packet on her door containing the labels for the products used along with a note of apology.

Original Event: Investigation Activity (Pesticide) #4664
Subject: John Goodman
Submitted By: Aaron P. Kreider

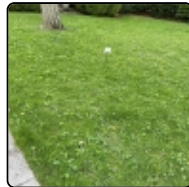
05/17/2022 **New Respondent Identified**

Original Event: Investigation Change #163
Respondent: Trugreen Lp-Ids
Submitted By: Aaron P. Kreider

05/17/2022 **Complainant Sent Text Message to Investigator**
Photographs

These photographs show the lawn flags that were place in Mrs. Kunz's front and back yard by TruGreen.

Attachments



File 95426



File 95428

Original Event: Investigation Activity (Pesticide) #4665
Subject: John Goodman
Submitted By: Aaron P. Kreider

05/18/2022 **Investigator Met with Complainant**
Interaction

On May 18, 2022, I met with Mrs. Kunz at her residence. I had her show me around the property and identify some of the vegetation she believed was injured by TruGreen's application. Mrs. Kunz also showed me the packet that TruGreen provided her after the application. The weeds in both front and back lawns appeared to be suffering from herbicide injury. The weeds were curling and wilting. There were some ornamentals that had twisting petioles.

Original Event: Investigation Activity (Pesticide) #4667
Subject: John Goodman
Submitted By: Aaron P. Kreider

05/18/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #896
Client: John Goodman
Firm Representative: Sarah Kunz
Submitted By: Aaron P. Kreider
Attachments: File 95065; NOI (S. Kunz).pdf

05/18/2022 **Investigator Collected Photographs**
Photographs

These photographs were collected during the on-site investigation. Figures 1 and 2 show the injury to Mrs. Kunz's lawn. Figure 3 shows and injured ornamental. Figure 4 shows the note TruGreen wrote on the packet they left her.

Figure 1 (File 95075)



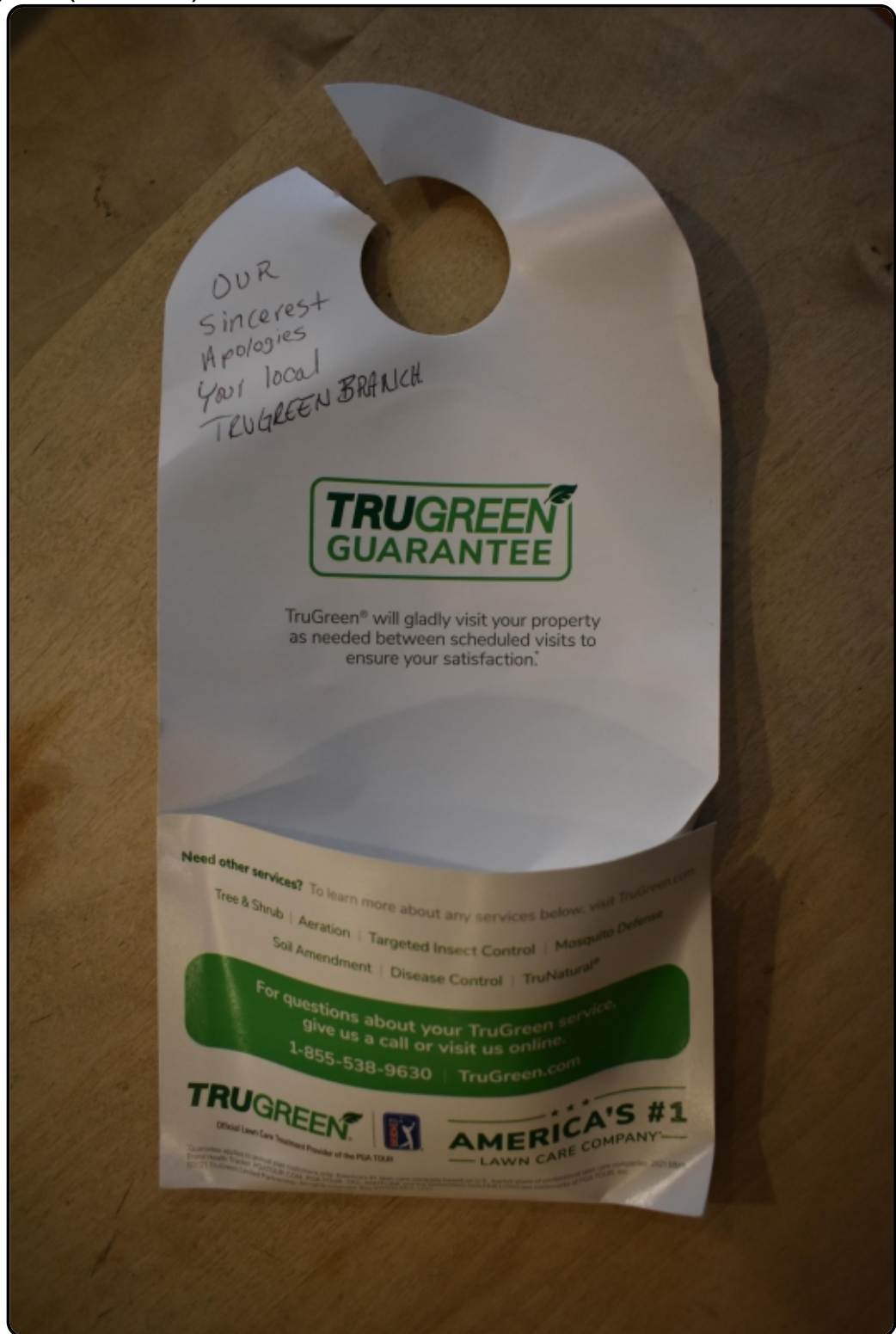
Figure 2 (File 95076)



Figure 3 (File 95085)



Figure 4 (File 95094)



Attachments

File 95066; DSC_0001.JPG
File 95067; DSC_0002.JPG
File 95068; DSC_0003.JPG
File 95069; DSC_0004.JPG
File 95070; DSC_0005.JPG
File 95071; DSC_0006.JPG
File 95072; DSC_0007.JPG
File 95073; DSC_0008.JPG
File 95074; DSC_0009.JPG
File 95077; DSC_0012.JPG
File 95078; DSC_0013.JPG
File 95079; DSC_0014.JPG
File 95080; DSC_0015.JPG
File 95081; DSC_0016.JPG
File 95082; DSC_0017.JPG
File 95083; DSC_0018.JPG
File 95084; DSC_0019.JPG
File 95086; DSC_0021.JPG
File 95087; DSC_0022.JPG
File 95088; DSC_0023.JPG
File 95089; DSC_0024.JPG
File 95090; DSC_0025.JPG
File 95092; DSC_0026.JPG
File 95093; DSC_0027.JPG
File 95095; DSC_0029.JPG

Original Event: Investigation Activity (Pesticide) #4668
Submitted By: Aaron P. Kreider

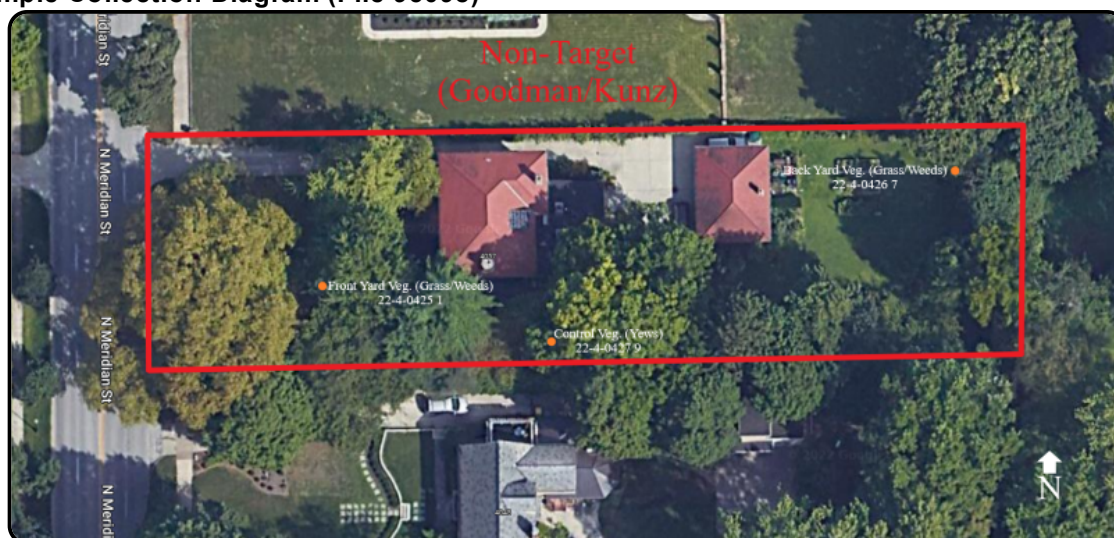
05/18/2022 Residue Samples Collected

Original Event: Residue Collection #212363 (22-4-0425 1)
Client: John Goodman
Submitted By: Aaron P. Kreider
Sample: 22-4-0425 1 | Veg; Grab; Grass Weeds; Front Yard
Sample: 22-4-0426 7 | Veg; Grab; Grass Weeds; Back Yard
Sample: 22-4-0427 9 | Veg; Ctrl; Yews; S, Side

05/18/2022 Sample Collection Diagram Activity

This diagram shows the locations where samples were collected.

Sample Collection Diagram (File 95098)



Original Event: Investigation Activity (Pesticide) #4669
Submitted By: Aaron P. Kreider

05/18/2022 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #576
Submitted By: Aaron P. Kreider
Target Analyte: Escalade 2
PLS Labels: [000228-00442-20160422.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000228-00442-20160422.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000228-00442-20160422.pdf

05/18/2022 **Investigator Called Target Communication**

On May 18, 2022, I attempted to contact Doug Blankenbaker of TruGreen regarding Mrs. Kunz's complaint. I was unable to speak with Mr. Blankenbaker and left a message.

Original Event: Investigation Activity (Pesticide) #5522
Subject: Trugreen Lp-Ids
Submitted By: Aaron P. Kreider

06/23/2022 **Received Residue Lab Report**
First Page of Lab Report

OCM Collection #	212363	Investigator	KREIDERA		
Collection Date	05/18/2022				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-0425 1	Veg; Grab; Grass Weeds; Front Yard	Veg	2,4-D	542 ppb * Minimum detected amount reported.	0.7 ppb
			Dicamba	191 ppb	3 ppb
22-4-0426 7	Veg; Grab; Grass Weeds; Back Yard	Veg	2,4-D	2720 ppb * Minimum detected amount reported.	0.7 ppb
			Dicamba	471 ppb	3 ppb
22-4-0427 9	Veg; Ctrl; Yews; S, Side	Veg	2,4-D	7.93 ppb * Minimum detected amount reported.	0.7 ppb
			Dicamba	BDL ppb	3 ppb

Original Event: Residue Lab Report #216897 (212363-R590)
Submitted By: SYSTEM
Lab Report: Lab Report 212363-R590.pdf

09/26/2022 **Investigator Called Target Communication**

On September 26, 2022, I contacted Mr. Blankenbaker regarding Mrs. Kunz's complaint. Mr. Blankenbaker stated he could not remember this specific incident but he would get the information together and fill out a Pesticide Investigation Inquiry (PII). Mr. Blankenbaker informed me that TruGreen uses a GPS system that alerts applicators if they are at the wrong address.

Original Event: Investigation Activity (Pesticide) #5428
Subject: Trugreen Lp-Ids
Submitted By: Aaron P. Kreider

09/26/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1204
Client: Trugreen Lp-Ids
Firm Representative: Doug Blankenbaker
Submitted By: Aaron P. Kreider
Attachments: File 110124; NOI (D. Blankenbaker).pdf

10/18/2022 **Investigator Called Target Communication**

On October 18, 2022, I contacted Mr. Blankenbaker in regards to not receiving his PII. Mr. Blankenbaker stated that he was unable to find any information about the application and that he could only identify the certified supervisor as Brian Hammonds (F39912).

Original Event: Investigation Activity (Pesticide) #5524
Subject: Trugreen Lp-Ids
Submitted By: Aaron P. Kreider

10/18/2022 **Investigator Met with Target Interaction**

On October 18, 2022, Agent Becovitz met with Mr. Blankenbaker and Mr. Hammonds. Mr. Hammonds was able to identify the property where the application was supposed to take place instead of Mrs. Kunz's. Mr. Hammonds provided Agent Becovitz with a copy of the application record. Mr. Blankenbaker reiterated that TruGreen provides its applicators with tablets, that utilize GPS, to notify applicators if they are at the wrong address.

Records

This record shows the details of the application that was performed to the correct property. It shows that Joel Williams (RT283356) was responsible for this application and the application to Mrs. Kunz's property. Mr. Hammonds (F39912) was the certified supervisor for these applications.

Attachments

File 111897; Application Record 4.29.22 (Redacted).pdf

Original Event: Investigation Activity (Pesticide) #5519
Subject: Trugreen Lp-Ids
Submitted By: Aaron P. Kreider

10/18/2022 Notice of Inspection Issued

Original Event: Notice of Inspection #1230
Client: Trugreen Lp-Ids
Firm Representative: Doug Blankenbaker
Submitted By: Aaron P. Kreider
Attachments: File 111898; NOI (D. Blankenbaker) 10.18.22.pdf

10/27/2022 Judgement; Civil Penalty Assessed Civil Penalty

Joel A Williams 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 pesticides to the wrong address. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Original Event: Judgement #1387
Primary: Joel A Williams
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(5)
Penalty Amount: 1000

11/17/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1591
To: Joel A Williams
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8971
Enclosed: Notice of Enforcement
Attachments: File 113343; PS22-0125EL_CP_Joel A. Williams.docx

11/23/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1817
Subject: Joel A Williams
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8971
Received: 11/23/2022
Attachments: File 114069; CM 7021 0950 0000 0607 8971 - Joel A. Williams - PS22-0125 - Proof of Delivery 11-23-2022.pdf
File 114068; CM 7021 0950 0000 0607 8971 - Joel A. Williams - PS22-0125 - Received 11-23-2022.pdf

12/07/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1810
Subject: Joel A Williams
Submitted By: Jacob A. Hatfield
Payment Expected: \$1,000.00
Payment Received: \$1,000.00
Attachments: File 113991; PS22-0125 - Joel A. Williams - CP Received 12-7-2022.pdf

12/09/2022 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #1655
To: John Goodman
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 114086; PS22-0125 - John Goodman - Case Closed Leter 12-9-2022.docx

12/09/2022 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #1656
To: Joel A Williams
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 114087; PS22-0125 - Joel A. Williams - Case Closed Leter 12-9-2022.docx

Chain of Custody

05/18/2022 **Sample 22-4-0425 1**

Original Event:	Chain of Custody #993 (22-4-0425 1)
05/18/2022 11:00:	Sample Collected by Aaron P. Kreider
05/18/2022 15:55:	Sample Delivered to Vicki Vauters
05/18/2022 15:55:	Delivery Affirmed by Vicki Vauters

05/18/2022 **Sample 22-4-0426 7**

Original Event:	Chain of Custody #994 (22-4-0426 7)
05/18/2022 11:00:	Sample Collected by Aaron P. Kreider
05/18/2022 15:55:	Sample Delivered to Vicki Vauters
05/18/2022 15:55:	Delivery Affirmed by Vicki Vauters

05/18/2022 **Sample 22-4-0427 9**

Original Event:	Chain of Custody #995 (22-4-0427 9)
05/18/2022 11:00:	Sample Collected by Aaron P. Kreider
05/18/2022 15:55:	Sample Delivered to Vicki Vauters
05/18/2022 15:55:	Delivery Affirmed by Vicki Vauters

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Mark R. LeBlanc, Ph.D.
State Chemist &
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In Re: Case PS22-0130

Department	Pesticide
Originated	05/17/2022
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Complainant	Mark Hildebrand Fairbanks, IN 47849
Employer	Michael J Bell Sullivan, IN 47882
Applicator	James Alexander Roberson Shelburn, IN 47879

Overviews

09/19/2022 **Investigation Summary**

On May 16, 2022, the complainant reported his 80 acres of forest showed herbicide injury symptoms caused by drift from an application to a field located to its east.

On May 19, 2022, I completed my on-site investigation, where I observed injury to the complainant's forest area. I identified two nearby fields where herbicides were recently used. I observed a pattern of injury coming from the east field (Field #1). I also collected multiple samples from the above locations for analysis.

I later collected the application record for Field #1 and the weather data for the application's date, which both showed the wind blowing towards the complainant's property during application. The OISC Residue Lab results also showed a gradient of herbicide coming from Field #1.

Drift from Field #1 was confirmed along with multiple label violations.

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

09/20/2022 **Disposition Summary**

James A. Roberson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target area. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his first offense; a general use pesticide was involved and there were adverse effects.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/16/2022 **Intake Referral Filed**

Complainant stated his trees are injured as the result of an Ag application to a neighboring farm field.

Original Event:	Intake Referral (Pesticide) #2476
Complainant:	Mark Hildebrand
Respondent:	Michael J Bell
Submitted By:	Joseph D. Becovitz
Assigned To:	James M. Trimble

05/17/2022 **Case Created**

Original Event:	Case PS22-0130
Submitted By:	Joseph D. Becovitz
Assigned To:	James M. Trimble

05/17/2022 **Investigator Called Complainant Communication**

On May 17, 2022, I called and spoke with Mr. Hildebrand, who reported the east end of his approximately 80 acres of forest was showing herbicide injury symptoms, which he believed was caused by pesticide drift from an application to a neighboring field located to its east. Mr. Hildebrand stated that the injured trees all had cupped leaves and the leaves had turned dark green. Mr. Hildebrand stated he first observed the injury to the trees on May 15 or 16. Mr. Hildebrand stated that he spoke with applicator he believed was responsible for field's application, Michael Bell, who confirmed to Mr. Hildebrand that he had made an application to the field.

Original Event:	Investigation Activity (Pesticide) #4687
Subject:	Mark Hildebrand
Submitted By:	James M. Trimble

05/19/2022 **Investigator Met with Complainant Photographs**

On May 19, 2022, I arrived and met with Hildebrand at his residence. Mr. Hildebrand then showed me his approximately 80 acres of forest nearby that did not have a listed address but was near the approximated 7400 block of N. 1100 W., Fairbanks. Mr. Hildebrand showed me the injury symptoms to the multiple varieties of trees and vegetation on the east end of his property.

While on-site, I observed and photographed the injury symptoms to the vegetation on Mr. Hildebrand's property, which included cupped, blistered, & strapped leaves. I identified the symptoms of injury to the vegetation on Mr. Hildebrand's property to be consistent with herbicide exposure, specifically injury caused by growth regulator exposure. I found the most widespread and significant injury to the vegetation on Mr. Hildebrand's property to be along its east border. I observed the injury to the trees to be more sporadic and less severe the further west I walked. At approximately 160 yards west from the property's east edge, I found the symptoms of injury to the vegetation to no longer be noticeable. I also observed the injury symptoms to dissipate the further north I went.

I then looked for potential sources of herbicide drift. I observed the field located to the east/southeast of Mr. Hildebrand's property (Field #1) showed signs of a recent herbicide application by the dead and/or dying vegetation throughout the field. I identified a second field located to the northeast of Mr. Hildebrand's property (Field #2) that also showed signs of a recent herbicide application. I observed Field #1 shared a property line with Mr. Hildebrand's property and observed what I believed to be a pattern of herbicide injury on the Hildebrand property coming from Field #1. I observed Field #2 only shared a small area of its field with the Hildebrand property and I did not observe a pattern of injury coming from Field #2. I also observed fields located to the south and west of Mr. Hildebrand's property but found no evidence of off-target pesticide movement from those fields.

I then collected multiple gradient vegetation samples and a vegetation control sample from Mr. Hildebrand's property, along with vegetation samples from Field #1 & Field #2 for analysis by the OISC Residue Lab.

I also collected vegetation samples that exhibited symptoms of herbicide injury from Mr. Hildebrand's property for examination by the Purdue Plant & Pest Diagnostic Lab (PPDL).

Field #1/Hildebrand shared border (File 95015)



Plant injury (File 95024)



Attachments



File 95011



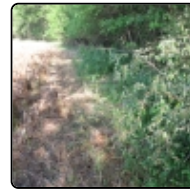
File 95012



File 95013



File 95014



File 95016



File 95017



File 95018



File 95019



File 95020



File 95021



File 95022



File 95023



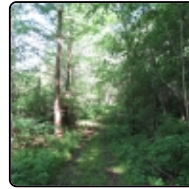
File 95025



File 95026



File 95027



File 95028



File 95029



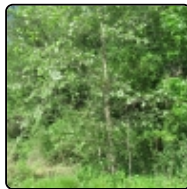
File 95030



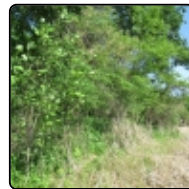
File 95031



File 95032



File 95033



File 95034



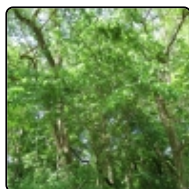
File 95035



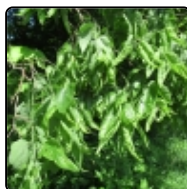
File 95036



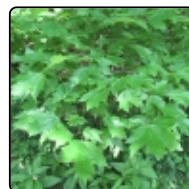
File 95037



File 95038



File 95039



File 95040

Original Event: Investigation Activity (Pesticide) #4662
 Subject: Mark Hildebrand
 Submitted By: James M. Trimble

05/19/2022 Notice of Inspection Issued

Original Event: Notice of Inspection #903
 Client: Mark Hildebrand
 Firm Representative: Mark Hildebrand
 Submitted By: James M. Trimble
 Attachments: File 95228; Hildebrand NOI.pdf

05/19/2022 Residue Samples Collected

Original Event: Residue Collection #212576 (22-4-1014 4)
 Client: Mark Hildebrand
 Submitted By: James M. Trimble
 Sample: 22-4-1014 4 | Veg; Comp; OFF-T, Grad1, 160yd W
 Sample: 22-4-1015 9 | Veg; Comp; OFF-T, Grad2, 100yd W
 Sample: 22-4-1016 3 | Veg; Comp; OFF-T, Grad3, 10yd W
 Sample: 22-4-1017 1 | Veg; Comp; OFF-T, Grad1, 120yd NW
 Sample: 22-4-1018 5 | Veg; Comp; OFF-T, Grad2, 60yd NW
 Sample: 22-4-1019 2 | Veg; Comp; OFF-T, Grad3, 75yd SW
 Sample: 22-4-1020 5 | Veg; Ctrl; OFF-T, W
 Sample: 22-4-1021 4 | Veg; Comp; Target, E, Field 1
 Sample: 22-4-1022 2 | Veg; Comp; Target, N, Field 2

05/19/2022 External Lab Sample Collected

Original Event: External Lab Sample Collection #213149 (X22-288A32)
Client: Mark Hildebrand
Submitted By: James M. Trimble
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X22-288A32 | On May 19, 2022, I submitted the vegetation samples I collected from Mr. Hildebrand's property.
Attachments: File 95237; PPDSubmission.pdf

05/19/2022 **Investigator Called Applicator Communication**

On May 19, 2022, I called and spoke with Mr. Bell, who confirmed that he had made a pesticide application to Field #1.

Original Event: Investigation Activity (Pesticide) #4688
Subject: Michael J Bell
Submitted By: James M. Trimble

05/19/2022 **Investigator Sent Fax/Email to Applicator Communication**

On May 19, 2022, I sent Mr. Bell an email containing the Pesticide Investigation Inquiry (PII) with instructions to have the completed form returned to me within 15 days of my email.

Attachments
File 95235; Bell 5-19.pdf

Original Event: Investigation Activity (Pesticide) #4689
Subject: Michael J Bell
Submitted By: James M. Trimble

05/19/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #904
Client: Michael J Bell
Firm Representative: Michael Bell
Submitted By: James M. Trimble
Photos:



File 95234

05/19/2022 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #579
Submitted By: James M. Trimble
Target Analyte: Roundup Powermax 3
Target Analyte: 2,4-D LV6
Target Analyte: Zidua Pro
Target Analyte: Dimetric
Target Analyte: Roundup Powermax 3
Target Analyte: 2,4-D LV6
Target Analyte: Dimetric
Target Analyte: Zidua Pro
PPLS Labels: [001381-00197-20170811.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf
[001381-00250-20171213.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf
[000524-00659-20200317.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf
[007969-00365-20171228.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00365-20171228.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00365-20171228.pdf

05/20/2022 **Received External Lab Report**

On May 20, 2022, I received the report from PPD, which stated, "Tree leaves and stems show epinasty (leaf curling and stem twisting) that are characteristic of exposure to synthetic auxin herbicides such as 2,4-D, dicamba, etc. Image #3 clearly shows typical growth regulator injury on the meristems (growing points). However, I also observed spider mites and webs on the underside of several of the distorted leaves, especially on oaks. I also observed insect galls and spider mites on elm tree leaves. Therefore, the tree damage observed is likely a combination of herbicide damage and insect feeding." It further stated, "There are leaf spots with brown centers and black borders on a few different species that look like some kind of chemical injury. This also includes shot hole spots on maple and oak where injury could have occurred as leaves were developing and expanding, leading to tearing within the

dead tissue. Leaf twisting was also clear on multiple plants that suggest growth regulatory injury. Elm: significant leaf curl starting at leaf tips or margins associated with light chlorosis has aphids infesting the leaf underside. This is typical damage on elms and not associated with chemical injury. Oak: leaf curl present with and without spider mites, including predatory mites. Mite damage could potentially cause leaf curl, but the low density or lack in some leaves makes it unclear if by mite alone or by herbicide as well. Understory plant with trifoliate leaves: eriophyid mites, caused by eriophyid mites, and what looks like some kind of injury to the leaves. Maple: has leaf lesions that look like a type of anthracnose. No fungi present at this time. There is also what appears to be burn injury on the petioles of various plants which is suggestive of some kind of chemical damage."

Original Event: External Lab Report #213155 (X22-288A32)
Submitted By: James M. Trimble
Sample: X22-288A32
Attachments: File 95241; FinalReport_Mitch Trimble.pdf

05/24/2022 **Online Investigation Activity**
Activity

On May 24, 2022, I created a map of my sample collection for this investigation.

Attachments



File 95423

Original Event: Investigation Activity (Pesticide) #4695
Submitted By: James M. Trimble

05/26/2022 **Investigator Received Fax/Email from Applicator**
Investigation Inquiry

On May 26, 2022, I received the completed PII from Mr. Bell.

Attachments

File 95934; Bell PII.pdf

Inquiry Overview

Certified Applicator James Alex Roberson

Company Bell Farms

Application Type Farmer

Target Field LT 1-2

Tank Mix

Product	EPA	Rate
Roundup PowerMax 3	524-659	30oz
2,4-D LV6	1381-250	16oz
Zidua Pro	7969-365	6oz
Dimetric Ext	1381-197	4oz

Application Date

Date	Start	End
04/29/2022	8:30 AM	9:15 AM

Air Conditions

Time	Temp	Direction	Speed
Start	72°F	ESE	7mph
End	70°F	SE	8mph

Original Event: Investigation Activity (Pesticide) #4738
Subject: Michael J Bell
Submitted By: James M. Trimble
PPLS Labels: [001381-00197-20170811.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf
[001381-00250-20171213.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf
[000524-00659-20200317.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf
[007969-00365-20171228.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00365-20171228.pdf)

05/26/2022 **New Respondent Identified**
Respondent Identified

On May 26, 2022, I received the completed PII from Mr. Bell which identified Mr. Roberson as the applicator to Field #1.

Original Event: Investigation Change #174
Respondent: James Alexander Roberson
Submitted By: James M. Trimble

06/22/2022 **Received Residue Lab Report**
Investigatory Summary

On June 22, 2022, I received the lab results from the OISC Residue Lab, which found positive amounts of Metribuzin in all of the samples collected from the Hildebrand property except the control sample (#22-4-1020). Samples #22-4-1014 (1.64 ppb), #22-4-1015 (2.40 ppb), & #22-4-1016 (95.5 ppb) showed an east to west gradient of Metribuzin coming from Field #1. Sample #22-4-1016 was collected 10 yards west of the property line that bordered Field #1 and its result of 95.5 ppb was comparable to the sample collected from Field #1 (sample #22-4-1021, 130 ppb). The positive amounts of Metribuzin found in the rest of the samples collected from the property found lower levels of Metribuzin but still showed off-target movement when compared to the control sample's results of BDL (below detectable limits).

First Page of Lab Report

Page 3 of 248 Report

OCM Collection #	212576	Investigator	TRIMBLEJ		
Collection Date	05/19/2022				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-1014 4	Veg; Comp; OFF-T, Grad1, 160yd W	Veg	Metribuzin	1.64 ppb	1 ppb
22-4-1015 9	Veg; Comp; OFF-T, Grad2, 100yd W	Veg	Metribuzin	2.40 ppb	1 ppb
22-4-1016 3	Veg; Comp; OFF-T, Grad3, 10yd W	Veg	Metribuzin	95.5 ppb	1 ppb
22-4-1017 1	Veg; Comp; OFF-T, Grad1, 120yd NW	Veg	Metribuzin	23.6 ppb	1 ppb
22-4-1018 5	Veg; Comp; OFF-T, Grad2, 60yd NW	Veg	Metribuzin	13.2 ppb	1 ppb
22-4-1019 2	Veg; Comp; OFF-T, Grad3, 75yd SW	Veg	Metribuzin	34.2 ppb	1 ppb
22-4-1020 5	Veg; Ctrl; OFF-T, W	Veg	Metribuzin	BDL ppb	1 ppb
22-4-1021 4	Veg; Comp; Target, E, Field 1	Veg	Metribuzin	130 ppb	1 ppb
22-4-1022 2	Veg; Comp; Target, N, Field 2	Veg	Metribuzin	25.6 ppb	1 ppb

Original Event: Residue Lab Report #216871 (212576-R589)
Submitted By: SYSTEM
Lab Report: Lab Report 212576-R589.pdf

09/14/2022 **Wind Data Researched**

On September 14, 2022, I reviewed the weather data from weather stations surrounding Field #1 to compare to the recorded information listed on the PII. I found the wind speed and wind direction recorded on the PII to be comparable to the weather station's data, which listed the wind blowing towards the Hildebrand property during Mr. Roberson's application.

Terre Haute International Airport

Terre Haute, Indiana (24 miles N of site)

Time Direction Speed (mph)

8:53 AM E 8

Vincennes International Station

Lawrenceville, Illinois (30 miles S of site)

Time Direction Speed (mph)

8:53 AM ESE 10

Indianapolis International Airport

Indianapolis, Indiana (78 miles NE of site)

Time Direction Speed (mph)

8:54 AM E 14

Attachments



File 109116

File 109117

File 109118

Original Event: Wind Data #123
Submitted By: James M. Trimble
Date of Weather: 04/29/2022

09/15/2022 **Case Created**

Original Event: Case PS22-0414
Submitted By: George Saxton
Assigned To: James M. Trimble

09/16/2022 **Online Investigation Activity**

Label Use

Due to the evidence collected in this investigation, which included the pattern of injury I observed on the Hildebrand property coming from Field #1, the fact that the wind blowing towards Mr. Hildebrand's property during Mr. Roberson's application to Field #1, and the gradient of Metribuzin found in the samples collected from Mr. Hildebrand's off-target property by the OISC Residue Lab, I determined that Mr. Roberson applied a pesticide in a manner that allowed it to drift from the target site (Field #1) in sufficient quantity to cause harm to a nontarget site (Hildebrand property).

In addition to the above information, I found the following label violations:

Shredder 2,4-D LV6 (EPA Reg. #1381-250, active ingredient of 2,4-D)

- "Wind Speed"

"Only apply this product if the wind direction favors on-target deposition and there are not sensitive areas (including, but not limited to, residential areas, bodies of water, known habitat for non-target species, non-target crops) within 250 feet downwind."

Roundup Powermax 3 (EPA Reg. #524-659, active ingredient of Glyphosate)

- "Sensitive Areas"

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

Dimetric EXT (EPA Reg. #1381-197, active ingredient of Metribuzin)

- "Do not allow sprays to drift on to adjacent desirable plants."

- "Dimetric EXT should 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 a sensitive area)."

Attachments

File 109415; DIMETRIC.pdf
File 109412; LV6.pdf
File 109413; PM3.pdf
File 109414; ZIDUA.pdf

Original Event: Investigation Activity (Pesticide) #5365
Subject: James Alexander Roberson
Submitted By: James M. Trimble
PPLS Labels: [001381-00197-20170811.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf
[001381-00250-20171213.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf
[000524-00659-20200317.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf
[007969-00365-20171228.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00365-20171228.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00365-20171228.pdf

09/20/2022 **Judgement; Civil Penalty Assessed**

Civil Penalty

James A. Roberson was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target area. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his first offense; a general use pesticide was involved and there were adverse effects.

Original Event: Judgement #1359
Primary: James Alexander Roberson
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 400

09/26/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1372
To: James Alexander Roberson
Submitted By: Joni D. Herman
USPS: 7021 0950 0000 0607 8582
Enclosed: Notice of Enforcement
Attachments: File 110275; PS22-0130EL CP - Mitigated ~ James A. Roberson.docx

10/24/2022 Mail Service Returned for Target

On October 24, 2022 Certified Mail was returned to OISC. Regular has not been returned.

Original Event: Compliance Receipt #1778
Subject: James Alexander Roberson
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8582
Returned: 10/24/2022
Attachments: File 111973; CM 7021 0950 0000 0607 8582 - PS22-0130 - CM Returned 10-24-2022.pdf

10/24/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1779
Subject: James Alexander Roberson
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 111975; PS22-0130 - James A. Roberson - CP Received 10-24-2022.pdf

10/24/2022 Mail Confirmation Assumed for Target

The Regular mail letter is assumed to have been received because the respondent paid the civil penalty.

Original Event: Compliance Receipt #1780
Subject: James Alexander Roberson
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8582

10/26/2022 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #1504
To: Mark Hildebrand
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 112025; PS22-0130 - Mark Hildebrand - Case Closed Letter 10-26-2022.docx

10/26/2022 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #1505
To: Michael J Bell
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 112026; PS22-0130 - Michael J. Bell - Case Closed Letter 10-26-2022.docx

10/26/2022 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #1506
To: James Alexander Roberson
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 112027; PS22-0130 - James A. Roberson - Case Closed Letter 10-26-2022.docx

Chain of Custody

05/19/2022 Sample 22-4-1014 4

Original Event:	Chain of Custody #1065 (22-4-1014 4)
05/19/2022 10:30:	Sample Collected by James M. Trimble
05/19/2022 15:31:	Sample Delivered to Vicki Vauters
05/19/2022 15:31:	Delivery Affirmed by Vicki Vauters

05/19/2022 **Sample 22-4-1015 9**

Original Event:	Chain of Custody #1066 (22-4-1015 9)
05/19/2022 10:30:	Sample Collected by James M. Trimble
05/19/2022 15:31:	Sample Delivered to Vicki Vauters
05/19/2022 15:31:	Delivery Affirmed by Vicki Vauters

05/19/2022 **Sample 22-4-1016 3**

Original Event:	Chain of Custody #1067 (22-4-1016 3)
05/19/2022 10:30:	Sample Collected by James M. Trimble
05/19/2022 15:31:	Sample Delivered to Vicki Vauters
05/19/2022 15:31:	Delivery Affirmed by Vicki Vauters

05/19/2022 **Sample 22-4-1017 1**

Original Event:	Chain of Custody #1068 (22-4-1017 1)
05/19/2022 10:30:	Sample Collected by James M. Trimble
05/19/2022 15:31:	Sample Delivered to Vicki Vauters
05/19/2022 15:31:	Delivery Affirmed by Vicki Vauters

05/19/2022 **Sample 22-4-1018 5**

Original Event:	Chain of Custody #1069 (22-4-1018 5)
05/19/2022 10:30:	Sample Collected by James M. Trimble
05/19/2022 15:31:	Sample Delivered to Vicki Vauters
05/19/2022 15:31:	Delivery Affirmed by Vicki Vauters

05/19/2022 **Sample 22-4-1019 2**

Original Event:	Chain of Custody #1070 (22-4-1019 2)
05/19/2022 10:30:	Sample Collected by James M. Trimble
05/19/2022 15:31:	Sample Delivered to Vicki Vauters
05/19/2022 15:31:	Delivery Affirmed by Vicki Vauters

05/19/2022 **Sample 22-4-1020 5**

Original Event:	Chain of Custody #1071 (22-4-1020 5)
05/19/2022 10:30:	Sample Collected by James M. Trimble
05/19/2022 15:31:	Sample Delivered to Vicki Vauters
05/19/2022 15:31:	Delivery Affirmed by Vicki Vauters

05/19/2022 **Sample 22-4-1021 4**

Original Event:	Chain of Custody #1072 (22-4-1021 4)
05/19/2022 10:30:	Sample Collected by James M. Trimble
05/19/2022 15:31:	Sample Delivered to Vicki Vauters
05/19/2022 15:31:	Delivery Affirmed by Vicki Vauters

05/19/2022 **Sample 22-4-1022 2**

Original Event:	Chain of Custody #1073 (22-4-1022 2)
05/19/2022 10:30:	Sample Collected by James M. Trimble
05/19/2022 15:31:	Sample Delivered to Vicki Vauters
05/19/2022 15:31:	Delivery Affirmed by Vicki Vauters

This record was generated on **November 14, 2022, 02:07 PM 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

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West Lafayette, IN 47907-2063
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www.oisc.purdue.edu

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

This record was generated on **October 31, 2022, 07:30 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 PS22-0142

Department	Pesticide
Originated	05/19/2022
Assigned To	Andrew R. Roth
Status	Closed

Involved Parties

Complainant	Wade Babbitt Huntington, IN 46750
Respondent	Unknown
Respondent	Philip Roger Colclessner Roanoke, IN 46783

Overviews

09/19/2022 Investigation Summary

Wade Babbitt contacted the OISC to report trees on his property were adversely affected after an application to the adjacent farm field.

On May 24, I met with Mr. Babbitt for the on-site investigation. Fruit trees and lilacs near the field at the back of the property had cupped leaves and twisted stems. I photographed the site and collected plant samples from impacted trees for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected weeds from the target field and foliage from a pear tree on the Babbitt property for analysis by the OISC Residue Lab.

I spoke with Phil Colclessner who confirmed he sprayed the field with a tank mix containing 2,4-D, glyphosate and Zidua SC. He later provided application records and indicated the wind was from the east, blowing toward the complainant's property, during the application. Recorded wind data at the Ft. Wayne International Airport indicated winds were from the east at 3mph and 8mph during the application.

The PPDL report indicated the symptoms on the samples were consistent with exposure to 2,4-D.

The OISC Residue Lab analyzed the samples for the herbicides reported to have been in the tank mix. All active ingredients (2,4-D, glyphosate and pyroxasulfone) were detected in the target weeds and in the foliage from the Babbitt property.

The Ag Saver Glyphosate 53.8% label reads, in part, "Do not allow the herbicide solution to mist, drip, drift, or splash onto desirable vegetation since minute quantities of this product can cause severe damage or destruction to the crop, plants, or other areas on which treatment was not intended."

Submitted By: Andrew R. Roth
Role: Investigator

09/22/2022 Disposition Summary

Philip R. Colclessner was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact a general use pesticide caused an adverse effect. Consideration was also given to the fact this was Mr. Colclessner's first violation of similar nature and he cooperated during the investigation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/17/2022 Intake Referral Filed

Complainant stated an application to a neighboring farm field has injured trees on his property.

Original Event: Intake Referral (Pesticide) #2488
Complainant: Wade Babbitt
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

05/19/2022 **Case Created**

Original Event: Case PS22-0142
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

05/24/2022 **New Respondent Identified**
Respondent Identified

After speaking to the complainant, who was unsure who farmed the field adjacent to his property, I determined Phil Colclessner was the applicator. I contacted Mr. Colclessner who confirmed he sprayed the field in question with glyphosate, 2,4-D and Zidua SC.

Original Event: Investigation Change #172
Respondent: Philip Roger Colclessner
Submitted By: Andrew R. Roth

05/24/2022 **Investigator Met with Complainant**
Interaction

On May 24, I met with Wade Babbitt at his home on the east side of CR 200 West in Huntington County. He reported that he has had drift from the farm ground which borders his property on three sides in the past. We walked the property and he showed me a dead area of grass along the south side of his property and several fruit trees and lilacs with cupped leaves and distorted leaf stems in the northeast portion of the property. The symptoms, which were not widespread cross the property, were consistent with exposure to growth-regulator herbicides. I photographed the site and collected plant samples for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected weeds from the target field and pear for possible analysis by the OISC Residue Lab.

Photographs

I photographed the site, documenting the symptoms observed and the proximity of the field.

Attachments



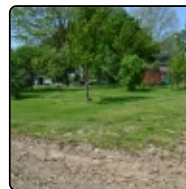
File 95545



File 95533



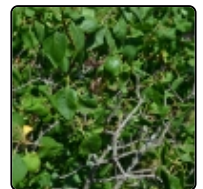
File 95535



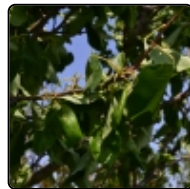
File 95536



File 95537



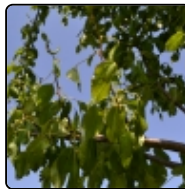
File 95538



File 95539



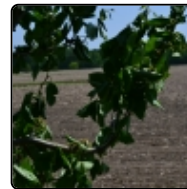
File 95540



File 95541



File 95542



File 95543



File 95544

Original Event: Investigation Activity (Pesticide) #4711
Subject: Wade Babbitt
Submitted By: Andrew R. Roth

05/24/2022 **Notice of Inspection Issued**

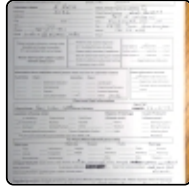
Original Event: Notice of Inspection #911
Client: Wade Babbitt
Firm Representative: Wade Babbitt
Submitted By: Andrew R. Roth
Photos:



File 95546

05/24/2022 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #213548 (X22-C69645)
Client: Wade Babbitt
Submitted By: Andrew R. Roth
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X22-C69645 | I collected plant samples for assessment by the PPDL.
Photos:



File 95547

05/24/2022 **Residue Samples Collected**

Original Event: Residue Collection #213549 (22-4-0849 0)
Client: Wade Babbitt
Submitted By: Andrew R. Roth
Sample: 22-4-0849 0 | Veg; Comp; OFF-T
Sample: 22-4-0850 1 | Veg; Comp; Target

05/25/2022 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #585
Submitted By: Andrew R. Roth
Target Analyte: Ag Saver glyphosate
Target Analyte: Agri Star 2,4-D LV4
Target Analyte: Zidua SC
PPLS Labels: [042750-00015-20101004.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/042750-00015-20101004.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/042750-00015-20101004.pdf
[007969-00374-20211116.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf
[083772-00012-20191231.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/083772-00012-20191231.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/083772-00012-20191231.pdf

05/26/2022 **Received External Lab Report**

Tree branches in the sample show stem twisting and leaf curling. These symptoms are characteristic of exposure to synthetic auxin herbicides such as 2,4-D.

Marcelo Zimmer

Symptoms show significant leaf curling and deformation, suggestive of exposure to a growth regulator. No significant disease.

John Bonkowski

Original Event: External Lab Report #214088 (X22-C69645)
Submitted By: Andrew R. Roth
Sample: X22-C69645
Attachments: File 95955; 22-0142PPDL.pdf

06/06/2022 **Investigator Received Mail from Applicator Records**

On June 6, I the OISC received a completed Pesticide Investigation Inquiry from Mr. Colclessner. It indicated he sprayed the field on May 11 from approximately 1030am-noon while winds were from the east, blowing toward the Babbitt property. No wind speed was provided by Mr. Colclessner. Recorded wind data at the closest official weather station (Ft. Wayne International Airport) indicated winds were from the east at 3mph and 8mph during the reported time of the application. The tank mix contained the following:

AgSaver Glyphosate EPA Reg#83772-12
Zidua SC EPA Reg#7969-374 active ingredient pyroxasulfone
AgriStar 2,4-D LV4 EPA Reg#42750-15

Attachments

File 109549; 22-0142PI.pdf

Original Event: Investigation Activity (Pesticide) #5367
Subject: Philip Roger Colclessner
Submitted By: Andrew R. Roth

07/14/2022 **Received Residue Lab Report Investigatory Summary**

The OISC Residue Lab analyzed the samples for glyphosate and its breakdown product AMPA as well as 2,4-D and pyroxasulfone which were reportedly applied to the field. All active ingredients were detected in the weeds from the target field and in the pear foliage from the Babbitt property.

First Page of Lab Report

OCM Collection #	213549	Investigator	ROTHA		
Collection Date	05/24/2022				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-0849 0	Veg; Comp; OFF-T	Veg	2,4-D	227 ppb	6 ppb
			AMPA	BDL ppb	133 ppb
			Glyphosate	41.4 ppb	6 ppb
			Pyroxasulfone	2.14 ppb	0.7 ppb
22-4-0850 1	Veg; Comp; Target	Veg	2,4-D	9190 ppb	6 ppb
			AMPA	BQL ppb	133 ppb
			Glyphosate	7830 ppb	6 ppb
			Pyroxasulfone	85.3 ppb	0.7 ppb

Original Event: Residue Lab Report #219345 (213549-R598)
Submitted By: SYSTEM
Lab Report: Lab Report 213549-R598.pdf

09/22/2022 Judgement; Civil Penalty Assessed**Civil Penalty**

Philip R. Colclessner was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact a general use pesticide caused an adverse effect. Consideration was also given to the fact this was Mr. Colclessner's first violation of similar nature and he cooperated during the investigation.

Original Event: Judgement #1362
Primary: Philip Roger Colclessner
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 400

09/27/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1380
To: Philip Roger Colclessner
Submitted By: Joni D. Herman
USPS: 7021 0950 0000 0607 8551
Enclosed: Notice of Enforcement
Attachments: File 110298; PS22-0142EL CP - Mitigated ~ Philip R. Colclessner.docx

09/30/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1750
Subject: Philip Roger Colclessner
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8551
Received: 09/30/2022
Attachments: File 110852; CM 7021 0950 0000 0607 8551 - PS22-0142 - 9-30-2022.pdf

10/07/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1755
Subject: Philip Roger Colclessner
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 111113; PS22-0142 - Philip R. Colclessner - CP 10-7-2022.pdf

10/10/2022 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #1444
To: Wade Babbitt
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 111130; PS22-0142 - Wade Babbitt - Case Closed Letter 10-10-2022.docx

10/10/2022 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #1445
To: Philip Roger Colclessner
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 111131; PS22-0142 - Philip R. Colclessner - Case Closed Letter 10-10-2022.docx

Chain of Custody

05/25/2022 **Sample 22-4-0849 0**

Original Event:	Chain of Custody #1348 (22-4-0849 0)
05/24/2022 12:00:	Sample Collected by Andrew R. Roth
05/25/2022 12:42:	Sample Delivered to 218
05/26/2022 09:13:	Delivery Affirmed by Vicki Vauters

05/25/2022 **Sample 22-4-0850 1**

Original Event:	Chain of Custody #1349 (22-4-0850 1)
05/24/2022 12:00:	Sample Collected by Andrew R. Roth
05/25/2022 12:42:	Sample Delivered to 218
05/26/2022 09:13:	Delivery Affirmed by Vicki Vauters

<p>This record was generated on October 31, 2022, 07:30 AM EDT. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>
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Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

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

This record was generated on **January 19, 2023, 03:30 PM 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 PS22-0183

Department	Pesticide
Originated	06/03/2022
Assigned To	Kevin W. Gibson
Status	Closed

Involved Parties

Complainant	Dan Englehart Mishawaka, IN 46545
Respondent Issued To	William E Sparks South Bend, IN 46614
Respondent	The Forest at Bridge Water Way Mishawaka, IN 46545
-	Diane Richardson Mishawaka, IN 46545

Overviews

10/10/2022 Investigation Summary

Complainant Dan Englehart reported his condo association recently contracted William (Bill) Sparks to spray the weeds in the lawn and perform pest control work at the condos.

A check of OISC licensing records indicated Mr. William Sparks did not have a current pesticide applicator's license. His one-time category 3B license expired 12/31/99.

After making contact with Mr. Sparks, he admitted he was hired to make a pesticide application of **Spectracide Home Barrier** (EPA #2688-298-8845; active ingredient: cyhalothrin) to the foundation at 1349 Bridge Water Way located in Mishawaka and he did not have a pesticide applicator's license at the time of the application.

Action Order #269 was issued to Mr. Sparks to cease all pesticide applications for hire until he was properly licensed by OISC.

Mr. William Sparks was in violation of OISC laws when he made a pesticide application for hire in Mishawaka Indiana without having a pesticide applicator's license through OISC.

Submitted By: Kevin W. Gibson
Role: Investigator

10/10/2022 Disposition Summary

William E Sparks was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly 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. Consideration was given to the fact Mr. Sparks was licensed in 1999 and knew of the licensing requirements.

However, \$500.00 of the civil penalty will be held in abeyance for a period of two (2) years from the date of this notice and not assessed provided Mr. Sparks commits no further violations of the Indiana Pesticide Use and Application Law.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/02/2022 Intake Referral Filed

Complainant stated The Forest at Bridge Water Way condo association has recently contracted with William (Bill) Sparks to spray the weeds in the lawn and perform pest control work at the condos. OISC records do not show any kind of license for William Sparks.

Original Event: Intake Referral (Pesticide) #2529
Complainant: Dan Englehart
Respondent: William E Sparks
Respondent 2: The Forest at Bridge Water Way
Submitted By: Joseph D. Becovitz
Assigned To: Kevin W. Gibson

06/03/2022 **Case Created**

Original Event: Case PS22-0183
Submitted By: Joseph D. Becovitz
Assigned To: Kevin W. Gibson

06/07/2022 **Investigator Called Complainant Interaction**

Spoke with complainant Dan Englehart. He told me the condo association he lives in has contracted a gentleman by the name of William Sparks to do "handyman" type work for the association. Part of the "handyman" work was mowing, repairing, installing, spraying, trimming and landscaping. Mr. Englehart was very concerned about the "spraying" part. Based on at least some of the emails Mr. Englehart had received from HOA president Diane Richardson, Mr. Sparks has used a pesticide to kill black ants. He doesn't believe Mr. Sparks is licensed to do the spraying. Mr. Englehart did not have any contact information for Mr. Sparks.

Original Event: Investigation Activity (Pesticide) #4792
Subject: Dan Englehart
Submitted By: Kevin W. Gibson

06/07/2022 **Investigator Called Applicator Interaction**

I spoke to William Sparks via telephone. I explained the situation and allegation regarding him being paid to spray pesticides on the Bridge Water Way Condo property without a pesticide license. At first Mr. Sparks seemed anxious to settle the dispute. He told me was aware of the Indiana State Chemist agency, as he was in lawn care years ago. He stated he didn't have an applicator license with our office. He then said he used a chemical he bought at the store. It was a product any homeowner could purchase over-the-counter. Then Mr. Sparks told me he never used the product. At first he was willing to meet with me about the situation, but when asked for his address, he told me he wasn't giving me any information until I showed him my credentials. He was very reluctant to meet with me in person, when I told him I would like to see the product he purchased. He gave me his telephone number to set up an interview in the near future.

Original Event: Investigation Activity (Pesticide) #4800
Subject: William E Sparks
Submitted By: Kevin W. Gibson

06/22/2022 **Investigator Called Subject Interaction**

I spoke to the Forest Condominium Association president Diane Richardson by telephone. She told me the Association hired Mr. Sparks as a "handyman" to do odd jobs on the premises. She admitted the Association asked Mr. Sparks to get rid of weeds in the common areas and also to spray for ants in the complainant's condo. She said she received one bill from Mr. Sparks. She agreed to send it to me as evidence. I then explained to her because Mr. Sparks did not have a pesticide application license with the Office of Indiana State Chemist (OISC), he could not make pesticide applications for hire.

Original Event: Investigation Activity (Pesticide) #4958
Subject: Diane Richardson
Submitted By: Kevin W. Gibson

06/30/2022 **Investigator Called Applicator Interaction**

I made contact with unlicensed applicator William Sparks. He admitted to me he made a paid pesticide application for the Forest at Bridge Water Way Home Owners Association (HOA) in Mishawaka. He provided me with the following information: application of **Spectracide Home Barrier** (EPA #2688-298-8845; active ingredient: cyhalothrin) to the outdoor foundation at 1349 Bridge Water Way (Mishawaka) with a hand held sprayer in the first or second week of May 2022. The invoice he supplied to the HOA showed the application being made on 5/24/22. He further explained he was once a licensed applicator when he worked for a lawn care company but had since let it lapse. A check of OISC licensing records showed Mr. Sparks was licensed in category 3B. His license expired 12/31/99. It was not renewed. Mr. Sparks told me he intended to obtain a pesticide license. I told him he could not make any more pesticide applications for hire until he received his pesticide license. An **Action Order** was issued to William Sparks instructing him to *cease all pesticide applications for hire in Indiana until he was properly licensed to do so with the Office of Indiana State Chemist (OISC).*

Attachments



File 107230

File 110661; SPECTRACIDE BUG STOP HOME BARRIER (32 OZ TRIGGER SPRAYER).pdf

Original Event: Investigation Activity (Pesticide) #5278
Subject: William E Sparks
Submitted By: Kevin W. Gibson

06/30/2022 **Notice of Inspection Issued**

NOI was issued to unlicensed applicator William Sparks as part of an investigation.

Original Event: Notice of Inspection #1143
Client: William E Sparks
Firm Representative: William Sparks
Submitted By: Kevin W. Gibson
Photos:



File 107231

06/30/2022 **Action Order Issued**

Stop making pesticide applications in the state of Indiana until you are properly licensed to do so with the Office of Indiana State Chemist.

Original Event: Action Order #269
Issued To: William E Sparks
Firm Representative: William Sparks
Submitted By: Kevin W. Gibson
Attachments: File 107232; Action Order-1.pdf

10/10/2022 **Judgement; Civil Penalty Assessed** **Civil Penalty**

William E Sparks was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly 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. Consideration was given to the fact Mr. Sparks was licensed in 1999 and knew of the licensing requirements.

Abeyance

However, \$500.00 of the civil penalty will be held in abeyance for a period of two (2) years from the date of this notice and not assessed provided Mr. Sparks commits no further violations of the Indiana Pesticide Use and Application Law.

Original Event: Judgement #1377
Primary: William E Sparks
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(9)
Penalty Amount: 1000

10/11/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1455
To: William E Sparks
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8810
Enclosed: Notice of Enforcement
Attachments: File 111174; PS22-0183EL CP - Partial Abeyance _ William E. Sparks.docx

11/08/2022 **Mail Service Returned for Target**

On November 8, 2022 Certified Mail was returned to OISC. Regular mail has not been returned.

Original Event: Compliance Receipt #1802
Subject: William E Sparks
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8810
Returned: 11/08/2022
Attachments: File 112837; PS22-0183 - William E. Sparks - CM Returned 11-8-2022.pdf

11/10/2022 **Mail Confirmation Assumed for Target**

As of November 8, 2022 regular mail has not been returned to OISC. It is assumed to have been received.

Original Event: Compliance Receipt #1803
Subject: William E Sparks
Submitted By: Jacob A. Hatfield

11/18/2022 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #1804
Subject: William E Sparks
Submitted By: Jacob A. Hatfield
Payment Expected: \$500.00
Payment Received: \$500.00
Attachments: File 113388; PS22-0183 - William E. Sparks - CP Received 11-18-2022.pdf

11/21/2022 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #1605
To: Dan Englehart
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113424; PS22-0183 - Dan Englehart - Case Closed Letter 11-21-2022.docx

11/21/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1606
To: William E Sparks
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113425; PS22-0183 - William E. Sparks - Case Closed Letter 11-21-2022.docx

11/21/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1607
To: The Forest at Bridge Water Way
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113426; PS22-0183 - The Forest at Bridge Water Way - Case Closed Letter 11-21-2022.docx

11/21/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1608
To: Diane Richardson
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113427; PS22-0183 - Diane Richardson - Case Closed Letter 11-21-2022.docx

Chain of Custody

No electronic chain of custody (CoC) found. Refer to paper CoC in instances where samples were collected.

<p>This record was generated on January 19, 2023, 03:30 PM EST. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>
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Office of
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Mark R. LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

This record was generated on **November 14, 2022, 02:09 PM EST**. Information displayed may contain errors or omissions.
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In Re: Case PS22-0204

Department	Pesticide
Originated	06/14/2022
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant	Greg Bengé Shoals, IN 47581	
Respondent	Christopher David Goller Shoals, IN 47581	Private Applicator

Overviews

09/26/2022 **Investigation Summary**

The complainant advised he believed he had herbicide injury symptoms to trees throughout his property. The complainant advised he also had injury to his woods to the west of his property that border the target field. The complainant was also concerned about contamination to his hay field which is used to feed livestock. During my on-site investigation I did the following: Looked for and found two potential sources of herbicide application in the area. The target fields are located to the south and southwest of the complainant's property. The target field applications were made on the same day, by the same applicator, and included the same tank mix. Observed and photographed an assortment of trees including walnut and oak with leaves that were yellowed, cupped and curled. Collected samples of an assortment of trees showing injury from the complainant's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL). Collected a composite vegetation sample from the target field. Collected a composite vegetation sample from around the complainant's residence. Collected a composite vegetation sample from the complainant's hayfield. Collected a separate composite sample for each of the complainant's woods. The residue samples were submitted to the OISC Residue Laboratory for analysis.

The PPDDL report indicated the following: Several trees show distortions of newer growth such as leaf curling and petiole twisting. These symptoms are characteristic of exposure to synthetic auxin herbicides such as 2,4-D and dicamba. Walnut leaves show chlorosis of leaves and necrosis between leaf veins towards the edges of leaves. These symptoms are characteristic of exposure to herbicides such as glufosinate (Group# 10) and in some cases Photosystem II inhibitor herbicides such as atrazine and metribuzin. Multiple plants, including blueberry and a tree with compound leaves, show leaf and petiole deformation, suggestive of a growth regulator exposure. It was not widespread in the landscape or obvious on many plants, but was present on some. Walnut shows almost whole leaf damage which is suggestive of an injury. The oak tree shows a lot of shot hole leafminer leading to large to small holes in the leaves. There is one plant that also shows leaf galls which are associated with an arthropod pest.

The OISC Residue Laboratory analyzed the vegetation samples collected for the active ingredient 2,4-D and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredients 2,4-D in the north house off target composite vegetation sample, the north woods off target composite vegetation sample, the northeast hayfield off target composite vegetation sample, and the northwest woods composite vegetation sample.

The wind data from the Lawrenceville-Vincennes International Airport (KLWV) indicate the wind speed during the application was between 14 and 16 mph with a gust of 24 mph out of the south and east blowing towards the complainant's property. According to the application record the wind speed during the application was between calm and 20 mph with gust up to 30 mph out of the south and west blowing towards the complainant's property.

The application record and confirmed by the wind data indicate the wind was out of the south and blowing towards the complainant's property during the application. According to the Google Maps measuring tool the complainant's residence is 150 feet from the north border of the target field. The label for *Tenkoz Lo-Vol 6 2,4-D*, EPA Reg.# 42750-20-55467, Active Ingredient = 2,4-D states: "**Only apply this product if the wind direction favors on-target deposition and are not sensitive areas (including, but not limited to, residential areas, bodies of water, known habitat for nontarget species, nontarget crops) within 250 feet downwind**". According to the application record wind speed during the application reached 20 mph with gust up to 30 mph. The label for *Tenkoz Lo-Vol 6 2,4-D*, EPA Reg.# 42750-20-55467, Active Ingredient = 2,4-D states: "**Do not apply at wind speeds greater than 15 mph**". Further, the Label for *Clethodium 2EC*, EPA Reg.# 87290-11, Active Ingredient = clethodim states: "**Do not apply when wind speeds exceed 10 miles per hour at the application site**". The wind data, application record, PPDL report and OISC Residue Laboratory report indicate the pesticides moved off target during the application and caused injury to the complainant's trees. The *Indiana Pesticide Drift Rule* states: "**A person may not apply a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a nontarget site**".

Submitted By: Nathan J. Davis
Role: Investigator
Drift: Confirmed

09/27/2022 **Disposition Summary**

Christopher David Goller was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his first violation of similar nature, a general use pesticide was involved, Christopher David Goller cooperated during the investigation and there was an adverse effect.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/13/2022 **Intake Referral Filed**

Complainant stated a herbicide application made by Chris Goller when the winds were 30 mph injured trees on his property.

Original Event: Intake Referral (Pesticide) #2550
Complainant: Greg Bengé
Respondent: Christopher David Goller
Submitted By: Joseph D. Becovitz
Assigned To: Nathan J. Davis

06/14/2022 **Case Created**

Original Event: Case PS22-0204
Submitted By: Joseph D. Becovitz
Assigned To: Nathan J. Davis

06/21/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #990
Client: Greg Bengé
Firm Representative: Greg Bengé
Submitted By: Nathan J. Davis

06/21/2022 **Investigator Met with Complainant Interaction**

On June 21, 2022 I met with the complainant at his property. The complainant advised he believed he had herbicide injury symptoms to trees throughout his property. The complainant advised he also had injury to his woods to the west of his property that border the target field. The complainant was also concerned about contamination to his hay field which is used to feed livestock.

During my on-site investigation I did the following:

- a. Looked for and found two potential sources of herbicide application in the area. The target fields are located to the south and southwest of the complainant's property. The target field applications were made on the same day, by the same applicator, and included the same tank mix.
- b. Observed and photographed an assortment of trees including walnut and oak with leaves that were yellowed, cupped and curled.
- c. Collected samples of an assortment of trees showing injury from the complainant's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL).
- d. Collected a composite vegetation sample from the target field. Collected a composite vegetation sample from around the complainants residence. Collected a composite vegetation sample from the complainants hayfield. Collected a separate composite sample for each of the complainants woods. The residue samples were submitted to the OISC Residue Laboratory for analysis.

Original Event: Investigation Activity (Pesticide) #4925
Subject: Greg Bengé
Submitted By: Nathan J. Davis

06/21/2022 **Investigator Met with Complainant
Statement**

Typed statement by complainant.

Attachments

File 99049; Complainant Written Statement 6-21-2022.pdf

Original Event: Investigation Activity (Pesticide) #4926
Subject: Greg Bengé
Submitted By: Nathan J. Davis

06/21/2022 **Investigator Met with Complainant
Photographs**

Photographs taken during the on-site investigation.

Attachments



File 99078



File 99079



File 99080



File 99081



File 99082



File 99083



File 99084



File 99085



File 99086



File 99087



File 99088



File 99089



File 99090



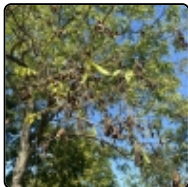
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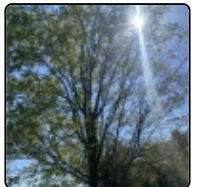
File 99092



File 99093



File 99094



File 99095



File 99096



File 99097



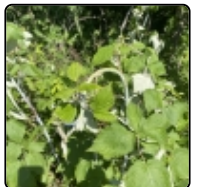
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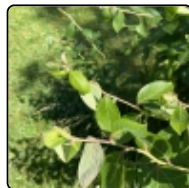
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File 99100



File 99067



File 99068



File 99069



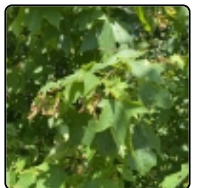
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File 99071



File 99072



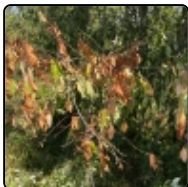
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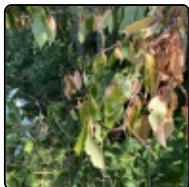
File 99074



File 99075



File 99076



File 99077

Original Event: Investigation Activity (Pesticide) #4927
Subject: Greg Bengé
Submitted By: Nathan J. Davis

06/21/2022 **Residue Samples Collected**

Original Event:	Residue Collection #216732 (22-4-0053 4)
Client:	Greg Bengé
Submitted By:	Nathan J. Davis
Sample:	22-4-0053 4 Veg; Comp; Target, S
Sample:	22-4-0054 7 Veg; Comp; House; OFF-T, N
Sample:	22-4-0055 2 Veg; Comp; Woods; OFF-T, N
Sample:	22-4-0056 8 Veg; Comp; Hayfield; OFF-T, NE
Sample:	22-4-0057 5 Veg; Comp; Woods; OFF-T, NW
Sample:	22-4-0058 1 Veg; Ctrl; OFF-T, N

06/21/2022 **External Lab Sample Collected**

Original Event:	External Lab Sample Collection #216741 (X22-F2278A)
Client:	Greg Bengé
Submitted By:	Nathan J. Davis
Lab:	Purdue Plant and Pest Diagnostic Laboratory
Sample:	X22-F2278A Assortment of trees.

06/21/2022 **Notice of Inspection Issued**

Original Event:	Notice of Inspection #1035
Client:	Christopher David Goller
Firm Representative:	Christopher Goller
Submitted By:	Nathan J. Davis

06/21/2022 **Investigator Called Farmer Communication**

On June 21, 2022, I contacted private applicator Christopher Goller. I advised Mr. Goller I was a pesticide investigator for OISC and of the complaint I was investigating. Mr. Goller advised he made a pesticide application to the field to the south of the complainant's property. I advised Mr. Goller I would be sending him via email a pesticide investigation inquiry to complete for the application and return to me.

Original Event:	Investigation Activity (Pesticide) #5041
Subject:	Christopher David Goller
Submitted By:	Nathan J. Davis

06/21/2022 **Lab Advised of Target Analytes**

Original Event:	Residue Collections Follow Up #617
Submitted By:	Nathan J. Davis
Target Analyte:	CLETHODIM 2 EC
Target Analyte:	2,4-D LV 6
PPLS Labels:	042750-00020-20111006.pdf https://www3.epa.gov/pesticides/chem_search/ppls/042750-00020-20111006.pdf 087290-00011-20181031.pdf https://www3.epa.gov/pesticides/chem_search/ppls/087290-00011-20181031.pdf

06/27/2022 **Received External Lab Report**

Final Report

Diagnosis and Recommendations

Host/Habitat: Mixed Plant material (unspecified)

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

Several trees show distortions of newer growth such as leaf curling and petiole twisting.

These symptoms are characteristic of exposure to synthetic auxin herbicides such as 2,4-D and dicamba.

Walnut leaves show chlorosis of leaves and necrosis between leaf veins towards the edges of leaves.

These symptoms are characteristic of exposure to herbicides such as glufosinate (Group# 10) and in some cases

Photosystem II inhibitor herbicides such as atrazine and metribuzin.

Multiple plants, including blueberry and a tree with compound leaves, show leaf and petiole deformation, suggestive of a growth regulator exposure. It was not widespread in the landscape or obvious on many plants, but was present on some. Walnut shows almost whole leaf damage which is suggestive of an injury. The oak tree shows a lot of shot hole leafminer leading to large to small holes in the leaves.

There is one plant that also shows leaf galls which are associated with an arthropod pest

Original Event:	External Lab Report #217265 (X22-F2278A)
Submitted By:	Nathan J. Davis
Sample:	X22-F2278A

07/07/2022 **Investigator Received Fax/Email from Farmer Investigation Inquiry**

On July 7, 2022, I received a completed pesticide investigation inquiry from Mr. Goller for the application which indicated the following:

Inquiry Overview

Certified Applicator Christopher Goller
Application Type Farmer
Target Field Anderson Road & Emmons Lane

Tank Mix

Product	EPA	Rate
CLETHODIM 2 EC	87290-11	14oz/acre
TENKOZ LO-VOL 6	42750-20-55467	1 1/2pt/acre
UPLAND MSO		1pt/100gal

Application Date

Date	Start	End
05/29/2022	8:40am	3:00pm

Air Conditions

Time	Temp	Direction	Speed
Start	68°F	SW	0mph
End	86°F	S	20mph

Original Event: Investigation Activity (Pesticide) #5044
Subject: Christopher David Goller
Submitted By: Nathan J. Davis
PPLS Labels: [042750-00020-20111006.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/042750-00020-20111006.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/042750-00020-20111006.pdf
[087290-00011-20181031.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/087290-00011-20181031.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/087290-00011-20181031.pdf

08/23/2022 Received Residue Lab Report Investigatory Summary

The OISC Residue Laboratory analyzed the vegetation samples collected for the active ingredient 2,4-D and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredients 2,4-D in the north house off target composite vegetation sample, the north woods off target composite vegetation sample, the northeast hayfield off target composite vegetation sample, and the northwest woods composite vegetation sample.

First Page of Lab Report

Page 6 of 248 Report

OCM Collection #	216732	Investigator	DAVISN			
Collection Date	06/21/2022					
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ	
22-4-0053 4	Veg; Comp; Target, S	Veg	2,4-D	13100 ppb	3 ppb	
22-4-0054 7	Veg; Comp; House; OFF-T, N	Veg	2,4-D	394 ppb	3 ppb	
22-4-0055 2	Veg; Comp; Woods; OFF-T, N	Veg	2,4-D	363 ppb	3 ppb	
22-4-0056 8	Veg; Comp; Hayfield; OFF-T, NE	Veg	2,4-D	128 ppb	3 ppb	
22-4-0057 5	Veg; Comp; Woods; OFF-T, NW	Veg	2,4-D	3630 ppb * Result is approximate	3 ppb	
22-4-0058 1	Veg; Ctrl; OFF-T, N	Veg	2,4-D	12.5 ppb	3 ppb	

Original Event: Residue Lab Report #241242 (216732-R618)
Submitted By: SYSTEM
Lab Report: Lab Report 216732-R618.pdf

09/23/2022 Wind Data Researched

The wind data from the Lawrenceville-Vincennes International Airport (KLWV) indicate the wind speed during the application was between 14 and 16 mph with a gust of 24 mph out of the south and east blowing towards the complainant's property.

According to the application record the wind speed during the application was between calm and 20 mph with gust up to 30 mph out of the south and west blowing towards the complainant's property.

Lawrenceville-Vincennes International Airport - ASOS

Lawrenceville, Illinois (49 miles NW of site)

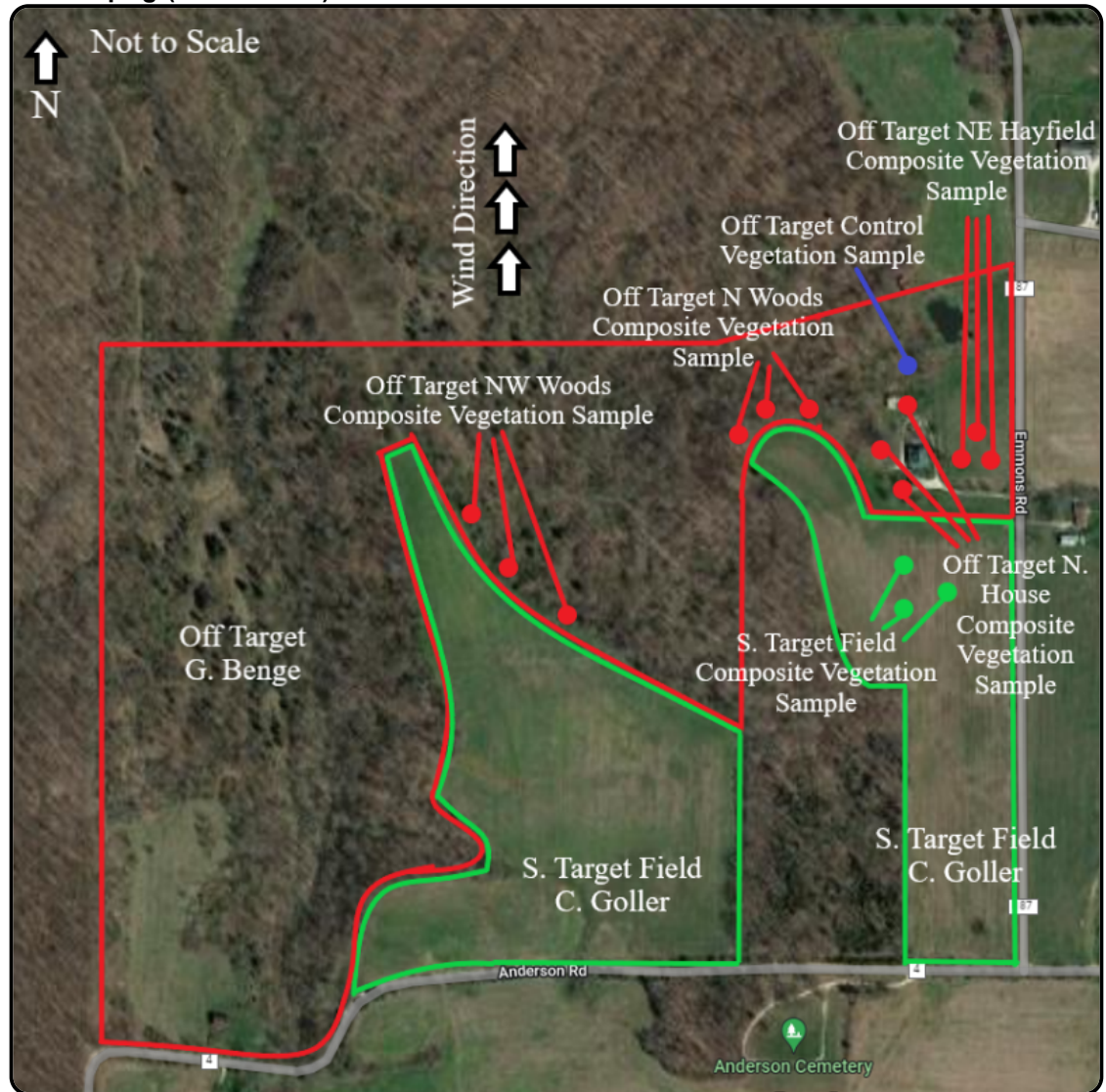
Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
8:53am	67	S	14	0
9:53am	71	S	15	0
10:53am	73	S	16	0
11:53am	76	S	16	0
12:53pm	78	SSE	15	0
1:53pm	80	S	14	24
2:53pm	82	S	15	0

Original Event: Wind Data #126
Submitted By: Nathan J. Davis
Date of Weather: 05/29/2022

09/26/2022 Investigation Activity Photographs

An aerial diagram including property lines, wind direction and vegetation samples were collected from.

PS22-0204.png (File 110191)



Original Event: Investigation Activity (Pesticide) #5436
Submitted By: Nathan J. Davis

09/26/2022 Investigation Activity

Activity

The application record and confirmed by the wind data indicate the wind was out of the south and blowing towards the complainant's property during the application. According to the Google Maps measuring tool the complainant's residence is 150 feet from the north border of the target field. The label for *Tenkoz Lo-Vol 6 2,4-D, EPA Reg.# 42750-20-55467, Active Ingredient = 2,4-D* states: "**Only apply this product if the wind direction favors on-target deposition and are not sensitive areas (including, but not limited to, residential areas, bodies of water, known habitat for nontarget species, nontarget crops) within 250 feet downwind**".

According to the application record wind speed during the application reached 20 mph with gust up to 30 mph. The label for *Tenkoz Lo-Vol 6 2,4-D, EPA Reg.# 42750-20-55467, Active Ingredient = 2,4-D* states: "**Do not apply at wind speeds greater than 15 mph**". Further, the Label for *Clethodium 2EC, EPA Reg.# 87290-11, Active Ingredient = clethodim* states: "**Do not apply when wind speeds exceed 10 miles per hour at the application site**".

The wind data, application record, PPDL report and OISC Residue Laboratory report indicate the pesticides moved off target during the application and caused injury to the complainant's trees. The *Indiana Pesticide Drift Rule* states: "**A person may not apply a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a nontarget site**".

Original Event: Investigation Activity (Pesticide) #5437
Submitted By: Nathan J. Davis

09/27/2022 Judgement; Civil Penalty Assessed

Civil Penalty

Christopher David Goller was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his first violation of similar nature, a general use pesticide was involved, Christopher David Goller cooperated during the investigation and there was an adverse effect.

Original Event: Judgement #1366
Primary: Christopher David Goller
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 400

10/07/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1424
To: Christopher David Goller
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8698
Enclosed: Notice of Enforcement
Attachments: File 111087; PS22-0204EL CP - Mitigated _ Christopher D. Goller.docx

10/14/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1768
Subject: Christopher David Goller
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8698
Received: 10/14/2022
Attachments: File 111928; CM 7021 0950 0000 0607 8698 - PS22-0204 - 10-14-2022.pdf

11/04/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1793
Subject: Christopher David Goller
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 112571; PS22-0204 - Christopher D. Goller - CP Received 11-4-2022.pdf

11/04/2022 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #1537
To: Greg Bengé
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 112572; PS22-0204 - Greg Bengé - Case Closed Letter 11-4-2022.docx

11/04/2022 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #1538
To: Christopher David Goller
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 112573; PS22-0204 - Christopher D. Goller - Case Closed Letter 11-4-2022.docx

Chain of Custody

06/21/2022 **Sample 22-4-0053 4**
Original Event: Chain of Custody #1813 (22-4-0053 4)
06/21/2022 10:00: Sample Collected by Nathan J. Davis
06/23/2022 08:33: Sample Delivered to 218
06/23/2022 09:56: Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0054 7**
Original Event: Chain of Custody #1814 (22-4-0054 7)
06/21/2022 10:00: Sample Collected by Nathan J. Davis
06/23/2022 08:33: Sample Delivered to 218
06/23/2022 09:56: Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0055 2**
Original Event: Chain of Custody #1815 (22-4-0055 2)
06/21/2022 10:00: Sample Collected by Nathan J. Davis
06/23/2022 08:33: Sample Delivered to 218
06/23/2022 09:56: Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0056 8**
Original Event: Chain of Custody #1816 (22-4-0056 8)
06/21/2022 10:00: Sample Collected by Nathan J. Davis
06/23/2022 08:33: Sample Delivered to 218
06/23/2022 09:56: Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0057 5**
Original Event: Chain of Custody #1817 (22-4-0057 5)
06/21/2022 10:00: Sample Collected by Nathan J. Davis
06/23/2022 08:33: Sample Delivered to 218
06/23/2022 09:56: Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0058 1**
Original Event: Chain of Custody #1818 (22-4-0058 1)
06/21/2022 10:00: Sample Collected by Nathan J. Davis
06/23/2022 08:33: Sample Delivered to 218
06/23/2022 09:56: Delivery Affirmed by Vicki Vauters

<p>This record was generated on November 14, 2022, 02:09 PM EST. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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

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Official records may only be obtained directly from the Office of Indiana State Chemist.

In Re: Case PS22-0207

Department	Pesticide
Originated	06/14/2022
Assigned To	Aaron P. Kreider
Status	Closed

Involved Parties

Complainant	Zora Andric Indianapolis, IN 46259
Respondent	Brian Keith Marlin Indianapolis, IN 46259
Respondent	William D Marlin Indianapolis, IN 46259

Overviews

09/20/2022 **Investigation Summary**

The report from the OISC residue lab shows the ingredients from Mr. Marlin's application were found on Mrs. Andric's property. The report from PPDL shows the injury to Mrs. Andric's vegetation is consistent with the ingredients from Mr. Marlin's application. The weather data shows winds were blowing towards Mrs. Andric's property during Mr. Marlin's application. Based on the evidence, Mr. Marlin's application caused the injury to Mrs. Andric's vegetation.

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

09/21/2022 **Disposition Summary**

Brian Marlin 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 using paraquat without a certification as required by the label. 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 was an adverse effect.

William D. Marlin was cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for allowing a non-certified individual to use paraquat, a restricted use pesticide, labeled for use only by certified individuals. 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 was an adverse effect.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/13/2022 **Intake Referral Filed**

Complainant stated a herbicide application made to a neighboring farm field injured bald cypress and other trees on her property.

Original Event: Intake Referral (Pesticide) #2553
Complainant: Zora Andric
Respondent: Brian Keith Marlin
Submitted By: Joseph D. Becovitz
Assigned To: Aaron P. Kreider

06/14/2022 Case Created

Original Event: Case PS22-0207
Submitted By: Joseph D. Becovitz
Assigned To: Aaron P. Kreider

06/14/2022 Investigator Called Complainant Communication

On June 14, 2022, I contacted Zora Andric regarding her complaint. She stated there is severe damage to lots of plants on her property. Mrs. Andric stated that she saw the field being sprayed and she believed it was before the field was planted. She was unsure of the date but believed it was between May 10, 2022 and May 15, 2022. Mrs. Andric stated she has pictures that her husband took from May 27, 2022 and that she would send them to me.

Original Event: Investigation Activity (Pesticide) #4891
Subject: Zora Andric
Submitted By: Aaron P. Kreider

06/14/2022 Investigator Received Fax/Email from Complainant Photographs

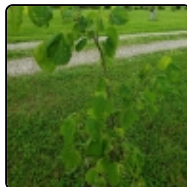
After our initial conversation, I received an email from Mrs. Andric with a link to the pictures her husband collected on May 27, 2022. She also included a link to photos she collected on June 13, 2022. I have only included the photos collected on May 27, 2022.

Attachments

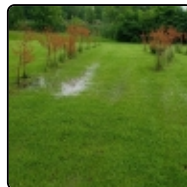
File 98722



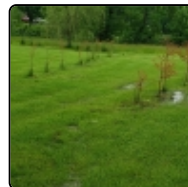
File 98723



File 98724



File 98725



File 98726



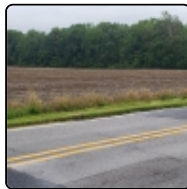
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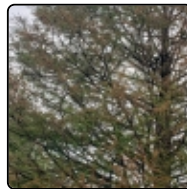
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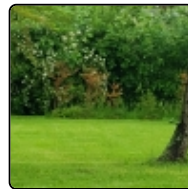
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File 98730



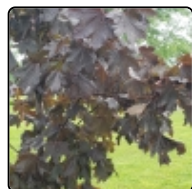
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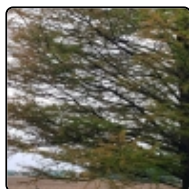
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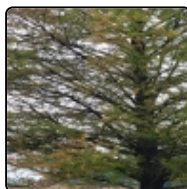
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File 98734



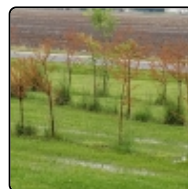
File 98735



File 98736



File 98737



File 98738

Original Event: Investigation Activity (Pesticide) #4892
Subject: Zora Andric
Submitted By: Aaron P. Kreider

06/15/2022 Investigator Met with Complainant Interaction

On June 15, 2022, I met with Mrs. Andric at her residence. I had her show me around her property and the vegetation she believed was injured by pesticide drift. One of the large bald cypress trees on the south side of the property had mostly brown leaves. The other large bald cypress to the west had mostly green leaves. There were multiple small (less than 5 feet tall) bald cypress trees in the front yard with mostly brown leaves. There were some spruce trees that had a small amount of brown needles. There was a lilac bush next to the entrance of the driveway (south side of property) that had tan spots on the leaves.

Original Event: Investigation Activity (Pesticide) #4893
Subject: Zora Andric
Submitted By: Aaron P. Kreider

06/15/2022 Notice of Inspection Issued

Original Event: Notice of Inspection #983
Client: Zora Andric
Firm Representative: Zora Andric
Submitted By: Aaron P. Kreider
Attachments: File 98739; NOI (Z. Andric).pdf

06/15/2022 Investigator Collected Photographs

Photographs

During my on-site investigation, I collected the following photographs. Figure 1 shows the road that separates Mrs. Andric's property (left) and the target field (right). Figures 2-4 show the injury that caused Mrs. Andric's complaint.

Figure 1 (File 98740)



Figure 2 (File 98749)



Figure 3 (File 98752)



Figure 4 (File 98791)



Attachments

File 98741; DSC_0002.JPG
File 98742; DSC_0003.JPG
File 98743; DSC_0004.JPG
File 98744; DSC_0005.JPG
File 98745; DSC_0006.JPG
File 98746; DSC_0007.JPG
File 98747; DSC_0008.JPG
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File 98762; DSC_0023.JPG
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File 98780; DSC_0041.JPG
File 98781; DSC_0042.JPG
File 98782; DSC_0043.JPG
File 98783; DSC_0044.JPG
File 98784; DSC_0045.JPG
File 98785; DSC_0046.JPG
File 98786; DSC_0047.JPG
File 98787; DSC_0048.JPG
File 98788; DSC_0049.JPG
File 98789; DSC_0050.JPG
File 98790; DSC_0051.JPG

Original Event: Investigation Activity (Pesticide) #4894
Submitted By: Aaron P. Kreider

06/15/2022 Residue Samples Collected

Original Event: Residue Collection #216072 (22-4-0452 7)
Client: Zora Andric
Submitted By: Aaron P. Kreider
Sample: 22-4-0452 7 | Veg; Grab; Closest Bald Cypress; OFF-T, Front Yard, Grad3, S
Sample: 22-4-0453 6 | Veg; Grab; River Birch; OFF-T, Back Yard, Grad2
Sample: 22-4-0454 3 | Veg; Ctrl; Farthest Mulberry; OFF-T, Back Yard, Grad1, N
Sample: 22-4-0455 8 | Veg; Grab; Weeds; Target

06/15/2022 External Lab Sample Collected

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

Original Event: External Lab Sample Collection #216429 (X22-3BEFAC)
Client: Zora Andric
Submitted By: Aaron P. Kreider
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X22-3BEFAC | This sample contained bald cypress, spruce, and ash.
Photos:

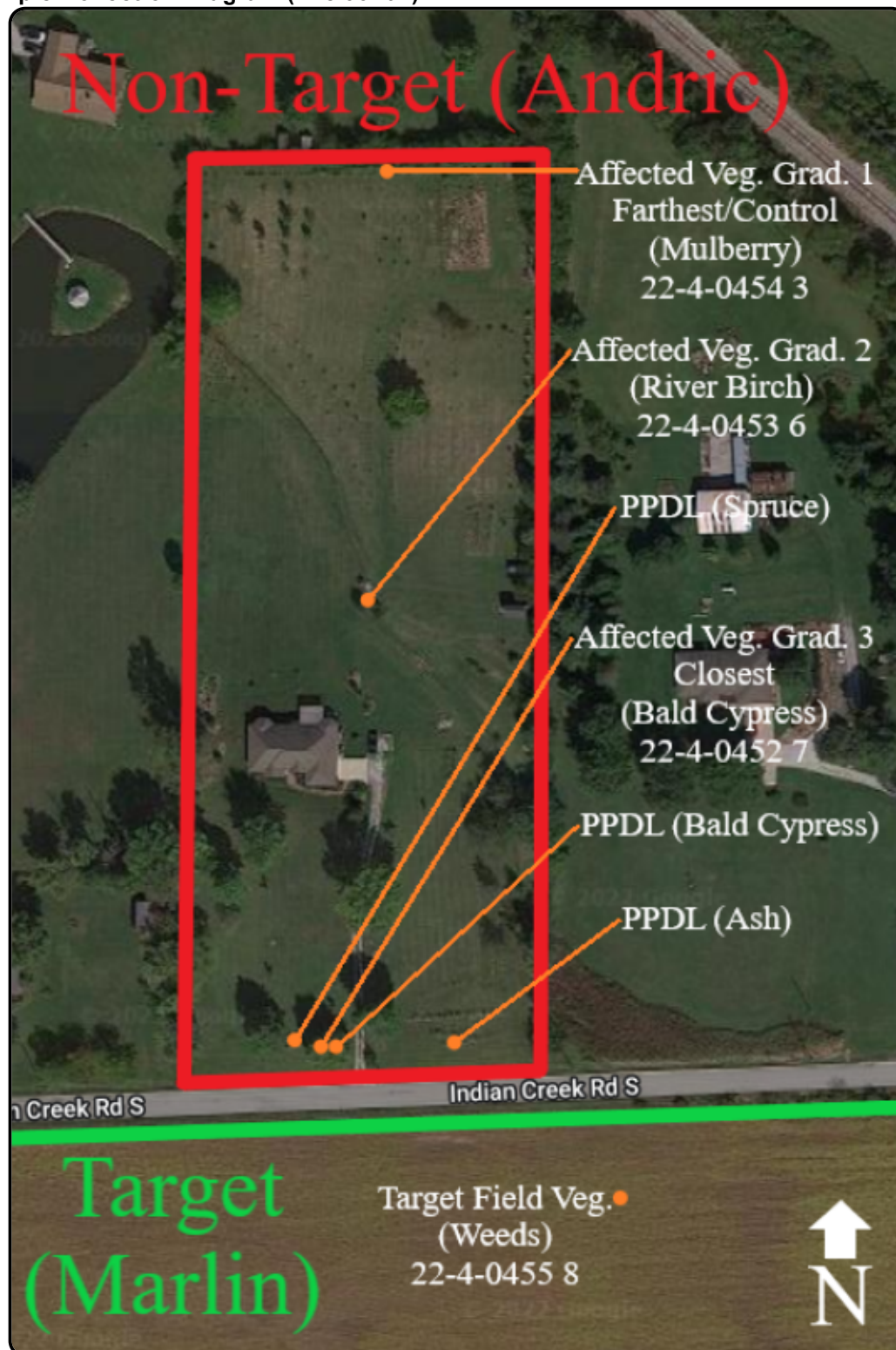


File 98879

06/15/2022 **Sample Collection Diagram**
Activity

This diagram shows the locations where samples were collected.

Sample Collection Diagram (File 99101)



Original Event: Investigation Activity (Pesticide) #4928
Submitted By: Aaron P. Kreider

06/15/2022 **Investigator Called Target Communication**

On June 15, 2022, I contacted Brian Marlin regarding Mrs. Andric's complaint. Mr. Marlin confirmed that he made the application to the target field. Mr. Marlin stated that he believed he used Bicep and Gramoxone but was not sure. He stated he would check his records and confirm the tank mix as soon as possible.

Original Event: Investigation Activity (Pesticide) #5391
Subject: Brian Keith Marlin
Submitted By: Aaron P. Kreider

06/15/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1191
Client: Brian Keith Marlin
Firm Representative: Brian Marlin
Submitted By: Aaron P. Kreider
Attachments: File 109665; NOI (B. Marlin).pdf

06/15/2022 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #613
Submitted By: Aaron P. Kreider
Target Analyte: Bicep II Magnum FC
Target Analyte: Paraquat 43.2% SL
PPLS Labels: [000100-00817-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-00817-20211110.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-00817-20211110.pdf
[071995-00033-20170920.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/071995-00033-20170920.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/071995-00033-20170920.pdf
[085678-00058-20191230.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/085678-00058-20191230.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/085678-00058-20191230.pdf

06/16/2022 **Target Sent Text Message to Investigator Communication**

On June 16, 2022, I received a text message from Mr. Marlin. It stated, "*Bicep gramoxone lock tite.*"

Original Event: Investigation Activity (Pesticide) #5392
Subject: Brian Keith Marlin
Submitted By: Aaron P. Kreider

06/19/2022 **Received External Lab Report**

On June 19, 2022, I received a report from PPD. The report stated, "*Herbicide drift symptoms are transient and may be difficult to diagnose after a few weeks. The injury to the pine trees is unclear at this point but could have been caused by chemical injury. The submitter indicated that the corn application included gramoxone (paraquat) and bicep herbicides (atrazine + mesotrione). I was able to see necrotic spots in some trees (ash, ginkgo, lilac, and maple), which is suggestive of exposure to contact herbicides such as paraquat and atrazine. Dogwood and birch showed bleaching leaves. These symptoms are generally associated with exposure to HPPD inhibiting herbicides such as mesotrione, tembotrione and isoxaflutole. However, the bleaching symptoms are towards the edges and tips of leaves, which could also be caused by low rates of atrazine in some species. Wild grapes and redbud showed leaf strapping. These symptoms are characteristic of exposure to synthetic auxin herbicides such as 2,4-D and dicamba.*" It also stated, "*Leaf deformation of redbud and grapes are suggestive of growth regulator exposure. Many species show damage on one side which suggest exposure to some kind of abiotic factor. Many of the necrotic spots observed are not associated with a disease and are likely due to injury. The new foliage of some plants show bleaching or interveinal chlorosis which could be suggestive of iron deficiency, but could also be associated with a chemical application - the non-uniform distribution of symptoms on affected plants suggest that it is not a nutrient deficiency. The bald cypress plants all show similar foliage burn, with the small trees more severely affected (all foliage dead) and mature trees showing what looks like healthy new growth, which suggests an injury and a period of time to continue growing/recover. No significant disease observed.*"

Original Event: External Lab Report #216560 (X22-3BEFAC)
Submitted By: Aaron P. Kreider
Sample: X22-3BEFAC
Attachments: File 98881; PS22-0207 PPD. Report.pdf

08/17/2022 **Received Residue Lab Report**

First Page of Lab Report

OCM Collection #	216072	Investigator	KREIDERA		
Collection Date	06/15/2022				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-0452 7	Veg; Grab; Closest Bald Cypress; OFF-T, Front Yard, Grad3, S	Veg	Atrazine	532 ppb	0.3 ppb
			Metolachlor	1320 ppb	0.1 ppb
22-4-0453 6	Veg; Grab; River Birch; OFF-T, Back Yard, Grad2	Veg	Atrazine	62.9 ppb	0.3 ppb
			Metolachlor	16.0 ppb	0.1 ppb
22-4-0454 3	Veg; Ctrl; Farthest Mulberry; OFF-T, Back Yard, Grad1, N	Veg	Atrazine	27.0 ppb	0.3 ppb
			Metolachlor	BDL ppb	0.1 ppb
22-4-0455 8	Veg; Grab; Weeds; Target	Veg	Atrazine	102 ppb	0.3 ppb
			Metolachlor	271 ppb	0.1 ppb

Original Event: Residue Lab Report #240460 (216072-R616)
Submitted By: SYSTEM
Lab Report: Lab Report 216072-R616.pdf

08/22/2022 **Investigator Received Fax/Email from Target Investigation Inquiry**

On August 22, 2022, I received a Pesticide Investigation Inquiry (PII) from Mr. Marlin. For wind direction and wind speed, at the start time and end time, Mr. Marlin wrote "still." Mr. Marlin recorded that he used "Personal Assessment" to determine wind measurements.

Attachments

File 109576; PS22-0207 PII (B. Marlin).pdf

Inquiry Overview

Supervisor William D. Marlin (PA11459)
Non-Certified Applicator Brian Marlin
Company Marlin Grain Inc.
Application Type Farmer
Target Field Corn

Tank Mix

Product	EPA	Rate
Bicep II Magnum FC	100-817	1.25 qts/A
Paraquat 43.2% SL	85678-58	2.5 qts/A
Ruduce (Drift reduction agent)		3 oz/100 gal
CORNBELT LOCKTITE (Adjuvant)		1 qt/100 gal

Application Date

Date	Start	End
05/12/2022	11:00 AM	2:00 PM

Air Conditions

Time	Temp	Direction	Speed
Start	75°F	CALM	0mph
End	78°F	CALM	0mph

Original Event: Investigation Activity (Pesticide) #5374
Subject: Brian Keith Marlin
Submitted By: Aaron P. Kreider
PPLS Labels: [000100-00817-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-00817-20211110.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-00817-20211110.pdf
[085678-00058-20191230.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/085678-00058-20191230.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/085678-00058-20191230.pdf

09/19/2022 **Wind Data Researched**

This weather data shows the conditions during Mr. Marlin's application to the target field. This data shows that winds were blowing towards Mrs. Andric's property during the application.

Indy South - Greenwood Airport (KHFY)

Greenwood, Indiana (5.77 miles WSW of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
10:55 AM	79	SSE	5	0
11:15 AM	79	SE	6	0
11:35 AM	80	ESE	6	0
11:55 AM	82	SSE	5	0
12:15 PM	82	S	3	0
12:35 PM	83	SE	7	0
12:55 PM	83	SE	7	0
1:15 PM	84	SSE	7	0
1:35 PM	85	SSE	9	16
1:55 PM	86	ESE	6	0
2:15 PM	86	SSE	7	0

Shelbyville Municipal Airport (KGEZ)

Shelbyville, Indiana (12.17 miles ESE of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
10:53 AM	61	E	5	0
11:53 AM	66	E	7	0
12:53 PM	73	SE	12	0
1:53 PM	79	SE	7	0
2:53 PM	82	ESE	7	0

Indianapolis Regional Airport (KMQJ)

Greenfield, Indiana (13.00 miles NNE of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
10:55 AM	59	ESE	5	0
11:15 AM	61	ESE	5	0
11:35 AM	63	ESE	7	0
11:55 AM	64	ESE	7	0
12:15 PM	66	SE	8	0
12:35 PM	68	SE	6	0
12:55 PM	70	SE	9	0
1:15 PM	72	SE	8	0
1:35 PM	73	SE	7	0
1:55 PM	75	SSE	3	0
2:15 PM	77	SSE	3	0

Attachments

File 109658; ISUM Data 5.12.22 (KGEZ).pdf

File 109659; ISUM Data 5.12.22 (KMQJ).pdf

File 109579; Wind Data 5.12.22 (KHFY).pdf

Original Event: Wind Data #124
Submitted By: Aaron P. Kreider
Date of Weather: 05/12/2022

09/20/2022 Investigation Activity

Label Use

The Paraquat 43.2% label states, "**Restricted Use Pesticide** Due to acute toxicity. For retail sale and use by certified applicators only - **NOT** to be used by uncertified persons working under the supervision of a certified applicator." The Paraquat 43.2% SL label also 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 the sensitive areas)."

Attachments

File 109666; Bicep II Magnum FC Label.pdf

File 109667; Paraquat 43.2% SL Label.pdf

Original Event: Investigation Activity (Pesticide) #5390
Submitted By: Aaron P. Kreider
PPLS Labels: 000100-00817-20211110.pdf

https://www3.epa.gov/pesticides/chem_search/ppls/000100-00817-20211110.pdf

[085678-00058-20220824.pdf](#)

09/21/2022 **Judgement; Civil Penalty Assessed**

Civil Penalty

Brian Marlin 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 using paraquat without a certification as required by the label. 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 was an adverse effect.

Civil Penalty

William D. Marlin was cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for allowing a non-certified individual to use paraquat, a restricted use pesticide, labeled for use only by certified individuals. 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 was an adverse effect.

Original Event:	Judgement #1360
Primary:	Brian Keith Marlin
Secondary:	William D Marlin
Submitted By:	George Saxton
Legal Citations:	IC 15-16-5-65(2); IC 15-16-5-65(13)
Penalty Amount:	2000

10/07/2022 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #1430
To:	Brian Keith Marlin
Submitted By:	Jacob A. Hatfield
USPS:	7021 0950 0000 0607 8520
Enclosed:	Notice of Enforcement
Attachments:	File 111093; PS22-0207EL_CP_Brian K. Marlin.docx

10/07/2022 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #1431
To:	William D Marlin
Submitted By:	Jacob A. Hatfield
USPS:	7021 0950 0000 0607 8513
Enclosed:	Notice of Enforcement
Attachments:	File 111094; PS22-0207EL_CP_William D. Marlin.docx

10/13/2022 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #1773
Subject:	Brian Keith Marlin
Submitted By:	Jacob A. Hatfield
USPS:	7021 0950 0000 0607 8520
Received:	10/13/2022
Attachments:	File 111934; CM 7021 0950 0000 0607 8520 - PS22-0207 - 10-13-2022.pdf

10/13/2022 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #1774
Subject:	William D Marlin
Submitted By:	Jacob A. Hatfield
USPS:	7021 0950 0000 0607 8513
Received:	10/13/2022
Attachments:	File 111935; CM 7021 0950 0000 0607 8513 - PS22-0207 - 10-13-2022.pdf

11/02/2022 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #1792
Subject:	Brian Keith Marlin
Submitted By:	Jacob A. Hatfield
Payment Expected:	\$1,000.00
Payment Received:	\$1,000.00
Attachments:	File 112536; PS22-0207 - Brian K. Marlin - CP Received 11-2-2022.pdf

11/04/2022 **Received Penalty Payment for Target**

Original Event:	Compliance Receipt #1794
Subject:	William D Marlin
Submitted By:	Jacob A. Hatfield
Payment Expected:	\$1,000.00
Payment Received:	\$1,000.00
Attachments:	File 112664; PS2-0207 - William D. Marlin CP Received 11-4-2022.pdf

11/07/2022 **Notice of Case Closure Mailed to Complainant**

Original Event:	Outgoing Mail #1539
To:	Zora Andric
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 112669; PS22-0207 - Zora Andric - Case Closed Letter 11-7-2022.docx

11/07/2022 **Notice of Case Closure Mailed to Target**

Original Event:	Outgoing Mail #1540
To:	Brian Keith Marlin
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 112670; PS22-0207 - Brian K. Marlin - Case Closed Letter 11-7-2022.docx

11/07/2022 **Notice of Case Closure Mailed to Target**

Original Event:	Outgoing Mail #1541
To:	William D Marlin
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 112671; PS22-0207 - William D. Marlin - Case Closed Letter 11-7-2022.docx

Chain of Custody

06/15/2022 **Sample 22-4-0452 7**

Original Event:	Chain of Custody #1761 (22-4-0452 7)
06/15/2022 10:00:	Sample Collected by Aaron P. Kreider
06/16/2022 15:45:	Sample Delivered to 218
06/17/2022 08:37:	Delivery Affirmed by Vicki Vauters

06/15/2022 **Sample 22-4-0453 6**

Original Event:	Chain of Custody #1762 (22-4-0453 6)
06/15/2022 10:00:	Sample Collected by Aaron P. Kreider
06/16/2022 15:45:	Sample Delivered to 218
06/17/2022 08:37:	Delivery Affirmed by Vicki Vauters

06/15/2022 **Sample 22-4-0454 3**

Original Event:	Chain of Custody #1763 (22-4-0454 3)
06/15/2022 10:00:	Sample Collected by Aaron P. Kreider
06/16/2022 15:45:	Sample Delivered to 218
06/17/2022 08:37:	Delivery Affirmed by Vicki Vauters

06/15/2022 **Sample 22-4-0455 8**

Original Event:	Chain of Custody #1764 (22-4-0455 8)
06/15/2022 10:00:	Sample Collected by Aaron P. Kreider
06/16/2022 15:45:	Sample Delivered to 218
06/17/2022 08:37:	Delivery Affirmed by Vicki Vauters

<p>This record was generated on November 14, 2022, 02:09 PM EST. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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

This record was generated on **January 19, 2023, 03:31 PM 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 PS22-0214

Department	Pesticide
Originated	06/20/2022
Assigned To	Andrew R. Roth
Status	Closed

Involved Parties

Complainant	Ken Post Fort Wayne, IN 46818
Respondent	Unknown
Respondent	Matthew William Noll Fort Wayne, IN 46818
Respondent	Schaefer Inc Fort Wayne, IN 46818

Overviews

10/07/2022 **Investigation Summary**

On June 20, I met with Ken Post at his residence for the on-site investigation into the complaint of possible herbicide drift to trees and ornamentals on his property. He suspected an application was made to the roadside under power lines but there was also a farm field across the road to the south.

Widespread leaf-cupping was observed on deciduous trees on the Post property. Cupping, chlorosis and necrotic spotting was observed on trees and ornamental plants close to the road. I photographed the site and collected plant samples for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected soil samples from the sides of the road and plant samples from the field and from the Post property for analysis by the OISC Residue Lab.

After contacting several agencies and companies, it was determined no herbicide applications were made to the roadsides. I contacted Randy Schaefer who confirmed his employee, Matt Noll, sprayed the farm field with Roundup, 2,4-D and Antares Complete on May 12. Application information indicated winds were blowing toward the Post property during the application.

The PPDL report indicated the symptoms observed were characteristic of herbicide exposure. Insect and disease issues were also identified on several plant samples.

The OISC Residue Lab analyzed the samples for the herbicides applied to the field. Those active ingredients, which included glyphosate, 2,4-D, metolachlor, metribuzin and sulfentrazone, were detected in tree foliage collected from the Post property.

The Alligare 2,4-D LV6 label reads, in part, "Only apply this product if the wind direction favors on-target deposition and there are not sensitive areas (including, but not limited to, residential areas, bodies of water, known habitat for nontarget species, nontarget crops) within 250 feet downwind." The Roundup WeatherMax label reads, in part, "Do not allow the herbicide solution to mist, drip, drift, or splash onto desirable vegetation, as small quantities of this product can cause severe damage or destruction to the crop, plants or other vegetation on which application was not intended."

Submitted By: Andrew R. Roth
Role: Investigator
Drift: Confirmed

10/10/2022 **Disposition Summary**

Schaefer Inc. was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact this was their first violation of similar nature, Schaefer Inc. cooperated during the investigation, and general use pesticides were involved. Consideration was also given to the fact there was an adverse effect.

Matthew William Noll was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his first violation of similar nature, Mr. Noll cooperated during the investigation, and general use pesticides were involved. Consideration was also given to the fact there was an adverse effect.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/20/2022 Intake Referral Filed

Complainant stated a herbicide application made to a neighboring property injured trees on his property.

Original Event: Intake Referral (Pesticide) #2560
Complainant: Ken Post
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

06/20/2022 Investigator Met with Complainant Interaction

On June 20, I was notified of a complaint filed by Ken Post. I contacted Mr. Post who reported trees and ornamentals across his 8-acre property were adversely affected by a herbicide application he believed was made to a power line right-of-way in front of his property. I then met Mr. and Mrs. Post at their residence on the north side of West California Road in Allen County. A set of power lines ran east-and-west along both sides of the road and there was a field planted to soybeans across the road to the south. I walked the property and observed trees and ornamentals in the front yard, near the road, with varying degrees of possible herbicide exposure symptoms. Spruces had some browned needles, while small ornamentals had scorched leaves and twisted stems. Deciduous trees had cupped leaves and necrotic spotting; those symptoms appeared older as many of the trees had put on new leaves. The cupping was widespread and visible on various species including oak and hickory trees across the property. The Posts had photos of healthy plants on the property from earlier in May and noted that maples, which were transplanted to the front yard May 26, were unaffected. We discussed possible routes of exposure including direct particle drift and volatility (vapor movement) of growth-regulator herbicides after application.

I noticed dead weeds along the pond near the house and asked if Mr. Post applied any herbicides to the property. He indicated he applied a granular fertilizer with crabgrass control to part of the yard and sprayed weeds around the pond with Spectracide (EPA Reg#9688-268-8845). He showed me the container which had active ingredients 2,4-D, dicamba, quinclorac and sulfentrazone. Weeds in the field across the road were dead but weeds and grasses in the ditches, which were mostly mowed, were unaffected. I photographed the site and collected plant samples for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. With the source of the herbicide symptoms unknown, I collected soil samples from both ditches under the power lines and from the front yard; weeds were collected from the field and from trees in three areas, south-to-north, across the Post property. Those samples were submitted to the OISC Residue Lab for possible analysis.

Photographs

Photos from the site.

Attachments



File 110321



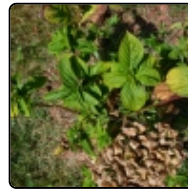
File 98945



File 98946



File 98947



File 98948



File 98949



File 98951



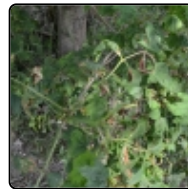
File 98953



File 98954



File 98957



File 98958



File 98960



File 98961



File 98962



File 98963



File 98964



File 98965



File 98966



File 98967



File 98968



File 98970



File 98971

Original Event:
Subject:
Submitted By:

Investigation Activity (Pesticide) #4919
Ken Post
Andrew R. Roth

06/20/2022 Notice of Inspection Issued

Original Event:
Client:
Firm Representative:
Submitted By:
Photos:

Notice of Inspection #986
Ken Post
Ken Post
Andrew R. Roth

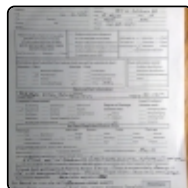


File 98973

06/20/2022 External Lab Sample Collected

Original Event:
Client:
Submitted By:
Lab:
Sample:
Photos:

External Lab Sample Collection #216656 (X22-AE73DA)
Ken Post
Andrew R. Roth
Purdue Plant and Pest Diagnostic Laboratory
X22-AE73DA | I collected plant samples for assessment by the PPDL.



File 98975

06/20/2022 Residue Samples Collected

Original Event:	Residue Collection #216659 (22-4-0858 6)
Client:	Ken Post
Submitted By:	Andrew R. Roth
Sample:	22-4-0858 6 Veg; Comp; OFF-T, N
Sample:	22-4-0859 3 Veg; Comp; OFF-T
Sample:	22-4-0860 4 Veg; Comp; OFF-T, S
Sample:	22-4-0861 5 Veg; Comp; Target
Sample:	22-4-0862 7 Soil; Comp; 0-2"; OFF-T
Sample:	22-4-0863 6 Soil; Comp; 0-2"; Target
Sample:	22-4-0864 3 Soil; Comp; 0-2"; Target

06/20/2022 **New Respondent Identified**
Respondent Identified

Mr. Post indicated he believed the adjacent field was farmed by Schaefer Farms. I contacted Randy Schaefer and informed him of the complaint. He confirmed his employee Matt Noll sprayed the field south of the Post property.

Original Event:	Investigation Change #253
Respondent:	Matthew William Noll
Submitted By:	Andrew R. Roth

06/20/2022 **Investigation Activity**
Communication

Because Mr. Post suspected herbicides were applied along the roadway, I researched the possible entities which may have sprayed under the power lines or along the road. I contacted the power supplier (AEP), the Allen County Highway Department, the City of Fort Wayne and licensed Right-of-Way contractors. All reported no applications had been made along the section of West California Road near the Post property.

Original Event:	Investigation Activity (Pesticide) #5447
Submitted By:	Andrew R. Roth

06/20/2022 **Case Created**

Original Event:	Case PS22-0214
Submitted By:	Joseph D. Becovitz
Assigned To:	Andrew R. Roth

06/21/2022 **Lab Advised of Target Analytes**

Original Event:	Residue Collections Follow Up #615
Submitted By:	Andrew R. Roth
Target Analyte:	Roundup WeatherMax
Target Analyte:	2,4-D LV6
Target Analyte:	Antares Complete
PPLS Labels:	000524-00537-20200225.pdf https://www3.epa.gov/pesticides/chem_search/ppls/000524-00537-20200225.pdf 005905-00623-20200504.pdf https://www3.epa.gov/pesticides/chem_search/ppls/005905-00623-20200504.pdf

06/23/2022 **Received External Lab Report**

Injury symptoms caused by herbicide exposure are transient and may be difficult to diagnose after 4 to 5 weeks after exposure. Most plants in the sample show leaf curling and petiole twisting. These symptoms are characteristic of exposure to synthetic auxin herbicides such as 2,4-D, dicamba, etc. The burning bush has chlorotic spots on new leaves that could be associated with herbicide exposure to HPPD herbicides (group #27), although I suspect these symptoms are most likely caused to be nutrient deficiency in this case.

Marcelo Zimmer

Walnut: has what looks like chemical injury (sunken necrotic lesions) as well as downy spot (chlorotic spots and white growth on underside: <https://bygl.osu.edu/node/1304>); significant leaf curl, likely growth regulator exposure.

Apple: frog-eye leaf spot present (necrotic, circular spots, do not look like injury at this time), and leaf deformation (suspect growth reg)

Oak: Mite feeding injury (stippling), shothole leaf miner (necrotic tissue falling out), and leaf deformation (suspect growth reg)

Spruce: suspect chemical injury

Multiple woody plants (aside from the mentioned above) show leaf deformation suggestive of a growth regulator exposure as well as some kind of leaf necrosis (in some cases spotting). This other symptom could be associated with some other kind of injury/chemical.

John Bonkowski

Original Event:	External Lab Report #216893 (X22-AE73DA)
Submitted By:	Andrew R. Roth
Sample:	X22-AE73DA
Attachments:	File 99337; 22-0214PPDL.pdf

06/28/2022 **Investigator Received Fax/Email from Applicator**

Records

On June 28, I received application records from Mr. Schaefer via email. According to the information provided, Matt Noll sprayed the field from 650pm-830pm on May 12. Winds were reportedly blowing from the southeast, toward the Post property, during the application; 7mph at the start of the application and 8mph at the end. The tank mix contained the following:

Roundup WeatherMax EPA Reg#524-537, active ingredient glyphosate (PowerMax was listed, but Mr. Noll later clarified that WeatherMax was applied)

2,4-D LV6 EPA Reg#81927-39, active ingredient 2,4-D

Antares Complete EPA Reg#5905-623, active ingredients metolachlor, metribuzin, sulfentrazone

I confirmed the provided wind speeds and direction at the closest official weather station (Fort Wayne International Airport).

Attachments

File 110322; 22-0214Pl.pdf

Original Event: Investigation Activity (Pesticide) #5448
Subject: Matthew William Noll
Submitted By: Andrew R. Roth

08/17/2022 Received Residue Lab Report Investigatory Summary

The OISC Residue Lab analyzed the samples for the herbicide active ingredients reportedly applied to the field. All five active ingredients were detected in the weeds collected from the field and in each of the three foliage samples collected from the Post property. Levels diminished from south-to-north across the property which established a gradient pattern. Results were reported in parts per billion. AMPA, which is the breakdown product of glyphosate, was not detected in the vegetation samples, likely due to the time elapsed since the application to the field.

Soil samples were also analyzed. Low levels of some active ingredients were detected in the samples; some were reported as BQL (Below Quantification Limits), meaning the analyte was detected but at a level which could not be quantified.

First Page of Lab Report

Page 6 of 248 Report

OCM Collection #	216659	Investigator	ROTHA		
Collection Date	06/20/2022				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-0858 6	Veg; Comp; OFF-T, N	Veg	2,4-D	571 ppb * Minimum detected value reported.	0.7 ppb
			AMPA	BDL ppb	133 ppb
			Glyphosate	503 ppb	66 ppb
			Metolachlor	41.3 ppb	0.3 ppb
			Metribuzin	7.07 ppb	1 ppb
			Sulfentrazone	14.8 ppb	3 ppb
22-4-0859 3	Veg; Comp; OFF-T	Veg	2,4-D	379 ppb * Minimum detected value reported.	0.7 ppb
			AMPA	BDL ppb	133 ppb
			Glyphosate	724 ppb	66 ppb
			Metolachlor	69.2 ppb	0.3 ppb
			Metribuzin	19.0 ppb	1 ppb
			Sulfentrazone	19.7 ppb	3 ppb

Original Event: Residue Lab Report #240462 (216659-R616)
Submitted By: SYSTEM
Lab Report: Lab Report 216659-R616.pdf

10/10/2022 Judgement; Civil Penalty Assessed Citation

Schaefer Inc. was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. Consideration was given to the fact this was their first violation of similar nature, Schaefer Inc. cooperated during the investigation, and general use pesticides were involved. Consideration was also given to the fact there was an adverse effect.

Civil Penalty

Matthew William Noll was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was his first violation of similar nature, Mr. Noll cooperated during the investigation, and general use pesticides were involved. Consideration was also given to the fact there was an adverse effect.

Original Event:
Primary:
Secondary:
Submitted By:
Legal Citation:
Penalty Amount:

Judgement #1376
Schaefer Inc
Matthew William Noll
George Saxton
IC 15-16-5-65(2)
400

10/10/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1446
To: Schaefer Inc
Submitted By: Joni D. Herman
USPS: 7021 0950 0000 0607 8797
Enclosed: Notice of Enforcement
Attachments: File 111139; PS22-0214EL CIT ~ Schaefer, Inc..docx

10/10/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1447
To: Matthew William Noll
Submitted By: Joni D. Herman
USPS: 7021 0950 0000 0607 8780
Enclosed: Notice of Enforcement
Attachments: File 111140; PS22-0214EL CP - Mitigated ~ Matthew W. Noll.docx

10/19/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1783
Subject: Schaefer Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8797
Received: 10/19/2022
Attachments: File 112242; CM 7021 0950 0000 0607 8797 - PS22-0214 - Received 10-19-2022.pdf

10/19/2022 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #1784
Subject: Matthew William Noll
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8780
Received: 10/19/2022
Attachments: File 112243; CM 7021 0950 0000 0607 8780 - PS22-0214 - Received 10-19-2022.pdf

10/28/2022 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #1786
Subject: Matthew William Noll
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 112289; PS22-0214 - Matthew W. Noll - CP Received 10-28-2022.pdf

11/23/2022 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #1635
To: Ken Post
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113593; PS22-0214- Ken Post - Case Closed Leter 11-23-2022.docx

11/23/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1636
To: Matthew William Noll
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113595; PS22-0214- Matthew W. Noll - Case Closed Leter 11-23-2022.docx

11/23/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1637
To: Schaefer Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113596; PS22-0214- Schaefer, Inc. - Case Closed Leter 11-23-2022.docx

Chain of Custody

06/21/2022 **Sample 22-4-0858 6**

Original Event:	Chain of Custody #1795 (22-4-0858 6)
06/20/2022 15:00:	Sample Collected by Andrew R. Roth
06/21/2022 14:55:	Sample Delivered to 218
06/22/2022 08:58:	Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0859 3**

Original Event:	Chain of Custody #1796 (22-4-0859 3)
06/20/2022 15:00:	Sample Collected by Andrew R. Roth
06/21/2022 14:55:	Sample Delivered to 218
06/22/2022 08:58:	Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0860 4**

Original Event:	Chain of Custody #1797 (22-4-0860 4)
06/20/2022 15:00:	Sample Collected by Andrew R. Roth
06/21/2022 14:55:	Sample Delivered to 218
06/22/2022 08:58:	Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0861 5**

Original Event:	Chain of Custody #1798 (22-4-0861 5)
06/20/2022 15:00:	Sample Collected by Andrew R. Roth
06/21/2022 14:55:	Sample Delivered to 218
06/22/2022 08:58:	Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0862 7**

Original Event:	Chain of Custody #1799 (22-4-0862 7)
06/20/2022 15:00:	Sample Collected by Andrew R. Roth
06/21/2022 14:55:	Sample Delivered to 218
06/22/2022 08:58:	Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0863 6**

Original Event:	Chain of Custody #1800 (22-4-0863 6)
06/20/2022 15:00:	Sample Collected by Andrew R. Roth
06/21/2022 14:55:	Sample Delivered to 218
06/22/2022 08:58:	Delivery Affirmed by Vicki Vauters

06/21/2022 **Sample 22-4-0864 3**

Original Event:	Chain of Custody #1801 (22-4-0864 3)
06/20/2022 15:00:	Sample Collected by Andrew R. Roth
06/21/2022 14:55:	Sample Delivered to 218
06/22/2022 08:58:	Delivery Affirmed by Vicki Vauters

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Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

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

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In Re: Case PS22-0224

Department	Pesticide
Originated	06/24/2022
Assigned To	William R. Reid
Status	Closed

Involved Parties

Complainant	Kenneth Hacker Indianapolis, IN 46219
Referred By	Indiana Attorney General Office / Litigation Indianapolis, IN 46204
Respondent	Pfeifer Home Inspection LLC Indianapolis, IN 46236
Respondent	Kyle Mathew Pfeifer Indianapolis, IN 46236

Overviews

08/09/2022 Investigation Summary

Home inspection report was completed the same day and time of WDI report. The pictures in the home inspection report had areas where termite evidence was found during my investigation with Mr. Hacker. The basement and the living room areas had damaged walls that appeared to be visible during the original inspection by Mr. Pfeifer. No obstructions were noted on Mr. Pfeifer's original WDI report in section 4 of the NPMA-33 form. Also, in section 5 of the NPMA-33 form Mr. Pfeifer wrote, "No active or previous signs of any wood destroying insect was found at this property". The last picture shows drill marks and previous treatment for termites. Mr. Pfeifer also didn't fill out the proper Company's Pest Control Business Lic. No. Mr. Pfeifer is licensed currently with OISC.

Submitted By: William R. Reid
Role: Investigator

08/11/2022 Disposition Summary

Pfeifer Home Inspection LLC was cited for violation of section 65(14) of the Indiana Pesticide Use and Application Law for making false statements concerning infestation of pests. Consideration was given to the fact this was Pfeifer Home Inspection LLC's first violation of similar nature.

Kyle Pfeifer was cited for violation of section 65(14) of the Indiana Pesticide Use and Application Law for making false statements concerning infestation of pests. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was Kyle Pfeifer's first violation of similar nature.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/23/2022 Intake Referral Filed

Complainant stated Kyle Pfeifer of Pfeifer Home Inspections performed an inadequate wood destroying insect inspection related to the purchase of an existing home. The complainant further stated there is termite damage on three sides of the home.

Original Event:	Intake Referral (Pesticide) #2570
Complainant:	Kenneth Hacker
Respondent:	Pfeifer Home Inspection LLC
Referred By:	Indiana Attorney General Office / Litigation
Submitted By:	Joseph D. Becovitz
Assigned To:	William R. Reid
Attachments:	File 99375; Pfeifer Home Inspections.pdf

06/24/2022 **Case Created**

Original Event:	Case PS22-0224
Submitted By:	Joseph D. Becovitz
Assigned To:	William R. Reid

06/28/2022 **Investigator Called Complainant Communication**

Called Complainant and set up a time to go to property and investigate the termite damage at the house he bought. Also, requested the home inspection report and discussed the details of the complaint.

Original Event:	Investigation Activity (Pesticide) #4966
Subject:	Kenneth Hacker
Submitted By:	William R. Reid

06/28/2022 **Investigator Met with Business Activity**

Tried to stop by Pfeifer home inspections business location and collect records. Nobody was home so I left an NOI.

Original Event:	Investigation Activity (Pesticide) #4971
Subject:	Pfeifer Home Inspection LLC
Submitted By:	William R. Reid

06/28/2022 **Notice of Inspection Issued**

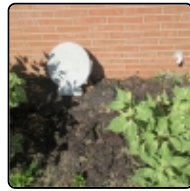
I left an NOI in the door of Pfeifer Home Inspections with a note to call me regarding the complaint.

Original Event:	Notice of Inspection #1007
Client:	Pfeifer Home Inspection LLC
Firm Representative:	Kyle Pfeifer
Submitted By:	William R. Reid
Attachments:	File 99885; NOI for Pfeifer Home Inspection LLC. .pdf

06/29/2022 **Investigator Met with Complainant Photographs**

Pictures of the property and locations where termite evidence was found.

Attachments



File 100005



File 100006



File 100007



File 100010



File 100011



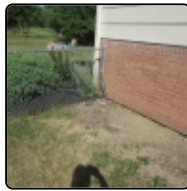
File 100012



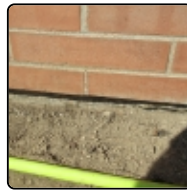
File 100013



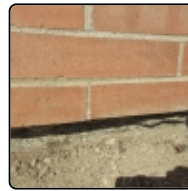
File 100014



File 100015



File 100016



File 100017



File 100018



File 100019



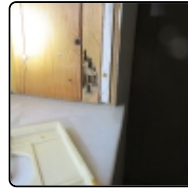
File 100020



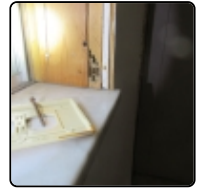
File 100021



File 100022



File 100001



File 100002



File 100003



File 100004

Records

Home inspection report...same day and time of WDI report. The pictures in the report had areas where termites were found during my investigation with Mr. Hacker. The basement and the living room areas had damaged walls that appeared to be visible during the original inspection by Mr. Pfeifer. No obstructions were noted on Mr. Pfeifer's original WDI report in section 4 of the NPMA-33 form. Also, in section 5 of the NPMA-33 form Mr. Pfeifer wrote, "No active or previous signs of any wood destroying insect was found at this property". The last picture shows drill marks and previous treatment for termites. Mr. Pfeifer also didn't fill out the proper Company's Pest Control Business Lic. No. Mr. Pfeifer is licensed currently with OISC.

Attachments

File 105534; Drill Holes from Pfeifer Home inspection..PNG
File 100393; Kenny Hacker-2.pdf
File 105533; Livingroom Pfeifer..PNG
File 105531; Pfeifer Home inspection Basement.PNG
File 105532; Pfeifer Living room Picture..PNG

Original Event: Investigation Activity (Pesticide) #4979
Subject: Kenneth Hacker
Submitted By: William R. Reid

06/29/2022 Notice of Inspection Issued

NOI for Ken Hacker home owner and complainant.

Original Event: Notice of Inspection #1013
Client: Kenneth Hacker
Firm Representative: Kenneth Hacker
Submitted By: William R. Reid
Attachments: File 100054; Kenneth Hacker.pdf

06/29/2022 Business Called Investigator Communication

Mr. Pfeifer called me back after I called him and left a NOI at his house. He is on vacation currently, but when he gets back he is going to get me his records and set up a time to meet with me.

Original Event: Investigation Activity (Pesticide) #4980
Subject: Pfeifer Home Inspection LLC
Submitted By: William R. Reid

07/06/2022 Investigator Met with Business

Interview

I met with Mr. Pfeifer at his property location and discussed the investigation and compared his WDI and the clients WDI reports. The two WDI reports matched and I informed Mr. Pfeifer that the report (especially in section 4 of the NPMA form was not filled out correctly). Section 2 of the NPMA-33 form also was marked "A" corresponding with "No visible evidence of wood destroying insects was observed". Also, there was drill holes noted and/or evidence of previous treatment around the property that was NOT noted by Mr. Pfeifer. Mr. Pfeifer admitted to not seeing the drill holes. In addition, the paneling on the wall appeared to be accessible during the inspection and the drywall patch under the front living room window that both had termite scarring or mud tubes. Mr. Pfeifer in section 5 of the NPMA-33 form wrote in "No Active or Previous signs of any wood destroying insect was found at this property". I asked Mr. Pfeifer about pictures or anymore evidence to show the conditions at the time of the inspection and Mr. Pfeifer replied that he doesn't have anymore, but will look again. He did offer to provide the home inspection report which was already provided by the complainant.

Original Event: Investigation Activity (Pesticide) #5011
Subject: Pfeifer Home Inspection LLC
Submitted By: William R. Reid

08/11/2022 Judgement; Civil Penalty Assessed

Citation

Pfeifer Home Inspection LLC was cited for violation of section 65(14) of the Indiana Pesticide Use and Application Law for making false statements concerning infestation of pests. Consideration was given to the fact this was Pfeifer Home Inspection LLC's first violation of similar nature.

Civil Penalty

Kyle Pfeifer was cited for violation of section 65(14) of the Indiana Pesticide Use and Application Law for making false statements concerning infestation of pests. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact this was Kyle Pfeifer's first violation of similar nature.

Original Event: Judgement #1335
Primary: Pfeifer Home Inspection LLC
Secondary: Kyle Mathew Pfeifer
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(14)
Penalty Amount: 400

09/07/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1250
To: Pfeifer Home Inspection LLC
Submitted By: Joni D. Herman
USPS: 7022 0410 0001 2745 3912
Enclosed: Notice of Enforcement
Attachments: File 108988; PS22-0224EL CIT ~ Pfeifer Home Inspection LLC.docx

09/07/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1251
To: Kyle Mathew Pfeifer
Submitted By: Joni D. Herman
USPS: 7022 0410 0001 2745 3905
Enclosed: Notice of Enforcement
Attachments: File 108989; PS22-0224EL CP ~ Kyle M. Pfeifer.docx

09/15/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1736
Subject: Kyle Mathew Pfeifer
Submitted By: Jacob A. Hatfield
USPS: 7022 0410 0001 2745 3905
Received: 09/15/2022
Attachments: File 110543; CM 7022 0410 0001 2745 3905 - PS22-0224 - 9-15-2022.pdf

09/15/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1737
Subject: Pfeifer Home Inspection LLC
Submitted By: Jacob A. Hatfield
USPS: 7022 0410 0001 2745 3912
Received: 09/15/2022
Attachments: File 110545; CM 7022 0410 0001 2745 3912 - PS22-0224 - 9-15-2022.pdf

09/21/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1698
Subject: Kyle Mathew Pfeifer
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 109746; PS22-0224 - Kyle M. Pfeifer -CP Received 9-21-2022.pdf

10/17/2022 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #1471
To: Kenneth Hacker
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 111654; PS22-0224 - Kenneth Hacker - Case Closed Letter 10-17-2022.docx

10/17/2022 **Notice of Case Closure Mailed to Subject**

Original Event: Outgoing Mail #1472
To: Indiana Attorney General Office / Litigation
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 111661; PS22-0224 - Indiana Attorney General Office - Case Closed Letter 10-17-2022.docx

10/17/2022 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #1473
To: Pfeifer Home Inspection LLC
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 111663; PS22-0224 - Pfeifer Home Inspection LLC - Case Closed Letter 10-17-2022.docx

Chain of Custody

No electronic chain of custody (CoC) found. Refer to paper CoC in instances where samples were collected.

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

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In Re: Case PS22-0229

Department	Pesticide
Originated	06/27/2022
Assigned To	Paul Jay Kelley
Status	Closed

Involved Parties

Complainant	Office of Indiana State Chemist
Issued To	FBN Inputs LLC Whitestown, IN 46075
Respondent Registrant	Adama Raleigh, NC 27604
Respondent	Makhteshim Agan of North America Inc DBA Adama Raleigh, NC 27604
Agency	Purdue Receivables & Collections

Overviews

06/27/2022 **Investigation Summary**

Routine RUP records inspection at FBN.
Found 1 X 275 gal of Setup 6L (EPA Reg. #66222-136).
Setup 6L is not a registered pesticide in Indiana.
Stop Sale Order issued.
Adama has not responded to Stop Sale Order.
Setup 6L is currently under Stop Sale Order.
See case summary PS22-0063 for more details.
Submitted By: Paul Jay Kelley
Role: Investigator

06/29/2022 **Product Registration Summary**

Unregistered product located, complete label review was unable to be conducted. Registrant didn't respond to OISC's email, product remains to be unregistered.
Submitted By: Victoria J. Matsumura
Role: Product Registration Specialist

07/05/2022 **Disposition Summary**

Adama was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing an unregistered pesticide product. A civil penalty in the amount of \$1,000.00 was assessed for this violation.
Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

03/14/2022 Intake Referral Filed

On February 24, 2022, I conducting a routine Restricted Use Pesticide(RUP)sales inspection I observed many pesticide mini bulk shuttles stacked in FBN's warehouse. Upon further inspection and questioning of Mark Pauli, General Manager, the warehouse did not appear to have secondary containment for liquid pesticides over 55 gallons. After email correspondence with Eric Carnell, Chief Legal Officer for FBN, did it appear that the FBN warehouse did not have secondary containment.

On March 15, 2022, I spoke with Eric Cernel from FBN. I requested that he send me records with dates of individual inbound and corresponding dates for outbound shuttles. In addition, I informed Mr. Cernel that two (2) products (Mepit, EPA Reg. #82070-2-83772 and Setup 6L, EPA Reg. #66222-136) were not registered in Indiana.

Original Event: Intake Referral (Pesticide) #2575
Complainant: Office of Indiana State Chemist
Location: FBN Inputs LLC
Respondent: Adama
Entered By: Paul Jay Kelley
Submitted By: Joseph D. Becovitz
Attachments: File 99796; Whitestown 55gal All Shipped+Received as of 3-4-22 1.xlsx

03/14/2022 Investigator Met with Target Photographs

On March 16, 2022, I issued Mark Pauli, (FBN) a Stop, Sale, or Remove order for Setup 6L (EPA Reg. #66222-136, 1X270gal)

Attachments



File 99801



File 99802

Original Event: Investigation Activity (Pesticide) #4960
Subject: FBN Inputs LLC
Submitted By: Paul Jay Kelley

03/14/2022 Notice of Inspection Issued

Original Event: Notice of Inspection #1005
Client: FBN Inputs LLC
Firm Representative: Mark Pauli
Submitted By: Paul Jay Kelley
Attachments: File 99804; noi.pdf

03/16/2022 Stop Sale Order Issued
un-registered in Indiana

Original Event: Action Order #264
Issued To: FBN Inputs LLC
Registrant: Adama
Firm Representative: Mark Pauli
Submitted By: Paul Jay Kelley
Attachments: File 99818; Action Order Indiana State Chemist.pdf
Photos:



File 99819



File 99820

03/25/2022 INCIDENTAL Notice of Stop Sale Sent

Notification of SSURO was sent via email to the contact for the Registrant for the product registration team.

Original Event: Pesticide Products Activity #5
Linked From: Action Order #242
Primary: Makhteshim Agan of North America DBA Adama
Submitted By: Sarah K. Caffery
Attachments: File 90476; SSO 242 Notification of Stop Sale - Makhteshim Agan of NA DBA Adama.pdf

03/25/2022 Investigator Sent Fax/Email to Registrant Communication

Notification of SSURO was sent via email to the contact for the Registrant for the product registration team.

Attachments

File 99821; SSO 242 Notification of Stop Sale - Makhteshim Agan of NA DBA Adama.pdf

Original Event: Investigation Activity (Pesticide) #4964
Subject: Adama
Submitted By: Paul Jay Kelley

06/27/2022 Case Created

Original Event: Case PS22-0229
Submitted By: Joseph D. Becovitz
Assigned To: Paul Jay Kelley

06/29/2022 Notice of Stop Sale Sent

Adama has not responded to OISC's notification of distribution of an unregistered product. Notification was provided via email on March 25, 2022, with follow up on May 18, 2022. Read receipt received from Stacie Buchanan at 3:13 PM on May 18, 2022. Notification was sent originally for action order #242 case #22-0063.

Original Event: Pesticide Products Activity #14
Primary: Adama
Submitted By: Victoria J. Matsumura

**07/05/2022 Judgement; Civil Penalty Assessed
Civil Penalty**

Adama was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing an unregistered pesticide product. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Original Event: Judgement #1323
Primary: Adama
Submitted By: George Saxton
Legal Citation: IC 15-16-4-57(1)
Penalty Amount: 1000

**07/19/2022 Stop Sale Released for Return/Disposal
Setup 6sl**

Released for return or disposal

Attachments

File 102356; FBN Inputs LLC SSURO Release Return Letter.pdf

Original Event: Stop Sale Release (PS) #8
Issued To: FBN Inputs LLC
Registrant: Adama
Submitted By: Victoria J. Matsumura

08/04/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1166
To: Adama
Submitted By: Jacob A. Hatfield
USPS: 7022 0410 0001 2745 3660
Enclosed: Notice of Enforcement
Attachments: File 104882; PS22-0229EL CP ~ Adama.docx

08/12/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1643
Subject: Adama
Submitted By: Jacob A. Hatfield
USPS: 7022 0410 0001 2745 3660
Received: 08/12/2022
Attachments: File 106412; CM 7022 0410 0001 2745 3660 - PS22-0229 - 8-12-2022.pdf

10/31/2022 Penalty Payment Not Received for Target

As of October 31, 2022, Adama has not paid the \$1,000.00 civil penalty. The case will be forwarded to collections.

Original Event: Compliance Receipt #1787
Subject: Adama
Submitted By: Jacob A. Hatfield
Payment Expected: \$1,000.00
Payment Received: \$0

10/31/2022 Sent to Collections (Pending)

As of October 31, 2022, Adama had not paid the \$1,000.00 civil penalty. The case was closed and forwarded to collections.

Original Event: Compliance Activity #1560
Primary: Adama
Agency: Purdue Receivables & Collections
Submitted By: Jacob A. Hatfield

10/31/2022 **Notice of Case Closure Mailed to Target**

Notification of collection proceedings.

Original Event:	Outgoing Mail #1521
To:	Adama
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 112364; PS22-0229 - Adama - Case Closed Letter - CP FWD.docx

10/31/2022 **Notice of Case Closure Mailed to Target**

Original Event:	Outgoing Mail #1523
To:	FBN Inputs LLC
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 112366; PS22-0229 - FBN Inputs LLC - Case Closed Letter 10-31-2022.docx

11/01/2022 **Compliance Activity**

I spoke to Stacie Buchanan on the phone. She stated the payment for the civil penalty would be overnighted. The collection process was halted.

Original Event:	Compliance Activity #1563
Primary:	Makhteshim Agan of North America Inc DBA Adama
Submitted By:	George Saxton

Chain of Custody

No electronic chain of custody (CoC) found. Refer to paper CoC in instances where samples were collected.

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Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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

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In Re: Case PS22-0240

Department	Pesticide
Originated	06/30/2022
Assigned To	Elizabeth C. Carter
Status	Closed

Involved Parties

Complainant	Kevin Alan Nielsen Medaryville, IN 47957
Respondent	Crop Fertility Specialists Burnettsville, IN 47926
Respondent	John Charles Gilliam Burnettsville, IN 47926

Overviews

08/10/2022 Investigation Summary

Kevin Nielsen contacted the OISC to report that Crop Fertility Specialist (CFS) over sprayed onto his popcorn field. During on my on site inspection, I observed one to two rows of popcorn with stunted and necrotic leaves that appeared to be over-sprayed. I took photographs and collected samples for PPDL and the OISC Residue Lab.

Based on the PII, the final report by PPDL, and my observations, the residue samples were not analyzed.

According to the Clethodim label, "*Do not allow CLETHODIM 2E to contact desirable grass crops such as corn, rice, sorghum, small grains, or turf, as these and other grass crops will be injured or killed.*"

Submitted By: Elizabeth C. Carter
Role: Investigator

08/11/2022 Disposition Summary

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

John Gilliam was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact that John Gilliam cooperated during the investigation and there was victim compensation. Consideration was also given to the fact this was John Gilliam's first violation, there was an adverse effect and a general use pesticide was involved.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/29/2022 Intake Referral Filed

Complainant stated a herbicide application made to an adjacent soybean field by CFS killed two rows of his popcorn.

Original Event:	Intake Referral (Pesticide) #2586
Complainant:	Kevin Alan Nielsen
Respondent:	Crop Fertility Specialists
Submitted By:	Joseph D. Becovitz
Assigned To:	Elizabeth C. Carter

06/30/2022 Case Created

Original Event:	Case PS22-0240
Submitted By:	Joseph D. Becovitz
Assigned To:	Elizabeth C. Carter

07/05/2022 Notice of Inspection Issued

Original Event:	Notice of Inspection #1025
Client:	Kevin Alan Nielsen
Firm Representative:	Kevin Nielsen
Submitted By:	Elizabeth C. Carter
Photos:	



File 100310

07/05/2022 Investigator Met with Complainant Interaction

On July 5, 2022, I met with the complainant, Mr. Nielsen. According to Mr. Nielsen, when Crop Fertility Specialist (CFS) sprayed the neighboring soybean field, they over-sprayed onto two rows of his popcorn field. The popcorn field in question was about a quarter mile north off County Road 175 North and 1300 West in Pulaski County and directly adjacent to a soybean field.

Upon examining the popcorn field, I noticed a few areas in one row immediately adjacent the soybean field, where the popcorn plants were stunted. The plants also had leaf discoloration and necrosis. Only certain parts of the row showed symptomology. The symptoms appeared to be related to the location of the fence post and were the sprayer swung out the boom to avoid the property marker.

Photographs of the area were taken. I collected a popcorn plant for the Purdue Pest and Diagnostic Lab. Additionally, soil and vegetation were collected for the OISC Residue Lab.

Attachments

File 100296



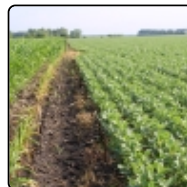
File 100297



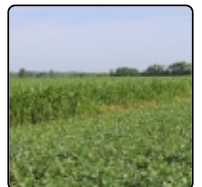
File 100298



File 100299



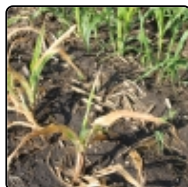
File 100300



File 100301



File 100302



File 100303

Screenshots

This is an aerial image of the fields in question.

Attachments

File 100307

Original Event:	Investigation Activity (Pesticide) #4995
Subject:	Kevin Alan Nielsen
Submitted By:	Elizabeth C. Carter

07/05/2022 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #217771 (X22-AC3F64)
Client: Kevin Alan Nielsen
Submitted By: Elizabeth C. Carter
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X22-AC3F64 | PPDL submission form
Attachments: File 100197; Nielsen PPDL submission.pdf

07/05/2022 **Residue Samples Collected**

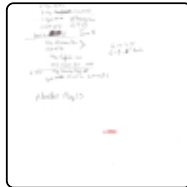
Original Event: Residue Collection #217772 (22-4-1185 1)
Client: Kevin Alan Nielsen
Submitted By: Elizabeth C. Carter
Sample: 22-4-1185 1 | Veg; Ctrl; OFF-T
Sample: 22-4-1186 7 | Veg; Grab; OFF-T
Sample: 22-4-1187 9 | Soil; Comp; 2-4"; OFF-T
Sample: 22-4-1188 0 | Soil; Comp; 2-4"; Target
Sample: 22-4-1189 8 | Veg; Grab; Target

07/05/2022 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #621
Submitted By: Elizabeth C. Carter
Target Analyte: Weathermax
Target Analyte: Zidua Sc
Target Analyte: enlist
Target Analyte: Clethodim
PPLS Labels: [000524-00537-20200225.pdf](#)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00537-20200225.pdf
[062719-00695-20220329.pdf](#)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00695-20220329.pdf
[007969-00374-20211116.pdf](#)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf
[085678-00023-20120117.pdf](#)
https://www3.epa.gov/pesticides/chem_search/ppls/085678-00023-20120117.pdf

Attachments: File 100263; spray info from CFS for nielsen complaint.pdf

Photos:



File 100354

07/06/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1031
Client: Crop Fertility Specialists
Firm Representative: Phil Christopher
Submitted By: Elizabeth C. Carter
Photos:



File 100387

07/06/2022 **Investigator Sent Fax/Email to Business Communication**

I emailed Phil Christopher with CFS the PII and NOI.

Attachments

File 100388; Nielsen CFS PII.pdf

Original Event: Investigation Activity (Pesticide) #5010
Subject: Crop Fertility Specialists
Submitted By: Elizabeth C. Carter

07/08/2022 **Received External Lab Report**

PPDL report states in part, "Corn plants are stunted. Leaves show chlorosis or bleaching followed by necrosis. These symptoms and the pattern of injury are consistent with exposure to glyphosate and clethodim in popcorn."

Original Event: External Lab Report #219200 (X22-AC3F64)
Submitted By: Elizabeth C. Carter
Sample: X22-AC3F64
Attachments: File 102113; FinalReport PPDL nielsen popcorn.pdf

07/19/2022 **Investigator Received Fax/Email from Applicator**
Investigation Inquiry

Attached is the PII for this case. Please see handwritten portion.

The following was written by the branch manager, Phil Christopher, "Applicator went around post on property line and when he came back around boom swung over the property line. Talked to grower about it and was going to settle for damages to the crop. Diagram of what was affected attached."

On the above mentioned diagram, the following was hand-written, "Killed popcorn 1 row in areas, 2 rows for 20 foot."

Attachments

File 105705; completed PII from CFS.pdf

Inquiry Overview

Certified Applicator John Gilliam
Company Crop Fertility Specialist
Application Type Commercial
Target Field Brian Cord's soybean field

Tank Mix

Product	EPA
weathermax	524-537
zidua	7969-374
enlist one	62719-695
clethodim	8567-23

Application Date

Date

06/18/2022

Original Event: Investigation Activity (Pesticide) #5222
Subject: Crop Fertility Specialists
Submitted By: Elizabeth C. Carter
PLS Labels: [000524-00537-20200225.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00537-20200225.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00537-20200225.pdf
[062719-00695-20220329.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00695-20220329.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00695-20220329.pdf
[007969-00374-20211116.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf

08/10/2022 **Investigation Activity**
Activity

Based on the PPDL report, the PII submitted, and my observations in the field, it was determined that the symptoms were most likely caused by direct over spray. Therefore, it was decided that the residue samples would not be analyzed.

Activity

The Clethodim label states in part, "Do not allow CLETHODIM 2E to contact desirable grass crops such as corn, rice, sorghum, small grains, or turf, as these and other grass crops will be injured or killed."

Original Event: Investigation Activity (Pesticide) #5223
Submitted By: Elizabeth C. Carter

08/10/2022 **New Respondent Identified**

Original Event: Investigation Change #235
Respondent: John Charles Gilliam
Submitted By: Elizabeth C. Carter

08/11/2022 **Judgement; Civil Penalty Assessed**
Citation

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

Civil Penalty

John Gilliam was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact that John Gilliam cooperated during the investigation and there was victim compensation. Consideration was also given to the fact this was John Gilliam's first violation, there was an adverse effect and a general use pesticide was involved.

Original Event: Judgement #1338
Primary: Crop Fertility Specialists
Secondary: John Charles Gilliam
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 300

09/07/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1248
To: Crop Fertility Specialists
Submitted By: Joni D. Herman
USPS: 7022 0410 0001 2745 3899
Enclosed: Notice of Enforcement
Attachments: File 108986; PS22-0240EL CIT ~ Crop Fertility Specialists.docx

09/07/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1249
To: John Charles Gilliam
Submitted By: Joni D. Herman
USPS: 7022 0410 0001 2745 3677
Enclosed: Notice of Enforcement
Attachments: File 108987; PS22-0240EL CP ~ John C. Gilliam.docx

09/16/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1715
Subject: John Charles Gilliam
Submitted By: Jacob A. Hatfield
USPS: 7022 0410 0001 2745 3677
Received: 09/16/2022
Attachments: File 110517; CM 7022 0410 0001 2745 3677 - PS22-0240 - 9-16-2022.pdf

09/16/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1716
Subject: Crop Fertility Specialists
Submitted By: Jacob A. Hatfield
USPS: 7022 0410 0001 2745 3899
Received: 09/16/2022
Attachments: File 110518; CM 7022 0410 0001 2745 3899 - PS22-0240 - 9-16-2022.pdf

10/05/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1753
Subject: John Charles Gilliam
Submitted By: Jacob A. Hatfield
Payment Expected: \$300.00
Payment Received: \$300.00
Attachments: File 110855; PS22-0240 - John C. Gilliam - CP Received 10-5-2022.pdf

10/17/2022 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #1474
To: Kevin Alan Nielsen
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 111664; PS22-0240 - Kevin A. Nielsen - Case Closed Letter 10-17-2022.docx

10/17/2022 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #1475
To: Crop Fertility Specialists
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 111665; PS22-0240 - Crop Fertility Specialists - Case Closed Letter 10-17-2022.docx

11/07/2022 Received Residue Lab Report

First Page of Lab Report

Page 67 of 75 Report

OCM Collection #	217772	Investigator	CARTERE		
Collection Date	07/05/2022				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-1185 1	Veg; Ctrl; OFF-T	Veg	No Analysis Required	Done	
22-4-1186 7	Veg; Grab; OFF-T	Veg	No Analysis Required	Done	
22-4-1187 9	Soil; Comp; 2-4"; OFF-T	Soil	No Analysis Required	Done	
22-4-1188 0	Soil; Comp; 2-4"; Target	Soil	No Analysis Required	Done	
22-4-1189 8	Veg; Grab; Target	Veg	No Analysis Required	Done	

Original Event: Residue Lab Report #248016 (217772-R685)
Submitted By: SYSTEM
Lab Report: Lab Report 217772-R685.pdf

Chain of Custody

07/05/2022 Sample 22-4-1185 1

Original Event: Chain of Custody #1927 (22-4-1185 1)
07/05/2022 09:00: Sample Collected by Elizabeth C. Carter
07/05/2022 14:26: Sample Delivered to 218 refrigerator
07/08/2022 08:51: Delivery Affirmed by Vicki Vauters

07/05/2022 Sample 22-4-1186 7

Original Event: Chain of Custody #1928 (22-4-1186 7)
07/05/2022 09:00: Sample Collected by Elizabeth C. Carter
07/05/2022 14:26: Sample Delivered to 218 refrigerator
07/08/2022 08:51: Delivery Affirmed by Vicki Vauters

07/05/2022 Sample 22-4-1187 9

Original Event: Chain of Custody #1929 (22-4-1187 9)
07/05/2022 09:00: Sample Collected by Elizabeth C. Carter
07/05/2022 14:26: Sample Delivered to 218 refrigerator
07/08/2022 08:51: Delivery Affirmed by Vicki Vauters

07/05/2022 Sample 22-4-1188 0

Original Event: Chain of Custody #1930 (22-4-1188 0)
07/05/2022 09:00: Sample Collected by Elizabeth C. Carter
07/05/2022 14:26: Sample Delivered to 218 refrigerator
07/08/2022 08:51: Delivery Affirmed by Vicki Vauters

07/05/2022 Sample 22-4-1189 8

Original Event: Chain of Custody #1931 (22-4-1189 8)
07/05/2022 09:00: Sample Collected by Elizabeth C. Carter
07/05/2022 14:26: Sample Delivered to 218 refrigerator
07/08/2022 08:51: Delivery Affirmed by Vicki Vauters

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

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In Re: Case PS22-0248

Department	Pesticide
Originated	07/06/2022
Assigned To	Paul Jay Kelley
Status	Closed

Involved Parties

Complainant	John Alan Hummel Middletown, IN 47356
Respondent	Richard Allen Mort Pendleton, IN 46064

Overviews

10/11/2022 Investigation Summary

Client alleged the neighboring farmer applied dicamba that drifted onto his non-dicamba soybeans.

Richard Mort stated, he applied Xtendimax, Roundup Powermax, Zidua SC, and Clethodim on June 22, 2022, when the wind was out of the northeast at 7-9 mph.

The wind reported by Mr. Mort was blowing toward Mr. Hummel's non-dicamba soybeans.

Samples were collected for PPDL and OISC's Residue Lab.

PPDL indicated visual symptoms appeared to be consistent with exposure to dicamba.

OISC's Residue Lab reported detection of dicamba in samples showing a gradient.

Label language for Xtendimax states, "DO NOT APPLY THIS PRODUCT IF SENSITIVE CROPS AND CERTAIN PLANTS ARE PLANTED ON AN ADJACENT DOWNWIND FIELD OR AREA." And, "DO NOT SPRAY this product when wind is blowing toward adjacent sensitive crops and certain plants,..." Furthermore, the label states in part, "After determining no adjacent sensitive crops and/or certain plants are downwind, the applicator must always maintain a 240-foot downwind buffer between the last treated row and the nearest downwind field edge when applying using broadcast open-boom equipment."

Submitted By: Paul Jay Kelley
Role: Investigator
Drift: Confirmed

10/11/2022 Disposition Summary

Richard A. Mort 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 Mr. Mort cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved and there was an adverse effect.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

07/05/2022 Intake Referral Filed

Complainant stated an application of dicamba made to a neighboring farm field injured his soybeans.

Original Event:	Intake Referral (Pesticide) #2594
Complainant:	John Alan Hummel
Respondent:	Richard Allen Mort
Submitted By:	Joseph D. Becovitz
Assigned To:	Paul Jay Kelley

07/06/2022 **Case Created**

Original Event:	Case PS22-0248
Submitted By:	Joseph D. Becovitz
Assigned To:	Paul Jay Kelley

07/11/2022 **Investigator Called Complainant Communication**

On July 11, 2022, I spoke with John Hummel. Mr. Hummel stated after a field application to a neighboring soybeans field his non-dicamba soybeans are showing symptoms of dicamba exposure. Mr. Hummel stated Richard Mort sprayed the neighboring field sometime around June 13, 2022, with dicamba and now he has symptoms.

Original Event:	Investigation Activity (Pesticide) #5045
Subject:	John Alan Hummel
Submitted By:	Paul Jay Kelley

07/11/2022 **Notice of Inspection Issued**

Original Event:	Notice of Inspection #1036
Client:	John Alan Hummel
Firm Representative:	John Hummel
Submitted By:	Paul Jay Kelley
Attachments:	File 101184; noi.pdf

07/11/2022 **External Lab Sample Collected**

Original Event:	External Lab Sample Collection #218444 (X22-B73194)
Client:	John Alan Hummel
Submitted By:	Paul Jay Kelley
Lab:	Purdue Plant and Pest Diagnostic Laboratory
Sample:	X22-B73194 Non-dicamba soybean sample.
Attachments:	File 101185; PPD L form.pdf

07/11/2022 **Investigator Called Target Communication**

On July 11, 2022, I spoke to Richard Mort. Mr. Mort confirmed he made an application sometime around June 13, 2022, to the field north of Mr. Hummel's non-dicamba soybeans. I informed Mr. Mort that I would email him a Pesticide Investigation Inquiry (PII) form to complete, sign, and return. Mr. Mort stated he applied Xtendimax, Roundup, and Zidua to his field.

Original Event:	Investigation Activity (Pesticide) #5046
Subject:	Richard Allen Mort
Submitted By:	Paul Jay Kelley

07/11/2022 **Residue Samples Collected**

Original Event:	Residue Collection #218446 (22-4-0265 7)
Client:	John Alan Hummel
Submitted By:	Paul Jay Kelley
Sample:	22-4-0265 7 Soil; Comp; 0-2"; Target
Sample:	22-4-0266 1 Veg; Comp; Target
Sample:	22-4-0267 4 Veg; Comp; Target
Sample:	22-4-0268 8 Veg; Comp; OFF-T, Grad1, 4yd
Sample:	22-4-0269 0 Veg; Comp; OFF-T, Grad2, 50yd
Sample:	22-4-0270 7 Veg; Comp; OFF-T, Grad3, 75yd
Sample:	22-4-0271 1 Veg; Ctrl; OFF-T, 180yd

07/11/2022 **Investigator Met with Complainant Photographs**

On July 11, 2022, I went to the field of John Hummel showing symptoms of dicamba exposure. I photographed the site and collected a vegetation sample to be visually analyzed by Purdue's Plant and Pest Diagnostic Lab (PPDL). Furthermore, I collected investigative samples to be analyzed by OISC's Residue Lab. I observed Mr. Hummel's non-dicamba soybeans to have stunted new growth leaves. In addition, I observed cupped leaves with white tips. The symptoms extended approximately 50 yards out on the side closes to Richard Mort's Dicamba field. West county road 300 north separate the fields by approximately 30 feet.

Attachments



File 101188



File 101189



File 101190



File 101191



File 101192



File 101193



File 101194



File 101195



File 101196



File 101197



File 101198



File 101199



File 101200



File 101201



File 101202



File 101203

Screenshots

Site diagram showing samples.

Attachments

File 111159; Site Diagram.pdf

Original Event: Investigation Activity (Pesticide) #5047
Subject: John Alan Hummel
Submitted By: Paul Jay Kelley

07/11/2022 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #627
Submitted By: Paul Jay Kelley
Target Analyte: xtendimax
Target Analyte: roundup powermax 3
Target Analyte: zidua sc
Target Analyte: clethodin
PPLS Labels: [000264-01210-20220315.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-01210-20220315.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000264-01210-20220315.pdf
[000524-00659-20200317.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf
[055467-00017-20190702.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/055467-00017-20190702.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/055467-00017-20190702.pdf
[007969-00374-20211116.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf

Attachments: File 107567; clethodin.pdf
File 107568; ROUNDUP POWERMAX 3 HERBICIDE.pdf
File 107569; xtendimax.pdf
File 107570; ZIDUA SC HERBICIDE.pdf

07/13/2022 Received External Lab Report

Original Event: External Lab Report #218983 (X22-B73194)
Submitted By: Paul Jay Kelley
Sample: X22-B73194
Attachments: File 101636; FinalReport_Jay Kelley.pdf

08/29/2022 Investigator Met with Target

Activity

On August 29, 2022, I met with Richard Mort at an office located at 1 Plaza Dr, Pendleton, IN (46064). Mr. Mort provided me with a copy of his PII. Mr. Mort indicated in his PII, he applied Xtendimax (EPA Reg. #264-1210, active ingredient dicamba), Roundup Powermax 3 (EPA Reg. #524-659, active ingredient glyphosate), Zidua SC (EPA Reg. #7969-374, active ingredient pyroxasulfone), and Clethodim (EPA Reg. #55467-17, active ingredient clethodim). Mr. Mort documented the wind was out of the northeast at 7-9 mph, blowing toward Mr. Hummel's field.

Attachments

File 107571; p11.pdf

Original Event: Investigation Activity (Pesticide) #5283
Subject: Richard Allen Mort
Submitted By: Paul Jay Kelley

08/29/2022 Notice of Inspection Issued

Original Event: Notice of Inspection #1151
Client: Richard Allen Mort
Firm Representative: Richard Mort
Submitted By: Paul Jay Kelley
Attachments: File 107572; noi mort.pdf

10/06/2022 Received Residue Lab Report Investigatory Summary

OISC's Residue Lab detected the presence of dicamba in the samples collected. Report indicated the levels appear to be higher closes to to target field and decreasing moving away into Mr. Hummel's non-dicamba soybeans indicating the likelihood of drift.

First Page of Lab Report

Page 67 of 73 Report

OCM Collection #	218446	Investigator	KELLEYJ		
Collection Date	07/11/2022				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-0265 7	Soil; Comp; 0-2"; Target	Soil	5OH-Dicamba	BDL ppb	2 ppb
			DCSA	84.1 ppb	0.2 ppb
			Dicamba	4.23 ppb	2 ppb
			Pyroxasulfone	23.7 ppb	0.1 ppb
22-4-0266 1	Veg; Comp; Target	Veg	5OH-Dicamba	BDL ppb	0.7 ppb
			DCSA	477 ppb	0.3 ppb
			Dicamba	5.28 ppb * Minimum detected amount reported	3 ppb
			Pyroxasulfone	91.4 ppb	0.7 ppb
22-4-0267 4	Veg; Comp; Target	Veg	5OH-Dicamba	134 ppb	0.7 ppb
			DCSA	178 ppb	0.3 ppb
			Dicamba	13000 ppb * Minimum detected amount reported	3 ppb
			Pyroxasulfone	905 ppb * Estimated Amount	0.7 ppb

Original Event: Residue Lab Report #245643 (218446-R663)
Submitted By: SYSTEM
Lab Report: Lab Report 218446-R663.pdf

10/11/2022 Investigation Activity Activity

Label language for Xtendimax states in part, "DO NOT APPLY THIS PRODUCT IF SENSITIVE CROPS AND CERTAIN PLANTS ARE PLANTED ON AN ADJACENT DOWNWIND FIELD OR AREA." And, "DO NOT SPRAY this product when wind is blowing toward adjacent sensitive crops and certain plants,..." Furthermore, the label states in part, "After determining no adjacent sensitive crops and/or certain plants are downwind, the applicator must always maintain a 240-foot downwind buffer between the last treated row and the nearest downwind field edge when applying using broadcast open-boom equipment."

Original Event: Investigation Activity (Pesticide) #5485
Subject: John Alan Hummel
Submitted By: Paul Jay Kelley

10/11/2022 Judgement; Civil Penalty Assessed

Civil Penalty

Richard A. Mort 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 Mr. Mort cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved and there was an adverse effect.

Original Event: Judgement #1378
Primary: Richard Allen Mort
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 1000

10/11/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1456
To: Richard Allen Mort
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8803
Enclosed: Notice of Enforcement
Attachments: File 111175; PS22-0248EL_CP_Richard C. Mort.docx

10/15/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1782
Subject: Richard Allen Mort
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8803
Received: 10/15/2022
Attachments: File 112241; CM 7021 0950 0000 0607 8803 - PS22-0248 - Received 10-15-2022.pdf

11/02/2022 New Respondent Identified

Original Event: Investigation Change #273
Respondent: Richard Allen Mort
Submitted By: Paul Jay Kelley

11/02/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1531
To: Richard Allen Mort
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8858
Enclosed: Notice of Enforcement
Attachments: File 112535; PS22-0248EL_CP_Richard A. Mort.docx

12/08/2022 Mail Service Returned for Target

On December 8, 2022 Certified Mail was returned to OISC. Regular mail has not been returned as of yet.

Original Event: Compliance Receipt #1827
Subject: Richard Allen Mort
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8858
Returned: 12/08/2022
Attachments: File 114084; PS22-0248 - Richard A. Mort - CM Returned 12-8-2022.pdf

12/13/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1828
Subject: Richard Allen Mort
Submitted By: Jacob A. Hatfield
Payment Expected: \$1,000.00
Payment Received: \$1,000.00
Attachments: File 114224; PS22-0248 - Richard A. Mort - CP Received 12-13-20122.pdf

12/13/2022 Mail Confirmation Assumed for Target

On December 13, 2022 we received Richard's civil penalty. Therefore it is assumed he received the regular mail.

Original Event: Compliance Receipt #1829
Subject: Richard Allen Mort
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8858

12/15/2022 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #1670
To: John Alan Hummel
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 114347; PS22-0248 - John A. Hummel - Case Closed Letter 12-15-2022.docx

12/15/2022 **Notice of Case Closure Mailed to Target**
Original Event: Outgoing Mail #1671
To: Richard Allen Mort
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 114348; PS22-0248 - Richard A. Mort - Case Closed Letter 12-15-2022.docx

Chain of Custody

07/11/2022 **Sample 22-4-0265 7**
Original Event: Chain of Custody #2042 (22-4-0265 7)
07/11/2022 11:00: Sample Collected by Paul Jay Kelley
07/12/2022 09:48: Sample Delivered to Kylo
07/13/2022 09:22: Delivery Affirmed by Vicki Vauters

07/11/2022 **Sample 22-4-0266 1**
Original Event: Chain of Custody #2043 (22-4-0266 1)
07/11/2022 11:00: Sample Collected by Paul Jay Kelley
07/12/2022 09:48: Sample Delivered to Kylo
07/13/2022 09:22: Delivery Affirmed by Vicki Vauters

07/11/2022 **Sample 22-4-0267 4**
Original Event: Chain of Custody #2044 (22-4-0267 4)
07/11/2022 11:00: Sample Collected by Paul Jay Kelley
07/12/2022 09:48: Sample Delivered to Kylo
07/13/2022 09:22: Delivery Affirmed by Vicki Vauters

07/11/2022 **Sample 22-4-0268 8**
Original Event: Chain of Custody #2045 (22-4-0268 8)
07/11/2022 11:00: Sample Collected by Paul Jay Kelley
07/12/2022 09:48: Sample Delivered to Kylo
07/13/2022 09:22: Delivery Affirmed by Vicki Vauters

07/11/2022 **Sample 22-4-0269 0**
Original Event: Chain of Custody #2046 (22-4-0269 0)
07/11/2022 11:00: Sample Collected by Paul Jay Kelley
07/12/2022 09:48: Sample Delivered to Kylo
07/13/2022 09:22: Delivery Affirmed by Vicki Vauters

07/11/2022 **Sample 22-4-0270 7**
Original Event: Chain of Custody #2047 (22-4-0270 7)
07/11/2022 11:00: Sample Collected by Paul Jay Kelley
07/12/2022 09:48: Sample Delivered to Kylo
07/13/2022 09:22: Delivery Affirmed by Vicki Vauters

07/11/2022 **Sample 22-4-0271 1**
Original Event: Chain of Custody #2048 (22-4-0271 1)
07/11/2022 11:00: Sample Collected by Paul Jay Kelley
07/12/2022 09:48: Sample Delivered to Kylo
07/13/2022 09:22: Delivery Affirmed by Vicki Vauters

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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

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In Re: Case PS22-0306

Department	Pesticide
Originated	07/18/2022
Assigned To	Andrew R. Roth
Status	Closed

Involved Parties

Complainant	Anonymous
Respondent Issued To	Landscape Solutions LLC Noblesville, IN 46060

Overviews

10/13/2022 **Investigation Summary**

I responded to an anonymous complaint regarding leaking containers and emptying or dumping of herbicides at the business location of Landscape Solutions. No one with knowledge of the pesticide area was available at the time. I found no leaking containers and there was no creek at the site. However, I observed a 250-gallon tote of Lesco Three-Way herbicide with no secondary containment. I spoke with chemical department manager Drew Fleagle on the phone and informed him of my preliminary findings. He indicated herbicides are not normally purchased in totes but they were this year due to availability. He agreed to meet at the site when I was available.

Two days later, on July 22, Mr. Fleagle called and reported company president Josh Harvey ordered two spill containment pallets and they had been delivered and installed.

On July 25, I spoke with Mr. Harvey who confirmed this is the first year herbicides were purchased in totes. He also indicated he thought totes could be stored on a concrete floor as long as there were no drains and he took immediate action to come into compliance. I then met Mr. Fleagle at the site and walked the property. Two empty totes outside the building had been rinsed and were not leaking. There was a drain outlet toward the back of the property which drained the outdoor truck dock area. Vegetation around the drain was dead but did not appear to be the result of runoff. Mr. Fleagle indicated the area around the outlet is sprayed with Roundup to prevent the drain from backing up. No other vegetation in the area exhibited herbicide symptoms.

Mr. Harvey later forwarded a statement regarding the allegations in the anonymous complaint. He also forwarded the sales order for the herbicide totes which had a requested delivery date of October 4, 2021.

Submitted By: Andrew R. Roth
Role: Investigator

10/21/2022 **Disposition Summary**

Landscape Solutions LLC was cited for five (5) counts of violation of section 52 of the Indiana Pesticide Registration Law, specifically 355 IAC 5-4-1(a), for storing bulk pesticides outside of secondary containment. A civil penalty in the amount of \$2,500.00 (5 counts x \$500.00 per count) was assessed. However, the civil penalty was reduced to \$1,500.00. Consideration was given to the fact Landscape Solutions LLC cooperated during the investigation and corrective action was taken.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

07/08/2022 **Intake Referral Filed**

Anonymous complainant wrote: Multiple chemicals from weed control to fertilizer are being dumped and/or emptied on the property where there is a free flowing creek. Dirt, debris and trash are also dumped and thrown out. Two 300 gallon 2.4-d Threeway containers are open and leaking into creek.

Original Event:	Intake Referral (Pesticide) #2653
Complainant:	Anonymous
Respondent:	Landscape Solutions LLC
Submitted By:	Joseph D. Becovitz
Assigned To:	Andrew R. Roth

07/18/2022 **Case Created**

Original Event:	Case PS22-0306
Submitted By:	Joseph D. Becovitz
Assigned To:	Andrew R. Roth

07/20/2022 **Investigator Met with Business Communication**

On July 20, I went to Landscape Solutions and spoke with James Seely as he exited the building. I informed him of the complaint and he explained that the people I needed to see were not there. He indicated he was in sales and was not familiar with the pesticide area of the operation. We walked through the pesticide storage area where I observed a 250-gallon tote of Lesco Three-Way Selective Herbicide (EPA Reg#10404-43) on a concrete floor which was not curbed and did not appear to be sloped. Two empty totes, which appeared to have been rinsed, were on gravel outside the back of the building. The back of the property sloped toward a collection swale with thick vegetation. Vegetation around a drain outlet toward the southwest corner of the property appeared to have been sprayed. Mr. Seely provided phone numbers for chemical department manager, Drew Fleagle, and company president, Josh Harvey, and forwarded my contact information to them.

I left the facility and later in the day spoke with Mr. Fleagle. I explained that I needed to meet with him for the on-site investigation. We discussed the tote and the requirement for bulk containers, designed to hold more than 55 gallons of pesticide, to have secondary containment. He reported the company does not normally buy herbicides in bulk quantities but did so this year due to price and availability. During our discussion he reported someone from the City of Noblesville had also been out to inspect the site on July 19.

I was then assigned a human exposure case which I investigated the next day. A day later, on July 22, I spoke with Mr. Fleagle who reported that after we spoke two days prior, Mr. Harvey purchased two spill containment pallets and they were delivered on July 21. The tote I observed out of containment was reportedly placed on the pallet and was already in compliance.

Original Event:	Investigation Activity (Pesticide) #5103
Subject:	Landscape Solutions LLC
Submitted By:	Andrew R. Roth

07/25/2022 **Investigator Met with Business Interaction**

On July 25, I spoke with Josh Harvey who was out of state. I described what I saw at the site in reference to the complaint, including the totes, the drain outlet and the dead vegetation. He confirmed the company has not purchased totes of herbicide prior to this year. I requested documentation which would identify when the totes were received. Mr. Harvey explained the drain outlet carries water directly from the outdoor truck dock where no herbicides are used or stored. He stated the vegetation around the drain outlet is sprayed to enable water to flow freely; vegetation at the back of the property is also occasionally sprayed to keep it out of the gravel area. There had been no leaks or discharges of herbicides to his knowledge.

I then met Mr. Fleagle at the site. I issued a Notice of Inspection and an Action Order to document the tote was being stored out of containment at the time of my first visit. We looked at the area around the empty totes which showed no signs of leaks or spills. Vegetation in the south fence line, downhill from the totes was green and healthy. Mr. Fleagle confirmed the area around the drain outlet and the edge of the gravel to the west was sprayed with Roundup. The area of dead vegetation near the drain outlet was confined and did not appear to be caused by runoff or a herbicide discharge. Further, growth-regulator herbicide (Three-Way) symptoms were not observed on vegetation at the site.

Photographs

Photos of the site during the on-site investigation July 25.

Attachments



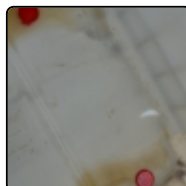
File 103686



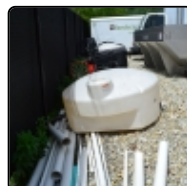
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File 103688



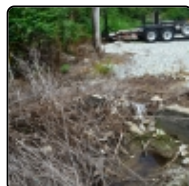
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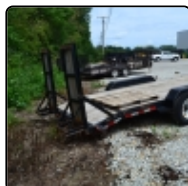
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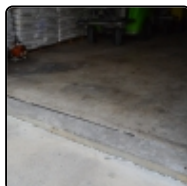
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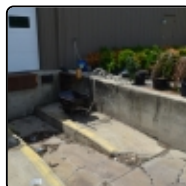
File 103692



File 103693



File 103694



File 103695

Original Event: Investigation Activity (Pesticide) #5149
Subject: Landscape Solutions LLC
Submitted By: Andrew R. Roth

07/25/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1086
Client: Landscape Solutions LLC
Firm Representative: Drew Fleagle
Submitted By: Andrew R. Roth
Photos:



File 103696

07/25/2022 **Action Order Issued**

Stop storing bulk pesticides at this location until the indicated bulk storage requirements have been met.

Original Event: Action Order #268
Issued To: Landscape Solutions LLC
Firm Representative: Drew Fleagle
Submitted By: Andrew R. Roth
Photos:



File 103698

08/02/2022 **Investigator Received Fax/Email from Business Statement**

On August 2, I received an emailed statement from Josh Harvey regarding the complaint and herbicide totes. I requested shipping information to determine how long the totes were at the facility.

Attachments

File 104353; 22-0306Statement.pdf

Records

Mr. Harvey was unable to find a shipping document but provided an invoice indicating three (3) totes of Three-Way were ordered in September 2021. The requested delivery date on the order was October 4, 2021.

Attachments

File 105551; 22-0306shipping.pdf

Original Event: Investigation Activity (Pesticide) #5215
Subject: Landscape Solutions LLC
Submitted By: Andrew R. Roth

10/21/2022 **Judgement; Civil Penalty Assessed Civil Penalty**

Landscape Solutions LLC was cited for five (5) counts of violation of section 52 of the Indiana Pesticide Registration Law, specifically 355 IAC 5-4-1(a), for storing bulk pesticides outside of secondary containment. A civil penalty in the amount of \$2,500.00 (5 counts x \$500.00 per count) was assessed. However, the civil penalty was reduced to \$1,500.00. Consideration was given to the fact Landscape Solutions LLC cooperated during the investigation and corrective action was taken.

Original Event: Judgement #1385
Primary: Landscape Solutions LLC
Submitted By: George Saxton
Legal Citation: 355 IAC 5-4-1(a)
Penalty Amount: 1500

11/17/2022 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #1592
To: Landscape Solutions LLC
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8964
Enclosed: Notice of Enforcement
Attachments: File 113353; PS22-0306EL_CP Mitigated_Landscape Solutions LLC.docx

11/23/2022 **Received Mail Confirmation for Target**
Original Event: Compliance Receipt #1826
Subject: Landscape Solutions LLC
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8964
Received: 11/23/2022
Attachments: File 114083; CM 7021 0950 0000 0607 8964 - Landscape Solutions LLC - PS22-0306 - Received 11-23-2022.pdf

12/02/2022 **Received Penalty Payment for Target**
Original Event: Compliance Receipt #1809
Subject: Landscape Solutions LLC
Submitted By: Jacob A. Hatfield
Payment Expected: \$1,500.00
Payment Received: \$1,500.00
Attachments: File 113902; PS22-0306 - Landscape Solutions - CP Received 12-2-2022.pdf

12/09/2022 **Notice of Case Closure Mailed to Target**
Original Event: Outgoing Mail #1654
To: Landscape Solutions LLC
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 114085; PS22-0306 - Landscape Solutions LLC - Case Closed Leter 12-9-2022.docx

Chain of Custody

No electronic chain of custody (CoC) found. Refer to paper CoC in instances where samples were collected.

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

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In Re: Case PS22-0390

Department	Pesticide
Originated	08/21/2022
Assigned To	Nathan J. Davis
Status	Closed

Involved Parties

Complainant	Office of Indiana State Chemist	
Respondent	Country Oaks Golf Club Montgomery, IN 47558	
Respondent Issued To	Victor Max Nickless Montgomery, IN 47558	Unlicensed Applicator

Overviews

09/07/2022 **Investigation Summary**

Country Oaks Golf Club attempted to renew their 2022 license but could not because the certification for their only certified applicator had expired.

I met with course superintendent Victor Nickless. I advised Mr. Nickless his category 3b - Turf Management certification expired on December 31, 2021. According to Mr. Nickless' application records he made a total of 9 unlicensed applications in 2022.

I advised Mr. Nickless I would be issuing him an Action Order to "Stop pesticide applications on your golf course until you obtain a Category 3b Turf Management pesticide applicator license from OISC".

The evidence in this case indicates the only certified applicator for the Country Oaks Golf Club, Victor Nickless let his certification expire on December 31, 2021, and he then proceeded to make 9 unlicensed applications in 2022 at the Country Oaks Golf Club.

Submitted By: Nathan J. Davis
Role: Investigator

09/12/2022 **Disposition Summary**

Country Oaks Golf Club was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for knowingly applying pesticides to a golf course without having a pesticide applicator license.

Victor Max Nickless was cited for five (5) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for knowingly applying pesticides to a golf course without having a pesticide applicator license. A civil penalty in the amount of \$5,000.00 (5 counts x \$1,000.00 per count) was assessed.

However, \$4,000.00 of the civil penalty will be held in abeyance and not assessed for a period of two (2) years provided Mr. Nickless obtains his applicator license and commits no further violations of the Indiana Pesticide Use and Application Law within those two years of this notice.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

08/19/2022 **Intake Referral Filed**

Country Oaks Golf Club attempted to renew their 2022 license, but could not because the certification for their only certified applicator had expired.

Original Event: Intake Referral (Pesticide) #2736
Complainant: Office of Indiana State Chemist
Respondent: Country Oaks Golf Club
Submitted By: Joseph D. Becovitz
Assigned To: Nathan J. Davis
Attachments: File 106815; Country Oaks Golf.pdf

08/21/2022 **Case Created**

Original Event: Case PS22-0390
Submitted By: Joseph D. Becovitz
Assigned To: Nathan J. Davis

08/31/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1168
Client: Country Oaks Golf Club
Firm Representative: Victor Nickless
Submitted By: Nathan J. Davis
Attachments: File 108405; NOI-Country Oaks 8-31-2022.pdf

08/31/2022 **Investigator Met with Business Interaction**

On August 31, 2022 I went to Country Oaks Golf Club located in Montgomery, Indiana. I met with course superintendent Victor Nickless. I advised Mr. Nickless that he failed to either retake the exam or obtain the required amount of continuing credit hours for his Category 3b - Turf Management certifications prior to December 31, 2021 and therefore his certification expired on December 31, 2021. I advised Mr. Nickless any applications made at Country Oaks Golf Club after December 31, 2021 were unlicensed applications, as he was the only certified applicator assigned to the golf course. Mr. Nickless supplied me with his application records for the year 2022. According to the application records Mr. Nickless made a total of 9 unlicensed applications in 2022.

I advised Mr. Nickless I would be issuing him an **Action Order** to "*Stop pesticide applications on your golf course until you obtain a Category 3b Turf Management pesticide applicator license from OISC*".

Mr. Nickless advised he has been studying for the Category 3b - Turf Management exam and was planning on taking the exam as soon as he was ready. Mr. Nickless advised his plan was to have the neighboring course superintendent at High Pointe Country Club be assigned to Country Oaks Golf Club until he could complete the exam and reobtain his certification. I advised Mr. Nickless the licensing process on this and also the supervision requirements for this type of arrangement.

Original Event: Investigation Activity (Pesticide) #5335
Subject: Country Oaks Golf Club
Submitted By: Nathan J. Davis

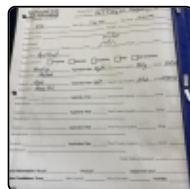
08/31/2022 **New Respondent Identified**

Original Event: Investigation Change #245
Respondent: Victor Max Nickless
Submitted By: Nathan J. Davis

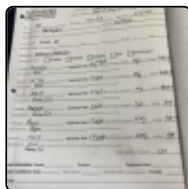
08/31/2022 **Investigator Met with Applicator Records**

The application records supplied to me by Mr. Nickless for applications made in 2022 to the Country Oaks Golf Club.

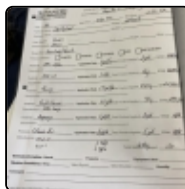
Attachments



File 108446



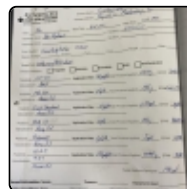
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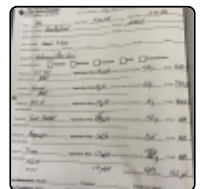
File 108439



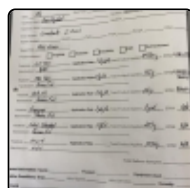
File 108440



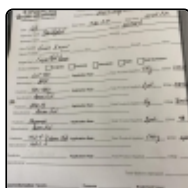
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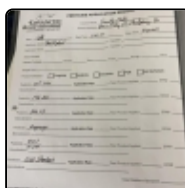
File 108442



File 108443



File 108444



File 108445

Original Event: Investigation Activity (Pesticide) #5337
Subject: Victor Max Nickless
Submitted By: Nathan J. Davis

08/31/2022 **Action Order Issued**

Stop pesticide applications on your golf course until you obtain a category 3b (turf management) Pesticide Applicator License from OISC.

Original Event:	Action Order #272
Issued To:	Victor Max Nickless
Firm Representative:	Victor Nickless
Submitted By:	Nathan J. Davis
Attachments:	File 108433; AO-Country Oaks 8-31-2022.pdf

08/31/2022 **Investigation Activity**
Activity

The evidence in this case indicates the only certified applicator for the Country Oaks Golf Club, Victor Nickless let his certification expire on December 31, 2021 and he then proceeded to make 9 unlicensed applications in 2022 at the Country Oaks Golf Club.

Original Event:	Investigation Activity (Pesticide) #5336
Subject:	Victor Max Nickless
Submitted By:	Nathan J. Davis

09/12/2022 **Judgement; Civil Penalty Assessed**
Citation

Country Oaks Golf Club was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for knowingly applying pesticides to a golf course without having a pesticide applicator license.

Civil Penalty

Victor Max Nickless was cited for five (5) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for knowingly applying pesticides to a golf course without having a pesticide applicator license. A civil penalty in the amount of \$5,000.00 (5 counts x \$1,000.00 per count) was assessed.

Abeyance

However, \$4,000.00 of the civil penalty will be held in abeyance and not assessed for a period of two (2) years provided Mr. Nickless obtains his applicator license and commits no further violations of the Indiana Pesticide Use and Application Law within those two years of this notice.

Original Event:	Judgement #1350
Primary:	Country Oaks Golf Club
Secondary:	Victor Max Nickless
Submitted By:	George Saxton
Legal Citation:	357 IAC 1-15-2
Penalty Amount:	5000

09/14/2022 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #1291
To:	Country Oaks Golf Club
Submitted By:	Joni D. Herman
USPS:	7021 0950 0000 0607 8452
Enclosed:	Notice of Enforcement
Attachments:	File 109138; PS22-0390EL CIT ~ Country Oaks Golf Club.docx

09/14/2022 **Notice of Enforcement Mailed to Target**

Original Event:	Outgoing Mail #1292
To:	Victor Max Nickless
Submitted By:	Joni D. Herman
USPS:	7021 0950 0000 0607 8469
Enclosed:	Notice of Enforcement
Attachments:	File 109139; PS22-0390EL CP - Partial Abeyance ~ Victor M. Nickless.docx

09/22/2022 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #1711
Subject:	Victor Max Nickless
Submitted By:	Jacob A. Hatfield
USPS:	7021 0950 0000 0607 8469
Received:	09/22/2022
Attachments:	File 110512; CM 7021 0950 0000 0607 8469 - PS22-0390 - 9-22-2022.pdf

09/24/2022 **Received Mail Confirmation for Target**

Original Event:	Compliance Receipt #1747
Subject:	Country Oaks Golf Club
Submitted By:	Jacob A. Hatfield
USPS:	7021 0950 0000 0607 8452
Received:	09/24/2022
Attachments:	File 110848; CM 7021 0950 0000 0607 8452 - PS22-0390 - 9-24-2022.pdf

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

Original Event:	Compliance Receipt #1744
Subject:	Victor Max Nickless
Submitted By:	Jacob A. Hatfield
Payment Expected:	\$1,000.00
Payment Received:	\$1,000.00
Attachments:	File 110778; PS22-0390 - Victor M. Nickless - CP 10-3-2022.pdf

10/28/2022 **Notice of Case Closure Mailed to Target**

Original Event:	Outgoing Mail #1513
To:	Country Oaks Golf Club
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 112254; PS22-0390 - Country Oaks Golf Club - Case Closed Letter 10-28-2022.docx

10/28/2022 **Notice of Case Closure Mailed to Target**

Original Event:	Outgoing Mail #1514
To:	Victor Max Nickless
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 112255; PS22-0390 - Victor M. Nickless - Case Closed Letter 10-28-2022.docx

Chain of Custody

No electronic chain of custody (CoC) found. Refer to paper CoC in instances where samples were collected.

<p>This record was generated on November 14, 2022, 02:19 PM EST. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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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 **January 19, 2023, 03:39 PM 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 PS22-0395

Department	Pesticide
Originated	08/23/2022
Assigned To	Paul Jay Kelley
Status	Closed

Involved Parties

Complainant	Kevin M Bedel Greensburg, IN 47240
Respondent	Tony Holtkamp Greensburg, IN 47240
Respondent	William H Holtkamp Greensburg, IN 47240

Overviews

10/11/2022 **Investigation Summary**

Complainant alleged that Anthony Holtkamp made a pesticide application with dicamba to a neighboring dicamba soybean field that impacted two of his Enlist soybean fields.

Symptoms to both of Mr. Bedel's Enlist soybean fields showed cupped leaves with white tips/

PPDL confirmed the visual symptoms to the Enlist soybeans characteristic of dicamba.

OISC's Residue Lab confirmed dicamba in target field and in one sample (sample #22-4-0293 1) on Mr. Bedel's Enlist soybeans.

Wind data from 3 triangulated weather stations indicated the wind was out of the south, southwest at 8.05-17.25 mph with gust to 24.15 mph blowing toward Mr. Bedel's Enlist soybeans.

Temperature was documented at 87.8 - 95 degrees.

Mr. Holtkamp stated he made the application. He does not hold a certified applicators license with OISC.

Mr. Holtkamp stated on his PII and in conversation that he made the application July 20, 2022, after the June 20, 2022, Indiana cutoff date.

label language for Rifle states, "Avoid making applications when spray particles may be carried by air currents to areas where sensitive plants are growing, or when temperature inversions exist. Do not spray near sensitive plants if wind is gusty or in excess of 5 mph and moving in the direction of adjacent sensitive plants."

Rifle label language states, "Do not apply RIFLE HERBICIDE adjacent to sensitive crops when the temperature on the day of application is expected to exceed 85F as drift is more likely to occur."

Submitted By: Paul Jay Kelley

Role: Investigator

Drift: Confirmed

10/13/2022 **Disposition Summary**

Tony Holtkamp was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was an adverse effect.

Tony Holtkamp was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without a license or permit or having someone with a license or permit supervising the application. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Tony Holtkamp was cited for violation of section 59(5) of the Indiana Pesticide Registration Law for using a highly volatile herbicide without written permission by the state chemist. A civil penalty in the amount of \$250.00 was assessed for this violation.

William H. Holtkamp was cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for aiding a person to evade the licensing requirements for use of restricted use pesticides. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

08/23/2022 Intake Referral Filed

Complainant stated an application of dicamba made to a neighboring farm field injured his Enlist soybeans.

Original Event: Intake Referral (Pesticide) #2741
Complainant: Kevin M Bedel
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: Paul Jay Kelley

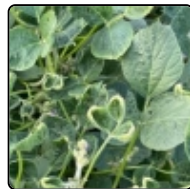
08/23/2022 Case Created

Original Event: Case PS22-0395
Submitted By: Joseph D. Becovitz
Assigned To: Paul Jay Kelley

08/24/2022 Investigator Called Complainant Photographs

On August 24, 2022, I spoke with Kevin Bedel. Mr. Bedel stated that sometime in early August an application was made to a neighboring farm field that caused dicamba symptoms on his enlist soybeans. Mr. Bedel stated Kyle or Tony Holtkamp made applications to the neighboring field.

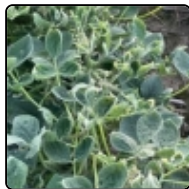
Attachments



File 107519



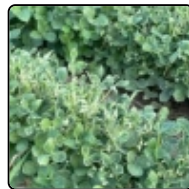
File 107520



File 107521



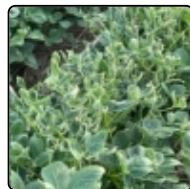
File 107522



File 107523



File 107524



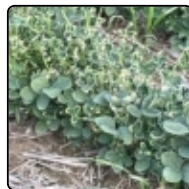
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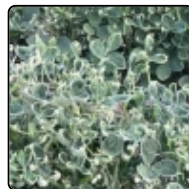
File 107526



File 107527



File 107528



File 107529



File 107530

Original Event: Investigation Activity (Pesticide) #5281
Subject: Kevin M Bedel
Submitted By: Paul Jay Kelley

08/30/2022 External Lab Sample Collected

Original Event: External Lab Sample Collection #241789 (X22-ACE515)
Client: Kevin M Bedel
Submitted By: Paul Jay Kelley
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X22-ACE515 | Enlist soybean
Attachments: File 107720; PPDL form.pdf

08/30/2022 Investigator Met with Complainant Photographs

On August 30, 2022, I met with Kevin Bedel and Jim Kunz. Both farmers stated they believe they have dicamba injury to their Enlist soybeans from a possible application by Tony Koltkamp to an adjacent Dicamba field bordering both Bedel's enlist soybean field and Kunz Enlist soybean field. Mr. Holtkamp stated he made "spot" application to the edge, corners, and low areas of an adjacent dicamba field using Rifle (EPA Reg. 34704-861, active ingredient dicamba). Symptoms nearest application site appear to be heavier and get less moving away. Symptoms include stunted, cupped leaves with white tips.

I photographed all impacted fields and collected a vegetation sample for Purdue's Plant and Pest diagnostic lab (PPDL) to make a visual analysis. Furthermore, I collected investigative samples for OISC's Residue Lab.

Attachments



File 107721



File 107722



File 107723



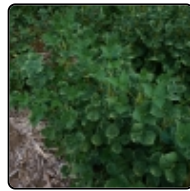
File 107724



File 107725



File 107726



File 107727



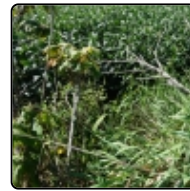
File 107728



File 107729



File 107730



File 107757



File 107758



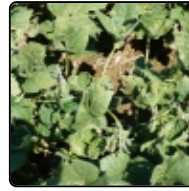
File 107759



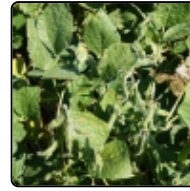
File 107760



File 107761



File 107762



File 107763



File 107764



File 107765



File 107766



File 107767



File 107768



File 107769



File 107770



File 107771



File 107772

Screenshots

Site Diagram showing sample collection and showing a representation of Mr. Holtkamp's application based off of a diagram submitted by Mr. Holtkamp

Attachments

File 111185; Site Diagram.pdf

Original Event: Investigation Activity (Pesticide) #5304
Subject: Kevin M Bedel
Submitted By: Paul Jay Kelley

08/30/2022 Notice of Inspection Issued

Original Event: Notice of Inspection #1157
Client: Kevin M Bedel
Firm Representative: Kevin Bedel
Submitted By: Paul Jay Kelley
Attachments: File 107731; noi.pdf

08/30/2022 Investigator Called Target Communication

On August 30, 2022, I spoke with Tony Holtkamp. Mr. Holtkamp stated he applied Rifle (EPA Reg. 34704-861, active ingredient dicamba) as a "spot" application to the edge, corners, and low areas of an adjacent dicamba field. Mr. Holtkamp stated he had in fact drift onto the neighbors Enlist soybeans (Kunz and Bedel). Mr. Holtkamp stated he told Kunz and Bedel to contact his insurance agent. Mr. Holtkamp stated he made the application around July 20, 2022. I left copies of a PII for Mr. Holtkamp to complete and return. In addition, the cutoff date in Indiana to apply dicamba products is June 20, 2022.

Records

On September 6, 2022, Tony Holtkamp emailed me a copy of the PII. Mr. Holtkamp documented he applied Rifle Herbicide (EPA Reg. #34704-861, active ingredient dicamba) on July 20, 2022. Mr. Holtkamp documented the wind was out of the west at less than 10 mph. Mr. Holtkamp listed the certified supervisor as William Holtkamp. However, William Holtkamp was not present during application.

Attachments

File 110269; Scan_20220906 (2).png
File 110270; Scan_20220906 (3).png
File 110271; Scan_20220906_2 (2).png
File 110272; Scan_20220906_2.png
File 110273; Scan_20220906_3.pdf

Original Event: Investigation Activity (Pesticide) #5307
Subject: Tony Holtkamp
Submitted By: Paul Jay Kelley

08/30/2022 Residue Samples Collected

Original Event: Residue Collection #241796 (22-4-0287 9)
Client: Kevin M Bedel
Submitted By: Paul Jay Kelley
Sample: 22-4-0287 9 | Veg; Ctrl; OFF-T
Sample: 22-4-0288 0 | Veg; Comp; Target, NE
Sample: 22-4-0289 8 | Veg; Comp; OFF-T, Grad1, 160yd
Sample: 22-4-0290 8 | Veg; Comp; OFF-T, Grad2, 260yd
Sample: 22-4-0291 2 | Veg; Comp; OFF-T, Grad3, 375yd
Sample: 22-4-0292 0 | Veg; Comp; Target, N
Sample: 22-4-0293 1 | Veg; Comp; OFF-T, Grad1, 5yd
Sample: 22-4-0294 9 | Veg; Comp; OFF-T, Grad2, 50yd
Sample: 22-4-0295 4 | Veg; Comp; OFF-T, Grad3, 100yd

08/30/2022 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #664
Submitted By: Paul Jay Kelley
Target Analyte: rifle
PPLS Labels: [034704-00861-20100129.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00861-20100129.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/034704-00861-20100129.pdf

Attachments: File 111181; RIFLE HERBICIDE (INDIANA RESTRICTED USE PESTICIDE).pdf

09/05/2022 Received External Lab Report

Original Event: External Lab Report #242217 (X22-ACE515)
Submitted By: Paul Jay Kelley
Sample: X22-ACE515
Attachments: File 108341; FinalReport_Jay Kelley.pdf

09/09/2022 Investigator Received Fax/Email from Subject Activity

On September 9, 2022, I received and email from Nancie Buch, Claims Rep. for Indiana Farmers Insurance request to receive information regarding this case.

Attachments

File 108658; claim 1215652- Holtkamp.msg.pdf

Original Event: Investigation Activity (Pesticide) #5343
Subject: Nancie Bush
Submitted By: Paul Jay Kelley

09/30/2022 Received Residue Lab Report

First Page of Lab Report

OCM Collection #	241796	Investigator	KELLEYJ		
Collection Date	08/30/2022				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
22-4-0287 9	Veg; Ctrl; OFF-T	Veg	5OH-Dicamba	BDL ppb	0.7 ppb
			DCSA	BDL ppb	0.3 ppb
			Dicamba	BDL ppb	3 ppb
22-4-0288 0	Veg; Comp; Target, NE	Veg	5OH-Dicamba	97.3 ppb	0.7 ppb
			DCSA	BDL ppb	0.3 ppb
			Dicamba	10600 ppb * Minimum detected amount reported	3 ppb
22-4-0289 8	Veg; Comp; OFF-T, Grad1, 160yd	Veg	5OH-Dicamba	BDL ppb	0.7 ppb
			DCSA	BDL ppb	0.3 ppb
			Dicamba	BDL ppb	3 ppb
22-4-0290 8	Veg; Comp; OFF-T, Grad2, 260yd	Veg	5OH-Dicamba	BDL ppb	0.7 ppb
			DCSA	BDL ppb	0.3 ppb
			Dicamba	BDL ppb	3 ppb

Original Event: Residue Lab Report #245131 (241796-R657)
Submitted By: SYSTEM
Lab Report: Lab Report 241796-R657.pdf

10/11/2022 Wind Data Researched

Weather data from, <https://mesonet.agron.iastate.edu/>, indicated that weather on July 20, 2022, indicated the temperature during Mr. Holtkamp's application was registered 89-95 degrees. Furthermore, wind documented by three triangulated airport wind station listed wind out of the south and southwest at 8-17.25 mph with gust to 24.15 mph blowing toward Mr. Bedel's property.

Columbus airport-BAK

Columbus, Indiana (26 miles SW of site)

Time Temp (°F) Direction Speed (mph)

545p 89.60 S 17.25
645p 93.20 S 12.65
745pm 95 SW 13.80

Shelbyville airport-GEZ

Shelbyville, Indiana (30 miles NW of site)

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

500pm 91 SW 17.25
553pm 91.9 SSW 17.25 23
653pm 91 WSW 16.10 24.15

Batesville airport-HLB

Batesville, Indiana (11 miles NE of site)

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

535pm 87.80 S 10.35 16.10
555pm 89.60 WSW 9.20 14.95
655pm 89.60 SW 8.05 16.10

Attachments

File 111169; asos.txt

Original Event: Wind Data #134
Submitted By: Paul Jay Kelley
Date of Weather: 07/20/2022

10/11/2022 Investigation Activity

Activity

Label language for Rifle states in part, "Avoid making applications when spray particles may be carried by air currents to areas where sensitive plants are growing, or when temperature inversions exist. Do not spray near sensitive plants if wind is gusty or in excess of 5 mph and moving in the direction of adjacent sensitive plants." In addition, the rifle label states, "Do not apply RIFLE HERBICIDE adjacent to sensitive crops when the temperature on the day of application is expected to exceed 85F as drift is more likely to occur."

Furthermore, Rifle is a Restricted Use Pesticide (RUP) in Indiana due to the active ingredient being dicamba. RUP's require a certified applicator license issued by OISC for use. Mr. Holtkamp does not have a license or credential issued by OISC.

Attachments

File 111182; RIFLE HERBICIDE (INDIANA RESTRICTED USE PESTICIDE).pdf

Original Event: Investigation Activity (Pesticide) #5489
Subject: Kevin M Bedel
Submitted By: Paul Jay Kelley

10/12/2022 Judgement; Civil Penalty Assessed

Civil Penalty

Tony Holtkamp was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was an adverse effect.

Civil Penalty

Tony Holtkamp was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without a license or permit or having someone with a license or permit supervising the application. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Civil Penalty

Tony Holtkamp was cited for violation of section 59(5) of the Indiana Pesticide Registration Law for using a highly volatile herbicide without written permission by the state chemist. A civil penalty in the amount of \$250.00 was assessed for this violation.

Civil Penalty

William H. Holtkamp was cited for violation of section 65(13) of the Indiana Pesticide Use and Application Law for aiding a person to evade the licensing requirements for use of restricted use pesticides. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Original Event: Judgement #1379
Primary: Tony Holtkamp
Secondary: William H Holtkamp
Submitted By: George Saxton
Legal Citations: IC 15-16-5-65(2); IC 15-16-5-65(10); IC 15-16-4-59(5); IC 15-16-5-65(13)
Penalty Amount: 3250

10/17/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1484
To: Tony Holtkamp
Submitted By: Joni D. Herman
USPS: 7021 0950 0000 0607 8827
Enclosed: Notice of Enforcement
Attachments: File 111684; PS22-0395EL CP ~ Tony Holtkamp.docx

10/17/2022 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #1485
To: William H Holtkamp
Submitted By: Joni D. Herman
USPS: 7021 0950 0000 0607 8834
Enclosed: Notice of Enforcement
Attachments: File 111685; PS22-0395EL CP ~ William H. Holtkamp.docx

10/25/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1791
Subject: Tony Holtkamp
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8827
Received: 10/25/2022
Attachments: File 112527; CM 7021 0950 0000 0607 8827 - PS22-0395 - 10-25-2022.pdf

10/27/2022 Received Mail Confirmation for Target

Original Event: Compliance Receipt #1790
Subject: William H Holtkamp
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 8834
Received: 10/27/2022
Attachments: File 112526; CM 7021 0950 0000 0607 8834 - PS22-0395 - 10-27-2022.pdf

11/08/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1795
Subject: William H Holtkamp
Submitted By: Jacob A. Hatfield
Payment Expected: \$1,000.00
Payment Received: \$1,000.00
Attachments: File 112706; PSS22-0395 - William H. Holtkamp - CP Received 11-7-2022.pdf

11/18/2022 Received Penalty Payment for Target

Original Event: Compliance Receipt #1805
Subject: Tony Holtkamp
Submitted By: Jacob A. Hatfield
Payment Expected: \$2,250.00
Payment Received: \$2,250.00
Attachments: File 113391; PS22-0395 - Tony Holtkamp - 11-18-2022.pdf

11/21/2022 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #1611
To: Kevin M Bedel
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113430; PS22-0395 - Kevin M. Bedel - Case Closed Leter 11-21-2022.docx

11/21/2022 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #1612
To: Tony Holtkamp
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113431; PS22-0395 - Tony Holtkamp - Case Closed Leter 11-21-2022.docx

11/21/2022 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #1613
To: William H Holtkamp
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113432; PS22-0395 - William H. Holtkamp - Case Closed Leter 11-21-2022.docx

11/21/2022 Notice of Case Closure Mailed to Subject

I included Nancie Bush for a case closed letter based off Investigation Activity (Pesticide) #5342 on case PS22-0391. Nancie is the Claims Rep for Tony Holtkamp. I'm assuming she'll want a letter for both cases Mr. Holtkamp was involved with.

Original Event: Outgoing Mail #1614
To: Nancie Bush
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 113433; PS22-0395 - Nancie Bush - Case Closed Leter 11-21-2022.docx

Chain of Custody**08/30/2022 Sample 22-4-0287 9**

Original Event: Chain of Custody #2835 (22-4-0287 9)
08/30/2022 10:00: Sample Collected by Paul Jay Kelley
08/31/2022 09:58: Sample Delivered to Kylo
08/31/2022 13:27: Delivery Affirmed by Vicki L. Vauters

08/30/2022 Sample 22-4-0288 0

Original Event: Chain of Custody #2836 (22-4-0288 0)
08/30/2022 10:00: Sample Collected by Paul Jay Kelley
08/31/2022 09:58: Sample Delivered to Kylo
08/31/2022 13:27: Delivery Affirmed by Vicki L. Vauters

08/30/2022 Sample 22-4-0289 8

Original Event: Chain of Custody #2837 (22-4-0289 8)
08/30/2022 10:00: Sample Collected by Paul Jay Kelley
08/31/2022 09:58: Sample Delivered to Kylo
08/31/2022 13:27: Delivery Affirmed by Vicki L. Vauters

08/30/2022 Sample 22-4-0290 8

Original Event: Chain of Custody #2838 (22-4-0290 8)
08/30/2022 10:00: Sample Collected by Paul Jay Kelley
08/31/2022 09:58: Sample Delivered to Kylo
08/31/2022 13:27: Delivery Affirmed by Vicki L. Vauters

08/30/2022	Sample 22-4-0291 2	
	Original Event:	Chain of Custody #2839 (22-4-0291 2)
	08/30/2022 10:00:	Sample Collected by Paul Jay Kelley
	08/31/2022 09:58:	Sample Delivered to Kylo
	08/31/2022 13:27:	Delivery Affirmed by Vicki L. Vauters

08/30/2022	Sample 22-4-0292 0	
	Original Event:	Chain of Custody #2840 (22-4-0292 0)
	08/30/2022 10:00:	Sample Collected by Paul Jay Kelley
	08/31/2022 09:58:	Sample Delivered to Kylo
	08/31/2022 13:27:	Delivery Affirmed by Vicki L. Vauters

08/30/2022	Sample 22-4-0293 1	
	Original Event:	Chain of Custody #2841 (22-4-0293 1)
	08/30/2022 10:00:	Sample Collected by Paul Jay Kelley
	08/31/2022 09:58:	Sample Delivered to Kylo
	08/31/2022 13:27:	Delivery Affirmed by Vicki L. Vauters

08/30/2022	Sample 22-4-0294 9	
	Original Event:	Chain of Custody #2842 (22-4-0294 9)
	08/30/2022 10:00:	Sample Collected by Paul Jay Kelley
	08/31/2022 09:58:	Sample Delivered to Kylo
	08/31/2022 13:27:	Delivery Affirmed by Vicki L. Vauters

08/30/2022	Sample 22-4-0295 4	
	Original Event:	Chain of Custody #2843 (22-4-0295 4)
	08/30/2022 10:00:	Sample Collected by Paul Jay Kelley
	08/31/2022 09:58:	Sample Delivered to Kylo
	08/31/2022 13:27:	Delivery Affirmed by Vicki L. Vauters

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Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment

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

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In Re: Case PS23-0015

Department	Pesticide
Originated	11/08/2022
Assigned To	Garret A. Creason
Status	Closed

Involved Parties

Complainant	Office of Indiana State Chemist
Facility Respondent	Allegion Indianapolis, IN 46219
Related Facility 1	Schlage

Overviews

11/11/2022 Product Registration Summary

The Producer stated to the Inspector that touch points of the door system are "coated" with the CuVerro I product which acts as a bactericidal finish. The components treated with the CuVerro I product are treated at the Aereus Technologies facility in Ontario, Canada. The components are then shipped to Schlage in Indianapolis to build the door latch assembly.

CuVerro I has two labels: alloy label and fabricated product label. There is no use for CuVerro I as a coating. OISC Staff confirmed with EPA Product Manager Steven Snyderman on 9/30/22 that this is not a use for CuVerro I. A search of CuVerro's website beginning July 11, 2022 had information regarding "CuVerro Shield", a process by which any product could be coated by "CuVerro Technology". CuVerro Shield is not an EPA Registered product, and no other CuVerro products have this use pattern. Making pesticidal claims in advertisements for a non-EPA Registered product is a violation of IC 15-16-4-57(9).

The review of CuVerro website on July 11, 2022 identified multiple false and misleading claims, as outlined in attached website review. There are multiple violations of IC 15-16-4-57(5) and IC 15-16-4-57(9). This website review will also be shared with EPA Region V. OISC noticed on 9/29/22 that the CuVerro website was down, and as of this label review, the website is still down. However, the parent company of CuVerro, Aereus Technology, also has false and misleading claims about the CuVerro products. Aereus Technologies is located in Ontario, Canada.

Submitted By: Victoria J. Matsumura
Role: Product Registration Specialist

11/18/2022 Investigation Summary

On June 24, 2022 I met with Tony Kunkler and Tanya Schnelzer at Allegion to conduct a Producer Establishment Inspection. Allegion has an EPA Est.# for producing pesticide products for the Schlage Brand. Allegion reported producing a door component treated with CuVerro I. At the end of the inspection I informed Mr. Kunkler and Mrs. Schnelzer that I would be working with the OISC Pesticide Registration team to determine registration and work on a path forward with this case.

Schlage is a brand of Allegion. the product produced at this location are door latch components. Touch points of the door system are "coated" with the CuVerro I product which acts as a bactericidal finish. The components treated with the CuVerro I product are treated at the Aereus Technologies facility in Ontario, Canada. The components are then shipped to Schlage in Indianapolis to build the door latch assembly.

A pesticide registration overview found The Producer stated to the Inspector that touch points of the door system are "coated" with the CuVerro I product which acts as a bactericidal finish. The components treated with the CuVerro I product are treated at the Aereus Technologies facility in Ontario, Canada. The components are then shipped to Schlage in Indianapolis to build the door latch assembly. CuVerro I has two labels: alloy label and fabricated product label. There is no use for CuVerro I as a coating. OISC Staff confirmed with EPA Product Manager Steven Snyderman on 9/30/22 that this is not a use for CuVerro I. A search of CuVerro's website beginning July 11, 2022 had information regarding "CuVerro Shield", a process by which any product could be coated by "CuVerro Technology". CuVerro Shield is not an EPA Registered product, and no other CuVerro products have this use pattern. Making pesticidal claims in advertisements for a non-EPA Registered product is a violation of IC 15-16-4-57(9).

The review of CuVerro website on July 11, 2022 identified multiple false and misleading claims, as outlined in attached website review. There are multiple violations of IC 15-16-4-57(5) and IC 15-16-4-57(9). This website review will also be shared with EPA Region V. OISC noticed on 9/29/22 that the CuVerro website was down, and as of this label review, the website is still down. However, the parent company of CuVerro, Aereus Technology, also has false and misleading claims about the CuVerro products. Aereus Technologies is located in Ontario, Canada.

The label review found: NOT Acceptable; Websites have false and misleading claims. Information relayed to the Inspector by the Producer indicated they are selling a different product than what is on the label.

Submitted By: Garret A. Creason
Role: Investigator

11/21/2022 **Disposition Summary**

This case was referred to U.S. E.P.A. for federal review.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/24/2022 **Intake Referral Filed**

Producer Establishment Inspection conducted at Allegion. DBA Schlage Lock Company

Original Event: Intake Referral (Pesticide) #2807
Complainant: Office of Indiana State Chemist
Respondent: Allegion
Entered By: Garret A. Creason
Submitted By: Joseph D. Becovitz

06/24/2022 **Investigator Met with Registrant Communication**

On June 24, 2022 I met with Tony Kunkler and Tanya Schnelzer at Allegion to conduct a Producer Establishment Inspection. Allegion has an EPA Est.# for producing pesticide products for the Schlage Brand. Allegion reported producing a door component treated with CuVerro I. At the end of the inspection i informed Mr. Kunkler and Mrs. Schnelzer that i would be working with the OISC Pesticide Registration team to determine registration and work on a path forward with this case.

Original Event: Investigation Activity (Pesticide) #5581
Subject: Allegion
Submitted By: Garret A. Creason

06/24/2022 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1009
Client: Allegion
Firm Representative: Tony Kunkler
Submitted By: Garret A. Creason
Attachments: File 99905; scan0013.pdf

06/24/2022 **Producer Establishment Inspection Conducted Company Background**

Manufacture and Distribute exit devices and door hardware.

Product: CuVerro I

Schlage is a brand of Allegion. the product produced at this location are door latch components. Touch points of the door system are "coated" with the CuVerro I product which acts as a bactericidal finish. The components treated with the CuVerro I product are treated at the Aereus Technologies facility in Ontario, Canada. The components are then shipped to Schlage in Indianapolis to build the door latch assembly.

Inbound

Aereus Technologies treats the components in Canada.

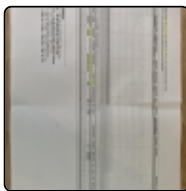
Production

the Kanban code on the production record serves as the Batch ID.

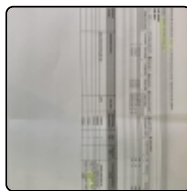
Visit Summary

Add EPA Reg # to the Production Records. Pesticide Registration will conduct a label review of the product.

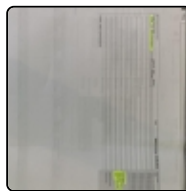
Attachments



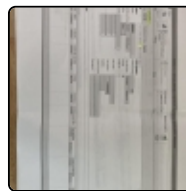
File 99902



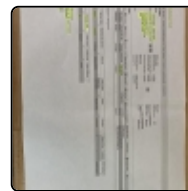
File 99900



File 99901



File 99903



File 99904

File 99899; Project CU IMPORT INVOICE from CA -Invoice #04132022.pdf

File 99896; scan0014.pdf

File 99897; scan0014.pdf

File 99898; scan0015.pdf

Original Event:	Producer Establishment Inspection #65
Facility:	Allegion
Related Facility 1:	Schlage
Firm Representative:	Tony Kunkler
Submitted By:	Garret A. Creason
PPLS Labels:	085353-00001-20130722.pdf https://www3.epa.gov/pesticides/chem_search/ppls/085353-00001-20130722.pdf

10/19/2022 **Label Review Conducted; Not Acceptable**
CuVerro I

NOT Acceptable; Websites have false and misleading claims. Information relayed to the Inspector by the Producer indicated they are selling a different product than what is on the label.

Attachments

File 111851; PEI 63 Allegion label review.pdf

Original Event:	Label Review (Pesticide) #195
Submitted By:	Victoria J. Matsumura
PPLS Labels:	085353-00001-20130722.pdf https://www3.epa.gov/pesticides/chem_search/ppls/085353-00001-20130722.pdf

11/08/2022 **Case Created**

Original Event:	Case PS23-0015
Submitted By:	Joseph D. Becovitz
Assigned To:	Garret A. Creason

11/21/2022 **Case Closed; Referred to Epa**

This case was referred to U.S. E.P.A. for federal review.

Original Event:	Compliance Activity #1590
Primary:	Allegion
Submitted By:	George Saxton

11/22/2022 **Notice of Case Closure Mailed to Target**

Original Event:	Outgoing Mail #1632
To:	Allegion
Submitted By:	Jacob A. Hatfield
Enclosed:	Notice of Case Closure
Attachments:	File 113517; PS23-0015 - Allegion - Case Closed Letter 11-22-2022.docx

Chain of Custody

No electronic chain of custody (CoC) found. Refer to paper CoC in instances where samples were collected.

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