

A Summary of Cases

1/4/2016

2014/0366

DISPOSITION:

A. Tim Ryon was cited for twenty-nine (29) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-5-2(2), for failure to keep all required for-hire termiticide application records. A civil penalty in the amount of \$725.00 (29 counts x \$25.00 per count) was assessed for these violations.

B. On December 2, 2014, Mr. Ryon contacted OISC in writing requesting a Formal Hearing. An Informal Conference was scheduled for February 23, 2015.

C. On February 23, 2015, Mr. Ryon came to OISC for an informal conference. During the discussions, Mr. Ryon indicated the reports we had were not entirely correct. He stated there were duplicates in the address and he only treated twenty (20) different locations, not twenty-nine (29). It was agreed that the civil penalty would be adjusted down to twenty (20) counts which would put the civil penalty at \$500.00 (20 counts x \$25.00 per count).

D. On March 6, 2015, Tim Ryon called OISC and stated he now disagrees with the second civil penalty letter. He said he believes it is now down to fourteen (14) counts. He then stated that Jay Kelley and OISC are working with his brother John to put him out of business so he was going to “start rumors” about OISC. He further stated a “guy from Orkin and a guy from Ohio” said that we were wrong and he shouldn’t have to keep records and he was going to sue OISC.

E. At that point in time I explained to Mr. Ryon the enforcement action proposed during our informal conference would not be changed. He said he was going to call “Steve Scott” at OISC and complain about me. He then hung up.

F. As of October 20, 2015, the \$500.00 civil penalty was paid in full.

2015/0300

DISPOSITION: Schlegel Greenhouse was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding agricultural use requirements. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was their second violation of similar nature. See case number 2014/1435. As of September 24, 2015, Schlegel Greenhouse had not paid the civil penalty. The case was forwarded to collections. On October 20, 2015, the \$500.00 civil penalty was received by OISC. The collection process was terminated.

2015/0302

DISPOSITION: Country Raisin’s and Mark Hilligoss were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of

\$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

2015/0303 **DISPOSITION:** Stephen Dewald was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

2015/0304 **DISPOSITION:** Clarks Greenhouse was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.

2015/0313 **DISPOSITION:** Bed Bug Assassin was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered for distribution in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation. Bed Bug Assassin was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that makes false or misleading statement. A civil penalty in the amount of \$250.00 was assessed for this violation. Bed Bug Assassin 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 and Rodenticide Act (FIFRA). A civil penalty in the amount of \$250.00 was assessed for this violation. The total amount of civil penalty assessed for this violation is \$750.00. As of September 22, 2015, Bed Bug Assassin had only paid \$250.00 towards the \$750.00 civil penalty assessed. The civil penalty balance of \$500.00 was forwarded to collections.

2015/0404 **DISPOSITION:** Bayer HealthCare LLC was cited for violation of section 57(1) of the Indiana Pesticide Use and Application Law for distributing a pesticide product in the state of Indiana without proper state registration. A civil penalty in the amount of \$250.00 was assessed for this violation. Bayer HealthCare LLC was cited for violation of section 57(5) of the Indiana Pesticide Use and Application Law for distributing a pesticide product that was false and misleading. A civil penalty in the amount of \$250.00 was assessed for this violation. Bayer HealthCare LLC was cited for violation of section 57(9) of the Indiana Pesticide Use and Application Law for distributing a pesticide product that was in violation of the Federal Insecticide, Fungicide and Rodenticide Act. A civil penalty in the amount of \$250.00 was assessed for this violation.

2015/0459 **Disposition:**
A. Dan Nelson was cited for one hundred eighty (180) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a pesticide business license. A civil penalty in the amount of \$45,000.00 (180 counts x \$250.00 per count) was assessed for this violation. Consideration was given to the fact Mr. Nelson did not fully comply with the request for all application/inspection dates and he knew he was in violation since he took the Core and Category 7b exams in 1995. However, the civil penalty was reduced to 42,750.00. Consideration was given to the fact there was no evidence any restricted use pesticides were involved.

NOTE: Out of 409 possible violation counts of per day pesticide applications and wood destroying organism inspections, only 180 counts may be assessed by law [see I.C. 357 IAC 1-6-2(b)].

B. On March 5, 2015, I received a letter dated February 26, 2015, from attorney David P. Murphy of David P. Murphy & Associates, P.C. requesting a formal hearing. A copy of the letter was given to Mr. David E. Scott, Secretary, for the Indiana Pesticide Review Board. An informal conference was tentatively set for April 24, 2015.

C. On March 12, 2015, OISC received an email from Mr. Barnhart proposing an offer of settlement. OISC, Mr. Barnhart and Mr. Nelson proposed the following:

a. Daniel L. Nelson and Nelson Exterminating are cited for one hundred eighty (180) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire and making wood destroying pest diagnostic inspections without having an Indiana pesticide business license.

b. Daniel L. Nelson and Nelson Exterminating will pay a civil penalty in the amount of \$5,250.00 within fifteen (15) days of receipt of this notice.

c. Daniel L. Nelson may not apply for certification and licensing for a period of eighteen (18) months from receipt of this notice.

D. On April 24, 2015, an informal conference was held at the Boone County Fair Grounds. Present were Daniel L. Nelson and his attorney, David Murphy. Representing OISC were Agent Jay Kelley and George Saxton. Mr. Nelson, through his attorney, reiterated he could not pay the civil penalty. It was pointed out to Mr. Nelson he made a lot of money illegally for the past twelve (12) years. Mr. Nelson stated he was retiring and could not pay the penalty.

E. It was determined the original civil penalty would be further reduced to \$31,500.00 to allow mitigation for cooperation as well, but would be reduced no further.

F. As of September 22, 2015, Dan Nelson had not paid the civil penalty. The case was forwarded to the Office of Indiana Attorney General for collection of the unmitigated civil penalty amount of \$45,000.00.

2015/0484 **DISPOSITION:** Dipen Patel was cited for violation of section 65(16) of the Indiana Pesticide Use and Application Law for intentionally using a pesticide that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

2015/0582 **DISPOSITION:** Betco Corporation was cited for six (6) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a state, unregistered pesticide product. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed.

- 2015/0583 **DISPOSITION:** Joe Mishak was cited for eighty-two (82) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to properly supervise a non-licensed employee. A civil penalty in the amount of \$10,250.00 (82 x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$4,100.00. Consideration was given to the fact Mr. Mishak cooperated during the investigation; corrective action was taken; no potential for damage and no restricted use pesticides were involved.
- 2015/0617 **DISPOSITION:** Bowlers Country Club was cited for ten (10) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$2,500.00 (10 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,250.00. Consideration was given to the fact Bowlers Country Club cooperated during the investigation; corrective action was taken and no restricted use pesticides were involved.
- 2015/0658 **DISPOSITION:** Alternative Edge Lawn and Landscape was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2015/0666 **DISPOSTION:** Superior Seed Sales and Service was cited for eighteen (18) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$4,500.00 (18 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,250.00. Consideration was given to the fact Mr. Friedersdorf cooperated during the investigation; corrective action was taken and no restricted use products were involved.
- 2015/0698 **DISPOSITION:** Rick A. Kruse and Kruse Seed Service were cited for thirty-seven (37) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$9,250.00 was assessed. However, the civil penalty was reduced to \$6,937.50. Consideration was given to the fact Mr. Kruse cooperated during the investigation.
- 2015/0788 **DISPOSITION:** Brent Milhon and Milhon Air Inc. were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-13-2, for causing the open burning of pesticide containers. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact Mr. Milhon did not cooperate during the investigation.
- 2015/0801 **DISPOSITION:** Kevin Branco and Bermuda Triangle Landscape, Inc. were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

Kevin Branco and Bermuda Triangle Landscape, Inc. were cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for failure to make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection. As a result, any pesticide license issued to Kevin Branco and/or Bermuda Triangle Landscape Inc. will be suspended and any pending license request will be denied until such time as Kevin Branco and/or Bermuda Triangle Landscape Inc. comply with the Order for pesticide/fertilizer application records.

- 2015/0803 **DISPOSITION:** Chris Pursifull was cited for eighteen (18) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to properly supervise a non-certified individual. A civil penalty in the amount of \$2,250.00 (18 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,575.00. Consideration was given to the fact Mr. Pursifull cooperated during the investigation and no restricted use pesticides were involved.
- 2015/0804 **DISPOSITION:**Castleton Lawn Care was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation. As of September 18, 2015, Castleton Lawn Care had not paid the civil penalty. The case was forwarded to collections.
- 2015/0828 **DISPOSITION:** Richmond Elks Country Club was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator associated with that course. Consideration was given to the fact this was their first violation of similar nature and there was a good-faith effort to comply.
- 2015/0858 **DISPOSITION:** Boatwright Vegetation Management/ Southeast Vegetation Management was cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an
- 2015/0865 **DISPOSITION:** Douglas Fisher was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding pesticide drift that contacted other persons. A civil penalty in the amount of \$100.00 was assessed for this violation.
- 2015/0881 **DISPOSITION:** Jack Olds was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Mr. Olds' first violation of similar nature but there was a potential for human harm.
- 2015/0887 **DISPOSITION:** Ritchie Watson was cited for two (2) violations of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without

having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for these violations.

2015/0904

DISPOSITION:

A. Huntingburg Country Club was cited for four (4) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a pesticide commercial applicator license. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed. Consideration was given to the fact this was their second violation of similar nature. See case number 2010/1163.

B. On June 23, 2015, OISC received a letter from George R. Nord, Greens & Ground Committee, requesting a formal appeal. A copy of his letter was given to David E. Scott, Secretary, for the Indiana Pesticide Review Board, on the same date.

C. On July 1, 2015, an informal conference was held at Huntingburg Country Club. Present were David Townsend, George Nord, Bill Scott and John Kamman. Present from OISC were Agent Scott Farris and myself.

D. Mr. Nord started off by admitting the golf course had not followed the rules. He stated they had read the OISC website about reciprocity for Mr. Townsend but did not read the entire site about obtaining a license for the course. He also stated they were unaware of any previous violations because the former Superintendent, Nick Letterman, did not inform them of the investigation. Mr. Townsend has since obtained his certification.

E. Mr. Nord gave me copies of their new policy statements that will ensure this does not happen again. He stated the golf course Board will check on licensing every year.

F. In lieu of this additional information, the civil penalty was reduced to \$300.00. Consideration was given to the fact everyone cooperated during the investigation; corrective action was taken; there was no potential for damage; a good-faith effort to comply and no restricted use pesticides were involved.

2015/0954

DISPOSITION: Larry Blankenberger was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift to non-target vegetation. Consideration was given to the fact this was his first violation of similar nature. Troy Fletcher was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift to non-target vegetation. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his third violation of similar nature (see case numbers 2014/1112 and 2013/0995).

2015/0963

DISPOSITION: David Meyer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application available to areas available to dogs. A civil penalty in the amount of \$250.00 was assessed for this violation. In addition, the information was forwarded to the Indiana Department of Natural Resources for possible criminal charges.

- 2015/0965 **DISPOSITION:** Zachary Zorger was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying fertilizer material for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2015/0980 **DISPOSITION:** Troy Fetcher was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift to non-target vegetation. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was his fourth violation of similar nature (see case numbers 2013/0995, 2014/1112 and 2015/0954).
- 2015/0996 **DISPOSITION:** Winding Branch Golf Course was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying a pesticide to a golf course without having a certified applicator. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2015/1011 **DISPOSITION:** The Garden Path Landscape Services LLC was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2015/1017 **DISPOSITION:** Bruce Gee was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license; a license that was revoked May 7, 2015 (see case number 2014/0203). A civil penalty in the amount of \$250.00 was assessed for this violation. According to the Indiana Pesticide Review Board (IPRB), *“For purposes of administering penalties under IC 15-16-4 and IC 15-16-5, “revoke” shall mean to dissolve any credential or credentialing status and to prohibit the violator from applying for that credential or status for a minimum of five (5) years from the date of revocation. After that time and assuming all legal requirements under these chapters have been met, the violator may petition the state chemist to have the credential or credentialing status reinstated.”*
Mr. Gee may not re-test and re-apply for his pesticide license until May 7, 2020.
- 2015/1026 **DISPOSITION:** Monticello Farm Service was warned for violation of section 57(9) of the Indiana Pesticide Registration Law for failure to follow the rules of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) by not pressure testing the tanks and creating appropriate documentation. Monticello Farm Service was cited for violation of section 44 of the Indiana Commercial Fertilizer Law, specifically 355 IAC 7-3-1, for using fertilizer material for hire without having an individual with a valid commercial applicator license. A civil penalty in the amount of \$100.00 was assessed for this violation.
- 2015/1047 **DISPOSITION:** Fell Lawncare was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an

Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

- 2015/1071 **DISPOSITION:** John Knecht was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana Pesticide business license. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$125.00. Consideration was given to the fact Mr. Knecht cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.
- 2015/1130 **DISPOSITION:** Zachary E. Pettet was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-6, for failure to provide a technician with a label and site assessment fact sheet. Zachary E. Pettet was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for supervising the use of a pesticide in a manner inconsistent with its label by failure to follow label directions regarding use of personal protective equipment. A civil penalty in the amount of \$250.00 was assessed. Consideration was given to the fact there was potential for human harm.
- 2015/1133 **DISPOSITION:** Tim Ayers was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation.
- 2015/1138 **DISPOSITION:** Ben Tresidder was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying the pesticide in a manner that contacted workers or other persons either directly or through drift. A civil penalty in the amount of \$250.00 was assessed. Consideration was given to the fact there was potential for human harm. Consideration was also given to the fact Mr. Tressider cooperated during the investigation; there was no previous history of similar nature and no restricted use pesticides were involved.
- 2015/1141 **DISPOSITION:** Michael Hayman 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. A civil penalty in the amount of \$250.00 was assessed for this violation. Southern Illinois Custom Aerial LLC was cited for seven (7) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-2, for pesticide applications made in category 11 (aerial application) by non-certified applicators. A civil penalty in the amount of \$1,750.00 (7 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$962.50. Consideration was given to the fact Greg Brown cooperated during the investigation and there was no previous history of similar nature.
- 2015/1153 **DISPOSITION:** JM2 Enterprises was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the Agricultural Use Requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.

- 2015/1156 **DISPOSITION:** David Freppon was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift to people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.
- 2015/1158 **DISPOSITION:** Superior Ag Resources was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2015/1183 **DISPOSITION:** Darren Rothell was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding off-target drift. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature. See case number 2011/1459.
- 2015/1208 **DISPOSITION:** Nick Simon was cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$200.00. Consideration was given to the fact Mr. Simon cooperated during the investigation; corrective action was taken; there was a good-faith effort to comply and no restricted use pesticides were involved.
- 2015/1214 **Disposition:** David Monix was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. David Monix was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-6, for failure to provide a technician with a label and fact sheet. A civil penalty in the amount of \$250.00 was assessed for these violations. Consideration was given to the fact there was potential for human harm.
- 2015/1231 **DISPOSITION:** Tree Stuff was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-4-3, for failure to keep restricted use pesticide sale or distribution records. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2015/1263 **DISPOSITION:** Valley Hills Golf Course was cited for thirteen (13) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$3,250.00 (13 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$325.00. Consideration was given to the fact Valley Hills Golf Course cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; a good faith effort to comply and

no restricted use pesticides were involved. The remaining \$325.00 was also held in abeyance.

- 2015/1341 **DISPOSITION:** Scotts Lawn Service of Fishers, Indiana was cited for sixty-six (66) days of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for having bulk storage containers outside secondary containment. A civil penalty in the amount of \$16,500.00 (66 counts x \$250.00 per count) was assessed. By rule, this penalty cannot be mitigated.
- 2016/0251 **DISPOSITION:** J. J. Mauget Co. 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.

CASE SUMMARY

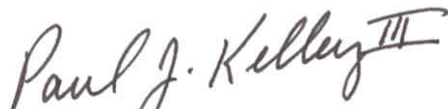
Case #2014/0366

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
W. Lafayette, IN 47907
800-894-6637

Respondent: Tim Ryon
Ryon Pest Solutions
531 Pratt Street
Greenfield, IN 46140
317-878-4714
4907 Melrose Avenue
Indianapolis, IN 46241
Licensed Applicator
Licensed Business

1. On February 3, 2014, I attempted to perform a routine records inspection with Tim Ryon of Ryon Pest Solutions in Greenfield, Indiana. The address for Ryon Pest Solutions located at 531 Pratt Street in Greenfield, Indiana, appeared to be uninhabited for some time. I contacted Tim Ryon to learn he was residing at 4907 Melrose Avenue in Indianapolis, Indiana. I requested that Mr. Ryon submit his last three (3) completed termite paperwork for review.
2. On February 7, 2014, Mr. Ryon submitted a half a sheet of paper with three (3) possible termite jobs.
3. On April 28, 2014, I contacted Mr. Ryon to question him regarding the information he submitted to me. I requested a future meeting with Mr. Ryon to rectify the paperwork he had submitted to me on February 7, 2014. Furthermore, I requested that Mr. Ryon bring all completed termite paperwork for the last five (5) years to be reviewed. Mr. Ryon agreed to meet me May 6, 2014 at Bob Evans located at 25 S. High School Road in Indianapolis, Indiana.
4. On May 6, 2014, Agent Robert Brewer and I met with Mr. Ryon. Mr. Ryon stated he did not have all the completed termite job paperwork for the last five (5) years. Mr. Ryon stated the ex-wife of his friend (only known as Jerry) stole a safe containing all his records. However, Mr. Ryon had four (4) sheets of paper with a patchwork of names and addresses of work he had done. I had Mr. Ryon place a star next to all the termite jobs on the sheets. Mr. Ryon had a few documents of other termite jobs he had performed.
5. On May 19, 2014, Mr. Ryon submitted several more records of termite work.
6. I attempted to compile all the records and paperwork submitted by Mr. Ryon into a spread sheet. All twenty nine (29) records were missing multiple required paperwork elements for termite record keeping. See spread sheet.

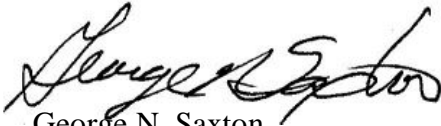
contract / date / name /address	diagram	dimensions/ DTF	treatment specs	EPA Reg.#	dilution rate	total volume	RT/#	CA/#	disclosure
Paperwork from February 2, 2014 inspection.									
No contract / 4-29-13 33 Hollybrook, whiteland	No	NO	NO	No	NO	NO	N/A	NO	N/A
No Contract / 4-3-13 Lawrence Linville -Greenfield	NO	NO	NO	No	NO	NO	N/A	NO	N/A
No contract / 10-9-13 113 King Arthur Dr., Franklin, IN	No	NO	NO	No	NO	NO	N/A	NO	N/A
Paperwork collected at the May 5, 2014 meeting at Bob Evans on the west side of Indianapolis.									
No contract / No date 33 Hollybrook, whiteland	No	NO	NO	No	NO	NO	N/A	NO	N/A
No contract / No date Malcum Abrums	NO	NO	NO	No	NO	NO	N/A	NO	N/A
No contract / 9-3-13 Stevens - 14th St., Franklin	NO	NO	NO	No	NO	NO	N/A	NO	N/A
No contract / No date Ron Henderson - Franklin	No	NO	NO	No	NO	NO	N/A	NO	N/A
No contract / 4-3-14 Bob Elliott - Monaco Dr.	No	NO	NO	No	NO	NO	N/A	NO	N/A
No contract/4-13-14 Bill Williams-4 Kelsay Ct, Whiteland	No	NO	NO	No	NO	NO	N/A	NO	N/A
No Contract / 11-8-13 Jim Trimble	No	NO	NO	No	NO	NO	N/A	NO	N/A
No contract / 8-19-13 Mark Powers-2019 dynasty Dr, Morristown	No	NO	NO	No	NO	NO	N/A	NO	N/A
No contract / 9-1-12 Pete Rivers-2832 475 W.	No	NO	NO	No	NO	NO	N/A	NO	N/A
No contract / 4-21-14 Dave Wilkerson	No	NO	NO	No	NO	NO	N/A	NO	N/A
No contract / 4-2-14 Lawrence Linville	No	4 DTF	NO	No	NO	NO	N/A	NO	N/A
No contract / 4-21-13 Karen -Monarch Dr.	No	NO	NO	No	NO	NO	N/A	NO	N/A
No contract / No date Davey Cody -5330 Strather, Indianapolis	No	NO	NO	No	NO	NO	N/A	NO	N/A
Yes contract / 10-8-13 Ross-550 Brabhim Park dr, Whiteland	yes	Yes NO DTF	NO	No	NO	NO	N/A	NO	N/A
No contract / 9-25-13 Michael Voney-102 Whispering Way	No	NO	NO	No	NO	NO	N/A	NO #	N/A
Yes contract / 3-22-13 Steve Mattix-832 Prinston, Whiteland	Yes	Yes Yes DTF	NO	No	NO	NO	N/A	NO #	N/A
Yes contract / 10-24-12 Michael Ney-10233 Whispering Way	yes	NO	NO	No	NO	NO	N/A	NO #	N/A
Yes contract / 4-20-11 Stevens - 198 S. Main	yes	Yes No DTF	NO	No	NO	Yes	N/A	No #	N/A
Yes Contract / 4-3-12 Lawrence Linville-Greenfield	No	No 4 DTF	NO	No	NO	NO	N/A	NO #	N/A
Yes contract / 4-26-12 4 Kelsay Ct	Yes	Yes 1.5 DTF	NO	No	NO	Yes	N/A	NO #	N/A
Paperwork submitted by Tim Ryon and received by OISC May 19, 2014									
Yes contract / 3-22-12 Dave Wilkerson-5195 S. 200 W.,Trafalgar	Yes	Yes Yes DTF	Yes	No	No	NO	N/A	No #	N/A
Yes contract / 12-4-12 David Thorson-4670 W. Boggs rd	Yes	Yes No DTF	Yes	No	No	NO	N/A	No #	N/A
Yes contract / 3-7-14 10080 US 52, Morristown	Yes	Yes Yes DTF	Yes	No	NO	NO	N/A	NO #	N/A
Yes contract / 6-8-13 Stevens-14th St, Franklin	Yes	Yes No DTF	Yes	No	NO	NO	N/A	No #	N/A
Yes contract / 10-3-11 Bastin-8828 Timber rd, Fountaintown	yes	Yes Yes DTF	Yes	No	NO	NO	N/A	NO #	N/A
Yes contract / 3-26-14 Steve Mattich-5 Sawmill rd, Whiteland	yes	Yes Yes DTF	Yes	No	NO	NO	N/A	No #	N/A


Paul J. Kelley
Investigator

Date: June 12, 2014

Disposition:

- A. Tim Ryon was cited for twenty-nine (29) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-5-2(2), for failure to keep all required for-hire termiticide application records. A civil penalty in the amount of \$725.00 (29 counts x \$25.00 per count) was assessed for these violations.
- B. On December 2, 2014, Mr. Ryon contacted OISC in writing requesting a Formal Hearing. An Informal Conference was scheduled for February 23, 2015.
- C. On February 23, 2015, Mr. Ryon came to OISC for an informal conference. During the discussions, Mr. Ryon indicated the reports we had were not entirely correct. He stated there were duplicates in the address and he only treated twenty (20) different locations, not twenty-nine (29). It was agreed that the civil penalty would be adjusted down to twenty (20) counts which would put the civil penalty at \$500.00 (20 counts x \$25.00 per count).
- D. On March 6, 2015, Tim Ryon called OISC and stated he now disagrees with the second civil penalty letter. He said he believes it is now down to fourteen (14) counts. He then stated that Jay Kelley and OISC are working with his brother John to put him out of business so he was going to “start rumors” about OISC. He further stated a “guy from Orkin and a guy from Ohio” said that we were wrong and he shouldn’t have to keep records and he was going to sue OISC.
- E. At that point in time I explained to Mr. Ryon the enforcement action proposed during our informal conference would not be changed. He said he was going to call “Steve Scott” at OISC and complain about me. He then hung up.
- F. As of October 20, 2015, the \$500.00 civil penalty was paid in full.



George N. Saxton
Compliance Officer

Draft Date: August 15, 2014
Draft Date: February 9, 2015
Draft Date: February 23, 2015
Draft Date: March 6, 2015
Final Date: October 20, 2015

CASE SUMMARY


Case #2015/0300

Complainant: Office of Indiana State Chemist (OISC)
175 S. University St.
W. Lafayette, IN 47907

Respondent: Schlegel Greenhouse
Paul Schlegel, Owner
705 Sprague Rd.
Indianapolis, IN 46217
317-786038

2nd location
4425 Bluff Rd.
Indianapolis, IN 46217

1. On February 3, 2015, I performed a Worker Protection Standard (WPS) inspection at Schlegel Greenhouse. I met with Michael Bozarth, certified applicator in category 3a. Mr. Bozarth stated he is responsible for the 4425 Bluff Road location and Paul Schlegel takes care of the Sprague Road location. Mr. Bozarth stated Paul, Caleb, Zack, and Gabe Schlegel perform pesticide applications and pesticide handler responsibilities. Mr. Bozarth stated none of the Schlegel's are certified or been through EPA's WPS handler training. Furthermore, Mr. Bozarth stated neither location, Bluff Road nor Sprague Road, have a central posting area with safety poster, application records, or emergency information. Mr. Bozarth stated greenhouse workers are told verbally about pesticide applications or are moved out of locations that have had pesticide applications until Re-entry Interval (REI) has been met. Mr. Bozarth stated the areas are not posted with signs.
2. I reviewed the product label for Piccolo 10 XL (EPA Reg. #62097-25-82917, active ingredient paclobutrazol), to determine REI and that the product contains WPS language.
3. On February 3, 2015, I spoke with Paul Schlegel regarding the lack of a central posting area, notification of applications to workers, and training for applicators, handlers, and worker.
4. On February 3, 2015, no workers were interviewed because Schlegel Greenhouse was not in compliance with WPS. Furthermore, no photographs were taken of central posting area because it did not exist.
5. On February 6, 2015, I returned to Schlegel Greenhouse and provided Mr. Schlegel with two (2) pesticide Safety posters and information on how to comply with WPS (How to Comply Manual and DVD).


Paul J. Kelley
Investigator

Date: February 13, 2015

Disposition: Schlegel Greenhouse was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding agricultural use requirements. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was their second violation of similar nature. See case number 2014/1435.

As of September 24, 2015, Schlegel Greenhouse had not paid the civil penalty. The case was forwarded to collections.

On October 20, 2015, the \$500.00 civil penalty was received by OISC. The collection process was terminated.



George N. Saxton
Compliance Officer

Draft Date: April 17, 2015
Final Date: September 24, 2015
Final Date: October 20, 2015


CASE SUMMARY

Case #2015/0302

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

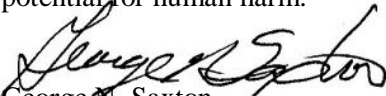
Respondent: Country Raisin's
Mark Hilligoss
9551 W. CR700N
Sharpsville, IN 46068
765-883-7141

1. On April 9, 2015, I conducted a routine Worker Protection Standard (WPS) inspection at Country Raisin's at the above business address with owner Mark Hilligoss.
2. Mr. Hilligoss, who lives with his wife across the road from the greenhouse operation in which ornamental flowers are grown, indicated he is the only handler at the business and he makes all pesticide applications. Although he once held a private applicator license, he stated he believed it expired. Mr. Hilligoss reported that the business employs 11 seasonal workers, most of whom had been employed in previous years as contract workers. As such, several had received worker training from either Beck's Hybrids or Pioneer Seeds. I verified the training of one worker, Nubia Ortiz, as she was able to produce a worker training card. Mr. Hilligoss had provided no worker training and he did not know which workers had previously received training. Emergency medical information was posted for workers, but there was no safety poster at a central location.
3. It was determined that Mr. Hilligoss keeps records of pesticide applications which could be accessed by workers. We discussed keeping the records at the central posting area wherever he decided to display the poster. He indicated his last pesticide application in the greenhouses was made on April 4, 2015, when Endeavor (EPA Reg#100-913) was applied. The application was reportedly made after business hours, when no workers were present, and the doors were locked overnight after the application. Mr. Hilligoss stated he generally notifies workers prior to making applications, but the application area is not posted as he was not aware of the requirement and did not have any signs. The Endeavor label contained the Agricultural Use Requirements box which refers to the Worker Protection Standard. The restricted-entry interval (REI) listed on the label was 12 hours. It was determined that no workers were in the greenhouse during the REI.
4. Mr. Hilligoss was in the process of expanding the greenhouses at the time of my inspection and we discussed his ability to close off certain greenhouses once construction was complete. We reviewed the issues of training his workers, posting applications and creating the central posting area so he can come into compliance with the WPS requirements.


Andrew R. Roth
Pesticide Investigator

Date: July 10, 2015

Disposition: Country Raisin's and Mark Hilligoss were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.


George N. Saxton
Compliance Officer

Draft Date: July 16, 2015
Final Date: August 25, 2015


CASE SUMMARY

Case #2015/0303

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

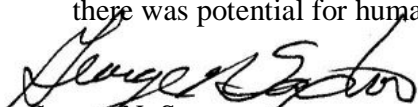
Respondent: Dewald Gardens
Stephen Dewald
12700 Lima Road
Fort Wayne, IN 46818
260 637-1700
Private Applicator

1. On April 23, 2015, I conducted a routine Worker Protection Standard (WPS) inspection at Dewald Gardens at the above business address with owner Stephen Dewald.
2. During our discussion, Mr. Dewald indicated he and his wife operate the business ten weeks per year in the spring. Mr. Dewald is a licensed private applicator and, as the only handler, makes the pesticide applications in the greenhouse when needed. The business employs two other seasonal workers. It was learned that no worker training was provided, although Mr. Dewald indicated he does talk to employees about pesticide safety. There was also no safety poster at a central location, but Mr. Dewald did show me where one was stapled to the wall at one time. I provided a new safety poster to Mr. Dewald and instructed him to add the emergency medical facility information and hang the poster in a central area.
3. It was determined that the last application was made approximately one month prior to my inspection, but Mr. Dewald had not yet made record of it. I informed him that records of pesticide applications must be made available to workers, generally at the central posting area. Mr. Dewald reportedly sprayed Insecticidal Soap (EPA Reg#66330-253-829) in the greenhouse after business hours when no workers were present. We inspected the product label and I pointed out that it contained the Agricultural Use Requirements box which refers to the Worker Protection Standard. The restricted-entry interval (REI) listed on the label was 12 hours. It was determined that no workers were in the greenhouse during the REI.
4. Mr. Dewald was informed the easiest way to train workers would be to show them an EPA approved WPS video and document the training. He agreed to complete and hang the safety poster and create a log for application records to be made available for all workers.


Andrew R. Roth
Pesticide Investigator

Date: July 7, 2015

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


George N. Saxton
Compliance Officer

Draft Date: July 16, 2015
Final Date: September 17, 2015

CASE SUMMARY

Case #2015/0304

Complainant: Office of the Indiana State Chemist (OISC)
175 S University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Clarks Greenhouse
Richard Owen
Erika Pflum
1449 E. 5th Street
Connersville, IN 47331
765-825-6012
Owner
Manager

1. On March 18, 2015, I went to Clark's Greenhouse to perform a Worker Protection Standard Inspection. I spoke with the Manager, Erika Pflum.
2. During the inspection, I asked Mrs. Pflum how many employees worked at the greenhouse. She stated only two full time employees (she and her dad; who also happened to be the owner). I then asked how many seasonal employees the greenhouse employed and she said two (her step-mother and another part-time employee who was not a family member).
3. I then asked Mrs. Pflum about pesticide applications at the greenhouse. She reported that she and her dad were the only pesticide applicators. I asked if either of them were licensed, and she thought her dad had been in past. I then checked the OISC database and did not find any current licensing for her dad, Richard Owen. I asked Mrs. Pflum about the last pesticide application at the greenhouse. She reported that on March 12, 2015, she applied Tristar (EPA Reg 8033-94-1001) to annual flowers.
4. According to the Tristar label, *"Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), and restrictive-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard."*
5. I then asked Mrs. Pflum if they had trained their part time employee as a worker. She seemed confused and said "no". I also asked about a central posting, notification, and entry restrictions. Mrs. Pflum stated she was not aware of this requirement.

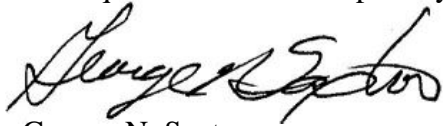
6. I advised Mrs. Pflum it appeared Clark's Greenhouse was in violation of the WPS requirement and offered her some options on getting into compliance. I suggested she discuss these options with her father/ owner to decide the best course of action for the greenhouse. I encouraged her to follow-up with me on how they were planning on getting into compliance. However, I never heard back from her.



Elizabeth C. Carter
Pesticide Investigator

Date: April 9, 2015

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



George N. Saxton
Compliance Officer

Draft Date: May 8, 2015
Final Date: September 17, 2015

CASE SUMMARY

Case #2015/0313

Complainant: Office of the Indiana State Chemist (OISC)
175 S University Street
West Lafayette, IN 47907-2063
800-893-6637

Registrant: Bed Bug Assassin
710 E. Jericho Turnpike
Huntington Station, NY 11746

Store Big R Store
1601 US highway 231
Crawfordsville, IN 47933

1. On November 5, 2014, I performed a routine marketplace inspection at the Big R store in Crawfordsville, Indiana.
2. During the inspection, I observed a pesticide, Bed Bug Assassin. The label claimed it was a 25b pesticide exempt from full Section 3 federal registration. Although the label alleged it was exempt from federal registration, it still must be registered in Indiana. A check of the OISC database indicated it was not registered in Indiana for 2014.
3. Upon examining the product, I observed the following claim, "All natural." However in the ingredient list, it contained "sodium lauryl sulfate." Since sodium lauryl sulfate is not a compound found in nature, the product label contained a false and misleading statement. Therefore it needs full Section 3 federal registration with U.S. EPA and also Indiana registration with the Office of the Indiana State Chemist.

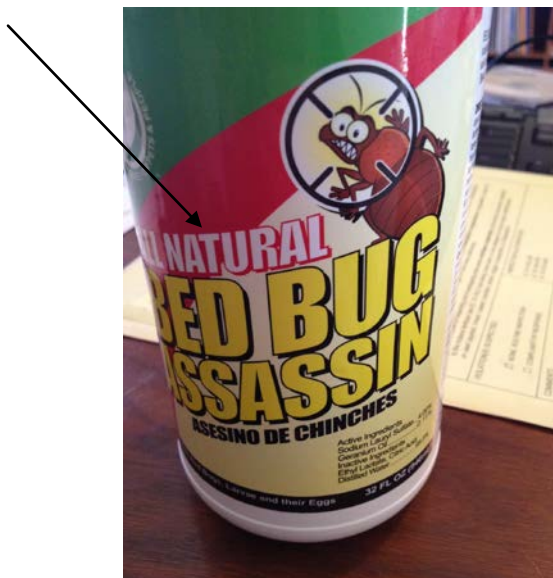


Fig 1: Bed Bug Assassin



Fig 2: Ingredient List

- I then collected a sample of the product. While performing the post inspection follow-up with management, I asked when Big R received Bed Bug Assassin. The manager verbally stated October 8, 2014. I recorded this date in the comments section of the *Pesticide Sample Collection Form*, and she signed it.



Elizabeth C. Carter
Pesticide Investigator

Date: November 24, 2014

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

Bed Bug Assassin was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that makes false or misleading statement. A civil penalty in the amount of \$250.00 was assessed for this violation.

Bed Bug Assassin 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 and Rodenticide Act (FIFRA). A civil penalty in the amount of \$250.00 was assessed for this violation.

The total amount of civil penalty assessed for this violation is \$750.00.

As of September 22, 2015, Bed Bug Assassin had only paid \$250.00 towards the \$750.00 civil penalty assessed. The civil penalty balance of \$500.00 was forwarded to collections.



George N. Saxton
Compliance Officer

Draft Date: December 18, 2014
Final Date: September 22, 2015

CASE SUMMARY

Case #2015/0404

Complainant: Office of the Indiana State Chemist (OISC)
175 S University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Dr. Scholl's Appliances
c/o Helen Of Troy L.P.
One Helen of Troy Plaza
El Paso, Texas 79912

MSD Consumer Care, Inc.
One Merck Drive
PO Box 100
Whitehouse Station, NJ 08889-0100

Bayer Consumer Care Products
c/o Bayer HealthCare LLC
Attn: Consumer Relations
100 Bayer Boulevard
Whippany, NJ 07981-0915

1. On December 5, 2014, I was asked to investigate a product, Dr. Scholl's Express Pedi Foot Smoother being sold at www.amazon.com.
2. On December 8, 2014, I went to the website listed above and found the following. See figure 1.

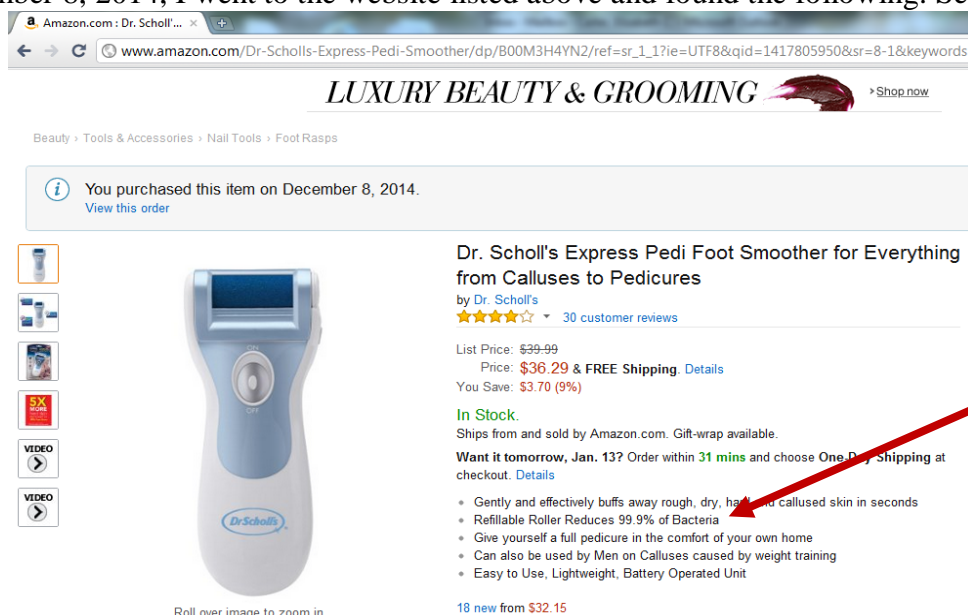


Fig 1: Product info

3. Later that same day, I ordered the Dr. Scholl's Express Pedi Foot Smoother. See figure 2.

Final Details for Order #104-5999562-0427465

Order Placed: December 8, 2014

Amazon.com order number: 104-5999562-0427465

Order Total: \$42.79

Shipped on December 9, 2014	
Items Ordered	Price
1 of: <i>Dr. Scholl's Express Pedi Foot Smoother</i>	\$39.99
Sold by: Amazon.com LLC	
Condition: New	
Shipping Address:	Item(s) Subtotal: \$39.99
<ul style="list-style-type: none">• Purdue University- OISC- Beth Carter• 175 S UNIVERSITY ST• WEST LAFAYETTE, IN 47907-2063• United States	Shipping & Handling: \$5.48
	Free shipping: -\$5.48

	Total before tax: \$39.99
	Sales Tax: \$2.80

Shipping Speed:	Total for This Shipment: \$42.79
FREE Shipping	-----

Payment information	
Payment Method:	Item(s) Subtotal: \$39.99
Visa Last digits: 5726	Shipping & Handling: \$5.48
Reference number: PURDUE	Free shipping: -\$5.48

Billing address	Total before tax: \$39.99
<ul style="list-style-type: none">• Purdue University- OISC- Beth Carter• 175 S UNIVERSITY ST• WEST LAFAYETTE, IN 47907-2063• United States	Estimated tax to be collected: \$2.80

	Grand Total: \$42.79

Fig 2: Receipt

4. The order arrived at the Office of the Indiana State Chemist (OISC) via United States Post Service (USPS) on December 12, 2014. Natalie Wilson, analytical chemist, collected the box upon arrival and secured the package until I was able to formally open and collect the sample.

5. On December 15, 2014, I attached a sample collection number of 2015-0904 to the Dr. Scholl's Express Pedi Foot Smoother and completed a *Sample Collection Report*. I then formally turned in the sample to the OISC Formulation Laboratory. The invoice number for the product was 104-5999562-0427465. Photos of the sample can be found in figures 3 through 6.



Fig 3: Front panel



Fig 4: Front panel zoomed



Fig 5: Bottom panel



Fig 6: Bottom panel zoomed

6. Upon inspecting the product, I observed the following claim, “*Reduces 99.9% of bacteria* on the roller surface.*” The asterisk referenced “*Staphylococcus Aureus.*” Additionally, I saw the following EPA Registration Number, “*71227-1-88165*” listed on the product.
7. The Dr. Scholl's Foot Smoother represented itself as a treated article: “*reduces 99.9% of bacteria*on the roller surface.*” However, in order to qualify for the EPA treated article exemption from federal registration, the product cannot make any public health claims. Therefore, the Dr Scholl's Foot Smoother cannot claim “*Stapylococcus Aureus.*” To make such claims, it must be registered under Section 3 of the Federal, Insecticide, Fungicide and Rodenticide Act (FIFRA) as a pesticide product.
8. OISC investigated the EPA registration number listed on bottom panel of the Dr. Scholl's Foot Smoother and determined that the number listed is not a registration number for the Dr. Scholl's Foot Smoother, but rather appeared to be the EPA registration number of the silver-containing antimicrobial material used to treat the Foot Smoother. This faulty EPA registration number and

establishment number are false and misleading. It incorrectly implied endorsement or approval by U.S. EPA, an agency of the federal government.



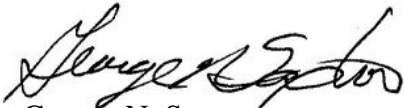
Elizabeth C. Carter
Pesticide Investigator

Date: January 19, 2015

Disposition: Bayer HealthCare LLC was cited for violation of section 57(1) of the Indiana Pesticide Use and Application Law for distributing a pesticide product in the state of Indiana without proper state registration. A civil penalty in the amount of \$250.00 was assessed for this violation.

Bayer HealthCare LLC was cited for violation of section 57(5) of the Indiana Pesticide Use and Application Law for distributing a pesticide product that was false and misleading. A civil penalty in the amount of \$250.00 was assessed for this violation.

Bayer HealthCare LLC was cited for violation of section 57(9) of the Indiana Pesticide Use and Application Law for distributing a pesticide product that was in violation of the Federal Insecticide, Fungicide and Rodenticide Act. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: February 27, 2015
Final Date: August 25, 2015

CASE SUMMARY

Case #2015/0459

Complainant: William Huth
540 N. Madison Avenue #4000
Greenwood, IN 46142
317-902-8856

Respondent: Dan Nelson
Nelson Exterminating
6022 W. Kathlene
McCordsville, IN 46055
317-796-0555

Unlicensed Applicator
Unlicensed Business

1. On January 9, 2015, William Huth emailed a copy of a Wood Destroying Insect (WDI) inspection report dated January 3, 2015, performed by Dan Nelson of Nelson Exterminating, to the Office of Indiana State Chemist (OISC) requesting verification if Dan Nelson and Nelson Exterminating were licensed.
2. On January 13, 2015, OISC verified Dan Nelson and Nelson Exterminating were last licensed by OISC in 2002.
3. On January 16, 2015, I contacted William Huth. Mr. Huth stated Sherri Sherman, a real estate agent for Re/Max, contacted him to ask if he could look over the WDI report submitted by Dan Nelson. Mr. Huth stated he could not find Mr. Nelson in the OISC database.
4. On January 16, 2015, I spoke with Sherri Sherman from Re/Max. Ms. Sherman stated she hired Eric Horning of Horning Home Inspection to provide home inspection services for a real estate transaction. Ms. Sherman stated Mr. Horning hired Mr. Nelson for the "Termite" inspection.
5. On January 16, 2015, I met with Eric Horning. Mr. Horning stated he had used Dan Nelson and Nelson Exterminating for at least a year to perform WDI inspections and termite control pesticide applications for residences where he provides home inspection services. Mr. Horning provided me with copies of the WDI inspection. See chart 1 below for dates of WDI inspections and termiticide applications. Furthermore, Mr. Horning provided me with the name of another Re/ Max Real Estate agent, Jeff Clark, who uses Dan Nelson for pest control services in Greenfield, Indiana.

The following chart 1 list the dates of WDI inspection and termite work performed by Dan Nelson for Eric Horning:

8/23/2014 T	6/24/2014	8/23/2014	10/6/2014	11/28/2014
10/25/2014 T	6/27/2014	9/4/2014	10/14/2014	12/19/2014
6/2/2014	7/8/2014	9/12/2014	10/24/2014	12/24/2014
6/3/2014	7/26/2014	9/16/2014	10/25/2014	1/2/2015
6/11/2014	8/1/2014	9/17/2014	10/28/2014	1/3/2015
6/12/2014	8/8/2014	9/21/2014	11/7/2014	1/9/2015
	8/13/2014	10/2/2014	11/13/2014	1/13/2015
				1/15/2014

T = Termite job

- On January 16, 2015, I met with Jeff Clark of Re/Max in Greenfield, Indiana. Mr. Clark stated his Re/Max office had used Mr. Nelson for WDI, termite and general pest services for years. Mr. Clark stated he would provide me copies of records.
- On January 16, 2015, I went to the address for Dan Nelson. In Mr. Nelson's front yard was a sign, "Nelson's Exterminating". See figure 1. I questioned Mr. Nelson if he had performed WDI inspections, termiticide applications and general pesticide applications. Mr. Nelson stated he had done some work in WDI inspections, termiticide applications and general pesticide applications. I asked Mr. Nelson if he had a license from OISC to perform for-hire pesticide applications and inspections. Mr. Nelson answered he did not have a license. I asked Mr. Nelson when his license expired. Mr. Nelson could not remember. I instructed Mr. Nelson to provide me with copies of all WDI inspections, termiticide applications and general pesticide applications for the last five years beginning in 2010. Mr. Nelson was issued a Stop Action Order to cease making pesticide applications, WDI inspections, and advertising that he is in the pest control business without a license.



Figure1-Mr. Nelson's residence with sign

- On January 30, 2015, I received email copies of work performed by Mr. Nelson from Jeff Clark of Re/Max. See chart 2 below for dates of WDI inspections and termite applications.

2/21/2014 T	3/19/2012	9/27/2012	8/3/2013	6/3/2014
7/31/2014 T	7/17/2012	10/4/2012	10/5/2013	6/19/2014
8/8/2014 T	7/24/2012	11/24/2012	10/8/2013	8/23/2014
8/23/2014 T	8/7/2012	11/27/2012	1/20/2014	10/14/2014
8/30/2014 T	8/21/2012	12/1/2012	2/21/2014	11/11/2014
XX/XX/12		1/12/2013	4/17/2014	1/9/2015
1/30/2012			4/26/2014	1/10/2015

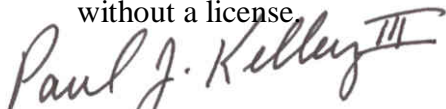
T=Termite jobs XX/XX/12 = no specific date listed

- On January 28, 2015, I received documentation from Mr. Nelson regarding his pesticide applications and WDI inspections without a license. Chart 3 denotes application records submitted by Mr. Nelson.

Category 7A-General Pest							Category 7B- Termite		Category 12- WDI			
3/9/10	4/16/2011	5/8/2012	9/24/2012	6/18/2013	12/3/2013	7/2/2014	6/7/2010	7/31/2013	1/24/2010	2/5/2011	1/19/2013	12/13/2013
5/7/2010	4/21/2011	5/9/2012	9/26/2012	6/20/2013	12/23/2013	7/3/2014	7/6/2010	8/1/2013	3/3/2010	2/9/2011	1/29/2013	1/20/2014
5/8/2010	4/23/2011	5/11/2012	9/27/2012	6/28/2013	XX/XX/2014	7/8/2014	10/1/2010	8/28/2013	3/10/2010	2/24/2011	2/16/2013	1/24/2014
5/10/2010	5/6/2011	5/18/2012	10/4/2012	7/15/2013	2/26/2014	7/11/2014	10/19/2010	8/29/2013	3/17/2010	3/6/2011	3/7/2013	2/18/2014
5/13/2010	5/11/2011	5/23/2012	10/6/2012	7/17/2013	3/20/2014	7/22/2014	10/28/2010	10/26/2013	3/18/2010	3/8/2011	3/27/2013	2/19/2014
6/4/2010	5/27/2011	5/25/2012	10/23/2012	7/24/2013	3/22/2014	7/23/2014	10/30/2010	10/30/2013	3/19/2010	3/22/2011	3/28/2013	2/21/2014
6/12/2010	5/28/2011	5/26/2012	10/27/2012	7/25/2013	4/5/2014	8/11/2014	11/12/2010	11/5/2013	3/24/2010	3/30/2011	3/30/2013	4/19/2014
6/15/2010	5/29/2011	6/3/2012	XX/XX/2013	7/31/2013	4/8/2014	8/14/2014	12/2/2010	11/16/2013	3/25/2010	3/31/2011	4/3/2013	5/14/2014
6/16/2010	6/7/2011	6/6/2012	2/13/2013	8/3/2013	4/11/2014	8/15/2014	2/21/2011	4/16/2014	3/26/2010	4/2/2011	4/5/2013	5/18/2014
6/24/2010	6/18/2011	6/12/2012	2/20/2013	8/6/2013	4/15/2014	8/16/2014	4/20/2011	4/24/2014	3/31/2010	4/14/2011	4/20/2013	5/26/2014
6/25/2010	6/23/2011	6/19/2012	4/8/2013	8/6/2013	4/18/2014	8/18/2014	4/22/2011	7/7/2014	4/15/2010	4/17/2011	5/14/2013	5/28/2014
7/9/2010	7/12/2011	6/20/2012	4/9/2013	8/7/2013	4/22/2014	8/22/2014	5/2/2011	7/25/2014	4/28/2010	5/1/2011	5/19/2013	5/29/2014
7/12/2010	7/19/2011	6/28/2012	4/13/2013	8/9/2013	4/29/2014	8/25/2014	6/22/2011	8/8/2014	6/14/2010	5/17/2011	5/26/2013	5/30/2014
7/13/2010	7/28/2011	6/30/2012	4/15/2013	8/13/2013	5/1/2014	8/29/2014	6/30/2011	8/20/2014	6/22/2010	5/29/2011	5/29/2013	5/31/2014
7/31/2010	7/29/2011	7/5/2012	4/19/2013	8/16/2013	5/3/2014	9/2/2014	8/30/2011	8/23/2014	6/26/2010	6/1/2011	6/1/2013	6/2/2014
8/4/2010	8/3/2011	7/10/2012	5/1/2013	8/21/2013	5/4/2014	9/13/2014	10/8/2011	9/18/2014	6/28/2010	6/17/2011	6/4/2013	6/3/2014
8/6/2010	8/19/2011	7/13/2012	5/2/2013	8/22/2013	5/7/2014	9/15/2014	12/30/2011	10/11/2014	8/3/2010	7/28/2011	6/11/2013	6/12/2014
8/17/2010	10/1/2011	7/17/2012	5/3/2013	8/23/2013	5/15/2014	9/18/2014	4/13/2012	10/16/2014	8/5/2010	8/2/2011	6/19/2013	6/18/2014
8/27/2010	10/7/2011	7/23/2012	5/4/2013	8/24/2013	5/19/2014	9/19/2014	4/14/2012	10/23/2014	8/7/2010	8/5/2011	6/22/2013	6/19/2014
8/28/2010	10/12/2011	7/24/2012	5/8/2013	9/10/2013	5/22/2014	9/20/2014	5/12/2012		8/24/2010	9/1/2012	7/6/2013	6/24/2014
9/14/2010	10/25/2011	7/28/2012	5/14/2013	9/11/2013	6/4/2014	9/23/2014	5/15/2012		9/9/2010	10/6/2012	8/26/2013	7/8/2014
9/29/2010	XX/XX/2012	8/1/2012	5/15/2013	9/14/2013	6/6/2014	9/25/2014	5/22/2012		10/7/2010	10/19/2012	9/4/2013	7/9/2014
10/6/2010	3/16/2012	8/2/2012	5/30/2013	9/16/2013	6/7/2014	9/27/2014	6/2/2012		10/21/2010	10/29/2012	9/12/2013	7/17/2014
10/12/2010	3/17/2012	8/7/2012	6/3/2013	9/26/2013	6/9/2014	10/1/2014	6/4/2012		11/19/2010	11/19/2012	10/4/2013	7/26/2014
11/6/2010	3/22/2012	8/20/2012	6/7/2013	9/30/2013	6/10/2014	10/3/2014	6/15/2012		11/23/2010	11/20/2012	10/9/2013	7/31/2014
11/16/2010	3/23/2012	8/21/2012	6/8/2013	10/2/2013	6/14/2014	10/18/2014	6/16/2012		12/14/2010	11/26/2012	10/15/2013	8/1/2014
12/27/2010	3/24/2012	8/22/2012	6/10/2013	10/5/2013	6/15/2014	10/28/2014	8/10/2012		12/14/2010	11/27/2012	10/25/2013	
XX/XX/2011	4/14/2012	8/28/2012	6/12/2013	10/14/2013	6/26/2014		8/13/2012		12/30/2010	11/28/2012	10/31/2013	
3/26/2011	4/23/2012	9/5/2012	6/13/2013	10/19/2013	6/27/2014		8/30/2012		1/6/2011	12/1/2012	11/14/2013	
3/29/2011	4/28/2012	9/14/2012	6/14/2013	10/28/2013	6/28/2014		11/6/2012		1/11/2011	12/21/2012	11/19/2013	
3/31/2011	5/7/2012	9/17/2012	6/15/2013	11/1/2013	7/1/2014		7/23/2013		1/17/2011	1/12/2013	11/26/2013	

XX/XX/11 and XX/XX/12 = no specific date listed

10. Mr. Nelson's records indicated he performed 263 pesticide applications and 119 WDI inspections for a total of 382 days between 2010 and 2015, without a license. See chart 3. The 27 red highlight dates in charts 1 and 2 are additional records not submitted by Mr. Nelson. This brings the total to 409 days of pesticide applications or WDI inspections without a license.


Paul J. Kelley
Investigator

Date: February 13, 2015

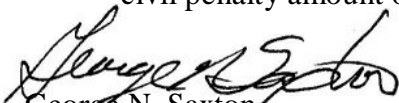
Disposition:

A. Dan Nelson was cited for one hundred eighty (180) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having a pesticide business license. A civil penalty in the amount of \$45,000.00 (180 counts x \$250.00 per count) was assessed for this violation. Consideration was given to the fact Mr. Nelson did not fully comply with the request for all application/inspection dates and he knew he was in violation since he took the Core and Category 7b exams in

1995. However, the civil penalty was reduced to \$42,750.00. Consideration was given to the fact there was no evidence any restricted use pesticides were involved.

NOTE: Out of 409 possible violation counts of per day pesticide applications and wood destroying organism inspections, only 180 counts may be assessed by law [see I.C. 357 IAC 1-6-2(b)].

- B.** On March 5, 2015, I received a letter dated February 26, 2015, from attorney David P. Murphy of David P. Murphy & Associates, P.C. requesting a formal hearing. A copy of the letter was given to Mr. David E. Scott, Secretary, for the Indiana Pesticide Review Board. An informal conference was tentatively set for April 24, 2015.
- C.** On March 12, 2015, OISC received an email from Mr. Barnhart proposing an offer of settlement. OISC, Mr. Barnhart and Mr. Nelson proposed the following:
 - a. Daniel L. Nelson and Nelson Exterminating are cited for one hundred eighty (180) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire and making wood destroying pest diagnostic inspections without having an Indiana pesticide business license.
 - b. Daniel L. Nelson and Nelson Exterminating will pay a civil penalty in the amount of \$5,250.00 within fifteen (15) days of receipt of this notice.
 - c. Daniel L. Nelson may not apply for certification and licensing for a period of eighteen (18) months from receipt of this notice.
- D.** On April 24, 2015, an informal conference was held at the Boone County Fair Grounds. Present were Daniel L. Nelson and his attorney, David Murphy. Representing OISC were Agent Jay Kelley and George Saxton. Mr. Nelson, through his attorney, reiterated he could not pay the civil penalty. It was pointed out to Mr. Nelson he made a lot of money illegally for the past twelve (12) years. Mr. Nelson stated he was retiring and could not pay the penalty.
- E.** It was determined the original civil penalty would be further reduced to \$31,500.00 to allow mitigation for cooperation as well, but would be reduced no further.
- F.** As of September 22, 2015, Dan Nelson had not paid the civil penalty. The case was forwarded to the Office of Indiana Attorney General for collection of the unmitigated civil penalty amount of \$45,000.00.


George N. Saxton
Compliance Officer

Draft Date: February 16, 2015
Draft Date: March 6, 2015
Draft Date: March 12, 2015
Draft Date: May 8, 2015
Final Date: September 22, 2015

CC
Eric Horning
12244 Waterview Circle
Indianapolis, IN 46229

Sherri Sherman
5645 Castle Creek Parkway N. Drive
Indianapolis, IN 46250

Jeff Clark
1797 W. State Street
Greenfield, IN 46140

David P. Murphy
David P. Murphy & Associates, P.C.
504 West Main Street
Greenfield, Indiana 46140

- Hot Shot Fogger, EPA Reg. #9688-309-8845, active ingredient=tetramethrin .05%, cypermethrin .75%
- Raid Max Fogger, EPA Reg. #4822-452, active ingredient=cypermethrin 1.716%
- Hot Shot Spider Killer, EPA Reg. #9688-253-8845, active ingredient=prallethrin .025%, lambda-cyhalothrin .030%

5. I told Mr. Bhavin Patel we intended to conduct the swabbing on Monday, February 2, 2015. A winter storm on that date made travel unsafe and the swabbing of the rooms was reset for Thursday, February 5th, 2015.

6. On Thursday, February 5th, 2015, OISC Compliance Officer Dr. George Saxton took the following personnel to the Super 8 motel in Howe, Indiana to conduct a swabbing of all the rooms.

- Kevin Gibson-OISC Investigator
- Paul J. Kelly- OISC Investigator
- Carrie Leach-OISC QA/QC Officer

Dr. Saxton briefed his personnel and controlled the distribution of swabs and supplies and the intake of completed swabs samples.

7. The rooms at the Super 8 motel in Howe, Indiana were in the 100 and 200 series. The list which follows is a break-down of who swabbed each room at that location:

- Paul J. Kelly: 100-103, 105, 106, 119, 121, 123, 125, 127, 129, 141, 210, 212, 214, 218, 220, 222, 237, 241 and 243.
- Kevin Gibson: 107, 109, 111, 113, 115, 117, 130, 132, 134, 135, 137, 139, 200, 201, 202, 204, 208, 217, 219 and 227.
- Carrie Leach: 116, 118, 120, 122, 126, 128, 203, 205, 207, 209, 211, 213, 224, 226, 230, 232, 234 and 236.

8. When all of the swabs were completed, all of the chain of custody forms and samples were turned over to Dr. Saxton. Dr. Saxton delivered the swabs to the OISC Residue Laboratory for analysis.

9. The photographs taken at the scene were all placed into a photo folder marked with the case number.

10. On Friday February 13, 2015, I received an e-mail from Mr. Bill Wales with Barnes and Thornburg LLP. Mr. Wales identified himself as Legal Counsel for his client Mr. Dipen Patel. Mr. Wales asked that I call him. Before I could call Mr. Wales he called me on Monday, February 16, 2015. Mr. Wales told me his client Mr. Dipen Patel wished to cooperate and reveal the source of supply for the dichlorvos pesticide. Mr. Wales said his client Mr. Dipen Patel wished to avoid “criminal prosecution”.

11. On Thursday, February 19, 2015, I received the final results from all of the swabs taken at the Super 8 in Howe, Indiana. There were 26 rooms which tested positive for the active ingredient dichlorvos. The chart which follows depicts the final results provided by the OISC Residue Laboratory. The sample description begins with the room number and will appear twice in the chart followed by either a dash one (101-1) or a dash two (101-2). There were two swabs taken in each room, the dash one is a template swab for quantification and the dash two is a free swab. The results are reported out in nanograms per swab (ng/swab) or present but below quantitation limit (BQL).


Lab assigned sample#	Investigator sample#	Analysis result(s) ng/swab
2015-0049	102-1	BQL
2015-0050	102-2	BQL
2015-0054	105-2	235
2015-0071	118-1	392
2015-0072	118-2	639
2015-0073	120-1	193
2015-0074	120-2	184
2015-0077	126-1	138
2015-0078	126-2	209
2015-0079	128-1	BQL
2015-0091	129-1	BQL
2015-0093	130-1	347
2015-0095	132-1	5895
2015-0096	132-2	413
2015-0098	134-2	386
2015-0117	203-1	BQL
2015-0119	205-1	BQL
2015-0121	207-1	BQL
2015-0123	209-1	BQL
2015-0124	209-2	107
2015-0125	211-1	98
2015-0126	211-2	BQL
2015-0127	213-1	BQL
2015-0128	213-2	115
2015-0129	222-1	BQL
2015-0130	222-2	BQL
2015-0131	220-1	BQL
2015-0145	224-1	85
2015-0146	224-2	142
2015-0147	226-1	BQL
2015-0149	230-1	154
2015-0150	230-2	81
2015-0151	232-1	271
2015-0152	232-2	300
2015-0153	234-1	316
2015-0154	234-2	302
2015-0155	236-1	171
2015-0156	236-2	235
2015-0159	243-1	11677
2015-0160	243-2	48817
2015-0161	241-1	298
2015-0162	241-2	185

12. I contacted Mr. Alfredo Garcia of the Lagrange County health Department by phone and advised him I had the final results for the Super 8 in Howe, Indiana. I e-mailed the charted results to Mr. Garcia.

13. In this case, the complainant Mr. David McMillan, alleged his former employer Mr. Dipen Patel provided him with the federally unregistered pesticide "Doom" with active ingredient dichlorvos 76%, for use in the pesticide program at the Super 8 motel in Howe, Indiana, which was managed by his brother Mr. Bhavin Patel. Mr. McMillan continued his allegation by saying Mr. Dipen Patel did not provide any label directions or warnings other than to mix the Doom pesticide with water, spray it and clean off with soap and water when an application was complete. Mr. McMillan said he made pesticide spray applications to many of the rooms at the Super 8 in Howe, Indiana. OISC personnel took two swab samples from 60 different rooms at the Super 8 in Howe, Indiana and 26 of those rooms tested positive for the presence of the active ingredient dichlorvos. There is no other explanation for the presence of dichlorvos. The test results were given to the Lagrange County Health Department along with some clean-up guidance from US EPA Region 5.
14. On Monday February 23, 2015, I received a phone call from Mr. Bill Wales, Attorney for Mr. Dipen Patel. Mr. Wales told me he had been under the impression Mr. Dipen Patel had turned all the Doom pesticide over to OISC. I told Mr. Wales I was enroute to pick up the bottle of Doom from Mr. Dipen Patel and asked for cooperation in the matter. Mr. Wales assured me he would call Mr. Dipen Patel and instruct him to turn the remaining full bottle of Doom pesticide over to me. Mr. Wales called back a short time later and let me know Mr. Dipen Patel was at the Super 8 motel in Howe, Indiana. Mr. Wales told me he instructed his client, Mr. Dipen Patel to "stay put" until I arrived to take control of the full bottle of Doom pesticide. I drove directly to the Super 8 in Howe, Indiana and met with Mr. Dipen Patel. Mr. Dipen Patel turned the full bottle of Doom pesticide over to me (see fig 1). A pesticide sample collection report was completed and signed by Mr. Dipen Patel. The 6-8 oz. bottle of Doom, active ingredient dichlorvos, was transported to the OISC Formulation Laboratory and turned in for analysis.




Figure #1


Brian P. Baker
Pesticide Investigator

Date: February 20, 2015

Disposition: Dipen Patel was cited for violation of section 65(16) of the Indiana Pesticide Use and Application Law for intentionally using a pesticide that was not registered in the state of Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: November 4, 2015
Final Date: December 10, 2015

Cc: Alfredo Garcia
LaGrange County Health Department
304 N. Townline Road, Suite 1
Lagrange, Indiana 46761
(260) 499-4182

CASE SUMMARY

Case #2015/0582

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907
765-494-1585

Respondents: Betco Corporation Product Registrant
1001 Brown Avenue
Toledo, Ohio 43607

Triple S Product Registrant
2 Executive Park Drive
Billerica, Massachusetts 01862

LBH Chemical and Industrial Supply Supplier
3009 Cannongate Drive
Fort Wayne, Indiana 46868
260-471-0506

1. On April 13, 2015, I conducted a marketplace inspection at LBH Chemical and Industrial Supply. I met with and issued a Notice of Inspection (NOI) to warehouse manager Carol Miller. With Ms. Miller assistance, I checked all pesticide products in stock at LBH. As a result of check, I discovered two products which were not listed in the product data base.
 - **Wasp and Hornet Insecticide (EPA #10807-196-4170)**
Product Registrant- Betco Corporation
 - **Sure Shot Plus Wasp and Hornet Killer (EPA #10807-196-12120)**
Product Registrant- Triple S
2. Ms. Miller said according to their data base, the first shipment of **Wasp and Hornet Insecticide** (12 aerosol cans) was received by October 1, 2010. The next and last shipment of 24 aerosol cans was received July 23, 2012. They had 24 aerosol cans in stock.
3. I contacted Ed White of OISC Product Registration Section. According to Mr. White, Betco's **Wasp and Hornet Insecticide** was never registered with OISC in the state of Indiana. Because the Betco **Wasp and Hornet Insecticide** had never been registered in Indiana, Mr. White requested I obtain four of the aerosol cans.
4. I obtained four aerosol cans of the **Wasp and Hornet Insecticide** (EPA #10807-196-4170) by Betco and marked them 2015-0801 for submission to the OISC Formulations Lab.


5. Ms. Miller also told me according to their data base **Sure Shot Plus Wasp and Hornet Killer** was last received March 25, 2009. They had 12 aerosol cans in stock.
6. Mr. White also informed me **Sure Shot Plus Wasp and Hornet Killer** by Triple S had not been registered with OISC in Indiana since 2011. Since LBH Chemical and Industrial Supply last received the Triple S **Sure Shot Plus Wasp and Hornet Killer** (2009) prior to the last registration date (2011), Mr. White advised it was not necessary to take samples of the product. Instead I issued an “**Action Order**” to dispose of the product (**Sure Shot Plus Wasp and Hornet Killer**) preferably through the OISC Clean Sweep program.



Kevin W. Gibson
Pesticide Investigator

Date: May 11, 2015

Disposition: Betco Corporation was cited for six (6) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a state, unregistered pesticide product. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed.



George N. Saxton
Compliance Officer

Draft Date: June 2, 2015
Final Date: August 25, 2015

CASE SUMMARY

Case #2015/0583

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907-2063
765-494-1585

Respondent: Aardvark Pest Control, Inc. (Licensed Business)
7716 Lima Road
Ft. Wayne, IN 46818
260-471-2800
Joe Mishak (Certified Applicator)
Cody Wortinger (Unlicensed Applicator)

1. On April 13, 2015, I conducted a routine inspection of Aardvark Pest Control. During my inspection it was discovered Aardvark had a pesticide applicator for the business not being properly supervised.
2. I met with Office Manager, Danielle Mishak during my inspection. Upon reviewing active pesticide applicators for Aardvark, it was determined employee Koty Wortinger had been operating as a pesticide applicator and was unlicensed. I informed Mrs. Mishak the OISC database indicated Mr. Wortinger had taken and passed the Core test last year, but no licensing application or fees had ever been received. Mrs. Mishak was asked to provide copies of application records for all days in which Mr. Wortinger made pesticide applications for Aardvark without direct supervision. On April 14, 2015, I picked-up these requested records from Aardvark Pest Control.
3. The pesticide application records provided by Aardvark Pest Control indicated Mr. Wortinger made unsupervised applications on the following eighty-two (82) dates:
 - 7/22/14 7/28/14 7/29/14 7/31/14
 - 8/1/14 8/4/14 8/5/14 8/7/14 8/8/14 8/11/14 8/12/14 8/13/14
8/14/14 8/15/14 8/18/14 8/19/14 8/20/14 8/21/14 8/22/14 8/26/14
8/28/14 8/29/14
 - 9/2/14 9/4/14 9/5/14 9/9/14 9/11/14 9/12/14 9/16/14 9/18/14
9/19/14 9/20/14 9/23/14 9/25/14 9/30/14
 - 10/2/14 10/3/14 10/7/14 10/9/14 10/10/14 10/14/14 10/16/14
10/17/14 10/21/14 10/23/14 10/24/14 10/28/14
 - 11/4/14 11/6/14 11/7/14 11/11/14 11/14/14 11/18/14 11/20/14
11/21/14 11/25/14

- 12/2/14 12/5/14 12/9/14 12/11/14 12/12/14 12/18/14
- 1/5/15 1/8/15 1/9/15 1/13/15 1/22/15 1/27/15 1/29/15 1/30/15
- 2/3/15 2/5/15 2/10/15 2/12/15 2/17/15 2/24/15 2/26/15 2/27/15
- 3/3/15 3/24/15 3/27/15 3/31/15
- 4/2/15 4/9/15

4. Mrs. Mishak was informed Mr. Wortinger was not to make any further applications until licensing requirements had been met.



Scott M. Farris
Investigator

Date: April 16, 2015

Disposition: Joe Mishak was cited for eighty-two (82) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to properly supervise a non-licensed employee. A civil penalty in the amount of \$10,250.00 (82 x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$4,100.00. Consideration was given to the fact Mr. Mishak cooperated during the investigation; corrective action was taken; no potential for damage and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: May 1, 2015
Final Date: September 15, 2015

CASE SUMMARY

Case #2015/0617

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907
765-494-1585

Respondent: Chuck Brooks
Bowlers Country Club
55839 Pine Road
South Bend, Indiana 46619
574-237-9150

Licensed Applicator

Greg Ellis
Berrien Hills Golf Course
690 W. Napier Avenue
Benton Harbor, Michigan 49022
269-925-9002

Unlicensed Applicator

1. On March 17, 2015, I conducted a golf course pesticide application records inspection at Bowlers Country Club in South Bend, Indiana. I spoke to and issued a Notice of Inspection (NOI) to office manager Buffy Leonard.
2. Ms. Leonard told me Chuck Brooks made their pesticide applications in 2013. Greg Ellis made the pesticide applications in 2014. I checked with Jill Davis of the OISC Licensing and Certification section. She told me Mr. Brooks did have a pesticide application license for 2013, but Mr. Ellis has never had a license.
3. Ms. Leonard said she did not know where the application records were since Mr. Ellis did not work for Bowlers Country Club. He worked for Berrien Hills Golf Club in Benton Harbor, Michigan. She explained Mr. Ellis agreed to help out at Bowlers Country Club until they (Bowlers Country Club) hired an applicator. Ms. Leonard told me she would attempt to locate the application records for 2014 and send them to me.
4. I contacted Mr. Ellis. Mr. Ellis told me he was a licensed applicator in Michigan. He told me he thought he was legal to make applications in Indiana through licensing reciprocity. I explained he would still need a pesticide license through our office before he could make legal pesticide applications in Indiana. I directed him to the OISC Licensing and Certification section for further information. He agreed to send me copies of the pesticide applications he made for Bowlers Country Club. I advised him he could not make any pesticide applications in Indiana until he obtained his Indiana pesticide applicator license.

5. I received the following pesticide application records from Greg Ellis and Bowlers Country Club:

<u>Date</u>	<u>Product</u>	<u>EPA#</u>
6/21/14	Daconil Action	100-1364
7/5/14	Daconil Action	100-1364
7/19/14	Daconil Action	100-1364
8/2/14	Daconil Action	100-1364
8/16/14	Daconil Action	100-1364
8/30/14	Daconil Action	100-1364
9/13/14	Daconil Action	100-1364
9/27/14	Secure	71512-20-100
10/4/14	Secure	71512-20-100
11/7/14	Triton Flo	432-1487

6. In summary, Greg Ellis and Bowlers Country Club were in violation for 10 pesticide applications made without a valid pesticide applicator license.

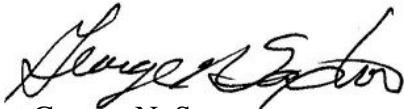
7. On May 15, 2015, I made contact with Ms. Leonard of Bowlers Country Club. She told me Mr. John Oppenheim was licensed to do pesticide applications at the golf course. I checked the OISC licensing data base to confirm Mr. Oppenheim was properly licensed with Bowlers Country Club.



Kevin W. Gibson
Pesticide Investigator

Date: May 15, 2015

Disposition: Bowlers Country Club was cited for ten (10) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$2,500.00 (10 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,250.00. Consideration was given to the fact Bowlers Country Club cooperated during the investigation; corrective action was taken and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: June 2, 2015
Final Date: August 25, 2015

CASE SUMMARY

Case #2015/0658

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
800-893-6637

Applicator: Mike Yocum non-certified
Eric Kessler un-licensed
Alternative Edge Lawn and Landscape
1508 Stone Ripple Circle
Lafayette, IN 47909
765-479-1776

1. On March 31, 2015, I observed Mr. Yocum at the intersection of Stone Valley Drive and Veterans Memorial Parkway in Lafayette, Indiana making what appeared to be an application of some type of granular herbicide to a landscape area. See Figure One



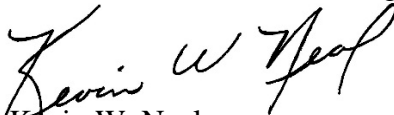
Figure One

2. I stopped and identified myself to Mr. Yocum and inquired as to whether he was familiar with the OISC and he advised that he was not. I then asked if he was a certified pesticide applicator and he stated that he was not. It was then determined that Mr. Yocum was applying Preen Garden Weed Preventer (EPA Reg. #961-280) active ingredient trifluralin. See Figure Two



Figure Two

3. Mr. Yocum was then asked to phone his supervisor and called Mr. Kessler. I advised Mr. Kessler that his company was not licensed to apply pesticides for hire and that I would be issuing an Action Order to Mr. Yocum to cease all pesticide applications.
4. Mr. Yocum was issued and Action Order “to cease any and all pesticide applications until such time that all licensing issues have been resolved.”


Kevin W. Neal
Investigator

Date: March 31, 2015

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


George N. Saxton
Compliance Officer

Draft Date: April 3, 2015
Final Date: September 17, 2015



Fig. 1



Fig. 2



Fig. 3



Fig. 4

- Figure 1 is the front of the Superior Seed Sales and Service office.
- Figure 2 is the rear of the building in figure 1. Note the bulk seed boxes
- Figure 3 is the agricultural crop seed treater inside the Superior Seed Sales and Service building in figures 1 and 2.
- Figure 4 is inside the pesticide storage area at Superior Seed Sales and Service. The photo is of two of the pesticide products used in treating agricultural crop seed, *Evergol*, EPA Reg# 264-1122, active ingredient= prothiocanzole 7.18%, penflufen 3.59% and *Allegiance*, EPA Reg# 264-935, active ingredient=metalaxyl 28.35%.

4. On Monday May 4, 2015, I received the 2013 and 2014 records of unlicensed pesticide applications made by Superior Seed Sales and Service. The chart which follows documents and details the “for hire” pesticide applications made to agricultural crop seed by Superior Seed Sales.

DATE	NUMBER OF UNITS TREATED	PESTICIDE PRODUCTS USED	NAME AND ADDRESS OF THE CUSTOMER
4-23-13	40	*	Dieckhoff Farms LLC 5320 S. 1100 W Westport, IN. 47283
“	120	“	Mark Fischer 628 S 250 E Columbus, IN.47201
“	40	“	Randy Gault 3329 W 1000 S Westport, IN. 47283
“	80	“	Jordan Farm Service 19560 E 50 N Hartsville, IN. 47244
“	80	“	Tony Kroger 9212 W 1200 S Westport, IN. 47283
“	“	“	Larry Muckerheide 3493 W SR 46 Greensburg, IN. 47240
“	320	“	Greg Richardson 9085 S 800 W Westport, IN. 47283
“	40	“	T&S Farms 4530 E 900 N North Vernon, IN. 47265
“	120	“	David Vanderbur 5325 W 800 S Greensburg, IN. 47240

“	40	“	Wagler Farms Inc. 1158 Woodland Lake Rd. Morgantown, IN. 46160
4-24-13	180	“	Robert Akin 12798 E 1000 N Seymour, IN. 47274
“	45	“	Bob Clark 10289 S 800 W Westport, IN. 47283
“	225	“	Jim Daily 3727 N 1050 E Hope, IN. 47246
“	135	“	Farm Operators Inc. 5770 S US 31 Columbus, IN. 47201
“	90	“	Mark Fischer 628 S 250 E Columbus, IN. 47201
“	135	“	Jeff Kreutzjans 2565 E 650 N North Vernon, IN. 47265
“	90	“	Dick O’Neal 14750 E 100 N Columbus, IN. 47203
4-26-13	240	“	C&A Farms 6122 W 800 S Greensburg, IN. 47240
“	120	“	Dodds Farms Inc. 9696 N SR 9 Hope, IN. 47246
“	80	“	Jack Emly 11753 S 800 W Westport, IN. 47283
“	360	“	Farm Operators Inc. 5770 S US 31 Columbus, IN. 47201
4-29-13	160	“	Jim Daily 3727 N 1050 E Hope, IN. 47246
“	640	“	Shane Meier 1503 N. Meadows Ct. Columbus, IN. 47203
4-30-13	200	“	Mark Fischer 628 S 250 E Columbus, IN. 47201
“	480	“	Speer Farms 19803 E 200 S Hartsville, IN. 47244

“	120	“	David Vanderbur 5325 W 800 S Greensburg, IN. 47240
5-1-13	160	“	Robert Akin 12798 E 1000 N Seymour, IN. 47274
“	40	“	Bob Clark 10289 S 800 W Westport, IN. 47283
“	160	“	Greg Dietz 7933 S 800 W Greensburg, IN. 47240
“	40	“	Joe Dixon 11692 S 1100 W Westport, IN. 47283
“	40	“	Farm Operators Inc. 5770 S US 31 Columbus, IN. 47201
“	120	“	Huffman Bros 13611 E 100 S Columbus, IN. 47203
“	80	“	Miers Farm Corp. 7859 W 200 S Greensburg, IN. 47240
“	160	“	Greg Richardson 9085 S 800 W Westport, IN. 47283
5-2-13	90	“	Bob Clark 10289 S 800 W Westport, IN.
“	225	“	Jim Daily 3727 N 1050 E Hope, IN. 47246
“	180	“	Farm Operators Inc. 5770 S US 31 Columbus, IN. 47201
“	90	“	Mark Fischer 628 S 250 E Columbus, IN. 47201
“	135	“	Speer Farms 19803 E 200 S Hartsville, IN. 47244
5-3-13	135	“	Rick McFall 4875 W 900 N Scipio, IN. 47273
“	80	“	Jeff Kreutzjans 2565 E 650 N North Vernon, IN. 47265

“	240	“	Miers Farm Corp. 7859 W 200 S Greensburg, IN. 47240
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* Indicates the following pesticide products used:

- Evergol, EPA Reg# 264-1122, active ingredient=prothioconazole 7.18%, penflufen 3.59%, metalaxyl 5.74%
- Allegiance, EPA Reg# 264-935, active ingredient=metalaxyl 28.35%
- Gaucho, EPA Reg# 264-968, active ingredient=imidacloprid 48.7%

DATE	NUMBER OF UNITS TREATED	PESTICIDE PRODUCTS USED	NAME AND ADDRESS OF THE CUSTOMER
4-10-14	45	*	Bob Clark 10289 S 800 W Westport, IN. 47283
“	90	“	Dodd Farms Inc. 9696 N SR 9 Hope, IN. 47246
“	270	“	Pat Grote 3250 S 220 SW Greensburg, IN. 47240
“	225	“	Wagler Farms Inc. 1158 Woodland Lake Rd. Morgantown, IN. 46160
4-11-14	45	“	Baron Deck 3419 S 220 SW Greensburg, IN. 47240
“	“	“	Dieckhoff Farms 5320 S 1100 W Westport, IN. 47283
“	“	“	Joe Dixon 11692 S 1100 W Westport, IN. 47283
“	“	“	Jack Emly 11753 S 800 W Westport, IN. 47283
“	180	“	Jaquess Farms 17630 E 300 S Columbus, IN. 47203
“	90	“	Tony Kroger 9212 W 1200 S Westport, IN. 47283
“	“	“	David Vanderbur 5325 W 800 S Greensburg, IN. 47240
4-13-14	“	“	Randy Cooper 656 N 1100 E Hartsville, IN. 47244

“	225	“	Mark Fischer 628 S 250 E Columbus, IN. 47201
“	180	“	Speer Farms 19803 E 200 S Hartsville, IN. 47244
“	270	“	Wagler Farms Inc. 1158 Woodland Lake Rd. Morgantown, IN. 46160
4-14-14	225	“	Bob Clark 10289 S 800 W Westport, IN. 47283
“	45	“	Darrell Baker 111 North Iron Mine Rd. Westport, IN. 47283
“	135	“	Farm Operators Inc. 5770 S US 31 Columbus, IN. 47201
“	“	“	Huffman Bros. 13611 E 100 S Columbus, IN. 47203
“	“	“	Rick McFall 4875 W 900 N Scipio, IN. 47273
“	“	“	Steve Nobbe 3209 East Base Rd. Greensburg, IN. 47240
4-15-14	450	“	Farm Operators Inc. 5770 S US 31 Columbus, IN. 47201
“	225	“	Meirs Farm Corp. 7859 W 200 S Greensburg, IN. 47240
“	225	“	Wagler Farms Inc. 1158 Woodland Lake Rd. Morgantown, IN. 46160
4-16-14	45	“	Greg Dietz 7933 S 800 W Greensburg, IN. 47240
“	“	“	Jack Emly 11753 S 800 W Westport, IN. 47283
“	270	“	Mark Fischer 628 S 250 E Columbus, IN. 47201
“	45	“	Garry Gault 8641 S 600 W Greensburg, IN. 47240

“	135	“	Pat Grote 3250 S 220 SW Greensburg, IN.
“	45	“	Mike Hedger 5786 S 700 W Greensburg, IN. 47240
“	90	“	Huffman Bros. 13611 E 100 S Columbus, IN. 47203
“	135	“	Rick McFall 4875 W 900 N Scipio, IN. 47273
“	45	“	Lee Perkins 11824 S 700 W Westport, IN. 47283
“	90	“	Jim Tomson 9857 S 900 W Westport, IN. 47283
“	45	“	David Vanderbur 5325 W 800 S Greenburg, IN. 47240
4-17-14	45	“	Jack Emly 11753 S 800 W Westport, IN. 47283
“	90	“	Jack Emly 3727 N 1050 E Hope, IN. 47246
“	315	“	Jim Tomson 9857 S 900 W Westport, IN. 47283
“	90	“	Pat Grote 3250 S 220 SW Greensburg, IN. 47240
4-19-14	180	“	C&A Farms 6122 W 800 S Greensburg, IN. 47240
“	90	“	Bob Clark 10289 S 800 W Westport, IN. 47283
“	45	“	Jack Emly 11753 S 800 W Westport, IN. 47283
“	80	“	Mike Hedger 5786 S 700 W Greensburg, IN. 47240
“	90	“	Jeff Kreutzjans 2565 E 650 N North Vernon, IN. 47265

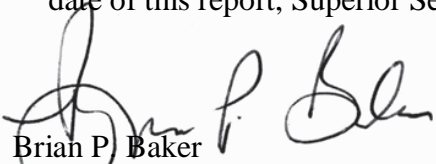
“	180	“	Wagler Farms Inc. 1158 Woodland Lake Dr. Morgantown, IN. 46160
4-21-14	160	“	C&A Farms 6122 W 800 S Greensburg, IN. 47240
“	80	“	Dodd Farms INC 9696 N SR 9 Hope, IN. 47246
“	210	“	Farm Operators INC 5770 S US 31 Columbus, IN. 47201
“	120	“	Speer Farms 19803 E 200 S Hartsville, IN. 47244
“	200	“	David Vanderbur 5325 W 800 S Greensburg, IN.47240
4-22-14	40	“	Randy Cooper 656 N 1100 E Hartsville, IN. 47244
“	“	“	Jim Daily 3727 N 1050 E Hope, IN. 47246
“	“	“	Baron Deck 3419 S 220 SW Greensburg, IN. 47240
“	“	“	Joe Dixon 11692 S 1100 W Westport, IN. 47283
“	80	“	Jack Emly 11753 S 800 W Westport, IN. 47283
“	270	“	Mark Fischer 628 S 250 E Columbus, IN, 47201
“	80	“	Garry Gault 8641 S 600 W Greensburg, IN. 47240
“	“	“	Pat Grote 3250 S 220 SW Greensburg, IN. 47240
“	“	“	Greg Richardson 9085 S 800 W Westport, IN. 47283

* Indicates the pesticides products used in the application:

- Evergol, EPA Reg# 264-1122, active ingredient=prothioconazole 7.18%, penflufen 3.59%
- Allegiance, EPA Reg# 264-935, active ingredient=metalaxyl 28.35%

- Gaucho, EPA Reg# 264-968, active ingredient=imidacloprid 48.7%

5. In this case there are a total of 18 days in the calendar years 2013/2014 where pesticide products were applied to agricultural crop seed “for hire” by Superior Seed Sales, without being licensed by OISC. It should be noted Mr. Friedersdorf cooperated in this investigation and provided the records requested. It should also be noted that steps were taken to obtain the proper licensing and as of the date of this report, Superior Seed Sales and Service are properly licensed with OISC.



Brian P. Baker
Pesticide Investigator

Date: May 11, 2015

Disposition: Superior Seed Sales and Service was cited for eighteen (18) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$4,500.00 (18 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,250.00. Consideration was given to the fact Mr. Friedersdorf cooperated during the investigation; corrective action was taken and no restricted use products were involved.



George N. Saxton
Compliance Officer

Draft Date: May 15, 2015
Final Date: September 17, 2015

CASE SUMMARY

Case #2015/0698

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907
(765) 494-1585

Respondent: Rick A. Kruse Co-Owner
Kruse Seed Service
3117 E. SR 168
Fort Branch, Indiana 47648
(812) 304-0399

1. On Thursday April 9, 2015, I Agent Brian Baker of OISC, conducted a facility inspection of the Kruse Seed Service. The inspection covered the following areas.

- Licensing and Insurance
- Records Keeping
- Storage of pesticide products.

2. I met with Mr. Rick A. Kruse. I issued a Notice of Inspection and stated the purpose of my inspection. I asked Mr. Kruse if he was a “for hire” business which offered pesticide treatments to agricultural crop seed to the general public. Mr. Kruse said that he did run a for hire business which treated agricultural crop seed with pesticide products. I asked Mr. Kruse if his business was properly licensed by OISC. Mr. Kruse told me his business was in the process of obtaining the proper licensing. I answered Mr. Kruse’s question about the testing and application process. I asked Mr. Kruse how long he had been treating agricultural crop seed with pesticides for hire. Mr. Kruse told me he had been in the for hire seed treating business for the past two years. I told Mr. Kruse I would need a copy of all of his treatment records for the last two years and the records needed to contain the date of the pesticide applications, the number of units treated each day , the pesticide products they were treated with and the name and address of the customers to whom the treated seed was delivered. I issued the Kruse Seed Service a Stop Action Order which ordered them to stop all for hire pesticide applications to agricultural crop seed until properly licensed by OISC. I stopped the facility inspection at that time and told Mr. Kruse I would return and conduct a new business inspection as soon as the business and personnel were properly licensed.

3. I took the following photographs (Figs. 1-3) at the Kruse Seed Service:



Fig. 1



Fig. 2



Fig. 3

- Figure 1 is the “for hire” business sign at the front of the property.
- Figure 2 are bulk storage bins for agricultural crop seed, which are a clear indication of a large agricultural crop seed treating facility.
- Figure 3 is pro boxes for bulk storage of treated and untreated agricultural crop seed, an indication of an agricultural crop seed treating facility.

4. On Friday April 10, 2015, I received the records of pesticide treatment to agricultural crop seed I had requested from Mr. Kruse. The chart which follows is a break-down of the two years of pesticide treatment by day.

DATE	# UNITS TREATED	PESTICIDES PRODUCTS USED	NAME AND ADDRESS OF THE CUSTOMER
May 20, 2013	75	*Allegiance/Gaucho/Evergol	JD Reynolds 5190 S. 350 E Princeton, IN. 47620
May 21, 2013	150	“	William Bugher 4858 N 200 W Patoka, IN. 47666
“	100	“	Trent Sallman 1222 Bowden Dr. Evansville, IN. 47625
May 23, 2013	350	“	Wallis Farms 5662 S 100 E Princeton, IN. 47670
May 30, 2013	200	“	Heidenreich Farms 2678 W 100 N Princeton, IN. 47670
May 31, 2013	400	“	Bob Bender 12 W Red Barn Rd Ft. Branch, IN. 47648
June 4, 2013	105	“	Lyndon Meyer 3423 E 600 S Ft. Branch, IN. 47648
June 8, 2013	450	“	Bob Bender
June 13, 2013	175	“	BJK Farms 6016 E 200 S Francisco, IN. 47649
“	180	“	Heidenreich Farms
June 14, 2013	175	“	BJK Farms
“	125	“	Don Pflug Farms 10902 E 250 S Oakland City, IN.
June 11, 2013	200	“	Heidenreich Farms
June 15, 2013	200	“	Heidenreich Farms
“	125	“	Don Pflug Farms
June 17, 2013	125	“	“
June 18, 2013	150	“	Lyndon Meyer

June 22, 2013	130	“	Don Pflug Farms
July 8, 2013	130	“	Lyndon Meyer
July 9, 2013	240	“	BJK Farms
July 11, 2013	125	“	Don Pflug Farms
“	300	“	“
July 13, 2013	250	“	“
“	100	“	“

DATE	# UNITS TREATED	PESTICIDE PRODUCTS USED	NAME AND ADDRESS OF THE CUSTOMER
May 19, 2014	100	*Allegiance,Gaucho,Evergol	Chris McClellan 9990 W SR 165 Princeton, IN. 47670
“	125	“	JD Reynolds 5180 S 350 E Princeton, IN. 47670
May 20, 2014	100	“	Chris McClellan
“	150	“	Lyndon Meyer 3423 E 600 N Ft. Branch, IN. 47648
“	300	“	Bob Bender 12 W Red Bank Rd. Ft. Branch, IN. 47648
May 21, 2014	50	“	Lyndon Meyer
May 22, 2014	225	“	Bob Bender
“	200	“	Heidenreich Farms 2678 W 100 N Princeton, IN. 47670
“	“	“	“
“	105	“	Joe Knapp
May 23, 2014	250	“	Bob Bender
“	200	“	Pflug Farms
“	200	“	“
May 24, 2014	50	“	Lyndon Meyer
“	225	“	Bob Bender
May 25, 2014	150	“	Lyndon Meyer
May 26,2014	150	“	Bob Bender
May 27,2014	200	“	BJK Farms
May 28, 2014	45	“	Heidenreich Farms
June 16, 2014	175	“	BJK Farms
“	125	“	William Bugher
June 17, 2014	300	“	Pflug Farms
June 18, 2014	285	“	“
June 20, 2014	300	“	“
June 20, 2014	250	“	“

June 21, 2014	325	“	“
“	250	“	“
June 25, 2014	190	“	“
June 26, 2014	250	“	“
July 1, 2014	250	“	“

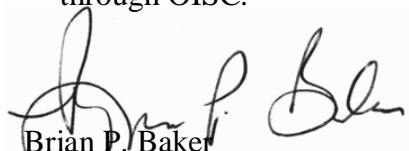
*Allegiance, EPA Reg# 264-935, active ingredient=metalaxyl 28.35%

*Gaucho, EPA Reg# 264-968, active ingredient=imidacloprid 48.7%

*Evergol, EPA Reg#264-1122, active ingredient=prothioconazole 7.18%, penflufen 3.59%, metalaxyl 5.74%

5. In this case there were 37 days over a two year period where Kruse Seed Service treated agricultural crop seed with the pesticide products indicated at the bottom of the chart in paragraph 4 of this report. The Kruse Seed Service did not have a business license or a certified applicator of record during the 37 days of pesticide treatment to agricultural crop seed. The 37 days are the total of 18 days in the calendar year of 2013 and 19 days in the calendar year of 2014. The specific days of treatment are recorded on the chart in paragraph 4 of this report.

6. It should be noted Mr. Rick Kruse cooperated and provided all the requested records within one day of my inspection and the company has taken steps to obtain the proper licensing through OISC.



Brian P. Baker
Pesticide Investigator

Date: April 16, 2015

Disposition: Rick A. Kruse and Kruse Seed Service were cited for thirty-seven (37) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$9,250.00 was assessed. However, the civil penalty was reduced to \$6,937.50. Consideration was given to the fact Mr. Kruse cooperated during the investigation.



George N. Saxton
Compliance Officer

Draft Date: May 1, 2015
Final Date: September 17, 2015

CASE SUMMARY

Case #2015/0788

Complainant: Anonymous

Respondent: Brent Milhon Certified Applicator
Milhon Air, Inc.
2151 Centerton Road
Martinsville, IN 46151
317-831-7464

1. On April 16, 2015, the Office of Indiana State Chemist (OISC) received an anonymous complaint through the Indiana Department of Environmental Management (IDEM) regarding dumping of pesticides and burning of pesticide containers. The complaint stated the dumping and burning was occurring on the north side of the concrete pad on the furthest south large white building.
2. On April 22, 2015, I went to Milhon Air, Inc. and met with Brent Milhon, President. OISC Agent Beth Carter assisted me with this investigation. I advised Mr. Milhon of the complaint. He stated he never dumps pesticides or burns any pesticide containers. I advised him of the location given in the complaint. He stated I was welcome to walk around the property and inspect. He then accompanied Agent Carter and me to the large white building which housed two aerial application aircraft. As we approached the building, I observed a large burn pile located just off of the concrete pad to the north of the white building. There was rock/gravel around the burn pile. I asked Mr. Milhon about the burn pile and he stated they only burn brush and some trash. I then advised Mr. Milhon we would be taking some photographs and some soil samples. He stated I was welcome to do whatever I needed for the investigation.
3. Agent Carter took photographs of the area including the burn pile. I collected soil samples from within the burn pile under the gravel and from the yard at locations away from the burn pile. The samples were labeled and submitted to the OISC residue lab. I observed there was no dead vegetation below the burn pile. There was a grade from the burn pile down to the field just to the east. The absence of any dead vegetation or runoff pattern, would suggest no pesticide would have crossed the field to the creek, located several hundred yards to the east. Furthermore, the grass airstrip was a higher elevation than the rest of the field and sat between the area of the burn pile and the creek. Figure 1 is a view of the large white building with the concrete pad. The burn pile was located just off of the left out of view. Figure 2 is a view of the burn pile.



figure 1



figure 2

4. On May 20, 2015, I received a report from the OISC residue lab. I had requested the lab run a general pesticide screen on the soil sample collected from the burn pile. The report indicated the following 14 pesticide active ingredients were detected in the soil samples collected from the burn pile. **acetochlor, atrazine, azoxystrobin, bifenthrin, cypermethrin, esfenvalerate, lambda cyhalothrin, metconazole, permethrin, picoxystrobin, propiconazole, pyraclostrobin, tebuconazole, trifloxystrobin.**
5. I made contact with Mr. Milhon and again asked him if they had dumped any pesticides in the area of the burn pile or if they had burned any pesticide containers in the burn pile. He stated they had not. I then advised him of the OISC residue lab results. He stated since it was a farming property, maybe it was just pesticide chemicals that were common in the soils. I then advised him I had taken soil samples from the yard at locations away from the burn pile. The OISC residue lab report indicated the soil samples taken from the yard at locations away from the burn pile were below detection limits for any pesticide active ingredients.
6. Mr. Milhon then admitted they had been burning pesticide containers in the burn pile. He asked what would happen next. I advised him I would forward a case report to the OISC Compliance Officer for any enforcement action.

Robert D. Brewer
Investigator

Date: June 1, 2015

Disposition: Brent Milhon and Milhon Air Inc. were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-13-2, for causing the open burning of pesticide containers. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact Mr. Milhon did not cooperate during the investigation.

George N. Saxton
Compliance Officer

Draft Date: June 2, 2015
Final Date: August 25, 2015

cc. Karla Frownfelter, IDEM KFrownfe@idem.IN.gov

CASE SUMMARY

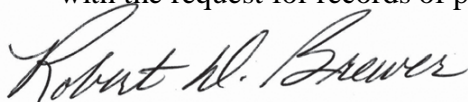
Case #2015/0801

Complainant: Anonymous

Respondent: Kevin Branco
Bermuda Triangle Landscape, Inc.
1394 Liberty Road
Milton, KY 40045
502-268-0767

1. On April 22, 2015, the Office of Indiana State Chemist (OISC) received an anonymous complaint stating Bermuda Triangle Landscape, Inc. was spraying the lawn at Ponderosa in Madison, Indiana as well as other locations in Indiana. The OISC database indicated they had not been licensed in Indiana since 2012.
2. On April 28, 2015, I went to the Ponderosa Steak House at 327 Clifty Drive Madison Indiana. I made contact with Assistant Mgr. Jami Vogel. I asked her if Bermuda Triangle Landscape, Inc. made pesticide applications to the Ponderosa property. She stated they do and they had just been there that morning to cut the grass. She pulled up records and found and invoice #5680 from Bermuda Triangle Landscapes, Inc. for March 31, 2015 lawn maintenance which included application of crabgrass preventer and fertilizer to the lawn. The invoice was dated April 1, 2015. A copy of this invoice is in this case file. Ms. Vogel checked with her home office and found this to be the only pesticide application by Bermuda Triangle Landscape, Inc. on file.
3. I contacted the Kentucky Department of Agriculture (KDA) pesticide division and spoke with Mr. Steve Sams. He advised me Bermuda Triangle Landscape, Inc. had not been licensed in Kentucky since 2012. I advised him of the complaint OISC had received and the investigation I was conducting. I asked if I could have one of his pesticide inspectors assist me in going to the Bermuda Triangle Landscape, Inc. location in Milton, Kentucky. He stated they would be happy to assist whenever I requested.
4. On May 7, 2015, I went to Bermuda Landscape, Inc. located at 1394 Liberty Road in Milton, Kentucky. I was met there by KDA inspectors Dewey Kuster and Gary Hale. I left a message on the voicemail, but no one returned the call and I was unable to make contact with anyone at the location. I found a different telephone number on the back building. I called the number and made contact with Mr. Kevin Branco. He advised me he was the owner of Bermuda Triangle Landscape, Inc. I advised him I was at his residence and asked if I could meet with him. He stated he was in Madison, Indiana working. I then advised him of the nature of my visit. He then stated he was unavailable. I advised him he needed to meet with me to get the issue taken care of, as it could become much more complicated for him if it continues. He then asked if he could have an hour and call me back. I agreed to his request.

5. I then advised Mr. Kuster and Mr. Hale, I would be heading back into Indiana. They then left and went back to their office. I then went across the river into Madison, Indiana. Mr. Branco then called me and requested I meet with him at a residence where he was mowing. I then met with him. I advised him of the anonymous complaint and the invoice I had obtained where his company had made a pesticide and fertilizer application at the Ponderosa in Madison, Indiana. I further advised him he was not licensed to make pesticide or fertilizer applications in the state of Indiana. He stated he thought his Kentucky license would allow him to make pesticide applications in Indiana. I then advised him he had not been licensed in Kentucky since 2012 as well. He then stated he just thought it was wrong he should have to pay the fee to do a few jobs in the Madison, Indiana area, as it was just across the river from Kentucky. I then advised him it is only fair for all businesses and applicators to be under the same licensing requirements if they are making money doing so.
6. I asked Mr. Branco how many pesticide and or fertilizer applications he had made in Indiana. He stated not too many, but was unsure. He stated his wife keeps all records. I advised him, I needed those records sent to me by the first of the following week. He stated he would do so. I explained to him the process of obtaining the proper licensing for himself and any his workers through OISC for applying pesticides or fertilizers in Indiana. He stated he would contact OISC and get the proper licensing. I then issue Mr. Branco a STOP ACTION ORDER, ordering him to cease all pesticide and fertilizer applications in the state of Indiana until obtaining proper licensing through the Office of Indiana State Chemist.
7. On May 21, 2015, I received an email from Mrs. Lana Branco stating she had taken the licensing test on that date. As of the time of this case report, I had not received records for any pesticide or fertilizer applications made in Indiana by Bermuda Triangle Landscape, Inc.
8. As of July 13, 2015, Kevin Branco and Bermuda Triangle Landscape, Inc. failed to comply with the request for records of pesticide and/or fertilizer applications made in Indiana.



Robert D. Brewer
Investigator

Date: June 1, 2015

Disposition: Kevin Branco and Bermuda Triangle Landscape, Inc. were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

Kevin Branco and Bermuda Triangle Landscape, Inc. were cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for failure to make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection. As a result, any pesticide license issued to Kevin Branco and/or Bermuda Triangle Landscape Inc. will be suspended and any pending license request will be denied until such time as Kevin Branco and/or Bermuda Triangle Landscape Inc. comply with the Order for pesticide/fertilizer application records.



George N. Saxton
Compliance Officer

Draft Date: July 13, 2015
Final Date: August 31, 2015

CASE SUMMARY

Case #2015/0803

Complainant: Office of Indiana State Chemist
175 S. University Street
Lafayette, Indiana 47907
800-893-6637

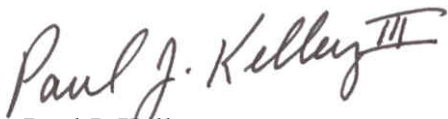
Respondent: Kaeley Smith
James Ridgeway
Chris Pursifull
Unique Lawn Care
5735 Park Plaza Court
Indianapolis, IN 46220
317-576-1800

Unlicensed Applicator
Registered Technician
Certified Supervisor
Licensed Business

1. On April 22, 2015, I performed a records inspection with Kaeley Smith, applicator for Unique Lawn Care. I discovered Mr. Smith did not have a registered technician (RT) credential with Unique Lawn Care. Mr. Smith did produce a credential dated 2014. Mr. Smith stated his certified supervisor was James Ridgeway. Mr. Smith also stated he can call Chris Pursifull. I asked Mr. Smith to contact his certified supervisor. Mr. Smith contacted Mr. Ridgeway. I spoke with Mr. Ridgeway who stated Unique Lawn Care failed to apply for the RT credential for Kaeley Smith. I requested Mr. Ridgeway to provide me with copies of all pesticide applications performed by Mr. Smith in 2015. I informed Mr. Ridgeway I would issue Mr. Smith a Stop Action Order to cease making for-hire pesticide applications without a license.
2. On May 23, 2015, Mr. Ridgeway emailed me copies of invoices for days Mr. Smith performed pesticide applications without a license. The following are dates of pesticide applications without a license.

3/17/15	3/18/15	3/19/15	3/20/15	3/23/15	3/25/15
3/24/15	3/27/15	3/28/15	3/30/15	3/31/15	4/9/15
4/10/15	4/14/15	4/17/15	4/18/15	4/20/15	4/20/15

3. Further investigation of OISC's database indicated James Ridgeway is a registered Technician illegally acting as Mr. Smith's certified supervisor. Chris Pursifull holds a category 3B credential for Unique Lawn Care.



Paul J. Kelley
Investigator

Date: June 4, 2015

Disposition: Chris Pursifull was cited for eighteen (18) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to properly supervise a non-certified individual. A civil penalty in the amount of \$2,250.00 (18 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,575.00. Consideration was given to the fact Mr. Pursifull cooperated during the investigation and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: June 9, 2015
Final Date: September 17, 2015

CASE SUMMARY

Case #2015/0804

Complainant: Office of Indiana State Chemist (OISC)
175 S. University St.
Lafayette, Indiana 47907
800-893-6637

Respondent: Castleton Lawn Care
Dan Ciesniewski
11650 Olio Rd
Suite 1000-246
Fishers, IN 46037
317-513-8879

Unlicensed Business
Owner/Unlicensed Applicator

1. On or about April 22, 2015, I observed a magnetic advertisement on my mailbox from Castleton Lawn Care. The advertisement listed “fertilization” as a service Castleton Lawn Care provided. See figure 1.



Figure 1-magnetic advertisement

2. On April 23, 2015, I reviewed the website for Castleton Lawn Care, www.castletonlawncare.com. The website for Castleton Lawn Care lists pesticide applications as services the company provides. See figure 2.



Figure 2-website service as advertised

3. A review of OISC's database indicated Castleton Lawn Care does not have a license to perform for-hire pesticide or fertilizer applications.
4. On May 11, 2015, I met with Dan Ciesniewski, owner of Castleton Lawn Care, at 12121 Cowboy Court in Fishers, Indiana (46037). Mr. Ciesniewski stated neither he nor Castleton Lawn Care had performed any pesticide or fertilizer applications. Mr. Ciesniewski stated he started advertising fertilization and pesticide applications because customer's wanted a "one stop shopping" of services. Mr. Ciesniewski stated he did not have any request for fertilizer or pesticide services.



Paul J. Kelley
Investigator

Date: May 12, 2015

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

As of September 18, 2015, Castleton Lawn Care had not paid the civil penalty. The case was forwarded to collections.



George N. Saxton
Compliance Officer

Draft Date: May 18, 2015
Final Date: September 18, 2015

CASE SUMMARY

Case #2015/0828

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1585

Respondents: Bruce Gregory Certified Applicator
Liberty Country Club
1391 N. US Hwy 27
Liberty, IN 47353
765-458-6554

Robert Lewis Grounds Supervisor
Richmond Elks Country Club
2100 US Hwy 27 S.
Richmond, IN 47374
765-966-2015

1. On June 8, 2015, I made contact with Mr. Robert Lewis. I advised him the OISC records indicated Richmond Elks County Club did not have a certified pesticide applicator on staff. He stated the previous certified applicator had left. He stated he took the test for his category 3b license the prior week. He stated the Richmond Elks Country Club had sent in the application and fee to OISC. I checked with the OISC licensing division and found Mr. Lewis had passed the test for category 3b and had submitted the application and fee.
2. I asked Mr. Lewis if he had made any pesticide applications to the Richmond Elks Country Club golf course since the previous certified applicator had left. He stated he had made two pesticide applications under the supervision of Mr. Bruce Gregory of the Liberty Country Club. I checked with the OISC licensing division and found Mr. Gregory does hold a certified category 3b license, but is licensed through Liberty Country Club and not Richmond Elks Country Club. I advised Mr. Lewis that Mr. Gregory could not supervise him making pesticide applications unless Mr. Gregory was licensed through Richmond Elks Country Club. Mr. Lewis stated he would no longer use Mr. Gregory as he will now be licensed.
3. On June 9, 2015, I made contact with Mr. Gregory. He stated he had supervised Mr. Lewis making two pesticide applications at the Richmond Elks Country Club. I advised Mr. Gregory he could not supervise anyone from the Richmond Elks Country Club or any golf course other than Liberty Country Club, unless he had a separate licensing for each golf course. He stated he did not realize this and he was helping Richmond Elks Country Club out until they had a staff member licensed to make pesticide applications. He stated he would no longer supervise anyone outside of Liberty Country Club.

4. On June 9, 2015, I received records of the two pesticide applications made by Mr. Lewis, under the supervision of Mr. Gregory. The records are in this case file. The following table indicates these pesticide applications.

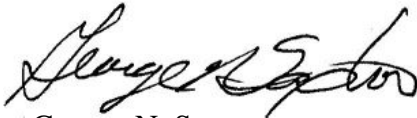
date	product applied/EPA Reg. #	active ingredient	location
May 19, 2015	Lesco Manicure 60063-3-10404	chlorothalonil	greens
May 28, 2015	Confront herbicide 62719-92	triclopyr, clopyralid	tees, fairways 12 & 13



Robert D. Brewer
Investigator

Date: June 17, 2015

Disposition: Richmond Elks Country Club was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator associated with that course. Consideration was given to the fact this was their first violation of similar nature and there was a good-faith effort to comply.



George N. Saxton
Compliance Officer

Draft Date: June 26, 2015
Final Date: August 31, 2015

CASE SUMMARY

Case #2015/0858

Complainant: Lynn Voorhies
730 Johnson Avenue
Franklin, IN 46131
317-736-4427

Respondent: Boatwright Vegetation Management / Southeast Vegetation Management
Alan Stewart
P.O. Box 43
Brierfield, AL 35035
205-834-3240

Railroad: Anacostia Rail Holdings
James Connolly
500 Willinger Lane
Jeffersonville, IN 47130
812-406-4581

1. On, May 1, 2015, Lynn Voorhies contacted the Office of Indiana State Chemist (OISC) alleging the railroad over-sprayed onto her property.
2. On May 6, 2015, I met with Mrs. Voorhies at her residence. The railroad tracks were behind her home. Mrs. Voorhies had a mature stand of lilies planted all along what appeared to be the back edge of her property. They were approximately four to five feet wide and ran parallel to the railroad tracks/ grass.



Fig 1: Voorhies yard and railroad

3. Upon examining the lilies I noticed some yellowing/ bleaching of the leaves. I also observed approximately four to five feet of brown, dying grass. The affected area was approximately 15 feet to 25 feet from the center of the railroad track. I then collected a target soil sample from the railroad tracks, a soil sample from the complainant's yard, and a vegetation sample (lilies) from the complainant's yard. All samples were turned in to the OISC's Residue Lab later that same day.



Fig 2: RR, Liles, and affected grass



Fig 3: Lilies

4. I then contacted James Connolly with the Anacostia Rail Holdings. He stated he was familiar with the situation and believed the railroad had an extended right-of-way (ROW) through that property. I asked him to please email me the legal contract stating the ROW through the Voorhies property. He also reported that Boatwright Vegetation Management/ Southeast Vegetation Management applied glyphosate, imazapyr and a drift control agent to the ROW at the Voorhies property.
5. On May 12, 2015, I received the following email from Mr. Connolly. It stated the following:

*“For LIRC (Louisville and Indiana Rail Company) ROW width @ 730 Johnson Ave (SF 00019159), the LIRC ROW here is somewhat complicated. The property line on the RR Val Map that was outlined as the "property sale" here is 15' e/o(east of) the RR CL. However, an additional RR ROW line is shown at 50' e/o the RR CL, well onto the landowner's parcel. The Val Map lines showing additional ROW cannot always be documented, but the attached original acquisition deed has an added notation that the width of the released ROW was 100'. **So this supports the RR's ROW claim to a surface RR ROW up to 50' e/o the CL, available for RR us.**”*

It contained the following attachment:

3016 165

I Garrett C. Bergen of the County of Johnson
 and State of Indiana for and in consideration of the advantage which
 may or will result to the public in general, and myself in particular, by the construction of the Madison & Indianapolis Rail Road
~~as now surveyed, or as the same may be finally located;~~—and for the purpose of facilitating the construction and completion of said Work, do hereby for myself, heirs, executors, administrators, and assigns, release and relinquish to the State of Indiana, the right of way for so much of said ~~land~~ Rail Road as may pass through the following described piece parcel or lot of land, to-wit: — North east quarter of Section No. 14 in town No. 12 North of Range No. 4 East in Johnson county

(Sealed)

And I further release and relinquish unto the said State of Indiana, all damages and right to damages, which I might sustain, or be entitled to, by reason of any thing connected with, or consequent upon the construction of said work, or the repairing thereof when finally established and completed; and I further license and permit the said State, by any authorized agent, to enter upon said land, and take therefrom, any timber, stone, sand, or other materials for the purpose of constructing or repairing said work, but while grant of timber is limited 20 oak trees such as will not make rails
 In witness whereof, I have hereunto set my hand and seal this 22 June 1843

Garrett C. Bergen

Sealed and delivered in presence of
Peter Bergea

Fig 4: Email Attachment

6. In this email and attachment, the railroad is stating that they have fifty feet of ROW through the Voorhies property.
7. I then went to the City of Franklin Department of Planning and Engineering. I spoke with the City Engineer, Travis Underhill. I explained the situation to Mr. Underhill and asked him to assist me in determining the ROW through the Voorhies property. He stated that these issues can be complicated. He went on to say that while their office did not have this deed on file that was not surprising or uncommon. He stated that he thought the contract was probably legitimate.

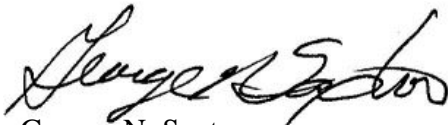
8. Based on the ROW information provided by the railroad indicating that the affected area was only 15 to 25 feet from center and therefore within the ROW, no further work or analysis was performed on the samples in this case.
9. A check of the OISC database indicated that Boatwright Vegetation Management LLC/ Southeast Vegetation Management was not a licensed pesticide business in Indiana. Through a series of phone calls and emails with Mr. Stewart, the applicator, I learned the following information:
 - Boatwright Vegetation Management LLC was now Southeast Vegetation Management.
 - Alan Stewart of Southeast Vegetation Management applied pesticides for hire in Indiana without a license on April 10 and 11th of 2015.
 - The OISC issued Southeast Vegetation Management LLC a category 6 (ROW) license in July of 2015.



Elizabeth C. Carter
Investigator

Date: July 12, 2015

DISPOSITION: Boatwright Vegetation Management/ Southeast Vegetation Management was cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed for these violations.



George N. Saxton
Compliance Officer

Draft Date: July 16, 2015
Final Date: August 31, 2015

CASE SUMMARY

Case #2015/0865

Complainant: Danny Sollars
10670 E 1200 N
Dunkirk, IN 47336
765-748-3894

Respondent: Douglas Fisher Private Applicator
10095 E 1000 N
Dunkirk, IN 47336
765-748-0181

1. On May 4, 2015, the complainant contacted Joe Becovitz of the Office of Indiana State Chemist (OISC) to report a field on the south side of his property was sprayed yesterday around 10:00am when it was very windy. Mr. Sollars stated he felt the spray drifted onto him and it went into his home because the windows were open. Mr. Sollars was instructed to place the clothes he was wearing at the time of the incident into a paper bag and hold for the investigator.
2. On May 5, 2015, I met with Ms. Katherine Sollars at the Sollars residence. While at the scene, I could not see any symptoms of what would be herbicide injury to vegetation on the Sollars property. This could very well be a factor of having arrived at the house too soon after the pesticide application was made.
3. I took photos of the area and collected samples in the form of swabs, soil, vegetation and a shirt provided to me by Ms. Sollars as being the shirt her husband, Danny, was wearing at the time of the application. These were later turned in to the OISC residue lab for analysis.
4. According to a signed Pesticide Investigation Inquiry (PII), an application consisting of a tank mix including Canopy Herbicide (EPA Reg. #352-444) active ingredients metribuzin and chlorimuron-ethyl, Abundit-Extra (EPA Reg. #71368-20) active ingredient glyphosate and AgriSolutions 2,4-D LV4 (EPA Reg. #1381-102) active ingredient 2,4-D was made on May 3, 2015 from 10:00am to 11:00am to the field located on the south side of 1200 N from the Sollars property. Mr. Fisher reported the wind speed and direction at the time of the application as being 7-10mph out of the south southwest which would be blowing in the direction of the Sollars property. Mr. Fisher also noted, *“The first application was made on May 3, 2015 from 10am-11am, with the wind speed of 7-10mph SSW. This area is shaded in yellow. A none sprayed buffer zone was left consisting of 180’ of field plus 30’ of side ditch and road, for a total of 210’. This area is shaded in orange. The spray was shut off before reaching the property line. The second application was made on May 3, 2015 from 9pm-9:30pm, with the wind speed of 0-2mph SSW. This area is shaded in blue. At the time the buffer zone was and is still not sprayed.”* See Figure One



Figure One

5. The results of the analysis made by the OISC residue lab are as displayed in the following table:

Sample	Chlorimuron-Ethyl
Trip Blank Swab	BDL
Swab From Front Door	1.4 NG/S
Swab From Front Window	5.5 NG/S
Vegetation Sample	Not Analyzed
Soil Sample Target Field	.47 PPB
T-Shirt From Sollars	243.0 NG/C

6. It should be noted that the soil sample from the target field was taken inside the orange zone indicated on Mr. Fisher's diagram.

7. According to historical weather data the wind speed and direction at the time of the application was 8-10mph out of the south southwest which would be blowing in the direction of the Sollars property and basically is the same as reported by Mr. Fisher. See Figure Two

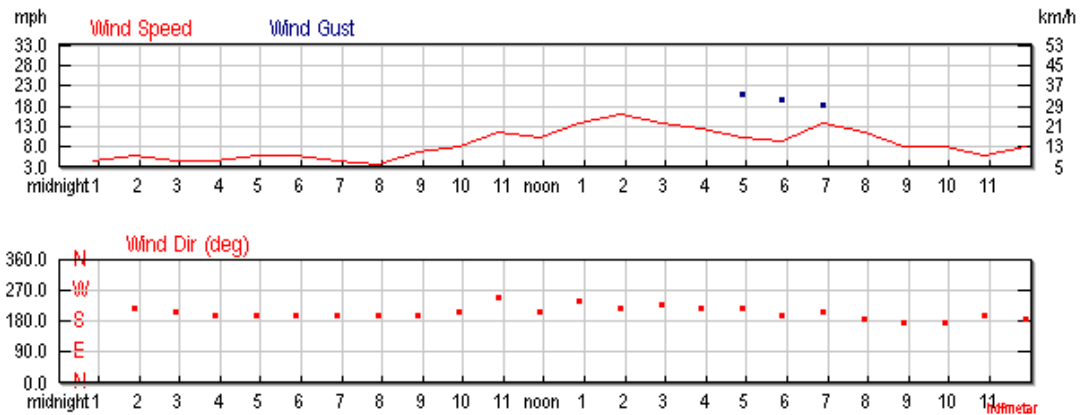
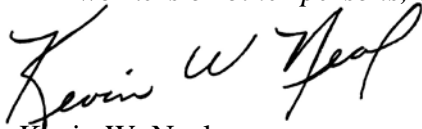


Figure Two

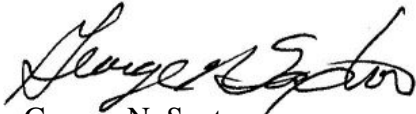
8. The label for Canopy Herbicide states, “Do not apply this product in a way that will contact workers or other persons, either directly or through drift.”



Kevin W. Neal
Investigator

Date: June 12, 2015

DISPOSITION: Douglas Fisher was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding pesticide drift that contacted other persons. A civil penalty in the amount of \$100.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: June 19, 2015
Final Date: August 25, 2015

CASE SUMMARY

Case #2015/0881

Complainant: Amanda Spencer
24411 Boyer Road
New Washington, IN 47162
812-725-5973

Respondent: Jack Olds Certified Applicator
Over & Under Flying Service, Inc.
3930 W Ims Lane
Madison, IN 47250
812-265-4232

1. On May 8, 2015, the Office of Indiana State Chemist (OISC) received a complaint from Ms. Amanda Spencer in reference to Over & Under Flying Service, Inc. allegedly “soaked” her with an aerial pesticide application on May 7, 2015. I made telephone contact with Ms. Spencer and set up an appointment to meet with her.
2. On May 10, 2015, I met with Ms. Spencer at her residence. She provided me with a written statement which stated on May 7, 2015, she was in her yard planting flowers when she looked up at the sound of an airplane and was sprayed with something. She stated the airplane flew over her residence from the south as it was making the aerial application to the field located directly south of her residence. She stated within moments, her skin, nose and lips were burning and itching. She stated she had felt the mist upon her face and also smelled a diesel fuel or chemical smell. She stated she made a several phone calls and found out Over & Under Flying Service, Inc. was the company making the aerial pesticide application. She stated she then rinsed her arms and hands with the hose and went in and took a shower. She stated she had a migraine headache and eventually vomited before falling asleep. This written statement is in this case file. Ms. Spencer stated she contacted Mr. Jack Olds of Over & Under Flying Service, Inc. and advised him of the situation. She stated he advised her he had applied an insecticide and a fungicide. Ms. Spencer then provided me with the shirt and shorts she was wearing at the time of the alleged pesticide exposure. She then showed me where she was standing when she was allegedly sprayed by the aerial pesticide application.
3. I then took photographs of the scene. I collected soil and vegetation samples from the target field of which the aerial application was made. I then collected soil and vegetation samples from Ms. Spencer’s yard at the location she stated she was standing at the time she felt the mist on her face. I also collected swab samples from both the north and south sides of Ms. Spencer’s house. All samples, including the Ms. Spencer’s clothing were labeled and turned in to the OISC residue lab. Figure #1 is the location of the flower bed where Ms. Spencer was standing. Figure #2 is a view of the target field looking south from the location Ms. Spencer was standing.



figure #1




figure #2

4. I made contact with Mr. Jack Olds of Over & Under Flying Service, Inc. He stated he was the aerial applicator who made the aerial application on May 7, 2015, to the field just south of Ms. Spencer's residence. He stated he circled the field prior to making the aerial application, looking for obstructions in the field and for people outside at adjacent houses. He stated he began spraying on the west side of the field, as the wind was mostly out of the south and a little out of the east, and worked east until the field was finished. He stated when he returned to the airport, Ms. Spencer had left a message stated she was sprayed. He stated he returned her call and she wanted to know what he was applying. He stated he advised her of the products he was applying. She then stated some of the spray had gotten on her and he told her to wash it off and take a shower. He stated she did not seem alarmed. He further stated he advised her he would contact her, if the field was to have an aerial pesticide application in the future. Mr. Olds advised me he had applied Tombstone Helios insecticide and Quilt Xcel fungicide to the field. I advised Mr. Olds, I would be sending a Pesticide Investigation Inquiry (PII) to him by certified mail. I advised him to fill out the PII and return it to me.
5. On May 20, 2015, I received the completed PII and application record from Mr. Olds along with a written statement. Both documents are in this case file. The PII indicated Mr. Olds made the aerial pesticide application to the target field located south of Ms. Spencer's residence on May 7, 2015, between 8:15 am and 9:30 am. It further indicated he applied Quilt Xcel fungicide EPA Reg. #100-1324 with the active ingredients azoxystrobin + propiconazole and Tombstone Helios insecticide EPA Reg. #34704-978 with the active ingredient cyfluthrin. The PII indicated Mr. Olds had applied the chemicals at a rate in accordance with the label requirements. He indicated a SSE wind. Mr. Olds holds a current certified category 11 and 14 license through OISC.
6. I received the lab report from the OISC residue lab. A copy of this report is in this case file. The following table indicates the lab results. NG/C = nanograms in clothing, NG/S= nanograms per swab, BDL= below detection limits.


sample analyzed	active ingredient	amount detected
clothing from complainant	azoxystrobin/propiconazole	76020 NG/C / 51660 NG/C
swab south side of house	azoxystrobin/propiconazole	456 NG/S / 576 NG/S
swab north side of house	azoxystrobin/propiconazole	8 NG/S / BDL

7. The residue lab analyzed Ms. Spencer's clothing and found the active ingredients azoxystrobin and propinconazole which is found in the product Quilt Xcel fungicide. The lab also analyzed the swab sample from the south side of the house and found a much greater amount of the same active ingredients than found on the swab sample analyzed from the north side of the house. The results found from the swab samples are consistent with the flight path of the aerial applicator and the wind direction showing a greater amount of the active ingredients on the south side of the house than on the north side of the house which was not in the direct path of flight and wind. The large amount of active ingredients found in the clothing sample is consistent with the statement made by Ms. Spencer regarding her being sprayed by the aerial pesticide application. Since the results of the samples analyzed indicate the active ingredients used by Mr. Olds during this aerial pesticide application were found in the clothing and swab samples, it was determined there was no need to analyze any further samples taken at the scene.
8. I researched the weather underground website for the nearest reporting weather station to the location of the aerial pesticide application on May 7, 2015. The website indicated the temperature during the aerial application time was 69.1 degree F. – 73.9 degree F. The winds were SSW between 3.5 mph and 4.6 mph. A copy of the report is in this case file.
9. I researched the label for Quilt Xcel fungicide EPA Reg. #100-1324. On page 9 of the label it states, "Do not apply this product in a way that will contact workers or other persons". On page 12 of the label it states, "DO NOT spray when conditions favor drift beyond area intended for application". On page 15 of the label it states, "AVOID SPRAY DRIFT".
10. I did speak with Ms. Spencer after the initial meeting and she stated her physical symptoms had gone away. I advised her of the National Pesticide Information Center, if she had any concerns and wished to contact them.


Robert D. Brewer
Investigator

Date: June 15, 2015

DISPOSITION: Jack Olds was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was Mr. Olds' first violation of similar nature but there was a potential for human harm.


George N. Saxton
Compliance Officer

Draft Date: June 19, 2015
Final Date: August 25, 2015

CASE SUMMARY

Case #2015/0887

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
800-893-6637

Respondent:	Ritchie Watson	Not Licensed
	Watson's Mowing & Landscaping	Not Licensed
	1129 N. Spencer	
	Rushville, IN 46173	
	765-561-0517	

1. On May 8, 2015, the Office of Indiana State Chemist received anonymous information indicating Ritchie Watson may have made for-hire pesticide applications at Fraley & Schilling Trucking in Rushville, Indiana. According to OISC records, Mr. Watson had not been issued a pesticide applicator license nor was his business a licensed pesticide business.
2. On May 13, 2015, I went to the trucking company and explained the situation to Tammy O'Mara. She indicated Mr. Watson had been maintaining the grounds at the company for several years, but she did not know what he applied to the turf.
3. I went to the home address for Mr. Watson but no one was home. I later spoke to Mr. Watson on the phone and informed him of the complaint. He indicated he had approximately ten mowing customers for whom he had applied fertilizer and a weed control made up of More Life and dissolved rock salt. He confirmed one of his customers was Fraley & Schilling Trucking. He explained that he sprays for several of his mowing customers, including his church and family members, as a favor and does not charge them. Mr. Watson stated he did not think he needed a license if he applied organic materials like More Life. I explained that, at a minimum, a license is required to apply fertilizer for-hire to lawns and that he was to cease making applications. I told him I would look into the products he allegedly applied for weed control and that I needed to know when and where he made for-hire applications. I explained the licensing requirements to Mr. Watson and how he could order study materials via the OISC website.
4. I was unable to find any relevant information on the More Life product Mr. Watson stated he used. On May 14, 2015, he left me a voice message in which he stated, "*I wasn't totally honest with you yesterday.*" He stated he had been applying fertilizer and Weedar 64 for broadleaf weed control. Mr. Watson indicated he tried to order a manual through the website but was unsuccessful. I called and again requested that Mr. Watson provide his application information. I also explained his licensing options and informed him he needed to employ a certified applicator to obtain a pesticide business license. I then sent licensing information to Mr. Watson via email.

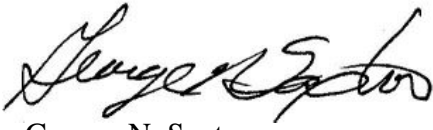
5. On May 27, 2015, I again spoke with Mr. Watson who indicated he wanted to keep the trucking company account. I explained that if he intended to make applications before he could pass the exams, attend the two-day workshop in the fall at Purdue (90-day experience requirement) and obtain a license, he would need to hire an applicator certified in Category 3b, meet the insurance requirement and apply for the business license.
6. On June 25, 2015, Mr. Watson left me a message indicating he made the following fertilizer and weed control applications in 2015:

April 24	Fraley & Schilling Trucking Lync Fraley Steve Moody	For-hire For-hire No charge
April 26	June Ferguson Lynn Hill Church	For-hire For-hire No charge


 Andrew R. Roth
 Investigator

Date: July 15, 2015

DISPOSITION: Ritchie Watson was cited for two (2) violations of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for these violations.


 George N. Saxton
 Compliance Officer

Draft Date: July 30, 2015
 Final Date: September 17, 2015

CASE SUMMARY

Case #2015/0904

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Huntingburg Country Club, Inc.
739 W. Third Street
Huntingburg, Indiana 47542
812-683-3376

1. On April 22, 2015, the Compliance Section of OISC received information from the Certification and Licensing Section that Huntingburg Country Club did not renew their certified applicator.
2. On June 3, 2015, I went to the Huntingburg Country Club and met with Course Superintendent, David Townsend. Mr. Townsend informed me he started working at the golf course on April 17, 2015, and had made four (4) pesticide applications to the course turf since starting. Mr. Townsend produced a Kentucky pesticide applicator's license, but did not have an Indiana pesticide applicator license. Mr. Townsend informed me he believed he had reciprocity and was able to make applications to the course. I informed Mr. Townsend he needed a current Indiana applicator credential to make pesticide applications in Indiana. I informed Mr. Townsend to contact the OISC licensing department for additional information on becoming certified in Indiana.
3. Mr. Townsend was issued an Action Order to cease any further pesticide applications to the golf course turf, until a certified 3b applicator was acquired. In addition, copies of the records for the four (4) pesticide applications were collected and indicated applications were made on the following dates:
April 21, 2015
May 4, 2015
May 15, 2015
May 21, 2015



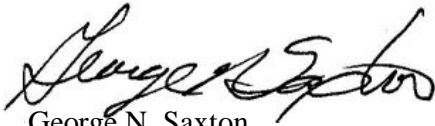
Scott M. Farris
Investigator

Date: June 9, 2015

DISPOSITION:

- A. Huntingburg Country Club was cited for four (4) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a pesticide commercial applicator license. A civil penalty in the amount of \$1,000.00 (4 counts x \$250.00 per count) was assessed. Consideration was given to the fact this was their second violation of similar nature. See case number 2010/1163.

- B.** On June 23, 2015, OISC received a letter from George R. Nord, Greens & Ground Committee, requesting a formal appeal. A copy of his letter was given to David E. Scott, Secretary, for the Indiana Pesticide Review Board, on the same date.
- C.** On July 1, 2015, an informal conference was held at Huntingburg Country Club. Present were David Townsend, George Nord, Bill Scott and John Kamman. Present from OISC were Agent Scott Farris and myself.
- D.** Mr. Nord started off by admitting the golf course had not followed the rules. He stated they had read the OISC website about reciprocity for Mr. Townsend but did not read the entire site about obtaining a license for the course. He also stated they were unaware of any previous violations because the former Superintendent, Nick Letterman, did not inform them of the investigation. Mr. Townsend has since obtained his certification.
- E.** Mr. Nord gave me copies of their new policy statements that will ensure this does not happen again. He stated the golf course Board will check on licensing every year.
- F.** In lieu of this additional information, the civil penalty was reduced to \$300.00. Consideration was given to the fact everyone cooperated during the investigation; corrective action was taken; there was no potential for damage; a good-faith effort to comply and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: September 25, 2015
Final Date: October 22, 2015

CASE SUMMARY

Case #2015/0954

Complainant: Jerilee Lamar
8801 Water Tank Road
Poseyville, IN 47633
812-453-0395

Respondents: Crop Production Services (CPS) (Licensed Business)
139 S St. Francis Street
P.O. Box 338
Poseyville, IN 47633
Troy Fletcher (Certified Applicator)
812-874-2236

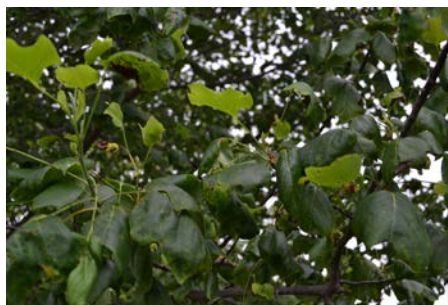
Larry Blankenberger (Private Applicator)
7601 Corbett Road
Poseyville, IN 47633
812-874-2236

1. On May 22, 2015, Jerilee Lamar spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC). Ms. Lamar stated on May 15, 2015, at approximately 1pm, CPS made a pesticide application to a farm field adjacent to her property. The application allegedly drifted onto her garden, fruit trees and ornamentals causing injury.
2. On May 26, 2015, I met with Mrs. Lamar and her husband at her property. Mrs. Lamar indicated she began to notice spotting and burning of leaves on garden plants and trees on her property 3 to 4 days after CPS had made a pesticide application to the farm field directly south, west and east of her property. Mrs. Lamar stated the winds were blowing toward her property from the south during the time of the application by CPS and she was concerned pesticides had drifted on her garden and fruit bearing trees making their produce unusable. Mrs. Lamar also indicated the farmer, Larry Blankenberger, had made a pesticide application to the farm field directly north of her property in late April 2015.
3. I inspected Mrs. Lamar's garden, trees and other ornamental throughout the property. Necrotic spotting consistent with a contact herbicide and leaf cupping/curling consistent with a growth regulating herbicide was observed on most of the vegetation inspected. Trees and ornamentals located closest to the suspected south farm field showed more pronounced symptoms of pesticide exposure and these symptoms decreased with distance from the field (pattern of drift). Vegetation located on the eastern edge of the property had only a few berry plants showing almost no symptoms of injury. The vegetation located on the northwestern and western edge of the property showed no visible symptoms of injury. The trees located along the northern section of property along the county road showed similar symptoms of injury as observed along the southern edge and decreased with distance to the south. The distance from the south edge of Mrs. Lamar's property and the northern edge (ends at county

road) was seventy (70) yards in length. Vegetation samples were taken from trees located on both the southern and northern edge of Mrs. Lamar's property. Photograph #1 shows a peach tree near the southern field edge with symptoms consistent with contact herbicide injury. Photograph #2 shows a tree near the northern edge of property (along county road) showing symptoms consistent with both contact herbicide and growth regulator injury.



Photograph # 1



Photograph # 2

4. On May 26, 2015, I contacted the Manager of CPS in Poseyville and was informed Sharpen (EPA Reg. #7969-278; active ingredient: saflufenacil), Matador (EPA Reg. #34704-105; active ingredients: metolachlor, metribuzin and imazethapyr) and Roundup Powermax (EPA Reg. # 524-549; active ingredient: glyphosate) had been applied to the field south and east of Mrs. Lamar's property on May 14, 2015, by Certified Applicator, Troy Fetcher. A Pesticide Investigation Inquiry (PII) form was issued to CPS to be completed by Mr. Fetcher. The PII was returned and indicated Mr. Fetcher had made the application to the south, west and east farm field adjacent to Mrs. Lamar's property, between the hours of 9:00am and 12:00pm.
5. On May 26, 2015, I contacted Larry Blankenberger. Mr. Blankenberger informed me he applied Salvo (EPA Reg. #34704-609; active ingredient: 2,4-D), Atrazine 4L (EPA Reg. #34704-69; active ingredient: atrazine) and Durango (EPA Reg. #62719-517; active ingredient: glyphosate). Mr. Blankenberger was sent a PII to complete. The PII was returned and indicated Mr. Blankenberger had made an application to the field north of Mrs. Lamar's property on April 28, 2015, at approximately 6:40pm.
6. On May 27, 2015, collected vegetation samples were turned into the Purdue Plant Diagnostic Lab for analysis. The results were reported back on May 31, 2015, and stated the following: *"The necrotic spotting on the leaf material of the sample are indicative of exposure to a contact herbicide such as saflufenacil that is the active ingredient in Sharpen."*
7. On May 27, 2015, collected vegetation samples were turned into the State Chemist Residue Lab for analysis. The results were reported back on July 13, 2015, and indicated the following:

Sample # 20150690: Trees near south field

- Metribuzin 367.0 PPB
- Atrazine 21.7 PPB
- Metolachlor 99.1 PPB
- Saflufenacil 47.6 PPB

Sample # 20150691: Trees along road near north field

• Metribuzin	74.0 PPB
• Atrazine	65.7 PPB
• Metolachlor	12.4 PPB
• Saflufenacil	BDL

PPB = Parts per Billion BDL = Below Detection Limits

8. A check of the weather conditions during the time of the application made by Mr. Fetcher showed the winds were from the east/southeast (blowing toward Mrs. Lamar's property) at 7.4 miles per hour. Mr. Fetcher indicated in the PII he believed the winds to be from the south/southeast at between 12 and 15 miles per hours.
9. A check of the weather conditions during the time of the application made by Mr. Blankenberger showed the winds were from the north (blowing toward Mrs. Lamar's property) at 4 miles per hour, gusting to 8 miles per hour. Mr. Blankenberger indicated in the PII he believed the winds were from southwest at approximately 6 miles per hour.
10. The Sharpen label stated the following: *"Apply this product only when the potential for drift to adjacent nontarget areas is minimal (e.g. when the wind is 10 MPH or less and is blowing away from sensitive areas)."*
11. The Matador label stated the following: *"This product may only be applied when the potential for drift to adjacent sensitive areas (e.g. residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g. when wind is blowing away from the sensitive areas)."* The Matador label also stated under the Restrictions section, *"Do not allow sprays to drift onto adjacent desirable plants."*
12. The Atrazine 4L label stated the following: *"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 nominal (e.g. when wind is blowing away from the sensitive areas)."*
13. In summary, the State Chemist Residue Lab results indicated the presence of the Sharpen, Matador (CPS application) and Atrazine (Mr. Blankenberger's application) products in both submitted samples. The results showed decreased levels of the products active ingredients with distance from the application fields, consistent with a drift pattern. The wind information on each of the application days showed the winds were blowing toward Mrs. Lamar's property during the application times.



Scott M. Farris
Investigator

Date: July 14, 2015

DISPOSITION: Larry Blankenberger was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift to non-target vegetation. Consideration was given to the fact this was his first violation of similar nature.

Troy Fletcher was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift to non-target vegetation. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his third violation of similar nature (see case numbers 2014/1112 and 2013/0995).



George N. Saxton
Compliance Officer

Draft Date: July 16, 2015
Final Date: October 29, 2015

CASE SUMMARY

Case 2015/0963

Complainant: Blaine Tebbe Home Owner
3109 S 600 E
Rushville, Indiana 46173
765-561-5056

Respondent: David Meyer Farmer
3017 E 200 N
Rushville, Indiana 46173
765-932-3709

1. On May 25, 2015, the Office of Indiana State Chemist (OISC) received an e-mail from the complainant indicating a neighbor was using Golden Malrin illegally to kill unwanted animals. The complainant stated his family dog drank the Golden Malrin solution and had to be rushed to the veterinarian for treatment.
2. On Thursday May 28, 2015, I, Agent Brian Baker of OISC, made contact with the complainant at his residence. Mr. Tebbe gave me the following account of the events that took place on Monday morning May, 25, 2015. Mr. Tebbe said he let his dog "Gunner" out in the yard and a very short time later, the dog collapsed in the yard and began to convulse and seize. Mr. Tebbe attended to his dog quickly and noted he had a blue substance inside his mouth. Mr. Tebbe administered aid by giving his dog hydrogen peroxide to induce vomiting. Mr. Tebbe contacted his veterinarian, Dr. Doug Schweikhardt, and made arrangements to meet him at his office in Knightstown, Indiana.
3. Mr. Tebbe went on to say while he was transporting his dog to the Vet Clinic, his wife Jillian Tebbe and her grandpa Kenny Vogel, searched the property in an effort to locate the blue substance their dog ingested. Mr. Tebbe received a phone call from his wife while he was with Dr. Schweikhardt telling him that her grandpa found two aluminum pie pans with blue liquid in them. Mr. Tebbe said Dr. Schweikhardt suspected the substance was Golden Malrin with the active ingredient of methomyl. Dr. Schweikhardt administered atropine and continued treating Mr. Tebbe's dog. The Tebbe's dog responded to the treatment and continued to improve since then.
4. When Mr. Tebbe returned home, he took the two aluminum pie pans and placed them into a zip lock plastic bag. The disposable type pie pans with the blue liquid had been photographed prior to being picked up and bagged by Mr. Tebbe. I took a photo of the pans (fig.1) before I collected them and asked what happened to the majority of the liquid. Mr. Tebbe said most of the liquid had spilled out when the pans were picked up.



Fig. 1



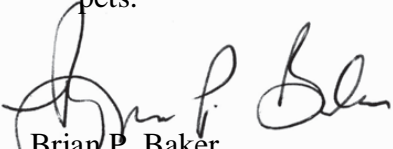
Fig. 2



Fig. 3

- Figure 1 is the two (stacked) pie pans with the blue liquid in them.
 - Figure 2 is the drive to the Tebbe property. The pole barn on the left side of the photo is rented by David Meyer.
 - Figure 3 is the interior of the pole barn seen in figure 2. The pans in figure 1 were located in this general area. (Note the empty coke can).
5. I asked Mr. Tebbe where his grandpa found the pans with the blue liquid. Mr. Tebbe said they were found inside the large pole barn. Mr. Tebbe told me the property he lived on was actually subdivided and rented to three different persons. Mr. Tebbe told me he rents the farm house and garage, Mr. David Meyer rents the tillable ground and the large pole barn (fig. 2) and a third person (unidentified) rents the pasture. Mr. Tebbe said Mr. Meyer was trying to get rid of rodents and groundhogs inside the pole building and he used the Golden Malrin mixed with Coke for poison bait. I checked the interior of the pole building and there were a great many large holes and tunnels inside the building. I photographed the area where Kenny Vogel (grandpa) located the aluminum pie pans with the blue liquid. There was an empty 12 oz. Coca Cola can still laying there (fig. 3).
6. I made phone contact with Mr. David Meyer and set Tuesday June 2, 2015, to meet with him. I asked Mr. Meyer what the blue liquid was he put out in the aluminum pie pans. Mr. Meyer told me it was some old fly bait he found in the pole barn. Mr. Meyer said he mixed it with Coke in hope of killing the rodents and ground hogs in the building.
7. On Tuesday June 2, 2015, I met with Mr. David Meyer at his residence. I identified myself verbally and with OISC credentials. I asked Mr. Meyers for his account of what happened on the Tebbe property on Monday May 25, 2015. Mr. Meyer started out by telling me he had no intention of hurting Mr. Tebbe's dog and added he did not know he had a dog. Mr. Meyer told me he had a rodent and ground hog problem in the pole barn and he had put out live traps and rodent bait he purchased at the Rural King in Greenburg. The traps and bait just were not working. Mr. Meyer said the live traps were triggered but no animals were captured. Mr. Meyer went on to say he mixed some old fly bait with coke and put it out in the two pans. I asked Mr. Meyer who told him he could mix fly bait with coke to kill rodents and ground hogs. Mr. Meyer said he could not recall. I asked Mr. Meyer why he didn't close the doors to the pole barn. Mr. Meyers told me the doors were missing a center piece which keeps the door from blowing off the track when the wind blows. Mr. Meyer told me it was really up to a pet owner to have control of their pets and not allow them to run free on property which others rent. I asked Mr. Meyer if the fly bait was Golden Malrin and he said he did not know. I asked him for the container and he told me he had thrown it away. I told Mr. Meyer his actions of mixing a fly bait pesticide product with Coke to kill rodents and ground hogs was a clear misuse of the product and the product label directions.

8. On June 5, 2015, I received the final report from the OISC Formulation Laboratory. The blue liquid contents of the two aluminum pie pans were analyzed and the presence of the active ingredient "methomyl" was confirmed.
9. The respondent in this case admitted to mixing an unknown pesticide product only described as "fly bait", with Coke to intentionally kill rodents and ground hogs. There are only two fly bait products registered and sold in the state of Indiana. The two fly baits both contain blue colorant and methomyl. The two restricted use pesticide products are:
 - Starbar Golden Malrin, EPA Reg# 2724-274, active ingredient=methomyl
 - Deosect II Fly Bait, EPA Reg# 53871-3-66114
10. The label for Golden Malrin reads in part under DIRECTIONS FOR USE: "*Do not apply where poultry or other animals, especially dogs and young calves, can pick it up or lick it*".
11. The label for Deosect II Fly Bait reads in part under DIRECTIONS FOR USE: "*Do not treat areas where animals can feed on bait*".
12. In this case the respondent mixed a restricted use pesticide with Coke to intentionally attract and kill rodents and ground hogs. The pesticide product and Coke mixture was then placed on the ground in an open pole barn on a property where children and pets had access to it. The two products listed in paragraph 9 of this report clearly read under DIRECTIONS FOR USE: "It is a violation of Federal Law to use this product in a manner inconsistent with its labeling". There are no label directions for either of the two products which call for mixing them with Coke and applying them in an open area on a property accessible to children and pets.



Brian P. Baker
Pesticide Investigator

Date: June 19, 2015

Disposition: David Meyer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application available to areas available to dogs. A civil penalty in the amount of \$250.00 was assessed for this violation. In addition, the information was forwarded to the Indiana Department of Natural Resources for possible criminal charges.



George N. Saxton
Compliance Officer

Draft Date: October 5, 2015
Final Date: December 11, 2015

Cc: Lt. William Beville
Indiana Conservation Officers
District 9, Headquarters
1387 E US 50
Versailles, Indiana 47042

CASE SUMMARY

Case #2015/0965

Complainant: Lisa Barney
5402 E 700 E
Wabash, IN 46992
765-981-4736

Respondent: Zachary Zorger
Zorger Custom Applications, LLC
9187 N 700 W
Huntington, IN 46750
260-901-3087

Applicator

1. On May 25, 2015, the Office of Indiana State Chemist (OISC) received a report from the Indiana Department of Environmental Management (IDEM) regarding manure from an agriculture field running into a neighboring pond. The complaint was received by IDEM from a Mr. Dave Barney. A copy of the IDEM incident report is in this case file. I made telephone contact with Mr. Barney and made an appointment to meet at his residence.
2. On May 28, 2015, I met with Mrs. Lisa Barney at her residence. She stated Mr. Barney was not available and she advised me of the complaint. She stated on May 14, 2015, they observed a pile of what they believed was poultry manure staged in the field directly south of their residence. She stated the field is farmed by Mr. Jan Tinkle. She stated the manure was staged for only a day or so before it was applied to the field. She stated the following week they observed a film on the surface of their pond, which was located on the southern part of their property. She stated the field drains into their pond, as there are natural drainage ditches leading through the small woods on the north side of the field into their pond. I asked Mrs. Barney if they had observed any dead fish or aquatic life. She stated they had not observed anything dead in the pond, including vegetation. She stated they were concerned, as there was a film on the pond allegedly left from the manure running off into the pond.
3. I then walked around the pond. I did not observe any film on the water nor did I observe any dead aquatic life or dead vegetation. I took photographs of the area. I then walked through the woods to the south of the pond to the field in question. I observed a small drainage ditch leading from the field through the woods to the pond. I observed an area of staining on the ground along the north edge of the field. The stain pattern and odor was consistent with manure staging. Photograph #1 shows the Barney's pond. Photograph #2 shows the drainage ditch leading to the pond. Photograph #3 shows the stained area in the field.



photograph 1



photograph 2



photograph 3

4. I then left the Barney residence and met with Mr. Jan Tinkle at his residence. He advised me he had contacted North Central Co-op, Inc. regarding purchasing chicken manure to have delivered and applied to the field located to the south of the Barney residence. Mr. Tinkle stated the purchase, delivery and application were handled through North Central Co-op, Inc. He stated he then incorporated it into the soil. Mr. Tinkle further stated he believed the chicken manure was purchased at Midwest Poultry Services, LP. Mr. Tinkle did provide me with a fertilizer management plan for his field.
5. I then called North Central Co-op, Inc. and made contact with Area Manager, Mr. Steve Smith. He stated North Central Co-op, Inc. did receive the request for purchase of the chicken manure. He stated their salesman Mr. Terry Zorger set things up. He stated the chicken manure was purchased at Midwest Poultry Services, LP in North Manchester, Indiana. He stated eight truckloads of chicken manure amounting to 196 tons, were delivered to the Tinkle field by Randall Cripe Trucking on May 14, 2015. He further stated Mr. Zach Zorger of Zorger Custom Applications, LLC applied the chicken manure to the field.
6. On May 29, 2015, I made contact with Mr. Kevin Bechtold, Farm Manager for Midwest Poultry Services, LP. He confirmed the purchase was made through North Central Co-op, Inc. and the chicken manure was hauled by Randall Cripe trucking. I searched the OISC database and found Midwest Poultry Services, LP was licensed in Indiana as a fertilizer distributor. I further searched the database and found Mr. Randall D. Cripe of Randall Cripe

trucking had a category 14 fertilizer applicator license through OISC. Copies of the trucking work tickets are in this case file.

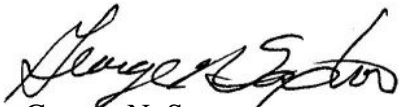
7. I then made telephone contact with Mr. Zachary Zorger. He stated he had just started his new business Zorger Custom Applications, LLC. He stated Randall Cripe Trucking did haul in the loads of chicken manure and he applied the chicken manure to the Tinkle field the same day. I searched the OISC database and did not find Mr. Zachary Zorger to be licensed in Indiana to apply fertilizer for hire. I further did not find Zorger Custom Applications to be a licensed fertilizer business in Indiana. I advised Mr. Zorger of this and he stated he had previously worked for North Central Co-op, Inc. in Indiana and thought he could still work under his father Terry Zorger's license. I advised him since he is no longer employed by them and his new company is not affiliated with them, he and his company needed to be licensed through OISC to apply fertilizer in the state of Indiana. I asked if he had made any other fertilizer applications. He stated this was his first job under his new company. I advised Mr. Zorger I needed to meet with him and issue him a STOP ACTION ORDER and advised him not to make any further fertilizer applications until obtaining proper licensing through OISC. He agreed to meet with me.
8. On June 18, 2015, I met with Mr. Zachary Zorger in Wabash, Indiana. I issued him a STOP ACTION ORDER, ordering him to cease any and all fertilizer applications until obtaining proper licensing through the Office of Indiana State Chemist. Mr. Zorger signed the Order. A copy of this order is in this case file. Mr. Zorger asked how to get licensed. I explained the process to him and I contacted the OISC licensing division to get testing dates for him. He stated he would get registered for the next test and also apply for the proper business license. I later checked the OISC database and found Mr. Zorger was licensed in category 14 and Zorger Custom Applications, LLC had a valid Indiana fertilizer business license.



Robert D. Brewer
Investigator

Date: August 19, 2015

DISPOSITION: Zachary Zorger was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying fertilizer material for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: August 20, 2015
Final Date: September 18, 2015

cc. Pat Colcord / IDEM

CASE SUMMARY

Case #2015/0980

Complainant: Larry Garrett
7762 S. 1225 W.
Owensville, Indiana 47665
812-874-2677

Respondent: Crop Production Services (CPS) (Licensed Business)
139 S. Saint Francis Street
P. O. Box 338
Poseyville, IN 47633
Troy Fetcher (Certified Applicator)
812-874-2236

1. On May 29, 2015, the Complainant contacted the Compliance Officer of the Indiana State Chemist (OISC) to report agricultural pesticide drift to his property.
2. On June 4, 2015, I met with Larry Garrett at his property. Mr. Garret informed me on May 14, 2015, CPS had made a pesticide application to the field to the south of his property at around 7:00pm. Mr. Garrett stated about a week later he noticed grass in his driveway and yard near the field was brown and dying. Mr. Garrett further stated he had not applied any pesticides to his property this year. Mr. Garrett indicated he contacted CPS and the applicator, Troy Fetcher, came out to look at his property. Mr. Garrett stated he believed CPS was going to bring him grass seed to replace the grass they had killed, but never heard back from them. Mr. Garrett also informed me the fields to the west and north had been sprayed several weeks prior to the CPS application and the grass was healthy until after the CPS application.
3. I inspected Mr. Garrett's property and observed areas of dead grass near the southwest roadway area and along the southern edge of his driveway that borders the suspected field. The symptoms decreased with distance to the north from the suspected field (pattern of drift). An area of dead grass was also observed on the south side of his property between his home and the suspected field (within 15 feet of the field). The tree leaves and other vegetation bordering the south field along his property showed symptoms consistent with contact herbicide injury. The grass, trees and other ornamentals located on the north and east side of Mr. Garrett's property appeared healthy and no visible symptoms of herbicide injury were noted. Vegetation samples were taken from the southern area bordering the suspected field along Mr. Garrett's property. A soil sample was also taken from the area between Mr. Garrett's home and the suspected field. Photograph # 1 shows dead grass along the driveway near south field. Photograph #2 shows dead vegetation along the strip of wooded area between the south field and Mr. Garrett's property.



Photograph #1



Photograph #2

4. I contacted the manager of CPS and discussed the complaint with him. I was informed Warrant (EPA Reg. #524-591; active ingredient: acetochlor) and Roundup Powermax (EPA Reg. #524-549; active ingredient: glyphosate) were applied to the field in question on May 14, 2015, by Certified Applicator, Troy Fetcher. A Pesticide Investigation Inquiry (PII) form was sent to CPS to be completed by Mr. Fetcher. The PII was received back on June 22, 2015, and indicated the application time was between 7:00pm and 7:30pm.
5. On June 5, 2015, the collected vegetation and soil samples were turned into the State Chemist Residue Lab for analysis. The results were reported back on July 13, 2015, and indicated the following:

Sample # 20150760: Tree vegetation from south side of property near bean field

- Glyphosate 857.0 PPB
- AMPA (breakdown product of glyphosate) BDL
- Acetochlor Exceeded standard curve (approximately) 3000.0 PPB

Sample # 20150761: Soil taken from south side of home near bean field

- Glyphosate 33.4 PPB
- AMPA BDL
- Acetochlor 35.1 PPB

PPB = Parts per Billion BDL = Below Detection Limits

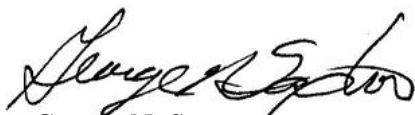
6. A check of the weather conditions at time of the application made by Mr. Fetcher indicated the winds were from the south/southeast (blowing toward Mr. Garrett's property) at 5 miles per hour, gusting to 7 miles per hour. The PII returned by Mr. Fetcher noted he believed the winds to be around 10 miles per hour, blowing from the south/southeast direction.
7. The Warrant label stated the following: *"Apply this product only when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when wind is blowing away from the sensitive areas)."*



Scott M. Farris
Investigator

Date: July 15, 2015

DISPOSITION: Troy Fetcher was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label language regarding drift to non-target vegetation. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was his fourth violation of similar nature (see case numbers 2013/0995, 2014/1112 and 2015/0954).



George N. Saxton
Compliance Officer

Draft Date: July 21, 2015
Final Date: September 17, 2015

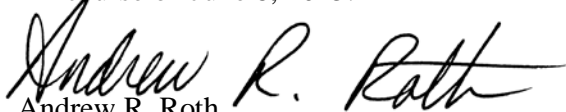
CASE SUMMARY

Case #2015/0996

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
800-893-6637

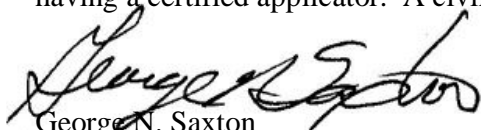
Respondent: Greg Sager Not Licensed
Winding Branch Golf Course
2284 S. Germantown Road
Cambridge City, IN 47327
765-478-5638

1. On June 3, 2015, I conducted a golf course inspection at Winding Branch Golf Course at the above listed address. According to OISC records, a certified applicator was no longer associated with the golf course.
2. I met with Superintendent Greg Sager and Manager Dave Couch and informed them of the situation. Mr. Couch confirmed that the previous certified applicator at the golf course left and Mr. Sager had been unable to pass the Category 3b (turf) exam. Mr. Sager reportedly spoke with the OISC certification and licensing manager about options for coming into compliance. Subsequently, Tony Lee of Lee Mowing, a licensed business in Liberty, Indiana, agreed to make and/or supervise pesticide applications at the golf course. Mr. Couch indicated an application for credential was submitted to the OISC for Mr. Lee to obtain a second license to be the certified applicator for Winding Branch Golf Course.
3. During our discussion, it was determined that Mr. Sager made one pesticide application to turf at the golf course after the previous certified applicator left and before Mr. Lee was hired. Mr. Sager applied eight bags of fertilizer with Dimension herbicide to the fairways on May 20, 2015, without a license and without the supervision of a certified applicator. I informed Mr. Sager and Mr. Couch that they would be in compliance when the application for Mr. Lee was approved, but Mr. Sager's application constituted a violation. A check of OISC issued Mr. Lee a credential associating him with the golf course on June 8, 2015.


Andrew R. Roth
Investigator

Date: July 20, 2015

Disposition: Winding Branch Golf Course was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying a pesticide to a golf course without having a certified applicator. A civil penalty in the amount of \$250.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: July 30, 2015
Final Date: September 17, 2015

CASE SUMMARY

Case 2015/1011

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907
765-494-1585

Respondent: John Fetter Employee
The Garden Path Landscape Services LLC
1438 Pierson Road
Hamilton, Ohio 45013
(513) 757-4244

1. On June 3, 2015 at 11:30am, I, Agent Brian Baker of Office of Indiana State Chemist (OISC) observed personnel conducting lawn care business at the McDonalds store located at the corner of Main Street and 18th Street in Richmond, Indiana. The personnel were working around a vehicle with a business sign on it for Garden Path (fig. 1). I noticed a back pack sprayer and a container of herbicide in the bed of the truck (fig.2).



Fig. 1



Fig. 2




Fig. 3

- Figure 1 is a truck owned by Garden Path Landscape Services LLC.
 - Figure 2 is the contents of the bed of the truck in fig. 1.
 - Figure 3 is a close up of the pesticide being applied by John Fetter, a Garden Path employee. The pesticide product is :
 - Roundup Quickpro, EPA Reg. #524-535, active ingredients=diquat dibromide 2.9% and glyphosate, ammonium salt 73.3 %
2. I approached a male working on a leaf blower and identified myself verbally and with OISC credentials. I asked the young man who the certified applicator for Garden Path was. The young man pointed to a man approaching on foot and that person identified himself to me as John Fetter, an employee of Garden Path. I identified myself verbally and with OISC credentials and issued Mr. Fetter a Notice of Inspection. I asked Mr. Fetter if he had applied any of the Roundup Quick Pro at the McDonalds store. Mr. Fetter told me he had made some spot applications with the pesticide product. I asked Mr. Fetter for his OISC credential and he told me he did not have a license but added the owner of the company had an Ohio pesticide license. I told Mr. Fetter a “for hire” pesticide business needed an OISC business license and certified applicators license in order to apply pesticide products for hire in the state of Indiana.

I issued a Stop Action order for the Garden Path LLC to stop all for hire pesticide applications until properly licensed by OISC. Mr. Fetter said that he understood and would pass the information on to the owner, Mr. Brad Raines. I provided my cell phone number in the event Mr. Raines had questions about certification and licensing.


3. I made a follow up phone call to garden Path on Friday 6-5-15. I was told Mr. Raines was not available but I was able to speak to an unidentified member of management. I explained the use violation I was citing them for and the stop action order. I provided web site information and OISC phone numbers. The gentleman I spoke to was thankful and assured me they would comply with the stop order and pursue the proper OISC licensing to make for hire pesticide applications in Indiana.
4. In this case, John Fetter an employee of Garden Path Landscape Services LLC, admitted to making a for hire pesticide spray application of Roundup Quick Pro (see paragraph 1, 4th bullet) without the proper licensing through OISC. The pesticide spray application was made in the mulch beds around the McDonalds Store located at the corner of Main Street and 18th Street in Richmond, Indiana.



Brian P. Baker
Pesticide Investigator

Date: June 6, 2015

Disposition: The Garden Path Landscape Services LLC was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: June 9, 2015
Final Date: August 25, 2015

CASE SUMMARY

Case #2015/1017

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47906
800-893-6637

Respondent: Affordable Pest Control
Bruce Gee
1430 W. 14th Street
Muncie, Indiana 47302
765-286-9027

1. On June 4, 2015, an anonymous person called and wanted to know if the pesticide “Nuvan” (active ingredient of dichlorvos) was a good pesticide to use for bed bugs. I explained to the complainant all federally and state registered pesticides labeled for bed bug control were proper to use if used correctly according to label directions. I then asked the complainant who the company was that was treating for the control of bed bugs. The complainant stated it was a person named “Bruce” from Affordable Pest Control. This was a person I recognized as having his license revoked; see case numbers:

2014/0203 2013/0609 2013/0759 2013/0760
2014/0202 2014/0295 2014/0290

I asked the complainant when Bruce was going to make the pesticide application and the complainant told me Saturday, June 06, 2015, around 12:30pm. The location of the pesticide application was scheduled to be done at 615 N. Howard Street in Union City.

2. On Saturday, June 06, 2015, at approximately 11:20am, I went to the Union City police department; presented OISC credentials and identified myself to Sergeant Tudor. I advised him I would be doing an investigation in his jurisdiction and explained who I was and the purpose of my investigation.
3. At approximately 11:35 am, I parked a half block from the target pesticide application. At approximately 11:40am, a pickup truck with a painted sign on it reading, “Affordable Pest Control” drove by and pulled behind the apartment complex at 615 N. Howard Street. I circled the block and observed two men at the back of the pickup looking like they were getting ready to mix chemical. I pulled up and stopped them before they could disappear inside the apartments. See figures 1-3.



Figure #1: License Plate of Truck



Figure #2: Bruce Gee's Helper



Figure #3: Bruce Gee and Helper

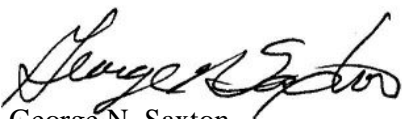
4. I approached, showed OISC credentials and identified myself to a person who identified himself as Bruce Gee. I asked Mr. Gee what he was getting ready to do and he said he was getting ready to treat for bed bugs. He had sprayers and pesticides in the back of the truck and on the tail gate. I told Mr. Gee his license to apply pesticides for hire had been revoked. He told me that was not true because he had paid the civil penalty. I explained to him I had just checked the database the day before as well as the case summaries on our website and all indicated his license had been revoked on February 20, 2015. He said he was never notified. I told him I doubted he was telling the truth because he was sent several certified letters telling him about the civil penalties and that his license had been revoked.
5. I then asked Mr. Gee what pesticides he was getting ready to apply. He said he was going to apply:

Zenprox, EPA Reg. #2724-804, active ingredient of Etofenprox Piperonyl butoxide
Gentrol, EPA Reg. #2724-351, active ingredient of Hydroprene
6. I explained to Mr. Gee he had to cease all pesticide applications for hire until such time as he obtained the necessary licenses. I also explained to him if he was caught again applying pesticides for hire without having an Indiana pesticide business license, he could be charged with a Class A Misdemeanor. He said he understood.
7. On June 8, 2015, a Stop Action Order was sent to Mr. Gee by certified mail. The Stop Action Order instructed Mr. Gee not to apply pesticides for hire until such time as he obtained the necessary licensing.

DISPOSITION: Bruce Gee was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license; a license that was revoked May 7, 2015 (see case number 2014/0203). A civil penalty in the amount of \$250.00 was assessed for this violation.

According to the Indiana Pesticide Review Board (IPRB), *“For purposes of administering penalties under IC 15-16-4 and IC 15-16-5, “revoke” shall mean to dissolve any credential or credentialing status and to prohibit the violator from applying for that credential or status for a minimum of five (5) years from the date of revocation. After that time and assuming all legal requirements under these chapters have been met, the violator may petition the state chemist to have the credential or credentialing status reinstated.”*

Mr. Gee may not re-test and re-apply for his pesticide license until May 7, 2020.



George N. Saxton
Compliance Officer

Draft Date: June 9, 2015
Final Date: August 25, 2015

Cc: Sergeant Tudor
Union City Police Department
219 S. Howard Street
Union City, Indiana 47390

CASE SUMMARY

Case #2015/1026

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907-2063
765-494-1585

Respondent: Monticello Farm Service Licensed Business
5088 S 1450 W
Francesville, IN 47946
219-567-9714

1. On June 8, 2015, I conducted a Container/Containment inspection at Monticello Farm Service. Manager, Michael Altman was present and accompanied me throughout the inspection. A complete Agricultural Chemical Facility Inspection (ACFI) was performed
2. Two violations were observed and documented during my inspection:
 - Firm had no pressure test documentation
 - Firm had No Cat 14 licensed employees at this location but still made for-hire fertilizer applications. (See Figure 1)

DATE: 4-24-15
MONTICELLO PHONE: 574-583-8238 • FRANCISVILLE PHONE: 219-567-9714
CUSTOMER NAME: Eugene Wheeler
ANALYSIS: 0-0-60 11-52-0 21-0-0 Corn
SPREADER # 11870
WORK ORDER #
DRIVER ON OFF
WEIGHER: [signature]
PA Registration # Rate/lb Total
448 570 Lbs 4.841 Total
494 837 Lbs 1.544 Total
15,000 Lbs 790,000 Lbs
1,000 Lbs 78,000 Lbs
Ca Mg Zn Fe Mn Cu B
IN 447 LabBatch: 11880 AgrBatch: 28209
Total Product Blend: 22185 lbs
Total Gross 22185 Total Pure 9 lbs 22180

Product	Product Weight	Product %
000	11882	53.6%
000	1455	65.6%
000	2140	96.5%
TOTAL	5537	25.2%
TOTAL	2199	99.1%

Consolidated Blend 11870
Field ID: 070441 / A-01
Date: 12-23-2015
Ship To: 6542 W. 1025 S
Mishawaka, IN 46786
Placement: Broadcast
Vendor ID

Figure 1

3. I collected the following information/evidence to document the violations listed above
 - Figures 2, 3 & 4 tanks used with no pressure testing
 - Copy of tank records for 2015, no pressure testing listed (See Figure 5)
 - There was no written indication of any Category 14 licensed employees



Figure 2



Figure 3



Figure 4

Tank #	Size	Chemical	SPF Reg #	Date	Customer	
1	220	Verdine 1900	100-817	4-11-15	Sum...	
2						
3						
4						
5	220	Biopex I	100-817	5-9	Full Home	
6	220	Biopex II (200)	100-817	5-21	Full Home	
7	275	Expo	2650	103-12-21	4-25	Don Hovinger
8	220	Expo	100	103-12-21	5-22-15	Don Hovinger
9	220	Expo	55	103-12-21	4-28-15	Don Hovinger
10	275	Expo	2650	100-12-21	4-25-15	Don Hovinger
11	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
12	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
13	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
14	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
15	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
16	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
17	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
18	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
19	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
20	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
21	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
22	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
23	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
24	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
25	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
26	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
27	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
28	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
29	220	Biopex	100	103-12-21	4-28-15	Don Hovinger
30	220	Biopex	100	103-12-21	4-28-15	Don Hovinger

NO Pressure test noted or documented

COOP # 205/1026

Figure 5

4. A Stop Action Order was issued to Mr. Altman to cease using refillable containers until they have been pressure tested and to cease fertilizer applications until they obtain an appropriate certified applicator. Mr. Altman was cooperative and said corrective actions would be taken immediately. Mr. Altman called my cell phone on June 9 at 4:00 PM to report that the pressure testing of the firm's tanks was now completed and recorded on the tanks and on the tank records (See Figure 6).

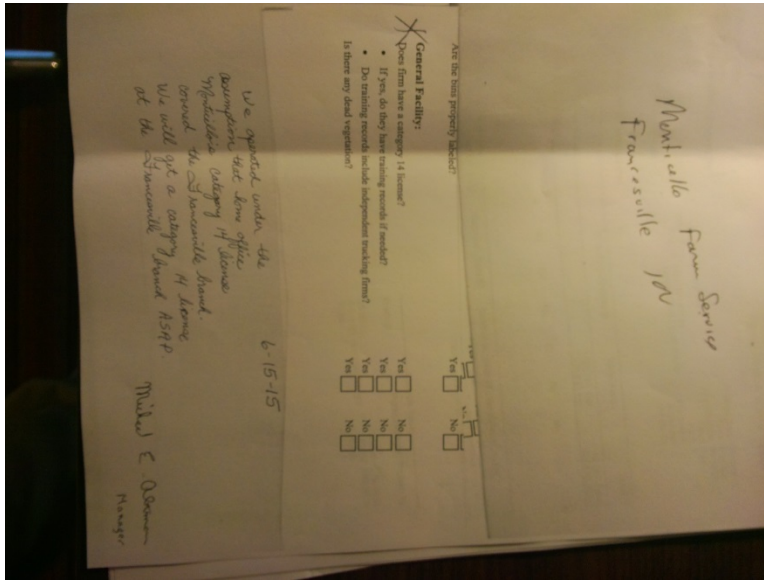


Figure 6

Kenneth L. Neuhoff

Kenneth Neuhoff
Inspector

Date: June 8, 2015

Disposition: Monticello Farm Service was warned for violation of section 57(9) of the Indiana Pesticide Registration Law for failure to follow the rules of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) by not pressure testing the tanks and creating appropriate documentation.

Monticello Farm Service was cited for violation of section 44 of the Indiana Commercial Fertilizer Law, specifically 355 IAC 7-3-1, for using fertilizer material for hire without having an individual with a valid commercial applicator license. A civil penalty in the amount of \$100.00 was assessed for this violation.

George N. Saxton

George N. Saxton
Compliance Officer

Draft Date: June 30, 2015
Final Date: August 31, 2015

CASE SUMMARY

Case #2015/1047

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
W. Lafayette, IN 47907-2063
765-494-1585

Respondent: Fell Lawncare (Unlicensed Business)
3821 E. Evans Avenue
Terre Haute, IN 47805
Ben Fell (Unlicensed Applicator)
812-201-0731

1. On June 4, 2015, the Office of Indiana State Chemist (OISC) received anonymous information that Fell Lawncare had made a herbicide weed killer application to an area along Highway 40 in Terre Haute, Indiana. The area was located to the south of Heritage Trails Apartments. A photograph (Exhibit photographs #1 & 2 below) of a Fell Lawncare business truck with water tank and a male person spraying something along the roadside was also received.

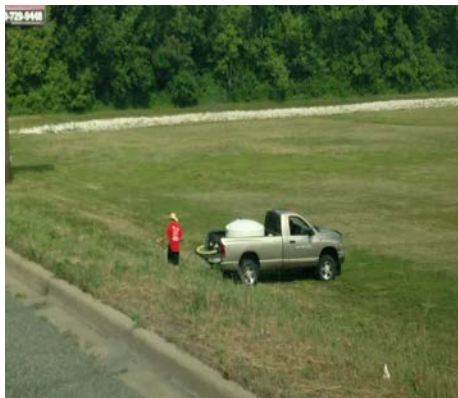


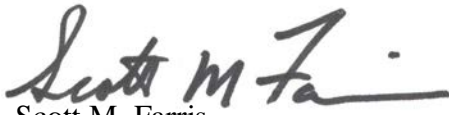
Exhibit Photograph #1



Exhibit Photograph #2

2. On June 16, 2015, I spoke went to the Heritage Trail Apartments Office and spoke with Property Manager, Amanda Corey. Ms. Corey informed me Fell Lawncare does maintain all of the lawns for Heritage Trail and had been hired to spray for weeds along the road. Ms. Corey stated she was unsure if Fell had made the pesticide application, because they had another company that usually sprayed for weeds and did fertilization of the turf for Heritage. Ms. Corey was able to get me a copy of the invoice from Fell Lawncare for the services performed on June 4, 2015. An item listed on the invoice stated “3. Weed Spraying Application (Pond & Hillside along Hwy 40).”

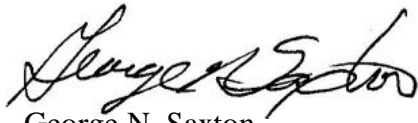
3. On June 16, 2015, I contacted Ben Fell, owner of Fell Lawncare, and spoke to him about the complaint. Mr. Fell informed me his company normally sub-contracts out all pesticide and fertilizer applications, but the person he used was on vacation. Mr. Fell admitted he sent one of his employees out to spray Roundup at the site outlined in the complaint. Mr. Fell also admitted he was aware of the need to have a pesticide license and inquired about getting information to become licensed in Category 6. Mr. Fell stated this was the only pesticide application his company had made this year.
4. On June 18, 2015, I met with Mr. Fell and issued him an Action Order to cease any pesticide or fertilizer applications until a licensed applicator is obtained. Mr. Fell was also given information on obtaining required licensing.



Scott M. Farris
Investigator

Date: June 18, 2015

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



George N. Saxton
Compliance Officer

Draft Date: June 26, 2015
Final Date: August 25, 2015

CASE SUMMARY

Case #2015/1071

Complainant: Anonymous

Respondent: Knecht Lawn Care
John Knecht
225 E County Road 580 N
Greensburg, IN 47240
812-663-3290

1. On June 8, 2015, I received an anonymous complaint (via email) alleging that John Knecht was making herbicide applications at the Tree City Medical Partners building on North Michigan Avenue in Greensburg, Indiana without a pesticide applicator's license.
2. Through a series of phone calls, I was able to determine that the Tree City Medical Partners building was actually being maintained (pesticides applied by) Patterson's Nursery Inc., a licensed business with the Office of the Indiana State Chemist (OISC) not John Knecht. However, it appeared Mr. Knecht was applying pesticides at the medical building (Fresenius Medical Care) directly behind Tree City Medical Partners.
3. On June 24, 2015, I went to the Fresenius Medical Care building and spoke with the clinical manager, Pamela Palms. I explained the situation to her. I asked her if Mr. Knecht was contracted to make any pesticide applications at the facility. She said she knew he mowed there but was uncertain if he applied any pesticides. I asked her for a copy of the contract they had with Knecht, but she said she would need to check with her legal department first.
4. On July 10, 2015, I received the following email from Mrs. Palms. The first document is a 2015 contract for service and the second is the 2014 invoice for service.

The lawn should be fertilized once in the spring and once in the fall with a slow release fertilizer. The bid is \$40.00 each application.

Weed Program

The lawn should be sprayed for all types of broadleaf weeds in the spring and in the fall. The bid is \$35.00 each application. To spray weeds in the parking lot, around the curbs, the bid is \$30.00 each application.

Trim Shrubs and Trees

I will trim all shrubs at the Fresenius Medical Care Greensburg Dialysis facility and clean up the clippings. I usually do this mid July, after new growth has slowed down. The bid is \$205.00.

If you have any questions over anything that I have covered, please feel free to give me a call. I would be glad to go over anything with you. I look forward to hearing from you. Thank you for your time.

Sincerely,



John Knecht

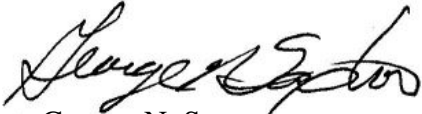
5. On July 22, 2015, I finally spoke to Mr. Knecht on the phone. I explained the situation to him. He admitted he had applied pesticides at the Fresenius Medical Care building without an applicator's license. I explained to him he could not apply any pesticides for hire without a license, and if necessary, he would need to contract out any further applications to fulfill his contract. I asked him if he needed any information on the licensing process and he stated he was 'getting out of the business' because he had become partially paralyzed recently.



Elizabeth C. Carter
Investigator

Date: July 24, 2015

DISPOSITION: John Knecht was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana Pesticide business license. A civil penalty in the amount of \$1,250.00 (5 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$125.00. Consideration was given to the fact Mr. Knecht cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: August 3, 2015
Final Date: November 6, 2015

CASE SUMMARY

Case #2015/1130

Complainant: Office of Indiana State Chemist (OISC)
175 S University Street
West Lafayette, IN 47907
800-893-6637

Respondent: Zachary E. Pettet
Timothy R. Budreau
MEM Ventures LLC
Round Grove Farm Center
9976 S US Hwy 231
Brookston, IN 47923
765-563-3308

Certified Applicator
Registered Technician

1. On July 6, 2015, I approached Mr. Gary Riddle at what is known as Rex Mathews Farm on St. Rd. 16 just west of Buffalo, IN. I identified myself to Mr. Riddle and asked if he was loading the spray equipment that was in the field. He stated that yes he was. I asked if he could call the applicator to the load truck which he did.
2. A very short time later, Mr. Budreau came to our location and advised the product he was applying was Touchdown herbicide. Mr. Budreau was able to produce his registered technician credential. I asked Mr. Budreau if he had a label for Touchdown with him and he said that he did not. I then asked him if he had a site assessment fact sheet and he said that he did not and that he did not know what it was.
3. I asked Mr. Budreau if he could contact his supervisor and at that time he was able to reach Mr. Pettet by telephone. Mr. Pettet too did not know what the site assessment fact sheet was.
4. The label for Touchdown herbicide calls for handlers and applicators to wear a long sleeve shirt which neither Mr. Budreau or Mr. Riddle had in their possession.




Mr. Riddle & Mr. Budreau

Kevin W. Neal
Kevin W. Neal
Investigator

Date: July 10, 2015

DISPOSITION: Zachary E. Pettet was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-6, for failure to provide a technician with a label and site assessment fact sheet.

Zachary E. Pettet was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for supervising the use of a pesticide in a manner inconsistent with its label by failure to follow label directions regarding use of personal protective equipment. A civil penalty in the amount of \$250.00 was assessed. Consideration was given to the fact there was potential for human harm.


George N. Saxton
Compliance Officer

Draft Date: July 16, 2015
Final Date: August 31, 2015

CASE SUMMARY

Case #2015/1133

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
Lafayette, IN 47907
800-893-6637

Respondent: Tim Ayers
Daniel Kiggins
Scotts Lawn Service
609 Commerce Pkwy W. Dr.
Greenwood, IN 46143
317-889-2115

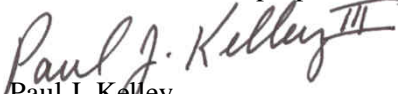
Registered Technician
Certified Supervisor
Licensed Business

1. On July 13, 2015, the Compliance Officer of the Office of Indiana State Chemist (OISC) received an anonymous call that Scotts out of Greenwood ran out of 25-0-12 fertilizer so they are putting down 0-0-7 and telling their customers they are applying 25-0-12. See Case summary 2015/1134.
2. On July 14, 2015, while investigating an anonymous complaint filed against Scotts Lawn Service (Case Number 2015/1134), I observed Tim Ayers making a perimeter pesticide application at a residence located at State Road 135 and Crosby Drive in Indianapolis wearing a backpack sprayer, rolled up sleeves and no gloves. See figure 1.




Figure 1-Mr. Ayers with sleeves rolled up, no gloves

3. Mr. Ayers was applying Termidor SC (EPA Reg. #7969-210, active ingredient fipronil). Label language for Termidor SC states in part, "*All pesticide handlers (mixers, loaders, and applicators) must wear long-sleeved shirt...and chemical resistant gloves.*"
4. Daniel Kiggins, Mr. Ayers' certified supervisor, confirmed all registered technicians are provide with and instructed to use proper Personal Protective Equipment (PPE).


Paul J. Kelley
Investigator

Date: August 5, 2015

Disposition: Tim Ayers was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: August 20, 2015
Final Date: September 18, 2015

CASE SUMMARY

Case #2015/1138

Complainant: Sharon Gerlach, District 4 Coordinator
Indiana Department of Homeland Security (IDHS)
302 W. Washington Street
Indianapolis, IN 46204
317-695-1540

Respondent: Ben Tresidder Certified Applicator
Bi-State Helicopters, Inc.
986 W. Stonebluff Road
Covington, IN 47932
765-299-3962

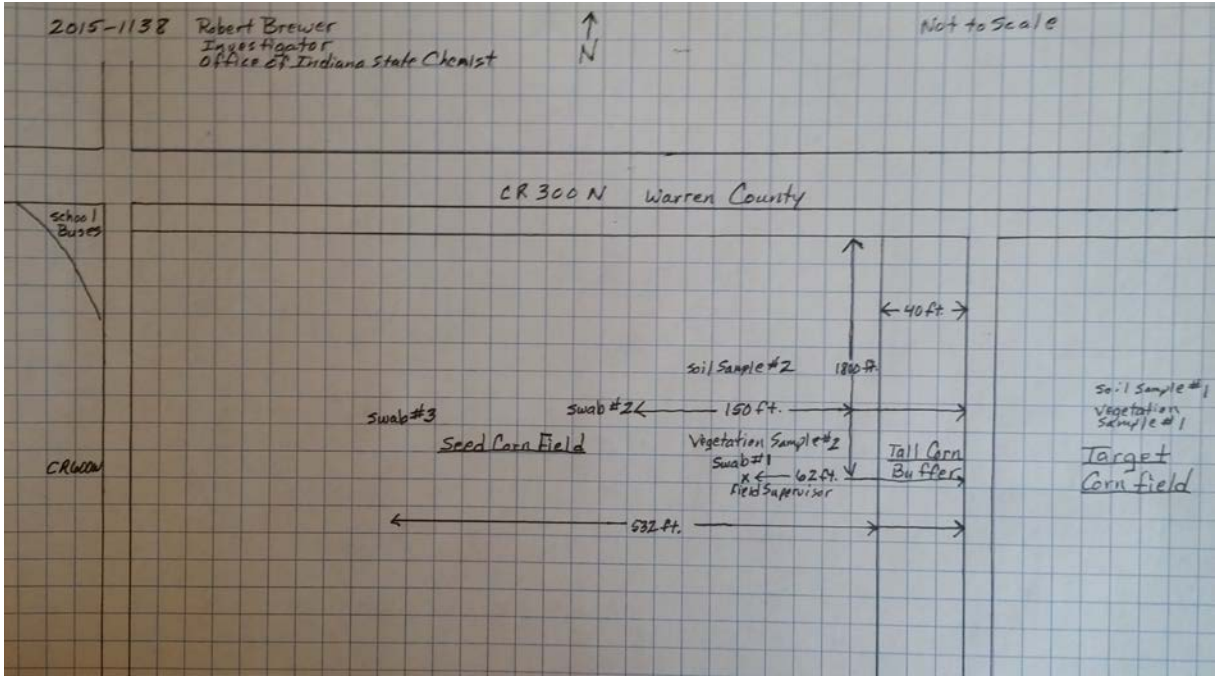
1. On July 15, 2015, the Office of Indiana State Chemist (OISC) received a report from Ms. Sharon Gerlach of the Indiana Department of Homeland Security (IDHS) District 4, regarding an aerial pesticide application in Warren County, Indiana involving children de-tasseling corn.
2. I made contact with Ms. Gerlach the same evening and she advised me IDHS had received information regarding an aerial pesticide application made to a corn field next to where some teenaged children were de-tasseling a seed corn field. She stated some of the children were taken to the Williamsport hospital due to allegedly being drifted upon by the pesticide. She stated hazmat response teams from Warren County and Tippecanoe County were at the hospital decontaminating any child taken to the hospital. She stated she had been advised all of the children were checked and released from the hospital. Ms. Gerlach further advised me she had learned the children were working for Hubner Seed Industries, LLC, and the aerial pesticide application was made by Bi State Helicopters, Inc.
3. On July 16, 2015, I made contact with Mr. William Rice and Mr. Tyler Rice of Bi-State Helicopters, Inc. They stated they were aware of the incident and stated the aerial pesticide application was made on July 15, 2015, to the corn field located directly east of the Hubner Industries seed corn field, which is at the SE corner of CR 300 N and CR 600 W in Warren County. They further advised me Mr. Ben Tresidder was the certified applicator who made the aerial pesticide application. I obtained a written statement from Mr. William Rice. He stated on the morning of July 15, 2015, they were notified Pine Village Service Center would be bringing a load of chemical for the aerial application. He stated the product Quilt Xcel fungicide (EPA Registration # 100-1324 with the active ingredients azoxystrobin and propiconazole) was applied to the field during the aerial application. He stated the tank mix also contained Downdraft adjuvant, which is a deposition aid and drift reduction agent. Mr. Rice further stated while the airplane was gone making the application, a call was received from Pine Village Service Center stating they had been notified there were de-tassellers in the vicinity of the aerial application. He stated both, Pine Village Service Center and Bi-State

Helicopters, Inc. where unaware of any de-tassellers prior to the phone call. Mr. Rice stated he contacted the aerial applicator, Ben Tresidder, but he had already finished the application and was on the way back to the airport. Mr. Rice stated the airplane was not sent back to the area. I obtained a copy of the aerial application report, which indicated the name of the aerial applicator, the location of the corn field and the pattern of the aerial pesticide application. The aerial application report was consistent with the information given to me by Mr. Rice. The written statement and aerial application report are in this case file.

4. I then went directly to Hubner Industries, LLC and met with Mr. Levi Smith, Production Manager, Mr. Roger Vail, Safety Director, Mr. Neal Wood, owner of JM2 Enterprises and Mr. Mason Wood, field supervisor for JM2 Enterprises. Mr. Smith stated Hubner Industries, LLC, farms the seed corn field #29 located at the SE corner of CR 300 N and CR 600 W in Warren County. He stated they contract JM2 Enterprises to hire de-tassellers and transport the de-tassellers to and from the field and to field supervise the de-tassellers. Mr. Smith stated he had been made aware of the alleged pesticide drift onto the de-tassellers. He further stated the seed corn field in which the de-tassellers were working is located directly west of and adjoining to the corn field in which the aerial pesticide application had been made.
5. Mr. Vail then advised me, he was made aware of the incident and began gathering information on the product which was applied to the adjoining corn field. He stated he had been advised the de-tassellers who had stated they had been drifted upon, had been taken by bus to the Williamsport hospital. He stated he went to the hospital and observed the children in the parking area and helipad area. He stated the children were being checked by medics, doctors, emergency medical technicians, firefighters and other hospital personnel. He stated emergency management from Warren County was on the scene along with the Tippecanoe County decontamination trailer. He stated two or three children were taken inside to the emergency room for further treatment. He stated he gathered up the clothing worn by the children and washed the clothing. A written statement from Mr. Vail is in this case file.
6. I then spoke with Mr. Neal Wood. He stated he owns JM2 Enterprises and is contracted by Hubner Industries, LLC to hire, transport and supervise de-tassellers for the seed corn fields. I obtained a written statement from Mr. Wood. He stated on July 15, 2015, at approximately 10:12 am, he received a call from his son Mason Wood, who was supervising crews at the seed corn field #29. He stated Mason stated he believed a crop-duster (aerial applicator) was spraying the adjacent field. Mason stated he was trying to get crews out of the field and onto the bus. Mr. Wood stated while he was speaking, Mason stated he had just been sprayed by the aerial applicator. Mr. Wood stated he was four miles away and went to the field. Upon arrival, he found Mason had all of the crews out of the field and secured in the buses. Mr. Wood stated he asked all of the kids to get off of the buses and separate themselves from those who stated they had been sprayed and those who had not. He stated at first all of the kids stated they had been sprayed, but then stated 27 of the 45 kids stated they believed they had actually been sprayed. He stated the kids who advised they had been sprayed were transported by bus to the Williamsport hospital and turned over to the emergency personnel on site. He stated the children who were not sprayed were loaded onto a separate bus. The written statement obtained from Mr. Neal Wood is in this case file.
7. I then spoke with Mr. Mason Wood and obtained a written statement from him. He stated on July 15, 2015, he arrived at the seed corn field #29 between 07:30 – 07:45 am with a de-

tasseling crew of 45 young people ranging from ages 13 years of age to 20 years of age. He stated they worked throughout the morning without issue. He stated they were about to finish the field when he noticed a “crop-duster” airplane approaching them from the west heading east. He stated they were standing at the north end rows of field closest to the adjoining corn field to the east. He stated as the plane reached their location, it was very low and began an aerial application to the corn field directly east of the seed corn field. Mr. Wood stated there were approximately 60 feet of isolation corn on the east end of the seed corn field, separating it from the adjoining corn field. He stated he was standing closest to the isolation corn and was not alarmed at first as he was sure the pilot saw them and no one was hit by any pesticide drift. Mr. Wood stated he then saw the plane coming back around and he became more concerned. He stated he began waving at the pilot, but again an application was made. He stated still no one had been drifted upon. He stated his crews were almost finished with the de-tasseling of the field and he was sure the pilot had seen him that time and thought there was no way the plane would come back around. He stated the plane again came around heading east over the center of the seed corn field #29. Mr. Wood stated he knew they had kids in that area, so he told his helper to quickly get all of the crews out of the field and to the buses. Mr. Wood stated he then began running through the east end of the seed corn field yelling for any remaining people to get out of the field. He stated as he ran through the field, he called his father Mr. Neal Wood on the cell phone. Mr. Wood stated as he was running through the field near the middle, he felt the mist from drift from the aerial application hit his face. He stated this was the second pass of the plane through the middle of the field and the fourth eastbound pass overall. He stated he located all of the kids and walked them to the buses which were parked at the SW corner of CR 300 N and CR 600 W. He stated all of the kids washed with water from the cooler. He stated minutes later his father arrived and they separated the kids and the ones who stated they had been sprayed were immediately transported to the hospital. The written statement from Mr. Mason Wood is in this case file.

8. I then asked Mr. Smith if Hubner Industries, LLC, had applied any pesticides to the seed corn field #29 this year. He stated they had and provided me with records of all pesticide applications made to the field this year. I researched the records and found Hubner Industries, LLC, had not applied Quilt Excel fungicide or any other pesticide containing the active ingredients azoxystrobin or propiconazole. The records are in this case file.
9. I then followed Neal and Mason Wood to the seed corn field #29. Mason took me into the field and showed me the location he had been standing when he felt the drift on his face from the aerial pesticide application. I measured to the location and it was 1800 feet south of the north edge of field #29 and 62 feet west of the east edge of field #29. He also showed me the furthest point to the west where the crew had been working. I measured it to be 532 feet west of the east edge of field #29. I then took photographs of the area. I collected soil and vegetation samples from the targeted aerial application field. I collected soil and vegetation samples from the seed corn field #29. I then collected swab samples from the corn plants in the seed corn field #29. I collected swab sample #1 and vegetation samples from Mason Wood’s reported location at the time he stated he felt the drift upon his face. I collected swab sample #2 at a point in the center of the seed corn field #29 at 150 feet west from the east edge of the same field. I collected swab sample #3 from the seed corn field #29 at 352 feet west from the east edge of the same field. The samples collected were labeled and submitted to the OISC residue lab for analysis. The following diagram indicates the location the samples were collected.



10. The following photographs show locations mentioned in this report. Photograph #1 shows the east edge of seed corn field #29 as it borders the west edge of the target aerial applications field. Photograph #2 shows a view from the west across the seed corn field #29 to the aerial application field to the east in the background. This is the location Mason Wood stated he was in when the airplane went over on the first two passes. Photograph #3 shows the location the buses were parked just south of the seed corn field #29.



photograph #1



photograph #2



photograph #3

11. On the evening of July 16, 2015, I spoke with Mr. Ben Tresidder. He stated he had spoken with Mr. Tyler Rice and was aware of the alleged drift complaint. He stated on July 15, 2015, he was asked to make an aerial pesticide application to a 162 acre corn field located at coordinates N 40 21 28 and W 087 25 24, which is 1/8 mile ESE of the intersection of CR 300 N and CR 600 W in Warren County. The corn field located on the east edge of the Hubner Industries, LLC, seed corn field #29. He provided a Google Earth map of the field which is in this case file. Mr. Tresidder stated he entered the job area at 9:30 am and immediately observed two yellow buses with several persons standing next to them over 1/8 mile WNW of his application site. He stated he circled three times, making one low pass checking the wind with his smoker. He stated he observed a NNE wind at approximately five knots. He stated he set up on the north side of the field from east to west and proceeded to make the aerial pesticide application flying a left racetrack pattern and completed the aerial application in approximately 25 minutes. He stated on his second to last pass, he noticed a young man running south between the field he was making the aerial application to and the adjoining corn field towards his projected swath pass. He stated he thought the young man was holding up a camera. Mr. Tresidder stated at no other time did he observe persons or property closer than 1/8 mile to the application site. He stated he definitely did not see anyone in an adjacent field. I obtained a written statement from Mr. Tresidder, which is in this case file. I also sent a Pesticide Investigation Inquiry (PII) to Mr. Tresidder of which he completed and returned. The PII and the aerial application report, along with the label for Quilt Xcel fungicide is in this case file.

12. I researched the Weather Underground website for weather conditions on July 15, 2015, at the time of the aerial pesticide application. The nearest reporting station to the application site is Danville, ILL. The site indicated the temperature at the time of the aerial pesticide application was 67 degree F. The winds were NE at 4.6 mph. A copy of the Weather Underground weather history report is in this case file.

13. On July 25, 2015, I received a report from the OISC residue lab. The following table indicates the results of the lab analysis of the samples I had collected and submitted. Note: I did not collect clothing articles from any of the de-tasslers, as Mr. Vail had sprayed and washed the clothing with soap in a washing machine.

sample analyzed	active ingredients	amount detected
swab east end of seed corn field	azoxystrobin / propiconazole	14240.0 NG/S / 456.0 NG/S
swab middle of seed corn field	azoxystrobin / propiconazole	11080.0 NG/S / 646.0 NG/S
swab west end of seed corn field	azoxystrobin / propiconazole	4720.0 NG/S / 721.0 NG/S
vegetation sample target field	azoxystrobin / propiconazole	7930.0 PPB / 5345.0 PPB
vegetation sample seed corn field	azoxystrobin / propiconazole	6365.0 PPB / 5565.0 PPB

NG/S = nanograms per swab, PPB = parts per billion.

14. I researched the label for Quilt Xcel fungicide. On page 4 under Directions for Use, the label states *“Do not apply this product in a way that will contact workers or other persons, either directly or through drift.”*

15. The results from the OISC residue lab analysis and a NE wind at the time and location of the aerial pesticide application, would confirm the active ingredients of azoxystrobin and propiconazole found in Quilt Xcel fungicide did drift off of the intended application target area onto the Hubner Industries, LLC seed corn field #29.



Robert D. Brewer
Investigator

Date: July 28, 2015

DISPOSITION: Ben Tresidder was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding applying the pesticide in a manner that contacted workers or other persons either directly or through drift. A civil penalty in the amount of \$250.00 was assessed. Consideration was given to the fact there was potential for human harm. Consideration was also given to the fact Mr. Tressider cooperated during the investigation; there was no previous history of similar nature and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: August 20, 2015
Final Date: September 15, 2015

cc. Tyler Hershman TEMA-DHS thershman@tippecanoe.in.gov

Levi Smith
Hubner Industries, LLC
10280 West State Road 28
West Lebanon, IN 47991

CASE SUMMARY

Case #2015/1141

Complainant: Jeff Blann
12570 N. Texas Gas Road
Oaktown, IN 47561
812-745-4800

Respondent: Southern Illinois Custom Aerial LLC (Licensed Business)
404 5th Street
Carmi, IL 62821
Michael Hayman (Unlicensed Aerial Applicator)
618-384-9518

1. On July 20, 2015, the complainant contacted the Pesticide Administrator of the Office of Indiana State Chemist (OISC) regarding what appeared to be a site error, vandalism, or careless and negligent pesticide application complaint. He stated it appeared someone had sprayed a couple of passes of his popcorn fields with what appeared to be glyphosate and killed some of his popcorn. He was unclear whether a neighbor may have mistakenly sprayed the wrong field or whether vandalism had occurred. He supplied the following aerial photograph (#1 below) of the damaged area.



Photograph #1

2. On July 22, 2015, I met with Jeff Blann. He took me to his non-Roundup Ready popcorn field showing symptoms of pesticide exposure. Mr. Blann informed me they had noticed the injured corn on July 18, 2015, while working another nearby field and had an aerial photograph (photograph #1 above) taken by Robert Klein (Certified Category 11 Applicator) of the field. Mr. Blann explained the injured popcorn was located in the center of the field and could not be observed from the road. Mr. Blann gave me a copy of his pesticide application records which indicated he had not made any applications to the field since May 15, 2015, during the initial planting of the field. Mr. Blann also gave me the names of the farmers for the adjacent farm fields.
3. We walked the field and I observed sections of dead popcorn plants consistent with a pattern observed from the aerial photograph above. I examined the perimeter of the field and did observe some tire tracks consistent with large application or planting equipment entering Mr. Blann's field from the corn field to the adjacent west. These tracks were located in the

southwest corner of the Mr. Blann's field near a creek, but did not appear to go far into the field and were not observed along the rows of dead popcorn. In addition, the popcorn along the exterior rows of the Mr. Blann's field appeared healthy and showed no symptoms consistent with pesticide exposure from drift from other adjacent farm fields. The symptoms observed to the dead popcorn appeared to be consistent with a direct application of a herbicide such as glyphosate (Roundup) and was not consistent with pesticide drift. I collected vegetation samples of the dead popcorn for analysis.

4. I contacted Patrick Holscher who farmed the corn field to the adjacent west of Mr. Blann's field. Mr. Holscher informed me he had last sprayed his corn field in early May 2015 and did not believe Mr. Blann's popcorn field had been planted yet. Mr. Holscher was asked about any aerial applications he may have known about in the area and he informed me he had a farm field to the adjacent south of Mr. Blann's field sprayed a few weeks earlier with glyphosate. Mr. Holscher indicated the aerial applicator had been hired through Crop Production Services in Patoka.
5. I contacted Crop Production Services and spoke to Eric Carter. Mr. Carter informed me they transported Roundup Powermax (EPA Reg. #524-529; active ingredient: glyphosate) and Warrant (EPA Reg. #524-591; active ingredient: acetochlor) to Southern Illinois Custom Aerial LLC in Carmi, Illinois, on June 18, 2015. These products were to be applied to Mr. Holscher's field located south of Mr. Blann's field.
6. I contacted Greg Brown, owner of Southern Illinois Custom Aerial. Mr. Brown informed me his pilot had made an application of Roundup and Warrant to Mr. Holscher's field. Mr. Brown requested to see the aerial photographs of Mr. Blann's damaged field. The photographs were sent to Mr. Brown along with a Pesticide Investigative Inquiry (PII) form to be completed by the aerial applicator. I also requested a copy of the GPS mapping data from the aerial application for Mr. Holscher's field.
7. On July 23, 2015, I received an email from Mr. Brown which stated the following: *"The pilot that sprayed this is in Marshall, MO right now. The log file for that date is corrupt, according to the file upload. Unfortunately there is no doubt we sprayed it. Please let me know contact info for insurance claim."*
8. On July 23, 2015, the collected popcorn vegetation was turned into the State Chemist Residue Lab for analysis. The results were returned on August 25, 2015, and indicated the following:
Sample # 07-22-15-SMF-1: Popcorn Plant Vegetation
 - Glyphosate: 1263.0 PPB
 - Ampa: (Breakdown product of glyphosate) BDL
 - Acetochlor: 4598.0 PPBPPB = Parts per Billion BDL = Below Quantification Limits
9. I received the PII back from Mr. Brown and reviewed the information. The aerial applicator for Mr. Holscher's field was Michael Hayman. A review of Michael Hayman's license status revealed Mr. Hayman did not have a Category 11 aerial applicator's certification for Indiana until September 1, 2015. This date was after his application to Mr. Holscher's field. In addition, Kelton Hatten and Chad Tupper had also received their Category 11 certification's for Southern Illinois on September 1, 2015.

10. I again contacted Mr. Brown and spoke to him about the licensing issues. Mr. Brown informed me he was unaware the licensing applications had been initially rejected by the Office of Indiana State Chemist and the above applicators had made a few applications in Indiana before September 1, 2015. I requested Mr. Brown send me copies of all pesticide applications made in the state of Indiana by the above applicators prior to September 1, 2015.

11. The requested application records were received from Mr. Brown on October 12, 2015, and indicated unlicensed applications were made on the following dates:

- Michael Hayman: June 24, 2015
- Kelton Hatten: June 30, 2015 July 11, 2015 July 12, 2015 July 14, 2015
July 20, 2015 July 21, 2015
- Chad Tupper: July 28, 2015



Scott M. Farris
Investigator

Date: August 27, 2015

Disposition: Michael Hayman 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. A civil penalty in the amount of \$250.00 was assessed for this violation.

Southern Illinois Custom Aerial LLC was cited for seven (7) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-2, for pesticide applications made in category 11 (aerial application) by non-certified applicators. A civil penalty in the amount of \$1,750.00 (7 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$962.50. Consideration was given to the fact Greg Brown cooperated during the investigation and there was no previous history of similar nature.



George N. Saxton
Compliance Officer

Draft Date: October 30, 2015
Final Date: December 10, 2015

CASE SUMMARY

Case #2015/1153

Complainant: Office of Indiana State Chemist (OISC)
175 S University Street
West Lafayette, Indiana 47907-2063
765-494-1585

Respondent: Neal Wood Owner
JM2 Enterprises
2470 E CR 1050 N
Newman, Illinois 61942
217-232-9665

1. On July 22, 2015, Agent Bob Brewer and I performed a Worker Protection Standard (WPS) inspection at a JM2 Enterprises detasseling crew which was working in Warren County Indiana. I interviewed Neal Wood, the owner of JM2 Enterprises. According to Mr. Wood, JM2 Enterprises employs about 150 seasonal workers that detassel corn. Mr. Wood provides safety training for employees the first day they are hired. The safety training is a one page document that provides the information contained below.

SAFETY---Safety is the most important aspect of detasseling. Tassel throwing or tassel kicking will not be tolerated. It is important to look out for co-workers and provide a safe environment for everyone. Anyone causing unsafe conditions or violating any safety rules will be dismissed immediately.

PAPERWORK---It is very important to get your paperwork back as soon as possible. By law, you cannot work more than 3 days without paperwork. We have not enforced that law like we should, but may have to start. Please return your paperwork back the next day after receiving it.

SIGN IN SHEET---You must sign the sign-in sheet every day. Your name must be legible. If your name is not on the sign-in sheet, then you will not be paid for that day. The sign-in sheet is the only record we have for who is in attendance for each day. This is your responsibility, so if you want to be paid remember to sign-in. DO NOT call at the end of the season expecting pay, if you did not sign the sheet for any particular day.

WAGES---This year all detassellers will be making \$9.00 per hour, which is base pay. Any other information you hear in the field is just hearsay or rumors. If you have any questions about pay, please contact Neal...He is the only person that has the answer about wages. Please do not go by the past years or what you have heard in the field.

BUSES---Buses have been inspected, anyone caught vandalizing the buses in any way will be dismissed immediately. You will be required to pay for damages.

A line for the employee's signature and date was provided at the bottom of the information sheet.

According to Mr. Wood and OISC records, Mr. Wood is neither a certified applicator nor has he received any WPS train-the-trainer training. WPS worker training requires they be provided with at least the following information:

- Pesticides may be on or in plants, soil, irrigation water or drifting from nearby applications.
- Follow directions and/or signs about keeping out of treated or restricted areas,

- Wash before eating, drinking, using chewing gum or tobacco, or using the toilet,
- Wear work clothing that protects your body from pesticide residues,
- Wash/shower with soap and water, shampoo hair, and put on clean clothes after work,
- Wash work clothes separately from other clothes before wearing them again,
- Wash immediately in the nearest clean water if pesticides are spilled or sprayed on your body and then-as soon as possible- shower, shampoo and change into clean clothes.

While the Central Posting Area did have a WPS safety poster, the name and address of the nearest medical facility was not completed. In addition there were no pesticide application records available.

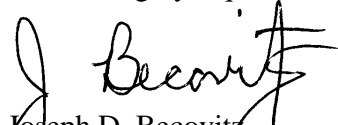
There was a Decontamination Site located on a trailer. The site contained restroom facilities as well as soap, water and paper towels.

2. According to information supplied by Levi Smith, production manager for Hubner Seeds, the corn field the JM2 workers were in on the day of my inspection had been treated with the following pesticides:

- | | |
|-------------|---------------------|
| a. Aztec | EPA Reg. #5481-9028 |
| b. Corvus | EPA Reg. #264-1066 |
| c. Atrazine | EPA Reg. #34704-69 |
| d. Impact | EPA Reg. #5481-524 |
| e. Headline | EPA Reg. #7969-291 |
| f. Liberty | EPA Reg. #264-829 |

3. The Headline label states, *“Use this product only in accordance with its labeling and with the Worker Protection Standard (WPS), 40 CFR part 170. This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), notification to workers, and restricted-entry interval.”*

4. Although JM2 Enterprises met some of the requirements of the WPS such as providing a decontamination site and having the WPS Safety Poster, other required elements such as WPS safety training by a qualified trainer and access to pesticide application records was not provided.



Joseph D. Becovitz
Pesticide Program Specialist

Date: September 24, 2015

DISPOSITION: JM2 Enterprises was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the Agricultural Use Requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: October 5, 2015
Final Date: November 9, 2015

CASE SUMMARY

Case #2015/1156

Complainant: Jason Baltus
5279 S 850 W
Greensburg, IN 47240
812-593-1025

Respondent: David Freppon Certified Applicator
Milhon Air, Inc.
2151 Centerton Road
Martinsville, IN 46151
317-831-7464

1. On July 23, 2015, the Office of Indiana State Chemist (OISC) received a complaint of an alleged human exposure to pesticide. The complaint was filed by Mr. Jason Baltus. I made telephone contact with Mr. Baltus and set an appointment to meet with him at his residence.
2. On July 25, 2015, I met with Mr. Baltus at his residence. He stated on July 22, 2015, around 5:27 pm, he was weed-eating his yard and noticed a crop duster (aerial applicator) to the north of his property, making an aerial application in a westerly direction. He stated he continued to weed-eat until he noticed the aerial applicator coming over his house very low. He stated he saw a mist of liquid landing in his back yard. He stated the next round, the airplane came over his house and he got sprayed by the mist. He stated the mist also hit his garden. He stated he put down the weed eater and got his cell phone out and recorded the airplane coming over him and his house. He stated while he was recording, he was sprayed again. He stated he then went to the house and showered and vomited. He stated he then contacted OISC. I obtained a written statement from Mr. Baltus which is in this case file. I asked Mr. Baltus if he had applied any pesticides to his property. He stated he did apply Produce herbicide EPA Reg. #228-509 with the active ingredients glyphosate and prodiame on his driveway and around his barn in June 2015. I asked Mr. Baltus if he had any of the clothing he was wearing at the time he stated he was sprayed. He stated he had already washed the clothing.
3. I then took photographs of the area. I collected soil and vegetation samples from the target corn field which wraps around the Baltus property on the north, south and west sides. I also collected soil and vegetation samples from Mr. Baltus's property. I asked Mr. Baltus where exactly he was standing when he stated he was sprayed by the aerial applicator. He showed me where he was standing in the yard next to a flower garden in the SW part of his yard. I collected soil and vegetation samples from that location. I also collected swab samples from the Baltus house and from a large rock in the flower garden next to where Mr. Baltus was standing. All of the samples were labeled and submitted to the OISC residue lab. Since there were no symptoms of pesticide exposure to any of the vegetation on the Baltus property, I did not collect a sample for the Purdue Plant and Pest Diagnostic Lab. Photograph #1 shows

the Baltus property. Photograph #2 shows the flower garden where Mr. Baltus was standing. I completed a diagram of the area indicating the location where samples were collected. This diagram is in this case file.



photograph #1



photograph #2

4. Mr. Baltus stated the target corn field was farmed by Mr. Greg Richardson. I then went to Premier Ag in Greensburg, Indiana. I spoke with Mr. Michael Schwering, operations manager. I advised him of the complaint filed by Mr. Baltus. He stated Premier Ag did supply the product for the aerial application to the target corn field. Mr. Schwering stated Milhon Air Inc. was the aerial company who made the aerial pesticide application to the target corn field. Mr. Schwering stated they provided Headline Amp fungicide EPA Reg. #7969-291 with the active ingredients pyraclostrobin and metconazole to Milhon Air Inc. for the aerial pesticide application. He then provided me with a copy of the spray work order. This work order is in this case file. I then made telephone contact with Anna Rogers, office manager for Milhon Air Inc. I advised her of the complaint and she confirmed Milhon Air Inc. did make the aerial pesticide application to the target corn field. She stated Mr. David Freppon, certified applicator, made the aerial application on July 22, 2015. I sent a Pesticide Investigation Inquiry (PII) to Mr. Freppon, which he received, completed and returned to me. The PII confirmed the information I had received from Mr. Schwering and Ms. Rogers. The PII is in this case file.

5. On September 2, 2015, I received a report from the OISC residue lab. A copy of this report is in this case file. The following table indicates the results of the OISC residue lab report. PPB = parts per billion BDL = below detection limits BQL = below quantification limits NG/S = nanograms per swab

sample analyzed	active ingredient(s)	amount detected
swab SE corner of complt's house	metconazole / pyraclostrobin	BQL / 77.4 NG/S
swab SW corner of complt's house	metconazole / pyraclostrobin	26.0 NG/S / 142.0 NG/S
swab from rock in flower garden	metconazole / pyraclostrobin	47.4 NG/S / 171.0 NG/S
soil from target corn field	metconazole / pyraclostrobin	4.37 PPB / 8.25 PPB
soil from complt's property	metconazole / pyraclostrobin	BQL / 2.0 PPB
vegetation from target corn field	metconazole / pyraclostrobin	892.0 PPB / 3018.0 PPB
vegetation from complt's property	metconazole / pyraclostrobin	796.0 PPB / 2994.0 PPB

6. I researched the Weather Underground website. The website indicated the weather conditions for the Greensburg, Indiana area on July 22, 2015, at the time of the alleged human exposure pesticide drift were as follows. The temperature was 78 degrees F and the winds were NE at 6.9 mph. A copy of the weather report is in this case file.
7. The label for Headline AMP fungicide states, "DO NOT APPLY THIS PRODUCT IN A WAY THAT WILL CONTACT WORKERS OR OTHER PERSONS, EITHER DIRECTLY OR THOROUGH DRIFT". "DO NOT APPLY WHEN CONDITIONS FAVOR DRIFT FROM TARGET AREA". "DO NOT SPRAY WHEN CONDITIONS FAVOR DRIFT BEYOND AREA INTENDED FOR APPLICATION".
8. The results indicated on the OISC residue lab report, along with the wind direction, would indicate the active ingredients in Headline AMP fungicide did drift or was applied directly to the Baltus property.



Robert D. Brewer
Investigator

Date: September 15, 2015

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



George N. Saxton
Compliance Officer

Draft Date: September 25, 2015
Final Date: October 22, 2015

CASE SUMMARY

Case #2015/1158

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
W. Lafayette, IN 47907-2063
765-494-1585

Respondent: Superior Ag Resources
150 W 1200 S
Haubstadt, IN 47639
812-768-6121

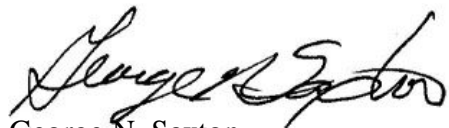
1. On July 22, 2015, I conducted a routine Worker Protection Standards (WPS) inspection at the Superior Ag Resources location in Haubstadt, Indiana. During my inspection, it was discovered the required WPS training for non-licensed handlers was not being done correctly.
2. I conducted the WPS inspection with Branch Manager, Steve Hancock. Mr. Hancock informed me all of the training for the non-licensed handlers was performed in Princeton and overseen by Safety Director, John Woods. I contacted Mr. Woods and spoke to him about the WPS training. Mr. Woods informed me they have a training program the non-licensed handlers attend prior to working where WPS is discussed. However, no Environmental Protection Agency (EPA) approved video was being used for the training and the training was being conducted by an unlicensed employee. Mr. Woods was informed the WPS training must be conducted by a Certified Applicator using an EPA approved WPS video. The employees are required to view the video once every five years and it should be documented the video has been watched.



Scott M. Farris
Investigator

Date: July 23, 2015

DISPOSITION: Superior Ag Resources was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: August 3, 2015
Final Date: September 17, 2015

CASE SUMMARY

Case #2015/1183

Complainant: Gary Goode Farmer
8719 S. Hwy 62
Nabb, IN 47147
812-599-1607

John Uhl Property Owner
7506 Carrol Road
Nabb, IN 47147
502-592-2090

Respondent: Darren Rothell Certified Applicator
Agroflite LLC Licensed Business
5128 Forsyth Commerce Road
Orlando, FL 32807
561-600-8885

1. On July 31, 2015, the Office of Indiana State Chemist (OISC) received information from Gary Goode that a fish kill occurred in a farm pond owned by the land owner of the fields he farms. Mr. Goode stated land owner, John Uhl, contacted him claiming the fish in his farm pond died as a result of the aerial pesticide application to the corn field.
2. On July 31, 2015, I contacted Darren Rothell of Agroflite LLC. I followed up our conversation with an email requesting Mr. Rothell to complete a Pesticide Investigation Inquiry (PII) form and submit any and all additional documentation of the application to the field in Nabb, Indiana.
3. On July 31, 2015, I obtained an application record from Crop Production Services which indicated the application occurred on July 18, 2015, between 4:40pm and 5:15pm wind direction from the southwest at 6mph.
4. On August 3, 2015, I met with Mr. Goode and Mr. Uhl at Mr. Uhl's residence in Nabb, Indiana. Mr. Uhl stated he noticed the dead fish on July 28, 2015, however; he was not sure when fish died or how long the fish had been dead.
5. On August 3, 2015, I made the following observations;
 - A. Farm pond is located across Carrol Road from Mr. Uhl's residence.
 - B. Pond is surrounded on south (approximately 20 feet away) and west (approximately 40 feet away) by corn field. See figure 1.
 - C. Corn fields are also to the north surrounding Mr. Uhl's residence.
 - D. Pond water appeared clear. Live fish were observed in the pond.
 - E. Pond water level appeared low due to the noticeable dead vegetation line. See figure 2.
 - F. Dead fish were present in an advanced stage of decomposition.

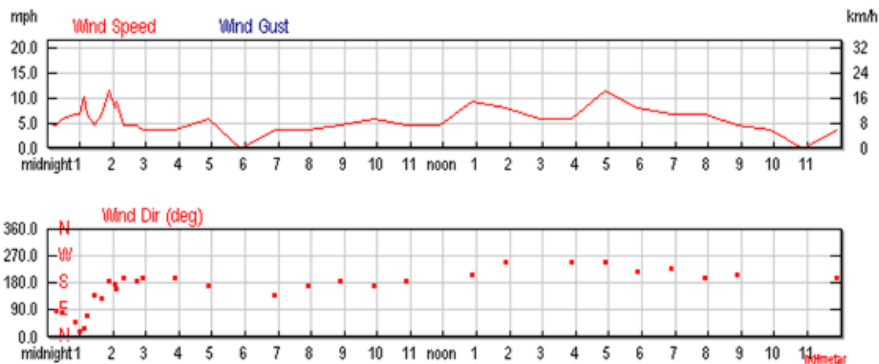


Figure 1-Pond with corn field south



Figure 2-Pond with water line

6. On August 3, 2015, I collected water samples from Mr. Uhl's pond.
7. On August 12, 2015, Mr. Rothell submitted the PII. Mr. Rothell documented that he applied Quilt Xcel, EPA Reg. #100-1324, active ingredients azoxystrobin and propiconazole.
8. Weather data from WeatherUnderground, www.wunderground.com, indicated the wind was out of the west, southwest at 10-11 mph blowing toward the pond.



9. On September 1, 2015, OISC's Residue Lab reported the following;

Sample #	Description	Active Ingredient	Results
20150968	08-03-15-pjk-w-1; water from pond (1liter X4)	azoxystrobin	0.21 PPB
		propiconazole	BDL

BDL=Below detection Limits

PPB=Parts Per Billion

10. The label language for Quilt Xcel fungicide states in part, "Do not apply when wind speed favors drift beyond the area intended for treatment."

Paul J. Kelley III
 Paul J. Kelley
 Investigator

Date: September 14, 2015

Disposition: Darren Rothell was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding off-target drift. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature. See case number 2011/1459.

George N. Saxton
 George N. Saxton
 Compliance Officer

Draft Date: September 25, 2015
 Final Date: October 22, 2015

CASE SUMMARY

Case #2015/1208

Complainant: Office of Indiana State Chemist (OISC)
175 S. University St.
Lafayette, Indiana 47907
800-893-6637

Applicator: Nick Simon Private Applicator
Simon Farms
6304 W CR 500 N
Osgood, Indiana 47037
812-212-0705

1. On July 30, 2015, the Office of Indiana State Chemist (OISC) received information from an anonymous caller indicating there was an unlicensed seed treating business in Osgood, Indiana. The caller gave the business name of “Simon Farms” and said that the owner “Nick Simon” has been treating agricultural crop seed for hire the past few years.
2. On August 13, 2015, I, Agent Brian Baker of OISC, met with Mr. Nick Simon at his farm in Osgood, Indiana. I identified myself both verbally and with OISC credentials and explained the reason for my visit. I issued a Notice of Inspection to Mr. Simon. Mr. Simon told me he had treated agricultural crop seed for hire in 2013 on three occasions but then learned he needed to be licensed by OISC to treat for hire so he only treated for himself in 2014 and 2015. I told Mr. Simon I would need to inspect his treating facility and photograph it as well. The photos which follow document the Simon Farms agricultural crop seed treating facility;



Fig. 1



Fig. 2



Fig. 3



Fig. 4



Fig. 5

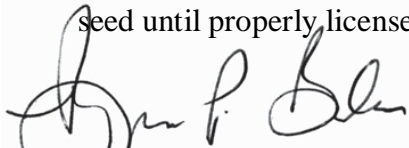
- Fig. 1 is the overall of the Simon Farms lot, the seed treating is housed in the pole building behind the bins.
 - Fig. 2 is a close up of the pole building with the seed treater.
 - Fig. 3 is the USC seed treater, pesticides, and mini bulk bins.
 - Fig. 4 is the slurry pot where the pesticides are mixed for application to crop seed.
 - Fig. 5 is a mini bulk of *Cruiser Maxx*, EPA Reg. #100-1283, *thiamethoxam* 21.50%, *mefenoxam* 3.21%, *fludioxonil* 1.07%
3. I told Mr. Simon that I would need a copy of the three treatment records he had from 2013. Mr. Simon told me that he would e-mail before Monday 8-17-15.

4. On Monday August 17, 2015, I received the records I had requested from Mr. Simon in this case. The chart which follows reflects the information contained in the records. The records are attached to the case file.

Date	Number of Units treated	Pesticide Products used	Name and Address of the customer
4-24-13	600	Cruiser Max*	Ag Production 6460 W. CR 100 N. Greensburg, IN.
4-25-13	200	Cruiser Max*	Glen Bohman 5918 W. Brownstown Rd. Osgood, IN.
4-25-13	400	Cruiser Max*	C&L Operations 4937 W CR 650 N. Osgood, IN.

*Cruiser Max, EPA Reg. #100-1283, active ingredients=thiamethoxam 21.50%, mefenoxam 3.21%, fludioxonil 1.07%

5. In this case Mr. Nick Simon made pesticide applications to agricultural crop seed “for hire” one on 4-24-13 and two on 4-25-13 as noted on the chart in paragraph 4. At the time of the applications, Mr. Simon was not properly licensed by OISC. I issued a Stop Action Order to Mr. Simon which orders him to stop all “for hire” pesticide applications to agricultural crop seed until properly licensed by OISC.



Brian P. Baker
Investigator

Date: August 18, 2015

Disposition: Nick Simon was cited for two (2) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$200.00. Consideration was given to the fact Mr. Simon cooperated during the investigation; corrective action was taken; there was a good-faith effort to comply and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: August 20, 2015
Final Date: September 18, 2015

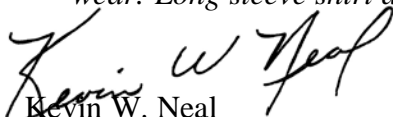
CASE SUMMARY

Case #2015/1214

Complainant: Office of Indiana State Chemist (OISC)
175 S University Street
West Lafayette, IN 47907
800-893-6637

Respondent: Todd D. Dahlkamp Registered Technician
David Monix Certified Applicator
Tru-Green
9171 Louisiana Street
Merrillville, IN 46410
219-756-5246

1. On July 15, 2015, I approached Mr. Dahlkamp in Lowell, Indiana on State Road 2 where he was preparing to make an application of what was later determined to be Tri-Power herbicide (EPA Reg. #228-262) active ingredients dicamba, MCPA and MCPP. Mr. Dahlkamp was loading the piece of equipment with which he was preparing to make the application. I could see that he was not wearing gloves nor did he have long sleeves.
2. I asked Mr. Dahlkamp if he had his site assessment fact sheet with him and it was clear that he did not know what I was talking about. I also asked if he had a label for the product he was applying and as it turned out he did not.
3. We then were able to call Mr. Monix who is Mr. Dahlkamp's supervising certified applicator. I advised him of the situation. Mr. Monix responded that he would bring a label to Mr. Dahlkamp and see to it that all of the Tru-Green label books were brought up to date.
4. The label for Tri-Power herbicide states, "*All mixers, loaders, applicators and other handlers must wear: Long sleeve shirt and long pants, Shoes plus socks, and Chemical resistant gloves...*"

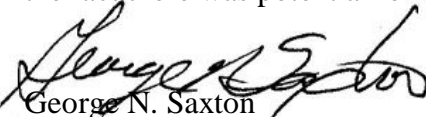

Kevin W. Neal
Investigator

Date: July 10, 2015

Disposition: David Monix was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment.

David Monix was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-6, for failure to provide a technician with a label and fact sheet.

A civil penalty in the amount of \$250.00 was assessed for these violations. Consideration was given to the fact there was potential for human harm.


George N. Saxton
Compliance Officer

Draft Date: August 25, 2015
Final Date: November 9, 2015

CASE SUMMARY

Case #2015/1231

Complainant: Office of Indiana State Chemist
175 S. University Street
West Lafayette, IN 47907-2063

Respondent: Tree Stuff
Luke Dunlevy
6565 Coffman Road
Indianapolis, IN 46268
Owner

1. On August 26, 2015, I performed a routine inspection at Tree Stuff. I spoke with the owner Mr. Luke Dunlevy. As part of the inspection, I reviewed Trees Stuff's Restricted Use Pesticide (RUP) dealer records and also the pesticides they offered for sale.
2. During the inspection, I observed the following pesticide, Mauget Inject-A-Cide B (EPA Reg. #7946-10)



Fig 1: Mauget Inject-A-Cide B

3. I was not familiar with this pesticide, so I asked Mr. Dunlevy for a few shipping invoices. He asked if he could email them to me, and I agreed.
4. On August 26, 2015, Mr. Dunlevy sent me an invoice for a sale of Mauget Inject-A-Cide B dated 8/13/15 with an order number of 136774. For the complete invoice, please see the case file.
5. A check of the OISC database indicated that Mauget Inject-A-Cide B (EPA Reg. #7946-10) was not a registered pesticide in Indiana for 2015. Please see case number 2016/0251.

6. Later when I was reviewing the RUP sales records provided to me by Mr. Dunlevy, I noticed the above sale on August 13, 2015, was not listed in their records. Although the sale was missing from the formal record, Tree Stuff sold the RUP to a licensed business.
7. After a few unsuccessful attempts at reaching Mr. Dunlevy via the phone, I emailed him. He responded promptly and acknowledged the sale was not included in their records.



Elizabeth C. Carter
Investigator

Date: October 9, 2015

Disposition: Tree Stuff was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-4-3, for failure to keep restricted use pesticide sale or distribution records. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: October 22, 2015
Final Date: December 10, 2015

Date/Time	Target Pest	Area Treated	Pesticide Applied	Amount used Pints/Acre
July 5, 2014	Dollar Spot	All greens	*Fungicide	**5.5 – 9.66
July 19, 2014	Dollar Spot	All greens	“	“
August 2, 2014	Dollar Spot	All greens	“	“
August 16, 2014	Dollar Spot	All greens	“	“
August 30, 2014	Dollar Spot	All greens	“	“
Sept. 6, 2014	Dollar Spot	All greens	“	“
June 2, 2015	Dollar Spot	All greens	“	“
June 16, 2015	Dollar Spot	All greens	“	“
June 30, 2015	Dollar Spot	All greens	“	“
July 7, 2015	Dollar Spot	All greens	“	“
July 21, 2015	Dollar Spot	All greens	“	“
August 4, 2015	Dollar Spot	All greens	“	“
August 18, 2015	Dollar Spot	All greens	“	“

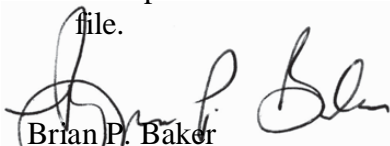
*Armor Tech CLT 720, EPA Reg. #66222-154, active ingredient, chlorothalonil 54%

** The respondent followed label directions when mixing.

It should be noted the respondent also used the following pesticide product in an attempt to control moles on the golf course. The product was used as needed.

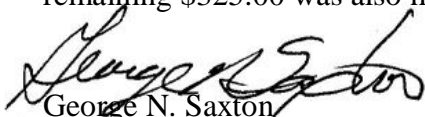
- Motomco Mole Killer, EPA Reg. #12455-101-3240, active ingredient=bromethalin

5. The Respondent in this case did not store pesticide products. The pesticide products used were purchased “as needed”. The labels for both pesticide products used are attached to the case file.
6. In this case there are 13 days where pesticide spray applications were made at Valley Hills Golf Course in 2014 and 2015 together. The pesticide spray applications listed on the chart in paragraph 4 were made by unlicensed personnel. The Respondent was cooperative and will work diligently to get licensed. It should be noted the Valley Hills Golf Course is set to be included in the LaPorte County tax sale set for October 8, 2015, due to ongoing tax assessment issues. The Respondent was open about the pending tax sale of her property and even provided a letter she posted on the business Pro-Shop. The letter is attached to the case file.


 Brian P. Baker
 Investigator

Date: September 14, 2015

Disposition: Valley Hills Golf Course was cited for thirteen (13) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$3,250.00 (13 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$325.00. Consideration was given to the fact Valley Hills Golf Course cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; a good faith effort to comply and no restricted use pesticides were involved. The remaining \$325.00 was also held in abeyance.


 George N. Saxton
 Compliance Officer

Draft Date: September 25, 2015
 Final Date: October 22, 2015

CASE SUMMARY

Case #2015/1341

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
W. Lafayette, IN 47907-2063
765-494-1585

Respondent: Scotts Lawn Service (Licensed Business)
13053 Parkside Drive
Fishers, IN 46038
260-493-0075
Aaron Ellis (Certified Applicator & Operations Manager)

1. On September 29, 2015, I conducted a routine facility inspection at Scotts Lawn Service in Fishers, Indiana. My credentials were presented and a Notice of Inspection was issued to Leona Baker, the office manager. Ms. Baker and I reviewed and updated the list of credentialed applicators currently employed at the Fishers location. I then met with Aaron Ellis, operations manager for the location. Mr. Ellis and I proceeded to the pesticide storage area for the facility.
2. During my inspection of the Scotts pesticide storage area, I observed two (2) full bulk pesticide storage containers (220 gallons each) that were outside of the secondary containment area. The labels on the outside of the bulk storage tanks indicated they both contained Horsepower Selective Herbicide (EPA Reg. #228-313; active ingredients: MCPA, Triclopyr and dicamba). I explained to Mr. Ellis the requirement for bulk pesticide storage containers to be placed into secondary containment area within thirty (30) days upon receiving them. Mr. Ellis stated he believed the two bulk containers had been at the facility since early July 2015. I requested Mr. Ellis provide an invoice of receipt date for the bulk containers of Horsepower. Mr. Ellis provided me a copy of the invoice requested and it indicated Scotts had received the Horsepower bulk containers on June 26, 2015. Photographs 1 thru 3 below show the bulk containers uncontained in the Scotts storage area.



Photograph 1



Photograph 2



Photograph 3

3. I then asked Mr. Ellis to move the two bulk Horsepower containers into the secondary containment area. Mr. Ellis complied immediately and I photographed the two Horsepower containers inside the secondary containment (see Photographs 4 and 5, Photograph 6 is a close-up of the Horsepower label on one of the bulk containers).



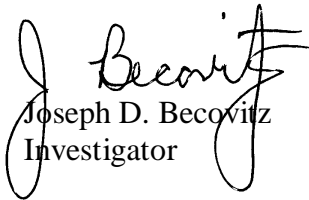
Photograph 4



Photograph 5



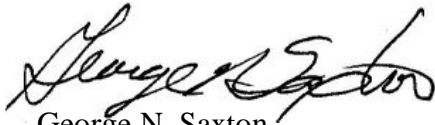
Photograph 6


Joseph D. Becovitz
Investigator

Date: October 2, 2015

Disposition:

A. Scotts Lawn Service of Fishers, Indiana was cited for sixty-six (66) days of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for having bulk storage containers outside secondary containment. A civil penalty in the amount of \$16,500.00 (66 counts x \$250.00 per count) was assessed. By rule, this penalty cannot be mitigated.


George N. Saxton
Compliance Officer

Draft Date: October 9, 2015
Final Date: November 9, 2015

CASE SUMMARY

Case #2016/0251

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

Respondent: J. J. Mauget Co.
Saskia Van Der Veen
5435 Peck Road
Arcadia, California 91006-5847

1. On August 26, 2015, during a routine inspection at Tree Stuff (2015/1231) in Indianapolis, Indiana, I observed the following pesticide, Mauget Inject-A-Cide B (EPA Reg. #7946-11) offered for sale.



Fig 1: Mauget Inject-A-Cide

2. Since I suspected this pesticide to be unregistered in Indiana, I collected a sales record. However, I did not put in under *Stop Sale* because I was not completely certain.



6565 Coffman Road
Indianapolis, IN 46268
www.TreeStuff.com

Phone: (877) 408-7337
Fax: (317) 291-1917
Email: info@treestuff.com

Invoice

Sold To:

Ping's tree service
Phil Ping
5050 Freyn drive
Indianapolis, IN 46254

Ship To:

Ping's tree service
Phil Ping
5050 Freyn drive
Indianapolis, IN 46254

Order #136774 Received: 8/13/2015

SKU	Description	Qty	P1
MA-09	Mauget Inject-A-Cide B 2ml - 24 Capsules	2	\$

Fig 2: Sales record

3. After checking the OISC database and consulting with the registration manager, it was determined that Mauget Inject-A-Cide B (EPA Reg. #7946-11) was not registered for use or sale in Indiana in 2015. It was last registered in 2014.



Elizabeth C. Carter
Investigator

Date: October 9, 2015

DISPOSITION: J. J. Mauget Co. 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.



George N. Saxton
Compliance Officer

Draft Date: October 22, 2015
Final Date: December 10, 2015