

A Summary of Cases

11/3/2016

2015/0265 **DISPOSITION:** Hoods Gardens 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 (Worker Protection Standard). A civil penalty in the amount of \$250.00 was assessed for this violation.

2016/0323 **DISPOSITION:** Flat Rock-Hawcreek School Corporation was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-8 and 357 IAC 1-16-9, for failure to maintain a pesticide application notification registry and failure to keep mandatory pesticide application records. Consideration was given to the fact this was their first violation of similar nature.

Chris McKinney was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-4, for applying pesticides to a school without being a certified applicator.

Chris McKinney 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.

2016/0571 **DISPOSITION:** Zaifeng Kevin Yang was cited for violation of section 65(16) of the Indiana Pesticide Use and Application Law for knowingly using a pesticide that was not registered in Indiana under I.C. 15-16-4. A civil penalty in the amount of \$1,000.00 was assessed for this violation under case number 2016/0547. In addition, this case was forwarded to USEPA for federal review.

2016/0574 **DISPOSITION:** Zaifeng “Kevin” Yang was cited for two (2) counts of violation of section 65(16) of the Indiana Pesticide Use and Application Law for knowingly using a pesticide that was not registered in Indiana under I.C. 15-16-4. A civil penalty in the amount of \$1,000.00 was assessed under case number 2016/0547.

2016/0585 **DISPOSITION:**

A. I Must Garden was cited for seventeen (17) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing displaying, selling, or offering for sale a pesticide product that has not been registered in Indiana. A civil penalty in the amount of \$4,250.00 (17 counts x \$250.00 per count) was assessed.

B. The civil penalty was based on nine (9) unregistered pesticide products in the Indiana channels of trade for 2016 and eight (8) of the pesticide products in the Indiana channels of trade for 2015 (All Natural Insect Control was not distributed to May’s Greenhouse until 2016).

C. On April 25, 2016, I received an email from Lee Patterson of Morningstar Law Group requesting mitigation. An email was returned to him on April 28, 2016, indicating the civil penalty could be reduced to \$2,337.50 for cooperation and no previous violations.

2016/0605 **DISPOSITION:** Joshua Bland was cited for twenty-two (22) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to non-licensed employees. A civil penalty in the amount of \$2,750.00 (22 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$275.00. Consideration was given to the fact Mr. Bland cooperated during the investigation; corrective action was immediately taken; no previous history of similar nature; a good faith effort to comply and no restricted use pesticides were involved.

2016/0641 **DISPOSITION:** Matthew T. Haseltine was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-1-2.1(f), for failure to comply with examination procedures during the examining period. A civil penalty in the amount of \$250.00 was assessed for this violation.

2016/0643 **DISPOSITION:**

A. In a letter dated April 15, 2016, Ticks-N-All was cited for three (3) counts of violation section 57(1) of the Indiana Pesticide Registration Law for offering to sell or distribute a pesticide product that has not been registered for distribution in Indiana for 2014, 2015 and 2016. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed.

B. On May 20, 2016, Kevin Newell of Ticks-N-All requested a hearing to contest the allegations and the \$750.00 civil penalty. He provided evidence of expiration date stamps placed on his products and evidence of reimbursing Posey County Farm Store for twelve containers of un-registerable product placed under Stop Sale Use or Removal Order. He also shared details of his interaction with U.S. EPA in his attempts to make his product compliant with the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) Section 25(b) exemption requirements before any further distribution in the United States. As a result, the civil penalty was reduced to \$250.00. Consideration was given to the fact corrective action was taken.

2016/0661 **DISPOSITION:** Ron Gilliam 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.

2016/0667 **DISPOSITION:** New Harmony Soap Company was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a state non-registered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation. In addition, the information was forwarded to USEPA for federal review.

- 2015/1181 **DISPOSITION:** Dale Burkey 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 person(s). 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.
- 2016/0710 **DISPOSITION:** Carroll County Country Club was cited for thirty-three (33) 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 as certified applicator. A civil penalty in the amount of \$8,250.00 (33 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,650.00. Consideration was given to the fact Carroll County Country Club 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.
- 2016/0712 **DISPOSITION:** Martin Williams was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation.
- Dan West was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to properly supervise a non-licensed employee. A civil penalty in the amount of \$125.00 was assessed for this violation.
- 2016/0713 **DISPOSITION:** Jeff Sawyer and Ground Control Solutions were cited for four 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 \$1,000.00 (4 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$100.00. Consideration was given to the fact Mr. Sawyer and Ground Control Solutions cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; no potential for damage; a good-faith effort to comply and no restricted use pesticides were involved.
- 2016/0719 **DISPOSITION:** Donald Folz was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature. See case number 2015/0871.
- 2016/0731 **DISPOSITION:** Craig Harting 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.
- 2016/0732 **DISPOSITION:** Brook Hill Golf Club was cited for six (6) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for

applying pesticides for hire without having a certified applicator. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact Brook Hill Golf Club 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.

- 2016/0736 **DISPOSITION:** Wepak Corporation was cited for twelve (12) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing non-registered pesticide products (4 products in 2014; 4 products in 2015 and 4 products in 2016). A civil penalty in the amount of \$3,000.00 (12 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,250.00. Consideration was given to the fact this was their first violation of similar nature and no restricted use pesticide products were involved.
- 2016/0737 **DISPOSITION:** Matthew Hayko was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed for this violation.
- 2016/0759 **DISPOSITION:** Derrick Word was cited for twenty-eight (28) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$3,500.00 (28 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,050.00. Consideration was given to the fact Mr. Word cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.
- 2016/0760 **DISPOSITION:** Charles McMahon was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed for this violation.
- 2016/0780 **DISPOSITION:** Mark Peters was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-4, for failure to keep and maintain all required records of a pesticide application to a golf course. Consideration was given to the fact this was his first violation of similar nature.
- Mark Peters was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal protective equipment. 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.
- 2016/0781 **DISPOSITION:** Scott Langdon was cited for violation of section 73(c) of the Indiana Pesticide Registration Law for removing a pesticide under Stop Sale Use or Removal Order without written permission.

Mosquito Authority of Pasadena, Texas was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing 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.

Mosquito Authority of Pasadena, Texas was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide that was misbranded. A civil penalty in the amount of \$250.00 was assessed for this violation.

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

2016/0815 **Disposition:**

A. Mosquitno LLC was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

B. During further investigation, it was determined Mosquitno was actually registered for 2015. The civil penalty assessed was reduced to \$250.00.

2016/0828 **Disposition:**

A. Quail Crossing Golf Course was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides at a golf course without having a certified applicator. A civil penalty in the amount of \$1,500.00 (3 counts x \$500.00 per count) was assessed for this violation. Consideration was given to the fact this was their second violation of similar nature. See case number 2011/1020.

B. OISC received a letter dated July 5, 2016, from Laura E. Daywalt, General manager, wherein she indicated that although it was Quail Crossing Golf Course's second violation of similar nature, the golf course had recently changed ownership and it was their first violation.

C. After re-evaluation, it was determined that due to exigent circumstances, this violation would be treated as if this was their first offense. The civil penalty was reduced to \$750.00.

2016/0842 **Disposition:** Mike Stout 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 \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

Mike Stout 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.

- 2016/0894 **DISPOSITION:** Herron Creek Golf Club was cited for twenty-one (21) 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 commercial applicator license. A civil penalty in the amount of \$5,250.00 (21 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$787.50. Consideration was given to the fact Herron Creek Golf Club cooperated during the investigation; corrective action was taken; this was their first violation of similar nature and no restricted use pesticides were involved.
- 2016/0917 **DISPOSITION:** Avail Pest Management was cited for six (6) violations of section 65(12) of the Indiana Pesticide Use and Application Law for failure to comply with limitations on their license. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$150.00. Consideration was given to the fact Avail Pest Management 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.
- 2016/0929 **DISPOSITION:** Josh Sanford and Cedar Lake Golf Course were cited for 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 \$500.00 was assessed for this violation. Consideration was given to the fact this was their second violation of similar nature. See case number 2012/1043.
- 2016/1003 **DISPOSITION:** Tim Pesce 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.
- 2016/1006 **DISPOSITION:** Aaron Walker 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 persons. 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.
- 2016/1066 **DISPOSITION:** Rio Nance was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-1-2.1, for failure to comply with the rules regarding the commercial applicators; certification standards and procedures. As a result, Mr. Nance was prohibited from attempting another pesticide applicator examination for a period of five (5) years.

2016/1086

DISPOSITION: Kurt Hostetler was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for recommending a pesticide be mixed and applied contrary to label directions. A civil penalty in the amount of \$250.00 was assessed for this violation.

Kurt Hostetler was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to insure the use of personal protective equipment (PPE). A civil penalty in the amount of \$250.00 was assessed for this violation.

Kurt Hostetler was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label-directed agricultural use requirements (WPS Standard). A civil penalty in the amount of \$250.00 was assessed for this violation.

The total amount of civil penalty assessed for these violations is \$750.00. However, the civil penalty was reduced to \$375.00. Consideration was given to the fact Mr. Hostetler cooperated during the investigation; there was no previous history of similar nature and no restricted use pesticides were involved.

2016/1109

DISPOSITION: Tony Cline 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.

Mark Frame was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to a technician by not supplying the technician with a label, fact sheet and safety equipment. A civil penalty in the amount of \$125.00 was assessed for this violation.

CASE SUMMARY

Case #2016/0265

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

Respondent: Hoods Gardens
Steven Hood
11644 Greenfield Avenue
Noblesville, IN 46060
317-773-6015
Owner/Private Applicator

1. On June 16, 2016, I performed a routine Worker Protection Standards (WPS) inspection at Hoods Gardens in Noblesville, Indiana. I spoke with Rebecca Sommers the most senior private applicator on site at the time of my inspection. Owner, Steven Hood was off-site performing business functions; however, he was in contact with Ms. Sommers. Ms. Sommers was able to answer questions regarding central posting of application materials and location. See figure 1-2. In addition, Ms. Sommers explained that only credentialed applicators make applications or handle pesticides. Ms. Sommers stated applications are typically made after worker hours (after 5:00pm) in order to keep workers out of treated areas during the re-entry interval (REI) period. Ms. Sommers stated greenhouses can be closed off and are placard with signage. Ms. Sommers stated the signage is standard with the addition of date and time when workers can re-enter. Furthermore, Ms. Sommers stated notification of applications are posted next to the time clock of workers. In addition, Ms. Sommers stated Israel Perez, who is bilingual, informs non-English speaking employees of applications and re-entry information.



Figure 1-central posting

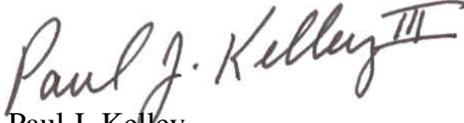


Figure 2-application record

2. On June 16, 2016, I spoke with Kate Jones, private applicator, as a handler. Ms. Jones was able to demonstrate her knowledge of WPS.
3. I spoke with Israel Perez, worker. Mr. Perez stated he is given information regarding applications by the credentialed applicators and passes the information along to non-English

speaking employees. Mr. Perez stated he has not received a formal WPS training but, receives regular information and handouts from management regarding pesticide safety, central posting, and REI's. Mr. Perez reports to Shelly Buckles, Production Manager.

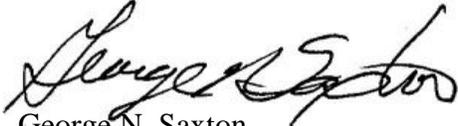
4. I spoke with Shelly Buckles, Production Manager. Ms. Buckles stated she is responsible for the workers at Hoods Gardens. Ms. Buckles stated she does not train workers with EPA WPS training material for workers. Ms. Buckles stated employees are trained regarding the central posting, where to find application information, and the importance of "Do Not Enter" signage where pesticide applications have been made.



Paul J. Kelley
Investigator

Date: June 17, 2016

DISPOSITION: Hoods Gardens 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 (Worker Protection Standard). A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: July 5, 2016
Final Date: September 20, 2016

CASE SUMMARY

Case #2016/0323

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

Respondent: Shawn Price Superintendent
Jim Tedder Transportation/Maintenance Director
Indoor Air Quality Coordinator

Flat Rock-Hawcreek School Corp.
9423 N. SR 9
Hope, IN 47246
812-546-2000

Chris McKinney Unlicensed Applicator
20200 E. CR 850 N.
Hope, IN 47246
812-603-2894

1. On March 24, 2016, I conducted a Pesticide Use in Schools inspection at Flat-Rock School Corporation, located at 9423 N. SR 9, in Hope, Indiana (47246). I met with Jim Tedder, Transportation/Maintenance Director Indoor Air Quality Coordinator. Mr. Tedder stated Burt's Termite and Pest Control is contracted to perform pest control services for the corporation. Mr. Tedder stated he had a log book from Burt's of all applications, but was unable to locate the log book on the day of my inspection.
2. Mr. Tedder stated Chris McKinney was contracted to service the grounds (turf). Mr. Tedder stated he did not have any paperwork from Chris McKinney.
3. I asked Mr. Tedder how the corporation notifies parent and staff of the school's pest management policy and pesticide notification registry. Mr. Tedder could not produce any documentation that the corporation was notifying parents and staff.
4. On April 12, 2016, I contacted Burt's Termite and Pest Control. Burt's stated they were recently contacted by a representative of the Flat Rock-Hawcreek School Corporation to provide them with a new log book of pesticide applications. Burt's stated the logbook contained all applicable documentation required by OISC.
5. On April 12, 2016, I attempted to contact Mr. Tedder. I left a telephone message to return my call.
6. On April 21, 2016, I attempted to contact Mr. Tedder. I left a telephone message to return my call.

7. On April 27, 2016, I contacted Chris McKinney. Mr. McKinney stated his lawn care company maintained the grounds for Flat Rock-Hawcreek School Corporation in 2015.
8. Mr. McKinney stated on two (2) instances he applied Roundup around buildings and utility poles. Mr. McKinney stated he was not licensed and did not keep records. Mr. McKinney stated he was unaware he needed to be licensed nor was he informed by the school corporation he needed to be licensed and keep records.
9. As of this report, I have not received a return telephone call or correspondence from Mr. Tedder or a representative of Flat Rock-Hawcreek School Corporation.



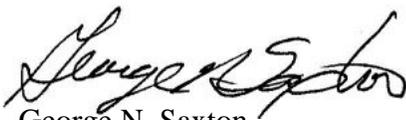
Paul J. Kelley
Investigator

Date: April 27, 2016

DISPOSITION: Flat Rock-Hawcreek School Corporation was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-8 and 357 IAC 1-16-9, for failure to maintain a pesticide application notification registry and failure to keep mandatory pesticide application records. Consideration was given to the fact this was their first violation of similar nature.

Chris McKinney was cited for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-16-4, for applying pesticides to a school without being a certified applicator.

Chris McKinney 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.



George N. Saxton
Compliance Officer

Draft Date: May 16, 2016
Final Date: September 20, 2016

CASE SUMMARY

Case #2016/0571

Complainant: Patty Nocek
Environmental Health/Food Specialist
La Porte County Health Dept.
809 State Street Suite 401 A
La Porte, Indiana 46350
(219) 326-6808

Respondent: Zaifeng “Kevin” Yang Property Owner
Yangs Dream Living LLC
1002 Wright Avenue
La Porte, Indiana 46350
(347) 379-2717

1. On Wednesday February 17, 2016, the Complainant contacted the Compliance Officer of the Indiana State Chemist (OISC) to report a human health concern of unregistered Chinese pesticides products being used at properties in La Porte Indiana owned by Kevin Yang of Yangs Dream Living LLC. See case number 2016/0547. Based on the results of this investigation, OISC personnel worked to obtain a swab sample from each property owned by Yangs Dream Living LLC. The follow up sampling was performed on Wednesday March 9, 2016.
2. On March 9, 2016, I met with Mr. Yang and followed him to Lucky Bar at 1004 Lincolnway in La Porte. In addition to a trip blank, I collected a template swab sample from a trim board inside the back door and a free swab from a trim board inside the front entrance. The samples were labeled with OISC sample numbers 2016474010, 2016474011 and 2016474012. The samples were transported to the OISC Residue Laboratory for analysis.



Fig.1 Sample#2016474011



Fig.2 Sample#2016474012

3. On March 21, 2016, I received the final analysis for the swab samples taken in this case. The chart which follows is a record of the final results supplied by the OISC Residue Laboratory.

2016474010	Trip blank	Dichlorvos	Below Detection Limits
2016474011	Template swab back door	Dichlorvos	52.3 ng/swab
2016474012	Free swab entrance	Dichlorvos	276 ng/swab



Andrew R. Roth
Investigator

Date: March 22, 2016

DISPOSITION: Zaifeng Kevin Yang was cited for violation of section 65(16) of the Indiana Pesticide Use and Application Law for knowingly using a pesticide that was not registered in Indiana under I.C. 15-16-4. A civil penalty in the amount of \$1,000.00 was assessed for this violation under case number 2016/0547.

In addition, this case was forwarded to USEPA for federal review.



George N. Saxton
Compliance Officer

Final Date: September 14, 2016

CASE SUMMARY

Case #2016/0574

Complainant: Patty Nocek Environmental Health/Food Specialist
La Porte County Health Dept.
809 State Street, Suite 401 A
(219) 326-6808

Respondent: Zaifeng "Kevin" Yang Property Owner
Yangs Dream Living LLC
1002 Wright Avenue
La Porte, Indiana 46350
(347) 379-2717

1. On Wednesday February 17, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a human health concern of unregistered Chinese pesticides products being used at properties in La Porte Indiana owned by Kevin Yang of Yangs Dream Living LLC. See case number 2016/0547. Based on the results of this investigation, OISC personnel worked to obtain a swab sample from each property owned by Yangs Dream Living LLC. The sampling was performed on Wednesday March 9, 2016.
2. On Wednesday March 9, 2016, template swabs and free swabs were taken at 705 Maple Avenue, LaPorte, Indiana (46350), a rental property owned by Yangs Dream Living LLC. The samples were labeled with the following OISC label numbers:

2016-501521
2016-501522
2016-501523
2016-501525
2016-501526
2016-501527
2016-501528

The swab samples were transported to the OISC Residue Laboratory for analysis.

3. Furthermore, I collected a box containing vials of an unknown sawdust material from the tenant of apartment #2. The tenant of apartment #2 stated she got the box from the landlord's offices. The box was collected and labelled with the OISC label number 2016-501524.
4. On March 31, 2016, OISC's Pesticide Formulations Lab reported sample #2016-501524 contained 0.036% fipronil.

5. On March 21, 2016, I received the final analysis for the swab samples taken in this case. The chart which follows is a record of the final results supplied by the OISC Residue Laboratory.

2016-501521	2016/0574	Trip Blank Swab	J. Kelley	BDL
2016-501522	2016/0574	Outside Apt #1 Free Swab	J. Kelley	2913
2016-501523	2016/0574	Outside Apt #1 Template Swab	J. Kelley	5166
2016-501525	2016/0574	Upstairs Front Apt #2 Free Swab	J. Kelley	16.6
2016-501526	2016/0574	Upstairs Front Apt #2 Template Swab	J. Kelley	29.5
2016-501527	2016/0574	Back lower Apt #3 Free Swab	J. Kelley	BDL
2016-501528	2016/0574	Back lower Apt #3 Template Swab	J. Kelley	BDL

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



Paul J. Kelley
Investigator

Date: March 29, 2016

DISPOSITION: Zaifeng “Kevin” Yang was cited for two (2) counts of violation of section 65(16) of the Indiana Pesticide Use and Application Law for knowingly using a pesticide that was not registered in Indiana under I.C. 15-16-4. A civil penalty in the amount of \$1,000.00 was assessed under case number 2016/0547.



George N. Saxton
Compliance Officer

Final Date: September 14, 2016

CASE SUMMARY

Case #2016/0585

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

Respondents: I Must Garden
1289 N. Fordham Blvd.
Chapel Hill, NC 27514
877-446-2929

1. On March 15, 2016, I conducted a routine marketplace inspection at May's Greenhouse, located at 6270 Old State Road 37 South in Bloomington, Indiana, and discovered nine (9) pesticide products that were not registered for sale, use or distribution in the state of Indiana.
2. The following I Must Garden unregistered products were found:
 - All Natural Deer Repellent Concentrate: EPA Reg. #Exempt
 - All Natural Deer Repellent Ready To Use (RTU): EPA Reg. #Exempt
 - All Natural Insect Control: EPA Reg. #Exempt
 - All Natural Squirrel Repellent: EPA Reg. #Exempt
 - Animal Repellent: EPA Reg. #Exempt
 - All Natural Rabbit Repellent: EPA Reg. #Exempt
 - All Natural Mosquito, Tick & Flea Control: EPA Reg. #Exempt
 - All Natural Dog & Cat Repellent: EPA Reg. #Exempt
 - All Natural Mole & Vole Repellent: EPA Reg. #Exempt
3. According to invoice documentation provided by May's Greenhouse, the above products were received on the following dates:
 - All Natural Deer Repellent Concentrate on March 11, 2015
 - All Natural Deer Repellent RTU on March 11, 2015 and February 2, 2016
 - All Natural Insect Control on February 2, 2016
 - All Natural Squirrel Repellent on March 11, 2015
 - Animal Repellent on March 11, 2015 and February 2, 2016
 - All Natural Rabbit Repellent on March 11, 2015
 - All Natural Mosquito, Tick & Flea Control on March 11, 2015
 - All Natural Dog & Cat Repellent on March 11, 2015
 - All Natural Mole & Vole Repellent on March 11, 2015

4. I collected one (1) sample of each unregistered product and issued a Stop Sale Use or Removal Order to the May's Greenhouse Store Manager, Barbara Key. These samples were turned into the Office of Indiana State Chemist Formulations Lab on Friday, March 18, 2016.



Scott M. Farris
Investigator

Date: March 18, 2016

DISPOSITION:

- A.** I Must Garden was cited for seventeen (17) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing displaying, selling, or offering for sale a pesticide product that has not been registered in Indiana. A civil penalty in the amount of \$4,250.00 (17 counts x \$250.00 per count) was assessed.
- B.** The civil penalty was based on nine (9) unregistered pesticide products in the Indiana channels of trade for 2016 and eight (8) of the pesticide products in the Indiana channels of trade for 2015 (All Natural Insect Control was not distributed to May's Greenhouse until 2016).
- C.** On April 25, 2016, I received an email from Lee Patterson of Morningstar Law Group requesting mitigation. An email was returned to him on April 28, 2016, indicating the civil penalty could be reduced to \$2,337.50 for cooperation and no previous violations.



George N. Saxton
Compliance Officer

Draft Date: May 4, 2016
Final Date: September 14, 2016

CASE SUMMARY

Case #2016/0605

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

Respondent: Joshua Bland Certified Applicator
Insight Pest Solutions Licensed Business
5954 W. 71st Street
Indianapolis, IN 46268
317-495-9433

1. On March 17, 2016, I observed an Insight Pest Solutions applicator servicing a residence in Hamilton County. I introduced myself to Bryon Barlow and initiated a routine pesticide use and licensing inspection.
2. I asked Mr. Barlow if he had his applicator license. He produced a piece of paper from the H&R Block testing center which he said he received when he passed the Core Exam in February. He indicated he had not received a license. Mr. Barlow was applying Delta Gard and Talstar at the time of the inspection. He indicated his supervisors were John Kincaid and Joshua Bland. I instructed Mr. Barlow to cease making applications until I could speak with the manager and resolve the licensing issue. A check of OISC records indicated no application for credential had been received for Mr. Barlow and he was not licensed.
3. I then spoke with Mr. Bland on the phone and informed him of the inspection. He indicated Mr. Barlow and another employee, Nicholas Scott, passed the Core exam in February. As Service Manager, Mr. Bland indicated he typically forwards the application for credential to the corporate office so a check can then be mailed to the OISC with the application. I informed him that Mr. Barlow was not licensed and he could not make for-hire applications without a certified applicator on-site. Mr. Bland, who stated he had worked in pest control in other states, reported he thought an applicator could make applications without on-site supervision once the exam was passed. I explained that applicators are not licensed until the OISC has received the application and fees; when approved, the applicator is considered licensed and a credential is printed and mailed. In this case, neither applicator was licensed as a registered technician so neither was allowed to work without on-site supervision. Mr. Bland drove to the OISC *later that afternoon* and submitted the applications and fees for Mr. Barlow and Mr. Scott.
4. The next day, I met with Mr. Bland at the business and obtained copies of records for applications Mr. Barlow and Mr. Scott made after they passed the Core exam, but prior to submitting the paperwork for their credentials. He apologized for the inconvenience and provided a written statement explaining his misunderstanding of the licensing procedure.

Insight records indicated Mr. Barlow and Mr. Scott made for-hire pesticide applications prior to obtaining licenses and without on-site supervision on the following dates in 2016:

Barlow February 22, 23, 24, 25, 26, 27
 March 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 14, 16, 17

Scott February 19, 22, 23, 24, 25, 26, 27, 29
 March 1, 2, 3, 5, 7, 8, 9, 10, 11, 14, 15, 16, 17



Andrew R. Roth

Date: June 9, 2016

DISPOSITION: Joshua Bland was cited for twenty-two (22) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to non-licensed employees. A civil penalty in the amount of \$2,750.00 (22 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$275.00. Consideration was given to the fact Mr. Bland cooperated during the investigation; corrective action was immediately taken; no previous history of similar nature; a good faith effort to comply and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: July 5, 2016
Final Date: September 20, 2016

CASE SUMMARY

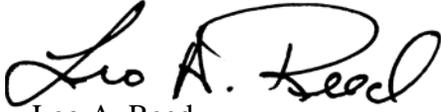
Case #2016/0641

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

Respondent: Matthew T. Haseltine
Arrow Services, Inc.
00 EW 380 W
Kokomo, IN 46902
765-419-0399

1. On March 28th, 2016, I was proctoring exams in room 306 of the Stewart Center on Purdue University campus. Examinees were informed they are to arrive at 1:30pm for exam instructions. Mr. Haseltine arrived at 2:45pm, explaining that he had difficulty in finding the location. I advised Mr. Haseltine that he had time to complete one of the two exams that he was signed up to take. He decided to take category 7A, Pest Management.
2. I instructed Mr. Haseltine to turn off his cell phone. He replied that it was off. I then gave instructions on how to complete the bubble sheet. I also instructed Mr. Haseltine to read the instructions on the front cover of the exam booklet. Mr. Haseltine sat in the front row of the exam room and appeared to read the instructions. In part, the instructions read, “....**talking is prohibited and electronic communication devices must be turned off.**” The exam booklet cover page and instructions have been copied and placed in the case file.
3. At 3pm, I heard an electronic chime. The chime occurred twice and appeared to be from Mr. Haseltine. I asked Mr. Haseltine if it was his phone that was chiming. He replied that it was his email notification. At that time I informed Mr. Haseltine the exam was over. I took his exam booklet and bubble sheet and informed that he had to leave the exam site. I told him that he had been instructed to turn off his cell phone and clearly had not. Mr. Haseltine stated, “it’s email, it’s not my phone.” I again asked if the chime was emitting from his phone to which Mr. Haseltine replied, “yes”.
4. Mr. Haseltine asked if he should reschedule. I informed him the office would be sending him a letter regarding his failure to follow instructions.
5. Section 355 IAC 4-1-2.1(f) of the Indiana Pesticide Use and Application states, “*The state chemist shall specify examination procedures that must be followed by any individual taking an examination. Failure to comply with these procedures or any unauthorized assistance*”

provided by or received by an individual during the examining period shall be cause for immediate termination of the examining process for all involved individuals and no additional opportunity to take any examinations shall be provided to the involved individuals for a period of five (5) years.”



Leo A. Reed
Manager, Certification and Licensing

Date: March 29, 2016

DISPOSITION: Matthew T. Haseltine was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-1-2.1(f), for failure to comply with examination procedures during the examining period. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: May 3, 2016
Final Date: September 14, 2016

CASE SUMMARY

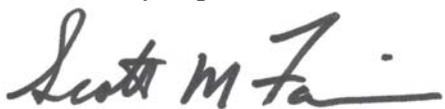
Case #2016/0643

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

Registrant: Ticks-N-All
4503 Winderwood Circle
Orlando, Florida 32835

Dealer: Posey County Farm Store
817 West 4th Street
Mount Vernon, Indiana 47620
812-838-4468

1. On, March 29, 2016, the Product Registration Manager of the Office of Indiana State Chemist (OISC) contacted the OISC Compliance Officer to report that Posey County Farm Store may be offering pesticide products for sale or distribution that were not registered in the state of Indiana. The product in question is an Indiana non-registered pesticide with the brand name "Ticks-N-All".
2. On April 4, 2016, I went to the Posey County Farm Store and met with Store Manager, John Fifer. Mr. Fifer informed me they had received some of the Ticks-N-All product about two (2) years ago, but was unsure if any of the products were still in the store. Mr. Fifer located 13 bottles of the Ticks-N-All (EPA Reg. #: None) product. Mr. Fifer indicated they did not have any invoice information documenting specifically when they received the product, but he indicated it was received in September of 2014, based on the price sticker codes that farm store placed on the product containers. Mr. Fifer signed the Pesticide Sample Collection Report Affidavit verifying the store received the product in September of 2014.
3. I collected one (1) sample of the Ticks-N-All product (Sample #2016510019) and issued a Stop Sale Use or Removal Order to the Posey County Farm Store for the remaining twelve containers. The collected sample was logged into the OISC Pesticide Formulation Lab on Friday, April 8, 2016.



Scott M. Farris
Investigator

Date: April 8, 2016

DISPOSITION:

- A. In a letter dated April 15, 2016, Ticks-N-All was cited for three (3) counts of violation section 57(1) of the Indiana Pesticide Registration Law for offering to sell or distribute a

pesticide product that has not been registered for distribution in Indiana for 2014, 2015 and 2016. A civil penalty in the amount of \$750.00 (3 counts x \$250.00 per count) was assessed.

- B. On May 20, 2016, Kevin Newell of Ticks-N-All requested a hearing to contest the allegations and the \$750.00 civil penalty. He provided evidence of expiration date stamps placed on his products and evidence of reimbursing Posey County Farm Store for twelve containers of un-registerable product placed under Stop Sale Use or Removal Order. He also shared details of his interaction with U.S. EPA in his attempts to make his product compliant with the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) Section 25(b) exemption requirements before any further distribution in the United States. As a result, the civil penalty was reduced to \$250.00. Consideration was given to the fact corrective action was taken.



David E. Scott
Pesticide Administrator

Draft Date: August 16, 2016
Final Date: September 20, 2016

CASE SUMMARY

Case #2016/0661

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

Respondent: Luther Gross Unlicensed Applicator
Ron Gilliam Owner
Enviro-safe Landscaping & Grounds Maintenance Unlicensed Business
437 E. 600 S.
Anderson, IN 46013
765-623-9035

1. On April 1, 2016, I observed Luther Gross making a pesticide application with a backpack sprayer at Taco Bell located at the corner of Fry Road and US highway 31 in Greenwood, Indiana.
2. Mr. Gross stated he was not licensed and was only doing what his employer asked him to do.
3. Mr. Gross stated he was applying Roundup to flower beds and the crew he was working with was spreading fertilizer with dimension. See figures 1-2.



Figure 1-Backpack with Roundup



Figure 2-Fert. with dimension

4. Mr. Gross contacted his employer, Ron Gilliam. Mr. Gilliam came to our location. Mr. Gilliam stated he had taken the Core exam and the 3B class, but had not had time to take the category exam. I instructed Mr. Gilliam to cease making for-hire pesticide application until licensed. Mr. Gilliam signed a Stop Action Order verifying he understood.

5. On April 22, 2016, Mr. Gilliam provided me with copies of six (6) invoices all dated April 4, 2016, in which "Weed Control" was listed as a service. Mr. Gilliam stated he would be talking the appropriate category test the end of May 2016.



Paul J. Kelley
Investigator

Date: April 27, 2016

DISPOSITION: Ron Gilliam 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: May 10, 2016
Final Date: September 14, 2016

CASE SUMMARY

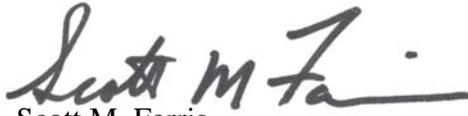
Case #2016/0667

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

Registrant: New Harmony Soap Company
512 Main Street
New Harmony, IN 47631
812-682-0515

1. On, April 4, 2016, I received information indicating that the New Harmony Soap Company was offering for sale pesticide products that may not be registered for sale or distribution in the state of Indiana.
2. On April 5, 2016, I went to the New Harmony Soap Company and met with company owner, Jim Spann. Mr. Spann was shown OISC credentials and issued a Notice of Inspection (NOI). Mr. Spann informed me he was unaware the two (2) pesticide products he offered for sale were required to be state registered. Mr. Spann indicated he believed the two (2) products contained active ingredients that allowed them to be exempt (25b) from federal registration with the U.S. Environmental Protection Agency.
3. The two (2) pesticide products being offered for sale at the New Harmony Soap Company were the following:
 - Natural Gnat-B-Gone 8-Hour (EPA Reg. # Not Registered)
 - Mosquito & Tick B-Gone (EPA Reg. # Not Registered)
4. Mr. Spann stated he did not have any specific sales or distribution records for the two (2) products, but signed the Pesticide Sample Collection Report Affidavit indicating the following:
 - Sales of Natural Gnat-B-Gone began in March of 2012
 - Sales of Mosquito & Tick B-Gone began in June of 2013
5. I collected one (1) sample of the Natural Gnat-B-Gone product (Sample #2016510018) and one (1) sample of the Mosquito & Tick B-Gone product (Sample #2016510020) and issued a Stop Sale Use or Removal Order to New Harmony Soap Company. The collected samples were turned into the Indiana State Chemist Formulation Lab on Friday, April 8, 2016.
6. I learned later on April 5, 2016, from the Indiana State Chemist Office Pesticide Product Administrator, Edward White, neither of the two (2) products being sold by the New

Harmony Soap Company met the requirements for exemption (25b) from being federally registered due to having active ingredients that have not been approved for use in 25b exempt pesticide products.



Scott M. Farris
Investigator

Date: April 8, 2016

DISPOSITION: New Harmony Soap Company was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a state non-registered pesticide product. A civil penalty in the amount of \$250.00 was assessed for this violation.

In addition, the information was forwarded to USEPA for federal review.



George N. Saxton
Compliance Officer

Date: May 4, 2016
Final Date: September 14, 2016

4. The following pesticide products were used in the pesticide spray applications made to the turf at the Carroll County Country Club.

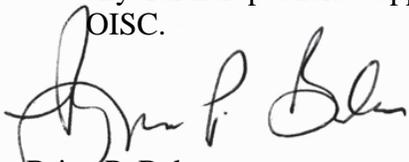
- Lesco Regimax PGR, EPA Reg. #228-635-10404, active ingredient= trinexapac-ethyl 11.3%
- Lesco Spectator Ultra 1.3 Fungicide, EPA Reg. #100-741-10404, active ingredient= propiconazole 14.3%
- Lesco Manicure 6FL Turf and Ornamental Fungicide, EPA Reg. #60063-7-10404, active ingredient= chlorothalonil 54%
- Insignia SC Intrinsic Brand Fungicide, EPA Reg. #7969-290, active ingredient= pyraclostrobin 23.3%
- Gardentech Sevin, EPA Reg. #264-334-71004, active ingredient= carbaryl 22.5%
- Bandit, EPA Reg. # 432-1312, active ingredient= imidacloprid 21.4%
- 18 Plus, EPA Reg. # 432-888-10404, active ingredient= iprodione 23.3 %

The chart which follows documents the unlicensed pesticide spray applications made to the turf at the Carroll County Country Club for calendar years 2014 and 2015:

Date/Time	Pesticide/Fertilizer Product applied	Amount of product used
4-24-14/4:00pm	14.2.14	5 bags
4-15-14/6:00pm	18 plus	140 oz
5-8-14/6:30pm	Manicure/Insignia/18-3-6/Regimax	126 oz,25 oz,280 oz,24 oz
5-21-14/7:00pm	Manicure/12-0-0/Sevin/Regimax	126 oz,105 oz,20 oz,24 oz
6-1-14/7:30pm	Wet Plus	140 oz
6-5-14/7:30pm	Manicure/Spectator Ultra/18-3-6/Greenflo Phyte/Regimax/Bandit	126 oz,35 oz, 280 oz,105 oz, 21 oz
6-20-14/7:30pm	Manicure/12-0-0/Sevin/Regimax	126 oz, 105 oz, 20 oz, 5 oz.
7-1-14/7:00pm	Manicure/18-3-6/Spectator Ultra/Regimax	126 oz280 oz35 oz, 5 oz.
7-9-14/7:30pm	Wet Plus	140 oz
7-14-14/7:00pm	Manicure/Insignia/12-0-0/Regimax	126 oz, 25 oz, 105 oz, 5 oz.
7-29-14/7:30pm	Manicure/18-3-6/Sevin/Regimax	126 oz, 280 oz, 20 oz, 5 oz.
8-5-14/7:00pm	Manicure/12-0-0/Spectator Ultra/Regimax	126 oz, 105 oz, 35 oz, 5 oz
8-18-14/7:30pm	Manicure/18-3-6/Greenflo Phyte/Regimax	126 oz, 280 oz, 105 oz, 5 oz.
8-30-14	Manicure/12-0-0/Greenflo Phyte/Sevin/Regimax	126 oz, 105 oz, 105 oz, 20 oz, 5 oz.
9-9-14/7:30pm	Manicure/18-3-6/Greenflo Phyte/Spectator Ultra/Regimax	126 oz, 280 oz, 105 oz, 35 oz, 5 oz.
9-24-14/6:00pm	Manicure/12-0-0.	126 oz, 105 oz.
10-6-14/5:00pm	14-2-14E	5 bags
10-15-14/4:00pm	18 plus	140 oz.
4-22-15/5:00pm	14-2-14E	5 bags
4-28-15/5:15pm	18 plus	140 oz.
5-6-15/6:00pm	Manicure/Insignia	126 oz, 25 oz.
5-18-15/6:30pm	Manicure/Sevin/12-0-0/Regimax	126 oz, 20 oz, 105 oz, 5 oz.
6-8-15/6:00pm	Wet Plus	140 oz

6-11-15/7:30pm	Manicure/18-3-6/Greenflo Phyte/Regimax/Bandit	126 oz, 280 oz, 105 oz, 5 oz, 21 oz.
6-25-15/7:30pm	Manicure/12-0-0/Sevin/Regimax	126 oz, 105 oz, 20 oz, 5 oz.
7-1-15	Wet Plus	140 oz.
7-10-15/7:00pm	Manicure/Insignia/12-0-0/Regimax	126 oz, 25 oz, 105 oz, 5 oz.
7-23-15/7:15pm	Manicure/18-3-6/Sevin/Regimax	126 oz, 280 oz, 20 oz, 5 oz.
8-7-15/7:20pm	Manicure/12-0-0/Spectator Ultra/Regimax	126 oz, 105 oz, 35 oz, 5 oz.
8-20-15/10:00am	Manicure/18-3-6/Greenflo Phyte/Regimax	126 oz, 280 oz, 105 oz, 5 oz.
9-1-15/5:00pm	Manicure/18-3-6/Greenflo Phyte/Spectator Ultra/Regimax	126 oz, 280 oz, 105 oz, 35 oz, 5 oz.
9-16-15/5:00pm	Manicure/12-0-0	126 oz, 105 oz.
10-16-15/5:30pm	14-2-14E	5 bags

5. In this case there are 33 days where pesticide or fertilizer applications were made to the turf at the Carroll County Country Club by Mr. Rob Roth. Mr. Roth is unlicensed. Mr. Roth stated he was under the impression he was being supervised by a properly licensed person. Mr. Roth cooperated with the investigation/inspection and understood he could not make any further pesticide applications regardless of method until he is properly licensed by OISC.



Brian P. Baker
Investigator

Date: April 15, 2016

DISPOSITION: Carroll County Country Club was cited for thirty-three (33) 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 as certified applicator. A civil penalty in the amount of \$8,250.00 (33 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,650.00. Consideration was given to the fact Carroll County Country Club 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.



George N. Saxton
Compliance Officer

Draft Date: May 10, 2016
Final Date: September 14, 2016

CASE SUMMARY

Case #2016/0712

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

Respondent: Martin Williams Registered Technician
Steven Mann Unlicensed Applicator
Dan West Certified Supervisor
Company Green Property Management LLC Licensed Business
5830 Perry Woods Way
Indianapolis, IN 46227
317-919-9971

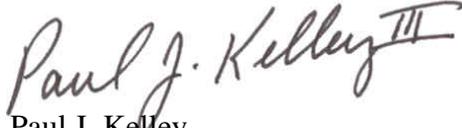
1. On April 15, 2016, I observed Martin Williams performing a for-hire pesticide application on a ride-on sprayer while wearing a shirt with no sleeves. I later learned Mr. Williams was applying Lesco Three-Way herbicide, EPA Reg. #10404-43, active ingredients, dicamba, 2, 4-D and MCP-P. See figure 1.



Figure 1-no sleeves

2. As I was preparing to talk with Mr. Williams, I encountered Steven Mann with a backpack sprayer with no sleeves. Mr. Mann did not have a license to perform for-hire pesticide applications.
3. On April 15, 2016, I spoke with Dan West, Certified Supervisor. Mr. West stated Williams was issued the proper PPE, and had it, but did not wear. Mr. West stated he thought he sent in Mr. Mann's application to OISC for licensing.

4. Label language for Lesco Three-Way states in part, “*All mixers, loaders, applicators and other handlers must wear: Long-sleeves shirts and long pants...*”



Paul J. Kelley
Investigator

Date: April 27, 2016

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

Dan West was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to properly supervise a non-licensed employee. A civil penalty in the amount of \$125.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: May 10, 2016
Final Date: September 14, 2016

to expand their services to include lawn applications. He agreed to meet me to discuss the situation.

4. Later, on April 19, 2016, I met with Mr. Shape and Mr. Bustos. Mr. Shape explained that, when it was discovered Mr. Sawyer's Category 3b (turf) certification had expired; he scheduled the exam and subsequently passed it on April 12. I informed Mr. Shape and Mr. Bustos that an application requesting an Indiana pesticide business license for the company and an applicator license for Mr. Sawyer had not been received by the OISC. Mr. Shape stated he was not aware of the licensing procedures and indicated he thought Mr. Sawyer was allowed to make applications once the exam was passed. I explained the licensing procedures and also informed him that advertising to be in the business of making for-hire pesticide applications without a business license, like was done on Mr. Sawyer's Facebook page, was prohibited. Mr. Shape took responsibility for the non-compliance and provided application records for the four days Mr. Sawyer made applications after passing the exam but prior to becoming properly licensed. According to those records, for-hire applications were made on April 13, 14, 18 and 19 of 2016.
5. Mr. Shape gave me the application for credentials and a check for the fees. He later forwarded the certificate of insurance for the business. I submitted the application, check and certificate of insurance to the Certification and Licensing section of the OISC and a business license and applicator license were subsequently issued.


Andrew R. Roth
Investigator

Date: July 22, 2016

DISPOSITION: Jeff Sawyer and Ground Control Solutions were cited for four 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 \$1,000.00 (4 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$100.00. Consideration was given to the fact Mr. Sawyer and Ground Control Solutions cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; no potential for damage; a good-faith effort to comply and no restricted use pesticides were involved.


George N. Saxton
Compliance Officer

Draft Date: August 17, 2016
Final Date: September 21, 2016

CASE SUMMARY

Case #2016/0719

Complainant: Milt Griswold
9644 Hillview Court
Newburgh, IN 47630
812-549-6140

Respondent: Daylight Farm Supply, Inc. (Licensed Business)
4505 E Boonville New Harmony Rd.
Evansville, IN 47725
Donald Folz (Certified Applicator)
812-867-2463

1. On April 18, 2016, Milt Griswold contacted the Office of Indiana State Chemist (OISC) and stated a pesticide application had been made to a neighboring field on April 14, 2016, @ approximately 5:40pm, that had adversely affected the trees and plants on his property. Mr. Griswold then stated he returned from out of town on Sunday, April 17, 2016, and noticed leaves on two (2) peach trees near the field had turned color and fallen from the trees. Mr. Griswold indicated he had filed a complaint last year for similar issues with pesticide drift to his property (see case #2015/0871).
2. On April 19, 2016, I went to Mr. Griswold's property and inspected the trees and plants near the suspected farm field located to the east. I observed necrotic spotting consistent with a contact herbicide to two (2) Peach trees and a Dogwood tree, all located within 30 feet of the field. Both Peach trees showed yellow leaf discoloration and leaf loss. I did not observe any symptoms of pesticide exposure to plants and trees located further from the field in question (40 to 60 feet).
3. I collected vegetation samples from the Peach and Dogwood trees located near the field, for residue testing and inspection by the Purdue Plant & Pest Diagnostic Lab (PPDL). Photograph #1 below shows necrotic spotting observed on a peach tree near the field. Photograph #2 shows the leaf drop observed under a Peach tree.



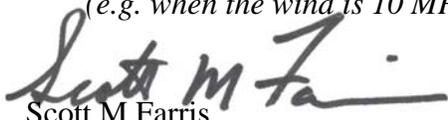
Photograph #1



Photograph #2

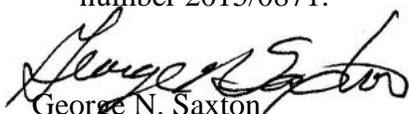
4. On May 19, 2016, I went to Daylight Farm Supply Inc. and spoke to Store Manager, Brian Herr. Mr. Herr informed me Donald Folz had made the pesticide application of Anthem (EPA Reg. #279-3450; active ingredients: pyroxasulfone and fluthiacet-methyl), Roundup PowerMax (EPA Reg. #524-549; active ingredient: glyphosate) and Sharpen (EPA Reg. #7969-278; active ingredient: saflufenacil), to the field in question on April 14, 2016. A Pesticide Investigation Inquiry (PII) form was given to Mr. Herr for Mr. Folz to complete and was received back on April 28, 2016. The PII indicated the application had been made by Certified Applicator, Donald Folz, between 5:40pm and 6:00pm on April 14, 2016.
5. On April 21, 2016, a vegetation sample was turned into PPDL for analysis. The results were reported back on April 22, 2016, and stated the following: *"The necrotic spotting on the leaves are indicators of potential contact with a contact herbicide such as saflufenacil that is contained in Sharpen. Anthem also contains a contact active ingredient, fluthiacet that may also have contributed to the necrotic spotting."*
6. On April 21, 2016, the collected vegetation sample was turned into the State Chemist Residue Lab for analysis. The results were reported back on May 4, 2016, and indicated the following:
 - Sample # 2016-51-0022: Vegetation from trees 30 feet west of farm field
 - Fluthiacet-methyl (Anthem product) BDL
 - Pyroxasulfone (Anthem product) 36.5 PPB
 - Saflufenacil (Sharpen product) 12.3 PPB

BDL = Below Detection Limits/ PPB = Parts per Billion
7. A check of the weather conditions at the time of the application as reported by the Evansville Airport weather station, indicated the winds were from the Southeast (blowing toward Mr. Griswold's property) between 6.9 and 8.1 miles per hour with no gusts reported.
8. The Anthem label stated the following in the *Sensitive Areas* section: *"Anthem must only be applied when the potential for drift to adjacent sensitive areas (e.g. residential areas, bodies of water, known habitats for threatened or endangered species and non-target crops) is minimal. (e.g. when wind is blowing away from the sensitive areas)."*
9. The Sharpen label stated the following in the *Ground Application Requirements* section: *"Apply this product only when the potential for drift to adjacent non-target areas is minimal (e.g. when the wind is 10 MPH or less and is blowing away from sensitive areas)."*


 Scott M Farris
 Pesticide Investigator

Date: May 9, 2016

DISPOSITION: Donald Folz was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature. See case number 2015/0871.


 George N. Saxton
 Compliance Officer

Draft Date: May 18, 2016
 Final Date: September 19, 2016

CASE SUMMARY

Case #2016/0731

Complainant: Jason Kable
530 E 300 N
Portland, Indiana 47371
260-726-9670

Respondent: Craig Harting
Roger Homan
Mercer Landmark, Inc.
3911 Burkettsville-St. Henry Road
Coldwater, OH 45828
419-678-2369

Not Licensed
Certified Applicator
Licensed Business

1. On April 21, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his property. He stated yesterday, the neighboring farmer made a pesticide application to the field and the pesticide drifted on his property and possibly to his children.
2. On April 22, 2016, I spoke with Mr. Kable who reported the application was made to the field which borders his property, between 5-6pm on April 20, 2016. He stated he was outside, as were his children and chickens, when the applicator began spraying the portion of the field east of his house. Mr. Kable reported the wind was blowing from the east, toward his property, at approximately 12-15mph. He indicated he was concerned for his family, his animals and his property, on which he uses no pesticides. Mr. Kable stated he stopped the applicator and talked to him after getting his children in the house. Harvest Land Co-op had reportedly made applications to the field in the past.
3. On April 27, 2016, I met with Mr. Kable at his property on the north side of County Road 300N in Jay County. We walked the east side of the property and he showed me where he was standing, between two barns, when he tried to stop the applicator. Mr. Kable stated he was hit by drift from the application and he wondered if his children were also hit. He indicated his first attempt to get the attention of the applicator was unsuccessful, so he reportedly retrieved a gun and went back to the edge of the field where he spoke to the applicator. While the applicator did leave before completing the application, Mr. Kable felt his property had been impacted. He indicated he grows much of his own food and makes his own compost.
4. We discussed possible sampling sites on the property. Broadleaf weeds along the east edge of the property exhibited distortion and clover in the pasture was spotted. I collected one swab sample from a fence post near where Mr. Kable reported he was standing between the barns at the edge of the field, one from a window on the field-side of the barn south of the fence post and one from the door of a shed west of where he was standing. I collected the jeans Mr. Kable wore during the alleged drift as well as two shirts his boys wore while

playing outside when the application was made. I collected field clover from the pasture area between the road and the barn on the east side of the property. Finally, I collected soil from the target field. The samples were submitted to the OISC Residue Lab for analysis. I photographed the site to document symptoms and the proximity of the field.



Fig.1 Front pasture and target field



Fig.2 Distorted broadleaves



Fig.3 NE corner of property

5. I contacted Harvest Land Co-op at Bryant, IN, and learned that the ground adjacent to the Kable property was not being farmed by the same grower as in previous years and that it was not sprayed this year by Harvest Land. I determined that the growers (Kevin and Gary Sudhoff) utilized Mercer Landmark, Inc., of Coldwater, OH, to make the application.
6. I spoke with Roger Homan at Mercer Landmark and informed him of the complaint. He indicated his applicator, Craig Harting, who was licensed this year in Ohio, made several applications in Indiana on April 20, ending with the application adjacent to the Kable property at 5:45pm. Mr. Homan reported that he had spoken with Mr. Harting as well as the landowner and the growers about the incident. He provided application information which indicated a tank mix containing Authority MTZ (active ingredients sulfentrazone and metribuzin), Shredder 2,4-D LV6 and Superb HC (oil) was applied. Winds were reported as being out of the southeast at 5-10mph during the application; wind data was provided which confirmed winds were from the east-southeast at 12.7mph at 4:53pm and from the southeast at 9.2mph at 5:53pm. A check of local wind data at Portland, IN, indicated winds were out of the east at 9mph at 5:08pm and out of the east-southeast at 5mph, with gusts to 10mph, at 5:33pm. Mr. Homan noted that Mr. Harting left an untreated buffer near the Kable property.
7. The OISC Residue Lab analyzed the samples collected from the Kable property for metribuzin and reported the following (based on the results, the soil was not analyzed):

Sample#2016-474021	Swab-trip blank	BDL
Sample#2016-474022	Swab-fence post	12.3 ng/swab
Sample#2016-474023	Swab-barn window	0.3 ng/swab
Sample#2016-474024	Swab-shed	2.3 ng/swab
Sample#2016-474025	Jeans	5129 ng/clothing
Sample#2016-474026	Shirts	829 ng/clothing
Sample#2016-474027	Clover	154 ppb
Sample#2016-474028	Target soil	Not analyzed

BDL=Below Detection Limits; ng/swab = nanograms/swab; ppb = parts per billion

8. The label for Authority MTZ reads, in part, **“Do not apply in a way that will contact workers or other persons, either directly or through drift.”** It further states, **“Do not apply when wind speed favors drift beyond the area intended for treatment.”**

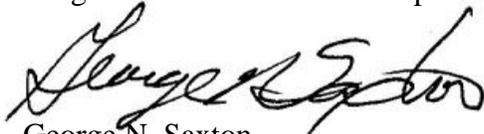
9. According to the OISC Certification & Licensing Manager, Mr. Harting had not been issued an Indiana applicator license nor had an application been received to obtain one via reciprocity (See Case#2016/1039). A check of Ohio records confirmed Mr. Harting had an active license in the state of Ohio.



Andrew R. Roth
Investigator

Date: July 19, 2016

DISPOSITION: Craig Harting 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: August 11, 2016
Final Date: September 20, 2016

CASE SUMMARY

Case #2016/0732

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

Respondent: Brook Hill Golf Club
11175 Fairway Lane
Brookville, Indiana 47012
765-647-4522

1. On December 15, 2015, the Certification & Licensing Manager of the Office of Indiana State Chemist (OISC) sent a certified letter to Brook Hill Club advising them they no longer had a certified applicator. As of April 21, 2016, the club still had no certified applicator.
2. On May 4, 2016, I called Brook Hill Golf Club and learned the new superintendent was Charlie Mason, but he was not available. Mr. Mason, who reportedly worked at the golf course for many years making pesticide applications, took over when former superintendent, certified applicator Robert Chalker, went to work for another golf course. I then called Mr. Chalker who confirmed he was no longer employed at Brook Hill. He indicated he had spoken to the new owners about possibly activating his license to supervise applications at the course until someone at the course obtained certification. Mr. Chalker stated he did not believe any pesticide applications had been made at Brook Hill in 2016.
3. On May 9, 2016, I went to the golf course and spoke with Mr. Mason and new owners Brent and Christy Murrell about the licensing issue. Mr. Mason, who was not licensed, indicated he made applications to turf at the golf course after Mr. Chalker left. He noted he was "*spraying under*" the license of Mr. Chalker, which he thought was permissible. I explained that the course had no certified applicator associated with it as Mr. Chalker's license was not renewed for 2016. Further, I explained that if Mr. Chalker was licensed at the course, he could not effectively supervise applications if he was unaware when they were made.
4. Mr. Mason produced application records for 2016 which indicated he applied pre-emergent and broadleaf herbicides on April 15, 18, 19, 21, 22 and 23. I informed Mr. and Mrs. Murrell and Mr. Mason of the licensing requirements and it was decided they would obtain a license for Mr. Chalker until one of them could get certified.
5. The OISC received an application for credential and a check for the license of Mr. Chalker. He was subsequently issued a license to supervise applications at Brook Hill Golf Club.


Andrew R. Roth
Investigator

Date: July 26, 2016

DISPOSITION: Brook Hill Golf Club was cited for six (6) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides for hire without having a certified applicator. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact Brook Hill Golf Club 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.



George N. Saxton
Compliance Officer

Draft Date: August 17, 2016
Final Date: September 20, 2016

CASE SUMMARY

Case #2016/0736

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

Respondents: Wepak Corporation
P.O. Box 36803
Charlotte, NC 28236
704-334-5781

Pro-Tex All
210 S. Morton Avenue
Evansville, IN 47713
812-424-8268

1. On April 25, 2016, I conducted a routine marketplace inspection at Pro-Tex All, located in Evansville, Indiana. I spoke to and issue a Notice of Inspection (NOI) to owner, James Kuhn, and explained the nature of my inspection. During my inspection, I discovered four (4) pesticide products that were not registered for sale, use or distribution in the state of Indiana.
2. The following Wepak Corporation unregistered products were found:
 - Non-Acid Bathroom Disinfectant: EPA Reg. #10324-85-39272
 - Pine Disinfectant: EPA Reg. #10324-66-39272
 - Disinfectant Neutral Cleaner: EPA Reg. #10324-157-39272
 - Lemon Disinfectant: EPA Reg. #10324-157-39272
3. According to a "Pesticide Sample Collection Report & Affidavit" signed by James Kuhn, all four (4) products were first delivered to Pro-Tex All for sale and distribution in January of 2014. In addition, all four (4) products continued to be received from Wepak Corporation for sale and distribution during the years 2015 and 2016.
4. I collected one (1) sample of each unregistered product and issued a Stop Sale Use or Removal Order to the Pro-Tex All owner, James Kuhn. These samples were turned into the Indiana State Chemist Formulations Lab on Monday, May 2, 2016.


Scott M. Farris
Investigator

Date: May 2, 2016

DISPOSITION: Wepak Corporation was cited for twelve (12) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing non-registered pesticide products (4 products in 2014; 4 products in 2015 and 4 products in 2016). A civil penalty in the amount of \$3,000.00 (12 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$2,250.00. Consideration was given to the fact this was their first violation of similar nature and no restricted use pesticide products were involved.



George N. Saxton
Compliance Officer

Draft Date: May 3, 2016
Final Date: September 14, 2016

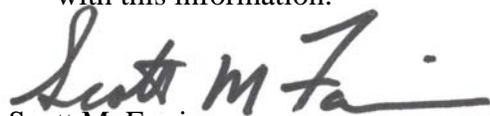
CASE SUMMARY

Case #2016/0737

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

Respondent: Complete Lawn Care & Landscaping (Licensed Business)
P.O. Box 120
Mariah Hill, IN 47556
Matthew Hayko (Certified Applicator)
Cody Seifrig (Unlicensed Applicator)
812-608-0526

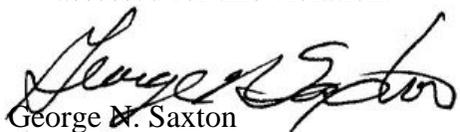
1. On April 25, 2016, I conducted a routine use inspection of an applicator making a turf pesticide application of Strike 3 (EPA Reg. #14774-2) and Shaw's fertilizer with 10% Dimension (EPA Reg. #8378-49) at 7312 Eagle Crest Blvd in Evansville, IN. During my inspection, it was discovered the applicator, Cody Seifrig, was not licensed and was not being properly supervised.
2. After Mr. Seifrig informed me he did not have a license, I had him contact the company owner and certified applicator, Matthew Hayko. I spoke with Mr. Hayko about Mr. Seifrig not having a license and not being properly supervised. Mr. Hayko admitted he knew Mr. Seifrig was not licensed and took a chance by sending him out unsupervised. Mr. Hayko indicated Mr. Seifrig was in the process of taking the test to become a registered technician, but was not yet licensed. In addition, Mr. Hayko stated he did not know the exact amount of days Mr. Seifrig had been making pesticide application to lawns without proper supervision, but stated it was more than one (1). I informed Mr. Hayko that Mr. Seifrig would be sent back to the business location and would be prohibited from making any more pesticide or fertilization applications until he become licensed. Mr. Hayko was mailed an Action Order with this information.



Scott M. Farris
Investigator

Date: April 30, 2016

DISPOSITION: Matthew Hayko was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: May 16, 2016
Final Date: September 19, 2016

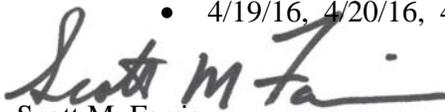
CASE SUMMARY

Case #2016/0759

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

Respondent: Arrow Termite & Pest Control (Licensed Business)
1050 N. Congress Avenue
Evansville, IN 47715
Derrick Word (Certified Applicator)
Justin Utley (Unlicensed Applicator)
812-423-3938

1. On April 26, 2016, I conducted a routine facility inspection at Arrow Termite & Pest Control. During the course of my inspection with Office Manager and Co-Owner, Amy Wathen, I discovered an unlicensed applicator was not being properly supervised.
2. During a review of current pesticide applicators with Mrs. Wathen, she indicated employee Justin Utley was not listed as current pesticide applicator for 2016 and had been working for at least two (2) months for Arrow without a license. I informed Mrs. Wathen that Mr. Utley had been licensed with Orkin Pest Control through 2015, but had never applied for a 2016 license with Arrow. Mrs. Wathen was issued an Action Order indicating Mr. Utley was not to make any further pesticide applications until licensing and supervision requirements were met. In addition, Mrs. Wathen was asked to provide documentation indicating days in which Mr. Utley had performed unsupervised pesticide applications. Mrs. Wathen indicated Co-Owner and Certified Applicator, Derrick Word, had those records and would need to send them when he returned to the business later that day.
3. The requested application records were received from Mr. Word on May 3, 2016, and indicated Mr. Utley performed unsupervised pesticide applications on the following dates:
 - 3/11/16, 3/14/16, 3/15/16, 3/17/16, 3/18/16, 3/21/16, 3/22/16, 3/23/16
 - 3/24/16, 3/25/16, 3/28/16, 3/29/16, 3/30/16, 3/31/16, 4/1/16, 4/5/16
 - 4/6/16, 4/7/16, 4/8/16, 4/11/16, 4/12/16, 4/13/16, 4/14/16, 4/15/16, 4/18/16
 - 4/19/16, 4/20/16, 4/25/16


Scott M. Farris
Investigator

Date: May 9, 2016

DISPOSITION: Derrick Word was cited for twenty-eight (28) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$3,500.00 (28 counts x \$125.00 per count) was assessed. However, the civil penalty was reduced to \$1,050.00. Consideration was given to the fact Mr. Word cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.


George A. Saxton
Compliance Officer

Draft Date: May 18, 2016
Final Date: September 19, 2016

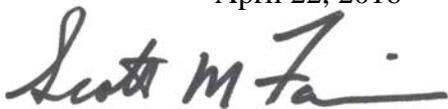
CASE SUMMARY

Case #2016/0760

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

Respondent: McMahon Exterminating (Licensed Business)
1605 Theater Drive
Evansville, IN 47715
Charles McMahon (Certified Applicator)
Trevor Brown (Unlicensed Applicator)
812-475-1100

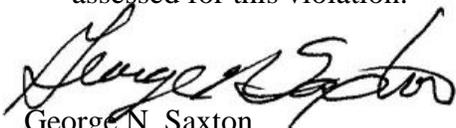
1. On April 26, 2016, I conducted a routine facility inspection at McMahon Exterminating. During the course of my inspection with owner and certified applicator, Charles McMahon, I discovered an unlicensed applicator was not being properly supervised.
2. During a review of current pesticide applicators with Mr. McMahon, he indicated employee Trevor Brown had made a few pesticide applications at sites by himself (no one site supervision by a Certified Applicator). Mr. McMahon indicated Mr. Brown had taken and passed the Core test and carried around his test scores. I informed Mr. McMahon the test score results were not a license to make pesticide applications without supervision and the licensing form and fees still needed to be filed with OISC to receive a license. Mr. McMahon was issued an Action Order indicating Mr. Brown was not to make any further pesticide applications until licensing and supervision requirements were met. In addition, Mr. McMahon provided documentation indicating Mr. Brown had performed unsupervised pesticide applications on the following date:
 - April 22, 2016



Scott M. Farris
Investigator

Date: April 30, 2016

DISPOSITION: Charles McMahon was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: May 16, 2016
Final Date: September 19, 2016

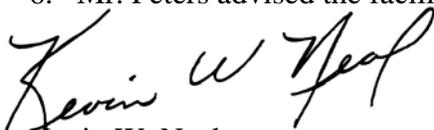
CASE SUMMARY

Case #2016/0780

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

Respondent: Mark Peters Certified Applicator
Fendrich Golf Course
1900 E Diamond
Evansville, IN 47711
812-435-6071

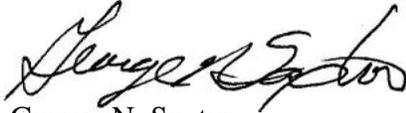
1. On April 26, 2016, I, along with Dave Scott, conducted a facility inspection at the above-named facility.
2. During the course of the inspection, it was determined records for pesticide applications did not exist for 2015 or for 2016 to date. Mr. Peters advised he was on a program that never changed so all of his pesticide applications coincide with what had been recorded in 2014. I explained to Mr. Peters this did not suffice as he did not have dates for these applications nor was the name of the applicator recorded.
3. While checking the pesticide storage area, one product which Mr. Peters said he had applied, Cross Check Plus Multi-Insecticide (EPA Reg. #279-3206-10404) active ingredient bifenthrin requires according to the label for handlers to *“wear a respiratory protection device...Use one of the following NIOSH approved respirator with any R, P or HE filter or a NIOSH approved respirator with an organic vapor (OV) cartridge or canister with R, P of HE filter.”*
4. Mr. Peters advised the facility did not have any respiratory devices.
5. A pesticide application he made on April 25, 2016, with Momentum herbicide (EPA Reg. #228-447-10404) required, according to the label, while mixing and loading a *“chemical resistant apron”*
6. Mr. Peters advised the facility did not have a chemical resistant apron.


Kevin W. Neal
Investigator

Date: April 27, 2016

DISPOSITION: Mark Peters was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-4, for failure to keep and maintain all required records of a pesticide application to a golf course. Consideration was given to the fact this was his first violation of similar nature.

Mark Peters was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal protective equipment. 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: May 16, 2016
Final Date: September 20, 2016

CASE SUMMARY

Case #2016/0781

Complainant: Deborah Wexler
8232 N. Pennsylvania Street
Indianapolis, IN 46240
317-257-5017

Respondent: Scott Langdon
Daniel Patterson
Mosquito Authority
160 W. Carmel Suite 267
Carmel, IN 46032
317-413-4554

**Certified Applicator
Registered Technician**

Registrant: Mosquito Authority
2739 Pasadena Blvd.
Pasadena, Texas 77502

1. On April 28, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a human health concern, in that a person “fogged her neighbor’s grass” three days ago and she is now ill. She said the pesticide applicator’s vehicle was unmarked, so she does not know the name of the company.
2. On April 29, 2016, I met with Ms. Wexler at her residence. She provided me with a written statement. She stated on April 25, 2016, she heard a spraying machine and looked out and saw a gentleman spraying the plants on the neighbor’s side of the fence separating her property and the property of Dr. Don Olive at 8238 N. Pennsylvania Street. She stated they have sprayed on Dr. Olive’s property numerous times, so she put on her 3M respirator and went out and began hosing down the plants and fencing. She stated she did this to protect animals. She stated later in the day, she left her residence without her respirator. She stated this caused her nausea and a headache. I asked her why she thought the chemical sprayed may have drifted across onto her property. She stated because she could smell it. She further stated when she had her windows open, she could smell the chemical and it caused discomfort to eyes, nose, throat and lungs. I asked if she had gone to a doctor regarding her symptoms and she stated she had not.
3. Ms. Wexler stated she has an ongoing neighbor dispute with Dr. Olive and believes he is having the spraying done to upset her. She further stated she is concerned about the wellbeing of his two dogs. She stated they look malnourished and sickly. I advised Ms. Wexler, I could only investigate a label violation in regards to the spraying if indeed it was a pesticide application. I advised her she would need to contact local law enforcement if she had a harassment complaint.
4. I then went next door and spoke with Dr. Don Olive. He stated he has Mosquito Authority come on a routine bases to make pesticide applications for mosquitos on his property. He

stated he has had trouble with Ms. Wexler over the past couple of years as she gets upset when they make the pesticide applications. He stated during one application, Ms. Wexler came out and sprayed the applicator in the face with a garden hose. He stated he has contacted the Indianapolis Metro Police Department regarding her continuing to harass him. While speaking with Dr. Olive, his two Labrador retriever dogs came into the room. I observed both dogs to be very playful, friendly and healthy. There were no indications of any health problems with the dogs.

5. I later returned to the Wexler property and collected vegetation and swab samples. The samples were all labeled and submitted to the OISC residue lab. There were no visible symptoms to any of the vegetation on the Wexler property.
6. I then made contact with Mr. Scott Langdon, owner of Mosquito Authority. I met with him at his office. I advised him of the complaint made by Ms. Wexler. He stated he is aware of the complaint and Ms. Wexler. He stated he was the applicator who Ms. Wexler sprayed in the face with a garden hose across the fence on Dr. Olive's property. He confirmed Mosquito Authority does have a contract with Dr. Olive to treat his property for mosquitos on a rotation schedule. He stated they did make the pesticide application on April 25, 2016. He stated registered technician Daniel Patterson made the pesticide application. Mr. Langdon stated he is the certified applicator who supervises Mr. Patterson. I asked Mr. Langdon what product they used during the pesticide application. He stated they used Repel Plus Adulticide, EPA Reg. #88746-3, with the active ingredient bifenthrin.
7. I checked the registration status of Repel Plus on the OISC database and found the product was not registered in 2016 in the state of Indiana nor was it registered with USEPA. The EPA number listed is for the pesticide "Reclaim I/T" and is registered with:

Solutions Pest & Lawn
2739 Pasadena Blvd.
Pasadena, Texas 77502

This makes this pesticide product misbranded as well as not properly registered with USEPA and the Office of Indiana State Chemist.

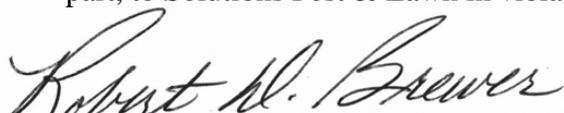
8. I contacted the OISC registration division and confirmed this finding. The product was manufactured by Innova Chemical, LLC. I advised Mr. Langdon the product was not registered and they could not make any further pesticide applications using Repel Plus. I then issued Mr. Langdon a STOP ACTION ORDER, ordering to cease use of Repel Plus Adulticide until the product is currently registered through the Office of Indiana State Chemist. They had 576 containers of the product on hand. Mr. Langdon stated he would have his applicators return all of the product they had on their trucks and they would now use Bifen IT, EPA Reg. #53883-118, which is properly registered.
9. I then went with Mr. Langdon to their storage facility and obtained a one gallon jug of Repel Plus. I gave Mr. Langdon a copy of the Pesticide Sample Collection Report and Affidavit. He also provided me with the shipping documents and invoice for the product. All of the above mentioned documents are in this case file. I submitted the sample to the OISC formulation lab. I further contacted Mr. Ed White of the OISC registration section, advising him of the product.

10. I researched the weather underground website for the weather conditions on April 25, 2016, in the Indianapolis area. The winds on that date were blowing SSW, which would be blowing away from the Wexler property. A copy of this weather report is in this case file.
11. On June 22, 2016, I received a pesticide residue lab report from the OISC residue lab. The report indicated below detection limits on all samples submitted for the active ingredient bifenthrin.

OFFICE OF INDIANA STATE CHEMIST
Pesticide Residue Laboratory
Lab Report

Case # 2016/0781		Investigator: Bob Brewer					
Sample #	Sample Description	Sample Matrix	Amount Found				
			Bifenthrin				
2016-33-4704	Control Veg Sample Swab	swab	BDL				
2016-33-4705	Veg Swab Sample NE Part Complainant's Yard	swab	BDL				
2016-33-4706	Veg Swab Sample South Part Complainant's Yard	swab	BDL				
2016-33-4707	Veg Swab Sample RDB West Complainant's Yard	swab	BDL				
2016-33-4708	Veg Sample from Complainant's Yard	vegetation	BDL				
2016-33-4709	Trip Blank Swab	swab	BDL				
<small>PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC</small>							
LOQ	vegetation	3 ppb					
LOQ	Swabs	50 ng/swab					
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Signature</td> <td style="width: 40%; text-align: center;"></td> <td style="width: 15%;">Date</td> <td style="width: 30%; text-align: center;">6/22/16</td> </tr> </table>				Signature		Date	6/22/16
Signature		Date	6/22/16				

12. According to an email dated August 8, 2016, Mr. Langdon returned the pesticide, all or in part, to Solutions Pest & Lawn in violation of the Stop Sale, Use or Removal Order.



Robert D. Brewer
Investigator

Date: June 28, 2016

DISPOSITION: Scott Langdon was cited for violation of section 73(c) of the Indiana Pesticide Registration Law for removing a pesticide under Stop Sale Use or Removal Order without written permission.

Mosquito Authority of Pasadena, Texas was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing 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.

Mosquito Authority of Pasadena, Texas was cited for violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide that was misbranded. A civil penalty in the amount of \$250.00 was assessed for this violation.

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



George N. Saxton
Compliance Officer

Draft Date: August 31, 2016
Final Date: September 30, 2016

cc: Dr. Don Olive
8238 N Pennsylvania Street
Indianapolis, IN 46240

CASE SUMMARY

Case #2016/0815

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

Respondent: CVS
Amanda Miller
Sam Wilson
6010 S. Emerson Avenue
Indianapolis, IN 46237
317-783-5325

Shift Supervisor
District Manager

Manufacturer Mosquitno LLC
8235 Melrose Drive
Lenexa, KS 66214

package address

1. On May 4, 2016, the Compliance Officer of the Indiana State Chemist (OISC) received information an unregistered 25b USEPA exempt pesticide called “Mosquitno” was being sold in CVS stores in Indiana.
2. On May 12, 2016, I located the unregistered 25b pesticide called “Mosquitno” at a CVS store located at 6010 S. Emerson Avenue in Indianapolis, Indiana (46237). See figures 1-2. I met with Shift Supervisor, Amanda Miller. I explained to Ms. Miller CVS was selling an unregistered 25b pesticide product. I explained the process for market place inspections in dealing with unregistered 25b pesticide products. I explained the unregistered 25b pesticide product would be placed under a Stop Sale or Removal Order and I would be retaining an investigative evidentiary sample for my case. Furthermore, I explained to Ms. Miller the Stop Sale or Removal Order instructs her and CVS to remove the unregistered 25b pesticide product from the shelves for sale and place in storage not to be sold or removed from the store until OISC provides further instruction by letter.



Figure 1-Mosquitno on shelf



Figure 2-Mosquitno

3. Ms. Miller stated she did not have access to invoices for the products being delivered to the store. However, Ms. Miller documented on the receipt for sample, CVS received the stock of Mosquitno bands in 2015. The result is that the Mosquitno pesticide product was not registered for distribution in Indiana for 2015 and 2016.
4. On May 12, 2016, I spoke with Sam Wilson, District Manager for CVS. I explained the same information to Mr. Wilson as I did Ms. Miller.
5. On May 12, 2016, I delivered the investigative evidentiary sample to OISC's Formulations Lab.
6. On May 12, 2016, I issued a Stop Sale or Removal Order to CVS for the unregistered 25b pesticide called "Mosquitno".



Paul J. Kelley
Investigator

Date: May 16, 2016

Disposition:

- A. Mosquitno LLC was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that was not registered in the state of Indiana. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.
- B. During further investigation, it was determined Mosquitno was actually registered for 2015. The civil penalty assessed was reduced to \$250.00.



George N. Saxton
Compliance Officer

Draft Date: July 20, 2016
Final Date: September 20, 2016

CASE SUMMARY

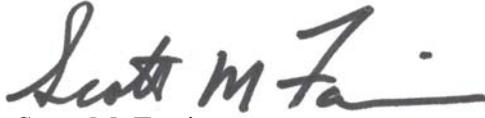
Case #2016/0828

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

Respondent: Quail Crossing Golf Course
5 Quail Crossing Drive
Boonville, Indiana 47601
Alan Sowers (Unlicensed Applicator)
812-897-1247

1. On April 15, 2016, David Star of the United States Environmental Agency (USEPA) forwarded a complaint he had received regarding the possible illegal licensing status of Quail Crossing Golf Course. It was alleged the golf course was purchasing restricted use pesticides without proper licensing and improperly applying pesticides. As of May 18, 2016, the OISC database indicated Quail Crossing Golf Course did not have a certified applicator.
2. On May 18, 2016, I went to the Quail Crossing Golf Course and met with Course Superintendent, Alan Sowers and General Manager, Laura Daywalt. I explained the complaint allegations to Mr. Sowers and Ms. Daywalt and issued a Notice of Inspection (NOI) to Mr. Sowers. Mr. Sowers stated he was hired by the golf course this year and had made a few pesticide applications to the course. Mr. Sowers indicated he was currently studying to take both the Core and Category 3b exams to become licensed in Indiana. I explained to Mr. Sowers the requirements for becoming licensed in Indiana and provided further information on the licensing process. I questioned Mr. Sowers about the purchase or use of Restricted Use Products (RUP's) at the course this year. Mr. Sowers stated he had not purchased or used any RUP's at the course. Mr. Sowers further stated he had kept pesticide application records for his applications this year and provided me with copies of those records. Mr. Sowers was issued an Action Order to cease any further pesticide applications to the golf course until all licensing requirements were met.
3. An inspection of the pesticide application records given to me by Mr. Sowers indicated applications were made to the golf course turf areas on the following dates:
 - April 2, 2016
 - April 15, 2016
 - May 11, 2016

4. A review of the pesticide products listed on the application records provided by Mr. Sowers did not show any RUP's had been applied to the golf course this year.



Scott M. Farris
Investigator

Date: June 21, 2016

Disposition:

- A. Quail Crossing Golf Course was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides at a golf course without having a certified applicator. A civil penalty in the amount of \$1,500.00 (3 counts x \$500.00 per count) was assessed for this violation. Consideration was given to the fact this was their second violation of similar nature. See case number 2011/1020.
- B. OISC received a letter dated July 5, 2016, from Laura E. Daywalt, General manager, wherein she indicated that although it was Quail Crossing Golf Course's second violation of similar nature, the golf course had recently changed ownership and it was their first violation.
- C. After re-evaluation, it was determined that due to exigent circumstances, this violation would be treated as if this was their first offense. The civil penalty was reduced to \$750.00.



George N. Saxton
Compliance Officer

Draft Date: July 20, 2016
Final Date: September 20, 2016

Cc: David Star (star.david@epa.gov)

CASE SUMMARY

Case #2016/0842

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

Respondent: Mark Shetterly
Mike Stout
Tru-Green
3606 Gagnon Road
South Bend, IN 46628
574-233-9700

Registered Technician
Certified Applicator
Licensed Business

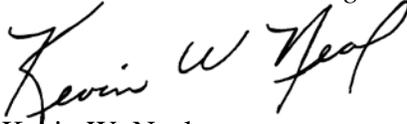
1. On May 20, 2016, I observed Mr. Shetterly making what appeared to be some sort of pesticide application to the turf of the LaPorte County Historical Society located at 2405 Indiana Ave in LaPorte, Indiana.
2. At the time of my observation, I could see that Mr. Shetterly was not only making the application without long sleeves, but that the t-shirt he was wearing had the sleeves rolled up over his shoulders. Also, he was not wearing any gloves. See Figure One



Figure One

3. I approached Mr. Shetterly and identified myself and asked if he had his credential with him, which he did. During our conversation, I inquired as to whether he had his site assessment fact sheet with him and it was quite clear that he did not know what the site assessment fact sheet was let alone if he had one with him.
4. I asked what he was applying to which he responded some fertilizer and TruPower 3 herbicide.
5. When asked if he had the label for TruPower 3 with him he was unable to produce the label.

6. At that time we contacted his supervisor, Mr. Stout, via telephone. I explained the situation to Mr. Stout who was then able to get a copy of the label for TruPower 3 and looked at the section for required personal protection equipment (PPE).
7. The label for TruPower 3 herbicide (EPA Reg. #228-551) active ingredients mcpa, dicamba and 2,4-D states, *“All mixers, loaders, applicators and other handlers must wear:
Long-sleeved shirt and long pants
Shoes plus socks
Protective eyewear
Chemical resistant gloves (except for applicators using groundboom equipment).”*



Kevin W. Neal
Investigator

Date: May 24, 2016

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

Mike Stout 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.



George N. Saxton
Compliance Officer

Draft Date: June 28, 2016
Final Date: September 20, 2016

CASE SUMMARY

Case #2016/0894

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

Respondent: Chris Keil Not Licensed
Herron Creek Golf Club
615 W. CR50 N.
LaGrange, Indiana 46761
260-463-2906

1. On May 31, 2016, I went to Herron Creek Golf Club to conduct a routine golf course inspection. I met with owner Chris Keil.
2. During our discussion, Mr. Keil indicated he and part-time employee, Wade Watson, who was reportedly a licensed applicator, make the pesticide applications at the golf course. He reported that, because Mr. Watson has another job and had been spending less and less time at the golf course, he was in the process of becoming licensed himself. Mr. Keil stated Mr. Watson had the application records for the golf course. I informed Mr. Keil the records need to be available for inspection. He stated he would forward them to me.
3. A check of OISC records indicated Mr. Watson was last licensed at Elcona Country Club (Bristol, IN) in 2011. I informed Mr. Keil I would need to document the applications he and Mr. Watson made since 2012 as they were made without a certified applicator associated with the course. Mr. Keil admitted he made most of those applications under the supervision of Mr. Watson, assuming all along his license was active. He apologized and indicated he was scheduled to take the Core and Category 3b exams on June 14, 2016, so he could obtain a license.
4. On June 7, 2016, Mr. Keil provided copies of the pesticide application records for Herron Creek Golf Club. The records included some granular applications made by Precision Turf Applicators, a licensed pesticide business. The records for in-house applications at the golf course indicated pesticide applications were made on the following dates:

2012	April 12, May 10, June 15, July 8, August 15 and September 10
2013	April 10, May 11, June 15, July 10, August 12 and September 15
2014	April 15, May 15, June 15, July 15, August 11 and September 12
2015	April 15, May 9, June 15, July 12, August 15 and September 10
2016	April 14 and May 14

5. Mr. Keil passed the Core and Category 3b exams and was subsequently issued his license by the OISC. It should be noted that he took full responsibility for the applications and was very cooperative throughout the investigation.


Andrew R. Roth
Investigator

Date: July 29, 2016

DISPOSITION: Herron Creek Golf Club was cited for twenty-one (21) 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 commercial applicator license. A civil penalty in the amount of \$5,250.00 (21 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$787.50. Consideration was given to the fact Herron Creek Golf Club cooperated during the investigation; corrective action was taken; this was their first violation of similar nature and no restricted use pesticides were involved.


George N. Saxton
Compliance Officer

Draft Date: September 22, 2016
Final Date: October 31, 2016

CASE SUMMARY

Case #2016/0917

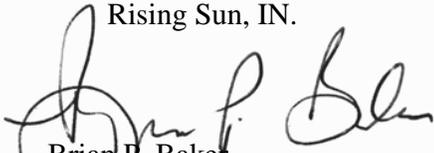
Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Avail Pest Management
George Ranshaw Certified Applicator – 7b
Shelly Jo Ranshaw Certified Applicator – 7b
Taylor Ranshaw Registered Technician
Josef V. Ullmann Registered Technician
12665 Pullman Drive
Dillsboro, Indiana 47018
812-584-7023

1. On, June 17, 2016, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Avail Pest Management applying pesticides for hire outside of their category of 7b. A check of the OISC database indicated the business is licensed for 7b pesticide applications only. According to anonymous, Avail Pest Management is applying pesticides in category 7a at:
 - a. Senior Citizen Center in Rising Sun;
 - b. Greendale Village Apartments in Lawrenceburg
 - c. Fairhaven Apartments at 4455 St. Claire St. in Lawrenceburg
2. On Monday June 27, 2016, I met with the owners of Avail Pest Management at their home office in Dillsboro, IN. I identified myself verbally and with OISC credentials. I read the complaint to the Respondent's and issued a Notice of Inspection. The Respondents were certain I was mistaken until they checked their Certified Applicators Licenses and found they were for category 7B only. The respondent's told me they just overlooked the fact they were up for renewal. The respondent's began at once to inquire how they could get tested and renewed and actually found a location and date for a renewal test.
3. I issued a Stop Action Order to "Stop all category 7A "For Hire" pesticide applications until properly licensed".
4. I asked the respondents for a list of business where category 7A pesticide applications had been made in 2016. I received the list by e-mail and it reads as follows;

DATE/TIME	LOCATION	PESTICIDE PRODUCT APPLIED
1-21-16 9 am	111 Walnut St. Rising Sun, IN.	CY-KICK, EPA Reg# 499-304, Cyfluthrin
2-18-16 9 am	220 S. Poplar St. Rising Sun, IN.	Tempo EPA Reg# 432-1363, Beta Cyfluthrin
3-17-16 9 am	111 Walnut St. Rising Sun, IN.	Temprid EPA Reg# 432-1483, Cyfluthrin
4-21-16 9 am	220 S. Poplar St. Rising Sun, IN.	Suspend, EPA Reg# 432-763, Deltamethrin
5-19-16 9 am	111 Walnut St. Rising Sun, IN.	Tempo, EPA Reg# 432-1363, Beta-Cyfluthrin
6-16-16 9 am	220 S. Poplar St. Rising Sun, IN.	CY-KICK, EPA Reg# 499-304, Cyfluthrin

5. In this case the respondents always keep a 7A-7B Certified Applicators license for their pesticide business. The respondents forgot that one expired before the other and did not know their category 7A had expired at the end of 2015. There were six pesticide applications for hire that were completed this year by Avail Pest Management as noted in the chart in paragraph 4. The respondents cooperated and worked quickly to schedule testing for re-certification and in fact took the test and passed it on July 1, 2016. The respondents will complete the necessary OISC paper work and should be licensed in category 7A again as early as July 8, 2016.
6. It should be noted in the original complaint three locations were given where the anonymous caller indicated Avail Pest Management made pesticide applications which fell into category 7A. The respondents indicated they had not made pesticide application at the Glendale Village Apartments in Lawrenceburg and also indicated the Fairhaven Apartments in Lawrenceburg were serviced by Terminix. The two addresses noted in the chart in paragraph 4 comprise the Senior Citizen Center in Rising Sun, IN.



Brian P. Baker
Investigator

Date: July 1, 2016

DISPOSITION: Avail Pest Management was cited for six (6) violations of section 65(12) of the Indiana Pesticide Use and Application Law for failure to comply with limitations on their license. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$150.00. Consideration was given to the fact Avail Pest Management 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.



George N. Saxton
Compliance Officer

Draft Date: July 6, 2016
Final Date: September 20, 2016

CASE SUMMARY

Case #2016/0929

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

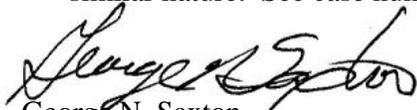
Respondent: Josh Sanford Not Licensed
Cedar Lake Golf Course
3355 E. CR700 N.
Howe, Indiana 46746
260-562-3923

1. On May 31, 2016, I went to Cedar Lake Golf Course to conduct a routine golf course inspection. Superintendent Josh Sanford was not there.
2. I later spoke with Mr. Sanford on the phone to discuss setting up a time for the inspection. During our discussion, Mr. Sanford indicated he had not received his pesticide applicator license for 2016 because he believed his 3b (turf) certification expired; he recently saw a letter from the OISC indicating he could not renew. He stated he was scheduled to retake the Core and 3b exams on June 2, 2016. I checked with the OISC Certification and Licensing Manager who confirmed Mr. Sanford's certification expired at the end of 2015. OISC had received the renewal application and a check for the license from the golf course owner. I relayed that information to Mr. Sanford and told him the application and check would be held pending his exam results. I informed Mr. Sanford that any pesticide applications he made to the golf course in 2016 were done without an active license and I would need to document those. He admitted he made one application in late May.
3. Mr. Sanford passed the exams and was subsequently issued an applicator license for 2016.
4. On June 22, 2016, Mr. Sanford provided a written statement and a copy of the pesticide application record which indicated he applied Manicure (fungicide) to greens at the golf course on May 27, 2016.


Andrew R. Roth
Investigator

Date: August 12, 2016

DISPOSITION: Josh Sanford and Cedar Lake Golf Course were cited for 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 \$500.00 was assessed for this violation. Consideration was given to the fact this was their second violation of similar nature. See case number 2012/1043.


George N. Saxton
Compliance Officer

Draft Date: September 22, 2016
Final Date: October 31, 2016

CASE SUMMARY

Case #2016/1003

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

Respondent: Tim Pesce
Joshua Tree
1206 Ebenezer Church Road
Memphis, IN 47143
502-417-1653

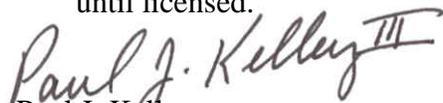
Unlicensed Applicator
Unlicensed Business

1. On July 6, 2016, I observed Tim Pesce making a pesticide application at a Chili's restaurant located at 940 East Lewis and Clark Parkway, Clarksville, Indiana (47129). See figure 1. Mr. Pesce was applying Ultra-Kill Weed & Grass Killer Concentrate, EPA Reg. #67760-49-9688, active ingredient glyphosate.



Figure 1-Mr. Pesce making pesticide application

2. A search of OISC's database did not indicate Mr. Pesce as being a licensed applicator. Furthermore, Joshua Tree is not a licensed pesticide business.
3. Mr. Pesce was issued a Stop, Action Order to cease making for-hire pesticide applications until licensed.


Paul J. Kelley
Investigator

Date: July 14, 2016

DISPOSITION: Tim Pesce 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: August 10, 2016
Final Date: September 19, 2016

CASE SUMMARY

Case #2016/1006

Complainant: Amy Lane
5402 E SR 160
Salem, Indiana 47167
812-620-8412

Respondent: Aaron Walker Certified Applicator
Neff Family Fertilizer, Inc.
6658 W. State Rd. 56
Salem, Indiana 47167
(812) 883-3031

1. On, July 6, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her garden by a neighboring farmer.
2. On Thursday July 7, 2016, I met with the complainant and her husband, Devin Lane. I identified myself verbally and with OISC credentials. I explained the role of OISC in drift cases and issued a Notice of Inspection.
3. The complainant's showed me their garden and I could see clearly the pepper plants in the garden were exhibiting pesticide injury symptoms. The leaves were curled and most had brown spotting on them (fig.3). Mr. Lane told me he thought the peppers had been affected by an earlier pesticide spray burn down application. The complainant's property is bordered on the west side by an agricultural crop field owned by a neighbor, RJ Meadows and Sons at 5255 E. SR 160 Salem, IN. (fig.1&2). This is the field Mr. Lane referred to in both pesticide applications.



Fig. 1



Fig. 2



Fig. 3

4. The complainant's told me they were in their back yard by the garden on July 2, 2016, when they observed a pesticide spray application being made to the aforementioned field which borders their property. The complainants were concerned about the pesticide spray application being made because the winds were out of the west and the person making the pesticide spray application was moving at a higher rate of speed and the booms on the sprayer seemed "a bit high". Mr. Devin Lane explained that he used to work on the neighboring farm and had an OISC category 1 license, so he was familiar with making proper pesticide spray applications next to neighboring properties with desirable vegetation on them. Mrs. Amy Lane used her cellular phone and recorded some of the pesticide spray application as it was being made. In one of three video clips, you can hear Mr. Lane talking about the application and the wind direction being wrong and as the sprayer passes,

you can hear him and his wife say they believed they had been “hit” by the drifting mist of the pesticide product being applied. I asked Mrs. Lane to send the video clips to me via e-mail.

5. The complainant’s told me they both believed they were “hit” by the drifting pesticide product. I asked if they had any of the clothing items they were wearing at that time. Mrs. Amy Lane checked the laundry and found a shirt that Devin was wearing and a pair of short pants which she had on at the time of the alleged drift. The complainant’s had a great many tomato plants in their garden and the tops of the plants exhibited a bit of discoloration after the pesticide spray application (fig.4) and the aforementioned pepper plants seemed to exhibit even more cupping and curling of their leaves. Mrs. Lane took some pictures and forwarded them in an e-mail. The photo in figure 4 is one of the photographs taken by Mrs. Lane.



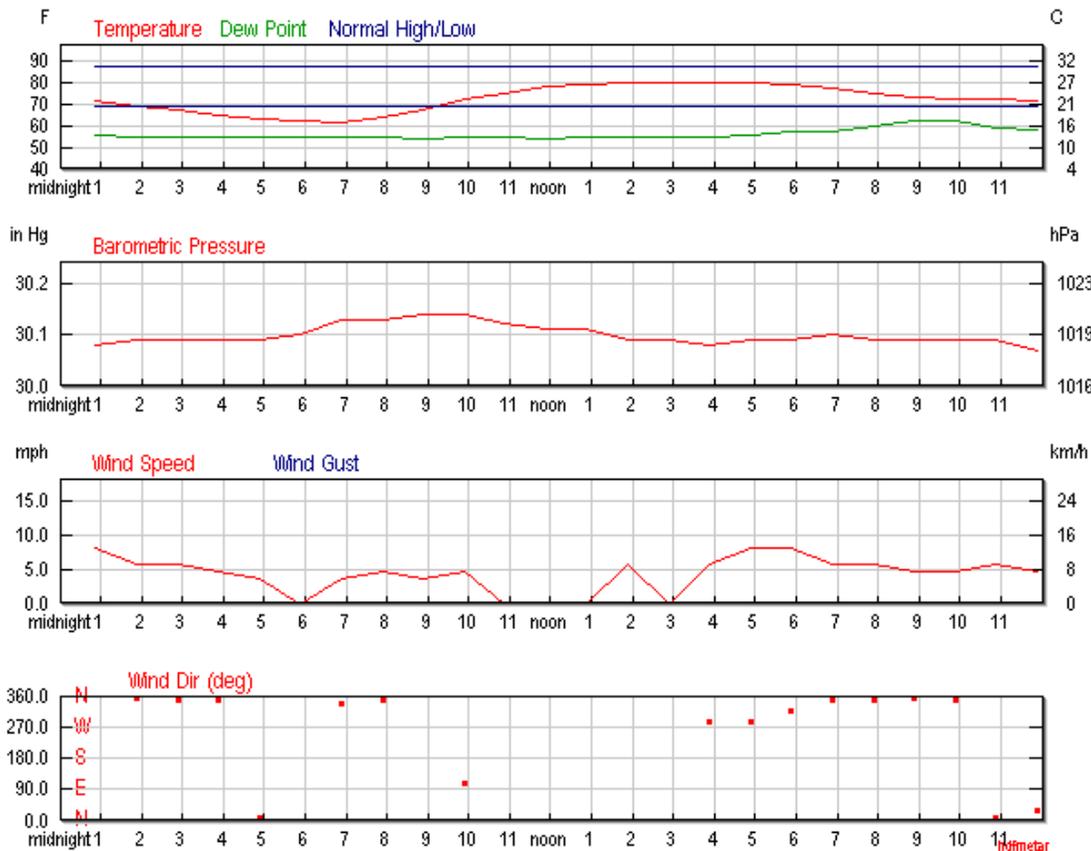
Fig. 4

6. I collected swab and vegetation samples starting from the lesser affected plants on the east end of the garden then moving toward the west end of the garden. I also collected swabs, vegetation and soil from the target field. The samples were bagged, tagged and turned into the OISC Residue Laboratory for analysis.
7. The complainant was able to provide me with the name of the business which made both pesticide spray applications to the agricultural crop field which borders their property along the west edge. The business which made the two applications is the Neff Family Fertilizer listed as the respondent in this report.
8. I was able to make phone contact with Mr. Daniel Neff and he provided me with the following information on the two pesticide spray applications made to the aforementioned field in this case. The applications were made by Certified Applicator Aaron Walker, an employee of Neff Family Fertilizer.
 - *May 9, 2016*
Round Up Power Max, EPA Reg. #524-549, active ingredient=glyphosate 48.7%
Sharpen, EPA Reg. #7969-278, active ingredient=saflufenacil 29.74%
Glory, EPA Reg. #66222-106, active ingredient=metribuzin 75%
Curio, EPA Reg. #71368-82, active ingredient=chlorimuron 25%
 - *July 2, 2016*
Buccaneer Plus, EPA Reg# 55467-9, active ingredient=glyphosate 41%
(Witnessed and recorded on video by the complainant)

*The label for Buccaneer Plus reads in part under;
DIRECTIONS FOR USE. Page 6*

“It is a violation of Federal law to use this product in any manner inconsistent with its labeling. Do not apply this product in a way that will contact workers or other persons, either directly or through drift”.

9. The following weather history information was taken from weatherunderground.com for the date of the pesticide spray application made on July 2, 2016 in this case.



Date	Time	Wind Direction	Wind Speed
7-2-16	3:53 pm	WNW	5.8 mph
7-2-16	4:53 pm	WNW	8.1 mph
7-2-16	5:53 pm	NW	8.1 mph

The following weather information screenshots (figs. 5&6) were sent to me from Aaron Walker, the certified applicator in this case.



Fig. 5

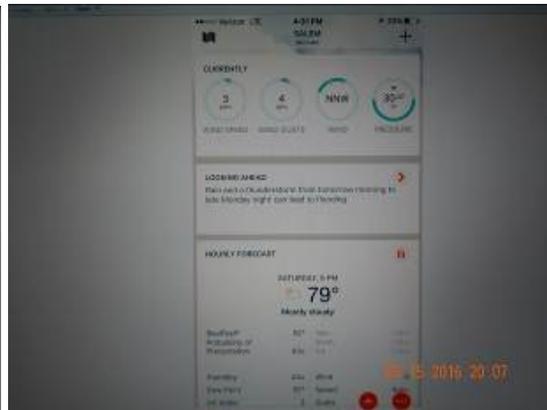


Fig. 6

- Figure 5 and 6 are screenshots of the weather information used by the Certified Applicator in this case and sent to me via e-mail attachment.

10. On August 10, 2016, I received the final analysis report from the OISC residue Laboratory. The chart which follows documents the results.

OFFICE OF INDIANA STATE CHEMIST
Pesticide Residue Laboratory
 Lab Report

Case #	2016-1006		Investigator			Brian Baker	
Sample #	Sample Description	Amount of Analyte					
		Matrix	Metribuzin	Saflufenacil	Chlorimuron Ethyl	Glyphosate	AMPA
2016-323648	Trip blank swab	Swab	BDL	BDL	BDL	BDL	BDL
2016-323649	Control swab of basement door window	Swab	BDL	BDL	BDL	NA	NA
2016-323650	Vegetation swab east end of garden (acetone)	Swab	BDL	BDL	BDL	NA	NA
2016-323651	Vegetation swab of west end of garden (Acetone)	Swab	BDL	BDL	BDL	NA	NA
2016-323652	Vegetation swab of west end of garden (Water)	Swab	NA	NA	NA	431 ng/swab	277 ng/swab
2016-323653	Mixed vegetation sample from garden	Vegetation	BDL	BDL	BDL	189 ppb	733 ppb
2016-323654	Victims clothing-male shirt & female shorts	Clothing	BDL	BDL	BDL	Male shirt contains 5,190,000 ng total; Female shorts contains 6,460,000 ng total	BDL
2016-323655	Vegetation swab from target field (acetone)	Swab	BDL	BDL	BDL	NA	NA
2016-323656	Vegetation swab from target field (water)	Swab	NA	NA	NA	164 ng/swab	BDL
2016-323657	Mixed vegetation sample from target field	Vegetation	BDL	BDL	BDL	29300 ppb	1390 ppb
2016-323658	Soil sample from target field	Soil	NA	NA	NA	NA	NA
<p>NA= not analyzed</p> <p>PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC</p>							
LOQ	Vegetation	0.7 ppb	3 ppb	0.3 ppb	5 ppb	50 ppb	
LOQ	Swab	0.2 ng/swab	10 ng/swab	1 ng/swab	10 ng/swab	50 ng/swab	
LOQ	Clothing	10 ng/clothing	500 ng/clothing	50 ng/clothing	1000 ng/clothing	5000 ng/clothing	
Signature				Date	8/10/2016		

11. During the week of August 8, 2016, I received voicemails from Michael Neff and Aaron Walker requesting a call back. I was able to make contact with Michael Neff and he asked about the accusation. I explained the complaint to him and he asked if it would be ok to view the videos taken by the Lane's. I told Mr. Neff I did not have the videos, but I would call and set a meeting with him as soon as I received them. I requested the videos from Mrs. Lane again and early on August 12, 2016, I received all three clips via text message on my phone. I called Mr. Neff back and asked to meet at noon on the 12th of August.
12. On Friday, August 12, 2016, I met with Michael Neff and Aaron Walker at the office of Neff Family Fertilizer in Salem Indiana. I identified myself verbally and with OISC credentials. I went over the complaint and showed all three video clips to Aaron Walker and Michael Neff. I explained the samples I took and how I took them then explained the OISC Residue Laboratory report to them. I told both Michael Neff and Aaron Walker when you consider the complainant's statement, the laboratory results, and the video evidence, it is clear there was an off target deposition of the pesticide spray application made by Aaron Walker on July 2, 2016. The drifting pesticide struck both desirable vegetation in the garden owned by the complainant and the complainant and his wife. I told Michael Neff and Aaron Walker there was almost always a civil penalty attached to a spray drift of a pesticide product which contacts humans. I answered all the questions Mr. Neff and Mr. Walker had and I thanked them for their cooperation and quick response in this case.
13. In this case, Certified Applicator Aaron Walker made a pesticide spray application of the pesticide product listed in paragraph 7 of this report. The pesticide spray application was made to an agricultural crop field which borders the west side of the property owned by the complainant in this case. The complainant and his wife were in their garden near the edge of that crop field recording the pesticide spray application as it was being made. In one of three video clips you can hear the complainant and his wife say they were "hit" by the drifting mist of the pesticide product being applied in the pesticide spray application. When you consider the victims statement, the video clips and the results of the samples taken on the chart in paragraph 8, it appears the pesticide spray application described in paragraph 7 of this report did drift onto both the persons and property of the complainant in this case. The pesticide label language, also in paragraph 7 clearly reads; "Do not apply the product in a way that will contact workers or other persons, either directly or through drift". The video evidence in this case will be downloaded onto a storage device and attached to the case file.



Brian P. Baker
Investigator

Date: August 15, 2016

DISPOSITION: Aaron Walker 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 persons. 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 22, 2016
Final Date: October 31, 2016

CASE SUMMARY

Case # 2016/1066

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

Examinee: Rio Nance
3541 Scarlett Oak Court
Indianapolis, IN 46222
219-730-5709

NEW ADDRESS AS OF 11/2/2016
3018 Arbor Avenue
Indianapolis, IN 46217-3102

1. On July 25, 2016, I received information from our remote exam vendor, Applied Measurement Professionals (AMP), that an exam proctor had reported a cheating incident. AMP Operations Manager, Kevin Jolly forwarded the incident report and sign in sheet.
2. The incident report stated Mr. Nance was at the Indianapolis, Indiana location, taking the Indiana Pesticide Core Exam on July 20, 2016. During the exam he left the room in order to use the bathroom. He was observed taking the scratch paper from the exam room. Upon returning to the exam session, the proctor confronted Mr. Nance and asked that he empty his pockets. In addition to the scratch paper, Mr. Nance had a cell phone. Mr. Nance admitted he had written down questions on the paper and had intended to get answers for those questions.
3. I called Mr. Nance on July 26, 2016. He was no longer employed by the Indianapolis Pest Control Company that sent him to take the test. He admitted he did take the paper and the cell phone into the restroom. He stated that although his initial intent was to cheat, he did not use the phone to look up any answers.
4. The sign in sheet and AMP report are in the case file for review. It should be noted that the sign in sheet specifically states cell phones are prohibited. By signing the form the examinee is attesting to the fact that they do not have any electronic devices. Mr. Nance signed and dated the form on July 20, 2016.

DISPOSITION: Rio Nance was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-1-2.1, for failure to comply with the rules regarding the commercial applicators; certification standards and procedures. As a result, Mr. Nance was prohibited from attempting another pesticide applicator examination for a period of five (5) years.



George N. Saxton
Compliance Officer

Draft Date: August 17, 2016
Final Date: September 19, 2016

CASE SUMMARY

Case #2016/1086

Complainant: Randy Smith
5338 Mark Lane
Indianapolis, IN 46226
317-432-0837

Respondent: Kurt Hostetler owner
Petals and Produce
12345 Pendleton Pike
Indianapolis, IN 46236

1. On July 14, 2016, the complainant, who is the husband of a Petals and Produce employee, contacted the Marion County Public Health Department (MCPHD) to report an alleged illness caused by a pesticide application. In his email to the MCPHD, Randy Smith alleged that Lucid insecticide was applied two days earlier by a Petals and Produce employee. The application allegedly caused employees, including Mr. Smith's wife, to experience illness including stomach pain and low blood pressure. The MCPHD forwarded the complaint to the Office of Indiana State Chemist (OISC).
2. On the afternoon of July 14, 2016, I met Eric Kaufman, Hazardous Materials Specialist for the MCPHD, at the Petals and Produce location on Pendleton Pike. Mr. Kaufman suggested OISC take the lead in the inspection since the main complaint involved the application of a pesticide. I introduced myself and explained the complaint to Tony Organ, a laborer for Petals and Produce. Mr. Organ stated he was the individual that applied the Lucid on the owner's instruction. I asked if the owner was present at this time and Mr. Organ stated he was not. I asked if he could contact the owner and get him there and he replied yes. While waiting for the owner to arrive, I interviewed Mr. Organ about the Lucid application. Mr. Organ stated the following:
 - The owner provided Mr. Organ with the Lucid and instructed him to mix the product at ½ oz. per gallon of water and apply it to the flowers.
 - He was not provided with any other training or any personal protective equipment (PPE)
 - The application took place on or about Monday July 1, 2016.
 - He made the application while wearing a muscle shirt, shorts, shoes and socks.
 - He stopped making the application because his arm began to burn.
 - His stomach hurt the next day.

The owner, Mr. Hostetler, arrived; I explained the complaint to him and then interviewed him. Mr. Hostetler stated the following:

- He did provide the Lucid to Mr. Organ.
- He told Mr. Organ to mix $\frac{1}{4}$ oz. per gallon of water not $\frac{1}{2}$ oz. per gallon of water
- He did not provide any PPE to Mr. Organ
- He did not provide any further instruction or training to Mr. Organ.

I explained to Mr. Hostetler the pesticide that was applied (Lucid) and the type of application that was made (to an agricultural crop) meant he had to comply with a federal rule called the Worker Protection Standard (WPS). I asked Mr. Hostetler if he had ever heard of the WPS and he stated he had not. I asked Mr. Hostetler if he provided any pesticide safety training to Mr. Organ or any of his other employees and he stated he did not. I instructed Mr. Hostetler to dispose of the remaining Lucid at a local Tox-Away Day and wrote him an Action Order instructing him to stop all pesticide applications until such time as he came into compliance with the WPS. Mr. Hostetler signed the order and agreed to follow it.



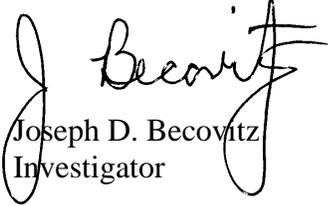
Figure 1 Flowers on right were treated



Figure 2 App stopped at yellow petunias

3. The Lucid insecticide label states, EPA registration number 83100-5-83979, states in part, *“**AGRICULTURAL USE REQUIREMENTS**---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.”*
4. The Lucid label also states, *“Applicators and other handlers must wear: coveralls over short-sleeved shirt and short pants, chemical resistant gloves, chemical resistant foot wear plus socks, protective eyewear and chemical resistant apron when mixing, loading or cleaning equipment.”*
5. The maximum application rate for Lucid insecticide is 8 oz. per 100 gallons of water or 0.08 oz. per gallon of water. According to Mr. Hostetler, he instructed his employee, Mr. Organ, to mix the Lucid at $\frac{1}{4}$ oz. per gallon of water or 0.25 oz. per gallon of water. This means Lucid was mixed and applied at **more** than the label rate.

6. On or about July 11, 2016, Tony Organ, an employee of Petals and Produce was instructed to mix and apply Lucid insecticide to an agricultural crop as defined under the WPS. Lucid insecticide contains a label statement that requires agricultural employers (Mr. Hostetler) to provide safety training, notification about pesticide applications and PPE to employees. Mr. Organ was not provided with the label required PPE and did not receive any pesticide safety training. Mr. Organ was also instructed to mix and apply the Lucid at more than the label rate.


Joseph D. Becovitz
Investigator

Date: July 28, 2016

DISPOSITION: Kurt Hostetler was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for recommending a pesticide be mixed and applied contrary to label directions. A civil penalty in the amount of \$250.00 was assessed for this violation.

Kurt Hostetler was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to insure the use of personal protective equipment (PPE). A civil penalty in the amount of \$250.00 was assessed for this violation.

Kurt Hostetler was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label-directed agricultural use requirements (WPS Standard). A civil penalty in the amount of \$250.00 was assessed for this violation.

The total amount of civil penalty assessed for these violations is \$750.00. However, the civil penalty was reduced to \$375.00. Consideration was given to the fact Mr. Hostetler 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: September 22, 2016

Final Date: October 31, 2016

- Protective eyewear (goggles, face shield or safety glasses)
- Chemical resistant gloves
- Chemical resistant apron when mixing or loading, cleaning up spills or equipment, or otherwise exposed to the concentrate.

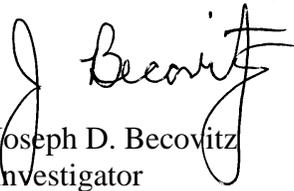
*Eye protection is not required ONLY when 5 or more parts water is used to dilute 1 part of this product.”

The Q4 Plus label states, “**Personal Protective Equipment (PPE)**---All mixers, loaders, applicators and other handlers must wear:

- Long sleeved shirt and long pants
- Protective eyewear such as goggles, face shield, or safety glasses
- Shoes and socks
- Chemical resistant gloves (except for applicators using ground boom equipment and
- Chemical resistant apron when mixing or loading, cleaning up spills or equipment, or otherwise exposed to the concentrate.”

Mr. Watkins stated the Threesome herbicide Mr. Cline was applying was mixed at the rate of 1 ½ ounces per gallon and therefore did not require eye protection as per the label statement of 5 or more parts water used to dilute 1-part product.

3. Registered technician Tony Cline was observed applying fertilizer and herbicide by both Agent Rosch and me. Mr. Cline was wearing a long-sleeved shirt, long pants, shoes and socks at the time of the application. The labels for the products Mr. Cline stated he was applying also required that he wear chemical resistant gloves and eye protection. Mr. Cline had gloves available in the cab of the truck, but did not have eye protection available. Mr. Cline only had partial labels available at the time of the inspection.

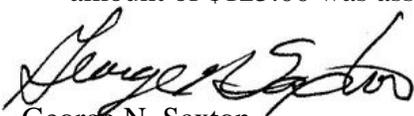

Joseph D. Becovitz
Investigator

Date: August 11, 2016


Melissa Rosch
Investigator

DISPOSITION: Tony Cline 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.

Mark Frame was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure to provide direct supervision to a technician by not supplying the technician with a label, fact sheet and safety equipment. A civil penalty in the amount of \$125.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: September 22, 2016
Final Date: October 31, 2016