

A Summary of Cases

2/22/2017

2016/0088 **DISPOSITION:** Casey's Outdoor Solutions was cited for twenty-nine (29) 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 \$6,500.00 (29 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,625.00. Consideration was given to the fact Casey's Outdoor Solutions cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.

2016/0462 **DISPOSITION:**
A. Hollow Acres Golf Center was cited for twenty-seven (27) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$6,750.00 (27 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,012.50. Consideration was given to the fact Hollow Acres Golf Center 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.

B. On March 7, 2016, Judith O'Neil called for an informal conference regarding this case. She stated she does not attend association meetings and had no way of knowing about the golf course rule. It was determined \$500.00 of the \$1,012.50 civil penalty would be held in abeyance and not assessed provided the golf course obtains a certified applicator by March 31, 2016. The remaining civil penalty in the amount of \$512.50 would be paid by June 1, 2016.

2016/0629 **DISPOSITION:** Kevin Richart 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. However, the civil penalty was held in abeyance provided Mr. Richart obtains proper certification by October 1, 2016. Kevin Richart failed to become licensed by October 1, 2016. As a result, the civil penalty in the amount of \$250.00 was reinstated.

2016/0722 **Disposition:**
A. Mark Kyle Dailey was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

B. On July 5, 2016, OISC received a facsimile from Mr. Dailey requesting a Formal Hearing.

C. On July 6, 2016, I contacted Mr. Dailey and scheduled an Informal Conference. I also advised David E. Scott, Secretary for the Indiana Pesticide Review Board (IPRB) of this

Formal Hearing request.

D. On July 21, 2016, an Informal Conference was held at the office of Mark Kyle Dailey. Also present were Dan Ford and Dean Ford. Representing OISC were Paul J. Kelley and George Saxton.

E. After careful review of all available evidence, it was decided, based on the preponderance of evidence, the original enforcement action described in paragraph A of this section will stand.

F. On August 16, 2016, OISC received a letter from Mark Kyle Dailey requesting a formal hearing before the IPRB. The Secretary for the IPRB, David Scott, was immediately notified.

G. On December 6, 2016, Mark Kyle Dailey advised OISC he disagreed with our findings and did not believe he had committed any violations but would plead *nolo contendere* (no contest) to resolve the issue.

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.

2016/0947

Disposition: John Barber was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow pesticide label language regarding drift to non-target vegetation. John Barber was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing to make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection. A civil penalty in the amount of \$200.00 was assessed for these violations.

2016/0970

Disposition: Shelby County Co-op was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-2-11, for failure to have a proper liquid level gauging device on a bulk storage container. A civil penalty in the amount of \$50.00 was assessed for this violation.

- 2016/1012 **DISPOSITION:** Ron Taylor was cited for three (3) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for using a pesticide contrary to label directions. A civil penalty in the amount of \$1,750.00 (\$250.00 for the first count; \$500.00 for the second count and \$1,000.00 for the third count) was assessed. Consideration was given to the fact there was potential for human harm and a restricted use pesticide was involved.
- 2016/1021 **Disposition:** Stan McDaniel 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 area. 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. Stan McDaniel 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.
- 2016/1083 **Disposition:** Colby Smith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift 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.
- 2016/1099 **DISPOSITION:** Kevin Wehmiller was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to ensure 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. Kevin Wehmiller 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 noncertified individual. A civil penalty in the amount of \$125.00 was assessed for this violation.
- 2016/1157 **Disposition:** Brian Townsend was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label drift language. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature within the past five (5) years and there was potential for human harm. See case number 2011/1326.
- 2016/1172 **Disposition:** Robert Sneberger 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 and 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.
- 2016/1192 **DISPOSITION:** Ceres Solutions was cited and assessed a \$1,750.00 civil penalty for three counts of violation of section 57(9) of the Indiana Pesticide Registration Law (IC 15-16-4) for producing a pesticide that was in violation of the container repackaging and refilling regulations under the Federal Insecticide, Fungicide and Rodenticide Act

(\$250.00 for the first count, \$500.00 for the second count, and \$1,000.00 the third count). Consideration was given to the fact these were Ceres Solutions first documented violations of a similar nature, so \$1,500.00 of the assessed penalty will be held in abeyance and not collected pending immediate and continued compliance with the pesticide production requirements for one year from the date of this action.

- 2016/1204 **Disposition:** Castleton Lawn Care was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticide/fertilizer for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was their second violation of similar nature. See case number 2015/0804. Castleton Lawn Care was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for violation of the Stop Action Order. A civil penalty in the amount of \$250.00 was assessed for this violation. As of January 23, 2017, Castleton Lawn Care had not paid the civil penalty. The case was forwarded to the Office of Indiana Attorney General for collection.
- 2016/1257 **Disposition:** Matt Overman 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. Matt Overman was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-6, for failure to provide a technician with label and site assessment fact sheet. Matt Overman 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 according to label directions, for an employee under his supervision. 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.
- 2016/1304 **DISPOSITION:** Helena Chemical Company was warned for three (3) counts of violation of IC 15-16-4-57(9) for producing a pesticide that violates container refilling and labeling regulations under the Federal Insecticide, Fungicide, and Rodenticide Act, specifically the items referenced in #2, 3, and 4 of this summary. In addition, Helena Chemical Company was cited for violation of IC 15-16-4-57(9) for producing and distributing a pesticide that violates container repacking regulations under the Federal Insecticide, Fungicide, and Rodenticide Act, specifically the activities referenced in #5, 6, and 7 of this summary. A civil penalty in the amount of \$250.00 was assessed.

CASE SUMMARY

Case #2016/0088

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

Respondent: Casey's Outdoor Solutions
Casey Knigga
Jeremy Frolicker
Matt Ziegler
21481 State Line Road
Lawrenceburg, IN 47025
812-537-3800

Owner
Registered Technician
Registered Technician

1. On August 17, 2016, I performed a routine records inspection at Casey's Outdoor Solutions. I spoke with the office manager, Kelly Hedger. Mrs. Hedger stated Bryan Grome was no longer employed by Casey's Outdoor Solutions since January of 2016. Mr. Grome was the only certified applicator of record for Casey's Outdoor Solutions. I was shown a flier stating John Allgeier of Superior Turf solutions was contracted to perform applications for Casey's Outdoor Solutions. See figure 1. I questioned Mrs. Hedger if Mr. Frolicker and Mr. Ziegler (registered technicians for Casey's Outdoor Solutions) were still performing pesticide applications as Casey's Outdoor Solutions. Mrs. Hedger stated Mr. Frolicker and Mr. Ziegler were still performing for-hire pesticide applications for Casey's Outdoor Solutions.



Figure 1-Flier

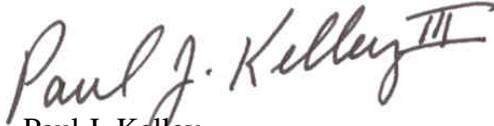
2. I issued Casey's Outdoor Solutions a stop action order to stop advertising or making pesticide application for hire until the business location is credentialed by OISC. I requested

Casey's Outdoor Solutions provide copies of all Invoices of work performed by Casey's Outdoor Solutions after Mr. Grome left Casey's Outdoor Solutions.

3. On September 3, 2016, I received a packet of invoices from Casey's Outdoor Solutions. The invoices did not contain the name or names of the applicator. The invoices contained the language indicating application, "*Pre Emergent herbicide to help control the germination of weed seeds in landscape beds.*" or "*Pre Emergent for flower beds 0-0-8 per scoop of mulch to help control the germination of weed seeds in landscape beds.*"
4. Casey's Outdoor Solutions provided invoices for pesticide applications for the following dates;

1/21/16	3/21/16	4/2/16	4/18/16	4/24/16
4/25/16	4/27/16	4/28/16	5/9/16	5/15/16
5/16/16	5/31/16	6/2/16	6/10/16	6/14/16
6/20/16	6/22/16	6/23/16	7/1/16	7/6/16
7/11/16	7/22/16	7/26/16	7/28/16	8/4/16
8/19/16	8/15/16			

5. Furthermore, I found on Invoice 5091 multiple application dates. The additional dates not included in item 4 are 5/12/16 and 6/17/16.



Paul J. Kelley
Investigator

Date: September 12, 2016

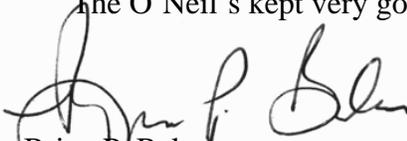
DISPOSITION: Casey's Outdoor Solutions was cited for twenty-nine (29) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$6,500.00 (29 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,625.00. Consideration was given to the fact Casey's Outdoor Solutions cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: November 4, 2016
Final Date: January 19, 2017

6. I checked the records for 2014 and found a total of 12 pesticide spray application made by Mr. O'Neil. There was one spray application of Millennium on October 28, 2014 and 11 spray applications of Daconil between May and September of 2014. I also checked the 2015 records and found a total of 15 pesticide spray applications made by Mr. O'Neil. There was one spray application of Millennium made on November 5, 2015 and 14 spray applications of Daconil between May and September 2015.
7. Mr. and Mrs. O'Neil told me they were going to get their adult son licensed through OISC since he was going to be the eventual owner of the golf course. I rendered Compliance Assistance guidance on the OISC website under How to become a Certified Applicator and provided directions to the Purdue store where the study materials can be purchased.
8. The O'Neil's do not store any quantity of pesticide products and only buy them as needed.
9. I told the O'Neil's not to make any pesticide applications until they were properly licensed. Mr. O'Neil planned to work under his son's supervision when he gets licensed so I provided all of the guidance on the supervision rule but added I would return when they were licensed and provide more guidance.
10. In this case, there are 27 separate days over the last two years where unlicensed pesticide spray applications were made by John O'Neil, owner of Hollow Acres Golf Center. The O'Neil's were not aware of the OISC requirements and their last inspection by OISC was prior to 2009. The O'Neil's cooperated and are taking steps to get a family member licensed. The O'Neil's kept very good records of the pesticide spray applications made to their turf.

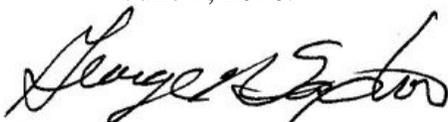


Brian P. Baker
Pesticide Investigator

Date: January 25, 2016

DISPOSITION:

- A. Hollow Acres Golf Center was cited for twenty-seven (27) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$6,750.00 (27 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,012.50. Consideration was given to the fact Hollow Acres Golf Center 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.
- B. On March 7, 2016, Judith O'Neil called for an informal conference regarding this case. She stated she does not attend association meetings and had no way of knowing about the golf course rule. It was determined \$500.00 of the \$1,012.50 civil penalty would be held in abeyance and not assessed provided the golf course obtains a certified applicator by March 31, 2016. The remaining civil penalty in the amount of \$512.50 would be paid by June 1, 2016.



George N. Saxton
Compliance Officer

Draft Date: March 30, 2016
Final Date: January 12, 2017

CASE SUMMARY

Case #2016/0629

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

Respondent: Richart Pro Mow
Kevin Richart
12056 E. US Hwy. 50
Seymour, IN 47274
812-523-0911

Unlicensed
Unlicensed

1. On, March 28, 2016, the Compliance Officer of the Indiana State Chemist (OISC) received an anonymous complaint regarding an allegation of unlicensed pesticide application being performed at 700 South Main Street, Salem, Indiana. The OISC database indicated Zachary Pro Mow is not a licensed pesticide business. Photos were also sent along with the anonymous complaint.

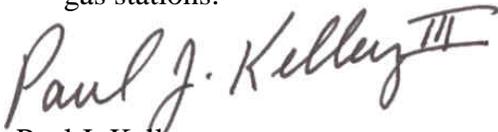


2. On March 30, 2016, I met with Ashley Butler, Assistant Manager for Circle K gas station in Salem, Indiana. Ms. Butler provided me with a photograph of the Business Card for Richart Pro Mow, not Zachery Pro Mow. See figure 3.



Figure 3-Business card

3. On March 30, 2016, I met with Kevin and Terri Richart of Richart Pro Mow. Kevin admitted to spraying dandelions at several Circle K gas stations. Mr. Richart stated he was unaware he needed a license to spray dandelions.
4. On March 30, 2016, Richart Pro Mow was issued a Stop Action Order to cease making for-hire pesticide applications until licensed.
5. On March 30, 2016, I received an email from Terri Richart stating Kevin Richart and another employee; "Darin" were enrolled in the category 3B class on April 19, 2016.
6. On March 31, 2016, I received an email from Terri Richart containing seven (7) invoices all dated March 27, 2016, where Kevin Richart made a for-hire pesticide application at Circle K gas stations.



Paul J. Kelley
Investigator

Date: April 11, 2016

DISPOSITION: Kevin Richart 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. However, the civil penalty was held in abeyance provided Mr. Richart obtains proper certification by October 1, 2016.

Kevin Richart failed to become licensed by October 1, 2016. As a result, the civil penalty in the amount of \$250.00 was reinstated.



George N. Saxton
Compliance Officer

Draft Date: November 23, 2016
Final Date: January 19, 2017

CASE SUMMARY

Case #2016/0722

Complainant: David Brown
4185 S. CR 600 E.
Dupont, Indiana 47231
812-767-0997
812-767-2550

Respondent: Mark Kyle Dailey
9434 John Deere Rd.
Dupont, IN 47231
812-525-4184

Private Applicator

1. On April 19, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report a human health concern in that he was just sprayed with an agricultural pesticide. He stated he has clothing he will save for the investigator. He was also advised he would not get the clothing returned to him.
2. On April 21, 2016, I met with David Brown at his residence. Mr. Brown showed me video from his security camera of the application on April 18, 2016, to the adjacent field. The video showed spray equipment approach from the south, turn west, back up to the eastern edge of field then continue west. A short time later, the video shows Mr. Brown exiting his front door walking in the direction of his mailbox (east), which is on County Road 600 East. The camera showed Mr. Brown walk to the south side of his property as the spray equipment made a second pass in the adjacent field at least 150 feet away. Mr. Brown remains on the south side of his property as the application continues in other parts of the field away from the property. Mr. Brown stated the time was approximately 2:08pm. Mr. Brown provided me with a black trash bag containing the clothes he was allegedly wearing on April 18, 2016. See figure 1. Furthermore, Mr. Brown showed me the area he was standing on April 18, 2016, when he was drifted upon. See figure 2.



Figure 1-bag of clothing



Figure 2-Mr. Brown in area when drifted upon

3. On April 21, 2016, I measured the distance of the center of the tire tracks in the field to the edge of the property line. See figure 3. The distance was approximately 60 feet. Mr. Brown was standing another 30 feet from the property line.



Figure 3-Spray equipment tire tracks

4. On April 21, 2016, I collected vegetation from the target field area where Mr. Brown was standing and an area away from the target field on the opposite side of Mr. Brown's property. Samples were given to OISC's Residue Lab for analysis.
5. On April 21, 2016, I met with Mark Kyle Dailey. Mr. Dailey stated he made the application to the wheat field on April 18, 2016, using Harmony Extra Sg (EPA Reg. #352-714, active ingredients thifensulfuron and tribenuron-methyl) and Quilt Xcel (EPA Reg. #100-1324, active ingredients azoxystrobin and propiconazole). Mr. Dailey provided me with records of the pesticide applications. Mr. Dailey stated he did not see Mr. Brown until after he had completed the application and was on the county road leaving.
6. Wind data from Weather Underground, www.wunderground.com, showed the wind was out of the south, southwest at 2.7 -3.7 mph blowing toward Mr. Brown's property. See figure 4.

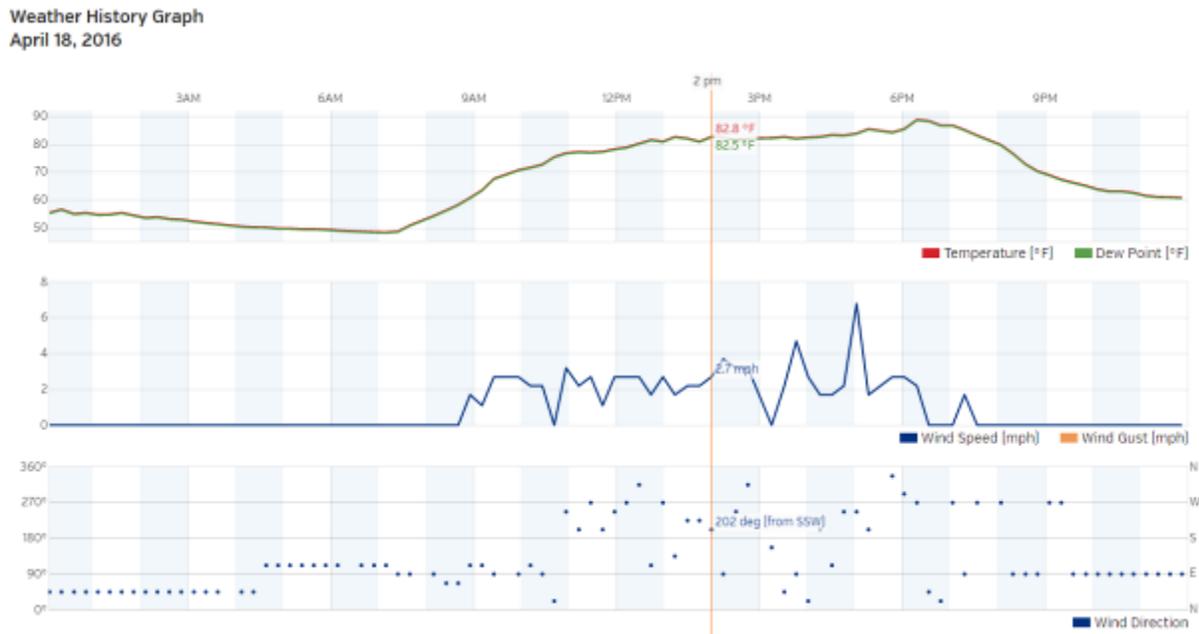


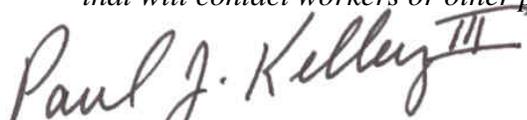
Figure 4- wind data

7. On April 29, 2016, OISC's Residue Lab reported the following lab results.

OFFICE OF INDIANA STATE CHEMIST
Pesticide Residue Laboratory

Case # 2016/0722				
Sample #	Sample Description	Sample Matrix	Amount Found	
			<u>Azoxystrobin</u>	<u>Propiconazole</u>
2016-50-1548	Clothes from Mr. Brown-Mr. Brown cut pieces from each for his own testing	Clothing	5.11 ng/clothing	11.7 ng/clothing
2016-50-1549	vegetation from target field	Vegetation	4375 ppb	2623 ppb
2016-50-1550	vegetation in the approximate location Mr. Brown was standing	Vegetation	8.15 ppb	27.9 ppb
2016-50-1551	vegetation north side of Mr. Brown's property away from field	Vegetation	1.99 ppb	5.03 ppb
<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	Clothing	LOQ for <u>azoxystrobin</u> =3 ng/clothing LOQ for <u>propiconazole</u> =6 ng/clothing		
LOQ	Vegetation	LOQ for <u>azoxystrobin</u> =1.2 ppb LOQ for <u>propiconazole</u> =1.2 ppb		

8. Label language for Quilt Xcel and Harmony Extra SG state, "Do not apply product in a way that will contact workers or other persons, either directly or through drift."



Paul J. Kelley
Investigator

Date: May 23, 2016

Disposition:

- A. Mark Kyle Dailey was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.
- B. On July 5, 2016, OISC received a facsimile from Mr. Dailey requesting a Formal Hearing.
- C. On July 6, 2016, I contacted Mr. Dailey and scheduled an Informal Conference. I also advised David E. Scott, Secretary for the Indiana Pesticide Review Board (IPRB) of this Formal Hearing request.

- D. On July 21, 2016, an Informal Conference was held at the office of Mark Kyle Dailey. Also present were Dan Ford and Dean Ford. Representing OISC were Paul J. Kelley and George Saxton.
- E. After careful review of all available evidence, it was decided, based on the preponderance of evidence, the original enforcement action described in paragraph A of this section will stand.
- F. On August 16, 2016, OISC received a letter from Mark Kyle Dailey requesting a formal hearing before the IPRB. The Secretary for the IPRB, David Scott, was immediately notified.
- G. On December 6, 2016, Mark Kyle Dailey advised OISC he disagreed with our findings and did not believe he had committed any violations but would plead *nolo contendere* (no contest) to resolve the issue.



George N. Saxton
Compliance Officer

Draft Date: December 7, 2016
Final Date: January 23, 2017

CASE SUMMARY

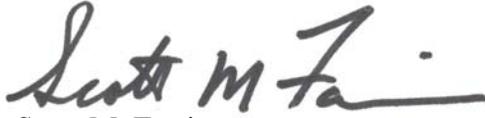
Case #2016/0828

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 #2016/0947

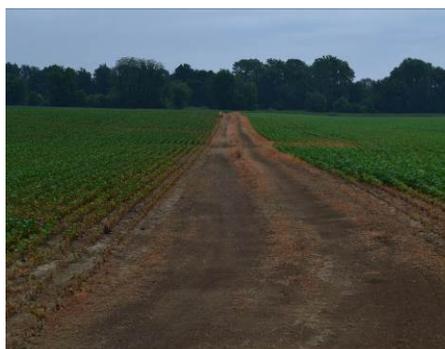
Complainant: Ryan Michael
4475 E. 750 S.
Montgomery, IN 47558
812-486-8412

Respondent: John Barber
3886 E. 700 S.
Montgomery, IN 47558
812-644-7480

1. On, June 24, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his corn and beans by the neighboring farmer.
2. On June 27, 2016, I met with the complainant's father, Paul Michael. Mr. Michael took me to the corn and bean field (adjacent to each other). Mr. Michael indicated the bean field to the south of their bean and corn field was farmed by John Barber. Mr. Michael informed me Mr. Barber had told him he made a pesticide application to his bean field on June 18, 2016. Mr. Michael stated they first noticed burned crop symptoms to his field on June 22, 2016.
3. I inspected the corn and bean fields and observed several rows of "burned" corn along the property border with Mr. Barber's bean field. The symptoms were consistent with direct application (spray boom hanging over the field) as opposed to pesticide wind drift (see Photograph #1 below). Mr. Michael's bean field was separated from Mr. Barber's bean field by a dirt road. The dirt road contained dead grass and showed symptoms consistent with a vegetation killing pesticide product such as Roundup. Several rows of Mr. Michael's beans were "burned" more consistent with a direct application of a pesticide, than wind drift (see Photograph #2 below). I collected both swab and vegetation samples from Mr. Michael's bean and corn fields.



Photograph #1



Photograph #2

4. I contacted John Barber and spoke to him about the pesticide application to the bean field in question. Mr. Barber informed me he applied Liberty (EPA Reg. #264-829; active ingredient: glufosinate) and Shadow (EPA Reg. #66330-353; active ingredient: clethodim) to his bean field. Mr. Barber also stated he sprayed the access road between his bean field and Mr. Michael's bean field to kill weeds. I informed Mr. Barber he would be receiving a Pesticide Investigation Inquiry (PII) form to complete and return to me. This form was never returned by Mr. Barber. Further attempts were made to contact Mr. Barber about the PII form, but messages left were never returned.
5. On June 28, 2016, the collected swab and vegetation samples were turned into the State Chemist Residue Lab for analysis. The results were returned on August 9, 2016 and indicated the following:

Case #	2016-0947		Investigator	Scott Farris
Sample #	Sample Description	Amount of Analyte		
		Matrix	Glufosinate	
2016-510098	Trip Blank Swab	Swab	BDL	
2016-510099	Control Swab - 300 Yards from Target Bean Field	Swab	BDL	
2016-510100	Swab of corn - 60 feet north of target bean field	Swab	BDL	
2016-510101	Corn leaves - 60 feet north of target bean field	Vegetation	BDL	
2016-510102	Swab of corn - 15 feet north of target bean field	Swab	BDL	
2016-510103	Corn leaves - 15 feet north of target bean field	Vegetation	627 ppb	
2016-510104	Swab of beans - 80 feet north of target bean field	Swab	BDL	
2016-510105	Bean leaves - 80 feet north of target bean field	Vegetation	BDL	
2016-510106	Swab of beans - 25 feet north of target field	Swab	BDL	
2016-510107	Bean leaves - 25 feet north of target field	Vegetation	424 ppb	
2016-510108	Swab of beans from target field	Swab	289 ng/swab	
2016-510109	Bean leaves from target bean field	Vegetation	7920 ppb	
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC				
LOQ	Vegetation	25 ppb		
LOQ	Swab	50 ng/swab		
Signature		Date	8/9/2016	

6. A check of the weather conditions for June 18, 2016, indicated the winds were blowing from the southeast (toward Mr. Michael's corn/bean fields) between 4.6 and 9.2 miles per hour during the afternoon. In addition, gusts were reported between 18.4 and 19.6 miles per hour

on that date. Due to Mr. Barber's failure to provide the information needed on the PII, the exact time of the application is unknown.

7. The Liberty label stated the following:

- *“Do not allow spray to contact foliage or green tissue of desirable vegetation other than crops tolerant to the active ingredient in this product.”*
- *“Do not apply when winds are gusty, or when conditions will favor movement of spray particles off the desired spray target.”*



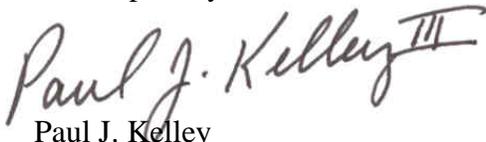
Scott M. Farris
Investigator

Date: September 20, 2016

Disposition: John Barber was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow pesticide label language regarding drift to non-target vegetation.

John Barber was cited for violation of section 65(7) of the Indiana Pesticide Use and Application Law for refusing to make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection.

A civil penalty in the amount of \$200.00 was assessed for these violations.



Paul J. Kelley
Case Review Officer

Draft Date: November 29, 2016
Final Date: January 19, 2017

CASE SUMMARY

Case #2016/0970

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

Respondent: Shelby County Co-op
56 S. 600 W.
Shelbyville, IN 46176
(317) 392-4472

1. On May 31, 2016, I conducted an Ag Chemical Facility Inspection at Shelby County Co-op's West Branch (located at 56 S. 600 W., Shelbyville, IN 46176). I observed the following:
 - What appeared to be site gauges on pesticide bulk tanks, Tank #5 and Tank #6.
2. On May 31, 2016, Neil Smith, manager of the facility stated that these were ventilation hoses on the tanks when I questioned what they were. I let it be until I did more research. The plumbing on the tank was not typical of a site gauge (See Figure #1).
3. On October 5, 2016, I returned to the location to do a follow-up from my previous Ag Chemical Facility Inspection. I observed the following:
 - The "ventilation hoses" were still on the bulk pesticide tanks.
 - Neil Smith stated that the hoses on pesticide bulk tanks #5 and #6 were sight gauge hoses.
4. I collected the following information/evidence to document the violations listed above
 - Photos of the pesticide bulk tanks (see Figure #2, Figure #4, Figure #6)
 - Photos of product labels on the tanks (see Figure #3, Figure #5)



Figure #1



Figure #2

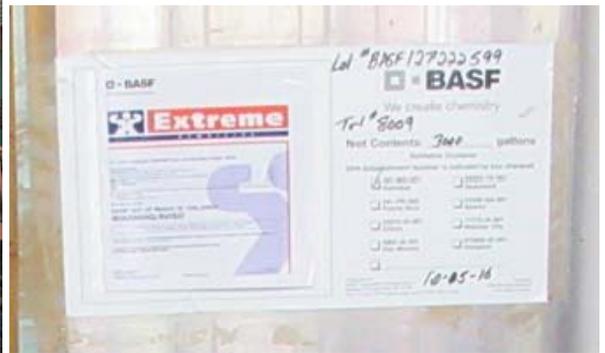


Figure #3



Figure #4

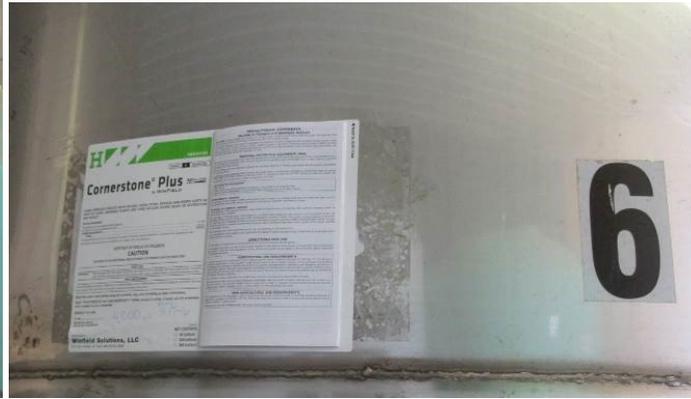


Figure #5



Figure #6

Britney C. Fraley

Britney C. Fraley
Inspector

Date: October 7, 2016

Disposition: Shelby County Co-op was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-2-11, for failure to have a proper liquid level gauging device on a bulk storage container. A civil penalty in the amount of \$50.00 was assessed for this violation.

Paul J. Kelley III

Paul J. Kelley
Case Review Officer

Draft Date: December 2, 2016

Final Date: January 23, 2017

CASE SUMMARY

Case #2016/1012

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

Respondent:	Ron Taylor Ron Taylor Spray Service 1157 W 775 N Orleans, IN 47452 812-865-3676	Licensed applicator Licensed business
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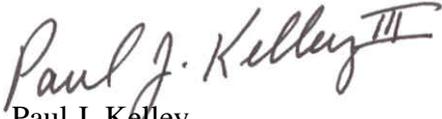
1. On July 7, 2016, the Office of Indiana State Chemist (OISC) received an anonymous complaint regarding pesticide drift to people. The complaint alleged that Ron Taylor Spray Service does not shut off the mosquito control application when applying near people.
2. On July 26, 2016, I met with Mr. Taylor. Mr. Taylor stated he does turn off the mosquito sprayer when people are present.
3. Mr. Taylor provided me with a label of the product he applied around the date of the complaint. Mr. Taylor stated he applied Restricted Use Pesticide (RUP) Perm-up 3.2 EC insecticide (EPA Reg. # 70506-9, active ingredient permethrin) on July 4, 2016, at French Lick, Indiana and West Baden, Indiana. Furthermore, Mr. Taylor stated he applied Perm-up on July 6, 2016, in Paoli, Indiana.
4. A review of the label for Perm-up 3.2 EC insecticide indicates the product does not have label language for community-wide mosquito control or label language that it can be fogged. Label language states Perm-up can be used on mosquitos in agricultural settings. See figure 1.

OTHER USES

PREMISES SPRAY (For Agricultural Use Only)			
SITE	TARGET PESTS	DILUTE	REMARKS
For Application In: Dairies, Barns, Feedlots, Stables, Poultry houses, Swine and Livestock houses	House flies, Stable flies and other manure breeding flies Also aids in the reduction of Cockroaches, Mosquitoes and Spiders	4 oz. product (0.1 lb. a.i.) to 12.5 gallons of water Apply by sprayer at 1 gallon per 750 sq. ft. of space	Spray directly to walls and ceiling as residual surface treatment only. Re-treat as necessary, but not more often than once every 2 weeks. Do not treat manure or litter.
<ul style="list-style-type: none"> The use of any residual fly spray should be supplemental with proper manure management and general sanitation to reduce or eliminate fly breeding sites. Do not apply directly to livestock or poultry. Avoid contamination of feed and water. 			

Figure 1-Except from Perm-up 3.2 EC Insecticide label
 Page 1 of 2

5. On July 26, 2016, I issued Mr. Taylor an Action Order to cease using Perm-up 3.2 EC Insecticide for community wide mosquito control.



Paul J. Kelley
Investigator

Date: August 16, 2016

DISPOSITION: Ron Taylor was cited for three (3) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for using a pesticide contrary to label directions. A civil penalty in the amount of \$1,750.00 (\$250.00 for the first count; \$500.00 for the second count and \$1,000.00 for the third count) was assessed. Consideration was given to the fact there was potential for human harm and a restricted use pesticide was involved.



George N. Saxton
Compliance Officer

Draft Date: September 22, 2016

Final Date: November 16, 2016

CASE SUMMARY

Case #2016/1021

Complainant: Ruth Baker
12140 N 200 E
Perrysville, IN 47974
765-323-8409

Respondents: Stan McDaniel
Stephanie Spiros
Pro-Agr, Inc.
27 E. Liberty Lane
Danville, IL 61832
217-443-3600

Applicator
Partner

1. On July 11, 2016, the Office of Indiana State Chemist (OISC) received a report from Ms. Ruth Baker of an airplane making a pesticide application over the town of Perrysville. She stated the airplane appeared to be spraying as it was directly over the town.
2. I met with Ms. Baker at her residence on July 13, 2016. She stated she noticed an airplane flying low in the area throughout the day on July 11, 2016. She stated around 1:45 pm, she went outside to sit on her front porch. She stated she heard an airplane again coming from the south just east of the town of Perrysville. She stated the airplane was flying low and it turned to the west then back to the south. She stated when it turned to the south, she observed some kind of spray coming out of the back of the plane. She stated the spray continued to come out behind the airplane as it proceeded back south very low over the town of Perrysville. She stated she lost sight of the airplane as it proceeded low over the town. I obtained a written statement from Ms. Baker, which is in this case file. Ms. Baker stated her daughter in law Jennifer Haniford had also observed the airplane and had a video of it spraying over the town. She then contacted Ms. Haniford and had her meet with us at Ms. Baker's residence.
3. Ms. Haniford stated she observed the crop duster airplane spraying an undetermined substance over houses in the town of Perrysville on Monday July 11, 2016. She stated the airplane was in the process of turning around for another pass on the field when the spray was being released from the airplane. She stated she enjoys watching a crop duster airplane work and when she observed the airplane that day, she decided to video tape it. She stated she was standing at her residence facing to the east when she was videotaping and observed the substance spraying out of the back of the airplane. I asked her what field the airplane was spraying and she stated the cornfield just south of town next to the school and park.
4. I then followed Ms. Haniford to her residence in the center of town. She showed me where she was standing and the sight path she had of the airplane at the time she was videotaping and observed the substance spraying out of the rear of the airplane. She then showed me the videotape she had taken. I did observe an aerial application (crop duster) airplane which appeared to be banking over the town and an unknown spray pattern trailing the airplane. It was hard to determine the exact location of the airplane in reference to its location over the town. I obtained a written statement from Ms. Haniford which is in this case file.

5. I then spoke with the Town Clerks office of Perrysville in an attempt to determine who farmed the corn field just south of the town next to the park. I was informed the field was farmed by Mr. Jerry Walker.
6. I went to the Walker farm located a few miles south of Perrysville off of SR 63. I spoke with an employee who gave me the telephone number of Mr. Walker. I contacted Mr. Walker and he stated he did farm the target field in question and stated he did have an aerial pesticide application made to the field. He stated his daughter Mrs. Stephanie Spiros is in charge of the Pro-Agr, Inc. portion of the farm, which office is located at 27 E. Liberty Lane in Danville, Illinois. Both entities are part of Walker Group.
7. I met with Mr. Walker and Mrs. Spiros at the office. They advised me they contracted a Mr. Stan McDaniel who is the pilot who made the aerial application to the target corn field on Monday July 11, 2016. I asked what pesticide was applied and was advised Headline AMP fungicide EPA Reg. #7969-291 with the active ingredients pyraclostrobin and metconazole was applied to the target field. I asked them for the company pesticide business license through the State of Indiana. Ms. Spiros could not provide one. I asked for Mr. McDaniel's category 11 certified applicator license through the State of Indiana. She stated she thought he was licensed through Indiana with another pesticide business. She thought he was reciprocated from Illinois. I advised her, a certified aerial applicator has to be license through the State of Indiana and attached to the pesticide business company he is contracting with. She stated Walker Farms owns the aircraft flown by Mr. McDaniel. I asked if Mr. McDaniel was a full time employee or was he contracted through the summer time to make aerial applications. She stated he was contracted to make aerial applications. I then contacted Mr. Leo Reed, Licensing Manager for OISC. He stated Pro-Agr, Inc. was not licensed through the State of Indiana as a pesticide business. He further stated Mr. McDaniel was not licensed as a category 11 certified aerial applicator in the State of Indiana. He stated there had been no paperwork submitted for Mr. McDaniel to be considered for reciprocation. I then explained to Mrs. Spiros and Mr. Walker, they needed to have a pesticide business license to conduct commercial pesticide applications in the State of Indiana. They also were required to have the pesticide business license in order to have an aerial applicator licensed in Indiana and attached to the business as a contractor. I then issued a STOP ACTION ORDER to Pro-Agr, Inc. ordering them to cease all commercial pesticide applications in the State of Indiana until obtaining proper license through the Office of Indiana State Chemist. A copy of this order is in this case file. I asked to see the SATLOC printout of the aerial pesticide application from the airplane. Mrs. Spiros stated they had problems with the SATLOC as it was newly installed. There were broken lines in the application printout on the SATLOC. She contacted the representative who had installed the system and he stated there were some problems with the system they were working out.
8. I then made contact with Mr. Stan McDaniel by telephone. I advised him of the complaint. He stated he made an aerial pesticide application to the cornfield located directly south of town next to the park. He stated he knew they were having problems with the SATLOC as it was just installed. He stated he is confident he did not spray over the town. I then asked him about his aerial applicator license. He stated he had been licensed in Indiana through Woodley Air in Illinois. I advised him I had checked with the OISC licensing section and he was not licensed or reciprocated in the State of Indiana. He did confirm he had applied Headline AMP fungicide to the target field on Monday July 11, 2016. I advised him I would be sending a Pesticide Investigation Inquiry (PII) to him via certified mail. I asked Mr. McDaniel about a small spray indication on the SATLOC printout which appeared to be over the east side of town. He stated the only thing he could think of was he had charged the spray system east of town. Note: The PII was sent via certified mail on July 20, 2016, it was received by Pro-Agr, Inc. on July 25, 2016. I sent an email to Mrs. Spiros on September 14, 2016 advising her

we had not received the completed PII. She sent an email back to me on September 15, 2016 apologizing for the delay and stated she had forwarded it to the pilot/ aerial applicator with instructions for him to fill it out. She stated he apparently failed to do so. She stated she would have it completed and get it sent out to me that day. On October 7, 2016, OISC had still not received the PII. I sent an email on that date again to Mrs. Spiros advising her it had been nearly two months and our Compliance Officer normally applies an enforcement action for not returning the PII request in a timely manner. I advised her I had requested he hold off on applying any enforcement action until I contacted her. She stated she would do her best to have it completed that day and return it to OISC. On October 10, 2016, the completed PII was received by OISC. The PII is in this case file.

- I then returned to the town of Perrysville, Indiana. I collected soil and vegetation samples from the target field. I also collected vegetation and swab samples from the park located directly north of the target and vegetation and swab sample from various locations in town directly north of the target field. All of the samples collected were labeled and submitted to the OISC residue lab. I created a diagram showing the location of the field in relationship to the park and town. The diagram also shows the locations I collected samples. This diagram is in this case file. On August 29, 2016, I received a report from the OISC residue lab. The following is this OISC residue report.

Case #	2016-1021		Investigator	Bob Brewer
Sample #	Sample Description	Amount of Analyte		
		Matrix	Pyraclostrobin	Metconazole
2016-334838	Trip blank	Swab	BDL	BDL
2016-334839	Swab dugout at school	Swab	296 ng/swab	127 ng/swab
2016-334840	Vegetation swab school ground	Swab	115 ng/swab	6.5 ng/swab
2016-334841	Vegetation swab midway in town Green st & Prairie	Swab	380 ng/swab	102 ng/swab
2016-334842	Swab midway in town Center St & Washington	Swab	489 ng/swab	131 ng/swab
2016-334843	Control Swab	Swab	2.8 ng/swab	BDL
2016-334844	Soil target field	Soil	0.7 ppb	BDL
2016-334845	Vegetation target field	Vegetation	251 ppb	42.9 ppb
2016-334846	Vegetation school ground	Vegetation	161 ppb	31.2 ppb
2016-334847	Vegetation midway in town Green st & Prairie st	Vegetation	234 ppb	34.3 ppb
2016-334848	Control vegetation	Vegetation	BDL	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				
LOQ	Soil		0.3 ppb	0.3 ppb
LOQ	Vegetation		3 ppb	0.3 ppb
LOQ	Swab		1 ng/swab	1 ng/swab
Signature			Date	8/29/2016

10. I researched the Weather Underground website for the weather conditions for the Perrysville, Indiana area on July 11, 2016. The website indicated the temperature at the time of the aerial pesticide application was 84.6 degrees F and the winds were SSE at 9.2 – 10.4 mph. A copy of the weather report is in this case file.
11. I researched the label for Headline AMP fungicide. The label stated “*DO NOT apply when conditions favor drift from target area*”. “*DO NOT spray when conditions favor drift beyond area intended for application*”.
12. The OISC residue lab report indicated the active ingredients in Headline AMP fungicide were detected in all non-target samples collected. The weather report indicated the winds were blowing towards the town of Perrysville from the target field. These factors would indicate the active ingredients from the Headline AMP fungicide applied during the aerial pesticide application made by Mr. McDaniel, did drift off target and onto the park property and inside the town limits of Perrysville, Indiana.
13. I contacted the OISC Licensing Section and at the time of this case summary, no paperwork or entries had been made regarding any attempt to obtain a pesticide business license or a category 11 aerial applicator license.



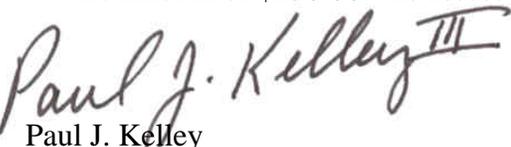
Robert D. Brewer

Investigator

Date: November 7, 2016

Disposition: Stan McDaniel 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 area. 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.

Stan McDaniel 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.



Paul J. Kelley

Case Review Officer

Draft Date: December 2, 2016

Final Date: January 23, 2017

CASE SUMMARY

Case #2016/1083

Complainant: Tracy & Ken Tatge
2790 N 300 E
Fowler, IN 47944
765-401-4644

Respondent: Colby Smith
Dungan Aerial Service, Inc.
4290 N CR 450 W
Connersville, IN 47331
765-679-5000

1. On July 28, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report aerial agricultural pesticide drift. She stated on July 26th, an aerial pesticide application was made near their home and her husband was drifted upon. She stated she bagged her husband's shirt. She was advised the shirt would not be returned to her.
2. I made telephone contact with Ms. Tatge. She stated on July 26, 2016, there was a "crop duster" spraying the bean field across the road to the east of her house. She stated her husband Ken Tatge was standing outside videotaping when he was hit with the spray. She stated the video he took, shows the spray hitting the lens of the camera. She stated they were concerned their property and pool was being contaminated. She stated her husband stated his skin on his arms burned where he had a sore. She stated he showered and changed clothes. She stated she was concerned as they have animals and children out on their property.
3. On July 28, 2016, I met with Mr. and Mrs. Tatge at their residence. They both again stated the same as Mrs. Tatge had told me on the telephone. I obtained a written statement from Mrs. Tatge, which is in this case file. She also provided me with the shirt Mr. Tatge was wearing at the time he stated he was sprayed upon. I placed this shirt in an evidence bag and labeled it. Mr. Tatge then showed me the video he took of the airplane making the aerial application to the soybean field east of his residence. They stated the field is farmed by Mr. Mike Fischbach.
4. I then had Mr. Tatge accompany me outside and show me exactly where he was standing at the time he was sprayed. I took photographs of the area. I collected soil and vegetation samples from the target field. I also collected vegetation and swab samples from the location which Mr. Tatge stated he was standing at the time he was sprayed. I further collected samples beginning closest to the target field and then progressed away from the field across the Tatge property. I collected swab samples from their house both on the east and west sides as well as a swab sample from the swimming pool which was in the back yard. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the locations described.



view of target field to complt property



view from where complt was standing



view of complt property from target field



view of complt property

5. I then contacted Mr. Fischbach by telephone. He stated he did have an aerial pesticide application made to the target soybean field. He stated Helena Chemical in Fowler, IN provided the product for the application and set up the aerial application.
6. I then went to Helena Chemical in Fowler, IN. They advised me Dungan Aerial Service, Inc. was the aerial applicator that made the pesticide application to the target field. They provided me with the work order and the labels for the products applied. They advised the tank mix included the products, Viathon fungicide EPA Reg. #42519-35-5905 with the active ingredient tebuconazole and Warrior II insecticide EPA Reg. #100-1295 with the active ingredient lambda-cyhalothrin.
7. I made telephone contact with Dungan Aerial Services, Inc. and spoke with Office Manager Crystal Ingram. I advised her of the complaint and requested she send me a copy of the work order and the SATLOC printout from the aircraft. She advised me Mr. Colby Smith was the certified aerial applicator who made the aerial pesticide application to the target field. I advised her I would be sending a Pesticide Investigation Inquiry (PII) to Mr. Smith via certified mail.
8. The PII was received and completed and returned to me. The PII confirmed the information provided by Helena Chemical in regards to the pesticides applied and the date of the aerial pesticide application. Mr. Smith provide a written statement which stated, on Tuesday July 26, 2016, he made an aerial pesticide application to the soybean field on the east side of the complainant's house. He stated he was making the application using a race track pattern. He stated the winds at the time of the aerial application were from a heading of 100 degrees (east / southeast) at 5 mph. He stated he was applying to the target field in a west to east direction, as there were workers on the wind turbines on the south end of the field and he did not want to create a conflict with the workers. He further stated he did not observe anyone outside at the complainant's residence. He also apologized for any inconvenience. The PII and statement is in this case file.
9. I researched the Weather Underground website for weather conditions at the application location on the date of the application. The website indicated the temperature at the time of the aerial pesticide application was 77 – 78.8 degrees F. The winds were ESE at 5.8 mph. A copy of the weather report is in this case file.
10. I researched the labels for Viathon fungicide and Warrior II insecticide. The label for Viathon fungicide states *DO NOT APPLY THIS PRODUCT IN A WAY THAT WILL CONTACT WORKERS OR OTHER PERSONS, EITHER DIRECTLY OR THROUGH DRIFT.* The label for Warrior II insecticide states *DO NOT APPLY WHEN WEATHER CONDITIONS FAVOR DRIFT FROM TREATED AREAS. DO NOT APPLY THIS PRODUCT IN A WAY THAT WILL CONTACT WORKERS OR OTHER PERSONS, EITHER DIRECTLY OR THROUGH DRIFT. ONLY APPLY THIS PRODUCT IF THE WIND DIRECTION FAVORS ON-TARGET DEPOSITION.*

11. On August 22, 2016, I received a report from the OISC residue lab. The following is a copy of this report. The hard copy of this report is in this case file.

Case #	2016-1083		Investigator	Bob Brewer
Sample #	Sample Description	Amount of Analyte		
		Matrix	Tebuconazole	Lambda-Cyhalothrin
2016-334850	vegetation from target soybean field	Vegetation	11000 ppb*	2160 ppb
2016-334851	soil from target field	Soil	106 ppb*	BDL
2016-334852	vegetation nearest the target field	Vegetation	24600 ppb*	6210 ppb
2016-334853	vegetation midway in complt's property (where complt. was standing)	Vegetation	13800 ppb*	3450 ppb
2016-334854	vegetation farthest away from target field	Vegetation	24900 ppb*	2810 ppb
2016-334855	control vegetation	Vegetation	1.4 ppb	BDL
2016-334856	trip blank swab	Swab	BDL	BDL
2016-334857	swab of camera lenses	Swab	7710 ng/swab*	1500 ng/swab
2016-334858	swab vegetation target field	Swab	2260 ng/swab*	BQL
2016-334859	swab vegetation nearest to target field	Swab	26700 ng/swab*	5900 ng/swab
2016-334860	swab vegetation midway (where complt was standing)	Swab	14700 ng/swab*	3200 ng/swab
2016-334861	swab vegetation furthest from target field	Swab	8090 ng/swab*	1900 ng/swab
2016-334862	swab swimming pool	Swab	6200 ng/swab*	BDL
2016-334863	swab east side of complt's house	Swab	10400 ng/swab*	1000 ng/swab
2016-334864	swab west side of complt's house	Swab	569 ng/swab*	BDL
2016-334865	control swab	Swab	4.3 ng/swab	BDL
2016-334866	shirt collected from complainant	Clothing	145000 ng/clothing*	BDL
<p>*Minimum concentration detected due to amount exceeded calibration curve range.</p> <p>PPB= 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	Swab		0.2 ng/swab	500 ng/swab
LOQ	Soil		0.7 ppb	167 ppb
LOQ	Vegetation		0.7 ppb	167 ppb
Signature			Date	8/22/2016

12. As indicated in the OISC residue lab report, all of the samples I collected and submitted from the Tatge property were analyzed and show a high amount of the active ingredients in both Viathon fungicide and Warrior II insecticide were detected. The weather report indicated the winds at the time of the pesticide application were blowing from the target field towards the Tatge property. These findings indicate the products applied to the target field from the aerial pesticide application, did drift onto the Tatge property and onto Mr. Tatge.

13. I created a diagram of the area, including the locations of which I collected samples. This diagram is in this case file.



Robert D. Brewer
Investigator

Date: September 22, 2016

Disposition: Colby Smith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift 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: November 15, 2016

Final Date: January 19, 2017

Cc: Mike Fischbach
mike.fischbach@plantpioneer.com

CASE SUMMARY

Case #2016/1099

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

Respondent: Wehmiller Lawn Care
Kevin Wehmiller
Craig Stuckwisch
2054 N. 400 E.
Seymour, IN 47274
812-524-8318

Licensed Business
Certified Applicator
unlicensed Applicator

1. On July 21, 2016, I observed Craig Stuckwisch making a pesticide application at McDonald's located at 427 Steven's Way in Seymour, Indiana (47274) with a short sleeved shirt and short pants and a backpack sprayer. See figure 1.



Figure 1-Mr. Stuckwisch without proper PPE

2. Mr. Stuckwisch did not have a credential to apply pesticides for hire. Furthermore, no certified applicator was on site during the application.
3. On July 21, 2016, the owner and certified applicator for Wehmiller Lawn Care, Kevin Wehmiller, arrived on site. Mr. Wehmiller removed the backpack sprayer from Mr. Stuckwisch's vehicle. Mr. Wehmiller stated the product in the backpack was Buccaneer Plus (EPA Reg. #55467-9, active ingredient glyphosate).

4. Label language for Buccaneer Plus stated in part, “*Applicators and other handlers must wear: long-sleeved shirt and long pants ...*”.



Paul J. Kelley
Investigator

Date: August 1, 2016

DISPOSITION: Kevin Wehmiller was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to ensure 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.

Kevin Wehmiller 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 noncertified individual. 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: November 1, 2016

CASE SUMMARY

Case #2016/1157

Complainant: Susan Abbott
6460 W. US Hwy. 24
Remington, IN 47977
219-261-3534

Respondent: Brian Townsend
Townsend Aviation, Inc.
2411 S. Airport Rd.
Monticello, IN 47960
574-583-9900

1. On August 24, 2016, Susan Abbott spoke with Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC), regarding a human health drift complaint. Mrs. Abbott stated she and others witnessed a helicopter operated by Townsend Aviation making an application to a nearby soybean field at 9:00 am on August 23, 2016. Mrs. Abbott stated the application drifted onto her husband causing him to be nauseous and feel like his skin was burning.
2. I made telephone contact with Mrs. Abbott and set an appointment to meet with her at the above-mentioned address.
3. On August 29, 2016, I met with Mrs. Abbott and her husband Mr. Dirk Abbot at their business at 6460 W. US Hwy 24 in Remington, IN. OISC Agent Melissa Rosch and OISC Quality Assurance Agent Carrie Leach were also present with me.
4. Mr. Abbott stated he was in the garage of their water conditioning business when he observed the helicopter making an aerial application to the soybean field located across US HWY 24 to the south of their business. He stated he observed the helicopter making the application and as he stood in the opening of the overhead garage door, he smelled a chemical smell coming into the garage area. He stated he began to feel nauseous and his skin had a burning feeling. He stated another employee by the name of Mr. Rex Tebo was in the garage as well. I asked Mr. Abbott if he obtained medical treatment and he stated he did not. He stated he showered and washed his clothing. Mrs. Abbott stated she had contact with Townsend Aviation, Inc. and learned they were applying Lorsban insecticide to the soybean field.
5. I then took photographs of the area. I also collected soil and vegetation samples from the target field, as well as vegetation and swab samples from the complainant's property. All of the samples were labeled and submitted to the OISC residue lab. I collected samples starting nearest to the highway and then progressed through the complainant's property

until furthest away from the highway and target field. I also collected a swab sample from inside of the garage area. The following photographs show the location of the target field from the complainant's property.



view from target field



view towards target field

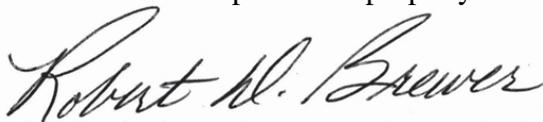
6. We then went to Townsend Aviation, Inc. in Monticello, IN. I met with owner, John Townsend. He stated Brian Townsend had made the aerial pesticide application to the target field in question. He stated Lorsban 4 E insecticide EPA Reg. #62719-220 with the active ingredient chlorpyrifos was applied to the target field. He provided me with the work order and the SATLOC printout from the helicopter. I advised him I would be sending a Pesticide Investigation Inquiry (PII) to Brian Townsend. He received the PII and completed it and returned it to me. The PII is in this case file. The PII confirmed the information given to me in regards to the aerial pesticide application being made on August 23, 2016 between 8:20 am and 9:05 am. It also indicated Lorsban 4E was the pesticide applied. The PII further indicated the weather conditions were winds blowing from S-SE at 3 mph.
7. I researched the Weather Underground website for weather conditions reported nearest to the target field location on the date and time of the aerial pesticide application. The site indicated the temperature was 64.4 – 69.8 degrees F and the winds were SSE at 4.6 – 6.9 mph. A copy of the Weather Underground report is in this case file.
8. I created a diagram of the area and the locations of where I had collected samples. This diagram is in this case file.
9. On September 16, 2016, I received a report from the OISC residue lab. The following is a copy of the residue lab report.

Case #	2016-1157		Investigator	B. Brewer
Sample #	Sample Description	Amount of Analyte		
		Matrix	Chlorpyrifos (ng/swab or ng/g)	
2016-334867	Vegetation front lawn flower bed	Vegetation	BDL	
2016-334868	Swab Vegetation flower bed	Swab	60	
2016-334869	Swab utility pole at roadway	Swab	BDL	
2016-334870	Swab truck front lot	Swab	70	
2016-334871	Swab front of building (south)	Swab	60	
2016-334872	Swab front of building (north)	Swab	100	
2016-334873	Trip blank	Swab	BDL	

2016-334874	Control swab	Swab	BDL
2016-334875	Control vegetation	Vegetation	BQL
2016-334876	Swab inside building	Swab	125
2016-334877	Soil target field	Soil	Did not analyze
2016-334878	Vegetation target field	Vegetation	8380
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC			
LOQ	Vegetation		28 ppb
LOQ	Swab		10 ng/swab
Signature 			
		Date	9/16/2016

10. I researched the label for Lorsban 4 E. The label stated *DO NOT APPLY THIS PRODUCT IN A WAY THAT WILL CONTACT WORKERS OR OTHER PERSONS, EITHER DIRECTLY OR THROUGH DRIFT. DO NOT ALLOW SPRAY TO DRIFT FROM THE APPLICATION SITE AND CONTACT PEOPLE, STRUCTURES PEOPLE OCCUPY AT ANY TIME AND THE ASSOCIATED PROPERTY, PARKS AND RECREATION AREAS, NON-TARGET CROPS, AQUATIC AND WELAND SITES, WOODLANDS, PASTURES, RANGELANDS OR ANIMALS.*

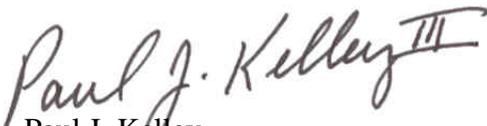
11. The residue lab results indicate the active ingredient chlorpyrifos found in Lorsban 4E was detected in the swabs from the complainant's property and from the swab sample from inside of the business garage. The Weather Underground website indicated the winds were SSE which would have been blowing from the target field to the complainant's property. These findings indicate pesticide from the aerial pesticide application to the target field, did drift onto the complainant's property and inside of the business.



Robert D. Brewer
Investigator

Date: September 22, 2016

Disposition: Brian Townsend was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label drift language. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was his second violation of similar nature within the past five (5) years and there was potential for human harm. See case number 2011/1326.



Paul J. Kelley
Case Review Officer

Draft Date: November 28, 2016
Final Date: January 19, 2017

CASE SUMMARY

Case #2016/1172

Complainant: Warren Underwood
4632 S. State Road 135
Vallonia, IN 47281
812-569-3100

Respondent: Robert Sneberger Certified Applicator
Aerial Farmer, LLC New Address Per Green Card:
1155 A Avenue 1280 Lena Lane
Seymour, IN 47274 Missoula, MT 59804
812-343-8543

1. On August 29, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift from an aerial applicator. The complainant stated they were having a cookout when an aerial applicator sprayed his property which included the livestock and people. He stated he has clothing we can have for analysis with the understanding that the clothing will be destroyed during the laboratory process.
2. I made telephone contact with Mr. Underwood and set an appointment to meet with him at his residence. I requested he provide me with a written statement. He did provide me with a written statement, which is in this case file.
3. On August 30, 2016, I met with Mr. Underwood at his residence. Mr. Underwood stated on August 28, 2016 between 11:30 am and 12:30 pm, he and his family were grilling outside. He stated they heard an airplane flying close to the house. He walked out and noticed it was a crop duster airplane, which was making an aerial application to the corn field located directly north of his property. He stated he felt the plane was flying very low and close to his barn and buildings. He stated he could smell an odor of whatever the plane was applying. He stated he was concerned as he had people there and animals out. He stated he walked out to his outer buildings and attempted to waive the pilot away from his property. He stated he took a photo of the airplane. He stated the pilot looked directly at him. He stated as the plane went over him, the pilot began spraying and he was sprayed along with the buildings and his hay field. Mr. Underwood stated the pilot reported to the local police that he had thrown something at the airplane. He stated he did not, he stated he was waiving at the pilot to avoid his property and took a photo with his cellphone. He stated the plane left for a while, he thought to reload, then returned. During the return passes, he stated the plane was even lower and closer to his buildings. He stated the wind was blowing slightly from the north-northwest. He stated he contacted the Sheriff's department to report he had been sprayed. He stated a deputy came out and advised him what the chemical was that was being applied to the field, as the deputy had spoken with the pilot/ applicator. Mr. Underwood stated he was

told the product was Quilt Excel fungicide. Mr. Underwood stated the field was farmed by Mr. Troy Burnside and the aerial application was made by Aerial Farmer, LLC. The pilot/certified applicator was Mr. Robert Sneberger.

- I asked Mr. Underwood if he had applied any pesticides to his property. He stated he had applied Hi-Yield Killzall III EPA Reg. #74530-43-7401 with the active ingredient Glyphosate to his property in June. He stated he also applied Shredder 2, 4-D LV4 EPA Reg. #1381-102 with the active ingredient 2, 4-D to his property. I asked Mr. Underwood to take me to the exact place he was standing when he was allegedly sprayed by the airplane. He took me out to a barn on the back portion of his yard next to a hay wagon. He showed me where he was standing. I created a diagram of the area with the location where Mr. Underwood stated he was standing, as well as where I collected samples. The diagram is in this case file.
- I then took photographs of the area and collected the clothing Mr. Underwood stated he was wearing at the time of the application. I collected soil and vegetation samples from the target corn field. I further collected vegetation and swab samples beginning 30 yards from the target field, then where Mr. Underwood was standing and then from farthest from the target field, which would have been next to the horse pen on the southern part of the property. I also collected swab samples from the barn, hay wagon and a tractor all next to where Mr. Underwood stated he was standing. Note: It was obvious the tractor had not been moved from that location for a long period of time, due to the weeds grown up around it and the flat tires. I labeled all of the samples and submitted them to the OISC residue lab. The following photographs show the location of the target field to Mr. Underwood's property and the locations of the buildings on his property.



view across hay field to target field



view from house to out buildings



view from where complt. was standing



view of horse pens to the south

6. I then went to Aerial Farmer, LLC located at the Seymour airport and made contact with certified aerial applicator Robert Sneberger. He stated he did make an aerial pesticide application to the target corn field located north of the Underwood property on August 28, 2016 between 11:45 am and 1:10 pm. He stated he applied Quilt Excel fungicide EPA Reg. #100-1324 with the active ingredients azoxystrobin and propiconazole. I advised him of the complaint made by Mr. Underwood. Mr. Sneberger stated he did see Mr. Underwood standing outside on his property. He stated he thought Mr. Underwood threw something at his plane as he heard something hit the rear portion of his plane. He stated Mr. Underwood was standing in the hayfield and not up by the barn. Mr. Sneberger stated he does not believe there is any way he sprayed Mr. Underwood or his property. He further stated there were no animals out grazing at the time of the pesticide application. I then advised Mr. Sneberger I would be sending a Pesticide Investigation Inquiry (PII) to him via certified mail. He received the PII and completed it and returned it to me. The PII is in this case file. The PII confirmed the information provided to me by Mr. Sneberger in regards to the pesticide application and the product applied. He stated he obtained the weather report from the Seymour airport on the date of the pesticide application. He stated the winds were at 160 degree (SSE) at 3 mph. Mr. Sneberger also indicated on the PII that his SATLOC positioning unit on his aircraft locked up and lost actual spray path. He stated the red lines on the printout are actual spray paths and the black lines are an estimate of the missing spray paths.

7. I researched the Weather Underground website for weather conditions at the nearest reporting station for the area of the pesticide application on August 28, 2016. The website indicated the temperature was 77 degrees F and the winds were calm. A copy of the weather report is in this case file.

8. I researched the label for Quilt Xcel fungicide. The label states, *DO NOT APPLY THIS PRODUCT IN A WAY THAT WILL CONTACT WORKERS OR OTHER PERSONS, EITHER DIRECTLY OR THROUGH DIRFT. DO NOT SPRAY WHEN CONDITIONS FAVOR DIRFT BEYOND AREA INTENDED FOR APPLICATION.*

9. On September 16, 2016, I received a report from the OISC residue lab. The report indicated high quantities of the active ingredients azoxystrobin and propiconazole both found in Quilt Xcel fungicide where detected in all of the samples I collected from the Underwood's property and submitted to the OISC residue lab. The following is a copy of the OISC residue lab report.

Case #	2016-1172		Investigator	B. Brewer
Sample #	Sample Description	Amount of Analyte		
		Matrix	Azoxystrobin	Propiconazole
2016-334879	Complainants clothing	Clothing	394000 ng/clothing	312000 ng/clothing
2016-334880	Soil target field	Soil	Did not analyze	Did not analyze
2016-334881	Vegetation target field	Vegetation	1730 ng/g*	3520 ng/g*
2016-334882	Vegetation 30 yards from target field	Vegetation	720 ng/g*	2240 ng/g*
2016-334883	Vegetation where complt. Was standing	Vegetation	115 ng/g*	391 ng/g*
2016-334884	Vegetation furthest from target field	Vegetation	87.0 ng/g*	257 ng/g*
2016-334885	Control vegetation	Vegetation	72.9 ng/g*	121 ng/g*
2016-334886	Trip blank	Swab	BDL	BDL

2016-334887	Swab 30 yards from target field	Swab	7790 ng/swab**	2820 ng/swab**
2016-334888	Swab vegetation where complt. Was standing	Swab	630 ng/swab	137 ng/swab
2016-334889	Swab south side of barn next to complt.	Swab	143 ng/swab	11.5 ng/swab
2016-334890	Swab north side of barn next to complt.	Swab	135 ng/swab	18.9 ng/swab
2016-334891	Swab haywagon next to complt.	Swab	772 ng/swab	77.3 ng/swab
2016-334892	Swab tractor next to complt.	Swab	2890 ng/swab**	1090 ng/swab**
2016-334893	Swab vegetation furthest from target	Swab	855 ng/swab	140 ng/swab
2016-334894	Control swab	Swab	320 ng/swab	78.0 ng/swab
*minimum amount found due to low recovery. ** minimum amount found due to concentration exceeded calibration curve.				
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC				
LOQ	Vegetation		0.3 ppb	0.3 ppb
LOQ	Swab		1 ng/swab	0.2 ng/swab
Signature			Date	9/16/2016

10. The OISC residue lab report indicates high quantities of the two active ingredients in samples collected nearest the target field as well as farthest away from the target field. The report also indicates high quantities in the clothing the complainant was wearing and in the samples collected around the area the complainant stated he was standing. As stated by the certified applicator Mr. Sneberger, the SATLOC system was locked up on the airplane, thus making it impossible to prove the spray valve was not opened over the complainant's property at the time of the pesticide application. These factors indicate off target/ drift of a pesticide application did happen to the complainant and complainant's property.


Robert D. Brewer
Investigator

Date: September 28, 2016

Disposition: Robert Sneberger 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 and 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: November 29, 2016
Final Date: January 19, 2017

CASE SUMMARY

Case #2016/1192

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

Respondent: Ceres Solutions
2887 W. 883 S.
Brook, IN 47922
219-275-2732

1. On September 13, 2016, I conducted an Ag Chemical Facility Inspection at Ceres Solutions. I spoke with Ceres employee Bill Riester. During my inspection, I observed and noted the following.
2. The firm had bulk repacking records that indicated that several different portable refillable containers (minibulks) had been refilled at this location on numerous occasions during 2015 and 2016, but the only minibulk present for my inspection on this date was tank # A5 (see fig. 1 and 2).
3. According to the bulk repackaging records, tank #A5 had been filled with Bicep II Magnum (EPA Reg. No. 100-817) on 4-15-16 and 4-27-16. The same tank was then filled with Halex GT (EPA Reg. No. 100-1282) on 6-2-16 (see fig. 3 and 4).
4. Mr. Riester stated to me that no pressure tests had been performed on the tanks listed on the bulk repacking record, including tank #A5. In addition, he did not provide me with any written documentation indicating that the minibulks had been pressure tested.
5. Tank #A5 had markings indicating that the tank was constructed 12/12. I found no markings on the tank indicating it had been inspected or pressure tested for soundness and suitability for refilling since the original 12/12 date (see fig. 2).
6. It has been approximately 3.5 years after construction and approximately one year since the tank was required to have been pressure tested if it was going to be filled on 4-15-16, 4-27-16, and 6-2-16.

CASE SUMMARY

Case #2016/1204

Complainant: Dan Stein
12198 Split Granite Drive
Fishers, IN 46037
317-833-4657

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

Not Licensed
Not Licensed
NEW ADDRESS INFO ON 1/4/17
12121 Cowboys Court
Fishers, IN 46037

1. On September 21, 2016, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to inquire about the licensing status of Castleton Lawn Care. The company website reportedly listed lawn fertilization and pesticide applications as available services. A check of OISC records indicated the company had not been issued an Indiana pesticide business license and that it had been cited for professing to be in the business of applying pesticides for hire (advertising) without the required pesticide business license in 2015 (See Case#2015/0804). A \$250.00 civil penalty was assessed for the violation; it was unpaid as of September 2015 and was forwarded to collections.
2. On September 21, 2016, I spoke with Dan Stein who reported he had Castleton Lawn Care mow his lawn a couple of times 2-3 years ago. He indicated the crew did a poor job so he canceled the service. Mr. Stein said he recently received a notice in the mail indicating he was being taken to small claims court by Castleton Lawn Care for money owed. He reportedly did some research and learned that the company was seeking payment from approximately seventy (70) former customers. Mr. Stein indicated he thought he requested fertilization when he set up the mowing, but he did not think an application was ever made.
3. I verified the company was advertising “**Fertilization**” in addition to mowing, mulching and other services, at Castletonlawncare.com. The fertilization page listed a 5-round lawn treatment program which included fertilizer and weed control. “**Licensed and Insured**” was displayed at the top of each page on the website and there was no indication that the lawn applications would be made by anyone other than Castleton Lawn Care personnel.
4. On September 21, 2016, I called Castleton Lawn Care several times and later sent a text message. I went to the home address of Dan Ciesniewski, owner of Castleton Lawn Care, as the address for the company is a mailbox at a UPS Store. No one answered the door but there was a company truck in the driveway with decals advertising fertilization. I left a business card and a note to call me regarding the complaint.

5. On September 23, 2016, I received a call from Gary Justiniano who reported he was in his first year as manager at Castleton Lawn Care. He indicated the company has no office and works out of a storage facility on Brooks School Road (Fishers). Mr. Justiniano stated the company phone number was being forwarded to his phone because the secretary was recently let go. I informed him of the complaint and explained that making and/or advertising for-hire fertilizer and pesticide applications without the required license was prohibited by law. Mr. Justiniano reported the company does not make lawn applications and customers who may ask for applications would be referred to licensed applicator, Gary Zink, of Zink Lawn Inc. I instructed Mr. Justiniano to remove the fertilization page from the website or add a notation indicating applications will be made by a licensed contractor. He indicated he would make the change on the website and have Mr. Ciesniewski call me when he got out of court.
6. On September 27, 2016, I again went to the home of Mr. Ciesniewski and found no one was there. I left another card and note before going to Extra Space Storage at 11775 Brooks School Road. Another Castleton Lawn Care truck and a car, both with decals advertising fertilization, were parked outside the fenced storage facility. I sent emails to the company email address listed on the Castleton Law Care website and continued to call and text the company phone number as the voicemail box was full and could not accept messages.
7. On September 28, 2016, Mr. Ciesniewski finally called me. We discussed the complaint and later in the day he met at the storage facility where the company occupies five (5) units. No application equipment or lawn care products were found in the units. Mr. Ciesniewski reported the company has never made applications and that the fertilization page of the website was taken down after the OISC investigation in 2015; he thought it may have inadvertently been put back on the website when recent changes were made to add leaf removal services. I informed Mr. Ciesniewski that he cannot make for-hire applications or advertise as such without a license. I issued a Stop Action Order instructing him not to make applications and to cease advertising such services. We discussed the procedures for becoming certified and licensed so he could legally make for-hire lawn applications. I told Mr. Ciesniewski I needed to confirm that the company had not billed customers for lawn applications. He again stated no applications had been made and, although his former secretary who handled the billing was the main reason for his collection issues, he did not think customers were billed for applications. I verified that a notation had been added to the website indicating lawn applications would be made by a licensed company.
8. On October 7, 2016, Mr. Ciesniewski informed me that he hired Kristyn VanderBerg to reconcile the company's books. I spoke with Ms. VanderBerg and brought her up to speed on the complaint investigation. She indicated she accepted the position with Castleton Lawn Care as a secondary job and was working on organizing the contracts and incoming payments by customer. We met at her primary employer's office in Noblesville, IN, on October 11, 2016, where I inspected dozens of customer files. I found nothing which indicated Castleton Lawn Care billed customers for lawn care applications. Ms. VanderBerg indicated she was committed to getting the company into compliance.
9. On October 11, 2016, the OISC received a call from Michael Bowron, a licensed lawn care applicator and owner of Grass Busters. He indicated he had called the OISC approximately a week prior to report that Castleton Lawn Care magnets advertising fertilization had been distributed throughout several neighborhoods on the northeast side of Indianapolis. Many

were reportedly affixed to the mailboxes of his customers and, since the company was not licensed, he wanted the OISC to know about it. I explained that his information may not have been forwarded to an investigator because the company was already being investigated and that I would include his information in my investigation. Mr. Bowron indicated the magnets appeared the first week of October and were likely distributed as recently as October 11, 2016. A photo of the magnet has been embedded in this summary.



Fig.1 CLC web page



Fig.2 CLC truck



Fig.3 CLC magnet

10. I notified Mr. Ciesniewski and Ms. VanderBerg that employees cannot distribute magnets or any other promotional materials which offer fertilization, or pesticide applications, until the company is properly licensed or until a notation is added, like on the web page, indicating applications will be made by a licensed contractor. Similarly, an alteration is required for the fertilization claim on company trucks to come into compliance.


Andrew R. Roth
Investigator

Date: October 31, 2016

Disposition: Castleton Lawn Care was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticide/fertilizer for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact this was their second violation of similar nature. See case number 2015/0804.

Castleton Lawn Care was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for violation of the Stop Action Order. A civil penalty in the amount of \$250.00 was assessed for this violation.

As of January 23, 2017, Castleton Lawn Care had not paid the civil penalty. The case was forwarded to the Office of Indiana Attorney General for collection.


Paul J. Kelley
Case Review Officer

Draft Date: November 29, 2016
Final Date: January 23, 2017

CASE SUMMARY

Case #2016/1257

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

Respondent: Matt Overman Certified Applicator
David Andrew Strange Registered Technician
Squire Hill Unlicensed
Custom Cuts Lawn Care, Inc. Licensed Business
P.O. Box 8028
Lafayette, IN 47903
765-490-4160

1. On September 21, 2016, I observed who was later identified to me as Mr. Squire Hill, making what appeared to be a pesticide application to the entrance way of the Rainey Brook subdivision on 500 S in Lafayette, IN. I could see that Mr. Hill was not wearing long sleeves. See Figure One

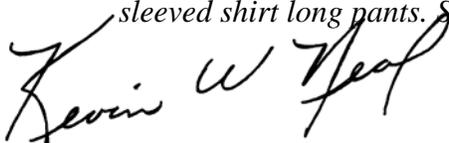


Figure One

2. Upon identifying myself to Mr. Hill, I asked if he was a credentialed applicator and he advised he was not, he only recently began working for Custom Cuts. I then spoke with Mr. Strange who was on site with Mr. Hill and determined he is a registered technician.
3. Mr. Strange advised they were applying "Roundup". I asked if he had his site assessment fact sheet with him and discovered not only did he not have it with him but he really was unaware of what the site assessment fact sheet was. I asked if he had a label for the product they were applying and he did not nor was he able to find the label on his smart phone.

4. We then contacted, Mr. Overman who is the certified applicator and supervisor for Mr. Strange via phone. He advised the product they were applying was Rodeo Herbicide (EPA Reg. #62719-324) active ingredient glyphosate.

5. The label for Rodeo Herbicide states, "*Applicators and other handlers must wear: Long sleeved shirt long pants. Shoes plus socks.*"



Kevin W. Neal
Investigator

Date: October 4, 2016

Disposition: Matt Overman 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.

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

Matt Overman 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 according to label directions, for an employee under his supervision. 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.



Paul J. Kelley
Case Review Officer

Draft Date: November 30, 2016
Final Date: January 19, 2017

CASE SUMMARY

Case #2016/1304

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

Respondent: Greg Traylor, Location Manager
Paul Hart, RT
Helena Chemical Company
248 W. Railroad St. / P.O. Box 59
Montgomery, IN 47558
(812) 486-3285

1. On September 22, 2016, I conducted a Container/Containment inspection at Helena Chemical Co. in Montgomery, Indiana. Paul Hart, RT was present for the inspection and Greg Traylor was on the premises and available. I observed the following.
2. Firm had not added shuttle (portable refillable container) ID numbers to all chemical repack records. Approximately half of the records observed contained the shuttle ID numbers. The remainder were identified by customer name only.
3. One bulk chemical storage tank containing "Showdown" Glyphosate (EPA Product # 71368-25-5905, Helena Chemical Co.) was not labeled with the net gallons.
4. No written record was found of shuttles that were pressure tested at this location. However, all shuttles inspected were marked with current pressure testing dates on the shuttles. Paul Hart confirmed that this location had done pressure testing on shuttles as required, but could not produce a written record.
5. Firm had repacked Monsanto Roundup PowerMAX Glyphosate (EPA Product # 524-549) without a Monsanto repack agreement. A bulk tank with a Monsanto Roundup PowerMAX label was observed in the bulk chemical area. Upon further questioning, it was discovered that the firm had been emptying Roundup PowerMAX from prepackaged shuttles into the bulk tank to more easily meter the product into their equipment used for custom application.
6. Paul Hart advised me that some of this product in the bulk tank was also used to "refill" shuttles for customers.
7. No Roundup PowerMAX refills were noted in the refill records being kept by the firm, however, I collected a customer invoice that listed a customer name of Knepp Farms for delivery of "250.620 Gal Roundup PowerMAX, (repack)(bulk gal)," dated 3/25/2016. Paul Hart stated this was a shuttle refill from the bulk tank of Roundup PowerMAX at this

location. A Stop Action Order was issued instructing Helena to discontinue repacking Roundup PowerMAX until a repack agreement with Monsanto for this product is obtained.



Rae Jean Schurr
Pesticide Inspector

Date: September 23, 2016

DISPOSITION: Helena Chemical Company was warned for three (3) counts of violation of IC 15-16-4-57(9) for producing a pesticide that violates container refilling and labeling regulations under the Federal Insecticide, Fungicide, and Rodenticide Act, specifically the items referenced in #2, 3, and 4 of this summary.

In addition, Helena Chemical Company was cited for violation of IC 15-16-4-57(9) for producing and distributing a pesticide that violates container repacking regulations under the Federal Insecticide, Fungicide, and Rodenticide Act, specifically the activities referenced in #5, 6, and 7 of this summary. A civil penalty in the amount of \$250.00 was assessed.



Paul J. Kelley
Case Review Officer

Draft Date: November 23, 2016

Final Date: January 19, 2017