

A Summary of Cases

August 8, 2017

2015/0710

Disposition:

A. Scott Shepherd was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-5-2, for failure to provide onsite supervision to a non-certified individual. A civil penalty in the amount of \$375.00 (3 counts x \$125.00 per count) was assessed.

B. Scott Shepherd and All Green Lawn Management Corp were cited for one hundred seventy-six (176) days of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for having bulk storage containers outside secondary containment. A civil penalty in the amount of \$44,000.00 (176 counts x \$250.00 per count) was assessed. By rule, this penalty cannot be mitigated.

C. On May 26, 2015, I spoke with Mel Raznick representing All Green Lawn Management Corp requesting the civil penalty be reduced. I explained to him I was not allow to mitigate by law. He requested that he be allowed to speak to the Indiana Pesticide Review Board (IPRB) concerning the civil penalty not being able to be mitigated. Mr. Raznick was advised he would be welcome to attend the next IPRB meeting. This case is now under the appeal process.

D. On January 13, 2017, I was advised by the IPRB to begin negotiations with All Green Lawn Management Corp regarding their civil penalty.

E. On February 15, 2017, I left a message with Mr. Kreg Culler, CFO, regarding this investigation.

F. On February 20, 2017, I called Mr. Culler again and left a message for him to return my call. Mr. Culler returned my call. I proposed the \$44,000.00 civil penalty be reduced to \$8,800.00; consideration being given to the fact All Green 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. Mr. Culler stated he would consider the negotiation and call me back on Wednesday, February 22, 2017.

G. As of Friday, February 24, 2017, Mr. Culler has not called me back.

H. On February 27, 2017, Mr. Culler left a voice message proposing the civil penalty be reduced further to \$6,000.00 and he be allowed to pay the penalty in three quarterly payments of \$2,000.00. I returned Mr. Culler's call and left a voice message advising him we would stay with the \$8,000.00 civil penalty but allow All Green to make four quarterly payments of \$2,000.00 each.

2015/1306

DISPOSITION: Jiazhen Wu was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide contrary to label directions. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

2015/1310

DISPOSITION: Dong Dong Wang was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide contrary to label

directions. 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.

2016/0819 **Disposition:** Weldon Mast was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding a Fumigation Management Plan. Weldon Mast was cited for six (6) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed. Weldon Mast was cited for six (6) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-4-1, for failure to keep and maintain commercial applicator restricted use pesticide application records. A civil penalty in the amount of \$600.00 (6 counts x \$100.00 per count) was assessed. The total amount of civil penalty assessed in this investigation is \$2,100.00. However, the civil penalty was reduced to \$1,575.00. Consideration was given to the fact Mr. Mast cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved and there was potential for human harm.

2016/0893 **Disposition:** Dusty Williams 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. Dusty Williams was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure provide direct supervision. A civil penalty in the amount of \$125.00 was assessed for this violation. Consideration was given to the fact this was Dusty Williams' first violation of similar nature. Consideration was also given to the fact the pesticide application was to a school.

2017/0144 **Disposition:** AP&G Co., Inc. was cited for one (1) count of section 57(1) of the Indiana Registration Law for distributing, displaying, selling, or offering for sale a pesticide product that has not been registered in Indiana. A civil penalty in the amount of \$250.00 was assessed.

2017/0518 **Disposition:** As of April 5, 2017, the website still listed "fertilization/weed control" as part of their service. Bedwell Outdoor Services was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides/fertilizers for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

2017/0519 **Disposition:**
A. Josh Ribley and Ribley Property Maintenance (RPM), were cited for sixty-nine (69) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$17,250.00 (69 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$5,175.00. Consideration was given to the fact Mr. Ribley cooperated during the investigation; corrective action was taken;

there was no previous history of similar nature and no restricted use pesticides were involved.

B. On June 6, 2017, Mrs. Ribley called and requested they be allowed to make payments of \$1,000.00 per month starting in June 2017 and continuing for five (5) consecutive months until the civil penalty is paid in full.

- 2017/0642** **Disposition:** Michael Sparks and Premier Ag were 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. 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.
- 2017/0643 **Disposition:** Richard D. Brown was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm. Robert Mosier was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-6, for failure to provide a site assessment fact sheet to a technician.
- 2017/0649 **Disposition:** Brian Griffith was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-6, for failure to provide a Site Assessment Fact Sheet to a registered employee. Brian Griffith was warned 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 (Leigha Bruning). Brian Griffith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to insure the use of label-directed personal protective equipment for Leigha Bruning, a non-licensed employee. A civil penalty in the amount of \$250.00 was assessed to Engledow Inc. for this violation. Consideration was given to the fact there was potential for human harm. Carla Mobley was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation. This civil penalty was assessed to her because she was provided with personal protective equipment but chose not to wear it.
- 2017/0718 **Disposition:** Barron Smith and B'z Pest Control were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.
- 2017/0720 **Disposition:** Mirimichi Green of North Carolina was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product into Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation. Mirimichi Green of North Carolina was cited for violation of section 57(5) of the Indiana Pesticide Use and Application Law for distributing a misbranded pesticide

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

CASE SUMMARY

Case #2015/0710

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

Respondent: All Green Lawn Management Corp. (Licensed Business)
5009 New Haven Avenue
Ft. Wayne, IN 46803
260-493-0075
Scott Shepherd (Certified Applicator)
Donovan Orban (Unlicensed Applicator)

1. On April 13, 2015, I conducted a routine business inspection at All Green Lawn Management Corporation. During my inspection, I discovered All Green had an unlicensed applicator not being properly supervised and two (2) bulk pesticide storage containers (250 gallons each) not being properly stored within a secondary storage area.
2. I met with Service Manager, Scott Shepherd during my inspection. While reviewing the business's current pesticide applicators, it was discovered that the employee Donovan Orban had been making pesticide lawn applications without having a current Registered Technicians license. Mr. Shepherd indicated Donovan had passed his core test on April 6, 2015, but he had not yet sent in the licensing application and fees for Mr. Donovan to receive his license. I informed Mr. Shepherd Mr. Donovan was to discontinue any further pesticide application work unless properly supervised and he had received his license from the Indiana State Chemist. Mr. Shepherd gave me requested copies of applications Mr. Donovan had made while working on his own without a certified applicator on-site. The application invoices indicated Mr. Donovan made unsupervised applications on the following three (3) days: April 8, April 10 and April 11, 2015.
3. During my inspection of All Green's pesticide storage area, I observed two (2) full bulk pesticide storage containers (250 gallons each). The labels on the outside of the bulk storage tanks indicated they both contained Mec Amine-D (EPA Reg. #34704-239; active ingredients: 2,4-D, propionic acid and dicamba). I explained to Mr. Shepherd the requirement for bulk pesticide storage containers to be placed into secondary containment area within 30 days upon receiving them. Mr. Shepherd stated he had only been at this branch location for about 3 weeks and they were already here and was unaware when they had arrived. I requested Mr. Shepherd provide an invoice of receipt date for the bulk containers of Mec Amine-D. Mr. Shepherd gave me a copy of the invoice requested and it indicated All Green had received the Mec Amine-D bulk containers on September 19, 2014. Photographs # 1 and # 2 below show the bulk containers in the All Green storage area.



Photograph # 1



Photograph #2

4. Mr. Shepherd contacted me later that day and indicated he had gone to Granger Supplies and was going to purchase a containment mat pad to store the bulk tanks within until they could be used or a more permanent containment area could be constructed.

Scott M. Farris
Investigator

Date: April 16, 2015

Disposition:

- A. Scott Shepherd was cited for three (3) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-5-2, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$375.00 (3 counts x \$125.00 per count) was assessed.
- B. Scott Shepherd and All Green Lawn Management Corp were cited for one hundred seventy-six (176) days of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 5-4-1(a), for having bulk storage containers outside secondary containment. A civil penalty in the amount of \$44,000.00 (176 counts x \$250.00 per count) was assessed. By rule, this penalty cannot be mitigated.
- C. On May 26, 2015, I spoke with Mel Raznick representing All Green Lawn Management Corp requesting the civil penalty be reduced. I explained to him I was not allow to mitigate by law. He requested that he be allowed to speak to the Indiana Pesticide Review Board (IPRB) concerning the civil penalty not being able to be mitigated. Mr. Raznick was advised he would be welcome to attend the next IPRB meeting. This case is now under the appeal process.
- D. On January 13, 2017, I was advised by the IPRB to begin negotiations with All Green Lawn Management Corp regarding their civil penalty.
- E. On February 15, 2017, I left a message with Mr. Kreg Culler, CFO, regarding this investigation.

F. On February 20, 2017, I called Mr. Culler again and left a message for him to return my call. Mr. Culler returned my call. I proposed the \$44,000.00 civil penalty be reduced to \$8,800.00; consideration being given to the fact All Green 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. Mr. Culler stated he would consider the negotiation and call me back on Wednesday, February 22, 2017.

G. As of Friday, February 24, 2017, Mr. Culler has not called me back.

H. On February 27, 2017, Mr. Culler left a voice message proposing the civil penalty be reduced further to \$6,000.00 and he be allowed to pay the penalty in three quarterly payments of \$2,000.00. I returned Mr. Culler's call and left a voice message advising him we would stay with the \$8,000.00 civil penalty but allow All Green to make four quarterly payments of \$2,000.00 each.



George N. Saxton
Compliance Officer

Draft Date: February 28, 2017

Final Date: August 10, 2017

CASE SUMMARY

Case #2015/1306

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

Respondent: Jiazhen Wu
Royal Buffet
415 N. Halleck
Demotte, IN 46310
219-982-7970

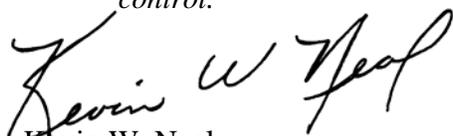
1. On September 23, 2015, I conducted a pesticide use inspection to determine what if any pesticides were in use at the restaurant and who may be making the pesticide applications at the above named facility.
2. In speaking with the Manager Mr. Wu, he advised that he in fact made pesticide applications to the restaurant for the control of insects by spraying along the baseboards in the dining, bathroom and kitchen areas.
3. Mr. Wu then produced for me the product he stated he had applied which is Orthene Turf Tree & Ornamental 97 Spray (EPA Reg. #5481-8978) active ingredient acephate.
4. I then collected swabs from three areas in the restaurant. The OISC residue lab results are as follows:

Sample Description	Acephate
Trip Blank	BDL
Baseboard Dining Room	329.0 NG/S
Baseboard Kitchen Area	BQL
Baseboard Bathroom Area	BQL

BDL=Below Detectable Limits

NG/S=Nanograms per swab

5. The label for Orthene Turf Tree & Ornamental 97 Spray states "*Not for indoor residential use.*" The label also states, "*For use on turf, use limited to sod farms and golf courses, except when applying to mound or spot treatment for fire ant and harvester ant control.*"


Kevin W. Neal
Pesticide Investigator

Date: February 22, 2017

DISPOSITION: Jiazhen Wu was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide contrary to label directions. 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: April 14, 2017
Final Date: July 24, 2017

CASE SUMMARY

Case #2015/1310

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

Respondent: Dong Dong Wang
Royal China Buffet
214 W. Ridge Road
Griffith, IN 46319
219-972-8888

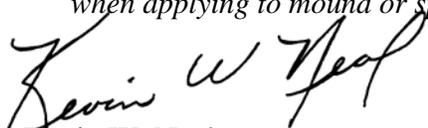
1. On September 18, 2015, I, along with Lake County Health Department Food Sanitarian Ruth Grozdanich, conducted an inspection at the above named facility.
2. While Ms. Grozdanich conducted the food safety inspection, I conducted a pesticide use inspection to determine what if any pesticides were in use at the restaurant and who may be making the pesticide applications.
3. In speaking with the Manager Mr. Wang, he advised that he in fact made pesticide applications to the restaurant for the control of insects by spraying along the baseboards in the dining and kitchen areas.
4. Mr. Wang then produced for me the product he stated he had applied which is Orthene Turf Tree & Ornamental 97 Spray (EPA Reg. #5481-8978) active ingredient acephate.
5. I then collected swabs from three areas in the restaurant. The OISC residue lab results are as follows:

Sample Description	Acephate
Trip Blank	BDL
Baseboard Dining Room	236.0 NG/S
Baseboard Kitchen Area	19400.0 NG/S
Baseboard Food Service Area	66.0 NG/S

BDL=Below Detectable Limits

NG/S=Nanograms per swab

6. The label for Orthene Turf Tree & Ornamental 97 Spray states “*Not for indoor residential use.*” The label also states, “*For use on turf, use limited to sod farms and golf courses, except when applying to mound or spot treatment for fire ant and harvester ant control.*”


Kevin W. Neal
Pesticide Investigator

Date: February 22, 2017

DISPOSITION: Dong Dong Wang was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying a pesticide contrary to label directions. 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: April 14, 2017
Final Date: July 24, 2017

CASE SUMMARY

Case #2016/0819

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

Respondent: Weldon Mast Certified Applicator
McGrawsville Feed Co., Inc.
9502 S. 300 E.
Amboy, IN 46911
(765) 395-7744

1. On, May 12, 2016, I, Agent Brian Baker of OISC, conducted a facility inspection at McGrawsville Feed Co., Inc. I spoke with Mr. Weldon Mast, the certified applicator of record. I asked Mr. Mast if he had performed fumigations in the past two years and he said that he did. I asked for the label booklets for the product(s). Mr. Mast provided the following label.
 - Weevil-Cide, EPA Reg. #70506-13, active ingredient=aluminum phosphide 60.0% (Restricted Use Pesticide.)
2. I asked Mr. Mast for the Restricted Use Pesticide (RUP) records for the applications he made and any Fumigation Management Plans that went with those records. Mr. Mast told me he did not keep any records for the fumigations he performed. I asked Mr. Mast if he knew how many fumigations he had performed with the RUP noted in paragraph 1. Mr. Mast told me he performed six fumigations each of the two years (2014/2015), but the time frame was from December through April. I told Mr. Mast his failure to create permanent records for the use of the RUP fumigant would result in civil penalties. I also told Mr. Mast he would have to do the best he could from memory to create accurate records of the applications he made.
3. I continued the inspection and asked Mr. Mast for his full-face gas mask. Mr. Mast told me he only made exterior pesticide applications and did not need a mask. Mr. Mast told me he did use gloves as required by the label for Weevil-Cide. Mr. Mast took me outside and walked me through his pesticide application process. Mr. Mast showed me the two openings in his grain conveyer system where he places the Weevil-Cide pellets (figs 1-2). The Weevil-Cide then fumigates the grain as it moves from the storage bins to the hopper bins. Mr. Mast said he could occasionally smell the contaminant (garlic odor) but added it was in the open air around the area in figures 1 & 2.



Fig. 1



Fig. 2



Fig. 3

- Figure 1 is a photo of the access panels where the fumigant is introduced onto a metal grate. The panels are the red square and galvanized square on top of the conveyers
- Figure 2 is a closer photo of the galvanized square access panel on the top middle of fig. 1.
- Figure 3 is an overall photo of the area where the fumigations were conducted in this case. The grain is fumigated as it is moved from the bins on the left to the hopper bins on the right.

4. The label for Weevil-Cide reads as follows:

- **Section 11 page 10.**

- **11.1 WHEN RESPIRATORY PROTECTION MUST BE WORN**

Respiratory protection is required when concentration levels of phosphine are unknown

- **11.2 PERMISSIBLE GAS CONCENTRATION RANGES FOR RESPIRATORY PROTECTION DEVICES**

A NIOSH/MSHA approved full-face gas mask- phosphine canister combination may be used at levels up to 15 ppm or following manufacturers use conditions instructions for escape. Above 15 ppm or in situations where the phosphine concentration is unknown, a NIOSH/MSHA approved, self-contained breathing apparatus (SCBA) must be worn.

- **11.3 REQUIREMENTS FOR AVAILABILITY OF RESPIRATORY PROTECTION**

Respiratory protection must also be available for applications from outside the area to be fumigated such as addition of tablets or pellets or automatic dispensing devices, outdoor applications etc.

- **SECTION 22 APPLICATION PROCEDURES**

An FMP (Fumigation Management Plan) MUST BE WRITTEN PRIOR to all applications

- **SECTION 21 REQUIRED WRITTEN FUMIGATION MANAGEMENT PLAN**

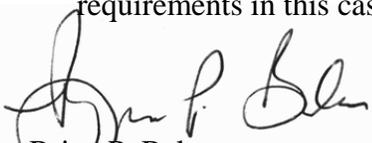
Section 21 lays out the 10 items to be included in the Fumigation Management Plan (FMP) and a host of other considerations in the development of that plan.

5. Concerning the creation and maintenance of records for the use of Restricted Use Pesticides, 355 IAC 4-4-1, section 1 reads:

- All commercial applicators or their employees shall keep and maintain records of all applications of pesticides classified for restricted use.*

The section goes on to list the seven required fields to be filled out and kept.

6. In this case, Mr. Weldon Mast made 12 applications of the RUP Fumigant listed in paragraph 1 of this report. The twelve applications were made during the calendar years 2014-2015 as described in paragraph 2 of this report. Paragraph 4 and 5 of this report outline the label and legal requirements for Personal Protective Equipment (PPE), Fumigation Management Plans and Restricted Use Pesticide records keeping. Mr. Mast failed to follow those label and legal requirements in this case.



Brian P. Baker
Investigator

Date: May 16, 2016

Disposition: Weldon Mast was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding a Fumigation Management Plan.

Weldon Mast was cited for six (6) counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. A civil penalty in the amount of \$1,500.00 (6 counts x \$250.00 per count) was assessed.

Weldon Mast was cited for six (6) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-4-1, for failure to keep and maintain commercial applicator restricted use pesticide application records. A civil penalty in the amount of \$600.00 (6 counts x \$100.00 per count) was assessed.

The total amount of civil penalty assessed in this investigation is \$2,100.00. However, the civil penalty was reduced to \$1,575.00. Consideration was given to the fact Mr. Mast cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved and there was potential for human harm.



George N. Saxton
Compliance Officer

Draft Date: May 2, 2017
Final Date: August 10, 2017

Sylvester as a Registered Technician could not supervise non-credentialed applicators. Furthermore, I explained to Mr. Williams, Mr. Hoskins and Mr. Nichols were not wearing the proper personal protective equipment (PPE) labeled for the products being applied.

3. The label language for Personal Protection Equipment (PPE) for the pesticide products they were using states in part;

Glystar Plus, EPA Reg. #42750-61, active ingredient glyphosate, "*Applicators and other handlers must wear: Long-sleeved shirt and long pants...*"

Buccaneer Plus, EPA Reg. #55467-9, active ingredient glyphosate, "*Applicators and other handlers must wear: Long-sleeved shirt and long pants...*"

Reward, EPA Reg. #100-1091, active ingredient diquat dibromide, "*Mixers, Loaders, Applicators and other handlers must wear... Long-sleeved shirt and long pants...*"

4. Hoosier Landscape Inc. was issued a Stop Action Order to stop using non-credentialed employees to make for-hire pesticide applications.



Paul J. Kelley
Investigator

Date: June 13, 2016

Disposition: Dusty Williams 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.

Dusty Williams was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-5, for failure provide direct supervision. A civil penalty in the amount of \$125.00 was assessed for this violation.

Consideration was given to the fact this was Dusty Williams' first violation of similar nature. Consideration was also given to the fact the pesticide application was to a school.



George N. Saxton
Compliance Officer

Draft Date: May 2, 2017
Final Date: August 10, 2017

CC
Steve Forester, Director of Operations
Bartholomew Consolidated School Corporation
1260 Marr Road
Columbus, IN 47201
812-376-4231

CASE SUMMARY

Case #2016/0980

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

Distributor: J Star Farms
7500 E. State Road 26
Portland, Indiana 47371
260-726-3500
Licensed Fertilizer Business

Hauler: Banchi Trucking LLC
P.O. Box 98
North Star, Ohio 45350
Unlicensed Fertilizer Business

Respondent: Levi Stoltzfus
8781 Center Road
Williamsburg, Indiana 47393
765-886-5567
Uncertified Fertilizer Applicator

1. On March 30, 2016, the Compliance Officer of the Office of Indiana State Chemist (OISC) received an anonymous phone call regarding staged poultry manure near the corner of Round Barn Road and Bockhofer Road in Wayne County not following correct staging requirements.
2. On April 6, 2016, I went to the alleged staged manure site. I used a Nikon Rangefinder for measurements and observed the following:
 - Un-bermed pile of poultry manure (See Photograph #1 & Photograph #2)
 - Manure pile 100 feet from road (100 feet required)
 - Manure pile 285 feet from tree line; no surface water



Photograph #1



Photograph #2

- On April 6, 2016, I met with Levi Stoltzfus. I explained to Mr. Stoltzfus the reason for my investigation. Mr. Stoltzfus stated he is renting the ground and had poultry manure hauled in from J Star Farms (Licensed Fertilizer Business) in Portland, Indiana. He stated he marked the field with the location he wanted it placed. He stated the haulers placed the manure farther from the road than he had marked. I explained to Mr. Stoltzfus the rules for staging manure. Mr. Stoltzfus stated he was unaware of the one hundred (100) feet requirement from a public road and property line and the manure had to be covered or bermed after seventy-two (72) hours. I asked Mr. Stoltzfus if he was certified in Category 14 in order to apply manure from a confined feeding operation (CFO) permitted by Indiana Department of Environmental Management (IDEM). He stated he did not know about the certification. Mr. Stoltzfus showed me his purchase agreement from J Star Farms and asked if that was what was highlighted on his paperwork that he was supposed to fill out and return. I explained applicators and handlers of CFO manure have to be certified in Category 14 from OISC. We went over different ways to take the test to become certified. I reviewed Mr. Stoltzfus paperwork and his written application plan. Mr. Stoltzfus had an invoice from Banchi Trucking (Unlicensed Fertilizer Business) for hauling five (5) loads of the poultry manure on March 23, 2016 (See Photograph #3). His written application plan was to apply three (3) to four (4) tons of poultry manure per acre for a corn crop.

BANCHI TRUCKING, L.L.C.
 BANCHI TRUCKING, LLC
 PO BOX 98
 NORTH STAR, OH 45350

DATE 3-24-16

NAME LEVI STOLTZFUS
 ADDRESS 9781 CENTER RD.
 WILLIAMSBURG IND 47393

DATE	DESCRIPTION	AMOUNT
3/23/16	11.5 HOURS	\$ 1035.00
	HAULING CHICKEN MANURE	
	FROM JAY STAR TO	
	LEVI'S FARMS	
	5 LOADS	
	DUE UPON	
	RECEIPT	
	THANKS	
	LTW	
	TOTAL	\$ 1035.00

Photograph #3

- On April 7, 2016, Mr. Stoltzfus called and stated he bermed the manure pile on April 6, 2016.
- On June 20, 2016, I received a handwritten letter from Mr. Stoltzfus. Mr. Stoltzfus stated "Yes, I got the manure spread....I did check about a Cat 14 permit in Richmond and was told I need to go Purdue's West Lafayette campus because Richmond only does a session in winter month. First session in Lafayette open was May 5. Well my wife inform me that will not work because

of a holiday we honor. (Ascension) OK next session in June 2 well I went and got there 30 min to late.... Anyway I think I just wait till winter and try to get a permit in Richmond.”



Patricia Waller
Investigator

Date: April 27, 2017

Disposition: Levi Stoltzfus was cited for ten (10) counts (March 27 to April 6) of violation of Section 44 of the Indiana Commercial Fertilizer Law, specifically 355 IAC 8-4-2, for failure to provide a gradient barrier or cover after seventy-two (72) hours. A civil penalty of \$2,500.00 (10 x \$250 per count) was assessed. However, the civil penalty was reduced to \$875.00. Consideration was given to the fact that Mr. Stoltzfus cooperated during the investigation; corrective action was taken and this was his first offense of similar nature.

Levi Stoltzfus was cited for one (1) count of violation of Section 44 of the Indiana Commercial Fertilizer Law, specifically 355 IAC 7-3-2, for use of fertilizer material without certification. A civil penalty of \$100.00 was assessed.

Banchi Trucking was cited for one (1) count of violation of Section 44 of the Indiana Commercial Fertilizer Law, specifically 355 IAC 7-3-1, for engaging in business without a fertilizer business license. A civil penalty of \$250.00 was assessed



George N. Saxton
Compliance Officer

Draft Date: May 16, 2017
Final Date: August 10, 2017

CASE SUMMARY

Case #2017/0144

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

Respondent: Rural King
1501 N. Wayne
Angola, Indiana 46703
(260) 624-2220

Distributor AP&G Co., Inc.
170 53rd Street
Brooklyn, NY 11232

1. On November 18, 2016, OISC Agents Brian Baker and Melissa Rosch conducted a Market Place Inspection at The Rural King store listed as the respondent in this case. We met with the store Assistant Manager, Scott Schwartz. We identified ourselves verbally and with OISC credentials. Mr. Schwartz was issued a Notice of Inspection and explained the role of OISC in Market Place Inspections.
2. During the inspection we located four pesticide products offered for sale without the required label instruction booklet (figs. 1-4). The violations were pointed out to Mr. Schwartz and compliance assistance was rendered by allowing the store personnel to remove the pesticide products in violation until the proper labeling was obtained.



Fig. 1



Fig. 2



Fig. 3



Fig. 4

- Figures 1-4 are pesticide containers without the proper labeling.

3. During the inspection of the home and garden pesticide section we noted a pesticide device offered for sale. (Figures 5-6). A telephone call to OISC Assistant Pesticide Administrator, Mr. Ed White, confirmed that the product in question, **GLOstik Flying Insect Trap**, manufactured and distributed by AP&G Company, Inc. of Brooklyn, New York was not properly registered in Indiana as a pesticide device for sale and use. There were 12 units displayed for sale. We issued a Stop Sale Action Order and 11 of the units were removed

and stored. We collected one of the GLOstik Flying Insect Traps and issued a Pesticide Sample Collection Report and Affidavit to Mr. Schwartz. The GLOstik Flying Insect Trap was tagged with OISC tag #2017323502. The sample was bagged and sealed for delivery to the OISC Formulation Laboratory. The sample was transported to and turned into the OISC Formulation Laboratory to be documented and forwarded to Mr. Ed White. There were no invoices at The Rural King store. The product invoices can be obtained from Rural King Headquarters. The skew number for reference is 55600021.



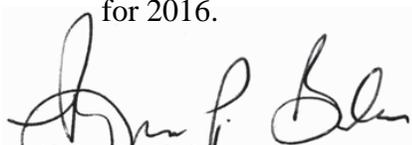
Fig. 5



Fig. 6

- Figures 5-6 are of the GLOstik Flying Insect Trap.

4. It should be noted there are no current pesticide product registrations for AP&G in Indiana for 2016.


Brian P. Baker
Investigator

Date: November 21, 2016

Disposition: AP&G Co., Inc. was cited for one (1) count of section 57(1) of the Indiana Registration Law for distributing, displaying, selling, or offering for sale a pesticide product that has not been registered in Indiana. A civil penalty in the amount of \$250.00 was assessed.


Paul J. Kelley
Case Review Officer

Draft Date: January 26, 2017
Final Date: August 10, 2017

CC: Mr. Ed White
Assistant Pesticide Administrator

CASE SUMMARY

Case #2017/0519

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

Respondent: Ribley Property Maintenance (RPM)
 Josh Ribley
 2804 Hancock Ridge Road
 Martinsville, IN 46151
 765-318-4955

1. On March 23, 2017, I was advised by Agent Bob Brewer that Mr. Ribley and RPM may have been making pesticide and fertilizer applications without having the proper credentials and licensing to do so. A check with the OISC database confirmed RPM is not a licensed pesticide business.
2. On March 24, 2017, I met with Mr. Ribley at the above address for RPM. Mr. Ribley confirmed that he had in fact been making fertilizer and pesticide applications for hire through his business RPM.
3. Mr. Ribley then provided me with copies of records for all pesticide/fertilizer applications RPM has made for the last three years. Those records are included in the case file.
4. The records indicate that on sixty-nine (69) separate dates from 2014 through 2016, some sort of an application was made whether it was fertilizer, pesticide or both. In 2014 there were twenty-two (22) dates, in 2015 there were sixteen (16) dates and in 2016 there were thirty-one (31) dates.

2014

Date	Fertilizer	Tenacity	Roundup	Dimension	Crosscheck
April 9	X				
April 13	X				
April 18	X				
April 23			X		
May 18			X		
May 30					X
June 2	X				
June 21			X		
July 25	X				
August 1	X				
August 2	X				
August 15	X				

Sept 13	X				
October 9	X				
October 11	X				
October 12	X				
October 20			X		
October 22			X		
Nov 26	X				
Dec 3	X				
Dec 12	X				
Dec 13	X				

2015

Date	Fertilizer	Tenacity	Roundup	Dimension	Merit
April 4	X			X	
April 11	X			X	
April 13	X			X	
April 27	X				
May 22			X		
May 24			X		
June 22	X				
July 6	X				
July 8	X				
July 15			X		
July 28			X		
October 22	X				
October 28	X				
Nov 25	X				
Dec 10	X				
Dec 11	X				

2016

Date	Fertilizer	Tenacity	Roundup	Dimension	Merit
March 30	X			X	
April 6	X			X	
April 18	X			X	
April 19			X		
April 20	X			X	
May 4			X		
May 6	X				
May 17			X		
May 27			X		
June 3			X		
June 8			X		
June 25	X				
July 8			X		
July 30			X		

August 2			X		
August 4	X				X
August 5			X		
Sept 2	X		X		
Sept 3	X		X		
Sept 30		X			
October 14	X	X			
October 15		X			
October 18	X	X			
October 25	X				
Nov 20	X			X	
Nov 26	X				
December 1	X				
December 2	X				
December 3	X				
December 5	X				
December 10	X				

5. An Action Order was issued to Mr. Ribley to cease all pesticide/fertilizer applications until such time as all proper certification and credential requirements have been met.



Kevin W. Neal
 Kevin W. Neal
 Investigator

Date: March 27, 2017

Disposition:

- A.** Josh Ribley and Ribley Property Maintenance (RPM), were cited for sixty-nine (69) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$17,250.00 (69 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$5,175.00. Consideration was given to the fact Mr. Ribley cooperated during the investigation; corrective action was taken; there was no previous history of similar nature and no restricted use pesticides were involved.

- B.** On June 6, 2017, Mrs. Ribley called and requested they be allowed to make payments of \$1,000.00 per month starting in June 2017 and continuing for five (5) consecutive months until the civil penalty is paid in full.



George N. Saxton
Compliance Officer

Draft Date: June 6, 2017
Final Date: August 10, 2017

CASE SUMMARY

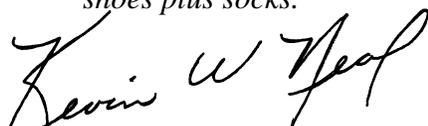
Case #2017/0642

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

Respondent: Michael Sparks
Jerry Spurgeon
Premier Ag
6905 N 400 E
Seymour, IN 47274
812-524-1020

Certified Applicator
Non-Credentialed
Licensed Business

1. On April 18, 2017, I, along with Pesticide Administrator Dave Scott, observed Mr. Sparks and Mr. Spurgeon on State Road 50 just west of Seymour. Mr. Sparks was preparing to make a pesticide application consisting of Boundary 6.5 EC (EPA Reg. #100-1162) active ingredients metolachlor and metribuzin; Roundup PowerMax (EPA Reg. #524-549) active ingredient glyphosate and Shredder E-99 (EPA Reg. #1381-195) active ingredient 2,4-D.
2. Mr. Scott and I could see that Mr. Spurgeon was wearing a short-sleeved shirt at the time and it was apparent from the information he gave us that he was not wearing a long sleeved shirt at the time he was mixing and loading the product Boundary. Mr. Spurgeon advised he had a jacket in his vehicle that he would use for long sleeves.
3. The label for Boundary herbicide states, "*Applicators and other handlers must wear long sleeved shirt and log pants, chemical-resistant gloves, such as barrier laminate or Viton and shoes plus socks.*"



Kevin W. Neal
Investigator

Date: April 20, 2017

Disposition: Michael Sparks and Premier Ag were 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. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.



George N. Saxton
Compliance Officer

Draft Date: May 4, 2017
Final Date: August 10, 2017

CASE SUMMARY

Case #2017/0643

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

Respondent: Mother Nature Landscaping (Licensed Business)
4848 South Walnut Street Pike
Bloomington, IN 47401
Richard D. Brown (Registered Technician)
Robert Mosier (Certified 3b Applicator)
812-339-5296

1. On April 18, 2017, I observed a person making what appeared to be a pesticide application to a turf area near an apartment complex in Bloomington, Indiana. During a routine use inspection with the applicator, it was determined the applicator was not wearing all of the required personal protection equipment (PPE) for the pesticides being applied. In addition, the applicator was a registered technician and did not have in his possession a copy of a site assessment fact sheet for Category 3b.
2. The applicator above was Richard D. Brown, a Registered Technician with Mother Nature Landscaping. Mr. Brown informed me he was applying a granular fertilizer and liquid Lesco Three-Way herbicide (EPA Reg. #10404-43; active ingredients: 2,4-D, propionic acid, and dicamba). Mr. Brown provided me with a copy of his product label and I reviewed the label with Mr. Brown. The Three-Way herbicide label stated the following PPE was required during use of this product:

“When mixing, loading or applying this product or repairing or cleaning equipment used with this product, wear face shield, goggles, or safety glasses and chemical resistant gloves, long-sleeved shirt, long pants, socks and shoes.”
3. I explained to Mr. Brown that he was not wearing a long-sleeve shirt or chemical resistant gloves while applying this product. Mr. Brown stated he had been given all of the required PPE by Mother Nature Landscaping, but had left it in his vehicle because it was a warm day. I informed Mr. Brown he would need to wear all of the PPE to continue applications of this product. Photograph #1 below is a photograph of Mr. Brown making an application of the Three-Way herbicide as I was pulling into the site of his application.



Photograph 1

4. Lastly, Mr. Brown did not have a copy of the Site Assessment Fact sheet for Category 3b. I explained to Mr. Brown that he is required to have a copy of this document with him as a Registered Technician. I recommended to Mr. Brown this document be kept in his label binder and reviewed before making pesticide applications to each site.

A handwritten signature in black ink that reads "Scott M. Farris".

Scott M. Farris
Investigator

Date: April 18, 2017

Disposition: Richard D. Brown was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

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

A handwritten signature in black ink that reads "George N. Saxton".

George N. Saxton
Compliance Officer

Draft Date: May 4, 2017
Final Date: August 10, 2017

CASE SUMMARY

Case #2017/0649

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

Respondent: Brian Griffith
Carla Mobley
Leigha Bruning
Engledow, Inc.
100 E. 116th Street
Carmel, IN 46032
317-575-1100

Certified Applicator
Registered Technician
Unlicensed

1. On April 18, 2017, OISC Agent Trish Waller and I were on SR 46 in Columbus, Indiana, when we observed two females wearing backpack sprayers, making applications around the sign of the Clarion Hotel. We also noticed the women both had on long pants, but were wearing short-sleeved t-shirts with Engledow Inc. logo on them.
2. We made contact with them, finding them to be Ms. Carla Mobley and Ms. Leigha Bruning. We identified ourselves and I asked them if they were certified pesticide applicators. Ms. Mobley stated she was a Registered Technician and she provided me with her OISC certification card. Ms. Bruning stated she had no certification of any kind. I asked if she was employed by Engledow, Inc. She stated she was. I asked both of them what they were applying. They advised they were applying Roundup. I advised Ms. Bruning that she could not be making pesticide applications without a license or a certified applicator on sight with her. I then asked Ms. Mobley who her certified applicator supervisor was. She stated Mr. Brian Griffith. I asked where he was and she stated he was in the Columbus area making pesticide applications. I asked her to contact him by phone. She attempted to do so, but was unable to make contact. We checked the OISC database and Mr. Griffith does hold a current category 3a and 3b license.
3. I advised them they were to have long sleeves on while applying the pesticide as per the label of the pesticide. Ms. Mobley did have a long sleeved shirt tied around her waist, but not wearing it. I then issued a STOP ACTION ORDER to Ms. Leigha Bruning ordering her to cease all pesticide applications until obtaining proper licensing through the Office of Indiana State Chemist. While I was filling out paperwork, Agent Waller went with the women to their company truck to see if they had a label for the Roundup herbicide they were applying and a Site Assessment Fact Sheet. Agent Waller advised me the product being applied was Roundup Pro Max EPA Reg. #524-579 with the active ingredient glyphosate. She advised

the label stated applicators were required to wear long sleeves, long pants and protective shoes, but no mention of eye protection. Agent Waller also advised, the women had no Site Assessment Fact Sheet.

4. On that same date, I made telephone contact with Mr. Griffith. He stated he was on an applicator machine and did not hear his phone when Ms. Mobley had called. I advised him of the situation with Ms. Mobley and Ms. Bruning. He stated he was the certified applicator supervisor responsible for the women. I advised him Ms. Mobley was an RT and was in compliance as far as licensing, but was unable to contact him by phone and was not wearing proper Personal Protective Equipment (PPE) as she was wearing short sleeves. I also advised him, they did not have the required Site Assessment Fact Sheet. I advised him that Ms. Bruning had no license and she could not be making a pesticide application without a certified applicator being with her. She also was only wearing short sleeves, which was not the required PPE. I advised him as the certified supervisor, he was responsible for the violations. He stated he would correct all of the issues.
5. The following violations were observed during the use inspection:
 - a. Ms. Mobley was in violation of not wearing the proper PPE. She was wearing short sleeves, but did have a long sleeve shirt tied around her waist;
 - b. Ms. Mobley was also in violation of not having a site assessment fact sheet;
 - c. Ms. Mobley was unable to make contact with her supervisor at the time of the inspection;
 - d. Ms. Bruning was in violation of not wearing the proper PPE as she was wearing short sleeves.
 - e. Ms. Bruning also had no pesticide applicator licensing of any kind.
 - f. Mr. Griffith was responsible for all of the violations except for the lack of proper PPE by Ms. Mobley, as she was provided with the long sleeve shirt, which she chose not to wear.



Robert D. Brewer
Investigator

Date: April 24, 2017

Disposition: Brian Griffith was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-6, for failure to provide a Site Assessment Fact Sheet to a registered employee.

Brian Griffith was warned 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 (Leigha Bruning).

Brian Griffith was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to insure the use of label-directed personal protective equipment for Leigha Bruning, a non-licensed employee. A civil penalty in the amount of \$250.00 was assessed to Engledow Inc. for this violation. Consideration was given to the fact there was potential for human harm.

Carla Mobley was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation. This civil penalty was assessed to her because she was provided with personal protective equipment but chose not to wear it.



George N. Saxton
Compliance Officer

Draft Date: May 5, 2017
Final Date: August 10, 2017

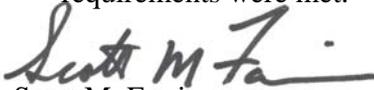
CASE SUMMARY

Case #2017/0718

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

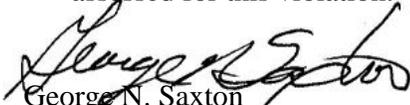
Respondent: B'z Pest Control (Unlicensed Business)
12002 Wayland Court
Evansville, IN 47725
Barron Smith (Certified Applicator)
812-499-4151

1. On May 4, 2017, the Office of Indiana State Chemist received information alleging Barron Smith (Certified Applicator) was applying pesticides for-hire without a business license. A search of Mr. Smith's Facebook page revealed advertisements (since January 2017 to current date) for a B'z Pest Control business in current operation by Mr. Smith. The OISC database had no record of a B'z Pest Control currently licensed in Indiana.
2. On May 4, 2017, I attempted to call Mr. Smith, but my call went to voicemail. The voicemail prompt stated the phone number was for B'z Pest Control.
3. On May 5, 2017, I went to the business location and spoke to Mr. Smith's wife. She stated Mr. Smith was sleeping and would contact me later that day. Mr. Smith did contact me later on the same date. I spoke to Mr. Smith about B'z Pest Control and no license associated with this business. Mr. Smith informed me he never started the business due to the inability to find affordable insurance. I discussed with Mr. Smith he cannot advertise a business that does not have a business license. Mr. Smith agreed to meet with me on May 8, 2017.
4. On May 8, 2017, I met with Mr. Smith at his home. Mr. Smith informed me he had taken another job and never started the pest control business. I informed Mr. Smith again he cannot advertise by any mean (Facebook, voicemail, etc.) he is in the pest control business without a licensed. Mr. Smith indicated he believed the Facebook and voicemail information had been taken down long ago, but had removed this advertising since speaking with me on May 5, 2017. Mr. Smith was issued an Action Order to stop any pesticide applications or advertisement for pesticide services until licensing requirements were met.


Scott M. Farris
Investigator

Date: April 13, 2017

Disposition: Barron Smith and B'z Pest Control were cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: May 16, 2017
Final Date: August 10, 2017

CASE SUMMARY

Case #2017/0720

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

Respondent: Tye Hindsley Certified Applicator
Zionsville Community Schools
900 Mulberry Street
Zionsville, Indiana 46077
317-828-5086

SiteOne
8569 Zionsville Road
Indianapolis, Indiana 46268
317-876-7968

Tom Boyd Registrant
Mirimichi Green
418 Hermitage Road
Castle Hayne, North Carolina 28429

1. On May 1, 2017, Mr. Tye Hindsley contacted Mr. Ed White the Assistant Pesticide Administrator for OISC about a pesticide product he wanted to use on school grounds at the Zionsville Community Schools. Mr. Hindsley identified the following product:
 - Mirimichi Green Weed & Grass Control, EPA Reg# 87663-5-88933.
2. Mr. White informed Mr. Hindsley that he could not use the product because it was not registered for use in the state of Indiana. Mr. Hindsley told Mr. White he acquired the product at the SiteOne store on Zionsville Rd.



Fig. 1



Fig. 2



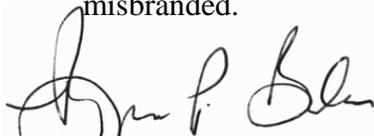
Fig. 3



Fig. 4

- Figures 1 & 2 are the Mirimichi Green Weed and Grass control with EPA Reg. #87663-5-88933 (5% ammonium salt of nonanoic acid)
Mirimichi Green LLC
6195 Woodstock Cuba Road
Millington, Tennessee 38053
 - Figures 3 & 4 are the Mirimichi Green Pro Weed Control with EPA Reg. #87663-3-90778 (40% ammonium salt of nonanoic acid)
No sample collected.
3. On May 1, 2017, I received a call from the Manager of the SiteOne Store at 8569 Zionsville Rd in Indianapolis, Indiana. The manager told me he received a call from Mr. Hindsley about the sample bottle of Mirimichi Green he supplied to him. The store Manager was told the product was not registered. I asked for the product EPA Reg# for what he had in inventory and I was given “87633-3-90778”. I checked that product through The National Pesticide Information Retrieval System (NPIRS) and it showed the product as a registered product for the state of Indiana. I told the SiteOne Manager I would check with Mr. White and get back to him the next day.
 4. I meet with Assistant Pesticide Administrator Mr. Ed White and he explained this case to me. The 32 oz. sample bottle of Mirimichi Green that was given to Mr. Hindsley had a different EPA Registration number than the bulk product offer for sale at The SiteOne store. I told Mr. White I would make contact with both parties, get a sample of the Mirimichi product with the unregistered EPA Registration number, and make certain the product displayed for sale at the SiteOne was the legally registered product.
 5. I met Mr. Hindsley at The Zionsville Community School Maintenance facility and he turned the 32 oz spray bottle of Mirimichi Green Weed and Grass Control (figs 1 & 2) over to me. I recorded the transaction on a Pesticide Sample Collection Report & Affidavit and provided Mr. Hindsley a copy of the same.
 6. I went to the SiteOne store and made certain the containers of Mirimichi Green Pro Weed Control had the properly registered EPA registration number on them. The store told me they had been given a total of three of the 32 oz bottles of Mirimichi Green Weed & Grass control as “giveaway samples”. The giveaway sample bottles had unregistered EPA Registration number. I issued an “Action Order “to the SiteOne store ordering them to remove the remaining 2, 32 oz bottles of Mirimichi Green Weed & Grass control until such a time as the product is properly registered with the State of Indiana. The EPA Reg# on the 32 oz bottles of Mirimichi Green Weed & Grass Control is “87663-5-88933”.
 7. I was able to find that the person who provided the sample to SiteOne is a Mr. Tom Boyd of 418 Hermitage Rd in Castle Hayne, NC. Phone-859-388-0470. I turned the information over to Mr. White and turned the 32 oz bottle of Mirimichi Green Weed & Grass control in to the OISC Formulation Laboratory.

8. It should also be noted the registrant listed on the pesticide container is for Mirimichi Green, 6195 Woodstock Cuba Road, Millington, Tennessee, 38053. This is not the correct address for the registrant as identified by U.S.E.P.A. Therefore, this pesticide product is also misbranded.



Brian P. Baker
Investigator

Date: May 10, 2017

Disposition: Mirimichi Green of North Carolina was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing an unregistered pesticide product into Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.

Mirimichi Green of North Carolina was cited for violation of section 57(5) of the Indiana Pesticide Use and Application Law for distributing a misbranded pesticide product in Indiana. A civil penalty in the amount of \$250.00 was assessed for this violation.



George N. Saxton
Compliance Officer

Draft Date: May 16, 2017
Final Date: August 10, 2017

CASE SUMMARY

Case #2017/0778

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

Respondent: Leon Wilderman
Wilderman Farms, Inc. Confined Feeding Operation (CFO)
7451 St. Wendel Cynthiana Road
Poseyville, Indiana 46733
812-305-4849

1. On May 18, 2017, the Certification and Licensing section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Leon Wilderman's certification category 14 (agricultural fertilizer) and Wilderman Farms' fertilizer business license, expired December 31, 2016. Mr. Wilderman failed to respond to all communicate from OISC.
2. On May 23, 2017, I met with Leon Wilderman. Mr. Wilderman stated he was aware his Category 14 commercial license had expired and was in the process of studying to retake the Category 14 test. Mr. Wilderman informed me he had not made any for-hire fertilizer applications this year, but had sold some poultry manure from his farm. Mr. Wilderman was issued an Action order that stated he could not make any for-hire fertilizer applications or sell any more of his poultry manure until all licensing requirements were met. Mr. Wilderman provided me with the sales records of his farm's poultry manure sales for 2017.
3. A review of the sales records indicated Mr. Wilderman had sold poultry manure from his farm on the following dates without a license:
 - January 10, 2017
 - March 31, 2017
4. A further review of the manure sales records for the past two (2) years, indicated poultry manure was sold to persons without a Category 14 license on the following dates:
 - July 29, 2015 (Alan & Danny Bender)
 - August 1, 2015 (Alan & Danny Bender)
 - March 21, 2016 (Alan & Danny Bender)
 - July 24, 2016 (Alan & Danny Bender)
 - January 10, 2017 (Alan & Danny Bender)
 - March 31, 2017 (Ivan Bender Farm – Alan/Danny Bender)


Scott M. Farris
Investigator

Date: May 28, 2017

Disposition: Wilderman Farms, Inc. was cited for two (2) counts of violation of section 44 of the Indiana Commercial Fertilizer Law, specifically 355 IAC 7-3-3(1) for distributing fertilizer material from a CFO without having a fertilizer business license. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed.

Wilderman Farms, Inc. was cited for six (6) counts of violation of section 44 of the Indiana Commercial Fertilizer Law, specifically 355 IAC 7-3-3(2) for distributing fertilizer material to an unlicensed person. A civil penalty in the amount of \$600.00 (6 counts x \$100.00 per count) was assessed.

The total amount of civil penalty assessed for this investigation is \$1,100.00. However, the civil penalty was reduced to \$385.00. Consideration was given to the fact Wilderman Farms, Inc. cooperated during the investigation; corrective action was taken and there was no previous history of similar nature.


George N. Saxton
Compliance Officer

Draft Date: June 26, 2017
Final Date: August 10, 2017