

## A Summary of Cases

For January 17, 2024

PS23-0073 A virtual marketplace inspection was conducted on bugmd.com. Several unregistered pesticide products were located for sale and were able to be ordered.

### **Disposition Summary**

BugMD was cited for four counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$2,000.00 (4 counts x \$500.00 per count) was assessed.

BugMD was cited for one count of violation of section 57(2) of the Indiana Pesticide Registration Law for distributing a pesticide product with labeling claims or directions for use different from that registered. A civil penalty in the amount of \$500.00 was assessed for this violation.

BugMD was warned for four counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated or misbranded.

BugMD was cited for one count of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product (Essential Pest Control Concentrate) with labeling claims or directions for use different from that registered. A civil penalty in the amount of \$500.00 was assessed for this violation.

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

PS23-0099 On a routine stop, Scott Kraner (Owner of Kraner lawn & landscaping) was out making applications without being properly licensed. He was applying Lesco Fertilizer Plus Pre-Emergent Herbicide EPA Reg No. 10404-86 and a 28-0-3 Fertilizer. Mr. Kraner also had Amine 400 2,4-D a Weed Killer EPA Reg No. 2217-2 and Glyphosate Grass and Weed Killer that were both unopened at the time of the stop. He was aware that he needed to be licensed and was licensed with OISC a long time ago. Mr. Kraner was written an action order and was asked to email me any other applications that he has made.

### **Disposition Summary**

Kraner Lawn & Landscaping was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying a pesticide for hire without having an Indiana pesticide business license.

Scott Kraner was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying a pesticide for hire without having an Indiana

pesticide business license. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

PS23-0113 Due to previously submitted applications being denied, OISC identified that the Bird Repellent Tank Mix Spray and the Concentrate required recall prior to submitting registration applications. At this time, the Invisideer and Bird Pucks were still under review to determine if the products were considered pesticides. Flock Free was given until 5/5/23 to provide documentation of the products. Documentation would have included confidential statement of formula and any communication with EPA identifying that the products were not pesticides.

**Disposition Summary**

Rural King was warned for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale in the state of Indiana.

Flock Free Bird Control was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing pesticide products that were not registered for sale in the state of Indiana. A civil penalty in the amount of \$1,000.00 (2 counts x \$500.00 per count) was assessed.

Flock Free Bird Control was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing pesticide products that were not registered for sale in the state of Indiana. A civil penalty in the amount of \$2,000.00 (2 counts x \$1,000.00 per count) was assessed.

Flock Free Bird Control was cited for two (2) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing pesticide products that were in violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). A civil penalty in the amount of \$2,000.00 (2 counts x \$1,000.00 per count) was assessed.

PS23-0128 Complainant stated a pesticide application was made to a farm field to the south of her property when the wind was gusting to 40 miles per hour and blowing toward her property.

**Disposition Summary**

Nutrien Ag Solutions Inc. was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a restricted use pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site. Consideration was given to the fact a restricted use pesticide was involved and there was an adverse effect.

Michael Milner was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a restricted use pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Consideration was given to the fact a restricted use pesticide was involved and there was an adverse effect.

PS23-0133 Complainant stated a herbicide application made to an adjacent farm field injured vegetation on his property.

**Disposition Summary**

Nutrien Ag Solutions Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. Consideration was given to the fact Nutrien Ag Solutions Inc cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved.

Thomas Naylor was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact Thomas Naylor cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved.

PS-0135 Complainant stated an aerial application made to a wheat field that is east of and adjacent to his property drifted onto his wife and daughter.

**Disposition Summary**

Klein Flying Svc Inc. was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target area. Consideration was given to the fact one of the pesticides involved in the drift was a restricted use pesticide (Silencer) and the evidence suggests there was drift to people.

Mark Hartz was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target area. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact one of the pesticides involved in the drift was a restricted use pesticide (Silencer) and the evidence suggests there was drift to people.

PS23-0137 Complainant stated growth regulator herbicide damage observed May 11 at 7 Edgewood. Herbicide was used across Mill Creek from 7 Edgewood; Damage resulted from spray across creek or applicator came across creek without notice. Several Paw paw trees damaged, also jack-in-the pulpit, poppy other natives.

**Disposition Summary**

Brian Flint Inc. was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to desirable vegetation. Consideration was given to the fact this was Brian Flint Inc's first violation of similar nature and no restricted use pesticides were involved.

Brian A. Flint 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 desirable vegetation. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact Brian A. Flint cooperated during the investigation; this was Brian A. Flint's first violation of similar nature and no restricted use pesticides were involved.

PS23-0142 Complainant stated Ag Plus Raber Ag Center sprayed his alfalfa field with glyphosate and an insecticide. Within 24 hours of the application, 60 to 65 acres of the alfalfa began to turn brown and wilt.

**Disposition Summary**

Ag Plus LP Raber Ag Center was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying Zidua Pro, a general use pesticide that caused an adverse effect, after crop emergence. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$200.00. Consideration was given to the fact Ag Plus LP Raber Ag Center cooperated during the investigation; corrective action was taken and compensation occurred.

PS23-0160 Complainant stated a herbicide application made to an adjacent farm field injured ornamentals on his property.

**Disposition Summary**

Joshua Windle Cox was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact Joshua Windle Cox cooperated during the investigation and corrective action was taken.

PS23-0209 Complainant stated a herbicide application made to an adjacent farm field drifted onto her property.

**Disposition Summary**

Gary Lee Plummer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift structures people occupy or associated property. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was adverse effect.

PS23-0220 Complainant stated he was drifted on by a herbicide application being made to roadside weeds on June 22, 2023 at 1:30 pm.

**Disposition Summary**

Robert A Ray 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 and application when wind is blowing towards a sensitive area. A civil penalty in the amount

of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact Mr. Ray cooperated during the investigation and corrective action was taken.

PS23-0229 Unregistered Pesticide Product located for sale at Ace in Noblesville, Indiana.

**Disposition Summary**

Ace Hardware was warned for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing a pesticide product that was not registered for sale in the state of Indiana.

Conseal International Inc was cited for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$2,000.00 (4 counts x \$500.00 per count) was assessed.

PS23-0240 The only certified applicator for McIntire Lawn & Landscape, James Cranfill, failed to renew his pesticide applicator license because he needed to retest.

**Disposition Summary**

Mcintire Lawn & Landscape LLC was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying pesticides for hire without having an Indiana pesticide business license.

Brad McIntire was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$5,000.00 (5 counts x \$1,000.00 per count) was assessed.

PS23-0257 Unregistered Pesticide product located for sale at Ace in New Castle, IN.

**Disposition Summary**

No violation of the Indiana Pesticide Use and Application Law was documented. This case was forwarded to the U.S. Environmental Protection Agency for federal review.

PS23-0268 Complainant stated on July 14, 2023, she returned home to find "David", an employee of Mosquito Authority, spraying her property for mosquitos.

**Disposition Summary**

Registered technician David Cooks was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner by applying a pesticide to the wrong address. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

PS23-0308 Anonymous complainant stated both the owner and the superintendent of Chesapeake Run Golf Club have continued to make pesticide applications without a license.

**Disposition Summary**

Although Chesapeake Run Golf Club committed nineteen (19) violations, they were cited for only five (5) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for knowingly applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$5,000.00 (5 counts x \$1,000.00 per count) was assessed. Consideration was given to the fact this was their second violation of similar nature. See case number PS21-0047.

PS23-0320      Anonymous complainant stated Kimy Home Services are making for hire pesticide applications without being properly licensed through OISC.

**Disposition Summary**

Kimy Home Services was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for unknowingly applying pesticides for hire without having an Indiana pesticide business license.

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

However, the \$500.00 civil penalty will be held in abeyance and not assessed provided Mr. Gimenez does not commit further violations of the Indiana Pesticide Use and Application Law for a period of two (2) years from the date of this notice.



Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

*Protecting Indiana's Agriculture and Environment*

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West Lafayette, IN 47907-2063  
Telephone (765) 494-1492 • Facsimile (765) 494-4331  
www.oisc.purdue.edu

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

This record was generated on **December 4, 2023, 11:11 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.

**In Re: Case PS23-0073**

Department	Pesticide
Originated	03/09/2023
Assigned To	Garret A. Creason
Status	Closed

**Involved Parties**

Complainant	<b>Office of Indiana State Chemist</b>
Respondent	<b>Bugmd</b>
Registrant	Baltimore, MD 21202
Issued To	

**Overviews**

03/16/2023 **Product Registration Summary**

all unregistered products must be recalled from any distribution centers in Indiana within 30 days. Sales to Indiana must be blocked on the website within 14 days. This includes all unregistered products, not just those identified below. Revisions to the website must be made within 30 days.

Submitted By: Victoria J. Matsumura  
Role: Product Registration Specialist

07/17/2023 **Product Registration Summary**

The following violations were identified through the labeling reviews - Four violations of 57(1); One Violation of 57(2); Five violations of 57(5); One violation of 57(9).

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

07/17/2023 **Investigation Summary**

On February 24, 2023 a virtual marketplace inspection was conducted on bugmd.com Bugmd has one pesticide product registered with OISC. However, it was found that several pesticide products and devices were being advertised for sale on the Bugmd website. Multiple products from the website were able to be ordered.

On March 8, 2023 the samples were collected at the OISC office, where the products were shipped too. Photographs were taken of all the products. Products were then taken to the OISC formulation lab.

On March 8, 2023 a Stop Sale Order was issued to BugMD instructing them to stop all sales into Indiana until the products are registered by OISC.

Response from BugMD support identifying that they had received the email containing the Stop Sale Order.

On March 16, 2023 Label Reviews were completed on all products and found them to be not acceptable.

On June 16, 2023 the submitting company for registrant identified that the block on sales was completed for the unregistered products. No revisions to the website were identified. Registrant was provided until 8/1/23 to confirm if the currently registered product (Essential Pest Control Concentrate) would have revised labels or if additional efficacy would be provided. Website revisions and updated labeling required by 10/1/23. The company was also informed that all other ecommerce sites must block sales to Indiana (ie Amazon) by 8/1/23. Any products that could still be sold/distributed in Indiana after 8/1/23 would be part of an additional case. Also identified that all current cases and civil penalty fees must be received before the 2024 renewal could be processed.

Submitted By: Garret A. Creason  
Role: Investigator

07/19/2023 **Disposition Summary**

BugMD was cited for four counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$2,000.00 (4 counts x \$500.00 per count) was assessed.

BugMD was cited for one count of violation of section 57(2) of the Indiana Pesticide Registration Law for distributing a pesticide product with labeling claims or directions for use different from that registered. A civil penalty in the amount of \$500.00 was assessed for this violation.

BugMD was warned for four counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated or misbranded.

BugMD was cited for one count of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product (Essential Pest Control Concentrate) with labeling claims or directions for use different from that registered. A civil penalty in the amount of \$500.00 was assessed for this violation.

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

Submitted By: George Saxton  
Role: Compliance Officer

## Chronology of Events

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### 02/24/2023 Intake Referral Filed

A virtual marketplace inspection was conducted on bugmd.com. Several unregistered pesticide products were located for sale and were able to be ordered.

Original Event: Intake Referral (Pesticide) #2936  
Complainant: Office of Indiana State Chemist  
Respondent: Bugmd  
Entered By: Garret A. Creason  
Submitted By: Joseph D. Becovitz

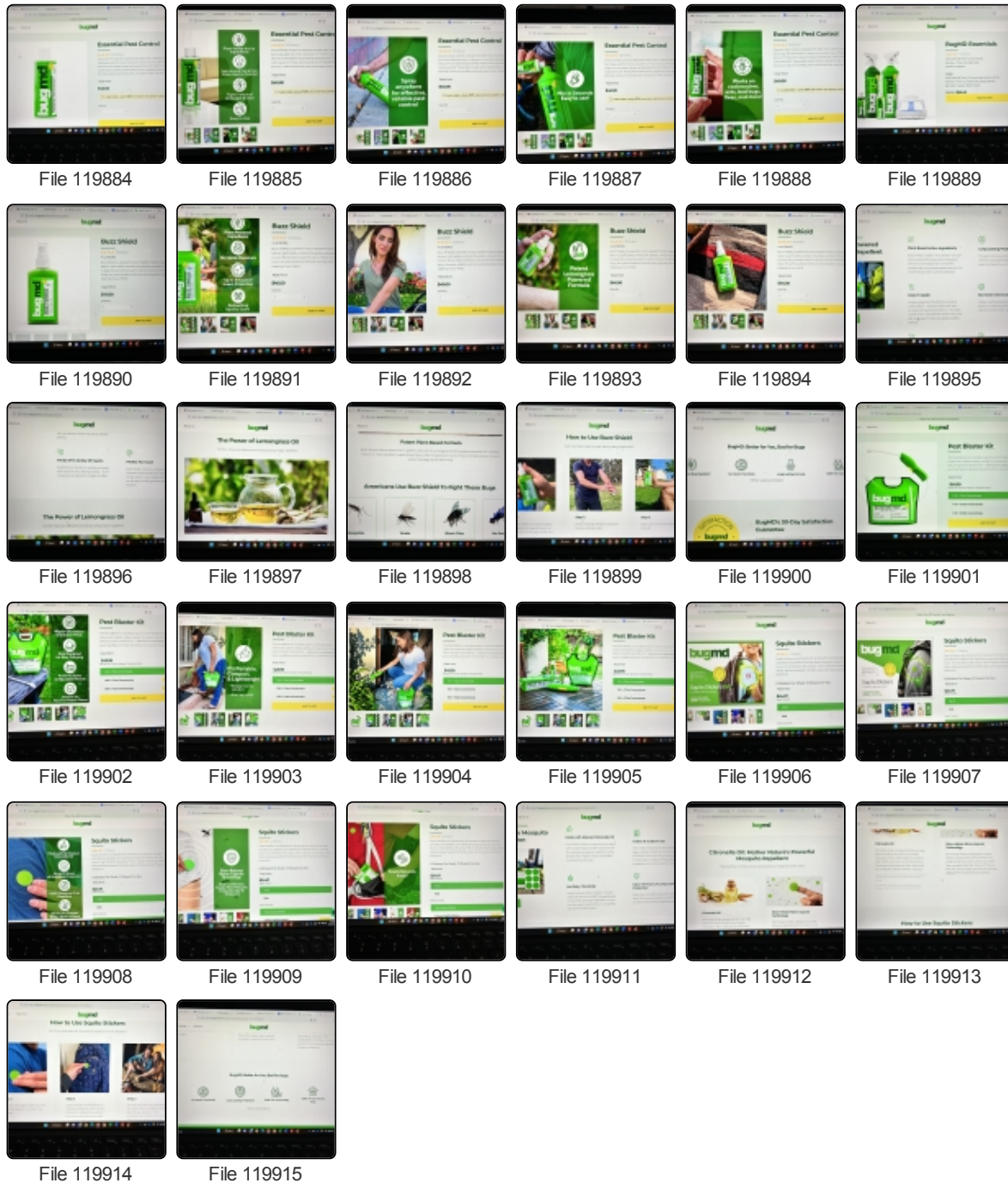
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### 02/24/2023 Marketplace Inspection Conducted Marketplace

Stop Sale Order issued to BugMD to stop the sale of unregistered products into the State of Indiana.



Attachments

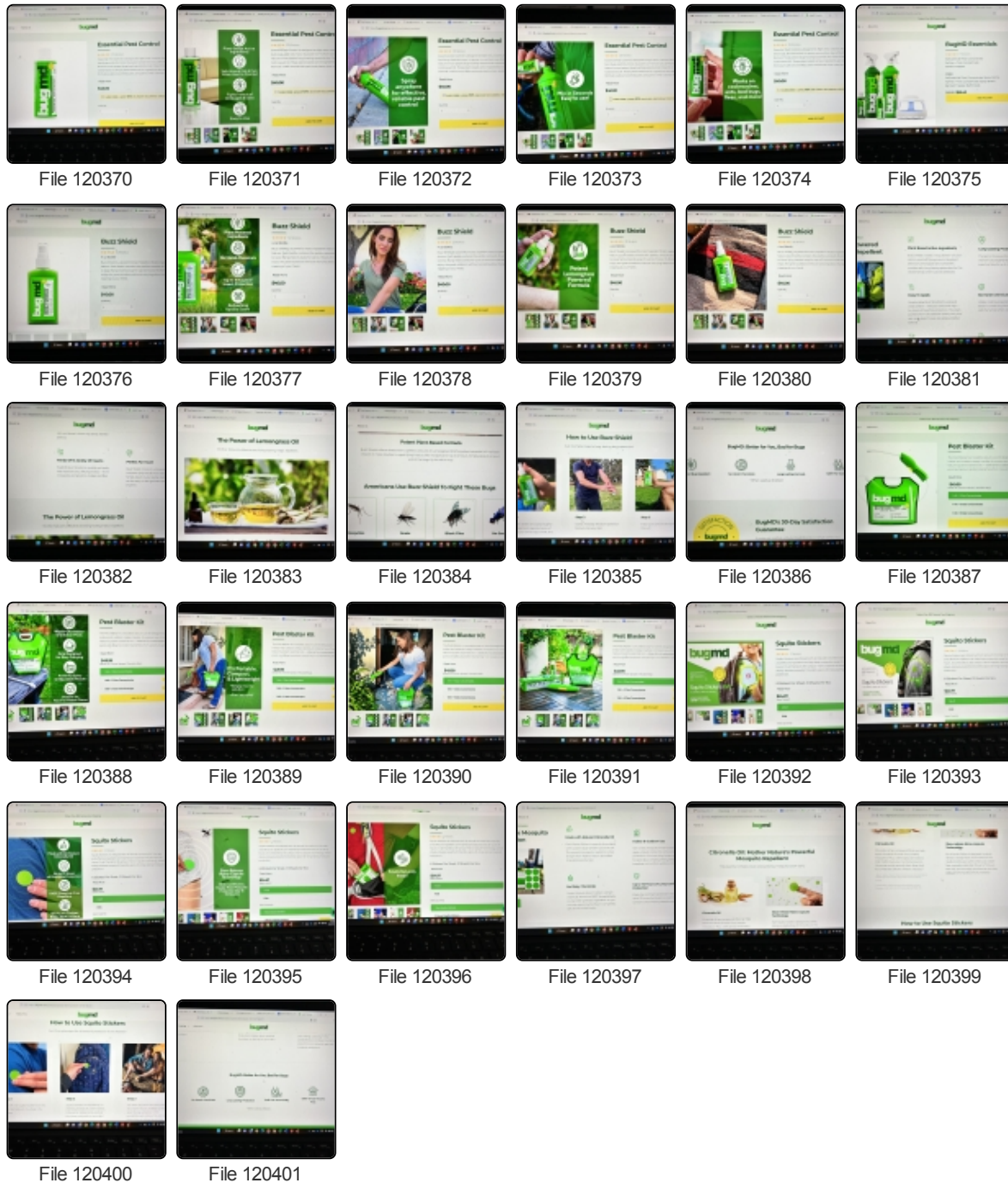


Original Event: Pesticide Inspection (Product) #308  
Client: Bugmd  
Firm Representative: Bugmd.Com  
Submitted By: Garret A. Creason

02/24/2023 **Online Investigation Activity Screenshots**

On February 24, 2023 a virtual marketplace inspection was conducted on bugmd.com Bugmd has one pesticide product registered with OISC. However, it was found that several pesticide products and devices were being advertised for sale on the Bugmd website. Multiple products from the website were able to be ordered.

Attachments



Original Event: Investigation Activity (Pesticide) #5901  
 Subject: Bugmd  
 Submitted By: Garret A. Creason

03/08/2023 **Formulation Samples Collected**

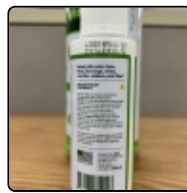
Original Event: Formulation Collection #257764 (23-3-0017 0)  
 Registrant: Bugmd  
 Submitted By: Garret A. Creason  
 Sample: 23-3-0017 0 | Essential Pest Control Concentrate  
 Sample: 23-3-0018 9 | Essential Pest Control Spray Bottle  
 Sample: 23-3-0019 1 | Flea + Tick Concentrate  
 Sample: 23-3-0020 9 | Flea + Tick Spray Bottle  
 Sample: 23-3-0021 3 | Buzz Shield Insect Repellent  
 Sample: 23-3-0022 1 | Squito Stickers  
 Sample: 23-3-0023 2 | Termination Station  
 Photos:



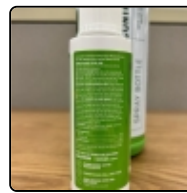
File 119744



File 119745



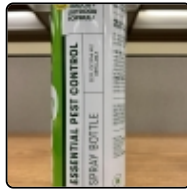
File 119746



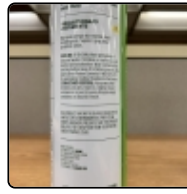
File 119747



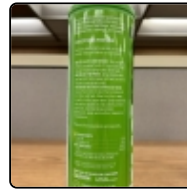
File 119749



File 119750



File 119751



File 119752



File 119753



File 119754



File 119755



File 119756



File 119757



File 119758



File 119759



File 119760



File 119761



File 119762



File 119763



File 119764



File 119765



File 119766



File 119767



File 119768



File 119769



File 119770



File 119771



File 119772



File 119773



File 119774

Original Event: Action Order #301  
Issued To: Bugmd  
Registrant: Bugmd  
Firm Representative: Bugmd.Com  
Submitted By: Garret A. Creason  
Attachments: File 119883; BugMd AO.pdf

03/09/2023 **Investigator Received Fax/Email from Registrant Communication**

Response from BugMD support identifying that they had received the email containing the Stop Sale Order.

Attachments


File 125958; Bugmdresponse.png

Original Event: Investigation Activity (Pesticide) #6314  
Subject: Bugmd  
Submitted By: Garret A. Creason

03/09/2023 **Case Created**


Original Event: Case PS23-0073  
Submitted By: Joseph D. Becovitz  
Assigned To: Garret A. Creason

03/15/2023 **Received Formulation Lab Report**  
**First Page of Lab Report**

		<i>Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed</i>		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu				
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>				
PRODUCT NAME <b>Essential Pest Control Concentrate</b>	INVESTIGATOR <b>CREASONG</b>	DATE SAMPLED <b>03/08/2023</b>	REPORT DATE <b>03/15/2023</b>	
OCM COLLECTION <b>257764-01</b>	SAMPLE NO. <b>23-3-0017 0</b>	EPA REG NO.		
ACTIVE INGREDIENT		%GUARANTEE	%FOUND	
Documentary - No Analysis Performed				
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #260583 (257764-01-R774)  
Submitted By: SYSTEM  
Lab Report: Lab Report 257764-01-R774.pdf


03/15/2023 **Received Formulation Lab Report**  
**First Page of Lab Report**

		<i>Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed</i>		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu				
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>				
PRODUCT NAME <b>Essential Pest Control Spray Bottle</b>	INVESTIGATOR <b>CREASONG</b>	DATE SAMPLED <b>03/08/2023</b>	REPORT DATE <b>03/15/2023</b>	
OCM COLLECTION <b>257764-02</b>	SAMPLE NO. <b>23-3-0018 9</b>	EPA REG NO.		
ACTIVE INGREDIENT		%GUARANTEE	%FOUND	
Documentary - No Analysis Performed				
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #260584 (257764-02-R774)  
Submitted By: SYSTEM  
Lab Report: Lab Report 257764-02-R774.pdf

03/15/2023 **Received Formulation Lab Report**


First Page of Lab Report

		Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
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<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>				
PRODUCT NAME <b>Flea + Tick Concentrate</b>	INVESTIGATOR <b>CREASONG</b>	DATE SAMPLED <b>03/08/2023</b>	REPORT DATE <b>03/15/2023</b>	
OCM COLLECTION <b>257764-03</b>	SAMPLE NO. <b>23-3-0019 1</b>	EPA REG NO.		
ACTIVE INGREDIENT		%GUARANTEE	%FOUND	
Documentary - No Analysis Performed				
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #260585 (257764-03-R774)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 257764-03-R774.pdf

03/15/2023 Received Formulation Lab Report


First Page of Lab Report

		Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
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<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>				
PRODUCT NAME <b>Termination Station</b>	INVESTIGATOR <b>CREASONG</b>	DATE SAMPLED <b>03/08/2023</b>	REPORT DATE <b>03/15/2023</b>	
OCM COLLECTION <b>257764-07</b>	SAMPLE NO. <b>23-3-0023 2</b>	EPA REG NO.		
ACTIVE INGREDIENT		%GUARANTEE	%FOUND	
Documentary - No Analysis Performed				
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #260588 (257764-07-R774)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 257764-07-R774.pdf

03/15/2023 Received Formulation Lab Report


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		Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu				
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>				
PRODUCT NAME <b>Squito Stickers</b>	INVESTIGATOR <b>CREASONG</b>	DATE SAMPLED <b>03/08/2023</b>	REPORT DATE <b>03/15/2023</b>	
OCM COLLECTION <b>257764-06</b>	SAMPLE NO. <b>23-3-0022 1</b>	EPA REG NO.		
ACTIVE INGREDIENT		%GUARANTEE	%FOUND	
Documentary - No Analysis Performed				
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #260589 (257764-06-R774)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 257764-06-R774.pdf

03/15/2023 **Received Formulation Lab Report**


**First Page of Lab Report**

		<i>Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed</i>		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu				
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>				
PRODUCT NAME <b>Buzz Shield Insect Repellent</b>	INVESTIGATOR <b>CREASONG</b>	DATE SAMPLED <b>03/08/2023</b>	REPORT DATE <b>03/15/2023</b>	
OCM COLLECTION <b>257764-05</b>	SAMPLE NO. <b>23-3-0021 3</b>	EPA REG NO.		
ACTIVE INGREDIENT		%GUARANTEE	%FOUND	
Documentary - No Analysis Performed				
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #260590 (257764-05-R774)  
Submitted By: SYSTEM  
Lab Report: Lab Report 257764-05-R774.pdf

03/15/2023 **Received Formulation Lab Report**

**First Page of Lab Report**

		<i>Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed</i>		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu				
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>				
PRODUCT NAME <b>Flea + Tick Spray Bottle</b>	INVESTIGATOR <b>CREASONG</b>	DATE SAMPLED <b>03/08/2023</b>	REPORT DATE <b>03/15/2023</b>	
OCM COLLECTION <b>257764-04</b>	SAMPLE NO. <b>23-3-0020 9</b>	EPA REG NO.		
ACTIVE INGREDIENT		%GUARANTEE	%FOUND	
Documentary - No Analysis Performed				
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #260591 (257764-04-R774)  
Submitted By: SYSTEM  
Lab Report: Lab Report 257764-04-R774.pdf

03/16/2023 **Notice of Stop Sale Sent**

Virtual MPI. Stop sale was issued via email to BUGMD. No additional Notification needed.

Original Event: Pesticide Products Activity #40  
Primary: Bugmd  
Submitted By: Victoria J. Matsumura

03/16/2023 **Label Review Conducted; Not Acceptable**

**Essential Pest Control Concentrate**

NOT Acceptable

**Essential Pest Control Spray Bottle**

No Determination

**Flea + Tick Concentrate**

No Determination

**Flea + Tick Spray Bottle**

No Determination

**Buzz Shield Insect Repellent**

No Determination

**Squito Stickers**

NOT Acceptable

**Termination Station**

NOT Acceptable

**Attachments**

File 129466; Bug MD label review .pdf

File 129467; Bug MD label review .pdf

File 129469; Bug MD label review .pdf

File 129470; Bug MD label review .pdf

File 129471; Bug MD label review .pdf

Original Event: Label Review (Pesticide) #211 (Bugmd)  
Registrant: Bugmd  
Submitted By: Victoria J. Matsumura

---

**07/17/2023 Pesticide Products Activity**

on 6/16/23 submitting company for registrant identified that the block on sales was completed for the unregistered products. No revisions to the website were identified. Registrant was provided until 8/1/23 to confirm if the currently registered product (Essential Pest Control Concentrate) would have revised labels or if additional efficacy would be provided. Website revisions and updated labeling required by 10/1/23. The company was also informed that all other ecommerce sites must block sales to Indiana (ie Amazon) by 8/1/23. Any products that could still be sold/distributed in Indiana after 8/1/23 would be part of an additional case. Also identified that all current cases and civil penalty fees must be received before the 2024 renewal could be processed.

Original Event: Pesticide Products Activity #65  
Primary: Bugmd  
Submitted By: Sarah K. Caffery  
Attachments: File 129088; 2023-07-17 Email to Registrant - Finalizing Actions.pdf

---

**07/19/2023 Judgement; Civil Penalty Assessed Warning**

BugMD was warned for four counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product that was adulterated or misbranded.

**Civil Penalty**

BugMD was cited for four counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$2,000.00 (4 counts x \$500.00 per count) was assessed.

**Civil Penalty**

BugMD was cited for one count of violation of section 57(2) of the Indiana Pesticide Registration Law for distributing a pesticide product with labeling claims or directions for use different from that registered. A civil penalty in the amount of \$500.00 was assessed for this violation.

**Civil Penalty**

BugMD was cited for one count of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing a pesticide product (Essential Pest Control Concentrate) with labeling claims or directions for use different from that registered. A civil penalty in the amount of \$500.00 was assessed for this violation.

**Civil Penalty**

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

Original Event: Judgement #1553  
Primary: Bugmd  
Submitted By: George Saxton  
Legal Citations: IC 15-16-4-57(1); IC 15-16-4-57(2); IC 15-16-4-57(5); IC 15-16-4-57(9)  
Penalty Amount: 4000

---

**07/21/2023 Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2522  
To: Bugmd  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1222  
Enclosed: Notice of Enforcement  
Attachments: File 129549; PS23-0073EL CIT-CP ~ BugMD.docx

---

**07/28/2023 Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2185  
Subject: Bugmd  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1222  
Received: 07/28/2023  
Attachments: File 131306; CM 7021 2720 0003 1615 1222 - Recd 7.28.2023 - BugMD - PS23-0073.pdf

---

03/31/2023 **Received Penalty Payment for Target**  
Original Event: Compliance Receipt #2292  
Subject: Bugmd  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$4,000.00  
Payment Received: \$4,000.00  
Attachments: File 137178; PS23-0073 - BugMD - CP Received 10-31-2023.pdf

---

11/03/2023 **Notice of Case Closure Mailed to Target**  
Original Event: Outgoing Mail #2809  
To: Bugmd  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 137366; PS23-0073 - BugMD - Case Closed Letter 11-3-2023.docx

---

### Chain of Custody

---

03/09/2023 **Sample 23-3-0017 0**  
Original Event: Chain of Custody #4904 (23-3-0017 0)  
03/08/2023 08:00: Sample Collected by Garret A. Creason  
03/08/2023 08:19: Sample Delivered to lily  
03/09/2023 11:59: Delivery Affirmed by Natalie C. Wilson

---

03/09/2023 **Sample 23-3-0018 9**  
Original Event: Chain of Custody #4905 (23-3-0018 9)  
03/08/2023 08:00: Sample Collected by Garret A. Creason  
03/08/2023 08:19: Sample Delivered to lily  
03/09/2023 11:59: Delivery Affirmed by Natalie C. Wilson

---

03/09/2023 **Sample 23-3-0019 1**  
Original Event: Chain of Custody #4906 (23-3-0019 1)  
03/08/2023 08:00: Sample Collected by Garret A. Creason  
03/08/2023 08:19: Sample Delivered to lily  
03/09/2023 11:59: Delivery Affirmed by Natalie C. Wilson

---

03/09/2023 **Sample 23-3-0020 9**  
Original Event: Chain of Custody #4907 (23-3-0020 9)  
03/08/2023 08:00: Sample Collected by Garret A. Creason  
03/08/2023 08:19: Sample Delivered to lily  
03/09/2023 11:59: Delivery Affirmed by Natalie C. Wilson

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03/09/2023 **Sample 23-3-0021 3**  
Original Event: Chain of Custody #4908 (23-3-0021 3)  
03/08/2023 08:00: Sample Collected by Garret A. Creason  
03/08/2023 08:19: Sample Delivered to lily  
03/09/2023 11:59: Delivery Affirmed by Natalie C. Wilson

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03/09/2023 **Sample 23-3-0022 1**  
Original Event: Chain of Custody #4909 (23-3-0022 1)  
03/08/2023 08:00: Sample Collected by Garret A. Creason  
03/08/2023 08:19: Sample Delivered to lily  
03/09/2023 11:59: Delivery Affirmed by Natalie C. Wilson

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03/09/2023 **Sample 23-3-0023 2**  
Original Event: Chain of Custody #4910 (23-3-0023 2)  
03/08/2023 08:00: Sample Collected by Garret A. Creason  
03/08/2023 08:19: Sample Delivered to lily  
03/09/2023 11:59: Delivery Affirmed by Natalie C. Wilson

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Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

*Protecting Indiana's Agriculture and Environment*

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

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**In Re: Case PS23-0099**

Department	Pesticide
Originated	04/14/2023
Assigned To	William R. Reid
Status	Closed

**Involved Parties**

Complainant	<b>Office of Indiana State Chemist</b>
Respondent	<b>Kraner Lawn &amp; Landscaping</b> Fort Wayne, IN 46808
Issued To Respondent	<b>Scott E Kraner</b> Fort Wayne, IN 46802

**Overviews**

09/14/2023 **Investigation Summary**

On a routine stop, Scott Kraner (Owner of Kraner lawn & landscaping) was out making applications without being properly licensed. He was applying Lesco Fertilizer Plus Pre-Emergent Herbicide EPA Reg No. 10404-86 and a 28-0-3 Fertilizer. Mr. Kraner also had Amine 400 2,4-D a Weed Killer EPA Reg No. 2217-2 and Glyphosate Grass and Weed Killer that were both unopened at the time of the stop. He was aware that he needed to be licensed and was licensed with OISC a long time ago. Mr. Kraner was written an action order and was asked to email me any other applications that he has made.

Submitted By: William R. Reid  
Role: Investigator

09/15/2023 **Disposition Summary**

Kraner Lawn & Landscaping was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying a pesticide for hire without having an Indiana pesticide business license.

Scott Kraner was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying a pesticide for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

04/11/2023 **General Inspection Conducted  
Credentials Inspection**

Scott Kraner was out making applications without being properly licensed. He was applying Lesco Fertilizer Plus Pre-Emergent Herbicide EPA Reg No. 10404-86 and a 28-0-3 Fertilizer. Mr. Kraner also had Amine 400 2,4-D a Weed Killer EPA Reg No. 2217-2 and Glyphosate Grass and Weed Killer that were both unopened at the time of the stop. He was aware that he needed to be licensed and was licensed with OISC a long time ago. Mr. Kraner was written an action order and was asked to email me the other applications that he admitted to doing earlier in the day.

**Lawn & Landscape Inspection**

Mr. Kraner was getting ready to make an application. He and his company are not licensed with OISC. He admitted to making applications earlier in the day and stated that he would send me invoices and records. Mr. Kraner had the several empty bags and products in the back of his truck.

## Attachments



File 122408



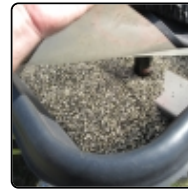
File 122403



File 122409



File 122410



File 122411



File 122413



File 122412

Original Event: Pesticide Inspection (General) #2218  
 Client: Scott E Kraner  
 Firm Representative: Scott Kraner  
 Submitted By: William R. Reid

**04/11/2023 Notice of Inspection Issued**

Original Event: Notice of Inspection #1494  
 Client: Scott E Kraner  
 Firm Representative: Scott Kraner  
 Submitted By: William R. Reid  
 Attachments: File 122418; NOI for Scott Kraner.pdf

**04/11/2023 Action Order Issued**

Stop all applications of Fertilizer or Pesticides until licensed properly with OISC. Stop all Advertising with out being licensed with OISC.

See number 11 and 4 on back of paper.

Original Event: Action Order #314  
 Issued To: Scott E Kraner  
 Firm Representative: Scott Kraner  
 Submitted By: William R. Reid  
 Attachments: File 122419; action order Scott Kraner.pdf

**04/11/2023 Investigator Met with Applicator Interaction**

Scott Kraner owner of Kraner's Lawn & Landscape Company was stopped on a routine inspection. Scott and his company both are not licensed with OISC. Mr. Kraner was out making applications of Lesco Fertilizer Plus Pre-Emergent Herbicide EPA Reg No 10404-86. He was aware that he needed to be licensed and was licensed along time ago with OISC.

Original Event: Investigation Activity (Pesticide) #6710  
 Subject: Scott E Kraner  
 Submitted By: William R. Reid

**04/14/2023 Intake Referral Filed**

Scott Kraner owner of Kraner's Lawn & Landscape Company was stopped on a routine inspection. Scott and his company both are not licensed with OISC. Mr. Kraner was out making applications of Lesco Fertilizer Plus Pre-Emergent Herbicide EPA Reg No 10404-86. He was aware that he needed to be licensed and was licensed along time ago with OISC.

Original Event: Intake Referral (Pesticide) #2972  
 Complainant: Office of Indiana State Chemist  
 Respondent: Scott E Kraner  
 Entered By: William R. Reid  
 Submitted By: George Saxton

**04/14/2023 Case Created**

Original Event: Case PS23-0099  
 Submitted By: George Saxton  
 Assigned To: William R. Reid

**09/15/2023 Judgement; Civil Penalty Assessed Citation**

Kraner Lawn & Landscaping was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying a pesticide for hire without having an Indiana pesticide business license.

## Civil Penalty

Scott Kraner was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying a pesticide for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Original Event: Judgement #1578  
Primary: Kraner Lawn & Landscaping  
Secondary: Scott E Kraner  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(9)  
Penalty Amount: 1000

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### 09/15/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2704  
To: Scott E Kraner  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1345  
Enclosed: Notice of Enforcement  
Attachments: File 134319; PS23-0099EL CIT - CP ~ Scott E. Kraner - Kraner Lawn & Landscaping.docx

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### 10/19/2023 **Mail Confirmation Not Received for Target**

On October 19, 2023, certified mail was returned to OISC. Regular mail has not been returned at this time.

Original Event: Compliance Receipt #2278  
Subject: Scott E Kraner  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1345  
Attachments: File 136655; CM 7021 2720 0003 1615 1345 - Mr. Scott E. Kraner - PS23-0099 - Certified Mail  
Returned 10-19-2023.pdf

---

### 10/24/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2281  
Subject: Scott E Kraner  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$1,000.00  
Payment Received: \$1,000.00  
Attachments: File 136887; PS23-0099 - Mr. Scott Kraner - CP Received 10-24-2023.pdf

---

### 10/24/2023 **Mail Confirmation Assumed for Target**

As of October 24, 2023, regular mail has not been returned to OISC. However, Mr. Kraner has paid his civil penalty, therefore, regular mail is assumed to have been received.

Original Event: Compliance Receipt #2282  
Subject: Scott E Kraner  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1345

---

### 10/25/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2799  
To: Scott E Kraner  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 136910; PS23-0099 - Scott E. Kraner - Case Closed Letter 10-25-2023.docx

---

## Chain of Custody

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

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www.oisc.purdue.edu

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

This record was generated on **October 16, 2023, 03:10 PM EDT**. Information displayed may contain errors or omissions.  
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### In Re: Case PS23-0113

Department	Pesticide
Originated	04/25/2023
Assigned To	Garret A. Creason
Status	Closed

### Involved Parties

Complainant	<b>Office of Indiana State Chemist</b>	
Respondent Registrant	<b>Flock Free Bird Control</b> Lakewood, NJ 08701	
Respondent Issued To	<b>Rural King</b> Shelbyville, IN 46176	
-	<b>Rural King</b> Mattoon, IL 61938	Jade Kline, Corporate Counsel

### Overviews

#### 06/13/2023 **Product Registration Summary**

Per review, we identified that both the Invisideer and the Bird Pucks are unregistered pesticides. Neither comply with 25(b) exemption conditions. The Flock Free Bird Repellent Spray RTU and Concentrate have both been submitted to OISC with application packages in previous years (2017, 2021, 2022). Each previous application was denied.

Per conversations with the registrant, the registrant identified that the Invisideer and Bird Puck products did not require registration as a pesticide nor regulation under FIFRA. OISC requested any communication that the registrant had with EPA to confirm this; no communication was provided.

As identified in the review for the Bird Pucks and the Invisideer, Flock Free Control LLC can submit an M009 to the US EPA. If the M009 provides confirmation that the product does not require registration with EPA as a pesticide, this information can be provided to OISC and the product can return to the state for distribution, sale and use.

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

#### 07/25/2023 **Investigation Summary**

On April 25, 2023 a Marketplace inspection conducted at Rural King in Shelbyville, IN found multiple FLock Free brand unregistered pesticide products for sale. A Stop Sale Order was issued and evidentiary samples were collected.

On April 26, 2023 a Stop Sale was issued to the registrant, Flock Free.

On April 26, 2023 Kris Walker called in response to the SSURO notification email. Company does not believe that two products would require registration; she is sending documentation via email. She would also like to go through the registration process instead of the recall process. I identified that I would need to work through the details for that prior to Flock Free sending anything in for the registration.

Label reviews were conducted and found that the product labels were not acceptable.

Per review, we identified that both the Invisdeer and the Bird Pucks are unregistered pesticides. Neither comply with 25(b) exemption conditions. The Flock Free Bird Repellent Spray RTU and Concentrate have both been submitted to OISC with application packages in previous years (2017, 2021, 2022). Each previous application was denied. Per conversations with the registrant, the registrant identified that the Invisdeer and Bird Puck products did not require registration as a pesticide nor regulation under FIFRA. OISC requested any communication that the registrant had with EPA to confirm this; no communication was provided. As identified in the review for the Bird Pucks and the Invisdeer, Flock Free Control LLC can submit an M009 to the US EPA. If the M009 provides confirmation that the product does not require registration with EPA as a pesticide, this information can be provided to OISC and the product can return to the state for distribution, sale and use.

On June 13, 2023 the Stop Sale was released to allow for the products to be returned to the registrant or disposed of.

Submitted By: Garret A. Creason  
Role: Investigator

---

07/25/2023 **Disposition Summary**

Rural King was warned for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale in the state of Indiana.

Flock Free Bird Control was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing pesticide products that were not registered for sale in the state of Indiana. A civil penalty in the amount of \$1,000.00 (2 counts x \$500.00 per count) was assessed.

Flock Free Bird Control was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing pesticide products that were not registered for sale in the state of Indiana. A civil penalty in the amount of \$2,000.00 (2 counts x \$1,000.00 per count) was assessed.

Flock Free Bird Control was cited for two (2) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing pesticide products that were in violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). A civil penalty in the amount of \$2,000.00 (2 counts x \$1,000.00 per count) was assessed.

Submitted By: George Saxton  
Role: Compliance Officer

---

**Chronology of Events**

---

03/27/2023 **Pesticide Products Activity**

Due to previously submitted applications being denied, OISC identified that the Bird Repellent Tank Mix Spray and the Concentrate required recall prior to submitting registration applications. At this time, the Invisdeer and Bird Pucks were still under review to determine if the products were considered pesticides. Flock Free was given until 5/5/23 to provide documentation of the products. Documentation would have included confidential statement of formula and any communication with EPA identifying that the products were not pesticides.

Original Event: Pesticide Products Activity #58  
Primary: Flock Free Bird Control  
Submitted By: Sarah K. Caffery  
Attachments: File 124436; 2023-04-27 Email Communication.pdf

---

04/25/2023 **Intake Referral Filed**

Unregistered Pesticide Products being sold at Rural King in Shelbyville, IN.

Original Event: Intake Referral (Pesticide) #2991  
Complainant: Office of Indiana State Chemist  
Respondent: Rural King  
Respondent 2: Flock Free Bird Control  
Entered By: Garret A. Creason  
Submitted By: George Saxton

---

04/25/2023 **Formulation Samples Collected (Pending)**

Original Event: Formulation Collection #263385 (23-3-0028 4)  
Registrant: Flock Free Bird Control  
Client: Rural King  
Firm Representative: Nicole Choate  
Submitted By: Garret A. Creason  
Sample: 23-3-0028 4 | Flock Free Bird Repellent Spray  
Sample: 23-3-0031 1 | Flock Free Invisdeer  
Sample: 23-3-0029 7 | Flock Free Bird Repellent Spray Concentrate  
Sample: 23-3-0030 7 | Flock Free Grape Scent Bird Pucks  
Attachments: File 123045; RK FF RFS.pdf  
Photos:



File 123027



File 123028



File 123029



File 123030



File 123037



File 123038



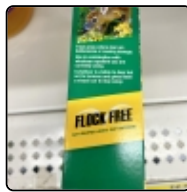
File 123040



File 123041



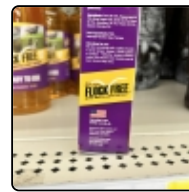
File 123042



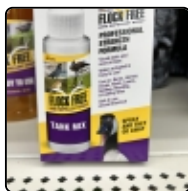
File 123043



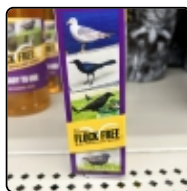
File 123032



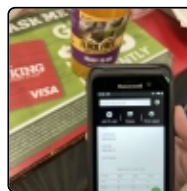
File 123033



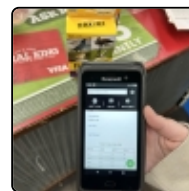
File 123034



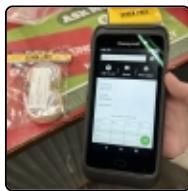
File 123035



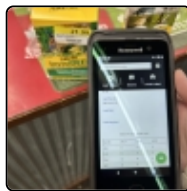
File 123031



File 123036



File 123039



File 123044

04/25/2023 **Stop Sale Order Issued**

Original Event:	Action Order #316
Issued To:	Rural King
Registrant:	Flock Free Bird Control
Firm Representative:	Nicole Choate
Submitted By:	Garret A. Creason
Attachments:	File 123046; RK FF SS.pdf

04/25/2023 **Investigator Met with Registrant Photographs**

Additional photos of the Flock Free products.

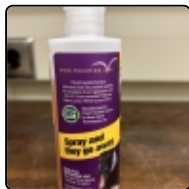
Attachments



File 124353



File 124354



File 124355



File 124356



File 124357



File 124358



File 124359



File 124360

Original Event: Investigation Activity (Pesticide) #6210  
Subject: Flock Free Bird Control  
Submitted By: Garret A. Creason

---

04/25/2023 **INCIDENTAL Notice of Inspection Issued**

Original Event: Notice of Inspection #1611  
Linked From: Pesticide Inspection (Product) #325  
Client: Rural King  
Firm Representative: Nicole Choate  
Submitted By: Garret A. Creason  
Attachments: File 124788; RK NOI.pdf

---

04/25/2023 **Marketplace Inspection Conducted**  
**Marketplace**

Marketplace inspection conducted at Rural King in Shelbyville, IN found multiple FLock Free brand unregistered pesticide products for sale. A Stop Sale Order was issued and evidentiary samples were collected.

Original Event: Pesticide Inspection (Product) #325  
Client: Rural King  
Firm Representative: Nicole Choate  
Submitted By: Garret A. Creason

---

04/25/2023 **Investigator Met with Distributor**  
**Communication**

Marketplace inspection conducted at Rural King in Shelbyville, IN found multiple FLock Free brand unregistered pesticide products for sale. A Stop Sale Order was issued and evidentiary samples were collected.

Original Event: Investigation Activity (Pesticide) #6246  
Subject: Rural King  
Submitted By: Garret A. Creason

---

04/25/2023 **Case Created**

Original Event: Case PS23-0113  
Submitted By: George Saxton  
Assigned To: Garret A. Creason

---

04/26/2023 **Notice of Stop Sale Sent**

SSURO notification sent via email to Flock Free Bird Control

Original Event: Pesticide Products Activity #53  
Primary: Flock Free Bird Control  
Submitted By: Sarah K. Caffery  
Attachments: File 123146; 2023-04-26 SSURO Notification Email.pdf

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04/26/2023 **Pesticide Products Activity**

Kris Walker called in response to the SSURO notification email. Company does not believe that two products would require registration; she is sending documentation via email. She would also like to go through the registration process instead of the recall process. I identified that I would need to work through the details for that prior to Flock Free sending anything in for the registration.


Original Event: Pesticide Products Activity #54  
Primary: Flock Free Bird Control  
Submitted By: Sarah K. Caffery

---

05/03/2023 **Received Formulation Lab Report**



First Page of Lab Report

		<b>Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed</b>		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner	
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu					
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>					
PRODUCT NAME <b>Flock Free Invisideer</b>		INVESTIGATOR <b>CREASONG</b>		DATE SAMPLED <b>04/25/2023</b>	REPORT DATE <b>05/03/2023</b>
OCM COLLECTION <b>263385-02</b>		SAMPLE NO. <b>23-3-0031 1</b>		EPA REG NO.	
ACTIVE INGREDIENT			%GUARANTEE		%FOUND
No Analysis Performed					Done
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee					

Original Event: Formulation Lab Report #264433 (263385-02-R944)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 263385-02-R944.pdf

05/18/2023 **Label Review Conducted; Not Acceptable**  
**Flock Free Grape Scent Bird Pucks**  
 NOT Acceptable; Labeling review identified the product is an unregistered pesticide.

Attachments

File 124405; 2023-05-18 Label Review - Bird Pucks.pdf

Original Event: Label Review (Pesticide) #219 (Flock Free Bird C...)  
 Registrant: Flock Free Bird Control  
 Submitted By: Sarah K. Caffery

05/18/2023 **Label Review Conducted; Not Acceptable**  
**Flock Free Invisideer UV Repellent Optimizer**  
 NOT Acceptable; Labeling review identified product as an unregistered pesticide.

Attachments

File 124406; 2023-05-18 Label Review - Invisideer UV Repellent Optimizer.pdf

Original Event: Label Review (Pesticide) #220 (Flock Free Bird C...)  
 Registrant: Flock Free Bird Control  
 Submitted By: Sarah K. Caffery

05/18/2023 **Label Review Conducted; Not Acceptable**  
**Tank Mix RTU & Concentrate**  
 NOT Acceptable; Products are not registered in the state of Indiana. Full label review has not been completed.

Attachments

File 124407; 2023-05-18 Label Review - Tank Mix RTU and Concentrate.pdf

Original Event: Label Review (Pesticide) #221 (Flock Free Bird C...)  
 Registrant: Flock Free Bird Control  
 Submitted By: Sarah K. Caffery

06/13/2023 **Stop Sale Released for Return/Disposal**  
**Flock Free Bird Repellent Spray**  
 Released for return or disposal

Attachments

File 126622; 2023-06-13 Stop Sale Return.pdf

Original Event: Stop Sale Release (PS) #40  
 Issued To: Rural King  
 Registrant: Flock Free Bird Control  
 Submitted By: Sarah K. Caffery

06/13/2023 **Stop Sale Released for Return/Disposal**  
**Flock Free Invisideer**  
 Released for return or disposal

Attachments

File 126623; 2023-06-13 Stop Sale Return.pdf

Original Event: Stop Sale Release (PS) #41  
Issued To: Rural King  
Registrant: Flock Free Bird Control  
Submitted By: Sarah K. Caffery

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06/13/2023 **Stop Sale Released for Return/Disposal**  
**Flock Free Bird Repellent Spray Concentrate**  
Released for return or disposal

Attachments

File 126624; 2023-06-13 Stop Sale Return.pdf

Original Event: Stop Sale Release (PS) #42  
Issued To: Rural King  
Registrant: Flock Free Bird Control  
Submitted By: Sarah K. Caffery

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06/13/2023 **Stop Sale Released for Return/Disposal**  
**Flock Free Grape Scent Bird Pucks**  
Released for return or disposal

Attachments

File 126625; 2023-06-13 Stop Sale Return.pdf

Original Event: Stop Sale Release (PS) #43  
Issued To: Rural King  
Registrant: Flock Free Bird Control  
Submitted By: Sarah K. Caffery

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07/25/2023 **Judgement; Civil Penalty Assessed**  
**Warning**

Rural King was warned for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale in the state of Indiana.

**Civil Penalty**

Flock Free Bird Control was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing pesticide products that were not registered for sale in the state of Indiana. A civil penalty in the amount of \$1,000.00 (2 counts x \$500.00 per count) was assessed.

**Civil Penalty**

Flock Free Bird Control was cited for two (2) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing pesticide products that were not registered for sale in the state of Indiana. A civil penalty in the amount of \$2,000.00 (2 counts x \$1,000.00 per count) was assessed.

**Civil Penalty**

Flock Free Bird Control was cited for two (2) counts of violation of section 57(9) of the Indiana Pesticide Registration Law for distributing pesticide products that were in violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). A civil penalty in the amount of \$2,000.00 (2 counts x \$1,000.00 per count) was assessed.

Original Event: Judgement #1561  
Primary: Rural King  
Secondary: Flock Free Bird Control  
Submitted By: George Saxton  
Legal Citations: IC 15-16-4-57(1); IC 15-16-4-57(9)  
Penalty Amount: 5000

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08/01/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2562  
To: Rural King  
Submitted By: Joni D. Herman  
USPS: 7021 0950 0000 0608 0998  
Enclosed: Notice of Enforcement  
Attachments: File 131346; PS23-0113EL WRN ~ Rural King - Shelbyville.docx

---

08/01/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2563  
To: Flock Free Bird Control  
Submitted By: Joni D. Herman  
USPS: 7021 0950 0000 0608 0981  
Enclosed: Notice of Enforcement  
Attachments: File 131347; PS23-0113EL CIT-CP ~ Flock Free Bird Control.docx

---

08/07/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2210  
Subject: Rural King  
Submitted By: Jacob A. Hatfield  
USPS: 7021 0950 0000 0608 0998  
Received: 08/07/2023  
Attachments: File 131890; CM 7021 0950 0000 0608 0998 - Rural King - PS23-0113 - Proof of Delivery Date 8-7-2023.pdf  
File 131889; CM 7021 0950 0000 0608 0998 - Rural King - PS23-0113 - Received 8-7-2023.pdf

---

08/08/2023 **Notice Mailed to Subject**

Emailed to both Jade Kline, Corporate Counsel, & general RK Compliance a copy of the enforcement letter OISC mailed to Rural King - Shelbyville, on Aug. 1, 2023.

Original Event: Outgoing Mail #2568  
To: Rural King  
Submitted By: Joni D. Herman  
Enclosed: Notice  
Attachments: File 131384; PS23-0113 Email Delivery Receipt - Jade Kline and Compliance.pdf  
File 131383; PS23-0113 Email to Jade Kline and Compliance - RK Enforcement Letter.pdf

---

08/09/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2224  
Subject: Flock Free Bird Control  
Submitted By: Jacob A. Hatfield  
USPS: 7021 0950 0000 0608 0981  
Received: 08/09/2023  
Attachments: File 132345; CM 7021 0950 0000 0608 0981 - Flock Free Bird Control - PS23-0113 - Received 8-9-2023.pdf

---

08/21/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2226  
Subject: Flock Free Bird Control  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$5,000.00  
Payment Received: \$5,000.00  
Attachments: File 132365; PS23-0113 - Flock Free Bird Control - CP Received 8-21-2023.pdf

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09/11/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2685  
To: Flock Free Bird Control  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 133861; PS23-0113 - Flock Free Bird Control - Case Closed Letter 9-11-2023.docx

---

09/11/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2686  
To: Rural King  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 133862; PS23-0113 - Rural King - Case Closed Letter 9-11-2023.docx

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09/11/2023 **Notice Mailed to Target**

Emailed to both Jade Kline, Corporate Counsel, & general RK Compliance a copy of the case closed letter OISC mailed to Rural King - Shelbyville, on September 11, 2023.

Original Event: Outgoing Mail #2687  
To: Rural King  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice  
Attachments: File 133863; PS23-0113 - Rural King - Case Closed Letter 9-11-2023.docx  
File 133864; Relayed\_ OISC Case #PS23-0113 \_ Rural King - Shelbyville \_ Closed Case Letter - Copy.docx

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**Chain of Custody**

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04/25/2023 **Sample 23-3-0028 4**

Original Event: Chain of Custody #5944 (23-3-0028 4)  
04/25/2023 10:00: Sample Collected by Garret A. Creason  
04/27/2023 08:00: Sample Delivered to lily  
05/01/2023 09:50: Delivery Affirmed by Natalie C. Wilson

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04/25/2023 **Sample 23-3-0029 7**

Original Event: Chain of Custody #5945 (23-3-0029 7)  
04/25/2023 10:00: Sample Collected by Garret A. Creason  
04/27/2023 08:00: Sample Delivered to lily  
05/01/2023 09:50: Delivery Affirmed by Natalie C. Wilson

---

04/25/2023 **Sample 23-3-0030 7**

Original Event: Chain of Custody #5946 (23-3-0030 7)  
04/25/2023 10:00: Sample Collected by Garret A. Creason  
04/27/2023 08:00: Sample Delivered to lily  
05/01/2023 09:50: Delivery Affirmed by Natalie C. Wilson

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04/25/2023 **Sample 23-3-0031 1**

Original Event: Chain of Custody #5947 (23-3-0031 1)  
04/25/2023 10:00: Sample Collected by Garret A. Creason  
04/27/2023 08:00: Sample Delivered to lily  
05/01/2023 09:50: Delivery Affirmed by Natalie C. Wilson

This record was generated on **October 16, 2023, 03:10 PM EDT**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.



Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

*Protecting Indiana's Agriculture and Environment*

Purdue University • 175 S University Street  
West Lafayette, IN 47907-2063  
Telephone (765) 494-1492 • Facsimile (765) 494-4331  
www.oisc.purdue.edu

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

This record was generated on **December 4, 2023, 11:13 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.

### In Re: Case PS23-0128

Department	Pesticide
Originated	05/01/2023
Assigned To	James M. Trimble
Status	Closed

### Involved Parties

Complainant	<b>Mary Ann Wiebers</b> Lafayette, IN 47905
Business	<b>Nutrien Ag Solutions Inc</b> Delphi, IN 46923
Applicator	<b>Michael Ross Milner</b> Delphi, IN 46923

### Overviews

#### 09/18/2023 Investigation Summary

On May 1, 2023, the complainant reported to OISC that a pesticide application to a neighboring field occurred during high winds blowing towards her property which exposed her and caused injury to her vegetation.

On May 4, 2023, I conducted my on-site investigation, where I identified minor herbicide exposure symptoms to some of the vegetation on the complainant's property. I collected multiple samples from the complainant's property and the target field for analysis by the OISC Residue Lab and PPD.L.

I then identified the pesticide business responsible for the pesticide application to the target field and later received their application records, where I found the application occurred while the wind was blowing towards the complainant's property.

The lab results confirmed that the target field's application had moved off-target and onto the complainant's property, which caused adverse affect. I also identified two label violations for not following application instructions.

Submitted By: James M. Trimble  
Role: Investigator  
Drift: Confirmed

#### 09/22/2023 Disposition Summary

Nutrien Ag Solutions Inc. was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a restricted use pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site. Consideration was given to the fact a restricted use pesticide was involved and there was an adverse effect.

Michael Milner was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a restricted use pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was an adverse effect.

Submitted By: George Saxton  
Role: Compliance Officer

### Chronology of Events

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05/01/2023 **Intake Referral Filed**

Complainant stated a pesticide application was made to a farm field to the south of her property when the wind was gusting to 40 miles per hour and blowing toward her property.

Original Event: Intake Referral (Pesticide) #3003  
Complainant: Mary Ann Wiebers  
Respondent: Unknown  
Entered By: Joseph D. Becovitz  
Submitted By: Jacob A. Hatfield  
Assigned To: James M. Trimble

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05/01/2023 **Case Created**

Original Event: Case PS23-0128  
Submitted By: Joseph D. Becovitz  
Assigned To: James M. Trimble

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05/02/2023 **Investigator Called Complainant Communication**

On May 2, 2023, I called and spoke with Ms. Wiebers, who reported she and her property had been exposed by a pesticide while an application was made to a field located to the south of her property. Ms. Wiebers' initial report to OISC stated that she believed the application had occurred on April 20, 2023 but advised me she wasn't positive on the date, but it had occurred during the week of the 20th. Ms. Wiebers stated she believed the application to the field started at approximately 10:00 AM. Ms. Wiebers stated there were wind gusts in excess of 40 MPH blowing towards her property during the field's application.

Ms. Wiebers stated she was outside her residence, planting azaleas, when she observed "large farm equipment" in the south field. Ms. Wiebers stated she first believed they were applying manure to the field, but did not smell manure. Ms. Wiebers stated she then observed a substance coming from the field and blowing onto her property. Ms. Wiebers stated she felt the substance that was coming from the field contact her skin and described the smell as "sweet". Ms. Wiebers stated after she believed she was exposed to the substance, she went into her house, but found the substance had also entered her house and porch area. Ms. Wiebers reported that a short time later, she had "trouble breathing" and later had a "stomach ache". Ms. Wiebers stated she thought about getting medical attention, but decided against it after her symptoms subsided. Ms. Wiebers stated she had washed the all of the clothing she had been wearing during the exposure and was not preserved for my collection.

Ms. Wiebers stated she observed the south field was "completely brown" on the day following the application. Ms. Wiebers reported that her Japanese Maple, Swamp Oak, and Copper Beech trees had shown signs of distress with some of them being "dead", but was unsure if it was from the field's application. Ms. Wiebers stated that she later called the farmer of the field, Fred Weiss. Ms. Wiebers stated she was unable to retrieve any valuable information about the field's application from Mr. Weiss. Ms. Wiebers provided me with Mr. Weiss' contact information.

Original Event: Investigation Activity (Pesticide) #6133  
Subject: Mary Ann Wiebers  
Submitted By: James M. Trimble

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05/04/2023 **Investigator Met with Complainant Photographs**

On May 4, 2023, I met with Ms. Wiebers at her residence to conduct my on-site investigation. Ms. Wiebers showed me the area where she was planting flowers when she believed she was exposed by the field's application. Ms. Wiebers also showed me a mixed variety of trees and ornamentals on her property that she was concerned with. Ms. Wiebers stated that she believed the trees had injury from acute and chronic pesticide exposure. Ms. Wiebers identified the field located to the south of her property as the field where she had witnessed the application on approximately April 20, 2023.

I identified the south field as the only target field in the area. I observed the target field had recently had its soil worked over, but also showed signs of a recent herbicide application by the dead vegetation around its edges and around the power poles erected within the field. I observed Ms. Wiebers' property and the south field shared a property line with a thin vegetation buffer between the two.

While on-site, I observed and photographed Ms. Wiebers' property and the vegetation located within. I observed her property to be fairly dense with a variety of large, mature trees, along with multiple ornamental plants. Due to the time of year, I observed some trees did not yet have leaves or the leaves were newly sprouted and were still small and immature. Being that the pesticide application had occurred approximately two weeks prior, I believed that many of the trees and/or ornamentals did not have leaves at the time of the application. I observed what I believed to be light herbicide exposure symptoms, which included bleached leaf spots, leaf streaking, and curled leaves to a number of plants around the property but mostly near the property's south end. I found the shorter vegetation showed more injury symptoms than the larger, more mature trees.

I then collected multiple gradient vegetation and swab samples from Ms. Wiebers' property and a vegetation sample from the target field for analysis by the OISC Residue Lab.

I also collected vegetation samples from around Ms. Wiebers' property for observation by the Purdue Plant & Pest Diagnostic Lab (PPDL).

**Herbicide Injury (File 134480)**



**Attachments**



File 123767



File 123768



File 123769



File 123770



File 123771



File 123772



File 123773



File 123775



File 123776



File 123777



File 123778



File 123779



File 123780



File 123781



File 123782



File 123783



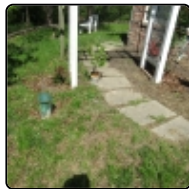
File 123784



File 123785



File 123786



File 123787



File 123788

File 123774; IMG\_3173.JPG  
File 134481; Injury2.jpg

Original Event: Investigation Activity (Pesticide) #6154  
Subject: Mary Ann Wiebers  
Submitted By: James M. Trimble

Original Event:  
Client:  
Firm Representative:  
Submitted By:  
Photos:

Notice of Inspection #1559  
Mary Ann Wiebers  
Mary Ann Wiebers  
James M. Trimble



File 123798

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05/04/2023 **Residue Samples Collected**

Original Event: Residue Collection #264704 (23-4-0898 9)  
Client: Mary Ann Wiebers  
Submitted By: James M. Trimble  
Sample: 23-4-0898 9 | Swab (Acetone); Grab; Window; OFF-T, Grad3, 30yd N  
Sample: 23-4-0899 1 | Swab (Acetone); Grab; Window; OFF-T, W  
Sample: 23-4-0900 0 | Swab (Acetone); Grab; Window; OFF-T, E  
Sample: 23-4-0901 6 | Swab (Acetone); Ctrl; Gutter spout; OFF-T, N  
Sample: 23-4-0902 8 | Swab (Acetone); Trip Blank  
Sample: 23-4-0903 7 | Veg; Comp; OFF-T, Grad1, 110yd N  
Sample: 23-4-0904 4 | Veg; Comp; OFF-T, Grad2, 50yd N  
Sample: 23-4-0905 9 | Veg; Comp; OFF-T, Grad3, 5yd N  
Sample: 23-4-0906 3 | Veg; Ctrl; OFF-T  
Sample: 23-4-0907 1 | Veg; Comp; Target  
Sample: 23-4-0908 5 | Swab (Acetone); Grab; Window; OFF-T, Grad2, 75yd N  
Sample: 23-4-0909 2 | Swab (Acetone); Grab; Window; OFF-T, Grad3, 100yd N

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05/04/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #265127 (X23-ED4E1C)  
Client: Mary Ann Wiebers  
Submitted By: James M. Trimble  
Lab: Purdue Plant and Pest Diagnostic Laboratory  
Sample: X23-ED4E1C | On May 4, 2023, I collected and submitted mixed vegetation samples for this case to PPDL.  
Attachments: File 123807; ResponseSummary (46).pdf

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05/04/2023 **Investigator Met with Farmer Interaction**

On May 4, 2023, I traveled to Wise & Wise Farms, where I spoke with Jeff Wise. Mr. Wise confirmed that they farm the south field in question but hire Nutrien Ag Solutions to complete the field's pesticide applications.

Original Event: Investigation Activity (Pesticide) #6155  
Subject: Jeff A Wise  
Submitted By: James M. Trimble

---

05/04/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1560  
Client: Jeff A Wise  
Firm Representative: Jeff Wise  
Submitted By: James M. Trimble  
Photos:



File 123799

---

05/04/2023 **Investigator Called Business Communication**

On May 4, 2023, after completing my on-site investigation and speaking with Mr. Wise, I contacted Mr. Loveless with Nutrien Ag. Mr. Loveless confirmed that they have completed a pesticide application to the south field in question around April 20, 2023. I informed Mr. Loveless of our Pesticide Investigation Inquiry (PII) and that I would send him an email containing the form.

Original Event: Investigation Activity (Pesticide) #6156  
Subject: Nutrien Ag Solutions Inc  
Submitted By: James M. Trimble

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05/04/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #696  
Submitted By: James M. Trimble  
Target Analyte: Surestart II  
Target Analyte: Atrazine 4L  
Target Analyte: Reviton  
PPLS Labels: [034704-00069-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20211110.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/034704-00069-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20211110.pdf)  
  
[062719-00679-20140227.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20140227.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/062719-00679-20140227.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20140227.pdf)  
  
[071512-00037-20230329.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/071512-00037-20230329.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/071512-00037-20230329.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/071512-00037-20230329.pdf)

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05/04/2023 **New Respondent Identified**  
**Respondent Identified**

On May 4, 2023, Mr. Loveless confirmed they made a pesticide application to the field in question.

Original Event: Investigation Change #329  
Respondent: Nutrien Ag Solutions Inc  
Submitted By: James M. Trimble

---

05/05/2023 **Investigator Sent Fax/Email to Business**  
**Communication**

On May 5, 2023, I emailed Mr. Loveless the PII with instructions to have the completed form returned to me within 15 days of the email.

Attachments

File 123801; 5-5-23email.pdf

Original Event: Investigation Activity (Pesticide) #6157  
Subject: Nutrien Ag Solutions Inc  
Submitted By: James M. Trimble

---

05/05/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1561  
Client: Nutrien Ag Solutions Inc  
Firm Representative: Lance Loveless  
Submitted By: James M. Trimble  
Photos:

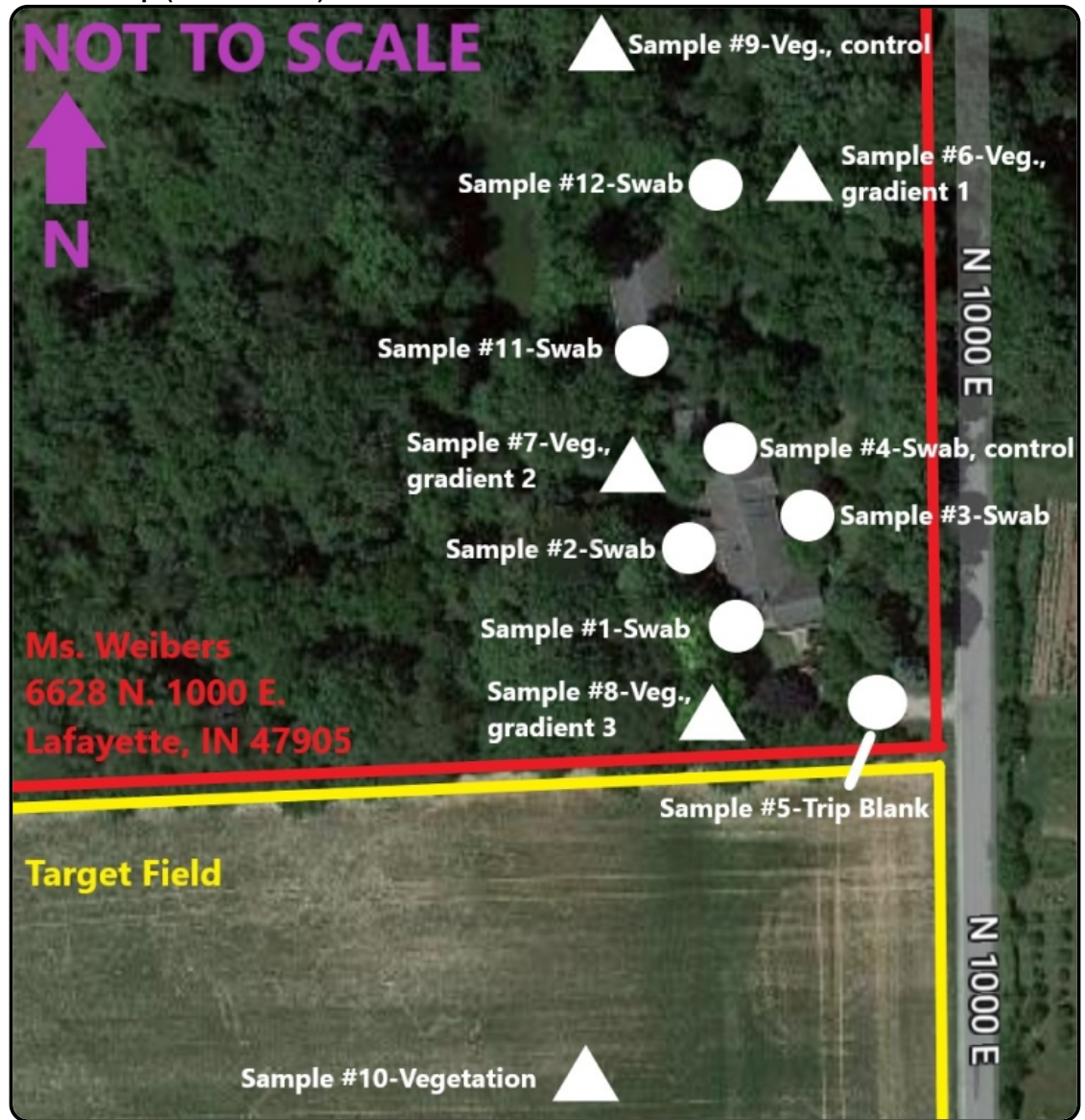


File 123802

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05/08/2023 **Online Investigation Activity**  
**Activity**

On May 8, 2023, I created a map of my sample collection on May 4, 2023 from the involved properties.



Original Event: Investigation Activity (Pesticide) #6161  
 Submitted By: James M. Trimble

05/09/2023 **Received External Lab Report**

On May 9, 2023, I received the PPDL report, which stated, "Several plants show small necrotic spots that can be associated with exposure to contact herbicides such as Atrazine. Overall, the level of herbicide injury to those plants appears to be low and plants should recover quickly when the new leaves come out. The death of trees was likely caused by some other issue but does not resemble herbicide injury. The dead trees in the photos appear to be surrounded by healthy vegetation, which is not consistent with herbicide drift." It further stated, "Plants show necrotic leaf spotting which is suggestive of injury. Holly plants show what appear to be fungal leaf spots which may have been present from a previous year as leaves are perennial. The beech tree shows buds just opening and some leaves damaged from possible cold injury. The limbs are still alive and not all buds are dead. The tree may leaf out later and produce new leaves during the season."

Original Event: External Lab Report #265671 (X23-ED4E1C)  
 Submitted By: James M. Trimble  
 Sample: X23-ED4E1C  
 Attachments: File 123916; FinalReport\_Mitch Trimble.pdf

05/09/2023 **Investigator Received Fax/Email from Business Investigation Inquiry**

On May 9, 2023, I received the completed PII from Nutrien Ag Solutions, which listed their application had occurred on April 20, 2023 while the winds were blowing towards Ms. Wiebers' property at 17 MPH.

Attachments  
 File 124041; PII.pdf

## Inquiry Overview

Certified Applicator Michael Milner  
Company Nutrien Ag Solutions  
Application Type Commercial  
Target Field First field SW of Colburn from 4way St.

## Tank Mix

Product	EPA	Rate
Surestart II	62719-679	1qt
Atrazine 4L	34704-69	1qt
Reviton	71512-37-74530	1oz

## Application Date

Date	Start	End
04/20/2023	12:10 PM	12:40 PM

## Air Conditions

Time	Temp	Direction	Speed
Start	71°F	SW	17mph
End	72°F	SW	17mph

Original Event: Investigation Activity (Pesticide) #6182  
Subject: Nutrien Ag Solutions Inc  
Submitted By: James M. Trimble  
PPLS Labels: [034704-00069-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20211110.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/034704-00069-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20211110.pdf)  
[062719-00679-20140227.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20140227.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/062719-00679-20140227.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20140227.pdf)  
[071512-00037-20230329.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/071512-00037-20230329.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/071512-00037-20230329.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/071512-00037-20230329.pdf)

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### 05/09/2023 **New Respondent Identified** **Respondent Identified**

On May 9, 2023, I received the completed PII from Nutrien Ag Solutions, which listed Michael Milner as the applicator.

Original Event: Investigation Change #330  
Respondent: Michael Ross Milner  
Submitted By: James M. Trimble

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### 07/11/2023 **Received Residue Lab Report** **Investigatory Summary**

On July 11, 2023, I received the OISC Residue Lab report, which found a gradient of Atrazine and Acetochlor in the vegetation samples I collected from Ms. Wiebers' property (Samples #23-4-0903, #23-4-0904, & #23-4-0905). The listed samples were found to have Atrazine and Acetochlor in amounts above their environmental baselines and in levels that would cause visual exposure symptoms to vegetation.

**First Page of Lab Report**

OCM Collection #	264704	Investigator	TRIMBLEJ		
Collection Date	05/04/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0898 9	Swab (Acetone); Grab; Window; OFF-T, Grad3, 30yd N	Swab (Acetone)	Acetochlor	BDL ng/swab	10 ng/swab
			Atrazine	4.20 ng/swab	2 ng/swab
			Flumioxazin	BDL ng/swab	10 ng/swab
23-4-0899 1	Swab (Acetone); Grab; Window; OFF-T, W	Swab (Acetone)	Acetochlor	BDL ng/swab	10 ng/swab
			Atrazine	9.63 ng/swab	2 ng/swab
			Flumioxazin	BDL ng/swab	10 ng/swab
23-4-0900 0	Swab (Acetone); Grab; Window; OFF-T, E	Swab (Acetone)	Acetochlor	BDL ng/swab	10 ng/swab
			Atrazine	BDL ng/swab	2 ng/swab
			Flumioxazin	BDL ng/swab	10 ng/swab
23-4-0901 6	Swab (Acetone); Ctrl; Gutter spout; OFF-T, N	Swab (Acetone)	Acetochlor	24.0 ng/swab	10 ng/swab
			Atrazine	22.9 ng/swab	2 ng/swab
			Flumioxazin	BDL ng/swab	10 ng/swab
23-4-0902 8	Swab (Acetone); Trip Blank	Swab (Acetone)	Acetochlor	BDL ng/swab	10 ng/swab
			Atrazine	BDL ng/swab	2 ng/swab
			Flumioxazin	BDL ng/swab	10 ng/swab

Original Event: Residue Lab Report #272319 (264704-R1591)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 264704-R1591.pdf

09/12/2023 **Wind Data Researched**

On September 12, 2023, I compared the weather data on Nutrien Ag's PII to the weather station located at Purdue University Airport Station, where I found the data to be consistent with one another.

**Purdue University Airport Station**

West Lafayette, Indiana (13 miles SW of site)

Time	Direction	Speed (mph)	Gust (mph)
12:54 PM	SSW	18	35

Original Event: Wind Data #179  
 Submitted By: James M. Trimble  
 Date of Weather: 04/20/2023

09/12/2023 **Online Investigation Activity**

**Label Use**

On September 12, 2023, I reviewed the labels for the pesticide products applied by Mr. Milner for his April 20, 2023 application to the target field while the wind was blowing from the southwest (towards Ms. Wiebers' property) at 17 MPH. I found the following label violations;

**Surestart II** (EPA Reg. #62719-679, active ingredients of Acetochlor, Flumetsulam, & Clopyralid)

- "Do not apply when wind is gusting or wind speed exceeds 15 mph as uneven spray coverage and drift may result."

**Reviton** (EPA Reg. #71512-37-74530, active ingredient of Tiafencacil)

- "Do not apply when winds speeds at the application site exceed 10 miles per hour."

Along with the above label violations, I found that Mr. Milner applied **Atrazine 4L Restricted Use Pesticide** (EPA Reg. #34704-69, active ingredient of Atrazine) in a manner that allowed it to drift off target and onto Ms. Wiebers' nontarget property which caused an adverse effect. Although pesticide drift was documented, evidence was not available to support the claim of human exposure to Ms. Wiebers.

Attachments

- File 133931; ATRAZINE 4L HERBICIDE.pdf
- File 133932; REVITON.pdf
- File 133933; SURESTART II HERBICIDE.pdf

Original Event: Investigation Activity (Pesticide) #6701  
Subject: Michael Ross Milner  
Submitted By: James M. Trimble  
PPLS Labels: [034704-00069-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20211110.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/034704-00069-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20211110.pdf)  
[062719-00679-20230621.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20230621.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/062719-00679-20230621.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20230621.pdf)

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09/22/2023 **Judgement; Civil Penalty Assessed**

**Citation**

Nutrien Ag Solutions Inc. was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a restricted use pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site.

**Civil Penalty**

Michael Milner was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a restricted use pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was an adverse effect.

Original Event: Judgement #1584  
Primary: Nutrien Ag Solutions Inc  
Secondary: Michael Ross Milner  
Submitted By: George Saxton  
Legal Citation: 357 IAC 1-12-2  
Penalty Amount: 1000

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09/27/2023 **Notice of Enforcement Mailed to Target**

A copy of Michael R. Milner's enforcement letter was also sent to Nutrien Ag Solutions, Inc.

Original Event: Outgoing Mail #2720  
To: Nutrien Ag Solutions Inc  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1413  
Enclosed: Notice of Enforcement  
Attachments: File 135109; PS23-0128EL CIT ~ Nutrien Ag Solutions Inc..docx

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09/27/2023 **Notice of Enforcement Mailed to Target**

A copy of Michael R. Milner's enforcement letter was also sent to Nutrien Ag Solutions, Inc.

Original Event: Outgoing Mail #2721  
To: Michael Ross Milner  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1406  
Enclosed: Notice of Enforcement  
Attachments: File 135110; PS23-0128EL CIT - CP ~ Michael Ross Milner - Nutrien Ag Solutions Inc..docx

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10/05/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2269  
Subject: Nutrien Ag Solutions Inc  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1413  
Received: 10/05/2023  
Attachments: File 136329; CM 7021 2720 0003 1615 1413 - Nutrien Ag Solutions, Inc. - PS23-0128 - Received 10-5-2023.pdf

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10/05/2023 **Received Mail Confirmation for Target**

The certified mail card has not been returned to OISC, however, USPS tracking shows it was delivered on October 5, 2023.

Original Event: Compliance Receipt #2306  
Subject: Michael Ross Milner  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1406  
Received: 10/05/2023  
Attachments: File 137519; CM 7021 2720 0003 1615 1406 - Michael R. Milner - PS23-0128 - USPS Tracking - Delivered 10-5-2023.pdf

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10/17/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2277  
Subject: Michael Ross Milner  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$1,000.00  
Payment Received: \$1,000.00

**11/09/2023 Mail Confirmation Assumed for Target**

As of November 9, 2023, regular mail has not been returned to OISC. However, Mr. Milner has paid his civil penalty, therefore, it is assumed to have been received.

Original Event: Compliance Receipt #2307  
 Subject: Michael Ross Milner  
 Submitted By: Jacob A. Hatfield

**11/13/2023 Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2841  
 To: Mary Ann Wiebers  
 Submitted By: Jacob A. Hatfield  
 Enclosed: Notice of Case Closure  
 Attachments: File 137660; PS23-0128 - Mary Ann Wiebers - Case Closed Letter 11-13-2023.docx

**11/13/2023 Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2842  
 To: Nutrien Ag Solutions Inc  
 Submitted By: Jacob A. Hatfield  
 Enclosed: Notice of Case Closure  
 Attachments: File 137661; PS23-0128 - Nutrien Ag Solutions, Inc. - Case Closed Letter 11-13-2023.docx

**11/13/2023 Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2843  
 To: Michael Ross Milner  
 Submitted By: Jacob A. Hatfield  
 Enclosed: Notice of Case Closure  
 Attachments: File 137662; PS23-0128 - Michael R. Milner - Case Closed Letter 11-13-2023.docx

**11/13/2023 Notice of Case Closure Mailed to Farmer**

Original Event: Outgoing Mail #2844  
 To: Jeff A Wise  
 Submitted By: Jacob A. Hatfield  
 Enclosed: Notice of Case Closure  
 Attachments: File 137663; PS23-0128 - Jeff A. Wise - Case Closed Letter 11-13-2023.docx

**Chain of Custody****05/04/2023 Sample 23-4-0898 9**

Original Event: Chain of Custody #6251 (23-4-0898 9)  
 05/04/2023 11:00: Sample Collected by James M. Trimble  
 05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
 05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

**05/04/2023 Sample 23-4-0899 1**

Original Event: Chain of Custody #6252 (23-4-0899 1)  
 05/04/2023 11:00: Sample Collected by James M. Trimble  
 05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
 05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

**05/04/2023 Sample 23-4-0900 0**

Original Event: Chain of Custody #6253 (23-4-0900 0)  
 05/04/2023 11:00: Sample Collected by James M. Trimble  
 05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
 05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

**05/04/2023 Sample 23-4-0901 6**

Original Event: Chain of Custody #6254 (23-4-0901 6)  
 05/04/2023 11:00: Sample Collected by James M. Trimble  
 05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
 05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

**05/04/2023 Sample 23-4-0902 8**

Original Event: Chain of Custody #6255 (23-4-0902 8)  
 05/04/2023 11:00: Sample Collected by James M. Trimble  
 05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
 05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

**05/04/2023 Sample 23-4-0903 7**

Original Event: Chain of Custody #6256 (23-4-0903 7)  
05/04/2023 11:00: Sample Collected by James M. Trimble  
05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

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05/04/2023 **Sample 23-4-0904 4**  
Original Event: Chain of Custody #6257 (23-4-0904 4)  
05/04/2023 11:00: Sample Collected by James M. Trimble  
05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

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05/04/2023 **Sample 23-4-0905 9**  
Original Event: Chain of Custody #6258 (23-4-0905 9)  
05/04/2023 11:00: Sample Collected by James M. Trimble  
05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

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05/04/2023 **Sample 23-4-0906 3**  
Original Event: Chain of Custody #6259 (23-4-0906 3)  
05/04/2023 11:00: Sample Collected by James M. Trimble  
05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

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05/04/2023 **Sample 23-4-0907 1**  
Original Event: Chain of Custody #6260 (23-4-0907 1)  
05/04/2023 11:00: Sample Collected by James M. Trimble  
05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

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05/04/2023 **Sample 23-4-0908 5**  
Original Event: Chain of Custody #6261 (23-4-0908 5)  
05/04/2023 11:00: Sample Collected by James M. Trimble  
05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

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05/04/2023 **Sample 23-4-0909 2**  
Original Event: Chain of Custody #6262 (23-4-0909 2)  
05/04/2023 11:00: Sample Collected by James M. Trimble  
05/04/2023 12:38: Sample Delivered to Vicki L. Vauters  
05/04/2023 12:38: Delivery Affirmed by Vicki L. Vauters

This record was generated on **December 4, 2023, 11:13 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.



Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

*Protecting Indiana's Agriculture and Environment*

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West Lafayette, IN 47907-2063  
Telephone (765) 494-1492 • Facsimile (765) 494-4331  
www.oisc.purdue.edu

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

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Official records may only be obtained directly from the Office of Indiana State Chemist.

**In Re: Case PS23-0133**

Department	Pesticide
Originated	05/05/2023
Assigned To	Adam Brockman
Status	Closed

**Involved Parties**

Complainant	<b>Jeff Kaster</b> Shelbyville, IN 46176
Respondent	<b>Unknown</b>
Respondent	<b>Thomas R Naylor</b> Rushville, IN 46173
Respondent	<b>Nutrien Ag Solutions Inc</b> Rushville, IN 46173

**Overviews**

10/12/2023 **Investigation Summary**

Lab results and wind data show that the applicator is in violation of the label stating in part, "Sensitive Areas: the pesticide must only be applied when the potential for drift to adjacent sensitive areas (e.g. residential areas) is minimal (e.g. when wind is blowing away from the sensitive areas)." The PII submitted by the applicator indicates that wind was blowing at the target sight at 17 mph.

Submitted By: Adam Brockman  
Role: Investigator  
Drift: Confirmed

10/16/2023 **Disposition Summary**

Nutrien Ag Solutions Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. Consideration was given to the fact Nutrien Ag Solutions Inc cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved.

Thomas Naylor was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact Thomas Naylor cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

05/04/2023 **Intake Referral Filed**

Complainant stated a herbicide application made to an adjacent farm field injured vegetation on his property.

Original Event: Intake Referral (Pesticide) #3008  
Complainant: Jeff Kaster  
Respondent: Unknown  
Submitted By: Joseph D. Becovitz  
Assigned To: Adam Brockman



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05/05/2023 **Case Created**

Original Event:

Case PS23-0133

Submitted By:

Joseph D. Becovitz

Assigned To:

Adam Brockman

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05/17/2023 **Investigator Met with Complainant**

**Photographs**

Photographs taken from around the complainants property.

Attachments



File 124130



File 124131



File 124132



File 124133



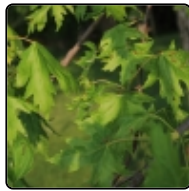
File 124134



File 124135



File 124136



File 124137



File 124138



File 124139



File 124140



File 124141



File 124142



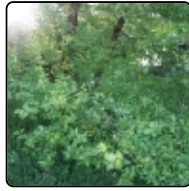
File 124143



File 124144



File 124145



File 124146



File 124147



File 124148



File 124149



File 124150



File 124151



File 124152



File 124153



File 124154



File 124155



File 124156



File 124157



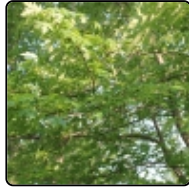
File 124158



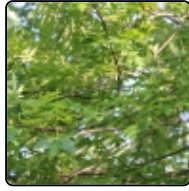
File 124159



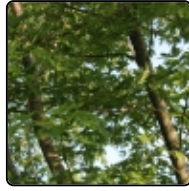
File 124160



File 124161



File 124162



File 124163



File 124164



File 124165



File 124166



File 124167



File 124168



File 124169



File 124170



File 124171



File 124172



File 124174



File 124179



File 124180



File 124181

Original Event: Investigation Activity (Pesticide) #6195  
Subject: Jeff Kaster  
Submitted By: Adam Brockman

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05/17/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1585  
Client: Jeff Kaster  
Firm Representative: Jeff Kaster  
Submitted By: Adam Brockman  
Attachments: File 124182; Scan from 2023-05-17 10\_51\_46 AM.pdf

---

05/17/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #266987 (X23-F8A8EF)  
Client: Jeff Kaster  
Submitted By: Adam Brockman  
Lab: Purdue Plant and Pest Diagnostic Laboratory  
Sample: X23-F8A8EF | Samples collected from the complainants property to be submitted to PPDL.  
Attachments: File 124206; PPDL samples.pdf

---

05/17/2023 **Residue Samples Collected**

Original Event: Residue Collection #266991 (23-4-1404 0)  
Client: Jeff Kaster  
Submitted By: Adam Brockman  
Sample: 23-4-1404 0 | Soil; Grab; 2-4"; Target  
Sample: 23-4-1405 5 | Veg; Grab; Target  
Sample: 23-4-1406 4 | Veg; Grab; OFF-T, Grad1, 10yd E  
Sample: 23-4-1407 2 | Veg; Grab; OFF-T, Grad2, 50yd E  
Sample: 23-4-1408 6 | Veg; Grab; OFF-T, Grad3, 90yd E  
Sample: 23-4-1409 3 | Veg; Grab; OFF-T, 50yd E

---

05/17/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #698  
Submitted By: Adam Brockman  
Target Analyte: Surestart  
Target Analyte: Atrazine  
PPLS Labels: [034704-00069-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20211110.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/034704-00069-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/034704-00069-20211110.pdf)  
[062719-00679-20140227.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20140227.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/062719-00679-20140227.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00679-20140227.pdf)  
Attachments: File 126633; BrightSheffScan from Nutrien, Homer, IN\_05262023094108.pdf

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05/23/2023 **Received External Lab Report**

Original Event: External Lab Report #269055 (X23-F8A8EF)  
Submitted By: Adam Brockman  
Sample: X23-F8A8EF  
Attachments: File 125493; FinalReport\_Adam Brockman (17).pdf

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08/04/2023 **New Respondent Identified**

Original Event: Investigation Change #385  
Respondent: Thomas R Naylor  
Submitted By: Adam Brockman

---

09/05/2023 **Received Residue Lab Report**

**First Page of Lab Report**

OCM Collection #	266991	Investigator	BROCKMANA		
Collection Date	05/17/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-1404 0	Soil; Grab; 2-4"; Target	Soil	Clopyralid	BDL ppb	2 ppb
			Acetochlor	BDL ppb	3 ppb
			Atrazine	14.1 ppb	0.3 ppb
			Flumetsulam	0.147 ppb	0.7 ppb
23-4-1405 5	Veg; Grab; Target	Veg	Clopyralid	BDL ppb	3 ppb
			Acetochlor	BDL ppb	3 ppb
			Atrazine	285 ppb	0.3 ppb
			Flumetsulam	BDL ppb	0.3 ppb
23-4-1406 4	Veg; Grab; OFF-T, Grad1, 10yd E	Veg	Clopyralid	BDL ppb	3 ppb
			Acetochlor	12.2 ppb	3 ppb
			Atrazine	164 ppb	0.3 ppb
			Flumetsulam	BDL ppb	0.3 ppb
23-4-1407 2	Veg; Grab; OFF-T, Grad2, 50yd E	Veg	Clopyralid	BDL ppb	3 ppb
			Acetochlor	BDL ppb	3 ppb
			Atrazine	47.0 ppb	0.3 ppb
			Flumetsulam	BDL ppb	0.3 ppb

Original Event: Residue Lab Report #277268 (266991-R1661)  
Submitted By: SYSTEM  
Lab Report: Lab Report 266991-R1661.pdf

09/12/2023 **Online Investigation Activity**  
**Records**

Attached are the labels for Sure Start and Atrazine with EPA Reg numbers.

Attachments

File 133930; 034704-00069-20130425.pdf  
File 133929; SureStart\_II\_Label1g.pdf

Original Event: Investigation Activity (Pesticide) #6699  
Submitted By: Adam Brockman

09/12/2023 **Wind Data Researched**

Wind data from the weather station confirmed what was reported on the PII.

**Shelbyville Municipal Airport**

*Shelbyville, Indiana (7 miles N of site)*

**Time Speed (mph)**

9:34 14

**Attachments**

File 133935; wind.txt

Original Event: Wind Data #178  
Submitted By: Adam Brockman  
Date of Weather: 04/17/2023

09/12/2023 **Online Investigation Activity**  
**Records**

Diagram of the complainants property, showing where samples were collected.

Attachments

File 133936; Diagram final.png

Original Event: Investigation Activity (Pesticide) #6700  
Submitted By: Adam Brockman

10/16/2023 **Judgment; Civil Penalty Assessed**

## Citation

Nutrien Ag Solutions Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. Consideration was given to the fact Nutrien Ag Solutions Inc cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved.

## Civil Penalty

Thomas Naylor was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift management. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact Thomas Naylor cooperated during the investigation. Consideration was also given to the fact a restricted use pesticide was involved.

Original Event: Judgement #1593  
Primary: Nutrien Ag Solutions Inc  
Secondary: Thomas R Naylor  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(2)  
Penalty Amount: 400

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### 10/18/2023 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #2779  
To: Thomas R Naylor  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1536  
Enclosed: Notice of Enforcement  
Attachments: File 136624; PS23-0133EL CIT - CP Mitigated ~ Thomas R. Naylor - Nutrien Ag.docx

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### 10/18/2023 Notice of Enforcement Mailed to Target

A copy of Thomas Naylor's enforcement letter was also sent to Nutrien Ag Solutions, Inc.

Original Event: Outgoing Mail #2780  
To: Nutrien Ag Solutions Inc  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1529  
Enclosed: Notice of Enforcement  
Enclosed: Notice of Enforcement  
Attachments: File 136625; PS23-0133EL CIT - CP Mitigated ~ Thomas R. Naylor - Nutrien Ag.docx  
File 136623; PS23-0133EL CIT ~ Nutrien Ag Solutions.docx

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### 10/25/2023 Received Mail Confirmation for Target

Original Event: Compliance Receipt #2286  
Subject: Nutrien Ag Solutions Inc  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1529  
Received: 10/25/2023  
Attachments: File 137022; CM 7021 2720 0003 1615 1529 - Nutrien Ag Solutions, Inc. - PS23-0133 - Received 10-25-2023.pdf

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### 10/25/2023 Received Mail Confirmation for Target

Original Event: Compliance Receipt #2287  
Subject: Thomas R Naylor  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1536  
Received: 10/25/2023  
Attachments: File 137023; CM 7021 2720 0003 1615 1536 - Thomas R. Naylor - PS23-0133 - Received 10-25-2023.pdf

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### 11/27/2023 Received Penalty Payment for Target

Original Event: Compliance Receipt #2322  
Subject: Thomas R Naylor  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$400.00  
Payment Received: \$400.00  
Attachments: File 138130; PS23-0133 - Thomas R. Naylor - CP Received 11-27-2023.pdf

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### 11/28/2023 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #2912  
To: Jeff Kaster  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 138148; PS23-0133 - Jeff Kaster - Case Closed Letter 11-28-2023.docx

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### 11/28/2023 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #2913  
To: Thomas R Naylor  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 138149; PS23-0133 - Thomas R. Naylor - Case Closed Letter 11-28-2023.docx

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11/28/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2914  
To: Nutrien Ag Solutions Inc  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 138150; PS23-0133 - Nutrien Ag Solutions, Inc. - Case Closed Letter 11-28-2023.docx

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**Chain of Custody**

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05/17/2023 **Sample 23-4-1404 0**

Original Event: Chain of Custody #6733 (23-4-1404 0)  
05/17/2023 00:00: Sample Collected by Adam Brockman  
05/19/2023 09:09: Sample Delivered to Kilo  
05/19/2023 10:19: Delivery Affirmed by Vicki L. Vauters

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05/17/2023 **Sample 23-4-1405 5**

Original Event: Chain of Custody #6734 (23-4-1405 5)  
05/17/2023 00:00: Sample Collected by Adam Brockman  
05/19/2023 09:09: Sample Delivered to Kilo  
05/19/2023 10:19: Delivery Affirmed by Vicki L. Vauters

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05/17/2023 **Sample 23-4-1406 4**

Original Event: Chain of Custody #6735 (23-4-1406 4)  
05/17/2023 00:00: Sample Collected by Adam Brockman  
05/19/2023 09:09: Sample Delivered to Kilo  
05/19/2023 10:19: Delivery Affirmed by Vicki L. Vauters

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05/17/2023 **Sample 23-4-1407 2**

Original Event: Chain of Custody #6736 (23-4-1407 2)  
05/17/2023 00:00: Sample Collected by Adam Brockman  
05/19/2023 09:09: Sample Delivered to Kilo  
05/19/2023 10:19: Delivery Affirmed by Vicki L. Vauters

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05/17/2023 **Sample 23-4-1408 6**

Original Event: Chain of Custody #6737 (23-4-1408 6)  
05/17/2023 00:00: Sample Collected by Adam Brockman  
05/19/2023 09:09: Sample Delivered to Kilo  
05/19/2023 10:19: Delivery Affirmed by Vicki L. Vauters

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05/17/2023 **Sample 23-4-1409 3**

Original Event: Chain of Custody #6738 (23-4-1409 3)  
05/17/2023 00:00: Sample Collected by Adam Brockman  
05/19/2023 09:09: Sample Delivered to Kilo  
05/19/2023 10:19: Delivery Affirmed by Vicki L. Vauters  
06/16/2023 06:57: Remark Added by Adam Brockman

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This record was generated on **December 4, 2023, 11:14 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.



Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

*Protecting Indiana's Agriculture and Environment*

Purdue University • 175 S University Street  
West Lafayette, IN 47907-2063  
Telephone (765) 494-1492 • Facsimile (765) 494-4331  
www.oisc.purdue.edu

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

This record was generated on **October 16, 2023, 03:11 PM EDT**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.

**In Re: Case PS23-0135**

Department	Pesticide
Originated	05/10/2023
Assigned To	James M. Trimble
Status	Closed

**Involved Parties**

Complainant	<b>Steve A Glaser</b> Griffin, IN 47616
Business	<b>Klein Flying SVC Inc</b> Vincennes, IN 47591
Applicator	<b>Mark E Hartz</b> Vincennes, IN 47591

**Overviews**

07/24/2023 **Investigation Summary**

On May 10, 2023, OISC received a complaint that an aerial application had moved off-target and onto an off-target property, which also exposed two individuals.

On May 11, 2023, I met with Mr. Glaser, Mrs. Glaser, and Grace Glaser at their property to conduct my on-site investigation, where I identified the target field, took photographs, and collected multiple samples. The samples were submitted to the OISC Residue Lab. Later that day, I identified Mr. Hartz; Klein Flying Service as the applicator/pilot and pesticide business responsible for the application.

The OISC Residue Lab report along with the information that the wind was blowing towards the off-target property during the target field's application confirmed that the active ingredient's used in Mr. Hartz' application drifted from the target site and onto the Glaser's off-target property.

Submitted By: James M. Trimble  
Role: Investigator  
Drift: Confirmed

07/24/2023 **Disposition Summary**

Klein Flying Svc Inc. was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target area. Consideration was given to the fact one of the pesticides involved in the drift was a restricted use pesticide (Silencer) and the evidence suggests there was drift to people.

Mark Hartz was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target area. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact one of the pesticides involved in the drift was a restricted use pesticide (Silencer) and the evidence suggests there was drift to people.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

05/10/2023 **Intake Referral Filed**

Complainant stated an aerial application made to a wheat field that is east of and adjacent to his property drifted onto his wife and daughter.

Original Event: Intake Referral (Pesticide) #3011  
Complainant: Steve A Glaser  
Respondent: Klein Flying SVC Inc  
Submitted By: Joseph D. Becovitz  
Assigned To: James M. Trimble

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05/10/2023 **Investigator Called Complainant  
Communication**

On May 10, 2023, I called and spoke with Mr. Glaser, who reported he believed an aerial pesticide application to a field neighboring his property on the evening of May 9, 2023 had drifted onto and exposed his wife and daughter. Mr. Glaser stated the airplane was flying in a east/west pattern, which was directly towards/away from his house and property. Mr. Glaser stated his wife and daughter witnessed the application and believed the substance being applied by the plane had continuously drifted or was directly over-applied onto their property, which exposed his wife, daughter, and their livestock. Mr. Glaser stated his wife and daughter captured video of the plane making the application to the neighboring field. Mr. Glaser stated he was unsure if the pilot had observed his wife and daughter outside during the application but believed they were obvious to see.

Mr. Glaser stated his wife's mouth was "tingly" and had plans to go to her employer's clinic but her symptoms from exposure were minimal at that time. Mr. Glaser stated that his wife and daughter had removed and saved the clothes they were wearing during their exposure and was available for my collection. Mr. Glaser stated he had reported the human exposure to Posey County Co-op and Klein Flying Services. Mr. Glaser stated he would have his daughter email me the videos of the aerial application.

Original Event: Investigation Activity (Pesticide) #6183  
Subject: Steve A Glaser  
Submitted By: James M. Trimble

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05/10/2023 **Investigator Received Fax/Email from Complainant  
Screenshots**

On May 10, 2023, shortly after speaking with Mr. Glaser, I received an email that contained photographs and videos of the aerial application to the neighboring wheat field.

I observed the photographs and videos to show an airplane flying westbound while applying a liquid substance over the neighboring, target field. I observed that when the plane approached the west end of the target field, which bordered the Glaser property, the plane stopped its application and continued over the Glaser property. Due to the angle of the individual capturing the video to the plane making the application, I found the video evidence to be inconclusive as to whether or not the plane directly applied the substance to the Glaser property. However, the videos and photographs showed that the plane ceased its application very close to the Glaser property/wheat field border.

Note: The videos would not upload into OCM, videos will be saved in case file.



**Aerial Application (File 128981)**



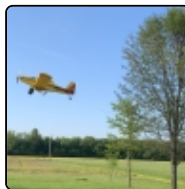
**Attachments**



File 124080



File 124081



File 124082

**Attachments**

File 124083; 5-10 email.pdf

Original Event: Investigation Activity (Pesticide) #6191  
Subject: Steve A Glaser  
Submitted By: James M. Trimble

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05/10/2023 **Case Created**

Original Event: Case PS23-0135  
Submitted By: Joseph D. Becovitz  
Assigned To: James M. Trimble

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05/11/2023 **Investigator Met with Complainant**

## Photographs

On May 11, 2023, I met with Mr. Glaser, his wife, Kendra (Mrs. Glaser), and their daughter, Grace, at their residence to conduct my on-site investigation. Mr. Glaser identified the wheat field located to the east of their property as the target field. Mrs. Glaser and Grace reported that they were outside, near the east end of their property, when the aerial application had occurred. Mrs. Glaser and Grace stated they began recording the aerial application after they observed the substance from the airplane was moving onto their property. Mrs. Glaser and Grace believed that the pilot was activating its spray nozzles too soon when flying eastbound (away from their property) and deactivating it too late when flying westbound (towards their property). Mrs. Glaser and Grace stated that when they observed the plane move closer to them as it performed its east/west flying pattern, they moved to the inside of their pig barn in attempt to get away from the substance the plane was applying. Mrs. Glaser and Grace stated that when the plane flew over the pig barn while they were inside, they believed the substance entered the barn through its north, open door and exposed them. Mrs. Glaser and Grace stated that they felt the liquid substance touch their skin. After their exposure, Mrs. Glaser stated that she immediately called Mr. Glaser, who advised them to wash their skin and to remove their clothes.

Mr. Glaser stated that after he spoke with Mrs. Glaser, he called Posey County Co-Op and Klein Flying Services to advise them of the incident and attempted to have the pilot stop his application. Mr. Glaser stated the plane had already completed his application by the time he was able to speak to Klein Flying Services. Mrs. Glaser stated that she had developed a minor rash, a headache, and a "tingly" sensation in her mouth. Mrs. Glaser stated that she went to her employer's medical check to get a baseline and would contact me if she had a decline in her health. Mrs. Glaser stated that they contained the clothing she and Grace were wearing during the exposure in a paper bag, which Mrs. Glaser retrieved and gave to me for my collection.

While on-site, I observed and photographed the Glaser property and the target wheat field. I observed the pig barn where Mrs. Glaser and Grace reported they had been standing when they were exposed by the substance being applied by airplane. I observed the pig barn to be approximately 10 yards to the west of target field's east edge. I observed the pig barn contained multiple pigs and had doors located at its north and south ends, which I was advised were both open during the target field's application. I observed a clothesline located to the northwest of the pig barn that had towels hanging on it. Mrs. Glaser stated the towels had been hanging on the clothesline during the aerial application and they had not been moved. I collected one of the towels from the clothesline.

I then collected multiple gradient swab samples from the Glaser property, as well as a swab and vegetation sample from the target field. I collected the clothing, towel, swabs, and vegetation samples for analysis by the OISC Residue Lab.

### North End of Pig Barn in Relation to Target Field (File 124060)



Attachments



File 124049; IMG\_3210.JPG

Original Event: Investigation Activity (Pesticide) #6184  
 Subject: Steve A Glaser  
 Submitted By: James M. Trimble

05/11/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1583  
 Client: Steve A Glaser  
 Firm Representative: Steve Glaser  
 Submitted By: James M. Trimble  
 Attachments: File 124075; GlaserNOI.pdf

05/11/2023 **Residue Samples Collected**

Original Event: Residue Collection #265984 (23-4-0910 2)  
 Client: Steve A Glaser  
 Submitted By: James M. Trimble  
 Sample: 23-4-0910 2 | Clothing; Grab; Shirt; OFF-T  
 Sample: 23-4-0911 8 | Clothing; Grab; Pants; OFF-T  
 Sample: 23-4-0912 5 | Clothing; Grab; Shirt; OFF-T  
 Sample: 23-4-0913 9 | Clothing; Grab; Pants; OFF-T  
 Sample: 23-4-0914 1 | Article; Grab; Towel; OFF-T  
 Sample: 23-4-0915 6 | Swab (Acetone); Grab; Mailbox; OFF-T, Grad1, 105yd W  
 Sample: 23-4-0916 0 | Swab (Acetone); Grab; Window; OFF-T, Grad2, 35yd W  
 Sample: 23-4-0917 3 | Swab (Acetone); Grab; Window; OFF-T, Grad3, 10yd W  
 Sample: 23-4-0918 7 | Swab (Acetone); Grab; Wall; OFF-T, N  
 Sample: 23-4-0919 4 | Swab (Acetone); Ctrl; Wall; OFF-T, E  
 Sample: 23-4-0920 7 | Swab (Acetone); Trip Blank  
 Sample: 23-4-0921 1 | Veg; Comp; Target  
 Sample: 23-4-0922 4 | Swab (Acetone); Grab; Post; Target, 50yd E

05/11/2023 **Investigator Met with Dealer Records**

On May 11, 2023, after leaving the Glaser property, I stopped at Posey County Co-op, who confirmed they had contracted Klein Flying Services to complete the application to the target wheat field. Posey County Co-op provided me with a copy of their written order for the aerial application.

Attachments

File 124084; PoseyCCinvoice.pdf

Original Event: Investigation Activity (Pesticide) #6173  
Subject: Posey County Co Op  
Submitted By: James M. Trimble

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05/11/2023 **Investigator Called Business Communication**

On May 11, 2023, after leaving Posey County Co-op, I called Klein Flying Services and spoke with Bri Klein. Ms. Klein confirmed that they had completed the application to the target wheat field and identified the pilot as Mark Hartz. I advised Ms. Klein that I would email her a Pesticide Investigation Inquiry (PII) and that it would need to be completed and returned to me within 15 days of my email. Later that day, I emailed the PII.

Original Event: Investigation Activity (Pesticide) #6192  
Subject: Klein Flying SVC Inc  
Submitted By: James M. Trimble

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05/11/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #697  
Submitted By: James M. Trimble  
Target Analyte: Prosaro  
Target Analyte: Silencer  
PPLS Labels: [000264-00862-20180613.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-00862-20180613.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000264-00862-20180613.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-00862-20180613.pdf)  
[047000-00145-20201030.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/047000-00145-20201030.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/047000-00145-20201030.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/047000-00145-20201030.pdf)  
[066222-00223-20200721.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/066222-00223-20200721.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/066222-00223-20200721.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/066222-00223-20200721.pdf)

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05/11/2023 **Investigator Called Applicator Communication**

On May 11, 2023, while on the phone with Bri Klein, Klein Flying Services, I also spoke with Mark Hartz, the pilot responsible for the application to the target field. Mr. Hartz advised he had flown in a east to west pattern instead of a north to south pattern due to powerlines at the north end of the field and that the east to west pattern had less passes. Mr. Hartz advised that he did not observe anyone outside on the Glaser property. Mr. Hartz advised the application occurred late in the day and that the sun was in his eyes while flying west (towards the Glaser property). Mr. Hartz also advised the terrain created a shadow over some of the property. Mr. Hartz stated again that he did not see anyone on the property and would have immediately stopped his application if he would have.

Original Event: Investigation Activity (Pesticide) #6193  
Subject: Mark E Hartz  
Submitted By: James M. Trimble

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05/11/2023 **New Respondent Identified Respondent Identified**

On May 11, 2023, Klein Flying Services identified Mr. Hartz as the aerial applicator to the target wheat field.

Original Event: Investigation Change #332  
Respondent: Mark E Hartz  
Submitted By: James M. Trimble

---

05/11/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1584  
Client: Klein Flying SVC Inc  
Firm Representative: Bri Klein  
Submitted By: James M. Trimble  
Attachments: File 124086; KleinFSnoi.pdf

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05/16/2023 **Investigator Received Fax/Email from Business Investigation Inquiry**

On May 16, 2023, I received the completed PII from Klein Flying Service.

Upon my review of the PII, I found it had the listed applicator as Bob Klein instead of Mark Hartz. The PII also had the wind direction listed as "470". On May 17, 2023, I contacted Klein Flying Service to ask for the correct pilot/applicator responsible for the application and for a corrected wind direction. Later that day, I received a edited PII, which listed Mark Hartz as the certified applicator and the wind direction as "47" degrees.

Note: Due to the wind direction being listed as 47 degrees and for purposes of this form's format, I converted the wind direction to northeast.

#### Attachments

File 124401; claim1.pdf  
File 124175; mark claim1.pdf  
File 124176; mark claim2.pdf  
File 124177; markclaim3.pdf

### Inquiry Overview

Certified Applicator Mark Hartz  
Company Klein Flying Services  
Application Type Commercial  
Target Field wheat field

### Tank Mix

Product EPA	Rate
Prosaro 264-862	6.5 fl oz/acre
Silencer 66222-223	3 fl oz/acre

### Application Date

Date	Start	End
05/09/2023	6:15 PM	7:11 PM

### Air Conditions

Time	Temp	Direction	Speed
Start	74°F	NE	9mph
End	72°F	NE	9mph

Original Event: Investigation Activity (Pesticide) #6197  
Subject: Klein Flying SVC Inc  
Submitted By: James M. Trimble  
PPLS Labels: [000264-00862-20180613.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-00862-20180613.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000264-00862-20180613.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-00862-20180613.pdf)  
[066222-00223-20200721.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/066222-00223-20200721.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/066222-00223-20200721.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/066222-00223-20200721.pdf)

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#### 05/16/2023 Investigator Received Fax/Email from Business

##### Records

I spoke with Mr. Hartz, who stated that his as-applied map was not an accurate representation of his aerial application due to a malfunction with his plane's pressure switch. Mr. Hartz stated that the malfunctioning pressure switch only affected the way the as-applied map portrayed the application but was not indicative for when the nozzles were actually turned on and off. I informed Mr. Hartz to send me the as-applied map along with a statement explaining the pressure switch malfunction.

On May 16, 2023, I received the as-applied map along with Mr. Hartz' statement on the malfunctioned pressure switch. The statement advised, *"In regards to the incident occurring on May 9, 2023 on a wheat field sprayed with fungicide on that date, the as-applied map does not accurately represent the actual application that was made on the field by me. The pressure switch has very small orifice and many of the crop protection products that area applied are very sticky and gummy which after a time will affect the function of the pressure switch. It will at times cause it to stop "painting" in the middle of a spray run and also show spray outside the field even though the spray has been cut off. This is due to the pressure switch failing to open the circuit in a timely manner due to being gummed up and sticking. The pressure switch in this incident was changed the next day and the replacement switch started malfunctioning within a day or so after being installed. In the future the pressure sensing method of marking as-applied maps will be changed to a more reliable mechanical method marking as-applied maps."*

#### Attachments

File 128985; claimasapplied.pdf  
File 128984; markpressureswitch.pdf

Original Event: Investigation Activity (Pesticide) #6513  
Subject: Klein Flying SVC Inc  
Submitted By: James M. Trimble

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#### 05/17/2023 Online Investigation Activity Activity

On May 17, 2023, I created a map of my collection from the Glaser property and the target wheat field.

## Collection Map (File 128982)



Original Event: Investigation Activity (Pesticide) #6198  
Submitted By: James M. Trimble

### 06/12/2023 Received Residue Lab Report Investigatory Summary

On June 12, 2023, I received the report from the OISC Residue Lab, which had identified traces of Desthio-Prothioconazole (DP) and Tebuconazole (TB) in numerous samples. The levels of these substances vary widely. Upon analyzing the clothing I obtained from Grace and Kendra Glaser (Samples #23-4-0910, #23-4-0911, #23-4-0912, & #23-4-0913), elevated levels of DP and TB were found. These levels seemed to be consistent with direct exposure to the aforementioned substances, which were consistent with a direct exposure to the analytes.

Furthermore, the towel I collected from the clothesline at the Glaser property (Sample #23-4-0914) also exhibited high levels of DP and TB. The gradient swab samples taken from the Glaser property (Samples #23-4-0915, #23-4-0916, & #23-4-0917) showed positive traces of DP and TB, albeit significantly lower than the levels found in the clothing and towel items mentioned earlier. These lower levels seemed consistent with a pesticide drift incident.

Additionally, the swab sample obtained from the interior wall of the pig barn (Sample #23-4-0918), near the location where Grace and Kendra reported being present when the application occurred, also indicated the presence of pesticide drift entering the barn. In contrast, the samples collected from the target field (Samples #23-4-0921 & 23-4-0922), along with the control swab (Sample #23-4-0919), displayed levels within the expected range for this type of investigation.

Upon comparing the amounts of Desthio-Prothioconazole and Tebuconazole detected in the clothing and towel samples submitted in this case with historical data from clothing samples previously analyzed by the OISC Residue Lab, I noticed that the levels of these substances in the current investigation were unusually high. At present, there is no explanation for these abnormally high levels.

**First Page of Lab Report**

OCM Collection #	265984	Investigator	TRIMBLEJ		
Collection Date	05/11/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0910 2	Clothing; Grab; Shirt; OFF-T	Clothing	Desthio Prothioconazole	41100 ng/clothing	220 ng/clothing
			Prothioconazole	BDL ng/clothing	2200 ng/clothing
			Tebuconazole	271000 ng/clothing	88 ng/clothing
23-4-0911 8	Clothing; Grab; Pants; OFF-T	Clothing	Desthio Prothioconazole	17800 ng/clothing	220 ng/clothing
			Prothioconazole	BDL ng/clothing	2200 ng/clothing
			Tebuconazole	85400 ng/clothing	88 ng/clothing
23-4-0912 5	Clothing; Grab; Shirt; OFF-T	Clothing	Desthio Prothioconazole	38400 ng/clothing	220 ng/clothing
			Prothioconazole	BDL ng/clothing	2200 ng/clothing
			Tebuconazole	205000 ng/clothing	88 ng/clothing
23-4-0913 9	Clothing; Grab; Pants; OFF-T	Clothing	Desthio Prothioconazole	31700 ng/clothing	220 ng/clothing
			Prothioconazole	BDL ng/clothing	2200 ng/clothing
			Tebuconazole	246000 ng/clothing	88 ng/clothing
23-4-0914 1	Article; Grab; Towel; OFF-T	Article	Desthio Prothioconazole	132000 ng/article	220 ng/article
			Prothioconazole	BDL ng/article	2200 ng/article
			Tebuconazole	415000 ng/article	88 ng/article

Original Event: Residue Lab Report #270727 (265984-R1437)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 265984-R1437.pdf

**06/20/2023 Investigator Called Complainant Communication**

On June 20, 2023, I called and spoke with Kendra Glaser to discuss the timeline of her reported exposure and the chain of custody for the clothing I collected from her. Mrs. Glaser stated that while she observed and documented the plane's application to the neighboring field and believed the application was moving onto her property, she and Grace didn't enter the pig barn until the plane was about to fly directly overhead. Mrs. Glaser stated that when they entered the barn and the plane flew overhead, the substance entered the barn and they felt it touch their skin. Mrs. Glaser stated that during the entirety of the aerial application she had only felt the substance the plane was applying touch her on that one overhead pass when she was inside the barn.

Mrs. Glaser stated that she and Grace immediately washed their skin in the sink that was located in the pig barn. After washing their skin in the sink, Mrs. Glaser stated she continued to wear her clothing for approximately two hours after the exposure. Mrs. Glaser stated that within those two hours, she worked in her garden and relaxed on her patio before she removed her clothing and placed them in their laundry hamper. Mrs. Glaser stated that the clothing stayed in the hamper until they had reported the incident to OISC a few hours later when they were advised to collect and store the clothing in a paper bag for later collection. Mrs. Glaser stated that she never entered the wheat field while wearing the contaminated clothing.

Original Event: Investigation Activity (Pesticide) #6438  
 Subject: Steve A Glaser  
 Submitted By: James M. Trimble

**07/24/2023 Judgement; Civil Penalty Assessed Citation**

Klein Flying Svc Inc. was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target area. Consideration was given to the fact one of the pesticides involved in the drift was a restricted use pesticide (Silencer) and the evidence suggests there was drift to people.

## Civil Penalty

Mark Hartz was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to a non-target area. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact one of the pesticides involved in the drift was a restricted use pesticide (Silencer) and the evidence suggests there was drift to people.

Original Event:	Judgement #1560
Primary:	Klein Flying SVC Inc
Secondary:	Mark E Hartz
Submitted By:	George Saxton
Legal Citation:	IC 15-16-5-65(2)
Penalty Amount:	500

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## 07/24/2023 Wind Data Researched

On July 24, 2023, I compared the wind speed and wind direction from the listed weather stations to the information recorded on the PII for Mr. Hartz' May 9, 2023 application. I found the weather conditions between the recorded information from the weather stations and the PII to be similar and without dispute. The information confirmed that Mr. Hartz' application occurred while the wind was blowing towards the Glaser property.

### Lawrenceville Vincennes International Airport

Lawrenceville, Illinois (40 miles NNE of site)

**Time Direction Speed (mph)**

6:53 PM NNE 9

### Evansville Regional Airport

Evansville, Indiana (24 miles SE of site)

**Time Direction Speed (mph)**

6:54 PM NE 5

## Attachments



File 129878



File 129879

Original Event:	Wind Data #174
Submitted By:	James M. Trimble
Date of Weather:	05/09/2023

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## 07/24/2023 Online Investigation Activity

### Label Use

On July 24, 2023, I reviewed the labels of the pesticides used by Mr. Hartz; Klein Flying Service for his aerial application to the target wheat field on May 9, 2023 while the wind was blowing from the northeast (towards the Glaser property). Due to the evidence collected in this investigation, I found that Mr. Hartz' application had moved from its target site and onto the Glaser's off-target property as a result of drift which resulted in the following label violations;

**Prosaro 421 SC** (EPA Reg. #264-862, active ingredients of Prothioconazole & Tebuconazole)

- "Do not apply this product in a way that will contact workers or other persons, either directly or through drift."
- "Do not make applications when conditions favor drift beyond the target application area."

**Silencer VXN** (EPA Reg. #66222-223, active ingredient of Lambda-cyhalothrin) **Restricted Use Pesticide**

- "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"

#### Attachments

File 129846; PROSARO 421 SC FUNGICIDE.pdf

File 129845; SILENCER VXN INSECTICIDE.pdf

Original Event:	Investigation Activity (Pesticide) #6541
Submitted By:	James M. Trimble
PPLS Labels:	<a href="https://www3.epa.gov/pesticides/chem_search/ppls/000264-00862-20180613.pdf">000264-00862-20180613.pdf</a> <a href="https://www3.epa.gov/pesticides/chem_search/ppls/000264-00862-20180613.pdf">https://www3.epa.gov/pesticides/chem_search/ppls/000264-00862-20180613.pdf</a>



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08/01/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2564  
To: Klein Flying SVC Inc  
Submitted By: Joni D. Herman  
USPS: 7021 0950 0000 0608 0950  
Enclosed: Notice of Enforcement  
Attachments: File 131348; PS23-0135EL CIT ~ Klein Flying Service Inc..docx

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08/01/2023 **Notice of Enforcement Mailed to Target**

Enforcement to Mark E. Hartz sent c/o Klein Flying Service, Inc. to their PO Box address as indicated in PLANTS. A duplicate letter was sent to Mark E. Hartz at the Almyra, Arkansas address.

Original Event: Outgoing Mail #2565  
To: Mark E Hartz  
Submitted By: Joni D. Herman  
USPS: 7021 0950 0000 0608 0967  
Enclosed: Notice of Enforcement  
Attachments: File 131349; PS23-0135EL CIT - CP ~ Mark E. Hartz - Klein Flying Svc Inc..docx

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08/01/2023 **Notice of Enforcement Mailed to Target**

Duplicate enforcement letter mailed to Mark E. Hartz at the Almyra, Arkansas address. See Outgoing Mail #2565 regarding the original letter sent c/o Klein Flying Service, Inc. to their PO Box address as indicated in PLANTS. A copy of this letter (Almyra, AR address) was also sent to Klein Flying Service, Inc. @ Vincennes, IN.

Original Event: Outgoing Mail #2566  
To: Mark E Hartz  
Submitted By: Joni D. Herman  
USPS: 7021 0950 0000 0608 0974  
Enclosed: Notice of Enforcement  
Attachments: File 131350; PS23-0135EL CIT - CP ~ Mark E. Hartz - Almyra AR address.docx

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08/09/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2215  
Subject: Mark E Hartz  
Submitted By: Jacob A. Hatfield  
USPS: 7021 0950 0000 0608 0967  
Received: 08/09/2023  
Attachments: File 131898; CM 7021 0950 0000 0608 0967 - Mark E. Hartz - PS23-0135 - Received 8-9-2023.pdf

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08/09/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2216  
Subject: Klein Flying SVC Inc  
Submitted By: Jacob A. Hatfield  
USPS: 7021 0950 0000 0608 0950  
Received: 08/09/2023  
Attachments: File 131899; CM 7021 0950 0000 0608 0950 - Klein Flying Service, Inc. - PS23-0135 - Received 8-9-2023.pdf

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08/14/2023 **Received Mail Confirmation for Target**

CM green cards did not get returned to OISC. Per USPS online tracking the mail was delivered on August 14, 2023.

Original Event: Compliance Receipt #2241  
Subject: Mark E Hartz  
Submitted By: Joni D. Herman  
USPS: 7021 0950 0000 0608 0974  
Attachments: File 133934; CM 7021 0950 0000 0608 0974 - USPS Online Tracking ~ PS23-0135 Mark E. Hartz - Almyra AR.pdf

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08/21/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2227  
Subject: Mark E Hartz  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$500.00  
Payment Received: \$500.00  
Attachments: File 132366; PS23-0135 - Mark E. Hartz - CP Received 8-21-2023.pdf

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09/15/2023 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2701  
To: Steve A Glaser  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 134301; PS23-0135 - Steve A. Glaser - Case Closed Letter 9-15-2023.docx

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09/15/2023 **Notice of Case Closure Mailed to Target**  
Original Event: Outgoing Mail #2702  
To: Klein Flying SVC Inc  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 134303; PS23-0135 - Klein Flying Service, Inc. - Case Closed Letter 9-15-2023.docx

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09/15/2023 **Notice of Case Closure Mailed to Target**  
Original Event: Outgoing Mail #2703  
To: Mark E Hartz  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 134304; PS23-0135 - Mark E. Hartz - Case Closed Letter 9-15-2023.docx

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## Chain of Custody

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05/11/2023 **Sample 23-4-0910 2**  
Original Event: Chain of Custody #6551 (23-4-0910 2)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0911 8**  
Original Event: Chain of Custody #6552 (23-4-0911 8)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0912 5**  
Original Event: Chain of Custody #6553 (23-4-0912 5)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0913 9**  
Original Event: Chain of Custody #6554 (23-4-0913 9)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0914 1**  
Original Event: Chain of Custody #6555 (23-4-0914 1)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0915 6**  
Original Event: Chain of Custody #6556 (23-4-0915 6)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0916 0**  
Original Event: Chain of Custody #6557 (23-4-0916 0)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0917 3**  
Original Event: Chain of Custody #6558 (23-4-0917 3)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0918 7**

Original Event: Chain of Custody #6559 (23-4-0918 7)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0919 4**  
Original Event: Chain of Custody #6560 (23-4-0919 4)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0920 7**  
Original Event: Chain of Custody #6561 (23-4-0920 7)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0921 1**  
Original Event: Chain of Custody #6562 (23-4-0921 1)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

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05/11/2023 **Sample 23-4-0922 4**  
Original Event: Chain of Custody #6563 (23-4-0922 4)  
05/11/2023 10:30: Sample Collected by James M. Trimble  
05/12/2023 08:55: Sample Delivered to 218  
05/18/2023 10:01: Delivery Affirmed by Vicki L. Vauters

This record was generated on **October 16, 2023, 03:11 PM EDT**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.



Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

*Protecting Indiana's Agriculture and Environment*

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West Lafayette, IN 47907-2063  
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www.oisc.purdue.edu

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

This record was generated on **December 4, 2023, 11:15 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.

**In Re: Case PS23-0137**

Department	Pesticide
Originated	05/12/2023
Assigned To	Nathan J. Davis
Status	Closed

**Involved Parties**

Complainant	<b>Daniel Scott Egel</b> Vincennes, IN 47591	
Respondent	<b>Brian Flint Inc</b> Washington, IN 47501	Licensed Business
Respondent	<b>Brian A Flint</b> Washington, IN 47501	Certified Applicator

**Overviews**

10/04/2023 **Investigation Summary**

Mr. Flint made the application from the north side of the regulated drainage ditch spraying south over the regulated drainage ditch towards the complainant's property. The PPDL report indicated the symptoms observed were suggestive of exposure to a growth regulator, such as triclopyr. The OISC Residue Laboratory report detected triclopyr in the off target composite vegetation sample at levels consistent with off target movement. Further, the drainage ditch is angled along the complainant's property, the wind was out of the east and at times during the application would have been blowing towards the complainant's property.

Submitted By: Nathan J. Davis  
Role: Investigator

10/10/2023 **Disposition Summary**

Brian Flint Inc. was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to desirable vegetation. Consideration was given to the fact this was Brian Flint Inc's first violation of similar nature and no restricted use pesticides were involved.

Brian A. Flint 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 desirable vegetation. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact Brian A. Flint cooperated during the investigation; this was Brian A. Flint's first violation of similar nature and no restricted use pesticides were involved.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

05/12/2023 **Intake Referral Filed**

Complainant stated growth regulator herbicide damage observed May 11 at 7 Edgewood. Herbicide was used across Mill Creek from 7 Edgewood; Damage resulted from spray across creek or applicator came across creek without notice. Several Paw paw trees damaged, also jack-in-the pulpit, poppy other natives.

Original Event: Intake Referral (Pesticide) #3013  
Complainant: Daniel Scott Egel  
Respondent: Knox County Surveyors Office  
Submitted By: Joseph D. Becovitz  
Assigned To: Nathan J. Davis  
Attachments: File 124032; Egel ROW limits.png  
File 124031; Egel\_complainant\_form.pdf

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05/12/2023 **Case Created**

Original Event: Case PS23-0137  
Submitted By: Joseph D. Becovitz  
Assigned To: Nathan J. Davis

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05/15/2023 **Investigator Called Business Communication**

On May 15, 2023, I contacted the Knox County Surveyors Office and spoke with Knox County Surveyor Richard Vermillion. I advised Mr. Vermillion I was a pesticide investigator for OISC and of the complaint I was investigating. Mr. Vermillion advised he contracts Brian Flint Inc. to make right-of-way pesticide applications to the regulated drainage ditches within Knox County. Further, Mr. Vermillion advised per Indiana Code the right-of-way of the regulated drainage ditch is 75-feet from each ditch bank.

Original Event: Investigation Activity (Pesticide) #6226  
Subject: Knox County Surveyors Office  
Submitted By: Nathan J. Davis

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05/15/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1598  
Client: Brian Flint Inc  
Firm Representative: Brian Flint  
Submitted By: Nathan J. Davis  
Attachments: File 124640; NOI-Brian Flint 5-15-23.pdf

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05/15/2023 **Investigator Called Business Communication**

On May 15, 2023, I contacted certified applicator Brian Flint of Brian Flint Inc. I advised Mr. Flint I was a pesticide investigator for OISC and of the complaint I was investigating. Mr. Flint confirmed he is contracted by the Knox County Surveyors Office to make right-of-way pesticide application to the regulated drainage ditches within Knox County. I advised Mr. Flint I would be sending him a Notice of Inspection for his records and to send me back the application information.

Original Event: Investigation Activity (Pesticide) #6228  
Subject: Brian Flint Inc  
Submitted By: Nathan J. Davis

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05/15/2023 **New Respondent Identified**

Original Event: Investigation Change #336  
Respondent: Brian Flint Inc  
Submitted By: Nathan J. Davis

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05/15/2023 **New Respondent Identified**

Original Event: Investigation Change #337  
Respondent: Brian A Flint  
Submitted By: Nathan J. Davis

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05/16/2023 **Investigator Received Fax/Email from Business Records**

On May 16, 2023, I received an email from Mr. Flint which indicated he made the pesticide application to the regulated drainage ditch on May 10, 2023, between 8:30am and 3:30pm. Mr. Flint advised he applied *Element 4, EPA Reg.# 62719-40, Active Ingredient = triclopyr* and that the wind was 7mph. Mr. Flint advised he used a tractor with a handheld spray wand to apply the pesticide to only the ditch banks.

Attachments

File 124646; Email 2 5-16-23.png  
File 124647; Email 5-16-23.png

Original Event: Investigation Activity (Pesticide) #6229  
Subject: Brian Flint Inc  
Submitted By: Nathan J. Davis

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05/17/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1588  
Client: Daniel Scott Egel  
Firm Representative: Daniel Egel  
Submitted By: Nathan J. Davis  
Attachments: File 124214; NOI-Complainant 5-17-23.pdf

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05/17/2023 **Investigator Met with Complainant Interaction**

On May 17, 2023, I met with the complainant at his residence. The complainant advised on or around May 11, 2023, he observed growth regulator injury to trees and native plants on his property. The complainant advised he believed the injury was caused by a recent right-of-way pesticide application to the regulated ditch neighboring his property.

During my on-site investigation I did the following:

- a. Looked for and located the regulated drainage ditch. The regulated drainage ditch is located to the north of the complainant's property.
- b. Measured with a measuring wheel the 75-foot right-of-way from the south ditch bank to the complainant's property. I measured and marked the 75-foot right-of-way from the south ditch bank in three locations.
- c. Observed and photographed along the ditch bank and within the 75-foot right-of-way trees, and native plants with cupped and strapped leaves. I observed similar injury symptomology outside of the 75-foot right-of-way area.
- d. Collected samples of injured trees and native plants from outside of the 75-foot right-of-way from the complainant's property for assessment by the Purdue Plant & Pest Diagnostic Laboratory (PPDDL)
- e. Collected composite vegetation sample from within the 75-foot right-of-way area. Collected composite vegetation sample from outside the 75-foot right of way area from the complainant's property. The residue samples were submitted to the OISC Residue Laboratory for analysis.

Original Event: Investigation Activity (Pesticide) #6202  
Subject: Daniel Scott Egel  
Submitted By: Nathan J. Davis

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05/17/2023 **Investigator Met with Complainant Photographs**

Photographs taken during the on-site investigation.





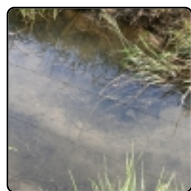




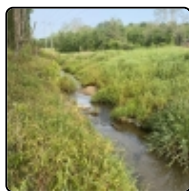




Attachments



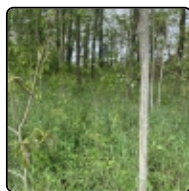
File 124275



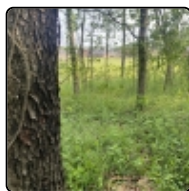
File 124256



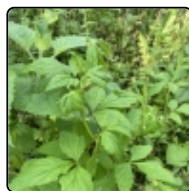
File 124257



File 124260



File 124261



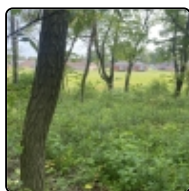
File 124262



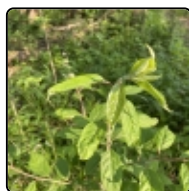
File 124263



File 124264



File 124266



File 124267



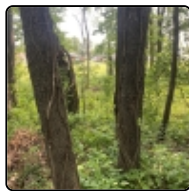
File 124269



File 124270



File 124271



File 124272



File 124273

Original Event: Investigation Activity (Pesticide) #6204  
Subject: Daniel Scott Egel  
Submitted By: Nathan J. Davis

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05/17/2023 **Residue Samples Collected**

Original Event: Residue Collection #267132 (23-4-0052 5)  
Client: Daniel Scott Egel  
Submitted By: Nathan J. Davis  
Sample: 23-4-0052 5 | Veg; Comp; Ditch Bank; Target, N  
Sample: 23-4-0053 9 | Veg; Comp; OFF-T, S  
Sample: 23-4-0054 1 | Veg; Ctrl; OFF-T, SW

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05/17/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #267137 (X23-7D6AA2)  
Client: Daniel Scott Egel  
Submitted By: Nathan J. Davis  
Lab: Purdue Plant and Pest Diagnostic Laboratory  
Sample: X23-7D6AA2 | Trees and Native Plants

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05/17/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #700  
Submitted By: Nathan J. Davis  
Target Analyte: Element 4  
PPLS Labels: [062719-00040-20140730.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00040-20140730.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/062719-00040-20140730.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00040-20140730.pdf)

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05/18/2023 **Received External Lab Report**

Diagnosis and Recommendations  
Host/Habitat Mixed Plant material (unspecified)  
List of Diagnosis/ID(s) Suspected for Herbicide injury; Exposure (Abiotic disorder)

Final Report

Leaf distortion, petiole curling, and epinasty symptoms were observed on the sample which is suggestive of exposure to a growth regulator, such as triclopyr. No disease symptoms were observed on the sample.

Original Event: External Lab Report #267329 (X23-7D6AA2)  
Submitted By: Nathan J. Davis  
Sample: X23-7D6AA2  
Attachments: File 124400; FinalReport\_Nathan Davis.pdf

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06/12/2023 **Received Residue Lab Report**

## Investigatory Summary

The OISC Residue Laboratory analyzed vegetation samples collected for the active ingredient triclopyr and reported the following laboratory report. The OISC Residue Laboratory analysis detected the active ingredient triclopyr in the south off target composite vegetation sample.

### First Page of Lab Report

OCM Collection #	267132	Investigator	DAVISN		
Collection Date	05/17/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0052 5	Veg; Comp; Ditch Bank; Target, N	Veg	Triclopyr	356000 ppb * Result reported as minimum detected	3 ppb
23-4-0053 9	Veg; Comp; OFF-T, S	Veg	Triclopyr	239 ppb * Result reported as minimum detected	3 ppb
23-4-0054 1	Veg; Ctrl; OFF-T, SW	Veg	Triclopyr	BQL ppb * Result reported as minimum detected.	3 ppb

Original Event: Residue Lab Report #270728 (267132-R1437)  
Submitted By: SYSTEM  
Lab Report: Lab Report 267132-R1437.pdf

### 10/02/2023 Wind Data Researched

The wind data from the Lawrenceville-Vincennes International Airport (KLWV)- ASOS, Evansville Regional Airport (KEVV) ASOS, and Terre Haute Regional Airport (KHUF) - ASOS indicate the wind speed during the application was between 5 and 12 mph with no gusts constantly out of the east and varying from north to south.

#### Lawrenceville-Vincennes International Airport (KLWV)- ASOS

*Lawrenceville, Illinois (8 miles WNW of site)*

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
7:53am	56	E	5	0
8:53am	60	E	8	0
9:53am	65	ESE	6	0
10:53am	68	E	10	0
11:53am	72	E	8	0
12:53pm	75	E	8	0
1:53pm	77	VAR	7	0
2:53pm	77	ESE	8	0

#### Evansville Regional Airport (KEVV) - ASOS

*Evansville, Indiana (45 miles S of site)*

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
7:54am	58	ENE	7	0
8:54am	63	E	6	0
9:54am	66	E	6	0
10:54am	70	E	8	0
11:54am	73	E	8	0
12:54pm	76	E	9	0
1:54pm	77	SE	8	0
2:54pm	79	VAR	7	0

## Terre Haute Regional Airport (KHUF) - ASOS

*Terre Haute, Indiana (54 miles N of site)*

<b>Time</b>	<b>Temp (°F)</b>	<b>Direction</b>	<b>Speed (mph)</b>	<b>Gust (mph)</b>
7:53am	54	ENE	5	0
8:53am	59	ESE	6	0
9:53am	63	ESE	8	0
10:53am	67	ESE	10	0
11:53am	70	ESE	12	0
12:53pm	73	E	9	0

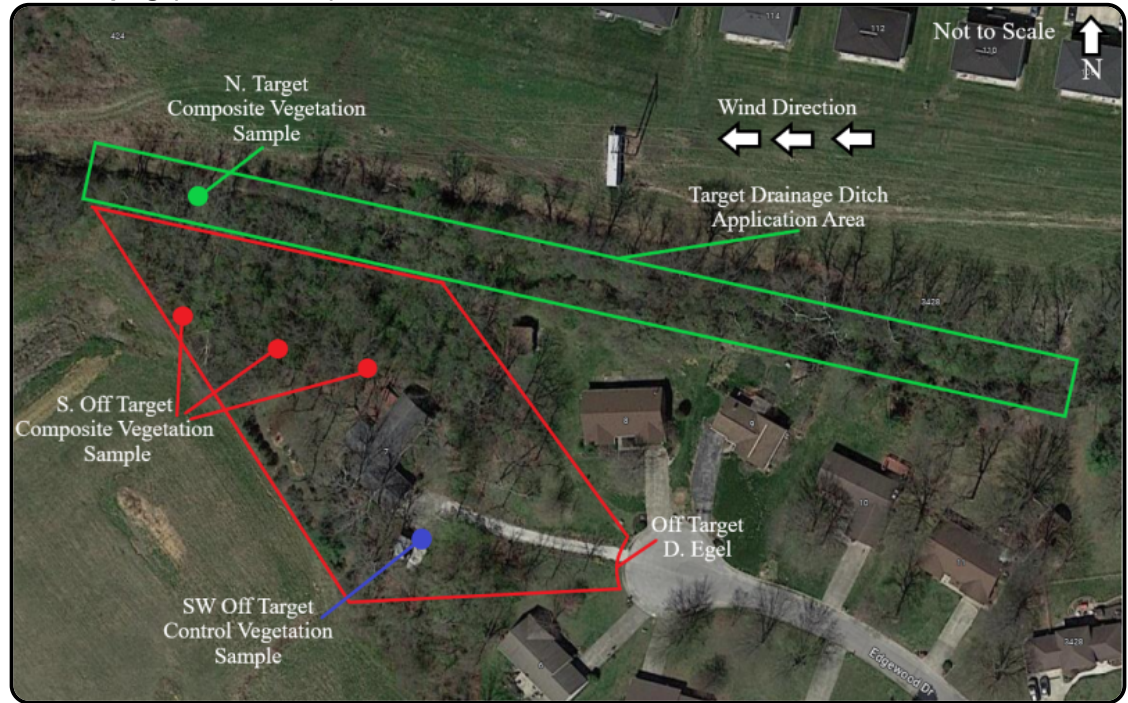
1:53pm 75 E 8 0  
2:53pm 77 SE 9 0

Original Event: Wind Data #184  
Submitted By: Nathan J. Davis  
Date of Weather: 05/10/2023

10/02/2023 **Investigation Activity**  
**Activity**

An aerial diagram including property lines, wind direction and where vegetation samples were collected from.

**PS23-0137.png (File 135495)**



Original Event: Investigation Activity (Pesticide) #6797  
Submitted By: Nathan J. Davis

10/04/2023 **Online Investigation Activity**  
**Activity**

Mr. Flint made the application from the north side of the regulated drainage ditch spraying south over the regulated drainage ditch towards the complainant's property. The PPDL report indicated the symptoms observed were suggestive of exposure to a growth regulator, such as triclopyr. The OISC Residue Laboratory report detected triclopyr in the off target composite vegetation sample at levels consistent with off target movement. Further, the drainage ditch is angled along the complainant's property, the wind was out of the east and at times during the application would have been blowing towards the complainant's property.

The label for *Element 4, EPA Reg.# 62719-40, Active Ingredient = triclopyr* states: "**Do not spray when wind is blowing toward susceptible crops or ornamental plants that are near enough to be injured**". The label for *Element 4, EPA Reg.# 62719-40, Active Ingredient = triclopyr* states: "**Do not apply Element 4 directly to, or otherwise permit it to come into direct contact with, cotton, grapes, peanuts, soybeans, tobacco, vegetable crops, flowers, citrus, or other desirable broadleaf plants. Do not permit spray mist containing Element 4 to drift onto such plants**".

Original Event: Investigation Activity (Pesticide) #6798  
Submitted By: Nathan J. Davis

10/10/2023 **Judgement; Civil Penalty Assessed**  
**Citation**

Brian Flint Inc. was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to desirable vegetation. Consideration was given to the fact this was Brian Flint Inc's first violation of similar nature and no restricted use pesticides were involved.

**Civil Penalty**

Brian A. Flint 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 desirable vegetation. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$400.00. Consideration was given to the fact Brian A. Flint cooperated during the investigation; this was Brian A. Flint's first violation of similar nature and no restricted use pesticides were involved.

Original Event: Judgement #1592  
Primary: Brian Flint Inc  
Secondary: Brian A Flint  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(2)  
Penalty Amount: 400

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10/18/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2786  
To: Brian Flint Inc  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1574  
Enclosed: Notice of Enforcement  
Attachments: File 136644; PS23-0137EL CIT ~ Brian Flint Inc..docx

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10/18/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2787  
To: Brian A Flint  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1581  
Enclosed: Notice of Enforcement  
Attachments: File 136645; PS23-0137EL CIT - CP Mitigated ~ Brian A. Flint - Brian Flint Inc..docx

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10/26/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2300  
Subject: Brian A Flint  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1581  
Received: 10/26/2023  
Attachments: File 137511; CM 7021 2720 0003 1615 1581 - Brian A. Flint - PS23-0137 - Received 10-26-2023.pdf

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10/31/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2293  
Subject: Brian A Flint  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$400.00  
Payment Received: \$400.00  
Attachments: File 137179; PS23-0137 - Brian A. Flint - CP Received 10-31-2023.pdf

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11/21/2023 **Mail Service Returned for Target**

On November 21, 2023, certified mail was returned to OISC. Regular mail has not been returned at this time.

Original Event: Compliance Receipt #2318  
Subject: Brian Flint Inc  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1574  
Returned: 11/21/2023  
Attachments: File 138011; CM 7021 2720 0003 1615 1574 - Brian Flint, Inc. - PS23-0137 - Returned 11-21-2023.pdf

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11/21/2023 **Mail Confirmation Assumed for Target**

As of November 21, 2023, regular mail has not been returned to OISC. However, Mr. Flint has paid his civil penalty, therefore, regular mail is assumed to have been received.

Original Event: Compliance Receipt #2319  
Subject: Brian Flint Inc  
Submitted By: Jacob A. Hatfield

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11/27/2023 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2900  
To: Daniel Scott Egel  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 138116; PS23-0137 - Daniel S. Egel - Case Closed Letter 11-27-2023.docx

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11/27/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2901  
To: Brian A Flint  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 138117; PS23-0137 - Brian Flint - Case Closed Letter 11-27-2023.docx

## Chain of Custody



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05/17/2023 **Sample 23-4-0052 5**  
Original Event: Chain of Custody #6759 (23-4-0052 5)  
05/17/2023 10:00: Sample Collected by Nathan J. Davis  
05/18/2023 10:40: Sample Delivered to Vicki L. Vauters  
05/18/2023 10:40: Delivery Affirmed by Vicki L. Vauters

---

05/17/2023 **Sample 23-4-0053 9**  
Original Event: Chain of Custody #6760 (23-4-0053 9)  
05/17/2023 10:00: Sample Collected by Nathan J. Davis  
05/18/2023 10:40: Sample Delivered to Vicki L. Vauters  
05/18/2023 10:40: Delivery Affirmed by Vicki L. Vauters

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05/17/2023 **Sample 23-4-0054 1**  
Original Event: Chain of Custody #6761 (23-4-0054 1)  
05/17/2023 10:00: Sample Collected by Nathan J. Davis  
05/18/2023 10:40: Sample Delivered to Vicki L. Vauters  
05/18/2023 10:40: Delivery Affirmed by Vicki L. Vauters

This record was generated on **December 4, 2023, 11:15 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.



Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

*Protecting Indiana's Agriculture and Environment*

Purdue University • 175 S University Street  
West Lafayette, IN 47907-2063  
Telephone (765) 494-1492 • Facsimile (765) 494-4331  
www.oisc.purdue.edu

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

This record was generated on **December 4, 2023, 11:16 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.

### In Re: Case PS23-0142

Department	Pesticide
Originated	05/15/2023
Assigned To	Elizabeth C. Carter
Status	Closed

### Involved Parties

Complainant **David Hurley**  
Columbia City, IN 46725

Respondent **Ag Plus LP Raber Ag Center**  
Columbia City, IN 46725

### Overviews

#### 09/06/2023 Investigation Summary

On May 14, 2023, Mr. David Hurley contacted the Office of the Indiana State Chemist (OISC) to report Ag Plus sprayed his alfalfa field, and within 24 hours of the application, 60 to 65 acres began to turn brown and wilt.

On May 18, 2023, I met with Mr. Hurley. Mr Hurley farmed three alfalfa fields all near his residence. I inspected the three fields; I categorized the fields as a northern, western, and southern. Upon inspecting the southern field, I saw varying levels of browning throughout the majority of the field. In the western field, symptoms were isolated to the perimeter pass. In the northern field, I saw what appeared to be a 'healthy/normal' field. It was reported that the sprayer had been refilled after spraying the southern field and approximately half of the western field. I took photographs of all three fields and collected samples for the OISC Residue Lab and the Purdue Pest and Diagnostic Lab (PPDL).

As reported on the Pesticide Investigation Inquiry, Drew Fetters applied Grizzly too (EPA Reg: 100-1295-1381, active ingredient: lambda cyhalothrin) and Cornerstone 5 (EPA Reg: 13812-241, active ingredient: glyphosate) on May 11, 2023, to the Hurley alfalfa fields. Justin Grimble was the mixer/ loader for this application. Just prior to this application, the mix tub contained Zidua Pro (active ingredient: saflufenacil and imazethapyr). It was suspected that the mix tub did not get cleaned out properly, and the first Hurley tank mix was contaminated with Zidua Pro. It is unclear whether this was a computer/ technical error or human error.

The PPDL report stated in part, "*The symptoms (small necrotic lesions on the upper canopy) and the pattern of injury across the field are both consistent with tank contamination issues involving contact herbicides such as saflufenacil (the active ingredient in Sharpen and Zidua Pro.)*" The OISC Residue Lab found the active ingredient in Zidua Pro in multiple samples/ areas of the field.

The Zidua Pro label stated, "*Do not apply Zidua PRO after crop emergence or severe crop injury will occur.*"

Submitted By: Elizabeth C. Carter  
Role: Investigator

#### 09/08/2023 Disposition Summary

Ag Plus LP Raber Ag Center was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying Zidua Pro, a general use pesticide that caused an adverse effect, after crop emergence. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$200.00. Consideration was given to the fact Ag Plus LP Raber Ag Center cooperated during the investigation; corrective action was taken and compensation occurred.

Submitted By: George Saxton  
Role: Compliance Officer

### Chronology of Events

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05/15/2023 **Intake Referral Filed**

Complainant stated Ag Plus Raber Ag Center sprayed his alfalfa field with glyphosate and an insecticide. Within 24 hours of the application, 60 to 65 acres of the alfalfa began to turn brown and wilt.

Original Event: Intake Referral (Pesticide) #3018  
Complainant: David Hurley  
Respondent: Ag Plus LP Raber Ag Center  
Submitted By: Joseph D. Becovitz  
Assigned To: Elizabeth C. Carter

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05/15/2023 **Case Created**

Original Event: Case PS23-0142  
Submitted By: Joseph D. Becovitz  
Assigned To: Elizabeth C. Carter

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05/18/2023 **Investigator Met with Farmer Interaction**

On May 18, 2023, I met with Mr. David Hurley. Mr Hurley farmed three alfalfa fields all near his residence. He stated Ag Best sprayed all three fields on May 11, 2023. He went to say that within 24 hours, he noticed browning and wilting of the top third of the plant in some of the fields.

I then inspected the three fields; I categorized the fields as a northern, western, and southern. Upon inspecting the southern field, I saw varying levels of browning/ necrotic spots throughout the majority of the 45+ acre field. Symptoms were most pronounced and severe on the ends and the turn around area; however, brown spotting of the leaves could be consistently seen throughout the entire field. In the western field, symptoms were isolated to the perimeter pass. The center of the western field looked much healthier and markedly different than the perimeter. The northern field appeared 'healthy' and without symptomology.

I took photographs of all three fields and collected samples for the OISC Residue Lab and the Purdue Pest and Diagnostic Lab (PPDL). All samples were submitted to the labs later that same day.

Attachments



File 124645

Original Event: Investigation Activity (Pesticide) #6213  
Subject: David Hurley  
Submitted By: Elizabeth C. Carter

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05/18/2023 **Residue Samples Collected**

Original Event: Residue Collection #267322 (23-4-1266 4)  
Client: David Hurley  
Submitted By: Elizabeth C. Carter  
Sample: 23-4-1266 4 | Veg; Ctrl; Alfalfa field  
Sample: 23-4-1267 2 | Veg; Comp; Alfalfa field  
Sample: 23-4-1268 6 | Veg; Comp; Alfalfa field  
Sample: 23-4-1269 3 | Veg; Comp; Alfalfa field  
Sample: 23-4-1270 5 | Veg; Comp; Alfalfa field

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05/18/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1599  
Client: David Hurley  
Firm Representative: David Hurley  
Submitted By: Elizabeth C. Carter  
Photos:



File 124644

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05/18/2023 **Investigator Met with Farmer Photographs**

Photos taken during investigation.

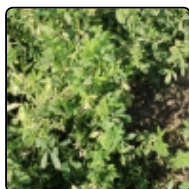
Attachments



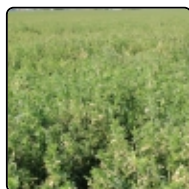
File 124660



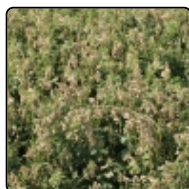
File 124661



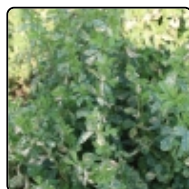
File 124651



File 124652



File 124653



File 124654



File 124655



File 124656



File 124657



File 124658



File 124659

Original Event: Investigation Activity (Pesticide) #6231  
Subject: David Hurley  
Submitted By: Elizabeth C. Carter

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05/18/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #267728 (X23-A76F98)  
Client: David Hurley  
Submitted By: Elizabeth C. Carter  
Lab: Purdue Plant and Pest Diagnostic Laboratory  
Sample: X23-A76F98 | I submitted an alfalfa plant sample to PPDL.  
Attachments: File 124669; PPDL- hurley.pdf

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05/18/2023 **Investigator Sent Fax/Email to Business Communication**

I emailed Mr. Bryan Azbell the PII.

Original Event: Investigation Activity (Pesticide) #6327  
Subject: Ag Plus LP Raber Ag Center  
Submitted By: Elizabeth C. Carter

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05/18/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1643  
Client: Ag Plus LP Raber Ag Center  
Firm Representative: Bryan Azbell  
Submitted By: Elizabeth C. Carter  
Photos:



File 126034

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05/18/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #704  
Submitted By: Elizabeth C. Carter  
Target Analyte: Zidua Pro  
PPLS Labels: [000100-01295-20141113.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01295-20141113.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000100-01295-20141113.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01295-20141113.pdf)  
[001381-00241-20201123.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00241-20201123.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/001381-00241-20201123.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00241-20201123.pdf)  
[007969-00365-20171228.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00365-20171228.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/007969-00365-20171228.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00365-20171228.pdf)

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05/22/2023 **Investigator Received Fax/Email from Business Investigation Inquiry**

On May 11, 2023, Drew Fetters applied Grizzly too and Cornerstone 5 to Mr. Hurley's fields. It was suspected that the mix tub did not get adequately cleaned out between loads, and the Hurley application was contaminated with Zidua Pro. Justin Grimble was the mixer/ loader for this application. It is unclear whether this was possibly a human error or computer/ technical error.

Attachments  
File 126035; Hurley PII Ag Plus.pdf

### Tank Mix

**Product** EPA  
Cornerstone 5 1381-241  
Grizzly too 100-1295-1381

### Application Date

**Date** **Start** **End**  
05/11/2023 10:00 11:28

Original Event: Investigation Activity (Pesticide) #6328  
Subject: Ag Plus LP Raber Ag Center  
Submitted By: Elizabeth C. Carter  
PPLS Labels: [000100-01295-20141113.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01295-20141113.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/001381-00241-20201123.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00241-20201123.pdf)

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### 05/23/2023 Received External Lab Report

The PPDL report stated in part, "*The symptoms (small necrotic lesions on the upper canopy) and the pattern of injury across the field are both consistent with tank contamination issues involving contact herbicides such as saflufenacil (the active ingredient in Sharpen and Zidua Pro.)*"

Original Event: External Lab Report #268059 (X23-A76F98)  
Submitted By: Elizabeth C. Carter  
Sample: X23-A76F98  
Attachments: File 124924; Final report PPDL Hurley.pdf

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### 07/06/2023 Received Residue Lab Report Investigatory Summary

The active ingredient in Zidua Pro (saflufenacil), was found in multiple samples/ areas of the field. It was a suspected containment in the mix tub.

#### First Page of Lab Report

OCM Collection #	267322	Investigator	CARTERE		
Collection Date	05/18/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-1266 4	Veg; Ctr; Alfalfa field	Veg	Saflufenacil	2.69 ppb	0.3 ppb
23-4-1267 2	Veg; Comp; Alfalfa field	Veg	Saflufenacil	67.5 ppb	0.3 ppb
23-4-1268 6	Veg; Comp; Alfalfa field	Veg	Saflufenacil	26.3 ppb	0.3 ppb
23-4-1269 3	Veg; Comp; Alfalfa field	Veg	Saflufenacil	37.7 ppb	0.3 ppb
23-4-1270 5	Veg; Comp; Alfalfa field	Veg	Saflufenacil	2.14 ppb	0.3 ppb

Original Event: Residue Lab Report #271989 (267322-R1584)  
Submitted By: SYSTEM  
Lab Report: Lab Report 267322-R1584.pdf

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### 07/24/2023 Investigation Activity zidua pro

The Zidua Pro label, page 12, stated, "*DO NOT apply Zidua PRO after crop emergence or severe crop injury will occur.*"

Original Event: Investigation Activity (Pesticide) #6537  
Submitted By: Elizabeth C. Carter  
PPLS Labels: [007969-00365-20171228.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00365-20171228.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/007969-00365-20171228.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00365-20171228.pdf)

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### 09/06/2023 Investigation Activity Activity

Below is the sampling diagram with lab results.

Attachments



File 133734

Original Event: Investigation Activity (Pesticide) #6689  
Submitted By: Elizabeth C. Carter

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09/08/2023 **Judgement; Civil Penalty Assessed**  
**Civil Penalty**

Ag Plus LP Raber Ag Center was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for applying Zidua Pro, a general use pesticide that caused an adverse effect, after crop emergence. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$200.00. Consideration was given to the fact Ag Plus LP Raber Ag Center cooperated during the investigation; corrective action was taken and compensation occurred.

Original Event: Judgement #1576  
Primary: Ag Plus LP Raber Ag Center  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(2)  
Penalty Amount: 200

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09/14/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2694  
To: Ag Plus LP Raber Ag Center  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1307  
Enclosed: Notice of Enforcement  
Attachments: File 134075; PS23-0142EL CIT - CP Mitigated ~ Ag Plus LP Raber Ag Center.docx

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09/21/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2259  
Subject: Ag Plus LP Raber Ag Center  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1307  
Received: 09/21/2023  
Attachments: File 135447; CM 7021 2720 0003 1615 1307 - Ag Plus LP Raber Ag Center - PS23-0142 - Received 9-21-2023.pdf

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10/18/2023 **Request Mailed to Target**

On 10/6/2023, OISC received a check for \$155.00 and a request to use a \$45.00 credit Ag Plus LP Raber Ag Center had with the licensing section of our agency. The credit could not be used for the the civil penalty. This email explains all of that to Bryan Azbell and requests an additional \$45.00 payment be sent to OISC so the \$200.00 civil penalty will be paid in full.

Original Event: Outgoing Mail #2781  
To: Ag Plus LP Raber Ag Center  
Submitted By: Joni D. Herman  
Enclosed: Request  
Enclosed: Notice  
Attachments: File 136629; 10.18.2023 Email to Bryan Azbell RE civil penalty on PS23-0142 Ag Plus LP Raber Ag Center.pdf  
File 136631; Email 10.6.2023 RE Receipt of CP payment for PS23-0142.pdf  
File 136632; OISCScanToEmail-10062023 ~ Paperwork & CP payment from Ag Plus LP Raber Ag Center.pdf  
File 136630; PS23-0142EL CIT - CP Mitigated ~ Ag Plus LP Raber Ag Center.pdf

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10/18/2023 **Received Mail Confirmation for Target**

On 10/18/2023, both a Delivery Receipt & a Read Receipt were received, via email, for the email sent to Brian Azbell regarding the CP. On 10/19/2023, we received an email from Ag Plus - Robyn Hinen / Bryan Azbell confirming an additional \$45.00 would be sent for the CP and they would hold onto the credit.

Original Event: Compliance Receipt #2279  
Subject: Ag Plus LP Raber Ag Center  
Submitted By: Joni D. Herman  
Attachments: File 136695; Delivery Receipt for 10.18.2023 Email to Bryan Azbell.pdf  
File 136698; OISC response to Robyn Hinen & Brad Azbell 10.19.2023.pdf  
File 136696; Read Receipt for 10.18.2023 Email to Bryan Azbell.pdf  
File 136697; Response Email from Ag Plus LP Raber Ag Center - Robyn Hinen & Brad Azbell 10.19.2023.pdf

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10/27/2023 **Received Penalty Payment for Target**

On 10/6/2023 OISC received a check for \$155.00 and the balance of \$45.00 was received on 10/27/2023 for a \$200.00 total CP payment.

Original Event: Compliance Receipt #2294  
Subject: Ag Plus LP Raber Ag Center  
Submitted By: Joni D. Herman  
Payment Expected: \$200.00  
Payment Received: \$200.00  
Attachments: File 137231; PS23-0142 Ag Plus LP Raber Ag Center ~ CP Recd. 10.27.23.pdf  
File 137230; PS23-0142 Ag Plus LP Raber Ag Center ~ CP Recd. 10.6.23.pdf

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11/06/2023 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2813  
To: David Hurley  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 137384; PS23-0142 - David Hurley - Case Closed Letter 11-6-2023.docx

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11/06/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2814  
To: Ag Plus LP Raber Ag Center  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 137385; PS23-0142 - Ag Plus LP Raber Ag Center - Case Closed Letter 11-6-2023.docx

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**Chain of Custody**

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05/18/2023 **Sample 23-4-1266 4**

Original Event: Chain of Custody #6822 (23-4-1266 4)  
05/18/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/18/2023 15:22: Sample Delivered to Vicki L. Vauters  
05/18/2023 15:22: Delivery Affirmed by Vicki L. Vauters

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05/18/2023 **Sample 23-4-1267 2**

Original Event: Chain of Custody #6823 (23-4-1267 2)  
05/18/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/18/2023 15:22: Sample Delivered to Vicki L. Vauters  
05/18/2023 15:22: Delivery Affirmed by Vicki L. Vauters

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05/18/2023 **Sample 23-4-1268 6**

Original Event: Chain of Custody #6824 (23-4-1268 6)  
05/18/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/18/2023 15:22: Sample Delivered to Vicki L. Vauters  
05/18/2023 15:22: Delivery Affirmed by Vicki L. Vauters

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05/18/2023 **Sample 23-4-1269 3**

Original Event: Chain of Custody #6825 (23-4-1269 3)  
05/18/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/18/2023 15:22: Sample Delivered to Vicki L. Vauters  
05/18/2023 15:22: Delivery Affirmed by Vicki L. Vauters

---

05/18/2023 **Sample 23-4-1270 5**

Original Event: Chain of Custody #6826 (23-4-1270 5)  
05/18/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/18/2023 15:22: Sample Delivered to Vicki L. Vauters  
05/18/2023 15:22: Delivery Affirmed by Vicki L. Vauters

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Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

*Protecting Indiana's Agriculture and Environment*

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www.oisc.purdue.edu

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

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### In Re: Case PS23-0160

Department	Pesticide
Originated	05/20/2023
Assigned To	Elizabeth C. Carter
Status	Closed

### Involved Parties

Complainant	<b>Trevor Pease</b> Lafayette, IN 47905
Respondent	<b>Joshua Windle Cox</b> Lafayette, IN 47905

### Overviews

#### 09/22/2023 Investigation Summary

On May 19, 2023, Mr. Trevor Pease contacted the Office of the Indiana State Chemist (OISC) to report herbicide symptoms on his property.

On May 23, 2023, I met with Mr. Pease. He had a large property with variety of trees and vegetation. Upon inspecting the yard, I observed leaf cupping and curling on a wide variety of trees with the exception of the evergreens. Mr. Pease reported symptoms starting around May 8. I took photographs of the site. I also collected environmental samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDL) along with the OISC Residue Lab. All samples were submitted to the lab later that same day.

Through research, I learned the field southeast of the Pease property was farmed by Josh Cox. On the Pesticide Investigation Inquiry (PII), Mr. Cox reported applying 2,4-D LV6 (EPA Reg:81927-39, AI: 2,4-D), Ag Saver (EPA Reg: 83772-12, AI: glyphosate), Priority 8E (EPA Reg: 42750-340, AI: metolachlor), and Anthem Maxx (EPA reg: 279-3468, AI: pyroxasulfone and fluthiacet-methyl) on May 4, 2023 between 10-11:30. Mr. Cox reported the wind was blowing 9 mph out of the south/ southeast. This means the wind would have been blowing from the point of application toward the Pease property.

The PPDL report stated the following, "*Leaf twisting, stunting and deformation were observed on multiple woody plant species, including grape, maple, tulip tree, pear, and apple. The apple tree foliage shows a large number of aphid bodies which is suggestive of green aphid damage causing at least some of the twisting on new growth. Deformation of the leaf petioles in pear and leaves in other species is suggestive of growth regulator exposure. Maple, tulip, and walnut trees show dead new growth which is suggestive of cold injury. There is also some injury to grasses near the edge of the field which could be associated with glyphosate.*"

The OISC Residue Lab found the active ingredients applied by Cox to his soybean field in varying levels across the three gradients on the Pease property.

Submitted By: Elizabeth C. Carter  
Role: Investigator  
Drift: Confirmed

#### 09/25/2023 Disposition Summary

Joshua Windle Cox was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact Joshua Windle Cox cooperated during the investigation and corrective action was taken.

Submitted By: George Saxton  
Role: Compliance Officer

### Chronology of Events



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05/19/2023 **Intake Referral Filed**

Complainant stated a herbicide application made to an adjacent farm field injured ornamentals on his property.

Original Event: Intake Referral (Pesticide) #3037  
Complainant: Trevor Pease  
Respondent: Unknown  
Submitted By: Joseph D. Becovitz  
Assigned To: Elizabeth C. Carter

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05/20/2023 **Case Created**

Original Event: Case PS23-0160  
Submitted By: Joseph D. Becovitz  
Assigned To: Elizabeth C. Carter

---

05/23/2023 **Investigator Met with Complainant Interaction**

On May 23, 2023, I met with Mr. Trevor Pease. Mr. Pease had a large property with a variety of fruit trees, nut trees, deciduous trees, evergreens, and a garden. There were two farm fields south of the Pease property. While researching the case, I learned the field southeast of the Pease property was farmed by Josh Cox and sprayed May 4, 2023. The field southwest was farmed by Doug Osborn and sprayed April 12, 2023. Mr. Pease reported he first noticed leaf curling on his vegetation around May 8, 2023. Mr. Pease also reported spot applying weed killer on the northwest side of his property.

Upon inspecting the yard, I observed leaf cupping and curling on a wide variety of trees with the exception of the evergreens. There was a large cluster of fruit trees in the middle of the yard that exhibited significant symptomology. Along the southern edge of the property near the farm field, there were a few maples, crab apples, and evergreens. The maple leaves appeared cupped and puckered. The crab apples had minor symptomology.

I took photographs of the site. I also collected environmental samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDL) along with the OISC Residue Lab. All samples were submitted to the lab later that same day.

Attachments



File 126163



File 124930



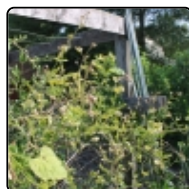
File 124935



File 124936



File 124937



File 124938



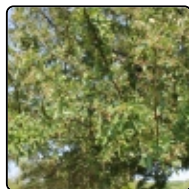
File 124939



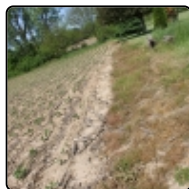
File 124940



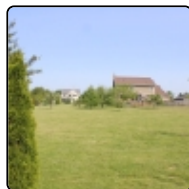
File 124941



File 124942



File 124943



File 124944



File 124945



File 124946



File 124947



File 124948



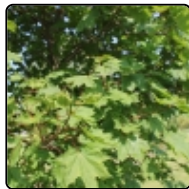
File 124949



File 124950



File 124951



File 124952



File 124953



File 124954



File 124955



File 124956



File 124957



File 124958



File 124959



File 124960



File 124961



File 124962



File 124963



File 124964



File 124965



File 126165

Original Event: Investigation Activity (Pesticide) #6248  
 Subject: Trevor Pease  
 Submitted By: Elizabeth C. Carter

05/23/2023 **Residue Samples Collected**

Original Event: Residue Collection #267869 (23-4-1271 4)  
 Client: Trevor Pease  
 Submitted By: Elizabeth C. Carter  
 Sample: 23-4-1271 4 | Soil; Comp; 2-4"; Target  
 Sample: 23-4-1272 2 | Soil; Comp; 2-4"; Target  
 Sample: 23-4-1273 3 | Veg; Comp; Target  
 Sample: 23-4-1274 6 | Veg; Comp; OFF-T, Back Yard  
 Sample: 23-4-1275 1 | Veg; Comp; OFF-T, Back Yard  
 Sample: 23-4-1276 7 | Veg; Comp; OFF-T, Back Yard

05/23/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1623  
 Client: Trevor Pease  
 Firm Representative: Trevor Pease  
 Submitted By: Elizabeth C. Carter

Photos:



File 124923

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05/23/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #268078 (X23-DEF7E9)  
Client: Trevor Pease  
Submitted By: Elizabeth C. Carter  
Lab: Purdue Plant and Pest Diagnostic Laboratory  
Sample: X23-DEF7E9 | I collected a variety of foliage (Maple, tulip popular, and assorted fruit trees) for submission to the PPDL.  
Attachments: File 124925; PPDL- pease 23-0160.pdf

---

05/23/2023 **Received External Lab Report**

The PPDL report stated the following, \_\_ "Leaf twisting, stunting and deformation were observed on multiple woody plant species, including grape, maple, tulip tree, pear, and apple. The apple tree foliage shows a large number of aphid bodies which is suggestive of green aphid damage causing at least some of the twisting on new growth. Deformation of the leaf petioles in pear and leaves in other species is suggestive of growth regulator exposure. Maple, tulip, and walnut trees show dead new growth which is suggestive of cold injury. There is also some injury to grasses near the edge of the field which could be associated with glyphosate." \_\_

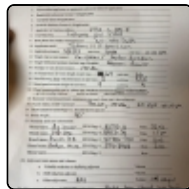
Original Event: External Lab Report #268080 (X23-DEF7E9)  
Submitted By: Elizabeth C. Carter  
Sample: X23-DEF7E9  
Attachments: File 124926; final report Pease PPDL.pdf

---

05/24/2023 **Investigator Received Fax/Email from Applicator Investigation Inquiry**

On May 4, 2023, Joshua Cox electronically submitted the Pesticide Investigation Inquiry.

Attachments



File 124927



File 124928

### Inquiry Overview

Certified Applicator Joshua Cox  
Application Type Farmer  
Target Field Stevenson Runway

### Tank Mix

Product	EPA
2,4-D LV6	81927-39
Ag Saver	83772-12
Priority 8E	42750-340
Anthem Maxx	279-3468

### Application Date

Date	Start	End
05/04/2023	10	11:30

Original Event: Investigation Activity (Pesticide) #6267  
Subject: Joshua Windle Cox  
Submitted By: Elizabeth C. Carter  
PPLS Labels: [000279-03468-20200320.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000279-03468-20200320.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/042750-00340-20230106.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/042750-00340-20230106.pdf)

[081927-00039-20210625.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/081927-00039-20210625.pdf)

[https://www3.epa.gov/pesticides/chem\\_search/ppls/081927-00039-20210625.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/081927-00039-20210625.pdf)

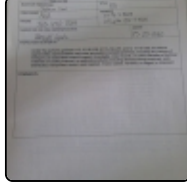
[083772-00012-20191231.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/083772-00012-20191231.pdf)

[https://www3.epa.gov/pesticides/chem\\_search/ppls/083772-00012-20191231.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/083772-00012-20191231.pdf)

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05/24/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1624  
Client: Joshua Windle Cox  
Firm Representative: Joshua Cox  
Submitted By: Elizabeth C. Carter  
Photos:



File 124929

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05/24/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #710  
Submitted By: Elizabeth C. Carter  
Target Analyte: Anthem max  
PPLS Labels: [000279-03468-20200320.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000279-03468-20200320.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000279-03468-20200320.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000279-03468-20200320.pdf)  
[042750-00340-20230106.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/042750-00340-20230106.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/042750-00340-20230106.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/042750-00340-20230106.pdf)  
[081927-00039-20210625.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/081927-00039-20210625.pdf)  
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[083772-00012-20191231.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/083772-00012-20191231.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/083772-00012-20191231.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/083772-00012-20191231.pdf)

Photos:



File 124866

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09/06/2023 **Received Residue Lab Report  
Investigatory Summary**

The active ingredients applied by Cox to his soybean field were found in varying levels across the three gradients on the Pease property. The Osborn soil sample was not analyzed as the timing of application and symptoms did not align.

**First Page of Lab Report**

OCM Collection #	267869	Investigator	CARTERE		
Collection Date	05/23/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-1271 4	Soil; Comp; 2-4"; Target	Soil	2,4-D	1.09 ppb	0.2 ppb
			AMPA	906 ppb	40 ppb
			Glyphosate	1070 ppb	40 ppb
			Fluthiacet-methyl	0.221 ppb	0.07 ppb
			Pyroxasulfone	33.8 ppb	0.07 ppb
23-4-1273 3	Veg; Comp; Target	Veg	2,4-D	12400 ppb * Results reported as minimum detected	0.7 ppb
			AMPA	465 ppb	66 ppb
			Glyphosate	14600 ppb * Results is approximate	66 ppb
			Fluthiacet-methyl	1.53 ppb	0.1 ppb
			Pyroxasulfone	417 ppb * Estimated amount	0.3 ppb
23-4-1274 6	Veg; Comp; OFF-T, Back Yard	Veg	2,4-D	302 ppb * Results reported as minimum detected	0.7 ppb
			AMPA	BDL ppb	66 ppb
			Glyphosate	161 ppb	66 ppb
			Fluthiacet-methyl	BDL ppb	0.1 ppb
			Pyroxasulfone	5.56 ppb	0.3 ppb

Original Event: Residue Lab Report #277530 (267869-R1662)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 267869-R1662.pdf

**09/19/2023 Investigation Activity**

**Activity**

According to the AgSaver Glyphosate label, "Avoid contact of herbicide with foliage, stems, exposed non-woody roots or fruit of crops (except as specified for individual roundup ready crops), desirable plants and trees because severe injury or destruction may result."

**Attachments**

File 134609; ag saver label.pdf

Original Event: Investigation Activity (Pesticide) #6737  
 Submitted By: Elizabeth C. Carter

**09/19/2023 New Respondent Identified**

Original Event: Investigation Change #402  
 Respondent: Joshua Windle Cox  
 Submitted By: Elizabeth C. Carter

**09/25/2023 Judgement; Civil Penalty Assessed**

**Civil Penalty**

Joshua Windle Cox was cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-12-2, for applying a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$300.00.

Consideration was given to the fact Joshua Windle Cox cooperated during the investigation and corrective action was taken.

Original Event: Judgement #1585  
 Primary: Joshua Windle Cox  
 Submitted By: George Saxton  
 Legal Citation: 357 IAC 1-12-2  
 Penalty Amount: 300

**09/27/2023 Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2719  
 To: Joshua Windle Cox  
 Submitted By: Jacob A. Hatfield  
 USPS: 7021 2720 0003 1615 1420  
 Enclosed: Notice of Enforcement

---

10/05/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2268  
Subject: Joshua Windle Cox  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1420  
Received: 10/05/2023  
Attachments: File 136327; CM 7021 2720 0003 1615 1420 - Joshua W. Cox - PS23-0160 - Received 10-5-2023.pdf  
File 136328; CM 7021 2720 0003 1615 1420 - Joshua W. Cox - PS23-0160 - USPS Proof of Delivery 10-5-2023.pdf

---

10/17/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2276  
Subject: Joshua Windle Cox  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$300.00  
Payment Received: \$300.00  
Attachments: File 136525; PS23-0160 - Joshua W. Cox - CP Received 10-17-2023.pdf

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11/06/2023 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2817  
To: Trevor Pease  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 137388; PS23-0160 - Trevor Pease - Case Closed Letter 11-6-2023.docx

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11/06/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2818  
To: Joshua Windle Cox  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 137389; PS23-0160 - Joshua W. Cox - Case Closed Letter 11-6-2023.docx

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**Chain of Custody**

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05/23/2023 **Sample 23-4-1271 4**

Original Event: Chain of Custody #6939 (23-4-1271 4)  
05/23/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/23/2023 14:29: Sample Delivered to Kylo  
05/24/2023 10:30: Delivery Affirmed by Vicki L. Vauters

---

05/23/2023 **Sample 23-4-1272 2**

Original Event: Chain of Custody #6940 (23-4-1272 2)  
05/23/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/23/2023 14:29: Sample Delivered to Kylo  
05/24/2023 10:30: Delivery Affirmed by Vicki L. Vauters

---

05/23/2023 **Sample 23-4-1273 3**

Original Event: Chain of Custody #6941 (23-4-1273 3)  
05/23/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/23/2023 14:29: Sample Delivered to Kylo  
05/24/2023 10:30: Delivery Affirmed by Vicki L. Vauters

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05/23/2023 **Sample 23-4-1274 6**

Original Event: Chain of Custody #6942 (23-4-1274 6)  
05/23/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/23/2023 14:29: Sample Delivered to Kylo  
05/24/2023 10:30: Delivery Affirmed by Vicki L. Vauters

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05/23/2023 **Sample 23-4-1275 1**

Original Event: Chain of Custody #6943 (23-4-1275 1)  
05/23/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/23/2023 14:29: Sample Delivered to Kylo  
05/24/2023 10:30: Delivery Affirmed by Vicki L. Vauters

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05/23/2023 **Sample 23-4-1276 7**

Original Event: Chain of Custody #6944 (23-4-1276 7)  
05/23/2023 11:00: Sample Collected by Elizabeth C. Carter  
05/23/2023 14:29: Sample Delivered to Kylo  
05/24/2023 10:30: Delivery Affirmed by Vicki L. Vauters

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

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**In Re: Case PS23-0209**

Department	Pesticide
Originated	06/16/2023
Assigned To	Kevin W. Gibson
Status	Closed

**Involved Parties**

Complainant	<b>Faye McFarland</b> Culver, IN 46511
Respondent	<b>Gary Lee Plummer</b> Kewanna, IN 46939

**Overviews**

09/14/2023 **Investigation Summary**

I met with complainant Faye McFarland who told me a herbicide application made to an adjacent farm field drifted onto her property. A Notice of Inspection (NOI) was issued via email.

I checked the site and observed some cupping and strapping on some of the leaves of the trees on the complainant's property. I took photographs of trees and bushes which exhibited some exposure symptoms. I collected vegetation samples for submission to the Purdue Plant and Pest Diagnostic (PPDL) for analysis. I also collected vegetation samples for submission to the OISC Residue Lab for analysis.

I learned certified private applicator Robert Plummer made a pesticide application of Roundup Power Max III (EPA #524-659; active ingredient: glyphosate), Cornbelt Atrazine (EPA #11773-13; active ingredient: atrazine) and Bellum (EPA #83100-41-83979; active ingredient: mesotrione) on 6/9/23.

The information I received from **Purdue Plant and Pest Diagnostic Lab** (PPDL) indicated the following: *The mulberry tree has some leaf damage associated with insect feeding and dark necrotic spots that were positive for bacterial streaming (suspect Pseudomonas leaf spot). One mulberry in the photos provided has a dying limb which could be associated with a canker pathogen, such as Botryosphaeria. A tree that looks like an elm or beech has chewing feeding injury in the form of holes on the leaves as well as some necrotic tissue on the side closer to the home. The grape plants are the only plants that appear to have some amount of chlorosis which could be associated with an herbicide. The only clear damage from those pictures is the mesotrione damage on the grape. There might be some minor atrazine damage on image 1138, but those symptoms could be indicative of many pests as well. As you know, grapes are an indicator species, which show symptoms to even minor herbicide applications. I don't suspect there is any long-term damage to any of these, unless there are now glyphosate injury symptoms.*

I received analysis results from OISC Residue Lab. Analysis results indicated the active ingredients from the pesticide application were found in complainant samples in amounts consistent with drift.

Wind data from Warsaw Municipal Airport, Elkhart Municipal Airport and Fulton County Airport weather stations indicated the wind was blowing toward the complainant's property at the time of the pesticide application.

The label for **Cornbelt Atrazine** (EPA #11773-13; active ingredient: atrazine) reads in part, "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, **nontarget crops**, aquatic and wetland areas, woodlands, pastures, rangelands, or animals".

Based on information obtained during the investigation: herbicide exposure symptoms; PPDL analysis; OISC Residue Lab analysis; weather information for Culver Indiana area at time of the application and label language for Cornbelt Atrazine herbicide, Robert Plummer of Plummer Farms was in violation for *allowing his pesticide application to drift onto nontarget crops*.

Submitted By: Kevin W. Gibson  
Role: Investigator  
Drift: Confirmed



---

09/20/2023 **Disposition Summary**

Gary Lee Plummer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift structures people occupy or associated property. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was adverse effect.

Submitted By: George Saxton  
Role: Compliance Officer

---

**Chronology of Events**

06/16/2023 **Intake Referral Filed**

Complainant stated a herbicide application made to an adjacent farm field drifted onto her property.

Original Event: Intake Referral (Pesticide) #3086  
Complainant: Faye Mcfarland  
Respondent: Gary Lee Plummer  
Submitted By: Joseph D. Becovitz  
Assigned To: Kevin W. Gibson

---

06/16/2023 **Case Created**

Original Event: Case PS23-0209  
Submitted By: Joseph D. Becovitz  
Assigned To: Kevin W. Gibson

---

06/20/2023 **Residue Samples Collected**

Original Event: Residue Collection #271054 (23-4-0145 9)  
Client: Faye Mcfarland  
Submitted By: Kevin W. Gibson  
Sample: 23-4-0145 9 | Veg; Ctrl; OFF-T  
Sample: 23-4-0146 3 | Veg; Comp; OFF-T, Grad1, S  
Sample: 23-4-0147 1 | Veg; Grab; OFF-T, Grad2, S  
Sample: 23-4-0148 5 | Veg; Grab; OFF-T, Grad3, S  
Sample: 23-4-0149 2 | Veg; Comp; Target

Photos:



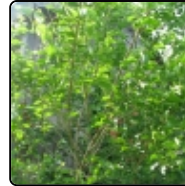
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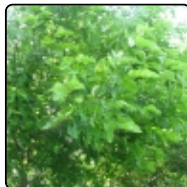
File 127134



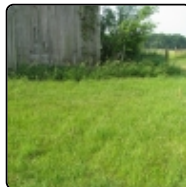
File 127135



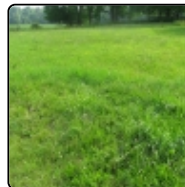
File 127131



File 127132



File 127136



File 127137

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06/20/2023 **External Lab Sample Collected**

I collected vegetation samples of various tree leaves and grape leaves for submission to the Purdue Pest and Diagnostic Lab (PPDL) for analysis.

Original Event: External Lab Sample Collection #271071 (X23-CF9E42)  
Client: Faye Mcfarland  
Submitted By: Kevin W. Gibson  
Lab: Purdue Plant and Pest Diagnostic Laboratory  
Sample: X23-CF9E42 | Tree leaves and grape leaves were collected.  
Photos:



06/20/2023 **Investigator Met with Complainant Interaction**

I met with complainant Faye McFarland at her residence/investigation site. She told me the applicator's son Gary Plummer contacted her on 6/9/23 before the application was made. He told her the wind was minimal and would not affect her property. When she checked her phone app for the wind information at her residence, it showed the wind was blowing toward her property. She was worried about her horse which was in the pasture and would have been exposed to the pesticide. I checked the site for herbicide exposure symptoms. I checked the trees, bushes and grass on her property southeast from the target field. I observed what appeared to be symptoms of wilting, puckering and necrosis to the grape leaves behind the garage. I didn't observe symptoms on other vegetation. I took photographs of the vegetation. I obtained vegetation samples for submission to the Purdue Plant and Pest Diagnostic Lab (PPDL) for analysis. I also obtained vegetation samples from the complainant's property and the target field for submission to the OISC Residue Lab for analysis. I created a satellite image of the complainant's property depicting the locations of the samples.

Attachments



**Photographs**

I took photographs of the vegetation on the complainant's property.

Attachments



File 127163



File 127164



File 127165



File 127166



File 127167



File 127168



File 127169



File 127170



File 127171



File 127177



File 127178



File 127179



File 127172



File 127173



File 127174



File 127175



File 127176

Original Event: Investigation Activity (Pesticide) #6419  
 Subject: Faye Mcfarland  
 Submitted By: Kevin W. Gibson

06/20/2023 **Notice of Inspection Issued**

I issued a Notice of Inspection (NOI) to complainant Faye McFarland via email.

Original Event: Notice of Inspection #1677  
 Client: Faye Mcfarland  
 Firm Representative: Faye Mcfarland  
 Submitted By: Kevin W. Gibson  
 Photos:



File 127183

06/20/2023 **Investigator Called Applicator Investigation Inquiry**

Certified private applicator Robert Plummer made a pesticide application of **Roundup Power Max III** (EPA#524-659; active ingredient: glyphosate), **Cornbelt Atrazine** (EPA#11773-13; active ingredient: atrazine) and **Bellum** (EPA#83100-41-83979; active ingredient: mesotrione) on 6/9/23 between 12:35pm to 1:05pm. He reported the wind from the north in a southerly direction at 7 mph.

Attachments

File 127261; PII.pdf

**Inquiry Overview**

Certified Applicator Robert Plummer  
 Application Type Farmer  
 Target Field Farm Field

**Tank Mix**

Product	EPA	Rate
Roundup Power Max III	524-659	22 oz.
Cornbelt Atrazine	11773-13	1 lb.
Bellum	83100-41-83979	3 oz.

**Application Date**

Date	Start	End
06/09/2023	12:35pm	1:05pm

## Air Conditions

### Time Temp Direction Speed

Start 75°F N 7mph

End 75°F N 7mph

Original Event: Investigation Activity (Pesticide) #6422  
Subject: Faye Mcfarland  
Submitted By: Kevin W. Gibson  
PPLS Labels: [011773-00013-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/011773-00013-20211110.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/011773-00013-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/011773-00013-20211110.pdf)  
[000524-00659-20200317.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000524-00659-20200317.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf)  
[083100-00041-20200629.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/083100-00041-20200629.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/083100-00041-20200629.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/083100-00041-20200629.pdf)

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### 06/20/2023 Received External Lab Report

Purdue Plant and Pest Diagnostic Lab (PPDL) indicated the following: *The mulberry tree has some leaf damage associated with insect feeding and dark necrotic spots that were positive for bacterial streaming (suspect Pseudomonas leaf spot). One mulberry in the photos provided has a dying limb which could be associated with a canker pathogen, such as Botryosphaeria. A tree that looks like an elm or beech has chewing feeding injury in the form of holes on the leaves as well as some necrotic tissue on the side closer to the home. The grape plants are the only plants that appear to have some amount of chlorosis which could be associated with an herbicide. The only clear damage from those pictures is the mesotrione damage on the grape. There might be some minor atrazine damage on image 1138, but those symptoms could be indicative of many pests as well. As you know, grapes are an indicator species, which show symptoms to even minor herbicide applications. I don't suspect there is any long-term damage to any of these, unless there are now glyphosate injury symptoms.*

Original Event: External Lab Report #271413 (X23-CF9E42)  
Submitted By: Kevin W. Gibson  
Sample: X23-CF9E42  
Attachments: File 127574; FinalReport\_Kevin Gibson (11).pdf

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### 06/21/2023 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #726  
Submitted By: Kevin W. Gibson  
Target Analyte: Roundup Power Max III  
Target Analyte: Cornbelt Atrazine  
Target Analyte: Bellum  
PPLS Labels: [011773-00013-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/011773-00013-20211110.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/011773-00013-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/011773-00013-20211110.pdf)  
[000524-00659-20200317.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/000524-00659-20200317.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf)  
[083100-00041-20200629.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/083100-00041-20200629.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/083100-00041-20200629.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/083100-00041-20200629.pdf)  
Attachments: File 127260; PII.pdf

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### 06/22/2023 Wind Data Researched

Wind data from all three weather stations indicated the wind was blowing at the complainant's property at the time of the application.

#### Elkhart Municipal Airport

*Elkhart, Indiana (40 miles NE of site)*

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
12:35pm	72	VAR	6	6
12:55pm	73	VAR	6	6

#### Warsaw Municipal Airport

*Warsaw, Indiana (27 miles ENE of site)*

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
12:35pm	73	N	11	17
12:55pm	73	N	7	7

#### Fulton County Airport

*Rochester, Indiana (11 miles SE of site)*

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
12:35pm	73	N	0	0
12:55pm	73	VAR	7	7

## Attachments

File 134141; WBAN\_00265\_2023-6-9.pdf  
File 134142; WBAN\_04806\_2023-6-9.pdf  
File 134143; WBAN\_54809\_2023-6-9.pdf

Original Event: Wind Data #181  
Submitted By: Kevin W. Gibson  
Date of Weather: 06/09/2023

08/17/2023 **Received Residue Lab Report**  
**Investigatory Summary**

Analysis results indicated the active ingredients from the pesticide application were found in complainant samples in amounts consistent with drift.

**First Page of Lab Report**

OCM Collection #	271054	Investigator	GIBSONK		
Collection Date	06/20/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0145 9	Veg; Ctrf; OFF-T	Veg	AMPA	BDL ppb	13 ppb
			Glyphosate	BDL ppb	13 ppb
			Atrazine	119 ppb	0.3 ppb
			Mesotrione	BDL ppb	0.3 ppb
23-4-0146 3	Veg; Comp; OFF-T, Grad1, S	Veg	AMPA	28.3 ppb	13 ppb
			Glyphosate	73.2 ppb	13 ppb
			Atrazine	58.1 ppb	0.3 ppb
			Mesotrione	2.64 ppb	0.3 ppb
23-4-0147 1	Veg; Grab; OFF-T, Grad2, S	Veg	AMPA	BDL ppb	13 ppb
			Glyphosate	48.7 ppb	13 ppb
			Atrazine	51.9 ppb	0.3 ppb
			Mesotrione	4.20 ppb	0.3 ppb
23-4-0148 5	Veg; Grab; OFF-T, Grad3, S	Veg	AMPA	17.2 ppb	13 ppb
			Glyphosate	62.7 ppb	13 ppb
			Atrazine	105 ppb	0.3 ppb
			Mesotrione	BDL ppb	0.3 ppb

Original Event: Residue Lab Report #276321 (271054-R1639)  
Submitted By: SYSTEM  
Lab Report: Lab Report 271054-R1639.pdf

09/20/2023 **Judgement; Civil Penalty Assessed**  
**Civil Penalty**

Gary Lee Plummer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift structures people occupy or associated property. A civil penalty in the amount of \$1,000.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved and there was adverse effect.

Original Event: Judgement #1582  
Primary: Gary Lee Plummer  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(2)  
Penalty Amount: 1000

09/22/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2718  
To: Gary Lee Plummer  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1390  
Enclosed: Notice of Enforcement  
Attachments: File 134846; PS23-0209EL CIT - CP ~ Gary Lee Plummer.docx

10/05/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2262  
Subject: Gary Lee Plummer  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$1,000.00  
Payment Received: \$1,000.00

Attachments:

File 135685; PS23-0209 - Gary L. Plummer - CP Received 10-5-2023.pdf

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10/06/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2267  
Subject: Gary Lee Plummer  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1390  
Received: 10/06/2023  
Attachments: File 136325; CM 7021 2720 0003 1615 1390 - Mr. Gary L. Plummer - PS23-0209 - Received 10-6-2023.pdf  
File 136326; CM 7021 2720 0003 1615 1390 - Mr. Gary L. Plummer - PS23-0209 - USPS Proof of Delivery 10-6-2023.pdf

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11/06/2023 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2819  
To: Faye McFarland  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 137390; PS23-0209 - Faye McFarland - Case Closed Letter 11-6-2023.docx

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11/06/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2820  
To: Gary Lee Plummer  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 137391; PS23-0209 - Mr. Gary L. Plummer - Case Closed Letter 11-6-2023.docx

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**Chain of Custody**

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06/21/2023 **Sample 23-4-0145 9**

Original Event: Chain of Custody #7345 (23-4-0145 9)  
06/20/2023 00:00: Sample Collected by Kevin W. Gibson  
06/21/2023 00:00: Sample Delivered to Vicki L. Vauters  
06/21/2023 00:00: Delivery Affirmed by Vicki L. Vauters

---

06/21/2023 **Sample 23-4-0146 3**

Original Event: Chain of Custody #7346 (23-4-0146 3)  
06/20/2023 00:00: Sample Collected by Kevin W. Gibson  
06/21/2023 00:00: Sample Delivered to Vicki L. Vauters  
06/21/2023 00:00: Delivery Affirmed by Vicki L. Vauters

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06/21/2023 **Sample 23-4-0147 1**

Original Event: Chain of Custody #7347 (23-4-0147 1)  
06/20/2023 00:00: Sample Collected by Kevin W. Gibson  
06/21/2023 00:00: Sample Delivered to Vicki L. Vauters  
06/21/2023 00:00: Delivery Affirmed by Vicki L. Vauters

---

06/21/2023 **Sample 23-4-0148 5**

Original Event: Chain of Custody #7348 (23-4-0148 5)  
06/20/2023 00:00: Sample Collected by Kevin W. Gibson  
06/21/2023 00:00: Sample Delivered to Vicki L. Vauters  
06/21/2023 00:00: Delivery Affirmed by Vicki L. Vauters

---

06/21/2023 **Sample 23-4-0149 2**

Original Event: Chain of Custody #7349 (23-4-0149 2)  
06/20/2023 00:00: Sample Collected by Kevin W. Gibson  
06/21/2023 00:00: Sample Delivered to Vicki L. Vauters  
06/21/2023 00:00: Delivery Affirmed by Vicki L. Vauters

This record was generated on **December 4, 2023, 11:19 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.



Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

*Protecting Indiana's Agriculture and Environment*

Purdue University • 175 S University Street  
West Lafayette, IN 47907-2063  
Telephone (765) 494-1492 • Facsimile (765) 494-4331  
www.oisc.purdue.edu

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

This record was generated on **October 16, 2023, 03:15 PM EDT**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.

**In Re: Case PS23-0220**

Department	Pesticide
Originated	06/23/2023
Assigned To	Paul Jay Kelley
Status	Closed

**Involved Parties**

Complainant	<b>Kevin Vass</b> Grandview, IN 47615
Respondent	<b>Unknown</b>
Respondent	<b>Robert A Ray</b> Grandview, IN 47615
Respondent	<b>Frank Hagy</b> Grandview, IN 47615

**Overviews**

08/15/2023 **Investigation Summary**

On June 22, 2023, Frank Hagy made an application to ditch bank with glyphosate and 2,4D.  
Wind on PII blowing toward complainant at 10 mph.  
Complainant Vass stated he felt mist.  
OISC Residue lab detected 2,4D on shirt Mr. Vass wearing.  
OISC Residue Lab found residues of glyphosate and 2, 4D in soil and on vegetation on Mr. Vass's property.  
Submitted By: Paul Jay Kelley  
Role: Investigator  
Drift: Confirmed

08/21/2023 **Disposition Summary**

Robert A Ray 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 and application when wind is blowing towards a sensitive area. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact Mr. Ray cooperated during the investigation and corrective action was taken.  
Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

06/22/2023 **Intake Referral Filed**

Complainant stated he was drifted on by a herbicide application being made to roadside weeds on June 22, 2023 at 1:30 pm.  
Original Event: Intake Referral (Pesticide) #3097  
Complainant: Kevin Vass  
Respondent: Unknown  
Submitted By: Joseph D. Becovitz  
Assigned To: Paul Jay Kelley



06/23/2023 **Case Created**

Original Event: Case PS23-0220  
Submitted By: Joseph D. Becovitz  
Assigned To: Paul Jay Kelley

06/29/2023 **Investigator Met with Complainant**  
**Photographs**

On June 29, 2023, I met with Kevin Vass at his residence in Grandview, Indiana. Mr. Vass stated on June 22, 2023, at approximately 1:30pm, he and a friend were in his driveway off east county road 350 north when he noticed a four-wheeled all terrain vehicle approaching. Mr. Vass stated the driver had a hand wand and was spraying the ditch on the north side of the road. Mr. Vass stated the wind was out of the north east blowing toward him. Mr. Vass stated he felt mist and could taste "chemicals". Mr. Vass stated he began waving his arms at the applicator Frank Hagy. Mr. Hagy stopped and stated he was just, "doing what he was told". Mr. Vass stated there was a history with Frank Hagy and the adjacent farm owner Robert Ray. Mr. Vass stated Mr. Ray stated to him he (Ray) was going to "get his property due to this situation."  
I collected investigative samples of the site including vegetation in the area Mr. Vass was standing when exposed to pesticides. Furthermore, I obtained custody of Mr. Vass's shirt that he was wearing on June 22, 2023. I did not collect a sample for Purdue's Plant and Pest Diagnostic Lab (PPDL) due to lack of vegetation in the area above ground height.

**Attachments**



File 127826



File 127827



File 127828



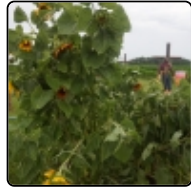
File 127829



File 127831



File 127832



File 127833



File 127834



File 127835



File 127836



File 127837



File 127838



File 127839



File 127840



File 127841



File 127842



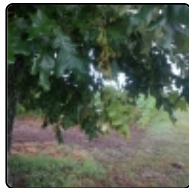
File 127844



File 127845



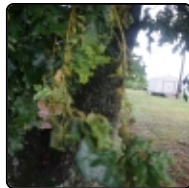
File 127846



File 127847



File 127848



File 127849



File 127850



File 127851



File 127852



File 127853

**Screenshots**

Site diagram of Mr. Vass's property.

**Attachments**

File 131835; Site Diagram.pdf

**Statement**

Mr. Vass's statement and photo of Mr. Hagy spraying.

#### Attachments

File 128776; Grandview Indiana Agricultural Drift Case ps23-0220.pdf  
File 128384; RE\_ Statement.pdf

Original Event: Investigation Activity (Pesticide) #6455  
Subject: Kevin Vass  
Submitted By: Paul Jay Kelley

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#### 06/29/2023 Notice of Inspection Issued

Original Event: Notice of Inspection #1688  
Client: Kevin Vass  
Firm Representative: Kevin Vass  
Submitted By: Paul Jay Kelley  
Attachments: File 127857; noi.pdf

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#### 06/29/2023 Investigator Met with Responsible Party Communication

On June 29, 2023, I spoke with Robert Ray. Mr. Ray was aware of my visit due to his interaction with Mr. Vass the previous day. Mr. Ray stated his employee Frank Hagy applied 2,4D and glyphosate to the ditch. I provided a copy of a Pesticide Investigation Inquiry (PII) form to Mr. Ray for Mr. Hagy to complete sign, and return.

I question Mr. Ray regarding his comment to Mr. Vass about taking property. Mr. Ray denied the accusation but stated he told Mr. Vass, "If you give me trouble, I'll give you trouble."

On July 11, 2023, Mr. Ray documented in a PII his non-credentialed applicator, Frank Hagy made a roadside application using (GUP)Gly-4 Plus (EPA Reg. #84009-12, active ingredient glyphosate) and (GUP)2,4D LV4 (EPA Reg. #1381-102, active ingredient 2,4D). Furthermore, Mr. Ray indicated the wind was out of the north east at 10mph, blowing toward Mr Vass and his property.

#### Records

On July 11, 2023, Mr. Ray returned a copy of a PII.

#### Attachments

File 131825; p11.pdf

Original Event: Investigation Activity (Pesticide) #6456  
Subject: Robert A Ray  
Submitted By: Paul Jay Kelley

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#### 06/29/2023 New Respondent Identified

Original Event: Investigation Change #367  
Respondent: Frank Hagy  
Submitted By: Paul Jay Kelley

---

#### 06/29/2023 Residue Samples Collected

Original Event: Residue Collection #271764 (23-4-0267 9)  
Client: Kevin Vass  
Submitted By: Paul Jay Kelley  
Sample: 23-4-0267 9 | Swab (Water); Trip Blank  
Sample: 23-4-0268 0 | Swab (Acetone); Trip Blank  
Sample: 23-4-0269 8 | Swab (Water); Grab; OFF-T  
Sample: 23-4-0270 1 | Swab (Acetone); Grab; OFF-T  
Sample: 23-4-0271 7 | Swab (Water); Grab; OFF-T  
Sample: 23-4-0272 9 | Swab (Acetone); Grab; OFF-T  
Sample: 23-4-0273 8 | Swab (Water); Grab; OFF-T  
Sample: 23-4-0274 0 | Swab (Acetone); Grab; OFF-T  
Sample: 23-4-0275 5 | Veg; Ctrl; OFF-T  
Sample: 23-4-0276 4 | Soil; Grab; 0-2"; Target  
Sample: 23-4-0277 2 | Veg; Comp; Target  
Sample: 23-4-0278 6 | Veg; Comp; Target, 15ft  
Sample: 23-4-0279 3 | Veg; Comp; OFF-T  
Sample: 23-4-0280 3 | Soil; Grab; 0-2"; OFF-T  
Sample: 23-4-0281 9 | Clothing; Comp; OFF-T  
Sample: 23-4-0282 6 | Veg; Comp; OFF-T

---

#### 06/29/2023 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #737  
Submitted By: Paul Jay Kelley  
Target Analyte: 2,4D  
Target Analyte: glyphosate  
PPLS Labels: [001381-00102-20150622.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00102-20150622.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/001381-00102-20150622.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00102-20150622.pdf)  
[084009-00012-20151028.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/084009-00012-20151028.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/084009-00012-20151028.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/084009-00012-20151028.pdf)

08/09/2023 **Received Residue Lab Report****Investigatory Summary**

On August 9, 2023, OISC Residue Lab indicated that residues of 2,4D and glyphosate were detected on swabs from lawn mower and shed window. In addition, Residues of 2,4D and glyphosate were detected in the soil and vegetation from the area Mr. Vass was reported to have been standing. Mr. Vass's shirt he was wearing at the time of the application had a detection of 2,4D.

**First Page of Lab Report**

OCM Collection #	271764	Investigator	KELLEYJ		
Collection Date	06/29/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0267 9	Swab (Water); Trip Blank	Swab (Water)	AMPA	BDL ng/swab	20 ng/swab
			Glyphosate	BDL ng/swab	20 ng/swab
23-4-0268 0	Swab (Acetone); Trip Blank	Swab (Acetone)	2,4-D	BDL ng/swab	2 ng/swab
23-4-0269 8	Swab (Water); Grab; OFF-T	Swab (Water)	AMPA	90.7 ng/swab	20 ng/swab
			Glyphosate	BQL ng/swab	20 ng/swab
23-4-0270 1	Swab (Acetone); Grab; OFF-T	Swab (Acetone)	2,4-D	25.2 ng/swab	2 ng/swab
23-4-0271 7	Swab (Water); Grab; OFF-T	Swab (Water)	AMPA	23.1 ng/swab	20 ng/swab
			Glyphosate	BDL ng/swab	20 ng/swab
23-4-0272 9	Swab (Acetone); Grab; OFF-T	Swab (Acetone)	2,4-D	12.1 ng/swab	2 ng/swab
23-4-0273 8	Swab (Water); Grab; OFF-T	Swab (Water)	AMPA	BDL ng/swab	20 ng/swab
			Glyphosate	BDL ng/swab	20 ng/swab
23-4-0274 0	Swab (Acetone); Grab; OFF-T	Swab (Acetone)	2,4-D	3.96 ng/swab	2 ng/swab

Original Event: Residue Lab Report #274870 (271764-R1637)  
Submitted By: SYSTEM  
Lab Report: Lab Report 271764-R1637.pdf

08/15/2023 **Investigation Activity****Activity**

Label language for 2,4D LV4 states in part, "Do not apply this product in a way that will contact workers or other persons, either directly or through drift."  
and, "Only apply this product if the wind direction favors on-target deposition and there are not sensitive areas (including, but not limited to, residential areas, bodies of water, known habitat for non-target species, non-target crops) within 250 feet downwind."

Original Event: Investigation Activity (Pesticide) #6633  
Subject: Frank Hagy  
Submitted By: Paul Jay Kelley

08/21/2023 **Judgement; Civil Penalty Assessed****Civil Penalty**

Robert A Ray 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 and application when wind is blowing towards a sensitive area. A civil penalty in the amount of \$500.00 was assessed for this violation. However, the civil penalty was reduced to \$300.00. Consideration was given to the fact Mr. Ray cooperated during the investigation and corrective action was taken.

Original Event: Judgement #1572  
Primary: Robert A Ray  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(2)  
Penalty Amount: 300

08/25/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2653  
To: Robert A Ray  
Submitted By: Joni D. Herman  
USPS: 7020 3160 0001 0012 5721  
Enclosed: Notice of Enforcement  
Attachments: File 132899; PS23-0220EL CIT - CP Mitigated ~ Robert A. Ray.docx

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08/31/2023 **Received Mail Confirmation for Target**  
Original Event: Compliance Receipt #2242  
Subject: Robert A Ray  
Submitted By: Jacob A. Hatfield  
USPS: 7020 3160 0001 0012 5721  
Received: 08/31/2023  
Attachments: File 133967; CM 7020 3160 0001 0012 5721 - Robert A. Ray - PS23-0220 - Proof of Delivery 8-31-2023.pdf  
File 133966; CM 7020 3160 0001 0012 5721 - Robert A. Ray - PS23-0220 - Received 8-31-2023.pdf

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09/19/2023 **Received Penalty Payment for Target**  
Original Event: Compliance Receipt #2253  
Subject: Robert A Ray  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$300.00  
Payment Received: \$300.00  
Attachments: File 134618; PS23-0220 - Robert A. Ray - CP Received 9-19-2023.pdf

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10/04/2023 **Notice of Case Closure Mailed to Complainant**  
Original Event: Outgoing Mail #2731  
To: Kevin Vass  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 135645; PS23-0220 - Kevin Vass - Case Closed Letter 10-4-2023.docx

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10/04/2023 **Notice of Case Closure Mailed to Target**  
Original Event: Outgoing Mail #2732  
To: Robert A Ray  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 135646; PS23-0220 - Robert A. Ray - Case Closed Letter 10-4-2023.docx

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10/04/2023 **Notice of Case Closure Mailed to Target**  
Original Event: Outgoing Mail #2733  
To: Frank Hagy  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 135647; PS23-0220 - Frank Hagy - Case Closed Letter 10-4-2023.docx

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## Chain of Custody

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06/29/2023 **Sample 23-4-0267 9**  
Original Event: Chain of Custody #7445 (23-4-0267 9)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0268 0**  
Original Event: Chain of Custody #7446 (23-4-0268 0)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0269 8**  
Original Event: Chain of Custody #7447 (23-4-0269 8)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0270 1**  
Original Event: Chain of Custody #7448 (23-4-0270 1)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0271 7**  
Original Event: Chain of Custody #7449 (23-4-0271 7)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0272 9**  
Original Event: Chain of Custody #7450 (23-4-0272 9)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0273 8**  
Original Event: Chain of Custody #7451 (23-4-0273 8)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0274 0**  
Original Event: Chain of Custody #7452 (23-4-0274 0)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0275 5**  
Original Event: Chain of Custody #7453 (23-4-0275 5)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0276 4**  
Original Event: Chain of Custody #7454 (23-4-0276 4)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0277 2**  
Original Event: Chain of Custody #7455 (23-4-0277 2)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0278 6**  
Original Event: Chain of Custody #7456 (23-4-0278 6)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0279 3**  
Original Event: Chain of Custody #7457 (23-4-0279 3)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0280 3**  
Original Event: Chain of Custody #7458 (23-4-0280 3)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0281 9**  
Original Event: Chain of Custody #7459 (23-4-0281 9)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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06/29/2023 **Sample 23-4-0282 6**  
Original Event: Chain of Custody #7460 (23-4-0282 6)  
06/29/2023 11:00: Sample Collected by Paul Jay Kelley  
06/30/2023 09:46: Sample Delivered to Kylo  
06/30/2023 12:40: Delivery Affirmed by Vicki L. Vauters

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Office of  
**INDIANA STATE CHEMIST AND SEED COMMISSIONER**

*Protecting Indiana's Agriculture and Environment*

Purdue University • 175 S University Street  
West Lafayette, IN 47907-2063  
Telephone (765) 494-1492 • Facsimile (765) 494-4331  
www.oisc.purdue.edu

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

This record was generated on **October 16, 2023, 03:15 PM EDT**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.

**In Re: Case PS23-0229**

Department	Pesticide
Originated	06/27/2023
Assigned To	Garret A. Creason
Status	Closed

**Involved Parties**

Complainant **Office of Indiana State Chemist**

Respondent  
Issued To **Ace Hardware**  
Noblesville, IN 46060

Registrant  
Respondent **Conseal International Inc**  
Norwood, MA 02062

Respondent **Killoren Regulatory Consulting**  
Hartford, WI 53027

Respondent **Ecoclear Products Inc**  
North Port, FL 34286

**Overviews**

07/18/2023 **Product Registration Summary**

All four products located are not registered in the state of Indiana. Conseal/Eco Clear and their submitter are well aware of the Indiana registration requirements. Full labeling review for 25(b) products is not completed until a full application is received.

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

07/18/2023 **Product Registration Summary**

see other review. Accidentally added additional doc.

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

07/25/2023 **Investigation Summary**

On June 27, 2023 I conducted a routine marketplace inspection at Ace in Noblesville, IN. I met with Jamie Byers, Store Manager, and informed her of the process of the inspection. During the inspection, I located four pesticide products located for sale. VoleX, RatX, MouseX were all photographed and sampled. MouseX Ready-to-use pre-measured trays was not sampled since it had recently been collected as part of a separate case (PS23-0169). All four products were placed under a Stop Sale.

On July 3, 2023 a Email notification was sent to the submitter - Killoren Regulatory (Jean Killoren).

All four products located are not registered in the state of Indiana. Conseal/Eco Clear and their submitter are well aware of the Indiana registration requirements. Full labeling review for 25(b) products is not completed until a full application is received.

ON July 18, 2023 the Stop Sale was released to allow for the products to be returned to the registrant or disposed of.

Submitted By: Garret A. Creason  
Role: Investigator

07/27/2023 **Disposition Summary**

Ace Hardware was warned for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing a pesticide product that was not registered for sale in the state of Indiana.

Conseal International Inc was cited for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$2,000.00 (4 counts x \$500.00 per count) was assessed.

Submitted By: George Saxton  
Role: Compliance Officer

## Chronology of Events

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### 06/27/2023 Intake Referral Filed

Unregistered Pesticide Product located for sale at Ace in Noblesville, Indiana.

Original Event: Intake Referral (Pesticide) #3107  
Complainant: Office of Indiana State Chemist  
Respondent: Ace Hardware  
Entered By: Garret A. Creason  
Submitted By: Joseph D. Becovitz

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### 06/27/2023 Formulation Samples Collected

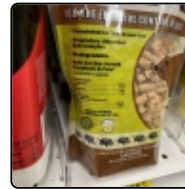
Original Event: Formulation Collection #271597 (23-3-0039 5)  
Registrant: Conseal International Inc  
Client: Ace Hardware  
Firm Representative: Jamie Byers  
Submitted By: Garret A. Creason  
Sample: 23-3-0039 5 | Vole X  
Sample: 23-3-0040 0 | Rat X  
Sample: 23-3-0041 6 | Mouse X  
Photos:



File 127711



File 127712



File 127713



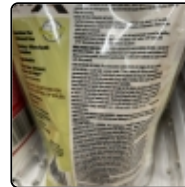
File 127714



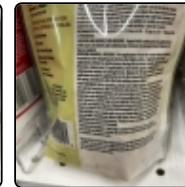
File 127715



File 127716



File 127717



File 127718



File 127719



File 127720



File 127721



File 127722



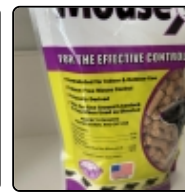
File 127723



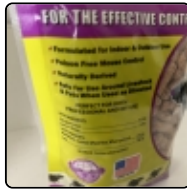
File 127724



File 127725



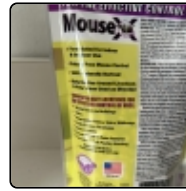
File 127726



File 127727



File 127728



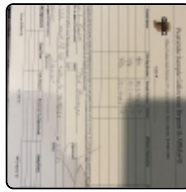
File 127729



File 127730



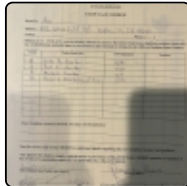
File 127731



File 127732

06/27/2023 **Stop Sale Order Issued**

Original Event:	Action Order #330
Issued To:	Ace Hardware
Registrant:	Conseal International Inc
Firm Representative:	Jamie Byers
Submitted By:	Garret A. Creason
Photos:	



File 127733

06/27/2023 **Investigator Met with Distributor Communication**

On June 27, 2023 I conducted a routine marketplace inspection at Ace in Noblesville, IN. I met with Jamie Byers, Store Manager, and informed her of the process of the inspection. During the inspection, I located four pesticide products located for sale. VoleX, RatX, MouseX were all photographed and sampled. MouseX Ready-to-use pre-measured trays was not sampled since it had recently been collected as part of a separate case (PS23-0169). All four products were placed under a Stop Sale.

Original Event:	Investigation Activity (Pesticide) #6462
Subject:	Ace Hardware
Submitted By:	Garret A. Creason

06/27/2023 **Marketplace Inspection Conducted**

**Marketplace**  
 Stop Sale order issued to Ace for Four unregistered pesticide products.

Original Event:	Pesticide Inspection (Product) #330
Client:	Ace Hardware
Firm Representative:	Jamie Byers
Submitted By:	Garret A. Creason

06/27/2023 **Notice of Inspection Issued**

Original Event:	Notice of Inspection #1689
Client:	Ace Hardware
Firm Representative:	Jamie Byers
Submitted By:	Garret A. Creason
Photos:	





File 128015

06/27/2023 **Case Created**

Original Event: Case PS23-0229  
Submitted By: Joseph D. Becovitz  
Assigned To: Garret A. Creason


07/03/2023 **Notice of Stop Sale Sent**

Email notification was sent to the submitter - Killoren Regulatory (Jean Killoren)

Original Event: Pesticide Products Activity #64  
Primary: Conseal International Inc  
Secondary: Ecoclear Products Inc  
Additional: Killoren Regulatory Consulting  
Submitted By: Sarah K. Caffery  
Attachments: File 128008; 2023-07-03 Stop Sale Notification.pdf

07/06/2023 **Received Formulation Lab Report**


**First Page of Lab Report**

		<i>Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed</i>		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu				
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>				
PRODUCT NAME <b>Vole X</b>	INVESTIGATOR <b>CREASONG</b>	DATE SAMPLED <b>06/27/2023</b>	REPORT DATE <b>07/06/2023</b>	
OCM COLLECTION <b>271597-01</b>	SAMPLE NO. <b>23-3-0039 5</b>	EPA REG NO.		
<b>ACTIVE INGREDIENT</b>		<b>%GUARANTEE</b>	<b>%FOUND</b>	
No Analysis Required				
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #271986 (271597-01-R1585)  
Submitted By: SYSTEM  
Lab Report: Lab Report 271597-01-R1585.pdf


07/06/2023 **Received Formulation Lab Report**

**First Page of Lab Report**

		<i>Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed</i>		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu				
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>				
PRODUCT NAME <b>Rat X</b>	INVESTIGATOR <b>CREASONG</b>	DATE SAMPLED <b>06/27/2023</b>	REPORT DATE <b>07/06/2023</b>	
OCM COLLECTION <b>271597-02</b>	SAMPLE NO. <b>23-3-0040 0</b>	EPA REG NO.		
<b>ACTIVE INGREDIENT</b>		<b>%GUARANTEE</b>	<b>%FOUND</b>	
No Analysis Required				
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #271987 (271597-02-R1585)  
Submitted By: SYSTEM  
Lab Report: Lab Report 271597-02-R1585.pdf

**First Page of Lab Report**

		<b>Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed</b>		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner	
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu					
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>					
<b>PRODUCT NAME</b> <b>Mouse X</b>		<b>INVESTIGATOR</b> <b>CREASONG</b>		<b>DATE SAMPLED</b> <b>06/27/2023</b>	<b>REPORT DATE</b> <b>07/06/2023</b>
<b>OCM COLLECTION</b> <b>271597-03</b>		<b>SAMPLE NO.</b> <b>23-3-0041 6</b>		<b>EPA REG NO.</b>	
<b>ACTIVE INGREDIENT</b>			<b>%GUARANTEE</b>		<b>%FOUND</b>
No Analysis Required					
<b>Remarks:</b> * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee					

Original Event: Formulation Lab Report #271988 (271597-03-R1585)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 271597-03-R1585.pdf

07/18/2023 **Label Review Conducted; No Determination****Vole X**

No Determination; 25(b) labeling not reviewed without full application packet.

**Rat X**

No Determination; 25(b) labeling not reviewed without full application packet.

**Mouse X**

No Determination; 25(b) labeling not reviewed without full application packet.

Original Event: Label Review (Pesticide) #226 (Conseal Internati...)  
 Registrant: Conseal International Inc  
 Submitted By: Sarah K. Caffery

07/18/2023 **Stop Sale Released for Return/Disposal****Vole X**

Released for return or disposal

## Attachments

File 129253; 2023-07-18 SSURO Release Return Letter.pdf

Original Event: Stop Sale Release (PS) #45  
 Issued To: Ace Hardware  
 Registrant: Conseal International Inc  
 Submitted By: Sarah K. Caffery

07/18/2023 **Stop Sale Released for Return/Disposal****Rat X**

Released for return or disposal

## Attachments

File 129254; 2023-07-18 SSURO Release Return Letter.pdf

Original Event: Stop Sale Release (PS) #46  
 Issued To: Ace Hardware  
 Registrant: Conseal International Inc  
 Submitted By: Sarah K. Caffery

07/18/2023 **Stop Sale Released for Return/Disposal****Mouse X**

Released for return or disposal

## Attachments

File 129255; 2023-07-18 SSURO Release Return Letter.pdf

Original Event: Stop Sale Release (PS) #47  
 Issued To: Ace Hardware  
 Registrant: Conseal International Inc  
 Submitted By: Sarah K. Caffery

07/18/2023 **Stop Sale Released for Return/Disposal**

## Mouse X RTU Pre measured trays

Released for return or disposal

### Attachments

File 129256; 2023-07-18 SSURO Release Return Letter.pdf

Original Event: Stop Sale Release (PS) #48  
Issued To: Ace Hardware  
Registrant: Conseal International Inc  
Submitted By: Sarah K. Caffery

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### 07/27/2023 **Judgement; Civil Penalty Assessed**

#### Warning

Ace Hardware was warned for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing a pesticide product that was not registered for sale in the state of Indiana.

#### Civil Penalty

Conseal International Inc was cited for four (4) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing a pesticide product that was not registered for sale in the state of Indiana. A civil penalty in the amount of \$2,000.00 (4 counts x \$500.00 per count) was assessed.

Original Event: Judgement #1563  
Primary: Ace Hardware  
Secondary: Conseal International Inc  
Submitted By: George Saxton  
Legal Citation: IC 15-16-4-57(1)  
Penalty Amount: 2000

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### 08/01/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2556  
To: Ace Hardware  
Submitted By: Joni D. Herman  
USPS: 7020 3160 0001 0012 5622  
Enclosed: Notice of Enforcement  
Attachments: File 131340; PS23-0229EL WRN ~ Ace Hardware-Noblesville.docx

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### 08/01/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2557  
To: Conseal International Inc  
Submitted By: Joni D. Herman  
USPS: 7020 3160 0001 0012 5639  
Enclosed: Notice of Enforcement  
Attachments: File 131341; PS23-0229EL CIT-CP ~ Conseal International Inc..docx

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### 08/07/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2207  
Subject: Conseal International Inc  
Submitted By: Jacob A. Hatfield  
USPS: 7020 3160 0001 0012 5639  
Received: 08/07/2023  
Attachments: File 131821; CM 7021 3160 0001 0012 5639 - Conseal International, Inc. - PS23-0229 - Proof of Delivery Date - 8-7-2023.pdf  
File 131820; CM 7021 3160 0001 0012 5639 - Conseal International, Inc. - PS23-0229 - Received 8-7-2023.pdf

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### 08/07/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2208  
Subject: Ace Hardware  
Submitted By: Jacob A. Hatfield  
USPS: 7020 3160 0001 0012 5622  
Received: 08/07/2023  
Attachments: File 131822; CM 7021 3160 0001 0012 5622 - Ace Hardware - PS23-0229 - Received 8-7-2023.pdf

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### 08/14/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2209  
Subject: Conseal International Inc  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$2,000.00  
Payment Received: \$2,000.00  
Attachments: File 131823; PS23-0229 - Conseal International, Inc. - CP Received 8-14-2023.pdf

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### 09/11/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2688  
To: Ace Hardware  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 133867; PS23-0229 - Ace Hardware - Case Closed Letter 9-11-2023.docx

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09/11/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2689  
To: Conseal International Inc  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 133869; PS23-0229 - Conseal International, Inc. - Case Closed Letter 9-11-2023.docx

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09/11/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2690  
To: Killoren Regulatory Consulting  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 133870; PS23-0229 - Killoren Regulatory Consulting - Case Closed Letter 9-11-2023.docx

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09/11/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2691  
To: Ecoclear Products Inc  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 133871; PS23-0229 - EcoClear Products, Inc. - Case Closed Letter 9-11-2023.docx

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09/19/2023 **Compliance Activity**

Voice message received from Laurie at the City Manager's Office - City of North Port, Florida (4970 City Hall Blvd.) Phone: 941-429-7240 / They received our closed case letter sent to EcoClear Products, Inc. at 4970 City Hall Boulevard, North Port, FL 34286-4100. However, they are not EcoClear and this address is for the City of North Port, Florida. We will try to get a better address for EcoClear and resend the case closed letter. Message posted to Garret/Sarah/Tory requesting help.

Original Event: Compliance Activity #1937  
Primary: Ecoclear Products Inc  
Submitted By: Joni D. Herman  
Attachments: File 134617; Message from CITY OF NORTH PORT FL -PS23-0229 VM -Laurie - City Managers Ofc. North Port FL 9.19.2023.mp3

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**Chain of Custody**

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06/28/2023 **Sample 23-3-0039 5**

Original Event: Chain of Custody #7411 (23-3-0039 5)  
06/27/2023 10:00: Sample Collected by Garret A. Creason  
06/28/2023 08:00: Sample Delivered to lily  
06/29/2023 09:36: Delivery Affirmed by Natalie C. Wilson

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06/28/2023 **Sample 23-3-0040 0**

Original Event: Chain of Custody #7412 (23-3-0040 0)  
06/27/2023 10:00: Sample Collected by Garret A. Creason  
06/28/2023 08:00: Sample Delivered to lily  
06/29/2023 09:36: Delivery Affirmed by Natalie C. Wilson

---

06/28/2023 **Sample 23-3-0041 6**

Original Event: Chain of Custody #7413 (23-3-0041 6)  
06/27/2023 10:00: Sample Collected by Garret A. Creason  
06/28/2023 08:00: Sample Delivered to lily  
06/29/2023 09:36: Delivery Affirmed by Natalie C. Wilson

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

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### In Re: Case PS23-0240

Department	Pesticide
Originated	07/06/2023
Assigned To	William R. Reid
Status	Closed

### Involved Parties

Complainant	<b>Office of Indiana State Chemist</b>
Respondent Issued To	<b>McIntire Lawn &amp; Landscape LLC</b> Shelbyville, IN 46176
Respondent	<b>Brad Scott McIntire</b> Shelbyville, IN 46176

### Overviews

#### 07/24/2023 Investigation Summary

The only certified applicator for McIntire Lawn & Landscape, James Cranfill, failed to renew his pesticide applicator license because he needed to retest.

I visited McIntire Lawn & Landscape LLC and met with the owner Brad McIntire to discuss his company not having a certified applicator. Brad was aware of the situation and informed me that his certified applicator James Cranfill left the company this year. Brad admitted that he has made applications and said he could email me those records later. I also informed Brad that he will need to take down the advertisement for lawn treatment off of his website until licensed with OISC. I wrote Brad McIntire and McIntire Lawn & Landscape LLC an Action Order to stop making applications and advertising pesticide applications until fully licensed with OISC.

Brad McIntire sent me the records of treatments that his company made while not being licensed properly with OISC. His company sprayed Lesco 3-Way EPA Reg # 10404-43 for a total of 12 times over 4 days: 4 times on 6/14/23, 5 times on 6/15/23, 2 times on 6/21/23, and 1 time on 6/22/23. He also stated in the email that his advertisement for the applying pesticides on his website has been taken down.

Submitted By: William R. Reid  
Role: Investigator

#### 07/24/2023 Disposition Summary

McIntire Lawn & Landscape LLC was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying pesticides for hire without having an Indiana pesticide business license.

Brad McIntire was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$5,000.00 (5 counts x \$1,000.00 per count) was assessed.

Submitted By: George Saxton  
Role: Compliance Officer

### Chronology of Events

#### 07/06/2023 Intake Referral Filed

The only certified applicator for McIntire Lawn & Landscape, James Cranfill, failed to renew his pesticide applicator license because he needed to retest.

Original Event: Intake Referral (Pesticide) #3117  
Complainant: Office of Indiana State Chemist  
Respondent: Mcintire Lawn & Landscape LLC  
Submitted By: Joseph D. Becovitz  
Assigned To: William R. Reid  
Attachments: File 128152; McIntire Lawn & Land.pdf

---

07/06/2023 **Case Created**

Original Event: Case PS23-0240  
Submitted By: Joseph D. Becovitz  
Assigned To: William R. Reid

---

07/12/2023 **Investigator Met with Business Communication**

I visited Mcintire Lawn & Landscape LLC and met with the owner Brad Mcintire to discuss his company not having a certified applicator. Brad was aware of the situation and informed me that his certified applicator James Cranfill left the company this year. He also informed me that he has a new employee and is sending in the application to OISC for this new employee to be certified with Mcintire Lawn & Landscape LLC. Brad had the application and check in an envelope all ready filled out and sealed ready to be sent to OISC. Brad admitted that his company has made applications and said he could email me those records later.

I also informed Brad that he will need to take down the advertisement for lawn treatment off of his website until licensed with OISC. I wrote Brad Mcintire and Mcintire Lawn & Landscape LLC an Action Order to stop making applications and advertising pesticide applications until fully licensed with OISC. Brad understood the Action Order and signed it.

**Screenshots**

Mcintire Lawn & Landscape LLC webpage showing advertisement for Lawn Treatment.

Attachments

File 128743; Mcintire webpage advertisement .pdf

Original Event: Investigation Activity (Pesticide) #6501  
Subject: Mcintire Lawn & Landscape LLC  
Submitted By: William R. Reid

---

07/12/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1708  
Client: Mcintire Lawn & Landscape LLC  
Firm Representative: Brad Mcintire  
Submitted By: William R. Reid  
Attachments: File 128744; NOI Brad Mcintire.pdf

---

07/12/2023 **Action Order Issued**

See number 11. Stop making applications & advertising for lawn care pesticide applications until fully licensed with OISC.

Original Event: Action Order #333  
Issued To: Mcintire Lawn & Landscape LLC  
Firm Representative: Brad Mcintire  
Submitted By: William R. Reid  
Attachments: File 128746; Action Order Mcintire.pdf

---

07/13/2023 **Investigator Received Fax/Email from Business**

**Screenshots**

Brad Mcintire sent me the records of treatments that his company made while not being licensed properly with OISC. His company sprayed Lesco 3-Way EPA Reg # 10404-43 for a total of 12 times over 4 days: 4 times on 6/14/23, 5 times on 6/15/23, 2 times on 6/21/23, and 1 time on 6/22/23. He also stated in the email that his advertisement for the applying pesticides on his website has been taken down.

Attachments

File 128747; Mcintire records of treatments. .png

Original Event: Investigation Activity (Pesticide) #6502  
Subject: Mcintire Lawn & Landscape LLC  
Submitted By: William R. Reid

---

07/24/2023 **Judgement; Civil Penalty Assessed**

**Citation**

Mcintire Lawn & Landscape LLC was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying pesticides for hire without having an Indiana pesticide business license.

**Civil Penalty**

Brad Mcintire was cited for five (5) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for knowingly applying pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$5,000.00 (5 counts x \$1,000.00 per count) was assessed.

Original Event: Judgement #1559  
Primary: Mcintire Lawn & Landscape LLC  
Secondary: Brad Scott McIntire  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(9)  
Penalty Amount: 5000

---

07/28/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2552  
To: Mcintire Lawn & Landscape LLC  
Submitted By: Joni D. Herman  
USPS: 7021 0950 0000 0608 0936  
Enclosed: Notice of Enforcement  
Attachments: File 131336; PS23-0240EL CIT ~ McIntire Lawn & Landscape LLC - Brad McIntire.docx

---

07/28/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2553  
To: Brad Scott McIntire  
Submitted By: Joni D. Herman  
USPS: 7021 0950 0000 0608 0943  
Enclosed: Notice of Enforcement  
Attachments: File 131337; PS23-0240EL CIT - CP ~ Brad Scott McIntire - McIntire Lawn & Landscape.docx

---

08/07/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2212  
Subject: Brad Scott McIntire  
Submitted By: Jacob A. Hatfield  
USPS: 7021 0950 0000 0608 0943  
Received: 08/07/2023  
Attachments: File 131893; CM 7021 0950 0000 0608 0943 - Brad S. McIntire - PS23-0240 - Received 8-7-2023.pdf

---

08/07/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2232  
Subject: Mcintire Lawn & Landscape LLC  
Submitted By: Jacob A. Hatfield  
USPS: 7021 0950 0000 0608 0936  
Received: 08/07/2023  
Attachments: File 132894; CM 7021 0950 0000 0608 0936 - McIntire Lawn & Landscape LLC - PS23-0240 - Recieved 8-7-2023.pdf

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08/11/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2196  
Subject: Brad Scott McIntire  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$5,000.00  
Payment Received: \$5,000.00  
Attachments: File 131745; PS23-0240 - McIntire Lawn & Landscape LLC - CP Received 8-11-2023.pdf

---

09/06/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2681  
To: Mcintire Lawn & Landscape LLC  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 133736; PS23-0240 - McIntire Lawn & Landscape LLC - Case Closed Letter 9-6-2023.docx

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### Chain of Custody

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

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State Chemist &  
Seed Commissioner

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**In Re: Case PS23-0257**

Department	Pesticide
Originated	07/11/2023
Assigned To	Garret A. Creason
Status	Closed

**Involved Parties**

Complainant	<b>Office of Indiana State Chemist</b>
Respondent Issued To	<b>Ace Hardware</b> New Castle, IN 47362
Respondent Registrant	<b>DR. X Products Inc.</b> Vernon, CA 90058
Distributor	<b>Bidner Acquisition Corp.</b>

**Overviews**

08/28/2023 **Investigation Summary**

On July 11, 2023 I conducted a routine marketplace inspection at Ace in New Castle, IN. I met with Manager/Part-Owner Angie Bush and explained to her the process of the marketplace inspection. During the inspection I located two unregistered pesticide products. Dr. X Disinfecting Spray Lemon Breeze Scent and Fresh Scent. The product was a federally unregistered product. The labeling did not contain many required items including EPA Registration Number, EPA Establishment number, etc. The Products were packaged in 16.9 ounce aerosol containers. Four samples of each product were collected. A Stop Sale Order was issued to Ace. Mrs. Bush was able to provide records for the product that listed it had been at the store since February 2021.

Mrs. Bush provided inventory records showing the Dr. X products coming from Bidner Acquisition Corp. Per the records provided, the Dr. X products were first inventoried at the Ace store in February 2021. I was unable to locate any information on "Bidner Acquisition Corp" through both state and federal company filing searches.

On August 1, 2023 a Notice of Stop Sale was sent to the product registrant.

The OISC formulation lab found that the product met the label claim for the Active Ingredient Ethanol.

Since the product is federally unregistered and the label does not meet the requirements of 40 CFR this case was forwarded to US EPA Region 5.

Submitted By: Garret A. Creason  
Role: Investigator

08/28/2023 **Disposition Summary**

No violation of the Indiana Pesticide Use and Application Law was documented. This case was forwarded to the U.S. Environmental Protection Agency for federal review.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

07/11/2023 **Intake Referral Filed**

Unregistered Pesticide product located for sale at Ace in New Castle, IN.



Original Event: Intake Referral (Pesticide) #3134  
Complainant: Office of Indiana State Chemist  
Respondent: Ace Hardware  
Respondent 2: DR. X Products Inc.  
Entered By: Garret A. Creason  
Submitted By: Joseph D. Becovitz

---

07/11/2023 **Marketplace Inspection Conducted**

**Marketplace**

Dr. X Disinfectant Spray, Lemon Breeze and Fresh Scent, was located for sale at Ace in New Castle, IN. The product labels did not contain and of the pesticide registration elements including EPA Registration Number, EPA Establishment Number, as well as many other required items. The products are federally and state unregistered pesticide products.

Original Event: Pesticide Inspection (Product) #332  
Client: Ace Hardware  
Firm Representative: Angie Bush  
Submitted By: Garret A. Creason

---

07/11/2023 **Formulation Samples Collected** (Pending)

Original Event: Formulation Collection #272548 (23-3-0042 8)  
Distributor: Bidner Acquisition Corp.  
Registrant: DR. X Products Inc.  
Client: Ace Hardware  
Firm Representative: Angie Bush  
Submitted By: Garret A. Creason  
Sample: 23-3-0042 8 | Dr. X Disinfecting Spray Lemon Breeze  
Sample: 23-3-0043 7 | Dr. X Disinfecting Spray Fresh Scent  
Attachments: File 128684; ACE form samp.pdf

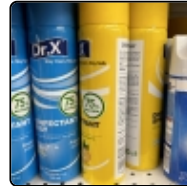
Photos:



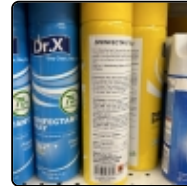
File 128670



File 128671



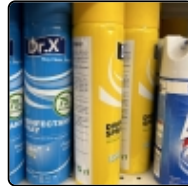
File 128672



File 128673



File 128674



File 128675



File 128676



File 128677



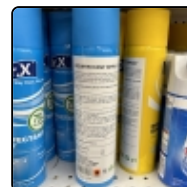
File 128678



File 128679



File 128680



File 128681



File 128682



File 128683

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07/11/2023 **Stop Sale Order Issued** (Pending)

Original Event: Action Order #332  
Issued To: Ace Hardware  
Registrant: DR. X Products Inc.  
Firm Representative: Angie Bush  
Submitted By: Garret A. Creason  
Attachments: File 128685; Ace SS.pdf

---

07/11/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1705  
Client: Ace Hardware  
Firm Representative: Angie Bush  
Submitted By: Garret A. Creason  
Attachments: File 128686; Ace NOI.pdf

07/11/2023 **Investigator Met with Business Communication**

On July 11, 2023 I conducted a routine marketplace inspection at Ace in New Castle, IN. I met with Manager/Part-Owner Angie Bush and explained to her the process of the marketplace inspection. During the inspection i located two unregistered pesticide products. Dr. X Disinfecting Spray Lemon Breeze Scent and Fresh Scent. The product was a federally unregistered product. The labeling did not contain many required items including EPA Registration Number, EPA Establishment number, etc. The Products were packaged in 16.9 ounce aerosol containers. Four samples of each product were collected. A Stop Sale Order was issued to Ace. Mrs. Bush was able to provide records for the product that listed it had been at the store since February 2021.

Original Event: Investigation Activity (Pesticide) #6497  
Subject: Ace Hardware  
Submitted By: Garret A. Creason

07/11/2023 **Investigator Met with Business Records**

Mrs. Bush provided inventory records showing the Dr. X products coming form Bidner Acquisition Corp. Per the records provided, the Dr. X products were first inventoried at the Ace store in February 2021. I was unable to locate any information on "Bidner Acquisition Corp" through both state and federal company filing searches.

Attachments  
File 133000; DrX-Bidner.pdf

Original Event: Investigation Activity (Pesticide) #6660  
Subject: Ace Hardware  
Submitted By: Garret A. Creason

07/11/2023 **Case Created**


Original Event: Case PS23-0257  
Submitted By: Joseph D. Becovitz  
Assigned To: Garret A. Creason

08/01/2023 **Notice of Stop Sale Sent**

Product is an unregistered pesticide. The SSURO notification was sent via email and certified mail.

Original Event: Pesticide Products Activity #67  
Primary: DR. X Products Inc.  
Submitted By: Sarah K. Caffery  
Attachments: File 130379; 2023-08-01 SSURO Notification to Dr X Products.pdf


08/01/2023 **Received Formulation Lab Report**  
First Page of Lab Report

		<i>Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed</i>		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu				
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>				
PRODUCT NAME <b>Dr. X Disinfecting Spray Lemon Breeze</b>	INVESTIGATOR <b>CREASONG</b>	DATE SAMPLED <b>07/11/2023</b>	REPORT DATE <b>08/01/2023</b>	
OCM COLLECTION <b>272548-01</b>	SAMPLE NO. <b>23-3-0042 8</b>	EPA REG NO.		
<b>ACTIVE INGREDIENT</b>		<b>%GUARANTEE</b>	<b>%FOUND</b>	
Ethanol		75	74.68	
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee				

Original Event: Formulation Lab Report #274865 (272548-01-R1633)  
Submitted By: SYSTEM  
Lab Report: Lab Report 272548-01-R1633.pdf

08/01/2023 **Received Formulation Lab Report**

First Page of Lab Report

		Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed		Mark LeBlanc, Ph.D. State Chemist & Seed Commissioner	
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu					
<b>PESTICIDE FORMULATION ANALYSIS REPORT</b>					
PRODUCT NAME <b>Dr. X Dinsinfecting Spray Fresh Scent</b>		INVESTIGATOR <b>CREASONG</b>		DATE SAMPLED <b>07/11/2023</b>	REPORT DATE <b>08/01/2023</b>
OCM COLLECTION <b>272548-02</b>		SAMPLE NO. <b>23-3-0043 7</b>		EPA REG NO.	
<b>ACTIVE INGREDIENT</b>			<b>%GUARANTEE</b>		<b>%FOUND</b>
Ethanol			75		75.89
Remarks: * = Adulterated, Below Label Guarantee ** = Adulterated, Above Label Guarantee					

Original Event: Formulation Lab Report #274866 (272548-02-R1633)  
 Submitted By: SYSTEM  
 Lab Report: Lab Report 272548-02-R1633.pdf

08/28/2023 **Case Closed; Referred to Epa**

No violation of the Indiana Pesticide Use and Application Law was documented. This case was forwarded to the U.S. Environmental Protection Agency for federal review.

Original Event: Compliance Activity #1920  
 Primary: DR. X Products Inc.  
 Submitted By: George Saxton

08/31/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2670  
 To: Ace Hardware  
 Submitted By: Jacob A. Hatfield  
 Enclosed: Notice of Case Closure  
 Attachments: File 133537; PS23-0257 - Ace Hardware - Case Closed Letter 8-31-2023.docx

08/31/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2671  
 To: DR. X Products Inc.  
 Submitted By: Jacob A. Hatfield  
 Enclosed: Notice of Case Closure  
 Attachments: File 133538; PS23-0257 - Dr. X Products Inc. - Case Closed Letter 8-31-2023.docx

**Chain of Custody**

07/12/2023 **Sample 23-3-0042 8**

Original Event: Chain of Custody #7644 (23-3-0042 8)  
 07/11/2023 10:28: Sample Collected by Garret A. Creason  
 07/13/2023 06:36: Sample Delivered to lily  
 07/13/2023 14:14: Delivery Affirmed by Natalie C. Wilson

07/12/2023 **Sample 23-3-0043 7**

Original Event: Chain of Custody #7645 (23-3-0043 7)  
 07/11/2023 10:28: Sample Collected by Garret A. Creason  
 07/13/2023 06:36: Sample Delivered to lily  
 07/13/2023 14:14: Delivery Affirmed by Natalie C. Wilson

This record was generated on **October 16, 2023, 03:18 PM EDT**. Information displayed may contain errors or omissions.  
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Mark R. LeBlanc, Ph.D.  
State Chemist &  
Seed Commissioner

This record was generated on **December 4, 2023, 11:21 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.

**In Re: Case PS23-0268**

Department	Pesticide
Originated	07/16/2023
Assigned To	Aaron P. Kreider
Status	Closed

**Involved Parties**

Complainant **Barbara Green**  
Indianapolis, IN 46260

Respondent **Unknown**

Respondent **Mosquito Authority**  
Carmel, IN 46032

Respondent **David S Cooks**  
Indianapolis, IN 46239

**Overviews**

09/19/2023 **Investigation Summary**

The videos from Mrs. Green's security cameras show Mr. Cooks made an application to her property. Mr. Cooks left an application notification on Mrs. Green's front door. Mr. Baker admitted that Mr. Cooks made an application to Mrs. Green's property by mistake. Based on the evidence, Mr. Cooks did not properly identify the correct target property and mistakenly made his application to Mrs. Green's property.

Submitted By: Aaron P. Kreider  
Role: Investigator

10/05/2023 **Disposition Summary**

Registered technician David Cooks was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner by applying a pesticide to the wrong address. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Submitted By: George Saxton  
Role: Compliance Officer

**Chronology of Events**

07/14/2023 **Intake Referral Filed**

Complainant stated on July 14, 2023 she returned home to find "David", an employee of Mosquito Authority, spraying her property for mosquitos.

Original Event: Intake Referral (Pesticide) #3145  
Complainant: Barbara Green  
Respondent: Unknown  
Submitted By: Joseph D. Becovitz  
Assigned To: Aaron P. Kreider

07/16/2023 **Case Created**

Original Event: Case PS23-0268  
Submitted By: Joseph D. Becovitz  
Assigned To: Aaron P. Kreider

---

07/18/2023 **Investigator Called Complainant  
Communication**

On July 18, 2023, I contacted Barbara Green regarding her complaint. Mrs. Green stated on July 14, 2023, she was out running errands and began to receive multiple notifications from her video security system. When she looked at the videos, she noticed an individual spraying her property which caused her to immediately return home. Mrs. Green stated she spoke with the applicator, David, from Mosquito Authority (MA) and informed him he applied to the wrong address. She stated the applicator provided her with contact information for his supervisor, Steve Baker. She stated she believed the applicator was supposed to be at her neighbor's because she has seen them spray there in the past. Mrs. Green stated she has a garden and fruit trees that she and her grandchildren pick and eat from.

Original Event: Investigation Activity (Pesticide) #6734  
Subject: Barbara Green  
Submitted By: Aaron P. Kreider

---

07/20/2023 **Investigator Met with Complainant  
Interaction**

On July 20, 2023, I met with Mrs. Green at her residence. Mrs. Green showed me videos from her security system that show the application by MA. One video shows Mrs. Green's dog entering the application area approximately 25 minutes later. Mrs. Green's house number was on her mailbox and on the front of her house. The videos Mrs. Green provided show the applicator walking by both of these markers.

**Activity**

The following are videos from Mrs. Green's security cameras.

**Attachments**

File 134535; Dog In Garden (7.14.23).MP4  
File 134536; Driveway Video #1 (7.14.23).MP4  
File 134537; Front Door Placing Tag (7.14.23).MP4  
File 134538; Garage Video (7.14.23).MP4  
File 134539; Garden Video (7.14.23).MP4

**Photographs**

During my on-site investigation, I collected the following photographs. Figure 1 shows the door tag the applicator left. Figure 2 shows the house number marked on Mrs. Green's mailbox. Figures 3 and 4 show the house number on the front of Mrs. Green's house.

Figure 1 (File 134503)



Figure 2 (File 134525)



Figure 3 (File 134526)



Figure 4 (File 134527)



Attachments

- File 134502; DSC\_0001.JPG
- File 134504; DSC\_0003.JPG
- File 134505; DSC\_0004.JPG
- File 134506; DSC\_0005.JPG
- File 134507; DSC\_0006.JPG
- File 134508; DSC\_0007.JPG
- File 134509; DSC\_0008.JPG
- File 134510; DSC\_0009.JPG
- File 134511; DSC\_0010.JPG
- File 134512; DSC\_0011.JPG
- File 134513; DSC\_0012.JPG
- File 134514; DSC\_0013.JPG
- File 134515; DSC\_0014.JPG
- File 134516; DSC\_0015.JPG
- File 134517; DSC\_0016.JPG
- File 134518; DSC\_0017.JPG
- File 134519; DSC\_0018.JPG
- File 134520; DSC\_0019.JPG
- File 134521; DSC\_0020.JPG
- File 134522; DSC\_0021.JPG
- File 134523; DSC\_0022.JPG
- File 134524; DSC\_0023.JPG
- File 134528; DSC\_0027.JPG
- File 134529; DSC\_0028.JPG
- File 134530; DSC\_0029.JPG
- File 134531; DSC\_0030.JPG
- File 134532; DSC\_0031.JPG
- File 134533; DSC\_0032.JPG

Original Event: Investigation Activity (Pesticide) #6732  
Subject: Barbara Green  
Submitted By: Aaron P. Kreider

---

07/20/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1796  
Client: Barbara Green  
Firm Representative: Barbara Green  
Submitted By: Aaron P. Kreider  
Attachments: File 134540; NOI (B. Green).pdf

---

07/20/2023 **Residue Samples Collected**



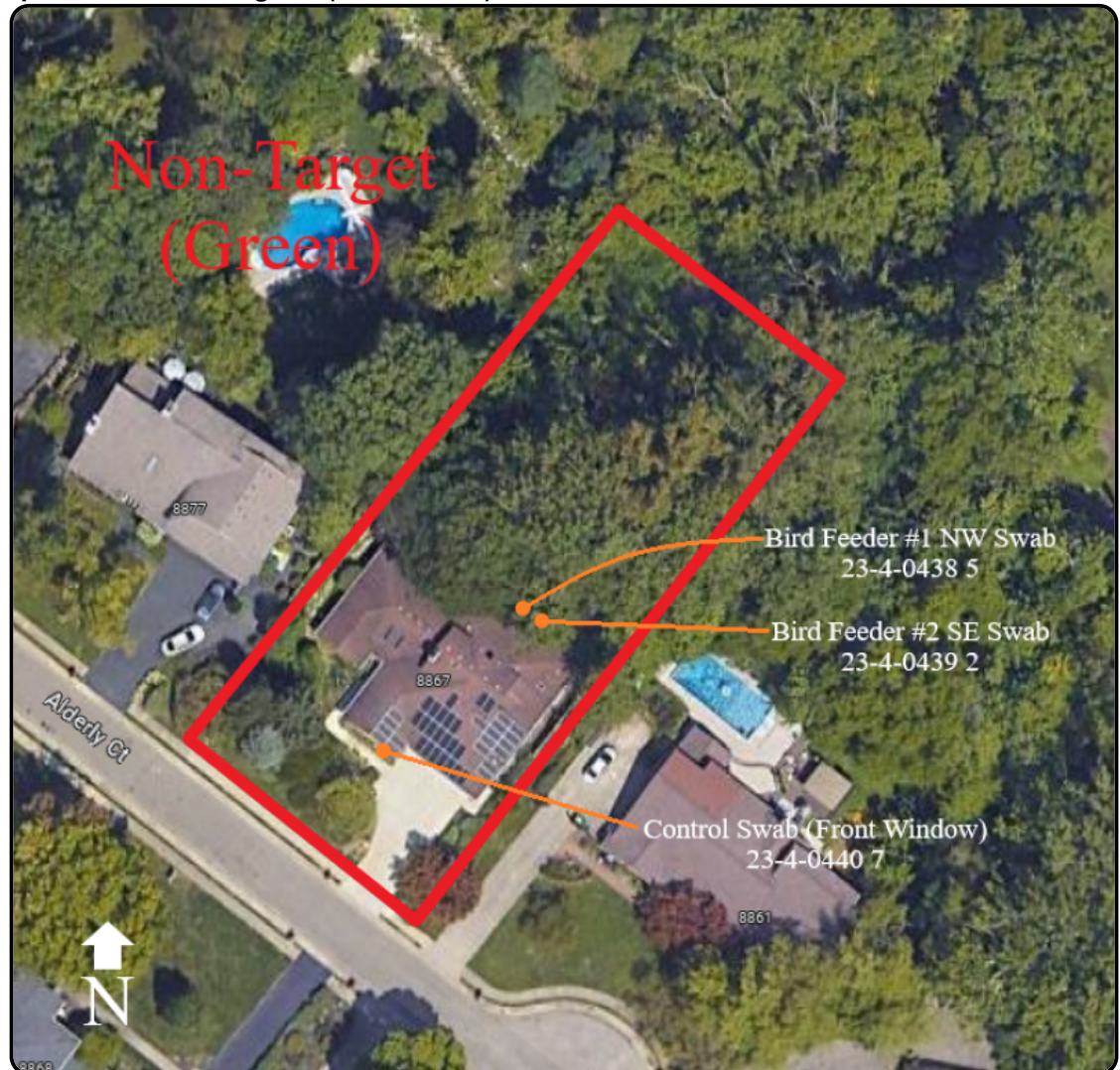
Original Event: Residue Collection #273189 (23-4-0438 5)  
Client: Barbara Green  
Submitted By: Aaron P. Kreider  
Sample: 23-4-0438 5 | Swab (Acetone); Grab; Bird Feeder 1; Back Yard, NW  
Sample: 23-4-0439 2 | Swab (Acetone); Grab; Bird Feeder 2; Back Yard, SE  
Sample: 23-4-0440 7 | Swab (Acetone); Ctrl; Front Window; Front Yard  
Sample: 23-4-0441 1 | Swab (Acetone); Trip Blank

---

07/20/2023 **Sample Collection Diagram**  
**Activity**

This diagram shows the locations where samples were collected.

**Sample Collection Diagram (File 134488)**



Original Event: Investigation Activity (Pesticide) #6731  
Submitted By: Aaron P. Kreider

---

07/21/2023 **Investigator Called Target**  
**Interaction**

On July 21, 2023, I spoke with Steve Baker of MA. Mr. Baker confirmed his MA branch was responsible for the application made to Mrs. Green's property. He stated the applicator, David Cooks (RT284800), went to the wrong address. He stated Mr. Cooks applied Bifen I/T along with a larvicide containing bacillus thuringiensis.

Original Event: Investigation Activity (Pesticide) #6531  
Subject: Mosquito Authority  
Submitted By: Aaron P. Kreider

---

07/21/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1720  
Client: Mosquito Authority  
Firm Representative: Steve Baker  
Submitted By: Aaron P. Kreider  
Attachments: File 129651; NOI (S. Baker - MA).pdf

---

07/21/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #758  
Submitted By: Aaron P. Kreider  
Target Analyte: Bifen I/T  
PLS Labels: [053883-00118-20180222.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/053883-00118-20180222.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/053883-00118-20180222.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/053883-00118-20180222.pdf)

07/28/2023 **Investigator Received Fax/Email from Target Investigation Inquiry**

On July 28, 2023, I received a Pesticide Investigation Inquiry (PII) from Mr. Baker. It shows the details of the application made by Mr. Cooks.

Attachments

File 134610; Bifen I-T Label.pdf  
File 134549; PS23-0268 PII (S. Baker - MA).pdf

**Inquiry Overview**

Supervisor Steve Baker (F258855)  
Registered Technician David Cooks (RT284800)  
Company The Mosquito Authority  
Application Type Commercial  
Target Field Green Property

**Tank Mix**

**Product EPA Rate**  
Bifen I/T (active ingredient: bifenthrin) 53883-118 .22 lbs/A

**Application Date**

**Date Start End**  
07/14/2023 1:16 PM 1:44 PM

**Air Conditions**

**Time Temp Direction Speed**  
Start 87°F NE 6mph  
End 87°F NE 6mph

Original Event: Investigation Activity (Pesticide) #6733  
Subject: Mosquito Authority  
Submitted By: Aaron P. Kreider  
PLS Labels: [053883-00118-20180222.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/053883-00118-20180222.pdf)  
[https://www3.epa.gov/pesticides/chem\\_search/ppls/053883-00118-20180222.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/053883-00118-20180222.pdf)

08/25/2023 **Received Residue Lab Report Investigatory Summary**

No analysis was performed due to MA admitting they made the application to Mrs. Green's property.

**First Page of Lab Report**

<b>OCM Collection #</b>	273189	<b>Investigator</b>	KREIDERA		
<b>Collection Date</b>	07/20/2023				
<b>Sample #</b>	<b>Sample Description</b>	<b>Matrix</b>	<b>Analyte</b>	<b>Amount of Analyte</b>	<b>LOQ</b>
23-4-0438 5	Swab (Acetone); Grab; Bird Feeder 1; Back Yard, NW	Swab (Acetone)	No Analysis Required		
23-4-0439 2	Swab (Acetone); Grab; Bird Feeder 2; Back Yard, SE	Swab (Acetone)	No Analysis Required		
23-4-0440 7	Swab (Acetone); Ctrl; Front Window; Front Yard	Swab (Acetone)	No Analysis Required		
23-4-0441 1	Swab (Acetone); Trip Blank	Swab (Acetone)	No Analysis Required		

Original Event: Residue Lab Report #276838 (273189-R1649)  
Submitted By: SYSTEM  
Lab Report: Lab Report 273189-R1649.pdf

10/05/2023 **Judgement; Civil Penalty Assessed**

## Civil Penalty

Registered technician David Cooks was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner by applying a pesticide to the wrong address. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Original Event: Judgement #1583  
Primary: David S Cooks  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(5)  
Penalty Amount: 1000

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### 10/18/2023 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #2782  
To: David S Cooks  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1512  
Enclosed: Notice of Enforcement  
Attachments: File 136640; PS23-0268EL CIT - CP ~ David S. Cooks.docx

---

### 10/18/2023 Notice of Enforcement Mailed to Target

A copy of Mr. Cooks enforcement letter was also sent to his place of employment, Mosquito Authority.

Original Event: Outgoing Mail #2783  
To: Mosquito Authority  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1543  
Enclosed: Notice of Enforcement  
Attachments: File 136641; PS23-0268EL CIT - CP ~ David S. Cooks - Mosquito Authority Copy.docx

---

### 10/25/2023 Received Mail Confirmation for Target

Original Event: Compliance Receipt #2288  
Subject: Mosquito Authority  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1543  
Received: 10/25/2023  
Attachments: File 137024; CM 7021 2720 0003 1615 1543 - Mosquito Authority Copy - PS23-0268 - Received 10-25-2023.pdf

---

### 11/07/2023 Received Penalty Payment for Target

Original Event: Compliance Receipt #2296  
Subject: David S Cooks  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$1,000.00  
Payment Received: \$1,000.00  
Attachments: File 137489; PS23-0268 - David S. Cook - CP Received - 11-7-2023.pdf

---

### 11/27/2023 Mail Confirmation Assumed for Target

As of November 27, 2023, certified mail card has not been returned to OISC. According USPS tracking it was delivered on October 25, 2023, therefore it is assumed to have been received.

Original Event: Compliance Receipt #2320  
Subject: David S Cooks  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1512  
Attachments: File 138012; CM 7021 2720 0003 1615 1512 - David S. Cooks - PS23-0268 - USPS Tracking Delivery 10-25-2023.pdf

---

### 11/27/2023 Mail Confirmation Assumed for Target

As of November 27, 2023, regular mail has not been returned to OISC. However, Mr. Cooks has paid his civil penalty on November 11, 2023, therefore, it is assumed to have been received.

Original Event: Compliance Receipt #2321  
Subject: David S Cooks  
Submitted By: Jacob A. Hatfield

---

### 11/27/2023 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #2905  
To: Barbara Green  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 138123; PS23-0268 - Barbara Green - Case Closed Letter 11-27-2023.docx

---

### 11/27/2023 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #2906  
To: Mosquito Authority  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 138124; PS23-0268 - Mosquito Authority - Case Closed Letter 11-27-2023.docx

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11/27/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2907  
To: David S Cooks  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 138125; PS23-0268 - David S. Cooks - Case Closed Letter 11-27-2023.docx

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**Chain of Custody**

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07/20/2023 **Sample 23-4-0438 5**

Original Event: Chain of Custody #7806 (23-4-0438 5)  
07/20/2023 11:00: Sample Collected by Aaron P. Kreider  
07/21/2023 15:36: Sample Delivered to Kylo  
07/24/2023 09:29: Delivery Affirmed by Vicki L. Vauters

---

07/20/2023 **Sample 23-4-0439 2**

Original Event: Chain of Custody #7807 (23-4-0439 2)  
07/20/2023 11:00: Sample Collected by Aaron P. Kreider  
07/21/2023 15:36: Sample Delivered to Kylo  
07/24/2023 09:29: Delivery Affirmed by Vicki L. Vauters

---

07/20/2023 **Sample 23-4-0440 7**

Original Event: Chain of Custody #7808 (23-4-0440 7)  
07/20/2023 11:00: Sample Collected by Aaron P. Kreider  
07/21/2023 15:36: Sample Delivered to Kylo  
07/24/2023 09:29: Delivery Affirmed by Vicki L. Vauters

---

07/20/2023 **Sample 23-4-0441 1**

Original Event: Chain of Custody #7809 (23-4-0441 1)  
07/20/2023 11:00: Sample Collected by Aaron P. Kreider  
07/21/2023 15:36: Sample Delivered to Kylo  
07/24/2023 09:29: Delivery Affirmed by Vicki L. Vauters

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www.oisc.purdue.edu

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

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**In Re: Case PS23-0308**

Department	Pesticide
Originated	08/16/2023
Assigned To	Kevin W. Gibson
Status	Closed

**Involved Parties**

Complainant	<b>Anonymous</b>
Respondent Issued To	<b>Chesapeake Run Golf Club</b> North Judson, IN 46366

**Overviews**

09/06/2023 **Investigation Summary**

OISC received an anonymous complaint the Chesapeake Run Golf Club superintendent had been making pesticide applications to the course without a licensed pesticide applicator on staff.

I met with Chesapeake Run Golf Club superintendent Dakota Tabler. He admitted he made all pesticide applications to Chesapeake Run Golf Club for 2022 and 2023. He said he worked "under" the golf course owner Thomas Halleck's applicator license. We reviewed the golf course pesticide application records for 2022 and 2023. The records were missing some required elements such as EPA number. I counted between 30-40 pesticide applications within the past two years.

I told golf course superintendent Tabler Mr. Halleck did not have a valid pesticide applicator's license and hence one of the reasons I was conducting an inspection. Until Mr. Halleck or someone else on Chesapeake Run Golf Club's staff obtained a valid pesticide applicator's license, he (Tabler) could not make any pesticide applications. I gave him information for obtaining the proper license to make pesticide applications at the golf course.

I issued a **Action Order** which stated "stop pesticide applications on your golf course until you or another Chesapeake Run Golf Club representative obtains a category 3B (turf management) Pesticide Applicator License from OISC". Mr. Tabler agreed to send copies of all pesticide applications made to the golf course since 1/1/22 (according to OISC Licensing Section, Mr. Halleck had a valid pesticide applicator's license through 12/31/21).

I received pesticide application records from unlicensed applicator Dakota Tabler through email. According to the application records submitted by Mr. Tabler, eleven (11) pesticide applications were made in 2022. Ten (10) pesticide applications were made in 2023. Of those ten (10) applications in 2023, eight (8) of those applications were made prior to 7/1/23. As Mr. Tabler told me in my meeting with him, the records indicated the applicator license number belonged to the golf course owner Thomas Halleck.

I received an email from OISC Licensing Administrative Assistant Jill Davis indicating Chesapeake Run Golf Club owner Thomas Halleck obtained his category 3B pesticide license. I made contact with golf course superintendent Dakota Tabler to inform he could legally make pesticide applications to Chesapeake Run Golf Club under the owner Thomas Halleck's pesticide license.

Chesapeake Run Golf Club was in violation for making pesticide applications to the golf course without a licensed pesticide applicator.

Submitted By: Kevin W. Gibson  
Role: Investigator

09/11/2023 **Disposition Summary**

Although Chesapeake Run Golf Club committed nineteen (19) violations, they were cited for only five (5) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for knowingly applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$5,000.00 (5 counts x \$1,000.00 per count) was assessed. Consideration was given to the fact this was their second violation of similar nature. See case number PS21-0047.

Submitted By: George Saxton  
Role: Compliance Officer

## Chronology of Events

---

### 08/16/2023 Intake Referral Filed

Anonymous complainant stated both the owner and the superintendent of Chesapeake Run Golf Club have continued to make pesticide applications without a license.

Original Event: Intake Referral (Pesticide) #3186  
Complainant: Anonymous  
Respondent: Chesapeake Run Golf Club  
Submitted By: Joseph D. Becovitz  
Assigned To: Kevin W. Gibson

---

### 08/16/2023 Case Created

Original Event: Case PS23-0308  
Submitted By: Joseph D. Becovitz  
Assigned To: Kevin W. Gibson

---

### 08/21/2023 Investigator Called Business Interaction

I spoke to Chesapeake Run Golf club employee Cindy. She told me "Dakota" does all the spraying for the golf course but was not at the site at the time of our conversation.

Original Event: Investigation Activity (Pesticide) #6642  
Subject: Chesapeake Run Golf Club  
Submitted By: Kevin W. Gibson

---

### 08/22/2023 Investigator Met with Applicator Interaction

I met with and issued a Notice of Inspection to unlicensed pesticide applicator Dakota Tabler. He told me he has been making all pesticide applications to Chesapeake Run Golf Club for 2022 and 2023. He said he worked "under" the golf course owner Thomas Halleck's applicator license. We reviewed the golf course pesticide application records for 2022 and 2023. The records were missing some required elements such as EPA number. I counted between 30-40 pesticide applications within the past two years. I told Mr. Tabler Mr. Halleck did not have a valid pesticide applicator's license and hence one of the reasons I was conducting an inspection. Until Mr. Halleck or someone else connected with Chesapeake Run Golf Club obtained a valid pesticide applicator's license, he (Tabler) could not make any pesticide applications. I gave him information for obtaining the proper license to make pesticide applications at the golf course.

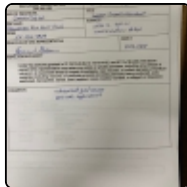
Original Event: Investigation Activity (Pesticide) #6646  
Subject: Chesapeake Run Golf Club  
Submitted By: Kevin W. Gibson

---

### 08/22/2023 Notice of Inspection Issued

I met with and issued Dakota Tabler a Notice of Inspection (NOI).

Original Event: Notice of Inspection #1762  
Client: Chesapeake Run Golf Club  
Firm Representative: Dakota Tabler  
Submitted By: Kevin W. Gibson  
Photos:



File 132444

---

### 08/22/2023 Action Order Issued

stop pesticide applications on your golf course until you or another Chesapeake Run Golf Club representative obtains a category 3B (turf management) Pesticide Applicator License from OISC.

Original Event: Action Order #338  
Issued To: Chesapeake Run Golf Club  
Firm Representative: Dakota Tabler  
Submitted By: Kevin W. Gibson  
Photos:



File 132445

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08/24/2023 **Investigator Received Fax/Email from Applicator Interaction**

On 8/24/23 I received pesticide application records from unlicensed applicator Dakota Tabler through email. According to the application records submitted by Mr. Tabler, eleven (11) pesticide applications were made in 2022. Ten (10) pesticide applications were made in 2023. Of those ten (10) applications in 2023, eight (8) of those applications were made prior to 7/1/23. As Mr. Tabler told me in my meeting with him, the records indicated the applicator license number belonged to the golf course owner Thomas Halleck.

Attachments

File 132620; Application Records 2023.pdf

File 132621; Application Records.pdf

**Attachments**



File 132622



File 132623

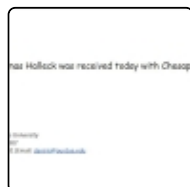
Original Event: Investigation Activity (Pesticide) #6652  
Subject: Chesapeake Run Golf Club  
Submitted By: Kevin W. Gibson

---

08/28/2023 **Investigator Sent Fax/Email to Subject Screenshots**

I received an email from OISC Licensing Administrative Assistant Jill Davis indicating Chesapeake Run Golf club owner Thomas Halleck obtained his category 3B pesticide license. I made contact with golf course superintendent Dakota Tabler to inform he could legally make pesticide applications to Chesapeake Run Golf Club under the owner Thomas Halleck's pesticide license.

Attachments



File 133658

Original Event: Investigation Activity (Pesticide) #6686  
Subject: Chesapeake Run Golf Club  
Submitted By: Kevin W. Gibson

---

09/08/2023 **Judgement; Civil Penalty Assessed Civil Penalty**

Although Chesapeake Run Golf Club committed nineteen (19) violations, they were cited for only five (5) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 357 IAC 1-15-2, for knowingly applying pesticides to a golf course without having a certified applicator. A civil penalty in the amount of \$5,000.00 (5 counts x \$1,000.00 per count) was assessed. Consideration was given to the fact this was their second violation of similar nature. See case number PS21-0047.

Original Event: Judgement #1577  
Primary: Chesapeake Run Golf Club  
Submitted By: George Saxton  
Legal Citation: 357 IAC 1-15-2  
Penalty Amount: 5000

---

09/14/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2695  
To: Chesapeake Run Golf Club  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1314  
Enclosed: Notice of Enforcement  
Attachments: File 134076; PS23-0308EL CIT - CP ~ Chesapeake Run Golf Club.docx

---

10/05/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2270  
Subject: Chesapeake Run Golf Club  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1314  
Received: 10/05/2023

Attachments:

File 136330; CM 7021 2720 0003 1615 1314 - Chesapeake Run Golf Club - PS23-0308 - Received 10-5-2023.pdf

---

10/13/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2271  
Subject: Chesapeake Run Golf Club  
Submitted By: Jacob A. Hatfield  
Payment Expected: \$5,000.00  
Payment Received: \$5,000.00  
Attachments: File 136331; PS23-0308 - Chesapeake Run Golf Club - CP Received 10-13-2023.pdf

---

10/24/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2798  
To: Chesapeake Run Golf Club  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 136751; PS23-0308 - Chesapeake Run Golf Club - Case Closed Letter 10-24-2023.docx

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**Chain of Custody**

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

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

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### In Re: Case PS23-0320

Department	Pesticide
Originated	08/29/2023
Assigned To	Nathan J. Davis
Status	Closed

### Involved Parties

Complainant	<b>Anonymous</b>
Respondent Issued To	<b>Kimy Home Services</b> Newburgh, IN 47630
Respondent	<b>Fernando Gimenez</b> Newburgh, IN 47630

### Overviews

#### 10/12/2023 Investigation Summary

The photographs on the Facebook.com business page and business website for Kimy Home Services indicate they applied *Snapshot 2.5TG, EPA Reg. # 62719-175, Active Ingredient = trifluralin and isoxaben* and *Preen Weed Preventer, EPA Reg.# 961-280, Active Ingredient = trifluralin* for hire without having an OISC Pesticide Business License. I issued Kimy Home Services an Action Order to **"Stop advertising or making pesticide applications for hire until your business location is credentialed by OISC as a Licensed Pesticide Business"**. Kimy Home Service took immediate corrective action and removed the photographs from their Facebook.com business page and business website.

Submitted By: Nathan J. Davis  
Role: Investigator

#### 10/16/2023 Disposition Summary

Kimy Home Services was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for unknowingly applying pesticides for hire without having an Indiana pesticide business license.

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

However, the \$500.00 civil penalty will be held in abeyance and not assessed provided Mr. Gimenez does not commit further violations of the Indiana Pesticide Use and Application Law for a period of two (2) years from the date of this notice.

Submitted By: George Saxton  
Role: Compliance Officer

### Chronology of Events

#### 08/29/2023 Intake Referral Filed

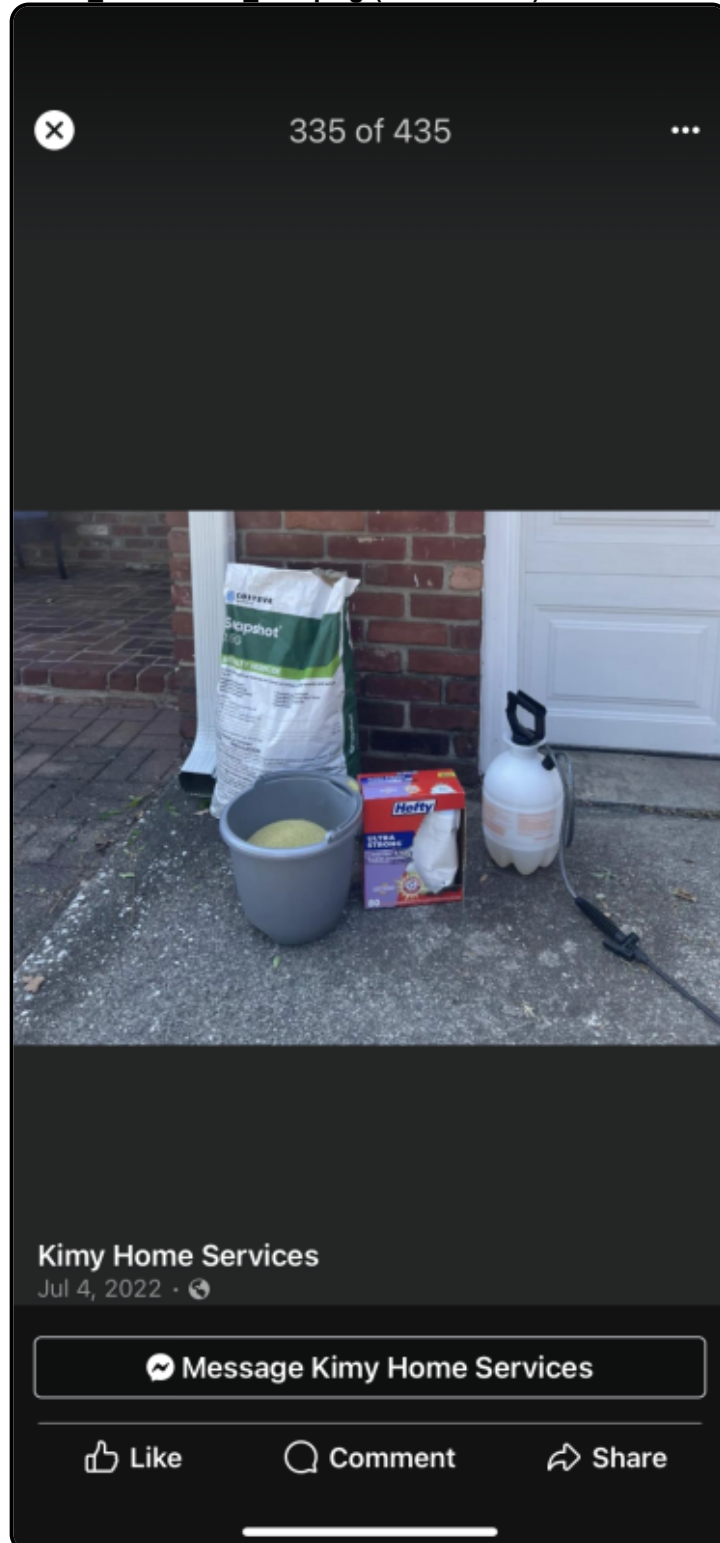
Anonymous complainant stated Kimy Home Services are making for hire pesticide applications without being properly licensed through OISC.

Original Event: Intake Referral (Pesticide) #3199  
Complainant: Anonymous  
Respondent: Kimy Home Services  
Entered By: Nathan J. Davis  
Submitted By: Joseph D. Becovitz

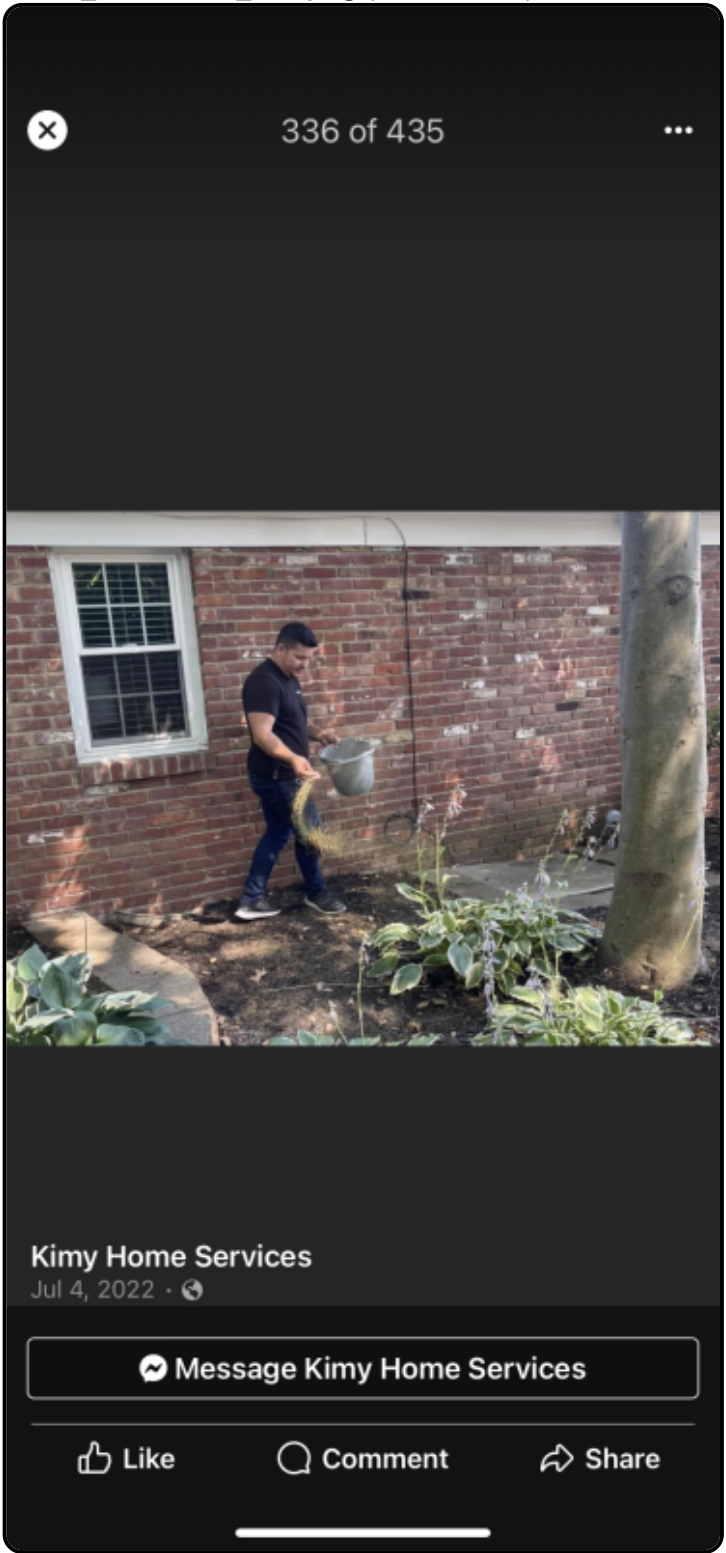
On August 29, 2023, I researched the Facebook.com business page for Kimy Home Services located in Newburgh, Indiana. I observed three photographs all dated July 4, 2022, the first photograph contained a picture of *Snapshot 2.5TG, EPA Reg. # 62719-175, Active Ingredient = trifluralin and isoxaben* and granules in a grey bucket. The second and third photograph show a person applying the granules from the grey bucket by hand onto a landscape bed, indicating they were applying the *Snapshot 2.5TG, EPA Reg. # 62719-175, Active Ingredient = trifluralin and isoxaben*. I researched the business website for Kimy Home Services. On the main page of the website a photograph shows a person applying *Preen Weed Preventer, EPA Reg.# 961-280, Active Ingredient = trifluralin* directly from the pesticide container.

A search of the OISC licensing database did not return a business license for Kimy Home Services indicating Kimy Home Service is not licensed through OISC.

**20230829\_142604000\_iOS.png (File 135874)**









Attachments

File 135878; 20230829\_142228000\_iOS.png

Original Event: Investigation Activity (Pesticide) #6814  
Subject: Kimy Home Services  
Submitted By: Nathan J. Davis

---

08/29/2023 **Case Created**

Original Event: Case PS23-0320  
Submitted By: Joseph D. Becovitz  
Assigned To: Nathan J. Davis

---

10/09/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1827  
Client: Kimy Home Services  
Firm Representative: Fernando Gimenez  
Submitted By: Nathan J. Davis  
Attachments: File 135879; NOI-Kimy 10-9-23.pdf

---

10/09/2023 **Investigator Sent Fax/Email to Business Communication**

On October 9, 2023, I sent an email to Kimy Home Services explaining I was a pesticide investigator with OISC and of the complaint I was investigating. I advised in the email that Kimy Home Services needed to remove the three photographs on their Facebook.com business page and the one photograph on the main page of their business website.

Attachments  
File 135880; Email to Kimy .png

Original Event: Investigation Activity (Pesticide) #6815  
Subject: Kimy Home Services  
Submitted By: Nathan J. Davis

---

10/09/2023 **Investigator Received Fax/Email from Business Communication**

On October 9, 2023, I received an email back from the owner of Kimy Home Services, Fernando Gimenez. Mr. Gimenez advised he had removed the photographs from their Facebook.com business page and their business website.

Attachments  
File 135881; Email Back From Kimy .png

Original Event: Investigation Activity (Pesticide) #6816  
Subject: Kimy Home Services  
Submitted By: Nathan J. Davis

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10/09/2023 **New Respondent Identified**

Original Event: Investigation Change #414  
Respondent: Fernando Gimenez  
Submitted By: Nathan J. Davis

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10/09/2023 **Investigator Sent Fax/Email to Business Communication**

On October 9, 2023, I emailed Mr. Gimenez, I advised Mr. Gimenez I was issuing him and Kimy Home Services an *Action Order* to **"Stop advertising or making pesticide applications for hire until your business location is credentialed by OISC as a Licensed Pesticide Business"** and explained what the action order was. I advised Mr. Gimenez on how to become properly licensed through OISC.

Attachments  
File 135884; Email AO to Kimy .png

Original Event: Investigation Activity (Pesticide) #6817  
Subject: Kimy Home Services  
Submitted By: Nathan J. Davis

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10/09/2023 **Action Order Issued**

Stop advertising or making pesticide applications for hire until your business location is credentialed by OISC as a Licensed Pesticide Business.

Original Event: Action Order #344  
Issued To: Kimy Home Services  
Firm Representative: Fernando Gimenez  
Submitted By: Nathan J. Davis  
Attachments: File 135882; AO-Kimy 10-9-23.pdf

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10/09/2023 **Investigation Activity Activity**

The photographs on the Facebook.com business page and business website for Kimy Home Services indicate they applied *Snapshot 2.5TG, EPA Reg. # 62719-175, Active Ingredient = trifluralin and isoxaben and Preen Weed Preventer, EPA Reg.# 961-280, Active Ingredient = trifluralin* for hire without having an OISC Pesticide Business License. Kimy Home Service took immediate corrective action and removed the photographs from their Facebook.com business page and business website.

Original Event: Investigation Activity (Pesticide) #6818  
Submitted By: Nathan J. Davis

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10/16/2023 **Judgement; Civil Penalty Assessed Citation**

Kimy Home Services was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for unknowingly applying pesticides for hire without having an Indiana pesticide business license.

## Civil Penalty

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

## Abeyance

However, the \$500.00 civil penalty will be held in abeyance and not assessed provided Mr. Gimenez does not commit further violations of the Indiana Pesticide Use and Application Law for a period of two (2) years from the date of this notice.

Original Event: Judgement #1595  
Primary: Kimy Home Services  
Secondary: Fernando Gimenez  
Submitted By: George Saxton  
Legal Citation: IC 15-16-5-65(9)  
Penalty Amount: 500

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### 10/18/2023 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #2768  
To: Fernando Gimenez  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1598  
Enclosed: Notice of Enforcement  
Attachments: File 136575; PS23-0320EL CIT - CP Abeyance ~ Fernando Gimenez-Owner - Kimy Home Svcs..docx

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### 10/18/2023 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #2769  
To: Kimy Home Services  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1604  
Enclosed: Notice of Enforcement  
Attachments: File 136574; PS23-0320EL CIT ~ Kimy Home Services.docx

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### 10/31/2023 Received Mail Confirmation for Target

Original Event: Compliance Receipt #2304  
Subject: Kimy Home Services  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1604  
Received: 10/31/2023  
Attachments: File 137517; CM 7021 2720 0003 1615 1604 - Kimy Home Services - PS23-0320 - Received 10-31-2023\_0001.pdf

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### 10/31/2023 Received Mail Confirmation for Target

Original Event: Compliance Receipt #2305  
Subject: Fernando Gimenez  
Submitted By: Jacob A. Hatfield  
USPS: 7021 2720 0003 1615 1598  
Received: 10/31/2023  
Attachments: File 137518; CM 7021 2720 0003 1615 1598 - Fernando Gimenez - PS23-0320 - Received 10-31-2023.pdf

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### 11/27/2023 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #2908  
To: Fernando Gimenez  
Submitted By: Jacob A. Hatfield  
Enclosed: Notice of Case Closure  
Attachments: File 138126; PS23-0320 - Fernando Gimenez - Case Closed Letter 11-27-2023.docx

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## Chain of Custody

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

This record was generated on **December 4, 2023, 11:27 AM EST**. Information displayed may contain errors or omissions.  
Official records may only be obtained directly from the Office of Indiana State Chemist.