

A Summary of Cases

For March 25, 2024

PS23-0112 Unregistered Pesticide Products being sold at Rural King in Shelbyville, IN

Disposition Summary

Bonide Products Inc. was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing an unregistered pesticide product.

Rural King was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing an unregistered pesticide product. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

PS23-0148 Complainant stated a herbicide application to an adjacent farm field injured trees on his property.

Disposition Summary

Premier Ag - Shelbyville 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 this was their second violation of similar nature. See case number PS22-0126.

Kelly Gordon Zufall 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 Mr. Zufall and Premier Ag cooperated during the investigation. Consideration was also given to the fact this was Mr. Zufall's second violation of similar nature. See case number PS22-0126.

PS23-0166 Complainant wrote, "On Saturday, May 20, 2023, about 4:45 PM, a spray rig appeared in the field to our west. With the wind roaring in our ears we weren't even aware it was there until we were enveloped in a foul chemical haze. We estimated the wind speed at 15-30 mph. Drift symptoms began appearing within 36 hours. The damage is total everything even hundreds of feet from the field edge vegetable garden, blueberries, strawberries, raspberries, 150 yr old shade trees, and hundreds of species of woodland and prairie plants. Even seedlings inside our greenhouse >350 ft away."

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 failure to follow label directions regarding drift management. Consideration was given to the fact a restricted use pesticide was involved and there was an adverse effect.

Bryan Azbell 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 \$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.

Jack Fry 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 a restricted use pesticide was involved and there was an adverse effect.

Ag Plus LP Raber Ag Center, Bryan Azbell and Jack Fry were advised that they were in violation of section 65(10) of the Indiana Pesticide Use and Application Law for allowing a restricted use pesticide to be applied by a non-certified applicator or someone who does not have a Private Applicator permit. Since this is a new rule as of January 4, 2023, compliance assistance was rendered.

PS23-0171 Complainant stated she was outside on her property when she was drifted on by a herbicide application being made to a farm field approximately 100 feet away.

Disposition Summary

Ralph Webb was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. Consideration was given to the fact this was Mr. Webb's first violation of similar nature, no adverse effect was documented and Mr. Webb cooperated during the investigation.

PS263-0179 Complainant stated a herbicide application made to an adjacent farm field injured trees, flowers and the garden on his property.

Disposition Summary

Gregory Ross Kleiman was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. Consideration was given to the fact this was his first violation of similar nature and no restricted use pesticides were involved.

PS23-0180 Complainant stated a herbicide application made to a fencerow drifted onto his property injuring oak trees and killing some pine trees.

Disposition Summary

Fred Schmitmeyer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift/application to non-target vegetation and for applying to a non-soybean site in violation of the Canopy label. 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 this was his third violation of similar nature. See cases 2019/0449 and 2019/0496.

Fred Schmitmeyer was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for unknowingly using a restricted use pesticide in Indiana without

having an Indiana Private Applicator permit. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

However, \$500.00 of the civil penalty will be held in abeyance and not assessed provided Mr. Schmitmeyer commits no further violations of the Indiana Pesticide Use and Application Law within two (2) years from the date of this notice.

PS23-0184 Complainant stated soybeans in two of his fields have been injured by a right-of-way application made along US Highway 27 S.

Disposition Summary

Deangelo Contracting SVCS LLC was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding runoff to desirable vegetation. Consideration was given to the fact no restricted use pesticides were involved and Deangelo Contracting SVCS LLC cooperated during the investigation.

Joseph D. Hicks was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding runoff 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 no restricted use pesticides were involved and Joseph D. Hicks cooperated during the investigation.

PS23-0196 Unregistered Pesticide Product located for sale at Bomgaars(formerly Orscheln) in Richmond, IN.

Disposition Summary

Bomgaars and Bonide Products Inc were warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that is not registered for distribution in the state of Indiana.

PS23-0203 Complainant stated two Mondays ago, a neighboring farmer sprayed a corn field in "30 mph winds" blowing towards her property. She stated she now has adverse chemical effects to her garden and trees. She does not know the name of the farmer.

Disposition Summary

Falmouth Farm Supply 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 allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. Consideration was given to the fact there was an adverse effect.

Ashley Tyler Schelle 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 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact there was an adverse effect.

Daniel Levi Stoten 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 allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. Consideration was given to the fact there was an adverse effect.

Falmouth Farm Supply, Ashley Tyler Schelle and Daniel Levi Stoten were advised that they were in violation of section 65(10) of the Indiana Pesticide Use and Application Law for allowing a restricted use pesticide to be applied by a non-certified applicator. Since this is a new rule as of January 4, 2023, compliance assistance was rendered.

PS23-0212 Complainant stated an aerial application made to an adjacent farm field injured and killed trees on his property.

Disposition Summary

Ceres Solutions and Mike Ramsey were warned 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 they cooperated during the investigation and no restricted use pesticides were involved.

PS23-0216 Complainant stated drift and runoff from a right-of-way herbicide application injured and killed his soybeans.

Disposition Summary

Deangelo Contracting SVCS LLC was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with desirable vegetation.

Joseph Hicks was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with 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 Joseph Hicks cooperated during the investigation.

PS23-0218 Complainant stated a herbicide application made to a fencerow killed 10 to 12 feet into his pasture.

Disposition Summary

The label for this glyphosate states, "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. As a result, Matt Kline was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label

directions regarding exposure to desirable plants. Consideration was given to the fact Mr. Kline cooperated during the investigation and this was his first violation of similar nature.

PS23-0224 Complainant stated a herbicide application made to an adjacent farm field on June 22, 2023, injured his corn.

Disposition Summary

Xcel Custom Ag and Jason Willeford were warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation.

PS23-0237 Complainant stated a Roundup application made to an adjacent farm field injured the lawn on his property.

Disposition Summary

Co Alliance Cooperative Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with desirable vegetation. Consideration was given to the fact this was their first violation of similar nature and Co Alliance Cooperative Inc cooperated during the investigation.

Joshua James Andrew Shelley was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with 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 this was his first violation of similar nature and he cooperated during the investigation.

PS23-0266 Complainant stated a herbicide application made to the railroad right-of-way injured his Enlist soybeans.

Disposition Summary

G & T SVCS Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with desirable vegetation. Consideration was given to the fact G & T SVCS Inc cooperated during the investigation and no restricted use pesticides were involved. Consideration was also given to the fact there was an adverse effect and this was their second violation of similar nature. See case number PS21-0131.

Robert A. Lake was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with 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 Mr. Lake cooperated during the investigation and no restricted use pesticides were involved. Consideration was also given to the fact there was an adverse effect and this was his second violation of similar nature. See case number PS21-0131.

PS23-0294 Complainant stated she observed Dee Humbarger spray something down both sides of a path on her property as well as spray her sapling trees. Complainant stated she photographed the application made on July 30, 2023, by a tractor pulling a tank attachment.

Disposition Summary

Jeffery D. Hamilton was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. No other violation was documented.

PS23-0312 Complainant stated she was working in her garden on July 21, 2023, when an aerial application drifted onto her and her property.

Disposition Summary

Agri Flite SVCS 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 site and to people. Consideration was given to the fact a restricted use pesticide was involved. Consideration was also given to the fact this was Agri Flite's first violation of similar nature.

Benjamin John Brazier 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 site and to people. 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 Agri Flite cooperated during the investigation and this was Benjamin John Brazier's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

PS23-0316 Complainant stated his neighbor applied a herbicide in April or May of 2023 along a common fence line killing grass about a foot onto the complainant's property.

Disposition Summary

Shane Dakin was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding direct spray or drift onto desirable Plants, Lawn Grasses, Shrubs and Trees. Consideration was given to the fact Shane Dakin cooperated during the investigation and this was his first violation of similar nature.

PS23-0330 Anonymous complainant wrote Justin Fox operating as Midwest Acres has purchased restricted use pesticides using the private applicator permit of John Fox(PA38184) and distributed them without the required restricted use dealer registration.

Disposition Summary

Justin Wayne Fox was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically I.C. 15-16-5-57, for unknowingly distributing a restricted use pesticide without having a restricted use dealer permit. Consideration was given to the fact this was Mr. Fox's first violation of similar nature.

PS24-0008 During a routine Worker Protection Standard Inspection (WPS), violations were identified.

Disposition Summary

Fair Oaks Orchard was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. Consideration was given to the fact this was their first violation of similar nature and no restricted use pesticides were involved.



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 **January 26, 2024, 08:55 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 PS23-0112

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

Involved Parties

Complainant	Office of Indiana State Chemist	
Respondent Issued To	Rural King Shelbyville, IN 46176	
Respondent Registrant	Bonide Products Inc Oriskany, NY 13424	
Respondent	Rural King Mattoon, IL 61938	Jade Kline, Corporate Counsel

Overviews

10/26/2023 **Product Registration Summary**

Per PS23-0033; Notice of enforcement was mailed to Rural King on 3/29/23; mail receipt received on 4/6/23 by OISC. Shipment of unregistered product was received by Shelbyville Rural King on 4/5/23. Rural King and Bonide were aware of the registration status of these products in the state of Indiana.

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

11/07/2023 **Investigation Summary**

A for-cause marketplace inspection was conducted a Rural King in Shelbyville, Indiana. The inspection was related to case PS23-0033, and was to verify if Bonide products had removed unregistered pesticide products from the Rural King locations as they had informed us they had done. During the inspection, the same Bonide products from case PS23-0033 were located for sale in the Rural King store. A stop sale order was issued for the Bonide products and an evidentiary sample of each was collected.

On April 26, 2023, SSURO Notification email sent to Bonide.

On 6-22-23 Jeff Lowe contacted OISC via Email to communicate Bonides response to the three enforcement cases involving the Bonide "Shot-Gun" brand products. Bonide committed to getting products into compliance.

Submitted By: Garret A. Creason
Role: Investigator

11/09/2023 **Disposition Summary**

Bonide Products Inc. was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing an unregistered pesticide product.

Rural King was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing an unregistered pesticide product. 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

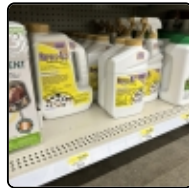
04/25/2023 **Intake Referral Filed**

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

Original Event: Intake Referral (Pesticide) #2990
Complainant: Office of Indiana State Chemist
Respondent: Rural King
Respondent 2: Bonide Products Inc
Entered By: Garret A. Creason
Submitted By: George Saxton

04/25/2023 **Formulation Samples Collected**

Original Event: Formulation Collection #263361 (23-3-0025 0)
Registrant: Bonide Products Inc
Client: Rural King
Firm Representative: Nicole Choate
Submitted By: Garret A. Creason
Sample: 23-3-0025 0 | Bonide Shot Gun Repels All Animal Repellent Granules
Sample: 23-3-0026 6 | Shot Gun Repels All Animal Repellent Concentrate
Sample: 23-3-0027 8 | Shot Gun Repels All Animal Repellent RTU
Attachments: File 123025; RK Bonide RFS.pdf
Photos:



File 123015



File 123016



File 123017



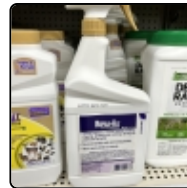
File 123018



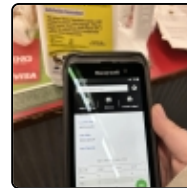
File 123019



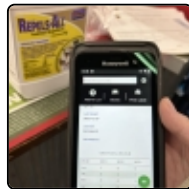
File 123020



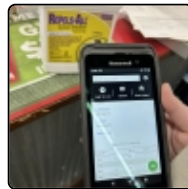
File 123021



File 123022



File 123023



File 123024

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

Original Event: Action Order #315
Issued To: Rural King
Registrant: Bonide Products Inc
Firm Representative: Nicole Choate
Submitted By: Garret A. Creason
Attachments: File 123026; RK Bonide SS.pdf

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

A for-cause marketplace inspection was conducted at Rural King in Shelbyville, Indiana. The inspection was related to case PS23-0033, and was to verify if Bonide products had removed unregistered pesticide products from the Rural King locations as they had informed us they had done. During the inspection, the same Bonide products from case PS23-0033 were located for sale in the Rural King store. A stop sale order was issued for the Bonide products and an evidentiary sample of each was collected.

Original Event: Investigation Activity (Pesticide) #6241
Subject: Rural King
Submitted By: Garret A. Creason

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

Unregistered Pesticide products from Bonide Located for sale at Rural King in Shelbyville, IN.

Original Event: Pesticide Inspection (Product) #323
Client: Rural King
Firm Representative: Nicole Choate
Submitted By: Garret A. Creason

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

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

04/25/2023 **INCIDENTAL 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
Linked From: Notice of Inspection #1611
Client: Rural King
Firm Representative: Nicole Choate
Submitted By: Garret A. Creason

04/25/2023 **Case Created**

Original Event: Case PS23-0112
Submitted By: George Saxton
Assigned To: Garret A. Creason


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

SSURO Notification email sent to Bonide.

Original Event: Pesticide Products Activity #52
Primary: Bonide Products Inc
Submitted By: Sarah K. Caffery
Attachments: File 123104; 2023-04-26 SSURO Notification Email.pdf

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


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				
PESTICIDE FORMULATION ANALYSIS REPORT				
PRODUCT NAME Bonide Shot Gun Repels All Animal Repellent Granules	INVESTIGATOR CREASONG	DATE SAMPLED 04/25/2023	REPORT DATE 05/03/2023	
OCM COLLECTION 263361-01	SAMPLE NO. 23-3-0025 0	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 #264430 (263361-01-R944)
Submitted By: SYSTEM
Lab Report: Lab Report 263361-01-R944.pdf

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


First Page of Lab Report

		Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed		Mark LeBlanc, Ph.D. <i>State Chemist & Seed Commissioner</i>	
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu					
PESTICIDE FORMULATION ANALYSIS REPORT					
PRODUCT NAME Shot Gun Repels All Animal Repellent Concentrate		INVESTIGATOR CREASONG		DATE SAMPLED 04/25/2023	REPORT DATE 05/03/2023
OCM COLLECTION 263361-02		SAMPLE NO. 23-3-0026 6		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 #264431 (263361-02-R944)
 Submitted By: SYSTEM
 Lab Report: Lab Report 263361-02-R944.pdf

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

First Page of Lab Report

		Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed		Mark LeBlanc, Ph.D. <i>State Chemist & Seed Commissioner</i>	
Purdue University • 175 South University Street West Lafayette, IN 47907-2063 Telephone (765) 494-1492 • Facsimile (765) 494-4331 www.oisc.purdue.edu					
PESTICIDE FORMULATION ANALYSIS REPORT					
PRODUCT NAME Shot Gun Repels All Animal Repellent RTU		INVESTIGATOR CREASONG		DATE SAMPLED 04/25/2023	REPORT DATE 05/03/2023
OCM COLLECTION 263361-03		SAMPLE NO. 23-3-0027 8		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 #264432 (263361-03-R944)
 Submitted By: SYSTEM
 Lab Report: Lab Report 263361-03-R944.pdf

06/22/2023 **Investigator Received Fax/Email from Registrant Communication**

On 6-22-23 Jeff Lowe contacted OISC via Email to communicate Bonides response to the three enforcement cases involving the Bonide "Shot-Gun" brand products. Email Attached.

Attachments

File 127601; Screenshot 2023-06-27 093700.png

Original Event: Investigation Activity (Pesticide) #6443
 Subject: Bonide Products Inc
 Submitted By: Garret A. Creason

10/12/2023 **Stop Sale Released for Return/Disposal Shot Gun Repels All Animal Repellent Granules**

Released for return or disposal

Attachments

File 135997; 2023-10-12 SSURO PS 23-0112 release return.pdf

Original Event: Stop Sale Release (PS) #55
 Issued To: Rural King
 Registrant: Bonide Products Inc
 Submitted By: Sarah K. Caffery

10/12/2023 **Stop Sale Released for Return/Disposal**

Shot Gun Repels All Animal Repellent Concentrate

Released for return or disposal

Attachments

File 135998; 2023-10-12 SSURO PS 23-0112 release return.pdf

Original Event: Stop Sale Release (PS) #56
Issued To: Rural King
Registrant: Bonide Products Inc
Submitted By: Sarah K. Caffery

10/12/2023 **Stop Sale Released for Return/Disposal**
Shot Gun Repels All Animal Repellent RTU

Released for return or disposal

Attachments

File 135999; 2023-10-12 SSURO PS 23-0112 release return.pdf

Original Event: Stop Sale Release (PS) #57
Issued To: Rural King
Registrant: Bonide Products Inc
Submitted By: Sarah K. Caffery

11/09/2023 **Judgement; Civil Penalty Assessed**
Warning

Bonide Products Inc. was warned for violation of section 57(1) of the Indiana Pesticide Registration Law for unknowingly distributing an unregistered pesticide product.

Civil Penalty

Rural King was cited for violation of section 57(1) of the Indiana Pesticide Registration Law for knowingly distributing an unregistered pesticide product. A civil penalty in the amount of \$1,000.00 was assessed for this violation.

Original Event: Judgement #1608
Primary: Bonide Products Inc
Secondary: Rural King
Submitted By: George Saxton
Legal Citations: IC 15-16-4-57(1); IC 15-16-4-57(1), IC 15-16-4-66(1)
Penalty Amount: 1000

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2891
To: Bonide Products Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 2007
Enclosed: Notice of Enforcement
Attachments: File 138007; PS23-0112EL WRN ~ Bonide Products Inc..docx

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2892
To: Rural King
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1994
Enclosed: Notice of Enforcement
Attachments: File 138008; PS23-0112EL CIT-CP ~ Rural King-Shelbyville.docx

11/23/2023 **Notice Mailed to Subject**

Emailed to both Jade Kline, Corporate Counsel, & general RKCompliance a copy of the enforcement letter OISC mailed to Rural King - Shelbyville, on Nov. 23, 2023.

Original Event: Outgoing Mail #2893
To: Rural King
Submitted By: Jacob A. Hatfield
Enclosed: Notice
Attachments: File 138010; PS23-0112 - Jade Cline Email Delivery Receipt.pdf
File 138009; PS23-0112 - Rural King Enforcement Copy to Jade Cline Email - 11-23-2023.pdf

11/27/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2346
Subject: Rural King
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1994
Received: 11/27/2023
Attachments: File 138435; CM 7021 2720 0003 1615 1994 - Rural King - PS23-0112 - Received 11-27-2023.pdf
File 138436; CM 7021 2720 0003 1615 1994 - Rural King - PS23-0112 - USPS Tracking Proof of Delivery on 11-27-2023.pdf

11/28/2023 **Compliance Activity**
Jade Kline, Corporate Counsel for Rural King, sent an email asking information about this case and enforcement. The email string is attached.

Original Event: Compliance Activity #1990
Primary: Rural King
Submitted By: George Saxton
Attachments: File 138160; 230112.pdf

12/04/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2368
Subject: Bonide Products Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 2007
Received: 12/04/2023
Attachments: File 138950; CM 7021 2720 0003 1615 2007 - Bondie Proucts, Inc. - PS23-0112 - Received 12-4-2023.pdf

12/13/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2354
Subject: Rural King
Submitted By: Jacob A. Hatfield
Payment Expected: \$1,000.00
Payment Received: \$1,000.00
Attachments: File 138907; PS23-0112 - Rural King - CP Received 12-13-2023.pdf

01/10/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2975
To: Rural King
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139405; PS23-0112 - Rural King - Case Closed Letter 1-10-2024.docx

01/10/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2976
To: Bonide Products Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139406; PS23-0112 - Bonide Products, Inc - Case Closed Letter 1-10-2024.docx

01/10/2024 **Notice Mailed to Subject**
Emailed to both Jade Kline, Corporate Counsel, & general RK Compliance a copy of the case closed letter OISC mailed to Rural King - Shelbyville, on January 10, 2024.

Original Event: Outgoing Mail #2977
To: Rural King
Submitted By: Jacob A. Hatfield
Enclosed: Notice
Attachments: File 139408; PS23-0112 - Email to Jade Cline - Copy of Rural King Shelbyville Case Closed Letter - 1-10-2024.png
File 139407; PS23-0112 - Rural King - Case Closed Letter 1-10-2024.docx

Chain of Custody

04/25/2023 **Sample 23-3-0025 0**

Original Event: Chain of Custody #5941 (23-3-0025 0)
04/25/2023 10:30: Sample Collected by Garret A. Creason
04/27/2023 08:00: Sample Delivered to lily
05/01/2023 09:49: Delivery Affirmed by Natalie C. Wilson

04/25/2023 **Sample 23-3-0026 6**

Original Event: Chain of Custody #5942 (23-3-0026 6)
04/25/2023 10:30: Sample Collected by Garret A. Creason
04/27/2023 08:00: Sample Delivered to lily
05/01/2023 09:49: Delivery Affirmed by Natalie C. Wilson

04/25/2023 **Sample 23-3-0027 8**

Original Event: Chain of Custody #5943 (23-3-0027 8)
04/25/2023 10:30: Sample Collected by Garret A. Creason
04/27/2023 08:00: Sample Delivered to lily
05/01/2023 09:49: Delivery Affirmed by Natalie C. Wilson

This record was generated on **January 26, 2024, 08:55 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 **January 26, 2024, 08:57 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 PS23-0148

Department	Pesticide
Originated	05/17/2023
Assigned To	James M. Trimble
Status	Closed

Involved Parties

Complainant	Gary Wessling Boggestown, IN 46110
Business	Premier Ag Co Op Inc-Shelbyville Shelbyville, IN 46176
Applicator	Kelly Gordon Zufall Seymour, IN 47274

Overviews

11/07/2023 Investigation Summary

On May 16, 2023, the complainant reported a herbicide application to an adjacent farm field injured trees on his property.

On May 18, 2023, I arrived at the complainant's property to conduct my on-site investigation, where I observed growth regulator exposure symptoms. I collected multiple samples for analysis by the OISC Residue Lab and PPDL.

I identified Premier Ag was responsible for the application to the field located to the east and south of the complainant's property. I received Premier Ag's application record which listed their application had occurred while the wind was blowing towards the complainant's property.

The lab report found the pesticides from Premier Ag's application had moved off-target and onto the complainant's property. Three label violations were also documented.

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

11/09/2023 Disposition Summary

Premier Ag - Shelbyville 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 this was their second violation of similar nature. See case number PS22-0126.

Kelly Gordon Zufall 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 Mr. Zufall and Premier Ag cooperated during the investigation. Consideration was also given to the fact this was Mr. Zufall's second violation of similar nature. See case number PS22-0126.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/16/2023 Intake Referral Filed

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

Original Event: Intake Referral (Pesticide) #3024
Complainant: Gary Wessling
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: James M. Trimble

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

On May 17, 2023, I called and spoke with Mr. Wessling, who reported pesticide exposure symptoms to the Poplar, Penn Oak, and Burl Oak trees on his property. Mr. Wessling advised his trees had the same exposure symptoms as the incident he reported to OISC in 2022 (see Case #PS22-0126), which included curled/cupped leaves and leaf deformation. Mr. Wessling stated that he had only observed the exposure symptoms to the trees in his front yard, not his back yard.

Mr. Wessling stated that he witnessed an application to the field located to the west of his property on approximately May 10, 2023, but stated the wind was blowing away from his property at the time of application. Mr. Wessling stated that the fields located to the east and south of his property also had symptoms of an application.

Original Event: Investigation Activity (Pesticide) #6199
Subject: Gary Wessling
Submitted By: James M. Trimble

05/17/2023 **Case Created**

Original Event: Case PS23-0148
Submitted By: Joseph D. Becovitz
Assigned To: James M. Trimble

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

On May 18, 2023, I met with Mr. Wessling at his property to conduct my on-site investigation. Mr. Wessling showed me the exposure symptoms on his Oak and Poplar trees throughout his property, which included curled & cupped leaves, but stated his vegetable garden and his wife's flowers did not seem to be impacted. Mr. Wessling suspected the exposure symptoms to his trees had been caused by a pesticide application to one or more of the adjacent agricultural fields. Mr. Wessling stated he observed an application to the west field (Field #1), but the wind was not blowing towards his property and was unsure about applications to the north (Field #2) and east/south (Field #3) fields. Mr. Wessling stated he had used herbicides on his property, which included glyphosate on his gravel driveway and fence posts, as well as a granular weed & feed on his turf around the middle of April. Mr. Wessling believed the weed & feed he used was Scott's Turf Builder Weed & Feed but no longer had the product's container.

During my on-site investigation, I observed and photographed what I believed to be growth regulator exposure symptoms to Mr. Wessling's Oak trees, Poplar trees, and one grapevine by the cupped and strapped leaves. I observed the flowers, vegetable plants, and other tree varieties throughout Mr. Wessling's property to not be effected. I observed the exposure symptoms to the trees to be evenly distributed on the entirety of the tree's leaf canopy and not on just one side of a tree as typically seen in a drift event. I also did not observe a drift pattern on Mr. Wessling's property as the effected trees were in different locations of the property. Due to the lack of drift pattern and that no pesticide exposure symptoms were observed to the flowers, vegetable plants, and other tree varieties, volatility and/or an inversion event may have occurred.

I then looked for potential sources of herbicide drift. I observed three fields surrounding Mr. Wessling's property, which I identified as Field #1 (west field), Field #2 (north field), and Field #3 (east & south field). I observed Field #1 & Field #2 to show older symptoms of a pesticide application around its borders, but the soil has since been worked over and corn had germinated (See Case #PS24-0011 for Field #1 & #2). I observed Field #3 also showed older symptoms of a pesticide application, was no-till, and soybeans had germinated (See Case #PS23-0148 for Field 3). I observed the borders of three fields to show even spray lines around its borders without obvious signs of drift coming from any of the fields.

I then collected multiple vegetation samples and swab samples from Mr. Wessling's property, along with soil samples from Fields #1, #2, and #3 for analysis by the OISC Residue Lab.

I also collected vegetation samples that exhibited symptoms of herbicide injury from Mr. Wessling's property for observation by the Purdue Plant & Pest Diagnostic Lab (PPDL).

Curled Leaves on Tulip-Poplar (File 124603)



Curled Leaves on Oak Tree (File 124633)



Attachments



File 124592



File 124593



File 124594



File 124595



File 124596



File 124597



File 124598



File 124599



File 124600



File 124601



File 124602



File 124604



File 124605



File 124606



File 124607



File 124608



File 124609



File 124610



File 124611



File 124612



File 124613



File 124614



File 124615



File 124616



File 124617



File 124618



File 124619



File 124620



File 124621



File 124622



File 124623



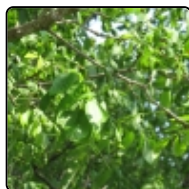
File 124624



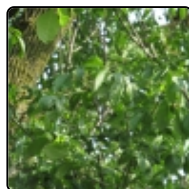
File 124625



File 124626



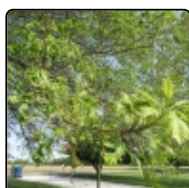
File 124627



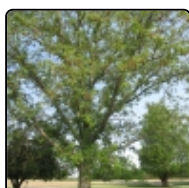
File 124628



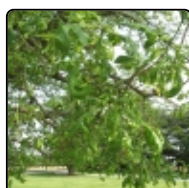
File 124629



File 124630



File 124631



File 124632



File 124634

Original Event: Investigation Activity (Pesticide) #6223
Subject: Gary Wessling
Submitted By: James M. Trimble

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

Original Event: Notice of Inspection #1595
Client: Gary Wessling
Firm Representative: Gary Wessling
Submitted By: James M. Trimble
Attachments: File 124637; WesslingNOI.pdf

05/18/2023 Residue Samples Collected

Original Event: Residue Collection #267270 (23-4-0923 0)
Client: Gary Wessling
Submitted By: James M. Trimble
Sample: 23-4-0923 0 | Veg; Comp; OFF-T, Grad1, 110yd E
Sample: 23-4-0924 8 | Veg; Comp; OFF-T, Grad2, 50yd E
Sample: 23-4-0925 3 | Veg; Comp; OFF-T, Grad3, 15yd E
Sample: 23-4-0926 9 | Veg; Comp; OFF-T, Grad1, 100yd S
Sample: 23-4-0927 6 | Veg; Comp; OFF-T, Grad2, 65yd S
Sample: 23-4-0928 2 | Veg; Ctrl; OFF-T
Sample: 23-4-0929 5 | Soil; Comp; 4-6"; Field 1; Target, W
Sample: 23-4-0930 5 | Soil; Comp; 4-6"; Field 2; Target, N
Sample: 23-4-0931 4 | Soil; Comp; 4-6"; Field 3; Target, E
Sample: 23-4-0932 2 | Swab (Acetone); Grab; Window; OFF-T, W
Sample: 23-4-0933 3 | Swab (Acetone); Grab; Window; OFF-T, N
Sample: 23-4-0934 6 | Swab (Acetone); Grab; Window; OFF-T, E
Sample: 23-4-0935 1 | Swab (Acetone); Grab; Window; OFF-T, S
Sample: 23-4-0936 7 | Swab (Acetone); Ctrl; Window; OFF-T, minibarn
Sample: 23-4-0937 9 | Swab (Acetone); Trip Blank

05/18/2023 External Lab Sample Collected

Original Event: External Lab Sample Collection #267665 (X23-4BB95A)
Client: Gary Wessling
Submitted By: James M. Trimble
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X23-4BB95A | On May 19, 2023, I submitted the plant samples I collected from Mr. Wessling's property on May 18, 2023.
Attachments: File 124635; ResponseSummary (47).pdf

05/18/2023 Investigator Met with Business Communication

On May 18, 2023, after I left Mr. Wessling's property, I arrived at Premier Ag and met with General Manager, Burke Admire. Mr. Admire confirmed they were responsible for the pesticide applications to Field #3. Later that day, I emailed Mr. Admire a Pesticide Investigation Inquiry with instructions to have the completed form returned to me within 15 days of my email.

Original Event: Investigation Activity (Pesticide) #6224
Subject: Premier Ag Co Op Inc-Shelbyville
Submitted By: James M. Trimble

05/18/2023 Notice of Inspection Issued

Original Event: Notice of Inspection #1596
Client: Premier Ag Co Op Inc-Shelbyville
Firm Representative: Burke Admire
Submitted By: James M. Trimble
Attachments: File 124638; PremierNOI.pdf

05/18/2023 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #701
Submitted By: James M. Trimble
Target Analyte: Trivolt
Target Analyte: Atrazine 4L
Target Analyte: Trivolt
Target Analyte: Atrazine 4L
Target Analyte: Boundary
Target Analyte: Roundup PM 3
Target Analyte: 2,4-D LV6
PPLS Labels: [000100-01162-20221214.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01162-20221214.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-01162-20221214.pdf
[001381-00250-20171213.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf
[000264-01211-20230109.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000264-01211-20230109.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000264-01211-20230109.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
[066222-00036-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/066222-00036-20211110.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/066222-00036-20211110.pdf

05/18/2023 New Respondent Identified

Respondent Identified

On May 18, 2023, Mr. Burke confirmed Premier Ag was the business responsible for the application to target Field #3.

Original Event: Investigation Change #348
Respondent: Premier Ag Co Op Inc-Shelbyville
Submitted By: James M. Trimble

05/19/2023 Received External Lab Report

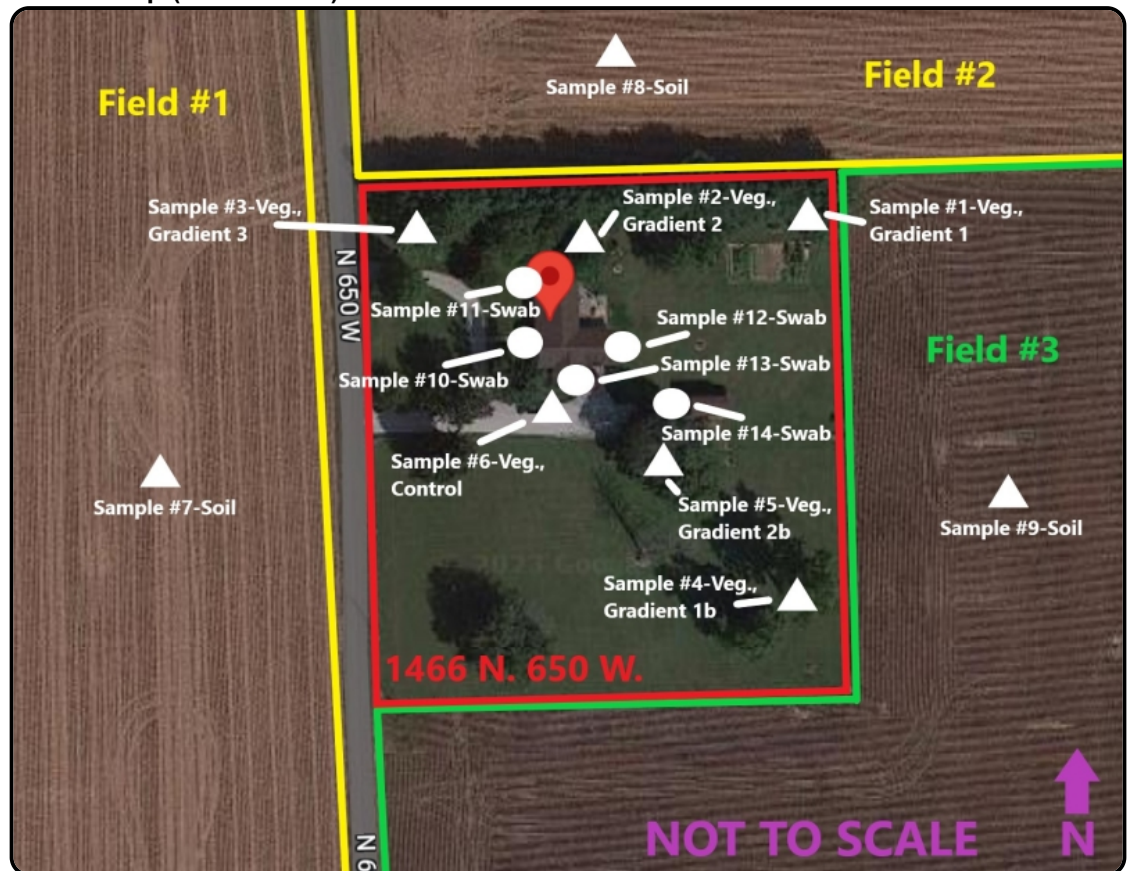
On May 19, 2023, I received the report from PPDL, which stated, "The sample shows leaf curling, stunting, and cupping on multiple species which are suggestive of exposure to a growth regulator. As indicated on the form, plants that were likely farther away from potential drift (maples and Prunus spp.) have few to no symptoms of distortion, however, the Prunus tree shows disease symptoms consistent with Peach leaf curl, caused by *Taphrina deformans*."

Original Event: External Lab Report #267666 (X23-4BB95A)
Submitted By: James M. Trimble
Sample: X23-4BB95A
Attachments: File 124636; FinalReport_Mitch Trimble.pdf

05/22/2023 Online Investigation Activity Activity

On May 22, 2023, I created a map of my sample collection at the Wessling property on May 18, 2023.

Collection Map (File 124641)



Original Event: Investigation Activity (Pesticide) #6227
Submitted By: James M. Trimble

05/30/2023 Investigator Received Fax/Email from Business Investigation Inquiry

On May 31, 2023, I received the completed PII from Mr. Admire; Premier Ag, where I observed a discrepancy of who the applicator to the target field was. Mr. Admire was listed as the certified applicator while their in-house records listed Kelly Zufall. I contacted Mr. Admire, who confirmed that Mr. Zufall was the applicator responsible to the target field. Mr. Admire gave me permission to amend the PII to reflect the change.

The completed PII stated Mr. Zufall's application to the target field occurred on April 13, 2023, while the wind was blowing from the south at 5 MPH.

Attachments

File 125572; OISC Case PS23-0148.pdf
File 125574; PA-PII amended.pdf

Inquiry Overview

Certified Applicator Kelly Zufall
Company Premier Ag
Application Type Commercial
Target Field Field 3

Tank Mix

Product	EPA	Rate
Boundary	100-1162	1.75 pt
Roundup PM 3	524-659	20 oz
2,4-D LV6	1381-250	.75 pt

Application Date

Date	Start	End
04/13/2023	10:00 AM	12:00 PM

Air Conditions

Time	Temp	Direction	Speed
Start	80°F	S	5mph
End	80°F	S	5mph

Attachments

File 125575; 5-30-31 emails.pdf

Original Event: Investigation Activity (Pesticide) #6291
Subject: Premier Ag Co Op Inc-Shelbyville
Submitted By: James M. Trimble
PPLS Labels: [000100-01162-20221214.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01162-20221214.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-01162-20221214.pdf
[001381-00250-20171213.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.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

05/30/2023 **New Respondent Identified**
Respondent Identified

Mr. Zufall was listed as the certified applicator to Field #3.

Original Event: Investigation Change #345
Respondent: Kelly Gordon Zufall
Submitted By: James M. Trimble

06/21/2023 **Case Created**

Original Event: Case PS23-0213
Submitted By: Joseph D. Becovitz
Assigned To: James M. Trimble

07/18/2023 **Received Residue Lab Report** Current
Investigatory Summary

On July 18, 2023, I received the lab report from the OISC Residue Lab, which detected positive amounts of 2,4-D, Metolachlor, Metribuzin (Field #3), and Atrazine (Fields #1 & #2) in multiple samples collected from the Wessling property. The levels of 2,4-D and Atrazine found in the samples varied greatly with many of them found near or just above their environmental baselines. Metolachlor and Metribuzin, which do not have environmental baselines, were found in slightly elevated levels that were indicative of off-target pesticide movement. Due to the low and varied amounts of the analytes found in the samples, a gradient was unable to be established from any of the target fields.

First Page of Lab Report

OCM Collection #	267270	Investigator	TRIMBLEJ		
Collection Date	05/18/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0923 0	Veg; Comp; OFF-T, Grad1, 110yd E	Veg	2,4-D	18.0 ppb * Results reported as minimum detected	0.7 ppb
			Atrazine	250 ppb	0.1 ppb
			Metolachlor	3.65 ppb	3 ppb
			Metribuzin	75.2 ppb	0.7 ppb
23-4-0924 8	Veg; Comp; OFF-T, Grad2, 50yd E	Veg	2,4-D	61.4 ppb * Results reported as minimum detected	0.7 ppb
			Atrazine	50.8 ppb	0.1 ppb
			Metolachlor	4.65 ppb	3 ppb
			Metribuzin	12.1 ppb	0.7 ppb
23-4-0925 3	Veg; Comp; OFF-T, Grad3, 15yd E	Veg	2,4-D	85.1 ppb * Results reported as minimum detected	0.7 ppb
			Atrazine	70.5 ppb	0.1 ppb
			Metolachlor	9.31 ppb	3 ppb
			Metribuzin	26.8 ppb	0.7 ppb

Original Event: Residue Lab Report #272963 (267270-R1615)
Submitted By: SYSTEM
Lab Report: Lab Report 267270-R1615.pdf

10/23/2023 Case Created

Original Event: Case PS24-0011
Submitted By: Joseph D. Becovitz
Assigned To: James M. Trimble

11/06/2023 Wind Data Researched

On November 6, 2023, I compared the wind data Premier Ag had listed on their PII to the wind data recorded from nearby weather stations. I found Premier Ag's listed wind data as the wind blowing from the south at 5 MPH was consistent with the weather stations.

Indianapolis International Airport

Indianapolis, Indiana (24 miles NW of site)

Time Direction Speed (mph)

9:54 AM SW 6
11:54 AM S 5

Shelbyville Municipal Station

Shelbyville, Indiana (6 miles NE of site)

Time Direction Speed (mph)

9:53 AM SW 7
11:53 AM S 6

Original Event: Wind Data #193
Submitted By: James M. Trimble
Date of Weather: 11/13/2023

11/06/2023 Online Investigation Activity

Label Use

On November 6, 2023, I reviewed the labels for the pesticides Mr. Zufall had applied on April 13, 2023 to Field #3 while the wind was blowing from the south (towards Mr. Wessling's property) at 5 MPH, which found the following label violations:

2,4-D LV6 (EPA Reg. #1381-250, active ingredient of 2,4-D)

- "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."

Roundup Powermax 3 (EPA Reg. #524-659, active ingredient of Glyphosate)

- "Apply this product only when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when wind is blowing away from a sensitive area)."

Boundary 6.5 EC (EPA Reg. #100-1162, active ingredients of Metolachlor & Metribuzin)

- "Only apply Boundary 6.5EC when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when wind is blowing away from the sensitive areas)."

In addition to the above label violations, the lab report confirmed the pesticides applied by Mr. Zufall had moved off-target and onto the Wessling property. The low levels of Metribuzin and Metolachlor detected in the samples by the OISC Residue Lab was not high enough to have caused an adverse effect to Mr. Wessling's vegetation. The levels of 2,4-D found, although low, were high enough to contribute to the adverse effect found in the most sensitive of vegetation, which included Mr. Wessling's Oak and Poplar trees.

Attachments

File 137395; Boundary.pdf
File 137396; LV6.pdf
File 137397; RoundUp.pdf

Original Event: Investigation Activity (Pesticide) #6901
Subject: Kelly Gordon Zufall
Submitted By: James M. Trimble
PPLS Labels: [000100-01162-20230622.pdf](#)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-01162-20230622.pdf
[001381-00250-20171213.pdf](#)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00250-20171213.pdf
[000524-00659-20200317.pdf](#)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf

11/09/2023 Judgement; Civil Penalty Assessed Citation

Premier Ag - Shelbyville 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 this was their second violation of similar nature. See case number PS22-0126.

Civil Penalty

Kelly Gordon Zufall 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 Mr. Zufall and Premier Ag cooperated during the investigation. Consideration was also given to the fact this was Mr. Zufall's second violation of similar nature. See case number PS22-0126.

Original Event: Judgement #1609
Primary: Premier Ag Co Op Inc-Shelbyville
Secondary: Kelly Gordon Zufall
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 400

11/20/2023 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #2858
To: Premier Ag Co Op Inc-Shelbyville
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1772
Enclosed: Notice of Enforcement
Attachments: File 137918; PS23-0148EL CIT ~ Premier Ag Co Op, Inc.-Shelbyville.docx

11/20/2023 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #2859
To: Kelly Gordon Zufall
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1789
Enclosed: Notice of Enforcement
Attachments: File 137916; PS23-0148EL CIT - CP Mitigated ~ Kelly Gordon Zufall - Premier Ag.docx

11/20/2023 **Notice of Enforcement Mailed to Target**

A copy of Kelly Zufalls's enforcement letter was also sent to his PO Box.

Original Event: Outgoing Mail #2860
To: Kelly Gordon Zufall
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1796
Enclosed: Notice of Enforcement
Attachments: File 137915; PS23-0148EL CIT - CP Mitigated ~ Kelly Gordon Zufall - Premier Ag - Copy.docx

11/28/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2340
Subject: Kelly Gordon Zufall
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1796
Received: 11/28/2023
Attachments: File 138429; CM 7021 2720 0003 1615 1796 - Kelly G. Zufall - PS23-0148 - Copy - Received 11-28-2023.pdf

11/30/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2361
Subject: Premier Ag Co Op Inc-Shelbyville
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1772
Received: 11/30/2023
Attachments: File 138941; CM 7021 2720 0003 1615 1772 - Premier Ag Co Op, Inc. - PS23-0148 - Received 11-30-2023.pdf

12/12/2023 **Mail Service Returned for Target**

On December 12, 2023, regular mail was returned to OISC.

Original Event: Compliance Receipt #2351
Subject: Kelly Gordon Zufall
Submitted By: Jacob A. Hatfield
Returned: 12/12/2023
Attachments: File 138738; PS23-0148 - Kelly G. Zufall - Regular Mail Returned 12-12-2023.pdf

12/13/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2355
Subject: Kelly Gordon Zufall
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 138908; PS23-0148 - Kelly G. Zufall - CP Received 12-13-2023.pdf

01/09/2024 **Mail Service Returned for Target**

On January 9, 2024, certified mail was returned to OISC.

Original Event: Compliance Receipt #2376
Subject: Kelly Gordon Zufall
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1789
Returned: 01/09/2024
Attachments: File 139397; CM 7021 2720 0003 1615 1789 - Kelly G. Zufall - PS23-0148 - CM Returned 1-9-2024_0001.pdf

01/10/2024 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2978
To: Gary Wessling
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139413; PS23-0148 - Gary Wessling - Case Closed Letter 1-10-2024.docx

01/10/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2979
To: Premier Ag Co Op Inc-Shelbyville
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139414; PS23-0148 - Premier Ag Co Op, Inc. - Case Closed Letter 1-10-2024.docx

01/10/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2980
To: Kelly Gordon Zufall
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139415; PS23-0148 - Kelly G. Zufall - Case Closed Letter 1-10-2024.docx

Chain of Custody

05/18/2023 **Sample 23-4-0923 0**

Original Event: Chain of Custody #6793 (23-4-0923 0)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0924 8**

Original Event: Chain of Custody #6794 (23-4-0924 8)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0925 3**

Original Event: Chain of Custody #6795 (23-4-0925 3)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0926 9**

Original Event: Chain of Custody #6796 (23-4-0926 9)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0927 6**

Original Event: Chain of Custody #6797 (23-4-0927 6)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0928 2**

Original Event: Chain of Custody #6798 (23-4-0928 2)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0929 5**

Original Event: Chain of Custody #6799 (23-4-0929 5)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0930 5**

Original Event: Chain of Custody #6800 (23-4-0930 5)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0931 4**

Original Event: Chain of Custody #6801 (23-4-0931 4)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0932 2**

Original Event: Chain of Custody #6802 (23-4-0932 2)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0933 3**
Original Event: Chain of Custody #6803 (23-4-0933 3)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0934 6**
Original Event: Chain of Custody #6804 (23-4-0934 6)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0935 1**
Original Event: Chain of Custody #6805 (23-4-0935 1)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0936 7**
Original Event: Chain of Custody #6806 (23-4-0936 7)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

05/18/2023 **Sample 23-4-0937 9**
Original Event: Chain of Custody #6807 (23-4-0937 9)
05/18/2023 10:00: Sample Collected by James M. Trimble
05/19/2023 08:44: Sample Delivered to 218
05/19/2023 10:42: Delivery Affirmed by Vicki L. Vauters

This record was generated on **January 26, 2024, 08:57 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 **January 26, 2024, 08:58 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 PS23-0166

Department	Pesticide
Originated	05/23/2023
Assigned To	Andrew R. Roth
Status	Closed

Involved Parties

Complainant	Tony Fleming Albion, IN 46701
Respondent	Unknown
Respondent	Ag Plus LP Raber Ag Center Columbia City, IN 46725
Respondent	Jack Alan Fry Columbia City, IN 46725
Respondent	Bryan S Azbell Columbia City, IN 46725

Overviews

10/13/2023 **Investigation Summary**

I responded to a complaint of off-target herbicide drift at the property of Tony Fleming who reported winds were blowing toward his property when the adjacent field was sprayed. Widespread spotting was observed on vegetation across the Fleming property.

PPDL indicated symptoms were suggestive of herbicide exposure. The OISC Residue Lab detected herbicide active ingredients from the tank mix in samples collected from the Fleming property as well as on a hat Mr. Fleming was wearing when the application was made.

It was determined Ag Plus Registered Technician, Jack Fry, applied Verdict, Atrazine 4L (RUP) and Cornerstone 5 Plus while winds were blowing toward the Fleming property.

Submitted By: Andrew R. Roth
Role: Investigator
Drift: Confirmed

10/23/2023 **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 failure to follow label directions regarding drift management. Consideration was given to the fact a restricted use pesticide was involved and there was an adverse effect.

Bryan Azbell 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 \$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.

Jack Fry 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 a restricted use pesticide was involved and there was an adverse effect.

Ag Plus LP Raber Ag Center, Bryan Azbell and Jack Fry were advised that they were in violation of section 65(10) of the Indiana Pesticide Use and Application Law for allowing a restricted use pesticide to be applied by a non-certified applicator or someone who does not have a Private Applicator permit. Since this is a new rule as of January 4, 2023, compliance assistance was rendered.

Submitted By:
Role:

George Saxton
Compliance Officer

Chronology of Events

05/23/2023 Intake Referral Filed

Complainant wrote, "On Saturday, May 20, 2023, about 4:45 PM, a spray rig appeared in the field to our west. With the wind roaring in our ears we weren't even aware it was there until we were enveloped in a foul chemical haze. We estimated the wind speed at 15-30 mph. Drift symptoms began appearing within 36 hours. The damage is total everything even hundreds of feet from the field edge vegetable garden, blueberries, strawberries, raspberries, 150 yr old shade trees, and hundreds of species of woodland and prairie plants. Even seedlings inside our greenhouse >350 ft away."

Original Event: Intake Referral (Pesticide) #3043
Complainant: Tony Fleming
Respondent: Unknown
Entered By: Joseph D. Becovitz
Submitted By: Jacob A. Hatfield
Assigned To: Andrew R. Roth
Attachments: File 124856; Fleming_Ferguson complaint form.pdf

05/23/2023 Case Created

Original Event: Case PS23-0166
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

05/24/2023 Notice of Inspection Issued

Original Event: Notice of Inspection #1625
Client: Tony Fleming
Firm Representative: Tony Fleming
Submitted By: Andrew R. Roth
Photos:



File 125185

05/25/2023 Investigator Met with Complainant Interaction

On May 24, I contacted Tony Fleming regarding his complaint of off-target herbicide drift. On May 25, I went to the site on the north side of CR300S in Noble County for the on-site investigation. It had been determined that Ag Plus made the application to the adjacent field. Mr. Fleming reported he was outside and had recorded two videos of the application from the west side of the property while winds were blowing toward him. He also had a diagram of the property with his observations of the off-target herbicide exposure symptoms. We walked the property which consisted of garden areas and a high tunnel, berry patches, perennial beds, woodland and prairie beds, ornamentals and mature trees. Widespread leaf-spotting was visible on a variety of plants across the property. Similar symptoms were observed on vegetation in the fence line which separated the field and the Fleming property. Weeds and grasses in the target field were dead or dying.

I photographed the site and collected a variety of plant samples for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected the following samples for analysis by the OISC Residue Lab:

- Gradient vegetation samples from west-to-east across the Fleming property (field peas at 70ft, hosta at 200ft and tree foliage at 400ft)
- soil from a planted section of the garden (field peas) on the west side of the Fleming property
- soil and vegetation from the target field
- a hat Mr. Fleming reported he was wearing while the application was made

Photographs

Photos from the site and an aerial photo.

Attachments



File 135965



File 125165



File 125166



File 125167



File 125168



File 125169



File 125170



File 125171



File 125172



File 125173



File 125174



File 125175



File 125176



File 125177



File 125178



File 125179



File 125180



File 125181



File 125182



File 125183



File 125184

Activity

Mr. Fleming provided a labeled aerial photo with noted observations of the herbicide exposure symptoms at the site.

Attachments

- File 135967; Drift Map 052523.pdf
- File 135968; Key to Observed Drift Effects Zones .docx

Original Event: Investigation Activity (Pesticide) #6268
Subject: Tony Fleming
Submitted By: Andrew R. Roth

05/25/2023 **New Respondent Identified**
Respondent Identified

I spoke with Bryan Azbell, with Ag Plus, who confirmed Jack Fry sprayed the field adjacent to the complainant's property.

Original Event: Investigation Change #344
Respondent: Ag Plus LP Raber Ag Center
Submitted By: Andrew R. Roth

05/25/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #268777 (X23-14445E)
Client: Tony Fleming
Submitted By: Andrew R. Roth
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X23-14445E | Plant samples were collected for assessment by the PPDL.
Attachments: File 125186; 23-0166ppdlform.pdf

05/25/2023 **Residue Samples Collected**

Original Event: Residue Collection #268778 (23-4-0760 2)
Client: Tony Fleming
Submitted By: Andrew R. Roth
Sample: 23-4-0760 2 | Veg; Comp; Target
Sample: 23-4-0761 8 | Soil; Comp; 0-2"; Target
Sample: 23-4-0762 5 | Soil; Comp; 0-2"; OFF-T
Sample: 23-4-0763 9 | Veg; Comp; OFF-T, Grad1, 70ft
Sample: 23-4-0764 1 | Veg; Comp; OFF-T, Grad2, 200ft
Sample: 23-4-0765 6 | Veg; Comp; OFF-T, Grad3, 400ft
Sample: 23-4-0766 0 | Article; Grab; Hat; OFF-T

05/26/2023 **Received External Lab Report**

Necrotic spotting was observed on a very wide range of plant species, which is suggestive of a chemical injury. Symptoms are suggestive of PPO inhibitor exposure. No other symptoms were observed. A few lesions look similar to leaf spots that could occur on the host, including strawberries, where there is a purple/red border, however, this can potentially occur with PPO injury as well.
John Bonkowski

Original Event: External Lab Report #268875 (X23-14445E)
Submitted By: Andrew R. Roth
Sample: X23-14445E
Attachments: File 125209; 23-0166PPDLFinalReport.pdf

05/26/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #711
Submitted By: Andrew R. Roth
Target Analyte: Verdict
Target Analyte: Atrazine 4L
Target Analyte: Cornerstone 5 Plus
PLS Labels: [001381-00158-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00158-20211110.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00158-20211110.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
[007969-00279-20180504.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00279-20180504.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00279-20180504.pdf

05/29/2023 **Investigator Received Fax/Email from Applicator Records**

On May 29, Bryan Azbell, from Ag Plus, forwarded application information which indicated Registered Technician, Jack Fry, sprayed the field in question from 430-500pm on May 20. Mr. Azbell was listed as the certified applicator/supervisor for the application. The field was reportedly sprayed with a tank mix containing the following:

- Verdict (EPA Reg#7969-279) active ingredients dimethenamid and saflufenacil
- Atrazine 4L (EPA Reg#1381-158) active ingredient atrazine
- Cornerstone 5 Plus (EPA Reg#1381-241) active ingredient glyphosate

Winds were reported as blowing from the northwest, toward the Fleming property, at 11mph during the application.

Attachments

File 132872; 23-0166ApplInfo.pdf

Original Event: Investigation Activity (Pesticide) #6657
Subject: Ag Plus LP Raber Ag Center
Submitted By: Andrew R. Roth

05/30/2023 **Wind Data Researched**

Wind data from the three closest official weather stations confirmed winds were from the west-northwest, blowing toward the Fleming property, during the time of the application.

DeKalb Co

Auburn, Indiana (16 miles E of site)

Time Direction Speed (mph)

1635 WNW 16

1655 WNW 17

Fort Wayne International

Fort Wayne, Indiana (24 miles SSE of site)

Time Direction Speed (mph)

1654 WNW 11

Warsaw Municipal

Warsaw, Indiana (24 miles W of site)

Time Direction Speed (mph)

1635 WNW 20
1655 WNW 21

Original Event: Wind Data #186
Submitted By: Andrew R. Roth
Date of Weather: 05/20/2023

07/11/2023 **Received Residue Lab Report** Current

Investigatory Summary

The OISC Residue Lab analyzed the samples for the active ingredients in the herbicides reportedly applied to the field. All active ingredients were detected in the samples from the target field. Three active ingredients (glyphosate, atrazine and saflufenacil) were detected in the three vegetation samples collected from the Fleming property. Four active ingredients were detected in the hat Mr. Fleming was reportedly wearing when the application was made. Trace amounts (less than 1 part per billion) of active ingredients were detected in the off-target garden soil.

First Page of Lab Report

OCM Collection #	268778	Investigator	ROTHA		
Collection Date	05/25/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0760 2	Veg; Comp; Target	Veg	AMPA	2030 ppb	66 ppb
			Glyphosate	276000 ppb * Result is approximate	66 ppb
			Atrazine	532000 ppb	0.1 ppb
			Dimethenamid	32900 ppb	1 ppb
			Saflufenacil	16400 ppb	0.3 ppb
23-4-0761 8	Soil; Comp; 0-2"; Target	Soil	AMPA	782 ppb	40 ppb
			Glyphosate	5510 ppb	40 ppb
			Atrazine	562 ppb * Estimated amount	0.07 ppb
			Dimethenamid	279 ppb * Estimated amount/Minimum amount detected	0.1 ppb
			Saflufenacil	113 ppb * Estimated amount/Minimum amount detected	0.07 ppb

Original Event: Residue Lab Report #272321 (268778-R1591)
Submitted By: SYSTEM
Lab Report: Lab Report 268778-R1591.pdf

10/11/2023 **Online Investigation Activity**

Label Use

Based on the evidence at the site, the lab results and the wind conditions, both reported and researched, the herbicides in the application made to the target field by Mr. Fry moved off-target to the Fleming property.

The Verdict label reads, in part, "Apply this product only when the potential for drift to adjacent nontarget areas is minimal (e.g. when the wind is 10 MPH or less and is blowing away from sensitive areas)."

Atrazine 4L is a Restricted Use Pesticide. Its label states, "For retail sale to and use only by Certified Applicators or persons under their direct supervision, and only for those uses covered by the Certified Applicator's certification."

The Cornerstone 5 Plus label reads, in part, "The pesticide must only be applied when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when wind is blowing away from the sensitive areas)."

Attachments

File 136008; AGRISOLUTIONS ATRAZINE 4L.pdf
File 136009; AGRISOLUTIONS CORNERSTONE 5 PLUS.pdf
File 136007; VERDICT POWERED BY KIXOR HERBICIDE.pdf

Original Event: Investigation Activity (Pesticide) #6824
Submitted By: Andrew R. Roth

10/23/2023 **Judgement; Civil Penalty Assessed**
No Violation

Ag Plus LP Raber Ag Center, Bryan Azbell and Jack Fry were advised that they were in violation of section 65(10) of the Indiana Pesticide Use and Application Law for allowing a restricted use pesticide to be applied by a non-certified applicator or someone who does not have a Private Applicator permit. Since this is a new rule as of January 4, 2023, compliance assistance was rendered.

Citation

Ag Plus LP Raber Ag Center 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 a restricted use pesticide was involved and there was an adverse effect.

Citation

Jack Fry 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 a restricted use pesticide was involved and there was an adverse effect.

Civil Penalty

Bryan Azbell 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 \$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 #1599
Primary: Ag Plus LP Raber Ag Center
Secondary: Bryan S Azbell
Additional: Jack Alan Fry
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 1000

11/03/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2810
To: Ag Plus LP Raber Ag Center
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1734
Enclosed: Notice of Enforcement
Attachments: File 137379; PS23-0166EL CIT ~ Ag Plus LP Raber Ag Center.docx

11/03/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2811
To: Bryan S Azbell
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1727
Enclosed: Notice of Enforcement
Attachments: File 137380; PS23-0166EL CIT - CP ~ Bryan S. Azbell.docx

11/03/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2812
To: Jack Alan Fry
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1710
Enclosed: Notice of Enforcement
Attachments: File 137381; PS23-0166EL CIT ~ Jack Alan Fry.docx

11/13/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2311
Subject: Bryan S Azbell
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1727
Received: 11/13/2023
Attachments: File 137938; CM 7021 2720 0003 1615 1727 - Bryan S. Azbell - PS23-0166 - Received 11-13-2023.pdf
File 137939; CM 7021 2720 0003 1615 1727 - Bryan S. Azbell - PS23-0166 - USPS Proof of Delivery 11-13-2023.pdf

11/13/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2316
Subject: Ag Plus LP Raber Ag Center
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1734
Received: 11/13/2023
Attachments: File 137962; CM 7021 2720 0003 1615 1734 - Ag Plus Raber Ag Center - PS23-0166 - Received 11-13-2023.pdf
File 137963; CM 7021 2720 0003 1615 1734 - Ag Plus Raber Ag Center - PS23-0166 - USPS Proof of Delivery 11-13-2023.pdf

11/13/2023 **Received Mail Confirmation for Target**
Original Event: Compliance Receipt #2317
Subject: Jack Alan Fry
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1710
Received: 11/13/2023
Attachments: File 137964; CM 7021 2720 0003 1615 1710 - Jack A. Fry - PS23-0166 - Received 11-13-2023.pdf
File 137965; CM 7021 2720 0003 1615 1710 - Jack A. Fry - PS23-0166 - USPS Proof of Delivery 11-13-2023.pdf

11/29/2023 **Received Penalty Payment for Target**
Original Event: Compliance Receipt #2327
Subject: Bryan S Azbell
Submitted By: Jacob A. Hatfield
Payment Expected: \$1,000.00
Payment Received: \$1,000.00
Attachments: File 138297; PS23-0166 - Bryan S. Azbell - CP Received 11-29-2023.pdf

12/13/2023 **Notice of Case Closure Mailed to Complainant**
Original Event: Outgoing Mail #2937
To: Tony Fleming
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138793; PS23-0166 - Tony Fleming - Case Closed Letter 12-13-2023.docx

12/13/2023 **Notice of Case Closure Mailed to Target**
Original Event: Outgoing Mail #2938
To: Ag Plus LP Raber Ag Center
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138794; PS23-0166 - Ag Plus LP Raber Ag Center - Case Closed Letter 12-13-2023.docx

12/13/2023 **Notice of Case Closure Mailed to Target**
Original Event: Outgoing Mail #2939
To: Jack Alan Fry
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138795; PS23-0166 - Jack A. Fry - Case Closed Letter 12-13-2023.docx

12/13/2023 **Notice of Case Closure Mailed to Target**
Original Event: Outgoing Mail #2940
To: Bryan S Azbell
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138796; PS23-0166 - Bryan S. Azbell - Case Closed Letter 12-13-2023.docx

Chain of Custody

05/26/2023 **Sample 23-4-0760 2**
Original Event: Chain of Custody #7088 (23-4-0760 2)
05/25/2023 12:00: Sample Collected by Andrew R. Roth
05/26/2023 11:52: Sample Delivered to kylo
05/30/2023 12:05: Delivery Affirmed by Vicki L. Vauters

05/26/2023 **Sample 23-4-0761 8**
Original Event: Chain of Custody #7089 (23-4-0761 8)
05/25/2023 12:00: Sample Collected by Andrew R. Roth
05/26/2023 11:52: Sample Delivered to kylo
05/30/2023 12:05: Delivery Affirmed by Vicki L. Vauters

05/26/2023 **Sample 23-4-0762 5**
Original Event: Chain of Custody #7090 (23-4-0762 5)
05/25/2023 12:00: Sample Collected by Andrew R. Roth
05/26/2023 11:52: Sample Delivered to kylo
05/30/2023 12:05: Delivery Affirmed by Vicki L. Vauters

05/26/2023 **Sample 23-4-0763 9**

Original Event: Chain of Custody #7091 (23-4-0763 9)
05/25/2023 12:00: Sample Collected by Andrew R. Roth
05/26/2023 11:52: Sample Delivered to kylo
05/30/2023 12:05: Delivery Affirmed by Vicki L. Vauters

05/26/2023 **Sample 23-4-0764 1**

Original Event: Chain of Custody #7092 (23-4-0764 1)
05/25/2023 12:00: Sample Collected by Andrew R. Roth
05/26/2023 11:52: Sample Delivered to kylo
05/30/2023 12:05: Delivery Affirmed by Vicki L. Vauters

05/26/2023 **Sample 23-4-0765 6**

Original Event: Chain of Custody #7093 (23-4-0765 6)
05/25/2023 12:00: Sample Collected by Andrew R. Roth
05/26/2023 11:52: Sample Delivered to kylo
05/30/2023 12:05: Delivery Affirmed by Vicki L. Vauters

05/26/2023 **Sample 23-4-0766 0**

Original Event: Chain of Custody #7094 (23-4-0766 0)
05/25/2023 12:00: Sample Collected by Andrew R. Roth
05/26/2023 11:52: Sample Delivered to kylo
05/30/2023 12:05: Delivery Affirmed by Vicki L. Vauters

This record was generated on **January 26, 2024, 08:58 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 **January 26, 2024, 09:00 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 PS23-0171

Department	Pesticide
Originated	05/25/2023
Assigned To	Adam Brockman
Status	Closed

Involved Parties

Complainant	Valerie Brook Charlestown, IN 47111
Respondent	Unknown
Respondent	Ralph A Webb New Washington, IN 47162

Overviews

11/02/2023 Investigation Summary

The complainant was standing on her second story balcony at the time of this application. When she was standing there she advised that she felt a mist from the sprayer on her skin. She immediately went inside. Review of the lab report shows that the complainant had Metolachlor on her clothing and on the swab which was taken from the side of her house where she was standing when the application happened. The label for Metolachlor states "Do not apply this product in a way that will contact workers or other persons, either directly or through drift." The product came in contact with the complainant in this case.

Submitted By: Adam Brockman
Role: Investigator

11/10/2023 Disposition Summary

Ralph Webb was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. Consideration was given to the fact this was Mr. Webb's first violation of similar nature, no adverse effect was documented and Mr. Webb cooperated during the investigation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/24/2023 Intake Referral Filed

Complainant stated she was outside on her property when she was drifted on by a herbicide application being made to a farm field approximately 100 feet away.

Original Event: Intake Referral (Pesticide) #3048
Complainant: Valerie Brook
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: Adam Brockman

05/25/2023 Case Created

Original Event: Case PS23-0171
Submitted By: Joseph D. Becovitz
Assigned To: Adam Brockman

05/30/2023 **Residue Samples Collected**

Original Event: Residue Collection #268934 (23-4-1443 6)
Client: Valerie Brook
Submitted By: Adam Brockman
Sample: 23-4-1443 6 | Veg; Comp; Target
Sample: 23-4-1444 3 | Soil; Comp; 2-4"; Target
Sample: 23-4-1445 8 | Veg; Ctrl; OFF-T, Front Yard
Sample: 23-4-1446 2 | Veg; Grab; OFF-T, Grad1, 10yd E
Sample: 23-4-1448 9 | Veg; Grab; OFF-T, Grad2, 32yd E
Sample: 23-4-1450 2 | Swab (Acetone); Trip Blank
Sample: 23-4-1451 8 | Swab (Acetone); Ctrl; OFF-T, E
Sample: 23-4-1452 5 | Swab (Acetone); Grab; OFF-T, N
Sample: 23-4-1453 9 | Swab (Acetone); Grab; OFF-T, W
Sample: 23-4-1454 1 | Swab (Acetone); Grab; OFF-T, S
Sample: 23-4-1455 6 | Swab (Acetone); Grab; OFF-T, E
Sample: 23-4-1456 0 | Article; Grab; OFF-T, W

05/30/2023 **Investigator Met with Complainant Interaction**

I went to Brook's residence to collect samples and take photographs.

Original Event: Investigation Activity (Pesticide) #6284
Subject: Valerie Brook
Submitted By: Adam Brockman

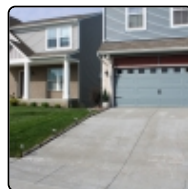
05/30/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1629
Client: Valerie Brook
Firm Representative: Valerie Brook
Submitted By: Adam Brockman
Attachments: File 125465; Scan from 2023-05-31 07_59_37 AM.pdf

05/30/2023 **Investigator Met with Complainant Photographs**

Photographs taken from Brook's property.

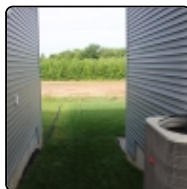
Attachments



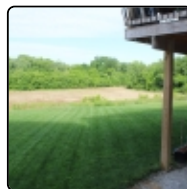
File 125494



File 125495



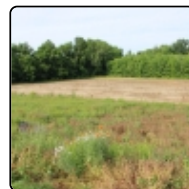
File 125496



File 125497



File 125498



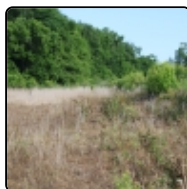
File 125499



File 125500



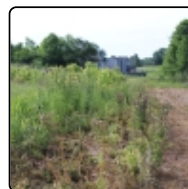
File 125501



File 125502



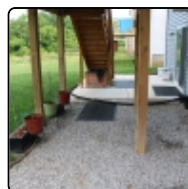
File 125503



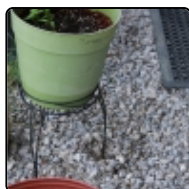
File 125504



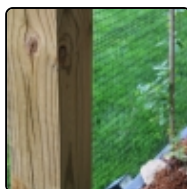
File 125505



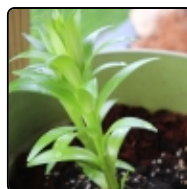
File 125506



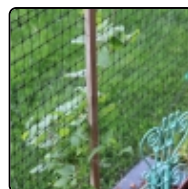
File 125507



File 125508



File 125509



File 125510

Original Event: Investigation Activity (Pesticide) #6286
Subject: Valerie Brook
Submitted By: Adam Brockman

05/30/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1631
Client: Valerie Brook
Firm Representative: Valerie Brook
Submitted By: Adam Brockman

05/30/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #270620 (X23-77D8A2)
 Client: Valerie Brook
 Submitted By: Adam Brockman
 Lab: Purdue Plant and Pest Diagnostic Laboratory
 Sample: X23-77D8A2 | Various species of plants collected from an easment between target field and complainant. All plants collected appeared to be healthy. No pesticide injury was observed on the complainants property.

Attachments: File 126631; PPDL temp.pdf

05/30/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #712
 Submitted By: Adam Brockman
 Target Analyte: CORNERSTONE PLUS 5
 Target Analyte: BROADAXE XC HERBICIDE
 Target Analyte: DIMETRIC LIQUID
 PPLS Labels: [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
[001381-00259-20170613.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00259-20170613.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00259-20170613.pdf
[000279-03442-20230124.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000279-03442-20230124.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000279-03442-20230124.pdf

Attachments: File 133924; doc020996.pdf

06/01/2023 **Received External Lab Report**

There is no symptom of pesticide injury on the complainants property per this report.

Original Event: External Lab Report #270622 (X23-77D8A2)
 Submitted By: Adam Brockman
 Sample: X23-77D8A2
 Attachments: File 126632; FinalReport_Adam Brockman (19).pdf

10/06/2023 **Received Residue Lab Report** Current
First Page of Lab Report

OCM Collection #	268934	Investigator	BROCKMANA		
Collection Date	05/30/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-1443 6	Veg; Comp; Target	Veg	Metolachlor	394 ppb * Estimated amount	0.7 ppb
			Metribuzin	818 ppb * Estimated amount	0.3 ppb
			Sulfentrazone	892 ppb * Estimated amount	1 ppb
23-4-1444 3	Soil; Comp; 2-4"; Target	Soil	Metolachlor	40.3 ppb	3 ppb
			Metribuzin	0.667 ppb	0.1 ppb
			Sulfentrazone	38.0 ppb	0.3 ppb
23-4-1445 8	Veg; Ctrl; OFF-T, Front Yard	Veg	Metolachlor	BDL ppb	0.7 ppb
			Metribuzin	BDL ppb	0.3 ppb
			Sulfentrazone	BDL ppb	1 ppb
23-4-1446 2	Veg; Grab; OFF-T, Grad1, 10yd E	Veg	Metolachlor	BDL ppb	0.7 ppb
			Metribuzin	BDL ppb	0.3 ppb
			Sulfentrazone	BDL ppb	1 ppb
23-4-1448 9	Veg; Grab; OFF-T, Grad2, 32yd E	Veg	Metolachlor	1.21 ppb	0.7 ppb
			Metribuzin	0.677 ppb	0.3 ppb
			Sulfentrazone	BDL ppb	1 ppb

Original Event: Residue Lab Report #280253 (268934-R1714)
Submitted By: SYSTEM
Lab Report: Lab Report 268934-R1714.pdf

10/20/2023 **New Respondent Identified**

Original Event: Investigation Change #417
Respondent: Ralph A Webb
Submitted By: Adam Brockman

10/20/2023 **Wind Data Researched**

All station reported no wind speed at time of application.

Clark Regional Airport

Jefferson, Indiana (4 miles S of site)

Time Speed (mph)

8:00 am 0

Attachments

File 136679; asos bedford.txt
File 136680; asos madison.txt
File 136681; jefferson.txt

Original Event: Wind Data #190
Submitted By: Adam Brockman
Date of Weather: 05/19/2023

10/31/2023 **Investigation Activity
Records**

Diagram of samples collected.

Attachments

File 137005; diagram final.png

Original Event: Investigation Activity (Pesticide) #6875
Submitted By: Adam Brockman

11/03/2023 **Investigation Activity
Records**

Attached is the label for Metolachlor.

Attachments

File 137323; 000279-03442-20230124.pdf

Original Event: Investigation Activity (Pesticide) #6897
Submitted By: Adam Brockman

11/10/2023 **Judgement; Warning
Warning**

Ralph Webb was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. Consideration was given to the fact this was Mr. Webb's first violation of similar nature, no adverse effect was documented and Mr. Webb cooperated during the investigation.

Original Event: Judgement #1610
Primary: Ralph A Webb
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2876
To: Ralph A Webb
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1956
Enclosed: Notice of Enforcement
Attachments: File 137987; PS23-0171EL WRN ~ Ralph A Webb.docx

11/30/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2366
Subject: Ralph A Webb
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1956
Received: 11/30/2023
Attachments: File 138947; CM 7021 2720 0003 1615 1956 - Ralph A. Webb - PS23-0171 - Received 11-30-2023.pdf

01/12/2024 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2982
To: Valerie Brook
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139499; PS23-0171 - Valerie Brook - Case Closed Letter 1-12-2024.docx

01/12/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2983
To: Ralph A Webb
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139500; PS23-0171 - Ralph A. Webb - Case Closed Letter 1-12-2024.docx

Chain of Custody

05/30/2023 **Sample 23-4-1443 6**

Original Event: Chain of Custody #7098 (23-4-1443 6)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kylo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1444 3**

Original Event: Chain of Custody #7099 (23-4-1444 3)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kylo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1445 8**

Original Event: Chain of Custody #7100 (23-4-1445 8)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kylo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1446 2**

Original Event: Chain of Custody #7101 (23-4-1446 2)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kylo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1448 9**

Original Event: Chain of Custody #7102 (23-4-1448 9)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kylo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1450 2**

Original Event: Chain of Custody #7103 (23-4-1450 2)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kylo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1451 8**

Original Event: Chain of Custody #7104 (23-4-1451 8)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kylo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1452 5**

Original Event: Chain of Custody #7105 (23-4-1452 5)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kylo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1453 9**
Original Event: Chain of Custody #7106 (23-4-1453 9)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kyo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1454 1**
Original Event: Chain of Custody #7107 (23-4-1454 1)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kyo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1455 6**
Original Event: Chain of Custody #7108 (23-4-1455 6)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kyo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

05/30/2023 **Sample 23-4-1456 0**
Original Event: Chain of Custody #7109 (23-4-1456 0)
05/30/2023 09:00: Sample Collected by Adam Brockman
05/30/2023 13:24: Sample Delivered to Kyo
05/30/2023 13:24: Remark Added by Adam Brockman
05/31/2023 12:28: Delivery Affirmed by Vicki L. Vauters

This record was generated on **January 26, 2024, 09:00 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 **January 26, 2024, 09:01 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 PS23-0179

Department	Pesticide
Originated	05/31/2023
Assigned To	Paul Jay Kelley
Status	Closed

Involved Parties

Complainant **Carl Crock**
Greenfield, IN 46140

Respondent **Gregory Ross Kleiman**
Greenfield, IN 46140

Overviews

10/17/2023 Investigation Summary

On May 23, 2023, complainant alleged an application to an adjacent farm field on May 22, 2023, injured trees on his property.

On June 5, 2023, an investigation of the property took place, with investigative samples collected.

Applicator, Greg Kleiman, verified he made an application on May 22, 2023.

Applicator documented he applied Enlist, Roundup Powermax and Sonic.

Applicator indicated wind was out of the east at 3 mph blowing toward complainant's property.

PPDL indicated symptoms consistent with a growth regulator herbicide (enlist).

OISC's Residue Lab found detections of 2, 4D (Enlist) in a gradient pattern from target field through complainant's property consistent with drift.

Label language for Enlist states, "Do not allow contact of herbicide with foliage, green stems, exposed non-woody roots of crops, desirable plants; including trees and cotton without the Enlist trait, because severe injury or destruction may result."

Submitted By: Paul Jay Kelley
Role: Investigator
Drift: Confirmed

10/20/2023 Disposition Summary

Gregory Ross Kleiman was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. Consideration was given to the fact this was his first violation of similar nature and no restricted use pesticides were involved.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/30/2023 Intake Referral Filed

Complainant stated a herbicide application made to an adjacent farm field injured trees, flowers and the garden on his property.

Original Event: Intake Referral (Pesticide) #3056
Complainant: Carl Crock
Respondent: Gregory Ross Kleiman
Submitted By: Joseph D. Becovitz
Assigned To: Paul Jay Kelley

05/31/2023 **Case Created**

Original Event: Case PS23-0179
Submitted By: Joseph D. Becovitz
Assigned To: Paul Jay Kelley

06/05/2023 **Investigator Met with Complainant Photographs**

On June 5, 2023, I met with Carl Crock at his residence in Greenfield, Indiana. Mr. Crock stated he observed the application to the Kleiman field on May 22, 2023. Mr. Crock stated the wind was blowing toward his property at the time of the application. Mr. Crock stated he soon observed his Tulip tree and Catalpa tree showing signs of pesticide exposure. Tree leaves were deformed, cupped and droopy.

I collected a vegetation sample to be visually analyzed by Purdue's Plant and Pest Diagnostic Lab (PPDL). In addition, I collected investigative samples to be analyzed by OISC's Residue Lab.

Attachments



File 125969



File 125970



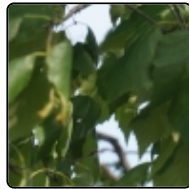
File 125971



File 125972



File 125973



File 125974



File 125975



File 125976



File 125977



File 125978



File 125979



File 125980



File 125981



File 125982



File 125983



File 125984



File 125985



File 125986



File 125987



File 125988



File 125989



File 125990



File 125991



File 125992



File 125993



File 125994



File 125995



File 125996



File 125997



File 125998

Screenshots

Site Diagram with samples locations.

Attachments

File 136370; Site Diagram.pdf

Original Event: Investigation Activity (Pesticide) #6318
Subject: Carl Crock
Submitted By: Paul Jay Kelley

06/05/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1641
Client: Carl Crock
Firm Representative: Carl Crock
Submitted By: Paul Jay Kelley

Attachments: File 125999; noi.pdf

06/05/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #269492 (X23-E3C26E)
Client: Carl Crock
Submitted By: Paul Jay Kelley
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X23-E3C26E | vegetation samples
Attachments: File 126001; PPDL Crock ps23-0179.pdf

06/05/2023 **Residue Samples Collected**

Original Event: Residue Collection #269493 (23-4-0255 4)
Client: Carl Crock
Submitted By: Paul Jay Kelley
Sample: 23-4-0255 4 | Veg; Ctrl; OFF-T
Sample: 23-4-0256 5 | Soil; Grab; 0-2"; Target
Sample: 23-4-0257 7 | Veg; Comp; Target
Sample: 23-4-0258 3 | Soil; Grab; 0-2"; OFF-T
Sample: 23-4-0259 6 | Veg; Comp; OFF-T, Grad1, 10yd
Sample: 23-4-0260 5 | Veg; Comp; OFF-T, Grad2, 35yd
Sample: 23-4-0261 4 | Veg; Comp; OFF-T, Grad3, 65yd

06/05/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #719
Submitted By: Paul Jay Kelley
Target Analyte: enlist
Target Analyte: Roundup powermax3
Target Analyte: sonic
PPLS Labels: [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
[062719-00680-20220107.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00680-20220107.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00680-20220107.pdf
[062719-00695-20220329.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00695-20220329.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00695-20220329.pdf

Attachments: File 126619; ENLIST ONE WITH COLEX-D TECHNOLOGY HERBICIDE.pdf
File 126620; Roundup PowerMAX 3 Herbicide.pdf
File 126621; Sonic.pdf

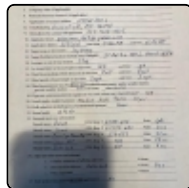
06/08/2023 **Received External Lab Report**

Original Event: External Lab Report #270074 (X23-E3C26E)
Submitted By: Paul Jay Kelley
Sample: X23-E3C26E
Attachments: File 126309; FinalReport_Jay Kelley.pdf

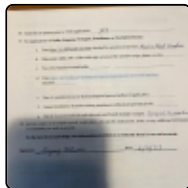
06/13/2023 **Investigator Received Fax/Email from Target Screenshots**

On June 13, 2023, I recieved a PII from Mr. Kleiman. Mr. Kleiman indicted he made a pesticide application on May 22, 2023, when the wind was out of the east at 3MPH. The wind based on this documentation would have been blowing toward Mr. crock's property. Mr. Kleiman documented he applied (GUP)Enlist (EPA Reg. #62719-695, active ingredient 2,4D), (GUP)Roundup PowerMax (EPA Reg. #524-659, active ingredient glyphosate), and (GUP)Sonic (EPA Reg. #62719-680, active ingredients sulfentrazone and cloransulam-methyl).

Attachments



File 126617



File 126618

Original Event: Investigation Activity (Pesticide) #6379
Subject: Gregory Ross Kleiman
Submitted By: Paul Jay Kelley

09/28/2023 **Received Residue Lab Report** Current

Investigatory Summary

Oisc's Residue Lab reported samples 23-4-0259 6, 23-4-0260 5, and 23-4-0261 4, indicated detection limits decreasing as moving away from target field indicating a drift pattern.

First Page of Lab Report

OCM Collection #	269493	Investigator	KELLEYJ		
Collection Date	06/05/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0255 4	Veg; Ctr; OFF-T	Veg	2,4-D	9.69 ppb * Results reported as minimum detected	0.3 ppb
			Cloransulam-methyl	BDL ppb	3 ppb
			Sulfentrazone	BQL ppb	3 ppb
23-4-0256 5	Soil; Grab; 0-2"; Target	Soil	2,4-D	1810 ppb	0.2 ppb
			Cloransulam-methyl	BDL ppb	3 ppb
			Sulfentrazone	83.6 ppb	3 ppb
23-4-0257 7	Veg; Comp; Target	Veg	2,4-D	92500 ppb * Results reported as minimum detected	0.3 ppb
			Cloransulam-methyl	81.0 ppb	3 ppb
			Sulfentrazone	659 ppb * Estimated Amount	3 ppb
23-4-0258 3	Soil; Grab; 0-2"; OFF-T	Soil	2,4-D	2.29 ppb	0.2 ppb
			Cloransulam-methyl	BDL ppb	3 ppb
			Sulfentrazone	BDL ppb	3 ppb

Original Event: Residue Lab Report #279639 (269493-R1709)
Submitted By: SYSTEM
Lab Report: Lab Report 269493-R1709.pdf

10/17/2023 Investigation Activity

Activity

Label Language for Enlist states in part, "Do not allow contact of herbicide with foliage, green stems, exposed non-woody roots of crops, desirable plants; including trees and cotton without the Enlist trait, because severe injury or destruction may result."

Original Event: Investigation Activity (Pesticide) #6836
Subject: Gregory Ross Kleiman
Submitted By: Paul Jay Kelley

10/20/2023 Judgement; Warning

Warning

Gregory Ross Kleiman was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. Consideration was given to the fact this was his first violation of similar nature and no restricted use pesticides were involved.

Original Event: Judgement #1597
Primary: Gregory Ross Kleiman
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)

11/03/2023 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #2808
To: Gregory Ross Kleiman
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1703
Enclosed: Notice of Enforcement
Attachments: File 137337; PS23-0179EL WRN ~ Gregory R. Kleiman.docx

11/13/2023 Received Mail Confirmation for Target

Original Event: Compliance Receipt #2312
Subject: Gregory Ross Kleiman
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1703
Received: 11/13/2023
Attachments: File 137940; CM 7021 2720 0003 1615 1703 - Gregory R. Kleiman - PS23-0179 - Received 11-13-2023.pdf

12/13/2023 **Notice of Case Closure Mailed to Complainant**
Original Event: Outgoing Mail #2941
To: Carl Crock
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Enclosed: Case Summary
Attachments: File 138797; PS23-0179 - Carl Crock - Case Closed Letter 12-13-2023.docx

12/13/2023 **Notice of Case Closure Mailed to Target**
Original Event: Outgoing Mail #2942
To: Gregory Ross Kleiman
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138798; PS23-0179 - Gregory R. Kleiman - Case Closed Letter 12-13-2023.docx

Chain of Custody

06/05/2023 **Sample 23-4-0255 4**
Original Event: Chain of Custody #7211 (23-4-0255 4)
06/05/2023 09:10: Sample Collected by Paul Jay Kelley
06/06/2023 09:32: Sample Delivered to Kylo
06/07/2023 10:08: Delivery Affirmed by Kangluo Qin

06/05/2023 **Sample 23-4-0256 5**
Original Event: Chain of Custody #7212 (23-4-0256 5)
06/05/2023 09:10: Sample Collected by Paul Jay Kelley
06/06/2023 09:32: Sample Delivered to Kylo
06/07/2023 10:08: Delivery Affirmed by Kangluo Qin

06/05/2023 **Sample 23-4-0257 7**
Original Event: Chain of Custody #7213 (23-4-0257 7)
06/05/2023 09:10: Sample Collected by Paul Jay Kelley
06/06/2023 09:32: Sample Delivered to Kylo
06/07/2023 10:08: Delivery Affirmed by Kangluo Qin

06/05/2023 **Sample 23-4-0258 3**
Original Event: Chain of Custody #7214 (23-4-0258 3)
06/05/2023 09:10: Sample Collected by Paul Jay Kelley
06/06/2023 09:32: Sample Delivered to Kylo
06/07/2023 10:08: Delivery Affirmed by Kangluo Qin

06/05/2023 **Sample 23-4-0259 6**
Original Event: Chain of Custody #7215 (23-4-0259 6)
06/05/2023 09:10: Sample Collected by Paul Jay Kelley
06/06/2023 09:32: Sample Delivered to Kylo
06/07/2023 10:08: Delivery Affirmed by Kangluo Qin

06/05/2023 **Sample 23-4-0260 5**
Original Event: Chain of Custody #7216 (23-4-0260 5)
06/05/2023 09:10: Sample Collected by Paul Jay Kelley
06/06/2023 09:32: Sample Delivered to Kylo
06/07/2023 10:08: Delivery Affirmed by Kangluo Qin

06/05/2023 **Sample 23-4-0261 4**
Original Event: Chain of Custody #7217 (23-4-0261 4)
06/05/2023 09:10: Sample Collected by Paul Jay Kelley
06/06/2023 09:32: Sample Delivered to Kylo
06/07/2023 10:08: Delivery Affirmed by Kangluo Qin

This record was generated on **January 26, 2024, 09:01 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 **January 26, 2024, 09:03 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 PS23-0180

Department	Pesticide
Originated	05/31/2023
Assigned To	Andrew R. Roth
Status	Closed

Involved Parties

Complainant Respondent	Shawn Blalock Portland, IN 47371
Respondent	Fred Schmitmeyer Coldwater, OH 45828

Overviews

10/19/2023 Investigation Summary

I responded to a complaint of off-target herbicide drift from a fence line application to trees and vegetation on the property of Shawn Blalock.

Vegetation along the fence line was dead and herbicide exposure symptoms were visible on trees on the Blalock property.

Ohio Private Applicator, Fred Schmitmeyer, confirmed he sprayed the fence line with a tank mix containing four herbicides in April.

Drift was confirmed after the OISC Residue Lab detected herbicide active ingredients reportedly applied to the fence line in foliage collected from the Blalock property.

Submitted By: Andrew R. Roth
Role: Investigator

10/20/2023 Disposition Summary

Fred Schmitmeyer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift/application to non-target vegetation and for applying to a non-soybean site in violation of the Canopy label. 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 this was his third violation of similar nature. See cases 2019/0449 and 2019/0496.

Fred Schmitmeyer was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for unknowingly using a restricted use pesticide in Indiana without having an Indiana Private Applicator permit. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

However, \$500.00 of the civil penalty will be held in abeyance and not assessed provided Mr. Schmitmeyer commits no further violations of the Indiana Pesticide Use and Application Law within two (2) years from the date of this notice.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/30/2023 Intake Referral Filed

Complainant stated a herbicide application made to a fencerow drifted onto his property injuring oak trees and killing some pine trees.

Original Event: Intake Referral (Pesticide) #3057
Complainant: Shawn Blalock
Respondent: Fred Schmitmeyer
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

05/31/2023 **Case Created**

Original Event: Case PS23-0180
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

06/01/2023 **Investigator Met with Complainant Interaction**

On May 31, I contacted Shawn Blalock who reported he noticed trees he had planted on the east side of his property appeared to have been exposed to herbicides. He indicated he believed the neighboring farmer sprayed the treeline which separates his property from the farm field. It was suspected the application was made at least two weeks prior.

On June 1, I met Mr. Blalock at his property on the north side of East Treaty Line Road in Jay County. He reported there was a history with Mr. Schmitmeyer and explained that the two had a run-in regarding the trees and vegetation in the fence line when the farm ground was purchased a few years prior. Mr. Blalock indicated he planted rows of deciduous trees, including oaks and dogwoods, along the east side of the property in 2012. He indicated he noticed herbicide exposure symptoms on tree leaves the previous weekend and then noticed the vegetation in the fence line along the field appeared to have been sprayed.

Mature trees and vegetation were growing along the fence line which ran the length of the field and the Blalock property. The closest rows of planted trees were oaks, approximately 40 feet from the fence line, which exhibited small, distorted, strapped leaves and twisted stems. Similar symptoms were visible on dogwoods which were in rows parallel to and west of the oaks. Symptoms were widespread but were more severe in areas where vegetation in the fence line was less dense. Needles on very small white pines between the oaks and dogwoods were almost entirely brown but weeds and grasses, which had not been mowed, appeared unaffected. Mr. Blalock reported the pines were just planted earlier this year. I went to the field side of the fence line and observed a distinct pattern dead foliage on trees and other plants. Broadleaf plants had curled and necrotic leaves and grasses were brown. Some broadleaf weeds near the fence line on the Blalock property exhibited herbicide exposure symptoms. I photographed the site and collected plant samples from the Blalock property for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected gradient plant samples from the Blalock property for analysis by the OISC Residue Lab; those included foliage from the oaks, needles from the pines and foliage from the dogwoods. Vegetation and soil were also collected from the target area along the fence line.

Photographs

Photos from the site and an aerial photo.

Attachments



File 136344



File 125747



File 125748



File 125749



File 125750



File 125751



File 125752



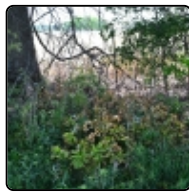
File 125753



File 125754



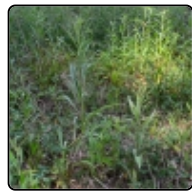
File 125755



File 125756



File 125757



File 125758



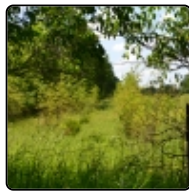
File 125759



File 125760



File 125761



File 125762



File 125763



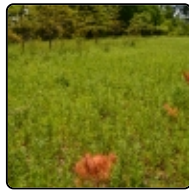
File 125764



File 125765



File 125766



File 125767

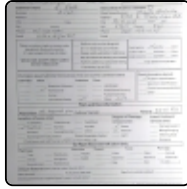


File 125768

Original Event: Investigation Activity (Pesticide) #6297
Subject: Shawn Blalock
Submitted By: Andrew R. Roth

06/01/2023 External Lab Sample Collected

Original Event: External Lab Sample Collection #269331 (X23-F3DEFF)
Client: Shawn Blalock
Submitted By: Andrew R. Roth
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X23-F3DEFF | Plant samples were collected for PPDL.
Photos:



File 125769

06/01/2023 Residue Samples Collected

Original Event: Residue Collection #269334 (23-4-0767 3)
Client: Shawn Blalock
Submitted By: Andrew R. Roth
Sample: 23-4-0767 3 | Veg; Comp; OFF-T, 100ft
Sample: 23-4-0768 7 | Veg; Comp; OFF-T, 70ft
Sample: 23-4-0769 4 | Veg; Comp; OFF-T, 40ft
Sample: 23-4-0770 6 | Veg; Comp; Target
Sample: 23-4-0771 0 | Soil; Comp; 0-2"; Target

06/01/2023 Investigator Called Applicator Communication

On June 1, I contacted Fred Schmitmeyer, a licensed private applicator in Ohio, and informed him of the complaint. He confirmed he was farming the field east of the Blalock property. Mr. Schmitmeyer reported the burndown application was made to the field in mid-April. He stated he was not sure of the date but he went back and sprayed the fence line along the field approximately a week later with Roundup and 2,4-D to control weeds and brush. Based on the leaf stages observed on trees at the site, I questioned the timing of the application. Mr. Schmitmeyer stated the application was made in April, not May. Pesticide Investigation Inquiry (PII) forms were later mailed to Mr. Schmitmeyer as email was not an option.

Original Event: Investigation Activity (Pesticide) #6835
Subject: Fred Schmitmeyer
Submitted By: Andrew R. Roth

06/02/2023 Received External Lab Report

I received the PPDL report on June 2.

The photos and sample show multiple tree species with significant leaf distortion, suggestive of exposure to a growth regulator. The pine trees, however, would not selectively be affected by an herbicide application. The stems are still green inside, but the roots are very dry; some of the secondary roots appear necrotic and could be rotting due to excessive moisture early in the season (depending on when planted). If the trees were planted this spring, as indicated, trees could have died due environmental conditions (too dry and lack of irrigation if during dry period) and/or transplant shock. For more information on transplant shock, please see the following link: <https://www.purduelandscapereport.org/article/common-abiotic-problems-of-ornamentals-transplant-shock/>
John Bonkowski

Original Event: External Lab Report #269511 (X23-F3DEFF)
Submitted By: Andrew R. Roth
Sample: X23-F3DEFF
Attachments: File 126017; 23-0180PPDLFinalReport.pdf

06/02/2023 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #718
Submitted By: Andrew R. Roth
Target Analyte: 2,4-D LV6
Target Analyte: Durango
Target Analyte: Canopy
Target Analyte: Diablo
PLS Labels: [000228-00379-20131220.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000228-00379-20131220.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000228-00379-20131220.pdf
[000352-00444-20210630.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000352-00444-20210630.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000352-00444-20210630.pdf
[062719-00556-20190306.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00556-20190306.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00556-20190306.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

06/06/2023 **Investigation Inquiry Request Mailed to Target**

Two Pesticide Investigation Inquiry forms sent to Fred Schmitmeyer per Andy's request.

Original Event: Outgoing Mail #2339
To: Fred Schmitmeyer
Submitted By: Jacob A. Hatfield
USPS: 7020 3160 0001 1738 2315
Enclosed: Investigation Inquiry Request
Enclosed: Notice
Attachments: File 126047; PS23-0180 PII Form ~ Fred Schmitmeyer.pdf
File 126037; PS23-0180 PII Letter-2Forms ~ Fred Schmitmeyer.docx

06/19/2023 **Compliance Activity**

On June 19, 2023, OISC received an updated mailing address for Fred Schmitmeyer from USPS.

Original Event: Compliance Activity #1863
Primary: Fred Schmitmeyer
Submitted By: Jacob A. Hatfield
Attachments: File 127142; Updated Address for Fred Schmitmeyer.pdf

06/30/2023 **Mail Service Returned for Target**

According to USPS tracking, Certified Mail was unable to be delivered due to "No Authorized Recipient Available". Going to resend to updated address.

Original Event: Compliance Receipt #2156
Subject: Fred Schmitmeyer
Submitted By: Jacob A. Hatfield
USPS: 7020 3160 0001 1738 2315
Returned: 06/30/2023
Attachments: File 128707; CM 7020 3160 0001 1738 2315 - Fred Schmitmeyer - PS23-0180 - No Authorized Recipient Available.pdf

07/06/2023 **Second Investigation Inquiry Request Mailed to Target; Second Attempt**

Two Pesticide Investigation Inquiry forms sent to Fred Schmitmeyer per Andy's request to updated address.

Original Event: Outgoing Mail #2472
To: Fred Schmitmeyer
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 9145
Enclosed: Investigation Inquiry Request
Enclosed: Notice
Attachments: File 128706; PS23-0180 PII Form ~ Fred Schmitmeyer.pdf
File 128705; PS23-0180 PII Letter-2Forms ~ New Address - Fred Schmitmeyer.docx

07/12/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2159
Subject: Fred Schmitmeyer
Submitted By: Jacob A. Hatfield
USPS: 7021 0950 0000 0607 9145
Received: 07/12/2023
Attachments: File 129156; CM 7021 0950 0000 0607 9145 - Fred Schmitmeyer - PS23-0180 - Received 7-12-2023.pdf

07/18/2023 **Applicator Called Investigator Communication**

On July 18, Mr. Schmitmeyer called me with questions about completing the PIIs he finally received in the mail. He had been instructed to complete one form for the field application and one for the application made to the fence line. He reported that one of the PII forms was missing a page. He again stated the applications were made in April but indicated he did not keep a record of the fence line application. Mr. Schmitmeyer stated that, after meeting with Mr. Blalock, he felt the herbicide injury on the Blalock property was from the fence line application, not the field application. Consequently, I instructed Mr. Schmitmeyer to complete a form for the fence line application with as much information as possible and to provide the record he had for the field application.

Original Event: Investigation Activity (Pesticide) #6521
Subject: Fred Schmitmeyer
Submitted By: Andrew R. Roth

07/26/2023 **Investigator Received Mail from Applicator**

Records

On July 26, the OISC received application records from Mr. Schmitmeyer. According to the information provided, the field was sprayed with a tank mix containing Durango (EPA Reg#62719-556), active ingredient glyphosate, 2,4-D LV6 (EPA Reg#81927-39), and Sonic (EPA Reg#62719-680), active ingredients sulfentrazone and cloransulam-methyl. The field was sprayed from 330pm-730pm on April 14. Winds were listed as blowing from the south (not toward the Blalock property) at 8mph during the application.

Mr. Schmitmeyer reportedly sprayed the fence line from 930am-11am on April 22 with a 15-gallon tank sprayer containing the following:

- Durango (EPA Reg#62719-556), active ingredient glyphosate
- 2,4-D LV6 (EPA Reg#81927-39), active ingredient 2,4-D
- DuPont Canopy (EPA Reg#352-444), active ingredients metribuzin and chlorimuron ethyl
- Diablo (EPA Reg#228-379), active ingredient dicamba

Mr. Schmitmeyer did not list wind speeds during the application to the fence line but indicated the wind was blowing from the northeast.

Winds from the northeast would be blowing toward the Blalock property.

Attachments

File 132593; 23-0180AppInfo.pdf

Original Event: Investigation Activity (Pesticide) #6651
Subject: Fred Schmitmeyer
Submitted By: Andrew R. Roth

08/30/2023 Compliance Activity

OISC received an email requesting all documentation on Blalock and Fredrick or Sandra Schmitmeyer.

Original Event: Compliance Activity #1921
Primary: Shawn Blalock
Secondary: Fred Schmitmeyer
Submitted By: George Saxton
Attachments: File 133346; 239561-SCHMITMEYER V BLALOCK-FOI LETTER TO INDIANA STATE CHEMIST 8-29-2023.pdf
File 133347; PS23-0180 Request for documents.pdf
File 133417; PS23-0180 ~ 8.30.23 Email from GNS ~ Address for Maurice Kirby.pdf

09/28/2023 Received Residue Lab Report Superseded (v1 of 2)

Original Event: Residue Lab Report #279638 (269334-R1709)
Submitted By: SYSTEM
Lab Report: Lab Report 269334-R1709.pdf

10/13/2023 Received Residue Lab Report Current (v2 of 2)

Investigatory Summary

The OISC Residue Lab analyzed the samples for herbicide active ingredients Mr. Schmitmeyer reportedly applied to the fence line. Specifically, the analytes were 2,4-D, glyphosate (and its breakdown product AMPA), chlorimuron ethyl and metribuzin.

- 2,4-D, glyphosate, chlorimuron ethyl and metribuzin were detected in the dogwood foliage.
- 2,4-D, glyphosate, AMPA and metribuzin were detected in the needles from the pines.
- 2,4-D, glyphosate, chlorimuron ethyl and metribuzin were detected in the oak foliage.
- All analytes were detected in the samples from the target area.

Results reported as BQL (Below Quantification Limits) means the analyte was detected but was not quantifiable.

Results reported as BDL (Below Detection Limits) means the analyte was not detected.

The detection of multiple herbicide active ingredients in the individual samples from the Blalock property confirms drift from the target site.

First Page of Lab Report

OCM Collection #	269334	Investigator	ROTHA		
Collection Date	06/01/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0767 3	Veg; Comp; OFF-T, 100ft	Veg	2,4-D	242 ppb * Results reported as minimum detected	0.3 ppb
			AMPA	BDL ppb	66 ppb
			Glyphosate	175 ppb	66 ppb
			Chlorimuron-ethyl	0.194 ppb	0.1 ppb
			Metribuzin	9.84 ppb	0.07 ppb
23-4-0768 7	Veg; Comp; OFF-T, 70ft	Veg	2,4-D	146 ppb * Results reported as minimum detected	0.3 ppb
			AMPA	BQL ppb	66 ppb
			Glyphosate	80.2 ppb	66 ppb
			Chlorimuron-ethyl	BDL ppb	0.1 ppb
			Metribuzin	0.0884 ppb	0.07 ppb

Original Event: Residue Lab Report #280945 (269334-R1721)
Submitted By: SYSTEM
Lab Report: Lab Report 269334-R1721.pdf

10/18/2023 Online Investigation Activity Label Use

Based on the evidence at the site, the lab reports and the information obtained from Mr. Schmitmeyer, it was determined herbicides from the application made to the fence line moved off-target to the Blalock property.

The 2,4-D LV6 label reads, in part, "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 nontarget species, nontarget crops) within 250 feet downwind." It further states, "Do not apply this product when weather conditions such as temperature air inversions or wind favor drift from treated areas to susceptible plants."

The Durango label reads, in part, "Avoid contact of herbicide with foliage, green stems, exposed non-woody roots or fruit of crops, desirable plants and trees, because severe injury or destruction may result." It further states, "Do not allow the herbicide solution to mist, drip, drift or splash onto desirable vegetation since minute quantities of this product can cause severe damage or destruction to the crop, plants or other areas on which treatment was not intended."

The DuPont Canopy label states "FOR USE ON SOYBEANS ONLY".

Diablo Herbicide is an Indiana Restricted Use Pesticide. While Mr. Schmitmeyer holds an Ohio Private Applicator License, he has not applied for or been issued an Indiana Private Applicator Permit by the OISC to apply Restricted Use Pesticides in Indiana.

Attachments

File 136553; 081927-00039-20210625.pdf
File 136556; DIABLO HERBICIDE (INDIANA RESTRICTED USE PESTICIDE).pdf
File 136555; DUPONT CANOPY HERBICIDE.pdf
File 136554; Durango DMA.pdf

Original Event: Investigation Activity (Pesticide) #6844
Submitted By: Andrew R. Roth

10/20/2023 Judgement; Civil Penalty Assessed Civil Penalty

Fred Schmitmeyer was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift/application to non-target vegetation and for applying to a non-soybean site in violation of the Canopy label. 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 this was his third violation of similar nature. See cases 2019/0449 and 2019/0496.

Civil Penalty

Fred Schmitmeyer was cited for violation of section 65(10) of the Indiana Pesticide Use and Application Law for unknowingly using a restricted use pesticide in Indiana without having an Indiana Private Applicator permit. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact a restricted use pesticide was involved.

Abeyance

However, \$500.00 of the civil penalty will be held in abeyance and not assessed provided Mr. Schmitmeyer commits no further violations of the Indiana Pesticide Use and Application Law within two (2) years from the date of this notice.

Original Event: Judgement #1598
Primary: Fred Schmitmeyer
Submitted By: George Saxton
Legal Citations: IC 15-16-5-65(2); IC 15-16-5-65(10)
Penalty Amount: 1500

11/03/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2804
To: Fred Schmitmeyer
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1666
Enclosed: Notice of Enforcement
Attachments: File 137325; PS23-0180EL CIT - CP ~ Fred Schmitmeyer.docx

11/13/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2313
Subject: Fred Schmitmeyer
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1666
Received: 11/13/2023
Attachments: File 137941; CM 7021 2720 0003 1615 1666 - Fred Schmitmeyer - PS23-0180 - Received 11-13-2023.pdf

11/28/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2328
Subject: Fred Schmitmeyer
Submitted By: Jacob A. Hatfield
Payment Expected: \$1,000.00
Payment Received: \$1,000.00
Attachments: File 138298; PS23-0180 - Fred Schmitmeyer - CP Received 11-28-2023.pdf

12/14/2023 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2957
To: Shawn Blalock
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138856; PS23-0180 - Shawn Blalock - Case Closed Letter 12-14-2023.docx

12/14/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2958
To: Fred Schmitmeyer
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138857; PS23-0180 - Fred Schmitmeyer - Case Closed Letter 12-14-2023.docx

12/14/2023 **Compliance Activity**

An email was sent to Maurice Kirby notifying him at case PS23-0180 has been closed.

Original Event: Compliance Activity #2004
Submitted By: Jacob A. Hatfield
Attachments: File 138904; PS23-0180 - Email to Maurice Kirby Notifying Case Closed - 12-14-2023.pdf

Chain of Custody

06/02/2023 **Sample 23-4-0767 3**

Original Event: Chain of Custody #7175 (23-4-0767 3)
06/01/2023 12:00: Sample Collected by Andrew R. Roth
06/02/2023 12:06: Sample Delivered to kylo
06/02/2023 12:58: Delivery Affirmed by Kangluo Qin

06/02/2023 **Sample 23-4-0768 7**

Original Event: Chain of Custody #7176 (23-4-0768 7)
06/01/2023 12:00: Sample Collected by Andrew R. Roth
06/02/2023 12:06: Sample Delivered to kylo
06/02/2023 12:58: Delivery Affirmed by Kangluo Qin

06/02/2023 **Sample 23-4-0769 4**

Original Event: Chain of Custody #7177 (23-4-0769 4)
06/01/2023 12:00: Sample Collected by Andrew R. Roth
06/02/2023 12:06: Sample Delivered to kylo
06/02/2023 12:58: Delivery Affirmed by Kangluo Qin

06/02/2023 **Sample 23-4-0770 6**

Original Event: Chain of Custody #7178 (23-4-0770 6)
06/01/2023 12:00: Sample Collected by Andrew R. Roth
06/02/2023 12:06: Sample Delivered to kylo
06/02/2023 12:58: Delivery Affirmed by Kangluo Qin

06/02/2023 **Sample 23-4-0771 0**

Original Event: Chain of Custody #7179 (23-4-0771 0)
06/01/2023 12:00: Sample Collected by Andrew R. Roth
06/02/2023 12:06: Sample Delivered to kylo
06/02/2023 12:58: Delivery Affirmed by Kangluo Qin

This record was generated on **January 26, 2024, 09:03 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 **January 26, 2024, 09:04 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 PS23-0184

Department	Pesticide
Originated	06/01/2023
Assigned To	Andrew R. Roth
Status	Closed

Involved Parties

Complainant	Brad Joseph Logue Liberty, IN 47353
Respondent	Unknown
Respondent	Deangelo Contracting SVCS LLC Perrysburg, OH 43551
Respondent	Joseph D Hicks South Point, OH 45680

Overviews

10/20/2023 Investigation Summary

I responded to a complaint of off-target herbicide movement from a roadside right-of-way application to soybean fields farmed by Brad Logue.

Herbicide symptoms were observed on soybeans in swaths from the roadside shoulders into low areas of the fields.

Deangelo Contracting Services confirmed the roadsides at the site were sprayed in early May 2023.

Herbicide active ingredients reportedly applied to the roadsides were detected in soil and soybeans in the Logue fields.

Submitted By: Andrew R. Roth
Role: Investigator

10/23/2023 Disposition Summary

Deangelo Contracting SVCS LLC was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding runoff to desirable vegetation. Consideration was given to the fact no restricted use pesticides were involved and Deangelo Contracting SVCS LLC cooperated during the investigation.

Joseph D. Hicks was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding runoff 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 no restricted use pesticides were involved and Joseph D. Hicks cooperated during the investigation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

05/31/2023 Intake Referral Filed

Complainant stated soybeans in two of his fields have been injured by a right-of-way application made along US Highway 27 S.

Original Event: Intake Referral (Pesticide) #3061
Complainant: Brad Joseph Logue
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

06/01/2023 **Case Created**

Original Event: Case PS23-0184
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

06/02/2023 **Investigator Called Complainant Communication**

On June 2, I contacted Brad Logue who reported he noticed soybeans in his fields developed what he believed were herbicide exposure symptoms. He indicated the affected soybeans were in the same low areas of two fields affected by runoff from a roadside application made in 2021. Mr. Logue reported he had again contacted Matt Kraushar, Roadside Maintenance Specialist with the Indiana Department of Transportation (INDOT), and was told the roadsides adjacent to his fields had been sprayed this year. Mr. Logue indicated he corresponded with Mr. Kraushar in 2021 and then unsuccessfully attempted to file a complaint via the OISC online intake form.

Original Event: Investigation Activity (Pesticide) #6313
Subject: Brad Joseph Logue
Submitted By: Andrew R. Roth

06/06/2023 **New Respondent Identified Respondent Identified**

I contacted Mr. Kraushar who confirmed Deangelo Contracting Services (DCS) was contracted for roadside herbicide applications for INDOT. He provided contact information for Terry McCance with DCS. In a later correspondence regarding the site, Mr. Kraushar reported that the herbicide combination applied at the site in 2021 was Milestone and Escort.

Original Event: Investigation Change #350
Respondent: Deangelo Contracting SVCS LLC
Submitted By: Andrew R. Roth

06/06/2023 **Investigator Met with Complainant Interaction**

On June 5, I spoke with Mr. Logue who agreed to meet the next day at the site. On June 6, we met at the fields along US Highway 27 between Salem Road and Sanford Road in Union County. We looked at the two fields, one on each side of the road, in which he reported having runoff issues previously. Swaths of dead, stunted and distorted soybeans were visible in swaths leading from the vegetative roadside shoulders out into the low areas of the fields. In the south field, the swath ran to the west and south. In the north field, the swath ran northwest toward the north corner of the field. I photographed the site and collected plant samples from each field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected soil samples and plant samples from the target area (roadside) and from the soybean fields for analysis by the OISC residue Lab.

Photographs

Photos from the site and an aerial photo of the fields.

Attachments



File 136628



File 126146



File 126147



File 126148



File 126149



File 126150



File 126151



File 126152



File 126153



File 126154



File 126155



File 126156



File 126157



File 126158



File 126159



File 126160

Original Event: Investigation Activity (Pesticide) #6347
Subject: Brad Joseph Logue
Submitted By: Andrew R. Roth

06/06/2023 **Notice of Inspection Issued**

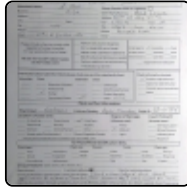
Original Event: Notice of Inspection #1645
Client: Brad Joseph Logue
Firm Representative: Brad Logue
Submitted By: Andrew R. Roth
Photos:



File 126161

06/06/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #269798 (X23-89FA5C)
Client: Brad Joseph Logue
Submitted By: Andrew R. Roth
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X23-89FA5C | Soybean plants were collected for PPDL.
Photos:



File 126162

06/06/2023 **Residue Samples Collected**

Original Event: Residue Collection #269807 (23-4-0772 3)
Client: Brad Joseph Logue
Submitted By: Andrew R. Roth
Sample: 23-4-0772 3 | Veg; Comp; OFF-T, S
Sample: 23-4-0773 4 | Soil; Comp; 0-2"; OFF-T, S
Sample: 23-4-0774 7 | Veg; Comp; OFF-T, N
Sample: 23-4-0775 2 | Soil; Comp; 0-2"; OFF-T, N
Sample: 23-4-0776 8 | Veg; Comp; Target
Sample: 23-4-0777 5 | Soil; Comp; 0-2"; Target

06/07/2023 **Investigator Called Business Communication**

On June 6, after the on-site investigation, I spoke with Mr. McCance and informed him of the complaint. He indicated the roadsides at the site were sprayed May 3 and stated he would forward the daily application log with information for the application.

Records

I received the application records which indicated Certified Applicator Joseph Hicks sprayed the roadsides adjacent to the Logue fields in the afternoon of May 3 with a tank mix containing Method 240SL (EPA Reg#432-1565), active ingredient aminocyclopyrachlor and Escort (EPA Reg#432-1549), active ingredient metsulfuron methyl.

Attachments

File 133735; 23-0184DCSdaily.pdf

Original Event: Investigation Activity (Pesticide) #6346
Subject: Deangelo Contracting SVCS LLC
Submitted By: Andrew R. Roth

06/07/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #720
Submitted By: Andrew R. Roth
Target Analyte: Method 240 SL
Target Analyte: Escort
Target Analyte: Milestone
Target Analyte: Escort
PPLS Labels: [000432-01549-20210224.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000432-01549-20210224.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000432-01549-20210224.pdf

06/09/2023 **Received External Lab Report**

Soybean plants show leaf cupping of new trifoliates and whitish leaf tips. These symptoms are consistent with exposure to synthetic auxin herbicides (dicamba, clopyralid, aminopyralid, etc). Since this is a dicamba-resistant soybean variety, the damage was likely caused by herbicide runoff from the roadside application.

The pattern of injury is consistent with herbicide runoff (more injury in low areas of the field that are closer to the road). The half-life of aminopyralid (Milestone) in soils ranges from 32 to 533 days depending on application rate and soil and environmental conditions.

Marcelo Zimmer

No disease symptoms were observed. Plant deformation is suggestive of exposure to a growth regulator.

John Bonkowski

Original Event: External Lab Report #270266 (X23-89FA5C)
Submitted By: Andrew R. Roth
Sample: X23-89FA5C
Attachments: File 126385; 23-0184PPDLFinalReport.pdf

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

Investigatory Summary

The OISC Residue Lab analyzed the samples for the active ingredients reportedly applied to the roadsides on May 3, 2023. To rule out carryover from the previous application, the samples were also analyzed for the active ingredient in Milestone (aminopyralid); it was not detected in any of the samples.

Aminocyclopyrachlor and metsulfuron-methyl were detected in the target soil and vegetation samples.

Aminocyclopyrachlor was detected in all off-target samples collected from the Logue fields.

Metsulfuron-methyl was detected in the off-target soil samples but not the off-target soybean samples.

Based on the results, it was determined the herbicide active ingredients from the roadside application moved off-target to the Logue fields.

First Page of Lab Report

OCM Collection #	269807	Investigator	ROTHA		
Collection Date	06/06/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0772 3	Veg; Comp; OFF-T, S	Veg	Aminopyralid	BDL ppb	6 ppb
			Aminocyclopyrachlor	2.71 ppb	0.3 ppb
			Metsulfuron-methyl	BDL ppb	3 ppb
23-4-0773 4	Soil; Comp; 0-2"; OFF-T, S	Soil	Aminopyralid	BDL ppb	4 ppb
			Aminocyclopyrachlor	16.2 ppb	0.1 ppb
			Metsulfuron-methyl	1.93 ppb	0.3 ppb
23-4-0774 7	Veg; Comp; OFF-T, N	Veg	Aminopyralid	BDL ppb	6 ppb
			Aminocyclopyrachlor	2.47 ppb	0.3 ppb
			Metsulfuron-methyl	BDL ppb	3 ppb
23-4-0775 2	Soil; Comp; 0-2"; OFF-T, N	Soil	Aminopyralid	BDL ppb	4 ppb
			Aminocyclopyrachlor	14.3 ppb	0.1 ppb
			Metsulfuron-methyl	1.21 ppb	0.3 ppb
23-4-0776 8	Veg; Comp; Target	Veg	Aminopyralid	BDL ppb	6 ppb
			Aminocyclopyrachlor	2570 ppb	0.3 ppb
			Metsulfuron-methyl	192 ppb	3 ppb

Original Event: Residue Lab Report #277270 (269807-R1661)
Submitted By: SYSTEM
Lab Report: Lab Report 269807-R1661.pdf

10/20/2023 **Online Investigation Activity**

Method 240SL

Based on the evidence and topography at the site, the lab reports and the application information obtained from DCS, it was determined herbicides from the application to the roadside right-of-way moved off-target to the soybeans in the Logue fields.

The Method 240SL label reads, in part, "Do not apply or otherwise permit this product or sprays containing this product to come into contact with any non-target crop or desirable vegetation."

Attachments

File 136694; METHOD 240SL HERBICIDE.pdf

Original Event: Investigation Activity (Pesticide) #6853
Submitted By: Andrew R. Roth

10/23/2023 **Judgement; Civil Penalty Assessed**

Citation

Deangelo Contracting SVCS LLC was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding runoff to desirable vegetation. Consideration was given to the fact no restricted use pesticides were involved and Deangelo Contracting SVCS LLC cooperated during the investigation.

Civil Penalty

Joseph D. Hicks was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding runoff 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 no restricted use pesticides were involved and Joseph D. Hicks cooperated during the investigation.

Original Event: Judgement #1600
Primary: Deangelo Contracting SVCS LLC
Secondary: Joseph D Hicks
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 400

11/20/2023 **Notice of Enforcement Mailed to Target**

A copy of Joseph Hicks enforcement letter was also included.

Original Event: Outgoing Mail #2863
To: Deangelo Contracting SVCS LLC
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1833
Enclosed: Notice of Enforcement
Enclosed: Notice of Enforcement
Attachments: File 137923; PS23-0184EL CIT - CP Mitigated ~ Joseph D Hicks - Copy.docx
File 137922; PS23-0184EL CIT ~ DeAngelo Contracting Svcs LLC.docx

11/20/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2864
To: Joseph D Hicks
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1840
Enclosed: Notice of Enforcement
Attachments: File 137924; PS23-0184EL CIT - CP Mitigated ~ Joseph D Hicks.docx

11/29/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2363
Subject: Joseph D Hicks
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1840
Received: 11/29/2023
Attachments: File 138943; CM 7021 2720 0003 1615 1840 - Joseph D. Hicks - PS23-0184 - Received 11-29-2023.pdf

12/13/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2356
Subject: Joseph D Hicks
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 138909; PS23-0184 - Joseph D. Hicks - CP Received 12-13-2023.pdf

12/15/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2374
Subject: Deangelo Contracting SVCS LLC
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1833
Received: 12/15/2023
Attachments: File 139340; CM 7021 2720 0003 1615 1833 - DeAngelo Contracting Svcs. LLC - PS23-0184 - Received 12-15-2023_0001.pdf
File 139341; CM 7021 2720 0003 1615 1833 - DeAngelo Contracting Svcs. LLC - PS23-0184 - USPS Proof of Delivery 12-15-2023.pdf

01/12/2024 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2986
To: Brad Joseph Logue
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139506; PS23-0184 - Brad J. Logue - Case Closed Letter 1-12-2024.docx

01/12/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2987
To: Deangelo Contracting SVCS LLC
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139507; PS23-0184 - DeAngelo Contracting Svcs. LLC - Case Closed Letter 1-12-2024.docx

01/12/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2988
To: Joseph D Hicks
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139508; PS23-0184 - Joseph D. Hicks - Case Closed Letter 1-12-2024.docx

Chain of Custody

06/07/2023 **Sample 23-4-0772 3**

Original Event: Chain of Custody #7239 (23-4-0772 3)
06/06/2023 12:00: Sample Collected by Andrew R. Roth
06/07/2023 13:09: Sample Delivered to kylo
06/08/2023 09:07: Delivery Affirmed by Vicki L. Vauters

06/07/2023 **Sample 23-4-0773 4**

Original Event: Chain of Custody #7240 (23-4-0773 4)
06/06/2023 12:00: Sample Collected by Andrew R. Roth
06/07/2023 13:09: Sample Delivered to kylo
06/08/2023 09:07: Delivery Affirmed by Vicki L. Vauters

06/07/2023 **Sample 23-4-0774 7**

Original Event: Chain of Custody #7241 (23-4-0774 7)
06/06/2023 12:00: Sample Collected by Andrew R. Roth
06/07/2023 13:09: Sample Delivered to kylo
06/08/2023 09:07: Delivery Affirmed by Vicki L. Vauters

06/07/2023 **Sample 23-4-0775 2**

Original Event: Chain of Custody #7242 (23-4-0775 2)
06/06/2023 12:00: Sample Collected by Andrew R. Roth
06/07/2023 13:09: Sample Delivered to kylo
06/08/2023 09:07: Delivery Affirmed by Vicki L. Vauters

06/07/2023 **Sample 23-4-0776 8**

Original Event: Chain of Custody #7243 (23-4-0776 8)
06/06/2023 12:00: Sample Collected by Andrew R. Roth
06/07/2023 13:09: Sample Delivered to kylo
06/08/2023 09:07: Delivery Affirmed by Vicki L. Vauters

06/07/2023 **Sample 23-4-0777 5**

Original Event: Chain of Custody #7244 (23-4-0777 5)
06/06/2023 12:00: Sample Collected by Andrew R. Roth
06/07/2023 13:09: Sample Delivered to kylo
06/08/2023 09:07: Delivery Affirmed by Vicki L. Vauters

This record was generated on **January 26, 2024, 09:04 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 **January 26, 2024, 09:05 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 PS23-0196

Department	Pesticide
Originated	06/07/2023
Assigned To	Garret A. Creason
Status	Closed

Involved Parties

Complainant	Office of Indiana State Chemist
Respondent Issued To	Bomgaars Richmond, IN 47374
Respondent Registrant	Bonide Products Inc Oriskany, NY 13424

Overviews

10/26/2023 **Product Registration Summary**

On 2/27/23 Bonide identified that there were no additional unregistered products in the state of Indiana. Product was located at Bomgaars on 6/7/23 and Rural King (Shelbyville, IN) on 4/25/23. Registrant paid a civil penalty for unregistered products with case PS23-0033

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

11/07/2023 **Investigation Summary**

On June 7, 2023 I conducted a routine marketplace inspection at Bomgaars, formerly Orscheln, in Richmond, Indiana. I spoke with Manager Matt Light and informed him the details of the inspection. During the inspection, Bonide Shot-Gun Repels-All Animal Repellent Granules, was located for sale in the store. This product was not registered to be sold in Indiana. Photographs were taken of the product. A Stop Sale Order was issued to Bomgaars with instructions to hold the remaining product at the store until notified by OISC. I asked Mt. Light if Bomgaars had any receiving records for the product but was told that those records were not retained.

ON June 8, 2023 registrant was made aware of new SSURO and pending CP due for previous case.

On 6-22-23 Jeff Lowe contacted OISC via Email to communicate Bonides response to the three enforcement cases involving the Bonide "Shot-Gun" brand products.

ON October 12, 2023 the product was released for return or disposal.

Submitted By: Garret A. Creason
Role: Investigator

11/09/2023 **Disposition Summary**

Bomgaars and Bonide Products Inc were warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that is not registered for distribution in the state of Indiana.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/07/2023 **Intake Referral Filed**

Unregistered Pesticide Product located for sale at Bomgaars(formerly Orscheln) in Richmond, IN.

Original Event: Intake Referral (Pesticide) #3073
Complainant: Office of Indiana State Chemist
Respondent: Bomgaars
Respondent 2: Bonide Products Inc
Entered By: Garret A. Creason
Submitted By: Joseph D. Becovitz

06/07/2023 **Marketplace Inspection Conducted**
Marketplace

Bonide Shot-Gun Repels-All Animal Repellent Granules found for sale at Bomgaars.

Attachments



File 126205



File 126206



File 126207



File 126208

Original Event: Pesticide Inspection (Product) #328
Client: Bomgaars
Firm Representative: Matt Light
Submitted By: Garret A. Creason

06/07/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1649
Client: Bomgaars
Firm Representative: Matt Light
Submitted By: Garret A. Creason
Photos:



File 126209

06/07/2023 **Stop Sale Order Issued**

Original Event: Action Order #327
Issued To: Bomgaars
Registrant: Bonide Products Inc
Firm Representative: Matt Light
Submitted By: Garret A. Creason
Photos:



File 126219

06/07/2023 **Investigator Met with Distributor**
Communication

On June 7, 2023 I conducted a routine marketplace inspection at Bomgaars, formerly Orscheln, in Richmond, Indiana. I spoke with Manager Matt Light and informed him the details of the inspection. During the inspection, Bonide Shot-Gun Repels-All Animal Repellent Granules, was located for sale in the store. This product was not registered to be sold in Indiana. Photographs were taken of the product. A Stop Sale Order was issued to Bomgaars with instructions to hold the remaining product at the store until notified by OISC. I asked Mt. Light if Bomgaars had any receiving records for the product but was told that those records were not retained.

Original Event: Investigation Activity (Pesticide) #6355
Subject: Bomgaars
Submitted By: Garret A. Creason

06/07/2023 **Case Created**

Original Event: Case PS23-0196
Submitted By: Joseph D. Becovitz
Assigned To: Garret A. Creason

06/08/2023 **Notice of Stop Sale Sent**

registrant was made aware of new SSURO and pending CP due for previous case.

Original Event: Pesticide Products Activity #76
Primary: Bonide Products Inc
Submitted By: Sarah K. Caffery

06/22/2023 **Investigator Received Fax/Email from Registrant Communication**

On 6-22-23 Jeff Lowe contacted OISC via Email to communicate Bonides response to the three enforcement cases involving the Bonide "Shot-Gun" brand products. Email Attached.

Attachments

File 127601; Screenshot 2023-06-27 093700.png

Original Event: Investigation Activity (Pesticide) #6443
Subject: Bonide Products Inc
Submitted By: Garret A. Creason

10/12/2023 **Stop Sale Released for Return/Disposal Shot Gun Repels All Animal Repellent Granules**

Released for return or disposal

Attachments

File 135996; 2023-10-12 PS23-0196 SSURO release return.pdf

Original Event: Stop Sale Release (PS) #54
Issued To: Bomgaars
Registrant: Bonide Products Inc
Submitted By: Sarah K. Caffery

11/09/2023 **Judgement; Warning Warning**

Bomgaars and Bonide Products Inc were warned for violation of section 57(1) of the Indiana Pesticide Registration Law for distributing a pesticide product that is not registered for distribution in the state of Indiana.

Original Event: Judgement #1611
Primary: Bomgaars
Secondary: Bonide Products Inc
Submitted By: George Saxton
Legal Citation: IC 15-16-4-57(1)

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2889
To: Bomgaars
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 2014
Enclosed: Notice of Enforcement
Attachments: File 138005; PS23-0196EL WRN ~ Bomgaars.docx

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2890
To: Bonide Products Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 2021
Enclosed: Notice of Enforcement
Attachments: File 138006; PS23-0196EL WRN ~ Bonide Products Inc..docx

11/24/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2347
Subject: Bomgaars
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 2014
Received: 11/24/2023
Attachments: File 138437; CM 7021 2720 0003 1615 2014 - Bomgaars - PS23-0196 - Received 11-24-2023.pdf

12/04/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2369
Subject: Bonide Products Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 2021
Received: 12/04/2023
Attachments: File 138951; CM 7021 2720 0003 1615 2021 - Bonide Products, Inc. - PS23-0196 - Received 12-4-2023.pdf

01/12/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2989
To: Bomgaars
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139509; PS23-0196 - Bomgaars - Case Closed Letter 1-12-2024.docx

01/12/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2990
To: Bonide Products Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139511; PS23-0196 - Bonide Products, Inc. - Case Closed Letter 1-12-2024.docx

Chain of Custody

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

<p>This record was generated on January 26, 2024, 09:05 AM EST. Information displayed may contain errors or omissions. Official records may only be obtained directly from the Office of Indiana State Chemist.</p>
--



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 **January 26, 2024, 09:07 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 PS23-0203

Department	Pesticide
Originated	06/14/2023
Assigned To	Paul Jay Kelley
Status	Closed

Involved Parties

Complainant	Kimberly Marcum New Palestine, IN 46163
Respondent	Falmouth Farm Supply Inc New Castle, IN 47362
Respondent	Ashley Tyler Schelle New Castle, IN 47362
Respondent	Daniel Levi Stoten Carthage, IN 46115

Overviews

11/01/2023 **Investigation Summary**

On June 14, 2023, complainant alleged an application to an adjacent field when winds were blowing toward property impacted her garden.
On June 15, 2023, I collected investigative samples from site.
I observed symptoms characteristic of pesticide exposure to garden vegetation.
On June 28, 2023, received PII from Falmouth Farm supply.
Applicator applied (RUP) Atrazine and (GUP) Kyro to adjacent field.
Applicator documented wind between 6mph and 12mph, blowing toward complainants property.
Applicator listed in OISC's database as "Exam Taker".
Applicator, as "Exam Taker", prohibited from applying RUP.
Label language for Atrazine prohibits application in winds above 10mph.
Submitted By: Paul Jay Kelley
Role: Investigator
Drift: Confirmed

11/01/2023 **Disposition Summary**

Falmouth Farm Supply 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 allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. Consideration was given to the fact there was an adverse effect.
Ashley Tyler Schelle 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 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact there was an adverse effect.

Daniel Levi Stoten 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 allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. Consideration was given to the fact there was an adverse effect.

Falmouth Farm Supply, Ashley Tyler Schelle and Daniel Levi Stoten were advised that they were in violation of section 65(10) of the Indiana Pesticide Use and Application Law for allowing a restricted use pesticide to be applied by a non-certified applicator. Since this is a new rule as of January 4, 2023, compliance assistance was rendered.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/14/2023 Intake Referral Filed

Complainant stated two Mondays ago, a neighboring farmer sprayed a corn field in "30 mph winds" blowing towards her property. She stated she now has adverse chemical effects to her garden and trees. She does not know the name of the farmer.

Original Event: Intake Referral (Pesticide) #3080
Complainant: Kimberly Marcum
Respondent: Unknown
Submitted By: George Saxton
Assigned To: Paul Jay Kelley

06/14/2023 Case Created

Original Event: Case PS23-0203
Submitted By: George Saxton
Assigned To: Paul Jay Kelley

06/15/2023 Investigator Met with Complainant

Photographs

On June 15, 2023, I met with Kim Marcum at her residence in New Palestine, Indiana. Mrs. Marcum stated after a field pesticide application around June 5, 2023, to an adjacent field to the north of her property caused exposure symptoms to her garden. Mrs. Marcum's small vegetable garden is approximately 4 yards from the farm field. Cucumber plants had new growth leaves that were stunted with the "orange peel" look. Some plants, peppers and tomato, had necrotic areas on the leaves. Vegetation and other smaller planting areas appear unaffected. Symptoms appear to be isolated to the main garden closest to the field.

Symptoms to weeds on the edge of the field show stem twisting suggesting growth regulator herbicide.

I collected a cucumber plant to be visually analyzed by Purdue's Plant and Pest Diagnostic Lab (PPDL). Furthermore, I collected investigative samples for OISC Residue Lab.

Attachments



File 126841



File 126842



File 126843



File 126844



File 126845



File 126846



File 126847



File 126848



File 126849



File 126850



File 126851



File 126852



File 126853



File 126854



File 126855



File 126856



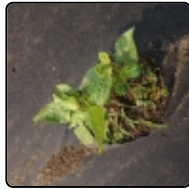
File 126857



File 126858



File 126859



File 126860



File 126861



File 126862



File 126863



File 126864



File 126865



File 126866



File 126867



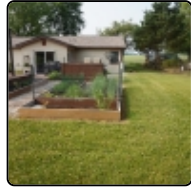
File 126868



File 126869



File 126870



File 126871



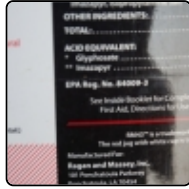
File 126872



File 126873



File 126874



File 126875

Screenshots

Site Diagram of the Marcum property.

Attachments

File 137173; Site Diagram.pdf

Original Event: Investigation Activity (Pesticide) #6394
Subject: Kimberly Marcum
Submitted By: Paul Jay Kelley

06/15/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1669
Client: Kimberly Marcum
Firm Representative: Kim Marcum
Submitted By: Paul Jay Kelley
Attachments: File 126876; noi.pdf

06/15/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #270807 (X23-A77227)
Client: Kimberly Marcum
Submitted By: Paul Jay Kelley
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X23-A77227 | garden plants
Attachments: File 126877; ppdl Marcum ps23-0203.pdf

06/15/2023 **Residue Samples Collected**

Original Event: Residue Collection #270808 (23-4-0262 2)
Client: Kimberly Marcum
Submitted By: Paul Jay Kelley
Sample: 23-4-0262 2 | Soil; Ctri; 0-2"; OFF-T
Sample: 23-4-0263 3 | Soil; Grab; 0-2"; Target
Sample: 23-4-0264 6 | Veg; Comp; Target
Sample: 23-4-0265 1 | Soil; Grab; 0-2"; OFF-T
Sample: 23-4-0266 7 | Veg; Comp; OFF-T

06/16/2023 **Received External Lab Report**

Original Event: External Lab Report #270863 (X23-A77227)
Submitted By: Paul Jay Kelley
Sample: X23-A77227
Attachments: File 126991; FinalReport_Jay Kelley.pdf

06/16/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #725
Submitted By: Paul Jay Kelley
Target Analyte: Kyro
Target Analyte: Atrazine 4L
PPLS Labels: [055467-00013-20211110.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/055467-00013-20211110.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/055467-00013-20211110.pdf
[062719-00766-20221101.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00766-20221101.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00766-20221101.pdf

Attachments: File 127761; 055467-00013-20211110.pdf
File 127013; Kyro.pdf

06/28/2023 **Investigator Called Responsible Party Communication**

On June 28, 2023, I spoke with for hire applicator Ashley Schelle of Falmouth farm supply in New Castle, Indiana. Mr. Schelle emailed me a completed Pesticide Investigation Inquiry (PII) form regarding the June 6, 2023, application at the field designated as "Thompson road" field. The PII indicated "Exam Taker" Daniel Stoten made an application of (GUP) Kyro (EPA Reg. # 62719-766, active ingredients acetochlor, tapramzone, and clopralid) and (RUP) Atrazine 4L (EPA Reg. 55467-13, active ingredient atrazine) on June 6, 2023, with the wind out of the northwest at 6mph-12mph, blowing toward Mrs. Marcum's property. Furthermore, Mr. Stoten is listed in OISC's database as an "Exam Taker" prohibited from applying a Restricted Use Pesticide (RUP).

Records

On June 28, 2023, I received a PII from Ashley Schelle of Falmouth Farm Supply showing Daniel Stoten (RT) applied (GUP)kyro and (RUP) Atrazine 4L to a field adjacent to Mrs. Marcum's garden. Mr. Stoten is listed in OISC's database as an "Exam Taker" prohibited from applying a Restricted Use Pesticide (RUP).

Attachments

File 127947; state chemist 2.pdf

Original Event: Investigation Activity (Pesticide) #6459
Subject: Ashley Tyler Schelle
Submitted By: Paul Jay Kelley

06/30/2023 **New Respondent Identified Respondent Identified**

Mr. Stotem is listed in OISC's database as an "Exam Taker".

Original Event: Investigation Change #368
Respondent: Daniel Levi Stoten
Submitted By: Paul Jay Kelley

10/31/2023 **Received Residue Lab Report** Current

First Page of Lab Report

OCM Collection #	270808	Investigator	KELLEYJ		
Collection Date	06/15/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0262 2	Soil; Ctrl; 0-2"; OFF-T	Soil	Atrazine	1.04 ppb	0.3 ppb
			Topramezone	BDL ppb	1 ppb
23-4-0263 3	Soil; Grab; 0-2"; Target	Soil	Atrazine	465 ppb * Estimated Result	0.3 ppb
			Topramezone	18.3 ppb	1 ppb
23-4-0264 6	Veg; Comp; Target	Veg	Atrazine	387 ppb * Estimated amount	0.7 ppb
			Topramezone	609 ppb * Minimum amount present	1 ppb
23-4-0265 1	Soil; Grab; 0-2"; OFF-T	Soil	Atrazine	20.8 ppb	0.3 ppb
			Topramezone	BDL ppb	1 ppb
23-4-0266 7	Veg; Comp; OFF-T	Veg	Atrazine	129 ppb * Estimated result	0.7 ppb
			Topramezone	BDL ppb	1 ppb

Original Event: Residue Lab Report #282286 (270808-R1802)
 Submitted By: SYSTEM
 Lab Report: Lab Report 270808-R1802.pdf

11/01/2023 **Investigation Activity**
Activity

Label Language states in part for Tenkoz Atrazine 4L Herbicide, "FOR RETAIL SALE TO AND USE ONLY BY CERTIFIED APPLICATORS OR PERSONS UNDER THEIR DIRECT SUPERVISION, AND ONLY FOR THOSE USES COVERED BY THE CERTIFIED APPLICATOR'S CERTIFICATION." This was not met due to Mr. Stoten only being an "Exam Taker" at time of application. In addition, the label states, "Do not apply when wind speeds exceed 10 mph at the application site." Wind was listed on PII 6mph to 12mph, exceeding the 10mph threshold.
 Setbacks and downwind buffers were not violated.

Original Event: Investigation Activity (Pesticide) #6886
 Subject: Ashley Tyler Schelle
 Submitted By: Paul Jay Kelley

11/01/2023 **Investigation Activity**
Activity

As of July 17, 2023, Mr. Stoten received a Registered Technician certification.

Original Event: Investigation Activity (Pesticide) #6887
 Subject: Daniel Levi Stoten
 Submitted By: Paul Jay Kelley

11/01/2023 **Judgement; Civil Penalty Assessed**
No Violation

Falmouth Farm Supply, Ashley Tyler Schelle and Daniel Levi Stoten were advised that they were in violation of section 65(10) of the Indiana Pesticide Use and Application Law for allowing a restricted use pesticide to be applied by a non-certified applicator. Since this is a new rule as of January 4, 2023, compliance assistance was rendered.

Citation

Falmouth Farm Supply 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 allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. Consideration was given to the fact there was an adverse effect.

Citation

Daniel Levi Stoten 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 allows it to drift from the target site in sufficient quantity to cause harm to a non-target site. Consideration was given to the fact there was an adverse effect.

Civil Penalty

Ashley Tyler Schelle 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 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 \$1,000.00 was assessed for this violation. Consideration was given to the fact there was an adverse effect.

Original Event: Judgement #1606
Primary: Falmouth Farm Supply Inc
Secondary: Ashley Tyler Schelle
Additional: Daniel Levi Stoten
Submitted By: George Saxton
Legal Citation: 357 IAC 1-12-2
Penalty Amount: 1000

11/21/2023 **Notice of Enforcement Mailed to Target**

Copies of Ashley Schelle's and Daniel Stoten's enforcement letter's were also included.

Original Event: Outgoing Mail #2883
To: Falmouth Farm Supply Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1857
Enclosed: Notice of Enforcement
Enclosed: Notice of Enforcement
Attachments: File 137998; PS23-0203EL CIT - CP ~ Mr. Ashley Tyler Schelle - Falmouth Farm Supply - Copy.docx
File 137999; PS23-0203EL CIT ~ Daniel Levi Stoten - Copy.docx
File 137997; PS23-0203EL CIT ~ Falmouth Farm Supply, Inc..docx

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2884
To: Ashley Tyler Schelle
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1864
Enclosed: Notice of Enforcement
Attachments: File 138000; PS23-0203EL CIT - CP ~ Mr. Ashley Tyler Schelle - Falmouth Farm Supply.docx

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2885
To: Daniel Levi Stoten
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1871
Enclosed: Notice of Enforcement
Attachments: File 138001; PS23-0203EL CIT ~ Daniel Levi Stoten.docx

11/27/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2341
Subject: Falmouth Farm Supply Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1857
Received: 11/27/2023
Attachments: File 138430; CM 7021 2720 0003 1615 1857 - Falmouth Farm Supply, Inc. - PS23-0203 - Received 11-27-2023.pdf

11/27/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2342
Subject: Ashley Tyler Schelle
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1864
Received: 11/27/2023
Attachments: File 138431; CM 7021 2720 0003 1615 1864 - Mr. Ashley T. Schelle - PS23-0203 - Received 11-27-2023.pdf

12/01/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2364
Subject: Daniel Levi Stoten
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1871
Received: 12/01/2023
Attachments: File 138944; CM 7021 2720 0003 1615 1871 - Daniel Levi Stoten - PS23-0203 - Received 12-1-2023.pdf
File 138945; CM 7021 2720 0003 1615 1871 - Daniel Levi Stoten - PS23-0203 - USPS Proof of Delivery 12-1-2023.pdf

12/06/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2348
Subject: Ashley Tyler Schelle
Submitted By: Jacob A. Hatfield
Payment Expected: \$1,000.00
Payment Received: \$1,000.00

01/12/2024 Notice of Case Closure Mailed to Complainant

Original Event: Outgoing Mail #2991
 To: Kimberly Marcum
 Submitted By: Jacob A. Hatfield
 Enclosed: Notice of Case Closure
 Attachments: File 139534; PS23-0203 - Kimberly Marcum - Case Closed Letter 1-12-2024.docx

01/12/2024 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #2992
 To: Falmouth Farm Supply Inc
 Submitted By: Jacob A. Hatfield
 Enclosed: Notice of Case Closure
 Attachments: File 139537; PS23-0203 - Falmouth Farm Supply, Inc. - Case Closed Letter 1-12-2024.docx

01/12/2024 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #2993
 To: Ashley Tyler Schelle
 Submitted By: Jacob A. Hatfield
 Enclosed: Notice of Case Closure
 Attachments: File 139539; PS23-0203 - Mr. Ashley T. Schelle - Case Closed Letter 1-12-2024.docx

01/12/2024 Notice of Case Closure Mailed to Target

Original Event: Outgoing Mail #2994
 To: Daniel Levi Stoten
 Submitted By: Jacob A. Hatfield
 Enclosed: Notice of Case Closure
 Attachments: File 139540; PS23-0203 - Daniel Levi Stoten - Case Closed Letter 1-12-2024.docx

Chain of Custody**06/15/2023 Sample 23-4-0262 2**

Original Event: Chain of Custody #7323 (23-4-0262 2)
 06/15/2023 09:10: Sample Collected by Paul Jay Kelley
 06/16/2023 09:37: Sample Delivered to Kylo
 06/16/2023 09:44: Delivery Affirmed by Vicki L. Vauters

06/15/2023 Sample 23-4-0263 3

Original Event: Chain of Custody #7324 (23-4-0263 3)
 06/15/2023 09:10: Sample Collected by Paul Jay Kelley
 06/16/2023 09:37: Sample Delivered to Kylo
 06/16/2023 09:44: Delivery Affirmed by Vicki L. Vauters

06/15/2023 Sample 23-4-0264 6

Original Event: Chain of Custody #7325 (23-4-0264 6)
 06/15/2023 09:10: Sample Collected by Paul Jay Kelley
 06/16/2023 09:37: Sample Delivered to Kylo
 06/16/2023 09:44: Delivery Affirmed by Vicki L. Vauters

06/15/2023 Sample 23-4-0265 1

Original Event: Chain of Custody #7326 (23-4-0265 1)
 06/15/2023 09:10: Sample Collected by Paul Jay Kelley
 06/16/2023 09:37: Sample Delivered to Kylo
 06/16/2023 09:44: Delivery Affirmed by Vicki L. Vauters

06/15/2023 Sample 23-4-0266 7

Original Event: Chain of Custody #7327 (23-4-0266 7)
 06/15/2023 09:10: Sample Collected by Paul Jay Kelley
 06/16/2023 09:37: Sample Delivered to Kylo
 06/16/2023 09:44: Delivery Affirmed by Vicki L. Vauters



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 **January 26, 2024, 09:08 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 PS23-0212

Department	Pesticide
Originated	06/21/2023
Assigned To	Aaron P. Kreider
Status	Closed

Involved Parties

Complainant	Daniel Baker Peru, IN 46970
Respondent	Ceres Solutions Cooperative Inc Peru, IN 46970
Farmer	Eric Matthew Miller Peru, IN 46970
Respondent	Michael Ray Ramsey Peru, IN 46970

Overviews

11/09/2023 Investigation Summary

The report from PPDL shows the symptoms exhibited by Mr. Baker's vegetation are consistent with the ingredients from Mr. Ramsey's application. The report from the OISC residue lab show significant levels of ingredients from Mr. Ramsey's application were found on Mr. Baker's property. This report also shows an east to west drift gradient on Mr. Baker's property. Based on the evidence, Mr. Ramsey's application caused the symptoms that appeared on Mr. Baker's vegetation.

Submitted By: Aaron P. Kreider
Role: Investigator
Drift: Confirmed

11/09/2023 Disposition Summary

Ceres Solutions and Mike Ramsey were warned 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 they cooperated during the investigation and no restricted use pesticides were involved.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/20/2023 Intake Referral Filed

Complainant stated an aerial application made to an adjacent farm field injured and killed trees on his property.

Original Event: Intake Referral (Pesticide) #3089
Complainant: Daniel Baker
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: Aaron P. Kreider

06/21/2023 Case Created

Original Event: Case PS23-0212
Submitted By: Joseph D. Becovitz
Assigned To: Aaron P. Kreider

06/22/2023 **Investigator Called Complainant
Communication**

On June 22, 2023, I spoke with Daniel Baker regarding his complaint. Mr. Baker stated multiple pawpaw trees on his property may have been killed or injured from pesticide applications to a field east of his property. He also stated he believes these applications are drifting onto his property and affecting he and his wife's health. Mr. Baker stated that around May 2, 2023, an aerial application took place to the field east of his property. Mr. Baker has noticed the trees on the east side of his property seem to have more injury than the trees on the west side.

Original Event: Investigation Activity (Pesticide) #6424
Subject: Daniel Baker
Submitted By: Aaron P. Kreider

06/26/2023 **Investigator Met with Complainant
Interaction**

On June 26, 2023, I met with Mr. Baker at his residence. I had Mr. Baker show me around his property and identify the vegetation he believes was affected by pesticide drift. There was vegetation on the east side of Mr. Baker's property had tan/brown speckles on the leaves. There was also vegetation with cupping/curling leaves. The west side of Mr. Baker's property did not appear to have the same symptoms as the east side. The target field to the west had soybeans with green cover crop. It appeared as though the west target field had not been sprayed. The target field to the east was a soybean field with weeds and cover crop that appeared to have been sprayed.

Photographs

During my on-site investigation, I collected the following photographs. Figure 1 shows the border between the east target field (right) and Mr. Baker's property (left). Figure 2-4 show the injury that caused Mr. Baker's complaint.

Figure 1 (File 132041)



Figure 2 (File 132074)



Figure 3 (File 132075)



Figure 4 (File 132094)



Attachments

- File 132042; DSC_0002.JPG
- File 132043; DSC_0003.JPG
- File 132045; DSC_0004.JPG
- File 132046; DSC_0005.JPG
- File 132047; DSC_0006.JPG
- File 132048; DSC_0007.JPG
- File 132049; DSC_0008.JPG
- File 132051; DSC_0009.JPG
- File 132052; DSC_0010.JPG
- File 132053; DSC_0011.JPG
- File 132054; DSC_0012.JPG
- File 132055; DSC_0013.JPG
- File 132056; DSC_0014.JPG
- File 132058; DSC_0015.JPG
- File 132059; DSC_0016.JPG
- File 132060; DSC_0017.JPG
- File 132061; DSC_0018.JPG
- File 132063; DSC_0019.JPG
- File 132064; DSC_0020.JPG
- File 132065; DSC_0021.JPG
- File 132066; DSC_0022.JPG
- File 132068; DSC_0023.JPG
- File 132069; DSC_0024.JPG
- File 132070; DSC_0025.JPG
- File 132071; DSC_0026.JPG
- File 132072; DSC_0027.JPG
- File 132073; DSC_0028.JPG
- File 132076; DSC_0031.JPG
- File 132077; DSC_0032.JPG
- File 132078; DSC_0033.JPG
- File 132079; DSC_0034.JPG
- File 132080; DSC_0035.JPG
- File 132081; DSC_0036.JPG
- File 132082; DSC_0037.JPG
- File 132083; DSC_0038.JPG
- File 132084; DSC_0039.JPG
- File 132085; DSC_0040.JPG
- File 132086; DSC_0041.JPG
- File 132087; DSC_0042.JPG
- File 132088; DSC_0043.JPG
- File 132089; DSC_0044.JPG
- File 132090; DSC_0045.JPG
- File 132091; DSC_0046.JPG
- File 132092; DSC_0047.JPG
- File 132093; DSC_0048.JPG

Original Event: Investigation Activity (Pesticide) #6637
 Subject: Daniel Baker
 Submitted By: Aaron P. Kreider

06/26/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1758
 Client: Daniel Baker
 Firm Representative: Daniel Baker
 Submitted By: Aaron P. Kreider
 Attachments: File 132095; NOI (D. Baker).pdf

06/26/2023 **Residue Samples Collected**

Original Event: Residue Collection #271483 (23-4-0412 0)
 Client: Daniel Baker
 Submitted By: Aaron P. Kreider
 Sample: 23-4-0412 0 | Veg; Grab; OFF-T, Grad3, E
 Sample: 23-4-0413 1 | Veg; Grab; Center; OFF-T, Grad2
 Sample: 23-4-0414 9 | Veg; Ctrl; OFF-T, Grad1, W
 Sample: 23-4-0415 4 | Veg; Comp; Weeds Cover Crop; Target, E

06/26/2023 **External Lab Sample Collected**

During my on-site investigation, I collected a sample of affected vegetation to submit for analysis by the Plant and Pest Diagnostic Lab at Purdue (PPDL).

Original Event: External Lab Sample Collection #276372 (X23-E3E543)
Client: Daniel Baker
Submitted By: Aaron P. Kreider
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X23-E3E543 | This sample contained Pawpaw, Maple, and Redbud.
Photos:



File 132441

06/26/2023 **Sample Collection Diagram Activity**

This diagram shows the locations where samples were collected.

Sample Collection Diagram (File 132440)



Original Event: Investigation Activity (Pesticide) #6644
Submitted By: Aaron P. Kreider

06/26/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #729
Submitted By: Aaron P. Kreider
Target Analyte: Elist One
Target Analyte: Roundup PowerMAX 3
Target Analyte: Zidua SC
Target Analyte: Dimetric EXT
PPLS Labels: [001381-00197-20170811.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00659-20200317.pdf
[062719-00695-20220329.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00695-20220329.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf

06/29/2023 **Received External Lab Report**

On June 29, 2023, I received a report from PPDL. The report stated, "*The redbud and maple samples and photos of grape and several other plants point to damage from a growth regulator herbicide. The pawpaw had missing tissue, which might be due to earlier insect feeding, or possibly damage from an earlier contact burn herbicide. No disease was found. Photos of the pawpaw show smooth tan patches of damage that I can't associate with a specific cause but it looks like a burn injury. Grape photos show both growth regulator injury and heavy insect feeding injury (Japanese beetle).*"

Original Event: External Lab Report #276373 (X23-E3E543)
Submitted By: Aaron P. Kreider
Sample: X23-E3E543
Attachments: File 132442; PS23-0212 PPDL Report.pdf

08/16/2023 **Investigator Called Farmer Communication**

On August 16, 2023, I contacted Eric Miller regarding Mr. Baker's complaint. Mr. Miller confirmed he farms the field to the west of Mr. Baker's property. He stated he planted soybeans on April 14, 2023 and sprayed the field on April 15, 2023. Mr. Miller stated he made a second application consisting of Enlist and Roundup and believes it was after I performed my on-site investigation. He stated he would check his records to confirm and follow up with me.

Original Event: Investigation Activity (Pesticide) #6636
Subject: Eric Matthew Miller
Submitted By: Aaron P. Kreider

08/16/2023 **Farmer Called Investigator Communication**

Shortly after our initial conversation, Mr. Miller called to inform me his second application to the west target field was on June 29, 2023.

Original Event: Investigation Activity (Pesticide) #6645
Subject: Eric Matthew Miller
Submitted By: Aaron P. Kreider

08/17/2023 **Investigator Called Target Communication**

On August 17, 2023, I spoke with Tim Devore of Ceres Solutions (Ceres) in Peru. Mr. Devore confirmed Ceres made ground applications to the target field east of Mr. Baker's property. He stated they did not contract an aerial applicator to make an application to that field. Mr. Devore stated Ceres has contracted an aerial application to a field in that area, but he believed it was made more recently than the one from Mr. Baker's complaint on May 2, 2023.

Original Event: Investigation Activity (Pesticide) #6638
Subject: Ceres Solutions Cooperative Inc
Submitted By: Aaron P. Kreider

08/17/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1759
Client: Ceres Solutions Cooperative Inc
Firm Representative: Tim Devore
Submitted By: Aaron P. Kreider
Attachments: File 132162; NOI (T. Devore - Ceres Solutions).pdf

08/21/2023 **Investigator Received Fax/Email from Target Investigation Inquiry**

On August 21, 2023, I received a Pesticide Investigation Inquiry (PII) from Mr. Devore. It shows that winds were blowing towards Mr. Baker's property during the application.

Attachments
File 132414; PS23-0212 PII (Ceres Solutions).pdf

Inquiry Overview

Certified Applicator Mike Ramsey (F216369)
Company Ceres Solutions
Application Type Commercial
Target Field Target Soybean

Tank Mix

Product	EPA	Rate
Enlist One	62719-695	32 oz/A
Roundup PowerMAX 3	524-659	32 oz/A
Zidua SC	7969-374	3.2 oz/A
Dimetric EXT	1381-197	6 oz/A

Application Date

Date Start End
05/18/2023 9:05 AM 11:20 AM

Air Conditions

Time Temp Direction Speed
Start 50°F E 9mph
End 51°F E 9mph

Original Event: Investigation Activity (Pesticide) #6643
Subject: Ceres Solutions Cooperative Inc
Submitted By: Aaron P. Kreider
PPLS Labels: [001381-00197-20170811.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.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
[062719-00695-20220329.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00695-20220329.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00695-20220329.pdf
[007969-00374-20211116.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf

08/22/2023 Wind Data Researched

This data shows the weather conditions during the application made by Mr. Ramsey. It confirms what was reported on the PII that winds were blowing towards Mr. Baker's property during the application.

Grissom Air Force Base

Peru, Indiana (15.6 miles SSW of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
8:55 AM	54	ESE	9	0
9:55 AM	59	ESE	9	0
1:55 PM	70	ESE	7	0

Attachments

File 132443; NOAA Data 5.18.23 (KGUS).pdf

Original Event: Wind Data #176
Submitted By: Aaron P. Kreider
Date of Weather: 05/18/2023

10/31/2023 Received Residue Lab Report Current First Page of Lab Report

OCM Collection #	271483	Investigator	KREIDERA		
Collection Date	06/26/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0412 0	Veg; Grab; OFF-T, Grad3, E	Veg	Metribuzin	56.6 ppb	3 ppb
			Pyroxasulfone	6.24 ppb	3 ppb
23-4-0413 1	Veg; Grab; Center; OFF-T, Grad2	Veg	Metribuzin	19.2 ppb	3 ppb
			Pyroxasulfone	BDL ppb	3 ppb
23-4-0414 9	Veg; Ctrl; OFF-T, Grad1, W	Veg	Metribuzin	17.4 ppb	3 ppb
			Pyroxasulfone	BDL ppb	3 ppb
23-4-0415 4	Veg; Comp; Weeds Cover Crop; Target, E	Veg	Metribuzin	209 ppb	3 ppb
			Pyroxasulfone	1070 ppb * Estimated Result	3 ppb

Original Event: Residue Lab Report #282287 (271483-R1802)
Submitted By: SYSTEM
Lab Report: Lab Report 271483-R1802.pdf

11/08/2023 Investigation Activity

Label Use

The Dimetric EXT label states, "Do not allow sprays to drift on to adjacent desirable plants." The Zidua SC label states, "Apply this product only when the potential for drift to adjacent nontarget areas is minimal (e.g. when the wind is **10 MPH or less and is blowing away from sensitive areas**)."

Attachments

File 137499; Dimetric EXT Label.pdf
File 137500; Zidua SC Label.pdf

Original Event: Investigation Activity (Pesticide) #6911
Submitted By: Aaron P. Kreider
PPLS Labels: [001381-00197-20170811.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/001381-00197-20170811.pdf
[007969-00374-20211116.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf

11/09/2023 **Judgement; Warning** **Warning**

Ceres Solutions and Mike Ramsey were warned 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 they cooperated during the investigation and no restricted use pesticides were involved.

Original Event: Judgement #1612
Primary: Ceres Solutions Cooperative Inc
Secondary: Michael Ray Ramsey
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)

11/21/2023 **Notice of Enforcement Mailed to Target**

A copy of Michael Ramsey's enforcement letter was also included.

Original Event: Outgoing Mail #2881
To: Ceres Solutions Cooperative Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1888
Enclosed: Notice of Enforcement
Enclosed: Notice of Enforcement
Attachments: File 137994; PS23-0212EL WRN ~ Ceres Solutions Cooperative.docx
File 137995; PS23-0212EL WRN ~ Michael Ray Ramsey - Ceres Solutions - Copy.docx

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2882
To: Michael Ray Ramsey
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1895
Enclosed: Notice of Enforcement
Attachments: File 137996; PS23-0212EL WRN ~ Michael Ray Ramsey - Ceres Solutions.docx

12/01/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2365
Subject: Ceres Solutions Cooperative Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1888
Received: 12/01/2023
Attachments: File 138946; CM 7021 2720 0003 1615 1888 - Ceres Solutions Cooperative, Inc. - PS23-0212 - Received 12-1-2023.pdf

01/10/2024 **Mail Confirmation Assumed for Target**

As of January 10, 2024, certified mail card has not been returned to OISC. According USPS tracking it was delivered on December 1, 2023, therefore it is assumed to have been received.

Original Event: Compliance Receipt #2377
Subject: Michael Ray Ramsey
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1895
Attachments: File 139402; CM 7021 2720 0003 1615 1895 - Michael R. Ramsey - PS23-0212 - USPS Proof of Delivery 12-1-2023.pdf

01/10/2024 **Mail Confirmation Assumed for Target**

As of January 10, 2024, regular mail has not been returned to OISC. It is assumed to have been received.

Original Event: Compliance Receipt #2378
Subject: Michael Ray Ramsey
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1895

01/12/2024 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2995
To: Daniel Baker
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Enclosed: Case Summary
Attachments: File 139556; PS23-0212 - Daniel Baker - Case Closed Letter 1-12-2024.docx

01/12/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2996
To: Ceres Solutions Cooperative Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139549; PS23-0212 - Ceres Solutions Cooperative, Inc. - Case Closed Letter 1-12-2024.docx

01/12/2024 **Notice of Case Closure Mailed to Farmer**

Original Event: Outgoing Mail #2997
To: Eric Matthew Miller
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139550; PS23-0212 - Eric M. Miller - Case Closed Letter 1-12-2024.docx

01/12/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2998
To: Michael Ray Ramsey
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139551; PS23-0212 - Michael R. Ramsey - Case Closed Letter 1-12-2024.docx

Chain of Custody

06/26/2023 **Sample 23-4-0412 0**

Original Event: Chain of Custody #7394 (23-4-0412 0)
06/26/2023 12:30: Sample Collected by Aaron P. Kreider
06/29/2023 15:48: Sample Delivered to Vicki L. Vauters
06/29/2023 15:48: Delivery Affirmed by Vicki L. Vauters

06/26/2023 **Sample 23-4-0413 1**

Original Event: Chain of Custody #7395 (23-4-0413 1)
06/26/2023 12:30: Sample Collected by Aaron P. Kreider
06/29/2023 15:48: Sample Delivered to Vicki L. Vauters
06/29/2023 15:48: Delivery Affirmed by Vicki L. Vauters

06/26/2023 **Sample 23-4-0414 9**

Original Event: Chain of Custody #7396 (23-4-0414 9)
06/26/2023 12:30: Sample Collected by Aaron P. Kreider
06/29/2023 15:48: Sample Delivered to Vicki L. Vauters
06/29/2023 15:48: Delivery Affirmed by Vicki L. Vauters

06/26/2023 **Sample 23-4-0415 4**

Original Event: Chain of Custody #7397 (23-4-0415 4)
06/26/2023 12:30: Sample Collected by Aaron P. Kreider
06/29/2023 15:48: Sample Delivered to Vicki L. Vauters
06/29/2023 15:48: Delivery Affirmed by Vicki L. Vauters



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 **January 26, 2024, 09:09 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 PS23-0216

Department	Pesticide
Originated	06/22/2023
Assigned To	Andrew R. Roth
Status	Closed

Involved Parties

Complainant	Tim Scott Lawyer Modoc, IN 47358	
Respondent	Deangelo Contracting SVCS LLC Perrysburg, OH 43551	
Respondent	Joseph D Hicks South Point, OH 45680	Certified Applicator

Overviews

10/23/2023 Investigation Summary

I responded to a complaint of off-target herbicide movement from a roadside right-of-way application to a soybean field farmed by Tim Lawyer.

Herbicide symptoms were observed on soybeans in swaths from the roadside shoulders into low areas of the field.

Deangelo Contracting Services confirmed the roadside at the site was sprayed in early May 2023.

Herbicide active ingredients reportedly applied to the roadside were detected in soil and soybean samples collected from the Lawyer field.

Submitted By: Andrew R. Roth
Role: Investigator

10/24/2023 Disposition Summary

Deangelo Contracting SVCS LLC was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with desirable vegetation.

Joseph Hicks was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with 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 Joseph Hicks cooperated during the investigation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/21/2023 Intake Referral Filed

Complainant stated drift and runoff from a right-of-way herbicide application injured and killed his soybeans.

Original Event: Intake Referral (Pesticide) #3093
Complainant: Tim Scott Lawyer
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

06/22/2023 Investigator Called Complainant

Communication

On June 22, I called Tim Lawyer who reported soybeans in his field along SR 35 developed herbicide symptoms after an application was made to the roadside. He indicated he believed the application was made in windy conditions and then there was a rainfall event after the application which may have moved the herbicide into his field. I informed him I would do the on-site investigation after the weekend. Mr. Lawyer indicated he was out of state.

Original Event: Investigation Activity (Pesticide) #6432
Subject: Tim Scott Lawyer
Submitted By: Andrew R. Roth

06/22/2023 **Case Created**

Original Event: Case PS23-0216
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

06/26/2023 **New Respondent Identified** **Respondent Identified**

On June 26, I contacted Terry McCance with Deangelo Contracting Services who confirmed the roadsides at the site had been sprayed in early May.

Original Event: Investigation Change #365
Respondent: Deangelo Contracting SVCS LLC
Submitted By: Andrew R. Roth

06/26/2023 **Investigator Received Fax/Email from Business** **Records**

Mr. McCance provided the daily activity report for May 6, 2023, which indicated Certified Applicator Joseph Hicks sprayed the roadside adjacent to the Lawyer field with a tank mix containing Method 240SL (EPA Reg#432-1565), active ingredient aminocyclopyrachlor and Escort (EPA Reg#432-1549), active ingredient metsulfuron methyl.

Attachments

File 134738; 23-0216DCSdaily.pdf

Original Event: Investigation Activity (Pesticide) #6747
Subject: Deangelo Contracting SVCS LLC
Submitted By: Andrew R. Roth

06/27/2023 **Investigator Met with Complainant** **Interaction**

On June 27, I went to the site along US Highway 35 between Hadley Road and Jacksonburg Road in northwestern Wayne County. On the south side of the highway, I observed cupped, stunted and dead soybeans in several swaths leading from the roadside shoulder into low areas of the Lawyer field. Two distinct swaths were visible west of the farmstead and one was observed to the east. I photographed the site and collected plant samples from impacted soybeans in the field for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected soil and plant samples from two swaths (one west and one east of the farmstead) in the soybean field for analysis by the OISC Residue Lab. A soil sample was also collected from the target area along the road.

Photographs

Photos from the site and an aerial photo of the field.

Attachments



File 136707



File 127687



File 127688



File 127689



File 127690



File 127691



File 127692



File 127693



File 127694



File 127695



File 127696



File 127697



File 127698



File 127699



File 127700



File 127701



File 127702



File 127703



File 127704

Original Event: Investigation Activity (Pesticide) #6450
Subject: Tim Scott Lawyer
Submitted By: Andrew R. Roth

06/27/2023 **Notice of Inspection Issued**

After the on-site investigation, I met with Mr. Lawyer.

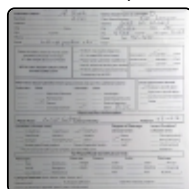
Original Event: Notice of Inspection #1686
Client: Tim Scott Lawyer
Firm Representative: Tim Lawyer
Submitted By: Andrew R. Roth
Photos:



File 127705

06/27/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #271570 (X23-F21E43)
Client: Tim Scott Lawyer
Submitted By: Andrew R. Roth
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X23-F21E43 | Plant samples were collected for assessment by the PPDL.
Photos:



File 127706

06/27/2023 **Residue Samples Collected**

Original Event: Residue Collection #271571 (23-4-0788 4)
 Client: Tim Scott Lawyer
 Submitted By: Andrew R. Roth
 Sample: 23-4-0788 4 | Veg; Comp; OFF-T, E
 Sample: 23-4-0789 7 | Soil; Comp; 0-2"; OFF-T, E
 Sample: 23-4-0790 7 | Veg; Comp; OFF-T, W
 Sample: 23-4-0791 1 | Soil; Comp; 0-2"; OFF-T, W
 Sample: 23-4-0792 4 | Soil; Comp; 0-2"; Target

06/27/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #730
 Submitted By: Andrew R. Roth
 Target Analyte: Method 240 SL
 Target Analyte: Escort
 PPLS Labels: [000432-01549-20210224.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000432-01549-20210224.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000432-01549-20210224.pdf
[000432-01565-20221028.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000432-01565-20221028.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000432-01565-20221028.pdf

07/03/2023 **Received External Lab Report**

Soybean plants show leaf cupping and whitish leaf tips. These symptoms and the pattern of injury are consistent with herbicide runoff of active ingredients in the growth regulator group (#4) such as aminopyralid, triclopyr, clopyralid, etc.
 Marcelo Zimmer
 Weed Science Program Specialist

No significant disease was observed in the photos provided. Symptoms are suggestive of exposure to a growth regulator.
 John Bonkowski

Original Event: External Lab Report #271880 (X23-F21E43)
 Submitted By: Andrew R. Roth
 Sample: X23-F21E43
 Attachments: File 128021; 23-0216PPDLFinalReport.pdf

08/17/2023 **Received Residue Lab Report Current**
Investigatory Summary

The OISC Residue Lab analyzed the samples for the active ingredients reportedly applied to the roadside on May 6, 2023. Aminocyclopyrachlor and metsulfuron-methyl were detected in the target soil and in the plant and soil samples collected from the two areas in the field.
 Based on the results, it was determined the herbicide active ingredients from the roadside application moved off-target to the Lawyer field.

First Page of Lab Report

OCM Collection #	271571	Investigator	ROTHA		
Collection Date	06/27/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0788 4	Veg; Comp; OFF-T, E	Veg	Aminocyclopyrachlor	1.37 ppb	1 ppb
			Metsulfuron-methyl	0.655 ppb	0.1 ppb
23-4-0789 7	Soil; Comp; 0-2"; OFF-T, E	Soil	Aminocyclopyrachlor	6.18 ppb	0.1 ppb
			Metsulfuron-methyl	0.493 ppb	0.1 ppb
23-4-0790 7	Veg; Comp; OFF-T, W	Veg	Aminocyclopyrachlor	3.31 ppb	1 ppb
			Metsulfuron-methyl	1.17 ppb	0.1 ppb
23-4-0791 1	Soil; Comp; 0-2"; OFF-T, W	Soil	Aminocyclopyrachlor	21.8 ppb	0.1 ppb
			Metsulfuron-methyl	1.32 ppb	0.1 ppb
23-4-0792 4	Soil; Comp; 0-2"; Target	Soil	Aminocyclopyrachlor	21.8 ppb	0.1 ppb
			Metsulfuron-methyl	0.901 ppb	0.1 ppb

Original Event: Residue Lab Report #276322 (271571-R1639)
 Submitted By: SYSTEM
 Lab Report: Lab Report 271571-R1639.pdf

10/23/2023 **Online Investigation Activity**

Method 240SL

Based on the evidence and topography at the site, the lab reports and the application information obtained, it was determined herbicides from the application to the roadside right-of-way moved off-target to the soybeans in the Lawyer field.

The Method 240SL label reads, in part, "Do not apply or otherwise permit this product or sprays containing this product to come into contact with any non-target crop or desirable vegetation."

Attachments

File 136733; METHOD 240SL HERBICIDE.pdf

Original Event: Investigation Activity (Pesticide) #6854
Submitted By: Andrew R. Roth

10/24/2023 **Judgement; Civil Penalty Assessed**

Citation

Deangelo Contracting SVCS LLC was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with desirable vegetation.

Civil Penalty

Joseph Hicks was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with 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 Joseph Hicks cooperated during the investigation.

Original Event: Judgement #1603
Primary: Deangelo Contracting SVCS LLC
Secondary: Joseph D Hicks
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 400

11/20/2023 **Notice of Enforcement Mailed to Target**

A copy of Joseph Hicks enforcement letter was also included.

Original Event: Outgoing Mail #2861
To: Deangelo Contracting SVCS LLC
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1802
Enclosed: Notice of Enforcement
Enclosed: Notice of Enforcement
Attachments: File 137920; PS23-0216EL CIT - CP Mitigated ~ Joseph D Hicks - Copy.docx
File 137919; PS23-0216EL CIT ~ DeAngelo Contracting Svcs LLC.docx

11/20/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2862
To: Joseph D Hicks
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1819
Enclosed: Notice of Enforcement
Attachments: File 137921; PS23-0216EL CIT - CP Mitigated ~ Joseph D Hicks.docx

11/29/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2362
Subject: Joseph D Hicks
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1819
Received: 11/29/2023
Attachments: File 138942; CM 7021 2720 0003 1615 1819 - Joseph D. Hicks - PS23-0216 - Received 11-29-2023.pdf

12/13/2023 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2357
Subject: Joseph D Hicks
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 138910; PS23-0216 - Joseph D. Hicks - CP Received - 12-13-2023.pdf

12/14/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2375
Subject: Deangelo Contracting SVCS LLC
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1802
Received: 12/15/2023

Attachments:

File 139343; CM 7021 2720 0003 1615 1802 - DeAngelo Contracting Svcs, LLC - PS23-0216 USPS Proof of Delivery 12-15-2023.pdf
File 139342; CM 7021 2720 0003 1615 1802 - DeAngelo Contracting Svcs, LLC - PS23-0216 - Received 12-15-2023_0001.pdf

01/12/2024 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2999
To: Tim Scott Lawyer
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139557; PS23-0216 - Tim S. Lawyer - Case Closed Letter 1-12-2024.docx

01/12/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3000
To: Deangelo Contracting SVCS LLC
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139558; PS23-0216 - DeAngelo Contracting Svcs. LLC - Case Closed Letter 1-12-2024.docx

01/12/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3001
To: Joseph D Hicks
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139559; PS23-0216 - Joseph D. Hicks - Case Closed Letter 1-12-2024.docx

Chain of Custody

06/27/2023 **Sample 23-4-0788 4**

Original Event: Chain of Custody #7398 (23-4-0788 4)
06/27/2023 11:00: Sample Collected by Andrew R. Roth
06/28/2023 13:00: Sample Delivered to Vicki L. Vauters
06/28/2023 13:00: Delivery Affirmed by Vicki L. Vauters

06/27/2023 **Sample 23-4-0789 7**

Original Event: Chain of Custody #7399 (23-4-0789 7)
06/27/2023 11:00: Sample Collected by Andrew R. Roth
06/28/2023 13:00: Sample Delivered to Vicki L. Vauters
06/28/2023 13:00: Delivery Affirmed by Vicki L. Vauters

06/27/2023 **Sample 23-4-0790 7**

Original Event: Chain of Custody #7400 (23-4-0790 7)
06/27/2023 11:00: Sample Collected by Andrew R. Roth
06/28/2023 13:00: Sample Delivered to Vicki L. Vauters
06/28/2023 13:00: Delivery Affirmed by Vicki L. Vauters

06/27/2023 **Sample 23-4-0791 1**

Original Event: Chain of Custody #7401 (23-4-0791 1)
06/27/2023 11:00: Sample Collected by Andrew R. Roth
06/28/2023 13:00: Sample Delivered to Vicki L. Vauters
06/28/2023 13:00: Delivery Affirmed by Vicki L. Vauters

06/27/2023 **Sample 23-4-0792 4**

Original Event: Chain of Custody #7402 (23-4-0792 4)
06/27/2023 11:00: Sample Collected by Andrew R. Roth
06/28/2023 13:00: Sample Delivered to Vicki L. Vauters
06/28/2023 13:00: Delivery Affirmed by Vicki L. Vauters

This record was generated on **January 26, 2024, 09:09 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 **January 26, 2024, 09:11 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 PS23-0218

Department	Pesticide
Originated	06/23/2023
Assigned To	Aaron P. Kreider
Status	Closed

Involved Parties

Complainant **Tim Merkle**
Dubois, IN 47527

Respondent **Matt Kline**
Dubois, IN 47527

Overviews

10/31/2023 Investigation Summary

The report from the OISC residue lab shows significant ingredient amounts from Mr. Kline's application were found in the vegetation from Mr. Merkle's property. Base on the evidence, Mr. Kline violated the Farm General 53.8% Glyphosate label by allowing his application to move off-target onto Mr. Merkle's property.

Submitted By: Aaron P. Kreider
Role: Investigator
Drift: Confirmed

10/31/2023 Disposition Summary

The label for this glyphosate states, "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. As a result, Matt Kline was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding exposure to desirable plants. Consideration was given to the fact Mr. Kline cooperated during the investigation and this was his first violation of similar nature.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/22/2023 Intake Referral Filed

Complainant stated a herbicide application made to a fencerow killed 10 to 12 feet into his pasture.

Original Event: Intake Referral (Pesticide) #3095
Complainant: Tim Merkle
Respondent: Matt Kline
Submitted By: Joseph D. Becovitz
Assigned To: Aaron P. Kreider

06/23/2023 Case Created

Original Event: Case PS23-0218
Submitted By: Joseph D. Becovitz
Assigned To: Aaron P. Kreider

06/29/2023 Investigator Called Complainant

Communication

On June 29, 2023, I contacted Tim Merkle regarding his complaint. He stated his neighbor, Matt Kline, sprayed the fence line between their properties and it moved out into his pasture. Mr. Merkle believes it moved between 6 and 12 feet into his pasture.

Original Event: Investigation Activity (Pesticide) #6667
Subject: Tim Merkle
Submitted By: Aaron P. Kreider

07/03/2023 Investigator Met with Complainant Interaction

On July 3, 2023, I met with Mr. Merkle at his residence. I had Mr. Merkle show me the area he believed was affected by Mr. Kline's pesticide application. There was brown grass with brown/black weeds along the fence in Mr. Merkle's pasture. The affected area appeared to be 5-6 feet away from the fence.

Photographs

During my on-site investigation, I collected the following photographs. Figure 1 shows the fence line between Mr. Merkle's property (right) and Mr. Kline's property (left). Figure 2 shows the fence line between Mr. Merkle's property (left) and Mr. Kline's property (right).

Figure 1 (File 133143)



Figure 2 (File 133145)



Attachments

- File 133140; DSC_0001.JPG
- File 133141; DSC_0002.JPG
- File 133142; DSC_0003.JPG
- File 133144; DSC_0005.JPG
- File 133146; DSC_0007.JPG
- File 133147; DSC_0008.JPG
- File 133148; DSC_0009.JPG
- File 133149; DSC_0010.JPG
- File 133150; DSC_0011.JPG
- File 133151; DSC_0012.JPG

Original Event: Investigation Activity (Pesticide) #6668
Subject: Tim Merkle
Submitted By: Aaron P. Kreider

07/03/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1769
Client: Tim Merkle
Firm Representative: Tim Merkle
Submitted By: Aaron P. Kreider
Attachments: File 133152; NOI (T. Merkle).pdf

07/03/2023 **Residue Samples Collected**

Original Event: Residue Collection #271876 (23-4-0426 1)
Client: Tim Merkle
Submitted By: Aaron P. Kreider
Sample: 23-4-0426 1 | Veg; Grab; Weeds Grass; OFF-T
Sample: 23-4-0427 4 | Veg; Ctrl; Walnut; OFF-T

07/03/2023 **Sample Collection Diagram Activity**

This diagram shows the locations where samples were collected.

Sample Collection Diagram (File 137142)



Original Event: Investigation Activity (Pesticide) #6881
Submitted By: Aaron P. Kreider

07/03/2023 Investigator Met with Target Activity

On July 3, 2023, I stopped at Mr. Kline's residence. Mr. Kline was not home so I left a note to call me along with a business card.

Original Event: Investigation Activity (Pesticide) #6671
Subject: Matt Kline
Submitted By: Aaron P. Kreider

07/03/2023 Target Called Investigator Communication

On July 3, 2023, Mr. Kline contacted me. I informed him Mr. Merkle filed a complaint about his application to their shared fence line. Mr. Kline confirmed he did spray the fence line and stated he used a cheap glyphosate product from Rural King. He stated the slope of the area may have led to the product moving from his side of the fence to Mr. Merkle's property.

Original Event: Investigation Activity (Pesticide) #6672
Subject: Matt Kline
Submitted By: Aaron P. Kreider

07/03/2023 Notice of Inspection Issued

Original Event: Notice of Inspection #1771
Client: Matt Kline
Firm Representative: Matt Kline
Submitted By: Aaron P. Kreider
Attachments: File 133225; NOI (M. Kline).pdf

07/03/2023 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #739
Submitted By: Aaron P. Kreider
Target Analyte: Glyphosate
PPLS Labels: [084009-00030-20171024.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/084009-00030-20171024.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/084009-00030-20171024.pdf

08/17/2023 Received Residue Lab Report Current

First Page of Lab Report

OCM Collection #	271876	Investigator	KREIDERA		
Collection Date	07/03/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0426 1	Veg; Grab; Weeds Grass; OFF-T	Veg	AMPA	605 ppb	13 ppb
			Glyphosate	6220 ppb	13 ppb
23-4-0427 4	Veg; Ctrf; Walnut; OFF-T	Veg	AMPA	BDL ppb	13 ppb
			Glyphosate	BDL ppb	13 ppb

Original Event: Residue Lab Report #276323 (271876-R1639)
 Submitted By: SYSTEM
 Lab Report: Lab Report 271876-R1639.pdf

10/30/2023 **Investigator Called Target Communication**

On October 30, 2023, I contacted Mr. Kline to request an EPA registration number for the product he applied to the fence line. Mr. Kline stated the label has become worn and no longer legible. I spoke to Mr. Kline's wife and she stated she would make a visit to Rural King and take a photograph of the product Mr. Kline used. Mrs. Kline stated she would email me the photograph of the product.

Original Event: Investigation Activity (Pesticide) #6877
 Subject: Matt Kline
 Submitted By: Aaron P. Kreider

10/30/2023 **Investigator Received Fax/Email from Target Photographs**

On October 30, 2023, after our initial conversation, I received two photographs from Mrs. Kline. These photographs show the label for the product Mr. Kline applied to the fence line.

Attachments



File 137020



File 137019

Original Event: Investigation Activity (Pesticide) #6878
 Subject: Matt Kline
 Submitted By: Aaron P. Kreider

10/31/2023 **Investigation Activity Farm General 53.8% Glyphosate**

The Farm General 53.8% Glyphosate label states, "AVOID DRIFT."

Attachments

File 137026; Farm General 53.8% Glyphosate.pdf

Original Event: Investigation Activity (Pesticide) #6879
 Submitted By: Aaron P. Kreider
 PPLS Labels: [084009-00030-20171024.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/084009-00030-20171024.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/084009-00030-20171024.pdf

10/31/2023 **Judgement; Warning Warning**

The label for this glyphosate states, "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. As a result, Matt Kline was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding exposure to desirable plants. Consideration was given to the fact Mr. Kline cooperated during the investigation and this was his first violation of similar nature.

Original Event: Judgement #1605
 Primary: Matt Kline
 Submitted By: George Saxton
 Legal Citation: IC 15-16-5-65(2)

11/03/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2807
To: Matt Kline
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1697
Enclosed: Notice of Enforcement
Attachments: File 137336; PS23-0218EL WRN ~ Matt Kline.docx

11/14/2023 **Mail Confirmation Not Received for Target**

According to USPS tracking a delivery attempt was made on November 14, 2023, but there was "No Authorized Recipient Available". Therefore it is assumed to have not been received.

Original Event: Compliance Receipt #2352
Subject: Matt Kline
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1697
Attachments: File 138792; CM 7021 2720 0003 1615 1697 - Matt Kline - PS23-0218 - USPS Tracking No Recipient Available.pdf

12/13/2023 **Mail Confirmation Assumed for Target**

As of December 13, 2023, regular mail has not been returned to OISC. It is assumed to have been received.

Original Event: Compliance Receipt #2353
Subject: Matt Kline
Submitted By: Jacob A. Hatfield

12/13/2023 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2943
To: Tim Merkle
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138799; PS23-0218 - Tim Merkle - Case Closed Letter 12-13-2023.docx

12/13/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2944
To: Matt Kline
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138800; PS23-0218 - Matt Kline - Case Closed Letter 12-13-2023.docx

Chain of Custody

07/03/2023 **Sample 23-4-0426 1**

Original Event: Chain of Custody #7484 (23-4-0426 1)
07/03/2023 09:45: Sample Collected by Aaron P. Kreider
07/03/2023 16:26: Sample Delivered to Vicki L. Vauters
07/03/2023 16:26: Delivery Affirmed by Vicki L. Vauters

07/03/2023 **Sample 23-4-0427 4**

Original Event: Chain of Custody #7485 (23-4-0427 4)
07/03/2023 09:45: Sample Collected by Aaron P. Kreider
07/03/2023 16:26: Sample Delivered to Vicki L. Vauters
07/03/2023 16:26: Delivery Affirmed by Vicki L. Vauters

This record was generated on **January 26, 2024, 09:11 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 **January 26, 2024, 09:12 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 PS23-0224

Department	Pesticide
Originated	06/27/2023
Assigned To	Andrew R. Roth
Status	Closed

Involved Parties

Complainant	Eric Justin Fogle Winchester, IN 47394
Respondent	Xcel Custom Ag LLC Winchester, IN 47394
Respondent	Jason Dean Willeford Winchester, IN 47394

Overviews

11/14/2023 **Investigation Summary**

I responded to a complaint of off-target herbicide movement from an application made to a soybean field to corn in a field farmed by Eric Fogle.

Corn near the fence which separated the fields was chlorotic in a pattern which extended into the corn field. Samples were collected for visual assessment and residue analysis.

Jason Willeford confirmed he sprayed the soybeans with glufosinate and glyphosate after he and Mr. Fogle discussed the seed types in the fields. When the application was made, both parties believed the corn was tolerant to glufosinate.

The OISC Residue Lab detected glufosinate and its breakdown product in samples from the target field and from the impacted corn.

While it was determined the Fogle corn was not glufosinate tolerant after application was made, the evidence at the site and the lab results support that the herbicides applied to the soybean field moved off-target to the Fogle field.

Submitted By: Andrew R. Roth
Role: Investigator

11/20/2023 **Disposition Summary**

Xcel Custom Ag and Jason Willeford were warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

06/26/2023 **Intake Referral Filed**

Complainant stated a herbicide application made to an adjacent farm field on June 22, 2023, injured his corn.

Original Event: Intake Referral (Pesticide) #3101
Complainant: Eric Justin Fogle
Respondent: Xcel Custom Ag LLC
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

06/27/2023 **Investigator Met with Complainant Interaction**

On June 26, I received a call from Eric Fogle regarding herbicide exposure to his corn from an application to an adjacent soybean field. He reported he had been in contact with Jason Willeford, of Xcel Custom Ag, who made the application to the soybean field. I informed him to call the OISC to provide intake information so a case could be generated.

On June 27, I spoke with Mr. Fogle who reported Mr. Willeford applied glufosinate and glyphosate and that his corn was not Liberty (glufosinate) tolerant. He indicated winds were predominantly from the east on the date of the application. Mr. Fogle indicated it appeared there was an issue with the application near the corner of the field which resulted in the spray solution crossing the fence line into the corn field.

I then went to the site on the south side of CR150S, west of CR300W, in Randolph County. The corn field was bordered on the east by the target soybean field. Not far from the road, an area of chlorotic corn extended out several rows from the fence line into the field. I photographed the site and collected plant samples from the impacted area of the corn field for assessment by the Plant & Pest Diagnostic lab (PPDL) at Purdue. I also collected the following plant samples for analysis by the OISC Residue Lab:

- control corn sample from an unimpacted area in the field
- corn sample from the impacted area in the field
- weeds from the target soybean field

Photographs

Photos from the site and an aerial photo of the fields.

Attachments



File 137602



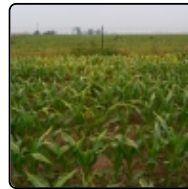
File 127678



File 127679



File 127680



File 127681



File 127682



File 127683



File 127684



File 127685

Original Event: Investigation Activity (Pesticide) #6449
Subject: Eric Justin Fogle
Submitted By: Andrew R. Roth

06/27/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1685
Client: Eric Justin Fogle
Firm Representative: Eric Fogle
Submitted By: Andrew R. Roth
Photos:



File 127686

06/27/2023 **Investigator Called Applicator Communication**

On June 27, I spoke with Jason Willeford, of Xcel Custom Ag, who confirmed he sprayed the field adjacent to the Fogle field. He stated that two days prior to the application he was contacted by Mr. Fogle and the two discussed controlling the weeds in the fence line between the fields as well as the seed types planted in the fields and the herbicides which would be applied. Mr. Willeford reportedly told Mr. Fogle the Enlist (E3) soybeans would be sprayed with glufosinate and glyphosate. He explained that he hit the brakes on the sprayer when he approached the corner of the field near the corn and got some spray on the corn. At the time, it was believed Mr. Fogle's corn variety was glufosinate tolerant.

Records

On July 3, the OISC received application information from Mr. Willeford which indicated he sprayed the field from 1102am-1130am on June 22, with a tank mix containing Interline (EPA Reg#70506-310), active ingredient glufosinate, and Buccaneer Plus (EPA Reg#55467-9), active ingredient glyphosate. Winds were reportedly from the northeast, blowing toward the corn, at 7mph at the beginning of the application and from the north at 9mph at the end of the application.

Mr. Willeford also provided maps, wind data, a description of communications with Mr. Fogle beginning June 20 and a screenshot of a text from Mr. Fogle. Mr. Willeford explained again that, when the application was made, both parties believed the corn variety was glufosinate tolerant. After the two had corresponded about the corn tolerances on June 27, Mr. Willeford contacted a seed rep and it was determined the Fogle corn was not resistant to glufosinate. Mr. Willeford reportedly notified Mr. Fogle of this and later received a text message from Mr. Fogle which indicated he "relooked" at the website and the corn was not glufosinate resistant.

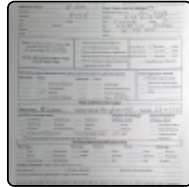
Attachments

File 134739; 23-0224XcelEmail07032023.pdf

Original Event: Investigation Activity (Pesticide) #6451
Subject: Xcel Custom Ag LLC
Submitted By: Andrew R. Roth

06/27/2023 External Lab Sample Collected

Original Event: External Lab Sample Collection #271586 (X23-A46096)
Client: Eric Justin Fogle
Submitted By: Andrew R. Roth
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X23-A46096 | Plant samples from corn field were collected for assessment by PPDL.
Photos:



File 127707

06/27/2023 Residue Samples Collected

Original Event: Residue Collection #271587 (23-4-0793 0)
Client: Eric Justin Fogle
Submitted By: Andrew R. Roth
Sample: 23-4-0793 0 | Veg; Ctrl; OFF-T
Sample: 23-4-0794 8 | Veg; Comp; OFF-T
Sample: 23-4-0795 3 | Veg; Comp; Target

06/27/2023 Case Created

Original Event: Case PS23-0224
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

06/27/2023 Lab Advised of Target Analytes

Original Event: Residue Collections Follow Up #731
Submitted By: Andrew R. Roth
Target Analyte: Interline
Target Analyte: Buccaneer Plus
PPLS Labels: [055467-00009-20200526.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/055467-00009-20200526.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/055467-00009-20200526.pdf
[070506-00310-20220323.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/070506-00310-20220323.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/070506-00310-20220323.pdf

07/03/2023 Received External Lab Report

Corn plants show chlorosis followed by necrosis of the affected leaves. The injury is more pronounced towards the edges and tip of the leaves.

The symptoms and the pattern of injury are consistent with glufosinate drift to susceptible corn. Corn usually recovers from low drift rates of glufosinate.

Marcelo Zimmer
Weed Science Program Specialist

No significant disease symptoms were observed on the sample provided. The photos show what appears to be at least one area with clear drift symptoms.

John Bonkowski

Original Event: External Lab Report #271881 (X23-A46096)
Submitted By: Andrew R. Roth
Sample: X23-A46096

10/04/2023 **Received Residue Lab Report** Current**Investigatory Summary**

The OISC Residue Lab analyzed the samples for glufosinate and its breakdown product MPP. Glufosinate was detected (in parts per billion) in all three samples; MPP was detected in the samples from the target field and from the impacted corn.

First Page of Lab Report

OCM Collection #	271587	Investigator	ROTHA		
Collection Date	06/27/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0793 0	Veg; Ctrl; OFF-T	Veg	Glufosinate	53.3 ppb	13 ppb
			MPP	BDL ppb	6 ppb
23-4-0794 8	Veg; Comp; OFF-T	Veg	Glufosinate	1130 ppb	13 ppb
			MPP	77.3 ppb	6 ppb
23-4-0795 3	Veg; Comp; Target	Veg	Glufosinate	17200 ppb	13 ppb
			MPP	1380 ppb	6 ppb

Original Event: Residue Lab Report #279943 (271587-R1712)
 Submitted By: SYSTEM
 Lab Report: Lab Report 271587-R1712.pdf

11/13/2023 **Online Investigation Activity Interline**

The evidence at the site and the lab reports support that the herbicide tank mix applied by Mr. Willeford moved across the fence line to the corn in the Fogle field. The Interline label reads, in part, "Post emergence row crop applications of INTERLINE herbicide may be made only to crops containing the LibertyLink trait." It further states, "Do not allow spray to contact foliage or green tissue of desirable vegetation other than containing the LibertyLink trait." However, it was believed the corn in the Fogle field was glufosinate tolerant when the application was made.

Attachments

File 137680; Interline2019085307.pdf

Original Event: Investigation Activity (Pesticide) #6927
 Submitted By: Andrew R. Roth

11/20/2023 **Judgement; Warning Warning**

Xcel Custom Ag and Jason Willeford were warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation.

Original Event: Judgement #1617
 Primary: Xcel Custom Ag LLC
 Secondary: Jason Dean Willeford
 Submitted By: George Saxton
 Legal Citation: IC 15-16-5-65(2)

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2879
 To: Xcel Custom Ag LLC
 Submitted By: Jacob A. Hatfield
 USPS: 7021 2720 0003 1615 1901
 Enclosed: Notice of Enforcement
 Enclosed: Notice of Enforcement
 Attachments: File 137992; PS23-0224EL WRN ~ Jason Dean Willeford - Xcel Custom Ag - Copy.docx
 File 137991; PS23-0224EL WRN ~ Xcel Custom Ag LLC.docx

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2880
 To: Jason Dean Willeford
 Submitted By: Jacob A. Hatfield
 USPS: 7021 2720 0003 1615 1918
 Enclosed: Notice of Enforcement
 Attachments: File 137993; PS23-0224EL WRN ~ Jason Dean Willeford - Xcel Custom Ag.docx

11/27/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2343
Subject: Xcel Custom Ag LLC
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1901
Received: 11/27/2023
Attachments: File 138432; CM 7021 2720 0003 1615 1901 - Xcel Custom Ag LLC - PS23-0224 - Received 11-27-2023.pdf

11/27/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2344
Subject: Jason Dean Willeford
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1918
Received: 11/27/2023
Attachments: File 138433; CM 7021 2720 0003 1615 1918 - Jason D. Willeford - PS23-0224 - Received 11-27-2023.pdf

01/17/2024 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #3002
To: Eric Justin Fogle
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139615; PS23-0224 - Eric J. Fogle - Case Closed Letter 1-17-2024.docx

01/17/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3003
To: Xcel Custom Ag LLC
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139616; PS23-0224 - Xcel Custom Ag LLC - Case Closed Letter 1-17-2024.docx

01/17/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3004
To: Jason Dean Willeford
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139617; PS23-0224 - Jason D. Willeford - Case Closed Letter 1-17-2024.docx

Chain of Custody

06/27/2023 **Sample 23-4-0793 0**

Original Event: Chain of Custody #7408 (23-4-0793 0)
06/27/2023 14:00: Sample Collected by Andrew R. Roth
06/28/2023 13:03: Sample Delivered to Vicki L. Vauters
06/28/2023 13:03: Delivery Affirmed by Vicki L. Vauters

06/27/2023 **Sample 23-4-0794 8**

Original Event: Chain of Custody #7409 (23-4-0794 8)
06/27/2023 14:00: Sample Collected by Andrew R. Roth
06/28/2023 13:03: Sample Delivered to Vicki L. Vauters
06/28/2023 13:03: Delivery Affirmed by Vicki L. Vauters

06/27/2023 **Sample 23-4-0795 3**

Original Event: Chain of Custody #7410 (23-4-0795 3)
06/27/2023 14:00: Sample Collected by Andrew R. Roth
06/28/2023 13:03: Sample Delivered to Vicki L. Vauters
06/28/2023 13:03: Delivery Affirmed by Vicki L. Vauters

This record was generated on **January 26, 2024, 09:12 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 **January 26, 2024, 09:13 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 PS23-0237

Department	Pesticide
Originated	07/05/2023
Assigned To	Paul Jay Kelley
Status	Closed

Involved Parties

Complainant Respondent	Jeremy Eugene Mason Summitville, IN 46070
Respondent	Co Alliance Cooperative Inc Summitville, IN 46070
Respondent	Joshua James Andrew Shelley Summitville, IN 46070
-	Co-Alliance Cooperative Inc Indianapolis, IN 46214

Elizabeth A. South, V.P. & General Counsel

Overviews

10/19/2023 **Investigation Summary**

Complainant alleged that Josh Shelley of Co Alliance made a pesticide application to an field and directly over sprayed onto his turf. OISC's Residue Lab detected pesticide residue on both the target field and Mr. Mason's turf at direct application levels. Label language for Volunteer and Total have language prohibiting over spray or direct application to off target areas.

Submitted By: Paul Jay Kelley
Role: Investigator

10/25/2023 **Disposition Summary**

Co Alliance Cooperative Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with desirable vegetation. Consideration was given to the fact this was their first violation of similar nature and Co Alliance Cooperative Inc cooperated during the investigation.

Joshua James Andrew Shelley was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with 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 this was his first violation of similar nature and he cooperated during the investigation.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

07/03/2023 **Intake Referral Filed**

Complainant stated a Roundup application made to an adjacent farm field injured the lawn on his property.

Original Event: Intake Referral (Pesticide) #3114
Complainant: Jeremy Eugene Mason
Respondent: Co Alliance Cooperative Inc
Submitted By: Joseph D. Becovitz
Assigned To: Paul Jay Kelley

07/05/2023 **Case Created**

Original Event: Case PS23-0237
Submitted By: Joseph D. Becovitz
Assigned To: Paul Jay Kelley

07/07/2023 **New Respondent Identified**

Original Event: Investigation Change #372
Respondent: Joshua James Andrew Shelley
Submitted By: Paul Jay Kelley

07/07/2023 **Investigator Met with Business Records**

On July 7, 2023, I met with Danny Hutson, Branch Manager for Co Alliance Co-op in Summitville, Indiana. Mr. Hutson stated he was aware of the complaint after a confrontation between Mr. Mason and a Co Alliance truck driver. Mr. Hutson stated Mr. Mason was upset because he believed applicator Joshua Shelley extended the spray booms over onto the ditch area between county road and field. Mr. Shelley's spray record shows (GUP)Total (EPA Reg. #70506-310-1381, active ingredient glufosinate), (GUP)Zidua SC, EPA Reg. #7969-374, active ingredient pyroxasulfone), and (GUP) Volunteer (EPA Reg. #42750-72-55467, active ingredient clethodim) was sprayed.

I left a copy of a Pesticide Investigation Inquiry (PII) form to be completed, signed and returned by Mr. Shelley.

Attachments

File 128280; noreply@co-alliance.com_20230707_170752.pdf
File 128207; spray record.pdf

Original Event: Investigation Activity (Pesticide) #6475
Subject: Co Alliance Cooperative Inc
Submitted By: Paul Jay Kelley

07/07/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1695
Client: Co Alliance Cooperative Inc
Firm Representative: Danny Hutson
Submitted By: Paul Jay Kelley
Attachments: File 128208; NOI 001.pdf

07/10/2023 **Investigator Met with Complainant Photographs**

On July 10, 2023, I met with Jeremy Mason. Mr. Mason owns the field sprayed by Co Alliance but leases the ground to another farmer. Mr. Mason stated he has voiced his concerns to the co-op the past few years regarding overspray. Mr. Mason stated he had a heated confrontation with the tender truck driver regarding the overspray but was told to contact OISC. Mr. Mason stated he maintains the ditch and has been attempting for years to grow grass in the ditch to stop erosion. I collected investigative samples from ditch and field. I did not collect a PDDL sample due to samples being at ground level.

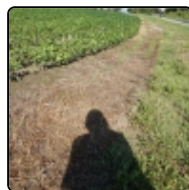
Attachments



File 128385



File 128386



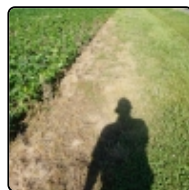
File 128387



File 128388



File 128389



File 128390



File 128391



File 128392



File 128393

Screenshots

Site diagram of area of investigation.

Attachments

File 136587; Site Diagram.pdf

Original Event: Investigation Activity (Pesticide) #6478
Subject: Jeremy Eugene Mason
Submitted By: Paul Jay Kelley

07/10/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1696
Client: Jeremy Eugene Mason
Firm Representative: Jeremy Mason
Submitted By: Paul Jay Kelley
Attachments: File 128394; noi mason.pdf

07/10/2023 **Residue Samples Collected**

Original Event: Residue Collection #272215 (23-4-0283 5)
Client: Jeremy Eugene Mason
Submitted By: Paul Jay Kelley
Sample: 23-4-0283 5 | Veg; Ctrl; OFF-T
Sample: 23-4-0284 2 | Soil; Comp; 0-2"; Target
Sample: 23-4-0285 7 | Veg; Comp; Target
Sample: 23-4-0286 1 | Soil; Comp; 0-2"; OFF-T
Sample: 23-4-0287 4 | Veg; Comp; OFF-T

07/10/2023 **New Respondent Identified**

Original Event: Investigation Change #373
Respondent: Jeremy Eugene Mason
Submitted By: Paul Jay Kelley

07/10/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #745
Submitted By: Paul Jay Kelley
Target Analyte: Total
Target Analyte: zidua
Target Analyte: volunteer
PPLS Labels: [042750-00072-20200520.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/042750-00072-20200520.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/042750-00072-20200520.pdf
[070506-00310-20220323.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/070506-00310-20220323.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/070506-00310-20220323.pdf
[007969-00374-20211116.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/007969-00374-20211116.pdf
Attachments: File 128395; total.pdf
File 128396; volunteer.pdf
File 128397; zidua.pdf

10/04/2023 **Received Residue Lab Report** Current
Investigatory Summary

Sample #24-4-0285 7 (vegetation from target field) shows detection amounts from a direct application. Sample #24-4-02267 4 (vegetation from disputed off target ditch turf) shows detection levels similar to that of a direct application.

First Page of Lab Report

OCM Collection #	272215	Investigator	KELLEYJ		
Collection Date	07/10/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0283 5	Veg; Ctrl; OFF-T	Veg	Glufosinate	BDL ppb	13 ppb
			MPP	BDL ppb	6 ppb
			Pyroxasulfone	BDL ppb	0.7 ppb
23-4-0284 2	Soil; Comp; 0-2"; Target	Soil	Glufosinate	30.9 ppb	8 ppb
			MPP	36.8 ppb * Results reported as minimum detected.	4 ppb
			Pyroxasulfone	168 ppb	0.7 ppb
23-4-0285 7	Veg; Comp; Target	Veg	Glufosinate	4380 ppb	13 ppb
			MPP	873 ppb	6 ppb
			Pyroxasulfone	165 ppb * Estimated amount	0.7 ppb
23-4-0286 1	Soil; Comp; 0-2"; OFF-T	Soil	Glufosinate	BQL ppb	8 ppb
			MPP	33.4 ppb * Results reported as minimum detected.	4 ppb
			Pyroxasulfone	63.1 ppb	0.7 ppb

Original Event: Residue Lab Report #279944 (272215-R1712)
 Submitted By: SYSTEM
 Lab Report: Lab Report 272215-R1712.pdf

10/19/2023 **Investigation Activity**
Activity

Label language for Total Herbicide states in part, "Avoid direct spray or..."

Original Event: Investigation Activity (Pesticide) #6845
 Subject: Joshua James Andrew Shelley
 Submitted By: Paul Jay Kelley

10/19/2023 **Investigation Activity**
Activity

Label language for Volunteer states in part, "DO NOT allow VOLUNTEER to contact desirable grass crops including corn, rice, sorghum, small grains, or turf, as these and other grass crops will be injured or killed."

Original Event: Investigation Activity (Pesticide) #6846
 Subject: Joshua James Andrew Shelley
 Submitted By: Paul Jay Kelley

10/25/2023 **Judgement; Civil Penalty Assessed**
Citation

Co Alliance Cooperative Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with desirable vegetation. Consideration was given to the fact this was their first violation of similar nature and Co Alliance Cooperative Inc cooperated during the investigation.

Civil Penalty

Joshua James Andrew Shelley was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with 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 this was his first violation of similar nature and he cooperated during the investigation.

Original Event: Judgement #1604
 Primary: Co Alliance Cooperative Inc
 Secondary: Joshua James Andrew Shelley
 Submitted By: George Saxton
 Legal Citation: IC 15-16-5-65(2)
 Penalty Amount: 400

11/20/2023 **Notice of Enforcement Mailed to Target**

A copy of Joshua Shelley's enforcement letter was also included.

Original Event: Outgoing Mail #2856
To: Co Alliance Cooperative Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1758
Enclosed: Notice of Enforcement
Enclosed: Notice of Enforcement
Attachments: File 137913; PS23-0237EL CIT - CP Mitigated ~ Joshua James Andrew Shelley - CoAlliance Cooperative - Copy.docx
File 137912; PS23-0237EL CIT ~ CoAlliance Cooperative.docx

11/20/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2857
To: Joshua James Andrew Shelley
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1765
Enclosed: Notice of Enforcement
Attachments: File 137914; PS23-0237EL CIT - CP Mitigated ~ Joshua James Andrew Shelley - CoAlliance Cooperative.docx

11/27/2023 **Requested Item(S) Mailed to Subject**

All complaints, regulatory or licensing enforcement actions for Co-Alliance Cooperative, Inc., or one of its employees are to be cc'd and sent to Elizabeth A. South as Registered Agent, at Co-Alliance's Legal Service Address, as follows:

Co-Alliance Cooperative, Inc.
Attn: Elizabeth A. South, V.P. & General Counsel
770 North High School Road
Indianapolis, Indiana 46214

Original Event: Outgoing Mail #2911
To: Co-Alliance Cooperative Inc
Submitted By: Jacob A. Hatfield
Enclosed: Requested Item(s)
Attachments: File 138129; PS23-0237 - Co Alliance and Joshua Shelley Enforcement Copy to Elizabeth South Email.pdf

11/27/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2338
Subject: Co Alliance Cooperative Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1758
Received: 11/27/2023
Attachments: File 138427; CM 7021 2720 0003 1615 1758 - Co-Alliance Cooperative, Inc. - PS23-0237 - Received 11-27-2023.pdf

11/27/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2339
Subject: Joshua James Andrew Shelley
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1765
Received: 11/27/2023
Attachments: File 138428; CM 7021 2720 0003 1615 1765 - Joshua James Andrew Shelley - PS23-0237 - Received 11-27-2023.pdf

01/09/2024 **Received Penalty Payment for Target**

Original Event: Compliance Receipt #2383
Subject: Joshua James Andrew Shelley
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 139776; PS23-0237 - Joshua James Andrew Shelley - CP Received 1-9-2024.pdf

01/22/2024 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #3035
To: Jeremy Eugene Mason
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139778; PS23-0237 - Jeremy E. Mason - Case Closed Letter 1-22-2024.docx

01/22/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3036
To: Co Alliance Cooperative Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139779; PS23-0237 - Co Alliance Cooperative, Inc - Case Closed Letter 1-22-2024.docx

01/22/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3037
To: Joshua James Andrew Shelley
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139780; PS23-0237 - Joshua James Andrew Shelley - Case Closed Letter 1-22-2024.docx

01/22/2024 **Notice of Case Closure Mailed to Subject**

An email was sent to Elizabeth South, VP & General Counsel for Co-Alliance, notifying her the case has been closed.

Original Event: Outgoing Mail #3038
To: Co-Alliance Cooperative Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139793; OISC Case #PS23-0237 Email to Elizabeth South - Co-Alliance - Summitville and Joshua Shelley - Case Closed 1-22-2024.pdf

Chain of Custody

07/10/2023 **Sample 23-4-0283 5**

Original Event: Chain of Custody #7557 (23-4-0283 5)
07/10/2023 09:19: Sample Collected by Paul Jay Kelley
07/11/2023 09:52: Sample Delivered to Kylo
07/11/2023 10:26: Delivery Affirmed by Vicki L. Vauters

07/10/2023 **Sample 23-4-0284 2**

Original Event: Chain of Custody #7558 (23-4-0284 2)
07/10/2023 09:19: Sample Collected by Paul Jay Kelley
07/11/2023 09:52: Sample Delivered to Kylo
07/11/2023 10:26: Delivery Affirmed by Vicki L. Vauters

07/10/2023 **Sample 23-4-0285 7**

Original Event: Chain of Custody #7559 (23-4-0285 7)
07/10/2023 09:19: Sample Collected by Paul Jay Kelley
07/11/2023 09:52: Sample Delivered to Kylo
07/11/2023 10:26: Delivery Affirmed by Vicki L. Vauters

07/10/2023 **Sample 23-4-0286 1**

Original Event: Chain of Custody #7560 (23-4-0286 1)
07/10/2023 09:19: Sample Collected by Paul Jay Kelley
07/11/2023 09:52: Sample Delivered to Kylo
07/11/2023 10:26: Delivery Affirmed by Vicki L. Vauters

07/10/2023 **Sample 23-4-0287 4**

Original Event: Chain of Custody #7561 (23-4-0287 4)
07/10/2023 09:19: Sample Collected by Paul Jay Kelley
07/11/2023 09:52: Sample Delivered to Kylo
07/11/2023 10:26: Delivery Affirmed by Vicki L. Vauters

This record was generated on **January 26, 2024, 09:13 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

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 **January 26, 2024, 10:20 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 PS23-0266

Department	Pesticide
Originated	07/14/2023
Assigned To	Andrew R. Roth
Status	Closed

Involved Parties

Complainant	Wade C Isnogle Ossian, IN 46777
Respondent	G & T SVCS Inc New Haven, IN 46774
Respondent	Robert A Lake New Haven, IN 46774

Overviews

11/06/2023 Investigation Summary

I responded to a complaint of off-target herbicide movement from a railroad right-of-way to a soybean field farmed by Wade Isnogle. Dead, stunted and cupped soybeans were observed in a swath extending from a low area in the right-of-way into the Isnogle field. Soybean samples were collected for the Plant & Pest Diagnostic Lab (PPDL) at Purdue. Soil and soybean plants were collected for analysis by the OISC Residue Lab.

It was determined Rob Lake of G & T Services sprayed the right-of-way with Esplanade, Method and Roundup in April.

The PPDL indicated the symptoms on soybeans were consistent with exposure to herbicides. The OISC Residue Lab detected herbicide active ingredients applied to the right-of-way in the soil and soybean plants collected from the non-target field.

Submitted By: Andrew R. Roth
Role: Investigator

11/09/2023 Disposition Summary

G & T SVCS Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with desirable vegetation. Consideration was given to the fact G & T SVCS Inc cooperated during the investigation and no restricted use pesticides were involved. Consideration was also given to the fact there was an adverse effect and this was their second violation of similar nature. See case number PS21-0131.

Robert A. Lake was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with 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 Mr. Lake cooperated during the investigation and no restricted use pesticides were involved. Consideration was also given to the fact there was an adverse effect and this was his second violation of similar nature. See case number PS21-0131.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

07/13/2023 Intake Referral Filed

Complainant stated a herbicide application made to the railroad right-of-way injured his Enlist soybeans.

Original Event: Intake Referral (Pesticide) #3143
Complainant: Wade C Isnogle
Respondent: HD Machines LLC
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

07/14/2023 **Case Created**

Original Event: Case PS23-0266
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

07/19/2023 **Investigator Met with Complainant Interaction**

On July 11, Wade Isnogle called me to report his soybeans were again adversely affected by what he believed was runoff from a herbicide application made to the railroad right-of-way adjacent to his field. The OISC investigated two previous complaints at the site. I advised him to call the OISC to provide intake information.

On July 14, I contacted Mr. Isnogle to inform him a case was created and that I would conduct the on-site investigation after the weekend. Because I was familiar with the site, Mr. Isnogle stated he did not need to be present for my on-site investigation.

On July 19, I went to the Isnogle field on the north side of CR1050 North in Wells County. The field of Enlist soybeans was bordered to the east by the railroad right-of-way. North of the crossing at the road, a culvert under the rail bed allowed surface water from the east side of the railway to move to the west side of the tracks. A swath of affected soybeans extended to the southwest into the field from a low area on the west side of the right-of-way. Soybean plants in that area of the field were dead or were stunted and exhibited cupped leaves. I photographed the site and collected soybean plants for assessment by the Plant & Pest Diagnostic Lab (PPDL) at Purdue. I also collected the following samples for analysis by the OISC Residue Lab:

- control soybean plants from the west (unimpacted) side of the field
- soybean plants from the impacted swath in the field
- control soil from the west (unimpacted) side of the field
- soil from the impacted swath in the field
- soil from the target area near the culvert in the right-of-way

Photographs

Photos from the site and an aerial photo of the field.

Attachments



File 137400



File 129508



File 129509



File 129510



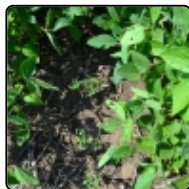
File 129511



File 129512



File 129513



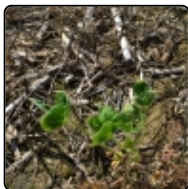
File 129514



File 129515



File 129516



File 129517



File 129518



File 129519

Original Event: Investigation Activity (Pesticide) #6520
Subject: Wade C Isnogle
Submitted By: Andrew R. Roth

07/19/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1719
Client: Wade C Isnogle
Firm Representative: Wade Isnogle
Submitted By: Andrew R. Roth

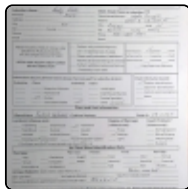
Photos:



File 129522

07/19/2023 **External Lab Sample Collected**

Original Event: External Lab Sample Collection #273118 (X23-49D6E7)
Client: Wade C Isnogle
Submitted By: Andrew R. Roth
Lab: Purdue Plant and Pest Diagnostic Laboratory
Sample: X23-49D6E7 | I collected Enlist soybeans from the Isnogle field for assessment by the PPDL.
Photos:



File 129523

07/19/2023 **Residue Samples Collected**

Original Event: Residue Collection #273119 (23-4-0801 2)
Client: Wade C Isnogle
Submitted By: Andrew R. Roth
Sample: 23-4-0801 2 | Veg; Ctrl; OFF-T
Sample: 23-4-0802 0 | Veg; Comp; OFF-T
Sample: 23-4-0803 1 | Soil; Ctrl; 0-2"; OFF-T
Sample: 23-4-0804 9 | Soil; Comp; 0-2"; OFF-T
Sample: 23-4-0805 4 | Soil; Comp; 0-2"; Target

07/20/2023 **New Respondent Identified**
Respondent Identified

I contacted HD Machines, the licensed contractor Norfolk Southern previously utilized to spray the railway. After some research, a manager reported that HD Machines no longer sprays for Norfolk Southern in the northern portion of Indiana. I contacted Norfolk Southern and it was determined G&T Services, a licensed pesticide business, made the application to the railway adjacent to the Isnogle field.

Original Event: Investigation Change #380
Respondent: G & T SVCS Inc
Submitted By: Andrew R. Roth

07/20/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #756
Submitted By: Andrew R. Roth
Target Analyte: Method 240 SL
Target Analyte: Esplanade 200SC
Target Analyte: Roundup Pro
PPLS Labels: [000432-01516-20220921.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000432-01516-20220921.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000432-01516-20220921.pdf
[000432-01565-20221028.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000432-01565-20221028.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000432-01565-20221028.pdf
[000524-00549-20230406.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20230406.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000524-00549-20230406.pdf

07/21/2023 **Investigator Called Business**
Communication

On July 21, I spoke with Mike Voelker, with G & T Services, and informed him of the complaint. He confirmed G & T has the contract for the railroad right-of-way at the site. I emailed Mr. Voelker a Pesticide Investigation Inquiry for the application.

Records

On August 1, I received application information from Mr. Voelker which indicated the railroad right-of-way at the site was sprayed on April 13 with a tank mix containing Esplanade 200SC (EPA Reg#432-1516), active ingredient indaziflam, Method 240SL (EPA Reg#432-1565), active ingredient aminocyclopyrachlor, and Roundup Pro (EPA Reg#524-529), active ingredient glyphosate. The information provided listed the applicators as Mr. Voelker and Rob Lake, both licensed certified applicators. In a subsequent correspondence, Mr. Voelker clarified that his name was meant to be listed as supervisor and that Mr. Lake made the application.

Attachments

File 134740; 23-0266ApplInfo.pdf

Original Event: Investigation Activity (Pesticide) #6530
Subject: G & T SVCS Inc
Submitted By: Andrew R. Roth

07/27/2023 Received External Lab Report

The symptoms (cupped soybean leaves and whitish leaf tips) and the pattern of injury are consistent with herbicide runoff. Herbicides such as aminopyralid, clopyralid, and dicamba can all cause this type of injury in soybeans.
Marcelo Zimmer

The foliar symptoms are suggestive of a growth regulator exposure. The roots and crown have discoloration suggestive of root rot, which could be occurring due to water retention in low spots, but could also be exacerbated due to herbicide exposure and plant stress. These symptoms and any root rot issues would not cause leaf deformation like that seen on the sample.
John Bonkowski

Original Event: External Lab Report #274047 (X23-49D6E7)
Submitted By: Andrew R. Roth
Sample: X23-49D6E7
Attachments: File 130214; 23-0266PPDLFinalReport.pdf

09/21/2023 Received Residue Lab Report Current Investigatory Summary

The OISC Residue Lab analyzed the samples for indaziflam, active ingredient in Esplanade 200SC, and aminocyclopyrachlor, active ingredient in Method 240SL.

- Neither analyte was detected in the control samples (soil and soybeans) collected from the west side of the field.
- Aminocyclopyrachlor was detected in the soybeans collected from the impacted swath in the Isnogle field.
- Aminocyclopyrachlor and indaziflam were detected in the soil collected from the Isnogle field.
- Both analytes were also detected in the soil collected from the target area.

The lab results support that the herbicide active ingredients applied to the right-of-way moved off-target to the Isnogle soybean field.

First Page of Lab Report

OCM Collection #	273119	Investigator	ROTHA		
Collection Date	07/19/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-0801 2	Veg; Ctr; OFF-T	Veg	Aminocyclopyrachlor	BDL ppb	1 ppb
			Indaziflam	BDL ppb	0.3 ppb
23-4-0802 0	Veg; Comp; OFF-T	Veg	Aminocyclopyrachlor	13.3 ppb	1 ppb
			Indaziflam	BDL ppb	0.3 ppb
23-4-0803 1	Soil; Ctr; 0-2"; OFF-T	Soil	Aminocyclopyrachlor	BDL ppb	0.2 ppb
			Indaziflam	BDL ppb	0.3 ppb
23-4-0804 9	Soil; Comp; 0-2"; OFF-T	Soil	Aminocyclopyrachlor	2.11 ppb	0.2 ppb
			Indaziflam	8.20 ppb	0.3 ppb
23-4-0805 4	Soil; Comp; 0-2"; Target	Soil	Aminocyclopyrachlor	17.5 ppb	0.2 ppb
			Indaziflam	250 ppb	0.3 ppb

Original Event: Residue Lab Report #278504 (273119-R1693)
Submitted By: SYSTEM
Lab Report: Lab Report 273119-R1693.pdf

11/06/2023 Online Investigation Activity

Label Use

The evidence at the site, the lab results and the application information collected in this case support an incident of off-target movement of herbicides from the right-of-way to the non-target Isnogle soybean field.

The Esplanade 200SC label reads, in part, "Do not apply in situations where the soil can be easily washed, blown, or moved onto cropland or land containing desirable vegetation."

Method 240SL labels reads, in part, "Do not apply this product if site-specific characteristics and conditions exist that could contribute to movement and unintended root zone exposure to desirable trees or vegetation, unless injury or loss can be tolerated." It further states, "Do not apply or otherwise permit this product or sprays containing this product to come into contact with any non- target crop or desirable vegetation."

Attachments

File 137402; ESPLANADE 200 SC.pdf

File 137403; METHOD 240SL HERBICIDE.pdf

Original Event: Investigation Activity (Pesticide) #6902
Submitted By: Andrew R. Roth

11/09/2023 Judgement; Civil Penalty Assessed

Citation

G & T SVCS Inc was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with desirable vegetation. Consideration was given to the fact G & T SVCS Inc cooperated during the investigation and no restricted use pesticides were involved. Consideration was also given to the fact there was an adverse effect and this was their second violation of similar nature. See case number PS21-0131.

Civil Penalty

Robert A. Lake was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding contact with 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 Mr. Lake cooperated during the investigation and no restricted use pesticides were involved. Consideration was also given to the fact there was an adverse effect and this was his second violation of similar nature. See case number PS21-0131.

Original Event: Judgement #1613
Primary: G & T SVCS Inc
Secondary: Robert ALake
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 400

11/21/2023 Notice of Enforcement Mailed to Target

A copy of Robert Lake's enforcement letter also was included.

Original Event: Outgoing Mail #2877
To: G & T SVCS Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1925
Enclosed: Notice of Enforcement
Enclosed: Notice of Enforcement
Attachments: File 137990; PS23-0266EL CIT - CP Mitigated ~ Robert A. Lake - G T Svcs - Copy.docx
File 137988; PS23-0266EL CIT ~ G & T Services, Inc..docx

11/21/2023 Notice of Enforcement Mailed to Target

Original Event: Outgoing Mail #2878
To: Robert ALake
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1932
Enclosed: Notice of Enforcement
Attachments: File 137989; PS23-0266EL CIT - CP Mitigated ~ Robert A. Lake - G & T Svcs.docx

12/04/2023 Received Penalty Payment for Target

Original Event: Compliance Receipt #2335
Subject: Robert ALake
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 138414; PS23-0266 - Robert A. Lake - CP Received 12-4-2023.pdf

01/10/2024 Mail Confirmation Assumed for Target

As of January 10, 2024, certified mail card has not been returned to OISC. According USPS tracking it was delivered on November 27, 2023, therefore it is assumed to have been received.

Original Event: Compliance Receipt #2379
Subject: G & T SVCS Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1925
Attachments: File 139403; CM 7021 2720 0003 1615 1925 G & T Services, Inc. - PS23-0266 - USPS Proof of Delivery 11-27-2023.pdf

01/10/2024 **Mail Confirmation Assumed for Target**

As of January 10, 2024, regular mail has not been returned to OISC. It is assumed to have been received.

Original Event: Compliance Receipt #2380
Subject: G & T SVCS Inc
Submitted By: Jacob A. Hatfield

01/10/2024 **Mail Confirmation Assumed for Target**

As of January 10, 2024, certified mail card has not been returned to OISC. According USPS tracking it was delivered on November 27, 2023, therefore it is assumed to have been received.

Original Event: Compliance Receipt #2381
Subject: Robert ALake
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1932
Attachments: File 139404; CM 7021 2720 0003 1615 1932 - Robert A. Lake - PS23-0266 - USPS Proof of Delivery 11-27-2023.pdf

01/10/2024 **Mail Confirmation Assumed for Target**

As of January 10, 2024, regular mail has not been returned to OISC. However, Mr. Lake has paid his civil penalty, therefore, regular mail is assumed to have been received.

Original Event: Compliance Receipt #2382
Subject: Robert ALake
Submitted By: Jacob A. Hatfield

01/17/2024 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #3005
To: Wade C Isnogle
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139618; PS23-0266 - Wade C. Isnogle - Case Closed Letter 1-17-2024.docx

01/17/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3006
To: G & T SVCS Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139619; PS23-0266 - G & T Services, Inc. - Case Closed Letter 1-17-2024.docx

01/17/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3007
To: Robert ALake
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139620; PS23-0266 - Robert A. Lake - Case Closed Letter 1-17-2024.docx

Chain of Custody

07/20/2023 **Sample 23-4-0801 2**

Original Event: Chain of Custody #7798 (23-4-0801 2)
07/19/2023 12:00: Sample Collected by Andrew R. Roth
07/20/2023 12:12: Sample Delivered to kylo
07/24/2023 10:12: Delivery Affirmed by Vicki L. Vauters

07/20/2023 **Sample 23-4-0802 0**

Original Event: Chain of Custody #7799 (23-4-0802 0)
07/19/2023 12:00: Sample Collected by Andrew R. Roth
07/20/2023 12:12: Sample Delivered to kylo
07/24/2023 10:12: Delivery Affirmed by Vicki L. Vauters

07/20/2023 **Sample 23-4-0803 1**

Original Event: Chain of Custody #7800 (23-4-0803 1)
07/19/2023 12:00: Sample Collected by Andrew R. Roth
07/20/2023 12:12: Sample Delivered to kylo
07/24/2023 10:12: Delivery Affirmed by Vicki L. Vauters

07/20/2023 **Sample 23-4-0804 9**

Original Event: Chain of Custody #7801 (23-4-0804 9)
07/19/2023 12:00: Sample Collected by Andrew R. Roth
07/20/2023 12:12: Sample Delivered to kylo
07/24/2023 10:12: Delivery Affirmed by Vicki L. Vauters

07/20/2023 **Sample 23-4-0805 4**

Original Event: Chain of Custody #7802 (23-4-0805 4)
07/19/2023 12:00: Sample Collected by Andrew R. Roth
07/20/2023 12:12: Sample Delivered to kylo
07/24/2023 10:12: Delivery Affirmed by Vicki L. Vauters

This record was generated on **January 26, 2024, 10:20 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 **January 26, 2024, 10:22 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 PS23-0294

Department	Pesticide
Originated	08/02/2023
Assigned To	Aaron P. Kreider
Status	Closed

Involved Parties

Complainant	Morghan Brown Cutler, IN 46920
Respondent	Daltons Inc Syracuse, IN 46567
Respondent	Jeffery D Hamilton North Webster, IN 46555
Accused	INCIDENTAL Dee A Humbarger Delphi, IN 46923

Overviews

11/08/2023 **Investigation Summary**

The ditch on Mrs. Browns property where the application took place, is a ditch maintained by Carroll County. The Carroll County Surveyors Office contracted The Daltons Inc to perform a vegetation control application. The affected vegetation appeared to be only in the right-of-way where the application took place. Based on the evidence, Mr. Hamilton's application was not in violation. Mr. Hamilton did violate the Garlon XRT and Escort XP labels by not wearing long sleeves.

Submitted By: Aaron P. Kreider
Role: Investigator

11/10/2023 **Disposition Summary**

Jeffery D. Hamilton was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. No other violation was documented.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

08/01/2023 **Intake Referral Filed**

Complainant stated she observed Dee Humbarger spray something down both sides of a path on her property as well as spray her sapling trees. Complainant stated she photographed the application made on July 30, 2023, by a tractor pulling a tank attachment.

Original Event: Intake Referral (Pesticide) #3172
Complainant: Morgan Brown
Respondent: Dee A Humbarger
Submitted By: Joseph D. Becovitz
Assigned To: Aaron P. Kreider

08/02/2023 **Case Created**

Original Event:
Submitted By:
Assigned To:

Case PS23-0294
Joseph D. Becovitz
Aaron P. Kreider

08/04/2023 **Investigator Called Complainant
Communication**

On August 4, 2023, I contacted Morghan Brown regarding her complaint. Mrs. Brown stated she has a waterway on the south side of her property that she believes was sprayed by the person who farms the adjacent field. She stated she witnessed the application on July 30, 2023. Mrs. Brown stated she had pictures she could provide. She stated her small trees along with blackberries were affected by the application.

Photographs

Following our conversation, Mrs. Brown sent me the following photographs. They show the application on July 30, 2023, the affected area on August 3, 2023, and a before and after comparison photograph. In the photographs of the applicator, he appears to be wearing a short sleeve shirt.

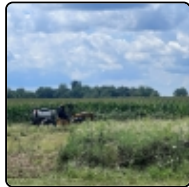
Attachments



File 133160



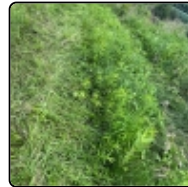
File 133161



File 133162



File 133173



File 133163



File 133164



File 133165



File 133166



File 133167



File 133168



File 133169



File 133170



File 133171



File 133172

Original Event:
Subject:
Submitted By:

Investigation Activity (Pesticide) #6669
Morgan Brown
Aaron P. Kreider

08/07/2023 **Investigator Met with Complainant
Interaction**

On August 7, 2023, I met with Mrs. Brown at her residence. I had her show me the area that she believed was sprayed. There were trees and blackberry bushes that appeared to be growing abnormally. I was able to identify another blackberry bush on-site that appeared to be growing normally.

Communication

Mrs. Brown contacted me after our initial conversation to inform me she contacted the Carroll County Surveyors Office. She stated they informed her the ditch on her property was a county maintained ditch and they sent her a letter in March saying they were going to have it sprayed. Mrs. Brown stated she was informed the right-of-way for the ditch is 75 feet from the top of the ditch.

Photographs

During my on-site investigation, I collected the following photographs. Figure 1 shows the ditch where the application took place. Figures 2 and 3 show the injury that caused Mrs. Brown's complaint. Figure 4 shows a blue barrel in the center of the photograph. Everything to the left of the blue barrel falls into the 75 foot right-of-way.

Figure 1 (File 133185)



Figure 2 (File 133188)



Figure 3 (File 133192)



Figure 4 (File 133204)



Attachments

File 133174; DSC_0001.JPG
File 133175; DSC_0002.JPG
File 133176; DSC_0003.JPG
File 133177; DSC_0004.JPG
File 133178; DSC_0005.JPG
File 133179; DSC_0006.JPG
File 133180; DSC_0007.JPG
File 133181; DSC_0008.JPG
File 133182; DSC_0009.JPG
File 133183; DSC_0010.JPG
File 133184; DSC_0011.JPG
File 133186; DSC_0013.JPG
File 133187; DSC_0014.JPG
File 133189; DSC_0016.JPG
File 133190; DSC_0017.JPG
File 133191; DSC_0018.JPG
File 133193; DSC_0020.JPG
File 133194; DSC_0021.JPG
File 133195; DSC_0022.JPG
File 133196; DSC_0023.JPG
File 133197; DSC_0024.JPG
File 133198; DSC_0025.JPG
File 133199; DSC_0026.JPG
File 133200; DSC_0027.JPG
File 133201; DSC_0028.JPG
File 133202; DSC_0029.JPG
File 133203; DSC_0030.JPG
File 133205; DSC_0032.JPG
File 133206; DSC_0033.JPG
File 133207; DSC_0034.JPG
File 133208; DSC_0035.JPG

Original Event: Investigation Activity (Pesticide) #6670
Subject: Morgan Brown
Submitted By: Aaron P. Kreider

08/07/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1770
Client: Morgan Brown
Firm Representative: Morghan Brown
Submitted By: Aaron P. Kreider
Attachments: File 133209; NOI (M. Brown).pdf

08/07/2023 **Investigator Called Subject Communication**

On August 7, 2023, I contacted the Carroll County Surveyors Office and spoke with the county surveyor Don Shockley. Mr. Shockley informed me The Daltons Inc made the application to the ditch on Mrs. Brown's property. He stated the application took place the previous week and consisted of a broadleaf herbicide. He confirmed the application right-of-way was 75 feet from the top of the ditch bank. Mr. Shockley confirmed Mrs. Brown was sent a letter on March 15, 2023 informing her the application was going to take place.

Original Event: Investigation Activity (Pesticide) #6873
Submitted By: Aaron P. Kreider

08/07/2023 **Location Diagram Activity**

This diagram shows the layout of the complainant's property and the ditch where the application took place.

Location Diagram (File 137501)



Original Event: Investigation Activity (Pesticide) #6913
Submitted By: Aaron P. Kreider

10/30/2023 **Investigator Called Target Communication**

On October 30, 2023, I contacted Brad Bolinger from The Daltons Inc regarding Mrs. Brown's complaint. I informed him the photographs Mrs. Brown provided appear to show the applicator not wearing long sleeves. Mr. Bolinger stated he supplies his employees with long-sleeve shirts to be worn during applications.

Original Event: Investigation Activity (Pesticide) #6874
Subject: Daltons Inc
Submitted By: Aaron P. Kreider

10/30/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1857
Client: Daltons Inc
Firm Representative: Brad Bolinger
Submitted By: Aaron P. Kreider
Attachments: File 136986; NOI (B. Bolinger - The Daltons).pdf

11/01/2023 **Investigator Received Fax/Email from Target Investigation Inquiry**

On November 1, 2023, I received a Pesticide Investigation Inquiry (PII) from Angie Huston on behalf of Mr. Bolinger. The reported wind data shows winds were blowing away from Mrs. Brown's property.

Attachments
File 137251; PS23-0294 PII (The Daltons Inc).pdf

Inquiry Overview

Certified Applicator Jeffery Hamilton (F24926)
Company The Daltons Inc
Application Type Commercial
Target Field Ditch (Ball-Brookie #100)

Tank Mix

Product	EPA	Rate
Garlon XRT	62719-553	1 qt/100 gal
Escort XP	432-1549	2 oz/100 gal
IMPROVE (Surfactant)		1 pt/100 gal
CONTROL (Drift Retardant)		3 oz/100 gal

Application Date

Date	Start	End
07/30/2023	7:00 AM	6:00 PM

Air Conditions

Time	Temp	Direction	Speed
Start	69°F	WNW	3mph
End	84°F	WNW	14mph

Original Event: Investigation Activity (Pesticide) #6895
Subject: Daltons Inc
Submitted By: Aaron P. Kreider
PPLS Labels: [000432-01549-20210224.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000432-01549-20210224.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000432-01549-20210224.pdf
[062719-00553-20200515.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00553-20200515.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00553-20200515.pdf

11/02/2023 Investigation Activity Label Use

The Garlon XRT label states, "**Applicators and other handlers who handle this pesticide must wear: Long-sleeved shirt and long pants.**" The Escort XP label states, "**Applicators and other handlers must wear: Long-sleeved shirt and long pants.**"

Attachments

File 137253; Escort XP Label.pdf
File 137252; Garlon XRT Label.pdf

Original Event: Investigation Activity (Pesticide) #6896
Submitted By: Aaron P. Kreider
PPLS Labels: [000432-01549-20210224.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000432-01549-20210224.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000432-01549-20210224.pdf
[062719-00553-20200515.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/062719-00553-20200515.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/062719-00553-20200515.pdf

11/02/2023 Wind Data Researched

This weather data shows conditions during the application start and end times listed on the PII. It confirms what was reported on the PII and that winds were blowing away from Mrs. Brown's property.

Purdue University Airport

West Lafayette, Indiana (20.02 miles W of site)

Time	Temp (°F)	Direction	Speed (mph)	Gust (mph)
6:54 AM	65	CALM	0	0
7:54 AM	69	CALM	0	0
8:54 AM	74	VAR	3	0
9:54 AM	76	VAR	5	0
10:54 AM	78	W	5	0
11:54 AM	80	WNW	5	0
12:54 PM	82	WNW	9	0
1:54 PM	80	W	8	0
2:54 PM	83	NW	9	0
3:54 PM	83	NW	13	0
4:54 PM	82	WNW	11	0
5:54 PM	80	N	11	0
6:54 PM	78	N	8	0

Original Event: Wind Data #192
Submitted By: Aaron P. Kreider
Date of Weather: 07/30/2023

11/10/2023 **Judgement; Warning** **Warning**

Jeffery D. Hamilton was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. No other violation was documented.

Original Event: Judgement #1615
Primary: Jeffery D Hamilton
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)

11/21/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2875
To: Jeffery D Hamilton
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1949
Enclosed: Notice of Enforcement
Attachments: File 137966; PS23-0294EL WRN ~ Jeffery D. Hamilton - Daltons Inc.docx

11/27/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2345
Subject: Jeffery D Hamilton
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1949
Received: 11/27/2023
Attachments: File 138434; CM 7021 2720 0003 1615 1949 - Jeffery D. Hamilton - PS23-0294 - Received 11-27-2023.pdf

01/17/2024 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #3010
To: Morghan Brown
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139623; PS23-0294 - Morghan Brown - Case Closed Letter 1-17-2024.docx

01/17/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3011
To: Daltons Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139624; PS23-0294 - Daltons Inc. - Case Closed Letter 1-17-2024.docx

01/17/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3012
To: Jeffery D Hamilton
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139625; PS23-0294 - Jeffery D. Hamilton - Case Closed Letter 1-17-2024.docx

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 **January 26, 2024, 10:22 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 **January 26, 2024, 10:24 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 PS23-0312

Department	Pesticide
Originated	08/19/2023
Assigned To	Elizabeth C. Carter
Status	Closed

Involved Parties

Complainant	Julie Mast Nappanee, IN 46550
Respondent	Agri Flite SVCS Inc Wakarusa, IN 46573
Applicator	Benjamin John Brazier Wakarusa, IN 46573

Overviews

09/22/2023 **Investigation Summary**

On August 19, 2023, Mrs. Julie Mast contacted the Office of the Indiana State Chemist (OISC) to report an aerial application drifted onto her and her property when she was working in her garden.

On August 22, 2023, I met with Mrs. Mast. She submitted a formal written statement. It stated in part, "*I was in my flower garden picking flowers for my flower business, Blooms on 800 when I felt spray contact my body. There was a slight wind coming from the North, too windy to spray that day in my opinion.*" During my interview with Mrs. Mast, she reiterated that she, "*felt a mist and could smell it.*" After the incident, she saved her shirt in a plastic bag. She stated she remembered this recommendation from the last time she called our office. When I asked her why it took so long to contact us and file a formal complaint, she explained she had been busy with her flower business and opening a new location in town. I then took photos of the property and collected swabs, vegetation and clothing (Mast shirt and scarecrow hat) for the OISC Residue Lab.

It was reported on the Pesticide Investigation Inquiry (PII) that Ben Brazier applied Miravis Neo (EPA Registration: 100-1605, AI: Pydiflumetofen, Azoxystrobin, and Propiconazole) and Warrior II with Zeon (EPA reg: 100-1295, AI: cyhalothrin) on July 21, 2023, between 7:06 AM and 10 AM to the neighboring corn field. On the PII, the wind was reported as blowing 3-8 mph out of the north and southwest. The wind data provided on the PII is similar to the three weather stations nearby except, they all reported the wind was blowing from the north/ northwest during the application time period. This means the wind would have been blowing from the point of application toward the complainant's property.

The OISC Residue Lab found all 4 active ingredients/ pesticides applied by Brazier on the shirt worn by Mrs. Mast and the scarecrow hat. Additionally, swabs of the greenhouse window and the barn support over spray/ drift.

The Warrior II with Zeon label stated in part, "*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.*"

Submitted By: Elizabeth C. Carter
Role: Investigator
Drift: Confirmed

09/29/2023 **Disposition Summary**

Agri Flite SVCS 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 site and to people. Consideration was given to the fact a restricted use pesticide was involved. Consideration was also given to the fact this was Agri Flite's first violation of similar nature.

Benjamin John Brazier 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 site and to people. 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 Agri Flite cooperated during the investigation and this was Benjamin John Brazier's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

08/19/2023 Intake Referral Filed

Complainant stated she was working in her garden on July 21, 2023, when an aerial application drifted onto her and her property.

Original Event: Intake Referral (Pesticide) #3190
Complainant: Julie Mast
Respondent: Agri Flite SVCS Inc
Submitted By: Joseph D. Becovitz
Assigned To: Elizabeth C. Carter

08/19/2023 Case Created

Original Event: Case PS23-0312
Submitted By: Joseph D. Becovitz
Assigned To: Elizabeth C. Carter

08/22/2023 Investigator Met with Complainant Interaction

On August 22, 2023, I met with Mrs. Julie Mast regarding her aerial drift/ human exposure complaint. Mrs. Mast submitted to me a formal written statement. It stated in part, *"On July 21, 2023, at 8:35 AM, I was in my flower garden picking flowers for my flower business, Blooms on 800 when I felt spray contact my body. There was a slight wind coming from the North, too windy to spray that day in my opinion. Not only did I get sprayed but the spray also landed on the vehicles in my driveway, and there is a photo to prove it. Getting sprayed hasn't been the first time for me but I'm tired of it getting on my property and myself so I'm taking the next step."* (Mrs. Mast's full statement is attached below.)

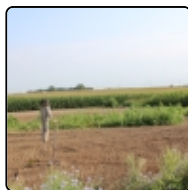
The corn field, where the application occurred, is north of the Mast property, and the vegetable garden and flowerbeds are east of the home. Mrs. Mast reported being in the vegetable/ melon garden when she got sprayed. She stated that she, *"felt a mist and could smell it."* Mrs. Mast went onto say that after the application, she saved her shirt in a plastic bag. She stated she remembered this recommendation from last time she called our office. When I asked her why it took so long to contact us and file a formal complaint, she explained she had been busy with her flower business and opening a new location in town.

Upon examining the property, I took photos and collected swabs, vegetation and clothing for the OISC Residue Lab.

Attachments



File 132607



File 132608



File 132609



File 132610



File 132611



File 132612



File 132613



File 132601

Original Event: Investigation Activity (Pesticide) #6647
Subject: Julie Mast
Submitted By: Elizabeth C. Carter

08/22/2023 Residue Samples Collected

Original Event: Residue Collection #276380 (23-4-1299 9)
Client: Julie Mast
Submitted By: Elizabeth C. Carter
Sample: 23-4-1299 9 | Clothing; Comp; Shirt; OFF-T
Sample: 23-4-1300 7 | Clothing; Grab; OFF-T
Sample: 23-4-1301 1 | Swab (Acetone); Trip Blank
Sample: 23-4-1302 4 | Swab (Acetone); Ctrl; front of house
Sample: 23-4-1303 0 | Swab (Acetone); Grab; OFF-T
Sample: 23-4-1304 8 | Swab (Acetone); Grab; OFF-T
Sample: 23-4-1305 3 | Veg; Grab; OFF-T, Garden
Sample: 23-4-1306 9 | Veg; Grab; Target

08/22/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1766
Client: Julie Mast
Firm Representative: Julie Mast
Submitted By: Elizabeth C. Carter
Photos:



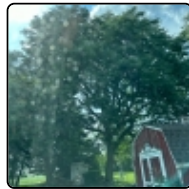
File 132605

08/22/2023 **Complainant Sent Text Message to Investigator**

Photographs

This the photo and video submitted by Mrs. Mast. Mrs. Mast reported the photo was from inside her vehicle looking out through windshield.

Attachments



File 132624

File 132871; IMG_2847.mp4

Original Event: Investigation Activity (Pesticide) #6653
Subject: Julie Mast
Submitted By: Elizabeth C. Carter

08/22/2023 **Lab Advised of Target Analytes**

Original Event: Residue Collections Follow Up #779
Submitted By: Elizabeth C. Carter
Target Analyte: Warrior II with Zeon
Target Analyte: Miravis Neo
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
[000100-01605-20230427.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01605-20230427.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-01605-20230427.pdf

09/08/2023 **Investigator Sent Fax/Email to Applicator**
Communication

On September 8, 2023, I emailed Mr. Eby the PII and NOI for this case.

Original Event: Investigation Activity (Pesticide) #6692
Subject: Agri Flite SVCS Inc
Submitted By: Elizabeth C. Carter

09/08/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1781
Client: Agri Flite SVCS Inc
Firm Representative: Dave Eby
Submitted By: Elizabeth C. Carter
Photos:



File 133814

09/08/2023 **Investigation Activity**
Activity

This is the sampling diagram/ aerial image from the Mast property.

Attachments



File 133815

Original Event: Investigation Activity (Pesticide) #6693
Submitted By: Elizabeth C. Carter

09/12/2023 **Investigator Received Fax/Email from Applicator**
Investigation Inquiry

This PII was emailed to me by Janet Flora on September 12, 2023. Mrs. Flora reported that the owner of Agri Flite, Dave Eby, completed and signed the paperwork because the applicator Ben Brazier, is now back in Australia.

Attachments

File 134483; PS23-0312 PII returned.pdf

Inquiry Overview

Certified Applicator Ben Brazier
Supervisor Dave Eby
Company Agri Flite
Target Field 'Parks' corn field

Tank Mix

Product **EPA**
Miravis Neo 100-1605
Warrior II with Zeon 100-1295

Application Date

Date **Start** **End**
07/21/2023 7:06 AM 10:26 AM

Original Event: Investigation Activity (Pesticide) #6729
Subject: Benjamin John Brazier
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/000100-01295-20141113.pdf
[000100-01605-20230427.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/000100-01605-20230427.pdf)
https://www3.epa.gov/pesticides/chem_search/ppls/000100-01605-20230427.pdf

09/15/2023 **Received Residue Lab Report** Current

Investigatory Summary

These are OISC Residue Lab results. Residue was found in both the shirt worn by Mrs. Mast and the scarecrow hat. Additionally the swab of the greenhouse window along with the swab of the barn facing the field support drift/over spray.

First Page of Lab Report

OCM Collection #	276380	Investigator	CARTERE		
Collection Date	08/22/2023				
Sample #	Sample Description	Matrix	Analyte	Amount of Analyte	LOQ
23-4-1299 9	Clothing; Comp; Shirt; OFF-T	Clothing	Azoxystrobin	7510 ng/clothing	4 ng/clothing
			Cyhalothrin	22200 ng/clothing	100 ng/clothing
			Propiconazole	54300 ng/clothing	400 ng/clothing
			Pydiflumetofen	36200 ng/clothing	8 ng/clothing
23-4-1300 7	Clothing; Grab; OFF-T	Clothing	Azoxystrobin	568 ng/clothing	4 ng/clothing
			Cyhalothrin	668 ng/clothing	100 ng/clothing
			Propiconazole	2860 ng/clothing	400 ng/clothing
			Pydiflumetofen	1200 ng/clothing	8 ng/clothing
23-4-1301 1	Swab (Acetone); Trip Blank	Swab (Acetone)	Azoxystrobin	BDL ng/swab	0.2 ng/swab
			Cyhalothrin	BDL ng/swab	5 ng/swab
			Propiconazole	BDL ng/swab	20 ng/swab
			Pydiflumetofen	BDL ng/swab	0.4 ng/swab
23-4-1302 4	Swab (Acetone); Ctrl; front of house	Swab (Acetone)	Azoxystrobin	5.37 ng/swab	0.2 ng/swab
			Cyhalothrin	8.00 ng/swab	5 ng/swab
			Propiconazole	BDL ng/swab	20 ng/swab
			Pydiflumetofen	7.83 ng/swab	0.4 ng/swab

Original Event: Residue Lab Report #278219 (276380-R1679)
 Submitted By: SYSTEM
 Lab Report: Lab Report 276380-R1679.pdf

09/18/2023 **Investigator Sent Fax/Email to Applicator Communication**

This is the email I sent to Mr. Brazier regarding the paperwork submitted on his behalf by the owner of Agri Flite, Dave Eby. Mr. Brazier is supposed to respond by September 25.

Attachments



File 134484

Original Event: Investigation Activity (Pesticide) #6730
 Subject: Benjamin John Brazier
 Submitted By: Elizabeth C. Carter

09/18/2023 **Wind Data Researched**

According to the weather data, the wind was blowing approximately 3-7 mph from the north/ northwest during the application time period. This means the wind would have been blowing from the point of application toward the complainant's property. This data is similar to what was submitted on the PII.

Warsaw airport (ASW)

Warsaw, Indiana (8 miles SE of site)

Time Direction Speed (mph)

8:55 NW 6

Goshen Airport GSH

Goshen, Indiana (15 miles NE of site)

Time Direction Speed (mph)

8:53 NW 5

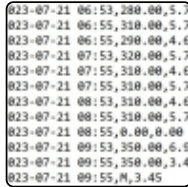
Plymouth airport (C65)

plymouth, Indiana (17 miles W of site)

Time Direction Speed (mph)

7:55 NW 6

Attachments



023-07-21 06:53,280.00,5.7
023-07-21 06:55,310.00,5.7
023-07-21 06:55,290.00,4.6
023-07-21 07:53,320.00,5.7
023-07-21 07:55,310.00,4.6
023-07-21 07:55,310.00,5.7
023-07-21 08:53,310.00,4.6
023-07-21 08:55,310.00,5.7
023-07-21 08:55,0.00,0.00
023-07-21 09:53,350.00,6.9
023-07-21 09:55,350.00,3.4
023-07-21 09:55,M,3.45

File 134496

Original Event: Wind Data #182
Submitted By: Elizabeth C. Carter
Date of Weather: 07/21/2023

09/19/2023 Investigator Received Fax/Email from Applicator Communication

On September 19, 2023, Mr. Brazier, the aerial applicator, acknowledged the information on the PII submitted by his employer, Dave Eby, was accurate. Mr. Brazier had returned to Australia, hence Eby submitting the form on his behalf.

Attachments



File 134847

Original Event: Investigation Activity (Pesticide) #6754
Subject: Benjamin John Brazier
Submitted By: Elizabeth C. Carter

09/22/2023 Investigation Activity Warrior II with Zeon

The Warrior II with Zeon label stated in part, "*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.*"

Original Event: Investigation Activity (Pesticide) #6755
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/000100-01295-20141113.pdf

09/28/2023 Judgement; Civil Penalty Assessed Citation

Agri Flite SVCS 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 site and to people. Consideration was given to the fact a restricted use pesticide was involved. Consideration was also given to the fact this was Agri Flite's first violation of similar nature.

Civil Penalty

Benjamin John Brazier 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 site and to people. 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 Agri Flite cooperated during the investigation and this was Benjamin John Brazier's first violation of similar nature. Consideration was also given to the fact a restricted use pesticide was involved.

Original Event: Judgement #1588
Primary: Agri Flite SVCS Inc
Secondary: Benjamin John Brazier
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)
Penalty Amount: 1000

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

Original Event: Outgoing Mail #2776
To: Benjamin John Brazier
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1505
Enclosed: Notice of Enforcement
Attachments: File 136583; PS23-0312EL CIT - CP Mitigated ~ Benjamin J. Brazier.docx

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

Original Event: Outgoing Mail #2777
To: Agri Flite SVCS Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1499
Enclosed: Notice of Enforcement
Attachments: File 136582; PS23-0312EL CIT ~ Agri Flite Services.docx

10/19/2023 **Notice of Enforcement Mailed to Target**

George was informed that Mr. Brazier has moved to Australia. Therefore, a PDF copy of the enforcement letter was sent to Mr. Brazier's email, at brazier51@bigpond.com.

Original Event: Outgoing Mail #2778
To: Benjamin John Brazier
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Enforcement
Attachments: File 136608; PS23-0312 - Benjamin J. Brazier - Enforcement Email - 10-19-2023.pdf
File 136611; PS23-0312EL CIT - CP Mitigated ~ Benjamin J. Brazier.pdf

10/19/2023 **Mail Confirmation Assumed for Target**

Compliance has not received a "read receipt" for Mr. Brazier. According to Outlook, the email was delivered on October 19, 2023, therefore, it is assumed to have been received.

Original Event: Compliance Receipt #2298
Subject: Benjamin John Brazier
Submitted By: Jacob A. Hatfield
Attachments: File 137508; PS23-0312 - Benjamin J. Brazier - Email Delivery Notification 10-19-2023.pdf

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

Original Event: Compliance Receipt #2297
Subject: Benjamin John Brazier
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1505
Received: 10/25/2023
Attachments: File 137507; CM 7021 2720 0003 1615 1505 - Benjamin J. Brazier - PS23-0312 - Proof of Delivery 10-25-2023.pdf
File 137506; CM 7021 2720 0003 1615 1505 - Benjamin J. Brazier - PS23-0312 - Received 10-25-2023.pdf

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

Original Event: Compliance Receipt #2299
Subject: Agri Flite SVCS Inc
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1499
Received: 10/25/2023
Attachments: File 137510; CM 7021 2720 0003 1615 1499 - Agri Flite Services, Inc. - PS23-0312 - Proof of Delivery 10-25-2023.pdf
File 137509; CM 7021 2720 0003 1615 1499 - Agri Flite Services, Inc. - PS23-0312 - Received 10-25-2023.pdf

11/27/2023 **Compliance Activity**

I received an email from Denise Eby of AgriFlite indicating that they did not want to dispute the case or ask for a formal hearing but after the first of the year, they would like to get together to talk about this case.

Original Event: Compliance Activity #1987
Primary: Agri Flite SVCS Inc
Submitted By: George Saxton
Attachments: File 138122; 230312.pdf

12/06/2023 **Received Penalty Payment for Target**
Original Event: Compliance Receipt #2349
Subject: Benjamin John Brazier
Submitted By: Jacob A. Hatfield
Payment Expected: \$400.00
Payment Received: \$400.00
Attachments: File 138707; PS23-0312 - Benjamin J. Brazier - CP Received 12-6-2023.pdf

12/12/2023 **Notice of Case Closure Mailed to Complainant**
Original Event: Outgoing Mail #2933
To: Julie Mast
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138708; PS23-0312 - Julie Mast - Case Closed Letter 12-12-2023.docx

12/12/2023 **Notice of Case Closure Mailed to Target**
Original Event: Outgoing Mail #2934
To: Agri Flite SVCS Inc
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138709; PS23-0312 - Agri Flite Services, Inc. - Case Closed Letter 12-12-2023.docx

12/12/2023 **Notice of Case Closure Mailed to Target**
Original Event: Outgoing Mail #2935
To: Benjamin John Brazier
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138710; PS23-0312 - Benjamin J. Brazier - Case Closed Letter 12-12-2023.docx

Chain of Custody

08/22/2023 **Sample 23-4-1299 9**
Original Event: Chain of Custody #8377 (23-4-1299 9)
08/22/2023 10:00: Sample Collected by Elizabeth C. Carter
08/23/2023 08:54: Sample Delivered to Kylo
08/23/2023 11:37: Delivery Affirmed by Vicki L. Vauters

08/22/2023 **Sample 23-4-1300 7**
Original Event: Chain of Custody #8378 (23-4-1300 7)
08/22/2023 10:00: Sample Collected by Elizabeth C. Carter
08/23/2023 08:54: Sample Delivered to Kylo
08/23/2023 11:37: Delivery Affirmed by Vicki L. Vauters

08/22/2023 **Sample 23-4-1301 1**
Original Event: Chain of Custody #8379 (23-4-1301 1)
08/22/2023 10:00: Sample Collected by Elizabeth C. Carter
08/23/2023 08:54: Sample Delivered to Kylo
08/23/2023 11:37: Delivery Affirmed by Vicki L. Vauters

08/22/2023 **Sample 23-4-1302 4**
Original Event: Chain of Custody #8380 (23-4-1302 4)
08/22/2023 10:00: Sample Collected by Elizabeth C. Carter
08/23/2023 08:54: Sample Delivered to Kylo
08/23/2023 11:37: Delivery Affirmed by Vicki L. Vauters

08/22/2023 **Sample 23-4-1303 0**
Original Event: Chain of Custody #8381 (23-4-1303 0)
08/22/2023 10:00: Sample Collected by Elizabeth C. Carter
08/23/2023 08:54: Sample Delivered to Kylo
08/23/2023 11:37: Delivery Affirmed by Vicki L. Vauters

08/22/2023 **Sample 23-4-1304 8**
Original Event: Chain of Custody #8382 (23-4-1304 8)
08/22/2023 10:00: Sample Collected by Elizabeth C. Carter
08/23/2023 08:54: Sample Delivered to Kylo
08/23/2023 11:37: Delivery Affirmed by Vicki L. Vauters

08/22/2023 **Sample 23-4-1305 3**

Original Event:	Chain of Custody #8383 (23-4-1305 3)
08/22/2023 10:00:	Sample Collected by Elizabeth C. Carter
08/23/2023 08:54:	Sample Delivered to Kylo
08/23/2023 11:37:	Delivery Affirmed by Vicki L. Vauters

08/22/2023 **Sample 23-4-1306 9**

Original Event:	Chain of Custody #8384 (23-4-1306 9)
08/22/2023 10:00:	Sample Collected by Elizabeth C. Carter
08/23/2023 08:54:	Sample Delivered to Kylo
08/23/2023 11:37:	Delivery Affirmed by Vicki L. Vauters

This record was generated on **January 26, 2024, 10:24 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 **January 26, 2024, 10:25 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 PS23-0316

Department	Pesticide
Originated	08/25/2023
Assigned To	Andrew R. Roth
Status	Closed

Involved Parties

Complainant	Merv Leffler Gas City, IN 46933
Respondent	Unknown
Respondent	Shane Dakin Gas City, IN 46933

Overviews

10/18/2023 Investigation Summary

I responded to a complaint at the property of Merv Leffler who reported his neighbor sprayed herbicide along the property line and killed grass on his side of the fence.

The pattern of dead grass along the fence extended a short distance into the Leffler lawn.

I spoke with neighbor, Shane Dakin, who confirmed he sprayed along the fence and unintentionally affected some grass across the property line.

Submitted By: Andrew R. Roth
Role: Investigator

10/24/2023 Disposition Summary

Shane Dakin was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding direct spray or drift onto desirable Plants, Lawn Grasses, Shrubs and Trees. Consideration was given to the fact Shane Dakin cooperated during the investigation and this was his first violation of similar nature.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

08/24/2023 Intake Referral Filed

Complainant stated his neighbor applied a herbicide in April or May of 2023 along a common fenceline killing grass about a foot onto the complainant's property.

Original Event: Intake Referral (Pesticide) #3194
Complainant: Merv Leffler
Respondent: Unknown
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

08/25/2023 Case Created

Original Event: Case PS23-0316
Submitted By: Joseph D. Becovitz
Assigned To: Andrew R. Roth

08/28/2023 **Investigator Met with Complainant Interaction**

On August 25, I spoke with Merv Leffler who reported a neighbor, who lives adjacent to a home he owns at 906 South H Street in Gas City, sprayed along a fence and killed grass on his side of the property line. He indicated he owns the properties on the north and east sides of the neighbor and described a history of poor relations between the two.

On August 28, I met Mr. Leffler at the site. He indicated he put up a hog fence on the property line after previous incidents between he and the neighbor, Shane Dakin. Mr. Leffler indicated he believed the fence line was first sprayed in April. While discussing the incident with Mr. Leffler, Mr. Dakin, who was mowing his lawn, got off the mower and approached the property line. The two then exchanged words and I told Mr. Dakin I would talk to him when I was done speaking with Mr. Leffler. During the exchange, Mr. Dakin indicated he had sprayed along the fence and unintentionally got some of the spray on the Leffler side of the fence.

The metal hog fence ran the length of the Dakin east property line behind his residence. From the back corner, it ran approximately halfway to the road to the west on the property line which separated the residential lawns. Grass was dead in a continuous pattern along the base of the fence but had irregular edges with some of the grass on the Leffler side of the fence affected. It should be noted that grassy weeds had emerged and were growing in several spots within the dead area.

I then went next door and spoke with Mr. Dakin, who confirmed there was a history with Mr. Leffler. He indicated he sprayed along the fence to keep from having to trim the grass and weeds when they grew up in the fence. Mr. Dakin then showed me a container of Hi-Yield Super Concentrate Killz-All Weed & Grass Killer (EPA Reg#7401-451), active ingredient glyphosate, which he applied to the fence line. He also showed me an empty container of Ortho Ground Clear Weed & Grass Killer Super Concentrate (EPA Reg#73327-18-239), active ingredients diquat dibromide, fluzafop, and dicamba. Mr. Dakin stated he had sprayed the fence line with each product once since the spring. He stated he would get grass seed for the dead areas if needed.

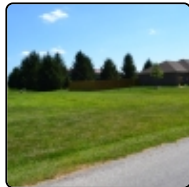
Photographs

Photos of the site and an aerial photo.

Attachments



File 135863



File 133326



File 133327



File 133329



File 133331



File 133332



File 133334



File 133335



File 133336



File 133337



File 133338



File 133339

Original Event: Investigation Activity (Pesticide) #6673
Subject: Merv Leffler
Submitted By: Andrew R. Roth

08/28/2023 **Notice of Inspection Issued**

Original Event: Notice of Inspection #1772
Client: Merv Leffler
Firm Representative: Merv Leffler
Submitted By: Andrew R. Roth
Photos:



File 133340

08/28/2023 **New Respondent Identified**

Respondent Identified
On August 28, while conducting the on-site investigation, I spoke with Shane Dakin who reported he sprayed along the fence on the property line.

Original Event: Investigation Change #412
Respondent: Shane Dakin
Submitted By: Andrew R. Roth

09/12/2023 **Complainant Called Investigator Communication**

On September 12, Mr. Leffler called with questions about reseeding the dead area. Based on the herbicides reportedly applied and the visible weed regrowth during the on-site investigation, I explained that raking and reseeding, and possibly adding some soil, would likely suffice.

Original Event: Investigation Activity (Pesticide) #6812
Subject: Merv Leffler
Submitted By: Andrew R. Roth

10/03/2023 **Investigator Received Fax/Email from Subject Communication**

On October 3, I received an email from Capri Dakin, the wife of Shane Dakin, in which she requested a copy of the case report. She indicated she received a letter from an attorney representing Mr. Leffler regarding repair work for the site. Mrs. Dakin indicated she received the letter after she had reseeded the area. I informed her the case had not been concluded and a report had not yet been generated.

Original Event: Investigation Activity (Pesticide) #6813
Subject: Shane Dakin
Submitted By: Andrew R. Roth

10/18/2023 **Online Investigation Activity Hi Yield super Concentrate Killzall**

Based on the visual evidence and information obtained at the site, the herbicide applied to the fence line by Mr. Dakin affected grass on the Leffler side of the property line. While Mr. Dakin indicated he did not intend for the spray to get on the Leffler property and the area was reportedly reseeded, the Hi Yield Super Concentrate Killzall label reads, in part, "Avoid direct spray or drift onto desirable Plants, Lawn Grasses, Shrubs and Trees."

Attachments

File 136548; HI-YIELD SUPER CONCENTRATE KILLZALL.pdf

Original Event: Investigation Activity (Pesticide) #6840
Submitted By: Andrew R. Roth

10/24/2023 **Judgement; Warning Warning**

Shane Dakin was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding direct spray or drift onto desirable Plants, Lawn Grasses, Shrubs and Trees. Consideration was given to the fact Shane Dakin cooperated during the investigation and this was his first violation of similar nature.

Original Event: Judgement #1601
Primary: Shane Dakin
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)

11/03/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2805
To: Shane Dakin
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1673
Enclosed: Notice of Enforcement
Attachments: File 137326; PS23-0316EL WRN ~ Shane Dakin.docx

11/20/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2337
Subject: Shane Dakin
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1673
Received: 11/20/2023
Attachments: File 138426; CM 7021 2720 0003 1615 1673 - Shane Dakin - PS23-0316 - Received 11-20-2023.pdf

12/14/2023 **Notice of Case Closure Mailed to Complainant**

Original Event: Outgoing Mail #2952
To: Merv Leffler
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138835; PS23-0316 - Merv Leffler - Case Closed Letter 12-14-2023.docx

12/14/2023 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #2953
To: Shane Dakin
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 138836; PS23-0316 - Shane Dakin - Case Closed Letter 12-14-2023.docx

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 **January 26, 2024, 10:25 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 **January 26, 2024, 10:26 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 PS23-0330

Department	Pesticide
Originated	09/15/2023
Assigned To	Kevin W. Gibson
Status	Closed

Involved Parties

Complainant	Anonymous
Respondent	Justin Wayne Fox Berne, IN 46711
-	Helena Agri-Enterprises LLC Coldwater, OH 45828

Overviews

11/14/2023 Investigation Summary

Anonymous complaint to OISC wrote Justin Fox was operating as Midwest Acres and purchased restricted use pesticides using the private applicator permit of John Fox(PA38184) and distributed them without the required restricted use dealer registration. A subsequent investigation determined Mr. Fox purchased **Atrazine 4F** from an agricultural company in Coldwater, Ohio in 2022 which he applied to his farm. Further investigation revealed an invoice from his company Midwest Acres showed the sale of 265 gallons of restricted use pesticide **Xtendimax** (EPA#264-1210; active ingredient: dicamba) on 4/27/22 to a customer in Geneva, Indiana. Mr. Fox admitted he sold the **Xtendimax** without a **Restricted Use Sales** permit to do so. He reported he did not sell any other restricted use pesticides.

Submitted By: Kevin W. Gibson
Role: Investigator

11/22/2023 Disposition Summary

Justin Wayne Fox was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically I.C. 15-16-5-57, for unknowingly distributing a restricted use pesticide without having a restricted use dealer permit. Consideration was given to the fact this was Mr. Fox's first violation of similar nature.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

09/13/2023 Intake Referral Filed

Anonymous complainant wrote Justin Fox operating as Midwest Acres has purchased restricted use pesticides using the private applicator permit of John Fox(PA38184) and distributed them without the required restricted use dealer registration.

Original Event: Intake Referral (Pesticide) #3209
Complainant: Anonymous
Respondent: Justin Wayne Fox
Submitted By: Joseph D. Becovitz
Assigned To: Kevin W. Gibson
Attachments: File 134274; Fox Midwest Acres using John Fox pesticide license number.pdf
File 134273; Fox sworn affidavit.pdf

09/15/2023 Case Created

Original Event: Case PS23-0330
Submitted By: Joseph D. Becovitz
Assigned To: Kevin W. Gibson

09/25/2023 **Investigator Called Business Interaction**

I spoke to Helena Agri-Enterprises of Coldwater Ohio manager Steve Knapke. Because his company sold restricted use pesticides (RUP) to Midwest Acres in Indiana, I requested his business's RUP sales permit. Without hesitation he agreed to send a copy. I then explained there was a possibility Midwest Acres owner/operator Justin Fox may have sold those items in Indiana without a RUP sales permit. Mr. Knapke agreed to send any other sales records involving Midwest Acres.

Attachments

File 134969; Helena RUP Permit.pdf

Original Event: Investigation Activity (Pesticide) #6772
Subject: Helena Agri-Enterprises LLC
Submitted By: Kevin W. Gibson

09/26/2023 **Investigator Met with Business Interaction**

OISC Fertilizer agents Craig Taft and Danny Starke and I met with respondent Justin Fox at his farm. After explaining the anonymous complaint, Mr. Fox told us he had a pending lawsuit and all the requested records were with his attorney. He did tell us he purchased some pesticides from Helena Agri located in Coldwater, Ohio. He denied he purchased any Restricted Use Pesticides (RUP) from them in 2023 as our invoice indicated. When I told him we had a copy of the invoice, he stated it was fake. He said he did purchase RUPs in 2022. I asked him the name of the product he applied. He said he applied **Acuron** (EPA#100-1466; active ingredients: mesotrione, metolachlor, atrazine, bicyclopyrone) and the **Atrazine 4F** (EPA#100-497-5905; active ingredient; atrazine) to his own farm under the supervision of his father John Fox's private applicator's license. I learned from OISC Licensing Section John Fox had a valid private applicator's license at the time of the application(s). OISC laws/rules allowed Justin Fox to make a restricted use pesticide application under the supervision of his father John Fox. In further discussion with Justin Fox, I learned his company (Midwest Acres) sold an RUP (**Xtendimax) **during the 2022 calendar year. He said it was the only RUP he sold through Midwest Acres. He has since closed that business. He told me he would send me a copy of the invoice for the sale of Xtendimax**** (EPA#264-1210; active ingredient: dicamba).

Attachments

File 135042; Pesticides sales invoice from Helena.pdf

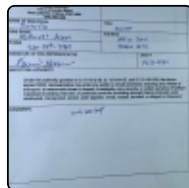
Original Event: Investigation Activity (Pesticide) #6774
Subject: Justin Wayne Fox
Submitted By: Kevin W. Gibson

09/26/2023 **Notice of Inspection Issued**

I issued a Notice of Inspection (NOI) to respondent Justin Fox.

Original Event: Notice of Inspection #1809
Client: Justin Wayne Fox
Firm Representative: Justin Fox
Submitted By: Kevin W. Gibson

Photos:



File 135043

09/27/2023 **Investigator Called Business Interaction**

I spoke to Helena Agri-Enterprises manager Steve Knapke by telephone. He told me the invoice I had in my possession for the purposes of the OISC case, was actually a "re-billed" invoice from 2022. He said respondent Justin Fox had not paid for the chemicals he received in 2022, so Helena billed Mr. Fox again 4/10/23. I learned from OISC Licensing Section Helena Agri-Enterprises had a valid permit to sell Restricted Use Pesticides in Indiana for 2022.

Attachments

File 135260; 2022 Invoice from Helena.pdf

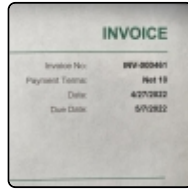
Original Event: Investigation Activity (Pesticide) #6789
Subject: Helena Agri-Enterprises LLC
Submitted By: Kevin W. Gibson

10/27/2023 **Business Sent Text Message to Investigator**

Interaction

After several request for a Midwest Acres invoice showing the sale of restricted use pesticide Xtendimax, respondent Justin Fox sent the invoice via text message. The invoice shows the sale of 265 gallons of restricted use pesticide **Xtendimax** (EPA #264-1210; active ingredient: dicamba) on 4/27/22 to a customer in Geneva, Indiana. Mr. Fox admitted he sold the Xtendimax without a Restricted Use Sales permit to do so. He did not tell me from where he purchased the **Xtendimax** that was sold.

Attachments



File 136982



File 136983

Original Event: Investigation Activity (Pesticide) #6871
Subject: Justin Wayne Fox
Submitted By: Kevin W. Gibson

11/22/2023 **Judgement; Warning** **Warning**

Justin Wayne Fox was warned for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically I.C. 15-16-5-57, for unknowingly distributing a restricted use pesticide without having a restricted use dealer permit. Consideration was given to the fact this was Mr. Fox's first violation of similar nature.

Original Event: Judgement #1616
Primary: Justin Wayne Fox
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(6)

11/30/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2923
To: Justin Wayne Fox
Submitted By: Jacob A. Hatfield
USPS: 7020 3160 0001 0012 5813
Enclosed: Notice of Enforcement
Attachments: File 138438; PS23-0330EL WRN ~ Justin Wayne Fox.docx

12/06/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2359
Subject: Justin Wayne Fox
Submitted By: Jacob A. Hatfield
USPS: 7020 3160 0001 0012 5813
Received: 12/06/2023
Attachments: File 138934; CM 7020 3160 0001 0012 5813 - Justin W. Fox - PS23-0330 - Received 12-6-2023.pdf

01/17/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3021
To: Justin Wayne Fox
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139637; PS23-0330 - Justin W. Fox - Case Closed Letter 1-17-2024.docx

01/17/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3022
To: Helena Agri-Enterprises LLC
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139640; PS23-0330 - Helena Agri-Enterprises LLC - Case Closed Letter 1-17-2024.docx

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 **January 26, 2024, 10:26 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 **January 26, 2024, 10:27 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 PS24-0008

Department	Pesticide
Originated	10/10/2023
Assigned To	Elizabeth C. Carter
Status	Closed

Involved Parties

Complainant	Office of Indiana State Chemist
Respondent	Fair Oaks Orchard Fair Oaks, IN 47943

Overviews

10/13/2023 Investigation Summary

On October 10, 2023, I performed a routine Worker Protection Standards (WPS) inspection at Fair Oaks Orchard in Fair Oaks, Indiana. I spoke with orchard manager and Private Applicator, Matt Kallemeyn.

During the course of the inspection, I learned that employee, Casey Wilson, had applied Captan Gold 80 WDG (EPA reg: 66222-58, active ingredient: captan) and Indar (EPA reg: 62719-416, active ingredient: fenbuconazole) on August 1, 2023. Worker tasks (lawn mowing) had occurred in the pesticide treatment area within thirty days of the expired Restricted Entry Interval (REI). The Captan Gold 80 WDG label contained a section entitled "Agricultural Use Requirements" which stated, "Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170".

I then asked about WPS training and record keeping. Mr. Kallemeyn reported that he and Mr. Wilson had Private Applicator licenses, but none of the 3 workers/ mowers had been WPS trained. Further, I observed/ learned that there was no central display with SDS's or the required WPS poster. Additionally, Mr. Kallemeyn and Wilson had not been FIT tested or medically evaluated to wear a respirator. I then spent some time explaining WPS and how to comply. I also provided some paperwork and online resources.

Submitted By: Elizabeth C. Carter
Role: Investigator

10/17/2023 Disposition Summary

Fair Oaks Orchard was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. Consideration was given to the fact this was their first violation of similar nature and no restricted use pesticides were involved.

Submitted By: George Saxton
Role: Compliance Officer

Chronology of Events

10/10/2023 Intake Referral Filed

During a routine Worker Protection Standard Inspection (WPS), violations were identified.

Original Event: Intake Referral (Pesticide) #3284
Complainant: Office of Indiana State Chemist
Respondent: Fair Oaks Orchard
Entered By: Elizabeth C. Carter
Submitted By: Joseph D. Becovitz

10/10/2023 Notice of Inspection Issued

Original Event: Notice of Inspection #1834
Client: Fair Oaks Orchard
Firm Representative: Matt Kallenmeyn
Submitted By: Elizabeth C. Carter
Photos:



File 136275

10/10/2023 **Worker Protection Standard Inspection Conducted**

Application Protections

One skull and crossbone product in storage but plan to dispose of at next Clean Sweep.

Pesticide Safety Training

The two handlers are both private applicators, but the 3-4 workers have not been trained.

Central Posting

There was no Central Display at time of inspection.

Notice of Application

One of the pesticides, Captan, required double notification. Only oral notification was occurring.

Entry Restrictions

There were no EE events. Applicators do keep workers out during REI.

Personal Protective Equipment

I advised that the 2 handlers needed FIT testing and medical evaluation.

Original Event: Worker Protection Standard #200
Client: Fair Oaks Orchard
Firm Representative: Matt Kallenmeyn
Submitted By: Elizabeth C. Carter

10/10/2023 **Investigator Met at Location**

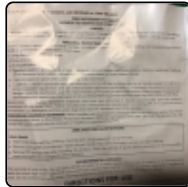
Photographs

These are pictures of the Captan Gold 80 WDG label.

Attachments



File 136276



File 136277



File 136278

Original Event: Investigation Activity (Pesticide) #6832
Submitted By: Elizabeth C. Carter

10/10/2023 **Case Created**

Original Event: Case PS24-0008
Submitted By: Joseph D. Becovitz
Assigned To: Elizabeth C. Carter

10/17/2023 **Judgement; Warning
Warning**

Fair Oaks Orchard was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements. Consideration was given to the fact this was their first violation of similar nature and no restricted use pesticides were involved.

Original Event: Judgement #1596
Primary: Fair Oaks Orchard
Submitted By: George Saxton
Legal Citation: IC 15-16-5-65(2)

11/20/2023 **Notice of Enforcement Mailed to Target**

Original Event: Outgoing Mail #2855
To: Fair Oaks Orchard
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1659
Enclosed: Notice of Enforcement
Attachments: File 137911; PS24-0008EL WRN ~ Fair Oaks Orchard.docx

11/30/2023 **Received Mail Confirmation for Target**

Original Event: Compliance Receipt #2360
Subject: Fair Oaks Orchard
Submitted By: Jacob A. Hatfield
USPS: 7021 2720 0003 1615 1659
Received: 11/30/2023
Attachments: File 138935; CM 7021 2720 0003 1615 1659 - Fair Oaks Orchard - PS24-0008 - Received 11-30-2023.pdf

01/17/2024 **Notice of Case Closure Mailed to Target**

Original Event: Outgoing Mail #3025
To: Fair Oaks Orchard
Submitted By: Jacob A. Hatfield
Enclosed: Notice of Case Closure
Attachments: File 139690; PS24-0008 - Fair Oaks Orchard - Case Closed Letter 1-17-2024.docx

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 **January 26, 2024, 10:27 AM EST**. Information displayed may contain errors or omissions.
Official records may only be obtained directly from the Office of Indiana State Chemist.