

# CASE SUMMARY

Case#2004/0250

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

**Business:** Home Depot  
2430 Laporte Avenue  
Valparaiso, IN 46383

1. On April 7, 2004, I conducted a routine registered consultant and marketplace inspection of the Home Depot at the address listed above.
2. I first entered the store and went to the pesticide section. I asked an employee named Carolyn the best product for the control of grubs. The employee stated that she had only been working in that department for a few days and proceeded to review the pesticide products on the shelf to assist me. The employee then showed me the product I would need to use to control grubs. No signs were posted in this section stating that employees had been trained in pesticide products.
3. I then spoke to Store Manager, Carlos Alas. I displayed credentials to Mr. Alas and issued a Notice of Inspection. I explained to Mr. Alas the requirements for giving pesticide advise and needing to have a Registered Consultant business license. Mr. Alas stated that he was unaware of all the requirements needed, but did think that employees were supposed to go through some kind of training. I gave Mr. Alas documents indicating the Registered Consultant rule, training program criteria and signs that are required to be posted.
4. Mr. Alas was very cooperative during my inspection and assured me that they would take steps to resolve this issue immediately.

**Disposition:** Home Depot was cited for violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to follow the rule regarding registered consultants. A civil penalty in the amount of \$250.00 was assessed for this violation.

  
Scott M. Farris  
Pesticide Investigator

Date: September 2, 2004

# CASE SUMMARY

Case#2004/0280

**Complainant:** Donna McKee  
711 N. Lancelot Drive  
Marion, IN 46952

**Business:** Poor Boys Tree Service  
3715 S. Boots  
Marion, IN 46953  
Phillip Young II

1. On April 19, 2004, this office received information that Phillip Young II of Poor Boys Tree Service was possibly offering to perform pesticidal applications to tree service customers without an Indiana pesticide business license. The information indicated on customer invoices was that Poor Boys Tree Service would use Diazinon to treat for ants.
2. On May 3, 2004, I met with Phillip Young, owner of Poor Boys Tree Service at the Lowe's Building Materials store in Marion. Mr. Young was shown credentials and issued a Notice of Inspection (N.O.I.). Mr. Young informed me that he does not make pesticide applications and that he was aware you had to have a license. Mr. Young did state that he occasionally will apply **Grant's Ant Killer Stakes (EPA Reg. #1663-15; Active Ingredient: Arsenic Trioxide)** if he sees a problem, but that he never charges the customer for the applications. Mr. Young and I entered the Lowe's and he showed me the Grant's Ant Killer product that he has used. I informed Mr. Young that this product is a pesticide and he is not licensed to apply this product in conjunction with any other paid service for a customer.
3. I questioned Mr. Young about the information provided on his invoices. Mr. Young stated that if Diazinon was found on his invoices, it would be because the customer had requested it and was only a notation. Mr. Young stated that he did not make any pesticide application using Diazinon and did not think you could even buy it anymore. Mr. Young also stated that he always gives his only copy of the invoice to the customer so that they would be able to get in contact with him if a problem arose. Mr. Young also stated that I should speak to the neighbor across the street from Ms. McKee who is a police officer, to verify his information. Mr. Young stated that he had told them that he was not licensed to apply pesticides and had recommended them to someone else. I again informed Mr. Young that he cannot apply any type of pesticide for hire or profess to be a pesticide application business without first obtaining a pesticide business license. Information on how to obtain a business license was given to Mr. Young.
4. On May 3, 2004, I met with Donna McKee at her home. Ms. McKee was shown credentials and issued an N.O.I.. Ms. McKee stated that Poor Boys Tree Service had stopped at her home and asked if she needed a tree in her yard trimmed. Ms. McKee stated that she had agreed to the work and had also been told by Poor Boys that she had an ant infestation and they would treat for the ants also. Ms. McKee provided an invoice issued to her by Poor Boys which indicated the use of the pesticide Diazinon would be used to treat for the ants.

Ms. McKee stated that she had observed Poor Boys trim a few dead branches from the tree and did not apply anything for the ants they told her she had. Ms. McKee informed me that she later learned that Poor Boys Tree Service did not have a pesticide business license and stopped payment on her check. Ms. McKee informed me that she was now being sued by Mr. Young for three (3) times the amount of the price originally charged to her by Mr. Young. Ms. McKee further stated that at least two (2) of her neighbors also had work done by Poor Boys and directed me to those neighbors' homes. Ms. McKee stated that she had never heard of the pesticide Diazinon and Ms. McKee signed an EPA Affidavit to the facts of her statement.

5. I then met with Ms. McKee's neighbor, Helen Bryant. Ms. Bryant was shown credentials and issued an N.O.I. Ms. Bryant also stated that Poor Boys had informed her that she had an ant infestation and offered to treat for them. Ms. Bryant stated that she had not requested any specific pesticide be used for the treatment of ants and stated she had never heard of the pesticide Diazinon. Ms. Bryant also stated that she did not observe Poor Boys apply anything and had only trimmed her tree. Ms. Bryant provided me with a copy of her invoice from Poor Boys and signed an EPA Affidavit to the facts of her statement.
6. I then met with neighbors, Megan and Dan Jefferies. Credentials were shown and an N.O.I. was issued. Mr. Jefferies is a police officer and lives directly across the street from Ms. McKee. Mr. Jefferies stated that Poor Boys had initially told them while giving them an estimate for tree trimming services that they had an ant infestation and offered to treat for them. Mr. Jefferies stated that Poor Boys later informed him that they would not be able to treat for the ants because the Jefferies had children. Mr. Jefferies stated that they had thrown away the invoice given to them by Poor Boys, but both Mr. and Ms. Jefferies recalled that the treatment for ants was included on the invoice. Mr. Jefferies stated that Poor Boys never informed them that they were not licensed to apply pesticides and did not refer them to anyone else to treat for the ants. Mr. Jefferies signed an EPA Affidavit to the facts of his statement.
7. On May 3, 2004, I received a phone call from Mr. Young. Mr. Young now stated that he has had a licensed pest control company for several years that he subcontracts all of his pesticide applications too. Mr. Young did not disclose the name of this pest control company. Mr. Young inquired if this information could be included with an advertisement for his tree service business, since he contracts pesticide applications out to someone else. I informed Mr. Young that he could not advertise without a pesticide business license as earlier discussed. I also requested that Mr. Young fax or mail me invoices of completed jobs performed by the licensed pest control company contracted through him. Mr. Young stated he would get these documents out to me by the following day.
8. On May 3, 2004, I was contacted by a gentleman who indicated his name was Dave Payne. Mr. Payne stated he was an attorney representing Mr. Young and that all further requests for documentation or correspondence should go through him. I informed Mr. Payne of my previous requests for invoices from Mr. Young. Mr. Payne stated that he was unaware of this request, but would speak with Mr. Young. These requested documents were never received.

**DISPOSITION:** Phillip Young and Poor Boys Tree Service were cited for three (3) counts of violation of section 14(9) of the Indiana Pesticide Use and Application Law for applying

pesticides for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$750.00 was assessed for these violations.

Scott M. Farris  
Pesticide Investigator

Date: June 18, 2004

# MODIFIED CASE SUMMARY

Case #2004/0282

**Complainant:** John Longnaker  
2804 Catalina Drive  
Anderson, IN 46012

**Business:** Pest Doctor Systems – Baxter Pest Control (B-10829)  
2691 Nichol Avenue  
Anderson, IN 46012

1. On April 21, 2004, this office was contacted by John Longnaker who stated that he had bait stations placed at his home by Baxter Pest Control in 1997. Mr. Longnaker stated that Baxter had originally installed Sentricon bait stations, but switched to Exterra bait stations a few years ago, after Dow Agro withdrew Baxter's Sentricon use authorization. Mr. Longnaker stated that Baxter's technicians would only spend a few minutes in his crawlspace each year completing their annual inspection and he recently had another pest control company do an inspection and they found active termites.
2. On May 5, 2004, I met with Mr. Longnaker at his home. Mr. Longnaker was shown credentials and issued a Notice of Inspection (N.O.I.). Mr. Longnaker provided me with all the documents he had received from Baxter Pest Control and a time line of events since the installation in 1997. Mr. Longnaker reviewed the time line of events with me and stated that the annual inspections performed by Baxter always indicated no active termites. Mr. Longnaker stated that on May 9, 2002, he contacted Baxter for an inspection and had flying termites in his kitchen. Mr. Longnaker stated that a technician from Baxter completed an inspection of the crawlspace, but did not indicate any active termites. The technician happen to notice the flying termites and stated the back wall needed to be treated, but it was too wet. Mr. Longnaker stated that he then crawled the crawlspace and found three (3) to four (4) mud tubes that were not mentioned by Baxter's technicians after their inspection. Mr. Longnaker stated that Baxter's technicians did return and complete a liquid termiticide application to areas on the north side of his home.
3. Mr. Longnaker indicated that he had some termite damaged areas repaired in the crawlspace, including a main support beam and sill plate. Mr. Longnaker stated that he believed the support beam had been damaged prior to any treatment being completed by Baxter, but believed the sill plate had been damaged during the treatment period.
4. I then completed an inspection of the crawlspace and did note areas that appeared to have been previously damaged by termites. The support beam noted by Mr. Longnaker did appear to be damaged from termites. Two (2) support boards had been secured to the support beam and no damage was noted to these boards. Some termite damaged wood debris was observed below the sill plate area, which Mr. Longnaker stated had been replaced. A scraped off mud tube was noted on the block foundation leading to this sill plate, but no active termite infestation to this area was observed. The entire north wall area of the home showed signs of moisture, but no

- active termites or mud tubes were observed.
5. I then completed an exterior inspection of Mr. Longnaker's home. A diagram of the structure was drawn and measurements of installed Exterra bait stations were noted. Patched Drill holes were noted to the backyard patio's concrete slab and in the brick along the north wall, consistent with a liquid termiticide application.
  6. On May 5, 2004, I went to Baxter Pest Control and spoke with Office Manager, Shelly Murphy. Ms. Murphy was shown credentials and issued a NOI Ms. Murphy provided requested documentation for Mr. Longnaker's home and a copy of the **Labyrinth Termite Bait (EPA Reg. #68850-2: Active Ingredient: diflubenzuron)** label, used in the Exterra Termite Interception and Baiting System. I also spoke to Manager and certified applicator, Stephen Thompson. I explained to Mr. Thompson the nature of the complaint and he was cooperative with my requests for information.
  7. A review of documentation and the Labyrinth label provided by Baxter Pest Control and documents collected from Mr. Longnaker, indicated that Baxter's Pest Doctor appeared to have monitored these bait stations consistent with the Labyrinth label.
  8. A review of the Office of Indiana State Chemist records, indicated that six (6) different technicians that completed the monitoring and application of pesticides to these bait stations were unlicensed at the time services were performed. These technicians performed a total of fourteen (14) inspections and/or application of pesticides to the bait stations located at Mr. Longnaker's residence between March 23, 2000 and September 29, 2003. They are as follows:
    - Roxanne Fite performed inspections/applications on 4/18/00, 7/12/00, 9/12/00, 6/5/02, 7/18/02, 9/26/02, and 10/10/02. Ms. Fite has never been licensed.
    - Jon Howard performed an inspection/application on 6/17/02. Mr. Howard did not become licensed until 8/16/02.
    - Jamie Patty performed an inspection/application on 3/23/00. Ms. Patty has never been licensed.
    - Doug Shipley performed an inspection/application on 6/13/01. Mr. Shipley passed the Registered Technician exam in November 2000, but has never been licensed.
    - Brandy Thompson performed inspections/applications on 3/26/01 and 4/26/01. Ms. Thompson did not pass the Registered Technician exam until 5/15/01 and was licensed thereafter.

**Disposition:** Pest Doctor System - Baxter Pest Control was cited for twelve (12) violations of section 14(6) of the Indiana Pesticide Use and Application Law for failure to properly supervise non-registered employees. A civil penalty in the amount of \$3,000.00 was assessed for these violations. However, the civil penalty was reduced to \$1,500.00. Consideration was given to the fact that Pest Doctor System cooperated during the investigation; there was no previous history of similar nature; and no restricted use products were involved.

Scott M. Farris  
Pesticide Investigator

Date: September 2, 2004



# CASE SUMMARY

Case #2004/0308

**Complainant:** Dee Zeiss  
15621 W.750 S.  
Daleville, IN 47334

**Applicator:** Tim Herd F-12037  
Ag One Coop  
12450 S. Trails End Dr.  
Oakville, IN 47367

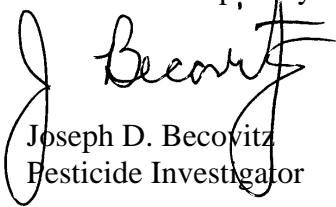
1. On April 29, 2004, Dee Zeiss phoned this office to report she had just observed a pesticide application made to a neighboring farm field drift onto her property. She stated it was very windy when the application was made.
2. On April 30, 2004, I met with Ms. Zeiss at her residence. Ms. Zeiss showed me the specific trees, shrubs and perennials she believed were drifted upon. The plants she pointed out appeared to be slightly wilted, but no other symptoms were present at the time of my inspection. The fact that no symptoms were present should not be considered unusual since drift symptoms usually take between five and ten days to present themselves. I then took swab samples from a lawn mower and from an all-terrain vehicle that were sitting on the Zeiss property when the drift took place.
3. According to information supplied by Ag One Coop, Fieldmaster(**EPA Reg.#524-497, active ingredients of acetochlor, atrazine and glyphosate**) and 2, 4-D LV 4(**EPA Reg.#42750-15-5905**) were applied to a field adjacent to the Zeiss property on June 29, 2004 at 11:30 a.m. The wind was from the southwest at 10 to 15 miles per hour. This measurement was taken in the field by the applicator, Steve Abshire. Mr. Abshire, who did not have a pesticide license at the time of the application, was supervised on-site by Chris Pardue. Mr. Pardue passed his agricultural plant pest control exam on February 20, 2004, but never applied for his certified applicator license.
4. According to information obtained from the Anderson, Indiana airport, the wind was from the southwest at 15 miles per hour gusting to 25 miles per hour at the time of the Ag One application. This means the wind was blowing from the adjacent farm field toward the Zeiss property.
5. The presence of atrazine and acetochlor were confirmed on the swab sample taken from the deck of the Zeiss lawn mower.
6. The FieldMaster label states, "**USE RESTRICTIONS...AVOID DRIFT. EXTREME CARE MUST BE USED WHEN APPLYING THIS PRODUCT TO PREVENT INJURY**"



TO DESIRABLE PLANTS, TREES AND CROPS. Do not allow the herbicide solution to mist, drip, drift or splash onto desirable vegetation since minute quantities of this herbicide can cause severe damage or destruction to crops, plants, or other areas on which treatment was not intended. The likelihood of injury occurring from the use of this product is greatest when winds are gusty or in excess of 5 miles per hour or when other conditions, including lesser wind velocities, will allow spray drift to occur.”

7. The 2,4-D LV 4 label states, ”**GENERAL INFORMATION**...Product should not be allowed to come into contact with desirable, susceptible plants such as beans, cotton, fruit trees, grapes, legumes, ornamentals, peas, tomatoes, and other vegetables.”

**DISPOSITION:** Tim Herd and Ag One Coop were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label drift instructions. A civil penalty in the amount of \$250.00 was assessed for this violation.

  
Joseph D. Becovitz  
Pesticide Investigator

Date: September 2, 2004

# CASE SUMMARY

Case #2004/0323

**Complainant:** Travis Camden  
8140 Briarwood Dr.  
Indianapolis, IN 46227  
317-883-1882

**Business:** Addis Berry  
Metropolitan Landscaping  
3212 Roberta Drive  
Indianapolis, IN 46222  
317-283-2229

1. Travis Camden contacted the Office of Indiana State Chemist (OISC) to report that he believed a former employer has been making pesticide applications for hire without the necessary pesticide business license. Mr. Camden specifically mentioned Eli Lilly as a customer of Metropolitan Landscaping. It should be noted that agent Jay Kelly, of OISC visited Mr. Berry on September 4, 2003, and secured the invalid pesticide business license (see case 2003-0362).
2. I visited Eli Lilly on 5-11-04. I met with Jason Collins of Jones, Lang, Lasalle Kite. Jones, Lang Lasalle Kite is a company that Eli Lilly uses to maintain their facilities. Lasalle Kite has authority to negotiate contracts and pay contractors. Mr. Collins negotiates the contract for Metropolitan Landscaping. He stated that he did not currently have a signed 2004 contract for Metropolitan Landscaping, but he did have bids for each of the Lilly properties that Metropolitan Landscape has contracts to treat with pesticides. Those bids include 9 Lilly properties. Each bid includes pest control for trees and shrubs as well as weed control in turf. Mr. Collins supplied me with copies of the 2004 bids, the 2003 bids and contract as well as the 2003 and 2004 invoices that had been submitted. Mr. Collins stated that Lillys does not get a customer invoice or notification that a pesticide application has taken place.
3. I also spoke with Todd Haley an environmental engineer with Lillys. He stated that Lillys had gotten a report that Metropolitan Landscaping had dumped product on Lilly property last summer. Mr. Haley supplied me with internal documents regarding that incident. According to the documents and the reports, a security officer spotted Jeff McFarland, a Metropolitan employee dumping something from the spray tank in a gravel parking lot, on 8-28-03. The parking lot is adjacent to building 19, a storage building. A Lillys hazardous response team responded to the scene and determined that remediation was not necessary. Mr. Haley stated that Mr. Berry informed Lillys that the product dumped was **“Talstar F”, EPA Reg. #279-3162, active ingredient bifenthrin.** The pesticide label reads in part, “Dispose of excess or waste pesticide by use according to label directions or contact your State Pesticide or Environmental Control Agency...”

4. On May 13, 2004 I obtained sales records from Lesco, Inc. Metropolitan Landscaping made numerous pesticide purchases from the period between 2000 to 2004.
5. I visited Quaker Oats (Pepsico Beverages and Food) on May 13, 2004. I met with Edwin Wiley. Mr. Wiley supplied me with the 2004 bid that Metrolpolitan Landscape gave. The bid included “chemical control for pests in spring and summer trees and shrubs”. Mr. Wiley stated that his firm has never gotten customer notification when any turf application was made. The bid also included weed control in beds.
6. I met with Addis Berry, the owner of Metropolitan Landscaping on 5-24-04. Mr. Berry stated that Mr. Camden quit his business in July of 2003. He also stated that Mr. Camden came back for a short period of time in the fall of 2003, and made some pesticide applications for the company. Mr. Berry stated that this was after he surrendered his pesticide business license. He supplied me with a drug screen form to show that Camden had come back to the company on 10/23/03.
7. Mr. Berry also supplied me with the only pesticide records that the company keeps. Those records indicate that Jeff McFarland made pesticide applications to 9 Lilly properties in February and March of 2004. That application consisted of **“Dimension .10% Plus fertilizer”, EPA Reg. #10404-85, active ingredient dithiopyr.** In April 2004, the same properties received an application of **“Momentum” EPA Reg. #228-321-10404, active ingredients 2,4-D, MCPP and MCPA.** In October and November of 2003 the 9 properties had “Momentum” applied. Mr. Berry stated that Quaker Oats would have received the same pesticide applications that the Lilly properties received in October. Those 28 applications occurred when Mr. Berry did not have a pesticide business license. There are no records indicating when tree and shrub applications were made. Mr Berry stated that while he is certain many pesticide applications took place on the same day, due to the record keeping, it is impossible to ascertain how many days the business was out of compliance.
8. Mr. Berry stated that Lillys did question him about the pesticide dumping in the summer of 2003. He stated that McFarland rinsed the tank the same way he had in the past, when he was supervised by Travis Camden. I also spoke with Mr. McFarland who confirmed much of what Mr. Berry stated. McFarland stated that he had dumped approximately 10-15 gallons of use dilution Talstar F into the gravel parking lot in the summer of 2003. He stated that Mr. Camden, who holds a 3b certification would frequently rinse tanks in that particular area.

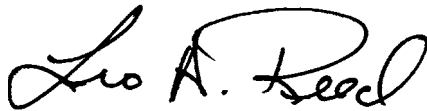
**Disposition:** Metropolitan Landscaping was cited for twenty eight (28) counts of violation of section 14(9) of the Indiana Pesticide Use and Application Law for applying pesticides for hire without having an Indiana Pesticide Business License; one (1) count of section 14(2) for failure to follow label directions regarding disposal of a pesticide; and twenty eight (28) counts of section 14(6) for failure to follow the rule regarding customer notification of a lawn care application. A total civil penalty in the amount of \$10,050.00 was assessed for these violations. The civil penalty was calculated as follows:

28 counts of 14(9) at \$250.00 per count = \$ 7,000.00  
1 count of 14(2) at \$250.00 per violation = \$ 250.00  
28 counts of 14(6) at \$100.00 per violation = \$ 2,800.00  
Total = \$10,050.00

However, the civil penalty was reduced to \$6,532.00. Consideration was given to the fact that Metropolitan Landscaping cooperated during the investigation; there was no potential for damage; and no restricted use pesticides were involved.

Leo A. Reed  
Pesticide Investigator

Date: August 2, 2004

A handwritten signature in black ink that reads "Leo A. Reed". The signature is written in a cursive style with a large, looping initial "L".

# CASE SUMMARY

Case #2004/0359

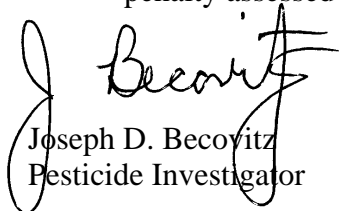
**Complainant:** Office of Indiana State Chemist (OISC)  
175 S University St.  
West Lafayette, IN 47907-0163

**Applicator:** Jay Cupp F-41000  
EBM Lawn Care B-201572  
3545 Sutherland Ave.  
Indianapolis, IN 46218

1. On May 12, 2004, I observed an employee of EBM Lawn Care making a pesticide application to a landscape bed at the entrance to a subdivision. I initiated a routine use inspection. The employee, who was not a certified applicator nor a registered technician, was applying Scorch Plus 1021 (**EPA Reg.#4170-58**, active ingredient of **prometon**) to the landscape bed. The employee was wearing long pants, a long sleeved shirt, chemical resistant shoes, socks and rubber gloves. I had barely initiated the inspection when Jay Cupp, the owner and sole certified applicator of EBM Lawn Care arrived. I checked Mr. Cupp's certification and found he was certified in 3b (turf pest control) only. I told Mr. Cupp that he must cease operating in category 3a (ornamental pest control) until he or one of his employees became certified in that category. I then examined the Scorch label and found the product is not labeled for use in landscape beds.
2. The Scorch Plus 1021 label states, "For Bare Ground Weed Control Around: Guard Rails, Airports, Military Installations, Highway Medians, Pipelines, Railroads, Lumberyards, Rights-of-Way, Buildings, Storage Areas, Fences, Pumps, Machinery, Fuel Tanks, Drainage Ditch Banks, Roadways, or Similar Areas . . . Do not apply over roots of valuable trees or woody ornamental plants."

**DISPOSITION:** Jay Cupp was cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for applying a pesticide in an area prohibited by the label. A civil penalty in the amount of \$250.00 was assessed for this violation.

Jay Cupp was also cited for violation of section 14(12) of the Indiana Pesticide Use and Application Law for applying pesticides outside the scope of his issued credential. A civil penalty in the amount of \$125.00 was assessed for this violation. The total civil penalty assessed for this investigation is \$375.00.

  
Joseph D. Becovitz  
Pesticide Investigator

Date: September 2, 2004

# CASE SUMMARY

Case #2004/0366

**Complainant:** Angie Martz  
4808 N. CR 450 E.  
Milan, IN 47031

**Applicator:** Joe Witkemper F-32420  
Laughery Valley Coop B-607  
P.O. Box 177  
Osgood, IN 47037

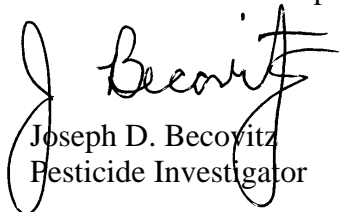
1. On May 24, 2004, Angie Martz phoned this office to report she was concerned about drift to herself and to her organic garden. Ms. Martz stated she was mowing the lawn on May 13 when she felt a mist hit her. When she looked for the source of the mist, she observed a spray rig in the farm field to the south of her property. She stated it was very windy at the time of the application and she could see the mist blowing all the way across her property.
2. On May 25, 2004, I met with Ms. Martz at her residence. I inspected the Martz property, including the garden and fence row. Tomato, pepper, onion and brussel-sprout plants in the garden had some yellowing, purpling and slight burning of their leaves. The plants appeared stunted and had not grown since the drift according to Ms. Martz. I observed some minor burning on the vegetation in the fence row that separates the Martz property from the adjacent farm field to the south. I took vegetation samples for submission to the Purdue Plant and Pest Diagnostic Laboratory (PPDDL). I took swab samples from a shed on the Martz property and also from the leg of a trampoline on their property.
3. According to information submitted by Laughery Valley Coop, Lumax (**EPA Reg.#100-1152, active ingredients of atrazine, mesotrione, and s-metolachlor**) and Atrazine 90 DF (**EPA Reg.#9779-253, active ingredient of atrazine**) were applied to the field adjacent to and south of the Martz property. The application was made by Jeremy Dixon on May 13, 2004.
4. The diagnosis from the PPDDL for the vegetation samples that were submitted stated; "Plants show abnormal growth but no specific symptoms that could be related to drift from atrazine or Dual (s-metolachlor)."
5. According to information obtained from the automated weather station at Butlerville, Indiana (approximately 20 miles from the Martz residence), the wind speed and direction at the time of the coop application was 8 miles per hour gusting to 19 miles per hour from the south.

6. Atrazine and s-metolachlor were found in the swab sample taken from the leg of the trampoline and also in one of the swabs from the Martz shed.
7. Jeremy Dixon was neither a certified applicator nor a registered technician at the time he made the application next to the Martz property. According to records obtained from Laughery Valley Coop, Mr. Dixon made pesticide applications without a license on May 13, May 18 and May 24. He has since passed both his core and category exams and obtained his certified applicator license.
8. The Lumax and Atrazine 90 DF labels state, “**DIRECTIONS FOR USE**...Do not apply this product in a way that will contact workers or other persons, either directly or through drift.”

**DISPOSITION:** Joe Witkemper and Laughery Valley Coop were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift. A civil penalty in the amount of \$250.00 was assessed for this violation.

In addition, Joe Witkemper and Laughery Valley Coop were cited for three counts of violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to provide on-site supervision (355 IAC 4-2-3). A civil penalty in the amount of \$375.00 was assessed for these violations (\$125.00 per count).

The total civil penalty assessed for the violations in this investigation is \$625.00.

  
Joseph D. Becoyitz  
Pesticide Investigator

Date: September 2, 2004

# CASE SUMMARY

Case #2004/0392

**Complainant:** Dean Ford  
5922 South 850 East  
New Ross, IN 47968  
765-723-1732

**Applicator:** Doug Score (F-204648)  
Royster Clark (B-11013)  
100 East Rail Road St.  
Roachdale, IN 46712  
765-522-1923

**Manager:** Roy Loveless (F-28340)

**Applicator:** Joel Brookshire (F-37481)  
Westland Co-op (B-10352)  
Box 158  
New Ross, IN 47968  
765-723-1105

**Manager:** Stan Mason (F-1654)

1. Dean Ford contacted the Office of Indiana State Chemist (OISC) to report that his property had been damaged from pesticide drift from a neighboring farm field.
2. I visited Mr. Ford on 6-10-04. I noted that a variety of trees had cupped and curled leaves. Those trees were primarily tulip, sweetgum, ash and oak. The trees were throughout the one acre property. I also noticed that there were several trees on the property edge(s) that had symptoms of interveinal chlorosis and some necrotic tissue. I took a variety of photographs and prepared a diagram of the property. I collected a variety of plant samples that were submitted to the Purdue Plant and Pest Diagnostic Laboratory. It should be noted that Mr. Ford gave me photographs that he took on May 11, 2004. They show cupped and curled leaves on ash, tulip and landscape plants. I noted that symptoms appeared to be more pronounced on the south east edge of Mr. Ford's property. I also noted that there were pronounced symptoms on a cherry tree in the north west edge of the property.
3. I visited Westland Co-op on 6-10-04. Westland made an application to the corn field directly west of Mr. Ford, across 850 East. The application consisted of **"Bicep II Magnum", EPA Reg. #100-817, active ingredients atrazine and S-metolachlor.** The application occurred on April 29, 2004, at 9:30 a.m.. Local wind date indicates a wind from the SSW at 11-14 mph. The applicator completed a Pesticide Investigation Inquiry and I collected original



labels.

4. I also visited Royster Clark on 6-10-04. Royster Clark made an application the soybean field that surrounds Mr. Ford on the south, east and north sides. The application consisted of **“Roundup Weather Max”, EPA Reg. #524-537, active ingredient glyphosate and “Weedone LV4 EC”, EPA Reg. #228-139-71368, active ingredient 2,4-D.** The application occurred on 5-10-04 from 10:30-11:30am. The applicator completed a Pesticide Investigation Inquiry and I collected original labels. Mr. Score, the applicator, also stated that he had to fold his sprayer booms to make the application between Mr. Ford and a small wooded area. Area weather data indicates a SSW wind at 9-10 mph with gusts of 18mph.
5. It should be noted that when I arrived at Royster Clark I observed the manager, Mr. Loveless on top of a nurse tank with a pole, reaching into the tank. Hal Davis was also on top of the tank. Mr. Score was beside the tank and Wayne Bunn was transferring a white liquid into a shuttle. I noted that the white liquid, while being contained in the bulk storage area and operational area, had overflowed out of a large bucket. White footprints led from the operational area into the gravel parking lot. I noted that none of the above individuals were wearing any personal protective equipment (PPE). Mr. Loveless stated that the nurse tank had some dried atrazine from **“Bicep II Magnum”, EPA Reg. #100-817, active ingredients atrazine and S-metolachlor** in it. The men were attempting to clean the tank. I suggested that they cease operations and obtain the PPE necessary to clean the tank. Mr. Score obtained the PPE. I took a variety of photos of the operation. Neither Mr. Davis nor Mr. Bunn are certified.
6. The “Bicep II Magnum” label reads in part, “Applicators and other handlers must wear, long-sleeved shirt and long pants, chemical resistant gloves such as barrier laminate, butyl rubber . . . and shoes plus socks.”
7. I also asked Mr. Loveless how his customer, Ron Haffner, was given the customer information, as required by the Worker Protection Standard (WPS). Mr. Loveless stated that he did not realize that he was required to provide the information for each application. He stated that he had not been providing the information. Throughout our conversation Mr. Loveless was concerned as to how he could comply with the customer information exchange. I explained several methods that could be employed in order to comply.
8. PDDL returned a diagnosis that stated the following, “The symptoms presented by this specimen material are consistent with expectations for response to the herbicides reportedly applied to the neighboring fields. The cupping is particularly pronounced on the ash and oak specimens, and to a lesser degree on the tulip tree. The cherry exhibits a marginal chlorosis and a necrosis which is sometimes associated with glyphosate exposure, but may be suggestive of exposure to other materials in another event.”
9. The Roundup label reads in part, “Avoid contact of herbicide with foliage, green stems, exposed non-woody roots or fruit of desirable plants and trees, because severe injury or destruction may result.” The “Weedone LV4” label reads in part, “Use care to avoid spray

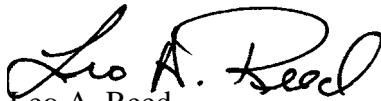
contact or drift to 2,4-D susceptible plants such as cotton, tomatoes, blowers, okra, grapes, fruit trees and ornamentals. Do not permit spray mist containing this product to drift onto them. Do not spray when the wind is blowing toward susceptible crops or ornamental plants.”

10. While much of the cupping and curling can be attributed to the volatilization of growth regulator herbicides, it is apparent that there was some direct particle drift as well, particularly on the edge of the complainants property from the application made by Royster Clark.

**DISPOSITION:** Royster Clark was warned for violation of section 14(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 that this was their first violation of this nature.

Certified applicators Doug Score and Roy Loveless and Royster Clark were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow the label directions regarding personal protective equipment. A civil penalty in the amount of \$250.00 was assessed for this violation.

Certified applicators Doug Score and Roy Loveless and Royster Clark were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the agricultural use requirements on providing customers with notification of applications. A civil penalty in the amount of \$250.00 was assessed for this violation.

  
Leo A. Reed  
Pesticide Investigator

Date: September 2, 2004

# CASE SUMMARY

Case #2004/0408

**Complainant:** Office of Indiana State Chemist  
175 S. University St  
W. Lafayette, IN 47907-2063  
800-893-6637

**Company:** Ronald Titak  
Lake County Co-Op  
10401 W 181st Avenue  
Lowell, IN 46356

1. On June 11, 2004, I performed a routine inspection at Lake County Co-op.
2. During the course of the inspection, three Roundup mini bulks were found in an uncontained building.
3. During the post inspection review Mr. Titak gave me an invoice for the bulk delivery of Roundup. He also indicated that the mini bulks were filled on the same day of delivery which was February 25, 2004. This meant that the mini bulks were out of containment seventy-seven (77) days after the allowed thirty (30) days.
4. I asked Mr. Titak if he understood that mini bulks need to be stored in a contained area after thirty (30) days of receiving delivery. He said that he was aware of this requirement.

**DISPOSITION:** Ronald Titak and Lake County Co-op were cited for seventy-seven (77) counts of violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to follow the rule regarding secondary containment of mini bulks. A civil penalty in the amount of \$19,250.00 was assessed for these violations. However, the civil penalty was reduced to \$5,775.00. Consideration was given to the fact that Lake County Co-op cooperated during the investigation; there was no previous enforcement history of a similar nature; corrective action was taken; and no restricted use products were involved.

Matthew E. Pearson  
Engineering Specialist

Date: July 23, 2004

# CASE SUMMARY

Case #2004/0428

**Complainant:** Robert Horst  
11042 S. 1025 W  
Wanatah, IN 46390  
219-733-2921

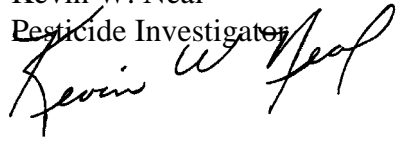
**Applicator:** Doug Wolf  
Wolf Brothers  
13622 S. 700 W.  
Wanatah, IN 46390  
219-733-2771

1. On 6-22-04, the Office of Indiana State Chemist (OISC) received a call from Mr. Horst where in he alleged that an application of Command herbicide made to a nearby field, had damaged plants on his property.
2. On 6-29-04, I visited with Mr. Horst at his home. While there I prepared a diagram of the property in question for future reference.
3. Mr. Horst was able to provide me with photos of numerous plants, trees and garden plants on his property and the surrounding area which were taken on 6-21-04. These photos clearly show that the vegetation was bleaching and showing signs of chlorosis.
4. As I prepared the diagram, I could see that there was still whitening and chlorosis on numerous plants on the property.
5. Mr. Horst also provided me with a report from the Purdue Plant and Pest Diagnostic Lab (PPDDL). Mr. Horst had previously sent a variety of plants to the PPDDL for symptom analysis. The report stated, "The symptoms presented by these samples are consistent with exposure to Command herbicide."
6. I then went and met with Doug and David Wolf of Wolf Brothers Farms. According to a signed Pesticide Investigation Inquiry (PII), an application of Command 3ME, (**EPA Reg. #279-3158-5905**), active ingredient **clomazone**, was made on 6-1-04, from 11:00am to 11:30am, by Doug Wolf, to a pumpkin field located directly west of the Horst property. Mr. Wolf did not know what the wind speed or direction was at the time of the application.
7. When asked if they were aware of the label restriction regarding application of Command 3ME within 1200 feet of housing developments, they advised that they were not.

8. Mr. Horst lives in a line of homes, all of which have property that back up to the field where the command application was made.
9. The label for Command 3ME states, "Do not apply when weather conditions favor drift from the area treated." "Do not apply Command 3ME within 1200 feet of the following areas: Towns and Housing Developments..." "Do not apply in winds above 10 miles per hour."
10. According to information obtained from the Indiana Climate Page the wind speed and direction at the time of the application was 16-21 mph with gusts to 24 mph out of the west south-west. This would have been blowing in the direction of Mr. Horst's property.

**DISPOSITION:** Wolf Brothers was cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application within 1200 feet of a housing development and application in winds above ten miles per hour. A civil penalty in the amount of \$100.00 was assessed for this violation.

Kevin W. Neal  
Pesticide Investigator



Date: September 2, 2004

# CASE SUMMARY

Case #2004/0429

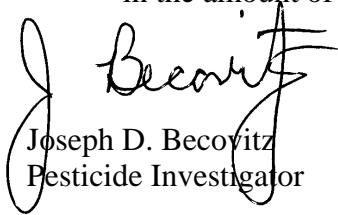
**Complainant:** Don Weiler  
452 E 900 S  
Milroy, IN 46156

**Applicator:** Brian Cameron F-40945  
Falmouth Farm Supply B-10823  
P.O. Box 170  
Falmouth, IN 46127-0170

1. On June 25, 2004, Don Weiler contacted this office to report possible drift to his soybean field from a neighboring cornfield. Mr. Weiler stated it was very windy the day the application was made to the adjacent field. Soon after the application, the leaves on his soybean plants began to cup and curl.
2. On June 28, 2004, I met with Mr. Weiler at his soybean field. The field is approximately sixty acres and is planted in three different varieties of soybeans. There is a small cornfield that is directly west of a portion of the Weiler soybean field. The soybeans that were directly east of this field were stunted, cupped and curled and appeared to have been exposed to a growth regulator type of herbicide. These symptoms continued east, out into the soybean field to the top of a small ridge that runs through the field. East of this ridge, the symptoms decreased dramatically. There was a definite pattern of drift. All three varieties of soybeans throughout the rest of the Weiler field appeared normal and healthy. I took representative photographs of both the affected and unaffected soybeans. I then took plant samples for submission to the Purdue Plant and Pest Diagnostic Laboratory (PPDDL).
3. According to information supplied by Falmouth Farm Supply, they applied Degree Extra (EPA Reg.#524-511, active ingredients of **acetochlor** and **atrazine**), Atrazine 4L (EPA Reg.#11733-1, active ingredient of **atrazine**), Option (EPA Reg.#264-685, active ingredient of **foramsulfuron**) and Distinct (EPA Reg.#7969-150, active ingredients of **dicamba** and **diflufenzopyr**) to the cornfield west of the Weiler soybean field. Brian Cameron, an employee of Falmouth Farm Supply, made the application on June 2, 2004. The wind speed and direction as measured in the field by Mr. Cameron was 10 to 15 miles per hour from the southwest.
4. Information obtained from the Shelbyville airport indicates the wind was from the west at 17 miles per hour gusting to 24 miles per hour at the time of the application (the Shelbyville airport is approximately 20 miles from the application site).

5. The Diagnosis and Control Recommendation from the PPPDL for the vegetation samples that were submitted stated; "Symptoms seen on soybean samples submitted were cupping and strapping of leaves. These symptoms are suggestive of growth regulator injury from herbicides such as dicamba and 2,4-D."
6. The Distinct label states, "**Ground Application Methods and Equipment** ...**Distinct** should not be applied during periods of gusty wind or when wind speed exceeds 15 mph as uneven spray coverage may occur. Do not spray near sensitive crops if wind speed exceeds 5 mph toward sensitive plants."

**DISPOSITION:** Brian Cameron and Falmouth Farm Supply were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to sensitive crops and in excessive wind speeds. A civil penalty in the amount of \$250.00 was assessed for this violation.

  
Joseph D. Becovitz  
Pesticide Investigator

Date: September 2, 2004

# CASE SUMMARY

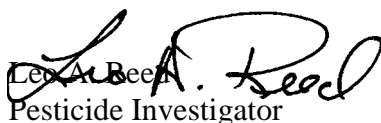
Case #2004/0488

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

**Applicator:** Nathan Heffelman (N-204509)  
Friendswood Golf Course  
7730 South County Road 1050 East  
Camby, IN 46113  
317-856-9737

1. I performed a routine inspection at the above facility on July 27, 2003. Upon my arrival to the golf course I observed a large puddle of white fluid on the ground, near the sprayer. I also observed Mr. Heffelman at the sprayer.
2. I identified myself to Mr. Heffelman and explained my purpose. I asked Mr. Heffelman if there were pesticides in the large white puddle. Heffelman explained that when he triple rinses a pesticide container, he dumps the excess pesticide on the ground. He stated that he does not use the rinsate in the tank mix as he does not want to over apply the product. He also stated that there is generally less than an inch of pesticide in the jug. I explained that the practice of dumping pesticides on the ground is unacceptable. I also explained that the purpose of triple rinsing is not only to clean the container for disposal, but to obtain all the material for use. I photographed the area. It should be noted that Mr. Heffelman's rubber gloves were in the puddle of pesticides.
3. Mr. Heffelman stated that he had cleaned two pesticide jugs prior to my arrival. "**Banner Maxx**", EPA Reg. #100-741, active ingredient propiconazole and "**Daconil Zn**", EPA Reg. # 50534-211-100, active ingredient chlorothalonil. I found those two wet jugs in the dumpster. The "Daconil Zn" label reads in part, "DO NOT contaminate water, food or feed by storage or disposal. Open dumping is prohibited." The label also states, ". . . Improper disposal of unused pesticide, spray mixture, or rinse water is a violation of federal law." The "Banner Maxx" label reads in part, ". . . Improper disposal of unused pesticide, spray mixture, or rinse water is a violation of federal law."

**DISPOSITION:** Nathan Heffelman and Friendswood Golf Course were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding disposal. A civil penalty in the amount of \$250.00 was assessed for this violation.

  
Leo A. Reed  
Pesticide Investigator

Date: September 2, 2004



# CASE SUMMARY

Case #2004/0490

**Complainant:** Dennis Barger  
1439 N. 700 East  
Franklin, IN 46131  
317-627-1182

**Applicator:** Patrick McDonald (F-18551)  
Crop Protection Services (B-11016)  
758 East Hamilton Avenue  
Franklin, IN 46131

1. Dennis Barger contacted the Office of Indiana State Chemist (OISC) to report that he believed he had herbicide damage to his corn field.
2. I visited Mr. Barger on August 2, 2004. Mr. Barger stated that he planted his corn on May 12 and May 18. He also stated that the corn he planted was “clearfield” corn from Becks. Mr. Barger and I toured several fields to observe the symptoms. The corn that had been sprayed by Crop Protection Services showed a variety of symptoms. Most of the corn was stunted and not nearly as tall and robust as the unsprayed corn. Leaves were chlorotic and streaked with some leaves being partially dead. Many plants were entirely dead. Many corn plants showed exposure to a growth regulator herbicide, as the leaves were malformed and twisted. Brace roots on many plants were only partially formed. I took a variety of photographs and physical samples. I brought the samples to the Purdue Plant and Pest Diagnostic Laboratory (PPDL).
3. Mr. Barger has approximately 85 acres of corn. Nearly 40 acres of corn, according to Mr. Barger, has damage severe enough that the corn is not usable for silage.
4. I visited Crop Production Services and spoke with the manager, Aaron Bollinger and the applicator, Pat McDonald. They stated that the applications were made on 6-23-04. The application consisted of **“Lightening 70 DG” EPA Reg. #241-377, active ingredients imazethapyr and imazapyr and “Distinct” EPA Reg. #7969-150, active ingredients diflufenzopyr and dicamba.** Mr. McDonald completed a Pesticide Investigation Inquiry (PII) and I obtained copies of the spray records. Mr. McDonald indicated on both that the corn height was 5-6 feet tall. Mr. Bollinger and Mr. McDonald stated that the corn was 5-6 feet tall in the field sprayed behind the barn (3.7 acres). Mr. McDonald stated that the corn was at least 4 feet tall in the field that sits off of Highway 44. Mr. Bollinger stated that he was present during the application and was certain that the only corn taller than 3 feet was in the field behind the barn. Mr. McDonald asserted that the corn was “pretty tall” in the field off of Highway 44. He stated that the corn in that field was nearly touching the bottom of the sprayer and was at least 4 feet tall. He agreed with Mr. Bollinger in that the corn in

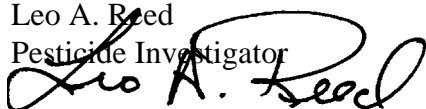
the other fields was not as tall. It should be noted that the “distinct” label reads in part, “Do not apply if corn is more than 36 inches tall or within 15 days of tassel emergence, whichever comes first.”

5. It should be noted that Mr. McDonald stated that they were using “drop nozzles” that dropped 24 inches from the boom. From “tip to ground” was approximately 36 inches. Whereas Mr. Bollinger indicated that most of the corn was far less than 36 inches tall, this nozzle height could have deposited the spray into the whorl of the corn.
6. PPDL returned a diagnosis stating the following, “Applications of ALS herbicides when the weather is warm and humid, then followed by cool temperatures can sometimes lead to injury.” PPDL goes on to state, “. . . overloading the Clearfield corn in adverse conditions can still lead to injury, due to slowed metabolic rates.” Glenn Nice, gave a diagnosis of the symptoms as “possibly ALS+Dicamba+environmental” caused. It should be noted that the recorded weather in Shelby County does appear to be abnormally cool for the end of June. Recorded low temperatures for the week following the application were 50 degrees. The week prior to the application recorded total rainfall was 3.66 inches. These environmental factors could have stressed the corn.
7. Whereas Mr. McDonald came into the office just after spraying a field with “**Stinger**”, **EPA Reg. #62719-73, active ingredient clopyralid**, I asked to see his decontamination equipment that he is required to carry under the Worker Protection Standards (WPS). Mr. McDonald and I went out to the sprayer and found that the decontamination supplies had not been replaced after a recent cleaning. Mr. McDonald did locate the kit that was supposed to be onboard his sprayer and it had the necessary decontamination supplies. Mr. McDonald took the complete kit with him as he left to continue making pesticide applications.

**DISPOSITION:** Patrick McDonald and Crop Protection Services were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the Worker Protection language on the label. A civil penalty in the amount of \$250.00 was assessed for this violation.

Patrick McDonald and Crop Protection Services were also cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application to corn that is more than 36 inches tall.

Leo A. Reed  
Pesticide Investigator



Date: September 21, 2004

# CASE SUMMARY

Case #2004/0509

**Complainant:** Colleen Altman  
5201 Grandview Drive  
Indianapolis, IN 46228  
317-257-3755

**Business:** PESCO Pest Control Services B-10444  
Paul Everts F-11819  
4310 S. High School Road  
Indianapolis, IN 46241  
317-925-9292

1. On August 18, 2004, this office received a complaint that "PESCO" had informed Ms. Altman that she had carpenter ants in her garage. Ms. Altman stated that she was informed by Orkin that she did not have carpenter ants.
2. On August 27, 2004, I spoke with Ms. Altman about her complaint. Ms. Altman stated that PESCO had been contracted to perform both general pest control services and termite control services to her home (located at 5201 Grandview) and her antique business (located at 5106 N. Michigan Rd, Indianapolis). Ms. Altman stated that she continues to have active termites and general pest issues at both locations. Ms. Altman also informed me that she did not believe that PESCO was checking the termite stations once a month as she was told when they sold her the product. Ms. Altman stated that she notified PESCO that they had to check the termite stations at both her business and home at times when she was at these locations and leave her a copy of their service slip. Ms. Altman indicated that this was not being consistently done.
3. On September 1, 2004, I met with Ms. Altman at her antique business, located at 5106 N. Michigan Rd, Indianapolis, Indiana. Ms. Altman was shown credentials and issued a Notice of Inspection (N.O.I.). Ms. Altman stated that she had contracted general pest and termite control services with PESCO for this location in November of 2003. Ms. Altman showed me areas of the interior of the building that she stated were infested with carpenter ants and termites. A section of the second floor hardwood flooring showed damage consistent with that of termites. Dead termite swarmers were observed in this damaged area. A large number of dead carpenter ants were also observed on the second floor and one of the rooms on the first floor. Ms. Altman stated that she had contacted PESCO about the carpenter ant issue and that they had informed her there was nothing they could do about it. Ms. Altman stated that she then contacted Orkin and that they came to the property and sprayed for the carpenter ants, killing them.
4. I completed a diagram of the business structure and noted the termite monitoring/bait stations placement and spacing to the exterior of the business. The monitoring/bait stations were the

Outpost stations produced by Bayer and follow the **Outpost TBR (EPA Reg. # 499-488-3125; active ingredient: diflubenzuron)** pesticide label. Thirteen (13) monitoring/bait stations were observed around the business and two (2) stations were observed around the detached garage.

5. I met Ms. Altman at her home. Ms. Altman stated that she contracted general pest and termite control services for this location in April of 2004. Ms. Altman again showed me areas within the home that termites had been active. Ms. Altman stated that PESCO had come back out at her request and applied a liquid to some active termite mud tubes in the basement area and pointed out these areas to me. Ms. Altman also stated that she had a rodent problem in a closet area. Ms. Altman informed me that she had contracted PESCO to place baits or traps to control/eliminate the rodent issue, but they never did. Ms. Altman further stated that she then contacted Orkin and that they placed baits for the mice in her closet. Ms. Altman gave me her records for both general pest and termite control services performed by PESCO to both her business and home. A diagram of the home was completed and the Termitrol monitoring/bait station placements and spacing were noted.
6. On September 2, 2004, I went to the PESCO business and spoke to President, Bonnie Everts. Ms. Everts was shown credentials and issued an N.O.I. Ms. Everts stated that she was unaware of the issues brought forth by the complainant and gave me a copy of all services records for applications or inspections completed at the business and home of Ms. Altman. I also spoke with certified applicator Paul Everts and questioned him about the termite stations placement and spacing. Mr. Everts indicated that they attempt to space the stations, no more than, thirty (30) feet apart. I informed them that during my inspection of both the business and home of Ms. Altman, that some of the stations indicated by their records to be in place (2 of 15 stations at Ms. Altman's business and 7 of 22 stations at Ms. Altman's home) were missing. Mr. Everts stated he was not aware that any stations were missing. Mr. Everts also stated that the Termitrol monitoring/bait stations placed around Ms. Altman's home would follow the Outpost TBR label.
7. A review of PESCO treatment records for Ms. Altman's business (located at 5106 N. Michigan Road, Indianapolis) indicated that the Outpost termite monitoring/bait stations were installed on November 7, 2003. PESCO's records also indicated that these stations were checked on February 6, 2004, March 5, 2004, April 2, 2004, June 6, 2004, and July 2, 2004. Monitoring of these stations was documented to have occurred in accordance with label requirements. Jeff Edwards installed the Outpost termite monitoring/bait stations in November.
8. A review of PESCO treatment records for Ms. Altman's home (located at 5201, Grandview Drive, Indianapolis) that the Termitrol termite monitoring/bait stations were installed on April 5, 2004. PESCO's records also indicated that these stations were checked on July 5, 2004. No documentation indicated that these stations had been monitored between April 5, 2004 and July 5, 2004.
9. The Outpost TBR label states the following:

*“If termite activity is known to be present in the structure at the time stations are initially installed, inspect all stations three times at approximately 30, 60 and 90 days after the date of completion of initial station installation.”*

**DISPOSITION:** Paul Everts and PESCO Pest Control Services were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding inspection of bait stations. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact that this was their second violation of similar nature (case number 2004/0049).

Scott M. Farris  
Pesticide Investigator

Date: October 22, 2004