

# CASE SUMMARY

Case#2004/0243

**Complainant:** Office of Indiana State Chemist (OISC)

175 South University Street  
West Lafayette, IN 47907-2063

**Business:** Marty McPheeters (F-7063)  
Chad McPheeters (RT-214274)  
Master Lawn (B-208863)  
3246 N. 24<sup>th</sup> Street  
Terre Haute, IN 47805  
812-460-0658

1. OISC obtained information that indicated Master Lawn employees may have been making for-hire pesticide applications without the supervision of a certified applicator. On 9-7-2004, I observed Master Lawn posting flags in several residential lawns in Terre Haute. The notification left on the customers' doors indicated fertilizer was applied and stated, "*Selective control material may be used for weeds.*" The invoices were signed "Chad" but the required applicator license number and weed control type were not indicated.
2. OISC records indicate that Master Lawn employs one certified applicator, owner Marty McPheeters. There were no registered technicians associated with the business at the time. Chad McPheeters passed the core examination on 8-2-2004, but OISC had not received an application or fees for the issuance of the license.
3. I made several attempts to contact Mr. McPheeters at Master Lawn and finally, after leaving a business card on the door at the business, made phone contact with Chad McPheeters on 11-17-2004. He stated that his dad, Marty McPheeters, runs the business but he was not available. Marty McPheeters later called from Florida and stated that he may be selling the business. He stated that his son sells accounts and does data entry work for the business, but does not make pesticide applications. I informed him that I would like to meet to perform a facility inspection at the business. He stated he would meet me when he returned.
4. After several unsuccessful attempts to contact the McPheeters, by phone and in person, I finally spoke with Chad McPheeters on 1-5-2005 and set up an appointment for that day. Marty McPheeters was again unavailable. I met Chad McPheeters at the business to discuss Master Lawn's practices. We discussed the notification requirements and addressed the lack of required elements on Master Lawn's invoices. He stated he would make the necessary changes, but also confirmed that the business was in the process of being sold. When asked about his signature on the invoices, Chad McPheeters stated he occasionally helps his

dad make pesticide applications and has applied fertilizer and lime by himself. He also indicated he recently received his registered technician credential from OISC, although he was unable to produce it. OISC records indicate the credential was issued. I asked to see the company van. Chad McPheeters stated it was getting fixed. However, after leaving the business, I saw that the van was parked in a grocery store parking lot near the business.

5. I again made several phone calls to the business in an attempt to contact Marty McPheeters. I finally contacted Marty McPheeters on 3-2-2005 by calling the number he called me from previously in Florida. He stated the sale of the business was almost complete and he was moving out of state. I stated that it appeared from his invoices that Chad McPheeters had been making for-hire pesticide applications. He again stated his son does not make pesticide applications unless he is on-site.
6. On 3-10-2005, OISC investigator Scott Farris reported seeing Master Lawn posting flags in several residential lawns in Terre Haute. I called Master Lawn and was told by a female to call later. On 3-14-2005, Chad McPheeters called to ask if he could apply fertilizer without being certified. He stated he was about to start spring applications and wanted to make sure he was in compliance because his dad had moved. I stated that Master Lawn flags had been observed in lawns already. Chad McPheeters then stated he had, in fact, made several fertilizer applications because the business had not been sold. He stated he would obtain certification before making any for hire pesticide applications.
7. On 3-15-2005, I observed a white, granular product on eight residential lawns, which were posted with Master Lawn flags, in the Water Tree subdivision in Terre Haute. According to the customer notification information, still on the door at six of the eight treated properties, fertilizer with **Dimension** herbicide was applied. I photographed the paperwork, each of which was signed by "Chad" or "Chad McPheeters" and dated 3-15-2005.

TURF MANAGEMENT SERVICE  
**Masterlawn**  
P.O. Box 5305 • Terre Haute, IN 47805  
812-460-0658

NAME BENSINGER  
ADDRESS 1319 WATERSEIDER  
TELEPHONE \_\_\_\_\_  
MAP CODE \_\_\_\_\_ SQ. FT. SERVED AP  
DATE REQUESTED \_\_\_\_\_

REASON FOR CALL: B-1 EARLY SPRING  
19-0-6 w/Dimension  
SPECIAL INSTRUCTIONS \_\_\_\_\_  
DATE 3-15-05  
TIME 11:17

ACTION TAKEN: I FORGOT YOUR BILL Sorry,  
Chad

RECOMMENDATIONS \_\_\_\_\_

**MAR 15 2005**

**MASTERLAWN**  
 (172)483-0858

**BS-1 Early Spring \$49.50**  
 Nutrient Organic-based fertilization containing 19% nitrogen, 3% Phosphorus, & 3 potassium with dithionite as the crabgrass reducer. With a 30% to 50% release slow fertilizer, and Micro-Nutrient feeding.

**SERVICE DESCRIPTION**  
 Invoice #: 11782

**SERVICE ADDRESS:**  
 Dr. Paul Siebenmann  
 1241 Waterline Rd.  
 Terre Haute, IN 47703

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47  
 Payment is due upon receipt. Thank you!

**PLEASE NOTE:** 20 LB 15-5-4 w/ Dithionite

*Thank You!*  
*Your Pre Payment is included if you wish to Do So.*  
*This treatment will reduce crabgrass and help the lawn grow up.*

For your convenience, service continues from season to season. For a change in service, please call our office.  
 THANK YOU FOR ALLOWING US TO SERVE YOU, PLEASE KEEP THIS PORTION AND RETURN BOTTOM FOR WITH PAYMENT

**MASTERLAWN**  
 P.O. BOX 5305  
 TERRE HAUTE, IN 47705

**NO. 12 Address**  
 Dr. Paul Siebenmann  
 1241 Waterline Rd.  
 Terre Haute, IN 47703

**MASTERLAWN**  
 P.O. BOX 5305  
 TERRE HAUTE, IN 47705

**PLEASE NOTE:** For your convenience, service continues from season to season. For a change in service, please call our office.

**PLEASE REMIT:** 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

**Today's Service Charge** 49.50

Sales Tax 2.97  
 Today's Total 52.47  
 Prev. Balance as of 03/07/05 0.00  
 Please Remit 52.47

**DATE/TIME** 207  
**SPECIAL** 1.1  
**Starts** 3:15 PM  
**Time** 10:30

TURF MANAGEMENT SERVICE

**Masterlawn**  
P.O. Box 5305 • Terre Haute, IN 47805  
812-460-0658

NAME JIM GRAY cut # 218

ADDRESS 1319 WATERLOO

TELEPHONE 877-6467

MAP CODE \_\_\_\_\_ SQ. FT. SERVED 44

DATE REQUESTED \_\_\_\_\_

REASON FOR CALL B-1 EARLY SPRING

SPECIAL REQUESTS  
We Forget Your regular Bill! Sorry!  
3/15/05  
10.25

ACTION TAKEN: This treatment will reduce crabgrass and help the lawn grow up.

RECOMMENDATIONS \_\_\_\_\_

TODAY'S CHARGE 48.00  
TAX 2.88  
\$ 50.88

Thank You!

Chc McDer **MAR 15 2005**  
TURF PROFESSIONAL

**MASTERLAWN**  
(812)460-0658

**SERVICE INVOICE**  
Invoice # 11754

**SERVICE ADDRESS:**  
Accts. Payable Terry La Grange  
1367 Watertree Rd  
Terre Haute, IN 47803

**CUSTOMER #** 213  
**SPECIALIST** *CW*  
**DATE** *3-15-05*  
**TIME** *10:35*

**B1: Early Spring \$36.00**  
Balanced Organic Based Fertilization containing 19% nitrogen, 0 % phosphorous, 6 % potassium with dimension as the crabgrass reducer. With a thirty % slow release slow fertilizer, and Micro-Nutrient feeding.

*Thank You! For Some Reason This Bill DO NOT CARRY OVER Whole lawn Price Because we DON'T DO the whole lawn on 1st*

*This treatment will reduce crabgrass and help the lawn green up*

14.98 LBS 19-0-6 w/ Dimension

Today's Service Charge 36.00

Sales Tax 2.16  
Today's Total 38.16  
Prev. Balance as of 03/07/05 0.00  
Please Remit 38.16  
Payment is due upon receipt. Thank you!

For your convenience, service continues from season to season. For a change in service, please call our office.  
THANK YOU FOR ALLOWING US TO SERVE YOU. PLEASE KEEP THIS PORTION AND RETURN BOTTOM STUB WITH PAYMENT.

**MASTERLAWN**  
P.O. BOX 5305  
TERRE HAUTE, IN 47803

Bill To Address  
Accts. Payable Terry La Grange  
1367 Watertree Rd  
Terre Haute, IN 47803

Please have technician call me!  
Invoice # 11754 Customer # 213  
Today's Service Charge 36.00  
Sales Tax 2.16  
Today's Total 38.16

**MAR 15 2005**

**MASTERLAWN**  
(812)460-0658

**SERVICE INVOICE**  
Invoice # 11801

**SERVICE ADDRESS:**  
Accts. Payable Benton Stein  
1424 Watertree Rd  
Terre Haute, IN 47803

**CUSTOMER #** 46  
**SPECIALIST** *Chad*  
**DATE** *3-15-05*  
**TIME** *11:07 AM*

**B1: Early Spring \$47.00**  
Balanced Organic Based Fertilization containing 19% nitrogen, 0 % phosphorous, 6 % potassium with dimension as the crabgrass reducer. With a thirty % slow release slow fertilizer, and Micro-Nutrient feeding.

*Thank you*

*This application will green up the lawn and help prevent crab grass*

26.84 LBS 19-0-6 w/ Dimension

Today's Service Charge 47.00

Sales Tax 2.82  
Today's Total 49.82  
Prev. Balance as of 03/11/05 0.00  
Please Remit 49.82  
Payment is due upon receipt. Thank you!

For your convenience, service continues from season to season. For a change in service, please call our office.  
THANK YOU FOR ALLOWING US TO SERVE YOU. PLEASE KEEP THIS PORTION AND RETURN BOTTOM STUB WITH PAYMENT.

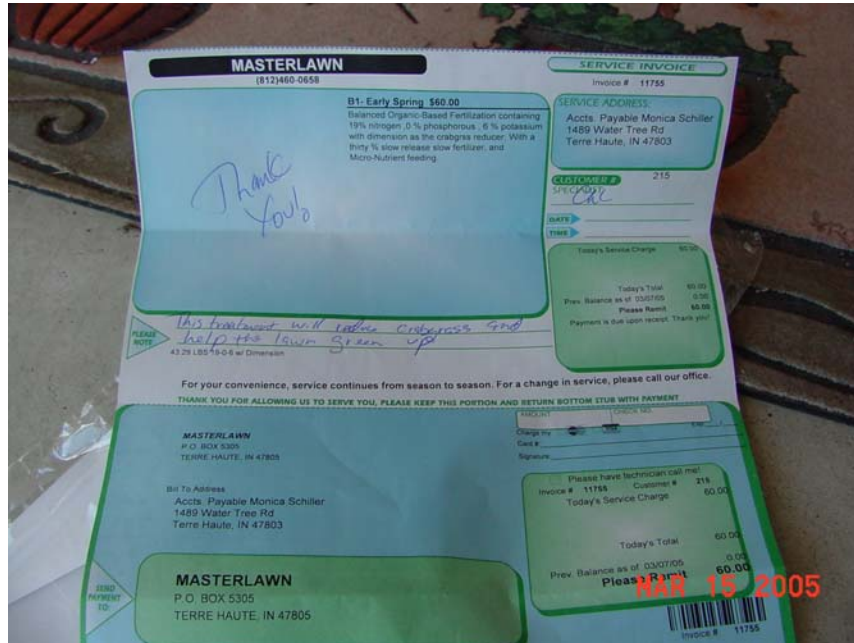
**MASTERLAWN**  
P.O. BOX 5305  
TERRE HAUTE, IN 47803

Bill To Address  
Accts. Payable Benton Stein  
1424 Watertree Rd  
Terre Haute, IN 47803

Please have technician call me!  
Invoice # 11801 Customer # 46  
Today's Service Charge 47.00  
Sales Tax 2.82  
Today's Total 49.82  
Prev. Balance as of 03/11/05 0.00  
Please Remit 49.82

**MAR 15 2005**





8. I also photographed the information sheet for Master Lawn's first application.



9. I collected a sample of the granular product from one of the properties and turned it into the OISC residue lab for herbicide analysis. On 3-16-2005, I talked to Chad McPheeters on the phone and informed him there was a problem. We met in Terre Haute twenty minutes later to discuss the applications. I stated that if he

applied a herbicide for-hire, as his customer notification indicated, he was in violation of the state pesticide law. Similarly, if he applied only fertilizer, yet claimed to have applied herbicide, he had committed fraud. Chad McPheeters stated he only applied fertilizer, but *did claim* to have applied Dimension herbicide because his customers were expecting it. He stated that, after talking to me, he understood he could not apply herbicide since he is not licensed to do so, but when the sale of the business fell through, he was left with customers awaiting applications. The only product on the van on 3-16-2005 was granular fertilizer.

10. The lab report for the sample I submitted indicates no herbicide was detected, confirming Chad McPheeters admission that he applied only fertilizer to the lawns on 3-15-2005. As of 4-21-2005, Chad McPheeters had not taken the Category 3b (turf) certification examination.

**Disposition:** Marty McPheeters, Chad McPheeters and Master Lawn were cited for six (6) counts of violation of section 14(1) of the Indiana Pesticide Use and Application Law for making false claims about a herbicide being in the lawn applications. A civil penalty in the amount of \$1,500.00 was assessed for these violations. This case was forward to the Indiana Attorney General for collection of the civil penalty.



Andrew R. Roth  
Pesticide Investigator

Date: September 14, 2005

# CASE SUMMARY

Case #2005/0166

**Complainant:** Phyllis Wernert  
2975 Fairdale Road NW  
Ramsey, IN 47166  
812-347-2805

**Business:** Dallas Harbeson  
Harbeson Brothers Paving  
3525 Cline Road NW  
Corydon, IN 47112  
812-267-1775

1. On 3-23-2005, Phyllis Wernert contacted the Office of Indiana State Chemist (OISC) to report that trees on her property have been slowly declining in health since a herbicide application was made to the driveway area prior to paving in 2003. Harbeson Brothers Paving reportedly sprayed the area and paved.
2. On 3-28-2005, I spoke with Larry Wernert about the complaint. Mr. Wernert indicated the trees east of his driveway have been declining since the driveway was paved. He stated that a soil sample was submitted to a lab in Louisville. He later reported that the analysis did not detect any herbicide residues.
3. On 3-29-2005, I met with Mrs. Wernert at her home. She indicated that she and her husband had been working with Harbeson Brothers and its insurance company, but now are getting nowhere. Harbeson Brothers reportedly admitted applying Hyvar XL to the area prior to paving. Mrs. Wernert reportedly contacted the Cooperative Extension Service and a representative, Adrienne Rich, looked at the trees and ruled out disease as a causal factor. Ms. Rich reportedly informed the Wernerts that the product applied is not labeled for use around houses and driveways and referred the Wernerts to OISC.
4. I noticed that the maples, oaks and dogwoods on the east side of, and downhill from, the driveway were only partially foliated. The trees exhibited brown leaves on the west sides, nearest the driveway, and were dropping leaves prematurely. One oak on the west side of the driveway near the road also lacked foliage in the canopy above the driveway.
5. I spoke with Dallas Harbeson about the complaint. Mr. Harbeson stated he occasionally uses Hyvar XL to control weeds in driveways and that it was, in fact, applied to the Wernerts' property. According to information obtained from Mr. Harbeson, Hyvar XL (EPA Reg.#352-346), active ingredient **bromacil**, was

sprayed from a pump-type sprayer onto the driveway area in June of 2003. Mr. Harbeson was not sure which of his employees made the application, but Shane Caudill and Louis Fravel were on-site at the time of the application.

6. The Hyvar XL label reads, in part, **“Do not use HYVAR X-L in residential areas or around homes in areas such as lawns, driveways or parking lots.”**
7. I informed Mr. Harbeson that the application is a for-hire pesticide application and he must obtain certification and an Indiana Pesticide business license if he wants to include such applications in his services in the future. I informed Mr. Harbeson that there are products better suited for such sites. Mr. Harbeson was also informed that he could utilize a licensed business to make pesticide applications prior to paving.

**Disposition:** Harbeson Brothers Paving was cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for applying a pesticide to a driveway contrary to label directions. A civil penalty in the amount of \$250.00 was assessed for this violation.



Andrew R. Roth  
Pesticide Investigator

Date: September 9, 2005



# CASE SUMMARY

Case #2005/0173

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

**Business:** Sasquatch Pest Control (B-none)  
734 Third Street  
Fort Wayne, IN 46808  
Tim Daly (F-none)  
260-420-2182

1. On February 18, 2005, this office received information from the Better Business Bureau (BBB) of Fort Wayne that Sasquatch Pest Control was applying for membership with the BBB and were requesting licensing status. Sasquatch Pest Control does not have a pesticide business license and have an outstanding unpaid civil penalty from the year 2003 (see Case #2003/0337).
2. On May 24, 2005, I went to the business address of Sasquatch Pest Control and spoke to owner Sandy Daly. Mrs. Daly was shown credentials and issued a Notice of Inspection. Mrs. Daly stated that Tim Daly (unlicensed applicator) was not at the business location at this time. Mrs. Daly informed me that she was not aware that Sasquatch Pest Control needed a pesticide business license and that she had never received the previous case summary (#2003/0337) indicating the violation and the civil penalty that was assessed. Mrs. Daly stated that Sasquatch Pest Control had not done any applications this year and also had not advertised the business in the phone directory this year. Mrs. Daly also denied that they had contacted the Better Business Bureau of Fort Wayne and applied Sasquatch Pest Control for membership. I informed Mrs. Daly that Sasquatch Pest Control could not make any pesticide applications for hire or advertise the business without a business license. I instructed Mrs. Daly to have Mr. Daly contact me as soon as possible to discuss this issue.
3. On May 24, 2005, I went to the Lesco located in Fort Wayne, Indiana. I spoke to store employee, Ben Killham. Mr. Killham stated that Sasquatch Pest Control had been purchasing pesticides from them for about a 1 ½ years. Mr. Killham also had a new 2005-2006 phone book, which showed an advertisement in the yellow pages for Sasquatch Pest Control. A copy of this advertisement was made.
4. On May 29, 2005, a letter was sent to Sasquatch Pest Control indicating that Mr. Daly still needed to contact me. Mr. Daly was given until Friday, June 3, 2005, to contact me.

5. On Friday, June 3, 2005, Mrs. Daly of Sasquatch Pest Control contacted me. Mrs. Daly stated that they have not made any applications since I first spoke with them in 2003. Mrs. Daly also stated that they have been attempting to get insurance for the business, but have not been able to find someone to insure it. I informed Mrs. Daly that Sasquatch Pest Control had again advertised in the new Fort Wayne phone book in the yellow pages. Mrs. Daly stated that she was unaware of this, but it may have been a "two for one" special when they advertised for their other business. Mrs. Daly informed me that the BBB of Fort Wayne had contacted them about applying for membership and she had told them that Sasquatch Pest Control was not currently in business. I informed Mrs. Daly that they would not be issued a pesticide business license until our office received the necessary documentation and fees and all civil penalties were paid. Mrs. Daly stated she would contact the Attorney Generals office to see about paying the fine and would work on getting the other documentation issues in order.

**DISPOSITION:** Tim Daly and Sasquatch Pest Control were cited for violation of section 14(9) of the Indiana Pesticide Use and Application Law for professing to be in the business of applying pesticides for hire. A civil penalty in the amount of \$500.00 was assessed for this violation. Consideration was given to the fact that this is their second violation of similar nature.

On September 20, 2005, the OISC Compliance Officer, George N. Saxton, was advised that Sasquatch Pest Control was out of business. The licenses for Tim Daly and Sasquatch Pest Control were suspended indefinitely and the database records changed to "inactive" status. No licenses will be granted until such time as the civil penalty is paid for this case.



Scott M. Farris  
Pesticide Investigator

Date: September 20, 2005

## CASE SUMMARY

Case #2005/0291

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

**Business:** Marty Finney  
Daylight Farm Supply B-15765  
4505 E. Booneville-New Harmony Rd. D-2193  
Evansville, IN 47725-9701  
812-867-2463

1. During an investigation regarding a complaint against Gehlbach Farms (see Case #2005/0268), it was learned that Daylight Farm Supply might have sold a restricted use pesticide (RUP) to an unlicensed individual. Vince Gehlbach allegedly purchased pesticides from Daylight Farm Supply during April of 2005.

2. On 5-3-2005, I conducted a storm water inspection and an RUP dealer records inspection at Daylight Farm Supply at the above business location, with manager Marty Finney. Mr. Finney stated he remembered Mr. Gehlbach calling because he lives so far from the facility, approximately one hundred miles to the east. Mr. Finney then produced invoices documenting Mr. Gehlbach's purchases in 2005. The invoices indicate RUPs were sold to Mr. Gehlbach in two-and-one-half gallon containers on three (3) separate days:

4-15-2005 Gramoxone Max (**EPA Reg.#100-1074**), active ingredient (a.i.) **paraquat**

4-18-2005 Atrazine 4L (**EPA Reg.#1381-158**), a.i. **atrazine**  
Bicep II Magnum (**EPA Reg.#100-817**), a.i. **atrazine and metolachlor**  
Gramoxone Max (**EPA Reg.#100-1074**), a.i. **paraquat**  
Simazine 4L (**EPA Reg.#19713-60**), a.i. **simazine**

4-27-2005 Atrazine 4L(**EPA Reg.#1381-158**), a.i. **atrazine**

3. Mr. Finney stated that company policy requires that an applicator complete a form and produce a valid license before an RUP is sold. Mr. Finney stated that this policy was apparently not followed in this case.

**DISPOSITION:** Marty Finney and Daylight Farm Supply at Evansville, IN, were cited for three counts of violation of 357 IAC 1-3-2 of the Indiana Pesticide Registration Law for distributing a restricted use pesticide to a non-certified user. A civil penalty in the amount of \$750.00 (3 counts X \$250.00 per count) was assessed for this violation. By rule, no mitigation is allowed for this type of violation.

Andrew R. Roth  
Pesticide Investigator



Date: July 27, 2005

## CASE SUMMARY

Case #2005/0292

**Complainant:** Bob Studlar  
6140 S 850 W  
Greensburg, IN 47240  
(812) 591-3757

**Applicator:** Paul Bostic F-2740  
Crop Production Services (CPS) B-11550  
473 S 350 W  
Greensburg, IN 47240  
(812) 663-3192

1. On April 29, 2005, Bob Studlar phoned the Office of Indiana State Chemist to report that he believed his pear trees had been injured by a pesticide application made to a neighboring farm field by CPS.
2. On May 3, 2005, I met with Mr. Studlar at his residence. I observed the following:
  - a. Callery pear trees that line Mr. Studlar's driveway were partially defoliated. Intact foliage on the trees was cupped, curled and distorted. The trees are within fifteen to twenty-five feet of the north edge of a cornfield where CPS made a herbicide application.
  - b. Mr. Studlar's well is located in his front yard and is within thirty to thirty-five feet of the north edge of the same cornfield.
  - c. It appeared that the entire cornfield had been treated with a herbicide as no setback or buffer zone was apparent.

I took photos of the injured pear trees, of the adjacent cornfield to the south and of the Studlar's well (see photos 1 thru 4). I also took vegetation samples from the Studlar pear trees for submission to the Purdue Plant and Pest Diagnostic Laboratory (PPDDL). In addition I took vegetation samples from the Studlar pear trees and a soil sample from the adjacent cornfield for analysis by the state chemist residue laboratory. The soil sample was taken forty feet from the Studlar well.

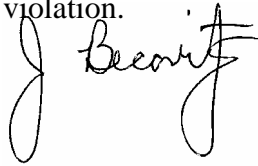
3. According to information supplied by CPS, Volley ATZ (EPA Reg. #55467-7, active ingredients of **acetochlor** and **atrazine**), Balance Pro (EPA Reg.#264-600, active ingredient of **isoxaflutole**), Buccaneer (EPA Reg.# 524-445-55467, active ingredient of **glyphosate**) and 2,4-D LV4 (EPA Reg.# 42750-15, active ingredient of **2,4-D**) were applied to the corn field adjacent to and south of the Studlar property on April 16, 2005. The application began at 8:00am and completed at

3:30am. Weatherplot information supplied by CPS indicates the wind was from the southeast at 4 to 6 miles per hour during most of the application.

4. According to weather information obtained from the Shelbyville airport, the wind was mostly calm or variable during the CPS application.
5. The Diagnosis and Control Recommendation from the PPPDL for the vegetation samples that were submitted stated; "The damage to this callery pear specimen is entirely consistent with expectations for damage resulting from exposure to the reportedly applied herbicides from the adjacent field."
6. Residue analysis of the callery pear vegetation sample revealed 3.9 parts per million (ppm) of atrazine and confirmed the presence of acetochlor. Residue analysis of the soil sample taken from cornfield found 1.2 ppm of atrazine.
7. The Volley ATZ label states, "USE RESTRICTIONS  
This product may not be mixed/loaded or used within 50 feet of any wells, including abandoned wells, drainage wells or sink holes...Do not apply when wind conditions favor drift to non-target sites."

**Disposition:** Paul Bostic and Crop Production Services were cited for violation of section 14(2) of the Indiana Pesticide Use and Application law for failure to follow label directions regarding atrazine setback minimums and drift to desirable vegetation. A civil penalty in the amount of \$250.00 was assessed for this violation.

Joseph D. Becovitz  
Pesticide Investigator



Date: September 9, 2005



Photo 1. Pear trees looking east



Photo 2. Pear trees looking west



Photo 3. Studlar wellhead looking



Photo 4. Closeup of Studlar pear leaf south

## CASE SUMMARY

Case #2005/0308

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

Business: Charles Heller (F31759)  
Heller's Unlimited (B28288)  
Heller's Lawn Treatment Professionals (B31758)  
P.O. Box 761  
Washington, IN 47501-0761  
812-254-3220

1. According to OISC records, Charles Heller did not renew the business license for either of the two above listed businesses for 2005. Mr. Heller is the only certified applicator associated with the businesses and his certification expired 12-31-2004. OISC records indicate two notification letters were sent after several attempts were made to contact Mr. Heller by phone.
2. On 7-21-2005, I finally spoke with Mr. Heller on the phone. He indicated that he had to re-take the Category 3b (lawn care) certification exam, but he assumed his secretary sent in the appropriate forms and fees. OISC records indicated that application and fees were received, but the Certificate of Insurance did not list the business correctly. Mr. Heller indicated he did not know there was a problem, but he would cooperate fully to resolve the issue immediately.
3. On 7-27-2005, I met with Mr. Heller at his shop. He stated that he has a part-time secretary who works from her home and that he had not seen the letters from OISC. Mr. Heller indicated he did not wish to renew the business licenses for either of the previously licensed businesses. He stated he wanted to combine the two businesses and obtain a pesticide business license for the new business, "Lawn Pro". I informed Mr. Heller that if he was making for-hire pesticide applications, he was doing so without an active business license. Mr. Heller admitted he has been making applications. .
4. Mr. Heller completed a business license application for Lawn Pro, which I later submitted to OISC. Since the fees had been received by OISC and the Certificate of Insurance was correct, Mr. Heller was issued a pesticide business license for Lawn Pro (B217823).

**Disposition:** Charles Heller, the certified applicator, and Heller's Lawn Pro were cited for 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 \$250.00 was assessed for this violation. Consideration was given to the fact that Mr. Heller cooperated during the investigation and there appeared to be a good faith effort to comply.

Andrew R. Roth  
Pesticide Investigator



Date: September 20, 2005



# CASE SUMMARY

Case #2005/0312

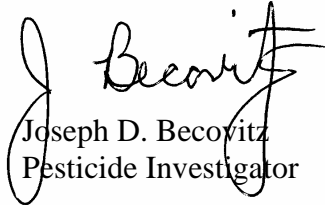
**Complainant:** Barbara Goldblatt  
728 Downing Drive  
Greenwood, IN 46143  
(317) 233-6335

**Applicator:** Mike J. Tindor F-20318  
Pro Care Landscapers B-835  
9801 North Augusta Drive  
Carmel, IN 46032

1. On May 9, 2005, Barbara Goldblatt phoned the Office of Indiana State Chemist to report she was drifted on by a lawn care application made by Pro Care Landscapers while she was walking along the White River Parkway in downtown Indianapolis.
2. On May 10, 2005, I met with Ms. Goldblatt in downtown Indianapolis. I photographed the area of the White River Parkway where the incident occurred, (near the old pump house, see photos 1&2), collected the blouse that Ms. Goldblatt was wearing at the time of the incident (for residue analysis) and took a written statement from Ms. Goldblatt. According to Ms. Goldblatt the incident occurred at approximately 1:15 p.m. on May 9, 2005.
3. Also on May 10, 2005, I met with Mark Tindor, a certified pesticide applicator employed by Pro Care Landscapers. Mr. Tindor stated that he made the application to the White River Parkway on the previous day, May 9, 2005. According to information supplied by Mr. Tindor, he applied Dimension EC (**EPA Reg.#62719-426**, active ingredient of **dithiopyr**) and Lesco Three Way (**EPA Reg.#10404-43**, active ingredients of **2,4-D**, **MCP** and **dicamba**) to the lawn. Mr. Tindor stated he would have been applying near the pump house between 1 p.m. and 2 p.m. using a Z-cart ride on sprayer. The Z-cart employs a boom and five nozzles to deliver approximately ½ gallon of finished mix per 1000 square feet. I photographed the sprayer and one of the nozzles (see photos 3&4).
4. According to information obtained from the Indianapolis airport, the wind was from the south-southwest at 14 miles per hour gusting to 23 miles per hour at the time of the incident.
5. A residue analysis performed on the blouse provided by Ms. Goldblatt confirmed the presence of dithiopyr, the active ingredient in one of the herbicides that was applied by Pro Care Landscapers.

6. The Lesco Three-Way label states, " **ENVIRONMENTAL HAZARDS** . . . Do not apply when weather conditions favor drift from target area." The label further states, " **DIRECTIONS FOR USE** . . . Do not apply this product in a way that will contact workers or other persons, either directly or through drift."
7. The Dimension EC label states, " **Environmental Hazards** . . . Do not apply when weather conditions favor drift from treated areas." The label further states, " **Directions for Use** . . . Do not apply this product in a way that will contact workers or other persons, either directly or through drift."

**DISPOSITION:** Mike J. Tindor and Pro Care Landscapers were cited for violation of sections 14(2) and 14(5) for failure to follow label directions regarding drift and for operating in a careless and negligent manner. A civil penalty in the amount of \$250.00 was assessed for these violations.

  
Joseph D. Becovitz  
Pesticide Investigator

Date: July 12, 2005



Photo 3. Z-cart sprayer



Photo 4. closeup of nozzle



Photo 1. Looking south to pump house



Photo 2. Looking north

# CASE SUMMARY

Case #2005/0320

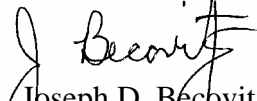
**Complainant:** Brenda Moore  
7991 S 250 W  
Trafalgar, IN 46181  
(317) 878-4996

**Applicator:** Sarah Brown  
Apple Works Orchard  
3756 W Hougham  
Trafalgar, IN 46181  
(317) 878-9317

1. On May 13, 2005, Brenda Moore phoned this office to report that a neighboring orchard (Apple Works) made some sort of pesticide application over May 5, 6, 7 and 8 of 2005. Ms. Moore stated that she has asthma, allergies and multiple sclerosis and that she is concerned about drift and what was being applied at the orchard.
2. On May 16, 2005, I met with Sarah Brown, owner of Apple Works Orchard. I explained the complaint to Ms. Brown and conducted a Worker Protection Standard (WPS) inspection and an inspection of the pesticide mixing and loading area. I learned the following:
  - a. Ms. Brown applies pesticides, such as Sevin XLR Plus, that have WPS language on the label.
  - b. Ms. Brown did not have the WPS safety poster up and did not have pesticide application records posted in a central location. Ms. Brown stated that employees (workers) are informed of pesticide applications and are required to stay out of the treated area until the restricted-entry interval (REI) lapses.
  - c. According to information supplied by Ms. Brown, Fruitone N (**EPA Reg.#5481-427**, active ingredient of **naphthaleneacetic acid**), Sevin XLR Plus (**EPA Reg. #264-333**, active ingredient of **cabaryl**) and Accel (**EPA Reg.#73049-29**, active ingredient of **gibberellin**) were applied on May 6, 7, and 10 to thin the apple set.
3. According to weather information supplied by Ms. Brown and also according to weather information obtained from the Indianapolis airport, the wind was from the west to west-southwest on all three application days. This means the wind would have been blowing away from the Moore property.

4. On May 18, 2005, I received an e-mail from Ms. Brown. The e-mail had photos attached that documented Ms. Brown's installation of the WPS safety poster and a log book containing pesticide spray records in a central location accessible to all Apple Works employees.
5. The Sevin XLR label states, " AGRICULTURAL USE REQUIREMENTS Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170."

**Disposition:** Sarah Brown and Apple Works Orchard 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 Standard. A civil penalty in the amount of \$250.00 was assessed for this violation.

  
Joseph D. Becovitz  
Pesticide Investigator

Date: September 9, 2005

# CASE SUMMARY

Case #2005/0321

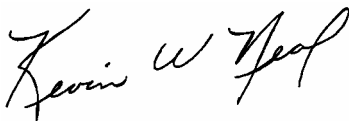
**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University St.  
West Lafayette, IN 47907  
800-893-6637

**Applicator:** Phil Austin  
Austin's Lawn & Landscape (ALL)  
5104 N. 1145 W.  
Delphi, IN 46923  
765-564-6355

1. On 5-17-05, OISC received information that ALL was making pesticide applications for hire in the Delphi, IN area. OISC Records indicate that ALL does not possess the proper licensing or certifications to do so.
2. On 5-27-05, I met with Mr. Steve Rodenbarger, Superintendent of US Aggregates Delphi Limestone in Delphi, IN. I identified myself and issued a Notice of Inspection. I was then able to obtain from Mr. Rodenbarger a copy of an estimate #E546 dated 3/26/2003, wherein ALL is quoting a price of \$320.00 for "3 fertilization, 2 broadleaf, and 1 crabgrass preventer." Mr. Rodenbarger advised me that ALL has been taking care of their property since sometime in 2003.
3. I then met with Mr. Austin on 6-1-05. Identified myself to him and issued a Notice of Inspection. I then explained to Mr. Austin that it was believed that he was applying pesticides for hire without the proper licensing and certification. Mr. Austin agreed that he would stop at once and that he would forward to me copies of any invoices/estimates that he has at his office for pesticide applications made in the past.
4. On 6-16-05, I received via fax copies of invoices/estimates that Mr. Austin and ALL have done in the past two years. They are included in the file.

**DISPOSITION:** Phil Austin and Austin's Lawn and Landscape were cited for 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 \$250.00 was assessed for this violation. Consideration was given to the fact that Mr. Austin cooperated during the investigation.

Kevin W. Neal  
Pesticide Investigator



Date: September 9, 2005

# CASE SUMMARY

Case #2005/0327

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

**Business:** Tom Wilson  
Wilson Fertilizer and Grain (D-1785)  
Box 545  
Rochester, IN 46975  
574-223-3175

**Non-certified:** Bill Bradley  
7662 N. 475 E.  
Rochester, IN 46975  
574-223-5013

**Non-certified:** Paul Holloway  
2208 N. 375 E.  
Rochester, IN 46975  
574-223-6523

1. I performed a routine facility inspection at the above facility on May 19, 2005. Matt Pearson, also of the Office of Indiana State Chemist (OISC), accompanied me. I initially spoke with Tom Wilson and issued him a Notice of Inspection (NOI). Mr. Wilson identified himself as the owner of the company.
2. As part of the inspection I requested to view the company Restricted Use Pesticide (RUP) sales records. Mr. Wilson stated that he did not have access to the RUP records. He stated that I would have to get those from the secretary, Ms. Ulery, who was due back soon.
3. Pearson and I began the physical inspection of the interior shop and small package storage area. We noticed that there were two, 275-gallon shuttles of "Clear Out" in the shop area. That area, while concrete, is not contained and is not sumped or curbed. We also found a total of six other mini-bulk shuttles (200 gallons) that contained material. Those six shuttles appeared to have been in place for a long period of time, as they were covered in dirt and dust. The six shuttles were in the far back portion of the shop area, along with a great deal of trash and debris.
4. I asked Mr. Wilson to accompany Mr. Pearson and me to the shop to answer a few questions about the shuttles. He stated that the two "Clear Out" shuttles were purchased "a few weeks ago." When I asked for invoices to verify that fact, Mr. Wilson stated that he did not know where they were and I would have to wait for the secretary. Mr. Pearson and I also showed Mr. Wilson the 6 shuttles at the rear



- of the shop area. Mr. Wilson agreed that the **“Sutazine” EPA Reg #476-22213, active ingredient atrazine**, appeared to be full and unused. Mr. Wilson stated that he did not know what was in the other five shuttles and that we would have to ask Paul Holloway, an employee (who was currently working in the grain facility). Mr. Pearson took photographs of the shuttles (See figures 1 through 4).
5. Mr. Pearson and I completed the physical inspection of the facility. The bulk pesticide containment dike was no longer in use and there were no chemicals present. The dry fertilizer building had several leaks and surface water was coming in the doors. Mr. Pearson took photographs and prepared a report for the fertilizer administrator, Mike Hancock.
  6. I spoke with Ms. Ulery regarding the RUP sales records. She prepared a spreadsheet for 2004 and 2005 RUP sales records. The data was lacking, all manufacturer names, all EPA registration numbers, some purchaser names and some certification numbers. I explained what data is required and requested the complete records be sent to me by May 25, 2005. The secretary also supplied me with invoices to show that Wilson Fertilizer & Grain had sold **“Clear Out”, EPA Reg. #70829-3, active ingredient glyphosate**, in amounts less than 30 gallons, a total of 34 times. She also provided an invoice showing that the “Clear Out” shuttles were received on 5-5-05.
  7. Mr. Pearson and I met with Paul Holloway who stated that the four shuttles depicted in figure one had been in place for at least 2 years. He stated that the shuttles contained pesticides from cleaning out bulk tanks and rainwater. Mr. Holloway stated that the shuttle in figure 2 contained atrazine and “Bicep”, from draining bulk tanks. The shuttle has been out of containment for approximately a year. Mr. Holloway further stated that the “Sutazine” shuttle had been in place for over a year. He stated that he believed it had been ordered years ago for a customer and never picked up. He stated that the container is full and unused. Mr. Holloway gave me a written statement as to the shuttles.
  8. Mr. Holloway also stated that he repackages “Clear Out” herbicide for customers. He stated that many customers want less than 30 gallons or less than a full 275-gallon shuttle. The farmer will bring their own container to Wilson Fertilizer & Grain and Mr. Holloway will fill the container for them. The containers are 1-2/12 gallon jugs. Mr. Holloway stated that every sale of less than 30 gallons, is something he repackaged for customers, in containers less than 55 gallons. The sales invoices indicate that a total of 34 incidents of repackaging and distribution occurred in 2005.
  9. During a post inspection interview, Mr. Holloway stated that he would immediately get all the shuttles into the unused bulk containment area. He also stated that he would cease repackaging “Clear Out” for customers.
  10. I received complete RUP sales records from Clara Ulery. I noted that there were no private applicator numbers listed for Paul Holloway and Bill Bradley. Mr. Holloway purchased the following restricted use pesticides (RUP).

1) 5-21-04	Aatrex 90	EPA Reg. #100-585	375 lbs
2) 5-28-04	Aatrex 90	EPA Reg. #100-585	375 lbs
3) 6-4-04	Aatrex 4L	EPA Reg. #100-497	66 gallons
4) 7-15-04	Steadfast	EPA Reg. #352-619	45 oz

11. Mr. Bradley purchased the following RUP:

1) 5-28-04	Lumax	EPA Reg. #100-1152	9 gallons
------------	-------	--------------------	-----------

12. I spoke with Ms. Ulery regarding the sales. She stated that until 2004, Mr. Holloway had Wilson Fertilizer and Grain make his applications. In 2004 Mr. Holloway bought his own sprayer and began spraying his crops. Ms. Ulery was unaware that he did not have a license. It should be noted that Mr. Holloway is employed by Wilson Fertilizer and Grain. It should also be noted that Mr. Holloway did have a private applicator license that expired in 1990. I spoke with Mr. Holloway regarding the sale and use of the RUPs. He admitted to having purchased and used the products. Mr. Holloway stated that it was an oversight on his part and he is taking steps to obtain his private applicator license.

13. Ms. Ulery also contacted Mr. Bradley and learned that he did not have a private applicator license. She stated that Mr. Bradley has ceased farming in 2005. I spoke to Mr. Bradley on 5-27-05. He stated that he has stopped farming this year. He stated, “last year I went Wilson’s to get chemicals for approximately 17 acres.” He also stated that, “I brought my own jugs and they poured it out for me and told me how much to use in my sprayer.” Mr. Bradley stated that he was not supplied a label for the product. Mr. Bradley stated “I normally use 2,4-D, but Wilson’s suggested the other stuff, because I had grass in the field.” Mr. Bradley stated he had no idea that he had purchased a RUP, or that he “needed a number to use it.”

## **DISPOSITION:**

1. Wilson Fertilizer and Grain was cited for violation of 357 IAC 1-3-5(a) for failure to keep restricted use pesticide distribution records.

2. Wilson Fertilizer and Grain was cited for five counts of violation of 357 IAC 1-3-2 for distributing a restricted use pesticide to a non-certified user. A civil penalty in the amount of \$1250.00 (five counts X \$250.00 per count) was assessed for these violations. Violations of this nature after March 1, 2005, cannot be mitigated by rule.

3. Wilson Fertilizer and Grain was cited for thirty four (34) counts of violation of Section 3(4) of the Indiana Pesticide Registration Law for distributing a product with incomplete or illegible label or in a container other than the manufacturer’s immediate unbroken container. A civil penalty in the amount of \$8,500.00 (34 counts X \$250.00 per count) was assessed for this violation. However, the civil penalty was reduced to \$2,975.00. Consideration was given to the fact that Wilson Fertilizer and Grain cooperated during the investigation; corrective action was taken; and there was no previous history of similar nature.

4. Wilson Fertilizer and Grain was cited for one hundred and eighty (180) counts of violation of 355 IAC 5-4-1(a) for storing a bulk container outside of secondary containment. A civil penalty in the amount of \$45,000.00 (180 counts X \$250.00 per count) was assessed for this violation. However, violations committed before March 1, 2005, (100 violations) were mitigated to only 35% of maximum. Violations after March 1, 2005 (80 violations), could not be mitigated by rule. The civil penalty for these violations was ultimately reduced to \$28,750.00. Consideration was given to the fact that Wilson Fertilizer and Grain cooperated during the investigation; corrective action was taken; and there was no previous history of similar nature.

5. **The total amount of civil penalty assessed for Wilson Fertilizer and Grain is \$32,975.00.** In consideration of the multiple violations documented, the Restricted Use Dealer permit of Wilson Fertilizer and Grain was suspended for a period of ninety (90) days. On September 20, 2005, this case was forwarded to the Indiana Attorney General's office for collection.

Leo A. Reed  
Pesticide Investigator



Date: September 20, 2005



Figure 1. Four shuttles containing "clean-out" material from bulk tanks.



Figure 2. One shuttle containing Bicep and Atrazine.



Figure 3. 200 gallon "Sutazine" shuttle.



Figure 4. "Sutazine" labeling.

# CASE SUMMARY

Case #2005/0368

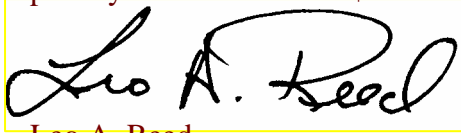
**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University  
West Lafayette, IN 47907  
800-893-6637

**Superintendent:** David John Thompson (N-35984)  
**Applicator:** Marty Harris  
**Location:** Glendarin Hills Golf Course  
3333 Glendarin Way  
Angola, IN 46703  
260-665-1549

1. I performed a routine facility inspection at the above location on May 23, 2005. I met with the superintendent of the golf course, David Thompson.
2. During the inspection I asked to see the Restricted Use Pesticide (RUP) application records. Mr. Thompson provided me with records that indicated two RUPs had been used on the golf course. **“DeltaGarad GC”, EPA Reg # 423-835, active ingredient, deltamethrin and “Bifenthrin Pro”, EPA Reg #51036-391, active ingredient, bifenthrin.** The records lacked, EPA registration number and manufactures name. It was impossible to determine who made the applications from the records.
3. I inquired about the most current application made and Mr. Thompson stated that they had applied **“Heritage”, EPA Reg. #100-1093, active ingredient azoxystrobin**, on May 18, 2005. Mr. Harris, the assistant superintendent, made the application. I asked Mr. Harris what Personal Protective Equipment (PPE) he was wearing at the time of the application. Mr. Harris and Mr. Thompson stated that they wear long sleeve shirt, long pants, shoes and socks for every application. There is no other PPE ever used. The “Heritage” label requires chemical resistant gloves during mixing, loading and application. It should be noted that Harris, Thompson and I searched for any additional PPE that may be on site and did not find any.
4. An inspection of the chemical storage area showed that there are pesticides that require coveralls and respirator for applications. I suggested that Mr. Thompson become familiar with the PPE required for the products they apply and immediately obtain the necessary PPE. Mr. Thompson stated that PPE is something that has “been on the back burner” as they have been busy working on the course and making repairs.

**DISPOSITION:** David John Thompson and Glendarin Hills Golf Course were cited for violation of 355 IAC 4-4-1 of the Indiana Pesticide Use and Application Law for failure to keep required restricted use pesticide application records.

In addition, David John Thompson and Glendarin Hills 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 the use of personal protective equipment. A civil penalty in the amount of \$250.00 was assessed for this violation.

A handwritten signature in black ink, reading "Leo A. Reed", enclosed within a yellow rectangular border.

Leo A. Reed  
Pesticide Investigator

Date: July 12, 2005

# CASE SUMMARY

Case #2005/0370

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

**Applicator:** Brandon Palmer  
Brian McVeigh F32548  
ASAP Aquatics B33902  
3160 N. Shadeland Ave  
Indianapolis, IN 46226  
317-591-9000

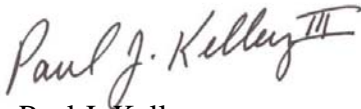
1. On May 24, 2005, I performed a pesticide "Use" inspection with Brandon Palmer, applicator for ASAP Aquatics. In the course of the inspection I determined that Mr. Palmer did not have a credential to apply pesticides for hire in Category 5 – aquatic pest control or any other category.
2. I spoke with Brian McVeigh, owner of ASAP Aquatics. Mr. McVeigh stated that he thought if applicators where in voice communication with a certified applicator they could make applications without being supervised. Mr. McVeigh stated he was looking at requirements dated 1999.
3. I explained to Mr. McVeigh the current requirements for registered technicians and the supervision of non-credentialed applicators.
4. Mr. McVeigh cooperated with the investigation by providing me with a list of all applications made by Brandon Palmer. Mr. Palmer made eight (8) applications without a credential or supervision. The dates of the applications are as follows:

May 11, 2005  
May 12, 2005  
May 16, 2005  
May 17, 2005  
May 18, 2005  
May 20, 2005  
May 23, 2005  
May 24, 2005



5. The following is a list of products used by Mr. Palmer:
  - A. **Chem One, EPA reg.#56576-1, active ingredient copper sulfate**
  - B. **Aquathol K Aquatic Herbicide, EPA reg.#4581-204, active ingredient dipotassium salt of endothal**
  - C. **Cutrine Plus, EPA reg#8959-10, active ingredient elemental copper**
6. On May 24, 2005, I received electronic mail from Brian McVeigh stating he had contacted OISC to make arrangements to have Brandon Palmer take the Core exam.

**DISPOSITION:** Brian McVeigh and ASAP Aquatics were cited for violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to follow the rule regarding on-site supervision of a non-credentialed employee, specifically 355 IAC 4-2-3. A civil penalty in the amount of \$1,000.00 was assessed for these violations. However, the civil penalty was reduced to \$350.00. Consideration was given to the fact that ASAP Aquatics cooperated during the investigation; corrective action was taken; and there was no previous history of similar nature.



Paul J. Kelley  
Pesticide Investigator

Date: July 12, 2005

# CASE SUMMARY

Case #2005/0388  
(see Case #2005/0390)

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

**Business:** Helena Chemical (B-11403)  
63239 SR 13 (D-1956)  
Goshen, IN 46528  
574-642-4963

**Manager:** Todd Hostetler (unlicensed)

- 1) On June 8, 2005, I performed a routine facility inspection at the above location. Agent J. Kelley, also of the Office of Indiana State Chemist (OISC), accompanied me.
- 2) I initially spoke with the company secretary, Megan Erb and inquired about the restricted use pesticide (RUP) sales records that the company is required to maintain and have available for inspection. The records that Ms. Erb had available were incomplete, in that they were lacking the name of the license holder, EPA registration number and manufacturers name. Helena Chemical is to provide the complete sales records within 7 days of the inspection.
- 3) I also spoke with Todd Hostetler, the facility manager. I conducted a WPS inspection as part of the facility inspection. Mr. Hostetler stated that the company had made a pesticide application on 6-7-05. The application consisted of "Honcho Plus", **EPA Reg. #524-454**, active ingredient **glyphosate**. I obtained a copy of the application record. When I inquired about the customer notification requirement, Mr. Hostetler stated that they had tried to "set something up last year for notification, but we could not find anything that really worked." Mr. Hostetler stated that the customer has "a general idea of when we are going to come out to spray." During the facility inspection, Tex Eisenhorn (F-39276) returned from making a pesticide application of "Baythroid 2", **EPA Reg. #264-745**, active ingredient **cyfluthrin**. I asked to inspect Mr. Eisenhorn's decontamination supplies. Mr. Eisenhorn had a soiled tyvek suit (change of clothes); he did not have fresh water, soap or eye flush.

- 4) During the inspection I noted that a portable seed treater was being stored. Mr. Hostetler stated that the company also treats seed. He stated that they treat seed that is owned by various farmers. He stated that they take the seed treater to the farm. Mr. Hostetler stated that Chad Delong does most of the seed treating. A check of the OISC database showed that the facility is not licensed in category 4 (seed treating) and that Mr. Delong does not hold any certification or license. Mr. Hostetler provided me with a total of 5 invoices that show seed treating that was done for hire. On at least two occasions, Chad Delong did commercial seed treating without any supervision. I obtained a written statement from Mr. Delong on 6-9-05 (see case 2005/0390). It should be noted that the seed treatment consists of "Apron Maxx", EPA Reg. #100-1195, active ingredients **fludioxonil and mefenoxam** and "Cruiser", EPA Reg. #10-941, active ingredient **thiamethoxam**. I obtained a written statement from Mr. Delong on 6-9-05.
- 5) During the inspection Mr. Hostetler stated that he also oversees a Helena facility at Kimmel, Indiana. He stated that both facilities cooperate with each other and use the certified applicators from each facility. Mr. Delong works out the Kimmel facility. Mr. Hostetler stated that he believed Kevin Strater of the Kimmel facility was licensed to treat seed for hire. A check of the OISC database revealed that the Kimmel (Ligonier address) facility did not have a pesticide business license. Agent Kelley and I performed a facility inspection at the Kimmel plant on 6-9-05 (see case 2005/0390). The OISC database shows that Kevin Strater is certified in category 1a and category 4. He is not currently licensed, as he is not affiliated with any pesticide business.

**DISPOSITION:** Helena Chemical was cited for violation of 357 IAC 1-3-5(a) of the Indiana Registration Law for failure to maintain proper restricted use pesticide records.

Helena Chemical was cited for violation of section 14(2) of the Indiana Pesticide Use and Application for failure to follow the label regarding the worker protection standards. A civil penalty in the amount of \$250.00 was assessed for this violation.

Helena Chemical was cited for five counts of section 14(12) of the Indiana Pesticide Use and Application Law for making applications for seed treatment without having a category 4 certification. A civil penalty in the amount of \$625.00 (five counts X \$125.00 per count) was assessed for this violation.

Helena Chemical was cited for two counts of violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to properly supervise a non-registered employee. A civil penalty in the amount of \$250.00 (two counts X \$125.00 per count) was assessed for this violation.

The total civil penalty assessed for these violations was \$1,125.00. However, the civil penalty was reduced to \$843.75. Consideration was given to the fact that Helena Chemical cooperated during the investigation.

Leo A. Reed  
Pesticide Investigator



Date: July 27, 2005

# CASE SUMMARY

Case #2005/0390  
(see Case #2005/0388)

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

**Business:** Helena Chemical (no business license)  
3113 N. 650 W. (D-203237)  
Ligonier, IN 46767  
260-635-8220

**Manager:** Todd Hostetler (unlicensed)

- 1) On June 9, 2005, I performed a routine facility inspection at the above location. Agent J. Kelley, also of OISC, accompanied me. This inspection was performed as a follow up to case 2005/0388.
- 2) I initially spoke with the company secretary. I inquired about the restricted use pesticide (RUP) sales records that the company is required to maintain and have available for inspection. The secretary stated that the location is a “depot or satellite” of the Goshen facility and all the records are kept in Goshen. She explained that farmers do purchase RUP’s and take possession at the facility. I explained that records for RUP sales that take place at the Ligonier facility need to be maintained at the facility.
- 3) I also spoke with Ned Egolf and Kevin Statler. Mr. Egolf stated that the facility does a great deal of custom application. He stated that Kevin Strater is a certified applicator and Brian Egolf is a registered technician. Both men report to work at the Ligonier facility. Chemicals, sprayers and mixing and loading are done at the facility. Mr. Egolf stated that it was his understanding that Ligonier is a “depot” for Goshen. I explained that the facility is operating independently of Goshen and a pesticide business license is required. I also advised Mr. Egolf that neither Mr. Strater, nor Brian Egolf are licensed. OISC database indicated that a pesticide business license had been applied for, but the paper work returned, as it was incomplete. Mr. Egolf stated that he has mixed and loaded over a hundred loads for Brian Egolf and Kevin Strater. Many of those loads were done without Mr. Strater being present. I obtained a written statement from Mr. Strater. I also explained that he (Mr. Egolf) must hold a registered technician credential, at the very least, to mix and load pesticides, unless a fully licensed applicator is on site, supervising.

- 4) Mr. Egolf stated that he had mixed a load of “**Honcho Plus**”, EPA Reg. #524-454, active ingredient **glyphosate**, on June 8, 2005, for Brian Egolf. I asked what he (Ned Egolf) was wearing at the time he mixed the load. Mr. Egolf stated that he had on short pants, short sleeve shirt and protective gloves. The pesticide label requires long pants and long sleeve shirt during mixing and loading.
- 5) I also spoke with Todd Hostetler, the facility manager. Mr. Hostetler stated that the company had submitted a pesticide business license application in 2004. The information had been returned as it was lacking proof of insurance. Mr. Hostetler stated that he forwarded the paperwork to corporate head quarters. Apparently the paperwork was never completed. Originally, Mr. Strater and Brian Egolf were licensed through the Goshen facility. Mr. Hostetler removed them from that business license in order to attach them to the Ligonier facility (hence, the reason Egolf and Strater are certified, but not licensed). Mr. Hostetler stated that he realized in 2004 that the Ligonier facility needed an independent pesticide business license. Mr. Hostetler gave me copies of the OISC correspondence.

**DISPOSITION:** Todd Hostetler and Helena Chemical were cited for violation of 357 IAC 1-3-5(a) of the Indiana Registration Law for failure to maintain restricted use records at the facility.

Helena Chemical was cited for 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 \$250.00 was assessed for this violation.

Helena Chemical was cited for violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to properly supervise a non-registered employee (Ned Egolf). A civil penalty in the amount of \$125.00 was assessed for this violation.

Ned Egolf and Helena Chemical were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. A civil penalty in the amount of \$250.00 was assessed for this violation.

The total amount of civil penalty assessed for this investigation is \$625.00. However, the civil penalty was reduced to \$468.75. Consideration was given to the fact that Helena Chemical cooperated during the investigation.

Leo A. Reed  
Pesticide Investigator



Date: July 27, 2005

## CASE SUMMARY

Case #2005/0402

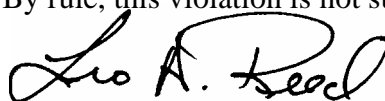
**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University  
West Lafayette, IN 47907  
800-893-6637

**Superintendent:** Eric Miller (unlicensed)  
**Location:** Balmoral Country Club  
9999 Hamilton Hills Lane  
Fishers, IN 46038

- 1) Agent J. Becovitz advised me that he had located what appeared to be unlawful purchases of restricted use pesticides (RUPs) while performing an inspection at Advanced Turf Solutions. Agent Becovitz found a sale of "Bifenthrin Pro", **EPA Reg#51036-391**, active ingredient **bifenthrin**, to Balmoral Country Club. The sale listed Cliff Helvie as the certified applicator at Balmoral. OISC database showed Helvie as the certified applicator at The Bridgewater Club.
- 2) On 6/15/05, I visited The Bridgewater Club (case 2005-0399) and spoke with Mr. Helvie. He stated that he knows the superintendent of Balmoral. He and the superintendent, Eric Miller, are friends. Mr. Helvie stated that he has never given permission for anyone to use his license to purchase RUPs. He also stated that he does not supervise the use of RUPs at any golf course other than The Bridgewater Club. I obtained a written statement from Helvie.
- 3) On 6/16/05, I visited the above location. Agent G. Saxton of OISC accompanied me. I explained the purpose of the visit to Eric Miller, the superintendent. Mr. Miller immediately admitted using his friend's license number to purchase the RUPs. Mr. Miller stated that he did not think Mr. Helvie knew he (Miller) was using the number to purchase RUPs. Mr. Miller stated that he had been licensed previously, while working for another golf course. He also stated that he has a turf degree. Mr. Miller stated that he would immediately take steps to become certified again. Mr. Miller provided a written statement.
- 4) It should be noted that Mr. Miller made the purchases in 2003 and 2004. He stated that he ceased in 2005, as he knew it was wrong and he did not want to compound the problem.

**DISPOSITION:** Eric Miller was cited for two counts of violation of section 14(10) of the Indiana Pesticide Use and Application Law for using a restricted use pesticide without having an applicator certification. A civil penalty in the amount of \$500.00 was assessed for this violation. By rule, this violation is not subject to mitigation.

Leo A. Reed  
Pesticide Investigator



Date: September 9, 2005

## CASE SUMMARY

Case #2005/0426

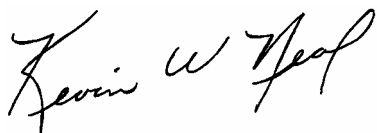
**Complainant:** Tom Neltner  
5244 Carrollton Ave  
Indianapolis, IN 46220  
317-442-3973

**Target:** Matthew Rice  
Georgie McCormick  
The Home Depot (RC-207460)  
4850 E. Southport Rd.  
Indianapolis, IN 46237

1. On 7-19-05, I conducted a registered consultant inspection at the above location.
2. Upon arrival I went to the pesticide section of the store where two employees, Ms. McCormick and Shelly Kuhlman, approached me. I asked if they could help me to get something to kill yellow jackets that were nesting in my yard.
3. Ms. Kuhlman began to show me some traps that they had on hand and I stated that I did not want to trap them I wanted to kill them and the nest. At that point Ms. McCormick told me that what I needed to do was find both the front and rear entrance to the nest. After I had done that place a brick over the rear entrance and pour gasoline into the front entrance and set a match to it. She stated that this was the only way to really kill them and rid my yard of the nest. I looked at her with a look of disbelief. At that time she then pointed out a couple of wasp and hornet killer products.
4. I then identified myself to Ms. Kuhlman and Ms. McCormick and asked to speak with the store manager.
5. I was then introduced to Mr. Rice to whom I issued a Notice of Inspection. Mr. Rice and I then went to his office where it was determined there was no documentation to show that Ms. McCormick had received any training for advising customers on the use and selection of pesticides. Ms. Kuhlman however had been trained.
6. This location did have signs posted in the pesticide section advising customers that there were trained personnel on staff that would be able to help with the selection and advise on how to use pesticides. There was also a sign on an employee bulletin board advising employees that only trained personnel were allowed to give advise with regard to pesticides.

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

Kevin W. Neal  
Pesticide Investigator



Date: September 20, 2005

# CASE SUMMARY

Case #2005/0432

**Complainant:** Tom Neltner  
5244 Carrollton Avenue  
Indianapolis, IN 46220  
317-442-3973

**Target:** Lowes  
8440 Michigan Road  
Indianapolis, IN 46268

- 1) Tom Neltner of Improving Kids Environment (IKE) contacted the Office of Indiana State Chemist (OISC) to report the above company was not in compliance with the Registered Consultant rule.
- 2) I visited the above location on July 7, 2005. I waited in the pesticide aisle for help, along with another man. After some time, David Hobeck and David Reed arrived to assist us. Mr. Reed gave grub control advice to the other man and Mr. Hobeck asked if he could help me. I asked Mr. Hobeck to recommend a product for roach control. We were standing directly in front of a sign that indicated only trained employees could give pesticide advice. The sign also indicated that consumers must read and follow the pesticide label. Mr. Hobeck stated that he would recommend the bait stations, as they are the easiest to use. He also pointed to a container of boric acid and stated, "This is easy to sprinkle around as well."
- 3) Pointing to the sign, I asked if he was one of the trained employees. Mr. Hobeck stated that he was not trained as he normally works outside. He stated that Mr. Reed was the trained employee and that Mr. Reed could answer most of my questions. Mr. Reed returned and stated that he would not recommend the bait stations. He suggested the boric acid was more effective. When asked, Mr. Reed stated that he had been through training for all the pesticides (weed control and insect control).
- 4) I left the store and returned with a Notice of Inspection (NOI) that I issued to Peter Luchford, the nursery manager. Mr. Luchford is aware of the consultant requirements. I reviewed the complaint and my investigation with Mr. Luchford.

**Disposition:** Lowes was cited for violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to comply with the Registered Consultant rule. A civil penalty in the amount of \$250.00 was assessed for this violation.



Leo A. Reed  
Pesticide Investigator

Date: September 9, 2005



# CASE SUMMARY

Case #2005/0434

**Complainant:** Thomas Neltner  
5244 Carrollton Avenue  
Indianapolis, IN 46220  
(317) 442-3973

**Retailer:** Lowes (206022)  
7893 E. US 36  
Avon, IN 46123

1. On July 20, 2005, I performed a Pesticide Consultant inspection at the above location. According to information supplied by Improving Kids Environment (IKE), untrained employees at the store had provided an IKE representative with pesticide selection and use advice. I entered the store without identifying myself as an Office of the Indiana State Chemist employee and proceeded to the lawn and garden section. Signs were posted in the pesticide section stating the store has trained employees to provide pesticide selection advice. I asked Mike, a store employee, if he could help me select an insecticide to control ants. Mike recommended several pesticide products labeled for the control of ants. While in the pesticide section, Christine, another store employee, recommended an insecticide to two female customers.
2. I then met with Corey Batt, the operations manager. I explained the IKE complaint to Mr. Batt. During our discussion, it was learned that Mike Mutz attended pesticide training. Mr. Batt stated that Christine, a seasonal employee, works outside in the plant area and has not attended training. I explained the Registered Consultant Rule to Mr. Batt and asked that he review the rule with his employees.

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



Andrew R. Roth  
Pesticide Investigator

Date: September 9, 2005

# CASE SUMMARY

Case #2005/0442

**Complainant:** Tom Neltner  
5244 Carrollton Avenue  
Indianapolis, IN 46220  
317-442-3973

**Applicator:** Sears Hardware  
10400 E. US 36  
Avon, IN 46123

1. On June 30, 2005, the Office of Indiana State Chemist (OISC) received information from Tom Neltner, Executive Director of Improving Kid's Environment (IKE), that on April 22, 2005, a representative of his organization was given pesticide advice from an employee of Sears Hardware located at 10400 E. US 35 in Avon, Indiana.
2. OISC's records indicate that Sears Hardware located in Avon does not have a pesticide consultant license.
3. On July 11, 2005, I met with Karen Livingston, assistant manager for Sears Hardware in Avon, Indiana. Initially, I attempted to see if I could get pesticide advice from an employee but no one approached me to offer advice. I asked Ms. Livingston a scenario question, "If needed something for grubs" what would the Sears Hardware employee tell me. Ms. Livingston stated that employees would recommend the product "Grub-X".
4. Furthermore, during an inspection of the products sold at Sears Hardware, I issued a Stop Sale for the un-registered product **Rapel Bulb ProtectR, EPA Reg.# 16-181**. A sample was obtained and taken to OISC's Formulations Lab for analysis.

**Disposition:** Sears Hardware was cited for violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to comply with the Registered Consultant Rule. A civil penalty in the amount of \$250.00 was assessed for this violation.



Paul J. Kelley  
Pesticide Investigator

Date: September 9, 2005

## CASE SUMMARY

Case #2005/0472

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

**Applicator:** Gluesenkamps Designscape Horticultural Svcs., Inc. B18253  
Dan Gluesenkamp F2367  
2877 S. T.C. Steele Rd  
Nashville, IN 47448  
812-988-8900

1. On June 14, 2005, I conducted an inspection at Gluesenkamps Designscape Horticultural Svcs., Inc. in Nashville, Indiana. While talking with Dan Gluesenkamp, owner, I learned that possibly four employees, Madelyn Hood, Robin Grubb, Richard Russell, and Gary Emmons, made for-hire pesticide applications without a license. Mr. Gluesenkamp stated that all four of the employees in question took the Core exam in 2004.
2. On June 27, 2005, I received a letter from Mr. Gluesenkamp stating that Madelyn Hood, Robin Grubb, Richard Russell, and Gary Emmons took the Core exam in 2004. Mr. Gluesenkamp stated in the letter that he did not complete and send the application for their licenses. Furthermore, Mr. Gluesenkamp provided information where Madelyn Hood and Robin Grubb made for-hire pesticide applications without a license.
3. Madelyn Hood made for-hire pesticide applications on the following dates:  
3-9-05  
5-11-05  
5-25-05
4. Robin Grubb made for-hire pesticide applications on the following dates:  
5-16-05  
5-25-05  
6-10-05

**DISPOSITION:** Dan Gluesenkamp and Gluesenkamp's Designscape Horticultural Svc., Inc. were cited for five (5) counts (violations are calculated per day) of violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to properly supervise a non-registered employee. A civil penalty in the amount of \$625.00 was assessed for these violations. However, the civil penalty was reduced to \$62.50. Consideration was given to the fact that Gluesenkamp's Designscape Horticultural Svc., Inc. cooperated during the investigation; corrective action was taken; there was no previous history of similar nature; no potential for damage; a good faith effort to comply; and no restricted use products were applied.

Paul J. Kelley  
Pesticide Investigator



Date: July 27, 2005

## CASE SUMMARY

Case #2005/0474

**Complainant:** Ted Bueshing  
54831 Willow Creek  
Mishawaka, IN 46545  
574-257-1997

**Business:** Arab Pest Control (B-10453)  
**Owner/Manager:** Anthony Young (F-23430)  
52975 Paul Drive  
Elkhart, IN 46514  
574-293-9323

1. The Office of Indiana State Chemist (OISC) received a complaint from Ted Bueshing regarding a termite application at this home. The complainant stated that "Sentricon", was installed by Arab and never monitored. Several months later Arab made a "Termidor", **EPA Reg, #7969-210**, active ingredient, **fipronil**, application. The complainant did not believe the "Termidor" application was done according to the pesticide label.
2. Agent Scott Farris and I visited the home on July 20<sup>th</sup>, 2005. We met with Kristie Bueshing. She stated that she and her husband had the home inspected prior to purchase. Arab inspected the home and found active termites, and indicated that they recommended treatment. The seller agreed to pay to have the "Sentricon System" installed. The installation was done the same day as the inspection, November 13, 2004. Ms. Bueshing later received a letter from Tony Young of Arab indicating that Arab would no longer be servicing the "Sentricon System". Ms. Bueshing stated that she thought she got the letter in January of 2005. The letter indicated that Arab would convert homeowners to a "Termidor" termiticide treatment. Ms. Bueshing had conversations with both Mr. Young of Arab and Dow AgroSciences. She agreed to have "Termidor" applied.
3. It should be noted that the "Sentricon" label reads in part, "Seasonal effects on termite activity vary geographically, but feeding activity typically declines during periods when the historical average daily temperature falls below 50F. Monitoring may be suspended during these periods." Whereas the system was installed November 13, the first monitoring was to be done December 13. Weather data indicates that the historical daily average is 41F, at the time of installation and 30F at the time of the first monitoring.
4. Ms. Bueshing stated that on April 6, 2005, Luke Kramer of Arab made the "Termidor" application. Ms. Bueshing stated that he had another young man with him that helped dig the trench around the home. Mr. Kramer left paper work that indicated he applied 60 gallons of termiticide at .06% dilution rate. Ms. Bueshing supplied copies of all the paper work that had been left by Arab. Agent Farris and I measured and completed a diagram of the home. The following calculations were completed by OISC based on the measurements.
  - Exterior Vertical Barrier: garage slab – 46 linear feet x 4 gallons/10 linear feet x 1 foot depth to

- footer = 18.4 gallons.
- Exterior Vertical Barrier/Interior garage: basement – 142 linear feet x 4 gallons/10 linear feet x 4 feet depth to footer = 227.4
  - Total gallons of use dilution needed: 18.4 gallons + 227.4 gallons = 245.6 gallons of use dilution.
  - 245.6 gallons needed – 60 gallons used = 185.6 gallons or 76% short
5. A search of OISC records found that Luke Kramer took and passed the core (registered technician) test on April 27, 2005 (three weeks after the application). Arab never applied for a license. I spoke with Mr. Kramer on July 25, 2005. He stated that Mr. Young was never on this job site with him. He stated that he did treat the house. He stated that he did not have any certified or licensed individuals on the job site. Mr. Kramer also stated that he used 60 gallons, as he had been instructed, by Mr. Young.
6. Agent Farris and I went to Arab and spoke with Alisa Mills, the company secretary. She supplied us with copies of Arab's records, regarding the termiticide application. Those records lacked, Dimensions of the structure to be treated, including depth to footer, treatment specification, EPA registration number of the termite control product used, Explanation of any label deviation., Name and registration number of the registered technician performing the treatment, Name and certification number of the Category 7b certified applicator performing the treatment or responsible for supervision of the registered technician.
7. I spoke with Anthony Young on 7/21/05. Mr. Young stated that he did not know why all the termiticide was not used. He stated, "I have no excuse, this is a huge error." When I asked about Mr. Kramer being on the job alone, Mr. Young stated, "Fact of the matter is, I can't tell you that Kevin (an RT with Arab at the time of application) or I was there the entire time." Mr. Young stated that he would take steps to rectify the situation with the complainant.

**Disposition:** Anthony Young and Arab Pest Control were cited for violation of section 14(7) of the Indiana Pesticide Use and Application Law for failure to keep complete termiticide application records.

Anthony Young and Arab Pest Control were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application rates. A civil penalty in the amount of \$250.00 was assessed for this violation.

Anthony Young and Arab Pest Control were cited for violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to properly supervise a non-registered employee. A civil penalty in the amount of \$125.00 was assessed for this violation.

The total amount of civil penalty assessed is \$375.00. However, the civil penalty was reduced to \$262.50. Consideration was given to the fact that Mr. Young cooperated during the investigation and no restricted use pesticides were involved.



Leo A. Reed  
Pesticide Investigator

Date: September 9, 2005

# CASE SUMMARY

Case #2005/0519

**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University St.  
West Lafayette, IN 47907  
800-893-4331

<b>Applicator:</b>	Anthony Ortman	No license
	Diamond Lawn Care	B214233
	P.O. Box 17802	
	Indianapolis, IN 46217	
	317- 767-5991	
	Jason Willoughby	F-35615

1. On July 6, 2005, I observed Anthony Ortman, owner of Diamond Lawn Care, making a pesticide application to control weeds at the Crooked Creek Shoppe's strip mall complex on North 86<sup>th</sup> St. in Indianapolis, Indiana. Mr. Ortman had a backpack sprayer and was wearing short pants and short sleeves. Furthermore, Mr. Ortman was not licensed to apply pesticides for hire. Mr. Ortman's partner, Jason Willoughby, is the category 3b certified applicator for the business.
2. Mr. Ortman stated that he did not need a license to spray for weeds because he was not charging the customer for the application and the owner of the property purchased the product for him to apply. Mr. Ortman admitted later that he purchased the product, **Finale Concentrate Weed and Grass Killer, EPA Reg.#45639-193-10370**, active ingredient **Glufosinate-ammonium** at Glenn Valley Feed & Garden Center located at 8241 Bluff Rd, Indianapolis, Indiana. A product check determined that **Finale Concentrate Weed and Grass Killer** was not a registered product in Indiana. (See case #20050518.)
3. The label for **Finale Concentrate Weed and Grass Killer, EPA Reg.#45639-193-10370**, does not have specific personal protection equipment (PPE) language for applicators regarding proper clothing.

**Disposition:** Jason Willoughby and Diamond Lawn Care were cited for violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to properly supervise a non-registered employee. A civil penalty in the amount of \$125.00 was assessed for this violation.



Paul J. Kelley  
Pesticide Investigator

Date: September 9, 2005

# CASE SUMMARY

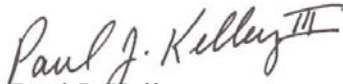
Case #2005/0531

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

<b>Applicator:</b>	Ron Condra	F-17845
	Jeremy Cook	No License
	Hoosier Lawn	
	a/k/a Indiana Lawn Maintenance, Inc.	B-18274
	PO Box 194	
	Whiteland, IN 46184	
	317-535-5500	

1. On July 20, 2005, I observed Jeremy Cook making a for hire pesticide application of Touchdown, **EPA Reg.#100-1121**, active ingredient **Glyphosate**, at Superior Solvent and Chemical Company at the corner of Raymond Street and Bluff Road in Indianapolis, Indiana. Mr. Cook was applying Touchdown from a backpack sprayer to a grassy area being made into a landscape bed.
2. Mr. Cook does not hold a license to apply pesticides for hire.
3. Ron Condra, owner of Indiana Lawn Maintenance Inc., was contacted. Mr. Condra stated he did not know why Mr. Cook was making the application because the business has licensed applicators to make applications. Mr. Condra, is the category 3b applicator for the business. If he was making application to a landscape bed, he would need a 3a.
4. Matt Fromelius, RT-212597, arrived at the site to complete the application.

**Disposition:** Ron Condra and Indiana Lawn Maintenance Inc. were cited for violation of section 14(6) of the Indiana Pesticide Use and Application Law for failure to properly supervise a non-registered employee. A civil penalty in the amount of \$125.00 was assessed for this violation.

  
Paul J. Kelley  
Pesticide Investigator

Date: September 9, 2005

# CASE SUMMARY

Case #2005/0551

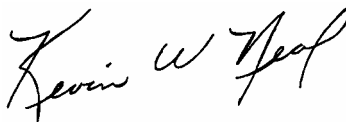
**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University St.  
West Lafayette, IN 47907  
800-893-6637

**Applicator:** Sol Bernhardt  
Windy Hill Country Club  
37 N. Hwy 231  
Greencastle, IN 46135

1. On 7-28-05, I conducted an inspection at the above named facility.
2. As I was arriving I observed Mr. Bernhardt, course superintendent, making an application of an unknown pesticide to the fairway that was later identified as #10 fairway. I could see that Mr. Bernhardt was wearing short pants, short sleeve shirt and no gloves.
3. I then identified myself to Mr. Bernhardt and we went to his office. I issued a Notice of Inspection and explained to him what I had witnessed. He immediately admitted that he was not wearing the proper personal protective equipment.
4. Mr. Bernhardt advised that he was making an application of Drive 75 DF Herbicide, (EPA Reg. #7969-130) active ingredient **quinclorac**.
5. The label for Drive states, "*Applicators and other handlers must wear: \*long sleeved shirt and long pants \*Chemical resistant gloves \*shoes plus socks.*"
6. I could also see that there were no precautions made to see that golfers were notified that an application had been made. Mr. Bernhardt did not take any special steps to keep golfers out of the areas treated until they were dry. The label for Drive also states, "*Do not enter or allow others to enter the treated area until sprays have dried.*"

**DISPOSITION:** Sol Bernhardt and Windy Hill Country Club were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment and for failure to prohibit others from entering treated areas. A civil penalty in the amount of \$250.00 was assessed for this violation.

Kevin W. Neal  
Pesticide Investigator



Date: September 20, 2005



# CASE SUMMARY

Case #2005/0555

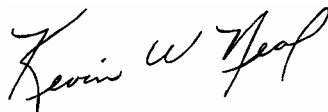
**Complainant:** Office of Indiana State Chemist (OISC)  
175 S. University St.  
West Lafayette, IN 47907  
800-893-6637

**Applicator:** Richard Wilson RT-207976  
Joe Smith F- 208409  
Earthscapes B-209000  
10187 W. 1250 N.  
Monticello, IN 47960  
574-583-5296

1. On 8-2-05, at about 11:00am, I observed Mr. Wilson making an application of unknown herbicide with a backpack sprayer to the property of the Family Express gas station at the intersection of US 24 and I-65.
2. I approached Mr. Wilson, identified myself, and issued a Notice of Inspection. At the time Mr. Wilson was wearing shorts, short sleeve shirt, no gloves or eye protection.
3. Mr. Wilson advised that he was making an application of Round-up. When I asked to see the label he produced a container of Lesco Prosecutor Swift Acting Non-selective Herbicide (**EPA Reg. #524-535-10404**) active ingredient **glyphosate**.
4. The label for Prosecutor Herbicide states, "*Applicators and other handlers must wear: Coveralls over short-sleeved shirt and short pants, chemical resistant gloves...protective footwear plus socks and protective eyewear.*"
5. Mr. Wilson did have with him in the vehicle gloves and eyewear. However he did not have coveralls.
6. Mr. Wilson advised that Mr. Smith, listed above, is his supervisor.

**DISPOSITION:** Joe Smith and Earthscapes were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment. A civil penalty in the amount of \$250.00 was assessed for this violation.

Kevin W. Neal  
Pesticide Investigator



Date: September 9, 2005

# CASE SUMMARY

Case #2005/0570

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

**Applicator:** Jody Dale Davies N-27105  
Turkey Run Golf Club  
7951 E. St. Rd. 47  
Waveland, IN 47989  
765-435-2048

1. On August 12, 2005, I conducted an inspection at the above named facility. Upon arrival I identified myself to Mr. Davies and issued a Notice of Inspection.
2. During the inspection it was determined that Mr. Davies last made a pesticide application on August 10, 2005. That application consisted of a tank mix which included Daconil Ultrex (**EPA Reg. #50534-202-100**) active ingredient **chlorothalonil**, 3336F (**EPA Reg. #1001-69**) active ingredient **thiophanate** and Subdue Maxx (**EPA Reg. #100-796**) active ingredient **DMPA**.
3. When asked what he was wearing at the time of the application, Mr. Davies stated that he was wearing basically what he was wearing at the present time, shorts, short sleeve shirt, tennis shoes and gloves.
4. The label for Daconil Ultrex states, "*Mixers, loaders, applicators and all other handlers must wear: \*coveralls over short sleeved shirt and short pants \*chemical resistant gloves made of any waterproof material... \*chemical resistant footwear plus socks \*protective eyewear \*chemical resistant headgear for overhead exposure \*chemical resistant apron when cleaning equipment, mixing, or loading \*and a dust/mist filtering respirator...*"
5. The label for Subdue Maxx states, "*Applicators and other handlers must wear \*long sleeved shirt and long pants \*waterproof gloves \*shoes plus socks*"
6. The label for Daconil states, "*Do not enter or allow others to enter the treated area until sprays have dried.*" Mr. Davies advised that he does not have a system in place to prevent such an occurrence and on August 10<sup>th</sup> there were golfers in the area.
7. Mr. Davies then showed me the area he uses to mix and load pesticides into his sprayer. The area is next to a wellhead in a grassy area by a cart path. There is a drain that leads directly to a nearby pond. See Photo #1-5



Photo #1



Photo #2



Photo #3



Photo #4



Photo #5



Photo #6

**DISPOSITION:** Jody Davies and Turkey Run Golf Club were warned for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding the use of personal protective equipment.

Jody Davies and Turkey Run Golf Club were cited for violation of section 14(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner for mixing and loading next to a well head and a drain that leads to a pond.

Jody Davies and Turkey Run Golf Club were cited for violation of section 14(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions restricting entry to treated areas until sprays have dried. A civil penalty in the amount of \$250.00 was assessed for this violation. Consideration was given to the fact that a potential exists for human harm.

Kevin W. Neal  
Pesticide Investigator

Date: September 20, 2005