

Please Read Instructions on Reverse Side of Yellow copy

Arkansas  
State Claims Commission

DEC 22 2016

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

RECEIVED

- ☐ Mr.  
☐ Mrs.  
☐ Ms.  
☐ Miss

Ken and Tina Howard, Claimant

vs.

State of Arkansas, Respondent

AR, State Plant Board

## COMPLAINT

Ken and Tina Howard, the above named Claimant, of 10922 Hwy 14 East, Weiner, AR 72779, 870 219 7168 County of Jackson, represented by (State) (Zip Code) (Daytime Phone No.) (Street or R.F.D. & No.) (City) (Legal Counsel, if any, for Claim)

of (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.) says:

State agency involved: Arkansas State Plant Board Amount sought: hundred Billion

Month, day, year and place of incident or service: Yearly - Starts in March - August 2009-2016

Explanation: We have lived in this rural area for over 20 years and have made several complaints to the Arkansas State Plant Board for the farmers spraying their fields with pesticides and herbicides. They can not maintain the drift of any of the chemicals they spray. Our property (trees, gardens, etc.) becomes discolored and our garden dies. The investigators can never determine the drift pattern nor which farmer sprayed us. We have videos and the farmers tell the investigator what they spray. Our rights have been taken from us. The ASPB has been collecting for these farmers. We have been personally sprayed and clothing tested positive for the chemicals and the ASPB says NO wrong and that should be considered a human exposure. When we do have a drift and property damage. The ASPB investigators tell us to take it up with the farmer.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?

NO; when? (Month) (Day) (Year) to whom? (Department)  
 (Yes or No)

and that the following action was taken thereon:

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? NO; if so, state name and address

(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)  
 and that the nature thereof is as follows:

and was acquired on in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verify believes that they are true.

Tina Howard  
 (Print Claimant/Representative Name)

Ken Howard  
 (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Newport AR  
 (City) (State)

(SEAL) SAMANTHA BUIE  
 NOTARY PUBLIC-STATE OF ARKANSAS  
 INDEPENDENCE COUNTY  
 My Commission Expires 4-10-2023  
 Commission # 12393683

on this 9th day of December 2016  
 (Date) Samantha Buie  
 (Notary Public)

SF1- R7/99

My Commission Expires: 4-10-2023  
 (Month) (Day) (Year)

CF - 12-052

With this case file. The ASPB found chemical damage on our property and said could not determine where it came from because several farmers sprayed their fields at the same time. As far as I am concerned, all the farmers should have been fined with violation of damaging my property and also pay me for the damages caused. We got nothing done about this either.

Case # 12-052

## ARKANSAS STATE PLANT BOARD

## REPORT OF INVESTIGATION

Requester's Name Ken Howard Address 10922 Hwy 14E  
 City Wemer AR Zip 72479  
 Home Phone 870.219.7168 Work Phone \_\_\_\_\_

Type of area affected:

Human exposure ☐Lawn ☒Garden ☐Field Crops ☐Other \_\_\_\_\_

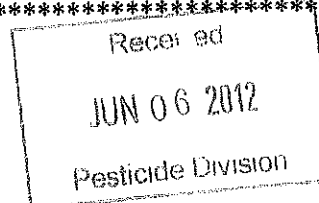
GPS Location of area affected

Latitude 35° 33' 48" N GPS #1Longitude 091° 02' 36" W

(Write the letters GPS on the area map indicating the location where the GPS readings were obtained)

Location of area affected to Nearest Town Amagon County JacksonAre pesticide Symptoms Present? Yes ☒ NO ☐What Type: Chlorosis on leavesDescribe symptoms: interveinal chlorosis on leavesHas affected area been treated in any manner with fertilizer/pesticide? Yes ☐ No ☒If so, List \_\_\_\_\_

\*\*\*\*\*


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 State Claims Commission  
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Requester's Name Ken Howard Address 10922 Hwy 14E  
City Wemer AR Zip 72479  
Home Phone 870.219.7168 Work Phone                     

Human exposure ☐ Lawn ☒ Garden ☐ Field Crops ☐

Latitude 35° 33' 48" N GPS #1

Longitude 091° 02' 36 W

Location of area affected to Nearest Town Amagon County Jackson

Are pesticide Symptoms Present?      Yes ☒      NO ☐

What Type: Chlorosis on leaves

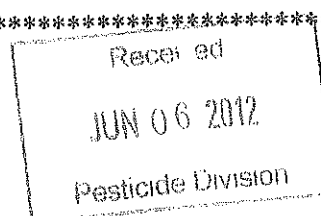
Describe symptoms: interveinal chlorosis on leaves

Has affected area been treated in any manner with fertilizer/pesticide? Yes ☐ No ☒

If so, List

\*\*\*\*\*

Page 1 of 2





DP-13 (3-99)

Photo # 7

Date of Photo: 5-14-12

Photographer's Signature [Signature]

Direction of View: East

This photo depicts: trees on NW

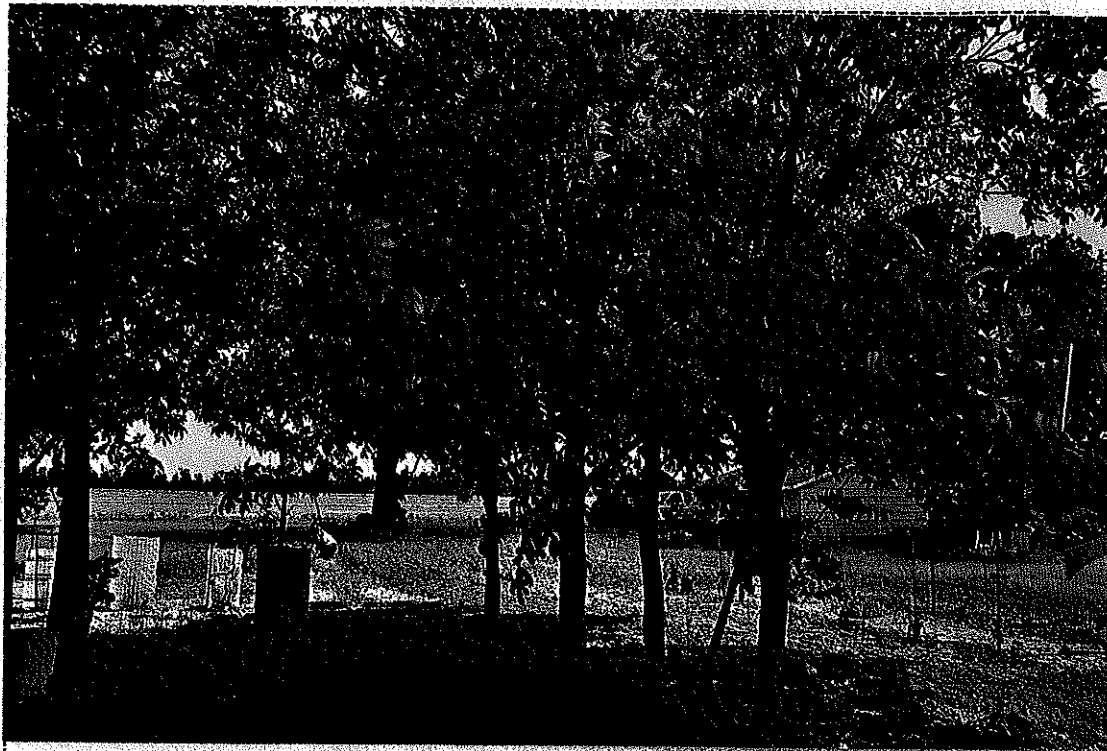
side of Howards

garden

Received

JUN 06 2012

Pesticide Division



Purpose of photo: show overview of trees

Photo # 8

Date of Photo: 5-14-12

Photographer's Signature [Signature]

Direction of View: close

This photo depicts: chlorotic symptoms

on trees on

NW side of

Howards garden



Purpose of photo: show chlorotic symptoms present on leaves of trees

on NW side of Howards garden

DP-13 (3-99)

Photo #

13

Case File # 17-052

Date of Photo: 5-14-12

Photographer's Signature

Direction of View:

close

This photo depicts:

chlorotic symptoms

on leaves of

plant at base

of tree on north  
side of tree on  
south side of

house

Purpose of photo:

show chlorotic symptoms present on south side  
of house at time of investigation



Photo #

14

Date of Photo: 5-14-12

Photographer's Signature

Direction of View: ~~South~~

West

This photo depicts:

necrotic leaves

on trees on

East side of

house

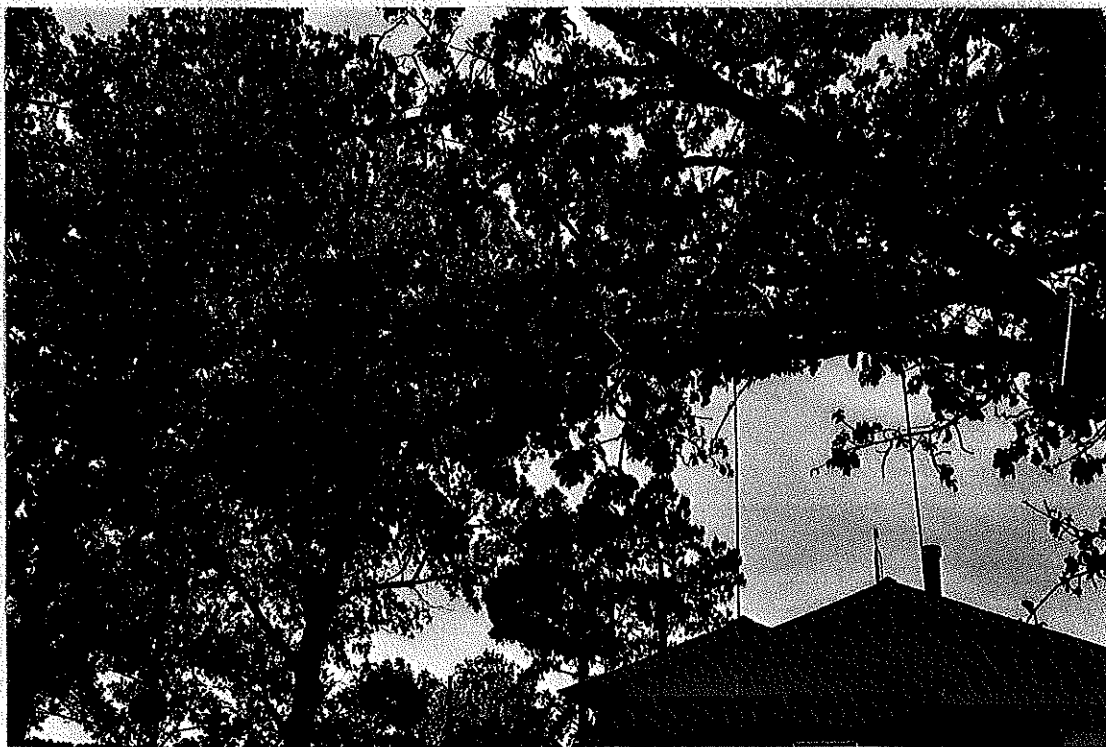
Received

JUN 06 2012

Pesticide Division

Purpose of photo:

show necrotic symptoms present on tree leaves  
at time of investigation



DP-13 (3-99)

Photo #

15

Date of Photo: 5-14-12

Photographer's Signature

Direction of View:

close

This photo depicts:

necrotic symptoms  
on tree leaves

Received

JUN 06 2012

Pesticide Division

Purpose of photo:

show necrotic symptoms present on tree leaves  
at time of investigation



Photo #

16

Date of Photo: 5-14-12

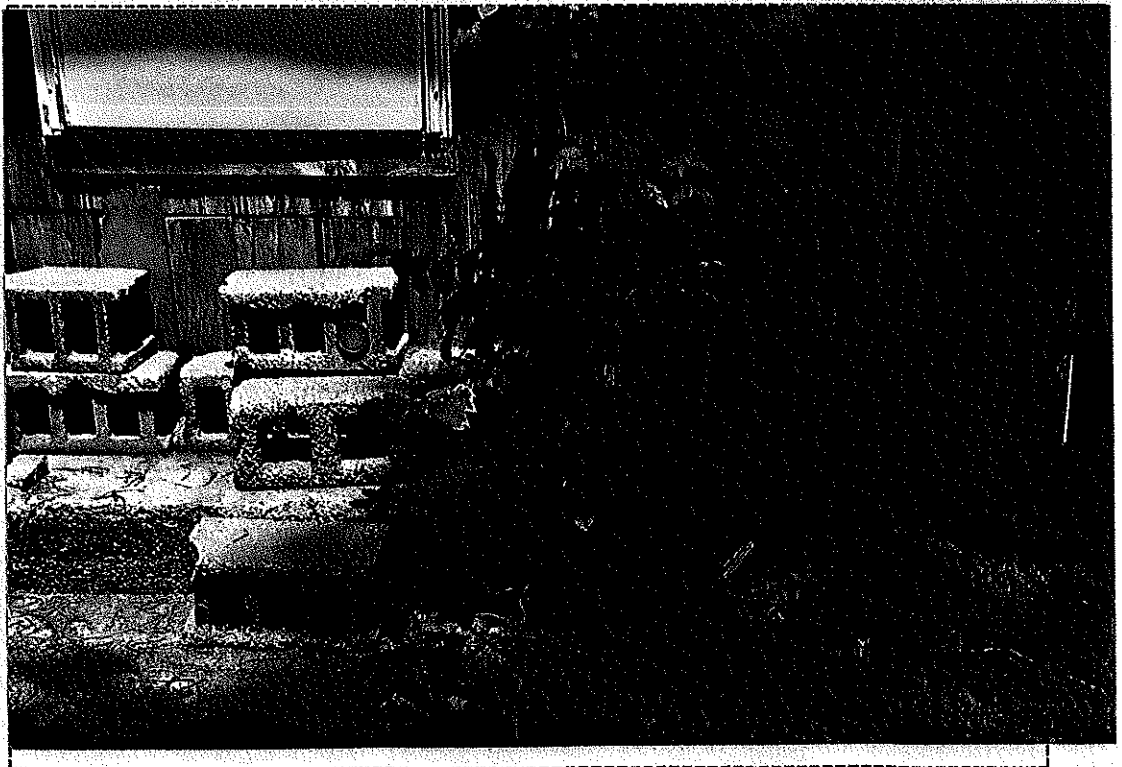
Photographer's Signature

Direction of View:

North

This photo depicts:

tree with chlorotic  
symptoms present  
at front door on  
south side of  
Howard's house



Purpose of photo:

show chlorotic symptoms present at time  
of investigation

N  
↑

Wayne Davis  
Rice Field

4-3-12

4-24-12

602 Newpath

2.1 pt Prowl

start 540 am - end 610 am

wind 177°-179° @ 3.3 mph

- made by Farmers Supply wind at application.

5-10-12 Ricestar HT 240z - made by Quinn Aviation  
start 930am ✓ wind at application GP#2  
wind 020° X

Wind @ application  
↓  
P6 ID

402 Newpath  
802 Command

applied by Mr Davis  
start 600am - end 715am  
wind NW @ 1-2 mph

\* Mr. Davis stated he left "a buffer zone of approximately 300' of known garden spot (see statement form)"

← to Amazon

July 14 E

to Waldenburg →

Ricky Henderson  
Rice Field

wind @  
application

✓ to ✓

5-8-12 4oz Neupath  
1 1/2 oz Halo Max (Permt)

start 1120am - End 1155am

wind 355° - 010° @ 3-6 mph

+ made by Ken Grubbs Aero

Wayne Davis  
Soybean Field  
no pesticides applied  
Planted on 5-16-12

## CERTIFIED APPLICATOR RECORDS INSPECTION

COMPANY NAME <u>Farmer's Supply Association</u>	License # <u>91</u>
CERTIFIED APPLICATOR <u>David Hurst</u>	License # <u>CAT # 30</u>
2,4-D CUSTOM APPLICATOR Permit Number _____	
ADDRESS <u>PO Box 101</u>	CITY <u>Waldenburg</u> STATE <u>AR</u> ZIP <u>72475</u>
PHONE NUMBER ( <u>870</u> ) <u>579, 2203</u>	FAX NUMBER _____

	YES	NO
CREDENTIALS PRESENTED? -----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NOTICE OF INSPECTION ISSUED?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are records maintained for the required 2 year period?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are pesticides used registered by the state?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are the applicators licensed in the proper categories?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## RECORD THE FOLLOWING INFORMATION

Date(s) and Time(s) of application 4-24-12 540-610 am

Name of person for whom applied Lyndon Hall - (Whiskers)

Name of applicator David Hurst Type of equipment used ground

Location of target area Mr Ed #43

Latitude 35° 33' 39 N Longitude 091° 02' 37 GPS #2

Pesticide used Newpath, Prowl, Crop Dil EPA Reg # 241-412, 241-418

Manufacture Name BASF, BASF

Crop to which applied Rice Target Pest Weeds + grass

Application Rate 6oz, 2.1 pt, 1pt Acreage, size of each area treated 70

Weather conditions at time of application

Wind Direction 177-179 Wind Speed 3.3 Temperature 72°

In what direction was the application made(i.e. which direction back and forth(N to S or E to W) and on which side did it start(N,S,E,W)): started on East side working west and  
worked North + South

<u>Brent A. Bowick</u> Firm's Representative Name(Print)	<u>Brent A. Bowick</u> Firm's Representative Signature	<u>5-16-12</u> Date
<u>Jim Wood</u> Inspector Name (Print)	<u>Jim Wood</u> Inspector Signature	<u>5-16-12</u> Date
Pesticide Division		

## CERTIFIED APPLICATOR RECORDS INSPECTION

COMPANY NAME <u>Quinn Aviation</u>	License # <u>25</u>
CERTIFIED APPLICATOR <u>Kevin Carpenter</u>	License # <u>112-3</u>
2,4-D CUSTOM APPLICATOR Permit Number <u>399</u>	
ADDRESS <u>6106 SW DR</u>	CITY <u>Jonesboro</u> STATE <u>AR</u> ZIP <u>72404</u>
PHONE NUMBER (870) <u>932-1068</u>	FAX NUMBER _____

	YES	NO
CREDENTIALS PRESENTED? -----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NOTICE OF INSPECTION ISSUED? -----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are records maintained for the required 2 year period? -----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are pesticides used registered by the state? -----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are the applicators licensed in the proper categories? -----	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## RECORD THE FOLLOWING INFORMATION

Date(s) and Time(s) of application 5-10-12 9:30 A.M.

Name of person for whom applied Roger Hall

Name of applicator Kevin Carpenter Type of equipment used AT 802

Location of target area \_\_\_\_\_

Latitude \_\_\_\_\_ Longitude \_\_\_\_\_

Pesticide used Ricestax HT EPA Reg # 264-682

Manufacture Name Riceco

Crop to which applied Rice Target Pest Weeds

Application Rate 2402/Acre Acreage, size of each area treated 70

Weather conditions at time of application

Wind Direction 020 Wind Speed 3 mph Temperature 70° F

In what direction was the application made(i.e. which direction back and forth(N to S or E to W) and on which side did it start(N,S,E,W)): N to south working to the east

Kevin Carpenter  
Firm's Representative Name(Print)

[Signature]  
Firm's Representative Signature

Received

JUN 06 2012

Pesticide Division

5-29-12  
Date

John Pickering  
Inspector Name (Print)

[Signature]  
Inspector Signature

5-29-12  
Date

## CERTIFIED APPLICATOR RECORDS INSPECTION

COMPANY NAME <u>Ken Grubbs Aero Inc</u>	License # <u>98</u>
CERTIFIED APPLICATOR <u>Doug Alsop</u>	License # <u>027</u>
2,4-D CUSTOM APPLICATOR Permit Number <u>46</u>	
ADDRESS <u>PO Box 391</u>	CITY <u>Harrisburg</u> STATE <u>AR</u> ZIP <u>72432</u>
PHONE NUMBER ( <u>870</u> ) <u>578-2533</u>	FAX NUMBER <u>          </u>

	YES	NO
CREDENTIALS PRESENTED? -----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NOTICE OF INSPECTION ISSUED?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are records maintained for the required 2 year period?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are pesticides used registered by the state?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are the applicators licensed in the proper categories?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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## RECORD THE FOLLOWING INFORMATION

Date(s) and Time(s) of application 5-8-12 1120-1155 am  
 Name of person for whom applied Ricky Henderson  
 Name of applicator Doug Alsop Type of equipment used aircraft  
 Location of target area Hiway @ Midway  
 Latitude 35°33'36N Longitude 091°44'03 W GPS # 3  
 Pesticide used Newpath, Halo Max, Oil EPA Reg # 241-412  
 Manufacture Name BASF  
 Crop to which applied Rice Target Pest Weed  
 Application Rate 4oz, 1/2oz, 1/2pt Acreage, size of each area treated 80 @  
 Weather conditions at time of application  
 Wind Direction 355°-010° Wind Speed 3-6 mph Temperature 73°  
 In what direction was the application made(i.e. which direction back and forth(N to S or E to W) and on which side did it start(N,S,E,W)): N and S started on West to east

Burt Grubbs  
Firm's Representative Name(Print)

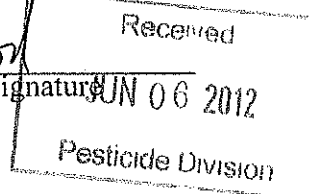
Jim Wood  
Inspector Name (Print)

[Signature]  
Firm's Representative Signature

[Signature]  
Inspector Signature

5-18-12  
Date

5-18-12  
Date



**INSPECTOR NARRATIVE REPORT**

5-14-12

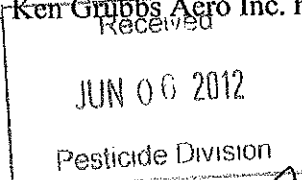
- I, Jim Wood, Agriculture Inspector for the Arkansas State Plant Board, ASPB, and Area Supervisor, Wendy Spakes, met with Mr. Ken Howard concerning CF12-052, an alleged pesticide misuse/ drift.
- We presented our credentials and Mr. Howard had his wife complete a DP-2B, Request for Investigation.
- I took GPS coordinates, drew a map, and took photographs of Mr. Howard's property.

5-16-12

- I met with Mr. Brent Bowie, Manager, of Farmers Supply Association in Waldenburg, AR where I presented my credentials and issued a DP-10, Notice of Inspection.
- I completed a DP-6, Certified Applicator Records Inspection, on Farmers Supply Association License # 91.
- The application was made to Mr. Lyndon Hall's field by Mr. David Hurst, CAT License #30, who works for Farmers Supply Association in Waldenburg.
- I also completed a DP-11, Pesticide Dealers Records Inspection, on Farmers Supply Association License # 269 for the pesticides used by Mr. Hall.
- Mr. Lyndon Hall has a valid Private Applicator License # 0914650314 from the ASPB.
- I then met with Mr. Lydon Hall where I presented my credentials and informed him that he had been named as a suspected farmer in an alleged pesticide misuse/ drift onto the property of Mr. Ken Howard and issued a DP-10.
- I then met with Mr. Wayne Davis of J&W Farms, Private Applicator License #096930214 and presented my credentials and issued a DP-10 to Mr. Davis and informed him that he had been named as a suspected applicator of an alleged pesticide drift/misuse onto the property of a Mr. Ken Howard. Mr. Davis looked up his records and wrote them down on a sheet of paper for me because he had made an application himself with a ground rig. Mr. Davis stated he applied Command but stated "he left a buffer zone of approximately 300" from known garden spot of Ken Howard" Mr. Davis informed me he purchased his pesticides from Helena Chemical in Newport , AR.

5-18-12

- I met with Mr. Ricky Henderson of Henderson Farms A Partnership, Private Applicator License # 1111510316 and presented my credentials and issued a DP-10 informing Mr. Henderson that he had been named as a suspected farmer in an alleged pesticide drift/ misuse onto the property of Mr. Ken Howard. Mr. Henderson informed me that he purchased pesticides from Farmers Supply Association in Harrisburg, AR and that Ken Grubbs Agro Inc. made his applications.



Jim Wood 6-4-12

Jim Wood 6-4-12



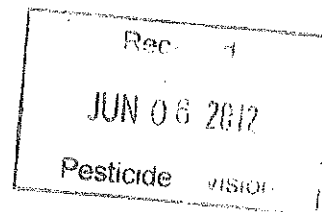
- I then met with Ms. Carol Brinsfield, Office Coordinator, of Helena Chemical Co. License #180 and presented my credentials and issued a DP-10 and conducted a Pesticide Dealers Records Inspection of J & W Farms c/o Wayne Davis.
- I then met with Mr. Burt Grubbs, Manager, of Ken Grubbs Aero Inc License #98 where I presented my credentials, issued a DP-10 and conducted a Certified Applicators Records Inspection on Henderson Farms A Partnership c/o Ricky Henderson made by Doug Alsup License #227.
- I then met with Ms. Renee Bornhoft, Administrative Assistant, of Farmers Supply Association License #267 and presented my credentials, issued a DP-10 and conducted a Pesticide Dealers Records Inspection of Henderson Farms A Partnership c/o Ricky Henderson.

5-29-12

- ASPB Inspector John Pickering issued a DP-10 and conducted a Certified Applicator Records Inspection on Quinn Aviation License # 75 on the application made by Mr. Kevin Carpenter for Roger Hall on 5-10-12 because the applicator was in his district.

#### CONCLUSION:

At the time of my investigation chlorotic symptoms were present on the leaves of trees on the northwest corner of Mr. Howard's garden (pictures 7 & 8), by the front door on the south side of his house (picture 16) and on leaves of a plant on the north side of a tree at the base of said tree on south side of Mr. Howard's house (picture 13). Necrotic symptoms were present on the leaves on the trees on the east side of Mr. Howard's property (pictures 14 & 15). The tomato plants on the east side of Mr. Howard's house showed no symptoms of pesticide present (pictures 2 & 3). No symptoms of pesticides were present in any direction on the grass on Mr. Howard's property (pictures 4-6, 9-12). No source of symptoms could be found in any direction from Mr. Howard's property to an area of application. NO buffer zone or any other violations were found on any of the farmers or applicators at the time of investigation.



Jim Wood 6-4-12  
INSPECTOR NAME (PRINT) DATE

*Jim Wood* 6-4-12  
INSPECTOR SIGNATURE DATE

CF-10-030

RECEIVED

Shows no pesticide drift onto my property but the trees in picture #4, 5 are on my property. Also picture #6 shows damage on a weed in my garden.

Also, this same case or at least date should show 6 children got sprayed by fertilizer but since the ASPB does not regulate fertilizer they can't nor wouldn't do anything. We got Jackson County Sheriff's office involved and the SAA involved. Only violation was nothing.

There were six children 4 which were not mine playing baseball in my yard and got sprayed by an airplane ~~putting~~ putting out fertilizer.

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CASE FILE NUMBER 10-030

Form DP-12

**INSPECTOR NARRATIVE REPORT**

I met with Ken Howard on 5-17-10 and then on 6-4-10 concerning CF10-030. Mr. Howard gave a completed DP-2. I took pictures of trees, yard, and rice fields along with a GPS. Mr. Howard had named Wayne Davis, Roger and Lyndon Hall, and Hogan Greeno as suspected farmers. I met with Mr. Davis where I issued a DP-10 and conducted a records inspection because Mr. Davis informed me that he had made an application of Command with his own ground rig. And he also informed me that Shawn Mann of Mann Agri had made the second application to the rice field and that he purchased his chemicals from Helena Chemical Co. in Newport. I issued a DP-10 to Mr. Shawn Mann and conducted a Certified Applicators Records Inspection. I then issued a DP-10 to Mr. Lyndon Hall where he informed me that Farmers Supply Assoc. in Waldenburg had made all the applications to the other rice field and that is where he purchased his chemicals. I called Mr. Hogan Greeno and he informed me that he did not farm. I then issued a DP-10 to Ms. Carol Brinsfield, Admin. Asst, of Helena Chemical and preformed a Pesticide Dealers Records Inspection on Wayne Davis of J&W Farms. I then issued a DP-10 to Mr. Brent Bowie, Manager, of Farmers Supply of Waldenburg where I conducted a Certified Applicators Records Inspection and a Pesticide Dealers Records Inspection on Lyndon Hall of Buk-Nub Farms. From my vantage point there were symptoms present from the applications of Command on the pecan trees, and a 300 foot buffer zone of desirable plants violation had been made by Mr. Wayne Davis who made the application for himself, and by Mr. David Hurst, applicator for Farmers Supply, on the application made for Mr. Lyndon Hall. On the second applications the records were pulled because Mr. Howard had called the office again. After going back and taking more pictures I could find no symptoms of any off target drift or violations on any of the parties that had made applications to the rice fields in question.

 6/11/10  
INSPECTOR NAME (PRINT) DATE

 6/11/10  
INSPECTOR SIGNATURE DATE

DP-13 (3-99)

Photo #

5

Case File # 10-030

Date of Photo: 5/17/10

Photographer's Signature

Direction of View:

close

This photo depicts:

Chlorosis of  
leaves



Purpose of photo:

to show symptoms present on leaves of trees

Photo #

6

Date of Photo: 5/17/10

Photographer's Signature

Direction of View:

close

This photo depicts:

chlorosis of  
leaves of  
weeds in  
garden



Purpose of photo:

to show symptoms present on weeds in  
garden

DP-13 (3-99)

Photo #

3

Case File #

10-030

Date of Photo: 5/17/10

Photographer's Signature

*E. J. Wood*

Direction of View:

South

This photo depicts:

Hall rice field  
on right &  
yard on left



Purpose of photo:

to show no symptoms present on yard

Photo #

4

Date of Photo: 5/17/10

Photographer's Signature

*E. J. Wood*

Direction of View:

Close

This photo depicts:

Chlorosis of  
leaves on  
pecan tree



Purpose of photo:

to show symptoms present on trees



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RECEIVED 05/25/2012

To Whom it may concern:

I am writing to let you know of an incident that happened on May 16, 2012. Ken<sup>41</sup>, Dina<sup>86</sup>, Blake<sup>8</sup> Howard, Zack<sup>12</sup> Jones, Andrew<sup>11</sup> Cadle, and Reese<sup>12</sup>, Ross<sup>12</sup>, and Ragen<sup>12</sup> Camp were all out in yard playing base ball, ~~the~~ swinging and riding bicycles. Well, Shawn Mann began to spray fertilize in field east of the yard and house. He managed to spray the ~~area~~ tree in front where the swing is, also the driveway in which the children were in riding bikes. We had stopped playing ball and all were in front yard by field. All of the children were hit with fertilize two times. Shawn should have had enough respect to move over in field far enough ~~so~~ so the children didn't get sprayed but instead he continued to spray. We made a police report the night of this mishap because after he left, he called Ken and told him to get the children back out of the way - which they were on our property, not the property in which was sprayed. However Shawn did fly over close enough to spray the children. Then came back after calling and sprayed more. After he left this time, he called back and exchanged words with Ken and told him if he ever caught him out he would break his spine. Little

neck. That is why a report was made  
at Sheriff's Office.

Well, this has happened twice  
last year and the State Plant Board  
won't do anything about it. He sprayed  
Sine Howard last year with fertilizer  
while she was mowing lawn and  
call and laughed about it. Our  
garden continues to get killed by  
all the farmers around here spraying  
their crops. And we have tried  
everything to get this under control  
and no one seems to want to  
help. We have complained numerous times in <sup>several</sup> ~~years~~ <sup>years</sup>.

We even filed a complaint last year  
or maybe year before with you  
all and you said the planes weren't  
allowed to fly over houses and  
spray. Same here nothing was  
done of this either.

What has a citizen got to  
do to stop or at least slow down  
this chemical ~~way~~ warfare in front  
yard.

Sine Howard

On May 16<sup>th</sup> 2012, my 3 children were at Ken Montross's house playing. When I went over to pick them up they were telling how an airplane flew over & they all got sprayed. Then Ken's phone rang & it was the pilot Shawn Hammond as they began to talk Ken put his phone on speaker because Shawn began to start shouting. Ken was asking him why he didn't back off spraying & then the part of the conversation I heard was if I ever catch you out, I will break your spineally little neck.

Jeff  
Camp



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J + W Farms

870 217 3702

WAYNE DAVIS

ON 4-3-12 I APPLIED CHEMICALS ON RICE  
AT THE CORNER OF HWY 14 POINSECT-JACKSON CO  
LINE (BETTER KNOWN AS THE KIN HOWARD FIELD.  
APPLICATION OF 4 OZ NEWPATH 8 OZ COMMAND.  
WIND WAS ALL BUT CALM. APPROXIMATELY  
1-2 MPH FROM THE N.W.  
TIME STARTED 6:00 AM  
STARTED ON THE ~~WEST~~<sup>SOUTH</sup> SIDE OF THE FIELD  
RUNNING E-W PASSES. I DID TURN ROWS ON  
THE END OF FIELD. FIRST LEAVING A BUFFER  
ZONE OF APPROXIMATELY 300 FT FROM KNOWN  
GARDEN SPOT OF KIN HOWARD.

THERE WAS NO GARDEN VISIBLE AT TIME OF  
APPLICATION.

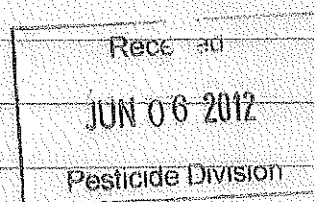
DATE 4-3-12

STARTED 6:00 AM

ENDED APP 7:15

WIND - NW 1-2 MPH

4 OZ NEWPATH 8 OZ COMMAND



ON 5-14-12 SPOT TREATMENT OF ~~0-14-12~~ + KOLB ~~and~~

HYDRAHUME. PER ACRE,

Wayne Davis.

# Visit Specific Clinical Summary - Kenneth Howard

## Document Information

### Authorized By:

**Name:** Shahla Naoman  
**Address:** 16 Hospital Circle Ste C  
 Batesville, AR 725017318  
**Telephone:** 870-307-0369

### Detail:

**Title:** Visit Specific Clinical Summary  
**Description:** Summarization of episode note  
 (34130-9 LOINC)  
**Created On:** Friday, January 31, 2014  
 at 11:42 :48 am (-0600)  
**Visit Date:** Friday, January 31, 2014  
 at 9:54 :03 am (-0600)

## Patient Information

### Patient Detail

**Name:** Kenneth Howard  
**Address:** 1  
**Patient Number:** 3434  
**Date of Birth:**  
**Gender:**

**Home :**

## Allergies and Adverse Reactions

Name	Reaction	Notes
Cymbalta		
Lyrica		

## Medications

Active	Name	Start Date	Estimated Completion Date	SIG	Comments
	albuterol sulfate			inhale 3 milliliters (2.5 mg) by nebulization route every 8 hours as needed	
	omeprazole			take 1 capsule (20 mg) by oral route once daily before a meal	
	simvastatin			take 1 tablet (10 mg) by oral route once daily in the evening	

## Immunizations

Not Available

## History of Past Illness

Not Available

## Problems

Not Available

## Family History

Not Available

## Vital Signs

Date	Time	BP-Sys (mm [Hg])	BP-Dia (mm [Hg])	HR (bpm)	RR (rpm)	Temp	WT (lbs)	HT (in)	BMI	BSA	BMI Percentile	O2 Sat (%)
01/31/2014	11:02 AM	122.0	86.0	96.0	16.0		120.0	66.0	19.3683	1.5921		98.0

Incident # 12-00397

870 523 7418  
**Jackson County Sheriff's Department**  
 Incident Report

Report Date 05/17/12

Page 1 of 2

Report Time 1:13 AM

Status  Active	Exception Clearance	Date	Reporting Officer	ORI/Agency
	Not Applicable		409 Sanford, Matthew	AR0340000
	Assigned Officer		Entered By msanford	Approving Officer Morales, Richard L
Assisting Officers				

Complainant						
SSN/ID/TIN	Title	Name	DOB	Age	Sex	Resident Status
		Howard, Kenneth Richard				Resident
Race	Ethnicity	Home Phone	Work Phone	Other Phone	DL (#, ST)	
V				(870)219-7168	AR	
US Citizen	Legal Alien	Doc Type	Immig Doc #	Nationality		
Home Address				Employer		
10922 E Highway 14 Hwy, Amagon, AR 72005				Self-Employed		
Work Address				Occupation		
10708 E Highway 14 Hwy, Amagon, AR 72005						

Offenses			
Incident Location			Zone
10922 Hwy 14 Weiner, AR 72479			
Earliest Possible Date	Time	Latest Possible Date	Time
05/16/2012	12:00	05/16/2012	21:00

1	5-13-301(b)(1)(2)	Terroristic Threatening/Class A	Misd	Completed	25	88	99
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MO	Method Of Entry	# Prems
	n/a	0

Location Types	05 Commercial/Off Bldg	12 Grocery/Supermarket	19 Rental Storage Facility	Bias Motivation Codes	24 Moslem	42 Lesbian
01 Air/Bus/Train Terminal	06 Construction Site	13 Hwy/Road/Alley	20 Residence/Home	ANTI-	25 Other Religion	43 Homosexual
02 Bank/S&L	07 Convenience Store	14 Hotel/Motel	21 Restaurant	13 Amer Ind/Alaskan	26 Multi-religious group	44 Heterosexual
03 Bar/Night Club	08 Dept/Discount Store	15 Jail/Prison	22 School/College	14 Asian/Pacific Islander	27 Atheist/Agnostic	45 Bisexual
04 Church/Synag/Temple	09 Drug Str/Dr Off/Hosp	16 Lake/Waterway	23 Service/Gas Station	15 Multi-racial group	31 Arab	51 Phys Disability
	10 Field/Woods	17 Liquor Store	24 Specialty Store	21 Jewish	32 Hispanic	52 Mental Disability
	11 Govt/Public Bldg	18 Parking Lot/Garage	25 Unknown/Other	11 White	33 Other Ethnicity	88 None
				12 Black	41 Gay (male)	99 Unknown

Suspected Of Using	Criminal Activity Types	Weapon Type(s)	20 Knife/Cutting Instr	65 Fire/Incendary Device
None	B Buying/Receiving	11 Firearm (Auto)	30 Blunt Object	70 Drugs/Narc/Sleeping Pills
	C Cultivating/Manuf/Publishing	12 Handgun (Auto)	35 Motor Vehicle	85 Asphyxiation
	P Possessing/Concealing	13 Rifle (Auto)	40 Personal Weapons	90 Other
	D Distributing/Selling	14 Shotgun (Auto)	50 Poison	95 Unknown
	E Exploiting Children	15 Other Firearm	60 Explosives	99 None

Victim #1	<input checked="" type="checkbox"/> Is Complainant	Event #s Related	1			
SSN/ID/TIN	Title	Name	DOB	Age	Sex	Resident Status
		Howard, Kenneth Richard				Resident
Race	Ethnicity	Home Phone	Work Phone	Other Phone	DL (#, ST)	
				(870)219-7168	AR	
US Citizen	Legal Alien	Doc Type	Immig Doc #	Nationality		
Yes						
Home Address				Employer		
10922 E Highway 14 Hwy, Amagon, AR 72005				Self-Employed		
Work Address				Occupation		
10708 E Highway 14 Hwy, Amagon, AR 72005						
Victim Type	Injury Type	Aggravated Assault/Homicide Circumstances	Relationship To Suspect			
Individual	None	None	#1 N/A			
Justifiable Homicide Circumstances			Taken to: (Hospital Name)			
None						
Injury Description						

Incident # 12-00397

Page 2 of 2

870 523 7418  
**Jackson County Sheriff's Department**  
 Incident Report

Report Date 5/17/2012

Report Time 1:13 AM

Suspect #1		SSN/ID/TIN		Title	Name	DOB	Age	Sex	Resident Status
					Mann, Shawn				Resident
Race		Ethnicity		Home Phone		Work Phone		Other Phone	
								(870)503-1044	
US Citizen		Legal Alien		Doc Type		Immig Doc #		Nationality	
Yes									
Home Address							Employer		
2717 Jackson 4 Cr, Bradford, AR 72020							Self Employed		
Work Address							Occupation		
							Farmer		
Height	Weight	Eyes	Build	AKA					
Narrative & Statements									

**Narrative - Sanford, Matthew - 5/17/2012 (Initial)**

On May 16, 2012 at around 09:00 P.M. we received a call from a Mr. Ken Howard who advised that Shawn Mann had threatened him and he wanted to make a report and file charges. Upon arrival at his home of 10922 Hwy 14 East, I made contact with Mr. Howard.

Mr. Howard stated that he and his wife along with their children and several other children which he listed in his written statement were outside in the yard today when Mr. Shawn Mann was crop dusting the field around the home. He stated that Mr. Mann made a low pass and sprayed the children with what he believed might have been a mixture of fertilizer and other components. He stated he motioned at Mr. Mann by "flipping him off" and Mr. Mann made several more passes that were lower and sprayed the children atleast one more time.

He said that later on that day Mr. Mann called him and had words with him about the incident and while the phone was on speaker phone for all parties present to hear he told him he was gonna "break his spindley neck." Mr. Howard said he had known Mr. Mann all his life and Mr. Mann knew that he was disable and easily hurt which included easily broken bones according to Mr. Howard.

Mr. Howard went on to say that he had called the FAA and Planters Board and that for the past several years this had been a recurring problem with Mr. Mann spraying them in the yard with different components that hit them with large amounts of force. He said that his garden had been killed multiple times and on several occations the children became ill after being sprayed with different components.

Just prior to Mr. Howards call Mr. Mann called the office and said he wanted the number to the FAA because he was crop dusting earlier and Mr. Howard had thrown rocks at him.

I walked in the yard and there were several green pellets scattered in the field that were also present in the yard as close as approximately 20 to 30 feet from the house that I noticed.

I was assigned run number 12-297

This paperwork here shows how the EPA states they are responsible for the chemicals.

We have contacted them several times and they say their hands are tied and are limited as to what they can do.

This was from 2015.

Arkansas  
State Claims Commission

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

Mr. Kenneth Howard  
10922 Highway 14  
Weiner, Arkansas 72479

APR 15 2015

Dear Mr. Howard:

Thank you for your correspondence to President Obama expressing concern about the spray drift of pesticides onto non-target areas in your rural community. I am pleased to respond on behalf of the Environmental Protection Agency because my office is responsible for regulating pesticide products in the United States.

First, allow me to say that I'm sorry to hear of the troubles you are experiencing with regard to the aerial spraying of pesticides near your home. I want to assure you that the EPA's pesticide decisions are based on the best available peer-reviewed science. The EPA regulates pesticides under the statutory authority of the Federal Insecticide, Fungicide and Rodenticide Act. FIFRA requires that all pesticides be registered by the EPA before they may be sold or distributed in the United States. Before approving the sale and use of a pesticide, EPA requires an applicant to provide an extensive database of scientific studies that comply with our testing guidelines (protocols) to evaluate the safety of the pesticide. The scientific data must show that the pesticide will not cause unreasonable risks to human health, workers, or the environment when used as directed on product labeling. Pesticide product labels provide critical information about how to safely handle and use pesticide products and also address the risks to all populations, including infants and children, as well as workers and bystanders. Therefore, label directions must always be carefully followed. To learn how the EPA registers pesticides, visit <http://www2.epa.gov/pesticide-registration/about-pesticide-registration>.

The EPA takes the misuse of pesticides very seriously. This includes the spray drift of pesticides onto non-target areas. It is important to report to the state lead agency for pesticides – in Arkansas, the Arkansas State Plant Board – any suspected misuse of pesticide products. Commercial pesticide applicators are required to complete pesticide applicator certification training before they can receive a license to apply pesticides. The training educates users about how to apply pesticides safely in order to minimize any adverse effects on people or the environment. For information specific to the Arkansas State Plant Board, please see <http://plantboard.arkansas.gov/pesticides/Pages/default.aspx>.

The EPA supports and encourages private and commercial pesticide applicators to take continuing education and training on spray drift management. To learn more, please visit <http://www2.epa.gov/reducing-pesticide-drift/training-and-education-applicators-spray-drift-management>.

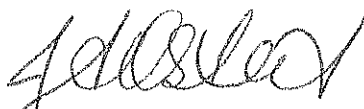
You may also be interested to know that we are actively engaged in several initiatives to help minimize pesticide drift problems. These initiatives include:

- Our new, voluntary Pesticide Drift Reduction Technology (DRT) program that encourages the manufacture, marketing, and use of safer spray technology and equipment scientifically verified to reduce pesticide drift.
- Evaluation of the potential for drift as a routine part of our pesticide risk assessments and the use of new approaches for estimating drift impacts.
- Collaboration with experts at the U.S. Department of Agriculture, universities, industry, and state and international partners to examine new studies and improve scientific models and methods for estimating pesticide drift, potential exposure, and risks from drift.
- Improve clarity and enforceability of product label directions and drift management restrictions.
- Promotion of applicator education and training programs.

To learn more about our efforts to reduce spray drift of pesticides, please visit <http://www2.epa.gov/reducing-pesticide-drift>.

I hope you have found this information helpful. Again, thank you for your correspondence.

Sincerely,



Anne Overstreet, Chief  
Communication Services Branch  
Office of Pesticide Programs

Anne Overstreet

703-308-8068

Chief Branch

[Overstreet.Annie@epa.gov](mailto:Overstreet.Annie@epa.gov)

This paperwork here shows that the EPA lets the Arkansas State Plant Board take care of the chemicals.

This was sent to us in 2016. Who is actually responsible for the farmers being able to spray chemicals on their fields?





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS TX 75202-2733

October 6, 2016

Ken Howard  
10922 Arkansas 14  
Weiner, AR 72479

Dear Mr. Howard:

Your September 20, 2016, letter to the President concerning pesticide spraying in Arkansas was forwarded by the White House to the Environmental Protection Agency (EPA) Region 6 office for response.

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Section 26, the EPA determined Arkansas had adequate laws and regulations governing the misuse of pesticides. This capability was affirmed by the EPA's approval of the Arkansas Pesticide State Plan in August 1976, and subsequent upgrades to their law and regulations. Therefore, Arkansas has the primary responsibility, or primacy, to enforce against the misuse of a pesticide in the state. Based on consultation with the Arkansas State Plant Board (ASPB), and a review of their case files, the EPA believes the ASPB has taken appropriate response actions to your complaints to date.

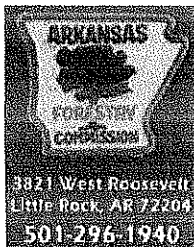
For more information on Arkansas's use of primacy, call Susie Nichols, Manager, Agri Pesticide Division, Arkansas State Plant Board at (501) 225-1598. If you have any pesticide enforcement issues you wish to discuss with the EPA, you may call our Pesticide Enforcement Team leader, Gerardo Acosta, at (214) 665-8042.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Vargo", is written over a light gray circular background.

Steve Vargo  
Associate Director  
Multimedia Division

This is where we called the Forestry  
Service to ~~pro~~prove to the ARKANSAS  
State Plant Board we are getting  
chemicals drifting over onto our  
property.



Arkansas Forestry Commission  
Thomas Lindsey  
County Ranger  
P.O. 17087  
Jonesboro, AR, 72403-17087

Office Phone 870-932-2251  
Fax no. 870-932-251  
Cell Phone 870-206-5924

May 22, 2014

Ken Howard  
10922 HWY 14 EAST  
Weiner, AR 72479

Mr. Howard attached is the information you inquired about I hope this will help you. I enjoyed visiting and walking around and observing the trees on your property. You definitely have several problems affecting your trees at this time. Herbicide over spray like "Command" and several different insects was observed on your trees. The herbicide affects the pigment by whitening or yellowing of new foliage and on sensitive plants. The symptoms are generally temporary in nature however, over a period of time, could cause the trees to weaken do to stress leading to future problems with insects and diseases, to help prevent future problems with your existing trees, I recommend to-

1. Take at least 3-5 soil samples to your local Extension office for testing. For Hardwood your soil ph needs to be around 6.5, 1 ton per acre of lime to bring ph up 1 percent
2. Aerate around drip area and high traffic or compact area.
3. Fertilize around drip area, tree fertilizer 10-10-10 slow release. Apply in late winter or early spring before growth begins. Broadcast and water thoroughly.
4. To help control scales, Aphids, and other insects, spray with dormant oil, 2-3 gallons to 100 gallons of water during dormant season when the air temperature is below 70 degrees and above freezing for three days.
5. In early spring when buds are first opening and showing green, spray with malathion (cythion), 3lbs 25% WP to 100 gallons of water. Malathion will treat Aphids, Spider Mites, Leaf Beetles, Galls, Leaf Miners, Mealybugs, and Whitefly. Check with a local nursery to determine the proper insecticide and treatment if Malathion not available for private use.
6. Water trees when needed. Trees need the equivalent of a 1 inch rain per week. It would be beneficial and necessary to have a watering schedule during the hot summer months.
7. Remove dead or declining limbs and burn if possible.

If I can be of further assistance or if you have any questions feel free to contact me at 2301 Fox Meadow Ln. or call 870-206-5924.

Again thank you.

Sincerity:

Thomas Lindsey (County Ranger)

This is a list of all the chemical  
the farmers are spraying around  
my house over a period of years.

When you do research of the  
health risks to humans, you will  
understand why we want something  
done.

I have a letter from St. Jude  
Research that states 460 children  
from Arkansas have some type  
of cancer. Put a stop to the  
chemicals and a lot of the cancer  
will cease.

Prowl Hoo  
Command  
Arrow  
Blaze  
Destiny (Coppie)  
Newpath  
Halo Max  
Rice Star HT  
Prowl + Command  
Round up Power Max  
Sharpen  
AMS Supreme  
Epinasty  
Corner Stone (field #5)  
First Rate ~~MAN~~ (06-12-09)  
Storm  
~~Stroda~~  
Do All  
Super Wham  
Broadhead  
First Shot  
Facet  
wind check - (06-12-09)  
oil - (06-12-09)  
Hydrahume

This is health record of Ken  
Howard showing he goes to a  
Pulmonary Doctor for his COPD  
diagnosis.

We can get other records if  
needed.

Arkansas  
State Claims Commission

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Status  
Current every day

Comments  
1 PPD X 20 yrs

### Procedures And Interventions

Date Ordered	Description	Order Status	Result Status
02/28/2014 12:00AM	DLCO	Ordered	
01/31/2014 12:00AM	Office Spirometry	Reviewed	
02/28/2014 12:00AM	Pulmonary function test with bronchodilators	Ordered	
01/31/2014 12:00AM	Smoking and tobacco use cessation counseling visit; intermediate, greater than 3 minutes up to 10 minutes	Ordered	

### Results

Date and Description  
2014-01-31T11:15:25

#### Results

- Alteration Normal
- FEV1 (Spirometry Test) 96.0 %
- FEV1/FVC Results from Spirometry Test 114.0 %
- FEV25% - 75% Result from Spirometry 125.0 %
- Lung Age 48.0 yrs

### Care Plan

#### Patient Instructions

Tobacco cessation counseling was done with the patient, I spent ten minutes discussing smoking cessation with the patient. I discussed the risks of ongoing smoking (cancer, heart disease, lung disease, stroke, and risk to others from second hand smoke); discussed difficulty in stopping smoking (nicotine replacement, with Wellbutrin and Chantix). Discussed expected success rate with each drug and side effects for the various medications. Patient verbally acknowledged in the understanding of all the risks, benefits and care plan. All questions were answered to the patient's satisfaction.

I discussed with the patient the current status of their pulmonary disease.

Discussed need for compliance with current medications.

Exercise counseling done with the patient.

Office spirometry shows mild ventilatory defect.

Patient verbally acknowledged the understanding of all the risks, benefits, and care plans.

Patient is having chronic cough, shortness of breath, bronchospasm, wheezing that could be secondary to the chemical exposure versus tobacco abuse. Patient was advised abstinence from chemicals and also tobacco cessation counseling was done.

Other offices and associations we have contacted about this Issue:

EDA

EPA

Air Quality Control

Environmental Justice

White House

Air Pollution

Poison Control

Jackson County Health Department

Arkansas State Police

Attorney General

KAIT 8 News

Forestry Service

FAA

House of Congress

Lawyers

Governor

Justice Department

Environmentalist

State Representatives

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Everyone I contact tells me to call the State Plant Board. They will come and do an investigation of the discoloration but never determine any damage or drift. They just cover for the farmers.

The human exposure consisted of 6 children being sprayed with fertilizer. Made a report with the State Plant Board and Sheriff's office and still nothing done. The farmers got fined or warned but our paperwork shows no problem occurred.



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CF-11-107

Here is another case file showing damage to my property and can not determine where the chemicals come from. The ASPB says no problem seen, but then why did the farmus get Buffer Zone Violations. If they get one Buffer Zone Violation, they should get one everytime they spray because they spray same way everytime they spray all chemicals.

I apologize for the pictures being in Black and white but that's how the ASPB copied them for me.

## ARKANSAS STATE PLANT BOARD

## REPORT OF INVESTIGATION

Requester's Name Ken Howard Address 10922 Hwy 14 E.  
City Weiner Zip 72479  
Home Phone 870-219-7168 Work Phone \_\_\_\_\_

Type of area affected:

Human exposure ☐ Lawn ☐ Garden ☒ Field Crops ☐

Other \_\_\_\_\_

GPS Location of area affected

Latitude 35° 33' 45.24" NLongitude 91° 02' 36.48" W

(Write the letters GPS on the area map indicating the location where the GPS readings were obtained)

Location of area affected to Nearest Town 6 miles West of Waldenburg. County Jackson

Are pesticide Symptoms Present? Yes ☒ NO ☐What Type: Curling of leavesDescribe symptoms: Symptoms consistent with FacetHas affected area been treated in any manner with fertilizer/pesticide? Yes ☐ No ☒

If so, List \_\_\_\_\_

\*\*\*\*\*

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## Inspector Narrative Report

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I met with Mr. Howard on June 16, 2011 concerning CF 11-107 I received from the office. Mr. Howard had contacted the ASPB about an alleged drift from a soybean field onto his garden. I took photographs of Mr. Howard's tomato plants and garden, along with photographs of Mr. Howard's property lines. After leaving Mr. Howard's I went to Farmers Supply Association of whom Mr. Howard had named as the suspected applicator. I issued a DP-10 to Farmers Supply Association naming them as the suspected applicator of the field in question and conducted a DP-b. Farmers Supply Association also sold the product to the farmer (Lyndon Hall) so a DP-11 was also conducted. After finding out the farmer (Lyndon Hall) I contacted him and issued a DP-10. Farmers Supply Association Applied Round Up Powermax and Sharpen to Mr. Hall's soybean field on June 6, 2011. Mr. Howard's garden did not have symptoms consistent with the application made by Farmers Supply Association on June 6, 2011. Symptoms consistent with Quinclorac were present on Mr. Howard's Tomato and Squash plants. I located all of the rice fields within a  $\frac{1}{4}$  of a mile from Mr. Howard's

Terry James

INSPECTOR NAME (PRINT)

6-21-11

DATE



INSPECTOR SIGNATURE

6-21-11

DATE

## Inspector Narrative Report

tomatoes and garden and met with the farmers who owned the rice fields. There were 3 different farmers with rice fields within a  $\frac{1}{4}$  mile of Mr. Howard's tomatoes and garden: Lyndon Hall, Wayne Davis, and Ricky Henderson. I met with the above farmers and received statements from each of them stating that they did not use Facet/Quinclorac within  $\frac{1}{4}$  mile of Ken Howard's garden. From my vantage point Mr. Howard's Tomatoes and Garden had symptoms consistent with Quinclorac, but no source could be determined.

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Tommy James 6-21-11  
INSPECTOR NAME (PRINT) DATE

 6-21-11  
INSPECTOR SIGNATURE DATE

## CERTIFIED APPLICATOR RECORDS INSPECTION

COMPANY NAME	<u>Farmers Supply Association</u>	License #	<u>143</u>
CERTIFIED APPLICATOR	<u>David Hurst</u>	License #	<u>CAT # 36</u>
2,4-D CUSTOM APPLICATOR	<u>Kenneth Mills</u>	Permit Number	<u>329</u>
ADDRESS	<u>P.O. Box 101</u>	CITY	<u>Waldenburg</u>
		STATE	<u>AR</u>
		ZIP	<u>72475</u>
PHONE NUMBER	<u>(870) 579-2203</u>	FAX NUMBER	

	YES	NO
CREDENTIALS PRESENTED? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NOTICE OF INSPECTION ISSUED? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are records maintained for the required 2 year period? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are pesticides used registered by the state? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are the applicators licensed in the proper categories? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## RECORD THE FOLLOWING INFORMATION

Date(s) and Time(s) of application 6-6-11 7:00 a.m.

Name of person for whom applied Bnk-Nub c/o Lyndon Hall

Name of applicator David Hurst Type of equipment used Ground

Location of target area #43 West of Ken Howard

Latitude \_\_\_\_\_ Longitude \_\_\_\_\_

Pesticide used Roundup Power Max, Sharpen, AMS EPA Reg # 524-549, 7969-278

Manufacture Name Monsanto, BASF Corp.

Crop to which applied Soybeans Target Pest Weeds

Application Rate 32oz, 1oz, 1pt. Acreage, size of each area treated 70

Weather conditions at time of application

Wind Direction 201-1418 Wind Speed 3.1-4.8 Temperature \_\_\_\_\_

274-168

In what direction was the application made(i.e. which direction back and forth(N to S or E to W) and on which side did it start(N,S,E,W)): \_\_\_\_\_

Brent A. Bowie  
Firm's Representative Name(Print)

Brent A. Bowie  
Firm's Representative Signature

6/16/11  
Date

Tommy James  
Inspector Name (Print)

[Signature]  
Inspector Signature

6-16-11  
Date

Origin of pesticide that may have caused above symptoms

Crop or vegetation to which the pesticide was applied RiceLocation of treated area East County Line County Jackson

GPS Location:

Latitude #1 35° 33' 39 NLongitude 091° 02' 35 W

(Write the letters GPS on the area map indicating the location where the GPS readings were obtained)

Distance from treated area to affected area ≤ 300'Acres Treated 250 Pesticide Used Command EPA REG # \_\_\_\_\_

Pesticide Manufacturer \_\_\_\_\_ Address \_\_\_\_\_

Owner of treated area Wayne Davis Mailing Address 389 Jackson 272 NCity Amagon Zip 72005 Phone # 870.217.3702Is the Applicator: Commercial ☐ Private ☒ Other ☐Name of applicator Wayne Davis License # 09-6A3-0214

Name of Firm \_\_\_\_\_ License # \_\_\_\_\_

Firm Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

Date of application 4/19/10 Method of application Ground  
(Air, Ground, ETC.)

If Aircraft used, give "N" number \_\_\_\_\_

Other Comments NE @ 4-5 mph wind - 300' buffer  
zone violation of CommandInspector Name Jim Wood  
(PRINT)Inspector Signature Jim WoodDate 6/11/10

## Origin of pesticide that may have caused above symptoms

Arkansas  
State Claims Commission  
DEC 22 2016  
RECEIVEDCrop or vegetation to which the pesticide was applied RiceLocation of treated area Mr Eds County JacksonGPS Location: #2 Latitude 35° 33' 39NLongitude 091° 02' 37W

(Write the letters GPS on the area map indicating the location where the GPS readings were obtained)

Distance from treated area to affected area ≤ 300'Acres Treated 70 Pesticide Used Nenpath, Command EPA REG # Pesticide Manufacturer  Address Owner of treated area Lyndon Hall Mailing Address 14757 Punkin Center RdCity Weiner Zip 72479 Phone # 870.897.1953Is the Applicator: Commercial ☒ Private ☐ Other ☐Name of applicator David Hurst License # 63Name of Firm Farmers Supply Assoc License # 132Firm Address PO Box 101 City Waldenburg Zip 72475Date of application 4/28/10 Method of application Ground  
(Air, Ground, ETC.)If Aircraft used, give "N" number Other Comments 300' buffer zone violation of CommandInspector Name Jim Wood  
(PRINT)Inspector Signature Jim WoodDate 6/11/10



DP-13 (3-99)

Case File # 11-107

Photo # DSL-0001

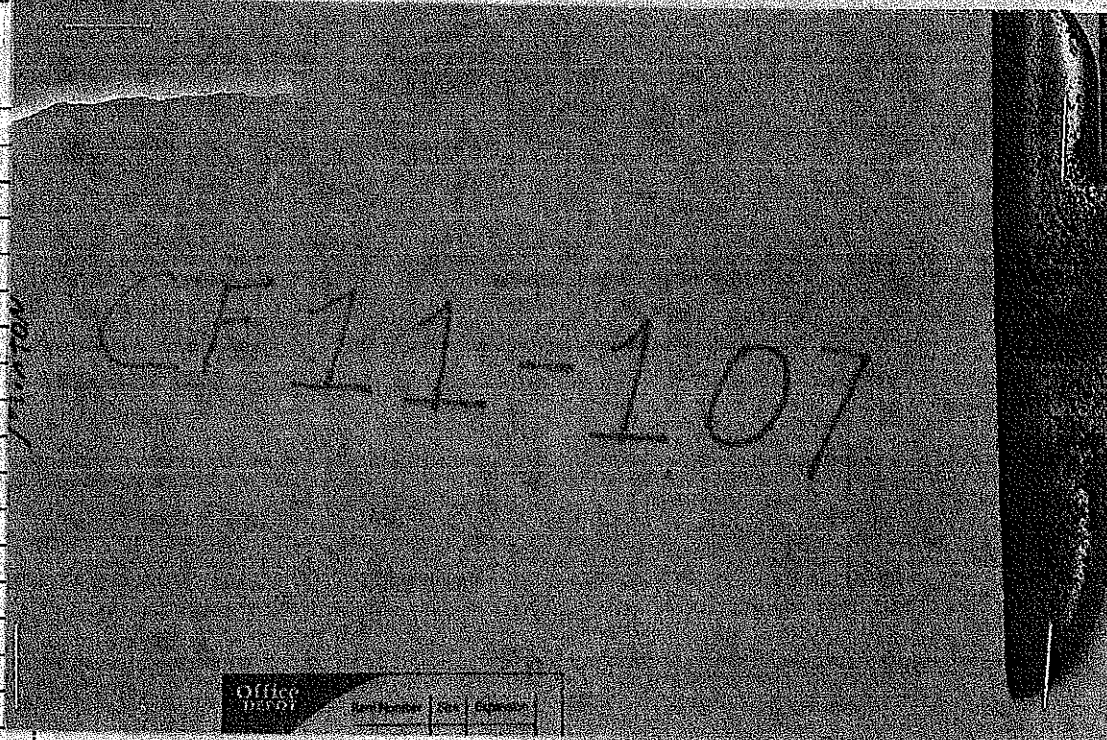
Date of Photo 6-16-11

Photographer's Signature  
TJ

Direction of View: N/A

This photo depicts:

CF 11-107



Purpose of photo: \_\_\_\_\_

Photo # DSL-0002

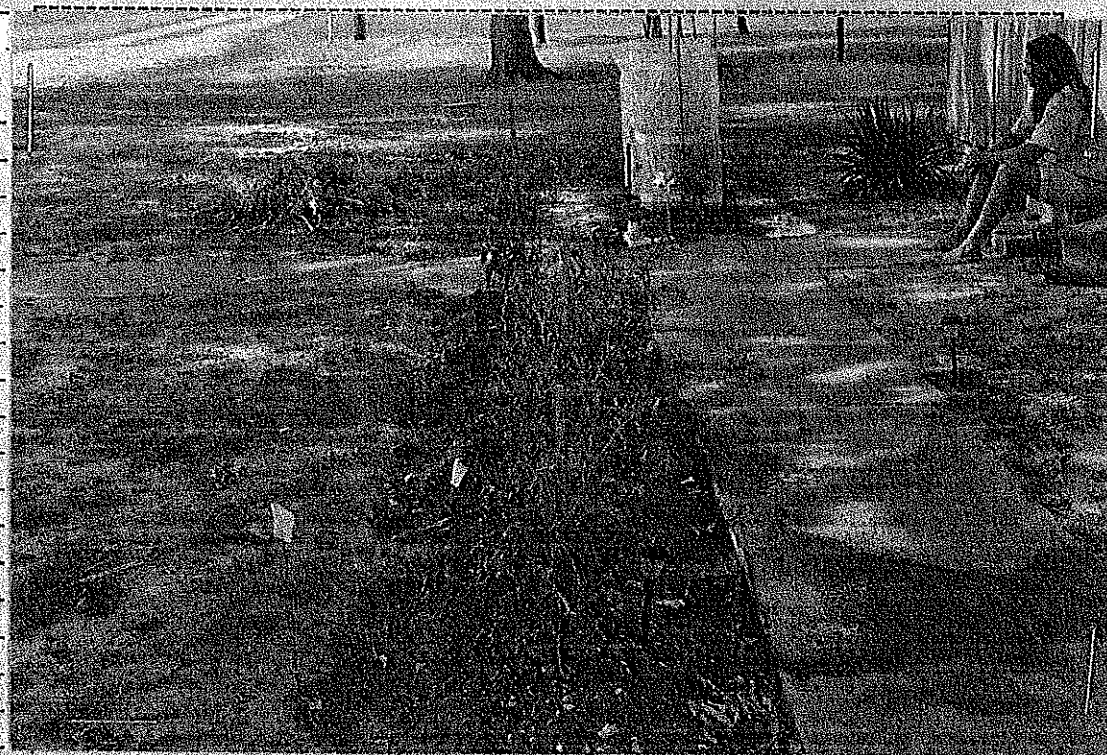
Date of Photo: 6-16-11

Photographer's Signature  
TJ

Direction of View: S

This photo depicts:

Tomatoes in front yard.



Purpose of photo: \_\_\_\_\_

To show pesticide symptomology on tomatoes



DP-13 (3-99)

Photo # DSL-0003

Date of Photo: 6-16-11

Photographer's Signature

TJ

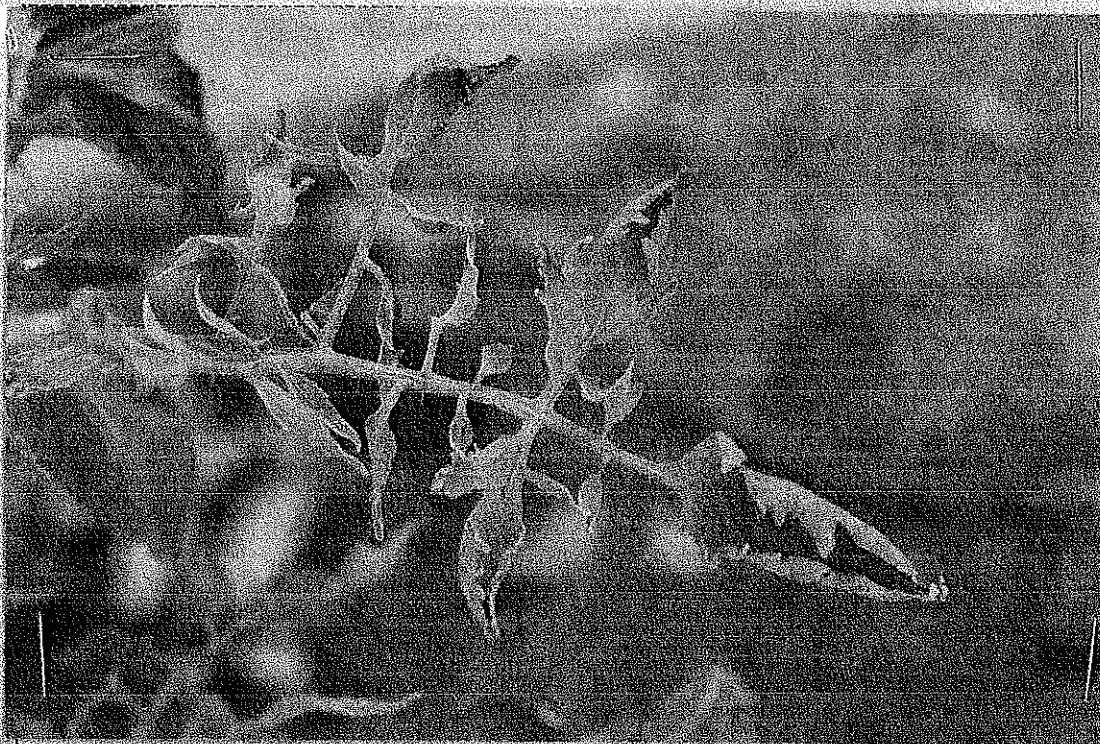
Direction of View:

close up

This photo depicts:

close up

Tomato Plants



Purpose of photo:

To show possible Quinchlorac symptoms

Photo # DSL-0004

Date of Photo: 6-16-11

Photographer's Signature

TJ

Direction of View:

close up

This photo depicts:

Tomato Plants



Purpose of photo:

To show possible Quinchlorac symptoms



DP-13 (3-99)

Photo # DSC-0005

Date of Photo: 6-16-11

Photographer's Signature

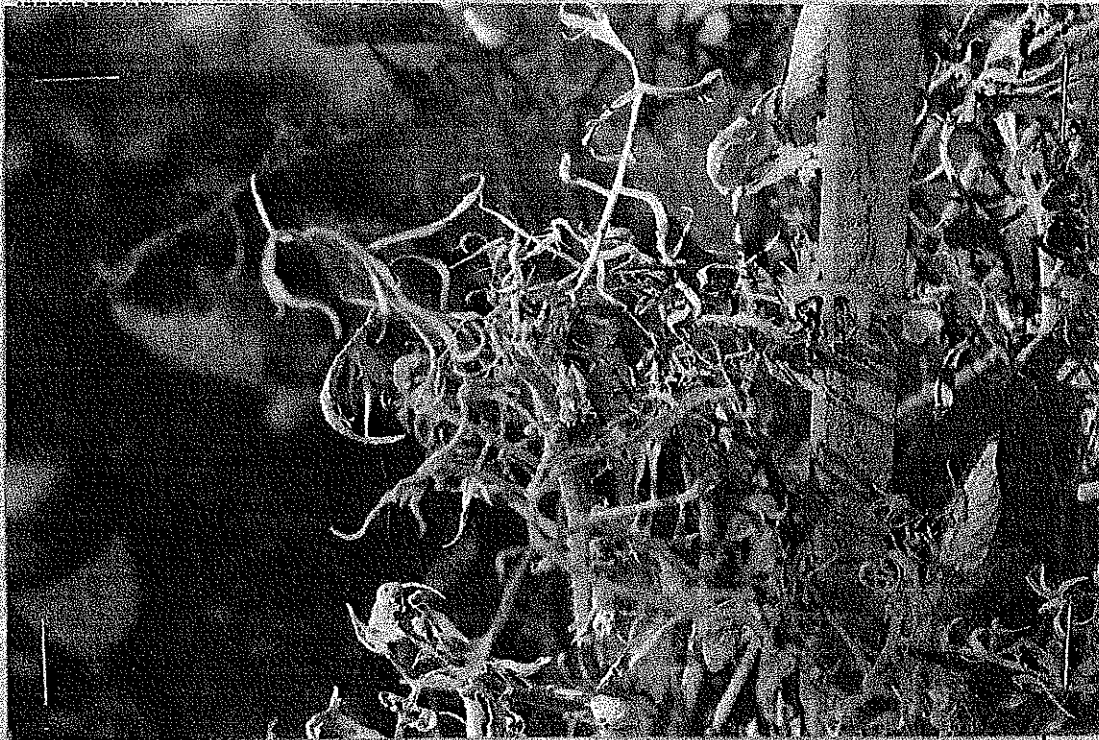
JS

Direction of View:

close up

This photo depicts:

Tomato Plants



Purpose of photo:

To show possible Quinchlorac Symptoms.

Photo # DSC-0006

Date of Photo: 6-16-11

Photographer's Signature

JS

Direction of View:

close up

This photo depicts:

Onion



Purpose of photo:

To show chlorotic & Necrotic symptoms



DP-13 (3-99)

Photo # DSC-0009

Date of Photo: 6-16-11

Photographer's Signature  
TS

Direction of View:

close up

This photo depicts:

Tomato Plant in  
Back yard



Purpose of photo:

To show possible Quinchlorac Symptoms.

Photo # DSC-0010

Date of Photo: 6-16-11

Photographer's Signature  
TS

Direction of View:

close up

This photo depicts:

Squash Plant  
in back yard



Purpose of photo:

To show Chlorotic & Necrotic symptoms  
on leaves.



DP-13 (3-99)

Photo # DSC-0009

Date of Photo: 6-16-11

Photographer's Signature

TS

Direction of View:

close up

This photo depicts:

Tomato Plant in  
Back yard



Purpose of photo:

To show possible Quinchlorac Symptoms.

Photo # DSC-0010

Date of Photo: 6-16-11

Photographer's Signature

TS

Direction of View:

close up

This photo depicts:

Squash Plant  
in back yard



Purpose of photo:

To show chlorotic & Necrotic symptoms  
on leaves.

DEC 22 2016

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CF - 11-046

With this case file, the paperwork shows my clothing I was wearing tested positive for Pendimethalin, but yet no drift occurred. I was standing on an enclosed porch with the front door opened trying to video the airplane and get the plane number to make a complaint. Sutherland, Each Command label I research says "DO NOT APPLY Aerially." Plus there is a Buffer Zone to apply Command which continues to be broken.

How can they continue to say No drift has occurred when my clothing that I am wearing always shows to contain some type of chemical.

This cover up was Cross contaminated.

This case file was taken to Ross Moland on a Pro Bono rate but as he researched, he wanted \$3500.<sup>00</sup> and we didn't have it at the time. He guaranteed he could stop the spraying if we could come up with the money.

This case file true tries to say we poisoned our own garden by an unopened container of Preen.



Darryl Little  
Director

ARKANSAS  
STATE PLANT  
BOARD

P.O. Box 1069 ■ Little Rock, Arkansas 72203  
www.plantboard.org  
Phone (501) 225-1598  
Fax (501) 219-1697

November 8, 2011

Mr. Ken Howard  
10922 Hwy 14 East  
Weiner, AR 72479

**SUBJECT: CF11-046, Case File Investigation requested by Mr. Ken Howard**

Dear Mr. Howard:

The Arkansas State Plant Board (ASPB) investigated your request for an investigation, styled CF11-046 reported to the ASPB on April 14, 2011. The request was in regard to an alleged human exposure on your wife, and an alleged pesticide drift on your house, garden and lawn. The evidence obtained during the investigation of CF11-046 found no pesticide drift occurred. If any additional information pertaining to CF11-046 comes forth, then further investigation(s) will be initiated. Until such time the ASPB considers CF11-046 to be complete.

Thank you, for contacting the Arkansas State Plant Board, regarding the request for investigation. Since it is not possible for an ASPB inspector to be present during every pesticide application, the ASPB must depend on the citizens of the state to report any perceived misuse of pesticides. If you have any questions pertaining to this investigation, please contact me at (501) 225-1598.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susie Nichols".

Susie Nichols  
Assistant Director  
Pesticide Division

SN/cs

cc: Jim Wood  
Wendy Spakes

## CERTIFIED APPLICATOR RECORDS INSPECTION

COMPANY NAME <u>Mann Agri</u>	License # <u>3/2</u>
CERTIFIED APPLICATOR <u>Shawn Mann</u>	License # <u>733</u>
2,4-D CUSTOM APPLICATOR Permit Number <u>154</u>	
ADDRESS <u>2717 Jackson 4</u>	CITY <u>Bradford</u> STATE <u>AR</u> ZIP <u>72020</u>
PHONE NUMBER ( )	FAX NUMBER

	YES	NO
CREDENTIALS PRESENTED? -----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NOTICE OF INSPECTION ISSUED?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are records maintained for the required 2 year period?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are pesticides used registered by the state?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are the applicators licensed in the proper categories?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## RECORD THE FOLLOWING INFORMATION

Date(s) and Time(s) of application 4-14-11 6:15am - 6:45am

Name of person for whom applied Wayne Davis

Name of applicator Shawn Mann Type of equipment used aircraft

Location of target area Kens House

Latitude 35°33'46 N Longitude 091°02'35 W

Pesticide used Prowl EPA Reg # 241-418

Manufacture Name BASF

Crop to which applied rice Target Pest weeds

Application Rate 1qt. Acreage, size of each area treated 40a

Weather conditions at time of application

Wind Direction SW Wind Speed 2 mph Temperature 64°

In what direction was the application made(i.e. which direction back and forth(N to S or E to W) and on which side did it start(N,S,E,W)): \_\_\_\_\_

Shawn Mann  
Firm's Representative Name(Print)

Shawn Mann  
Firm's Representative Signature

5-6-11  
Date

Jim Wood  
Inspector Name (Print)

Jim Wood  
Inspector Signature

5/6/11  
Date



**INSPECTOR NARRATIVE REPORT**

I met with Mr. Ken Howard on 4-14-11 concerning CF 11-046 an alleged pesticide drift with a human exposure to his wife. Upon arrival I took a GPS reading, pictures, drew a map, and obtained the shirt that Mr. Howard's wife was wearing at the time of the possible human exposure along with some swabs of a swing that was between the field that application was made in and of a vehicle that was in the yard. I informed Mr. Howard and his wife that they needed to take a shower and use soap and water and if they started feeling sick to seek medical attention. On 4-26-11 I met with Mr. Wayne Davis, farmer, and issued a DP-10. Mr. Davis informed me that he purchased is pesticides from Helena Chemical in Newport and Shawn Mann of Mann Agri made the application. I went to Helena Chemical and issued a DP-10 and completed a DP-11. On 5-6-11 I met with Shawn Mann, owner/ pilot, of Mann Agri where I issued a DP-10 and completed a DP-6 on the application in question. The tomato plants did show some yellowing spots on the leaves but from my vantage point they were not caused by the application made by Mr. Mann, but possibly made by Mr. Howard because there was a bottle of Preen Weed Preventer sitting in his yard. From my investigation there were no symptoms of drift on the tomato plants because the pesticide applied by Mr. Mann to Mr. Davis's field had only been out a couple of hours or any buffer zone violations on the part of Mr. Mann or Mr. Davis. As far as the human exposure I have not received any analysis from the office stating whether the shirt or swabs contained pesticide residue.

Arkansas  
State Claims Commission  
DEC 22 2016

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*Jim Wood* 5/10/11  
INSPECTOR NAME (PRINT) DATE

*Jim Wood* 5/10/11  
INSPECTOR SIGNATURE DATE



DP-13 (3-99)

Case File # 11-046

Photo # 5

Date of Photo: 4-14-11

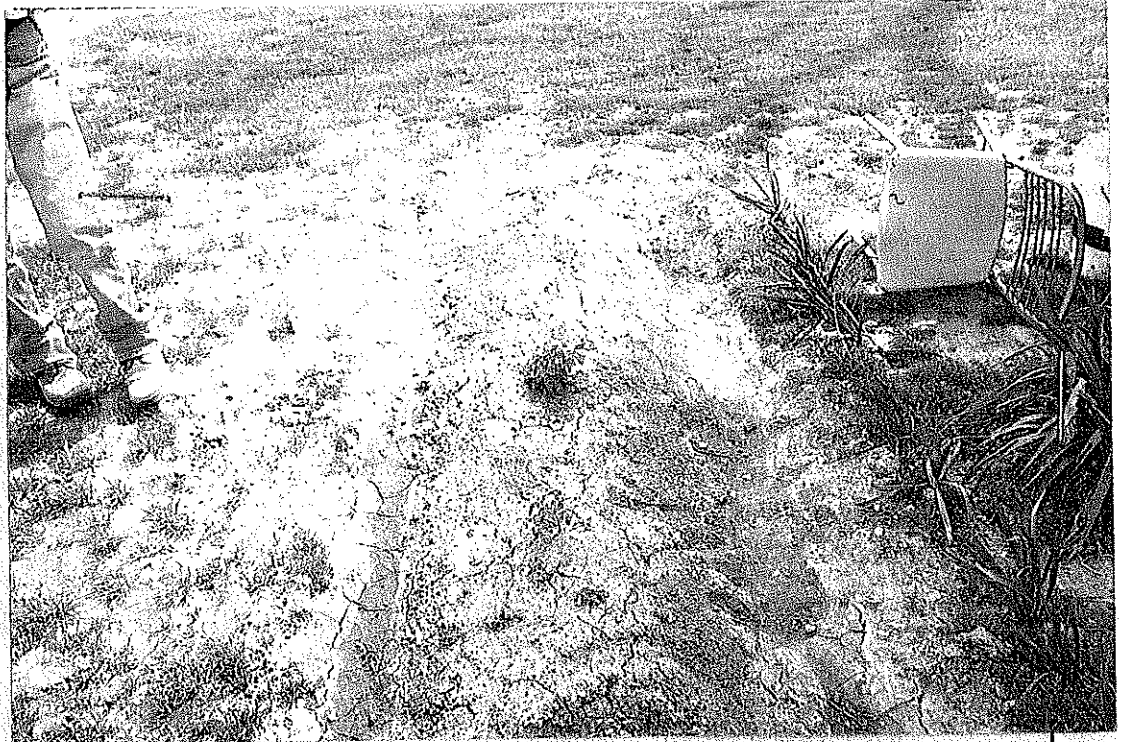
Photographer's Signature [Signature]

Direction of View: \_\_\_\_\_

South

This photo depicts: \_\_\_\_\_

tomato plants



Purpose of photo: \_\_\_\_\_

to show tomato plants (garden)

Photo # 6

Date of Photo: 4-14-11

Photographer's Signature [Signature]

Direction of View: \_\_\_\_\_

close up

This photo depicts: \_\_\_\_\_

leaves of tomato plants



Purpose of photo: \_\_\_\_\_

to show tomato plants with yellowing spots

## CERTIFIED APPLICATOR RECORDS INSPECTION

COMPANY NAME <u>Mann Agri</u>	License # <u>312</u>
CERTIFIED APPLICATOR <u>Shawn Mann</u>	License # <u>733</u>
2,4-D CUSTOM APPLICATOR Permit Number <u>154</u>	
ADDRESS <u>2717 Jackson 4</u>	CITY <u>Bradford</u> STATE <u>AR</u> ZIP <u>72020</u>
PHONE NUMBER ( )	FAX NUMBER

	YES	NO
CREDENTIALS PRESENTED? -----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NOTICE OF INSPECTION ISSUED?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are records maintained for the required 2 year period?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are pesticides used registered by the state?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are the applicators licensed in the proper categories?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## RECORD THE FOLLOWING INFORMATION

Date(s) and Time(s) of application 4-14-11 6:15am - 6:45am

Name of person for whom applied Wayne Davis

Name of applicator Shawn Mann Type of equipment used aircraft

Location of target area Kens House

Latitude 35°33'46 N Longitude 091°02'35 W

Pesticide used Prowl EPA Reg # 241-418

Manufacture Name BASF

Crop to which applied rice Target Pest Weeds

Application Rate 1qt Acreage, size of each area treated 40a

Weather conditions at time of application

Wind Direction SW Wind Speed 2 mph Temperature 64°

In what direction was the application made(i.e. which direction back and forth(N to S or E to W) and on which side did it start(N,S,E,W)): \_\_\_\_\_

<u>Shawn Mann</u>	<u>[Signature]</u>	<u>5-6-11</u>
Firm's Representative Name(Print)	Firm's Representative Signature	Date
<u>Jim Wood</u>	<u>[Signature]</u>	<u>5/6/11</u>
Inspector Name (Print)	Inspector Signature	Date



Darryl Little  
Director

ARKANSAS  
STATE PLANT  
BOARD

P.O. Box 1069 ■ Little Rock, Arkansas 72203  
www.plantboard.org  
Phone (501) 226-1598  
Fax (501) 219-1697

MEMORANDUM

TO: Jim Wood  
FROM: Susie Nichols, Assistant Director, Pesticide Division *SN*  
DATE: October 11, 2011  
SUBJECT: CF11-046

The following information is needed to complete the Case File.

1. The following information needs to be added to the map

N.S.E.W ✓

Inspectors signature ✓

✓ Indicate where each photograph was taken along with an arrow showing direction each photograph was taken

2. Three samples were taken, clothing, swab from a swing, and swab from a car. The sample analysis indicated that 1.26 ppm Pendimethalin were detected in the sample. Since the samples were submitted as one I do not know if Pendimethalin was detected in each sample or in all of the samples submitted. In order to determine if there is a possible human exposure or drift violation I need the following information :

Statement from Mr. Howard stating the location of the car at the time of application.

If he will not give you a statement state this in your Narrative

If he verbally tells you where the car was state this in your Narrative and indicate on the map

This Case File was initiated on April 14, 2011. The Plant Board has 180 days to close a Case File from the date it was initiated. In order to meet this deadline please obtain this information as soon as possible.

If you have any questions regarding this matter feel free to contact me.

# SAMPLE ANALYSIS REPORT

## ARKANSAS STATE PLANT BOARD

#1 Natural Resources Drive  
Little Rock, AR 72205

### Sampled at:

Ken Howard  
10922 hwy 14E  
Weiner, ar 72479

Arkansas  
State Claims Commission  
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Date Sampled: 4/14/2011

Date Received: 4/15/2011

Date Reported: 4/21/2011

Inspector: jaw

Case File No.: 11-046

Sample Description: Clothing

Lab No: 112022

### Analytical Results

Ingredient	Found	Analyst
Clomazone	None	Miller
Pendimethalin	1.26 ppm	Miller <i>mm</i>

Comments:

*Elvira Thompson*  
Elvira Thompson, Technical Services Manager



Darryl Little  
Director

ARKANSAS  
STATE PLANT  
BOARD

P.O. Box 1069 ■ Little Rock, Arkansas 72203  
www.plantboard.org  
Phone (501) 225-1598  
Fax (501) 219-1697

May 10, 2012

Mr. Ken Howard  
10922 Hwy 14 East  
Weiner, AR 72479

Dear Mr. Howard:

As stated in Ms Susie Nichols' letter dated 11/22/11, the Plant Board re-opened Case File 11-046. Further investigation was conducted to try to uncover additional information that might have been missed during the original investigation or determine if proper weight had been given to existing information.

The allegation in the complaint was that pendimethaline, the active ingredient in the herbicide Prowl, had drifted from a Prowl application made on 4/14/11 to the field just east of your home as evidenced according to your complaint by spots on tomato leaves in your front yard and that you personally felt the mist on your face.

To prove off target pesticide drift, The Plant Board must be able to answer with confidence several questions:

**Was the alleged product applied nearby?** The evidence shows that pendimethalin was applied to the field just east of your home on 4/14/11

**Was the wind direction at the time of the application blowing toward the complainant's property?** The evidence shows the following: The applicator recorded a wind direction at the time of application to be out of the southwest. A nearby Plant Board weather station showed the wind to be out of the southeast, and two other nearby Plant Board weather stations showed there was no wind speed therefore there was no wind direction. This information would be inconclusive as evidence.

**Was there a pesticide drift pattern from the field of application onto your property?** In the opinion of the inspector there were no pesticide related symptoms on your property. The inspector was at your home within two hours of the application in question. The symptoms you reference on your tomatoes are not typical of exposure to pendimethalin. This evidence does not support a drift onto your property from the pendimethalin application just east of your property.



If wipe samples were taken for laboratory analysis to confirm the presence of the alleged pesticide, did they test positive. The lab analysis did show positive for pendimethalin. However, the samples were cross contaminated during initial packaging rendering the results of little value as evidence.

To prove human exposure resulting from pesticide drift the Plant Board must be able to answer additional questions:

**Is a pesticide drift from the field of application supported by wind direction and relevant symptomology?** The above information does not support such a conclusion.

**Is there proof that the pesticide contacted a human after drifting?** Proof of contact is typically evidenced by an allegation of feeling the spray and corroborated by laboratory analysis of the clothing worn by the complainant. Even though the inspector did not indicate Mrs. Howard was exposed to the drift, he did accept an article of her clothing for analysis. The lab analysis did show positive for pendimethalin. However, the sample was cross contaminated during initial packaging rendering the results of little value. No clothing that was worn by the complainant was submitted.

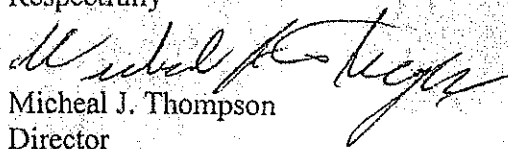
No new information was found as a result of re-opening the case that would change the significance or meaning of the evidence presented by the inspector.

The Plant Board also reviewed the video and photographs provided by you to show pesticide drift. These pieces of evidence provided no discernable proof of pesticide drift onto your property.

An enforcement action can only be taken against an identifiable entity. In this case, it would be irresponsible on the Plant Board's part to accuse an entity of violation of State law or regulation without being able to produce credible evidence to back up the allegation. Without having the evidence to prove an off target pesticide drift or a human exposure to a drift, the Plant Board is not in a position to pursue this case further than the action already taken.

Please be aware that regardless of the position the Plant Board takes in this case, it in no way precludes a complainant from taking his/her case to a court of competent jurisdiction.

Respectfully

  
Micheal J. Thompson  
Director  
Pesticide Division

Arkansas  
State Claims Commission  
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CF-13-132

On this case file, it shows our property was damaged by drift and determined the drift pattern and the applicator. We hired a lawyer to proceed in lawsuit and he dropped the case and we requested our money back. we paid \$750.00 and got back \$250.00. We started out in Small Claims Court and the Defendant hired a lawyer ~~and~~ and we never got court date.



ARKANSAS  
STATE PLANT  
BOARD

Darryl Little  
Director

P.O. Box 1069 ■ Little Rock, Arkansas 72203  
www.plantboard.org  
Phone (501) 225-1598  
Fax (501) 219-1697

April 10, 2014

Ms. Tina Howard  
10922 Hwy 14 East  
Weiner, AR 72479

Dear Ms. Howard:

The Arkansas State Plant Board (ASPB) investigated your request for investigation, styled CF13-132, submitted to the ASPB on July 10, 2013. The request was in regard to an alleged pesticide exposure of your garden, trees, and lawn to pesticide. The ASPB found sufficient evidence to verify that a violation of the regulations written pursuant to the Arkansas Pesticide Use and Application Act did occur and enforcement action was taken.

The ASPB uses a penalty matrix to determine the appropriate penalty for a violation. The penalties range from a warning letter for the first offense if no human exposure was involved up to a civil penalty of \$1,000 for repeated offenses. Mr. David Hurt, Commercial Applicator Technician for Farmers Supply Association located in Waldenburg was issued a Warning Letter for applying a pesticide in conditions consistent with a temperature inversion.

Thank you for contacting the ASPB regarding this matter. Since it is not possible for an ASPB inspector to be present during every pesticide application, the ASPB must depend on the citizens of the state to report any perceived misuse of pesticides. If you have any questions pertaining to this case, please feel free to contact me at (501) 225-1598 and refer to CF13-033.

Cordially yours,

Susie Nichols  
Assistant Director  
Pesticide Division

SN/tlm

cc: Hunter Gipson  
Wendy Spakes





ARKANSAS  
STATE PLANT  
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Darryl Little  
Director

P.O. Box 1069 ■ Little Rock, Arkansas 72203  
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Fax (501) 219-1697

**CERTIFIED LETTER**

7010 2780 0001 5052 3298

Arkansas  
State Claims Commission  
DEC 22 2016  
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April 10, 2014

Mr. David Hurst  
P.O. Box 131  
Grubbs, AR 72431

**Subject: Warning Letter**

**CF13-132**

Dear Mr. Hurst:

The ASPB has determined that sufficient documented evidence exists to prove that Mr. David Hurst, Commercial Applicator Technician for Farmers Supply Association located in Waldenburg, made a ground application of Arrow, Blazer, and Destiny for Roger and Lyndon Hall, on 7/03/2013 to approximately 70 acres of soybeans. The evidence shows that this pesticide application was applied in conditions consistent with a temperature inversion.

Weather data obtained from the ASPB Jackson County Weather Station indicates that on 7-3-2013 from 6:05 to 6:22 a.m. the wind speed was 0.0 MPH and the wind direction was 0 degrees. This wind direction would not be consistent with an off target pesticide drift from the Halls'/ Whiskers Farms onto the Howards' property. This weather data also indicates that from 6:05 a.m. to 6:49 a.m. (time of 3 degree temperature increase from the morning low) conditions were optimal for a temperature inversion.

Weather data obtained from the ASPB Poinsett West County Weather Station indicates that on 7-3-2013 from 6:05 to 6:22 a.m. the wind speed was 0.0 MPH and the wind direction was 0 degrees. This wind direction would not be consistent with an off target pesticide drift from the Halls'/ Whiskers Farms onto the Howards' property. This weather data also indicates that from 6:05 a.m. to 6:52 a.m. (time of 3 degree temperature increase from the morning low) conditions were optimal for a temperature inversion.

Weather data obtained from the ASPB Woodruff County Weather Station indicates that on 7-3-2013 from 6:10 to 6:20 a.m. the wind speed was 0.0 MPH and the wind direction was 0 degrees. This wind direction would not be consistent with an off target pesticide drift from the Halls'/ Whiskers Farms onto the Howards' property. This weather data also indicates that from 6:15 a.m. to 6:43 a.m. (time of 3 degree temperature increase from the morning low conditions were optimal for a temperature inversion.

COPY

Regulation (2)(II)(C) written pursuant to the Pesticide Use and Application Act, as amended states, in part "Herbicide applications may not be made under conditions where the spray may possibly be entrained in an inversion layer. As an indicator that an inversion is unlikely to exist, the applicator shall record the ambient temperature measured at the field of application for each application. Inversions are much less likely to exist if the temperature has increased three (3) degrees Fahrenheit from the morning low at the time of application..." There was no temperature change indicated by the ASPB weather stations in the area during the time of application.

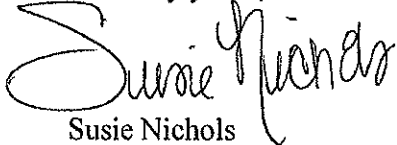
ACA 20-20-214 (a) (6) a provision of ACA 20-20-201 et. seq., states, in part, that the ASPB may take enforcement action "if it finds that the applicant...has committed any of the following acts...neglected to comply with the provision of this subchapter, the rules hereunder, or of any lawful order of the State Plant Board"

The ASPB's Pesticide Enforcement Response Regulation's (PERR) Penalty Matrix defines this violation as a Level I Minor violation. The indicated action to be taken for this violation is the issuance of this Warning Letter. Any subsequent like violation of the Pesticide Use and Application Act, Act 389 of 1975, as amended, or the Regulations written pursuant thereto, within three years of 7/03/13, involving Mr. Hurst., will be at the second level of the PERR. Such a violation could result in an informal meeting with the Enforcement Review Committee or a formal hearing with the Pesticide Committee of the ASPB. Either hearing could result in a civil penalty of up to \$1000. Mr. Hurst's future adherence to the Arkansas Pesticide Use and Application Act and Regulations will assure that such measures will not have to be used.

If you feel that evidence exists that would disprove this allegation and you wish to appeal this warning letter, please notify this office in writing within thirty (30) days of the delivery date recorded on this Certified Letter's Domestic Return Receipt.

If there are any questions regarding this matter, please contact me at (501) 225-1598.

Cordially yours,

A handwritten signature in black ink, appearing to read "Susie Nichols", written over a large, stylized initial "S".

Susie Nichols  
Assistant Director  
Pesticide Division

DP-13 (3-99)

Case File # 13-132

Photo # 01

Date of Photo: 7/10/13

Photographer's Signature

Hunter

Direction of View: \_\_\_\_\_

N/A

This photo depicts: \_\_\_\_\_

CF-13-132

Ken Howard

Tina Howard

Purpose of photo: N/A

Photo # 02

Date of Photo: 7/10/13

Photographer's Signature

Hunter

Direction of View: \_\_\_\_\_

40° E

This photo depicts: \_\_\_\_\_

Target area to  
affected area

Rev

AUG 10 2013

Postcard Division



Purpose of photo: \_\_\_\_\_

To show the relation of the target area (soybeans)  
to the affected area (Howards)

Exhibit 4



DP-13 (3-99)

Case File # 13-132

Photo # 03

Date of Photo: 7/10/13

Photographer's Signature

Hunter

Direction of View:

90° E

This photo depicts:

Symptoms on  
soybeans in  
target area



Purpose of photo:

Symptoms on target area were present at the  
T.O.I. Necrotic spotting and leaf curling pesticide symptoms. Yes

Photo # 04

Date of Photo: 7/10/13

Photographer's Signature

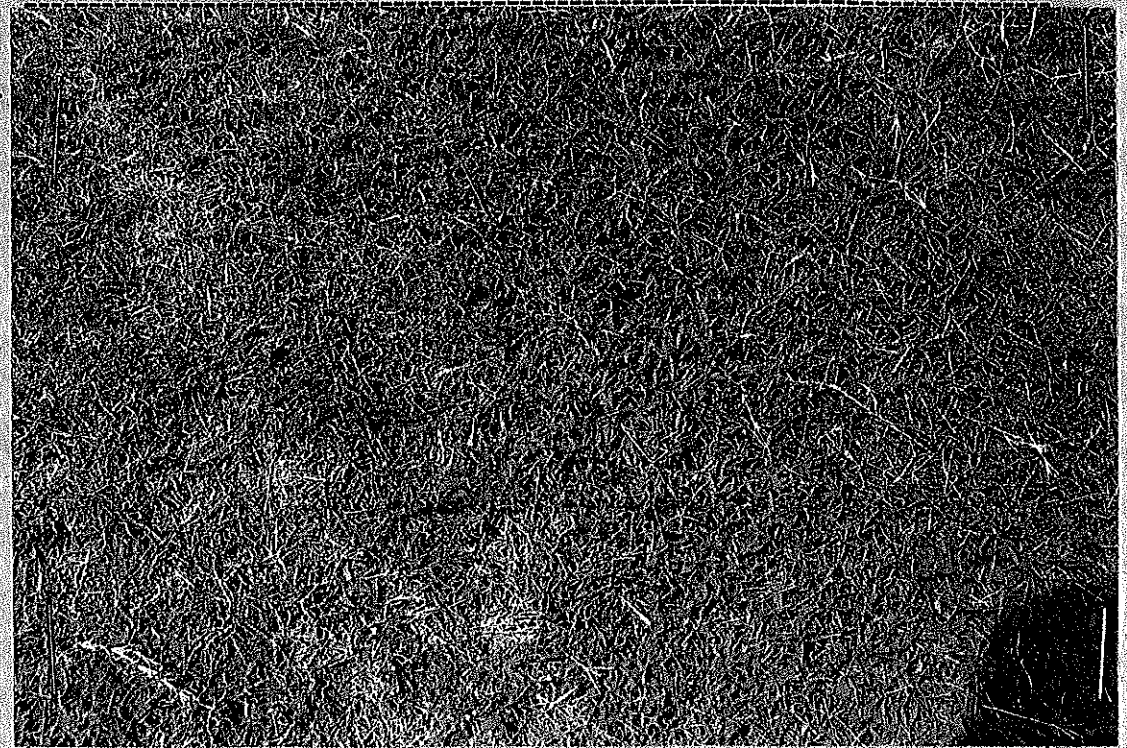
Hunter

Direction of View:

90° E

This photo depicts:

Symptoms on  
grass on Hall's  
property between  
target and  
affected areas.



(See Map)

Re

AUG 15 2013

Production

Purpose of photo:

To show symptoms in between target + affected  
areas. Pesticide symptoms on grass present even after it was mowed. Yes



DP-13 (3-99)

Case File # 13-132

Photo # 06

Date of Photo: 7/10/13

Photographer's Signature

Hunter

Direction of View:

70° NE

This photo depicts:

Symptoms on  
oak tree on  
Hall's property  
between target  
4 affected areas



Purpose of photo:

To show more symptoms between target and  
affected area. Chlorosis + necrosis spotting from pesticide drift gun

Photo # 06

Date of Photo: 7/10/13

Photographer's Signature

Hunter

Direction of View:

50° NE

This photo depicts:

Symptoms on  
affected area  
(Howards)

Morning glory  
in garden

Received

AUG 15 2013

Pesticide Division



Purpose of photo: To

Show herbicide drift symptoms are present in the  
affected area. Symptoms were consistent with Arrow and Ultra Blazer herbicide

Photo # 07Date of Photo: 7/10/13

Photographer's Signature

Hunter

Direction of View:

90°E

This photo depicts:

Symptoms of herbicide drift on tomatoes in garden of affected area

1
AUG 15 2013
Pesticide Division

Purpose of photo:

To show more herbicide symptoms on affected area. Pesticide symptoms consistent with Arrow and Ultra Blazer herbicides. ✓Photo # 08Date of Photo: 7/10/13

Photographer's Signature

Hunter

Direction of View:

360° N

This photo depicts:

Symptoms on beans in affected area gardenNotice symptoms present are concurrent with symptoms on affected area vegetation

Purpose of photo:

To show symptoms on target + affected area are coherent with the pesticides that were applied to the target area. ✓



Photo # 09Date of Photo: 7/10/13

Photographer's Signature

Hunter

Direction of View: \_\_\_\_\_

360° N

This photo depicts: \_\_\_\_\_

Herbicide drift symptoms on beans in garden of affected area

Received

AUG 15 2013

Pesticide Division



Purpose of photo: \_\_\_\_\_

To show more herbicide symptoms in garden of affected area. Symptoms present were leaf curling and chlorosis of plant tissue.Photo # 10Date of Photo: 7/10/13

Photographer's Signature

Hunter

Direction of View: \_\_\_\_\_

360° N

This photo depicts: \_\_\_\_\_

Herbicide drift symptoms on beans in gardenShowing same symptoms as target areaLeaf cupping and marginal leaf burnPurpose of photo: Toshow symptoms in garden affected area. These pesticide symptoms were also consistent with the symptoms on the target area. JW

Photo # 11Date of Photo: 7/10/13Photographer's Signature Hunter

Direction of View: \_\_\_\_\_

90° E

This photo depicts: \_\_\_\_\_

Poke salad  
in affected area  
showing symptoms  
of herbicide  
exposure / drift



Purpose of photo: \_\_\_\_\_

To show more drift evidence on affected area.  
Pesticide symptoms were consistent with Arrow and Ultra Blazer herbicides. JK

Photo # 12Date of Photo: 7/10/13Photographer's Signature Hunter

Direction of View: \_\_\_\_\_

10° NE

This photo depicts: \_\_\_\_\_

More herbicide  
drift symptoms  
on the Howards  
yard



Received

AUG 15 2013

Pesticide Division

Purpose of photo: \_\_\_\_\_

To prove along with other photos that a herbicide  
drift had occurred. JK



## CERTIFIED APPLICATOR RECORDS INSPECTION

COMPANY NAME <u>Farmers Supply Association</u>	License # <u>71/125</u>
CERTIFIED APPLICATOR <u>David Hurst</u>	License # <u>45</u>
2,4-D CUSTOM APPLICATOR Permit Number <u>71</u>	
ADDRESS <u>P.O. BOX 101</u>	CITY <u>Waldenburg</u> STATE <u>AR</u> ZIP <u>72475</u>
PHONE NUMBER ( <u>870</u> ) <u>579-2203</u>	FAX NUMBER _____

	YES	NC
CREDENTIALS PRESENTED? -----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NOTICE OF INSPECTION ISSUED?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are records maintained for the required 2 year period?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are pesticides used registered by the state?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are the applicators licensed in the proper categories?-----	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## RECORD THE FOLLOWING INFORMATION

Date(s) and Time(s) of application 7/2/13 6:00 A.M. - 6:20 A.M.

Name of person for whom applied Bucknub/Whiskers Farms / Roger Hall

Name of applicator David Hurst Type of equipment used Regator

Location of target area Midway, AR

Latitude 35° 33.744 N Longitude 091° 02.610 W

Pesticide used Arrow / Blazer / Destiny EPA Reg # 66222-60

Manufacture Name Mara / United Phosp. Inc

Crop to which applied Soybeans Target Pest Weeds

Application Rate 10 oz / 1.25 pt / 1/2 pt Acreage, size of each area treated 70

Weather conditions at time of application

Wind Direction 360° Wind Speed 3.4 Temperature 69

In what direction was the application made(i.e. which direction back and forth(N to S or E to W) and on which side did it start(N,S,E,W)): N to S/south / E to W

Received
AUG 15 2013
Pesticide Division

Will McGary  
Firm's Representative Name(Print)

Will McGary  
Firm's Representative Signature

7-11-13  
Date

Hunter Gipson  
Inspector Name (Print)

Hunter  
Inspector Signature

7/11/13  
Date

Exhibit 7

RECEIVED

CF-09-107

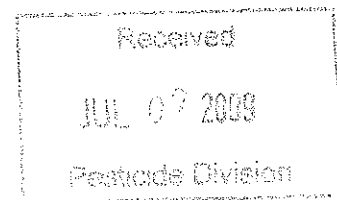
With this case file, it shows  
chemical damage on my property  
and they say can't determine  
drift pattern. Regardless of drift  
pattern or not chemical damage  
is on my property.

These pictures are also in Black  
and white because it's how the  
ASPB sent them to me.

1

**INSPECTOR NARRATIVE REPORT**

On June 28, 2009 I met with Ken Howard and obtained a request for investigation in the manner of a possible glyphosate drift across his garden. I looked around his garden and took photos. The tomatoe plants showed signs of epinasty symptoms, which are shown in photos #1 and #2. Photos #3 thru #6 show Mr. Howard's yard and Mr. Hall's soybean field. The photos show no signs of a drift coming onto Mr. Howard's property. Photo #6 shows Mr. Howard's green and unharmed grass on the right and Mr. Hall's soybean field on the left with clorosis and necrosis to the weeds and other grasses. I issued a notice of inspection to Farmers supply, which does the spray applications for Mr. Hall. After looking around Mr. Howard's property and the surrounding fields next to Mr. Howard I was unable to determine an off target drift onto Mr. Howard's property.



Shawn Johnson 6/30/09  
INSPECTOR NAME DATE

Shawn Johnson 6/30/09  
INSPECTOR SIGNATURE DATE

Photo # 1Date of Photo: 6/28/09Photographer's Signature Shawn P. HinesDirection of View: North

This photo depicts: \_\_\_\_\_

Mr. Howard's  
garden

Purpose of photo: \_\_\_\_\_

To show Mr. Howard's garden and the grass in his  
garden

Photo # 2Date of Photo: 6/28/09Photographer's Signature Shawn P. HinesDirection of View: Down

This photo depicts: \_\_\_\_\_

Epinasty symptoms  
which show up  
on Mr. Howard's  
Tomatoe plant

Purpose of photo: \_\_\_\_\_

To Show rapid growth on upper surface of the  
plant causing it to bend and twist, no signs of chlorosis

Case # 09-107  
 Arkansas  
 State Claims Commission  
 DEC 22 2016  
 RECEIVED

ARKANSAS STATE PLANT BOARD  
 REPORT OF INVESTIGATION

Requester's Name Ken Howard Address 10922 HWY 14E  
 City Weiner Zip 72479  
 Home Phone 870-219-7168 Work Phone \_\_\_\_\_

Type of area affected:

Human exposure ☐ Lawn ☐ Garden ☒ Field Crops ☐

Other \_\_\_\_\_

GPS Location of area affected

Latitude N 35° 33.756

Longitude W 090° 02.605

(Write the letters GPS on the area map indicating the location where the GPS readings were obtained)

Location of area affected to Nearest Town Weiner County Poinsett

Are pesticide Symptoms Present? Yes ☒ NO ☐

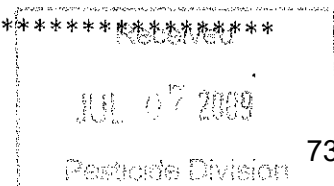
What Type: Epinasty

Describe symptoms: rapid growth on upper surface of the plant  
causing it to bend and twist

Has affected area been treated in any manner with fertilizer/pesticide? Yes ☐ No ☒

If so, List \_\_\_\_\_

\*\*\*\*\*



CF-15-194

RECEIVED

With this case file - The stationary towels that tested positive for the Fomesafen was on my property. There was a chemical drift that occurred onto my property and the ASPB continues to say no misuse of pesticide nor drift has occurred. How did the chemical test positive on my towels on my property if nothing drifted? Also the picture ~~that~~ shows no pesticide symptoms - well, it looks the same on the targeted side as it does on the off targeted side. From the red flag over and up in my property - up to my dog's shed and up and it looks the same as the other side.

The towels were hung up to prove the chemicals do drift onto my property.

How can the ASPB continue to cover up for the farmers and make up excuses to say they are not breaking any rules or regulations?

The main thing on ~~the~~ each warning label, it states "Maintain drift."



Darryl Little  
Director

**ARKANSAS  
STATE PLANT  
BOARD**

P.O. Box 1069 • Little Rock, AR 72203  
[www.plantboard.arkansas.gov](http://www.plantboard.arkansas.gov)  
Phone (501) 225-1598  
Fax (501) 219-1697

August 11, 2015

Mr. Ken Howard  
10922 Hwy 14 E Rt 2  
Weiner, AR 72476

**SUBJECT: CF15-194 Case File Investigation requested by Mr. Ken Howard**

Dear Mr. Howard:

The Arkansas State Plant Board (ASPB) investigated your request for investigation, styled CF15-194 reported to the ASPB on July 31, 2015. The request was in regards to an alleged human exposure to a pesticide. The ASPB found no pesticide symptoms present at the time of investigation. If a human exposure is alleged, Plant Board protocol requires a clothing sample and a swab sample from a stationary object near where the alleged exposure occurred. Fomesafen was detected in the towels obtained from Mr. Howard. However, no Fomesafen or Glyphosate Acid was detected in any of the other samples submitted including the swab sample taken from the stationary grain bin. After reviewing all of the evidence obtained during the investigation, the Plant Board cannot determine an alleged pesticide misuse or drift. If any additional information pertaining to CF15-194 comes forth, then further investigation(s) will be initiated. Until such time the ASPB considers CF15-194 to be complete.

Thank you, for contacting the Arkansas State Plant Board regarding the request for investigation. Since it is not possible for an ASPB inspector to be present during every pesticide application, the ASPB must depend on the citizens of the state to report any perceived misuse of pesticides. If you have any questions pertaining to this investigation, please contact me at (501) 225-1598.

Sincerely,

A handwritten signature in cursive script that reads "Susie Nichols".

Susie Nichols  
Director  
Pesticide Division  
Arkansas State Plant Board

cc: Tommy Fields  
Wendy Spakes

An equal opportunity employer.



DP-13 (3-99)

Case File # 15-194

Photo # 5

Date of Photo: 8/3/15

Photographer's Signature

*[Signature]*

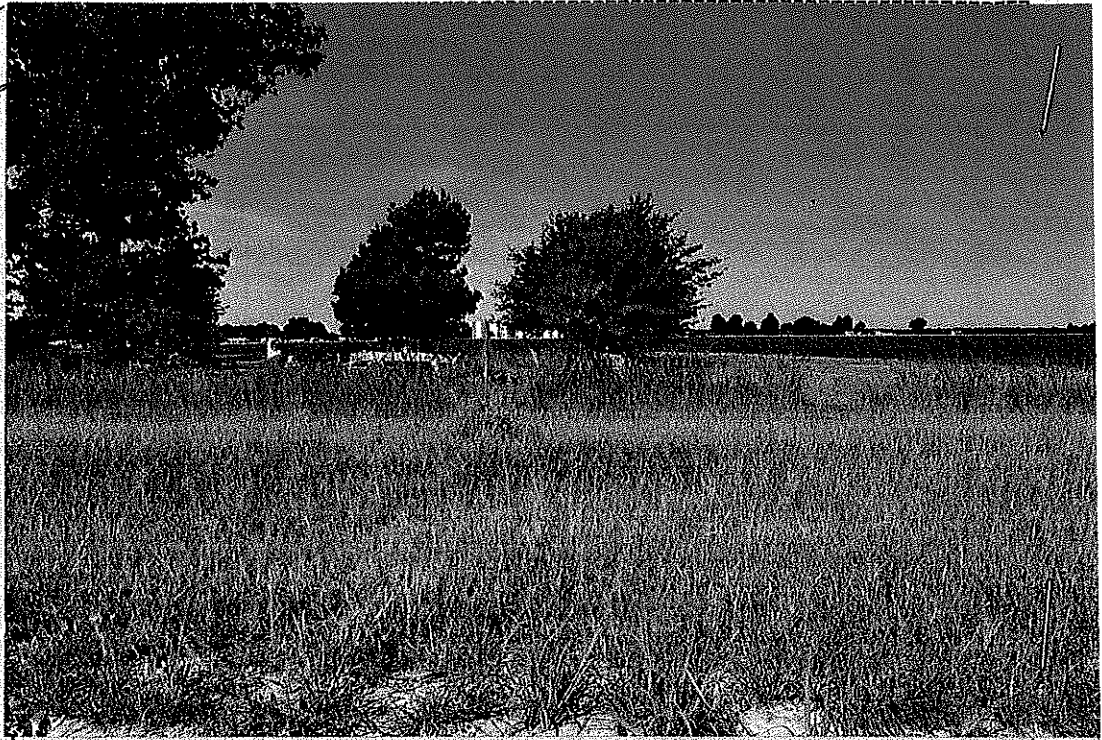
Direction of View: \_\_\_\_\_

West

This photo depicts: \_\_\_\_\_

Mr. Howard's

North line of  
property



Purpose of photo: \_\_\_\_\_

No pesticide symptoms are present on Mr. Howard  
property

Photo # 6

Date of Photo: 8

Photographer's Signature

*[Signature]*

Direction of View: \_\_\_\_\_

South

This photo depicts: \_\_\_\_\_

Mr. Davis soybean  
field and Mr. Howard  
property



Received

AUG 04 2015

Pesticide Division

Purpose of photo: \_\_\_\_\_

Pesticide symptoms are not present on Mr. Howard's  
property



# SAMPLE ANALYSIS REPORT

## ARKANSAS STATE PLANT BOARD

#1 Natural Resources Drive  
Little Rock, AR 72205

Exhibit #8

### Sampled at:

Ken Howards  
10922 Hwy 14E  
Weiner, AR 72479

Date Sampled: 8/3/2015

Date Received: 8/4/2015

Date Reported: 8/6/2015

Arkansas  
State Claims Commission  
DEC 22 2016  
RECEIVED

Inspector: JTF

Case File No.: 15-194

Sample Description: Towel

Lab No: 152055

### Analytical Results

Ingredient	Found	Analyst
Fomesafen	0.024 ppm	Miller
Glyphosate Acid	None	Miller

### Comments:



Mike Miller, Chemist

## PESTICIDE DIVISION SPECIAL MATERIALS &amp; MARKETPLACE SAMPLE REPORT

ARKANSAS STATE PLANT BOARD  
#1 Natural Resources Drive  
Little Rock, AR 72205

Insp. # <i>CF15-194-JTF-08</i>	Case # <i>15-194</i>	Lab # <i>152055</i>
--------------------------------	----------------------	---------------------

DATE:	Sampled: <i>8/3/15</i>	Received: <i>8-4-15</i>	Reported: <i>8-6-15</i>
-------	------------------------	-------------------------	-------------------------

Sampled At	<i>Ken Howard</i>
Address	<i>10922 Hwy 14E Weiner AR 72479</i>
GPS Coordinates:	N <i>35.56310°</i> W <i>91.04355°</i>

This block to be used for Marketplace Samples only				
Manufacturer				
Address				
City/State/Zip				
Brand Name:				
EPA Reg.#:	EPA Est.#:	Lot#:		
Container Type:	# on Hand	Wt./Size	# Sampled	
Circle appropriate description: [Non-Slurry Liquid] [Slurry Liquid] [Dust] [Granular] [Other]				

Other Sample	<input type="checkbox"/>	Soil	<input type="checkbox"/>	Vegetation(describe)	
Description	<input type="checkbox"/>	Water	<input type="checkbox"/>	Clothing (describe)	
(Place check in appropriate square)	<input type="checkbox"/>	Use Dilution	<input checked="" type="checkbox"/>	Other (describe)	<i>stationary towel</i>

Analysis Requested: (Use common pesticide name)	Formulation Guarantee	Dilution Rate as mixed in Tank (if use dilution)
<i>Roundup Power max II</i>	<i>48.8%</i>	
<i>Fluastar</i>	<i>22.1%</i>	

Chain of Custody	
Date	Received by
<i>8-4-15</i>	<i>Ken Howard</i>
	(Received for Lab)

Inspector Name (Print) *Tommy Fields*

Inspector Signature *Tommy Fields*

Check box if Dealer desires copy of completed analysis ☐

STATEMENT FORM

Case # 15-1441  
Ken Howard

Wayne Davis To W Farms  
389 J 272 N  
AMAGUN DR 72005

On the 30 July 15 I applied  
round up + flex star on S.B. about 25 acres  
field name is the Ken Howard field.  
rate was 1 1/2 pt R.V. 1 1/2 pt flex star

Wayne Davis  
Name

8-3-15  
Date

\_\_\_\_\_  
Signature

Owner.  
Title

Tommy Fields  
Inspector Name

\_\_\_\_\_  
Firm Name (if applicable)

8/3/15  
Date

Tommy Fields  
Inspector Signature

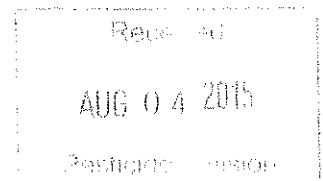


Exhibit #10

RECEIVED

CF-14-055

With this case file - The ASPB inspector Hunter Gibson stood in my yard and saw the problem made the comment "maybe you can work something out with the Samers about this one." Then when he gets into the office, apparently, he convinced them there was no cliff. He took pictures of the Hall's property and also pictures of my property.

Picture # 10 is the Samers property, but clover looked the same within 2 feet of this picture. Picture # 14 shows my property there is chemical damage.

Picture # 11 & 12 are my clover in my yard right at the west corner of my house. Within 2 feet of my back door.

These two pictures show the same damage as on the Hall's property. I have my own pictures taken and video of the exact spot on my property.

This is another way of ~~show~~ their cover up.



Darryl Little  
Director

**ARKANSAS  
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Phone (501) 225-1598  
Fax (501) 219-1697

Arkansas  
State Claims Commis.  
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February 26, 2105

Mr. Ken Howard  
10922 Hwy 14 E. Rt 2  
Weiner AR 72479

**SUBJECT: CF14-055 Case File Investigation requested by Mr. Ken Howard**

Dear Mr. Howard:

The Arkansas State Plant Board (ASPB) investigated your request for investigation, styled CF14-055 reported to the ASPB on May 30, 2014. The request was in regard to an alleged exposure of your clover, weeds, and lawn to a pesticide. However, the ASPB found no pesticide symptoms present at the time of investigation. If any additional information pertaining to CF14-055 comes forth, then further investigation(s) will be initiated. Until such time the ASPB considers CF14-055 to be complete.

Thank you, for contacting the Arkansas State Plant Board regarding the request for investigation. Since it is not possible for an ASPB inspector to be present during every pesticide application, the ASPB must depend on the citizens of the state to report any perceived misuse of pesticides. If you have any questions pertaining to this investigation, please contact me at (501) 225-1598.

Sincerely,

Susie Nichols  
Director  
Pesticide Division

cc: Tommy James  
Wendy Spakes

Photo # 09Date of Photo: 6/3/14

Photographer's Signature

Hunter

Direction of View:

N/A

This photo depicts:

Start of pictures  
CF-14-055

Form DP-13

CHECKLIST  
OF  
REPORT

Case File #

14-055Name of Reporter Ken Howard

1. Information from caller (Form DP-1)

Included ☐Not Included ☐Not Applicable ☐

2. Request for Investigation (Form DP-2)

☐☐☐

3. Report of Investigation (Form DP-3)

☐☐☐

4. Photos

☐☐☐

5. Analysis

☐☐☐

a. Field

☐☐☐

b. Lab

☐☐☐

c. Other

☐☐☐

d. Other

☐☐☐

e. Other

☐☐☐

f. Other

☐☐☐

g. Other

☐☐☐

h. Other

☐☐☐

Received

JUN 19 2014

Pesticide Division

Purpose of photo:

Beginning of CF-14-055Exhibit #8Photo # 10Date of Photo: 6/3/14

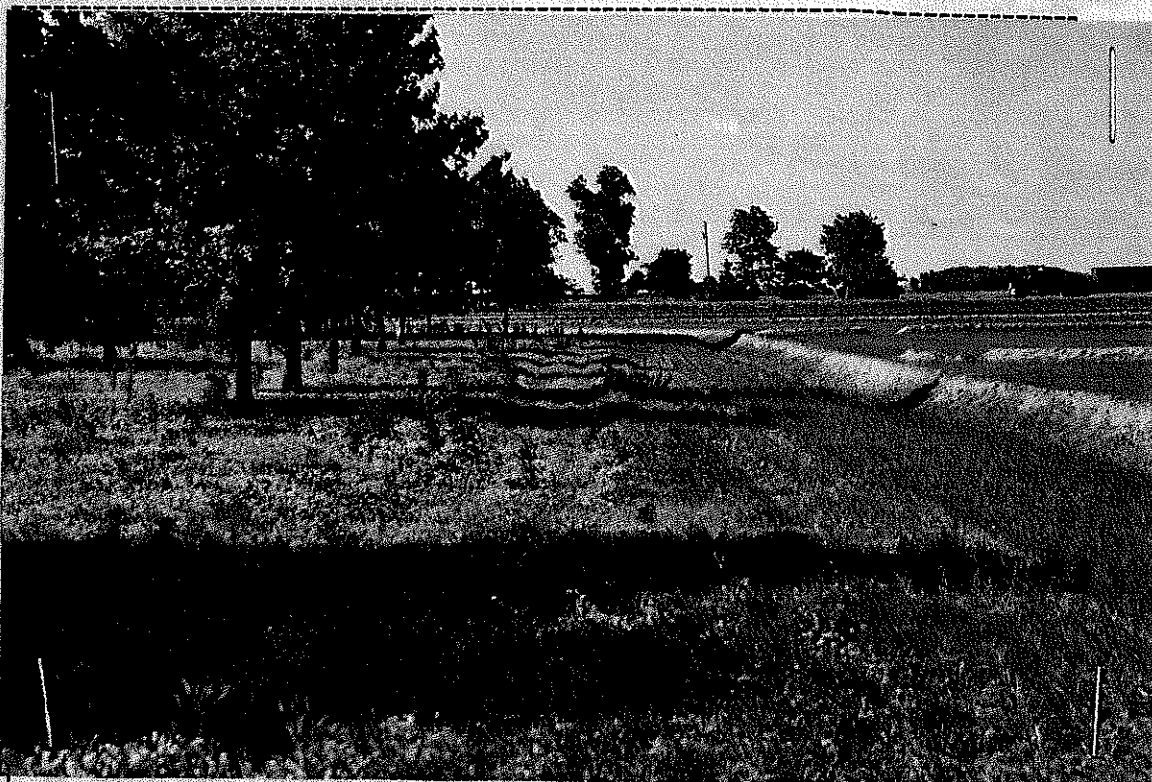
Photographer's Signature

Hunter

Direction of View:

180°S

This photo depicts:

Target area with  
symptoms present  
to the right.The area to the  
left is also owned  
by the farmer.The Howards  
property is to  
the left of the  
trees in this  
photo.Purpose of photo: ToShow the target area with pesticide symptoms with  
a definite hash mark where the application was made.



DP-13 (3-99)

Photo # 13

Case File # 14-055

Date of Photo: 6/3/14

Photographer's Signature

Huron

Direction of View:

180° S

This photo depicts:

Ken Howards  
property line  
and vegetation.

Photos 10-12

were in the  
target area to  
the right in this  
photo.

No evidence of  
pesticide drift  
could be found  
on Mr. Howards  
property.

Purpose of photo: To

show the relation of the TARGET AREA and  
the Howard property line, and no pesticide drift present.

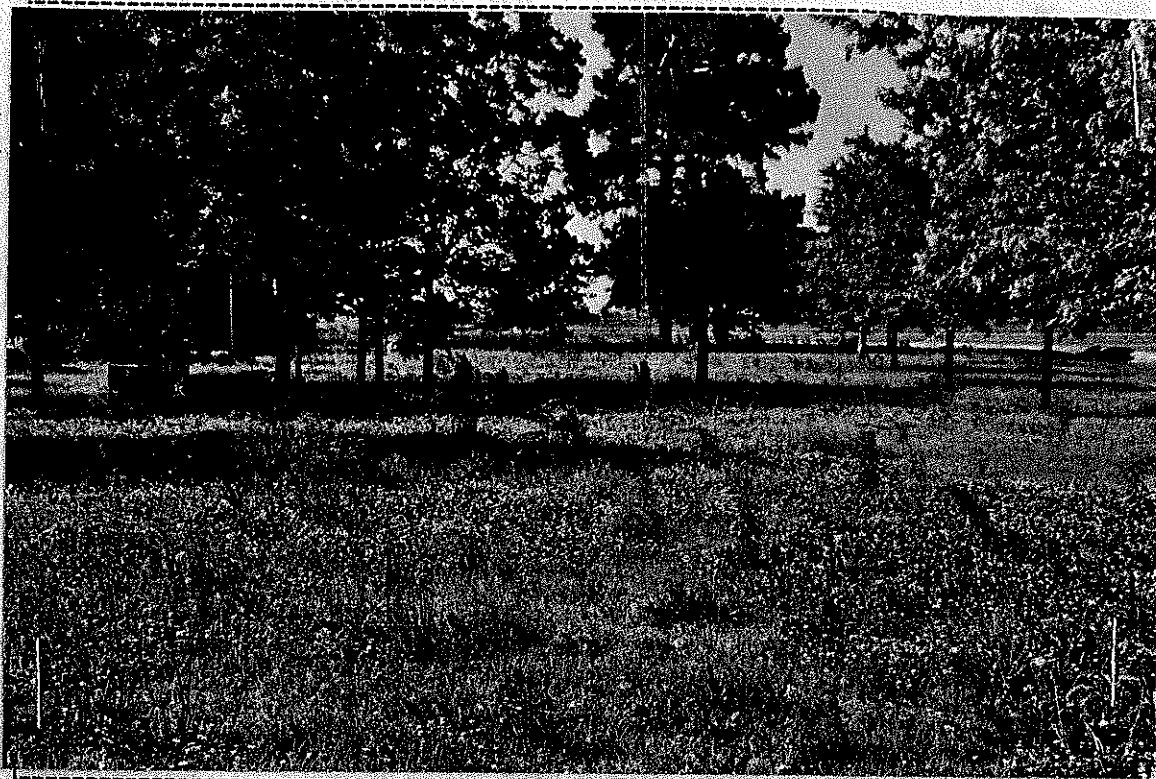


Photo #

14

Date of Photo: 6/3/14

Photographer's Signature

Huron

Direction of View:

180° S

Received

JUN 10 2014

This photo depicts:

Green, pesticide  
free vegetation  
in the Howards  
yard.

No symptoms  
were present  
anywhere on  
the Howards  
property.



Purpose of photo: To

prove along with other photos that there was  
no evidence of pesticide misuse/symptoms on the Howards property.

Photo # 11

Date of Photo: 6/3/14

Photographer's Signature

Hurst

Direction of View:

180°s

This photo depicts:

Vegetation in  
TARGET AREA  
showing symptoms  
of pesticide  
application.

Necrosis/spotting  
of vegetation  
consistent with  
the chemicals  
Nasath, Shopen,  
and Permit Plus  
that were applied

Purpose of photo:

To show that symptoms were present on target  
area at time of investigation

Received

JUN 11

Photo # 12

Date of Photo: 6/3/14

Photographer's Signature

Hurst

Direction of View:

180°s

This photo depicts:

Clover and other  
vegetation 1 ft  
away from  
Photo 11 with  
no symptoms of  
herbicide exposure  
present.

Pesticide Application

Purpose of photo: To

show that a pesticide drift did not occur  
between the target area and the Howards property.



DEC 22 2016

RECEIVED

CF-14-069

With this case file, the investigator states no drift has occurred. Well, why is the tips of my grass turning yellow-bleached out.

The reason to state no drift is because it is the applicators responsibility to maintain the drift. They never can maintain the drift <sup>so</sup> the Investigators say NO drift so no violation is charged.

My property is ~~an~~ discolored spotty, so if no drift occurred, how is the discoloration occurring.



Darryl Little  
Director

**ARKANSAS  
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[www.plantboard.arkansas.gov](http://www.plantboard.arkansas.gov)  
Phone (501) 225-1598  
Fax (501) 219-1697

February 26, 2015

Mr. Ken Howard  
10922 Hwy 14 E. Rt 2  
Weiner AR 72479

**SUBJECT: CF14-069 Case File Investigation requested by Mr. Ken Howard**

Dear Mr. Howard:

The Arkansas State Plant Board (ASPB) investigated your request for investigation, styled CF14-069 reported to the ASPB on June 5, 2014. The request was in regard to an alleged exposure of your garden, trees, and lawn to a pesticide. However, the ASPB found no pesticide symptoms present at the time of investigation. If any additional information pertaining to CF14-069 comes forth, then further investigation(s) will be initiated. Until such time the ASPB considers CF14-069 to be complete.

Thank you, for contacting the Arkansas State Plant Board regarding the request for investigation. Since it is not possible for an ASPB inspector to be present during every pesticide application, the ASPB must depend on the citizens of the state to report any perceived misuse of pesticides. If you have any questions pertaining to this investigation, please contact me at (501) 225-1598.

Sincerely,

A handwritten signature in cursive script that reads "Susie Nichols".

Susie Nichols  
Director  
Pesticide Division

cc: Tommy James  
Wendy Spakes

## CHRONOLOGY

AND

## SUMMARY

Prepared by Susie Nichols  
August 1, 2014

Ms. Ken Howard  
CF 14-069

Arkansas  
State Claims Commission  
DEC 22 2016

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- June 5, 2014 Mr. Ken Howard of Weiner filed a Request for Investigation (Exhibit 1) with the Arkansas State Plant Board alleging an off target pesticide drift onto his garden trees, and lawn. Mr. Howard named Bolden as the suspected applicator and Mr. Wayne Davis as the suspected farmer.
- June 6, 2014 Mr. Ken Howard completed and signed a Request for Investigation/Consent Form (Exhibit 2). Mr. Howard indicated the type of area affected as his lawn and trees. Mr. Howard stated that he first noticed symptoms on June 5 2014. Mr. Howard stated, in Exhibit 2, that the application was made, by air, on June 3 to a rice field located approximately 50 ft. from the affected area. Mr. Howard named Folden as the suspected applicator.
- June 6, 2014 ASPB Inspector Hunter Gipson photo documented (Exhibit 3) the investigation of CF14-069. Photograph 16 of Exhibit 3, depicts the beginning of photo documentation for CF14-069. Photograph 17 of Exhibit 3, taken viewing 180 degrees (South), depicts the target area. The purpose of Photograph 17 is to show no pesticide symptoms present. Inspector Gipson stated that "the field was sprayed on 06/03/14 while Inspector Tommy James and I were present. Folden Aviation left off 120 ft strip by Ken Howard's property". Photograph 18 of Exhibit 3, taken viewing 90 degrees (East), depicts vegetation on the Howard's property. The purpose of Photograph 18 is to show no pesticide symptoms present. Photograph 19 of Exhibit 3, taken viewing 90 degrees (East), depicts vegetation on the Howard's property. The purpose of Photograph 19 is to show no pesticide symptoms present. Photograph 20 of Exhibit 3, taken viewing 90 degrees (East), depicts vegetation that Mr. Howard showed the ASPB Inspectors that he thought was pesticide symptoms. The purpose of Photograph 20 is to show no pesticide symptoms present. Photograph 21 of Exhibit 3, taken viewing 360 (North), depicts vegetation on Mr. Howard's property. The purpose of Photograph 21 is to show no pesticide symptoms present.

Inspector Gipson constructed a non-scale Area Map (Exhibit 4) showing the location of Mr. Howard's property in relation to the surrounding area. Exhibit 4 also shows where all Photographs pertaining to Exhibit 3 were taken.



June 6, 2014 Inspector Gipson issued a Notice of Inspection (Exhibit 5) to Mr. Jeremy Folden, Pilot, with Folden Aviation. The purpose of Exhibit 5 was to inform the above named firm has been named as the suspected applicator in a Request for Investigation of an off target drift and to conduct a records inspection in response to a Request for Investigation filed with the Arkansas State Plant Board.

Inspector Gipson obtained Application Records (Exhibit 6) from Folden Aviation Inc. Exhibit 6 indicates that on 05/01/14 at 9:10 a.m. Mr. Jeremy Folden applied Grasp, Permit Plus, Surfactant, and Drift Control to approximately 39 acres of rice for Mr. Wayne Davis. Exhibit 4 indicates the field of application is located East of Mr. Howard's property.

Folden Aviation is duly licensed (Exhibit 7) as a Commercial Application Firm.

Mr. Jeremy Folden is duly licensed (Exhibit 8) as a Commercial Applicator.

Inspector Gipson issued a Notice of Inspection (Exhibit 9) to Mr. Wayne Davis, Farmer. The purpose of Exhibit 9 was to inform the above named person that the above named firm has been named as the suspected applicator in a Request for Investigation of an off target drift.

Inspector Gipson stated in the Inspector Narrative Report (Exhibit 10) that "...no pesticide symptoms or misuse had occurred..."

Inspector Gipson indicated in the Report of Investigation (Exhibit 11) that no pesticide symptoms were present at the time of investigation.

After review of the Command 3ME label and Arkansas' Pesticide Use and Application Act and Regulations the documented evidence obtained during the investigation of CF14-069 is not sufficient for the ASPB to determine a pesticide drift or buffer zone violation. If any additional information pertaining to CF14-069 comes forth, then further investigation(s) will be initiated. However, until such time the ASPB considers CF14-069 to be complete.

Arkansas  
State Claims Commission

DEC 22 2016

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DP-13 (3-99)

Photo # 016

Case File # 14-069

Date of Photo: 6/6/14

Photographer's Signature

Hunter

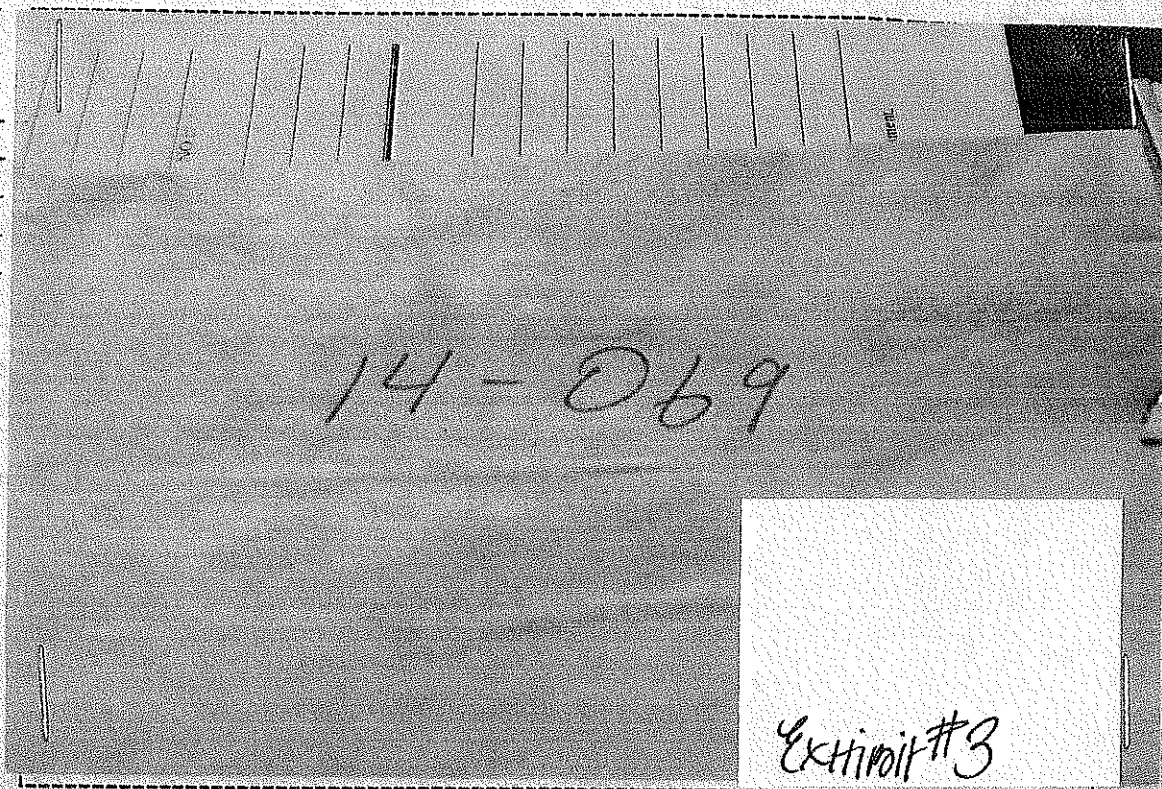
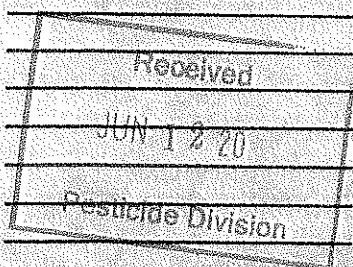
Direction of View: \_\_\_\_\_

N/A

This photo depicts: \_\_\_\_\_

Beginning  
of photos

CF-14-069



Purpose of photo: Shows

Beginning of photo documentation for CF-14-069

Ken Howard

Photo # 017

Date of Photo: 6/6/14

Photographer's Signature

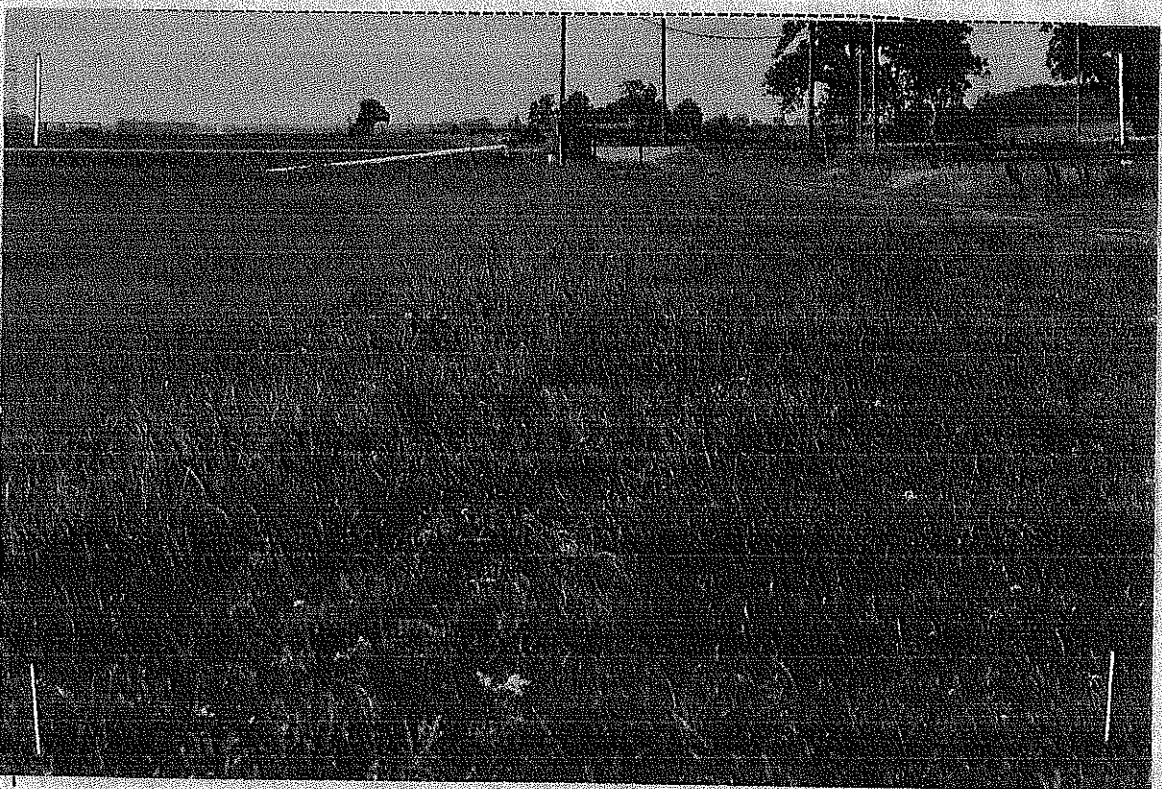
Hunter

Direction of View: \_\_\_\_\_

180° S

This photo depicts: \_\_\_\_\_

TARGET AREA



X NO Pesticide  
symptoms present.  
This field was  
sprayed on 6/3/14  
while Inspector  
James and I  
were present.  
Folden Aviation  
left off 120 ft  
strip by Ken  
Howard's property

Purpose of photo: \_\_\_\_\_

Pesticide

To show that no symptoms were present at  
the time of investigation on the target area.



Photo # 018Date of Photo: 6/6/14

Photographer's Signature

Hunter

Direction of View: \_\_\_\_\_

90° E

This photo depicts:

Vegetation on  
the Howards  
property with  
no pesticide  
symptoms  
present.

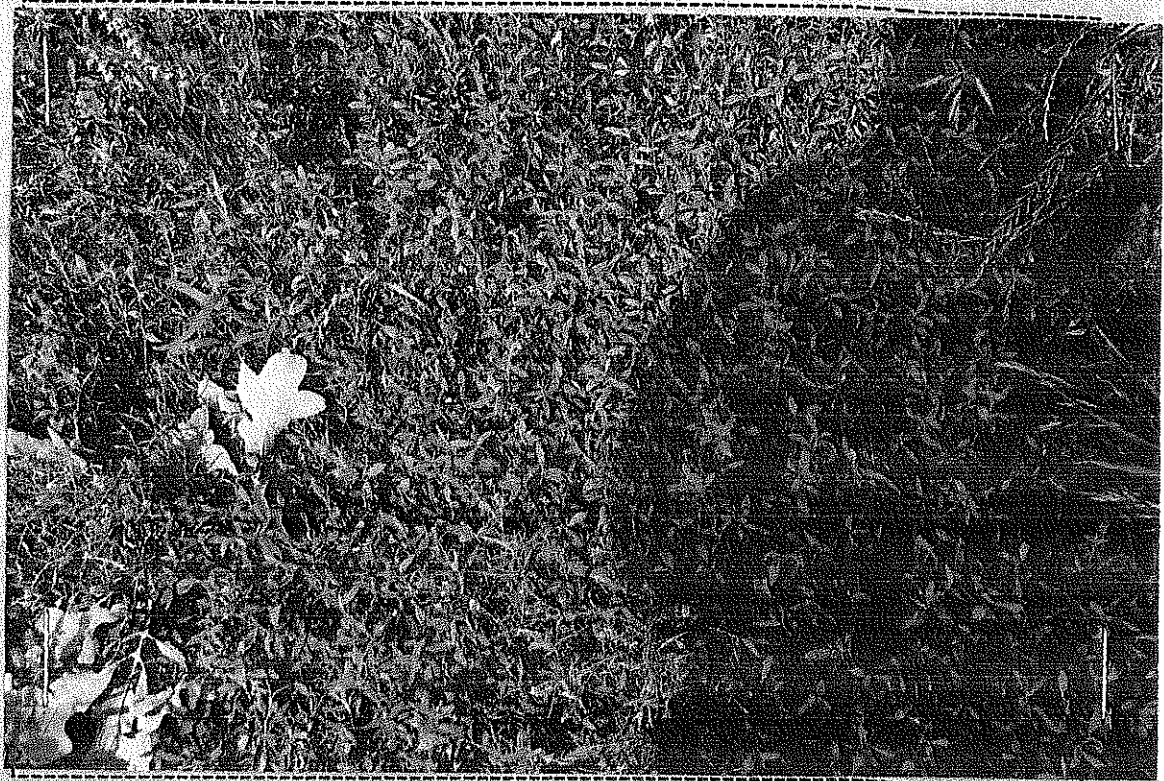
Received

JUN 12

Pesticide Division

Purpose of photo: To

Show that no pesticide drift/misuse had  
occured from the TARGET AREA onto the Howards property

Photo # 019Date of Photo: 6/6/14

Photographer's Signature

Hunter

Direction of View: \_\_\_\_\_

90° E

This photo depicts:

More vegetation  
on the Howards  
property with  
no pesticide  
symptoms  
present

Purpose of photo: To

Show that no pesticide symptoms were present  
on Mr. Howards property



DP-13 (3-99)

Photo # 020

Case File # 14-069

Date of Photo: 6/6/14

Photographer's Signature

Hunter

Direction of View: \_\_\_\_\_

90°E

This photo depicts:

Vegetation Mr.  
Howard showed  
us that he had  
assured was  
pesticide symptoms

\* After inspecting this  
vegetation we  
determined this  
was caused by  
rain splashing dirt  
from the soil onto  
the leaves

Purpose of photo: To

Show there were no pesticide symptoms on the vegetation  
in question. This was dirt splashed onto the vegetation from rain.

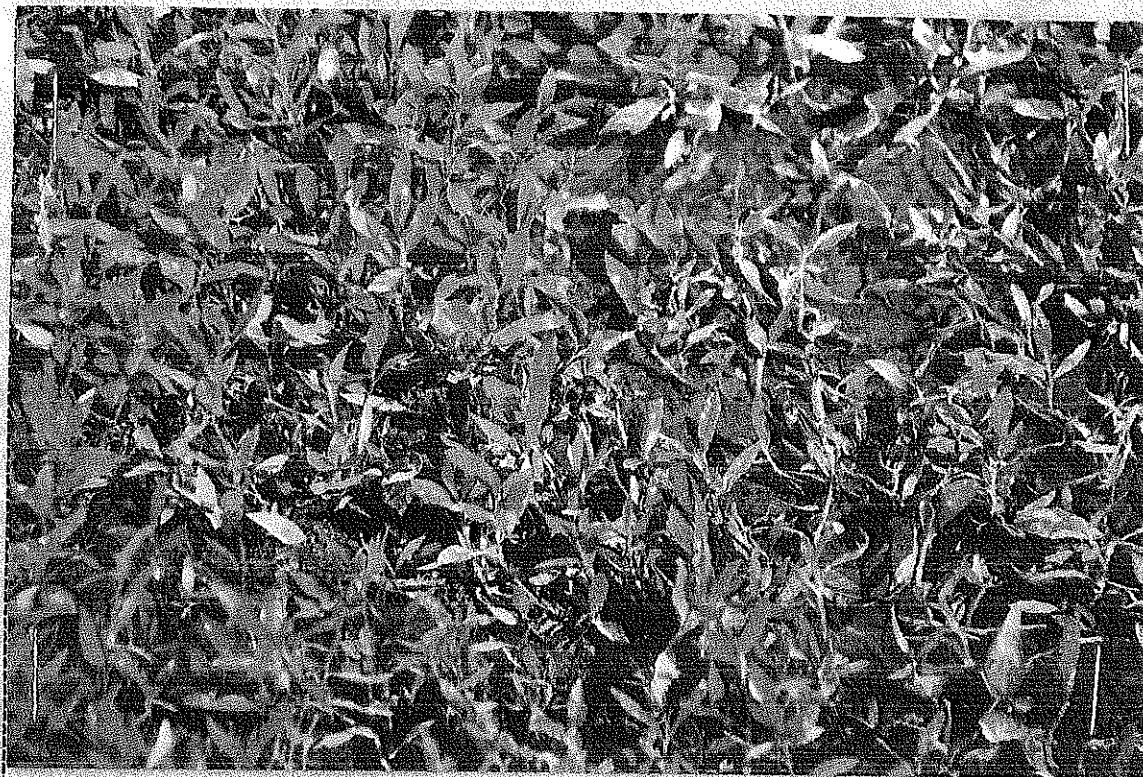


Photo # 021

Date of Photo: 6/6/14

Photographer's Signature

Hunter

Direction of View: \_\_\_\_\_

360°N

This photo depicts:

Vegetation on  
Mr. Howard's  
property with  
no pesticide  
symptoms, no  
disease symptoms,  
or any nutrient  
deficiency present.



Received

JUN 12

Pesticide Division

Purpose of photo: To

prove, along with photos 17-20, that no pesticide  
symptoms were present on the target area or Mr. Howard's property

Date: 6/6/2014 10 GAL

Posted Field Applications- App. Code

Page: 2 Folden Aviation, Inc.

From date: 05/01/2014

Acct. ID: WDAVIS App. Code: 10 GAL

MSO	Surfactant	1.000 %	108.00 %	AC
CONTROL	Drift Control	0.000 OZ	0.00 OZ	1.500000 AC

Total Cost: [REDACTED]

Billing Info: Acct. Nbr: WDAVIS Nbr. of Acres: 108.00 Shares: 100.00 Total: 999.00 Discounted Total: [REDACTED]

Applied by: Folden Vehicle: 802FA Acres: 108.00 Tach Time: 0.00

Invoice: 13616 Crop: rice Location: 3 Acres Applied: 39.00 Trans. Date: 6/3/2014  
Time 09:10 a - Temp. 79 \*F Wind Dir. 228 @ 9 mph Humidity % Pest N/A Application Date 6/3/2014

App.Code	Application	EPA Reg:	Rate/AC	Total Applied	Price	Total Cost
10 GAL	Liquid Application		0.000 GL	0.00 GL	7.750000 AC	[REDACTED]
GRASP	Grasp SC	62719-500	2.300 OZ	89.70 OZ	AC	
PERMITPLU	Permit Plus		0.750 OZ	29.25 OZ	AC	
MSO	Surfactant		1.000 %	39.00 %	AC	
CONTROL	Drift Control		0.000 OZ	0.00 OZ	1.500000 AC	58.50

Total Cost: [REDACTED]

Billing Info: Acct. Nbr: WDAVIS Nbr. of Acres: 39.00 Shares: 100.00 Total: 360.75 Discounted Total: [REDACTED]

Applied by: Folden Vehicle: 802FA Acres: 39.00 Tach Time: 0.00

Grand Totals:

Total Acres Applied: 374.00  
Total Application Code Charges [REDACTED]

Total Acres for Acct. ID: WDAVIS 374.00  
Total Charges for Acct. ID: WDAVIS [REDACTED]

Total Applied for: 10 GAL 0.00 GL

Received  
JUN 12 2014  
Pesticide Division

Exhibit #6



DEC 22 2016

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CF15-023-

With this casefile - I was standing in my own yard videoing the airplane as the ASPB told me to do and I was sprayed with a mist from the chemical from the airplane. The paperwork shows no violation but specifically on every chemical label shows control the drift to where it does not drift onto anyone, any animal, or anyone's property.

From the research I have done shows that the health hazards of the ~~the~~ ~~the~~ Glyphosate can cause miscarriages. Well, I had a miscarriage 2 as a fact.

Look up The Dangers of Glyphosate Herbicides July 25, 2014 by Elena Perez. and Also Safety ~~Sheet~~ Data Sheet - BASF- Sharpen SC EPA regulations # 7969-278

Not only to mention my health issue, my husband has COPD and both my children have allergies and lung + bone problems. my husband has bone problems as well. These chemicals that they are spraying causes numerous health problems.

My clothing tested positive for the chemical they sprayed. I was wearing these clothes at the time I was videoing. The swab they used came off of a vehicle on the opposite side of my property behind a building.

Another cover up for the farmer from the Arkansas State Plant Board.



Darryl Little  
Director

**ARKANSAS  
STATE PLANT  
BOARD**

P.O. Box 1069 • Little Rock, AR 72203  
[www.plantboard.arkansas.gov](http://www.plantboard.arkansas.gov)  
Phone (501) 225-1598  
Fax (501) 219-1697

June 29, 2015

Mr. Ken Howard  
10922 Hwy 14 E Rt 2  
Weiner, AR 72476

Arkansas  
State Claims Commission  
DEC 22 2016  
RECEIVED

**SUBJECT: CF15-023 Case File Investigation requested by Mr. Ken Howard**

Dear Mr. Howard:

The Arkansas State Plant Board (ASPB) investigated your request for investigation, styled CF15-023 reported to the ASPB on April 21, 2015. The request was in regards to an alleged exposure of your lawn and self to a pesticide. The ASPB found no pesticide symptoms present on your lawn at the time of investigation. If a human exposure is alleged, Plant Board protocol requires a clothing sample and a swab sample from a stationary object near where the alleged exposure occurred. 0.075 ppm of Glyphosate Acid was detected in the clothing sample obtained from Ms. Howard. However, no Glyphosate Acid was detected in the swab sample taken from the stationary car located on your property. After reviewing all of the evidence obtained during the investigation, the Plant Board cannot determine an alleged pesticide misuse or drift. If any additional information pertaining to CF15-023 comes forth, then further investigation(s) will be initiated. Until such time the ASPB considers CF15-023 to be complete.

Thank you, for contacting the Arkansas State Plant Board regarding the request for investigation. Since it is not possible for an ASPB inspector to be present during every pesticide application, the ASPB must depend on the citizens of the state to report any perceived misuse of pesticides. If you have any questions pertaining to this investigation, please contact me at (501) 225-1598.

Sincerely,

Susie Nichols  
Director  
Pesticide Division  
Arkansas State Plant Board

cc: Tommy Fields  
Wendy Spakes

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## CERTIFIED APPLICATOR RECORDS INSPECTION

COMPANY NAME	<u>Quinn Aviation, Inc.</u>	License #	<u>19</u>
CERTIFIED APPLICATOR	<u>Travis Worthington</u>	License #	<u>548</u>
2,4-D CUSTOM APPLICATOR Permit Number	<u>19</u>		
ADDRESS	<u>6106 SW Dr.</u>	CITY	<u>Jonesboro</u>
		STATE	<u>AR</u>
		ZIP	<u>72404</u>
PHONE NUMBER ( <u>870</u> )	<u>932-1068</u>	FAX NUMBER	<u>N/A</u>

CREDENTIALS PRESENTED? -----

NOTICE OF INSPECTION ISSUED?-----

Are records maintained for the required 2 year period?-----

Are pesticides used registered by the state?-----

Are the applicators licensed in the proper categories?-----

YES



NC



State



Arkansas

Claims Commission

22 2016

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#7

EXHIBIT

7

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## RECORD THE FOLLOWING INFORMATION

Date(s) and Time(s) of application 4-21-15 8:10 a.m.Name of person for whom applied Whiskers Farms / Roger HallName of applicator Travis Worthington Type of equipment used AircraftLocation of target area West of Waldenburg - AmagonLatitude 35.563 Longitude 091.047Pesticide used Roundup Power Max EPA Reg # 524-549Manufacture Name MonsantoCrop to which applied Burndown Target Pest Weeds / GrassApplication Rate 32 oz Acreage, size of each area treated 48 acres

Weather conditions at time of application

Wind Direction 200 Wind Speed 6 Temperature 52°In what direction was the application made(i.e. which direction back and forth(N to S or E to W) and on which side did it start(N,S,E,W)): N-S, W

Received

APR 28 2015

Pesticide Division

Firm's Representative Name(Print) Travis Worthington Firm's Representative Signature [Signature]Date 4-23-15Inspector Name (Print) Matt FieldsInspector Signature [Signature]Date 4/23/15

# SAMPLE ANALYSIS REPORT

## ARKANSAS STATE PLANT BOARD

#1 Natural Resources Drive

Little Rock, AR 72205

### Sampled at:

Ken Howard  
10922 Hwy 14 E  
Weiner, AR 72479

Date Sampled: 4/23/2015

Date Received: 4/23/2015

Date Reported: 4/30/2015

Inspector: MWF

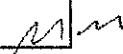
Case File No.: 15-023

Sample Description: Clothing

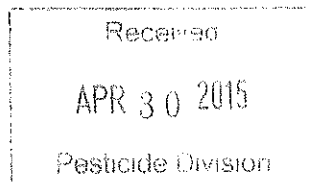
Lab No: 152014

---

### Analytical Results

Ingredient	Found	Analyst
Glyphosate Acid	0.075 ppm	Miller 

### Comments:



  
Mike Stage, Technical Services Manager

## PESTICIDE DIVISION SPECIAL MATERIALS &amp; MARKETPLACE SAMPLE REPORT

## ARKANSAS STATE PLANT BOARD

#1 Natural Resources Drive  
Little Rock, AR 72205

Insp. # CF15-023-MWF-01	Case # 15-023	Lab # 152014
-------------------------	---------------	--------------

DATE:	Sampled: 4-23-15	Received: 4-23-15	Reported: 4-30-15
-------	------------------	-------------------	-------------------

Sampled At	Ken Howard
Address	10922 Hwy 14 E. Weiner, AR 72479
GPS Coordinates:	N 35.563 W 91.093

This block to be used for Marketplace Samples only			
Manufacturer			
Address			
City/State/Zip			
Brand Name:			
EPA Reg.#: 524-549	EPA Est.#:	Lot#:	
Container Type:	# on Hand	Wt./Size	# Sampled
Circle appropriate description: [Non-Slurry Liquid] [Slurry Liquid] [Dust] [Granular] [Other]			

Other Sample	Soil	Vegetation(describe)	
Description	Water	X Clothing (describe)	Jeans / Sweatshirt
(Place check in appropriate square)	Use Dilution	Other (describe)	

Analysis Requested: (Use common pesticide name)	Formulation Guarantee	Dilution Rate as mixed in Tank (if use dilution)
Roundup Powermax - Glyphosate	48.7 %	

Chain of Custody	
Date APR 14 2015 23 FEB 2015	Received by Mike Stange
	(Received for Lab)

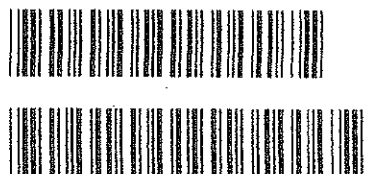
Inspector Name (Print) Matt Fields

Inspector Signature

Check box if Dealer desires copy of completed analysis ☐ 2015

Pesticide Division





Nam: Howard, Tina Louise  
Age: 1  
Gender: F Wt: 61.2 kg (est.) Ht: 157.48 cm  
MedRec: 514526  
AcctNum: 1619542  
Attending: RB  
Primary RN: JLY  
Bed: ED EDII 17

## WHITE COUNTY MEDICAL CENTER DISCHARGE INSTRUCTIONS

---

### FINAL DIAGNOSIS

vaginal bleeding

### ADDITIONAL DIAGNOSIS

possible miscarriage

### TREATED BY:

Attending Physician - Brown Md, Randel

### FOLLOWUP CONTACTS

Citty, Kris  
SMC - 2900 Hawkins  
Searcy AR 72143  
Phone: 5012782886

Follow up with Specialist 2-3 days

### SPECIAL INSTRUCTIONS

Return to the ER or see PCP if worse

### MEDICAL INSTRUCTIONS

#### VAGINAL BLEEDING DURING PREGNANCY, FIRST TRIMESTER

Vaginal Bleeding During Pregnancy, First Trimester

A small amount of bleeding (spotting) is relatively common in early pregnancy. It usually stops on its own. There are many causes for bleeding or spotting in early pregnancy. Some bleeding may be related to the pregnancy and some may not. Cramping with the bleeding is more serious and concerning. Tell your caregiver if you have any vaginal bleeding.

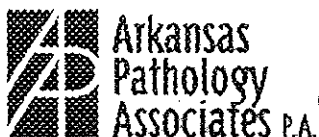
#### CAUSES

- > It is normal in most cases.
- > The pregnancy ends (miscarriage).
- > The pregnancy may end (threatened miscarriage).
- > Infection or inflammation of the cervix.
- > Growths (polyps) on the cervix.
- > Pregnancy happens outside of the uterus and in a fallopian tube (tubal pregnancy).
- > Many tiny cysts in the uterus instead of pregnancy tissue (molar pregnancy).

#### SYMPTOMS

Vaginal bleeding or spotting with or without cramps.

#### DIAGNOSIS



1000 N. University Ave.  
Little Rock, AR 72207

Office: 501-663-4116/Pathologist: 501-552-2966  
Fax: 501-663-4301

Karen Jones, MD  
**SURGICAL PATHOLOGY REPORT**

Patient Name: **Howard, Tina**

DOB/Age/Se

Soc. Sec. #: --- / / 91

Physician(s): Karen Jones, M.D.

Copy To:

Location: Physicians Office

Med. Rec. #:

Billing #: AP2016-3769

Accession #: **AP16-3769**

Date Received: 2/19/2016

Date Reported: 2/23/2016 12:14

**CLINICAL INFORMATION**

Excessive and frequent menstruation with irregular cycle. Other specified conditions associated with female genital organs and menstrual cycle.

**DIAGNOSIS:**

**Tissue from vagina: Blood clot, degenerating decidua and rare chorionic villi, consistent with products of conception.**

\*\*\*Electronically Signed Out By \*\*\*

Katherine Rebecca Steward, M.D.

Arkansas  
State Claims Commission  
DEC 22 2016

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**MICROSCOPIC:**

Diagnosis determined by microscopic evaluation.

**GROSS EXAMINATION:**

Specimen 1 is received in formalin and labeled with patient name, medical record number, and "tissue from vagina." It consists of multiple tan-gray soft tissue fragments mixed with blood clot measuring 6.5 x 6.0 x 1.0 cm in aggregate. Representative sections are submitted in cassette 1A-1E.

**Specimens/Procedures:**

The following special histological stains and methods were used in the evaluation of the specimens and arriving at the above diagnosis.

Product of Conception

H&E, Initial, H&E, Initial, H&E, Initial

Controls are appropriately reactive. The immunohistochemical staining procedures were developed and their performance characteristics determined by Arkansas Pathology Associates, P.A. It has not been cleared or approved by the U.S. Food and Drug Administration. The FDA has determined that such clearance or approval is not necessary. This laboratory is certified under Clinical Laboratory Improvement Act of 1988 as qualified to perform high complexity clinical testing.

Test Normal

FEB 25 2016

Dr. K Jones

Dr. Jones  
Rec HSG  
M

# Weed-Whacking Herbicide Proves Deadly to Human Cells

Used in gardens, farms, and parks around the world, the weed killer Roundup contains an ingredient that can suffocate human cells in a laboratory, researchers say

June 23, 2009 | By Crystal Gammon and Environmental Health News

Used in yards, farms and parks throughout the world, Roundup has long been a top-selling weed killer. But now researchers have found that one of Roundup's inert ingredients can kill human cells, particularly embryonic, placental and umbilical cord cells.

The new findings intensify a debate about so-called "inerts" — the solvents, preservatives, surfactants and other substances that manufacturers add to pesticides. Nearly 4,000 inert ingredients are approved for use by the U.S. Environmental Protection Agency.



*Handwritten signature*

AVIXYZ/FLICKR

Glyphosate, Roundup's active ingredient, is the most widely used herbicide in the United States. About 100 million pounds are applied to U.S. farms and lawns every year, according to the EPA.

Until now, most health studies have focused on the safety of glyphosate, rather than the mixture of ingredients found in Roundup. But in the new study, scientists found that Roundup's inert ingredients amplified the toxic effect on human cells—even at concentrations much more diluted than those used on farms and lawns.

One specific inert ingredient, polyethoxylated tallowamine, or POEA, was more deadly to human embryonic, placental and umbilical cord cells than the herbicide itself — a finding the researchers call "astonishing."

"This clearly confirms that the [inert ingredients] in Roundup formulations are not inert," wrote the study authors from France's University of Caen. "Moreover, the proprietary mixtures



Terry Walker  
Director

**ARKANSAS  
STATE PLANT  
BOARD**

Arkansas  
State Claims Commission  
DEC 22 2016

P.O. Box 1069 • Little Rock, AR 72203  
www.plantboard.arkansas.gov  
Phone (501) 225-1598  
Fax (501) 312-7053

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April 12, 2016

Mr. Ken Howard  
10922 Hwy 14 E. Rt. 2  
Weiner, AR 72479

**SUBJECT: Additional Case File Investigation requested by Mr. Ken Howard**

**Case File 16-016**

Dear Mr. Howard:

The Arkansas State Plant Board (ASPB) investigated your request for investigation, styled CF16-016, reported to the ASPB on March 28, 2016. The request was in regard to an alleged pesticide drift. Results of the investigation of CF16-016 found no pesticide drift from Mr. Hall's or Mr. Tiner's field.

The ASPB received a voicemail on April 6, 2016 from you regarding additional alleged symptoms that had recently appeared after a rain event. The ASPB reopened the investigation for Case File 16-016 on April 7, 2016 to allow the inspectors to document the alleged additional symptoms. Results of the additional investigation of CF 16-016 found no pesticide drift from Mr. Hall's or Mr. Tiner's field.

Thank you, for contacting the Arkansas State Plant Board regarding the request for investigation. Since it is not possible for an ASPB inspector to be present during every pesticide application, the ASPB must depend on the citizens of the state to report any perceived misuse of pesticides.

The Plant Board bases investigations on symptomology. Visual symptoms are identified by the Plant Board Inspector to determine if a misuse/drift has occurred. The visual symptoms identified are in no way used for any yield loss, crop failure, or economic loss determination of any kind by the Plant Board. The Plant Board does not assess damage or assign monetary values for economic losses of any kind. The findings from investigations are only used to uphold the provisions of the Arkansas Pesticide Use and Application Act and Regulations. If you have any questions pertaining to this investigation, please contact me at (501) 225-1598.

Sincerely,

Leigh Gibson  
Agri Program Manager  
Pesticide Division  
Arkansas State Plant Board

LG/lc

cc: Tommy James  
Wendy Spakes

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## CHRONOLOGY

### AND

### SUMMARY

Prepared by Leigh Gibson

April 5, 2016

Mr. Ken Howard

CF 16-016

- 03-28-2016 Mr. Ken Howard of Weiner filed a Request for Investigation (Exhibit 1) with the Arkansas State Plant Board (ASPB) regarding an alleged pesticide misuse/drift onto his lawn and grass. Mr. Howard did not name a suspected pesticide. Mr. Howard named two suspected applicators. Mr. Howard named an application on 3/18/16 by aircraft with Tail Number N8020 and an application by Mr. Tiner on 3/22/16. Mr. Howard named two suspected farmers, Mr. Hall and Mr. Tiner.
- 03-28-2016 ASPB Inspector Tommy James obtained a signed Request for Investigation/Consent Form (Exhibit 2) from Ms. Tina Howard. Ms. Howard named the type of area affected as lawn. Symptoms were first noticed on 03-25-2016 and were described as "discoloration of grasses and curling and burning of pigweeds in my yard". The affected area has not been treated pesticides/fertilizer this year. Ms. Howard named two suspected source of symptoms. The first source of symptoms named was an aerial application by aircraft N8020 on 03/18/16 for Hall Brother (Roger and Lyndon) to last year's bean stubble. Ms. Howard stated the treated area was joining her property. Ms. Howard listed the specific evidence of pesticide misuse as "wind was blowing out of southwest". The second suspected source of symptoms named by Ms. Howard was a ground application by Mr. Tiner on 03/22/16 by personal truck to a field of old bean stubble (last years). Ms. Howard stated the treated area was joining her property. Ms. Howard listed the specific evidence of pesticide misuse as "wind was blowing out of south southeast".
- 03-29-2016 ASPB Inspector Tommy James Photo Documented (Exhibit 3) CF 16-016.
- Photograph 1 depicts the case file number. The purpose of this photo is to show case file number.
  - Photograph 2, taken viewing north, depicts Ken Howard home. The purpose of this photo is to show Mr. Howard's property.
  - Photograph 3, taken viewing south, depicts Mr. Howard's lawn and Roger Hall's field. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.
  - Photograph 4, taken viewing north, depicts Mr. Howard's lawn and Roger Hall's field. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.

- Photograph 5, taken viewing north, depicts Mr. Howard's lawn and Roger Hall's field. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.
- Photograph 6, taken viewing east, depicts Mr. Howard's lawn and Will Tiner's field in background. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.
- Photograph 7, taken viewing east, depicts Mr. Howard's lawn and Will Tiner's field. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.
- Photograph 8, taken viewing south, depicts Mr. Howard's lawn and Will Tiner's field. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.
- Photograph 9, taken viewing close, depicts clover and grass on Mr. Howard's property. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.
- Photograph 10, taken viewing close, depicts clover and grass on Mr. Howard's property. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.

03-29-2016 Inspector Tommy James constructed a Non-Scale Area Map (Exhibit 4) showing the location of Mr. Howard's property in relation to Mr. Hall's and Mr. Tiner's fields and where all photos in Exhibit 3 were taken.

03-29-2016 ASPB Inspector Tommy James issued a Notice of Inspection (Exhibit 5) to Will Tiner with Will Tiner Farms in Tuckerman:

- For the purpose of inspecting sites where pesticides are being used or have been used; to regulate in the public interest the labeling, distribution, storage, transportation, and disposal of pesticides; to collect data on the use of pesticides; to check records; and to determine whether pesticides are being used in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act and State Laws.
- To inform the above named person that the above named firm has been named as the suspected applicator in a Request for Investigation of an off target drift.
- For a records inspection being conducted in response to a Request for Investigation filed with the Arkansas State Plant Board.

03-29-2016 ASPB Inspector Tommy James obtained a Statement Form (Exhibit 6) from Mr. Will Tiner. Mr. Tiner stated "I Will Tiner did not spray any chemicals next to Kin Howard's house as of 3-29-16".

03-29-2016 ASPB Inspector Tommy James issued a Notice of Inspection (Exhibit 7) to Roger Hall with Whiskers Farms, Inc. in Weiner:

- For the purpose of inspecting sites where pesticides are being used or have been used; to regulate in the public interest the labeling, distribution, storage, transportation, and disposal of pesticides; to collect data on the use of pesticides; to check records; and to determine whether pesticides are being



used in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act and State Laws.

- To inform the above named person that the above named firm has been named as the suspected applicator in a Request for Investigation of an off target drift.
- For a records inspection being conducted in response to a Request for Investigation filed with the Arkansas State Plant Board.

03-29-2016 ASPB Inspector Tommy James issued a Notice of Inspection (Exhibit 8) to Blake Johnson with Quinn Aviation, Inc. in Jonesboro:

- For the purpose of inspecting sites where pesticides are being used or have been used; to regulate in the public interest the labeling, distribution, storage, transportation, and disposal of pesticides; to collect data on the use of pesticides; to check records; and to determine whether pesticides are being used in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act and State Laws.
- To inform the above named person that the above named firm has been named as the suspected applicator in a Request for Investigation of an off target drift.
- For a records inspection being conducted in response to a Request for Investigation filed with the Arkansas State Plant Board.

03-29-2016 ASPB Inspector Tommy James conducted a Certified Applicator Records Inspection (Exhibit 9) at Quinn Aviation, Inc. Records indicate on 3/18/16 from 10:00 a.m. to 10:15 a.m., Kevin Carpenter made an aerial application of Cornerstone Plus (EPA Reg. #1381-192) for burndown to 68 acres of weeds/grass located 4 miles east of Amagon in Jackson County for Whiskers Farms/Roger Hall. Weather conditions recorded at the time of application were a wind direction of 090°, wind speed 6 MPH, and a temperature of 52°. The direction of application was North to South.

Quinn Aviation, Inc. is duly licensed (Exhibit 10) by the ASPB as a Commercial Firm.

Kevin Carpenter is duly licensed (Exhibit 11) by the ASPB as a Commercial Applicator.

03-31-2016 ASPB Inspector Tommy James stated in the Inspector Narrative (Exhibit 12), "Pesticide symptoms were not present on Mr. Howard's property at the time of investigation."

03-29-2016 ASPB Inspector Tommy James completed a Report of Investigation (Exhibit 13) for Mr. Ken Howard of Weiner. The report states the type of area affected was none. The report states pesticide symptoms were not present at the time of investigation. The affected area has not been treated in any manner with fertilizer/pesticide.

The documented evidence obtained during the investigation of CF16-016 is not sufficient for the ASPB to determine an alleged pesticide drift violation. If any additional information pertaining to CF16-016 comes forth, then further investigation(s) will be initiated. However, until such time the ASPB considers CF16-016 to be complete.

**Additional Chronology for Reopened Case File 16-016  
Ken Howard**

**Prepared by Leigh Gibson  
April 11, 2016**

- 04-06-2016 Mr. Ken Howard left a voicemail for Ms. Susie Nichols, Pesticide Division Director, regarding additional symptoms that had appeared on his property after it rained.
- 04-07-2016 Agri Program Manager Leigh Gibson contacted Mr./Mrs. Ken and Tina Howard via e-mail (Exhibit 14) to inform the Howards their voicemail had been received and Case File 16-016 would be reopened to allow inspectors to document the additional symptoms Mr. Howard stated had appeared after it rained.
- 04-07-2016 Agri Program Manager Leigh Gibson contacted ASPB Inspector Tommy James and ASPB Inspector Supervisor Wendy Spakes via e-mail (Exhibit 15) to inform them Case File 16-016 had been reopened at Mr. Howard's request. Agri Program Manager Leigh Gibson requested Inspector James document the additional symptoms Mr. Howard stated he was seeing on his property.
- 04-08-2016 ASPB Inspector Tommy James Photo Documented (Exhibit 16) Mr. Ken Howard's property for Case File 16-016.
- Photograph 1, taken viewing west, depicts Mr. Howard's lawn and Roger Hall's field. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.
  - Photograph 2, taken viewing close, depicts grass in Mr. Howard's yard. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.
  - Photograph 3, taken viewing north, depicts Mr. Howard's lawn and Roger Hall's field. The purpose of this photo is to show that no pesticide symptoms are present on Mr. Howard's property.
  - Photograph 4, taken viewing north, depicts Mr. Howard's lawn and Roger Hall's field. The purpose of this photo is to show grass between Howard lawn and Hall field with no pesticide symptoms.
  - Photograph 5, taken viewing north, depicts Mr. Howard's lawn and Roger Hall's field. The purpose of this photo is to show grass between Howard lawn and Hall field with no pesticide symptoms.
  - Photograph 6, taken viewing east, depicts Mr. Howard's lawn and Will Tiner's field in background. The purpose of this photo is to show grass between Howard lawn and Tiner field with no pesticide symptoms.

DP-13 (3-99)  
Photo # DSC-0001  
Date of Photo: 3-29-16  
Photographer's Signature TS

Case File # 16-016

Direction of View: close

This photo depicts: CF #

Form DP-9

CHECKLIST  
OF  
REPORT

Case File #

16-016

Name of Requester Ken Howard

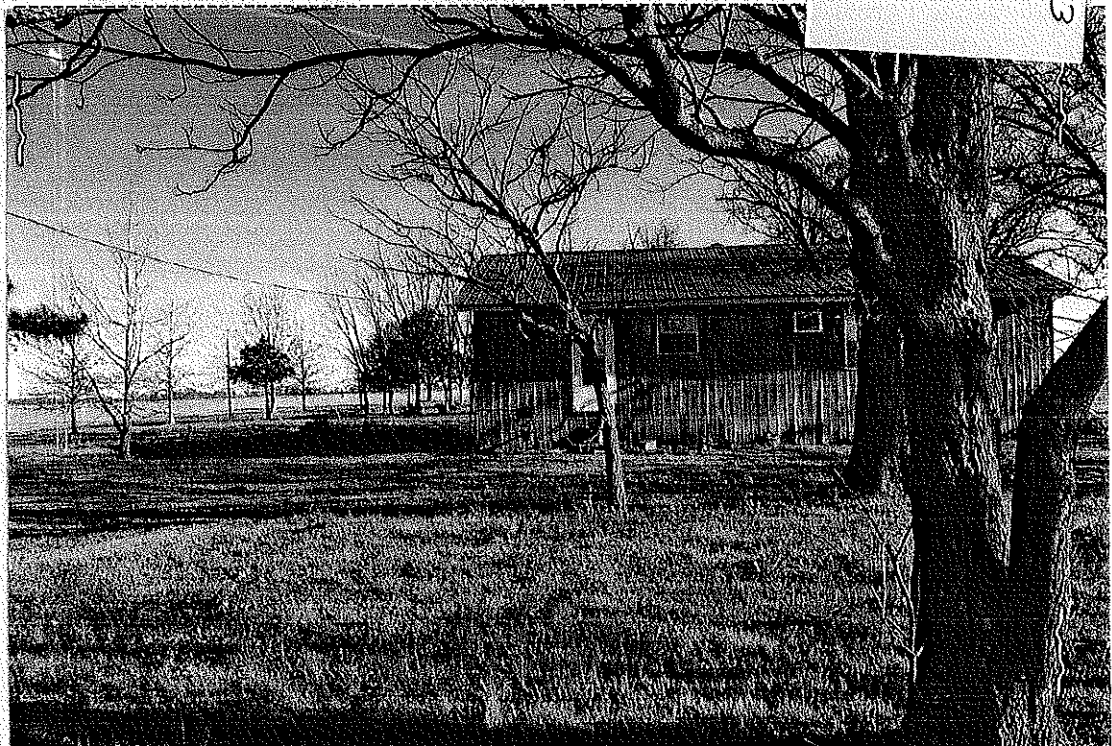
	Included	Needed	Not Applicable
1. Information from caller (Form DP-1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Request for Investigation (Form DP-2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Report of Investigation (Form DP-3)	<input type="checkbox"/>	<input type="checkbox"/>	
4. Narrative	<input type="checkbox"/>	<input type="checkbox"/>	
5. Attachments			
a. Map(s)	<input type="checkbox"/>	<input type="checkbox"/>	
b. Labels	<input type="checkbox"/>	<input type="checkbox"/>	
c. Statements	<input type="checkbox"/>	<input type="checkbox"/>	

Purpose of photo: to show CF #

Photo # DSC-0002  
Date of Photo: 3-29-16  
Photographer's Signature TS

Direction of View: North

This photo depicts: Ken Howard Home



Received

APR 01 2016

Pesticide Division

Purpose of photo: to show Mr. Howard's Property

TS

DP-13 (3-99)

Case File # 16-016

Photo # DSC-0003

Date of Photo: 3-29-16

Photographer's Signature

TS

Direction of View: \_\_\_\_\_

South

This photo depicts: \_\_\_\_\_

Mr. Howard's lawn  
& Roger Hall's  
field.



Purpose of photo: \_\_\_\_\_

to show that no pesticide symptoms are  
present on Mr. Howard's property.

Photo # DSC-0004

Date of Photo: 3-29-16

Photographer's Signature

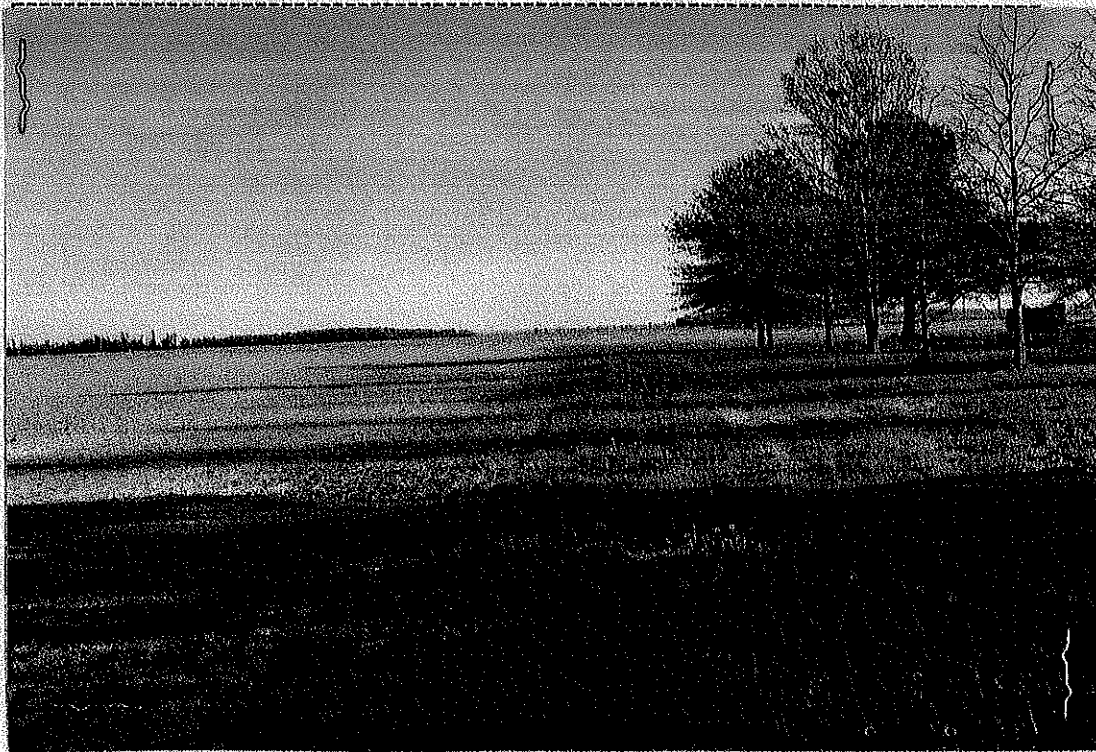
TS

Direction of View: \_\_\_\_\_

North

This photo depicts: \_\_\_\_\_

Mr. Howard's lawn  
and Roger Hall's  
field.



Purpose of photo: \_\_\_\_\_

to show that no pesticide symptoms are  
present on Mr. Howard's property.

TS



DP-13 (3-99)

Case File # 16-016

Photo # DSC-0005

Date of Photo: 3-29-16

Photographer's Signature TJ

Direction of View: \_\_\_\_\_

North

This photo depicts:

Mr. Howard's lawn  
and Roger Hall's  
field.



Purpose of photo: \_\_\_\_\_

to show that no pesticide symptoms are  
present on Mr. Howard's property

Photo # DSC-0006

Date of Photo: 3-29-16

Photographer's Signature TJ

Direction of View: \_\_\_\_\_

East

This photo depicts:

Mr. Howard's lawn  
and Will Tiner's  
field in  
background



Received

APR 01 2016

Pesticide Division

Purpose of photo: \_\_\_\_\_

to show that no pesticide symptoms are  
present on Mr. Howard's property.

TJ

DP-13 (3-99)

Photo # DSC-0007

Date of Photo: 3-29-16

Photographer's Signature

TJ

Direction of View:

East

This photo depicts:

Mr. Howard's lawn  
and Will Tiner's  
field.



Purpose of photo:

To show that no pesticide symptoms are  
present on Mr. Howard's property

Photo # DSC-0008

Date of Photo: 3-29-16

Photographer's Signature

TJ

Direction of View:

South

This photo depicts:

Mr. Howard's lawn  
and Will Tiner's  
field.



Received

APR 01 2016

Pesticide Division

Purpose of photo:

To show that no pesticide symptoms are  
present on Mr. Howard's property.

TJ



DP-13 (3-99)

Photo # DSC-0009

Date of Photo: 3-29-16

Photographer's Signature

TJ

Direction of View:

close

This photo depicts:

clover & grass

on Mr. Howard's  
property.



Purpose of photo:

to show that no pesticide symptoms are  
present on Mr. Howard's property

Photo # DSC-0010

Date of Photo: 3-29-16

Photographer's Signature

TJ

Direction of View:

close

This photo depicts:

clover & grass

on Mr. Howard's  
property



Received

APR 01 2016

Pesticide Division

Purpose of photo:

to show that no pesticide symptoms are  
present on Mr. Howard's property

TJ



Terry Walker  
Director

**ARKANSAS  
STATE PLANT  
BOARD**

P.O. Box 1069 • Little Rock, AR 72203  
www.plantboard.arkansas.gov  
Phone (501) 225-1598  
Fax (501) 312-7053

Arkansas  
State Claims Commission  
DEC 22 2016

RECEIVED

April 6, 2016

Mr. Ken Howard  
10922 Hwy 14 E. Rt. 2  
Weiner, AR 72479

**SUBJECT: CF16-016 Case File Investigation requested by Mr. Ken Howard**

Dear Mr. Howard:

The Arkansas State Plant Board (ASPB) investigated your request for investigation, styled CF16-016, reported to the ASPB on March 28, 2016. The request was in regard to an alleged pesticide drift. Results of the investigation of CF16-016 found no pesticide drift from Mr. Hall's or Mr. Tiner's field.

Thank you, for contacting the Arkansas State Plant Board regarding the request for investigation. Since it is not possible for an ASPB inspector to be present during every pesticide application, the ASPB must depend on the citizens of the state to report any perceived misuse of pesticides.

The Plant Board bases investigations on symptomology. Visual symptoms are identified by the Plant Board Inspector to determine if a misuse/drift has occurred. The visual symptoms identified are in no way used for any yield loss, crop failure, or economic loss determination of any kind by the Plant Board. The Plant Board does not assess damage or assign monetary values for economic losses of any kind. The findings from investigations are only used to uphold the provisions of the Arkansas Pesticide Use and Application Act and Regulations. If you have any questions pertaining to this investigation, please contact me at (501) 225-1598.

Sincerely,

Leigh Gibson  
Agri Program Manager  
Pesticide Division  
Arkansas State Plant Board

LG/lc

cc: Tommy James  
Wendy Spakes

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### INSPECTOR NARRATIVE REPORT

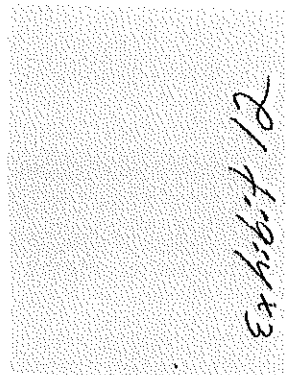
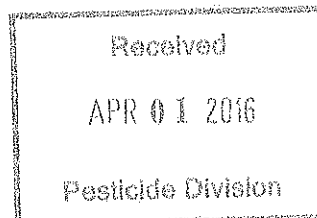
- 03/28/2016 I, Tommy James and Matt Fields ASPB Agriculture Specialists, received an email from the ASPB Pesticide Division that Ken Howard requested the investigation of CF16-016 concerning an alleged pesticide drift onto his lawn.
- 03/29/2016 We obtained a DP-2B Request for Investigation/Consent form from Mr. Ken Howard. Deputy Moody with the Jackson County Sheriff's Department accompanied Matt Field's and I during the investigation at Mr. Howard's.
- 03/29/2016 We photo documented Mr. Howard's Property along with adjoining fields farmed by Roger Hall and Will Tiner.
- 03/29/2016 We conducted a DP-6 Certified Applicator Records Inspection at Quinn Aviation in Jonesboro, AR, and found that on 03/18/2016, Mr. Kevin Carpenter had applied Cornerstone Plus to Mr. Roger hall's Fallow field west of Mr. Howard's property.
- 03/29/2016 I issued a DP-10 Notice of Inspection to Will Tiner, Farmer of field east of the Howard property, who was named as a suspected farmer. Mr. Tiner completed a DP-4 statement form and informed me that no pesticide applications have been made on the field east of Mr. Howard's property as of 3-29-16.
- 03/30/2016 I issued a DP-10 Notice of Inspection to Roger Hall, Farmer of field west of the Howard Property, who was named as a suspected farmer.

#### Conclusion:

Pesticide symptoms were not present on Mr. Howard's property at the time of investigation.

Tommy James 3-31-16

16-016



DP-13 (3-99)  
Photo # DSC-0001  
Date of Photo: 3-29-16  
Photographer's Signature TS

Case File # 16-016

Direction of View: close

This photo depicts: CF #

Form DP-9

CHECKLIST  
OF  
REPORT

Case File #  
16-016

Name of Requester Ken Howard

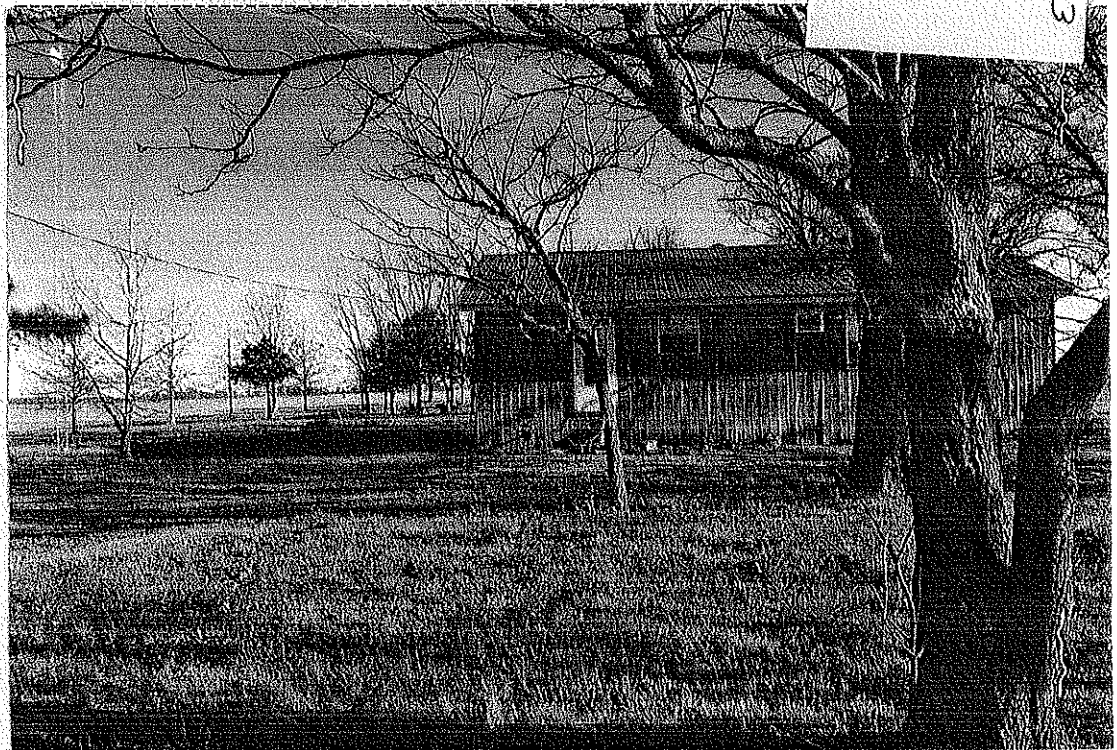
	Included	Needed	Not Applicable
1. Information from caller (Form DP-1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Request for Investigation (Form DP-2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Report of Investigation (Form DP-3)	<input type="checkbox"/>	<input type="checkbox"/>	
4. Narrative	<input type="checkbox"/>	<input type="checkbox"/>	
5. Attachments			
a. Map(s)	<input type="checkbox"/>	<input type="checkbox"/>	
b. Labels	<input type="checkbox"/>	<input type="checkbox"/>	
c. Statements	<input type="checkbox"/>	<input type="checkbox"/>	

Purpose of photo: to show CF #

Photo # DSC-0002  
Date of Photo: 3-29-16  
Photographer's Signature TS

Direction of View: North

This photo depicts: Ken Howard Home



Received

APR 01 2016

Pesticide Division

Purpose of photo: to show Mr. Howard's Property

TS



DP-13 (3-99)

Photo # DSC-0001

Date of Photo: 4-8-16

Photographer's Signature

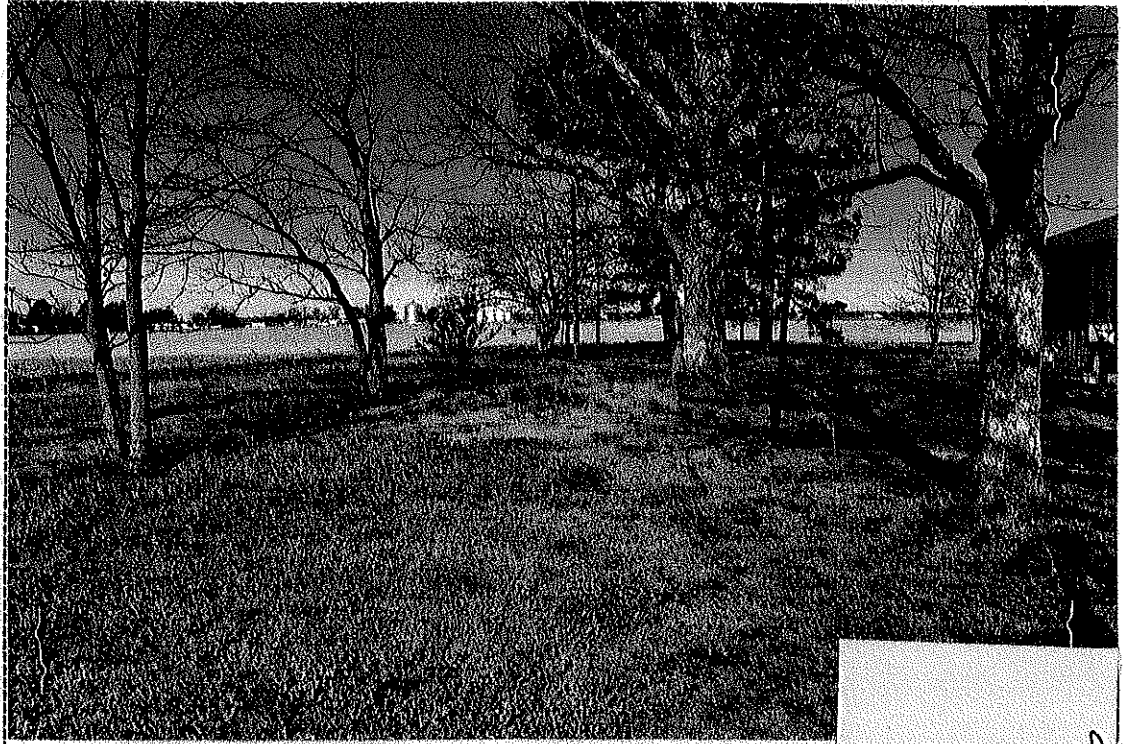
TS

Direction of View: \_\_\_\_\_

West

This photo depicts: \_\_\_\_\_

Mr. Howard's  
Lawn and  
Roger Hall's  
Field.



Purpose of photo: \_\_\_\_\_

to show that no pesticide symptoms  
are present on Mr. Howard's property.

Photo # DSC-0002

Date of Photo: 4-8-16

Photographer's Signature

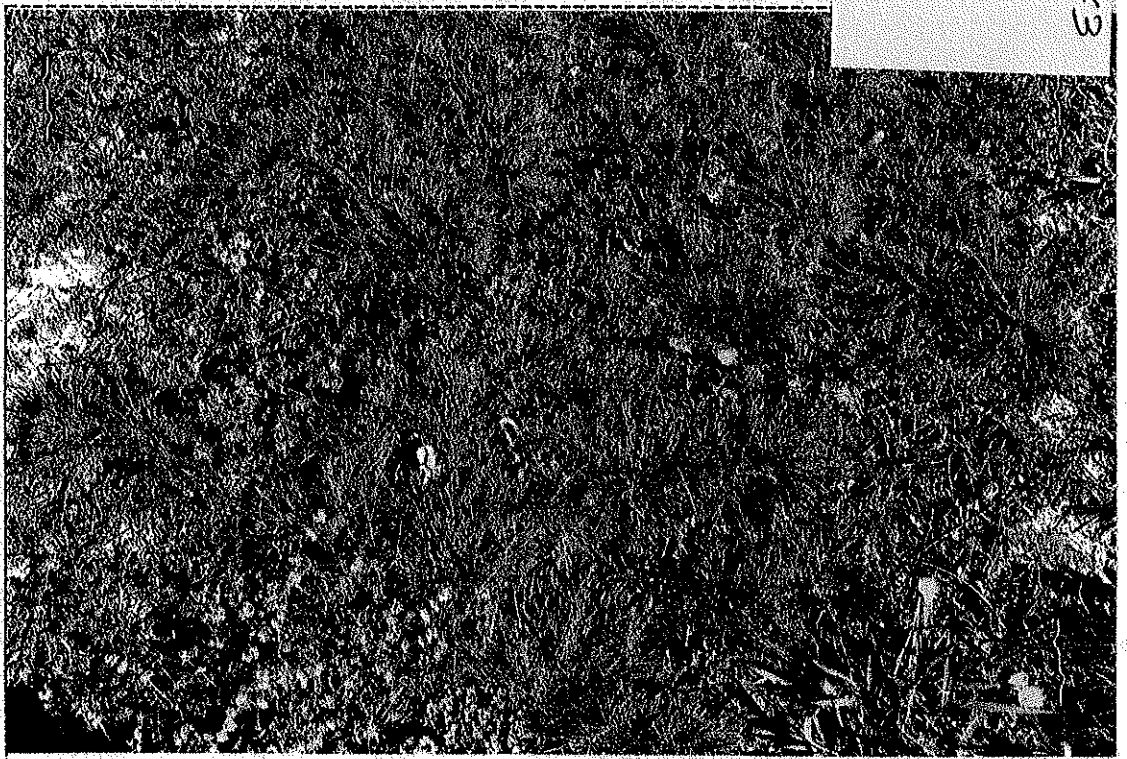
TS

Direction of View: \_\_\_\_\_

close

This photo depicts: \_\_\_\_\_

Grass in  
Mr. Howard's yard.



9/1/16  
TS

Received

APR 11 2016

Pesticide Division

Purpose of photo: \_\_\_\_\_

to show that no pesticide symptoms are  
present on Mr. Howard's property.



DP-13 (3-99)

Photo # DSC-0003

Date of Photo: 4-8-16

Photographer's Signature  
TS

Direction of View: \_\_\_\_\_

North

This photo depicts:

Mr. Howard's  
lawn & Roger  
Hall field.



Purpose of photo: \_\_\_\_\_

to show that no pesticide symptoms are present  
on Mr. Howard's property.

Photo # DSC-0004

Date of Photo: 4-8-16

Photographer's Signature  
TS

Direction of View: \_\_\_\_\_

North

This photo depicts:

Mr. Howard's  
lawn & Roger  
Hall's field.



Purpose of photo: \_\_\_\_\_

to show grass between Howard lawn  
and Hall field, with no pesticide symptoms

Received
APR 11 2016
Pesticide Division

DP-13 (3-99)

Photo # DSC-0005

Date of Photo: 4-8-16

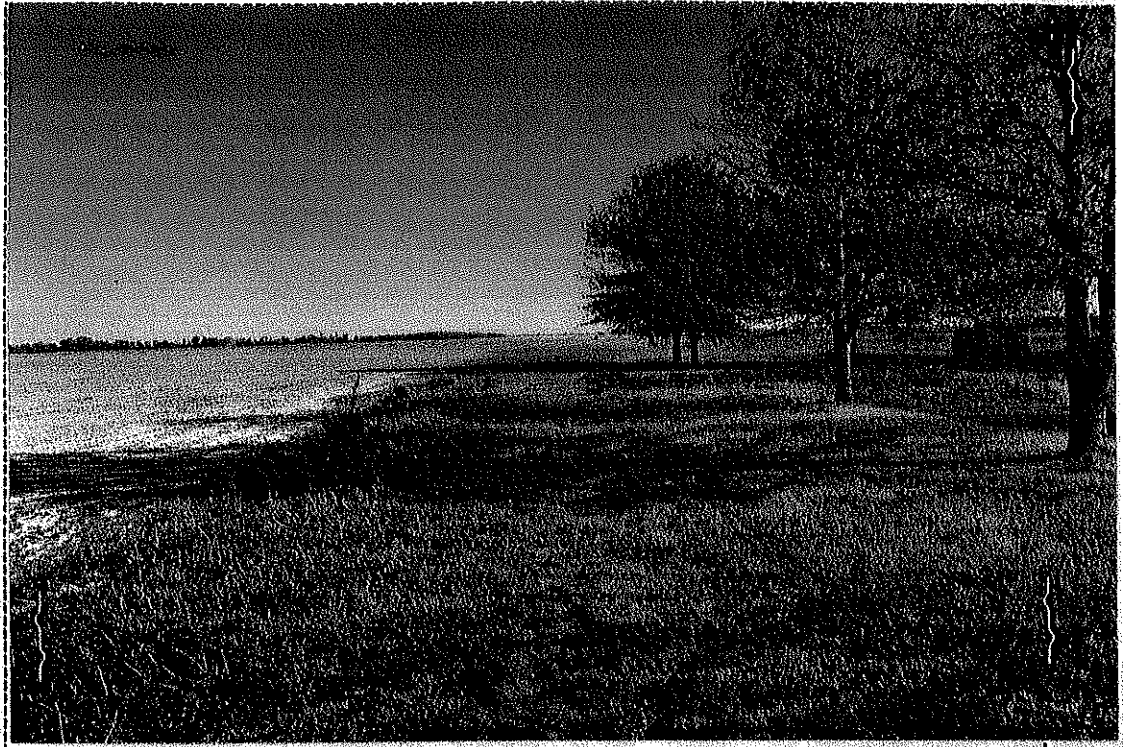
Photographer's Signature  
TS

Direction of View: \_\_\_\_\_

North

This photo depicts:

Mr. Howard's  
lawn & Roger  
hall field



Purpose of photo: \_\_\_\_\_

to show grass between Howard lawn & hall field.  
with no pesticide symptoms

Photo # DSC-0006

Date of Photo: 4-8-16

Photographer's Signature  
TS

Direction of View: \_\_\_\_\_

East

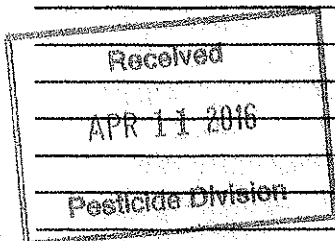
This photo depicts:

Howard lawn  
& Will Tiner  
field.



Purpose of photo: \_\_\_\_\_

to show grass between Howard lawn & Tiner  
field with no pesticide symptoms.



DP-13 (3-99)

Photo # DSX-0007

Date of Photo: 4-8-16

Photographer's Signature  
TJ

Direction of View: \_\_\_\_\_

close

This photo depicts: \_\_\_\_\_

grass in Mr.  
Howard's lawn



Purpose of photo: to show

that a spot of grass with necrotic symptoms  
with green grass around it; not linked to on/off target drift.

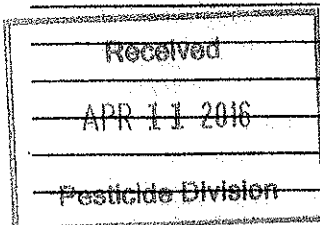
Photo # \_\_\_\_\_

Date of Photo: \_\_\_\_\_

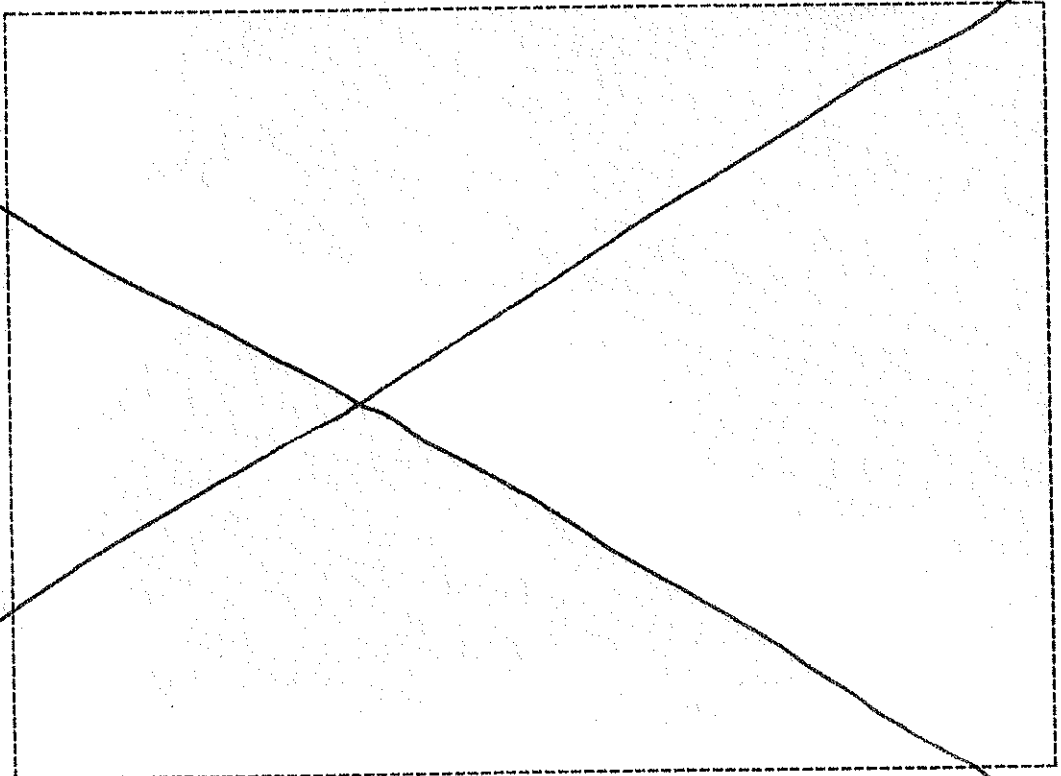
Photographer's Signature \_\_\_\_\_

Direction of View: \_\_\_\_\_

This photo depicts: \_\_\_\_\_



Purpose of photo: \_\_\_\_\_



Case file 16-229

With this casefile, the investigators state what the symptoms could possibly be from but can't determine the drift. The farmers admit to spraying exactly what the symptoms show. Supercum is classified as Propanil, Prow# DSC-0010, DSC-0012.

Also, the farmer admitted to spraying a growth hormone (regulator) ~~Beynd~~ UltraBlaze on his property.

How simple is this cover up to see?

They can never spray without their chemicals drifting onto my property and ASPB can never determine who sprayed the chemical even when it is stated by the farmer. Sounds like a cover up to me.

This case file speaks for itself.



Terry Walker  
Director

**ARKANSAS  
STATE PLANT  
BOARD**

P.O. Box 1069 • Little Rock, AR 72203  
[www.plantboard.arkansas.gov](http://www.plantboard.arkansas.gov)  
Phone (501) 225-1598  
Fax (501) 219-1697

August 18, 2016

Mr. Ken Howard  
10922 Hwy 14 E Rt 2  
Weiner, AR 72479

**SUBJECT: CF16-229, Case File Investigation requested by Mr. Ken Howard**

Dear Mr. Howard:

The Arkansas State Plant Board (ASPB) investigated your request for investigation, styled CF16-229 reported to the ASPB on July 29, 2016. The request was in regard to an alleged exposure of your clover to a pesticide. Evidence found during the investigation showed symptoms consistent with pesticide exposure. However, the ASPB was unable to determine a source for the alleged pesticide drift/misuse. If any additional information pertaining to CF16-229 comes forth, then further investigation(s) will be initiated. Until such time the ASPB considers CF16-229 to be complete.

Thank you, for contacting the Arkansas State Plant Board regarding the request for investigation. Since it is not possible for an ASPB inspector to be present during every pesticide application, the ASPB must depend on the citizens of the state to report any perceived misuse of pesticides.

The Plant Board bases investigations on symptomology. Visual symptoms are identified by the Plant Board Inspector to determine if a misuse/drift has occurred. The visual symptoms identified are in no way used for any yield loss, crop failure, or economic loss determination of any kind by the Plant Board. The Plant Board does not assess damage or assign monetary values for economic losses of any kind. The findings from investigations are only used to uphold the provisions of the Arkansas Pesticide Use and Application Act and Regulations. If you have any questions pertaining to this investigation, please contact me at (501) 225-1598.

Sincerely,

A handwritten signature in cursive script, reading "Leigh A. Gibson".

Leigh Gibson  
Agri Program Manager  
Pesticide Division  
Arkansas State Plant Board

LG/lc

cc: Tommy James  
Wendy Spakes

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## **CHRONOLOGY**

### **AND**

## **SUMMARY**

**Prepared by Leigh Gibson**

**August 13, 2016**

**Mr. Ken Howard**

**CF 16-229**

- 07-29-2016 Mr. Ken Howard of Weiner filed a Request for Investigation (Exhibit 1) with the Arkansas State Plant Board (ASPB) regarding an alleged pesticide misuse/drift onto his tree, lawn, and clover. Mr. Howard did not name a suspected pesticide, a suspected applicator, or a suspected farmer.
- 07-29-2016 ASPB Inspector Tommy James obtained a signed Request for Investigation/Consent Form (Exhibit 2) from Mr. Ken Howard. Mr. Howard named the type of area affected as lawn and trees. Symptoms were first noticed on 07-28-16 and described as "browning". Mr. Howard named the suspected source of symptoms as treated rice fields and noted that he was not home.
- 08-03-2016 ASPB Inspector Tommy James Photo Documented (Exhibit 3) CF 16-229.
- Photograph 1 depicts the case file number. The purpose of this photo is to show case file number.
  - Photograph 2, taken viewing north, depicts Ken Howard home. The purpose of this photo is to show Ken Howard home.
  - Photograph 3, taken viewing south, depicts Roger Hall rice on right and Ken Howard property on left. The purpose of this photo is to show no pesticide symptoms are present on west side of Ken Howard property.
  - Photograph 4, taken viewing east, depicts Roger Hall rice on left and Ken Howard property on right. The purpose of this photo is to show no pesticide symptoms present on N. side of Howard property.
  - Photograph 5, taken viewing north, depicts coffeebeans in Roger Hall rice. The purpose of this photo is to show no pesticide symptoms present on coffeebeans.
  - Photograph 6, taken viewing close, depicts Roger Hall rice and barnyard grass. The purpose of this photo is to show that no symptoms are present on barnyard grass.
  - Photograph 7, taken viewing west, depicts Mr. Howard's tree with vine growing up tree. The purpose of this photo is to show tree in Mr. Howard's yard.
  - Photograph 8, taken viewing close, depicts vine growing up Mr. Howard's tree. The purpose of this photo is to show hormone symptoms with strapping and twisting consistent with 2,4-D.
  - Photograph 9, taken viewing west, depicts Mr. Howard's tree. The purpose of this photo is to show tree in Mr. Howard's yard.

- Photograph 10, taken viewing close, depicts leaves on Mr. Howard's tree. The purpose of this photo is to show necrosis symptoms consistent with propanil.
- Photograph 11, taken viewing west, depicts Mr. Howard's tree. The purpose of this photo is to show tree in Mr. Howard's yard.
- Photograph 12, taken viewing close, depicts leaves on Mr. Howard's tree. The purpose of this photo is to show necrosis symptoms consistent with propanil.
- Photograph 13, taken viewing east, depicts Will Tiner rice. The purpose of this photo is to show coffeebeans with no pesticide symptoms.
- Photograph 14, taken viewing south, depicts Will Tiner rice on left and Ken Howard property on right. The purpose of this photo is to show that no pesticide symptoms are present on lawn/grass.
- Photograph 15, taken viewing south, depicts Will Tiner rice on left and Roger Hall rice on right. The purpose of this photo is to show that no pesticide symptoms are present on lawn/grass.
- Photograph 16, taken viewing west, depicts Roger Hall rice and Ken Howard lawn. The purpose of this photo is to show that no pesticide symptoms are present on lawn/grass.

08-03-2016 Inspector Tommy James constructed a Non-Scale Area Map (Exhibit 4) showing the location of Mr. Howard's property in relation to Mr. Hall's and Mr. Tiner's rice fields and where all photos in Exhibit 3 were taken.

08-03-2016 ASPB Inspector Tommy James issued a Notice of Inspection (Exhibit 5) to Matt Kerby, Folden Aviation in Weiner, AR:

- For the purpose of inspecting sites where pesticides are being used or have been used; to regulate in the public interest the labeling, distribution, storage, transportation, and disposal of pesticides; to collect data on the use of pesticides; to check records; and to determine whether pesticides are being used in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act and State Laws.
- For a records inspection being conducted in response to a Request for Investigation filed with the Arkansas State Plant Board.

08-03-2016 ASPB Inspector Tommy James conducted a Certified Applicator Records Inspection (Exhibit 6) at Folden Aviation in Weiner, AR. Records indicate on 05-21-2016 at 8:30 a.m., Don Folden made an aerial application of Newpath and SuperWham to 39 acres of rice for Will Tiner. Weather Conditions recorded at the time of application were wind direction of 315°, wind speed of 5 MPH, temperature of 65° and the direction of application was north-south. Records indicate on 05-23-2016 at 1:00 p.m., Don Folden made an aerial application of Newpath and SuperWham to 39 acres of rice for Will Tiner. Weather Conditions recorded at the time of application were wind direction of 253°, wind speed of 9 MPH, temperature of 83° and the direction of application was north-south. Records indicate on 05-30-2016 at 8:28 a.m., Don Folden made an aerial

application of Newpath and SuperWham to 39 acres of rice for Will Tiner. Weather Conditions recorded at the time of application were wind direction of 082°, wind speed of 3 MPH, temperature of 79° and the direction of application was north-south.

Folden Aviation, Inc. is duly licensed (Exhibit 7) by the ASPB as a Commercial Firm with Custom Permit.

Don R. Folden is duly licensed (Exhibit 8) by the ASPB as a Commercial Applicator.

08-03-2016 ASPB Inspector Tommy James issued a Notice of Inspection (Exhibit 9) to Blake Johnson, Quinn Aviation in Jonesboro, AR:

- For the purpose of inspecting sites where pesticides are being used or have been used; to regulate in the public interest the labeling, distribution, storage, transportation, and disposal of pesticides; to collect data on the use of pesticides; to check records; and to determine whether pesticides are being used in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act and State Laws.
- For a records inspection being conducted in response to a Request for Investigation filed with the Arkansas State Plant Board.

08-03-2016 ASPB Inspector Tommy James conducted a Certified Applicator Records Inspection (Exhibit 10) at Quinn Aviation in Jonesboro, AR. Records indicate on 07-09-16 at 12:00 p.m., Kevin Carpenter made an aerial application of Beyond and Ultra Blazer to 70 acres of rice for Roger Hall. Weather conditions recorded at the time of application were wind direction 120°, wind speed 3 MPH, and a temperature of 88°. The direction of application was north-south.

08-03-2016 ASPB Inspector Tommy James obtained a signed Statement Form (Exhibit 11) from Mr. Kevin Carpenter with Quinn Aviation, Inc. in Jonesboro, AR. stating "Quinn Aviation Inc. has made no applications of Stam or 2,4-D near Mr. Howards home in 2016."

Quinn Aviation, Inc. is duly licensed (Exhibit 12) by the ASPB as a Commercial Firm with Custom Permit.

Kevin Carpenter is duly licensed (Exhibit 13) by the ASPB as a Commercial Applicator.

08-03-2016 ASPB Inspector Kevin Cauley stated in the Inspector Narrative (Exhibit 14) "The fields right next to his property were growed up with coffeebeans and grass (approx. 100 to 150 ft into fields). After looking around I notice some old pigment inhibitors on pecan trees possibly clomazone (loss of pigments bleached appearance demonstrating intra and interveinal symptoms). Tommy stated that he had already worked a case file on the clomazone. I also noticed a tomato plant

that had symptoms consistent with a growth regulator possibly quinclorac (epinastic growth of the stem and abnormal leaf development). On the Northeast side of Howard property I saw a broadleaf vine with symptoms consistent with a growth regulator possibly 2,4-D (epinastic growth of the stem, strapping parallel venation, cupping and puckering). Oak tree on East side of Howard property showed symptoms consistent with photosynthesis inhibitor possibly propanil (interveinal necrosis within leaf tissues and leaf margin also necrotic). The rice field just east of Howard property didn't show any growth regulator symptoms on broadleaves nor did the grass show any propanil symptoms. The symptoms on Howard property was more prevalent on East side but was unable to determine drift pattern."

- 08-03-2016 ASPB Inspector Tommy James stated in the Inspector Narrative (Exhibit 15) "The symptoms present were necrosis on leaves of trees on the east side of the property. A vine growing up a tree in the northeast corner of Mr. Howard's property showed hormone symptoms with strapping and twisting consistent with 2,4-D. At the time of investigation an off target drift pattern could not be determined."
- 08-03-2016 ASPB Inspector Tommy James completed a Report of Investigation (Exhibit 16) for Mr. Ken Howard of Weiner. The report states the type of area affected was trees. Propanil and 2,4-D type pesticide symptoms were present at the time of investigation and described as "necrosis, strapping, and twisting." The affected area has not been treated in any manner with fertilizer/pesticide. ASPB Inspector James listed the source of symptoms as unknown.

The documented evidence obtained during the investigation of CF16-229 is not sufficient for the ASPB to determine an alleged pesticide drift violation. If any additional information pertaining to CF16-229 comes forth, then further investigation(s) will be initiated. However, until such time the ASPB considers CF16-229 to be complete.

DP-13 (3-99)

Photo # DSL-0001

Date of Photo: 8-3-16

Photographer's Signature  
TS

Direction of View:

close

This photo depicts:

CF #

Purpose of photo:

to show case file #

Photo # DSL-0002

Date of Photo: 8-3-16

Photographer's Signature  
TS

Direction of View:

N

This photo depicts:

Ken Howard Home

Received

AUG 10 2013

Pesticide Division

Purpose of photo:

to show Ken Howard Home.

Case File # 16-229

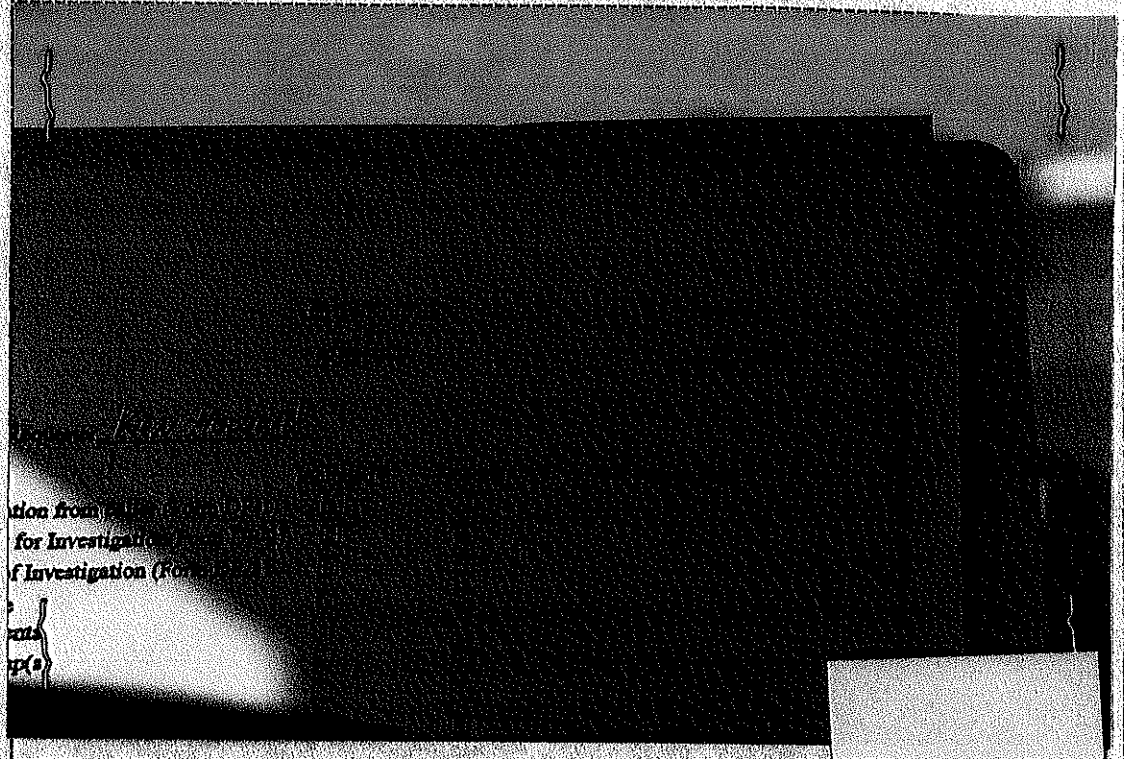


Exhibit 3



DP-13 (3-99)

Photo # DSC-0003

Date of Photo: 8-3-16

Photographer's Signature TS

Direction of View: S

This photo depicts:

Roger Hall Rice  
on right &  
Ken Howard  
property on  
left.



Purpose of photo:

to show that no pesticide symptoms are  
present on west side of Ken Howard property

Photo # DSC-0004

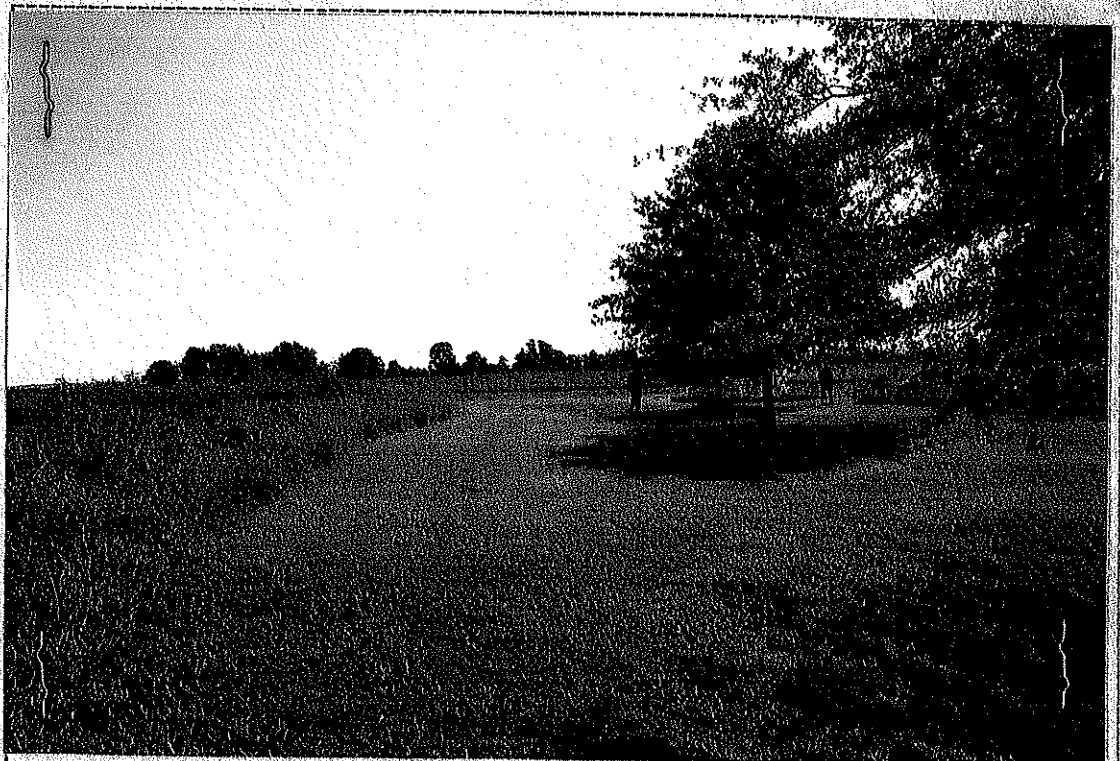
Date of Photo: 8-3-16

Photographer's Signature TS

Direction of View: E

This photo depicts:

Roger Hall Rice  
on left and  
Ken Howard  
property on  
right.



Received

AUG 10 2016

Pesticide Division

Purpose of photo: to show

no pesticide symptoms present on N. side of Howard Property

DP-13 (3-99)

Photo # DSC-0005

Date of Photo: 8-3-16

Photographer's Signature TS

Direction of View: N

This photo depicts:

coffee beans  
in Roger Hall  
rice.



Purpose of photo:

to show no pesticide symptoms present on  
coffee beans.

Photo # DSC-0006

Date of Photo: 8-3-16

Photographer's Signature TS

Direction of View: close

This photo depicts:

Roger Hall rice  
and barnyard  
grass.



Received

AUG 10 2016

Pesticide Division

Purpose of photo:

to show  
that no symptoms are present on barnyard grass

DP-13 (3-99)

Photo # DSL-0007

Date of Photo: 8-3-16

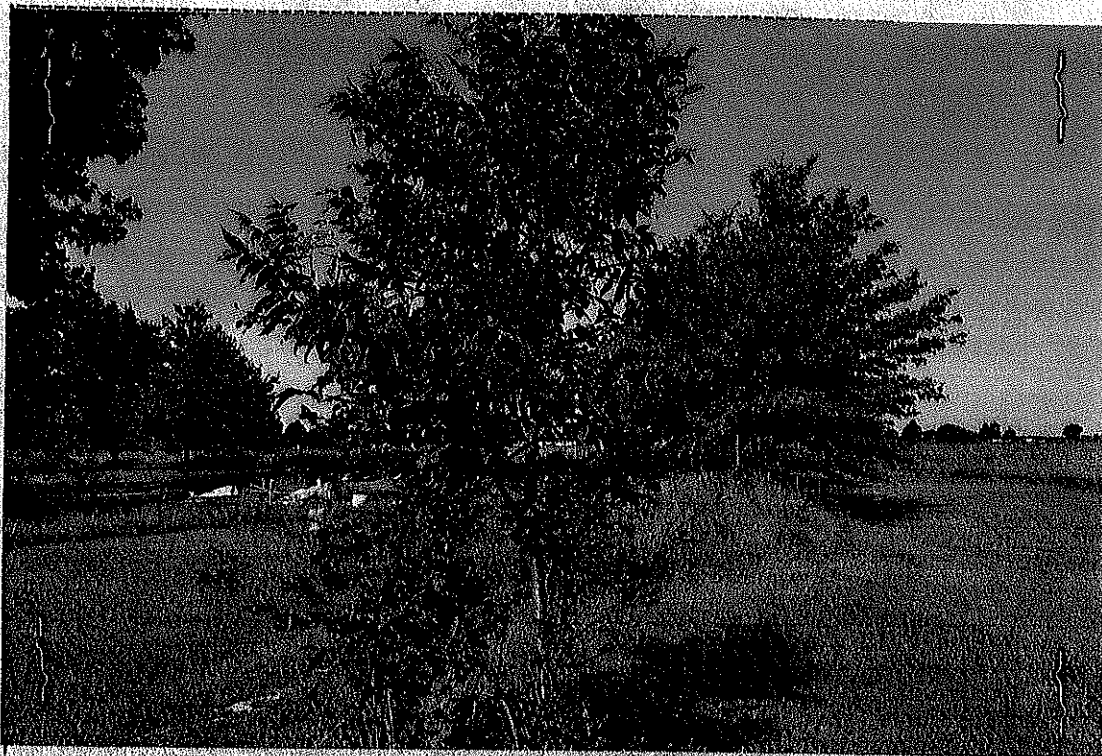
Photographer's Signature  
TJ

Direction of View: \_\_\_\_\_

W

This photo depicts:

Mr. Howard's  
tree with  
vine growing  
up tree.



Purpose of photo: \_\_\_\_\_

to show tree in Mr. Howard's yard

Photo # DSL-0008

Date of Photo: 8-3-16

Photographer's Signature  
TJ

Direction of View: \_\_\_\_\_

close

This photo depicts:

Vine growing  
up Mr. Howard's  
tree



Received

AUG 10 2016

Pesticide Division

Purpose of photo: to show

Hormone symptoms with strapping & twisting consistent with 2,4-D



DP-13 (3-99)

Photo # DSL-0009

Date of Photo: 8-3-16

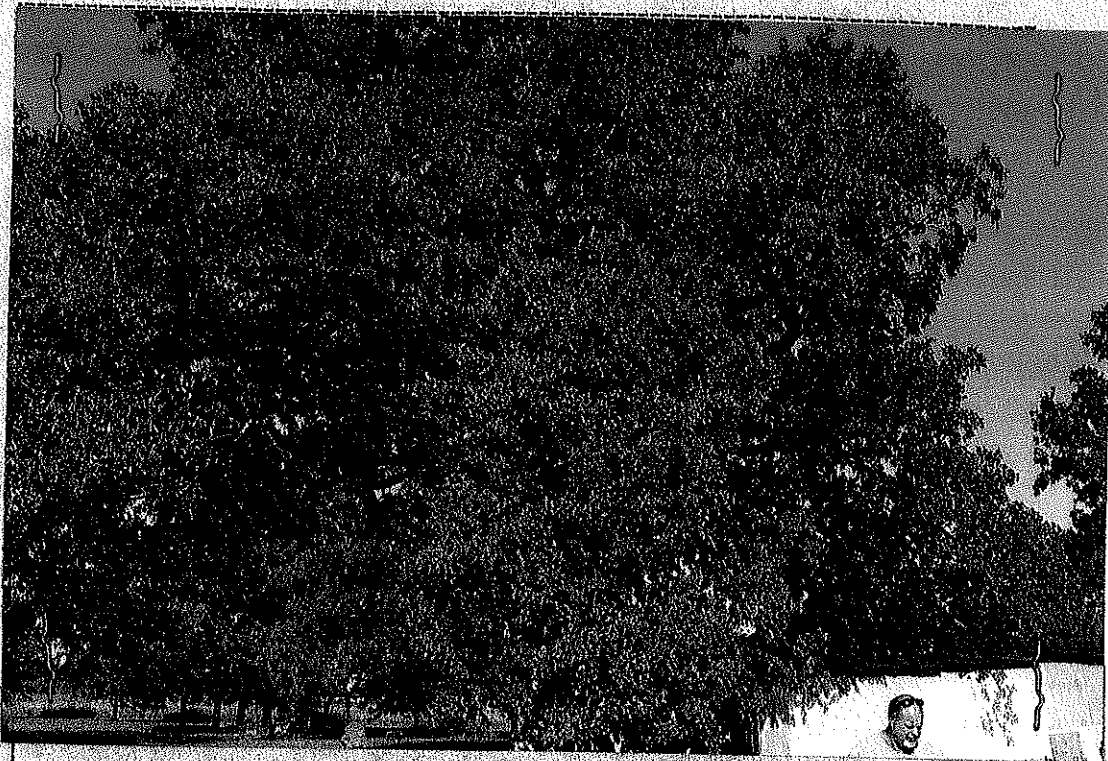
Photographer's Signature  
H

Direction of View:

W

This photo depicts:

Mr. Howard's  
tree



Purpose of photo:

to show tree in Mr. Howard's yard

Photo # DSL-0010

Date of Photo: 8-3-16

Photographer's Signature  
H

Direction of View:

close

This photo depicts:

leaves on  
Mr. Howard's  
tree



Received

AUG 10 2016

Pestfield Division

Purpose of photo: to

show Necrosis symptoms consistent with propanil

DP-13 (3-99)

Photo # DSC-0011

Date of Photo: 8-3-16

Photographer's Signature

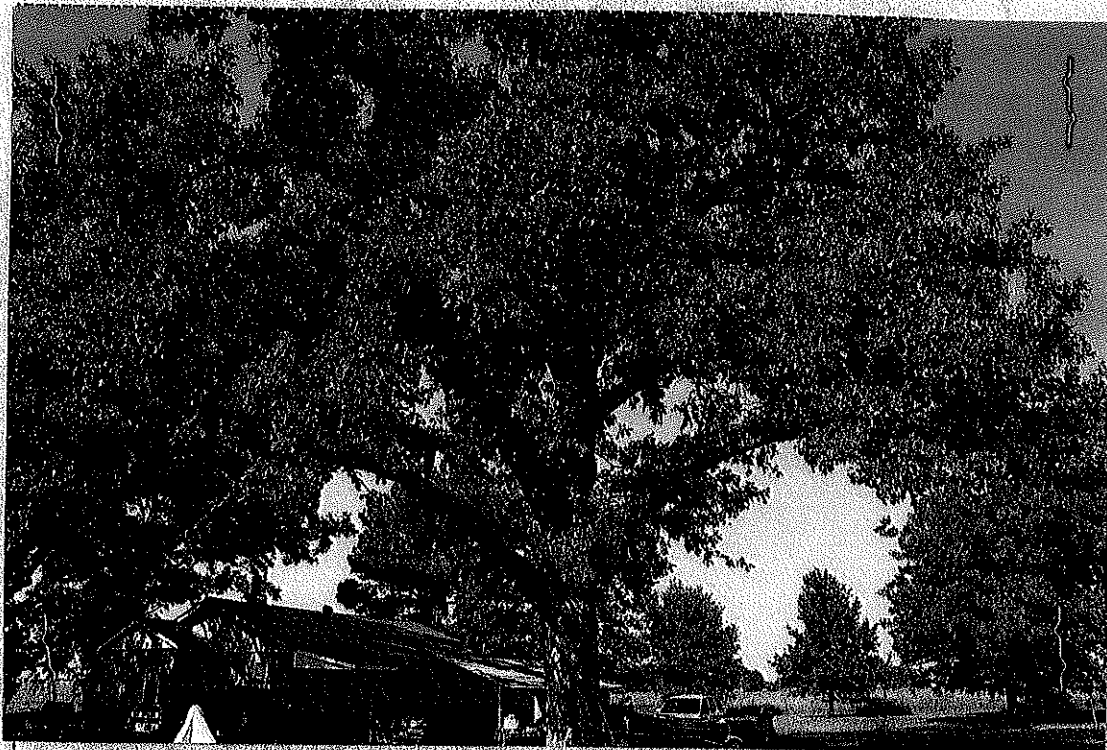
TS

Direction of View:

W

This photo depicts:

Mr. Howard's  
tree



Purpose of photo:

to show tree in Mr. Howard's yard

Photo # DSC-0012

Date of Photo: 8-3-16

Photographer's Signature

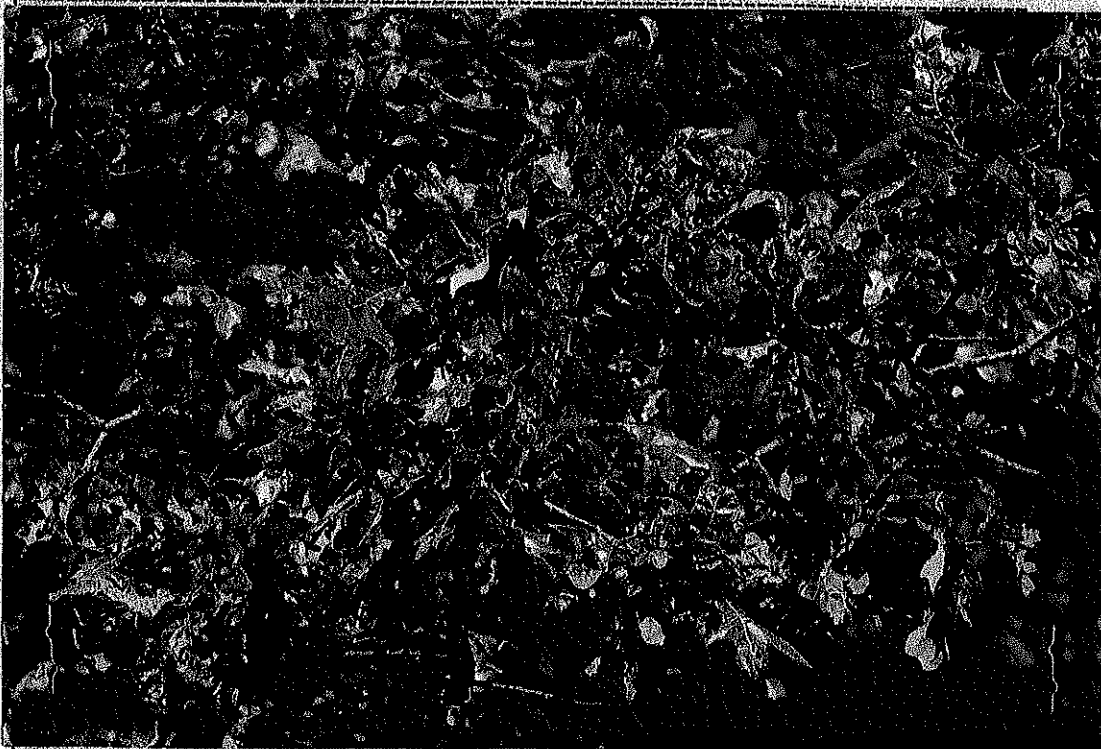
TS

Direction of View:

Close

This photo depicts:

leaves on  
Mr. Howard's  
tree.



Received

AUG 10 2016

Pesticide Division

Purpose of photo:

to show Neurosis symptoms consistent with propanil



DP-13 (3-99)

Photo # DSL-0013

Date of Photo: 8-3-16

Photographer's Signature

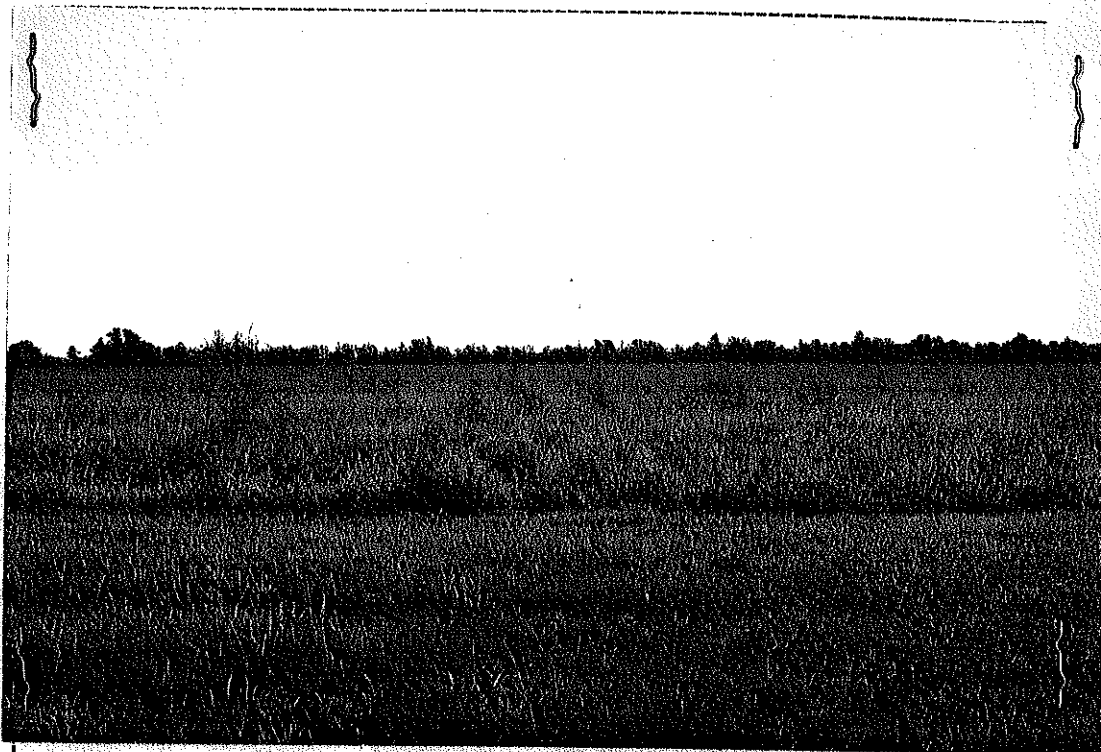
TS

Direction of View: \_\_\_\_\_

E

This photo depicts:

Will Tiner  
rice



Purpose of photo: \_\_\_\_\_

to show coffeebeans with no pesticide  
symptoms

Photo # DSL-0014

Date of Photo: 8-3-16

Photographer's Signature

TS

Direction of View: \_\_\_\_\_

S

This photo depicts:

Will Tiner rice  
on left and  
Ken Howard  
property on  
right.



Received

AUG 10 2016

Pesticide Division

Purpose of photo: \_\_\_\_\_

to show that no pesticide symptoms  
are present on lawn/grass

DP-13 (3-99)

Photo # D56-0015

Date of Photo: 8-3-16

Photographer's Signature

TS

Direction of View: S

This photo depicts:

Will Tiner rice  
on left and  
Roger Hall  
rice on right



Purpose of photo:

to show that no pesticide symptoms are  
present on lawn / grass

Photo # D56-0016

Date of Photo: 8-3-16

Photographer's Signature

TS

Direction of View: W

This photo depicts:

Roger Hall  
rice and  
Ken Howard  
lawn.



Received

AUG 10 2016

Pesticide Division

Purpose of photo:

to show that no pesticide symptoms are  
present on lawn / grass

COMPANY/FIRM NAME <u>Folden Aviation</u>	License # <u>14</u>
APPLICATOR <u>Don Folden</u>	License # <u>21</u>
ADDRESS <u>7010 Long Creek Ln</u>	CITY <u>Weiner</u> STATE <u>AR</u> ZIP <u>72479</u>
PHONE NUMBER (870) <u>579-2252</u>	FAX NUMBER (870) <u>579-2253</u>

CREDENTIALS PRESENTED? -----

YES

☒

NOTICE OF INSPECTION ISSUED? -----

☒

Are records maintained for the required 2 year period (3yr for 2,4-D &amp; Dicamba products)?

☒**RECORD THE FOLLOWING INFORMATION:**Application Date(s) 5-21-16 through 5-30-16Application Start Time(s) Variable see attached End Time(s) Variable see attachedName of person for whom applied Will TinerName of Certified Applicator Don FoldenEquipment (air-tail#/ground-description) Air ~~N40475~~ N40475Location of target area East of Amagon County JacksonLatitude 35° 33' 44.24" Longitude 91° 2' 32.55" Nearest Town AmagonPesticide Used Newpath EPA Reg. # 241-412Pesticide Used Superwham EPA Reg. # 71085-5Pesticide Used N/A EPA Reg. # N/AManufacturer Name(s) BASF, Rice Co.Target Crop for application rice Target Pest weeds/grassApplication Rate 4oz & 3qt Acreage, size of each area treated 39**Weather conditions recorded by applicator at time of application:**Wind Direction: 315/253 Wind Speed: 5/9/3 Temperature: 65/83 Direction of Application: N-S

Notes: \_\_\_\_\_

**ALL BLANKS MUST BE FILLED OUT OR DP-6 WILL BE RETURNED FOR CORRECTION**

(If the information was not recorded by the applicator please state "not recorded" in the blank)

Name (Print) of Firm Representative MATT KERBYSignature of Firm Representative [Signature]Date 8-3-16Inspector Name (Print) Tommy Jones

Received

AUG 10 2016

Pesticide Division

Inspector Signature [Signature]Date 8-3-16

Folden Aviation, Inc.  
7010 Long Creek Lane  
Weiner, AR 72479

# Invoice

Invoice # 150802  
Invoice Date 05/30/2016  
Acct Nbr Tiner  
Terms Upon Receipt

1 of 1

WILL TINER FARMS  
2801 MELODY LN  
NEWPORT, AR 72112

Date	Location	Total Acres	Amt
05/30/2016	01 & 02	108.00 acres	Clearfield
	03 @ 04	80.00 acres	Clearfield
	05	39.00 acres	Clearfield

Application Date	Time	Temp	Wind Dir	MPH	Humidity
05/21/2016	8:30 am	65	315	5	
05/23/2016	1:00 pm	83	253	9	72
05/30/2016	8:28 am	79	082	3	

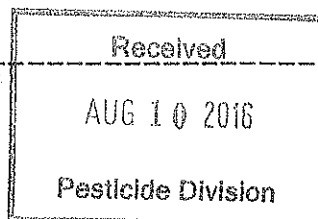
Product	EPA Reg	Rate / Acre	Total Applied	Total Applied GL/LB	Unit Price	Total Cost
Liquid Application		5.0000 GL	1,135.0000 GL	1,135.0000 GL		
Newpath	241-412	4.0000 OZ	908.0000 OZ	7.0938 GL		
Superwham	71085-5	3.0000 QT	681.0000 QT	170.2500 GL		
CROP OIL		1.0000 QT	227.0000 QT	56.7500 GL		
Drift Control		0.0900 OZ	20.4300 OZ	0.1596 GL		

done

done

16-229

TS



Folden Aviation, Inc.  
7010 Long Creek Lane  
Weiner, AR 72479

# Invoice

Invoice # 151209  
Invoice Date 07/20/2016  
Acct Nbr Tiner  
Terms Upon Receipt

1 of 1

WILL TINER FARMS  
2801 MELODY LN  
NEWPORT, AR 72112

Date	Location	Total Acres	Amt
07/20/2016	01 & 02	108.00 acres	Clearfield
	03 @ 04	80.00 acres	Clearfield
	05	39.00 acres	Clearfield
		227.00	

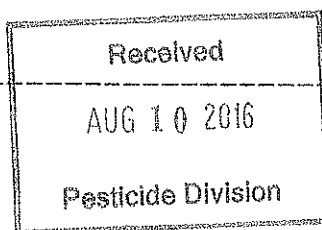
Application Date	Time	Temp	Wind Dir	MPH	Humidity
07/20/2016					

Product	EPA Reg	Rate / Acre	Total Applied	Total Applied GL/LB	Unit Price	Total Cost
Fertilizer		65.6388 LB	14,900.0000 LB	14,900.0000 LB		

urea  
Helena

16-229

TS





COMPANY/FIRM NAME <u>Quina Aviation</u>	License # <u>10</u>
APPLICATOR <u>Kevin Carpenter</u>	License # <u>31</u>
ADDRESS <u>6106 SW Drive.</u>	CITY <u>Jonesboro</u> STATE <u>AR</u> ZIP <u>72404</u>
PHONE NUMBER (870) <u>932-1068</u>	FAX NUMBER ( <u>N/A</u> )

CREDENTIALS PRESENTED? YESNOTICE OF INSPECTION ISSUED? YESAre records maintained for the required 2 year period (3yr for 2,4-D & Dicamba products)? YES**RECORD THE FOLLOWING INFORMATION:**

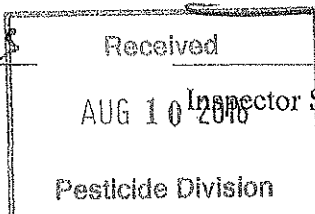
Application Date(s) 7-9-16 # 8  
Application Start Time(s) 12:00 p.m. End Time(s) 12:20 p.m.  
Name of person for whom applied Roger Hall  
Name of Certified Applicator Kevin Carpenter  
Equipment (air-tail#/ground-description) Air N1802 Q  
Location of target area East of Aragon County Jackson  
Latitude 35.33' 47.5" Longitude 91° 02' 48.2" Nearest Town Aragon  
Pesticide Used Beyond EPA Reg. # 241-379  
Pesticide Used Ultra Blazer EPA Reg. # 70506-60  
Pesticide Used N/A EPA Reg. # N/A  
Manufacturer Name(s) BASF, United Phosphorus, Inc.  
Target Crop for application Rice Target Pest Weeds / Grass  
Application Rate 5oz / 1/2 pint Acreage, size of each area treated 70

**Weather conditions recorded by applicator at time of application:**Wind Direction: 120 Wind Speed: 3 Temperature: 88 Direction of Application: N-S

Notes: \_\_\_\_\_

**ALL BLANKS MUST BE FILLED OUT OR DP-6 WILL BE RETURNED FOR CORRECTION**

(If the information was not recorded by the applicator please state "not recorded" in the blank)

Blake Johnson  
Name (Print) of Firm RepresentativeBlake Johnson  
Signature of Firm Representative8-3-16  
DateTommy James  
Inspector Name (Print)8-3-16  
Date

# AG WORK: SHEET 2015

MONTH: July

TIME	DATE	PLOT	CUSTOMER	FOR WHEN	FIELD NO.	NO. ACRES	AMOUNT	ORDER FROM	TIME ORDERED	ORD. CHECK	TELE. NO.	DIR	WFO USED	REMARKS
12:00	7	✓	Whiskers	MS 209	43	70	5oz Beyond 1/2 pt Blazer					120	3	no/MS
12:30			Bucknab	JC 222	33 308	35 90	32 oz Facet 1/2 pt Blazer					200	3	LIKE 76 no/MS
					32 31	67 80	2 oz Grasp 1/2 pt Blazer							
					39 45	40 21								
					46	92 425								
			1/2 & 1/2	JC 226	36 40	133 76 209								
			R&L	Bug 225	18 20	110 35 745								
7:00	7/11	14	BRACY		1	105	3 qts Star 1000 5.02 BEYOND					140	3	Probed
7:15	7/12	20	Jo Jo		4	60	7 oz Quadris top soil 1 pt Muplant					220	9	Beans
7:13	7/13	16	BRACY			90	5.02 BEYOND					190	6	Probed to

16-229  
Ⓟ

Received  
AUG 10 2016  
Pesticide Division

MONTH: July

AGWORK - SHEET 2015

Pesticide Division

TIME	DATE	PLANT	CUSTOMER	FOR WHEN	FIELD NO.	NO. ACRES	AMOUNT CHEMICAL	ORDER FROM	TIME ORDERED	ORD. CHECK	TELEPHONE	NO. DIR	WIND VEL	WIND USED	RE
17860	7/15	✓	Garnes Inc	160	1222	5	2 oz Transform 97 Misses					020	3	✓	
17861			Garnes Nall	378	326	5									
17862			St. Francis	383	331	10									
17863			Lon B	382	412	8									
17864	7/26	KC	1/2 Sham	J.C.	36	133	21.02 Qm HXL								
17865			1/2 RHL	226	40	76	1/2 90 0.17					170	3	✓	
17866			Bucknub	222	39	40									
17867			J.C.	209	46	92									
17868			Whiskers	229	45	21									
17869			R+L	225	18	110									
17870	7/26	✓	Waddell	340	20	35									
17871					7	80	6 oz T.77 1% Cropoil					170	3	✓	

16-229  
15

## Inspector Narrative Report

1 of 2

Ken Howard Request

8-3-16 - Went with Tommy James to look at Ken Howard property. When we got there Mr. Howard gave us a DP-2B Notice of Investigation / Consent form.

Mr. Howard has Rice fields all around his property. The fields <sup>right</sup> next to his property ~~was~~ <sup>were</sup> grooved up with coffee beans and grass (approx 100 to 150 ft into fields).

After looking around I notice some old Pigment inhibitors on Pecan trees possibly clomazone (loss of pigment bleached appearance demonstrating intrav- and interveinal symptoms). Tommy stated that he had already worked a case file on the clomazone.

I also noticed a tomato plant that had symptoms consistent with a growth regulator possibly gynocef (epinastic growth of the stem and abnormal leaf development).

On the Northeast side of Howard property I saw a ~~Broadleaf~~ vine with symptoms consistent with a growth regulator possibly 2,4-D (epinastic growth of ~~the stem~~ <sup>the stem</sup>, strapping parallel venation, cupping and puckering). Oak trees on East side of Howard property showed symptoms consistent with photosynthesis inhibitor possibly propanil (interveinal necrosis within leaf tissues and leaf margin also necrotic).

The Rice field just East of Howard property didn't show

Kevin Conley 8-3-16  
INSPECTOR NAME (PRINT) DATE

Received
AUG 10 2016
Pesticide Division

INSPECTOR SIG

Exhib. 4/14  
138

2012

## Inspector Narrative Report

Ken Howard Request

Any growth regulator symptoms on Broadleaves nor did the grass show any propanil symptoms.

The symptoms on Howard property was more prevalent on Eastside, but was unable to determine drift pattern.

Kevin Canley 8-3-16  
INSPECTOR NAME (PRINT) DATE

Received

AUG 10 2016

Pesticide Division

[Signature] 8-3-16  
INSPECTOR SIGNATURE DATE



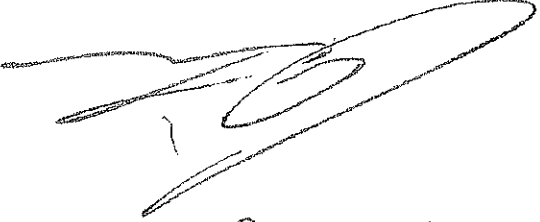
### INSPECTOR NARRATIVE REPORT

- 07/29/2016 I, Tommy James, ASPB Agriculture Specialist, received an email from the ASPB Pesticide Division that Ken Howard requested the investigation of CF16-229 concerning an alleged pesticide exposure of his lawn and trees.
- 08/03/2016 I obtained a DP-2B Request for Investigation/Consent form from Ken Howard.
- 08/03/2016 I photo documented pesticide symptoms on trees and one vine at Ken Howard's home in his yard.
- 08/03/2016 I issued a DP-10 Notice of Inspection to Matt Kerby, Employee, at Folden Aviation in Weiner, AR. I then conducted a DP-6 Certified Applicator Records Inspection and found that on 05/21/2016 through 5/30/16, Don Folden had applied Newpath and Superwham to Will Tiner's rice field.
- 08/03/2016 I issued a DP-10 Notice of Inspection to Blake Johnson, Owner, of Quinn Aviation Jonesboro, AR. I then conducted a DP-6 Certified Applicator Records Inspection and found that on 07/09/2016, Kevin Carpenter had applied Beyond and Ultra Blazer to Roger Hall's rice field.
- 08/03/2016 I received a statement from Kevin Carpenter, Vice President, of Quinn Aviation.

#### Conclusion:

The Symptoms present were necrosis on leaves of trees on the east side of the property. A vine growing up a tree in the northeast corner of Mr. Howard's property showed hormone symptoms with strapping and twisting consistent with 2,4-D. At the time of investigation an off target drift pattern could not be determined.

Tommy James  
8-3-16

  
8-3-16

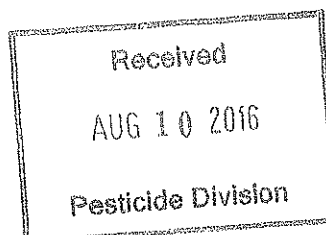


Exhibit 15  
140

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You wanting to get an estimate of property damage. Well, when Thomas Lindbey from the Forestry Service was here, he said the trees were priceless and ~~can~~ not replaceable because of the age of them. We have Pecan trees, Oak trees, pine trees, Mulberry trees, peach trees, had Apple trees and they both died and two peach trees have died.

The sought amount is this amount because we have dealt with this matter for several years. We have videoed just like the ARSPB said to do and still nothing.

I was sprayed numerous times while videoing and when I turned in my clothing, they found chemicals on my clothing but still no human exposure. I lost a child through a miscarriage when I was sprayed by glyphosate Acid which my clothing detected positive for this chemical.

We are being bullied and we deserve compensation regardless. Our ~~own~~ rights are taken from us, because of them neglecting their chemicals.

Email

tinahoward26@gmail.com

or

Ken.howard75@yahoo.com

Phone

(870) 219-7168

JAN 17 2017

**BEFORE THE STATE CLAIMS COMMISSION  
OF THE STATE OF ARKANSAS**

**KEN AND TINA HOWARD**

**RECEIVED  
CLAIMANT**

**v.**

**NO. 17-0433-CC**

**AR. STATE PLANT BOARD**

**RESPONDENT**

**MOTION TO DISMISS AND BRIEF IN SUPPORT**

Comes now, Respondent AR. State Plant Board ("ASPB"), by and through its attorneys, Attorney General Leslie Rutledge and Assistant Attorney General Robert T. James, and for its Motion to Dismiss and Brief in Support, states as follows:

1. The claimants, Ken and Tina Howard's, complaint does not state a cause of action against the respondents and, based on the complaint, the respondent cannot surmise what the cause of action is, as to the respondent. The claimants seek one hundred billion dollars (\$100,000,000,000.00), alleging, *as to unidentified farmers and commercial applicators*, the following: that complaints' fields were sprayed with pesticides and herbicides; that they [farmers] cannot maintain their drift of any of the chemicals they spray; that the claimants have been personally sprayed and their clothing tested positive for the chemical; and, that the claimants' vegetation has become discolored and their garden dies.

2. The claimants allege, *as to the respondent*, the following: that the claimants have made several complaints to the respondent for the farmer's spraying of their fields with pesticides and herbicides; that the investigators can never determine the drift pattern nor when farmers sprayed us; that "...ASPB has been covering for these farmers"; and, that "...ASPB says no wrong and that when they do have a drift the respondent's tell us to take it up with the farmers."

3. The respondent is merely a regulatory agency for the use of pesticides. It is not a farmer or commercial applicator and it does not farm or make applications. The claimant had the opportunity to state a claim against the plaintiff or any third party, in the pending litigation in Craighead County, Arkansas styled *Quinn Aviation, Inc. and Kevin Carpenter vs. Ken Howard and Tina Howard*, CV-2016-299(JF). The case involves the plaintiff's spraying of pesticides, causing property damage to Ken and Tina Howard. If the claimants have a claim against the farmers or the applicators, that are involved in the spraying of the chemicals, it should not be brought against the respondent, regulatory agency. Therefore, the claimants do not state a claim, against the respondent, upon which relief can be granted and the claim should be dismissed.

4. Ark. Rule of Civ. P. 12(b) states that: "Every defense, in law or in fact, to a claim for relief in any pleading where a claim...shall be asserted in the responsive pleading thereto if one is required except that the following defenses may, at the option of the pleader, be made by motion....(b)(6) *failure to state facts upon which relief can be granted*...". Ark. R. Civ. P. 12(b) (Emphasis added).

5. Where a complaint failed to make a statement in ordinary and concise language of facts showing that the pleader was entitled to relief because it did not contain a factual allegation of any act, the complaint was correctly dismissed under subdivision (b)(6) of this rule [Ark.R.Civ.P.12] for failure to state facts upon which relief could be granted. *Ratliff v. Moses*, 284 Ark. 16 (1984). "Since Rule 12(b)(6) tests the sufficiency of the pleadings, it is necessary to read it in conjunction with Rule 8[a], which deals with the contents of the pleading. Rule 8 provides: "A pleading which sets forth a claim for relief shall contain...(1) a concise statement in ordinary and concise language of facts showing that the pleader is entitled to relief..." *Harvey v. Eastman Kodak Co.*, 271 Ark. 783, 787 (1981) (Emphasis supplied.)



6. Moreover, *Arkansas State Claims General Rules of Practice and Procedure*, Rule 1.5(d) states: “Each complaint filed with the Commission must state a cause of action against the State in ordinary and concise language.” The claimant has not stated a cause of action as to the respondent in its complaint, thus, the claimants did not comply with Rule 1.5(d).

7. In reviewing a motion to dismiss, the court should accept all the facts as true and in the light most favorable to the non-moving party. *Bethel Baptist Church v. Church Mut. Ins. Co.*, 54 Ark.App. 262 (1996) In the present case, even if the facts are accepted by the Commission as true, the claimants’ complaint should still be dismissed. Reviewing the allegations as to the respondents above, even if the claimants have made several complaints to the respondent for the spraying of fields is true, it does not state a cause of action as to the respondents. Because the farmers and applicators performed the spraying, the claimants’ having not alleged that the respondent performed the spraying. Even if the investigators can never determine the drift pattern when the farmers spray nor which farmers are involved, there is no cause of action, again, the applicators performed the spraying, not ASPB. Even if it is true that the respondent did tell the claimants to take it up with the farmers, this allegation does not give rise to a cause of action because the claimants should look to a third party for potential liability, not the regulatory agency. Finally, the allegation that the respondent “..has been covering for these farmers” is a conclusory statement of which facts must be pled which constitute a cause of action. There are no facts to support the conclusion and Arkansas is a fact pleading state. *See Big A. Whse. Distribs., Inc. v. Rye Auto Supply Inc.*, 19 Ark. App. 286 (1986) (the facts constituting their cause of action must be pled in direct and positive allegations, not by way of argument, inference, or belief, statements of generalities and conclusions of law are not sufficient to state a cause of action.) (Emphasis added)

8. Finally, Arkansas Rules of Civil Procedure require that the claimants plead facts that show they are "entitled to relief". *Ratliff*, at 19. Claimants have alleged no facts that show that they are entitled to relief, as to respondents. The complaint is basically comprised of statements showing that the farmers and commercial applicators are allegedly responsible for damage to claimants' property. Ark.R.Civ.P. Rule 8; *Harvey*, at 787. The claimant has alleged no facts showing that respondent is liable for the alleged property damage. If the claimants have a claim, it lies with another party.

9. For the above stated reasons, the claimant has not stated facts upon which relief can be granted and should be dismissed, pursuant to Ark. R. Civ. Pro. 12(b)(6) and Rule 8(a).

WHEREFORE, the Respondent, AR. State Plant Board, prays that its Motion to Dismiss be granted and that the claimant's complaint be dismissed.

Respectfully submitted,

Leslie Rutledge  
Attorney General

By:



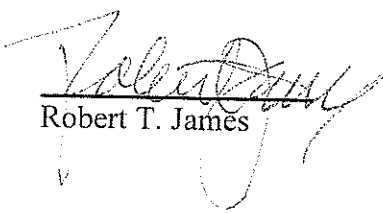
Robert T. James  
Arkansas Bar No. 91008  
Assistant Attorney General  
323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
Telephone: (501) 682.3658  
Fax: (501) 682.2591  
[robert.james@arkansasag.gov](mailto:robert.james@arkansasag.gov)

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I, Robert T. James, Assistant Attorney General, do hereby certify that on January 17, 2017, I mailed the document by United States Postal Service to:

Ken and Tina Howard  
10922 Highway 14E  
Weiner, AR 72479

  
Robert T. James

**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION**

**KEN AND TINA HOWARD**

**CLAIMANT**

**VS**

**CLAIM NO. 17-0433-CC**

**ARKANSAS STATE PLANT BOARD**


**RESPONDENT**

**ORDER**

Now before the Arkansas State Claims Commission (the "Claims Commission") is the motion to dismiss filed by the Arkansas State Plant Board (the "Respondent") against Ken and Tina Howard (the "Claimants"). The Claimants have not submitted a response to the Respondent's motion, and the motion has been submitted to the Claims Commission for ruling without a hearing. Based upon a review of the Respondent's motion, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. The Claims Commission has jurisdiction to hear this claim pursuant to Ark. Code Ann. § 19-10-204(a).
2. Claimants did not respond to the Respondent's Motion to Dismiss.
3. Claimants have failed to state a claim upon which relief can be granted.
4. Respondent's Motion to Dismiss is granted pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure. As such, Claimants' claim is denied and dismissed.

IT IS SO ORDERED.

  
\_\_\_\_\_  
ARKANSAS STATE CLAIMS COMMISSION

Henry Kinslow  
Bill Lancaster  
Jimmy Simpson, Co-Chair  
Sylvester Smith  
Mica Strother, Co-Chair

DATE: March 16, 2017

March 28, 2017  
Ken and Tina Howard  
10922 HWY 14 East  
Weiner, AR 72479  
(870) 219-7168

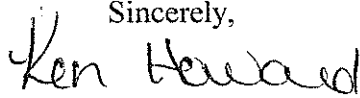
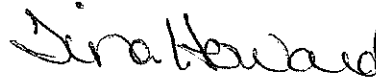
To Whom It May Concern:

Re: Ken Howard and Tina Howard v. Arkansas Plant Board  
Claim #17-0433-CC

In regards to claim # 17-0433-CC, I did not receive a letter from the respondent (nor anyone representing the respondent) or anything concerning a Motion To Dismiss the claim. We are now requesting a Motion For Reconsideration based upon the fact we did not receive any letter from any one about the dismissal. You (Claims Commission) has all the evidence to take further action with this claim. Our evidence speaks for itself and it should have a trial instead of one on one paper passing and leaving us out. We had no confrontation from either side, The Claims Commission, The Arkansas State Plant Board, nor The Attorney General by mail, phone, nor email.

Attorney General Robert T. James stated he mailed this Motion on January 16, 2017, and I did not receive this my opinion is he never sent it, go track the mail system to find out when and how he sent it. We always hear PROVE it so let's do that. Since we did not receive it, it should have went back to sender.

Sincerely,

Ken Howard and Tina Howard

Arkansas  
State Claims Commission

MAR 30 2017

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BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

KEN AND TINA HOWARD

CLAIMANT

VS

CLAIM NO. 17-0433-CC

ARKANSAS STATE PLANT BOARD

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") is the motion for reconsideration filed by Ken and Tina Howard (the "Claimants") regarding the March 16, 2017, order denying and dismissing Claimants' claim (the "Dismissal Order"). Based upon a review of the Claimants' motion, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. The Claims Commission has jurisdiction to hear this claim pursuant to Ark. Code Ann. § 19-10-204(a).

2. In their motion for reconsideration, Claimants did not offer evidence that would change the prior decision of the Claims Commission.

3. As such, the Dismissal Order remains in effect.

IT IS SO ORDERED.



\_\_\_\_\_  
ARKANSAS STATE CLAIMS COMMISSION

Dexter Booth  
Henry Kinslow, Co-Chair  
Bill Lancaster  
Sylvester Smith  
Mica Strother, Co-Chair

DATE: April 13, 2017

Arkansas  
State Claims Commission

APR 26 2017

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April 17, 2017  
Ken and Tina Howard  
10922 HWY 14 East  
Weiner, AR 72479  
(870)219-7168

To Whom It May Concern:

RE: Ken Howard and Tina Howard v. Arkansas State Plant Board  
Claim # 17-0433-CC

We would like to appeal the decision of the State Claims Committee involving this case of the dismissal of our Motion To Reconsider.

Your (the "Claims Commission") reason for denying our Motion To Reconsider was because you (the "Claims Commission") did not receive more evidence from us (the "Claimants"), you (the "Claims Commission") already have enough evidence to prove the point of the Arkansas State Plant Board (the "Respondent") is covering for the farmers. Their (the "Respondent") paperwork speaks for itself.

Sincerely,

*Tina Howard*  
*Ken Howard*

Ken Howard and Tina Howard