



## Oregon agencies blew off complaints, red flags before helicopter sprayed weed killers on residents

Loading Photo Gallery

**Rob Davis | [rdavis@oregonian.com](mailto:rdavis@oregonian.com)** By **Rob Davis | [rdavis@oregonian.com](mailto:rdavis@oregonian.com)**

**Email the author | Follow on Twitter**

on October 21, 2014 at 9:38 AM, updated October 22, 2014 at 1:51 PM

For years, residents of the winding valleys along the Rogue River in southwestern Oregon complained to state agencies about the helicopters spraying weed killers on clearcuts next to their homes.

One man, worried his drinking water stream had been sprayed, wanted a state forester to survey it all. Too far of a walk, he remembers being told.

Another man saw a helicopter struggling in high winds and asked a forester to shut the spray operation down. I'm not authorized, he remembers her saying.

One woman worried herbicides had killed her young dog and made her husband so sick he had to quit working. Nothing to worry about, she recalls a state agriculture employee telling her.

Residents complained four times between 2007 and early 2013, trusting that the Oregon Department of Forestry and Oregon Department of Agriculture would take them seriously.

But The Oregonian has found that the state dismissed concerns or botched investigations – all involving the same timber company. Evidence was tossed away. Important details weren't shared. Key records weren't obtained.

Complaints went ignored until last October, when the state finally got so many it had to do something. Twenty Curry County residents reported being sprayed by a helicopter flying overhead.

One man reported feeling the chemicals land on his face. The mother of a 1-month-old reported her baby vomited for 24 hours afterward. Some visited physicians, complaining of stomach pain, rashes and severe headaches.

After a state investigation, the pilot lost

his spraying license for a year and was fined \$10,000.

But red flags had been ignored for six years. The earlier episodes all involved the same landowner, Crook Timberlands. Two complaints were about the same sprayer.

None of the earlier complaints was thoroughly investigated by the Oregon Department of Forestry and Oregon Department of Agriculture, The Oregonian found.

Both agencies missed chances to correct problems before so many people were sprayed last October, said Susan Brown, a Curry County commissioner.

The state agencies treated residents "like they were rogue citizens," Brown said.

"They certainly didn't take the complaints and concerns seriously," Brown said. "And they should have. It was handled badly."

The Department of Forestry and Department of Agriculture have conflicting responsibilities. They're required to protect the public and environment from unintended exposures to weed killers. They have the power to levy fines, write citations and revoke licenses.

But they're also responsible for promoting the same industries they regulate.

"They're operating in a culture where aggressive investigations and wanting to do more are not looked on as favorably as backing off," said Greg Pettit, a recently retired administrator with the Oregon Department of Environmental Quality, the state's environmental regulator. "The investigations could be more robust, better funded and better coordinated."



Complaints from Curry County residents started in 2007.

That year, a man saw a helicopter spraying the clearcut next door and soon smelled chemicals. He, his wife and daughter got headaches. He and a neighbor each complained to the Oregon Department of Forestry.

The investigation that followed was filled with mistakes. The agency's investigator discarded evidence. His superior

downplayed the incident's seriousness to the Department of Agriculture, which is supposed to investigate those types of cases but didn't.

The helicopter that day was operated by Pacific Air Research, owned by Steven Owen, the same pilot penalized in the October 2013 incident. It was spraying land owned by the same company, Crook Timberlands.

Five years later, a man complained about a helicopter spraying in high winds near his home outside Gold Beach. Wind gusts hit 27 mph that day, fast enough that it'd be nearly impossible to spray the right place.

The man said he could smell the chemicals for weeks and developed a cough that wouldn't go away for months.

His complaints to the agriculture and forestry agencies went nowhere.

Two months later, a woman's 18-month-old German shepherd died suddenly. She said she called state agriculture officials in a panic, worried the dog may have been poisoned by weed killers sprayed on the clearcut immediately behind her home. She said she was instead reassured it couldn't be connected.

The state has no record of her call.

Despite the pleas for help, residents' concerns festered below the surface.

That began to change on Oct. 16, 2013. John Burns, a local volunteer assistant fire chief, was working in his yard when he saw a helicopter flying low overhead. He soon smelled chemicals.

That night, his nose started running – so bad that he slept with his head hanging over the side of his bed, draining into a bucket. A year later, he said he still feels tightness in his chest when he breathes deep.

He was one of 20 people who called and complained – a critical mass that forced the issue there to the public's view.

Even when so many people complained, Agriculture's response was bungled. Investigators didn't arrive on scene for a week. Burns and other residents wanted to tell their doctors what they'd been sprayed with. Agriculture investigators found out, but refused to say for six months, instead focusing on building a legal case against the pilot.

Burns believes in the timber industry. But he said he's still furious that he was exposed to toxic chemicals and the state never ran down earlier complaints.

## Coming Thursday

Weed killers are sprayed by helicopters onto clearcuts in Oregon under the Pacific Northwest's most industry-friendly regulations.

The state does less to protect people and the environment from drifting chemicals than neighboring states -- Idaho, Washington and California.

The Oregonian reviewed regulations in four states and found Oregon consistently stacks the deck in favor of the timber industry.

"You feel like: Am I living in the United States? Is this even Oregon?" Burns said. "They know what's happening, and they allow it to continue."

The leaders of the Forestry and Agriculture agencies acknowledge shortcomings in the October 2013 case. They're redrawing their procedures for complaint responses and say they're working to improve interagency communication.

**State didn't run down earlier Curry County weed killer spray complaints, The Oregonian finds**

John Burns, a Curry County resident, says he's furious he was sprayed with herbicides in October 2013 after the state for years ignored red flags.

Doug Decker, the state forester, and Katy Coba, the state agriculture director, challenge the idea that their agencies have been dismissive of complaints.

"In our agency, we take citizens' complaints very seriously and we've got a long history and record of doing that," Coba said.

The agency's history doesn't match Coba's statement.

A 2011 U.S. Environmental Protection Agency audit uncovered extensive problems with Agriculture's investigations. The EPA reviewed six years of complaints from Lane County residents who said they'd been exposed to aerial sprays around Triangle Lake.

Auditors found Agriculture's investigations weren't exhaustive, its files were a mess and its sampling decisions were haphazard.

More recent audits, which reviewed fewer cases, have found the agency is doing better. The latest said Agriculture's enforcement program was "excellent."

"For us, that's a high bar that we feel good about," Coba said.



Mike Philipscheck was home with his wife, Kathy, when he heard the helicopter. It was Sept. 26, 2007. The Philipschecks, who live above Gold Beach, figured cops were looking for marijuana.

Philipscheck, now 68, was doing chores outside when he saw a helicopter equipped with spray wands turning back toward the timberland that abuts his property.

"Within a few minutes," Philipscheck said, "there was this overpowering smell that had come running down the hill." Philipscheck said he rushed inside and closed the windows and doors. Still, he and his wife say they and their

daughter got sore throats and headaches.

Philipscheck called the sheriff's office. Two days later, he called Delos Devine, a stewardship forester at the Oregon Department of Forestry's local office.

**View full size**

Mike Philipscheck.

Rob Davis/The Oregonian

Then he waited.

The Department of Forestry's guidelines require a "timely" response to complaints like Philipscheck's. Devine had already responded to a neighbor's complaint about the same spray, so he didn't visit Philipscheck for more than a month. A Forestry spokesman, Nick Hennemann, said Devine wanted to wait to see where plants died.

Devine eventually concluded the spray had drifted close to a stream supplying Philipscheck's drinking water, but hadn't gotten into it.

But a superior told Devine not to test foliage samples that would've shown whether herbicides reached plants closer to the stream. Two testing experts, including one from the Oregon Department of Agriculture, say the evidence would've still been valuable. E-mails show that Agriculture officials didn't tell Devine that then.

There were other communication problems.

During his investigation, Devine got records showing the application happened in still wind – 0 mph. The instructions for one herbicide applied, sulfometuron methyl, gives sprayers an all-caps warning: "AVOID ... WINDLESS CONDITIONS."

That's because of the chance of an inversion layer, a weather condition that makes air stagnant on the ground. Because air doesn't mix, chemicals can hang in the air and slowly creep off site.

Stu Turner, a West Richland, Wash. agronomist who investigates drift cases, said he's seen weed killers drift six to eight miles when sprayed during inversions.

Forestry officials must notify Agriculture when they find herbicides used in ways that may not be consistent with their directions.

Devine didn't. His written report didn't note it either. "The recorded weather conditions were within application requirements," his report stated.

When Devine referred the case to his

superiors, he didn't provide the weather records and didn't alert Agriculture. Emails show he instead typed up the spray records and omitted any reference to wind speeds.

Devine told his superiors the drift was "substantial" in an email. One of them, Bradley Knotts, then downplayed the findings in an email to Agriculture, calling the drift "minor."

Agriculture never investigated, blaming an incident when Philipscheck got angry during a Forestry visit and wore a holstered handgun to walk into the woods. Philipscheck said he always armed himself because of bears.

Devine's investigation concluded that herbicides drifted into a spray buffer around Philipscheck's drinking water stream but didn't reach the water because plants hadn't died. He didn't issue a fine.

But herbicides can travel farther than visual inspections would show.

Turner, the drift investigator, said if Philipscheck smelled herbicides at his home, they likely reached his water source, closer to the spray site, even if in small amounts.

"Anyone who says no material got in that stream, or onto that property, that's pure uninformed speculation," Turner said. "[The Department of Forestry] is simply not trained, equipped and experienced enough to take the lead. And that's what they did in this case."

Philipscheck was left frustrated by the way the state investigated his complaint.

"It was cursory," he said. "There was an attitude of disbelief."



The next report came five years later.

Jim Sweeney was home early one morning in October 2012 when he heard a helicopter approaching. His property is surrounded by Crook Timberlands.

Sweeney, now 59, was surprised. It was windy. He saw the helicopter, equipped with spray wands, struggling against the gusts.

"The winds were so high that day," Sweeney said, "I thought the helicopter was going to crash."

He called the Oregon Department of Forestry to complain, and by noon, Stacy Savona, a stewardship forester, came to talk with him.

The two walked around and could hear but not see a helicopter.

That's where their stories diverge.

Sweeney said winds were gusty while they spoke. Savona said they weren't. In an interview, she said the wind was less than 5 mph, within accepted standards.

**View full size**

Jim Sweeney.

Rob Davis/The Oregonian

"I didn't observe any application nor any wind speed that would give alarm to me," Savona said.

But a federal weather station 700 feet away from Sweeney's home shows that just after noon, when Savona visited, sustained winds were 15 mph with 21 mph gusts.

If a similar complaint was made in Washington, which has more protective spray laws, it would be thoroughly investigated, said Seth Barnes, a Washington Department of Natural Resources manager who oversees forestry rules.

He said state investigators would get spray records from nearby applicators and inspect for evidence of drift.

And if a helicopter sprayed in winds that high, Barnes said, his agency would request it stop until winds eased.

"That's fairly serious," Barnes said. "We would definitely run it down. That's not something we would brush off."

Savona didn't check to see whether any companies were spraying that day. She said her conversation with Sweeney quickly turned from his concern about the winds to a future spray on adjacent land. Three days later, she called Rick Barnes, a Crook Timberlands manager.

Her conversation notes show that she cautioned Barnes about Sweeney's concerns but didn't ask whether any spraying happened. Barnes declined comment.

Six months later, when Sweeney learned he could complain to the Department of Agriculture, so much time had passed that the agency refused to investigate.

Even if herbicides had been sprayed and drifted off target, proving it would be impossible after six months, said Mike Odenthal, an Agriculture investigator.

Still, the agencies could've gotten spray records every pilot must keep to document when they sprayed and what the weather conditions were.

Under Oregon law, one person has the ability to request those records: State Forester Doug Decker. The Oregonian asked Decker to get records from any nearby operations that day to determine whether Sweeney's complaint could be substantiated.

He declined.

Like Philipscheck, Sweeney was dismayed by the state agencies' response.

"I expected a lot more," Sweeney said. "It's obvious they're not protecting their citizens. They're turning their head. How the Legislature can allow this to happen, it's just sickening."

Sweeney has joined Burns and other Curry County residents suing the companies involved in the 2013 episode to challenge the constitutionality of some of Oregon's spraying laws. Those laws grant legal immunity for accidental spraying of residential properties, unless it is done illegally or causes death or grave injury.



When her 18-month-old German shepherd, Sadie, fell sick and died, Pam Aldridge started worrying about the helicopters that sprayed the clearcut behind her house.

It was December 2012. The vet told Aldridge that Sadie was too young and healthy to have died so fast. She'd surely ingested something. Antifreeze? Raw salmon? No, Aldridge said.

Something was also wrong with Aldridge's husband, James. He'd been a logger for 28 years, even helped cut the timber behind their home. Now he was throwing up every morning, losing weight and fighting severe joint pain. And one of their dogs was dead.

She started to panic.

"I thought, 'Oh my gosh. James is sick, my dog's dying, the air is different.' That's when I called and said: 'We need a voice down here.' Everything was going haywire down here."

She knew the dog she called Sadie the Lady had often run through the clearcut. And every year since it was logged, the helicopters had been back. Aldridge, 57, said she was so concerned that she called the Oregon Department of Agriculture. She doesn't remember exactly when.

**View full size**

James and Pam Aldridge.

Rob Davis/The Oregonian

"They reassured me: 'It couldn't have been that.' I said, 'Well, my husband is sick.' Things weren't normal. They

were saying: 'No, no, no.' I'm asking them could it have anything to do with my husband getting sick and my dog dying?"

The Department of Agriculture has no record of Aldridge's call. Odenthal, the state investigator, questioned whether Aldridge made a report then.

"If she did call, it wasn't a call that was more than an informational type call," he said. "We get a lot of calls that go to something we wouldn't consider a complaint."

Aldridge doesn't remember whom she talked to, just how nice she seemed.

"She was really compassionate," Aldridge said. "She said it's nothing to worry about."

-- Rob Davis

© 2014 OregonLive.com. All rights reserved.