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State Investigation Finds Violations in Southern Oregon Pesticide Case

April 8, 2014 | OPB

Kathryn Rickard. Rickard says she developed a rash, stomachache and headache. She also says her dogs and cats vomited after the spray. | credit: Amelia Templeton | rollover image for more

A helicopter hired to spray herbicides in Curry County last fall allowed chemicals to get onto neighboring properties and violated pesticide laws, according to an Oregon Department of Agriculture investigation announced Tuesday.

The state says it was unable to draw a direct connection between trace amounts of two herbicides found in samples on residences near Gold Beach, Ore., and the Pacific Air Research helicopter applying six herbicides and crop oil that day to nearby timberland that was recently logged, but it has ruled out all other sources of herbicides, investigators said.

Pacific Air Research also violated pesticide law by applying a greater volume of herbicide than the maximum amount allowed by the label and by [providing multiple false records](#).

"The aerial applicator was uncooperative throughout the investigation," ODA investigator Mike Odenthal said. "On the other hand, residents of the neighborhood were very cooperative and credible."

ODA's findings corroborate the reports from residents of the area who complained about smelling chemicals, seeing clouds of herbicides and feeling ill after the application. However, state investigators say their investigation draws no conclusions about whether trace amounts of herbicides detected on neighbors' properties account for the illnesses.

The state's investigation revealed what chemicals had been sprayed and detected those chemicals on samples from the neighbor's property in November. That was less than a month after the application. The investigation did not disclose that information to residents until April, when it released the

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information after an Oregon Department of Justice order in response to an public records appeal filed by the advocacy group Beyond Toxics.

Kathryn Rickard, one of the residents who complained and whose property was sampled, said she thinks the state lagged in retrieving the samples and informing the residents.

“I think they did a lousy job,” she said. “They should have been down here within 72 hours of all the phone calls.”

Oregon Department of Agriculture Director Katy Coba said the department is going to have a series of conversations about how best to communicate with citizens who complain about pesticides.

“I don’t think anyone is happy with the way this information was shared,” Coba said. “It’s something we need to learn from and correct moving forward.”

Coba said this investigation was one of the most complex the Department of Agriculture has faced in her 11 years as director. She said ODA officials withheld information from the public because they feared it would hinder the investigation.

Complicating matters was the fact that Owen, the pilot, provided the agency with false records. His reports indicated one herbicide — Roundup Original — was applied to three sites when in fact six herbicides and crop oil were applied to four sites.

Odenthal said the department had received complaints about the pilot previously, but had not been able to substantiate anything. Nothing in pesticide law requires that the pilot lose his license, meaning he can continue to conduct pesticide applications.

The case is being referred to the U.S. Environmental Protection Agency because the pilot’s actions potentially violated the Federal Insecticide, Fungicide, and Rodenticide Act (FIRFA). Once the EPA has determined any possible violations under federal law, the ODA and the Oregon Department of Forestry will address state-level violations.

Commercial applicators can be fined up to \$5,000 under FIRFA. If the ODA determines it has evidence to support a finding of gross negligence on the part of the applicator, it can issue fines as high as \$10,000 per count. If it cannot support such a finding, penalties are \$1,000 per violation of \$2,000 for repeat violations.

“It’s much too early to speculate what the civil penalties will be,” Coba said. “I feel comfortable saying there will be civil penalties assessed on this applicator but the level, I wouldn’t begin to speculate what those will be.”

The owner of the units being sprayed, Crook Timberlands, has not been found to have committed any violations. However, investigators said the Oregon Department of Forestry may find violations relating to how it notified the state of the aerial herbicide application.

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