



# Oregon

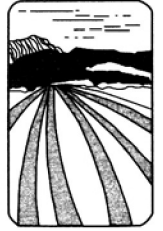
Kate Brown, Governor

Department of Agriculture

635 Capitol Street NE  
Salem, OR 97301-2532

Case Number: 210040  
Case Name: WHITE, re SOIL

Case Closed



## Overview

Investigator

Brent Nicolas

Case Reviewer

Michael Babbitt

Date Started 07/16/2020

Date Completed 09/16/2020

ROL Provided?  Yes  No

List Test(s) Requested  
Amincyclopyrachlor  
Aminopyralid  
Clopyralid  
Fluroxypyr  
2,4-D  
Picloram

Number of Samples Taken 2

Number of Samples Analyzed 2

Number of Applicators 0

Complaint?  Yes  No

Sample Type  
 Air  Veg  
 Animal  Other  
 Soil  
 Swab  
 Water

Complaint Form Provided?  Yes  No

PARC  Yes  No

Cease & Desist  Yes  No

Type of Investigation NUF

Verified Compliance?  Yes  No

Date Reviewed 09/18/2020

Related Cases

Date Case Completed 10/02/2020

Sixty Days 09/14/2020

One Hundred Twenty Days 11/13/2020

Tracking Devices	AIs of interest
	Residue/food/drinking water safety

Nature

## Parties Involved

<u>Parties Involved</u>	<u>Last / Business Name</u>	<u>First</u>	<u>License #</u>	<u>License Type</u>	<u>Expiration Date</u>	<u>Category</u>
<u>Complainant</u>	<u>Address</u>	<u>State</u>	<u>Zip</u>	<u>Phone</u>	<u>Phone 2</u>	<u>County</u>
<b>Complainant</b>	WHITE 725 NE REVERE BEND	LYNDSAY  OR	97701	541-350-5934		Deschutes

**July 1, 2020**

The following email was sent to the ODA contaminatedsoilquestions@oda.state.or.us address:

Hi, my name is **Lindsay White**. I spoke with Stephanie earlier this morning. Here are the pics of tomato starts and cosmos. The cosmos are about a foot tall compared to the volunteers of the same age in a healthy soil bed...about 2.5' tall and blooming...for reference. Difficult to get good pics so let me know if you need different ones! Stephanie has been so much help...my family and I really appreciate you guys!

**July 13, 2020**

This email was forwarded by **Stephanie Page**, Director of Natural Resources Program Area, to Mike Odenthal, Lead Pesticide Investigator with the additional text:

"Hi folks, apologize in advance for typos because I just had my eyes dilated and can't see what I am typing!! When I talked to Lindsay this morning I promised I would relay some additional info after she sent the photos. She mentioned she got 1.5 yards of garden mix and 1.5 yards of coastal soil blend from Instant Landscaping in Bend. She also mentioned that she has brought some horse manure and hay onto her property but has followed up with the suppliers of both materials and they have indicated they do not use herbicides. She has also observed problems predominantly where she has spread the purchased soil/compost.

She also mentioned that she has seen impacts to her tomatoes, little to no impacts to her peppers, poor germination/growth in lettuce, poor growth in sunflowers, and no problems in squash and basil that she has planted. After our conversation she sent me some follow-up questions but I indicated to her that the first thing we need is some photos."

Photos were included with White's email. They showed several plants from her garden that were malformed. Some of the plants were growing in a twisted manner. Some leaves were cupped, twisted and curled.

The email was then referred to the district pesticide investigator Brent Nicolas, myself. I called White and left a message.

**July 16, 2020**

I spoke with White. We made arrangements to meet at her residence in Bend to look at the affected plants and possibly acquire samples.

**July 17, 2020**

## Narrative

I met with White at her residence. I introduced myself and presented my state credentials. She showed me her garden plants, planted into raised beds. She said they had purchased compost/soil from Instant Landscaping Company in Bend. She said they added horse manure from an area stable into the mix they made for the raised bed. She said that the plants began to grow poorly after they planted them. There were plants in other raised beds in the yard that were much larger and vigorous in their growth. The twisting and cupping of leaves on the plants was similar in appearance to plants exposed to a phenoxy-type herbicide such as 2,4-D. I asked about the manure. She said she acquired it from an individual that had a horse stable. She said she was told by that person that the hay fed to the horses there had not been sprayed with anything. She told me there was a pile of manure they had not used yet. Based on this information I formed a sampling plan.

## Sample Plan

I took samples of soil that White had used for her garden. I took a sample of manure as well. Both samples were placed into separate mylar bags and were sealed. The samples were then sent to the ODA Laboratory for analysis.

## Sample Results

### August 5, 2020

The results of the analysis of the samples were emailed from the lab. The soils were analyzed for a number of herbicide ingredients that had been found in similar situations that the Department had investigated. The results are as follows:

Sample # Reporting Limit	Analysis	Result	Method
NUF210040-1 ppm	Amincyclo pyrachlor	<0.010 ppm	0.010
ppm	Aminopyralid	<0.010 ppm	0.010
ppm	Clopyralid	<0.010 ppm	0.010
	Fluroxypyr	<0.040 ppm	0.040 ppm
	2,4-D	<0.010 ppm	0.010 ppm
ppm	Picloram	<0.020 ppm	0.020
NUF210040-2 ppm	Amincyclo pyrachlor	<0.010 ppm	0.010
ppm	Aminopyralid	<b>0.17 ppm</b>	0.010

Narrative			
ppm	Clopyralid	<0.010 ppm	0.010
	Fluroxypyr	<0.040 ppm	0.040 ppm
	2,4-D	<b>1.6 ppm</b>	0.010 ppm
	Picloram	<0.010 ppm	0.050
ppm			

The compost soil sample had no detections of the herbicides analyzed for. The manure sample was positive for the presence of aminopyralid and 2,4-D.

**August 6, 2020**

I called and left a voicemail with White. I told her about the positive results for the two pesticide ingredients and requested she call me to discuss them.

**August 14, 2020**

White called and we discussed the results. We discussed alternative uses for the soil. She said that in her earlier conversation with Odenthal that top dressing their lawn might be an option. I told her that the two ingredients that were detected were often use on turf. I did caution against putting the soil anywhere that roots from woody plants or trees were as that may impact them. We went over the manure as the source of the pesticide ingredients. While she may have been told by the person she acquired the manure from that the hay used to feed the horses was organic the results showed this not to be the case. I told her that the Department needed to speak with this person to determine where the hay originated. She said she wanted to think that over as she did not want to upset the person from whom she acquired the manure.

**September 16, 2020**

As of this date White had not provided the contact information for the source of the manure.

**Label, Licensing review**

No application or applicator was identified. Any use of clopyralid-laden manure would likely have been contrary to product labeling.

**Investigator Recommendation**

## Narrative

A complaint was made to the Department regarding potentially contaminated soil at a residence in Bend. This was at a time when the Department was responding to issues of contaminated compost in other parts of the state. Samples taken of the soil from the Bend residence did not show the presence of the pesticide ingredients found in compost in other parts of the state. The manure used by the complainant in the soil did have the presence of two herbicide ingredients. One of them, aminopyralid, has known issues with manure from livestock that have eaten hay treated with it. For that reason hay treated with aminopyralid may only be used by the person who grew the hay for their own animals and may not allow the manure to be used for composting. That the complainant acquired manure with this ingredient shows the potential for violation of the Oregon Pesticide Control Act. However, the Department is unable to pursue this without the information necessary. The Department may revisit this issue if such information is made available at a later time. As such, there no violations of the Oregon Pesticide Control Act were noted in this investigation.

## **Conclusion**

ODA responded to this complaint and analyzed environmental samples, but without more information from the complainant may not be able to determine who may have violated ORS Chapter 634. If more information should be forthcoming this matter may be revisited.

## Attachments

<b><u>Attachment Name</u></b>	<b><u>Type</u></b>
EMAIL	Correspondence
MAPS	Maps
PHOTOS AND PHOTO LOG	Photos
SAMPLE ANALYSIS RESULTS AND FORMS	Forms



## Enforcement Summary

<u>Name</u>	<u>License Type</u>	<u>Prohibition Violated</u>	<u>Number of Actions</u>	<u>Action</u> NONE	<u>CP Paid?</u>	<u>Notice Issued</u>	<u>Notice Served</u>	<u>Orig CP Amount \$</u>	<u>Hearing Regsted</u>	<u>Informal Held</u>	<u>Final Order Date</u>	<u>Actual CP Amount \$</u>
TOTAL Orig CP Amount \$								TOTAL Actual CP Amount \$				

## Notes

### When Sent

### From

### To

9/18/2020 4:56:48 PM

Michael Babbitt

Brent Nicolas

Hi Brent: Please attach the maps and photos, what is called "maps" is a second set of the emails. I tweaked the narrative, please check the highlighted bit. Thanks.

10/2/2020 9:59:32 AM

Brent Nicolas

Michael Babbitt

Items are attached. Narrative looks better