



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
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AUGUSTA, MAINE 04333

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Inspectors Summary of Incident (Complaint 6278)
Stone Wall Farm

April 26, 2016

At approximately 11:15 AM, Ray Connors, Manager of Compliance for the Maine Board of Pesticide Control (BPC), phoned me regarding a complaint he received concerning 2 deceased dogs owned by Hawley "Tim" and Ann Thornton residing at 356 Enfield Road, Lincoln, Maine. Connors explained that on Saturday, April 23, 2016, Ann Thornton walked their two dogs in agricultural fields leased by Al Fugazzi of Stone Wall Farms, Enfield Road, Lincoln, Maine. The Thorntons believe the dogs were poisoned while in the fields. Connors relayed the contact information to me.

At approximately 1:15 PM I met Lincoln Police Officer, John Walsh, introducing myself and showing my credentials. Officer Walsh received the initial complaint from the Thorntons on Saturday, April 23, 2016 at approximately 4:41 PM. Officer Walsh relayed to me the Thorntons stated they believed their dogs had been poisoned. Officer Walsh further explained that he responded to the call, meeting the Thorntons and observing two deceased dogs (an English Setter named Jasper and a Dachshund named Moxie). He stated that Ann Thornton had walked with her dogs off leash in the fields leased by Al Fugazzi of Stone Wall Farms. Ann noticed the dogs eating something, after which they had died. Officer Walsh told me he called Fugazzi and asked if he had sprayed anything in the fields, explaining the situation. Fugazzi met Officer Walsh in the fields and admitted he had placed bread laced with Lannate SP in an attempt to kill the crows that were eating his newly planted seeds. Officer Walsh said he and Fugazzi walked to the three locations where Fugazzi placed the bread. One location consisted of bread crumbs, another location was untouched and the final location contained 7 dead crows. Officer Walsh signed a Notification of Pesticide Use Related Inspection & Receipt for Samples form (160426MKT03) and I documented the receipt of a copy of Officer Walsh's report (160426MKT03-A) and the receipt of the evidence sample collected by Officer Walsh of bread from the field and a Chain of custody form (160426MKT03-B). Officer Walsh and I traveled to Stone Wall Farm to meet with Fugazzi.

At approximately 2:15 PM Officer Walsh and I met with Fugazzi at Stone Wall Farms. I introduced myself and showed my credentials. Fugazzi was visibly very upset. He explained that he had placed the poisoned bait because the crows had decimated his planted seed before he was able to place row covers on the crop to protect them. I filled out a Notification of Pesticide Use Related Inspection & Receipt for Samples form (160426MKT04), signed by Fugazzi, and a Pesticide Use Inspection Form. I asked to see the pesticide he used and took digital photos of the label and labeling of Restricted Use Pesticide Lannate SP, EPA reg.352-342, (160426MKT04-A). Fugazzi has a Private Pesticide Applicators license (PPA 10648) allowing him to purchase and apply RUP as instructions direct. Fugazzi stated he had purchased the Lannate SP this year to use on his corn crop. I asked Fugazzi to explain the actions he had performed that allegedly caused the dogs to die. He

explained, and pointed to, where he had planted squash and cucumber seeds in predrilled black plastic, 6 rows each 350 feet long, on Wednesday, April 20. He said it was very windy so they couldn't place the row covers. He returned on Thursday, April 21 to place the row cover. He checked the seeds prior to placing the row cover and found the seeds all gone. He replanted the seed, and placed the row cover, weighing it down with 5 gallon buckets (Attachment 2). He plants seeds every 7 days in order to have a continuous crop for sale at his farm stand in town. He lifted the edge of the row cover to show me the drilled black plastic. On Saturday morning, Fugazzi plowed more land to prepare for planting. After going to town and upon returning to plant, he noted "over 100 crows" in the field. He had 4 pieces of bread in a bread bag in his truck, which he crumbled, and added approximately 1 oz. of Lannate SP to the bread crumbs, mixing it well. At approximately 11:00 AM he placed the crumbs in three piles in the field hoping to kill some of the crows. He explained that in the past he has met with Robin Dyer from the USDA to see if she could assist him with the crows, he has spoken to the local wardens, has 2 noise cannons (one of which a neighbor disabled due to the noise) and purchased row covers to discourage the crows. After placing the bait, he closed the gate and placed orange cones at the entrance, which is also signed. When he returned to the field with Officer Walsh, Fugazzi found 7 dead crows. He initially disposed of them in the woods, however at my suggestion he collected the dead crows and burned them to prevent possible secondary poisoning. Fugazzi said the field is posted in three locations. Fugazzi was unable to give a written statement at this interview as he was too upset. I explained I would return to take a written statement. I took digital photographs of the field and signs located at the front gate which stated "Sprayed, Keep Out" (160426MKT04-B) (attachment 2). Officer Walsh and I drove to the location where the Thorntons exited the fields. I noted one of the boulders in the road had two parallel silver lines and explained to Walsh that it means 'access by permission only'. I took digital photos of this location (photos attached).

At approximately 3:45 PM I met Ann Thornton at her home, introducing myself and showing her my credentials. She stated she was glad someone was doing something about this incident. I asked her if she would be willing to give me a written statement. I initially asked her to sign a Notification of Pesticide Use Related Inspection & Receipt for Samples form (160426MKT05) and gave her a Statement Form for her to complete (160426MKT05-A). She questioned what pesticide was used. I explained it was an ongoing investigation and would not be able to give her the information. I then explained the BPC process for complaints and violations. Ann stated on Saturday, April 23, at approximately 3:30 PM, she had taken the dogs for a walk up the Bradford Farm Road then across a side road and entered the back of the field by a path. The dogs were running off leash. She did not see any signs posted to stay out of the fields. She noticed her dogs eating something but didn't think much about it as they always ate left over squash in the field. Moxie (a Dachshund) was the first one to show a reaction. Ann thought Moxie was choking so she picked up the dog and started going toward home, crossing the fields while phoning her husband to meet her at an entrance to the fields located near their house. Ann met her husband and took the car to their home, telling him to find Jasper (an English Setter). Ann said she tried to force Moxie to throw up but it didn't work. The dog died on the way to a vet. Ann said her husband located Jasper in the field, where the dog died. She said they returned to the field with Officer Walsh and found what they believed to be bread crumbs, which were in the general location of where she witnessed the dogs eating.

April 27, 2016

I made a copy of an aerial photo from Google Earth and placed it in the mail to Ann, requesting Ann draw the approximate route where she walked the dogs. (I received the marked photo on April 30). (Attachment 1)

At approximately 8:00 AM I spoke with BPC Manager of Compliance, Ray Connors, to update him on the investigation. I also spoke with BPC Pesticide Toxicologist, Lebel Hicks. It was strongly suggested that the Lannate SP used in this case either be held by Fugazzi and turned in as an obsolete pesticide at the collection this fall or to ask him to turn it over to me and for me to call Maine Department of Environmental Protection Hazardous Waste program (DEP) and request them to hold the Lannate SP in their hazardous waste location in Bangor until the obsolete pesticide collection.

At approximately 11:15 AM I met Fugazzi at Stone Wall Farm and discussed the disposal of Lannate SP. He willingly turned it over to me. The Lannate SP was already double bagged and I placed it in a third bag. I requested Fugazzi sign a Notification of Pesticide Use Related Inspection & Receipt for Samples form (160427MKT01) and an obsolete pesticide form (160427MKT01-A) and a chain of custody form (160427MKT01-B).

At approximately 2:15 PM I met Darian Higgins, DEP Oil and Hazardous Material Responder, at their Bangor facility. Higgins placed the bagged Lannate SP in a plastic container along with the Obsolete Pesticide form and a copy of the Chain of Custody form.

April 29, 2016

I returned to Stone Wall Farm and met Fugazzi at approximately 9:00 AM. I asked if he would be willing to mark a clean copy of an aerial photo from Google Earth noting where he placed the bait, the location of the planted seeds and the locations of signs. Fugazzi agreed and marked all areas on the aerial photo (Attachment 1) I also asked if he would give a written statement. I explained that either he could write it or I could write what he dictated to me. He chose to have me write it. Fugazzi signed a Notification of Pesticide Use Related Inspection & Receipt for Samples form (160429MKT01) prior to beginning the statement. Fugazzi relayed the incident as it occurred on April 23, 2016 (160429MKT01-A). I reread the statement to him. He agreed it documented the incident and signed the form.

May 3, 2016

After receiving the maps from both Thornton and Fugazzi, I decided to see if there was a sign at the back entrance where Ann entered the field and where Fugazzi marked a sign on the aerial photo. At approximately 9:00 AM I walked to the field via the side road (the road Ann used to access the field) and noted a sign at the entrance of the field. I photographed the sign, which stated, "Sprayed, Keep Out", as it appeared from the path and as the sign appeared from the field (attachment 2). Upon returning home I compared the photograph taken on May 3 to a photo I had taken on April 26 from a distance while standing in the field. The sign was visible at tree line in the April 26 photo (attachment 2), however this inspector has no on site knowledge regarding signage prior to April 26, 2016. I returned home and marked an aerial photo with information provided by both parties (attachment 1).

Marilyn Tourtelotte
BPC Pesticide Inspector