

March 24th, 2015

To: Ms. Darcy O' Connor--EPA

Under the category of Old Business—I would first like to apologize for misstating, in the last phone call between (b) (6) Privacy and me and you, that you had said that there would be a “civil action option “ if the no action was taken on the criminal side of our case.

After the call ended (b) (6) Privacy reminded me that it was Ms. Becky Dohrman, from Senator Hoeven's Office who had stated that, not yourself.

I apologize for my mistake.

At this time I would like you to answer a question that (b) (6) Privacy and I have asked ourselves repeatedly since finding that the ND Pesticide Dept. has been co-opted/corrupted by the Out -of- State and local Corporate Commercial and Aerial spray applicator interests not only in their investigation but also in their policies that are funded by the Federal EPA and supposedly overseen by the Federal EPA. ?

“ What are we or any other other citizen of North Dakota supposed to do if there is a negligent application of a pesticide that causes monetary, physical, or bodily health damage to property or person, when the ND Agricultural Commissioner has shown that he is no longer enforcing the Pesticide Laws of the State of North Dakota Century Code, and is instead making purposeful attempts to shield the negligent Out-of -State Corporate Commercial and Aerial spray applicators from the laws enacted by our state legislature and encoded in the ND Century Code.

In short---WHO DO WE CALL---????

Before you formulate an answer to that question, please finish reading this letter.

As for your E-mail response to my questions, I would like to thank you for your timely response. In following up on two of the points I would like to say that on the (#3) point, I had actually asked for a copy of the IAG (Interagency Agreement) between the EPA and the ND Governmental Agency that is contracted to perform the tasks concerning the regulation and use of pesticides in the state-- (if that is the ND AG Department or some other state agency please advise me on that).

EPA Reply?
IAG - ?

We already have the ND Codes on the Pesticide Board, thank you--again what we are lacking is the IAG (Inter-Agency Agreement).

In talking to Ms. Becky Dohrman, she mentioned visiting with you on this very question and was told that you would be sending the IAG to us.

DARCY TO SEND
COPY OF IAG - ?

(b) (6) Privacy and I are both looking forward to receiving it so we can review it.

As for point (#6) where I had asked you “ How can a pesticide spray, after it has been released into the air, move of it's on volition against a prevailing wind.”

Luckily, being you were not able, on your own, to answer this question, I was able on January 29th, of this year, via telephone, to ask this question of Mr. Andrew Thostensen, a leading agricultural professor and the person who does the training and licensing of commercial applicators in the state. He also works directly with Dr. Kenneth Grafton the head of the NDSU/ USDA Extension Service at NDSU with the Pesticide Control Board.

RECEIVED
APR 13 2015

(1)

His response to this question was as follows " Pesticide spray cannot move against a prevailing wind after it has been released into the air."

He when on to imply that the answer to the question was so apparent that I should be ashamed to even ask it.

And yet this is the final position of the Commissioner Douglas Gerhring in the pesticide case that his ND Pesticide Dept. investigated and closed with the opinion that the spray that killed my crop drifted against a prevailing wind of it's own volition, and formed it's self into the perfect pattern of my wheat field to damage just my field—!!!!

Professor Thostensen's answer to my question proves without a doubt, that the position of the ND Commissioner of Agriculture is not only wrong, but that it is purposely wrong.

The purpose this false statement serves is to shield the ariel sprayer, who actually did the negligent spray application that killed my crop, from receiving a violation for his negligent actions,as required under ND Law.

I am including in this correspondence a letter that I sent to EPA Investigator O Malley on the 1st of August, 2013 before **the case was abandoned by the Criminal Division.**

It contains five simple questions that should be easily answered by a true and workmanlike investigation.

None of these questions were ever answered, but when USDA Inspector, Mr. Dan Hudson reviewed our case in November of last year he made the cogent observation that the multiple stories and nonfactual statements made to Federal EPA Investigator O'Malley by Mr. Joseph Klosterman in and of themselves are a felony , if proven, because it is a felony to lie to Federal Investigator.

He also made the point the destruction of evidence in an ongoing investigation is also a crime.

He also examined the spray records and could see that the spray records of Mr. Joseph Klosterman were more then suspect, especially with the statement by Klosterman to Investigator O'Malley that he wrote the June 9th notation on the June 20th application at the behest of a representative of the ND Pesticide Dept. Why is the ND Pesticide Dept. filling out Mr. Joseph Klosterman's application forms???

At this time, I am requesting that these simple questions in my case be answered. Please.

USDA Inspector Dan Hudson, after reviewing the Pesticide case, and the subsequent Mediation that occurred, aimed at resolving the glaring discrepancies in the ND Pesticide Dept.'s Investigation, noticed that in the the 2nd Open Records Request to the ND State Government on records pertaining to the Pesticide case and the Mediation that followed that a new, previously undisclosed E-mail was released that showed direct and improper/possibly criminal contact between Mr. James Gray, the head to the ND Pesticide Dept. and the Mediator Ms. Paranca.

It was on this new information that a closer look at the Mediation, that was provided by the ND Agricultural Dept./ND Mediation Service which is funded and overseen by the USDA, showed a glaring disregard for virtually all of the ethical standards of a Professional Mediation.

USDA Investigator Dan Hudson then referred us file Civil Rights charges in this case.

At this point I will refer you to the enclosed packet of information, which shows the direct contact between Mr. James Gray and the Mediator, Ms. Parania, who was assigned to our mediation, for which we were billed for and we paid for a supposed -Professional Mediation.

The narrative that I provided to the USDA Dept. of Agriculture—Office of the Assistant Secretary for Civil Rights dated March 3rd of this year is the documentation of how the ND Pesticide Dept. head Mr. James Gray purposely manipulated the Mediation in our case to shield his apparently fraudulent/criminal conduct in our case.

Please read the enclosed packet for more information.

I have never been apprised of what your exact role is at the EPA, but if it is to help citizens that have been harmed by the money the EPA sends to ND to provide Pesticide over site than now would be a good time to assist (b) (6) Privacy and me in our attempt to hold people of unethical character accountable for their actions.

Again (b) (6) Privacy and I are looking forward to the copy of the IAG you promised to send and also the answers to all the questions that were generated by the faulty investigation by the ND Dept. of AG—Pesticide Dept.

Thank you for your time and effort in this matter.

Sincerely,

(b) (6) Privacy

4-7-2015

USDA—Director Carl-MartinRuiz

US—EPA Ms. Helena Aguilar

ND Disciplinary Board of the Supreme Court—Mr. J. Thomas Traynor

Dear Sirs:

I am writing to you today to request that you be aware that only one percent of the population in the U. S. is actively involved in production agriculture.

It is with this small percentage in mind, that if you do not have a qualified investigator or a qualified reference person to help with the agricultural related questions your investigation will be of little or no factual or rational significance.

In light of this fact I will refer you to a conversation I had, via telephone, on January 29th, 2015 with Mr. Andrew Thostensen, a leading agricultural professor and the person who does the training and licensing of commercial applicators in the state of ND. He also works directly with Dr. Kenneth Grafton, the head of the NDSU/ USDA Extension Service at NDSU with the Pesticide Control Board.

The conversation centered on the question “ How can a pesticide spray, after it has been released into the air, move, of it’s own volition against a prevailing wind ? “

(This is the statement that ND Ag Commissioner, Mr. Douglas Goehring, made to myself , my wife, (b) (6) Privacy and our ND State Senator Mr. James Dotzenrod at a private meeting facilitated by Senator Dotzenrod in the Capital Building, on closing the investigation into a negligent spray drift case the ND Dept. of AG / Pesticide Division undertook.)

Mr. Thostensen’s answer to this question was as follows “ Pesticide spray cannot move against a prevailing wind after it has been released into the air. “

He went on to imply that the answer to the question was so apparent that I should be ashamed to even ask it.

And yet this is the final position of the Commissioner Douglas Gerhring, in the pesticide case his ND Pesticide Division investigated and closed, with the opinion that the spray that killed my crop drifted against a prevailing wind of it’s own volition, and formed itself into the perfect pattern of my wheat field to damage just my field—!!!!

Professor Thostensen’s answer to my question proves without a doubt that the position of the ND Commissioner of Agricultural is not only wrong, but that it is purposely wrong.

The purpose this false statement serves is to shield the Pesticide Division in it’s corrupt and non-factual investigation and to shield the aerial sprayer and his employer, who actually did the negligent spray application that killed my crop, from receiving a violation for his negligent actions, as required by ND Law.

(1)

I was told by Mr. Michael Lyons from the Wilbur-Ellis Corp. that he and a Ms. Cindy Beck from the same Corp., (they supervised the pilot Mr. John Goerger in his spray applications), had called the ND AG Dept. / Pesticide Division before the investigation was a week old and on speaking with the top authority , (I am assuming it was either Mr. Douglas Goehring and /or Mr. James Gray , Dept. Head), that they themselves, their Corp., Willbur-Ellis, and their pilot, were preemptively exonerated in the case of damage to my wheat field— !!!

I have since found that the ND Dept. of Agriculture has put in place a program called "Compliance Assistance ".

My wife and myself were on the receiving end, of the victim side, of this " Three—Legged Program ".

" Compliance Assistance in actual practice, is the culmination of the Corporatism that has overtaken the ND State Agricultural Dept.

The Pesticide Dept. and the Corporations that apply pesticide in the state, coordinate with each other, and firmly establish professional bonds, so that when a negligent application occurs, as in my case, I, as the victim, am immediately put in the position of a threat, not just to the negligent applicator, but also the Pesticide Dept. who is looking to keep their metrics on " compliance " as high as possible with no violations of pesticide laws on the state".

(Dept.Head Mr. Gray has received rewards and honors for keeping " Pesticide Compliance in the State at an all-time high. —NO VIOLATIONS.)

(It's easy to have high Compliance if you manipulate investigations, as was done in our case.)

(The Pesticide Dept. like everyone else in America is entitled to their opinions but —-

NOT THEIR OWN FACTS !!!!)

I have been told multiple times that — " Elections Matter " —and if the Dept. of Ag wants to sell itself and it's integrity to the highest bidding Corporations (check out their annual parties) that is their decision to make, but in serving the private interests of their Corporate partners and their own self-interest in keeping their Dept. statistics looking as good as they can, they should, as a Public Agency, still have to obey the laws of the State of North Dakota. and do their due-diligence in enforcing the laws of North Dakota, that they are duty bound to uphold.

In conclusion, the Pesticide Dept. through it's manipulation of the ND Century Code, it's manufacturing of false data—including maps and official spray records—, it's destruction of official documents, when confronted with the possibility of an actual Professional Mediation in our case, did what it has gotten by with for years—-they rigged the system by hiring a person with no Mediation Certification, a person who is all ready beholden to the State through her State paid position, and some one with no back ground in Production Agriculture.

This was still not enough of an edge for Mr. James Gray who, either by council with the Attorney General lawyer, Charles Carvell, that he references repeatedly in his E-mails, or on his own volition, called Ms.Paranica at her office and dictated to her " what he is willing to do at the mediation and what he is not willing to do."—As in my earlier documents, at this point Ms.

Paranica was duty bound as a Professional Mediator to contact my lawyer and reveal this information.

Ms Paranica failed to inform my lawyer of this breach of professional code.

I visited with Mr. J. Thomas Traynor, Junior, today and asked that this investigation, after many years of being tainted by the corruption of the Dept. of AG ,be looked at by a Morally Legally, and Professionally un-corruptible party, outside the state of North Dakota, and that the investigating party be either a bonafide Agricultural Production Expert on par with the level of Dr. Kenneth Grafton at NDSU, or have the ability to access the knowledge of such a Expert.

I also made Mr.Traynor aware that we have multiple years of documentation and that I would be having my lawyer, Mr. Zenas Baer, send him a packet that was put together for the Mediation that was corrupted, and also for a hearing before the Pesticide Control Board of North Dakota that we were refused.

I will also be including a letter that I wrote to a Ms. Darcy O'Connor at the Denver EPA office dated March 24th , 2015.

I am also including a letter that I wrote to EPA—Special Investigator Daniel o'Malley on August 1st, of 2013, before the EPA abandoned the investigation into my case, in which I asked—
Five Simple Questions— that any true and workmanlike investigation of my case would have easily answered.

This letter, and it's questions, have been completely ignored to this point, but being the EPA spent time and money to send a Agent to North Dakota to investigate I would like to have these —Five Simple Questions—answered.

Please.

Sincerely

(b) (6) Privacy

CC: Senator Hoeven's Office

Senator Heitkamp's Office

8-1st-2013

Dear Investigator O'Malley—After visiting with my lawyer about the conversation we had last week on the phone, he advised that I should send you a--- time-line--- regarding the application record of the June 9th chemical application as claimed by Joseph Klosterman and Mr. James Gray of the Pesticide Dept.

#1—Lawyer Kragness called Joseph Klosterman to get applications that could have killed my crop. {This occurred on June 25th, 2010, see Lawyer Kragness' notes, bate stamp 000165.} There was no mention by Joseph Klosterman of an application on June 9th. {Was Klosterman lying to Lawyer Kragness on June 25th or was he lying to you in the interview that you had with him this year?}

#2—Kevin Coufal interviews Joseph Klosterman on June 28th, 2010 to get application records that could have killed my crop.

No June 9th application was reported—In fact in his official report to David Phillips { bate stamp 000122 & 000123 } Kevin Coufal quotes directly from Joseph Klosterman's application record, stating the fact that Klosterman sprayed the full N1/2 of section 15 in Barney Township on June 20th and that the wind direction was from the SouthEast {as verified by the N-Dawn record of the day.} The June 9th application is not sited in Mr. Coufal's report because it was not on the application record he was looking at and Klosterman never gave him a record of the June 9th application.

The application record that Kevin Coufal used in his official report is an application record we have never seen and a record that is in direct conflict with the facts represented on the application record that was produced for our lawsuit against the aerial applicator that caused the damage.

The application record that turned up after the 1st closing of the case by the Pesticide Dept. contradicts their own records as documented by Kevin Coufal in his Official Report namely { the acres are changed-----the wind direction is changed-----and the June 9th spray application is added }

Obviously two separate records—where is the record Coufal was quoting from?

#3-----The first mention of a June 9th spray application was at the meeting my wife & I attended in Bismarck, facilitated by Senator Dotzenrod with the Dept. Of Ag —Pesticide Division—represented by Mr James Gray.

Mr. Gray said that he found an unaccounted for spray application that caused a conflict with making a finding that the aerial spraying on the 14th of June was the sole and only cause of damage to my field.

He went so far as to claim that it was actually another aerial application that had occurred on the same day within a mile or less of my field.

This story has been proven to be false on all points. { It wasn't an aerial application—It wasn't on the same day—There is no spray record of any application, only a undocumented note on the spray application record of a completely other day.

Where is the application record for the 9th of June?

#4-----The note on the June 20th application record referring to a June 9th application is not a legal

record, but the Pesticide Dept. Gave this note the full weight of a true record so they wouldn't have to fine a violation in our case.

Why is our case so special?

#5-----In 2013, Klosterman destroyed the records that have been repeatedly requested by my attorney, State Senator Dotzenrod and the Pesticide Dept.

Klosterman then tells you. a Federal Investigator for the EPA ,that Mr. Gray at the Pesticide Dept. Told him to destroy them.

This is after his first story that he destroyed them inadvertently while cleaning.

Then Klosterman tells you that there was an official spray record for the June 9th application but that no one had ever asked to see it.

There is also his statement that no one had requested the records so he didn't think he needed to keep them.

How many stories can this guy come up with?

The contradicting statements from both Mr. Joseph Klosterman and Mr. James Gray of the Pesticide Division of the ND Dept. Of Ag show that there was something very wrong going on between these two people.

The acceptance of an unofficial notation of a spray application, on another spray application cost my wife & I more than \$30,000.

Are the actions of Klosterman and the Pesticide Dept. Criminal?—I don't know--- but someone created a 2nd application record for the June 20,2010 spraying that was done in the N ½ of section 15 Barney Township, as proven by the Pesticide Dept. Own records.

It seems to me that someone needs to come up ^{with} the Original Application record for the June 20th, 2010 spraying done by Joe Klosterman or some ^{one} reason that a second record was made and who made it. _{give}

As I have stated in the past, my wife and I are looking to you to clear this case up and we are relying on your professionalism and honesty.

Thank you for your effort.

(b) (6) Privacy

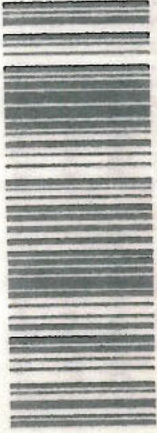
FROM:

(b) (6) Privacy

MOORE TOWN, ND 58061



UNIFIED MAIL™



7013 1090 0001 6505 9977

U.S. MAIL
 WAHP APR 1 2015
 1000
 20460

RETURN RECEIPT REQUESTED

RECEIVED APR 13 2015

RETURN RECEIPT REQUESTED

TO: ATTN: MAS HELENA AGUILAR
 U.S. / EPA
 OFFICE OF CIVIL RIGHTS (1201A)
 1200 PENNSYLVANIA AVE. NW
 ATTENTION TITLE 6
 WASHINGTON, DC 20460

EPA Mail

To: Wooden-Aguilar, Helen

Mailstop: ARIEL RIOS SOUTH
 Department: 1201A
 Phone: OCR
 City/State: Certified

