Message

From: Kenny, Daniel [Kenny.Dan@epa.gov]
Sent: 8/10/2020 2:58:45 PM
To: Ford Baldwin [ford@weedconsultants.com]; Chism, William [Chism.Bill@epa.gov]
Subject: RE: Dicamba Damage

Thank you for sharing this with us, Ford. I agree this is very important information. I will share with the team.

Thanks again,
Dan

From: Ford Baldwin <ford@weedconsultants.com>
Sent: Saturday, August 08, 2020 8:57 AM
To: Kenny, Daniel <Kenny.Dan@epa.gov>; Chism, William <Chism.Bill@epa.gov>
Subject: Fwd: Dicamba Damage

FYI. FB

Sent from my iPad

Begin forwarded message:

> **From:** Ford Baldwin <Ford@weedconsultants.com>
> **Date:** August 8, 2020 at 7:29:43 AM CDT
> **To:** "Thomas.debrah@epa.gov" <Thomas.debrah@Epa.gov>, "Bohan.suzanne@epa.gov" <Bohan.suzanne@Epa.gov>, Ehrig.Lance@ep.gov
> **Cc:** Todd Ochsner <todd@tdofarmsinc.com>
> **Subject: Dicamba Damage**

Deb Thomas, Deputy Administrator, EPA Region 8

Susanne Bohan, Enforcement Administrator, EPA Region 8

Lance Ehrig, Acting Special Agent in Charge
Denver Area Office
U.S. EPA Criminal Investigation Division

Re: South Dakota Department of Agriculture

As a brief introduction, I am a weed scientist, and spent my first career on the faculty at the University of Arkansas. I am now an Emeritus Professor and a private consultant working as a weed scientist in soybean and rice. Throughout my public and private sector careers I have served as a resource person for our enforcement agency- the Arkansas State Plant Board. I have been heavily involved in the dicamba issue since we first heard a dicamba tolerant trait was being introduced in soybean. As a result I have worked closely with our Plant Board and legislature on issues and regulations regarding the Xtend technology in Arkansas since 2014.

I received a call from a South Dakota farmer, Todd Ochsner, in mid July seeking my advice on approximately 6000 acres of soybeans, near Aberdeen, that he felt had been injured by the off target movement of dicamba sprayed on Xtend soybeans in his area. During the conversation I asked if his

state enforcement agency had investigated? He responded that the South Dakota Department of Agriculture would not investigate his complaint unless he could name, in writing, the person(s) responsible for the damage- the very thing he was calling on them to help him with. My immediate response was disbelief and I thought surely this could not be the case. After several subsequent conversations and attempts to help Mr. Ochsner find a source of expertise much closer than Arkansas, I agreed to come to South Dakota to evaluate his soybean crop.

I conducted a field by field inspection of Mr. Ochsner's soybeans on July 29, 2020. Each of the approximately 25 fields inspected had moderate to severe dicamba symptomology in the form of leaf cupping and stunted growth or biomass reduction. The level of symptoms observed were sufficient, based on a wide array of public sector research, to potentially cause significant yield reduction and economic loss. In addition to Mr. Ochsner's fields, I looked at a few fields for neighbors, and since Mr. Ochsner farms over a wide geographic area, I had the opportunity to casually observe several thousand additional acres of damaged soybeans in the area. The farmers estimated that approximately 60% of the soybean acres in the region were planted to dicamba-tolerant (Xtend) soybean leaving approximately 40% of the acreage planted to varieties susceptible to dicamba injury- if off target movement occurred. Based upon my observations in the fields I directly inspected along with those from fields I saw in passing, essentially every acre of susceptible soybeans in the region had dicamba symptomology. The four farmers I talked to in the area besides Mr. Ochsner also told me the South Dakota Department of Agriculture refused to investigate their claims.

During my inspection of Mr. Ochsner's fields I saw evidence of direct field-to-field movement or drift of dicamba spray particles, volatiles or both. There was evidence some neighboring fields were sprayed without regards for buffers or downwind potential for movement- that is a blatant disregard for the neighbor or complete ignorance regarding the herbicide being sprayed. In many other fields, the dicamba symptoms were far more uniform often with no neighboring fields in sight. This type of injury is caused by air mass loading, or atmospheric loading of the herbicide due to large acreages of dicamba being sprayed in short periods of time. I also saw evidence of off target dicamba that would have been sprayed before the South Dakota cutoff date and some that would have been sprayed after the cutoff. I observed fields that obviously had been affected by both early and late exposures.

The follow morning, July 30, 2020 while meeting with Mr.Ochsner in his office, he received a call from Kyle Holt from the South Dakota Department of Agriculture. I participated in the call as a silent observer. Mr Holt reiterated that the SDDOA would not investigate any of Mr. Ochsner's damaged fields, nor those of others in the area, unless they could name in writing the persons causing the damage. Mr. Holt also repeatedly stated the dicamba damage in the state this year was far less than last year. How would they know that if they will not respond to a complaint? I found the entire conversation very perplexing. Since when did it become the responsibility, of people affected by off-target pesticide damage, to enforce FIFRA? Does the SDDOA not receive Federal Funding from the EPA to do just that? If so their refusal to investigate amounts to a clear dereliction of duty.

There are obviously many issues involved with an individual like Mr. Ochsner, or me on his behalf, trying to do an investigation the state should be doing. The first is in order for me to attempt to track off-target movement, from the affected field to a potential source, it would involve trespass. Second, I have no authority to pull spray records from neighboring farmers or applicators. As a result I could not determine dates of applications, match them to weather records, determine what dicamba was sprayed (was it a labeled or non-labeled formulation?), when the chemical was purchased (was it before or after June 3 as mandated by the 9th Circuit?), etc. I have no authority to pull records to see if neighboring farmers and applicators are properly licensed and have attended any mandatory dicamba training. These examples are simply the responsibility of an enforcement agency and things I would hope they would want to know.

Finally, why would the SDDOA seemingly not care that 40% of the soybean acres in at least one region of the state are being affected by off-target movement of one herbicide? This is overly obvious to anyone with minimal training. Why would the SDDOA not want to know and investigate why this is happening? This cannot be determined by sitting in an office and pretending it isn't happening. Why are the farmers who choose to grow soybeans without the dicamba trait, for very valid reasons, not being afforded protection from off-target movement from a volatile herbicide? Has the SDDOA somehow determined they are less important than those who chose to plant Xtend soybeans?

Thank you for allowing me to express my concerns. Hopefully they explain why I recommended my client reach out to you for help that he has been refused by his state enforcement agency.
Respectfully Submitted. Ford Baldwin Ph.D. . PII

Sent from my iPad