

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Regional Director, Region 7

615 Erie Boulevard West, Syracuse, NY 13204-2400

P: (315) 426-7403 | F: (315) 426-7408

www.dec.ny.gov

June 10, 2019

Senator Pamela Helming  
Legislative Office Building  
Room 517  
Albany, NY 12247

Dear Senator Helming,

Thank you for your letter dated May 15, 2019 regarding a complaint by Doug Baird (complainant) of Lansing, NY. Mr. Baird contends that the Department of Environmental Conservation (DEC) Region 7 failed to properly investigate a claim that Helena Chemical (Helena) illegally sprayed a pesticide on June 3, 2017.

DEC has reviewed this matter. For the reasons set forth below, DEC believes that the initial investigation in June 2017 was thorough and the decision not to pursue administrative or criminal enforcement against Helena was proper.

Mr. Baird contends that the herbicide Roundup was illegally applied on the farm adjacent to his residence on June 3, 2017. As a result, he became violently ill. According to the complainant, weather conditions should have precluded all herbicide spray applications. As justification for this position, Mr. Baird relies on wind speeds recorded by the National Weather Service and on his own weather station. Despite these weather conditions, Helena sprayed on the adjacent farm field. Mr. Baird summarized the application as an "*incident of agricultural herbicide poisoning*" caused by excessive speed of application and high winds.

While it appears that the complainant would like stronger laws, the complaint about DEC's investigation can only be answered from the perspective of the then current laws and regulations. In this regard, *Part 6 of the New York Code Rules and Regulations section 325 et seq.* provides the requirements for use and application of pesticides. These include the following:

1. Pesticides should only be used under such conditions that wind and other conditions prevent contamination to people, property, wildlife, water, etc.
2. Pesticides are to be used in accordance with the manufacturer's label.
3. The pesticide applicator must have received training, passed examinations and be currently certified.

DEC's initial investigation was conducted by the Environmental Conservation Police. The first complaint was made on June 17, 2017 and on the same day the assigned officer conducted a site visit and interviewed the complainant. The officer also visited



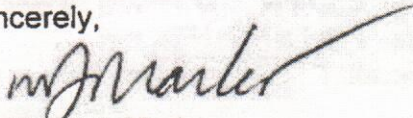
the farm where the pesticide was applied, interviewed a representative of Helena and examined various written records.

A decision was made that there was simply not enough evidence to charge the applicator with violating the law. As stated, Helena Chemical was given a warning for overspray in the target area.

DEC believes that the investigation undertaken in June 2017 was thorough and complete. While we respect Mr. Baird's contention, we believe the decision not to commence enforcement was proper.

Please let me know if you have any other questions.

Sincerely,

A handwritten signature in black ink, appearing to read "m. Marko", written over a horizontal line.

Matthew J. Marko  
Regional Director