

Senator Jackie Dingfelder
Chair, Senate Committee on Environment and Natural Resources
c/o Ms. Beth Patrino
Oregon State Legislature
900 Court Street NE, Room 347
Salem, Oregon 97301

April 1, 2013

Re: SB 800

Dear Chair Dingfelder and Committee Members:

Thank you for the opportunity to speak before you today on the topic of pesticide spray records. I am the Executive Director of Beyond Toxics. Over the past 12 years, Beyond Toxics has responded to public concern about pesticide spray. We have conducted research on the impacts of pesticide at schools, on salmon streams and overuse by state agencies. Our research has resulted in the adoption of better policies at the state and local level.

In carrying out this research, I've become quite familiar with pesticide record keeping and pesticide complaint procedures. This experience allows me to discuss my knowledge of the data gaps and inconsistencies as well as the necessity of pesticide use record keeping.

Charles Darwin said the following about science, ignorance and knowledge:

"... it is those who know little, and not those who know much, who so positively assert that this or that problem will never be solved by science."

SB 800 addresses the problem described so aptly by Darwin. SB 800 is about increasing knowledge about the use of pesticides, and so that Oregonians are not making policy decisions in a state of ignorance. SB 800 is about good science informing policy and practice. This bill is a response to pesticide investigations in Oregon, and the near impossibility of obtaining reliable data to carry out valid investigations. Without science, without data, how can an investigator prove that pesticide laws are being followed - or determine whether pesticides are causing problems? Without sufficient data with which to conduct a thorough investigation, it is easy enough to suspend a chemical drift investigation or to deny a medical claim based on possibility of exposure. As a result of lack of information, state agencies are not able to serve the businesses and people of Oregon.

In my testimony I will point out three reasons why better pesticide use record keeping and reporting are necessary. Each example is followed by a suggestion for steps the Legislature can take to solve the problem.

Example 1: With my testimony, I have supplied examples of various Spray Records forms used by Oregon agencies and government programs. There is no consistency in the way records are kept, and this is even true for different offices within one agency. For example, look at the difference in the record keeping for two state forests in **Exhibit 1 and 2**. Also, **Exhibits 3 and 4**

shows significant differences between private forestry uses and state forests; or see Exhibits 5 and 6 to compare ODF invasive weed programs and State Parks Invasive Species.

Recommendation: Standardize pesticide spray recording forms so that all necessary information for good metrics and science is provided on each form.

Example 2: I have attended numerous meetings of the Pesticide Analytic Response Center. The purpose of the PARC board is to investigate, classify cases by ranking the likelihood of exposure and determine whether or not there has been a violation of federal pesticide laws. Through numerous public records requests, I have reviewed many of the PARC complaint files. In the majority of cases, ODA staff and experts on the Board spent many hours looking into a case, only to determine that there was insufficient information to make a determination because too much time had elapsed between the actual spray event, the complaint, the opening of an investigation, and the request for spray records. It is not uncommon that investigators didn't have timely access to records to help them make that determination. **Recommendation: Oregon must develop a system of accurate record keeping and policies that make it easier to obtain records in a timely manner.**

Example 3: ORS 527.321 and ORS 527.335 requires the State Forester to implement an integrated pest management process on department-managed and other lands, as well as to conduct surveys and evaluations to determine overall forest health. In addition, other agencies are charged with reducing toxic chemicals in the environment and their impacts to water quality. Where does the data come from to accomplish these requirements? As one model, in Washington State, state agencies and the public have access to forestry spray records, the agency has a 3 week review period, and records are kept for a total for 7 years. Please see Exhibit 7 which is a comparison of Oregon and Washington's forestry chemical reporting requirements. **Recommendation: Look at policies in other states that successfully collect data on pesticide sprays and use this information for various valid purposes including scientific research and the public good.**

In a time of increasing evidence about the persistence of pesticides in the environment, the decreasing effectiveness of pesticides because of pest habituation and adaptation, and their role in human and animal health, we commend this Committee for taking up the topic of pesticide data collection.

Beyond Toxics recommends that the Oregon Legislature initiate an Interim Legislative Task Force on Pesticide Use Record Keeping and Reporting. This is an important topic that will need deliberation, expertise and the participation of users, agencies and researchers, with oversight by the Legislature.

Sincerely,



Lisa Arkin, Executive Director

Beyond Toxics

PO BOX 1106

Eugene, OR 97440



Daily Chemical Application Record Form

U S D A This form outlines daily pesticide application information an applicator must record to meet requirements of the Oregon Departments of Forestry (ODF)¹ and Agriculture (ODA),² and the U.S. Department of Agriculture (USDA)³. An applicator may use a different form if the required information is included. *The applicator must retain the ODA and ODF-required records for 3 years, and the USDA-required records for 2 years.*

Landowner and Location

Name, address, and telephone of person or business who owns or controls the property:
 Oregon Dept. of Forestry - Coos Dist.
 63612 Fifth Rd
 Coos Bay, OR 97420 (541) 267-4136

Legal Description of Application Area:
 Camp Creek

Applicator

Applicator (Name of Person Applying Chemical):
 Ryan Olson Garrett Groth

Applicator Certification Number: P.O. AG-11021087PPA GG-AG-110187882PA

Applicator Contractor: N/A

Application Information

Supplier of Chemical Product: ODOT CONTRACT

EPA Registration Number and Product Brand Name:
 Element 4 62719-40

Number of Acres Treated:

Per Acre Application Rate: .75 GAL/ACRE

Total Amount of Pesticide Product Applied: 80oz

Carrier Used, including Rate/Acre: H₂O + MSO

Application Equipment Used (Aerial, Backpack, Etc.):
 If Aerial F.A.A. Aircraft Number: TANK SPRAYER

Crop (enter "forest" for forestry applications): Forest

Date of Application: 5/1/02
 Beginning Time: 9:00 Ending Time: 4:00

ODF Only: Weather Information (For Aerial Applications Measure and Record Information Hourly; For Ground-Based Pressurized Broadcast Application Measure and Record Information at the Beginning and End of Each Day's Application):

Time:	9a	4p						
Air Temperature	59	76						
Relative Humidity	82	35						
Wind Speed	0	2-3						
Direction wind coming from (e.g., N or NNW)	0	N						

Applicator Signature:

Form version 8/2007

¹ Oregon Department of Forestry requirements for all pesticide applicators
² Oregon Department of Agriculture requirements for commercial and public applicators. Applicators must also report to the Pesticide Use Reporting System at http://oregon.gov/ODA/PEST/purs_index.shtml.
³ U.S. Department of Agriculture requirements for private pesticide applicators using restricted use products.

2010-781-00830

UNIT 1

Exhibit 3

1. Crop Owner and 2. Location

Ruth Millard
93015 Templeton Road
Cheshire, OR

3. Date and 3 Time

6-23-10 7:00 am - 4:50 PM

4. Supplier

Crop Production Services
4195-B Salem Industrial Drive
Salem, OR 97301
1800 452 8324

5. Trade name & strength:

Oust Extra #352-622

6 Amount

4 oz /acre x 4 acre = 16 oz total

Carrier was 40 gallons of water

7. Crop

Site prep for Doug Fir planting

8. Apparatus

Solo Back Pack

9. Name Paul Millard (541) 7474669. AG-L0088847CPA.

10. Throw away date 6-23-13

Notification number 2010-781-00830

Exhibit 4



Washburn Contract Services Inc.
 P. O. Box 760
 OR 97338
 831-1593

Dallas,
 (503)

Spray Report

Spray Date 8/19/2009	Start (MT) 6:00	End (MT) 18:30	Area Sprayed 71.2	Unit of Measure Acre	Customer Oregon Dept. of Forestry
Site Category Forestry	Side Miles 71		Feet 1199		
Control Type Broadcast	Job #		Project		
County	Comments Coos District 63612 Fifth Street Coos Bay, Or 97420				

PESTICIDE	EPA Reg.	Supplier	Acre	Quantity	UOM	Application Rate
ELEMENT 4	62719-40	Landowner	71.2	2133.76	fl. Ounces	30.0
RIVERDALE 2,4-D L.V.6 ESTER	228-95	Landowner	71.2	1600.00	fl. Ounces	22.5
ESCORT	352-439	Landowner	71.2	67.00	Dry Ounces	0.9

Operator	License #	Hours	EQUIPMENT	License #	Hours
Washburn, Paul	OR-LO106383CPA	12.50	R6 - Y114100 2005 Chevy 4500	Y114100	12.50

Adjuvants	Supplier	Acre	Quantity	UOM	Application Rate
M50	Landowner	71.2	855.00	fl. Ounces	12.0
Water		71.2	2468.00	Gallon	34.7

LOCATION

Water Basin:

	T	R	S	Latitude Start:
TRS Start:	23S	11W	9	Longitude Start:
TRS End:	23S	11W	11	Latitude End:
				Longitude End:

Address:

Field #:

Weather

Reading Time	Temp.	Wind Dir.	Wind MPH	RH	Latitude	Longitude
7:15	71	NE	1	73		
11:45	78	SE	3	65		
15:10	82	Calm	0	61		
16:30	80	Calm	0	66		

2 D 10

Aerial Herbicide Application Record

Project Name: ARRA Invasive Weed Control - Roads

Oregon Dept. of Forestry

Page 1 of 1

Date	Legal	Proj #	Acres Miles	Start Time	End Time	Flight Time	Gallons of spray material			Recon Time	Weather				
							Start	End	Load		Air Temp.	Rel. Hum.	Wind Speed	Wind Dir.	Time
7-16-10	723-10-24c	MAP4	1.5	0710	1330			160g	20g	52°	80%	Calm		0700	Med
7-16-10	723-ROW 27	Map 5	2.0	1400	1600			110g		71°	54%	4		NW	1200
7-19-10	723 ROW 3 7703 road	Map 2	0.7	0645	0830			50g		53°	80%	2		NW	0630
7-19-10	723 ROW 14 1460 road	Map 3	0.5	0845	0945			40g							
7-19-10	723 ROW 24 1900 road	Map 4	2.0	1030	1530			230g		59°	72%	3-4		NE	1015
7-20-10	"	"	"	0700	0900			40g		70°	52%	4-5		NE	1300
7-20-10	723 ROW 15	Map 5	1.3	0915	0945			50g		53°	80%	Calm		N	0600
7-20-10	723 ROW 34	Map 1	0.7	1200	1300			50g		58°	77%	1-2		N	0925
7-20-10	723 ROW 15	Map 6	"	"	"			70g							
7-21-10	723 ROW 27/28	Map 5	1.1	0700	0930			28g		56	78%	Calm			0800
7-21-10	723 ROW 27	Map 6	0.2	0930	1030					69	68%	2		NW	1200

DAILY TOTALS

CHECKED AND CERTIFIED CORRECT

Cumulative Total Gallons Applied Broadcast - 730 gal. over 9 miles Acres
Thin line - 28 gal.

Reported by MCP
 Pilot _____

2 D 10

Ex. 6

INVASIVE SPECIES TREATMENT RECORD
Oregon Parks & Recreation Department
(Insert Park Name & Address)

Section A		
Use this section for general treatment information		
Location of treated area	Park	
	Physical Description	
	GPS coordinates, township/range section	
Size of treated area Acres, sq ft, if spot spraying, write "spot spray"		
Date / Time Record begin & end time	Date	
	Time	Begin End
Method of treatment (pesticide, hand pulling, trapping, mulching, site restoration etc.)		
Section B		
Use this section for pesticide application information (legal requirement)		
Product supplier Full name of business		
Product name		
EPA registration number		
Amount applied Use lbs, oz or gal of actual product per acre or concentration (lbs or oz product/gal) and total gallons applied		
Target site/crop Examples: corn field, roadside, office baseboards, turf area		
Equipment description Backpack sprayer, boom, etc		
Name of applicator Full name of person who made the application		
Weather Temp, sunny, cloudy etc		
Wind speed and direction		

Keep this record for 3 years

Exhibit 7

Comparison of Aerial Spraying Herbicide Regulations

	Washington State Forest Practices Act	Oregon State Forest Practices Act
Fish Bearing Stream Buffer	100-150' for Forests equivalent to the Coast Range, depends on growing conditions and stream width	60' or Distance defined by Product Label
Domestic Water Supply		60' or Distance defined by Product Label
Perennial Non Fish Stream Buffer	50-100' depends on wind and nozzle type	0' or Distance defined by Product Label
Intermittent Non Fish Stream Buffer, with surface water present	50-100' depends on wind and nozzle type	0' or Distance defined by Product Label
Buffer next to Residences	200'	None
Buffer next to Agriculture Lands	100'	None
Posting Site	Must post 5 days in advance and 15 days after spraying	No posting required
Flying Orientation	Must fly parallel to stream, drift control agents are required	Must fly parallel to edge of water when within 100 feet of Fish or Domestic Water Supply stream
Public Comments Allowed	Yes	No
Agency Review Period	3 Weeks	No Review
Application Records Available to the Public	Yes	No
Years Records are Kept	7 years	3 Years