

AGENDA
STATE BOARD OF AGRICULTURE
DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

Thursday, September 15, 2022
10:00 a.m.

2800 N. Lincoln Blvd.
Oklahoma City, OK 73105

1. Call to Order
2. Roll Call
3. Declaration of a Quorum
4. Introduction of Guests
5. Consideration and Proposed Action on Minutes of Regular Board Meeting of July 27, 2022.
6. Consideration and Proposed Action on Division Reports
 - A. Administrative Services – Dan Ridings
Summary of present financial condition of the agency and monthly activities in the following areas: Finance, Human Resources, Fleet Management, Data Processing and Agriculture Law Enforcement Investigators.
 - B. Laboratory Services – Wade Krivanek
Summary of analytical activities, customer contacts, and other pertinent information related to laboratory operations.
 - C. Forestry Services – Mark Goeller
Summary of activities and accomplishments in resource protection and rural fire defense, forest management and regeneration, water quality, urban forestry, forestry education and law enforcement. Includes statistics on wildfires and law enforcement activity and narrative of forestry program highlights for the month.
 - D. Consumer Protection Services – Kenny Naylor
Addresses stop sale orders on insect and disease infested crops, phytosanitary certificates issued, insect survey summaries, pesticide registration updates, pesticide inspections, seed program and seed laboratory updates, weights and measures reports, scanner inspections, grain warehouses and meetings attended by division personnel.

- E. Animal Industry Services – Rod Hall, DVM
Addresses information and activities of staff related to control and eradication of animal diseases affecting livestock and livestock market audits. It also addresses emergency response preparation and education for response to any outbreak of foreign, emerging and/or eradicated disease.
- F. Wildlife Services – Scott Alls
Summary of activities and accomplishments in wildlife damage management to protect state resources such as agriculture, property, natural resources, and public health and safety from wildlife damage and wildlife threats.
- G. Agricultural Statistics – Troy Marshall
Addresses the current crop conditions and livestock inventory numbers. Also included is a report on the number of information requests received, reports released during the previous month, reports to be released during the current month, and the meetings attended by Division personnel during the previous month.
- H. Market Development Services – Meriruth Cohenour
Summary of the accomplishments, projects and events of Ag in the Classroom, Agritourism, Communications, Domestic Marketing (Made in Oklahoma, Made in Oklahoma Coalition), Diversified Marketing (Farmers Market, Specialty Crop Block Grants, Farm to School), International Marketing, Market News and Rural Economic Development.
- I. Agricultural Environmental Management Services – Teena Gunter
Executive summary that addresses Swine Feeding Operations, registered poultry feeding operations and poultry waste applicators, National Pollutant Discharge Elimination System (NPDES), plus agricultural composting facilities, and Commercial Pet Breeders and Shelters. Includes numbers and statistics on complaint investigations, technical assistance contacts, inspections, enforcement/compliance activities and seminars/meetings attended by Division personnel for the month.
- J. Office of General Counsel – Teena Gunter
Summarizes activities of the division, including rules, collections, legal research, meetings, support for programs, contracts, employment issues, open records requests, farming and ranching incorporations, and informal and formal enforcement actions before the Board, district court, and federal court.
- K. Food Safety Services – Scott Yates
Addresses the inspection of meat, poultry, egg, and milk processing facilities to determine compliance with regulatory standards.
- L. Ag Communications and Outreach Update – Audrey Ochsner

7. Consideration and Proposed Action on Purchases/Contracts
8. Consideration and Proposed Action on Cases Resolved by Stipulations

Agricultural Environmental Management Services

Amy Greteman, 225 N. Addison, Hinton, Oklahoma
Joel Hancock, 51857 S. 630 Road, Colcord, Oklahoma
Teng Her, 1010 Browning Road, Valliant, Oklahoma
Elvis Poor, 14062 Liberty Hill Road, Cameron, Oklahoma
Richard Pritchett, P. O. Box 369, Locus Grove, Oklahoma
Anna Wallace, 9168 Liberty Run, Guthrie, Oklahoma

Consumer Protection Services

Agrilawn, 4001 S. Thomas Road, Oklahoma City, Oklahoma
Circle K, 2316 W. Lindsey, Norman, Oklahoma
Dollar General, 25239 OK-82, Park Hill, Oklahoma
Dollar General, 811 N. Hazlett, FT. Cobb, Oklahoma
Dollar General, 1500 N. Louis Tittle, Mangum, Oklahoma
Dollar General, 914 N. Main, Frederick, Oklahoma
Dollar General, 303 N. LL Males Ave., Cheyenne, Oklahoma
Dollar General, 110 N. Bridge Road, Grandfield, Oklahoma
Dollar General, 1102 N. 4TH, Sayre, Oklahoma
Dollar General, 103 Nebraska, Cyril, Oklahoma
Dollar General, 811 N. Hazlett, FT. Cobb, Oklahoma
Dollar General, 2900 N. Broadway, Moore, Oklahoma
Dollar General, 100 E. Central, Anadarko, Oklahoma
Dollar General, 409 N. 11th, Hammon, Oklahoma
Family Dollar, 602 N. US 277, Elgin, Oklahoma
Arthur Graves, 306 Apache Street, Burns Flat, Oklahoma
Romex Pest Control, 3825 N. W. 166TH Street Unit D4, Edmond, Oklahoma
Spraying J, 1500 N. E. 5TH, Moore, Oklahoma
Standlee Hay Company, Inc., 22349 Kimberly Road, STE E, Eden, Indiana
Walgreens, 115 S. W. 3rd, Elk City, Oklahoma
Zeng Green 1 LLC, 5821 Jesse Lane, Stillwater, Oklahoma

**Possible Executive Session (if approved by the required number of members present):
As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of “[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act.”

9. Consideration and Proposed Action on Cases Resolved by Consent Order

Consumer Protection Services

Jim's Pest Control, LLC, 840 Lori Lane, Vinita, Oklahoma

LSUA OKC DBA, Landscapes USA, 2101 S. Missouri Ave., Oklahoma City, Oklahoma

****Possible Executive Session (if approved by the required number of members present):**
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10. Consideration and Proposed Action on Cases Resolved by Final Order

Consumer Protection Services

Bug Brigade, 211 S. E. 7TH Street, Luther, Oklahoma

Bug Brigade, 211 S. E. 7TH Street, Luther, Oklahoma

Cate's Recycling, 8800 New Sapulpa Road, Sapulpa, Oklahoma

Express Landscape and Lawn Care, 122 S. Caddo, Weatherford, Oklahoma

Midwest Bed Bug Service, 305 Kim Street, Tahlequah, Oklahoma

Scott Termite, 660 W. S. W. 59th, STE5, Mustang, Oklahoma

****Possible Executive Session (if approved by the required number of members present):**
As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of "[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act."

11. Consideration and Proposed Action on Emergency Rules

AGRICULTURAL ENVIRONMENTAL MANAGEMENT SERVICES

Title 35. Oklahoma Department of Agriculture, Food, and Forestry

Chapter 17. Water Quality

Subchapter 5. Registered Poultry Feeding Operations

35:17-5-3. Registration, Nutrient Management Plan (NMP) required [AMENDED]

35:17-5-5. Nutrient Management Plan [AMENDED]

APPENDIX A. Nutrient Management Requirements When Using Poultry Litter and Other Nutrient Resources [NEW]

****Possible Executive Session (if approved by the required number of members present):**
As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of "[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act."

12. Consideration and Proposed Action on Proposed 2023 Board of Agriculture Meeting Dates.

13. Next Board meeting scheduled for **Wednesday, October 26, 2022**, Altus, Oklahoma.

14. Old Business

15. New Business – Under the Open Meeting Act, this agenda item is authorized only for matters not known about or which could not have been reasonably foreseen prior to the time of posting the agenda or any revised agenda.
16. Adjournment

**Members of the Board and staff from ODAFF may join for lunch and will tour the Made in Oklahoma store at the Oklahoma State Fair. Board Members, staff, tour guides, and the public may discuss program issues during the tour; no votes or action will be taken during the tour.*

**OFFICIAL PROCEEDINGS
OF THE STATE BOARD OF AGRICULTURE
DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

Oklahoma City, Oklahoma
July 27, 2022

The Oklahoma State Board of Agriculture met in regular session at 10:00 a.m., July 27, 2022, in the Agriculture Building, Oklahoma City, Oklahoma. Written notice of this meeting was filed with the Secretary of State. A notice was posted at the Agriculture Building 24 hours prior to the meeting setting forth thereon the date, time, place and agenda for the meeting and an agenda was posted on the agency website.

Members Present:	Joe Farris Brent Bolen Blayne Arthur Nocona Cook
Member Absent:	Clay Burtrum
Others Present:	Kandi Baits, Executive Secretary JanLee Rowlett, Deputy Commissioner Dan Ridings, Director, Administrative Services Eli Klimek, Laboratory Services Craig Marquardt, Forestry Services Kenny Naylor, Director, Consumer Protection Services Dr. Rod Hall, Director, Animal Industry Services Tecna Gunter, Director, Agricultural Environmental Management Services & Office of General Counsel Scott Yates, Director, Food Safety Services Audrey Ochsner, Public Engagement Specialist Ashley Chael, Oklahoma Information Fusion Center Stephen Jantzen, Ryan Whaley Attorneys Karlee Belle Gholson, Governor's Office Lynnette Jordan, Agriculture Environmental Management Kori, Mike, and Bonham Eslick Travis Bradshaw, FFA Advisor Ashleigh Gay

Mrs. Arthur called the meeting to order, and a quorum was declared.

Ms. JanLee Rowlett introduced the guests.

Mrs. Arthur introduced Mr. Bonham Eslick from Elgin, Oklahoma. Mr. Eslick received the Oklahoma FFA Outstanding Chairman award for the 2022 State FFA Conduct of Chapter Meetings contest. This award is given to the FFA member who is best able to preside over a meeting according to accepted rules of parliamentary procedure.

With the presentation of the citation, a group photo was taken with Mr. Eslick and the Ag Board Members.

A motion was made by Mr. Farris, seconded by Mr. Cook, to approve the minutes of the regular meeting of June 16, 2022, as presented.

The vote was as follows:

Farris	Aye
Bolen	Abstain
Arthur	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Bolen, seconded by Mr. Farris, to approve the division reports as submitted.

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Bolen, seconded by Mr. Cook, to approve the following purchases/contracts as submitted and contained on pages 5 through 9.

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Cook, seconded by Mr. Farris, to approve the following agency travel as submitted and contained on page 10.

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Cook	Aye

The motion carried.

A motion was made by Farris, seconded by Mr. Cook, to approve the Proposed Action on Stipulations as submitted and contained on pages 11 through 13.

Agricultural Environmental Management Services

Rhema Abercrombie, 2017 E. Broadway Avenue, Enid, Oklahoma

Brian Cox, 2139 Union Grove Road, Haworth Oklahoma

Vue Lor, 65828 S. 4700 Road, Westville, Oklahoma

Consumer Protection Services

Benjamin Buckland, 2115 Waynoka Street, Waynoka, Oklahoma

Darryl Buckner, 272 Daisy Road, McAlester, Oklahoma

Casey's General Store, 15001 S. Western Ave., Oklahoma City, Oklahoma

Dollar General, 103 Nebraska, Cyril, Oklahoma

Jasmine Green, LLC, 1718 Greenwood Road, Yale, Oklahoma

Man Jiang, 1261 E. 33rd Street, Edmond, Oklahoma

Kevin Pham, OG Sky LLC, 2008 Beaver Road, Wilson, Oklahoma

Triathlawn, 47302 Ruben Rivers Road, Earlsboro, Oklahoma

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The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Cook, seconded by Mr. Bolen, to approve the Proposed Action on Consent Order as submitted and contained on pages 11 through 13.

Agricultural Environmental Management Services
Van Peng, 1705 Conley Road, Idabel, Oklahoma

Consumer Protection Services
Terrascapes, LLC, 2832 S. E. 9TH Street, Oklahoma City, Oklahoma

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Farris, seconded by Mr. Cook, to approve the finding of emergency for Proposed Action on Emergency Rule.

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Bolen, seconded by Mr. Farris, to approve the Proposed Action on Emergency Rules as submitted and contained on pages 14 through 18.

Market Development
Chapter 40. MARKET DEVELOPMENT
Subchapter 23. OKLAHOMA WINTER STORM GRANT PROGRAM
35:40-23-1. [NEW]
35:40-23-2. [NEW]
35:40-23-3. [NEW]
35:40-23-4. [NEW]
35:40-23-5. [NEW]

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Cook	Aye

The motion carried.

****Possible Executive Session (if approved by the required number of members present):** As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of “[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act.”

There is no Old business presented for the Board to take action upon. Mr. Cook moved, Mr. Bolcn seconded, that the meeting be adjourned at 11:42 a.m.

By _____
President

ATTEST: _____
Executive Secretary

JULY 27, 2022 BOARD MEETING

PURCHASES/CONTRACTS

Administrative Services

Oklahoma State University - Agriculture Leadership Program for FY23 - \$40,000

This contract is for the purpose of educating and training young leaders in the Oklahoma Agriculture Industry. The program focuses on developing potential leaders through personal and group study sessions. To help potential leaders develop a better understanding of the various systems of economics and government. To help program participants increase and utilize their own knowledge and skills in order to solve problems and to explore opportunities for Oklahoma agriculture. To develop and teach a curriculum including, leadership development; communication; government operations and institutions; economics, resource allocation, marketing and finance problems in agriculture; sociology; religious and cultural studies, major issues that affect Oklahoma and US agriculture, and political process. international trade, water and energy. Legislative directed spending.

Oklahoma State University for FY23 - \$1,000,000

To provide science-based research information developed in cooperation with the Oklahoma State University Agricultural Extension Service and Experiment Stations. The Oklahoma Agricultural Experiment Station conducts research for the purpose of developing technology/practices to address the needs of Oklahomans. Legislative directed spending. This funding is pursuant to Section 3 of Senate Bill 1058.

Oklahoma Governor's Office for FY23 - \$37,500 - The purpose of this MOU is to ensure efficiency in state government by allowing for an allocation of state resources that is most beneficial while also being responsible stewards of taxpayer funds. This MOU will provide shared office space, furniture, and salaries for OG staff for its office in Washington D.C. with the support of funds provided by ODAFF. ODAFF will receive access and use of the facilities, subject to availability, and support from the staff in Washington D.C.

Oklahoma State University - \$2,000,000 – Legislative directed expenditure to Oklahoma State University (OSU-DASNR) to provide Agriculture Research and Education Extension program support. This funding is pursuant to Section 4 of Senate Bill 1058.

Grants to Incorporated Municipalities - \$5,000,000 - Legislative directed expenditure to provide grants to incorporated municipalities affected by the extreme weather events occurring between 2/7/2021 - 2/21/2021. This funding is pursuant to Section 10 of Senate Bill 1058.

Animal Industry

Oklahoma Veterinary Medical Association (OVMA) - \$6,000 – OVMA is the only entity in the State of Oklahoma that has the ability and contracts statewide to enhance pet sterilization effort is the OVMA. No other entity has access to veterinarians and humane organizations on a statewide basis.

Forestry Services

FY23 - \$800,000

Contract with Oklahoma Association of Regional Councils for Rural Fire Coordinators to provide technical assistance and equipment placement services to new or established Rural Fire Departments within their districts to assure the capability of meeting local fire protection needs. Without this contract fire departments could lose much needed funding, equipment, and technical assistance.

FY23 - \$1,475,000

Rural Fire 80/20 Reimbursement Pass-through Grants awarded to certified rural fire departments serving communities under 10,000 in population. Funding limits per application are \$30,000 of state appropriated funds for construction and \$20,000 for fire equipment. **Justification:** Fire departments awarded these grants may fulfill a critical public safety function by purchasing firefighting equipment and/or build, remodel, or expand fire stations. **Original \$525,000 was approved March of 2022.**

FY23 - \$4,544,550

State Operational Assistance Grants divided equally among the certified fire departments (Rural Fire Defense). Fire Departments receiving the Operational Grant can only use the funds for items authorized in Oklahoma State Statutes, Title 19, Chapter 21, and Section 901.56. **Justification:** Fire departments awarded these grants may fulfill a critical public safety function by purchasing firefighting equipment, purchase Worker Compensation Insurance, Vehicle Insurance, etc. as outlined in the above-mentioned statute. **Original \$3,870,000 was approved March 2022.**

FY23 - \$7,000

Postage for meter at FRC and Community Fire Headquarters. **Justification:** required to send information via USPS to customers.

FY23- \$36,000

The NE Area needs the above amount for Equipment & repair of mowers, dozers, trailers, & office buildings. During fire season. the NE area needs this money when our dozers break down to continue fighting fire. This money will also go toward the upkeep of our lawnmowers, trailers, and office buildings at (3) locations. Maintenance for Tahlequah, Sallisaw, & Jay, Oklahoma. **Justification:** Without this money, we will be unable to fight fire and keep our equipment in good working order.

FY 23- \$8,500

Purchase up to 10 tons of sulfur 90% Pastille for Forest Regeneration Center. The sulfur is needed to keep the soil pH between 5 and 6.5 for all the conservation seedlings grown at FRC which are sold to landowners throughout Oklahoma and the nation. Without this purchase, the soil will not meet the requirements to grow the seedlings and the seedlings will not survive for their intended use.

FY23 - \$10,000- Southern Pine Beetle Prevention Program-Twin Meadows LLC

Federal Grant to cover the prevention of Southern Pine Beetle from spreading from one landowner to the next. This is a very invasive insect and without this prevention program the threat to landowner's revenue could be severe.

FY23 - \$10,000 Federal Funds

Renew Oklahoma Gardening Grant. This is a longstanding education and outreach grant sponsoring the popular Oklahoma Gardening program produced by OSU. This grant supports tree related educational programming. Without this purchase, we would lose an avenue of support and education. Funding for this specific grant was identified and federally approved. This money will be refunded to us through Federal funding.

FY23 - \$15,000 Federal Funds

Renew nonbinding contract with the Oklahoma Urban and Community Forestry Council to perform services to assist in implementation of the continuing education component of Oklahoma's Urban & Community Forestry program. We are enforcing renewal option 2 of 3 of federal pass-through dollars identified for the Council. Without this program outreach and education related to urban forest management and individual tree care would be limited. This money will be refunded to us through Federal funding.

FY23 - \$41,000 Federal Funds

Award Federal pass-through funding to communities for the Urban and Community Forestry Grants – up to \$41,000. These grants support projects related to advancing local community forestry programs. Without these projects, we would lose an avenue of community support and education. This money will be refunded to us through Federal funding.

FY23 - \$23,000 Federal Funds

Award Federal pass-through funding to financially hardship neighborhoods/communities for the Urban and Community Forestry Grants – up to \$23,000. These grants support projects related to helping lower income neighborhoods plant and replace tree canopy. Without these projects, we would lose an avenue of community support and education. This money will be refunded to us through Federal funding.

FY23 - \$55,000 Federal Funds

Award Federal pass-through funding to assist financially hardship neighborhoods/communities for recovery of recent winter ice storm and cold damage – Up to \$55,000. These grants support projects related to helping lower income neighborhoods recover from the damaged, mitigate existing risks and replace lost tree cover from recent winter storms. Without these projects, we would lose an avenue of community support and education. This money will be refunded to us through Federal funding.

FY23 – Pickup Trucks, ½-ton, 4X4, \$95,000

Purchase two (2) ½-ton pickups which will include emergency lighting, toolboxes, mobile radios, 4-wheel drive, brush guards and other features needed for off-road work. These trucks will be used primarily to support of our fire management program and forest management program statewide. These trucks are part of the OFS equipment replacement schedule targeted at removing equipment with excessive use and age. Acquisition cost for these units is estimated at \$45,000 each. Funding for this purchase will come from the OFS 245 Fund.

FY23 – Pickups, ¾-ton, 4X4, \$152,250

Purchase three (3) ¾-ton pickups which will include emergency lighting, toolboxes, mobile radios, 4-wheel drive, brush guards and other features needed for off-road work. These trucks will be used primarily to support of our fire management program including wildfire suppression, fuels mitigation and emergency response. These trucks are part of the OFS equipment replacement schedule targeted at removing equipment with excessive use and age. Acquisition cost for these units is estimated at \$50,750 each. Funding for this purchase will come from the FY18 US Forest Service State Fire Assistance - Mitigation Grant (\$50,000) and OFS 245 Fund (\$102,250).

Market Development Services

FY2023 – Freestyle Creative – Agritourism Wine Trails Digital Advertising – Project funded entirely by Viticulture and Enology Grant funding - \$12,750.00

American Farmers & Ranchers Cooperative Agreement - \$30,000.00

This project is entirely funded by the Farm and Ranch Stress Assistance Network (FRSAN) grant through the USDA-National Institute of Food and Agriculture (NIFA). The purpose of the (FRSAN) Program is to establish a network that connects individuals who are engaged in farming, ranching, and other agriculture-related occupations to stress assistance programs. ODAFF will have a cooperative agreement with AFR to attend trade shows, provide first responder vouchers to OSU list of mental health professionals and training all in accordance with the FRSAN grant. The establishment of a network that assists farmers and ranchers in time of stress can offer a conduit to improving behavioral health awareness, literacy, and outcomes for agricultural producers, workers and their families. If this proposed expense is not approved and therefore the project is not completed, the State not only loses money immediately that is important to helping farmers and ranchers, but also runs the risk of not being awarded money from USDA-NIFA in the future.

Agritourism handwashing stations - \$62,000.00

This project is entirely funded by the USDA Specialty Crop Block Grant Program. The purpose of this grant is to enhance the competitiveness of specialty crops in the state. Handwashing stations will be distributed to u-pick operations or farmers markets registered with Oklahoma Agritourism. This project will help implement safety practices for agritourism venues across the state who did not have the resources to add handwashing stations before. If this proposed expense is not approved and therefore the project is not completed, the State not only loses money immediately that is important to the specialty crop industry through the economic impact, but also runs the risk of not being awarded money from the USDA Specialty Crop Block Grant Program in the future.

JULY, 2022 BOARD MEETING

OUT OF STATE TRAVEL

ESTIMATED COST

Laboratory Services Division

Amanda Kramer – 07/10/22 - 07/22/22
National Institute of Standards and Technology
Gaithersburg, MD

\$5422.50

Required training for Advanced Mass Metrology, which the Bureau needs to continue Mass Echelon I calibrations.

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

APPROVAL OF CASES

ON THIS 27th day of July 2022 the Office of General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry brought for consideration before the State Board of Agriculture those certain cases summarized on Exhibit A hereto which cases have been resolved by stipulation or consent order. The attached Exhibit A summarizes each action by case name, case number, case type and amount received as a stipulated administrative penalty or by consent order.

ACCORDINGLY, IT IS THEREFORE ORDERED by the State Board of Agriculture that the resolution of each of the cases summarized on Exhibit A hereto is hereby approved in all aspects; that this order shall be deemed the final agency order for each such case; and that the penalty imposed by each such stipulation or consent order is hereby adopted and incorporated herein by reference to Exhibit A hereto.

WITNESS My Hand and Official Seal this 27th day of July 2022.

Blayne Arthur
President
State Board of Agriculture

Exhibit A
Board of Agriculture
July 27, 2022

Cases Resolved by Stipulation

Agricultural Environmental Management Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Rhema Abercrombie	OGC-22-130	AEMS	\$200.00
Brian Cox	OGC-22-337	AEMS	\$400.00
Vue Lor	OGC-22-214	AEMS	\$500.00

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Benjamin Buckland	OGC-22-069	CPS	\$3,000.00
Darryl Buckner	OGC-22-174	CPS	\$2,500.00
Casey's General Store	OGC-22-056	CPS	\$525.00
Dollar General	OGC-22-081	CPS	\$2,250.00
Jasmine Green, LLC	OGC-22-209	CPS	\$2,500.00
Man Jiang	OGC-22-109	CPS	\$1,000.00
Kevin Pham	OGC-22-175	CPS	\$2,500.00
Triathlawn	OGC-22-238	CPS	\$750.00

Cases Resolved by Consent Order

Agricultural Environmental Management Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Van Peng	OGC-21-585	AEMS	\$5,000.00

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Terrascapes, LLC	OGC-22-144	CPS	\$1,000.00

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

CHAPTER 40. MARKET DEVELOPMENT

SUBCHAPTER 23. OKLAHOMA WINTER STORM GRANT PROGRAM

35:40-23-1. Purpose

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

35:40-23-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, or its designee.

"Extraordinary costs" means costs incurred by an incorporated municipality's unregulated utility related to the extreme weather that occurred beginning February 7, 2021, and ending February 21, 2021, including but not limited to, fuel-related storage and associated costs, emergency compressed or liquified natural gas supplies, contracts for services providing additional pressurization on lines and transportation pipeline penalties. "Extraordinary costs" shall not include fees for late payments or "Extreme purchase costs", as defined in this section.

"Extreme purchase costs" means expenses incurred for the purchase of fuel, purchased power, natural gas commodity, or any combination thereof, whether at spot pricing, index pricing, or otherwise with delivery beginning February 7, 2021, and ending February 21, 2021.

"Unregulated utility" shall mean any utility, as defined in this section, which is not subject to the regulatory jurisdiction of the Corporation Commission with respect to its rates, charges, and terms and conditions of service.

"Utility" shall mean any person or entity doing business in this state that furnishes natural gas or electric current to its customers located at an address within this state and within the service area of the utility.

35:40-23-3. Applicant eligibility

Each applicant shall meet the following requirements:

(1) The incorporated municipality shall show proof of extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility;

(2) The population of the incorporated municipality shall be no greater than three thousand five hundred (3,500) persons according to the most recent Federal Decennial

Census or most recent annual estimate of the population by the United States Census Bureau; and

(3) The incorporated municipality's owned or controlled unregulated utility shall have had no costs mitigated through securitization as provided by Sections 9070 through 9081 of Title 74 of the Oklahoma Statutes.

35:40-23-4. Evaluation criteria

(a) The Department shall evaluate applications and determine the priority of applicants after considering the following criteria:

(1) The implications of the extraordinary costs and extreme purchase costs regarding an incorporated municipality's solvency; and

(2) The amount of an incorporated municipality's extraordinary costs and extreme purchase costs on a per capita basis.

(b) The Department shall have discretion to award funding based upon its findings and upon its level of available funds.

35:40-23-5. Application requirements

Each applicant for program funds shall:

(1) Execute documents as required by the Department;

(2) Submit the incorporated municipality's energy bills for the five (5) years preceding and ending on February 7, 2021;

(3) Agree to prioritize the use of awarded grant funds for extreme purchase costs when requesting grant funds for both extreme purchase costs and extraordinary costs; and

(4) Submit all required documents electronically to the Oklahoma Department of Agriculture, Food, and Forestry.

RULE IMPACT STATEMENT

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 40. WINTER STORM GRANT PROGRAM

(A) PURPOSE OF THE PROPOSED RULE:

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

(B) CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:

The proposed emergency rule amendments primarily affect incorporated municipalities that owned or controlled unregulated utilities affected by the extreme weather event that began February 7, 2021.

(C) PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:

Incorporated municipalities that owned or controlled unregulated utilities affected by the extreme weather event that began February 7, 2021 shall benefit from the proposed emergency rules.

(D) DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:

Incorporated municipalities that intend to apply for grants to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021, shall be permitted to do so.

(E) PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:

The source of revenue for the implementation and enforcement of the proposed rule shall be provided by the February 2021 Winter Storm Grant Revolving Fund.

(F) DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:

No economic effect on any political subdivision is anticipated by the proposed emergency rule amendments.

(G) DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:

No adverse impacts on small businesses are anticipated.

(H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULE:**

No less costly or non-regulatory method is available.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT:**

The proposed emergency rule amendments are consistent with the Oklahoma Legislature's declaration that establishment of the February 2021 Winter Storm Grant Revolving Fund and direction of the Oklahoma Department of Agriculture, Food, and Forestry to develop a program for distribution of grant funds is "necessary for the public peace, health or safety" and that an emergency is declared to exist. See SB 1091 (approved by the Governor on May 26, 2022).

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT:**

No detrimental effect upon the public health, safety, or environment is anticipated with the implementation of the proposed emergency rule amendments.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

July 20, 2022.

Oklahoma Department of Agriculture, Food & Forestry

September 15, 2022, Board Report

Administrative Services

Administrative Services – Investigative Services

INVESTIGATIVE SERVICES ACTIVITIES JULY 2022



INVESTIGATIONS		JULY	YTD	FYTD
LIVESTOCK		3	27	3
FIRE		6	29	6
PROPERTY		5	16	5
TIMBER			5	0
AGENCY ASSISTS	ODAFF		4	0
AGENCY ASSISTS	EXTERNAL	2	11	2
OTHER		1	12	1
TOTAL INVESTIGATIONS OPENED		17	104	17
CLOSED PENDING ADDITIONAL INFORMATION		1	26	1
NO CRIME		3	14	3
NO PROSECUTION			0	0
CLOSED - ASSIST CASE		1	8	1
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION			6	0
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		5	54	5
COUNTS FILED			24	0
VALUE OF LOSSES - ALL CRIMES		\$115,370	\$1,354,707	\$115,370
RECOVERED LOSSES - ALL CRIMES		\$61,820	\$763,270	\$61,820
NUMBER OF CATTLE REPORTED STOLEN		11	74	11
NUMBER OF CATTLE RECOVERED		8	23	8

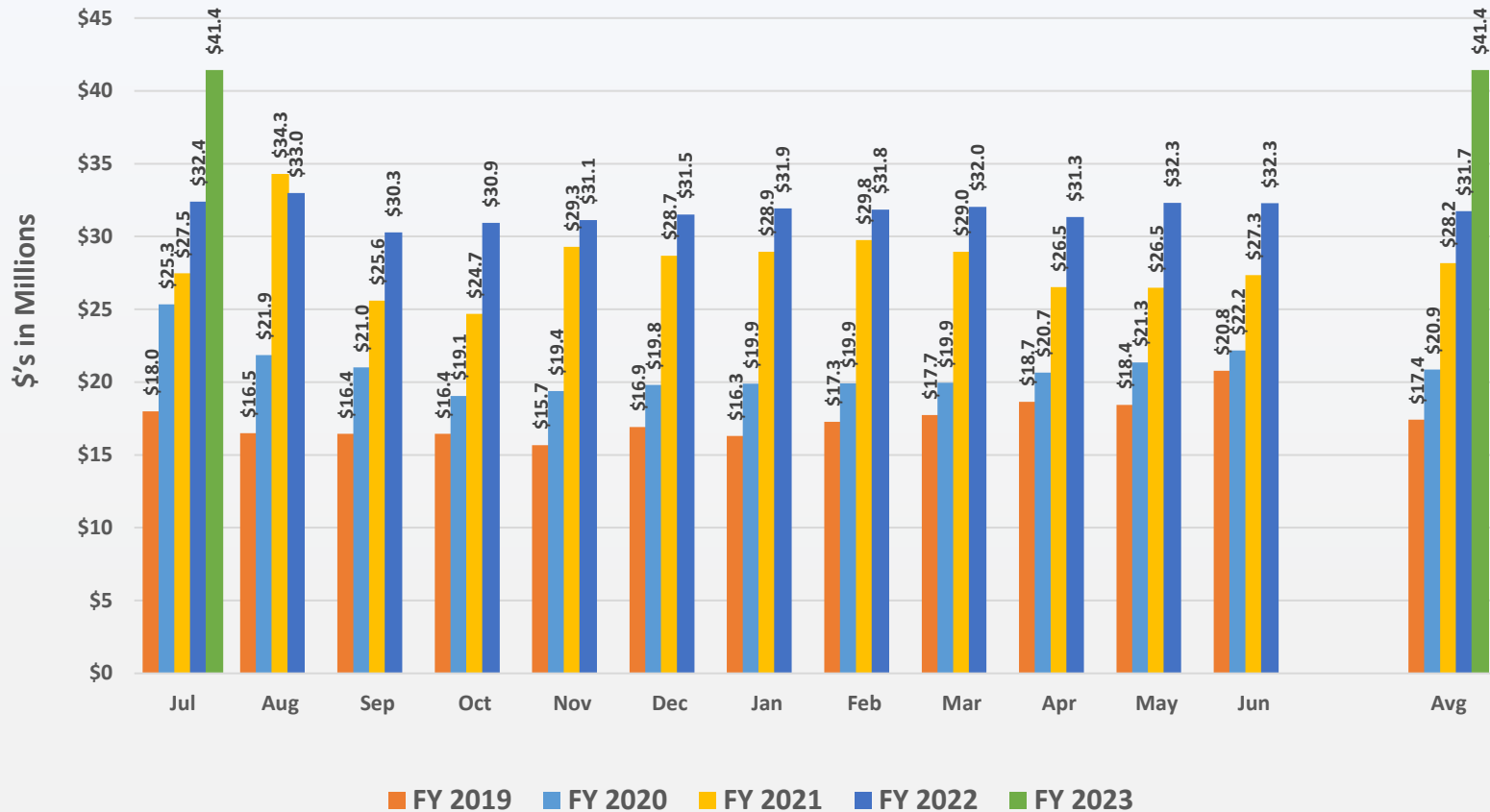
Administrative Services

- Workday HR/Payroll system came on-line August 15, 2022
- Asset Panda Inventory System – working on the design/setup of this system
- Auto Vehicle Locator (AVL) – update
 - Installed in approximately 59 vehicles
 - Approximately 19% of our fleet

Administrative Services

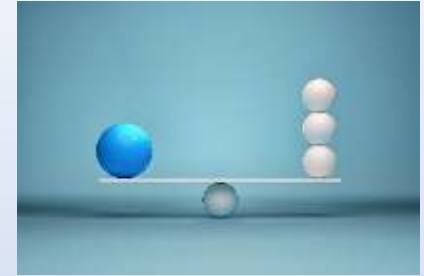
- Attended an electric vehicle presentation event sponsored by OMES on August 7th
- Current Projects/Reports
 - Operational Fire Grants – payments to over 800 fire stations in Oklahoma (September 2022)
 - FY 2022 GAAP conversion reports
 - Strategic Plan due 10/1/2022
 - Preliminary budget for fiscal year 2024 due 10/1/2022

Available Cash at Month End per Allotment Budget & Available Cash Report Fiscal Year 2019-2023 Months Ending: July 2018 – July 2022



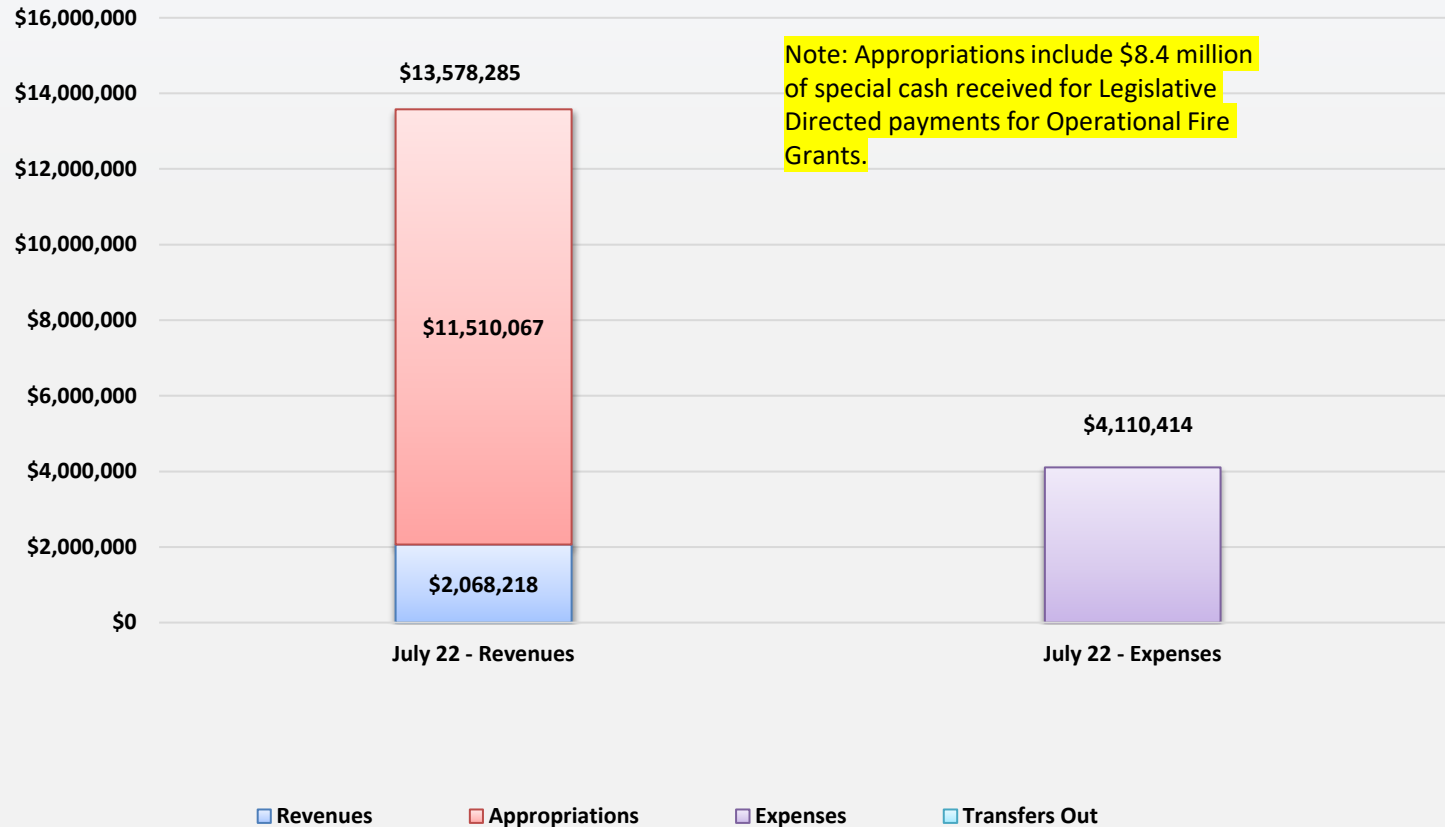
Note: The amounts above include fund 700, Commodity Storage Indemnity Fund, which had a balance of \$11,191,620 as of 7/31/2022.

Administrative Services - Finance

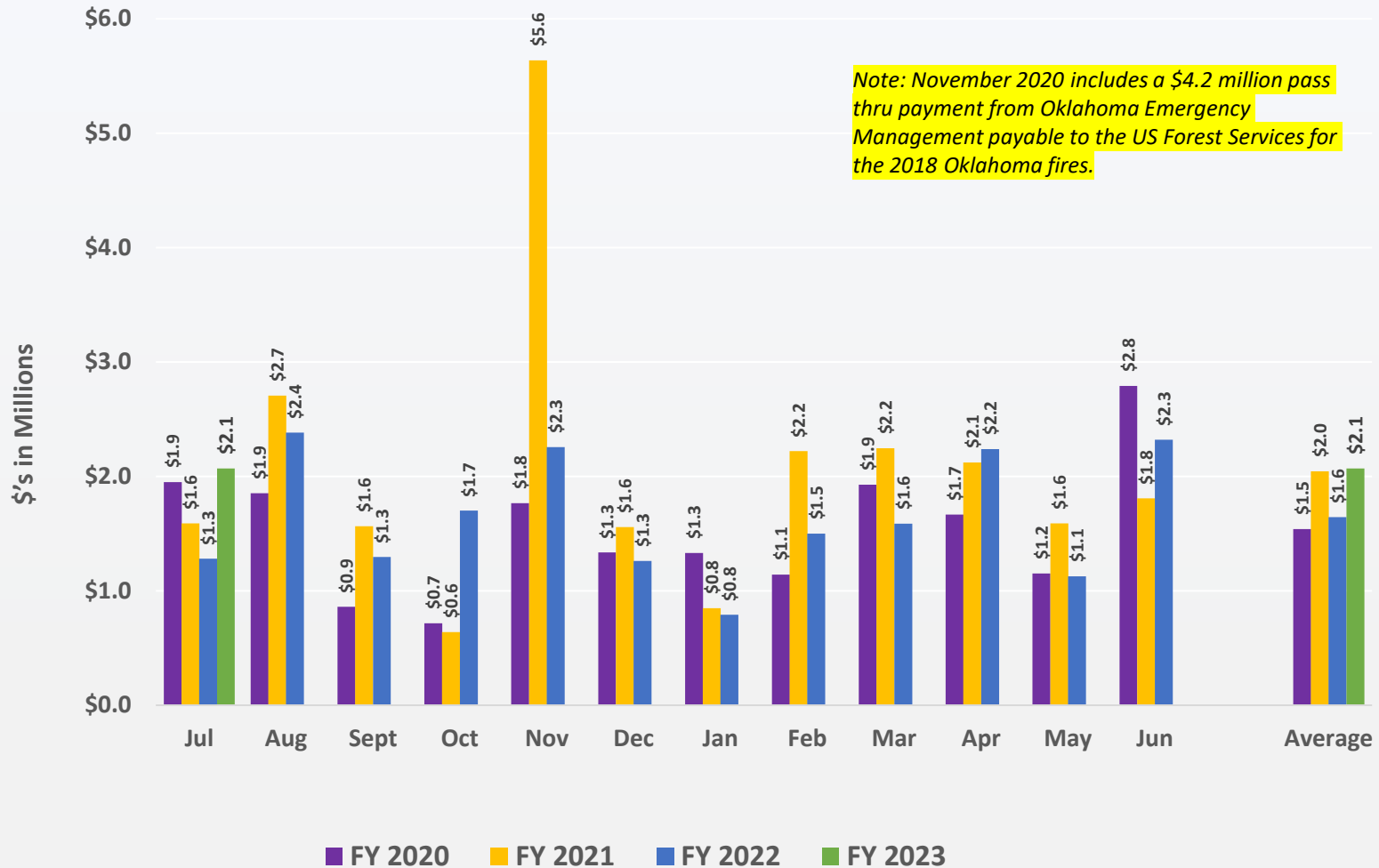


- Cash balance as of 7/31/2022 was \$41.4 million compared to \$32.4 million as of 7/31/2021.
 - Increase of \$9 million from the prior year and is primarily attributed to the following:
 - Increase in appropriations and appropriated cash for increases in Legislative directed payments
 - Significant amount of funds encumbered due to supply chain issues

Total Revenues, Expenses, Transfers In & Out July 2022



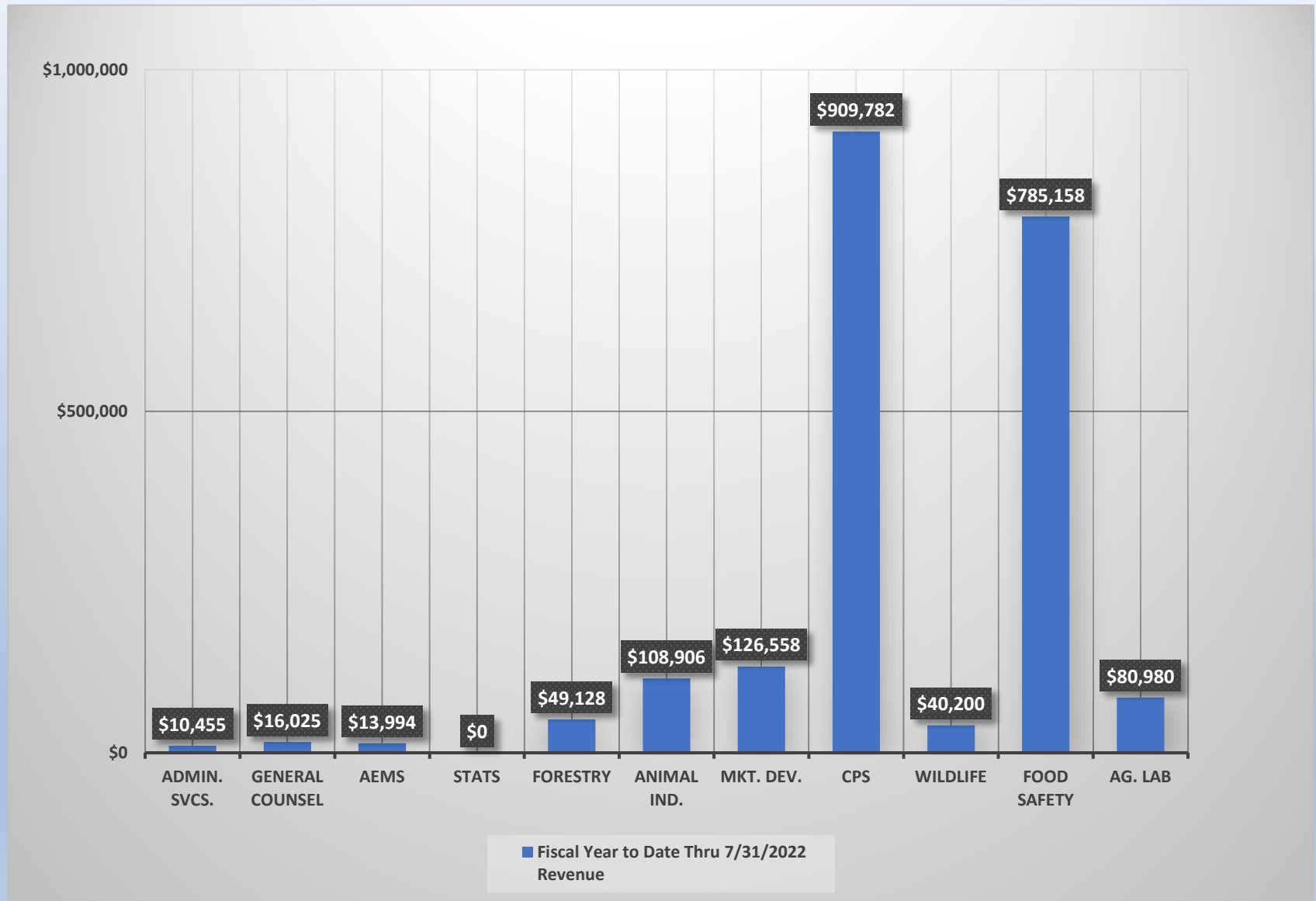
Total Revenue by Month July 2019 – July 2022



Revenue By Division July 2022

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY		
PROGRAM REVENUE SUMMARY		
Jul-22		
Division	July 2022 Revenue	Fiscal Year to Date Thru 7/31/2022 Revenue
Admin. Svcs.	10,455	10,455
General Counsel	16,025	16,025
AEMS	13,994	13,994
Stats	-	-
Forestry	49,128	49,128
Animal Ind.	108,906	108,906
Mkt. Dev.	126,558	126,558
CPS	909,782	909,782
Wildlife	40,200	40,200
Food Safety	785,158	785,158
Ag. Lab	80,980	80,980
Other	(83,798)	(83,798)
DIVISION TOTAL (see division receipts graph below)	2,057,389	2,057,389
Commodity Storage Indemnity	10,829	10,829
Appropriations	11,510,067	11,510,067
AGENCY TOTAL	13,578,285	13,578,285

Revenue By Division July 2022

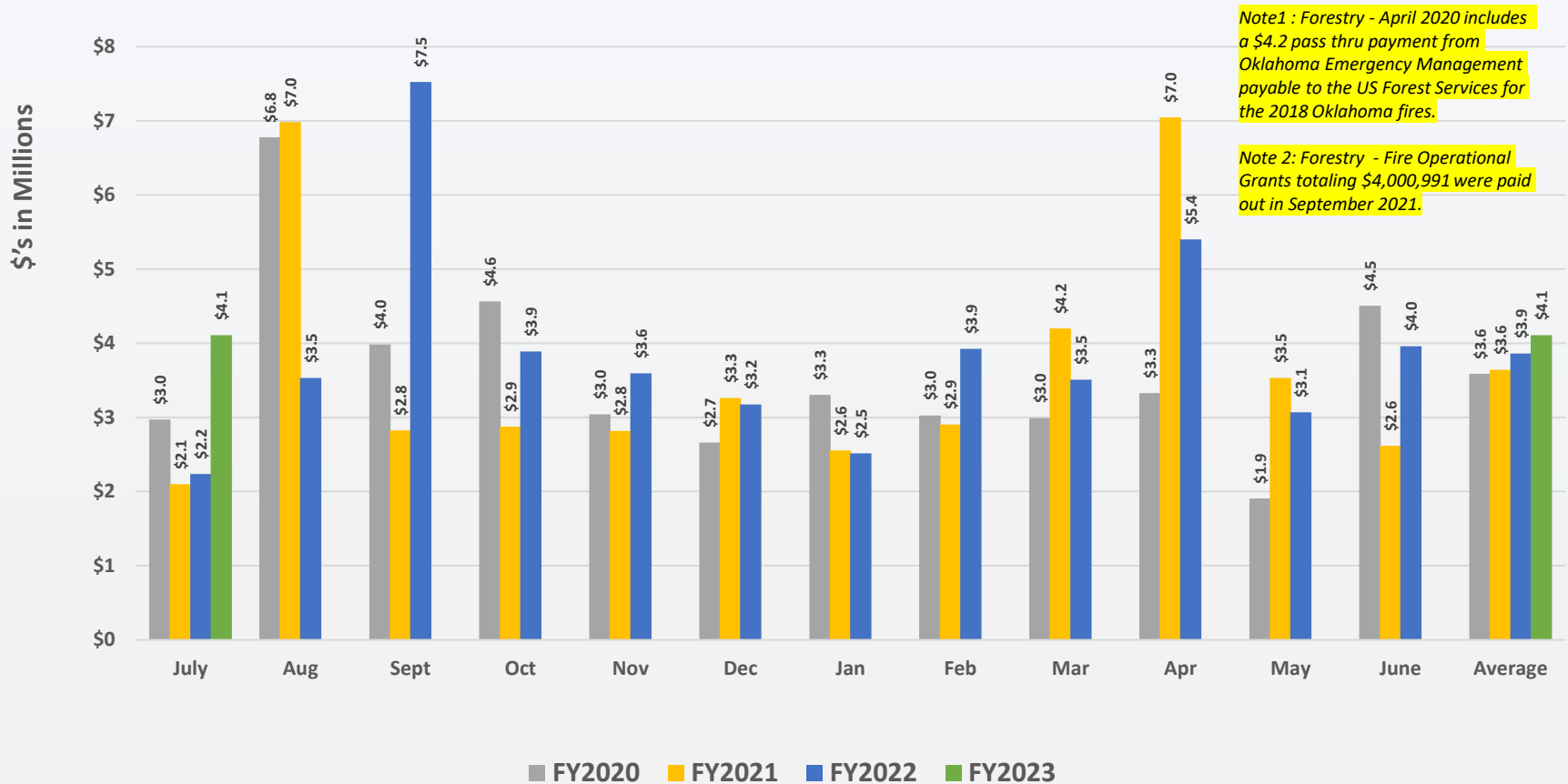


Administrative Services - Finance

- Revenues (excluding appropriations) for July 2022 were \$2,068,218
- This was an increase of \$788,888 from July 2021 and was primarily due to the timing of payments received.



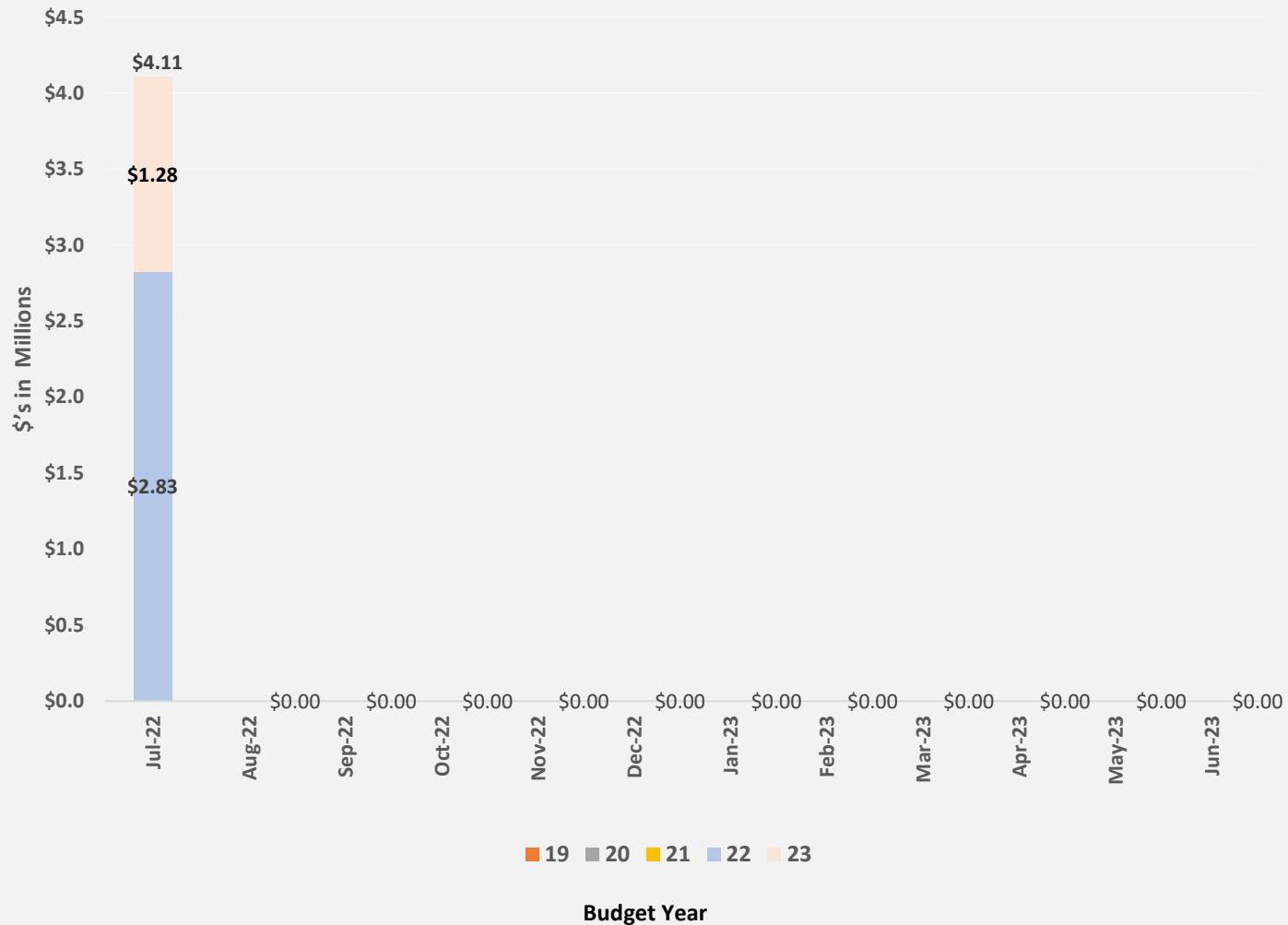
Total Expenses by Month July 2019 – July 2022



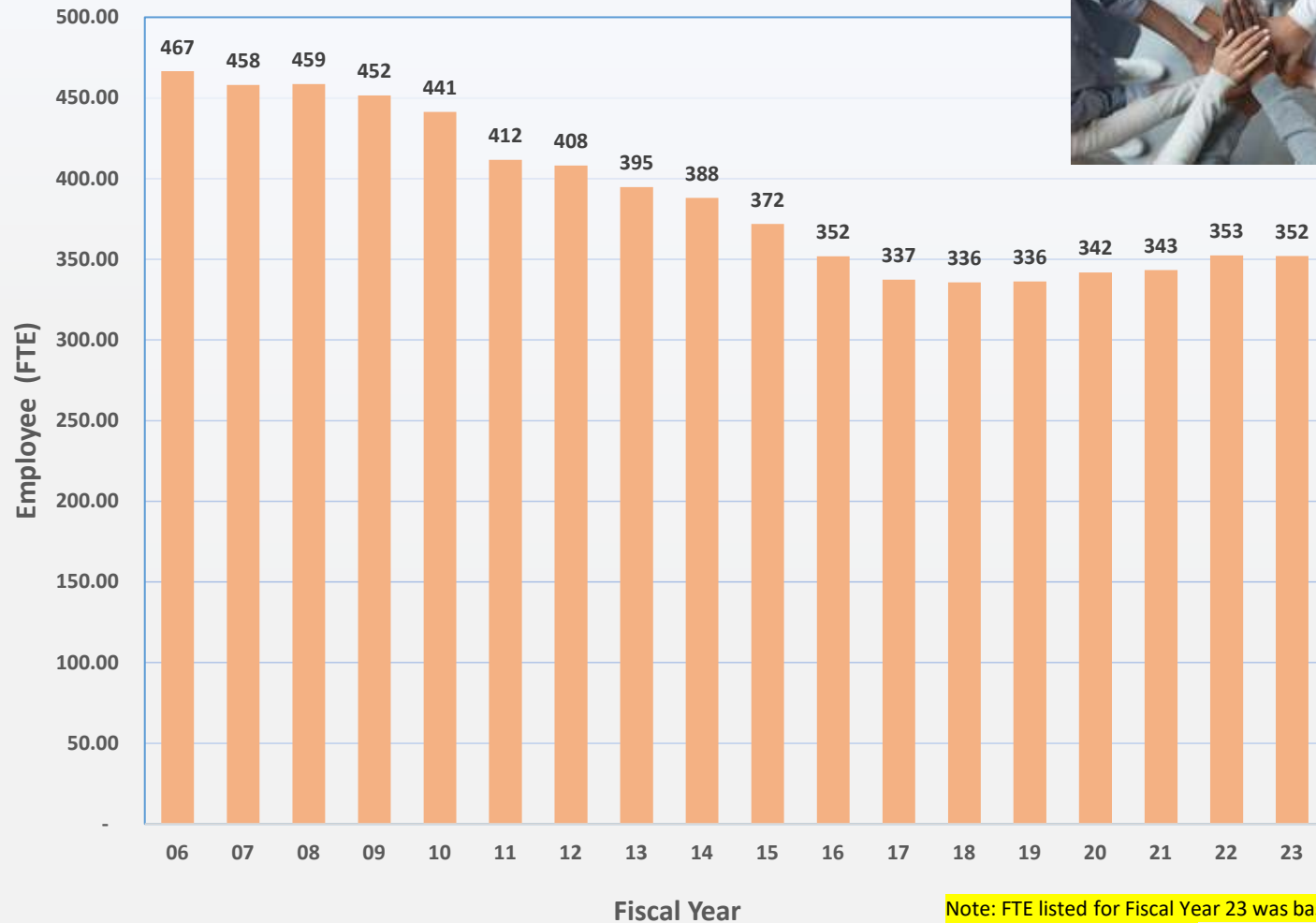
Administrative Services - Finance

- The expenses for July 2022 were \$4.1million
 - This is an increase of \$1.9 million
 - Increase in the amount of Legislative directed payments to OSU.
 - Timing of payments

FY 2023 Total Expenses by Month with Budget Year

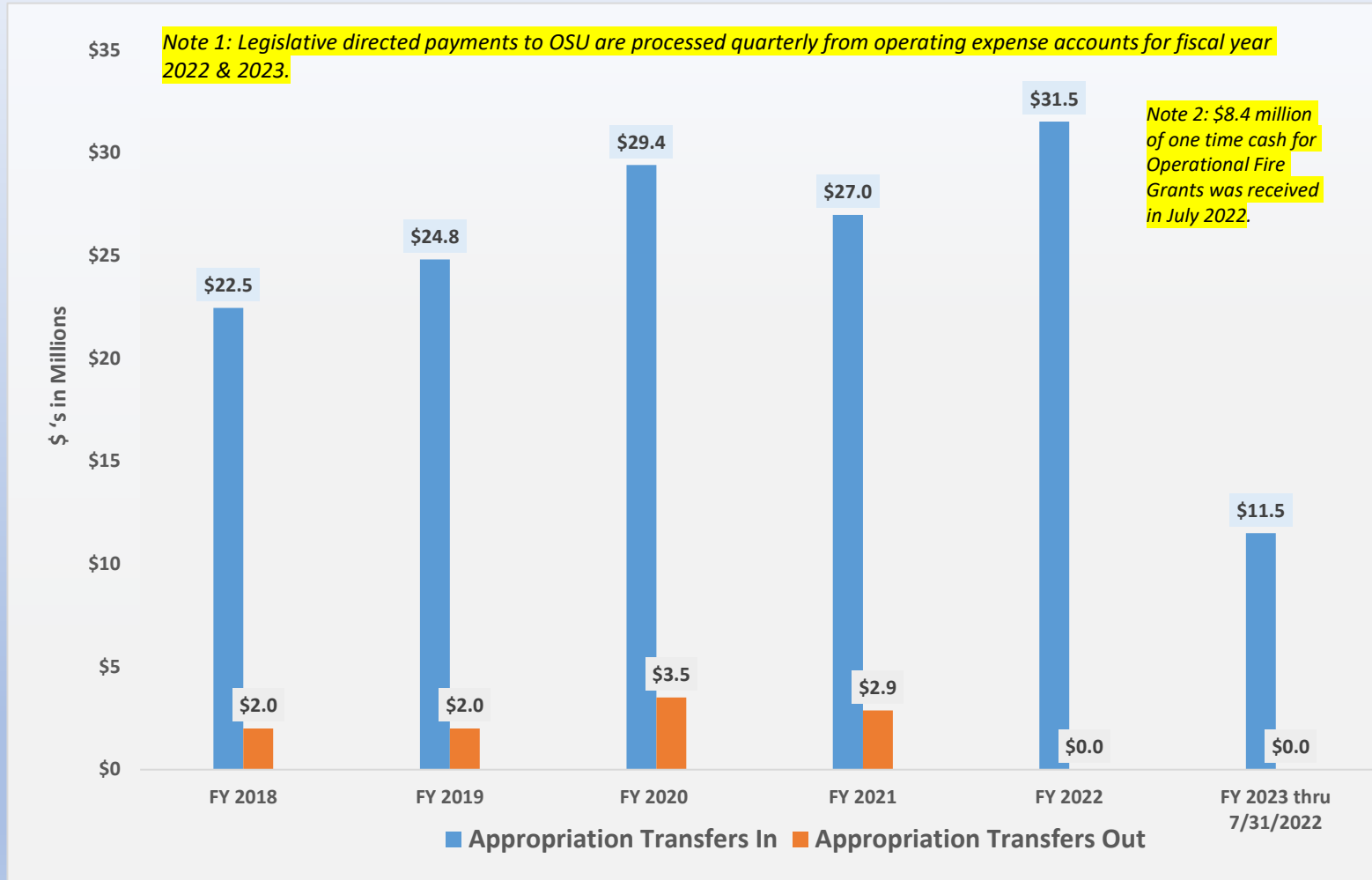


Employee FTE Totals Fiscal Year FY 2006 – FY 2023



Note: FTE listed for Fiscal Year 23 was based on the FTE as of 7/31/2022.

Appropriations FY 2018 - thru July 2022





Administrative Services – Commodity Storage Indemnity

Commodity Storage Indemnity			
Investment Report			
As of July 31, 2022			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,191,620.48
<u>FY-2023 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest		10,829.38	\$10,829.38
Reinsurance			-
ODAFF Support Services			-
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	\$10,829.38	\$10,829.38
		=====	=====

Oklahoma Department of Agriculture, Food & Forestry
Monthly Budget Report - Budget Year 2023
As of July 31, 2022
Fiscal Year 2023 Annual Budget to Actuals for Budget Year 2023 thru July 31, 2022

Object Code	Account Description	Annual Budget	2023 Budget Year Expenditures for 7/1/22 - 7/31/22	Encumbrances & Pre Encumbrances	Available Budget
511	Salary Expense	18,789,464	724,887	24,986,388	(6,921,812)
512	Insur.Prem-Hlth-Life,etc	5,973,536	78,842	460,862	5,433,832
513	FICA-Retirement Contributions	4,734,582	171,851	1	4,562,730
515	Professional Services	2,750,583	-	1,552,025	1,198,558
519	Inter/Intra Agy Pmt-Pers Svcs	30,000	105	25,000	4,895
521	Travel - Reimbursements	328,702	3,401	-	325,301
522	Travel - Agency Direct Pmts	365,898	-	-	365,898
531	Misc. Administrative Expenses	1,158,520	15,000	323,649	819,871
532	Rent Expense	679,033	-	543,456	135,577
533	Maintenance & Repair Expense	1,408,060	-	571,240	836,820
534	Specialized Sup & Mat.Expense	1,585,410	-	990,000	595,410
535	Production,Safety,Security Exp	198,956	-	-	198,956
536	General Operating Expenses	271,710	-	-	271,710
537	Shop Expense	575,246	-	105,433	469,813
541	Office Furniture & Equipment	2,525,326	-	44,853	2,480,473
542	Library Equipment-Resources	932	-	-	932
543	Lease Purchases	1,703,720	282,927	1,415,381	5,412
553	Refunds,Idemnities,Restitution	20,000	-	-	20,000
554	Program Reimb,Litigation Costs	4,811,358	-	683,160	4,128,198
555	Pmts-Local Gov't,Non-Profits	15,952,049	-	91,860	15,860,189
559	Assistance Pymts to Agencies	7,654,687	-	2,000,000	5,654,687
564	Merchandise For Resale	140,000	-	-	140,000
601	AFP Encumbrances	-	-	2,277,051	(2,277,051)
810	Req Only	-	-	1,930,459	(1,930,459)
	Operating Totals	71,657,772	1,277,013	38,000,819	32,379,941

Oklahoma Department of Agriculture, Food & Forestry					
Monthly Budget Report - Budget Year 2023					
As of July 31, 2022					
Fiscal Year 2023 Annual Budget to Actuals for Budget Year 2023 thru July 31, 2022					
Class Funding	Class Fund Description	Annual Budget	2023 Budget Year Expenditures for 7/1/22 - 7/31/22	Encumbrances & Pre Encumbrances	Available Budget
19011	Carryover	-	-	248,258	(248,258)
19201	GRF - Duties	-	-	136,243	(136,243)
19301	GRF - Duties	37,146,198	753,002	20,096,399	16,296,797
20500	Rural Fire Defense Eqp Rev Fd	140,000	-	40,501	99,499
21000	Agriculture Revolving Fund	21,887,728	472,345	15,054,690	6,360,693
22500	Enhancement & Diversificatn Fnd	150,000	-	20,000	130,000
23000	Okla Pet Overpopulation Fund	13,000	-	13,000	-
23500	Animal Friendly Revolving Fund	13,000	-	13,000	-
24000	Unwanted Pesticide Disp Fund	-	-	350,000	(350,000)
24500	Rural Fire Revolving Fund	800,000	-	43,915	756,085
25600	Ok Viticulture Enology Revl Fd	350,000	-	18,001	331,999
26200	Poultry Grading Revolving Fund	1,049,479	39,677	830,079	179,724
28500	Milk & Milk Prod Inspec Rev Fd	379,817	11,989	291,771	76,057
28600	Ag In The Classroom Educ Rvlv Fd	24,000	-	-	24,000
28700	Healthy Food Financing Revl Fd	100,000	-	-	100,000
42000	Specialty Crop Federal Funds	690,000	-	396,077	293,923
43000	Farm and Ranch Stress Alliance	500,000	-	448,885	51,115
57604	Duties	8,414,550	-	-	8,414,550
	Totals	71,657,772	1,277,013	38,000,819	32,379,941

SEPTEMBER 2022 BOARD REPORT
AGRICULTURE LABORATORY SERVICES
(July 2022 Activities)

QUALITY MANAGEMENT SECTION: (Daniel Tripp, QA Manager; Eli Klimek, Technical Manager)

The QA Manager compiled a list of every hazardous and flammable chemical in the laboratory and created an informational binder. In the event that there is an emergency evacuation due to a chemical incident, this binder can be handed over to the first responders for reference. The binder contains a layout of each section with room numbers and a master key for unlimited room access. A copy of this binder was also given to Gerald Kelly.

The QA Section is preparing to start the Food and Dairy Section yearly audit in early August.

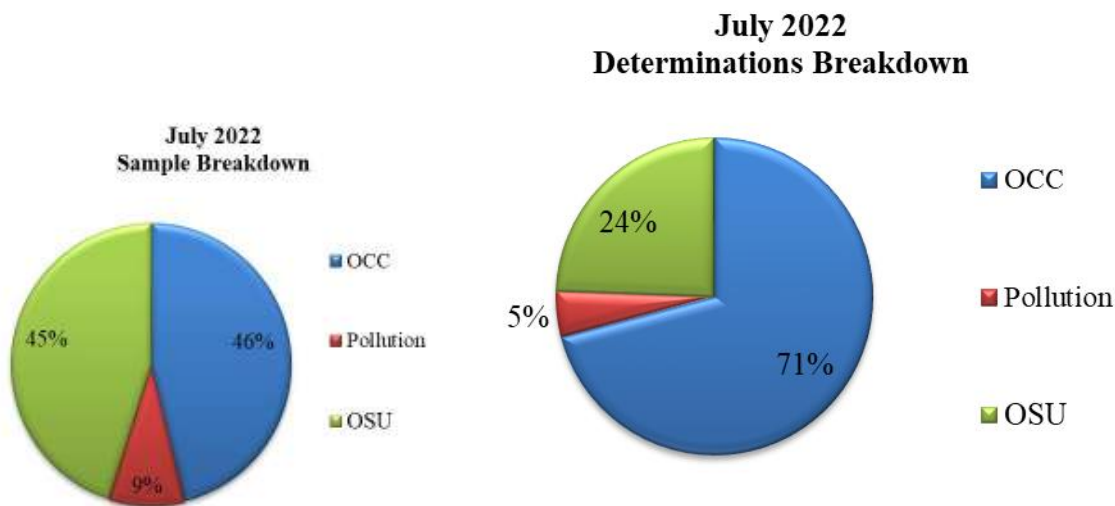
PT Results

The routine distribution of quality control samples to respective sections of the Laboratory continued. Collection and submission of data to the respective study groups for statistical analysis was conducted.

INORGANIC SECTION: (Elena Lyon, Environmental/Chemical Laboratory Scientist IV)

In July of 2022 the Section completed 297 samples consisting of 1670 determinations, with the following breakdown:

July 2022 Inorganic Breakdown		
Customer	Samples	Determinations
OCC	137	1184
OSU	134	408
Pollution	26	78
Total	297	1670

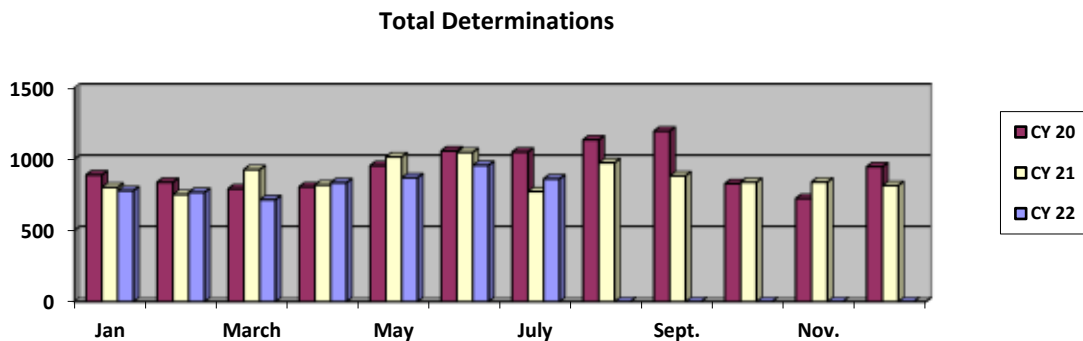


DAIRY/FOOD SAFETY SECTION: (Sharon Swyear, Environmental/Chemical Laboratory Scientist IV)

The month of July was a typical testing month for the Section. All dairies and plants were tested for the month. The Section continues to test raw milk for *Listeria*, which none have been detected.

The Section currently has only two analysts since one analyst was promoted to the Agricultural Environmental Management Division.

The pre-installation meeting was held for the autoclave. Toward the end of August, the contractor will begin the demo on removing the old autoclave and preparing the area for the new one. The new autoclave is scheduled to be shipped on November 3rd.





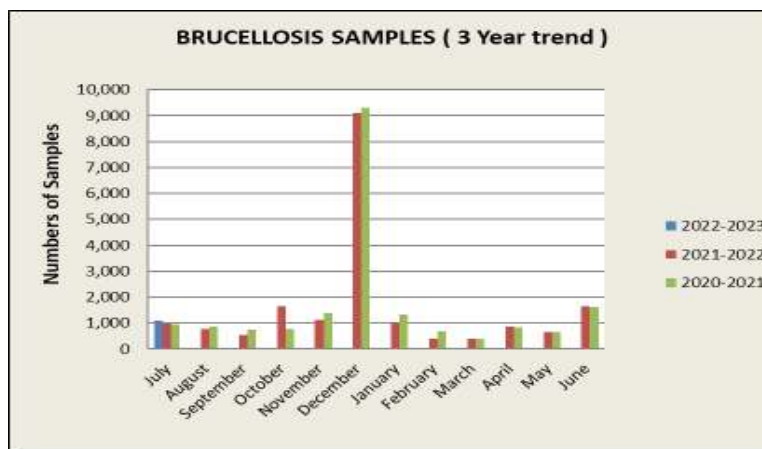
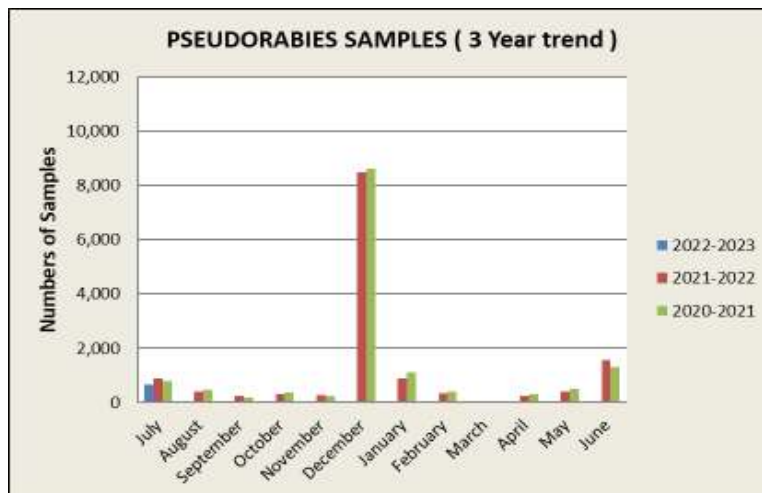
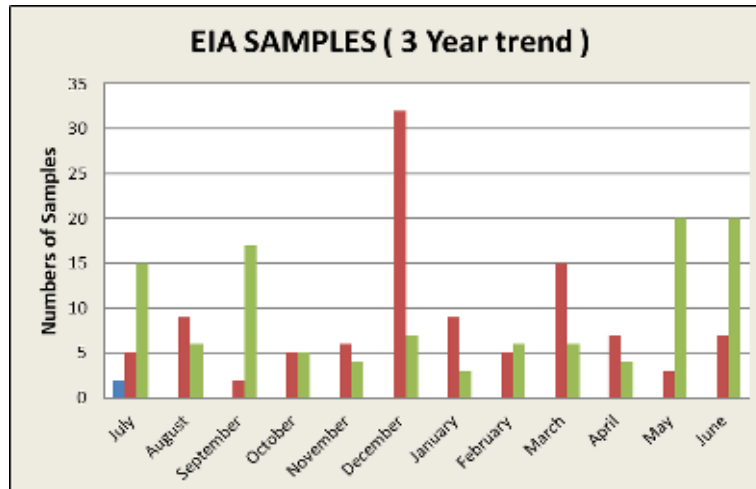
SEED SECTION: (Wade Krivanek, State Seed Program Administrator)

Sample records indicate 268 seed samples were sent in for testing during July. Hybrid sorghum, soybeans and turf type grasses made up the largest portion of the crops tested. Wheat and other small grains were just beginning to come in as well. With limited results being reported there is little data to report showing the overall quality of this year's wheat seed at this time.

Testing on official regulatory samples resulted in numerous Seed Law violations being discovered. One and a half tons of pasture mixed grain seed as well as 800 pounds of fall season grass seed were placed under stop sale due to noxious weed tolerance and date of germination test discrepancies.

SEROLOGY SECTION: (Pete Bourns, Laboratory Scientist IV)

3-year Summary of Samples Analyzed			
Year	Brucellosis	Pseudorabies	E.I.A.
2022	1093	673	2
2021	981	876	5
2020	955	773	15



GENERAL CHEMISTRY SECTION: (Johnathan White, Environmental/Chemical Laboratory Scientist IV)

July continued to be slow due to low volume of submitted samples and lack of the use of our acid hoods. This allowed us to get our sample turnaround time down to 12 days, well below our target of 18 days. Our new chemist started on July 5th and has been able to train on some of our analyses and start learning the process for the ICP. This puts the Section at staffing levels we have not had since November of 2021. We hope to maintain a good turnaround time as sample numbers pick up for feed rush and our testing is restored with the use of the new acid hoods.

During this month we were also successful in locating and certifying a suitable Vitamin A standard so we can resume testing for Vitamin A in feeds. A failure of the primary source for the standard in May has greatly impacted worldwide ability to accurately test Vitamin A, and issues with the supplier made it necessary to find an alternative source. This alternative source requires substantially more work on the part of the analyst but will allow us to restart testing before feed rush begins.

Though the acid hoods remained inoperable throughout July they are now functioning and we are slowly testing them out and restarting all of the testing that we were not able to do. With the acid hoods back up and the Vitamin A solutions worked out we will be going into feed rush ready to perform all of the analyses we have been doing for the last several years. Although we are still training our analyst on new tests we are in a very good position to have a great fall/feed season.

Overview of Section numbers for the month:

	Feed	Fertilizer	Lime	Total
Samples Received	57	58	1	116
Samples Completed	44	56	1	101
Determinations	128	147	6	281
Violations	8	7	4	19
Violation %	6.25%	4.76%	66.6%	6.76%



Hood installation and testing was completed on August 10th 2022, with first use and test results being completed on August 11th 2022.

PESTICIDE SECTION: (Usha Pandey-Kadel, Environmental/Chemical Laboratory Scientist IV)

In the month of July, staff completed their Workday Training. The Section received and installed the hydrogen generator.

The Section completed 19 samples this month. Below is the table showing the number of samples, tests per sample, and determinations (Det.) per sample with turnaround times (TAT)

	Number	Test	Det.	Average TAT (days)
Residue Vegetation	6	10	98	33
Residue Soil	7	7	15	23
Organic Act, Soil	1	1	1	24
Private, Other	1	1	1	15
Tank Mix	1	2	4	22
Concentrate	3	6	7	14

Average Residue
Turnaround Time: 27 days

Average Formulation
Turnaround Time: 16 days

Totals		
# of Samples	# of Tests	# of Determinations
19	27	126

The Section received 50 samples in July which is nearly 42% lower compared to last month. The samples received are consistently decreasing from 2018 (see Fig B). Majority of the samples received are for residue analysis on vegetation and soil samples (see Fig A).

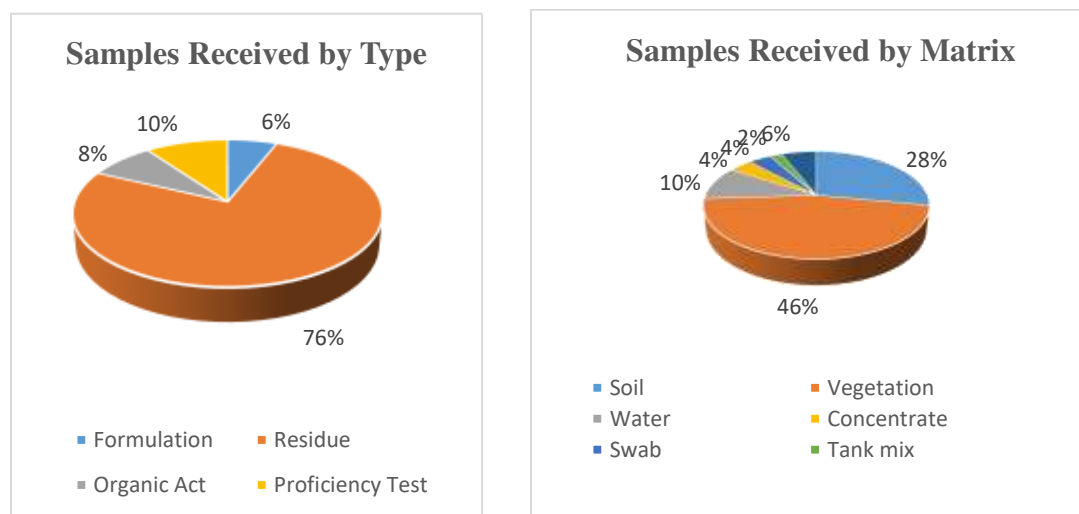


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right)

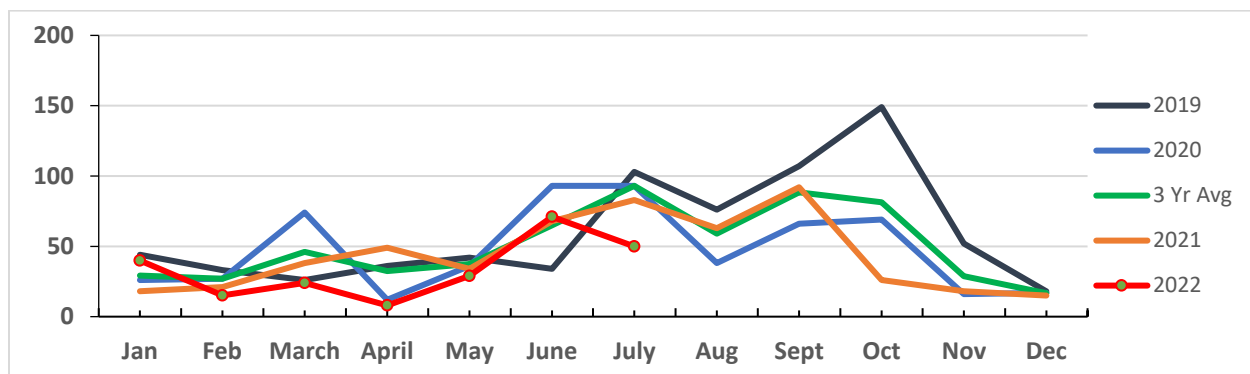


Fig B. Graph showing the number of samples received by the Section each month.

Determinations the Section completed by month:

The month of July, the Section completed 126 determinations which is 50% lower compared to last month.

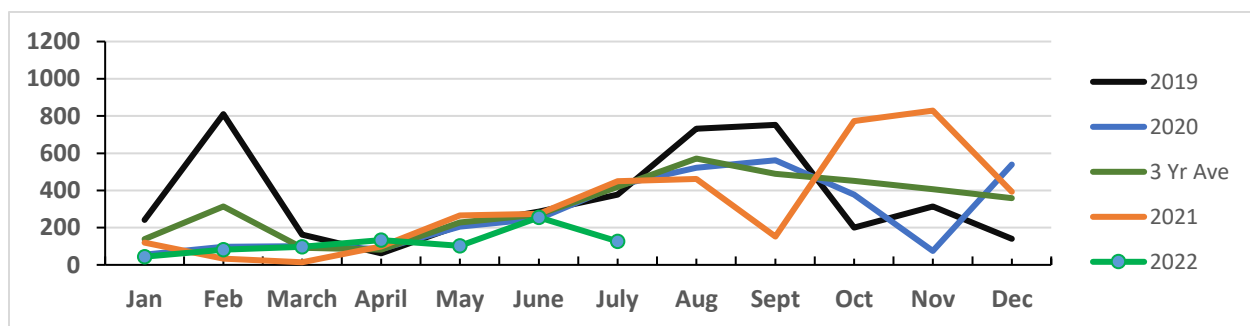


Fig C. Graph showing the number of determinations completed each month.

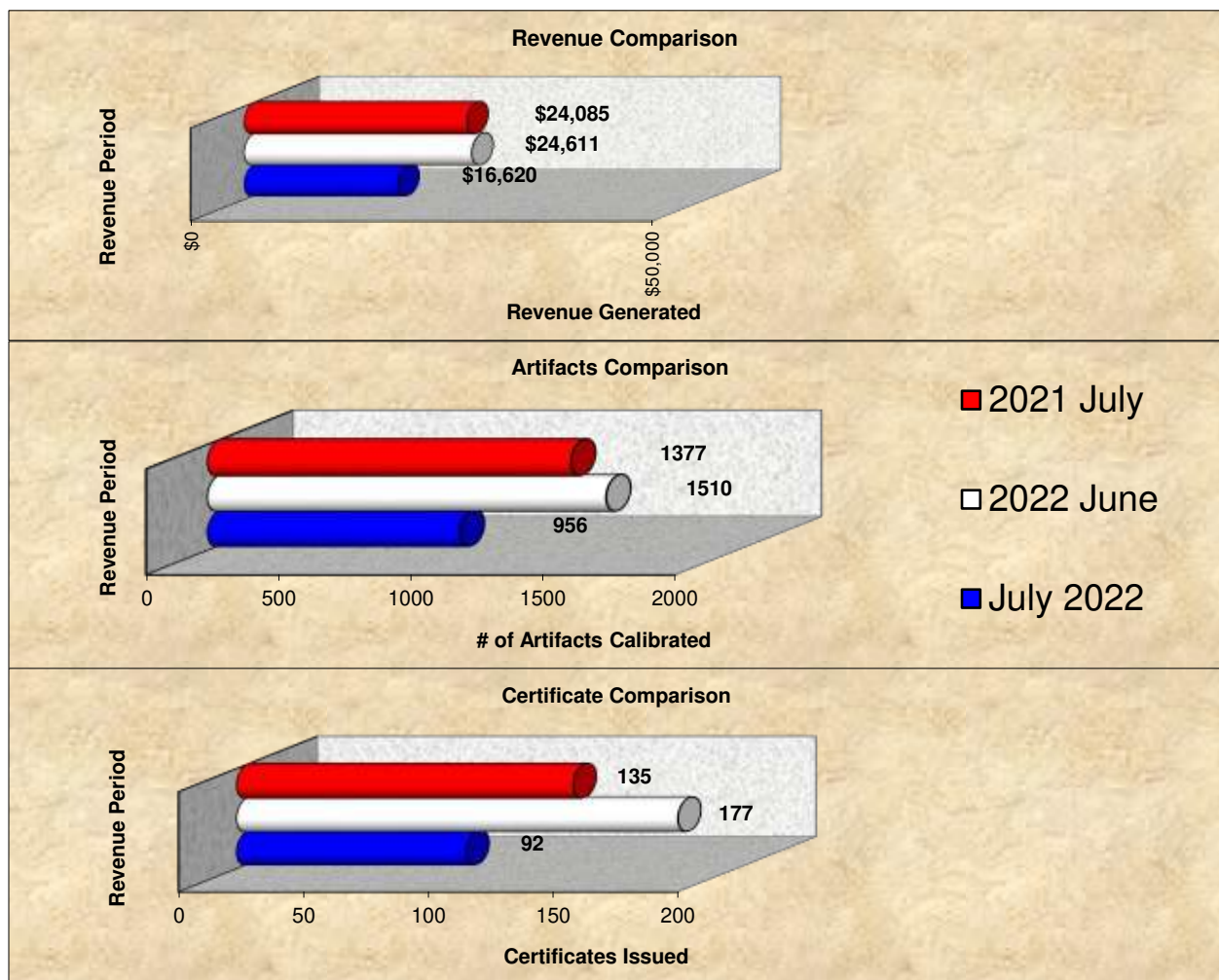
OKLAHOMA BUREAU OF STANDARDS: (Amanda Kramer, Metrologist III)

The following is a workload summary for the Section from July 1st through July 31st.

The Bureau is updating files for the new fiscal year. Amanda Kramer just returned from the Advanced Mass Seminar at NIST, where she trained for two weeks in July. She will be starting her Advanced LAP problems to work towards being authorized for Mass I testing.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	7	\$6,112	37%	146	15%
In-State Customers	17	\$10,508	63%	810	85%
Totals	24	\$16,620	100%	956	100%

Total Fees not Charged		# Working Days Lead Time to Next Available Date for Calibration	
\$0		Mass I / II	4
Fees not Charged ODAFF CPS		Mass III	32
\$0		Volume	32



Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Wade Krivanek". The signature is fluid and cursive, with the first name "Wade" and last name "Krivanek" clearly distinguishable.

Wade Krivanek
Laboratory Director
Laboratory Services Division

BOARD REPORT
AGRICULTURAL LABORATORY SERVICES
JULY 2022 ACTIVITIES

FEED SAMPLES	57
FEED DETERMINATIONS	128
POSSIBLE VIOLATIONS	8
 FERTILIZER SAMPLES	 58
FERTILIZER DETERMINATIONS	147
POSSIBLE VIOLATIONS	7
 LIME SAMPLES	 1
LIME DETERMINATIONS	6
POSSIBLE VIOLATIONS	4
 PESTICIDE SAMPLES	 19
PESTICIDE DETERMINATIONS	126
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 297
DETERMINATIONS	1670
 STATE-FEDERAL VET. LAB. SAMPLES	 1768
STATE-FEDERAL VET. LAB. DETERMINATIONS	1938
NUMBER POSITIVES	0
 SEED SAMPLES	 224
SEED DETERMINATIONS	0
POSSIBLE VIOLATIONS	2
 BUREAU OF STANDARDS CERTIFICATES	 92
NUMBER OF STANDARDS CALIBRATED	956
FEE CHARGES	\$16,620.00
 DAIRY SAMPLES	 436
DAIRY DETERMINATIONS	862
POSSIBLE VIOLATIONS	27
 TOTAL SAMPLES	 2952
TOTAL DETERMINATIONS	5833
TOTAL POSSIBLE VIOLATIONS	48



OKLAHOMA FORESTRY SERVICES BOARD REPORT

Division Activities from July 12, 2022 – August 26, 2022

Serving Oklahomans by conserving, enhancing, and protecting our lands and forest resources.

Our Board Report is formatted to reflect the priorities of the National Cohesive Wildland Fire Management Strategy, which include Resilient Landscapes, Fire Adapted communities, and Wildfire Response.

RESILIENT LANDSCAPES

URBAN AND COMMUNITY FORESTRY PROGRAM HIGHLIGHTS - Improving the Forests Where We Live

Program Highlights

Drought Stressed Trees. On July 6th, Urban Forester Mark Bays appeared on the 4:30 afternoon programming at KFOR-4 in Oklahoma City to discuss the impact the hot weather and lack of rainfall was having on trees throughout central Oklahoma. He was also interviewed on July 13th by KOCO 5 meteorologist Sabrina Bates to discuss the same.

Oklahoma City National Memorial. On July 14th Education Coordinator Tony Pascall, and foresters Riley Coy and Mark Bays conducted a class during the Memorial's annual STEM Camp. Twenty-five students learned about the environmental engineering process that transformed the outdoor site from destroyed buildings to its current design. Students also went outside to measure trees on the grounds and learn of the environmental benefits they were providing.



STEM Camp



Edmond magnolia

On July 26th, Mark Bays met with members of the North American Agricultural Marketing Officials group (having their annual meeting in Tulsa) at the Survivor Tree and told the story of how this tree became such an important symbol for the city and state. Since 1996 Bays and others in OFS as well as private tree care companies continue to play a role in its ongoing maintenance and care. In the early morning of August 25th, he had the same discussion with those attending the National USDA NASS meeting.

Construction Damage Tree Decline. July 18th, Bays met with a property owner in Edmond to evaluate several trees that were in decline due to recent construction of a patio and the addition of soil and gravel in 2021. Upon inspection, he found a southern magnolia that under the entire tree canopy a contractor had laid 6-8 inches of soil then plastic sheeting and on top of that an additional 5 inches of gravel. The tree lost all of its leaves, is in an advanced state of decline and will most likely not recover.

Keep Oklahoma Beautiful. Mark Bays and Riley Coy helped Keep Oklahoma Beautiful (KOB) on August 25th & 26th deliver paint to 15 communities for 18 projects across Oklahoma that are participating in this year's Fresh Paint Days. HIS paint of Oklahoma City donates paint every year and communities apply to KOB to receive this paint to help beautify buildings and other local projects.

FOREST REGENERATION CENTER (FRC) & FOREST TREE IMPROVEMENT CENTER (FTIC)

The Forest Regeneration Center crop was planted in Fall 2021 and May 2022. We are maintaining our seedling crop of Hardwoods and Conifers with routine practices of irrigation, fertilization, and pesticide use. Ryan Oberst met with landowners to discuss seedling quality. We are partnered with OSU and continue to do research on forestry-related topics.

Based on customer needs, the nursery will increase seedling numbers by 2 million seedlings for 2023-24. The nursery looks forward to providing customers with quality seedlings, equipment to plant seedlings with and customer service.



August redbud seedlings



August loblolly pines being irrigated

COMMUNITY OUTREACH AND COMMUNICATIONS

FOREST HERITAGE CENTER (FHC)

On Saturday, August 20th children at the Broken Bow Public Library were treated to a presentation by Brianna Teel of the Forest Heritage Center Museum. She was accompanied by her friend Tree Bear and together they presented on the 'Good Things' that come from trees. After the presentation, each child attending received a pine seedling.



Tree Bear on wood

Planning is underway for one of Oklahoma's most popular fall festivals: The Folk Festival & Craft Show at the Forest Heritage Center in Beavers Bend State Park. The event runs Friday, Nov. 11th and runs through Nov. 13th. This is the 27th year for the free festival, which draws around 16,000 visitors and 70 vendors to Southeast Oklahoma, just in time for the fall colors.

COMMUNICATIONS

Keith Merckx attended the Southern Group of State Foresters Communications Committee Summer Meeting in St. Augustine, FL from July 26th – July 28th. Items on the agenda included discussions with the National Association of State Foresters, Society of American Foresters, and Keeping Forests. Attendees made a site visit to Matanzas State Forest which is overseen by Florida Forest Service. In closed session the committee chose a website vendor and decided a future direction for an Education Subcommittee moving forward.

Keith has been working with Urban Forester Mark Bays on publicizing and making available 2022 Urban and Community Forestry grant applications. News releases have been sent out, posts are live on social media channels and the applications are available for download on the OFS website.

The 2022-23 OFS Seedling Sale will begin in early October. Keith worked with Tricia Braden from the Forest Regeneration Center in Goldsby to post the new catalog to the OFS website and publicize the catalog and sale on OFS social media platforms. Keith identified a new “email blast” application which can be used free of charge. It replaces Division use of Constant Contact at a savings of hundreds of dollars.

PROGRAM HIGHLIGHTS FROM THE EASTERN AREA OFFICES

NORTHEAST AREA

Forest Protection Highlights:

From July 7th through August 26th the Northeast Area had 13 fires for 223.7 acres in the Protection Area. NE Area Rangers assisted with fires outside of protection area in Blaine, Woodward, Pawnee, Mayes, and Greer counties.

On July 20th Craig Longshore and Connie Robinson conducted interviews for the Colcord Forest Ranger I position at the Jay office. On July 28th NE Area hosted a CISM training at the Tahlequah Fire Department Training Center. NE Area Rangers assisted Bryan Ryles with a fuels mitigation project in Bartlesville.

NE Area has a transport and dozer currently in Texas supporting wildfire initial attack.

Forest Management/Program Highlights:

Evan Long completed two Forest Stewardship Plans. One in Cherokee County for 205 acres that focused on forest health and wildlife, the other plan was in Sequoyah County for 157 acres, focusing on timber stand improvement and forest health. He met with five landowners and assisted four others with tree health and management concerns. Connie Robinson visited four properties, 2 in Ottawa County and one is Rogers and Delaware Counties. Connie visited NRCS offices in Claremore, Pryor, and Miami to discuss what programs may benefit individuals with management on their forested land. Connie completed the Core and Forestry portions Certified Pesticide Applicator training.

Kaley Helton completed webinars for CEU credits for her Certified Procurement Officer. Also attended a meeting with OKC Admin covering procedures for financial transactions and contract obligations.



Ranger Leak on fire in Pawnee County



(L-R) Fire near Moreland, Oklahoma

Ongoing Issues & Upcoming Events:

- Forest Ranger I Position open in the Colcord Unit
- S-130/190 Kellyville - September

SOUTHEAST AREA

Forest Protection Highlights:

- In Protection: July = 105 fires for 3561.9 acres; August = 35 fires for 449.9 acres.
- SE Area has had several rangers deployed to Texas to support wildfire suppression efforts. Most Texas resources will be coming home the end of this week. Tama Lester deployed to the Clear Fire in Anderson, Alaska; Bradley Walker is currently deployed to the Garceau Fire near Polson, MT.
- Tony Macon and Rodney Lovitt responded to the 58 Fire in Caddo County; Terron Gee, Adam Burleson responded to the 115/Meers Fire in Comanche County.
- Conducted interviews for the Forestry Fire Control Officer – Dispatcher. Have extended an offer to Leon Macon with upcoming start date of September 12, 2022.



Forest Management/Programs Highlights:

- Brock Hill had 4 landowner contacts for the current period.
- Will Phifer had 9 landowner assists/contacts.
- JT Allen had 14 landowner contacts.
- Tyler Hyatt had 3 landowner contacts
- JT Allen completed 1 FSP (Forest Stewardship Plan) for 119 acres.
- Hyatt completed an FSP revision for 36 acres.

Prescribed Fire Assistance:

- JT Allen and Forrest Cave completed fireline construction on 24 acres for landowner.

Safety/Training Highlights:

- Antlers district completed 6 Minutes for Safety training covering common denominators of fire behavior on tragedy fires.

–

Upcoming events/activities:

- Folk Festival in November
- Coal County Outdoor Classroom

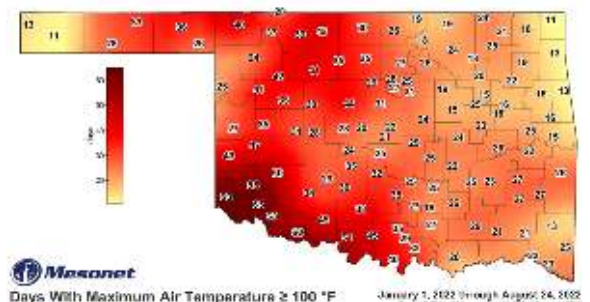
WILDFIRE RESPONSE

Wildfire Activity & Outlook Executive Summary:

Lagging rainfall across much of Oklahoma combined with higher-than-normal number of days at 100° or warmer prompted high rates of evapotranspiration, sapping of upper-level soil moisture and significant stress on both woody and herbaceous plants. As a result, the availability of fuels dramatically increased through the summer driving periods of increased initial attack activity and transition to some large fire occurrence with suppression difficulty.

Through the growing season, rainfall totals sank well behind normal (upper right graphic) with some recent rainfall beginning to turn the tide in eastern Oklahoma. The lack of rainfall combined with a number of days $\geq 100^\circ$ (lower right graphic) contributed to drought development across the state including nearly 50% of the state reaching the Extreme (D3) classification. Notably, portions of the southwest and central Panhandle transitioned into the Exceptional (D4) classification. With the drought firmly entrenched, stresses on both woody and herbaceous fuels supported a live-to-dead fuel ratio strongly favoring problematic fire behavior and increased fire occurrence with indices peaking in mid-July though early August.

Near-term temperature/precipitation outlooks are trending toward a return to more seasonal conditions. Temperature into the early part of September is expected to register in the normal range predominantly while signals for precipitation appear to favor a slightly wetter-than-normal pattern although confidence is not overly strong. Current convention does point to some downgrade in drought classification should the forecasts hold, although a 'drought-buster' seems unlikely. Nonetheless, fire activity is expected to remain slightly higher than normal in both number of fire occurrences and fire severity. Large fire occurrence probability is expected to lessen and will be largely dependent on the number of days since wetting rain and firefighting resource access.



Wildfire Response:

As of August 25, 2022, OFS has been dispatched to 1,055 wildfire incidents acting on 941 wildfires that have burned 217,011 acres. Reported fire occurrence totals from combined agency reporting currently reflect that 309,348 acres have burned in Oklahoma.

37 Prescribed Fires have been successfully conducted treating 9,370.6 acres achieving both resource management and hazard fuels mitigation objectives.

Recent fire activity has proven to be resistant to suppression efforts requiring additional resources committed to wildfire incidents for extended periods to both contain and control wildfires.

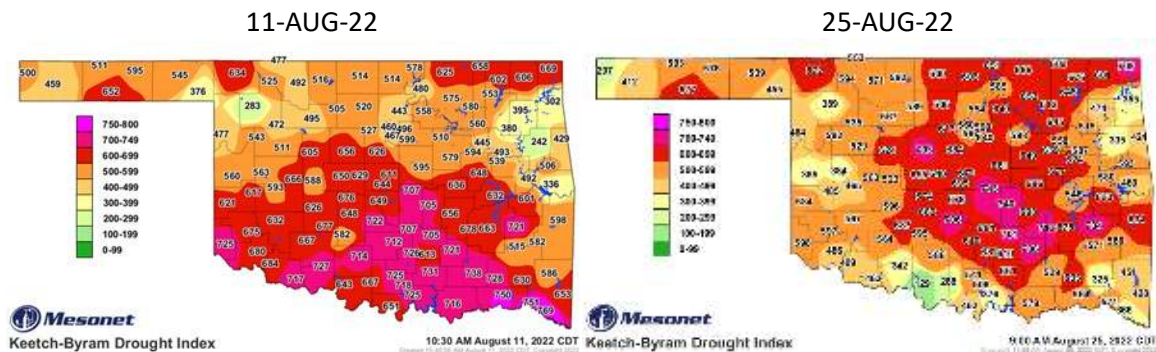


To the left is a photo of fire behavior on the 720 Fire in Blaine County and to the right of the Boomer Canyon Fire in Pushmataha County; both are representative conditions experienced on the fireground this summer.



Wildfire Outlook:

Elevated wildfire activity is expected to continue across Oklahoma into the early part of fall. Fire occurrence and severity will be largely dependent on the separation from wetting rains. The long-term drought impacts are expected to persist well into the fall months and through the transitional period into dormancy. Recent rainfall has prompted some improvement in the Keetch-Byram Drought Index which is an indicator of fire severity related to upper-soil moisture. On a scale from 0-800, values exceeding 400 translate to increased suppression difficulty while values topping 600 are indicative of deep burning conditions, problematic/extreme fire behavior and heavy resource commitment.



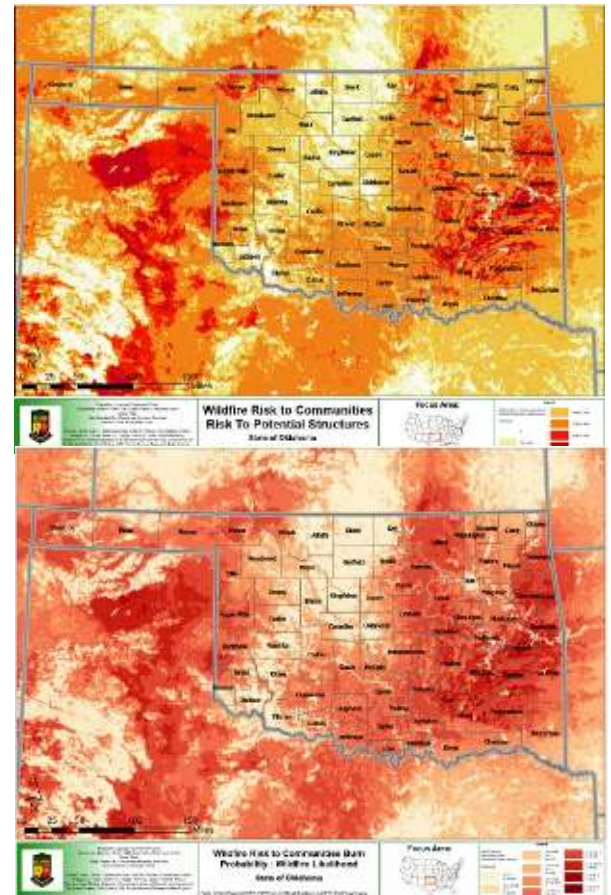
Some mitigating relief is forecasted in both the near-term and extended periods. Recent rainfall, if boosted by forecast rainfall, is likely to prompt some live fuel moisture improvement promising a reprieve from higher-than-normal wildfire occurrence. Although, new fires that do become established will continue to exhibit potential for problematic fire behavior. Peering into the extended forecast products, La Nina (and her warmer/drier expectation) is likely to continue into the fall with some optimism for a transition to neutral conditions over winter. The seasonal transition into fall including shorter daytime periods, lower sun angle and cooler temperatures supporting shorter active burning periods will be beneficial, but a long duration soaking precipitation event is required alleviate the increased wildfire activity and resultant severity.

Wildfire Risk Assessment:

In addition to the Southern Wildfire Risk Assessment Portal available at <https://www.southernwildfirerisk.com/> , an interagency wildfire risk assessment has been recently completed encompassing the entire United States supporting what has been a long-known problem in Oklahoma. Wildfire risk across the state continues increase and Oklahoma is above the 90th percentile for combined wildfire risk assessment in comparison to the other states in the U.S.

To the right are two maps that highlight the Risk to Structures (upper) and Wildfire Likelihood (lower) quantifying the increasing wildfire problem in Oklahoma. Some of the important take-aways interpreting the graphics:

- Populated areas in Oklahoma have, on average, greater risk than 90% of the states in the U.S. The states that have a greater risk are Idaho, California, Nevada and Utah.
- 41% of residences in Oklahoma are directly exposed to adjacent flammable vegetation.
- Oklahoma has, on average, greater wildfire likelihood than 96% of the states in the U.S. The two states with higher percentile rankings are Idaho and California.



STATE FORESTER ACTIVITIES from 12 July thru 31 August 2022

- Deployed as Incident Commander on Northern Rockies Incident Management Team #1 from 13 July thru 30 July to the Clear Fire near Anderson, AK
- Virtual Meeting with Conservation Fund leadership to discuss possibility of land purchase for the first State Forest
- Attended the August Meeting of the State Fire Marshall's Commission
- Attended the August meeting of the Oklahoma Rural Fire Coordinators
- Attended the Quarterly Meeting of the Oklahoma All-Hazards Incident Management Teams Committee Advisory Committee
- Attended scheduled ODAFF Director's Meetings
- Attended two meetings of the National Operations Section Chief's Incident Management Remote Roundtable
- Attended two meetings of the National Incident Commander's Incident Management Remote Roundtable
- Met with ESRI officials regarding OFS' new GIS Specialist position, training opportunities and the OFS GIS program
- Attended the July NASF All State Foresters Monthly Policy conference call
- Participated in one virtual meeting of the NWCG Medical and Public Health Advisory Team

- Met with the Forest Regeneration Center and Forest Tree Improvement Center staff to discuss operations and leadership at both facilities.
- Participated in two virtual meetings as the Southern States representative to the USFS Community Wildfire Defense Grant Program Development Committee
- Attended two special meetings of the Land Mobile Radio Public Safety Interoperability Cooperative Committee with Federal Engineering, the contractor that will be developing a Statewide Land Mobile Radio Communications Strategic Plan
- Conducted three television interviews regarding the 517 Fire which occurred near Mooreland
- Met with Governor Stitt, Bond Payne (Governor's Chief of Staff), Secretary Arthur, General Mancino and others to discuss wildland fire response actions.
- Met with Mint Turbines CEO Chris VanDenhende, Brent Kisling, and Secretary Arthur to discuss contract wildland fire suppression aircraft use.
- Attended the NW Oklahoma County Wildland Task Force Meeting in Woodward
- Participated in a data validation session for the Oklahoma Disaster Communications Annex update conducted by FEMA
- Virtually attended one Northern Rockies Geographic Area Coordination Center Weekly Update
- Completed CPR/First Aid Refresher training
- Virtually attended the Southern Research Station Committee August monthly call
- Virtually attend the August S-520 Advanced Incident Management Steering Committee Call
- Review and approve the updated Medical and Public Health Advisory Team's wildland fire COVID-19 guidance
- Virtually met with a National Volunteer Fire Council representative to plan an upcoming webinar.



OKLAHOMA

CONSUMER PROTECTION SERVICES DIVISION

SEPTEMBER 15, 2022 BOARD MEETING REPORT FOR JULY/AUGUST 2022

PESTICIDE SECTION

Pesticide Registration Activity

Pesticide registrations for July 1st to August 25th in 2022 are presented in the following chart. A total of 3088 products were registered, of the products registered 2847 were renewals and 241 were new. There were 153 products cancelled.



Pesticide Samples

Pesticide samples taken July-August 2022 are presented in the following chart. A total of 70 Residue, 19 Concentrate, 27 Documentary, and 3 Tank mix samples were taken.

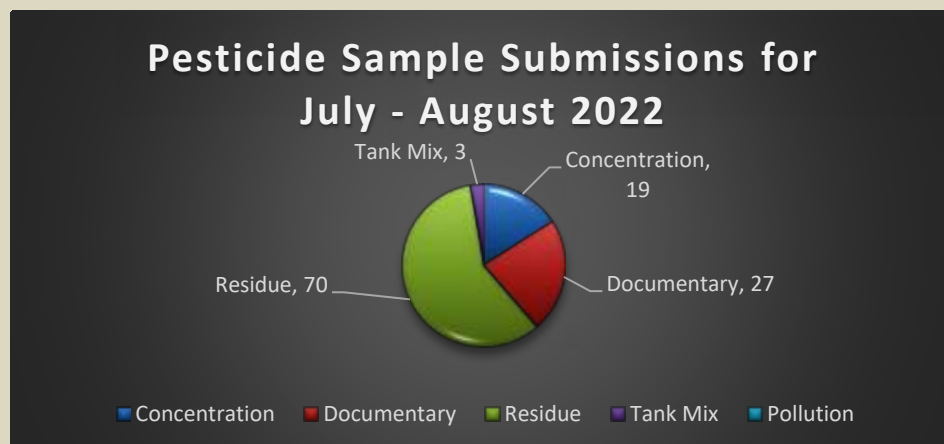


Table 1. Inspection Count for July - August 2022*

Inspection Type	Number of Inspections		
	July	August	Two Month Total
Experimental Use Permit	0	0	0
Marketplace	37	54	91
Pesticide Applicator Facility	30	59	89
Pesticide Service Inspection	0	0	0
Restricted Use Pesticide Dealer	10	17	27
Container Containment Inspection	0	4	4
Producer Establishment	5	6	11
Use	73	84	157
Termite	1	0	1
Wood	0	0	0
Pre-treat	1	0	1
Drift Investigation	0	0	0
Pesticide Label	2576	3069	5645
Worker Protection	3	7	10
Total	2736	3300	6036

* Inspections not yet submitted at the time of this report will be reflected in the next board report

Along with the above inspections CPS inspectors also took 24 non agriculture use samples, 57 agriculture use samples and 38 producer establishment samples for a total of 119 samples.

Board Report – Pesticide Testing & Updates

Licensing & Certification

Service technician certifications expire at the end of 2022. Since all service technicians must complete the exam to recertify, the renewal process was opened to them on July 1, 2022. All other expiring categories will start renewals on September 1, 2022.

Service technician expiration reminders will be sent via email to all companies as a reminder to have them retest before the end of the year.

Private Applicators:

Sent out 7,500 letters by mail to active private applicators regarding the new testing procedures and CEU option for license renewal.

There will be a 1-hour CEU opportunity for private applicators on September 7, 2022 via zoom sponsored by ODAFF.

PSI Updates

PSI has launched a new website specifically for the pesticide exams for ODAFF. The original website, www.psiexams.com, will relocate candidates to the new website or they can go to the new website at <https://test-takers.psiexams.com/okpest>

PSI's new website no longer allows the acceptance of purchase orders. PSI is working on a process to accept POs in exchange for vouchers in order for candidates to register for exams. Now, invoices must be paid in full before exams are scheduled.

Pesticide Complaints

PESTICIDE COMPLAINTS	July 12, 2022 – August 29, 2022			
	RECEIVED	CLOSED	WARNINGS ISSUED	NO ACTION
CONSUMER GENERATED:	23	8	3	8
MUSK THISTLE:	0			
PMR CASES:	9	3	0	3
CASES REFERRED TO OGC:	3			

Plant Protection Program

Phytosanitary Certificates

Federal

Federal phytosanitary certificates Issued from July 1, 2022 – July 31, 2022

Commercial value of shipment \$1,250 or more:

4 Federal phytosanitary certificates issued @ \$106.00 each

Commercial value of shipment less than \$1,250:

2 Federal phytosanitary Certificates issued @ \$61.00 each

Federal Phytosanitary Certificates (July 1, 2022 - July 31, 2022)			
Country	Product	Quantity	Phytos Issued
Canada	Iris Rhizomes	30	2
France	Barrelclover Seed	5 Grams	1
Indonesia	Miscanthus Seed	20 Totes	1
Republic of Korea	Logs	25	1
United Kingdom	Barrelclover Seed	5 Grams	1

Companies applying for federal phytosanitary certificates:

Ace Logistics: 1

International Ingredient: 1

OSU Biosciences: 2

Stout Gardens: 2

State

State phytosanitary certificates Issued from July 1, 2022 – July 31, 2022

73 phytosanitary certificates for 2,863 plants



Japanese Beetle Trapping and Survey

We began setting our traps out for the Japanese Beetle survey in mid-May. There are 6 inspectors included in this survey and 49 traps across 8 counties and 9 nursery operations.

The traps have been checked twice in June, twice in July, and once in August. Traps will be checked once more in September and then removed in October. So far, 3 beetles have been found in Cleveland County (this county is already positive as beetles have been found here before).

Sweet Potato Weevil/Guava Root-Knot Nematode Trapping

We are currently in the process of setting traps for Sweet Potato Weevil and sampling for Guava Root-Knot Nematode. This survey involves 1 inspector setting 11 traps across sweet potato fields in 3 counties. As we check traps for SPW, we are also taking field soil samples to test for Guava Root-Knot Nematode. These surveys will conclude in November.

Phytophthora ramorum

Means Nursery in Oregon has had multiple positive finds of *P. ramorum*, but they are still allowed to ship plant material to Lowe's stores in Oklahoma via a USDA agreement. Due to the multiple positive finds at the nursery states including Oklahoma have had to complete follow ups on similar plant material shipped to their states. Additional resources have also been allocated to follow up on shipments of susceptible plant material from Means Nursery when a notification has been received from the facility so that they can be inspected and sampled if necessary, for *P. ramorum*.

Unfortunately, we have also had trace-forwards from Rhododendrons Direct, an online nursery in Oregon. A few plants that were potentially positive were shipped to homeowners in Oklahoma. CPS inspectors viewed and sampled these plants, and all came up negative for *P. ramorum*.

USDA Permit Violation – *Acer*

In July, trees of *Acer spp.* that were supposed to be under quarantine in Oregon were prematurely shipped to several states, including Oklahoma. Two nurseries in our state received different varieties of *Acer*. CPS inspectors visited these nurseries and inspected the trees in question. As they were found, the trees were destroyed per instructions from the USDA.



Figure 1: Sweet Potato Weevil Trap

Hemp

July 1st is the cutoff date for outdoor grow applications for the remainder of the year.

25 licensed growers with 661 acres and 17,024 sq/ft registered

14 licensed processors/handlers

National Plant Board Meeting

Kenny Naylor, CPS Division Director attended the 96th annual National Plant Board (NPB) meeting that was held July 31st through August 4th in Lancaster, PA. State regulators from 34 states were present at roll call. Also attending were USDA APHIS Plant Protection & Quarantine, Department of Homeland Security, Customs & Border Protection, Canadian Food Inspection Agency, AmericanHort, and National Association of States Department of Agriculture.

Pertinent topics of concern for many state regulators:

- The direction of the Spotted Lanternfly program which was discussed among the states to determine what our thoughts are going forward. It is hoped this will help facilitate the conversations at the joint meeting set up by NASDA with USDA on this invasive species. This meeting should outline the path forward and establish the response to be used moving forward.
- An update by New York on the Box Tree Moth introduction that occurred in plants from Canada.
- South Carolina updated their progress on the eradication of Asian Longhorn Beetle in Charleston.
- Due to changes in regulation of firewood treatment by USDA some states have begun to establish their own guidelines. A group discussion occurred at the NPB meeting to try to establish best practices as well as provide for uniformity among the states on regulations.
- Washington discussed their ongoing work with the Asian Giant Hornet/Murder Hornet/Northern Giant Hornet.
- Cotton Seed bug, *Oxycarenus haylinipennis*, was found in the California Los Angeles area. This insect is a major agricultural pest that attacks plants, including cotton, and other members of the Malvaceae family in both the field and greenhouse settings.

Pest detection updates not addressed at the meeting include:



Figure 2: USDA APHIS Administrator Kevin Shea addressing the National Plant Board

Golden twin spot moth has been known to occur in southern Canada but is not known to occur in the U.S. but has been discovered in recent years in northern states like Minnesota, Michigan and Indiana. Key plants at risk are soybeans, potato, tomato, clover, alfalfa, corn, cucumber, peppers, green beans, cruciferous vegetables, and strawberry, in addition to being a potential pest in greenhouses. Regulatory actions may include restricting movement of materials that could harbor life stages as well as measures to suppress or eradicate any infestations.

Old world bollworm, *Helicoverpa armigera*, was found in Illinois at an airport in Chicago, a first detection in Illinois. This insect is a major agricultural pest that attacks many plants, including corn, cotton, small grains, soybeans, peppers, and tomatoes in field and greenhouse settings.

Phytophthora ramorum continues to be a pest concern for states. USDA just released an updated pest risk assessment at the end of July which just closed for comment.

AGRICULTURE RESOURCE SECTION

Weights and Measures Program

During this period the large capacity scale technicians tested 60 Vehicle scales and 6 ranch scales, 8 of the Vehicle scales were rejected for repairs and 1 ranch scale was rejected.

Weights & Measures inspectors checked a total of 1800 small scales and 36 platform scales, 86 of the scales were rejected. There were 46 random pack inspections and 62 standard pack inspections conducted that resulted in 18 companies receiving letters of warning and 1 company receiving a Stop Sale. Additionally, 124 price verification inspections were conducted at various retailers that resulted in 10 companies receiving letters of warning. A total of 4 scale companies received a letter of warning for not properly servicing scales and 1 dispensary received a letter of warning for possessing a not approved scale.

Our 2022 Service Agent License renewal processing is over 96% completed, two companies canceled their licenses, and twelve Stop Work orders were sent out.

Feed Program

Program Performance

During this reporting period there were a total of 40 official feed samples analyzed, with 114 feed determinations made from these samples. These determinations resulted in the issuance of 4 violations for feeds or feed ingredients that did not meet established tolerances based on their guaranteed analysis. Most of these violations were issued for products deficient in Crude Protein. Other violation includes Crude Fat. One stop sale order was issued for feed products

with severe deviations from their guaranteed analysis. One stop sale was issued for products deficient in Crude Fat.

The following tables show a two-month comparison of label violations and stop sale orders issued by the Department for feed products that did not meet their guaranteed analysis.

Table 1. Feed Notice of Label Violation Summary July 2022- June 2022

Nutritional Guarantee	Number of Label Violations		
	July ¹	June ²	Two Month Total
Crude Protein	3	9	12
Non-protein Nitrogen	0	0	0
Crude Fat	1	1	2
Crude Fiber	0	0	0
Calcium	0	0	0
Phosphorus	0	0	0
Salt	0	0	0
Magnesium	0	0	0
Potassium	0	0	0
Copper	0	0	0
Iron	0	0	0
Zinc	0	0	0
Vitamin A	0	0	0
Medicated Feed	0	0	0
Total	4	10	14

¹ 40 feed samples analyzed with 114 determinations; ² 24 feed samples analyzed with 80 determinations

Table 2. Feed Stop Sale Summary July 2022- June 2022

Nutritional Guarantee	Number of Stop Sales		
	July ¹	June ²	Two Month Total
Crude Protein	0	1	1
Non-protein Nitrogen	0	0	0
Crude Fat	1	1	2
Crude Fiber	0	0	0
Calcium	0	0	0
Phosphorus	0	0	0
Salt	0	0	0
Manganese	0	0	0
Potassium	0	0	0
Copper	0	0	0
Zinc	0	0	0
Vitamin A	0	0	0
Medicated Feed	0	0	0
Total	1	2	3

¹ 40 feed samples analyzed with 114 determinations; ² 24 feed samples analyzed with 80 determinations

Association of American Feed Control Officials 2022 Summer Annual Meeting in St Louis

During the week of August 1st, Cody Walls the Feed Program Administrator along with Aaron Elam the Assistant Director of CPS attended the Association of American Feed Control Officials (AAFCO) Annual Meeting in St. Louis, MO. At this meeting, state feed regulators along with FDA officials and animal food industry representatives met to discuss new feed ingredient definitions, changes in the AAFCO Official Publication (OP), along with other topics of discussion from the AAFCO committees.

Some of these topics included the changing of ingredient names to better reflect the products, removing items out of the OP that were out of the pilot programs, and discussing changes to the labeling requirements on pet food.



Figure 3: AAFCO meeting.

Fertilizer Program

Program Performance

Below you will find the performance numbers for the fertilizer, agricultural lime, and soil amendment programs for the time-period of July 1st to August 25th, 2022.

Type of Sample	Number	Deficiency Penalties
Fertilizer	118	4
Lime	1	

Type of Investigation	Number
Dry Bulk Fertilizer Facility	21
Liquid Bulk Fertilizer Facility	30
Pre-Site Facility	1

Annual Anhydrous Ammonia Safety Training



Figure 4: Anhydrous ammonia training

On July 13th, Josh presented to the anhydrous ammonia dealers and applicators at the annual Anhydrous Ammonia Safety Training provided by Triangle Insurance in conjunction with the Consumer Protection Services Division of the Oklahoma Department of Agriculture, Food, & Forestry. His presentation and discussions were regarding general anhydrous ammonia safety and the regulatory requirements set forth in the Oklahoma Fertilizer Act & Rules.



Figure 5: Josh speaking at the Anhydrous Ammonia training session

Association of American Plant Food Control Officials 2022 Summer Annual Meeting in St Louis

Josh Maples, Fertilizer Program Administrator represented Oklahoma at the 2022 Association of American Plant Food Control Officials (AAPFCO) Summer Annual Meeting in St. Louis, Missouri from July 31st – August 3rd. This provides Oklahoma with a voice in leadership in AAPFCO decision making, as Josh is a vice-chair and committee member on numerous committees and is active in participating in discussions in this organization. The purpose of AAPFCO is to help achieve regulatory uniformity through state regulations and provides regulatory control officials and industry a chance to interact and discuss the implementation of regulatory decisions.



Figure 6: Josh Maples Fertilizer Program Administrator speaking at an AAPFCO committee meeting.

I will be glad to answer any questions from the Board members.

A handwritten signature in blue ink, reading "Kenny M. Naylor".

Kenny M. Naylor



OKLAHOMA
Agriculture, Food
and Forestry



Oklahoma Department of Agriculture, Food and Forestry
Animal Industry Services Board Report
September 15, 2022
Activities July 9, 2022 – August 26, 2022

Animal Disease Traceability:

On July 27 I took part in a call with US Cattle Trace personnel and State Animal Health Officials from Kansas, Texas, and Florida. We discussed ways to get more interest in the program. We decided to invite our respective States' Farm Bureau and Cattlemens organizations to begin meeting with us.

On August 24, Dr. Gorczyca participated in a US Cattle Trace call that brought together SAHOs from OK, KS, TX, and FL along with those states' representatives from Farm Bureau and Cattlemens organizations. US Cattle Trace is looking for collaboration with industry to make the program more robust and to encourage cattle producers to participate and increase traceability efforts within the cattle industry. Future calls are being planned to keep the momentum moving.

During this period, we were awarded an additional \$14,388 supplemental cooperative agreement funding that was applied for to purchase RFID equipment. This makes the total supplemental funding that we will receive \$36,439. We are looking forward to purchasing RFID wands to supply to veterinarians and producers to continue to build the EID infrastructure in the state.

We continue to distribute the free RFID tags to interested veterinarians and producers. During this period we shipped 18,600 tags to veterinarians and producers. We also have a limited number of RFID tag readers that are available for loan.

Aquaculture:

During this time frame, we received an initial aquaculture operator application. When reviewing the application, we had concerns about the proximity of the pond that will be used for cultivating the aquatic species in relation to a river and reached out to ODWC to work with them to ensure they did not have any issues with any potential comingling of farmed species and native species should water ways flood. We are still waiting on a response from the applicant to address comingling issues.

Biologics:

During this time frame, expired biologics were found in a local feed store. The manager was informed of the violation and the product was removed from the shelves.

Cattle Programs:

Brucellosis:

The only remaining reservoir of *B abortus* in the U.S. is in elk and bison in the Greater Yellowstone Park area. Those states have Designated Surveillance Areas, where the disease in wildlife occasionally spills over into domestic cattle and bison.

While there is very little need to test for *B abortus* any longer, this means we have very little or no surveillance for *Brucella suis* (Swine Brucellosis) which currently infects approximately 20% of the feral swine that our Wildlife Services personnel test. *B suis* can, and does, infect cattle.

Tuberculosis:

We currently have no TB affected herds in Oklahoma.

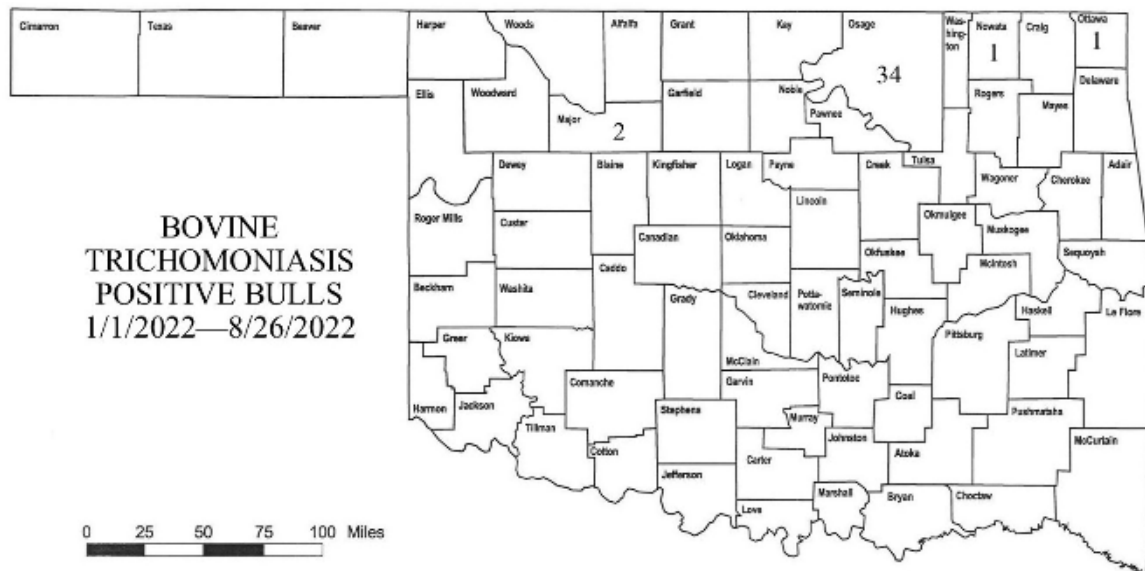
Testing in trace out herds that had purchased animals exposed to the positive bull in Osage County continues.

Johne's Disease:

During the reporting period we had 10 positive reports for infection with *Mycoplasma avium* paratuberculosis. One was for a previously positive premises. During the same time last year, we had 11 positive reports, but all were new premises. Looking at the preceding three years for this same time period we have been fairly consistent with new positive premises but reports on previously positive premises averaged seven. Either producers are recognizing the disease and choosing not to test, or they are being successful at elimination of the disease. Probably a little of both is true.

Trichomoniasis:

During this period there were 485 Oklahoma bulls tested for Trichomoniasis with no positive individuals.



10,350 bulls tested / 38 positive = 0.37% positive

Our current statistics compare to 2.1% positive bulls in 2011, 1.4% in 2012, 1.3% in 2013, 1.4% in 2014, 1.1% in 2015, 1.1% in 2016, 0.5% in 2017, 0.32% in 2018, 0.42% in 2019, 0.35% in 2020, and 0.28% in 2021.

Emergency Management:

On July 13, Dr. Gorczyca and I met with OK Department of Emergency Management to discuss their “Shelter in a Box” concept that they are trying to develop to assist Louisiana

following a hurricane. At this time, OEM is not needing animal sheltering resources but personnel to help support evacuation shelters.

On July 14, Dr. Gorczyca participated in a US SHIP OSA call.

On July 18, an After Action Review of the OK 2022 HPAI incident was held virtually. Dr. Leslie Cole facilitated this meeting and participants included USDA, OADDL, OSDH, AEMS, and industry partners to discuss both strengths and areas for improvement that will allow us to update response plans accordingly.

On July 26-28, Dr. Gorczyca and Dr. Ruby attended the Multistate Partnership for Security in Agriculture meeting in Lincoln, NE. This normally annual meeting has not occurred since 2019 due to the pandemic. This meeting brings together the state animal emergency managers to discuss FAD outbreak response and to collaborate on plans and exercises. Dr. Gorczyca will begin hosting the monthly calls for the Partnership beginning August 11 and will retain that role until the next meeting in 2023.

On August 5, Dr. Gorczyca participated on a Foreign Animal Disease panel at the OK Pork Congress and discussed Secure Pork Supply planning, US SHIP, and ASF outbreak response.

On August 9, Dr. Gorczyca participated in a discussion to develop an emergency permitting system through USAHerds.

On August 26, Dr. Gorczyca presented at the OKMRC Volunteer Workshop. She discussed HPAI and how OKMRC volunteers can be integrated into FAD responses.

During this timeframe, Dr. Gorczyca is working on submitting NADPRP grant proposals to provide FAD outbreak response training and outreach to emergency managers and other stakeholders to increase awareness of high consequence animal diseases that could affect Oklahoma agriculture. She is also working on a proposal to develop FMD vaccination plans to make current plans operational to determine the best ways to vaccinate FMD susceptible species in the face of an outbreak.

Equine Programs:

There are no reported cases or quarantines for CEM in Oklahoma

There are no new or current EIA cases or traces in Oklahoma.

There are no known Piroplasmosis cases or traces in Oklahoma.

On July 26 I received a complaint from a person who had consigned a donkey to a livestock auction in Oklahoma County. The consignor believed the donkey was not tested for Equine Infectious Anemia as is required on change of ownership. Our inspector who inspects the market got information on the purchaser, we got a blood sample and had it compared to the sample the lab had tested the day of the sale. The samples matched so we determined the donkey had been properly tested.

Farmed Cervidae Programs:

Farmed Cervidae licensees and commercial hunting facilities are preparing for hunting and breeding seasons. There has been an influx of import permit applications. We continue to closely scrutinize these applications to assure that the animals meet all of the USDA and Oklahoma entry requirements. The department completed the required Chronic Wasting Disease Herd Certification Program Annual Report for the USDA during this time.

A road kill whitetail deer a mile and a half south of the OK/TX border in Cimarron County tested positive for CWD on the initial test. If it is confirmed at NVSL, it will trigger implementation of Oklahoma's CWD Response Plan.

Feral Swine:

There was no new activity to report during this time.

Foreign Animal Disease:

During this period we had four FAD investigations. Three involved horses with vesicular type lesions in Grady, Choctaw, and Washington Counties, and the fourth was in a bovine with vesicular lesions from LeFlore county. Fortunately, none of them were caused by a FAD.

The Highly Pathogenic Avian Influenza outbreak is continuing. There was a drastic decrease in the number of new cases during July but now the cases seem to be increasing, especially in the Pacific Northwest and California. As of August 26 there are 39 affected states and 414 confirmed affected premises with HPAI. 40.5 million birds that have died or been destroyed due to this virus incursion. We are preparing ourselves to deal with more cases this fall and winter.

We continue to be part of three separate working groups that are planning to respond to African Swine Fever in case the disease makes it to the USA. This has gained greater significance due to the finding of ASF in the Dominican Republic and Haiti.

Dr. Stone is representing us on a working group to make a plan for the movement of high value genetic material (germplasm) in the event of a disease outbreak.

Livestock Market Audits:

During this period, staff has been working with an individual that is currently constructing a new livestock market facility. Mr. Dustin Baker of Gans, Oklahoma has completed all ODAFF and USDA paperwork to be granted a Livestock Auction Market License. Mr. Baker has scheduled his first sale on Saturday, September 10, and plans to host the auction monthly on the second Saturday of each month. D & D Auction Barn, LLC will sell horses, donkeys, mules, cattle, hogs, pigs, sheep, goats, poultry and rabbits, as well as farm and livestock equipment.

In addition to the Gans, Oklahoma activity, staff also sent packets to a couple individuals interested in sale barn ownership. This period also allowed for a market orientation as well as a number of custodial account reviews.

<u>Livestock Auction Market Activities</u>	
Auction market licenses issued	1
Auction market licenses pending	0
Market custodial audits completed	7
Auction market complaints investigated	0
Fines collected	0
Livestock Markets with Legal Action	0
Special Audits (Market Development)	0

Outreach:

On July 15 I did an interview with Fox 25 about the dangers of Johnson Grass during the drought.

On July 24 I attended the Oklahoma Livestock Marketing Association annual meeting. The main topic of discussion was Animal Disease Traceability.

On July 28 I went to the State Capitol and talked to a group of Maine Anjou youth about cattle health issues and traceability.

On August 2-3 Dr. Stone and four of our Livestock Inspectors attended a training for external parasites of veterinary importance. The “Tick Training” was provided by USDA and several OSU facility members. Several of our USDA VMOs and Animal Health Technicians also attended this training.

Because of the continued incursion from Mexico of the Cattle Fever Tick through Texas Livestock Markets we have had a number of trace outs to herds in Oklahoma that were placed under quarantine, scratched, and treated for ticks before movement was allowed.

A new tick to the United States, the Asian Longhorn Tick, (*Haemaphysalis longicornis*) is now probably endemic and is capable of transmitting *Theileria orientalis*. This disease has the potential of moving into our state with cattle movement and could spread if we have the proper vector.

The tick research and rearing facilities at OSU were visited. Large numbers of every stage of ticks were examined and much of their preference were discussed. This was a great training opportunity and not available anywhere else in the country. Strict security is enforced at this facility.

On August 3 I talked with the Cattlemen’s Leadership Academy during their visit to ODAFF. We discussed the role of Animal Industry Services and they had a number of good questions about livestock health and traceability.

On August 5 I attended the Oklahoma Pork Congress and was honored to be presented with their Distinguished Service Award. This proved two things. One is that I have a great team who does most of the work to support and assist industry and great support from Secretary Arthur. The second is that if you live long enough and hang around long enough organizations run out of people to give awards to and some fall to you.

On August 8 I ate lunch with the Ag Youth Council and had the opportunity to share a little about Animal Industry and to learn about some of them.

On August 17 we hosted the first face to face Veterinary Medical Officer meeting in over two years. It was good to see our USDA colleagues in person and catch up on the cases everyone has been working on.

Poultry Programs:

There have been 25 sick or dead birds submitted for our sick bird/dead bird program since the last board report, for a total of 117 cases this year.

While the number of cases of Highly Pathogenic Avian Influenza have decreased, we continue to see it occurring in the Northwestern states (California, Washington, and Utah) and most recently there have been confirmed cases in domestic poultry in Indiana and Wisconsin. It is anticipated cases will increase as bird migrations begin in the fall. We continue to encourage biosecurity for commercial and backyard flocks to help prevent introduction of the disease. The virus is carried mainly by wild waterfowl but other bird species have been found to carry and transmit it. This particular strain of virus is also being found in several mammalian species.

Animal industry held two after action reviews for the HPAI case we had in Oklahoma. One meeting was with the affected company and those state and federal partners who were involved in the response. The second was with the Poultry Health Advisory Committee which is a committee comprised of industry, state, and federal officials from Arkansas, Missouri, and Oklahoma. Both of these meetings were to discuss those aspects of the response that worked well and those that need improvement. These reviews help us to improve our response plans and actions.

Dr. Ruby attended the Southern Animal Health Association meeting in Savannah, Georgia July 11th through the 14th. This meeting is comprised of both federal and state officials from the southern states. It is a time to discuss current issues, policies, and response efforts and how to better coordinate among states.

On July 22nd, Dr. Ruby attended the Arkansas Poultry Veterinarian's Association meeting and presented on a state's perspective of disease response in Oklahoma. There were veterinarians from Arkansas, Missouri, and Oklahoma present. It generated some good discussion on disease response, specifically with HPAI.

Public Health

Dr. Gorczyca-Southerland is continuing to work with a Commercial Pet Breeders Inspector to monitor testing in the kennel that had Canine Brucellosis. The quarantine will be in place until all dogs have had two negative brucellosis tests.

Rabies in Livestock:

The one sow who is under quarantine for exposure to a rabid skunk in May continues to show no signs of illness. Her quarantine will end in October. There have been no other cases of rabies in livestock.

Sheep and Goat Programs:

There was no significant activity during this time period.

Swine Programs:

Swine exhibition permit requests are streaming into the department as fall local, county and area fair season gets underway. This has also influenced swine testing and import permit requests as exhibitors make plans to compete at these events.

On July 13 we were notified that a hog from Bryan County had tested non-negative for Pseudorabies at a slaughter plant in NE Texas. We initially thought the manager of the premises was going to allow us to test the remainder of his herd, but then he pivoted and became non-responsive. We issued a quarantine and offered three methods to hopefully prove his herd free of the disease. One of our inspectors visited the premises to gain some understanding of the operation and to open a line of communication. To date the manager has not communicated with us to do any testing.

Miscellaneous:

On August 10 I met with Dr. Lesa Staubus from the Kirkpatrick Foundation. Dr. Staubus had attended the Oklahoma Pork Congress and was concerned about the use of gestation crates in the commercial swine industry and battery cages in the poultry industry. The vision of the Foundation's Safe and Humane program is "To make Oklahoma the safest and most humane place to be an animal by 2032". Dr. Ruby and I made her aware that battery cages are not used much in Oklahoma since we have very little table egg farms. I expressed that animals don't think the way we humans do and what appears to be inhumane to us may not be inhumane to an animal. We have to realize that Animal Rights and Animal Welfare groups are always watching. We must continue to encourage our stakeholders to do everything in their power to be sure they are using acceptable management techniques in the most humane manner possible, not just because others are watching but because it's the right thing to do.

On August 16 I received a complaint about a Non Veterinary Equine Dental Care Provider using prescription drugs without a Veterinary/Client/Patient relationship. I turned it over to the Oklahoma Board of Veterinary Medical Examiners for them to investigate.

Dr. Stone has been to several trainings this past year for mass mortality management events. He is now working with one of our private practitioners on the use of compost and above ground shallow burial to manage animal mortalities. Resources from Food Safety and Agricultural Environmental Services are also working to make this successful and beneficial for all.

We are working with general counsel on the process to make potential rule and statute changes.

Respectfully,

A handwritten signature in cursive script that reads "Rod Hall DVM". The signature is written in dark ink and is positioned above the printed name.

Rod Hall, DVM

Oklahoma Department of Agriculture, Food, and Forestry
Wildlife Services Division
Board Report for July/August 2022 Activities

Introduction

Wildlife Services (WS) responds to damage complaints caused by wildlife to resources or property throughout Oklahoma. WS Specialists conduct operational damage management programs for many of the complaints they receive to resolve these wildlife damage problems. During this period, these projects were conducted on 659 properties with an estimated 2,217,089 acres of land under agreement. Additionally, WS helped 405 persons and entities with technical assistance which involved providing information to cooperators so they can resolve problems themselves. Cooperators reported and WS Specialists verified wildlife damage of \$920,026 during this period. Beaver damages accounted for losses totaling \$140,650. Coyotes were responsible for a number of damage requests, primarily to livestock, with losses totaling \$34,381. Feral swine damages accounted for losses totaling \$716,267, while other species of wildlife, mainly black vultures, were responsible for \$28,728 in damages to property, agriculture, and livestock.

Providing Wildlife Services

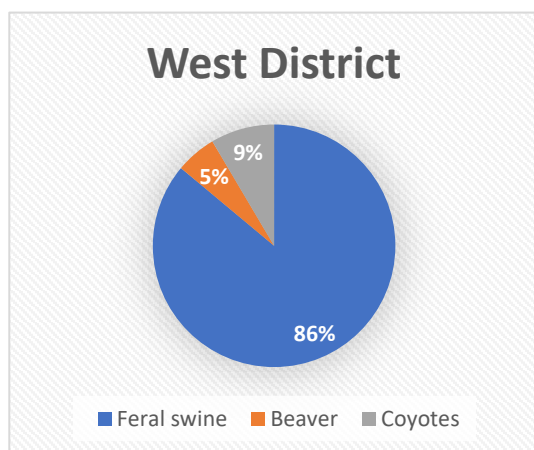


Figure 1: Species Removed in West District by percentage during July/August 2022

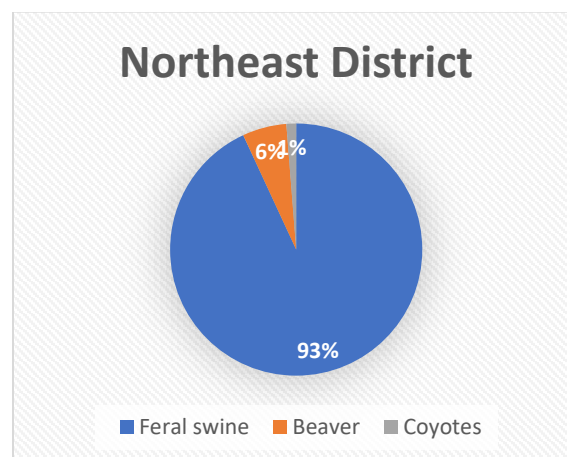


Figure 2: Species Removed in the Northeast District by percentage during July/August 2022

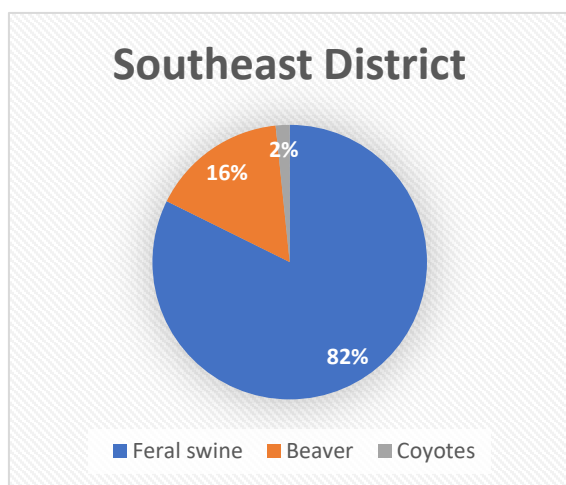


Figure 3: Species Removed in the Southeast District by percentage during July/August 2022

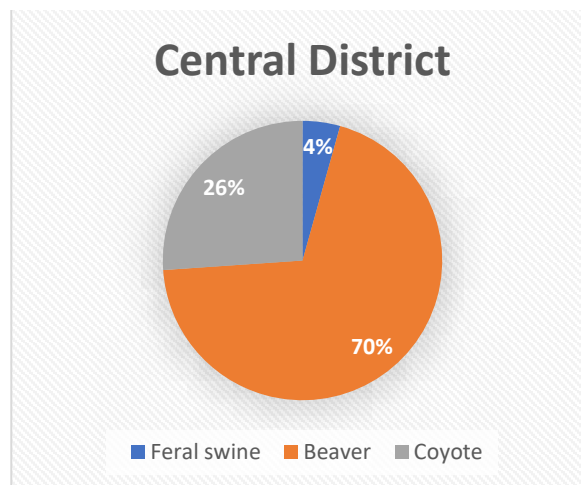


Figure 4: Species Removed in the Central District by percentage during July/August 2022

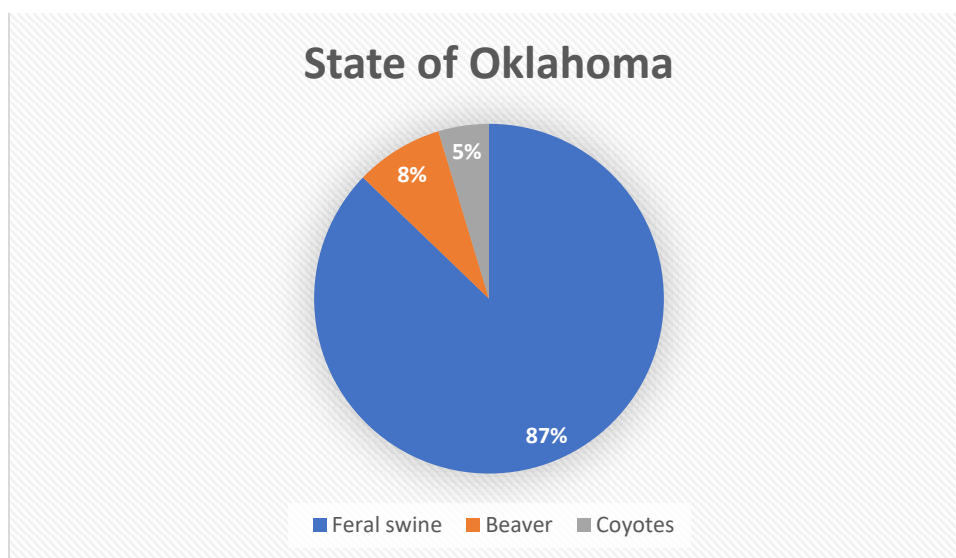


Figure 5: Species Removed in the State by percentage during July/August 2022

Coyote Damage Management

Texas County landowner requested assistance with coyotes depredating on his calves. The producer reported that coyotes were responsible for the loss of five calves valued at \$4,407. The Wildlife Specialist assigned to Texas County examined one of the carcasses and verified that coyotes were responsible for the loss. Damage management efforts were successful in removing twenty-four coyotes from the property. Control efforts continue to help further reduce the threat to the cooperator's calves.

Major County livestock producer requested assistance with coyotes depredating on his calves. The producer reported that coyotes had killed four calves valued at \$3,526. The Wildlife Specialist assigned to Major County responded to the request and examined the carcasses and confirmed that coyotes were responsible for the loss. The Specialist used leg hold traps and calling/shooting methods to remove eight coyotes. Control efforts continue to prevent additional losses.

Carter County producer called WS for assistance with a coyote predation concern. He reported losing three goats and two calves to coyotes. WS responded and verified the damage and found a considerable amount of coyote sign in the goat and cattle pastures. Damages were estimated at \$5,200 in predation losses. The owner had already tried barrier fencing, animal husbandry, and harassment, but nothing seemed to deter the coyotes. Snares were placed to capture two coyotes and no further damages have been reported. This project is still being monitored.

Logan County livestock producer requested assistance with coyotes depredating on his calves. The producer reported that coyotes had killed two calves valued at \$2,000. The Wildlife Specialist assigned to Logan County responded to the request and examined the carcasses and confirmed that coyotes were responsible for the loss. The Specialist used leg hold traps and snares to remove five coyotes. Control efforts continue to prevent additional losses.

Beckham County livestock producer requested assistance with coyotes depredating on his calves. The producer reported that coyotes had killed one calf valued at \$881. The Wildlife Specialist assigned to Beckham County conducted a site visit and determined coyotes were responsible for the loss. Damage management efforts were successful in removing six coyotes from the property. No further losses have occurred and work is ongoing at this time to prevent additional losses.

Feral Swine Damage Management

Major County landowner contacted WS for assistance with feral swine damaging his milo field. The landowner estimated \$4,627 in damages to the field. The Wildlife Specialist assigned to Major County responded to the request and verified the damage. A live trap was placed out and forty-two feral swine were removed from the property. No additional damage has occurred and the feral swine population in the area is being monitored to determine if additional management is needed.

Lincoln County landowner contacted WS needing assistance with feral swine rooting up five acres of a corn field, with damages valued at \$2,200.22. The Wildlife Specialist assigned to Lincoln County responded to the request and verified feral swine were responsible for the damage. A live trap, along with thermal and daytime shooting were used to remove thirty-one feral swine from the property. No additional damage has occurred and the population in the area is being monitored to determine if additional management is needed.

Nowata County landowner contacted WS with feral swine damage concerns. The landowner reported seeing feral swine on his property. A WS Specialist responded to the request and verified that feral swine were certainly present on the property. The WS Specialist noted that a neighboring property had \$32,000 in verified damages caused by feral swine on pasture ground and winter wheat. The WS Specialist was able to use a live trap and shooting methods to remove seventy-five feral swine.

Johnston County rancher called WS for assistance when he found feral swine in his silage that fed his cattle. The Johnston County WS Specialist responded and verified the consumption of livestock feed

by the feral swine and estimated the rancher's losses at \$250. A remote camera trap was placed on the property and eleven feral swine were removed. The owner was given information about how to change the environment around the silage storage area to reduce consumption from feral swine in the future. This project is still being monitored.

Love County rancher called WS for assistance with feral swine on his property. The rancher reported that the feral swine were consuming his calf feed from the creep feeders in his cattle pastures. He reported that the feral swine were consuming as much as 500lbs of feed each night. The WS Specialist for Love County was able to verify this damage and estimated the owner's losses at \$1,000 in feed and pasture damages. A remote camera trap was placed out and twenty feral swine were removed within a few days. After still finding fresh sign, the trap was left on the property and fifteen more feral swine were captured.

Creek County rancher asking for assistance with feral swine that were rooting his grazing pasture, with damages estimated at \$2,500. WS verified feral swine were responsible for rooting and used baiting and trapping, as well as shooting to remove forty-five feral swine from the property. No further damage has occurred and work is ongoing at this time.

Osage County landowner contacted WS with concerns of feral swine on his property. The landowner had reported approximately one acre of damage, valued at \$1,300. A WS Specialist responded to the call and inspected the property and confirmed the damage reported was from feral swine. A live trap was placed on the property to remove sixteen feral swine. Work is continuing at this time and the property owner was advised of environmental changes that could help prevent future damage.

Tillman County landowner contacted WS needing assistance with feral swine damaging his pastures and cotton fields. The landowner estimated the damages the fields to be \$3,000. The Wildlife Specialist assigned to Tillman County responded to the request and verified feral swine were responsible for the damage. A live trap was placed out and fifty-one feral hogs were removed from two trapping locations on the property. No additional damage has occurred and the local population is being monitored to determine if additional management is needed.

Caddo County landowner contacted WS needing assistance with feral swine rooting in his pastures. The landowner estimated that feral swine rooted up eleven acres in his pasture with \$2,500 in damages. The Wildlife Specialist assigned to Caddo County responded to the request and verified feral swine were responsible for the damage. A live trap was placed out and forty-eight feral swine were removed from the property. No additional damage has occurred and the local population is being monitored to determine if additional management is needed.

Aerial Operations

Aerial operations were conducted in **Tillman County** in July in response to several farmers requesting feral swine damaging milo fields. Historically farmers in this area have significant losses to milo during planting and again during harvest time. To reduce damages in this area, the helicopter was flown for 3.5 flying hours to remove forty-eight feral hogs. This area will be closely monitored to determine if additional aerial operations are needed.

Aerial operations were conducted in **Greer County** in July in response to request from corn producer experiencing feral swine damage to his corn field. To reduce crop losses from feral swine, the

helicopter was flown for 3.4 flying hours to remove thirty-two feral swine from the corn field. This area is closely being monitored to determine if additional aerial efforts are needed to further reduce damage.

Aerial operations were conducted in **Custer County** in July in response to landowners' request for feral swine damage to two corn pivots. The helicopter was flown for 3.8 flying hours to remove eighty-one feral swine from the areas. Additional aerial operations are planned in these areas to further reduce damage associated with feral hogs.

Aerial operations were conducted in **Caddo County** in July in response to three landowners experiencing feral swine damage on four irrigated corn fields. Landowners reported to the Wildlife Specialist that feral swine had damaged twenty-five acres of corn valued at \$16,000. The helicopter was flown for 3.7 flying hours to remove eighty-four feral swine from the affected fields. Activity in and around the four cornfields is closely being monitored to determine if additional aerial operations is necessary to further reduce feral swine damage.

Aerial operations were conducted in **Caddo County** in August in response to several farmers requesting assistance from feral swine damage to peanut and corn fields. Historically farmers in this area have significant losses to these crops during planting and again during harvest time. Damage in the flown area is estimated to be \$12,000. To reduce feral swine damage in this area the helicopter was utilized for 4.1 flying hours to remove eighty-four feral swine. This area will be closely monitored to determine if additional aerial operations are needed.

Aerial operations were conducted again in **Jackson and Tillman Counties** in August in response to landowners' request for assistance to reduce feral swine damage to milo and corn pivots. Damage in the three areas was estimated at \$7,500. The helicopter was flown for 5.1 flying hours to remove one hundred and fifty-six feral swine from the areas. Additional aerial operations are planned in these areas to further reduce damage associated with feral swine.

Aerial operations were conducted in **Roger Mills County** in August in response to request from landowners experiencing feral swine damage to milo fields and pastures. Damage in the area flown was estimated at \$5,000. To reduce crop and pasture losses from feral swine, the helicopter was flown for 3.9 flying hours to remove sixty-five feral swine from the cornfield. This area is closely being monitored to determine if additional aerial efforts are needed to further reduce damage.

Beaver Damage Management

Stephens County Road Commissioner contacted WS for assistance with beavers that were responsible for damming up a road culvert and causing damage to the road structure. The Commissioner estimated the damage to the road to be valued at \$2,500. The Specialist for Stephens County responded and verified beavers were responsible for damage. The Specialist was successful in removing five beavers from the creek to help reduce any additional damage to road structure.

Garfield County landowner contacted WS for assistance with beavers that were responsible for burrowing into his pond dam on his property. The landowner estimated the damage to the dam to be valued at \$6,500. The Specialist for Garfield County responded and verified beavers were responsible for damage. The Specialist was successful in removing five beavers from the pond to help reduce any additional damage to the pond dam structure.

Cherokee County Road Commissioner contacted WS for assistance with beavers that were responsible for damming up a road culvert and causing damage to the road structure. The Commissioner estimated the damage to the road to be valued at \$500. The Wildlife Specialist for Cherokee County responded and verified beavers were responsible for damage. Control measures employed by the Specialist were successful in removing five beavers from the creek to help reduce any additional damage to the road and bridge structure.

Haskell County landowner contacted WS regarding beaver damages to his property. He reported that beavers had flooded twenty acres of hayfield. The Wildlife Specialist assigned to Haskell County responded to the request and verified that beavers were responsible for an estimated \$6,500 in damages. Three beaver dams were removed and four beavers were removed by conibear traps. Work is ongoing to ensure that no more beavers are present.

Choctaw County cooperator called WS for assistance with beaver damages to his property. WS Specialist responded and verified the damage was estimated at \$3,500 in flooding and timber damages. The beaver dam was manually removed and conibear traps were placed. Three beavers were removed with no further damages reported, this project has concluded.

Received a request from a **Pottawatomie County** landowner that reported seeing beavers in her pond. The pond dam is utilized as a driveway to her residence and she was concerned that the beavers were burrowing through the dam. Upon arrival to the location, beaver damages were verified to surrounding trees, but not to the dam. Tree loss was valued at \$3500. Body grip traps were set and two beavers have been removed to date. Work is ongoing at this time.

Pontotoc County rancher called WS for assistance with beavers in his stock ponds. The beavers were burrowing in the pond dams and damages were verified by the WS Specialist and estimated at \$4,500. Neck snares and conibear traps were placed and seven beavers were removed. This project has concluded.

Stephens County landowner contacted WS for assistance with beavers that were responsible for burrowing into his pond dam on his property. The landowner estimated the damage to the dam to be valued at \$2,500. The Specialist for Stephens County responded and verified beavers were responsible for damage. Control measures employed by the Specialist were successful in removing three beavers from the pond to help reduce any additional damage to the pond dam structure.

Custer County landowner contacted WS for assistance with beaver that were responsible for damming up the creek on his property at a low water crossing on his property. The landowner estimated the damage to the road structure and culverts to be valued at \$1,000. The Specialist for Custer County responded and verified beavers were responsible for damage to the dam. Control measures employed by the Specialist were successful in removing the beavers from the creek to help reduce any additional damage to the road structure.

Special Projects

Atoka County officials called for assistance with Black vultures in July. The personnel at McGee Creek State Park noticed the Black vultures resting on their water facility equipment. Black vultures have caused thousands of dollars in damage to the facilities communications and remote-control equipment in past years. After verifying that black vultures were present at the facility, a vulture trap

was pre-baited and eighteen Black vultures were removed from the property. This project is still being monitored for Black vulture activity.

Pontotoc County community of Coalgate called WS for assistance with beavers in a lake which is located inside the community park. Damage to the trees surrounding the lake was verified and estimated at \$1,500. In August, conibear traps were placed and four beavers were removed to conclude this project.

Payne County landowner contacted WS with a bobcat concern. The landowner reported losing two kid goats to a bobcat. WS responded and set up a trail camera and a cage trap where the bobcat was seen. Loss was verified and estimated at \$182.

Table 1: Beaver, Coyote, and Feral Swine removal in Oklahoma by WS July/August 2022

County	Beaver	Coyote	Feral swine	District
Adair		5		NE
Alfalfa				W
Atoka	7		51	SE
Beaver		21		W
Beckham		7	56	W
Blaine			58	W
Bryan	16	5	50	SE
Caddo			100	W
Canadian	7			C
Carter		4		SE
Cherokee	1	1		NE
Choctaw	10		25	SE
Cimarron	32			W
Cleveland	3			C
Coal	6		16	SE
Comanche			45	W
Cotton			179	W
Craig	4		41	NE
Creek		2	77	NE
Custer	4	1	239	W
Delaware			70	NE
Dewey	5	9	29	W
Ellis	3	1	50	W
Garfield	2	11		W
Garvin	3	1		SE
Grady	13		62	W
Grant	1			W

Greer			195	W
Harmon				W
Harper				W
Haskell	4		15	NE
Hughes	4		41	SE
Jackson		1	173	W
Jefferson			26	SE
Johnston	8		120	SE
Kay				NE
Kingfisher	5			W
Kiowa		7	69	W
Latimer	17		55	SE
Leflore	6		127	SE
Lincoln	16		70	NE
Logan	7	10		W
Love			45	SE
Major	5	7	61	W
Marshall				SE
Mayes			4	SE
McClain	9		7	SE
McCurtain	11		74	SE
McIntosh	4		135	NE
Murray				SE
Muskogee	2		42	NE
Noble			47	NE
Nowata	2		180	NE
Okfuskee			7	NE
Oklahoma	6	6	1	C
Okmulgee	7		48	NE
Osage	11	9	226	NE
Ottawa	4		11	NE
Pawnee	1		264	NE
Payne	11			NE
Pittsburg	7			SE
Pontotoc	14	4		SE
Pottawatomie				C
Pushmataha	19			SE
Roger Mills	3	7	21	W
Rogers	1			NE
Seminole			62	SE
Sequoyah	2		6	NE

Stephens	16	12		W
Texas		44		W
Tillman		3	175	W
Tulsa	4			NE
Wagoner	3		29	NE
Washington				NE
Washita			7	W
Woods		9		W
Woodward				W
TOTAL	326	187	3491	

*NE –Northeast, SE –Southeast, W – West, C - Central Districts

Respectfully submitted,

Scott Alls
Division Director
Wildlife Services Division

**August 2022 Activity Report
for
September 2022 Board Meeting
Agricultural Statistics Division**

General

Rainfall totals in Oklahoma, **the first week of August**, averaged 0.09 of an inch. According to the August 2nd US Drought Monitor Report, drought conditions were rated 100 percent abnormally dry to exceptional drought, unchanged from the previous week. Additionally, 99 percent of the state was in the moderate drought to exceptional drought category, down 1 percent from the previous week. Statewide, temperatures averaged in the upper 80's. Topsoil and subsoil moisture conditions were rated mostly very short to short.

Rainfall totals in Oklahoma, **the second week of August**, averaged 0.37 of an inch. According to the August 9th US Drought Monitor Report, drought conditions were rated 100 percent abnormally dry to exceptional drought, unchanged from the previous week. Additionally, 99 percent of the state was in the moderate drought to exceptional drought category, unchanged from the previous week. Statewide, temperatures averaged in the lower 80's. Topsoil moisture and subsoil moisture conditions were rated mostly very short to short.

Rainfall totals in Oklahoma, **the third week of August**, averaged 1.09 inches. According to the August 16th US Drought Monitor Report, drought conditions were rated 100 percent abnormally dry to exceptional drought, unchanged from the previous week. Additionally, 99 percent of the state was in the moderate drought to exceptional drought category, unchanged from the previous week. Statewide, temperatures averaged in the upper 70's. Topsoil moisture and subsoil moisture conditions were rated mostly very short to short.

Rainfall totals in, **the fourth week of August**, Oklahoma averaged 0.35 of an inch. According to the August 23rd US Drought Monitor Report, drought conditions were rated 100 percent abnormally dry to exceptional drought, unchanged from the previous week. Additionally, 99 percent of the state was in the moderate drought to exceptional drought category, unchanged from the previous week. Statewide, temperatures averaged in the upper 70's. Topsoil moisture conditions were rated mostly short to very short, while subsoil moisture conditions were rated very short to short.

Row Crops: In the Central district, reporters indicated that crops have suffered from drought and yields are down substantially. Corn dough reached 80 percent, up 2 points from the previous year but down 4 points from normal. Corn dented reached 55 percent, up 14 points from the previous year and up 2 points from normal. Corn mature reached 9 percent. Sorghum headed reached 85 percent, down 4 points from the previous year and down 3 points from normal. Sorghum coloring reached 55 percent, up 12 points from the previous year and up 11 points from normal. Sorghum mature reached 6 percent, up 1 point from the previous year but down 6 points from normal. Soybeans blooming reached 80 percent, down 1 point from the previous year and down 2 points from normal. Soybeans setting pods reached 55 percent, down 1 point from the previous year and from normal. Peanuts pegging reached 95 percent, up 6 points from the previous year and up 3 points from normal. Peanuts mature reached 16 percent, up 3 points from the previous year and up 6 points from normal. Cotton setting bolls reached 90 percent, up 14 points from the previous year and up 6 points from normal. Cotton bolls opening reached 5 percent, down 4 points from the previous year and down 6 points from normal.

Hay: The fourth cutting of alfalfa hay reached 35 percent, down 5 points from the previous year and down 9 points from normal. The second cutting of other hay reached 90 percent, up 16 points from the previous year and up 20 points from normal. The third cutting of other hay reached 35 percent, up 21 points from the previous year and up 22 points from normal.

Pasture and Livestock: Pasture and range condition was rated at 34 percent good to fair. Livestock condition was rated at 79 percent fair to good.

Surveys: Surveys administered by the Oklahoma call center are listed in the table below:

Survey	Enumerated by:	Survey Dates
Feral Swine Survey	DCC	7/14 – 8/12
August Ag Yield	DCC	7/30 -8/8
Small Grain CAPS	DCC	8/1 – 10/7
September Ag Yield	DCC	8/30 – 9/7
September Crops APS	DCC	8/30 – 9/17
Cotton Ginnings	DCC	9/15 – 9/16
CA Dept Irrigation Survey	DCC	9/15 – 10/14
Pecan AP	DCC	9/28 – 10/4
October Ag Yield	DCC	9/29 – 10/5

Statistics: On August 12, 2022, the August Crop Production report was published. Highlights include:

Oklahoma Upland cotton production is forecast at 270 thousand bales, 61 percent lower than 2021. Yield averaged 498 pounds per acre, compared with 756 pounds last year. Acreage harvested, at 260 thousand acres, is down 41 percent from last year.

Oklahoma corn production is forecast at 42.9 million bushels, down 3 percent from the previous year. Statewide yields averaged 130 bushels per acre, 20.0 bushels lower than 2021. Acres harvested for grain, at 330 thousand, is up 12 percent from last year.

Oklahoma sorghum production is forecast at 10.9 million bushels, down 47 percent from last year. Yield averaged 35.0 bushels per acre, down 19.0 bushels from the previous year. Acres harvested, at 310 thousand acres, is 18 percent lower than 2021.

Oklahoma soybean production is forecast at 8.74 million bushels, down 29 percent from last year. Yield is expected to average 19.0 bushels per acre, compared with 23.0 bushels in 2021. Harvested acreage, at 460 thousand acres, is 14 percent lower than last year.

Oklahoma peanut production is 11 percent lower than last year, at 58.8 million pounds. Yield is expected to average 4,200 pounds per acre, down 200 pounds from 2021. Harvested acres are down 7 percent from last year to 14.0 thousand acres.

Oklahoma hay productions is forecast at 4.58 million tons, down 10 percent from last year. Yield is expected to average 1.4 tons per acre, down .2 tons per acre from 2021. Harvested acres, at 2.92 million acres, is down 1 percent from last year.

Information Requests: Phone calls, personal visits to our office, and requests via e-mail for information since last report totaled 37. In addition, our internet home page was hit 2,140 times in July, which is down 3 percent from 2021.

Releases for August:

State Cash Rents
Crop Production
Cattle on Feed
County Cash Rents
Agricultural Prices

Relating Dates:

2022 Crop Year
August 1, 2022
August 1, 2022
2022 Crop Year
August 15, 2022

Release Dates

August 5, 2022
August 12, 2022
August 19, 2022
August 26, 2022
August 31, 2022

Releases for September:

Crop Production
National Conservation Practice Adoption
Cattle on Feed
Hogs and Pigs
Agricultural Prices
Acreage Report
Grain Stocks

Relating Dates:

September 1, 2022
2021 Crop Year
September 1, 2022
September 1, 2022
September 15, 2022
September 1, 2022
September 1, 2022

Release Dates:

September 12, 2022
September 15, 2022
September 23, 2022
September 29, 2022
September 30, 2022
September 30, 2022
September 30, 2022

Meetings and Events:

ITEC Conference
Euchee Butterfly Farm tour
Women in Ag Conference
AYC Session 1
AIANTA Tribal Tourism webinar
State Technical Meeting
Nation to Nation Meeting
APHIS Emergency Management Training
NASS FO Leadership Form
OKC DCC Sept Crops APS Training
MT/WY/ND WEWAI Training

Date:

August 2, 2022
August 3, 2022
August 4-5, 2022
August 8, 2022
August 9, 2022
August 11, 2022
August 15-16, 2022
August 17, 2022
August 22-26, 2022
August 29, 2022
August 30-31, 2022

Location:

Virtual
Leonard, OK
OKC, OK
OKC, OK
Virtual
Stillwater, OK
Sulphur, OK
Sulphur, OK
OKC, OK
Virtual
Virtual

Respectfully Submitted,



Troy Marshall

MARKET DEVELOPMENT SERVICES

September 15, 2022

Report to the State Board of Agriculture

AG IN THE CLASSROOM

AG IN THE CLASSROOM IMPACT

- Total Number of Teachers/Administrators Impacted: 365
- Total Number of Pre-service Teachers Impacted: 11
- Total Number of Extension Educators Impacted: 0
- Total Number of Students Directly Impacted by Coordinators: 710
- Total Number of Resources Given: 12,152
- Total Number of Teachers/PreService Teachers Resources Given to: 823
- Total Number of PreK-12th Grade Students Resources Given to: 710

AG IN THE CLASSROOM WEBSITE, LESSON IMPACT, AND SOCIAL MEDIA

- The AITC website had 3,198 visits and 2,496 unique pageview visits.
- The AITC monthly email is delivered to 16,136 accounts.
- The AITC Facebook page now has 8,183 followers.
- The AITC Twitter page now has 587 followers.
- Oklahoma AITC Instagram account now has 656 followers.
- Oklahoma AITC Pinterest account now has 213 followers.
- The AITC YouTube channel now has 8,909 views.

Ag in the Classroom- Professional Development Workshops

Number of Educators & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
200+ teachers PK-12th grade from all over Oklahoma	AITC State Summer Conference - Moore/Norman Technology Center	36 workshops presented - participants were able to choose between 9 different workshops for 4 sessions	Soil Plants & Animals Oh My, Alpaca Tear sheets, Beef Tear Sheets, Cotton Tear Sheets
25 Caddo County Farm Bureau Women's Committee Meeting	Caddo County Farm Bureau office in Anadarko, OK	Read an Accurate Ag Book Week	Featured resources that can be paired with books that are read for Read an Accurate Ag Book Week - Ag Technology Readers; Horse Tear Sheets; Strawberry Tear Sheets; Dairy Tear Sheets
1 6th grade teacher (recommend	CCM School	N/A	Barn full of resources needed for a new Ag in the Classroom or Ag elective at a

ed by former AITC State Coordinator)			Christian school
11 OSU Ag-Ed Pre-service teachers	Oklahoma State University	At the Sale Barn; Thinking in Pictures like Dr. Grandin; What Little Piggy?	Barn full of middle/high school resources
125--High School FACS teachers	Career Tech Summit FACS Teachers/Owasso	Tear Sheets for Beef, Peanuts, Mushrooms, Alpacas, Chickens, Sesame; Pig Personality Test; Read an Accurate Ag Book	Soil Plants and Animals, Pens, Career Magazines and infographics, Oklahoma Ag Mag
350 Educators	History Center Back to School Bash Booth	N/A	Red Dirt Symbols, ABC Coloring Book, Oklahoma Ag Mag

Ag in the Classroom- Student Events

Number of Participants & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
10 - 6th to 12 grade students	Oklahoma 4-H Round-up workshop	Protect the Pringle - STEM project	N/A
500 2nd and 3rd Grade Students from Grady County, OK	Grady County Fair	Dairy Facts; making butter	Dairy Tear Sheets; Does Chocolate Milk Come from Brown Cows Tear Sheet
200 4-H students	4H Petes Picnic ROUNDUP - Stillwater, OK Gallagher Iba Arena	Booth at Pete's Picnic	All Tear Sheets, Red Dirt Mags, Ag Mags, Pig Pens, Bookmarks

Ag in the Classroom- Resources Mailed or Delivered

Locations where Resources are Mailed or Delivered	
Heavener Public Schools	Hugo Public School
Cushing Upper Elementary	Central Elementary School
Turner Elementary - Burneyville, OK	Pocola Elementary School
Panama Lower Elementary School	Hayes Grade Center - Ada, OK
Lakeside School - Hominy, OK	Oak Grove Elementary - Cushing, OK
Summit Christian Academy - Broken Arrow, OK	Broken Bow Dierks Elementary

Thrive Homeschool Coop	Creekwood Elementary - Broken Arrow, OK
Central Middle School - Edmond, OK	Erick High School
Parker Intermediate Center - McAlester, OK	Arrowhead Elementary - Broken Arrow, OK
Jenks West Elementary	Clyde Boyd Middle School - Sand Springs, OK
OSU Extension Office - Guymon, OK	Robin Hill School - Norman, OK
Morrison Elementary	Deer Creek Elementary
Centennial Elementary - Edmond, OK	West Jr High School - Noble, OK
Kingsgate Elementary - OKC	Edmond Doyle Elementary - McAlester, OK
Oakes Elementary - Okemah, OK	Kaiser School - OKC
Epic Charter Schools - Tulsa, OK	Purcell Intermediate School
Durant High School	Coalgate Elementary
Maryetta Elementary	Capitol Hill High School - OKC
Tuttle Elementary School	Stillwater Public Schools
Norman North High School	Oklahoma Union - South Coffeyville, OK
Luther Public Schools	Waukomis Schools
Tishomingo High School	Cushing Upper Elementary

Ag in the Classroom- Other Events

Event	Highlights
AITC Advisory Meeting	AITC met with their Advisory council to discuss industry updates and upcoming AITC events.

AGRITOURISM

Agritourism - Site Visits

Producer	Location	Category	Highlights
Cotton Blossom Winery	Marlow	Winery	Dropped off wine trail maps, app rack cards, wine trail stickers
Kochendorfer Brewing	Duncan	Brewery	Dropped off beer trail maps and stickers
Eastside Market	OKC	Farmers Market	Delivered OK Grown bags
Joe's Farm	Bixby	Farm-to-table, u-pick	Stop on the NAAMO bus tour

Red Baron Ranch	Coweta	Petting Farm	Stop on the NAAMO bus tour
OK National Stockyards	OKC	Farm & Ranch Attraction	Stop on the NAAMO bus tour
Express Clydesdales Ranch	Yukon	Farm & Ranch Attraction, Teachable Moments	Stop on the NAAMO bus tour
Lawton Farmers Market	Lawton	Farmers Market	Deliver OK Grown bags
Whispering Meadows Winery	McAlester	Winery	Drop off wine trail app flyers, info about updating winery profile on app.
Rocky Top Winery	Allen	Winery	Drop off wine trail app flyers, info about updating winery profile on app.
Put a Cork In It Winery	OKC	Winery	Drop off wine trail app flyers, info about updating winery profile on app.

Agritourism - New Producers or Potential Producers

Producer	Location	Category	Highlights
Atkins Farm Stand	Marlow		Delivered OK Grown bags
Bill & Danielle Akins	Earlsboro	Petting Farm	Potential new agritourism venue site visit

Agritourism - Other Activities

- Phone consult/conversations with: Roy Snider, Waurika FM, Dustin Bryant, Cheryl Brown
- Phone consult/conversations with: Nuyuka Winery, Sweet Pickens Pumpkin patch, Shakespeare Wine Company, Livesay Orchards, Wakefield Inn and Winery, Peach Tree Farms, Cottonwood River Valley Farm, Rocky Top Winery, Put a cork in it winery, Vernost Wine Company, Turn-er me on winery, Chester Party Barn
- Email consultation with: Waurika FM, American Solera Edmond location, Legally, Good Cause brewing, Kat Robinson (Robinson Ranch)
- Zoom consults/meetings: Weekly OLAC website meetings, Discover Oklahoma meeting, OKLAS Planning Meeting with ONIE, Wine Trails app updates
- NAAMO Conference
- Oklahoma Local Ag Collaborative (OLAC)
- Women in State Government Conference
- OSU Women in Ag Conference Presented on Trends in Agritourism
- Attended NAFDMA Summer Bus Tour
- Set up booth and passed out brochures at Tourism Roadshow at American Fidelity
- Presented at the Oklahoma Mayors of Black Towns Conference
- Hosted USDA NASS Conference
- Attended Hunger Stimulation Workshop by the Regional Food Bank
- Hosted AgHERculture Conference

ECONOMIC DEVELOPMENT

Activity	Action
Agriculture Enhancement & Diversification Program meeting	The Agriculture Enhancement & Diversification Program's selection committee met on August 4 th to review 6 grant applications. The committee voted in favor of recommending two (2) Farm Diversification grants and one (1) Ag Event grant for approval.
Healthy Food Financing Program meeting	The selection committee for the Healthy Food Financing Program met on August 3 rd to review applications submitted for grants and loans. The committee did not recommend any applications for approval to the State Board of Agriculture.
Rural Oklahoma Food Animal Veterinary Grant	Contractual agreements and Purchase Orders have been signed for all 10 projects. ODAFF has received invoices from each applicant and has processed their request for payment.
Perkins Cattle Grading Contest	The annual Perkins cattle grading contest was held on July 11 th . 305 4-H & FFA members from Oklahoma and Texas participated in the event.
Review and approve SCBG invoices	SCBG grant coordinator approved 11 invoices for payment after reviewing receipts and purchases to make sure they were within the terms of the contractual agreement with ODAFF.
Review and approve Healthy Food Financing grant invoices	Grant coordinator approved 1 invoice for payment after reviewing receipts and purchases to make sure they were within the terms of the contractual agreement with ODAFF.
Agriculture Enhancement & Diversification Program	New rules for the Agriculture Enhancement & Diversification Program will take effect on September 12 th . In advance of this date the coordinator has been working to create three (3) new application forms for the following programs: Veteran or Young Farmer grant/loan, Value-added Agriculture grant/loan and the Product Development and Research grant/loan. In an effort to have all the applications have the same format the Farm Diversification and Ag Event applications were updated at the same time.

FARM TO SCHOOL

Visits Made:

- School Garden Community Party with OKC Harvest at Cleveland Elementary
- School Garden Meeting at Stratford Elementary
- Rainbow Fleet Meeting at Horace Mann Elementary – ECE school gardens

New Contacts:

- Taylor Hylton – email needs direction for possible school garden
- Susie West – HOP educator email/ECE child nutrition/farmers market in Muskogee
- Megan Paskey – email community food system coordinator – farm to school info
- Senator Carri Hicks – email – wants resources and direction on getting started with gardens for their PreK students at Rainbow Fleet/OKC
- Catherine Willis – email - TSET – farm to school partnership
- Traci Ellison – email – School ready to do school gardens. – Meeting set for Sept. 12th

Resource Requests

- 60 cookbooks, 40 posters

Events

- Head Start CACFP Training with Cooking for Kids – Muskogee – August 2nd
- Back to School Bash – OK History Center – August 4th

Other Activities

- State Obesity Zoom Call – August 17th
- OK Childhood Hunger Coalition Meeting – Zoom – August 18th
- School Garden Contest Applications – Judges set and meeting August 29th

Active Partners

- Farm Bureau Women’s Leadership Team
- Hunger Free Oklahoma
- Dept. of Human Services (LFPA Cooperative Agreement)
- Healthy Schools Oklahoma
- ODAFF Food Safety
- Cooking for Kids – OSU
- Oklahoma Master Gardeners – Shelley Mitchell
- National Western Heritage Museum – Gretchen Jeans
- OK History Center – Sarah Dumas

MADE IN OKLAHOMA COALITION

Made in Oklahoma Coalition – Advertising, Web and Social Traffic

Type	\$ Spent	Highlights
MIO Featured Monthly Recipes in Tulsa World and Oklahoman	\$500/month each	Featured press release and 1-2 showcased recipes in food section
Marketing, Consulting and Graphics Retainer with Krush	\$6,750	Social media posts, digital presence, analytics, management of content and creation of digital footprint, graphic design, etc.
MIO TV Cooking Segments on Channel 6 in Tulsa and Channel 4, 5 & 9 in OKC	OKC – 10 appearances Tulsa – 6 appearances	Natalie Mikels & David Brooks, MIO TV Personalities filmed in-person and remote segments for TV
FY21 Media Campaign Reporting	See link to view annual roll up report	Direct link to the monthly reports (August data is being gathered now):

		https://docs.google.com/spreadsheets/d/1KavbhMdd1nDfRktRwRFtJlPxrFRYIxoU1a59HFFoxd4/edit?usp=sharing
Restaurant of the Month	Each month staff, along with Food Service Committee present the restaurant with their award and eat lunch as a group at their establishment.	July – Pizzeria Gusto August – Florence’s Restaurant
Social Media Stats	Staff, and MIO media committee plan social content each month with our advertising agency, Krush Digital Marketing.	Twitter: 5,542 Instagram: 5,158 Facebook: 25,082 Pinterest: 2,354
MIO Monthly Newsletter		o 1790 distribution list
OK Living Partnership highlighting MIO Recipes	<ul style="list-style-type: none"> - Highlights 2-3 MIO recipes per month - Free publication to electric coop members 	MIO provides recipe content and OK Living does the ad design
Recipes of the Month	MIO recipes are developed each month highlighting member company products.	July: <ul style="list-style-type: none"> - JM Farms Grilled Steak, Onion and Mushroom Kabobs - Southern Roots Sisters Cast Iron Cookie Cake - Head Country BBQ Bacon Ranch Cheese Ball August – <ul style="list-style-type: none"> - Loaded Breakfast Burritos - 1,2,3 Peach Cobbler - Slow cooked sausage and peppers
July Retailer of the Month	Reasor’s	17 Tulsa area locations
August Retailer of the Month	Harps	Statewide locations

Made in Oklahoma Coalition – Other Activities

Activity	Information
NAAMO Conference - July 24-27 th	Market development staff helped facilitate and run the logistics of the NAAMO conference ensuring the conferences success.
Tulsa Tonk - July 30 th	<p>The MIO Coalition partnered with the Craft Brewers Association of Oklahoma to host the inaugural Tulsa Tonk festival. The event featured over 30 craft breweries, 15 MIO vendors, live music and fun.</p> <ul style="list-style-type: none"> - The event sold over 400 tickets.
MIO Meetings - August 12 th	Staff and MIO president Courtney Talbot led the monthly membership meeting. The August meeting was held via zoom due to member request.
MIO New Member Interviews - August 12 th	<p>The following companies were approved for membership in the MIO Coalition from the MIO board of directors.</p> <ul style="list-style-type: none"> - Equally Yoloked Eggs

	Big Sky Bread Co.
Oklahoma Restaurant Association Show - August 17-18 th	15 MIO members participated in the Made in Oklahoma Coalition booth at the Oklahoma Restaurant Association Show this year. Members reported positive interactions with institutional purchasers and restaurant owners. Members paid \$350 for a half booth and \$700 for a full booth space.
Session 9 of OALP - August 24-26 th	Staff attended session 9 of OALP which focused on agricultural operations in the Oklahoma Panhandle. We spent three days in Guymon and surrounding areas visiting operations including Hitch Enterprises/Feed yard, National Beef, Seaboard Foods, etc.

MADE IN OKLAHOMA PROGRAM

Meeting/Event	Date	Location	Details
Products to IFYR	July 8	Shawnee	Delivered Made in Oklahoma products to Shawnee to be had during International Finals Youth Rodeo
NAAMO	July 24-27	Tulsa	Hosted NAAMO conference
Social Media Meeting	July 28	Virtual	Weekly meeting to plan social media content

Upcoming Events	Date	Location	Details
Oklahoma State Fair	Sept. 15-25	OKC	MIO Store at OSF; 3,000 sq ft store featuring 50 Made in Oklahoma companies, 400+ products
Tulsa State Fair - vendors	Sept. 29-Oct. 9	Tulsa	Made in Oklahoma vendor section during the fair will feature 48 booths, with a variety of products
Tulsa State Fair - café	Sept. 29-Oct. 9	Tulsa	The OK Café will be ran by MD staff and highlight Oklahoma food companies
Made in Oklahoma Market at Stockyards Stampede	October 15	OKC	This market will be held in conjunction with Stockyards Stampede, featuring Made in Oklahoma companies

New Producers:

- Coldiron Cattle Company
- IHCON dba The Simple Freedom
- Silas Salsa Company
- Skinny Croc
- KJ Peppers Plus
- Energy and Environmental Services, LLC
- Shop Belladonna
- MargaretDesignStudio

- MK Designs
- REAL Kitchen Salsa
- Southwest Filter Company
- A.I. Cole, dba Gigi's Foods
- Backroads Country Crafts
- Lance Straughn Fine Art
- Tennessee Oklahoma Jeeps Shop
- Laxton Corner Creations
- Sew Bewitching LLC
- Feather Jewelry LLC
- Decker Cattle Company
- The Peach Barn
- Wylde Soap Company, LLC
- Artiest1
- Osage Orange Farms, LLC
- Jaren's Jerky

Other Made in Oklahoma Activities:

- Gave presentation over the Made in Oklahoma program at Women in Ag conference

MARKET NEWS SERVICES

July 11, 2022 – August 26, 2022

- **Grain Report:**

	July 8, 2022	August 26, 2022	DIFFERENCE
WHEAT: (bu)	\$8.36-9.19	\$7.73-8.53	\$0.63 to \$0.66 Lower
MILO: (bu)	\$6.22-6.72	\$6.39-6.81	\$0.17 to \$0.09 Higher
SOYBEANS: (bu)	\$14.62-15.08	\$13.71-15.17	\$0.91 Lower to \$0.09 Higher
CORN: (bu)	\$6.23-8.33	\$6.64-7.90	\$0.41 Higher to \$0.43 Lower
COTTON: (lb)	104.61 cents	122.12 cents	17.51 cents Higher

- **OKC NATIONAL STOCKYARDS (OKC) STEER AND HEIFERS**

FEEDER STEERS

Medium & Large Frame No. 1 Muscle Thickness (500-600 lb)

- (08-24-21) \$162.00-175.00 Wtd. Avg \$168.50
- (08-24-22) \$198.00-220.00 Wtd. Avg. \$209.00

HEIFERS

Medium & Large Frame No. 1 Muscle Thickness (500-600 lb)

- (08-24-21) \$142.00-163.00 Wtd. Avg \$152.50
- (08-24-22) \$170.00-197.00 Wtd. Avg. \$183.50

- **Weekly Report:**

- Seven weekly Oklahoma Market Reports were sent to 9,608 subscribers
July 11, 2022 – August 26, 2022 (**up 165 since subscribers last report**).

- **Voice Messaging System:**

The market news voice messaging system during 8701

- Monthly Total: July 11, 2022 – August 26, 2022 **8,701 Accessed Times**
- Compared to Last Month: May 27, 2022 – July 8, 2022 **8,632 Accessed Times**
- Compared to Last Month: **Accessed Times-is UP by 69**

- **Oklahoma Agriculture Market News**

- **Facebook Page**
 - Likes/Followers 345
 - **UP 22 Likes/Followers**

- People reached through pasted month: 1,368 people
- **Oklahoma Hay Directory**
 - Hay Directory
 - Currently have 25 producers that have hay
 - 8 producers during this past month already sold out of hay
- **Hay Report**

This Month: July 8, 2022 – August 26, 2022 Hay Traded 21,520
Last Year July 1, 2021 – August 20, 2021 Hay Traded 3,301
UP 18,219 Bales Reported

OKLAHOMA HAY MARKET REPORT
8-26-22

Receipts: 7,556 Last Reported: 2,842 Year Ago: 0

Compared to the last report: Hay is getting tighter. Farmers and hay producers are beginning to get creative with baling up their milo, soybeans, and corn stalks. The rain did come across parts of the state which brought cooler temperatures and gave potential to receive a second cutting. The Drought Monitor shows that 99.98% are in abnormally dry conditions, 98.64% are in moderate drought conditions, 89.68% are in severe drought conditions, 48.60% are in extreme drought conditions, and 2.19% exceptional drought conditions.

*** The next report release will be on September 9th ***

Central				
Alfalfa: Supreme (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	170	275.00	275.00	Delivered
Alfalfa: Supreme (Ask/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round		245.00		F.O.B
Alfalfa: Supreme (Ask/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square		225.00		F.O.B
Corn Stalk: Good (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	4400	100.00	100.00	Delivered
Soybean: Good (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	68	200.00	200.00	Delivered

North Central				
Bermuda Grass: Premium/Supreme (Trade/Per Bale)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	68	110.00	110.00	Delivered
Bermuda Grass: Premium/Supreme (Trade/Per Bale)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	92	90.00	90.00	F.O.B
Bermuda Grass: Premium/Supreme (Trade/Per Bale)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Small Square	142	11.00	11.00	F.O.B

Northeastern				
Alfalfa: Supreme (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	136	280.00	280.00	Delivered
Alfalfa: Premium/Supreme (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	170	270.00	270.00	Delivered
Mixed Grass: Premium/Supreme (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	570	165.00	165.00	Delivered
Prairie/Meadow: Premium/Supreme (Trade/Per Bale)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	236	65.00	65.00	Delivered
Prairie/Meadow: Good/Premium (Trade/Per Bale)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	302	60.00	60.00	Delivered
Northwestern				
Alfalfa: Supreme (Ask/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square		225.00		F.O.B
Milo: Good (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	1100	120.00	120.00	F.O.B
Mixed Grass: Good/Premium (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	102	150.00	150.00	F.O.B
West				
Alfalfa: Premium/Supreme (Ask/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square		200.00		F.O.B
Mixed Grass: Good/Premium (Ask/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round		75.00		F.O.B

AEMS Division Monthly Activities



Meet the AEMS Division's new Environment Specialist, Michael Ferry.
Michael comes to us from Ag Lab with 6 years
experience as a State Employee and 13 years of Naval service. Welcome, Michael!

- AEMS implemented program specific email inboxes to provide the public, clients, and staff with a single point of communication and coverage (AEMS.CAFO@ag.ok.gov; AEMS.Poultry@ag.ok.gov; AEMS.AgPDES@ag.ok.gov; AEMS.PetBreeders@ag.ok.gov).
- Representatives from the AEMS division participated in multiple Illinois River Watershed working group calls.
- AEMS worked a Catastrophic Death Loss at a Poultry Farm on 7/11/22; loss confirmed due to heat from loss of electrical/generator function; 60,000 birds buried.
- AEMS representatives worked with OWRB and lab to update and streamline the 106 agreement and strengthen communications.

AgPDES Permitting Activities

- Number of AgPDES CAFO Authorizations this reporting period: 0
- Number of AgPDES PGP Authorizations this reporting period: 0
- Number of AgPDES CGP Authorizations this reporting period: 4

Complaints and Inspections

A summary of the complaints received and investigated plus all the inspections and technical assistance conducted by the ODAFF AEMS Staff for this reporting period:

12	Complaints received and investigated this reporting period.
4	Complaints closed this reporting period.
Complaints Received - Breakdown	
	Cattle - 3 Swine – 0 Poultry- 0 Misc. Animal - 1 Other – 3 Animal Shelter 2 Pet Breeder 2
120	Year-to-date complaints received in FY 22 beginning FY 23
92	Year-to-date complaints closed in FY 22 beginning FY 23
61	LMFO/CAFO inspections, plus technical assistance.
136	Poultry inspections and technical assistance.
62	Pet Breeders/Shelters inspections and technical assistance.

CAFO and LMFO Activities - Month and Fiscal Year 2023

	Jun 20 th – July 31 st 2022	FY 23 Total
Complaint or Compliance Follow-ups	5	5
Annual Inspections	43	43
Technical Assistance with Contacts	18	18
Site Visit/Review – No contact made	9	9

Poultry Activities – Month and Fiscal Year 2023

	Jun 20 th – July 31 st 2022	FY 23 Total
Complaint or Compliance Follow-ups	5	5
Annual Poultry Inspections	4	4
Poultry Technical Assistance	132	132
Site Visit/Review – No contact made	102	102
Eucha-Spavinaw CNMP Written	10	10

Pet Breeders Activities – Month and Fiscal Year 2023

	Jun 20 th – July 31 st 2022	FY 23 Total
Complaint or Compliance Follow-ups	13	13
Breeder/Shelter Technical Assistance provided w/owner/operator	15	15
Breeder/Shelter Annual Inspections	47	47
Breeder/shelter Close out	3	3

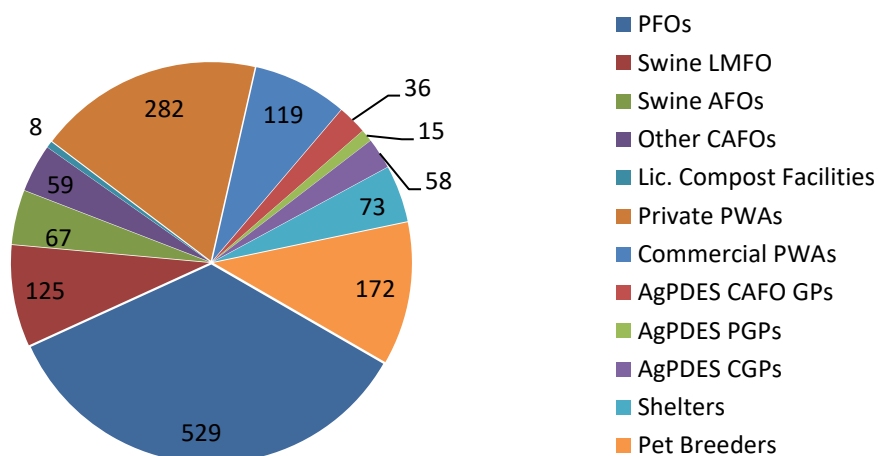
AGPDES – Month and Fiscal Year 2023

	Jun 20 th – July 31 st 2022	FY 23 Total
Complaint or Compliance Follow-ups	0	0
Site Inspections (Annual or Compliance follow-up)	7	7
Technical Assistance provided with owner /operator	17	17

Composting Activities – Month and Fiscal Year 2023

	Jun 20 th –July 31 st 2022	FY 23 Total
Complaint or Compliance Follow-ups	4	4
Site Inspections (Annual or Compliance follow-up)	6	6
Technical Assistance provided with owner /operator	5	5

Current FY 23 AEMS Numbers



Respectively

Teena G. Gunter
AEMS Division

**BEFORE THE STATE BOARD OF AGRICULTURE
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
SEPTEMBER 2022 BOARD REPORT
REGARDING JULY 9, 2022 THROUGH AUGUST 28, 2022 ACTIVITIES OF
THE
OFFICE OF GENERAL COUNSEL**

AMOUNT OF ADMINISTRATIVE FINES COLLECTED:

Amount to Date (2022)	Amount of Fines for this Board Meeting
\$185,600.00 (Default \$19,850)	\$44,550.00
\$57,475.00	2021 Total (5/31-12/31/2021)

CONTRACTS REVIEWED OR DRAFTED (43):

Marketing - 10
AEMS - 1
Forestry - 11
AIS - 2
CPS - 6
Lab - 1
Admin - 10
W.S. - 2

ADMINISTRATIVE HEARING PROCEEDINGS:

Total Number of Open Cases: 103
Total Number of New Cases: 14
Total Number of Cases Closed: 11
NOVs Sent: 40

OTHER ACTIONS AND PROCEEDINGS:

<p><i>Kirk Marshall v. ODAFF</i>, Oklahoma County District Court Case No. CJ-2020-1347: Petition served. Time period tolled by Supreme Court Order until May 15, 2020. Answer drafted and prepared for filing. Application for Injunction Denied. Answer filed. Hearing held. Amended Petition filed by Plaintiff. Answer to Amended Petition filed. District Court Order AFFIRMED by Court of Civil Appeals. ODAFF Amended Motion to Dismiss pending.</p> <p><i>Laura Garrison v. State of Oklahoma, ex rel. Oklahoma Department of Agriculture Food and Forestry</i>, Pittsburg County District Court, Case No. CJ-2020-111: Lawsuit</p>
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involves vehicle accident between plaintiff and ODAFF employee. Attorney General's Office is handling this claim.
<i>Upton's Naturals Co v. Stitt and Arthur</i> , District Court, W.D. Oklahoma, Case No. 5:20-cv-00938: Lawsuit against Governor Stitt and Secretary Arthur in their professional capacities. Upton's Naturals challenges a state law that prohibits food manufacturers from using terms like "hot dogs," "burgers," or "bacon" on labeling for meat-free products. The Attorney General's Office is handling this claim.
<i>William Grossman v. Lori Howard et al.</i> , Cherokee County District Court, Case No. CJ-2020-111: Lawsuit filed on the agency and Forestry Services for requesting damages for a car wreck that occurred during a prescribed burn. The prescribed burn was not performed by ODAFF and the agency was not involved with the circumstances. The Attorney General's Office is handling this claim.
<i>Spring Creek Coalition v. ODAFF and Trong</i> , Cherokee County Case Number CJ-2021-29: Petition seeking declaratory and injunctive relief. Answer filed.
<i>Spring Creek Coalition v. ODAFF and Phan, et al.</i> , Delaware County Case Number CJ-2021-33: Petition seeking declaratory and injunctive relief. Answer filed. Discovery ongoing.

MEETINGS:

Date	Activity
July 12, 2022	Director's Meeting
July 14, 2022	OK Water Reuse Advisory Group
July 18, 2022	OK 2022 HPAI Hot Wash
July 18, 2022	Public Nuisance
July 19, 2022	Director's Meeting
July 19, 2022	Mi-Corporation (Ideagen)
July 20, 2022	AR-KS Arkansas River Commission
July 27, 2022	State Board of Agriculture
July 27, 2022	Workday Town Hall
July 28, 2022	OGC Staff
July 28, 2022	AEMS HQ Staff
July 28, 2022	AgPDES Staff
July 28, 2022	Illinois River Technical Working Group
August 1, 2022	Workday Employee Training
August 1, 2022	Nutrient Management Plan Rules
August 2, 2022	OBA GALPS
August 2, 2022	Workday Manager Training
August 3, 2022	Women in State Government
August 4, 2022	Renewable Natural Gas
August 8, 2022	AVL discussion
August 8, 2022	AYC Luncheon
August 9, 2022	Directors
August 11, 2022	CLO
August 12, 2022	OBA ELS
August 16, 2022	Directors

August 25, 2022	AEMS HQ Staff
August 25, 2022	Illinois River Technical Work Group
August 26, 2022	Cyber Security Training

RULE ACTIVITIES:

Chapter 40. Market Development (Emergency FY 2022): Emergency rules were adopted by the Board on July 27, 2022, and approved by the Governor on August 10, 2022. Emergency rule document was filed and rules became effective on August 10, 2022.
Chapter 1. Administrative Operations (Permanent FY 2022): Permanent rules were adopted by the Board on January 26, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 12, 2022.
Chapter 10. Agricultural Products (Permanent FY 2022): Permanent rules were adopted by the Board on January 26, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 12, 2022.
Chapter 13. Fuel Alcohol (Permanent FY 2022): Permanent rules were adopted by the Board on January 26, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 12, 2022.
Chapter 15. Animal Industry (Permanent FY 2022): Permanent rules were adopted by the Board on January 26, 2022 and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 12, 2022.
Chapter 30. Consumer Protection (Permanent FY 2022): Permanent rules were adopted by the Board on January 26, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 12, 2022.
Chapter 37. Food Safety (Permanent FY 2022): Permanent rules were adopted by the Board on January 26, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 12, 2022.
Chapter 40. Market Development (Permanent FY 2022): Permanent rules were adopted by the Board on January 26, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 12, 2022.
Chapter 44. AgPDES (Permanent FY 2022): Permanent rules were adopted by the Board on January 26, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 12, 2022.
Chapter 55. Commercial Pet Breeders and Animal Shelters (Permanent FY 2022): Permanent rules were adopted by the Board on January 26, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 12, 2022.

OHRC
Chapter 40. Veterinarian Practices and Restrictions (Permanent FY 2022): Permanent rules were adopted by the Commission on February 17, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 15, 2022.
Chapter 45. Prohibited Practices and Equine Testing (Permanent FY 2022): Permanent rules were adopted by the Commission on February 17, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 15, 2022.
Chapter 60. Running the Race (Permanent FY 2022): Permanent rules were adopted by the Commission on February 17, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 15, 2022.
Chapter 65. Pari-Mutuel Wagering (Permanent FY 2022): Permanent rules were adopted by the Commission on February 17, 2022, and approved by the Governor on June 21, 2022. Permanent rule document was filed on July 7, 2022, and rules will become effective on September 15, 2022.

OPEN RECORDS REQUESTS (46):

AEMS: 12
CPS: 8
AIS: 11
Forestry: 6
Pet Breeders: 9

OKLAHOMA HORSE RACING COMMISSION

Litigation: Alfredo Gomez and Cruz Villafranco v. OHRC, Oklahoma County District Court Case No. CV-2020-430: Petition served. Response filed. Petitioners' Motion for Partial Summary Judgment responded to. Pending hearing.
Litigation: Oscar Nunez v. OHRC, Oklahoma County Case No. CV-2020-449: Petition filed and served. Answer filed. Reversed and remanded. Rehearing held. Motion to Modify District Court's Order of November 10, 2020 hearing held. Further briefing ordered.
Litigation: Miguel Pena v. OHRC, Oklahoma County District Court Case No. CV-2019-179: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held October 11, 2019. TRO entered. Amended Petition for TRO heard May 15, 2020. TRO denied. Permanent injunction denied. Pending Motion to Dismiss.
Litigation: Jose Sanchez III, et al. V. Global Gaming, Heritage Place and OHRC, Oklahoma County District Court Case No. CJ-2020-2395: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held May 26, 2020. TRO denied. Further action pending.
Litigation: Sammy Howard v. OHRC, Oklahoma County District Court Case No. CV-2020-1921. Petition served. Response filed. Briefs filed. Oral arguments held. Remanded for

further proceedings. Order filed. Motion to Reconsider filed. Hearing reset by the Court to August 19, 2022.
LITIGATION: Rogelio Marquez, Jr. V. OHRC , Oklahoma County District Court Case No. CJ-2021-3393. Petition filed. Injunction sought. Hearing held; Injunction denied. Pending further proceedings. (Trailing OHRC v. Heltzel)
Litigation: Carlos Ruiz v. OHRC , Oklahoma County District Court Case No. CV-2021-2591. Petition Served. Response filed. Record filed. Pending briefing.
Prepare cases for presentation at Stewards Hearings
Prepare cases for presentation in District Courts
Provide discovery to opposing counsel and Respondents regarding various hearings
Stewards Hearings at Remington Park
Stewards Hearing at Will Rogers Downs
Hearings in District Courts
Prepare and file Motion to Dismiss
Prepare response to brief in support of Petition for Appeal
Argue appeals at regular session of the Oklahoma Horse Racing Commission
Discuss possible rule revisions/amendments with Executive Director
Draft proposed rule revisions
Advise Executive Director on extent of delegated authority
Discuss certain policy issues with Executive Director
Review communication from Respondents' counsel in various cases
OHRC regular meeting
Supervise and direct OHRC legal intern
Attend ARCI Rules Committee meeting
Consult with OHRC regarding gaming issues
Attend briefings and meetings regarding Horse Racing Integrity and Safety Act (HISA)
Consult with concerned constituents regarding HISA
Respond to open records requests

OTHER ACTIVITIES:

Phone calls or emails with the public: 56
Assistance to AEMS: 20
Assistance to CPS: 15
Assistance to Wildlife Services: 0
Assistance to Forestry: 4
Assistance to AIS: 7
Assistance to Admin: 3
Assistance to Market Development: 4
Assistance to other state or federal agencies: 4
Assistance to Food Safety: 7
Assistance to NASS: 0
Assistance to Executive Office: 9
Assistance to Lab: 10
Assistance to Investigative Services: 0
Assistance to Legislature: 0

Respectfully Submitted,



Teena G. Gunter
General Counsel

FOOD SAFETY REPORT AUGUST 2022

POULTRY& EGG GRADING, PRODUCE AND ORGANIC SECTION

Poultry and Egg Section

In Broken Bow at Tyson Foods, USDA poultry grading was performed by ODAFF inspectors on 2,879,881 pounds of poultry – boneless/skinless leg meat & bone in/skin on parts and ground meat. ODAFF inspectors provided USDA Shell Egg grading on 76,796 dozen eggs at Cal-Maine Foods Inc. at Sulphur. ODAFF inspectors also provided USDA poultry grading services on poultry products being shipped from OK Foods in Muldrow & Heavener. Also; routine egg quality inspections under the Oklahoma egg law were conducted.

Organic Foods Section

Organic inspectors completed compliance and certification inspections at:

- Fourteen organic crop producers
- Two organic livestock producers
- Five organic processors
- Collected seven organic samples
- Eight retail organic inspections
- The organic section had requests for 4,000 certified organic stickers from Oklahoma Certified Organic producers and processors, which display the stickers on all products sold, labeled, or represented as Organic across the United States. The organic section had 5 requests for organic crop applications, 3 requests for organic processing applications and 2 requests for organic livestock applications.

Produce Safety Section

- Contacted 11 farms to determine coverage/exemption under the Produce Safety Rule
- Visited 49 farmers markets providing outreach and education to producers and to collect farm inventory
- Completed 2 produce farm inspections for the Produce Safety Rule
- Assisted with NASDA workgroup for Produce Safety Program Standards development
- Assisted with AFDO Produce Safety Committee conference planning
- Shared information about the Produce Safety Rule at an information table at the OLAC Workshop, Women in Agriculture Conference and to the Adair County Strawberry Growers.
- Regular conference calls with TX, LA, AR, NM, MO, MS

Homemade Food Freedom Act

- Received 10 complaints 5 containing meat, 10 lacking labeling
- Sent 6 warning letters, 1 verbal warning
- Meat Compliance handled 2 complaints Sharing factsheets at farmers markets to educate vendors on labeling requirements and sales limits
- Shared information at the OLAC workshop in Lawton and Women in Agriculture Conference
- Scheduled 3 trainings with OSU FAPC
- Educational visit with TSET Healthy Living Coordinators

Oklahoma Meat Inspection Services Investigations and Compliance Activities

Planned Compliance Reviews	11
Random Compliance Reviews	102
Person-to-Person Contacts	74
Special Investigations and/or Projects	09
Reports of Apparent Violations	02
Detentions	02
Consumer Complaints	05
Verbal Warnings Issued	09
Letters of Warning Issued	02
Samples Submitted to Lab for Analysis	00
Accident Investigations	00
Administrative Procedures Act	00

See details below:

ACCIDENT LOCATION	ANIMAL/PRODUCT	DISPOSITION
NONE		

Highlighted Activities

During the course of Random Reviews and anonymous Consumer Complaints, Compliance and Investigation Services sent out Two (2) Letter of Warning for Violations of the Oklahoma Meat/Poultry Inspection Act and/or State Statutes.

MEAT INSPECTION

Number of Cattle	923
Total Beef Condemned	20,532 lbs
Number of Swine	312
Total Pork Condemned	1,872 lbs
Number of Sheep and Goats	93
Total Condemned	0 lbs
Number of Rabbits	0
Total Condemnations	0 lbs
Number of Exotic Deer	0
Total Condemnations	0 lbs
TOTAL MEAT INSPECTED	593,251 lbs

PROCESSED MEAT INSPECTED

Processed Red Meat	1,178,284 lbs.
Condemned on Reinspection	0 lbs
Poultry (Portions)	131,932 lbs
Condemned on Reinspection	0 lbs
Rabbit Meat	0
Condemned on Reinspection	0 lbs
Exotic Deer Meat	0
Condemned on Reinspection	0 lbs
TOTAL PROCESSED MEAT INSPECTED	1,310,216 lbs

DAIRY SECTION

Dairy staff conducted routine inspections at dairy plants and farms, conducted dairy plant equipment checks and collected ice cream samples, raw milk and retail milk and milk products samples and container samples for laboratory analysis

Dairy Services staff continues to sample ice cream products at Blue Bell in Broken Arrow related to the *Listeria monocytogenes* product contamination and outbreak in 2015. Since starting back up in September of 2015, all samples collected and analyzed by ODAFF have been negative for *Listeria monocytogenes*.

Dairy Services staff continues to sample Swans Dairy for *Listeria Monocytogenes*. Samples where negative for *Listeria*.

Dairy Services staff recently completed a survey for Central Equity Transfer Station. The survey resulted in passing scores for sanitation and enforcement compliance and are listed in FDA's Interstate Milk Shippers list website.

Dairy Services hosted FDA Milk Specialist August 23-25 at Hiland Dairy in Chandler and at multiple dairy farms. Purpose of this visit was to assist new FDA Milk Specialist with standardization related to HTST (High Temperature Short Time) testing, Dairy Plant Inspection and Dairy Farm Inspection.

Sincerely,

A handwritten signature in black ink that reads "Scott Yates". The signature is written in a cursive, flowing style.

Scott Yates
Director of Food Safety

Communications

Compiled 9/6/22

Social Media Highlights



MAINE Youth Leadership Youth Conference Visit | On July 29, the MAINE Youth Leadership Conference, hosted by the American Maine-Anjou Association, made a visit to the Oklahoma State Capitol.

After a tour of the building, and special visits from Sen. Blake "Cowboy" Stephens, Representative John Pfeiffer, and Senator Chuck Hall, students learned more about Oklahoma agriculture and the stock show industry from State Veterinarian Rod Hall and the Oklahoma Youth Expo team.

Good policy and industry leadership is crucial to the success of the agricultural industry, and we hope these students will use what they learned in their home states.

Recognition of National Grand and Reserve Champion Title Holders | On August 4, Governor Kevin Stitt, Secretary Blayne Arthur, Oklahoma Cattlemen's Association Executive Vice President Michael Kelsey, and members of the Oklahoma House of Representatives and Oklahoma Senate, welcomed youth showman from Oklahoma who claimed National Grand and Reserve Grand Champion titles from various junior national livestock shows to the capitol.

Oklahoma is fortunate to have many successful livestock exhibitors.



ODAFF Hosts Women in State Government Summit | Over 150 female state employees gathered for the Women in State Government Summit for a day of inspiration and networking on August 9.

Attendees heard from Oklahoma State Cowgirl Basketball Coach Jaycie Hoyt, Oklahoma State Auditor & Inspector Cindy Byrd, Oklahoma Administrative Director of the Courts and Former Lt. Governor Jari Askins, and SoonerCare Chief of Staff Ellen Buettner and Major General Rita Aragon, and two fantastic panels. From other building women up to, dealing with stress and the importance of

mental toughness, speakers shared their experiences, success stories, failures and goals. A big thanks to all who helped to plan the event, and the day's emcee, Lt. Governor Matt Pinnell's Chief of Staff Kirby Smith.



2022-2023 Agriculture Youth Council Meet for Session 1 | On August 10, the 2022-2023 Agriculture Youth Council joined us in Oklahoma City for their first session together!

Members met ODAFF's division directors and learned more about the Oklahoma pork industry from the Oklahoma Pork Council and Blue & Gold Sausage.

We are excited for a great year with these awesome young people!

Second Annual AgHERculture Conference Takes Place |

At the 2022 AgHERculture Conference on August 26 and August, high school and collegiate aged young women and female industry mentors made new connections and revisited old ones, spent some time in self-reflection, and heard from some very inspiring women in ag!

75 collegiate women registered for the conference on Friday evening, hosted in the 2nd Rotunda of the Capitol.

108 high school students registered for Saturday's event, hosted at the Embassy Suites on NW Expressway.



20 female industry mentors with specialties in many areas of Oklahoma ag joined us on Friday and Saturday to share their knowledge with the young people in attendance. A big thank you to all who helped pull off the event!

Social Media Impact

Facebook

20,878 total followers

This month:

- Posts and page content have been viewed 244,364 times
- Facebook users have interacted with content 7,460 times
- 272 new Facebook users have followed the account

Instagram

2,624 total followers

This month:

- Posts and page content have been viewed 20,714 times (up 66.2%)
- Instagram users have interacted with content 1,428 times
- 140 new Instagram users have followed the account

Communications Projects

Drought Resources Handout | Throughout the month of August, we had many individuals reach out looking for relief from the drought affecting the state. Using information from the USDA, we compiled a brief, one page resource for distribution, highlighting relief programs offered by ODAFF and the FSA.



DROUGHT Relief Resources

Drought creates challenging circumstances for Oklahoma farmers and ranchers to continue to produce food and fuel. Various resources exist that may be helpful to agricultural producers dealing with drought.

UNITED STATES DEPARTMENT OF AGRICULTURE OKLAHOMA FARM SERVICE AGENCY

The Oklahoma Farm Service Agency state office is headquartered in Stillwater. Oklahoma's 77 county offices are positioned throughout the state to serve local producers.

LIVESTOCK FORAGE PROGRAM

The Livestock Forage Disaster Program (LFP) provides compensation to eligible livestock producers who have suffered grazing losses for covered livestock on land that is native or improved pastureland with permanent vegetative cover or is planted specifically for grazing.

Eligibility for LFP is based on a county's rating on the U.S. Drought Monitor (droughtmonitor.unl.edu). A county must have been considered in D2 (severe drought) status for eight consecutive weeks on the U.S. Drought Monitor or must have hit D3 (extreme drought) or D4 (exceptional drought) on the U.S. Drought Monitor to be eligible.

A map and list of eligible counties and pasture losses for LFP may be found on the FSA website at bit.ly/livestockforagedisaster. This database is updated weekly on Thursdays following posting of the U.S. Drought Monitor.



To apply for all programs, contact
your local FSA office.

Find your local office at bit.ly/okfsalocator.

EMERGENCY CONSERVATION RESERVE PROGRAM HAYING AND GRAZING

Emergency haying and grazing of Conservation Reserve Program (CRP) acres may be authorized under certain conditions to provide emergency relief to livestock producers in times of severe drought or a similar natural disaster.

Approval for the emergency will be based upon drought severity as determined by the U.S. Drought Monitor. Eligible counties are posted each week at bit.ly/emergencycrphayingandgrazing following the Thursday drought monitor updates. Producers should contact their local FSA county office for eligible CRP practices.

EMERGENCY LIVESTOCK ASSISTANCE PROGRAM

Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish Program funds are available to assist in covering the cost to transport livestock to forage and grazing areas and the cost of hauling feed and water for livestock during drought.

A county must have been considered in D2 status for eight consecutive weeks on the U.S. Drought Monitor or must have hit D3 or D4 on the U.S. Drought Monitor.

An online tool for calculating above normal cost and estimating payments is available at fsa.usda.gov/elsap.



OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY HAY PROVIDER DIRECTORY

Producers can easily find hay for sale by utilizing the ODAFF Hay Provider Directory. This hay available is listed by county and has contact information for the sellers, including phone numbers and addresses. The type of hay offered is also included. The directory is regularly updated and producers can let the hay by utilizing the "Oklahoma Hay Directory Information" form found on the web page. To view the directory, please visit ag.ok.gov/hay.



OKLAHOMA
Dept. of Agriculture,
Food and Forestry

CONNECT WITH US ON FACEBOOK AND INSTAGRAM FOR
UPDATES AND ADDITIONAL INFORMATION

SEPTEMBER 15, 2022 BOARD MEETING

PURCHASES/CONTRACTS

Administrative Services

\$30,324 – FY 2023 – Administration: Investigative Services – Offender Data Information System (ODIS)

ODIS is a comprehensive law enforcement and municipal court records application that would bring municipal law enforcement agencies are required to report offender information into a central database that is maintained by OSBI. The stored information in this database gives all participants law enforcement access to offender information and prior histories. Failure to report offender information could result in no longer being able to use OSBI resources and services and that would be extremely detrimental to this unit as we work with OSBI on a regular basis, using their services for processing evidence and such. The total cost for this project is \$30,324 for year one with a recurring cost of \$18,804 for year two, with the majority of this money going to OMES and with a yearly fee of \$1,500 being paid to OSBI for 10 users to access the ODIS database and a \$600 one-time fee for OSBI activation.

\$594,000 – FFY 2022 Senate Appropriation Congressional Directed Spending (CDS) –

ODAFF received a congressional earmark from the United States Department of Agriculture – Animal Plant Health Inspection Service (USDA-APHIS) to establish a pathogen monitoring platform by aggregating a variety of data sources and public health events. This funding requires ODAFF to work directly with Oklahoma State University Center for Health Sciences (OSU-CHS) and for the purposes of this project, OSU-CHS is doing business as Prairie One Solutions. If not approved, this funding would be declined and returned to USDA-APHIS for further consideration and possible re-appropriation.

\$42,250 - FY23 Oklahoma Management Enterprise Services (OMES) – Risk Management

Requesting an additional \$42,250 for the purchase of insurance for liability, vehicle, equipment, agency contents, tort and Directors & Officers. \$77,000 was previously approved at our May 2022 Board Meeting. OMES Risk Management notified the agency continued market deteriorations due to losses globally, regionally, and locally are impacting current renewals. The State of Oklahoma's losses during FY2022 further increased the State's negative loss development within the program causing further pressure for additional premiums and increased deductibles to the State. This resulted in a substantial increase for ODAFF coverage. Without this coverage the agency would be uninsured and unable to fulfill its statutory mission.

Animal Industry

\$150,000.00 – This is a pass through from the legislature for Animal Industry Services to administer these funds to incentivize rural food animal veterinarians. If this is denied, we won't be able to issue grants to rural food animal veterinarians which will decrease services to Ag producers.

Oklahoma State University College of Veterinary Medicine - \$2,850,000.00 – This pass through agreement is accepted by both ODAFF and OSU-CVM for the purpose of enhancing the education of veterinary students at OSU-CVM. The parties acknowledge that ultimately this will improve the practice of veterinary medicine in the state and support for Oklahoma agriculture. If this is denied the funds won't be dispersed to OSU Veterinary Medicine which will result in a decreased ability to educate students.

Oklahoma State University College of Veterinary Medicine - \$4,000,000.00 – Appropriations Senate Bill 1098- Pass through from the legislature to go towards OSU College of Veterinary Medicine. If this is denied the funds won't be dispersed to OSU College of Veterinary Medicine which will result in a decreased ability to educate students, which will have a negative impact to the agriculture industry.

Oklahoma State University - \$1,500,000.00 – Appropriations Senate Bill 1098- Pass through from the legislature to go towards Oklahoma Animal Disease Diagnostic Laboratory. If this is denied the Diagnostic Laboratory won't be able to purchase needed equipment or maintain current equipment which will result in decreased ability to provide accurate and timely disease testing results to Oklahoma agriculture producers.

Carter Chevrolet- \$42,879.00 – Homeland Security granted Animal Industry Services the funds to purchase a 2023 Silverado 3500 HD DREW Crew Cab Model CC30943 to pull agriculture equipment.

Allflex- \$36,439.25 – Purchase of AWR300 kits which includes cases and readers. Purchasing with Cooperative Agreement Supplemental funds through our ADT Cooperative Agreement.

Consumer Protection Services

FY2023 Kelly Registration System (KRS)—KRS maintenance agreement, ACH reimbursement and inspection program fees--\$25,000.00

1. Brief description of the proposed expense, cost, its necessity, and any deadlines for approval.

This is additional money request to assure that there is enough money to cover the KRS maintenance contracts and ACH reimbursements which vary by year. The AXH reimbursements are monies paid by KRS to ODAFF for licenses, tonnage and registrations that were initially completed in the online system using an ACH transaction. The persons/companies later canceled the payments, so Kelly did not receive payment for what they had already paid to ODAFF. ODAFF has since collected the money from these entities and needs to repay KRS for the overpayment. Also, pays the maintenance fee for a subcontracted online inspection program for MI Corporation.

2. Consequence(s) and cost (if any) if the proposed expense is not approved.

This money is an overpayment by KRS and needs to be returned. We do not have an inspection program for field staff to use when conducting their inspections.

Food Safety Services

USDA/Food Safety & Inspection Services – \$30,000.00

Contract for USDA/FAIM to perform duties when Food Safety Meat Inspection have issues with their federal computers and to replace computers and printers with new ones when issues arise. Also, ordering new computers for new inspection. All funds are reimbursed 50% with Cooperative Agreement with USDA/FSIS.

Forestry Services

FY23 – \$10,000 Southern Pine Beetle Federal Grant

Aerial detection for Southern Pine Beetle (SPB). Ensures early detection and treatment to limit the insect's spread and possible timber stand infestation. Justification: SPB is a very invasive insect and this prevention program protects forest health, forest industry investments, landowner investments, and future revenue. (Federal Grant)

FY23 – \$78,000 Aerial Detection Contract Forestry Services' Protection Area

Detection of wildfires in the Forestry Services Protection Area is primarily accomplished utilizing fixed-wing aircraft provided through a contract with a private vendor. This contract will require detection on high fire danger days in the East Central and Southeast Areas with an option for call-when-needed detection services in the Northeast Area. Justification: Without this contract new wildfires will go undetected for a longer period resulting in larger fire sizes, increased numbers of response personnel needed to control the wildfire, and possible increased loss of life, residences, and natural resources.

FY23 - \$4,650 Southern Pine Beetle Prevention Program - John and Karen Vardyan

Federal Grant to cover the prevention of Southern Pine Beetle from spreading from one landowner to the next. Justification: This is a very invasive insect and without this prevention program the threat to landowner's revenue could be severe.

FY 23 - \$19,000 Soil Media for Forest Regeneration Center

Purchase soil media to grow containerized seedlings at the Forest Regeneration Center and Forest Tree Improvement Center. Justification: Soil media is needed to grow seedlings for conservation plantings such as wetland restoration and reforestation projects. Landowners with challenging planting sites request container seedlings and without the soil media, OFS would not be able to provide them.

FY 23 - \$8,000 Storage Totes for Forest Tree Improvement Center

Purchase 250 ventilated totes to dry cones in kiln for seed production at the Forest Tree Improvement Center. The cones must be dried in totes to facilitate seed release for conservation seedlings. Justification: Without these totes pine seed would not be available and FTIC would not be able to provide conservation pine seedlings.

FY23- \$122,928 Agriculture Trailer Communications Equipment

This funding is provided to the State of Oklahoma as part of the FY 2020 (FEMA/DHS) Homeland Security Grant Program for the purchase of radio and satellite communications equipment for the Agriculture Trailer. This equipment will upgrade the Ag Trailer to allow communications with response agencies during disaster response. Justification: This communication's equipment is needed to equip the Ag Trailer for response and communications during natural and man-made disasters.

FY 23 - \$15,000 GIS Specialist Computer

A new computer needs to be purchased for OFS' GIS Specialist. Justification: This computer is vital for the ability to run the programs necessary for geospatial analysis which is especially important in terms of emergency response in the event of wildfires and other disasters. The consequence of being unable to update the current computer is the geospatial information will be unable to be produced in a timely manner during a wildfire event where time is of the essence. This purchase will be made using federal grant dollars.

FY 23 - \$6,000 Equipment Rental for Forest Tree Improvement Center

Rent articulating and tracks boom lifts to collect pinecones at the Forest Tree Improvement Center. Seed collection is required to grow conservation seedlings and conduct genetic testing. Justification: Without the lifts, seed collection from the seed orchard would not be possible.

Market Development Services

FY 2023 – Oklahoma Local Ag Summit – facility rental – Funded entirely by Specialty Crop Block Grant - \$25,000.00

FY 2023 – Board of Regents of the University of Oklahoma Health Sciences Center on behalf of Oklahoma Nutrition Information & Education Project (ONIE) – contractual services – Oklahoma Local Ag Summit – Funded entirely by Specialty Crop Block Grant - \$18,000.00

FY 2023 – USDA has provided a Specialty Crop Block Grant to ODAFF with the objective to solely enhance the competitiveness of specialty crops. ODAFF is one of eight grant partners included in this award. Effective: 9/30/22 - 9/29/25 - \$576,587.52.

USDA Specialty Crop Block Grants - \$576,587.52

This project is entirely funded by the USDA Specialty Crop Block Grant Program. The purpose of this grant is to enhance the competitiveness of specialty crops in the state. If this proposed expense is not approved and therefore the project is not completed, the State not only loses money immediately that is important to the specialty crop industry through the economic impact, but also runs the risk of not being awarded money from the USDA Specialty Crop Block Grant Program in the future.

FY2023 – J&S Land LLC/Jerry & Barbara Bonner-Stephens – Ag Enhancement and Diversification Grant - \$5,000.00

FY2023 – Oklahoma Cattlemen's Foundation – Ag Enhancement and Diversification Ag Event Grant - \$10,000.00

FY2023 – Ag in the Classroom educational resources – Red Dirt Symbols & Rt. 66 Magazine
- \$8,000.00

Wildlife Services

\$ 29,040 - ODAFF Wildlife Services is requesting approval for the OKC Landfill Agreement regarding the removal of nuisance birds. Not approving this purchase would result in a human health and safety hazard for the public.

\$ 3,310 - ODAFF Wildlife Services is requesting approval for the General Services Administration Agreement regarding the removal of feral pigeons. Not approving this purchase would result in a human health and safety hazard for the public.

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

APPROVAL OF CASES

ON THIS 15th day of September 2022, the Office of General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry brought for consideration before the State Board of Agriculture those certain cases summarized on Exhibit A hereto which cases have been resolved by stipulation or consent order. The attached Exhibit A summarizes each action by case name, case number, case type and amount received as a stipulated administrative penalty or by consent order.

ACCORDINGLY, IT IS THEREFORE ORDERED by the State Board of Agriculture that the resolution of each of the cases summarized on Exhibit A hereto is hereby approved in all aspects; that this order shall be deemed the final agency order for each such case; and that the penalty imposed by each such stipulation or consent order is hereby adopted and incorporated herein by reference to Exhibit A hereto.

WITNESS My Hand and Official Seal this 15th day of September 2022.

Blayne Arthur
President
State Board of Agriculture

Exhibit A
Board of Agriculture
September 15, 2022

Cases Resolved by Stipulation

Agricultural Environmental Management Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Amy Greteman	OGC-22-128	AEMS	\$400.00
Joel Hancock	OGC-22-336	AEMS	\$200.00
Teng Her	OGC-22-334	AEMS	\$400.00
Elvis Poor	OGC-22-333	AEMS	\$400.00
Richard Pritchett	OGC-22-338	AEMS	\$400.00
Anna Wallace	OGC-21-682	AEMS	\$800.00

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Agrilawn	OGC-22-444	CPS	\$1,000.00
Circle K	OGC-22-082	CPS	\$375.00
Dollar General	OGC-20-557	CPS	\$300.00
Dollar General	OGC-22-118	CPS	\$1,200.00
Dollar General	OGC-22-119	CPS	\$1,200.00
Dollar General	OGC-22-211	CPS	\$525.00
Dollar General	OGC-22-221	CPS	\$375.00
Dollar General	OGC-22-222	CPS	\$900.00
Dollar General	OGC-22-236	CPS	\$900.00
Dollar General	OGC-22-353	CPS	\$450.00
Dollar General	OGC-22-354	CPS	\$2,000.00
Dollar General	OGC-22-355	CPS	\$1,500.00

Dollar General	OGC-22-364	CPS	\$675.00
Dollar General	OGC-22-365	CPS	\$900.00
Family Dollar	OGC-22-117	CPS	\$300.00
Arthur Graves	OGC-22-066	CPS	\$500.00
Romex Pest Control	OGC-22-395	CPS	\$1,000.00
Spraying J	OGC-22-023	CPS	\$250.00
Standlee Hay Company, Inc.	OGC-22-122	CPS	\$2,800.00
Walgreens	OGC-22-367	CPS	\$450.00
Zeng Green 1 LLC	OGC-22-145	CPS	\$2,500.00

Cases Resolved by Consent Order

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Jim's Pest Control, LLC	OGC-22-389	CPS	\$1,000.00
LSUA OKC DBA Landscapes USA	OGC-22-028	CPS	\$1,000.00

Cases Resolved by Final Order

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Bug Brigade	OGC-21-184	CPS	\$500.00
Bug Brigade	OGC-20-840	CPS	\$500.00
Cate's Recycling	OGC-21-314	CPS	\$1,000.00
Express Landscape & Lawn Care	OGC-21-157	CPS	\$500.00
Midwest Bed Bug Serv.	OGC-20-686	CPS	\$500.00
Scott Termite	OGC-19-958 & 20-111	CPS	\$16,850.00

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. AMY GRETEMAN DBA BOXER RESCUE OF OKLAHOMA
Case File No. OGC 22-128**

**AMY GRETEMAN
BOXER RESCUE OF OKLAHOMA
225 N ADDISON
HINTON, OK 73047**

Summary of Facts: Respondent failed to renew the Oklahoma Animal Shelter License.

Statute or Rule Violation: 4 O.S. 30.4, 30.8 and OAC 35:55-1-10

Proposed Administrative Penalty: The penalty was assessed at \$400. Respondent stipulated and paid the penalty in full.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Richard D. Herren

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

AMY GRETEMAN DBA BOXER RESCUE
OF OKLAHOMA
225 N ADDISON
HINTON, OK 73047

Case No: OGC-1

FILED
AUG 27 2022
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Dollars (\$400.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:


Signature

Amy Greteman, President
Printed Name and Title:

Date: 8/26/22

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

AMY GRETEMAN DBA BOXER RESCUE)
OF OKLAHOMA)
225 N ADDISON)
HINTON, OK 73047)

RESPONDENT.)

Case No: OGC-22-128

FILED
MAY 20 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on July 14, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning and operating an animal shelter, located at 225 N Addison, Hinton, OK 73047.

16. Pursuant to 4 O.S. § 30.4, "it shall be unlawful for any person to act as a commercial pet breeder licensee, or operate as animal shelter licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under the Commercial Pet Breeders and Animal Shelter Licensing Act."

17. Pursuant to 4 O.S. §30.8 and OAC § 35:55-1-10, an animal shelter operator is required to renew the shelter license annually.

ALLEGATIONS OF FACT

18. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

19. The Respondents have failed to renew their Oklahoma Animal Shelter License by December 31, 2021.

20. On February 7, 2022, a Letter of Warning was sent to the Respondents requesting that corrective action be taken by March 8, 2022.

21. Respondent has failed to take corrective action or begin the process of renewing the shelter license.

ALLEGED CONCLUSIONS OF LAW

22. Based upon the application of the above law to the aforementioned facts, Respondent have not renewed their animal shelter license as under 4 O.S. § 30.4, 30.8 or OAC 35:55-1-10.

ATTORNEY CONFERENCES

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

26. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Hundred Dollars (\$400.00)**.

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 20 day of May, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Richard D. Herren

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Kambi Maddy, OBA # 13873
Brady Robison, OBA # 33600
Richard D. Herren, OBA # 13829*
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20 day of May, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

AMY GRETEMAN
225 N ADDISON
HINTON, OK 73047

A B

GINA BLAYLOCK

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

Case No: OGC-22-128

**AMY GRETEMAN DBA BOXER RESCUE
OF OKLAHOMA
225 N ADDISON
HINTON, OK 73047**

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Dollars (\$400.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature _____

Printed Name and Title: _____

Date: _____

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. JOEL HANCOCK
Case File No. OGC 22-336**

**Joel Hancock
51857 S. 630 Road
Colcord, OK 74338**

Summary of Facts: Respondent failed to submit an Annual Litter Report with soil and litter test.

Statute or Rule Violation: 2 O.S. §10-9.18(A)

Proposed Administrative Penalty: The penalty was assessed at \$200. Respondent stipulated and paid the penalty in full.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Richard D. Herren

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY.)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL.)

COMPLAINANT.)

v.)

Case No: OGC-22-336

JOEL HANCOCK)
51857 S 630 RD)
COLCORD, OK 74338)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Hundred Dollars (\$200.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation

[Handwritten signature]
8-11-22

RESPONDENT

[Handwritten signature]

Signature

Joel O. Hancock Jr.

Printed Name and Title

Date: 8-8-22

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

JOEL HANCOCK)
51857 S 630 RD)
COLCORD, OK 74338)

RESPONDENT.)

Case No: OGC-22-336

FILED
JUN 23 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on August 11, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of poultry waste application in Oklahoma.

16. Pursuant to 2 O.S. § 10-1, ODAFF has authority to regulate persons who are poultry waste applicators.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about December 2, 2021 the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Annual Litter Report.

19. Respondent's 2020-21 Annual Litter Report failed to include current soil and/or litter test.

20. On or about February 15, 2022, Respondent updated and corrected the out-of-date soil and/or litter test.

21. On or about February 16, 2022, a follow-up was sent to Respondent requesting the missing soil test.

22. Annual Litter Reports are due annually by September 1.

23. As of March 10, 2022, the missing soil test has not been received.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. 10-9.18 by failing to submit a complete Annual Litter Report.

ATTORNEY CONFERENCES

25. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

26. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

29. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

31. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

32. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

33. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

34. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

35. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

36. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Two Hundred Dollars (\$200.00).

38. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 21ST day of June, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL



Teena G. Ginter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829*

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 23 day of June, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**JOEL HANCOCK
51857 S 630 RD
COLCORD, OK 74338**



GINA BLAYLOCK

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC-22-336

**JOEL HANCOCK)
51857 S 630 RD)
COLCORD, OK 74338)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Hundred Dollars (\$200.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. TENG HER
Case File No. OGC 22-334

TENG HER
1010 BROWNING RD
VALLIANT, OK 74764

Summary of Facts: Respondent failed to submit an Annual Litter Report with soil and litter test.

Statute or Rule Violation: 2 O.S. §10-9.18(A)

Proposed Administrative Penalty: The penalty was assessed at \$400. Respondent stipulated and paid the penalty in full.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Richard D. Herren

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

TENG HER)
1010 BROWNING RD)
VALLIANT, OK 74764)

RESPONDENT.)

Case No: OGC-22-334

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Four Hundred Dollars (\$400.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:


Signature

Teng Her
Printed Name and Title

Date: 8/1/22

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUN 23 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC-22-334

TENG HER)
1010 BROWNING RD)
VALLIANT, OK 74764)

RESPONDENT.)

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on August 11, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of poultry waste application in Oklahoma.

16. Pursuant to 2 O.S. § 10-1, ODAFF has authority to regulate persons who are poultry waste applicators.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. The 2020-21 annual report indicates application of waste but is missing substantial information that is required.

19. On or about December 2, 2021 the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Annual Litter Report.

20. Annual Litter Reports are due annually by September 1.

21. To this date, Respondent has failed to respond to their Letter of Warning.

ALLEGED CONCLUSIONS OF LAW

22. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. 10-9.18(A) by failing to submit a completed Annual Litter Report.

ATTORNEY CONFERENCES

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

26. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Four Hundred Dollars (\$400.00).

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check

or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 21ST day of June, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL




Teena G. Guter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Kambi Maddy, OBA # 13873
Brady Robison, OBA # 33600
Richard D. Herren, OBA # 13829*
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 23 day of June, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**TENG HER
1010 BROWNING RD
VALLIANT, OK 74764**



GINA BLAYLOCK

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**TENG HER
1010 BROWNING RD
VALLIANT, OK 74764**

RESPONDENT.

Case No: OGC-22-334

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Four Hundred Dollars (\$400.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. ELVIS POOR
Case File No. OGC 22-333

ELVIS POOR
14062 LIBERTY HILL RD
CAMERON, OK 74932

Summary of Facts: Respondent failed to submit an Annual Litter Report with soil and litter test.

Statute or Rule Violation: 2 O.S. §10-9.18(A)

Proposed Administrative Penalty: The penalty was assessed at \$400. Respondent stipulated and paid the penalty in full.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Richard D. Herren

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

Jul 26 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC-22-333

ELVIS POOR)
14062 LIBERTY HILL RD)
CAMERON, OK 74932)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Four Hundred Dollars (\$400.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Elvis Poor
Signature

Elvis Poor Owner
Printed Name and Title:

Date: 7-20-22

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

ELVIS POOR)
14062 LIBERTY HILL RD)
CAMERON, OK 74932)

RESPONDENT.)

Case No: OGC-22-333

FILED
JUN 23 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on August 11, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of poultry waste application in Oklahoma.

16. Pursuant to 2 O.S. § 10-1, ODAFF has authority to regulate persons who are poultry waste applicators.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about December 6, 2021 the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Annual Litter Report.

19. Respondent's 2020-21 Annual Litter Report failed to include current soil and/or litter test.

20. Annual Litter Reports are due annually by September 1.

21. As of February 17, 2022, a response has not been received.

ALLEGED CONCLUSIONS OF LAW

22. Based upon the application of the above law to the aforementioned-facts, Respondent has violated 2 O.S. 10-9.18 by failing to submit a complete Annual Litter Report.

ATTORNEY CONFERENCES

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

26. Enforcement proceedings may include but are not limited to:
 - a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
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27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
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30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

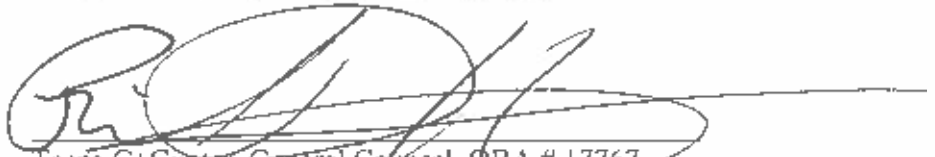
35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Four Hundred Dollars (\$400.00).

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check

or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 21ST day of June, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

A large, stylized handwritten signature in black ink, likely belonging to Teena G. Gunter, is written over a horizontal line.

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829*

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 23 day of June, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**ELVIS POOR
14062 LIBERTY HILL RD
CAMERON, OK 74932**

A handwritten signature in dark ink, appearing to read 'Gina Blaylock', is written over a horizontal line.

GINA BLAYLOCK

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**ELVIS POOR
14062 LIBERTY HILL RD
CAMERON, OK 74932**

RESPONDENT.

Case No: OGC-22-333

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Four Hundred Dollars (\$400.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. RICHARD PRITCHETT
Case File No. OGC 22-338**

**RICHARD PRITCHETT
PO BOX 369
LOCUS GROVE, OK 74352**

Summary of Facts: Respondent failed to submit an Annual Litter Report with soil and litter test.

Statute or Rule Violation: 2 O.S. §10-9.18(A)

Proposed Administrative Penalty: The penalty was assessed at \$400. Respondent stipulated and paid the penalty in full.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Richard D. Herren

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

JUL 20 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL.)

COMPLAINANT,)

v.)

Case No: OGC-22-338

RICHARD PRITCHETT)
PO BOX 369)
LOCUS GROVE, OK 74352)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Four Hundred Dollars (\$400.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:



Signature

Richard Pritchett

Printed Name and Title:

Date: 7-13-22

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

RICHARD PRITCHETT)
PO BOX 369)
LOCUS GROVE, OK 74352)

RESPONDENT.)

Case No: OGC-22-338

FILED
JUN 23 2022
STATE BOARD OF AGRICULTURE
JUL 23 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on August 11, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of poultry waste application in Oklahoma.

16. Pursuant to 2 O.S. § 10-1, ODAFF has authority to regulate persons who are poultry waste applicators.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. The 2020-21 annual report indicates application of waste but did not include a report form.

19. On or about December 6, 2021 the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning and a blank form regarding their Annual Litter Report.

20. Annual Litter Reports are due annually by September 1.

21. To this date, Respondent has failed to respond to their Letter of Warning.

ALLEGED CONCLUSIONS OF LAW

22. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. 10-9.18(A) by failing to submit a completed Annual Litter Report.

ATTORNEY CONFERENCES

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

26. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAPP or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

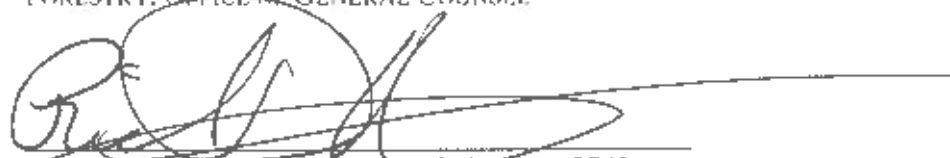
35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Four Hundred Dollars (\$400.00).

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check

or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 21ST day of June, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

A large, stylized handwritten signature in black ink, appearing to read 'Teena G. Hunter', is written over a horizontal line.

Teena G. Hunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829*

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 23 day of June, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**RICHARD PRITCHETT
PO BOX 369
LOCUS GROVE, OK 74352**



GINA BLAYLOCK

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC-22-338

RICHARD PRITCHETT)
PO BOX 369)
LOCUS GROVE, OK 74352)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Four Hundred Dollars (\$400.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. ANNA WALLACE
Case File No. OGC 21-682**

**ANNA WALLACE
LIBERTY RUN KENNEL
9168 LIBERTY RUN
GUTHRIE, OK 73044**

Summary of Facts: Respondent failed to renew the 2021 Commercial Pet Breeders License.

Statute or Rule Violation: 4 O.S. 30.4

Proposed Administrative Penalty: The penalty was assessed at \$800. Respondent stipulated and paid the penalty in full.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Richard D. Herren

FILED
JUL 14 2022
STATE BOARD OF AGRICULTURE

Case No: OGC-21-682

RESPONDENT.

Respondent accepts and stipulates to get licensed as a Commercial Pet Breeder, return the Commercial Pet Breeder Application, and pay the proposed administrative penalty or fine of **Eight Hundred Dollars (\$800.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

Signature

Anna Wallace

Date: 7/14/22

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**ANNA WALLACE
LIBERTY RUN KENNEL
9168 LIBERTY RUN
GUTHRIE, OK 73044**

RESPONDENT.

FILED

FEB 28 2022

STATE BOARD OF AGRICULTURE

Case No: OGC-21-682

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on April 14, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pet breeding, located at 9168. Liberty Run Guthrie, Oklahoma.

16. Pursuant to 4 O.S. §30.4, ODAFF has authority to regulate persons who operate a commercial pet breeder operation or rescue shelter.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. Respondents is required to obtain a commercial pet breeders license.

19. Respondent has failed to obtain a commercial pet breeder license.

20. On March 2, 2021, a Letter of Warning was sent to Respondent requesting that corrective action be taken by April 5, 2021.

21. Respondent has failed to take corrective action or begin the process of becoming licensed.

ALLEGED CONCLUSIONS OF LAW

22. Based upon the application of the above law to the aforementioned facts, Respondent failed to obtain a commercial pet breeder license as required under 4 O.S. § 30.4 and OAC 35:55-1-3.

ATTORNEY CONFERENCES

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

26. Enforcement proceedings may include but are not limited to:
 - a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Eight Hundred Dollars (\$800.00)**.

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check

or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 15TH day of February, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Richard D. Herren

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Kambi Maddy, OBA # 13873
Brady Robison, OBA # 33600
Richard D. Herren, OBA # 13829*
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 28 day of Feb., 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

**ANNA WALLACE
LIBERTY RUN KENNEL
9168 LIBERTY RUN
GUTHRIE, OK 73044**



Gina Blaylock

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

Y.

Case No: OGC-21-682

RESPONDENT.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. AGRILAWN

Case File No. OGC-22-444

**AGRILAWN
4001 S. THOMAS RD.
OKC, OK 73179**

Summary of Facts: This case arises out of a drift complaint investigation. Inspectors determined that applicators for the Respondent were making applications off-label. Application of Barricade, Dismiss, and Strike 3 to a lawn and wind caused drift to the neighboring yard destroying ornamental plants. Samples came back positive for 2,4D, Dicamba and MCPP; all three are active ingredients for Strike 3. The label states to not apply in a manner where drift may occur because ornamental plants are susceptible.

Statute or Rule Violation: 2 O.S. § 3-86(A)(4)

Proposed Administrative Penalty: The penalty was assessed at \$1000 and the stipulation was signed and paid in full.

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

AGRILAWN
4001 S. THOMAS RD.
OKC, OK 73179

RESPONDENT.

Case No: OGC-22-444

FILED
AUG 23 2022
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One thousand Dollars (\$1000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:


Signature

MATT THOMAS

Printed Name and Title: DIRECTOR OF FIELD OPERATIONS

Date: 8.18.2022

Cinta, here is a copy of
A live check we got
this is your copy and
check is in the
SAFE

Jay

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

FILED

JUL 29 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC-22-444

AGRILAWN)
4001 S. THOMAS RD.)
OKC, OK 73179)

RESPONDENT.)

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on the 13th day of October, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Oklahoma City, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 23rd day of May, 2022, the Consumer Protective Services Division of the Department conducted a drift complaint investigation concerning ornamental plants being affected by herbicide. This investigation took place at 1550 N. Coltrane, Edmond, OK.

19. Your company was hired for lawn care/weed control at this property. Our inspectors observed ornamental plants at this residence showing herbicide effects.

20. According to your application records you applied Barricade, Dismiss, and Strike 3 to the lawn on May 11th, 2022, during a 10-mph wind using a Z-sprayer with a boom.

21. A vegetative sample was taken from the ornamental plants and 2,4-D, Dicambam and MCPP were detected in the sample. These are the active ingredients in Strike 3.

22. The strike 3 label states that it is not to be applied under circumstances where wind drift may occur to susceptible plants such as ornamentals.

23. According to our investigation your application of Strike 3 is the source of the herbicides on the ornamental plants.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, you applied herbicides off label/inconsistent with label instruction causing damage to ornamental plants. This is in violation of 2 O.S. 3-86(A)(4) which states:

- "A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board."

ATTORNEY CONFERENCES

25. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

26. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
29. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
31. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

32. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

33. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

34. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

35. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

36. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Thousand Dollars (\$1000.00).

38. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 29TH day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Brady Robison

Teena G. Hunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Kambi Maddy, OBA # 13873
Brady Robison, OBA # 33600*
Richard D. Herren, OBA # 13829
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this _____ day of _____, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

**AGRILAWN
4001 S. THOMAS RD.
OKC, OK 73179**

Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY, BY AND THROUGH THE OFFICE OF GENERAL COUNSEL)	
)	
)	
)	
)	
COMPLAINANT,)	
v.)	Case No: OGC-22-444
)	
)	
AGRILAWN 4001 S. THOMAS RD. OKC, OK 73179)	
)	
RESPONDENT.)	

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Dollars (\$1000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-82**

**CIRCLE K
2316 W LINDSEY
NORMAN, OK 73069**

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Three Hundred Seventy-five Dollars (\$375.00) (Five violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUL 18 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC 22-82

CIRCLE K)
2316 W LINDSEY)
NORMAN, OK 73069)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Hundred Seventy-Five Dollars (\$375.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

~~RESPONDENT:~~

Amanda Jansen

6562584602844CR

Signature

Amanda Jansen

Printed Name

Assistant General Counsel

Job Title

7/7/2022

Date

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**CIRCLE K
2316 W LINDSEY
NORMAN, OK 73069**

RESPONDENT.

Case No: OGC 22-82

FILED
JUN 08 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on August 11, 2022**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Circle K, located at 2316 W Lindsey, in Norman, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation following any twelve-month period in which no violation has been found will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about January 18, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Circle K in Norman, Oklahoma. The inspection revealed that nine (9) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent to the Respondent.

22. On or about March 18, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Circle K in Norman, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent to the Respondent.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.

26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

31. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

ENFORCEMENT OF JUDGMENTS

32. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

33. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

34. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

35. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Three Hundred Seventy-Five Dollars (\$375.00). (5 violations at \$75.00 per violation).

37. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 7th day of June, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 8 day of June, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**CIRCLE K
ROCKY MOUNTAINS DIVISION
ATTN: LEGAL DEPARTMENT
5500 S QUEBEC ST STE 100
GREENWOOD VILLAGE, CO 80111**

JB

Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC 22-82

**CIRCLE K)
2316 W LINDSEY)
NORMAN, OK 73069)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Hundred Seventy-Five Dollars (\$375.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 22-GMC-0132

DATE* 3/18/2022

COUNTY Cleveland

LOCATION*

CORPORATE

AGN NUMBER AGN036108

AGN NUMBER

Circle K

2315 W Lindse

Norman

OK

73069-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-GMC-009

TELEPHONE* 405 570-2630

Other Store Type

ITEM STATUS

TYPE OF STORE CONVENIENCE STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Nature Valley Crunchy 1.49oz	1600026479	\$1.19	\$1.49	(\$0.30)
Hot Nuts Fuego 3.2oz	75752800894	\$2.19	\$2.59	(\$0.40)
Reese fast break 3.5oz	34000000035	\$2.19	\$2.39	(\$0.20)
KitKat Duo 3oz	3400031826	\$2.19	\$2.39	(\$0.20)
Starbust 3.45oz	2200001606	\$2.19	\$2.39	(\$0.20)

REC'D CPS

2022 MAR 24 A 6:47

Total Number Checked 50 Total Number Of Violation 5 Accuracy 90 % Inspection Result Notice of Violation

REMARKS

~~Ferner Circle K. The store will be closed for remodeling in February/March~~

WITNESS

INSPECTOR*

Gersende Cazaux

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-20-557**

**DOLLAR GENERAL
409 N. 11th
HAMMON, OK 73650**

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Three Hundred Dollars (\$300.00) (Four violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

FILED
MAR 17 2021
STATE BOARD OF AGRICULTURE

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

Case No: OGC-20-557

**DOLLAR GENERAL
409 N. 11th
HAMMON, OK 73650**

RESPONDENT.

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on May 13, 2021, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 409 N. 11th, in Hammon, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation following any twelve-month period in which no violation has been found will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about November 19, 2019, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Hammon, Oklahoma. The inspection revealed that six (6) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent to the Respondent.

22. On or about July 30, 2020, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Hammon, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent to the Respondent.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.

26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

31. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

ENFORCEMENT OF JUDGMENTS

32. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

33. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

34. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

35. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Three Hundred Dollars (\$300.00). (4 violations at \$75.00 per violation).

37. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 15th day of March, 2021.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA # 33571
Kambi Maddy, OBA # 13873*
Shelby Turner, OBA # 34010
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 17 day of March, 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**


Gina Blaylock



**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC-20-557

**DOLLAR GENERAL)
409 N. 11th)
HAMMON, OK 73650)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Hundred Dollars (\$300.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 1/05

INSPECTOR NUMBE 20-RLF-0099 DATE* 7/30/2020 COUNTY Roger Mills
LOCATION* CORPORATE
AGN NUMBER AGN0168192 AGN NUMBER _____
Dollar General Store #19801
409 N 11th
Hammon Ok 73650-
MANAGER Crystal Pinkston INSPECTION TYP Initial Original Insp# 20-RLF-0030
TELEPHONE* (580) 473-2832 Other Store Type ITEM STATUS NON-SALE
TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Highland Vil D Milk 1/2 gallon</u>	<u>072060001112</u>	<u>\$2.80</u>	<u>\$2.95</u>	<u>(\$0.15)</u>
<u>CV Mixed Fruit Berries 10 oz</u>	<u>853802002688</u>	<u>\$2.50</u>	<u>\$2.75</u>	<u>(\$0.25)</u>
<u>Hot Pocket 4Meat&4Cheese 2pk</u>	<u>043895516265</u>	<u>\$2.75</u>	<u>\$3.00</u>	<u>(\$0.25)</u>
<u>Hellman's Mayonnaise 30 oz</u>	<u>048001213487</u>	<u>\$3.75</u>	<u>\$3.85</u>	<u>(\$0.10)</u>

2020 AUG -4 A 11:44
RECD CPS

Total Number Checked 50 Total Number Of Violations 4 Accuracy 92 % Inspection Result Notice of Violati

REMARKS

Follow up #3

WITNESS

Sandra M. Dwyer

INSPECTOR*

Richard Folsom

[Signature]

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-118

DOLLAR GENERAL
811 N HAZLETT
FT. COBB, OK 73038

Summary of Facts: An investigator conducted three routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Two Hundred Dollars (\$1,200.00). (8 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

AUG 11 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC 22-118

DOLLAR GENERAL)
811 N HAZLETT)
FT. COBB, OK 73038)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Two Hundred Dollars (\$1,200.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Mia Savalaja

Signature

Mia Savalaja

Printed Name

Sr Dir Store Ops

Job Title

7/26/22

Date

FILED
JUL 19 2022
STATE BOARD OF AGRICULTURE

Case No: OGC 22-118

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on September 8, 2022**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 811 N Hazlett Ft. Cobb, OK 73038.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A third violation discovered within any twelve-month period will be assessed a penalty of One Hundred Fifty Dollars (\$150.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about November 24, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about January 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that twelve (12) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

24. On or about March 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma. The inspection revealed that eight (8) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

27. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

29. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

30. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to

assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

32. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

33. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

ENFORCEMENT OF JUDGMENTS

34. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

35. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

36. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

37. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Two Hundred Dollars (\$1,200.00). (8 violations at \$150.00 per violation).**

39. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check

or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 11th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 19 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC 22-118

**DOLLAR GENERAL)
811 N HAZLETT)
FT. COBB, OK 73038)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Two Hundred Dollars (\$1,200.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBE 22-RLF-0057

DATE 3/25/2022

COUNTY Caddo

LOCATION

CORPORATE

AGN NUMBER AGN014837

AGN NUMBER

Dollar General Store

811 N Hazlett

Ft. Cobb

OK

73038-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-RLF-0036

TELEPHONE (405) 643-0017

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Scunci Headband 1pc	043194356355	\$4.00	\$4.25	(\$0.25)
Housewares HD Hangers 3ct	018843863012	\$2.00	\$2.25	(\$0.25)
Painters Masking tape 30yds	430001353209	\$4.00	\$4.75	(\$0.75)
Son of a gun cleaning wipes	071153192393	\$3.00	\$3.25	(\$0.25)
Bic Soleil Glide razor 2pk	070330734081	\$6.00	\$6.40	(\$0.40)
Gain Aroma Boost detergent 70 oz	037000732488	\$6.95	\$7.50	(\$0.55)
CV Chunk White Chicken 2/10oz cans	019722187236	\$3.65	\$4.00	(\$0.35)

REC'D CRS
2022 MAR 29 A 9:58

Total Number Checked 50 Total Number Of Violation 8 Accuracy 84 % Inspection Result

REMARKS

Follow up #1

WITNESS

INSPECTOR

Richard Folsom

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-119**

**DOLLAR GENERAL
1500 N LOUIS TITTLE
MANGUM, OK 73554**

Summary of Facts: An investigator conducted three routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Two Hundred Dollars (\$1,200.00). (8 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL.)

COMPLAINANT,)

v.)

Case No: OGC 22-119

DOLLAR GENERAL)
1500 N LOUIS TITTLE)
MANGUM, OK 73554)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Two Hundred Dollars (\$1,200.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Mia Savalaja
Signature

Mia Savalaja
Printed Name

Sr. Dir Stone Ops
Job Title

7/26/22
Date

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**DOLLAR GENERAL
1500 N LOUIS TITTLE
MANGUM, OK 73554**

RESPONDENT.

Case No: OGC 22-119

FILED
JUL 19 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on September 8, 2022**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 1500 N. Louis Tittle in Mangum, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A third violation discovered within any twelve-month period will be assessed a penalty of One Hundred Fifty Dollars (\$150.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about July 22, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Mangum, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent.

22. On or about September 22, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Mangum, Oklahoma. The inspection revealed that eleven (11) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.

24. On or about March 24, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Mangum, Oklahoma. The inspection revealed that eight (8) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

27. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

29. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

30. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto,

unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

32. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

33. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

ENFORCEMENT OF JUDGMENTS

34. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

35. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

36. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

37. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Two Hundred Dollars (\$1,200.00). (8 violations at \$150.00 per violation).**

39. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 11th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 19 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT.

v.

**DOLLAR GENERAL
1500 N LOUIS TITTLE
MANGUM, OK 73554**

RESPONDENT.

Case No: OGC 22-119

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Two Hundred Dollars (\$1,200.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 1/08

INSPECTOR NUMBER 22-RLF-0065 DATE 3/24/2022 COUNTY Greer
LOCATION* CORPORATE
AGN NUMBER AGN0076454 AGN NUMBER
Dollar General
1500 N Louis Tittle
Manum OK 73554-
MANAGER INSPECTION TYPE Followup Original Insp# 21-RLF-0092
TELEPHONE* (406) 825-1185 Other Store Type ITEM STATUS NON-SALE
TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Cheez-It extra toast 7 oz	024100111350	\$2.15	\$2.45	(\$0.30)
Hamburger Helper Cheese/mac 13.6oz	016000419780	\$2.50	\$2.75	(\$0.25)
Purina One Dog Food 13oz	017800143141	\$1.75	\$1.85	(\$0.10)
Pringles Original 5.2oz	038000138418	\$1.70	\$1.85	(\$0.15)
Diet Mt Dew 2liter	01274800	\$1.90	\$2.20	(\$0.30)
BC Delights Cookie Brownie Mix 17.4	016000139787	\$2.50	\$2.65	(\$0.15)
Hanes Men's Crew Socks 6pk	038257765083	\$7.00	\$7.50	(\$0.50)
A&H Advance White toothpaste 6.0 oz	033200188267	\$3.75	\$3.90	(\$0.15)

REC'D CPS
2022 MAR 29 A 4 58

Total Number Checked 100 Total Number Of Violation 8 Accuracy 92 % Inspection Result Notice of Violation

REMARKS

Follow up #3

WITNESS

Mariana Sikkenga

INSPECTOR*

Richard Folsom

[Signature]

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-211

DOLLAR GENERAL
25239 OK-82
Park Hill, Oklahoma 74451

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Five Hundred Twenty-five Dollars (\$525.00) (Seven violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC 22-211

DOLLAR GENERAL)
25239 OK-82)
PARK HILL, OK 74451)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred and Twenty-five Dollars (\$525.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date

Mia Savaloja

Mia Savaloja

Sr. Dir Stone Ops

7/26/22

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**DOLLAR GENERAL
25239 OK-82
PARK HILL, OK 74451**

RESPONDENT.

Case No: OGC 22-211

FILED
JUL 19 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on September 8, 2022, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 25239 OK-82 in Park Hill, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about November 4, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Park Hill, Oklahoma. The inspection revealed that seven (7) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent.

22. On or about April 6, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Park Hill, Oklahoma. The inspection revealed that seven (7) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

31. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

ENFORCEMENT OF JUDGMENTS

32. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

33. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

34. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

35. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Hundred and Twenty-five Dollars (\$525.00). (7 violations at \$75.00 per violation).**

37. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 11th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 19 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072

AB

Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC 22-211

**DOLLAR GENERAL)
25239 OK-82)
PARK HILL, OK 74451)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred and Twenty-five Dollars (\$525.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBER 22-JDN-0015

DATE* 4/6/2022

COUNTY Cherokee

LOCATION*

CORPORATE

AGN NUMBER

AGN NUMBER

Dollar General

25239 OK-82

Park Hill

OK

74451-

MANAGER Charles Powers

INSPECTION TYP Followup

Original Insp# 22-JDN-0008

TELEPHONE* 918 361-1400

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE OTHER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Lysol TB Cleaner	01920002522	\$2.00	\$2.50	(\$0.50)
Scotch Tape 500in Packaging	05114192124	\$1.00	\$2.75	(\$1.75)
Stationery 7inch Plate Wh/Siv 12ct	081741001969	\$3.00	\$4.00	(\$1.00)
Backed w/Love Writing Icing Gel	7212505193	\$1.50	\$1.75	(\$0.25)
Hanes Mens Socks	038257765045	\$7.00	\$7.50	(\$0.50)
Loctite Adhesive Power Grab	07934084892	\$4.50	\$4.75	(\$0.25)
Clover Valley Parmesan Cheese Grate	070506030023	\$3.00	\$3.50	(\$0.50)

REC'D CPS
2022 APR 26 AM 11:18

Total Number Checked 50 Total Number Of Violation 7 Accuracy 86 % Inspection Result Notice of Violation

REMARKS

This inspection was a follow-up to an original Notice of Violation on 11/4/2021. Will return in approximately 60 days for another inspection

WITNESS

Charles Powers

INSPECTOR*

John Nunnery

John Nunnery

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-221**

**DOLLAR GENERAL
914 N. MAIN
FREDERICK, OK 73542**

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Three Hundred Seventy-five Dollars (\$375.00) (Five violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

DOLLAR GENERAL)
914 N. MAIN)
FREDERICK, OK 73542)

RESPONDENT.)

Case No: OGC 22-221

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Hundred and Seventy-five Dollars (\$375.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Mia Savaloja

Signature

Mia Savaloja

Printed Name

Sr Dir Stone Ops

Job Title

7/26/22

Date

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**DOLLAR GENERAL
914 N. MAIN
FREDERICK, OK 73542**

RESPONDENT.

Case No: **OGC 22-221**

FILED
JUL 20 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on September 8, 2022**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**
4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 914 N. Main, in Frederick, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about December 8, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Frederick, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about April 13, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Frederick, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.

26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAPP or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Three Hundred and Seventy-five Dollars (\$375.00), (5 violations at \$75.00 per violation).**

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 19th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**

Gina Blaylock

Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**DOLLAR GENERAL
914 N. MAIN
FREDERICK, OK 73542**

RESPONDENT.

Case No: OGC 22-221

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Hundred and Seventy-five Dollars (\$375.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 22-KAN-0040

DATE* 4/13/2022

COUNTY Tillman

LOCATION*

CORPORATE

AGN NUMBER AGN039808

AGN NUMBER

DOLLAR GENERAL

914 N. MAIN

FREDERICK

OK 73542-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-KAN-0017

TELEPHONE* (580) 335-7866

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Kelloggs Pop Tarts 13.54oz	038000222610	\$2.25	\$2.45	(\$0.20)
Barilla Pasta Fettuccine 16oz	076808507386	\$1.40	\$1.50	(\$0.10)
Good Cook Measuring Set	076753541725	\$3.00	\$4.00	(\$1.00)
HL Farm Triple Flavor Wing 3oz	841351198820	\$2.50	\$2.75	(\$0.25)
Pro Strength Waist Band 1ct	672125064054	\$6.00	\$7.00	(\$1.00)

COPY

REC'D CPS
2022 APR 19 A 7 13

Total Number Checked 50 Total Number Of Violation 5 Accuracy 90 % Inspection Result Notice of Violation

REMARKS

WITNESS

INSPECTOR*

Keith Neugebauer

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-222**

**DOLLAR GENERAL
303 N LL MALES
CHEYENNE, OK 73628**

Summary of Facts: An investigator conducted three routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Nine Hundred Dollars (\$900.00). (6 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT.)

v.)

DOLLAR GENERAL)
303 N. LL MALES)
CHEYENNE, OK. 73628)

RESPONDENT.)

Case No: OGC 22-222

FILED
AUG-11-2022
STATE BOARD OF AGRICULTURE
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Mia Savaloja
Signature

Mia Savaloja
Printed Name

Sr. Dir Stone Ops
Job Title

7/26/22
Date

FILED

JUL 20 2022

STATE BOARD OF AGRICULTURE

Case No: OGC 22-222

RESPONDENT.

PREHEARING CONFERENCE NOTICE

1 Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including
2 the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and
3 limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative
4 evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of
5 prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues
6 prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may
7 involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and
8 j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department.

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 303 N. 11th Males, in Cheyenne, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A third violation discovered within any twelve-month period will be assessed a penalty of One Hundred Fifty Dollars (\$150.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about August 5, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cheyenne, Oklahoma. The inspection revealed that seven (7) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about October 8, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cheyenne, Oklahoma. The inspection revealed that seven (7) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

24. On or about April 14, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cheyenne, Oklahoma. The inspection revealed that six (6) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

27. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

29. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

30. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto,

unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

32. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

33. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

34. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

35. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

36. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Nine Hundred Dollars (\$900.00). (6 violations at \$150.00 per violation).**

38. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check

or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 19th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298


Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC 22-222

**DOLLAR GENERAL)
303 N. LL MALES)
CHEYENNE, OK. 73628)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBER 22-RLF-0064

DATE* 4/14/2022

COUNTY Roger Mills

LOCATION*

CORPORATE

AGN NUMBER AGN0163284

AGN NUMBER

Dollar General

303 N LL Males

Cheyenne

OK

73828-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-RLF-0001

TELEPHONE* (806) 621-1056

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Tresemme Shampoo 28 oz	022400393629	\$5.00	\$5.10	(\$0.10)
Merrick HD Hangers 3ct	018643863012	\$2.00	\$2.25	(\$0.25)
Tylenol Cold Max 24 caplets	300450271259	\$6.85	\$7.50	(\$0.65)
S&S Rectangle containers 6pk	430001285399	\$2.75	\$3.00	(\$0.25)
Glade Plug-Ins 2pk	046500217494	\$3.50	\$3.75	(\$0.25)
DG Home Disinfecting wipes 75 ct	071287839580	\$4.00	\$4.25	(\$0.25)

COPY

REC'D CPS
2022 APR 19 AM 10:50

Total Number Checked 100 Total Number Of Violation 6 Accuracy 94 % Inspection Result Notice of Violati

REMARKS

Follow up #3

WITNESS

INSPECTOR*

Richard Folsom

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-236

DOLLAR GENERAL
110 N. BRIDGE RD.
GRANDFIELD, OK 73546

Summary of Facts: An investigator conducted three routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Nine Hundred Dollars (\$900.00). (6 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY.)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL.)

COMPLAINANT,)
v.)

DOLLAR GENERAL)
110 N. BRIDGE RD.)
GRANDFIELD, OK 73546)

RESPONDENT.)

Case No: OGC 22-236

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Mia Savaloja
Signature

Mia Savaloja
Printed Name

Sr. Dir Stone Ops
Job Title

7/26/22
Date

FILED
JUL 20 2022
STATE BOARD OF AGRICULTURE

RESPONDENT.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 110 N. Bridge Rd. in Grandfield, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A third violation discovered within any twelve-month period will be assessed a penalty of One Hundred Fifty Dollars (\$150.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about October 27, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about December 27, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

24. On or about May 9, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

27. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

29. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

30. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAPF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation

of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

32. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

33. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

34. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

35. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

36. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Nine Hundred Dollars (\$900.00), (6 violations at \$150.00 per violation).**

38. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 19th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC 22-236

DOLLAR GENERAL)
110 N. BRIDGE RD.)
GRANDFIELD, OK 73546)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBER 22-KAN-0042

DATE* 5/9/2022

COUNTY Tillman

LOCATION*

CORPORATE

AGN NUMBER AGN0172736

AGN NUMBER

DOLLAR GENERAL

110 N. BRIDGE RD

GRANDFIELD OK 73546-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-KAN-0021

TELEPHONE* (580) 215-0924

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
CV Fudge PB Cookies 7oz	020200170044	\$2.00	\$2.25	(\$0.25)
CV Cereal Fruity bites 18.5oz	042400211877	\$2.70	\$2.95	(\$0.25)
Café Bustelo Espresso 10oz	074471000500	\$4.95	\$5.25	(\$0.30)
Nature Valley PB Oatmeal 6ct	016000458970	\$3.25	\$3.50	(\$0.25)
Knorr Pasta Sides Alfredo Broc4.5oz	041000022432	\$1.00	\$1.50	(\$0.50)
Gerber 2nd Foods AppBanOat 2-pk 4oz	015000073695	\$1.40	\$1.70	(\$0.30)

2022 MAY 17 A 10:48

Total Number Checked 50 Total Number Of Violation 6 Accuracy 88 % Inspection Result Notice of Violation

REMARKS

WITNESS

Conan Montoya

INSPECTOR*

Keith Neugebauer

Keith Neugebauer

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-353

DOLLAR GENERAL
1102 N 4TH
SAYRE, OK 73662

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Four Hundred Fifty Dollars (\$450.00) (Six violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC 22-353

DOLLAR GENERAL)
1102 N 4TH)
SAYRE, OK 73662)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred and Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Mia Savaloja
Signature

Mia Savaloja
Printed Name

Sr. Dir Store Ops
Job Title

7/26/2021
Date

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

FILED

JUL 19 2022

STATE BOARD OF AGRICULTURE

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC 22-353

**DOLLAR GENERAL)
1102 N 4TH)
SAYRE, OK 73662)**

RESPONDENT.)

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on September 8, 2022**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd. Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing; witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 103 Nebraska, in Cyril, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about March 30, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Sayre, Oklahoma. The inspection revealed that eleven (11) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about June 1, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Sayre, Oklahoma. The inspection revealed that six (6) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Hundred and Fifty Dollars (\$450.00), (6 violations at \$75.00 per violation).**

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 19th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 19 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC 22-353

**DOLLAR GENERAL)
1102 N 4TH)
SAYRE, OK 73662)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred and Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBER 22-RLF-0077DATE* 8/1/2022COUNTY Beckham

LOCATION*

CORPORATE

AGN NUMBER AGN050317

AGN NUMBER

Dollar General1102 N 4thSaireOK73662-

MANAGER

INSPECTION TYP FollowupOriginal Insp# 22-RLF-0060TELEPHONE* (405) 429-8369

Other Store Type

ITEM STATUS

NON-SALETYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Ritz Crackers 6 stacks</u>	<u>044000058241</u>	<u>\$4.25</u>	<u>\$4.50</u>	<u>(\$0.25)</u>
<u>DG Health Pain relieving cream 1.25</u>	<u>836891010293</u>	<u>\$1.60</u>	<u>\$1.65</u>	<u>(\$0.05)</u>
<u>DSC Razor handle w/4 blades</u>	<u>811346020054</u>	<u>\$10.00</u>	<u>\$10.15</u>	<u>(\$0.15)</u>
<u>CB Tub Treads 5 pcs</u>	<u>073161095529</u>	<u>\$5.00</u>	<u>\$5.10</u>	<u>(\$0.10)</u>
<u>Chinet Classic White plates 32 ct</u>	<u>037700322262</u>	<u>\$5.50</u>	<u>\$6.25</u>	<u>(\$0.75)</u>
<u>Son of a gun tire shine 16 oz</u>	<u>071153192306</u>	<u>\$4.25</u>	<u>\$5.25</u>	<u>(\$1.00)</u>

Total Number Checked 100 Total Number Of Violation 6 Accuracy 94 % Inspection Result Police of Violati

REMARKS

Follow up #1

REC'D
2022 JUN -8
11:05

WITNESS

INSPECTOR*

Richard Folsom

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-354**

**DOLLAR GENERAL
103 NEBRASKA
CYRIL, OK 73029**

Summary of Facts: An investigator conducted four routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Two Thousand Dollars (\$2,000.00). (8 violations at \$250.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC 22-354

DOLLAR GENERAL)
103 NEBRASKA)
CYRIL, OK 73029)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand Dollars (\$2,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Mia Savaloja

Signature

Mia Savaloja

Printed Name

Sr. Dir Store Ops

Job Title

7/26/22

Date

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

DOLLAR GENERAL)
103 NEBRASKA)
CYRIL, OK 73029)

RESPONDENT.)

Case No: OGC 22-354

FILED
JUL 19 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on September 8, 2022, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd. Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. The hearing date will be determined at the Prehearing Conference.

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department.

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 103 Nebraska, in Cyril, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A fourth violation discovered within any twelve-month period will be assessed a penalty of Two Hundred Fifty Dollars (\$250.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about November 16, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma. The inspection revealed that seven (7) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about January 18, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma. The inspection revealed that seven (7) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

24. On or about March 18, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma. The inspection revealed that fifteen (15) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

26. On or about May 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma.

The inspection revealed that eight (8) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

27. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a fourth violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

28. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

29. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.

30. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

31. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

32. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

33. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

34. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

35. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

36. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

37. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

38. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Two Thousand Dollars (\$2,000.00), (8 violations at \$250.00 per violation)**.

40. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 19th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 19 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC 22-354

**DOLLAR GENERAL)
103 NEBRASKA)
CYRIL, OK 73029)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand Dollars (\$2,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



PRICE VERIFICATION REPORT

CPS 152 Rev 1/05

INSPECTOR NUMBER 22-RLF-0075

DATE 5/25/2022

COUNTY Caddo

LOCATION*

CORPORATE

AGN NUMBER AGN022158

AGN NUMBER

Dollar General

103 Nebraska

C/nl

OK 73029

MANAGER

INSPECTION TYP Followup

Original Insp# 22-RLF-0052

TELEPHONE# 405 594-0625

Other Store Type

ITEM STATUS NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Advil Liquigels Bct	305731769098	\$2.50	\$2.75	(\$0.25)
Hanes Boy's Tagless T-shirt 3ct	075338614137	\$7.05	\$7.25	(\$0.20)
Mr. Clean Roller Mop	011171568725	\$11.00	\$12.00	(\$1.00)
Old Spice Bearglove antipersp 2.6oz	012044039632	\$5.65	\$6.10	(\$0.45)
OFF Active insect repellent 7.5oz	048500775802	\$6.20	\$6.25	(\$0.05)
CV Sweet Relish 16oz	009300008013	\$1.65	\$2.25	(\$0.60)
CV California Raisins 8 oz	070044100127	\$2.00	\$2.15	(\$0.15)
CV Stripes PB&Grape Jelly 18 oz	098252049282	\$2.75	\$3.25	(\$0.50)

RECD CPS
2022 MAY 32 A 10-4

Total Number Checked 100 Total Number Of Violation 8 Accuracy 92 % Inspection Result Notice of Violation

REMARKS

Follow up #1 on 22-RLF-0052, which was Follow up #1 on 22-RLF-0031

WITNESS

INSPECTOR*

Richard Folsom

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-355

DOLLAR GENERAL
811 N HAZLETT
FT. COBB, OK 73038

Summary of Facts: An investigator conducted four routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Five Hundred Dollars (\$1,500.00). (6 violations at \$250.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

DOLLAR GENERAL)
811 N HAZLETT)
FT. COBB, OK 73038)

RESPONDENT.)

Case No: OGC 22-355

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Five Hundred Dollars (\$1,500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Mia Savaloja

Signature

Mia Savaloja

Printed Name

Sr. Dir Store Ops

Job Title

7/26/22

Date

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

DOLLAR GENERAL)
811 N HAZLETT)
FT. COBB, OK 73038)

RESPONDENT.)

FILED

JUL 19 2022

STATE BOARD OF AGRICULTURE

Case No: OGC 22-355

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on September 8, 2022, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 811 N. Hazlett, in Ft. Cobb, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A fourth violation discovered within any twelve-month period will be assessed a penalty of Two Hundred Fifty Dollars (\$250.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about November 24, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about January 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that twelve (12) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

24. On or about March 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that eight (8) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

26. On or about May 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma.

The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

27. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a fourth violation of 2 O.S. § 14-38(I).

ALLEGED CONCLUSIONS OF LAW

28. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

29. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.

30. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

31. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

32. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

33. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

34. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

35. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

36. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

37. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

38. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Five Hundred Dollars (\$1,500.00)**, (6 violations at \$250.00 per violation).

40. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 19th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Tecna G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298


Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 19 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC 22-355

**DOLLAR GENERAL)
811 N HAZLETT)
FT. COBB, OK 73038)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Five Hundred Dollars (\$1,500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 352 Rev 1/06

INSPECTOR NUMBER 22-RLF-0074

DATE 5/25/2022

COUNTY Caddo

LOCATION*

CORPORATE

AGN NUMBER AGN014837

AGN NUMBER

Dollar General Store

811 N Hazlett

Fl. Cobb

OK 73038-

MANAGER

INSPECTION TYPE Followup

Original Insp# 22-RLF 0057

TELEPHONE* 405 643-0017

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Studio Selection Hair Clip 2 pc	190425098045	\$2.85	\$2.85	(\$0.10)
TL Foam Carpet Freshner	851286101761	\$2.50	\$2.75	(\$0.25)
PE Foam Brush Set 8 pc	430001362385	\$1.95	\$2.00	(\$0.05)
Cesar We Do Food 3.5oz	023100014043	\$1.05	\$1.15	(\$0.10)
Barilla Farfalle 1 lb	078808507386	\$1.40	\$1.65	(\$0.25)
Sensodine Pronamel repair 3.4oz	310158887574	\$6.50	\$6.90	(\$0.40)

REC'D CPS
2022 MAY 32 A 10 47

Total Number Checked 50 Total Number Of Violation 6 Accuracy 88 % Inspection Result Notice of Violation

REMARKS

Follow up #1 on 22-RLF-0057 which was follow up #1 on 22-RLF-0036

WITNESS

Michelle Prince

INSPECTOR*

Richard Folsom

RJ

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-364

DOLLAR GENERAL
2900 N. BROADWAY
MOORE, OK 73160

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Six Hundred Seventy-five Dollars (\$675.00) (Nine violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

AUG 11 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL.)

COMPLAINANT,)

v.)

Case No: OGC 22-364

DOLLAR GENERAL)
2900 N. BROADWAY)
MOORE, OK 73160)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Six Hundred and Seventy-five Dollars (\$675.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Mia Savaloja

Signature

Mia Savaloja

Printed Name

Sr. Dir Store Ops

Job Title

7/26/20

Date

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**DOLLAR GENERAL
2900 N. BROADWAY
MOORE, OK 73160**

RESPONDENT.

Case No: OGC 22-364

FILED
JUL 20 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on September 8, 2022, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 2900 N. Broadway, in Moore, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about December 15, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Moore, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about February 15, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Moore, Oklahoma. The inspection revealed that nine (9) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Six Hundred and Seventy-five Dollars (\$675.00). (9 violations at \$75.00 per violation).**

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 19th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Tecna G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997


Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20 day of July, 2022, a true and

correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested,
as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**


Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC 22-364

**DOLLAR GENERAL)
2900 N. BROADWAY)
MOORE, OK 73160)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Six Hundred and Seventy-five Dollars (\$675.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBER 22-GMC-0108

DATE* 2/15/2022

COUNTY Cleveland

LOCATION*

CORPORATE

AGN NUMBER AGN0153842

AGN NUMBER

Dollar General

2900 Broadway

Moore

OK 73160-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-GMC-006

TELEPHONE* (405) 212-4640

Other Store Type

ITEM STATUS

TYPE OF STORE DEPARTMENT

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Bic LCP5 Lighter classic 5pk	070330603158	\$4.95	\$5.00	(\$0.05)
Starburst fruit chew 2 07oz	040000000518	\$0.95	\$1.00	(\$0.05)
Pringles sour cream onion 5.5oz	038000138430	\$1.55	\$1.85	(\$0.30)
Fineliners 5 packs	430001270179	\$1.00	\$2.00	(\$1.00)
Crayola crayons 12pk	071682198127	\$3.00	\$4.00	(\$1.00)
Folgers Colombian 10 3oz	25500003658	\$3.95	\$4.75	(\$0.80)
Dove Advance care 2.6 oz	079400448347	\$5.25	\$6.00	(\$0.75)
True Living Cloth line white 100ft	430001267148	\$4.00	\$4.50	(\$0.50)
Gorilla Glue 2oz	052427590022	\$4.95	\$6.25	(\$1.30)

Total Number Checked 100 Total Number Of Violation 9 Accuracy 91 % Inspection Result Notice of Violation

REMARKS

WITNESS

mercedesa

INSPECTOR*

Percy J. ...
Gersende Cazaux

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-365**

**DOLLAR GENERAL
100 E. CENTRAL
ANADARKO, OK 73005**

Summary of Facts: An investigator conducted three routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Nine Hundred Dollars (\$900.00). (6 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

AUG 11 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL,)

COMPLAINANT,

v.)

Case No: OGC 22-365

DOLLAR GENERAL,)
100 E. CENTRAL,)
ANADARKO, OK 73005)

RESPONDENT,)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-1298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date

Mia Savaloja

Mia Savaloja

Sr. Dir. Store Ops

7/26/22

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**DOLLAR GENERAL
100 E. CENTRAL
ANADARKO, OK 73005**

RESPONDENT.

Case No: OGC 22-365

FILED
JUL 20 2022
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on **September 8, 2022**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 100 E. Central, in Anadarko, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A third violation discovered within any twelve-month period will be assessed a penalty of One Hundred Fifty Dollars (\$150.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about August 17, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Anadarko, Oklahoma. The inspection revealed that eight (8) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about December 20, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Anadarko, Oklahoma. The inspection revealed that seven (7) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

24. On or about February 22, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Anadarko, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

27. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

29. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

30. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to

assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

32. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

33. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

34. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

35. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

36. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Nine Hundred Dollars (\$900.00), (6 violations at \$150.00 per violation).**

38. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 19th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20 day of July, 2022, a true and
correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested,
as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**


Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**DOLLAR GENERAL
100 E. CENTRAL
ANADARKO, OK 73005**

RESPONDENT.

Case No: OGC 22-365

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 1/08

INSPECTOR NUMBER 22-RLF-0044

RECEIVED CPS 2/22/2022

COUNTY Caddo

LOCATION*

CORPORATE

AGN NUMBER AGN0075737

AGN NUMBER

Dollar General

110 E Central

Anadarko

OK

73005-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-RLF-0022

TELEPHONE* (405) 480-0005

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Simple Makeup remover 25 ct	087300700052	\$4.50	\$5.00	(\$0.50)
Scott Bath Tissue 4 rolls	054000101830	\$4.50	\$4.75	(\$0.25)
Swiffer HD Pet Cloths 10 ct	037000798927	\$4.50	\$5.00	(\$0.50)
OG Sponges 4ct	042545030045	\$1.75	\$2.00	(\$0.25)
Pro Essentials Masking Tape 50 yds	430001353155	\$3.00	\$3.50	(\$0.50)
Mt Dew 2 Liter	012200003305	\$1.90	\$2.20	(\$0.30)

Total Number Checked 50 Total Number Of Violation 8 Accuracy 88 % Inspection Result Notice of Violati

REMARKS

Follow up #1 (22-RLF-0022 was a failed follow up on 21-RLF-0084 8/17/21)

WITNESS

INSPECTOR*

Richard Folsom

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-117

FAMILY DOLLAR
602 N US 277
ELGIN, OK 73538

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Three Hundred Dollars (\$300.00) (Four violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 07 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

Case No: OGC 22-117

FAMILY DOLLAR
602 N US 277
ELGIN, OK 73538

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Hundred Dollars (\$300.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:



Signature

Mary Atwood

Printed Name

DM

Job Title

8-2-22

Date

FILED
JUL 20 2022
STATE BOARD OF AGRICULTURE

RESPONDENT.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Family Dollar, located at 602 N US 277, in Elgin, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about January 28, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Elgin, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about March 30, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Elgin, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include but are not limited to:
 - a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Three Hundred Dollars (\$300.00), (4 violations at \$75.00 per violation).**

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 19th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel. OBA # 17767

James Rucker, Deputy General Counsel. OBA # 14574

✓ Kambi Maddy. OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren. OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**FAMILY DOLLAR STORES OF OKLAHOMA, LLC
500 VOLVO PARKWAY
CHESAPEAKE VA, 23320**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**FAMILY DOLLAR
602 N US 277
ELGIN, OK 73538**

RESPONDENT.

Case No: OGC 22-117

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Hundred Dollars (\$300.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 22-KAN-0037 DATE 3/30/2022

COUNTY Comanche

LOCATION*

CORPORATE

AGN NUMBER AGN048939

AGN NUMBER

FAMILY DOLLAR

602 N US 277

ELGIN

OK 73538-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-KAN-0027

TELEPHONE* (580) 492-4998

Other Store Type

ITEM STATUS NON-SALE

TYPE OF STORE OTHER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
CH Non-Dairy Creamer 16oz	032251196768	\$3.10	\$3.35	(\$0.25)
BC Solid Turner	076753953122	\$2.00	\$3.10	(\$1.10)
BF Oatmeal Raisin Cookie 7.1oz	07608122248	\$1.25	\$1.50	(\$0.25)
Campbells Chicken Noodle Soup 13.8oz	051000224675	\$1.00	\$1.25	(\$0.25)

Total Number Checked 50 Total Number Of Violation 4 Accuracy 92 % Inspection Result Notice of Violation

REMARKS

WITNESS

K. Clark

INSPECTOR*

Keith Neugebauer

[Signature]

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. ARTHUR GRAVES

Case File No. OGC-22-66

**ARTHUR GRAVES
306 APACHE ST.
BURNS FLAT, OK 73624**

Summary of Facts: This case arises out of a routine inspection. Respondent was applying pesticides commercially without a license or certification. Respondent's license expired in 2017. The tank on Respondents vehicle had a mixture of Ike's Farm, Home & Garden Sandbur and Crabgrass Preventer; Cornerstone 5 Plus; Gordon's Trimes Lawn & Weed Killer. The mix in the tank was below the required concentrate per the label instructions. Respondent was applying product off label, without a license or certification.

Statute or Rule Violation: 2 O.S. § 3-82(A)(1); 2 O.S. § 3-86(A)(15), 2 O.S. §3-86(A)(4)

Proposed Administrative Penalty: The penalty was assessed at \$500 and paid in full.

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

JUL 26 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

ARTHUR GRAVES
306 APACHE ST.
BURNS FLAT, OK 73624

RESPONDENT.

Case No: OGC-22-66

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Five Hundred Dollars (\$500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:



Signature



Printed Name and Title:

Date: _____

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUN 07 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC-22-66

ARTHUR GRAVES)
306 APACHE ST.)
BURNS FLAT, OK 73624)

RESPONDENT.)

AMENDED NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on August 11th, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Burns Flat, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about 14th day of February, the Consumer Protective Services Division of the Department performed a routine inspection of your application vehicle and applicator.

19. During this routine inspection it was discovered that you did not have a certification and were unlicensed. Your license has been expired since 2017.

20. Additionally, it was discovered that you were applying products outside of label requirements.

- The tank mix you were applying consisted of 1 pint of Ike's Farm, Home, & Garden Sandbur and Crabgrass Preventer, 1 quart of Cornerstone 5 Plus, and 1 gallon of Gordon's Trimec Lawn & Weed Killer mixed in 200 gallons of water.

- i. The Gordon's Trimec Lawn & Weed Killer product label requires that 100 fl. oz. of concentrate be mixed in 25 gallons of water.
- ii. The Cornerstone 5 Plus label requires at a minimum of 2 quarts of concentrate be mixed in every 100 gallons of water

ALLEGED CONCLUSIONS OF LAW

21. Based upon the application of the above law to the aforementioned facts, you were applying pesticides in a commercial applicators capacity without a valid license or certification to do so. Your license expired in 2017. This is in violation of 2 O.S. §3-82(A)(1) which states:

"It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged."

22. In addition, 2 O.S. 3-86 (A)(16) reads:

"It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation,

revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised."

Operating, advertising, or applying pesticides or herbicides commercially is against Oklahoma Statutes. Your license was expired in 2017 and you did not have a personal certification or license to apply product.

23. Finally, 2 O.S. 3-86(A)(4) states: "A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board." Your dilution percentages for the chemicals being applied were out of sync with what the labeling requires and without the approval of the ODAFF.

ATTORNEY CONFERENCES

24. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

25. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

26. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

27. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
28. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
29. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
30. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

31. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

32. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

33. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

34. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

35. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Five-Hundred Dollars (\$500.00).

37. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 3RD day of June, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Brady Robison

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

✓ Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 7 day of June, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**ARTHUR GRAVES
306 APACHE ST.
BURNS FLAT, OK 73624**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY, BY AND THROUGH THE OFFICE OF GENERAL COUNSEL.)	
)	
)	
)	
)	
COMPLAINANT,)	
v.)	Case No: OGC-22-66
)	
ARTHUR GRAVES)	
306 APACHE ST.)	
BURNS FLAT, OK 73624)	
)	
RESPONDENT.)	

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Five Hundred Dollars (\$500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. ROMEX PEST CONTROL

Case File No. OGC-22-395

**ROMEX PEST CONTROL
3825 NW 166th STREET UNIT D4
EDMOND, OK 73012**

**ROMEX PEST CONTROL
6829 K. AVE. #104
PLANO, TX 75074**

Summary of Facts: This case arises out of a complaint investigation. Inspectors determined that applicator's for the Respondent were making applications in categories that they were not licensed in. Employees were spraying wood and brick piles; at the time the company was only licensed in general pest and as such must stay within three feet of a structure. Additionally, the company did not have a valid license for one of their locations and that license must be on file with the department.

Statute or Rule Violation: 2 O.S. § 3-82(A)(4); 2 O.S. § 3-86(A)(15)

Proposed Administrative Penalty: The penalty was assessed at \$1000 and the stipulation was signed and paid in full.

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 01 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

Case No: OGC-22-395

Romex Pest control
3825 NW 166th Street Unit D4
Edmond, OK 73012

Romex Pest control
6829 K. Ave # 104
Plano, TX 75074

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Dollars (\$1000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date:

7/29/2022

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

FILED
JUL 08 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC-22-395

Romex Pest control)
3825 NW 166th Street Unit D4)
Edmond, OK 73012)

Romex Pest Control)
6829 K. Ave # 104)
Plano, TX 75074)

RESPONDENT.)

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 13th day of October, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone: arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the

Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Edmond, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about 20th day of May, the Consumer Protection Services Division of the Department followed up with a consumer complaint.

19. During the course of this investigation, inspectors discovered through your records that your employee was making an application of commercial pesticides on a wood and brick pile on the back fence perimeter line of your customer; at the time of application your company was only licensed in general pest which limits applications to within three (3) feet of a structure.

20. Additionally, at the time of the application your business location at 3825 NW 166th street Unit D4, Edmond, OK was not on file with ODAFF. Each of the aforementioned infractions is violation of the statutes.

ALLEGED CONCLUSIONS OF LAW

21. Based upon the application of the above law to the aforementioned facts, you are in violation of statute.

- **2 O.S. §3-82(A)(4)** requires that: "4. Each business location shall require a separate license and separate certified applicator except that a certified applicator for a noncommercial business location may also serve as the certified applicator for one commercial business location."
- i. Operating a business without the proper location licensing is in violation of 2 O.S. §3-82(A)(4)
- **2 O.S. §3-86(A)(15)** requires that:
 - I. "(A.) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal

to issue or reissue any license, certificate, or identification may be made if the Board finds: (15.) Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”

- ii. Making application on a property without the proper license is in violation of 2 O.S. §3-86(A)(15).

ATTORNEY CONFERENCES

- 22. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
- 23. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
- 24. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

- 25. Enforcement proceedings may include but are not limited to:
 - a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.

26. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

27. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

28. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

29. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

30. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

31. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

32. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

33. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

34. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One-Thousand Dollars (\$1000.00)**.

35. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 8TH day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Brady Robison

Teena G. Gyler, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Kambi Maddy, OBA # 13873
Brady Robison, OBA # 33600*
Richard D. Herren, OBA # 13829
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 8 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

Romex Pest control
3825 NW 166th Street Unit D4
Edmond, OK 73012

Romex Pest control
6829 K. Ave # 104
Plano, TX 75074



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

Romex Pest control
3825 NW 166th Street Unit D4
Edmond, OK 73012

Romex Pest control
6829 K. Ave # 104
Plano, TX 75074

RESPONDENT.

Case No: OGC-22-395

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. Sprayin' J

Case File No. OGC-22-23

SPRAYIN' J
1500 NE 5TH.
MOORE, OK 73160

Summary of Facts: This case results from a routine inspection of a business; an application vehicle was parked outside of a residence and it was determined from that vehicle that their certification had expired for the business in 2019.

Statute or Rule Violation: 2 O.S. § 3-82(A)(1); 2 O.S. §3-86(A)(15)

Proposed Administrative Penalty: The penalty was assessed at \$250; the stipulation was signed and paid in full

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

SPRAYIN' J
1500 NE 5TH.
MOORE, OK 73160

RESPONDENT.

Case No: OGC-22-23

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two-Hundred and Fifty Dollars (\$250.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

CASEY JENNINGS
Printed Name and Title:

Date:

8/11/22

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

FILED

JUL 14 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC-22-23

SPRAYIN' J)
1500 NE 5TH.)
MOORE, OK 73160)

RESPONDENT.)

AMENDED NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on August 11th, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing; witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 19th day of November, 2021, the Consumer Protective Services Division of the Department conducted a use inspection on your applicator actively applying pesticides to a property at 901 Craig Drive in Moore, OK.

19. During this use inspection it was determined that you were making an application of pesticides without a current certification issued by ODAFF.

20. It was further determined that your business license had expired in 2019 and that you continued to conduct business during that time.

ALLEGED CONCLUSIONS OF LAW

21. Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. §3-82(A)(1) by operating or conducting business as a commercial applicator without a valid applicator's business license issued by the ODAFF.

22. Additionally, Respondent violated 2 O.S. §3-86(A)(15) by operating or doing business as an applicator without a valid license issued by the ODAFF.

ATTORNEY CONFERENCES

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

26. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued

pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Two-Hundred and Fifty Dollars (\$250.00).

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 12TH DAY OF MAY, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL.

Brady Robison

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

✓Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298


Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 14 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

Sprayin" J
1500 NE 5th
Moore, OK 73160



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY, BY AND THROUGH THE OFFICE OF GENERAL COUNSEL)	
)	
COMPLAINANT,)	
v.)	Case No: OGC-22-23
)	
SPRAYIN' J)	
1500 NE 5TH.)	
MOORE, OK 73160)	
)	
RESPONDENT.)	

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two-Hundred and Fifty Dollars (\$250.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. STANDLEE HAY COMPANY
Case File No: OGC 22-122

STANDLEE HAY COMPANY, INC.
22349 KIMBERLY ROAD, SUITE E
EDEN, ID 83325

Summary of Facts:

a.) On or about October 5, 2021, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Atwoods in Madill, OK. The inspection revealed the average was .556 lb. less than the marked net weight. On this date, there were 7 Maximum Allowed Variations.

b.) On or about December 3, 2021, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Sulphur, OK. The inspection revealed the average was 1.34 lb. less than the marked net weight. On this date, there were 4 Maximum Allowed Variations.

c.) On or about January 25, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Ardmore, OK. This inspection revealed the average was 8.43 lb. less than the marked net weight. On this date, there were 12 Maximum Allowed Variations. A "STOP SALE ORDER" was issued and released upon relabeling of products with accurate weight.

d.) On or about March 23, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Ardmore, OK. This inspection revealed the average was 0.976 lb. less than the marked net weight. On this date, there were 7 Maximum Allowed Variations.

e.) On or about March 23, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Atwoods in Chickasha, OK. This inspection revealed the average was 2.862 lb. less than the marked net weight. On this date, there were 8 Maximum Allowed Variations. A "STOP SALE ORDER" was issued and released upon relabeling of products with accurate weight.

Statute or Rule Violation:

Respondent is alleged to have violated 2 O.S. §14-38(B)(1) and OAC 35:10-11-1 of the Oklahoma Standard Weights & Measures Law and Rules by advertising and selling products packaged to be sold by weight which had underweight averages of more than the maximum allowed variation of 0.50 lb.

Proposed Administrative Penalty:

The proposed penalty for this case was Two Thousand Eight Hundred Dollars (\$2,800.00) (8 counts at \$350.00 per count). Respondent stipulated and paid the penalty.

Deviations:

None.

Other Actions Required:

None.

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 15 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

STANDLEE HAY COMPANY, INC.
22349 KIMBERLY ROAD, SUITE E
EDEN, ID 83325

RESPONDENT.

Case No: OGC: 22-122

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Thousand Eight Hundred Dollars (\$2,800.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT: ~~Standlee Hay Company, Inc.~~

By: John O. Fitzgerald, II
Signature

John O. Fitzgerald, II, Vice-President/General Counsel
Printed Name and Title

Date: _____

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**STANDLEE HAY COMPANY, INC.
22349 KIMBERLY ROAD, SUITE E
EDEN, ID 83325**

RESPONDENT.

FILED

JUL 19 2022

STATE BOARD OF AGRICULTURE

Case Nos: OGC: 22-122

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on September 8, 2022, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling weighted bags of feed under the business name of Standlee Hay Company, Inc. located at 22349 Kimberly Road, Suite E in Eden, Idaho.

16. Pursuant to 2 O.S. § 2-4 (A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agriculture Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(1)(a), it is unlawful for any person to sell, offer, or expose for sale a quantity less than the quantity represented.

ALLEGATIONS OF FACT

18. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

19. On or about October 5, 2021, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Atwoods in Madill, OK. The inspection revealed the average was .556 lb. less than the marked net weight. On this date, there were 7 Maximum Allowed Variations. A letter of warning was sent.

20. On or about December 3, 2021, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Sulphur, OK. The inspection revealed the average was 1.34 lb. less than the marked net weight.

On this date, there were 4 Maximum Allowed Variations. This was the second violation and a letter of warning was sent.

21. On or about January 25, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Ardmore, OK. This inspection revealed the average was 8.43 lb. less than the marked net weight. On this date, there were 12 Maximum Allowed Variations. A "STOP SALE ORDER" was issued and released upon relabeling of products with accurate weight. This was the third violation.

22. On or about March 23, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Ardmore, OK. This inspection revealed the average was 0.976 lb. less than the marked net weight. On this date, there were 7 Maximum Allowed Variations. This was the fourth violation and a letter of warning was sent.

23. On or about March 23, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Atwoods in Chickasha, OK. This inspection revealed the average was 2.862 lb. less than the marked net weight. On this date, there were 8 Maximum Allowed Variations. A "STOP SALE ORDER" was issued and released upon relabeling of products with accurate weight. This was the fifth violation.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. § 14-38(B)(1)(a) by selling, offering, or exposing for sale a quantity less than the quantity represented. A fifth violation following any twelve-month period in which no violation

has been found will be assessed a penalty of Three Hundred Fifty Dollars (\$350.00) per consumer item which results in an overcharge or potential overcharge.

ATTORNEY CONFERENCES

25. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

26. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include, but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

31. The provisions of the Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. § 501 *et seq.*, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

32. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

33. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

34. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

35. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Two Thousand Eight Hundred Dollars (\$2,800.00) (8 counts at \$350.00 per count).

37. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check

or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 11th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA #14574

✓ Kambi Maddy, OBA #13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 19 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**STANDLEE HAY COMPANY, INC.
22349 KIMBERLY ROAD, SUITE E
EDEN, ID 83325**

HB

Gina Blaylock

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

4.

RESPONDENT.

STIPULATION

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

Date:

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-367

WALGREENS
115 W 3RD
ELK CITY, OK 73644

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Four Hundred Fifty Dollars (\$450.00) (Six violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

8/2/22

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)
)
COMPLAINANT,)
v.)
)
WALGREENS)
115 W 3RD)
ELK CITY, OK 73644)
)
RESPONDENT.)

FILED
AUG 31 2022
STATE BOARD OF AGRICULTURE

Case No: OGC 22-36

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RECEIVED
AUG 29 2022
ODAFF FINANCE

RESPONDENT:
Signature [Signature]
Printed Name Brely Ware
Job Title Citations Coord
Date 8/23/22

FILED
JUL 20 2022
STATE BOARD OF AGRICULTURE
22-367

Case No: OGC 22-367

1 Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including
 2 the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and
 3 limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative
 4 evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of
 5 prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues
 6 prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may
 7 involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and
 8 j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the

Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Walgreens, located at 115 W. 3rd, in Elk City, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about November 29, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Walgreens in Elk City, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about January 31, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Walgreens in Elk City, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

28. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Hundred Fifty Dollars (\$450.00)**. (6 violations at \$75.00 per violation).

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 19th day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

**WALGREENS CO.
200 WILMOT RD
DEERFIELD, IL 60015**

HB

Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC 22-367

**WALGREENS)
115 W 3RD)
ELK CITY, OK 73644)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBER 22-RLF-0038

DATE 1/31/2022

COUNTY Beckham

LOCATION*

CORPORATE

AGN NUMBER AGN0104472

AGN NUMBER

Walgreens

115 W 3rd

Elk City

OK

73644-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-RLF-0017

TELEPHONE* (580) 225-4418

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE DRUG

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>NICE Oragne soda 2 liter</u>	<u>049022140868</u>	<u>\$0.99</u>	<u>\$1.29</u>	<u>(\$0.30)</u>
<u>Dove Men+care 18oz</u>	<u>011111011069</u>	<u>\$6.99</u>	<u>\$7.49</u>	<u>(\$0.50)</u>
<u>Barill Penne Pasta 1lb</u>	<u>076808280739</u>	<u>\$1.99</u>	<u>\$2.29</u>	<u>(\$0.30)</u>
<u>Tum's Ultra 1000 160 tablets</u>	<u>307660746553</u>	<u>\$10.99</u>	<u>\$11.69</u>	<u>(\$0.70)</u>
<u>70% Isopropyl Alcohol 16oz</u>	<u>307660746553</u>	<u>\$10.99</u>	<u>\$11.69</u>	<u>(\$0.70)</u>
<u>Jergen's Hand & Body 21oz</u>	<u>019100109940</u>	<u>\$7.79</u>	<u>\$8.49</u>	<u>(\$0.70)</u>

2022 FEB - 8 P 2:20
READ CPS

Total Number Checked 50 Total Number Of Violation 6 Accuracy 88 % Inspection Result Notice of Violati

REMARKS

WITNESS

INSPECTOR*

Richard Folsom

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. ZENG GREEN 1, LLC

Case File No. OGC-22-145

**ZENG GREEN 1 LLC
5821 JESSE LN
STILLWATER, OK 74074**

Summary of Facts: This case involved a referral from the OMMA Lab, where a batch of medical marijuana failed inspection. ODAFF Inspectors conducted a follow-up investigation with the Respondent's grow operation and discovered numerous containers of pesticides that were partially used and being stored at the facility. The OMMA Lab reported that the pesticides showing positive were Myclobutanil, Permethrin, and Spiromefisin. Discovered at the facility were containers of Monterey Garden Insect Spray, Eagle 20EW EPA, Hi-Yield 38 Plus, Forbid 4F Ornamental Insecticide/Miticide and Bioadvanced Roade & Flower Spray. Myclobutanil is the active ingredient in Eagle 20EW; Spiromefisin is the active ingredient in Forbid 4F Ornamental Pesticide/Miticide; Permethrin is the active ingredient in Hi-Yield 38 Plus. Respondent was applying pesticides outside of ODAFF Rules and off-label. Only pesticides approved and registered with ODAFF may be used in medical marijuana.

Statute or Rule Violation: 2 O.S. §3-86(A)(4)

Proposed Administrative Penalty: The penalty was assessed at \$2500; the stipulation was signed and paid in full

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUL 18 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

Case No: OGC-22-145

ZENG GREEN LLC
5821 JESSE LN
STILLWATER, OK 74074

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two-Thousand Five-Hundred Dollars (\$2500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

LIN YONG
Signature

LIN YONG
Printed Name and Title

Date 07/14/22

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

FILED
MAY 18 2022
STATE BOARD OF AGRICULTURE

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**ZENG GREEN 1 LLC
5821 JESSE LN
STILLWATER, OK 74074**

RESPONDENT.

Case No: OGC-22-145

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on August 11, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial medical marijuana production, located at Stillwater, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 1st day of April, 2022, the Consumer Protection Services Division of the Department conducted a follow-up investigation off of a referral by the Oklahoma Medical Marijuana Authority lab.

19. Upon investigating the complaint by the OMMA Lab, it was found that a batch of medical marijuana from your facility failed because pesticides were detected, specifically Myclobutanil, Permethrin, and Spiromesifin.

20. Upon inspection of your facility in Stillwater, OK, it was found that there were multiple containers of pesticides located within the storage area of your facility. The pesticides located

specifically were: Monterey Garden Insect Spray; Eagle 20EW EPA; Hi-Yield 38 Plus; Forbid 4F Ornamental Insecticide/Miticide; and Bioadvanced Rose & Flower Spray.

21. Myclobutanil is the active ingredient in Eagle 20EW, Spiromesifin is the active ingredient in Forbid 4F Ornamental Insecticide/Miticide, and Permethrin is the active ingredient in Hi-Yield 38 Plus.

22. Based on the investigation conducted by ODAFF inspectors, you have been using/misusing pesticides inconsistent with the product label.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you applied pesticides inconsistent with the label and are in violation of 2 O.S. §3-86(A)(4) which states:

- “(A.) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: (4.) A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”

ATTORNEY CONFERENCES

24. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
25. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
26. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

27. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
28. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
29. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

30. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

31. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

32. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

33. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

34. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

35. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Two-Thousand Five-Hundred Dollars (\$2,500.00)

37. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS _____ day of _____, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Brady Robison

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

✓Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 16 day of May, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**ZENG GREEN I LLC
5821 JESSE LN
STILLWATER, OK 74074**



Gina Blaylock

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

 Ψ_1

ZENG GREEN 1 LLC
5821 JESSE LN
STILLWATER, OK 74074

RESPONDENT.

Case No: OGC-22-145

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two-Thousand Five-Hundred Dollars (\$2500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. JIMS PEST CONTROL, LLC

Case File No. OGC-22-389

**JIMS PEST CONTROL, LLC
840 LORI LANE
VINITA, OK 74301**

Summary of Facts: This case involved a consumer complaint. Inspectors were called out to a residence located at 945 S. Curtis Street in Welch, OK to inspect a termite treatment. Upon inspection it was discovered that the treatment was not done in accordance with the minimum standards. The treatment failed to remove termite shelter tubes; all of the voids in the concrete block stem wall were not drilled and treated; there was no evidence of trenching under the building along the stem wall and around the piers; the voids in the concrete block piers were not drilled and treated; the drill holes in the concrete slab porch and patio exceeded 12 inches. Additionally, records were missing, specifically the application rate of the treatment, a complete contract with the statement, plat, or diagram showing how the treatment was performed.

Statute or Rule Violation: O.A.C. 35-30-17-58; O.A.C. 35-30-17-59; O.A.C. 35-30-17-66; O.A.C. 35-30-17-67(c); O.A.C. 35-30-17-69; O.A.C. 35-30-17-20 (A)(1); O.A.C. 35-30-17-21(a)

Proposed Administrative Penalty: The penalty was assessed at \$1500

Deviations: A settlement and consent order were entered in the event of civil litigation; the company did not want to admit liability. The monetary penalty was not deviated from the original.

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

JUL 20 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)
JIMS PEST CONTROL, LLC)
840 LORI LN)
VINITA, OK 74301)

RESPONDENT.)

Case No: OGC-22-389

SETTLEMENT AGREEMENT AND CONSENT ORDER

PARTIES

1. This Settlement Agreement and Consent Order (the "Agreement") is between the Oklahoma Department of Agriculture, Food, And Forestry (the "Department") and JIMS PEST CONTROL LLC (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by JIMS PEST CONTROL LLC and located at Vinita, OK (the "Facility").

AUTHORITY

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4 (A)(3).

DEPARTMENT'S NOTICE

4. On December 2, 2021, the Department issued a Notice of Violation in Case No. OGC-22-389, ("Notice") to the Facility, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

ORDER AND AGREEMENT

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of **One Thousand Five Hundred Dollars (\$1500.00)** and to ensure a technician attend the structural pest structural class. Upon the execution of this agreement by both parties, payment shall immediately be made by Respondent

payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

Office of General Counsel

Oklahoma Department of Agriculture, Food, and Forestry

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

EFFECT OF THE AGREEMENT

6. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based on or relating to the facts alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
7. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
8. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

NO ADMISSION.

9. This Agreement and any proceedings taken hereunder are not intended and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of any party. The parties hereto specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in this action and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

NON-ADMISSIBILITY.

10. These settlement negotiations have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

HEARING WAIVER

11. Respondent hereby agrees to waive its right to a hearing and its opportunity to appeal or contest this Agreement. Respondent enters into this Agreement freely and voluntarily.

NOTICE

12. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to:

MISCELLANEOUS

13. This Agreement may be amended only by mutual agreement of the Department and Respondent. Such amendments shall be in writing, shall have as their effective date the date on which they are signed by both parties, and shall be incorporated into this agreement.
14. The undersigned representative of the Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondent understands that the Office of General Counsel Representative neither possesses the legal power to bind the Board nor can the Office of General Counsel Representative promise acceptance of this Agreement by the Board. Respondent understands that it may attend the meeting of the Board but is not required to do so.
15. Payment for the administrative penalty shall be presented upon the execution of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
16. In the event the Board accepts this Agreement, Respondent shall receive a copy of the Approval. Compliance with this Agreement shall constitute full and complete settlement.
17. In the event the Board does not approve this Agreement, then Respondent or the Department is free to make a counterproposal for the Board's consideration, or the Parties may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.

18. No breach of any provision of this Agreement can be waived by any undersigned party unless in writing. Waiver of any one breach by an undersigned party shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.

19. This Agreement shall be governed by the laws of the State of Oklahoma.

Executed by the Parties on the dates set forth below:

OKLAHOMA DEPARTMENT
OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL
COUNSEL

Brady Robison

Brady Robison, Assistant General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

COMPLAINANT

Date: July 15, 2022

- and by -

Jim's Pest Control, LLC

Justin Papirubal - Owner

Owner/Representative & Title
Jim's Pest Control, LLC
840 Lori Lane
Vinita, OK 74301

Date: 7/8/22

Exhibit A

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY, BY AND THROUGH THE OFFICE OF GENERAL COUNSEL)	
)	
COMPLAINANT,)	
v.)	Case No: OGC-22-389
)	
JIMS PEST CONTROL, LLC)	
840 LORI LANE)	
VINITA, OK 74301)	
)	
RESPONDENT.)	

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on the 13th day of October, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing; witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Vinita, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about 29th day of June, the Consumer Protection Services Division of the Department conducted an investigation based on a consumer complaint.

19. During this investigation it was discovered that your company had performed a termite treatment at a home in Welch, OK on June 2, 2022. At the conclusion of the investigation the following minimum standards were not followed:

- Accessible termite tubes were not removed;
- There was no evidence of trenching under the building along the stem wall and around the piers;
- All of the voids in the concrete block stem wall were not drilled and treated;

- The voids in the concrete block piers were not drilled and treated;
- The drill holes in the concrete slab porch and patio exceeded 12 inches;
- You were missing some application records, specifically the application rate of your treatment, a complete contract with a statement, plat, or diagram showing how the treatment was performed.

ALLEGED CONCLUSIONS OF LAW

20. Based upon the application of the above law to the aforementioned facts, you are in violation of the following rules:

- O.A.C. 35:30-17-58 requires that all accessible shelter tubes to be removed. By failing to remove all shelter tubes, you are in violation of this rule.
- O.A.C. 35:30-17-66 states:
 - i. "(a) Soil treatment under a building shall include the following: (1) Termiticides shall be applied underneath the structure as specified on the label. (2) For inaccessible crawl spaces where making a new access opening is not feasible, soil shall be treated by an alternate method pursuant to the label. (3) Termiticide shall not be applied to soil intended for a plenum air space unless permitted by the label. (4) An overall broadcast application of termiticide shall not be made in a crawl space unless permitted by the label. (5) Treatment of the backfill of the trench is permitted and shall be stated in the contract. (6) Soil applied termiticide shall not be used to treat any structure containing a well or cistern unless allowed by the label of the termiticide. (b) These minimum standards shall not be written out of a contract."
 - ii. By failing to properly trench the soil around the structure you are in violation of this rule.
- O.A.C. 35:30-17-67(c) requires that:
 - i. "(c) Voids in a given row of a concrete block wall, except those sitting on an unbroken concrete slab floor, shall be drilled or entered and treated. (1) Drilling may follow the

grade contour, but shall not be made in the bottom row of blocks. The concrete blocks that sit on an unbroken concrete slab floor shall not be drilled and treated. Where termite activity is present, the floor slab shall be drilled or rodded underneath. (2) Where concrete block foundations have adequate openings at the top, treatment may be applied at the opening in lieu of drilling so long as stated in the contract."

- ii. Failing to properly drill and treat all the voids is in violation of this rule.

- O.A.C. 35-30-17-69 requires that:

- i. "(a) The minimum standard for existing structure concrete slabs shall include the following: (1) Termiticide shall be injected immediately under and adjacent to the slab at the rate specified on the label by drilling and treating to create a continuous barrier between the soil and the outside perimeter walls of the structure. Use of a sub-slab injector or similar device to prevent backflow is recommended. All drill holes shall be securely plugged. Application pressure shall not exceed 25 psi. Monolithic, supported slab with thickened perimeter or post tension slabs, with or without footing, shall be treated by drilling only in areas where known cracks exist. (2) Where evidence of termite infestation exists on interior walls, the slab shall be treated by drilling the slab and treating the soil under the slab at the base of the wall where the termite activity is present and continue for a minimum of three (3) feet in at least two (2) directions from the termite activity. The treatment may be performed on either side of the wall if construction elements prevent treatment on the side of termite activity, so long as the reason for treating only one side of the treatment is discussed on the contract and the customer consents in writing. (3) Maximum spacing for drilling shall be twelve inches (12") except where long rodding of the perimeter is performed. (4) Termiticide shall not be applied to any area intended as a plenum air space unless permitted by the label. (5) Soil applied termiticide shall not be used to treat any structure containing a well or cistern unless allowed by the label. (6) Basement concrete slab floors shall not be drilled and treated unless there is evidence of termite infestation in the basement area. (7) Where wooden parts are resting on known cracked concrete or expansion joints, including but not limited to garage floor, patio,

porches, or interior, holes shall be drilled on one or both sides of the wooden part and the soil below treated. Where wood parts extend into or through concrete slab or are adjacent to an expansion joint, the slab adjacent to the wood part shall be drilled at a maximum of twelve-inch (12") intervals on one or both sides and treated. (8) Dirt filled porches, entry platforms, sidewalks, patios, and other similar areas shall be treated by drilling or rodding. If drilled, holes shall not be in excess of twelve inches (12") apart.

(b) These minimum standards shall not be written out of a contract."

ii. By failing to properly drill and treat the existing slab and stem wall you are in violation of this rule.

- O.A.C. 35-30-17-20(a)(1) requires that the contract have the following language:

i. (a) Contracts shall be issued for the commercial application of pesticides in the Structural Pest Category. Information on the contracts shall include: (1) Specific information from 2 O. S. Sections 3-81(11) and 3-83, and OAC 35:30-17-21."

ii. Your contract is deficient of these requirements and is in violation of the rules.

- O.A.C. 35-30-17-21 (a) requires that your records show specific information pertaining to application and restricted use pesticide usage. Specifically, the rule states in relevant part:

i. "(a) Commercial and non-commercial applicators shall keep accurate records pertaining to pesticide activities, which, at a minimum, show: (7) Application rate... (15) Site where the pesticide was applied... (18) Copies of any contracts issued..."

ii. By having this information missing from your application records, you are in violation of this rule.

ATTORNEY CONFERENCES

21. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
22. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
23. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

24. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
25. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
26. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

27. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

28. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

29. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

30. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

31. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

32. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

33. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Five-Hundred Dollars (\$1500.00) and at least one of your employed techs/applicators to attend the structural pest practical class**

34. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 7TH day of July, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Brady Robison

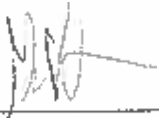
Teena G. Hunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Kambi Maddy, OBA # 13873
Brady Robison, OBA # 33600*
Richard D. Herren, OBA # 13829
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20 day of July, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

JIMS PEST CONTROL LLC
840 LORI LN
VINITA, OK 74301



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**JIMS PEST CONTROL LLC
840 LORI LN
VINITA, OK 74301**

RESPONDENT.

Case No: OGC-22-389

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Five Hundred Dollars (\$1500.00) and at least one of your employed techs/applicators to attend the structural pest practical class for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. LSUA OKC DBA LANDSCAPES USA

Case File No. OGC-22-28

**LSUA OKC LLC DBA LANDSCAPES USA
2101 S. MISSOURI AVE
OKLAHOMA CITY, OK 73129**

Summary of Facts: This case arises out of a cause inspection with ODAFF inspectors. Inspectors conducted a pesticide applicator facility check at the facility in Tulsa. It was documented that the Respondent was conducting commercial applications without a valid commercial company license. Their license expired in 2019. Additionally, the company license number was not displayed on their company vehicle, the manager's license had lapsed, and required application records were not being kept. Finally, it was discovered they had a second location in OKC that was not operating with a commercial license as well.

Statute or Rule Violation: 2 O.S. § 3-82(A)(1); 2 O.S. § 3-86(A)(15), O.A.C. 35:30-17-21, O.A.C. 35:30:17-17

Proposed Administrative Penalty: The penalty was assessed at \$1000

Deviations: Ultimately an agreed settlement and consent order was entered into. The company was able to fix all of the issues and showed proof of such: they are now licensed in both locations, the truck has the license number on it, and the manager has renewed his applicators license. Because of the mitigating factors listed above the administrative penalty was assessed at \$1000, down from \$2000.

Other Actions Required: None.

OGC Attorney: Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

**v.)
LSUA OKC DBA LANDSCAPES USA)
2101 S. MISSOURI AVE.)
OKC, OK 73129)**

Case No: OGC-22-28

**5541 S. LEWIS AVE.)
TULSA, OK 74105)**

RESPONDENT.)

SETTLEMENT AGREEMENT AND CONSENT ORDER

PARTIES

1. This Settlement Agreement and Consent Order (the "Agreement") is between the Oklahoma Department of Agriculture, Food, And Forestry (the "Department") and LSUA OKC DBA LANDSCAPES USA (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by LSUA OKC DBA LANDSCAPES USA and located at OKC and Tulsa, OK (the "Facility").

AUTHORITY

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4 (A)(3).

DEPARTMENT'S NOTICE

4. On May 12, 2022, the Department issued a Notice of Violation in Case No. OGC-22-28, ("Notice") to the Facility, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

ORDER AND AGREEMENT

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of One-Thousand Dollars (\$1000.00). Upon the execution of this agreement by both parties, payment shall immediately be made by Respondent payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:
Office of General Counsel
Oklahoma Department of Agriculture, Food, and Forestry
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298

EFFECT OF THE AGREEMENT

6. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
7. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
8. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

NO ADMISSION.

9. This Agreement and any proceedings taken hereunder are not intended and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of any party. The parties hereto

specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in this action and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

NON-ADMISSIBILITY.

10. These settlement negotiations have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

HEARING WAIVER

11. Respondent hereby agrees to waive its right to a hearing and its opportunity to appeal or contest this Agreement. Respondent enters into this Agreement freely and voluntarily.

NOTICE

12. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to:

MISCELLANEOUS

13. This Agreement may be amended only by mutual agreement of the Department and Respondent. Such amendments shall be in writing, shall have as their effective date the date on which they are signed by both parties, and shall be incorporated into this agreement.
14. The undersigned representative of the Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondent understands that the Office of General Counsel Representative neither possesses the legal power to bind the Board nor can the Office of General Counsel Representative promise acceptance of this Agreement by the Board. Respondent understands that it may attend the meeting of the Board but is not required to do so.
15. Payment for the administrative penalty shall be presented upon the execution of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
16. In the event the Board accepts this Agreement, Respondent shall receive a copy of the Approval. Compliance with this Agreement shall constitute full and complete settlement.
17. In the event the Board does not approve this Agreement, then Respondent or the Department is free to make a counterproposal for the Board's consideration, or the Parties

may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.

18. No breach of any provision of this Agreement can be waived by any undersigned party unless in writing. Waiver of any one breach by an undersigned party shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.

19. This Agreement shall be governed by the laws of the State of Oklahoma.

Executed by the Parties on the dates set forth below:

OKLAHOMA DEPARTMENT
OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL
COUNSEL

Brady Robison

Brady Robison, Assistant General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

COMPLAINANT

Date: May 23, 2022

- and by -

Brian Hopper, Partner



Brian Hopper
2101 S. Missouri Ave.
OKC, OK

5541 S. Lewis Ave.
Tulsa, OK 74105

Date: 7-19-22

Exhibit A

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

Case No: OGC-22-28

**LSUA OKC DBA LANDSCAPES USA
2101 S. MISSOURI AVE
OKLAHOMA CITY, OK**

**5541 S. LEWIS AVE
TULSA, OK 74105**

RESPONDENT.

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on 9th day of June, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing; witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the

Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application as LSUA OK D.B.A. Landscapes USA, located at 2101 S. Missouri Ave. OKC, OK and 5541 S. Lewis Ave., Tulsa, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 3rd day of December, 2021, the Consumer Protective Services Division of the Department conducted an initial investigation at your Tulsa office followed by an inspection on December 8, 2021 at your Tulsa facility.

19. As a result of these inspection it was discovered that your company has been performing commercial pesticide applications with an expired business license. This is a violation of 2 O.S. §3-82(A)(1) "It shall be unlawful for any person to act, operate, or do business or advertise as a

commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged."

20. Additionally it was discovered that your manager, Mr. Brad Lowe, also had an expired applicator's license contrary to the requirements of 2 O.S. §3-86(A)(15): (A) "It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture." (15) "Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged."

21. It was documented that you were not keeping all of the application records as required by O.A.C. 35:30-17-21 which states:

"(a) Commercial and non-commercial applicators shall keep accurate records pertaining to pesticide activities, which, at a minimum, show:

- (1) Start and stop time of application.
- (2) Total amount of pesticide used.
- (3) Name and address of the commercial or non-commercial company.
- (4) Name and address of person for whom applied.
- (5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
- (6) Date of application.
- (7) Application rate.
- (8) Dilution rate for mixing.
- (9) Total quantity tank mix used.
- (10) Complete trade name of pesticide product used.
- (11) EPA registration number of pesticide product used.
- (12) Name of adjuvants used when the label requires specific adjuvants.
- (13) Name of drifting agents used when the label requires specific drifting agents.
- (14) Target pest for the application.
- (15) Site where the pesticide was applied.
- (16) Restricted Entry Interval as stated on the product label.
- (17) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
- (18) Copies of any contracts issued.

- (19) Copies of any wood infestation reports issued.
(20) Other information as required by the Board.”

22. In addition to the above conclusions of fact, your company is in violation of O.A.C. 35:30-17-15 which states: “All vehicles, including nurse tanks and self-propelled ground applicators, used by a commercial applicator during the conduct of business shall be identified by displaying the name and license number of the licensee. The display shall be on both sides of the vehicle in letters not less than two (2) inches in height.”

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, Respondent is in violation of the following:

- 2 O.S. §2-82(A)(1) by not having the proper applicator license for the manager of the facility;
- 2 O.S. §2-86(A)(15) by not having the proper business license issued by ODAFF for each location being operated (licenses expire at the end of each year and Respondents license had been expired since 2019);
- O.A.C. 35:30-17-21 by failing to maintain proper business records of applications being applied as required by ODAFF;
- O.A.C. 35-30-17-15 by failing to have the required vehicle identification attached to the application vehicle as required by ODAFF.

ATTORNEY CONFERENCES

24. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

25. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
26. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

27. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
28. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
29. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
30. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

31. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

32. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

33. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

34. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

35. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Two-Thousand Dollars (\$2000.00)**.

37. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 18TH day of February, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Brady Robison

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

✓ Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this _____ day of _____, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

LSUA OKC DBA Landscapes USA
2101 S. Missouri Ave.
Oklahoma City, OK 73129

5541 S. Lewis Ave.
Tulsa, OK 74105

Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**LSUA OKC DBA LANDSCAPES USA
2101 S. MISSOURI AVE
OKLAHOMA CITY, OK**

**5541 S. LEWIS AVE
TULSA, OK 74105**

RESPONDENT.

Case No: OGC-22-28

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand Dollars (\$2000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY
v. BUG BRIGADE

Case File No. OGC-21-184

Bug Brigade
211 SE 2nd Street
Luther, OK 73054

Summary of Facts: This is a default judgment from the ALJ. This case involved a consumer complaint investigation. Our inspectors observed the Respondent performing a bed bug heat treat at a residence in Chickasha, OK. This company was not on file as being licensed to perform commercial pesticide operations.

Statute or Rule Violation: 2 O.S. § 3-82(A)(1); 2 O.S. § 3-86(A)(15); 2 O.S. § 3-86(A)(16)

Proposed Administrative Penalty: The penalty was assessed at \$500

Deviations: Default Judgement from ALJ

Other Actions Required: None.

OGC Attorney: Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**BUG BRIGADE
211 SE 7TH ST
LUTHER, OK 73054**

RESPONDENT.

FILED

JUL 14 2022

STATE BOARD OF AGRICULTURE

Case No: OGC-21-184

PROPOSED FINAL ORDER

NOW on this 14th day of July 2022, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 9th day of June 2022, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter on the 19th day of May, 2022 delivered by ODAFF Investigative Services Agent, Ronald Jamie Wilson via hand delivery, sent to Bug Brigade at their registered place of business at 211 SE 7th Street, Luther, OK 73054 on the 19th day of May, 2022.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

FINDINGS OF FACT

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.
2. The Notice of Violation (Exhibit 1) was delivered by hand delivery on or about May 19th, 2022. See Return of Service (Exhibit 2)
3. Hearing was set for June 9th, 2022 at 1:30 P.M.
4. On June 9th, 2022 at 1:30 P.M., the Complainant appeared through its Counsel of Record and the Respondents appeared not.
5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.
6. An administrative penalty in the amount of Five Hundred Dollars (\$500.00) was proposed by the Notice of Violation.
7. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.

CONCLUSIONS OF LAW

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.
2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.
3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED that the Notice of Violation entered in this matter on July 14th, 2022, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 14th DAY OF July, 2022.


HONORABLE RACHEL MOR
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail, return receipt requested, postage prepaid, on the date of filing to:

**BUG BRIGADE
211 SE 7TH ST
LUTHER, OK 73054**



Gina Blaylock

EXHIBIT I

11
12

13
14

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**BUG BRIGADE
211 SE 7TH ST
LUTHER, OK 73054**

RESPONDENT.

Case No: OGC-21-184

SECOND AMENDED NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on **Thursday, June 9, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides as Bug Brigade, located at 211 SE 7th Street in Luther, OK 73054.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

2 O.S. § 3-82 A(1)

It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.

2 O.S. § 3-86 A(15)-(16)

(A) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The

suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

(15) Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.

(16) Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- During the complaint investigation and use inspection, our inspector observed your company in the process of performing a bed bug heat treatment at 1217 S. 17th St. in Chickasha, OK.
- The owner of this residence reported that Bug Brigade was previously contracted to make heat and liquid bed bug treatments.
- Our inspector noted that your company has been operating commercially without a license and certification since the expiration of your company license on December 31, 2019.

- On or about April 27, 2021, a Letter of Warning that detailed the above violations was sent to Bug Brigade.

ALLEGED CONCLUSIONS OF LAW

18. Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. § 3-82 A(1) and 2 O.S. § 3-86 A(15)-(16) by engaging in the application of pesticides without proper certification/licensing.

ATTORNEY CONFERENCES

19. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
20. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
21. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

22. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
23. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued

pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

24. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
25. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

26. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

27. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

28. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
29. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
30. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

31. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Hundred Dollars (\$500.00)**.
32. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Brady Robison

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873

✓Brady Robison, OBA #33600

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this _____ day of _____, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**BUG BRIGADE
211 SE 7TH ST
LUTHER, OK 73054**

Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**BUG BRIGADE
211 SE 7TH ST
LUTHER, OK 73054**

RESPONDENT.

Case No: OCC-21-184

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Dollars (\$500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title

Date: _____

EXHIBIT 2

FILED

MAY 17 2022

STATE BOARD OF AGRICULTURE

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT.

Case No. OGC-21-184

Bug Brigade
211 S. E. 1st St.
Luther, Oklahoma 73054

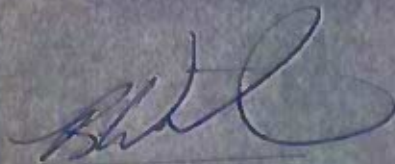
RESPONDENT.

CERTIFICATE OF HAND DELIVERY

I hereby certify that a true and correct copy of the attached 2nd Amended Notice of Violation
delivered by the undersigned, a law enforcement officer duly appointed by the State Board
of Agriculture, by delivering said document to Bug Brigade, 211 S. E. 1st St., Luther, Oklahoma
73054.
At the following address: Bug Brigade, 211 S. E. 1st St., Luther, Oklahoma 73054

Given this 17th day of MAY 2022





By
Title

91 7108 2133 3930 7297 2690

OGC-21-184

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. BUG BRIGADE

Case File No. OGC-20-840

**Bug Brigade
211 SE 2nd Street
Luther, OK 73054**

Summary of Facts: This is a default judgment from the ALJ. This case involved a consumer complaint investigation. This company was not on file as being licensed to perform commercial pesticide operations. This company performed a bed bug treatment at a residence in Oklahoma City and applied CimeXa Insecticide Dust without having the proper licensing. Additionally, an inspection of the facility revealed that the proper records had not been kept.

Statute or Rule Violation: 2 O.S. § 3-82(A)(1); 2 O.S. § 3-86(A)(15); 2 O.S. § 3-86(A)(16); O.A.C 35:30-17-21

Proposed Administrative Penalty: The penalty was assessed at \$500

Deviations: Default Judgement from ALJ

Other Actions Required: None.

OGC Attorney: Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

FILED
JUL 14 2022
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

BUG BRIGADE)
211 SE 7TH ST)
LUTHER, OK 73054)

RESPONDENT.)

Case No: OGC-20-840

PROPOSED FINAL ORDER

NOW on this 14th day of July 2022, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 9th day of June 2022, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter on the 19th day of May, 2022 delivered by ODAFF Investigative Services Agent, Ronald Jamie Wilson via hand delivery, sent to Bug Brigade at their registered place of business at 211 SE 7th Street, Luther, OK 73054 on the 19th day of May, 2022.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

FINDINGS OF FACT

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.
2. The Notice of Violation (Exhibit 1) was delivered by hand delivery on or about May 19th, 2022. See Return of Service (Exhibit 2)
3. Hearing was set for June 9th, 2022 at 1:30 P.M.
4. On June 9th, 2022 at 1:30 P.M., the Complainant appeared through its Counsel of Record and the Respondents appeared not.
5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.
6. An administrative penalty in the amount of Five Hundred Dollars (\$500.00) was proposed by the Notice of Violation.
7. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.

CONCLUSIONS OF LAW

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.
2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.
3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED that the Notice of Violation entered in this matter on July 14th, 2022, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 14 DAY OF July, 2022.


HONORABLE RACHEL MOR
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail, return receipt requested, postage prepaid, on the date of filing to:

**BUG BRIGADE
211 SE 7TH ST
LUTHER, OK 73054**

A handwritten signature in dark ink, appearing to read 'Gina Blaylock', is written over a horizontal line.

Gina Blaylock

EXHIBIT 1

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**BUG BRIGADE
211 SE 7TH ST
LUTHER, OK 73054**

RESPONDENT.

Case No: OGC-20-840

NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, June 9, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides as Bug Brigade, located at 211 SE 7th Street in Luther, OK 73054.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

2 O.S. § 3-82 A(1)

It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.

2 O.S. § 3-86 A(15)-(16)

(A) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The

suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

(15) Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.

(16) Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- On or about April 16, 2021, ODAFF conducted a complaint investigation and use inspection of Bug Brigade, located at 211 SE 7th Street in Luther, OK 73054.
- It was reported by our inspector that on January 30, 2020, you performed a bed bug heat treatment, and applied CimeXa Insecticide Dust to a residence located at 10616 Lyndon Road in Oklahoma City, OK.
- At the time of your treatment you did not have a current commercial applicator license with ODAFF.
- Our inspector performed an inspection at your facility on August 13, 2020. It was noted that you were not keeping all of the required application records.

- On or about December 17th, 2020, a Letter of Warning that detailed the above violations was sent to Bug Brigade.

ALLEGED CONCLUSIONS OF LAW

18. Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. § 3-82 A(1) and 2 O.S. § 3-86 A(15)-(16) by engaging in the application of pesticides without proper certification.

ATTORNEY CONFERENCES

19. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

20. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

21. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

22. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

23. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued

pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

24. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

25. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

26. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

27. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

28. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

29. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

30. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

31. If Respondent desires to resolve this matter without a hearing or further action,

Complainant proposes an administrative penalty of **Five Hundred Dollars (\$500.00)**.

32. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Brady Robison

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873
✓ Brady Robison, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this _____ day of _____, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**BUG BRIGADE
211 SE 7TH ST
LUTHER, OK 73054**

Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

Case No: OGC-20-840

**BUG BRIGADE)
211 SE 7TH ST)
LUTHER, OK 73054)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Dollars (\$500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. CATE'S RECYCLING

Case File No. OGC-21-314

**Cate's Recycling
8800 New Sapulpa Road
Sapulpa, OK 74131**

Summary of Facts: This is a judgment from the ALJ after hearing in which the Respondent failed to appear. This case involved a random inspection. Upon inspection investigators determined that the location was in the business of buying/selling scrap metal, and they did not have a current license.

Statute or Rule Violation: 2 O.S. §11-97

Proposed Administrative Penalty: The penalty was assessed at \$1000

Deviations: Default Judgement from ALJ

Other Actions Required: None.

OGC Attorney: Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

CATE'S RECYCLING)
8800 NEW SAPULPA RD)
SAPULPA, OK 74131)

RESPONDENT.)

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

Case No: OGC-21-314

PROPOSED FINAL ORDER

NOW on this 11th day of August 2022, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 9th day of June 2022, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter on the 22nd day of June, 2022 delivered by the United States Postal Service, tracking # 9171999991703765247436, sent to Cate's Recycling at their registered place of business at 8800 New Sapulpa Road, Sapulpa, OK 74131 on the 22nd day of June, 2022.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

FINDINGS OF FACT

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.
2. The Notice of Violation (Exhibit 1) was delivered by USPS on or about the 22nd day of June, 2022. See Return of Service (Exhibit 2)
3. Hearing was set for August 11th, 2022 at 1:30 P.M.
4. On August 11th, 2022 at 1:30 P.M., the Complainant appeared through its Counsel of Record and the Respondents appeared not.
5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.
6. An administrative penalty in the amount of One Thousand Dollars (\$1000.00) was proposed by the Notice of Violation.
7. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.

CONCLUSIONS OF LAW

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.
2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.
3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED that the Notice of Violation entered in this matter on August 11th, 2022, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 11 DAY OF August, 2022.


HONORABLE RACHEL MOR
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail, return receipt requested, postage prepaid, on the date of filing to:

**Cate's Recycling
8800 New Sapulpa Rd
Sapulpa, OK 74131**

A handwritten signature in black ink, appearing to read 'Gina Blaylock', written over a horizontal line.

Gina Blaylock

EXHIBIT I

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**CATE'S RECYCLING
8800 NEW SAPULPA RD
SAPULPA, OK 74131**

RESPONDENT.

OGC-21-314

AMENDED NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on August 11, 2022, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Pre hearing Conference is not an evidentiary hearing; witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma and owns and operates a certain business ("Cate's Recycling") located at 8800 New Sapulpa Rd, Sapulpa, Oklahoma, functioning as a scrap metal dealer in the State of Oklahoma.
15. Pursuant to Okla. Stat. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.
16. The allegations of fact describe a violation of the Oklahoma Agricultural Code, or rules promulgated thereunder, as follows:

2 O.S. § 11-92 A person shall not advertise, act, offer to act, hold himself or herself out, or engage in business as a scrap metal dealer in this state without a scrap metal dealer license issued by the Oklahoma Department of Agriculture, Food, and Forestry.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.
 - a. Respondent is a recycling center located at 8800 New Sapulpa Rd, Sapulpa, Oklahoma 74131.
 - b. On July 8, 2021, ODAFF inspectors visited respondent's place of business, inspectors confirmed the entity is a business that buys and sells scrap metal.

- c. Oklahoma law requires scrap metal dealers in Oklahoma to be licensed by the Oklahoma Department of Agriculture, Food, and Forestry.
- d. Respondent does not have a scrap metal dealer's license issued by the Oklahoma Department of Agriculture, Food, and Forestry.
- e. On July 15, 2021, a stop work order was sent to the Respondent warning that Respondent was in violation of Oklahoma law for operating a scrap metal business without a license.
- f. To date, Respondent has neither applied for, nor received an Oklahoma scrap metal dealer's license.

ALLEGED CONCLUSIONS OF LAW

18. Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. § 11-97 by doing business as a scrap metal dealer in the State of Oklahoma without the proper state issued licensure.

ATTORNEY CONFERENCES

19. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at (405) 522-5997.
20. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
21. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

22. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;

- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

23. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

24. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

25. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

26. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

27. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

28. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
29. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
30. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

31. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Thousand Dollars (\$1,000.00).
32. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 16th day of June, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Brady Robison

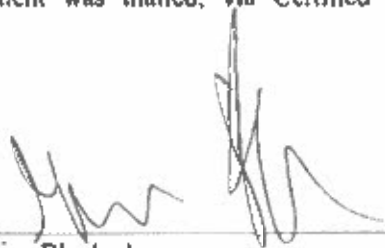
Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA #14574

Kambi Maddy, OBA #13873
✓ Brady Robison, OBA #33600
Assistant General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this ___ day of _____, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**CATE'S RECYCLING
8800 NEW SAPULPA RD
SAPULPA, OK 74131**



Gina Blaylock

THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

CATE'S RECYCLING
8800 NEW SAPULPA RD
SAPULPA, OK 74131

RESPONDENT.

CATE'S RECYCLING
8800 NEW SAPULPA RD
SAPULPA, OK 74131

RESPONDENT.

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Dollars (\$1,000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

RESPONDENT:

Printed Name _____

Date _____

EXHIBIT 2

USPS Tracking®

[FAQs >](#)

[Track Another Package +](#)

Tracking Number: 9171999991703765247436

[Remove X](#)

Your item was delivered to an individual at the address at 12:17 pm on June 22, 2022 in TULSA, OK 74131.






USPS Tracking Plus® Available 

 **Delivered, Left with Individual**

June 22, 2022 at 12:17 pm
TULSA, OK 74131

[Feedback](#)

Get Updates 

Text & Email Updates	
Return Receipt Electronic	
Tracking History	
USPS Tracking Plus®	
Product Information	

See Less 

91 7199 9991 7037 6525 4045

FILED

AUG 11 2022

STATE BOARD OF AGRICULTURE

OGC - 21-314

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. EXPRESS LANDSCAPE AND LAWNCARE

Case File No. OGC-21-157

**EXPRESS LANDSCAPE AND LAWN CARE
122 S. CADDO
WEATHERFORD, OK 73096**

Summary of Facts: This is a judgment from the ALJ after Respondent failed to appear. This complaint was the result of a routine inspection. It was determined that the Respondent was not licensed to apply pesticides in a commercial manner.

Statute or Rule Violation: 2 O.S. § 3-82 A(1); 2 O.S. § 3-86 A(15); 2 O.S. § 3-86 A(16).

Proposed Administrative Penalty: The penalty was assessed at \$500

Deviations: Default Judgement from ALJ

Other Actions Required: None.

OGC Attorney: Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**EXPRESS LANDSCAPE AND LAWN CARE
122 S. CADDO
WEATHERFORD, OK 730967**

RESPONDENT

FILED
AUG 11 2022
STATE BOARD OF AGRICULTURE

Case No: OGC-21-157

PROPOSED FINAL ORDER

NOW on this 11th day of August, 2022, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 14th day of July, 2022, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter on the 26th day of May, 2022 delivered by ODAFF Investigative Services Agent, Paul Corett via hand delivery, to Express Landscape Lawn Care at their registered place of business at 122 S. Caddo, Weatherford, Oklahoma 73096 on the 26th day of May, 2022.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

FINDINGS OF FACT

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.
2. The Notice of Violation (Exhibit 1) was delivered by hand delivery on or about May 26th, 2022. See Return of Service (Exhibit 2)
3. Hearing was set for July 14th, 2022 at 1:30 P.M.
4. On July 14th, 2022 at 1:30 P.M., the Complainant appeared through its Counsel of Record and the Respondents appeared not.
5. On the 22nd day of July, 2022, the Respondent was served with his Notice of Default via USPS, tracking number 9171999991703765253581 indicating that on August 11th, 2022, a default hearing would be held.
6. The Respondent appears not.
7. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.
8. An administrative penalty in the amount of Five Hundred Dollars (\$500.00) was proposed by the Notice of Violation.
9. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.

CONCLUSIONS OF LAW

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.
2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.

3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED that the Notice of Violation entered in this matter on July 14th, 2022, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 11 DAY OF August, 2022.


HONORABLE RACHEL MOR
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail, return receipt requested, postage prepaid, on the date of filing to:

**EXPRESS LANDSCAPE AND LAWN CARE
122 S. CADDO
WEATHERFORD, OK 730967**



Gina Blaylock

EXHIBIT 1

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**EXPRESS LANDSCAPE AND LAWN CARE
122 S. CADDO
WEATHERFORD, OK 73096**

RESPONDENT.

Case No: OGC-21-157

3rd AMENDED NOTICE OF VIOLATION

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on Thursday, July 14th, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

¹ Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ana. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

2 O.S. 2-82(A)(1)

It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.

2 O.S. 2-86(A)

- A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The

suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged;

16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- On or about April 9, 2021, a use inspection was performed by the Oklahoma Department of Agriculture, Food, and Forestry.
- As a result of the inspection, Respondent was observed making an herbicide application using a backpack sprayer at 905 E. Main in Weatherford, OK.
- ODAFF records indicate that Respondent is not licensed as a commercial applicator company.
- On or about April 15, 2021 a Letter of Warning detailing the above violation was sent to Express Landscape and Lawn Care.

ALLEGED CONCLUSIONS OF LAW

18. Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. §3-82(A) and 2 O.S. §3-86(A)(15) and (16) by making commercial pesticide applications without the proper licensing.

ATTORNEY CONFERENCES

19. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
20. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
21. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

22. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
23. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall

have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

24. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

25. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

26. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

27. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

28. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

29. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

30. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

31. If Respondent desires to resolve this matter without a hearing or further action,
Complainant proposes an administrative penalty of Five Hundred Dollars (\$500.00).
32. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL

Brady Robison

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873

✓ Brady Robison, OBA #33600

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this _____ day of _____, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**EXPRESS LANDSCAPE AND LAWN CARE
122 S. CADDO
WEATHERFORD, OK 73096**

Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY,
BY AND THROUGH THE
OFFICE OF GENERAL COUNSEL**

COMPLAINANT,

v.

**EXPRESS LANDSCAPE AND LAWN CARE
122 S. CADDO
WEATHERFORD, OK 73096**

RESPONDENT.

Case No: OGC-21-157

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Dollars (\$500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title

Date: _____

EXHIBIT 2

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Express Landscape Lawn Care)
122 S. Caddo)
Weatherford, Oklahoma 73096)

RESPONDENT.)

Case No. OGC: 21-157

FILED
MAY 12 2022
STATE BOARD OF AGRICULTURE

CERTIFICATE OF HAND DELIVERY

This is to certify that a true and correct copy of the attached 3rd Amended Notice of Violation was
Hand-delivered by the undersigned, a law enforcement officer duly appointed by the State Board
of Agriculture, by delivering said document to Express Landscape Lawn Care
in person at the following address: Express Landscape Lawn Care
122 S. Caddo, Weatherford, Oklahoma 73096

Dated: this 26 day of MAY, 2022.

HAND DELIVERED TO TYLER

Paul Corbett
By:
Title: SPECIAL AGENT

91 7199 9991 7037 6525 4052

FILED
FILED

AUG 11 2022

STATE BOARD OF AGRICULTURE

OGC-21-157

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. MIDWEST BED BUG SERVICE

Case File No. OGC-20-686

**MIDWEST BED BUG SERVICE
305 KIM ST.
TAHLEQUAH, OK 74464**

Summary of Facts: This case was originally generated from a consumer complaint. Inspectors conducted an investigation and determined that this company was not a licensed applicator and were involved in the business of commercial pesticide application. This order comes from final order entered and signed by ALJ Rachel Lawrence Mor. This company had at least five (5) separate occasions to appear (not including this board meeting) before the court and attempt to work this issue out, and each time failed to do so. Each time they had good service via USPS. This company refused to comply with the demand to appear or respond repeatedly.

Statute or Rule Violation: 2 O.S. §3-86(A)(4)

Proposed Administrative Penalty: The penalty was assessed at \$500

Deviations: Final order by ALJ Mor.

Other Actions Required: Will likely require a suit in district court to collect.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

AUG 11 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

Case No: OGC-20-686

MIDWEST BED BUG SERVICE)
305 KIM STREET)
TAHLEQUAH, OK)

RESPONDENT.)

PROPOSED FINAL ORDER

NOW on this 11th day of August, 2022, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 14th day of July, 2022, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter delivered by certified mail, article number 9171999991703765250191, sent to MIDWEST BED BUG SERVICE, 305 KIM STREET, TALEQUAH, OK 74464 on May 16, 2022.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

FINDINGS OF FACT

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.
2. The Notice of Violation (Exhibit 1) was delivered by certified mail on or about May 16, 2022. See certified mail receipt (Exhibit 2)
3. Hearing was set for June 14, 2022 at 1:30 pm.
4. On for July 14, 2022 at 1:30 pm, the Complainant appeared through its Counsel of Record and the Respondents appeared not.
5. On the 22nd day of July, 2022, Respondent was served with the Notice of Default and this hearing date via USPS, tracking #9171999991703765253703.
6. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.
7. An administrative penalty in the amount of Five Hundred Dollars (\$500.00) was proposed by the Notice of Violation.
8. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.

CONCLUSIONS OF LAW

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.
2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.
3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED that the Notice of Violation filed in this matter on May 13, 2022, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 11 DAY OF August, 2022.


HONORABLE RACHEL LAWRENCE MOR
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail, return receipt requested, postage prepaid, on the date of filing to:

**MIDWEST BED BUG SERVICE
305 KIM STREET
TAHLEQUAH, OK 74464**



Gina Blaylock

EXHIBIT 1

FILED
JUN 01 2021
STATE BOARD OF AGRICULTURE

COMPLAINANT,

) Case No: OGC-20-686

RESPONDENT.

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 pm on **Thursday, August 12, 2021** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

1 Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including
2 the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and
3 limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative
4 evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of
5 prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues
6 prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may
7 involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and
8 j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of performing commercial bed bug heat treatments as Midwest Bed Bug Service, located at 305 Kim St. in Tahlequah, Oklahoma.

16. Pursuant to Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

2 O.S. 3-82(A)(1)

It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.

2 O.S. 3-86(A)

A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and

an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.

16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about July 14, 2020, a complaint investigation was performed by the Oklahoma Department of Agriculture, Food, and Forestry regarding Respondent performing commercial bed bug heat treatments.

19. ODAFF's records indicate that Respondent was not and is not currently licensed as a commercial applicator company.

20. On or about October 12, 2020, a Letter of Warning detailing the above violation and ordering Respondent to stop work was issued to Midwest Bed Bug Service.

ALLEGED CONCLUSIONS OF LAW

21. Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. 3-82(a)(1) and 2 O.S. 3-86(a)(15) and (16) by performing commercial bed bug heat treatments without proper commercial applicator licensing.

ATTORNEY CONFERENCES

22. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

23. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

24. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

25. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

26. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have

the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

27. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

28. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

29. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

30. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

31. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

32. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

33. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

34. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Hundred Dollars (\$500.00)**.

35. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 01 day of April, 2021.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL



Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA # 33571
Kambi Maddy, OBA # 13873
✓ Shelby Turner, OBA # 34010
Assistant General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 1 day of June, 2021, a true and correct copy of the
forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**MIDWEST BED BUG SERVICE
305 KIM STREET
TAHLEQUAH, OK74464**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

THE OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY, BY AND THROUGH THE OFFICE OF GENERAL COUNSEL)	
)	
)	
)	
COMPLAINANT,)	
v.)	Case No: <u>OGC-20-686</u>
)	
MIDWEST BED BUG SERVICE 305 KIM STREET TAHLEQUAH, OK 74464)	
)	
)	
RESPONDENT.)	

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Dollars (\$500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

91 7199 9991 7037 6524 7115

95

20- Q & C



June 10, 2022

Dear GI BLA:

The following is in response to your request for proof of delivery on your item with the tracking number:
9171 9999 9170 3765 2501 91.

Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	May 18, 2022, 4:54 pm
Location:	TAHLEQUAH, OK 74464
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight: 3lb, 12.0oz

Recipient Signature

Signature of Recipient:	Michelle Sisson michelle Sisson
Address of Recipient:	305 Kim

Note: Scanned image may reflect a different destination address due to intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

91 7199 9991 7037 6525 4069

FILED

AUG 11 2022

STATE BOARD OF AGRICULTURE

OGC-20-686

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. SCOTT TERMITE

Case File No. OGC-19-958; 20-111

**Scott Termite
660 W. SW 59th
Suite 5
Mustang, OK 73064**

Summary of Facts: This is a default judgment from the ALJ. This case involved a consumer complaint investigation. Respondent failed to supply application records when requested; applied pre-treatment for termites without meeting standards and after termite infestation was found performed a perimeter treatment that also did not meet standards; no contract was issued for the construction treatment. At the hearing it was announced that the State and Respondent had reached an agreement and Respondent did not appear at hearing. Upon this announcement the Administrative Law Judge entered a penalty of \$16,850.00 for the two cases.

Statute or Rule Violation: 35:30-17-73(b)(6); 35:30-17-73; 35:30-17-73(b)(6); 35:30-17-21(d)

Proposed Administrative Penalty: The penalty was assessed at \$16,850

Deviations: Dcfault Judgement from ALJ

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

MAY 13 2022

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)

COMPLAINANT,)

v.)

SCOTT TERMITE)
P.O.BOX 1012)
MUSTANG, OK 73064)

Respondent.)

Case File No: OGC-19-958
OGC-20-111

ORDER

On June 10, 2021, this matter came on for hearing in conformity with the Scheduling Order as noticed to the parties. Petitioner appeared through counsel, Shelby Rice. Respondent failed to appear. Petitioner announced the parties agreed to the Notice of Violation and stipulated to the proposed administrative remedy.

IT IS THEREFORE ORDER, that pursuant to the Notice of Violation the allegations of facts are deemed true, and Respondent is fined an administrative penalty of Sixteen Thousand Eight Hundred Fifty Dollars (\$16,850.00).

SIGNED THIS 9th DAY OF SEPTEMBER, 2021


ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Order was mailed to Respondent by certified mail, return receipt requested, postage prepaid, on the date of filing, as follows:

**SCOTT TERMITE
P.O.BOX 1012
MUSTANG, OK 73064**



Gina Blaylock

91 7199 5991 7037 6525 0184

FILED

MAY 13 2022

STATE BOARD OF AGRICULTURE

OGC-19-958 1 20-111

FILED
AUG 17 2020
STATE BOARD OF AGRICULTURE

Case No: OGC-19-958
OGC-20-111

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on Thursday, November 5, 2020 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

1 Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including
2 the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and
3 limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative
4 evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of
5 prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues
6 prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may
7 involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and
8 j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

DEFAULT

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

OAC 35:30-17-21

(d) Failure to allow inspection of records by the Board, to provide copies of records to the Board when requested in person, or to provide a summary of records to the Board within seven (7) working days when requested by mail or in person shall be a violation of this section.

OAC 35:30-17-69.1

- (a) These minimum standards are intended to address perimeter termite treatments with termiticides which allow perimeter treatments.
- (b) Perimeter treatments can not be performed using any pesticide which does not allow this type treatment as stated on the product label.
 - (1) Perimeter Termite Treatments shall be considered a complete structural treatment unless limited by the label.
 - (2) The exterior open ground area along the foundation wall shall be trenched or trenched and rodded through the bottom of the trench to the bottom of the footing at no more than twelve inch (12") intervals. The trench shall be a minimum of six inches (6") in depth and six inches (6") wide. The trench shall be backfilled and the backfill treated at label rate. If physical obstructions prevent trenching then rodding can be performed at twelve inch (12") intervals.
 - (3) All concrete slabs adjoining the structure shall be drilled and treated at no more than twelve inch (12") intervals.
 - (4) With an accessible crawl space, all piers, pipes and interior support walls shall be trenched or trenched and rodded through the bottom of the trench to the bottom of the

footing at no more than twelve inch (12") intervals. The trench shall be a minimum of six inches (6") in depth and six inches (6") wide.

(5) If termites are found in an inaccessible crawl space the soil shall be treated in accordance with label directions.

(6) Treatment of a garage shall be performed around all garage door supports and along any wall or portion of wall that has not been treated in accordance with this section. The drilling shall be at twelve inch (12") intervals.

(7) Basements shall be trenched or trenched and rodded through the bottom of the trench to a depth of at least four feet (4'). The trench shall be a minimum of six inches (6") in depth and six inches (6") wide.

(8) The contract shall specifically identify the exact location where a spot treatment is performed and the treatment shall meet all minimum standards for the specific location identified. The spot treatment shall be at least three feet (3') in two (2) or more directions unless label requires a distance greater than three feet (3').

OAC 35:30-17-73

(a) All pesticide applications shall follow the pesticide label instructions including the application rates and methods. Treatments using less than label recommended concentrations at higher volume or higher concentrations at reduced volume applications are prohibited for pre-construction treatments. A written contract shall be provided that conforms with all requirements for contracts issued in the Structural Pest Category. In addition, the contract shall include the total square footage treated, the total linear feet treated, and any additional information required.

(b) Pretreatment of main slab areas (including attached garages) is as follows:

(1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers.

(2) Horizontal barriers shall be established.

(3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label. When trenching cannot be performed due to elements of construction (i.e. coarse aggregate fill, rebar, etc.) the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.

(4) Treatment shall not be made when the soil or fill is excessively wet or when rain is imminent.

(5) Precautions shall be taken to prevent disturbance of the treated areas by human or animal contact or prolonged exposure to the weather.

(6) Immediately after completion of treatment to the main slab area, each termite pretreatment shall be stenciled or a sticker or tag permanently affixed to one of the stubouts in an area which will be readily accessible. The stencil, sticker, or tag shall identify the company, date of treatment, and termiticide used.

(c) Pretreatment of adjacent slabs, i.e., porches, patios, entrance pads, walkways, driveways, etc., shall be as follows:

- (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions for application, to the adjacent slabs which abut the main structure.
- (2) Treatment and precautions shall meet the requirements in (b)(2) and (b)(3) of this Section.
- (d) Pretreatment of outside foundations shall be as follows:
- (1) Treatment shall be applied to the soil by trenching or trenching and rodding into the bottom of the trench around the entire outside foundation of the structure after the final grade has been established. This treatment shall be performed within 30 days of notification of completion of landscaping or one year from the date of completion of construction, whichever comes first.
- (2) Where trenching is not possible due to rocks, concrete, gutters, etc., the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.
- (3) Where outside foundations (stem walls) have 12" or more of exposed concrete extending above the outside final grade, the outside foundation treatment may be omitted.
- (e) Pretreatment of crawl space construction shall be made in the same manner as described in the minimum standards for existing structures (SEE PART 15 of this Chapter).
- (f) Any treatment that does not meet all of the minimum standards for pretreatments under concrete slab or crawl space is considered "Partial Pretreats" and is not acceptable. In the event a portion of a structure is not treated through no fault of the applicator, it will be stated in the pretreat documentation and the contract signed by the contractor (home builder), and include specific reasoning why the area was not treated.
- (g) Pesticide applicators must issue Form NPCA-99b to the builder as an attachment to the contract.

ALLEGATIONS OF FACT

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

- On or about October 16, 2019, ODAFF sent Respondent a request for records.
 - i. Respondent failed to supply such records within 7 days.
 - ii. ODAFF did not receive the requested records until on or around February 12, 2020.
- Records indicate that Respondent made a termite pre-treatment to the property located at 14601 Everton Dr. in Jones, OK.

- i. Investigation showed that the treatment did not meet the minimum standards.
 - ii. Specifically, not all slabs had been pretreated.
 - iii. After a termite infestation was found, Respondent performed a construction perimeter treatment.
 - iv. This treatment also failed to meet the minimum standards.
 - v. Specifically, the entire structure was not trenched and treated.
 - vi. In addition, no contract was issued for this post construction treatment.
- On or about January 13, 2020, inspectors for ODAFF sampled the termite pretreat site at 14704 Turner Falls Rd. in Oklahoma City, OK.
 - i. Two horizontal samples and two vertical samples were taken.
 - ii. The two horizontal samples recovered 4.77 and 5.78 ppm imidacloprid.
 - iii. The minimum acceptable residue level for a horizontal sample is 5 ppm imidacloprid.
 - iv. The two vertical samples taken recovered 7.18 and 4.20 ppm imidacloprid.
 - v. The minimum acceptable residue level for a vertical sample is 10 ppm.
- On January 13, 2020, Respondent was sent a request for records concerning this application.
 - i. Respondent failed to supply such records within 7 days as required.
 - ii. ODAFF did not receive the requested records until on or around February 12, 2020.
- Respondent was sent a Letter of Warning regarding these violations on January 29, 2020.

ALLEGED CONCLUSIONS OF LAW

Based upon the application of the above law to the aforementioned facts, Respondent violated OAC 35:30-17-21, OAC 35:30-17-69.1, and OAC 35:30-17-73 by failing to apply the appropriate level of pesticide and failing to provide requested records within the 7 day time frame.

ATTORNEY CONFERENCES

18. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
19. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
20. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

21. Enforcement proceedings may include but are not limited to:
 - a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall

have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

25. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

26. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

STIPULATION

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Sixteen Thousand Eight Hundred Fifty Dollars (\$16,850.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY, OFFICE OF GENERAL COUNSEL



Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA # 33571
Kambi Maddy, OBA #13873
✓ Shelby Rice, OBA #34010
Assistant General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 17th day of Aug, 2020, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SCOTT TERMITE
660 W SW 59TH ST
MUSTANG, OK 73064**



Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF)
AGRICULTURE, FOOD, AND FORESTRY,)
BY AND THROUGH THE)
OFFICE OF GENERAL COUNSEL)**

COMPLAINANT,)

v.)

**Case No: OGC-19-958
OGC-20-111**

**SCOTT TERMITE)
660 W SW 59TH ST)
MUSTANG, OK 73064)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Sixteen Thousand Eight Hundred Fifty Dollars (\$16,850.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Signature

Printed Name and Title

Date: _____

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

CHAPTER 17. WATER QUALITY

SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS

35:17-5-3. Registration, Nutrient Management Plan (NMP) required

(a) Registration.

- (1) It shall be unlawful for any person to construct or operate a new poultry feeding operation without first registering with the State Board of Agriculture.
- (2) Every poultry feeding operation shall be required to reregister annually by January 1 to operate.
- (3) Any poultry feeding operation that has a valid license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall not be required to register pursuant to the Oklahoma Registered Poultry Feeding Operations Act.
- (4) The owner or operator of a poultry feeding operation not classified as a poultry feeding operation may register if the owner elects to come under the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the rules of the State Board of Agriculture.

(b) Nutrient Management Plan.

- (1) Every poultry feeding operation shall obtain or apply for an approved NMP addressing both nitrogen and phosphorus.
- (2) All new operators of poultry feeding operations shall obtain or apply for a NMP prior to construction of the facility. The NMP shall be completed and implemented within one year of application.
- (3) The NMP shall be prepared by USDA NRCS or an entity approved by the Oklahoma Department of Agriculture, Food, and Forestry.
- (4) Plans shall be reviewed and updated at least every six (6) years from the date the NMP was obtained. Plans ~~may~~ shall also be reviewed and updated in the following circumstances:
 - (A) ~~When a change in the Oklahoma Department of Agriculture, Food, and Forestry changes the waste utilization standards occurs and upon notification by the Oklahoma Department of Agriculture, Food, and Forestry; and or~~
 - (B) ~~Upon recommendation~~ notification of the Oklahoma Department of Agriculture, Food, and Forestry.
- (5) ~~Plans~~ The NMP shall be updated prior to the expansion of a facility.
- (6) Implementation of the NMP shall occur within ninety (90) days of receipt of the NMP unless otherwise determined by the Oklahoma Department of Agriculture, Food, and Forestry. In no event shall the poultry feeding operation land apply poultry waste in excess of the ~~current USDA NRCS 590 Standard, unless the Oklahoma Department of Agriculture, Food, and Forestry approves other standards contained in Appendix A.~~

35:17-5-5. Nutrient Management Plan

- (a) The NMP shall comply with all requirements contained in Appendix A and shall contain, at a minimum, the following:

- (1) A description of poultry waste handling procedures and availability of equipment and type of equipment to be used.
- (2) The calculations and assumptions used for determining land application rates.
- (3) All nutrient analysis data, including soil and poultry waste testing.
- (4) Legal description of lands to be used by an operation for land application.
- (5) Soils map with description and type or series.
- (6) Land application rates of poultry waste shall be based on the available nitrogen and phosphorus content of the poultry waste and soil test results.
- (7) The procedures documented in the NMP shall ensure that the handling and utilization of poultry waste complies with the following requirements:

(A) Adequate poultry waste storage shall be provided. Poultry waste shall not be stored without adequate protection from rainfall and runoff. All new poultry feeding operations shall make provisions for storage of poultry waste prior to operating. Exceptions to storage requirements for poultry waste in emergency situations shall be granted on a case by case basis. Exceptions shall include but not be limited to allowing a contract poultry grower to take such actions as are necessary to meet requirements imposed on a grower by an integrator. However, in all situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

(B) Poultry waste shall not be applied to land when the ground is saturated or during rainfall events. Poultry waste shall not be applied to land when the ground is frozen or snow covered except in conformance with the NMP.

(C) Poultry waste shall only be applied to suitable land at appropriate times and rates as specified by the NMP. Runoff of poultry waste from the application site is prohibited.

(D) All practices necessary to minimize movement of poultry waste to watercourses shall be utilized and documented in the NMP.

(E) Edge of field, grassed strips shall separate water courses from runoff which may be carrying eroded soil and poultry waste.

(F) Poultry waste application shall be prohibited on land subject to excessive erosion.

(G) Land application rates of poultry waste shall provide controls for runoff as appropriate for site conditions.

(H) Poultry waste shall only be applied ~~only~~ by a certified poultry waste applicator.

(b) The NMP shall also include a method for the disposal of carcasses. The NMP shall include provisions for disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates. Accepted methods of carcass disposal include:

(1) Rendering

(A) Disposal of all carcasses shall occur within a reasonable period of time as approved by the State Department of Agriculture.

(B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors.

- (2) Burial shall only be allowed as a method of carcass disposal if no reasonable alternative exists and specific measures and practices are identified which will be utilized to protect the ground and surface waters of the State.
 - (3) Composting by methods as approved in the NMP.
 - (4) Incineration shall only be used as a method of carcass disposal if the poultry feeding operation has a valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division, if required.
- (c) Storage and land application of poultry waste shall not cause a discharge or runoff of significant pollutants to waters of the State or cause a water quality violation to waters of the State.
- (d) The operator shall notify the State Department of Agriculture within twenty-four (24) hours of a discharge.

APPENDIX A. NUTRIENT MANAGEMENT PLAN REQUIREMENTS

APPENDIX A

Nutrient Management Requirements When Using Poultry Litter and Other Nutrient Resources

DEFINITION

Managing the amount, source, placement, form, and timing of the application of poultry litter and nutrients and soil amendments for optimum plant growth and protecting the environment.

PURPOSES

- To budget and supply nutrients for plant production.
- To properly utilize manure or organic by-products as a beneficial plant nutrient source.
- To minimize agricultural nonpoint source pollution of surface and ground water resources.
- To maintain or improve the physical, chemical, and biological condition of soil.

CRITERIA

General Criteria Applicable to All Purposes

A nutrient budget for nitrogen (N), phosphorus (P), and potassium (K) shall be developed that considers all potential sources of nutrients (Exhibit 1, Tables 1 and 2).

Realistic yield goals shall be established using guidance outlined in Oklahoma State University Extension (OSU) Fact Sheet F-2225, OSU Soil Test Interpretations (<https://extension.okstate.edu/fact-sheets/osu-soil-test-interpretations.html>). A realistic yield goal is generally the average of three highest yields over the last five years. Rates of nutrient application established by OSU shall be the basis for nutrient recommendations. For new crops or varieties, industry yield recommendations may be used until documented yield information is available.

Plans for nutrient management shall specify the form, source, amount, timing, and method of application for each field to achieve realistic production goals and minimize the loss of nutrients to erosion, runoff, volatilization, and leaching.

Using effluent water for irrigating crops and grasses can increase salt concentrations in the soil creating a negative impact on plant growth. OSU Factsheet PSS-2245 (<https://extension.okstate.edu/fact-sheets/using-lagoon-effluent-as-fertilizer.html>) contains guidance for irrigating with effluent water.

SOIL AND TISSUE SAMPLING LABORATORY ANALYSIS (TESTING)

Nutrient planning shall be based on current soil test results developed in accordance with OSU guidance.

Soil samples shall be taken at least as often as the Registered Poultry Feeding Operations Act requires. Non-cultivated fields should be sampled during the dormant season. Fields used for cultivation should be sampled after harvest or before planting. Do not sample immediately after lime, fertilizer, or manure applications. Soil sampling shall occur prior to the first land application of the calendar year.

The OSU County Extension Service Office is available to assist with the soil testing process. Additional information concerning soil sampling can be found in the OSU Extension Fact Sheet F-2207, How to Get a Good Soil Sample (<https://extension.okstate.edu/fact-sheets/how-to-get-a-good-soil-sample.html>).

If a soil test laboratory other than OSU is used, the lab shall use the same phosphorus and potassium extractant (Mehlich-3) as used by the OSU lab and nutrient recommendations will be the same as those used by OSU. The soil testing laboratory shall be a member of the North American Proficiency Testing Program or Agricultural Laboratory Proficiency Program.

Soil testing shall include analysis for any nutrients for which specific information is needed to develop the nutrient management plan (e.g. pH, N, P, and K). Additional information concerning soil testing can be found in the [OSU Extension Fact Sheet F-2225, OSU Soil Test Interpretations and Fact Sheet F-2901, Procedures Used by OSU Soil, Water, and Forage Analytical Laboratory.](#)

ADDITIONAL CRITERIA TO BUDGET AND SUPPLY NUTRIENTS FOR PLANT PRODUCTION

Plant nutrient removal rates can be found in Table 5. Nutrient removal rates for crops or forage combinations not listed in Table 5 may be calculated using the USDA Crop Nutrient Tool (<https://plantsorig.sc.egov.usda.gov/npk/main>).

Do not apply nutrients in the following situations:

- Animal manure shall not be land applied within 500 feet of the corner of an occupied residence not owned or operated by the feeding operation.
- Animal manure shall not be land applied within 300 feet of an existing public or private drinking water well.
- To areas within 100 feet of a perennial stream, pond, well, or sinkhole, unless an established buffer strip is present. The width of the buffer strip shall be used as a setback distance for application purposes. The buffer strip shall meet the requirements for design and maintenance established in the appropriate United States Department of Agriculture Natural Resources Conservation Service (NRCS) or OSU buffer standard and specification.
- To areas within 50 feet of an intermittent stream unless an established buffer strip is present. The width of the buffer strip shall be used as a setback distance for application purposes. The buffer strip must meet the requirements for design and maintenance established in the appropriate NRCS or OSU buffer standard and specification.
- To fields with > 15% slope.
- To soils less than 10 inches in depth to parent material.
- On soils that are frequently flooded.
- On soils that are frozen, snow covered, or water saturated (including periods of heavy rain when water ponding has occurred on the soil surface).
- On soils where the rock fragments in the surface layer are 3 to 10 inches in diameter and exceed 50% by volume.
- On soils where the rock fragments in the soil surface layer are > 10 inches in diameter and exceed 25% by volume.
- On soils where the rock fragments are > 10 inches in diameter which covers > 3% of the soil surface and the slope is > 8%. (Soil map unit name will include the description of Extremely Stoney, Extremely Bouldery, Extremely Rubbly, or Very Rubbly)
- On areas eroding at levels greater than the soil loss tolerance, “T”, from wind or water erosion or active gullies unless following a conservation plan that will reduce erosion below “T”. Use current NRCS soil loss prediction methods.
- On soils that are occasionally flooded. Manure may be applied between June 20 and September 20 on soils classified as occasionally flooded. Manure may also be applied to soils classified as occasionally flooded between February 1 and April 20 if the area is established to cool season grasses four inches in height at the

time of application. In no case will manure be applied when the soil is water saturated or when ponding has occurred on the soil surface after periods of heavy rain.

Organic Nutrient Application Rates

Timing and method of nutrient application shall correspond as closely as possible with plant nutrient uptake characteristics, cropping system limitations, weather and climatic conditions, availability of nutrients in manure, and field accessibility. Nutrients materials will be applied uniformly to the area. The application rate for liquid manure shall not create runoff and shall minimize ponding.

The application rate shall be based on the most limiting application based on Nitrogen (N) and Phosphorus (P). The following shall also be used when applying manure or organic by-products:

- **N Application** – The amount of N applied from manure shall not exceed the annual crop requirement for N. In some situations, additional N from inorganic/commercial sources may be required to supplement the organic sources. Manure may be applied to a legume crop at a rate equal to the estimated N removal in the harvested plant biomass.
- **P Application** – The maximum planned rates of P application shall be determined using the Oklahoma Phosphorus Assessment Worksheet.

Field Risk Assessment

When applications of manure or other organic by-products are planned, a field-specific assessment of the potential for P and N transport from the site shall be completed as detailed below. This assessment shall be done using the Oklahoma Phosphorus Assessment Worksheet.

Additional Criteria to Minimize Agricultural Non-point Source Pollution of Surface and Ground Water Resources

As identified in Tables 8 and 9, nutrient application rates are limited for certain water bodies in watersheds identified by the Oklahoma Department of Environmental Quality (ODEQ) as Nutrient Limited Waters (NLW) in Appendix A and as designated in Oklahoma Administrative Code (OAC) 252:740 of the Oklahoma Water Quality Standards.

PLANS AND SPECIFICATIONS

Plans and specifications shall be in keeping with Appendix A and shall describe the requirements for implementing a practice to achieve its intended purpose, using nutrients to achieve production goals and to prevent or minimize water quality impairment.

The following components shall be included in the nutrient management plan as applicable:

- Aerial photograph or map and a soil map of the site,
- Plant production sequence or crop rotation,
- Results of soil, plant, water, manure, and/or organic by-product sample analyses,
- Realistic yield goals for the crops in the rotation based on OSU guidance,
- Recommended nutrient rates, timing, form, and method of application and incorporation,
- Guidance for implementation, operation, maintenance, recordkeeping, and
- Completed nutrient budget for N, P, and K for the rotation or crop sequence.

If increases in soil phosphorus levels are expected, plans shall document:

- The soil phosphorus levels at which it may be desirable to convert to phosphorus based implementation,
- The relationship between soil phosphorus levels and potential for phosphorus transport from the field,
- The potential for soil phosphorus drawdown from the production and harvesting of crops, and

- The management activities or techniques used to reduce the potential for phosphorus loss.

When applicable, plans shall include other practices or management activities as determined by specific regulation, program requirements, or producer goals.

EXHIBIT 1

TABLE 1

Nitrogen Requirements

The nitrogen requirement is calculated by subtracting the soil test nitrogen value from the nitrogen required for a selected crop and yield goal.

Established Bermudagrass		Cool Season Grasses (Fescue, Orchard)		Established Old World Bluestem		Established Weeping Lovegrass	
N Required lbs/ac	Yield Goal tons/ac	N Required lbs/ac	Yield Goal tons/ac	N Required lbs/ac	Yield Goal tons/ac	N Required lbs/ac	Yield Goal tons/ac
50	1	60	1	35	1	35	1
100	2	120	2	70	2	70	2
150	3	180	3	110	3	110	3
200	4	240	4	150	4	160	4
260	5	300	5	200	5	220	5
320	6						
400	7						

Virgin Native Hay Meadow		Small Grains for Grazing		Canola		Forage Sorghum or Corn Silage		
N Required lbs/ac	Yield Goal lbs/ac	N Required lbs/ac	Yield Goal tons/ac	N Required lbs/ac	Yield Goal lbs/ac	N Required lbs/ac	Yield Goal	
							Silage tons/ac	Hay tons/ac
0	1.0	30	0.5	50	1000	45	5	2.5
50	1.5	60	1.0	75	1500	90	10	5.0
100	1.6	90	1.5	100	2000	135	15	7.5
		120	2.0	125	2500	185	20	10.0
		150	2.5	150	3000	240	25	12.5
		180	3.0	175	3500	300	30	15.0

N Required lbs/ac	Wheat	Barley	Oat	Corn		Grain Sorghum		Cotton	
	Yield Goal bu/ac			N Required lbs/ac	Yield Goal lbs/ac	N Required lbs/ac	Yield Goal bu/ac	N Required lbs/ac	Yield Goal bales/ac
30	15	20	25	40	40	30	2000	30	0.50
40	20	25	35	50	50	40	2500	45	0.75
60	30	35	55	60	60	50	3000	60	1.00
80	40	50	70	85	85	70	4000	75	1.25
100	50	60	90	110	100	85	4500	90	1.50
125	60	75	105	130	120	100	5000	105	1.75
155	70	90	125	190	160	160	7000	120	2.00
185	80	100	140	215	180	195	8000	135	2.25
240	100	125	175	240	200	230	9000	150	2.50

				300	250				165	3.00
				360	300				180	3.50

Alfalfa	Peanuts	Soybeans	Mungbeans, Cowpeas, Guar
10 to 20 lbs/ac for establishment. None needed for maintenance	10 to 20 lbs/ac with P and K	10 to 20 lbs/ac with P and K	10 to 20 lbs/ac with P and K

Nitrogen Requirements

Nitrogen Recommendations for Establishing Grass

Soil Test N ^{1/}	Native Grass / Bluestem Establishments	All Other Grass Establishments
	N Required lbs/ac	
0	0	40
1	0	39
2	0	38
3	0	37
4	0	36
5	0	35
6	0	34
7	0	33
8	0	32
9	0	31
10	0	30
11	0	29
12	0	28
13	0	27
14	0	26
15	0	25
16	0	24
17	0	23
18	0	22
19	0	21
20	0	20
21+	0	0

^{1/} Nitrogen soil test values are only valid if test is within the last 60 days; therefore assume nitrogen soil test of zero (0) when old tests are used.

Note: For recommendations on maintenance of grass stands for long-term deferment programs (e.g. CRP) follow the guidance in Tables 1, 2, 3 of this Appendix A.

TABLE 2

Phosphorus Requirements

P Soil Test Index	Established Bermudagrass		Established Cool Season Grasses		Established Old World Bluestem		Established Weeping Lovegrass	
	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency
0	75	50	80	30	60	50	60	50
10	60	65	60	50	40	70	50	70
20	40	80	40	70	30	85	40	85
40	20	95	20	95	20	95	20	95
65+	0	100	0	100	0	100	0	100

P Soil Test Index	Virgin Native Hay Meadows		Small Grains for Grazing		Legumes in Pasture		Canola	
	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency
0	40	50	80	25	75	50	80	25
10	20	80	60	45	60	65	60	45
20	0	95	40	80	40	80	40	80
40	0	100	20	90	20	95	20	90
65+	0	100	0	100	0	100	0	100

P Soil Test Index	Small Grains		Grain Sorghum		Corn		Cotton	
	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency
0	80	25	60	40	80	30	75	55
10	60	45	50	60	60	60	60	70
20	40	80	40	80	40	80	45	85
40	20	90	20	95	20	95	30	95
65+	0	100	0	100	0	100	0	100

P Soil Test Index	Alfalfa		Peanuts		Soybeans		Mungbean, Cowpeas, Guar	
	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency
0	200	20	80	40	70	40	70	40
10	150	50	60	60	50	60	50	60
20	100	70	40	80	30	80	30	80
40	60	90	20	95	20	95	20	95
65+	0	100	0	100	0	100	0	100

Phosphorus Requirements

Phosphorus Recommendations for Establishing Grass

P Soil Test Index	Bermudagrass Establishments	Fescue and Cool Season Grass Establishments	Bluestem and Lovegrass Establishments	Native Grass Establishments
	P ₂ O ₅ lbs/ac			
0	40	40	40	40
1	40	40	40	38
2	40	40	40	36
3	40	40	40	34
4	40	40	40	32
5	40	40	40	30
6	40	40	40	28
7	40	40	40	26
8	40	40	40	24
9	40	40	40	22
10	40	40	40	20
11-20	40	40	30	0
21-40	30	30	20	0
41-48	20	20	0	0
49+	0	0	0	0

Note: For recommendations on maintenance of grass stands for long-term deferment programs (e.g. CRP) follow the guidance in Tables 1, 2, 3 of this Appendix A.

P Soil Test Index	Forage Sorghum or Corn Silage	
	P ₂ O ₅ lbs/ac	Percent Sufficiency
0	100	30
10	75	60
20	45	80
40	25	95
65+	0	100

TABLE 3
Crop Nutrient Removal *

% of Dry Material Harvested						
Forage as Hay Crop			% Moisture (default)	%N	%P	%K
Bermuda			9.05	1.37	0.19	1.55
Tall Fescue			12.50	1.71	0.30	1.96
Native Hay			9.50	1.52	0.22	1.45
Alfalfa			9.65	2.79	0.26	2.12
Ryegrass			12.74	1.49	0.20	1.42
Wheatgrass			10.85	1.34	0.07	
Clovers			11.99	2.63	0.27	2.35
Eastern Gamagrass			10.85	1.51	0.10	3.06
% of Dry Material Harvested						
Crop	Unit	Weight/Unit	% Moisture (default)	%N	%P	%K
Barley	grain	48 lbs/bu	11.72	2.11	0.42	0.54
	straw	72 lbs/bu	11.25	0.69	0.10	1.79
Corn	grain	56 lbs/bu	13.52	1.64	0.31	0.34
	stove	56 lbs/bu	13.30	0.98	0.10	1.50
Oats	grain	32 lbs/bu	10.67	2.09	0.38	0.46
	straw	64 lbs/bu	9.68	0.71	0.09	2.39
Rye	grain	56 lbs/bu	11.88	2.14	0.38	0.52
	straw	84 lbs/bu	9.07	0.50	0.09	0.97
Sorghum	grain	56 lbs/bu	11.18	1.87	0.33	0.39
	stove	56 lbs/bu	8.13	0.67	0.13	0.73
Soybeans	beans	97 lbs/bu	10.12	6.57	0.67	1.54
	straw	75 lbs/bu	11.07	0.83	0.06	0.57
Wheat	grain	60 lbs/bu	11.68	2.30	0.43	0.49
	straw	92.48 lbs/bu	9.22	0.64	0.06	1.17
Cotton	lint & seed	500 lbs/bale	7.80	3.30	0.41	0.49
	burs & stalks	3 lbs/lb of lint	7.70	0.99		

* These crop nutrient removal figures come from the NRCS Agricultural Waste Management Field Handbook, Chapter 6, Role of Plants in Waste Management (Table 6-6). The handbook lists additional crops not listed above. These numbers represent average figures taken from multiple sources and are nutrients removed in the harvested portion of the crop. These figures can be used as guidance for waste management planning purposes. Actual waste application will be based on soil test.

Example calculation to estimate nutrients removed

Bermuda: Yield 3 tons/ac forage = 6000 lbs/ac hay

$(6000 \text{ lbs} - (6000 \text{ lbs} \times 0.0905 (\% \text{ moisture}))) \times 0.0019 (\%P/lb) = 10.37 \text{ lbs/ac phosphorus in hay}$

$(6000 \text{ lbs} - (6000 \text{ lbs} \times 0.0905 (\% \text{ moisture}))) \times 0.0137 (\%N/lb) = 75.01 \text{ lbs/ac nitrogen in hay}$

$(6000 \text{ lbs} - (6000 \text{ lbs} \times 0.0905 (\% \text{ moisture}))) \times 0.0155 (\%K/lb) = 84.57.0 \text{ lbs/ac potassium in hay}$

Wheat: Yield 40 bu/ac = 60 lbs/bu x 40 bu = 2400 lbs of grain

40 bu/ac x 92.48 lbs/bu straw = 3,699.2 lbs/ac straw produced

1 ton/ac straw baled and removed from field = 1 ton/ac x 2000 lbs = 2000 lbs of straw/ac Grain:

(2400 lbs/ac - (2400 lbs/ac X 0.1168 (% moisture))) x 0.0230 (%N/lb) = 48.75lbs/ac Nitrogen in grain

(2400 lbs/ac – (2400 lbs/ac X 0.1168 (% moisture))) x 0.0043 (%P/lb) = 9.11 lbs/ac Phosphorus in grain

(2400 lbs/ac – (2400 lbs/ac X 0.1168 (% moisture))) x 0.0049 (%K/lb) = 10.39 lbs/ac Potassium in grain

Straw: (2000 lbs/ac – (2000 lbs/ac X 0.0922 (% moisture))) x 0.0064 (%N lb) = 11.62 lbs/ac Nitrogen in straw

(2000 lbs/ac – (2000 lbs/ac X 0.0922 (% moisture))) x 0.0006 (%P lb) = 1.09 lbs/ac Phosphorus in straw

(2000 lbs/ac – (2000 lbs/ac X 0.0922 (% moisture))) x 0.0057 (%K/lb) = 10.35 lbs/ac Potassium in straw

Total Nutrient Removed = 60.37 lbs/ac N removed, 10.2 lbs/ac P removed, 20.74 lbs/ac K removed

Table 4
Annual Manure Application Rates for Non-Nutrient Limited Waters

Rating	Soil Test P Index	0 – 8% Slope	8 to 15% Slope	0 to 15% Slope
		Soil > 20” Deep	Soil > 20” Deep	Soil 10” to 20” Deep
*Low	0 – 65	Full Rate	Full Rate Split Application	Half Rate
*Moderate	66 – 250	Full Rate	Half Rate	Half Rate
*High	251 – 400	Half Rate	Half Rate	Half Rate
*Very High	> 400	Plant Removal ¹	Plant Removal ¹	Plant Removal ¹
*Severe	*	No Application	No Application	No Application

Rating	Soil Test P Index	Rocks >10” in diameter which cover >3% of the soils surface and <8% slope
*Low	0 – 65	Half Rate
*Moderate	66 – 250	Half Rate
*High	251 – 400	Half Rate
*Very High	> 400	Plant Removal ¹
*Severe	*	No Application

¹ Note – It may not be feasible to calibrate equipment and make manure applications at the Plant Removal rate.

Table 5
Annual Manure Application Rates for Nutrient Limited Waters

Rating	Soil Test P Index	0 – 8% Slope	8 to 15% Slope	0 to 15% Slope
		Soil > 20” Deep	Soil > 20” Deep	Soil 10” to 20” Deep
*Low	0 – 65	Full Rate	Full Rate Split Application	Half Rate
*Moderate	66 – 120	Full Rate	Half Rate	Half Rate
*High	121 – 300	Half Rate	Half Rate	Half Rate
*Severe	> 300	No Application	No Application	No Application

Rating	Soil Test P Index	Rocks >10” in diameter which cover >3% of the soils surface and <8% slope
*Low	0 – 65	Half Rate
*Moderate	66 – 120	Half Rate
*High	121 – 300	Half Rate
*Severe	> 300	No Application

* See Severe Rating - No Application listed below. Check for specific site characteristics which may deem the field inadequate for manure application from the list below.

Annual manure application rates are listed and explained below.

EXHIBIT 2

TABLE 1

Nitrogen Credits

Average Nitrogen Remaining After Legume Crop

Legume	*Nitrogen remaining for next crop (Legume hayed or harvested)	**Green manure crop nitrogen remaining (Legume unharvested)
Alfalfa	80	200
Ladino Clover	60	180
Sweet Clover	60	120
Red Clover	40	115
White Clover	20	100
Soybeans	20	60
Cowpeas	30	90
Vetch	40	80
Lespedeza (annual)	20	85
Peas	40	70
Peanuts	20	40
Beans	20	40

* These numbers are derived from crops that are harvested and have the remaining crop residues returned to the soil by tillage. (Reference - Oklahoma Soil Fertility Handbook, (2017), <https://extension.okstate.edu/fact-sheets/oklahoma-soil-fertility-handbook-full.html>)

** A green manure (cover) crop is not harvested or grazed and is returned to the soil just prior to maturity. These numbers reflect the amount of nitrogen available for the next crop when the legume is used as a green manure crop. The numbers are adjusted to account for 30% nitrogen loss due to volatilization, leaching, and microbial action. (Reference – Soil Fertility and Fertilizers, Tidsdale and Nelson, pg. 128 and 566)

2023 BOARD MEETING DATES

A REGULAR MEETING HAS BEEN SCHEDULED FOR:

WEDNESDAY, JAN 25, 2023 10:00 AM AT

2800 N LINCOLN BLVD OKLAHOMA CITY, OK 73105

A REGULAR MEETING HAS BEEN SCHEDULED FOR:

WEDNESDAY, MAR 08, 2023 10:00 AM AT

2800 N LINCOLN BLVD OKLAHOMA CITY, OK 73105

A REGULAR MEETING HAS BEEN SCHEDULED FOR:

WEDNESDAY, APR 19, 2023 10:00 AM AT

2800 N LINCOLN BLVD OKLAHOMA CITY, OK 73105

A REGULAR MEETING HAS BEEN SCHEDULED FOR:

THURSDAY, JUN 01, 2023 10:00 AM AT

2800 N LINCOLN BLVD OKLAHOMA CITY, OK 73105

A REGULAR MEETING HAS BEEN SCHEDULED FOR:

WEDNESDAY, JUL 19, 2023 10:00 AM AT

2800 N LINCOLN BLVD OKLAHOMA CITY, OK 73105

A REGULAR MEETING HAS BEEN SCHEDULED FOR:

WEDNESDAY, AUG 30, 2023 10:00 AM AT

2800 N LINCOLN BLVD OKLAHOMA CITY, OK 73105

A REGULAR MEETING HAS BEEN SCHEDULED FOR:

TUESDAY, OCT 17, 2023 10:00 AM AT

2800 N LINCOLN BLVD OKLAHOMA CITY, OK 73105

A REGULAR MEETING HAS BEEN SCHEDULED FOR:

WEDNESDAY, DEC 06, 2023 10:00 AM AT

2800 N LINCOLN BLVD OKLAHOMA CITY, OK 73105