

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

Friday, July 21, 2023
1:30 p.m.

2501 Conference Drive
Norman, OK 73069

1. Call to Order
2. Roll Call
3. Declaration of a Quorum
4. Introduction of Guests
5. Comments from Oklahoma Cattlemen's Association Representative
6. Presentation by Stillwater FFA State Star Award Winner in Agriscience, Abigail Burton
7. Consideration and Proposed Action on Minutes of Regular Board Meeting of June 1, 2023
8. 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 – Lee Benson

9. Consideration and Proposed Action on Purchases/Contracts
10. Consideration and Proposed Action on Cases Resolved by Stipulations

Consumer Protection Services

Evan Allard, 24669 EW 18 Road, Vinita, Oklahoma
Big John's Lawn Care, 879 CR 1403, Chickasha, Oklahoma
John Bonham, 2001 N. 9th. Street, Perry, Oklahoma
Matthew Cockrum, 35370 E. 850, Stroud, Oklahoma
Cotton Growers Coop., 1509 W. Broadway Street, Altus, Oklahoma
Dollar General, 1102 N. 4th, Sayre, Oklahoma
Dollar General, 18497 W. Woodward Road, Tahlequah Oklahoma
Dollar General, US, HWY 70, Ringling Oklahoma
Dollar General, 811 N. Hazlett, Fort Cobb, Oklahoma
Family Dollar, 3029 S. E. 44th. Del City, Oklahoma
Hammerheads, 627 Main Street, Waynoka, Oklahoma
Jiang Industries, LLC, 17558 S. 105th. Street E., Webbers Falls, Oklahoma
Munie Greencare Professionals, 1000 Milburn School Rd., Caseyville, Illinois
Salvador Gutierrez, 3116 S. W. 45th. St., Oklahoma City, Oklahoma
Sherwin Williams, 155 12th Avenue S. E., Norman, Oklahoma

Office of General Counsel

Greg & Corey Barnes, RR 1 Box 95, Guymon, 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 Cases Resolved by Consent Order

Agricultural Environmental Management Services

Seaboard Foods, LLC, 9000 West 67th St., STE 200, Shawnee Mission, Kansas
Seaboard Foods, LLC, 9000 West 67th St., STE 200, Shawnee Mission, Kansas

Consumer Protection Services

Bulwark Exterminating, 9755 E. 55TH Pl, Tulsa, Oklahoma
Crescent Co-op., 215 E. Madison, Crescent, Oklahoma
Vira Guard Pro., 300 E. Choctaw Ave., McAlester, Oklahoma

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12. Consideration and Proposed Action on Cases Resolved by Final Order
Consumer Protection Services
Terminix, 13220 N. Santa Fe Ave., Oklahoma City, Oklahoma
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13. Consideration and Proposed Action on Emergency Rules
Market Development
Title 35. Oklahoma Department of Agriculture, Food, and Forestry
Chapter 40. Market Development
Subchapter 25. Oklahoma Winter Storm Grant Program
35:40-25-1. Purpose [NEW]
35:40-25-2. Definitions [NEW]
35:40-25-3. Applicant Eligibility [NEW]
35:40-25-4. Evaluation Criteria [NEW]
35:40-25-5. Application Requirements [NEW]
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14. Next Board meeting scheduled for **Wednesday, August 30, 2023**, at Oklahoma City.
15. Old Business
16. 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.
17. Adjournment

**Members of the Board and staff from ODAFF may attend the Oklahoma Cattlemen’s Association Annual Meeting events and sessions. Board Members, staff, and the public may discuss program issues during the meeting; no votes or action will be taken during the meeting.*

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

Oklahoma City, Oklahoma
June 1, 2023

The Oklahoma State Board of Agriculture met in regular session at 10:00 a.m., June 1, 2023, in the Community Building, Payne County Expo Center, 4518 Expo Cir E, Stillwater, 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: Brent Bolen
 Blayne Arthur
 Clay Burtrum
 Joe Farris
 Nocona Cook

Others Present: JanLee Rowlett, Deputy Commissioner
 Michaela Lembeck, Executive Assistant
 Dan Ridings, Director, Administrative Services
 Wade Krivanek, Director, Laboratory Services
 Mark Goeller, Forestry Services
 Kenny Naylor, Director, Consumer Protection Services
 Scott Alls, Director, Wildlife Services
 Troy Marshall, Agricultural Statistics
 Teena Gunter, Director, Agricultural Environmental
 Management Services & Office of General Counsel
 Scott Yates, Director, Food Safety Services
 Lee Benson, Public Information Officer
 Emma Victory, Executive Office Intern
 Brady Robison, Office of General Counsel Attorney
 Richard Herren, Office of General Counsel Attorney
 Trace Justiss, Office of General Counsel Intern
 Abbey Sigler, Office of General Counsel Intern
 Kory Kile, Office of General Counsel Intern
 Neena Alavicheh, Office of General Counsel Intern
 Ryan Burks, Office of General Counsel Intern
 Alexis Martin, Office of General Counsel Intern
 Michael Kelsey, Oklahoma Cattlemen's Association
 Turner Longacre, Oklahoma Junior Cattlemen's Association
 Sam L. Stein, Tri-State Feeder Attorney
 Daniel Gamino, Security Pest Attorney
 Thomas Goresen, McAfee & Taft

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

A motion was made by Mr. Bolen, seconded by Mr. Cook, to approve the minutes of the regular meeting of April 26, 2023, as presented.

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	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.

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Burtrum, seconded by Mr. Bolen, to approve the Proposed Action on Cases Resolved by Stipulations as submitted.

Consumer Protection Services

**5 Star Lawn & Landscape, P. O. Box 96221, Oklahoma City, Oklahoma
7-Eleven, 9001 S. May, Oklahoma City, Oklahoma**

7-Eleven, 1201 12th Avenue N. E., Norman, Oklahoma
 B & B Paint & Weed Serv., LLC, 11549 State HWY 76 N., Lindsay, Oklahoma
 Madison Davis, P. O. Box 256, Owasso, Oklahoma
 Dollar General, 811 N. Hazlett, Fort Cobb, Oklahoma
 Dollar General, 110 N. Bridge Road, Grandfield, Oklahoma
 Dollar General, 1500 N. Louis Tittle, Mangum, Oklahoma
 Dollar General, 1102 N.4th, Sayre, Oklahoma
 Dollar General, 211 N. 5th, Henryetta, Oklahoma
 Dollar General, 1730 E. 6th Street, Okmulgee, Oklahoma
 Dollar General, 303 N. LL Males, Cheyenne, Oklahoma
 Dollar General, 205 W. Broadway, Thomas, Oklahoma
 Dollar General, 825 W. Ozark Street, Morris, Oklahoma
 Dollar General, 8190 Council Ave., Blanchard, Oklahoma
 Dollar General, 207 N. Main, Bristow, Oklahoma
 Edko, LLC, 4615 Marlena Street, Bossier City, Louisiana
 Tyler Enyeart, 900 W. 1st., Moore, Oklahoma
 Family Dollar, 2107 Oklahoma Avenue, Woodward, Oklahoma
 Family Dollar, 411 E. Main, Tuttle, Oklahoma
 Family Dollar, 420 W. Main, Weleetka, Oklahoma
 Family Dollar/Dollar Tree, 324 N. Eastern Avenue, Hominy, Oklahoma
 Tanner Harper, 2400 S. W. 112TH, Oklahoma City, Oklahoma
 Quality Ranch, LLC, 4754 State Highway 76, Wilson, Oklahoma
 Red Dirt Grow, LLC, 7152 E. 136 Road, Holdenville, Oklahoma
 Paige Sherry, P. O. Box 1262, Wewoka, Oklahoma
 Southeast Vegetation MGMT., P. O. Box 43, Brierfield, AL
 Brent Thompson, 2194 CR 1375, Alex, Oklahoma
 Tractor Supply Co., 5401 Virginia Way, Brentwood, Tennessee
 Tractor Supply Co., 5401 Virginia Way, Brentwood, Tennessee

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The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Cook, seconded by Mr. Farris, to approve Tri-State Feeders as resolved by Consent Order.

Agricultural Environmental Management Services

Tri-State Feeders, L.L.C, #18 Sandy Ridge Rd., Columbus, Nebraska

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The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Burtrum, seconded by Mr. Bolen, to approve both AAPEST cases as resolved by Consent Order.

Consumer Protection Services

AAPEST, 2409 N. Broadway, Poteau Oklahoma

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The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Bolen, seconded by Mr. Burtrum, to accept the recommendation of the ALJ ruling pertaining to Security Pest Control, Inc. as resolved by Final Order.

Consumer Protection Services

Security Pest Control, Inc., 10323 E. 50th St., Tulsa, Oklahoma

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deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act.”

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Farris, seconded by Mr. Cook, to approve Jason Taylor as a Case to be Resolved by Stipulation instead of by Final Order.

Consumer Protection Services

Jason Taylor, P. O. Box 70303, Tulsa, Oklahoma

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The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

There is no old business presented for the Board to take action upon. Mr. Bolen moved, Mr. Farris seconded, that the meeting be adjourned at 11:25 a.m.

By _____
President

ATTEST: _____
Executive Secretary

JUNE 1, 2023, BOARD MEETING

PURCHASES/CONTRACTS

Administration

FY23 – Special Ops Uniforms -\$8775

Investigative Services is requesting Board Approval for (9) bullet proof vests for the Investigative Service Agents as the ones they currently have expired in 2021 and the agents safety is of the most importance in the job that they perform.

Agricultural Statistics

Printing of Oklahoma Agricultural Statistics annual bulletins, and Oklahoma Pocket Facts for FY 2024 - \$12,000 dollars.

AEMS

A request of \$30,000

The AEMS Division has obtained permission to contract with Ideagen, April 2023, to develop a program that will assist in the modernize of our operations. The development will take several months from May 2023 – March 2024 after which there will be an annual maintenance fee of \$30,000.

AEMS seeks approval to continue the contract with Ideagen beyond the programming and development stage to the support and maintenance which will begin March 2024. Ideagen is part of the Statewide contract.

Animal Industry

Oklahoma Veterinary Medical Association (OVMA) - \$70,000.00 – This is pass through funds from Oklahoma Tax Commission to OVMA to help lower income Oklahomans get their pets spayed and neutered. 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.

USAHerds - \$29,000.00 – USAHerds maintenance contract allows us to receive yearly enhancements that make the USAHerds program more efficient, user friendly and to offer maintenance hours that we use to correct errors and problems and to personalize the program for us.

Acclaim Systems, Inc. - \$12,000.00 - This agreement provides use access for the State of Oklahoma to utilize the VET-CVI application for the duration of time listed in this maintenance agreement. Oklahoma must follow the intended use for this application and only approve accredited veterinarians within their state that meet the USDA requirements.

Consumer Protection Services

FY2024 Oklahoma Boll Weevil Eradication Organization - \$6,000.00

Food Services

Oklahoma State University Produce Safety Training Contract Approval --\$74,000

Outreach and education activities including teaching Produce Safety Alliance classes across the state, developing educational materials and videos, assisting farms with the On-Farm Readiness Review, measuring the effectiveness of these trainings to determine what topics need further training, and assisting ODAFF in identifying and outreach to farms that may need to comply with the law.

The Produce Safety Alliance class is the only class currently recognized by the FDA to satisfy the produce farm manager training portion of the produce safety rule. To teach this class, a team of certified trainers and a certified lead trainer is required, and OSU has several personnel certified to teach this class including the only lead trainer in the state. OSU currently assists us with teaching farms through the On-Farm Readiness Review. This program will provide an educational tool that can be taken to the individual farms and help them identify what areas they need to improve on to comply with the new law.

Win Wam computer software up keep for produce safety inspections \$5,400.00.

This computer program is used for completing FDA produce safety compliance inspections. This would be for updates and for software update fees. This would be paid for by the FDA Produce Grant.

Forestry Services

FY24 - \$10,000 Federal Funds

This request when approved will renew the 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. This purchase will be reimbursed through Federal funding.

FY24 - \$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 in accordance with federal grant program intent. Without this program outreach and education related to urban forest management and individual tree care would be limited. This purchase will be reimbursed through Federal funding.

FY24 - \$60,000 Federal Funds

Award Federal pass-through funding to communities for the Urban and Community Forestry Grants – Up to \$60,000. 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 purchase will be reimbursed through Federal funding.

FY24 - \$230,000 Federal Funds

Award Federal pass-through funding up to \$230,000 to assist financially-challenged cities, neighborhoods, and communities for recovery of winter ice storm and cold damage. These grants support projects related to helping lower income neighborhoods and non-profit entities recover from the damage, 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 purchase will be reimbursed through Federal funding.

FY24 - \$100,000 Federal Funds

Award Federal pass-through funding up to \$100,000 to assist financially-challenged cities, neighborhoods, and communities with heat mitigation, promotion of food forests, increase equitable access to urban/community tree canopy and to promote other value and benefits of trees in communities. These grants support projects related to helping lower income neighborhoods and, non-profits. Without these projects, we would lose an avenue of community support and education. This purchase will be reimbursed through Federal funding.

FY24 - \$101,760 Federal Funds

Award Federal pass-through funding up to \$101,760 for tree canopy assessment and inventory project in Oklahoma City metropolitan area to determine canopy loss from 2020 ice storm, develop a plan to assist with storm water management, flooding and other safety issues. This project will assist in identifying forest health and other safety concerns. Without this project, an opportunity to improve the overall condition of forest cover in central Oklahoma and to improve safety of Oklahoma citizens will be lost. This purchase will be reimbursed through Federal funding.

FY24- \$8,000 Wildland Firefighting Helmets

OFS is in need of purchasing new wildland firefighting helmets for our firefighters. One hundred fifteen (115) helmets will be purchased through FedMall. New helmets are essential PPE for our firefighters to ensure they are safe as they protect life and property while fighting wildfires across Oklahoma. The funds will be reimbursed through a federal grant.

FY24 - \$15,000

Aerial pesticide spray application to the seed production pine tree orchards at the Forest Tree Improvement Center at Idabel. Aerial pesticide spray will be applied to the cone crop in our genetically improved pine tree orchards. This will maximize the embryotic-material filled seed in the cones collected at the orchards by controlling cone worms and other seed insects. Aerial application of pesticide spray to the orchards will control these pests. Justification: Without this purchase, there will be a continued decline in the production of genetically-improved seed.

FY 24 Temporary Bridge Grant \$175,000 (purchase, cost-share, and pass-through)

Justification: Encourage the use of temporary bridges for stream crossings on timber harvesting and related forestry operations. This will help mitigate water quality impact by reducing erosion, sediment delivery, and stream bed disturbance. The use of temporary bridges will be encouraged by reducing the financial burden of purchasing temporary bridges by timber producing and harvesting entities through establishment of a bridge loaner program as well as a cost-share/pass-through program. Funding: All costs associated with the purchase and maintenance of the loaner bridges as well as the establishment of the cost-share/pass-through program will be reimbursed by the federal grant.

FY 24 - \$55,000

Purchase ESRI ArcGIS Online Licenses (Federal Grant) – Justification: This allows the OFS Incident Management Team and fire personnel to utilize Collector, giving our firefighters real-time wildland fire data exchange. Data collected from the Collector application gives firefighters an advantage on fighting fires, increases overall firefighter and public safety. This purchase also improves the State's wildland fire data which is necessary to receive federal National Fire Plan funding.

FY23 – Firefighting bulldozer, \$574,121 (Federal Funding–SFA Response)

Purchase two (2) Type 3, John Deere 650P bulldozers that will be used for state-wide wildfire response, suppression and mitigation activities. The horsepower and hydrostatic transmission of this type is well suited to the diverse wildland fuels and terrain present across all of Oklahoma. The size allows for easy transport on a truck with a dovetail bed enabling access to remote locations where fires occur. These dozers will be replacing a 2001 JD 650H (1649 hrs.) needing \$15,000 in repairs and a 2001 JD 450H (1400 hrs.) needing \$10,000 in repairs. Funding for this entire purchase will come the US Forest Service – FY21 SFA Response Grant (\$266,000) and FY22 SFA Response Grant (\$308,121) as part of an approved budget revision. (NOTE: This was submitted for approval at the April Board of Agriculture Meeting. There was an error on the Fiscal Year funding information which required the resubmission for approval)

Laboratory Services

FY23 - \$15,000.00 – PCR

Purchase of a molecular detection platform for the capabilities to test for *Campylobacter* and other pathogenic organisms in dairy.

FY23 - \$5700.00 – DI Water and Maintenance

Contract purchase of analytical grade water for laboratory testing and tank maintenance. Contract effective 07/01/23 through 06/30/24.

FY23 - \$7,436.00 – Eastern Laboratory Services, Ltd.

Contract for ELS to provide Somatic Cell Standards (SCC) for milk testing. Contract effective 07/01/23 through 06/30/24.

Market Development

FY2023 – Agritourism Wine Trails Category Guide – graphic design services – Funded entirely by the Viticulture and Enology Revolving Fund - \$24,600.00.

FY2024 – AgHERculture Summit – facility rental and food – \$17,000.00

FY2024 - Resilient Food Systems Food Infrastructure Program – USDA Cooperative Agreement - \$6,407,933.00

FY2024 – Kyle McMichael – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$10,000.00

FY2024 – Yalonda Burton – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$10,000.00

FY2024 – Jennifer Hernandez – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$5,000.00

FY2024 – Colby Craige – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$5,000.00

FY2024 – Dineen Riemenschneider – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$5,000.00

FY2024 – Mangum Feed & Farm Store, LLC – Healthy Food Finance Grant - \$10,000.00

Office of General Counsel

A request of \$8,000

To continue contract to perform services as a Hearing Officer/Administrative Law Judge (ALJ) in cases assigned, in accordance with signed agreement on file with the Oklahoma Department of Agriculture Food, and Forestry. The vendor will perform services at an hourly rate of \$125.00/hour.

FY24 - \$36,942.13 for GovQA 2024 contract.

Brief description of the proposed expense, cost, its necessity, and any deadlines for approval. GovQA is a new product that will allow OGC and the rest of the agency to more easily and efficiently fill open records requests. It will allow all records requests to be filled electronically and will allow large files to easily be transferred electronically. It is an online product. In addition, it will allow ODAFF to invoice the requester for very large requests and allow the agency to recoup some funds for filling the requests.

Contract renewal for OGC Westlaw and Clear online legal research system FY 2024 effective 7/1/2023-6/30/2024. Contract not to exceed \$30,000.

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

Westlaw is a necessary legal research tool for the agency attorneys. It allows them to easily and quickly review federal, Oklahoma, and other states' case law and statutes to better serve the agency. CLEAR allows the Office of General Counsel and Investigative Services to search for addresses and other information regarding individuals for which we do not have good contact information.

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

Without Westlaw, agency attorneys would be unable to efficiently research federal and state law, resulting in more time looking for information and less time actually completing projects and assisting the agency. Without CLEAR, Investigative Services would have a more difficult time investigating cases because of the time that would be spent searching for individuals. The Office of General Counsel would have a more difficult time finding individuals on enforcement matters.

Wildlife Services

\$ 20,000.00 - ODAFF Wildlife Services is requesting approval for the City of Norman Cooperative Agreement regarding the control of wildlife for the City.

\$106,500.00 - ODAFF Wildlife Services is requesting approval for fuel, maintenance and hangar rent for the two (2) Federal helicopters for FY24 that is used in the state's aerial control of wildlife. The breakdown is as follows:

- \$55,000 for fuel;
- \$4,800 hangar rent
- \$11,700 hangar rent
- \$35,000 maintenance

\$769,000.00 - ODAFF Wildlife Services is requesting approval for the cooperative agreement with USDA APHIS Wildlife Services which will provide damage management activities to farmers and ranchers in Oklahoma. Activities are related to damages incurred from feral swine, beavers, coyotes and avian predators. Not approving this agreement would mean significant financial loss to Oklahoma Agriculture due to wildlife damage.

\$68,000 - ODAFF Wildlife Services is requesting approval to purchase ten camera/panel trap systems to be utilized at feral swine trap locations, placed strategically across the state. These systems will allow for remote viewing of swine traps from any distance away. This will allow the wildlife specialist to also maintain bait levels at the traps without having to physically go and "check" the traps. The savings here in gas and mileage is significant. These systems will also allow the specialist to "drop" the door on swine traps when the trap has a significant number of pigs inside. A simple command to release the gate is functioned through an app or website. The specialist is alerted by text message that there are pigs in the trap, the live feed is turned on and if deemed necessary the door is remotely dropped.

Not approving of this purchase will mean we continue operating in a less efficient way. Currently, traps must be visited on a daily basis to see if pigs are caught or if more bait is required. This way of conducting trapping operations is a lot less efficient and costs the agency more dollars due to increased visits and mileage.

Oklahoma Department of Agriculture, Food & Forestry

July 21, 2023, Board Report

Administrative Services

Administrative Services – Investigative Services

INVESTIGATIVE SERVICES ACTIVITIES

MAY 2023



OKLAHOMA

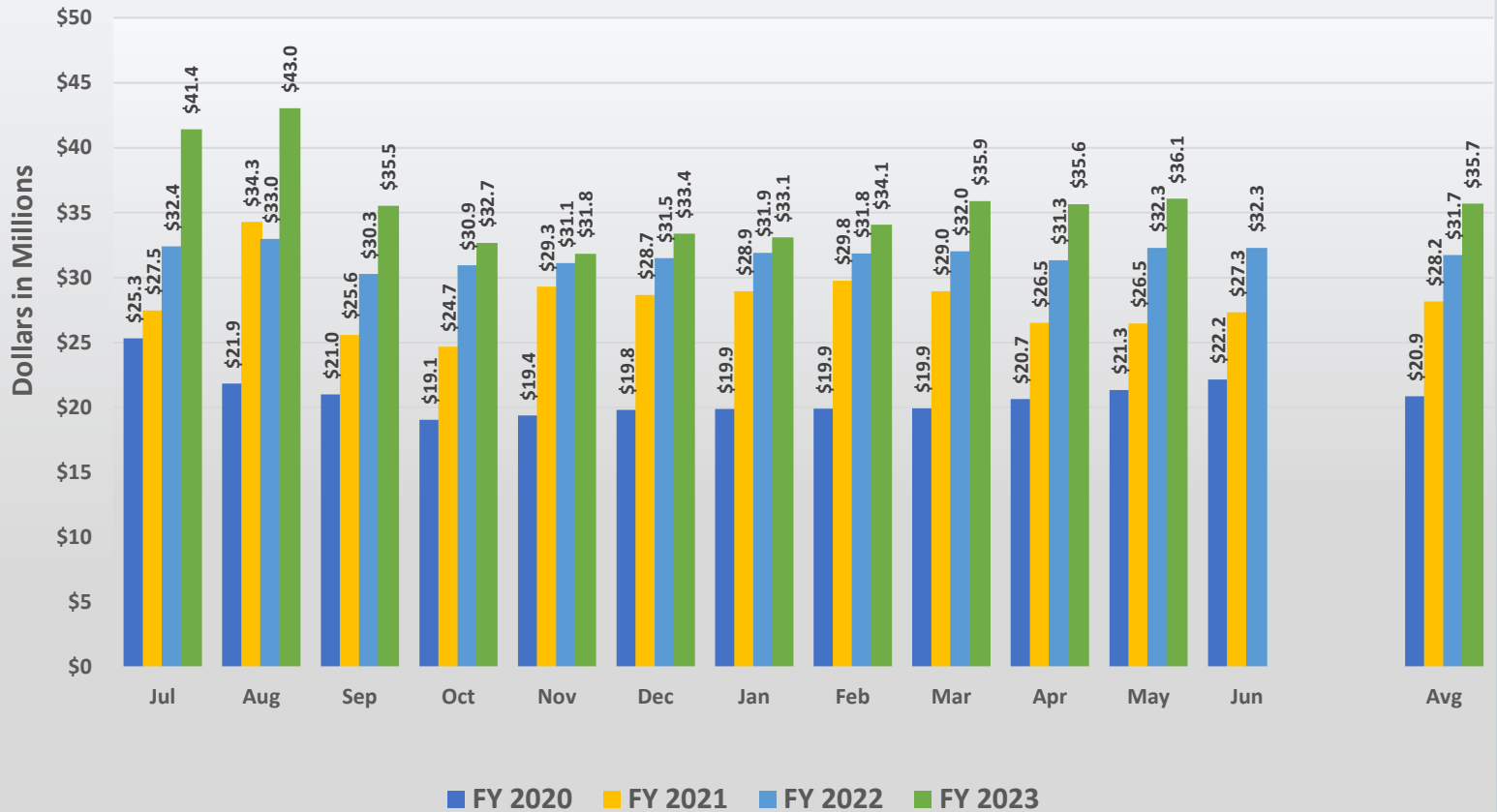


INVESTIGATIONS		MAY	YTD	FYTD
LIVESTOCK		3	12	41
FIRE			3	16
PROPERTY		3	20	36
TIMBER		2	3	8
AGENCY ASSISTS	ODAFF		0	4
AGENCY ASSISTS	EXTERNAL		2	11
OTHER		4	9	20
TOTAL INVESTIGATIONS OPENED		12	49	136
CLOSED PENDING ADDITIONAL INFORMATION		5	11	44
NO CRIME		6	21	50
NO PROSECUTION			0	0
CLOSED - ASSIST CASE			3	8
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION		3	5	17
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		14	40	119
COUNTS FILED		8	13	66
VALUE OF LOSSES - ALL CRIMES		\$40,200	\$575,350	\$1,607,961
RECOVERED LOSSES - ALL CRIMES		\$33,000	\$308,400	\$1,123,311
NUMBER OF CATTLE REPORTED STOLEN		8	203	459
NUMBER OF CATTLE RECOVERED		6	22	69

Administrative Services

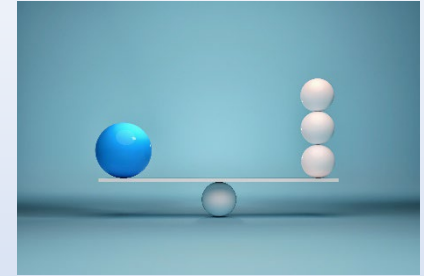
- Fiscal Year 2024 budget – wrapping up
- FY 2023 GAAP Report
 - Multiple schedules
 - Several deadlines ranging from 7/27 – 10/5
 - Preparing workpapers & reports
- First floor renovation (Administration & Market Development)
 - Phase one – painting
 - Human Resources was the first area painted
 - Phase two – new carpeting (requested OMES to provide)
 - Phase three – new cubicles
- Indirect cost rate for fiscal year 24 – 11.06%

Available Cash at Month End per Allotment Budget & Available Cash Report Fiscal Year 2020-2023 Months Ending: July 2019 – May 2023



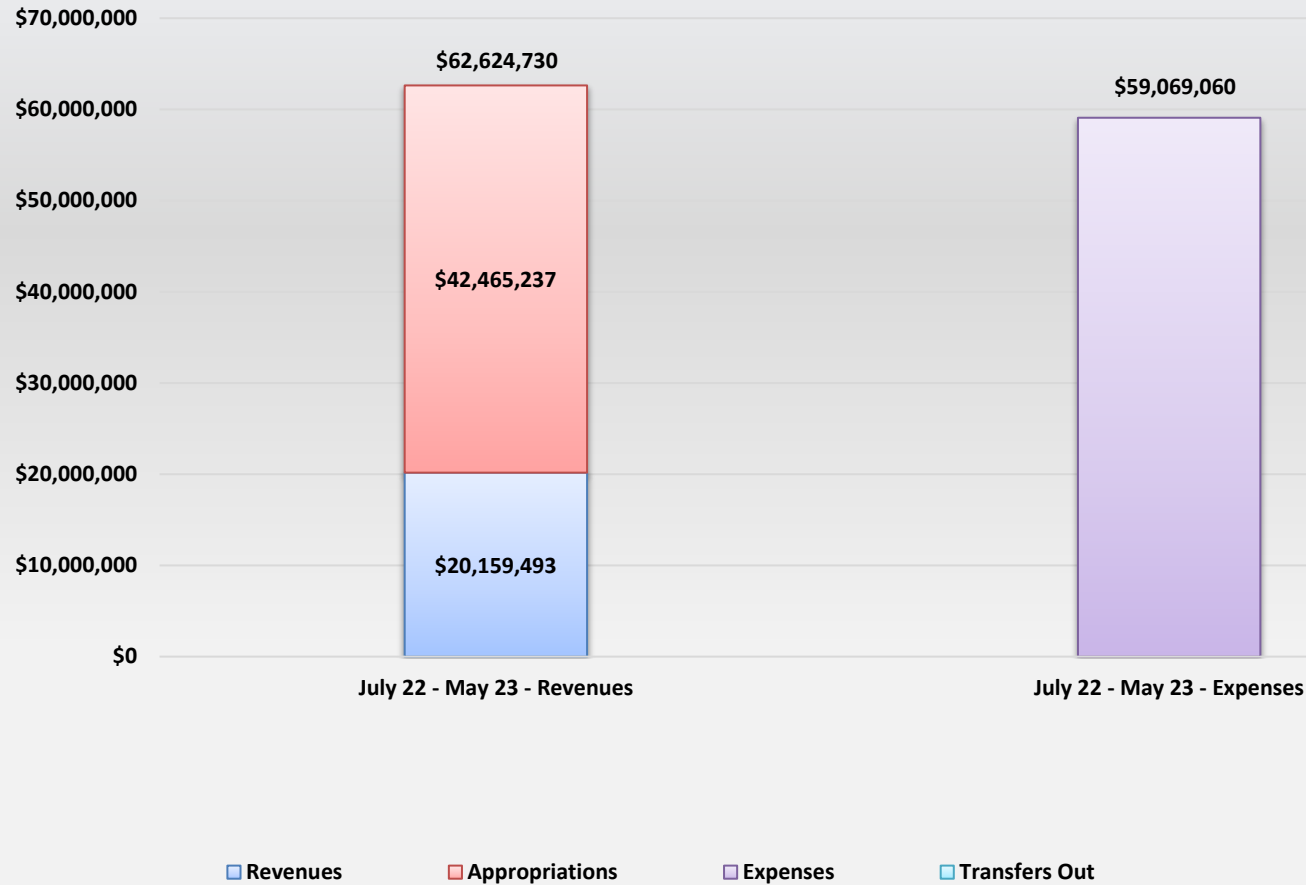
Note: The amounts above include fund 700, Commodity Storage Indemnity Fund, which had a balance of \$11,326,758 as of 5/31/2023.

Administrative Services - Finance

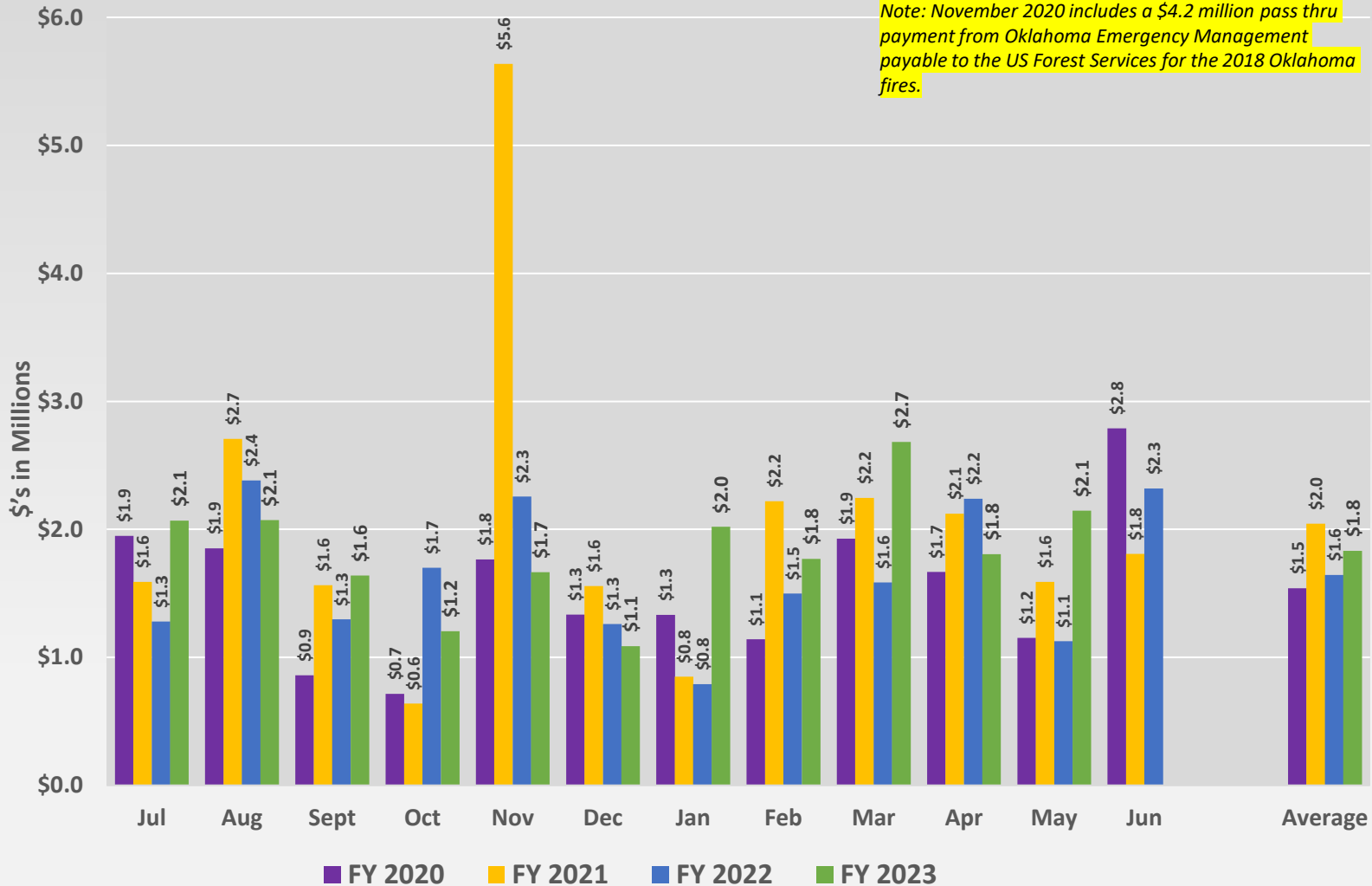


- Cash balance as of 5/31/2023 was \$36.1 million compared to \$32.2 million as of 5/31/2022.
 - Increase of \$3.9 million from the prior year and is primarily attributed to the following:
 - Increase in appropriations and appropriated cash for increases in legislative directed payments
 - Increase in revenue
 - Timing of payments

Total Revenues, Expenses, Transfers In & Out July 2022 – May 2023



Total Revenue by Month July 2019 – May 2023





Revenue By Division July 2022 – May 2023

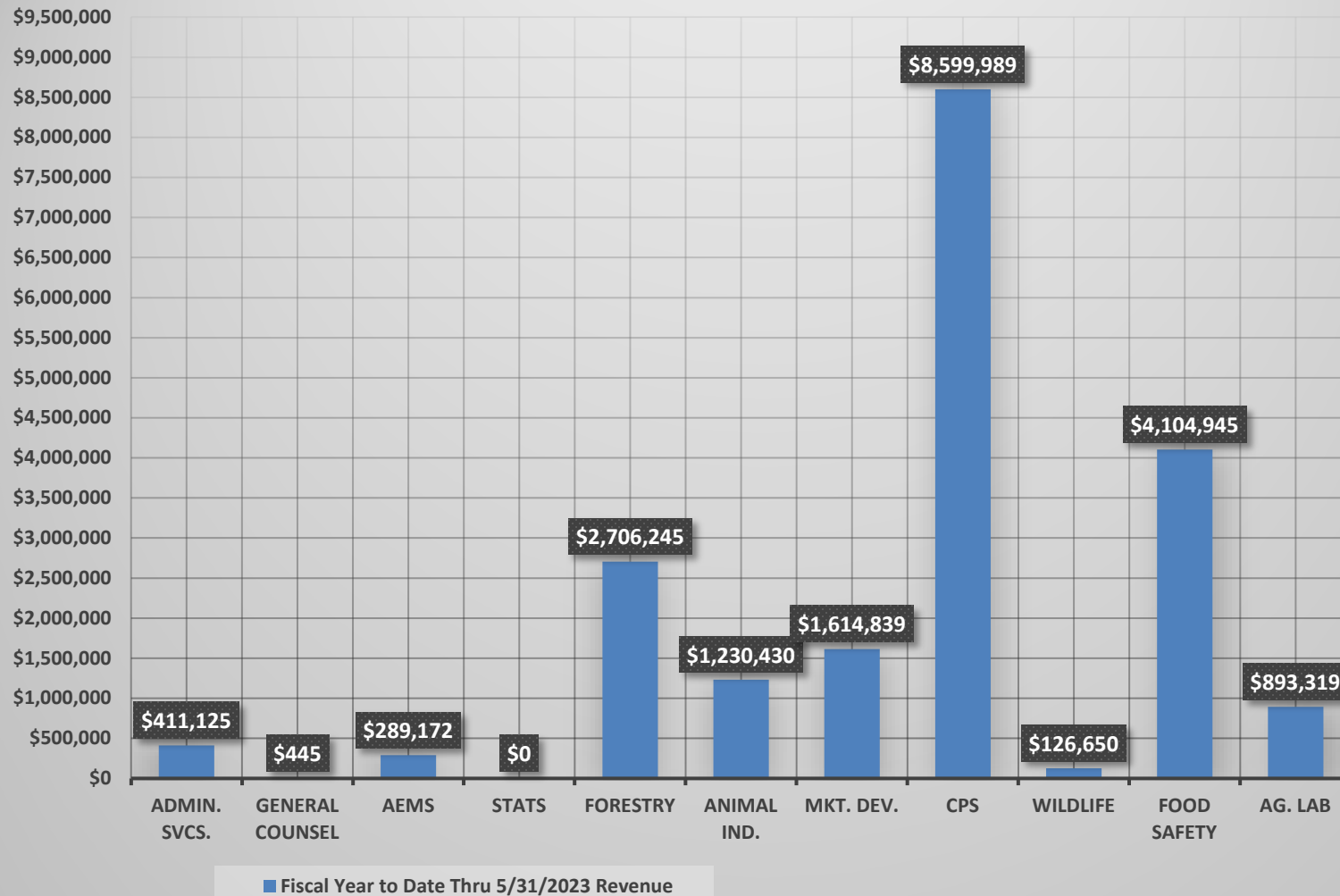
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY
PROGRAM REVENUE SUMMARY
5/30/2023

Division	May 2023 Revenue	Fiscal Year to Date Thru 5/31/2023 Revenue
Admin. Svcs.	41,192	411,125
General Counsel	-	445
AEMS	91,570	289,172
Stats	-	-
Forestry	447,696	2,706,245
Animal Ind.	88,783	1,230,430
Mkt. Dev.	231,368	1,614,839
CPS	488,363	8,599,989
Wildlife	4,800	126,650
Food Safety	619,265	4,104,945
Ag. Lab	41,824	893,319
DIVISION TOTAL (see division receipts graph below)	2,054,861	19,977,159
		-
Commodity Storage Indemnity	21,230	195,967
Appropriations	3,095,517	42,465,237
AGENCY TOTAL	5,171,608	62,638,363

Note: Clearing fund, 79901, is not included in the above table.



Revenue By Division July 2022 – May 2023



Note: Clearing fund, 79901, is not included in the above graph.

Administrative Services - Finance

- Revenues (excluding appropriations) for July 2022 thru May 2023 were \$20.2 million, compared to \$17.4 million for the same period last fiscal year.
 - This is an increase of approximately \$2.8 million
 - Primarily due to an increase in federal reimbursements
 - Additional funding
 - Timing of payments received
 - Increased revenue from
 - Sale of surplus vehicles



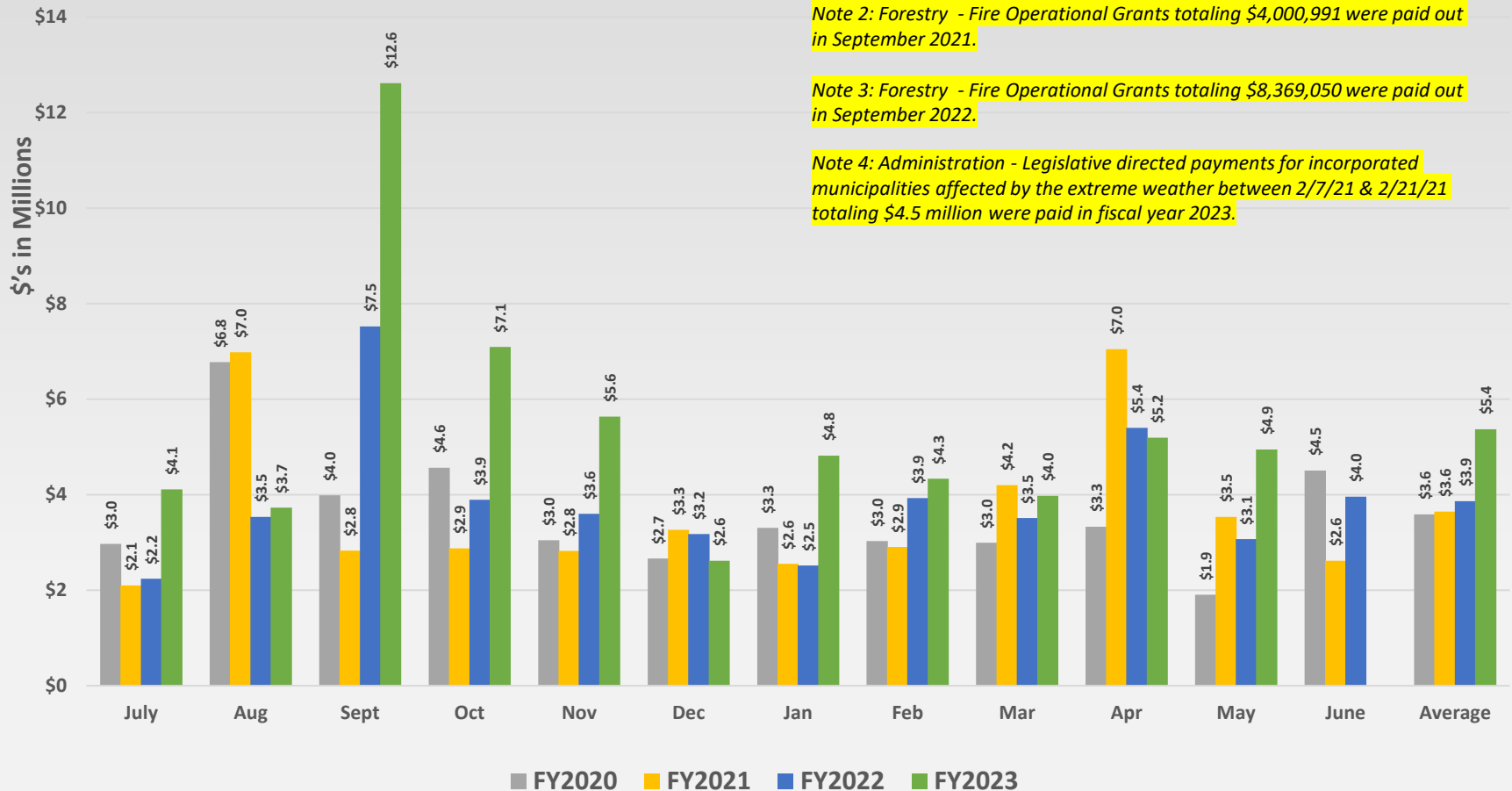
Total Expenses by Month July 2019 –May 2023

Note 1 : Forestry - April 2021 includes a \$4.2 million pass thru payment from Oklahoma Emergency Management payable to the US Forest Services for the 2018 Oklahoma fires.

Note 2: Forestry - Fire Operational Grants totaling \$4,000,991 were paid out in September 2021.

Note 3: Forestry - Fire Operational Grants totaling \$8,369,050 were paid out in September 2022.

Note 4: Administration - Legislative directed payments for incorporated municipalities affected by the extreme weather between 2/7/21 & 2/21/21 totaling \$4.5 million were paid in fiscal year 2023.



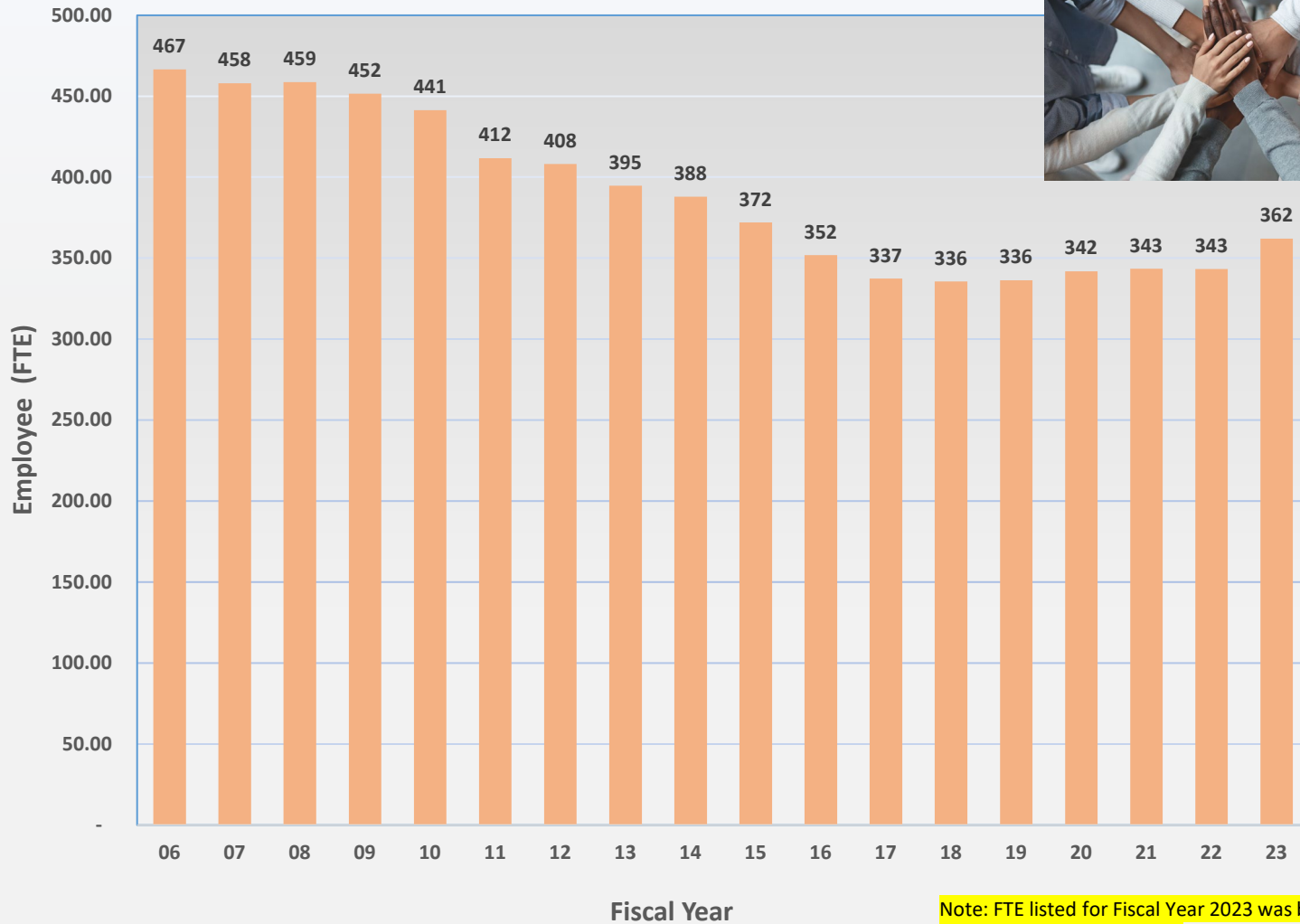
Administrative Services - Finance

- Total expenses - July 2022 – May 2023 were \$59.1 million
 - This is an increase of \$16.7 million compared to the prior year and was due to the following:
 - Increases in fiscal year 2023 legislative directed payments for:
 - OSU College of Veterinary Medicine
 - Fire Operational Grants
 - \$8.4 million paid out to Oklahoma fire stations
 - Increase of \$4.4 million from the prior year.
 - 80/20 Rural Fire Operational Grants
 - Payments to incorporated municipalities affected by extreme weather events during February 2021
 - \$4.5 million paid out
 - Timing of payments

FY 2023 Total Expenses by Month with Budget Year



Employee FTE Totals Fiscal Year FY 2006 – FY 2023

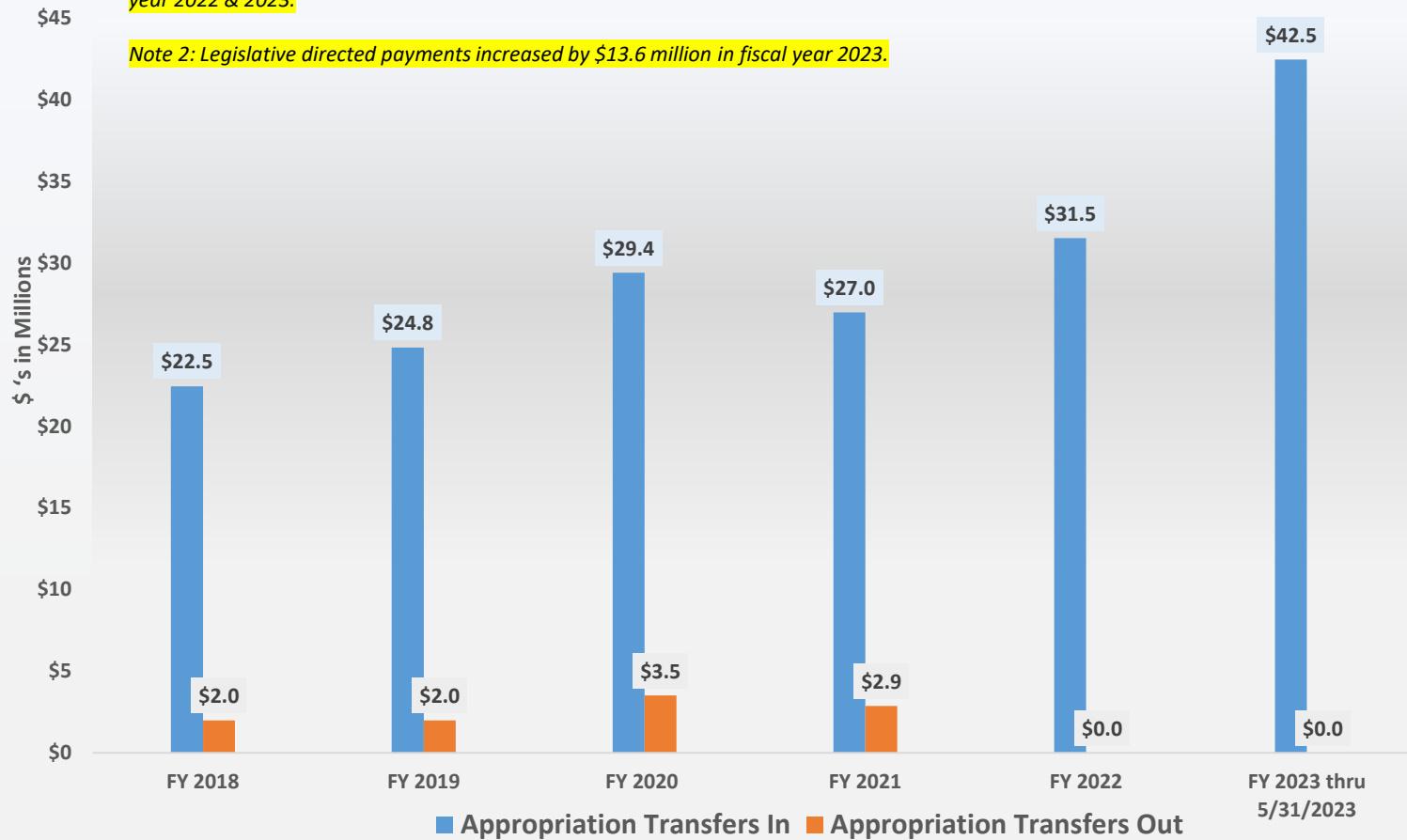


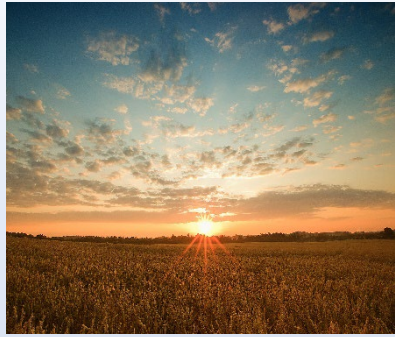
Note: FTE listed for Fiscal Year 2023 was based on the FTE as of 5/31/2023.

Appropriations FY 2018 - thru May 2023

Note 1: Legislative directed payments to OSU are processed quarterly from operating expense accounts for fiscal year 2022 & 2023.

Note 2: Legislative directed payments increased by \$13.6 million in fiscal year 2023.





Administrative Services – Commodity Storage Indemnity

Commodity Storage Indemnity			
Investment Report			
As of May 31, 2023			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,326,758
<u>FY-2023 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest Revenue		21,230	195,968
Reinsurance		-	-
ODAFF Support Services		-	(50,000)
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	21,230	145,968
		=====	=====

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

Object Code	Account Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
511	Salary Expense	23,527,278	14,971,713	11,452,256	(2,896,691)
512	Insur.Prem-Hlth-Life,etc	5,973,536	4,141,055	134,367	1,698,115
513	FICA-Retirement Contributions	4,735,708	3,562,103	-	1,173,605
515	Professional Services	3,100,583	1,425,893	1,483,785	190,905
519	Inter/Intra Agy Pmt-Pers Svcs	30,000	20,187	23,707	(13,894)
521	Travel - Reimbursements	328,702	190,282	-	138,420
522	Travel - Agency Direct Pmts	365,898	327,118	6,272	32,508
531	Misc. Administrative Expenses	1,178,520	751,343	137,124	290,053
532	Rent Expense	686,033	492,067	166,213	27,753
533	Maintenance & Repair Expense	1,415,108	860,713	146,586	407,810
534	Specialized Sup & Mat.Expense	2,182,660	788,824	789,011	604,824
535	Production,Safety,Security Exp	201,456	66,878	-	134,578
536	General Operating Expenses	300,860	94,686	-	206,174
537	Shop Expense	603,831	463,497	35,346	104,989
541	Office Furniture & Equipment	6,295,652	744,662	2,186,036	3,364,953
542	Library Equipment-Resources	932	108	-	824
543	Lease Purchases	1,703,720	1,603,146	100,573	1
544	Livestock-Poultry	-	10,053	-	(10,053)
546	Buildings-Purch.,Constr,Renov.	-	9,080	-	(9,080)
552	Scholar.,Tuition,Incentive Pmt	-	250	-	(250)
553	Refunds,Idemnities,Restitution	20,000	(42)	-	20,042
554	Program Reimb,Litigation Costs	5,265,453	11,231,357	2,498,509	(8,464,412)
555	Pmts-Local Gov't,Non-Profits	15,953,116	9,437,823	1,529,756	4,985,538
559	Assistance Pymts to Agencies	8,248,687	2,250,000	750,000	5,248,687
561	Loans,Taxes,Other Disbursements	-	294	-	(294)
564	Merchandise For Resale	140,000	-	94,900	45,100
601	AFP Encumbrances	-	-	1,412,764	(1,412,764)
810	Req Only	-	-	546,605	(546,605)
	Operating Totals	82,257,733	53,443,089	23,493,810	5,320,835

Oklahoma Department of Agriculture, Food & Forestry					
Monthly Budget Report - Budget Year 2023					
As of May 31, 2023					
Fiscal Year 2023 Annual Budget to Actuals for Budget Year 2023 thru May 31, 2023					
Class Funding	Class Fund Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
19201	GRF - Duties	-	-	0	(0)
19211	Carryover	683,679	34,169	438,760	210,750
19301	GRF - Duties	37,146,198	27,932,773	7,126,213	2,087,212
20500	Rural Fire Defense Eqp Rev Fd	140,000	-	134,630	5,370
21000	Agriculture Revolving Fund	30,629,010	14,650,611	13,280,248	2,698,151
22500	Enhancement & Diversificatn Fnd	250,000	76,381	97,959	75,661
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	68,306	281,694	-
24500	Rural Fire Revolving Fund	1,175,000	435,508	601,829	137,663
25600	Ok Viticulture Enology Revl Fd	350,000	41,499	185,683	122,818
26200	Poultry Grading Revolving Fund	1,049,479	763,327	223,025	63,127
28500	Milk & Milk Prod Inspec Rev Fd	379,817	250,299	77,524	51,994
28600	Ag In The Classrm Educ Rvlv Fd	24,000	-	6,272	17,728
28700	Healthy Food Financing Revl Fd	100,000	6,667	3,333	90,000
42000	Specialty Crop Federal Funds	690,000	435,155	481,600	(226,755)
43000	Farm and Ranch Stress Alliance	500,000	264,071	218,814	17,116
43500	Local Food for Schools Co-op	350,000	43,775	336,225	(30,000)
57604	Duties	8,414,550	8,414,550	-	0
	Totals	82,257,733	53,443,089	23,493,810	5,320,835

JULY 2023 BOARD REPORT
AGRICULTURE LABORATORY SERVICES
(May 2023 Activities)

QUALITY MANAGEMENT SECTION: (Daniel Tripp, QA Manager)

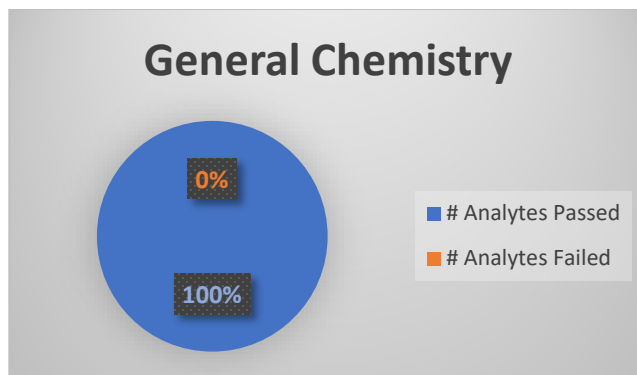
The QA Manager started the yearly internal audit for Oklahoma Bureau of Standards (OBS).

Progress has been made in the Food and Dairy Section with the autoclave validations. The Section has been working with adjusted cycle settings on the autoclave that has led to better sterilization results. This has allowed the Section and the QA Manager to plan out future autoclave validations that should yield better results going forward.

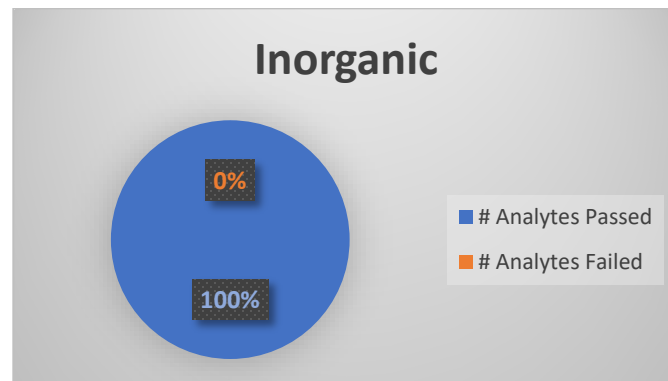
PT Results

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.

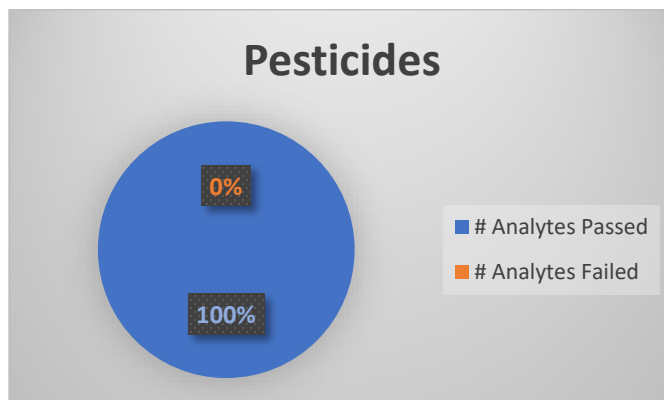
General Chemistry	
# Analytes Results Received	18
# Analytes Passed	18
# Analytes Failed	0



Inorganic	
# Analytes Results Received	4
# Analytes Passed	4
# Analytes Failed	0



Pesticides	
# Analytes Results Received	5
# Analytes Passed	5
# Analytes Failed	0

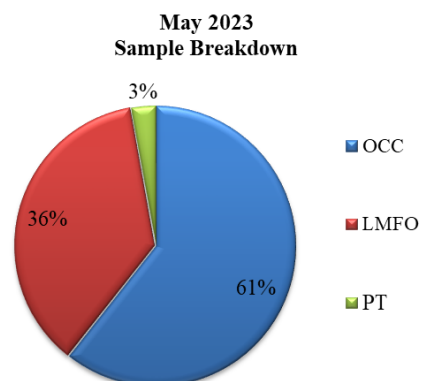
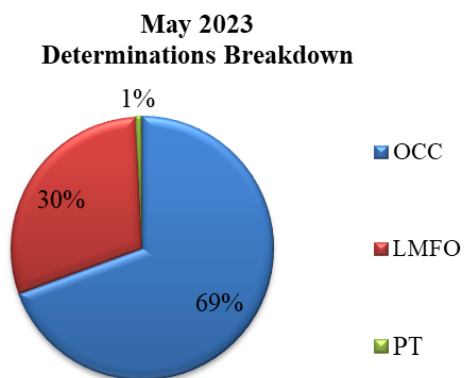


INORGANIC SECTION: (Elena Lyon, Environmental/Chemical Laboratory Scientist IV)

In May the Section completed 249 samples consisting of 1831 determinations, with the following breakdown:

May 2023 Inorganic Breakdown

Customer	Samples	Determinations
OCC	151	1271
LMFO	91	546
PT	7	14
Total	180	1831

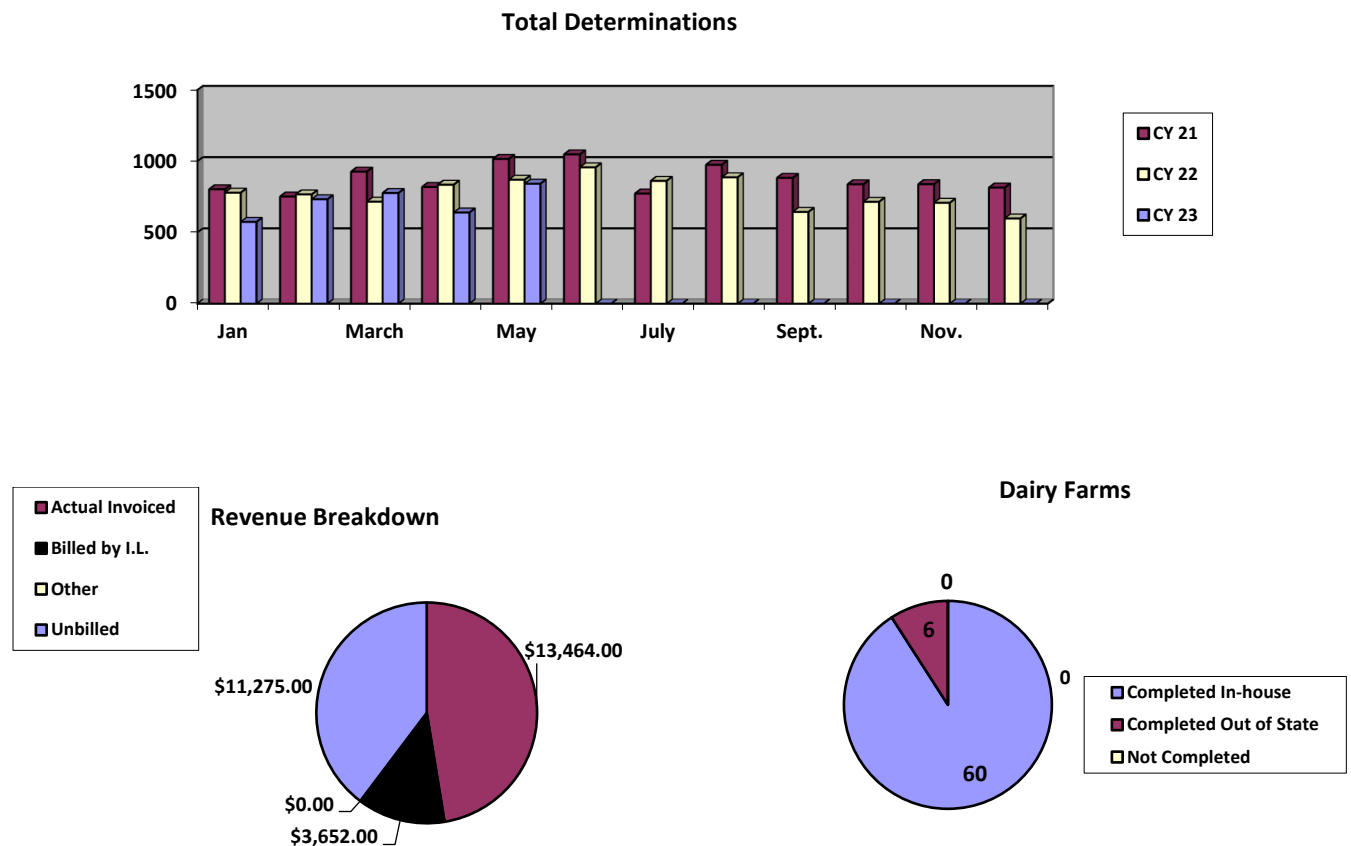


DAIRY/FOOD SAFETY SECTION: (Sharon Swyear, Environmental/Chemical Laboratory Scientist IV)

The month of May was a typical testing month for the Section. There are a total of 67 dairies that the Section tests and six have closed this year.

There was a total of 48 meat samples this month. The Section has presumptive positive results for two E. coli, two Salmonella, and four Listeria from these samples and are currently in the confirmation process.

The new molecular detection system has been received and the Section is waiting on reagents to begin validating the unit. This new system will allow the Section to screen for Campylobacter instead of sending samples to an outside lab.

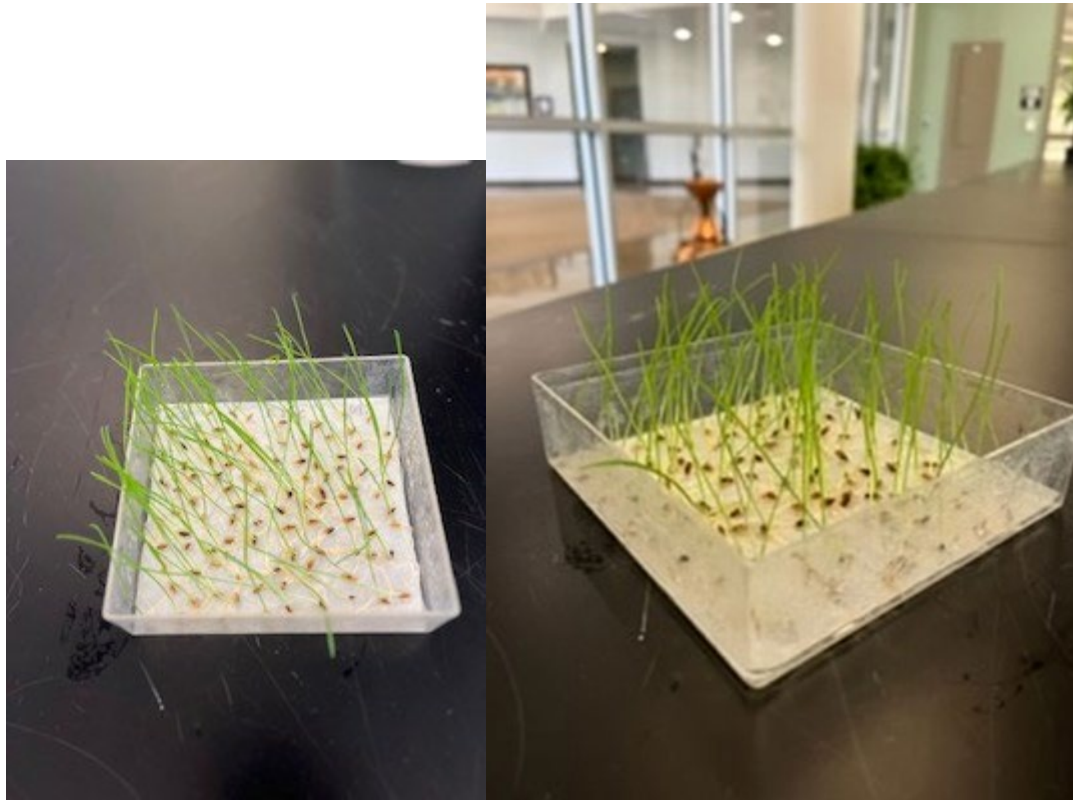


SEED SECTION: (Tori Gillispie, Agriculture Services Administrator I and Wade Krivanek, State Seed Program Administrator)

Testing remained normal for the month of May. Records indicate a total of 140 samples were received for testing. Crops being tested consisted primarily of summer crops including corn,

cotton, soybeans, summer grasses and sesame. There were no Seed Law violations discovered during the month.

The Section also successfully completed another proficiency test for seed identification through the Association of Official Seed Analysts with all species adequately identified by common name as well as scientific names



Annual Ryegrass being tested

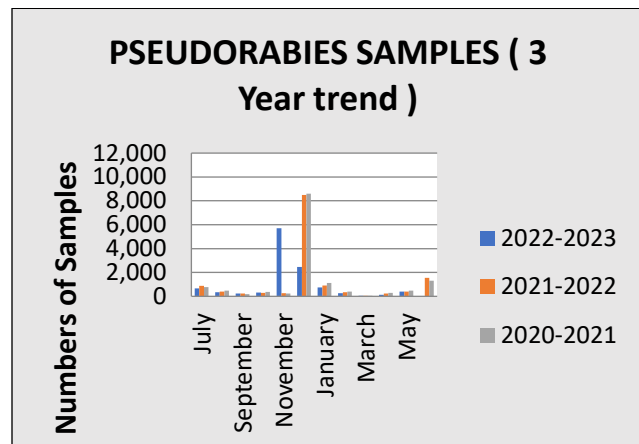
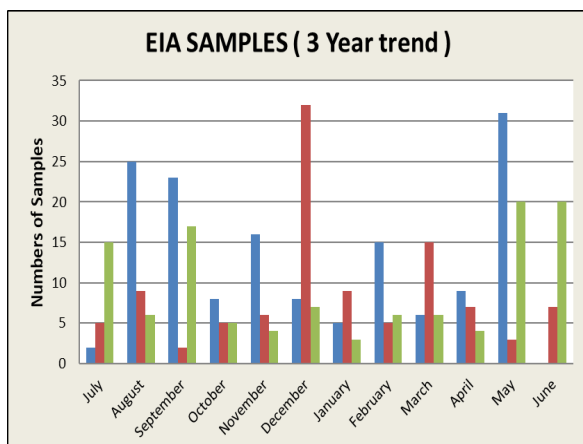


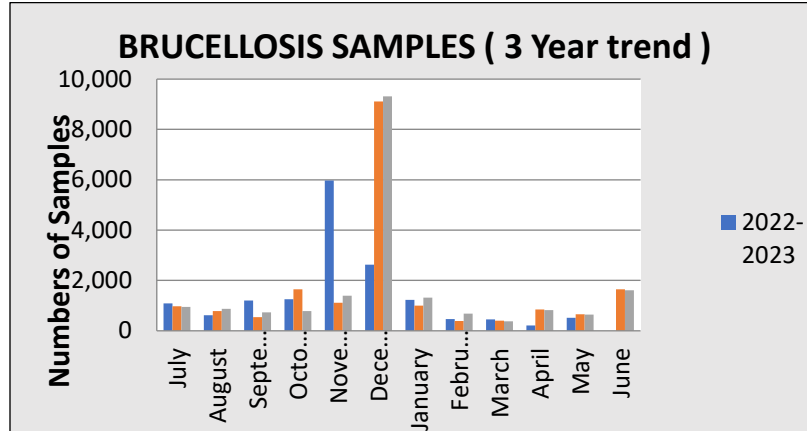
Soybean, cotton and corn being tested

SEROLOGY SECTION: (Pete Bourns, Laboratory Scientist IV)

May

3-year Summary of Samples Analyzed			
Year	Brucellosis	Pseudorabies	E.I.A.
2022	516	410	31
2021	663	406	3
2020	647	487	20





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

The Section hired a new grinder in May. The combustion analyzer which tests Protein in feeds and Nitrogen and Sulfur in fertilizers had a component failure which took a couple of weeks to diagnose, obtain parts and repair. Repairs were completed and the machine went back into service June 2nd. Ninety-eight percent of the samples are analyzed on this unit which brought the testing numbers down for the month, but will make up the sample backlog in June.

With the Combustion Analyzer being down the Section was able to focus on training. The Section made 403 determinations, completing 73 samples in May, these were samples which did not have protein or nitrogen testing requested.

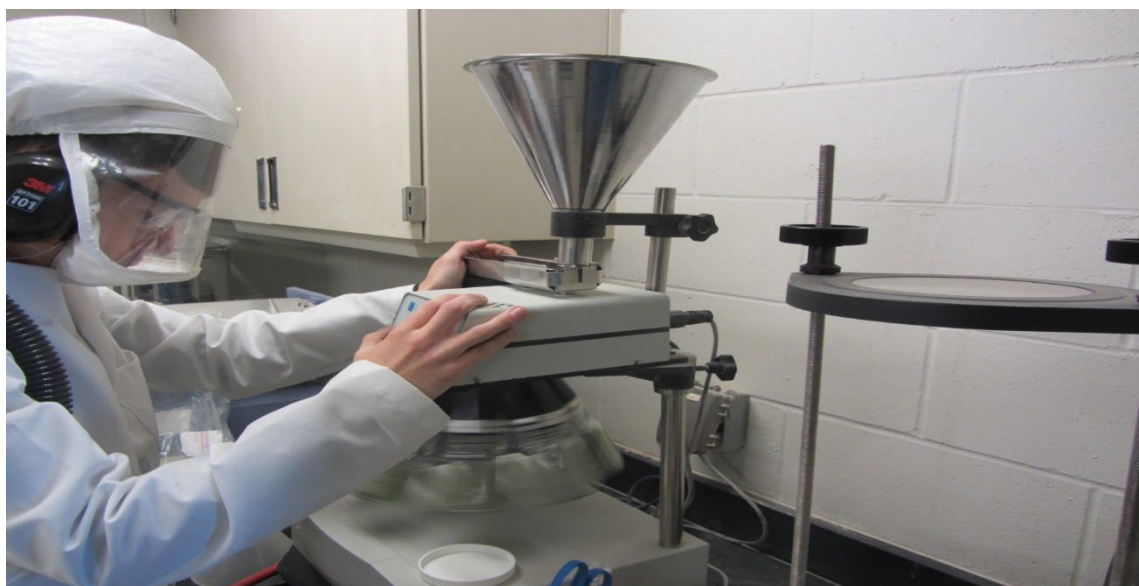
The turnaround time was 18.87 days which exceeded the Sections 18 day target.

Overview of Section numbers for the month:

	Feed	Fertilizer	Lime	Total
Samples Received	155	74	12	241
Samples Completed	58	3	12	73
Determinations	315	12	76	403
Violations	30	2	1	33
Violation %	9.52%	16.67%	1.32%	8.19%



Isaiah Ortiz using a manual riffler to mix and split a fertilizer sample to prep for grinding.



Isaiah Ortiz using a Rotary Riffler to split a fertilizer sample into the correct portion for analysis.

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

In the month of May, the Section completed 52 samples. Below is the table showing the number of samples, tests per sample, and determinations (Det.) per sample with turnaround times (TAT). The average TAT for the month is 42 days.

	Number	Test	Det.	Average TAT (days)
Residue Vegetation	5	12	68	29

Average Residue Turnaround Time: 19 days

Residue Swab	10	10	10	13
Residue Soil	17	18	32	17
Organic Act	2	2	2	24
Concentrate	6	11	19	177
Hemp	5	5	5	19
Residue Water	2	4	12	33
IFA Soil	4	4	24	16
Tank Mix	1	1	1	266

Average Formulation
Turnaround Time: 190 days

Average Hemp Turnaround
Time: 19 days

Totals		
# of Samples	# of Tests	# of Determinations
52	67	173

The Section received 72 samples for the month. Most of the samples received are for Residue Analysis (see Fig A).

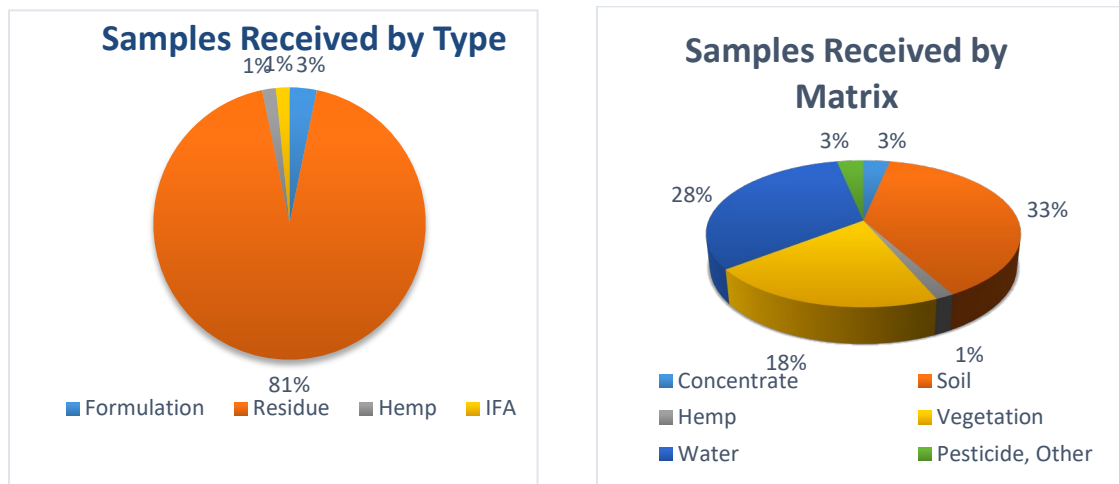


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right).

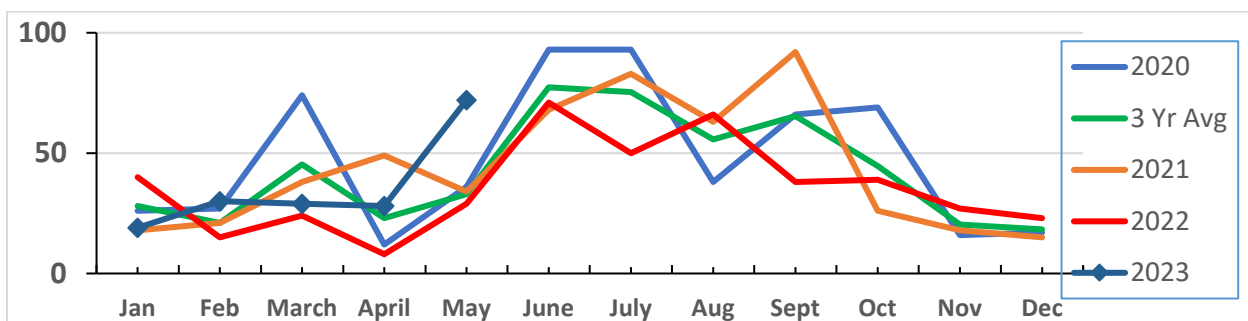


Fig B. Graph showing the number of samples received by the Section each month.

Determinations the Section completed by month:

For the month of May, the Section completed 173 determinations with most of the determinations are done on residue vegetation samples.

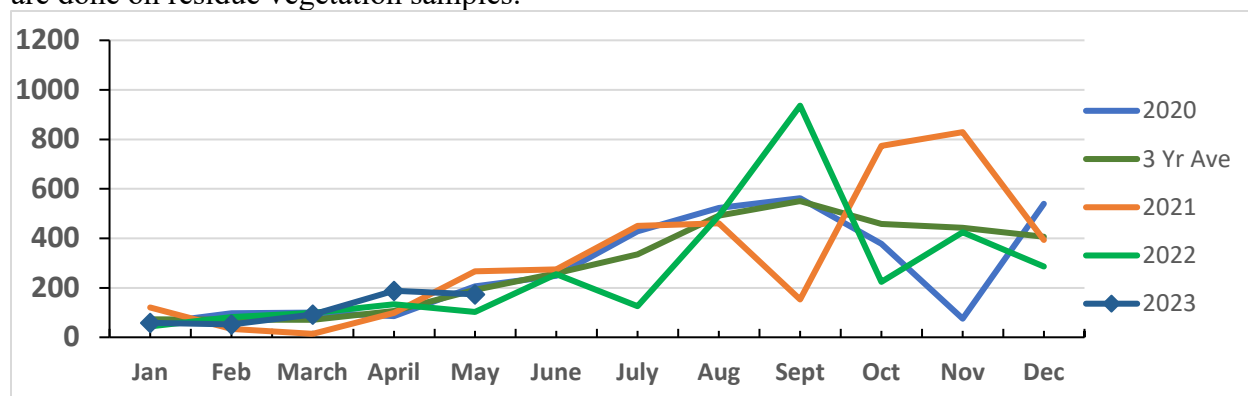


Fig C. Graph showing the number of determinations completed each month.

OKLAHOMA BUREAU OF STANDARDS: (William Krivanek, Metrologist I)

The following is a workload summary for the Oklahoma Bureau of Standards from May 1st through May 31st.

During May the Section maintained a fair amount of appointments, despite the Bureau's current situation regarding accreditation and recognition. Multiple appointments will be retained during the month of June as well. Clients who are unable to retain their appointments with the Bureau have continuously asked to be contacted when accreditation and recognition resume to an active status. The Section will be completing volume calibrations for the Oklahoma Corporation Commission for two full weeks in June, and is also experiencing a beneficial mixture of Mass III artifacts and Volume artifacts throughout various appointments. This creates a great training atmosphere. Richard Gonzales continues to train Termelia Hogg, Eli Klimek and William Krivanek at this time. Termelia Hogg and William Krivanek recently received approval to attend Fundamentals of Metrology training at NIST in August of 2023. This is great news, as the Bureau is making substantial progress in being able to return to a healthier workload in the future.



Pictured above: Richard Gonzales is operating the forklift and relocating the bureau's 25 gallon volume standard.

Pictured below: Eli Klimek is performing a volume calibration test on a 5 gallon test measure that is owned by the Oklahoma Corporation Commission.

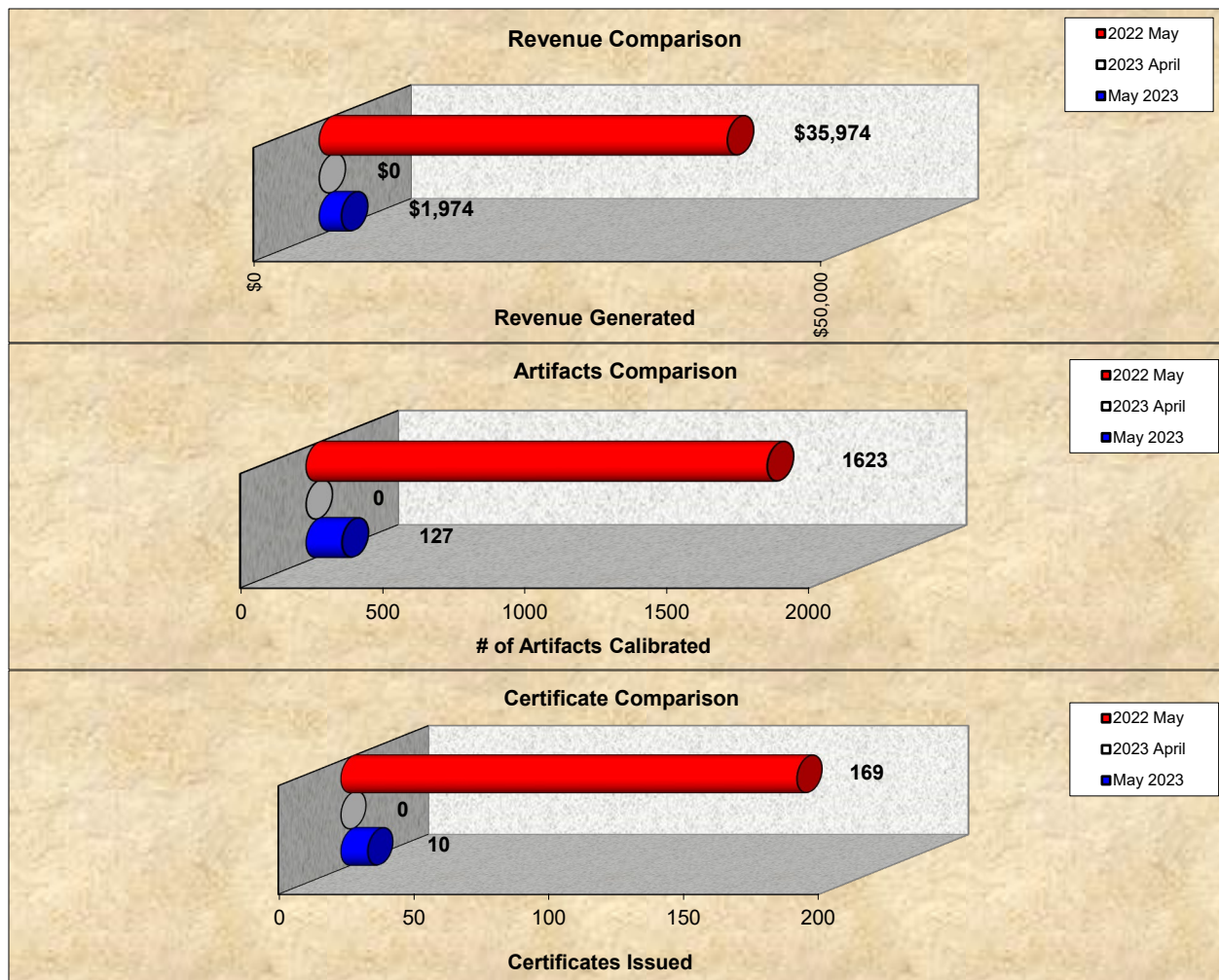




Pictured above: Termelia Hogg is completing daily checks on the Bureau's KA50-2 balance.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	0	\$0.00	0.00%	0	0.00%
In-State Customers	4	\$1,974.00	100.00%	127	100.00%
Totals	4	\$1,974.00	100.00%	127	100.00%

Echelon	Total Fees not Charged	# Working Days Lead Time to Next Available Date for Calibration
Mass I / II	\$0.00	0
Mass III	\$0.00	0
Volume	\$0.00	8



Respectfully Submitted,

Wade Krivanek
Laboratory Director
Laboratory Services Division

BOARD REPORT
AGRICULTURAL LABORATORY SERVICES
MAY 2023 ACTIVITIES

FEED SAMPLES	155
FEED DETERMINATIONS	315
POSSIBLE VIOLATIONS	30
 FERTILIZER SAMPLES	 74
FERTILIZER DETERMINATIONS	12
POSSIBLE VIOLATIONS	2
 LIME SAMPLES	 12
LIME DETERMINATIONS	76
POSSIBLE VIOLATIONS	1
 PESTICIDE SAMPLES	 52
PESTICIDE DETERMINATIONS	173
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 180
DETERMINATIONS	1831
 STATE-FEDERAL VET. LAB. SAMPLES	 957
STATE-FEDERAL VET. LAB. DETERMINATIONS	1211
NUMBER POSITIVES	0
 SEED SAMPLES	 140
SEED DETERMINATIONS	143
POSSIBLE VIOLATIONS	0
 BUREAU OF STANDARDS CERTIFICATES	 10
NUMBER OF STANDARDS CALIBRATED	127
FEE CHARGES	\$1,974.00
 DAIRY SAMPLES	 454
DAIRY DETERMINATIONS	842
POSSIBLE VIOLATIONS	29
 TOTAL SAMPLES	 2034
TOTAL DETERMINATIONS	4730
TOTAL POSSIBLE VIOLATIONS	62



OKLAHOMA FORESTRY SERVICES BOARD REPORT

Division Activities from May 19, 2023 – July 6, 2023

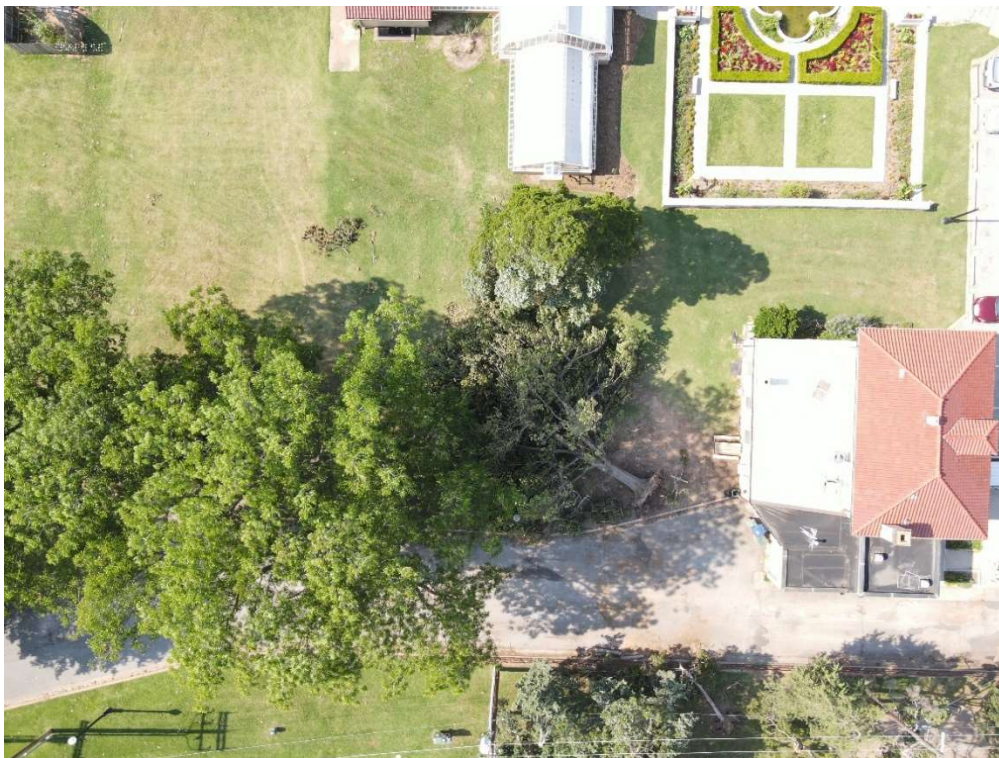
Serving Oklahomans by conserving, enhancing, and protecting our forest and natural resources for present and future generations. Forestry Services' board report is formatted to reflect the priorities of the National Cohesive Wildland Fire Management Strategy, which include Resilient Landscapes, Fire Adapted communities, and Wildfire Response.

URBAN AND COMMUNITY FORESTRY PROGRAM HIGHLIGHTS

Tulsa City Parks Storm Damaged Trees

With Urban Forestry Coordinator Mark Bays as Incident Commander and Urban & Community Partnership Coordinator Riley Coy as Strike Team Leader, the Southern Group of State Foresters Urban Forestry Strike Team was deployed to Tulsa from June 27 through June 30, 2023. Eight team members from OFS were joined by three from the Arkansas Forestry Commission: two from the Virginia Department of Forestry, and one from Texas A&M Forest Service. Tulsa City & County Parks staff also joined the effort.

Fieldwork consisted of a damage assessment & inventory. This inventory will help Tulsa City and County Parks set priorities and meet reporting requirements for FEMA reimbursements needed to put the city's and county's parks back into full operation.



***Aerial view of typical urban tree canopy damage associated with the severe storm that impacted Tulsa on June 4, 2023
(Note large, wind-toppled tree to left of home)***

Proper Pruning Class

Mark Bays conducted a tree pruning class for the Garden Club at the All Souls Episcopal Church in Oklahoma City. There were 45 members in attendance and they learned the latest techniques for pruning both young and older trees.



Oklahoma City Survivor Tree

On May 30 Bays met with Memorial staff at the Survivor Tree and assisted with routine minor pruning of the tree. Certified Arborists from Professional Tree Care were also on-hand to climb into the tree and reduce the weight of larger branches throughout the tree.

Choctaw and Harrah

On June 20, Riley Coy presented to 30 people in Choctaw about common problems with Oklahoma Trees.

On June 22, Riley presented to the Harrah Rotary Club on the history of Oklahoma Forestry Services and the duties and operations of a forester within the agency.



Neighborhood Natural Woodlands Trail

On June 19th Mark Bays and Riley Coy met with developer David Yost in Stonemill Estates in Oklahoma City. They walked a community trail through a section of native Cross Timbers Forest and helped identify trees that posed an elevated risk of harming trail users. Large dead branches overhanging the trail and other risks were identified. Management objectives to maintain the health and condition of the woodland were also discussed.

COMMUNITY OUTREACH AND COMMUNICATIONS

FORESTRY EDUCATION

Forestry Education Highlights



The 65th Annual Oklahoma Forestry Youth Camp took place June 5-10 in Beavers Bend. 44 campers aged 13-15 spent the week with us and learned all about different aspects of forestry. We had learning sessions on ecology, forest management, fire, wildlife, urban forestry, invasive species, wood turning, and more! Everyone learned new skills, and several kids are looking forward to careers in forestry.



On June 21, Education Coordinator Tony Pascall went to 4-H Camp Lew Wentz in Ponca City to teach about dendrochronology and the life of a forest to over 40 campers.

COMMUNICATIONS

Southern Group of State Foresters Annual Meeting

Information Representative Keith Merckx was a Incident Management team member for the meeting. Among his key duties:

- Oversaw/completed all graphic design elements for the meeting including
 - o Meeting signage
 - o Printed materials including the full program
- Served as POC for sponsors to accommodate display needs and to ensure proper logo usage/placement
- Photographic documentation of the event



Healthy Trees, Healthy Lives

Merckx created a design for a custom bandana created using an HTHL grant. The bandana is an extra-large (27"x27"), USA-grown cotton model that is printed in the USA at a facility using solar power. Additionally, he worked to commission sustainably made wooden flash drives with engraved HTHL and OFS logos. Keith created graphics for a retractable banner to be used during visits at which printed OFS-branded HTHL brochures will be handed out that illustrate how Healthy Trees mean Healthy Lives.

SGSF Urban Forestry Strike Team Publicity

Keith organized publicity for the Urban Forestry Strike Team deployment to Tulsa resulting in widespread, favorable coverage for OFS and for Tulsa City Parks.

News coverage of the deployment:

[FOX 23 Tulsa](#)

[KJRH Tulsa Channel 2](#)

[NewsChannel 8 Tulsa](#)

[Tulsa World](#)

[Oklahoma Farm Report](#)

PROGRAM HIGHLIGHTS FROM THE EASTERN AREA OFFICES

NORTHEAST AREA

Forest Protection Highlights

From May 12st through June 30th, the Northeast Area had 3 fires for 83.4 acres in the protection area. Craig Longshore met with Camp Gruber officials to discuss the opportunity for an OFS engine academy. Cole Hix and Craig Longshore conducted interviews for the Park Hill Forest Ranger I position on June 29th. NE Area Rangers assisted with fuels reduction in the Tulsa area.

NE Area held a retirement party for Tim Reno. Tim worked for 36 years as a Forest Ranger at the Jay District.



Forest Management/Program Highlights

Evan Long assisted nine landowners regarding issues such as tree health, disease, and stewardship planning. Evan completed two Forest Stewardship plans, one in Cherokee County and one in Adair County. Evan assisted with the Southern Group of State Foresters Annual Meeting held in Oklahoma City. He is currently assisting with the Urban Forestry Strike Team to aid in the remediation of hazard trees within parks in the Tulsa Metropolitan area. Connie Robinson assisted 17 landowners with site visits or calls regarding various forestry issues. She completed one Forest Stewardship plan for a property in Creek County. She also assisted with placement of Emerald Ash Borer traps in the NE Area. Connie participated in the Southern Group of State Foresters Specialties, Utilization and Marketing Committee meeting in OKC.

EAST CENTRAL (EC) AREA

Forest Protection Highlights

Since the last board report date of May 12, 2023, EC has suppressed one fire that burned 1.0 acre. One primary structure at a value of \$280,000 and one secondary structure at a value of \$40,000 was saved.

Prescribed Fire

EC rangers completed one private landowner prescribed burn on 210 acres.

Forest Management Highlights

Five new forest stewardship plans were completed since last report on a total of 674 acres.

EC forester Tommy Frampton assisted forester Riley Coy with the Urban Forestry Strike Team tree damage assessment following the tornado that impacted parts of Tulsa.



Information / Education Highlights

EC foresters along w/ NE, SE, and HQ staff helped host the Southern Group State Forester's meeting in OKC June 11-17. The meeting went very well and all participants seemed very appreciative of the effort put forth by OFS on the planning and hosting of the meeting.



EC rangers, in cooperation with Choctaw Nation Forestry, conducted two fire prevention programs for local summer school. Approximately ten children were reached.



Personnel update

EC's recent ranger vacancy in the Quinton Unit was filled April 10. Brett Boland is OFS's newest Forest Ranger in EC Area.

EC Area will be conducting ranger interviews for the Adamson unit with hopes of finding a qualified applicant for the position. The position duties will consist of dozer operation during OFS wildfire and prescribed fire activities, assistance with forest management, and various other duties within the protection area and across the state.

Aaron "Abe" Grey, Blanco unit Ranger, retired after 31 years of service to create our most recent ranger vacancy. OFS plans to announce the open vacancy soon.



Safety / Training Highlights

A new employee, Brett Boland, completed Basic Wildland Firefighter training in order to provide a presence on the fireline in support of wildfires and prescribed fire activities. These courses train new firefighters in basic wildland firefighting skills. Brett Boland and Traven Sumpter also attended a 3-day Heavy Equipment Operations class in Little Rock, AR to further support their learning and development in the operation of wildland fire bulldozers.

One forester and several EC rangers also attended S-212 Wildland Fire Chainsaws, S-290 Intermediate Wildland Fire Behavior, S-390 Introduction to Wildland Fire Behavior Calculations, and L-280 Followership to Leadership to continue to move forward in their roles with wildland fire and prescribed fire.

Ongoing Issues

One of the past issues regarding CDL training has been resolved by OFS becoming registered as a training provider for CDL Entry Level Driver Training (ELDT).

The ELDT requirement was implemented by the Federal Motor Carrier Safety Administration and sets the baseline for training requirements for entry-level drivers wishing to obtain their Class A or Class B CDL for the first time. Originally, the only option for new OFS employees was to attend a 5-week truck driving school at a cost of \$4,500-\$5,500. The cost, plus class availability, looked to be a big hurdle for OFS to clear but by becoming a registered training provider this should ease the burdens associated with hiring new rangers.



SOUTHEAST AREA

Forest Protection Highlights

- In Protection Fires: May had 2 fires for 6 acres; June had 2 fires for 4.1 acres
- Jeffrey Kemp attended/completed dozer academy in N. Little Rock.
- Conducted interviews for the Pickens Forest Ranger vacancy. A selection has been made and currently working with potential new hire for completion of drug testing and pre-hire physical.

Forest Management/Programs Highlights:

- Will Phifer had 9 landowner contacts,
- JT Allen had 20 landowner contacts,
- Tyler Hyatt had 11 landowner contacts

Prescribed Fire Assistance:

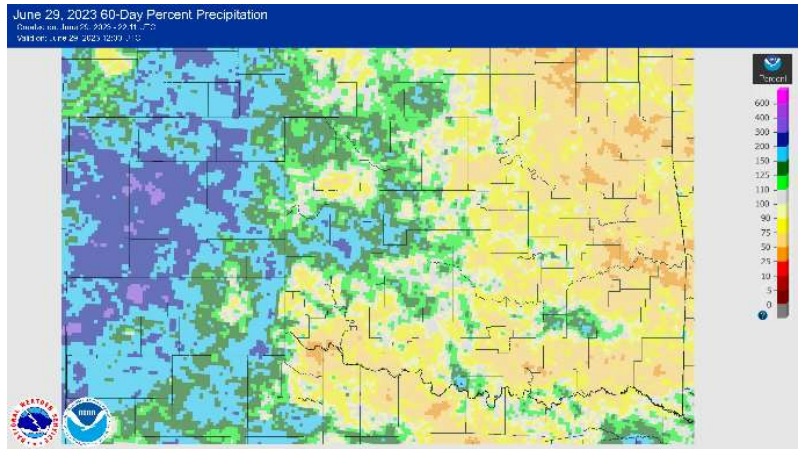
- Jimmy Crawford Prescribed Fire – 60 acres

Safety/Training Highlights:

- Antlers had three safety meetings covering wildland urban interface, backing accidents, and chainsaw safety.
- Several rangers provided security during Forestry Camp.
- Don Cook attended CERT – Community Emergency Response Training – at Hochatown. CERT trains volunteers in basic disaster response skills including fire safety, light search and rescue, team organization and disaster medical operations. During the training, Don was able to give some insight as to the wildland urban interface occurring in Hochatown development areas. He also was able to facilitate some discussion as to the processes and procedures during a wildland fire emergency in Hochatown. Developing relationships with the key personnel in the now incorporated town of Hochatown is vital as the municipality moves forward in their planning and organization. 20-25 people attended this event.
- Don Cook, Oley Walker and Sonny Johnson provided S130/S190 training to new Weyerhaeuser employees and provided refresher training for all Weyerhaeuser employees and contractors.
- Leon Macon – Forestry Fire Control Officer completed the following online training this month:
 - A-100 Basic Aviation Safety
 - A-109 Aviation Radio Use
 - A-110 Aviation Transportation of Hazardous Materials
 - L-180 Human Factors in the Wildland Fire Service
- Jeffrey Kemp, new hire Ranger 1, has completed S130/190, ROV/UTV Class, First Aid and Defensive Driving.
- All IQS information for red cards is up to date and correct.

Employee Recognition/Other:

- James Hamilton, Ranger III, retired Friday, June 30th with 46 years of service with Oklahoma Forestry Services.
- JT Allen, Tyler Hyatt, and Tama Lester supported the Southern Group of State Foresters Conference in OKC.
- Several SE employees donated items to the Silent Auction for the SGSF meeting. Those employees are Tony Macon – 3 had forged knives; Leon Macon – a set of flint knapped arrowheads and some petrified wood in a glass case; Presley Byington – a Choctaw Courting Flute and Tama Lester – a knife with hand tooled scabbard.



Upcoming events/activities:

- Adam Burleson, Kent Kellogg, and Corey Kellogg will present a fire prevention program for the Antlers Wildlife Center on June 30.

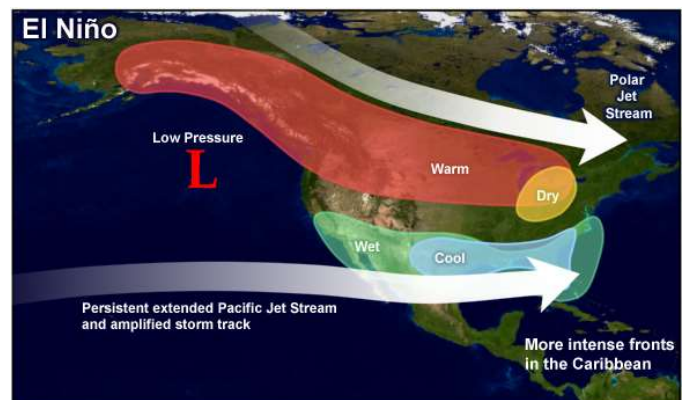
FIRE STAFF REPORT

Wildfire Activity & Outlook Executive Summary:

Wildfire activity remains below normal for the year so far with OFS resources responding to **274 wildfires burning 34,504 acres**. In stark contrast, OFS responded to 728 wildfire incidents that burned in excess of 168,000 acres during the same period in 2022 which was a bit more in line with normal expectations. Even with the lighter wildfire activity, there have been a handful of high-impact days such as March 31, 2023 when fires proved difficult to suppress and resulted in a number of structure losses and fire activity taxing local resources as they moved quickly across the landscape. Late spring rains quelled wildfire concern to large extent noting that summer heat and maturing grasses will support potential for wildfire activity later in July through the remainder of summer during periods where separation from rain eclipses 7-10 days.

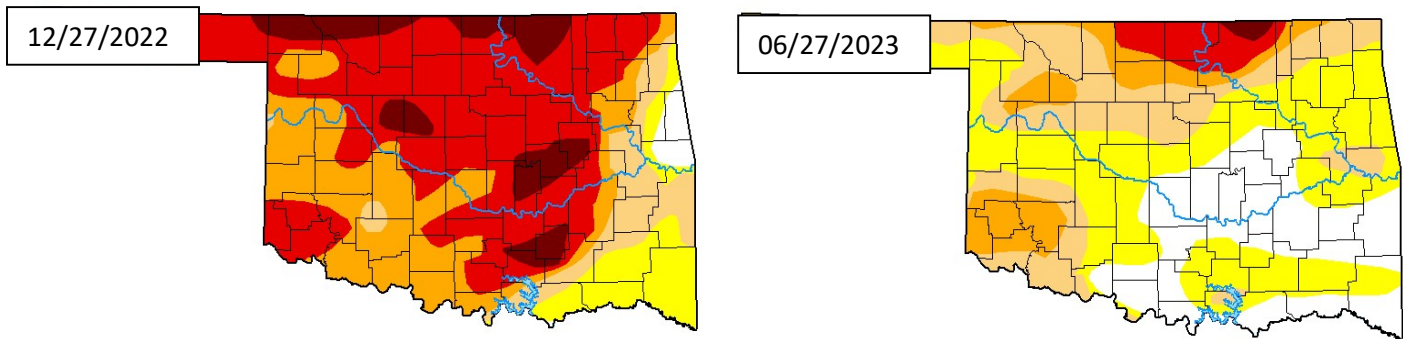
Prescribed fire activity was limited during much of the dormant season due to the short windows of opportunity in the southeast while prolonged drought in northern and western Oklahoma developed into a barrier for implementing burn plans. Nonetheless, OFS has completed **41 Rx Fires treating 7,536 acres** to date in 2023 with a number of burns either planned or in the process of plan development from implementation during the late growing season and fall.

The transition from La Nina to El Nino phase of the southern oscillation has developed rather rapidly. The tail end of June introduced well-above normal temperatures providing a spooky start to summer regarding heat although in the weeks preceding summer solstice, rainfall returned to the drought-impacted north and western counties. The expectation with El Nino summer in Oklahoma is hard to pin down as a warm/dry expectation in the northern United States and trending cooler/wetter conditions to our south occurs. So far, rain returning to the drought-stricken areas has prompted a flush of herbaceous growth. Currently, El Nino conditions are expected to persist through the summer and fall strengthening into winter. A recent strong El Nino cycle was experienced in during the '15/'16 dormant season when significant wildfire occurrence was realized (ex. Anderson Creek Fire/Woods County-367,000+ acres, Buffalo Fire/Harper County-18,000+ acres, 350 Complex/Woodward County-57,000+ acres and Pharoah Fire/Okfuskee County-24,000+ acres). A close monitor



of equatorial Pacific Ocean water temperature increasing above 2°C will serve as a bit of a benchmark, and one of the inputs utilized for gauging wildfire potential later this year and into 2024.

The initial stages of drought recovery are ongoing with much of the state returning to near normal rainfall while the Panhandle and some western counties have registered 150%+ normal rainfall in the past 60-days. Drought recovery is a challenging hurdle to overcome evidenced by some lake/reservoir levels struggling to overcome the deficit incurred over the last year or so. Hulah Lake and Copan Lake in Osage and Washington Counties respectively remain well below normal pool. One could look to Optima Lake in Texas County as well although that impoundment has never reached pool level since construction in the late-70's. Nonetheless, drought conditions continue to improve gradually.



STATE FORESTER ACTIVITIES from 19 May to 7 June 2023:

- Attended scheduled Director's Meetings
- Virtually attended one Steering Committee meeting for the *S-520 Advanced Incident Management Course* (Goeller serves as a Subject Matter Expert/Cadre/Steering Committee member)
- Hosted and attended the National Association of State Foresters (NASF) Wildland Fire Committee in Oklahoma City
- Participated in NASF Farm Bill Policy calls with US Representative Lucas' office in Washington, DC
- Participated in three calls with US Representative Lucas' office in Washington, DC regarding fire weather forecasting and firefighting issues
- Attended the June Board of Agriculture Meeting
- Attended the June monthly meeting of the Oklahoma Rural Fire Coordinators
- Attended the Southern Group of State Foresters Annual Meeting to be held June 12-15 in OKC
- Participated on a US Forest Service conference call regarding BIL-IRA funding
- Participated on the National Association of State Foresters' All State Foresters Monthly Policy Call
- Attended National Pork Board Planning Meeting for a depopulation exercise to be held in August
- Attended the National Association of State Foresters' Executive Committee Meeting in Washington, DC.
- Virtually attended one meetings of the Community Wildfire Defense Grant Program Policy Development team
- Attended Forestry Services' Budget Planning Sessions
- Met with Tulsa City & County Parks leadership regarding severe storm impacts to their parks
- Attended a quarterly meeting of the Oklahoma All-Hazards Incident Management Team Advisory Group
- Met with OSU Fire Service Training leadership regarding an upcoming training grant opportunity

Respectfully submitted,

Mark E. Goeller, State Forester/Director, Oklahoma Forestry Services



CONSUMER PROTECTION SERVICES DIVISION

JULY 21, 2023 BOARD MEETING REPORT FOR APRIL/MAY/JUNE 2023

PESTICIDE SECTION

Pesticide Registration Activity

Pesticide registrations for April 1st to June 29th, 2023 are presented in the following chart. A total of 5657 products were registered, of the products registered 5347 were renewals and 310 were new. There were 298 products cancelled.



Pesticide Samples

Pesticide samples taken April-June 2023 are presented in the following chart. A total of 149 Residue, 6 Concentrate, 20 Pollution, and 2 Tank mix samples were taken.

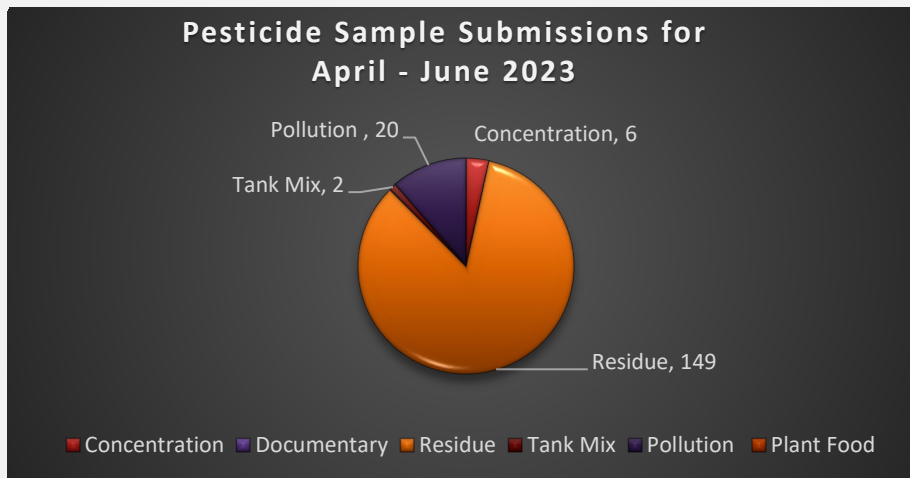


Table 1. Inspection Count for April - June 2023*

Inspection Type	Number of Inspections			
	April	May	June	Three Month Total
Experimental Use Permit	0	0	0	0
Marketplace	41	22	57	15
Pesticide Applicator Facility	21	9	21	10
Pesticide Service Inspection	0	0	0	0
Restricted Use Pesticide Dealer	12	4	7	6
Container Containment Inspection	0	0	2	1
Producer Establishment	0	0	2	0
Use	78	48	65	28
Termite	0	0	0	0
Wood	0	0	1	0
Pre-treat	1	6	0	1
Drift Investigation	0	0	1	0
Pesticide Label	2322	1318	62	949
Worker Protection	0	1	4	5
Total	2475	1408	222	1015

* 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 59 nonagricultural use samples, 73 agricultural use samples, 9 nonagricultural follow up samples, 34 agricultural use follow up samples and 2 marketplace samples for a total of 177 samples.

EPA Region VI/States Fall Meeting

Ryan Williams, Megan Parker, Damardray Williams, and Kenny Naylor hosted the EPA Spring Meeting at ODAFF on May 16th & 17th. This meeting is an open discussion between EPA and the states in Region VI to discuss issues of concern. EPA discussed their program priorities and funding projections for this upcoming year.

State FIFRA Issues Research Evaluation Group (SFIREG)

Ryan Williams, CPS Assistant Director, represented Region 6 at the June 5th – 7th, 2023 SFIREG meeting in Jackson, TN.

The State Issues Research and Evaluation Group is a network of state officials interested in Federal/State “co-regulation” of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). It was established by the Association of American Pesticide Control Officials (AAPCO) with financial support from the U.S. Environmental Protection Agency (EPA). As part of its cooperative agreement with AAPCO, EPA is substantially involved in SFIREG.

SFIREG plays a valuable role in maintaining information exchange and cooperation between the states and EPA to enable states to play a meaningful role in the development of pesticide policies and regulations. SFIREG identifies issues, analyzes them, and provides oral and written comments to the Office of Pesticide Programs (OPP) in EPA’s Office of Prevention, Pesticide & Toxic Substances (OPPTS) on pesticide matters impacting the states in such areas as: registration, training and certification, water quality, endangered species, disposal, and other areas of environmental concern related to pesticide manufacture, registration, use and disposal. SFIREG performs the same function for the Office of Compliance in EPA’s Office of Enforcement and Compliance Assurance (OECA) about compliance with and enforcement of FIFRA and regulations pursuant thereto. In addition, SFIREG provides a mechanism for states to obtain regular updates on EPA’s pesticide regulatory program.

Pesticide Licensing & Certification

Licensing & Certification:

PSI Services who conducts the applicator testing for ODAFF has been part of discussions with Oklahoma Panhandle State University on adding them as a new testing center location for applicators.

ODAFF has had regular meetings with Kelly Solutions (KRS) on the status of private applicator CEU database. All private applicator CEUs from internal spreadsheet currently used have been imported to KRS. ODAFF is still waiting on the ability to edit courses in house and the user interface for private applicators to lookup their own CEU accounts.

ODAFF mailed out 4,858 letters to private applicators that must retest to renew their license for the upcoming period. Private applicators may start their retesting on July 1st and the letter contains all pertinent information for testing procedures. ODAFF will also be sending out letters to all private applicators who have CEU’s explaining what they need to do going forward for the next licensing period.

Pesticide Complaints

PESTICIDE COMPLAINTS		May 16, 2023 – June 30, 2023		
	RECEIVED	CLOSED	WARNINGS ISSUED	NO ACTION
CONSUMER GENERATED:	38	6	3	6
MUSK THISTLE:	17	0	0	0
PMR CASES:	6	6	9	6
CASES REFERRED TO OGC:	12			

ENVIRONMENTAL RESOURCE AND HORTICULTURE SECTION

Plant Protection Program

Phytosanitary Certificates

Federal phytosanitary certificates Issued from May 1, 2023 – June 30, 2023

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

28 Federal phytosanitary certificates issued @ \$106.00 each

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

5 Federal phytosanitary Certificates issued @ \$61.00 each

<u>Federal Phytosanitary Certificates (May 1, 2023 - June 30, 2023)</u>			
Country	Product	Quantity	Phytos Issued
Canada	Assorted Plants	4,706 plants	7
	Sesame Seed	5 Kg	1
Indonesia	Miscanthus Seed	40,000 Kg	2
Mexico	Sesame Seed	676,549 Lbs	16
Netherlands	Barrelclover Seed	2 G	1
Poland	Barrelclover Seed	2 G	1
Republic of Korea	Assorted Logs	222 Logs	2
Spain	Barrelclover Seed	10 G	1
Thailand	Miscanthus Seed	44,000 Kg	3
Vietnam	Assorted Logs	67 Logs	1

Companies applying for federal phytosanitary certificates:

Ace Logistics 1
Greenleaf Nursery Company 7
International Ingredient 5
OSU Biosciences 4
Sesaco 17

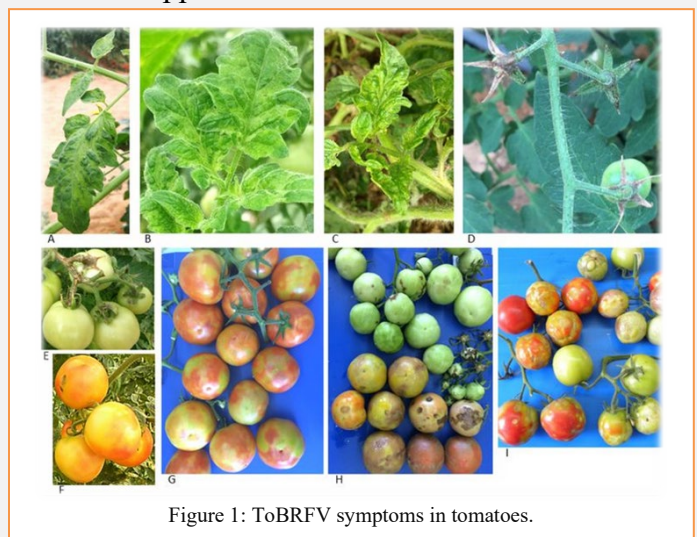
State phytosanitary certificates Issued from May 1, 2023 – June 30, 2023
306 phytosanitary certificates for 41,459 plants



Tomato Brown Rugose Fruit Virus (ToBRFV)

Tomato Brown Rugose Fruit Virus is a tomato virus that first appeared in 2014 in Israel. Since that time, it has been observed in several countries, as well as many states, and continues to be a problem. It is federally regulated by the USDA and has become a larger issue in the last couple of months, when it was detected in North Carolina and New York. Some seed that was positive for ToBRFV was shipped to Oklahoma residents from those facilities.

ODAFF has contacted the homeowners and let them know about the disease. Many of these consumers have already destroyed their seeds. We are currently awaiting any further regulatory decisions from USDA to determine if additional actions are necessary.



Hemp

ODAFF has stopped taking outdoor grow applications as of July 1st. We currently have 21 licensed growers (10,389sqft and 718 acres) and 22 licensed processors.

Apiary

The 2023 Honeybee Survey is underway. This has been an exceptionally hard year on bees and beekeepers across the state which has impacted the average number of hives people have been able to keep alive and well.



Figure 2: Preparing samples for the National Honeybee Survey

AGRICULTURE RESOURCE SECTION

Weights & Measures Program

During this period the large capacity scale technicians tested 107 Vehicle scales and 8 livestock scales, 12 of the Vehicle scales and 5 livestock scales were rejected for repairs.

CPS inspectors checked a total of 901 small scales and 43 platform scales, 16 of the scales were rejected. There were 17 random pack inspections and 48 standard pack inspections conducted that resulted in 4 companies receiving letters of warning and 1 company receiving a stop sale. Additionally, 92 price verification inspections were conducted at various retailers that resulted in 1 company receiving a letter of warning.

A total of 4 scale companies received a letter of warning for not properly servicing scales.

Feed Program

Program Performance

During the reporting period below there were a total of 54 official feed samples analyzed, with 315 feed determinations made from these samples. The determinations resulted in the issuance of 17 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 Zinc and Methionine. Other violation includes Crude Protein, Vitamin A, Phosphorus, Salt, Copper, Manganese, Potassium and Calcium. Eight stop sale orders were issued for feed products with severe deviations from their guaranteed analysis. Five stop sales were issued for products deficient in Salt. Two stop sales were issued for products deficient in Vitamin A. One stop sale was issued for a product deficient in Monensin.

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 April 2023- May 2023

Nutritional Guarantee	Number of Label Violations		
	May ¹	April ²	Two Month Total
Crude Protein	2	5	7
Non-protein Nitrogen	0	0	0
Crude Fat	0	5	5
Crude Fiber	0	1	1
Calcium	1	11	12
Phosphorus	1	1	2
Salt	1	3	4
Magnesium	0	0	0
Potassium	2	0	2
Copper	1	3	4
Manganese	2	2	4
Zinc	3	6	9
Vitamin A	1	5	6
Methionine	3	0	3
Total	17	42	59

¹ 54 feed samples analyzed with 315 determinations; ² 203 feed samples analyzed with 966 determinations

Table 2. Feed Stop Sale Summary April 2023- May 2023

Nutritional Guarantee	Number of Stop Sales		
	May ¹	April ²	Two Month Total
Crude Protein	0	1	1
Non-protein Nitrogen	0	0	0
Crude Fat	0	4	4
Crude Fiber	0	1	1
Calcium	0	5	5
Phosphorus	0	1	1
Salt	5	6	11
Manganese	0	0	0
Potassium	0	0	0
Copper	0	1	1
Zinc	0	2	2
Vitamin A	2	7	9
Medicated Feed	1	0	1
Total	8	28	36

¹ 54 feed samples analyzed with 315 determinations; ² 203 feed samples analyzed with 966 determinations

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 March 31st to May 15th, 2023. The fertilizer program has been conducting anhydrous ammonia inspections for both nurse and storage tanks and completing ammonium nitrate audits.

Sample Type	Number	Deficiency Penalty/SS
Fertilizer	103	1
Lime	14	

Investigation Type	Number
Anhydrous Ammonia Nurse Tanks	5 (142 Total Tanks)
Anhydrous Ammonia Storage Tanks	4 (12 Total Tanks)
Dry Bulk Fertilizer Storage Facility	12
Liquid Bulk Fertilizer Storage Facility	11
Facility Pre-Site	1

Other Fertilizer News

On April 12th, 2023, a covered hopper railcar left a manufacturing plant in Cheyenne, Wyoming with more than 60,000 pounds of ammonium nitrate loaded as cargo. Two weeks later it was found empty at a routine rail stop in the California Mojave Desert. From the early stages of the investigation, it was alleged that the seals of the railcar were still intact and that there was no sign of any leaks. However, the current belief is that a small leak may have developed from the bottom gate in transit, causing it to lose its contents over the two-week trip. This incident is still under investigation. However, it does bring to mind that even though a federal law was passed to regulate ammonium nitrate over a decade ago no rules have been promulgated in over a decade since they were passed into law. Currently only some of the states regulate the sale and storage of ammonium nitrate of which Oklahoma is one. Here is a brief overview of the storage and sale requirements of ammonium nitrate fertilizer in the state of Oklahoma.

According to the Oklahoma Administrative Code ammonium nitrate storage must be secured to provide reasonable protection against vandalism, theft, or unauthorized access. Additionally, fertilizer retailers are required to obtain the following information regarding any sale of ammonium nitrate: Date of sale; quantity purchased; license number of the purchaser's valid state or federal driver's license, or other picture identification card number approved for purchaser identification of the Board; and the purchaser's name, current physical address, and telephone number. Finally, the records created pursuant to this rule must be maintained for a minimum of two years on a form or using a format set forth by ODAFF. The rules also allow the retailer to refuse to sell to any person attempting to purchase ammonium nitrate out of season, in unusual quantities, or under suspect purchase patterns.

ODAFF's policy is to perform quarterly audits at the licensed fertilizer companies that are authorized for the storage and/or distribution of ammonium nitrate fertilizer. Currently, there are 53 companies with an active Oklahoma fertilizer license that are authorized for the storage and/or distribution of ammonium nitrate fertilizer, 35 of which are companies with an in-state location. CPS inspectors also perform inspections on the security requirements for these facilities during their audits to ensure the firms are compliant with the storage requirements as well as the record-keeping and documentation pursuant to the Oklahoma Fertilizer Act & Rules.

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
July 21, 2023
Activities May 13, 2023 – June 30, 2023

Animal Disease Traceability:

We continue to distribute the free RFID tags to interested veterinarians and producers. During this time, we shipped 3,600 tags to veterinarians and producers.

We completed distribution of the wand RFID tag readers to veterinarians who have demonstrated the willingness to utilize the RFID tags and submit their records electronically.

During this period, we submitted a supplemental funding request for the OK ADT cooperative agreement to purchase an additional 18 RFID wands. The supplemental funding request was approved, and we are in the process of purchasing the wands.

During this time frame, the Texas Animal Health Commission began operating their livestock entry checkpoints along the OK-TX state line daily. TAHC has been sporadically checking livestock as they enter the state for several years. They received legislative funding to fully staff these checkpoints and allow for them to operate daily instead of sporadically. We have sent out messaging to veterinarians and producers reminding them to ensure they are meeting entry requirements for the livestock they are transporting.

AIS staff participated in a VET-CVI webinar provided by the Kansas Department of Agriculture going over tips and tricks to utilize the platform more efficiently. We are hopeful to offer a similar webinar to OK veterinarians in the near future.

Aquaculture:

20 facilities renewed their licenses, and inspections have been assigned.

Marissa had two inquiries about license applications.

Biologics:

Eight new products were registered during this time. Some of these were due to a change that was made in our rules.

On June 7, expired biological products were found at a feed store in Lindsay. The feed store has never had a violation in the past. When gathering information from the manager, it was discovered that the distributor for the vaccines had changed recently, and staff were not verifying expiration dates on products being placed for purchase. The expired products were removed, and recommendations were provided to rotate inventory and verify expiration dates when inventorying new stock.

Cattle Programs:

Brucellosis:

Marissa completed the brucellosis free herd certification for two herds. Two other herds indicated they no longer wish to participate in the program.

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.

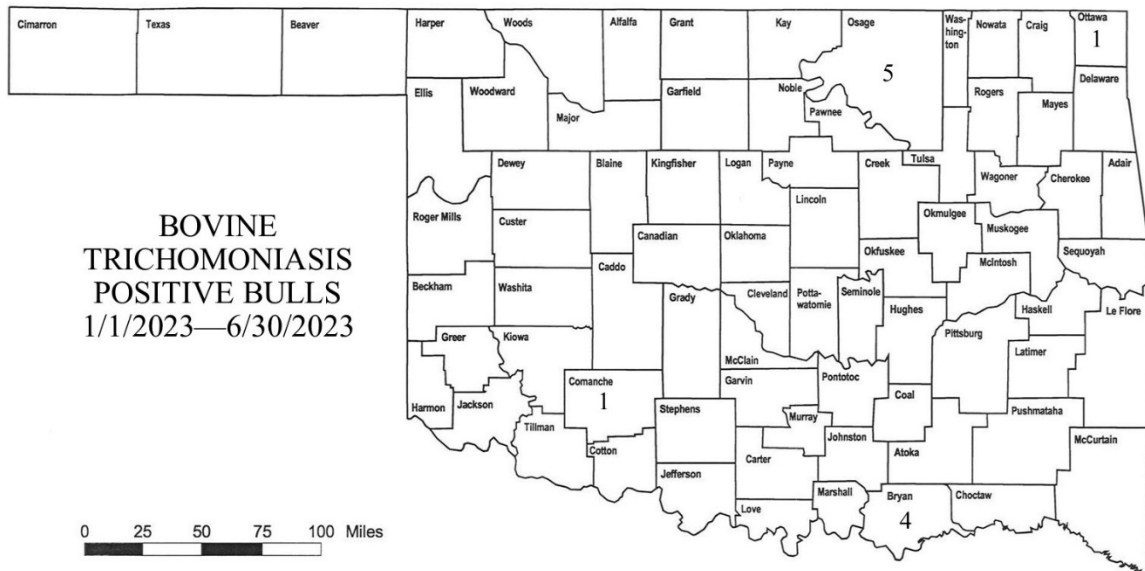
While there is very little need to test for *B abortus* any longer, this means we have very little or no surveillance for *Brucella suis* (Swine Brucellosis) in cattle, which currently infects approximately 20% of the feral swine that our Wildlife Services personnel test. *B suis* can, and does, infect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

Tuberculosis:

We currently have no TB affected herds in Oklahoma.

Trichomoniasis:

During this period there were 1,088 Oklahoma bulls tested for Trichomoniasis with no positive individuals found.



10,325 bulls tested / 11 positive = 0.11% 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, 0.28% in 2021, and 0.3% in 2022.

Johne's Disease:

For the present reporting period we have received 11 positive reports of Johne's infected animals on nine new premises. The average of the last eight years for the same time

period we received 12 positive reports from seven new premises. The region of the state that receives the majority of the positive reports is east of I-35. The East averages 10 positives compared to the West which has averaged two for this reporting period. Year to date totals are 36 total positive with 29 new premises and seven repeat premises. 29 are east of I-35 and seven are west. The range has been for a high of 73 to this year's low of 36 positive reports. New premises infections have ranged from a high of 42 to this year's low of 29. The average for the last 8 years is 49 YTD positive reports, 35 new premises and 12 as repeat premises. YTD average location is 45 in the east and six in the west.

Education continues to be the important element in the control of Johne's disease. The dairy industry is probably doing a better job of controlling the disease than the beef industry. Our reports are predominately beef cattle. Rodeo animals have a higher reporting percentage than what their population represents. Embryo recipient cows are a serious risk factor for high genetic embryo exposure. Other risk factors are the purchase of "Northern Genetics". Although we do not have the necessary statistics to make such claims, it appears that the survival and transfer of the agent is more successful in those regions. Education and risk mitigation will continue to be the key for avoiding the purchase of the disease.

Emergency Management:

During this period, the MRC-STRONG grant proposal submitted for the OKMRC was awarded. The portion of this the grant proposal submitted by Dr. Gorczyca will provide necessary funding to host training opportunities for the State Animal Response Team volunteers.

During this period, we continue to plan the National Pork Board depopulation and disposal exercise. Planning calls were held on May 25 and June 29. The finance and procurement planning team held calls on June 19 and June 28 to discuss exercise equipment and logistics.

On June 15, Dr. Gorczyca and Dr. Stone met with Keith Reiner and Tom Layne from Hanor to discuss the NPB exercise to work through concerns from both ODAFF and Hanor. The meeting was very productive and details and logistics for the exercise were determined at the meeting.

On May 22, Dr. Gorczyca participated in the Payne CART membership meeting

On May 23 and June 30, we have participated in RABapp overview webinars to learn more about the role SAHOs will have accessing RABapp for Secure Pork Supply plans developed for commercial swine.

On June 8, Dr. Gorczyca hosted the Multistate Partnership (MSP) for Security in Agriculture monthly call.

On June 26, Dr. Gorczyca met with Matti Carlile and Kalley Whitlock, OK Pork Council, to discuss implementation of Secure Pork Supply plans for show pig producers. Kalley

has been tasked to assist 10 show pig producers to develop a SPS plan before the OK Pork Congress in August. Dr. Gorczyca will assist with the review of the plan and provide technical support.

During this period, a Secure Food Supply planning work group has been established. This will allow states to collaborate with each other to ensure consistency in requirements for producers to participate in this voluntary program. OK, TX, MO, KS, NM, NE, MN, ND, and WI are currently involved with this work group with plans to involve other states.

Equine Programs:

There are no reported cases or quarantines for CEM in Oklahoma.

There are no Piroplasmosis or Equine Infectious Anemia cases in Oklahoma.

The horse mentioned in the last board report that was dual infected with both Equine Infectious Anemia and Piroplasmosis was humanely euthanized. The owner was unable to find a suitable area of isolation that would not put additional equine at risk for exposure. All equine determined to be exposed through epidemiological investigation will go through a second round of testing for EIA mid-July but all exposed are very low risk and we do not anticipate finding any additional positive equine.

Dr. Ruby has been participating in a working group to update the guidance document for Equine Herpes Virus Response. The group is currently halfway through the document and hopes to have it near completion in time for review by the USAHA committee on equine at the National meeting in October.

On May 22nd, Dr. Ruby met with staff at the Oklahoma State Fair Park to review their biosecurity plans for equine disease outbreak response. It was a great opportunity to network, educate, and collaborate. They have a good plan and were able to practice it during the BBR to be sure they can enact it when needed. It was also a good time to discuss biosecurity for other species of livestock.

Farmed Cervidae Programs:

May 30 – June 2 Dr. Gorczyca-Southerland and I attended a national CWD Symposium in Denver, CO. This was the fourth symposium to introduce new research and findings about CWD in the past 30 years. It was interesting to hear other States' perspectives on managing their native cervids in relation to CWD. We believe the knowledge we gained at the symposium will help us develop a better response plan to deal with CWD in Oklahoma.

On June 6 Dr. Gorczyca-Southerland, JanLee Rowlett, Lee Benson, and Emma Victory met with Oklahoma Department of Wildlife Conservation personnel to begin the process of revising the State CWD Response Plan.

During this period, Dr. Gorczyca submitted a CWD project proposal for funding to the USDA Cervid Health Team. The project, if funded, will utilize predictive genetics in farmed cervid herds as a tool to mitigate susceptibility to CWD. The project will be open

to all farmed cervid herds including those not currently participating in the voluntary CWD HCP.

On May 26 Oklahoma Department of Wildlife Conservation reported that they had received preliminary positive results of CWD in a wild whitetail deer in Texas County. On June 19 ODWC notified us of another preliminary positive whitetail deer from Woodward County. Both cases were confirmed by National Veterinary Services Laboratory. Both deer were showing symptoms of CWD and the game ranger was called by the property owners. Discussions are occurring to determine what parts of the CWD Response Plan to put into action. There are no farmed cervidae facilities within the 10 mile radius of either case.

As a result of ODWC's confirmation of two cases of CWD in the Panhandle, Dana sent messages to all our Farmed Cervidae facilities with information about the location, and information about biosecurity and steps they can take to protect their herds.

Feral Swine:

Dana continues to process feral swine sporting facility and handling facility license renewals. Letters of Warning were mailed out on June 14, 2023, to facilities who have not submitted their annual renewal applications. There continues to be a high volume of feral swine hunter license requests.

On June 12 we received a complaint from a landowner that a feral swine sporting facility in Garvin County was releasing feral swine and they were damaging his wheat crop. One of our Livestock Inspectors was assigned to investigate the complaint. He found no problems with the fence. He noted swine tracks outside the fence but no evidence of swine inside the fence escaping. We believe the swine inside the fence are attracting wild feral swine. We also believe the ripe wheat is an attractant to wild feral swine as well.

We received another complaint from a landowner in Creek County. The complaint was that a feral swine sporting facility was allowing feral swine to escape the facility causing damage to his property. When Dr. Stone contacted the owner of the feral swine sporting facility, he discovered that the premises has sold to a different owner since he inspected the facility in late 2021. The new owner does not want feral swine and has been actively trying to kill as many as he can. We concluded that this is similar to the Garvin County case in that the number of feral swine in the area are increasing independently of the swine in the former sporting facility.

AIS received a call from a feral swine hunter that stated someone at a Feral Swine Sporting Facility in McClain County told him that a license was not required to hunt in a Feral Swine Sporting Facility. One of our Livestock Inspectors was assigned to visit the facility and inform them of the regulations and to assure all staff is aware that a current feral swine hunter license is required by all hunters no matter their age. Dana Call also provided the LSI with an instruction document that the facility can follow to check the license status of feral swine hunters at their facility, as required.

Foreign Animal Disease:

There were four FAD investigations during this time.

One was for a backyard flock of chickens in Oklahoma County that had a high death loss. HPAI was the FAD of concern.

Two were pet rabbits in Cleveland and Osage Counties that died suddenly. The referring veterinarians were concerned they could have died from Rabbit Hemorrhagic Disease.

One was a cow from Bryan County with vesicular lesions that were suspicious for FMD or Vesicular Stomatitis.

Thankfully, neither of these were diagnosed as a FAD.

There have been no confirmed cases of Highly Pathogenic Avian Influenza for two months. We'd like to think the outbreak that started a year and a half ago is over.

Unfortunately, the cycle of the disease in Europe makes us fear that the young migratory waterfowl that hatch this summer may become infected and spread more virus as they migrate south this fall.

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.

Livestock Market Audits:

During this period, staff received no correspondence concerning new market licensing. Although no new markets were added, a couple markets added some new staff that requested some assistance regarding what is expected of them from ODAFF and USDA pertaining to custodial account laws. In addition to assisting this staff, this period also allowed for a market orientation as well as a number of custodial account reviews.

Livestock Auction Market Activities

Auction market licenses issued	0
Auction market licenses pending	0
Market custodial audits completed	8
Auction market complaints investigated	0
Fines collected	0
Livestock Markets with Legal Action	0
Special Audits (Market Development)	0

Outreach:

On May 15 I submitted the State Veterinarian Report for the OVMA Communique newsletter.

On May 17 I gave a presentation to the Oklahoma Cooperative Extension Service "Coffee Shop" virtual meeting. We discussed the PED outbreaks at OYE and potential plans to minimize the outbreaks.

On May 18 I gave a presentation about farmed cervidae and CWD to the Central Oklahoma Veterinary Medical Association.

On June 19 our field staff was in for a quarterly meeting. We discussed program updates, they got their laptops updated, and I discussed the FY 2024 budget. We presented longevity awards and had a lunch catered by Ted's.

On June 21 I had the opportunity to visit with three interns that are working with Kelli Payne this summer. I explained a lot of what Animal Industry Services does and how we help protect the livestock industry of Oklahoma.

Poultry Programs:

There have been 19 sick or dead birds submitted for our sick bird/dead bird program since the last board report, for a total of 70 cases this year.

Dr. Ruby and Sherrie Davis attended the annual National Poultry Improvement Plan Official State Agent Meeting in Columbus, Ohio from June 26th to the 29th. This is a meeting that reviews changes to NPIP, allows States to give a report on how they implement NPIP, and allows collaboration between states to make changes and improvements.

On May 24th, Dr. Ruby and several livestock inspectors assisted the Oklahoma City Animal Shelter in Pullorum/Typhoid testing 100 gaming hens and roosters that were confiscated from a cruelty case. The birds were being transported to a rescue in Colorado and the PT test was required for import.

Public Health

There is nothing to report during this time.

Rabies in Livestock:

There have been no new cases of rabies in livestock since the last report.

Sheep and Goat Programs:

There were no significant activities in this program.

Swine Programs:

On June 13 I was notified that two gilts from a commercial farm in Hughes County tested positive for Brucellosis at Iowa State University's lab. We placed the premises under quarantine and are working with the management to do more testing to determine if this is really Brucellosis or if something else could be causing the positive titers.

On June 21 we were notified of a show pig that tested positive for Brucellosis. Dr. Proctor traveled to the premises in Adair County and tested the positive barrow along with seven other show pigs. We're waiting for those results.

We're beginning to receive test charts for fall show season participants in accordance with the new testing date of May 15 for swine exhibitors. Dr. Gorczyca and Dana Call have been working on validating commercial swine premises who have enrolled in the US SHIP program. At this time Seaboard, Prestage Farms, Hanor, JBS, Smithfield, and Tyson are participating.

Miscellaneous:

On May 18 Dr. Saliki, Director of Oklahoma Animal Disease Diagnostic Laboratory, and two of their staff members visited ODAFF. They spent time in the serology lab discussing the transition of the ODAFF lab work to OADDDL. After the time in the lab, they spent some time visiting with Secretary Arthur about the transition, equipment needs, and finances.

On June 14 I attended the business meeting of the Western States Livestock Health Association virtually.

Also, on June 14, I attended a virtual NASDA meeting where California Proposition 12 and Massachusetts Question 3 were discussed.

We have two interns this summer. One is a pre vet student and the other is going into her third year at OSU CVM. The veterinary student spent a day with Dr. Stone doing some TB testing. They have both been helping our administrative staff get documents scanned and filed and helping us catch up on data entry.

Respectfully,

A handwritten signature in black ink that reads "Rod Hall DVM". The signature is written in a cursive, flowing style.

Rod Hall, DVM

Oklahoma Department of Agriculture, Food, and Forestry
Wildlife Services Division
Board Report for June 2023 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 366 properties with an estimated 831,350 acres of land under agreement. Additionally, WS helped 112 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 \$993,990,212.00 during this period. Beaver damages accounted for losses totaling \$55,214. Coyotes were responsible for a number of damage requests, primarily to livestock, with losses totaling \$10,824. Feral swine damages accounted for losses totaling \$993,917,449, mostly in a National Wildlife Refuge wetland, while other species of wildlife were responsible for \$6,725 in damages to property, agriculture, and livestock.

Providing Wildlife Services

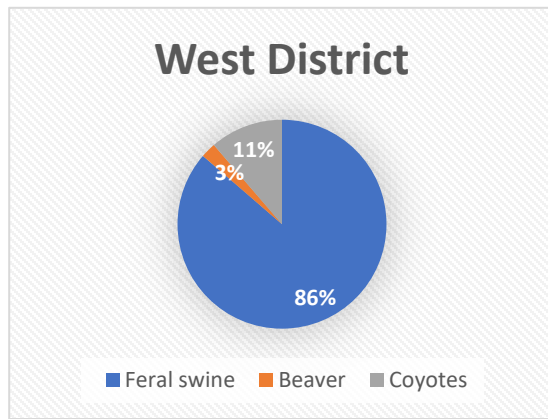


Figure 1: Species Removed in West District by percentage during June 2023

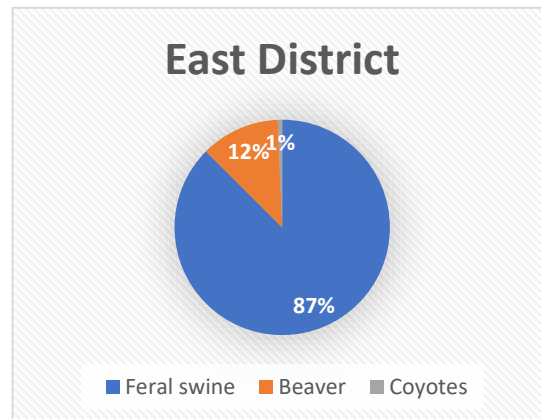


Figure 2: Species Removed in the East District by percentage during June 2023

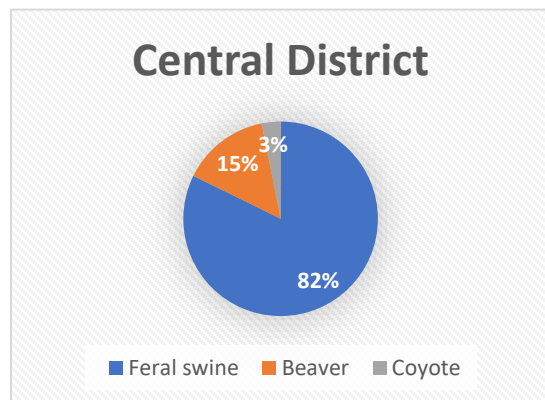


Figure 3: Species Removed in the Central District by percentage during June 2023

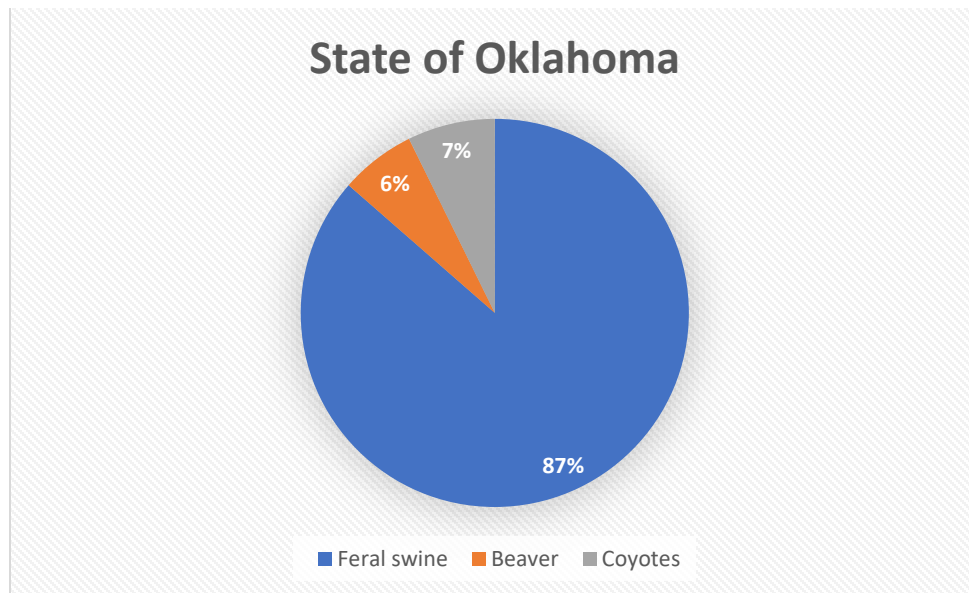


Figure 4: Species Removed in the State by percentage during June 2023

Coyote Damage Management

Custer County livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes had killed two calves valued at \$1,600. The Wildlife Specialist assigned to Custer County conducted a site visit and determined coyotes were responsible for the losses. Damage management efforts were successful in removing two coyotes from the property. No further losses have occurred, and work is ongoing to prevent additional losses.

Stephens County livestock producer requested assistance with coyotes depredating on his lambs. The producer reported coyotes killed one lamb valued at \$170. The Wildlife Specialist assigned to Stephens County responded to the request and examined the carcass and confirmed coyotes were responsible for the loss. The Specialist recommended non-lethal methods of carcass removal, night penning, shed lambing, and guarding animals to help reduce future lamb losses to coyotes. Control efforts have removed four coyotes and are continuing at this time to further reduce predation losses from coyotes for the producer.

Beaver County landowner requested assistance with coyotes depredating on his calves. The producer reported coyotes had killed one calf valued \$1,500. The Wildlife Specialist assigned to Beaver County examined the carcass and verified coyotes were responsible for the loss. Damage management efforts were successful in removing four coyotes from the property. Control efforts continue to help further reduce the threat to the cooperator's calves.

Feral Swine Damage Management

Ellis County farmer requested assistance with feral swine that were responsible for damaging ten acres of pasture valued at \$1,500. The Wildlife Specialist assigned to Ellis County responded to the request and his field inspection verified the damage to the pastures. The Specialist used a live trap to remove thirty-six feral swine along with aerial operations to remove an additional twenty-one feral swine from the property. The area continues to be monitored for activity to determine if additional management efforts are needed to further reduce damage.

Dewey County landowner contacted WS needing assistance with feral swine rooting in his wheat fields. The landowner estimated that feral swine rooted up five acres valued at \$680 in damages. The Wildlife Specialist assigned to Dewey County responded to the request and verified the damage. A live trap was used to remove twenty-eight feral swine 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.

Custer County landowner contacted WS needing assistance with feral swine damaging his hayfield. The landowner estimated that feral swine damage to the fields to be \$600. The Wildlife Specialist assigned to Custer County responded to the request and verified the damage. A live trap was used to remove thirty-eight feral swine from the property. No additional damage has occurred and the feral swine population in the area is being monitored to determine if additional management would be needed.

Grady County landowner requested assistance with feral swine for destroying ten acres of a newly planted soybean field valued at \$2,051 in damages. The Wildlife Specialist assigned to Grady County responded to the request and verified feral swine were responsible for the damage. The Specialist used a live trap to remove thirteen feral swine from the area. Activity in this area is closely being monitored to determine if further management is needed.

Nowata County rancher called WS for assistance with feral swine when he found rooting damage to his cattle pastures. The damage was verified and estimated at \$3,500. After pre-baiting, a remote camera trap was placed, and eighteen feral swine have been removed to date. This project is still being monitored and the rancher was advised about fencing options that may deter future feral swine from damaging his pastures.

Craig County rancher called WS for assistance with feral swine when he discovered rooting damages to his cattle pasture. The damage was verified and estimated at \$2,900. Pre-baiting with corn has begun on this project. Once the feral swine consume the corn, a remote camera trap will be placed to remove them and lessen the damages. The owner was advised on fencing options that can exclude the feral swine from his property in the future.

Hughes County producer called WS for assistance with feral swine when he found rooting damage to his wheat field. The damage was verified and estimated at \$4,000. After pre-baiting with corn, a remote camera trap was placed and eight feral swine were removed. This project is still being monitored.

Osage County rancher called WS for assistance with a feral swine when he found extensive rooting damage in his hayfields. The damage was verified and estimated at \$4,050. With significant sign found in the area, pre-baiting with corn was started at the selected trapping site. A remote

camera trap was placed and forty-two feral swine have been removed to date. This project is still being monitored.

Kay County farmer called WS for assistance with feral swine when he found fresh rooting damage to his corn field. The damage was verified and estimated at \$440. A remote camera trap was placed and five feral swine were removed. This project is still being monitored and the owner was advised about environmental changes that could deter future feral swine issues.

Pushmataha County cooperater called WS when he found feral swine rooting damage to his fields. The damage was verified and estimated at \$8,500. After pre-baiting, a remote camera trap was placed and seven feral swine have been removed to date. This project is still being monitored.

Aerial Operations

Aerial operations were conducted in **Custer County** in response to landowners' request for feral swine damage to corn, milo, and soybeans. The helicopter was utilized for six flying hours to remove one hundred and forty-six feral swine from the areas. Additional aerial operations are planned in these areas to further reduce damage associated with feral swine.

Beaver Damage Management

Dewey County Road Commissioner contacted WS for assistance with beaver that were responsible for damming up the creek on one of his bridges causing the water to go over the road. The Commissioner estimated the damage to the road and bridge structure to be \$500. The Specialist for Dewey County responded and verified beaver were responsible for damage. Control measures used by the Specialist were effective in removing the beavers from the creek to reduce any additional damage to road and bridge.

Custer County landowner contacted WS for assistance with beaver that were responsible for damming up the creek on his property and flooding his pasture. The landowner estimated the damage to the pasture to be valued at \$2,000. The Specialist for Custer County responded and verified beaver were responsible for damage. Control measures used by the Specialist were effective in removing the beavers from the creek to help reduce any additional damage to pasture.

Ellis County landowner contacted WS for assistance with beaver that were responsible for burrowing into his pond dam on his property. The landowner estimated the damage to the pasture to be valued at \$1,000. The Specialist for Ellis County responded and verified beaver were responsible for damage. Control measures used by the Specialist were effective in removing the beavers from the pond to reduce any additional damage to the pond dam structure.

Okmulgee County producer called WS to report beavers were causing flooding on his property and adjoining county road. The damage was verified and estimated at \$1,500 in flooding damages. Conibear traps were placed and eight beavers were removed to reduce the damages and conclude this project.

Muskogee County property owner called WS for assistance with beavers when he was unable to discourage the beaver activity by removing the beaver dam. Beaver damage was verified and estimated to be \$1,250 in flooding and tree damage. Conibear traps were placed and one adult beaver was removed. This project is still being monitored and the owner was advised on environmental changes that could help discourage future beaver damage.

McCurtain County Commissioner called WS for assistance with beavers causing flooding along a county road. The flooding damage was verified and estimated at \$2,500. The beaver dams were removed by hand to improve the flooding damage. Night shooting was used to remove two beavers and conclude this project.

Pittsburg County cooperator called WS for assistance with beavers activity in his cattle stock pond. The pond dam had previously been destroyed by beaver burrowing activity and the owner didn't want to have to repair it again. Recent damage was verified and estimated at \$500 to the trees around the pond. Conibear traps were set and three beavers were removed. This project is still being monitored.

Black Vulture Management

Grady County game farm operator requested assistance with black vultures that were depredating on his fallow deer fawns. Over last two years, the producer reported that black vultures were responsible for the loss of one hundred fawns valued at \$25,000. The Wildlife Specialist assigned to Caddo County conducted a site inspection and verified the loss of three fawns valued at \$7,500. The Specialist constructed a corral trap designed to catch black vultures and effectively removed one hundred and thirty-six black vultures from the property. Work continues to provide the producers relief from black vultures depredating his fawns.

Prairie Dog Management

Bertrand Cemetery in **Cimarron County** contacted WS with prairie dogs damaging grave sites on the property. The damages to grave sites and property were valued at \$5,000. Fumitoxin was applied to reduce the prairie dog population on cemetery property. The area is closely being monitored to determine if addition applications are needed.

Table 1: Beaver, Coyote, and Feral Swine removal in Oklahoma by WS June 2023

County	Beaver	Coyote	Feral swine	District
Adair				E
Alfalfa				W
Atoka			4	E
Beaver		12		W

Beckham	1		34	W
Blaine			6	W
Bryan	10	1	67	E
Caddo				W
Canadian				C
Carter			12	C
Cherokee				E
Choctaw	9		12	E
Cimarron		7		W
Cleveland	1			C
Coal				C
Comanche		2		W
Cotton				W
Craig			58	E
Creek			23	E
Custer	3	5	68	W
Delaware				E
Dewey	4	2		W
Ellis	1	1	58	W
Garfield	1			C
Garvin				C
Grady			13	W
Grant				C
Greer				W
Harmon				W
Harper				W
Haskell	3			E
Hughes			10	E
Jackson		30	457	W
Jefferson				C
Johnston				C
Kay			6	C
Kingfisher				C
Kiowa		4		W
Latimer				E
Leflore	9		24	E
Lincoln	8		3	C
Logan		2		C
Love	3		1	C
Major	1		46	W
Marshall				C

Mayes				E
McClain				C
McCurtain				E
McIntosh			34	E
Murray				C
Muskogee				E
Noble			20	C
Nowata				E
Okfuskee			46	E
Oklahoma		1		C
Okmulgee	5		34	E
Osage			29	E
Ottawa				E
Pawnee			37	C
Payne	1			C
Pittsburg	5			E
Pontotoc				C
Pottawatomie				C
Pushmataha	7	2	8	E
Roger Mills	1			W
Rogers				E
Seminole	1		43	E
Sequoyah				E
Stephens	4		16	W
Texas		12		W
Tillman			35	W
Tulsa	3			E
Wagoner	2		6	E
Washington				E
Washita	2	15		W
Woods	3	6		W
Woodward				W
TOTAL	88	102	1210	

*E –East, W – West, C - Central Districts

Respectfully submitted,

Scott Alls
Division Director
Wildlife Services Division

**June 2023 Activity Report
for
July 2023 Board Meeting

Agricultural Statistics Division**

General

Rainfall totals during the **first week of June** in Oklahoma averaged 1.52 inches. According to the May 30th US Drought Monitor Report, drought conditions were rated 63 percent abnormally dry to exceptional drought, up 14 points from last year. Additionally, 50 percent of the state was in the moderate drought to exceptional drought categories, up 7 points from the previous year. Statewide, temperatures averaged in the low 70's. Topsoil moisture conditions were rated adequate to surplus and subsoil moisture conditions were rated adequate to short.

Rainfall totals during the **second week of June** in Oklahoma averaged 0.80 inches. According to the June 6th US Drought Monitor Report, drought conditions were rated 65 percent abnormally dry to exceptional drought, up 22 points from last year. Additionally, 51 percent of the state was in the moderate drought to exceptional drought categories, up 16 points from the previous year. Statewide, temperatures averaged in the low-mid 70's. Topsoil moisture and subsoil moisture conditions were rated adequate to short.

Parts of the state experienced severe storms bringing strong winds and some hail during the **third week of June**. Rainfall totals in Oklahoma averaged 1.67 inches. According to the June 13th US Drought Monitor Report, drought conditions were rated 65 percent abnormally dry to exceptional drought, up 25 points from last year. Additionally, 49 percent of the state was in the moderate drought to exceptional drought categories, up 19 points from the previous year. Statewide, temperatures averaged in the low 70's. Topsoil and subsoil moisture conditions were rated adequate to short.

Rainfall totals during the **fourth week of June** in Oklahoma averaged 0.55 inches. According to the June 20th US Drought Monitor Report, drought conditions were rated 73 percent abnormally dry to exceptional drought, up 32 points from last year. Additionally, 42 percent of the state was in the moderate drought to exceptional drought categories, up 11 points from the previous year. Statewide, temperatures averaged in the upper 70's to low 80's. Topsoil and subsoil moisture conditions were rated adequate to short.

Rainfall totals during the **fifth week of June** in Oklahoma averaged 0.48 inches. According to the June 27th US Drought Monitor Report, drought conditions were rated 77 percent abnormally dry to exceptional drought, up 31 points from last year. Additionally, 36 percent of the state was in the moderate drought to exceptional drought categories, up 5 points from the previous year. Statewide, temperatures averaged in the low 80's. Topsoil and subsoil moisture conditions were rated adequate to short.

Small Grains: Winter wheat harvested reached 80 percent, down 17 points from the previous year and down 12 points from normal. Canola harvested reached 78 percent, down 7 points from the previous year and down 3 points from normal. Rye harvested reached 74 percent, down 12

points from the previous year and down 6 points from normal. Oats harvested reached 35 percent, down 13 points from the previous year and down 7 points from normal.

Row Crops: Warm temperatures allowed row crops to progress quickly. Corn emerged reached 96 percent. Corn silking reached 35 percent, up 7 points from the previous year and up 9 points from normal. Sorghum planted reached 91 percent, unchanged from the previous year but up 2 points from normal. Soybeans planted reached 80 percent, down 3 points from the previous year but up 1 point from normal. Soybeans emerged reached 68 percent, up 1 point from the previous year and up 6 points from normal. Cotton planted reached 97 percent, up 1 point from the previous year and unchanged from normal. Cotton squaring reached 23 percent, unchanged from the previous year and up 1 point from normal.

Hay: The first cutting of alfalfa hay reached 95 percent. The second cutting of alfalfa hay reached 47 percent, down 18 points from the previous year and from normal. The first cutting of other hay reached 80 percent, down 4 points from the previous year and from normal. The second cutting of other hay reached 5 percent, down 4 points from the previous year and down 6 points from normal.

Pasture and Livestock: Pasture and range condition was rated at 82 percent good to fair. Livestock condition was rated at 87 percent good to fair.

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

Survey	Enumerated by:	Survey Dates
ITC/Census	DCC	12/15 -6/15
Cash Rents	DCC	4/17 – 6/22
June Crop APS	DCC	5/27 – 6/15
June Ag Yield	DCC	5/30 – 6/6
Grain Stocks	DCC	6/1 – 6/14
Grain Prices	DCC	6/1 – 6/14
ARMS 1	DCC	6/8 – 7/12
July Ag Yield	DCC	6/29 – 7/7
July Cattle Survey	DCC	6/30 – 7/14

Statistics: On June 30, 2023, the June Acreage report was released. Highlights include:

Oklahoma winter wheat planted, at 4.60 million acres, is up 7 percent from a year ago. Harvested acreage, at 2.60 million, is up 6 percent from last year's crop.

Oklahoma upland cotton is estimated at 570 thousand acres, down 15 percent from last year.

Oklahoma corn growers planted 370 thousand acres of corn, up 6 percent from last year. Harvested acreage, at 330 thousand acres, is up 65 percent from last year.

Oklahoma sorghum producers planted 450 thousand acres, up 5 percent from a year ago. Producers expect to harvest 370 thousand acres, up 54 percent from 2022.

Oklahoma rye acreage decreased 2 percent from last year, to 260 thousand acres.

Soybean acreage, at 570 thousand acres, is up 5 percent from last year.

Canola acreage is estimated at 5.0 thousand, down 72 percent from 2022.

Planted acreage for peanuts is estimated at 16.0 thousand, down 11 percent from previous year.

Information Requests: Phone calls, personal visits to our office, and requests via e-mail for information since last report totaled 23.

Releases for June:

Crop Production
Cattle on Feed
Quarterly Hogs and Pigs
June Acreage Report
June Grains Stocks
Agricultural Prices

Relating Dates:

June 1, 2023
June 1, 2023
June 1, 2023
June 1, 2023
June 1, 2023
June 15, 2023

Release Dates

June 9, 2023
June 23, 2023
June 29, 2023
June 30, 2023
June 30, 2023
June 30, 2023

Releases for July:

Crop Production
July Cattle Report
Cattle on Feed
Farm Expenditures
Agricultural Prices

Relating Dates:

July 1, 2023
July 1, 2023
July 1, 2023
2022 Prod Year
July 15, 2023

Release Dates:

July 12, 2023
July 21, 2023
July 21, 2023
July 28, 2023
July 28, 2023

Meetings and Events:

OJCA Contest Judge
Meeting Muskogee EMS
Kelli Payne Interns
Colorado PGI Training
OK DCC Awards
OK DCC Cattle Training

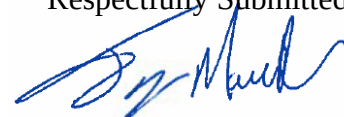
Date:

June 1, 2023
June 20, 2023
June 21, 2023
June 22, 2023
June 27, 2023
June 28, 2023

Location:

Stillwater, OK
Muskogee, OK
OKC, OK
Virtual
OKC, OK
Virtual

Respectfully Submitted,



Troy Marshall

MARKET DEVELOPMENT SERVICES

July 21, 2023

Report to the State Board of Agriculture

AG IN THE CLASSROOM

AG IN THE CLASSROOM IMPACT

- Total Number of Teachers/Administrators Impacted: 321
- Total Number of Pre-service Teachers Impacted: 0
- Total Number of Extension Educators Impacted: 12
- Total Number of Students Directly Impacted by Coordinators: 2,120
- Total Number of Resources Given: 1,221
- Total Number of Teachers/PreService Teachers Resources Given to: 321
- Total Number of PreK-12th Grade Students Resources Given to: 220

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

- The AITC monthly email is delivered to 17,754 accounts.
- The AITC Facebook page now has 9,346 followers.
- The AITC Twitter page now has 584 followers.
- Oklahoma AITC Instagram account now has 738 followers.
- Oklahoma AITC Pinterest account now has 217 followers.
- The AITC YouTube channel now has 9,161 views.

Ag in the Classroom- Professional Development Workshops

Number of Educators & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
7 3rd-5th grade educators and 4-H extension educators	Mowdy Ranch in Coalgate, OK	Okies Earning Ag Badges workshop - used new National AITC AgBadging Field Guides and activities out of them	The Professional Development grant from National Ag in the Classroom allowed us to give each educator that attended 30 AgBadging Field Guides to take back to their classroom; Teachers also received Oklahoma Ag Mags
75 teachers from Oklahoma	National Board Certified Teachers Summit	Booth with resources	Oklahoma Ag Mag, Various Tear Sheets
75 teachers - Science	Oklahoma Science Teachers Association Conference	Booth	Oklahoma Ag Mag, Various Tear Sheets
100 Teachers	Choctaw Nation	Booth with resources	Oklahoma Ag Mags, Ag on

	Professional Learning Conference		Rt 66, ABC Coloring Book, Red Dirt Symbols, Various Tear Sheets, Various Ag Readers
51 Teachers	Oklahoma Ag in the Classroom Summer Road Trip	 AG IN THE CLASSROOM <u>Day 1</u> Southwest Dairy Mobile Lab National Weather Service/Mesonet OU Equestrian Team Oklahoma Horseshoeing School DJ Horton Farms <u>Day 2</u> Athletic Field Management Food and Agricultural Products Center (FAPC) Robotic Dairy Purebred Beef Center Agronomy Research Center Thrive Flower Farm <u>Day 3</u> Farm 2 You OSU Veterinary School Mike & Mignon Bolay Farms Botanical Gardens	Oklahoma Ag Mags; 4 Oklahoma Agriculture Educational Tear Sheets; Resources from Oklahoma Wheat Commission, Southwest Dairy, Dairy Max, and Oklahoma Beef Council; Soil, Plants, & Animals, Oh My; Red Dirt Symbols; ABC Coloring Book
13 3rd-5th grade educators and 4-H extension educators	Autry Tech Center and Red Bird Farm in Enid, OK	Okies Earning Ag Badges workshop - used new National AITC AgBadging Field Guides and activities out of them	The Professional Development grant from National Ag in the Classroom allowed us to give each educator that attended 30 AgBadging Field Guides to take back to their classroom; Teachers also received Oklahoma Ag Mags

Ag in the Classroom- Student Events

Number of Participants & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
300 students and adults	Seiling Elementary Awards Assembly-Contest presentation	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
1,800 kids and adults	Chuckwagon Festival at the National Western Cowboy Hall of Fame	Betsy the Milking cow and made butter	Dairy Tear Sheets

20 OYLA students	Oklahoma Farm Bureau Office	AITC Resources, Painting Strawberry Rocks, & Pumpkin Catapults	Barn full of Ag in the Classroom Resources
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Ag in the Classroom- Resources Mailed or Delivered

Locations where Resources are Mailed or Delivered	
4C Farm Camp	Cattlemen's Conference
Oklahoma Little Miss Agriculture for National competition	

Ag in the Classroom- Other Events

Event	Highlights
Choctaw Nation Food Summit	Emily Ague represented both Oklahoma Ag in the Classroom and Farm to School at the first Choctaw Nation Food summit. She did a presentation over both programs and also talked about the LFS opportunity for schools.
Oklahoma AITC Summer Intern	Riley Luginbill, a current student at Oklahoma State University, has taken the position as one of the Market Development interns. She is primarily working with Oklahoma Ag in the Classroom. Her major is Agricultural Education.

Oklahoma Ag in the Classroom Summer Road trip Bedlam Series 2023



AGRITOURISM

Agritourism - Site Visits

Producer	Location	Category	Highlights
Huffman Family Farm	Choctaw	Farm to Table	Delivered OK Grown bags
Norman Farm Market	Norman	Farmers Market	Farmers market price report
Valley View Pecans	Shawnee	Farm to Table	Picked up pecans for forestry conference
Peach Tree Farms	Ada	Farm to Table	Delivered OK Grown bags
McRay Farms	Luther	U-Pick, Farm to Table	Visited for strawberry season, made a reel for Instagram
Growing Paynes	Mustang	Farm to Table, U-pick	Visited for strawberry season
Lakeview Lavender Farm	Pauls Valley	Horticulture, U-Pick, Farm to Table	Toured lavender and made an Instagram reel
Agape Berry Farm	Mustang	U-pick, farm to table	Visited to see the blackberries and blueberries
Coal Creek Winery	Yukon	Vineyard/Winery, Weddings	Made In Oklahoma Showcase

Agritourism - New Producers or Potential Producers

Producer	Location	Category	Highlights
Spring Creek at Twin Bridges	Locust Grove	Country Stays	Site visit, officially added into the program
Art of Horsemanship	Edmond	Trail Riding, Teachable Moments	Site visit, officially added into the program
Mary Buchanan	Ardmore		Pecan farm, met at OK Pecan Growers Association meeting. Site visit, conversations about getting started with agritourism, ODAFF grants, etc.
Alpaca Fun Farm	OKC	Fiber	Site visit, officially added into the program

Rockin DC Mini Farm	Duncan	Petting Farm	Site visit, officially added into the program
Emily Prichard	Duncan	Pumpkin Picking	Site visit, wants to do a fall pumpkin patch, conversations about getting started with agritourism, ODAFF grants, etc.
Sweet Pea Flower Farm	Norman	U-Pick, Horticulture	Site visit, officially added into the program
The Flower Meadow	Coweta	Horticulture, U-pick, Teachable Moments	Site visit, officially added into the program as a flower farm
Blocker Pumpkin Patch	Bixby	Pumpkin Picking, Teachable Moments, Weddings	Site visit, wanting to add pumpkins and a wedding venue, not quite ready to be open

Social media

Facebook

- 22,674 likes
- 25,145 followers

Instagram

- 2,558 followers

Agritourism - Other Activities

- Phone consult/conversations with: Amanda w/ Rag Tag Resilience, Rod Ardoin, Joe Tierney, Carmen Head – Noble FM, Lori Coats, Kent Evatt, Amy Arrington – Sweet Pea Farms, Mary Buchanan, Sheryl Blocker, Paula Parkhurst, Kelly Spencer, Donna Suson, Morgan Satterwhite
- Zoom consults/meetings: OLAC Resource Development, Freestyle – Marketing plan for FY 2024, Freestyle – Wine Trails Campaign update, iHeart Radio – Marketing ideas for ODAFF, TasteAdvisor – App updates, Planning Meeting for Agritourism Field Day
- Email consults: Meeker Farmers Market, Seminole Farmers Market, Wheeler District Farmers Market, El Reno Farmers Market, Enid Farmers Market, Cyndi Mackey – new pumpkin patch,
- Presented at Oklahoma Pecan Growers Association state annual conference
- Attended OK Pecan Growers Field Day
- Judge OJCA Sales Contest
- Attend Ag In The Classroom Bus Tour
- Create produce survey for Produce Safety

ECONOMIC DEVELOPMENT

Activity	Action
Agriculture Enhancement & Diversification Program	Deadline for applications to be considered by the selection committee for the 3 rd quarter of 2023 will be on July 3 rd .
Healthy Food Financing Program	Deadline for applications to be considered by the selection committee for the 3 rd quarter of 2023 will be on July 3 rd .

Resilient Food Systems Infrastructure Program	The USDA announced their Resilient Food Systems Infrastructure Program (RFSI) whose purpose is to assist U.S. states to build resilience in the middle-of-the-supply-chain and strengthen local and regional food systems by creating new revenue streams for their state's producers. Oklahoma will receive \$6.4 million to go towards these efforts within the state. ODAFF will be in charge of setting up a competitive grant process in which to select recipients.
Viticulture & Enology grant	The deadline to submit applications for the 2023 Viticulture & Enology Grant was June 1 st . Applications were reviewed by an external review committee and two were selected for funding. Pest control and drought resistance were the projects selected.
Tulsa Stockyards Cattle Grading	The annual cattle grading contest held at the Tulsa Stockyards was scheduled for June 20 th . Due to storm damage received at the auction and surrounding areas it was decided to postpone the contest to a later date.

INTERNATIONAL

Activity	Action
Food Export	• Buyer's selection for Expo East • Recruitment for future activities • NRA Show Food Service Buyers Mission at the National Restaurant Association Show 2022 took place May 19th and 21st and the buyers were able to walk the show floor May 20th and 22nd. NRA show was well attended with 1700 exhibitors, 500 new exhibitors, and over 51,000 registered attendees. We had great feedback from the suppliers. 



- Food Show Plus! Activity for Food Taipei June 12-17

This activity was planned to support US processed food companies at Food Taipei 2023. Companies were provided support services in marketing brochure translation, market reports, store checks, booth assistance/translator services if needed. This show had an option to purchase booth space through Food Export.

This mission included 4 companies with Food Export Booth Space and 1 company that contracted through the ATO and 1 company that contracted through OTA.

The organization of the pavilion and support from the IMR was excellent.

The Director of the American Institute in Taiwan (ATO office) hosted a briefing in the morning of the 13th in which all but 1 company attended. Emily Scott the director did an overview of the market and answered a few questions from the companies. She also conducted a welcome kick off at the show on the 14th as well as a welcome reception the evening of the 14th. The reception hosted food from several of the companies in the USA pavilion. Of note: dairy is on the rise. #2 in the market with 44M in fluid milk to Taiwan and ice cream up 400% in the past five years.

	 
USLGE	Applied for Funds for staff to travel to the Expo Rural 2023 in July. We had feedback for interest in this market for livestock and livestock genetics during our USLGE Inbound Mission. The 135th Exposición Rural, an exhibition of livestock, agriculture, and international industry, will be held at La Rural Fairgrounds in Buenos Aires, Argentina, from July 20 through 30, 2023. With more than 4,500 animal exhibitors and more than 400 commercial exhibitors, Expo Rural provides a meeting point for producers, contractors, entrepreneurs, professionals, students, and technicians from Argentina and the world.
GIT (Governor's International Team)/ODEC	This group is meeting to discuss goals/strategy going forward and how we can assist the international community

Misc Meetings	• Euromonitor- Global PetCare Trends • Intl Strategy Meeting with Secretary Arthur and JanLee to look at 2024
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MADE IN OKLAHOMA COALITION

Made in Oklahoma Coalition – Advertising, Web and Social Traffic

Type	\$ Spent and Information	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 – 8 appearances Tulsa – 4 appearances	Natalie Mikels & David Brooks, MIO TV Personalities filmed in-person and remote segments for TV
FY23 Media Campaign Reporting	https://docs.google.com/spreadsheets/d/1HUhkBRVkJgKwZf6ZZvyyTPeUTBx4I1-lprDwzDgnPwM/edit#gid=378323568 May/June Report: https://www.dropbox.com/s/90t68p1w8lk3kqb/MIO_KRU_SH%20Report%20-%20April%202023.pdf?dl=0 https://www.dropbox.com/s/x6rpwn741fmqubf/MIO_KRU_SH%20Report%20-%20May%202023.pdf?dl=0	Here is a link to our original Google sheet workbook that we've been updating as the campaigns have evolved. You can toggle between all the logistical info for the co-op campaign such as the featured recipes per block, the annual media schedule, media budget, and the campaign spend tracker. It is a live link so it will be updated throughout the months as we continue our Co-Op campaigns.
Restaurants 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.	May – Steer Inn June – The Jones Assembly
Social Media Stats	Staff, and MIO media committee plan social content each month with our advertising agency, Krush Digital Marketing.	https://www.dropbox.com/s/7fyc83iqu9aopsl/Profile%20Performance%20%28Krush%29%20April%201%2C%202023%20%E2%80%93%20April%2030%2C%202023%20%282%29.pdf.pdf?dl=0
Edible OKC Giveaways	\$100/giveaway	Each month MIO partners with Edible OKC to give away a \$100 gift card to our restaurant of the month.
MIO Monthly Newsletter		○ 2400+ distribution list
OK Living Partnership highlighting MIO Recipes	Highlights 2-3 MIO recipes per month	MIO provides recipe content and OK Living does the ad design

	- Free publication to electric coop members	
Recipes of the Month	MIO recipes are developed each month highlighting member company products.	May – - One Pot Salsa Chicken - Braised Beef Street Tacos - Angel Food Cake - Strawberry Lemonade Creamsicles June – - Sheet Pan Shrimp Boil - Pineapple Upside Down Cake - Summer Fruit Tart - Summer Sparkler - Old Time Soda Floats
May Retailer of the Month	Love’s Travel Stops	Statewide locations
June Retailer of the Month	QuikTrip	Statewide locations

Made in Oklahoma Coalition – Other Activities

Activity	Information
Crest Foods Mini Trade Show - May 18 th	This event was the 3 rd annual Crest Foods Mini Trade Show that staff plans on behalf of MIO. Staff worked alongside the Crest Foods team to create an opportunity for members to get buyers meetings with Crest store managers and category managers. 20 members participated in the show and 3 members were able to get onto Crest store shelves because of this opportunity.
National Restaurant Association Show - May 19-23 rd	Staff attended the National Restaurant Association Show to work the Made in Oklahoma Booth at the Show. Two MIO members participated in the show (Head Country BBQ and Mountain View Meats). Both reported positive outcomes and made significant connections and leads.
Oklahoma Super Trade Show - May 23 rd	25 Made in Oklahoma members participated in the MIO booth area at the Oklahoma Super Trade Show. This show is focused on a retail grocery audience as well as convenience stores.
MIO Coalition Membership Meetings - June 9 th	Our monthly member meeting was held in-person at the Oklahoma Department of Agriculture, Food and Forestry for the month of June. In addition to the general membership meeting, we also held a retail committee planning meeting and a specialty/gourmet products roundtable discussion.
OK Business Incubator Association Presentation June 13 th	Staff was asked to speak to the Oklahoma Business Incubator Association at their quarterly membership meeting at the OK Department of Commerce. There were 25 business incubators representatives present from statewide locations. Staff discussed what the Made in Oklahoma Coalition is, how companies can join and what the criteria for membership are.
Restaurant of the Month Visits - May 22 nd - June 15 th	Staff and the MIO Food Service Committee met for lunch at MIO Restaurants of the Month, The Jones Assembly (June) and Frank and Lola’s (July), to congratulate them on winning the award and eat lunch in support of the restaurant. We also got content for social media and a highlight video. Each visit is scheduled one month in advance so the content can run during the month they are highlighted.
Visit to Pancho Anaya Mexican Bakery - June 20 th	Staff visited MIO member Pancho Anaya Mexican Bakery at their production facility in Tulsa, OK. Pancho Anaya has been an MIO member for over 2 years. I took a facility tour, bakery tour and retail tour in

Go Texan Expo and Dallas Market Visit - June 22 nd	Staff along with other Market Development team members made a trip to Dallas Market where the GoTexan Expo was held in conjunction with the June Market. The purpose of attending the GoTexan Expo was to conduct market research and to see if we could bring any key takeaways back to our own events. The Dallas Gourmet Market is closing so many of our MIO members are looking to find new opportunities to showcase their products, such as the Atlanta Market or Temporary market spaces.
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MADE IN OKLAHOMA PROGRAM

Meetings	Date	Location	Details
MD Staff Meeting	May 17	OKC	Provided update on Made in Oklahoma program and upcoming events/goals
Wines of the West	June 2	OKC, Stockyards	Met with Debbie Harrison, Stockyards City Main Street coordinator to discuss location and plans for Wines of the West event
iHeart Media	June 20	Virtual	Met with team at iHeart Media to discuss marketing campaign of Oklahoma products
GoTexan Expo	June 22	Dallas, TX	Attended GoTexan Expo and Dallas Market to gather information regarding their program and ideas on how to improve ours
Events:			
Co-Packing Workshop	May 15	OKC	We brought in Ashley Sutterfield, a co-packing expert to share about co-packing. 28 companies registered to attend.
Made in Oklahoma Showcase - Northeast	May 22	Bixby	51 producers set up for a wholesale, retailer-only market. in order to attend, attendees had to be associated with a retail store.
Made in Oklahoma Market	June 3	OKC	6 companies participated in this market, held in Stockyards City, in conjunction with their Wines of the West event.
Made in Oklahoma Showcase - Central	June 5	Tuttle	32 producers set up for a wholesale, retailer-only market. in order to attend, attendees had to be

			associated with a retail store.
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New Producers:

Salty Wren Designs	Jonita Mullins	Moss Mode	Okie Wood and Leather
Angelmade Products	Gone to the Dogs 918	Bella Bombe	CCW & Co. Farmhouse Candles
Brandi Brand Creations	Cab Closet	Alpha Drew	DDL Treats LLC
Bakery Bling	KBL Creations Co.	Nameplates License Plate Designs	Art Glass Creations
Living Well LLC	Karon's Unique Castings	Susie's Quilting	Yarn the Gathering
JMS Restaurant Group	Shawwna's Chunky Fluff and Stuff	Angelrocks	Boards and Stems
Angels and Sages	Granny's Gone Crafty	Rockin' D Soap, LLC	One 5 Camper Vans
Caron's Embroidery	An Array of Wreaths, LLC	Pretty Good at Drinking Beer BBQ	Vicki's Creations
CS Engraving Creations	Blanket of Hope	Harris Woodworkings	Dismukes Ranch Beef
Drumm Designs	Craig's Creative Soap Co.	Big Daddy's Man Sauce	Backroad Vineyard
Luxe Empress Du Jour	Webb's Hydrographics	J.A.W.S 3D Print and Design	Heavybuilt Manufacturing
Debra K's Kraft	5 Acre Woods Gourmet	Mystic Owl Candle Company	Green Country Laser Design
Okie Doggie Gourmet Treats and Wellness	Gifts to Go	GLASSic Art by Liz	Grain and Grange

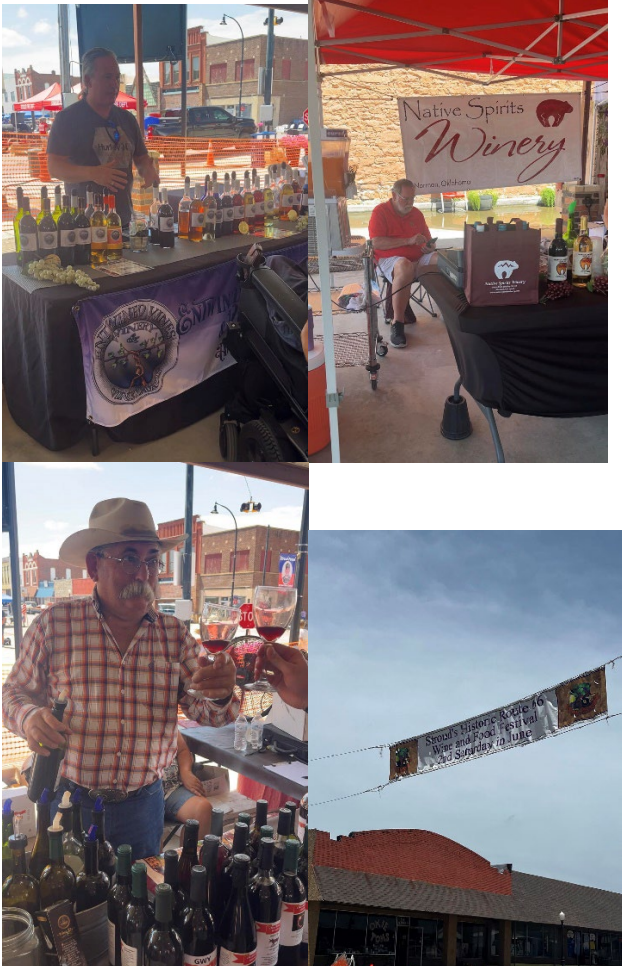
Other Made in Oklahoma Activities:

- Worked with new Intern to develop social media schedule and content for Facebook and Instagram
- Worked with Jen Haddix to determine vendor space in MIO section at Tulsa State Fair
- Worked on shelving layout/organization for products in MIO Store at Oklahoma State Fair – implementing a new shelving/product layout for 2023.
- Calls with prospective producers, retailers, various interested parties or those with questions

VITICULTURE & ENOLOGY

Viticulture & Enology - Site Visits

Producer	Location	Category	Highlights
OkeOzark Winery	Salina	Winery/Vineyard	Met the new owner, Roy Kelly, and was able to approve and add their location to the Agritourism program as well as the wine trails. 

Stroud Route 66 Wine Festival	Stroud	Wine Festival	Met with Native Spirits, Entwined Vines, Wild Horse Canyon, OkeOzark, BackRoad, and Canadian River. Enlisted some Gen Z advice and together we made an instagram reel featuring all the winemakers. 
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Altus Visit	Altus	New Winery/Vineyard	Visit with Angela Clark, a winemaker who is opening a vineyard/winery with her husband. We went out to the plot of land that she has purchased and discussed with her the groundwork of how to plan her vines and business and what aspects of agritourism she can use to help grow. 
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Domaine Amirault	Loire Valley	Enotourism Tour	Discussed different opportunities to increase tourism by incorporating other aspects of agriculture and agritourism. A standout was the inclusion of different sensory experiences by sampling herbs from their pollinator garden and comparing them with wine and wine flavour components.
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Viticulture & Enology - Other Activities

- Dates and invitations have been set and sent out for the Producer Townhall event on July 25th.
- Met with Wanderfolk owner Derek Duty to discuss partnership with ORA for a restaurant geared tradeshow in November. Reached out to potential event spaces.
- Have completed a large portion of AVA petition. Reached out to soil scientists at OSU to get University written supporting material.

MARKET NEWS SERVICES

May 12, 2023 – June 23, 2023

- **Grain Report:**

	May 12, 2023	June 23, 2023	DIFFERENCE
WHEAT: (bu)	\$8.02-\$8.52	\$7.24-\$8.10	\$0.74 to \$0.42 Lower
MILO: (bu)	\$6.06-\$6.36	\$6.11-\$6.61	\$0.05 to \$0.25 Higher
SOYBEANS: (bu)	\$13.55-\$13.95	\$13.54-\$14.09	\$0.01 Lower to \$0.55 Higher
CORN: (bu)	\$6.61-\$7.36	\$6.71-\$7.11	\$0.10 Higher to \$0.25 Lower
COTTON: (lb)	75.78 cents	72.08 cents	\$3.70 Lower

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

FEEDER STEERS

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

- (6-21-22) \$175.00-197.00 Wtd. Avg \$186.00
- (6-20-23) \$246.00-275.00 Wtd. Avg. \$260.50

HEIFERS

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

- (6-21-22) \$158.00-175.50 Wtd. Avg \$166.75
- (6-20-23) \$225.00-264.00 Wtd. Avg. \$244.50

- **Weekly Report:**

- Six weekly Oklahoma Market Reports were sent to 10,709 subscribers May 15, 2023-June 23, 2023 (**up from 98 subscribers last report**).

- **Voice Messaging System:**

- The market news voice messaging system during
- Monthly Total: May 15, 2023-June 23, 2023, **6,504 Accessed Times**
- Last Report: April 4, 2023-May 15, 2023, **6,320 Accessed Times**
- Compared to Last Month: **Accessed Times-is UP 184 on Accessed times**

- **Oklahoma Agriculture Market News**

- **Facebook Page**
 - Likes/Followers 454
 - **UP 10 Likes/Followers**
 - People reached through pasted report: 700 people

- **Oklahoma Hay Directory**

- Hay Directory
 - **Called 91 people that were previously on the Hay Directory**
 - **41 out of the 91 are on the Hay Directory now.**

- **50 of the 91 that are not on the Hay Directory**
 - 1 – Not in the hay business anymore
 - 14 – Not selling, needing it all for themselves
 - 35 – Did not return phone call
- **Hay Report**

This Month: May 26, 2023-June 23, 2023, Hay Traded 4,020
Last Year May 20, 2022-June 17, 2023, Hay Traded 9,317
DOWN 5,297 Bales Reported

OKLAHOMA HAY MARKET REPORT
6-23-23

Receipts: 2,025 Last Reported: 1,445 Year Ago: 0

Compared to the last report: Hay trade is slow with limited demand. We still have not been able to find our footing when it comes to pricing. Oklahoma is still trying to catch up with getting hay cut or out of the field. Due to the rainfall, they keep having to put off time in the field along with wheat harvest. We still have producers trying to restock their inventory from last year's drought. We continue to receive rainfall across the state, but it has mainly been in western Oklahoma. While we do need rain in western Oklahoma, the north-central and eastern part of Oklahoma is beginning to need widespread showers as drought begins to move in over those areas. The Oklahoma Mesonet Drought Monitor shows we are at 0.52 percent in exceptional drought, 4.79 percent in an extreme drought, 16.59 percent in severe drought, 41.91 percent in moderate, 73.21 percent in abnormally dry conditions, 26.79 percent that has no drought conditions.

*** The next report release will be on July 7***

Central
Alfalfa: Good (Trade/Per Ton)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Ground	320	175.00	175.00	Delivered

Alfalfa: Good (Trade/Per Ton)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	750	225.00	225.00	Delivered

North Central
Bermuda Grass: Premium/Supreme (Ask/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round		135.00		F.O.B/New Crop

Bermuda Grass: Premium/Supreme (Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Small Square	140	9.00	9.00	Out of the field/New Crop

Bermuda Grass: Premium/Supreme (Ask/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Small Square		12.00		F.O.B/New Crop

Northeastern
Prairie/Meadow Grass: Good (Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	450	65.00	65.00	Delivered

Northwestern				
Alfalfa: Premium/Supreme (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	80	250.00	250.00	Delivered
Alfalfa: Good (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Ground	165	150.00	150.00	Delivered
Wheat: Fair/Good (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	120	140.00	140.00	F.O.B/Old Crop



Oklahoma Department of Agriculture,
Food, and Forestry
July Board Report for the
Agricultural Environmental
Management Services Division
May 8, thru June 18, 2023

AEMS Division Activities

AEMS staff

- Completing the FEMA Readiness Training. 50% of the staff have completed the program.
- Sent out LOW's on missing annual reports, renewals, and compliance issues. OGC staff members are working with AEMS to resolve these issues and collect fines.
- AEMS staff continue to participate in the Illinois River Watershed (IRW) Partnership conference calls to review technical efforts and monitoring of waterbodies within the watershed area.
- AEMS staff, along with Animal Industry Services coordination, continue to participate in the full-scale exercise planning meetings in preparation for the National Pork Board full-scale exercise.

AgPDES Permitting Activities

- Number of AgPDES CAFO Authorizations this reporting period: 38
- Number of AgPDES PGP Authorizations this reporting period: 15
- Number of AgPDES CGP Authorizations this reporting period: 72

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:

29	Complaints received and investigated this reporting period
43	Complaints closed this reporting period
Complaints Received - Breakdown	
Cattle - 1	
Swine – 2	
Poultry- 3	
Misc. Animal -5	
Other – 2	
Animal Shelter - 3	
Pet Breeder- 13	
141	Year-to-date complaints received in FY 23
95	Year-to-date complaints closed in FY 23
64	LMFO/CAFO inspection and technical assistance
171	Poultry inspections and technical assistance
23	Pet Breeders/Shelters inspections and technical assistance

CAFO and LMFO Activities - Month and Fiscal Year 2023

	May 8, -June 18 2023	FY 23 Total
Complaint or Compliance Follow-ups	11	79
Annual Inspections	64	579
Technical Assistance with Contacts	37	170
Site Visit/Review – No contact made	6	199

Poultry Activities – Month and Fiscal Year 2023

	May 8, -June 18 2023	FY 23 Total
Complaint or Compliance Follow-ups	32	65
Annual Poultry Inspections	80	536
Poultry Technical Assistance	171	1408
Site Visit/Review – No contact made	107	577
Eucha-Spavinaw CNMP Written	12	143

Pet Breeders Activities – Month and Fiscal Year 2023

	May 8, -June 18 2023	FY 23 Total
Complaint or Compliance Follow-ups	17	157
Breeder/Shelter Technical Assistance provided to owner/operator	23	201
Breeder/Shelter Annual Inspections	26	325
Breeder/Shelter Closeout	0	7

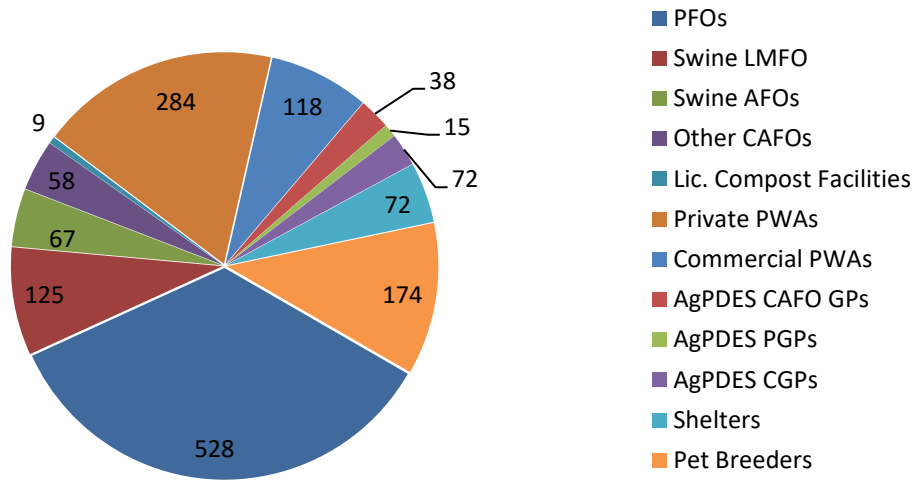
AGPDES Activities– Month and Fiscal Year 2023

	May 8, -June 18 2023	FY 23 Total
Complaint or Compliance Follow-ups	0	5
Site Inspections Annual or Compliance Follow-up	0	21
Technical Assistance provided to owner/operator	0	31

Composting Activities – Month and Fiscal Year 2023

	May 8- June 18–Apr 2, 2023	FY 23 Total
Complaint or Compliance Follow-ups	4	43
Site Inspections (Annual or Compliance follow-up)	0	16
Technical Assistance provided to owner /operator	1	22

Current FY 23 AEMS Numbers



Respectively,

Teena G. Gunter
AEMS Division

**BEFORE THE STATE BOARD OF AGRICULTURE
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
JULY 2023 BOARD REPORT
REGARDING MAY 12, 2023 THROUGH JUNE 30, 2023 ACTIVITIES OF THE
OFFICE OF GENERAL COUNSEL**

AMOUNT OF ADMINISTRATIVE FINES COLLECTED:

Amount to Date (2023)	Amount of Fines for this Board Meeting
\$259,825.00	\$46,450.00
\$207,400.00	2022
\$57,475.00	2021 Total (5/31-12/31/2021)

CONTRACTS REVIEWED OR DRAFTED (60):

Marketing: 41
CPS: 6
Forestry: 2
AIS: 4
Admin: 5
AEMS: 2

ADMINISTRATIVE HEARING PROCEEDINGS:

Total Number of Open Cases: 323
Total Number of New Cases: 41
Total Number of Cases Closed: 17
NOVs Sent: 17

OTHER ACTIONS AND PROCEEDINGS:

<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.
<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 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.

William Grossman v. Lori Howard et al., Cherokee County District Court, Case No. CJ-2020-111: Lawsuit filed on the agency and Forestry Services 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.

Spring Creek Coalition v. ODAFF and Trong, Cherokee County Case Number CJ-2021-29: Petition seeking declaratory and injunctive relief. Answer filed.

Spring Creek Coalition v. ODAFF and Phan, et al., Delaware County Case Number CJ-2021-33: Petition seeking declaratory and injunctive relief. Answer filed. Discovery ongoing. Responded to Motion for Summary. Motion to Dismiss filed. Hearing had March 2, 2023. Supplement brief filed regarding Motion to Dismiss.

MEETINGS:

Date	Activity
May 17, 2023	Directors Meeting
May 22, 2023	OBA Legislative Monitoring Committee
May 24, 2023	Directors Meeting
May 31, 2023	Directors Meeting
June 1, 2023	State Board of Agriculture
June 1, 2023	AALA Policy Track Subcommittee
June 1, 2023	COO and Chief of Staff Update
June 6, 2023	OBA GALPS
June 7, 2023	Westlaw Renewal Meeting
June 7, 2023	Commissioners of Land Office
June 8, 2023	ALJ Docket
June 8, 2023	Irrigation Planning for Long Term in Western Oklahoma
June 9, 2023	AALA Policy Track Subcommittee
June 13, 2023	Sovereignty Symposium
June 14, 2023	Sovereignty Symposium
June 14, 2023	Directors Meeting
June 22, 2023	Illinois River Watershed Technical Workgroup
June 23, 2023	OBA ELS
June 28, 2023	Winter Storm Grants
June 28, 2023	Directors Meeting
June 28, 2023	ODAFF/EPA
June 29, 2023	OGC Staff Meeting

RULE ACTIVITIES:

Chapter 1. Administrative Operations (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 2. Fees (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 10. Agricultural Products (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 15. Animal Industry (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 17. Water Quality (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 20. Forestry (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Notice of Withdrawal submitted to the Governor, Legislature, and Cabinet Secretary and filed with the Office of Administrative Rules on May 9, 2023.
Chapter 30. Consumer Protection (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 37. Food Safety (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Notice of Partial Withdrawal submitted to the Governor, Legislature, and Cabinet Secretary and filed with the Office of Administrative Rules on May 9, 2023.
Chapter 40. Market Development (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 44. AgPDES (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.

Chapter 50. Aquaculture (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 55. Commercial Pet Breeders and Animal Shelters (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
OHRC
Chapter 10. Racing Organization (Permanent FY 2023): Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
Chapter 15. Licensing (Permanent FY 2023): Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
Chapter 25. Entries and Declarations (Permanent FY 2023): Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
Chapter 35. General Conduct (Permanent FY 2023): Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
Chapter 50. Human Substance Abuse Testing (Permanent FY 2023): Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.

OPEN RECORDS REQUESTS (42):

AEMS: 6
CPS: 23
AIS: 6
Forestry: 6
Pet Breeders: 1

OKLAHOMA HORSE RACING COMMISSION

Resolve all pending individual proceedings
Prepare OHRC files for return to OHRC

OTHER ACTIVITIES:

Phone calls or emails with the public: 16
Assistance to industry: 3
Assistance to AEMS: 18
Assistance to CPS: 4
Assistance to Wildlife Services: 0
Assistance to Forestry: 3
Assistance to AIS: 9
Assistance to Admin: 6
Assistance to Human Resources: 5
Assistance to Market Development: 5
Assistance to other state agencies: 3
Assistance to federal agencies: 0
Assistance to Food Safety: 7
Assistance to NASS: 0
Assistance to Executive Office: 2
Assistance to Lab: 2
Assistance to Investigative Services: 2
Assistance to Legislature: 0
Assistance to Attorney General: 0
Assistance to Public Information: 0

Respectfully Submitted,



Teena G. Gunter
General Counsel

FOOD SAFETY REPORT MAY 2023

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 1,206,227 pounds of poultry – boneless/skinless leg meat & bone in/skin on parts. ODAFF inspectors provided USDA Shell Egg grading on 64,785 dozen eggs at Cal-Maine Foods Inc. at Sulphur. ODAFF inspectors provided USDA poultry grading services on poultry products being shipped from National Steak & Poultry Quality Meats in Owasso. 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:

- Eleven organic crop producers
- Two organic livestock producers
- Four organic processors
- Collected two organic samples
- Nine retail organic inspections
- The organic section had requests for 3,000 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, 2 requests for organic livestock applications and 2 requests for organic processing applications.
- The organic staff attended an Intro to Organic Field Day at Fairview and spoke on inspections of organic farms and records to be kept by organic producers.

Produce Safety Section

- Staff attended the Association of Food and Drug Officials (AFDO) Annual Conference in Norfolk, VA and spoke on a panel about produce programs working with marketing programs
- Staff attended the FDA FD227 course: Application of Produce Inspections
- Staff attended the FDA FD327 course: Application of Produce Farm Investigations
- Produce Safety Alliance grower training course at Pawnee Nation College
- Shared information and teaching at OMMA about produce good agricultural practices
- Assisted 11 farms with remote technical assistance
- Assisted 1 farm with on-site technical assistance
- Visited 22 farmers markets/market hubs providing outreach and education to producers and to collect farm inventory
- Conducted 3 farm inspections
- Regular conference calls with TX, LA, AR, NM, MO, MS

Homemade Food Freedom Act

- Received 11 complaints on Homemade Food Freedom Act businesses
- Sent 8 warning letters
- Meat compliance assisted with 10 complaints

Oklahoma Meat Inspection Services Investigations and Compliance Activities

Planned Compliance Reviews	09
Random Compliance Reviews	322
Person-to-Person Contacts	73
Special Investigations and/or Projects	09
Reports of Apparent Violations	02
Detentions	00
Consumer Complaints	21
Verbal Warnings Issued	08
Letters of Warning Issued	02
Samples Submitted to Lab for Analysis	00
Accident Investigations	01
Administrative Procedures Act	01 Enid Packing

The Oklahoma Highway Patrol notified Meat Inspection Compliance with (1) truck accident in the month of May 2023

See details below:

ACCIDENT LOCATION	ANIMAL/PRODUCT	DISPOSITION
I-240 & May Oklahoma City	76 mixed steers/heifers	7 beef died took to Oklahoma City Landfill

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 Inspection Act and/or State Statutes.

Leave (hours)

Brad	16
Wayne	8
Ron	48

MEAT INSPECTION

Number of Cattle	1,745
Total Beef Condemned	24,110 lbs
Beef Heads & Livers	Avg. H wt 20, Avg. L wt 10
Number of Swine	185
Total Pork Condemned	779 lbs
Pork Heads & Livers	Avg. H wt 10, Avg. L wt 2 lbs
Number of Sheep and Goats	7,578
Total Condemned	0 lbs
Number of Chickens	782
Number of Rabbits	50
Total Condemnations	0 lbs
Number of Exotic Deer	12
Total Condemnations	490 lbs
TOTAL MEAT INSPECTED	1,210,850 lbs

PROCESSED MEAT INSPECTED

Processed Red Meat	953,065.02 lbs
Condemned on Reinspection	0 lbs
Poultry (Portions)	299,383.71 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	1,252,448.73 lbs

AVG. CARCASS WT.

Beef 700 lbs., pork 250, sheep goat 100

AVG. BEEF HEAD / LIVER

Head 20 lbs. / Liver 10 lbs

AVG. SWINE HEAD / LIVER

Head 10 lbs. / Liver 2 lbs.

AVG. LAMB/GOAT HEAD

Head 2 lbs.

Meat Sample activity:

48 Samples Submitted for Analysis

0 Samples Not Analyzed

48 Samples Analyzed

0 Samples Non-Compliant

48 Samples Negative Analysis

6/4 We hired Daniel Klassen as a meat inspector for the Southwest circuit.

6/12 - 6/14 Tommy Stephens attended the State Directors meeting in Cody, Wy.

DAIRY SECTION

Dairy staff conducted routine inspections at dairy farms, dairy plants, performed equipment checks and collected farm and plant dairy samples throughout the state.

Dairy Services conducted two dairy farm surveys: DFA Central Council 90 (BTU 40-090) and Riverland Dairy (Pending BTU Name & Number). Riverland Dairy has grown into a large dairy farm in Bryan County and is too big for their existing BTU. A new BTU will be created for Riverland Dairy. Each survey received passing scores. Information regarding these surveys can be found on FDA's Interstate Milk Shippers List website.

Dairy services was approved for a training grant sponsored by the Association of Food and Drug Officials (AFDO). This AFDO grant will fund essential dairy training through 2023. The grant is worth up to \$6,900.00.

Dairy services will assist in hosting an OTED led FD375 Dairy Farm Sanitation Course in Tulsa during August 22-25, 2023.

Consumer Safety Officers of FDA conducted a follow up inspection at Swan Bros. Dairy Inc. in Claremore June 16 – 18, 2023. This follow up inspection is related to the facility's past 483 citations.

The Oklahoma Dairy program will be participating in a National Drug Residue Monitoring Project with the FDA. All samples will be collected at random from bulk milk tankers and shipped to a 3rd party laboratory for anonymous sample preparation. This national study will help FDA determine if the current drug residue screening methods are effective or need to be expanded.

Dairy Services Director, Pete Echelle, is currently out on medical leave for hip replacement surgery.

. 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 7/5/23

Social Media Highlights

2023-24 Agriculture Youth Council Announced – June 7 | After an extensive application and interview process, 15 upcoming high school seniors were chosen to serve on the AYC and represent the Oklahoma Dept. of Agriculture for the next year!



Milking Demonstration Opens Ag in the Classroom Bedlam Road Trip – June 7 | Southwest Dairy Farmers performed a milking demonstration at ODAFF. The event served as the first stop of the Oklahoma Ag in the Classroom Bedlam Road Trip.

Sidwell Distribution is expected to provide new opportunities to Made in Oklahoma companies to distribute their products across the state.

Visit to Planters Co-Op in Lone Wolf – June 15 | Sec. Arthur and ODAFF staff traveled to SW Oklahoma to catch a wheat harvest in mid-June. Unfortunately, the wet weather squashed those plans.

Thank you to Planters Co-Op in Lone Wolf for allowing staff to scale their grain elevator.



National Dairy Month Celebration – June 25 | ODAFF celebrated National Dairy Month with ice cream, cookies, and milk. Staff was challenged to compete in a cookie contest, which resulted in winners in separate categories: “Best Taste”, “Most Unique”, and “Best Appearance”.

Social Media Impact

Facebook

21,681 followers

Since June 1, 2023:

- Posts and content reached 35,577
- 94 new Facebook users have liked the ODAFF page (up 11.9%)

Instagram

3,146 followers

Since June 1, 2023:

- Posts and content reached 2,431 users
- 82 new Instagram users have followed the account

News & Notes NEED UPDATES

Clay Burtrum's Family Featured in Docuseries / We shared the docuseries "Cattle Calling" on the ODAFF social media pages. It's a very well-done piece on the Burtrum family. Now we wait for the sequel...?

Sec. Arthur and ODAFF Staff Attend MASDA / In mid-June, Sec. Arthur and ODAFF staff traveled to Minneapolis for the Midwestern Association of State Departments of Agriculture Regional Meeting. Sec. Arthur provided an update on Oklahoma ag and also led a meeting with fellow ag leaders discussing the promotion of trade between regional states and international importers.

2023 AgHERCulture Conference Announced / The third annual conference is set for August 25 & 26. Registration is open for the Collegiate conference and the High School conference.

JULY 21, 2023, BOARD MEETING

PURCHASES/CONTRACTS

ADMINISTRATION SERVICES

FY24 – Court Ordered Payment - \$5,625 - Court ordered payment to attorney Matthew Frisby

FY24 - GeoSafe - \$12,000 - Smartphone/Tablet application software allowing mobile location services and addition of remote OLETS access for users. The importance of this application to the Investigative Services Unit is to provide our agents with a measure of safety by giving live locations of our agents across multiple jurisdictions. GeoSafe also allows our agents the capability to check for warrants on individuals and can check equipment to see if it is stolen

FY24 - Oklahoma State University - Agriculture Leadership Program - \$50,000

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 explore opportunities for Oklahoma agriculture. To develop and teach a curriculum including, leadership development; communication; government operations and institutions; economics, resource allocation, marketing, and financial 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.

FY24 - Oklahoma State University - \$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.

FY24 - Oklahoma Governor's Office - \$37,874 - 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.

FY24 - Oklahoma State University - \$2,000,000 – Legislative directed expenditure to Oklahoma State University (OSU-DASNR) to provide Agriculture Research and Education Extension program support.

FY24 - Grants to Incorporated Municipalities - \$2,100,000 - Legislatively directed expenditure to provide grants to incorporated municipalities affected by the extreme weather events occurring between 2/7/2021 - 2/21/2021.

FY23 - Dale Rogers Training Center - \$10,670 – Purchase of employee appreciation gifts (Embroidered Backpacks) for agency staff.

FY24 - Oklahoma Horse Racing Commission (OHRC) - \$15,000 – Contract to provide shared services to the OHRC. ODAFF provides financial services limited to functions related to the processing of payroll and assistance in managing time administration systems.

AEMS

AEMS requests permission to continue our agreements with Oklahoma Water Resources Board (OWRB) and the Office of the Secretary of Energy & Environment (OSEE) for the Environmental Protection Agency (EPA) grant of two-year, \$170,000. OWRB collects data groundwater samples at monitoring wells of our Licensed Managed Feeding Operations (LMFO's).

AEMS requests permission to obtain services from Dana Safety Supply Inc., a statewide vendor, to install Brush Guards on 8 field inspectors' vehicles totaling \$8,924.16 to protect and sustain the front of the vehicles from rough terrain and deer as they inspect their areas of operations.

ANIMAL INDUSTRY SERVICES

Acclaim Systems, Inc. - \$9338.36 – In addition to the USAHerds maintenance contract, this agreement provides use access for the State of Oklahoma to utilize the VET-CVI application for the duration of time listed in this maintenance agreement. Oklahoma must follow the intended use for this application and only approve accredited veterinarians within their state that meet the USDA requirements. This total includes an overage of \$3558.36 for USAHerds maintenance contract.

CONSUMER PROTECTION SERVICES

FY2023 OSU Plant Disease and Insect Diagnostic Lab (PDIDL) --\$11,250.00

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

A plant pest investigation occurred in June requiring the sampling of cucurbits for Cucumber Green Mottle Mosaic Virus in Oklahoma crops. ODAFF and USDA APPQ spent 2 weeks in June testing several vegetable farms that had tentatively tested positive through unverified University sampling and testing. Together USDA PPQ along with ODAFF personnel sampled those farms to verify if the original diagnosis is accurate. This request is to pay for the testing of those samples.

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

This pest is of concern to USDA PPQ and could potentially have further ramifications for the state if found here.

FORESTRY SERVICES

FY23 Southern Pine Beetle Prevention Program - \$30,000

This is funded from a USFS Federal Grant to prevent Southern Pine Beetle from spreading from timber stand to timber stand. This grant provides to Oklahoma southern pine timber owners funds for pre-commercial thinning and other cultural practices to prevent the spread of Southern Pine Beetle. This is a very invasive and destructive insect affecting southern pine timber plantations. This prevention program reduces the risk of infestation and helps protect the timber owner's investment and future revenue.

FY 23 - \$12,000

Purchase two (2) UTV trailers to haul firefighting UTV's. Trailers will be 14-16 ft. tandem axle with heavy-duty axles to accommodate hauling of UTV loaded with skid unit and water as well as additional equipment and supplies related to wildland fire activities. Funding for this entire purchase will come the US Forest Service as part of an approved budget revision.

FY 23 – UTVs w/ slip-on firefighting units, \$5,000 (Federal Funding–SICF SFA Response)

Purchase two (2) Polaris Ranger UTVs. These UTVs will be replacing units that were acquired through the Firefighter Property Program (FFP) but are no longer in service due to age and mechanical issues. Each UTV will be equipped with a slip-on skid unit that can handle spot fires and support mop-up throughout the duration of a wildfire. In addition, these UTVS configured with windshields, canopies and seatbelts can safely and efficiently transport fire line personnel to areas where pickups/engines are unable to access. Funding for this entire purchase will come the US Forest Service – FY22 SICF SFA Response Grant as part of an approved budget revision.

Original \$64,929 was approved April of 2023. Due to inflation and long lead times price went up before PO was created.

FY24 - \$23,000 Federal Funds

Award Federal pass-through funding for Urban and Community Forestry Grants to neighborhoods/communities that traditionally face financial hardship – 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.

FY24 – \$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)

FY24 – \$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.

FY 24 - \$30,000

Purchase metal siding, purlin, posts and overhead equipment doors for existing three-sided pole barn at the Forest Regeneration Center. This will secure the building and the container filling equipment that will be housed inside. This purchase will be reimbursed by the Revegetation/National Seed Strategy Funding Grant. **Justification:** Numerous landowners are requesting seedlings grown in containers for their harsher sites and we are unable to meet the demand now due to the lack of infrastructure for the equipment. Once the container filling equipment is assembled, it must be housed in a secure building, away from weather that would affect its operation of filling containers for landowners.

FY 24 - \$26,000

Purchase and have installed plumbing and electrical extensions and fixtures to an existing pole barn at the Forest Regeneration Center. This will provide utilities to the building that will house the container filling equipment. This purchase will be reimbursed by the Revegetation/National Seed Strategy Funding Grant. **Justification:** Numerous landowners are requesting seedlings grown in containers for their harsher sites and we are unable to meet the demand now due to the lack of infrastructure for the equipment. Once the container filling equipment is assembled, it will require electricity and plumbing utilities to run and maintain it.

FY 24 - \$12,000

Purchase contract planting services to qualified, trained workers in order to plant for Fall plantings including Black Walnut and Bur Oak seeds at the Forest Regeneration Center. Each year, the Forest Regeneration Center delivers 2 to 7 million seedlings to Oklahomans for conservation planting. Recently, we cancelled our contract for up to 24 inmate laborers which was a big source of our labor crew. A labor crew is required to plant the seedlings within the short time that they must be planted to meet the harvest schedule for landowners. In order to make sure our customers have quality, healthy seedlings, delivered on schedule, we require contract planting for these seedling orders. Without this approval, we will not be able to plant these hardwoods in a timely manner and we will fail to meet the delivery requirements for Oklahoma customers.

FY24 – Wildfire detection cameras, \$118,580 (Federal Funding–SICF SFA Response)

Purchase eleven (11) PTZ IP Detection Cameras. The cameras will re-establish wildfire detection in eastern Oklahoma providing coverage of the 6.2-million-acre protection areas. An early warning detection system is necessary for keeping fire sizes manageable and ensuring a prompt response. With this system in place, OFS will have the ability to detect fires 24 hours a day, 365 days a year. Funding for this entire purchase will come the US Forest Service – FY22 SICF SFA Response Grant.

FY24 - \$ 2,000,000

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 are able to fulfill a critical public safety function by purchasing firefighting equipment and/or build, remodel, or expand fire stations.

FY24 - \$8,414,550

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 are able to fulfill a critical public safety function by purchasing firefighting equipment, purchase Worker Compensation Insurance, Vehicle Insurance, etc. as outlined in the above-mentioned statute.

FY24 - \$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.

FY24 - \$10,000

Uniforms for OFS employees. OFS employees are required for recognition by the public. Full allotments are purchased for new employees. **Justification:** Existing employees are provided an annual allotment of uniforms to replace worn and old uniforms. OFS employees provide a vital public safety function, requiring public recognition of our personnel. (Federal & State Funds) **Original \$25,000 was approved January of 2023. Due to inflation the yearly budget must be increased.**

FY24- \$11,500

National Association of State Foresters is an organization composed of the directors of forestry agencies in the states, territories and the District of Columbia. Oklahoma has been a member of this organization for decades. This grant provides Oklahoma Forestry Services with the current policies and procedures regarding fire protection and forest management. (Federal Funds) **Justification:** Without this purchase we would lose our connections to other States and plans that emphasize forestry needs.

LABORATORY SERVICES

FY24 - \$17,998.83 – Reagents and Supplies

Purchase of reagents and supplies for the use in the Food and Dairy Section for the PCR equipment. Contract will be effective 07/01/23 through 06/30/24.

FY24 - \$5,700.00 – DI Water and Maintenance

Correction of fiscal year. Previously submitted on the June Board Report.

Contract purchase of analytical grade water for laboratory testing and tank maintenance. Contract effective 07/01/23 through 06/30/24.

FY24 - \$7,436.00 – Eastern Laboratory Services, Ltd.

Correction of fiscal year. Previously submitted on the June Board Report.

Contract for ELS to provide Somatic Cell Standards (SCC) for milk testing. Contract effective 07/01/23 through 06/30/24.

MARKET DEVELOPMENT

FY2024 – Sage – MIO Co-Packer speaker & workshop - \$15,400.00

FY2024 – Oklahoma Youth Expo Junior Livestock Show & educational scholarship program – Legislative Directed Spending - \$85,000.00

Justification: This amount of \$85,000.00 will directly support the 2024 state-wide spring junior livestock show. For 105 years, the youth of the state of Oklahoma have exhibited some of the finest livestock in the country at OYE, which carries the title of “The World’s Largest Junior Livestock Show” with participants from all 77 Oklahoma counties. OYE also provides agricultural scholarships and leadership-training programs for Oklahoma students. The 10-day OYE generates an economic impact of \$24.5 million to the OKC economy and provides hundreds of youth with scholarships to continue their education at a collegiate level. If this purchase is not approved, there is negative impact on conducting the 2024 Oklahoma Youth Expo (OYE) as well as a reduction of show ring achievement and academic scholarships to the youth of Oklahoma.

FY2024 – Tulsa County Public Facilities Authority 2023 Junior Livestock Show – Legislative Directed Spending - \$50,000.00

Justification: The amount of \$50,000.00 goes directly for the purpose of promoting the Oklahoma agriculture industry through national agriculture events, Tulsa State Fair Junior Livestock Auction, and the Tulsa State Fair Livestock Scholarship Program. If this purchase is not approved, there will be a negative economic impact to Tulsa and surrounding communities with the loss of national ag events hosted at Expo Square. In addition, there would be a negative impact on conducting the 2023 Tulsa livestock show and a reduction of scholarships to the youth of Oklahoma.

FY2024 – Made in Oklahoma Coalition – Legislative Directed Spending - \$513,325.00

Justification: The amount of \$513,325.00 goes directly to support a unique public/private partnership that establishes a marketing program for the purpose of promoting food brand awareness, trade and consumer loyalty for Oklahoma food products through a variety of cooperative marketing activities. In addition, MIO promotes business retention, increase of sales to retail and foodservice outlets and business expansion. If this support is not provided, there is a negative impact on the seventy MIO members who employ over 26,000 Oklahomans who have reported increased sales directly related to the MIO marketing campaigns. In addition, the momentum of new, small businesses benefiting from MIO resources and connections will be impaired.

FY2024 – TasteAdvisor Explorer – Agritourism wine app – Renewal for Year 3 of 3 - Oklahoma Viticulture and Enology Center Development Revolving Fund - \$18,000.00

WILDLIFE SERVICES

\$ 24,500 - ODAFF Wildlife Services is requesting approval to purchase a Kawasaki 4x4 side by side UTV. This UTV will allow the wildlife specialist to move trapping equipment into remote locations unable to be accessed with a traditional vehicle, additionally they will be used to survey land looking for wildlife damage more efficiently.

Not approving of this purchase will mean we continue operating in a less efficient way. Currently, traps are moved manually into remote locations increasing the risk of injury to the employee and surveying for wildlife damage by foot decreases productivity. This way of operation is less efficient and costs the agency more dollars due to longer and fewer visits daily.

\$135,304 - ODAFF Wildlife Services is requesting approval to purchase twenty battery, camera, panel trap systems to be utilized at feral swine trap locations, placed strategically across the state. These systems will allow for remote viewing of swine traps from any distance away. This will allow the wildlife specialist to also maintain bait levels at the traps without having to physically go and “check” the traps. The savings here in gas and mileage is significant. These systems will also allow the specialist to “drop” the door on swine traps when the trap has a significant number of pigs inside. A simple command to release the gate is functioned through an app or website. The specialist is alerted by text message that there are pigs in the trap, the live feed is turned on and if deemed necessary the door is remotely dropped.

Not approving of this purchase will mean we continue operating in a less efficient way. Currently, traps must be visited on a daily basis to see if pigs are caught or if more bait is required. This way of conducting trapping operations is a lot less efficient and costs the agency more dollars due to increased visits and mileage.

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

APPROVAL OF CASES

ON THIS 21st day of July 2023, 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 21st day of July 2023.

Blayne Arthur
President
State Board of Agriculture

Exhibit A
Board of Agriculture
July 21, 2023

Cases Resolved by Stipulation

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Evan Allard	OGC-22-543	CPS	\$4,000.00
Big John's Lawn Care	OGC-23-432	CPS	\$2,000.00
John Bonham	OGC-23-086	CPS	\$1,000.00
Matthew Cockrum	OGC-23-434	CPS	\$750.00
Cotton Growers Coop	OGC-23-059	CPS	\$1,000.00
Dollar General	OGC-22-706	CPS	\$3,150.00
Dollar General	OGC-22-722	CPS	\$1,200.00
Dollar General	OGC-22-743	CPS	\$600.00
Dollar General	OGC-22-752	CPS	\$4,550.00
Family Dollar	OGC-22-696	CPS	\$675.00
Hammerheads	OGC-22-480	CPS	\$1,050.00
Jiang Industries, LLC	OGC-23-149	CPS	\$4,000.00
Munie Greencare Prof.	OGC-23-078	CPS	\$2,000.00
Salvador Gutierrez	OGC-23-087	CPS	\$1,000.00
Sherwin Williams	OGC-22-464	CPS	\$225.00

Office of General Counsel

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Greg & Corey Barnes	OGC-23-002	OGC	\$1,000.00

Cases Resolved by Consent Order:

Agricultural Environmental Management Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Seaboard Foods, LLC	OGC-23-113	AEMS	\$1,000.00
Seaboard Foods, LLC	OGC-23-242	AEMS	\$2,500.00

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Bulwark Exterminating	OGC-22-737	CPS	\$5,000.00
Crescent Co-Op	OGC-23-091	CPS	\$3,000.00
Vira Guard Pro	OGC-21-601	CPS	\$750.00

Cases Resolved by Proposed Final Order for Default:

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Terminix	OGC-22-492	CPS	\$2,000.00
Terminix	OGC-22-698	CPS	\$4,000.00

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. EVAN ALLARD/HOOKING A AG AIR LLC

Case File No. OGC-22-543

**Evan Allard
Hooking A Ag Air LLC
24669 EW 18 RD
Vinita, OK 74301**

Summary of Facts: This company made an aerial application to the property to the north of the complainant's property; inspectors noticed necrotic leaves on the trees on the north side of the property. Company application records indicated that an application was made between June 28 and July 3, 2022, with pesticides containing 2,4-D, Aminopyralid, Triclopyr, and Glyphosate. The sample taken from the complainant's property contained the same chemicals. This company made an application that drifted off-target. Additionally, this company made an application without having the appropriate business licenses.

Statute or Rule Violation: 2 O.S. § 3-86 A(3); 2 O.S. § 3-86 A(15).

Proposed Administrative Penalty: \$4000, PIF

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.

EVAN ALLARD
HOOKING A AG AIR LLC
24669 EW 18 RD
VINITA, OK 74301

RESPONDENT.

Case No: OGC-22-543

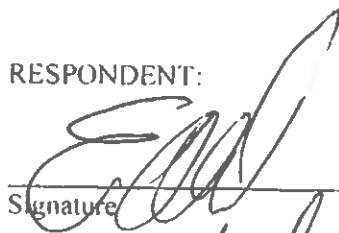
FILED
MAY 19 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Four Thousand Dollars (\$4000.00) 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: Evan Allard Owner

Date: 5-17-23

**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-22-543

**EVAN ALLARD)
HOOKING A AG AIR LLC)
24669 EW 18 RD)
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 11th day of May 2023** 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 14th day of July 2022, the Consumer Protection Services Division of the Department conducted a consumer drift complaint on a property located at 446833 E. Hwy 60 in Vinita, OK. This property is located between the parcels of pastureland that your company sprayed in sections 22 & 27 of 25N-21E.

19. Our inspector observed the willow trees on the complainant's property having necrotic leaves on their north sides, and the garden plants had leaf curl. The complainant and his neighbor have sprayed the property boundary fence line with Glyphosate.

20. According to your application records you applied GrazonNext to the pastureland, and these applications started on June 28, 2022, and ended July 3, 2022.

21. A vegetative sample was taken from the complainant's property, and 2,4-D, Aminopyralid, Triclopyr, and Glyphosate were detected. A vegetative sample was taken from you application area in section 27-25N-21E, and 2,4-D, Aminopyralid, Triclopyr, and Glyphosate were detected.

22. According to our investigation your application is the source of the herbicides found on the complainant's property.

23. Additionally, you are on file with ODAFF as being a certified applicator, and you applied for a business license on May 20, 2022. This application was incomplete, and a business license was not issued to your company.

24. Making applications without a business license, and allowing a pesticide to drift off-target are violations of the Oklahoma Combined Pesticide Law and Rules: 2 O.S. § 3-86 A(3); 2 O.S. § 3-86 A(15).

ALLEGED CONCLUSIONS OF LAW

25. Based upon the application of the above law to the aforementioned facts, by allowing off-target drift and not having a current license you are in violation of Oklahoma Statutes 2 O.S. §3-86(A)(3) and 2 O.S. §3-86(A)(15).

- 2 O.S. §3-86(A)(3) 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: (3) A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.”

- 2 O.S. §3-86(A)(15) states: “(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.”

ATTORNEY CONFERENCES

26. 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.

27. 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.

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

ENFORCEMENT PROCEEDINGS

29. 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.

30. 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.

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

32. 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

33. 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

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 Four Thousand Dollars (\$4000.00).

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 _____ day of _____, 2023.

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

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 _____, 2023, a true and correct copy of the
forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

EVAN ALLARD
HOOKING A AG AIR LLC
24669 EW 18 RD
VINITA, OK 74301

Brady Robison
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.

**EVAN ALLARD
HOOKING A AG AIR LLC
24669 EW 18 RD
VINITA, OK 74301**

RESPONDENT.

Case No: OGC-22-543

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Four Thousand Dollars (\$4000.00) 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. BIG JOHN'S LAWN CARE

Case File No. OGC-23-432

Big John's Lawn Care
879 CR 1403
Chickasha, OK 73023

Summary of Facts: ODAFF inspectors met with employees of this company on at least two different occasions and observed those employees' making applications of pesticides commercially. On those occasions a tank mix sample was taken, and the following was found in the mix: 2,4-D, Dicamba, Mecoprop, and Pendimethalin. None of the applicators were certified. A company making commercial applications is required to have at least one certified applicator on site supervising.

Statute or Rule Violation: 2 O.S. § 3-86 (A)16; O.A.C 35:30-17-25 (b)

Proposed Administrative Penalty: \$2000, PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUN 07 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

BIG JOHN'S LAWN CARE
879 CR 1403
CHICKASHA, OK 73023

RESPONDENT.

Case No: OGC-23-432

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

John Hogsted Owner
Printed Name and Title:

Date: 5/31/23

**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.

**BIG JOHN'S LAWN CARE
879 CR 1403
CHICKASHA, OK 73023**

RESPONDENT.

Case No: OGC-23-432

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 July 2023** 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 applications, located at Chickasha, 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 21st day of October 2022 and again on or about the 21st day of February 2023, the Consumer Protection Services Division of the Department conducted use inspections with your employees in Chickasha, OK.

19. During the October 21st inspection our inspector made contact with Boyce Adair and James Golden who were making an application at that time. Both of these employees are non-certified applicators at the time of this inspection.

20. A tank-mix sample was taken and 2,4-D, Dicamba, Mecoprop, and Pendimethalin were detected in the mix.

21. During the February 21st inspection, our inspectors found your application utility vehicle parked outside a residence. The lawn of this residence had just been sprayed. A short time later your employees, Dennis Jennings and Wyatt Kinnamon, arrived to pick up the vehicle. These employees were also not certified.

22. A certified applicator must be on site to supervise non-certified applicators making applications. Failing to have a license to apply pesticides commercially and failing to have a certified applicator supervise non-certified applicators is a violation of 2 O.S. §3-86(A)(16) and O.A.C. 35:30-17-25(b).

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-86(A)(16) and O.A.C. 35:30-17-25(b) which states:

- 2 O.S. §3-86(A)(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: 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.”

- O.A.C. 35:30-17-25(b): “(b) A certified applicator shall be on site to supervise any pesticide application by a non-service technician.”

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.

PRAYER FOR RELIEF

30. The Department is not seeking to remove any license or registration of any business; we are seeking a monetary penalty as set out in statutes, specifically 2 O.S. §2-18(A). In this case we are seeking a **Two Thousand Dollar (\$2000.00)** administrative penalty.

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 _____ day of _____, 2023.

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
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 _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

BIG JOHN'S LAWN CARE
879 CR 1403
CHICKASHA, OK 73023

Brady Robison
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.

**BIG JOHN'S LAWN CARE
879 CR 1403
CHICKASHA, OK 73023**

RESPONDENT.

Case No: OGC-23-432

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 DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. PERRY GOLF & COUNTRY CLUB

Case File No. OGC-23-86

**John Bonham
Perry Golf & Country Club
2001 N. 9th St.
Perry, OK 73077**

Summary of Facts: ODAFF inspectors conducted a complaint investigation at this facility. The complaint indicated that a pesticide runoff event had occurred. Investigators took samples of the water in one of the ponds located at the facility. Testing indicated that 2,4-D and oxadiazon were present in the water sample. This facility was using a pesticide in a manner inconsistent with its label.

Statute or Rule Violation: 2 O.S. § 2-18.1(A) and O.A.C 35:30-17-24 (c).

Proposed Administrative Penalty: \$1000, PIF

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.

JOHN BONHAM
PERRY GOLF & COUNTRY CLUB
2001 N 9TH ST.
PERRY, OK 73077

RESPONDENT.

FILED

JUN 07 2023

STATE BOARD OF AGRICULTURE

Case No: OGC-23-86

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: 6/6/23

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/herbicide applications, located at Perry, 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 28th day of March 2022, the Consumer Protective Services Division of the Department conducted a complaint investigation located at the Perry Gold and Country Club located at 2001 N. 9th Street in Perry, OK.

19. A water sample from the lake was collected and tested positive with pesticide residues 2,4-D and oxadiazon.

20. Based on the information that you provided to the inspectors, a most recent pesticide application contained 2,4-D, glyphosate and oxadiazon.

21. The improper handling of pesticide causing contamination to the environment and using a pesticide in a manner inconsistent with its label are violations of the Oklahoma Statutes & Rules: 2 O.S. § 2-18.1(A) and O.A.C 35:30-17-24 (c).

ALLEGED CONCLUSIONS OF LAW

22. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §2-18.1(A) and O.A.C. 35:30-17-24(c) which state:

- **2 O.S. §2-18.1(A):** “A. It shall be unlawful and a violation of the Oklahoma Agricultural Code for any person to cause pollution of any air, land or waters of the state by persons which are subject to the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Environmental Quality Act.”
- **O.A.C. 35:30-17-24(c):** “(c) To protect public health and the environment, failure to follow precautionary and recommended language included in the pesticide product label may be considered a use inconsistent with the label.”

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. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

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 **One Thousand Dollars (\$1000.00)**.

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 _____, 2023.

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 _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

JOHN BONHAM
PERRY GOLF & COUNTRY CLUB
2001 N 9TH ST.
PERRY, OK 73077

Brady Robison
Brady Robison

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. MATTHEW COCKRUM

Case File No. OGC-23-434

**Matthew Cockrum
M&C Turf
353703 E. 850
Stroud, OK 74079**

Summary of Facts: ODAFF Inspectors observed this applicator making ornamental and turf applications at a residence. After making contact it was determined this applicator was not licensed and applying without following the labels PPE requirements. This individual has since obtained appropriate licensing.

Statute or Rule Violation: 2 O.S. § 3-82 (A)1; 2 O.S. § 3-82 (A)4; 2 O.S. § 3-86 (A)15; 2 O.S. § 3-86 (A)16

Proposed Administrative Penalty: \$750, PIF

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.)

Case No: OGC-23-434

MATTHEW COCKRUM)
M & C TURF)
353703 E. 850)
STROUD, OK 74079)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Seven Hundred Fifty Dollars (\$750.00)** 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**

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

COMPLAINANT,

v.

**MATTHEW COCKRUM)
M & C TURF)
353703 E. 850)
STROUD, OK 74079)**

RESPONDENT.

Case No: OGC-23-434

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 July 2023** 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 applications, located at Stroud, 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 March 2023, the Consumer Protection Services Division of the Department conducted a use inspection of you making commercial applications for your customer Ron Miller.

19. During this inspection our inspector learned that your company was not licensed, and you do not have a certification to make commercial applications.

20. During this inspection you were applying Simazine 4L and Cornerstone Plus. These products require the applicator to wear long sleeve shirts; you were observed making this application in short sleeves.

21. Operating commercially without a license and certification, and not wearing all the personal protective equipment required by the pesticide product's label are violations of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-82 (A)(1); 2 O.S. § 3-82 (A)(4); 2 O.S. § 3-86 (A)(15); 2 O.S. § 3-86 (A)(16).

ALLEGED CONCLUSIONS OF LAW

22. Based upon the application of the above law to the aforementioned facts, you are in violation of several statutes and rules, including: 2 O.S. §3-82(A)(1), 2 O.S. §3-82(A)(4), 2 O.S. §3-86(A)(15) and 2 O.S. §3-86(A)(16) which are listed below.

- **2 O.S. §3-82(A)(1):** “A. LICENSE REQUIRED - 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. §3-82(A)(4):** “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.”
- **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. 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.”

- **2 O.S. §3-86(A)(16):** “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.”

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.

PRAYER FOR RELIEF

29. The Department is not seeking to remove any license or registration of any business; we are seeking a monetary penalty as set out in statutes, specifically 2 O.S. §2-18(A). In this case we are seeking a **Seven Hundred and Fifty Dollar (\$750.00)** administrative penalty.

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 **Seven Hundred Fifty Dollars (\$750.00)**.

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 _____ day of _____, 2023.

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

Brady Robison

Teena Q. 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 21 day of June, 2023, a true and correct copy of the forgoing instrument was emailed to matthewcockrum@yahoo.com

MATTHEW COCKCRUM
M & C TURF
353703 E. 850
STROUD, OK 74079

Brady Robison
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-23-434

**MATTHEW COCKRUM)
M & C TURF)
353703 E. 850)
STROUD, OK 74079)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Seven Hundred Fifty Dollars (\$750.00)** 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. COTTON GROWERS COOP

Case File No. OGC-23-59

COTTON GROWERS COOP

1509 W. Broadway St.

Altus, OK 73521

Summary of Facts: Inspectors performed a restricted use dealer and marketplace inspection at this facility. After examining records, it was determined that this company sold restricted use pesticides on two different occasions to an individual that was not certified in any capacity to use those pesticides. This pesticide contained the chemical Paraquat.

Statute or Rule Violation: 2 O.S. § 3- 86 (C)5

Proposed Administrative Penalty: \$1000, PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
MAY 22 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

COTTON GROWERS COOP
1509 W. BROADWAY ST.
ALTUS, OK 73521

RESPONDENT.

Case No: OGC-23-59

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

David Arthur, Manager
Printed Name and Title:

Date: 5-19-2023

**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-23-59

**COTTON GROWERS COOP)
1509 W. BROADWAY ST.)
ALTUS, OK 73521)**

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 13th day of July 2023** 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 sales, located at Altus, 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 9th day of November, 2022, the Consumer Protective Services Division of the Department conducted a routine inspection involving a marketplace and restricted use pesticide inspection at your place of business.

19. While checking your records our inspector found that on May 2, 2022, you sold Dustin Spradlin 60 gallons of Gramoxone.

20. Our inspector also found that on May 6, 2022, you sold the same individual 37.5 gallons of Parazone.

21. Gramoxone and Parazone are restricted use pesticide products due to the acute toxicity of their active ingredient Paraquat.

22. Dustin Spradlin is not a private applicator nor is he certified in the agricultural plant category. As such Mr. Spradlin was not eligible to be sold restricted use pesticide products. Restricted use pesticide products can only be sold to individuals who hold a current private applicator certification or to individuals who hold a current certified applicator certification in the category of the site in which the restricted use pesticide product can be applied.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, selling restricted use products to non-licensed or certified is a violation of the label and Oklahoma Statutes, specifically 2 O.S. §3-86(C)(5) which states:

- “C. It shall be unlawful for any person, whether or not a person holds a permit as a manufacturer, registrant, or distributor, to distribute, sell, or offer for sale within this state, deliver for transportation or transport in intrastate or interstate commerce, or to violate any part of this subarticle or rules promulgated by the Board. Any pesticide registration, permit, certificate, or identification issued may be suspended, canceled, revoked, or refused reissue by the Board after a notice and opportunity to be heard has been given to the holder of the registration, permit, certificate, or identification. Notice shall be given to the holder of the registration, permit, certificate, or identification by registered or certified mail at least ten (10) days prior to the date of hearing. The suspension, cancellation, revocation, or refusal to reissue any registration, permit, certificate or identification may be made if the Board finds that: That any person intends to or has distributed, sold, stored, or used any pesticide or device in a manner inconsistent with its labeling.”

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. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00),

imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

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 _____ day of _____, 2023.

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 _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**COTTON GROWERS COOP.
1509 W. BROADWAY ST.
ALTUS, OK 73521**

Brady Robison
Brady Robison

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

V.

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-22-706

DOLLAR GENERAL
1102 N. 4TH
SAYRE, OK 73662

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 Three Thousand One Hundred and Fifty Dollars (\$3,150.00). (21 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
JUN 20 2023
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 22-706

DOLLAR GENERAL)
1102 N. 4TH)
SAYRE, OK 73662)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Thousand One Hundred and Fifty Dollars (\$3,150.00)** 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

Mia Savaloja

Printed Name

Sr Dir. Store Ops

Job Title

Date

6/1/23

[Handwritten signature and date 6-10-23]

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 1102 N. 4th in Sayre, 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 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.

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 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 one hundred (100) 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 October 11, 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 twenty-one (21) of the one 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.

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 **Three Thousand One Hundred and Fifty Dollars (\$3,150.00). (21 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 23rd day of May, 2023.

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 _____ day of _____, 2023, 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

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

Case No: OGC 22-706

Date _____

**OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
INSPECTOR* Richard Folsom
PRICE VERIFICATION REPORT**

CPS 152 Rev 1/06

INSPECTOR NUMBER 23-RLF-0005

DATE 10/11/2022

COUNTY Beckham

LOCATION*

CORPORATE

AGN NUMBER AGN050317

AGN NUMBER

Dollar General

1102 N 4th

Sayre

OK

73662-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-RLF-0077

TELEPHONE* (405) 429-8369

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Dunkin French Vanilla Coffee 12 oz	881334000474	\$9.50	\$10.00	(\$0.50)
Lipton BLK Tea 100 bags	041000002878	\$3.50	\$3.65	(\$0.15)
Monster Reserve 16 oz	070847037828	\$2.20	\$2.40	(\$0.20)
CV Shelled Walnuts 4oz	865801002213	\$3.65	\$3.75	(\$0.10)
Gorton's Butterfly Shrimp 9.2oz	044400139304	\$6.95	\$7.95	(\$1.00)
Armor Smoked Sausage 7oz	027815020504	\$1.25	\$1.35	(\$0.10)
Ziploc QT Freezer bags 19 ct	025700003885	\$4.60	\$5.00	(\$0.40)
Mr Clean Magic Eraser mop refill	011171462696	\$7.50	\$7.75	(\$0.25)
ToastMaster 4" waffle maker	655772020082	\$10.00	\$10.75	(\$0.75)
Fruity Pebbles Cereal 11oz	884912129710	\$3.45	\$3.65	(\$0.20)
Hidden Valley Ranch dressing 24 oz	071100005783	\$4.50	\$4.95	(\$0.45)
Toll House Mini CC Cookie sand 18oz	050000653997	\$6.50	\$7.75	(\$1.25)
Idaho Mashed Potatoes 24 oz	043301611946	\$4.75	\$5.75	(\$1.00)
Believe Beauty Facemask	840797146297	\$2.25	\$2.50	(\$0.25)
Old Spice Body Wash 30 oz	037000737577	\$8.50	\$8.75	(\$0.25)
Conair Hair Brush 2pk	074108951144	\$6.50	\$7.00	(\$0.50)
icyHot original roll on 1.5 oz	041167009116	\$4.85	\$4.95	(\$0.10)
Colgate Plus tooth brush 2 pk	035000553331	\$2.00	\$2.25	(\$0.25)
Dove Advance care antipers. 1.6 oz	079400472649	\$4.35	\$4.50	(\$0.15)
Hanes Mens NoShow socks 6 pk	038257765182	\$10.75	\$11.25	(\$0.50)
Wheat Thins 5.75 oz	044000089810	\$2.25	\$2.50	(\$0.25)

Total Number Checked 100 Total Number Of Violation 21 ~~21~~ 79 % Inspection Result Notice of Violation

REMARKS

Follow up #2

Ratasha Oles

WITNESS

Latesha Owe

INSPECTOR*

Richard Folsom

[Signature]

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-722**

**DOLLAR GENERAL
18497 W. WOODWARD RD
TAHLEQUAH, OK 74464**

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
JUN 20 2023
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 22-722

DOLLAR GENERAL)
18497 W. WOODWARD RD)
TAHLEQUAH, OK 74464)

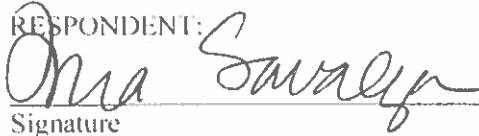
RESPONDENT.)

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

Mia Savaloja
Printed Name

Sr Dir Store Ops
Job Title

6/1/23
Date



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 18497 W. Woodward Rd. in Tahlequah, 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 28, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Tahlequah, Oklahoma. The inspection revealed that five (5) 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 January 4, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Tahlequah, 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.

24. On or about November 2, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Tahlequah, 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.

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 Two Hundred Dollars (\$1,200.00). (8 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 23rd day of May, 2023.

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 _____ day of _____, 2023, 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)
18497 W. WOODWARD RD)
TAHLEQUAH, OK 74464)**

RESPONDENT.)

Case No: OGC 22-722

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 23-JDN-0005

RECEIVED

DATE 11/2/2022

COUNTY Cherokee

LOCATION*

2022 NOV 15 A 11:43

CORPORATE

AGN NUMBER

AGN 0134318

AGN NUMBER

Dollar General

18497 W Woodard Rd

Tahlequah

OK

74464-

MANAGER Rebecca Cooper

INSPECTION TYP Followup

Original Insp# 22-JDN-0003

TELEPHONE* (918) 923-3115

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE OTHER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
CV Fudge Cookies 13oz	02020002985	\$2.30	\$2.50	(\$0.20)
hellman's Mayonnaise 30 oz	048001213487	\$5.00	\$5.50	(\$0.50)
betty Crocker Fudge Brownie Mix	016000197268	\$1.95	\$2.00	(\$0.05)
Purina Kitten Chow	017800181693	\$7.00	\$7.85	(\$0.85)
7UP 2LITER	078000000344	\$1.80	\$2.20	(\$0.40)
Post Cocoa Pebbles 19.5 oz	884912379283	\$4.95	\$5.00	(\$0.05)
Monster Energy Zero Ultra 16oz	070847012474	\$2.20	\$2.40	(\$0.20)
Bridgford Sausage Sticks 5oz	047500019927	\$4.50	\$4.75	(\$0.25)

Total Number Checked 50 Total Number Of Violation 8 Accuracy 84 % Inspection Result Notice of Violati

REMARKS

Will return in 60 days.

WITNESS

Mooper

INSPECTOR*

John Nunnery

John Nunnery

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-743**

**DOLLAR GENERAL
US HWY 70
RINGLING, OK 73456**

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 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 Six Hundred Dollars (\$600.00). (8 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)
US HWY 70)
RINGLING, OK 73456)

RESPONDENT.)

FILED
JUN 20 2023
STATE BOARD OF AGRICULTURE

Case No: OGC 22-743

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Six Hundred Dollars (\$600.00)** 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.

[Handwritten signature]
6.20.23

RESPONDENT:
[Handwritten signature: Mia Savaloja]
Signature
Mia Savaloja
Printed Name
Sr. Dir Store Ops
Job Title
6/1/23
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)
US HWY 70)
RINGLING, OK 73456)**

RESPONDENT.

Case No: OGC 22-743

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 13, 2023**, 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 US Hwy 70, in Ringling, 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 August 8, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ringling, Oklahoma. The inspection revealed that (19) 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 November 3, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ringling, Oklahoma. The inspection revealed that eight (8) 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.

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 Dollars (\$600.00). (8 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 23rd day of May, 2023.

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 _____ day of _____, 2023, 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)
US HWY 70)
RINGLING, OK 73456)**

RESPONDENT.)

Case No: OGC 22-743

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Six Hundred Dollars (\$600.00)** 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 23-JPS-0011

LOCATION*

AGN NUMBER AGN0158776

Dollar General

31484 US HWY 70

Ringling

OK

73456

MANAGER

INSPECTION TYP Followup

Original Insp# 23-JPS-0043

TELEPHONE* (580) 826-3088

Other Store Type

ITEM STATUS NON-SALE

TYPE OF STORE DEPARTMENT

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Orange Gatorade 20Oz	052000328677	\$1.80	\$2.25	(\$0.45)
Pringles Chips Cheddar Cheese 5.5Oz	038000138973	\$2.25	\$2.35	(\$0.10)
Starbucks Cold & Crafted 11 Oz	012000205248	\$2.30	\$2.50	(\$0.20)
Command Wire Hooks Medium 2 Count	05113192176	\$3.55	\$3.75	(\$0.20)
Valvoline Motor Oil Maxlife 10W30	074130001497	\$6.75	\$6.95	(\$0.20)
Cesar Dry Dog Food 2.7Lbs	023100116242	\$6.50	\$7.25	(\$0.75)
Dove Mens Body Wash Charcoal & Clay	011111653238	\$5.95	\$6.00	(\$0.05)
Tampax Radiant Tampons 28Ct	073010712973	\$7.65	\$8.40	(\$0.75)

Total Number Checked 50 Total Number Of Violation 8 Accuracy 84 % Inspection Result Notice of Violation

REMARKS

This is the first follow up inspection

WITNESS

Steve Jones

INSPECTOR*

James Schoppa

James Schoppa

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-752

DOLLAR GENERAL
811 N. HAZLETT
FT. COBB, OK 73038

Summary of Facts: An investigator conducted five 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 Four Thousand Five Hundred Fifty Dollars (\$4,550.00) (13 violations at \$350.00 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 22-752

FILED
JUN 20 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Thousand Five Hundred Fifty Dollars (\$4,550.00)** 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

Mia Savaloja
Printed Name

Sr Dir. Store Ops
Job Title

6/1/23
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.

Case No: OGC 22-752

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 13, 2023**, 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 fifth violation discovered within any twelve-month period will be assessed a penalty of Three Hundred Fifty Dollars (\$350.00) 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 one 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(J).

28. On or about July 26, 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 thirteen (13) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

29. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a fifth violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

30. 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

31. 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.

32. 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.

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

ENFORCEMENT PROCEEDINGS

34. 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.
35. 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.
36. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

ENFORCEMENT OF JUDGMENTS

37. 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

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

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

40. 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

41. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Thousand Five Hundred Fifty Dollars (\$4,550.00). (13 violations at \$350.00 per violation).**

42. 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 23rd day of May, 2023.

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 _____ day of _____, 2023, 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 22-752

**DOLLAR GENERAL)
811 N. HAZLETT)
FT. COBB, OK 73038)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Thousand Five Hundred Fifty Dollars (\$4,550.00)** 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-0099

DATE* 7/26/2022

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-0074

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
<u>Cheez-it Crackers 7oz</u>	<u>024100705665</u>	<u>\$2.65</u>	<u>\$2.85</u>	<u>(\$0.20)</u>
<u>Armour Classic Hot Dog 12 oz</u>	<u>050100006013</u>	<u>\$1.50</u>	<u>\$1.65</u>	<u>(\$0.15)</u>
<u>Apple Jacks cereal 10.1 oz</u>	<u>038000198496</u>	<u>\$3.75</u>	<u>\$3.95</u>	<u>(\$0.20)</u>
<u>Dunkin original blend coffee 12oz</u>	<u>881334000467</u>	<u>\$9.50</u>	<u>\$9.95</u>	<u>(\$0.45)</u>
<u>JellyBelly Gum 2.6 oz</u>	<u>042897210087</u>	<u>\$3.25</u>	<u>\$3.45</u>	<u>(\$0.20)</u>
<u>Cetaphil lotion 4oz</u>	<u>302990241310</u>	<u>\$4.35</u>	<u>\$4.50</u>	<u>(\$0.15)</u>
<u>DG Health Electrolyte 33.8oz</u>	<u>370030658404</u>	<u>\$4.45</u>	<u>\$4.65</u>	<u>(\$0.20)</u>
<u>Fixodent +Scope adhesive 1.6 oz</u>	<u>037000906193</u>	<u>\$4.00</u>	<u>\$4.50</u>	<u>(\$0.50)</u>
<u>Sterilite 32qt tote</u>	<u>073149149688</u>	<u>\$11.50</u>	<u>\$12.00</u>	<u>(\$0.50)</u>
<u>Glade Carpet refreshner 32 oz</u>	<u>046500769832</u>	<u>\$2.25</u>	<u>\$2.75</u>	<u>(\$0.50)</u>
<u>Baked with Love Candy mold</u>	<u>672125061114</u>	<u>\$4.00</u>	<u>\$4.25</u>	<u>(\$0.25)</u>
<u>CV Pinto Beans 15.5 oz</u>	<u>042396253127</u>	<u>\$1.15</u>	<u>\$1.35</u>	<u>(\$0.20)</u>
<u>Mott's Apple Juice 64 oz</u>	<u>014800000344</u>	<u>\$3.20</u>	<u>\$3.25</u>	<u>(\$0.05)</u>

Total Number Checked 50 Total Number Of Violation 13 Accuracy 74 % Inspection Result Notice of Violation

REMARKS

Follow up #1

WITNESS

Michelle Prince

INSPECTOR*

Richard Folsom

2022 AUG - 3 11:09
REC'D CFS

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. FAMILY DOLLAR
Case File No: OGC-22-696

FAMILY DOLLAR
3029 SE 44TH
DEL CITY, OK 73135

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 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 Six Hundred Seventy-five Dollars (\$675.00) (9 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.)

Case No: OGC 22-696

FAMILY DOLLAR # 31820)
3029 SE 44TH)
DEL CITY, OK 73135)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Six Hundred 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

Nicole King

Printed Name

District Manager 194

Job Title

05/07/23

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.)

Case No: OGC 22-696

**FAMILY DOLLAR)
3029 SE 44TH)
DEL CITY, OK 73135)**

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 11, 2023**, 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 Family Dollar, located at 3029 SE 44th, in Del 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 April 12, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Del City, Oklahoma. The inspection revealed that eight (8) 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.

22. On or about September 27, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Del City, Oklahoma. The inspection revealed that nine (9) of the one hundred (100) 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.

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 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 7th day of February, 2023.

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 _____ day of _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**FAMILY DOLLAR
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.)

Case No: OGC 22-696

**FAMILY DOLLAR)
3029 SE 44TH)
DEL CITY, OK 73135)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Six Hundred 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 NUMBE 22-JMM-0180

DATE* 9/27/2022

COUNTY Oklahoma

LOCATION*

CORPORATE

AGN NUMBER _____

AGN NUMBER _____

Family Dollar _____

3029 SE 44th St _____

Del City _____ OK 73135- _____

MANAGER Michael Turner INSPECTION TYP Followup Original Insp# 22-JMM-008

TELEPHONE* (405) 898-8047 Other Store Type _____ ITEM STATUS _____

TYPE OF STORE DEPARTMENT

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
A.1. Original Sauce 10 oz	0544000005	\$4.50	\$4.75	(\$0.25)
Paper Plates 32 ct	03225173236	\$2.75	\$3.20	(\$0.45)
Friskies Seafood 3.15 lbs	050000015474	\$5.15	\$5.35	(\$0.20)
Jiffy 8.5 oz	072486002205	\$0.60	\$0.75	(\$0.15)
Suddenly Pasta Salad 7.75 oz	016000503304	\$2.00	\$2.60	(\$0.60)
Homeline Dryer Sheets 105 sheets	032251045158	\$3.35	\$3.60	(\$0.25)
Skittles Gummies 5.8oz	022000285042	\$2.40	\$2.50	(\$0.10)
Dawn Platinum Refreshing Rain Scent	03700400189	\$1.50	\$1.75	(\$0.25)
Shea Moisture Cocunut & Hib. 13floz	764302290209	\$10.00	\$11.00	(\$1.00)

Total Number Checked 100 Total Number Of Violation 9 Accuracy 91 % Inspection Result _____ Notice of Violation _____

REMARKS

WITNESS

INSPECTOR*

Jasmine Middleton

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. FAMILY DOLLAR
Case File No: OGC-22-480

HAMMERHEADS
627 MAIN STREET
WAYNOKA, OK 73860

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 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 Fifty Dollars (\$1,050.00) (14 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.)

HAMMERHEADS)
627 MAIN STREET)
WAYNOKA, OK 73860)

RESPONDENT.)

Case No: OGC 22-480

FILED
JUN 12 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Fifty Dollars (\$1,050.00)** 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:

Kyra Whipple
Signature

Kyra Whipple
Printed Name

Owner
Job Title

May 11, 2023
Date

GINA, HERE IS your
copy. I put the
live check in the
SAFE

Thanks
JayD

FILED
FEB 08 2023
STATE BOARD OF AGRICULTURE

COMPLAINANT.

v.

Case No: OGC 22-480

HAMMERHEADS
627 MAIN STREET
WAYNOKA, OK 73860

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 p.m. on May 11, 2023**, 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 Hammerheads, located at 627 Main Street, in Waynoka, 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 April 26, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Hammerheads in Waynoka, Oklahoma. The inspection revealed that twenty-three (23) 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 July 11, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Hammerheads in Waynoka, Oklahoma. The inspection revealed that fourteen (14) 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.

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 **One Thousand Fifty Dollars (\$1,050.00). (14 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 7th day of February, 2023.

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 8 day of Feb., 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**HAMMERHEADS
627 MAIN STREET
WAYNOKA, OK 73860**



Gina Blaylock



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 22-CTS-0103

DATE* 7/11/2022

COUNTY Woods

LOCATION*

CORPORATE

AGN NUMBER

AGN NUMBER

Hammerheads

627 Main St.

Waynoka

OK

73860-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-CTS-0077

TELEPHONE* (580) 824-0283

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE CONVENIENCE STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Hostess Donutte Crunch	888109050054	\$2.19	\$2.49	(\$0.30)
Halls Cherry	312546627710	\$1.69	\$1.79	(\$0.10)
Secret Solid Power	037000124229	\$2.59	\$3.09	(\$0.50)
One Bar Maple Donut	788434106757	\$3.49	\$3.79	(\$0.30)
Arm&Hammer Baking Soda	033200011309	\$0.89	\$0.99	(\$0.10)
Keebler Club & Cheddar	030100125211	\$0.79	\$0.99	(\$0.20)
Auto Electric Tape	080893010386	\$2.19	\$2.29	(\$0.10)
Assorted Hose Clamps	080893012281	\$4.09	\$4.29	(\$0.20)
Duracell AA Batteries	041333415017	\$8.89	\$9.49	(\$0.60)
Links Teriyaki Beer Jerky	017082883896	\$7.99	\$9.29	(\$1.30)
Pringles Grab & Go Original	038000845246	\$1.69	\$1.89	(\$0.20)
Hershey Syrup	03431209	\$3.89	\$4.19	(\$0.30)
ZzzQuil	366715974617	\$2.39	\$2.59	(\$0.20)
Cheezit Cheddar & Parmesan	024100577309	\$2.49	\$2.59	(\$0.10)

Total Number Checked 50 Total Number Of Violation 14 Accuracy 72 % Inspection Result 2022 JUL 20 A 11:11 Notice of Violation

REMARKS

WITNESS

[Signature]

INSPECTOR*

Colt Stearns

[Signature]

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. JIANG INDUSTRIES LLC

Case File No. OGC-23-149

**JIANG INDUSTRIES LLC
17558 S. 105TH ST. E
WEBBERS FALLS, OK 74470**

Summary of Facts: This case comes from a referral from OMMA. OMMA reported that this company submitted a batch for testing and that batch failed; the batch tested positive for Etoxazole. ODAFF Inspectors conducted a follow-up inspection at this facility where they discovered numerous containers of Eschaton TR insecticide. The active ingredient for Eschaton TR is Etoxazole. Only pesticides labeled for hemp use and approved by the Board are able to be applied to medical marijuana. This company was applying pesticides off-label.

Statute or Rule Violation: 2 O.S. § 3-86 (A)(4)

Proposed Administrative Penalty: \$4000, PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

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

FILED

MAY 30 2023

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-23-149

**JIANG INDUSTRIES LLC
17558 S. 105TH ST. E.
WEBBERS FALLS, OK 74470**

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Thousand Dollars (\$4000.00)** 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

Tinxing Jiang

Printed Name and Title:

Date: 5/30/2023

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

v.

JIANG INDUSTRIES LLC
17558 S. 105TH ST. E.
WEBBERS FALLS, OK 74470

NOTICE OF VIOLATION

PREHEARING CONFERENCE NOTICE

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 Webbers Falls, 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 22nd day of February 2023, the Consumer Protective Services Division of the Department performed a use inspection of your marijuana grow operation. This inspection was after the Department received a report from the Oklahoma Medical Marijuana Association that one of your batch samples had failed a test due to pesticides being detected in the sample.

19. The pesticide that was detected was Etoxazole.

20. During the inspection our inspector observed numerous containers of pesticides being stored in your facility, including Eschaton TR Insecticide. Etoxazole is the active ingredient in Eschaton TR Insecticide.

21. Additionally, many of the pesticide products that you have at your facility are not labeled to be used in medical marijuana production.

22. Currently the only pesticide products that can be applied to medical marijuana are those products that are registered with ODAFF and are approved to be applied to hemp.

23. According to our investigation you have been misusing pesticide products by applying them to a crop that is not approved by the product label.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-86(A)(4) which is stated below:

- “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.

PRAYER FOR RELIEF

32. The Department is not seeking to remove any license or registration of any business; we are seeking a monetary penalty as set out in statutes, specifically 2 O.S. §2-18(A). In this case we are seeking a **Four Thousand Dollar (\$4000.00)** administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

33. 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

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 **Four Thousand Dollars (\$4000.00)**.

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 _____ day of _____, 2023.

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

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 _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

JIANG INDUSTRIES LLC
17558 S. 105TH ST. E.
WEBBERS FALLS, OK 74470

Brady Robison

Brady Robison

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

v.

JIANG INDUSTRIES LLC
17558 S. 105TH ST. E.
WEBBERS FALLS, OK 74470

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Thousand Dollars (\$4000.00)** 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. MUNIE GREENCARE PROFESSIONALS

Case File No. OGC-23-78

**MUNIE GREENCARE PROFESSIONALS
1000 MILBURN SCHOOL RD
CASEYVILLE, IL 62232**

Summary of Facts: Inspectors conducted an investigation into this company for making commercial turf applications without having a certified applicator employed. Records indicated that one of their employees had previously been employed with this company but had left employment. Records showed that this company continued to make applications in this employee's name. This company was falsely maintaining that they had a certified applicator employed. Records also indicated that one of their employees had taken the exam for certification but had not received it yet. A company operating commercially without a certified applicator, employees making commercial applications without a certification, and falsely stating that a person is employed are violations of the Oklahoma Combined Pesticide Law & Rules.

Statute or Rule Violation: : 2 O.S. § 3-82 (A)1; 2 O.S. § 3-86 (A)13; 2 O.S. § 3-86 (A)15; 2 O.S. § 3-86 (A)16; O.A.C. 35:30-17-11 (h); O.A.C.35:30-17-11 (i)

Proposed Administrative Penalty: \$2000, PIF

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.

MUNIE GREENCARE PROFESSIONALS
1000 MILBURN SCHOOL RD
CASEYVILLE, IL 62232

RESPONDENT.

Case No: OGC-23-78

FILED
MAY 31 2023
STATE BOARD OF AGRICULTURE

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

Joseph A Muncie President
Printed Name and Title:

Date: 4-29-2023

**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-23-78

**MUNIE GREENCARE PROFESSIONALS)
1000 MILBURN SCHOOL RD)
CASEYVILLE, IL 62232)**

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 8th day of June 2023** 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 ornamental and turf pesticide applications, located at Lawton, 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 15th day of December 2022, the Consumer Protective Services Division of the Department conducted a consumer complaint investigation of your Lawton, OK facility.

19. This investigation concerned employees at your Lawton, OK facility making commercial applications without having a certified applicator employed for that location.

20. Records provided by your former employee Brian Strawderman show that he left your company on June 1, 2022.

21. Our inspector met with Aaron Hite during this investigation and was informed by Mr. Hite that he has recently taken the ornamental and turf exam. ODAFF records show that Mr. Hite passed his ornamental and turf exam on December 8, 2022.

22. Application records from July and September of 2022, show that applications were being made under Brian Strawderman's name.

23. To maintain a current license and make applications a commercial pesticide applicator company must always have at least one certified applicator employed at each business location that the company has.

24. Operating commercially without a certified applicator, employees making commercial applications without a certification, and falsely stating that a person is employed are violations of the Oklahoma Combined Pesticide Law & Rules.

ALLEGED CONCLUSIONS OF LAW

25. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-82(A)(1), 2 O.S. §3-86(A)(13), 2 O.S. §3-86(A)(15), 2 O.S. §3-86(A)(16), O.A.C. 35:30-17-11(h) and O.A.C. 35:30-17-11(i) which are stated below:

- **2 O.S. §3-82(A)(1):** "A. LICENSE REQUIRED - 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)(13):** "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: 13. Falsely stating that a person is employed by or represents another person.”

- **2 O.S. §3-86(A)(15):** “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.”
- **2 O.S. §3-86(A)(16):** “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.”
- **O.A.C. 35:30-17-11(h):** “(h) Each business location licensed shall have a minimum of one certified applicator at that location who is certified in each licensed category for which application is made.”
- **O.A.C. 35:30-17-11(i):** “(i) A franchised business shall have a separate license and a separate certified applicator at each business location.”

ATTORNEY CONFERENCES

26. 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.

27. 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.

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

ENFORCEMENT PROCEEDINGS

29. 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.
30. 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.
31. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.
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.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

34. 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

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 (\$2000.00)**.

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 _____ day of _____, 2023.

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

Brady Robison

Teena C. 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 _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**MUNIE GREENCARE PROFESSIONALS
c/o Corporation Service Company
10300 Greenbriar Place
Oklahoma City, OK 73159**

Brady Robison
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-23-78

MUNIE GREENCARE PROFESSIONALS)
1000 MILBURN SCHOOL RD)
CASEYVILLE, IL 62232)

RESPONDENT.)

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 DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. SALVY LAWNS

Case File No. OGC-23-87

**SALVADOR GUTIERREZ
SALVY LAWNS
3116 SW 45th St.
OKC, OK 73119**

Summary of Facts: ODAFF Inspectors conducted a complaint investigation in OKC for a pesticide runoff with application dye observed in the stormwater drainage system at a park. The dyed runoff was traced back to an apartment complex located on the southside of the park. A water sample was taken and tested for pesticide residues. The sample returned positive for 2,4-D. Upon inspecting the records provided by the company Triad Select Herbicide and Prodiamine 65WDG was made at the apartment complex. This company was applying and handling in a manner inconsistent with labeling.

Statute or Rule Violation: 2 O.S. § 2-18.1(A) and O.A.C 35:30-17-24 (c).

Proposed Administrative Penalty: \$1000, PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

FILED
JUN 08 2023
STATE BOARD OF AGRICULTURE

Case No: OGC-23-87

Page 9 of 9

**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-23-87

**SALVADOR GUTIERREZ)
SALVYLAWNS)
3116 SW 45TH ST)
OKLAHOMA CITY, OK 73119)**

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 8th day of June 2023** 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/herbicide applications, 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 15th day of November 2021, the Consumer Protective Services Division of the Department conducted a complaint investigation located at the Merel Medley Park located at 11100 S. Pennsylvania Ave. in OKC, OK. This complaint was in regard to a pesticide runoff with application dye. This runoff was observed storm water drainage system at the park.

19. The runoff was traced back to the Montclair Parc apartment complex at the north side of the park. The water at the north storm drains of the park appeared milky blue.

20. A water sample was collected and tested for pesticide residues. The sample analysis detected 2,4-D.

21. Based on the information that you provided to the inspector, a pesticide application using Triad Select Herbicide (EPA registration number 89442-22) and Prodiamine 65WDG (EPA registration number 53883-429) was made at the Montclair Parc apartment complex on November 1, 2021.

22. The improper handling of pesticide causing contamination to the environment and using a pesticide in a manner inconsistent with its label are violations of the Oklahoma Statutes & Rules.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §2-18.1(A) and O.A.C 35:30-17-24(c) which state:

- **2 O.S. §2-18.1(A):** “A. It shall be unlawful and a violation of the Oklahoma Agricultural Code for any person to cause pollution of any air, land or waters of the state by persons which are subject to the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Environmental Quality Act.”
- **O.A.C. 35:30-17-24(c):** “(c) To protect public health and the environment, failure to follow precautionary and recommended language included in the pesticide product label may be considered a use inconsistent with the label.”

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. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.
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 _____ day of _____, 2023.

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

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 _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

SALVADOR GUTIERREZ
SALVYLAWNS
3116 SW 45TH ST
OKLAHOMA CITY, OK 73119

Brady Robison

Brady Robison

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. FAMILY DOLLAR
Case File No: OGC-22-464

SHERWIN WILLIAMS
155 12TH AVENUE SE
NORMAN, OKLAHOMA 73071

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 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 Hundred Twenty-five Dollars (\$225.00) (3 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.

SHERWIN WILLIAMS
155 12TH AVENUE SE
NORMAN, OKLAHOMA 73071

RESPONDENT.

Case No: OGC 22-464

FILED
JUN 13 2023
STATE BOARD OF AGRICULTURE

404-41

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Hundred Twenty-five Dollars (\$225.00) 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

Chris Dawdy

Printed Name

Store Manager

Job Title

6.6.23

Date

6.13.23

**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.

**SHERWIN WILLIAMS)
155 12TH AVENUE SE)
NORMAN, OKLAHOMA 73071)**

RESPONDENT.

Case No: OGC 22-464

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 13, 2023**, 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 Sherwin Williams, located at 155 12th Avenue SE, 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 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 30, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Sherwin Williams in Norman, 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 August 5, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Sherwin Williams in Norman, Oklahoma. The inspection revealed that three (3) 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.

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 Twenty-five Dollars (\$225.00). (3 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 _____ day of _____, 2023.

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
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 _____, 2023, a true and
correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested,
as follows:

**SHERWIN WILLIAMS c/o
CORPORATION SERVICE COMPANY
10300 GREENBRIAR PLACE
OKLAHOMA CITY, OK 73159**

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.

**SHERWIN WILLIAMS)
155 12TH AVENUE SE)
NORMAN, OKLAHOMA 73071)**

RESPONDENT.

Case No: OGC 22-464

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Hundred Twenty-five Dollars (\$225.00)** 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-0190

DATE* 8/5/2022

COUNTY Cleveland

LOCATION*

CORPORATE

AGN NUMBER AGN0117646

AGN NUMBER _____

Sherwin Williams

155 12th Avenue SE

Norman OK 73071-

MANAGER _____ INSPECTION TYP Followup Original Insp# 22-GMC-008

TELEPHONE* (405) 329-2215

Other Store Type _____

ITEM STATUS _____

TYPE OF STORE HARDWARE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>2020 24MM Mask tape</u>	<u>051141331355</u>	<u>\$2.79</u>	<u>\$3.09</u>	<u>(\$0.30)</u>
<u>Patch+primer 4 in 1</u>	<u>051141401188</u>	<u>\$9.49</u>	<u>\$9.99</u>	<u>(\$0.50)</u>
<u>2090 24MM Blue tape</u>	<u>051115036811</u>	<u>\$5.29</u>	<u>\$5.79</u>	<u>(\$0.50)</u>

RECD CFS
2022 AUG 10 A 11:11

Total Number Checked 50 Total Number Of Violation 3 Accuracy 94 % Inspection Result Notice of Violation

REMARKS

WITNESS

INSPECTOR*

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. Greg & Corey Barnes

Case File No. OGC-23-2

Summary of Facts: Respondent is a cotton grower who failed to remit the statutory assessment to the Oklahoma Boll Weevil Eradication Organization upon the ginning of their cotton as required by the Boll Weevil Eradication Act.

Statute or Rule Violation: : 2 O.S. 3-50.9(a)(A)(1), (C)(3), and (E)

Proposed Administrative Penalty: The proposed penalty was \$1000.00.

Deviations: The Respondent remitted the outstanding assessment. The penalty was reduced to \$500.00. The Respondent paid the reduced penalty.

Other Actions Required: None.

OGC Attorney: James W. Rucker

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
MAY 22 2023
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-

GREG & COREY BARNES)
RR 1 BOX 95)
GUYMON, OK 73942)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars** ~~(\$1,000.00)~~ ^{500.00 per agreement} 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

Corey Barnes

Printed Name and Title

Date: 5-17-2023

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

MAR 23 2023

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-23-2

GREG & COREY BARNES)
RR 1 BOX 95)
GUYMON, OK 73942)

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) on **June 8, 2023** 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 near Altus, OK.
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. 3-50.11

(A) The board of directors may request the Oklahoma Department of Agriculture, Food, and Forestry to provide for the collection of the assessment or for other enforcement action necessary as determined by the board of directors for violations of the Boll Weevil Eradication Act and for collection of any administrative penalty or fine from any person who is determined to have violated any provision of the Boll Weevil Eradication Act.

2 O.S. 3-50.9a

(A)(1) The assessment imposed pursuant to the provisions of the Boll Weevil Eradication Act shall be levied on a cotton grower at the time of sale and shall be collected and remitted to the board of directors by the cotton gin serving as the selling agent for the cotton produced. The cotton gins shall furnish monthly reports to the board of directors on or before the fifteenth day of each month regarding the assessments collected, pay

all of the assessments collected each month, and furnish the board with any other information reasonably requested by it to ensure the collection of the assessments for each grower.

(C)(3) The provisions contained in this section apply to all cotton gins located in the State of Oklahoma or in any other state. Any gin that, whether by design or inadvertent act, fails to forward to the board of directors by June 1 of each year an accounting of all assessments collected and paid, as well as payment for all assessments previously collected but not paid, shall be subject to an administrative penalty or fine pursuant to the Boll Weevil Eradication Act.

(E) Failure to pay the required assessment or any remaining amount due shall result in an administrative penalty or fine to the grower, or other legal action to the grower or to the cotton gin when the assessment has been collected from the cotton grower.

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 March 28, 2022, Respondent(s) received an assessment invoice from the Oklahoma Boll Weevil Eradication Org. for \$617.50 with instructions to remit to OBWEO within 15 days of March 28, 2022.
- Respondent(s) failed to remit within 15 days of the March 28, 2022 invoice.
- Respondent(s) received a 2nd Notice to remit to OBWEO on May 16, 2022 with instructions to remit to OBWEO within 15 days of May 16, 2022.
- Respondent further failed to remit the assessment to OBWEO within 15 days of May 16, 2022.

- On or about July 7, 2022, a Letter of Warning that detailed the outstanding account was sent to Greg & Corey Barnes.

ALLEGED CONCLUSIONS OF LAW

18. Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. 3-50.11 and 2 O.S. 3-50.9a (E) by failing to remit payment to OBWEO.

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.

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



James Rucker, Deputy General Counsel, OBA # 14574
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 24 day of March, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**Greg & Corey Barnes
RR 1 Box 95
Guymon, OK 73942**



Gina Blaylock

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

v.

RESPONDENT.

Case No: OGC-

Page 9 of 9

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. SEABOARD FARMS LLC

Case File No. OGC-23-113

**SEABOARD FARMS LLC
9000 WEST 67TH STREET, SUITE 200
SHAWNEE MISSION, KS 66202**

Summary of Facts: ODAFF was notified through AEMS that this facility had a broken line in the courtyard at the Respondents Choate Sow Farm. While excavating the line personnel discovered a cool cell tank was sitting on top of a broken line. While making repairs, the tank was removed causing effluent to flow into a contained area outside of a farrowing room at the facility. Inspectors discovered effluent approximately 196 feet north and south on the north side of the lift station and 58 feet east and west of the lift station; approximately 363 feet north and south on the west side of the lift station as well. There was an estimated 454 gallons of discharge. Pit plugs were inserted to prevent further flow into the area. All repairs were made.

Statute or Rule Violation: 2 O.S. § 20-48(B)(1) and § 2-18.1(A)

Proposed Administrative Penalty: \$1000, consent order PIF

Deviations: Consent Order PIF

Other Actions Required: None.

OGC Attorney: Brady Robison for Richard 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.

**SEABOARD FOODS LLC
9000 WEST 67TH STREET, SUITE 200
SHAWNEE MISSION, KS 66202**

RESPONDENT.

FILED

JUN 12 2023

STATE BOARD OF AGRICULTURE

Case No: OGC-23-113

SETTLEMENT AGREEMENT AND CONSENT ORDER

PARTIES

1. This Settlement Agreement and Consent Order (the "Agreement") is between the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) and Seaboard Foods LLC (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Seaboard Foods LLC and is located in the courtyard at Respondent's Choate Sow Farm (S65).

AUTHORITY

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7).
4. Pursuant to 2 O.S. § 20-1, ODAFF has authority to regulate persons who are Swine Feeding Operators.

DEPARTMENT'S NOTICE

5. On May 2, 2023, the Department issued a Notice of Violation in Case No. OGC-23-113, ("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

6. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of One Thousand Dollars (\$1,000). Payment shall be made by Respondent within fourteen (14) days of execution of this Agreement by both parties

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
Attn: Richard Herren

EFFECT OF THE AGREEMENT

7. 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 matters 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.
8. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this Agreement 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.
9. 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 the allegations in the Notice or this Agreement 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 allegations set forth in the Notice or this Agreement. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this action by this Agreement.

NO ADMISSION.

10. 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.

11. 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

12. 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

13. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to:

For the Oklahoma Department of Agriculture, Food, and Forestry:

Richard D. Herren
Oklahoma Department of Agriculture,
Food, and Forestry
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298

For Seaboard Food LLC:

Jennifer Charno Nelson
Associate General Counsel – Environmental & Regulatory Compliance
Seaboard Foods LLC
9000 W 67th Street, Suite 200
Shawnee Mission, KS 66202

MISCELLANEOUS

14. 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.
15. The undersigned representative of the OGC, ODAFF agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondent

understands that the OGC Representative neither possesses the legal power to bind the Board nor can the OGC 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.

16. Payment for the administrative penalty shall be presented in accordance with Paragraph 6 of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
17. 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.
18. In the event the Board does not approve this Agreement, 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.
19. 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.
20. 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

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

COMPLAINANT

Date: 6/8/2023

- and by -

SEABOARD FOODS LLC



Jennifer Charno Nelson
Associate General Counsel – Environmental & Regulatory
Compliance
Seaboard Foods LLC
9000 W 67th Street, Suite 200
Shawnee Mission, KS 66202

COUNSEL FOR RESPONDENT

Date: 4/9/2023

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.

**SEABOARD FOODS LLC
9000 WEST 67TH STREET, SUITE 200
SHAWNEE MISSION, KS 66202**

RESPONDENT.

Case No: OGC-23-113

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 June 8, 2023**, 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 raising swine in Oklahoma.

16. Pursuant to 2 O.S. § 20-1, ODAFF has authority to regulate persons who are Swine Feeding Operators.

17. Under the Act, operators are required to utilize Best Management Practices including no discharges from the lagoons.

18. Pursuant to 2 Okla. Stat. § 2-18.1(A) "It shall be unlawful and a violation of the Oklahoma Agricultural Code for any person to cause pollution of any air, land or waters of the state by persons which are subject to the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Environmental Quality Act

ALLEGATIONS OF FACT

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

20. On January 20, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department was notified there was a broken line in the courtyard at Respondent's Choate Sow Farm (S65). The Department designated the discharge as D-23-012.

21. While excavating the line, personnel discovered a cool cell tank was sitting on top of a broken line. To repair the line, the tank was removed causing effluent in the line to flow into a

contained area outside of a farrowing room on the facility. On that day, an inspector conducted a site investigation and found effluent approximately one hundred ninety-six feet north and south, on the north side of the lift station and approximately fifty-eight feet east and west, on the south side of the lift station and approximately six hundred three feet north and south on the west side of the lift.

22. The estimated discharge was four hundred fifty-four (454) gallons. A portion of the effluent was recovered.

23. The pit plugs were inserted to prevent further flow into the contaminated area. The broken line was repaired and the cool cell relocated to the south of the line.

24. On February 7, 2023, a Final Discharge Report was completed memorializing the facts associated with D-23-012.

25. On February 8, 2023, the Department sent Respondent a Letter of Warning regarding the discharge of process wastewater in violation of the law.

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. § 20-48(B)(1) and § 2-18.1(A) by discharging process wastewater in violation of the Oklahoma Swine Feeding Operations Act and Oklahoma Agricultural Code.

ATTORNEY CONFERENCES

27. 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.

28. 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.

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 Okla. Stat. Tit. 2 § 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.

PRAYER FOR RELIEF

33. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 2-18(A). In this case we are seeking a One Thousand Dollars (\$1,000.00) administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

34. 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

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 Hundred Dollars (\$1,000.00).

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 2ND day of May 2023.

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
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 2nd day of May 2023, a true and correct copy of the
forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SEABOARD FOODS LLC
9000 WEST 67TH STREET, SUITE 200
SHAWNEE MISSION, KS 66202
ATTENTION: JENNIFER NELSON
ASSOCIATE GENERAL COUNSEL - ENVIRONMENTAL & REGULATORY
COMPLIANCE**



GINA BLAYLOCK

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. SEABOARD FOODS

Case File No. OGC-23-242

**SEABOARD FOODS LLC
9000 WEST 67TH STREET, SUITE 200
SHAWNEE MISSION, KS 66202**

Summary of Facts: In March 2023 ODAFF was notified through the AEMS Division that an unauthorized discharge had occurred. Respondent's personnel discovered the discharge line from the lift station to the digester was installed incorrectly resulting in rising pressure and a cap blowing off the line and effluent flowing onto the facility and into the county road right of way and ditch. Approximately 417 gallons flowed onto Respondents property and 4428 gallons flowed east and west in the north ditch of County Road AA in the SW ¼ of Section 11, Township 2 North and Range 16 ECM in Texas County, OK. Dry conditions allowed the effluent to soak into the ground. The county ditch was excavated and returned to the evaporative lagoon at the facility. The discharge lines were correctly connected to proper lagoon system. A settlement agreement was signed and executed in an effort to mitigate civil liabilities.

Statute or Rule Violation: 2 O.S. § 20-48(B)(1) and § 2-18.1(A)

Proposed Administrative Penalty: \$2500, PIF

Deviations: Settlement Agreement

Other Actions Required: None.

OGC Attorney: Brady Robison for Richard 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.

**SEABOARD FOODS LLC
9000 WEST 67TH STREET, SUITE 200
SHAWNEE MISSION, KS 66202**

RESPONDENT.

FILED

JUN 12 2023

STATE BOARD OF AGRICULTURE

Case No: OGC-23-242

SETTLEMENT AGREEMENT AND CONSENT ORDER

PARTIES

1. This Settlement Agreement and Consent Order (the "Agreement") is between the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (the "Department") and Seaboard Foods LLC (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Seaboard Foods LLC and is known as finisher #1239.

AUTHORITY

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7).
4. Pursuant to 2 O.S. § 20-1, the Department has authority to regulate persons who are Swine Feeding Operators.

DEPARTMENT'S NOTICE

5. On May 2, 2023, the Department issued a Notice of Violation in Case No. OGC-23-242, ("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

6. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Two Thousand Five Hundred Dollars (\$2,500). Payment shall be made by Respondent within fourteen (14) days of execution of this Agreement by both

parties 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
Attn: Richard Herren

EFFECT OF THE AGREEMENT

7. 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 matters 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.
8. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this Agreement 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.
9. 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 the allegations in the Notice or this Agreement 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 allegations set forth in the Notice or this Agreement. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this action by this Agreement.

NO ADMISSION.

10. 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.

11. 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

12. 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

13. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to:

For the Oklahoma Department of Agriculture, Food, and Forestry:

Richard D. Herren
Oklahoma Department of Agriculture,
Food, and Forestry
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298

For Seaboard Food LLC:

Jennifer Charno Nelson
Associate General Counsel – Environmental & Regulatory Compliance
Seaboard Foods LLC
9000 W 67th Street, Suite 200
Shawnee Mission, KS 66202

MISCELLANEOUS

14. 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.
15. The undersigned representative of the OGC, the Department agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondent understands that the OGC Representative neither possesses the legal power to bind the Board nor can the OGC 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.

16. Payment for the administrative penalty shall be presented in accordance with Paragraph 6 of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
17. 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.
18. In the event the Board does not approve this Agreement, 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.
19. 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.
20. 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

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

COMPLAINANT

Date: 6/8/2023

- and by -

SEABOARD FOODS LLC



Jennifer Charno Nelson

Associate General Counsel – Environmental & Regulatory
Compliance

Seaboard Foods LLC

9000 W 67th Street, Suite 200

Shawnee Mission, KS 66202

COUNSEL FOR RESPONDENT

Date: 6/9/2023

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.

**SEABOARD FOODS LLC
9000 WEST 67TH STREET, SUITE 200
SHAWNEE MISSION, KS 66202**

RESPONDENT.

Case No: OGC-23-242

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 June 8, 2023, 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 raising swine in Oklahoma.

16. Pursuant to 2 O.S. § 20-1, ODAFF has authority to regulate persons who are Swine Feeding Operators.

17. Under the Act, operators are required to utilize Best Management Practices including no discharges from the lagoons.

18. Pursuant to 2 Okla. Stat. § 2-18.1(A) "It shall be unlawful and a violation of the Oklahoma Agricultural Code for any person to cause pollution of any air, land or waters of the state by persons which are subject to the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Environmental Quality Act

ALLEGATIONS OF FACT

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

20. On March 1, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department was notified of an unauthorized discharge when Respondent's personnel discovered the discharge line from the lift station go to the digester was installed incorrectly on Respondent finisher #1239. When the lift station was turned on, effluent flowed into a discharge line going to the evaporative lagoon resulting in rising pressure, a cap to blow off

the line and effluent flowing onto the facility and into the county road right of way and ditch. Approximately four hundred seventeen (417) gallons flowed onto Respondents property and an additional four thousand four hundred twenty-eight (4,428) gallons flowed east and west in the north ditch of County Road Aa in the Southwest quarter of Section 11, Township 2 North and Range 16 ECM in Texas County, Oklahoma. The Department designated the discharge as D-23-032.

21. Due to the dry conditions in the area, effluent soaked into the ground. Approximately thirty (30) tons of effluent/soil mixture on Respondent facility and in the county ditch was excavated and returned to the evaporative lagoon on the facility.

22. The lift station was shut off and the lines correctly connected to the proper lagoon system.

23. A Discharge Final Report was completed detailing the discharge memorialized as D-23-032.

24. On March 15, 2023, the Department sent Respondent a Letter of Warning regarding the discharge of process wastewater in violation of the law.

ALLEGED CONCLUSIONS OF LAW

25. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. § 20-48(B)(1) and § 2-18.1(A) by discharging process wastewater in violation of the Oklahoma Swine Feeding Operations Act and Oklahoma Agricultural Code.

ATTORNEY CONFERENCES

26. 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.

27. 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.

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

ENFORCEMENT PROCEEDINGS

29. 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.

30. Pursuant to Okla. Stat. Tit. 2 § 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.

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

PRAYER FOR RELIEF

32. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 2-18(A). In this case we are seeking a Two Thousand Five Hundred Dollars (\$2,500.00) administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

33. 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

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 Two Thousand Five Hundred Dollars (\$2,500.00).

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 2ND day of May 2023.

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
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 2nd day of May 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SEABOARD FOODS LLC
9000 WEST 67TH STREET, SUITE 200
SHAWNEE MISSION, KS 66202
ATTENTION: JENNIFER NELSON
ASSOCIATE GENERAL COUNSEL - ENVIRONMENTAL & REGULATORY
COMPLIANCE**



GINA BLAYLOCK

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. BULWARK EXTERMINATING

Case File No. OGC-22-737

BULWARK EXTERMINATING

9755 E. 55th Pl.

Tulsa, OK 74146

Summary of Facts: This company was using a Borate termite treatment on new construction homes around the Mustang, OK area. The company's applicator was making this application without certification. This company issued a termite protection letter that states that Bora-Care is the only termite treatment performed by the company and if termites are noticed in the future, then they'll install a termite baiting system. ODAFF does not allow Borate to be applied as a standalone treatment. This type of application was done to 13 different homes in the housing addition. After inspection of the records, it was determined that the Borate that was applied was done so in a manner inconsistent with label instructions. Additionally, ODAFF requires termite applicators to issue a contract for all structural applications; this company failed to do so.

As part of this agreement, this company went back to the homes listed in the LOW and installed baiting systems at each of the homes. Additionally, service contracts were issued to the home owner.

Statute or Rule Violation: 2 O.S. § 3-86 A (16); 2 O.S. § 3-86 A (4); 2 O.S. § 3-81(11); O.A.C 35:30-17-20; O.A.C.; O.A.C. 35:30-17-73 (h).

Proposed Administrative Penalty: \$5000; Consent Order PIF

Deviations: Settlement Agreement and Consent Order

Other Actions Required: None.

OGC Attorney: Brady Robison

Bulwark Exterminating LLC
P.O. Box 151
Queen Creek, AZ 85142
480-539-4933

Comerica
RT # 121137522

00036112

5/16/23

PAY Oklahoma Department of Agriculture

**5,000.00

\$

Five Thousand and 00/100***** DOLLARS

TO THE
ORDER
OF
Office of General Counsel
OK Dept of Agriculture, Food & Forestry
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105



Case #OGC-22-737

Valid for 90 days after date of issue

⑈000036112⑈ ⑆222237522⑆01895507497⑈

Bulwark Exterminating LLC
Oklahoma Department of Agriculture

00036112

5/16/23

5,000.00

Settlement Agreement and Consent

Comerica - Operating Case #OGC-22-737

5,000.00

Details on Back.

Security Features Included

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

BULWARK EXTERMINATING
9755 E. 55TH PL
TULSA, OK 74146

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/termicide applications, located at 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 1st day of September 2022, the Consumer Protective Services Division of the Department conducted a use inspection of your company's applications of termiticide located 10505 SW 40th in Mustang, OK.

19. During this inspection it was found that your employee Chad Sample was using Bora-Care to perform a borate termite treatment to the studs and wall boards of a home that was being newly constructed by builder DR Horton. When asked for certification Mr. Sample stated that he did not have any certification.

20. When asked if the home was pretreated with a soil applied termiticide, Mr. Sample stated the home was not pretreated. Mr. Sample informed our inspectors that Bulwark Exterminating

has a termite protection plan with their customers where Bora-Care is the only termite treatment performed during construction, and if the home gets infested with termites in the future, then a termite baiting system will be installed.

21. Our inspectors spoke with Bulwark Exterminating's certified applicator David Keever who confirmed the company's termite protection plan.

22. records request was sent to your legal representatives, and they supplied our office with the Bora-Care application records for 13 homes located along the 11000 block of SW 40th, and 18 homes along the 10000 block of SW 40th in Mustang, OK. All these homes were DR Horton homes.

23. In reviewing the application records for these sites, your employees Brett Wallace and Brady Delgado made applications, and are also not on file with ODAFF as being applicators for your company.

24. The application records indicate that Mr. Wallace made applications to 10500, 10504, 10512, 10516, and 10520 SW 40th St. in Mustang, OK, and Brady Delgado made an application to 11609 SW 40th in Mustang, OK.

25. Mr. Wallace's and Mr. Delgado's applications took 30 minutes each. The Bora-Care label states that in areas where the application is limited to one or two sides of the wood member to apply two coats waiting 20 minutes between each coat.

26. For proper treatment the application should take longer than 30 minutes.

27. ODAFF requires applicator companies issue a contract for all structural pest applications.

28. The Bulwark Exterminating termite contracts were not supplied as requested, rather the copies of DR Horton's home builder contract were supplied.

ALLEGED CONCLUSIONS OF LAW

29. Based upon the application of the above law to the aforementioned facts, Making applications without certification, applying a pesticide inconsistent with the product label, not keeping the required contracts, and not meeting termite treatment minimum standards, are violations of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-86 (A)(16); 2 O.S. § 3-86 (A)(4); 2 O.S. §3-86(A)(4); 2 O.S. § 3-81(11); O.A.C 35:30-17-20; O.A.C. 35:30-17-73(h).

- Having applicators applying pesticides that are not certified per the state standards is a violation of 2 O.S. §3-86(A)(16) 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: 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."
- Applying a product inconsistent with the label is a violation of 2 O.S. §3-86(A)(4) that states: "4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board."

- Not issuing a contract as defined by 2 O.S. §3-81(11) and O.A.C 35:30-17-20 which state: “11. "Contract" means a binding, written agreement between two or more persons spelling out terms and conditions and includes, but is not limited to, warranties or guarantees for pesticide application. For structural pest control applications, the contract shall also include a statement, plat, or diagram showing all locations of visible termites and termite damaged materials which are observed, and how the application was performed.” As well as: “(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. (2) Minimum standards for termite work for existing structures and preconstruction applications. Any minimum requirements that will not be met shall be explained in the contract.”
- Failing to properly apply termiticide in a manner consistent with the Oklahoma Administrative Code, specifically O.A.C. 35:30-17-73.

ATTORNEY CONFERENCES

30. 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.
31. 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.
32. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

33. 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.

34. 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.

35. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

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

37. 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

38. 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

39. 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

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

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

42. 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

43. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Then Thousand Dollars (\$10,000.00)**.

44. 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 _____, 2023.

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 _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

BULWARK EXTERMINATING
9755 E. 55TH PL
TULSA, OK 74146

Brady Robison
Brady Robison

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. CRESCENT CO-OP

Case File No. OGC-23-91

CRESCENT CO-OP

215 E. Madison

Crescent, OK 73028-0316

Summary of Facts: ODAFF Inspectors conducted an inspection at this facility. During this inspection a strong odor of ammonia was detected around the facility. A standing discharge of water was observed on the north side of the containment tanks on the north side. Dead vegetation was observed along the discharge and around the fence. The concrete barrier was in a state of disrepair and cracking. As part of the settlement, this company was to remedy the issues with the standing water and concrete barrier around the tanks. This provision has been satisfied. As part of that agreement the company requested to reduce the amount of the penalty and it was reduced to \$3000 from \$5000. This company also sought to plea "no-contest" and was allowed to do so.

Statute or Rule Violation: 2 O.S. §§ 8-77.15. A, 2-18.1 (A), O.A.C. 35:30-29-31 (a) & (g), O.A.C. 35:30-29-34 and O.A.C. 35:30-29-35 (e) & (f)

Proposed Administrative Penalty: \$3000 Settlement PIF; Originally \$5000

Deviations: Settlement Agreement and Consent Order; \$3000

Other Actions Required: None.

OGC Attorney: Brady Robison

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

FILED
JUN 01 2023
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-23-91

Crescent Co-Op)
215 E. Madison)
Crescent, OK 73028-0316)

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 Crescent Co-Op (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Ryan Thomas and located at 215 E. Madison, Crescent, OK 73028-0316 (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(7).

DEPARTMENT'S NOTICE

4. On 22nd day of February 2023, the Department issued a Notice of Violation in Case No. OGC-23-91, ("Notice") to the Facility, which is attached hereto as Exhibit 1. 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 Three Thousand Dollars (\$3000) and remedy the issues surrounding the storage tanks around the Co-Op property; this provision has been satisfied. 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:

For the Oklahoma Department of Agriculture, Food, and Forestry:

Brady Robison
Assistant General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298

For Crescent Co-Op:

Vance Nye
Gungoll, Jackson, Box, & Devoll
101 Park Ave.
Suite 1400
OKC, OK 73102

With a copy to: Crescent Co-Op
215 E. Madison
Crescent, OK 73028-0316

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 22, 2023

- and by -

Gungoll, Jackson, Box, & Devoll


Vance T. Nye
Attorney
Gungoll, Jackson, Box, & Devoll
101 Park Ave.
Suite 1400
OKC, OK 73102

COUNSEL FOR RESPONDENT

Date: 5-31-23

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.

**RYAN THOMAS
CRESCENT COOP ASSOCIATION
215 E MADISON
CRESCENT, OK 73028-0316**

RESPONDENT.

Case No: OGC-23-91

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 11th day of May 2023 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 fertilizer sales, located at Crescent, 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 10th day of June 2021, the Consumer Protective Services Division of the Department conducted an investigation/inspection at your liquid fertilizer facility in Crescent, OK.

19. During this investigation/inspection our inspector found standing liquid next to your storage tanks that carried a smell of ammonia; dead vegetation was also observed in the area immediately surrounding the standing liquid.

20. A sample of this liquid was sent to the lab for testing. Testing confirmed a presence of ammonia, phosphorous, and nitrates.

21. These actions are violations of 2 O.S. §§ 8-77.15. A, 2-18.1 (A), O.A.C. 35:30-29-31 (a) & (g), O.A.C. 35:30-29-34 and O.A.C. 35:30-29-35 (e) & (f)

ALLEGED CONCLUSIONS OF LAW

22. Based upon the application of the above law to the aforementioned facts, you are in violation of multiple statutes which are listed below:

- **2 O.S. §8-77.15(A):** “A. No person owning or operating a fertilizer storage facility or a commercial fertilizer facility shall discharge or release or place or cause to be placed any fertilizer material in a location where it is likely to cause contamination of any surface water or groundwater of this state. The provisions of this subsection shall not prohibit or restrict the land application of fertilizer for agriculture purposes or plant growth.”
- **2 O.S. §2-18.1(A):** “A. It shall be unlawful and a violation of the Oklahoma Agricultural Code for any person to cause pollution of any air, land or waters of the state by persons which are subject to the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Environmental Quality Act.”
- **O.A.C. 35:30-29-31(a):** “(a) **Basic requirements.** (1) Storage tanks and appurtenances shall be constructed installed and maintained to prevent the discharge of liquid fertilizer. (2) Materials used in construction or repair of storage tanks and appurtenances may not be of a type which react chemically or electrolytically with stored liquid fertilizer in a way which may weaken the storage tanks or appurtenances or create a risk of discharge. (3) Metals used for valves, fittings, and repairs on metal tanks shall be compatible with the metals

used in the construction of the storage tank, so that the combination of metals does not cause or increase corrosion which may weaken the storage tank or its appurtenances or create a risk of discharge. (4) Storage tanks and appurtenances shall be designed to handle all operating stresses, taking into account static head, pressure buildup from pumps and compressors, and any other mechanical stresses to which the storage tanks and appurtenances may be subjected to in the foreseeable course of operations.”

- **O.A.C. 35:30-29-31(g): “(g) Inspection and maintenance.** (1) The operator of a storage facility shall routinely inspect and maintain storage facilities, storage tanks, and appurtenances to minimize the risk of a discharge. (2) The operator shall inspect valves and other appurtenances for leakage at least weekly when facilities are being used for storage.”
- **O.A.C. 35:30-29-34: “Pollution prevention** (a) Fertilizer materials shall not be stored, applied, or handled in a manner that is likely to cause pollution of any air, lands, or waters of the state. (b) The responsible party shall pay all costs associated with cleanup and remediation of any spill or pollution caused by the storage, application, or handling of fertilizer materials.”
- **O.A.C. 35:30-29-35(e): “(e) Drainage from secondary containment areas.** No fertilizer secondary containment areas, or existing containment areas having major renovation, shall have a relief outlet and valve. The base shall slope to a collection point where storm water can be removed from the secondary containment area by pumping or other means. Precipitation shall be reused where possible or disposed of according to state and local regulations.”

- **O.A.C. 35:30-29-35(f): “(f) Inspection and maintenance requirements. (1) Every secondary containment shall be inspected by the operator of the storage facility at intervals of not greater than six months and be maintained as necessary to assure compliance with these rules. (2) All secondary containment areas shall be maintained free of debris and foreign matter.”**

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.

PRAYER FOR RELIEF

30. The Department is not seeking revocation of licensing, registration or to otherwise hinder the commerce of business; we are seeking a monetary penalty as set out in statute, specifically 2 O.S. §2-18(A). In this case we are seeking a Five Thousand Dollar (\$5000.00) penalty and for the Respondent to remediate the affected areas.

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 Thousand Dollars (\$5000.00)** and **remediation of the affected areas.**

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 _____, 2023.

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

Brady Robison

Teena C. 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 _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

RYAN THOMAS
CRESCENT COOP ASSOCIATION
215 E MADISON
CRESCENT, OK 73028-0316

Brady Robison
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.

**RYAN THOMAS)
CRESCENT COOP ASSOCIATION)
215 E MADISON)
CRESCENT, OK 73028-0316)**

RESPONDENT.

Case No: OGC-23-91

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Thousand Dollars (\$5000.00) and remediate the affected areas**, 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. VIRA-GUARD PRO

Case File No. OGC-21-601

**Vira Guard Pro
300 E. Choctaw Ave.
McAlester, OK 74501**

Summary of Facts: Employees of this company were applying a microbial disinfectant at a middle school in Wilburton, OK. These employees were not certified, nor was the company operating with a business license. Additionally, this company was advertising pest control services without being licensed and certified as required by statute. Consent Order was agreed to so as to not admit any fault or concessions. The company was allowed to use the same phone number, the numbers spelled out "GERM" in the phone number itself.

Statute or Rule Violation: 2 O.S. § 3-82 A(1); 2 O.S. § 3-86 A(15)

Proposed Administrative Penalty: \$750, Consent Order PIF

Deviations: Settlement Agreement and Consent Order; reduced penalty from \$1500 to \$750

Other Actions Required: None.

OGC Attorney: Brady Robison

FILED

19 MAY 19 2023

... AGRICULTURE

COMPLAINANT,

Case No: OGC-21-601

RESPONDENT.

PARTIES

- ## AUTHORITY

- ## DEPARTMENT'S NOTICE

- ## ORDER AND AGREEMENT

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Seven Hundred and Fifty Dollars (\$750). Respondent shall retain the right to use his current phone number containing the word "GERM" as it is spelled out on the keypad of the phone; this compromise shall not equate to or rise to the level of advertising so long as it is the only term used in the business. Any other advertising of pesticide application shall require the proper licensing. 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:

For the Oklahoma Department of Agriculture, Food, and Forestry:

Brady Robison
Assistant General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298

For Vira Guard Pro:

Blake Lynch
Attorney for Respondent
109 East Washington Ave.
McAlester, OK 74501

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) 522-6104
Facsimile: (405) 522-5789

Date: May 11, 2023

- and by -

~~Wagner & Lynch P.L.L.C.~~

Blake E. Lynch
Blake E. Lynch
109 East Washington Ave, Ste 1
McAlester, OK 74501
Telephone-918-421-8843

COUNSEL FOR RESPONDENT

Date: 5-12-23

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

V.

RESPONDENT.

2nd AMENDED NOTICE OF VIOLATION

PREHEARING CONFERENCE NOTICE

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 applications, located at McAlester, 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 19th day of August 2021, the Consumer Protective Services Division of the Department conducted a use inspection of your employees making an antimicrobial disinfectant application in the cafeteria of the John G. Shero Middle School in Wilburton, OK.

19. On January 28, 2021, you were issued a stop work order for advertising and making commercial pesticide applications without being licensed and certified.

20. The EPA registered pesticide products being applied were CP-64 (EPA Reg. 10324-93-527) and Max-Quat 10% Sanitizer (EPA Reg. 1839-86-61247).

21. Your company vehicle advertises commercial and residential sanitation of germs, which is a claim of commercial pest control.

22. A company must be licensed and certified through ODAFF to advertise and perform commercial pesticide applications.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you were issued a stop work order in January until you could come into compliance with Oklahoma Statute, you continued to perform commercial pesticide applications without being licensed and advertise your company as being such. Both are violations of Oklahoma State Law, specifically: 2 O.S. § 3-82(A)(1); 2 O.S. § 3-86 (A)(15).

- **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):** “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.”

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 **One thousand Five Hundred Dollars (\$1500.00)**.

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 7TH day of February, 2023.

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

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 7th day of February 2023, a true and correct copy of the forgoing instrument was emailed, and via Certified Mail, Return Receipt Requested, as follows:

VIRA GUARD PRO
300 E. CHOCTAW AVE.
MCALESTER, OK 74501

Brady Robison
Brady Robison

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

v.

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. TERMINIX

Case File No. OGC-22-698

**Terminix
13220 N. Santa Fe Ave.
OKC, OK 73114**

Summary of Facts: ODAFF inspectors conducted a complaint investigation at a residence in Choctaw, OK. Inspectors observed termite shelter tubes that had been removed in the homes garage. Absent was drill holes in the brick veneer in the area where the termite activity was observed. Application records indicated Termidor HE was applied to the perimeter. Absent was the diagram of the treatment and did not indicate how the treatment was performed. A spot treatment would require you to perform a sub slab injection treatment, brick veneer void treatment, and outside vertical trench treatment. This treatment did not meet ODAFF's minimum treatment standards. This company was given 20 days to remedy the treatment and failed to do so.

Statute or Rule Violation: 2 O.S. § 3-81 (11); O.A.C. 35:30-17-69.1 B(6); O.A.C. 35:30-17-69.1 B(8)

Proposed Administrative Penalty: Final Order from ALJ; \$4000

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.)

Case No: OGC-22-698

**TERMINIX)
13220 N. SANTA FE AVE.)
OKLAHOMA CITY, OK 73114)**

RESPONDENT.)

PROPOSED FINAL ORDER

NOW on this 11th day of May, 2023, 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 11th day of May, 2023 this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter delivered by hand to Terminix 13220 N. Santa Fe Ave, Oklahoma City, OK 73114 on April 20, 2023.

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 November 11, 2022, and February 24, 2023.

3. Furthermore the Notice of Violation was also hand delivered by Michael Vaughn on April 20, 2023

4. Hearing was set for February 9, 2023, April 13, 2023 and May 11, 2023 at 1:30 pm.

5. On May 11, 2023, at 1:30 pm, the Complainant appeared through its Counsel of Record and the Respondents appeared not.

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 **Four Thousand Dollars (\$4,000.00)** 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 February 9, 2023, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

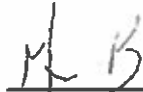
SIGNED THIS 11th DAY OF May, 2023.


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:

**TERMINIX
13220 N. SANTA FE AVE.
OKLAHOMA CITY, OK 73114**



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.

**TERMINIX
13220 N. SANTE FE AVE.
OKLAHOMA CITY, OK 73114**

RESPONDENT.

Case No: OGC-22-698

2nd 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 11th day of May 2023** 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/termiticide applications, 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 14th day of October 2022, the Consumer Protective Services Division of the Department conducted a consumer complaint on a residence located at 12827 Glen Eagle Drive in Choctaw, OK.

19. Our inspectors observed evidence of termite shelter tubes that have been removed in one of the home's garages. Our inspectors did not find any drill holes in either of the home's garages, and they did not find brick veneer drill holes in the area where the termite activity was observed.

20. According to the application records you supplied our office, you performed a Termidor HE perimeter treatment.

21. You did not provide a diagram of your treatment, and your records do not indicate how your treatment was performed.

22. ODAFF's perimeter termite treatment minimum standards require drilling along any wall of the garage that is adjacent to the living area of the home and a spot treatment in the area of termite activity. A spot treatment would require you to perform a sub slab injection treatment, brick veneer void treatment, and outside vertical trench treatment.

23. According to our investigation you failed to meet the perimeter termite treatment minimum standards, and you did not give an explanation by statement, plat, or diagram on how the treatment was performed as required by the contract minimum standards.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, you are in violation of the following Oklahoma Statutes and Rules: 2 O.S. § 3-81(11); O.A.C. 35:30-17-69.1 (b)(6); O.A.C. 35:30-17-69.1 (b)(8).

- 2 O.S. §3-81(11): "11. "Contract" means a binding, written agreement between two or more persons spelling out terms and conditions and includes, but is not limited to, warranties or guarantees for pesticide application. For structural pest control applications, the contract shall also include a statement, plat, or diagram showing all locations of visible termites and termite damaged materials which are observed, and how the application was performed."
- O.A.C. 35:30-17-69.1(b)(6): "(b) Perimeter treatments cannot be performed using any pesticide which does not allow this type treatment as stated on the product label... (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.”

- O.A.C. 35:30-17-69.1(b)(8): “(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.”

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. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

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

32. 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

33. 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

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 **Four Thousand Dollars (\$4000.00)**.

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 _____ day of _____ 2023.

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
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 _____ 2023, a true and correct copy
of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

TERMINIX
13220 N. SANTE FE AVE.
OKLAHOMA CITY, OK 73114

Brady Robison
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.

**TERMINIX
13220 N. SANTE FE AVE.
OKLAHOMA CITY, OK 73114**

RESPONDENT.

Case No: OGC-22-698

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Thousand Dollars (\$4000.00)** 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. TERMINIX

Case File No. OGC-22-492

TERMINIX

13220 N. Santa Fe Ave.

OKC, OK 73114

Summary of Facts: ODAFF Inspectors performed a complaint investigation on a residence in Mustang, OK. After the inspection ODAFF requested records from this company; these records indicated that Termidor HE and Termidor Foam were applied. These records indicated that a “spot” treatment was performed. This type of treatment for the type of home applied to required more than the stated tank mix that was reported. This company failed to meet minimum standards, did not give an explanation by statement, plat, or diagram on how the treatment was performed. These are all requirements.

Statute or Rule Violation: 2 O.S. § 3-81 (11); O.A.C. 35:30-17-69.2 B(3)

Proposed Administrative Penalty: Proposed Final Order from ALJ; \$2000

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.)

TERMINIX)
13220 N. SANTA FE AVE.)
OKLAHOMA CITY, OK 73114)

RESPONDENT.)

Case No: OGC-22-492

FILED
MAY 18 2023
STATE BOARD OF AGRICULTURE

PROPOSED FINAL ORDER

NOW on this 11th day of May, 2023, 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 11th day of May, 2023, 2023, 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 9171999991703132736334, sent to Terminix 13220 N. Santa Fe Ave, Oklahoma City, OK 73114 on April 6, 2023.

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 October 11, 2022, January 31, 2023, and April 6, 2023.

3. Hearing was set for January 12, 2023, March 9, 2023, and May 11, 2023 at 1:30 pm.

4. On May 11, 2023, at 1:30 pm, 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 **Two Thousand Dollars (\$2,000.00)** 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 filed in this matter on January 12, 2023, 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 11th DAY OF May, 2023.


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:

**TERMINIX
13220 N. SANTA FE AVE.
OKLAHOMA CITY, OK 73114**



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-22-492

**Terminix)
13220 N. Sante Fe Ave.)
Edmond, OK 73114)**

RESPONDENT.)

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 11th day of May, 2023** 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 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 July 11th, 2022, a complaint investigation was performed by ODAFF inspectors. As a result of this investigation, it was determined that you are in violation of statutes and rules.

19. It was reported that you treated a residence located at 716 N. Caddell Way in Mustang, OK, and have this home under a termite treatment contract.

20. According to the application records you supplied our office, you performed a spot treatment to the outer wall of the master bathroom of this home and that Termidor HE and Termidor foam were applied. The records state that you applied 4 gallons of Termidor HE tank mix at a rate of 2 gallons/10 linear foot.

21. Your records do not indicate the areas that were addressed. This is a concrete slab home with brick veneer. A spot treatment would require you to perform a sub slab injection treatment, brick veneer void treatment, and outside vertical trench treatment. These treatments would require more than 4 gallons of tank mix.

22. According to our investigation you failed to meet the termite treatment minimum standards, and you did not give an explanation by statement, plat, or diagram on how the treatment was performed as required by the contract minimum standards.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you are in violation of statute and ODAFF Rules. Specifically, 2 O.S. §3-81(11) and O.A.C. 35:30-17-69.2(B)(3).

24. Title 2 Oklahoma Statute §3-81(11) states:

- ““Contract” means a binding, written agreement between two or more persons spelling out terms and conditions and includes, but is not limited to, warranties or guarantees for pesticide application. For structural pest control applications, the contract shall also include a statement, plat, or diagram showing all locations of visible termites and termite damaged materials which are observed, and how the application was performed.
- By failing to give an explanation by statement, plat, or diagram you have not fulfilled the contractual obligation by applying the minimum standards.

25. Oklahoma Administrative Code 35:30-17-69.2(b)(3) states that:

- “(b) Exceptions to minimum standards for a spot or partial treatment shall include the following: (3) The contract shall specifically identify the exact location where the spot treatment is performed, and the treatment shall meet all minimum

standards for the specific location identified. The identified spot treatment location shall be at least three feet (3') in two (2) or more directions but shall not be equal to the entire structure.”

- Failing to follow the rules as set forth is a violation of said rule.

ATTORNEY CONFERENCES

26. 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.

27. 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.

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

ENFORCEMENT PROCEEDINGS

29. 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.

30. 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.

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

32. 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

33. 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

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 **Two-Thousand Dollars (\$2000.00)**.

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 22ND day of March 2023.

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
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 _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**TERMINIX
13220 N. SANTE FE AVE.
EDMOND, OK 73114**

Brady Robison
Brady Robison

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY
CHAPTER 40. MARKET DEVELOPMENT**

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 25. Oklahoma Winter Storm Grant Program [NEW]

35:40-25-1. Purpose [NEW]

35:40-25-2. Definitions [NEW]

35:40-25-3. Applicant eligibility [NEW]

35:40-25-4. Evaluation criteria [NEW]

35:40-25-5. Application requirements [NEW]

AUTHORITY:

Oklahoma Constitution, Article 6, Section 31; State Board of Agriculture; and 2 O.S. §§2-4 and 3-401 et seq.

ADOPTION:

July 21, 2023

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

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). This emergency rule restarts the ability to take applications for additional funding as approved by the 2023 Oklahoma Legislature,

GIST/ANALYSIS:

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.

CONTACT PERSON:

Kambi Maddy, (405) 522-5803, kambi.maddy@ag.ok.gov

PURSUANT THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

SUBCHAPTER 25. OKLAHOMA WINTER STORM GRANT PROGRAM

35:40-25-1. 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.

35:40-25-2. 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.

35:40-25-3. 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.

35:40-25-4. 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.

35:40-25-5. 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.