

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

Thursday, June 16, 2022  
10:00 a.m.

2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105

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

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

7. Consideration and Proposed Action on Purchases/Contracts

FY22 – New computers & docking stations - \$122,116.20  
FY22 – Petroleum Traders (Bulk Fuel) - \$86,000  
FY23 - \$12,000 – Purchase of Geosafe subscription for Investigative Services  
Printing of Oklahoma Agricultural Statistics annual bulletins and pocket facts FY23 - \$12,000  
\$170,000 – Professional Services FY23 to fund MOA with OK Water Resource Board  
Oklahoma Veterinary Medical Assn - \$20,000  
USAHerds - \$28,137.71  
Acclaims Sysems, Inc. - \$11,600 – Agreement provides use access for the State of Oklahoma to utilize the VET-CVI Application  
Oklahoma State University Soil Fertility Research - \$65,000  
Contract employee for Dairy Services - \$30,000  
Oklahoma State University Produce Safety Training Contract Approval - \$74,000  
Win Wam computer software up keep for produce safety inspections - \$5,200  
FY22 – Gooseneck Trailer – \$25,000  
FY23 – Contract renewal for the purchase of analytical gas and high quality argon - \$11,566.84  
FY23 – Contract renewal for the purchase of analytical grade water - \$6,300  
FY23 – Purchase of SCC Standards - \$5,356  
FY22 – Purchase of Nitrogen Generator - \$18,750  
FY22 – Purchase of Hydrogen Generator - \$15,547.53  
Agritourism Printing - \$47,994.51  
Oklahoma Youth Expo - \$85,000  
Made in Oklahoma Coalition - \$513,000  
Tulsa County Public Facilities Authority – Expo Square - \$50,000  
FY23 – AgHerCulture – facility rental and food – additional \$4,300  
FY23 – Harvest of the month tear sheets - \$22,100  
FY23 – Hannah Henson – Ag Enhancement and Diversification Grant - \$5,000  
FY23 – Texas County Fair Board – Ag Enhancement and Diversification Ag Event Grant - \$5,000  
FY23 – Travis Thorburn – Ag Enhancement and Diversification Grant - \$7,500  
FY23 - \$36,942.13 for GovQA 2023 contract  
Contract for OGC Administrative Law Judge FY22 – increases of \$2,000  
Contract for OGC Administrative Law Judge FY23 - \$10,000  
Contract renewal for OGC Westlaw and Clear online legal research system FY23 - \$20,000  
\$90,000 for R.K. Black  
\$19,000 – Purchase Kawasaki 4x4 side by side UTV.

8. Consideration and Proposed Action on Cases Resolved by Stipulations

**Agricultural Environmental Management Services**

**Pawnee Livestock Sales, 345265 U. S. Highway 64, Pawnee, Oklahoma**

**Linsey Porter, 12505 N. E. Rogers Lane, Lawton, Oklahoma**

**Linda & Anthony West, 22166 Davis Drive, Earlsboro, Oklahoma**

**Consumer Protection Services**

**Adam Brockriede, 18053 CR NS 223, Frederick, Oklahoma**

**C Express, 2319 E. Lindsey Norman, Oklahoma**

**C Express, 2319 E. Lindsey Norman, Oklahoma**

**Complete Pest Control, P. O. Box 32683, Oklahoma City, Oklahoma**

**EDKO, 4615 Marlena Street, Bossier City, LA**

**EDKO, 4615 Marlena Street, Bossier City, LA**

**Green Cover Services, LLC, 118 Harth Ave., Ponca City, Oklahoma**

**Rich Lawns, 3225 N. Bryant Ave., Edmond, Oklahoma**

**\*\*Possible Executive Session (if approved by the required number of members present):**

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

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

**Agricultural Environmental Management Services**

**Jerry Nine, 900 Lakeview Drive, Woodward, Oklahoma**

**Consumer Protection Services**

**Helena Agra Enterprises, P. O. Box 547, Coweta, Oklahoma**

**Mosquito Joe of Tulsa, 13795 S. 309<sup>TH</sup> E. Ave., Coweta, Oklahoma**

**Superior Termite & Pest Control, 205 S. 85<sup>th</sup> E. Ave., Tulsa, 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.”

10. Next Board meeting scheduled for Wednesday, July 27, 2022 at Oklahoma City.

11. Old Business

12. 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.

13. Adjournment



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

Oklahoma City, Oklahoma  
April 27, 2022

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

Members Present:     Joe Farris  
                               Brent Bolen  
                               Blayne Arthur  
                               Clay Burtrum  
                               Nocona Cook

Others Present:        Kandi Batts, Executive Secretary  
                               JanLee Rowlett, Deputy Commissioner  
                               Dan Ridings, Director, Administrative Services  
                               Wade Krivanek, Director, Laboratory Services  
                               Scott Huff, Forestry Services  
                               Kenny Naylor, Director, Consumer Protection Services  
                               Dr. Rod Hall, Director, Animal Industry Services  
                               Scott Alls, Director, Wildlife Services  
                               Meriruth Cohenour, Director, Market Development Services  
                               Teena Gunter, Director, Agricultural Environmental  
   Management Services & Office of General Counsel  
                               Scott Yates, Director, Food Safety Services  
                               Morgan Vance, Chief of Communications  
                               James Wells, Oklahoma Pest Management Association

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

Ms. Meriruth Cohenour introduced the guest.

A motion was made by Mr. Bolen, seconded by Mr. Burtrum, to approve the minutes of the regular meeting of March 9, 2022, as presented.

The vote was as follows:

Farris	Abstain
Bolen	Aye
Arthur	Aye
Burtrum	Aye
Cook	Abstain

The motion carried.

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

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Burtrum	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Burtrum, seconded by Mr. Farris, to approve the following purchases/contracts as submitted and contained on pages 5 through 15.

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Burtrum	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Farris, seconded by Mr. Bolen, to approve the Proposed Action on Stipulations as submitted and contained on pages 16 through 18.

**Agricultural Environmental Management Services**

Russell Adams, 266 Feldspar Lane, Haworth, Oklahoma  
Jeff Hickson, 22657 Worthington Road, Gentry, Arkansas  
Ricky Don Seals, 12196 Poteau Mountain Road, Poteau, Oklahoma  
Steven Yang, 113048 N. 3790 Road, Okemah, Oklahoma

**Consumer Protection Services**

7-Eleven Store #41478, 500 S. W. 89<sup>th</sup>, Oklahoma City, Oklahoma  
7-Eleven Store #41410, 642 N. W, 12<sup>th</sup> Street, Moore, Oklahoma  
Evan Allard, 432616 E. 200 Road, Vinita, Oklahoma  
Arnold Brothers, Inc., 228 N.E. 2<sup>ND</sup>, Moore, Oklahoma  
Dollar General, 1500 N. Louis Tittle, Mangum, Oklahoma  
Dollar General, 303 N. LL Males Ave., Cheyenne, Oklahoma  
Dollar General, 111 N. Main, Elk City, Oklahoma  
Dollar General, 110 N. Bridge Road, Grandfield, Oklahoma  
Dollar General, 110 E. Central, Anadarko, Oklahoma  
Dollar General, 1150 N. Broadway, Hinton, Oklahoma  
Dollar General, 811 N. Hazlett, FT. Cobb, Oklahoma  
Dollar General, 18497 W. Woodward Road, Tahlequah, Oklahoma  
Dollar General, 103 Nebraska, Cyril, Oklahoma  
Don's Pest and Weed Control, LLC, 2829 S. Douglas Blvd., Midwest City, Oklahoma  
George Enterprises, LLC, 109615 Kay Road, Nardin, Oklahoma  
Jiffy Trip #304, HWY 74 & Breckenridge Road, Garber, Oklahoma  
Kind Origins Cannabis, LLC, 1900 A. Street, Ada, Oklahoma  
Maverick Environmental Solutions, 225 Kingsberry Road, Holdenville, Oklahoma  
Pond RX, DBA Turnpro Aquatics, 22995 Cove Wood Circle, Edmond, Oklahoma  
Texoma Horticulture, 19824 Crowson Rd, Madill, Oklahoma  
Town and Country Pest, Turf, and Termite LLC, P.O. Box 1207, Ardmore, Oklahoma  
Western Producers Coop, 702 South Rambo, Dill City, Oklahoma  
Wilkins Lawn and Landscape, 44 Westgate Drive, Sulphur, Oklahoma

**Food Safety**

Twisted Sister Butcher, LLC, 16990 W. Fountain Rd., Tonkawa, 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."

The vote was as follows:

Farris	Aye
Bolen	Aye
Arthur	Aye
Burtrum	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Burtrum, seconded by Mr. Bolen, to approve the Proposed Action on Consent Orders as submitted and contained on pages 16 through 18.

**Consumer Protection Services**

Stegg's Aerial Spraying, Inc., 2815 College Blvd., Alva, 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."

Secretary Arthur introduced Dr. Coon, Vice President of Agricultural Sciences and Natural Resources; Dr. Chris Richards and Dr. Jerry Fitch, Animal & Food Sciences; Dr. Parker Henley and the OSU Livestock Judging Team.

The Oklahoma State University made history at the North American International Livestock Exposition on Monday, November 15, 2021, being crowned the 2021 National Champion Livestock Judging Team. This victory marks the 21<sup>st</sup> National Championship claimed by Oklahoma State University making OSU the winningest institution in the contest's history. Secretary Arthur also presented the OSU Livestock Judging Team a Governor's Commendation.

There is no Old business presented for the Board to take action upon. Mr. Bolen moved, Mr. Burtrum seconded, that the meeting be adjourned at 11:43 a.m.

By \_\_\_\_\_  
President

ATTEST: \_\_\_\_\_  
Executive Secretary

# APRIL 27, 2022 BOARD MEETING

## **PURCHASES/CONTRACTS**

### **Administrative Services**

**FY23 – OMES Central Printing - \$7,000**

**FY23- Presort Mail Services - \$6,000**

**FY23- ImageNet Consulting – \$13,000**

Annual Laserfiche software maintenance (LSAP) renewal for the agency document scanning software.

**FY23 - Compsource - Rural Firefighters Workers Compensation - \$171,300**

Premiums for insurance to cover the claims of injured rural firefighters. ODAFF would be in violation of state law. This would increase the state's liability in the event of the injury of uninsured rural firefighter. Legislative directed spending.

**FY23 - Rural Fire Pension Fund - \$92,000**

The Oklahoma Firefighters Pension and Retirement System shall determine the number of persons who are eligible members of the Oklahoma Firefighters Pension and Retirement System. Upon adequate documentation of membership in the Oklahoma Firefighters Pension and Retirement System pursuant to the provisions of subsection D of Section 351 of Title 19 of the Oklahoma Statutes, the State Department of Agriculture shall make a transfer payment from the Volunteer Firefighter Employer Contribution Payment Revolving Fund to the Oklahoma Firefighters Pension and Retirement System. The amount transferred shall equal the sum of Sixty Dollars (\$60.00) multiplied by the number of members as certified by the System to the Department. Legislative directed spending.

**FY23 AT&T Wireless - \$120,000.00**

This purchase is for the agency pooled plan cellular service. This purchase allows agency employees to conduct state official abroad which increases efficiency and productivity. This allows for internet connectivity to cell phones, hotspots and iPads. If not approved, the agency will become less efficient and greatly reduce agency response times and agency deliverables. This expense is vital to agency operations.

**FY23 Comdata Inc. - \$1,500,000**

This purchase is for agency fuel and maintenance of the fleet. Each agency vehicle is issued a credit card for fuel and maintenance purposes which are tracked on a monthly basis. If not approve, the agency will become less efficient and greatly reduce agency response times and agency deliverables. This expense is vital to ensure agency operations

**FY23 Agency Workers Comp Insurance premium - \$340,000**

Premiums for insurance to cover the claims of injured workers. ODAFF would be in violation of state law. If not approved, this would increase the State's liability in the event of the injury of uninsured state employees.

**FY23 Onsite Security Guard Services (Superior Security) - \$68,300**

The agency has an on-site security services for building and personnel safety. Without this service agency property and employee safety would be placed at a greater risk daily.

**FY23 Bank of America – Credit Card charges - \$30,000**

The State contracts with Bank of America to process credit card payments. If not approved, ODAFF will not be able to accept credit card payments in person, mail order or for the online store operated by Forestry.

**FY23 Federal Express - \$60,000**

This purchase is a release against the mandatory statewide contract for small package delivery. This allows for the agency to conduct daily mail services. Without this purchase the agency would be unable to send packages, thus resulting in potential work stoppage of agency activities.

**FY23 Petroleum Traders (Bulk Fuel) - \$60,000**

Forestry Services has several remote office locations with heavy firefighting equipment. Providing bulk fuel allows for these locations to fuel its firefighting equipment and remain in a ready status when dispatched. Without this purchase this could greatly reduce agency response times, thus putting the public and property at greater risk.

**FY23 National Association of State Departments of Agriculture (NASDA) - \$17,000**

NASDA grows and enhances agriculture by forging partnerships and creating consensus to achieve sound policy outcomes between state departments of agriculture, the federal government, and stakeholders. Without this membership the agency would no longer be allowed to vote/approve NASDA policy priorities. This would weaken agency partnerships and discontinue agency resources; such as member leadership, regulatory expertise, political connections, white papers and subject matter experts. NASDA's tactics support the strategic initiatives, which carry out the business objectives of our mission statement and strategic intent statement.

**FY23 Oklahoma Capital Improvement Authority – Bond Payments - \$1,698,308**

Payments on the bond that financed the construction of the Agriculture Lab building. These payments are required by state law.

**FY23 Oklahoma Employment Security Commission – Unemployment benefits - \$32,000**

This is an estimate of the claims that ODAFF would have to pay former employees who file for unemployment and are approved. These payments are required by state law.

**FY23 Oklahoma Public Employees Retirement System – Retirees unused sick leave \$100,000**

When an employee retires, they can use the balance of their accrued sick leave to “purchase” time to count for retirement eligibility. These payments are to transfer the value of the leave to the OPERS system. These payments are required by state law.

**FY23 Oklahoma Management Enterprise Services (OMES) – Risk Management- \$77,000**

Purchase of insurance for liability, vehicle, equipment, agency contents, tort and Directors & Officers. The agency would be uninsured and unable to fulfill its statutory mission.

**FY23 Oklahoma Management Enterprises Services (OMES) FICA Savings \$25,000**

When an employee selects ‘Premium Conversion’ they can see a lowering of their tax base for tax purposes and for the withholding of FICA. Since the State matches FICA withholding, this results in a savings for the state as well. These payments transfer that savings to EBC to administer the program. These payments are required by state law.

**FY23 Oklahoma Management Enterprises Services (OMES) - Facility Services - \$333,477**

Service Management Agreement with OMES, OMES agrees to furnish janitorial services, maintenance services, and all utilities. OMES maintains the building's existing heating, ventilating and air-conditioning (HVAC) system, water system, electrical system, and plumbing system. If not approved, laboratory operations would cease, and the agency would be unable to fulfill its statutory mission.

**FY23 Oklahoma Management Enterprises Services (OMES) – Information Technology - \$703,000**

Pursuant to the Information Technology Consolidation and Coordination Act codified at 62 O.S. §35.1 et seq., as amended (the "Act"), OMES -ISD shall provide information technology shared services to each State Agency. The agency will have no computer operations and would be unable to fulfill its statutory mission.

**FY23 Oklahoma Management Enterprises Services (OMES) – OPM - \$26,000**

Payment of ODAFF's portion towards mandated Merit Protection Act. These payments are required by state law.

**FY23 Pitney Bowes – Mail Machine Lease - \$20,000**

Statewide mandatory contract for leased mailroom postage equipment. Without this purchase the agency would be unable to fulfill its statutory mission.

**FY23 Oklahoma Turnpike Authority – Pikepass - \$21,000**

Agency payment of toll expenses for agency vehicles which use toll roads. Without this contract, the agency would be unable to use toll roads.

**FY23 United State Postal Services (Postage) - \$90,000**

Purchase of postage for the agency mail machine. Without this purchase the agency would be unable to fulfill its statutory mission.

**FY23 (Walnut Storage Building) - \$16,000**

Storage building for agency supplies. Without this contract, the agency would be required to store supplies in the headquarter building, which currently is very limited with regards to storage capacity.

**FY23 Xerox - \$78,500**

Lease of multifunction devices for agency operations, these devices are used as printers, copiers, scanners, faxes. Also, maintenance and supply services for agency laser printers. Without this purchase the agency would be unable to fulfill its statutory mission.

**FY23 Galt Temporary Services - \$150,000**

Purchase from the mandatory statewide contract for temporary services. These individuals provide a variety of agency mission critical functions which allow the agency to operate in an efficient as possible manner. Without this purchase the agency would be unable to fulfill its statutory mission.

**FY23 BancFirst - \$17,900**

ODAFF lockbox services. This service allows for agency deposits to be received directly by BankFirst staff and deposited directly into agency accounts.

**FY23 Oklahoma Governor's Office - \$37,500**

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.

**FY23 Oklahoma Management Enterprise Services (OMES) Fleet Management (AVL services) \$114,558**

This purchase is required per Governor Stitt's executive order 2020-04, that all state agencies are mandated to install "Automatic Vehicle Locator (AVL)" equipment all state-owned vehicles. This directive will be achieved through a "shared services agreement" with OMES Fleet Management.

**FY23 SHI – Adobe Subscription Services - \$8,019**

Purchase of the Adobe subscription services. The agency will purchase (5) Creative Cloud licenses for Enterprise All Apps at a cost of \$3,885.00 for twelve months. We will also purchase of (53) licenses of Acrobat Pro DC for enterprise for agency staff at a cost of \$4,134 for twelve months.

**Agricultural Environmental Management Services****A request for \$45,000.00**

Professional Services – The AEMS Division need to hire a Consultant to review Comprehensive Nutrient Management Plans (CNMP), Nutrient Management Plans (NMP); and develop the plans; to perform duties in the areas of poultry, swine, cattle, Best Management Practices and in compliance, technical assistance and reviews or other related actions as requested by the Director of the AEMS Division. The AEMS Division is requesting approval of \$45,000 to solicit for a Nutrient Management Specialist, an Independent Contractor to review CNMP and NMP's; development the plans with option of 3 year renewal. Failure to hire a Consultant to perform these activities will result in noncompliance with the laws that regulate poultry, swine and cattle industry.

**A request of \$170,000**

Professional Services – FY22 request for approval of \$170,000 to fund MOA with Oklahoma Water Resource Board (OWRB) to sample LMFO groundwater monitoring wells around lagoons. Funding is provided from Environmental Protection Agency (EPA) and dispersed directly to OWRB through Oklahoma Secretary of Energy & Environment (OSEE).

**A request of \$48,276**

Professional Services – Request approval of renewal, not to exceed \$48,276.00 for the OSU Poultry Education program. The funds are appropriated dollars. The funding is for Poultry Waste Management training, as needed, for operators of poultry feeding operations and land applicators of poultry waste, to attend educational training on poultry waste management which is provided by Oklahoma State University through the Oklahoma Cooperative Extension Service. Failure to renew will result in noncompliance with the law that regulates poultry feeding operations operators and land applicators of poultry waste.



### **A request of \$12,250**

Elevate will provide support the Oklahoma Department of Agriculture Food and Forestry ODAFF in establishing licensed Part 107 pilots. This training will be self-paced and conducted remotely. The topics covered in the training will include lessons on regulations, operating in the national airspace system, aeronautical decision making, and more, which will prepare ODAFF personnel for the part 107 exam. Once ODAFF personnel have completed part 107 training and successfully acquired 107 licensure. Elevate will provide detailed consultation and training for mission planning, data acquisition, processing and management. These services will be quoted in a separate cost estimate once the part 107 training has been completed.

### **Consumer Protection Services**

**FY2023 Dakota Agricultural Laboratories testing fees for pesticide samples related to the new dicamba and 2,4D product - \$9,800.00**

**FY2023 OSU laboratory testing fees for soil and water samples related to environmental pollution investigations - \$9,800.00**

### **FY2023 Oklahoma State University Soil Fertility Research --\$475,000.00**

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

Pursuant to 2 O.S. § 8-77.7 (A), ODAFF is required to collect an inspection fee of \$1.00 per ton of which \$0.50 per ton shall be forwarded directly to a special Soil Fertility Research Account in the Department of Plant and Soil Sciences of the Division of Agricultural Sciences and Natural Resources at Oklahoma State University (OSU) for the purpose of conducting soil fertility research and extension involving efficient fertilizer use for agronomic crops and forages and groundwater and surface water protection from plant food nutrients. Though tonnage amounts vary each year due to when a crop is planted, commodity prices, fertilizer prices and the weather we use the upper range of inspection fees paid annually to determine the amount of \$450,000.00 that could potentially be paid out to OSU. However, the actual amount paid to OSU will be based on the amount of inspection fees paid to ODAFF.

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

This is a statutory requirement of the Oklahoma Fertilizer Act and needs to be done to further research to prevent the pollution of lands and waters of Oklahoma from fertilizers.

### **FY2023 Unwanted Pesticide Disposal Program --\$350,000.00**

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

Pursuant to 2 O.S. § 3-82(J) (3), ODAFF is required to collect a registration fee of \$210.00 for each pesticide or device label registered. A portion of these fees, in the amount of \$300,000.00 annually, shall be dedicated for conducting programs for unwanted pesticide disposal. This amount shall be deposited into the State Department of Agriculture Unwanted Pesticide Disposal Fund and shall be dedicated for this use only. Since not all of the \$300,000.00 in the funds is utilized each year they are then carried forward into the next fiscal year and the amount available for unwanted pesticide disposal in fiscal year 2022 exceeds \$350,000.00.

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

This is a statutory requirement of the Combined Pesticide Law and needs to be done to prevent the pollution of lands and waters of Oklahoma from unwanted pesticides.

### **FY2023 Oklahoma State University Pesticide Program Contract Approval --\$130,000.00**

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

Pursuant to 2 O.S. § 3-82 (B), applicators are required to be certified in a category or categories in which they make pesticide applications. ODAFF administers these exams under state law and delegated federal authority from EPA. Additionally, the law also requires a practical training exam after the written exams have been passed for certain categories such as fumigation, structural and general pest. To support the certification and training program the EPA grant includes monies for development of study manuals specific for each exam and for a practical exam when necessary. Other uses of the EPA grant monies include assisting applicators, owners and farmers with compliance for the federal worker protection standards. In order to comply with these requirements assistance was requested from Oklahoma State University (OSU) for the purpose of study manuals, WPS compliance support and providing a venue for the practical examination school.

OSU as a land grant university has proven expertise in each of the pesticide categories and education that lends itself well into writing study material for the written examinations. They also have a state of the art training facility for practical exams that allows each applicator to experience many different application sites during an exam. This has resulted in two positive outcomes for ODAFF. The first is a large decrease in the number of complaints which frees up agency time and resources. The second is the ability to do these exams as a group instead of individually for each applicator which requires fewer personnel to complete the task. Finally, since education is one of the universities main purposes they are an excellent source to provide training for the federal worker protection standard.

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

Currently, ODAFF does not have the resources to develop, print and distribute study material for the certification and training program. The agency also does not have enough staff to monitor all practical exams individually so additional staff would be necessary without OSU. The federal WPS program would also be problematic without the assistance of OSU. OSU provides a neutral party to review a facilities compliance with WPS and provide assistance and education to show them how to comply with federal law.

OSU provides critical support in the pesticide program through training material and assistance that would be difficult for the agency to provide without additional personnel. The loss of OSU's assistance would place a great strain on ODAFF's limited resources.

### **FY2023 Kelly Registration System (KRS)--ACH reimbursement and inspection program fees--\$63,000.00**

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

KRS paid ODAFF for licenses, tonnage and registrations that were initially completed in the online system using an ACH transaction. The persons/companies later canceled the payments, so Kelly did not receive payment for what they had already paid to ODAFF. ODAFF has since collected the money from these entities and needs to repay KRS for the overpayment. Also, pays the fees for a subcontracted online inspection program for MI Corporation.

2. Consequence(s) and cost (if any) if the proposed expense is not approved.  
This money is an overpayment by KRS and needs to be returned. We do not have an inspection program for field staff to use when conducting their inspections.

**FY2023 OSU Plant Disease and Insect Diagnostic Lab (PDIDL) --\$ 51,500.00**

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

This is for payment to the PDIDL lab for processing the Phytophthora ramorum (Sudden Oak Death) plant and water samples from the positive nursery in Eastern Oklahoma. It also, contains for analysis from sample of a grape survey we will also be conducting under a USDA cooperative agreement. Both sampling events are fully funded by an USDA APHIS cooperative agreement.

2. Consequence(s) and cost (if any) if the proposed expense is not approved.  
The nursery will be unable to ship any plants or ODAFF will have to pay the costs of sample analysis.

**FY2023 GIS Programing with Oklahoma University --\$43,000.00**

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

GIS programing would provide ODAFF with the ability to GPS hemp grower fields to provide required data to USDA. It also will allow us to do a better job of collecting and reporting our USDA CAPS survey information under our grant programs. Finally, it will assist us in collecting information on complaints, inspections and licensee's.

2. Consequence(s) and cost (if any) if the proposed expense is not approved.  
Without the GIS programming we will have more difficulty meeting USDA hemp reporting requirements and CAPS reporting requirements. This will also limit our efficiency in sampling, trapping and inspections.

**FY2023 Verizon Wireless --\$25,000.00**

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

Verizon is used as the main form of communication for field staff and office staff. Additionally, with the Agency moving forward with online services having access to a mobile wireless for field staff is essential to their job duties.

2. Consequence(s) and cost (if any) if the proposed expense is not approved.  
Without wireless there would be no way to communicate or move forward with our online system for inspections. Additionally, it will slow response times to complaints including those that are time sensitive like human health related and environmental.

**FY2022 Kelly Registration System (KRS)--ACH reimbursement and inspection program fees--\$23,000.00**

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

KRS paid ODAFF for licenses, tonnage and registrations that were initially completed in the online system using an ACH transaction. The persons/companies later canceled the payments, so Kelly did not receive payment for what they had already paid to ODAFF. ODAFF has since collected the money from these entities and needs to repay KRS for the overpayment. Also, pays the fees for a subcontracted online inspection program for MI Corporation.

2. Consequence(s) and cost (if any) if the proposed expense is not approved.  
This money is an overpayment by KRS and needs to be returned. We do not have an inspection program for field staff to use when conducting their inspections.

### **Forestry Services**

#### **FY22 – Rental of skid steers/attachments - \$68,250 (SFA Grant)**

Rental of multiple skid Steers and attachments to complete mechanical mitigation projects currently identified in Community Wildfire Protection Plans. The rental is needed due to a 10-12 month delay in delivery of a purchased Skid Steer. There are currently three projects awaiting mechanical work including Bartlesville, Weatherford and Hochatown. Due to the impending grant deadline, these funds will be returned to the US Forest Service if not expended by September 30, 2022. This program is part of the National Cohesive Wildland Fire Management Strategy with the intent of developing fire adapted communities. Funding for this purchase will come from the FY18 US Forest Service, State Fire Assistance - Mitigation Grant. 100% of this purchase will be reimbursed.

#### **FY22 – Chainsaws/Polesaws/PPE - \$10,000 (SFA Grant)**

Purchase of chainsaws, pole saws, limb saws and personal protective equipment. These items will be used to complete hazardous fuels mitigation projects identified in Community Wildfire Preparedness Plans. Use of hand tools will be effective in areas where mechanized heavy equipment is not practical or authorized. This program is part of the National Cohesive Wildland Fire Management Strategy with the intent of developing fire adapted communities. Funding for this purchase will come from the FY18 US Forest Service, State Fire Assistance - Mitigation Grant. 100% of this purchase will be reimbursed.

#### **FY22 - \$8,000 Southern Pine Beetle Prevention Program-Jack Griffin**

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

#### **FY22 - \$4,650 Southern Pine Beetle Prevention Program-Donna Downen**

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

#### **FY23 – Radios; \$100,000**

Purchase and repair of mobile/handheld radios and supplies for OFS personnel. These radios will be used for fire suppression activities, emergency response and fuels mitigation projects across the entire state. All these activities are critical in preparing Oklahoma communities for potential impacts from wildfire and providing enhanced public safety. Funding for these purchases will come from US Forest Service Consolidated Grant Programs, OFS 210 Fund and OFS 245 Fund.

#### **FY23 - \$60,000**

Purchase ESRI ArcGIS Online Licenses (Federal Grant) – 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 in fighting fires and increases overall firefighter and public safety.

### **Laboratory Services**

FY22 - Purchase of Preventive Maintenance Agreement Renewal for the HPLC-MSMS

Triplequad 6470 - \$30,814.20

Purchase of Preventative Maintenance Agreement for the HPLC-MSMS Triplequad in the Pesticide Section ensures continuous and consistent operation of the instrument and improves overall quality of the data being reported. If not purchased and instrumentation should breakdown Section would not be able to test samples.

FY22 - Purchase of a Gas Chromatograph with Flame Ionization Detector (GC/FID) - \$50,000.00

Purchase of a Gas Chromatograph with flame ionization detector that is used to detect, separate and quantify the chemical components present in samples. The Pesticide Section will use the instrument to quantify pesticide residues in various samples such as soil, water, vegetation and will verify active ingredients present in commercially available pesticide formulation samples and tank mixes. Equipment is to replace outdated instrumentation and software. If not purchased the Section would not be able to test samples.

### **Market Development Services**

FY2022 – Agreement between ODAFF and Oklahoma Department of Tourism – Agritourism Wine Trail Guide ad – Project funded entirely by the Oklahoma Viticulture and Enology Center Development Revolving Fund - \$5,000.00

FY2022 – Women in State Government Conference – facility rental & food – total amount will be reimbursed to agency by attendee registration - \$20,000.00

FY2022 – Farmers Market bags – Went to board in December for \$14,000.00 and bids came back higher than expected so this is the additional amount of the project. – cost share basis - \$7,787.50

FY2022 – Made in Oklahoma & Made in Oklahoma State Fair Store bags – Went to board in March for \$9,000.00 and bids came back higher than expected so this is the additional amount of the project – cost share basis - \$6,000.00

FY2023 – 2022 Oklahoma Christmas Show – 10 Made in Oklahoma booth spaces – cost share basis - \$7,990.00

FY2023 – Agreement with Oklahoma Tourism and Recreation Department to promote the Agritourism industry through the development of consumer marketing campaigns. - \$35,000.00

The Agritourism program is entering a partnership with Oklahoma Tourism and Recreation Department (OTRD) as part of our marketing plan for FY2023. As a part of this partnership, Agritourism gets to use their existing marketing channels including free ads in their guides, website presence, travel show co-ops and brochure inventory, warehousing, and distribution. If this proposed expense is not approved, we will lose an opportunity to share in a campaign that gains exponentially more reach than we could obtain on our own. OTRD already has the channels set up and by not partnering we would be looking at well over \$100,000 to replace what they can give us in ad placement, website presence and Search Engine Optimization. We have evaluated the warehousing and postage costs; this alone would be over \$50,000 in hard costs and does not include the advertising and marketing part of our agreement.

FY2023 – Agreement with Discover Oklahoma, Oklahoma Tourism and Recreation Department, for the promotion of Agritourism venues through the development and production of an advertising campaign on *Discover Oklahoma* television shows. - \$15,000.00

FY2023 – Renewal of contract with Freestyle, graphic design firm, for Year 3 of 4 to work with the Agritourism program in creating promotional and print items to further promote the program and help establish continuity with advertising and marketing pieces. - \$30,000.00

This is Year 3 of 4 for the graphic design firm that maintains the Agritourism brand while developing new print materials, refreshing website content, strategically updating social media channels and assisting with social and website analytics. It is the goal of the Agritourism Program to utilize all marketing channels to create a consistent brand awareness campaign and utilize social channels for seasonal promotions within the many categories of Agritourism. If this expense is not approved, there will be a negative impact on the ability of the Agritourism Program to promote and advertise the 350+ Agritourism venues in the state, resulting in an economic loss of those businesses and the local economy in those areas.

FY2023 – Agreement with Food Export Association of the Midwest USA (Food Export – Midwest) for membership to provide small and medium size food and agricultural companies' access to international markets through a variety of exporter programs and to increase volume and value of agricultural exports from the region in represents. - \$7,000.00

FY2023 – Addendum with Oklahoma State University for Year 3 of 4 - Viticulture and Enologist Extension Specialist – Project funded entirely by the Viticulture and Enology Center Development Revolving Fund Grant - \$70,000.00

This project is entirely funded by the Oklahoma Viticulture and Enology Center Development Revolving Fund. This employee will coordinate an annual grape management course, create online grape management and wine making classes, write grant applications and research vineyard and viticulture projects as needed. The employee will also assist grape growers and wine makers through field days, correspondence and site visits. If this proposed expense is not approved and therefore the project is not completed, the State not only loses money immediately that is important to the grape and wine industry through the economic impact, but also runs the risk of not being awarded money from the Oklahoma Viticulture and Enology Center Development Revolving Fund in the future.

### **Wildlife Services**

\$106,500.00 - ODAFF Wildlife Services is requesting approval for fuel, maintenance and hangar rent for the two (2) Federal helicopters for FY23 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

\$ 88,000.00 - ODAFF Wildlife Services is requesting approval to purchase two (2) 2023 Chevrolet C1500 Silverado 4x4 truck. This will be replacing high mileage vehicles. Not approving this purchase would result in higher & more frequent repair bills.

\$ 20,000.00 - ODAFF Wildlife Services is requesting approval for the City of Norman Cooperative Agreement regarding the control of wildlife for the City. Not approving this purchase would result in a human health and safety hazard for the public.

\$ 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.

\$ 10,000 – ODAFF Wildlife Services is requesting approval for a 475-gallon fuel trailer. This fuel trailer will increase productivity and time management by decreasing ferry/fuel when county/location doesn't have an abundance of aviation fuel necessary for operations. This will result in circumventing time off site.

\$ 10,000 – ODAFF Wildlife Services is requesting approval for Icomm Radios. These will be used to increase range and mobility of our communication between air and ground crew in the search/control of Feral Swine. This will decrease our loss of communication over distances that our current radios lack. This will result in more and better radios for communication and prevent aborted missions due to lack of communication.

\$ 5,400.00 – ODAFF Wildlife Services is requesting approval for a new hangar rental at Sundance Airport to house an additional Federal helicopter for FY22 that is used in the state's aerial control of wildlife.


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

**APPROVAL OF CASES**

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

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

WITNESS My Hand and Official Seal this 27<sup>th</sup> day of April 2022.

  
Blayne Arthur  
President  
State Board of Agriculture



**Exhibit A**  
**Board of Agriculture**  
**April 27, 2022**

**Cases Resolved by Stipulation**

**Agricultural Environmental Management Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
Russell Adam	OGC-21-434	AEMS	\$400.00
Jeff Hickson	OGC-21-544	AEMS	\$400.00
Ricky Don Seals	OGC-21-431	AEMS	\$200.00
Steven Yang	OGC-21-488	AEMS	\$5,000.00

**Consumer Protection Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
7-Eleven #41478	OGC-21-442	CPS	\$450.00
7-Eleven #41410	OGC-21-375	CPS	\$450.00
Evan Allard	OGC-22-071	CPS	\$250.00
Arnold Brothers	OGC-22-020	CPS	\$500.00
Dollar General	OGC-21-707	CPS	\$825.00
Dollar General	OGC-21-705	CPS	\$525.00
Dollar General	OGC-21-317	CPS	\$525.00
Dollar General	OGC-22-008	CPS	\$375.00
Dollar General	OGC-22-005	CPS	\$525.00
Dollar General	OGC-22-004	CPS	\$525.00
Dollar General	OGC-22-055	CPS	\$900.00
Dollar General	OGC-22-053	CPS	\$375.00
Dollar General	OGC-22-052	CPS	\$525.00
Don's Pest & Weed	OGC-21-896	CPS	\$250.00
George Enterprises	OGC-22-016	CPS	\$500.00
Jiffy Trip #304	OGC-22-009	CPS	\$1,050.00

Kind Origins Cannabis	OGC-22-015	CPS	\$500.00
Maverick Environmental Solutions	OGC-20-822	CPS	\$500.00
Pond Rx	OGC-21-817	CPS	\$500.00
Texoma Horticulture	OGC-22-29	CPS	\$250.00
Town & Country Pes, Turf and Termite LLC	OGC-22-32	CPS	\$750. 00
Western Prod. Coop.	OGC-20-830	CPS	\$250.00
Wilkins Lawn & Landscape	OGC-22-021	CPS	\$500.00

**Food Safety Division**

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Twisted Sister Butcher	OGC-21-183	FS	\$900.00

**Cases Resolved by Consent Order**

**Consumer Protection Services**



<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Stegg's Aerial Spraying	OGC-20-633	CPS	\$500.00

# **Oklahoma Department of Agriculture, Food & Forestry**

## **June 16, 2022, Board Report**

### **Administrative Services**

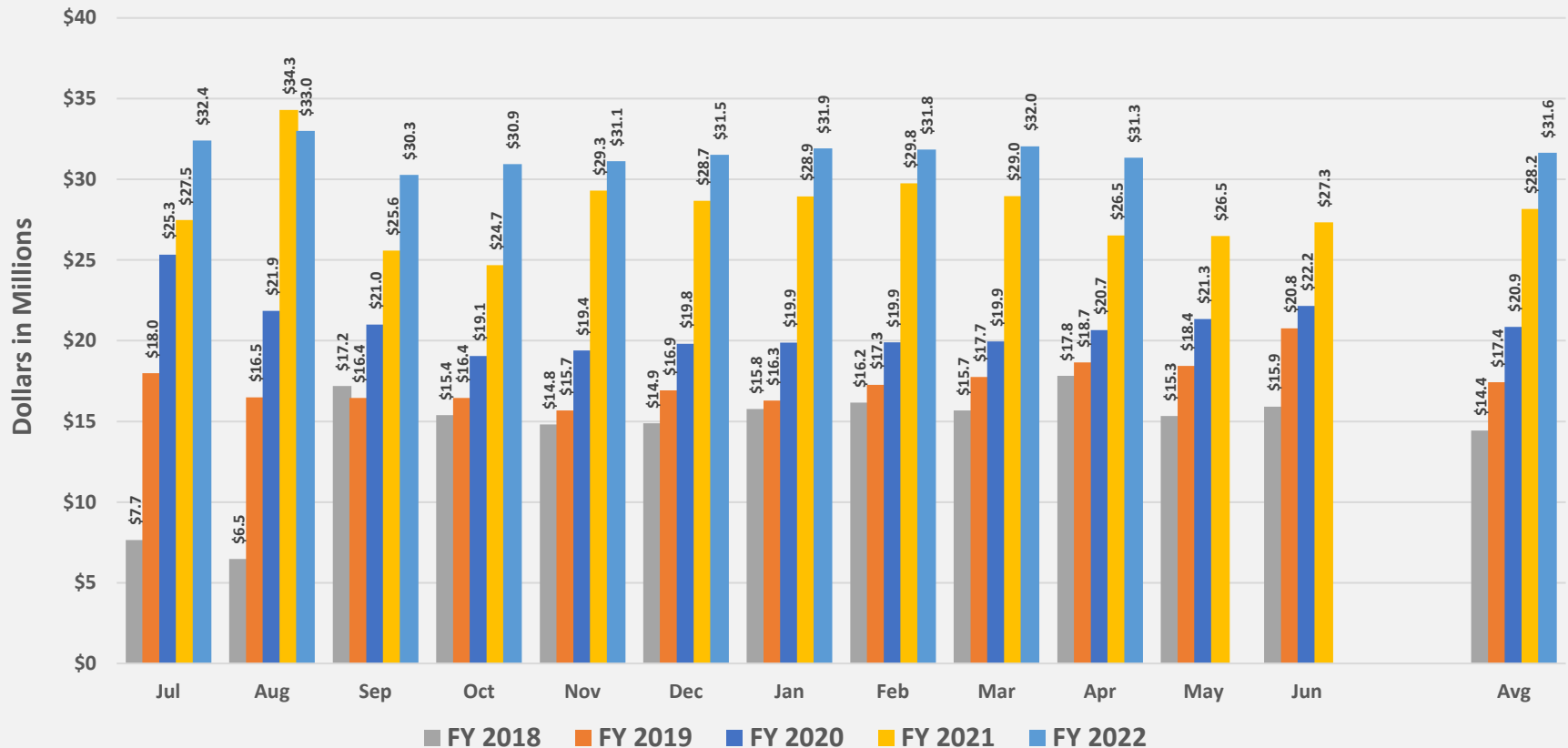
# Administrative Services – Investigative Services

INVESTIGATIVE SERVICES ACTIVITIES				
APRIL 2022				
 <b>OKLAHOMA</b>				
INVESTIGATIONS		APRIL	YTD	FYTD
LIVESTOCK		4	19	42
FIRE		3	20	32
PROPERTY		5	10	26
TIMBER		3	4	8
AGENCY ASSISTS	ODAFF		4	4
AGENCY ASSISTS	EXTERNAL	3	6	8
OTHER		2	8	13
TOTAL INVESTIGATIONS OPENED		20	71	133
CLOSED PENDING ADDITIONAL INFORMATION			14	28
NO CRIME		1	6	20
NO PROSECUTION			0	0
CLOSED - ASSIST CASE		2	5	8
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION		2	4	4
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		5	29	60
COUNTS FILED		21	23	27
VALUE OF LOSSES - ALL CRIMES		\$14,787	\$1,001,337	\$2,077,737
RECOVERED LOSSES - ALL CRIMES		\$134,000	\$543,550	\$848,600
NUMBER OF CATTLE REPORTED STOLEN		1	37	123
NUMBER OF CATTLE RECOVERED		0	12	12

# Administrative Services

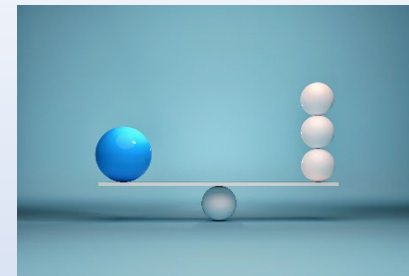
- BrightPath/Work Day system go live date is now August 15, 2022
  - Cycle 2 Payroll testing currently in progress
- Asset Panda (inventory system) – has been approved by OMES IT Security, we are in the processing of purchasing it.
- Filled Accountant II vacancy, new employee started 5/31/2022
- Working on Fiscal Year 2023 Budget

# Available Cash at Month End per Allotment Budget & Available Cash Report Months Ending: July 2017 – April 2022



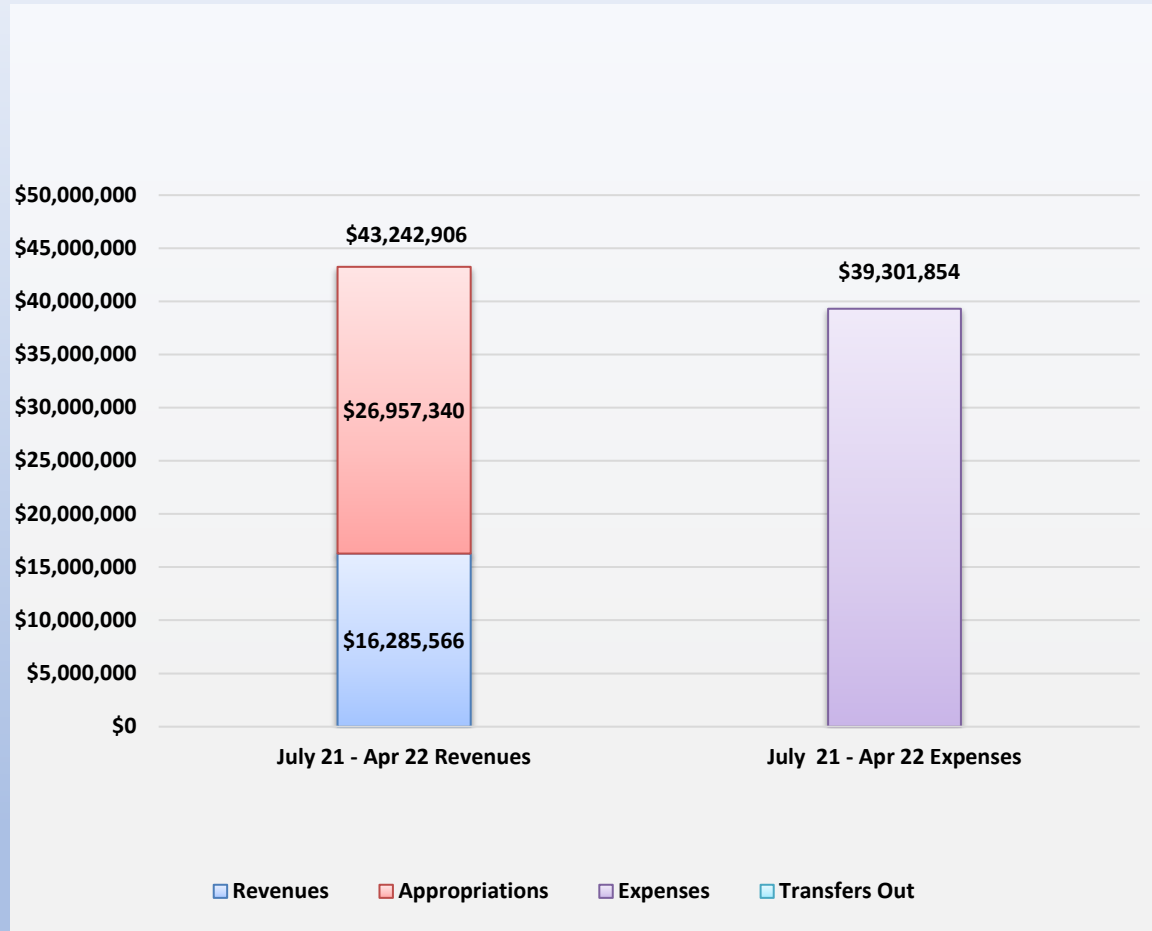
*Note: The amounts above include fund 700, Commodity Storage Indemnity Fund, which had a balance of \$11,159,846 as of 4/30/2022.*

# Administrative Services - Finance



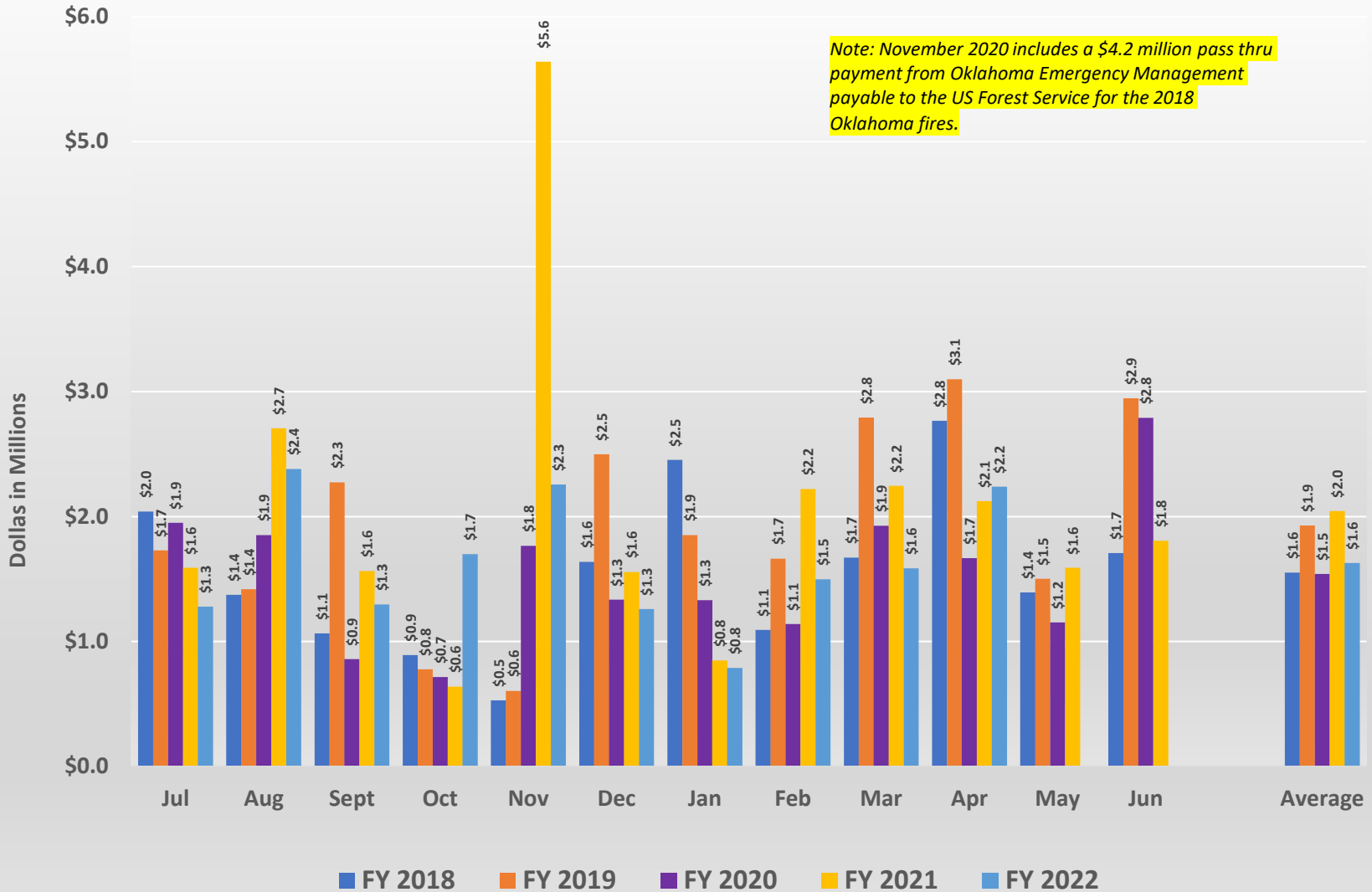
- Cash balance as of 4/30/2022 was \$31.3 million compared to \$26.5 million as of 4/30/2021.
  - This is an increase of \$4.8 million from the prior year and is primarily attributed to the following:
    - Increase in Legislative directed spending's/pass thru payments to OSU
      - Annual amount increased from \$2.88 million in FY 21 to \$6 million in FY 22
      - Payments were made monthly in FY 21
      - Payments are made quarterly in FY 22
    - Timing of payments

# Total Revenues, Expenses, Transfers In & Out July 2021 thru April 2022





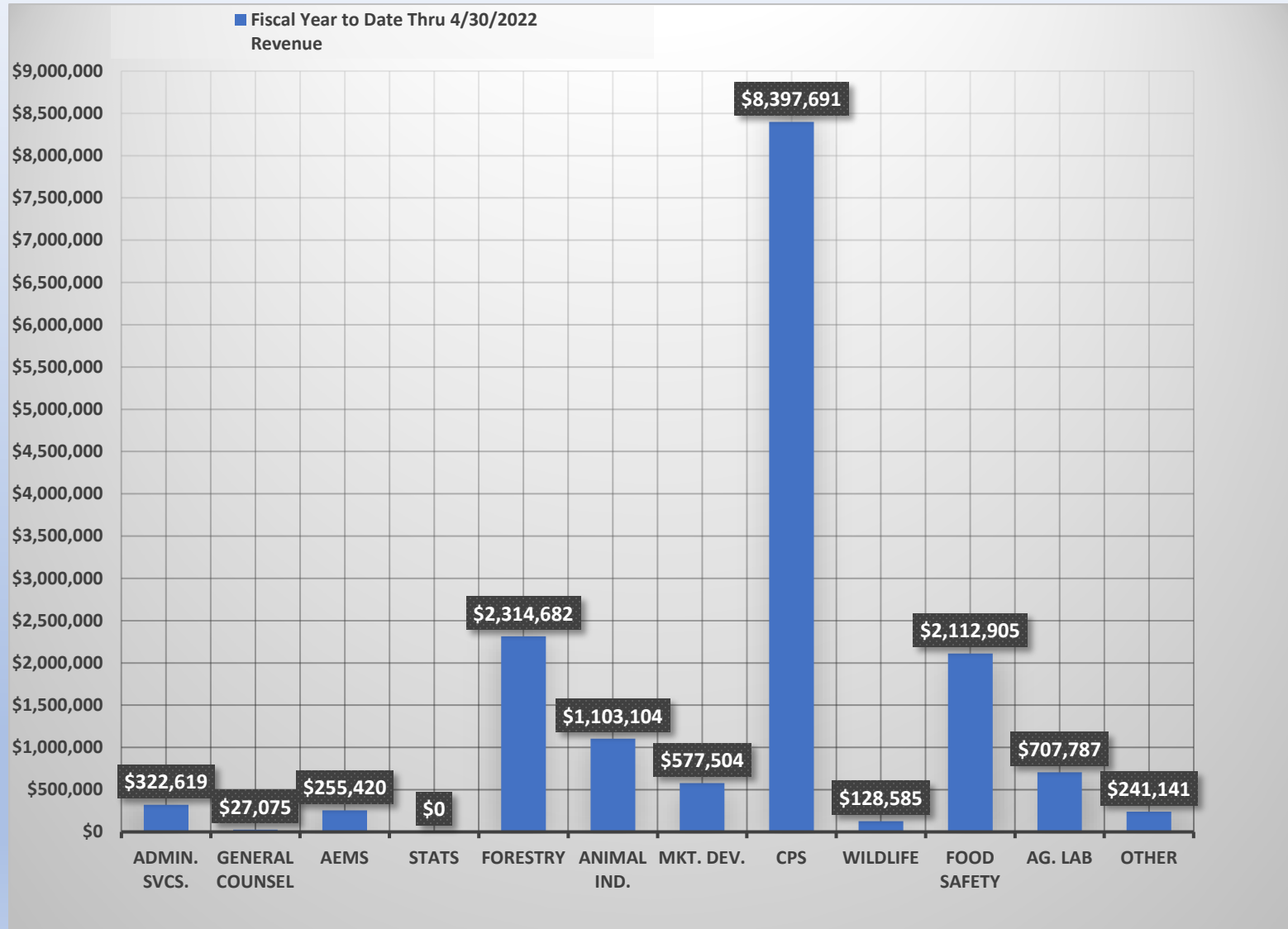
# Total Revenue by Month July 2017 – April 2022



**Revenue By Division  
July 2021 – April 2022**

<b>Division</b>	<b>April 2022 Revenue</b>	<b>Fiscal Year to Date Thru 4/30/2022 Revenue</b>
Admin. Svcs.	101,782	322,619
General Counsel	2,250	27,075
AEMS	84,363	255,420
Stats	-	-
Forestry	495,970	2,314,682
Animal Ind.	183,854	1,103,104
Mkt. Dev.	277,671	577,504
CPS	813,731	8,397,691
Wildlife	400	128,585
Food Safety	369,332	2,112,905
Ag. Lab	56,432	707,787
Other	(156,798)	241,141
<b>DIVISION TOTAL</b> (see division receipts graph below)	<b>2,228,987</b>	<b>16,188,513</b>
Commodity Storage Indemnity	9,556	97,053
Appropriations	2,285,279	26,957,340
<b>AGENCY TOTAL</b>	<b>4,523,822</b>	<b>43,242,906</b>

## Revenue By Division July 2021 – April 2022

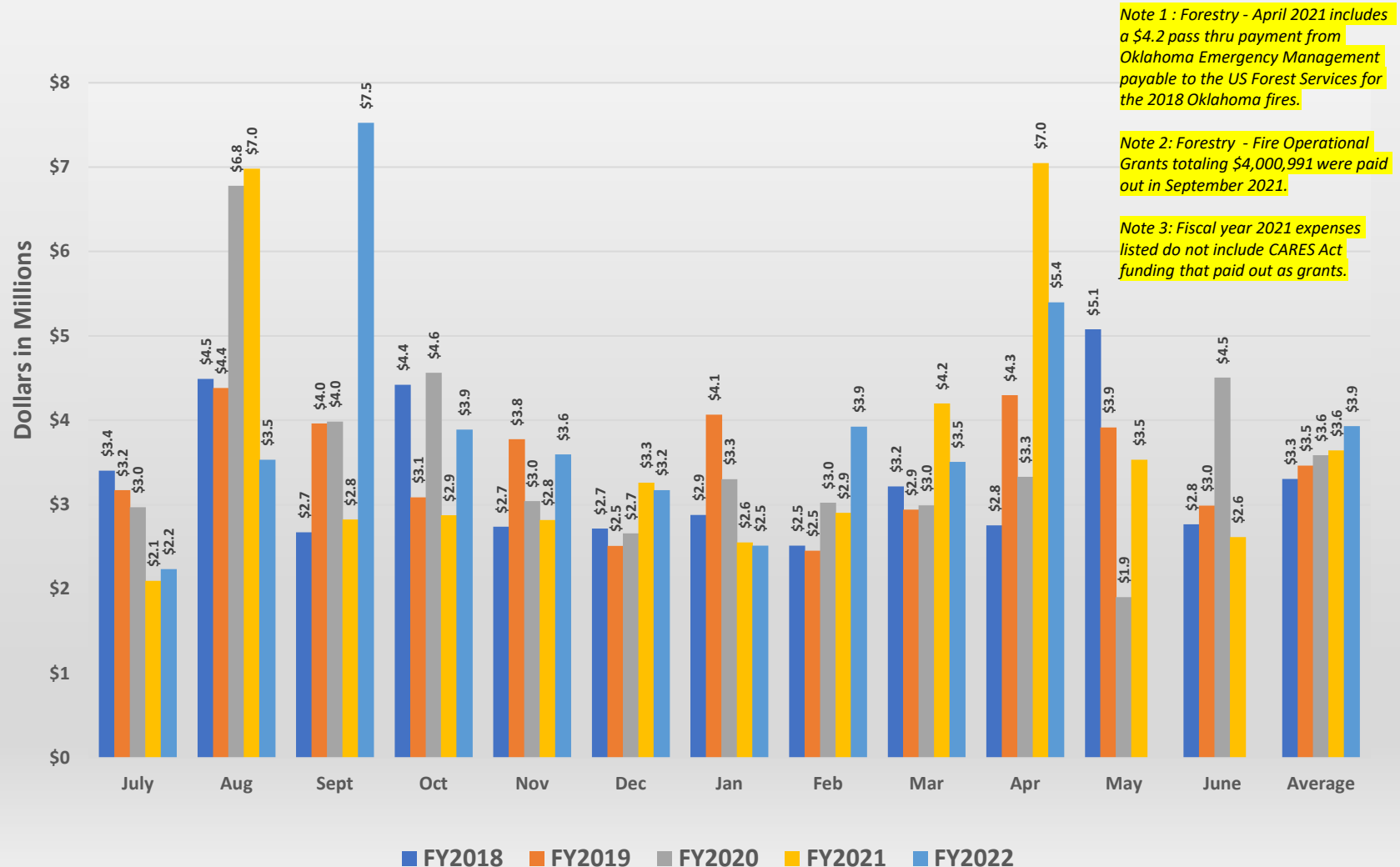


# Administrative Services - Finance

- Revenues (excluding appropriations) for July 2021 thru April 2022 totaled \$16.3 million.
- This is a decrease \$4.8 million from the prior year and is primarily attributed to the following:
  - \$4.2 million pass thru payment received in November 2020 from Oklahoma Emergency Management payable to the US Forest Service for the 2018 fires in Oklahoma
  - Decrease in federal reimbursements



# Total Expenses by Month July 2017 – April 2022



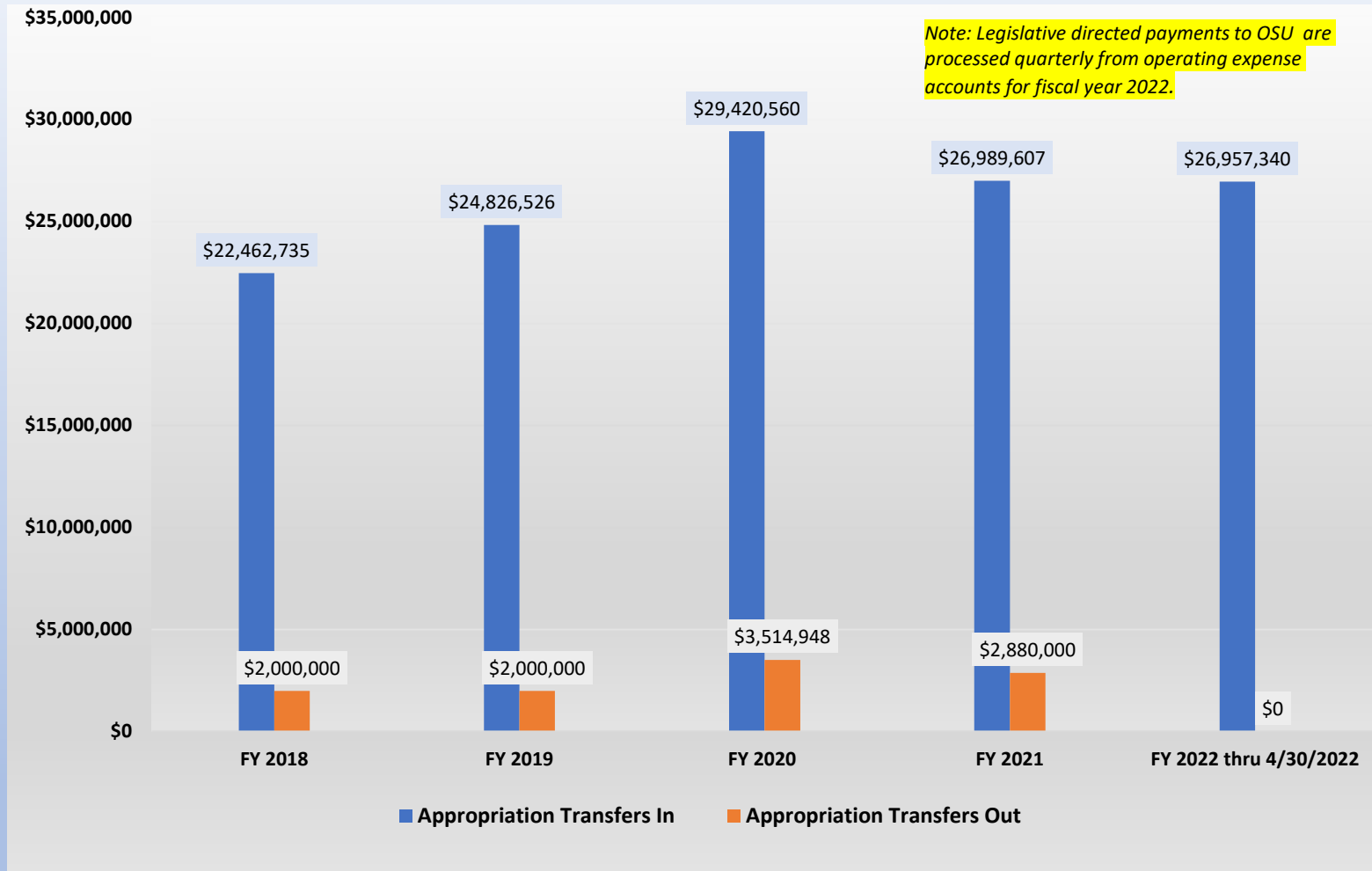
## FY 2022 Total Expenses by Month with Budget Year



# Administrative Services - Finance

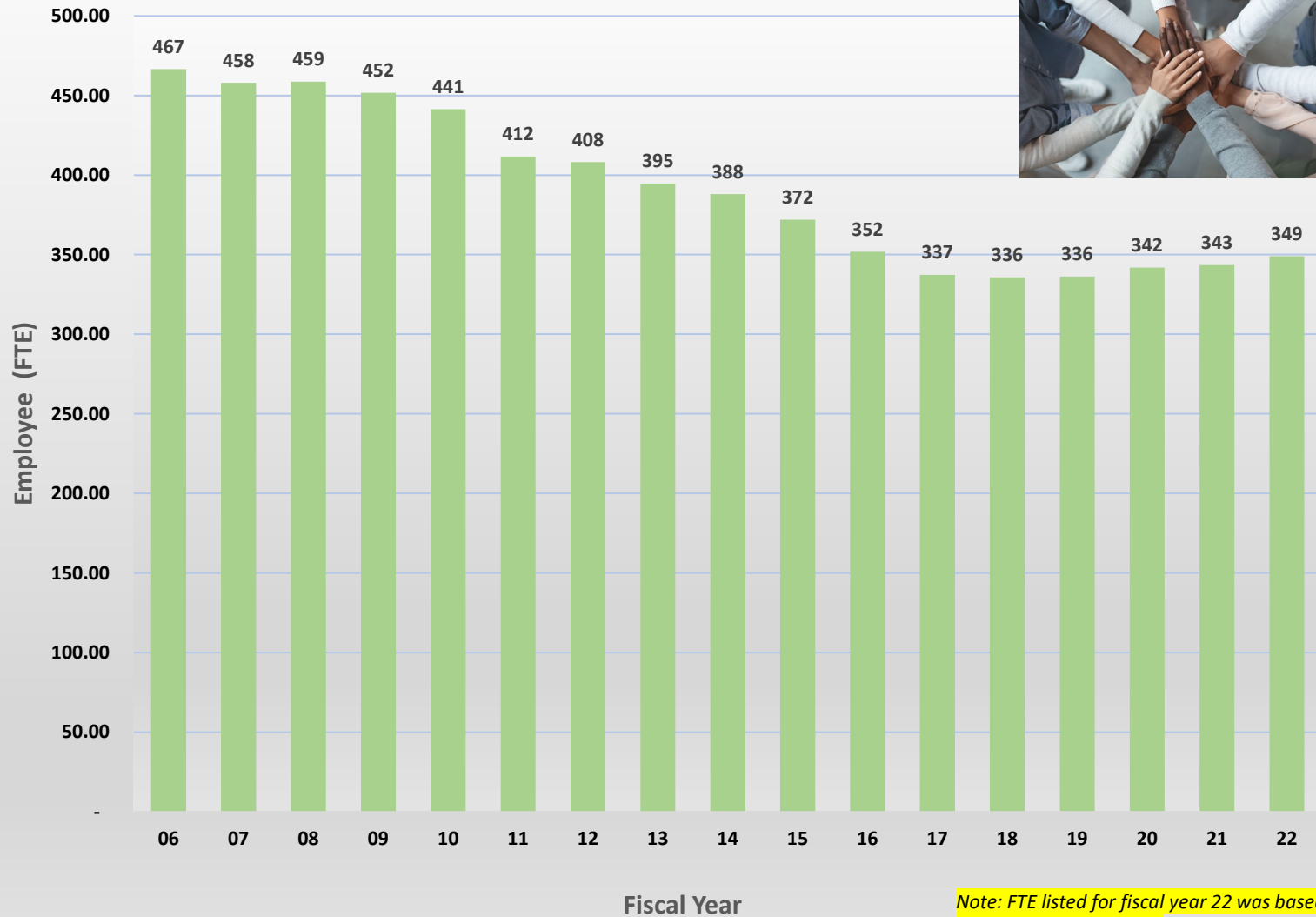
- July 2021 – April 2022 expenses were \$39.3 million
  - Total expenses for the same period last fiscal year were \$47.8 million and included \$10.25 million in grants that were funded via the CARES Act.
  - Backing off this \$10.25 million results in an increase of \$1.7 million for the current fiscal year and was due to the following:
    - Change in how pass thru payments to OSU are coded
      - Coded as transfers out in FY21
      - Coded as operating expenditures in FY22
    - Timing of payments
    - Increase in vehicle fuel costs
    - Increased in activity (post pandemic)

# Appropriations FY 2018 - thru April 2022



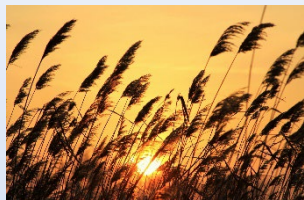


# Employee FTE Totals Fiscal Year FY 2006 – FY 2022



Note: FTE listed for fiscal year 22 was based on the FTE as of 5/14/2022.

## Administrative Services – Commodity Storage Indemnity



Commodity Storage Indemnity			
Investment Report			
As of April 30, 2022			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,159,845.57
<u>FY-2022 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest		11,735.86	\$123,952.63
Reinsurance			-
ODAFF Support Services			(50,000.00)
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	\$11,735.86	\$73,952.63
		=====	=====

**Oklahoma Department of Agriculture, Food & Forestry**

**Monthly Budget Report - Budget Year 2022**

**As of April 30, 2022**



**Fiscal Year 2022 Annual Budget to Actuals for 2022 Budget Year thru April 30, 2022**

<b>Object Code</b>	<b>Account Description</b>	<b>Fiscal Year 2022 Budget</b>	<b>Fiscal Year 2022 Expenditures thru 4/30/2022</b>	<b>Encumbrances &amp; Pre Encumbrances</b>	<b>Available Budget</b>
510	PERSONAL SERVICES	6,000	-	-	6,000
511	Salary Expense	18,499,183	13,239,784	7,736,000	(2,476,601)
512	Insur.Prem-Hlth-Life,etc	5,949,013	3,683,014	172,303	2,093,696
513	FICA-Retirement Contributions	4,569,311	3,127,272	17,207	1,424,832
515	Professional Services	2,865,945	1,954,968	573,298	337,679
519	Inter/Intra Agy Pmt-Pers Svcs	109,950	29,310	1,030	79,610
521	Travel - Reimbursements	327,545	133,729	-	193,816
522	Travel - Agency Direct Pmts	342,620	185,079	150	157,391
531	Misc. Administrative Expenses	888,791	673,682	140,971	74,139
532	Rent Expense	592,040	388,593	240,918	(37,471)
533	Maintenance & Repair Expense	1,130,554	659,526	127,888	343,141
534	Specialized Sup & Mat.Expense	1,221,855	592,307	360,951	268,597
535	Production,Safety,Security Exp	424,172	94,152	5,880	324,140
536	General Operating Expenses	184,403	66,949	-	117,454
537	Shop Expense	506,681	296,307	50,926	159,448
541	Office Furniture & Equipment	3,426,643	216,402	459,906	2,750,335
542	Library Equipment-Resources	600	237	-	363
543	Lease Purchases	1,750,868	1,554,222	45,778	150,868
545	Land,ROW,CIP,Pass Thru Assets	-	383	-	(383)
546	Buildings-Purch.,Constr,Renov.	-	-	7,900	(7,900)
554	Program Reimb,Litigation Costs	7,515,951	5,281,135	1,265,905	968,911
555	Pmts-Local Gov't,Non-Profits	7,618,450	3,021,164	759,246	3,838,040
559	Assistance Pymts to Agencies	150,000	750,000	2,250,000	(2,850,000)
561	Loans,Taxes,Other Disbursemnts	-	13	-	(13)
564	Merchandise For Resale	120,000	29,700	89,100	1,200
601	AFP Encumbrances	-	-	1,002,447	(1,002,447)
810	Req Only	-	-	95,404	(95,404)
	<b>Operating Totals</b>	<b>58,200,575</b>	<b>35,977,927</b>	<b>15,403,208</b>	<b>6,819,440</b>

Oklahoma Department of Agriculture, Food & Forestry					
Monthly Budget Report - Budget Year 2022					
As of April 30, 2022					
Fiscal Year 2022 Annual Budget to Actuals for 2022 Budget Year thru April 30, 2022					
Class Funding	Class Fund Description	Fiscal Year 2022 Budget	Fiscal Year 2022 Expenditures thru 4/30/2022	Encumbrances & Pre Encumbrances	Available Budget
19011	Carryover	1,428,800	1,428,800	0	(0)
19111	Carryover	168,336	30,933	27,213	110,190
19201	GRF - Duties	27,423,346	18,994,508	5,329,523	3,099,315
20500	Rural Fire Defense Eqp Rev Fd	236,500	29,700	129,600	77,200
21000	Agriculture Revolving Fund	19,869,441	9,791,097	8,859,779	1,218,565
22500	Enhancemnt & Diversificatn Fnd	150,000	17,840	21,667	110,494
23000	Okla Pet Overpopulation Fund	12,000	5,000	5,000	2,000
23500	Animal Friendly Revolving Fund	12,000	5,000	5,000	2,000
24500	Rural Fire Revolving Fund	1,338,287	-	13,963	1,324,324
25600	Ok Viticulture Enology Revl Fd	350,000	178,321	119,459	52,220
26200	Poultry Grading Revolving Fund	1,291,463	851,641	62,329	377,493
28500	Milk & Milk Prod Inspec Rev Fd	316,000	258,103	31,775	26,122
28600	Ag In The Classrm Educ Rvlv Fd	24,000	-	4,237	19,763
28700	Healthy Food Financing Revl Fd	150,000	17,600	30,000	102,400
42000	Specialty Crop Federal Funds	825,851	373,156	312,779	139,916
43000	Farm and Ranch Stress Alliance	500,000	-	450,884	49,116
57602	Duties	4,104,550	3,996,228	-	108,322
	<b>Totals</b>	<b>58,200,574</b>	<b>35,977,927</b>	<b>15,403,208</b>	<b>6,819,439</b>

**JUNE 2022 BOARD REPORT**  
**AGRICULTURE LABORATORY SERVICES**  
**(April 2022 Activities)**

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

The QA Manager has been researching gas monitors and leak detectors to purchase as a safety measurement for the Laboratory. Monitors will be placed in the General Chemistry and Pesticide Sections, these sections routinely use gas for testing.

- A gas leak detector capable of detecting Hydrogen gas will be purchased for the Pesticide Section. The Section will be acquiring a Hydrogen generator in the near future and it will be used to monitor any leaks from the equipment.
- The Quality Section has been helping to validate and approve results from the General Chemistry Section to ensure results are reported out in a timely manner.

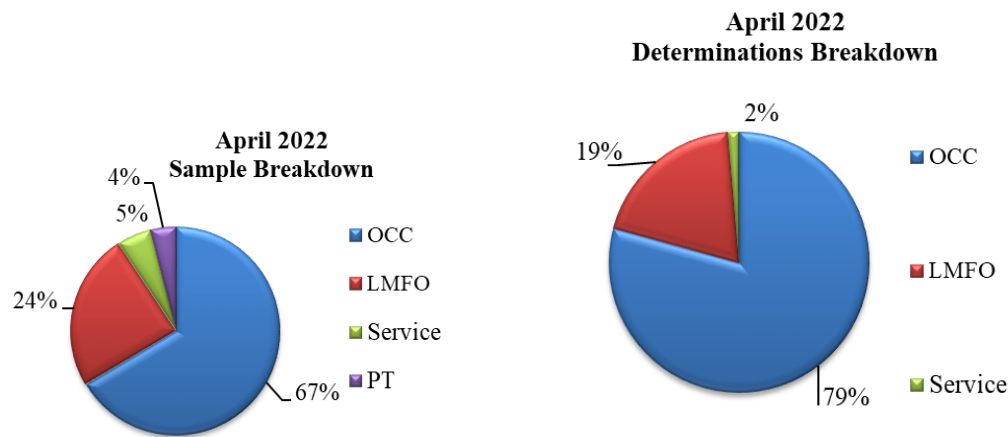
**PT Results**

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

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

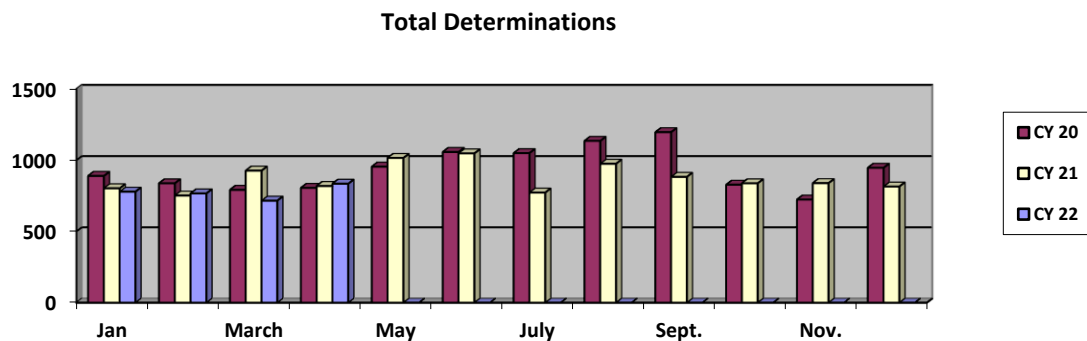
In April of 2022 the Section completed 152 samples consisting of 1159 determinations, with the following breakdown:

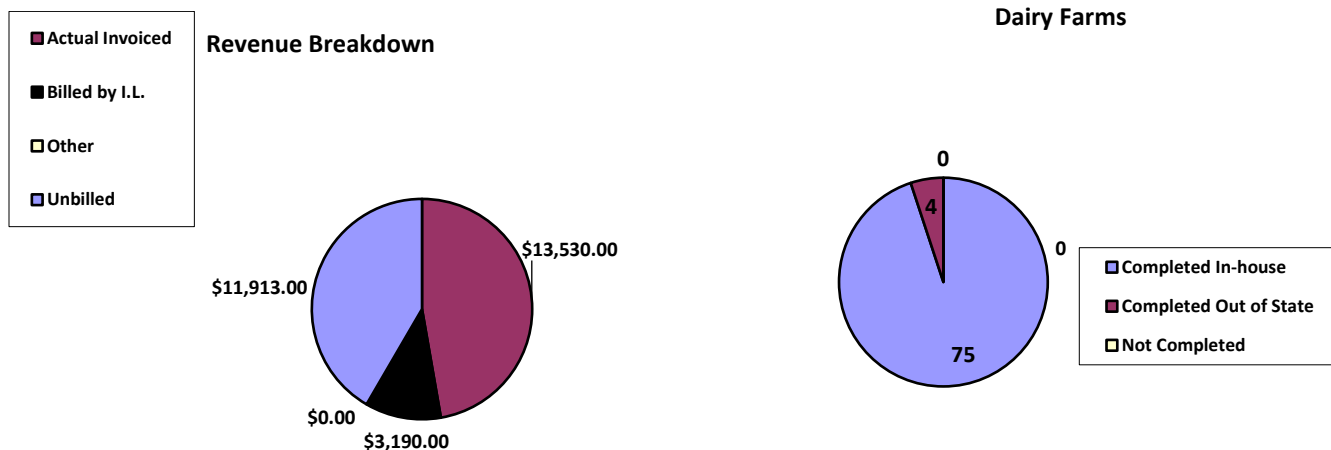
<b>April 2022 Inorganic Breakdown</b>		
Customer	Samples	Determinations
OCC	101	909
LMFO	37	222
PT	6	16
Service	8	18
<b>Total</b>	152	1159



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

The month of April was a routine month for the Section. Seven dairies have ceased operation this fiscal year, but there are two dairies who will start production in the near future. All dairies were tested and one dairy is dry this month. The meat program has increased which has helped to offset the reduction in dairies and milk plants. For FY 21 January – April, there were 36 meat samples and for FY 22, the Section has tested 52 meat samples. This did include water samples. There has been no additional information on the autoclave except that the bids were re-opened. Any costs outside our initial agreement, the Office of Facilities Management will cover. This would include the cost of teardown and install into the existing area where the previous autoclave was removed. Both the agencies dairy and meat sections have been notified that testing will not be performed due to the construction dust and potential contamination of samples during the installation of the new autoclave.





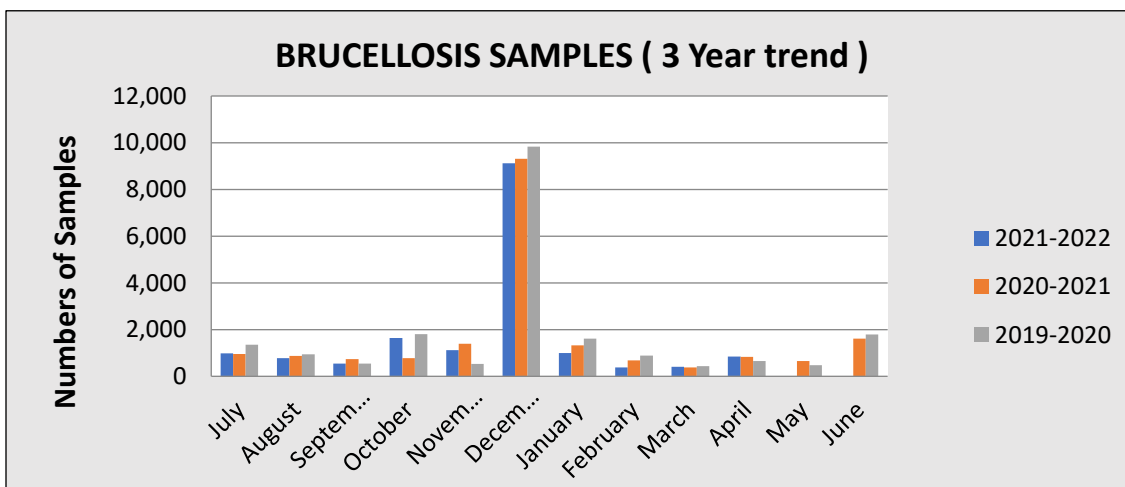
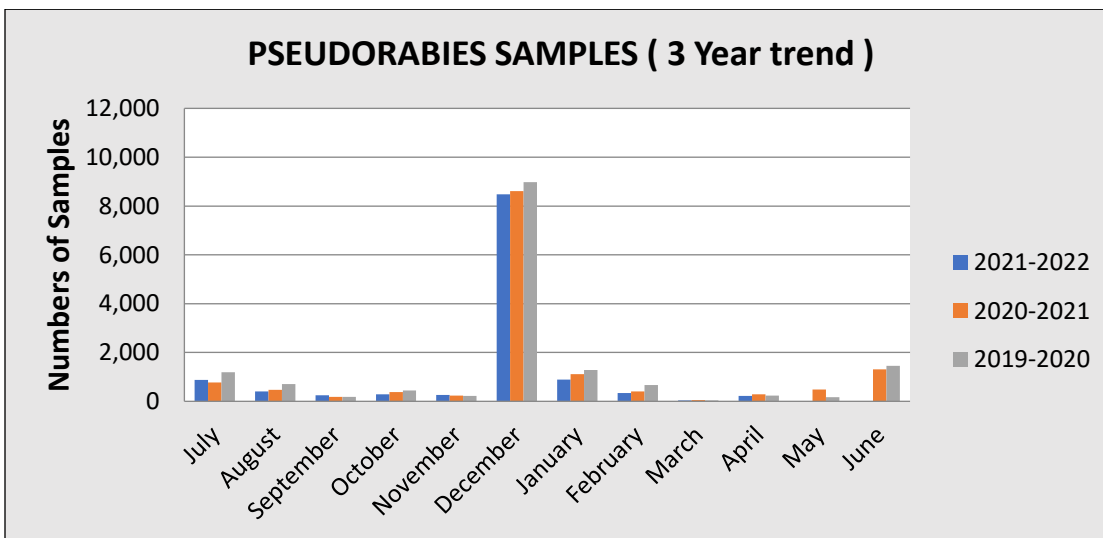
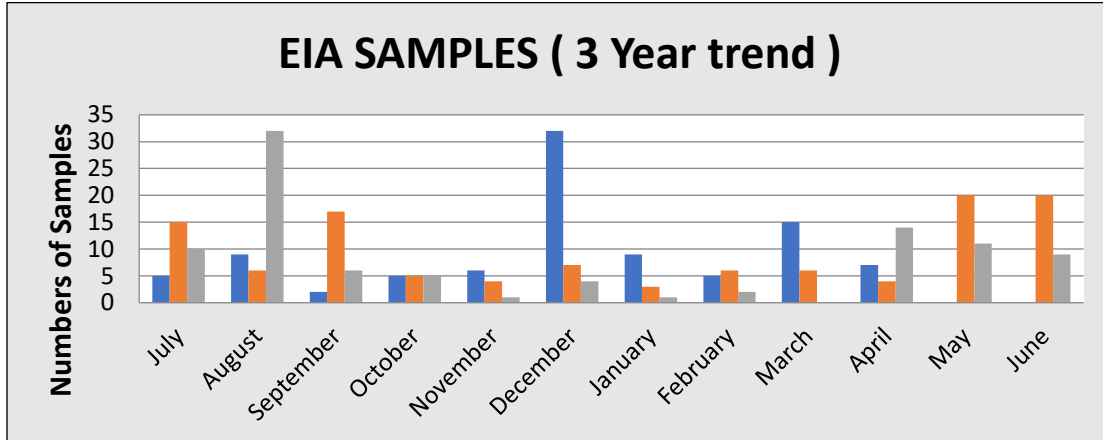
### SEED SECTION: (Wade Krivanek, State Seed Program Administrator)

The Section received a total of 136 seed samples during April. Crops being analyzed consisted primarily of sorghum, soybeans, peanuts, summer grasses and cotton. Most samples were taken by CPS inspectors following up on carry over seed needing updated germination tests. Up to now there have been no quality issues discovered pertaining to summer crop seed.

The Oklahoma Crop Improvement Association (OCIA) held their quarterly Board of Directors Meeting at the Agency's laboratory conference room. Crop updates from growers indicate that the states certified wheat crop remains in fair to poor condition. Central and northern areas have seen some slight improvement following recent rainfall, however nearly all areas of western and panhandle regions are still struggling with severe drought. Many producers in the southwest have already reported to crop insurance with certain fields being declared a disaster. There are still many unknown answers on what to expect as far as quality for certified wheat seed production. A lot of concern remains that many certified fields in central and western regions will not meet OCIA standards, primarily for purity content and test weight which can influence seed vigor.

### SEROLOGY SECTION: (Pete Bourns, Laboratory Scientist IV)

3-year Summary of Samples Analyzed			
Year	Brucellosis	Pseudorabies	E.I.A.
2022	402	227	7
2021	828	292	4
2020	651	234	14





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

April was a busy month for the Section, our new grinder started, and training continued for our newest chemist. The Section prepared for the reduction in testing ability associated with the installation of our new hoods. Johnathan White accepted and started as the section supervisor on April 25<sup>th</sup>.

Our ongoing staffing issues mostly affected our performance during the early part of the month, however as we continue to settle into existing roles and new employees are trained and becoming more comfortable with their tasks we are getting through more work. We have succeeded in clearing all outstanding work which will be impacted by the construction project beginning May 9<sup>th</sup>. The Section has set up the lab so that we can continue to process analysis not directly impacted by the hood replacement project.

Overview of Section numbers for the month of April:

	Feed	Fertilizer	Lime	Total
<b>Samples Received</b>	33	87	17	137
<b>Samples Completed</b>	169	99	13	288
<b>Determinations</b>	496	262	78	836
<b>Violations</b>	25	5	0	30
<b>Violation %</b>	5.04%	1.91%	4.08%	3.59%

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

This month, the Section received the new Agilent GC\_MS instrument, the installation and training is scheduled for May 9<sup>th</sup> through May 13<sup>th</sup>.

**Pesticide Section samples completed:**

The Section completed 18 samples this month. Below is the table showing the number of samples, tests per sample, and determinations (Det.) per sample with turnaround times (TAT).

	Number	Test	Det.	Average TAT (days)
Residue Vegetation	5	10	64	16
Residue Soil	2	4	21	20
Residue water	1	2	13	27
Residue Bees	1	1	1	11
Termiticide Vegetation	1	2	10	8
Concentrate	7	12	15	95

Average Residue  
Turnaround Time: 16 days

Average Formulation  
Turnaround Time: 95 days

Totals		
# of Samples	# of Tests	# of Determinations
18	33	134

#### Samples the Section received by month:

The Section received eight samples this month (see Fig B). This is the lowest number of samples the Section received per month for FY2022 (see Fig A).

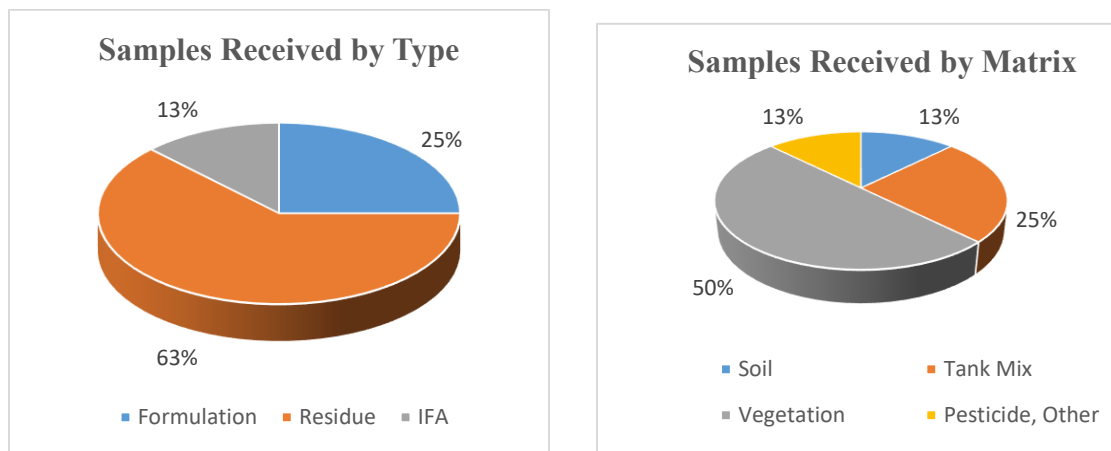


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right).

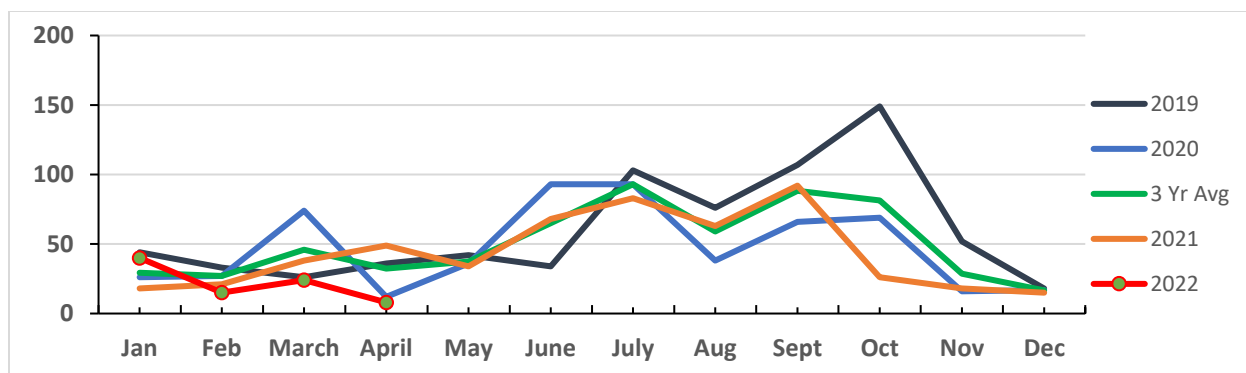


Fig B. Graph showing the number of samples received by the Section each month.

**Determinations the Section completed by month:**

This month, the Section completed 134 determinations which is 37% higher compared to last month.

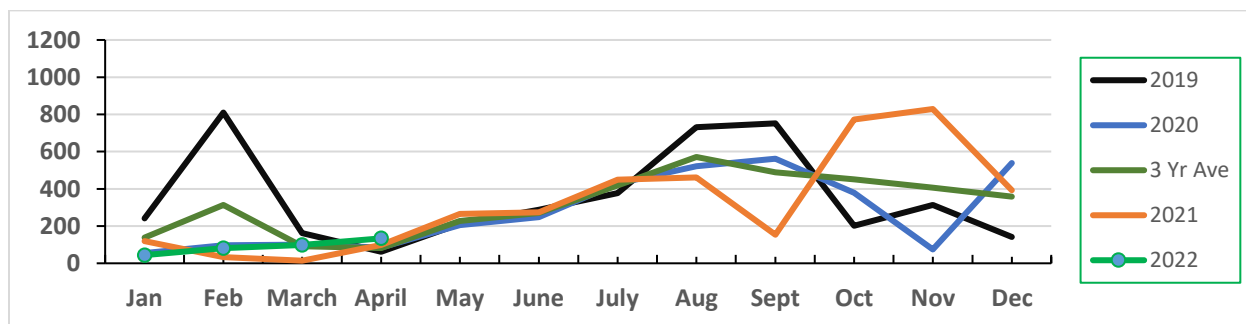


Fig C. Graph showing the number of determinations completed each month.

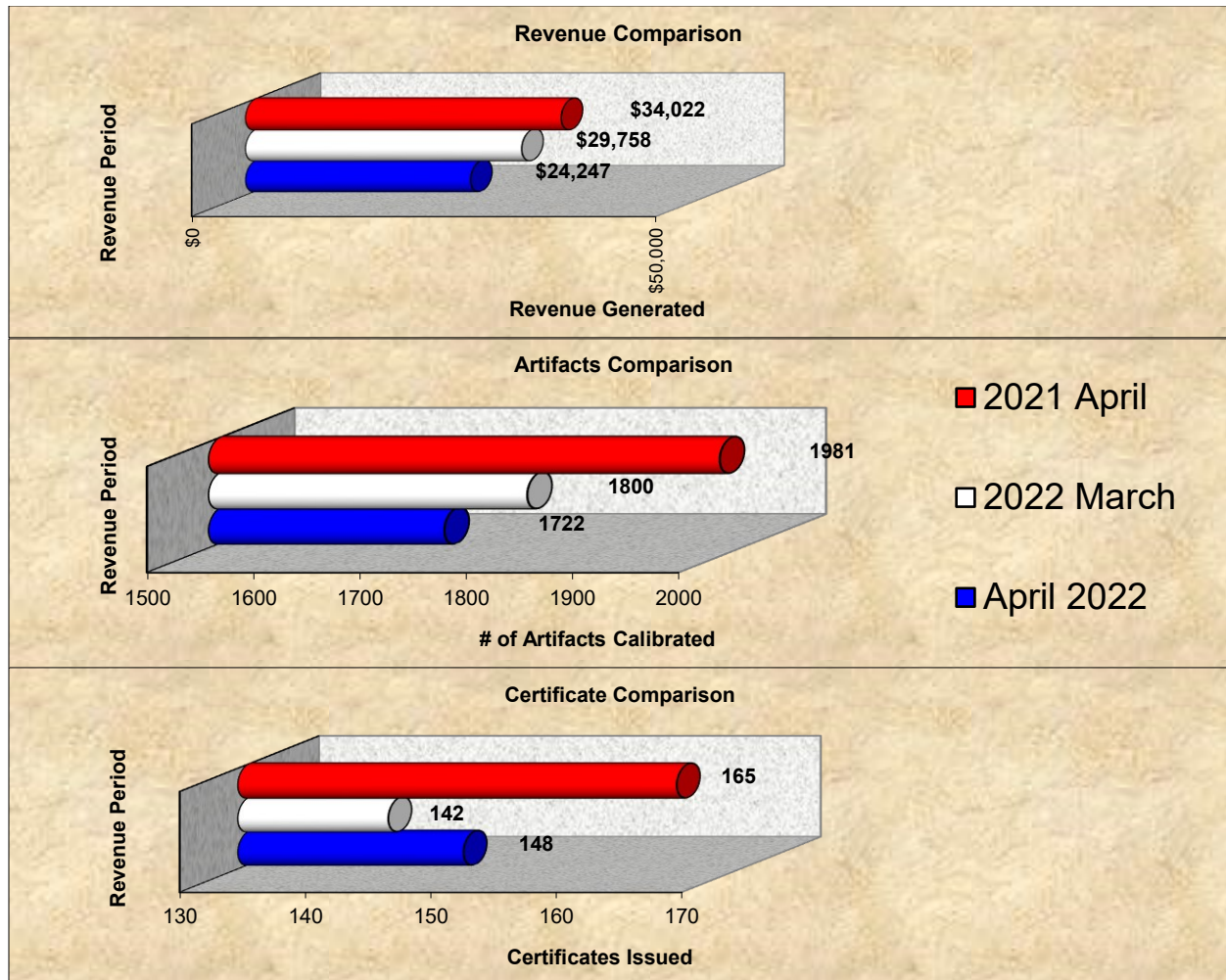
**OKLAHOMA BUREAU OF STANDARDS: (Amanda Kramer, Metrologist I)**

The following is a workload summary for the Oklahoma Bureau of Standards from April 1<sup>st</sup> through 30<sup>th</sup>.

The Bureau has calibrated weights for several large scale companies, and for the State of Connecticut DEQ. The Bureau is working on resolving some computer and network access issues.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	2	\$596	2.5%	10	0.05%
In-State Customers	19	\$23,651	97.5%	1712	99.95%
Totals	21	\$24,247	100%	1722	100%

Total Fees not Charged		# Working Days Lead Time to Next Available Date for Calibration	
\$2,860		Mass I / II	27
Fees not Charged ODAFF CPS		Mass III	22
\$0		Volume	22



Respectfully Submitted,

Wade Krivanek  
Laboratory Director  
Laboratory Services Division

**BOARD REPORT**  
**AGRICULTURAL LABORATORY SERVICES**  
**APRIL 2022 ACTIVITIES**

FEED SAMPLES	33
FEED DETERMINATIONS	496
POSSIBLE VIOLATIONS	25
 FERTILIZER SAMPLES	 87
FERTILIZER DETERMINATIONS	262
POSSIBLE VIOLATIONS	5
 LIME SAMPLES	 17
LIME DETERMINATIONS	78
POSSIBLE VIOLATIONS	0
 PESTICIDE SAMPLES	 18
PESTICIDE DETERMINATIONS	134
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 152
DETERMINATIONS	1159
 STATE-FEDERAL VET. LAB. SAMPLES	 1083
STATE-FEDERAL VET. LAB. DETERMINATIONS	1292
NUMBER POSITIVES	0
 SEED SAMPLES	 186
SEED DETERMINATIONS	180
POSSIBLE VIOLATIONS	0
 BUREAU OF STANDARDS CERTIFICATES	 148
NUMBER OF STANDARDS CALIBRATED	1722
FEE CHARGES	\$24,247.00
 DAIRY SAMPLES	 426
DAIRY DETERMINATIONS	835
POSSIBLE VIOLATIONS	14
 <b>TOTAL SAMPLES</b>	 <b>2150</b>
<b>TOTAL DETERMINATIONS</b>	<b>6158</b>
<b>TOTAL POSSIBLE VIOLATIONS</b>	<b>44</b>



# OKLAHOMA FORESTRY SERVICES BOARD REPORT

*Division Activities from April 9, 2022 – May 27, 2022*

***Serving people by conserving, enhancing, and protecting our lands and forest resources***

---

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

## RESILIENT LANDSCAPES

---

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

#### **Program Highlights**



**Oklahoma Garden Clubs.** On April 8<sup>th</sup> foresters Riley Coy and Mark Bays, along with Smokey Bear, attended the annual convention of the Oklahoma Garden Clubs. As many as 50 participants representing garden clubs from across the state attended the conference. Smokey was there to recognize the state winners of the Smokey Bear/Woodsy Owl poster contest. The following week on April 13<sup>th</sup> state garden club representatives brought the national finalist posters from across the country to the Agriculture Building where they were ranked. Bays was joined by Assistant Director Scott Huff and Information Representative Keith Merckx in selecting the national poster contest winner for grades 1 through 5. The

winning posters will be announced through the National Garden Clubs.

**Master Naturalists.** For the first time since the onset of COVID the Oklahoma Master Naturalists Program was held in person at the Lake Arcadia Conservation Education Building. Participants from across the state heard from Mark Bays on the benefits and services trees in our communities provide.

**Oklahoma City National Memorial.** In preparation of the 27<sup>th</sup> Anniversary and Remembrance Ceremony of the bombing of the Alfred P. Murrah Federal Building, Mark Bays coordinated the Survivor Tree seedling giveaway with Steve Bieberich of Sunshine Nursery and staff and volunteers from the Oklahoma City National Memorial.





Riley Coy, Mark Bays and Keith Merckx helped sort and prepare seedlings from the Survivor Tree for the giveaway on April 19<sup>th</sup>. Riley, Mark and Keith were on hand to help volunteers and Memorial Foundation staff hand out over 325 seedlings following the Remembrance Ceremony. People stood in line for a seedling, registered the location of where it will be planted and picked one up until they ran out.

On May 3<sup>rd</sup> Mark Bays gave a talk on the history and special story of the Survivor Tree to representatives of the Southern Plants Board Meeting held in Oklahoma City. There were over 100 representatives from 13 states on hand to hear the story.



A clone of the Survivor Tree planted in Crown Heights in Oklahoma City in 2021 shifted in its planting location due to recent high winds resulting in it leaning to the north. Assistant Director Scott Huff and Mark Bays reestablished the tree in an upright position and staked it to provide additional support. This will allow the tree to develop new roots for increased stabilization. The staking will be removed during the 2023 growing season.

Central Oklahoma Tree Canopy. May 19<sup>th</sup> Mark Bays met with representatives of the Oklahoma City Community Foundation (OCCF) and Davey Tree to discuss “next steps” in building and development of the Central Oklahoma Tree Canopy Assessment completed in 2019. Plans are in the works to update the assessment and improve the software package to allow easier use of the information for stormwater, air quality, and tree planting managers.





Quail Creek Neighbor Hood Association. On May 19<sup>th</sup> Mark Bays met with representatives of the Quail Creek Neighborhood Association to discuss tree preservation of several trees during the replacement of a wall surrounding the neighborhood. Some of the tree roots will be cut to provide additional room for a new footing for the wall. Fortunately, this procedure should not have life threatening impacts of the trees present. Mark has agreed to meet with the contractor to develop the best possible techniques for demolition of the existing wall.

Vance AFB Arbor Week. On May 23<sup>rd</sup> Mark Bays participated in the Vance AFB 27<sup>th</sup> Arbor Day Celebration. Students in kindergarten and 5<sup>th</sup> grade were on hand and performed songs about trees and the environment. Mark presented Tree City USA recognition to the Base Commander Col. Jay Johnson.

## **FORESTRY EDUCATION**

### **Forestry Education Highlights**

On April 15<sup>th</sup>, Education Coordinator Tony Pascall went to McKinley Elementary to teach 120 elementary students about wildfire prevention.

On April 22<sup>nd</sup>, Earth Day, Tony hosted an educational booth in Durant, Information Representative Keith Merckx hosted one in Pauls Valley, and Forester Dieter Rudolph hosted a booth in Oklahoma City. Approximately 600 people were reached in all.

On April 28<sup>th</sup>, Tony, Dieter, Forest Management Chief Scott Huff, Foresters Riley Coy and Craig Marquardt, and Administrative Assistant Brianna Teel went to Broken Bow to work on Group Camp 2 for this year's Forestry Youth Camp. They cleaned, made repairs, and prepared the area for camp this June.



*Getting Ready for Forestry Campers*



On April 30<sup>th</sup>, Tony went to Healthy Kids Day at Earlywine YMCA in OKC. Tony was able to teach the principles of “Healthy Trees, Healthy Lives” to 250 people.



On May 3<sup>rd</sup>, Tony and Dieter Rudolph went to Seminole for a Smokey wildfire prevention program, which reached 75 2<sup>nd</sup> and 3<sup>rd</sup> graders.



On May 4<sup>th</sup> and 5<sup>th</sup> Tony and Riley went to Kingfisher for their annual environmental education days for all 250 4<sup>th</sup> graders in the district. They taught forest sustainability and dendrochronology.



On May 10<sup>th</sup>, Tony, Riley, and Craig Marquardt attended the Communication and Education Division of ODWC Training in McAlester.





Another workshop is scheduled for September 19<sup>th</sup>. A series of videos to convey these messages will be developed and placed on OFS YouTube channel to support this important message.

Information Representative Keith Merckx attended FEMA PIO Basic training at the Clark County Training Center in Arkadelphia, AR. He is now certified by FEMA and eligible to take advanced training at the Emergency Management Institute.

The focus on social media growth at OFS is paying dividends. Through regular, strategic engagement the division has surpassed 57,000 followers on Facebook. For perspective, among 13 Southern Group of State Foresters member states, only Texas A&M Forest Service (the state forestry agency for Texas) has more followers with 66,000. That is in a state with nearly 29-million people compared to Oklahoma's 4-million.

Work continues on the OFS website, fleshing out new pages and reorganizing/editing existing information as well as aesthetics.

## **PROGRAM HIGHLIGHTS FROM THE EASTERN AREA OFFICES**

### ***NORTHEAST AREA***

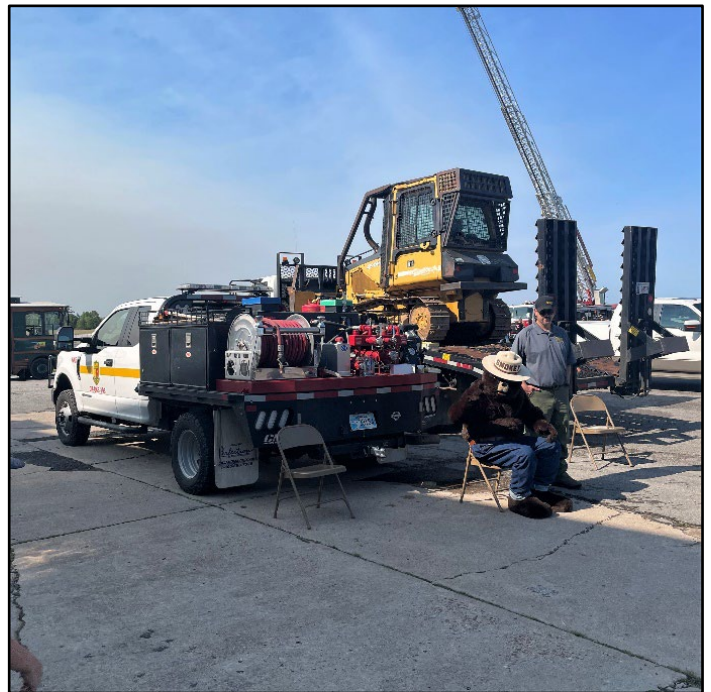
#### **FOREST PROTECTION HIGHLIGHTS**

From April 9<sup>th</sup> through May 27<sup>th</sup> in the Northeast Area twelve fires occurred that burned 1,188 acres. NE Area personnel also assisted with fires in western OK.

Dakota Green began CDL driver training in Drumright.

Several NE Area employees attended virtually or in person classes held at the Arkansas River Valley Fire Academy. Doug Duncan, Tim Reno, and Craig Longshore interviewed an applicant for the Forest Ranger I position in Jay on April 26<sup>th</sup>. Numerous NE Area employees completed First Aid, CPR, and defensive driver training in May.

On April 30<sup>th</sup>, Forest Rangers Cole Hix, Matt Waldrop, Dusty Ryals, and Tony Hadley attended a Touch-A-Truck program with Smokey Bear benefitting the Muskogee Library (Pictured to the right). On May 6<sup>th</sup>, a Home School Association hosted a Fire Prevention class with Smokey Bear. Forest Rangers Cole Hix, Matt Waldrop, Dusty Ryals, and Tony Hadley delivered the fire prevention message to the children in attendance. On May 6<sup>th</sup>, Rangers Hadley, Waldrop, Ryals, and Joe Leak conducted a Smokey Program and delivered a Fire Prevention message to a Boy Scout Camp in Skiatook.



The NE Area has one firefighting dozer with personnel currently in Texas assisting with wildfires.

## ADMINISTRATION

Kaley Helton completed two webinars towards her Certified Procurement Officer training: “What’s New in Central Purchasing” and “Understanding Sustainable Procurement.” These webinars give her two continuing education credits toward her training goals.

## FOREST MANAGEMENT/PROGRAM HIGHLIGHTS

Evan Long had seven site visits with landowners address issues with tree health, ID, and management concerns. He assisted eight more landowner with these concerns by phone or email. Evan and Connie Robinson aided the FIA Foresters with timber harvest and optimization data collecting. They also attended a workshop in Arkansas to be certified to respond as an Urban Forest Strike Team member. Connie made five site visits for forest health, tree removal, and stewardship planning. She wrote two management plans in the time frame. Connie also assisted the Earth Day presentation at Jay Elementary School with 550 students attending this event. Craig Longshore assisted with the Skills USA competition held in Tulsa by judging the horticulture contest. Craig Longshore assisted Stilwell High School with pine thinning on their campus.



*Fields, Eubanks, Johnson, Leak, and Caswell assisted with control of the Hogfarm Fire near Hinton on May 20<sup>th</sup> thru 21<sup>st</sup>*

## ONGOING ISSUES & UPCOMING EVENTS

- Training courses *S-130 Basic Wildland Firefighting & S-190 Introduction to Wildland Fire Behavior* will be conducted in Adair County in June
- A Forest Ranger I position in the Jay District’s Colcord Unit is currently open and advertised.



*Rangers Joe Leak, Tony Hadley, Matt Waldrop, and Charles Kimble meeting with the Boy Scouts to talk about fire prevention*

## **STATE FORESTER ACTIVITIES from April 9, 2022 through May 27, 2022:**

- Family Medical Leave for two weeks (11 April – 24 April)
- Participated in the third and final meeting with Alberta, Canada’s wildfire agency to discuss Artificial Intelligence/Machine Learning related to wildfire predictive services and resource deployment
- Attended ODAFF Director’s Meetings
- Conducted one meeting of the Northern Rockies Incident Management Team #1 Command & General Staff
- Delivered a presentation to the NW Oklahoma Emergency Management Conference in Weatherford
- Attended two meetings of the National Operations Section Chief’s Incident Management Remote Roundtable
- Attended two meetings of the National Incident Commander’s Incident Management Remote Roundtable
- Attended the May NASF All State Foresters Monthly Policy conference call
- Participated in one virtual meeting of the NWCG Medical and Public Health Advisory Team
- Participated in the OFS May “First Tuesday” meeting
- Participated in three virtual meetings as the Southern States representative to the USFS Community Wildfire Defense Grant Program Development Committee
- Assisted with the Highly Pathogenic Avian Influenza response in Sequoyah County
- Attended a meeting with the Oklahoma All-Hazards Incident Management Teams Advisory Board
- Attended a special meeting of the Land Mobile Radio Public Safety Interoperability Cooperative Committee and Federal Engineering, the contractor that will be developing a Statewide Land Mobile Radio Communications Strategic Plan
- Participated in the “Ag on Lincoln” event
- Responded to the Hogfarm Wildfire near Hinton
- Represented the Southern Group of State Foresters at the USFS Region 8 “Wildfire Crisis Strategy Regional Roundtable”
- Participated in a meeting with a vendor to explore the possibility of using tower-mounted cameras for wildfire detection purposes in Forestry Services’ eastern Oklahoma Protection Area.



## *CONSUMER PROTECTION SERVICES DIVISION*

### **JUNE 16, 2022 BOARD MEETING REPORT FOR MARCH/APRIL/MAY 2022**

#### **PESTICIDE SECTION**

##### Pesticide Registration Activity

Pesticide registrations for April 1<sup>st</sup> to May 27<sup>th</sup>, 2022 are presented in the following chart. A total of 3721 products were registered, of the products registered 3217 were renewals and 504 were new. There were 226 products cancelled.



##### Pesticide Samples

Pesticide samples taken April to May 2022 are presented in the following chart. A total of 28 Residue, 4 Concentrate, 2 Pollution, and 3 Tank mix samples were taken.

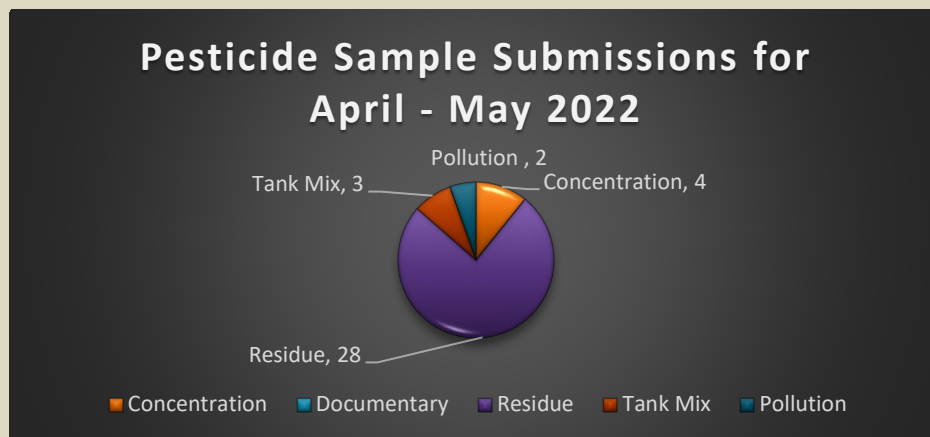


Table 1. Inspection Count for April - May 2022\*

Inspection Type	Number of Inspections		
	April	May	Two Month Total
Experimental Use Permit	0	0	0
Marketplace	22	12	34
Pesticide Applicator Facility	30	16	46
Pesticide Service Inspection	0	0	0
Restricted Use Pesticide Dealer	10	6	16
Container Containment Inspection	0	0	0
Producer Establishment	3	0	3
Use	113	47	160
Termite	0	0	0
Wood	0	0	0
Pre-treat	0	11	11
Drift Investigation	0	0	0
Pesticide Label	1783	374	2157
Worker Protection	0	0	0
<b>Total</b>	<b>1961</b>	<b>466</b>	<b>2427</b>

\* 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 17 nonagricultural use samples and 20 agricultural use samples for a total of 37 samples.

#### Unwanted Pesticide Disposal

ODAFF held two unwanted pesticide disposals one on April 26th in Ada at the Pontotoc County Agri-Plex, the other was held April 28th in Hobart at the Kiowa County Fairgrounds. The



collections were scheduled from 8:00 am until 1:00 pm. The Ada event collected over 13,000 pounds and the Hobart event collected over 60,000 pounds. ODAFF started the Unwanted Pesticide Disposal Program in 2006, since the start of the program ODAFF has collected almost 1.2 million pounds of unwanted pesticides. ODAFF works with our hazardous waste contractor, CleanEarth to dispose of these pesticides.

#### Region 6 FIFRA Inspector Training

New Mexico Department of Agriculture hosted the Annual Region 6 Inspector Training May 9<sup>th</sup>-13<sup>th</sup> in Albuquerque, NM. The training provided a forum for approximately 40 state lead agency inspectors and field personnel from Region 6 states to discuss and improve their tools to process issues found during field inspections. The workshop included several topics applicable to site inspections and incorporated situations commonly encountered in the field. Topics of discussion included label interpretation, pollinator protection, pesticide safety, and potential environmental hazards. Eight CPS inspectors attended this training as well as inspectors from Texas, New Mexico, Louisiana, and Arkansas.

#### Pesticide Licensing & Certification:

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

#### Private Applicators:

The CEU spreadsheet for private applicators was requested to be updated on April 5<sup>th</sup>. As of April 5<sup>th</sup>, 1,160 private applicators have received at least 1 CEU with an average of 3.6 CEUs.

#### PSI Testing Updates:

On May 15<sup>th</sup>, PSI released their mask mandate. Face masks will no longer be required at all testing sites.

PSI now has a Group Scheduling Team for pesticide companies that have a large group of candidates that require testing.

- Larger pesticide companies have many employees (10-150) they need to schedule at the same time; however, PSI did not have a way to do this until now.



## Pesticide Complaints

PESTICIDE COMPLAINTS		April 12, 2022 – May 31, 2022		
	RECEIVED	CLOSED	WARNINGS ISSUED	NO ACTION
CONSUMER GENERATED:	13	4	3	4
MUSK THISTLE:	4			
PMR CASES:	12	0	7	0
CASES REFERRED TO OGC:	15			

## **Plant Protection Program**

### Phytosanitary Certificates

#### Federal

Federal phytosanitary certificates Issued from April 1, 2022 – April 30, 2022

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

1 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 (March 1, 2022 - March 31, 2022)</u>			
Country	Product	Quantity	Phytos Issued
France	Barrelclover Seed	1 Gram	1
Panama	Potatoes	2,160 Bags	1
Netherlands	Bermuda Grass Seed	3,765 Kg	1
Republic of Korea	Sorghum Seeds	60,000 Kg	1
Thailand	Miscanthus	60 Totes	1

Companies applying for federal phytosanitary certificates:

International Ingredient:	3
Johnston Seed Company	1
OSU Biosciences:	1

## State

State phytosanitary certificates Issued from April 1, 2022 – April 30, 2022  
207 phytosanitary certificates for 17,393 plants



## Japanese Beetle Trapping and Survey



Figure 1: Japanese Beetle.

We began setting our traps out for the Japanese Beetle survey in mid-May. There are still a few traps left to place, but the goal is to have all traps out by June 1. There are 6 inspectors included in this survey and we plan to set out 49 traps across 8 counties and 9 nursery operations.

The traps will be checked every 2 weeks in June and July, and then every month in August, September, and October. The survey will

conclude in October.



Figure 2: Japanese Beetle trap.

## Chrysanthemum White Rust

ODAFF is currently completing a trace-back and a trace- for Chrysanthemum White Rust, which was found in Maryland in May from plant material they received in 2020 and 2021 shipments from King's Mums in Tulsa County. The positive nursery in Maryland also sent a shipment to a consumer in Oklahoma City in May of 2022. We observed no symptoms at either site and have submitted plant samples to the OSU PDIDL to confirm the absence of this disease in Oklahoma.

## Southern Plant Board Meeting 2022

The 2022 Southern Plant Board meeting was held in Oklahoma City May 2-5 with 13 states, USDA PPQ and CBP participating in the event.

## Hemp

Total Licensed Growers: 18

Total Licensed Sq Ft: 13,089

Total Licensed Acres: 203

Total Licensed Processors/Handlers: 10

Applications are still coming in but slowly. Nationally, hemp numbers have decreased. Caroline Nelson recently completed the USDA Hemp Sampling Agent Training and passed the necessary test to become a USDA Hemp Sampling Agent.

## Apiary

Caroline Nelson and several ODAFF-CPS inspectors will be attending in-person training at an Oklahoma State Beekeepers Association apiary. This training will be a great opportunity for the inspectors to become more comfortable with bees and handling the equipment.

We have a total of 100 active Apiary licenses in Oklahoma.

## **AGRICULTURE RESOURCE SECTION**

### **Feed Program**

#### Program Performance

During this reporting period there were a total of 169 official feed samples analyzed, with 470 feed determinations made from these samples. These determinations resulted in the issuance of 8 violations for feeds or feed ingredients that did not meet established tolerances based on their guaranteed analysis. Most of these violations were issued for products deficient in Crude Protein. One stop sale order was issued for a feed product with severe deviations from their guaranteed analysis. One Stop Sale was issued for a product deficient in Crude Fat.



Figure 3: Secretary Arthur addressing the SPB Meeting.

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 March 2022- April 2022**

Nutritional Guarantee	Number of Label Violations		
	April <sup>1</sup>	March <sup>2</sup>	Two Month Total
Crude Protein	8	3	11
Non-protein Nitrogen	0	0	0
Crude Fat	0	1	1
Crude Fiber	0	0	0
Calcium	0	0	0
Phosphorus	0	0	0
Salt	0	0	0
Magnesium	0	0	0
Potassium	0	0	0
Copper	0	0	0
Iron	0	0	0
Zinc	0	0	0
Vitamin A	0	0	0
Medicated Feed	0	0	0
<b>Total</b>	<b>8</b>	<b>4</b>	<b>12</b>

<sup>1</sup> 169 feed samples analyzed with 470 determinations; <sup>2</sup> 156 feed samples analyzed with 315 determinations

**Table 2. Feed Stop Sale Summary March 2022- April 2022**

Nutritional Guarantee	Number of Stop Sales		
	April <sup>1</sup>	March <sup>2</sup>	Two Month Total
Crude Protein	0	0	0
Non-protein Nitrogen	0	0	0
Crude Fat	1	0	1
Crude Fiber	0	0	0
Calcium	0	0	0
Phosphorus	0	0	0
Salt	0	0	0
Manganese	0	0	0
Potassium	0	0	0
Copper	0	0	0
Zinc	0	0	0
Vitamin A	0	0	0
Medicated Feed	0	0	0
<b>Total</b>	<b>1</b>	<b>0</b>	<b>1</b>

<sup>1</sup> 169 feed samples analyzed with 470 determinations; <sup>2</sup> 156 feed samples analyzed with 315 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 April 10<sup>th</sup> to May 30<sup>th</sup>, 2022. During this period, the Office of Chemical Security [Policy, Rulemaking, and Engagement Branch] of the Cybersecurity and Infrastructure Security Agency (CISA) within the Department of Homeland Security reached out to the Association of American Plant Food Control Officials (AAPFCO). Due to our involvement within AAPFCO, Joshua Maples has been identified as a key point of contact who can speak to the impact this proposed regulation may have on agricultural producers and consumers in our state regarding ammonium nitrate. He was then invited to the online consultation for state officials which took place on April 22, 2022.

Type of Sample	Number	Deficiency Penalties	Notice of Deficiency: Stop Sales
Fertilizer	145	28	1
Lime	18	0	1

Type of Investigation	Number
Anhydrous Ammonia Nurse Tanks	5 (188 Tanks)
Anhydrous Ammonia Storage Tanks	4 (7 Tanks)
Dry Bulk Fertilizer Facility	2
Liquid Bulk Fertilizer Facility	3
Pre-Site Facility	0

## Weights & Measures Program

During this period the large capacity scale technicians tested 22 Vehicle scales and 20 ranch scales, 1 of the Vehicle scales was rejected for repairs and 1 ranch scale was rejected.

CPS inspectors checked a total of 1059 small scales and 19 platform scales, 25 of the scales were rejected. There were 15 random pack inspections and 48 standard pack inspections conducted that resulted in 9 companies receiving letters of warning and 2 companies receiving a Stop Sale. Additionally, 108 price verification inspections were conducted at various retailers that resulted in 7 companies receiving letters of warning.

The weights & measures staff welcomed Darryl Gibbs as our new scale technician. Darryl lives in Sapulpa, Oklahoma and has been in the tire industry for over 15 years before getting his CDL during the pandemic and driving trucks. He enjoys spending time on his fancy John Deere mower and with his family.

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



Kenny M. Naylor



**OKLAHOMA**  
**Agriculture, Food**  
**and Forestry**



Oklahoma Department of Agriculture, Food and Forestry  
Animal Industry Services Board Report  
June 16, 2022  
Activities April 9, 2022 – May 27, 2022

**Animal Disease Traceability:**

We will have the opportunity to apply for supplemental cooperative agreement funding to purchase RFID equipment and software. I will submit a proposal to purchase RFID wands that can be distributed to producers and accredited veterinarians.

We continue to distribute the free RFID tags to interested veterinarians and producers. We also have a limited number of RFID tag readers that are available for loan.

**Aquaculture:**

There was no activity in the Aquaculture program during this time.

**Biologics:**

During this time frame, a Stop Sales Notice was sent to a biological company for failure to renew a previously registered biological product. Multiple attempts were made to contact the company prior to the Stop Sales Notice issuance. After receiving the notice, the company contacted our office and registered the biological product.

**Cattle Programs:**

**Brucellosis:**

We have no active bovine Brucellosis cases currently.

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

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

**Tuberculosis:**

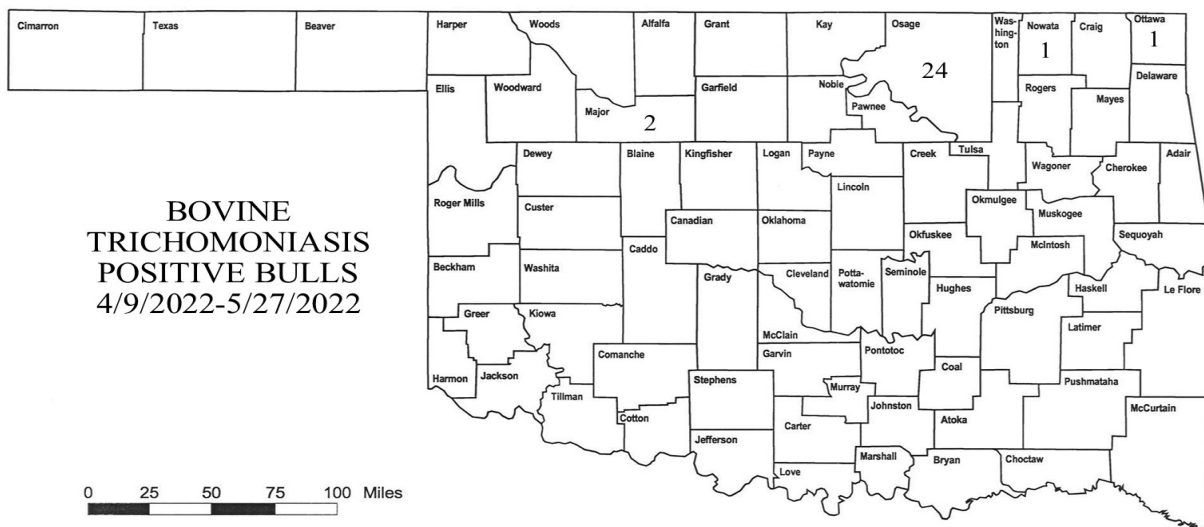
USDA Cattle Health staff agreed that we have performed adequate surveillance in the dairy in Cimarron County. Based on those discussion we have closed that case.

We currently have no TB affected herds in Oklahoma.

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

### Trichomoniasis:

During this period there were 2,335 Oklahoma bulls trich tested with 28 positive individuals. One each from ranches in Nowata and Ottawa county, two from a ranch in Major county and a total of twenty four from two neighboring ranches in Osage county.



9,358 bulls tested / 38 positive = 0.41% positive

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

### John's Disease:

During this time frame, we received a total of 13 positive reports, 12 of which are from new premises. During this time last year, we had 14 positive reports with 9 from new premises. Comparing year to date numbers this year we are seeing more new premises, 34 verses a year ago which had 27. Other totals are near the same.

We continue to work with producers to understand the risk and how to minimize them. We continue to receive calls from producers with previous positive reports on best management strategy and environmental exposure risk.



**Emergency Management:**

On April 9 AIS received a call from the Kansas State Veterinarian's office requesting assistance in depopulating a flock of turkeys that had been confirmed to have Highly Pathogenic Avian Influenza (HPAI). Kansas does not have a foam machine and all contractors were busy in other States. We gathered a team of our Livestock Inspectors and one APHIS Veterinary Services employee and transported our foamer north of Wichita on Sunday, May 10. The depopulation was completed Monday, May 11. The producer was very complimentary of the work our team did and the State Veterinarian and his staff were very appreciative.

On April 14 Drs. Ruby, Hall, and I met with Oklahoma Department of Emergency Management and Homeland Security personnel to discuss our needs and how they can assist us in case we became involved in a HPAI incident.

On April 19-20 I and several of AIS' staff participated in a training exercise to prepare for our National Veterinary Stockpile full scale exercise.

On May 12 we conducted the National Veterinary Stockpile full scale exercise at the Oklahoma State Department of Health's warehouse in Oklahoma City. The exercise simulated a Foot and Mouth Disease outbreak and required us to request and receive 25 NVS modules filled with simulated supplies needed for a FMD outbreak. We also requested and received a pallet of simulated FMD vaccine. This allowed us to practice receiving, storing, and shipping both supplies and vaccine utilizing the OSDH warehouse team and software. This exercise allowed us to evaluate our NVS Logistical Plan as well as collaborate with our OSDH partners and was very successful. Moving forward, I will develop an improvement plan to focus on areas of the exercise where gaps were identified as well as continue to engage OSDH to utilize warehouse assets for ODAFF FAD responses.



On May 17-19 Dr. Stone participated in Carcass Management Training in Stillwater. With this training and another that Dr. Stone will attend in North Carolina later this summer, he will be very close to being certified as a composting subject matter expert.

We continue to participate in weekly ASF Slaughter Plant Working Group discussions to help prepare the packing industry to respond during an ASF outbreak.

#### **Equine Programs:**

There are no reported cases or quarantines for CEM in Oklahoma

There has been one confirmed case of Eastern Equine Encephalitis (EEE) virus in a horse in Oklahoma. The four-year-old quarter horse was unvaccinated and had been in Florida for training. It arrived back in Oklahoma on May 8<sup>th</sup> and was showing neurological signs when it unloaded from the trailer at the owner's home. The horse was taken to a veterinary hospital the next day when symptoms were worsening and unfortunately was euthanized due to losing the ability to stand. While EEE is a disease that can affect people, horses are known as a dead-end host meaning the horse is not a source of infection for mosquitos to pick up the virus and spread it to other horses or people. Vaccination for EEE is very effective in preventing infection in equine species.

There was one EIA trace back for Oklahoma in May. A mare in Ohio tested positive for EIA and had been bred, through artificial insemination, with semen from a stallion in Oklahoma. Since the virus can be spread through semen, the stallion was tested to rule out he could have been the source of infection. He was found to be negative for EIA.

There is one horse that remains under quarantine after testing positive for Equine Piroplasmiasis. It was enrolled in and has completed the USDA treatment protocol. It will be tested every 30 days until antibody levels are below 40% on two consecutive tests. The last test was in the negative range and results are pending on an additional test. If the pending results are negative, the quarantine will be released.

#### **Farmed Cervidae Programs:**

The new program administrator has been processing renewal applications, coordinating facility inspections and reviewing animal inventories for the Farmed Cervidae, and CWD monitored herds in Oklahoma. We continue to closely monitor requests to import deer from Pennsylvania and Wisconsin due to the increasing incidence of CWD in those States.

#### **Feral Swine:**

The new program administrator has been processing renewal applications and coordinating facility inspections for the Feral Swine Sporting and Handling facilities. Feral Swine hunting activities are robust based on the number of feral swine hunting permits being purchased. Feral Swine transport activities have also remained steady. A slaughter facility in Fort Worth, Texas that accepts feral swine from Oklahoma has reopened. We anticipate an increase of transports to that facility.

### **Foreign Animal Disease:**

On April 29, we were notified of a commercial flock of broiler breeder chickens with increased mortality, signs of respiratory disease, and lethargy. The company veterinarian had a high suspicion the symptoms were due to Highly Pathogenic Avian Influenza (HPAI) and submitted samples to the Oklahoma Animal Disease Diagnostic Laboratory in Stillwater. Those samples did test positive for HPAI and were forwarded to the Federal Laboratory in Ames, Iowa for confirmatory testing. We received confirmation on April 30<sup>th</sup> of a diagnosis of HPAI, H5N1. The flock was depopulated on April 30<sup>th</sup> and disposal and initial cleaning and disinfection was completed on May 3<sup>rd</sup>. All commercial premises within 10 km of the infected premises were placed under quarantine with all movement of poultry or poultry products being permitted while surveillance testing was done to insure no spread of virus to other premises. Additional testing was done on all commercial premises within 20 km of the infected premises to monitor for potential disease spread. After 14 days with all testing being negative, all quarantines, except for the index premises, were released on May 19<sup>th</sup>. The index premises has completed virus elimination and environmental sampling has come back negative for influenza virus. The quarantine on the index premises will be released by June 1<sup>st</sup> once documents with instructions for restocking are completed. The source of infection for this flock is suspected to be from many Canadian geese that were congregating in a field next to the poultry houses. How the virus entered the chicken houses is still under investigation.

As of June 1, there are 36 affected states and 357 confirmed affected premises with HPAI. There have been over 36 million birds that have died or been destroyed due to this virus incursion. The virus does not survive well in hot temperatures, so we are hoping for a decline in cases as the summer temperatures rise but we expect a second wave of infection in the fall as temperatures decline and wild birds leave their nesting grounds and begin to migrate south.

In addition to the confirmed HPAI FAD Investigation, two additional FAD Investigations were performed by ODAFF and APHIS personnel. One was a heifer in Canadian County with lesions compatible with FMD or Vesicular Stomatitis. The other was increased mortality in a commercial flock in Adair County with a low suspicion of HPAI. Thankfully neither were confirmed to be a FAD.

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, there was one livestock market facility that was sold. The auction market at Overbrook which has been leased and operated by the Ken Russ family was sold to another individual by the ownership group of the barn. The new owner has not contacted this division, but information received indicates the facility will no longer operate as a livestock market. Mr. Russ has indicated he is planning to transition to an online auction in the near future. In addition to the Overbrook activity, staff also sent

packets to a couple individuals interested in sale barn ownership. This period also allowed for a market orientation as well as a number of custodial account reviews.

#### 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 4 Dr. Hall traveled to Stillwater to assist in Accreditation training for 4<sup>th</sup> year students at OSU CVM.

On April 11 Dr. Hall was interviewed by KOKH TV about the finding of HPAI in a non-domestic duck.

On April 21 and 26 Dr. Hall conducted training on Trichomoniasis to OSU CVM graduating 4<sup>th</sup> year students who plan to do food animal work and plan to practice in Oklahoma.

On May 11 Dr. Hall was interviewed by Colleen Wilson from KOKH TV regarding a case of rabies in a horse in Logan County.

On May 13 Drs. Ruby, Hall, and I met with the State Public Health Veterinarian and the State Epidemiologist from Oklahoma State Department of Health to discuss and set policy on the handling of rabies cases in livestock. We also discussed the HPAI outbreak and their role in the response.

On April 28, Dr. Stone provided an overview of the swine industry to the OKC OSU vet tech students. His presentation focused on endemic and foreign swine diseases and their risk to our nation, the current situation with ASF and CSF in the Western Hemisphere, biosecurity practices for both commercial and exhibition swine, and lastly, the risk the exhibition swine pose for our pork industry.

#### **Poultry Programs:**

During this time frame, there have been 42 sick or dead birds submitted for our sick bird/dead bird program, for a total of 80 birds tested for the year. This increase is contributed to the confirmation of HPAI in Sequoyah County. We are also responding to an increase number of sick bird calls from the public which are triaged in order to determine if clinical signs and symptoms are consistent with HPAI. Most have only had one bird die with no other clinical signs. We log these calls and have the individual follow up with us should additional illness or death occur in the flock in order for us to test the bird. It is important to note, that HPAI in backyard poultry will cause an

increased mortality event and has not been confirmed in flocks where only one bird perished.

With the confirmation of Highly Pathogenic Avian Influenza in a commercial flock in Oklahoma, an emergency rule banning all public chicken sales, auctions, swap meets, or exhibitions was put into place. Because of the highly infectious nature of HPAI, the ban was to prevent commingling of birds from multiple locations to lessen the risk of spread from one flock to another. The ban will be lifted after 30 days if there are no additional detections of HPAI and the national epidemiological curve declining. We are hoping to release the ban on May 31<sup>st</sup>, 2022.

On April 15<sup>th</sup>, Dr. Ruby traveled to Fayetteville, Arkansas to attend a meeting of the Poultry Health Advisory Committee. It is a committee that includes State Animal Health Officials, Laboratory personnel, and industry representatives for Arkansas, Kansas, and Missouri. The committee discussed the current state of HPAI in the US and each individual state as well as how the three states can have a collaborative approach to emergency response in the face of a disease outbreak. This was the first in person meeting since 2020 because of COVID restrictions.

Drs. Ruby and Hall participate in weekly virtual meetings of the Tri-State Poultry Health Advisory Committee. These meeting are normally quarterly but during the HPAI outbreak the Committee thought weekly meetings would be better.

### **Public Health**

Dr. Stone continues to work with the 3 flock owners that were experiencing an abortion storm within their goat and sheep herds due to *Coxiella burnetti* or Q-Fever. Due to the endemic nature of the disease, one herd owner elected to depopulate their herd, another herd owner has elected to pasteurize the goat milk prior to selling it to the public, and the largest herd affected has kept the herd confined to a specific pasture and is in the process of sending all animals to slaughter when they reach the optimum size and condition. Dr. LeMac Morris, the State Public Health Veterinarian, has been in contact with all of the herd owners and is assisting with the public health implications of Q-Fever as it is a zoonotic disease. In an abundance of caution, one herd owner had staff consult with their physicians for follow up.

On May 11, Dr. Hall received a report that several dogs that belonged to an individual in Choctaw County tested positive for Canine Brucellosis. It was determined by the Commercial Pet Breeders (CPB) Division that the individual was not a licensed Commercial Pet Breeder. The information indicated that they might be selling puppies from the infected dogs. Due to the public health risk, Dr. Hall attempted to contact the individual to discuss the case further. He was unsuccessful in his efforts and therefore a quarantine was issued until the individual could contact our office. The quarantine was delivered on May 16 in conjunction with the CPB inspector investigating the complaint. This individual was released from quarantine once it was determined that all dogs had been altered, no viable puppies were sold, and the individual understood the risk to their family's health in keeping brucellosis positive dogs, as surgery is not curative, and

positive dogs will continue to shed the bacterium for the remainder of their life. While the CPB inspector was conducted their investigation, they received a complaint that the individual's neighbor also had dogs test positive for canine brucellosis and is unlicensed. This individual met the threshold for licensure and is in violation of operating without a valid CPB license. I am assisting the CPB division with a testing protocol for this kennel and have issued a quarantine preventing dogs from being sold or moved until all dogs have had two negative brucellosis tests.

### **Rabies in Livestock:**

Since the last board report there has been one confirmed case of rabies in an unvaccinated horse. Three other horses that were kept in the same enclosure as the positive horse have been placed under quarantine to monitor for signs of illness. We continue to work with educating the public on the importance of rabies vaccines in horses. Vaccination can prevent disease as well as shorten quarantine times from 6 months to 45 days.

A pig in Beaver County was exposed to a known rabid skunk. It is a very valuable breeding sow, so the owner did not want to euthanize. The sow has been placed in isolation with no contact with other animals and limited contact with humans. The owner has been educated on clinical signs to watch for that would be consistent with rabies and has been counseled on the extreme importance of how to protect themselves from any potential exposure should the sow show any symptoms of illness. While quarantine of known exposed animals is not usually permitted, because of the value of this sow, we opted to allow the owner to quarantine if strict biosecurity requirements were maintained.

### **Sheep and Goat Programs:**

On April 14, Dr. Stone and LSI Kyle Jarvis joined USDA Animal Health Technicians and VMO in sampling sheep and goats in slaughter chains for scrapie as part of the surveillance goal of identifying the last scrapie animal in the US. This is necessary to reach surveillance numbers based on the Oklahoma population of these animals.

### **Swine Programs:**

On April 14, I attended a virtual meeting of the US Swine Health Improvement Plan (US SHIP). The purpose of this meeting was for Official State Agencies to have a planning session to move the program forward.

On May 12, Dr. Hall attended a virtual meeting of the US SHIP Official State Agencies.

The new program administrator has been processing the required quarterly tests for the Validated and Qualified herds and updating the database for these producers. The commercial commuter swine herds continue to be very active in Oklahoma.

### **Miscellaneous:**

On April 15 Dr. Hall received a complaint that a Non Veterinary Equine Dental Provider was using sedatives on horses without acquiring them through a Veterinary Client Patient Relationship (VCPR). After a brief investigation, Dr. Hall turned the case over to the Oklahoma Board of Veterinary Medical Examiners for investigation and action.

On April 28 Dr. Hall attended the Oklahoma Animal Disease Diagnostic Laboratory (OADDL) Board of Advisors meeting virtually.

During this period we worked with Oklahoma Department of Wildlife Conservation and USDA Wildlife Services to develop a policy to deal with nuisance waterfowl that are normally relocated during their molting period.

Respectfully,

A handwritten signature in black ink, reading "Alicia Gorczyca-Southerland". The signature is written in a cursive, flowing style.

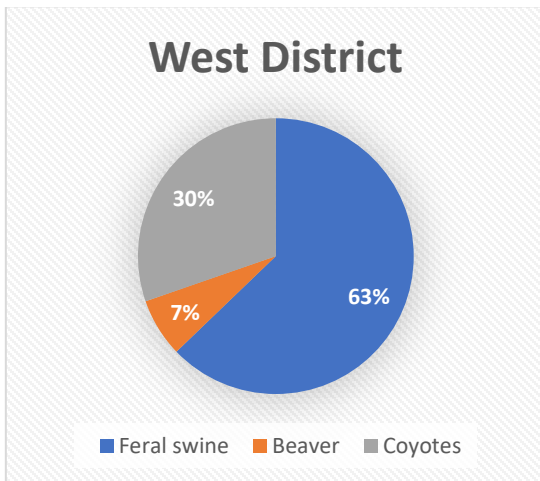
Alicia Gorczyca-Southerland, DVM

**Oklahoma Department of Agriculture, Food, and Forestry**  
**Wildlife Services Division**  
**Board Report for May 2022 Activities**

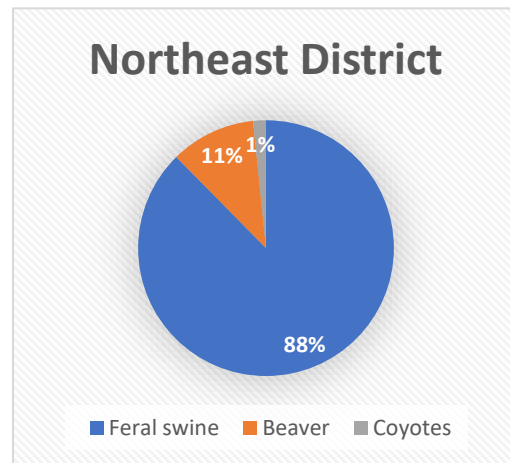
**Introduction**

Wildlife Services (WS) responds to damage complaints caused by wildlife to resources or property throughout Oklahoma. WS Specialists conduct operational damage management programs for many of the complaints they receive to resolve these wildlife damage problems. During this period, these projects were conducted on 522 properties with an estimated 838,061 acres of land under agreement. Additionally, WS helped 147 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 \$290,000 during this period. Beaver damages accounted for losses totaling \$98,500. Coyotes were responsible for a number of damage requests, primarily to livestock, with losses totaling \$26,085. Feral swine damages accounted for losses totaling \$156,788

**Providing Wildlife Services**

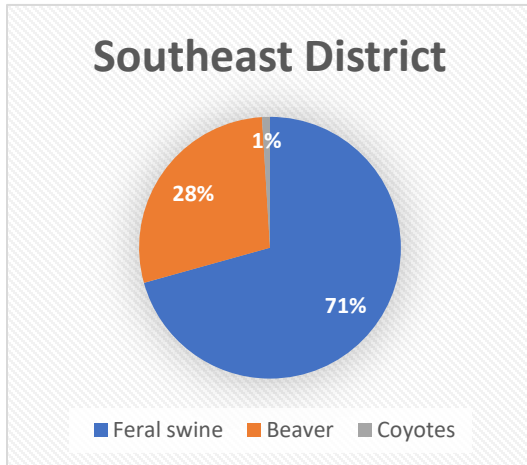


*Figure 1: Species Removed in West District by percentage during May 2022*

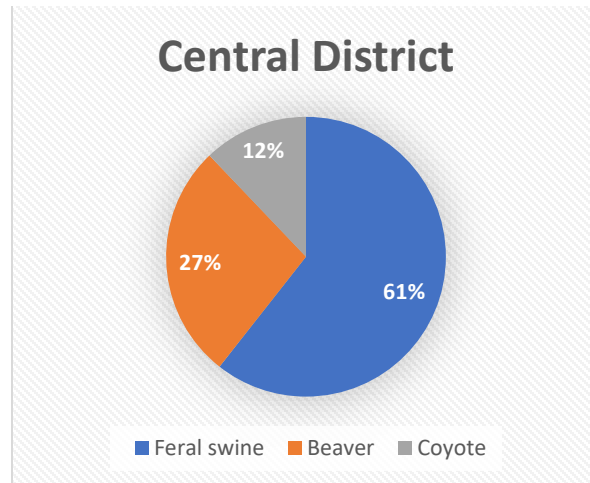


*Figure 2: Species Removed in the Northeast District by percentage during May 2022*

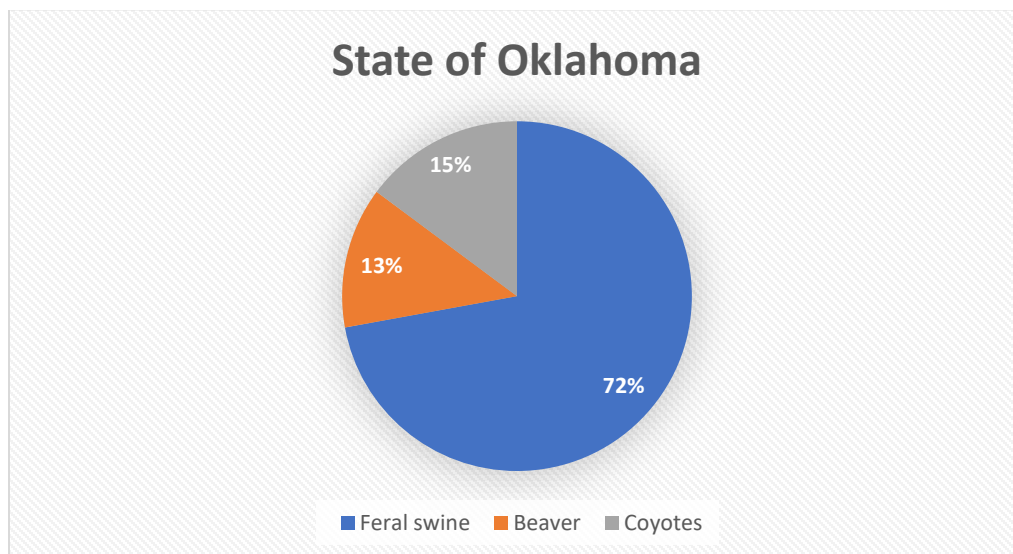




*Figure 3: Species Removed in the Southeast District by percentage during May 2022*



*Figure 4: Species Removed in the Central District by percentage during May 2022*



*Figure 5: Species Removed in the State by percentage during May 2022*

### **Coyote Damage Management**

**Kiowa County** landowner requested assistance with coyotes depredating on his calves. The producer reported that coyotes had killed two calves valued \$1,763. The Wildlife Specialist assigned to Kiowa County examined one of the carcasses and verified that coyotes were responsible for the losses. Damage management efforts were successful in removing five coyotes from the property. Control efforts continue to help further reduce the threat to the cooperators' calves.

**Garfield County** livestock producer requested assistance with coyotes depredating on calves. The producer reported that coyotes had killed two calves valued at \$1,763. The Wildlife Specialist assigned to Garfield County examined one carcass and verified that coyotes were responsible for the loss valued at \$881. Damage management efforts were successful in removing three coyotes from the property. No further losses have occurred, and work is ongoing at this time to prevent additional losses.

**Beaver County** livestock producer requested assistance with coyotes depredating on his lambs. The producer reported that coyotes killed ten lambs valued at \$4,800. The Wildlife specialist assigned to Beaver County quickly responded to the request and examined one of the carcasses and confirming that coyotes were responsible for the losses. 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 six coyotes and are continuing at this time to further reduce predation losses to coyotes for the producer.

**Stephens County** livestock producer requested assistance with coyotes depredating on his goats. The producer reported that coyotes had killed seven kid goats valued at \$1,307 dollars. The Wildlife specialist assigned to Stephens County quickly responded to the request and examined the carcasses and confirming that coyotes were responsible for the loss of the kid goat. The Specialist used foot hold traps and snares to remove nine coyotes. Control efforts continue to prevent additional losses.

**Muskogee County** rancher contacted WS about a coyote problem on April 18th. The rancher reported that coyotes had killed one of his young calves. A WS Specialist responded to the request and verified that coyotes were responsible for the damage. Neck snares were used to remove 3 coyotes from the calving pasture. The calf was valued at approximately \$800. The landowner was provided technical assistance on exclusion methods and habitat management to help prevent future problems.

### **Feral Swine Damage Management**

**Caddo County** landowner requested assistance with feral hogs for destroying newly planted hayfield. The landowner estimated that feral hogs were responsible for \$3,500 in damage to his hayfields. The Wildlife Specialist assigned to Caddo County quickly responded to the request and verified feral hogs were responsible damage. The specialist utilized feral hog live trap to remove twenty-five feral hogs from the area. Feral hog activity in this area is closely being monitored to determine if further management is needed.

**Dewey County** landowner contacted WS needing assistance with feral hogs rooting in his pastures. The landowner estimated that feral hogs rooted up ten acres valued at \$500 in damages. The Wildlife Specialist assigned to Dewey County quickly responded to the request and verified feral hogs were responsible for the damage. Feral hog live trap was utilized to remove seventeen feral hogs from the property. No additional damage has

occurred, and feral hog population in the area is being monitored to determine if additional management is needed.

**Tillman County** landowner contacted WS needing assistance with feral hogs damaging his pastures. The landowner estimated that feral hogs rooted up and damaged \$2,000 worth of pasture. The Wildlife Specialist assigned to Tillman County quickly responded to the request and verified feral hogs were responsible for the damage. Feral hog live trap was utilized to remove forty-four feral hogs from the property. No additional damage has occurred, and feral hog population in the area is being monitored to determine if additional management is needed.

**Custer County** landowner contacted WS needing assistance with feral hogs damaging his milo field. The landowner estimated that feral hogs damage the fields to be \$400. The Wildlife Specialist assigned to Custer County quickly responded to the request and verified feral hogs were responsible for the damage. Feral hog live trap was utilized to remove forty-six feral hogs from the property. No additional damage has occurred, and feral hog population in the area is being monitored to determine if additional management is needed.

**Logan County** farmer requested assistance with feral hogs causing damage in his wheat fields. The farmer reported that feral hogs are responsible for damaging 35 acres valued at \$4,600 in damages to his fields. The Wildlife Specialist assigned to Logan County responded to the request and his field inspection verified feral hogs were responsible for the damages to the wheat fields. The Specialist utilized a feral hog live trap to remove twenty-seven hogs from the property. The area continues to be monitored for feral hog activity to determine if additional management efforts are needed to further reduce damage.

**Creek County** farmer requested assistance with feral hogs rooting his pasture. WS verified feral hogs responsible for rooting damages estimated at \$2,000. WS utilized baiting and trapping to remove 9 feral hogs from the area no further damages reported. Work is continuing at this time and the property owner was advised of habitat management that could help prevent future problems.

**Pawnee County** farmer contacted WS after losing \$4,000 dollars of mixed Cattle feed to consumption by feral hogs. WS utilized 2 feral hog traps near where the feed was stored. 62 feral hogs have been removed from this location. Work continues with both traps active and being monitored. The property owner was advised of habitat management that could help prevent future problems.

**Osage County** landowner contacted WS with regards to concerns about the presence of feral hogs on his property. The landowner stated that he had seen signs of damage in an agricultural field. A WS Specialist responded to the call and scouted the property. The Specialist confirmed the damage reported was from feral hogs. A live feral

hog trap was placed on the property to aid in the control of feral hogs. 5 feral hogs were caught. Work is continuing at this time and the property owner was advised of environmental changes that could help prevent future problems.

### **Aerial Operations**

**Cotton County** aerial operations were conducted May 13<sup>th</sup> and May 27<sup>th</sup> in the Red River Project. Operations were conducted on roughly 10,000 acres in Cotton County. The helicopter was utilized for 11.6 hours with the removal of 328 hogs. Additional flight operations are planned in this area to further reduce hog populations and damage associated with feral hogs.

### **Beaver Damage Management**

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

**Grant 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 culvert the beavers blocked up caused the road and culvert to be washed out from heavy rainfall. The commissioner estimated the damage to the road and bridge structure to be \$8,000. The specialist for Grant County quickly responded and verified beaver were responsible for damage. Control measures employed by the specialist were successful in removing the beavers from the creek to help reduce any additional damage to road and bridge.

**Dewey County** Road Commissioner contacted WS for assistance with beaver causing damage on one of the districts roads. The specialist for Dewey County responded and verified beaver were responsible for \$1,000 in damage to the road and culvert structure. The specialist successfully utilized conibear traps to remove four beavers from the adjacent creek. Control efforts are completed at this time.

**Logan County** Road Commissioner contacted WS for assistance with beaver that were responsible for damming a culvert on one of the roads in his district. The commissioner estimated the damage to the road to be valued at \$5,000. The specialist for Logan County quickly responded and verified beaver were responsible for damage. Control measures employed by the specialist were successful in removing the eleven beavers from the creek to help reduce any additional damage to the pond dam structure.

**Stephens County** landowner contacted WS for assistance with beaver that were responsible for damming up the creek on his property and flooding his Bermuda pasture.

The landowner estimated the damage to the pasture to be valued at \$675. The specialist for Stephens County quickly responded and verified beaver were responsible for damage. Control measures employed by the specialist were successful in removing the beavers from the creek to help reduce any additional damage to the pasture.

**Craig County** Commissioner contacted WS with beaver damage concerns. The commissioner reported that beaver was responsible for flooding a county roadway valued at \$3,500. A WS Specialist responded to the request and verified that beaver was responsible for the damage reported. The Specialist utilized Spotlighting/Shooting to remove a total of 4 problem beaver. Work is complete currently. The commissioner was instructed about environmental changes and structural repairs that can be employed to prevent future damages.

**Love County** landowner called for assistance with beavers on 4/21/22. Beaver sign was easily found around a stock pond on the property. Damages to the pond dam and to the timber around the pond was estimated at \$1,500.00. Conibear traps were placed, and 6 beavers were removed from this property. This project concluded on 5/16/22.

**Garvin County** rancher called WS for assistance with beavers during the month of May. The rancher reported and WS verified that the beavers were girdling his trees and burrowing into his stock pond dam. Damages totaled an estimated \$1,500.00. Conibear traps were placed and 4 beavers were removed to conclude this project.

**Le Flore County** commissioner called WS for assistance with beavers during May. Beavers had caused flooding damage to three separate county roads. In total the flooding damage was estimated at \$2,500.00. Culverts were cleared to alleviate the flooding and conibear traps were placed. 6 beavers were removed to conclude this project.

**McCurtain County** landowner called WS for assistance with a beaver problem on 4/25/22. Beaver sign and beaver damage was quickly verified on the property. Flooding to the property and burrowing damage to the pond dam totaled an estimated \$2,000.00. Conibear traps were placed, and the problem beavers were removed to conclude this project.

**Murray County** farmer called WS for assistance with beavers during the month of May. Damages from burrowing into the stock pond dam and girdling trees around the pond was documented and estimated at \$4,000.00. Conibear traps were placed, and 5 beavers were removed to conclude this project.

### ***Black Vultures***

**Johnston County** rancher called for assistance with Black Vultures in his calving pastures. This property has a documented history of calf predation loss from black vultures. The rancher was concerned that he would soon lose more calves when he observed numerous black vultures around his cattle. After black vultures were observed by

WS, a vulture trap was constructed and baited on the property. During the month of May 123 black vultures were removed from this ranch. This project is still being monitored. The owner was advised of certain changes to his operation that could assist him in deterring future black vulture issues.

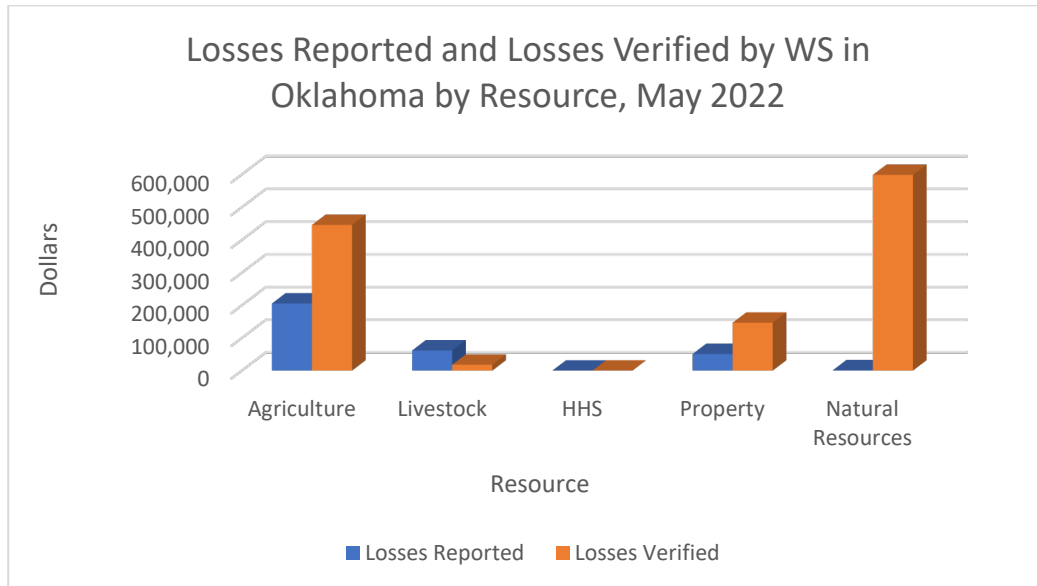


Figure 6: Losses Reported and Losses Verified by WS in Oklahoma by Resource, May 2022

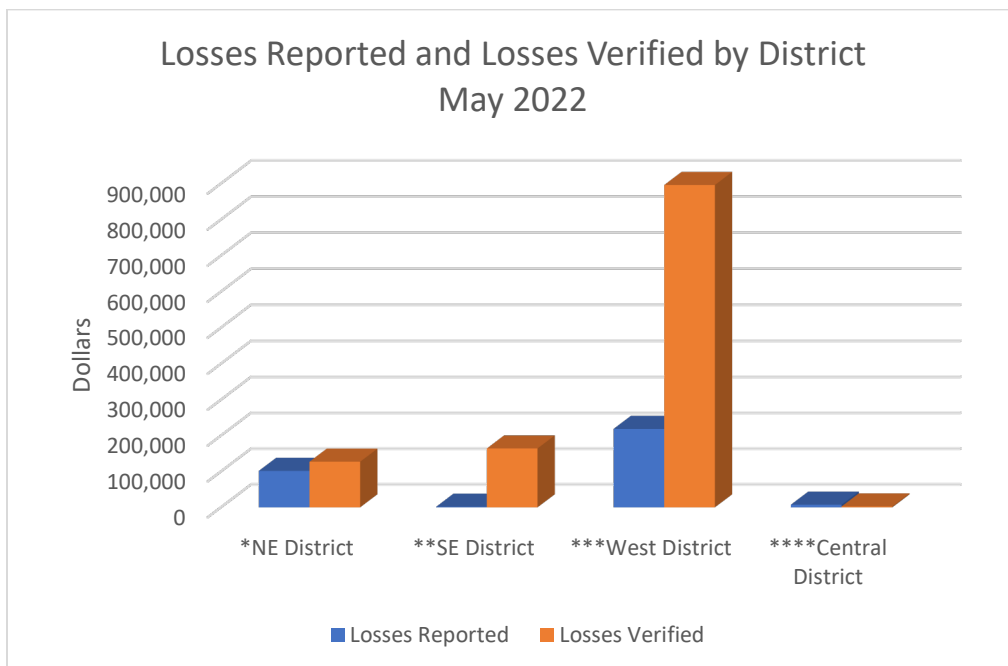


Figure 7: Losses Reported and Losses Verified by District, May 2022

* Adair	** Atoka	*** Alfalfa	**** Canadian
Cherokee	Bryan	Beaver	Cleveland
Craig	Carter	Beckham	Oklahoma
Creek	Choctaw	Blaine	Pottawatomie
Delaware	Coal	Caddo	
Haskell	Garvin	Cimarron	
Kay	Hughes	Comanche	
Lincoln	Jefferson	Cotton	
McIntosh	Johnston	Custer	
Muskogee	Latimer	Dewey	
Noble	Leflore	Ellis	
Nowata	Love	Garfield	
Okfuskee	Marshall	Grady	
Okmulgee	Mayes	Grant	
Osage	McClain	Greer	
Ottawa	McCurtain	Harmon	
Pawnee	Murray	Harper	
Payne	Pittsburg	Jackson	
Rogers	Pontotoc	Kingfisher	
Sequoyah	Pushmataha	Kiowa	
Tulsa	Seminole	Logan	
Wagoner		Major	
Washington		Roger Mills	
		Stephens	
		Texas	
		Tillman	
		Washita	
		Woods	
		Woodward	

Respectfully submitted,

Scott Alls  
 Division Director  
 Wildlife Services Division

**May 2022 Activity Report  
for  
June 2022 Board Meeting  
  
Agricultural Statistics Division**

**General**

Rainfall totals the **first week of May** in Oklahoma averaged 2.68 inches. According to the May 3rd US Drought Monitor Report, drought conditions were rated 77 percent abnormally dry to exceptional drought, similar to the previous week. Additionally, 65 percent of the state was in the moderate drought to exceptional drought category, also similar to the previous week. Statewide, temperatures averaged in the lower 60's. Topsoil and Subsoil moisture conditions were rated mostly adequate to short.

Rainfall totals the **second week of May** in Oklahoma averaged 0.42 of an inch. According to the May 10th US Drought Monitor Report, drought conditions were rated 60 percent abnormally dry to exceptional drought, down 17 points from the previous week. Additionally, 54 percent of the state was in the moderate drought to exceptional drought category, down 11 points from the previous week. Statewide, temperatures averaged in the upper 70's. Topsoil and Subsoil moisture conditions were rated mostly adequate to short.

Rainfall totals the **third week of May** in Oklahoma averaged 0.46 of an inch. According to the May 17th US Drought Monitor Report, drought conditions were rated 60 percent abnormally dry to exceptional drought, similar to the previous week. Additionally, 54 percent of the state was in the moderate drought to exceptional drought category, also similar to the previous week. Statewide, temperatures averaged in the lower 70's. Topsoil and subsoil moisture conditions were rated mostly adequate to short

Rainfall totals the **fouth week of May** in Oklahoma averaged 2.37 inches. According to the May 24th US Drought Monitor Report, drought conditions were rated 53 percent abnormally dry to exceptional drought, down 7 points from the previous week. Additionally, 44 percent of the state was in the moderate drought to exceptional drought category, down 10 points from the previous week. Statewide, temperatures averaged in the upper 60's. Topsoil and subsoil moisture conditions were rated mostly adequate to short.

Small Grains: Winter wheat harvested reached 6 percent, up 5 points from the previous year and up 4 points from normal. Canola blooming reached 95 percent. Canola coloring reached 55 percent, up 1 point from the previous year but down 13 points from normal. Rye headed reached 95 percent. Rye harvested reached 8 percent, up 2 points from the previous year and up 3 points from normal. Oats jointing reached 82 percent, down 2 points from the previous year but unchanged from normal. Oats headed reached 55 percent, down 3 points from the previous year and down 5 points from normal.

Row Crops: Corn planted reached 77 percent, up 8 points from the previous year but down 3 points from normal. Corn emerged reached 60 percent, up 1 point from the previous year but down 7 points from normal. Sorghum planted reached 25 percent, down 4 points from the



previous year and down 7 points from normal. Soybeans planted reached 35 percent, up 8 points from the previous year but down 7 points from normal. Soybeans emerged reached 16 percent. Peanuts planted reached 32 percent, down 8 points from the previous year and down 19 points from normal. Cotton planted reached 40 percent, up 3 points from the previous year and up 6 points from normal.

Hay: The first cutting of alfalfa hay reached 32 percent, up 3 points from the previous year but down 17 points from normal. The first cutting of other hay reached 25 percent, down 12 points from the previous year and down 11 points from normal.

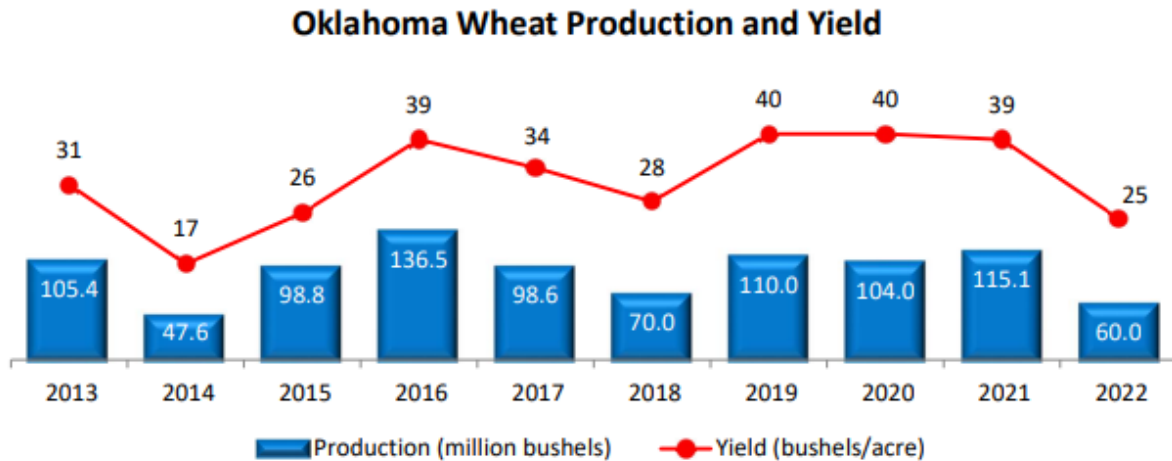
Pasture and Livestock: Pasture and range condition was rated at 60 percent good to fair. Livestock condition was rated at 87 percent good to fair.

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

Survey	Enumerated by:	Survey Dates
NACS	DCC	3/14 – 5/27
Cherry AP	DCC	5/28 - 6/6
June Ag Yield	DCC	5/28 – 6/7
June Crops APS	DCC	5/28 – 6/17
ARMS 1	DCC	5/23 – 7/11
NRCS Conservation Practice Adoption Motivation	DCC	6/13 – 8/2
July Ag Yield	DCC	6/29 – 7/7
July Cattle	DCC	6/30 – 7/14

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

Wheat production for Oklahoma is forecast at 60.0 million bushels, down 48 percent from last year. Yield per acre is forecast at 25.0 bushels, down 14.0 bushels from the previous year. Acres expected to be harvested for grain, at 2.40 million acres, are down 19 percent from 2021.



**Information Requests:** Phone calls, personal visits to our office, and requests via e-mail for information since last report totaled 38. In addition, our internet home page was hit 3,178 times in May, which is up 18 percent from 2021.

**Releases for May:**

Crop Production  
Cotton County Estimates  
Cattle on Feed  
Agricultural Prices

**Relating Dates:**

May 1, 2022  
2020-2021  
May 1, 2022  
May 15, 2022

**Release Dates:**

May 12, 2022  
May 12, 2022  
May 20, 2022  
May 31, 2022

**Releases for June:**

Crop Production  
Cattle on Feed  
Hogs and Pigs  
Agricultural Prices  
Acreage Report  
Grain Stocks

**Relating Dates:**

June 1, 2022  
June 1, 2022  
June 1, 2022  
June 15, 2022  
June 1, 2022  
June 1, 2022

**Release Dates**

June 10, 2022  
June 24, 2022  
June 29, 2022  
June 30, 2022  
June 30, 2022  
June 30, 2022

**Meetings and Events:**

Nevada WEWAIT Training  
SPR NASDA Supervisor Meeting  
Bacone College Meeting #1  
OTCAC Team 14 Producer Webinar  
OTCAC Team 20 Producer Webinar  
OTCAC Team 19 Producer Webinar  
Buckmaster NASDA June Training  
Clubb NASDA June Training  
Bacone College Meeting #2  
June NASDA DCC Training  
OTCAC Team 21 Producer Webinar  
OTCAC Team 15 Producer Webinar  
Kansas WEWAIT Training

**Date:**

May 3-4,24-25, 2022  
May 5, 2022  
May 10, 2022  
May 12, 2022  
May 12, 2022  
May 17, 2022  
May 18, 2022  
May 19, 2022  
May 23, 2022  
May 24, 2022  
May 26, 2022  
May 26, 2022  
June 1-2,6-7, 2022

**Location:**

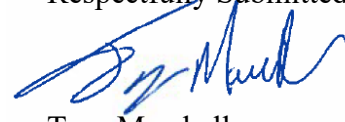
Virtually  
Virtually  
Muskogee, OK  
Virtually  
Virtually  
Virtually  
Elk City, OK  
Woodward, OK  
Muskogee, OK  
OKC, OK  
Virtually  
Virtually  
Virtually

Peanut Commission Meeting

June 23, 2022

OKC, OK

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Troy Marshall", is written over the printed name.

Troy Marshall

# MARKET DEVELOPMENT SERVICES

*June 16, 2022*

**Report to the State Board of Agriculture**

## **AG IN THE CLASSROOM**

### **AG IN THE CLASSROOM IMPACT**

- Total Number of Teachers/Administrators Impacted: 385
- Total Number of Pre-service Teachers Impacted: 21
- Total Number of Extension Educators Impacted: 2
- Total Number of Students Directly Impacted by Coordinators: 2,008
- Total Number of Resources Given: 7,038
- Total Number of Teachers/PreService Teachers Resources Given to: 371
- Total Number of PreK-12th Grade Students Resources Given to: 7,046

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

- The AITC website had 18,690 visits and 15,266 unique pageview visits.
- The AITC monthly email is delivered to 16,006 accounts.
- The AITC Facebook page now has 8,006 followers.
- The AITC Twitter page now has 585 followers.
- Oklahoma AITC Instagram account now has 607 followers.
- Oklahoma AITC Pinterest account now has 211 followers.
- The AITC YouTube channel now has 8,752 views.

### **Ag in the Classroom- Professional Development Workshops**

<b>Number of Educators &amp; Grade Level(s)</b>	<b>Location</b>	<b>Lessons/Activities Used</b>	<b>Resources Given</b>
21 Pre-service Teachers	Northeastern State University	Pig Personality Test; Temple Grandin Agricultural Pictionary and lesson; Protect the Pringle activity	Barn full of resources
300 Teachers (mostly PK-4th, but some MS & HS)	Choctaw Nation Professional Learning Conference	N/A - Booth at Conference	ABC Coloring Books, Agricultural Activity sheets (a variety), Ag on Rt 66; Red Dirt Symbols; Oklahoma Ag Mag; Elementary Financial Literacy Cards; Soil, Plants, & Animals, Oh My

### Ag in the Classroom- Student Events

Number of Participants & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
3rd -6th graders, 250 + students	PAWNEE Ag Safety Day	Plinko Ag Safety Day True or False	Beef Elementary Tear Sheets
238 students , 5th and 6th grade	Ag Day at Western Bridgestone Western Heights Intermediate	Ag in the Outfield lesson from Oklahoma Ag in the Classroom, and AG Baseball cards from Illinois Ag in the Classroom in Mclean County. Cotton (Jersey), Wheat (bread/hotdogs buns), Beef (Hide for Gloves), Dairy (Hide and Ice cream in stands) , Wood (baseball bats) , Pork (Hotdogs), Wool (Inside a baseball), Grass (Turf), Sheep (wool)	N/A
200- 9th-12th grade FFA Students	Central High High School Awards Assembly - presentation of 1st and two 2nd place poster contest winners	N/A	Copy of Poster in frame; Senator and Representative Citations; Gift card and medal sponsored by the Oklahoma Beef Council
200 students, 2nd grade-5th grade	Farm To Table Tulsa Public Schools	Newspaper Pots, soil, milkweed for butterflies	N/A
20 students, PK-6th grade	Ag on LINCOLN Bring your kid to work day	Making Butter, A Bean is a SEED, Newspaper pots, Ice Cream in a Bag	N/A
100 students & parents at Elementary awards assembly	Carnegie Elementary School - First Place Poster Contest Second Grade presentation	N/A	Copy of Poster in frame; Senator and Representative Citations; Gift card and medal sponsored by the Oklahoma Beef Council
1000 children & adults	Chuckwagon Festival at the National Cowboy Hall of Fame	Milking Betsy and making butter	Dairy Tear Sheets, Does Chocolate Milk come from Brown Cows tear sheets

### Ag in the Classroom- Resources Mailed or Delivered

Locations where Resources are Mailed or Delivered	
Robertson Elementary - Tulsa	Stuart Elementary School
Hayes Elementary School - Ada	Rock Creek ISD - Bokchito
Bridge Creek Middle School	Ninnekah Schools
Garfield Steam Academy - Sand Springs	Tuttle Elementary

Idabel Central Elementary	Oak Grove Elementary
Haileyville Schools	OSU Extension
Project Accept Elementary Schools - Tulsa	Victory Christian School - Tulsa
Parkview Elementary - Stroud	Cleveland Elementary School
Roland Elementary	Wewoka Elementary School
Robin Hill Public School - Norman	Wister Elementary
Western Heights Ninth Grade Center	Perkins Tryon School
Cyril Elementary	Checotah Middle School
Muldrow Middle School	Plainview Elementary - Ardmore
Lone Star Elementary - Sapulpa	OKC Montessori
Astec Charter Elementary - OKC	Deer Creek 4th & 5th Grade Center
Foyil Lower Elementary	Coalgate Elementary
St Charles Borromeo Catholic School	Edison Elementary - Bristow
Lakeview Elementary - Norman	Westville Public schools
Kingston Elementary	Elevatesus Academy - Virginia
Park Road Elementary - Chandler	Southwest Covenant - Yukon
Craig County Miss United States Agriculture	Hooker Elementary
Western Heights 9th grade Center - OKC	Mark Twain Elementary - Duncan
Morrison High School	Konawa Elementary School
Jones Public School	Washington OSU Extension Educator
Morris Elementary	

#### Ag in the Classroom- Other Events

Event	Highlights
Oklahoma Teachers earn Scholarships to attend National Ag in the Classroom Conference in Saratoga	We have had numerous Oklahoma teachers who have been awarded scholarships to attend the National AITC Conference. We had 1 White-Rindhart winner, who will have their whole trip paid for. We had 7 CHS Scholarship winners, who will have their \$435 registration paid for. We also had 7 teachers who were awarded the

Springs, NY	Native American Scholarship Fund scholarship, who will also have their whole trip paid for. We have a total of 16 teachers that will be attending, with over half of those presenting workshops.
-------------	--

## **AGRITOURISM**

### **Agritourism - Site Visits**

<b>Producer</b>	<b>Location</b>	<b>Category</b>	<b>Highlights</b>
Red Baron Ranch	Coweta	Country Stays, Weddings	NAAMO bus tour stop, discussed hosting NAAMO guests for lunch
360 Farms & Elderberry Wine Company	Webbers Falls	Farm-to-Table, Wineries	Added to winery category, discussed marketing and hosting events
Eastside Farmers Market	OKC	Farmers Market	Delivered OK Grown bags
Wind Drift Orchards	Harrah	U-Pick	Under new ownership, intro to agritourism and our benefits, talked through new ideas
Honey Creek Farm	Mounds	Horticulture, Country Stays	Market Development team meeting
Honey Creek Farm	Mounds	Horticulture, Country Stays	Creek County USDA Farm Tour, presentation on joining agritourism for tour participants
Tulsa Farmers Market	Tulsa	Farmers Market	Delivered OK Grown Bags
Clauren Ridge Winery	Edmond	Winery/Vineyard	News 9 interview, dropped off maps, stickers and wine trail app rack cards
Huffman Family Farm	Choctaw	Farm-to-table	Delivered Ok Grown bags
Joe's Farm	Bixby	u-pick	Strawberry u-pick season, farm hub opened, consult about adding slushies, future of flowers and blackberries, and thinking about adding pumpkins
Oklahoma City Stockyards	Oklahoma City	Farm & Ranch Attractions	Minnesota Ag Tour stop with President of the Stockyards
Fair Weather Friend	Oklahoma City	Brewery	Minnesota Ag Tour
Prairie Song	Dewey	Farm & Ranch Attractions, teachable moments	Site visit to see updates to location. They've added a wedding venue and several other buildings.
Big V Ranch	Ponca City	Farm & Ranch Attractions	Site visit to see updates to location.
Joe's Farm	Bixby	U-Pick	Dropped off Jelly making trails for Strawberries and Blackberries
Agape House Berry Farm	Mustang	U-Pick	Dropped off Jelly making trails for Strawberries, Blackberries, and Blueberries.
McRay Farm	Luther	U-Pick	Dropped off Jelly making trails for Strawberries.
Farmers Market at Scissortail Park	Oklahoma City	Farmers Market	Visit with producers at market and market manager.
OKC Public Farmers Market	Oklahoma City	Farmers Market	Visit with producers at the market.

### **Agritourism - New Producers or Potential Producers**

<b>Producer</b>	<b>Location</b>	<b>Category</b>	<b>Highlights</b>
-----------------	-----------------	-----------------	-------------------

Leafer Lodge Farms	Stillwater	Christmas Tree	Site visit, officially added into Agritourism program
Marak Family Farm	Meeker		Dairy farm looking to add agritourism. Discussed adding a country stay option or retail store as well as hosting events
Oasis Animal Adventures	Eucha	Petting Farms	Site visit, officially added into agritourism program
Pollen Acre Farm	OKC	Petting Farms	Potential new farm
Burress Homestead	McLoud	Horticulture	Site visit, officially added, lavender farm
Colby Craige	Coweta		Delivered OK Grown bags
Rt 66 Stables – Tempie Rood	Chandler	Trail Riding	Site visit, looking to add agritourism,
Whitewater Hollow Farms	Jay	U-Pick	Site visit and added into the program. They are a u-pick strawberry farm and have pumpkins in the fall.
Cross Timbers Brewing Co.	Oklahoma City	Brewery	Site visit and added into the program and OK Craft Beer Trail.
COOP Ale Works	Oklahoma City	Brewery	Site visit and added into the program and OK Craft Beer Trail.

### **Agritourism - Other Activities**

- Phone consult/conversations with: Tillman County Farmers Market, ODAFF Food Safety/Meat Compliance Coordinators, Piedmont Farmers Market, Roff Farmers Market, Wind Drift Orchards, Pollen Acre Farms, News 9 – wine tour, Mountain Creek Lodge, 360 Farms and Elderberry Winery, Agape House Berry Farm, Anichini-Moore Ranch & Farm, Annabelle's Fun Farm, Bamboo Satori, Big V Ranch, Blubaugh Ranch, Crossed Arrow Fiber Mill, Cross Timbers Brewing Co, Flying G Ranch, Fortress of Faith Adventures, GraysLland Acres, Heartland of America Museum, Hinton Historical Museum, Honey Creek Farm, Indian Creek Village, Joe's Farm, Just Right Alpacas, Land Run Alpacas, Lovera's Cheese, Martinbird Tree Farm, McRay Farms, Minyard Farms, Molly & Socks Christmas Tree Farm, Monkey Island Trail & Winery, My Raggedy Herbs, Nellis Vineyard, Orr Family Farms, Owasso Tree & Berry Farm, Pawnee Bill Ranch & Museum, Pioneer Heritage Homesite, Plains Indians Museum, Prairie Song, Prairie's End, Red Barn Alpacas, Red Bird Farm, Robbers Cave Stables, Robinson Ranch, Shattuck Windmill Museum, Shepherd's Cross, Shooting Star, Silvertop Farm & Vineyard, Sorghum Mill Christmas Tree & Berry Farm, Straw Family Farm, The Patch at Spring Creek, The Picking Fields, Washita County Museum, Whitewater Hollow Farms, Wolf Creek Ranch, Zeni Suri Alpaca Farm
- Email consultation with: Oasis Animal Adventures, Tonkawa Farmers Market, OKC church about starting a farmers market, OCTA about OFS signage for farms, Briggs Farmers Market, 360 Farms, Ada Farmers Market, Piedmont Farmers Market, Roff Farmers Market, Dream Point Ranch, Euchee Butterfly Farm, Simpson's Old Time Museum & Skeleton Creek Productions, Wichita Buffalo at Sandy Springs Farm, Pearl Beach Brew Pub
- Oklahoma Wine Trails app
  - Phone consults: Knotted Rope Winery, Summerside Winery
  - Add 360 Farms & Elderberry Wine Company to Wine Trails App
  - Wine Trail app meeting (how to create a curated email)
- Oklahoma Local Ag Collaborative (OLAC)
  - Multiple internal meeting



- Send ODAFF food safety guides to ONIE for OLAC
- OLAC Pre website meeting internal
- OLAC website meeting with Clevyr
- Farm to School Early Childhood Education Sheets
  - Farm to ECE for Producers
  - Let's Go to the Farmers Market
- Norman FFA Regional Speech contest
- Elgin FFA Regional Speech Contest
- Volunteer at State FFA Convention backstage
- QuikTrip travel show
- Participate in Ag Day on Lincoln
- Consult with Lauren Minyard for the USDA Beginning Farmers & Ranchers Conference in Love County
- Judged Oklahoma FFA Southwest Area Speech Contest
- Judged Oklahoma FFA Central Area Speech Contest
- Judged Elgin FFA officer interviews
- Edited, finalized and approved Teachable Moments brochure
- Edited, finalized and approved Horticulture brochure
- Updated Farmers Market Guide and sent off to print
- TODS Meeting
- Meeting with Community Food Bank of Eastern Oklahoma about sourcing local products

## **ECONOMIC DEVELOPMENT**

Activity	Action
Agriculture Enhancement & Diversification Program	The selection committee met on May 4 <sup>th</sup> and voted in favor of recommending two (2) Farm Diversification grants and two (2) Ag Event grants for approval.
Healthy Food Financing Program	The selection committee met on May 11 <sup>th</sup> and did not vote in favor of recommending any applications for approval.
2022 SCBG application	ODAFF's grant coordinator submitted the State Plan to USDA-AMS for their Specialty Crop Block Grant before the May 3 <sup>rd</sup> deadline. A total of eight (8) proposals were included in the State Plan with a total request of \$574,883.73. USDA has reviewed the State Plan and has asked for some clarification on a few projects and ODAFF is working to get those updated and sent back by June 1 <sup>st</sup> . USDA-AMS will announce the awarded projects sometime in September.
Rural Oklahoma Food Animal Veterinary Grant	May 5 <sup>th</sup> was the deadline to have applications submitted to be eligible for consideration for one of the ten (10) \$15,000 Rural Oklahoma Food Animal Veterinary Grants through ODAFF. A total of forty-nine (49) applications were received and have been sent out to an external review committee to be scored utilizing a rubric provided by ODAFF. Scores from the selection committee members will be combined after the June 6 <sup>th</sup> deadline and an initial ranking will be determined.

2021 H.R. 133 SCBG	ODAFF grant coordinator set up a Zoom meeting with officials representing Oklahoma State University, Oklahoma Pecan Growers Association and Mid-America Technology Center on May 6 <sup>th</sup> to go over their contractual agreements and the process and procedures for requesting funds. Examples of proper invoices and progress reports were provided along with what information is needed to show that money was spent on approved items.
--------------------	--

## **FARM TO SCHOOL**

### Visits Made:

- Kat Gant, OKC Harvest
- Debra Jackson, Shidler School Child Nutrition
- Jacque Brewer Global Gardens
- Jennifer Lepard Chief of Health, Wellness & Community Partnerships OSDE

### Resource Requests

- 30 cookbooks, 10 posters

### Events

- Growing A School Garden Summit, Colorado
  - Sponsored by Sprouts
  - Approx 400 in attendance
  - Presented workshop on composting using children's literature
- Farm to Market Day, Tulsa
  - Sponsored by Global Garden of Tulsa
  - Made 200 newspaper pots with kids and talked about what plants need to survive
- Professional Learning Conference, Durant
  - Sponsored by Choctaw Nation
  - 980 in attendance
  - Handed out approximately 150 resources from booth
  - Made contact to have a session next year
- Chuckwagon Festival
  - Sponsored by the National Western Heritage Museum
  - Made butter at the booth with approximately 1000 kids
- Shidler Schools – Farm to School Event
  - Doug and Amy Ratzlaff, Hilltop Farms provided hamburger patties and talked to each class as they ate about where the beef comes from and life on the farm
  - Chef Bill, Cooking for Kids, grilled the burgers

### Other Activities

- Visited Bodine Elementary with OKC Harvest, served salad to kids
- FRESH Project zoom to finalize plans for summer trainings
- Consulted on Statewide F2S network creation
- Started work on Oklahoma MyPlate project with Ag in the Classroom

### Active Partners

- Farm Bureau Women's Leadership Team

- Hunger Free Oklahoma
- Dept. of Human Services (LFPA Cooperative Agreement)
- Healthy Schools Oklahoma
- ODAFF Food Safety
- Cooking for Kids – OSU
- Oklahoma Master Gardeners – Shelley Mitchell
- National Western Heritage Museum – Gretchen Jeans

## **INTERNATIONAL**

Activity	Action	Location
Certificate of Free Sale	<ul style="list-style-type: none"> <li>• QSM</li> <li>• Bar S</li> </ul>	
Food Export	<ul style="list-style-type: none"> <li>• Completed the National Restaurant Show Buyers Mission- We had 16 buyers and 23 suppliers for 3 days of meetings. Suppliers exhibiting at the show were able to take the buyers to their booths and sample.</li> <li>• Mountain View Meat Company was able to take advantage of the Food Export cost share program to exhibit at the show. In addition, we were able to have a booth for the MIO Coalition and get exposure for our food service companies. The show was very well attended by national and international buyers.</li> <li>• Scheduling software training for missions</li> </ul>	
OKIE (Oklahoma Israel Exchange)	<ul style="list-style-type: none"> <li>• Attended the State of Style event a big fundraiser for OKIE. Agriculture was recognized as an ongoing partner. In attendance was OK Wheat Commission, OK Beef Council, ODAFF, and wheat producer Kieff Felte.</li> </ul>	
USLGE	<ul style="list-style-type: none"> <li>• Attended a visit to Express Ranches with 3 UK buyers. This was very helpful to get an idea what how we need to structure the future missions and create a budget for our USLGE application.</li> </ul>	
National Livestock Credit Corp	<ul style="list-style-type: none"> <li>• Still waiting for APHIS to connect with the Israel staff to make the visit to OK</li> </ul>	
Foreign Agriculture Service (FAS)	<ul style="list-style-type: none"> <li>• Spotlight on Pakistan</li> <li>• Spotlight on Ukraine</li> <li>• Was Able to meet several FAS posts at the NRA show. The Indonesian post brought 5 buyers and we were able to introduce them to our buyers and resulted in a few meetings.</li> </ul>	

GIT ( Governor's International Team)/ODEC	<ul style="list-style-type: none"> <li>Continuing plans for t-he Oklahoma Consular Summit Oct 18-19<sup>th</sup> in OKC and the World Trade Conference Oct 20<sup>th</sup> in Tulsa</li> </ul>	
Ok Dept. of Commerce	<ul style="list-style-type: none"> <li>EU Ambassador to the US visit to OK took place on April 29<sup>th</sup> and there was an ag roundtable dinner the following were attendees: His Excellency Stavros Lambrinidis, Ambassador of the European Union to the United States, Dr. Dagmara Koska, Deputy Head of Section &amp; Counsellor at the Delegation of the European Union to the United States, Dr. Silke Boger, Counsellor for Agriculture at the Delegation of the European Union to the United States, Mr. Conor Gallagher, State Outreach Liaison at the Delegation of the European Union to the United States Oklahoma Attendees: JanLee Rowlett, Deputy Commissioner of the Oklahoma Department of Agriculture, Food and Forestry Heather Buckmaster, Executive Director of the Oklahoma Beef Council Michael Peters, Chairman of the Board for the Oklahoma Wheat Commission &amp; Member of US Wheat National Board of Directors Rick Reimer, Executive Director of the Oklahoma Soybean Board Steve Thompson, Vice President of Public Policy for the Oklahoma Farm Bureau</li> <li>France Ambassador to the US made an OK visit on April 18<sup>th</sup></li> </ul>	
Misc Meetings	<ul style="list-style-type: none"> <li>Assisted OKC Chamber with some Wheat contacts for a recruitment</li> <li>Met with Green Country Premium Beef to discuss ODAFF International resources.</li> <li>MIO Jury Selection for State Fair</li> <li>CITD/ODOC discussion to improve communication</li> </ul>	

## **MADE IN OKLAHOMA COALITION**

### **Made in Oklahoma Coalition – Advertising, Web and Social Traffic**

<b>Type</b>	<b>\$ Spent</b>	<b>Highlights</b>
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	\$5,500	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 – 15 appearances Tulsa – 6 appearances	Natalie Mikels & David Brooks, MIO TV Personalities filmed in-person and remote segments for TV
2021 Media Campaign	See monthly co-op advertising report	Direct link to the monthly reports (May data is being gathered now): <a href="https://docs.google.com/spreadsheets/d/1KavbhMdd1nDfRktRwRfTJpXrFRYIxoU1a59HFFoxd4/edit?usp=sharing">https://docs.google.com/spreadsheets/d/1KavbhMdd1nDfRktRwRfTJpXrFRYIxoU1a59HFFoxd4/edit?usp=sharing</a>
Restaurant of the Month	Each month staff, along with Food Service Committee present the restaurant with their award and eat lunch as a group at their establishment.	<b>April</b> – MAD Eats – Owasso, OK <b>May</b> – Osteria – OKC, OK
Social Media Stats	Staff, and MIO media committee plan social content each month with our advertising agency, Krush Digital Marketing.	Twitter: 5,547 – growth: 8 Instagram: 5,094 – growth: 76 Facebook: 25,041 – growth: 459 Pinterest: 2,343 – growth: 18  A total of 3,434 new followers were gained at the end of Q3.
MIO Monthly Newsletter Re-launch		<ul style="list-style-type: none"> <li>○ 1790 distribution list</li> <li>○ 1273 opens</li> <li>○ 333 clicks</li> </ul>
OK Living Partnership highlighting MIO Recipes	Launched Feb 1 <sup>st</sup> – July 31 <sup>st</sup> (will re-evaluate partnership at that time) <ul style="list-style-type: none"> <li>- Highlights 2-3 MIO recipes per month</li> <li>- Free publication to electric coop members</li> </ul>	MIO provides recipe content and OK Living does the ad design

Recipes of the Month	MIO recipes are developed each month highlighting member company products .	<b>April:</b> Spinach and Berry Salad with Candied Pecans Greek Salad Flatbread  <b>May:</b> Honey Beer Bread Berry Jam Swiss Roll
April Retailer of the Month	Crest Foods, 8 Metro Locations	
May/June Retailer of the Month	Homeland	36 statewide locations

#### **Made in Oklahoma Coalition – Other Activities**

<b>Activity</b>	<b>Information</b>
OALP Session 8 - May 12-13 <sup>th</sup>	Staff attended session 8 of the Oklahoma Agricultural Leadership Program where we visited Stillwater, Guthrie and OKC and toured a variety of businesses, organizations, educational facilities, etc.
MIO Meetings - April 8 <sup>th</sup> - May 6 <sup>th</sup>	Staff and MIO president Courtney Talbot led the monthly membership meeting. The April meeting was held in person at ODAFF and the May meeting was held via Zoom.
Ben E. Keith Food Show - April 14 <sup>th</sup>	15 MIO members participated in this show. MIO was given a free booth space sponsored by BEK and was able to showcase our members to their buyers and Oklahoma chefs, restaurant owners, and institutional purchasing organizations (hospitals, nursing homes, schools, etc.)
Oklahoma State FFA Convention - May 3 <sup>rd</sup> - 4 <sup>th</sup>	This was MIO's first year to participate in the trade show at the State FFA convention. It was a great show for us to participate in and we had great interaction with the students. We will participate again in the future.
MIO Legislative Visits - May 2 <sup>nd</sup> - May 10 <sup>th</sup>	<p>The MIO legislative dinners provide a fantastic opportunity for our legislative committee to speak to key legislators about the importance of MIO's mission and the activities and opportunities we provide for our members. We advocate for our funding and explain how state dollars were used to raise awareness for MIO products statewide.</p> <p><b>Link to Legislative video:</b>  <a href="https://www.youtube.com/watch?v=Md9bc5Ia9BY&amp;feature=youtu.be">https://www.youtube.com/watch?v=Md9bc5Ia9BY&amp;feature=youtu.be</a></p>
Oklahoma Super Trade Show - May 17 <sup>th</sup>	Almost 30 MIO member companies participated in the Oklahoma Super Trade Show. The MIO booth was housed in the center of the show and generated much buzz throughout the concourse. The show was held at the Oklahoma City Convention Center. It was a fantastic show with many members reporting new connections being made and opportunities to get into new stores. Additionally, MIO sponsored several scholarships and the OGA chairman's dinner where staff and

	board members were able to mingle and interact with grocers statewide.
Ag on Lincoln - May 18 <sup>th</sup>	Ag on Lincoln provided MIO companies an opportunity to feature their products to visitors, legislators, and ODAFF staff in a fun environment in the ODAFF parking lot. 4 MIO Coalition members participated in this event.
MIO Local Products Fair at Pruetts Foods - May 25 <sup>th</sup> - 26 <sup>th</sup>	Six MIO companies participated in the Uptown Grocery Local Vendor Fair. This was a very successful event that was well attended by area shoppers. Ray Pruetts, owner of the store was thrilled with the event and has continued to hold one per quarter moving forward. This event was promoted on social media and drove some of our highest social traffic of the month.
MIO Committee Planning Meetings	Staff and MIO president Courtney Talbot have been meeting with the heads of the various MIO committees to plan for next fiscal year's activities and discuss the previous years successes/ways to improve. Each committee is in the process of finalizing their proposed budgets and plans to present to the board as a whole at our annual financial planning meeting on July 8 <sup>th</sup> .

### **MADE IN OKLAHOMA PROGRAM**

<b>Meeting/Event</b>	<b>Date</b>	<b>Location</b>	<b>Details</b>
Athenaeum Club	April 11	El Reno	Gave a presentation at their meeting about the Made in Oklahoma Program, it's members and marketing initiatives
Vineyard Fruit & Vegetable	April 13	OKC	Met with company to discuss sweet potato dish for Made in OK Café at TSF
Grady County Health Department	May 16	Virtual	Many discussions with Grady County regarding our Made in Oklahoma Showcase event to be held in Tuttle
Oklahoma Christmas Show	May 17	Virtual	Discussion with show managers about Made in Oklahoma pavilion, application process
MD Staff Meeting	May 17	Tulsa	Update and planning for NAAMO conference
MIO Store Jury	May 19	OKC	Juried products for MIO Store at Oklahoma State Fair – 51 companies participating in 2022.
Stockyards City Main Street	May 23	OKC	Met with Debbie to discuss plans for MIO Market

<b>Events</b>	<b>Date</b>	<b>Location</b>	<b>Details</b>
Ag on Lincoln	May 18	ODAFF	20+ Made in Oklahoma companies participated in this event in the ODAFF parking lot
<b>Upcoming</b>			
MIO Market at Stockyards City	June 4	OKC	13 companies have signed up to participate in this market. It will be held in conjunction with the annual Wines of the West festival in the Stockyards.
Made in Oklahoma Showcase	June 6	Tuttle	50+ Made in Oklahoma vendors will be set up showcasing products to attendees. Exclusive for retail store owners or buyers.
Made in Oklahoma at PWC	June 13-25	Tulsa	Made in Oklahoma will have a booth where companies who applied to participate can set up and sell during the show. We will also be hosting a 'snack night' to share a variety of Made in Oklahoma products with show participants.

#### **New Producers:**

- Happy Valley Goats
- Flavor Junkie
- Boy Mom Vibes
- JJSL6, LLC
- Stuart Ranch Meat
- Clubhouse Leathers and Accessories
- Houston and Scott, Custom Pillows and Home Decor
- Okie Girl Apparel
- Prohibition Soap
- Rafter JM Cattle Co.
- Trident & Sons Creations
- Tru Grit Farmstead LLC
- Natural by Stacy
- Rossi Ranch LLC
- Moonhawk Art LLC
- Kayla Adams Art
- Shelly's Jelly and Old Bob's Peppered Products
- Amatoya
- Country Charm Creation
- The Craftie Okie
- Wolf Creek Greens
- Fragrant Forest Farms
- The Speckled Hen

#### **New Retailers:**

- Jay Feed Store & More
- Coki Bay



- Colorful Creations by Matt
- Buddy's Breakfast Cookies
- The Collins Corner
- The Crafty Candle Shoppe
- Ren Hen Woodstuff and More
- Okie Apparel

Other Made in Oklahoma Activities:

- Planning for 2022 Tulsa State Fair
  - Working with Jen Haddix, the coordinator at TSF to determine what the Made in Oklahoma area will look like for 2022.
- Planning for 2022 Oklahoma State Fair
  - Juried products with OSF staff to determine Made in Oklahoma company participation in the store. Assigned shelf spaces and displays.
- Sent out information for other various events and marketing opportunities for Made in Oklahoma Program Members
  - Retail locations looking to add Made in Oklahoma Products
  - Tulsa Tonk
  - Southern Legislative Conference Vendor Show
- Managed payments on MIO Store through PayPal, manually paying producers through MIO PayPal account.

## **MARKET NEWS SERVICES**

**April 8, 2022 – May 27, 2022**

- **Grain Report:**

	<b>April 8, 2022</b>	<b>May 27, 2022</b>	<b>DIFFERENCE</b>
<b>WHEAT: (bu)</b>	\$9.85-\$10.67	\$11.35-12.05	\$1.50 to \$1.38 Higher
<b>MILO: (bu)</b>	\$7.21-\$7.69	\$7.37-7.77	\$0.16 to \$0.08 Higher
<b>SOYBEANS: (bu)</b>	\$15.73-\$16.20	\$16.37-16.84	\$0.64 to \$0.64 Higher
<b>CORN: (bu)</b>	\$7.51-\$8.29	\$7.67-8.77	\$0.16 to \$0.48 Higher
<b>COTTON: (lb)</b>	125.91 cents	131.42 cents	5.51 cents Higher

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

### **FEEDER STEERS**

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

- (05-25-21) \$159.00-184.00 Wtd. Avg \$171.50
- (05-24-22) \$171.00-185.00 Wtd. Avg. \$178.00

### **HEIFERS**

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

- (05-25-21) \$135.00-152.50 Wtd. Avg \$143.75
- (05-24-22) \$145.50-165.50 Wtd. Avg. \$155.50

- **Weekly Report:**

○ Seven weekly Oklahoma Market Reports were sent to 9,355 subscribers April 8, 2022-March 27, 2022 (**up from 122 subscribers last report**).

- **Voice Messaging System:**

The market news voice messaging system during

- Monthly Total: April 8, 2022 – May 27, 2022 **8,513 Accessed Times**
- Compared to Last Month: February 18, 2022 – April 8, 2022 **8,599 Accessed Times** Compared to Last Month: **Accessed Times-is DOWN by 86**
- **Oklahoma Agriculture Market News**
  - **Facebook Page**
    - Likes/Followers 276
    - **UP 30 Likes/Followers**

- People reached through pasted month: 1,650 people
  - **UP 965 people reached**
- **Oklahoma Hay Directory**
  - Hay Directory has been updated
    - 32 producers currently have hay
    - 18 producers are callbacks, they are waiting for pastures to dry out or started to begin to cutting hay
    - 7 are holding hay
    - 1 retired
- **Hay Report**

**This Month:** April 8, 2022 – May 20, 2022 Hay Traded 11,846  
**Last Year** April 15, 2021 – June 3, 2021 Hay Traded 856  
**UP 10,990 Bales Reported**

### OKLAHOMA HAY MARKET REPORT 5-20-22

**Receipts: 3,361 Last Reported: 1,765 Year Ago: 0**

Compared to the last report: Hay producers continue to sell off the old crop as they try to prepare for the new crop. The much-needed moisture continues to move across the state of Oklahoma which has helped and hurt parts of Oklahoma trying to prepare for their new crop. Moisture has helped crop production in Western Oklahoma but unfortunately has hindered parts of the east by receiving too much rain in a short amount of time. On a positive note the rain has allowed the parts of central and eastern Oklahoma to be out of the drought conditions. Western Oklahoma continues to be the extreme to exceptional drought conditions.

\*\*\* The next report release will be June 3rd. \*\*\*

<b>Central</b>					
<b>Alfalfa: Premium/Supreme (Trade/Per Ton)</b>					
Size		Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	952	200.00	200.00	Delivered	
<b>Prairie/Meadow Grass: Utility (Trade/Per Bale)</b>					
Size		Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	67	45.00	45.00	F.O.B.	
<b>North Central</b>					
<b>Bermuda Grass: Premium/Supreme (Ask/Per Bale)</b>					
Size		Qty	Price Range	Wtd.Avg.	Freight/Used
Small Squares	300	8.00	8.00	F.O.B.	
<b>Bermuda Grass Premium (Ask/Per Ton)</b>					
Size		Qty	Price Range	Wtd.Avg.	Freight/Used
Large Squares	93	120.00	120.00	F.O.B.	
<b>Bermuda Grass: Good (Trade/Per Bale)</b>					
Size		Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	83	65.00	65.00	F.O.B.	
<b>Prairie/Meadow Grass: Good (Trade/Per Bale)</b>					
Size		Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	51	60.00	60.00	F.O.B.	
<b>Prairie/Meadow Grass: Fair/Good (Trade/Per Bale)</b>					
Size		Qty	Price Range	Wtd.Avg.	Freight/Used

Large Round 96 50.00 50.00 F.O.B.

#### **Northeastern**

##### **Alfalfa: Supreme (Trade/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round 68	280.00	280.00	Delivered/New Crop	

##### **Alfalfa: Premium/Supreme (Trade/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round 136	275.00	275.00	Delivered/New Crop	

##### **Alfalfa: Premium (Trade/Per Bale)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Square 62	140.00	140.00	F.O.B	

##### **Alfalfa: Good (Trade/Per Bale)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round 30	20.00	20.00	F.O.B/Old Crop	

#### **Northwestern**

##### **Alfalfa: Supreme (Trade/Per Bale)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round 68	260.00	260.00	Delivered	

##### **Alfalfa: Supreme (Trade/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square 11	180.00	180.00	Delivered/New Crop	

##### **Alfalfa: Supreme (Trade/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square 11	180.00	180.00	Delivered/New Crop	

##### **Alfalfa: Premium (Trade/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square 306	250.00	250.00	Delivered	

##### **Alfalfa: Good/Premium (Trade/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square 68	250.00	250.00	Delivered	

##### **Grass: Fair/Good (Trade/Per Bale)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round 400	35.00	35.00	F.O.B/Old Crop	

##### **Triticale: Fair/Good (Trade/Per Bale)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square 400	35.00	35.00	F.O.B/Old Crop	

##### **Wheat: Good(Trade/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round 68	150.00	150.00	Delivered	

#### **Southeastern**

##### **Alfalfa: Supreme (Trade/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round 102	240.00	240.00	F.O.B/New Crop	

## AEMS Division Monthly Activities



Huge congratulations to Mr. David Jett for being the recipient of the prestigious Honorary State FFA Degree at the Oklahoma FFA Convention.

Keith Smith, David Jett and Dakota Turpin, AEMS Field Inspectors, attended a compost school May 16-19. Below is a photo is of the attendees watching a demonstration of a wood chipper being used for composting.



## AgPDES Permitting Activities

- Number of AgPDES CAFO Authorizations this reporting period: 0
- Number of AgPDES PGP Authorizations this reporting period: 0
- Number of AgPDES CGP Authorizations this reporting period: 5

## 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:

19	Complaints received and investigated this reporting period.
6	Complaints closed this reporting period
<b>Complaints Received - Breakdown</b>	
	Cattle - 4
	Swine – 1
	Poultry- 1
	Misc. Animal - 4
	Other – 1
	Animal Shelter 3
	Pet Breeder 5
114	Year to date complaints received in FY 22
56	Year to date complaints closed in FY 22
105	LMFO/CAFO inspections, plus technical assistance
240	Poultry inspections and technical assistance
32	Pet Breeders/Shelters inspections and technical assistance

### CAFO and LMFO Activities - Month and Fiscal Year 2022

	April 4th- May 15 <sup>th</sup> 2022	FY 22 Total
Complaint or Compliance Follow-ups	14	147
Annual Inspections	85	748
Technical Assistance with Contacts	20	146
Site Visit/Review – No contact made	15	99

### Poultry Activities – Month and Fiscal Year 2022

	April 4th- May 15 <sup>th</sup> 2022	FY 22 Total
Complaint or Compliance Follow-ups	0	25
Annual Poultry Inspections	100	344
Poultry Technical Assistance	140	1078
Site Visit/Review – No contact made	69	658
Eucha-Spavinaw CNMP Written	32	129

### Pet Breeders Activities – Month and Fiscal Year 2022

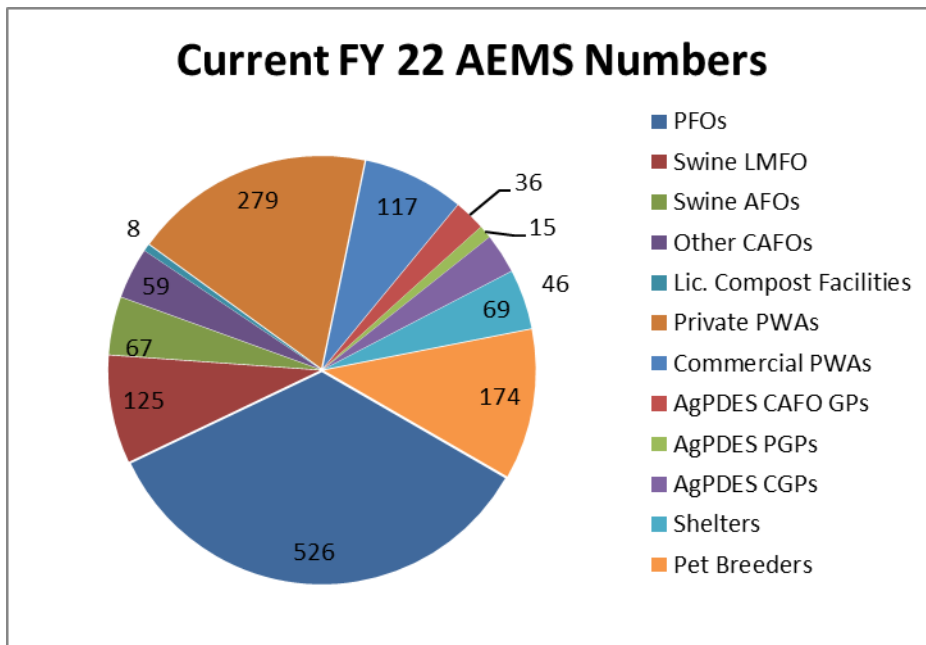
	April 4th- May 15 <sup>th</sup> 2022	FY 22 Total
Complaint or Compliance Follow-ups	20	66
Breeder/Shelter Technical Assistance provided w/owner/operator	21	62
Breeder/Shelter Annual Inspections	11	59
Breeder/shelter Close out	2	2

### Composting Activities – Month and Fiscal Year 2022

	April 4th- May 15 2022	FY 22 Total
Complaint or Compliance Follow-ups	2	24
Site Inspections (Annual or Compliance follow-up)	4	19
Technical Assistance provided with owner/operator	1	18

### AGPDES – Month and Fiscal Year 2022

	April 4th- May 15 2022	FY 22 Total
Complaint or Compliance Follow-ups	2	24
Site Inspections (Annual or Compliance follow-up)	6	21
Technical Assistance provided with owner/operator	4	21



Respectively

Teena G. Gunter  
AEMS Division

**BEFORE THE STATE BOARD OF AGRICULTURE  
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**JUNE 2022 BOARD REPORT  
REGARDING APRIL 11, 2022 THROUGH MAY 30, 2022 ACTIVITIES OF THE  
OFFICE OF GENERAL COUNSEL**

**AMOUNT OF ADMINISTRATIVE FINES COLLECTED:**

<b>Amount to Date (2022)</b>	<b>Amount of Fines for this Board Meeting</b>
\$25,550.00	\$93,375.00
\$57,475.00	2021 Total (5/31- 12/31/2021)

**CONTRACTS REVIEWED OR DRAFTED (23):**

Marketing - 5
AEMS - 3
Forestry - 2
Wildlife Services - 5
CPS - 7
Food Services - 1

**ADMINISTRATIVE HEARING PROCEEDINGS:**

Total Number of Open Cases: 125
Total Number of New Cases: 84
Total Number of Cases Closed: 112
NOVs Sent: 40

**OTHER ACTIONS AND PROCEEDINGS:**

<b><i>Kenneth Dale Toon dba Wild Boar Ridge Hunting Ranch v. ODAFF</i></b> , McCurtain County Case No. CV-2018-069. Petition for Declaratory Relief, etc. (Filed but not served on ODAFF as of 4/11/2022.) .
<b><i>W.L. Hardesty, et al., v. ODAFF and Cesar Cervantes</i></b> , Okmulgee County District Court Case No. CJ-2019-040: Petition served. Answer filed. Motion to Dismiss heard and denied September 4, 2019. Pending scheduling order.
<b><i>Kirk Marshall v. ODAFF</i></b> , 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.
<b><i>Sam Withiam v. OK State Dept of Agriculture</i></b> , Lincoln County District Court, Case No. CJ-20-73: Lawsuit involved tort claim stating ODAFF damaged concrete during elk depopulation. The Attorney General's Office is handling this claim. An Answer was filed. Discovery is ongoing.
<b><i>Laura Garrison v. State of Oklahoma, ex rel. Oklahoma Department of Agriculture Food and Forestry</i></b> , 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.
<b><i>Upton's Naturals Co v. Stitt and Arthur</i></b> , 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.
<b><i>William Grossman v. Lori Howard et al.</i></b> , Cherokee County District Court, Case No. CJ-2020-111: Lawsuit filed on the agency and Forestry Services for requesting damages for a car wreck that occurred during a prescribed burn. The prescribed burn was not performed by ODAFF and the agency was not involved with the circumstances. The Attorney General's Office is handling this claim.
<b><i>Spring Creek Coalition v. ODAFF and Trong</i></b> , Cherokee County Case Number CJ-2021-29: Petition seeking declaratory and injunctive relief. Answer filed.
<b><i>Spring Creek Coalition v. ODAFF and Phan, et al.</i></b> , Delaware County Case Number CJ-2021-33: Petition seeking declaratory and injunctive relief. Answer filed. Discovery ongoing.
<b><i>Superior Termite &amp; Pest, Inc. V. ODAFF</i></b> , Tulsa County District Court Case No. CV-2022-200, Petition for Appeal from Final Agency Order served. Response Drafted. Pending dismissal.

### **MEETINGS:**

<b>Date</b>	<b>Activity</b>
4/11/2022	Workday disciplinary process
4/11/2022	Senate Agriculture Committee
4/11/2022	Seaboard RNG Project
4/12/2022	Directors Meeting
4/12/2022	Intern Interview
4/13/2022	Illinois River Watershed Leadership in Bentonville, AR
4/13/2022	Arkansas Secretary of Agriculture
4/14/2022	ALJ Docket
4/14/2022	Advancing Oklahoma
4/19/2022	Director's Meeting
4/20/2022	Collections Meeting
4/25/2022	OBA ELS

4/26/2022	Directors Meeting
4/27/2022	Enid Packing Company and Brendon Atkinson
4.27.2022	CLE Review of Recent Federal Medicaid Litigation
4/27/2022	State Board of Agriculture
4/28/2022	OGC Staff
4/28/2022	AEMS HQ Staff
4/28/2022	AgPDES
4/28/2022	Illinois River Work Group-Technical
4/29/2022	AALA Policy Subcommittee
5/1/2022	HPAI Update with State Partners
5/1/2022	Director's Meeting
5/1/2022	HPAI Update
5/3/2022	OBA GALPS
5/4/2022	Illinois River Working Group-Leadership
5/10/2022	Director's Meeting
5/11/2022	OBA Women in Law
5/12/2022	ALJ Docket
5/12/2022	Illinois River Working Group-Technical
5/12/2022	Stephen Janzen regarding Van Peng.
5/17/2022	Carcass Management Train the Trainer Welcome
5/18/2022	Ag on Lincoln
5/19/2022	Directors Meeting
5/25/2022	2022 Integrated Report Public Meeting
5/26/2022	OGC Staff
5/26/2022	AgPDES
5/26/2022	AEMS HQ Staff
5/26/2022	Illinois River Working Group-Technical

### **RULE ACTIVITIES:**

<b>Chapter 1. Administrative Operations (Permanent FY 2022):</b> Permanent rules adopted by Board January 26, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 1, 2022. Statement of Submission filed with Office of Administrative Rules February 1, 2022.
<b>Chapter 10. Agricultural Products (Permanent FY 2022):</b> Permanent rules adopted by Board January 26, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 1, 2022. Statement of Submission filed with Office of Administrative Rules February 1, 2022.
<b>Chapter 13. Fuel Alcohol (Permanent FY 2022):</b> Permanent rules adopted by Board January 26, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 1, 2022. Statement of Submission filed with Office of Administrative Rules February 1, 2022.
<b>Chapter 15. Animal Industry (Permanent FY 2022):</b> Permanent rules adopted by Board January 26, 2022. Agency Rule Report submitted to the Governor, Legislature,

and Cabinet Secretary on February 1, 2022. Statement of Submission filed with Office of Administrative Rules February 1, 2022.
<b>Chapter 30. Consumer Protection (Permanent FY 2022):</b> Permanent rules adopted by Board January 26, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 1, 2022. Statement of Submission filed with Office of Administrative Rules February 1, 2022.
<b>Chapter 37. Food Safety (Permanent FY 2022):</b> Permanent rules adopted by Board January 26, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 1, 2022. Statement of Submission filed with Office of Administrative Rules February 1, 2022.
<b>Chapter 40. Market Development (Permanent FY 2022):</b> Permanent rules adopted by Board January 26, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 1, 2022. Statement of Submission filed with Office of Administrative Rules February 1, 2022.
<b>Chapter 44. AgPDES (Permanent FY 2022):</b> Permanent rules adopted by Board January 26, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 1, 2022. Statement of Submission filed with Office of Administrative Rules February 1, 2022.
<b>Chapter 55. Commercial Pet Breeders and Animal Shelters (Permanent FY 2022):</b> Permanent rules adopted by Board January 26, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 1, 2022. Statement of Submission filed with Office of Administrative Rules February 1, 2022.
<b>OHRC</b>
<b>Chapter 40. Veterinarian Practices and Restrictions (Permanent FY 2022):</b> Permanent rules adopted by Commission February 17, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 24, 2022. Statement of Submission filed with Office of Administrative Rules February 24, 2022.
<b>Chapter 45. Prohibited Practices and Equine Testing (Permanent FY 2022):</b> Permanent rules adopted by Commission February 17, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 24, 2022. Statement of Submission filed with Office of Administrative Rules February 24, 2022.
<b>Chapter 60. Running the Race (Permanent FY 2022):</b> Permanent rules adopted by Commission February 17, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 24, 2022. Statement of Submission filed with Office of Administrative Rules February 24, 2022.
<b>Chapter 65. Pari-Mutuel Wagering (Permanent FY 2022):</b> Permanent rules adopted by Commission February 17, 2022. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 24, 2022. Statement of Submission filed with Office of Administrative Rules February 24, 2022.

**OPEN RECORDS REQUESTS (80):**

AEMS: 10
----------

CPS: 40
AIS: 12
Inv.Serv.: 1
Forestry: 6
Pet Breeders: 11

### **OKLAHOMA HORSE RACING COMMISSION**

<b>Litigation: Alfredo Gomez and Cruz Villafranco v. OHRC</b> , Oklahoma County District Court Case No. CV-2020-430: Petition served. Response filed. Petitioners' Motion for Partial Summary Judgment responded to. Pending hearing.
<b>Litigation: Oscar Nunez v. OHRC</b> , Oklahoma County Case No. CV-2020-449: Petition filed and served. Answer filed. Reversed and remanded. Rehearing held. Motion to Modify District Court's Order of November 10, 2020 hearing held. Further briefing ordered.
<b>Litigation: Miguel Pena v. OHRC</b> , Oklahoma County District Court Case No. CV-2019-179: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held October 11, 2019. TRO entered. Amended Petition for TRO heard May 15, 2020. TRO denied. Permanent injunction denied. Pending Motion to Dismiss.
<b>Litigation: Jose Sanchez III, et al. V. Global Gaming, Heritage Place and OHRC</b> , Oklahoma County District Court Case No. CJ-2020-2395: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held May 26, 2020. TRO denied. Further action pending.
<b>Litigation: Sammy Howard v. OHRC</b> , Oklahoma County District Court Case No. CV-2020-1921. Petition served. Response filed. Briefs filed. Oral arguments held. Remanded for further proceedings. Order filed. Motion to Reconsider filed. Hearing set July 8, 2022.
<b>LITIGATION: Rogelio Marquez, Jr. V. OHRC</b> , Oklahoma County District Court Case No. CJ-2021-3393. Petition filed. Injunction sought. Hearing held; Injunction denied. Pending further proceedings.
<b>Litigation: Carlos Ruiz v. OHRC</b> , Oklahoma County District Court Case No. CV-2021-2591. Petition Served. Response filed. Record filed. Pending briefing.
Prepare cases for presentation at Stewards Hearings
Prepare cases for presentation in District Courts
Provide discovery to opposing counsel and Respondents regarding various hearings
Stewards Hearings at Remington Park
Hearings in District Courts
Prepare and file Response to Petition for Temporary Restraining Order and Injunction
Prepare and file Motion to Dismiss
Prepare and file Motion to Reconsider
Argue appeals at regular session of the Oklahoma Horse Racing Commission
Discuss possible rule revisions/amendments with Executive Director
Draft proposed rule revisions
Advise Executive Director on extent of delegated authority
Discuss certain policy issues with Executive Director

Review communication from Respondents' counsel in various cases
OHRC regular meeting
Supervise and direct OHRC legal intern
Attend ARCI Rules Committee meeting
Consult with OHRC regarding gaming issues
Attend briefings and meetings regarding Horse Racing Integrity and Safety Act (HISA)
Attend HCM mediation

**OTHER ACTIVITIES:**

Phone calls or emails with the public: 59
Assistance to AEMS: 7
Assistance to CPS: 6
Assistance to Wildlife Services: 2
Assistance to Forestry: 7
Assistance to AIS: 8
Assistance to Admin: 7
Assistance to Market Development: 12
Assistance to other state or federal agencies: 6
Assistance to Food Safety: 21
Assistance to NASS: 0
Assistance to Executive Office: 14
Assistance to Lab: 46
Assistance to Investigative Services: 0
Assistance to Legislature: 0

Respectfully Submitted,



Teena G. Gunter  
General Counsel

## **FOOD SAFETY REPORT MAY 2022**

### **POULTRY& EGG GRADING, PRODUCE AND ORGANIC SECTION**

#### **Poultry and Egg Section**

In Broken Bow at Tyson Foods, USDA poultry grading was performed by ODAFF inspectors on 2,320,090 pounds of poultry – boneless/skinless leg meat & bone in/skin on parts and ground meat. ODAFF inspectors provided USDA Shell Egg grading on 88,405 dozen eggs at Cal-Maine Foods Inc. at Sulphur. ODAFF inspectors also provided USDA poultry grading services on poultry products being shipped from OK Foods in Muldrow & Heavener. Also; routine egg quality inspections under the Oklahoma egg law were conducted.

#### **Organic Foods Section**

Organic inspectors completed compliance and certification inspections at:

- Fourteen organic crop producers
- Five organic livestock producers
- Seven organic processors
- Collected nine organic samples
- Ten retail organic inspections
- The organic section had requests for 4,000 certified organic stickers from Oklahoma Certified Organic producers and processors, which display the stickers on all products sold, labeled, or represented as Organic across the United States. The organic section had 8 requests for organic crop applications, 4 requests for organic processing applications and 3 requests for organic livestock applications

#### **Produce Safety Section**

- Conducted an On-Farm Readiness Review to help producer prepare for inspection
- Contacting and visiting farms to determine coverage/exemption under the Produce Safety Rule
- Visited 22 farmers markets providing outreach and education to producers and to collect farm inventory
- Hosted a Produce Safety Alliance grower course
- Regular conference calls with TX, LA, AR, NM, MO, MS
- Submitted annual report and budget to FDA
- Assisted with NASDA workgroup for Produce Safety Program Standards development
- Assisted with AFDO Produce Safety Committee conference planning
- Sent an e-mail newsletter to inform constituents of the latest information

#### **Homemade Food Freedom Act**

- Received 12 complaints on the Homemade Food Act, 1 illness complaint, 10 containing meat, 12 lacking labeling, 1 delivery violation
- Sent 15 warning letters
- Answered questions at the Duncan Farmers Market meeting
- Answer questions at Spring Festival in OKC
- Answer questions at Hillside Farmers Market, Skiatook

## Oklahoma Meat Inspection Services Investigations and Compliance Activities

Planned Compliance Reviews	08
Random Compliance Reviews	242
Person-to-Person Contacts	58
Special Investigations and/or Projects	07
Reports of Apparent Violations	04
Detentions	01
Consumer Complaints	09
Verbal Warnings Issued	05
Letters of Warning Issued	04
Samples Submitted to Lab for Analysis	00
Accident Investigations	00
Administrative Procedures Act	00

**See details below:**

ACCIDENT LOCATION	ANIMAL/PRODUCT	DISPOSITION

### Highlighted Activities

During the course of Random Reviews and anonymous Consumer Complaints, Compliance and Investigation Services sent out one (4) Letter of Warning for Violations of the Oklahoma Meat/Poultry Inspection Act and/or State Statutes.

### **Meat Inspection**

Meat Sample Activity:	
Samples Submitted for Analysis	34
Samples Not Analyzed	0
Samples Analyzed	34
Samples Non-Compliant	0
Samples Negative results	34

April 29

I met with the Muskogee Chamber of Commerce to tour Watson Farm Meat processing / farm and spoke at their luncheon.



## MEAT INSPECTION

<b>Number of Cattle</b>	<b>626</b>
<b>Total Beef Condemned</b>	<b>0 lbs</b>
<b>Number of Swine</b>	<b>42</b>
<b>Total Pork Condemned</b>	<b>0 lbs</b>
<b>Number of Sheep and Goats</b>	<b>1850</b>
<b>Total Condemned</b>	<b>0 lbs</b>
<b>Number of Chickens</b>	<b>400</b>
<b>Total Condemnations</b>	<b>0 lbs</b>
<b>Number of Exotic Deer</b>	<b>0</b>
<b>Total Condemnations</b>	<b>0 lbs</b>
<b>TOTAL MEAT INSPECTED</b>	<b>469,350 lbs</b>

## PROCESSED MEAT INSPECTED

<b>Processed Red Meat</b>	<b>541,660 lbs.</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Poultry (Portions)</b>	<b>208,998 lbs</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Rabbit Meat</b>	<b>0</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Exotic Deer Meat</b>	<b>0</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>TOTAL PROCESSED MEAT INSPECTED</b>	<b>750,658 lbs</b>

## DAIRY SECTION

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

The following surveys were conducted and received passing scores that can be found on the FDA's Interstate Milk Shipper's List website:

DFA Central Council 59 conducted on April 21, 2022

Hiland Dairy – Chandler conducted on May 12, 2022

DFA Central Council 5 conducted on May 25, 2022

Red Ridge Creamery in Lahoma was surveyed and approved to be an IMS listed dairy plant on May 5, 2022. This listing will allow them to participate in interstate commerce.

Swans Bro's Dairy was reinstated with their permit to produce and sell unpasteurized milk products following previous recalls due to *Listeria Monocytogenes* contamination. Swan Bro's worked with Pete Echelle and Jayson Jones to submit a Food Safety Plan that better protects their products from contamination. Dairy Services will continue to monitor and sample milk products for *Listeria* and *Campylobacter* in the future.

Clint George our FDA Milk Specialist is currently evaluating the Triennial Oklahoma Dairy Program

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

## April – May Board Packet

### Communications

**Highly Pathogenic Avian Influenza |** The U.S. Department of Agriculture confirmed a commercial poultry flock detection of highly pathogenic avian influenza (HPAI) in Sequoyah County, Oklahoma. Confirmed cases can be tracked at [ag.ok.gov/disease-alerts](https://ag.ok.gov/disease-alerts). Beginning May 1, 2022, all poultry exhibition, public sales and swap meets are banned in the state of Oklahoma until further notice in order to halt any potential spread of this virus. The ban is set to end on July 30th, unless evidence shows it should be extended. This ban was ended on May 31st

The recent HPAI detections in birds do not present an immediate public health concern. It remains safe to eat poultry products. There is no risk to the food supply, but the affected birds will not enter the food supply system.

Possible cases should also be reported to the Oklahoma Department of Agriculture at (405) 522-6141. Visit our website for an overview of HPAI and signs and symptoms. For updates on this developing situation or for general questions, please call 211 or visit <https://ag.ok.gov/disease-alerts/>.



**Budget Highlights |** Secretary of Agriculture, Blayne Arthur and the Oklahoma Department of Agriculture, Food and Forestry are extending their appreciation to Governor Kevin Stitt and the Oklahoma State Legislature for their approval of the state budget for the 2023 Fiscal Year and for their appropriation of funding to programs vital to the success of Oklahoma's agriculture industry. In addition to funding programs and services provided by the Oklahoma Department of Agriculture, Food and Forestry, the budget includes funding to the following:

- \$4,000,000 for the Oklahoma State University College of Veterinary Medicine
- \$1,500,000 for the Oklahoma Animal Disease Diagnostic Laboratory to continue to protect our state's herd health and respond against disease outbreaks

## FISCAL YEAR 2023 FUNDING HIGHLIGHTS

OK DEPT. OF AGRICULTURE, FOOD AND FORESTRY



- \$2,000,000 for Oklahoma State University Agricultural Extension Service county offices
- \$1,000,000 for Oklahoma State University ag experiment stations
- \$2,800,000 for rural fire defense through 80/20 reimbursement grants and for rural fire coordinator funding, as they are small communities first line of defense against fire disasters
- \$330,000 to hire additional meat inspectors to serve state inspected meat processing facilities in Oklahoma
- \$8,414,550 for rural fire operational grants to go toward maintaince, repair or construction of rural fire departments, fire equipment or other any related items needed for continued operation
- \$513,325 for the Made in Oklahoma Coalition to continue to promote Oklahoma-based food and beverage companies
- \$5,000,000 for communities impacted by the extreme winter weather in February of 2021

**Asian Giant Hornet Handout** | Communications received complaints about potential AGH sightings and put out the following handout on social media. Though the insects look similar, cicada killers are non-aggressive and harmless to humans, rarely deploying their stingers unless provoked. Asian giant hornets have only been found in the northwestern part of the United States, and there have been no Asian giant hornets confirmed in Oklahoma.



# ASIAN GIANT HORNETS

*Vespa mandarinia*

The Asian giant hornet is the world's largest hornet. Sometimes, these hornets are referred to as the "murder hornet" because they attack honeybees. There have been no confirmed reportings of these hornets in Oklahoma, but there are multiple harmless and beneficial wasps and hornets catching the attention of people across the state. Let's look closer at how we can tell them apart!

## Asian Giant Hornets vs. Cicada Killer Wasps



Asian Giant Hornet

### Body length

- From 1.5 to 2 inches long

### Coloration

- **Head:** Large and solid yellow or orange, with black eyes
- **Eyes:** the eye in hornets hooks around the top of the antennae
- **Thorax:** Mostly solid dark brown or black, making a striking contrast with the head color
- **Abdomen:** Alternating bands of dark brown or black and yellow or orange



Western cicada killer

Eastern cicada killer

### Body length

- Can be up to 2 inches long

### Coloration

- **Head:** Cicada killers have a smaller head in proportion to their bodies
- **Eyes:** Oval eyes
- **Abdomen:** "Broken", non-continual banding on the abdomen
- **Thorax:** Has a reddish thorax
- The contrast between the head color and the thorax color is much more apparent in AGH than in cicada killers

## What are Cicada Killers?

As the name implies, Western and Eastern cicada killer wasps target cicadas and other large insects. After paralyzing insects with a sting, they drag the prey into their in-ground burrow for their offspring to feed on. Their burrows are found in a variety of urban soil settings including flower beds, backyards and even golf greens -- they nest in the ground where there is loose soil, typically close to trees where cicadas live. One burrow can be several inches deep, and multiple feet wide, and can be called home for two or three wasps at once.



They are non-aggressive and are not likely to sting, unless given no other option to defend themselves. Males are territorial and will dive-bomb if provoked, but cannot sting. Although they look scary, they serve an important role in nature.

If you have Cicada Killers in your yard, we suggest you correcting the poor soil conditions and the following year, they will find a new location to dig. If they are a problem, contact a qualified pest removal company.



Cicada Killer

Asian Giant Hornet

## How to Report an AGH in Oklahoma:

There have been no Asian Giant Hornets confirmed in Oklahoma. If you have questions about invasive insects or state quarantines, contact our Consumer Protection Services division by sending an email to [joe.rackley@ag.ok.gov](mailto:joe.rackley@ag.ok.gov).

Your local OSU County Extension office can assist with insect identification, or you can email photos, your name and your location to [gotbugs@okstate.edu](mailto:gotbugs@okstate.edu).

If it is safe to do so, take a photo or collect a dead specimen to help experts identify the insect.





### 2022-2023 Ag Youth Council Announced |

After an extensive application and interview process, twenty-five upcoming high school seniors were chosen to serve on the AYC and represent the Oklahoma Dept. of Agriculture for the next year! Sessions will include visits to Oklahoma agricultural companies and organizations, opportunities to learn about the legislative process and job shadows with industry professionals. We are excited for the year ahead!



Alec Anderson	Wyatt Jensen
Maddy Bowman	Ryder Klaassen
Garret Case	Turner Longacre
Grady Chaplin	Devin Morton
Clara Duncan	Maddie Mueller
Destyn Emerson	Isaac Ochsner
Zell Freeman	Karson Osborn
Maysen Garrett	Kayla Poling
Rylee Glazier	Halle Pullen
Morley Griffith	Ethan Stone
Mason Harris	Rachel Swinford
Charlie Hudgins	Colton Tripp
Kolton Hunt	

**Ag on Lincoln Event |** We had a great turnout for the 2<sup>nd</sup> annual AOL event. Visitors sampled and purchased Made in Oklahoma products, learned more about the industry from agricultural groups and enjoyed a free lunch provided by the Oklahoma Beef Council and Oklahoma Wheat Commission.

## AG ON LINCOLN

MAY 18, 2022 | 10:30 A.M. - 2:00 P.M.

2800 N. LINCOLN BLVD.



JanLee Rowlett, Legislative Liaison for the Oklahoma Department of Agriculture, Food, and Forestry to provide an update on the 2022 Legislative session, including ODAFF bill requests and other ag legislative topics.

# **JUNE 16, 2022 BOARD MEETING**

## **PURCHASES/CONTRACTS**

### **Administrative Services**

#### **FY22 – New Computers & Docking Stations - \$122,116.20**

Purchase of sixty-nine (69) Dell Mobile Precision 3560 laptops, docking stations and NTT deployment cost; as part of Phase 1 of the ODAFF CPU refresh. This phase includes Admin, Executive Office, OGC, AEMS, and parts of CPS. If this refresh is not done we will continue to use aging CPU's which are failing daily at an alarmingly rapid rate. This would inadvertently hinder our ability to fulfill our ODAFF statutory mission.

#### **FY22 - Petroleum Traders (Bulk Fuel) – (Overage – increase contract amount to \$86,000)**

Due to rising fuel cost the agency request an increase of \$20,000 to complete FY2022 Bulk Fuel purchases. Forestry Services has several remote office locations with heavy firefighting equipment. Providing bulk fuel allows for these locations to fuel it firefighting equipment and remain in a ready status when dispatched. Without this purchase this could greatly reduce agency response times, thus putting the public and property at greater risk.

**FY23 - \$12,000** - Purchase of Geosafe subscription for Investigative Services. Geosafe is a program and application providing location identification for Special Agents. It is a specific law enforcement smartphone app showing an agent's location on a map in real time. It also records the activity. It provides a great amount of officer safety in that, the agent's location is shared with other law enforcement agencies subscribed to the application. Currently, most counties and state agencies utilize the service. It also allows agents to do warrant searches and identify stolen property in the field without having to call into the office and have second person search the information through the Oklahoma Law Enforcement taking them away from other duties.

### **Agricultural Environmental Management Services**

#### **A request of \$170,000**

Professional Services – for FY23 request for approval of \$170,000 to fund MOA with Oklahoma Water Resource Board (OWRB) to sample LMFO groundwater monitoring wells around lagoons. Funding is provided from Environmental Protection Agency (EPA) and dispersed directly to OWRB through Oklahoma Secretary of Energy & Environment (OSEE)

### **Agricultural Statistics**

Printing of Oklahoma Agricultural Statistics annual bulletins, and Oklahoma Pocket Facts for FY 2023 - \$12,000.

## **Animal Industry**

**Oklahoma Veterinary Medical Association (OVMA) - \$20,000.00** – 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 - \$28,137.71** – 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. - \$11,600.00** - 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**

### **Oklahoma State University Soil Fertility Research --\$65,000.00**

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

This is in addition to the original request of \$450,000.00 due to fertilizer tonnage revenue exceeding 1 million dollars for FY2022. Pursuant to 2 O.S. § 8-77.7 (A), ODAFF is required to collect an inspection fee of \$1.00 per ton of which \$0.50 per ton shall be forwarded directly to a special Soil Fertility Research Account in the Department of Plant and Soil Sciences of the Division of Agricultural Sciences and Natural Resources at Oklahoma State University (OSU) for the purpose of conducting soil fertility research and extension involving efficient fertilizer use for agronomic crops and forages and groundwater and surface water protection from plant food nutrients. Though tonnage amounts vary each year due to when a crop is planted, commodity prices, fertilizer prices and the weather we use the upper range of inspection fees paid annually to determine the amount of \$450,000.00 that could potentially be paid out to OSU. However, the actual amount paid to OSU will be based on the amount of inspection fees paid to ODAFF.

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

This is a statutory requirement of the Oklahoma Fertilizer Act and needs to be done to further research to prevent the pollution of lands and waters of Oklahoma from fertilizers.



## **Food Safety**

### **Contract employee for Dairy Services - \$30,000.00**

Perform various duties at dairy plants in Oklahoma, collect milk, and milk products for sampling. Conduct Oklahoma Dairy plant and farm state surveys for sanitation compliance and enforcement. If this position is not filled, then a contractor from out-of-state would have to be brought in and paid to do this job for the facilities to remain in compliance.

### **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. The On-Farm Readiness Review tool is currently in development by NASDA, and should be available to the states this winter. It 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 - \$5,200.00.**

This computer program is used for completing FDA produce safety compliance inspections. Currently Kelly Registration Systems is 2 to 3 years from completing Food Safeties online programs. This would be for updates and for software update fees. This would be paid for by the FDA Produce Grant.

## **Forestry Services**

### **FY22 - Gooseneck Trailer, \$25,000 (SFA Grant)**

Purchase one (1) heavy duty, tandem axle trailer with ramps. This trailer will be used to transport a skid steer with attachments for the purpose of treating hazardous fuels in and around At-Risk Communities statewide. This program is part of the National Cohesive Wildland Fire Management Strategy with the intent of developing fire adapted communities. Funding for this purchase will come from the FY18 US Forest Service State Fire Assistance - Mitigation Grant.

This is the second request for this purchase. After reaching out to the original vendor to make the purchase, we were informed delivery of the trailer would be 24 months. Not being able to wait that long due to federal funding expiring, we looked to another vendor on the statewide contract for a comparable product. One was found that could be ordered and delivered in the timeframe needed but due to increased costs of materials, the amount came in above the 10% margin with the original estimate used for the request.

## **Laboratory Services**

### **FY23 – Contract Renewal for the purchase of analytical gas and high quality argon - \$11,566.84**

Contract renewal for the purchase of analytical gas and high quality argon for testing various agricultural products and cylinder rental. Effective 07/01/22 – 06/30/23.

### **FY23 – Contract Renewal for the purchase of analytical grade water - \$6,300.00**

Contract renewal for the purchase of analytical grade water for laboratory testing. Effective 07/01/22 – 06/30/23.

### **FY23 – Purchase of SCC Standards - \$5,356.00**

Purchase of SCC Standards necessary for the detection and analysis of Somatic Cell counts in raw milk for the dairy program as a requirement under FDA guidelines. Effective 07/01/22 – 06/30/23.

### **FY22 – Purchase of Nitrogen Generator - \$18,750.00**

Purchase of a Nitrogen Generator for use as a drying gas for sample extraction processes.

### **FY22 – Purchase of Hydrogen Generator - \$15,547.53**

Purchase of Hydrogen Generator to create hydrogen gas as a carrier gas for the sole purpose to generate gas at low levels reducing chances of explosion.

## **Market Development Services**

### **Agritourism Printing - \$47,994.51**

It is the goal of the Agritourism Program to utilize all marketing channels to create a consistent brand awareness campaign and utilize these channels for seasonal promotions within the many categories of Agritourism. The brochure distribution program is one of the top marketing channels for Oklahoma Agritourism as we are able to reach hundreds of thousands of consumers each year. Not only are individual consumers requesting these brochures through TravelOK.com, but they are also distributed at festivals, tradeshow, and other events throughout the year. If this expense is not approved, there will be a negative impact on the ability of the Agritourism Program to promote and advertise the 400+ Agritourism venues in the state, resulting in an economic loss of those businesses and the local economy in those areas.

### **Oklahoma Youth Expo - \$85,000.00 – Legislative Directed Spending**

This amount of \$85,000.00 will directly support the 2023 state-wide spring junior livestock show. For 104 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 2023 Oklahoma Youth Expo (OYE) as well as a reduction of show ring achievement and academic scholarships to the youth of Oklahoma.

**Made in Oklahoma Coalition - \$513,000.00**

The amount of \$513,000.00 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.

**Tulsa County Public Facilities Authority – Expo Square - \$50,000.00**

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 2022 Tulsa livestock show and a reduction of scholarships to the youth of Oklahoma.

FY2023 – AgHERculture – facility rental and food - additional \$4,300 – Went to board in March for \$10,000.00 and bids came back higher than expected so this is the additional amount of the project. – \$4,300.00

FY2023 - Harvest of the month tear sheets - graphic design and printing - Project funded entirely by the Specialty Crop Block Grant - \$22,100.00

FY2023 – Hannah Henson – Ag Enhancement and Diversification Grant - \$5,000.00

FY2023 – Texas County Fair Board – Ag Enhancement and Diversification Ag Event Grant - \$5,000.00

FY2023 – Travis Thorburn – Ag Enhancement and Diversification Grant - \$7,500.00

**Office of General Counsel**

FY23 - \$36,942.13 for GovQA 2023 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 for OGC Administrative Law Judge FY 2022 effective 7/1/2022 – 6/30/2022. An increase of \$2,000 to offset 02/01/2022 – 6/30/2022 of \$10,000.

Contract for OGC Administrative Law Judge FY 2023 effective 7/1/2022 – 6/30/2023 not to exceed \$10,000.

Contract renewal for OGC Westlaw and Clear online legal research system FY 2023 effective 7/1/2022-6/30/2023. Contract not to exceed \$20,000.

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.

A request of \$90,000 for R.K. Black

Scanning of all of OGC files and case files for permanent record to move from paper copies to a digital footprint. R.K. Black estimated approximately 1,500,000 images are to be scanned. The cost will consist of:

- Preparation of documents for indexing at state rate – Indexing .15 cents per index
- Scanning of hard copy records with high labor intensiveness per state contract Heavy scanning .10 cents per page
- Scanning of hard copy records with medium labor intensiveness per state contract price Medium scanning .08 cents per page
- File delivery (removable, media) TBD
- Other cost
- Box Storage included
- Shredding included
- Pick-up and Delivery included

This amount will fluctuate proportionately with the actual number of records in the overall project.

OGC needs to keep these records forever; an electronic storage will prevent molded paper documents and provide a better storage system.

### **Wildlife Services**

\$ 19,000.00 - 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.

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

**APPROVAL OF CASES**

ON THIS 16<sup>th</sup> day of June 2022 the Office of General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry brought for consideration before the State Board of Agriculture those certain cases summarized on Exhibit A hereto which cases have been resolved by stipulation or consent order. The attached Exhibit A summarizes each action by case name, case number, case type and amount received as a stipulated administrative penalty or by consent order.

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

WITNESS My Hand and Official Seal this 16<sup>th</sup> day of June 2022.

---

Blayne Arthur  
President  
State Board of Agriculture

**Exhibit A**  
**Board of Agriculture**  
**June 16, 2022**

**Cases Resolved by Stipulation**

**Agricultural Environmental Management Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
Pawnee Livestock Sales	OGC-22-02	AEMS	\$1,000.00
Lindsey Porter	OGC-22-142	AEMS	\$400.00
Linda & Anthony West	OGC- 21-683	AEMS	\$800.00

**Consumer Protection Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
Adam Brockriede	OGC-21-819	CPS	\$1,000.00
C Express	OGC-21-318	CPS	\$225.00
C Express	OGC-22-054	CPS	\$450.00
Complete Pest Control	OGC-22-022	CPS	\$750.00
EDKO	OGC-22-123	CPS	\$2,500.00
EDKO	OGC-21-791	CPS	\$2,500.00
Green Cover Services	OGC-22-017	CPS	\$500.00
Rich Lawns	OGC-22-030	CPS	\$1,500.00

**Cases Resolved by Consent Order**

**Agricultural Environmental Management Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
Jerry Nine	OGC-21-389	AEMS	\$10,000.00

**Consumer Protection Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
Helena Agra Enterprises	OGC-21-653	CPS	\$1,000.00
Mosquito Joe of Tulsa	OGC-21-513	CPS	\$750.00
Superior Termite & Pest Control	OGC-21-014	CPS	\$70,000.00
	OGC-21-149		
	OGC-21-194		
	OGC-21-200		
	OGC-21-689		
	OGC-21-690		
	OGC-21-691		
	OGC-21-792		



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. PAWNEE LIVESTOCK SALES  
Case File No. OGC 22-2**

**PAWNEE LIVESTOCK SALES  
345265 US HIGHWAY 64  
PAWNEE, OK 74058**

**Summary of Facts:** Respondent failed to properly identify and tag all sheep and goats prior to sale.

**Statute or Rule Violation:** OAC 35:15-36-3.

**Proposed Administrative Penalty:** The penalty was assessed at \$1,000. Respondent stipulated and paid the penalty in full.

**Deviations:** None.

**Other Actions Required:** None.

**OGC Attorney:** Richard D. Herren

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
MAY 12 2022  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

PAWNEE LIVESTOCK SALES  
345265 US HIGHWAY 64  
PAWNEE, OK 74058

RESPONDENT.

Case No: OGC-22-2

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Dollars (\$1,000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent 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:

Mark S Tully  
Signature

Mark Tully Managing member  
Printed Name and Title:

Date: 5-4-22

**FILED**  
MAR 08 2022  
STATE BOARD OF AGRICULTURE

**Case No: OGC-22-2**

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

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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of a livestock auction market in Oklahoma.
16. Pursuant to Oklahoma Administrative Code 35:15-36-3. Requirements for identification
  - (a) All sheep and goats imported into Oklahoma shall be identified by a USDA approved official identification device.
  - (b) All sheep and goats shall be officially identified prior to movement for sale or exhibition.
    - (1) If moving to a livestock market, identification may be applied by the market before sale.
    - (2) The state veterinarian may grant a written exception for the official identification of wethers on an individual basis.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.
18. On December 17, 2021, the Complainant inspected the Respondent.
19. The inspection determined Respondent failed to properly identify all sheep and goats before the sale.
20. The inspector provide Respondent an exception to allow you to identify the goats after the sale. Which based on his inspection the following day, you failed to do.
21. You were issued a Letter of Warning for substantially the same violations on May 24, 2021.

22. On December 20, 2021, the Complainant issued a Letter of Warning advising of the afore-mentioned violations and demanding corrective action.

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

#### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, Respondent has violated OAC 35:15-36-3 by failing to properly identify sheep and goats.

#### **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.

#### **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 (\$1,000.00).

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 February, 2022.

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

*Richard D. Herren*

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600  
Richard D. Herren, OBA # 13829\*  
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 March, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

**PAWNEE LIVESTOCK SALES  
345265 US HIGHWAY 64  
PAWNEE, OK 74058**



---

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-22-2**

**PAWNEE LIVESTOCK SALES )  
345265 US HIGHWAY 64 )  
PAWNEE, OK 74058 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Dollars (\$1,000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent 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. LINDSEY PORTER  
Case File No. OGC 22-124**

**LINDSEY PORTER, DBA  
LINDSEY PORTER AUSSIES  
12505 NE ROGERS LANE  
LAWTON, OK 73507**

**Summary of Facts:** Respondent failed to complete and file the 2022 annual report for commercial pet breeders as required by statute.

**Statute or Rule Violation:** 4 O.S. § 30.11 and OAC 35:55-1-9.

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

**Deviations:** None.

**Other Actions Required:** None.

**OGC Attorney:** Richard D. Herren

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**

MAY 25 2022

STATE BOARD OF AGRICULTURE

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

COMPLAINANT, )

v. )

Case No: OGC-22-124

LINDSEY PORTER, DBA )  
LINDSEY PORTER AUSSIES )  
12505 NE ROGERS LANE )  
LAWTON, OK 73507 )

RESPONDENT. )

**STIPULATION**

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

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

RESPONDENT:

Lindsey Porter  
Signature

Lindsey Porter  
Printed Name and Title:

Date: 5-23-22

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

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

**COMPLAINANT,**

**v.**

**LINDSEY PORTER, DBA  
LINDSEY PORTER AUSSIES  
12505 NE ROGERS LANE  
LAWTON, OK 73507**

**RESPONDENT.**

**Case No: OGC-22-124**

**FILED**  
**MAY 16 2022**  
**STATE BOARD OF AGRICULTURE**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 9, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

---

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

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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pet breeding, located at 12505 NE Rogers Lane, Lawton, OK 73507.

16. Under the Commercial Pet Breeders and Animal Shelter Licensing Act, 4 O.S. §30.1 and the rules adopted pursuant to the Act OAC 35:55-1, ODAFF has authority to regulate persons who operate a commercial pet breeder operation or rescue shelter.

### **ALLEGATIONS OF FACT**

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

18. The Respondent has failed to complete and file the 2022 annual report as required under the Act.

19. On February 25, 2022, a Letter of Warning was sent to the Respondent requesting that corrective action be taken by March 28, 2022.

20. Respondent has failed to take corrective action or complete the process of the annual report.

### **ALLEGED CONCLUSIONS OF LAW**

21. Based upon the application of the above law to the aforementioned-facts, Respondent has not filed the 2022 annual report as required under 4 O.S. § 30.11 and OAC 35:55-1-9.

### **ATTORNEY CONFERENCES**

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

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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



## OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

### ENFORCEMENT OF JUDGMENTS

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

### INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

### STIPULATION

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

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

DATED THIS 28TH day of April, 2022.

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

Richard D. Herren

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

**CERTIFICATE OF MAILING**

This is to certify that on this 28th day of April, 2022, a true and correct copy of the  
forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**LINDSEY PORTER, DBA  
LINDSEY PORTER AUSSIES  
12505 NE ROGERS LANE  
LAWTON, OK 73507**



\_\_\_\_\_  
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-22-124**

**LINDSEY PORTER, DBA )  
LINDSEY PORTER AUSSIES )  
12505 NE ROGERS LANE )  
LAWTON, OK 73507 )**

**RESPONDENT.**

**STIPULATION**

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

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. LINDA WEST AND ANTHONY WEST  
Case File No. OGC 21-683**

**LINDA WEST AND ANTHONY WEST  
PAPA SMILEY'S ANIMAL RESCUE  
& SANCTUARY  
22166 DAVIS DR  
EARLSBORO, OK 74840**

**Summary of Facts:** Respondent failed to renew their 2021 Oklahoma Animal Shelter License.

**Statute or Rule Violation:** 4 O.S. 30.04, 30.08 and OAC 35:55-1-10.

**Proposed Administrative Penalty:** The penalty was assessed at \$800. Respondent stipulated and paid the penalty in full.

**Deviations:** None.

**Other Actions Required:** None.

**OGC Attorney:** Richard D. Herren

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**

APR 26 2022

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

LINDA WEST and ANTHONY WEST  
PAPA SMILEY'S ANIMAL RESCUE  
& SANCTUARY  
2266 DAVIS DR  
EARLSBORO, OK 74840

RESPONDENT.

Case No: OGC-21-683

STIPULATION

Respondent accepts and stipulates to get licensed as a Commercial Pet Breeder, return the Commercial Pet Breeder Application, and pay the proposed administrative penalty or fine of **Eight Hundred Dollars (\$800.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

*Linda West*

Signature

Linda West

Printed Name and Title:

Date: 4/02/2022

**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. )**

**LINDA WEST and ANTHONY WEST )  
PAPA SMILEY'S ANIMAL RESCUE )  
& SANCTUARY )  
22166 DAVIS DR )  
EARLSBORO, OK 74840 )**

**RESPONDENT. )**

**Case No: OGC-21-683**

**FILED**

**FEB 28 2022**

**STATE BOARD OF AGRICULTURE**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

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

---

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

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

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the

Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pet breeding, located at 3636 St. Highway 89, Ringling, Oklahoma.

16. Pursuant to 4 O.S. §30.4, ODAFF has authority to regulate persons who operate a commercial pet breeder operation or rescue shelter.

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

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

### **ALLEGATIONS OF FACT**

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



20. The Respondents have failed to renew their Oklahoma Animal Shelter License by December 31, 2020.
21. On March 2, 2021, a Letter of Warning was sent to the Respondents requesting that corrective action be taken by April 5, 2021.
22. Respondent has failed to take corrective action or begin the process of renewing the shelter license.

### **ALLEGED CONCLUSIONS OF LAW**

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

### **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 **Eight Hundred Dollars (\$800.00)**.

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 15TH day of February, 2022.

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

*Richard D. Herren*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829\*

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 29 day of Feb, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

**LINDA WEST and ANTHONY WEST  
PAPA SMILEY'S ANIMAL RESCUE & SANCTUARY  
22166 DAVIS DR  
EARLSBORO, OK 74840**



---

Gina Blaylock

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

v.

**RESPONDENT.**

Page 8 of 8

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. ADAM BROCKREIDE  
Case File No: OGC-21-819**

**ADAM BROCKREIDE  
18126 COUNTY ROAD NS 226  
FREDERICK, OK 73542-9502**

**Summary of Facts:** A for cause use inspection was conducted by CPS in regards to applications made to cotton fields. Upon investigation it was discovered that Clash Selective Herbicide was applied to the cotton fields; Clash selective herbicide is not labeled to be applied to cotton fields after the emergence of crops. This is an application of herbicide off-label

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

**Proposed Administrative Penalty:** The penalty was assessed at \$1000. Respondent stipulated and paid the penalty in full.

**Deviations:** None.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

Adam Brockriede  
18053 CR. NS. 223  
Frederick, OK 73542

RESPONDENT.

Case No: OGC-21-819

**FILED**  
MAY 05 2022  
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One-Thousand Dollars (\$1000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Adam Brockriede  
Signature

Adam Brockriede Owner/Operator  
Printed Name and Title

Date 5-3-2022

**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.  
Adam Brockriede  
18053 CR. NS. 223  
Frederick, OK 73542**

**RESPONDENT.**

**FILED**

MAR 08 2022

**STATE BOARD OF AGRICULTURE**

**Case No: OGC-21-819**

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on May 12, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

---

<sup>1</sup> 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 18053 CR. NS. 223, Frederick, 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 16<sup>th</sup> day of August, 2021, the Consumer Protective Services Division of the Department performed a use inspection pertaining to applications made to cotton fields located in the NW ¼ of section 11-3S-15W and the SW ¼ of section 6-3S-15W.

19. Upon inspection of your records it was found that on July 17, 2021 you applied Clash Selective Herbicide (Dicamba) and Buccaneer (Glyphosphate) were applied over the top of the above mentioned fields.

20. Clash Selective Herbicide is not labeled to be applied to cotton fields after crop emergence.

### **ALLEGED CONCLUSIONS OF LAW**

21. Based upon the application of the above law to the aforementioned facts, You applied Clash Selective after the emergence of the crop in contradiction of what is allowed by the product labeling and in violation of the Oklahoma Combined Pesticide Law and Rules 2 O.S. §3-86(A)(4) which states: (A) “ It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture...”(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**

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

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

#### **ENFORCEMENT OF JUDGMENTS**

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

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. C EXPRESS**  
**Case File No: OGC-21-318**

**C EXPRESS**  
**2319 E LINDSEY**  
**NORMAN, OK 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 the first inspection.

**Statute or Rule Violation:** Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

**Proposed Administrative Penalty:** The proposed penalty for this case was 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

**FILED**  
MAY 16 2022  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT, )

v. )

Case No: OGC-21-318

C EXPRESS )  
2319 E LINDSEY )  
NORMAN, OK 73071 )

RESPONDENT. )

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

RISHIT KANGRA  
Printed Name

PRESIDENT  
Job Title

5/12/22  
Date

(405) 412 836 7

**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. )**

**C EXPRESS )  
2319 E LINDSEY )  
NORMAN, OK 73071 )**

**RESPONDENT. )**

**FILED**  
MAR 07 2022  
STATE BOARD OF AGRICULTURE

**Case No: OGC-21-318**

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on April 14, 2022, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

<sup>1</sup> 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 C Express, located at 2319 E. Lindsey, in Norman, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation following any twelve-month period in which no violation has been found will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

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

20. On or about January 29, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at C Express 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.

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

22. On or about July 01, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at C Express 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 to the Respondent.

### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

### **ATTORNEY CONFERENCES**

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

26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

### **STIPULATION**

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Two Hundred Twenty-Five Dollars (\$225.00). (3 violations at \$75.00 per violation).

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

DATED THIS 1 day of March, 2022.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 2 day of March, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**C EXPRESS CORPORATION  
2319 E LINDSEY ST.  
NORMAN, OK 73071**

*JS*

**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-21-318**

**C EXPRESS )  
2319 E LINDSEY )  
NORMAN, OK 73071 )**

**RESPONDENT. )**

**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 21-GMC-0031

DATE 1/29/2021

COUNTY Cleveland

LOCATION\*

CORPORATE

AGN NUMBER AGN0120418

AGN NUMBER \_\_\_\_\_

C Express

2319 E Lindsey

Norman

OK

73071-

MANAGER \_\_\_\_\_

INSPECTION TYP Initial

Original Insp#

TELEPHONE\* (405) 360-8985

Other Store Type \_\_\_\_\_

ITEM STATUS \_\_\_\_\_

TYPE OF STORE CONVENIENCE STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Plantars Cheez Balls 2.75 oz</u>	<u>029000023864</u>	<u>\$1.79</u>	<u>\$3.49</u>	<u>(\$1.70)</u>
<u>ritz crackers the original</u>	<u>044000069469</u>	<u>\$0.79</u>	<u>\$2.39</u>	<u>(\$1.60)</u>
<u>Kraft BBQ Sauce</u>	<u>021000052288</u>	<u>\$1.99</u>	<u>\$3.99</u>	<u>(\$2.00)</u>

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

REMARKS

WITNESS

INSPECTOR\*

Gersende Cazaux



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 21-GMC-0127

DATE\* 7/1/2021

COUNTY Cleveland

LOCATION\*

CORPORATE

AGN NUMBER AGN0120418

AGN NUMBER \_\_\_\_\_

C Express

2319 E Lindsey

Norman

OK

73071-

MANAGER \_\_\_\_\_

INSPECTION TYP Followup

Original Insp# 21-GMC-003

TELEPHONE\* (405) 360-8985

Other Store Type \_\_\_\_\_

ITEM STATUS \_\_\_\_\_

TYPE OF STORE CONVENIENCE STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Kinder Joy 0.7 oz</u>	<u>00985234</u>	<u>\$2.19</u>	<u>\$2.29</u>	<u>(\$0.10)</u>
<u>100 grand 1.05 oz</u>	<u>099900694235</u>	<u>\$1.39</u>	<u>\$1.59</u>	<u>(\$0.20)</u>
<u>Laffy Taffy 1.05 oz</u>	<u>079200144364</u>	<u>\$1.19</u>	<u>\$1.59</u>	<u>(\$0.40)</u>

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

REMARKS

#Error

WITNESS

Alpha Flowers

INSPECTOR\*

Gersende Cazaux



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. C EXPRESS**  
**Case File No: OGC-22-54**

**C EXPRESS**  
**2319 E LINDSEY**  
**NORMAN, OK 73071**

**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 Four Hundred Fifty Dollars (\$450.00). (3 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**  
MAY 16 2022  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT, )

v. )

Case No: OGC-22-54

C EXPRESS )  
2319 E LINDSEY )  
NORMAN, OK 73071 )

RESPONDENT. )

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Rishit Kangria  
Signature

RISHIT KANGRIA  
Printed Name

PRESIDENT  
Job Title

5/12/22  
Date

(405) 412 8367

**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. )

C EXPRESS )  
2319 E LINDSEY )  
NORMAN, OK 73071 )

RESPONDENT. )

**FILED**

MAR 10 2022

STATE BOARD OF AGRICULTURE

Case No: OGC-22-54

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on June 09, 2022, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

<sup>1</sup> 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 C Express, located at 2319 E Lindsey, in Norman, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A 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 January 29, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at C Express 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.

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 July 01, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at C Express 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).

24. On or about January 24, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at C Express 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.

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

### **ALLEGED CONCLUSIONS OF LAW**

26. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

### **ATTORNEY CONFERENCES**

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

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

### **ENFORCEMENT PROCEEDINGS**

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

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

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to

assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

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

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

### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

### **STIPULATION**

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Hundred Fifty Dollars (\$450.00). (3 violations at \$150.00 per violation).**

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



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

DATED THIS 10th day of March, 2022.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Wendi Morse, OBA # 33571  
✓ 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 10 day of March, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**C EXPRESS CORPORATION  
ATTN: LEGAL DEPARTMENT  
2319 E LINDSEY ST.  
NORMAN, OK 73071**



---

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-22-54**

**C EXPRESS )  
2319 E LINDSEY )  
NORMAN, OK 73071 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 22-GMC-0098

DATE\* 1/24/2022

COUNTY Cleveland

LOCATION\*

CORPORATE

AGN NUMBER AGN0120418

AGN NUMBER \_\_\_\_\_

C express

2319 E Lindsey

Norman

OK

73071-

MANAGER \_\_\_\_\_

INSPECTION TYP Followup

Original Insp# 21-GMC-012

TELEPHONE\* (405) 360-8985

Other Store Type \_\_\_\_\_

ITEM STATUS \_\_\_\_\_

TYPE OF STORE CONVENIENCE STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Carmex classic lip balm 0.25oz</u>	<u>083078113117</u>	<u>\$2.79</u>	<u>\$2.99</u>	<u>(\$0.20)</u>
<u>Tums Peppermint 12 tablets</u>	<u>30766074680</u>	<u>\$1.59</u>	<u>\$1.99</u>	<u>(\$0.40)</u>
<u>Planters Salted Peanuts 1.75oz</u>	<u>029000022119</u>	<u>\$0.69</u>	<u>\$0.79</u>	<u>(\$0.10)</u>

**COPY**

REC'D DHS  
FEB - 1 P 2:55

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

REMARKS

WITNESS

Maria S. [Signature]

INSPECTOR\*

[Signature]  
Gersende Cataux

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. COMPLETE PEST CONTROL**  
**Case File No: OGC-22-22**

**COMPLETE PEST CONTROL**  
**P.O. BOX 32683**  
**OKC, OK 73123**

**Summary of Facts:** A consumer complaint was filed against Respondent. ODAFF inspectors conducted a follow-up investigation on this complaint. Upon investigation of the consumer complaint inspectors requested a report of the inspection that Respondent conducted; when ODAFF received the report it was discovered that the report was incomplete and missing information, specifically page 4. Respondent had recommended that follow-up treatment be pursued despite the fact that the home was under a treatment plan already, specifically with a termite baiting system. By recommending a follow-up treatment on a home that had already had an existing termite treatment Respondent was in violation of the Rules and had filed an incomplete, inaccurate, or misleading report.

**Statute or Rule Violation:** O.A.C. 35:30-17-100

**Proposed Administrative Penalty:** The penalty was assessed at \$750. Respondent stipulated and paid the penalty in full.

**Deviations:** None.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

COMPLETE PEST CONTROL,  
P.O. BOX 32683  
OKLAHOMA CITY, OK 73123

RESPONDENT.

Case No: OGC-22-22

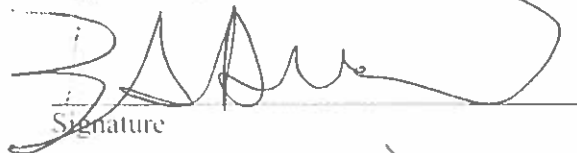
**FILED**  
MAY 16 2022  
STATE BOARD OF AGRICULTURE

STIPULATION

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

Brandon Dawson  
Printed Name and Title:

Date: 5/12/22

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

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

COMPLAINANT, )

v. )

COMPLETE PEST CONTROL )  
P.O. BOX 32683 )  
OKLAHOMA CITY, OK 73123 )

RESPONDENT. )

**FILED**

MAR 09 2022

STATE BOARD OF AGRICULTURE

Case No: OGC-22-22

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on May 12, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

---

<sup>1</sup> 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 application of pesticides in 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 under the Oklahoma Agricultural Code.

#### **35:30-17-100. Compliance and violations**

(a) Any wood infestation report (WIR) issued that is not in compliance with these rules shall be inaccurate, misleading, or fraudulent.

(b) Any person who issues a WIR that fails to comply with the provisions of these rules shall be in violation for failure to perform work according to minimum standards.

### **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 21<sup>st</sup> day of December, 2021, the Consumer Protective Services Division of the Department conducted an investigation based on a consumer complaint; this investigation was conducted at 616 Richmond Drive in Norman, OK.

19. Your company was hired to perform an ODAFF-I inspection at this property.

20. Our office requested your ODAFF01 inspection report and you supplied an incomplete ODAFF-I report, specifically page 4 of the ODAFF-I report was not complete.

21. You noted signs of termite activity in the home, and found that the home had previous treatment indicated by drill marks in the adjacent slabs and the bait stations around the home.

22. You made a recommendation for treatment because you found signs of termite activity, and no adequate treatment to address.

23. This home has been under a Sentricon Baiting System treatment since 2014, and the treatment contract was renewed for 2021.

24. A termite baiting system is considered a complete termite treatment, and a recommendation for treatment should not be made on a home that has an existing termite treatment unless live termites or recent termite activity is observed

#### **ALLEGED CONCLUSIONS OF LAW**

25. Based upon the application of the above law to the aforementioned facts, Respondent violated O.A.C. 35:30-17-100 by filing an incomplete, inaccurate, or misleading report.

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

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 15<sup>TH</sup> DAY OF FEBRUARY, 2022.

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

*Brady Robison*

Teena G. Ginter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

✓ Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 9 day of March, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

Complete Pest Control  
P.O. Box 32683  
Oklahoma City, OK 73123

GB.  
Gina Blaylock



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. EDKO**  
**Case File No: OGC-22-123**

**EDKO**  
**4615 Marlana St.**  
**Bossier City, LA 71111**

**Summary of Facts:** Respondent is an aerial applicator of pesticides. Based on a consumer complaint, CPS conducted an investigation into the application of controlled use pesticides and discovered the neighboring property to the application site was suffering effects of herbicide having been applied. Specifically 2, 4D and Triclopyr. Respondent was applying herbicide and wind-drift during the application caused damage to the neighboring property; respondent was applying in a negligent manner, and off label.

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

**Proposed Administrative Penalty:** The penalty was assessed at \$2500. Respondent stipulated and paid the penalty in full.

**Deviations:** None.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

EDKO  
4615 MARLENA ST  
BOSSIER CITY, LA 71111

RESPONDENT,

Case No: OGC-22-123

**FILED**  
MAY 10 2022  
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Thousand Five Hundred Dollars (\$2500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

*[Handwritten signature]*  
5/10-22

Signature

**Jeremy Gilbert**  
**Vice-President**

Printed Name and Title:

Date: **5/4/2022**



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

**FILED**  
APR 28 2022  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT, )

v. )

Case No: OGC-22-123

EDKO )  
4615 MARLENA ST )  
BOSSIER CITY, LA 71111 )

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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 9<sup>th</sup>, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

---

<sup>1</sup> 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 Enid, 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 23<sup>rd</sup> day of November, the Consumer Protection Services Division of the Department conducted an investigation as a result from a consumer complaint.

19. During this investigation, our investigator conducted his investigation at 1523 W. Main Street, 2105 W. Elm Street, and 2121 W. Elm Street, all in Enid Oklahoma. At each location our inspector noticed vegetation that was showing the effects of herbicide having been applied.

20. According to the application records of your company, you applied Garlon 4 Ultra and Arborlock to the right of way along Elm St. in Enid, OK, on November 15, 2021, and November 17, 2021.

21. Vegetation samples were taken from each location and tested. Trace amounts of 2,4-D and Triclopyr were detected in the sample taken from 2121 W. Elm St. A trace amount of 2,4-D and 4.86 ppm of Triclopyr were detected in the sample taken from your application area.

22. According to our investigation your application resulted in a drift/off target movement of Triclopyr onto the complainant's property.

### **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)(3) which reads:

- “(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.”

### **ATTORNEY CONFERENCES**

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

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

### STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Two Thousand Five Hundred Dollars (\$2500.00).

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 27<sup>TH</sup> day of APRIL, 2022.

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

*Brady Robison*

Teena G. Ginter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

✓ Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298


Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of Aug., 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**EDKO  
4615 MARLENA ST  
BOSSIER CITY, LA 71111**

  
\_\_\_\_\_  
Gina Blaylock



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

**EDKO**  
**4615 MARLENA ST**  
**BOSSIER CITY, LA 71111**

**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. EDKO**  
**Case File No: OGC-21-791**

**EDKO**  
**4615 Marlana St.**  
**Bossier City, LA 71111**

**Summary of Facts:** Respondent is an aerial applicator of pesticides. Based on a consumer complaint, CPS conducted an investigation into the application of controlled use pesticides and discovered the neighboring property to the application site was suffering effects of herbicide having been applied. Specifically Triclopyr. Respondent was applying herbicide and wind-drift during the application caused damage to the neighboring property; respondent was applying in a negligent manner, and off label.

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

**Proposed Administrative Penalty:** The penalty was assessed at \$2500. Respondent stipulated and paid the penalty in full.

**Deviations:** None.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
MAY 10 2022  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.  
EDKO  
4615 MARLENA ST  
BOSSIER CITY, LA 71111

RESPONDENT.

Case No: OGC-21-791

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Thousand and Five Hundred Dollars (\$2500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298

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

RESPONDENT:

*[Handwritten signature]*  
5-10-22

Signature

**Jeremy Gilbert**  
**Vice-President**

Printed Name and Title

Date: 5/4/2022

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
APR 28 2022  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT, )

v. )

Case No: OGC-21-791

EDKO )  
4615 MARLENA ST )  
BOSSIER CITY, LA 71111 )

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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 9<sup>th</sup>, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

<sup>1</sup> 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 Enid, 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 2<sup>nd</sup> day of August 2021, the Consumer Protective Services Division of the Department conducted an investigation based on a consumer complaint.

19. During this consumer complaint investigation, an inspection of 7209 N. Garland Road in Enid, OK was conducted. As a result of this investigation/inspection it was discovered that the complainant's trees and lawn were showing signs of herbicide having been applied.

20. These herbicidal effects were beyond the OG&E right of way and according to your application records your company applied Garlon 4 and Arborlock 2 SC Plant Growth Regulator to the right of way on April 4, 2021. A vegetative sample was taken from the application area and the complainant's property and Triclopyr was recovered in the analysis.

21. According to our investigation your application resulted in a drift/off target movement onto the complainant's property.

### **ALLEGED CONCLUSIONS OF LAW**

22. Based upon the application of the above law to the aforementioned facts, you applied herbicides in a negligent manner allowing drift onto the neighboring property. This is in violation of 2 O.S. §3-86(A)(3) 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: (3). A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.”

### **ATTORNEY CONFERENCES**

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

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

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

### **ENFORCEMENT PROCEEDINGS**

26. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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



### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

**STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Two Thousand Five Hundred (\$2500.00).

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 27<sup>TH</sup> day of April, 2022.

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

*Brady Robison*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

✓ Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 24 day of April, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**EDKO  
4615 MARLENA ST  
BOSSIER CITY, LA 71111**

  
\_\_\_\_\_  
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. )  
**EDKO** )  
**4615 MARLENA ST** )  
**BOSSIER CITY, LA 71111** )  
 )  
**RESPONDENT.** )

**Case No: OGC-21-791**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Thousand and Five Hundred Dollars (\$2500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. GREEN COVER SERVICES, LLC  
Case File No: OGC-22-17**

**Green Cover Services, LLC**  
**118 Harth Ave.**  
**Pnca City, OK 74601**

**Summary of Facts:** A referral/complaint was received from the Oklahoma Medical Marijuana Authority that a batch of medical marijuana had tested positive for pesticides. Upon investigating the grow operation, investigators discovered pesticide products in the storage area of the grow operation, specifically Monterey Garden Insect Spray, which contains Spinosad. The batch tested by OMMA contained Spinosad. Respondent was applying pesticide off label.

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

**Proposed Administrative Penalty:** The penalty was assessed at \$500. Respondent stipulated and paid the penalty in full.

**Deviations:** None.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
MAY 07 2022  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

GREEN COVER SERVICES LLC  
118 HARTH AVE.  
PONCA CITY, OK 74601

RESPONDENT.


Case No: OGC-22-17

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Five-Hundred Dollars (\$500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

  
Signature

Pedro Gracian / Manager  
Printed Name and Title:

Date: 05/02/2022

**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. )

GREEN COVER SERVICES LLC )  
118 HARTH AVE. )  
PONCA CITY, OK 74601 )

RESPONDENT. )

**FILED**

MAR 02 2022

Case No: OGC-22-17  
STATE BOARD OF AGRICULTURE

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

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

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

---

<sup>1</sup> 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 marijuana grow operations with the application of pesticides, located at 118 Harth Ave, Ponca City, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who 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 28<sup>th</sup> day of October, 2021, the Consumer Protection Services Division of the Department visited your grow operation following a complaint reported by the Oklahoma Medical Marijuana Authority. The report showed one of the batches you produced failed due to high levels of Spinosad, a pesticide. During the inspection the inspector found pesticide products located within the storage area. One of the products is not labeled to be used in medical marijuana production, specifically Monterey Garden Insect Spray, which contains Spinosad. Only products registered with ODAFF and labeled to be applied to hemp may be used with medical marijuana.

19. The Department found that you have been applying products inconsistent with the label of those products. This is a violation of Oklahoma Combined Pesticide Law & Rules 2 O.S. §3-86(A)(4).

### **ALLEGED CONCLUSIONS OF LAW**

20. Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. §3-86(A)(4) by applying pesticides to medical marijuana inconsistent with what is specified on the labeling.

### **ATTORNEY CONFERENCES**

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

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

25. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any

person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

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

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

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

#### **ENFORCEMENT OF JUDGMENTS**

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

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

### STIPULATION

33. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Five-Hundred Dollars (\$500.00)

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

DATED THIS 2 day of March, 2022.

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

*Brady Robison*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

✓ Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

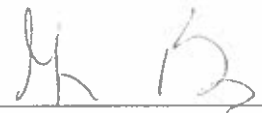
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 2 day of March, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

**GREEN COVER SERVICES LLC  
118 HARTH AVE.  
PONCA CITY, OK 74601**

  
\_\_\_\_\_  
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.**

**GREEN COVER SERVICES LLC  
118 HARTH AVE.  
PONCA CITY, OK 74601**

**RESPONDENT.**

**Case No: OGC-22-17**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of Five-Hundred Dollars (\$500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. RICH LAWNS**  
**Case File No: OGC-22-30**

**RICH LAWNS**  
**3225 N. Bryant Ave.**  
**Edmond, OK 73034**

**Summary of Facts:** A use inspection was conducted while Respondent was applying control use pesticide commercially at a business in Norman, OK. Upon inspection the investigator learned that the applicator was not licensed with ODAFF. The Respondent had previously been licensed in Oklahoma, but that license had expired in 2017.

**Statute or Rule Violation:** 2 O.S. §3-82(A)(1) and 2 O.S. §3-86(A)(15)

**Proposed Administrative Penalty:** The penalty was assessed at \$1500. Respondent stipulated and paid the penalty in full.

**Deviations:** None.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
MAY 20 2022  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

RICH LAWNS  
3225 N. Bryant Ave.  
Edmond, OK 73034

RESPONDENT.

Case No: OGC-22-30

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Five Hundred Dollars (\$1500.00)**, and bringing your applicator's license current 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

Brian Rich owner

Printed Name and Title:

Date: 5/16/2022



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

**FILED**

**APR 26 2022**

**STATE BOARD OF AGRICULTURE**

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

**COMPLAINANT,**

**v.**

**RICH LAWNS  
3225 N. Bryant Ave.  
Edmond, OK 73034**

**RESPONDENT.**

**Case No: OGC-22-30**

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 9, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

---

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

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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

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

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

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

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

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

18. On or about 17<sup>th</sup> day of December, 2021, the Consumer Protective Services Division of the Department performed a use inspection of your applicator actively applying product on a property located at 2417 W. Main, Norman, OK.

19. Our inspector observed your applicator making application of product to a property with an expired applicators license. This license was expired in 2017.

### **ALLEGED CONCLUSIONS OF LAW**

20. Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. 3-82(A)(1) and 2 O.S. 3-86(A)(15) by applying commercially products to a property without having a current, valid license issued by the ODAFF.

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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

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

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

#### **ENFORCEMENT OF JUDGMENTS**

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

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

#### **STIPULATION**

33. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Five-Hundred Dollars (\$1500.00)**, and bringing your applicator's license current.

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

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

DATED THIS 25<sup>TH</sup> DAY OF APRIL, 2022.

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

*Brady Robison*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

✓ Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

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 26 day of April, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

Rich Lawns  
3225 N. Bryant Ave.  
Edmond, OK 73034



Gina Blaylock

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

**Y.**

**RESPONDENT.**

**Case No: OGC-22-30**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Five Hundred Dollars (\$1500.00)**, and bringing your applicator's license current 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. JERRY NINE ERICK FEEDLOT  
Case File No. OGC 21-389**

**JERRY NINE  
ERICK FEEDLOT  
900 LAKEVIEW DRIVE  
WOODWARD, OK 73801**

**Summary of Facts:** A discharge occurred from the Respondent's facility into a nearby creek. Respondent remediated the discharge.

**Statute or Rule Violation:** 2 O.S. 20-48.

**Proposed Administrative Penalty:** The penalty was assessed at \$10,000. Respondent executed a Settlement Agreement and Consent Order and paid the penalty in full.

**Deviations:** None.

**Other Actions Required:** None.

**OGC Attorney:** Richard D. Herren

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

**FILED**  
MAY 13 2022  
STATE BOARD OF AGRICULTURE

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

**COMPLAINANT,**

**v.**

**Case No: OGC-21-389**

**JERRY NINE  
ERICK FEEDLOT  
900 LAKEVIEW DRIVE  
WOODWARD, OK 73801**

**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 Jerry Nine, dba Erick Feedlot (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Jerry Nine and located near Erick, Oklahoma (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 February 14, 2022, the Department issued a Notice of Violation in Case No. OGC-21-389, ("Notice") to the Facility, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

**ORDER AND AGREEMENT**

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Ten Thousand Dollars (\$10,000.00). Upon the execution of this agreement by both parties, payment shall immediately be made by Respondent

payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

Office of General Counsel  
Oklahoma Department of Agriculture, Food, and Forestry  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298

### **EFFECT OF THE AGREEMENT**

6. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
7. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
8. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

### **NO ADMISSION.**

9. This Agreement and any proceedings taken hereunder are not intended and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of any party. The parties hereto specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in this action and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

### **NON-ADMISSIBILITY.**

10. These settlement negotiations have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

### **HEARING WAIVER**

11. Respondent hereby agrees to waive its right to a hearing and its opportunity to appeal or contest this Agreement. Respondent enters into this Agreement freely and voluntarily.

### **NOTICE**

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

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

Richard D. Herreen  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298

For Erick Feedlot:

Jerry Nine  
900 Lakeview Drive  
Woodward, OK 730801

### **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



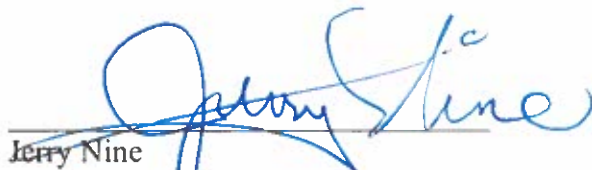
Richard D. Herren, Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-4668

COMPLAINANT

Date: May 12, 2022

- and by -

Erick Feedlot



Jerry Nine  
900 Lakeview Drive

Woodward, OK 73801

RESPONDENT

Date: 5/16/22

Don't forget **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. )

JERRY NINE )  
ERICK FEED LOT )  
900 LAKEVIEW DRIVE )  
WOODWARD, OK 73801 )

RESPONDENT. )

**FILED**

FEB 14 2022

STATE BOARD OF AGRICULTURE

Case No: OGC-21-389

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on April 14, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

---

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



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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

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

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

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

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

### **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 6, 2021 AEMS received a complaint about wastewater discharges from Erick Feedlot.

19. On July 12, 2021 an inspector confirmed that wastewater was discharged from Erick Feedlot.

20. On July 19, a Mr. Clugy notified the inspector of using a sludge pump to reclaim the wastewater.

21. On July 19, the inspector confirmed that the wastewater had been reclaimed from the creek.

22. On or about July 23, 2021, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding the discharge of process wastewater into a nearby creek.

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

#### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. 20-48 by discharging process wastewater into the waters of the state outside of the provisions of the Oklahoma Swine Feeding Operations Act.

#### **ATTORNEY CONFERENCES**

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

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

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

#### **ENFORCEMENT PROCEEDINGS**

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

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

29. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any

person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

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

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

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

#### **ENFORCEMENT OF JUDGMENTS**

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

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

### **STIPULATION**

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Ten Thousand Dollars (\$10,000.00).

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 14th day of February, 2022.

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

*Richard D. Herren*

---

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

**CERTIFICATE OF MAILING**

This is to certify that on this 14 day of Feb, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

**JERRY NINE  
ERICK FEED LOT  
900 LAKEVIEW DRIVE  
WOODWARD, OK 73801**

  
\_\_\_\_\_  
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.**

**JERRY NINE  
ERICK FEED LOT  
900 LAKEVIEW DRIVE  
WOODWARD, OK 73801**

**RESPONDENT.**

**Case No: OGC-21-389**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of Ten Thousand Dollars (\$10,000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. HELENA AGRA ENTERPRISES**

**Case File No. OGC-21-653**

**HELENA AGRA ENTERPRISES  
DBA HELENA CHEMICAL COMPANY – COWETA  
P.O. BOX 547 COWETA, OK 74429**

**Summary of Facts:** Respondent APPLIED Weed Rhap A-4D,4-D Amine Herbicide on a property adjacent to complainant's property. This property contains a medical marijuana grow operation. A buffer zone was not evident along the property line/northern edge of application area. The wind was blowing at four (4) miles per hour during application, causing drift onto the adjacent property and damaging crops.

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

**Proposed Administrative Penalty:** The penalty was assessed at \$1000; Respondent settled for this amount.

**Deviations:** This case was settled via settlement agreement. There was not a deviation from the original amount of the stipulation, the respondent did not want to plea "guilty" but rather a "nolo contendere" plea as to not further implicate themselves in the ongoing civil suit.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison



BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
MAR 17 2022  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT, )

v. )

HELENA AGRI-ENTERPRISES, LLC )  
DBA HELENA CHEMICAL COMPANY )  
PO BOX 547 )  
COWETA, OK 74429 )

RESPONDENT. )

Case No: OGC-21-653

**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 Helena Agri-Enterprises, LLC (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Helena Chemical Company and located at Coweta, OK (the "Facility").

**AUTHORITY**

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4 (A)(3).

**DEPARTMENT'S NOTICE**

4. On December 2, 2021, the Department issued a Notice of Violation in Case No. OGC-21-653, ("Notice") to the Facility, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

**ORDER AND AGREEMENT**

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of One Thousand Dollars (\$1000.00). Upon the execution of this agreement by both parties, payment shall immediately be made by Respondent payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

Office of General Counsel  
Oklahoma Department of Agriculture, Food, and Forestry  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298

### **EFFECT OF THE AGREEMENT**

6. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
7. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
8. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

### **NO ADMISSION.**

9. This Agreement and any proceedings taken hereunder are not intended and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of any party. The parties hereto specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in this action and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

### **NON-ADMISSIBILITY.**

10. These settlement negotiations have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

### **HEARING WAIVER**

11. Respondent hereby agrees to waive its right to a hearing and its opportunity to appeal or contest this Agreement. Respondent enters into this Agreement freely and voluntarily.

### **NOTICE**

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

### **MISCELLANEOUS**

13. This Agreement may be amended only by mutual agreement of the Department and Respondent. Such amendments shall be in writing, shall have as their effective date the date on which they are signed by both parties, and shall be incorporated into this agreement.
14. The undersigned representative of the Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondent understands that the Office of General Counsel Representative neither possesses the legal power to bind the Board nor can the Office of General Counsel Representative promise acceptance of this Agreement by the Board. Respondent understands that it may attend the meeting of the Board but is not required to do so.
15. Payment for the administrative penalty shall be presented upon the execution of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
16. In the event the Board accepts this Agreement, Respondent shall receive a copy of the Approval. Compliance with this Agreement shall constitute full and complete settlement.
17. In the event the Board does not approve this Agreement, then Respondent or the Department is free to make a counterproposal for the Board's consideration, or the Parties may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.

18. No breach of any provision of this Agreement can be waived by any undersigned party unless in writing. Waiver of any one breach by an undersigned party shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.

19. This Agreement shall be governed by the laws of the State of Oklahoma.

Executed by the Parties on the dates set forth below:

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

Brady Robison

Brady Robison, Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

COMPLAINANT

Date: 

- and by -

Jackson Walker, LLP

Robert V. Soza, Jr.

Robert Soza, Jr.  
Partner  
112 East Pecan St., Suite 2400  
San Antonio, TX 78205  
210-978-7718  
210-242-4618  
rsoza@jw.com

COUNSEL FOR RESPONDENT

Date: March 15, 2022

**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-21-653**

**HELENA AGRI-ENTERPRISES, LLC )  
DBA HELENA CHEMICAL COMPANY )  
PO BOX 547 )  
COWETA, OK 74429 )**

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, March 10, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

<sup>1</sup> 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 application of pesticides as Helena Agri-Enterprises/Helena Chemical Company, located in Coweta, 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. §3-86(A)(3)**

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

### **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 August 16, 2021, a complaint investigation was conducted at 11205 N. 320 Rd in Morris, OK, the property adjacent to the north of the pasture Respondent sprayed in the NE ¼ of section 15-14N-14E.
- ODAFF inspectors observed marijuana plants on the complainant's property exhibiting herbicide effects.
- Respondent's application records indicate that Weed Rhap A-4D 2,4-D Amine Herbicide was applied to the pasture south of the complainant's property on July 22, 2021 with a 4 mph south wind.
- A buffer zone was not evident along the northern edge of the application area.
- A vegetative sample was taken from the marijuana plants on the complainants property, and a trace amount of 2,4-D was recovered in the analysis.
- As a result of this investigation, it was concluded that Respondent's application resulted in an off-target drift of herbicide onto the property north of the application area.
- On or about September 24, 2021 a Letter of Warning that detailed the above violation was sent to Helena Agri-Enterprises/Helena Chemical Company.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. 3-86(A)(3) by applying a pesticide in a negligent manner, thereby causing an off-target drift.



### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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

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

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Dollars (\$1,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by

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

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

---

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Wendi Morse, OBA # 33571  
Kambi Maddy, OBA #13873  
Shelby Turner, OBA #34010  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**HELENA AGRI-ENTERPRISES  
DBA HELENA CHEMICAL COMPANY – COWETA  
P.O. BOX 547  
COWETA, OK 74429**

\_\_\_\_\_  
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.**

**HELENA AGRI-ENTERPRISES, LLC  
DBA HELENA CHEMICAL COMPANY  
P.O. BOX 547  
COWETA, OK 74429**

**RESPONDENT.**

**Case No: OGC-653**

**FILED**  
**MAR 17 2022**  
**STATE BOARD OF AGRICULTURE**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent 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

Robert L. Soza, Partner

Printed Name and Title

Date: March 15, 2022

**OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. MOSQUITO JOE OF TULSA**

**Case File No. OGC-21-513**

**MOSQUITO JOE OF TULSA  
13795 S. 309<sup>TH</sup> E. AVE.  
COWETA, OK 74429**

**Summary of Facts:** Respondent applied treatment to a property using a “fogger” type machine in contradiction of what the label allowed for. The wind caused wind drift on to the neighbor’s property where they were outside during the application.

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

**Proposed Administrative Penalty:** The penalty was assessed at \$750; Respondent paid the penalty in full.

**Deviations:** A settlement agreement was reached in this case. The Respondent had not had any prior interactions with the Department and has taken steps to alleviate any further issues with wind drift or misapplication of pesticides.

**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. )  
MOSQUITO JOE OF TULSA )  
13795 S. 309<sup>TH</sup> E. AVE. )  
COWETA, OK 74429 )**

**RESPONDENT. )**

**RECEIVED**

**APR 18 2022**

OFFICE OF GENERAL COUNSEL  
OKLA. DEPT OF AGRICULTURE

**Case No: OGC-21-513**

**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 Mosquito Joe of Tulsa (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Mosquito Joe of Tulsa and located at Coweta, OK (the "Facility").

**AUTHORITY**

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4 (A)(3).

**DEPARTMENT'S NOTICE**

4. On March 1, 2022, the Department issued a Notice of Violation in Case No. OGC-21-513, ("Notice") to the Facility, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

**ORDER AND AGREEMENT**

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Seven-Hundred and Fifty Dollars (\$750.00). Upon the execution of this agreement by both parties, payment shall immediately be made by Respondent payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

Office of General Counsel  
Oklahoma Department of Agriculture, Food, and Forestry  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298

### **EFFECT OF THE AGREEMENT**

6. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
7. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
8. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

### **NO ADMISSION.**

9. This Agreement and any proceedings taken hereunder are not intended and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of any party. The parties hereto specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in this action and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.



### **NON-ADMISSIBILITY.**

10. These settlement negotiations have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

### **HEARING WAIVER**

11. Respondent hereby agrees to waive its right to a hearing and its opportunity to appeal or contest this Agreement. Respondent enters into this Agreement freely and voluntarily.

### **NOTICE**

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

### **MISCELLANEOUS**

13. This Agreement may be amended only by mutual agreement of the Department and Respondent. Such amendments shall be in writing, shall have as their effective date the date on which they are signed by both parties, and shall be incorporated into this agreement.
14. The undersigned representative of the Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondent understands that the Office of General Counsel Representative neither possesses the legal power to bind the Board nor can the Office of General Counsel Representative promise acceptance of this Agreement by the Board. Respondent understands that it may attend the meeting of the Board but is not required to do so.
15. Payment for the administrative penalty shall be presented upon the execution of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
16. In the event the Board accepts this Agreement, Respondent shall receive a copy of the Approval. Compliance with this Agreement shall constitute full and complete settlement.
17. In the event the Board does not approve this Agreement, then Respondent or the Department is free to make a counterproposal for the Board's consideration, or the Parties may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.

18. No breach of any provision of this Agreement can be waived by any undersigned party unless in writing. Waiver of any one breach by an undersigned party shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.

19. This Agreement shall be governed by the laws of the State of Oklahoma.

Executed by the Parties on the dates set forth below:

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

Brady Robison

Brady Robison, Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

COMPLAINANT

Date: April 12, 2022

- and by -

Sam Dowell, Owner

Sam Dowell

Sam Dowell  
Mosquito Joe of Tulsa  
13795 S. 309<sup>th</sup> E. Ave.  
Coweta, OK 74429

Date: 4/12/2022

**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.**

**MOSQUITO JOE OF TULSA  
13795 S. 309<sup>TH</sup> E. AVE.  
COWETA, OK 74429**

**RESPONDENT.**

**FILED**

DEC 09 2021

STATE BOARD OF AGRICULTURE

**Case No: OGC-21-513**

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, March 10, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

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

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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides as Mosquito Joe of Tulsa, located at 13795 S. 309<sup>th</sup> E. Ave. in Coweta, 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. §3-86(A)(4)**

- 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.

## **2 O.S. §3-83(A)**

Every commercial and noncommercial applicator shall keep accurate records pertaining to pesticide activities, applications, and wood infestation reports, as required by the State Board of Agriculture. The records of the applicator shall be kept intact at the principal business location in this state for at least two (2) years after their date of expiration and copies shall be furnished to any authorized agent of the Board, immediately upon request in person, at any time during the regular business hours of the applicator. Copies of records shall be furnished to any authorized agent of the Board within seven (7) working days of a written request, in summary form, by mail, fax, e-mail, web site, or any other electronic media customarily used.

### **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 May 28, 2021, a complaint investigation was conducted at 3608 S. Wheeling Ave. in Tulsa, OK.
- The resident at this address reported that they were in their backyard at the time of Respondent's treatment to a neighboring property, which resulted in an application drift onto their property.
- Respondent's application records indicate that Bifen I/T, Martin's Permethrin SFR, and Tekko Pro IGR were applied to the neighboring lawn on May 24, 2021 using a Stihl SR 450 Power Blower.

- Respondent's application area is adjacent to the south of the complainant's property and Respondent's records indicate that the winds were 5 mph from the southeast during the application.
- None of the products applied were labeled for use in ultra-low volume or fogging equipment for turf applications. Tekko Pro IGR label allows for structural crack and crevice fogging only.
- Additionally, the application records received from Respondent indicated that Bifen I/T was used, but the EPA registration number provided (89442-23) was for Bifen 7.9F Select Insecticide.
- On or about August 4, 2021 a Letter of Warning that detailed the above violation was sent to Mosquito Joe of Tulsa.

#### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated 2 O.S. 3-86(A)(4) and 2 O.S. 3-83(A) by using a pesticide in a manner inconsistent with its label and keeping inaccurate application records.

#### **ATTORNEY CONFERENCES**

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

## **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

## **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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



### ENFORCEMENT OF JUDGMENTS

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

### INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### STIPULATION

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Dollars (\$1,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

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



---

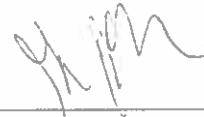
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574

Wendi Morse, OBA # 33571  
Kambi Maddy, OBA #13873  
✓ Shelby Turner, OBA #34010  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 9 day of Dec., 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**MOSQUITO JOE OF TULSA  
13795 S. 309<sup>TH</sup> E. AVE.  
COWETA, OK 74429**



---

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-21-513**

**MOSQUITO JOE OF TULSA )  
13795 S. 309<sup>TH</sup> E. AVE. )  
COWETA, OK 74429 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent 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. SUPERIOR TERMITE AND PEST CONTROL**

**Case File No: OGC-19-889, OGC-20-005, OGC-21-014, OGC-21-149, OGC-21-194, OGC-21-200, OGC-21-689, OGC-21-690, OGC-21-691, OGC-21-792**

**Superior Termite and Pest Control  
205 S. 85<sup>th</sup> E. Ave.  
Tulsa, OK 74112**

**Summary of Facts:** **OGC-19-889 & OGC-20-005** both have previously been approved by the Board but were subject to an appeal in the District Court of Tulsa County. Per this agreement, that appeal has been dismissed and the \$30,000.00 penalty assessed by the ALJ has been paid as part of this agreement on the remaining cases.

**OGC-21-014:** A use inspection of an application in Bixby returned with lower than acceptable residue levels for both the vertical and horizontal samples taken. The vertical samples came back with 1.42 and 2.54 ppm, the minimum acceptable is 10.00 ppm for vertical samples; 3.12 and 2.05 ppm for the horizontal samples were returned with a minimum of 5.0 ppm acceptable levels for horizontal levels. This resulted in a violation of OAC 35:30-17-73 & 2 O.S. §3-86(A)(2). The penalty assessed for this case is \$10,000.00. Respondent has paid in full.

**OGC-21-689:** A use inspection of an application in Owasso was conducted with lower than acceptable amounts of pesticide being present. Two horizontal and vertical samples were taken. The vertical samples returned with 5.25 and 6.25ppm, below the 10.0ppm threshold; the two horizontal samples came back with trace amounts of pesticide, well below the 5.0ppm threshold. This is a violation of OAC 35:30-17-73 & 2 O.S. §3-86(A)(2). The penalty for this case was assessed at \$15,000.00 and Respondent has paid in full.

**OGC-21-690:** A use inspection of an application in Broken Arrow was conducted with lower than acceptable amounts of pesticide being present. Two horizontal and vertical samples were taken. The vertical samples returned with trace and 1.81 ppm, well below the 10.0ppm threshold; the two horizontal samples came back with trace and .086 ppm, again, well below the 5.0ppm threshold. This resulted in a violation of OAC 35:30-17-73 & 2 O.S. §3-86(A)(2). The penalty assessed for this case was \$15,000.00 and Respondent has paid it in full.

Cases **OGC-21-149, 21-194, 21-200, 21-691 and 21-792** are all subject to a deferred prosecution agreement. As part of that agreement the cases will be dismissed at the end of one year providing that the Respondent completes the following conditions. The Respondent will have ensure that all applicators employed by Superior Termite and Pest Control to be certified and current with all certifications and licensing as required by the Rules and Statute; each applicator will go through pest school at their expense; Superior Termite and Pest Control will ensure that there are not any further infractions committed by the company or any of its applicators in their employ. The one year deferred agreement will begin upon approval of this order by the ODAFF Board. In the event of an infraction committed by Superior Termite and Pest Control during the one year deferred agreement, ODAFF will move forward on the cases subject to that agreement. As of this date, there are not any pending cases, other than the cases subject to the agreement, against Superior.

**Statute or Rule Violation:** OAC 35:30-17-73 & 2 O.S. §3-86(A)(2)

**Proposed Administrative Penalty:** The penalty was assessed at \$70,000.00; \$30,000 for the cases on appeal and \$40,000 for the current cases being considered. Respondent agreed to deviation below

**Deviations:** As part of a settlement agreement per the terms listed above, the Respondent has paid in full.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

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

**FILED**  
**APR 22 2022**  
**STATE BOARD OF AGRICULTURE**

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC-21-014, 21-149, 21-  
194, 21-200, 21-689, 21-690, 21-  
691, 21-792**

**Superior Termite and Pest Control )  
205 S. 85th E. Ave. )  
Tulsa, OK 74112 )**

**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 Superior Termite and Pest Control (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Brock Stockton and located at 205 S. 85<sup>th</sup> E. Ave., Tulsa, OK 74112 (the "Facility").

**AUTHORITY**

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(A)(2) and 2-4(A)(3).

**DEPARTMENT'S NOTICE**

4. On or about the 18<sup>th</sup> day of October, 2021, the Department issued a Notice of Violation in Case No. OGC-21-014, ("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.
5. On or about the 18th day of October, 2021, the Department issued a Notice of Violation in Case No. OGC-21-149, ("Notice") to the Facility, which is attached hereto as Exhibit B. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.
6. On or about the 29th day of December, 2021, the Department issued a Notice of Violation in Case No. OGC-21-194, ("Notice") to the Facility, which is attached hereto

as Exhibit C. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

7. On or about the 18<sup>th</sup> day of October, 2021, the Department issued a Notice of Violation in Case No. OGC-21-200, ("Notice") to the Facility, which is attached hereto as Exhibit D. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.
8. On or about the 16<sup>th</sup> day of December, 2021, the Department issued a Notice of Violation in Case No. OGC-21-689, ("Notice") to the Facility, which is attached hereto as Exhibit E. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.
9. On or about the 16<sup>th</sup> day of December, 2021, the Department issued a Notice of Violation in Case No. OGC-21-690, ("Notice") to the Facility, which is attached hereto as Exhibit F. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.
10. On or about the 20<sup>th</sup> day of December, 2021, the Department issued a Notice of Violation in Case No. OGC-21-691, ("Notice") to the Facility, which is attached hereto as Exhibit G. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.
11. On or about the 20<sup>th</sup> day of December, 2021, the Department issued a Notice of Violation in Case No. OGC-21-792, ("Notice") to the Facility, which is attached hereto as Exhibit H. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

### **ORDER AND AGREEMENT**

12. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Seventy Thousand Dollars (\$70,000.00). The cases to be settled upon the following terms:
  - The current cases, OGC-19-889 and OGC-20-005, currently pending appeal in Tulsa County District Court, are to be dismissed and the administrative penalty assessed by Administrative Law Judge Richard Herren (currently assessed at Thirty-Thousand Dollars (\$30,000.00) is to be paid in full. This penalty has previously been approved by the Board.
  - OGC Case numbers 21-149, 21-194, 21-200, 21-691, and 21-792 will be subject to a one (1) year deferred prosecution agreement. As part of said agreement Superior Termite agrees that within the one (1) year, all Superior Termite and Pest Control applicators will be licensed and complete the appropriate training in order to be fully compliant with the Rules promulgated by the Oklahoma Department of Agriculture, Food and Forestry, and the Statutes of Oklahoma, at Superior Termite and Pest Control cost. Additionally, Superior Termite and Pest Control agrees that there will not be any infractions committed by their applicators or the company as a whole. In exchange, the ODAFF will dismiss those cases subject to this deferred prosecution agreement. The one-year time begins to toll upon approval of the ODAFF Board.



- Superior Termite and Pest Control agrees to stipulate and pay the proposed administrative penalties on the following OGC case numbers:
  - OGC-21-014 with an administrative penalty of Ten-Thousand Dollars (\$10,000.00);
  - OGC-21-689 with an administrative penalty of Fifteen-Thousand Dollars (\$15,000.00) and;
  - OGC-21-690 with an administrative penalty of Fifteen-Thousand Dollars (\$15,000.00).
  - This totals Forty-Thousand Dollars (\$40,000.00) for the stipulated cases.
- Payment of the stipulation to the preceding three cases and the two cases on appeal are to be submitted with this signed agreement.
- In the event that ODAFF receives a complaint against Superior Termite and Pest Control, the ODAFF will move forward on the cases subject to the deferred prosecution agreement as well as any new case submitted for prosecution.
- As of the date of this agreement, April 5, 2022, there are not any known, pending cases against Superior Termite and Pest Control, other than the cases listed above.
- In summary, Superior Termite and Pest Control will dismiss the pending cases on appeal and pay the \$30,000 penalty on those two cases; they will stipulate to the cases listed and pay the \$40,000 in proposed penalties on the active cases not subject to the deferred prosecution agreement, for a total of \$70,000. The remaining cases are subject to a one-year deferred prosecution agreement and will be deferred until one-year after an approval by the ODAFF Board. At the end of that year, providing all conditions are met (no infractions in that year, and compliance in terms of applicators being within the rules and statutes), then the cases will be dismissed with prejudice as to refiling.

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

Payments submitted with the signed agreement are held in escrow until approved by the ODAFF Board at the next regularly scheduled meeting.

### **EFFECT OF THE AGREEMENT**

13. 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.

14. 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.
15. 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.**

16. 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.**

17. 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**

18. 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**

19. 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:

**SUPERIOR TERMITE AND PEST CONTROL  
205 S. 85TH E. AVE.  
TULSA, OK 74112**

With a copy emailed to:  
**Patrick Colvin  
Attorney for Respondent  
3800 First Place Tower  
15 East 5<sup>th</sup> Street  
Tulsa, OK 74103-4309**

#### **MISCELLANEOUS**

20. 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.
21. 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.
22. 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.
23. 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.
24. 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.

25. 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.

26. 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

COMPLAINANT

Date: April 5, 2022

- and by -

Jones Gotcher & Bogan, P.C

Patrick G. Colvin

Patrick Colvin  
Attorney for Respondent  
3800 First Place Tower  
15 East 5<sup>th</sup> Street  
Tulsa, OK 74103-4309

COUNSEL FOR RESPONDENT

Date: April 16<sup>th</sup> 2022

**Exhibit A-H**

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

**FILED**

OCT 14 2021

[STATE BOARD OF AGRICULTURE

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

**COMPLAINANT,**

**v.**

**SUPERIOR TERMITE & PEST  
205 S 85<sup>TH</sup> E AVE.  
TULSA, OK 74112**

**RESPONDENT.**

**Case No: OGC-21-014**

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **10:00 am on Thursday, December 9, 2021 via telephone** 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.

---

<sup>1</sup> 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 application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

#### **OAC 35:30-17-73**

- (a) All pesticide applications shall follow the pesticide label instructions including the application rates and methods. Treatments using less than label recommended concentrations at higher volume or higher concentrations at reduced volume applications are prohibited for pre-construction treatments. A written contract shall be provided that conforms with all requirements for contracts issued in the Structural Pest Category. In addition, the contract shall include the total square footage treated, the total linear feet treated, and any additional information required.
- (b) Pretreatment of main slab areas (including attached garages) is as follows:
  - (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers.
  - (2) Horizontal barriers shall be established.
  - (3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label. When trenching cannot be performed due to elements of construction (i.e. coarse aggregate fill, rebar, etc.) the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.



- (4) Treatment shall not be made when the soil or fill is excessively wet or when rain is imminent.
- (5) Precautions shall be taken to prevent disturbance of the treated areas by human or animal contact or prolonged exposure to the weather.
- (6) Immediately after completion of treatment to the main slab area, each termite pretreatment shall be stenciled or a sticker or tag permanently affixed to one of the stubouts in an area which will be readily accessible. The stencil, sticker, or tag shall identify the company, date of treatment, and termiticide used.
- (c) Pretreatment of adjacent slabs, i.e., porches, patios, entrance pads, walkways, driveways, etc., shall be as follows:
  - (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions for application, to the adjacent slabs which abut the main structure.
  - (2) Treatment and precautions shall meet the requirements in (b)(2) and (b)(3) of this Section.
- (d) Pretreatment of outside foundations shall be as follows:
  - (1) Treatment shall be applied to the soil by trenching or trenching and rodding into the bottom of the trench around the entire outside foundation of the structure after the final grade has been established. This treatment shall be performed within 30 days of notification of completion of landscaping or one year from the date of completion of construction, whichever comes first.
  - (2) Where trenching is not possible due to rocks, concrete, gutters, etc., the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.
  - (3) Where outside foundations (stem walls) have 12" or more of exposed concrete extending above the outside final grade, the outside foundation treatment may be omitted.
- (e) Pretreatment of crawl space construction shall be made in the same manner as described in the minimum standards for existing structures (SEE PART 15 of this Chapter).
- (f) Any treatment that does not meet all of the minimum standards for pretreatments under concrete slab or crawl space is considered "Partial Pretreats" and is not acceptable. In the event a portion of a structure is not treated through no fault of the applicator, it will be stated in the pretreat documentation and the contract signed by the contractor (home builder), and include specific reasoning why the area was not treated.
- (g) Pesticide applicators must issue Form NPCA-99b to the builder as an attachment to the contract.

### **ALLEGATIONS OF FACT**

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

- On or about December 8, 2020, ODAFF conducted an inspection of the termite pretreat site located at 12612 S. Maplewood in Bixby, OK.

- i. As a result of this inspection, two horizontal samples and two vertical samples were taken.
- ii. 3.12 and 2.05 ppm imidacloprid was recovered in the two horizontal samples taken.
- iii. The minimum acceptable residue level for a horizontal sample is 5.00 ppm.
- iv. 1.42 and 2.64 ppm imidacloprid was recovered in the two vertical samples.
- v. The minimum acceptable residue level for a vertical sample is 10.00 ppm.
- vi. On or about February 1, 2021, a Letter of Warning that detailed the above violation was sent to Respondent.

#### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated OAC 35:30-17-73 by failing to apply the appropriate level of pesticide.

#### **ATTORNEY CONFERENCES**

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

#### **ENFORCEMENT PROCEEDINGS**

21. Enforcement proceedings may include but are not limited to:
  - a.) Administrative fines or penalties;

- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

#### **ENFORCEMENT OF JUDGMENTS**

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

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Ten Thousand Dollars (\$10,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

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



---

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Wendi Morse, OBA # 33571  
Kambi Maddy, OBA #13873  
✓Shelby Turner, OBA #34010  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 14 day of OCT., 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SUPERIOR TERMITE & PEST  
205 S. 85<sup>TH</sup> E AVE  
TULSA, OK 74112**

**PATRICK COLVIN  
JONES, GOTCHER & BOGAN, P.C.  
VIA EMAIL  
PCOLVIN@JONESGOTCHER.COM**



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-21-014**

**SUPERIOR TERMITE & PEST )  
205 S. 85<sup>TH</sup> E AVE. )  
TULSA, OK 74112 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Ten Thousand Dollars (\$10,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent 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.**

**SUPERIOR TERMITE & PEST  
205 S 85<sup>TH</sup> E AVE.  
TULSA, OK 74112**

**RESPONDENT.**

**FILED**

**DEC 29 2021**

**STATE BOARD OF AGRICULTURE**

**Case No: OGC-21-689**

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, April 14, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

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

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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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



## **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **OAC 35:30-17-73**

- (a) All pesticide applications shall follow the pesticide label instructions including the application rates and methods. Treatments using less than label recommended concentrations at higher volume or higher concentrations at reduced volume applications are prohibited for pre-construction treatments. A written contract shall be provided that conforms with all requirements for contracts issued in the Structural Pest Category. In addition, the contract shall include the total square footage treated, the total linear feet treated, and any additional information required.
- (b) Pretreatment of main slab areas (including attached garages) is as follows:
  - (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers.
  - (2) Horizontal barriers shall be established.
  - (3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label. When trenching cannot be performed due to elements of construction (i.e. coarse aggregate fill, rebar, etc.) the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.
  - (4) Treatment shall not be made when the soil or fill is excessively wet or when rain is imminent.
  - (5) Precautions shall be taken to prevent disturbance of the treated areas by human or animal contact or prolonged exposure to the weather.
  - (6) Immediately after completion of treatment to the main slab area, each termite pretreatment shall be stenciled or a sticker or tag permanently affixed to one of the

stubouts in an area which will be readily accessible. The stencil, sticker, or tag shall identify the company, date of treatment, and termiticide used.

(c) Pretreatment of adjacent slabs, i.e., porches, patios, entrance pads, walkways, driveways, etc., shall be as follows:

(1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions for application, to the adjacent slabs which abut the main structure.

(2) Treatment and precautions shall meet the requirements in (b)(2) and (b)(3) of this Section.

(d) Pretreatment of outside foundations shall be as follows:

(1) Treatment shall be applied to the soil by trenching or trenching and rodding into the bottom of the trench around the entire outside foundation of the structure after the final grade has been established. This treatment shall be performed within 30 days of notification of completion of landscaping or one year from the date of completion of construction, whichever comes first.

(2) Where trenching is not possible due to rocks, concrete, gutters, etc., the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.

(3) Where outside foundations (stem walls) have 12" or more of exposed concrete extending above the outside final grade, the outside foundation treatment may be omitted.

(e) Pretreatment of crawl space construction shall be made in the same manner as described in the minimum standards for existing structures (SEE PART 15 of this Chapter).

(f) Any treatment that does not meet all of the minimum standards for pretreatments under concrete slab or crawl space is considered "Partial Pretreats" and is not acceptable. In the event a portion of a structure is not treated through no fault of the applicator, it will be stated in the pretreat documentation and the contract signed by the contractor (home builder), and include specific reasoning why the area was not treated.

(g) Pesticide applicators must issue Form NPCA-99b to the builder as an attachment to the contract.

## **2 O.S. 3-86(A)(2)**

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:

2. A person has negligently used methods or pesticides that are ineffective or improper for the purpose for which they have been employed.

### **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 June 24, 2021, ODAFF conducted an inspection of the termite pretreat site located at 13012 E. 118<sup>th</sup> Ct. N. in Owasso, OK.
  - i. As a result of this inspection, two horizontal samples and two vertical samples were taken.
  - ii. The two horizontal samples had only a trace amount of Imidacloprid.
  - iii. 5.25 and 6.25 ppm Imidacloprid was recovered in the two vertical samples.
  - iv. The minimum acceptable residue level for a horizontal sample is 5.00 ppm.
  - v. The minimum acceptable residue level for a vertical sample is 10.00 ppm.
  - vi. On or about October 29, 2021, a Letter of Warning that detailed the above violation was sent to Respondent.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated OAC 35:30-17-73 and 2 O.S. 3-86(A)(2) by failing to meet the minimum standards required for termite pre-treat sites.

### **ATTORNEY CONFERENCES**

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

## **ENFORCEMENT OF JUDGMENTS**

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

## **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

## **STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Fifteen Thousand Dollars (\$15,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

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



Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA #13873  
✓ Shelby Turner, OBA #34010  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 29 day of Dec, 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SUPERIOR TERMITE & PEST  
205 S. 85<sup>TH</sup> E AVE  
TULSA, OK 74112**



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-21-689**

**SUPERIOR TERMITE & PEST )  
205 S. 85<sup>TH</sup> E AVE. )  
TULSA, OK 74112 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Fifteen Thousand Dollars (\$15,000)** 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.**

**SUPERIOR TERMITE & PEST  
205 S 85<sup>TH</sup> E AVE.  
TULSA, OK 74112**

**RESPONDENT.**

**FILED**

**DEC 29 2021**

**STATE BOARD OF AGRICULTURE**

**Case No: OGC-21-690**

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, April 14, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

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

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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

#### **OAC 35:30-17-73**

- (a) All pesticide applications shall follow the pesticide label instructions including the application rates and methods. Treatments using less than label recommended concentrations at higher volume or higher concentrations at reduced volume applications are prohibited for pre-construction treatments. A written contract shall be provided that conforms with all requirements for contracts issued in the Structural Pest Category. In addition, the contract shall include the total square footage treated, the total linear feet treated, and any additional information required.
- (b) Pretreatment of main slab areas (including attached garages) is as follows:
  - (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers.
  - (2) Horizontal barriers shall be established.
  - (3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label. When trenching cannot be performed due to elements of construction (i.e. coarse aggregate fill, rebar, etc.) the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.
  - (4) Treatment shall not be made when the soil or fill is excessively wet or when rain is imminent.
  - (5) Precautions shall be taken to prevent disturbance of the treated areas by human or animal contact or prolonged exposure to the weather.
  - (6) Immediately after completion of treatment to the main slab area, each termite pretreatment shall be stenciled or a sticker or tag permanently affixed to one of the

stubouts in an area which will be readily accessible. The stencil, sticker, or tag shall identify the company, date of treatment, and termiticide used.

(c) Pretreatment of adjacent slabs, i.e., porches, patios, entrance pads, walkways, driveways, etc., shall be as follows:

(1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions for application, to the adjacent slabs which abut the main structure.

(2) Treatment and precautions shall meet the requirements in (b)(2) and (b)(3) of this Section.

(d) Pretreatment of outside foundations shall be as follows:

(1) Treatment shall be applied to the soil by trenching or trenching and rodding into the bottom of the trench around the entire outside foundation of the structure after the final grade has been established. This treatment shall be performed within 30 days of notification of completion of landscaping or one year from the date of completion of construction, whichever comes first.

(2) Where trenching is not possible due to rocks, concrete, gutters, etc., the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.

(3) Where outside foundations (stem walls) have 12" or more of exposed concrete extending above the outside final grade, the outside foundation treatment may be omitted.

(e) Pretreatment of crawl space construction shall be made in the same manner as described in the minimum standards for existing structures (SEE PART 15 of this Chapter).

(f) Any treatment that does not meet all of the minimum standards for pretreatments under concrete slab or crawl space is considered "Partial Pretreats" and is not acceptable. In the event a portion of a structure is not treated through no fault of the applicator, it will be stated in the pretreat documentation and the contract signed by the contractor (home builder), and include specific reasoning why the area was not treated.

(g) Pesticide applicators must issue Form NPCA-99b to the builder as an attachment to the contract.

## **2 O.S. 3-86(A)(2)**

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:

2. A person has negligently used methods or pesticides that are ineffective or improper for the purpose for which they have been employed.

### **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 August 23, 2021, ODAFF conducted an inspection of the termite pretreat site located at 711 E. Delmar Pl. in Broken Arrow, OK.
  - i. As a result of this inspection, two horizontal samples and two vertical samples were taken.
  - ii. A trace amount of Imidacloprid was recovered in one horizontal sample and .086 in the other horizontal sample.
  - iii. A trace amount of Imidacloprid was recovered in one vertical sample and 1.81 in the other horizontal sample.
  - iv. The minimum acceptable residue level for a horizontal sample is 5.00 ppm.
  - v. The minimum acceptable residue level for a vertical sample is 10.00 ppm.
  - vi. On or about October 19, 2021, a Letter of Warning that detailed the above violation was sent to Respondent.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated OAC 35:30-17-73 and 2 O.S. 3-86(A)(2) by failing to meet the minimum standards required for termite pre-treat sites.

### **ATTORNEY CONFERENCES**

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

19. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
20. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

21. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

## ENFORCEMENT OF JUDGMENTS

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

## INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

## STIPULATION

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Fifteen Thousand Dollars (\$15,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

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




Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA #13873  
✓Shelby Turner, OBA #34010  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789



**CERTIFICATE OF MAILING**

This is to certify that on this 24<sup>th</sup> day of Dec., 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SUPERIOR TERMITE & PEST  
205 S. 85<sup>TH</sup> E AVE  
TULSA, OK 74112**



\_\_\_\_\_  
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-21-690**

**SUPERIOR TERMITE & PEST )  
205 S. 85<sup>TH</sup> E AVE. )  
TULSA, OK 74112 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Fifteen Thousand Dollars (\$15,000)** 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.**

**SUPERIOR TERMITE & PEST  
205 S 85<sup>TH</sup> E AVE.  
TULSA, OK 74112**

**RESPONDENT.**

**Case No: OGC-21-149**

**FILED**  
JUL 14 2021  
STATE BOARD OF AGRICULTURE

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, October 14, 2021** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd. Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

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

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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

#### **OAC 35:30-17-73**

- (a) All pesticide applications shall follow the pesticide label instructions including the application rates and methods. Treatments using less than label recommended concentrations at higher volume or higher concentrations at reduced volume applications are prohibited for pre-construction treatments. A written contract shall be provided that conforms with all requirements for contracts issued in the Structural Pest Category. In addition, the contract shall include the total square footage treated, the total linear feet treated, and any additional information required.
- (b) Pretreatment of main slab areas (including attached garages) is as follows:
  - (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers.
  - (2) Horizontal barriers shall be established.
  - (3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label. When trenching cannot be performed due to elements of construction (i.e. coarse aggregate fill, rebar, etc.) the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.
  - (4) Treatment shall not be made when the soil or fill is excessively wet or when rain is imminent.
  - (5) Precautions shall be taken to prevent disturbance of the treated areas by human or animal contact or prolonged exposure to the weather.
  - (6) Immediately after completion of treatment to the main slab area, each termite pretreatment shall be stenciled or a sticker or tag permanently affixed to one of the

stubouts in an area which will be readily accessible. The stencil, sticker, or tag shall identify the company, date of treatment, and termiticide used.

(c) Pretreatment of adjacent slabs, i.e., porches, patios, entrance pads, walkways, driveways, etc., shall be as follows:

(1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions for application, to the adjacent slabs which abut the main structure.

(2) Treatment and precautions shall meet the requirements in (b)(2) and (b)(3) of this Section.

(d) Pretreatment of outside foundations shall be as follows:

(1) Treatment shall be applied to the soil by trenching or trenching and rodding into the bottom of the trench around the entire outside foundation of the structure after the final grade has been established. This treatment shall be performed within 30 days of notification of completion of landscaping or one year from the date of completion of construction, whichever comes first.

(2) Where trenching is not possible due to rocks, concrete, gutters, etc., the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.

(3) Where outside foundations (stem walls) have 12" or more of exposed concrete extending above the outside final grade, the outside foundation treatment may be omitted.

(e) Pretreatment of crawl space construction shall be made in the same manner as described in the minimum standards for existing structures (SEE PART 15 of this Chapter).

(f) Any treatment that does not meet all of the minimum standards for pretreatments under concrete slab or crawl space is considered "Partial Pretreats" and is not acceptable. In the event a portion of a structure is not treated through no fault of the applicator, it will be stated in the pretreat documentation and the contract signed by the contractor (home builder), and include specific reasoning why the area was not treated.

(g) Pesticide applicators must issue Form NPCA-99b to the builder as an attachment to the contract.

### **ALLEGATIONS OF FACT**

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

- On or about March 3, 2021, ODAFF conducted an inspection of the termite pretreat site located at 322 W. 130<sup>th</sup> Pl. in Jenks, OK.
  - i. As a result of this inspection, two horizontal samples and two vertical samples were taken.

- ii. 2.59 and 2.79 ppm imidacloprid was recovered in the two horizontal samples.
- iii. The minimum acceptable residue level for a horizontal sample is 5.00 ppm.
- iv. 4.64 and 5.29 ppm imidacloprid was recovered in the two vertical samples.
- v. The minimum acceptable residue level for a vertical sample is 10.00 ppm.
- vi. On or about April 13, 2021, a Letter of Warning that detailed the above violation was sent to Respondent.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated OAC 35:30-17-73 by failing to apply the appropriate level of pesticide.

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

- 21. Enforcement proceedings may include but are not limited to:
  - a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and

d.) Civil actions.

22. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
23. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
24. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

#### **ENFORCEMENT OF JUDGMENTS**

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

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.



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

**STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Ten Thousand Dollars (\$10,000.00)**.

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

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



---

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Wendi Morse, OBA # 33571

Kambi Maddy, OBA #13873

✓ Shelby Turner, OBA #34010

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

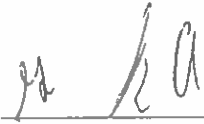
Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 14 day of July, 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SUPERIOR TERMITE & PEST  
205 S. 85<sup>TH</sup> E AVE  
TULSA, OK 74112**

  
\_\_\_\_\_  
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-21-149**

**SUPERIOR TERMITE & PEST )  
205 S. 85<sup>TH</sup> E AVE. )  
TULSA, OK 74112 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Ten Thousand Dollars (\$10,000)** 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.**

**SUPERIOR TERMITE & PEST  
205 S 85<sup>TH</sup> E AVE.  
TULSA, OK 74112**

**RESPONDENT.**

**Case No: OGC-21-194**

**FILED**  
**JAN 05 2022**  
**STATE BOARD OF AGRICULTURE**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, April 14, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

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

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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

#### **OAC 35:30-17-100**

- (a) Any wood infestation report (WIR) issued that is not in compliance with these rules shall be inaccurate, misleading, or fraudulent.
- (b) Any person who issues a WIR that fails to comply with the provisions of these rules shall be in violation for failure to perform work according to minimum standards.

#### **OAC 35:30-17-106**

- (a) Upon completion of an inspection for a WIR, the inspector shall post a durable sign adjacent to the water heater or electric breaker box, beneath the kitchen sink, or in the bath trap that includes the name and address of the inspector, the date of inspection, the purpose of the inspection, and a statement indicating the posted notice shall not be removed under penalty of law.
- (b) Any person removing or defacing a posted inspection notice shall be in violation of this section.
- (c) The sign shall have a minimum size of two (2) inches by four (4) inches and shall be self sticking.

#### **OAC 35:30-17-21**

- (a) Commercial and non-commercial applicators shall keep accurate records pertaining to pesticide activities, which, at a minimum, show:
  - (1) Start and stop time of application.
  - (2) Total amount of pesticide used.

- (3) Name and address of the commercial or non-commercial company.
- (4) Name and address of person for whom applied.
- (5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
- (6) Date of application.
- (7) Application rate.
- (8) Dilution rate for mixing.
- (9) Total quantity tank mix used.
- (10) Complete trade name of pesticide product used.
- (11) EPA registration number of pesticide product used.
- (12) Name of adjuvants used when the label requires specific adjuvants.
- (13) Name of drifting agents used when the label requires specific drifting agents.
- (14) Target pest for the application.
- (15) Site where the pesticide was applied.
- (16) Restricted Entry Interval as stated on the product label.
- (17) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
- (18) Copies of any contracts issued.
- (19) Copies of any wood infestation reports issued.
- (20) Other information as required by the Board.
- (b) Private applicators of restricted use pesticides shall keep accurate records pertaining to applications, which, at a minimum, show:
  - (1) Start and stop time of application.
  - (2) Total amount of pesticide used.
  - (3) Name and address of the private applicator.
  - (4) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
  - (5) Date of application.
  - (6) Application rate.
  - (7) Dilution rate for mixing.
  - (8) Total quantity tank mix used.
  - (9) Complete trade name of pesticide product used.
  - (10) EPA registration number of pesticide product used.
  - (11) Name of adjuvants used when the label requires specific adjuvants.
  - (12) Name of drifting agents used when the label requires specific drifting agents.
  - (13) Target pest for the application.
  - (14) Site where the pesticide was applied.
  - (15) Restricted Entry Interval as stated on the product label.
  - (16) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
  - (17) Other information as required by the Board.
- (c) Restricted use pesticide dealers shall keep accurate records of restricted use pesticide sales, which, at a minimum show:
  - (1) Complete brand name of the pesticide.
  - (2) EPA registration number of the pesticide.
  - (3) Date the pesticide was sold.

- (4) Total amount of restricted use pesticide sold.
- (5) Name of the person to whom sold.
- (6) Name and license or certification number of the certified or private applicator.
- (7) Other information as required by the Board.
- (d) Failure to allow inspection of records by the Board, to provide copies of records to the Board when requested in person, or to provide a summary of records to the Board within seven (7) working days when requested by mail or in person shall be a violation of this section.
- (e) Records retained pursuant to this section shall be easily accessible for inspection by authorized agents of the Board during reasonable business hours.
- (f) Commercial and non-commercial applicators shall maintain records retained pursuant to this section at their principle place of business. A commercial or non-commercial applicator's principle place of business shall not be located in a closed gated community or at a residence unless the applicator submits a plan of access to the principle place of business and that plan is approved by the Board.

#### **OAC 35:30-17-67**

- (a) Voids shall be drilled or otherwise entered and treated. Drill holes shall be securely plugged after treatment except in crawl spaces, unless required by the label. Application pressure shall not exceed 25 psi.
- (b) Masonry veneer voids shall be entered and treated.
  - (1) Veneer resting on unbroken concrete that extends more than twelve inches (12") above the outside grade shall not require treatment.
  - (2) Masonry veneer shall be treated by drilling at intervals no greater than sixteen inches (16") and applying termiticide into the void at the label rate.
  - (3) The treatment holes shall be no higher than the level of the top of the slab.
- (c) Voids in a given row of a concrete block wall, except those sitting on an unbroken concrete slab floor, shall be drilled or entered and treated.
  - (1) Drilling may follow the grade contour, but shall not be made in the bottom row of blocks. The concrete blocks that sit on an unbroken concrete slab floor shall not be drilled and treated. Where termite activity is present, the floor slab shall be drilled or rodded underneath.
  - (2) Where concrete block foundations have adequate openings at the top, treatment may be applied at the opening in lieu of drilling so long as stated in the contract.
- (d) Chimneys shall be treated in all critical areas.
  - (1) Critical areas to be treated are the expansion joints between the floor slab and stem wall, the fireplace and chimney base and stemwall, and the outer voids.
  - (2) The fireplace and chimney base and stemwall may be treated by long rodding.

#### **OAC 35:30-17-69**

- (a) The minimum standard for existing structure concrete slabs shall include the following:



- (1) Termiticide shall be injected immediately under and adjacent to the slab at the rate specified on the label by drilling and treating to create a continuous barrier between the soil and the outside perimeter walls of the structure. Use of a sub-slab injector or similar device to prevent backflow is recommended. All drill holes shall be securely plugged. Application pressure shall not exceed 25 psi. Monolithic, supported slab with thickened perimeter or post tension slabs, with or without footing, shall be treated by drilling only in areas where known cracks exist.
- (2) Where evidence of termite infestation exists on interior walls, the slab shall be treated by drilling the slab and treating the soil under the slab at the base of the wall where the termite activity is present and continue for a minimum of three (3) feet in at least two (2) directions from the termite activity. The treatment may be performed on either side of the wall if construction elements prevent treatment on the side of termite activity, so long as the reason for treating only one side of the treatment is discussed on the contract and the customer consents in writing.
- (3) Maximum spacing for drilling shall be twelve inches (12") except where long rodding of the perimeter is performed.
- (4) Termiticide shall not be applied to any area intended as a plenum air space unless permitted by the label.
- (5) Soil applied termiticide shall not be used to treat any structure containing a well or cistern unless allowed by the label.
- (6) Basement concrete slab floors shall not be drilled and treated unless there is evidence of termite infestation in the basement area.
- (7) Where wooden parts are resting on known cracked concrete or expansion joints, including but not limited to garage floor, patio, porches, or interior, holes shall be drilled on one or both sides of the wooden part and the soil below treated. Where wood parts extend into or through concrete slab or are adjacent to an expansion joint, the slab adjacent to the wood part shall be drilled at a maximum of twelve inch (12") intervals on one or both sides and treated.
- (8) Dirt filled porches, entry platforms, sidewalks, patios, and other similar areas shall be treated by drilling or rodding. If drilled, holes shall not be in excess of twelve inches (12") apart.
- (b) These minimum standards shall not be written out of a contract.

**OAC 35:30-17-69.2(B)(3)**

(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.

### **ALLEGATIONS OF FACT**

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

- On or about April 20, 2021, a termite complaint investigation was performed by the Oklahoma Department of Agriculture, Food, and Forestry.
- Respondent performed an ODAFF 1 wood infestation report, liquid termite treatments, and installed a termite baiting system at 13900 S. Dogwood St. in Glenpool, OK 74033.
  - i. Respondent's ODAFF 1 report indicated that there was evidence of a previous treatment, but that Respondent did not complete the graph on the report showing where the evidence was found.
  - ii. Respondent's ODAFF 1 report is dated December 15, 2019, which does not match the December 4, 2019 date on the complaint inspection notice sticker that was posted at the home.
- Further, Respondent's application records indicate the following:
  - 1. that a conventional treatment was performed at the home on December 10, 2019
  - 2. that the interior wall near the back door was foamed on April 9, 2020
  - 3. that a spot treatment was performed in the garage and a termite baiting system was installed on April 17, 2020
- ii. Respondent's application records do not identify the brand names of the termiticides used.

iii. Respondent's conventional and spot treatments also failed to meet minimum standards in the following areas:

1. There were no continuous drill holes in the brick veneer voids of the structure.
2. Sub slab injection holes were not found across the adjacent slabs.
3. There were no continuous sub slab injection holes around the inside perimeter of the garage.

- On or about April 30, 2021, a Letter of Warning that detailed the above violation was sent to Superior Termite and Pest Control.

#### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated OAC 35:30-17-100, OAC 35:30-17-106, OAC 35:30-17-21, OAC 35:30-17-67, OAC 35:30-17-69, AND OAC 35:30-17-69.2(B)(3) by submitting an inaccurate ODAFF I wood infestation report, keeping incomplete application records, and failing to meet termite treatment minimum standards.

#### **ATTORNEY CONFERENCES**

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

## **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

## **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

### ENFORCEMENT OF JUDGMENTS

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

### INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### STIPULATION

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Thousand Dollars (\$5,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

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



\_\_\_\_\_  
Teena G. Gunter, General Counsel, OBA # 17767  
/James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873  
Shelby Turner, OBA #34010  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 5 day of Jan, 202~~2~~<sup>15</sup>, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SUPERIOR TERMITE & PEST  
205 S. 85<sup>TH</sup> E AVE  
TULSA, OK 74112**

  
\_\_\_\_\_  
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-21-194**

**SUPERIOR TERMITE & PEST )  
205 S. 85<sup>TH</sup> E AVE. )  
TULSA, OK 74112 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Thousand Dollars (\$5,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

Date: \_\_\_\_\_

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

**FILED**

OCT 14 2021

STATE BOARD OF AGRICULTURE

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

**COMPLAINANT,**

**v.**

**Case No: OGC-21-200**

**SUPERIOR TERMITE & PEST  
205 S 85<sup>TH</sup> E AVE.  
TULSA, OK 74112**

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **10:00 am on Thursday, December 9, 2021 via telephone** 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.

---

<sup>1</sup> 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 application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **OAC 35:30-17-73**

- (a) All pesticide applications shall follow the pesticide label instructions including the application rates and methods. Treatments using less than label recommended concentrations at higher volume or higher concentrations at reduced volume applications are prohibited for pre-construction treatments. A written contract shall be provided that conforms with all requirements for contracts issued in the Structural Pest Category. In addition, the contract shall include the total square footage treated, the total linear feet treated, and any additional information required.
- (b) Pretreatment of main slab areas (including attached garages) is as follows:
  - (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers.
  - (2) Horizontal barriers shall be established.
  - (3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label. When trenching cannot be performed due to elements of construction (i.e. coarse aggregate fill, rebar, etc.) the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.
  - (4) Treatment shall not be made when the soil or fill is excessively wet or when rain is imminent.

- (5) Precautions shall be taken to prevent disturbance of the treated areas by human or animal contact or prolonged exposure to the weather.
- (6) Immediately after completion of treatment to the main slab area, each termite pretreatment shall be stenciled or a sticker or tag permanently affixed to one of the stubouts in an area which will be readily accessible. The stencil, sticker, or tag shall identify the company, date of treatment, and termiticide used.
- (c) Pretreatment of adjacent slabs, i.e., porches, patios, entrance pads, walkways, driveways, etc., shall be as follows:
  - (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions for application, to the adjacent slabs which abut the main structure.
  - (2) Treatment and precautions shall meet the requirements in (b)(2) and (b)(3) of this Section.
- (d) Pretreatment of outside foundations shall be as follows:
  - (1) Treatment shall be applied to the soil by trenching or trenching and rodding into the bottom of the trench around the entire outside foundation of the structure after the final grade has been established. This treatment shall be performed within 30 days of notification of completion of landscaping or one year from the date of completion of construction, whichever comes first.
  - (2) Where trenching is not possible due to rocks, concrete, gutters, etc., the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.
  - (3) Where outside foundations (stem walls) have 12" or more of exposed concrete extending above the outside final grade, the outside foundation treatment may be omitted.
- (e) Pretreatment of crawl space construction shall be made in the same manner as described in the minimum standards for existing structures (SEE PART 15 of this Chapter).
- (f) Any treatment that does not meet all of the minimum standards for pretreatments under concrete slab or crawl space is considered "Partial Pretreats" and is not acceptable. In the event a portion of a structure is not treated through no fault of the applicator, it will be stated in the pretreat documentation and the contract signed by the contractor (home builder), and include specific reasoning why the area was not treated.
- (g) Pesticide applicators must issue Form NPCA-99b to the builder as an attachment to the contract.

**OAC 35:30-17-21(D)**

- (d) Failure to allow inspection of records by the Board, to provide copies of records to the Board when requested in person, or to provide a summary of records to the Board within seven (7) working days when requested by mail or in person shall be a violation of this section.

**ALLEGATIONS OF FACT**

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

- On or about April 6, 2021, ODAFF conducted an inspection of the termite pretreat site located at 3117 W. Tucson Ct. in Broken Arrow, OK.
  - i. As a result of this inspection, two horizontal samples and two vertical samples were taken.
  - ii. The two horizontal samples had sufficient residue levels of 5.29 pm and 7.61 ppm.
  - iii. 4.46 and 4.69 ppm imidacloprid was recovered in the two vertical samples.
  - iv. The minimum acceptable residue level for a vertical sample is 10.00 ppm.
  - v. Additionally, a request for application records was sent to Respondent on April 7, 2021.
  - vi. Respondent failed to provide the application records within 7 business days.
  - vii. On or about February 1, 2021, a Letter of Warning that detailed the above violation was sent to Respondent.

#### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated OAC 35:30-17-73 and OAC 35:30-17-21(D) by failing to apply the appropriate level of pesticide and by failing to provide requested records.

#### **ATTORNEY CONFERENCES**

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Thousand Two Hundred Fifty Dollars (\$5,250.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

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



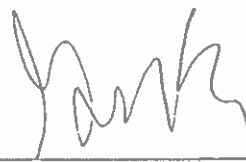
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Wendi Morse, OBA # 33571  
Kambi Maddy, OBA #13873  
✓Shelby Turner, OBA #34010  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 14 day of OCT, 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SUPERIOR TERMITE & PEST  
205 S. 85<sup>TH</sup> E AVE  
TULSA, OK 74112**

**PATRICK COLVIN  
JONES, GOTCHER & BOGAN, P.C.  
VIA EMAIL  
PCOLVIN@JONESGOTCHER.COM**



Gina Blaylock



1

1

1

1

1

1

1

1

## T

o

ni

0

11

ed

**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.**

**SUPERIOR TERMITE & PEST )  
205 S 85<sup>TH</sup> E AVE. )  
TULSA, OK 74112 )**

**RESPONDENT. )**

**FILED**

DEC 29 2021

STATE BOARD OF AGRICULTURE

Case No: OGC-21-691

**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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, April 14, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

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

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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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

## **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **OAC 35:30-17-73**

- (a) All pesticide applications shall follow the pesticide label instructions including the application rates and methods. Treatments using less than label recommended concentrations at higher volume or higher concentrations at reduced volume applications are prohibited for pre-construction treatments. A written contract shall be provided that conforms with all requirements for contracts issued in the Structural Pest Category. In addition, the contract shall include the total square footage treated, the total linear feet treated, and any additional information required.
- (b) Pretreatment of main slab areas (including attached garages) is as follows:
  - (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers.
  - (2) Horizontal barriers shall be established.
  - (3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label. When trenching cannot be performed due to elements of construction (i.e. coarse aggregate fill, rebar, etc.) the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.
  - (4) Treatment shall not be made when the soil or fill is excessively wet or when rain is imminent.
  - (5) Precautions shall be taken to prevent disturbance of the treated areas by human or animal contact or prolonged exposure to the weather.
  - (6) Immediately after completion of treatment to the main slab area, each termite pretreatment shall be stenciled or a sticker or tag permanently affixed to one of the

stubouts in an area which will be readily accessible. The stencil, sticker, or tag shall identify the company, date of treatment, and termiticide used.

(c) Pretreatment of adjacent slabs, i.e., porches, patios, entrance pads, walkways, driveways, etc., shall be as follows:

(1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions for application, to the adjacent slabs which abut the main structure.

(2) Treatment and precautions shall meet the requirements in (b)(2) and (b)(3) of this Section.

(d) Pretreatment of outside foundations shall be as follows:

(1) Treatment shall be applied to the soil by trenching or trenching and rodding into the bottom of the trench around the entire outside foundation of the structure after the final grade has been established. This treatment shall be performed within 30 days of notification of completion of landscaping or one year from the date of completion of construction, whichever comes first.

(2) Where trenching is not possible due to rocks, concrete, gutters, etc., the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.

(3) Where outside foundations (stem walls) have 12" or more of exposed concrete extending above the outside final grade, the outside foundation treatment may be omitted.

(e) Pretreatment of crawl space construction shall be made in the same manner as described in the minimum standards for existing structures (SEE PART 15 of this Chapter).

(f) Any treatment that does not meet all of the minimum standards for pretreatments under concrete slab or crawl space is considered "Partial Pretreats" and is not acceptable. In the event a portion of a structure is not treated through no fault of the applicator, it will be stated in the pretreat documentation and the contract signed by the contractor (home builder), and include specific reasoning why the area was not treated.

(g) Pesticide applicators must issue Form NPCA-99b to the builder as an attachment to the contract.

## **2 O.S. 3-86(A)(2)**

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:

2. A person has negligently used methods or pesticides that are ineffective or improper for the purpose for which they have been employed.

### **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 August 11, 2021, ODAFF conducted an inspection of the termite pretreat site located at 6020 E. 127<sup>th</sup> St. in Bixby, OK.
  - i. As a result of this inspection, two horizontal samples and two vertical samples were taken.
  - ii. Only a trace amount of Imidacloprid was recovered in each of the four samples.
  - iii. The minimum acceptable residue level for a horizontal sample is 5.00 ppm.
  - iv. The minimum acceptable residue level for a vertical sample is 10.00 ppm.
  - v. On or about October 19, 2021, a Letter of Warning that detailed the above violation was sent to Respondent.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated OAC 35:30-17-73 and 2 O.S. 3-86(A)(2) by failing to meet the minimum standards required for termite pre-treat sites.

### **ATTORNEY CONFERENCES**

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

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

## ENFORCEMENT OF JUDGMENTS

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

## INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

## STIPULATION

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Twenty Thousand Dollars (\$20,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

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





Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA #13873  
✓Shelby Turner, OBA #34010  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 29 day of Dec., 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SUPERIOR TERMITE & PEST  
205 S. 85<sup>TH</sup> E AVE  
TULSA, OK 74112**



---

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-21-691**

**SUPERIOR TERMITE & PEST )  
205 S. 85<sup>TH</sup> E AVE. )  
TULSA, OK 74112 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Twenty Thousand Dollars (\$20,000)** 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. )

SUPERIOR TERMITE & PEST )  
205 S 85<sup>TH</sup> E AVE. )  
TULSA, OK 74112 )

RESPONDENT. )

Case No: OGC-21-792

**FILED**  
DEC 29 2021  
STATE BOARD OF AGRICULTURE

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on Thursday, April 14, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.
3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

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

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

#### **HEARING AND RIGHT TO COUNSEL**

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

#### **DEFAULT**

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

## **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the application of pesticides in the State of Oklahoma.
16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **OAC 35:30-17-73**

- (a) All pesticide applications shall follow the pesticide label instructions including the application rates and methods. Treatments using less than label recommended concentrations at higher volume or higher concentrations at reduced volume applications are prohibited for pre-construction treatments. A written contract shall be provided that conforms with all requirements for contracts issued in the Structural Pest Category. In addition, the contract shall include the total square footage treated, the total linear feet treated, and any additional information required.
- (b) Pretreatment of main slab areas (including attached garages) is as follows:
  - (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers.
  - (2) Horizontal barriers shall be established.
  - (3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label. When trenching cannot be performed due to elements of construction (i.e. coarse aggregate fill, rebar, etc.) the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.
  - (4) Treatment shall not be made when the soil or fill is excessively wet or when rain is imminent.
  - (5) Precautions shall be taken to prevent disturbance of the treated areas by human or animal contact or prolonged exposure to the weather.
  - (6) Immediately after completion of treatment to the main slab area, each termite pretreatment shall be stenciled or a sticker or tag permanently affixed to one of the

stubouts in an area which will be readily accessible. The stencil, sticker, or tag shall identify the company, date of treatment, and termiticide used.

(c) Pretreatment of adjacent slabs, i.e., porches, patios, entrance pads, walkways, driveways, etc., shall be as follows:

(1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions for application, to the adjacent slabs which abut the main structure.

(2) Treatment and precautions shall meet the requirements in (b)(2) and (b)(3) of this Section.

(d) Pretreatment of outside foundations shall be as follows:

(1) Treatment shall be applied to the soil by trenching or trenching and rodding into the bottom of the trench around the entire outside foundation of the structure after the final grade has been established. This treatment shall be performed within 30 days of notification of completion of landscaping or one year from the date of completion of construction, whichever comes first.

(2) Where trenching is not possible due to rocks, concrete, gutters, etc., the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.

(3) Where outside foundations (stem walls) have 12" or more of exposed concrete extending above the outside final grade, the outside foundation treatment may be omitted.

(e) Pretreatment of crawl space construction shall be made in the same manner as described in the minimum standards for existing structures (SEE PART 15 of this Chapter).

(f) Any treatment that does not meet all of the minimum standards for pretreatments under concrete slab or crawl space is considered "Partial Pretreats" and is not acceptable. In the event a portion of a structure is not treated through no fault of the applicator, it will be stated in the pretreat documentation and the contract signed by the contractor (home builder), and include specific reasoning why the area was not treated.

(g) Pesticide applicators must issue Form NPCA-99b to the builder as an attachment to the contract.

## **2 O.S. 3-86(A)(2)**

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:

2. A person has negligently used methods or pesticides that are ineffective or improper for the purpose for which they have been employed.

### **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 August 31, 2021, ODAFF conducted an inspection of the termite pretreat site located at 13108 E. 124<sup>th</sup> St. N. in Collinsville, OK.
  - i. As a result of this inspection, two horizontal samples and two vertical samples were taken.
  - ii. The two vertical barrier samples had Imidacloprid residue levels of 6.16 ppm and 6.22 ppm.
  - iii. The minimum acceptable residue level for a vertical sample is 10.00 ppm.
  - iv. On or about December 2, 2021, a Letter of Warning that detailed the above violation was sent to Respondent.

### **ALLEGED CONCLUSIONS OF LAW**

Based upon the application of the above law to the aforementioned facts, Respondent violated OAC 35:30-17-73 and 2 O.S. 3-86(A)(2) by failing to meet the minimum standards required for termite pre-treat sites.

### **ATTORNEY CONFERENCES**

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



## **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

## **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

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

## ENFORCEMENT OF JUDGMENTS

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

## INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

27. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.
28. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.
29. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

## STIPULATION

30. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Thousand Dollars (\$5,000.00)**.
31. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

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



---

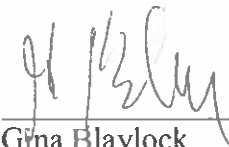
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873  
✓ Shelby Turner, OBA #34010  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 29 day of Dec., 2021, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SUPERIOR TERMITE & PEST  
205 S. 85<sup>TH</sup> E AVE  
TULSA, OK 74112**

  
\_\_\_\_\_  
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-21-792**

**SUPERIOR TERMITE & PEST )  
205 S. 85<sup>TH</sup> E AVE. )  
TULSA, OK 74112 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Thousand Dollars (\$5,000)** 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: \_\_\_\_\_