

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

Wednesday, March 8, 2023
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 January 26, 2023.
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 – Lee Benson

7. Consideration and Proposed Action on Purchases/Contracts can be referenced in the January 26, 2023 Board Meeting Minutes.

8. Consideration and Proposed Action on Cases Resolved by Stipulations

Consumer Protection Services

Agrilawn, 4001 S. Thomas Road, Oklahoma City, Oklahoma

Cassidy Grain Company, 321 W. Dahlia, Fredrick, Oklahoma

Dollar General, 914 W. Main, Frederick, Oklahoma

Dollar General, 1623B, HWY 66, El Reno, Oklahoma

Dollar General, 1704 N. Lynn Riggs Blvd., Claremore, Oklahoma

Dollar General, 205 W. Broadway, Thomas, Oklahoma

Dollar General, 24379 OK-51, Tahlequah, Oklahoma

Dollar General, 25239 OK-82, Park Hill, Oklahoma

Dollar General, 1500 N. Louis Tittle, Mangum, Oklahoma

Dollar General, 110 E. Central, Anadarko, Oklahoma

Dollar General, 110 N. Bridge Road, Grandfield, Oklahoma

Hobbs Pest Control, LLC, 121 W. State HWY 152, Mustang, Oklahoma

Opitz Spraying, 1318 W. Eakley Main, Eakley, Oklahoma

Williams Foods, 302 E. Main, Tuttle, 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

Seaboard Foods, LLC, 9000 West 67TH Street, STE 200, Shawnee Mission, Kansas

Roberts Ranch, 57023 S. County Road 270, Ames, Oklahoma

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

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10. Consideration and Proposed Action on Cases Resolved by Final Order

Consumer Protection Services

Kent’s Quality Lawn Care, 700 13TH Street, Snyder, Oklahoma

Red Dirt Grow, LLC, 7152 E. 136 Road, Holdenville, Oklahoma

Scott Termite, LLC, 2616 Renick Ave., Oklahoma City, Oklahoma

Scott Termite, LLC, 2616 Renick Ave., Oklahoma City, Oklahoma

Jason Taylor, P. O. Box 703003, Tulsa, Oklahoma

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

11. Consideration and Proposed Action on Proposed Permanent Rules can be referenced in the January 26, 2023 Board Meeting Minutes.
12. Next Board meeting scheduled for **Wednesday, April 19, 2023**, at Oklahoma City.
13. Old Business
14. 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.
15. Adjournment

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

Oklahoma City, Oklahoma
January 26, 2023

The Oklahoma State Board of Agriculture met in regular session at 10:00 a.m., January 26, 2023, 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: JanLee Rowlett, Deputy Commissioner
 Dan Ridings, Director, Administrative Services
 Wade Krivanek, Director, Laboratory Services
 Andy James, 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
 Teena Gunter, Director, Agricultural Environmental
 Management Services & Office of General Counsel
 Scott Yates, Director, Food Safety Services
 Lee Benson, Public Information Officer
 Audrey Ochsner, Public Engagement Specialist
 Kevin Shelton, Oklahoma State University
 Brad Kard, Oklahoma State University

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

A motion was made by Mr. Bolen, seconded by Mr. Farris, to approve the minutes of the regular meeting of December 7, 2022, as presented.

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 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. Cook, seconded by Mr. Farris, to approve the following purchases/contracts 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. Cook, to approve the Proposed Action on Stipulations as submitted.

Consumer Protection Services

4 Star Treatment Pest Control, P. O. Box 3802, Bartlesville, Oklahoma

Cedar Ridge Aviation, LLC, P. O. Box 37, Knox City, Texas

Blake Hall, 24736 E. 670 Road, Wagoner, Oklahoma

Tony Kodesh, 4800 CR 110, Red Rock, Oklahoma

Lawnpro Outdoor Services, 7870 E. 126TH ST., S. Apt 312, Bixby, Oklahoma

Carolyn Leck, 814 S. Duane Ave., El Reno, Oklahoma

James Neal, 5600 Free Ferry Road, Fort Smith, Arkansas

Total Environment, Inc., 16301 N. Rockwell Ave. Edmond, Oklahoma

Tri-Rotor Services, LLC, 9170 E. Road 2, Ulysses, Kansas

****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. Farris, seconded by Mr. Burtrum, to approve the Proposed Action on Cases Resolved by Consent Order as submitted.

Consumer Protection Services

Deterding Aerial, LLC, 701 West Cedar Drive, Pond Creek, Oklahoma

Eckles Aircraft, LLC, 330 Airport Lane, Holdenville, Oklahoma

Escott Aerial Spraying, 140 Airport Drive, Nowata, 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. Bolen, seconded by Mr. Cook, to approve the following Proposed Permanent Rules as submitted.

ADMINISTRATIVE OPERATIONS

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

Chapter 1. Administrative Operations

Subchapter 10. Requirements for Department Programs

35:1-10-6. Date of federal regulations incorporated [AMENDED]

FEES

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

Chapter 2. Fees

Subchapter 3. Fee Schedules

35:2-3-5. Fees for meat inspection overtime [AMENDED]

35:2-3-29. General animal industry supply fees [AMENDED]

AGRICULTURAL PRODUCTS

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

Chapter 10. Agricultural Products

Subchapter 1. General Provisions

35:10-1-3. Handbook and publication editions [AMENDED]

ANIMAL INDUSTRY

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

Chapter 15. Animal Industry

Subchapter 9. Livestock Special Sales

Part 3. Livestock Special Sales

35:15-9-7. Application [AMENDED]

35:15-9-8. Written records [AMENDED]

35:15-9-9. Submission of record sales [AMENDED]

Subchapter 13. Testing and Inspection for Disease and Release of Livestock at Auction Markets

35:15-13-3. General requirements for a livestock auction market [AMENDED]

35:15-13-6. Movement of livestock through livestock auction markets [AMENDED]

35:15-13-7. Specific approval of livestock auction markets [AMENDED]

Subchapter 22. Swine Pseudorabies and Brucellosis

Part 7. Requirements for Swine Exhibitions

35:15-22-71. Exhibition requirements [AMENDED]

Subchapter 34. Feral Swine

35:15-34-13. License fees [AMENDED]

Subchapter 44. Farmed Cervidae

35:15-44-19. Entry and export requirements [AMENDED]

35:15-44-20. Animal identification requirements [AMENDED]

Subchapter 47. Chronic Wasting Disease (CWD) in Cervids

Part 7. Interstate Movement Requirements

35:15-47-18. Minimum CWD requirements for interstate movement of cervids [AMENDED]

WATER QUALITY

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

Chapter 17. Water Quality

Subchapter 5. Registered Poultry Feeding Operations

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

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

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

FORESTRY

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

Chapter 20. Forestry

Subchapter 3. Rural Fire Protection Program Fund Act

Part 3. Financial Assistance Program

35:20-3-9. Determination of financial assistance program grant amount [AMENDED]

35:20-3-12. Financial Assistance Program grant administration [AMENDED]

CONSUMER PROTECTION

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

Chapter 30. Consumer Protection

Subchapter 17. Combined Pesticide

Part 3. Certification, Conduct of Examinations, and Recertification

35:30-17-4. Examination of applicants for certification [AMENDED]

Part 5. Prerequisites for Licensing

35:30-17-10. Application insurance requirements [AMENDED]

Part 10. Minimum Standards for Pesticides

35:30-17-22.2. Pesticide enforcement [AMENDED]

Part 11. Standards for Application of Pesticide

35:30-17-25. Pesticide application by certified applicators, noncertified applicators, service technicians, and private applicators [AMENDED]

Part 17. Minimum Standards for Termite Work for Preconstruction (Pretreats) and New Construction

35:30-17-73. Concrete Slabs [AMENDED]

Subchapter 45. Scrap Metal Dealers

35:30-45-9. Purchases, sales, and records [AMENDED]

FOOD SAFETY

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

Chapter 37. Food Safety

Subchapter 1. Eggs

35:37-1-2. Methods of grading [AMENDED]

Subchapter 3. Meat Inspection

Part 1. General Provisions

35:37-3-1. Incorporation by reference of federal meat inspection regulations [AMENDED]

35:37-3-3. Deleted regulations [AMENDED]

Subchapter 5. Poultry Products Inspection

Part 1. General Provisions

35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations [AMENDED]
35:37-5-2. Deleted regulations and exemptions [AMENDED]
Subchapter 13. Milk and Milk Products
35:37-13-2. Incorporations by reference [AMENDED]
35:37-13-7. Inspection and permit fees [AMENDED]
35:37-13-8. Incidental sales [NEW]
Subchapter 15. Organic Products
35:37-15-2. The Adoption of NOP Standards [AMENDED]
Subchapter 17. Produce safety
35:37-17-3. Incorporation by reference of federal produce safety regulations [AMENDED]
Subchapter 19. Homemade Food
35:37-19-2. Definitions [AMENDED]
35:37-19-3. Sale and delivery requirements [AMENDED]
35:37-19-6. Registration fee [NEW]

MARKET DEVELOPMENT

Title 35. Oklahoma Department of Agriculture, Food, and Forestry
Chapter 40. Market Development
Subchapter 17. Agritourism
35:40-17-2. Definitions [AMENDED]
35:40-17-3. Eligibility and registration [AMENDED]
35:40-17-4. Additional requirements for hunting facilities [AMENDED]
35:40-17-6. Additional requirements for winery and brewery facilities [AMENDED]
35:40-17-7. Additional requirements for petting farm facilities [NEW]
35:40-17-8. Additional requirements for pumpkin picking facilities [NEW]
35:40-17-9. Additional requirements for maze facilities [NEW]
35:40-17-10. Additional requirements for Christmas tree facilities [NEW]
35:40-17-11. Additional requirements for bison facilities [NEW]
Subchapter 21. Oklahoma Healthy Food Financing Program
35:40-21-3. Applicant eligibility [AMENDED]
Subchapter 23. Made in Oklahoma
35:40-23-2. Definitions [AMENDED]
35:40-23-3. Applicant eligibility [AMENDED]
35:40-23-4. Product eligibility [AMENDED]
35:40-23-4.1. Service eligibility [NEW]
35:40-23-5. Application [AMENDED]
35:40-23-6. Logo [AMENDED]
35:40-23-7. Renewal and revocation [AMENDED]
35:40-23-8. Product endorsement [AMENDED]

AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM

Title 35. Oklahoma Department of Agriculture, Food, and Forestry
Chapter 44. Agriculture Pollutant Discharge Elimination System
Subchapter 1. Agriculture Environmental Permitting and AGPDES
Part 1. General Provisions
35:44-1-3. Date of federal regulations incorporated [REVOKED]
Subchapter 3. Permit Conditions and Requirements
35:44-3-3. Date of federal regulations incorporated [REVOKED]

AQUACULTURE

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

Chapter 50. Aquaculture

35:50-1-30. Initial licensing requirements [AMENDED]

35:50-1-31. Renewal licensing requirements [AMENDED]

COMMERCIAL PET BREEDERS AND ANIMAL SHELTERS

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

Chapter 55. Commercial Pet Breeders and Animal Shelters

Subchapter 3. Standards of Care

35:55-3-1. Incorporation by reference [AMENDED]

Subchapter 9. Seizure and Impoundment [NEW]

35:55-9-1. Seizure and impoundment [NEW]

There is no Old business presented for the Board to take action upon. Mr. Burtrum moved, Mr. Farris seconded, that the meeting be adjourned at 11:33 a.m.

By _____
President

ATTEST: _____
Executive Secretary

JANUARY 26, 2023 BOARD MEETING

PURCHASES/CONTRACTS

Administrative Services

FY23 – Purchase of new agency vehicles - \$450,000

These vehicles are needed to replace aging fleet vehicles. Replacement of these vehicles are critical to the agency mission and if not replaced may put the employee and public at greater risk.

Animal Industry Services

\$32,106 - Cooperative Agreement for US Swine Health Improvement Plan (SHIP) funds for April 2023 through March 2024. Funding will support the OSA Coordinator to conduct outreach to the swine industry in Oklahoma to encourage enrollment and certification within the US SHIP. It will support travel for the OSA Coordinator to participate as a voting member at the 2023 Annual US SHIP House of Delegation meeting.

Consumer Protection Services

Repair of large vehicle scale truck bed - \$9,800.00

Food Safety Services

NTT – \$6,138.41

The Oklahoma Department of Agriculture, Food & Forestry has a Federal Trust Cooperative Agreement with the United States Department of Agriculture, Agricultural Marketing Service. The Oklahoma Department of Agriculture, Food & Forestry Poultry Services has brought in a significant amount of revenue in the past several years and continues to bring in this revenue from this program. With the significant amount of revenue this program is bringing into the ODAFF; buying equipment instead of renting would allow us to utilize these funds to improve our infrastructure and not be tied into a long term rental agreement.

(2) Dell Latitude 7430	\$1,491.82 each	\$2,983.64.	(2)
(1) Dell Premier Active Pen		\$ 62.85.	(1)
(1) Standard Dell Precision 7670		\$2,341.71	(1)

Forestry Services

FY 24- \$15,000

Purchase of shipping bags used to distribute seedlings to landowners in Oklahoma and surrounding states. Bags are specifically designed with paraffin lining to retain moisture during the shipping process thereby maintaining seedling quality. **Justification:** without bags, there is no way to deliver seedlings to customers.

FY24 - \$25,000

Renewal of agreement/membership with Western Gulf Forest Tree Improvement Cooperative (WGTFIP). **Justification:** The agreement with Western Gulf Forest Tree Improvement is essential in helping FTIC receive new information for improving genetic research for Oklahoma and to get tree breeding information from other WGTFIP partners.

FY24 - \$15,000

Renewal of agreement/membership with Auburn Nursery Cooperative (contingent upon Federal Forest Stewardship grant allocation). It is essential that FRC have the agreement with Auburn Nursery Cooperative to be able to use certain chemicals under their license when fumigating fields. **Justification:** without this membership, the cost to fumigate, which is needed to produce tree and shrub seedlings, would increase to more than \$100,000.

FY24 - \$50,000

Fumigation to control insects, disease pathogens and weed seed, like nutgrass, in production fields at Forest Regeneration Center in Goldsby. **Justification:** without fumigation control, insects, weeds, and disease issues would result in poor quality seedlings and increased cost.

FY24 – \$15,000

Pesticides for seedling production at the Forest Regeneration Center and Forest Tree Improvement Center (FTIC). **Justification:** without pesticides seed, seedlings quality and production would decrease because of problems with insects, fungus, and weeds.

FY24 – \$15,000

Tree and shrub seed for use at the Forest Regeneration Center and Forest Tree Improvement Center. OFS personnel collect most seed used, but some varieties are more economically feasible to purchase seed than to send crews out to collect it. **Justification:** without this purchase, we would be more restricted on what we could grow and either seedling production would be reduced, costs would be increased, or both.

FY24- \$18,000

Pinecone collection at FTIC seed orchard in Idabel is vital to enhanced genetics and vital to our conservation seedling program. They provide the best genetically suited pine trees for Oklahoma landowners. Contracting experienced labor to collect seeds is required due to lack of personnel. **Justification:** without this purchase, pinecone seed would not be collected, and the seedling program would be severely limited.

FY24- \$30,000

Contract harvesting services is needed by qualified, trained workers to lift 3 million seedlings. Each year, the Forest Regeneration Center (FRC) delivers up to 3 million seedlings to Oklahomans for conservation planting. To meet the planting demands of landowners throughout the state, a steady supply of seedlings is required. To make sure our customers have quality, healthy seedlings, delivered on schedule, a trained harvesting crew is required to lift these seedlings. Some of the harvesting will be completed by FRC staff. However, we no longer have the inmate crews that we used in the past. **Justification:** without this purchase, we will not be able to lift the seedlings in a timely manner and we will fail to meet the delivery requirements for Oklahoma customers.

FY24- \$9,500

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

FY24 \$9,500

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

FY 24- \$15,000

Purchase of tree seedling containers for FRC and FTIC. Container cells and trays will be used to grow seedlings for conservation plantings such as wetland restoration and forest mitigation sites. Container seedlings are requested by customers who face more challenges on their planting sites. Without our containerized seedling options, these customers would have failure with their conservation plantings.

FY24 - \$14,000

Aerial spray pesticide application to the seed production pine tree orchards. OFS needs to spray the cone crop in our genetically improved pine tree orchards. This year there was a noticeable decrease in embryotic-material filled seed in the cones collected at the orchards. This is a result of the presence of cone worms/seed insects. Aerial application of pesticide spray to the orchards will control these pests (cone worms/seed bugs). **Justification:** Without this purchase, there will be a continued decline in the production of genetically-improved seed.

FY24 - \$9,000

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

FY 23- \$10,000

Replace existing sewer line between the Forest Regeneration Center office building and its septic tank. The existing line is over 30 years old and has failed in multiple places, causing dips in the line and regular sewage backups. Justification: Without a new sewer line, the office will not have a way to dispose of sewage.

FY24 - \$24,000

Local & Long-Distance Telephone service for FRC, FTIC, and Community Fire Offices necessary for communication to the public and governmental agencies. **Justification:** required for continuity in communication of operations at these office complexes.

FY24 - \$42,000

Electrical Service for Community Fire, FRC and FTIC offices located in Goldsby and Idabel. **Justification:** Necessary for continuity of operations at these office complexes.

FY24 - \$12,000

Propane for FRC and Community Fire Headquarters office & FTIC in Idabel. **Justification:** Necessary for continuity of operations at office complexes.

FY24 - \$10,000

Oklahoma Tax Commission for Titles and Tire Fee associated with the Firefighter Property Program. **Justification:** OFS cannot transfer ownership of these vehicles to fire departments without a title. These vehicles are converted to firefighting equipment by the receiving fire department and then used to protect the lives and property of the citizens of Oklahoma.

Purchase firefighting equipment and clothing for resale to Rural Fire Departments through the Revolving Equipment Fund. This program allows firefighters to buy equipment and personal protective equipment at a reduced cost. **Justification:** without this approval and this program, rural fire department costs to purchase necessary equipment and supplies would increase.

FY 24- \$20,000

Phone/internet for the Community Fire, FRC and FTIC. **Justification:** Without phone service, FRC and Rural Fire would not be able to communicate with landowners and fire coordinators, which would significantly decrease customer service and service to the public.

FY24 - \$7,000

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

FY24 - \$19,000

Electric, phone/internet, utilities (Propane, Natural Gas, Water, Trash) for the NE Area's Jay District Office, Rose Tower, Area HQ Complex, and Sallisaw District Office. **Justification:** Necessary expenditure to maintain emergency response radio communications for the NE Area.

FY24- \$50,000

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

FY24 - \$50,000

Purchase firefighting personal protective equipment for OFS employees from the Department of Defense E-Mall. **Justification:** required to supply OFS firefighters with mandatory personal protective equipment (PPE) and other equipment through.

FY24 - \$150,000

For use of P-Cards to repair firefighting equipment including but not limited to dozers, Bambi buckets, UTVs and slip-on firefighting units. These purchases will be for repairs more than \$5,000 when a piece of equipment has significant issues and requires Board approval.

Justification: This will allow the equipment to be repaired quickly after completion of the bidding process and back in service for fire management activities.

FY24 - \$150,000

For use of Comdata Cards to repair firefighting equipment including but not limited to transports, engines, pickups, and other rolling stock. These purchases will be for repairs more than \$5000 when a piece of equipment has significant issues and requires Board approval. **Justification:** This will allow the equipment to be repaired quickly after completion of the bidding process and back in service for fire management activities.

FY24 - \$25,000

Uniforms for OFS employees. OFS employees are required for recognition by the public. Full allotments are purchased for new employees. **Justification:** Existing employees are provided an annual allotment of uniforms to replace worn and old uniforms. OFS employees provide a vital public safety function, requiring public recognition of our personnel. (Federal & State Funds)

FY24- \$11,250

Land Lease-Commercial BB Office & Land Lease-land only SE Complex **Justification:** This is the space where office is located & land behind office.

FY24- \$13,500

Electricity - SE Area office; SE Area complex; Antler's complex; Carter Tower complex; Sobol Tower repeater; Tom Tower repeater; Security lights. **Justification:** Necessary expenditure to maintain emergency response radio communications for the SE Area.

FY24- \$7,700

Telecommunications-phone/internet/Long Distance service for SE Area Complex; Antlers Complex; and cell phone services for SE Area. **Justification:** Necessary continuity of operations & to maintain emergency response for the SE Area

FY24- \$7,600

Utility-water, sewer, propane, natural gas, trash service for SE Area complex; Antler's complex; Carter Tower complex; **Justification:** Necessary continuity of operations & to maintain emergency response for the SE Area

FY24- \$100,000

Equipment Repair - maintenance and repair of all SE Area equipment including mowers, dozers, trailers, tractors, chain saws, blowers, and building maintenance/repair at all SE Area facilities; **Justification:** This will allow the equipment to be repaired quickly after completion of the bidding process and back in service for fire management activities.

FY24- \$100,000

Radio Repair - radio repair for any handheld radio, battery, or mobile radio used by SE Area personnel for all firefighting, emergency, and prescribed burn services; **Justification:** Necessary expenditure to maintain emergency response radio communications for the SE Area. This will allow the equipment to be repaired quickly after completion of the bidding process and back in service for fire management activities.

Laboratory Services**FY23 - \$13,117.20 Service Contract**

Purchase of one year service maintenance contract renewal for dual HPLC System LC 1260 Infinity II dual system. (To be purchased by Consumer Protection Services).

Market Development Services

FY2023 – Healthy Food Financing Grant – Jackson Angus Beef - \$10,000.00

FY2023 – 32 hotel rooms x 2 days (at the state per diem rate) - Ag in the Classroom Teacher Road Trip - \$6,272.00

FY2023 – Purchase of Oklahoma Grown Farmers Market bags for OK Grown Markets – cost share basis - \$23,000.00

FY2023 – Simple Snacks with Farm Fresh Food videos – videographer – Funded entirely by Specialty Crop Block Grant Funding - \$20,000.00

FY2023 – Wine Consumer Segmentation Research Project – TasteAdvisor – Funded entirely by Viticulture and Enology Revolving Grant Funding - \$14,000.00

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

APPROVAL OF CASES

ON THIS 25th day of January 2023, the Office of General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry brought for consideration before the State Board of Agriculture those certain cases summarized on Exhibit A hereto which cases have been resolved by stipulation or consent order. The attached Exhibit A summarizes each action by case name, case number, case type and amount received as a stipulated administrative penalty or by consent order.

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

WITNESS My Hand and Official Seal this 25th day of January 2023.


Blayne Arthur
President
State Board of Agriculture

Exhibit A
Board of Agriculture
January 25, 2023

Cases Resolved by Stipulation

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Ag Solutions, LLC	OGC-21-141	CPS	\$1,000.00
Arnett Grain & Feed	OGC-21-886	CPS	\$500.00
Central Custom Ag Aviation	OGC-21-754	CPS	\$1,500.00
Landmark Outdoor Service	OGC-21-812	CPS	\$500.00
Orkin, LLC	OGC-22-506	CPS	\$500.00
Rowdy Lawns	OGC-21-810	CPS	\$250.00
Texoma Ag, LLC	OGC-22-516	CPS	\$1,000.00
Martin Williams	OGC-21-752	CPS	\$750.00

Cases Resolved by Consent Order

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Deterding Aerial, LLC	OGC-20-693	CPS	\$500.00
Eckles Aircraft, LLC	OGC-20-821	CPS	\$500.00
Escott Aerial Spraying	OGC-20-704	CPS	\$3,000.00
Escott Aerial Spraying	OGC-20-668	CPS	
Escott Aerial Spraying	OGC-20-695	CPS	
Escott Aerial Spraying	OGC-21-620	CPS	
Escott Aerial Spraying	OGC-21-657	CPS	

Oklahoma Department of Agriculture, Food & Forestry

March 8, 2023, Board Report

Administrative Services

Investigative Services

- Offender Data Information System (ODIS) implemented
 - Training was in February
 - All agents are now using
 - Entering cases back to January 1, 2023

Administrative Services – Investigative Services

INVESTIGATIVE SERVICES ACTIVITIES JANUARY 2023

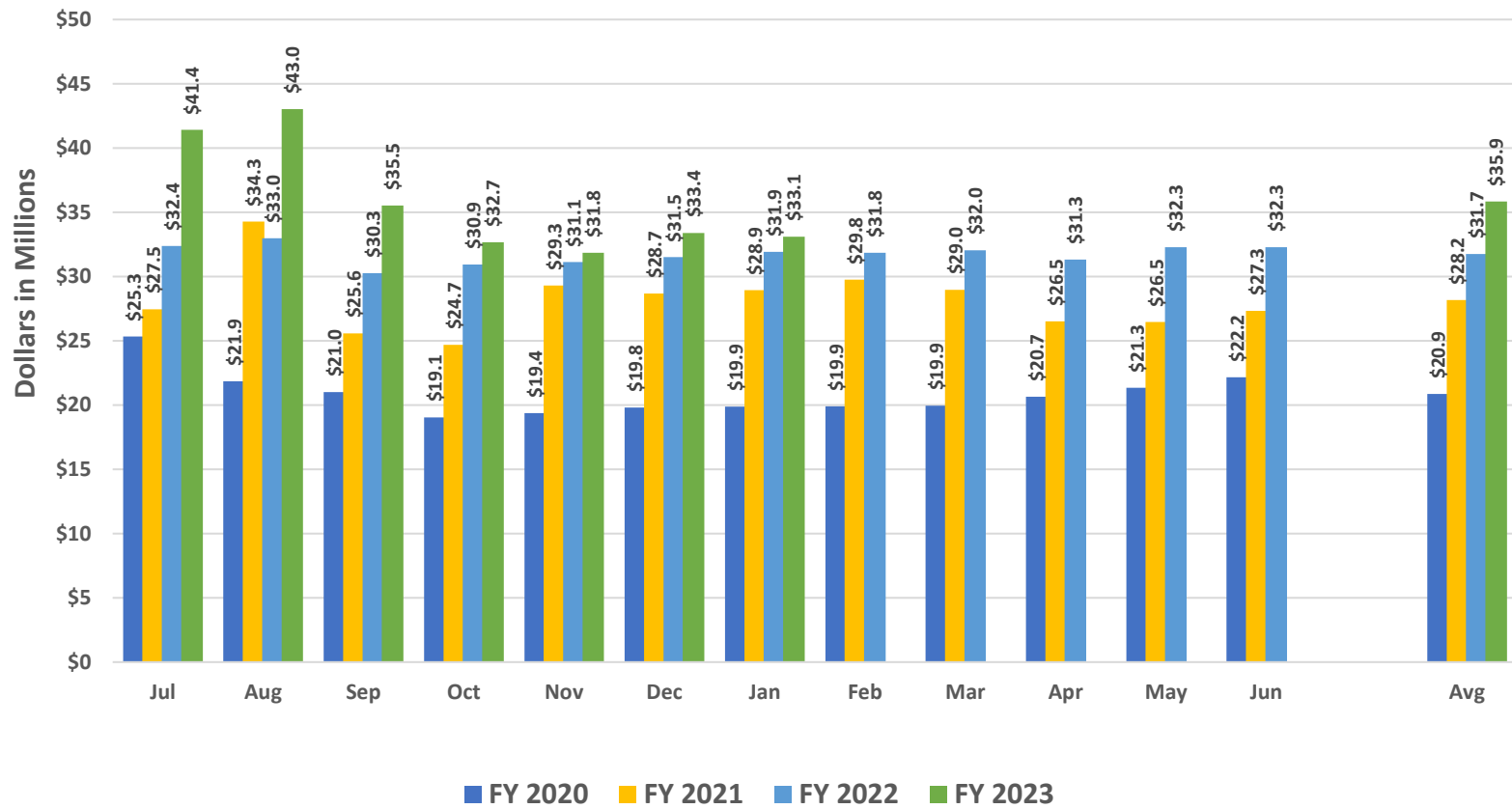


INVESTIGATIONS		JANUARY	YTD	FYTD
LIVESTOCK		5	5	34
FIRE		1	1	14
PROPERTY		5	5	21
TIMBER		0	0	5
AGENCY ASSISTS	ODAFF	0	0	4
AGENCY ASSISTS	EXTERNAL	2	0	9
OTHER		1	1	12
TOTAL INVESTIGATIONS OPENED		14	14	99
CLOSED PENDING ADDITIONAL INFORMATION		3	3	36
NO CRIME		2	2	31
NO PROSECUTION			0	0
CLOSED - ASSIST CASE			0	5
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION		1	1	13
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		6	6	85
COUNTS FILED		0	0	53
VALUE OF LOSSES - ALL CRIMES		\$54,800	\$54,800	\$1,087,411
RECOVERED LOSSES - ALL CRIMES		\$46,500	\$46,500	\$861,411
NUMBER OF CATTLE REPORTED STOLEN		7	7	263
NUMBER OF CATTLE RECOVERED		0	0	47

Administrative Services – Investigative Services

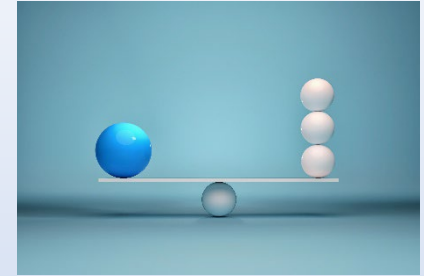
- Staff retreat to focus on team building scheduled for March 6th
- Three vacant positions
- Information Technology System upgrade – Phase II
 - Requesting approval (included in Purchases Section)

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



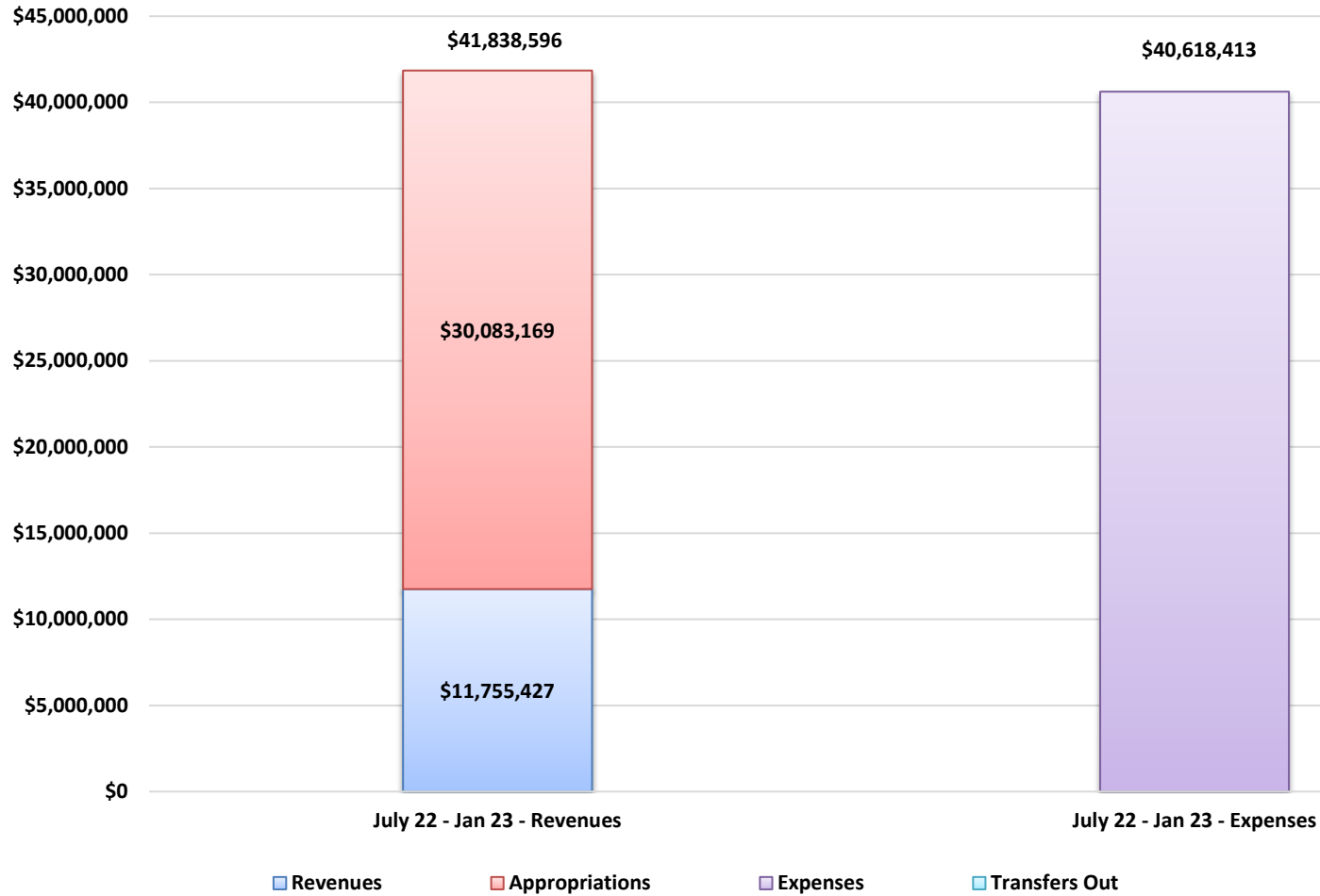
Note: The amounts above include fund 700, Commodity Storage Indemnity Fund, which had a balance of \$11,291,221 as of 1/31/2023.

Administrative Services - Finance



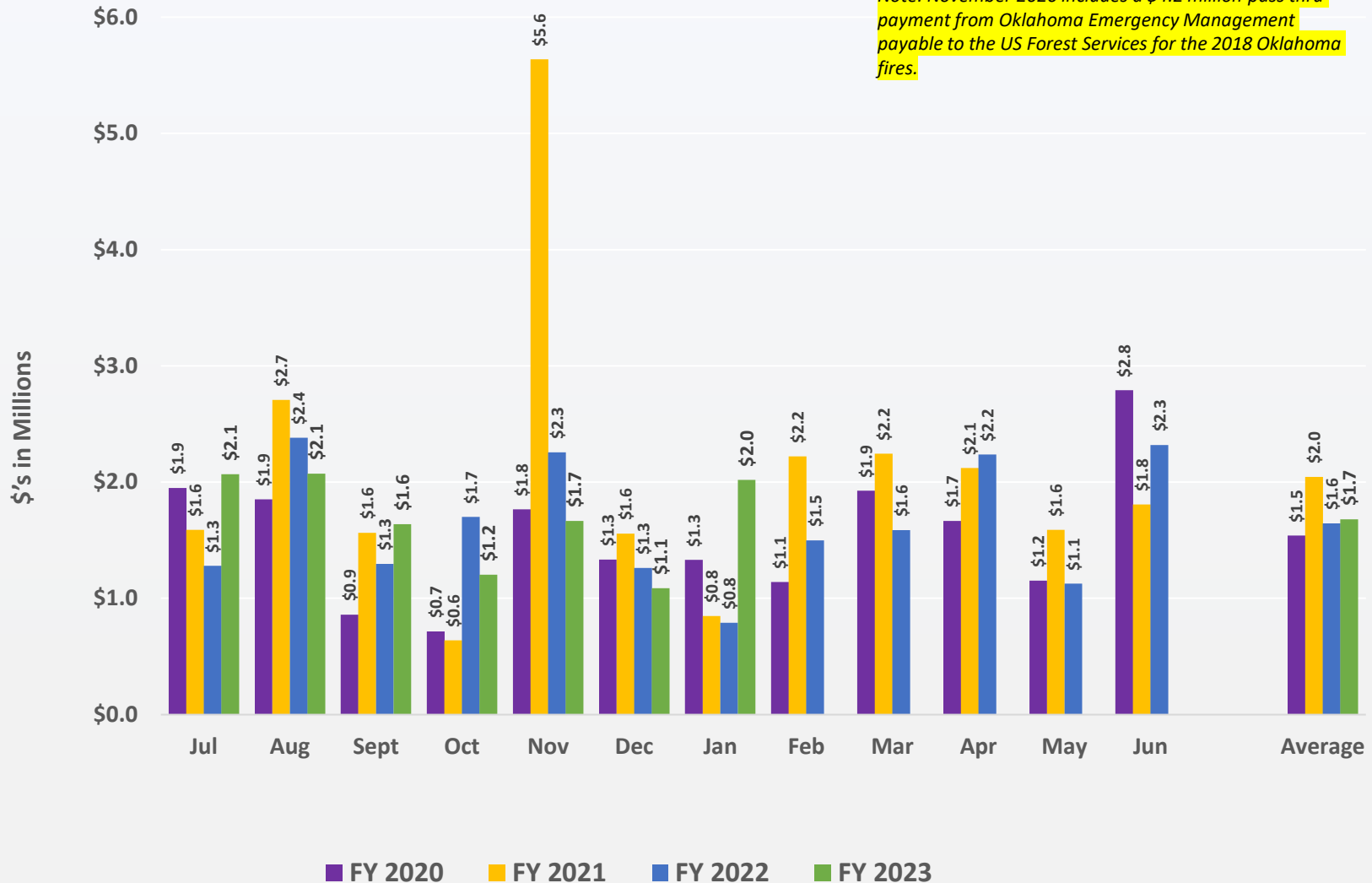
- Cash balance as of 1/31/2023 was \$33.1 million compared to \$31.9 million as of 1/31/2022.
 - Increase of \$1.2 million from the prior year and is primarily attributed to the following:
 - Increase in appropriations and appropriated cash for increases in legislative directed payments
 - Timing of grant receipts

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



Total Revenue by Month July 2019 – January 2023

Note: November 2020 includes a \$4.2 million pass thru payment from Oklahoma Emergency Management payable to the US Forest Services for the 2018 Oklahoma fires.





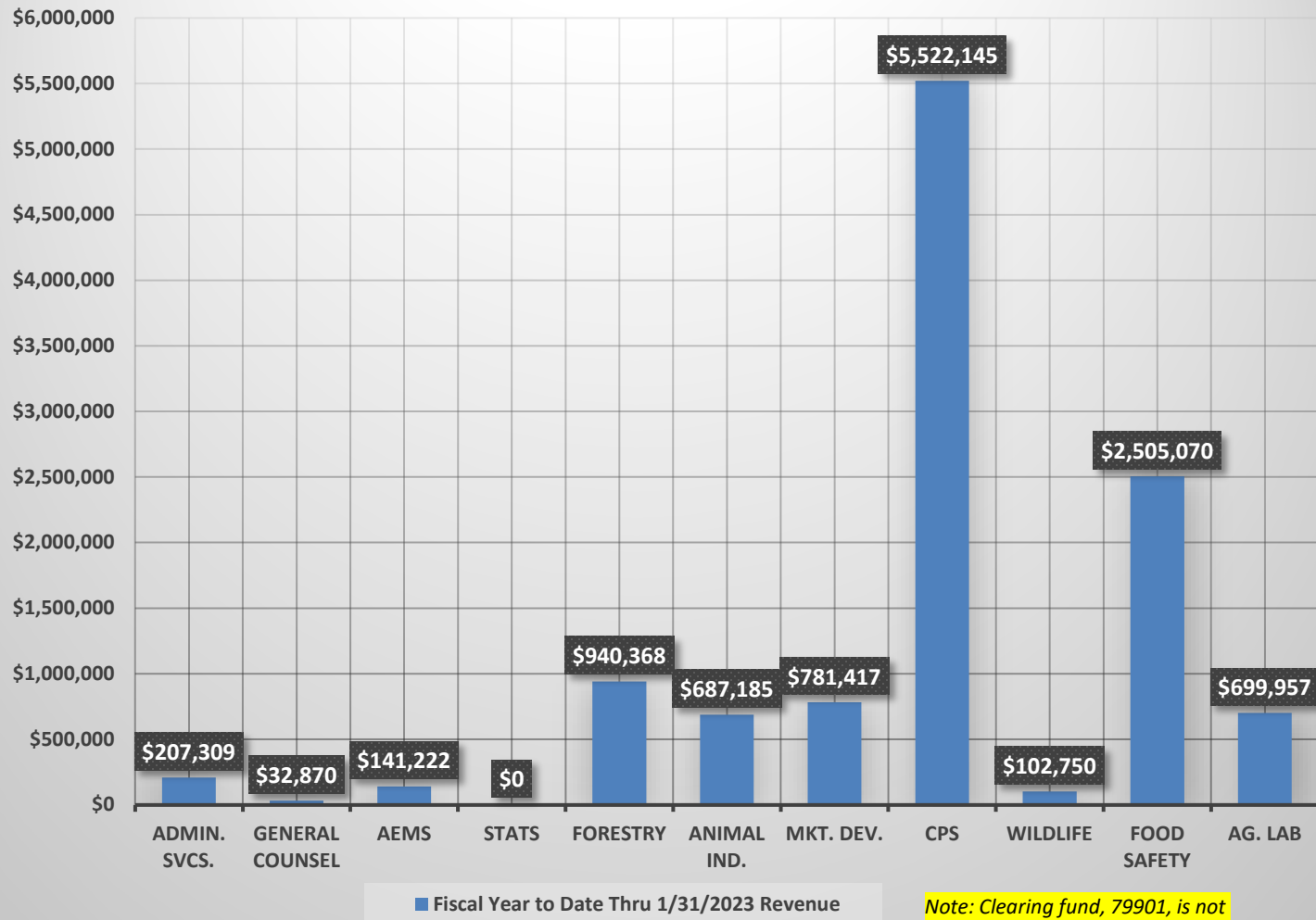
Revenue By Division July 2022 – January 2023

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY		
PROGRAM REVENUE SUMMARY		
1/31/2023		
Division	Janaury 2023 Revenue	Fiscal Year to Date Thru 1/31/2023 Revenue
Admin. Svcs.	10,819	207,309
General Counsel	2,725	32,870
AEMS	1,400	141,222
Stats	-	-
Forestry	424,936	940,368
Animal Ind.	276,122	687,185
Mkt. Dev.	24,165	781,417
CPS	768,588	5,522,145
Wildlife	3,200	102,750
Food Safety	340,987	2,505,070
Ag. Lab	104,115	699,957
DIVISION TOTAL (see division receipts graph below)	1,957,055	11,620,292
		-
Commodity Storage Indemnity	17,600	110,430
Appropriations	3,095,517	30,083,169
AGENCY TOTAL	5,070,173	41,813,891

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



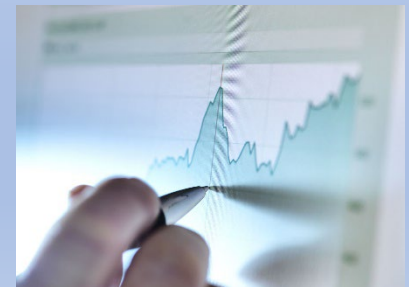
Revenue By Division July 2022 – January 2023



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

Administrative Services - Finance

- Revenues (excluding appropriations) for July 2022 thru January 2023 were \$11.8 million, compared to \$11 million for the same period last fiscal year.
 - This is an increase of approximately \$800K
 - Primarily due to the timing of payments received
 - Reduction in surplus property sales



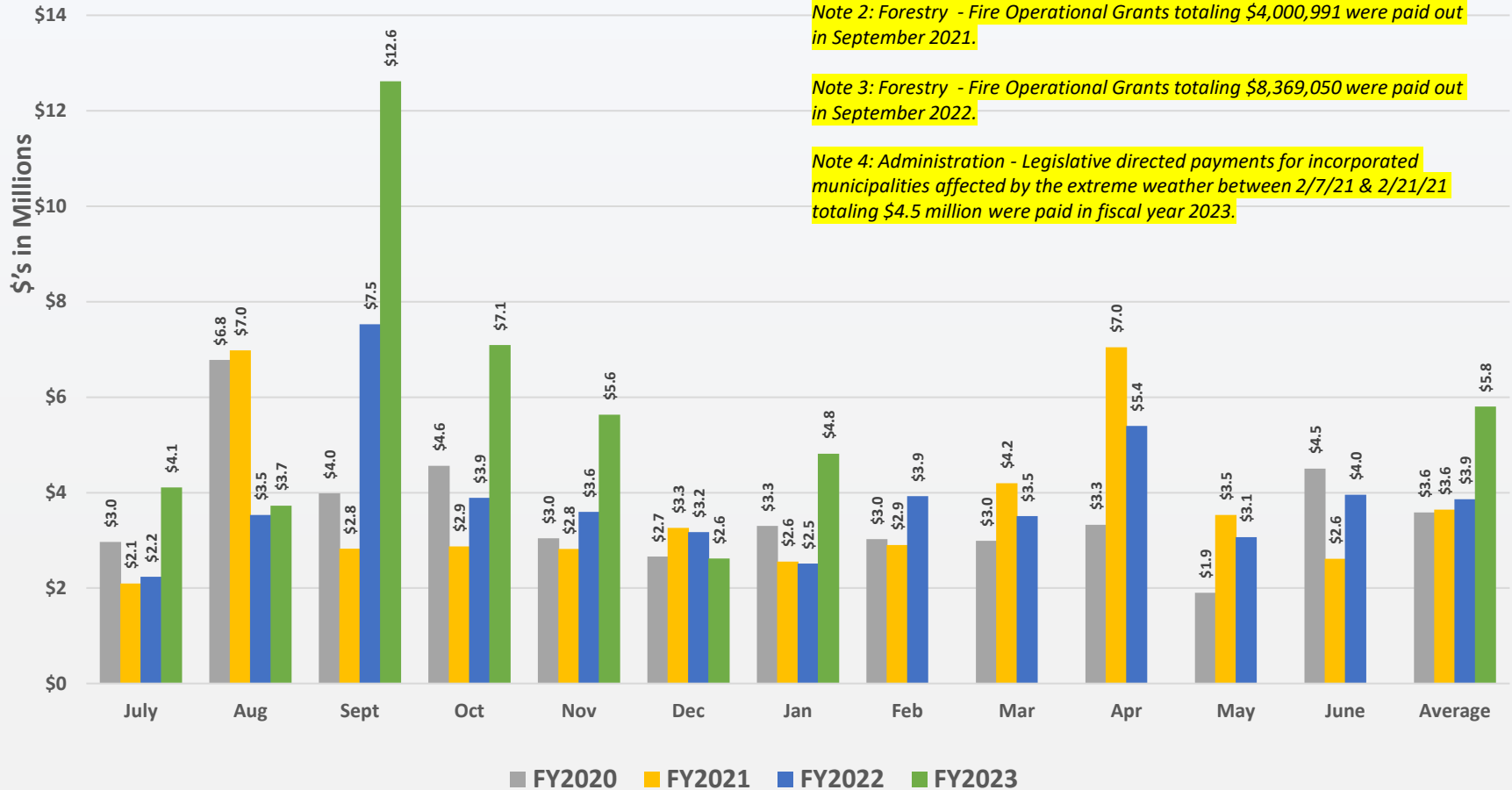
Total Expenses by Month July 2019 – January 2023

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

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

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

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



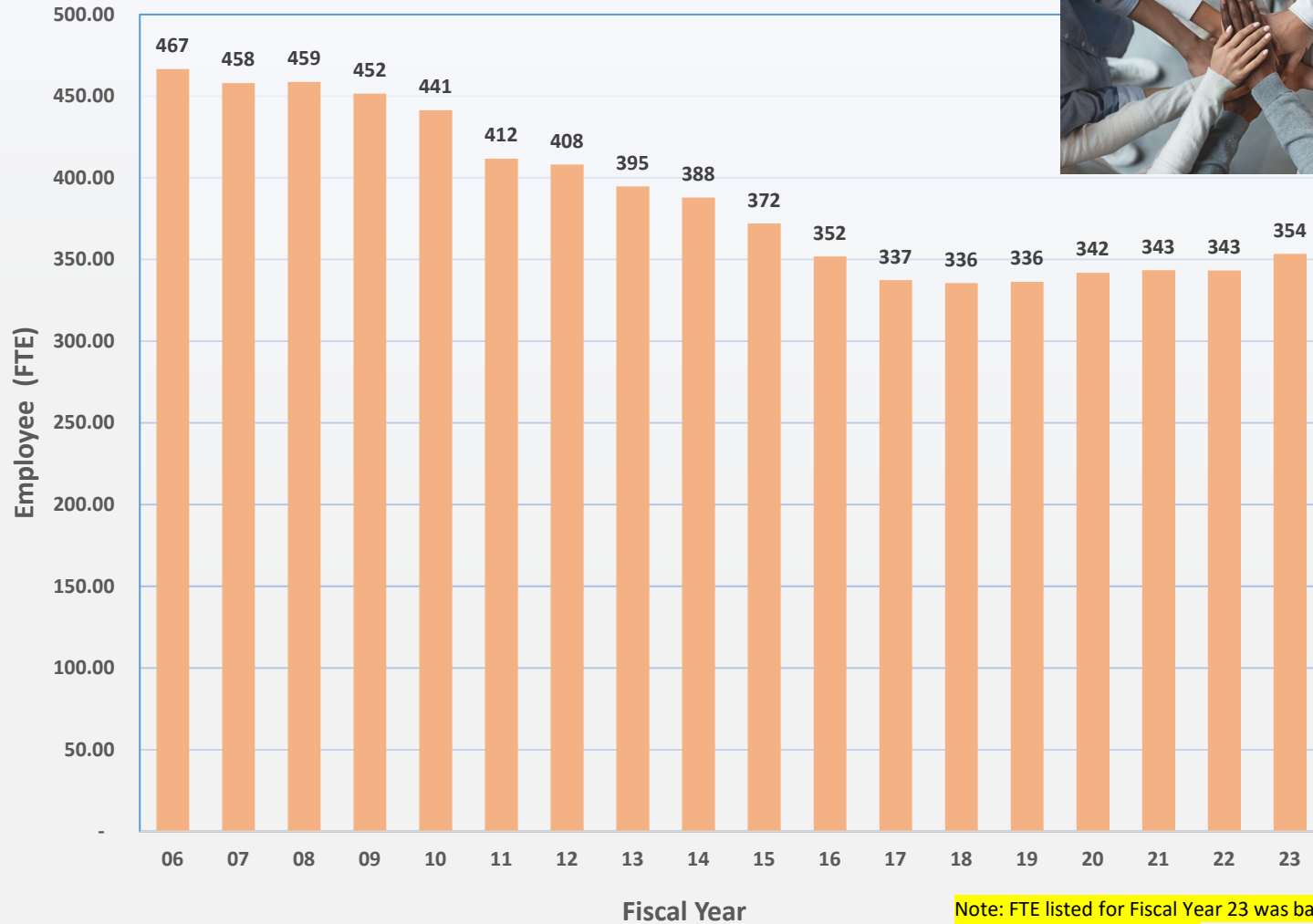
Administrative Services - Finance

- The expenses for July 2022 – January 2023 were \$40.6 million
 - This is an increase of \$14.1 million compared to the prior year and was due to the following:
 - Increase in legislative directed payments for fiscal year 2023
 - OSU College of Veterinary Medicine
 - Fire Operational Grants
 - \$8.4 million paid out to Oklahoma fire stations
 - Increase of \$4.4 million from the prior year.
 - 80/20 rural fire operational grants increased by \$1,675,000
 - Payments to incorporated municipalities affected by extreme weather events during February 2021
 - \$4.5 million paid out

FY 2023 Total Expenses by Month with Budget Year



Employee FTE Totals Fiscal Year FY 2006 – FY 2023

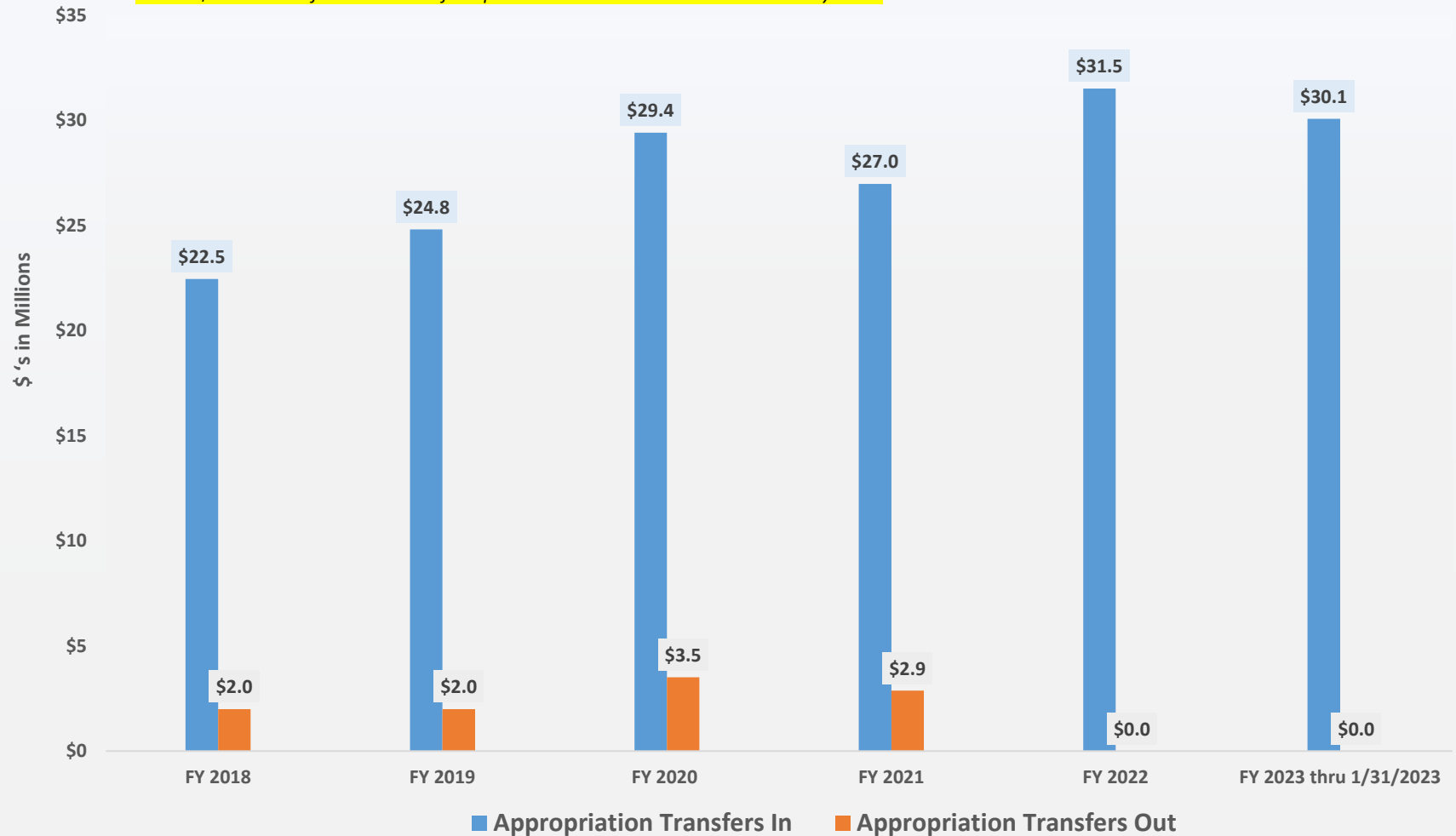


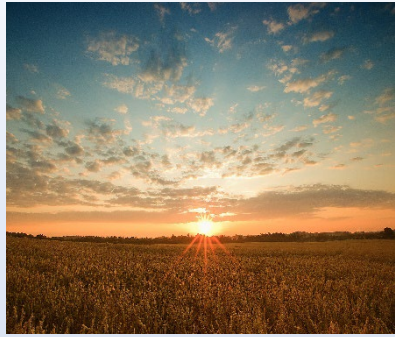
Note: FTE listed for Fiscal Year 23 was based on the FTE as of 1/31/2023.

Appropriations FY 2018 - thru January 2023

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

Note 2: \$8.4 million of one time cash for Operational Fire Grants was received in July 2022.





Administrative Services – Commodity Storage Indemnity

Commodity Storage Indemnity			
Investment Report			
As of January 31, 2023			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,291,220.73
<u>FY-2023 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest		\$17,600.07	\$110,429.63
Reinsurance			-
ODAFF Support Services			-
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	\$17,600.07	\$110,429.63
		=====	=====

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

Object Code	Account Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
511	Salary Expense	18,874,528	9,104,851	13,458,522	(3,688,845)
512	Insur.Prem-Hlth-Life,etc	5,973,536	2,474,056	185,780	3,313,701
513	FICA-Retirement Contributions	4,735,708	2,157,385	10,840	2,567,483
515	Professional Services	3,100,583	893,425	1,938,893	268,266
519	Inter/Intra Agy Pmt-Pers Svcs	30,000	20,452	23,707	(14,159)
521	Travel - Reimbursements	328,702	87,898	-	240,804
522	Travel - Agency Direct Pmts	365,898	165,673	-	200,225
531	Misc. Administrative Expenses	1,178,520	404,690	293,512	480,318
532	Rent Expense	686,033	304,437	319,318	62,278
533	Maintenance & Repair Expense	1,415,108	546,084	282,298	586,726
534	Specialized Sup & Mat.Expense	1,585,410	511,462	462,177	611,771
535	Production,Safety,Security Exp	201,456	30,648	869	169,939
536	General Operating Expenses	300,860	64,612	-	236,248
537	Shop Expense	603,831	303,395	73,086	227,350
541	Office Furniture & Equipment	3,170,652	448,196	410,678	2,311,777
542	Library Equipment-Resources	932	94	-	838
543	Lease Purchases	1,703,720	1,135,402	562,906	5,412
544	Livestock-Poultry	-	10,053	-	(10,053)
546	Buildings-Purch.,Constr,Renov.	-	813	-	(813)
552	Scholar.,Tuition,Incentive Pmt	-	176	-	(176)
553	Refunds,Idemnities,Restitution	20,000	-	-	20,000
554	Program Reimb,Litigation Costs	5,065,453	9,587,908	3,410,629	(7,933,084)
555	Pmts-Local Gov't,Non-Profits	15,953,116	7,511,587	3,443,623	4,997,906
559	Assistance Pymts to Agencies	8,248,687	-	3,000,000	5,248,687
564	Merchandise For Resale	140,000	-	-	140,000
601	AFP Encumbrances	-	-	1,249,190	(1,249,190)
810	Req Only	-	-	594,960	(594,960)
	Operating Totals	73,682,733	35,763,296	29,720,988	8,198,450

Oklahoma Department of Agriculture, Food & Forestry					
Monthly Budget Report - Budget Year 2023					
As of January 31, 2023					
Fiscal Year 2023 Annual Budget to Actuals for Budget Year 2023 thru January 31, 2023					
Class Funding	Class Fund Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
19201	GRF - Duties	-	-	0	(0)
19211	Carryover	683,679	2,830	95,008	585,842
19301	GRF - Duties	37,146,198	14,170,576	17,928,983	5,046,639
20500	Rural Fire Defense Eqp Rev Fd	140,000	-	39,729	100,271
21000	Agriculture Revolving Fund	22,629,010	11,776,359	9,380,969	1,471,682
22500	Enhancement & Diversificatn Fnd	150,000	28,667	28,333	93,000
23000	Okla Pet Overpopulation Fund	13,000	13,000	-	-
23500	Animal Friendly Revolving Fund	13,000	2,000	11,000	-
24000	Unwanted Pesticide Disp Fund	350,000	68,306	281,694	-
24500	Rural Fire Revolving Fund	800,000	219,579	283,993	296,427
25600	Ok Viticulture Enology Revl Fd	350,000	18,000	43,183	288,817
26200	Poultry Grading Revolving Fund	1,049,479	491,876	413,696	143,907
28500	Milk & Milk Prod Inspec Rev Fd	379,817	156,085	161,683	62,049
28600	Ag In The Classrm Educ Rvlv Fd	24,000	-	-	24,000
28700	Healthy Food Financing Revl Fd	100,000	-	-	100,000
42000	Specialty Crop Federal Funds	690,000	276,338	684,963	(271,301)
43000	Farm and Ranch Stress Alliance	500,000	125,130	357,754	17,116
43500	Local Food for Schools Co-op	250,000	-	10,000	240,000
57604	Duties	8,414,550	8,414,550	-	0
Totals		73,682,733	35,763,296	29,720,988	8,198,450

MARCH 2023 BOARD REPORT
AGRICULTURE LABORATORY SERVICES
(December and January 2023 Activities)

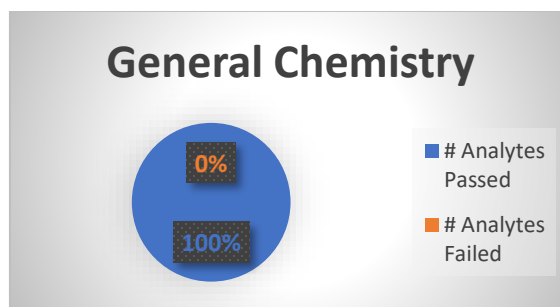
QUALITY MANAGEMENT SECTION: (Daniel Tripp, QA Manager)

In the month of December the Pesticide Section had their annual internal audit. Items reviewed included: log books, data review, SOP's, PT Reviews, CAPA Reviews and in-person method observation. The QA Manager is continuing to assist the General Chemistry Section with data validation and approvals.

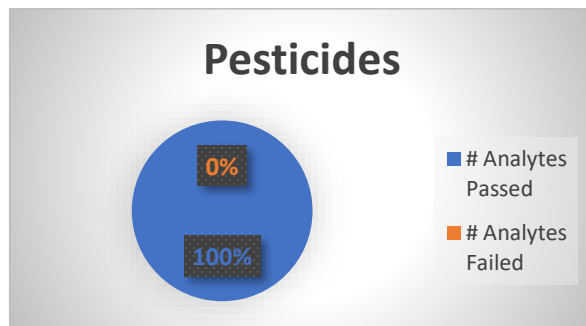
PT Results

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

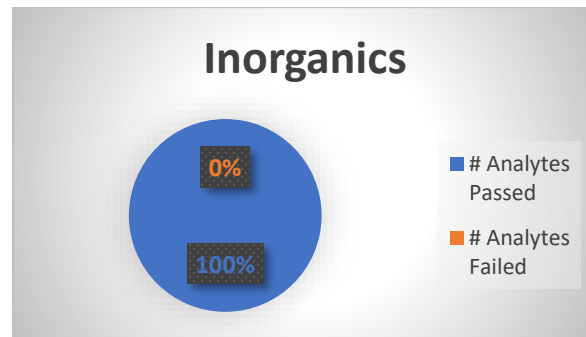
General Chemistry	
# Analytes Results Received	44
# Analytes Passed	44
# Analytes Failed	0



Pesticides	
# Analytes Results Received	20
# Analytes Passed	20
# Analytes Failed	0



Inorganics	
# Analytes Results Received	12
# Analytes Passed	12
# Analytes Failed	0



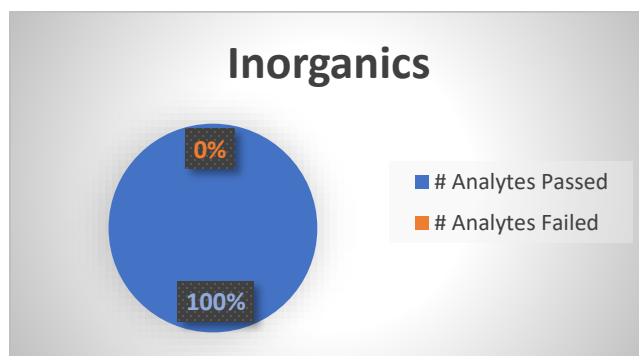
In January the QA Manager finished conducting the Pesticide Section internal audit. The QA Manager will have an audit review meeting to discuss findings and recommendations found during the audit.

The QA Manager has started the annual audit of the Inorganic Section and will focus heavily on meeting Oklahoma DEQ standards.

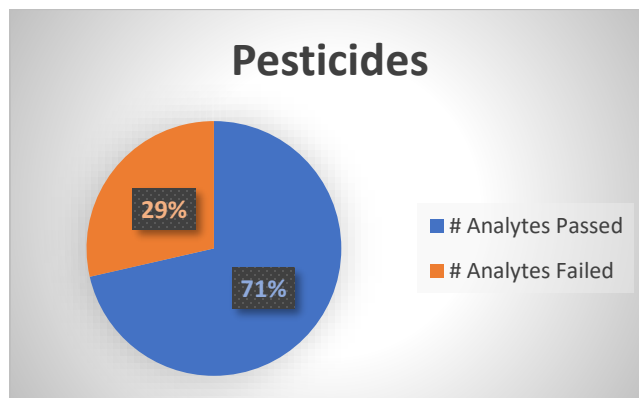
PT Results

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

Inorganics	
# Analytes Results Received	2
# Analytes Passed	2
# Analytes Failed	0



Pesticides	
# Analytes Results Received	7
# Analytes Passed	5
# Analytes Failed	2



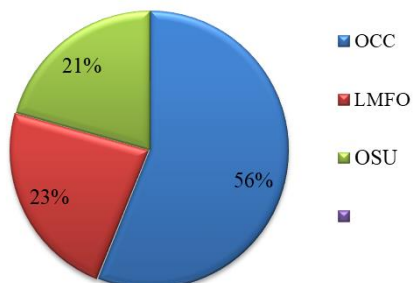
INORGANIC SECTION: (Elena Lyon, Environmental/Chemical Laboratory Scientist IV)

In December of 2022 the Inorganic Chemistry Section completed 237 samples consisting of 1723 determinations, with the following breakdown:

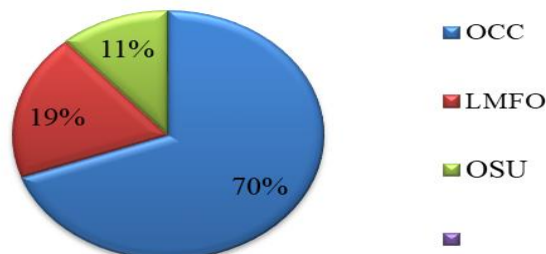
December 2022 Inorganic Breakdown

Customer	Samples	Determinations
OCC	133	1197
LMFO	55	330
Service		
OSU	49	196
Total	237	1723

December 2022
Sample Breakdown



December 2022
Determinations Breakdown

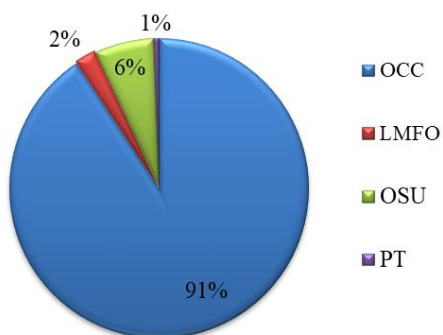


In January of 2023 the Inorganic Chemistry Section completed 174 samples consisting of 1478 determinations, with the following breakdown:

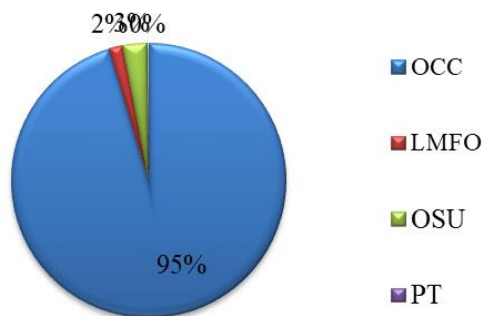
January 2023 Inorganic Breakdown

Customer	Samples	Determinations
OCC	156	1404
LMFO	4	24
OSU	11	42
PT	1	2
Pollution	2	6
Total	174	1478

January 2023
Sample Breakdown



January 2023
Determinations Breakdown

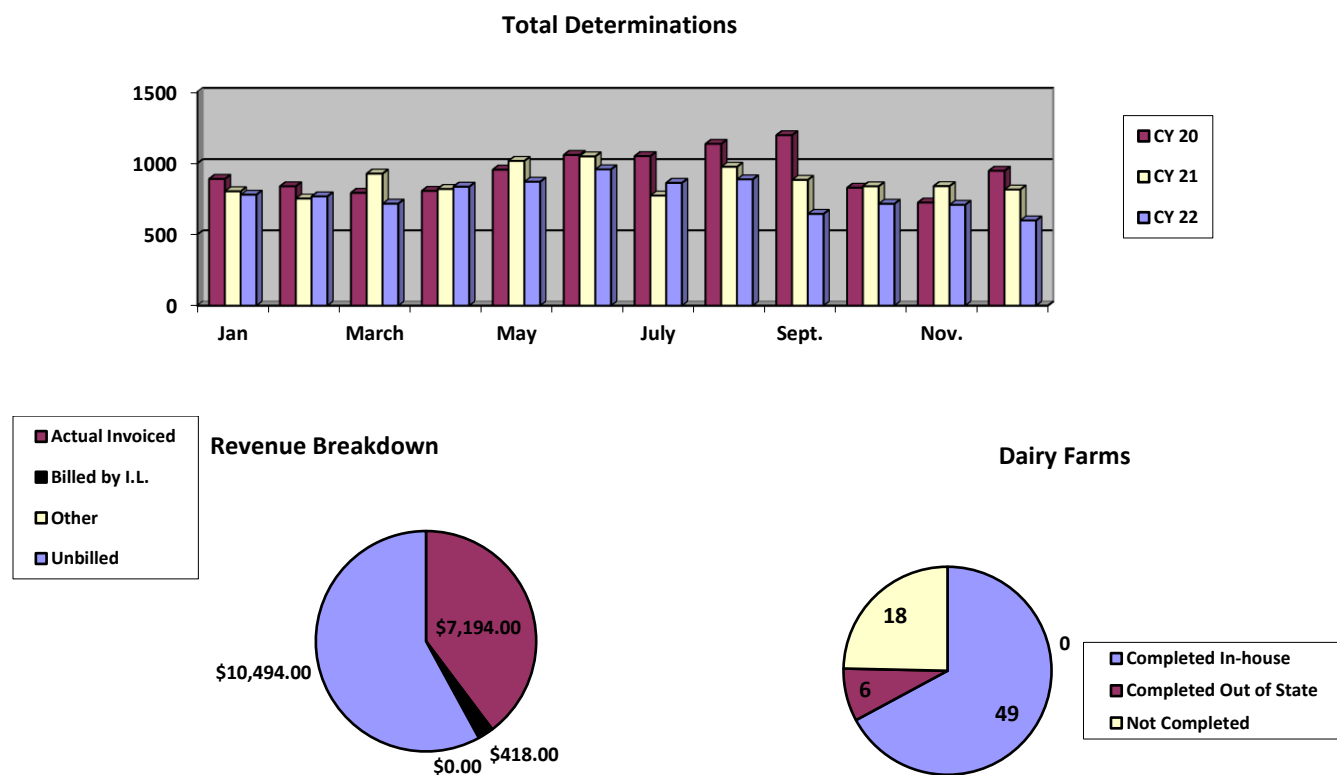


DAIRY/FOOD SAFETY SECTION: (Sharon Swyear, Environmental/Chemical Laboratory Scientist IV)

The month of December was a short testing month for the Section. Eighteen dairies were not tested with one of the dairies currently dry. A total of seventeen dairies have ceased operation this calendar year. When talking to the inspectors it was mentioned that many of these dairy owners have decided to close due to age and illnesses.

The Section tested twelve meat samples this month. For the 2022 calendar year, the Section has tested 203 samples.

There has been some additional work on the autoclave with new water lines being ran. The Section was notified that the new autoclave would not ship until after mid-January.



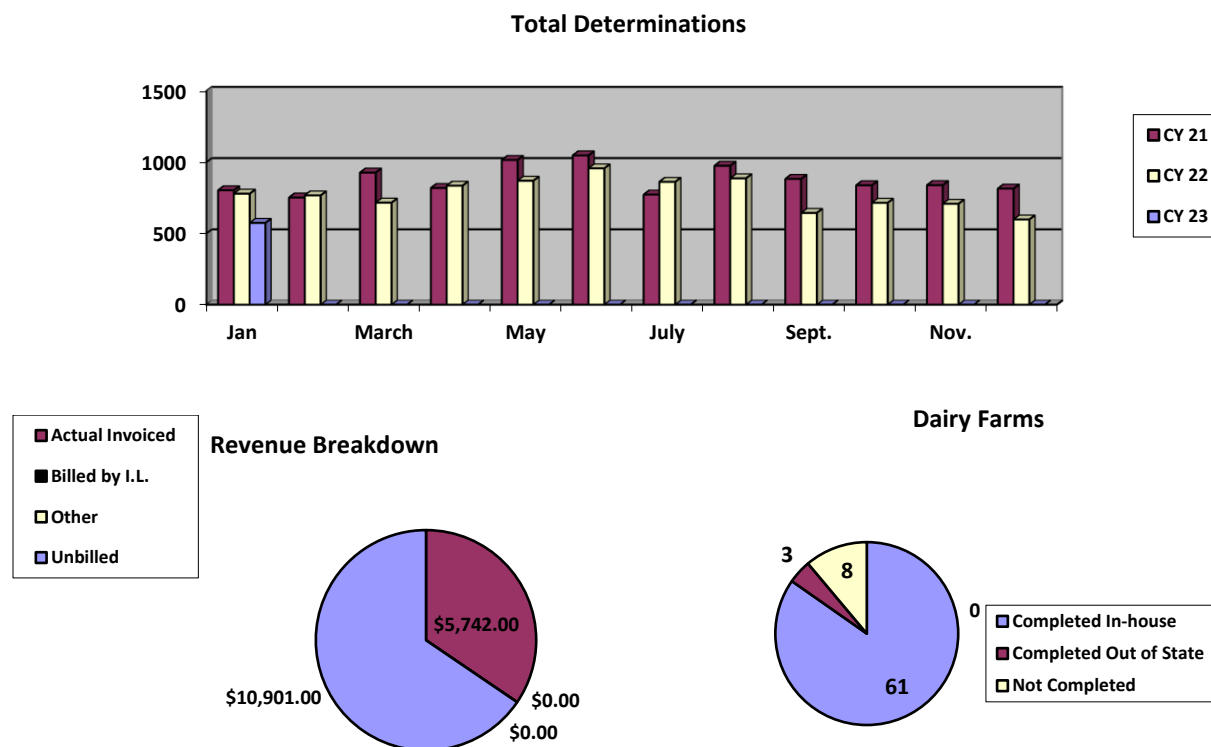
The month of January was a typical testing month for the Section. Eight dairies were not tested with one of the dairies currently dry.

The Section tested nine meat samples this month, and did not test any LMFO water samples for the month, but the samples are expected to start in February.

The new autoclave is in the process of being shipped from Mexico. Bid specifications are being written for a new electronic somatic cell counter and a second molecular detection system. The existing somatic cell counter is no longer supported by the manufacturer and the last repair used refurbished parts. A new molecular detection system can be used to test additional pathogenic

bacteria and the reagents. The new systems reagents are considerably cheaper than the existing PCR reagents which will help with the rising costs of supplies.

A new analyst started this month and the Section is fully staffed again.



SEED SECTION: (Tori Gillispie, Agriculture Field Inspector V and Wade Krivanek, State Seed Program Administrator)

Seed testing activity for the Section remained normal for December. A total of 82 samples were received for testing. Most crops that were tested consisted of native grasses such as crabgrass, bermudagrass and noxious weed checks. There were no Seed Law violations discovered.

The Board of Directors of the Oklahoma Crop Improvement Association (OCIA) held their quarterly meeting in December in the Laboratory conference room. It was announced Executive Director, Roger Osburn will retire at the end of the month. Robert Calhoun will be taking over his position.

Officials from OCIA reported that certified wheat sales were great last fall considering lack of moisture. Current certified wheat crop updates reported at the meeting indicated that wheat conditions were good but also still reporting the presence of prohibited noxious weeds such as field bindweed, cheat, rye and other weed species in certified wheat. Reporting also showed they were getting good moisture in the Southwest part of the state, however there are still many areas in the western half of the state that are suffering from drought conditions and having challenges with sprout damage. Officials also reported milo and cotton crops have been severely affected by the drought.

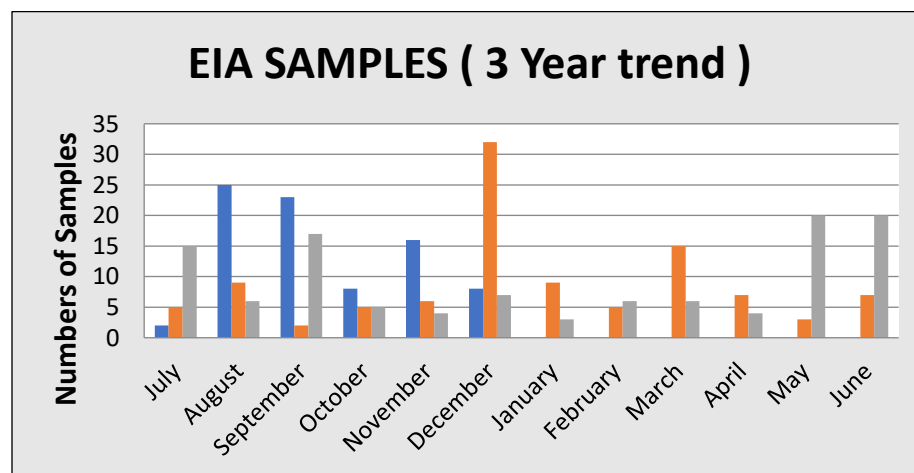
In January a total of 106 seed samples were received. Most of the samples were submitted by CPS field inspectors as facilities begin increasing their inventories for the upcoming spring planting season. Crops being tested consisted primarily of spring and cool season turf grasses, native grasses and hybrid sorghum. There were no Seed Law violations discovered during the month.

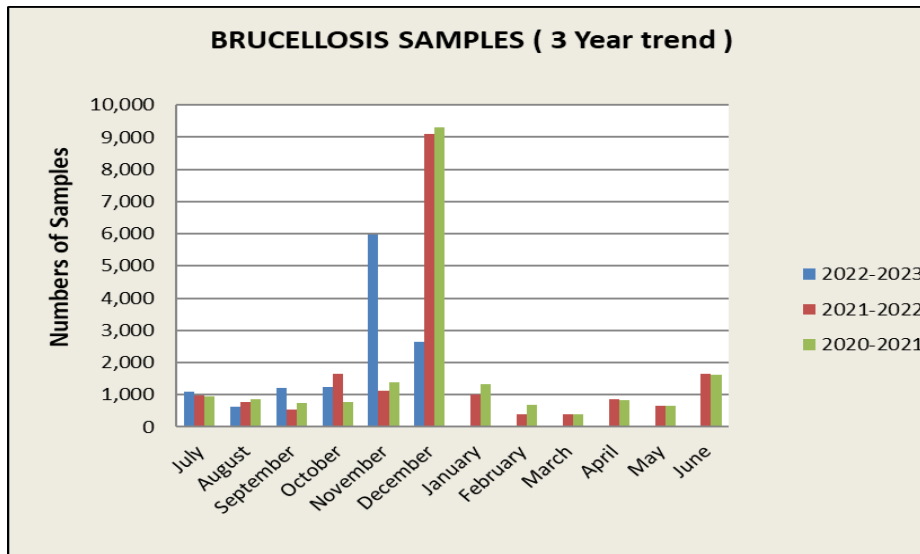
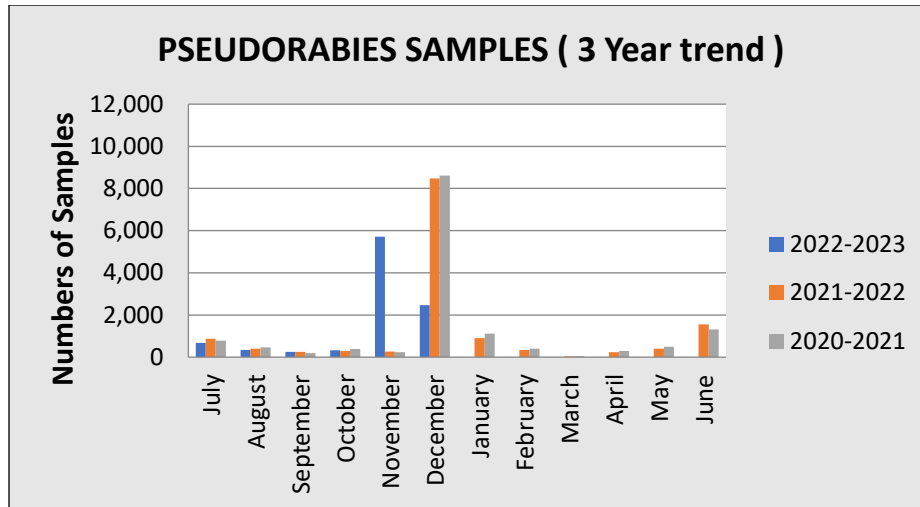
The Section also successfully completed proficiency testing for seed identification through the Association of Official Seed Analysts with all species adequately identified by common name as well as scientific names.

SEROLOGY SECTION: (Pete Bourns, Laboratory Scientist IV)

December

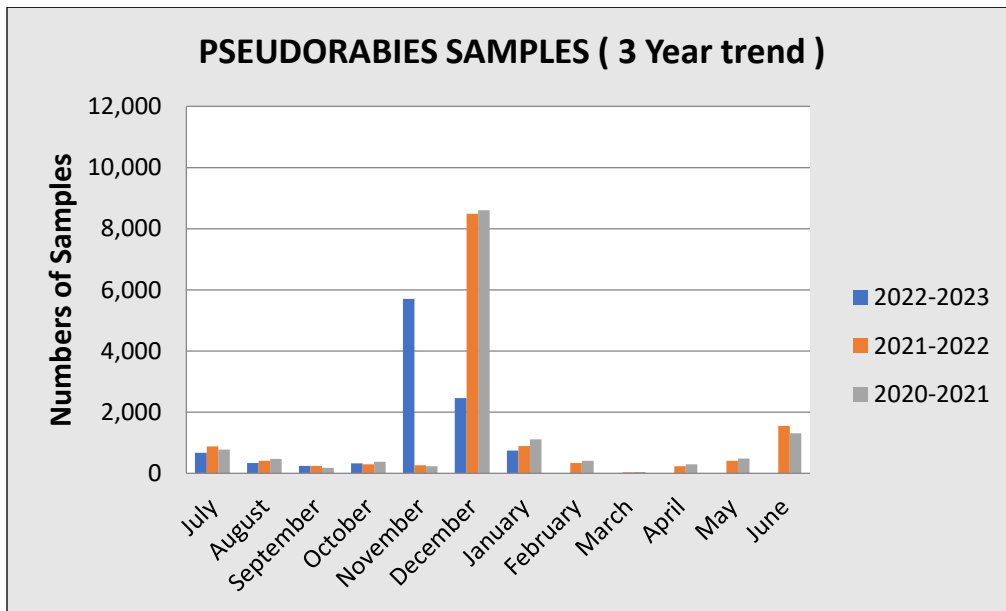
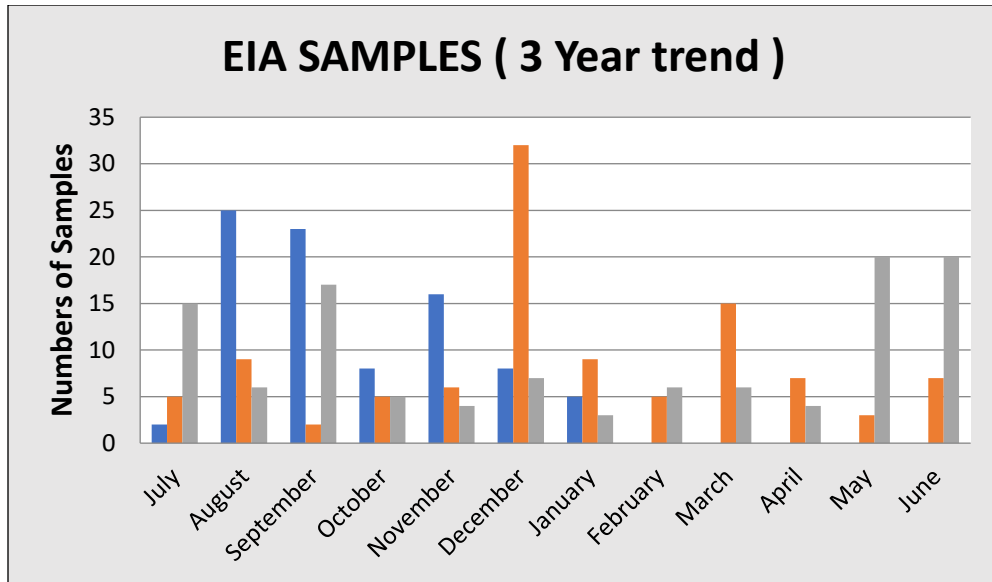
3-year Summary of Samples Analyzed			
Year	Brucellosis	Pseudorabies	E.I.A.
2022	2631	2466	8
2021	9114	8483	32
2020	9315	8608	7

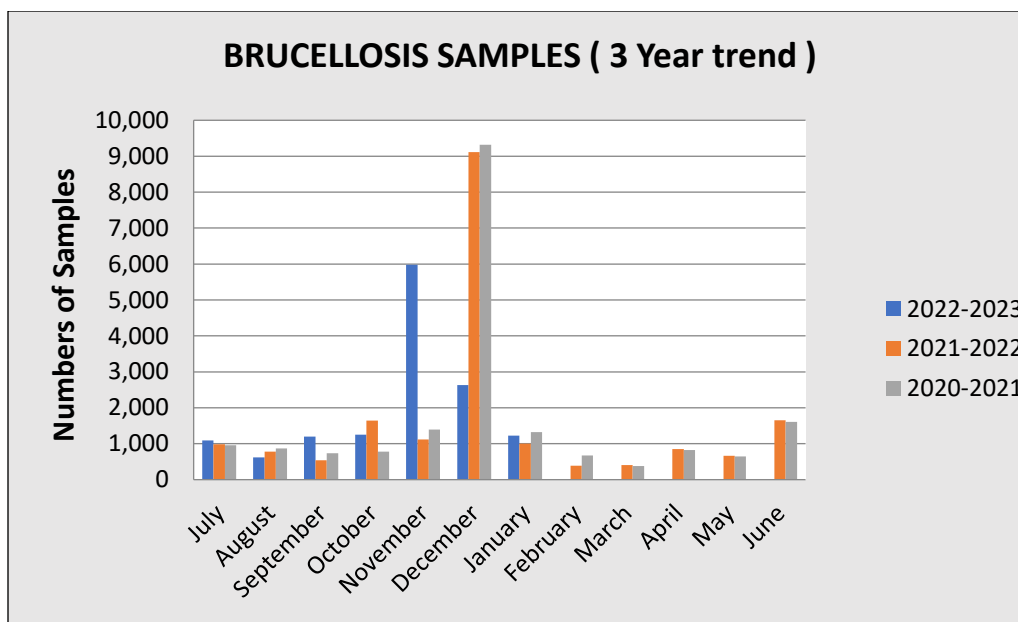




January

3-year Summary of Samples Analyzed			
Year	Brucellosis	Pseudorabies	E.I.A.
2022	1223	745	5
2021	998	896	9
2020	1319	1109	3





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

December has been a productive month for the Section reaching the goal of 1000 determinations per month completing 231 samples.

The efforts in training backups have been very beneficial and the Section was able to achieve these results.

With the increase in samples and determinations the Section has been able to keep turn-around averages to 15.29 per day (target of 18). The Section continues to have the first initial run on samples within a week of receiving for most analyses.

Overview of Section numbers for the month:

	Feed	Fertilizer	Lime	Total
Samples Received	193	2	0	195
Samples Completed	231	0	0	231
Determinations	1214	0	0	1214
Violations	107	0	0	107
Violation %	8.81%	0.00%	0.00%	8.81%

In January the Section hit target numbers for feed rush with 308 total samples coming in. This allowed the Section to continue to exceed their goal of 1000 determinations per month completing 241 samples.

The Section continues to keep turn-around averages to 14.42 day (target of 18) and hit an internal target of having samples first initial run within a week of receiving for most analyses.

Fertilizers are starting to come in and we are preparing to get our fertilizer analyzers back online and all chemicals prepped. We will strive to continue our current productivity as we move into fertilizer season.

Overview of Section numbers for the month:

	Feed	Fertilizer	Lime	Total
Samples Received	303	4	1	308
Samples Completed	239	1	1	241
Determinations	1135	2	6	1143
Violations	121	0	0	121
Violation %	10.66%	0.00	0.00%	10.59%

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

Pesticide Section samples completed:

In the month of December, the Section completed 34 samples. 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 Soil	12	12	12	18
Residue Water	15	53	267	56
Hemp	7	7	7	23

Average Residue Turnaround Time: 39 days
Average Hemp Turnaround Time: 23 days

Totals		
# of Samples	# of Tests	# of Determinations
34	72	286

Samples the Section received by month:

The Section received 23 samples this month. Majority of the samples received are for residue analysis (see Fig A). In calendar year 2022, the Section received 430 total samples which is 18% less compared to last year. This year the amount of hemp samples received are significantly lower compared to previous years.

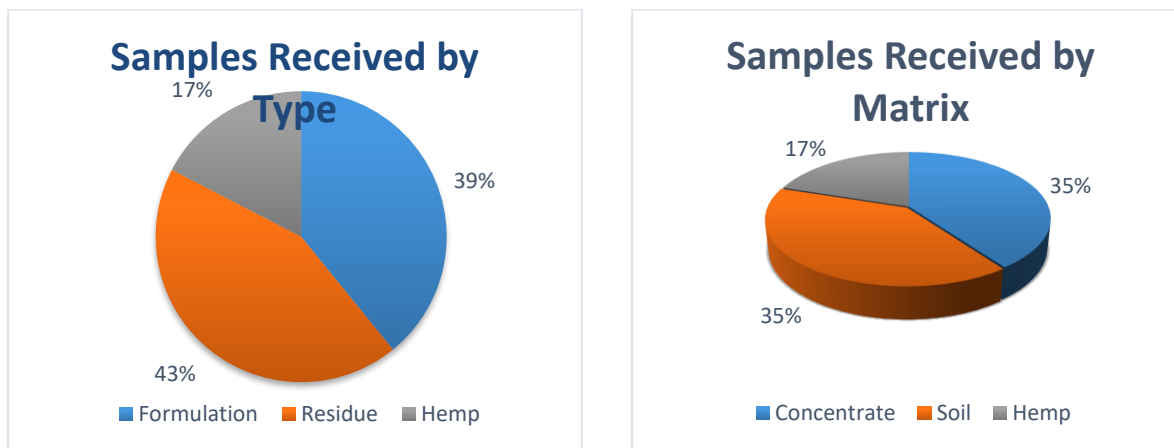


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right).

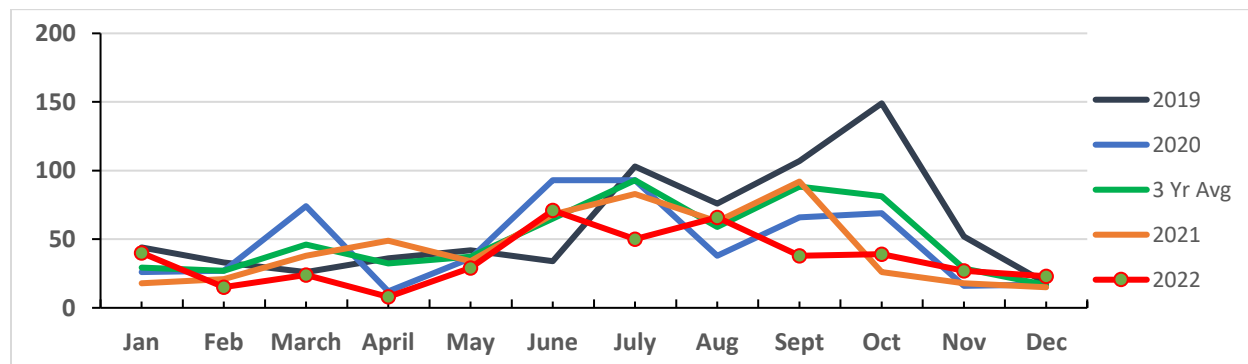


Fig B. Graph showing the number of samples received by the Section each month.

Determinations the Section completed by month:

In December, the Section completed 286 determinations with most of the determinations on residue water samples. In total, the Section completed 3204 determinations in 2022, 17% lower compared to last year.

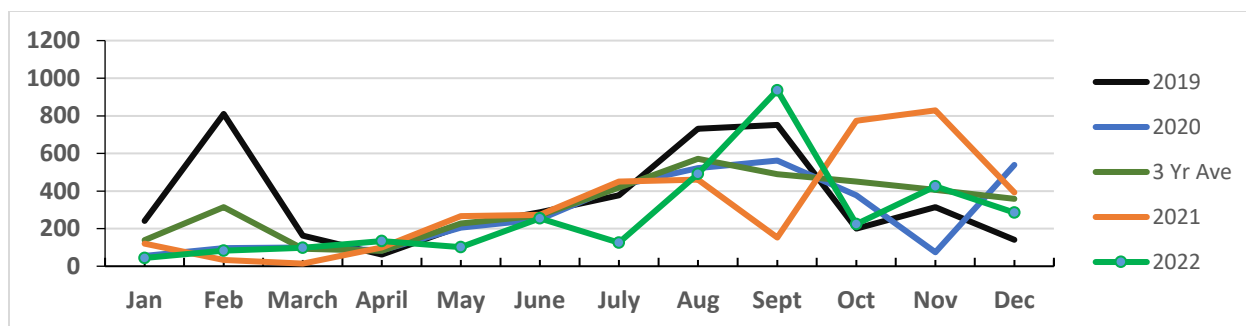


Fig C. Graph showing the number of determinations completed each month.

In January the Section conducted management review for FY21/22. The chemists continued training on a new GC-FID instrument.

Pesticide Section samples completed:

In the month of January, the Section completed 13 samples. 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 Soil	5	7	21	21
Residue Water	3	5	26	30
Concentrate	1	1	1	36
Tank mix	1	2	7	134
Hemp	3	3	3	23

Average Residue
Turnaround Time: 39 days

Average Formulation
Turnaround Time: 85 days

Average Hemp Turnaround
Time: 23 days

Totals		
# of Samples	# of Tests	# of Determinations
13	18	58

Samples the Section received by month:

The Section received 19 samples this month. Majority of the samples received are for Formulation analysis (see Fig A).

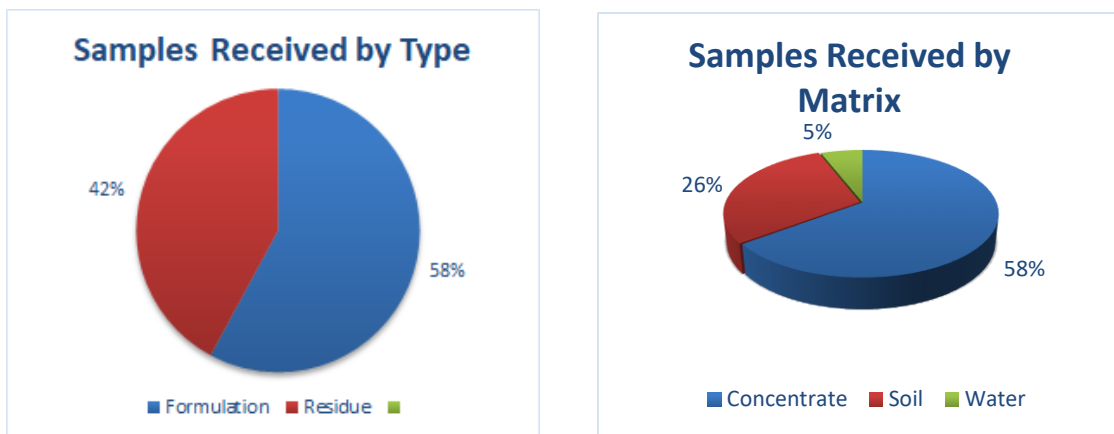


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right)

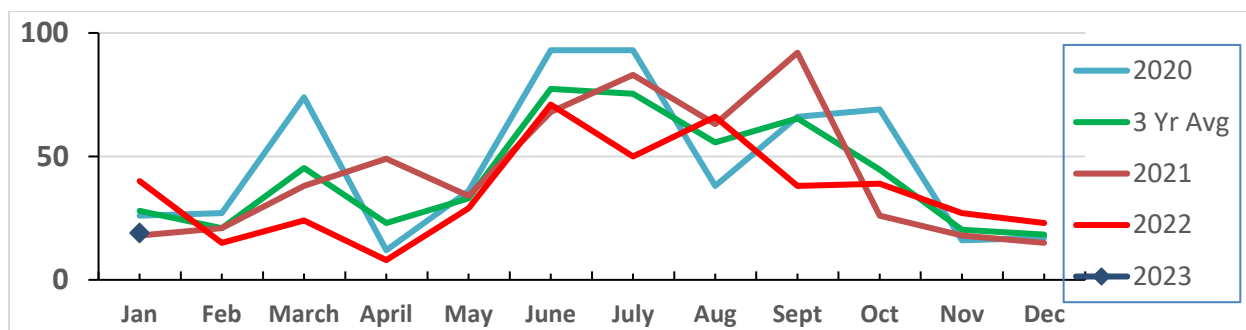


Fig B. Graph showing the number of samples received by the Section each month.

Determinations the Section completed by month:

In January, the Section completed 58 determinations with most of the determinations on residue water and soil samples.

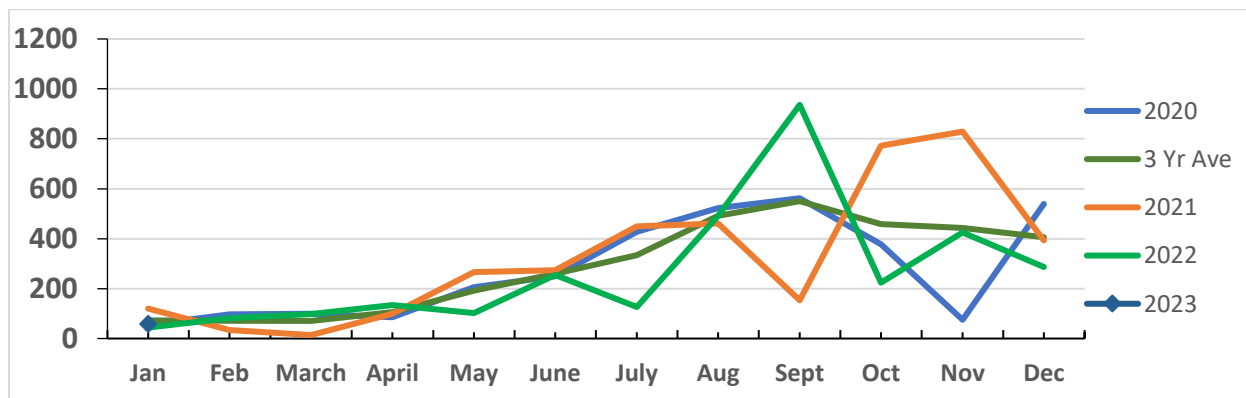


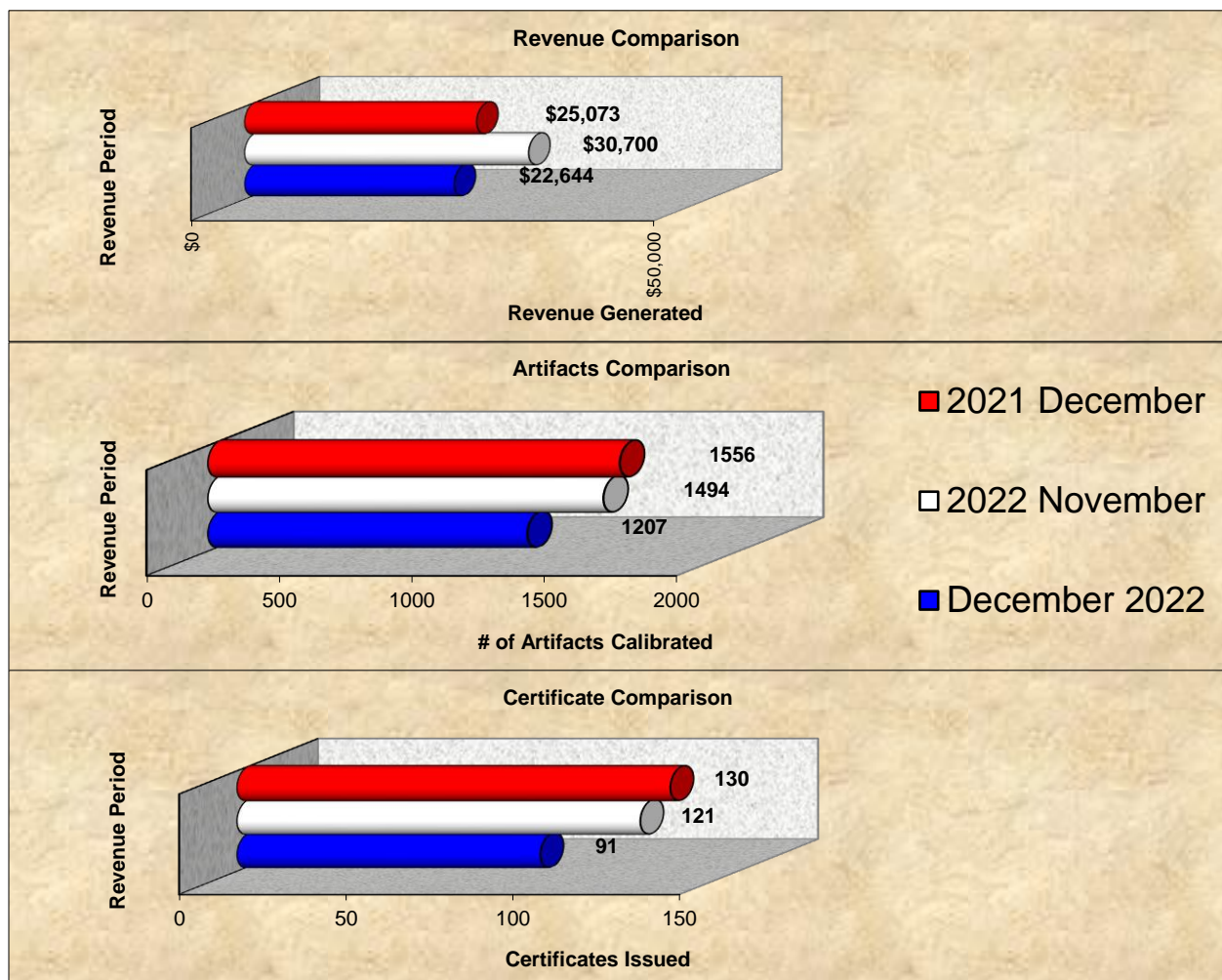
Fig C. Graph showing the number of determinations completed each month.

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

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

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	2	\$2,722	12%	79	6%
In-State Customers	9	\$19,922	88	1128	94 %
Totals	11	\$22,644	100%	1207	100%

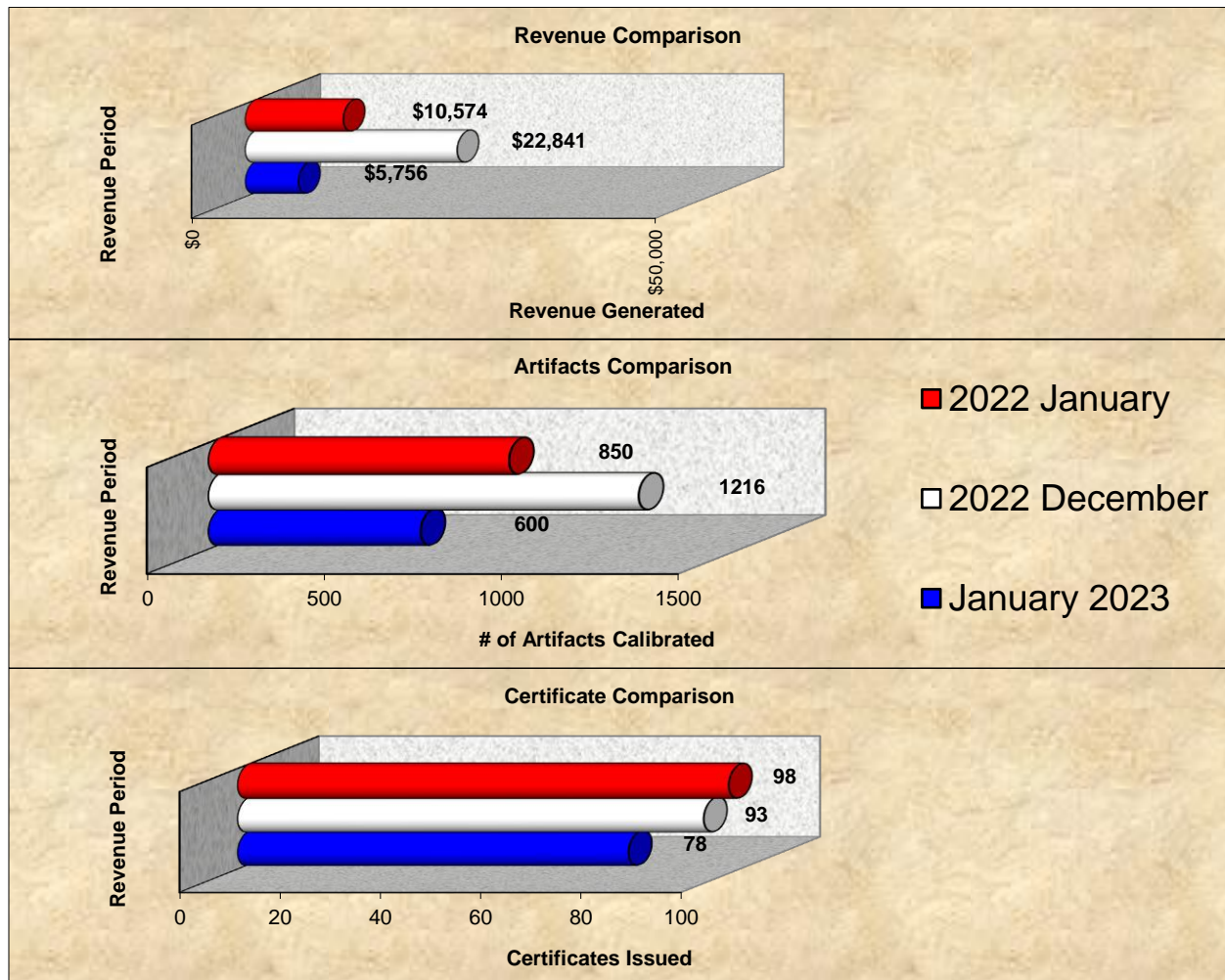
Total Fees not Charged	# Working Days Lead Time to Next Available Date for Calibration
\$0	Mass I / II 9
Fees not Charged ODAFF CPS	Mass III 3
\$0	Volume 3



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

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	1	\$100.00	2%	5	1%
In-State Customers	11	\$5656.00	98%	595	99%
Totals	12	\$5,756.00	100%	600	100%

Total Fees not Charged		# Working Days Lead Time to Next Available Date for Calibration	
\$293.00		Mass I / II	44
Fees not Charged ODAFF CPS		Mass III	25
\$0		Volume	25



Respectfully Submitted,

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

Wade Krivanek
Laboratory Director
Laboratory Services Division

BOARD REPORT
AGRICULTURAL LABORATORY SERVICES
DECEMBER 2022 ACTIVITIES

FEED SAMPLES	193
FEED DETERMINATIONS	1214
POSSIBLE VIOLATIONS	107
 FERTILIZER SAMPLES	 2
FERTILIZER DETERMINATIONS	0
POSSIBLE VIOLATIONS	0
 LIME SAMPLES	 0
LIME DETERMINATIONS	0
POSSIBLE VIOLATIONS	0
 PESTICIDE SAMPLES	 34
PESTICIDE DETERMINATIONS	286
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 237
DETERMINATIONS	1723
 STATE-FEDERAL VET. LAB. SAMPLES	 5108
STATE-FEDERAL VET. LAB. DETERMINATIONS	5489
NUMBER POSITIVES	0
 SEED SAMPLES	 82
SEED DETERMINATIONS	153
POSSIBLE VIOLATIONS	0
 BUREAU OF STANDARDS CERTIFICATES	 91
NUMBER OF STANDARDS CALIBRATED	12007
FEE CHARGES	\$22,644.00
 DAIRY SAMPLES	 385
DAIRY DETERMINATIONS	815
POSSIBLE VIOLATIONS	19
 TOTAL SAMPLES	 6132
TOTAL DETERMINATIONS	21687
TOTAL POSSIBLE VIOLATIONS	126

BOARD REPORT
AGRICULTURAL LABORATORY SERVICES
JANUARY 2023 ACTIVITIES

FEED SAMPLES	303
FEED DETERMINATIONS	1135
POSSIBLE VIOLATIONS	121
 FERTILIZER SAMPLES	 4
FERTILIZER DETERMINATIONS	2
POSSIBLE VIOLATIONS	0
 LIME SAMPLES	 0
LIME DETERMINATIONS	0
POSSIBLE VIOLATIONS	0
 PESTICIDE SAMPLES	 13
PESTICIDE DETERMINATIONS	58
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 174
DETERMINATIONS	1478
 STATE-FEDERAL VET. LAB. SAMPLES	 1973
STATE-FEDERAL VET. LAB. DETERMINATIONS	2322
NUMBER POSITIVES	0
 SEED SAMPLES	 106
SEED DETERMINATIONS	202
POSSIBLE VIOLATIONS	0
 BUREAU OF STANDARDS CERTIFICATES	 78
NUMBER OF STANDARDS CALIBRATED	600
FEE CHARGES	\$5,756.00
 DAIRY SAMPLES	 231
DAIRY DETERMINATIONS	574
POSSIBLE VIOLATIONS	14
 TOTAL SAMPLES	 2882
TOTAL DETERMINATIONS	6371
TOTAL POSSIBLE VIOLATIONS	135



OKLAHOMA FORESTRY SERVICES BOARD REPORT

Division Activities from October 19, 2022 – November 18, 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

KOCO 5 News Interview

On January 5th OFS Forester Riley Coy was interviewed by Jason Burger with local news station KOCO-TV Channel 5 about the efforts of Oklahoma and the southern states to promote urban wood utilization.



OSU Capstone Project

On January 18th, OFS Forester Riley Coy met with Forest Management students from OSU at the Central Oklahoma Camp and Conference Center near Guthrie to discuss their capstone project. The students will create a forest stewardship plan on the 250-acre property. Objectives include forest health, wildfire mitigation, and recreation. This is the final project prior to graduation with a Bachelor of Science in Forest Management.



Tree Planting

On January 23rd Forestry Services staff planted 12 native trees in the front beds of the ODAFF building. Six Chinkapin Oak, four Oklahoma Redbud and two 'Royal Purple' Smoke Trees were chosen for their heartiness, aesthetic value and benefits to birds and pollinators.

Southern Group of State Foresters (SGSF)

Foresters Mark Bays and Riley Coy represented OFS at the winter meeting of the SGSF Urban & Community Forestry Committee January 31st – February 2nd in Baton Rouge, LA. New federal funding for community forestry from the Inflation Reduction Act and regional strategies to address cross state boundary projects were topics of discussion.



Midwestern I.S.A. Conference

The annual Midwestern Chapter of the International Society of Arboriculture (ISA) was held in Tulsa January 25th -27th. Riley Coy presented on the topic of urban & community wood utilization opportunities during a lightning round discussion.

Oklahoma Urban & Community Forestry Council

The U&CF Council met for their quarterly meeting via zoom conference call on February 9th. The Council's strategic planning process, new board members, annual conference and the upcoming 2023 Arbor Week activities were some of the main topics of discussion. Riley Coy represented OFS on the conference call.



Upcoming Events

On March 9th OFS and the Community Forestry Council will be co-hosting the kickoff for Arbor Week in Oklahoma celebrating all the cities, Air Force Bases, college campuses and utility companies recognized by the National Arbor Day Foundation for their good practices in tree care and planting. This year's event will be held on the campus of Oklahoma City Community Foundation.

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

State Nursery seedling harvest

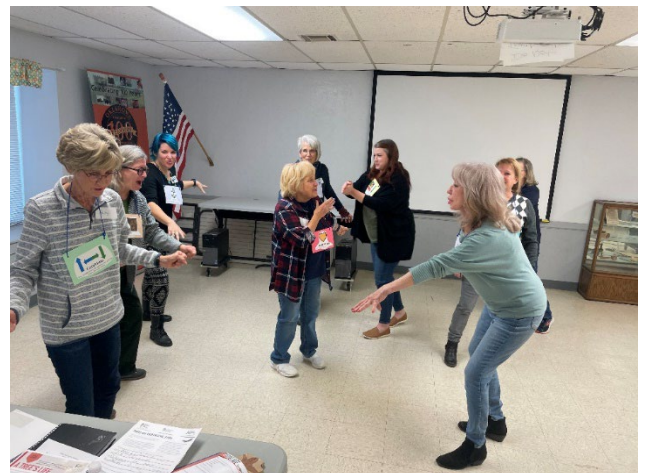
Evergreen seedling harvest has been completed at the Forest Regeneration Center at Goldsby. The staff completed the lifting and processing of various hardwood and evergreen seedlings for landowners to meet their conservation objectives throughout the state. The number of seedling orders surpassed 600 and continues to go up as planting season continues to ramp up.



COMMUNITY OUTREACH AND COMMUNICATIONS

FORESTRY EDUCATION

On January 9th, Education Coordinator Tony Pascall trained ten Junior Master Gardener educators on Project Learning Tree's K-8 Guide at the OSU Extension office in Norman. These educators will now have the resources to teach about the forest in their own programs with children.



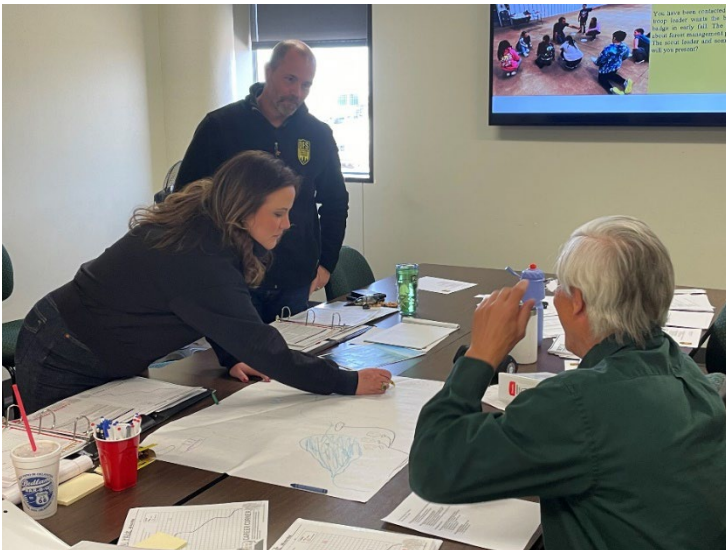
On January 12th, Tony Pascall and Forester JT Allen gave a presentation in Durant about career opportunities in the forestry sector to 50 young people and community members interested in sustainability.



On January 26th, Tony gave a “Green Jobs” presentation to 25 students on the Oklahoma Agriculture Youth Council in Oklahoma City. These future leaders in the Ag field now have a better understanding of Forestry as a profession and industry.

On January 28th, Tony trained 3 classroom and non-formal educators on Project Learning Tree’s K-8 Guide at the OSU extension office in OKC.

On February 3rd, Tony Pascall presented at the Oklahoma Environmental Education Expo at the OKC Zoo. Eleven educators learned about the social, emotional, and mental benefits to children of teaching outdoors and around trees and were introduced to PLT as a curriculum that can be used to teach outdoors more often. Tony also had a PLT booth at the event, and more than 120 educators were able to learn about the program.



On February 4th, Tony Pascall trained 3 classroom and non-formal educators on Project Learning Tree’s K-8 guide at the OSU extension office in Tulsa.

On February 13th and 14th Tony conducted two Forestry Education trainings for fifteen members of OFS staff in OKC and Wilburton. This training went through the importance of education to our agency, strategies for educating young people, and lesson plans and materials so that staff have the tools they need to successfully run an education program. The goal of these trainings is to expand the reach of our agency into schools, scout groups, clubs, and more so that more youth are exposed to forestry and the importance of sustainable forestry and good management.

On February 15th, Tony Pascall presented to 65 people at the Cleveland County Master Gardeners meeting about environmental education and dendrochronology.

FOREST HERITAGE CENTER (FHC)

Oklahoma Arts Council

Complete proposals for FY 2024 Oklahoma Arts Council grants have been submitted for the four major programs: Folk Festival; Beginning Woodturning; Camp Discover; and Artist of the Year Gallery. Supporting materials for the proposals include the Project Coordinator's resume with identification of employer, 501(c)3 Form 990 tax documents, and brief summaries for each proposed artist and vendor.

FHC Manager Stephanie Hennigan met with the Grants Director, Grants and Programs Associate, Arts Learning in Communities Director, and Arts Education Director from OAC to discuss our programming and explore more opportunities for funding.

Oklahoma Historical Society

The FHC received a separate grant from the Oklahoma Historical Society for a consultant evaluation of the facility and collections. An extension has been obtained to complete that project, with consultant Rebecca Elder set to arrive in early March for a multi-day evaluation of the FHC. The FHC Historical Facility Manager will be her primary contact when she is onsite.

McCurtain County Tourism Authority

The reimbursement grant funds for the 2022 Folk Fest advertising has been received.

Programming

Valentine's Craft Day and Market – On Saturday February 4, 2023, the FHC hosted two local artisans along with a kid's craft table and seedlings provided by OFS' Forest Tree Improvement Center. New tree tags were created to highlight the FTIC and provide directions for planting the seedlings. Vendors included a local soap maker and a jewelry artist. Over 200 people attended the event and toured the museum.



Partnerships

Forest Heritage Center Board

On January 19th, the FHC had their first meeting of 2023. New Director Stephanie Hennigan was introduced, along with new Board Members and Committees. Forest Management Chief/Assistant Director Craig Marquardt spoke on behalf of OFS and shared an update including the increased salaries for positions at the FHC.

Broken Bow Chamber of Commerce

Hennigan has connected with the Broken Bow Chamber of Commerce Director and spoken on behalf of the FHC at their quarterly meeting and begun planning a collaborative event in July.

Idabel Chamber of Commerce

Hennigan met with the Director for the Idabel Chamber of Commerce and discussed partnership opportunities and upcoming events. Committee selection is pending and will be avenue for working together in the future.

Southeast Oklahoma Woodworkers

Met with the Southeast Oklahoma Woodworkers and spoken at their most recent meeting. We have discussed funding opportunities as well as expense tracking going forward. For the first year, they were involved in the grant writing process and are supportive of partnership ahead.

Oklahoma Museum Association

Contacted the Oklahoma Museum Association and will attend Museum Day at the Capitol. Additionally, the OMA Executive Director has extended a special invitation to attend as a guest at the upcoming board meeting and lunch.

Oklahoma Forestry Association

Attended the quarterly meeting of OFA on behalf of the FHC. Pete Herron introduced Hennigan as the new FHC Director to the OFA Board.

Standards for Excellence training

The FHC received a grant to attend the OMA and Oklahoma Center for Nonprofits training on the Standards for Excellence: An Ethics and Accountability Code for the Nonprofit Sector. Standards for Excellence is a nationally recognized program that identifies the standards and accountability expectations in six major areas of non – profit governance and management, including finance and accounting, legal obligations, personnel management, board relations, among others. The Forest Heritage Center is now endorsed as a Standards for Excellence accredited entity.



Forest Heritage Center Facilities

Roof

There are ongoing issues with several roof leaks that have caused the museum to be closed to the public for safety concerns at various times. As of now, it does not appear that the leaks have damaged the collections, but we will continue to monitor.

Audio

The audio for the diorama exhibit is now only working for one of the dioramas. A local AV technician has been onsite to evaluate the problem; however, the age of the equipment has proved prohibitive in his ability to solve the issue. Another technician has been contacted and will be scheduled to come and evaluate the issue in the next few weeks.

Plumbing and HVAC

Plumbing also was an issue for a couple of days, rendering all the facilities out of order. Tourism has repaired the problem and does not anticipate it recurring. The AC in the boardroom was not functioning, and a repair technician has been scheduled by the FHC to replace the unit. Tourism will pay for the replacement unit.

Wi-Fi

Interest has been expressed in getting Wi-fi for the Herron Boardroom. At present, none of the meeting rooms have capabilities, so that will continue to be explored as an ongoing project with FHC to likely incur the expense.

Upcoming Dates

February 22, 12:00 p.m. – Broken Bow Rotary Club Speaker for the FHC

March 4, 9:00 a.m. – 2 p.m. – Chuck Wagon Cooking and Living History Demo at the FHC

March 5, 1:00 p.m. – Artist of the Year Gallery Opening and Reception

March 5 – May 7, 10:00 a.m. – 4:00 p.m. Thursday – Saturday, 1:00 p.m. – 4:00 p.m. Sunday, AOTY Gallery at the FHC

March 8 – 9 – Gallery consultant Rebecca Elder at FHC

March 15, 12:00 p.m. – Broken Bow Lion's Club Speaker for FHC

March 17 – St. Patrick's Day Event at the FHC

March 21 – International Day of Forests and World Wood Day Event at the FHC

March 28 – Beginning Woodturning begins at Broken Bow High School

COMMUNICATIONS

SafeStayOK.gov

Information Representative Keith Merckx completed work and presented to Fire Staff a prospective website for wildfire prevention and awareness in the rapidly growing Hochatown area. The website is integrated with evacuation maps created by GIS Specialist Chris Mask. The work is scalable and able to be rolled out to other areas of the state as well as to partner organizations across the Southern Group and nation. Domain names have been secured and the application process is underway to secure a .gov domain to serve as the main domain for the website as well as for branding purposes.

Lawfully Burning Information

Keith Merckx is working with Fire Staff to improve the section on the OFS webpage pertaining to Lawful Burning in Oklahoma. That work is to be completed in time for the upcoming Spring wildland fire season in Oklahoma.

Training

Keith attended a Southern Group of State Foresters meeting in February in South Carolina as liaison to the Water Resources Committee. He will attend the SGSF Communications Committee Winter meeting in March.

Keith successfully completed *S-130/L-180/S-190 Basic Wildland Firefighter Certification* at the OSU Fire Service Training Destry Horton Wildland Fire event in Lawton in February. He has also been accepted to Advanced PIO training offered by FEMA Emergency Management Institute and will complete that training in late February.

PROGRAM HIGHLIGHTS FROM THE EASTERN AREA OFFICES

NORTHEAST AREA

Forest Protection highlights

From January 7th through February 17th the Northeast Area had 16 fires for 351.4 acres in the protection Area. Connie Robinson, Evan Long, Travis Garrison and Matt Waldrop completed ROV training held at Tahlequah presented by OFS Safety Officer Rick O'Daniel. On February 17th the NE Area held the annual wildland firefighting safety refresher and work capacity test. All Rangers required to take the test were successful in completing it in the required time frame. NE Area Ranger Billy Riggs and Isaac Merchant have been assisting Brian Ryles getting kicked off with the Turkey Mountain Hazardous Fuels Mitigation Project.

Forest Management Program highlights

OFS met with Turkey Mountain representatives on January 12th to discuss upcoming prescribed burning and other hazardous fuel reduction projects. Connie Robinson completed two Forest Stewardship plans covering 122 acres, one in Ottawa County and another in Delaware County. She wrote a 20-acre Oklahoma Management Plan for a property in Delaware County. Connie completed her International Society of Arboriculture (ISA) test, attended the Midwest ISA conference, and the Missouri Natural Resource Conference. Evan completed one Forest Stewardship Plan for a property in Creek County, this plan focused on forest health and fuel reduction on 119 acres. Evan also met with five landowners regarding issues such as tree health, disease, and management planning, as well as assisted seven more individuals regarding these issues over the phone. He also attended meeting with Anthony at Wilburton to discuss educational programs. Kaley Helton completed CPO training and attended a finance meeting to discuss 2024 budgets.

Prescribed burning

Control lines have been completed on four properties for OFS prescribed burns. These prescribed burns will be conducted contingent on the occurrence of the prescription's weather parameters.

Ongoing issues & upcoming events

- Vacancies Forest Ranger positions in the Bunch and Park Hill units need to be filled.
- FFA's NE Oklahoma Forestry Competition – April 6th

EAST CENTRAL (EC) AREA

Forest Protection highlights

Since the last board report date of 11 November 2022 East Central Area firefighters have suppressed eleven fires on a total of 562 acres for an average fire size of 51 acres. A quick recap of structures saved during CY2022 wildfire suppression shows a total value of primary residences saved at \$10,401,000 and a total value of secondary structures (sheds, barns, outbuildings, etc.) of \$993,000.



Prescribed Fire

EC Rangers and Foresters constructed fire lines on seven properties, completed nine prescribed burn plans covering a total of 1,306 acres, and completed four prescribed burns treating a total of 640 acres.

Forest Management Highlights

EC has 119 acres of tree planting scheduled for February-March. One new forest stewardship plan was completed since last report on a total of 91 acres. EC rangers and foresters also assisted in seed collection for the Forest Regeneration Center as well as counting and sorting seedlings to be packaged and distributed to private forest landowners across Oklahoma.



Information / Education Highlights

Smokey Bear made an appearance at a local school this past month. District One personnel conducted one Smokey programs at Panola elementary. District One Rangers also participated in the Wilburton Christmas parade. EC forester, Eddie Woods, presented at an 8th grade career fair at Kiamichi Tech Center in Poteau. EC foresters along w/ SE, FIA, and HQ foresters attended the Society of American Foresters meeting held in Wilburton.

Personnel update

The Talihina Service Forester vacancy was filled January 17th. Tommy Frampton is OFS' newest Forester in the Protection Area. EC's recent Ranger vacancy in the Adamson Unit was filled January 17th. Drake Smith is OFS' newest Ranger in EC Area. Clint Vaughn, Poteau unit Ranger, resigned after 3 ½ years of service to create our most recent Ranger vacancy. OFS is currently accepting applications for the vacancy with interviews to follow soon.

OSU Capstone update

OFS is involved annually with Oklahoma State University and working closely with senior students in their senior Capstone forestry project. OFS provides a list of available private forest landowners who are interested in allowing the students to work on their property to develop a written forest management plan for their property. OSU students coordinate with OFS and the landowner(s) to meet on-site with the landowner to determine landowner objectives and then spend time traversing the property to document management history, stand composition, and to complete a timber cruise. The students then compile this data into a forest management plan that addresses landowner objectives and gives the management recommendations to achieve these objectives. This year, OSU has three groups of students working on their capstone projects. Two groups are working with landowners in East Central area and the other group is working with a landowner in central Oklahoma.



Safety / Training Highlights

New employees, Tommy Frampton and Drake Smith, completed required basic wildland firefighting courses S-130/S-190/L-180 in order to be qualified to fight wildfires and support prescribed fire activities. These courses train new firefighters in basic firefighting skills.

An assortment of EC Rangers also collectively completed the following training courses:

- S-131 Advanced Firefighter (necessary for Firefighter Type 1 qualification)
- S-200 Initial Attack Incident Commander (necessary for Single Resource Boss/Incident Commander, Type 4 qualifications)
- ICS 300/400 Advanced Incident Management (to provide support during larger, expanding incidents)

OFS provided S-130/S-190/L-180 to OSU students January 9th – 13th at Stillwater, OK. This cooperation between OFS and OSU is a yearly event and serves to train students in basic wildland firefighting skills. This course also includes a required field exercise to teach the students about various wildland firefighting skills.

All EC employees completed Bloodborne Pathogens and Asbestos training, attended Pipeline Safety training, and several new employees completed a UTV safety training class. District 1 Rangers also participated in a chainsaw safety class presented by EC Forester Eddie Woods.



EC Rangers Clayton Hurst and Bobby Kennon obtained their Drone Pilot's license. Drones are fast becoming a valuable tool used during wildfire suppression, prescribed fire activities, forest management assistance, and timber stand reconnaissance.

Ongoing Issues

- Filling vacancies
- New Class A CDL requirements
- New employee training will be our most pressing issue following a snowy, wet January and February in anticipation of wildfire response and prescribed burning requests through the months of March and April.

SOUTHEAST AREA

Forest Protection highlights

- In Protection: January 16 fires for 103.4 acres; to date on February 2 fires for 87 acres
- Steven's Grant prescribed fire control line construction on 40 acres – Antler's district
- SE Area administered the Work Capacity Test on February 7th
- Don Cook (Forest Ranger III) attended the McCurtain County Firefighter's Association meeting.

Forest Management/Programs Highlights

- Will Phifer had eight landowner contacts.
- JT Allen had 16 landowner contacts.
- Tyler Hyatt had seven landowner contacts and completed one Forest Stewardship plan.
- Seedlings sold/distributed - 173,000

Prescribed Fire Assistance

- One 40-acre prescribed fire completed at McGee Creek Campground
- JT Allen (Forester III) completed one prescribed fire plan.

Safety & Training Highlights

- Broken Bow district completed safety meetings: Asbestos Exposure and Blood borne Pathogens
- Leon Macon, SE Area Dispatcher, has completed the following courses: I-100/200/700/800; S-130, S-190 and RT-130
- Tama Lester and Oley Walker completed CPR/First Aid training.
- The Antlers District completed safety training which included: After Action Reviews; Bloodborne Pathogens; Asbestos Exposure; and the 10 Standard Firefighting Orders.
- Don Cook, Jimmy Morris and JT Allen presented S-130/190 training for the Smithville-Octavia Rural Fire Departments.
- Tama Lester attended virtual Team meeting with other Admins/HQ staff to discuss budgeting and budget reporting.
- Oley Walker assisted with wildland fire training at the Destry Horton Wildland Firefighting Academy in Lawton, OK.
- Brock Hill and JT Allen attended training on conducting forestry education programs with Tony Pascall.
- The following rangers completed the S-200 class held at Broken Bow: Tyler Hyatt, Mark Webb, Calvin Webb, Chris Hutson, Jared Burgett and Cody Mack. Instructors were Don Cook, Pat Wayman and JD Morris.

Upcoming SE Area events/activities:

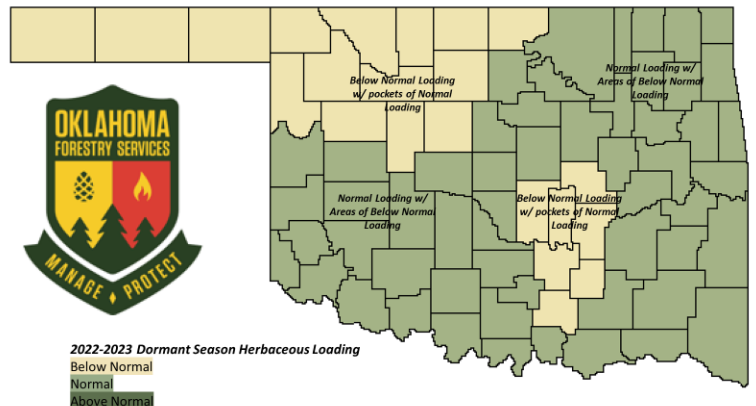
- Multiple Steven’s program prescribed burns
- Hochatown Mapping Updates
- JT Allen and Tyler Hyatt will attend Wildfire Risk Reduction Training in Arkansas in late February.
- Tony Macon, Tyler Hyatt, Adam Burleson will be instructors for S-130/190 in Marshall County for 60 students February 24-26.
- Refresh control lines at McGee Creek NSRA in preparation for Hunter’s Cabin Unit 2,300 acre prescribed fire.

WILDFIRE RESPONSE

Wildfire Activity & Outlook Executive Summary:

Through the month of January, wildfire activity to a nosedive below normal attributed to two concurrent phenomena: 1) Weather patterns have not been conducive to support concerning composite fuel moisture, and 2) Fuel loading, or the amount of herbaceous fuel available for combustion, is below normal offering a broken fuel scape. In January, Oklahoma Forestry Services responded to 40 wildfires that burned 406.9 acres. Considering the 10-Year average, that equates to only 36% of normal response burning just over 12% of normal acres, with that trend continuing through February. While wildfire activity is lagging, prescribed fire accomplishments have also been set back due the persistent rainfall over most of our planned burn sites. Wildfire (and prescribed fire) activity is expected to ramp up into March, although no looming concerns are evident on the horizon give current forecast guidance.

January 2023 Fire Response	Fires	Acres
2022 Wildfires Year-to-Date	40	406.9
OFS Protection Area - Month	34	391.8
5-Year Average	57.40	1,254.66
10-Year Average	95.0	3,176.47
Protection Area YTD	34	391.8
OFS Response Outside Protection Area	0	0
OFS Response Outside Protection Area YTD	0	0
Fire Department Reports	6	15.1
Fire Department Reports YTD	6	15.1
Prescribed Burns - SE	1	40.0
Prescribed Burns - EC	4	640.0
Prescribed Burns - NE	0	0
Prescribed Burns - OKOKS	0	0
Prescribed Burns - YTD	5	680.0

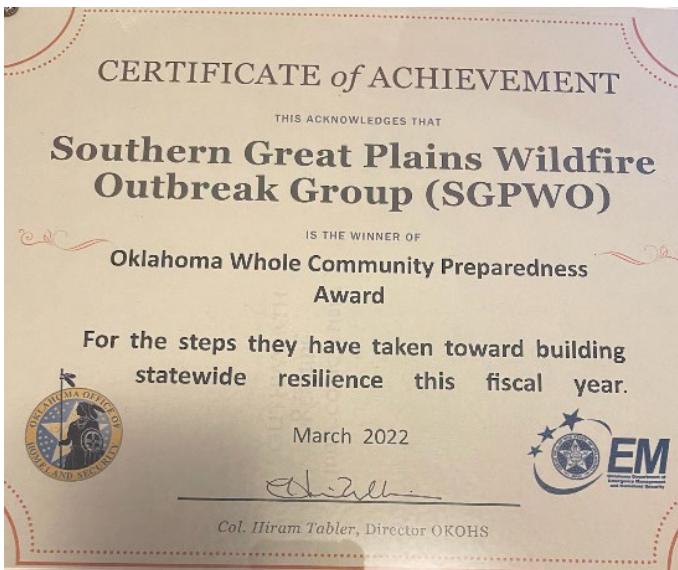


In previous reports we have indicated that grazed/hayed areas have much less fuel loading than in previous years due to the lack of quality growing conditions throughout the summer and early fall months, and rangeland fuels also did not add much to the thatch layer. While problematic areas of heavier fuel concentration remain prevalent on the landscape (CRP, unutilized lands, etc.), the fuel scape in rangelands has broken homogeneity providing many opportunities in the fire environment where firefighting efforts will be met with less suppression difficulty. Timber fuel types are not included in the 'Below Normal' loading category and leaf litter and needle cast remains much more consistent. We are observing a gradual recovery of 1,000 hr. fuel moisture in timber fuel types leading to the expectation for decreasing severity compared to what was observed in the fall and early winter months.

Peering into the future, the overall expectation is to see less than normal fire activity and less than average acres burned. That expectation is based on the following overarching inputs:

1. The La Nina phase of the ENSO cycle has begun to breakdown transitioning toward neutral conditions. The pronounced 'warmer/drier' expectation with La Nina becomes less pronounced during ENSO Neutral noting that the warmer conditions overall will likely continue although muted comparatively.

2. A quick glance at the seasonal temperature and precipitation outlooks corroborates continuation of above normal



temperature although they are a bit unclear on the precipitation outlook. In areas where soil moisture has improved from the prominent drought impacts, warmer temperatures will likely support a more rapid green up potentially clipping short the dormant fire season – especially in the southeast.

3. While punctuated periods of elevated to critical fire weather are likely, the fire environment is currently not supportive of significant fire occurrence for most of Oklahoma. Exceptions to this will likely include a broad swath along I-44 in the northeastern quadrant of Oklahoma where fuel loading is categorized as normal in most locations.

Whole Community Preparedness Award:

The collaborative effort between Oklahoma Forestry Services and the National Weather Service (Southern Great Plains Wildfire Outbreak Group) was honored with the ‘Oklahoma

Whole Community Preparedness Award’ recognizing the research and operational implications the work has extended to prepare the emergency response community in advance of high impact wildfire episodes on the southern Great Plains. The probabilistic forecasts produced and communicated in an interagency/interdisciplinary format has resulted in a notable decrease in casualties per one-hundred thousand acres burned. In the 2005-2010 time period there were 7.4 casualties per 100k acres burned and now that number has been reduced to 1.3 casualties per 100k acres burned attributed to the group’s engagement in collaborative research, fire environment prediction, probabilistic forecasting and unified preparedness communication prompting a very high level of situation awareness for local, state and federal responders ahead of potentially catastrophic wildfire episodes.

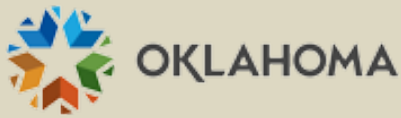
STATE FORESTER ACTIVITIES from 14 January thru 23 February 2023

- Attended scheduled Director’s Meetings
- Attended a virtual meeting with Conservation Fund leadership to discuss the land purchase procedures and application process through the USFS Forest Legacy program for the first State Forest
- Microsoft Teams meeting with ODAFF Human Resources and Administrative Staff
- Attended a virtual meeting to announce personnel changes in the US Forest Service Region 8 Staff
- Attended a meeting of the Oklahoma All-Hazards Incident Management Team Advisory Committee
- Virtually attended a meeting of the Northern Rockies Incident Commanders
- Virtually attended two meetings with the Cadre, Steering Committee and Subject Matter Experts of the S-520 Advanced Incident Management course (Goeller serves as a Subject Matter Expert/Cadre/Steering Committee member)
- Attended the January Board of Agriculture Meeting
- Participated in numerous committee meetings planning for the Southern Group of State Foresters Annual Meeting to be held in June 2023 in OKC
- Virtually attended the National Association of State Foresters FY 24 Appropriations Advocacy Meeting
- Attended the National Association of State Foresters Executive Committee Meeting in Washington, DC
- Participated on the National Association of State Foresters’ All State Foresters Monthly Policy Call
- Virtually attended a meeting with the US Forest Service regarding State Nursery seedling production and seed storage capacity
- Virtually attended a meeting with the NRCS Oklahoma State staff and OFS employees
- Virtually attended a meeting with the US Forest Service Deputy Chief of State, Private and Tribal Forestry regarding recent Bipartisan Infrastructure Law/Inflation Reduction Act Grant funds
- Virtually attended a meeting with the Community Wildfire Defense Grant Program Policy Development team

- Virtually attended a meeting with the US Forest Service to review the FY 23 State Fire Assistance Mitigation Grant process
- Travelled to Tulsa's Turkey Mountain Urban Wilderness to review work in-progress by OFS employees to reduce hazardous wildland fuels and non-desirable species. This work is funded by a National Fire Plan Hazard Mitigation Grant through the US Forest Service.
- Virtually attended two meetings with the Northern Rockies Incident Management Team #1's Command and General Staff

Respectfully submitted,

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



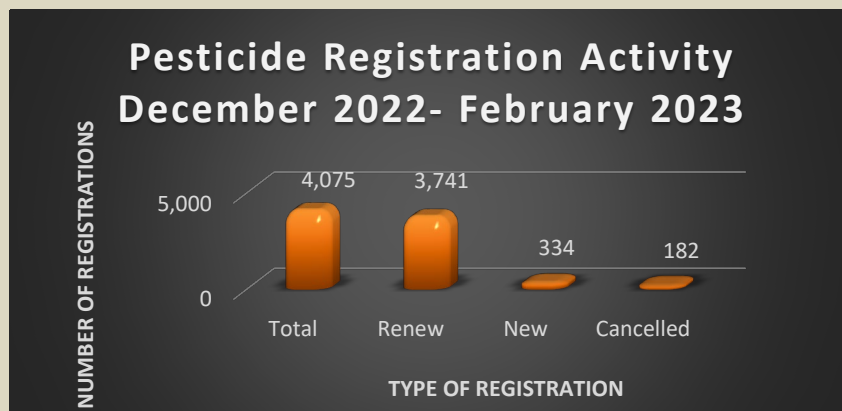
CONSUMER PROTECTION SERVICES DIVISION

MARCH 8, 2023 BOARD MEETING REPORT FOR DECEMBER 2022/JANUARY 2023

Pesticide Program

Pesticide Registration Activity

Pesticide registrations for December 1, 2022 to February 17, 2023 are presented in the following chart. A total of 4075 products were registered, of the products registered 3741 were renewals and 334 were new. There were 182 products cancelled.



Pesticide Samples

Pesticide samples taken December 2022-January 2023 are presented in the following chart. A total of 18 Residue, 20 Concentrate, 28 Pollution, and 1 Tank mix samples were taken.

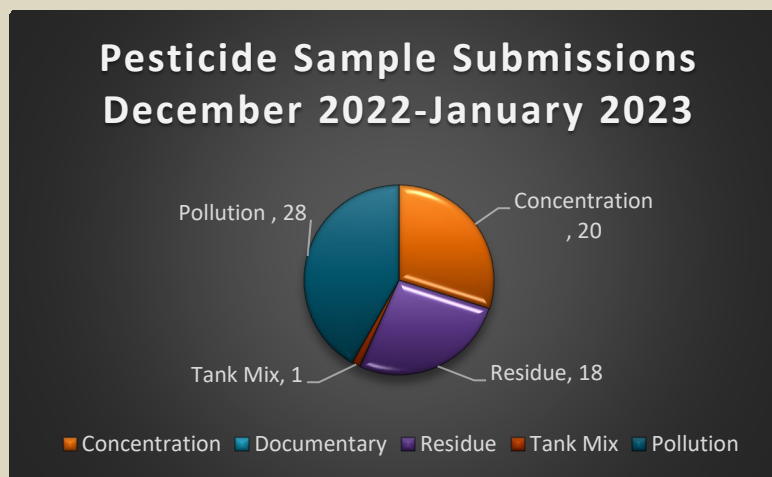


Table 1. Inspection Count for December 2022 - January 2023*

Inspection Type	Number of Inspections		
	December	January	Two Month Total
Experimental Use Permit	0	0	0
Marketplace	44	31	75
Pesticide Applicator Facility	32	24	56
Pesticide Service Inspection	0	0	0
Restricted Use Pesticide Dealer	19	6	25
Container Containment Inspection	0	0	0
Producer Establishment	0	0	0
Use	82	32	114
Termite	0	0	0
Wood	0	0	0
Pre-treat	2	1	3
Drift Investigation	0	0	0
Pesticide Label	3217	1780	4997
Worker Protection	3	6	9
Total	3399	1880	5279

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

Along with the above inspections CPS inspectors also took 24 nonagricultural use samples, 33 agricultural use samples and 10 marketplace samples for a total of 40 samples.

Pesticide Complaints

PESTICIDE COMPLAINTS		January 10, 2023 – February 21, 2023		
	RECEIVED	CLOSED	WARNINGS ISSUED	NO ACTION
CONSUMER GENERATED:	6	6	5	6
MUSK THISTLE:	1			
PMR CASES:	6	7	12	7
CASES REFERRED TO OGC:	17			

Plant Protection Program

Phytosanitary Certificates

Federal

Federal phytosanitary certificates Issued from January 1, 2023 – January 31, 2023

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

4 Federal phytosanitary certificates issued @ \$106.00 each

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

3 Federal phytosanitary Certificates issued @ \$61.00 each

<u>Federal Phytosanitary Certificates (January 1, 2023 - January 31, 2023)</u>			
Country	Product	Quantity	Phytos Issued
Denmark	Barrelclover Seed	5 Grams	1
France	Barrelclover Seed	5 Grams	1
Germany	Walnut Logs	4800 Board Feet	1
Japan	Walnut Logs	3543 Board Feet	1
Republic of Korea	Sorghum Seed	40,000 Kgs	2
United Kingdom	Mouseear Cress	1 Gram	1

Companies applying for federal phytosanitary certificates:

Baillie Lumber	1
Johnston Seed Company:	2
OSU Biosciences:	3
TMX Shipping:	1

State

State phytosanitary certificates Issued from January 1, 2023 – January 31, 2023
29 phytosanitary certificates for 2,892 plants



2023 Compliance Agreements:

There are currently 34 companies that sign compliance agreements to meet the requirements of other states for out-of-state shipping. Currently 28 of the companies have signed their agreements and 2 are no longer shipping out of state. The remaining companies cannot ship to states who require an agreement until they have signed the agreement.

Vascular Streak Dieback in Redbud:

Last Fall, several nurseries in the state received a positive ID from Pest and Disease Diagnostic Lab at Oklahoma State University for Vascular Streak Dieback (VSD) on Redbud.

Unfortunately, there is not a lot known about the disease, but it is believed currently to be caused by *Ceratobasidium theobromae*. This pathogen causes streaking in the vascular tissue, wilting, and eventual plant death. VSD has a wide host range which includes Redbud, Maple, Dogwood, and many other plants.

Because of the impact this disease could have in Oklahoma, we have been doing surveys for VSD at nurseries that grow Redbud trees. Over January & February, we have sampled 6 nurseries and have collected over 900 samples and currently have 16 positives. We plan to do further testing this Spring or Summer when symptoms are more visible.



Figure 1: VSD symptoms from one of the trees samples



Figure 2: CPS inspectors sampling Redbuds.

Feed Program

During this reporting period there were a total of 235 official feed samples analyzed, with 1135 feed determinations made from these samples. These determinations resulted in the issuance of 84 violations for feed or feed ingredients that did not meet established tolerances based on their guaranteed analysis. Most of these violations were issued for products deficient in Crude Protein. Other violations include Crude Fat, Crude Fiber, Vitamin A, Phosphorus, Potassium, Calcium, Salt, Copper, Magnesium, Manganese and Zinc. Thirty-six stop sale orders were issued for feed products with severe deviations from their guaranteed analysis. Nine stop sales were issued for products deficient in Vitamin A. Five stop sales were issued for products deficient in Salt. Five stop sales were issued for products deficient in Crude Protein. Four stop sales were issued for products deficient in Calcium. Four stop sales were issued for products deficient in Crude Fat. Three stop sales were issued for products deficient in Copper. Three stop sales were issued for products deficient in Phosphorus. Two stop sales were issued for products excessive in Crude Fiber. One stop sale was issued for a product deficient in Manganese.

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 December 2022 - January 2023

Nutritional Guarantee	Number of Label Violations		
	January ¹	December ²	Two Month Total
Crude Protein	20	17	37
Non-protein Nitrogen	0	0	0
Crude Fat	8	11	19
Crude Fiber	3	1	4
Calcium	11	6	17
Phosphorus	8	3	11
Salt	4	4	8
Magnesium	2	0	2
Potassium	3	1	4
Copper	4	3	7
Manganese	3	0	3
Zinc	9	4	13
Vitamin A	9	8	17
Medicated Feed	0	0	0
Total	84	58	142

¹ 235 feed samples analyzed with 1135 determinations; ² 225 feed samples analyzed with 1214 determinations

Table 2. Feed Stop Sale Summary December 2022 - January 2023

Nutritional Guarantee	Number of Stop Sales		
	January ¹	December ²	Two Month Total
Crude Protein	5	2	7
Non-protein Nitrogen	0	0	0
Crude Fat	4	2	6
Crude Fiber	2	3	5
Calcium	4	3	7
Phosphorus	3	1	4
Salt	5	0	5
Manganese	1	0	1
Potassium	0	0	0
Copper	3	2	5
Zinc	0	0	0
Vitamin A	9	7	16
Medicated Feed	0	0	0
Total	36	20	56

¹ 235 feed samples analyzed with 1135 determinations; ² 225 feed samples analyzed with 1214 determinations

Weights and Measures Program

During this period the large capacity scale technicians tested 42 Vehicle scales and 5 scales were rejected.

CPS inspectors checked a total of 1332 small scales and 58 platform scales, 7 of the scales were rejected. There were 18 random pack inspections and 36 standard pack inspections conducted that resulted in 5 companies receiving letters of warning. Additionally, 93 price verification inspections were conducted at various retailers that resulted in 8 companies receiving letters of warning.

A total of 2 scale companies received a letter of warning for not properly servicing scales.

The fee for a ranch scale test is \$200. Call the Weights & Measures office at 405/522-5968 or email Gary Smith at gary.smith@ag.ok.gov to request a scale test.

Fertilizer Program

Below you will find the performance numbers for the fertilizer, agricultural lime, and soil amendment programs for the time-period of January 5th to February 17th, 2023.

Sample Type	Number	Deficiency Penalty
Fertilizer	32	0
Lime	1	0

Investigation Type	Number
Anhydrous Ammonia Nurse Tanks	13 (278 Total Tanks)
Anhydrous Ammonia Storage Tanks	13 (20 Total Tanks)
Dry Bulk Fertilizer Storage Facility	12
Liquid Bulk Fertilizer Storage Facility	14
Facility Pre-Site	2

CPS Program Administrator, Joshua Maples, represented Oklahoma at the 2023 Association of American Plant Food Control Officials (AAPFCO) Winter Annual Meeting in Santa Fe, New Mexico from February 13th-14th. He was among 35 AAPFCO members from 22 states with 110 individuals from industry represented at the meeting. The purpose of AAPFCO is to help achieve regulatory uniformity through state regulations and provides regulatory control officials and industry a chance to interact and discuss the implementation of regulatory decisions.

D-7



Figure 2: AAPFCO winter annual meeting 2023

These meetings provide Oklahoma with a voice in leadership in AAPFCO decision making, as Joshua has also been selected as vice-chair for three committees. He is a committee member on numerous committees and is active in participating in discussions in this organization.

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
March 8, 2023
Activities January 1, 2023 – February 17, 2023

Animal Disease Traceability:

On January 9, Dr. Gorczyca and I met with the Sunny Evans and James Jestes with the Pawnee Tribe to provide an RFID wand for tribal use as well as to discuss ADT, EID transition, and Secure Beef Supply Planning.

During this timeframe, we have distributed the RFID Wand Applications to accredited veterinarians. The goal will be to identify applicants that have already been utilizing EID tags and electronic documentations as well as being in a multi-doctor practice that predominately performs food animal services. We have 80 applicants so far and only 25 wands to distribute currently. We will begin selecting successful applicants March 1 and distributing wands in person shortly thereafter.

We continue to distribute the free RFID tags to interested veterinarians and producers. During this time, we shipped 18,700 tags to veterinarians and producers.

During this time, the proposed changes to the ADT rule was opened for public comment through March 20, 2023. Comments will be reviewed, and a final rule will be published. The implementation date will be 180 days after the final rule is published. The proposed rule contains language that discusses that official identification for cattle requiring identification for interstate movement must be both visual and electronic in nature.

Aquaculture:

We are finalizing aquaculture renewals. We currently have 10 facilities that have renewed their licenses. Second notice renewals have been sent out.

Biologics:

During this time, biological product renewals were sent out automatically through the Kelly Registry System. Biological products expire March 20th of each year. Companies needing to renew products were given the option this year of renewing online through the Kelly System or mailing in renewal forms with payment. There is an additional fee for a company to renew online however the efficiency of using the Kelly System allows for timelier issuance of approved biological product permits.

Cattle Programs:

Brucellosis:

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

While there is very little need to test for *B abortus* any longer, this means we have very little or no surveillance for *Brucella suis* (Swine Brucellosis) in cattle, which currently

infects approximately 20% of the feral swine that our Wildlife Services personnel test. *B suis* can, and does, infect cattle occasionally.

Marissa McLaughlin sent reminders to two Certified Free Herds that their renewal time is approaching and sent the CFH Certificate to another.

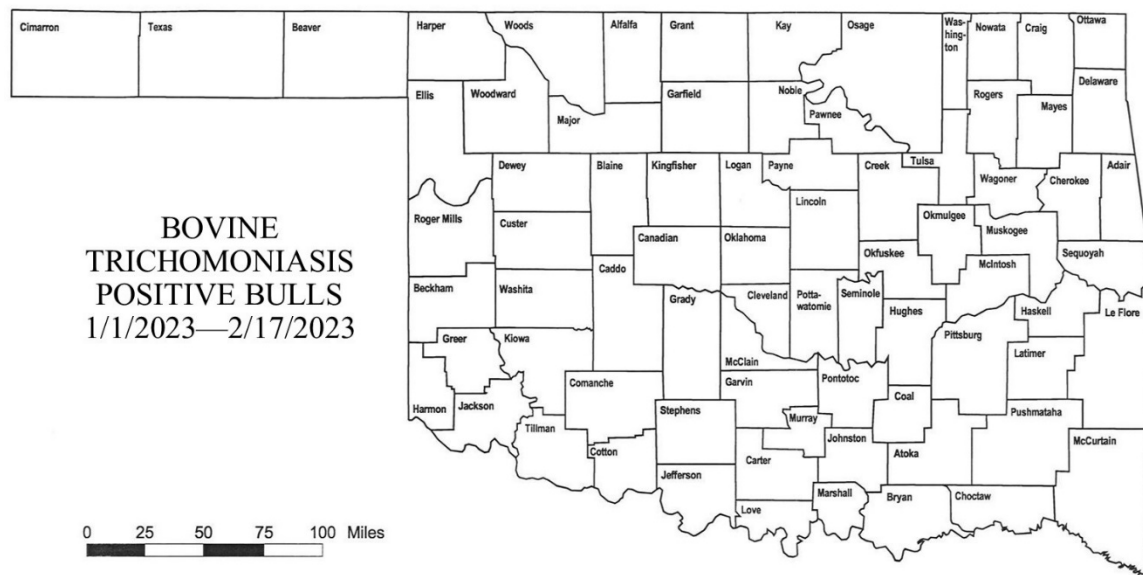
We submitted our yearly Brucellosis report to USDA to maintain Free State Status.

Tuberculosis:

We currently have no TB affected herds in Oklahoma.

Trichomoniasis:

During this period there were 2,747 Oklahoma bulls tested for Trichomoniasis with no positive individuals found.



14,767 bulls tested / 0 positive = 0.0% positive

Our current statistics compare to 2.1% positive bulls in 2011, 1.4% in 2012, 1.3% in 2013, 1.4% in 2014, 1.1% in 2015, 1.1% in 2016, 0.5% in 2017, 0.32% in 2018, 0.42% in 2019, 0.35% in 2020, 0.28% in 2021, and 0.3% in 2022.

Johne's Disease:

For the current reporting period we received eight positive reports on six new premises. For the same period in 2022 we received 11 positive reports on 10 new premises. It is difficult to evaluate success, if any, in our efforts to educate our producers. And because the disease is a slowly progressive disease gathering disease trends is also slow. We continue to help veterinarians and producers with strategies to reduce risk of disease transfer. In beef herds the risk is highest among new purchased animals without disease information.

Emergency Management:

On January 12 and February 9, Dr. Gorczyca hosted the Multistate Partnership (MSP) for Security in Agriculture monthly call.

On February 3, Dr. Gorczyca met with Patrick Webb with the National Pork Board to discuss utilizing AgView for US SHIP OSA activities.

During this time frame, we were approached by National Pork Board to participate in their ongoing 4 day long full-scale swine depopulation and disposal exercise series. We held a call with OK Pork Council, National Pork Board, and SES on February 6. The Initial Planning Meeting will be held on February 28 and a producer and exercise date will be identified at that time.

On January 13, Dr. Gorczyca spoke with Dr. Steven Clifton, The Pork Group, on initiating the Certified Swine Sample Collector training program for TPG.

On January 18 our field staff and veterinarians were fit tested. Fit testing verifies that the person is healthy enough to wear respiratory equipment and can safely work in environments where it is not safe to breathe the ambient air.

Equine Programs:

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

There is one horse in Oklahoma that has been confirmed to be infected with Equine Infectious Anemia (EIA). This is the virus that the Coggins test is used to detect. There is no known treatment or cure for this virus so once infected, a horse remains infected for life and is a source of infection for other equines. To prevent further spread of the disease, positive equidae are either euthanized or placed in isolation, under quarantine, for the remainder of their lifespan. Since 2017 the number of reported positive cases of EIA has gradually increased and the means of infection has shifted from being natural spread (via horseflies) to iatrogenic (use of contaminated blood products or equipment contaminated with blood from an infected equine) in racing quarter horses with a history of unsanctioned (bush track) racing. The positive horse is a racing quarter horse with both a sanctioned and unsanctioned race history. The horse is currently isolated and quarantined while the owner decides how to handle the future of the horse. All known exposed horses have tested negative and will be retested again in 60 days. The epidemiological investigation is ongoing to determine additional exposed equine and to determine the source of infection.

On January 8 I received several phone calls from Texas Animal Health Officials who made me aware of two loads of horses from Oklahoma that arrived at the Bowie, TX horse sale. The veterinarian at the sale examined the horses and refused to allow them to sell due to issues with possible strangles or other diseases. I allowed the horses to come back to the premises in Oklahoma and had our LSIs check on them over the next few days to make sure there were no actionable diseases present.

Farmed Cervidae Programs:

We sent renewal packets out to all the Farmed Cervidae licensees in January, and we are beginning the 2023 renewal cycle. This year, we will be notifying our livestock inspectors upon confirmation of the renewal fee transaction, rather than waiting to assign the required inspections. This will minimize any delays in issuing renewal licenses to our producers. There has been moderate activity in Cervidae imports during this time. Dana Call attended the 4th Virtual Chronic Wasting Disease Stakeholder and Tribal Nation Update January 10-13, 2022. A wealth of information from State Agencies and Tribal Nations across the US, sharing ways they are educating producers, hunters and the public and operating CWD surveillance programs. There were also many scientific presentations discussing advances in research and testing for CWD. The USDA announced that there will be an additional option for testing Whitetail Deer for CWD in the event of a discovered positive in the herd. USDA has provided specific guidelines for live animal testing through genetic coding and biopsy. This will offer producers who fit their criteria the ability to avoid total herd depopulation.

Feral Swine:

We sent renewal packets out to all the Feral Swine Facility licensees in January, and we are beginning the 2023 renewal cycle. This year, we will notify our livestock inspectors upon confirmation of the renewal fee transaction, rather than waiting to assign the required inspections. This will minimize any delays in issuing renewal licenses to our producers. We are issuing an average of 50 feral swine hunter licenses daily. AIS is working with the USDA and Wildlife services to gather feral swine information for the 2022 Brucellosis and Pseudorabies annual report.

Foreign Animal Disease:

Dr. Ruby attended the Foreign Animal Disease Diagnostician training on Plum Island, NY the week of January 23-27. For veterinarians, Plum Island is sort of a Mecca. It is an awesome place to visit, and the training is very good. In the next couple of years, the lab will move to Manhattan, KS and will be called National Bio and Agro-Defense Facility.

During this time, we had two FAD investigations. One horse in Woods County and one pig in Okmulgee County had vesicular lesions in and around their mouth. Foreign Animal Disease Diagnosticians (FADDs) were assigned to investigate the reports. They took samples and sent them to laboratories where thankfully no FADs were discovered.

Highly pathogenic avian influenza continues to occur across the United States. The number of cases did slow over the winter months but as the spring migration begins, cases are increasing. The USDA is anticipating a significant increase in cases as we get closer to March. We continue to stress the importance of biosecurity to both commercial and backyard flock owners. Oklahoma has not had a confirmed case since December 2022. There were three backyard flocks affected in October and they have all completed their 120-day fallow period allowing their quarantines to be released. There is currently one backyard flock that remains under quarantine while completing their 120-day fallow

period. That is scheduled to end in April. No commercial flocks have been affected in Oklahoma since April 2022.

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, one new livestock market license was issued to Great Plains Auction. Operated out of Lawton by Brian Edwards, this new licensee acquired the market license to begin online livestock sales. No official start date has been declared, but Mr. Edwards indicated he would like to host an online show cattle sale in early spring. Also, staff has been working with an individual who is planning to open the currently shuttered sale barn in Okmulgee, Oklahoma. Blaze Simonson has expressed his intention of operating the facility south of Okmulgee soon. In addition to this barn reopening, Tanner Ward of Wister contacted the department regarding his construction of a new livestock market facility he is in the process of building. Mr. Ward says his new market is expected to be completed in three to four months. Although only one market application was received this month, packets were requested by a couple of others interested in sale barn ownership. This period also allowed for the completion of the annual livestock market renewal process, a new market orientation as well as several custodial account reviews.

Livestock Auction Market Activities

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

Outreach:

Cattlemen's Congress was in Oklahoma City for the third year, running from December 29 thru January 14. Our Livestock Inspectors were on site to help Cattlemen's Congress interns with official animal identification and health requirements for entry into the show, to assist with problems that may arise, and to educate the participants of the need for BVD PI testing to keep everyone's animals safe.

January 7 thru 9 our Livestock Inspectors and Drs. Ruby and Stone worked the Simon Bucking Stock Sale at the Lazy E Arena in Guthrie checking for official ID, proper EIA, Tuberculosis, Trichomonas and Brucellosis test results and Certificates of Veterinary Inspection. This is one of the largest bucking stock sales in the Country and brings in livestock from all over the USA and Canada.

On January 12 paperwork was checked for all the event animals at the International Finals Rodeo at the Lazy E Arena in Guthrie. All rodeo cattle must be tested for

Tuberculosis within the previous 365 days. Dr. Stone was presented a CVI missing official identification, had no tuberculosis test results, and an entry permit had not been obtained. Although this investigation is ongoing it appears that the CVI had been stolen, was fraudulently filled, and signed, and that this CVI had been used for several years of fraudulent shipment of animals.

On January 18 our field staff was in for a day of program updates, computer updates, gathering supplies, and sharing of information.

The Annual Oklahoma Veterinary Medical Association Conference was held January 26-28 in Norman. They graciously allowed us to use one of the rooms, and supplied equipment that allowed virtual participation, to host a full day of regulatory topics on the 26th. In addition to AIS program updates, we heard from OSU CVM, OADDL, OSU Extension, State Public Health Veterinarian, and others. We had 175 in attendance and 75 more attended virtually. On the 27th and 28th we had a booth in the Exhibit Hall and had the opportunity to answer many questions about electronic tags, readers, eCVIs, and many other things.

On February 16 I submitted the State Veterinarian's report for the Oklahoma Veterinary Medical Association's quarterly newsletter, The Communique.

Poultry Programs:

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

In early February we received several calls from the public regarding a conspiracy theory that commercial feed companies were purposely changing their feed to prevent backyard chickens from laying eggs so people would have to purchase higher priced eggs at stores. After attempting and failing to educate them about molting, shorter periods of sunlight, etc., we gave up trying and filed it in the "You can't make this \$&1* up" file. I considered asking Board member and poultry professional Brent Bolen to make a TikTok to explain the situation but didn't follow through on that.

Public Health

We consulted with our public health partners on situations involving Rabies, Q Fever, and Canine Brucellosis during this time. We are working with OSDH to develop canine brucellosis information that can be distributed to veterinarians and kennel owners that have been in contact with a positive case.

The State Public Health Veterinarian contacted me for assistance on the investigation of an E. coli and Campylobacter outbreak in humans in and around Caddo County. OSDH and CDC had not been able to find the source of the outbreak and asked us for assistance in identifying large livestock operations to see if any were in close enough proximity that there could be some potential contamination. I asked AEMS for assistance and they gave me a map of all the licensed large operations near there. The livestock operations were

eliminated as possible sources, and unfortunately the source of the outbreak was not discovered.

Rabies in Livestock:

There has been one case of rabies in livestock since the last board report. It was in a cow that was part of a 20 head herd. The herd is maintained as breeding stock. Since the spread of rabies from one livestock species to another is very rare, the risk to the rest of the herd is low. The owner will maintain ownership of all exposed cattle for 6 months to monitor for illness that could indicate additional cases. No humans were determined to have significant contact that required post exposure prophylaxis.

Sheep and Goat Programs:

Reports of positive Coxiella (Q Fever) infections have been quiet since last spring until the week of February 12 when we received three positive reports. This is a zoonotic disease endemic to most of the world and found in a variety of hosts. In man it is generally a mild infection, but occasionally serious consequences do occur. The heaviest shedding is thought to occur from sheep and goats at the time of birth and for about three weeks following birth. We visit with the owners to educate them about the risk and to help them understand husbandry practices that can minimize the risk. Dr. LeMac Morris, State Public Health Veterinarian, is notified and an epidemiologist calls to talk to the producers about the human health risk.

Swine Programs:

We are processing the renewals and herd inventories for 135 Validated/Qualified herds and updating the data management process for this program to include adding the herd inventory into the USA Herds database. Preparations have begun for the transition and phase-out of the ODAFF lab. AIS is working with the Oklahoma Animal Disease Diagnostic Lab to simplify the process as much as possible for veterinarians during this change. We are working with USDA, OADDL, and the ODAFF lab to gather domestic, feeder and commercial swine information for the 2022 Brucellosis and Pseudorabies annual report. We are reviewing and updating the SOP and data management for the commercial commuter herds in Oklahoma. Spring show season has begun. AIS has issued 62 swine show permits for 2023.

On January 10 we were notified by a veterinarian in Garvin County that several show pigs were experiencing severe diarrhea and he was afraid it might be PED. PED is not a disease we typically take actions on, but due to its contagiousness, and with show season in full swing, we decided to pay for testing. Thankfully it was not PED. To date we have not heard of any outbreaks and we're very hopeful that we won't have to put any show restrictions on.

During this time, we have received two separate grants to support US SHIP Official State Agency responsibilities: ODAFF AIS will receive a one-time payment of \$35,099.34 from Iowa State University, and Dr. Gorczyca applied for Cooperative Agreement supplemental funding from USDA for US SHIP and was awarded \$31,028.80. There will

be an opportunity in the future to continue to apply for additional funds from USDA for US SHIP activities.

Miscellaneous:

On January 12 we were made aware of a situation involving a woman who was in trouble in Colorado for horse abuse/neglect and moved to McCurtain County and was continuing the neglect there. Patrick Blake from ODAFF Investigative Services had been working the case since December. Since we have no authority over animal abuse in Oklahoma the only course of action we could take was quarantine the horses since she imported them with no EIA tests or CVIs. Through Agent Blake's and AIS LSI Kevin Martin's work we are slowly working through the issue and are helping some of the horses.

On January 25 we were asked for assistance from the Cherokee Nation to assist in a potential livestock neglect or abuse case involving some cattle. Dr. Zeke Proctor, VMO with USDA, accompanied ODAFF Investigative Services Agent Dusty Goforth and Cherokee Nation authorities and assisted in evaluating the situation.

On February 1 Comanche County Sheriff's office called requesting assistance investigating reports of a cattle producer not properly caring for his cattle. Dr. Stone and Devin Huckabay from ODAFF Investigative Services met with law enforcement to gain access and evaluate the animals. Recommendations were made that the owner employ a veterinarian for assistance, increase his feeding program and improve the body condition scores. The owner agreed to a timeline for improvement and hired a veterinarian. The veterinarian surveyed the cattle and devised a plan, but before it could be instituted the owner hired an attorney and fired veterinarian. Dr. Stone has plans to accompany the law enforcement officers on February 22 to evaluate the cattle again. The District Attorney and Sheriff's Office are working on the legal process and logistics of seizing the cattle.

Respectfully,

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

Rod Hall, DVM

Oklahoma Department of Agriculture, Food, and Forestry
Wildlife Services Division
Board Report for January 2023 Activities

Introduction

Wildlife Services (WS) responds to damage complaints caused by wildlife to resources or property throughout Oklahoma. WS Specialists conduct operational damage management programs for many of the complaints they receive to resolve these wildlife damage problems. During this period, these projects were conducted on 613 properties with an estimated 1,764,154 acres of land under agreement. Additionally, WS helped 272 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 \$1,228,302 during this period. Beaver damages accounted for losses totaling \$578,055. Coyotes were responsible for a number of damage requests, primarily to livestock, with losses totaling \$369,877. Feral swine damages accounted for losses totaling \$271,580, while other species of wildlife were responsible for \$8,790 in damages to property, agriculture, and livestock.

Providing Wildlife Services

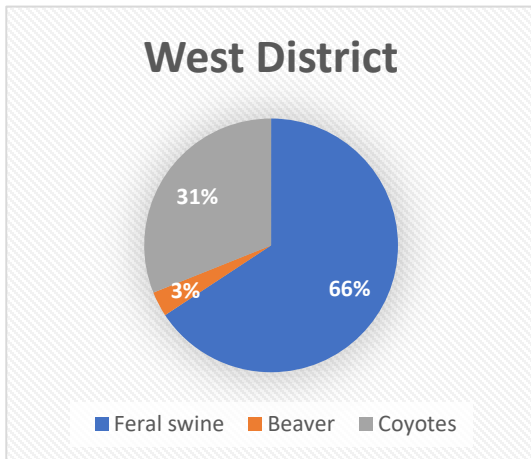


Figure 1: Species Removed in West District by percentage during January 2023

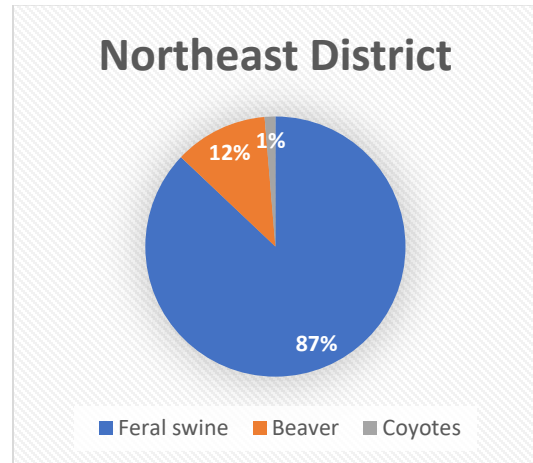


Figure 2: Species Removed in the Northeast District by percentage during January 2023

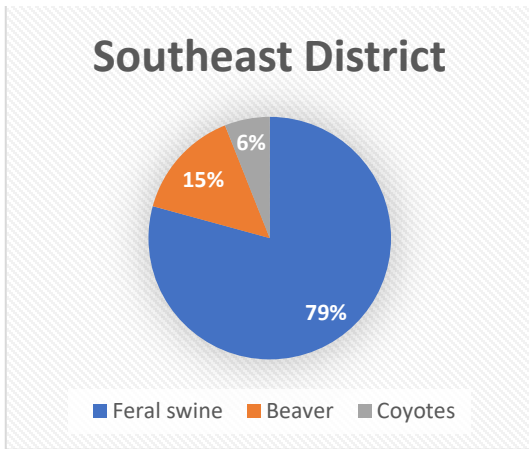


Figure 3: Species Removed in the Southeast District by percentage during January 2023

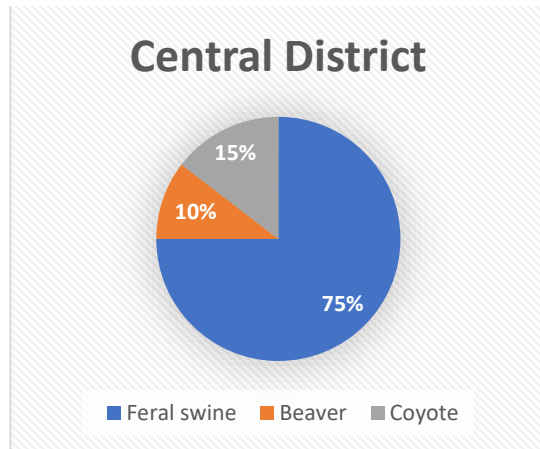


Figure 4: Species Removed in the Central District by percentage during January 2023

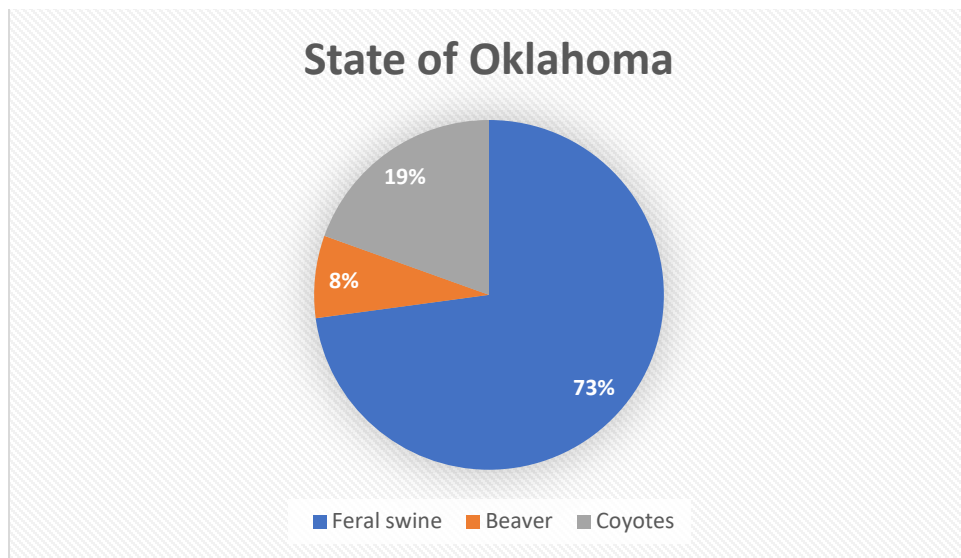


Figure 5: Species Removed in the State by percentage during January 2023

Coyote Damage Management

Texas County livestock producer requested assistance with coyotes depredating on calves. The producer reported that coyotes had killed one calf valued at \$881. The Wildlife Specialist assigned to Texas County examined the carcass and verified coyotes were responsible for the loss. The WS Specialist removed seventeen coyotes from the property and work is ongoing at this time to prevent additional losses.

Greer County livestock producer requested assistance with coyotes depredating on calves. The producer reported that coyotes had killed one calf valued at \$881. The Wildlife Specialist assigned to Greer County examined the carcass and verified coyotes were responsible for the loss. The WS Specialist removed twenty-one coyotes from the property. No further losses have occurred and work is ongoing at this time to prevent additional losses.

Comanche County livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes had killed one calf valued at \$882. The Wildlife Specialist assigned to Comanche County examined the carcass and confirmed the damage. The Specialist used neck snares and M-44 sodium cyanide devices to remove nine coyotes. Direct control methods continue to prevent additional losses.

Beckham County livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes killed two calves valued at \$2,000. The Wildlife Specialist assigned to Beckham County examined the carcass and confirmed coyotes were responsible for the loss. The Specialist removed thirteen coyotes and direct control methods are continuing at this time to further reduce predation losses to coyotes for the producer.

Johnston County cattle rancher called WS after witnessing coyotes regularly in his calving pasture. The presence of coyotes and coyote sign was verified and foot-hold traps were set to remove the coyotes before calf losses occurred. Three coyotes have been removed and this project is still being monitored. The rancher was advised on environmental changes to his operation that may deter future losses from coyotes.

Feral Swine Damage Management

Jackson County landowner contacted WS needing assistance with feral swine damaging his wheat fields and pastures estimated at \$10,000. The Wildlife Specialist assigned to Jackson County responded to the request and verified the damage. A live trap was set up to remove twenty-eight feral swine from the property. No additional damage has occurred and the population in the area is being monitored to determine if additional management is needed.

Tillman County landowner contacted WS needing assistance with feral swine damaging his wheat fields and haybales; estimated at \$2,000 and damage to his wheatfields to be valued at \$1,000. The Wildlife Specialist assigned to Tillman County responded to the request and verified the damage. A live trap was set and thirty-one feral swine were removed from the property. No additional damage has occurred and the population in the area is being monitored to determine if additional management is needed.

Custer County farmer requested assistance with feral swine causing damage to his wheatfields and pastures. The farmer reported feral swine were responsible for \$1,200 in damages to the haybales. The Wildlife Specialist assigned to Custer County responded to the request and his field inspection verified the damages to the hay. The Specialist set a live trap to remove eighteen feral swine from the property. The area continues to be monitored for activity to determine if additional management efforts are needed to reduce further damage.

Bryan County rancher called for assistance with feral swine on his property. Feral swine damages were verified on the property and damages to the cattle pastures were estimated to be \$6,000. After pre-baiting, a remote camera trap was placed and fourteen feral swine were removed. The trap has been removed, but this property is still being monitored.

Pittsburg County property owner called WS for assistance with feral swine damage on his property. The damage was verified and estimated at \$1,200. After pre-baiting, a remote camera trap was placed, and nine feral swine were removed. The owner was advised on changes to his property that would prevent future feral swine damage. This project is still being monitored.

Seminole County rancher called WS for assistance with feral swine on his property. Feral swine damage was confirmed in the owners' hayfields and estimated at \$1,000. After pre-baiting with corn, a remote camera trap was placed, and fourteen feral swine were removed. This project is complete.

Craig County rancher called WS about feral swine responsible for rooting approximately 40 acres of freshly planted fescue and approximately ten acres of a hay field valued at \$14,000. A WS Specialist responded to the request and verified the damage reported. The Specialist is currently using a live trap to remove the feral swine. Ten feral swine have been removed and work is continuing at this time.

Nowata County landowner contacted WS regarding feral swine responsible for rooting approximately twenty acres of pasture valued at \$10,000. A WS Specialist responded to the request and verified the damage reported. The Specialist is currently using a live trap to remove the feral swine. One feral swine has been removed and work is continuing at this time. The landowner was instructed about fencing methods and environmental changes that can be used to prevent future damage.

Osage County landowner contacted WS about the presence of feral swine on his property. The landowner stated he had approximately thirty acres of wheat with damage worth \$4,000. A WS Specialist responded to the call and confirmed the damage. A live trap was placed on the property to remove twenty five feral swine. The drone was deployed to aid the helicopter in determining the location of the feral swine. Approximately sixty feral swine were identified by the drone and removed by the helicopter gunner.



Figure 1: WS drone scouting for additional feral swine populations in Osage County.

Aerial Operations

Aerial operations were conducted in **Tillman County in the Red River Project** in response to multiple farmers and ranchers requesting the reduction of feral swine in the area. The Specialist for Tillman County reported damage to wheat fields, pasture, and livestock feed at \$10,000. To reduce the damage in this area, the helicopter was utilized for 4.9 flying hours to remove one

hundred and eighty-nine feral swine. This area will be closely monitored to determine if additional aerial operations are needed.

Aerial operations were conducted in **Custer County** in response to several farmers requesting feral swine reduction on wheat fields and pastures. Damage in the area flown was estimated at \$12,000. To reduce the damage in this area the helicopter was utilized for 6.0 flying hours to remove one hundred and two hundred and twenty-eight feral swine. This area will be closely monitored to determine if additional aerial operations are needed.

Beaver Damage Management

Stephens County Road Commissioner contacted WS for assistance with beavers damaging one of the road and bridge structures. The Specialist for Stephens County responded and verified beavers were responsible for \$4,500 in damage from damming up the creek and burrowing into the road structure. The Specialist used conibear traps to remove four beavers from the flood control lake. Control efforts are completed at this time.

Kingfisher County Commissioner contacted WS with beaver damage at \$2,000 to the road and bridge structure. The Wildlife Specialist assigned to Kingfisher County responded to the request and verified that beavers were responsible for the damage reported. The Specialist used conibear traps to remove six beavers from the adjacent creek. Control efforts are completed.

Dewey County Road Commissioner requested assistance with beavers flooding one of the roads in his district. The Commissioner reported beavers were responsible for damages at \$2,800 to the bridge structure and roadbed. The Specialist for Dewey County responded to the request and verified beavers were responsible for the damage. Conibears were utilized to remove the beavers from the creek and no further damage has occurred.

Murray County rancher called WS for assistance reporting beaver damage to his pecan trees. The beaver damage to his pecan trees was verified and estimated at \$4,000. Conibear traps were set and two beavers were removed. This project has concluded.

McCurtain County Commissioner called WS for assistance with beavers causing damage to a county road. The flooding damage was verified and road damages were estimated at \$2,500. The WS Specialist removed the beaver dam alleviating the flooding and set conibear traps to remove the beavers. Four beavers have been removed and this project is still being monitored to confirm the flooding damage is resolved.

Pushmataha County cooperator called WS for assistance reporting beaver damage to his property. The beaver damage was verified and estimated to be \$3,500 in flooding damage and standing timber damage. The beaver dam was removed to alleviate the flooding and conibear traps were set. Two beavers were removed and this project is concluded.

Noble County landowner contacted WS for assistance with beavers that were responsible for damage to pond dams in several ponds. The Specialist responded and verified the damage at \$5,000.

The Specialist used night shooting and removed 30 beavers from the ponds. Damage management efforts continue at this time.

Okmulgee County landowner reported to WS beavers had dammed up his pond overflow, which caused the pond dam to wash out, with damages at approximately \$2500. The WS Specialist set conibear traps and removed two beavers.

Black Vulture Management

Delaware County The Lakes Area Manager for Eucha Lake contacted WS with concerns about the presence of Black vultures sunning on the lakes dam structure, causing a potential human health risk to workers from fecal matter left by the birds. The Specialist confirmed the damage reported and a corral trap was placed on the property to remove 82 Black vultures. Work is continuing at this time.

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

County	Beaver	Coyote	Feral swine	District
Adair				NE
Alfalfa				W
Atoka	6			SE
Beaver		58		W
Beckham	6	62	27	W
Blaine	2	10	307	W
Bryan	17	25	254	SE
Caddo		1	3	W
Canadian		14	108	C
Carter				SE
Cherokee				NE
Choctaw	3	12	104	SE
Cimarron		25		W
Cleveland	3			C
Coal				SE
Comanche	2	36	220	W
Cotton	4	7		W
Craig	1		38	NE
Creek			15	NE
Custer			333	W
Delaware			154	NE
Dewey		20	3	W

Ellis	9	53		W
Garfield	3	3		W
Garvin	2		14	SE
Grady	7			W
Grant	9	10		W
Greer		18	76	W
Harmon		12		W
Harper	3	41		W
Haskell	3			NE
Hughes	2	1	11	SE
Jackson	3	47	64	W
Jefferson	1			SE
Johnston		2	8	SE
Kay				NE
Kingfisher				W
Kiowa		3	43	W
Latimer	5			SE
Leflore	12		80	SE
Lincoln		3		NE
Logan				W
Love	19			SE
Major	5		29	W
Marshall	2			SE
Mayes				SE
McClain	6		1	SE
McCurtain	18			SE
McIntosh	2		90	NE
Murray	7	1		SE
Muskogee	4	3		NE
Noble	30		30	NE
Nowata	10		1	NE
Okfuskee	2			NE
Oklahoma	11	7		C
Okmulgee	3		1	NE
Osage		2	53	NE
Ottawa	3			NE
Pawnee	2		84	NE
Payne	1		13	NE
Pittsburg	13	2	10	SE
Pontotoc	8	4	169	SE
Pottawatomie	1			C
Pushmataha				SE

Roger Mills	4	25	9	W
Rogers				NE
Seminole	4	4	21	SE
Sequoyah	5		5	NE
Stephens	6	38	28	W
Texas		29		W
Tillman		22	165	W
Tulsa				NE
Wagoner	4		41	NE
Washington				NE
Washita	1	42		W
Woods		42		W
Woodward		18	9	W
TOTAL	274	702	2621	

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

Respectfully submitted,

Scott Alls
Division Director
Wildlife Services Division

**January 2023 Activity Report
for
March 2023 Board Meeting

Agricultural Statistics Division**

General

For the **month of January**, rainfall totals averaged 0.75 of an inch throughout the state, with the Southeast district recording the highest precipitation at 1.61 inches and the Panhandle district recording the lowest precipitation at 0.18 of an inch. According to the January 24th, US Drought Monitor Report, 98 percent of the state was in the abnormally dry to exceptional drought category, up two points from the previous year. Additionally, 89 percent of the state was in the moderate drought to exceptional drought category, up one point from the previous year. Statewide temperatures averaged in the 30's, with the lowest recording of 5 degrees at Boise City on Sunday, January 29th and the highest recording of 65 degrees at Hollis on Saturday, January 28th. Topsoil moisture conditions and subsoil moisture conditions were rated mostly adequate to short.

Small Grains: Winter wheat grazed reached 36 percent, points from the previous year points from normal. Rye grazed reached 22 percent, points from the previous year points from normal. Oats grazed reached 36 percent, points from the previous year points from normal.

Pasture and Livestock: Pasture and range condition was rated at 45 percent good to fair. Livestock condition was rated at 75 percent good to fair.

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

Survey	Enumerated by:	Survey Dates
Row Crop CAPS	DCC	11/1 – 1/18
ITC/Census	DCC	12/15 -6/15
January Cattle	DCC	12/31 – 1/17
January Sheep and Goats	DCC	12/31 – 1/17
Milk Production	DCC	12/31 – 1/14
Pecan PDI	DCC	1/3 – 1/11
Cotton Ginnings	DCC	1/3 – 1/4
Cotton Ginnings	DCC	1/16 -1/17
Hemp PDI	DCC	1/24 - 2/16
Berry PDI	DCC	2/20 - 2/28

Statistics: On January 31, 2023, the Annual Cattle Report was published. Highlights include:

The inventory of **Oklahoma cattle and calves** totaled 4.60 million head on January 1, 2023, down 12 percent from last year's inventory. Oklahoma makes up 5 percent of the total United States inventory.

Total inventory of **all cows** that have calved in Oklahoma was 2.02 million head, 6 percent below last year's total. **Beef cow** inventory, at 1.98 million head, was down 7 percent from 2022. **Milk cow** inventory, at 39.0 thousand head, was unchanged from the 2022 total of 39.0 thousand head.

Inventory of **all heifers 500 pounds and over** in Oklahoma totaled 800 thousand on January 1, 2023, 17 percent below 2022. **Beef replacement heifers**, at 390 thousand head, is 3 percent lower than 2022. **Milk replacement heifers** totaled 20.0 thousand head, unchanged from last year.

Oklahoma inventory of **steers 500 pounds and over** totaled 770 thousand head on January 1, 2023, down 24 percent from last year. Inventory of **calves less than 500 pounds**, at 860 thousand head, is 4 percent below last year's total. The **2022 calf crop** totaled 1.85 million head, 4 percent lower than the 2021 calf crop.

Information Requests: Phone calls, personal visits to our office, and requests via e-mail for information since last report totaled 46.

Releases for January:

Annual Crop Production
Grain Stocks
Winter Wheat
Cattle on Feed
Cattle
Sheep and Goats
Agricultural Prices

Relating Dates:

December 1, 2022
December 1, 2022
December 1, 2022
January 1, 2023
January 1, 2023
January 1, 2023
January 15, 2023

Release Dates

January 12, 2023
January 12, 2023
January 12, 2023
January 20, 2023
January 31, 2023
January 31, 2023
January 31, 2023

Releases for February:

Crop Production
Farms and Land in Farms
Corn, Sorghum, Soybean County Estimates
Cattle on Feed
Agricultural Prices

Relating Dates:

February 1, 2023
2022 Crop Year
2022 Crop Year
February 1, 2023
February 15, 2023

Release Dates:

February 8, 2023
February 17, 2023
February 24, 2023
February 24, 2023
February 28, 2023

Meetings and Events:

Oklahoma Sorghum Growers Meeting
NRCS State Technical Committee
AYC Session 5
Oklahoma NASDA ARMS 3 Training
AYC Session 6
US Secretary of Ag Award Ceremony

Date:

January 13, 2023
January 19, 2023
January 26, 2023
January 31-Feb. 1, 2023
February 7, 2023
February 16, 2023

Location:

Enid, OK
Virtual
OKC, OK
Norman, OK
OKC, OK
Washington, DC

Meetings and Events:

2023 AFR Convention
OACD Annual Meeting

Date:

February 17-18, 2023
February 27-28, 2023

Location:

Norman, OK
OKC, OK

Respectfully Submitted,



Troy Marshall

MARKET DEVELOPMENT SERVICES

March 8, 2023

Report to the State Board of Agriculture

AG IN THE CLASSROOM

AG IN THE CLASSROOM IMPACT

- Total Number of Teachers/Administrators Impacted: 63
- Total Number of Pre-service Teachers Impacted: 26
- Total Number of Extension Educators Impacted: 1
- Total Number of Students Directly Impacted by Coordinators: 710
- Total Number of Resources Given: 2,850
- Total Number of Teachers/PreService Teachers Resources Given to: 56
- Total Number of PreK-12th Grade Students Resources Given to: 3,025

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

- The AITC website had 17,498 visits and 14,705 unique pageview visits.
- The AITC monthly email is delivered to 16,564 accounts.
- The AITC Facebook page now has 9,121 followers.
- The AITC Twitter page now has 378 followers.
- Oklahoma AITC Instagram account now has 678 followers.
- Oklahoma AITC Pinterest account now has 217 followers.
- The AITC YouTube channel now has 8,960 views.

Ag in the Classroom- Professional Development Workshops

Number of Educators & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
26 Oklahoma State University Ag-Ed Pre-service teachers	Stillwater, OK	Temple Grandin Lesson, AITC Resources, Sale Barn Lesson	Barn Full of Resources
100 AFR Convention attendees	Norman, OK	AITC Booth	Oklahoma Ag Mags, ABC Coloring Book, Ag on Rt. 66, Red Dirt Symbols, Peanut Tear sheets, Wheat tear sheets, beef tear sheets, cotton tear sheets

Ag in the Classroom- Student Events



Number of Participants & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
500 7th grade students from the following schools: Yukon, Longfellow, Midland, Witter, Millwood, Alcott, Irving; talked with about 5 teachers from various schools	Oklahoma University	Agriculture Careers	Find your Future in Agriculture Career Magazines
40 Sayre 4-H members and parents	Sayre Schools	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest 2nd grade 1st Place Winner	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
120 Fort Cobb-Broxtown Elementary Students	Fort Cobb-Broxtown Elementary	Oklahoma AITC Art and Photography Contest Winner Presentation - Poster Contest 4th grade 2nd Place Winner	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
50 High School students, 8 teachers	Amber-Pocasset High School	Oklahoma AITC Art and Photography Contest Winner Presentation - Photography Contest 10th grade 1st Place Winner	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations

Ag in the Classroom- Resources Mailed or Delivered

Locations where Resources are Mailed or Delivered	
Fort Gibson 4-H	Hoover Elementary - Enid
Bell Elementary School - Stilwell	Panama Upper Elementary
William R Teague Elementary - Wagoner	Orvis Risner Elementary - Edmond
Justustaiawah School - Claremore	Mannford Upper Elementary
Lakeside School - Hominy	Washington Irving Elementary - Edmond
Webster Middle School - Oklahoma City	Velma-Alma Public School

Hayward Smith Elementary - Broken Arrow	Owasso High School
Summit Christian School - Arcadia	Esperanza Elementary - Oklahoma City
Skyline Elementary - Stillwater	Truman Elementary - Norman
Minco Elementary School	Hayes Elementary - Enid
Shattuck Public Schools	Roosevelt Elementary - Pryor
Creekwood Elementary - Broken Arrow	Kelly Blair Dist 1 Farm Bureau Cherokee Co
Emily Young - Edmond Farmer's Market	

Ag in the Classroom- Other Events

Event	Highlights
Oklahoma Ag in the Classroom Teacher Retreat	We invited 18 of our dedicated Ag in the Classroom teachers to join us for a weekend 2-day retreat at Camp Lela to work on improving our program and broadening our impact. We discussed what teachers need from us, some of our best resources and lessons, needed updates, and goals throughout this next year.
 <p>2023 Oklahoma Ag in the Classroom Teacher of the Year Announced</p>	Jennifer Crosthwait, a Kindergarten teacher from Skyline Elementary in Stillwater, was announced as the 2023 Oklahoma Ag in the Classroom Teacher of the Year. She has taught for 22 years. Jennifer explains her love for AITC, “My students have loved the hands-on lessons Ag in the Classroom provides. from recipes like making bread with the little red hen, to lessons about pollinators and plants, the dairy industry, and animal by-products (wool, leather, etc.) I love how the lessons fit in with what we are learning and how they align with Kindergarten standards.”
 <p>NEW AITC Logo</p>	Oklahoma AITC made the decision to update our logo. The logo was released to the public in February.
9 Oklahoma AITC Workshops accepted to present at the 2023 National AITC Conference in Orlando, FL	<ol style="list-style-type: none"> 1. Mini Workshop - Christmas on the Farm - Debra Wood (Orvis Risner Elementary, Edmond) 2. Mini Workshop - Accurate Ag Book Week -- What is It? How Do They Work? - Melody Aufill, Emily Ague, & Annie Davis (OK AITC State Coordinators) 3. Mini Workshop - Strolling down the Pig Trail - Teresa Brunnemer (Morrison Elementary) and Amber Bales (Will Rogers Elementary, Stillwater)

	4. Mini Workshop - Melons and More Melodies - Jacey Duncan (Perkins Elementary) 5. Full Workshop - 5 E's of Bees - Anna Wofford (Frederick Elementary) 6. Full Workshop - Oklahoma Agriculture: Beyond Wheat and Cattle - Melody Aufill, Emily Ague, & Annie Davis (OK AITC State Coordinators) 7. Full Workshop - Riverology 201: Using a Local approach to protect water quality - Jeri Fleming and Jacklyn Jaggars (Grand River Dam Authority) 8. Full Workshop - Not Just for Jack-O'-Lanterns: Year Round Pumpkin Fun - Dusti McCartney (Willard 5th & 6th grade center, Ada) 9. Full Workshop - Ag in the Bag: STEM Activities on a Shoestring Budget - Johnnie Keel (Truman Elementary, Norman)
Oklahoma AITC awarded USDA/NIFA Professional Development Grant	Oklahoma Ag in the Classroom applied for and was awarded a \$4,000 grant provided by USDA/NIFA through National Ag in the Classroom. Ten grants were awarded to state programs throughout the nation. Our grant will fund Professional Development to teach 3rd-5th grade teachers to implement a new National AITC resource, the Ag Badging Field Guide, in their classrooms.

AGRITOURISM

Agritourism - Site Visits

Producer	Location	Category	Highlights
Broke Brewing Co.	Oklahoma City	Brewery	Dropped off beer trails

Agritourism - New Producers or Potential Producers

Producer	Location	Category	Highlights
The Cedar Gate	Kingfisher	Hunting, Country Stays	Added to program,
Flying G Ranch	Guthrie	Trail Riding	Added to program
Tanglefoot Farm	Blanchard	Farm to Table, U-pick	Added to program
Selah	Goldsby	Petting Farm	Site visit

Social media

Facebook

- 22,352 likes
- 24,808 followers

Instagram

- 2,360 followers

Agritourism - Other Activities

- Phone consult/conversations with: Matt – Wheeler District FM, Kim – Wayne FM, Glenn Orr, Kent Livesay, Gary Eubanks, Jesse Wells, Kathleen Huffman, Sheila Decarlo, Stuart – Choctaw FM, Lori Kenny, Cindy Nocton, Kelly Zimmerman, Ron Lee
- Email consultation with: Emily Prichard – pumpkin patch
- OKLAS Planning
- Attended OSU Wine Faults workshop
- Presented at Farm Bureau BRIDGE Convention
- Attended NAFDMA Conference – sessions, tradeshow and bus tour

- FFA Interview with Piedmont members
- Speak to Woodward FFA
- Presented to AFR Convention about agritourism
-

ECONOMIC DEVELOPMENT

Activity	Action
Agriculture Enhancement & Diversification Program	The selection committee met in person on February 3 rd . This was the first opportunity for individuals to apply for the new Veteran/Young Farmer loan/grant. The committee had 22 applications to review that day with the majority being Veteran/Young Farmer along with a request for a 12-month extension for a project. The committee voted in favor of recommending nine (9) grant applications and one (1) loan application totaling \$132,229.85,000 be approved for funding.
2023 SCBG application	A Request For Applications (RFA) was sent out on January 12 th to 50+ individuals who have submitted an application or inquired about the SCBG within the past 4 years, along with a press release sent to statewide media outlets. The deadline to have applications submitted to ODAFF is February 24 th . Oklahoma will receive \$543,987.11 to fund projects this year.
Review and approve SCBG invoices	SCBG grant coordinator approved 31 invoices for payment after reviewing receipts and purchases to make sure they were within the terms of the contractual agreement with ODAFF.
Review and approve Viticulture & Enology grant invoices	SCBG grant coordinator approved 2 invoices for payment after reviewing receipts and purchases to make sure they were within the terms of the contractual agreement with ODAFF.

FARM TO SCHOOL

New Contacts:

- Lindsey Cartwright – Arkansas Farm to School
- Amy Lyman – Arkansas Farm to School

Resource Requests

- 16 cookbooks, 16 poster sets

Events

- Bryan County OSU Extension – OHCE Meeting – Introduced F2S
- CACFP Training Presentation – Garfield County OSU Extension - Enid

Other Activities

- 12 schools have submitted applications for Local Food For Schools
- Statewide Obesity Committee Meeting
- Zoom Call with Health Department committee regarding Farm to ECE. They would like to help with some possible collaboration moving forward.

Active Partners

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

Upcoming Events

- Summer Meals Kick Off Conference – OKC, February 23, 2023
- Producer Training – Fort Smith, Arkansas – April 6, 2023

INTERNATIONAL

Activity	Action	Location
Certificate of Free Sale	<ul style="list-style-type: none">• QSM• Lopez	
Food Export	<p>FTM to Caribbean</p> <ul style="list-style-type: none">• Completed the Focused Trade Mission to the Caribbean in the Dominican Republic Feb 6-9th• 8 Midwest Suppliers to meet with buyers from DM, Trinidad & Tobago and Jamaica• Briefing by the FAS officer in DM, Fred Guiles and a retail tour to give the suppliers a chance to see the products in the retail environment, packaging, and competition. <p>Natural Products West</p> <ul style="list-style-type: none">• Assisted with supplier coordination <p>National Restaurant Association</p> <ul style="list-style-type: none">• Started buyer coordination and gearing up for recruitment and project kick-off• Recruitment for OK Pavilion• Attended the Food Export Midwest Annual Meeting (virtually) at the NASDA Winter Policy Meeting	
USLGE	<p>Attended the Annual Meeting in Ft. Worth</p> <ul style="list-style-type: none">• Heard from consultants from 9 regions/ Deep dive on 5 regions• Met with other states to collaborate on 2024 planning• Toured Brahman Ranch Rancho Las Huastecas	

GIT (Governor's International Team)/ODEC	<ul style="list-style-type: none"> Governor's International Team Working on the upcoming World Trade Conference in April 	
ODAFF Market Development Events	<ul style="list-style-type: none"> Preparing for the MIO Expo Food Export Liaison will be attending the Expo/ Spent time coordinating visit while she is in town 	
Misc Meetings	<ul style="list-style-type: none"> Many phone calls to companies to research interest in Food Export and clean up data Caught up with CITD Office on projects 	

MADE IN OKLAHOMA COALITION

Made in Oklahoma Coalition – Advertising, Web and Social Traffic

Type	\$ Spent and Information	Highlights
MIO Featured Monthly Recipes in Tulsa World and Oklahoman	\$500/month each	Featured press release and 1-2 showcased recipes in food section
Marketing, Consulting and Graphics Retainer with Krush	\$6,750	Social media posts, digital presence, analytics, management of content and creation of digital footprint, graphic design, etc.
MIO TV Cooking Segments on Channel 6 in Tulsa and Channel 4, 5 & 9 in OKC	OKC – 8 appearances Tulsa – 4 appearances	Natalie Mikels & David Brooks, MIO TV Personalities filmed in-person and remote segments for TV
FY23 Media Campaign Reporting	https://docs.google.com/spreadsheets/d/1HUhkBRVkrGKwZf6ZZvyyTPeUTBx4I1-lprDwzDgnPwM/edit#gid=378323568 January Report: https://docs.google.com/presentation/d/15yRIKDZsFwM8JnSaXsEITlbrDs88D4DN1nC9u5ap48/edit?usp=sharing	Here is a link to our original Google sheet workbook that we've been updating as the campaigns have evolved. You can toggle between all the logistical info for the co-op campaign such as the featured recipes per block, the annual media schedule, media budget, and the campaign spend tracker. It is a live link so it will be updated throughout the months as we continue our Co-Op campaigns.
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.	January – El Coyote Bar & Cantina, OKC February – Red PrimeSteak, OKC
Social Media Stats	Staff, and MIO media committee plan social content each month with our advertising agency, Krush Digital Marketing.	https://www.dropbox.com/s/n3uwvq0zabv6uuk/Profile%20Performance%20%28Krush%29%20January%201%2C%202023%20%E2%80%93%20January%2031%2C%202023%20%281%29.pdf?dl=0

Edible OKC Giveaways	\$100/giveaway	Each month MIO partners with Edible OKC to give away a \$100 gift card to our restaurant of the month.
MIO Monthly Newsletter		<ul style="list-style-type: none"> o 2400+ distribution list
OK Living Partnership highlighting MIO Recipes	Highlights 2-3 MIO recipes per month <ul style="list-style-type: none"> - Free publication to electric coop members 	MIO provides recipe content and OK Living does the ad design
Recipes of the Month	MIO recipes are developed each month highlighting member company products.	January – <ul style="list-style-type: none"> - Blueberry Almond Granola Squares - Oklahoma-style Caramel Cream Cold Brew - Macaroni and Cheese Soup February— <ul style="list-style-type: none"> - Nacho Table - Kitchen Sink Cookies - Super Bowl Taco Soup
January Retailer of the Month	Williams Foods	Statewide locations
February Retailer of the Month	Pruett's Foods	Statewide locations

MADE IN OKLAHOMA PROGRAM

Meetings/Events	Date	Location	Details
MIO Store Planning	Jan. 23	OKC	Met to discuss plans for MIO Store at OSF – changes to make for 2023
Site Visit	Jan. 26	OKC	Visited Mollycoddled Hash Slinger store to get social content – featuring producer, retailer and MIO items for Valentine's Day
Site Visit	Feb. 7	Stillwater	Visited Kennel and Crate to feature in social media series
Upcoming Events:			
Tulsa Home and Garden Show	March 9-12	Tulsa	We will be having 10 booths at this show, program members submit an application and then are selected to participate.
Ag Day at the Capitol		OKC	Approximately 35 organizations and Made in Oklahoma companies will be set up at the Capitol educating about their company.

New Program Members - Producers:	
Willow Creek Farms Pantry	Woodworks Distilling Company
Sunshine Daydream Farms	Sunset Ridge Workshop
Blackburn Goods	Bebop Leather
Hillside Threads Co	Tia's Superfood Brownies
Old Barn Gifts	Tiny Hearts
The Cutting Etch	Nichols Farm
Jordon's Flower Farm	Cottage Wood Shop
Mellor Woodworks	Angel Solutions
Woods Brothers Crafting LLC	Heart Land Designs LLC
ProSeed, LLC	Jackson Angus Beef
Jordan's Cute Creations	Laser Works of Oklahoma
Bloomerr Beauty Labs	Positive Enterprises
UkanCamp, LLC	Rayvan Co.
Addie Joe in Stitches	My Honey's Handmade
Loco Polo Salsa LLC	E&S Everlasting Designs
Cowgirl Beef	E2C Cattle Company
Kool Kreations	Doodle Bug Art and Design

Other Made in Oklahoma Activities:

- Assisted potential Retailers in connecting with Made in Oklahoma Producers
- Worked with new program members to create an e-commerce account on our webpage

MARKET NEWS SERVICES

January 10, 2023-February 17, 2023

- **Grain Report:**

	January 10, 2023	February 17, 2023	DIFFERENCE
WHEAT: (bu)	\$7.02-\$7.92	\$7.96-\$8.91	\$0.94 to \$0.99 Higher
MILO: (bu)	\$6.55-\$7.05	\$6.78-\$7.28	\$0.23 to \$0.23 \$ Higher
SOYBEANS: (bu)	\$13.95-\$14.90	\$14.37-\$15.32	\$0.42 to \$0.42 Higher
CORN: (bu)	\$7.05-\$8.05	\$7.28-\$8.18	\$0.23 to \$0.13 Higher
COTTON: (lb)	81.76 cents	78.50 cents	3.26 cents Lower

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

FEEDER STEERS

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

- (2-15-22) \$190.00-225.00 Wtd. Avg \$207.50
- (2-14-23) \$206.00-250.00 Wtd. Avg. \$228.00

HEIFERS

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

- (2-15-22) \$157.00-200.00 Wtd. Avg \$178.50
- (2-14-23) \$183.00-212.00 Wtd. Avg. \$197.50

- **Weekly Report:**

- Six weekly Oklahoma Market Reports were sent to 10,338 subscribers
January 10, 2023-February 17, 2023 (**up from 138 subscribers last report**).

- **Voice Messaging System:**

- The market news voice messaging system during
- Monthly Total: January 10, 2023-February 17, 2023 **6,579 Accessed Times**
- Last Report: November 11, 2022-January 10, 2023 **6,567 Accessed Times**
- Compared to Last Month: **Accessed Times-is UP 12**

- **Oklahoma Agriculture Market News**
 - **Facebook Page**
 - Likes/Followers 403
 - **UP 19 Likes/Followers**
 - People reached through pasted report: 801 people
- **Oklahoma Hay Directory**
 - Hay Directory
 - Currently have 15 producers that have hay
 - 1 producer sold out of hay since last report
- **Hay Report**

This Month: January 20, 2023-February 17, 2023 Hay Traded 7,255
Last Year January 21, 2022-February 18, 2022 Hay Traded 8,785
DOWN 1,530 Bales Reported

OKLAHOMA HAY MARKET REPORT

2-17-23

Receipts: 2,410 Last Reported: 2,955 Year Ago: 2,237

Compared to the last report: Hay is steady. Oklahoma starts to see more hay barns empty due to it being harder to find hay, along with hay being harder to afford. The continued moisture that falls across the state is helping the outlook for hay and grain crops. Hay for the future is still undetermined, as Oklahoma still needs more rain on the west side of the state, along with the prices of fertilizer and fuel. Oklahoma Mesonet Drought Monitor we are at 8.07 percent in exceptional drought, 36.58 percent in an extreme drought, 66.94 percent in severe drought, 80.07 percent in moderate, 85.03 percent in abnormally dry conditions, and 14.97 percent that has no drought conditions.

*** The next report release will be on March 3rd***

Central
Alfalfa: Good (Trade/Per Ton)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	720	300.00	300.00	Delivered

North Central
Bermuda Grass: Good (Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	200	135.00	135.00	F.O.B

Northeastern
Mixed Grass: Good (Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	410	160.00	160.00	Delivered

Prairie/Meadow Grass: Good (Ask/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	0	125.00	125.00	Delivered

Northwestern**Alfalfa: Good (Trade/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	560	300.00	300.00	Delivered

Grass: Good (Trade/Per Ton)

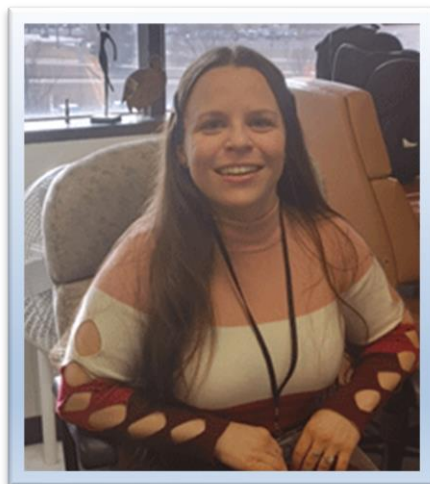
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	280	200.00	200.00	Delivered

West**Mixed Grass: Good/Premium (Ask/Per Bale)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	240	95.00	95.00	Delivered

AEMS Division Activities

Meet our New Employee



Meet Marissa Lippincott. Marissa is our
Environmental Programs I Specialist.
She will be working with our Poultry Program.
Welcome, Marissa.

- AEMS has been working with the Conservation Commission to create a Nutrient Management Plan (NMP) template and application based on the new Oklahoma rule standards. Efforts are to ensure new Conservation Commission staff can easily pick up duties to assist the poultry industry in preparing and updating their NMPs.
- The AEMS AgPDES permits are still moving forward:
 - The CAFO general permit completed public comment and we are finalizing comments with EPA. Expect issuance in the first part of March.
 - The Pesticide general permit public comment period closed on February 16, 2023. Currently finalizing and issuing permits by the end of the month.
 - The Stormwater Construction general permit is in the public comment until March 2, 2023.
- AEMS participated in the Illinois River Watershed working group calls
- .

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: 0

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:

16	Complaints received and investigated this reporting period
16	Complaints closed this reporting period
Complaints Received - Breakdown	
Cattle - 3	
Swine – 0	
Poultry- 0	
Misc. Animal - 0	
Other – 1	
Animal Shelter - 4	
Pet Breeder- 8	
86	Year-to-date complaints received in FY 23
42	Year-to-date complaints closed in FY 23
88	LMFO/CAFO inspection and technical assistance
240	Poultry inspections and technical assistance
31	Pet Breeders/Shelters inspections and technical assistance

CAFO and LMFO Activities - Month and Fiscal Year 2023

	Jan 1 –Feb 12, 2022	FY 23 Total
Complaint or Compliance Follow-ups	11	47
Annual Inspections	73	374
Technical Assistance with Contacts	15	90
Site Visit/Review – No contact made	8	50

Poultry Activities – Month and Fiscal Year 2023

	Jan 1 –Feb 12, 2022	FY 23 Total
Complaint or Compliance Follow-ups	2	16
Annual Poultry Inspections	52	214
Poultry Technical Assistance	185	886
Site Visit/Review – No contact made	8	354
Eucha-Spavinaw CNMP Written	27	80

Pet Breeders Activities – Month and Fiscal Year 2023

	Jan 1 –Feb 12, 2022	FY 23 Total
Complaint or Compliance Follow-ups	22	108
Breeder/Shelter Technical Assistance provided to owner/operator	8	152
Breeder/Shelter Annual Inspections	23	275
Breeder/shelter Close out	0	7

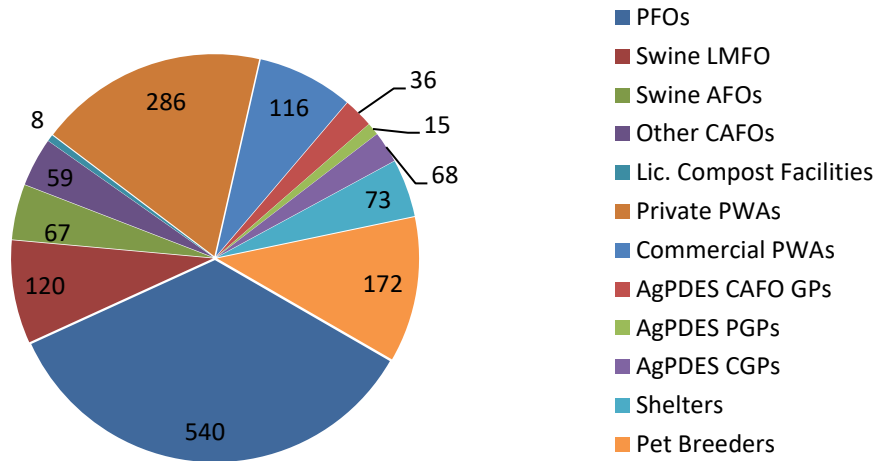
AGPDES – Month and Fiscal Year 2023

	Jan 1 –Feb 12, 2022	FY 23 Total
Complaint or Compliance Follow-ups	0	5
Site Inspections (Annual or Compliance follow-up)	1	18
Technical Assistance provided to owner /operator	2	30

Composting Activities – Month and Fiscal Year 2023

	Jan 1 –Feb 12, 2022	FY 23 Total
Complaint or Compliance Follow-ups	6	28
Site Inspections (Annual or Compliance follow-up)	0	16
Technical Assistance provided to owner /operator	3	14

Current FY 23 AEMS Numbers



Respectively,

Teena G. Gunter
AEMS Division

**BEFORE THE STATE BOARD OF AGRICULTURE
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
MARCH 2023 BOARD REPORT
REGARDING JANUARY 9, 2023 THROUGH FEBRUARY 17, 2023 ACTIVITIES
OF THE
OFFICE OF GENERAL COUNSEL**

AMOUNT OF ADMINISTRATIVE FINES COLLECTED:

Amount to Date (2023)	Amount of Fines for this Board Meeting
\$10,000.00	\$92,125
\$207,400.00	2022
\$57,475.00	2021 Total (5/31-12/31/2021)

CONTRACTS REVIEWED OR DRAFTED (33):

Marketing: 15
CPS: 7
Forestry: 5
AIS: 2
Wildlife Services: 2
Inv. Serv: 2

ADMINISTRATIVE HEARING PROCEEDINGS:

Total Number of Open Cases: 150
Total Number of New Cases: 57
Total Number of Cases Closed: 36
NOVs Sent: 60

OTHER ACTIONS AND PROCEEDINGS:

<i>Kirk Marshall v. ODAFF</i> , Oklahoma County District Court Case No. CJ-2020-1347: Petition served. Time period tolled by Supreme Court Order until May 15, 2020. Answer drafted and prepared for filing. Application for Injunction Denied. Answer filed. Hearing held. Amended Petition filed by Plaintiff. Answer to Amended Petition filed. District Court Order AFFIRMED by Court of Civil Appeals. ODAFF Amended Motion to Dismiss pending.

<i>Laura Garrison v. State of Oklahoma, ex rel. Oklahoma Department of Agriculture Food and Forestry</i> , Pittsburg County District Court, Case No. CJ-2020-111: Lawsuit involves vehicle accident between plaintiff and ODAFF employee. Attorney General's Office is handling this claim.
<i>Upton's Naturals Co v. Stitt and Arthur</i> , District Court, W.D. Oklahoma, Case No. 5:20-cv-00938: Lawsuit against Governor Stitt and Secretary Arthur in their professional capacities. Upton's Naturals challenges a state law that prohibits food manufacturers from using terms like "hot dogs," "burgers," or "bacon" on labeling for meat-free products. The Attorney General's Office is handling this claim.
<i>William Grossman v. Lori Howard et al.</i> , Cherokee County District Court, Case No. CJ-2020-111: Lawsuit filed on the agency and Forestry Services requesting damages for a car wreck that occurred during a prescribed burn. The prescribed burn was not performed by ODAFF and the agency was not involved with the circumstances. The Attorney General's Office is handling this claim.
<i>Spring Creek Coalition v. ODAFF and Trong</i> , Cherokee County Case Number CJ-2021-29: Petition seeking declaratory and injunctive relief. Answer filed.
<i>Spring Creek Coalition v. ODAFF and Phan, et al.</i> , Delaware County Case Number CJ-2021-33: Petition seeking declaratory and injunctive relief. Answer filed. Discovery ongoing. Responded to Motion for Summary. Motion to Dismiss filed. Hearing set March 2, 2023

MEETINGS:

Date	Activity
January 11, 2023	OBA Women in Law
January 12, 2023	Commissioners of Land Office
January 17, 2023	Directors Meeting
January 18, 2023	Foreign Ownership of Agricultural Land
January 19, 2023	US EPA and Army Corps Overview of WOTUS Rule
January 19, 2023	Intern Interview
January 20, 2023	Human Capital Management Rules
January 23, 2023	Directors Meeting
January 23, 2023	OMMA
January 26, 2023	AgPDES
January 26, 2023	State Board of Agriculture
January 27, 2023	OBA Legislative Kickoff
January 27, 2023	OGC Staff
February 2, 2023	OU Ag Law Association
February 7, 2023	OBA GALPS
February 8, 2023	OBA Women in Law
February 8, 2023	OMES Payroll Meeting
February 8, 2023	House Admin Rules Committee
February 9, 2023	Commissioners of Land Office
February 9, 2023	Illinois River Watershed Technical Working Group

February 13, 2023	Senate Ag and Rural Affairs Committee
February 13, 2023	NASDA
February 14, 2023	NASDA
February 14, 2023	House Ag and Rural Development Committee
February 15, 2023	NASDA
February 16, 2023	OK Water Reuse Action Plan

RULE ACTIVITIES:

Chapter 17. Water Quality (Emergency FY 2023): Emergency rules were adopted by the Board on September 15, 2022 and approved by the Governor on October 20, 2022. Emergency rule document was filed and rules became effective on October 20, 2022.
Chapter 40. Market Development (Emergency FY 2023): Emergency rules were adopted by the Board on July 27, 2022 and approved by the Governor on August 10, 2022. Emergency rule document was filed and rules became effective on August 10, 2022.
Chapter 1. Administrative Operations (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 2. Fees (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 10. Agricultural Products (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 15. Animal Industry (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 17. Water Quality (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 20. Forestry (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 30. Consumer Protection (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor,

Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 37. Food Safety (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 40. Market Development (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 44. AgPDES (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 50. Aquaculture (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 55. Commercial Pet Breeders and Animal Shelters (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
OHRC
Chapter 10. Racing Organization (Permanent FY 2023): Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
Chapter 15. Licensing (Permanent FY 2023): Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
Chapter 25. Entries and Declarations (Permanent FY 2023): Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
Chapter 35. General Conduct (Permanent FY 2023): Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
Chapter 50. Human Substance Abuse Testing (Permanent FY 2023): Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.

OPEN RECORDS REQUESTS (55):

AEMS: 10
CPS: 27
AIS: 10
Forestry: 2
Pet Breeders: 6

OKLAHOMA HORSE RACING COMMISSION

Litigation: Alfredo Gomez and Cruz Villafranco v. OHRC , Oklahoma County District Court Case No. CV-2020-430: Petition served. Response filed. Petitioners' Motion for Partial Summary Judgment responded to. Pending hearing.
Litigation: Oscar Nunez v. OHRC , Oklahoma County Case No. CV-2020-449: Petition filed and served. Answer filed. Reversed and remanded. Rehearing held. Motion to Modify District Court's Order of November 10, 2020 hearing held. Further briefing ordered. Pending Court's decision.
Litigation: Miguel Pena v. OHRC , Oklahoma County District Court Case No. CV-2019-179: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held October 11, 2019. TRO entered. Amended Petition for TRO heard May 15, 2020. TRO denied. Permanent injunction denied. Pending Motion to Dismiss.
Litigation: Jose Sanchez III, et al. V. Global Gaming, Heritage Place and OHRC , Oklahoma County District Court Case No. CJ-2020-2395: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held May 26, 2020. TRO denied. Further action pending.
Litigation: Sammy Howard v. OHRC , Oklahoma County District Court Case No. CV-2020-1921. Petition served. Response filed. Briefs filed. Oral arguments held. Remanded for further proceedings. Order filed. Motion to Reconsider filed. Hearing reset by the Court to August 19, 2022.
LITIGATION: Rogelio Marquez, Jr. V. OHRC , Oklahoma County District Court Case No. CJ-2021-3393. Petition filed. Injunction sought. Hearing held; Injunction denied. Pending further proceedings. (Trailing OHRC v. Heltzel)
Litigation: Carlos Ruiz v. OHRC , Oklahoma County District Court Case No. CV-2021-2591. Petition Served. Response filed. Record filed. Pending briefing.
Litigation: Etniel Sanabria v. OHRC Tulsa County District Court Case No. CV-2022-1899. Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held September 21, 2022. TRO DENIED. OHRC Response and Motion to Dismiss filed. Motion to Disqualify Judge filed and heard. Case reassigned. OHRC Motion to Dismiss sustained. Motion to Vacate Order of Dismissal filed by Plaintiff. OHRC Response filed. Pending hearing.
Litigation: Kelly Marlene Hartzel v. OHRC , Oklahoma County District Court Case No. CV-2023-387. Petition for Review of Final Agency Order filed and served. Pending Response.
Prepare cases for presentation at Stewards Hearings
Prepare cases for presentation in District Courts

Provide discovery to opposing counsel and Respondents regarding various hearings
Stewards Hearings at Remington Park
Stewards Hearing at Will Rogers Downs
Hearings in District Courts
Prepare and file Response to Petition for Temporary Restraining Order and Petition for Injunction
Prepare response to brief in support of Petition for Appeal
Argue appeals at regular session of the Oklahoma Horse Racing Commission
Discuss possible rule revisions/amendments with Executive Director
Draft proposed rule revisions
Advise Executive Director on extent of delegated authority
Discuss certain policy issues with Executive Director
Review communication from Respondents' counsel in various cases
OHRC regular meeting
Supervise and direct OHRC legal intern
Attend ARCI Rules Committee meeting
Consult with OHRC regarding gaming issues
Attend briefings and meetings regarding Horse Racing Integrity and Safety Act (HISA)
Consult with concerned constituents regarding HISA
Respond to open records requests
Consult and advise on HR issues

OTHER ACTIVITIES:

Phone calls or emails with the public: 32
Assistance to industry: 9
Assistance to AEMS: 15
Assistance to CPS: 9
Assistance to Wildlife Services: 1
Assistance to Forestry: 6
Assistance to AIS: 9
Assistance to Admin: 5
Assistance to Human Resources: 8
Assistance to Market Development: 6
Assistance to other state agencies: 6
Assistance to federal agencies: 0
Assistance to Food Safety: 10
Assistance to NASS: 0
Assistance to Executive Office: 9
Assistance to Lab: 0
Assistance to Investigative Services: 1
Assistance to Legislature: 6
Assistance to Attorney General: 4

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Teena G. Gunter', with a stylized, flowing script.

Teena G. Gunter
General Counsel

FOOD SAFETY REPORT JANUARY 2023

POULTRY& EGG GRADING, PRODUCE AND ORGANIC SECTION

Poultry and Egg Section

In Broken Bow at Tyson Foods, USDA poultry grading was performed by ODAFF inspectors on 889,491 pounds of poultry – boneless/skinless leg meat and ground meat. ODAFF inspectors provided USDA Shell Egg grading on 38,642 dozen eggs at Cal-Maine Foods Inc. at Sulphur. ODAFF inspectors provided USDA poultry grading services on poultry products being shipped from National Steak & Poultry Quality Meats in Owasso. ODAFF inspectors also provided USDA poultry grading services on poultry products being shipped from OK Foods in Muldrow & Heavener. Also; routine egg quality inspections under the Oklahoma egg law were conducted.

Organic Foods Section

Organic inspectors completed compliance and certification inspections at:

- Five organic crop producers
- Three organic processors
- Collected two organic samples
- Nine retail organic inspections
- The organic section had requests for 2,000 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 3 requests for organic crop applications, 1 request for an organic livestock application and 3 requests for organic processing applications. Jeff Stearns and Dee Raper attended the National Organic Program Certifier Training & Accredited Certifier Association Professional Development Training in New Orleans, LA

Produce Safety Section

- Shared information about the law and growing safe produce at the Mayes County Health Event
- Assisted farms with remote technical assistance
- Scheduled an On-Farm Readiness Review to prepare a farm for inspection
- Regular conference calls with TX, LA, AR, NM, MO, MS
- AFDO Produce Safety Committee sessions

Homemade Food Freedom Act

- Received 4 complaints on the Homemade Food Freedom Act.
- Sent 3 warning letters.
- Meat Compliance assisted with 2 complaints

Oklahoma Meat Inspection Services Investigations and Compliance Activities

Planned Compliance Reviews	11
Random Compliance Reviews	159
Person-to-Person Contacts	59
Special Investigations and/or Projects	19
Reports of Apparent Violations	00
Detentions	00
Consumer Complaints	08
Verbal Warnings Issued	05
Letters of Warning Issued	00
Samples Submitted to Lab for Analysis	00
Accident Investigations	00
Administrative Procedures Act	01 ENID PACKING

The Oklahoma Highway Patrol notified Meat Inspection Compliance with (0) truck accident in the month of JANUARY 2023

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 Three (0) Letter of Warning for Violations of the Oklahoma Meat/Poultry Inspection Act and/or State Statutes.

MEAT INSPECTION

Number of Cattle	707
Total Beef Condemned	4,942 lbs
Number of Swine	66
Total Pork Condemned	883 lbs
Number of Sheep and Goats	1,960
Total Condemned	1,734 lbs
Number of Rabbits	0
Total Condemnations	0 lbs
Number of Exotic Deer	0
Total Condemnations	0 lbs
TOTAL MEAT INSPECTED	707,400 lbs

PROCESSED MEAT INSPECTED

Processed Red Meat	748,260 lbs.
Condemned on Reinspection	0 lbs
Poultry (Portions)	46,799 lbs
Condemned on Reinspection	0 lbs
Rabbit Meat	0
Condemned on Reinspection	0 lbs
Exotic Deer Meat	0
Condemned on Reinspection	0 lbs
TOTAL PROCESSED MEAT INSPECTED	795,059 lbs

Meat Sample activity:

25 Samples Submitted for Analysis

0 Samples Not Analyzed

25 Samples Analyzed

0 Samples Non-Compliant

25 Samples Negative Analysis

Jan. 3

Our new inspectors Angela Lang and Ricky Jiles in the Southeast district and Stacy Vincent in the Northwest district started on Jan. 3rd.

DAIRY SECTION

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

Dairy Services conducted three dairy farm surveys: Select 30 (BTU 40-030), Steve Koehn Dairy (BTU 40-030), and Braum's Dairy (BTU 40-105). Steve Koehn Dairy became a new stand-alone BTU and is the source of milk for Red Ridge Creamery in Lahoma. Each survey received passing scores. Information regarding these surveys can be found on FDA's Interstate Milk Shippers List website.

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

Dairy Services received notice to be expecting two AFDO grant reimbursement payments: \$1,577.73 for training expenses and \$11,663.77 for dairy and laboratory equipment purchased in 2022.

Dairy services is working with FDA to host a FD375 Dairy Farm Sanitation and Inspection Course the week of August 21, 2023 in Catoosa.

Sincerely,

A handwritten signature in black ink that reads "Scott Yates". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Scott Yates
Director of Food Safety

Communications

Compiled 2/24/23

Social Media Highlights

Forestry Services Plant 12 Native Oklahoma trees in front of ODAFF – Jan. 24 | Forestry staff transformed the ODAFF garden into a perfect place for trees. Three species are represented – Chinkapin Oaks, Eastern redbud, and Smoketree. Now we wait for them to grow.



Price Verification Video – Jan. 30 | Field inspectors with Consumer Protection Services conduct price verification checks at stores across the state to ensure customers are not being overcharged. We joined Weights and Measures administrator Gary Smith at a local grocery store to see how the process works.

Brent Bolen Featured on Super Sunday – Feb. 12 | 1.45 billion chicken wings were projected to be eaten on Super Bowl weekend, and Board of Ag member Brent Bolen did his part to help Americans get the most out of the biggest football game of the year. Bolen's farm produces as many as 1.5 million chicken wings per year. Thank you to Mr. Bolen for helping make football even better.



NASDA Winter Policy Conference – Feb. 12-16 | Sec. Arthur and Deputy Commissioner JanLee Rowlett spent the week in Washington, D.C. at the 2023 NASDA Winter Policy Conference.

Social Media Impact

Facebook

21,368 followers

Since Jan. 3, 2023:

- Posts and content reached 70,025 users (**down 2.9%** vs. previous period)
- 133 new Facebook users have liked the ODAFF page

Instagram

2,882 followers

Since Jan. 3, 2023:

- Posts and content reached 4,408 users (**down 49.8%** vs. previous period)
- 84 new Instagram users have followed the account

News & Notes

Sec. Arthur Receives Expanded National Roles / In January, Sec. Arthur was named Vice President of NASDA and President of the Food Export Association of the Midwest USA.

Accepted Nominations for Gov. Stitt's Outstanding Achievement in Ag Award / The winner will be honored on Oklahoma Ag Day at the State Capitol Tuesday, April 11.

Ag Youth Council / AYC focused on the soil, and what's grown from it. A big thanks to the Oklahoma Wheat Commission, Oklahoma Soybean Board, Oklahoma Conservation Commission, and Oklahoma Forestry Services for sharing with the group this month.

MARCH 8, 2023 BOARD MEETING

PURCHASES/CONTRACTS

Administrative Services

FY23 – New Computers & Docking Stations - \$223,500

Purchase of eighty-three (83) Dell Mobile Precision 3570 laptops, thirty (30) Dell 7000 SFF desktops, one hundred and six (106) Dell docking stations, five (5) wireless keyboard and mouse combo's, one hundred thirty-eight (138) monitors and NTT deployment cost as part of Phase 2 of the ODAFF CPU refresh. This phase includes Market Development, Animal Industries, Admin, AEMS, Forestry, Wildlife Services and Laboratory Services. If this refresh is not done we will continue to use aging CPU's which are failing at an alarmingly high rate. Without this purchase, this would hamper our ability to fulfill our ODAFF statutory mission efficiently.

Animal Industry Services

HPAI Cooperative Agreement - \$40,384.00

The purpose of this agreement is for ODAFF to monitor infected premises to ensure that equipment and other potentially infected portions of the premises are properly cleaned and disinfected and that environmental testing is properly performed.

Umbrella Cooperative Agreement - \$423,006.00

The purpose of this agreement is to conduct Animal Health National Surveillance and Response activities that will provide specific information to the recipient, APHIS, and other interested parties for various commodities under this Umbrella Agreement.

ADT Cooperative Agreement - \$253,080.00

The purpose of this agreement is to conduct Animal Disease Traceability activities that will provide specific information to the recipient, APHIS and other interested parties for Animal Health Technical Services (AHTS) Programs.

Laboratory Services

FY23 - \$13,117.20 Service Contract

Purchase of a one year Service Maintenance contract renewal for a dual HPLC System LC 1260 Infinity II dual system. (To be purchased by Consumer Protection Services).

FY23 - \$32,885.64 Service Contract

Purchase of a one year Preventative Maintenance Agreement for the HPLC-MSMS Triplequad 6410 in the Pesticide Section to ensure continuous and consistent operation of the instrument and improves overall quality of the data being reported.

Justification: Without a maintenance agreement the laboratory would not be able to verify the accuracy of the test results and the equipment could possibly fail rendering it unusable. (To be purchased by Consumer Protection Services).

FY23 - \$46,085.20 Grinder

Purchase of Grinder to mechanically break down all samples to a powder for testing purposes.

Justification: Without a properly functioning grinder testing would be stopped and the laboratory would be unable to grind sample for testing purposes. (To be purchased by Consumer Protection Services).

FY23 - \$85,000.00 HPLC - Vitamin A

Purchase of a HPLC/Vitamin A System is used to test for the Vitamin A component in many animal feeds and is consider critical to the Consumer Protection Regulatory Services Program.

Justification: Current equipment has reached life expectancy, without new equipment accurate test results would not be available and testing would cease.

FY23 - \$85,000.00 – Somatic Cell Counter

Purchase is necessary for the analysis of somatic cell counts in raw milk for the dairy program. This testing is a requirement under the FDA guidelines.

Justification: Current equipment has reached life expectancy and without the use of this equipment, testing and results would be received with two to three days where currently testing and results are received within one hour.

Market Development Services

FY2023 – Made in Oklahoma bags & state fair bags - \$14,000.00.

FY2023 – Jason Davis – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$10,000.00

FY2023 – Ken Egnor – Ag Enhancement & Diversification Grant - \$10,000.00

FY2023 – Zachary Abney – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$9,900.00

FY2023 – Zoe Green – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$7,750.00

FY2023 – Lonzell Scott – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$10,000.00

FY2023 – Steven Easom – Veteran or Young Farmer Loan - \$68,000.00

Justification: Veteran or Young Farmer loans create new agricultural events or businesses highlighting an agricultural commodity, expanding the economic benefits of an established agricultural event, increasing agricultural productivity and participation, or enhancing economic impact of the event on local or regional commerce. If the proposed expense is not approved millions of dollars will be lost to the local economy.

FY2023 – Kristine Nichols – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$5,000.00

FY2023 – U.S. Livestock Genetics Export (USLGE) – membership dues – \$5,500.00

FY2023 – Ag in the Classroom – printing teacher resources – \$9,804.98

FY2023 – Ag in the Classroom – Specialty Crop Bilingual Teacher resources – Funded entirely by the Specialty Crop Block Grant - \$24,000.00

FY2023 – USLGE Trade Mission - \$10,000.00

Wildlife Services

\$ 15,000 - ODAFF Wildlife Services is requesting approval for the McGee Creek State Park Cooperative Agreement regarding the removal of feral swine.

Not approving this purchase would result in a human health and safety hazard for the public.

\$32,000 - ODAFF Wildlife Services is requesting approval to purchase five camera/panel trap systems to be utilized at feral swine trap locations, placed strategically across the state. These systems will allow for remote viewing of swine traps from any distance away. This will allow the wildlife specialist to also maintain bait levels at the traps without having to physically go and “check” the traps. The savings here in gas and mileage is significant. These systems will also allow the specialist to “drop” the door on swine traps when the trap has a significant number of pigs inside. A simple command to release the gate is functioned through an app or website. The specialist is alerted by text message that there are pigs in the trap, the live feed is turned on and if deemed necessary the door is remotely dropped.

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

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

APPROVAL OF CASES

ON THIS 8th day of March 2023, the Office of General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry brought for consideration before the State Board of Agriculture those certain cases summarized on Exhibit A hereto which cases have been resolved by stipulation or consent order. The attached Exhibit A summarizes each action by case name, case number, case type and amount received as a stipulated administrative penalty or by consent order.

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

WITNESS My Hand and Official Seal this 8th day of March 2023.

Blayne Arthur
President
State Board of Agriculture

Exhibit A
Board of Agriculture
March 8, 2023

Cases Resolved by Stipulation

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Agrilawn	OGC-23-19	CPS	\$2,000.00
Cassidy Grain Company	OGC-22-724	CPS	\$2,000.00
Dollar General	OGC-22-705	CPS	\$1,750.00
Dollar General	OGC-22-514	CPS	\$825.00
Dollar General	OGC-22-513	CPS	\$825.00
Dollar General	OGC-22-512	CPS	\$1,050.00
Dollar General	OGC-22-511	CPS	\$1,200.00
Dollar General	OGC-22-509	CPS	\$1,050.00
Dollar General	OGC-22-466	CPS	\$1,500.00
Dollar General	OGC-22-458	CPS	\$2,000.00
Dollar General	OGC-22-455	CPS	\$1,000.00
Hobbs Pest Control, LLC	OGC-22-493	CPS	\$500.00
Opitz Spraying	OGC-22-495	CPS	\$1,000.00
Williams Foods	OGC-22-708	CPS	\$675.00

Cases Resolved by Consent Order:

Agricultural Environmental Management Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Seaboard Foods, LLC	OGC-22-540	AEMS	\$1,000.00
Roberts Ranch	OGC-22-539	AEMS	\$500.00

Cases Resolved by Proposed Final Order:

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Kent's Quality Lawn Care	OGC-22-208	CPS	\$10,000.00
Red Dirt Grow, LLC	OGC-22-239	CPS	\$2,500.00
Scott Termite, LLC	OGC-20-833	CPS	\$10,000.00
Scott Termite, LLC	OGC-22-491	CPS	\$50,000.00
Jason Taylor	OGC-22-90	CPS	\$750.00

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. SEABOARD FOODS, LLC
Case File No. OGC 22-540

SEABOARD FOODS LLC
ATTN: JENNIFER NELSON
9000 WEST 67TH STREET, SUITE 200
SHAWNEE MISSION, KS 66202

Summary of Facts: On August 30, 2022, AEMS was notified of an unauthorized discharge from the fifth clean-out riser pipe to the south of the southeast corner of barn 4 at Respondent's SB Lindsay F355 farm site that occurred that day. The next day the Department's inspector conducted a site investigation and found effluent flowed both to the east and west. The discharge flow path was contained to a land application area. As a part of remediation, Respondent retrieved approximately 2,700 gallons of effluent and returned it to the waste retention structure. The discharge effluent did not enter Waters of the State or United States. On August 31, 2022, AMES sent Respondent a Letter of Warning regarding the discharge of process wastewater in violation of the law.

Statute or Rule Violation: 2 O.S. 20-48.

Proposed Administrative Penalty: The penalty was assessed at \$1,500 in the NOV. Respondent executed a Settlement Agreement and Consent Order and paid a penalty of \$1,000. The reduction is warranted. After the NOV was served, it was determined the Respondent had responded to the Letter of Warning and provided a greater degree of cooperation than alleged in the NOV.

Deviations: Reduction of \$500.

Other Actions Required: None.

OGC Attorney: Richard D. Herren

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

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

COMPLAINANT,

v.

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

RESPONDENT.

FILED

JAN 19 2023

STATE BOARD OF AGRICULTURE

Case No: OGC: 22-540

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 Seaboard Foods LLC (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Seaboard Foods LLC and known as farm site F355 located in Texas County, near Guymon, 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 December 6, 2022, the Department issued a Notice of Violation in Case No. OGC-22-540, ("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. Paragraph 22 of the Notice is hereby correct to state that Respondent responded to the Department's Letter of Warning on September 20, 2022.

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 (\$1,000). Payment shall be made by Respondent within fourteen (14) days of execution of this Agreement by both parties payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

Office of General Counsel
Oklahoma Department of Agriculture, Food, and Forestry
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Attn: Richard Herren

EFFECT OF THE AGREEMENT

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 matters alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
7. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this Agreement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
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 the allegations in the Notice or this Agreement and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this Agreement, Respondent does not admit or consent to the truth of the allegations set forth in the Notice or this Agreement. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this action by this Agreement.

NO ADMISSION.

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

For Seaboard Food LLC:

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

MISCELLANEOUS

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 in accordance with Paragraph 5 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, 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

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

COMPLAINANT

Date: 1-17-2023

- and by -

SEABOARD FOODS LLC



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

COUNSEL FOR RESPONDENT

Date: 1/19/23

Exhibit A

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

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

COMPLAINANT,)

v.)

Case No: OGC-22-540

**SEABOARD FOODS, L.L.C.)
ATTN: CRAIG MALONEY)
2801 HURLIMAN ROAD)
GUYMON, OK 73942)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on January 12, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

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

ALLEGATIONS OF FACT

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

19. On or around August 30, 2022, the Agricultural Environmental Management Services (AEMS) Division of the Department was notified of an unauthorized discharge from the fifth clean-out riser pipe to the south of the southeast corner of barn 4 at Respondent's F355 farm site that occurred that day.

20. On or around August 31, 2022 an inspector conducted a site investigation and found effluent flowed both to the east and west. The discharge effluent did not enter Waters of the State or United States.

21. On or about August 31, 2022, AMES sent Respondent a Letter of Warning regarding the discharge of process wastewater in violation of the law.

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

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. § 20-48(B)(1) by discharging process wastewater in violation of the Oklahoma Swine Feeding Operations Act.

ATTORNEY CONFERENCES

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

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

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

ENFORCEMENT PROCEEDINGS

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

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

28. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have

the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Thousand Five Hundred Dollars (\$1,500.00).

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

DATED THIS 6TH day of December, 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 6th day of December, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SEABOARD FOODS, L.L.C.
ATTN: CRAIG MALONEY
2801 HURLIMAN ROAD
GUYMON, OK 73942**

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-22-540

**SEABOARD FOODS, L.L.C.
ATTN: CRAIG MALONEY
2801 HURLIMAN ROAD
GUYMON, OK 73942**)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Five Hundred Dollars (\$1,500.00) for this action and has accordingly signed this Resolution by Stipulation and returned 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. THE HANOR COMPANY OF WISCONSIN, L.L.C.
Case File No. OGC 22-539

**THE HANOR COMPANY OF
WISCONSIN, L.L.C. D/B/A
ROBERTS RANCH
57023 S. COUNTY ROAD 270
AMES, OK 73718**

Summary of Facts: On September 7, 2022, AEMS was notified by Respondent of an unauthorized discharge from the west end of site 807 room No. 7 at Respondent's Robert Ranch farm site. An employee left the water running to fill the pit. The pit was plugged up. It filled and overflowed creating a discharge out the west door approximately one hundred feet by fifteen feet. Respondent used tractors to remove contaminated soil and placing it in the pit designed for contaminated soil. The removed contaminated soil was replaced with uncontaminated soil. The employee was notified to monitor the filling of the pit. The discharge effluent did not enter waters of the State or United States. AMES sent Respondent a Letter of Warning regarding the discharge of process wastewater in violation of the law.

Statute or Rule Violation: 2 O.S. 20-48.

Proposed Administrative Penalty: The penalty was assessed at \$1,000 in the NOV. Respondent executed a Settlement Agreement and Consent Order and paid a penalty of \$500. The reduction is warranted. After the NOV was served, it was determined the Respondent had responded to the Letter of Warning and provided a greater degree of cooperation than alleged in the NOV.

Deviations: Reduction of \$500.

Other Actions Required: None.

OGC Attorney: Richard D. Herren

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

FILED
FEB 23 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,)

v.)

Case No: OGC-22-539

THE HANOR COMPANY OF)
WISCONSIN, L.L.C. D/B/A ROBERTS)
RANCH)
ATTN: JULIE THIMESCH)
57023 S. COUNTY ROAD 270)
AMES, OK 73718)

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 The Hanor Company of Wisconsin, L.L.C. (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by The Hanor Company of Wisconsin, L.L.C. and known as Roberts Ranch located in Woodward County, near Ames, 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 January 18, 2023, the Department issued a Notice of Violation in Case No. OGC-22-539, ("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. Paragraph 25 of the Notice is hereby correct to state that Respondent responded to the Department's Letter of Warning.

ORDER AND AGREEMENT

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Five Hundred Dollars (\$500). Payment shall be made by Respondent within fourteen (14) days of execution of this Agreement by both parties payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

Office of General Counsel
Oklahoma Department of Agriculture, Food, and Forestry
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Attn: Richard Herren

EFFECT OF THE AGREEMENT

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 matters alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
7. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this Agreement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
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 the allegations in the Notice or this Agreement and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this Agreement, Respondent does not admit or consent to the truth of the allegations set forth in the Notice or this Agreement. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this action by this Agreement.

NO ADMISSION.

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

For The Hanor Company of Wisconsin, L.L.C.:

Keith Reiner
Oklahoma Maintenance/Environmental Manager
4005 E Owen K. Garriott
Enid, OK 73701

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 in accordance with Paragraph 5 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, 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

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

COMPLAINANT

Date: 2-23-2023

- and by -

THE HANOR COMPANY OF WISCONSIN, L.L.C.

A handwritten signature in black ink, appearing to read "Keith Reiner", is written over a horizontal line.

Keith Reiner

Oklahoma Maintenance/Environmental Manager

4005 E Owen K. Garriott

Enid, OK 73701

REPRESENTATIVE FOR RESPONDENT

Date: 2/23/2023

Exhibit A

SETTLEMENT AGREEMENT AND CONSENT ORDER

Page 5 of 6

**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.

**THE HANOR COMPANY OF
WISCONSIN, L.L.C. D/B/A ROBERTS
RANCH
ATTN: JULIE THIMESCH
57023 S. COUNTY ROAD 270
AMES, OK 73718**

RESPONDENT.

Case No: OGC-22-539

FILED
JAN 18 2023
STATE BOARD OF AGRICULTURE

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on March 9, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

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

ALLEGATIONS OF FACT

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

19. On or around September 7, 2022, the Agricultural Environmental Management Services (AEMS) Division of the Department was notified of an unauthorized discharge near the West end of site 807 room No. 7 at Respondent's Roberts Ranch farm site that occurred three days prior.

20. An employee left the water running to fill the pit. The pit was plugged up. It filled and overflowed creating a discharge out the west door approximately one hundred feet by fifteen feet.

21. Respondent used tractors to remove contaminated soil and placing it in the pit designed for contaminated soil. The removed contaminated soil was replaced with uncontaminated soil.
22. The employee was notified to monitor the filling of the pit.
23. The discharge effluent did not enter waters of the State or United States.
24. The Department sent Respondent a Letter of Warning regarding the discharge of process wastewater in violation of the law.
25. To this date, Respondent has failed to respond to their Letter of Warning.

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. § 20-48(B)(1) by discharging process wastewater in violation of the Oklahoma Swine Feeding Operations Act.

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

30. Enforcement proceedings may include but are not limited to:
 - a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;

- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

31. Pursuant to 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.

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Thousand Dollars (\$1,000.00).

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

DATED THIS 18TH day of January 2023.

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 18th day of January 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**THE HANOR COMPANY OF
WISCONSIN, L.L.C. D/B/A ROBERTS
RANCH
ATTN: JULIE THIMESCH
57023 S. COUNTY ROAD 270
AMES, OK 73718**



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.

**THE HANOR COMPANY OF
WISCONSIN, L.L.C. D/B/A ROBERTS
RANCH
ATTN: JULIE THIMESCH
57023 S. COUNTY ROAD 270
AMES, OK 73718**

RESPONDENT.

Case No: OGC-22-539

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. Agrilawn

Case File No. OGC-23-19

Agrilawn
4001 S. Thomas Rd.
OKC, OK 73179

Summary of Facts: This case arose from a consumer complaint. This company applied pesticides off label and in an area in which it was not able to be applied. It was only allowed to be applied in a USDA/APHIS imported fire ant zone. Oklahoma County is not in that zone. Additionally, they applied it at the wrong rate.

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

Proposed Administrative Penalty: The penalty was assessed at \$2000, and the stipulation was signed and paid in full.

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
FEB 21 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

AGRILAWN
4001 S. THOMAS RD.
OKC, OK 73179

RESPONDENT.

Case No: OGC-23-19

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand Dollars (\$2000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: **Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.**

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

RESPONDENT:


Signature

MATT THOMAS
VICE PRESIDENT

Printed Name and Title:

Date: 2.17.2023

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 commercial pesticide application, located at Oklahoma City, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

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

18. On or about the 9th day of January 2023, the Consumer Protective Services Division of the Department performed a complaint investigation with one of your customers, Cecil Green. Our inspectors met with your customer Cecil Green concerning him being billed for an unwanted pesticide application.

19. According to your application records on July 14, 2022, your company made an application to Mr. Green's lawn using Top Choice applied at 10.2 pounds on 5,500 square feet and Talstar Pro for fire ant, nuisance ant, and little black ant control.

20. On October 14, 2022, another application of Top Choice was made to the lawn to control fire ants at a rate of 12 pounds on 5,500 square feet.

21. Top Choice is a restricted use pesticide, and the label states the product can only be applied in the USDA/APHIS imported fire ant quarantine area. Oklahoma County is not in the imported fire ant quarantine area, so Top Choice cannot be applied in Oklahoma County.

22. The Top Choice label states to only make one application annually and to use 2 pounds per 1000 square feet.

23. Your company made two applications to this lawn, with your first application being below label rate and your second application being above label rate.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, you applied products off-label and are in violation of 2 O.S. §3-86(A)(4) which states:

- “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”

ATTORNEY CONFERENCES

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

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

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

ENFORCEMENT PROCEEDINGS

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

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

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

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

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Two Thousand Dollars (\$2000.00)**.

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

DATED THIS _____ day of _____, 2023.

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

Brady Robison

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

CERTIFICATE OF MAILING

This is to certify that on this _____ day of _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**AGRILAWN
4001 S. THOMAS RD.
OKC, OK 73179**

Brady Robison
Brady Robison

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

V.

RESPONDENT.

STIPULATION

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

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. Cassidy Grain Company

Case File No. OGC-22-724

**Cassidy Grain Company
321 W. Dahlia
Fredrick, OK 73542**

Summary of Facts: This was a consumer complaint inspection. The complainant property is a medical marijuana facility. Application records showed that on June 15, Helmquat 3SL was applied to the south of the drift property; mesonet station showed a 17-20 southeast wind during the application. Then on June 27 Sterling Blue and Roundup Powermax were applied to the east and southeast of the drift field with a NE wind being measured from the mesonet station. All labels state to apply when wind is blowing away from sensitive areas. Finally, no notice of intent to spray in sensitive areas was received by ODAFF.

Statute or Rule Violation: 2 O.S. § 3-86 A (4); O.A.C. 35:30-17-24.1 (B).

Proposed Administrative Penalty: The penalty was assessed at \$2000, and the stipulation was signed and paid in full.

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

FEB 08 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

CASSIDY GRAIN COMPANY
321 W. DAHLIA
FREDRICK, OK 73542

RESPONDENT.

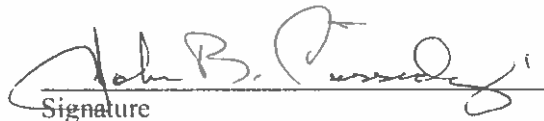
Case No: OGC-22-724

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand Dollars (\$2000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:


Signature

John B. Cassidy, V.P.
Printed Name and Title:

Date: 2-6-2023

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

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

COMPLAINANT,)

v.)

Case No: OGC-22-724

**CASSIDY GRAIN COMPANY)
321 W. DAHLIA)
FREDRICK, OK 73542)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 13th day of April 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at 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 the 1st day of August 2022, the consumer Protective Services Division of the Department conducted a consumer complaint investigation located at 17659 CR NS 224 in Frederick, OK. This is a medical marijuana grow facility.

19. The owner of this facility informed our inspector that the medical marijuana was planted around May 12, 2022, and had to be replanted around July 11, 2022, due to death loss.

20. According to your application records on June 15, 2022, from 6:00 am to 7:00 am Helmquat 3SL was applied to the fallow field south of the medical marijuana during a 10-mph northwest wind. The Tipton, OK Mesonet Weather Station recorded the winds being 17-20-mph from the southeast during the time of this application.

21. Your application records indicate that on June 27, 2022, from 8:00 am to 10:00 am you applied Sterling Blue Herbicide and RoundUp Powermax 3 to fallow fields east and southeast of the medical marijuana during a 9-mph southeast wind. The Tipton, OK Mesonet Weather Station recorded the winds being from the northeast during the time of this application.

22. Both of your applications took place when the wind was blowing towards the medical marijuana plants.

23. The Helmquat 3SL and Roundup Powermax 3 labels state to only apply the product when the wind is blowing away from sensitive areas, and the Roundup Powermax 3 label also states to use appropriate buffers.

24. Our office did not receive your notice of intent to make an application in the restricted area.

ALLEGED CONCLUSIONS OF LAW

25. Based upon the application of the above law to the aforementioned facts, applying products inconsistent with label requirements is a violation of Oklahoma Statute 2 O.S. §3-86(A)(4); not notifying the Department of your intent to apply in a restricted area is a violation of O.A.C. 35:30-14-24.1(B).

- 2 O.S. §3-86(A)(4) states: “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or

identification may be made if the Board finds: 4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”

- O.A.C. 35:30-14-24.1(B) states: “(b) Applications of products containing 2,4-D, dicamba, picloram, triclopyr, or clopyralid as an active ingredient to agricultural lands shall not be made in Jackson and Tillman counties between 12:01 a.m. of May 1 of each calendar year through 11:59 p.m. of October 15 of each calendar year except in accordance with the provisions of this section.”

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

29. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.

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

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

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Two Thousand Dollars (\$2000.00)**.

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

DATED THIS _____ day of _____, 2023.

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

Brady Robison

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

CERTIFICATE OF MAILING

This is to certify that on this _____ day of _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

CASSIDY GRAIN COMPANY
321 W. DAHLIA
FREDRICK, OK 73542

Brady Robison

Brady Robison

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

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

COMPLAINANT,

v.

**CASSIDY GRAIN COMPANY
321 W. DAHLIA
FREDRICK, OK 73542**

RESPONDENT.

Case No: OGC-22-724

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand Dollars (\$2000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-455

DOLLAR GENERAL
110 N. BRIDGE RD.
GRANDFIELD, OK 73546

Summary of Facts: An investigator conducted four routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Dollars (\$1,000.00). (4 violations at \$250.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,)

v.)

DOLLAR GENERAL)
110 N. BRIDGE RD.)
GRANDFIELD, OK 73546)

RESPONDENT.)

Case No: OGC 22-455

FILED
JAN 26 2023
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 it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name

Job Title

Date

Mia Savalga

Mia Savalga

Sr Dir Store Ops

1/11/23

FILED
DEC 30 2022
STATE BOARD OF AGRICULTURE

Case No: OGC 22-455

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

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on March 9, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 110 N. Bridge Rd., in Grandfield, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A fourth violation discovered within any twelve-month period will be assessed a penalty of Two Hundred Fifty Dollars (\$250.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about October 27, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

22. On or about December 27, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

24. On or about May 9, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

26. On or about July 8, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

ALLEGED CONCLUSIONS OF LAW

28. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

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

30. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

ENFORCEMENT PROCEEDINGS

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

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;

- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

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

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Dollars (\$1,000.00). (4 violations at \$250.00 per violation).**

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

DATED THIS 20th day of December, 2022.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 30 day of Dec., 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

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

V.

RESPONDENT.

Date _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-458

DOLLAR GENERAL
110 E. CENTRAL
ANADARKO, OK 73005

Summary of Facts: An investigator conducted four routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Two Thousand Dollars (\$2,000.00). (8 violations at \$250.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

JAN 26 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,)

v.)

Case No: OGC 22-458

DOLLAR GENERAL)
110 E. CENTRAL)
ANADARKO, OK 73005)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two** **Thousand Dollars (\$2,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Mia Savaloja

Signature

Mia Savaloja

Printed Name

Gr. Dir. Store Ops

Job Title

Date

1/11/23

FILED
DEC 21 2022
STATE BOARD OF AGRICULTURE

Case No: OGC 22-458

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

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on March 9, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 110 E. Central., in Anadarko, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A fourth violation discovered within any twelve-month period will be assessed a penalty of Two Hundred Fifty Dollars (\$250.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about August 17, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Anadarko, Oklahoma. The inspection revealed that eight (8) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

22. On or about December 20, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Anadarko, Oklahoma. The inspection revealed that seven (7) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

24. On or about February 22, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Anadarko, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

26. On or about June 27, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Anadarko, Oklahoma. The inspection revealed that eight (8) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

ALLEGED CONCLUSIONS OF LAW

28. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

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

30. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

ENFORCEMENT PROCEEDINGS

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

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;

- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

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

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Two Thousand Dollars (\$2,000.00). (8 violations at \$250.00 per violation).**

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

DATED THIS 20th day of December, 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 21 day of Dec., 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

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

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

COMPLAINANT,)

v.)

Case No: OGC 22-458

**DOLLAR GENERAL)
110 E. CENTRAL)
ANADARKO, OK 73005)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand Dollars (\$2,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name

Job Title

Date

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-466**

**DOLLAR GENERAL
1500 N. LOUIS TITTLE
MANGUM, OK 73554**

Summary of Facts: An investigator conducted four routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Five Hundred Dollars (\$1,500.00). (6 violations at \$250.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-466**

**DOLLAR GENERAL
1500 N. LOUIS TITTLE
MANGUM, OK 73554**

Summary of Facts: An investigator conducted four routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Five Hundred Dollars (\$1,500.00). (6 violations at \$250.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

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

FILED
DEC 21 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 22-466

DOLLAR GENERAL)
1500 N. LOUIS TITTLE)
MANGUM, OK 73554)

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on March 9, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 1500 N. Louis Tittle, in Mangum, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A fourth violation discovered within any twelve-month period will be assessed a penalty of Two Hundred Fifty Dollars (\$250.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:
20. On or about July 22, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Mangum, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.
21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).
22. On or about September 22, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Mangum, Oklahoma. The inspection revealed that eleven (11) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.
23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).
24. On or about March 24, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Mangum, Oklahoma. The inspection revealed that eight (8) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.
25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

26. On or about July 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Mangum, Oklahoma. The inspection revealed that six (6) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.
27. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a fourth violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

28. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

29. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
30. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
31. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

ENFORCEMENT PROCEEDINGS

32. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;

- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

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

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Five Hundred Dollars (\$1,500.00). (6 violations at \$250.00 per violation).**

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

DATED THIS 20th day of December, 2022.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 21 day of Dec., 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

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

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

COMPLAINANT,)

v.)

Case No: OGC 22-466

**DOLLAR GENERAL)
1500 N. LOUIS TITTLE)
MANGUM, OK 73554)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Five Hundred Dollars (\$1,500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name

Job Title

Date

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-509

DOLLAR GENERAL
25239 OK-82
PARK HILL, OK 74451

Summary of Facts: An investigator conducted three routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Fifty Dollars (\$1,050.00). (7 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

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

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

COMPLAINANT,)

v.)

DOLLAR GENERAL)
25239 OK-82)
PARK HILL, OK 74451)

RESPONDENT.)

Case No: OGC 22-509

FILED
JAN 26 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One** **Thousand Fifty Dollars (\$1,050.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Mia Savaloja

Signature

Mia Savaloja

Printed Name

Sr. Dir Store Ops

Job Title

1/11/23

Date

NOTICE OF VIOLATION

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 25239 OK-82 in Park Hill, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A third violation discovered within any twelve-month period will be assessed a penalty of One Hundred Fifty Dollars (\$150.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about November 4, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Park Hill, Oklahoma. The inspection revealed that seven (7) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about April 6, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Park Hill, Oklahoma. The inspection revealed that seven (7) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

24. On or about August 5, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Park Hill, Oklahoma. The inspection revealed that seven (7) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

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

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

ENFORCEMENT PROCEEDINGS

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

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

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto,

unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Fifty Dollars (\$1,050.00). (7 violations at \$150.00 per violation).**

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

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

DATED THIS 20th day of December, 2022.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 21 day of Dec., 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

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

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

COMPLAINANT,)

v.)

Case No: OGC 22-509

**DOLLAR GENERAL)
25239 OK-82)
PARK HILL, OK 74451)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Fifty Dollars (\$1,050.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name

Job Title

Date

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-511**

**DOLLAR GENERAL
24379 OK-51
TAHLEQUAH, OK 74464**

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Two Hundred Dollars (\$1,200.00). (16 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,)

v.)

DOLLAR GENERAL)
24379 OK-51)
TAHLEQUAH, OK 74464)

RESPONDENT.)

Case No: OGC 22-511

FILED
FEB 07 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Two Hundred Dollars (\$1,200.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Mia Savalaja
Signature

Mia Savalaja
Printed Name

Sr. Dir Store Ops
Job Title

1/11/23
Date

This came to
me in the mail
Here is your
copy - thanks
Joy

FILED
DEC 30 2022
STATE BOARD OF AGRICULTURE

COMPLAINANT,

v.

Case No: OGC 22-511

DOLLAR GENERAL
24379 OK-51
TAHLEQUAH, OK 74464

RESPONDENT.

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on March 9, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**
4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 24379 OK-51 in Tahlequah, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about November 1, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Tahlequah, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about August 17, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Tahlequah, Oklahoma. The inspection revealed that sixteen (16) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Two Hundred Dollars (\$1,200.00). (16 violations at \$75.00 per violation).**

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

DATED THIS 29th day of December, 2022.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 30 day of Dec., 2022, a true and
correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested,
as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**

JB

Gina Blaylock

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

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

COMPLAINANT,

v.

Case No: OGC 22-511

**DOLLAR GENERAL)
24379 OK-51)
TAHLEQUAH, OK 74464)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Two Hundred Dollars (\$1,200.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name

Job Title

Date

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-512

DOLLAR GENERAL
205 W. BROADWAY
THOMAS, OK 73669

Summary of Facts: An investigator conducted three routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Fifty Dollars (\$1,050.00). (7 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

JAN 26 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

Case No: OGC 22-512

DOLLAR GENERAL)
205 W. BROADWAY)
THOMAS, OK 73669)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Fifty Dollars (\$1,050.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Mia Savaloja

Signature

Mia Savaloja

Printed Name

Sr. Dir Stone Ops

Job Title

1/11/23

Date

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

v.

RESPONDENT.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 205 W. Broadway in Thomas, 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 February 2, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Thomas, Oklahoma. The inspection revealed that twelve (12) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about June 16, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Thomas, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

24. On or about August 18, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Thomas, Oklahoma. The inspection revealed that seven (7) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

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

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

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

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

ENFORCEMENT PROCEEDINGS

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

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

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto,

unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Fifty Dollars (\$1,050.00). (7 violations at \$150.00 per violation).**

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

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

DATED THIS 29th day of December, 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 30 day of Dec, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

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

V.

RESPONDENT.

STIPULATION

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.

Date _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-513

DOLLAR GENERAL
1704 N. LYNN RIGGS BLVD.
CLAREMORE, OK 74017

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Eight Hundred Twenty-five Dollars (\$825.00). (11 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,)

v.)

DOLLAR GENERAL)
1704 N. LYNN RIGGS BLVD.)
CLAREMORE, OK 74017)

RESPONDENT.)

FILED

JAN 26 2023

STATE BOARD OF AGRICULTURE

Case No: OGC 22-513

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Eight**
Hundred Twenty-five Dollars (\$825.00) for this action and has accordingly signed this Resolution by
Stipulation and returned it along with a check or money order in full payment of the proposed penalty or
fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N.
Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Mia Savaloja
Signature

Mia Savaloja
Printed Name

Sr Dir Stone Ops
Job Title

1/11/23
Date

FILED
DEC 30 2022
STATE BOARD OF AGRICULTURE

RESPONDENT.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 1704 N. Lynn Riggs Blvd. in Claremore, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about November 29, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Claremore, Oklahoma. The inspection revealed that eight (8) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about August 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Claremore, Oklahoma. The inspection revealed that eleven (11) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

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

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Eight Hundred Twenty-five Dollars (\$825.00). (11 violations at \$75.00 per violation).**

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

DATED THIS 29th day of December, 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 30 day of Dec., 2022, a true and
correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested,
as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**

JB

Gina Blaylock

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

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

COMPLAINANT,

v.

Case No: OGC 22-513

**DOLLAR GENERAL)
1704 N. LYNN RIGGS BLVD.)
CLAREMORE, OK 74017)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Eight Hundred Twenty-five Dollars (\$825.00)** 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
v. DOLLAR GENERAL
Case File No: OGC-22-514**

**DOLLAR GENERAL
1623B HWY 66
EL RENO, OK 73036**

Summary of Facts: An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was Eight Hundred Twenty-five Dollars (\$825.00). (11 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,)

v.)

DOLLAR GENERAL)
1623B HWY 66)
EL RENO, OK 73036)

RESPONDENT.)

Case No: OGC 22-514

FILED
JAN 26 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Eight**
Hundred Twenty-five Dollars (\$825.00) for this action and has accordingly signed this Resolution by
Stipulation and returned it along with a check or money order in full payment of the proposed penalty or
fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N.
Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name

Job Title

Date

Mia Savaloja
Mia Savaloja
Sr. Dir Store Ops
1/11/23

FILED
DEC 30 2022
STATE BOARD OF AGRICULTURE
22-514

Case No: OGC 22-514

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 1623B Hwy 66, in El Reno, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about January 27, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in El Reno, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about August 30, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in El Reno, Oklahoma. The inspection revealed that eleven (11) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Eight Hundred Twenty-five Dollars (\$825.00). (11 violations at \$75.00 per violation).**

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

DATED THIS 29th day of December, 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 30 day of Dec., 2022, a true and
correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested,
as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**

JB

Gina Blaylock

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

Date _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
v. DOLLAR GENERAL
Case File No: OGC-22-705

DOLLAR GENERAL
914 W. MAIN
FREDERICK, OK 73542

Summary of Facts: An investigator conducted four routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

Statute or Rule Violation: Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Seven Hundred Fifty Dollars (\$1,750.00). (7 violations at \$250.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

JAN 26 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,)

v.)

Case No: OGC 22-705

DOLLAR GENERAL)
914 W. MAIN)
FREDERICK, OK 73542)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Seven Hundred Fifty Dollars (\$1,750.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Mia Savaloja

Signature

Mia Savaloja

Printed Name

Sr. Dir. Store Ops

Job Title

1/11/23

Date

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 914 N. Main, in Frederick, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A fourth violation discovered within any twelve-month period will be assessed a penalty of Two Hundred Fifty Dollars (\$250.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about December 8, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Frederick, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

22. On or about April 13, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Frederick, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

24. On or about June 14, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Frederick, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

26. On or about October 20, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Frederick,

Oklahoma. The inspection revealed that seven (7) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

ALLEGED CONCLUSIONS OF LAW

28. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

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

30. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

ENFORCEMENT PROCEEDINGS

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

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

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

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Seven Hundred Fifty Dollars (\$1,750.00). (7 violations at \$250.00 per violation).**

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

DATED THIS 29th day of December, 2022.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 30 day of Dec, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION
ATTN: LEGAL DEPARTMENT
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072**



Gina Blaylock

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. Hobbs Pest Control LLC

Case File No. OGC-22-493

**Hobbs Pest Control LLC
121 W. Highway 152
Mustang, OK 73064**

Summary of Facts: This was a consumer complaint inspection. According to inspectors this company did not properly treat this home for termites. They failed to meet the void treatment minimum standards, and the void application was not done according to label directions.

Statute or Rule Violation: 2 O.S. § 3-86 A(4); O.A.C 35:30-17-67 B(2).

Proposed Administrative Penalty: The penalty was assessed at \$500, and the stipulation was signed and paid in full.

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

FILED
JAN 17 2022
STATE BOARD OF AGRICULTURE

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

HOBBS PEST CONTROL LLC
121 W. STATE HWY 152
MUSTANG, OK 73064

RESPONDENT.

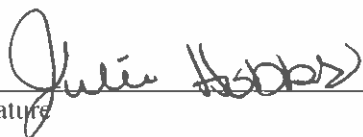
Case No: OGC-22-493

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: 01/11/23

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

V.

HOBBS PEST CONTROL LLC
121 W. STATE HWY 152
MUSTANG, OK 73064

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

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 12th day of January, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

1 Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including
 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 commercial pesticide application, located at Edmond, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

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

18. On July 11, 2022, a complaint investigation was performed by the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF). As a result, ODAFF's records indicate you engaged in the following:

19. It was reported that you treated a residence located at 716 N. Caddell Way in Mustang, OK, and have this home under a termite treatment contract.

20. According to the application records you supplied our office, you performed a Termidor EP/LI perimeter treatment to this home on May 19, 2022. Your records state that you applied 2 gallons/10 linear foot to the soil and 1 gallon/10 linear foot to the brick voids. Termidor HE requires 2 gallons/10 linear foot in void treatments.

21. Our inspector measured your veneer void drill hole spacing and the drill holes exceeded the 16 inch maximum spacing requirement.

22. According to our investigation your application failed to meet the void treatment minimum standards, and the void application was not done according to label directions.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you are in violation of statute and ODAPP Rules. Specifically, 2 O.S. §3-86(A)(4) and O.A.C. 35:30-17-67(b)(2).

24. Title 2 Oklahoma Statute §3-86(A)(4) states:

- “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: A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”
- Failing to follow the label is a violation of Oklahoma Statute.

25. Oklahoma Administrative Code 35:30-17-67(b)(2) states that:

- “(b) Masonry veneer voids shall be entered and treated. (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.”

- Failing to follow the rules as set forth is a violation of said rule.

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Hundred Dollars (\$500.00)**.

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

DATED THIS 30TH day of September, 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 30 day of September, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**HOBBS PEST CONTROL LLC
121 W. STATE HWY 152
MUSTANG, OK 73064**

Brady Robison
Brady Robison

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

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

COMPLAINANT,

v.

**HOBBS PEST CONTROL LLC
121 W. STATE HWY 152
MUSTANG, OK 73064**

RESPONDENT.

Case No: OGC-22-493

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. Jason Taylor

Case File No. OGC-22-90

Summary of Facts: This is a default judgment from the ALJ from January. This case involved a use inspection from our CPS inspectors. This company was not on file as being licensed to perform commercial pesticide operations. Inspectors observed his employees making an application of Lesco Three-Way Select Herbicide without being certified.

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

Proposed Administrative Penalty: The penalty was assessed at \$750.

Deviations: Default Judgement from ALJ

Other Actions Required: None.

OGC Attorney: Brady Robison

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

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

COMPLAINANT,)

v.)

Case No: OGC-22-90

**JASON TAYLOR)
P.O. BOX 70303)
TULSA, OK 74170-3035)**

RESPONDENT.)

PROPOSED FINAL ORDER

NOW on this 12th day of January 2023, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 8th day of December 2022, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter delivered by email, at email address at.jt.taylor1@gmail.com; sent to Jason Taylor in this manner at his request after speaking to him personally on the phone, July 12th, 2022, September 29th, 2022.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

FINDINGS OF FACT

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.
2. The Notice of Violation (Exhibit 1) was delivered by email on or about July 12, 2022.
3. Hearing was set for August 11, 2022, and again on December 8th, 2022, at 1:30 pm.
4. On August 11th, 2022, December 8th, 2022, at 1:30 pm, the Complainant appeared through its Counsel of Record and the Respondents appeared not.
5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.
6. An administrative penalty in the amount of Seven Hundred and Fifty Dollars (\$750.00) was proposed by the Notice of Violation.
7. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.

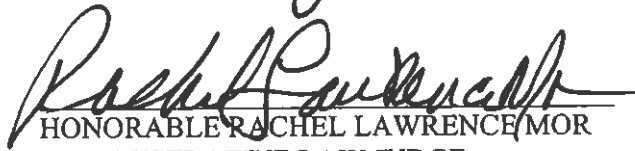
CONCLUSIONS OF LAW

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.
2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.
3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED that the Notice of Violation filed in this matter on January 12th 2023, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 1 DAY OF February, 2023.


HONORABLE RACHEL LAWRENCE/MOR
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail and email, return receipt requested, postage prepaid, on the date of filing to:

**JASON TAYLOR
P.O. BOX 70303
TULSA, OK 74170-3035**

Gina Blaylock

EXHIBIT 1

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

v.

RESPONDENT.

Case No: OGC-22-90

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

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on December 8th, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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 herbicide/pesticide applications, located at Tulsa, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

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

18. On or about 3rd day of March, 2022, the Consumer Protection Services Division of the Department conducted a use inspection of your employees making an application at 100 12th Ave. NE in Norman, OK.

19. Upon inspection, it was discovered that you are not on file as being a licensed or certified commercial applicator of pesticides in Oklahoma. The product being applied was Lesco Three-Way Select Herbicide.

ALLEGED CONCLUSIONS OF LAW

20. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-82 which reads:

“A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a *valid applicator's license* issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.” By applying pesticide without a valid applicator’s license you are in violation of the above cited statute.

21. Additionally, by not having a license to operate as a business applying said pesticides, you are in violation of 2 O.S. §3-86(A)(15) 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: 15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

34. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Seven Hundred and Fifty Dollars (\$750.00)**.

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

DATED THIS 29TH day of September, 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 29 day of September, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**JASON TAYLOR
P.O. BOX 70303
TULSA, OK 74170-3035**

Brady Robison
Brady Robison

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

y.

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. Kent's Quality Lawn Care

Case File No. OGC-22-208

**Michael Holland
Kent's Quality Lawn Care
700 13th St.
Snyder, OK 73566**

Summary of Facts: This is a default judgment from the ALJ from October. This case involved a use inspection from our CPS inspectors. This company was not on file as being licensed to perform commercial pesticide operations. Inspectors noted that 200 gallons of tank mix were loaded on the truck ready for application. This company has not been licensed since 2001 when they passed the exam, but never took the category exam. Over the years they have been issued multiple stop-work orders to no avail.

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

Proposed Administrative Penalty: The penalty was assessed at \$10,000.

Deviations: Default Judgement from ALJ

Other Actions Required: None.

OGC Attorney: Brady Robison

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

FILED

OCT 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-22-208

MICHAEL HOLLAND)
KENT'S QUALITY LAWN CARE)
700 13TH ST.)
SNYDER, OK 73566)

RESPONDENT.)

PROPOSED FINAL ORDER

NOW on this 13th day of October, 2022, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 13th day of October, 2022, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter delivered by certified mail, article number 9171999991703765254403, sent to KENTS QUALITY LAWN CARE, 700 13th STREET, SNYDER, OK 73566 on August 15, 2022.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

FINDINGS OF FACT

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.
2. The Notice of Violation (Exhibit 1) was delivered by certified mail on or about May 23, 2022, and August 15, 2022. See certified mail receipt (Exhibits 2 & 3)
3. Hearing was set for October 13, 2022, at 1:30 pm.
4. On October 13, 2022, at 1:30 pm, the Complainant appeared through its Counsel of Record and the Respondents appeared not.
5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.
6. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000.00) was proposed by the Notice of Violation.
7. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.

CONCLUSIONS OF LAW

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.
2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.
3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED that the Notice of Violation filed in this matter on October 13, 2022, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 13th DAY OF October, 2022.


HONORABLE RACHEL LAWRENCE MOR
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail, return receipt requested, postage prepaid, on the date of filing to:

**MICHAEL HOLLAND
KENT'S QUALITY LAWN CARE
700 13TH ST.
SNYDER, OK 73566**

Gina Blaylock

Exhibit 1

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

v.

**MICHAEL HOLLAND
KENT'S QUALITY LAWN CARE
700 13TH ST.
SNYDER, OK 73566**

AMENDED-NOTICE OF VIOLATION

PREHEARING CONFERENCE NOTICE

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial lawn care, located at Snyder, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

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

18. On or about the 28th day of April, 2022, the Consumer Protection Services Division of the Department conducted a use/routine inspection with your company.

19. Upon inspection of your facility it was discovered that you have been in the practice of commercial pesticide applications. You are not licensed to apply pesticides in a commercial manner. You took the core exam in 2001, but never took the category exam.

20. Inspectors discovered/observed commercial application vehicles parked at your property in Snyder, OK. One vehicle had a 200 gallon sprayer in the bed and was hooked to a trailer, which had a 500 gallon spray rig on it that contained approximately 200 gallons of tank mix, and

several boxes of herbicides. Another vehicle was hooked to a trailer, which had a four wheeler and zero turn mower on it that were both equipped with spray tanks and spray booms.

21. The other two vehicles had your company name on them with license number C-4784.

ALLEGED CONCLUSIONS OF LAW

22. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-82(A)(1), 2 O.S. §3-86(A)(15), and 2 O.S. §3-86(A)(16).

- You have been applying commercially controlled use pesticides without the proper licensing; this is in violation of 2 O.S. §3-82(A)(1) which states:
 - i. “(A.) LICENSE REQUIRED – (1.) It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.”
- You have a commercial applicators license number on your application/company vehicle but do not have an active license with the Oklahoma Department of Agriculture, Food and Forestry; this is a misrepresentation of fact and a violation of 2 O.S. 3-86(A)(15) which states:
 - i. “(A.) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to

violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: (15.) Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”

- Finally, by holding yourself, or your employees out to be a commercially licensed applicator you are in violation of 2 O.S. §3-86(A)(15), which states:

i. “(A.) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation,

revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: (16.) Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.”

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

26. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.

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

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

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 **Ten Thousand Dollars (\$10,000.00)**, and **obtain the correct and proper licensing for you, your business, and all employees.**

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

DATED THIS _____ day of _____, 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 13th day of OCT., 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**MICHAEL HOLLAND
KENT'S QUALITY LAWN CARE
700 13TH ST.
SNYDER, OK 73566**



Gina Blaylock

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

V.

RESPONDENT.

Page 10 of 10

Exhibit 2



October 11, 2022

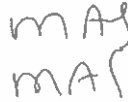
Dear T Justiss:

The following is in response to your request for proof of delivery on your item with the tracking number:
9171 9999 9170 3765 2544 03.

Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	August 15, 2022, 11:24 am
Location:	SNYDER, OK 73566
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Recipient Signature

Signature of Recipient:	
Address of Recipient:	700 13TH ST SNYDER, OK 73566

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004



Exhibit 3



October 11, 2022

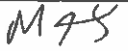

Dear gi bla:

The following is in response to your request for proof of delivery on your item with the tracking number:
9171 0821 3339 3283 8209 64.

Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	May 23, 2022, 11:29 am
Location:	SNYDER, OK 73566
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Recipient Signature

Signature of Recipient:	
Address of Recipient:	 700 13TH ST SNYDER, OK 73566

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. Opitz Spraying LLC

Case File No. OGC-22-495

**Opitz Spraying
1318 W. Eakley Main
Eakley, OK 73033**

Summary of Facts: Our inspectors observed employees of this company gearing up to make an application of Cornerstone 5 Plus, Xtendimax, and Charger Basic. Neither of the employees were certified applicators or service technicians. Neither employee had been through the Dicamba training as required to apply restricted use pesticides such as Xtendimax.

Statute or Rule Violation: 2 O.S. § 3-86 A (4); 2 O.S. § 3-86 A (16); O.A.C. 35-30-17-15(B).

Proposed Administrative Penalty: The penalty was assessed at \$1000, and the stipulation was signed and paid in full.

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

FILED
JAN 17 2028
STATE BOARD OF AGRICULTURE

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.

Signature _____

Seth Optic Owner
Printed Name and Title:

Date: 1/9/23

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

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

COMPLAINANT,

v.

**OPITZ SPRAYING
1318 W. EAKLEY MAIN
EAKLEY, OK 73033**

RESPONDENT.

Case No: OGC-22-495

AMENDED NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 9th day of March, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

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

18. On or about the 1st day of July 2022, the Consumer Protective Services Division of the Department performed a use inspection of your business.

19. Our inspector observed your applicators, Hayden Davis and Michael Fouts, both non-certified applicators, preparing to commercially apply pesticides.

20. Inspectors were informed that the tank mix contained Cornerstone 5 Plus, Xtendimax, and Charger Basic, and they were going to apply Cornerstone 5 Plus, Xtendimax and Warrant for the local farmers.

21. Your employees were going to apply pesticides without being certified applicators.

22. Additionally, Xtendimax is a restricted use pesticide that can only be mixed, loaded, and applied by certified applicators who have completed Dicamba training.

23. Operating commercially without a certification, not having a certified applicator on site while non-service technicians make commercial applications and applying a product in a manner inconsistent with the product's label are violations of the Oklahoma Combined Pesticide Law & Rules 2 O.S. § 3-86 A (4); 2 O.S. § 3-86 A (16); O.A.C. 35-30-17-15(B).

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, you are in violation of the Oklahoma Statutes and Rules 2 O.S. § 3-86 A (4) and 2 O.S. § 3-86 A (16).

25. Oklahoma Statute Title 2 §3-86(A)(4) states:

- “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: A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”
- Applying pesticides off label is a violation of this statute.

26. Oklahoma Statute Title 2 §3-86(A)(16) states:

- “Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by

the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.”

- By having non-certified employees mixing and applying pesticides you are in violation of state law.

ATTORNEY CONFERENCES

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

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

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

ENFORCEMENT PROCEEDINGS

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

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

31. Pursuant to 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.

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Dollars (\$1000.00)**.

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

DATED THIS 13TH day of January, 2023.

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

Brady Robison

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

CERTIFICATE OF MAILING

This is to certify that on this _____ day of _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

OPITZ SPRAYING
1318 W. EAKLEY MAIN
EAKLEY, OK 73033

Brady Robison
Brady Robison

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

V.

RESPONDENT.

Page 9 of 9

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. Red Dirt Grow, LLC

Case File No. OGC-22-239

**Red Dirt Grow, LLC
7152 E. 136 Rd.
Holdenville, OK 74848**

Summary of Facts: This is a default judgment from the ALJ from February. This was a case sent over from OMMA for a batch that failed testing. Pesticides were present in the batch sample. Specifically, Myclobutanil, Malathion, and Spirotetramat. After a visit from our inspectors, we discovered Eagle 20 EW being stored at the facility. Myclobutanil is the active ingredient in Eagle 20 EW.

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

Proposed Administrative Penalty: The penalty was assessed at \$2500.

Deviations: Default Judgement from ALJ

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
FEB 09 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,)

v.)

Case No: OGC-22-90

RED DIRT GROW LLC)
7152 E. 136 RD.)
HOLDENVILLE, OK 74848)

RESPONDENT.)

PROPOSED FINAL ORDER

NOW on this 9th day of February 2023, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 12th day of January 2023, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter delivered by USPS, tracking number 9171999991703765250337, delivered on June 10th, 2022, and a notice for the individual to pick up certified mail, tracking number 9171082133393676555077, on December 22nd, 2022 from the post office was left.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

FINDINGS OF FACT

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.
2. The Notice of Violation (Exhibit 1) was delivered by USPS mail on or about June 10, 2022 and a notice of certified mail to be picked up on December 22, 2022.
3. Hearing was set for September 8, 2022, and again on January 12, 2023, at 1:30 pm.
4. On January 12th, 2022, at 1:30 pm, the Complainant appeared through its Counsel of Record and the Respondents appeared not.
5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.
6. An administrative penalty in the amount of Two Thousand Five Hundred Dollars (\$2500.00) was proposed by the Notice of Violation.
7. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.

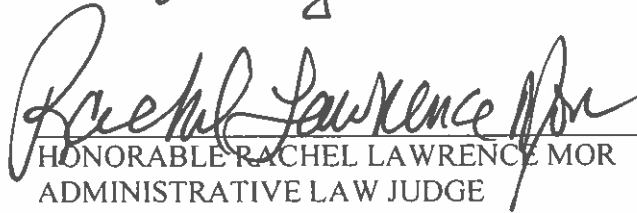
CONCLUSIONS OF LAW

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.
2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.
3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED that the Notice of Violation filed in this matter on January 12th, 2022, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 9th DAY OF February, 2023.


HONORABLE RACHEL LAWRENCE MOR
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail, return receipt requested, postage prepaid, on the date of filing to:

**RED DIRT GROW LLC
7152 E. 136 RD.
HOLDENVILLE, OK 74848**

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

Gina Blaylock

EXHIBIT I

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

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

COMPLAINANT,

v.

**RED DIRT GROW LLC)
7152 E. 136 RD.)
HOLDENVILLE, OK 74848)**

RESPONDENT.)

Case No: OGC-22-239

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on the 12th day of January, 2023 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial medical marijuana production, located at Holdenville, 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 10th day of May, 2022, the Consumer Protective Services Division of the Department conducted a use inspection of your grow operation.

19. The Oklahoma Medical Marijuana Authority lab reported that a batch sample from your crop had failed inspections because pesticides were detected in the batch samples provided. Specifically, the pesticides detected were Myclobutanil, Malathion, and Spirotetramat.

20. Upon inspection of your facility our inspector found a partially used pesticide container of Eagle 20 EW being stored at the facility. Myclobutanil is the active ingredient in Eagle 20 EW. This product is not labeled for medical marijuana use; only pesticides approved by the

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 Dollars (\$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 14TH day of December, 2022.

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

Brady Robison

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

CERTIFICATE OF MAILING

This is to certify that on this 14th day of December 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

RED DIRT GROW LLC
7152 E. 136 RD.
HOLDENVILLE, OK 74848

Brady Robison
Brady Robison

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. Scott Termite LLC

Case File No. OGC-20-833

**Scott Termite LLC
2616 Renwick Ave.
Oklahoma City, OK 73128**

Summary of Facts: This is a default judgment from the ALJ from February. Our inspectors conducted a residential termite application inspection. After taking samples we determined that the residue levels for both horizontal and vertical treatments were well below the required 5.0 ppm and 10.0ppm, respectively. Horizontal was 1.10 and .952 (requires 5.0) and .420 and .498 for vertical (requires 10). Additionally, the site was not identified with their company information and they never supplied the records we requested.

Statute or Rule Violation: 2 O.S 2012, § 3-86 A(2); O.A.C. 35:30-17-21 (D); O.A.C. 35:30-17-73 B(6).

Proposed Administrative Penalty: The penalty was assessed at \$10,000.

Deviations: Default Judgement from ALJ

Other Actions Required: None.

OGC Attorney: Brady Robison

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

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

COMPLAINANT,)

v.)

Case No: OGC-20-833

**SCOTT TERMITE LLC)
2616 RENWICK AVE)
OKLAHOMA CITY, OK 73128)**

RESPONDENT.)

PROPOSED FINAL ORDER

NOW on this 12th day of January 2023, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 12th day of January 2023, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter delivered by USPS, tracking number 9171999991703765254267, delivered on October 7th, 2022.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

FINDINGS OF FACT

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.

2. The Notice of Violation (Exhibit 1) was delivered by USPS mail on or about October 7th, 2022, tracking number 9171999991703765254267.

3. Hearing was set for January 12th, 2023 at 1:30 pm.

4. On January 12th, 2022, at 1:30 pm, the Complainant appeared through its Counsel of Record and the Respondents appeared not.

5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.

6. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000.00) was proposed by the Notice of Violation.

7. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.

CONCLUSIONS OF LAW

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.


2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.

3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED that the Notice of Violation filed in this matter on January 12th, 2022, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 1 DAY OF February, 2023.


HONORABLE RACHEL LAWRENCE MOR
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail, return receipt requested, postage prepaid, on the date of filing to:

**Scott Termite LLC
2616 Renwick Ave
Oklahoma City, OK 73128**

Gina Blaylock

EXHIBIT 1

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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 commercial pesticides application, located at Tulsa, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

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

18. On or about the 4th day of June, 2020, the Consumer Protective Services Division of the Department conducted a pre-treat inspection on a residential dwelling located at 19641 Stratmore Way in Oklahoma City, OK.

19. Upon inspection, sampling, and testing, it was found that the two horizontal barrier samples had residue levels of 1.10 ppm and 0.952 ppm; the two vertical barrier samples taken had residue levels of 0.420 ppm and .498 ppm respectively. These samples were below ODAFF's acceptable Imidacloprid residue threshold level of 5.0 ppm for horizontal barriers and 10.0 ppm for vertical barriers.

20. Additionally, a request for application records was sent to you on September 11, 2020, and you have not supplied ODAFF with records for this application.

21. Finally, the pre-treatment site was not identified with your company information.

ALLEGED CONCLUSIONS OF LAW

22. Based upon the application of the above law to the aforementioned facts, you are in violation of O.S. §3-86(A)(2) 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: (2.) A person has negligently used methods or pesticides that are ineffective or improper for the purpose for which they have been employed.”

23. Additionally, O.A.C. 35:30-17-21(d) which states:

- “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.”

24. Finally, O.A.C. 35:30-17-73(b)(6) states:

- “(b) Pretreatment of main slab areas (including attached garages) is as follows: (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.

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)** and **stop all termite pre-treatment operations until certifications for all applicators and technicians has been obtained.**

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 30TH day of September, 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 30 day of September, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

**Scott Termite
2616 RENWICK AVENUE
Mustang, OK 73128**

Brady Robison
Brady Robison

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

v.

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Ten Thousand Dollars (\$10,000.00), stop all termite pre-treatment operations until certifications for all applicators and technicians has been obtained** 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. Scott Termite LLC

Case File No. OGC-22-491

**Scott Termite LLC
2616 Renwick Ave.
Oklahoma City, OK 73128**

Summary of Facts: This is a default judgment from the ALJ from February. Our inspectors conducted a residential termite application inspection. We discovered that this company was using Borate treatments for termites. At this housing addition we found five (5) homes with this treatment. Borate treatment is not allowed to be used as a standalone treatment, and is only a supplemental treatment in Oklahoma. Additionally, their business license expired in 2021. This company has numerous violations over the last couple of years and refuses to take any steps necessary to come into compliance with ODAFF the Oklahoma Statutes or Rules.

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

Proposed Administrative Penalty: The penalty was assessed at \$50,000.

Deviations: Default Judgement from ALJ

Other Actions Required: None.

OGC Attorney: Brady Robison

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

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

COMPLAINANT,)

v.)

Case No: OGC-22-491

**SCOTT TERMITE LLC)
2616 RENWICK AVE)
OKLAHOMA CITY, OK 73128)**

RESPONDENT.)

PROPOSED FINAL ORDER

NOW on this 12th day of January 2023, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 12th day of January 2023, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter delivered by USPS, tracking number 9171999991703765254311, delivered on October 3rd, 2022.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

FINDINGS OF FACT

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.

2. The Notice of Violation (Exhibit 1) was delivered by USPS mail on or about October 3rd, 2022, tracking number 9171999991703765254311.

3. Hearing was set for January 12th, 2023 at 1:30 pm.

4. On January 12th, 2022, at 1:30 pm, the Complainant appeared through its Counsel of Record and the Respondents appeared not.

5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.

6. An administrative penalty in the amount of Fifty Thousand Dollars (\$50,000.00) was proposed by the Notice of Violation.

7. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.

CONCLUSIONS OF LAW

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.

2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.

3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED that the Notice of Violation filed in this matter on January 12th, 2022, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 1 DAY OF February, 2023.



HONORABLE RACHEL LAWRENCE MOR
ADMINISTRATIVE LAW JUDGE

EXHIBIT 1

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

v.

Case No: OGC-22-491

RESPONDENT.

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

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 12th day of January, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

1 Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including
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 commercial pesticides application, located at Tulsa, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

ALLEGATIONS OF FACT

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

18. On or about the 26th day of August, 2022 an investigation was performed by the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF). Our records indicate the following as a result of the investigation.

19. Your business license expired on December 31, 2021.

20. Our inspectors observed five homes in the Deer Creek Park housing addition that your company performed termite borate treatments on as termite pretreatments. The address to these homes is: 5949, 5953, & 5957 NW 159th Street in Edmond, OK, and 5900 & 5904 NW 158th Street in Edmond, OK.

21. Our inspectors contacted Westpoint Homes and spoke with a representative who confirmed that they contract your company to perform their termite pretreatments.

22. A borate treatment is a supplemental termite treatment and cannot be sold as a stand-alone termite treatment.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you are in violation of O.S. §3-86(A)(1) 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: (1) A person has made misrepresentations for the purpose of defrauding, or has not satisfactorily performed, without proper cause, any contract into which the person entered.”

24. Additionally, 2 O.S. §3-86(A)(2) states: “A person has negligently used methods or pesticides that are ineffective or improper for the purpose for which they have been employed.”

25. Finally, 2 O.S. §3-86(A)(15) reads: “Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”

26. You have been operating and holding yourself out as a licensed company and made misrepresentations as such. Additionally, applying a pesticide/termiticide in an ineffective manner and without the proper license are all against Oklahoma Statutes.

ATTORNEY CONFERENCES

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

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

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

ENFORCEMENT PROCEEDINGS

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

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

31. Pursuant to 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.

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Fifty Thousand Dollars (\$50,000.00)** and

stop all termite pre-treatment operations until certifications for all applicators and technicians has been obtained.

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

DATED THIS 30TH day of September, 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 30 day of September, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

Scott Termite
2616 RENWICK AVENUE
Mustang, OK 73128

Brady Robison

Brady Robison

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

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

COMPLAINANT,

v.

**SCOTT TERMITE
2616 RENWICK AVENUE
MUSTANG, OK 73128**

RESPONDENT.

Case No: OGC-22-491

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Fifty Thousand Dollars (\$50,000.00)**, stop all termite pre-treatment operations until certifications for all applicators and technicians has been obtained 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. Williams Foods

Case File No. OGC-22-708

**Williams Foods
302 E. Main
Tuttle, OK 73089**

Summary of Facts: Price verification was conducted and we found that 14 of 100 products inspected were at a price which exceeded the publicly communicated price.

Statute or Rule Violation: 2 O.S. §14-38(B)(2)

Proposed Administrative Penalty: The penalty was assessed at \$675, and the stipulation was signed and paid in full.

Deviations: None

Other Actions Required: None.

OGC Attorney: Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,)

v.)

WILLIAMS FOODS)
302 E MAIN)
TUTTLE, OK 73089)

RESPONDENT.)

Case No: OGC 22-708

FILED
FEB 21 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Six Hundred Seventy-five Dollars (\$675.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

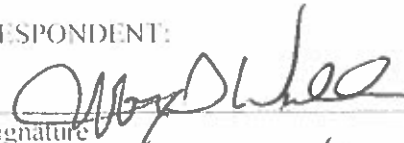
RESPONDENT:

Signature

Printed Name

Job Title

Date



JEFFREY D WILLIAMS

President

2/17/23

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

v.

RESPONDENT.

Case No: OGC 22-708

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

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on May 11, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Williams Foods, located at 302 E Main, in Tuttle, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about January 24, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Williams Foods in Tuttle, Oklahoma. The inspection revealed that fourteen (14) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about October 24, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Williams Foods in Tuttle, Oklahoma. The inspection revealed that nine (9) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

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

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Six Hundred Seventy-five Dollars (\$675.00). (9 violations at \$75.00 per violation).**

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

DATED THIS 7th day of February, 2023.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this _____ day of _____, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**WILLIAMS FOODS
302 E MAIN
TUTTLE, OK 73089**

Gina Blaylock

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

v.

RESPONDENT.

Case No: OGC 22-708

Date _____