

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

Wednesday, April 26, 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 March 8, 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
8. Consideration and Proposed Action on Cases Resolved by Stipulations  
**Consumer Protection Services**  
**Cart's Farm & Home Supply, Inc., 919 E. Main Street, Binger, Oklahoma**  
**Complete Ground Care, LLC, 6800 E. Covell Road, Edmond, Oklahoma**  
**Dollar General, 22910 State Highway 76, Dibble, Oklahoma**  
**Elite Lawn Care, 8505 Gateway Terr., Oklahoma City, Oklahoma**  
**Family Dollar, 101 East 1<sup>st</sup>, Granite, Oklahoma**  
**Family Dollar, 2107 Oklahoma Avenue, Woodward, Oklahoma**  
**James Jacobs, 1810 CR NS 223, Frederick, Oklahoma**  
**Orkin, 13465 Puppy Creek Rd., STE C, Springdale, Arkansas**  
**Redbud Pest Services, 13929 Technology Dr. STE B, Oklahoma City, Oklahoma**  
**Row Crop Ag LLC, 5721 IL 145 Road, Metropolis, Illinois**  
**Row Crop Ag LLC, 5721 IL 145 Road, Metropolis, Illinois**  
**Signature Landscape, LLC, 9600 N. Eastern Avenue, Oklahoma City, Oklahoma**  
**Sun City Farm, LLC, 179317 N. 2810 Road, Comanche, Oklahoma**  
**Benjamin Yost, 9008 Raven Avenue, Oklahoma City, Oklahoma**  
\*\*Possible Executive Session (if approved by the required number of members present):  
As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of "[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act."
9. Consideration and Proposed Action on Cases Resolved by Consent Order  
**Consumer Protection Services**  
**Heinen Brothers, Inc., 1226 104<sup>th</sup>, Rd., Blackwell, Oklahoma**  
**Mosquito Joe of Tulsa, 13795 S. 309<sup>th</sup> E. Ave., Coweta, Oklahoma**  
\*\*Possible Executive Session (if approved by the required number of members present):  
As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of "[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act."
10. Consideration and Proposed Action on Cases Resolved by Final Order  
**Consumer Protection Services**  
**Douglas Rose, Lawn Guy, 404 Broadway, Blanchard, Oklahoma**  
**Douglas Rose, Lawn Guy, 404 Broadway, Blanchard, Oklahoma**  
\*\*Possible Executive Session (if approved by the required number of members present):  
As authorized by the Oklahoma Open Meeting Act in Section 307(B)(8) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of "[e]ngaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act."
11. Next Board meeting scheduled for **Thursday, June 1, 2023**, at Oklahoma City.
12. Old Business

13. 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.
14. Adjournment

*\*Members of the Board and staff from ODAFF may join for lunch. Board Members, staff, and the public may discuss program issues during lunch; no votes or action will be taken during the luncheon.*



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

Oklahoma City, Oklahoma  
March 8, 2023

The Oklahoma State Board of Agriculture met in regular session at 10:00 a.m., March 8, 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:     Brent Bolen  
                               Blayne Arthur  
                               Clay Burtrum  
                               Nocona Cook

Others Present:        JanLee Rowlett, Deputy Commissioner  
                               Dan Ridings, Director, Administrative Services  
                               Wade Krivanek, Director, Laboratory Services  
                               Mark Goeller, Forestry Services  
                               Kenny Naylor, Director, Consumer Protection Services  
                               Dr. Rod Hall, Director, Animal Industry Services  
                               Scott Alls, Director, Wildlife Services  
                               Troy Marshall, Agricultural Statistics  
                               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  
                               Brady Robison, Office of General Counsel  
                               Richard Herren, Office of General Counsel  
                               Mindy Bolen, Wife of Board Member Brent Bolen

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

A motion was made by Mr. Cook, seconded by Mr. Bolen, to approve the minutes of the regular meeting of January 26, 2022, as presented.

The vote was as follows:

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 division reports as submitted.

The vote was as follows:

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 following purchases/contracts as submitted.

The vote was as follows:

Bolen	Aye
Arthur	Aye
Burtrum	Aye
Cook	Aye

The motion carried.

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

**Agricultural Environmental Management Services**  
**Seaboard Foods, LLC, 9000 West 67<sup>TH</sup> Street, STE 200, Shawnee Mission, Kansas**  
**Roberts Ranch, 57023 S. County Road 270, Ames, Oklahoma**

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The vote was as follows:

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 Cases Resolved by Stipulations as submitted.

**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**  
**Williams Foods, 302 E. Main, Tuttle, Oklahoma**  
**Opitz Spraying, 1318 W. Eakley Main, Eakley, 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:

Bolen	Aye
Arthur	Aye
Burtrum	Aye
Cook	Aye

The motion carried.

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

**Consumer Protection Services**

**Kent's Quality Lawn Care, 700 13<sup>TH</sup> Street, Snyder, 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**

**Red Dirt Grow, LLC, 7152 E. 136 Road, Holdenville, 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:

Bolen	Aye
Arthur	Aye
Burtrum	Aye
Cook	Aye

The motion carried.

There is no Old business presented for the Board to take action upon. Mr. Bolen moved, Mr. Burtrum seconded, that the meeting be adjourned at 11:20 a.m.

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

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

# 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 - \$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.

**FY23 - \$15,000.00 - PCR**

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

**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 8<sup>th</sup> 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 8<sup>th</sup> 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**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
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**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
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**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
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 & Forestry**

**April 26, 2023, Board Report**

**Administrative Services**

# Administrative Services – Investigative Services

## INVESTIGATIVE SERVICES ACTIVITIES

FEBRUARY 2023



INVESTIGATIONS		FEBRUARY	YTD	FYTD
LIVESTOCK		1	6	35
FIRE		1	2	15
PROPERTY		4	9	25
TIMBER			0	5
AGENCY ASSISTS	ODAFF		0	4
AGENCY ASSISTS	EXTERNAL	1	1	10
OTHER		1	2	13
TOTAL INVESTIGATIONS OPENED		8	20	107
CLOSED PENDING ADDITIONAL INFORMATION		1	4	37
NO CRIME		3	5	34
NO PROSECUTION			0	0
CLOSED - ASSIST CASE		3	3	8
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION			1	13
REFERRED FOR ADMINISTRATIVE ACTION			0	0
INVESTIGATIONS COMPLETED		7	13	92
COUNTS FILED		0	0	53
VALUE OF LOSSES - ALL CRIMES		\$382,900	\$437,700	\$1,470,311
RECOVERED LOSSES - ALL CRIMES		\$170,900	\$217,400	\$1,032,311
NUMBER OF CATTLE REPORTED STOLEN		177	184	440
NUMBER OF CATTLE RECOVERED		7	7	54

# Administrative Services – Investigative Services

## INVESTIGATIVE SERVICES ACTIVITIES

March 2023

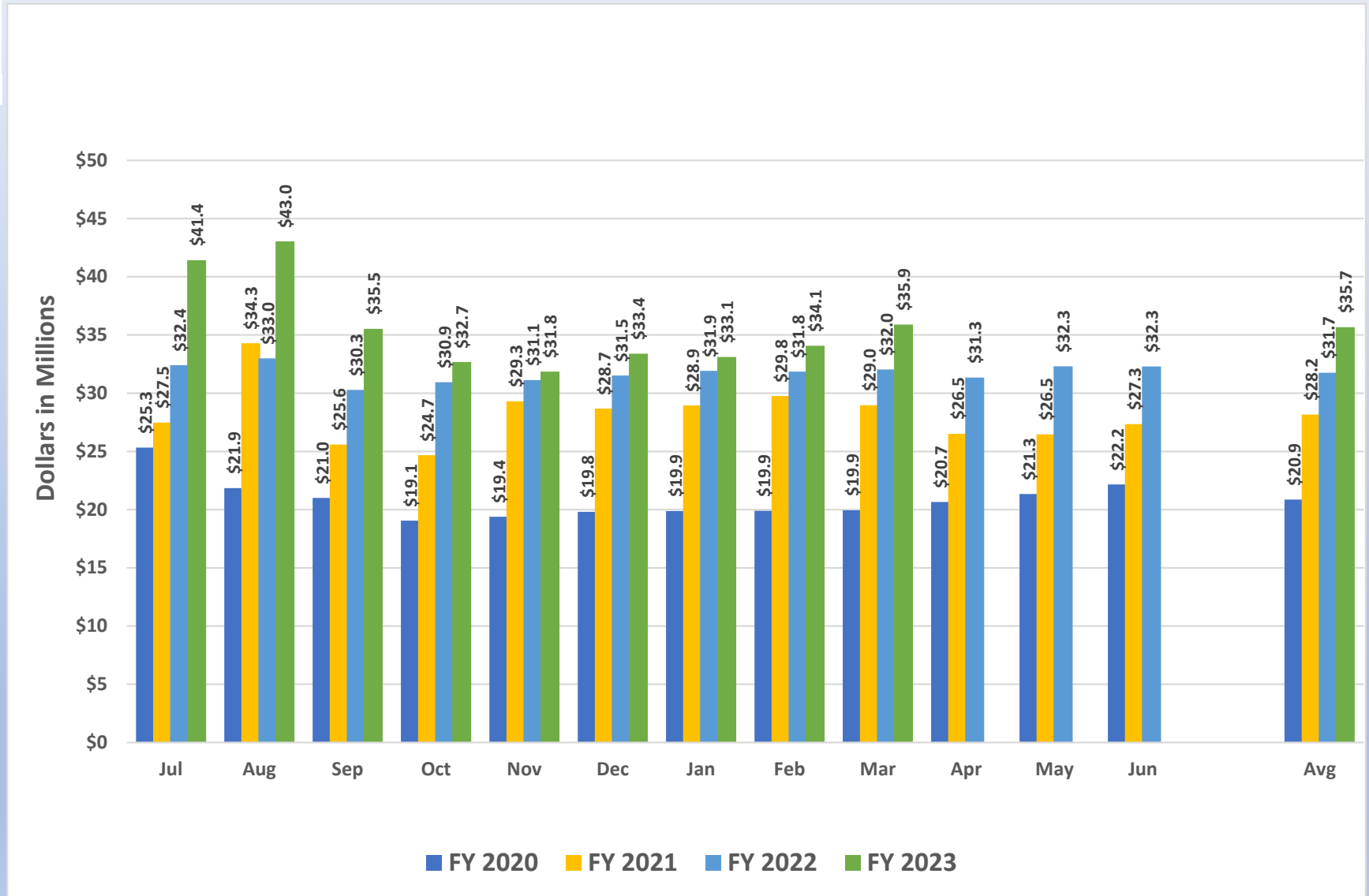
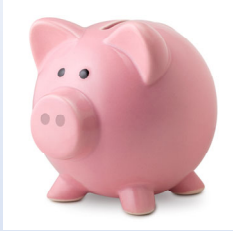


INVESTIGATIONS		MARCH	YTD	FYTD
LIVESTOCK		1	7	36
FIRE			2	15
PROPERTY		1	10	26
TIMBER		1	1	6
AGENCY ASSISTS	ODAFF		0	4
AGENCY ASSISTS	EXTERNAL	1	2	11
OTHER		1	3	14
TOTAL INVESTIGATIONS OPENED		5	5	112
CLOSED PENDING ADDITIONAL INFORMATION		1	5	38
NO CRIME		8	13	42
NO PROSECUTION			0	0
CLOSED - ASSIST CASE			3	8
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION			1	13
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		9	22	101
COUNTS FILED		0	0	53
VALUE OF LOSSES - ALL CRIMES		\$40,250	\$477,950	\$1,510,561
RECOVERED LOSSES - ALL CRIMES		\$21,000	\$238,400	\$1,053,311
NUMBER OF CATTLE REPORTED STOLEN		3	187	443
NUMBER OF CATTLE RECOVERED		3	10	57

# Administrative Services

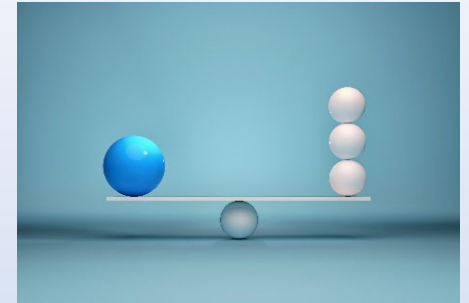
- Staffing:
  - Recent positions filled
    - Payroll Accountant
    - Mail Room Clerk
  - One remaining vacant position for an Accountant
- Sixteen vehicles were recently retired/surplused due to age, condition, and high mileage
- Video camera upgrade is almost completed

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



*Note: The amounts above include fund 700, Commodity Storage Indemnity Fund, which had a balance of \$11,285,425 as of 3/31/2023.*

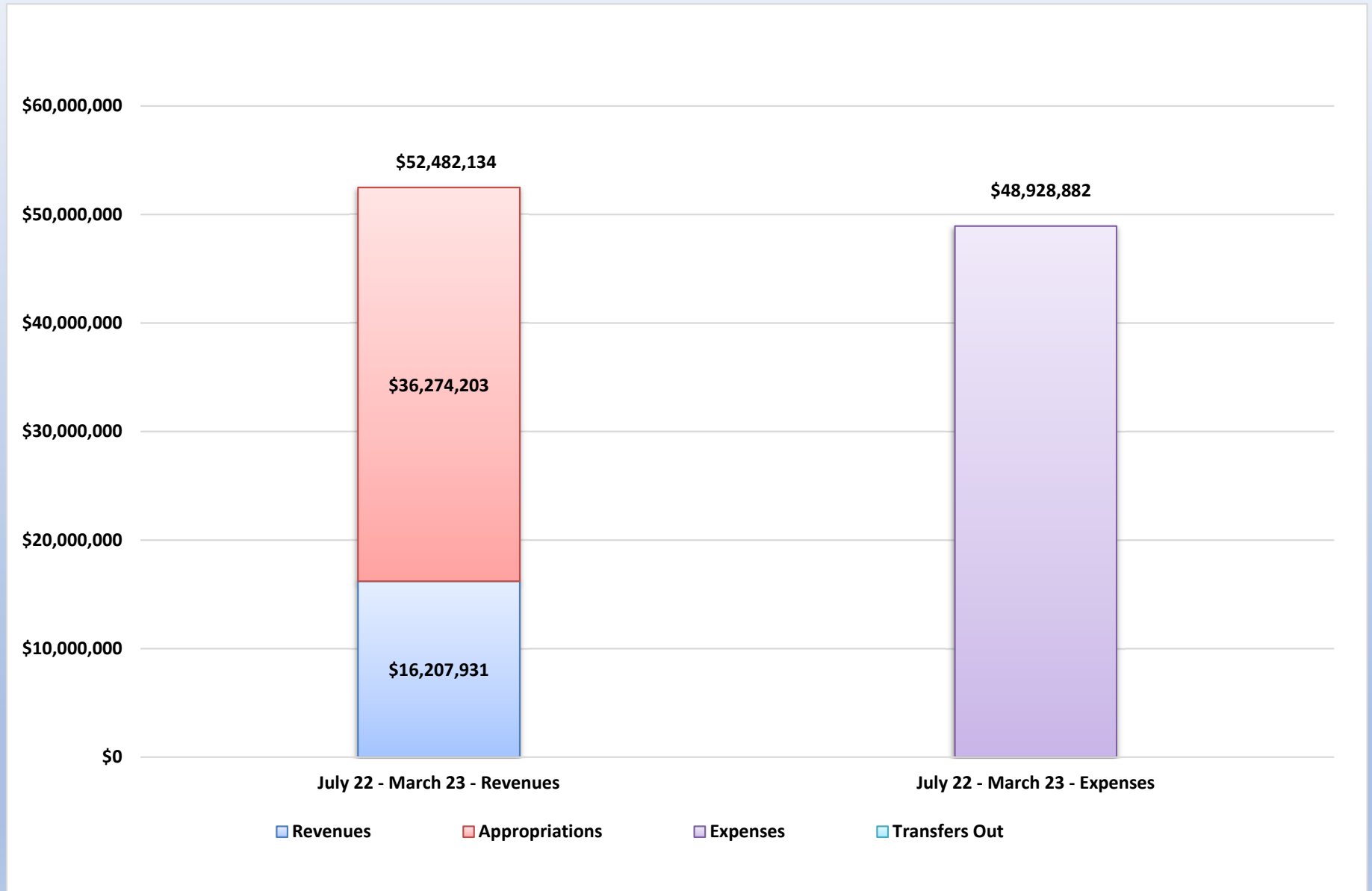
# Administrative Services - Finance



- Cash balance as of 3/31/2023 was \$35.9 million compared to \$32 million as of 3/31/2022.
  - Increase of \$3.9 million from the prior year and is primarily attributed to the following:
    - Increase in appropriations and appropriated cash for increases in legislative directed payments
    - Increase in revenue

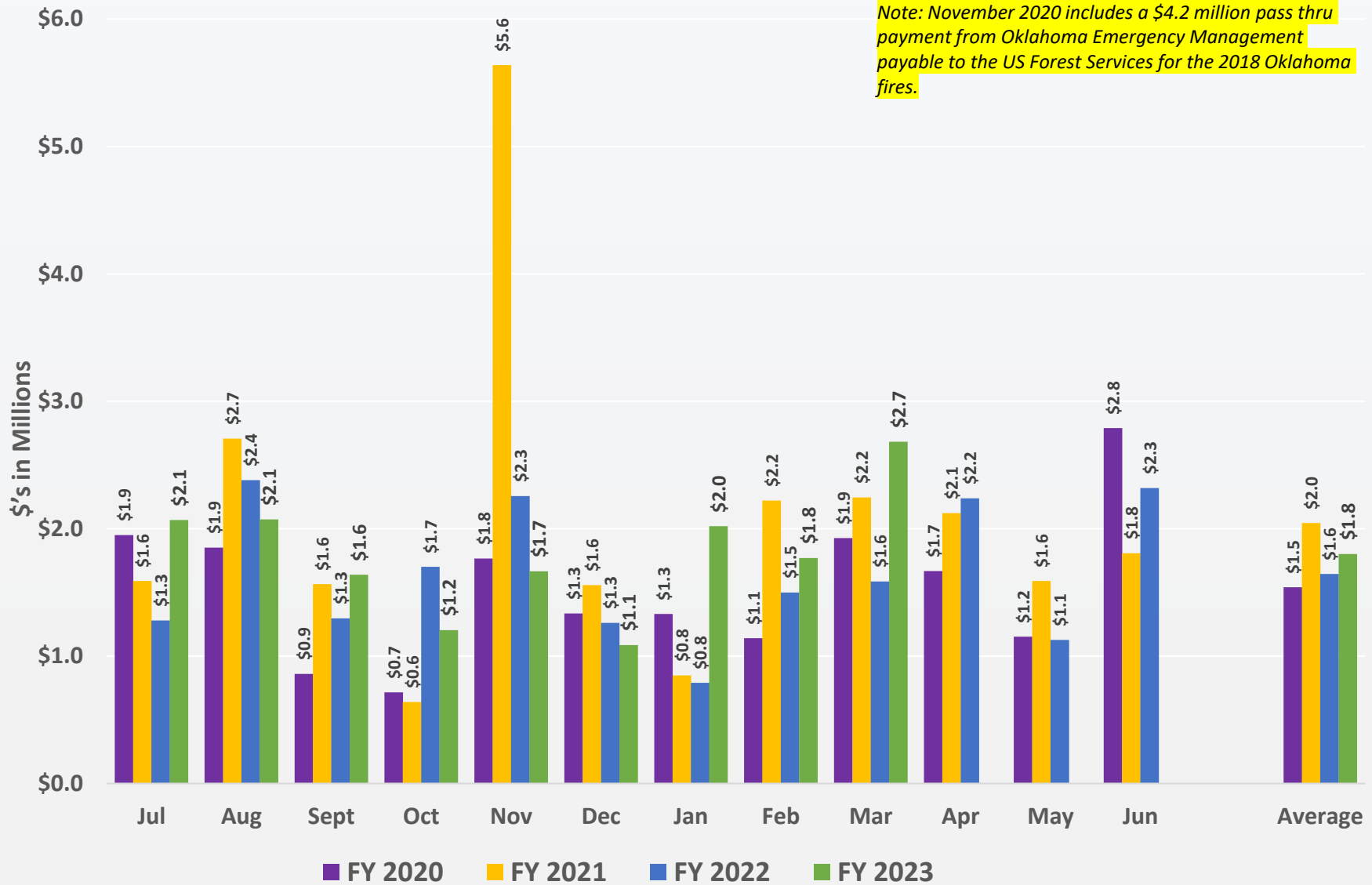


# Total Revenues, Expenses, Transfers In & Out July 2022 – March 2023



# Total Revenue by Month July 2019 – March 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 – March 2023

### OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY

#### PROGRAM REVENUE SUMMARY

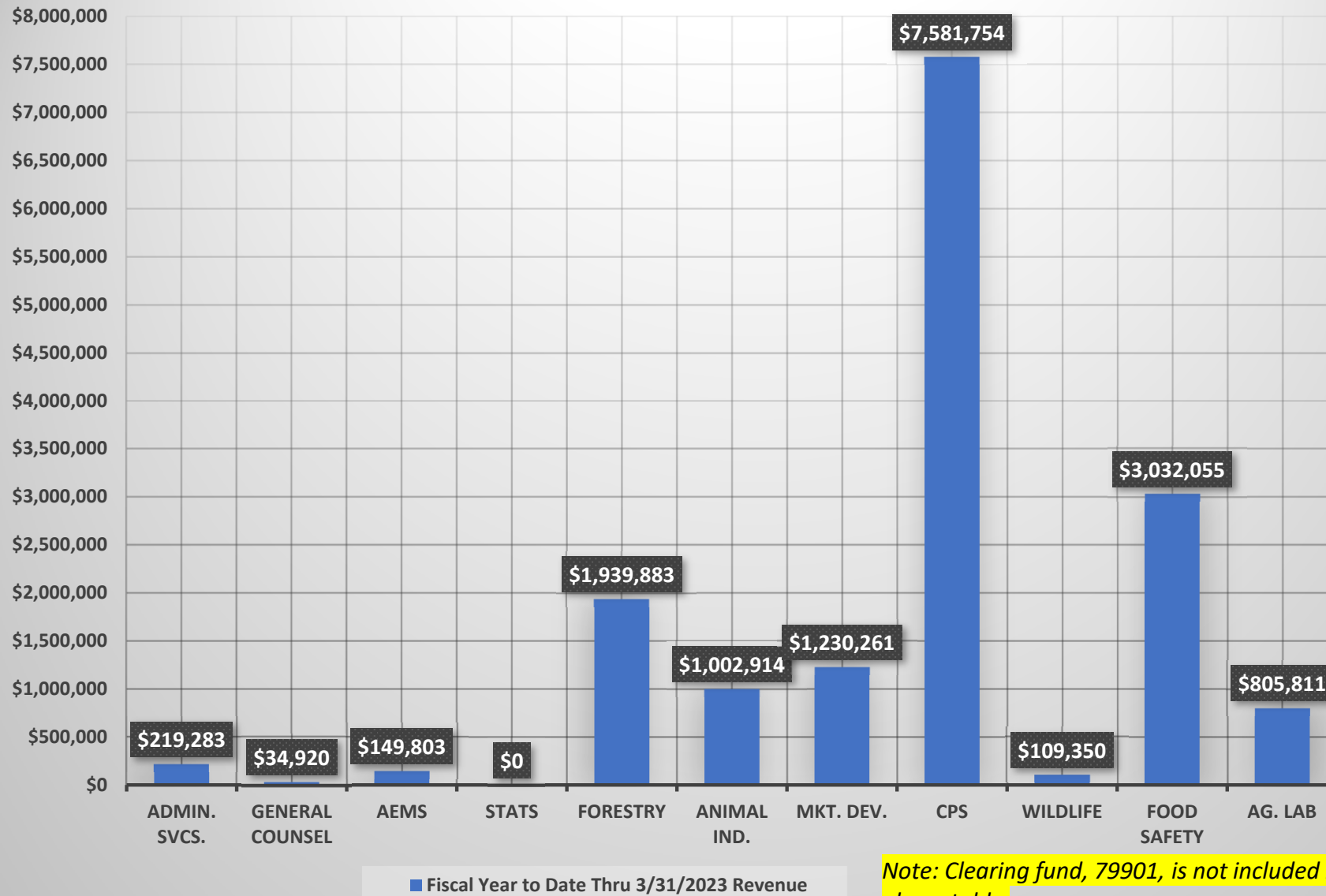
3/31/2023

Division	March 2023 Revenue	Fiscal Year to Date Thru 3/31/2023 Revenue
Administration Services	2,546.00	219,283
Office of General Counsel	1,175.00	34,920
Agricultural Environmental Management Svcs.	6,791.00	149,803
Statistic Services		-
Forestry Services	815,578.73	1,939,883
Animal Industry Services	254,482.80	1,002,914
Market Development	357,165.51	1,230,261
Consumer Protections Services	706,164.28	7,581,754
Wildlife Services	400.00	109,350
Food Safety	477,432.71	3,032,055
Laboratory Services	54,629.43	805,811
<b>DIVISION TOTAL</b> (see division receipts graph below)	<b>2,676,365.46</b>	<b>16,106,033</b>
		-
Commodity Storage Indemnity	25,656.55	154,634
Appropriations	3,095,517.00	36,274,203
<b>AGENCY TOTAL</b>	<b>5,797,539.01</b>	<b>52,534,870</b>

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



## Revenue By Division July 2022 – March 2023



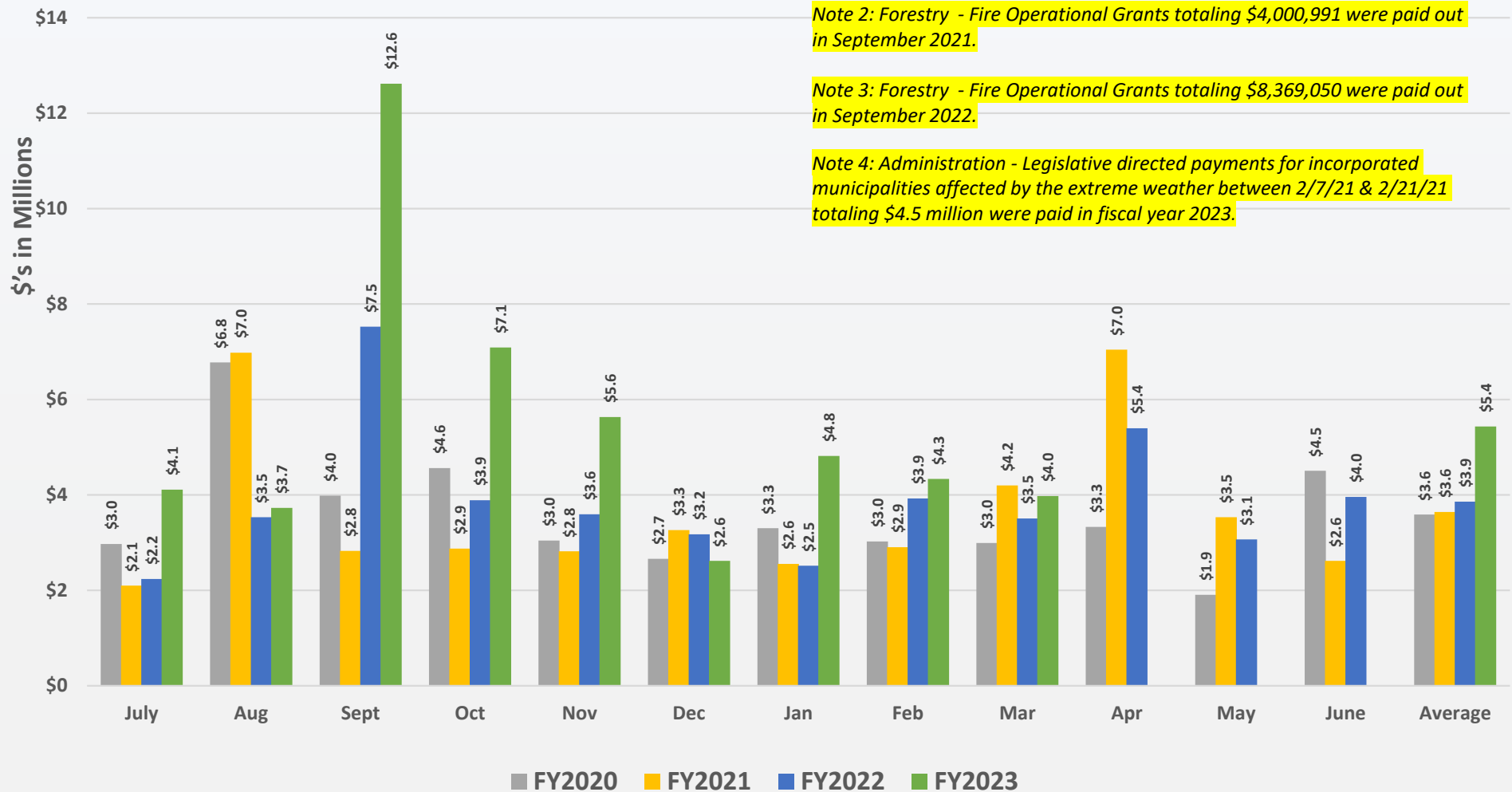
*Note: Clearing fund, 79901, is not included in the above table.*

# Administrative Services - Finance

- Revenues (excluding appropriations) for July 2022 thru March 2023 were \$16.2 million, compared to \$14 million for the same period last fiscal year.
  - This is an increase of approximately \$2.2 million
    - Primarily due to increased grant reimbursements
      - Additional funding
      - Timing of payments received



# Total Expenses by Month July 2019 – March 2023



# Administrative Services - Finance

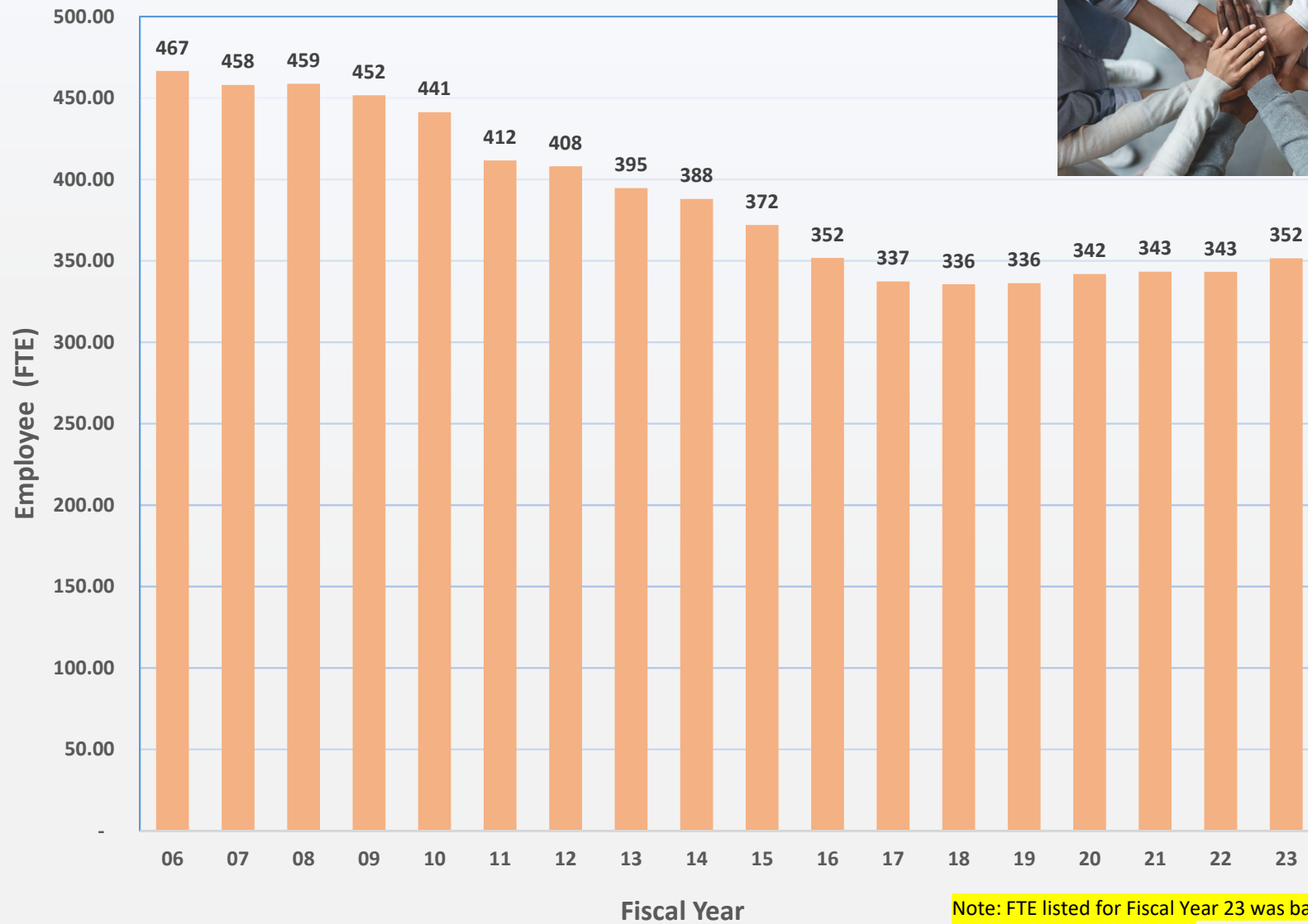
- The expenses for July 2022 – March 2023 were \$48.9 million
  - This is an increase of \$15 million compared to the prior year and was due to the following:
    - Increases in fiscal year 2023 legislative directed payments for:
      - OSU College of Veterinary Medicine
      - Fire Operational Grants
        - \$8.4 million paid out to Oklahoma fire stations
        - Increase of \$4.4 million from the prior year
      - 80/20 Rural Fire Operational Grants
      - Payments to incorporated municipalities affected by extreme weather events during February 2021
        - \$4.5 million paid out
    - Timing of payments

## FY 2023 Total Expenses by Month with Budget Year





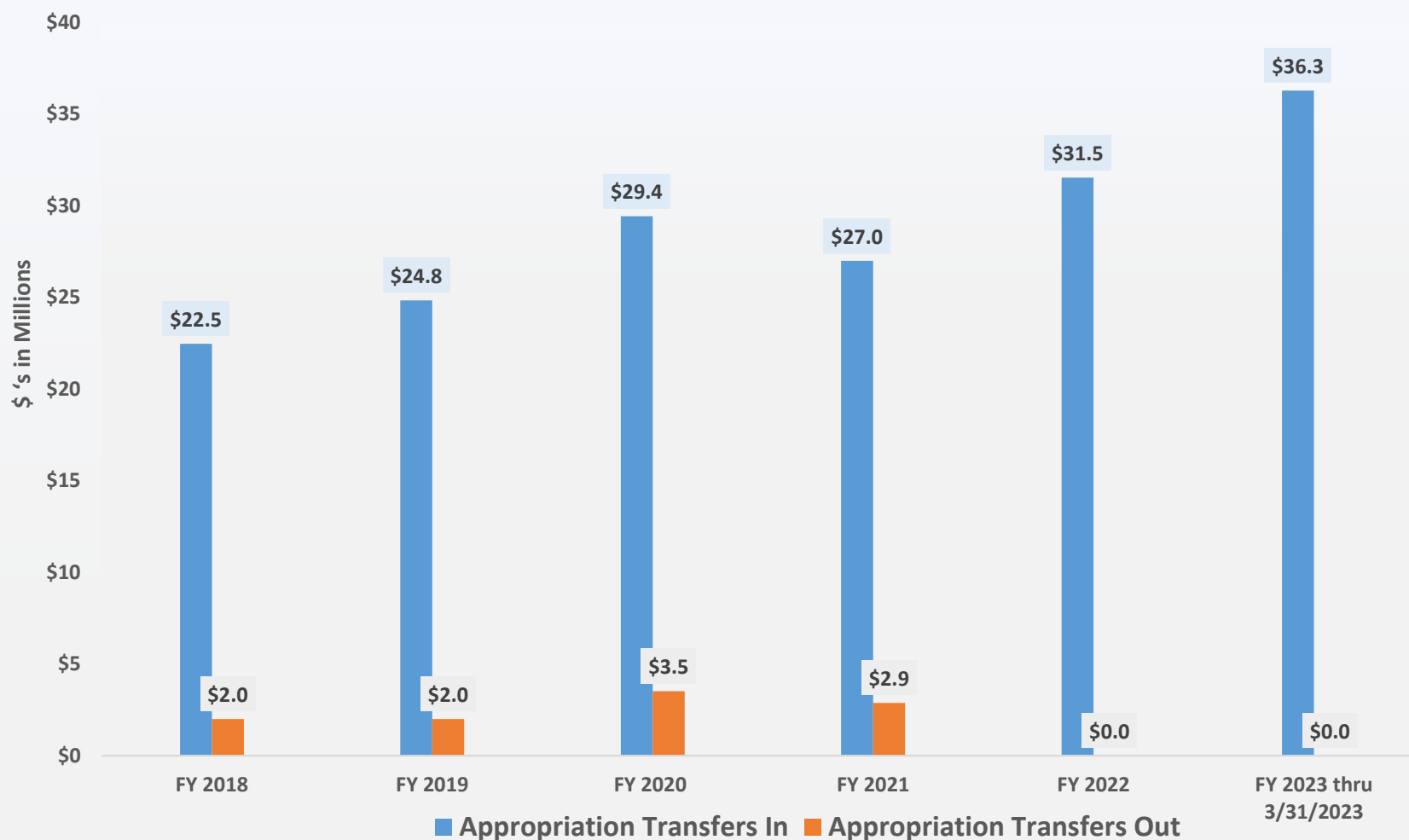
# Employee FTE Totals Fiscal Year FY 2006 – FY 2023

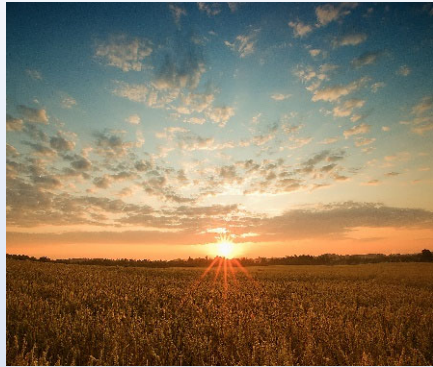


Note: FTE listed for Fiscal Year 23 was based on the FTE as of 3/31/2023.

# Appropriations FY 2018 - thru March 2023

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





## Administrative Services – Commodity Storage Indemnity

Commodity Storage Indemnity			
Investment Report			
As of March 31, 2023			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,285,425
<u>FY-2023 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest		25,657	154,634
Reinsurance			-
ODAFF Support Services			(50,000)
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	25,657	104,634
		=====	=====

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

<b>Object Code</b>	<b>Account Description</b>	<b>Annual Budget</b>	<b>Expenditures</b>	<b>Encumbrances &amp; Pre Encumbrances</b>	<b>Available Budget</b>
511	Salary Expense	18,874,528	12,376,988	10,530,120	(4,032,580)
512	Insur.Prem-Hlth-Life,etc	5,973,536	3,368,518	185,780	2,419,238
513	FICA-Retirement Contributions	4,735,708	2,932,931	18,453	1,784,324
515	Professional Services	3,100,583	1,210,693	1,646,608	243,283
519	Inter/Intra Agy Pmt-Pers Svcs	30,000	20,227	23,707	(13,934)
521	Travel - Reimbursements	328,702	125,505	-	203,197
522	Travel - Agency Direct Pmts	365,898	221,577	-	144,321
531	Misc. Administrative Expenses	1,178,520	633,624	123,390	421,506
532	Rent Expense	686,033	398,823	248,991	38,219
533	Maintenance & Repair Expense	1,415,108	709,677	269,655	435,776
534	Specialized Sup & Mat.Expense	1,585,410	692,787	281,688	610,935
535	Production,Safety,Security Exp	201,456	53,260	-	148,196
536	General Operating Expenses	300,860	78,479	-	222,381
537	Shop Expense	603,831	352,765	97,611	153,455
541	Office Furniture & Equipment	3,170,652	659,209	944,209	1,567,234
542	Library Equipment-Resources	932	108	-	824
543	Lease Purchases	1,703,720	1,277,481	420,827	5,412
544	Livestock-Poultry	-	10,053	-	(10,053)
546	Buildings-Purch.,Constr,Renov.	-	813	8,267	(9,080)
552	Scholar.,Tuition,Incentive Pmt	-	176	-	(176)
553	Refunds,Idemnities,Restitution	20,000	-	-	20,000
554	Program Reimb,Litigation Costs	5,065,453	9,947,894	3,350,362	(8,232,803)
555	Pmts-Local Gov't,Non-Profits	15,953,116	7,935,173	3,027,453	4,990,490
559	Assistance Pymts to Agencies	8,248,687	500,000	2,500,000	5,248,687
561	Loans,Taxes,Other Disbursements	-	294	-	(294)
564	Merchandise For Resale	140,000	-	94,900	45,100
601	AFP Encumbrances	-	-	923,797	(923,797)
810	Req Only	-	-	594,960	(594,960)
	<b>Operating Totals</b>	<b>73,682,733</b>	<b>43,507,057</b>	<b>25,290,776</b>	<b>4,884,900</b>

Oklahoma Department of Agriculture, Food & Forestry					
Monthly Budget Report - Budget Year 2023					
As of March 31, 2023					
Fiscal Year 2023 Annual Budget to Actuals for Budget Year 2023 thru March 31, 2023					
Class Funding	Class Fund Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
19201	GRF - Duties	-	-	0	(0)
19211	Carryover	683,679	33,077	234,760	415,842
19301	GRF - Duties	37,146,198	19,421,486	14,098,164	3,626,548
20500	Rural Fire Defense Eqp Rev Fd	140,000	-	134,629	5,371
21000	Agriculture Revolving Fund	22,629,010	13,675,378	8,480,864	472,767
22500	Enhancemnt & Diversificatn Fnd	150,000	35,333	114,667	-
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	373,827	426,173	-
25600	Ok Viticulture Enology Revl Fd	350,000	28,549	64,826	256,625
26200	Poultry Grading Revolving Fund	1,049,479	656,119	329,066	64,294
28500	Milk & Milk Prod Inspec Rev Fd	379,817	205,381	129,575	44,862
28600	Ag In The Classrm Educ Rvlv Fd	24,000	-	-	24,000
28700	Healthy Food Financing Revl Fd	100,000	3,333	6,667	90,000
42000	Specialty Crop Federal Funds	690,000	312,647	644,878	(267,525)
43000	Farm and Ranch Stress Alliance	500,000	264,071	218,814	17,116
43500	Local Food for Schools Co-op	250,000	-	115,000	135,000
57604	Duties	8,414,550	8,414,550	-	0
	<b>Totals</b>	<b>73,682,733</b>	<b>43,507,057</b>	<b>25,290,776</b>	<b>4,884,900</b>

**APRIL 2023 BOARD REPORT**  
**AGRICULTURE LABORATORY SERVICES**  
**(February 2023 Activities)**

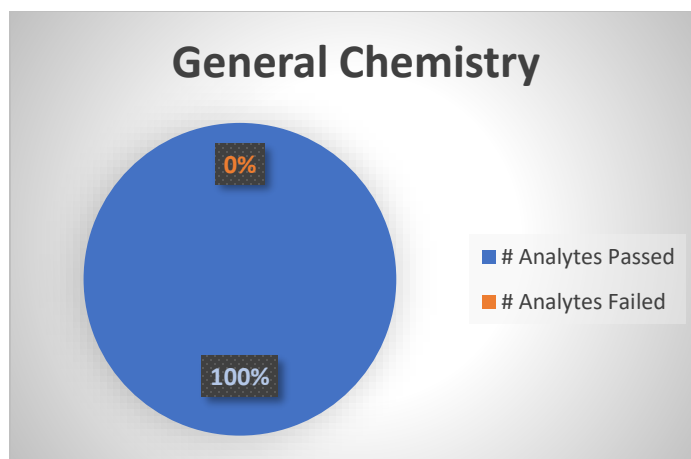
**QUALITY MANAGEMENT SECTION:** (Daniel Tripp, QA Manager)

The QA Manager is still conducting the annual internal audit for the Inorganic Section and has been assisting the Food and Dairy Section with quality control issues.

**PT Results**

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

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

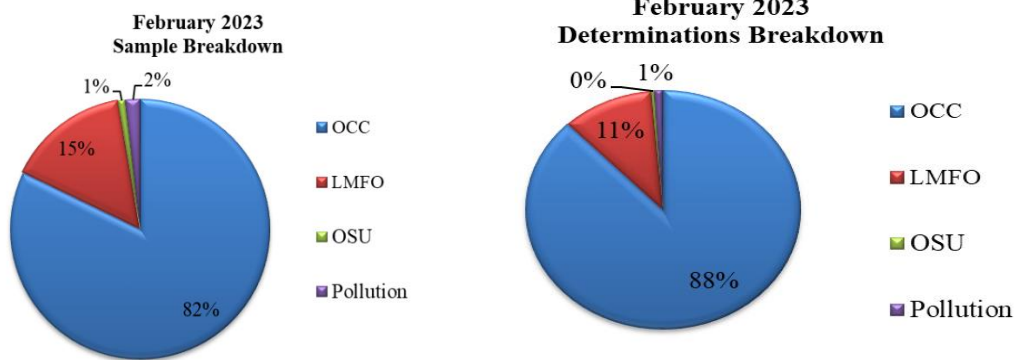


**INORGANIC SECTION:** (Elena Lyon, Environmental/Chemical Laboratory Scientist IV)

In February of 2023 the Inorganic Section completed 112 samples consisting of 943 determinations, with the following breakdown:

**February 2023 Inorganic Breakdown**

Customer	Samples	Determinations
OCC	92	828
LMFO	17	102
OSU	1	4
Pollution	2	9
<b>Total</b>	<b>112</b>	<b>943</b>



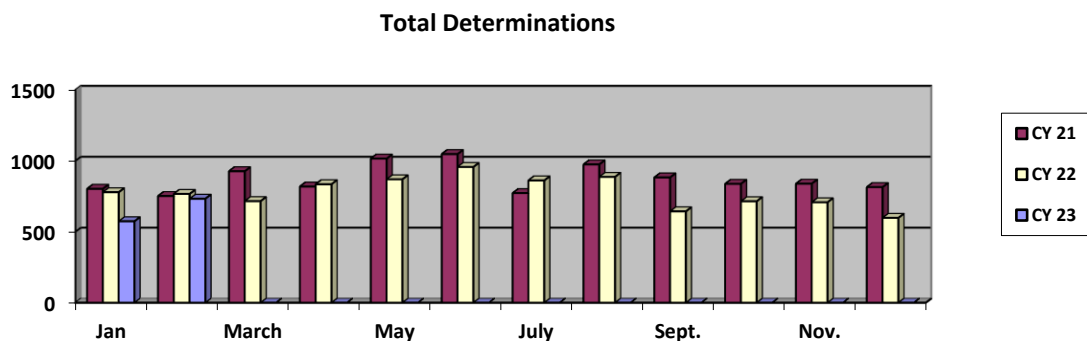
**DAIRY/FOOD SAFETY SECTION:** (Sharon Swyear, Environmental/Chemical Laboratory Scientist IV)

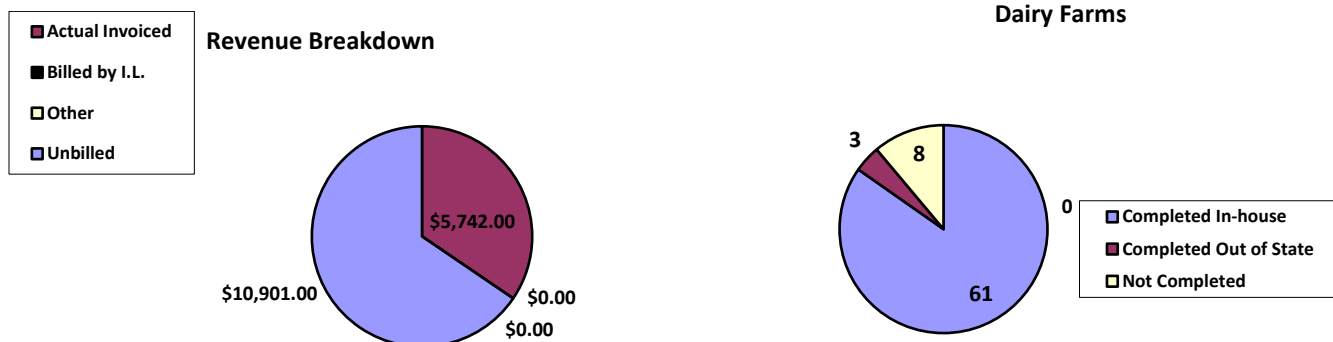
The month of February was a typical testing month for the Section. Three more dairies closed and one dairy is currently dry. There are currently sixty-eight dairies that the lab either tests or has samples sent for out of state testing.

The State Health Dept notified the dairy inspectors that there have been reported cases of *Campylobacter* again. After an investigation, raw milk consumption was identified as a possible source. The Section is currently unable to test for *Campylobacter*, and had samples taken to a private lab for analysis resulting in a presumptive positive. Isolated colonies are being released to the Health Department and the sample will be sent to Nebraska for genome sequencing. The sequencings can then be compared with human sample sequencing to verify the source.

The Section tested twenty-one meat samples and six meat plant water samples this month.

The new autoclave was installed on March 20<sup>th</sup>, Steris, the manufacturer, will finish the installation and start-up process. Bids have been sent out for a new electronic somatic cell counter and a 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 (PCR) platform will allow the Section to test for *Campylobacter* as well as other pathogenic organisms as needed.





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

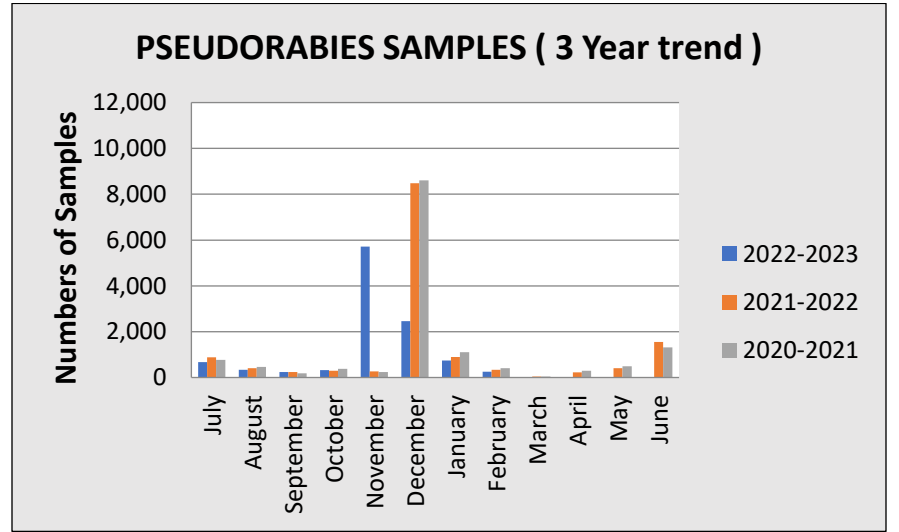
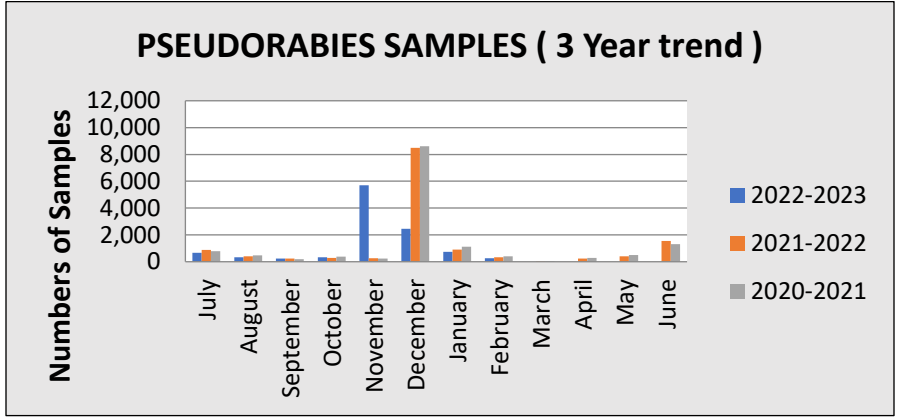
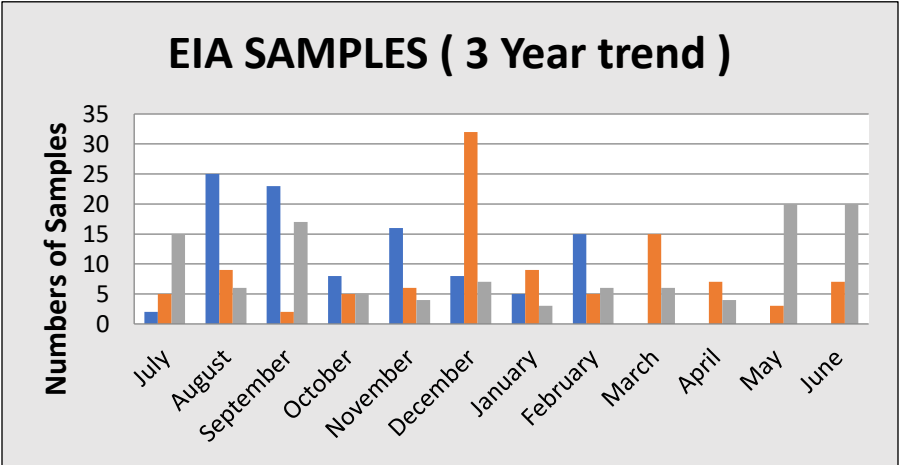
The Board of Directors of the Oklahoma Crop Improvement Association (OCIA) and Oklahoma Genetics Inc. (OGI) held their annual meeting at the Hilton Garden in Edmond on February 22nd and February 23rd. Speakers from Oklahoma State University gave updates from the Department of Plant & Soil Sciences, OSU Ag Research and the Peanut & Small Grains Research. Dr. Brett Carver spoke about a new wheat variety they are working on. Officials from OCIA reported that certified wheat crops were doing much better in the SW part of the state but also still reporting the presence of prohibited noxious weeds including field bindweed, cheat and other weed species in certified wheat. As for the NW part of the state, it is still suffering from severe drought conditions. Officials are also reporting a tough year for cattle feeding.

There was a slight increase in the number of samples received for testing in February. A total number of 138 samples were received. Most crops being tested consisted of hybrid sorghum, field corn, soybean, spring turf and native grasses. There were no Seed Law violations discovered during February.

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

3-year Summary of Samples Analyzed			
Year	Brucellosis	Pseudorabies	E.I.A.
2022	464	255	15
2021	385	339	5
2020	677	405	6





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

February was a productive month for the Section and continued exceeding the goal of 1000 determinations per month. The Section made 1124 determinations in total, completing 239 samples. In addition to all the regular testing the Section also completed 61 determinations for an outside client. We have seen a slight decrease in overall sample inflow but this expected as we start to see more fertilizer samples coming in.

Our turn-around time has increased to 16.61 days but remains under our 18 day target. This increase is linked to adding fertilizer testing back and analysts are covering more different tests.

Our efforts in training backups have been very beneficial as we continue to improve our cross training.

Overview of Section numbers for the month:

	<b>Feed</b>	<b>Fertilizer</b>	<b>Lime</b>	<b>Total</b>
<b>Samples Received</b>	185	40	3	228
<b>Samples Completed</b>	220	17	2	239
<b>Determinations</b>	1078	44	2	1124
<b>Violations</b>	101	2	0	102
<b>Violation %</b>	9.37%	4.55%	0.00%	9.07%

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

The Section continued routine testing. Chemists and the supervisor are working on organizing, creating, and reviewing the SOP's. The Section had a meeting with the ODAFF General Counsel to discuss a case in which the staff will be testifying on 03/08/2023 and 03/09/2023.

**Pesticide Section samples completed:**

In the month of February, the Section completed 18 samples. Below is the table showing the number of samples, tests per sample, and determinations (Det.) per sample with turnaround times (TAT). The average TAT for this month is 47 days.

	Number	Test	Det.	Average TAT (days)
Residue Soil	8	8	8	19
Residue Vegetation	2	4	20	44
Concentrate	3	5	7	126
Tank mix	1	3	13	147
Hemp	4	4	4	21

Average Residue Turnaround Time: 24 days

Average Formulation Turnaround Time: 131 days

Average Hemp Turnaround Time: 21 days

Totals		
# of Samples	# of Tests	# of Determinations
18	24	52

### Samples the Section received by month:

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

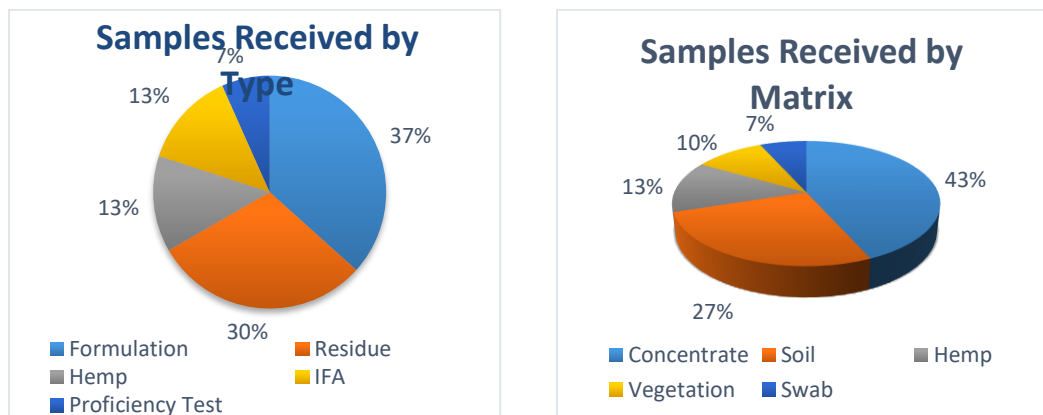


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right).

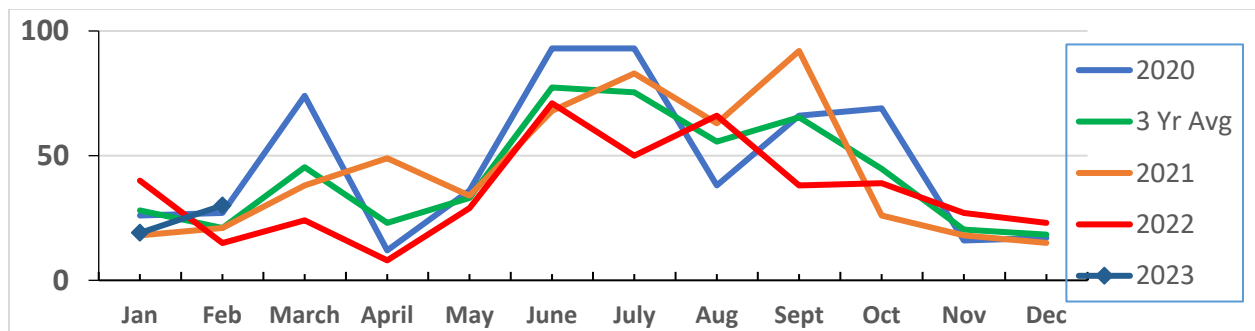


Fig B. Graph showing the number of samples received by the Section each month.

### Determinations the Section completed by month:

This month, the Section completed 52 determinations with most of the determinations Krdone on residue vegetation samples.

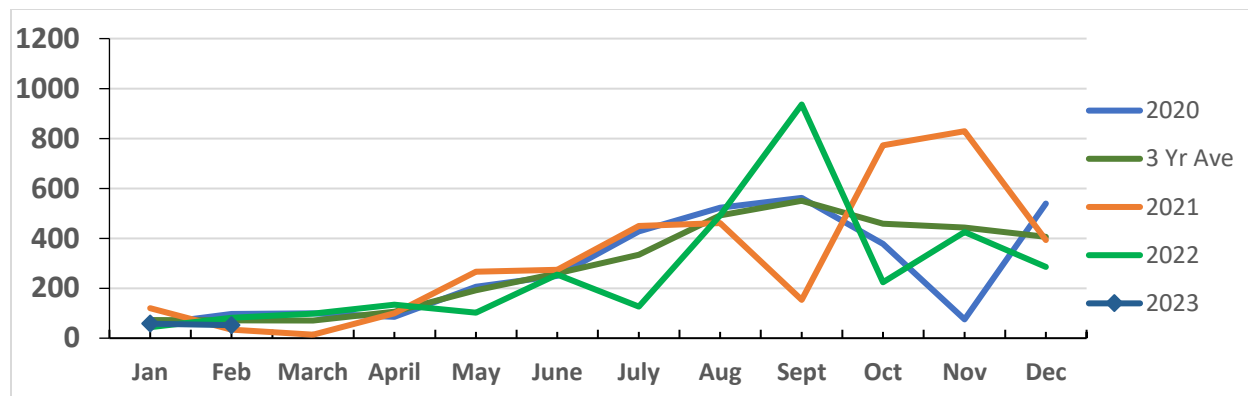


Fig C. Graph showing the number of determinations completed each month.

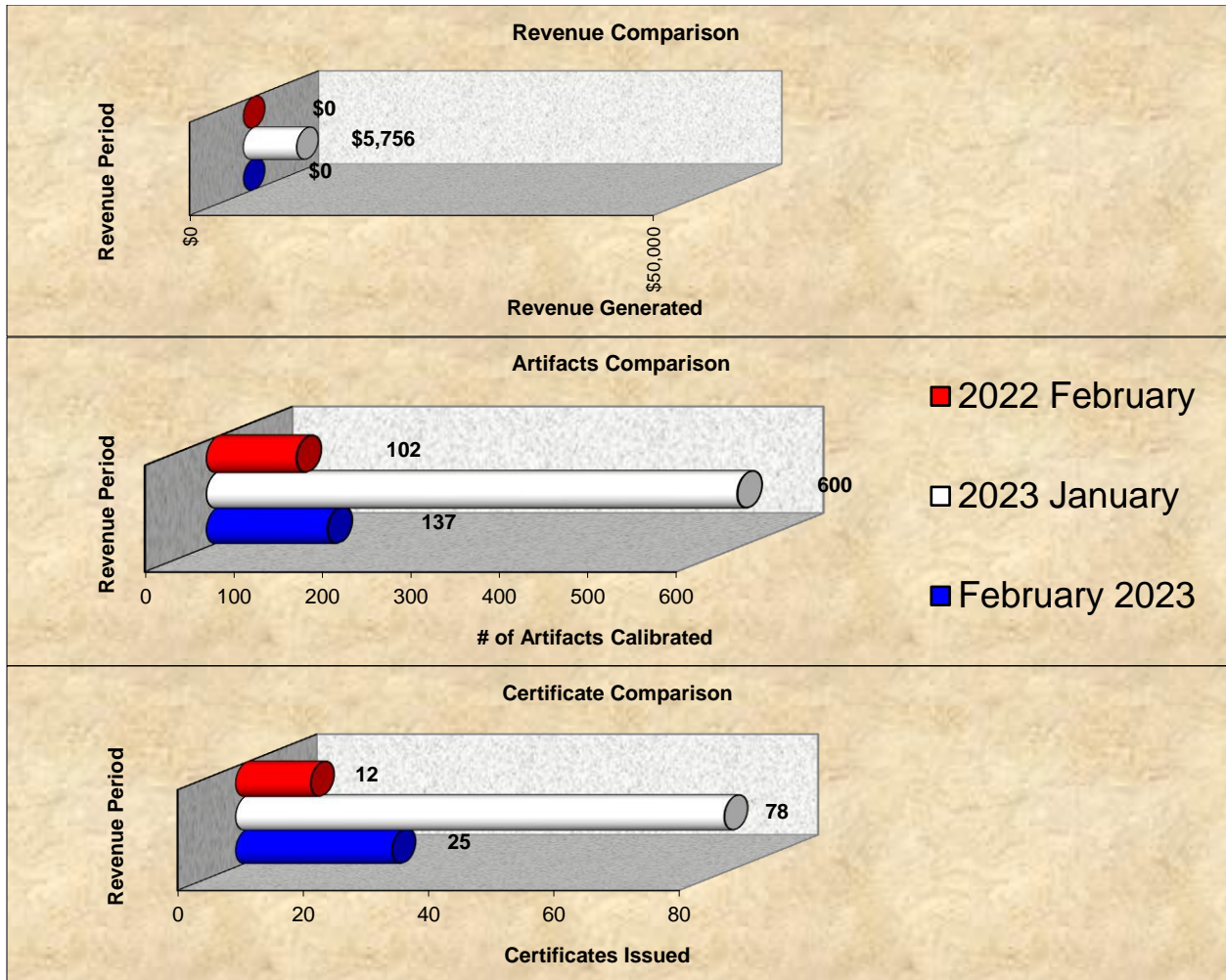
### **OKLAHOMA BUREAU OF STANDARDS:** (Will Krivanek, Metrologist I)

The following is a workload summary for the Oklahoma Bureau of Standards from February 1<sup>st</sup> through 28<sup>th</sup>.

No customer work was completed due to internal calibrations.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	0	\$0	0%	0	0%
In-State Customers	1	\$0	0%	137	100%
Totals	1	\$0	0%	137	100%

Total Fees not Charged		# Working Days Lead Time to Next Available Date for Calibration	
\$8,130.00		Mass I / II	19
Fees not Charged ODAFF CPS		Mass III	18
\$0		Volume	18



Respectfully Submitted,

Wade Krivanek  
Laboratory Director  
Laboratory Services Division

**BOARD REPORT**  
**AGRICULTURAL LABORATORY SERVICES**  
**FEBRUARY 2023 ACTIVITIES**

FEED SAMPLES	185
FEED DETERMINATIONS	1078
POSSIBLE VIOLATIONS	101
 FERTILIZER SAMPLES	 40
FERTILIZER DETERMINATIONS	44
POSSIBLE VIOLATIONS	2
 LIME SAMPLES	 3
LIME DETERMINATIONS	2
POSSIBLE VIOLATIONS	0
 PESTICIDE SAMPLES	 18
PESTICIDE DETERMINATIONS	52
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 112
DETERMINATIONS	943
 STATE-FEDERAL VET. LAB. SAMPLES	 734
STATE-FEDERAL VET. LAB. DETERMINATIONS	1026
NUMBER POSITIVES	1
 SEED SAMPLES	 138
SEED DETERMINATIONS	162
POSSIBLE VIOLATIONS	0
 BUREAU OF STANDARDS CERTIFICATES	 25
NUMBER OF STANDARDS CALIBRATED	137
FEE CHARGES	\$0.00
 DAIRY SAMPLES	 320
DAIRY DETERMINATIONS	733
POSSIBLE VIOLATIONS	12
 <b>TOTAL SAMPLES</b>	 <b>1575</b>
<b>TOTAL DETERMINATIONS</b>	<b>4177</b>
<b>TOTAL POSSIBLE VIOLATIONS</b>	<b>116</b>



# OKLAHOMA FORESTRY SERVICES BOARD REPORT

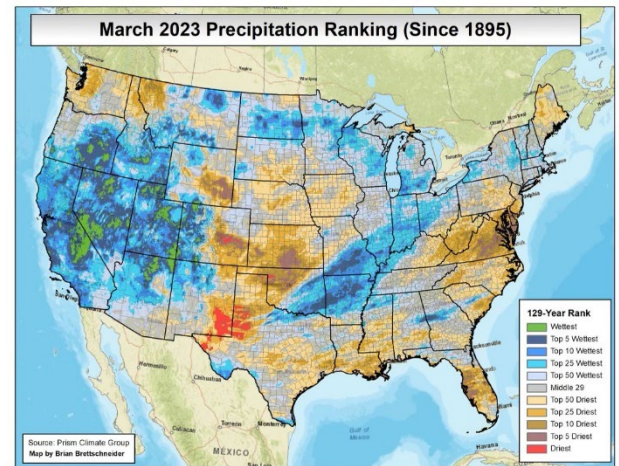
Division Activities from March 19, 2023 – April 5, 2023

Serving Oklahoma 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.

## WILDFIRE RESPONSE

### Wildfire Activity & Outlook Executive Summary:

Both wildfire activity and prescribed burning activity for Oklahoma Forestry Services is below normal since the beginning of the calendar year. Successive rain events south and east of I-44 limited the build-up of fire danger during the normally driest period of the year and spurred early herbaceous green up reducing the overall amount of available fuel. In stark contrast, western and northern Oklahoma continues to endure a prolonged drought that resulted in poor growing conditions through the heart of last year's growing season. The dichotomy of the conditions on either side of I-44 is well documented in the inset map that evaluated precipitation ranking since 1895 (129 years). Areas of northwestern Oklahoma logged the driest March on record during what is typically a dry month.



### Year-to-date wildland fire activity is as follows:

- **OFS Wildfires** 144 Fires Burned 20,883.4 Acres (Approximately 28% of normal fires / 10.8% normal acres)
- **OFS Rx Fires** 29 Prescribed Fires Treating 5,804 Acres

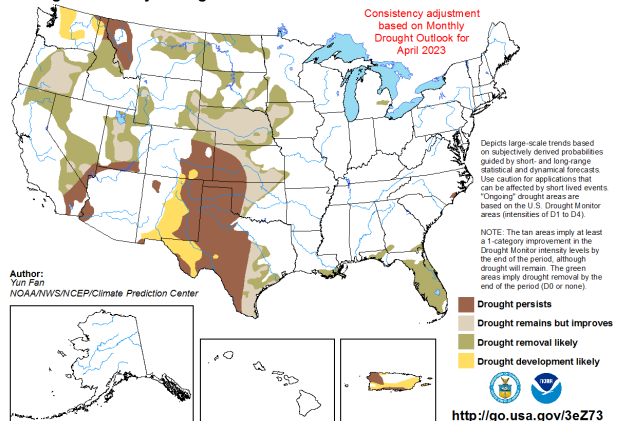
### Year-to-date structure saved/lost data: \*\*Damage Assessments still in progress for March 31-April 5 fires

- **2,019 Residences Saved (\$352,145,000)**      **73 Residences Lost (\$12,670,000)**
- **2,018 Outbuildings Saved (\$50,318,200)**      **176 Outbuildings Lost (\$4,329,000)**

The old adage 'In like a lamb, out like a lion...' definitely applied to the month of March in Oklahoma regarding wildfires. Ninety-seven (97) wildfires were detected on March 31, 2023 alone when a fire-effective weather system moved into Oklahoma intensifying a core of extreme fire weather over very dry fuels along an axis extending from the Oklahoma City Metro along I-44 toward Tulsa. Three of the fires that occurred were identified as Fire Management Assistance Grant (FMAG) candidates given the threat to life and property with fires occurring in the wildland-urban interface. FEMA approved all three FMAG requests that OFS coordinated with the Oklahoma Office of Emergency Management pending floor cost criteria. The three qualifying fires were 1) Hefner Fire (Oklahoma County), 2) Simpson Road Fire (Logan County), 3) Gap Road Fire (Washington County).

### U.S. Seasonal Drought Outlook Drought Tendency During the Valid Period

Valid for April 1 - June 30, 2023  
Released March 31, 2023



Wildfire threats moving through the month of April are expected to continue to diminish south and east of I-44, while the much-needed rain-providing weather pattern shift in western and northern Oklahoma may be pushed out a few more weeks. There is a signal of a pattern shift that is on the edge of predictability although pessimism is rampant unfortunately. A similar shift has appeared twice recently only to underperform, and instead support elevated to extreme fire danger

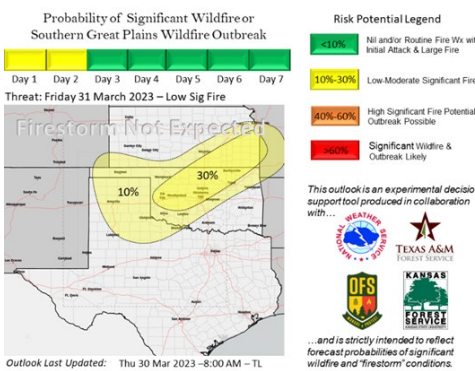


indices. Nonetheless, the breakdown of the La Nina pattern and shift to ENSO-neutral does lend credence to some hope for a welcomed rain opportunity mid-April. The current seasonal drought outlook does hold optimism for drought improvement in northern and near-western Oklahoma although noting that the optimism fades in the Panhandle and far western counties.

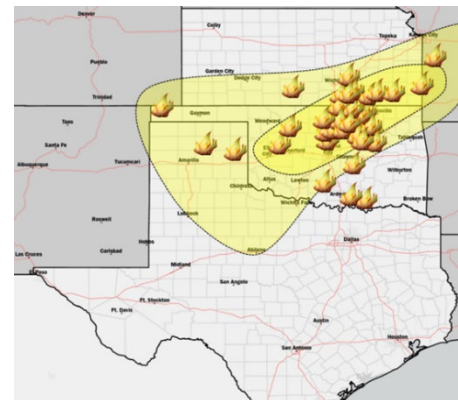
### **Fire Predictive Services Advancement & Life-Saving Innovation:**

It has been mentioned previously in prior reports, but some of the predictive service and real-time fire products generated through a core partnership with the National Weather Service have tipped the scale with ground-breaking innovation that is utilized nowhere else in the United States.

**Predictive Service** – Oklahoma Forestry Services, the National Weather Service and Texas A&M Forest Service has a longstanding, deep-core partnership in developing wildfire predictive service products that address the fire environment (fuels/weather/topography) holistically and consistently. These life-saving products are communicated to both incident responders and the public. One of the efforts of the group is to communicate the wildfire threat in a probabilistic methodology that identifies the location of the threat and likely outcomes which is distributed to over 3,000 emergency responders across Oklahoma daily in the SitRep. Friday, March 31, 2023 serves as a good example of this effort. The graphics below reflect the probability of significant wildfire / wildfire outbreak and the verification of the effectiveness of the product after fire occurrence was documented.



***Issued March 29 through the OFS SitRep***

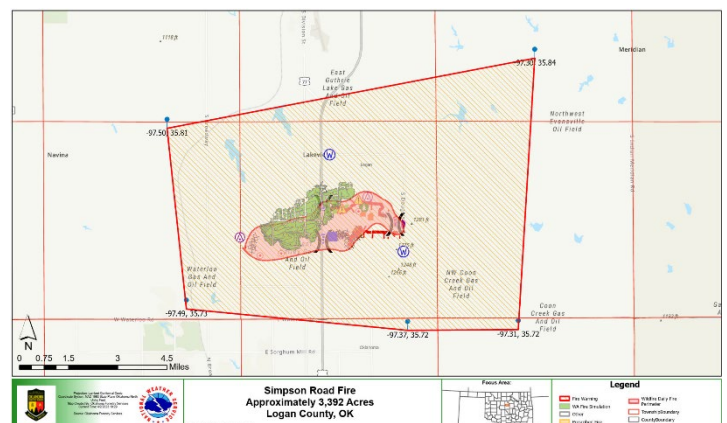


***Occurrence overlaid on the prediction for verification***

**Life-Saving Innovation** – In partnership with the National Weather Service, Norman Forecast Office, Oklahoma Forestry Services is the only state agency in the United States that has developed a real-time fire monitoring and Fire Warning process that couples data-driven analytics of the fire environment, GOES satellite detection, rapid fire progression and “warn-on-demand” coordination. A Fire Warning was issued on March 31<sup>st</sup> for the Simpson Road Fire in Logan County utilizing this rapid diagnostic and call-to-action approach. The Fire Warning was issued at OFS request by the National Weather Service in much the same manner as a Tornado Warning is issued. This warning was pushed as a Wireless Emergency Alert (WEA) to cell phones and other enabled devices in the warned area. The warning polygon is also communicated to local media outlets for prompt communication.

The graphic right has three features that, when combined, serve as the verification of effectiveness of the process. In this graphic are the following:

1. The initial fire progression projection (green polygon) that was initiated shortly after satellite hotspot detection. This progression utilizes current





point forecast and wildland fuels data for the detection location.

2. The Fire Warning polygon that was issued given the fact that the fire was located in the extreme fire environment parameter space and with significant threat to life and property.
3. The final fire perimeter (red polygon) that is after the fact of the initial fire progression projection and Fire Warning.

## **RESILIENT LANDSCAPES**

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

#### **Program Highlights**

##### **Keep America Beautiful**

On February 22<sup>nd</sup> OFS was recognized with a State Agency Partnership Recognition Award at the 2023 National Keep America Beautiful Conference in Washington, DC. Riley Coy sits on the Keep Oklahoma Beautiful (KOB) Board of Directors and helps facilitate the distribution of paint across Oklahoma during Fresh Paint Days. Riley and Mark Bays alongside KOB staff delivered paint to 15 communities for 18 projects across Oklahoma that participated in 2022. HIS Paint of Oklahoma City donated the paint and communities applied to KOB for the paint to help beautify buildings and other local projects.

##### **Survivor Tree Clone Pruning**

On February 27<sup>th</sup> Mark Bays and Riley Coy assisted with the pruning of a Survivor Tree clone in Scissortail Park in Oklahoma City. The clone was planted several years ago as a potential replacement for the Survivor Tree when it eventually passes on. The tree has co-dominate leaders and pruning to improve the structure and form will be required for several years.



##### **Story of the Survivor Tree**

On March 3<sup>rd</sup> Mark Bays was the Keynote speaker at the Ohio North Coast Urban & Community Forestry Conference held just outside Columbus. He told the tragic story of the April 19<sup>th</sup>, 1995 Oklahoma City bombing and how the care for the Survivor Tree continues today.

## 2023 Arbor Week

The 2023 Arbor Week, Tree City USA Luncheon was held on the campus of Oklahoma City Community College on March 9th. Over 75 people attended representing 21 Tree Cities, two Air Force Bases, four utility companies, and five college campuses. They were recognized for their many accomplishments with their local tree programs. The theme of this year's program was "The Power of Partnerships". During the morning, session representatives from Oklahoma City Beautiful, Keep Oklahoma Beautiful, Up With Trees and OFS gave presentations on tree planting on the school's grounds, working with volunteers, and getting K-12 schools designated as a Tree Campus. A bald cypress tree was planted during the event. The President of the College Dr. Mautra Jones welcomed everyone during the morning and Mark Goeller was there for the tree planting.



Mark Bays and Riley Coy presented the Tree City USA and Tree Line Utility recognition material to the Edmond City Council on March 13. This was their 24<sup>th</sup> consecutive year receiving this recognition. Oklahoma City National Memorial Family S.T.E.M. Class. Education Coordinator Tony Pascall, Riley Coy and Mark Bays helped teach how the environmental engineering process transformed the outdoor site from destroyed buildings to its current design during a family STEM course. Twenty-five participants from 7 different families participated in the learning class. Following the indoor lab, participants went outside to measure trees on the grounds and learned of the environmental benefits they provided.





### **Tinker AFB Tree Pruning**

Riley Coy and Mark Bays conducted a tree-pruning workshop on Tinker AFB on March 15<sup>th</sup>. Twenty-three crewmembers from different departments on Tinker participated in the event. A hands-on pruning of trees was conducted as part of the workshop.



### **Tulsa Arboretum Renovation**

The Tulsa Garden Club and Arboretum are in the process of renovation with construction scheduled to start in the summer of 2023. Additions of new trees within the Arboretum and the establishment of new gardens dedicated to various tribes are part of these improvements. Mark Bays has been meeting with them to help with the tree preservation aspect for existing trees. Design changes Mark suggested to minimize the negative impact the improvements will have on significant trees have been incorporated into the final design. City employees, design consultants, and Mark participated in a walk-through of the area on March 29<sup>th</sup> to discuss changes from the original design.

### **Midwest ISA**

On January 18<sup>th</sup> Riley Coy gave a presentation on Urban Wood Utilization at the Midwest ISA conference in Tulsa to 100 participants.





## FOREST HEALTH

As spring temperatures arrive, Oklahoma is at the point where many insects begin to emerge, both the good and the bad. In preparation for this event, Forest Health Specialist Dieter Rudolph has been leading the Emerald Ash Borer Trapping Program. Traps have already been set up across the southern counties and are soon to follow across the rest of the state. The Emerald Ash Borer is a pest that has decimated ash trees across the Eastern United States and acts as a threat to Oklahoma's native ash species. To date, only one confirmed sighting has occurred in Grove, OK in 2016. Each year OFS partners with multiple organizations and agencies including the Oklahoma Department of Wildlife Conservation, Grand Rivers Dam Authority, Tree Cities USA, and Tree Campus USA, as well as private landowners to hang and monitor these traps throughout the growing season.



## COMMUNITY OUTREACH AND COMMUNICATIONS

### FORESTRY EDUCATION

#### Forestry Education Highlights

On February 25th, Education Coordinator Tony Pascall worked with EcoRise, KidWind, and Oklahoma GreenSchools to put on an Environmental Education Summit. 40 environmental educators from around the state came together to learn and connect. 11 were trained on Project Learning Tree's K-8 guide.

On March 2<sup>nd</sup>, Tony and Forester Riley Coy went to Bishop McGuinness Catholic High School to present on sustainable forestry and climate to 15 seniors.

On March 2<sup>nd</sup>, Tony presented on forest ecology and the lifecycle of a tree to 10 members of a Purcell 4H club.

On March 3<sup>rd</sup>, Tony presented at the First Americans Museum teacher training. 30 educators were trained to use a PLT activity on prescribed fire and exposed to Project Learning Tree.





On March 4<sup>th</sup>, Tony and Riley had a booth at the First Americans Museum during their annual TEK (Traditional Ecological Knowledge) fest. They presented on prescribed fires and how it has been used by tribes for generations to over 300 attendees of the festival.

On March 8<sup>th</sup>, Tony presented a forest ecology lesson at East Central University's STEAM Day in Ada. 30 middle and high schoolers from the area attended the lessons.

On March 9<sup>th</sup>, Tony presented to the Tree City Recognition Celebration in Oklahoma City about Tree Campus K-12, with the hope that current partners can reach out to schools in their districts to become Tree Campuses.



On March 11<sup>th</sup>, Tony held a Project Learning Tree facilitator training for 7 volunteers. These volunteer facilitators will be able to train additional educators on PLT, expanding the number of people who can teach educators how to teach about forestry in Oklahoma.



From March 27<sup>th</sup> to 31<sup>st</sup>, Tony attended the international Project Learning Tree conference in Skamania, WA. Here he learned from and networked with other forestry educators across the states and presented on planning to improve a state PLT program based on his experience in Oklahoma.

## **FOREST HERITAGE CENTER (FHC)**

### **Grants**

Oklahoma Arts Council (OAC) – Projects proposed and approved by the OAC have begun for 2023 Beginning Woodturning classes at Broken Bow High School and the Artist of the Year Gallery opened in March. Both programs are underway and will continue through the end of April. Reporting for 2023 activities will be due in CY 2024.

### **Oklahoma Historical Society (OHS)**

The FHC received a grant from the OHS for a collections consultant to visit the museum. Due to the pandemic and a transition in leadership at the FHC, the grant terms had to be extended through May 30, 2023. The consultant visited on March 8<sup>th</sup>–9<sup>th</sup>, and a draft report has been received. The FHC board has received invoice correspondence and will facilitate payment.



## Programming

Chuck Wagon and Living History Demonstration – On Saturday, March 4, 2023 the FHC hosted a Chuck Wagon and Living History Demonstration. Chisolm Trail Museum Director Jason Harris led the demonstration and provided samples of rice pudding and vinegar pie to visitors. Over 200 people attended the event and toured the museum. Photos are below.



## Artist of the Year Gallery

Gallery opened on March 5, 2023 with a reception welcoming visitors and artists. FHC Director and OFS Forest Management Chief Craig Marquardt helped facilitate the event for guests in attendance. Pieces from artists across the country were evaluated by three judges using a complex rubric for skill and style. Jim Anderson was named The Master Woodworking Artist of the Year; Mike Love was declared Local Exemplary Wood Artist and Kimbernice Walker received the new Beginning Woodturning prize. Over \$2,300 in prize money was awarded in the categories overall. The featured non-competing showpiece for this year's exhibit is a life-size, fully operational wooden motorcycle, and sidecar crafted by Darrell Whisenhunt as he honored at the outset of the reception. Photos are below.



## **Partnership**

Rotary Club – FHC Director and OFS Forest Management Chief Craig Marquardt attended the Idabel Rotary Club February meeting. FHC Director shared updates on behalf of OFS, Tourism, and the FHC. Information was shared about previous events and upcoming activities, as well as info about the Director's responsibilities and upcoming grant-funded programs. The information was well received, and guests made suggestions regarding continued community integration in activities. The invitation was extended to return and speak again, and the local newspaper took photos for a write-up.

259 Gallery – FHC Director attended the opening of the 259 Gallery, a new art gallery in Hochatown, on behalf of the Forest Heritage Center. The event featured local artisans, musical guests, and woodturners.

## **Consultation**

Museum Collections Consultation – Rebecca Elder from Austin, Texas, visited the FHC and took an in-depth tour of the facility over the course of two days, hosted by OFS staff. She observed the volume, nature, and condition of the collections, as well as pertinent documents and policies. She also noted the condition of the facility for visitors' overall experience. Ms. Elder submitted a fifty-page draft report with her observations and recommendations for consideration going forward.

## **Facilities**

Roof – There continues to be several leaks affecting museum visitation. One major leak causes the museum to be closed to the public for safety concerns when there are heavy storms. This leak is at the entrance of the museum where the wood floor is sloped downward, potentially creating a slipping hazard. For now, multiple trashcans remain, and the area was temporarily roped off with new stanchions and a wet floor sign for the week before the AOTY gallery opening.

Mold and Pests – The museum consultant's visit highlighted several concerns for the safety of staff, visitors, and collections. The report notes significant mold growth in the museum hallway where public and staff frequent. Additionally, there were issues with vermin and pests in the building during operating hours when facilities are open to visitors and staff.

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

## **Upcoming Dates**

- April 11 – Ag Day at the Capitol
- April 18 – Arts and Culture Day
- April 19 – Idabel Chamber Luncheon
- April 20 – FHC Board Meeting
- April 22 – Oklahoma History Symposium
- April 25 – Nonprofit Advocacy Day
- April 28 – Arbor Day

## **COMMUNICATIONS**

### **SafeStayOK.gov**

The process is underway for approval of the .gov domain. The request for acquisition of that domain is made through the office of the state Chief Information Officer. The .com, .org., and .net domains have been acquired and will redirect to the .gov domain once that is in place.

### **Fuels Mitigation Storymap**

Information Representative Keith Merckx is working with Fire Management staff and GIS Coordinator Chris Mask on an OFS Fuels Mitigation Story Map which will tell the story of efforts by OFS to decrease the size and frequency of wildland fires in targeted areas around the state. Projects are complete in the Bartlesville area and work is underway in partnership



with the Tulsa River Parks Authority at Turkey Mountain Urban Wilderness on pioneering mitigation efforts. These stories will be told through images, text, and video.

### **Training**

Keith attended a Southern Group of State Foresters Communications Committee meeting in March in South Carolina. A new SGSF website created through committee collaboration will be rolled out as a featured event at the SGSF Annual Meeting hosted by OFS in Oklahoma City in June.

Keith completed Advanced PIO training offered by the FEMA Emergency Management Institute in late February and is eligible for application to the high-competitive Master PIO training program.

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

### **NORTHEAST AREA**

#### **Forest Protection Highlights**

From February 18th through March 31st the Northeast Area had 40 fires for 933.2 acres in the protection Area. Cole Hix, Joe Leak, and Craig Longshore conducted interviews for the Park Hill Forest Ranger I position on March 8th. Forest Ranger, Heath Jones, started with OFS on March 13, 2023, and is working out of our Bunch unit in Sallisaw. NE Area Rangers assisted the Forest Regeneration Center with the sorting and shipment of seedlings.

NE Area prepositioned resources to Guthrie on March 30th; Billy Riggs TFLD, Cole Hix and Dusty Ryals T6, Barry Caswell DOZ. Tony Hadley and Chad Bateman responded to fires near Bartlesville.



*Travis Garrison Jay FRI assisting nursery*



*Kasandra Roberts on burn in Sequoyah County*

### **Prescribed Burning**

Control lines have been completed on one property in Adair County and one in Cherokee County for the private landowner. Below is a list of Rx burns in the NE Area completed during the timeframe.

- 70 acres in Sequoyah County, Stevens Grant
- 121 acres in Adair County, Stevens Grant
- 85 acres in Adair County, Stevens Grant
- 80 acres in Adair County, Stevens Grant
- 117 acres in Adair County, Stevens Grant
- 450 acres in Adair County, Stevens Grant
- 94 acres in Sequoyah County, Stevens Grant
- 431 acres in Adair County, Stevens Grant
- 80 acres in Cherokee County, Stevens Grant

### **Forest Management/Program Highlights**

Connie Robinson and Evan Long attended the Wildfire Risk Reduction Qualification training in DeGray, Arkansas. She completed three Forest Stewardship Plans covering 218 acres for properties in Rogers, Garvin, and Delaware Counties, as well as an OK management plan for a property in Ottawa County. Assisted 14 property owners with forestry assistance. Connie met with NRCS for a property in Ottawa County to discuss forest management options for cost share. Connie attended the SGSF SUM Committee meeting in Franklin, Tennessee. She assisted with the EAB traps project. Evan completed one Forest Stewardship Plan for a 51-acre property in Adair County. Evan assisted six property owners with forestry issues. He met with the Watts High School FFA class to talk with them about the NE Area Forestry competition. Evan hosted a Forestry booth at Union High School on March 28th.

### **Ongoing Issues & Upcoming Events**

Forest Ranger I Park Hill unit.

FFA NE Forestry Competition – April 4th



*Forest Rangers J.W. McCuistion & Robbie Burson retired from OFS on February 28, 2023 with 68 years of combined service.*



## **EAST CENTRAL AREA**

### **Forest protection highlights**

Since the last board report date of March 8, 2023, EC has suppressed 5 fires on a total of 570 acres for an average fire size of 114 acres. As evidenced, fires tend to grow quicker as we progress into fire season. The weather at the end of March proved to be more conducive to fire growth than the previous months. No structures were threatened or lost on any of these fires.

### **Prescribed Fire**

EC rangers completed 6 prescribed burns for a total of 716 acres treated with prescribed fire.

### **Forest Management Highlights**

- EC completed 119 acres of tree planting for five landowners in LeFlore and Latimer counties.
- One new forest stewardship plan was completed since the last report on a total of 65 acres.
- EC rangers and foresters again assisted in counting and sorting seedlings to be packaged and distributed to private forest landowners across Oklahoma.



### **Information/Education Highlights**

EC forester, Eddie Woods, assisted in setting up and running the Eastern State College high school FFA forestry judging contest.

EC foresters and rangers assisted with setting up and running the Tri-county high school FFA forestry judging contest held at the Kerr Center for Sustainable Agriculture in Wister, OK.



### **Personnel update**

EC's recent ranger vacancy in the Red Oak Unit was filled on March 13. Traven Sumpter is OFS's newest ranger in EC Area.

Zach Hanson, Quinton unit Ranger, resigned after 3 ½ years of service to create our most recent ranger vacancy. OFS announced the open vacancy and has interviewed applicants and is moving forward in the hiring process and have a candidate selected and slated to begin his employment on April 10.

### **OSU Capstone update**

OSU students are working on finalizing their forest stewardship plans to present to the faculty and landowners in April. Again, two groups are working with landowners in the East Central area and the other group is working with a landowner in central Oklahoma.

### **Safety / Training Highlights**

- New employee, Traven Sumpter, completed S-130/S-190/L-180 to provide a presence on the fireline in support of wildfires and prescribed fire activities. These courses train new firefighters in basic firefighting skills.
- An assortment of EC rangers is scheduled to attend S-212 Wildland Fire Chainsaws, S-290 Intermediate Wildland Fire Behavior, S-390 Introduction to Wildland Fire Behavior Calculations, and L-280 Followership to Leadership to continue to move forward in their roles with wildland fire and prescribed fire.
- EC Area provided S-130/S-190/L-180 to Haskell and Sequoyah County volunteer fire departments. A total of 25 VFD personnel were reached.

### **Ongoing Issues**

Filling vacancies, new Class A CDL requirements, and new employee training will be our most pressing issues. A recurring theme within the past several years is employees leaving employment with OFS to seek higher-paying jobs elsewhere.

## ***SOUTHEAST AREA***

### **Forest protection highlights**

- In Protection Fires: February 6 fires for 156 acres; March 12 fires for 471 acres.
- Steve Painter and Oley Walker assisted with the fuel mitigation project at Turkey Mountain.
- Drones were distributed to EC and NE areas by JT Allen.
- Members of Task Force to western Oklahoma and Guthrie.

### **Forest Management/Programs Highlights**

- Will Phifer had 14 landowner contacts.
- JT Allen had 14 landowner contacts.
- Tyler Hyatt had 8 landowner contacts.
- Acres planted with seedlings are 504.
- Site prep acres = 222 acres.
- Road mapping at Round Mountain State Forest

### **Rx Assistance**

- JT Allen completed 3 RxB plans; Tyler Hyatt completed 1 RxB plan.
- Completed 3 Stevens RxB burns for a total of 165 acres – Johnson 27, McMurray 18, Crawford 120.
- RxB burn at McGee Creek NSRA – Hunter's Cabin unit – 2,052 acres.
- SE Area assisted with the RxB Burn at Foss Lake; JD Morris was the burn boss.

### **Safety/Training Highlights**

- Broken Bow district completed safety meetings: all personnel completed the RT-130 refresher course.
- Leon Macon and Jared Burgett completed the S-290 Class – Intermediate Wildland Fire Behavior.
- JT Allen and Tyler Hyatt attended Wildfire Risk Reduction training in Arkansas.
- Antler's district completed safety training in Thunderstorms and Risk Management.
- All rangers completed BMP training with Jason Whaley.
- Tony Macon, Tyler Hyatt, Adam Burleson, and Leon Macon facilitated the S-130/190 class in Lebanon, OK for 60 students – Marshall County RFDs.

### **Employee Recognition/Other**

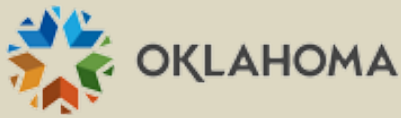
- Two more drone pilots passed pilot exams: Clayton Hurst and Bobby Kennon

### **Upcoming events/activities**

- Multiple Stevens program burns
- Hochatown Mapping Updates
- JT Allen and Tyler Hyatt will attend Wildfire Risk Reduction Training in Arkansas in late February.
- Tony Macon, Tyler Hyatt, and Adam Burleson will be instructors for S-130/190 in Marshall County for 60 students February 24-26.
- Refresh lines at McGee Creek NSRA in preparation for Hunter's Cabin Unit 2300 acres.
- Enrolling rangers in the upcoming Interagency Wildfire Academy in Lufkin, TX

### **STATE FORESTER ACTIVITIES from 24 February to 5 April:**

- Attended scheduled Director's Meetings
- Virtually attended one meeting with the Cadre, and Subject Matter Experts of the S-520 Advanced Incident Management Course Steering Committee (Goeller serves as a Subject Matter Expert/Cadre/Steering Committee member)
- Attended the March 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
- Participated on the National Association of State Foresters' All State Foresters Monthly Policy Call
- Virtually attended a meeting with the Community Wildfire Defense Grant Program Policy Development team
- Participated in the February and March Southern Group of State Foresters Fire Management Chiefs conference call
- Participated in the African Swine Fever Initial Planning Meeting with ODAFF-AIS and the National Pork Board
- Met with Representative Eddie Dempsey regarding personnel at the Forest Heritage Center
- Attended the Forestry Services' Leadership Team's "First Tuesday" meetings in March and April
- Attended the Oklahoma Vegetation Management Association's Legislative Reception
- Met with Forest Heritage Center Board Members and Secretary Arthur regarding operations at the Forest Heritage Center
- Attended the Oklahoma State Firefighters Association Legislative Reception
- Provided the opening address for the Southern Group of State Foresters' Forest Inventory and Analysis Committee's Winter Meeting in Tulsa
- Responded to the Hefner Fire in Oklahoma City and the Simpson Road Fire in Logan County
- Attended a Forestry Services Budget Planning Session
- Virtually attended two meetings with the USDA Forest Service and Department of Interior agencies regarding National Flight Following radio communications
- Attended a presentation by Canoo regarding their electric vehicles
- Virtually attended a meeting with the Conservation Fund regarding the Round Mountain State Forest acquisition



## *CONSUMER PROTECTION SERVICES DIVISION*

### **APRIL 26, 2023 BOARD MEETING REPORT FOR JANUARY/FEBRUARY/MARCH 2023**

#### **Pesticide Program**

##### Pesticide Registration Activity

Pesticide registrations for January 1<sup>st</sup> to March 31<sup>st</sup> in 2023 are presented in the following chart. A total of 5359 products were registered, of the products registered 4886 were renewals and 473 were new. There were 388 products cancelled.



##### Pesticide Samples

Pesticide samples taken January - March 2023 are presented in the following chart. A total of 35 Residue, 28 Concentrate, 7 Pollution, 24 Plant Food, 0 Documentary, and 3 Tank mix samples were taken.

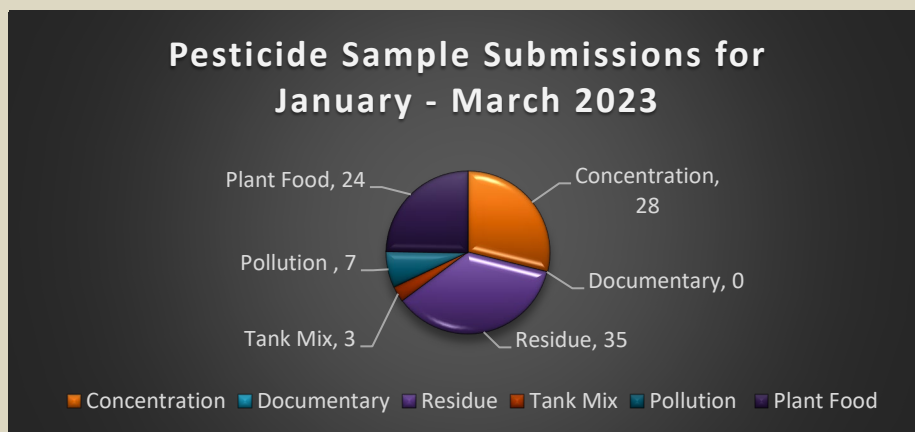


Table 1. Inspection Count for January - March 2023\*

Inspection Type	Number of Inspections			
	January	February	March	Three Month Total
Experimental Use Permit	0	0	0	0
Marketplace	31	23	40	94
Pesticide Applicator Facility	24	20	21	65
Pesticide Service Inspection	0	0	0	0
Restricted Use Pesticide Dealer	6	10	12	28
Container Containment Inspection	0	0	0	0
Producer Establishment	0	0	0	0
Use	65	69	78	212
Termite	0	0	0	0
Wood	0	0	0	0
Pre-treat	1	1	1	3
Drift Investigation	0	0	0	0
Pesticide Label	1778	1914	2292	5984
Worker Protection	6	0	0	6
<b>Total</b>	<b>1911</b>	<b>2037</b>	<b>2444</b>	<b>6392</b>

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

Along with the above inspections CPS inspectors also took 37 nonagricultural use samples, 41 agricultural use samples and 19 marketplace samples for a total of 97 samples.

### Pesticide Testing & Updates

#### *Licensing & Certification*

There are currently 1,976 active pesticide applicator licenses. There are 117 licenses under stop work order for nonrenewal in 2023. We have 2,388 active Service Technicians.

Categories expiring this year – 1a-Ag Plant, A-Aerial, 7b-Structural Pest, 10-Demonstration & Research, and Private Applicators

Private Applicators will be allowed to start retesting July 1st

### Pesticide Complaints

PESTICIDE COMPLAINTS		February 22, 2023 – March 31, 2023		
	RECEIVED	CLOSED	WARNINGS ISSUED	NO ACTION
CONSUMER GENERATED:	8	4	1	4
MUSK THISTLE:	0	0	0	0
PMR CASES:	19	6	8	6
CASES REFERRED TO OGC:	9			

### **Plant Protection Program**

#### *Federal*

#### Phytosanitary Certificates

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

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

19 Federal phytosanitary certificates issued @ \$106.00 each

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

7 Federal phytosanitary Certificates issued @ \$61.00 each

Companies applying for federal phytosanitary certificates

Apache Seed	1
Baillie Lumber	3
Global South Logistics	2
International Ingredient	2
Johnston Seed Company	1
OSU Biosciences	5
Sesaco	11



<u>Federal Phytosanitary Certificates (March 1, 2023 - March 31, 2023)</u>			
Country	Product	Quantity	Phytos Issued
Canada	Chrysanthemum	75 plants	1
Cambodia	Oak Logs	116 Logs	3
China	Barrelclover Seed	50 G	1
France	Barrelclover Seed	25 G	2
Germany	Walnut Logs	66 Logs	2
Japan	Sesame Seed	63 Lbs	2
Mexico	Sesame Seed	428,050 Lbs	10
Netherlands	Bermuda Grass Seed	11,650 Lbs	1
Thailand	Miscanthus Seed	40 Totes	2
United Kingdom	Barrelclover Seed	1 G	1
United Kingdom	Mouseear Cress Seed	1 G	1

### *State*

State phytosanitary certificates Issued from March 1, 2023 – March 31, 2023  
97 phytosanitary certificates for 18,615 plants



### Vascular Streak Dieback Survey

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 the last three months, we have sampled at 9 Redbud growers, surveyed over 38,000 trees, and have collected over 1100 samples. We have received 18 positives samples back so far. Positive trees and those close in proximity to them have been either issued a stop sale and treated or thrown away.

<b>Positives on:</b>
<b>Eastern Redbud</b>
<b>Ruby Falls Redbud</b>
<b>Sparkling Wine Redbud</b>
<b>Flame Thrower Redbud</b>
<b>Black Pearl Redbud</b>
<b>Pink Heartbreaker Weeping Redbud</b>
<b>Appalachian Red Redbud</b>
<b>Oklahoma Redbud</b>

This Spring, as trees start to come out of dormancy and symptoms can be seen easier, we plan to survey these trees again to catch anything we may have missed over Winter. Half-dead trees have already been spotted on Oklahoma shipping docks bound for another state. These trees also tested positive for VSD and were issued a stop sale. Inspectors are on alert and are inspecting Redbuds in nurseries and garden centers across the state.



Figure 1: VSD symptoms from one of the trees samples



Figure 2: CPS inspectors sampling Redbuds.

### **Phytophthora ramorum Survey**

Means Nursery, a *P. ramorum* positive nursery in Oregon, has begun their Spring shipments to Lowe's stores in Oklahoma. Inspectors are checking these plants as they come in the make sure they're symptom-free when they reach the state.

We are also checking local nurseries and garden centers host-associated plants (HAP). HAP include Azalea, Rhododendron, Pieris, Camellia, Kalmia, Viburnum, and Lilac.



Figure 3: *P. ramorum* symptomatic leaf.



Figure 4: *P. ramorum* symptomatic plant.

### **Chrysanthemum White Rust:**

A Chrysanthemum grower in our state has been subject to various trace-forward and track-back events over the last few years, concerning Chrysanthemum White Rust, a federally regulated disease caused by the fungus *Puccinia horiana*. The disease has never been found at his operation, but we are collecting data, inspecting each variety, and taking samples each month. So far, we have taken 20 samples in January, 20 samples in February, and 14 samples in March. We will continue to take samples each month until we cover all varieties or until the end of shipping season. At this time, all samples collected have come back negative for Chrysanthemum White Rust.



R. Wick, UMass

Figure 5: White Rust on Chrysanthemum.

### **Upcoming Nursery Program Projects:**

Japanese Beetle Survey – begins in late May

Weed-Free Forage Certification – usually starts in late May or early June

ODAFF's 3 certified inspectors have now recertified as Accredited NAISMA Weed-Free Products Inspectors. ODAFF will also be adding one additional inspector trained as a NAISMA Weed-Free Products Inspector this year.

### **Ag Resource Programs**

## Feed Program

During this reporting period there were a total of 220 official feed samples analyzed, with 1078 feed determinations made from these samples. These determinations resulted in the issuance of 70 violations for feeds or feed ingredients that did not meet established tolerances based on their guaranteed analysis. Most of these violations were issued for products deficient in Crude Protein. Other violation includes Crude Fat, Crude Fiber, Vitamin A, Phosphorus, Potassium, Calcium, Salt, Copper, and Zinc. Eighteen stop sale orders were issued for feed products with severe deviations from their guaranteed analysis. Five stop sales were issued for products deficient in Calcium. Four stop sales were issued for products deficient in Crude Fat. Two stop sales were issued for products deficient in Vitamin A. Two stop sales were issued for products deficient in Salt. Two stop sales were issued for products deficient in Crude Protein. One stop sale was issued for a product deficient in Phosphorus. One stop sale was issued for a product deficient in Magnesium. One stop sale was issued for a product deficient in a feed medication.

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 February 2023- January 2023**

Nutritional Guarantee	Number of Label Violations		
	February <sup>1</sup>	January <sup>2</sup>	Two Month Total
Crude Protein	25	20	45
Non-protein Nitrogen	0	0	0
Crude Fat	5	8	13
Crude Fiber	2	3	5
Calcium	9	11	20
Phosphorus	8	8	16
Salt	2	4	6
Magnesium	0	2	2
Potassium	1	3	4
Copper	1	4	5
Manganese	0	3	3
Zinc	8	9	17
Vitamin A	9	9	18
Medicated Feed	0	0	0
<b>Total</b>	<b>70</b>	<b>84</b>	<b>154</b>

<sup>1</sup> 220 feed samples analyzed with 1078 determinations; <sup>2</sup> 235 feed samples analyzed with 1135 determinations

**Table 2. Feed Stop Sale Summary February 2023- January 2023**

Nutritional Guarantee	Number of Stop Sales		
	February <sup>1</sup>	January <sup>2</sup>	Two Month Total
Crude Protein	2	5	7
Non-protein Nitrogen	0	0	0
Crude Fat	4	4	8
Crude Fiber	0	2	2
Calcium	5	4	9
Phosphorus	1	3	4
Salt	2	5	7
Manganese	0	1	1
Magnesium	1	0	1
Copper	0	3	3
Zinc	0	0	0
Vitamin A	2	7	9
Medicated Feed	1	0	1
<b>Total</b>	<b>18</b>	<b>34</b>	<b>52</b>

<sup>1</sup> 220 feed samples analyzed with 1078 determinations; <sup>2</sup> 235 feed samples analyzed with 1135 determinations

### Weights and Measures Program

During this period the large capacity scale technicians tested 60 Vehicle scales and 41 ranch scales, 6 vehicle scales and 8 ranch scales were rejected.

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.

CPS inspectors checked a total of 1890 small scales and 46 platform scales, 23 of the scales were rejected. There were 9 random pack inspections and 78 standard pack inspections conducted that resulted in 16 companies receiving letters of warning. Additionally, 178 price verification inspections were conducted at various retailers that resulted in 12 companies receiving letters of warning.

One scale company received a letter of warning for not properly servicing scales.

The weights & measures program welcomes Ron Ramsey as our new large scale technician. Ron lives in Yukon and had worked for a scale company for the last 5 years. He brings valuable industry experience to our department. Ron enjoys playing the guitar in several bands, writing music and spending time with his family.

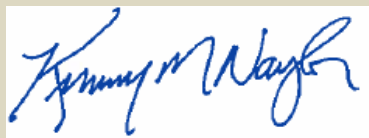
## Fertilizer Program

Below you will find the performance numbers for the fertilizer, agricultural lime, and soil amendment programs for the time-period of February 17<sup>th</sup> to March 31<sup>st</sup>, 2023.

Sample Type	Number	Deficiency Penalty
Fertilizer	93	0
Lime	8	0

Investigation Type	Number
Anhydrous Ammonia Nurse Tanks	8 (200 Total Tanks)
Anhydrous Ammonia Storage Tanks	6 (8 Total Tanks)
Dry Bulk Fertilizer Storage Facility	7
Liquid Bulk Fertilizer Storage Facility	5
Facility Pre-Site	3

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  
April 20, 2023  
Activities February 18, 2023 – March 31, 2023

**Animal Disease Traceability:**

We continue to distribute the free RFID tags to interested veterinarians and producers. During this time, we shipped 22,500 tags to veterinarians and producers.

During this time, the comment period for the proposed changes to the ADT rule was extended to April 19, 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 have finalized aquaculture renewals. We currently have 16 facilities that have renewed their licenses. A Letter of Warning was sent to three aquaculture producers who failed to renew their licenses.

During this time, we received notice from the SBA for drought assistance available for aquaculture producers. The information was shared to the licensed producers in the state.

**Biologics:**

During this time, we are continuing to process biological product renewals.

An expired vaccine was found during routine inspection at a farm store. The vaccine was removed and the store manager was educated on the importance of maintaining proper temperature control and inventory of vaccines.

**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.

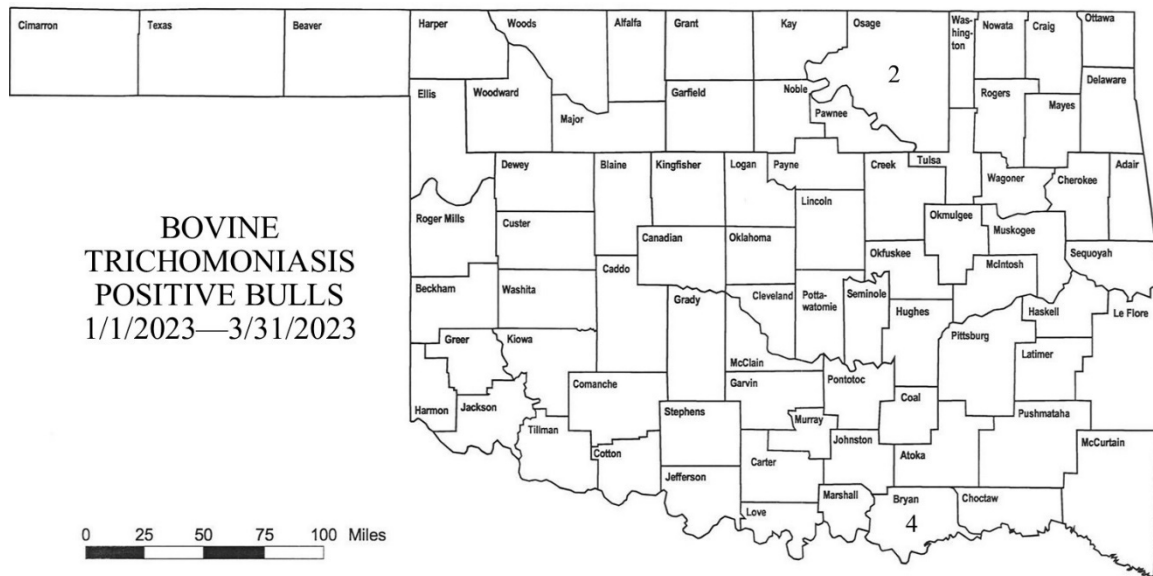
While there is very little need to test for *B abortus* any longer, this means we have very little or no surveillance for *Brucella suis* (Swine Brucellosis) in cattle, which currently infects approximately 20% of the feral swine that our Wildlife Services personnel test. *B suis* can, and does, infect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

**Tuberculosis:**

We currently have no TB affected herds in Oklahoma.

### Trichomoniasis:

During this period there were 3,587 Oklahoma bulls tested for Trichomoniasis with six positive individuals found.



6,334 bulls tested / 6 positive = 0.9% 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 reporting period we have received eight positive reports for eight new premises. The 8-year average for the same period is similar for new premises but we are decreasing repeat premises reports. We don't know if this a result of education and management improvements or producers recognizing the disease and not spending the money for confirmation. We continue to help producers and veterinarians develop management and test strategy based on producer goals.

### Emergency Management:

On March 8, Dr. Gorczyca attended the McClain County local emergency planning committee monthly meeting. She provided an overview on planning for both small animals and livestock during natural disasters.

On March 13, Dr. Gorczyca provided an overview of emergency animal sheltering protocols to the Oklahoma Animal Control Officer Association's boot camp for new officers.

On March 9, Dr. Gorczyca hosted the Multistate Partnership (MSP) for Security in Agriculture monthly call.



On February 28, the Initial Planning Meeting was held at ODAFF to begin the process of planning for the NPB 4 day swine depopulation and disposal exercise. On March 23, we held our monthly planning meeting for this exercise. At the time of the meeting, a participating producer has not been identified.

During this time, Dr. Gorczyca has assisted the Payne County Animal Response Team and the OSU CVM to develop an emergency animal sheltering exercise utilizing veterinary students. The exercise will be held April 1 at the vet school.

**Equine Programs:**

There are no reported cases or quarantines for CEM in Oklahoma

There are no known Piroplasmosis cases or traces in Oklahoma.

On March 20 Secretary Arthur, Dr. Gorczyca-Southerland, and I met with Tom Pereshino and Rita Hoch with the ASPCA Right Horse Initiative to discuss ways to move the program forward.

On March 1 we hosted a virtual meeting of private Equine Infectious Anemia laboratories to bring them up to date on changes to the EIA lab program.

Oklahoma has been listed as an approved state for quarantine and testing for the foreign animal disease Contagious Equine Metritis (CEM). Horses that are imported from endemic countries that will be permanently residing in the United States must be quarantined and go through testing to ensure they are not infected with the bacteria that causes CEM. Testing for CEM is very time consuming (minimum of 12 days for mares and 24 days for stallions) and requires specialized training and regulatory oversight. Facilities where horses are to be quarantined must be inspected and approved prior to the arrival of the horse(s). Oklahoma's last quarantine was in 2017 and only 5 quarantines were done in the 5 years prior to that. It has become increasingly more difficult to find facilities that are willing to be approved quarantine and testing sites and Oklahoma does not currently have any trained staff due to training being discontinued during the pandemic. For these reasons, Oklahoma has been removed from the list of approved states for CEM quarantine and testing. Oklahoma still maintains the authority to test and quarantine suspect horses or in the event of a disease outbreak.

Oklahoma had one horse that was confirmed to be infected with Equine Infectious Anemia (EIA). Since there is no known treatment for EIA and infected horses are a source of infection for other equine species, a positive horse must be kept in isolation with no other equine species within 200 yards or euthanized. The owner of this horse elected to have it euthanized. All known exposed horses have tested negative for EIA. The source of infection for the positive horse is unknown at this time.

**Farmed Cervidae Programs:**

On March 16 Deputy Commissioner Rowlett and I met with Oklahoma Department of Wildlife Conservation to discuss a bill that has been proposed to give ODAFF all authority over Chronic Wasting Disease in Oklahoma.

AIS has made several attempts to communicate with farmed cervidae producer Tommy Gleason as he did not renew his license in 2022. After multiple attempts to contact Mr. Gleason by phone and certified mail AIS issued a letter of warning on January 19, 2023. That letter was returned as undeliverable and subsequently Mr. Gleason's information was given to the Office of General Counsel to proceed with enforcement for violations associated with Mr. Gleason's failure to renew.

AIS is processing Farmed Cervidae license renewals and scheduling premises inspections for our cervidae producers. In the course of renewal requirements for our monitored herds, laboratory results for tuberculosis testing have revealed that two herds have animals that have non-negative test results. These facilities have been placed in quarantine until a second test is performed no less than 30 days after the initial test.

**Feral Swine:**

AIS has made several attempts to communicate with Black Rock Creek Outfitters commercial hunting facility to follow up on a complaint that led to the discovery that they are advertising Boar hunting at their facility. After the final attempt to reach them by certified letter, a livestock inspector delivered the letter of warning in person on March 4, stating that they are in violation for advertising feral swine hunting and not being licensed with ODAFF. Black Rock Creek Outfitters has 30 days to become compliant by applying for a feral swine sporting facility license or removing the advertisement from their website. The program administrator will follow up in 30 days.

The Brucellosis and Pseudorabies reports are completed and have been submitted to the USDA. AIS is processing feral swine sporting facility and handling facility license renewals at this time. There continues to be a high volume of feral swine hunter license requests.

**Foreign Animal Disease:**

During this time, we had no FAD investigations.

The US has been experiencing an incursion of Highly Pathogenic Avian Influenza since the beginning of 2022. Case numbers are known to be highest during the active migration of wild birds and the migration from wintering grounds in Central and South America up to nesting grounds in the north has begun. We are anticipating an increased risk of spread of this disease in both wild birds with cross over into domestic species. Pennsylvania currently has the highest number of positive flocks but additional spread is being seen in other states as well. Oklahoma has not had a confirmed positive flock since October 2022 but we continue to respond to all sick bird calls and to send out messaging reminding flock owners to be diligent with the biosecurity and reporting of illness in their flocks.

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 Woodward Stockyards, LLC. Recently, Ben and Aimee Hale added the Woodward facility to their sale barn business. The Hales also own Western Commission in OKC, Comanche Livestock Auction, and Knoxville Regional Livestock Auction in Iowa. The new Woodward market plans to begin operating April 4.

Also, this period, staff has sent licensing paperwork to Tara Sanders of JT Livestock. Ms. Sanders is in the process acquiring the shuttered Overbrook, Oklahoma sale barn with plans to operate a monthly horse sale.

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 a new market orientation as well as a number of 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:**

On February 24 Drs. Gorczyca-Southerland, Ruby, and I traveled to Stillwater to meet with personnel from Oklahoma Animal Disease Diagnostic Laboratory about transitioning serology testing at ODAFF's lab to OADDL.

On February 24, I met virtually with Oklahoma Livestock Marketing Association members to discuss the potential transition to electronic official ID tags for cattle.

The Oklahoma Youth Expo was March 7-19 at the State Fair Park. AIS Inspectors, veterinarians, and office staff manned the gates to make sure all livestock had CVIs, proper ID, and required tests on entry to the show.

### **Poultry Programs:**

There have been 17 sick or dead birds submitted for our sick bird/dead bird program since the last board report, for a total of 24 cases this year.

On March 31 Lee Benson worked with Sherrie Davis and two of our Livestock Inspectors to film the proper way to perform Salmonella testing of chickens. Due to the risk of Highly Pathogenic Avian Influenza we plan to use the video rather than live chickens to our poultry tester schools this year.

### **Public Health**

There is nothing to report during this time.

### **Rabies in Livestock:**

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

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

On February 22 I met with Dr. Terry Hardage from ODAFF Meat Inspection and Drs. Jill Duel and Mikka Larssen from USDA to discuss how to achieve the proper amount of Scrapie surveillance from a sheep/goat processing plant in Grady County.

### **Swine Programs:**

Before Oklahoma Youth Expo our office had encouraged ramping up biosecurity and to leave sick animals at home. Gilts were brought in first and the show went off without a disease break. All gilts were to be removed by the end of day on March 11' with the exception of those selected for the Night of Stars Gilt Sale on March 15. Market barrows began arriving on March 12 and on March 13<sup>th</sup> we received the first confirmed case of PEDv at OYE. Early on the disease was identified in the gilts. This was probably because someone brought an infected barrow. Foot traffic and pig traffic was often though the gilts. With the high-profile sale coming we were pressed for management. Ultimately everyone worked together to educate exhibitors and buyers about biosecurity and ways to prevent bringing the disease to other swine on the farms.

We've been communicating with veterinarians to inform them that the ODAFF serology lab will be closing effective June 30, 2023. AIS is preparing for this transition as well. It is anticipated that the Oklahoma Animal Disease Diagnostic Laboratory (OADDL) in Stillwater, will be taking on the additional sample testing formerly performed by ODAFF.

The Swine Brucellosis and Pseudorabies reports are completed and submitted to the USDA. Swine program staff is working on updating the SOP for commercial swine herds, monitored herd agreements and other key information for the commercial swine producers in Oklahoma.

### **Miscellaneous:**

On February 21 I hosted six veterinarians and veterinary students to allow them to go through orientation to become accredited by USDA to do regulatory work. Dr. Mikka Larssen with USDA assisted me.

On February 28, Marissa McLaughlin participated in an agricultural cybersecurity presentation provided by the Oologah School.

On March 14, Purdue vet school student Tyra Jenkins, an intern with USDA accompanied Dr. Stone on a walk-through of the swine barns at OYE. This was a great opportunity to learn and see conditions our swine industry deals with every day.

On March 14-16, AIS administrative staff participated in USDA's "Fundamental Skills for Program Diseases" Webinar.

On February 22 Dr. Stone accompanied Comanche County law enforcement officers to evaluate the cattle that were mentioned in the previous report. Although some improvements had been made, a number of animals were not improving, and some were worse. The decision was made to euthanize one animal that had obviously been down for several days without care and 19 additional animals were seized, taken to a local veterinary facility, and given proper care. On March 3 Dr. Stone and the local veterinarian caring for the animals testified at the bond hearing in district court. Bond was set. Review of the bond hearing is scheduled for April 7. Additional criminal felony charges have been filed against the owner.

March 22 - March 31 Dr. Stone attended compost training in Hutchinson, KS and has completed Subject Matter Expert (SME) training. Evaluations will be sent to USDA for approval and Dr. Stone will be approved to shadow an experienced SME in an actual event. Although animal death has always occurred, the United States has been hit with disease and weather events in the last decade in mass numbers. The need to quietly control disease, mitigate risk and protect the public in both the short term and long term is an evolving discipline and learning will be continuous.



Dr. Stone studying carbon sources for composting carcasses

We continue to monitor the horse transporting/rescue business in McCurtain County that is under quarantine for transporting horses into Oklahoma without CVIs or Coggins Tests. The owner found some funding so the horses are being fed now and a veterinarian is making court ordered visits to care for the horses.

We are monitoring an equine business that moved into Carter County. We believe they intended to move a lot of horses into Oklahoma without getting CVIs or EIA tests. Thankfully we were tipped off and were able to quarantine the horses until they were all tested. We're not sure what their business model is, so we're working with ODAFF Investigative Services and General Counsel to do background checks to learn more about them.

Respectfully,

A handwritten signature in cursive script that reads "Rod Hall DVM". The ink is dark and the signature is fluid.

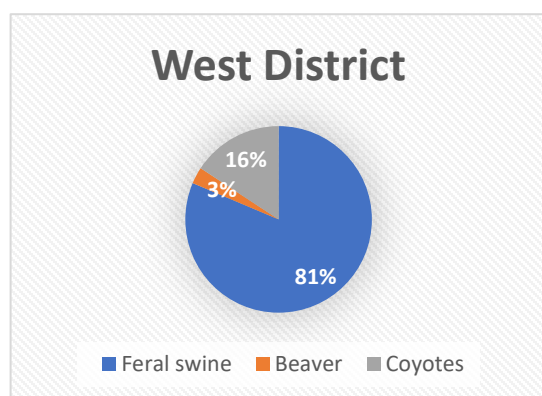
Rod Hall, DVM

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

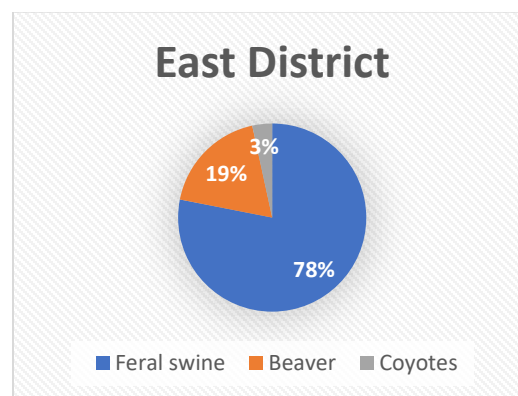
## **Introduction**

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 591 properties with an estimated 2,826,154 acres of land under agreement. Additionally, WS helped 195 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 \$3,508,147 during this period. Beaver damages accounted for losses totaling \$1,179,764. Coyotes were responsible for a number of damage requests, primarily to livestock, with losses totaling \$43,578. Feral swine damages accounted for losses totaling \$2,277,362, while other species of wildlife were responsible for \$7,443 in damages to property, agriculture, and livestock.

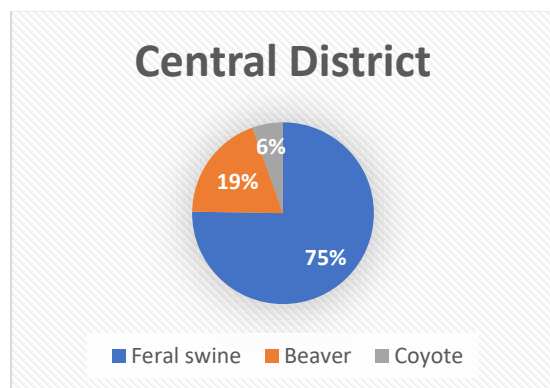
## **Providing Wildlife Services**



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



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



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

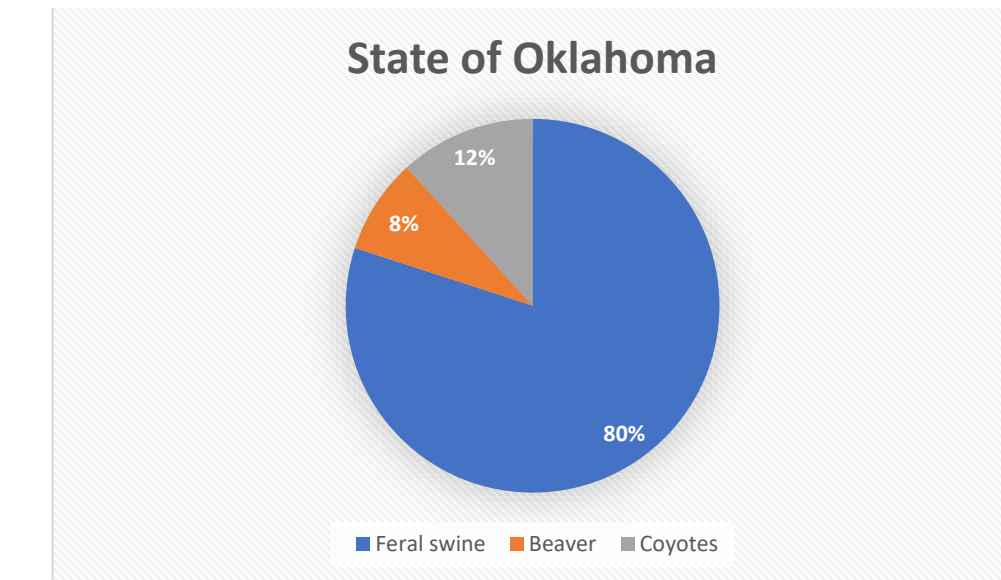


Figure 4: Species Removed in the State by percentage during March 2023

### **Coyote Damage Management**

**Beaver 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 Beaver County examined the carcass and verified coyotes were responsible for the loss. Damage management efforts were successful in removing twenty-three coyotes from the property. No further losses have occurred and work is ongoing at this time to prevent additional losses.

**Beckham 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 Beckham County responded to the request and examined the carcass and confirmed coyotes were responsible for the loss of the calf. The Specialist used snares and M-44 sodium cyanide devices to remove twenty-one coyotes. Control efforts continue to prevent additional losses.

**Stephens County** livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes had killed one calf valued at \$881. The Wildlife Specialist assigned to Stephens County responded to the request and examined one of the carcasses and confirmed that coyotes were responsible for the loss of the calf. The Specialist used M-44 sodium cyanide devices, leg hold traps, and snares to remove thirteen coyotes. Control efforts continue to prevent additional losses.

### **Feral Swine Damage Management**

**Dewey County** landowner requested assistance with feral swine rooting up his wheat pastures. The landowner estimated damages were estimated at \$1,000 to his wheat. The Wildlife



Specialist assigned to Dewey County responded to the request and verified the damage to the field. The Specialist set a live trap to remove thirty-seven feral swine from the area. Activity in this area is closely being monitored to determine if further management is needed.

**Custer County** landowner contacted WS needing assistance with feral swine rooting in his wheat fields. The landowner estimated twenty acres were rooted up valued at \$10,000 in damages. The Wildlife Specialist assigned to Custer County responded to the request and verified the damage. A live trap was set and thirty-three feral swine were removed from the property. No additional damage has occurred and the feral swine population in the area is being monitored to determine if additional management is needed.

**Caddo County** landowner contacted WS needing assistance with feral swine damaging his wheat fields. The landowner estimated twenty acres of wheat fields were damaged valued at \$7,500. The Wildlife Specialist assigned to Caddo County responded to the request and verified the damage. A live trap was set and sixty-five feral swine were removed from the property. No additional damage has occurred and the feral swine population in the area is being monitored to determine if additional management is needed.

**Creek County** farmer called WS for assistance with feral swine when he found damage to his wheat field. The feral swine rooting damage was verified and estimated at \$1,500. After pre-baiting, a remote camera feral swine trap was set and thirty six feral swine were removed. No further damage has been observed, but this project is still being monitored to confirm that no more feral swine are on the property.

**Sequoyah County** rancher contacted WS for assistance with feral swine when he found damage to his cattle pastures. The presence of feral swine was confirmed on the property and the rooting damage was estimated at \$750. After pre-baiting, a remote camera feral swine trap was set and thirteen feral swine were removed. This project is still being monitored and the owner was provided with information about environmental changes that could help deter future feral swine damage.

**Nowata County** producer called WS for assistance with feral swine when he found feral swine damage to his pasture. The damage was confirmed and estimated to be \$8,000. After pre-baiting, a remote camera feral swine trap was set and twenty two feral swine were removed. This project is still being monitored and the owner was provided information about environmental changes that could help to deter future feral swine damage.

**Choctaw County** property owner called WS for assistance with feral swine. The presence of feral swine on the property was confirmed and the damages to the property was estimated at \$6,000. After pre-baiting, a remote camera feral swine trap was set and nineteen feral swine were captured. This project was concluded when no fresh feral swine activity could be found.

### **Aerial Operations**

Aerial operations were conducted in **Jackson and Harmon Counties in the Red River Project**. The areas have historically high levels of feral swine damage to wheat and pastures. To help reduce feral swine damage in these areas, the helicopter was used to reduce feral swine populations. Aerial operations were conducted for 5.6 flight hours to remove two hundred and sixty-six feral

swine. Feral swine activity will be closely monitored in the area to determine if additional operations are needed.

Aerial operations were conducted on Bureau of Reclamation Property in ***Greer and Kiowa Counties***. The area flown was the Altus/Lugert Wildlife Management area operated by the Oklahoma Department of Wildlife Conservation (ODWC). Feral swine populations in this area are high and are responsible for significant damage to adjacent properties. Estimated damage in this area is \$25,000 to corn, peanuts, and wheat producers. To reduce feral swine damage in this area the helicopter was utilized for 5.8 flying hours to remove three hundred and fifty-six feral swine. This area will be closely monitored to determine if additional aerial operations are needed.

Aerial operations were conducted in ***Jackson and Harmon in the Red River Project*** in response to multiple farmers and ranchers requesting assistance with feral swine damage. The Specialist for the counties verified the damage to wheat fields, pastures, and livestock feed at \$10,000. To reduce damage in this area, the helicopter was used for 5.7 flying hours to remove three hundred and two feral swine. This area will be closely monitored to determine if additional aerial operations are needed.

Aerial operations were conducted in ***Cotton, Stephens, and Jefferson Counties*** on Corp of Engineer property around Waurika Lake. Feral swine damage to Corp property and ODWC Management Area was estimated at \$70,000. Adjacent landowners next to the area also sustained significant damage from the high feral swine population around the lake. To reduce damage in this area, the helicopter was used for 6.0 flying hours to remove three 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 ***Tillman County***. The area flown historically has high levels of feral swine damage to corn and peanut production. To help reduce feral swine damage in these areas, the helicopter was used to reduce populations prior to planting season. Aerial operations were conducted for six flight hours to remove five hundred and forty-seven feral swine. Activity in the area will be closely monitored to determine if additional operations are needed.

### **Beaver Damage Management**

***City of Elk City in Beckham County*** contacted WS for assistance with beaver in the creeks and pond on their golf course. The beaver were responsible for girdling and cutting down trees on the property. The estimated the damage to the trees was valued at \$5,000. The Specialist for Beckham County responded and verified beaver the damage. Control measures used by the Specialist were successful in removing the beavers from the pond and creek to help reduce any additional damage to standing trees around his pond.

***Ft Sill Army Instillation*** contacted WS for assistance with beaver causing damage on one of the pond structures. The Specialist on the instillation responded and verified beaver were responsible for \$2,000 in damages to the pond dam structure. The Specialist used conibear traps to remove five beavers from the pond. Control efforts are completed at this time.

***Custer County*** landowner contacted WS for assistance with beaver that were responsible for burrowing into his pond dam on his property. The landowner estimated the damage to the pasture

to be valued at \$5,000. The Specialist for Custer County responded and verified the damage. Control measures used by the Specialist were successful in removing the beavers from the pond to help reduce any additional damage to the pond dam structure.

**McCurtain County** producer called WS for assistance with beavers on his property. The beavers had built several dams along a creek on his property causing flooding damage. The flooding damage was verified and estimated at \$3,500. The beaver dams were destroyed by hand to improve the flooding and conibear traps were set to remove the beavers. Ten beavers were removed and this project is still being monitored.

**Muskogee County** property owner called WS for assistance with beavers when he found beavers were damming-up a drainage ditch that crossed his property. The beaver activity was verified and the tree and flooding damages were estimated at \$1,500. Conibear traps were set and four beavers were removed. This project is still being monitored and the owner was given information about environmental changes and beaver dam removal ideas that could help with future beaver damage.

**Hughes County** Commissioner called WS for assistance with beavers creating flooding damage along a county road. The beavers were staying in a pond on private property and the owner was also eager to be rid of the beavers. The presence of beavers was verified and damages to the pond dam was estimated at \$500 and girdling damage to the trees was estimated at \$500. The dams were cleared by hand to alleviate the flooding on the road and conibear traps were set. Four beavers were removed and this project is still being monitored.

### **Black Vulture Management**

**Delaware County** Lakes Area Manager for Eucha Lake contacted WS with concerns about the presence of Black vultures sunning on the lake dam structure, creating 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. Eighty two Black vultures were removed and work is continuing at this time.

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

County	Beaver	Coyote	Feral swine	District
Adair				E
Alfalfa		9		W
Atoka	10		13	E
Beaver		62		W
Beckham	12	45	136	W
Blaine	10	9	22	W
Bryan	17		163	E
Caddo			102	W

Canadian	3		7	C
Carter	3			C
Cherokee				E
Choctaw	15	8	178	E
Cimarron		16		W
Cleveland	6			C
Coal				C
Comanche	6	33	40	W
Cotton			389	W
Craig		26	147	E
Creek			77	E
Custer	3	4	81	W
Delaware				E
Dewey		20	38	W
Ellis		14	46	W
Garfield				C
Garvin				C
Grady	2	1		W
Grant	12	6		C
Greer		12	304	W
Harmon		12	3	W
Harper				W
Haskell	5		5	E
Hughes	2	1	31	E
Jackson		93	884	W
Jefferson				C
Johnston			18	C
Kay			1	C
Kingfisher	8			C
Kiowa		22	193	W
Latimer	2			E
Leflore	12		8	E
Lincoln		9	72	C
Logan	3			C
Love	6			C
Major		8	35	W
Marshall	2			C
Mayes				E
McClain				C
McCurtain	20			E

McIntosh	6		79	E
Murray	13	2	2	C
Muskogee	20		10	E
Noble	9		1	C
Nowata			14	E
Okfuskee	4		5	E
Oklahoma	1	4	33	C
Okmulgee	29		27	E
Osage		2		E
Ottawa			38	E
Pawnee			155	C
Payne	8			C
Pittsburg	10			E
Pontotoc				C
Pottawatomie				C
Pushmataha	31		42	E
Roger Mills	21	21	56	W
Rogers	1			E
Seminole	1			E
Sequoyah	4			E
Stephens		20	2	W
Texas	23			W
Tillman		33	9	W
Tulsa	5			E
Wagoner	7		11	E
Washington				E
Washita	4	4		W
Woods		12		W
Woodward	2	3		W
<b>TOTAL</b>	<b>358</b>	<b>511</b>	<b>3477</b>	

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

Respectfully submitted,

Scott Alls  
Division Director  
Wildlife Services Division

**March 2023 Activity Report  
for  
April 2023 Board Meeting  
Agricultural Statistics Division**

**General**

Rainfall totals during the **first week of March** in Oklahoma averaged 0.72 of an inch. According to the February 28th US Drought Monitor Report, drought conditions were rated 77 percent abnormally dry to exceptional drought, down 15 points from last year. Additionally, 67 percent of the state was in the moderate drought to exceptional drought categories, down 20 points from the previous year. Statewide, temperatures averaged in the 50's. Storms brought heavy winds that affected much of the state, but they also delivered some timely rains that benefited soil conditions. Topsoil moisture conditions were rated adequate to short and subsoil moisture conditions were rated adequate to very short.

The Eastern part of the state received more rain this week, while the Western part of the state was still experiencing dry conditions during the **second week of March**. Rainfall totals in Oklahoma averaged 0.80 of an inch. According to the March 7 th US Drought Monitor Report, drought conditions were rated 67 percent abnormally dry to exceptional drought, down 25 points from last year. Additionally, 60 percent of the state was in the moderate drought to exceptional drought categories, down 27 points from the previous year. Statewide, temperatures averaged in the 50's. Topsoil moisture conditions were rated adequate to short.

Rainfall totals in Oklahoma averaged 0.38 of an inch during the **third week of March**. According to the March 14th US Drought Monitor Report, drought conditions were rated 66 percent abnormally dry to exceptional drought, down 26 points from last year. Additionally, 59 percent of the state was in the moderate drought to exceptional drought categories, down 28 points from the previous year. Statewide, temperatures averaged in the 40's. Topsoil moisture conditions were rated adequate to short.

Most areas throughout the state during the **fourth week of March** received scattered showers but not enough to improve soil moisture conditions. Rainfall totals in Oklahoma averaged 1.13 of an inch. According to the March 21st US Drought Monitor Report, drought conditions were rated 66 percent abnormally dry to exceptional drought, down 21 points from last year. Additionally, 59 percent of the state was in the moderate drought to exceptional drought categories, down 18 points from the previous year. Statewide, temperatures averaged in the 50's. Topsoil moisture conditions were rated adequate to short.

Some areas of the state received more rainfall, while other areas experienced hot and dry weather accompanied by high winds during the **last week of March**. The dry conditions have continued to cause small grains to suffer. These conditions also resulted in several wildfires across the state. Rainfall totals in Oklahoma averaged 0.24 of an inch. According to the March 28th US Drought Monitor Report, drought conditions were rated 60 percent abnormally dry to exceptional drought, down 26 points from last year. Additionally, 54 percent of the state was in the moderate drought to exceptional drought categories, down 22 points from the previous year.

Statewide, temperatures averaged in the 50's. Topsoil moisture conditions were rated short to very short and adequate.

**Small Grains:** Winter wheat jointing reached 34 percent, up 17 points from the previous year but down 10 points from normal. Rye jointing reached 18 percent, up 8 points from the previous year but down 16 points from normal. Oats jointing reached 33 percent, up 24 points from the previous year and up 18 points from normal.

**Pasture and Livestock:** Pasture and range condition was rated at 63 percent very poor to poor. Livestock condition was rated at 77 percent fair to good.

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

Survey	Enumerated by:	Survey Dates
ITC/Census	DCC	12/15 -6/15
March Crop APS	DCC	2/27 – 3/19
Grain Stocks	DCC	3/1 – 3/14
Grain Prices	DCC	3/1 – 3/14
Prices Paid	DCC	3/6 – 3/31
Berry PDI	DCC	3/9 – 3/20
Census- Must Record Calling	DCC	3/7 – 5/1
Census- NML Calling	DCC	3/7 – 5/1

**Statistics:** On March 31, 2023, the Prospective Plantings Report was published. Highlights include:

Oklahoma **Upland cotton** is expected to total 530 thousand acres, down 21 percent from last year. Growers intend to plant 355 thousand acres of corn, up 1 percent from last year. Producers intend to plant 350 thousand acres of sorghum this year, 19 percent below last year.

Oklahoma **winter wheat** planted, at 4.60 million acres, is up 7 percent from a year ago. Planted acreage for **oats** is up 100 percent from last year, at 100 thousand acres.

Oklahoma **canola** acreage decreased 72 percent from last year to 5.00 thousand acres. **Soybean** growers intend to plant 500 thousand acres, down 8 percent from last year. Planted acreage for **peanuts** is forecast at 16.0 thousand acres, down 11 percent from 2022. An estimated 3.00 million acres will be harvested for **dry hay** this year, down 1 percent from last year.

**Information Requests:** Phone calls, personal visits to our office, and requests via e-mail for information since last report totaled 54.

**Releases for March:**

Crop Production  
 Price Reactions after Crop Reports  
 Price Reactions after Livestock Reports  
 Cattle on Feed  
 Hogs and pigs  
 Prospective Plantings  
 Grain Stocks  
 Agricultural Prices

**Relating Dates:**

March 1, 2023  
 Previous years  
 Previous years  
 March 1, 2023  
 March 1, 2023  
 March 1, 2023  
 March 1, 2023  
 March 15, 2023

**Release Dates**

March 8, 2023  
 March 10, 2023  
 March 10, 2023  
 March 17, 2023  
 March 30, 2023  
 March 31, 2023  
 March 31, 2023  
 March 31, 2023

**Releases for April:**

Crop Production  
 National Hemp Report  
 Cattle on Feed  
 Meat Animal PDI  
 Agricultural Prices

**Relating Dates:**

April 1, 2023  
 2022 Crop Year  
 April 1, 2023  
 2022 Prod Year  
 April 15, 2023

**Release Dates:**

April 11, 2023  
 April 19, 2023  
 April 21, 2023  
 April 27, 2023  
 April 28, 2023

**Meetings and Events:**

OTCAC Producer Meeting  
 To Bridge a Gap Conference  
 AYC  
 Texas WEWAIT  
 June Area NASDA Training  
 Oklahoma Wheat Commission Meeting  
 AISES Science Fair  
 OTCAC Producer Meeting  
 OTCAC Producer Meeting  
 Women in Ag Caddo Co  
 OBHRPI Conference  
 Ag Day at the Capitol  
 OTCAC Producer Meeting  
 Poteau Ag Show  
 Wheat OY NASDA Training  
 OTCAC Board Meeting  
 OTCAC Producer Meeting  
 OTCAC Producer Meeting

**Date:**

March 2, 2023  
 March 7, 2023  
 March 21, 2023  
 March 22,23, 28, 29, 2023  
 March 24, 2023  
 March 27, 2023  
 April 1, 2023  
 April 4, 2023  
 April 5, 2023  
 April 6, 2023  
 April 8, 2023  
 April 11, 2023  
 April 13, 2023  
 April 15, 2023  
 April 18-19, 2023  
 April 20, 2023  
 April 25, 2023  
 April 26, 2023

**Location:**

Walters, OK  
 Quapaw, OK  
 OKC, OK  
 Virtual  
 Purcell  
 OKC, OK  
 Stillwater, OK  
 Miami, OK  
 Shawnee, OK  
 Ft. Cobb, OK  
 OKC, OK  
 OKC, OK  
 Guthrie, OK  
 Poteau, OK  
 Elk City, OK  
 Atoka, OK  
 Hugo, OK  
 Medford, OK

Respectfully Submitted,

Troy Marshall



# MARKET DEVELOPMENT SERVICES

*April 26, 2023*

Report to the State Board of Agriculture

## AG IN THE CLASSROOM

### AG IN THE CLASSROOM IMPACT

- Total Number of Teachers/Administrators Impacted: 101
- Total Number of Pre-service Teachers Impacted: 13
- Total Number of Extension Educators Impacted: 0
- Total Number of Students Directly Impacted by Coordinators: 2,459
- Total Number of Resources Given: 1,925
- Total Number of Teachers/PreService Teachers Resources Given to: 107
- Total Number of PreK-12th Grade Students Resources Given to: 2,025

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

- The AITC website had 3,899 visits and 2,914 unique pageview visits.
- The AITC monthly email is delivered to 16,700 accounts.
- The AITC Facebook page now has 9,178 followers.
- The AITC Twitter page now has 586 followers.
- Oklahoma AITC Instagram account now has 687 followers.
- Oklahoma AITC Pinterest account now has 217 followers.
- The AITC YouTube channel now has 9,024 views.

### Ag in the Classroom- Professional Development Workshops

Number of Educators & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
35 Agritourism venue owners	Stoney Creek Broken Arrow - OKLAS Conference	Website, Resource Request information	Agritourism Tear Sheets- Pumpkins - Berries - Christmas Trees - Peaches
13 Pre-service teachers	Rogers State University, Claremore, OK - Sister School Cameron University - Lawton	Catapults - with eggs, Garden in a Glove - seeds, PIZZA - agriculture with resources	Barn full of resources
75 Family and Consumer Science Teachers	Stillwater Career Tech	Soil Plants and Animals	Barn Full of resources

## Ag in the Classroom- Student Events

<b>Number of Participants &amp; Grade Level(s)</b>	<b>Location</b>	<b>Lessons/Activities Used</b>	<b>Resources Given</b>
2 contest winners and 1 overall winner	Maryetta Elementary - Stilwell, Oklahoma -	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest PreK-2nd grade Overall Winner, First grade 1st Place Winner, and Fifth grade 2nd Place Winner	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
2 winners presentation	Peavine Elementary in Stilwell, Oklahoma	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest PreK 1st Place Winner and Kindergarten 2nd Place Winner	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
125 6th grade students	Willard 5th & 6th Grade Center, Ada	Oklahoma AITC Art and Photography Contest Winner Presentation - Poster Contest 6th Grade 2nd Place Winner	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
350 Pre-K - 6th grade students	Lindsay Elementary	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest 2nd grade 3rd place winner, Poster Contest 3rd grade 1st place winner, Poster Contest 3rd grade 3rd place winner, Poster Contest 4th grade 1st place winner, Poster Contest 5th grade 1st place winner, and Poster Contest 6th grade 3rd place winner	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
15 4-H members	Roff 4-H Club	Oklahoma AITC Art and Photography Contest Winner Presentation - Poster Contest 3rd grade 2nd place winner	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
200 Pre-K through High School students	Coleman Elementary	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest 2nd grade 2nd place winner	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
Presentation to 100 students	Awards presentation at burlington	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest PreK 2nd Place Winner	Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
25 High School FFA	Award Presentation @ Stillwater High School	Oklahoma AITC Art and Photography Contest Winner Presentation - Photography Contest 9th-12th grade	Medal, Gift Card (all sponsored by Oklahoma Beef

		Overall winner	Council), Legislator Citations
10 High School Students	Presentation at Stuart High School	Oklahoma AITC Art and Photography Contest Winner Presentation - Poster Contest 11th grade 2nd place winner and the Poster Contest 10th grade 1st place winner	Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
Present to 319 students	Contest winner at Morrison Elementary	Oklahoma AITC Art and Photography Contest Winner Presentation - Poster Contest 4th grade 3rd place winner	Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
Present to 20 K students and 200 elementary students	Award presentation at Mooreland and Waynoka Elementary	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest Kindergarten 1st Place Winner and Kindergarten 3rd place winner	Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
100 Pre-K - High School students and parents	OERB STEM Night at Watonga High School	Hopping Corn from our Soil, Plants, & Animals, Oh My Resource	Their own "Hopping Corn" jar to take home

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

Locations where Resources are Mailed or Delivered	
Washington Irving Elementary School - Edmond, OK	Burch Tree Academy - Tulsa homeschool
Kingsgate Elementary - Oklahoma City, OK	Orvis Risner Elementary - Edmond, OK
Cornelsen Elementary - Fairview, OK	Denison Elementary - Idabel, OK
Will Rogers Elementary - Edmond, OK	Chisholm Elementary - Edmond
Bryan County OSU Extension Office	Velma-Alma Public School
Monroe elementary - Norman, OK	Grove Elementary - Shawnee
Marietta Elementary School	Jarman Elementary - Tulsa, OK
Epic Charter Schools	Lexington Public School
SCS - Tulsa, OK	Mark Twain Elementary - Duncan, OK
Yale High School	

## Ag in the Classroom- Other Events

Event	Highlights
Junior Master Gardeners Professional Development	Emily participated in a two-day Junior Master Gardeners Professional Development Conference through Zoom.
Gore Teacher Lunch	Teachers at Gore Elementary earned a lunch provided by Oklahoma Ag in the Classroom because they had the largest number of teachers from one school in attendance at our 2022 Summer Conference. We provided lunch with help from the Oklahoma Farm Bureau Women's Committee.

## AGRITOURISM

### Agritourism - Site Visits

Producer	Location	Category	Highlights
Duncan Farmers Market	Duncan	Farmers Market	Dropped off OK Grown bags, visited about new farm hub
Oklahoma Tulips	Harrah	u-pick	Dropped off ok grown stickers, created social media content
Livesay Orchards	Porter	U-pick, Farm to table, Pumpkin Picking, Teachable Moments, Mazes	OKLAS Bus Tour
The Peach Barn Orchard & Bakery	Porter	Farm-to-Table	OKLAS Bus Tour
Endicott Farms	Liberty-Mounds	U-pick, Farm-to-Table	OKLAS Bus Tour
Okie Grown Farms	Bixby	Country Stays, Petting Farm	OKLAS Bus Tour
Honey Creek Farms	Mounds	Horticulture, Country Stays, Teachable Moments, Weddings	OKLAS Bus Tour
Cotton Blossom Winery	Marlow	Vineyard/Wineries	Site visit, check in with Madi

### Agritourism - New Producers or Potential Producers

Producer	Location	Category	Highlights
Painted Acres	Sapulpa	Horticulture	Site visit, officially added to program
Lucky R Ranch	Claremore	Petting Farm	Site visit, officially added to program, hug a highland farm
Tiny Home Farm	Webbers Falls	u-pick	Site visit, they weren't quite ready to be added into the program, gave them a list to work on, discussed grant options
Backroad Winery	Okay	Vineyard/Winery	Site visit, officially added to program
On the Lamb Winery	Stigler	Vineyard/Winery	Site visit, officially added to program
Flowers Farms	Oklahoma City	Horticulture	Site visit, officially added to program

American Solera-Edmond	Edmond	Brewery, Winery	Site visit, officially added to program & Craft Beer Trail
Long Bell Brewing	Clinton	Brewery	Site visit, officially added to program & Craft Beer Trail
Perry Farm Market	Goldsby	Farmers Market	Drop off OK Grown Bags, talked about joining agritourism
Cabin Boys Brewery-Claremore	Claremore	Brewery	Site visit, officially added to program & Craft Beer Trail

## Social media

### Facebook

- 22,559 likes
- 25,229 followers

### Instagram

- 2,3470 followers

## Agritourism - Other Activities

- Phone consult/conversations with: Amber with FBEO, Sherry Laskey – farm hub, Heather Whitnah – u-pick flowers/photography/farm hub, Steve Easom – agritourism, Matt – Wheeler District FM,
- Zoom consults/meetings: meeting with Idabel chamber agribusiness group
- OKLAS:
  - 308 people attended OKLAS
  - 50 people at farm-to-table dinner
  - 50+ people on agritourism bus tour
- Meeting with OSU tourism and wine partners
- Interview with Radio Oklahoma Ag Network about spring agritourism events
- Presented at Eastside Fresh Farmers Market vendor meeting about rules and regulations
- Judge Jenks FFA Speech Contest
- Oklahoma MyPlate
  - Create Oklahoma MyPlate placemat and Backdrop
  - Research and approval from USDA MyPlate

## ECONOMIC DEVELOPMENT

Activity	Action
Agriculture Enhancement & Diversification Program	The deadline to submit applications for 2 <sup>nd</sup> Quarter review was April 3 <sup>rd</sup> . Eighteen applications were received: 1- Ag Event grant, 2- Value Added, 2- Farm Diversification, 3- Veteran and 10 Young Farmer. A meeting of the selection committee will be held in early May.
2023 SCBG application	The deadline to submit a proposal was February 24 <sup>th</sup> . Sixteen (16) applications were received and sent to an external review committee. The committees scores were combined, and the top 9 proposals came before the committee on April 3 <sup>rd</sup> to give oral presentations over their proposals. Six (6) proposals totaling \$543987.11 was approved for funding. The proposals

	will be part of Oklahoma's State Plan that will be submitted to USDA-AMS by the May 1 <sup>st</sup> deadline.
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## **FARM TO SCHOOL**

### Visits Made:

- Farm to School/AITC presentation at Oklahoma Christian University/Science Pre-Service
- Red Bud Farm School – School Garden visit

### New Contacts:

- Jamie McDaniel – TSET
- Melissa Griego – United Foundation

### Resource Requests

- 6 cookbooks, 6 poster sets

### Events

- Speaker on Zoom for Childhood Obesity State Committee
- CACFP Training Presentation – Zoom Call 50 in attendance

### Other events

- 28 Local Food for Schools applications have been processed.

### 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
- TSET – Dept. of Agriculture – Jamie McDaniel

### Upcoming Events

- Producer Training – Fort Smith, Arkansas – April 11, 2023
- School Garden visit for the remaining of April and May

## **INTERNATIONAL**

Activity	Action	Location
Certificate of Free Sale	<ul style="list-style-type: none"> <li>• Lopez</li> </ul>	

Food Export	<p>National Restaurant Association</p> <ul style="list-style-type: none"> <li>• May 20-23</li> <li>• Continued buyer coordination and gearing up for recruitment and project kick-off</li> <li>• Recruitment for OK Pavilion and worked on booth coordination for OK companies</li> <li>• Activity coordination for SIAL America buyers mission- co coordinated with NASDA (North America State Dept of Ag) we hosted 15 buyers that met with 8 US Suppliers</li> <li>• We had 1 Oklahoma supplier participate in the buyers mission and exhibit in the show Matador Foods-company located in Blanchard, OK, they produce frozen appetizers for the food service industry</li> <li>• Kicked off Food Show Plus! Activity for Food Taipei</li> <li>• Hosted the new Food Export Liaison Abby Clark. Abby attended the MIO Expo and was able to meet several of the OK companies that work with Food Export and recruit for potential companies that qualify and educate them about the programs</li> </ul>	
USLGE	<p>Inbound Mexico Mission</p> <ul style="list-style-type: none"> <li>• We received an approval from the USLGE (United States Livestock Genetics Export) to fund and host an inbound mission from Mexico with Kansas May 8<sup>th</sup>-11<sup>th</sup></li> <li>• Currently working with a consultant to bring 6 buyer from the Chihuahua/ Guadalajara area to tour operations in OK</li> </ul>	
GIT (Governor's International Team)/ODEC	<ul style="list-style-type: none"> <li>• Governor's International Team Working on the upcoming World Trade Conference in April</li> </ul>	
Misc Meetings	<ul style="list-style-type: none"> <li>• Company Visits- Viacore- (Supplement Company), Mountain Country Foods, Hill Company, (bought pet food facility they are out of KS)</li> </ul>	

## **MADE IN OKLAHOMA COALITION**

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

<b>Type</b>	<b>\$ Spent and Information</b>	<b>Highlights</b>
MIO Featured Monthly Recipes in Tulsa World and Oklahoman	\$500/month each	Featured press release and 1-2 showcased recipes in food section

Marketing, Consulting and Graphics Retainer with Krush	\$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	<a href="https://docs.google.com/spreadsheets/d/1HUhkBRVkJRgKwZf6ZZvvyTPeUTBx4I1-lprDwzDgnPwM/edit#gid=378323568">https://docs.google.com/spreadsheets/d/1HUhkBRVkJRgKwZf6ZZvvyTPeUTBx4I1-lprDwzDgnPwM/edit#gid=378323568</a>  Feb/March Report: <a href="https://www.dropbox.com/s/jfir9ozkev5rv5/MIO_KRUSH%20Report%20-%20February%202023%20%281%29.pdf?dl=0">https://www.dropbox.com/s/jfir9ozkev5rv5/MIO_KRUSH%20Report%20-%20February%202023%20%281%29.pdf?dl=0</a>	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.	<b>February</b> – Red PrimeSteak, OKC <b>March</b> – Gage’s Steakhouse, Guthrie <b>April</b> – Chicken n Pickle, OKC
Social Media Stats	Staff, and MIO media committee plan social content each month with our advertising agency, Krush Digital Marketing.	<a href="https://www.dropbox.com/s/yfitigbjtddi3/MIO%20Coalition%20Profile%20Performance%20-%20February%201%2C%202023%20%E2%80%93%20February%2028%2C%202023%20%281%29.pdf?dl=0">https://www.dropbox.com/s/yfitigbjtddi3/MIO%20Coalition%20Profile%20Performance%20-%20February%201%2C%202023%20%E2%80%93%20February%2028%2C%202023%20%281%29.pdf?dl=0</a>
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		o 2400+ distribution list
OK Living Partnership highlighting MIO Recipes	Highlights 2-3 MIO recipes per month - Free publication to electric coop members	MIO provides recipe content and OK Living does the ad design
Recipes of the Month	MIO recipes are developed each month highlighting member company products.	February— - Nacho Table - Kitchen Sink Cookies - Super Bowl Taco Soup March – - Breakfast Maple Sausage Rolls - Barbecue Ranch Pulled Pork Nachos - Game Day Grazing Board



		April – - Deviled Eggs Three Ways - Hallelujah Biscuits - Pineapple Honey Glazed Ham - Beef and Mushrooms Stir Fry
February Retailer of the Month	Pruett's Foods	Statewide locations
March Retailer of the Month	Crest Foods	Statewide locations
April Retailer of the Month	On-Cue	Statewide locations

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

<b>Activity</b>	<b>Information</b>
MIO Booth at OKC Thunder Game - March 1 <sup>st</sup>	The MIO Coalition team set up a booth on the concourse at the Thunder game on March 1 <sup>st</sup> . We handed out information about Made in Oklahoma and greeted guests as they entered the arena.
MIO Recipe Photoshoot - March 2 <sup>nd</sup>	Staff worked with MIO food stylist and food photographer to shoot our Spring/Summer recipes. We shot 8 recipes that featured over 30 MIO member products.
MIO Meetings - March 3 <sup>rd</sup>	Staff and MIO president Courtney Talbot led the monthly membership meeting. The March meeting was held in-person at the Oklahoma Department of Agriculture, Food and Forestry. 40 members participated both in-person and online.
MIO Expo/Legislative Reception - March 7 <sup>th</sup>	Staff and the MIO special events committee planned a newly formatted MIO Expo and Legislative Reception. The events were held on the same day at the same venue with hopes that the trade show set-up would provide increased opportunities for meaningful discussion. Both events were very well attended and successful. This format will be used for years to come.
Walmart Subcommittee Action Plan Meeting - March 21 <sup>st</sup>	After conducting a consumer marketing survey, MIO learned that over 55% of Oklahomans are primarily shopping at Walmart. In order to create a strategy plan on how to pursue partnerships with Walmart, staff created a subcommittee of members who actively work with the company. This meeting was successful and we now have a clear plan on how to move forward.
Restaurant of the Month Visit - March 23 <sup>rd</sup>	Staff and MIO Food Service Committee met for lunch at MIO Restaurant of the Month, Chicken n Pickle, to congratulate them on winning the award and eat lunch in support of the restaurant. We also got content for social media.
Oklahoma Agricultural Leadership Program Graduation - March 25 <sup>th</sup>	Staff graduated from the OALP after almost 3 years since the programs start date. As a member of Class XX, staff was exposed to different types of agriculture on a local, state, national and international level.
Affiliated Amarillo Spring Food Show - March 29 <sup>th</sup> – 30 <sup>th</sup>	The MIO Coalition showcased product at the Affiliated Amarillo Spring Food Show. Affiliated is a distribution warehouse that services multiple states in both a retail and food service capacity. We had 6 members participate in the MIO booth. Two members were able to get into the warehouse because of this opportunity.

### **MADE IN OKLAHOMA PROGRAM**

<b>Meetings/Events</b>	<b>Date</b>	<b>Location</b>	<b>Details</b>
National Livestock	Feb. 21	Virtual	Meeting with National Livestock to discuss opening a Made in Oklahoma retail location and selling their branded beef.

Feature Story/Made in Oklahoma	Feb. 23	Virtual	Interview with and OSU Agricultural Communications student who is writing a feature story over the Made in Oklahoma program and one of our members.
Site Visit	Feb. 24	Guthrie	Visited Suzy Q'z Shop, one of our members, to get footage of her for our Meet the Maker social media series.
Interview with FFA Student	Jan. 26	Virtual	Interview with an FFA Student who is giving a speech about the Made in Oklahoma program.
<b>Events:</b>			
Tulsa Home and Garden Show	March 9-12	Tulsa	We had a section of 10 booths at this show but 9 members participated outside of our space, totaling 19 members who were in this show.
<b>Upcoming Events:</b>			
Ag Day at the Capitol	April 11	OKC	26 agricultural organizations and 20 Made in Oklahoma companies will be set up at the Capitol educating about their company.
Co-Packing Workshop	May 15	OKC	We are working with Ashley Sutterfield, a co-packing expert to host a workshop for Oklahoma food companies to learn more about co-packing.
Made in Oklahoma Showcase - Northeast	May 22	Bixby	Producers will set up for a wholesale, retailer-only market. Attendees must be associated with a retail store in order to attend.
Made in Oklahoma Market	June 3	OKC	Market will be held in Stockyards City, in conjunction with their Wines of the West event.
Made in Oklahoma Showcase - Central	June 5	Tuttle	Producers will set up for a wholesale, retailer-only market. Attendees must be associated with a retail store in order to attend.

<b>New Program Members - Producers:</b>	
Gemini WoodArt	Paladin Farm & Cattle Co., LLC

Pecan Creek Kitchens	Kincaid Farms
SnoBird Designs	Wells Christmas Tree Farm
Heartlands Scents & Suds	Alberto's Food Products, Inc.
Harry's Birdhouses	Herb Conscious Co.
Papa Dio's Italian Restaurant and Wine Bar	Rainbox Light Dream
Iscents Candles LLC	Favor Healing Butter
McCaskey Woodworks LLC	Shipman Leather LLC
Java Joe's	Coalescence Soap Company
The Altitude Engraving Co.	Black Star Cattle Co.
On the LAMb Winery	Private Label
Whiff You Always Candle Co.	Coffelt's Custom Creations, LLC
Moist Your Soap	Pyro Momma Creations
Long Dog Clay Co.	Big Red's Creative Emporium
FordHome	4 Generations Organic Farms
Goodytwos Toffee Company	Mission Woodworking, LLC
White Squirrels Candle Company	The HappyHippies Co-Op LLC
Shop Good	Rustic Acres Farm
Simply Scents by Nana	Bathlicious Bath & Body Products
T's Crafty Things	Farris & Co.
Creative Productions of Stillwater	Trading Post Custom Design
Mountain Life Soaps LLC	Wooden Lace
Jewelry by Jacque	Olive Branch Aquaponics
Donna Brunton Studios	Bee-Ville Soy LOTION Candles
Arrowhead Bison Ranch LLC	Randalls Candles
Native Junebug	Farmer's Daughter Designs
Evolvere	

## **VITICULTURE & ENOLOGY**

### **Viticulture & Enology - Site Visits**

<b>Producer</b>	<b>Location</b>	<b>Category</b>	<b>Highlights</b>
Cotton Blossom	Marlow	Winery	Heard feedback on wine industry in OK
360 Farms	Webbers Falls	Winery	Heard Feedback on wine industry in OK. Took site photos

### **Viticulture & Enology – New Producers or Potential Producers**

<b>Producer</b>	<b>Location</b>	<b>Category</b>	<b>Highlights</b>
On the LAMb	Stigler	Winery	Site Visit
BackRoad Vineyard	Okay	Winery	Site Visit

### **Viticulture & Enology - Other Activities**

- Working on reorganizing trail and finding out who is still open
- Put together a passport plan for all 9 wine trails
- Designed passport stickers for each wine trail
- Attended a wine festival in Muskogee that included Arri'bin Hills, BackRoad, On the LAMb, Pecan Creek, and Coal Creek wineries.
- Worked on a new newsletter for Oklahoma grape and wine producers so that they can stay informed

## **MARKET NEWS SERVICES**

**February 17, 2023 - April 4, 2023**

- **Grain Report:**

	<b>February 17, 2023</b>	<b>April 4, 2023</b>	<b>DIFFERENCE</b>
<b>WHEAT: (bu)</b>	\$7.96-\$8.91	\$7.77-\$8.47	\$0.19 to \$0.44 Lower
<b>MILO: (bu)</b>	\$6.78-\$7.28	\$6.54-\$6.94	\$0.24 to \$0.34 Lower
<b>SOYBEANS: (bu)</b>	\$14.37-\$15.32	\$14.67-\$15.22	\$0.30 Higher to \$0.10 Lower
<b>CORN: (bu)</b>	\$7.28-\$8.18	\$7.19-\$7.84	\$0.09 to \$0.34 Lower
<b>COTTON: (lb)</b>	78.50 cents	77.55 cents	0.95 cents Lower

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

### **FEEDER STEERS**

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

- (4-4-22) \$192.00-211.00 Wtd. Avg \$201.50
- (4-3-23) \$227.00-269.00 Wtd. Avg. \$248.00

### **HEIFERS**

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

- (4-4-22) \$158.00-173.75 Wtd. Avg \$165.87
- (4-3-23) \$207.00-238.00 Wtd. Avg. \$222.50

- **Weekly Report:**

- Six weekly Oklahoma Market Reports were sent to 10,509 subscribers February 17, 2023-April 4, 2023 (**up from 171 subscribers last report**).

- **Voice Messaging System:**

- The market news voice messaging system during
- Monthly Total: February 17, 2023-April 4, 2023 **6,587 Accessed Times**
- Last Report: January 10, 2023-February 17, 2023 **6,579 Accessed Times**
- Compared to Last Month: **Accessed Times-is UP 8 on Accessed times**

- **Oklahoma Agriculture Market News**

- **Facebook Page**
  - Likes/Followers 419
  - **UP 16 Likes/Followers**
  - People reached through pasted report: 834 people

- **Oklahoma Hay Directory**
  - Hay Directory
    - Currently have 14 producers that have hay
    - 1 producers sold out of hay this past report
- **Hay Report**

**This Month:** February 17, 2023 – April 4, 2023 Hay Traded 8,050  
**Last Year** February 18, 2022-March 25, 2022 Hay Traded 10,385  
**DOWN 2,335 Bales Reported**

### OKLAHOMA HAY MARKET REPORT 3-31-23

**Receipts: 860 Last Reported: 1,705 Year Ago: 0**

Compared to the last report: The hay trade is slow but still in good demand in western Oklahoma. Hay producers try to find the best starting point for customers as we move back into the new crop hay season. The eastern part of Oklahoma continues to receive rainfall compared to the Western part of Oklahoma sees none to very little. As we look at the Oklahoma Mesonet Drought Monitor we are at 12.83 percent in exceptional drought, 37.30 percent in an extreme drought, 48.59 percent in severe drought, 53.88 percent in moderate, 60.31 percent in abnormally dry conditions, 39.69 percent that has no drought conditions.

\*\*\* The next report release will be on April 14th\*\*\*

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square 400	300.00	300.00	Delivered	

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

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

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square 360	300.00	300.00	Delivered	

**Southwestern**  
**Corn Stalk - Good (Trade/Per Bale)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round 100	170.00	170.00	Delivered	



Oklahoma Department of Agriculture,  
Food, and Forestry  
April 26, 2023 Board Report for the  
Agricultural Environmental  
Management Services Division  
February 13, thru April 2, 2023

## AEMS Division Activities

- Agricultural Pollutant Discharge Elimination System (AgPDES) Stormwater Construction, Pesticide, and CAFO permits are issued and are on the Department of Agricultural website.
- AMES staff participated in the Illinois River Watershed (IRW) conference calls to review technical efforts and the monitoring of waterbodies within the watershed area.
- AMES staff participated on the Advisory Board of Oklahoma Water Research (OWRB) in the annual review of water-focused project proposals.
- AEMS and Animal Industry staff participated in the first of two full-scale exercise planning meetings in preparation for the National Pork Board full-scale exercise scheduled for this fall. It is designed to test response capabilities to keep African Swine Fever (ASF) out of the U.S. and prepare for foreign animal diseases.
- AEMS staff participated in Oklahoma's Comprehensive Water Reuse Action Plan workgroup meetings hosted by the OWRB.
- AEMS staff participated in the 2023 Spring Summit Oklahoma Leadership Conference. The theme was Troubled Water in Oklahoma, focusing on complex laws, policies, and challenges around water.

### 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: 8

### 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:

24	Complaints received and investigated this reporting period
8	Complaints closed this reporting period
Complaints Received - Breakdown	
Cattle - 2	
Swine – 2	
Poultry- 5	
Misc. Animal - 2	
Other – 0	
Animal Shelter - 2	
Pet Breeder- 11	
110	Year-to-date complaints received in FY 23
8	Year-to-date complaints closed in FY 23
100	LMFO/CAFO inspection and technical assistance
336	Poultry inspections and technical assistance
37	Pet Breeders/Shelters inspections and technical assistance

**CAFO and LMFO Activities - Month and Fiscal Year 2023**

	Feb 12 –Apr 2, 2023	FY 23 Total
Complaint or Compliance Follow-ups	15	62
Annual Inspections	70	444
Technical Assistance with Contacts	30	120
Site Visit/Review – No contact made	17	187

**Poultry Activities – Month and Fiscal Year 2023**

	Feb 12 –Apr 2, 2023	FY 23 Total
Complaint or Compliance Follow-ups	13	29
Annual Poultry Inspections	135	349
Poultry Technical Assistance	201	1087
Site Visit/Review – No contact made	31	385
Eucha-Spavinaw CNMP Written	24	104

**Pet Breeders Activities – Month and Fiscal Year 2023**

	Feb 12 –Apr 2, 2023	FY 23 Total
Complaint or Compliance Follow-ups	25	133
Breeder/Shelter Technical Assistance provided to owner/operator	26	178
Breeder/Shelter Annual Inspections	11	286
Breeder/shelter Close out	0	7

**AGPDES – Month and Fiscal Year 2023**

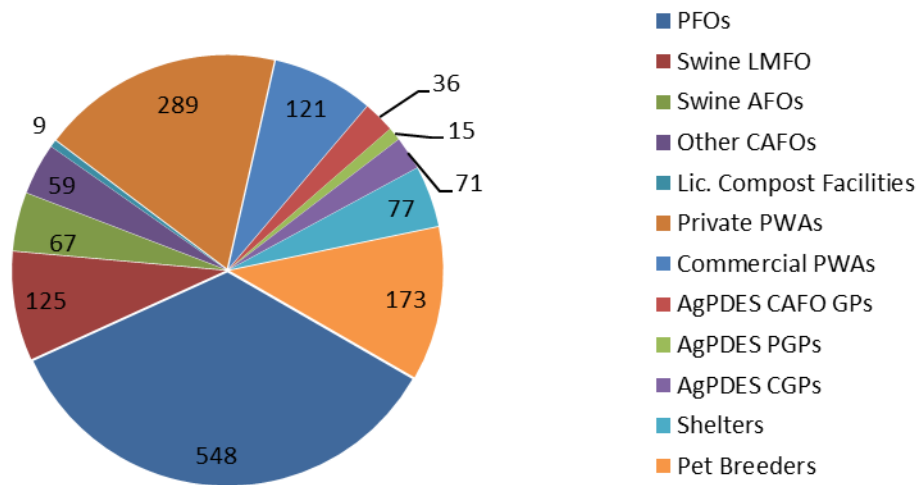
	Feb 12 –Apr 2, 2023	FY 23 Total
Complaint or Compliance Follow-ups	0	5
Site Inspections (Annual or Compliance follow-up)	1	19
Technical Assistance provided to owner /operator	1	31

**Composting Activities – Month and Fiscal Year 2023**

	Feb 12 –Apr 2, 2023	FY 23 Total
Complaint or Compliance Follow-ups	6	34
Site Inspections (Annual or Compliance follow-up)	0	16
Technical Assistance provided to owner /operator	5	19



## Current FY 23 AEMS Numbers



Respectively,

Teena G. Gunter  
AEMS Division

**BEFORE THE STATE BOARD OF AGRICULTURE  
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
APRIL 2023 BOARD REPORT  
REGARDING FEBRUARY 18, 2023 THROUGH APRIL 2, 2023 ACTIVITIES OF  
THE OFFICE OF GENERAL COUNSEL**

**AMOUNT OF ADMINISTRATIVE FINES COLLECTED:**

<b>Amount to Date (2023)</b>	<b>Amount of Fines for this Board Meeting</b>
\$102,125.00	\$30,400.00
\$207,400.00	2022
\$57,475.00	2021 Total (5/31-12/31/2021)

**CONTRACTS REVIEWED OR DRAFTED (61):**

Marketing: 46
CPS: 3
Forestry: 2
AIS: 5
Wildlife Services: 2
Admin: 1
Inv. Serv: 2

**ADMINISTRATIVE HEARING PROCEEDINGS:**

Total Number of Open Cases: 491
Total Number of New Cases: 360
Total Number of Cases Closed: 0
NOVs Sent: 43

**OTHER ACTIONS AND PROCEEDINGS:**

<b><i>Kirk Marshall v. ODAFF</i></b> , Oklahoma County District Court Case No. CJ-2020-1347: Petition served. Time period tolled by Supreme Court Order until May 15, 2020. Answer drafted and prepared for filing. Application for Injunction Denied. Answer filed. Hearing held. Amended Petition filed by Plaintiff. Answer to Amended Petition filed. District Court Order AFFIRMED by Court of Civil Appeals. ODAFF Amended Motion to Dismiss pending.
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<b><i>Laura Garrison v. State of Oklahoma, ex rel. Oklahoma Department of Agriculture Food and Forestry</i></b> , Pittsburg County District Court, Case No. CJ-2020-111: Lawsuit involves vehicle accident between plaintiff and ODAFF employee. Attorney General's Office is handling this claim.
<b><i>Upton's Naturals Co v. Stitt and Arthur</i></b> , District Court, W.D. Oklahoma, Case No. 5:20-cv-00938: Lawsuit against Governor Stitt and Secretary Arthur in their professional capacities. Upton's Naturals challenges a state law that prohibits food manufacturers from using terms like "hot dogs," "burgers," or "bacon" on labeling for meat-free products. The Attorney General's Office is handling this claim.
<b><i>William Grossman v. Lori Howard et al.</i></b> , Cherokee County District Court, Case No. CJ-2020-111: Lawsuit filed on the agency and Forestry Services requesting damages for a car wreck that occurred during a prescribed burn. The prescribed burn was not performed by ODAFF and the agency was not involved with the circumstances. The Attorney General's Office is handling this claim.
<b><i>Spring Creek Coalition v. ODAFF and Trong</i></b> , Cherokee County Case Number CJ-2021-29: Petition seeking declaratory and injunctive relief. Answer filed.
<b><i>Spring Creek Coalition v. ODAFF and Phan, et al.</i></b> , Delaware County Case Number CJ-2021-33: Petition seeking declaratory and injunctive relief. Answer filed. Discovery ongoing. Responded to Motion for Summary. Motion to Dismiss filed. Hearing had March 2, 2023. Supplement brief filed regarding Motion to Dismiss!

### **MEETINGS:**

<b>Date</b>	<b>Activity</b>
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 15, 2023	OU Government and Public Interest Career Fair
February 16, 2023	OWRAP Workgroup
February 20, 2023	Senate Ag and Rural Affairs Committee
February 21, 2023	LOK Day at the Capitol and Spring Summit-Water
February 21, 2023	House Ag and Rural Development Committee
February 23, 2023	OGC Staff
February 23, 2023	Nutrient Management Plan Workgroup
February 27, 2023	Legislative Monitoring Committee
February 28, 2023	Director's Meeting
March 2, 2023	OCU Law Works Career Fair and Networking Night
March 7, 2023	OBA GALPS
March 8, 2023	State Board of Agriculture
March 9, 2023	Intern Interview
March 9, 2023	Commissioners of Land Office

March 9, 2023	Illinois River Working Group
March 10, 2023	State Water Plan-Irrigator Preworkshop Prep
March 13, 2023	Intern Interviews
March 14, 2023	Intern Interviews
March 15, 2023	NALC WOTUS Webinar
March 15, 2023	OGA ILS
March 15, 2023	Intern Interviews
March 16, 2023	Intern Interview
March 20, 2023	Intern Interviews
March 21, 2023	Director's Meeting
March 22, 2023	OCWP Spring Irrigation Workshop-Panhandle
March 22, 2023	Intern Interviews
March 23, 2023	OGC Staff
March 23, 2023	Intern Interviews
March 24, 2023	OBA ELS
March 27, 2023	EEOC Training
March 28, 2023	Director's Meeting
March 29, 2023	OCWP Spring Irrigation Workshop-Southwest

### **RULE ACTIVITIES:**

<b>Chapter 1. Administrative Operations (Permanent FY 2023):</b> 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.
<b>Chapter 2. Fees (Permanent FY 2023):</b> 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.
<b>Chapter 10. Agricultural Products (Permanent FY 2023):</b> 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.
<b>Chapter 15. Animal Industry (Permanent FY 2023):</b> 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.
<b>Chapter 17. Water Quality (Permanent FY 2023):</b> 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.
<b>Chapter 20. Forestry (Permanent FY 2023):</b> 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.
<b>Chapter 30. Consumer Protection (Permanent FY 2023):</b> 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.
<b>Chapter 37. Food Safety (Permanent FY 2023):</b> 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.
<b>Chapter 40. Market Development (Permanent FY 2023):</b> 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.
<b>Chapter 44. AgPDES (Permanent FY 2023):</b> 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.
<b>Chapter 50. Aquaculture (Permanent FY 2023):</b> 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.
<b>Chapter 55. Commercial Pet Breeders and Animal Shelters (Permanent FY 2023):</b> 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.
<b>OHRC</b>
<b>Chapter 10. Racing Organization (Permanent FY 2023):</b> 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.
<b>Chapter 15. Licensing (Permanent FY 2023):</b> 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.
<b>Chapter 25. Entries and Declarations (Permanent FY 2023):</b> 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.
<b>Chapter 35. General Conduct (Permanent FY 2023):</b> 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.
<b>Chapter 50. Human Substance Abuse Testing (Permanent FY 2023):</b> 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 (40):**

AEMS: 18
CPS: 7
AIS: 12
Forestry: 2
Admin: 1

**OKLAHOMA HORSE RACING COMMISSION**

<b>Litigation: Alfredo Gomez and Cruz Villafranco v. OHRC</b> , Oklahoma County District Court Case No. CV-2020-430: Petition served. Response filed. Petitioners' Motion for Partial Summary Judgment responded to. Pending hearing.
<b>Litigation: Oscar Nunez v. OHRC</b> , Oklahoma County Case No. CV-2020-449: Petition filed and served. Answer filed. Reversed and remanded. Rehearing held. Motion to Modify District Court's Order of November 10, 2020 hearing held. Further briefing ordered. Pending Court's decision.
<b>Litigation: Miguel Pena v. OHRC</b> , Oklahoma County District Court Case No. CV-2019-179: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held October 11, 2019. TRO entered. Amended Petition for TRO heard May 15, 2020. TRO denied. Permanent injunction denied. Pending Motion to Dismiss.
<b>Litigation: Jose Sanchez III, et al. V. Global Gaming, Heritage Place and OHRC</b> , Oklahoma County District Court Case No. CJ-2020-2395: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held May 26, 2020. TRO denied. Further action pending.
<b>Litigation: Sammy Howard v. OHRC</b> , Oklahoma County District Court Case No. CV-2020-1921. Petition served. Response filed. Briefs filed. Oral arguments held. Remanded for further proceedings. Order filed. Motion to Reconsider filed. Hearing reset by the Court to August 19, 2022.
<b>LITIGATION: Rogelio Marquez, Jr. V. OHRC</b> , Oklahoma County District Court Case No. CJ-2021-3393. Petition filed. Injunction sought. Hearing held; Injunction denied. Pending further proceedings. (Trailing OHRC v. Heltzel)
<b>Litigation: Carlos Ruiz v. OHRC</b> , Oklahoma County District Court Case No. CV-2021-2591. Petition Served. Response filed. Record filed. Pending briefing.
<b>Litigation: Etniel Sanabria v. OHRC</b> 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.

<b>Litigation: Kelly Marlene Hartzel v. OHRC</b> , 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: 26
Assistance to industry: 12
Assistance to AEMS: 17
Assistance to CPS: 16
Assistance to Wildlife Services: 0
Assistance to Forestry: 12
Assistance to AIS: 10
Assistance to Admin: 7
Assistance to Human Resources: 3
Assistance to Market Development: 2
Assistance to other state agencies: 4
Assistance to federal agencies: 3
Assistance to Food Safety: 15
Assistance to NASS: 0
Assistance to Executive Office: 7



Assistance to Lab: 0
Assistance to Investigative Services: 4
Assistance to Legislature: 3
Assistance to Attorney General: 5
Assistance to Public Information: 2

Respectfully Submitted,



Teena G. Gunter  
General Counsel

## **FOOD SAFETY REPORT APRIL 2023**

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

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

In Broken Bow at Tyson Foods, USDA poultry grading was performed by ODAFF inspectors on 1,000,400 pounds of poultry – boneless/skinless leg meat and ground meat. ODAFF inspectors provided USDA Shell Egg grading on 67,285 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:

- Thirteen organic crop producers
- Two organic livestock producers
- Three organic processors
- Eight 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 7 requests for organic crop applications, 3 requests for organic processing applications and 2 requests for organic livestock applications.

#### **Produce Safety Section**

- Conducted On-Farm Readiness Review to help producer prepare for inspection
- Conducted 2 farm inventory visits
- Visited 8 farmers markets providing outreach and education to producers and to collect farm inventory
- Outreach/education at the Oklahoma Local Ag Summit and Farm Tour
- Shared information about the Produce Safety Rule to vendors at the Norman Farmers Market
- Assisted farms with remote technical assistance
- Regular conference calls with TX, LA, AR, NM, MO, MS
- Quarterly FDA monitoring call
- Mid-Continental Association of Food and Drug Officials Educational Conference
- AFDO Produce Safety Committee work

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

Homemade Food Freedom Act Board Report for February-March 2023

- Received 14 complaints on Homemade Food Freedom Act businesses.
- 4 complaints mentioned illnesses, filth, or allergen reactions.
- Sent 6 warning letters.
- Meat compliance assisted with 2 complaints.
- Health Department assisted with 2 complaints.
- One business was determined to not be a homemade food business and complaints were forwarded to other agencies.

## Oklahoma Meat Inspection Services Investigations and Compliance Activities

Planned Compliance Reviews	08
Random Compliance Reviews	240
Person-to-Person Contacts	110
Special Investigations and/or Projects	23
Reports of Apparent Violations	00
Detentions	00
Consumer Complaints	21
Verbal Warnings Issued	13
Letters of Warning Issued	00
Samples Submitted to Lab for Analysis	00
Accident Investigations	01
Administrative Procedures Act	01 ENID PACKING

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

See details below:

ACCIDENT LOCATION	ANIMAL/PRODUCT	DISPOSITION
I-40 MM296 Vian, Oklahoma	1000 40 lbs Boxes (40000 lbs) Whole chicken leg quarters	All Poultry Product voluntarily condemned. Product was taken to American Environmental Landfill Sand Springs, Oklahoma

**Highlighted Activities:** During the course of Random Reviews and anonymous Consumer Complaints, Compliance and Investigation Services sent out zero (0) Letter of Warning for Violations of the Oklahoma Meat Inspection Act and/or State Statutes.

### MEAT INSPECTION

<b>Number of Cattle</b>	<b>1,983</b>
<b>Total Beef Condemned</b>	<b>25,650 lbs</b>
<b>Beef Heads &amp; Livers</b>	<b>Avg. H wt 20, Avg. L wt 10</b>
<b>Number of Swine</b>	<b>282</b>
<b>Total Pork Condemned</b>	<b>2,086 lbs</b>
<b>Pork Heads &amp; Livers</b>	<b>Avg. H wt 10, Avg. L wt 2 lbs</b>
<b>Number of Sheep and Goats</b>	<b>7,191</b>
<b>Total Condemned</b>	<b>6 lbs</b>
<b>Number of Chickens</b>	<b>512</b>
<b>Number of Rabbits</b>	<b>8</b>
<b>Total Condemnations</b>	<b>0 lbs</b>
<b>Number of Exotic Deer</b>	<b>0</b>
<b>Total Condemnations</b>	<b>0 lbs</b>
<b>TOTAL MEAT INSPECTED</b>	<b>2,177,700 lbs</b>

### PROCESSED MEAT INSPECTED

<b>Processed Red Meat</b>	<b>2,002,619.66 lbs</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Poultry (Portions)</b>	<b>690,782.47</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Rabbit Meat</b>	<b>14</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Exotic Deer Meat</b>	<b>0</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>TOTAL PROCESSED MEAT INSPECTED</b>	<b>2,693,416.13 lbs</b>

**\*\*AVG. CARCASS WT.      Beef 700 lbs., pork 250, sheep goat 100**

Meat Sample activity:

35    Samples Submitted for Analysis

0 Samples Not Analyzed

35    Samples Analyzed

0 Samples Non-Compliant

35    Samples Negative Analysis

## DAIRY SECTION

Dairy Services had the pleasure of assisting FDA Milk Specialist, Clinton George, with Check Ratings at the Braum's Ice Cream & Dairy Plant and Braum's Dairy Farm in Tuttle the week of March 6<sup>th</sup>. Both listings received passing scores from FDA.

A State Survey was conducted at Amelia Creamery in Nowata, Oklahoma on March 2<sup>nd</sup>. Amelia Creamery received a passing score that can be found on the FDA Interstate Milk Shippers list.

A State Survey was conducted at Hiland Dairy in Norman on March 23. Hiland Dairy received a passing score that can be found on the FDA Interstate Milk Shippers list.

State Surveys were conducted for Lone Star BTU 40-058 and Lone Star BTU 40-074 on March 29. Both Received passing scores found on the FDA Interstate Milk Shippers List.

A State Survey was conducted at the transfer Station, Independent Milk Producers Inc. in Boise City on March 29. The transfer station received a passing score that can be found on the FDA Milk shippers list.

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

The Dairy Division has been working with several laboratories to address the discovery of *Campylobacter spp.* in raw milk from Swan Bro's Dairy in Claremore, OK. A stop sale was initiated in February after the several people fell ill from *Campylobacter* and reported consuming the products from this facility. Initial testing from Quantem Laboratories showed positive results which were confirmed by the State Health Department. The division has performed additional testing which has come back negative for *Campylobacter*. Upon the request of the division, Swan Bro's has updated their food safety plan to test for major pathogens monthly. Additionally, they will test and hold each batch of milk for *Campylobacter* the 90 days following dismissal of the stop sale.

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

. Sincerely,

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

Scott Yates  
Director of Food Safety

## Communications

Compiled 4/10/23

### *Social Media Highlights*

**MIO Coalition Food and Beverage Expo – March 7 |** 57 Made in Oklahoma Coalition companies gathered in OKC for a day of food and fun.

Gov. Stitt and members of the Oklahoma Legislature also took part in the MIO Coalition Legislative Reception to show their support for local Oklahoma businesses.



**Bob Howard Named Gov. Stitt’s Outstanding Achievement in Agriculture Award Recipient – March 31 |** Bob Howard, a longtime Southwest Oklahoma wheat, pasture, and cattle producer, was named the 2023 recipient of Governor Stitt’s Outstanding Achievement in Agriculture Award. Howard is the 26th inductee into the Oklahoma Agriculture Hall of Fame, which is the state’s most prestigious agricultural honor. Howard was honored on Ag Day at the Capitol April 11.

**Sec. Arthur Meets Oklahoma 4-H Members at the State Capitol – April 5 |** Oklahoma 4-H members, volunteers, and educators gathered at the State Capitol to meet with legislators and staff to promote the organization. Sec. Arthur spoke briefly with the group and shared how her future was impacted by experiences as a 4-H member.



## ***Social Media Impact***

### **Facebook**

*21,368 followers*

*Since Feb. 24, 2023:*

- Posts and content reached 55,041 users
- 127 new Facebook users have liked the ODAFF page

### **Instagram**

*2,943 followers*

*Since Feb. 24, 2023:*

- Posts and content reached 3,802 users
- 89 new Instagram users have followed the account

## **News & Notes**

***Sec. Arthur Provides Play-by-Play at OYE Legislative Showmanship*** / Sec. Arthur's insight and analysis added much needed color commentary to the OYE Legislative Showmanship contest in March. Legislators showed pigs, goats, and cattle.

***Oklahoma Forestry Services Assist in Wildfire Response*** / The final day of March brought multiple widespread fire outbreaks to Oklahoma. OFS, ODAFF, and Gov. Stitt's social media accounts posted pertinent information.

***ODAFF Announces Executive Office Summer Intern*** / Emma Victory of Ninnekah, OK has been selected as our summer intern. Emma is a student at Eastern Oklahoma State College and was previously a member of the Agriculture Youth Council.



# **April 26, 2023, BOARD MEETING**

## **PURCHASES/CONTRACTS**

### **Administrative Services**

**FY24 – OMES Central Printing - \$7,000**

**FY24- Presort Mail Services - \$7,000**

**FY24- Backpacks Embroidered with ODAFF Logo - \$8,970.00**

Purchasing 345 Port Authority backpacks embroidered with the department logo as Employee Appreciation Day gifts for full-time ODAFF employees. This item has been selected by a department-wide vote by the employees and is a one-time purchase.

**FY24- ImageNet Consulting – \$13,000**

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

**FY24 - Compsource - Rural Firefighters Workers Compensation - \$171,300**

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

**FY24 - Rural Fire Pension Fund - \$92,000**

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

**FY24 AT&T Wireless - \$120,000.00**

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

**FY24 Comdata Inc. - \$1,500,000**

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

**FY24 Agency Workers Comp Insurance premium - \$340,000**

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

**FY24 Onsite Security Guard Services (Prosecur Security) - \$70,000**

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

**FY24 Bank of America – Credit Card charges - \$30,000**

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

**FY24 Federal Express - \$65,000**

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

**FY24 Petroleum Traders (Bulk Fuel) - \$75,000**

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

**FY24 National Association of State Departments of Agriculture (NASDA) - \$17,000**

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

**FY24 Oklahoma Capital Improvement Authority – Bond Payments - \$1,704,768**

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

**FY24 Oklahoma Employment Security Commission – Unemployment benefits - \$32,000**

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

**FY24 Oklahoma Public Employees Retirement System – Retirees unused sick leave \$100,000**

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

**FY24 Oklahoma Management Enterprise Services (OMES) – Risk Management- \$120,000**

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

**FY24 Oklahoma Management Enterprises Services (OMES) FICA Savings \$25,000**

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

**FY24 Oklahoma Management Enterprises Services (OMES) - Facility Services - \$365,505.72**

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

**FY24 Oklahoma Management Enterprises Services (OMES) – Information Technology - \$650,000**

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

**FY24 Oklahoma Management Enterprises Services (OMES) – OPM - \$26,000**

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

**FY24 Pitney Bowes – Mail Machine Lease - \$20,000**

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

**FY24 Oklahoma Turnpike Authority – Pikepass - \$21,000**

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

**FY24 United State Postal Services (Postage) - \$90,000**

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

**FY24 (Walnut Storage Building) - \$18,300**

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

**FY24 Xerox - \$78,500**

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

**FY24 Galt Temporary Services - \$150,000**

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

**FY24 BancFirst - \$17,900**

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

**FY24 Oklahoma Governor's Office - \$37,500**

This MOU will provide shared office space, furniture, and salaries for OG staff for its office in Washington D.C. with the support of funds provided by ODAFF. ODAFF will receive access and use of the facilities, subject to availability, and support from the staff in Washington D.C.

**FY24 Oklahoma Management Enterprise Services (OMES) Fleet Management (AVL services) \$114,558**

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

**FY24 SHI – Adobe Subscription Services - \$11,000**

Purchase of the Adobe subscription services. The agency will purchase (5) Creative Cloud licenses for Enterprise All Apps. We also purchased (68) licenses of Acrobat Pro DC for enterprise for agency staff and one Adobe Captivate license for ODAFF staff for a 12-month period.

**FY24 \$6,000 – Asset Panda** – Renewal of subscription agency inventory software system. This system will allow for easy asset tracking. It is a cloud-based technology that offers complete flexibility to manage assets for our agency. The software offers a mobile application for users and customizable content creation. This system will replace an outdated Microsoft Database, the system will allow for the migration of those assets into this new cloud-based program.

**FY23 \$500,000** – Purchase of new cubicles for Administration, Market Development, and the Office of General Counsel. The existing cubicles are outdated and no longer

manufactured, and parts are no longer available when a repair need arises. This purchase is needed to modernize the modular furniture within each area and to project a professional image when entering these workspaces. Without this purchase we will continue to use our outdated, irreparable, and potentially hazardous modular furniture.

### **Agricultural Environmental Management Services**

#### **A request for \$45,000.00**

Professional Services: The AEMS Division needs to continue our contract with our consultant to review Nutrient Management Plans (NMP); perform duties in the areas of poultry, swine, cattle, Best Management Practices in compliance areas and AgPDES. The Consultant will provide technical assistance and reviews of other related actions as requested by the Director of the AEMS Division failure to hire a consultant to perform these activities will result in noncompliance with the laws that regulate poultry, swine and cattle industry. This is the third year of current contract.

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

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

#### **A request of \$130,900**

The AEMS Division has obtained a grant of \$185,614 from the Exchange Network (EN) to expand our e-Reporting for our programs. The Grant will allow AEMS to contract with an approved contractor company to develop a program to assist in the modernize our operations. AEMS seeks to contract with Ideagen to begin the development process. Ideagen is part of the Statewide contractors and can provide a cost-effective rate to assist the division to accomplishment the grant goals. Our inability to complete this project in the timeframe established with the grant funds available will cause the division to operate less effectively and efficiently and fill the grant requirements.

#### **A request to continue agreement with Tulsa Metropolitan Utility Authority (TUMA) \$180,200**

To employ two (2) Oklahoma Department of Agriculture, Food and Forestry (ODAFF) Environmental Program Specialists with the experience, training, and qualifications prescribed by State or federal law or rules and regulations to prepare NMPs designed to properly manage poultry waste at agricultural operations and to protect water quality in the Eucha-Spavinaw Watershed. Failure to continue the agreement will prevent Tulsa and ODAFF to fulfill the courts mandate on lawsuit.

## **CONSUMER PROTECTION SERVICES**

**FY2024 South Dakota Agricultural Laboratories testing fees for pesticide samples and feed samples - \$9,800.00**

**FY2024 OSU laboratory testing fees for soil and water samples related to environmental pollution investigations - \$9,800.00**

### **FY2024 Oklahoma State University Soil Fertility Research --\$450,000.00**

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

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

### **FY2024 Unwanted Pesticide Disposal Program --\$350,000.00**

Pursuant to 2 O.S. § 3-82(J) (3), ODAFF is required to collect a registration fee of \$210.00 for each pesticide or device label registered. A portion of these fees, in the amount of \$300,000.00 annually, shall be dedicated for conducting programs for unwanted pesticide disposal. This amount shall be deposited into the State Department of Agriculture Unwanted Pesticide Disposal Fund and shall be dedicated for this use only. Since not all the \$300,000.00 in the funds is utilized each year they are then carried forward into the next fiscal year and the amount available for unwanted pesticide disposal in fiscal year 2024 is \$350,000.00.

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

### **FY2024 Oklahoma State University Pesticide Program Contract Approval --\$130,000.00**

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

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

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

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

**FY2024 Kelly Registration System (KRS)—maintenance, ACH reimbursement and inspection program fees--\$88,000.00**

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

This money is for overpayments by KRS and needs to be returned. We do not have an inspection program for field staff to use when conducting their inspections and it is the maintenance fee for our online program.

**FY2024 OSU Plant Disease and Insect Diagnostic Lab (PDIDL) --\$ 25,000.00**

This is for payment to the PDIDL lab for processing of plant pest and disease samples. This can include reoccurring pests such as red imported fire ant or new pests such as vascular streak dieback in redbud. Sampling events may be funded by an USDA APHIS cooperative agreement but not all samples are funded.

Nurseries will be unable to ship plants. Plant diseases and pest introduced into Oklahoma may spread throughout the state affecting crops and native plants.



**FY2024 GIS Programing with Oklahoma University --\$43,000.00**

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

Without the GIS programming we will have more difficulty meeting USDA hemp reporting requirements and CAPS reporting requirements. This will also limit our efficiency in sampling, trapping and inspections.

**FY2024 Verizon Wireless --\$25,000.00**

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

Without wireless there would be no way to communicate or move forward with our online system for inspections. Additionally, it will slow response times to complaints including those that are time sensitive like human health related and environmental.

**FY2023 OSU Plant Disease and Insect Diagnostic Lab (PDIDL) --\$20,000.00**

A plant pest emergency occurred in December with the first detection of Vascular Streak Dieback in Redbud trees. ODAFF spent January and February testing trees in the positive nurseries and then in the remaining nurseries for the disease to prevent the further spread of infected plant material. This request is to cover the sampling that has already occurred and any additional sampling through the year end.

This will prevent infected trees from being sold to the public all of which die and also may spread to our native redbud trees.

**Computers --\$37,800.00**

Updated computers are needed to replace existing computers for CPS field staff. CPS field staff's computers need replaced often due to the rugged environment that they are used in by staff. When their computers fail it causes inspector down time while they get repaired or replaced.

Computers are essential for us to be able to complete our work. without them inspection, licensing, registrations, tonnage and complaint response time will be slowed. Additionally, communication with field staff and the public will be affected causing undo frustrations.

**Food Safety Services****Contract employee for Dairy Services - \$40,000.00**

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

## **Forestry Services**

### **FY24 - \$250,000**

For use of Purchase Orders 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.

### **FY23 - \$100,000**

For use of PCards & Purchase Orders 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.

### **FY23 – Transport Trucks, \$832,526 (Federal Funding–SFA Response, 245 Fund)**

Purchase of five (5) Class 8 Truck Tractors that will be used to carry Type 3 firefighting bulldozers. These are mission critical pieces of equipment that will respond to wildfires and all-hazard situations throughout the entire state. With new transports in service, OFS will be able to provide timely and reliable responses, limiting the threat to life and property. The transports will be replacing trucks that are undersized, has excessive mileage and require frequent, costly repairs. Funding for this purchase will come the US Forest Service – FY20 SFA Response Grant (\$460,000), FY21 SFA Response Grant (\$197,526) and the OFS Fund 245 (\$175,000) as part of an approved budget revision.

### **FY22 – Firefighting bulldozer, \$574,121 (Federal Funding–SFA Response)**

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

### **FY23 – UTVs w/ slip-on firefighting units, \$64,929 (Federal Funding–SICF SFA Response)**

Purchase three (3) Polaris Ranger UTVs. These UTVs will be replacing units that were acquired through the Firefighter Property Program (FFP) but are no longer in service due to age and mechanical issues. Each UTV will be equipped with a slip-on skid unit that can handle spot fires and support mop-up throughout the duration of a wildfire. In addition, these UTVS configured with windshields, canopies and seatbelts can safely and efficiently transport fire line personnel to areas where pickups/engines are unable to access. Funding for this entire purchase will come the US Forest Service – FY22 SICF SFA Response Grant (\$64,929) as part of an approved budget revision.

**FY23 – Wildfire detection cameras, \$107,800 (Federal Funding–SICF SFA Response)**

Purchase eleven (11) PTZ IP Detection Cameras. The cameras will re-establish wildfire detection in eastern Oklahoma providing coverage of the 6.2-million-acre protection areas. An early warning detection system is necessary for keeping fire sizes manageable and ensuring a prompt response. With this system in place, OFS will have the ability to detect fires 24 hours a day, 365 days a year. Funding for this entire purchase will come the US Forest Service – FY22 SICF SFA Response Grant (\$107,800) as part of an approved budget revision.

**FY23 - \$15,000**

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

**FY 23- \$20,000**

Purchase the pouring of a concrete pad in an existing pole barn. This purchase will be reimbursed by the Revegetation/National Seed Strategy Funding Grant. Justification: Numerous landowners are requesting seedlings grown in containers for their harsher sites and we are unable to meet the demand now due to the lack of infrastructure for the equipment. We have the container filling equipment; we simply don't have a structure solid location to set it up. This concrete pad will allow us to set up and use the container filling equipment, which in return will meet landowner needs and save resources and time from having to do it all by hand.

**FY23-\$50,000**

Purchase a forklift for the Forest Regeneration Center. A forklift is required to set up equipment, move racks and boxes of seedlings, unload bulk soil media and fertilizers and containers from delivery trucks on a regular basis at the Forest Regeneration Center. The nursery currently does not have a forklift to manage these tasks and one must be borrowed. This purchase will be reimbursed by the Revegetation/National Seed Strategy Funding Grant. Justification: Without this purchase, staff will need to move these items by hand which would be time consuming and potentially unsafe.

**FY 23- \$15,000**

Purchase strapping machines at the Forest Regeneration center. Strapping machines are required to bundle bareroot conservation seedlings at the Forest Regeneration Center. It is essential for the seedlings to be bundled properly and accurately for landowners and delivery procedures. The current strapping machine is obsolete, and the parts are no longer available. This purchase will be reimbursed by the Revegetation/National Seed Strategy Funding Grant. Justification: Without a strapping machine, the seedlings will not be bundled properly and accurately for landowners.

**FY 23- \$10,000**

Purchase metal siding, purlin, posts and equipment door for existing three-sided pole barn at the Forest Regeneration Center. This will secure the building and the container filling

equipment that will be housed inside. This purchase will be reimbursed by the Revegetation/National Seed Strategy Funding Grant. Justification: Numerous landowners are requesting seedlings grown in containers for their harsher sites and we are unable to meet the demand now due to the lack of infrastructure for the equipment. Once the container filling equipment is assembled, it must be housed in a secure building, away from weather that would affect its operation of filling containers for landowners.

**FY 23 - \$25,000**

Upfit of two new 1/2 -ton pickups to include installation of emergency warning system, communication hardware, off-road capability and conspicuity striping. Specifically, the following will be included: Emergency warning system – Warning lights/siren meeting NFPA standards, Communication hardware – Radio console and associated wiring and cabling, Off-road capability – grille guard and leveling kit, and Conspicuity striping to provide for visibility while working incidents in hazardous/low light conditions (i.e. smoke, nighttime, roadside). Justification: Warning lighting, siren and conspicuity striping to meet NFPA standards and enhance visibility during incident response. Radio console installation to provide secured housing for high-value communications equipment. Off-road capability equipment to facilitate efficient operation in routine off-road environments where brush, boulders and other obstacles are present.

**FY23- \$30,000**

Additional contract harvesting services is needed by qualified, trained workers to lift seedlings at the Forest Regeneration Center (FRC). Each year, the FRC delivers millions of 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.

**FY 23 - \$55,000**

Purchase ESRI ArcGIS Online Licenses (Federal Grant) – Justification: This allows the OFS Incident Management Team and fire personnel to utilize Collector, giving our firefighters real-time wildland fire data exchange. Data collected from the Collector application gives firefighters an advantage on fighting fires and increases overall firefighter and public safety.

**FY23 - \$13,200**

Random and pre-hire Drug and Alcohol testing for all CDL drives OFS employees to comply with DOT Requirements. If we do not perform drug screening, we will not be up to DOT regulations with CDL drivers and keep testing throughout the fiscal year. The amount asked for will is the estimated cost for one-time testing of all Forestry Services employees currently holding a CDL. This purchase is needed for policy and procedures.

## **Laboratory Services**

### **FY23 - \$31,318.56 Service Contract**

Purchase of a one-year Preventative Maintenance Agreement for the HPLC-MSMS Triple quad 6470 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). (Pre-approval letter sent to Secretary Arthur).

### **FY23 - \$10,685.00 Preventive Maintenance**

Purchase of a one-year Preventative Maintenance Agreement for the ICP (Inductively Coupled Plasma-Optical Emission Spectrometry Unit), in the General Chemistry Section to ensure continuous and consistent operation of the instrument and ensures the overall quality of the data being reported. (To be purchased by Consumer Protection Services).

### **FY23 - \$6500.00 Service Contract**

Purchase of a one-year Service Contract for the Skalar San (Flow Analyzer) with Autosampler, UV Vis and Flame Photometers for the General Chemistry Section. (To be purchased by Consumer Protection Services).

### **FY23 - \$7100.00 Service Contract**

Purchase of a Service Contract for the LECO Sulphur and Nitrogen Analyzer for the General Chemistry Section. (To be purchased by Consumer Protection Services).

## **Market Development Services**

FY2023 – Made in Oklahoma Showcase – facility rental - \$5,000.00.

FY2023 – Farm to School Formula Grant – Date of Award through September 30, 2026 - \$964,406.00

Justification: This project is entirely funded by the Farm to School State Formula Grant. This funding will support program efforts in the state with activities including development and expansion of educational resources for school cafeteria personnel and students, training and networking opportunities for food producers and direct consultation services for schools interested in initiation or expansion of procurement. In addition, the funding will support a full-time employee dedicated to the Farm to School program and a part-time intern as well as several contractors including nutritionists, chefs and former school staff with documented success with Farm to School programs. If this proposed expense is not approved and therefore the project is not completed, the State not only loses money immediately that is important to the school districts throughout the state, but also runs the risk of not being awarded money in the future.

FY2023 – Agritourism categorical brochures – printing - \$48,000.00

Justification: It is the goal of the Agritourism Program to utilize all marketing channels to create a consistent brand awareness campaign and utilize these channels for seasonal

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

FY2024 – Made in Oklahoma & Made in Oklahoma State Fair Store bags – cost share basis - \$15,000.00

FY2024 – Agreement with Oklahoma Tourism and Recreation Department to promote the Agritourism industry through the development of consumer marketing campaigns. - \$35,000.00

Justification: The Agritourism program is entering a partnership with Oklahoma Tourism and Recreation Department (OTRD) as part of our marketing plan for FY2024. As a part of this partnership, Agritourism gets to use their existing marketing channels including free ads in their guides, website presence, travel show co-ops and brochure inventory, warehousing, and distribution. If this proposed expense is not approved, we will lose an opportunity to share in a campaign that gains exponentially more reach than we could obtain on our own. OTRD already has the channels set up and by not partnering we would be looking at well over \$100,000 to replace what they can give us in ad placement, website presence and Search Engine Optimization. We have evaluated the warehousing and postage costs; this alone would be over \$50,000 in hard costs and does not include the advertising and marketing part of our agreement.

FY2024 – Agreement with Discover Oklahoma, Oklahoma Tourism and Recreation Department, for the promotion of Agritourism venues through the development and production of an advertising campaign on Discover Oklahoma television shows. - \$15,000.00

FY2024 – Renewal of contract with Freestyle, graphic design firm, for Year 4 of 4 to work with the Agritourism program in creating promotional and print items to further promote the program and help establish continuity with advertising and marketing pieces. - \$30,000.00

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

FY2024 – Agreement with Food Export Association of the Midwest USA (Food Export – Midwest) for membership to provide small and medium size food and agricultural companies’

access to international markets through a variety of exporter programs and to increase volume and value of agricultural exports from the region in represents. - \$7,000.00

FY2024 – Addendum with Oklahoma State University for Year 4 of 4 - Viticulture and Enologist Extension Specialist – Project funded entirely by the Viticulture and Enology Center Development Revolving Fund Grant - \$70,000.00

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



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

**APPROVAL OF CASES**

ON THIS 19<sup>th</sup> day of April 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 19<sup>th</sup> day of April 2023.

---

Blayne Arthur  
President  
State Board of Agriculture

**Exhibit A**  
**Board of Agriculture**  
**April 19, 2023**

**Cases Resolved by Stipulation**

**Consumer Protection Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
Cart's Farm & Homes Supply, LLC	OGC-23-17	CPS	\$500.00
Complete Grounds Care, LLC	OGC-23-61	CPS	\$500.00
Dollar General	OGC-22-699	CPS	\$525.00
Elite Lawn Care, LLC	OGC-23-93	CPS	\$3,000.00
Family Dollar	OGC-22-563	CPS	\$600.00
Family Dollar	OGC-22-697	CPS	\$975.00
James Jacobs	OGC-22-723	CPS	\$300.00
Orkin	OGC-23-22	CPS	\$1,500.00
Redbud Pest Services	OGC-23-83	CPS	\$500.00
Row Crop AG, LLC	OGC-22-535	CPS	\$1,500.00
Row Crop AG, LLC	OGC-22-536	CPS	\$1,500.00
Signature Landscape, LLC	OGC-23-11	CPS	\$1,500.00
Sun City Farm, LLC	OGC-23-112	CPS	\$3,000.00
Benjamin Yost	OGC-23-70	CPS	\$500.00

**Cases Resolved by Consent Order:**

**Consumer Protection Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
Heinen Brothers	OGC-21-618	CPS	\$3,000.00

Mosquito Joe of Tulsa	OGC-22-564	CPS	\$1,000.00
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Cases Resolved by Proposed Default Order:

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Douglas Rose, Lawn Guy	OGC-20-834	CPS	\$5,000.00
Douglas Rose, Lawn Guy	OGC-21-80	CPS	\$5,000.00

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. CART'S FARM & HOME SUPPLY INC.**

**Case File No. OGC-23-17**

**CART'S FARM & HOME SUPPLY INC.**

**919 E. MAIN ST**

**BINGER, OK 73009**

**Summary of Facts:** CPS conducted a marketplace inspection at this Binger location. Upon inspection it was discovered that this place of business was selling individually JT Eaton Top Gun Pellet Place Packs Rodenticide. This particular rat and mice bait packs are not labeled for individual sales. This was a multi-pack that was broken apart being sold individually; this 128 pack only had 24 pack remaining.

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

**Proposed Administrative Penalty:** This proposed penalty was set at \$500 and the stipulation was signed, and paid in full.

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

CART'S FARM & HOME SUPPLY INC.  
919 E. MAIN ST  
BINGER, OK 73009

RESPONDENT.

Case No: OGC-23-17

**FILED**  
FEB 24 2023  
STATE BOARD OF AGRICULTURE

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:

GINA. HERE IS YOUR  
COPY I PUT THE  
HVE CHECK IN THE  
SAFE

Joy D

RECEIVED

FEB 24 2023

ADAPT FINANCE

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

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC-23-17**

**CART'S FARM & HOME SUPPLY INC. )  
919 E. MAIN ST )  
BINGER, OK 73009 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 11<sup>th</sup> day of May 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

---

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide sales, located at Binger, 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 31<sup>st</sup> day of October 2022, the Consumer Protective Services Division of the Department conducted a pesticide marketplace inspection at your business located in Binger, Oklahoma.

19. Our inspector noted that you were selling individually JT Eaton Top Gun Pellet Place Packs Rodenticide. These rat and mice bait packs cannot be sold individually, and the product packaging states that it is illegal to sell these packs individually.

20. During this inspection the 128-count container of place packs had 24 place packs remaining in it.



### **ALLEGED CONCLUSIONS OF LAW**

21. Based upon the application of the above law to the aforementioned facts, selling a pesticide in a manner inconsistent with its labeling is a violation of Oklahoma Statute Title 2 §3-86(C)(5) which states:

- “C. It shall be unlawful for any person, whether or not a person holds a permit as a manufacturer, registrant, or distributor, to distribute, sell, or offer for sale within this state, deliver for transportation or transport in intrastate or interstate commerce, or to violate any part of this subarticle or rules promulgated by the Board. Any pesticide registration, permit, certificate, or identification issued may be suspended, canceled, revoked, or refused reissue by the Board after a notice and opportunity to be heard has been given to the holder of the registration, permit, certificate, or identification. Notice shall be given to the holder of the registration, permit, certificate, or identification by registered or certified mail at least ten (10) days prior to the date of hearing. The suspension, cancellation, revocation, or refusal to reissue any registration, permit, certificate or identification may be made if the Board finds that: 5. That any person intends to or has distributed, sold, stored, or used any pesticide or device in a manner inconsistent with its labeling.”

### **ATTORNEY CONFERENCES**

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. 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.

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 **Five Hundred Dollars (\$500.00)**.

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

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

*Brady Robison*

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

**CERTIFICATE OF MAILING**

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

**CART'S FARM & HOME SUPPLY INC.  
919 E. MAIN ST  
BINGER, OK 73009**

*Brady Robison*  
Brady Robison



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. COMPLETE GROUNDS CARE LLC**

**Case File No. OGC-23-61**

**COMPLETE GROUNDS CARE LLC**

**6800 E. COVELL RD**

**EDMOND, OK 73034**

**Summary of Facts:** CPS Inspectors conducted a use inspection of an employee of this company making an application in Yukon, OK. This employee indicated he had not taken the certification exam and was not certified. He indicated that he was applying Strike 3 and Pendulum AquaCap. Records indicate that this employee had taken the technician exam in December but was not yet certified. To make commercial applications you must be a certified applicator, service tech, or have one on site supervising. None of these applied to this case.

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

**Proposed Administrative Penalty:** This penalty was assessed at \$500; 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**  
MAR 16 2023  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

COMPLETE GROUNDS CARE LLC  
6800 E. COVELL RD  
EDMOND, OK 73034

RESPONDENT.

Case No: OGC-23-61

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

Erik Lee  
Printed Name and Title:

Date: 3/10/23



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

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

**COMPLAINANT,**

**v.**

**Case No: OGC-23-61**

**COMPLETE GROUNDS CARE LLC )  
6800 E. COVELL RD )  
EDMOND, OK 73034 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 11<sup>th</sup> day of May 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide/herbicide applications, located at Edmond, Oklahoma.

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

### **ALLEGATIONS OF FACT**

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

18. On or about the 10<sup>th</sup> day of November 2022, the Consumer Protective Services Division of the Department conducted a use inspection of your employee, Luis Gallegos-Garcia, while he was making an application of pesticides to the grounds at Braum's in Yukon, OK.

19. During this inspection your employee indicated that he had not taken the certified applicators exam and informed our inspector that he did not have a certified applicator card or service technician identification.

20. Your employee informed our inspector that he was applying Strike 3 and Pendulum AquaCap.

21. According to our records, Mr. Gallego-Garcia completed the service technician exam on December 22, 2022. To make a commercial pesticide application you must be a certified applicator, service technician, or a certified applicator must be on site to directly supervise a non-service technician.

### **ALLEGED CONCLUSIONS OF LAW**

22. Based upon the application of the above law to the aforementioned facts, your company is in violation of 2 O.S. §3-86(A)(16) and O.A.C. 35:30-17-25(b) which state:

- **2 O.S. §3-86(A)(16):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.”
- **O.A.C. 35:30-17-25(b):** “(b) A certified applicator shall be on site to supervise any pesticide application by a non-service technician.”

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

26. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
28. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00),

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

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

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

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

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

#### **ENFORCEMENT OF JUDGMENTS**

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

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

**STIPULATION**

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

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

DATED THIS \_\_\_\_\_ 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  
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:

**COMPLETE GROUNDS CARE LLC  
6800 E. COVELL RD  
EDMOND, OK 73034**

*Brady Robison*  
Brady Robison





**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. DOLLAR GENERAL**  
**Case File No: OGC-22-699**

**DOLLAR GENERAL**  
**22910 STATE HIGHWAY 76**  
**DIBBLE, OKLAHOMA 73031**

**Summary of Facts:** An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

**Statute or Rule Violation:** Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

**Proposed Administrative Penalty:** The proposed penalty for this case was Five Hundred Twenty-five Dollars (\$525.00) (Seven violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**

MAR 06 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

DOLLAR GENERAL  
22910 STATE HIGHWAY 76  
DIBBLE, OKLAHOMA 73031

RESPONDENT.


Case No: OGC 22-699

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Twenty-five Dollars (\$525.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:



Signature

Mia Savaloja

Printed Name

Sr. Dir Stone Ops

Job Title

2/14/23

Date

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

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

**COMPLAINANT,**

**v.**

**DOLLAR GENERAL )  
22910 STATE HIGHWAY 76 )  
DIBBLE, OKLAHOMA 73031 )**

**RESPONDENT. )**

**Case No: OGC 22-699**

**FILED**  
**FEB 07 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 Conference<sup>1</sup> 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.

---

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

**JURISDICTION, VENUE, AND APPLICABLE LAW**

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 22910 State Highway 76, in Dibble, 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 July 26, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Dibble, Oklahoma. The inspection revealed that eight (8) 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 October 19, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Dibble, Oklahoma. The inspection revealed that seven (7) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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



### **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 **Five Hundred Twenty-five Dollars (\$525.00). (7 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 7 day of Feb, 2023, a true and  
correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested,  
as follows:

**DOLLAR GENERAL CORPORATION  
ATTN: LEGAL DEPARTMENT  
100 MISSION RIDGE  
GOODLETTSVILLE, TN 37072**

*Gina Blaylock*  
\_\_\_\_\_  
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 22-699**

**DOLLAR GENERAL )  
22910 STATE HIGHWAY 76 )  
DIBBLE, OKLAHOMA 73031 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Twenty-five Dollars (\$525.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 23-JPS-0002

DATE\* 10/19/2022

COUNTY McClain

LOCATION\*

CORPORATE

AGN NUMBER AGN0141305

AGN NUMBER

Dollar General

22910 State Highway 76

Dibble OK 73031-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-JPS-0039

TELEPHONE\* (405) 701-9805

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE DEPARTMENT

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Puffs facial tissue w lotion 4 pack	037000893141	\$5.85	\$6.25	(\$0.40)
Swiggles blanket 3 pack	632878327028	\$6.00	\$6.50	(\$0.50)
Visine relief drops 0.28 Oz	31254743833	\$3.00	\$3.25	(\$0.25)
DG party balloon foil 1 count	011179538232	\$4.00	\$5.00	(\$1.00)
TrueLiving strainer mesh	072867970123	\$5.35	\$5.50	(\$0.15)
Powerade PowerWater Tropical Mango	049000530810	\$1.00	\$1.25	(\$0.25)
White Claw variety pack	635985548904	\$18.25	\$18.70	(\$0.45)

REC'D CPS  
2022 OCT 24 A 7 16

COPY

Total Number Checked 50 Total Number Of Violation 7 Accuracy 86 % Inspection Result Notice of Violation

REMARKS

This is the first follow up inspection.

WITNESS

*James Schoppa*

INSPECTOR\*

James Schoppa

*James Schoppa*

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. ELITE LAWN CARE**

**Case File No. OGC-23-93**

**ELITE LAWN CARE  
8505 GATEWAY TERR  
OKLAHOMA CITY OK 73149**

**Summary of Facts:** CPS Inspectors conducted a consumer complaint inspection in OKC. This inspection was in regard to dye being spilled into a storm drain. A sample of this standing, dyed water was taken and MCPA was detected. Inspectors spoke to a company representative, and they indicated that rinsate from one of their tanks was dumped into the gravel lot at their shop. This was an improper disposal of rinsate according to the product label.

**Statute or Rule Violation:** 2 O.S. §2-18.1(A), 2 O.S. §3-86(A)(4), O.A.C. 35:30-17-24(c), O.A.C. 35:30-17-94

**Proposed Administrative Penalty:** This penalty was assessed at \$3000; stipulation was signed and paid in full.

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

*Incorrect Address*  
ELITE LAWN CARE  
8505 GATEWAY TERR  
OKLAHOMA CITY OK 73149 *No longer there*

RESPONDENT.

Case No: OGC-23-93

**FILED**  
MAR 14 2023  
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Thousand Dollars (\$3000.00)** 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: 3-8-23

*New address*  
*PO Box 6026*  
*Moore OK 73153*  
*or*  
*12404 Sardonyx Dr*  
*Okla city OK 73170*

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

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC-23-93**

**ELITE LAWN CARE )  
8505 GATEWAY TERR )  
OKLAHOMA CITY OK 73149 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 11<sup>th</sup> day of May 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

---

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

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

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

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

#### **DEFAULT**

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

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



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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide/herbicide applications, located at Oklahoma City, Oklahoma.

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

#### **ALLEGATIONS OF FACT**

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

18. On or about the 16<sup>th</sup> day of April 2021, the Consumer Protective Services Division of the Department conducted a consumer complaint investigation located at Gateway Terrace and SE 88<sup>th</sup> Street in OKC, OK.

19. This complaint was in regard to a report of a dyed spill running into a storm drain. Trace amounts of MCPA were detected in the sample taken.

20. After speaking with you, you stated that on April 15<sup>th</sup>, 2021, the rinsate from one of your tanks was dumped out onto your gravel lot. This is an improper disposal according to the product label.

21. The improper discharge of a pesticide and using a pesticide in a manner inconsistent with its label are violations of 2 O.S. §2-18.1(A), O.A.C 35:30-17-24(c), O.A.C. 35:30-17-94 and 2 O.S. § 3-86(A)(4).

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

22. Based upon the application of the above law to the aforementioned facts, you are in violation of multiple statutes and rules, including:

- **2 O.S. §2-18.1(A):** “A. It shall be unlawful and a violation of the Oklahoma Agricultural Code for any person to cause pollution of any air, land or waters of the state by persons which are subject to the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Environmental Quality Act.”
- **2 O.S. §3-86(A)(4):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”

- **O.A.C 35:30-17-24(c):** “(c) To protect public health and the environment, failure to follow precautionary and recommended language included in the pesticide product label may be considered a use inconsistent with the label.”
- **O.A.C. 35:30-17-94:** “(a) Procedures for constructive recycling by commercial applicators of unused portions of pesticides and rinsate of pesticides that, upon disposal, are classified as hazardous wastes under EPA regulations shall include the following: (1) Applicators of pesticides may recover and constructively reuse any unused portions of the pesticides and any rinsate by one of the following methods: (A) Immediate reapplication of the unused portion of the pesticide and rinsate in accordance with label and labeling requirements; (B) Transferring to a closed containment system meeting the requirement of 35:30-17-95; or (C) Disposal in a permitted controlled industrial waste facility. (2) All unused pesticides and rinsate from pesticides classified as a controlled industrial waste upon disposal shall be removed from containment tanks less than ninety (90) days after generation, unless the applicator has obtained a permit from the Oklahoma Department of Environmental Quality for longer periods of storage. (3) In less than ninety (90) days after the final application for the season of a pesticide classified as a hazardous waste upon disposal, the applicator shall remove the contents of each containment tank, triple rinse or pressure rinse the containment tank by appropriate procedures, and apply the tank contents and rinsate in accordance with label and labeling requirements governing the initial application of the pesticide.”

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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

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

#### **PRAYER FOR RELIEF**

30. The Department is not seeking to remove any license or registration of any business; we are seeking a monetary penalty as set out in statutes, specifically 2 O.S. §2-18(A). In this case we are seeking a **Three Thousand Dollar (\$3000.00)** administrative penalty.

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

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

#### **ENFORCEMENT OF JUDGMENTS**

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

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

**STIPULATION**

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Three Thousand Dollars (\$3000.00)**.

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

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

*Brady Robison*

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

**CERTIFICATE OF MAILING**

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

Requested, as follows:

ELITE LAWN CARE  
8505 GATEWAY TERR  
OKLAHOMA CITY OK 73149

Brady Robison  
Brady Robison

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

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC-23-93**

**ELITE LAWN CARE )  
8505 GATEWAY TERR )  
OKLAHOMA CITY OK 73149 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Thousand Dollars (\$3000.00)** 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. FAMILY DOLLAR**  
**Case File No: OGC-22-563**

**FAMILY DOLLAR**  
**101 EAST 1<sup>ST</sup>**  
**GRANITE, OK 73547**

**Summary of Facts:** An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

**Statute or Rule Violation:** Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

**Proposed Administrative Penalty:** The proposed penalty for this case was Six Hundred Dollars (\$600.00) (Eight violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
MAR 13 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 22-563

FAMILY DOLLAR )  
101 EAST 1<sup>ST</sup> )  
GRANITE, OK 73547 )

FD 31510

RESPONDENT. )

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Six Hundred Dollars (\$600.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:



Signature

Ashley Johnson

Printed Name

EH&S Specialist

Job Title

3/7/23

Date

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

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

**COMPLAINANT, )**

**v. )**

**FAMILY DOLLAR )  
101 EAST 1<sup>ST</sup> )  
GRANITE, OK 73547 )**

**RESPONDENT. )**

**Case No: OGC 22-563**

**FILED**  
**FEB 01 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 Conference<sup>1</sup> 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.

---

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

**JURISDICTION, VENUE, AND APPLICABLE LAW**

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Family Dollar, located at 101 E 1st, in Granite, 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 July 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Granite, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about September 26, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Granite, 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.

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

### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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

### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Six Hundred Dollars (\$600.00). (8 violations at \$75.00 per violation).**

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



DATED THIS 7th day of February, 2023.

OKI AHOMA 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 7 day of Feb, 2023, a true and  
correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested,  
as follows:

**FAMILY DOLLAR  
500 VOLVO PARKWAY  
CHESAPEAKE, VA 23320**

*LB*  
\_\_\_\_\_  
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 22-563**

**FAMILY DOLLAR )  
101 EAST 1<sup>ST</sup> )  
GRANITE, OK 73547 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Six Hundred Dollars (\$600.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBE 22-RLF-0115 DATE\* 9/26/2022 COUNTY Greer  
LOCATION\* **RECD CPS** CORPORATE  
AGN NUMBER AGN0156069 AGN NUMBER **2021 OCT - 6 A 10 46**  
Famil Dollar  
101 E 1st  
Granite OK 73547-  
MANAGER INSPECTION TYP Initial Original Insp# 22-RLF-0096  
TELEPHONE\* (580) 301-6199 Other Store Type ITEM STATUS NON-SALE  
TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Shamrock Farms half n half 32 oz	028300000568	\$3.15	\$3.95	(\$0.80)
Kellogs Frosted Flakes 10.6 oz	038000264207	\$3.85	\$4.00	(\$0.15)
Oreo Mega Stuff 1lb 1.6 oz	044000058692	\$4.95	\$5.25	(\$0.30)
Starburst Fruit Chews 15.6 oz	022000280077	\$4.00	\$4.50	(\$0.50)
Jiffy Corn Muffin mix 8.5 oz	072486002205	\$0.70	\$0.85	(\$0.15)
Dial antibacterial hand soap 7.5oz	017000027951	\$1.95	\$2.15	(\$0.20)
Febreeze Fabric Fresh 500 mL	037000538844	\$3.65	\$4.15	(\$0.50)
Homeline 3in1 Laundry pacs 8.8oz	032251632228	\$3.50	\$3.85	(\$0.35)

Total Number Checked 100 Total Number Of Violation 8 Accuracy 92 % Inspection Result Notice of Violati

REMARKS

Follow up #1

WITNESS

*Charles D. Smith*

INSPECTOR\*

Richard Folsom

*R. Folsom*

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. FAMILY DOLLAR**  
**Case File No: OGC-22-697**

**FAMILY DOLLAR**  
**2107 OKLAHOMA AVENUE**  
**WOODWARD, OK 73801**

**Summary of Facts:** An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after the first inspection.

**Statute or Rule Violation:** Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

**Proposed Administrative Penalty:** The proposed penalty for this case was Nine Hundred Seventy-five Dollars (\$975.00) (Thirteen 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. )

FAMILY DOLLAR )  
2107 OKLAHOMA AVENUE )  
WOODWARD, OK 73801 )

RESPONDENT. )

Case No: OGC 22-697

FD 22056

**FILED**  
MAR 13 2023  
STATE BOARD OF AGRICULTURE

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Seventy-five Dollars (\$975.00)** 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

Ashley Johnson  
Printed Name

EH & S Specialist  
Job Title

3/7/23  
Date

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

**FILED**  
**FEB 07 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 22-697**

**FAMILY DOLLAR )  
2107 OKLAHOMA AVENUE )  
WOODWARD, OK 73801 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on 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.

---

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Family Dollar, located at 2107 Oklahoma Avenue, in Woodward, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.



### **ALLEGATIONS OF FACT**

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

20. On or about August 12, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Woodward, Oklahoma. The inspection revealed that fourteen (14) 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 October 13, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Woodward, Oklahoma. The inspection revealed that thirteen (13) 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 **Nine Hundred Seventy-five Dollars (\$975.00). (13 violations at \$75.00 per violation).**

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

DATED THIS 7th day of February, 2023.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 7 day of Feb., 2023, a true and  
correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested,  
as follows:

**FAMILY DOLLAR  
500 VOLVO PARKWAY  
CHESAPEAKE, VA 23320**

*Gina Blaylock*  
\_\_\_\_\_  
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 22-697**

**FAMILY DOLLAR )  
2107 OKLAHOMA AVENUE )  
WOODWARD, OK 73801 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Seventy-five Dollars (\$975.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 23-CTS-0008

DATE\* 10/13/2022

COUNTY Woodward

LOCATION\*

CORPORATE

AGN NUMBER AGN030341

AGN NUMBER \_\_\_\_\_

FAMILY DOLLAR \_\_\_\_\_

2107 OKLAHOMA AVENUE

WOODWARD OK 73801-

MANAGER \_\_\_\_\_ INSPECTION TYP Followup Original Insp# 22-CTS-0123

TELEPHONE\* (580) 254-5416

Other Store Type \_\_\_\_\_

ITEM STATUS NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Pepto Bismol</u>	<u>301490039083</u>	<u>\$5.40</u>	<u>\$5.65</u>	<u>(\$0.25)</u>
<u>Campbell's Chicken with Rice</u>	<u>51000224729</u>	<u>\$1.50</u>	<u>\$2.00</u>	<u>(\$0.50)</u>
<u>Pringles Scorchin Cheese</u>	<u>38000245534</u>	<u>\$1.95</u>	<u>\$2.00</u>	<u>(\$0.05)</u>
<u>Chestnut Hill Seasoned Croutons</u>	<u>32251419430</u>	<u>\$1.25</u>	<u>\$1.50</u>	<u>(\$0.25)</u>
<u>Chestnut Hill Chili No Beans</u>	<u>32251526145</u>	<u>\$1.80</u>	<u>\$2.00</u>	<u>(\$0.20)</u>
<u>Welch's Grape Jelly</u>	<u>41800501502</u>	<u>\$2.85</u>	<u>\$3.10</u>	<u>(\$0.25)</u>
<u>Oscar Mayer Bologna</u>	<u>44700008577</u>	<u>\$3.25</u>	<u>\$3.60</u>	<u>(\$0.35)</u>
<u>Red Baron Deep Dish</u>	<u>72180733672</u>	<u>\$3.60</u>	<u>\$4.35</u>	<u>(\$0.75)</u>
<u>Motts Apple White Juice</u>	<u>14800004731</u>	<u>\$3.25</u>	<u>\$3.45</u>	<u>(\$0.20)</u>
<u>Chestnut Hill Frosted Flakes</u>	<u>32251736131</u>	<u>\$1.95</u>	<u>\$2.25</u>	<u>(\$0.30)</u>
<u>Arm &amp; Hammer Clean Burst</u>	<u>33200975380</u>	<u>\$4.10</u>	<u>\$4.35</u>	<u>(\$0.25)</u>
<u>Dawn Ultra</u>	<u>30772000922</u>	<u>\$2.85</u>	<u>\$3.00</u>	<u>(\$0.15)</u>
<u>Crisp &amp; Juicy Sweet Apply</u>	<u>32251246531</u>	<u>\$2.55</u>	<u>\$3.10</u>	<u>(\$0.55)</u>

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

REMARKS

WITNESS

*Cassidy*

INSPECTOR\*

Colt Stearns

*Colt Stearns*

REC'D CPS  
OCT 18 A 11:00

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. JAMES JACOBS**

**Case File No. OGC-22-723**

**JAMES JACOBS  
1810 CR NS 223  
FREDERICK, OK 73542**

**Summary of Facts:** CPS conducted a complaint investigation in Frederick, OK. This individual informed inspectors that he had applied Banvel and Roundup to a cotton field. A sample that was taken indicated that 2,4-D, Dicamba and Glyphosate were found. This applicator is on file as a private applicator, and we requested application records, records to this day have still not been submitted. Finally, this applicator did not notify this office of his intent to make an application in a restricted area.

**Statute or Rule Violation:**

**Proposed Administrative Penalty:** This penalty was assessed at \$300; 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**

MAR 06 2023

STATE BOARD OF AGRICULT

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

COMPLAINANT,

v.

JAMES JACOBS  
1810 CR NS 223  
FREDERICK, OK 73542

RESPONDENT.

Case No: OGC-22-723

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Hundred Dollars (\$300.00)** for this action and has accordingly signed this Resolution by Stipulation and returned 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

J FRANK JACOBS  
Printed Name and Title:

Date: 3-1-2023



**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.**

**JAMES JACOBS  
1810 CR NS 223  
FREDERICK, OK 73542**

**RESPONDENT.**

**Case No: OGC-22-723**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 13<sup>th</sup> 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.**

---

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of private 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 1<sup>st</sup> day of August, the Consumer Protective Services Division of the Department conducted a consumer complaint located at 17659 CR NS 224 in Frederick, OK.

19. During this investigation you informed our inspectors that you applied Banvel and Roundup to this cotton field.

20. A sample was taken from this field and 2,4-D, Dicamba, and Glyphosate were detected.

21. You are on file with our office as having a current private applicator certification. A request for application records was sent to you on August 4, 2022, and again in October 2022.

22. As of the date of the letter of warning that was sent on November 22, 2022, the Department has not received the application records.

23. Additionally, you did not supply our office a notice of intent to make an application in the restricted area.

**ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, by failing to provide application records within seven days after the request, you are in violation of 2 O.S. §3-83(A) which states:

- “A. Every commercial and noncommercial applicator shall keep accurate records pertaining to pesticide activities, applications, and wood infestation reports, as required by the State Board of Agriculture. The records of the applicator shall be kept intact at the principal business location in this state for at least two (2) years after their date of expiration and copies shall be furnished to any authorized agent of the Board, immediately upon request in person, at any time during the regular business hours of the applicator. Copies of records shall be furnished to any authorized agent of the Board within seven (7) working days of a written request, in summary form, by mail, fax, e-mail, web site, or any other electronic media customarily used.”

25. Additionally, not informing the Department of your intent to apply in a restricted area is a violation of O.A.C. 35:30-17-24.1(c) which states:

- “(c) Any person intending to apply any of the herbicides listed in subsection (a) or (b) in the counties and during the times prohibited shall adhere to the following procedure: (1) The person shall notify the Department of the intent to apply herbicides listed in subsection (a) or (b) prior to the application on a form provided by the Department. (2) The person shall file a report with the

Department on a form provided by the Department no later than seven (7) working days after the last application date provided in the original notification of the herbicide use.”

### **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 **Three Hundred Dollars (\$300.00)**.

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 2<sup>ND</sup> day of February 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 2<sup>nd</sup> day of February 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

JAMES JACOBS  
1810 CR NS 223  
FREDERICK, 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.**

**JAMES JACOBS  
1810 CR NS 223  
FREDERICK, OK 73542**

**RESPONDENT.**

**Case No: OGC-22-723**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Hundred Dollars (\$300.00)** for this action and has accordingly signed this Resolution by Stipulation and returned 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. ORKIN**

**Case File No. OGC-23-22**

**ORKIN**  
**13465 PUPPY CREEK RD. STE. C**  
**SPRINGDALE, AR 72762**

**Summary of Facts:** CPS Inspectors conducted a use inspection on an applicator in McAlester, OK. This inspector had just completed an application. During this inspection our inspectors saw that the application vehicle did not have an OK company license number on it. At the time of this application and inspection, this applicator was not licensed or certified in OK; he has subsequently obtained his certification. Additionally, this company was not licensed as a business in OK.

**Statute or Rule Violation:** 2 O.S. §3-86(A)(15) and 2 O.S. §3-86(A)(16)

**Proposed Administrative Penalty:** This penalty was assessed at \$1500, and the stipulation was signed and paid in full.

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

ORKIN  
13465 PUPPY CREEK RD. STE. C  
SPRINGDALE, AR 72762

RESPONDENT.

Case No: OGC-23-22

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Five Hundred Dollars (\$1500.00)** 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

Tim Holder a Branch Manager  
Printed Name and Title:

Date: 3-16-23

**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.**

**ORKIN  
13465 PUPPY CREEK RD. STE. C  
SPRINGDALE, AR 72762**

**RESPONDENT.**

**Case No: OGC-23-22**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 11<sup>th</sup> day of May 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

---

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Springdale, Arkansas.

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 4<sup>th</sup> day of November 2022, the Consumer Protective Services Division of the Department performed a use inspection of your employee, Ethan Jones in the parking lot of Aaron's in McAlester, OK where he had just finished an application.

19. Our inspector noticed that the company vehicle did not have an Oklahoma company license number on it.

20. When asked for applicator certification Mr. Jones supplied our inspector with an Arkansas certification, and stated that he worked out of the Orkin office in Springdale, AR. At the time of this inspection the Springdale, AR location did not have an Oklahoma commercial applicator company license, and Mr. Jones did not have an Oklahoma applicator certification.

21. According to our records Ethan Jones took the Oklahoma service technician exam on November 8, 2022 and is now listed as an applicator for the Orkin location in Tulsa, OK.

22. Your location in Springdale, AR is currently not licensed to make commercial applications in Oklahoma.

### **ALLEGED CONCLUSIONS OF LAW**

23. Based upon the application of the above law to the aforementioned facts, making applications in Oklahoma without the proper licensing and certifications are a violation of Oklahoma Statute, specifically 2 O.S. § 3-86 (A)(15) and 2 O.S. § 3-86 (A)(16) which state:

- **2 O.S. § 3-86 (A)(15):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”
- **2 O.S. § 3-86 (A)(16 ):** “16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.”

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

27. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
28. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
29. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00),



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

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

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

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

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

#### **ENFORCEMENT OF JUDGMENTS**

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

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

### **STIPULATION**

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Five Hundred Dollars (\$1500.00)**.

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

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

*Brady Robison*

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

**CERTIFICATE OF MAILING**

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

ORKIN  
13465 PUPPY CREEK RD. STE. C  
SPRINGDALE, AR 72762

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. REDBUD PEST SERVICES**

**Case File No. OGC-23-83**

**REDBUD PEST SERVICES  
13929 TECHNOLOGY DR. SUITE B  
OKLAHOMA CITY, OK 73134**

**Summary of Facts:** CPS conducted a complaint investigation on a home based on a prior termite treatment. Upon inspection it was discovered that this company had performed a Termidor Exterior Perimeter Localized Interior (EPLI) on this home. Inspectors noted that the walls that were adjacent to the living area of the home was not drilled and treated. This treatment did not meet perimeter termite treatment standards. This lack of treatment was also noted on their application records. This company went back and corrected the error in the treatment.

**Statute or Rule Violation:** O.A.C. 35:30-17-69.1(b)(3) and O.A.C. 35:30-17-69.1(b)(6)

**Proposed Administrative Penalty:** This penalty was assessed at \$500; 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**

MAR 01 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

REDBUD PEST SERVICES  
13929 TECHNOLOGY DR. SUITE B  
OKLAHOMA CITY, OK 73134

RESPONDENT.

Case No: OGC-23-83

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

Chancey Sattler GM - Redbud Pest Services  
Printed Name and Title:

Date: 2-23-2023

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

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

**COMPLAINANT,**

**v.**

**Case No: OGC-23-83**

**REDBUD PEST SERVICES )  
13929 TECHNOLOGY DR. SUITE B )  
OKLAHOMA CITY, OK 73134 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 8<sup>th</sup> day of June 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

---

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

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

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

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

#### **DEFAULT**

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



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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at 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 15<sup>th</sup> day of December 2022, the Consumer Protective Services Division of the Department conducted a complaint investigation with your customer David Eck.

19. At the time of this inspection your company had performed a Termidor Exterior Perimeter Localized Interior (EPLI) treatment to this home.

20. Our inspectors noted that the garage floor slab that runs along the walls that are adjacent to the living area of the home was not drilled and treated. This is also reflected in your November 22, 2022, application records. ODAFF's perimeter termite treatment minimum standards require that all walls of the garage be treated on at least one side.

21. According to our investigation your application did not meet the perimeter termite treatment minimum standards.

### **ALLEGED CONCLUSIONS OF LAW**

22. Based upon the application of the above law to the aforementioned facts, you are in violation of termite treatment standards, specifically O.A.C. 35:30-17-69.1(b)(3) and O.A.C. 35:30-17-69.1(b)(6) which state:

- **O.A.C. 35:30-17-69.1(b)(3):** “(b) Perimeter treatments can not be performed using any pesticide which does not allow this type treatment as stated on the product label. (3) All concrete slabs adjoining the structure shall be drilled and treated at no more than twelve inch (12") intervals.”
- **O.A.C. 35:30-17-69.1(b)(6):** “(6) Treatment of a garage shall be performed around all garage door supports and along any wall or portion of wall that has not been treated in accordance with this section. The drilling shall be at twelve inch (12") intervals.”

### **ATTORNEY CONFERENCES**

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

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

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

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

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

### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

**STIPULATION**

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

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

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

*Brady Robison*

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

**CERTIFICATE OF MAILING**

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

Requested, as follows:

REDBUD PEST SERVICES  
13929 TECHNOLOGY DR. SUITE B  
OKLAHOMA CITY, OK 73134

*Brady Robison*  
Brady Robison

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

**COMPLAINANT,** )

 $\mathbf{V}_4$ 

**Case No: OGC-23-83**

**REDBUD PEST SERVICES**  
**13929 TECHNOLOGY DR. SUITE B**  
**OKLAHOMA CITY, OK 73134**

**RESPONDENT.** )

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. ROW CROP AG LLC**

**Case File No. OGC-22-535**

**ROW CROP AG LLC  
5721 IL 145 RD  
METROPOLIS, IL 62960**

**Summary of Facts:** CPS Inspectors conducted a consumer complaint investigation on two separate occasions in McCurtain, OK. Inspectors went out on July 5, 2022 and observed herbicide effects on vegetation (garden plants) and were called back out on July 15 for additional noticed effects of vegetation (trees). Samples were taken and 2,4-D and Triclopyr were detected. Application records indicated that this company made applications when the wind was not in a favorable condition resulting in off target drift. The application of pesticides in these conditions is a violation of product labeling.

**Statute or Rule Violation:** 2 O.S. §3-86(A)(3) and O.A.C. 35:30-17-21

**Proposed Administrative Penalty:** This penalty was assessed at \$1500; stipulation was signed and paid in full

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison



BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

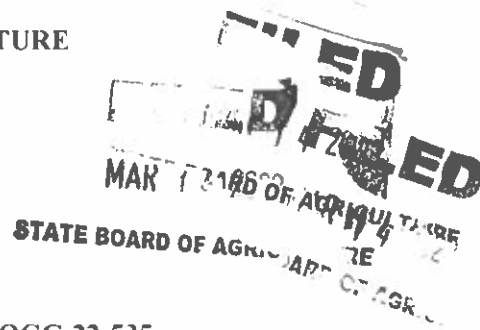
COMPLAINANT,

v.

ROW CROP AG LLC  
5721 IL 145 RD  
METROPOLIS, IL 62960

RESPONDENT.

Case No: OGC-22-535



STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Five Hundred Dollars (\$1500.00) 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:

Shawnee Mitchell  
Signature

Shawnee Mitchell, Owner  
Printed Name and Title:

Date: 3/5/23

*Handwritten initials and date:*  
3/14.23

**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.**

**ROW CROP AG LLC  
5721 IL 145 RD  
METROPOLIS, IL 62960**

**RESPONDENT.**

**Case No: OGC-22-535**

**AMENDED NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 9<sup>th</sup> 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.**

---

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Metropolis, Illinois.

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 5<sup>th</sup> and 15<sup>th</sup> day of July 2022, the Consumer Protection Services Division of the Department conducted a consumer complaint drift investigation. Our inspector visited a property located at 40455 E. CR. 1270 D in McCurtain, OK. This complaint concerned herbicide drift from a pasture application that affected a garden and trees on the complainant's property.

19. Our inspector conducted the initial investigation on July 5, 2022. On this day herbicide effects were observed on the garden plants. Our inspector returned on July 15, 2022, to investigate an additional complaint of the trees being affected and observed herbicide effects on the trees on the day of this investigation.

20. Your company made an aerial application to the pastureland adjacent to the south of the complainant's property. There did not appear to be an application buffer left between these properties.

21. According to your application records GrazonNext HL was applied on June 24, 2022, from 5:15 pm until 6:30 pm & on June 26, 2022, from 10:00 am until 2:00 pm.

22. During your application times the Stigler, OK Mesonet Weather Station recorded the winds on June 24, 2022, being 5-6 mph from the south, and on June 26, 2022, between 10:45 am & 11:30 am being 0.7-4.5 mph from the south.

23. The owner of the property informed our inspector that Grazon P+D and Remedy were the products purchased for your company to apply.

24. Vegetative samples were taken from the garden and from the trees, and 2,4-D and Triclopyr were detected in both samples. A vegetative sample was taken from your application area and, 2,4-D, Picloram, and Triclopyr were detected.

25. The herbicides found in your application area are consistent with the products the landowner informed us that were applied.

26. According to our investigation your application resulted in an off-target movement/drift onto the property north of your application area.

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

27. Based upon the application of the above law to the aforementioned facts, allowing a pesticide to drift off-target and not keeping accurate application records are violations of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-86(A)(3); O.A.C 35:30-17-21.

- 2 O.S. §3-86(A)(3) states: "(A) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this

subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: (3) A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.”

28. Oklahoma Administrative Code 335:30-17-21 states: “

- (a) Commercial and non-commercial applicators shall keep accurate records pertaining to pesticide activities, which, at a minimum, show: (1) Start and stop time of application. (2) Total amount of pesticide used. (3) Name and address of the commercial or non-commercial company. (4) Name and address of person for whom applied. (5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address. (6) Date of application. (7) Application rate. (8) Dilution rate for mixing. (9) Total quantity tank mix used. (10) Complete trade name of pesticide product used. (11) EPA registration number of pesticide product used. (12) Name of adjuvants used when the label requires specific adjuvants. (13) Name of drifting agents used when the label requires specific drifting agents. (14) Target pest for the application. (15) Site where the pesticide was applied. (16) Restricted Entry Interval as stated on the product label. (17) A copy of the pesticide product label or labeling that is attached to the container or included in

the shipping case. (18) Copies of any contracts issued. (19) Copies of any wood infestation reports issued. (20) Other information as required by the Board.”

### **ATTORNEY CONFERENCES**

29. 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.

30. 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.

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 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.

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

35. 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**

36. 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**

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

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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



### STIPULATION

41. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Thousand Five Hundred Dollars (\$1500.00).

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

DATED THIS 13<sup>TH</sup> 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  
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:

ROW CROP AG LLC  
c/o Josh Smith  
302 US-64  
Webbers Falls, OK 74470

*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.**

**ROW CROP AG LLC  
5721 IL 145 RD  
METROPOLIS, IL 62960**

**RESPONDENT.**

**Case No: OGC-22-535**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Five Hundred Dollars (\$1500.00) 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. ROW CROP AG LLC**

**Case File No. OGC-22-536**

**ROW CROP AG LLC  
5721 IL 145 RD  
METROPOLIS, IL 62960**

**Summary of Facts:** CPS Inspectors conducted a consumer complaint in McCurtain, OK. Upon inspection it was discovered that there were trees showing effects of herbicide application. The complainant had applied 2,4-D and Roundup to his property. This company had made an aerial application to the adjacent property using GrazonNext HL, according to their application records. The wind was not favorable for aerial applications. The landowner of the target property had informed inspectors that Grazon P+D and Remedy were purchased for this application. A vegetative sample was taken from the complainant's property and 2,4-D and Triclopyr were detected. A vegetative sample was taken from the target field and 2,4-D, Picloram and Triclopyr were detected. This application did not have a proper buffer zone and the unfavorable wind conditions caused drift from the target area.

**Statute or Rule Violation:** 2 O.S. §3-86(A)(3) and O.A.C. 35:30-17-21

**Proposed Administrative Penalty:** This penalty was assessed at \$1500; 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**

MAR 28 2023

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

STATE BOARD OF AGRICULTURE

COMPLAINANT,

v.

Case No: OGC-22-<sup>536</sup>~~535~~

ROW CROP AG LLC  
5721 IL 145 RD  
METROPOLIS, IL 62960

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Five Hundred Dollars (\$1500.00) 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:

*Shawrie Mitchell*  
Signature

*Shawrie Mitchell, Owner*  
Printed Name and Title:

Date: 3/21/23

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

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

**COMPLAINANT,**

**v.**

**Case No: OGC-22-536**

**ROW CROP AG LLC )  
5721 IL 145 RD )  
METROPOLIS, IL 62960 )**

**RESPONDENT.**

**AMENDED NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on 9<sup>th</sup> 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.**

---

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Metropolis, Illinois.

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 12<sup>th</sup> day of July 2022, the Consumer Protection Services Division of the Department conducted a consumer complaint drift investigation. Our inspector visited a property located at 40462 E. CR. 1270 D in McCurtain, OK. This complaint concerned herbicide drift from a pasture application that affected trees on the complainant's property.

19. The complainant informed us that he has applied 2,4-D and Roundup to his property.

20. Our inspector observed herbicide effects on the trees on the day of this investigation.

21. Your company made an aerial application to the pastureland adjacent to the south of the complainant's property. There did not appear to be an application buffer left between these properties.



22. According to your application records GrazonNext HL was applied on June 24, 2022, from 5:15 pm until 6:30 pm & on June 26, 2022, from 10:00 am until 2:00 pm.
23. During your application times the Stigler, OK Mesonet Weather Station recorded the winds on June 24, 2022, being 5-6 mph from the south, and on June 26, 2022, between 10:45 am & 11:30 am being 0.7-4.5 mph from the south.
24. The owner of the property informed our inspector that Grazon P+D and Remedy were the products purchased for your company to apply.
25. A vegetative sample was taken from the complainant's trees, and 2,4-D and Triclopyr were detected. A vegetative sample was taken from your application area and, 2,4-D, Picloram, and Triclopyr were detected.
26. The herbicides found in your application area are consistent with the products the landowner informed us that were applied.
27. According to our investigation your application resulted in an off-target movement/drift onto the property north of your application area.

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

28. Based upon the application of the above law to the aforementioned facts, allowing a pesticide to drift off-target and not keeping accurate application records are violations of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-86(A)(3); O.A.C 35:30-17-21.

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

has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: (3) A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.”

29. Oklahoma Administrative Code 335:30-17-21 states: “

- (a) Commercial and non-commercial applicators shall keep accurate records pertaining to pesticide activities, which, at a minimum, show: (1) Start and stop time of application. (2) Total amount of pesticide used. (3) Name and address of the commercial or non-commercial company. (4) Name and address of person for whom applied. (5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address. (6) Date of application. (7) Application rate. (8) Dilution rate for mixing. (9) Total quantity tank mix used. (10) Complete trade name of pesticide product used. (11) EPA registration number of pesticide product used. (12) Name of adjuvants used when the label requires specific adjuvants. (13) Name of drifting agents used when the label requires specific drifting agents. (14) Target pest for the application. (15) Site where the pesticide was applied. (16) Restricted Entry Interval as stated on the product label. (17) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case. (18) Copies of any contracts issued. (19) Copies of any wood infestation reports issued. (20) Other information as required by the Board.”

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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

36. 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**

37. 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**

38. 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**

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

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

41. 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

42. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Thousand Five Hundred Dollars (\$1500.00).

43. 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 13<sup>TH</sup> 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  
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:

ROW CROP AG LLC  
c/o Josh Smith  
302 US-64  
Webbers Falls, OK 74470

*Brady Robison*  
Brady Robison

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

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

**COMPLAINANT,**

**v.**

**Case No: OGC-22-535**

**ROW CROP AG LLC  
5721 IL 145 RD  
METROPOLIS, IL 62960**

**RESPONDENT.**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Five Hundred Dollars (\$1500.00) 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. SIGNATURE LANDSCAPE LLC**

**Case File No. OGC-23-11**

**SIGNATURE LANDSCAPE LLC  
9600 N. EASTERN AVE.  
OKC, OK 73131**

**Summary of Facts:** CPS Inspectors made a use inspection of an applicator actively making an application in OKC. During this inspection our inspectors requested the applicators certification and asked what was being applied; the applicator could not provide either. Additionally, he was not wearing PPE, specifically rubber gloves. Two days later our inspectors visited the facility and met with management concerning this applicator and application. Inspectors learned that the applicator was not certified, and he was applying Outrider Herbicide WDG and Fusilade II T&O Herbicide; chemical resistant gloves are required to use these chemicals.

**Statute or Rule Violation:** 2 O.S. §3-86(A)(4), 2 O.S. §3-86(A)(16) and O.A.C. 35:30-17-25

**Proposed Administrative Penalty:** This penalty was assessed at \$2000; 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**

MAR 01 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

SIGNATURE LANDSCAPE LLC  
9600 N. EASTERN AVE.  
OKLAHOMA CITY, OK 73131

RESPONDENT.

Case No: OGC-23-11

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

BRET GORDON - OWNER  
Printed Name and Title:

Date: 2-22-23

**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.**

**SIGNATURE LANDSCAPE LLC  
9600 N. EASTERN AVE.  
OKLAHOMA CITY, OK 73131**

**RESPONDENT.**

**Case No: OGC-23-11**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 13<sup>th</sup> 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.**

---

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of Commercial Pesticide Application, located at 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 4<sup>th</sup> day of October 2022, the Consumer Protection Services Division of the Department conducted a use inspection of your employee, Ivan Cardenas, making an application near the intersection of NW 50<sup>th</sup> and Western Ave. in Oklahoma City.

19. Upon making contact with Mr. Cardenas, who was wearing a backpack sprayer, our inspectors asked for his certification and what was being applied. Mister Cardenas could not provide the requested information. Additionally, Mr. Cardenas was not wearing gloves during this application.

20. On October 6, 2022, our inspector met with Lonnie Williams at your facility. Mr. Williams informed our inspector that Outrider Herbicide WDG and Fusilade II T&O Herbicide

were the products being applied by Mr. Cardenas. Chemical resistant gloves are one of the PPE requirements on the Fusilade label.

21. Non-certified applicators making applications without direct supervision and not wearing the personal protective equipment as required by the pesticide product 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. 35:30-17-25.

### **ALLEGED CONCLUSIONS OF LAW**

22. Based upon the application of the above law to the aforementioned facts, you are in violation of Oklahoma Statutes and Rules: Those statutes include:

- **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.”
- **2 O.S. 3-86(A)(16)** states: “16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or

identifications issued by the Board for the categories for which the persons are to be employed or supervised.”

- O.A.C. 35:30-17-25 states: “(a) A certified applicator shall be on site to use any pesticide when required by the label or labeling. (b) A certified applicator shall be on site to supervise any pesticide application by a non-service technician. (c) A service technician shall be on site to make the actual application of any pesticide unless a certified applicator is present at the job site. (d) A certified applicator may be a service technician in other categories for a licensed company without completing the service technician's examination. (e) Certified applicators, service technicians, and private applicators shall be a minimum of eighteen (18) years of age to make pesticide applications.”

#### **ATTORNEY CONFERENCES**

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

#### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

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

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

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

### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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



### STIPULATION

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

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

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

*Brady Robison*

\_\_\_\_\_  
Teena 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:

**SIGNATURE LANDSCAPE LLC  
9600 N. EASTERN AVE.  
OKLAHOMA CITY, OK 73131**

*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. SUN CITY FARM LLC**

**Case File No. OGC-23-112**

**SUN CITY FARM LLC  
179317 N 2810 RD  
COMANCHE, OK 73529**

**Summary of Facts:** This case was a result of a failed batch of medical marijuana from OMMA. CPS Inspectors were notified that a batch failed testing; Myclobutanil and Spiromesifen were detected in the batch tested. Inspectors went to the operation and upon arrival found that there were numerous containers of Eagle 20 EW and a container of Forbid 4F being stored. Myclobutanil is the active ingredient in Eagle 20 EW and Spiromesifen is the active ingredient in Forbid 4F. Additionally, a container of Bush Load Ornamental Plant Growth Regulator was found. This facility notified our inspectors that they applied this to the crop. Using these chemicals on medical marijuana is a violation of the statutes. It was being applied off label.

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

**Proposed Administrative Penalty:** This penalty was assessed at \$3000; stipulation was signed and paid in full.

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT, )

v. )

SUN CITY FARM LLC )  
179317 N 2810 RD )  
COMANCHE, OK 73529 )

RESPONDENT. )

Case No: OGC-23-112


**FILED**  
MAR 15 2023  
STATE OF AGRICULTURE

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Thousand Dollars (\$3000.00)** 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

 / owner  
\_\_\_\_\_  
Printed Name and Title:

Date: 3-15-23

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

**V.**

**RESPONDENT.**

**Case No: OGC-23-112**

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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 11<sup>th</sup> day of May 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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 medical marijuana cultivation, located at Comanche, Oklahoma.

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

### **ALLEGATIONS OF FACT**

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

18. On or about 16<sup>th</sup> day of February 2023, the Consumer Protective Services Division of the Department conducted a use inspection after receiving a report from the Oklahoma Medical Marijuana Authority that you had a batch of samples fail due to high pesticide levels in the submitted batch. The pesticides detected in the batch samples were Myclobutanil and Spiromesifen.

19. During the inspection our inspectors observed numerous containers of Eagle 20 EW, and a container of Forbid 4F being stored in your facility. Myclobutanil is the active ingredient in Eagle 20 EW and Spiromesifen is the active ingredient in Forbid 4F.



20. Our inspectors also found a container of Bush Load Ornamental Plant Growth Regulator at your facility.

21. You informed our inspectors that you also apply this product to your crop.

22. These products are not labeled to be used in medical marijuana production. Currently the only pesticide products that can be applied to medical marijuana are those products that are registered with ODAFF and are approved to be applied to hemp.

### **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)(4) which states:

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

### **ATTORNEY CONFERENCES**

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

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

### **ENFORCEMENT PROCEEDINGS**

27. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
28. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
29. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
30. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **PRAYER FOR RELIEF**

31. The Department is not seeking to remove any license or registration of any business; we are seeking a monetary penalty as set out in statutes, specifically 2 O.S. §2-18(A). In this case, we are proposing and seeking a **Three Thousand Dollar (\$3000.00)** administrative penalty.

### **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 **Three Thousand Dollars (\$3000.00)**.

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

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

*Brady Robison*

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

**CERTIFICATE OF MAILING**

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

SUN CITY FARM LLC  
179317 N 2810 RD  
COMANCHE, OK 73529

*Brady Robison*  
Brady Robison

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

**v.** )

SUN CITY FARM LLC  
179317 N 2810 RD  
COMANCHE, OK 73529

Page 9 of 9

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. BENJAMIN YOST**

**Case File No. OGC-23-70**

**BENJAMIN YOST  
EVERY SQUARE INCH TERMITE INSPECTIONS  
9008 RAVEN AVE  
OKLAHOMA CITY, OK 73132**

**Summary of Facts:** CPS Inspectors conducted a consumer complaint investigation. It was discovered that this company does not have a license to perform termite inspections because they have not passed the core exam. Inspectors met with this company about the ODAFF-1 inspections they have been performing; the forms they have been using have a different pest control company on the form. They indicated they forgot to change that since the form was a digital form, they had received from someone else. Inspectors noted that there were several other changes to this form that were not approved, including: DocuSign verbiage, designer name and version date, and the compass section is not the approved original ODAFF-1.

**Statute or Rule Violation:** 2 O.S. §3-82(A)(1), 2 O.S. §3-86(A)(15), 2 O.S. §3-86(A)(16), O.A.C. 35:30-17-101(c), and O.A.C. 35:30-17-101(d)(2)

**Proposed Administrative Penalty:** This penalty was assessed at \$500; the stipulation was signed and paid in full

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

BENJAMIN YOST  
Every Square Inch Termite Inspections  
9008 RAVEN AVE  
OKLAHOMA CITY, OK 73132

RESPONDENT.

Case No: OGC-23-70

**FILED**  
MAR 27 2023  
STATE BOARD OF AGRICULTURE

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: 3-13-23



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

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

**COMPLAINANT,**

**v.**

**BENJAMIN YOST  
Every Square Inch Termite Inspections  
9008 RAVEN AVE  
OKLAHOMA CITY, OK 73132**

**RESPONDENT.**

**Case No: OGC-23-70**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 11<sup>th</sup> day of May 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at 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 14<sup>th</sup> day of December 2022, the consumer Protection Services Division of the Department conducted a consumer complaint investigation.

19. Your company has not received a license to perform termite inspections, because you have not passed the core examination.

20. Our inspectors met with you to discuss the ODAFF-1 inspections that you have been performing. Your ODAFF-1 reports have B&E Pest Control's license number on them. You informed our inspectors that you were using a digital copy of the ODAFF-1 that the company supplied to you, and you forgot to change the license number on the form.

21. After reviewing the digital copy of the ODAFF-1 it appears that the form has been altered from its original approved version. These alterations include: DocuSign verbiage on the top left of the page, designer name and version date at the bottom of the page, section 8 note does not have (8A), and the compass in the structure diagram is not on the original ODAFF-1.

22. Operating commercially without a license and certification and providing inaccurate and altered ODAFF-1 reports are violations of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-82 (A)1; 2 O.S. § 3-86 (A)15; 2 O.S. § 3-86 (A)16; O.A.C. 35:30-17-101(c); O.A.C. 35:30-17-101(d)2.

### **ALLEGED CONCLUSIONS OF LAW**

23. Based upon the application of the above law to the aforementioned facts, you are in violation of multiple state statutes and ODAFF Rules including: 2 O.S. §3-82(A)(1), 2 O.S. §3-86(A)(15), 2 O.S. §3-86(A)(16), O.A.C. 35:30-17-101(c), and O.A.C. 35:30-17-101(d)(2) which states:

- **2 O.S. §3-82(A)(1):** “A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.”
- **2 O.S. §3-86(A)(15):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or

refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”

- **2 O.S. §3-86(A)(16):** “16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.”
- **O.A.C. 35:30-17-101(c):** “(c) Each WIR shall be made on a form prescribed by the Board.”
- **O.A.C. 35:30-17-101(d)(2):** “(d) Copies of the WIR shall be provided to each of the following: (2) The files of the business responsible for the WIR.”

#### **ATTORNEY CONFERENCES**

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

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

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

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

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

### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

### **STIPULATION**

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

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

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

*Brady Robison*

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



**CERTIFICATE OF MAILING**

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

**BENJAMIN YOST  
EVERY SQUARE INCH TERMITE INSPECTIONS  
9008 RAVEN AVE  
OKLAHOMA CITY, OK 73132**

*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.**

**BENJAMIN YOST  
Every Square Inch Termite Inspections  
9008 RAVEN AVE  
OKLAHOMA CITY, OK 73132**

**RESPONDENT.**

**Case No: OGC-23-70**

**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. HEINEN BROTHERS/BLUESTEM AERIAL**

**Case File No. OGC-21-618**

**HEINEN BROTHERS AGRA SERVICES INC**  
**DB DBA BLUESTEM AERIAL SPRAYERS**  
**1226 104th RD.**  
**BLACKWELL, OK 74631**

**Summary of Facts:** CPS Inspectors conducted a consumer complaint located in Shidler, OK. This company did an aerial application to the property to the SW of the complainant property. The wind conditions were not favorable during the application and caused an off-target drift. A vegetative sample was taken and 2,4-D and Triclopyr were detected in the analysis. This case is part of the backlog cases prior to the current attorney taking over. After negotiations, this case was subjected to a consent order with a reduced penalty and no admission of liability.

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

**Proposed Administrative Penalty:** Proposed penalty of \$3000 was sent out; consent order signed and paid in full

**Deviations:** Consent Order-Reduced to \$1000

**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. )  
HEINEN BROTHERS AGRA SERVICES INC )  
BLUESTEM AERIAL SPRAYERS )  
1226 104<sup>TH</sup> RD. )  
BLACKWELL, OK 74631 )**

**Case No: OGC-21-618**

**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 HEINEN BROTHERS AGRA SERVICES INC. (the “Respondent”).

**AUTHORITY**

2. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4 (A)(3).

**DEPARTMENT’S NOTICE**

3. On January 13, 2023, the Department issued an Amended Notice of Violation in Case No. OGC-21-618, (“Notice”) to the Facility, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

**ORDER AND AGREEMENT**

4. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of **One Thousand Dollars (\$1000.00)**. Upon the execution of this agreement by both parties, payment shall immediately be made by Respondent

payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

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

### **EFFECT OF THE AGREEMENT**

5. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
6. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
7. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

### **NO ADMISSION.**

8. 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.**

9. These settlement negotiations have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

### **HEARING WAIVER**

10. 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**

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

### **MISCELLANEOUS**

12. 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.
13. 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.
14. Payment for the administrative penalty shall be presented upon the execution of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
15. 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.
16. In the event the Board does not approve this Agreement, then Respondent or the Department is free to make a counterproposal for the Board's consideration, or the Parties may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.

17. 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.

18. This Agreement shall be governed by the laws of the State of Oklahoma.

Executed by the Parties on the dates set forth below:

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

*Brady Robison*

Brady Robison, Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

COMPLAINANT

Date: March 6, 2023

- and by -

Wesley Smith

  
\_\_\_\_\_  
Attorney for Respondent

Date: 3-6-23



## EXHIBIT 1

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

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

**COMPLAINANT,**

**v.**

**HEINEN BROTHERS AGRA SERVICES INC  
DB DBA BLUESTEM AERIAL SPRAYERS  
1226 104th RD.  
BLACKWELL, OK 74631**

**RESPONDENT.**

**Case No: OGC-21-618**

**AMENDED NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 9<sup>th</sup> 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.**

---

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Blackwell, 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 21<sup>st</sup> day of June 2022, the consumer Protective Services Division of the Department conducted a consumer complaint on a property located at 3220 CR 4850 in Shidler, OK. This property is southwest of the property you sprayed in section 30-29N-6E.

19. According to your application records you applied Alligare 2,4-D Amine, Remedy Ultra, and MSM 60 to the property on May 29, 2021, from 2:50 pm until 3:20 pm, with a 7 mph ENE wind. Mesonet data showed the wind to be 7-11 mph from the ENE on May 29, 2021.

20. The wind was blowing in the direction of the complainant's property during your application.

21. A vegetative sample was taken from the complainant's property, and 1.18 ppm of 2,4-D and a trace amount of Triclopyr were recovered in the analysis.

22. A vegetative sample was taken from your application area, and 12.8 ppm of 2,4-D, 0.178 ppm of Metsulfuron-Methyl, and 7.96 ppm of Triclopyr were recovered in the analysis.

23. According to our investigation your application resulted in an off target movement/drift onto the complainant's property.

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

24. Based upon the application of the above law to the aforementioned facts, you are responsible for allowing pesticide to drift off target in violation of Oklahoma Statute. Specifically, 2 O.S. § 3-86(A)(3) which states:

- "A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target."

#### **ATTORNEY CONFERENCES**

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 **Three Thousand Dollars (\$3000.00)**.

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

DATED THIS 13<sup>TH</sup> 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 13<sup>th</sup> day of January, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

HEINEN BROTHERS AGRA SERVICES INC  
DB DBA BLUESTEM AERIAL SPRAYERS  
1226 104th RD.  
BLACKWELL, OK 74631

*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.**

**HEINEN BROTHERS AGRA SERVICES INC  
DB DBA BLUESTEM AERIAL SPRAYERS  
1226 104th RD.  
BLACKWELL, OK 74631  
RESPONDENT.**

**Case No: OGC-21-618**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Thousand Dollars (\$3000.00)** 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. MOSQUITO JOE OF TULSA**

**Case File No. OGC-22-564**

**Mosquito Joe of Tulsa**  
**13795 S. 309th E. Ave.**  
**Coweta, OK 74429**

**Summary of Facts:** CPS Inspectors conducted a consumer complaint investigation in Sapulpa, OK. On inspection they spoke with the homeowner of the property adjacent to the target property. A vegetative sample was taken and Bifenthrin was detected. This applicator applied Talstar-P using a Stihl power sprayer during unfavorable wind conditions resulting in off-target drift. Bifenthrin is the active ingredient in Talstar-P. A consent order was agreed to with a reduced penalty and no admission of liability.

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

**Proposed Administrative Penalty:** Originally sent out at \$2000, consent order to avoid civil liability was agreed to and paid the reduce penalty of \$1000 in full

**Deviations:** Consent order \$1000

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

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

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

**COMPLAINANT,**

**v.**

**MOSQUITO JOE OF TULSA  
13795 S. 309TH E. AVE.  
COWETA, OK 74429**

**RESPONDENT.**

**Case No: OGC-22-564**

**SETTLEMENT AGREEMENT AND CONSENT ORDER**

**PARTIES**

1. This Settlement Agreement and Consent Order (the "Agreement") is between the Oklahoma Department of Agriculture, Food, And Forestry (the "Department") and MOSQUITO JOE OF TULSA (the "Respondent").

**AUTHORITY**

2. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4 (A)(3).

**DEPARTMENT'S NOTICE**

3. On November 1, 2022, the Department issued a Notice of Violation in Case No. OGC-22-564, ("Notice") to the Facility, which is attached hereto as Exhibit A and an amended Notice on February 22 2023. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

**ORDER AND AGREEMENT**

4. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of **One Thousand Dollars (\$1000.00)**. Upon the execution of this agreement by both parties, payment shall immediately be made by Respondent

payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

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

### **EFFECT OF THE AGREEMENT**

5. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
6. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
7. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

### **NO ADMISSION.**

8. 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.**

9. These settlement negotiations have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

**HEARING WAIVER**

10. 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**

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

**MISCELLANEOUS**

12. 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.
13. 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.
14. Payment for the administrative penalty shall be presented upon the execution of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
15. 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.
16. In the event the Board does not approve this Agreement, then Respondent or the Department is free to make a counterproposal for the Board's consideration, or the Parties may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.

17. 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.

18. This Agreement shall be governed by the laws of the State of Oklahoma.

Executed by the Parties on the dates set forth below:

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

Brady Robison

Brady Robison, Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

COMPLAINANT

Date: 3/3/2023

- and by -

Sam Dowell

SDowell

Owner

Date: 3/3/2023

## EXHIBIT 1



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

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

**COMPLAINANT,**

**v.**

**Mosquito Joe of Tulsa  
13795 S. 309th E. Ave.  
Coweta, OK 74429**

**RESPONDENT.**

**Case No: OGC-22-564**

**AMENDED NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 13<sup>th</sup> 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.**

---

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at 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 15<sup>th</sup> day of August 2022, the Consumer Protective Services Division of the Department conducted a consumer complaint investigation at 1024 E. Hastain Ave, in Sapulpa, OK. This property is adjacent to the north of a residence where your company performed a mosquito treatment.

19. According to your application records for 1025 E. Courtney Ave. in Sapulpa, OK on August 11, 2022, you applied Talstar-P using a Stihl power sprayer during a 7-mph south wind.

20. The complainant informed our inspectors that when your employee sprayed along the fence line the pesticide blew onto her butterfly garden. A vegetative sample was taken from the butterfly garden, and Bifenthrin was detected.

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

### **ALLEGED CONCLUSIONS OF LAW**

22. Based upon the application of the above law to the aforementioned facts, you are in violation of Oklahoma Statute 2 O.S. §3-86(A)(3) which states:

- “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.”

### **ATTORNEY CONFERENCES**

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

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

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

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

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

### **ENFORCEMENT OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

**STIPULATION**

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

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

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

*Brady Robison*

\_\_\_\_\_  
Teena 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:

Mosquito Joe of Tulsa  
13795 S. 309th E. Ave.  
Coweta, OK 74429

*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. DOUGLAS ROSE/LAWN GUY**

**Case File No. OGC-20-834**

**DOUGLAS ROSE  
LAWN GUY  
404 W. BROADWAY  
BLANCHARD, OK 73010**

**Summary of Facts:** CPS Inspectors conducted a use inspection of this company's facility and discovered that they did not have the proper licensing to make commercial applications. Further, this company did not have the records required to be kept per statute and could not produce any application records when asked by CPS Inspectors.

**Statute or Rule Violation:** 2 O.S. §3-82(A)(1) and 2 O.S. §3-83(A)

**Proposed Administrative Penalty:** \$5000

**Deviations:** Default 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-20-834**

**DOUGLAS ROSE )  
LAWN GUY )  
404 W. BROADWAY )  
BLANCHARD, OK 73010 )**

**RESPONDENT. )**

**PROPOSED FINAL ORDER**

NOW on this 9<sup>th</sup> day of March 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 9<sup>th</sup> day of March 2023, this matter came on for Prehearing Conference. Respondents were provided a copy of the Amended Notice of Violation entered in this matter delivered by personal hand service in the McClain County Jail, delivered on January 30<sup>th</sup>, 2023.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

**FINDINGS OF FACT**

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.

**FILED**  
MAR 29 2023  
STATE OF AGRICULTURE

2. The Notice of Violation (Exhibit 1) was delivered by Hand Delivery in the McClain County Jail on or about January 30<sup>th</sup>, 2023 (Exhibit 2).

3. Hearing was set for March 9<sup>th</sup>, 2023, at 1:30 pm.

4. On March 9<sup>th</sup>, 2023, at 1:30 pm, the Complainant appeared through its Counsel of Record and the Respondents appeared not.

5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.

6. An administrative penalty in the amount of **Five Thousand Dollars (\$5000.00)** 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 March 9<sup>th</sup>, 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 9<sup>th</sup> DAY OF March, 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:

**DOUGLAS ROSE  
LAWN GUY  
404 W. BROADWAY  
BLANCHARD, OK 73010**



---

Gina Blaylock

## EXHIBIT 1



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

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC-20-834**

**LAWN GUY )  
C/O: DOUGLAS ROSE )  
404 W. BROADWAY )  
BLANCHARD, OK 73010 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 9<sup>th</sup> 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.**

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

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

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

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

#### **DEFAULT**

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

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

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

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

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

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

### **ALLEGATIONS OF FACT**

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

18. On or about the 2<sup>nd</sup> day of June 2020, the Consumer Protective Services Division of the Department conducted an inspection of your facility.

19. Upon inspection our inspector discovered that you were applying pesticides without the proper licensing, specifically your company was not on file with ODAFF. Furthermore, you present our investigator with application records that indicate you were not keeping all required information within your application records. Both infractions are in violation of state statutes.

### **ALLEGED CONCLUSIONS OF LAW**

20. Based upon the application of the above law to the aforementioned facts, by operating without a valid ODAFF issued license, you are in violation of 2 O.S. §3-82(A)(1) which states:

- “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.”

21. Furthermore, by failing to keep accurate application records you are in violation of the Rules, specifically 2 O.S § 3-83(A) which states in part: “Every commercial and noncommercial applicator shall keep accurate records pertaining to pesticide activities, applications, and wood infestation reports, as required by the State Board of Agriculture.”

### **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 OF JUDGMENTS**

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

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

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

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

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

### STIPULATION

34. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Five Thousand Dollars (\$5000.00).

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 4<sup>TH</sup> 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

**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: \_\_\_\_\_

## EXHIBIT 2



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

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

**COMPLAINANT,**

**v.**

**DOUGLAS ROSE  
LAWN GUY  
404 W. BROADWAY  
BLANCHARD, OK 73010**

**RESPONDENT.**

**OGC-20-834; OGC-21-80**

**CERTIFICATE OF HAND DELIVERY**

This is to certify that a true and correct copy of the attached Notice of Violation was hand-delivered by the undersigned, a law enforcement officer duly appointed by the State Board of Agriculture, by delivering said document to Douglas Rose, AKA The Lawn Guy, in the McClain County Jail on January 30, 2023 in person at the following location the McClain County Jail.

Dated: this 30 day of January, 2023

*La Custody*  
Respondent

By: *App. L.L. 4427*  
Title: *Deputy*

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. DOUGLAS ROSE/LAWN GUY**

**Case File No. OGC-21-80**

**DOUGLAS ROSE  
LAWN GUY  
404 W. BROADWAY  
BLANCHARD, OK 73010**

**Summary of Facts:** CPS Inspectors conducted a use inspection of this company. During this inspection it was discovered that this company did not have the proper licensing. Additionally, this company was advertising for commercial weed control without having the proper licensing as well.

**Statute or Rule Violation:** 2 O.S. §3-82(A)(1) and 2 O.S. §3-86(A)(9)

**Proposed Administrative Penalty:** \$5000

**Deviations:** Final Order from ALJ; Default

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

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

**FILED**  
MAR 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-21-80

DOUGLAS ROSE )  
LAWN GUY )  
404 W. BROADWAY )  
BLANCHARD, OK 73010 )

RESPONDENT. )

**PROPOSED FINAL ORDER**

NOW on this 9<sup>th</sup> day of March 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 9<sup>th</sup> day of March 2023, this matter came on for Prehearing Conference. Respondents were provided a copy of the Amended Notice of Violation entered in this matter delivered by personal hand service in the McClain County Jail, delivered on January 30<sup>th</sup>, 2023.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

**FINDINGS OF FACT**

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.

2. The Notice of Violation (Exhibit 1) was delivered by Hand Delivery in the McClain County Jail on or about January 30<sup>th</sup>, 2023 (Exhibit 2).

3. Hearing was set for March 9<sup>th</sup>, 2023, at 1:30 pm.

4. On March 9<sup>th</sup>, 2023, at 1:30 pm, the Complainant appeared through its Counsel of Record and the Respondents appeared not.

5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.

6. An administrative penalty in the amount of **Five Thousand Dollars (\$5000.00)** 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 March 9<sup>th</sup>, 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 9<sup>th</sup> DAY OF March, 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:

**DOUGLAS ROSE  
LAWN GUY  
404 W. BROADWAY  
BLANCHARD, OK 73010**

  
\_\_\_\_\_  
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-21-80**

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 Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 9<sup>th</sup> 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.

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



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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Blanchard, 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 March 2021, the Consumer Protective Services Division of the Department conducted a pesticide use inspection.

19. Upon inspection our inspector discovered that you were applying pesticides without the proper licensing, specifically your company was not on file with ODAFF.

20. Furthermore, our investigator observed sprayed lawns in Garvin and McClain Counties with your company's signs advertising weed control. Our investigator also observed a billboard advertising your company. Both infractions are in violation of state statutes.

### **ALLEGED CONCLUSIONS OF LAW**

21. Based upon the application of the above law to the aforementioned facts, by operating without a valid ODAFF issued license, you are in violation of 2 O.S. §3-82(A)(1) which states:

- "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."

22. Based upon the application of the above law to the aforementioned facts, by advertising pesticide application, you are in violation of 2 O.S. §3-86(A)(9) which states: "Advertising or offering to perform in a category of pesticide application for which no license is held or under a name for which no license is held."

### **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 Five Thousand Dollars (\$5000.00).

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 4<sup>TH</sup> day of January 2023.

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

*Brady Robison*

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

V.

**RESPONDENT.**

**Case No: OGC-21-80**

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## EXHIBIT 2