

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

Thursday, October 19, 2023
1:30 p.m.

812 E Lincoln Rd
Idabel, OK 74745

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 August 30, 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 Travel

9. Consideration and Proposed Action on Cases Resolved by Stipulations

Agricultural Environmental Management Services

Travis Clem, 23858 Brazil Creek Loop, Shady Point, Oklahoma

Timothy Hammons, 5983 N. 595 Road, Proctor, Oklahoma

Kerry Hollie, P. O. Box 353, Bokoshe, Oklahoma

Lee Kue, 2217 E. 580 Road. Rose, Oklahoma

Gary & Vickie Mead, 18229 Hodgen Road, Heavener, Oklahoma

Xohnhia Moua, RT #1 Box 155, Westville, Oklahoma

Tong Nguyen, 6064 Yosemite Falls Cove, Springdale, Arkansas

Van Peng, 1705 Conley Road, Idabel, Oklahoma

Hong An Phan, 469 Barn Swallow Road, Idabel, Oklahoma

Nick Thomas, 20598 NCR 4500, Stigler, Oklahoma

Duc and Quang Tran, 485 Rooster Lane, Idabel, Oklahoma

Tommy Tran, 3202 Glover Road, Broken Bow, Oklahoma

Van Vu, 6261 S. 444 Road, Locust Grove, Oklahoma

Doua & Fang Yang, 20855 County Road 502, Colcord, Oklahoma

Consumer Protection Services

Family Dollar, 30516 Highway 59, Wayne, Oklahoma

Erick Pinon, 614 Donna Drive, Guymon, Oklahoma

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

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

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

Consumer Protection Services

Terminix, 9340 Pole Road, Moore, 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 **Wednesday, December 6, 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
August 30, 2023

The Oklahoma State Board of Agriculture met in regular session at 10:00 a.m., August 30, 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
 Joe Farris
 Nocona Cook

Others Present: JanLee Rowlett, Deputy Commissioner
 Michaela Lembeck, Executive Assistant
 Dan Ridings, Director, Administrative Services
 Wade Krivanek, Director, Laboratory Services
 Mark Goeller, Director, Forestry Services
 Kenny Naylor, Director, Consumer Protection Services
 Troy Marshall, Director, Agricultural Statistics
 Teena Gunter, Director, Agricultural Environmental
 Management Services & Office of General Counsel
 Scott Yates, Director, Food Safety Services
 Lee Benson, Public Information Officer
 Wendi Morse, Office of General Counsel
 James Rucker, Office of General Counsel
 Ben Felder, Investigate Midwest
 Deborah Torres, Office of the Governor
 Tyler Talley, Quorum Call

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

A motion was made by Mr. Bolen, seconded by Mr. Farris, to approve the minutes of the regular meeting of July 21, 2023, as presented.

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Burtrum, seconded by Mr. Cook, to approve the following purchases/contracts as submitted.

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

Agricultural Environmental Management Services

Troy Keiss, 2827 State, HWY4, Smithville, Oklahoma

Leechi Moua, 36757 Petetree Road, Wister, Oklahoma

Wa Meng Moua, 36755, Petetree Road, Wister, Oklahoma

Pum Piang, 59599 S. 4710 Road, Watts, Oklahoma

Brandon Sorum, 7864 S. 449 Road, Rose, Oklahoma

Waurika Livestock Commission Co., P. O. Box 60, Waurika, Oklahoma

Kane Webb, P.O. Box 52, Watson, Oklahoma

Consumer Protection Services

7-Eleven, 1201 12th Ave. N. E., Norman, Oklahoma

Agwerx Aviation, P. O. Box 67, Tekmah, Nebraska
Cain's Lawn Care, 1421 N. Union, Ponca City, Oklahoma
Dodd's Complete Lawn Service, 2305 Oak Creek Drive, Blanchard, Oklahoma
Dollar General, 811 N. Hazlett, Fort Cobb, Oklahoma
Dollar General, 103 Nebraska, Cyril, Oklahoma
Dollar General, 1025 S.W. 89TH, Oklahoma City, Oklahoma
Family Dollar, 30516 Highway 59, Wayne, Oklahoma
Family Dollar, 420 W. Main, Weleetka, Oklahoma
Family Dollar, 411 E. Main, Tuttle, Oklahoma
Kirk Lawn Care, LLC, 16168 Spring Meadow Drive, Tahlequah, Oklahoma
Benson Kush, LLC, 9932 S. HWY 99, Prague, Oklahoma
Lone Pine Farm, LLC, 19525 E. 1120 Road, Elk City, Oklahoma
Tractor Supply, 1504 S.W. 27th Street, El Reno, Oklahoma
Vanish Pest & Wildlife Specialist, LLC, 1016 Maple, Muskogee, 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
Burtrum	Aye
Arthur	Aye
Farris	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 Consent Order as submitted.

Consumer Protection Services

Agwerx Aviation, P. O. Box 67, Tekmah, Nebraska
Agwerx Aviation, P. O. Box 67, Tekmah, Nebraska
Gary Canfield, 1919 Elks Road, Seminole, Oklahoma
Gregg Hobbs, 902 S. 13th, Street 5, Kingfisher, Oklahoma
Judy Ortiz, 5733 Huettner Drive, Norman, Oklahoma
Outdoor Creations Mgmt., 16085 Rolling Hills Road, Yukon, 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
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

A motion was made by Mr. Bolen, seconded by Mr. Cook, to approve the Proposed Action on Emergency Rules.

Market Development

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

Chapter 40. Market Development

Subchapter 25. Oklahoma Winter Storm Grant Program

35:40-25-1. Purpose [NEW]

35:40-25-2. Definitions [NEW]

35:40-25-3. Applicant Eligibility [NEW]

35:40-25-4. Evaluation Criteria [NEW]

35:40-25-5. Application Requirements [NEW]

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The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

There is no old business presented for the Board to take action upon. Mr. Bolen moved, Mr. Farris seconded, that the meeting be adjourned at 11:28 a.m.

By _____
President

ATTEST: _____
Executive Secretary

AUGUST 30, 2023, BOARD MEETING

PURCHASES/CONTRACTS

ADMINISTRATIVE SERVICES

FY23 - Oklahoma Management Enterprises Services (OMES) FICA Savings - Adding \$5,000 to the previous approval for \$25,000 (May 2022) bringing the Board approved amount for FY23 = \$30,000; 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 savings for the state as well. These payments transfer that savings to EBC to administer the program. These payments are required by state law.

FORESTRY

FY24 - \$300,000

Contract with Oklahoma Association of Regional Councils (OARC) for Rural Fire Coordinators to provide technical assistance and equipment placement services to new or established Rural Fire Departments within their districts to assure the capability of meeting local fire protection needs. Without this contract fire departments could lose much needed funding, equipment, and technical assistance. Original funding of \$800,000 was approved at the July 2023 Board of Agriculture meeting. The additional \$300,000 will allow the OARC Contract to be funded at \$1,100,000.

FY24 - \$150,000 Federal Funds

Award Federal pass-through funding to assist financially hardship cities/neighborhoods/communities for heat mitigation, promotion food forest, increase equitable access to urban/community tree canopy and promoting other value and benefits of trees in communities – Up to \$100,000. These grants support projects related to helping lower income neighborhoods and, non-profits. Without these projects, we would lose an avenue of community support and education. This money will be refunded to us through Federal funding. The original \$100,000 was approved in July 2023.

FY 24 - \$40,000

Purchase a root pruner at the Forest Regeneration Center to undercut conservation seedling roots to stimulate lateral root growth. By root pruning, it increases the chances of seedling survivability and longevity. The current root pruner has exceeded its useful life and is no longer cost-effective to repair. This purchase will be reimbursed by the Revegetation/National Seed Strategy Funding Grant. Justification: Without this root pruner, the seedling roots will not be able to be undercut which decreases survivability and landowners will not want to purchase them.

FY 24 - \$22,000

Purchase a Disc Cultivator at the Forest Regeneration Center to disc weeds within existing conservation seedling beds and aerate non-production fields prior to the growing season. The current disc cultivator has exceeded its useful life and is no longer cost-effective to repair. This purchase will be reimbursed by the Revegetation/National Seed Strategy Funding Grant. Justification: Without a new disc cultivator, the seedlings and fields will be overcome by weeds and decrease survivability and productivity.

FY24 - \$80,000

Purchase of Rotary Cutters, tree saws, grapple rakes, & root grapples attachments. Justification: Purchase of multiple skid Steer's attachments to complete mechanical mitigation projects currently identified in Community Wildfire Protection Plans. They will also be used for treating hazardous fuels

in and around At-Risk Communities statewide This program is part of the National Cohesive Wildland Fire Management Strategy with the intent of developing fire adapted communities. Funding for this purchase will come from the Federal Grants. 100% of this purchase will be reimbursed.

LABORATORY SERVICES

FY24 - \$9,007.36 – Software and Core License

Purchase of an OpenLab ChemStation Workstation. Includes software and core license. PC not included for the GC-FID.

MARKET DEVELOPMENT

FY2024 – Went to board in January 2023, with Simple Snacks with Farm Fresh Food videos – videographer – Funded entirely by Specialty Crop Block Grant Funding - \$20,000.00 – need approval for additional \$4,000.00 for total project of \$24,000.00

FY2024 - Oklahoma Viticulture and Enology Grants - These funds will be used as grant funds for the purpose of increasing the positive economic impact of the wine industry in Oklahoma. Eligible applicants are institutions in Oklahoma, a state agency or governmental subdivision of Oklahoma, or a trade group promoting grape or wine production industries. Eligible projects shall be limited to scientific research, education, product development, or marketing projects. - \$98,978.00

Justification: This project is entirely funded by the Oklahoma Viticulture and Enology Center Development Revolving Fund. This grant project with Oklahoma State University will promote and encourage growth and development of the grape and wine industries in Oklahoma through educational and marketing campaigns along with increasing the positive economic impact of the wine industry in Oklahoma. 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.

FY2024 – printing – Ag in the Classroom educational teacher resources - \$19,000.00.

FY2024 – Agritourism handwashing stations - project funded entirely by the Specialty Crop Block Grant - \$28,000.00

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

FY2024 – printing – Wine Trails category guide & passports – funded entirely by Viticulture & Enology Grant - \$25,000.00

FY2024 – Ryndi Lanier – Veteran or Young Farmer/Ag Enhancement & Diversification Grant - \$9,800.00

FY2024 – Sherri Snyder – Oklahoma Pecan Festival – Ag Event Grant - \$5,000.00

FY2024 – Steve Hill – Product Development & Research Grant - \$10,000.00

FY2024 – Oklahoma Youth Expo – Ag Event Grant - \$10,000.00

FY2024 – Daniell Schmitt – Veteran or Young Farmer/Ag Enhancement & Diversification Loan - \$34,450.00

Justification: Veteran or Young Farmer loans create an expansion of an agricultural farming/ranching operation or business. If the proposed expense is not approved dollars will be lost to the local economy.

FY2024 – Oklahoma State University & Noble Research Institute – Specialty Crop Block Grant contracts – funded entirely by Specialty Crop Block Grant - \$350,870.00

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

FY2024 – Oklahoma Local Ag Summit – facility rental – funded entirely by Specialty Crop Block Grant - \$27,000.00

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

FY2024 – Tulsa Home and Garden Show – booth rental – cost share basis for 10 Made in Oklahoma companies - \$12,000.00

FY 2024 – Board of Regents of the University of Oklahoma Health Sciences Center on behalf of Oklahoma Nutrition Information & Education Project (ONIE) – contractual services – Oklahoma Local Ag Summit – Funded entirely by Specialty Crop Block Grant - \$20,000.00

FY2024 – Shortline Produce Company - Healthy Food Finance Grant - \$9,999.59

FY2024 – Bread of Life Pantry - Healthy Food Finance Grant - \$10,000.00

OFFICE OF GENERAL COUNSEL

Contract for an OGC Administrative Law Judge for FY 2024, effective 07/1/2023 - 6/30/2024. The Contract not to exceed \$10,000 to perform services as a Hearing Officer/Administrative Law Judge (ALJ) in cases assigned, in accordance with a signed agreement on file with the Oklahoma Department of Agriculture Food, and Forestry. The vendor will perform services at an hourly rate of \$125.00/hour.

WILDLIFE SERVICES

\$38,000 – ODAFF Wildlife Services is requesting approval for Hangar rent for Federal Helicopters which will house up to all 6 of our aircraft providing consolidation of assets. It will provide secure storage for firearms, ammunition, and other supplies that pilots and gunners need to their complete their duties. Also, it will save \$40,000 as no addition transporters will be needed.

\$3,310 – ODAFF Wildlife Services is requesting approval for the cooperative agreement with the Southeast Landfill regarding the control and removal of nuisance birds defecating on and damaging property. As well as, reducing the threat of bird/aircraft interactions at Tinker AFB.

\$3,310 – ODAFF Wildlife Services is requesting approval for the cooperative agreement with General Services Administration (GSA) regarding the removal of feral pigeons defecating on and damaging property.

Oklahoma Department of Agriculture, Food & Forestry

October 19, 2023, Board Report

Administrative Services



Administrative Services

- Defensive driver training classes have started
 - Received excellent feedback on the first couple of classes
- First floor renovations continue:
 - Repainting of first floor is nearing completion
 - OMES is expecting carpet to arrive October 18th
 - Cubicles are being built as their parts arrive
- Recent new hire for mail room position starts October 23rd



Administrative Services

- Fiscal year 2025 preliminary budget was submitted
- GAAP report phase II schedules were submitted to OMES
- Many thanks to Erin Robinson, former part-time Accountant, who has resigned after several years of service with ODAFF.
 - Erin was one of the best accountants I have ever known. She will be greatly missed.
 - Erin did an excellent job processing Forestry's grant billings.
 - Finance will be assisting Forestry with these grant billings.

Administrative Services – Investigative Services

INVESTIGATIVE SERVICES ACTIVITIES

AUGUST 2023



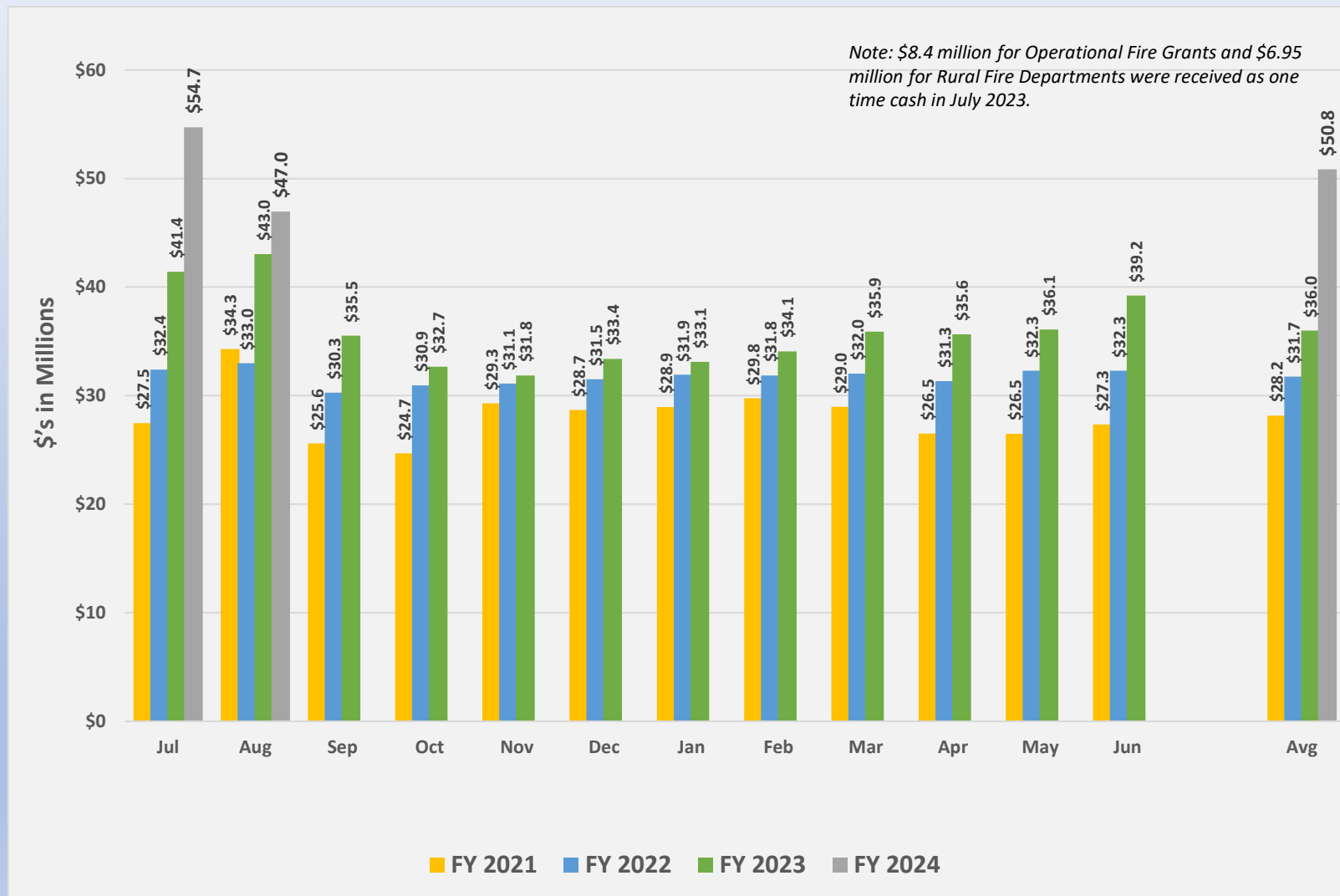
INVESTIGATIONS		AUGUST	YTD	FYTD
LIVESTOCK		4	18	5
FIRE		1	6	2
PROPERTY		1	25	4
TIMBER		1	5	1
AGENCY ASSISTS	ODAFF	1	1	1
AGENCY ASSISTS	EXTERNAL		4	2
OTHER		5	15	5
TOTAL INVESTIGATIONS OPENED		13	74	20
CLOSED PENDING ADDITIONAL INFORMATION		4	16	4
NO CRIME		6	30	7
NO PROSECUTION			0	0
CLOSED - ASSIST CASE		3	7	4
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION		3	12	4
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		16	65	19
COUNTS FILED			13	1
VALUE OF LOSSES - ALL CRIMES		\$189,400	\$920,126	\$292,575
RECOVERED LOSSES - ALL CRIMES		\$248,250	\$612,825	\$297,425
NUMBER OF CATTLE REPORTED STOLEN		48	261	49
NUMBER OF CATTLE RECOVERED		8	34	9



Available Cash at Month End

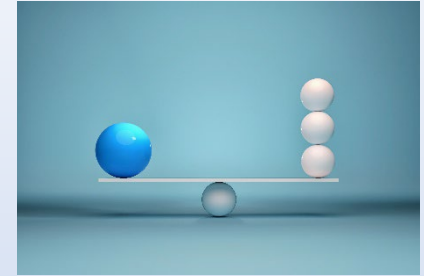
Months Ending: July 2020 – August 2023

per Allotment Budget & Available Cash Report Fiscal Year 2021-2024



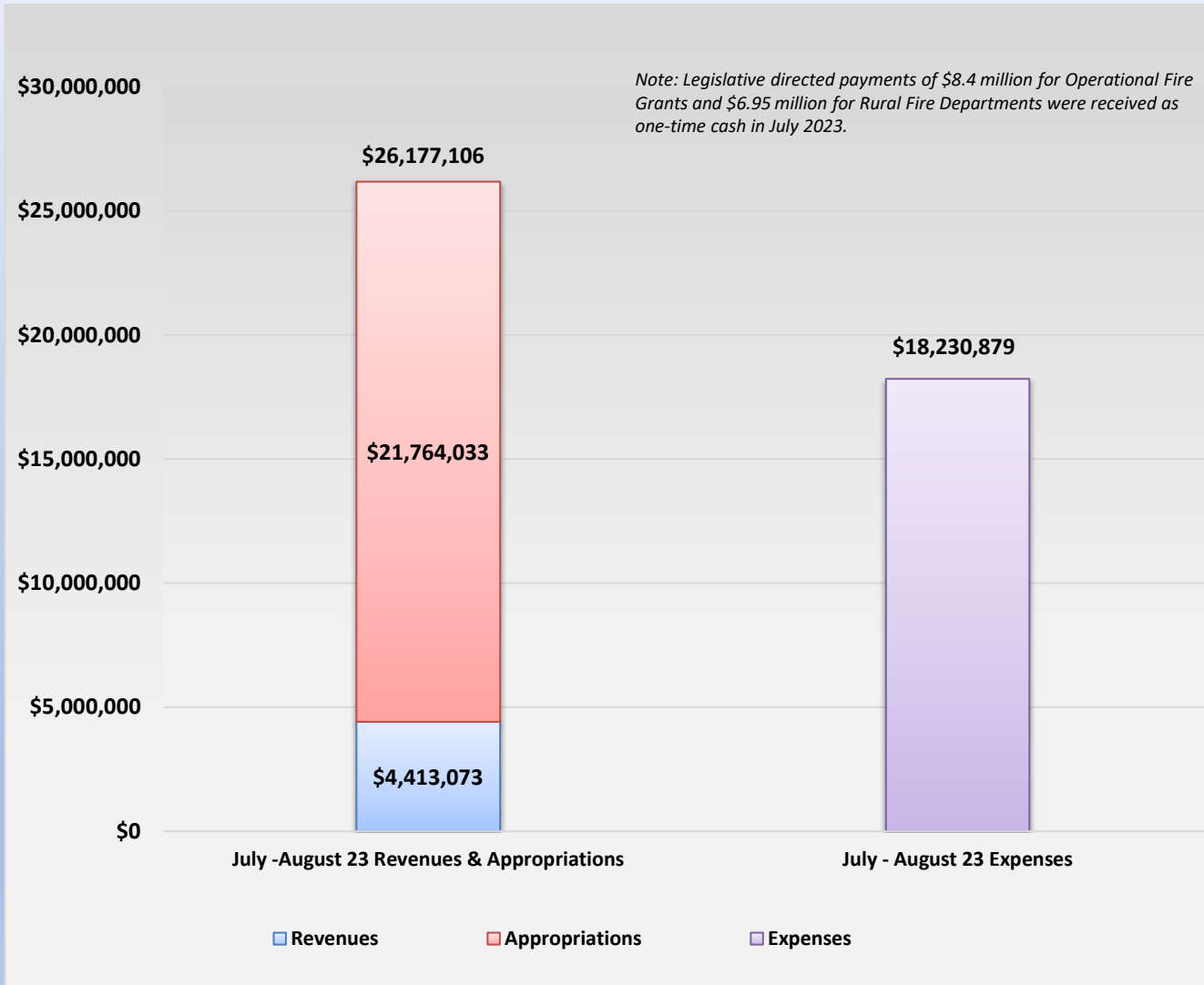
Note: The amounts above include fund 700, Commodity Storage Indemnity Fund, which had a balance of \$11,396,478 as of 8/31/2023.

Administrative Services - Finance



- Cash balance as of 8/31/2023 was \$47 million compared to \$43 million as of 8/31/2022
 - Increase of \$3.9 million from the prior year and is primarily attributed to the following:
 - \$7.4 million increase in appropriated cash for increases in legislative directed payments includes funding for:
 - Rural fire departments for the replacement of equipment and gear burned during fires
 - Rural fire coordinators
 - Funds encumbered for purchases that are delayed due to supply chain issues
 - Timing of payments

Total Revenues, Appropriations and Expenses July-August 2023



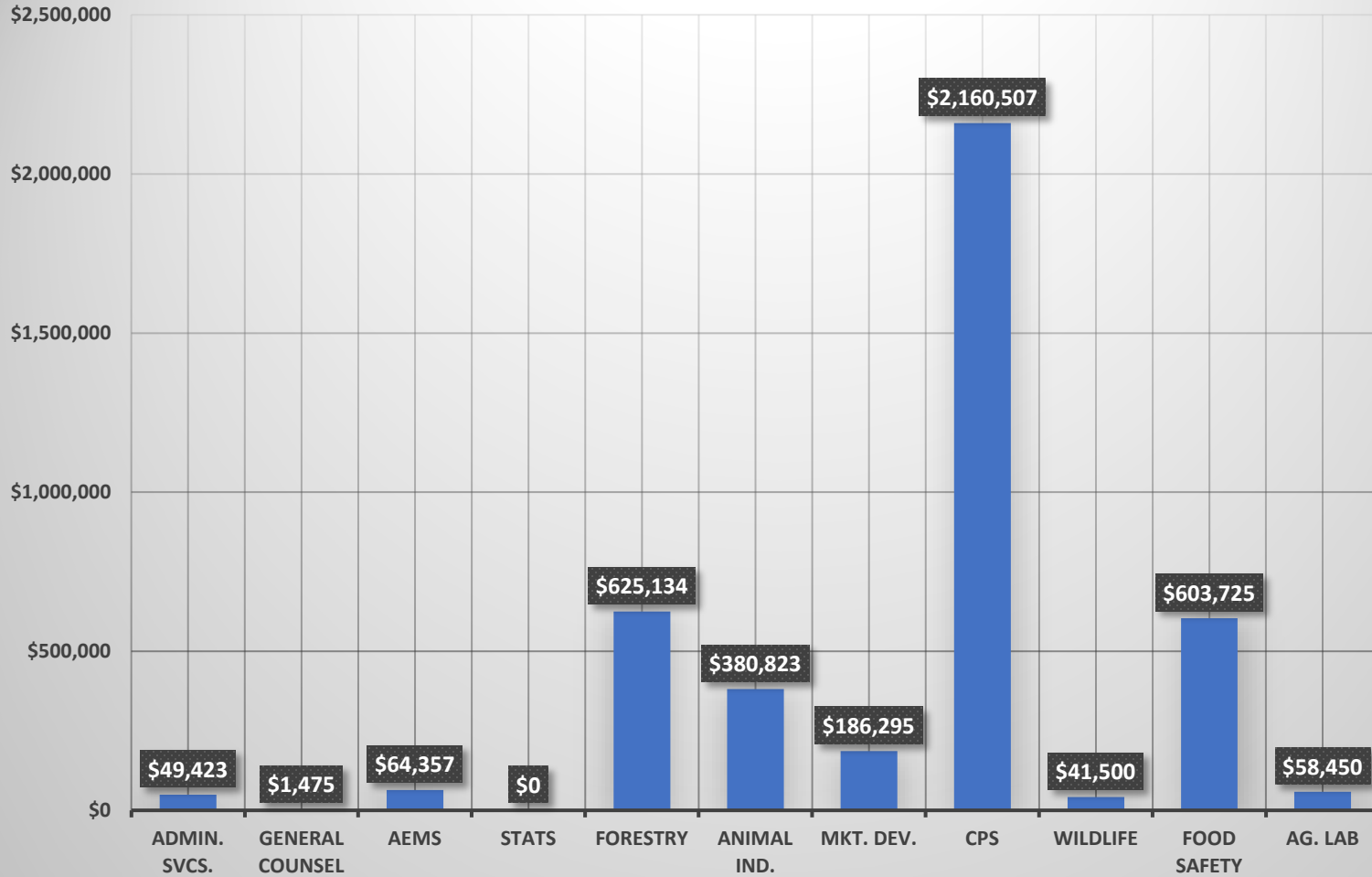


Revenue By Division August 2023

Oklahoma Department of Agriculture, Food and Forestry		
Revenue Summary by Division		
Fiscal Year 2024 thru 8/31/2023		
Division	August 2023 Revenue	Fiscal Year 2024 Revenue
Admin. Svcs.	38,415	49,423
General Counsel	1,475	1,475
AEMS	34,862	64,357
Stats	-	-
Forestry	551,965	625,134
Animal Ind.	369,778	380,823
Mkt. Dev.	175,382	186,295
CPS	1,155,711	2,160,507
Wildlife	6,600	41,500
Food Safety	453,500	603,725
Ag. Lab	47,186	58,450
Division Total (see division receipts graph on next slide)	2,834,875	4,171,688
Commodity Storage Indemnity	24,346	47,236
Appropriations	2,995,017	21,764,033
Agency Total	5,854,238	25,982,957
Note: Clearing fund, 79901, is not included in the above table.		



Revenue By Division July – August 2023

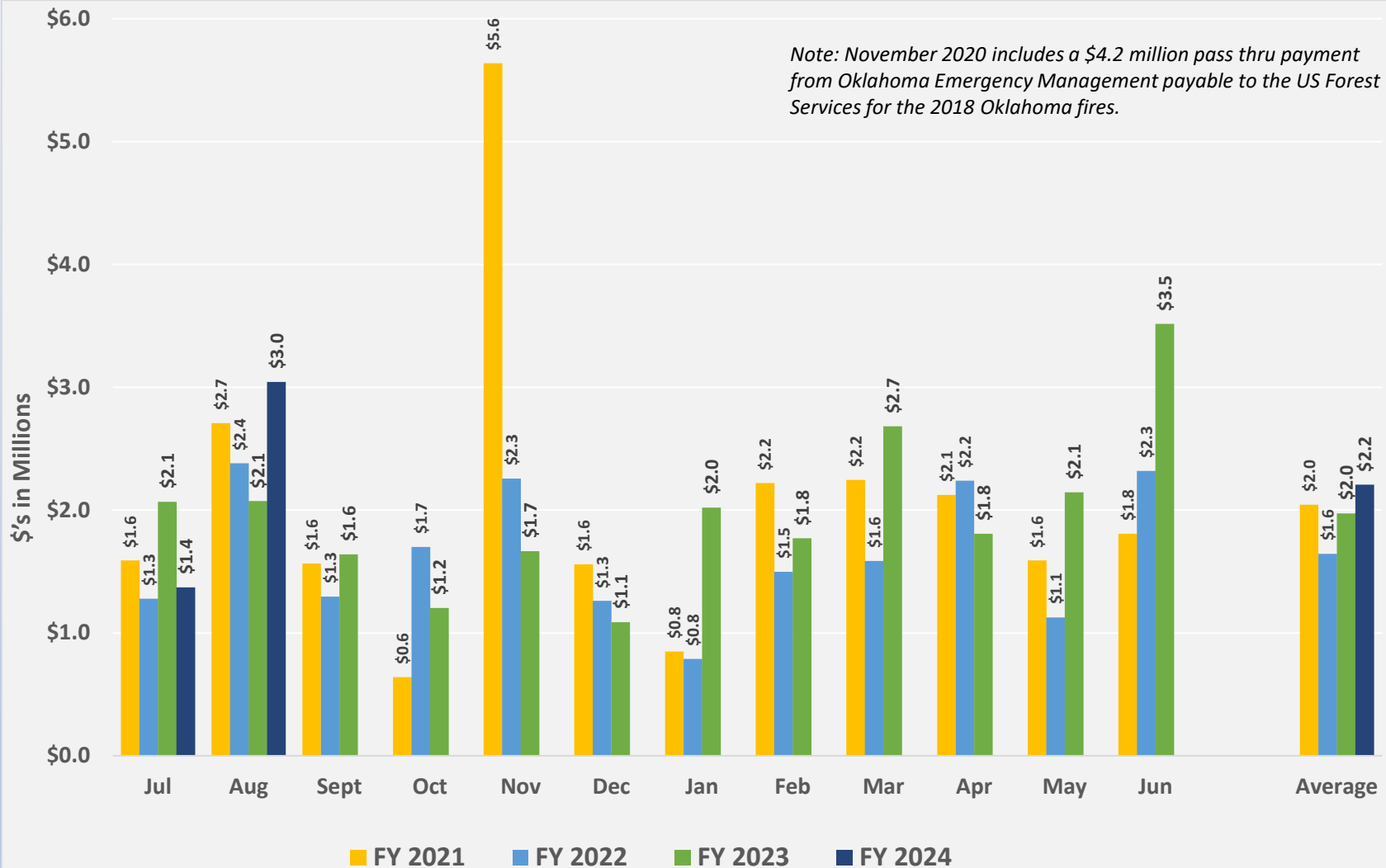


■ Fiscal Year 2024 Revenue

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

Total Revenue by Month July 2020 – August 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.



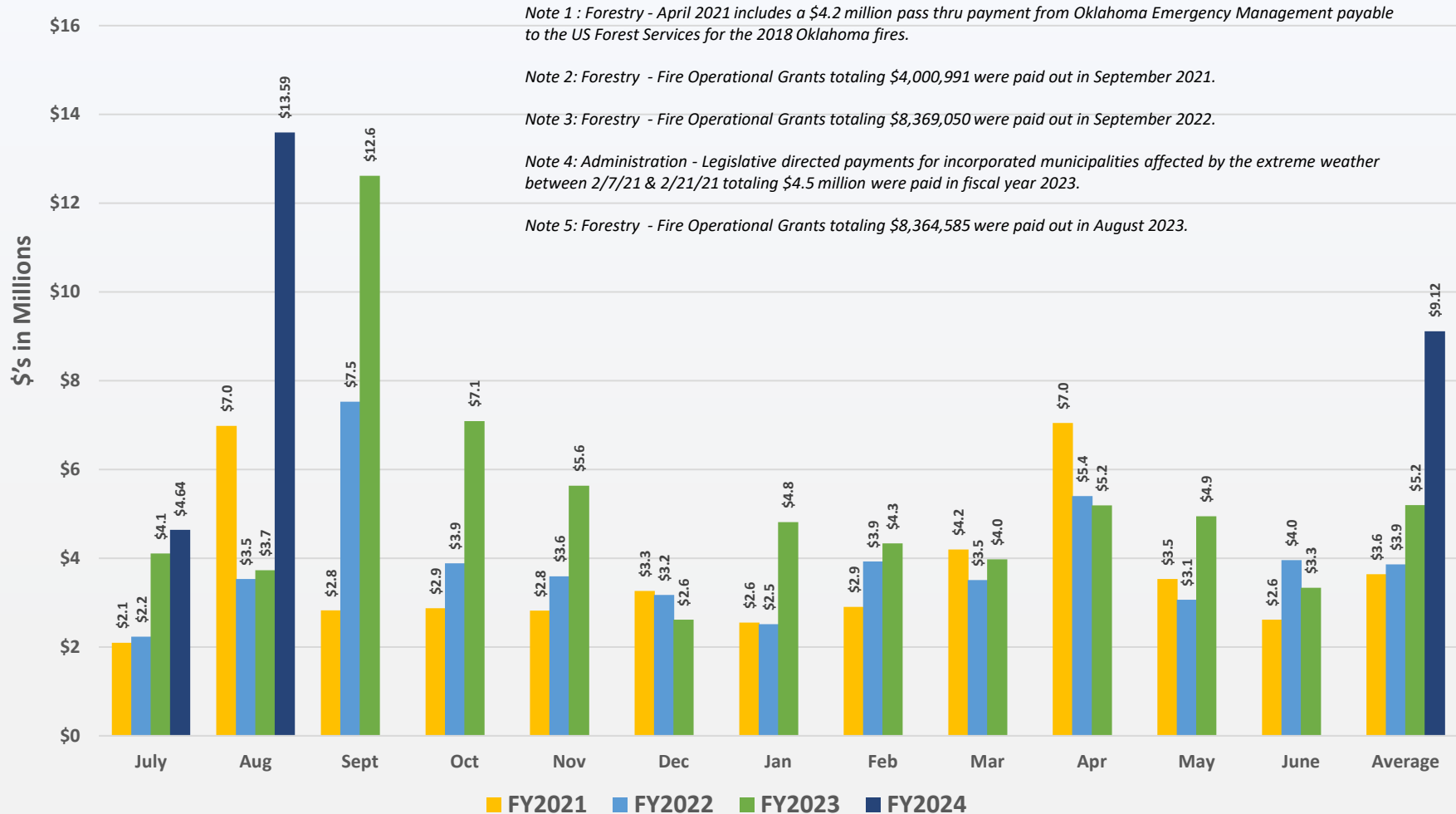
Administrative Services - Finance

- Revenues (excluding appropriations) for fiscal year 2024 thru August 2023 were \$4.4 million
- Revenues for the same period last fiscal year were \$4.1 million
 - This is an increase of approximately \$300,000 and is primarily due to:
 - An increase in federal reimbursements
 - Timing of payments received

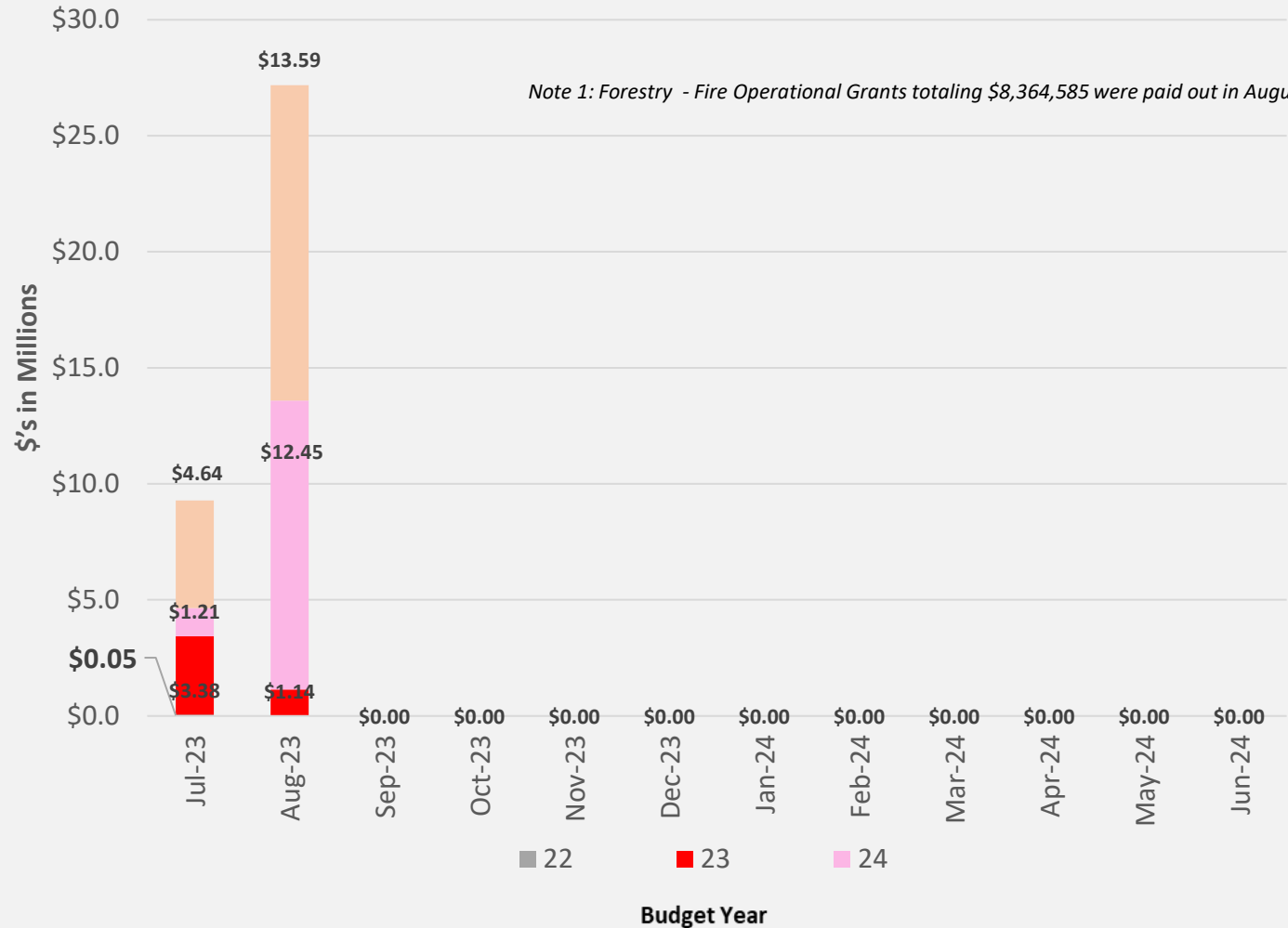


Total Expenses by Month

July 2020 – August 2023



FY 2024 Total Expenses by Month with Budget Year

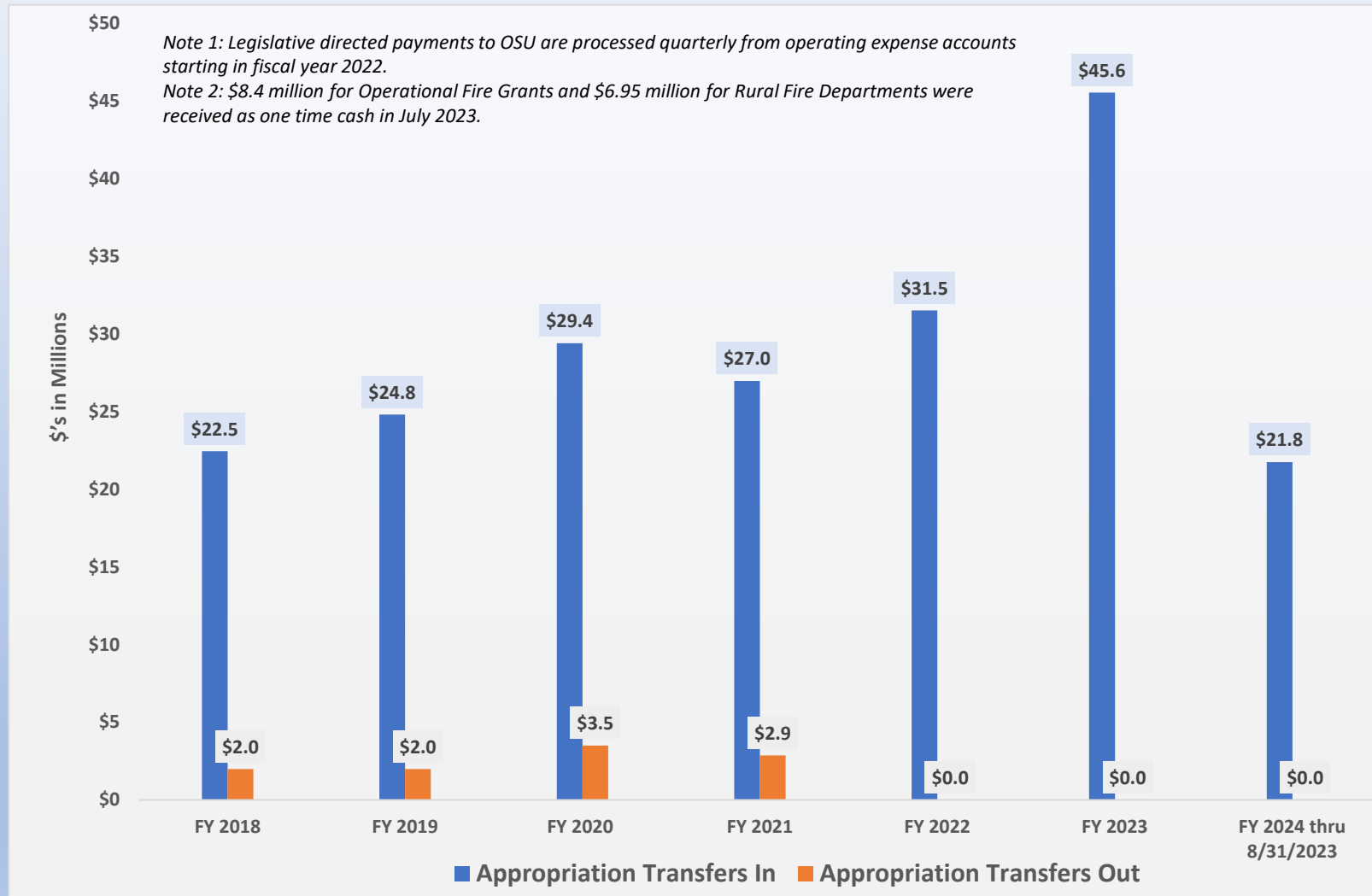


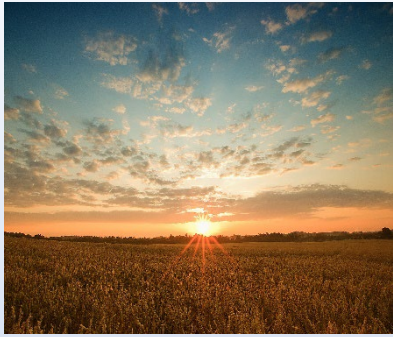
Administrative Services - Finance

- Total expenses for fiscal year 2024 thru August 2023 were \$18.2 million compared to \$7.8 million for the same period last fiscal year
 - This was primarily due to the operational fire grants being paid earlier this fiscal year.



Appropriations FY 2018 – FY 2024 (August 2023)





Commodity Storage Indemnity

Commodity Storage Indemnity			
Investment Report			
As of August 31, 2023			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,396,478
<u>FY-2024 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest Revenue		24,346	47,236
Reinsurance		-	-
ODAFF Support Services		-	-
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	24,346	47,236
		=====	=====

Oklahoma Department of Agriculture, Food & Forestry

Monthly Budget Report - Budget Year 2024

As of August 31, 2023

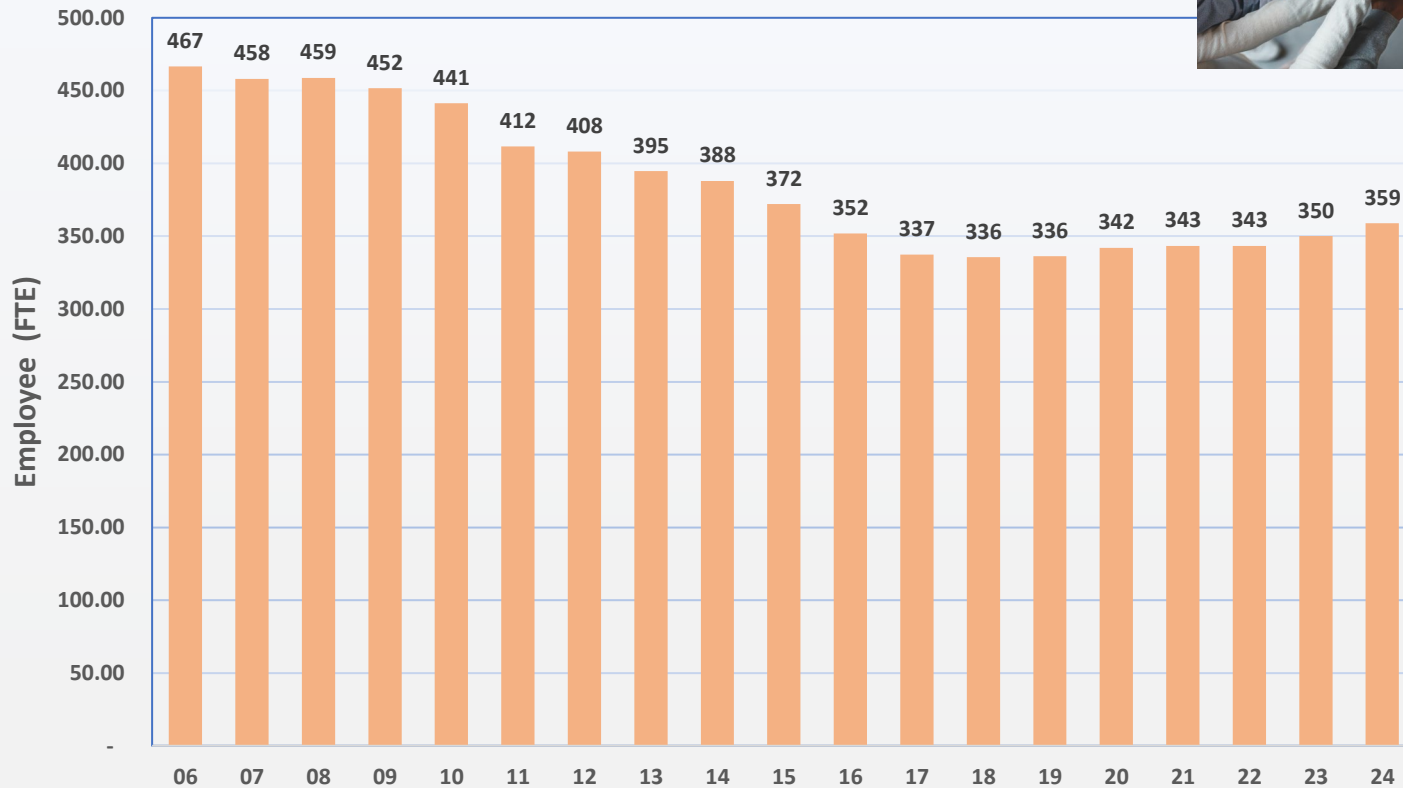
Fiscal Year 2024 Annual Budget to Actuals for Budget Year 2024 thru August 31, 2023

Object Code	Account Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
511	Salary Expense	22,838,350	3,212,116	27,929,015	(8,302,782)
512	Insur. Prem-Hlth-Life,etc	5,558,363	730,334	488,755	4,339,274
513	FICA-Retirement Contributions	5,597,514	761,229	1	4,836,284
515	Professional Services	3,169,160	20,294	2,243,230	905,636
519	Inter/Intra Agy Pmt-Pers Svcs	30,000	-	25,000	5,000
521	Travel - Reimbursements	518,530	16,579	-	501,951
522	Travel - Agency Direct Pmts	495,863	27,594	-	468,269
531	Misc. Administrative Expenses	1,355,557	34,783	334,532	986,243
532	Rent Expense	690,348	53,144	197,999	439,205
533	Maintenance & Repair Expense	1,987,084	16,584	586,660	1,383,840
534	Specialized Sup & Mat.Expense	1,585,302	88	996,000	589,214
535	Production,Safety,Security Exp	160,843	2,137	-	158,706
536	General Operating Expenses	313,154	8,289	-	304,865
537	Shop Expense	584,517	11,515	128,015	444,986
541	Office Furniture & Equipment	3,356,536	43,071	79,000	3,234,465
542	Library Equipment-Resources	982	-	-	982
543	Lease Purchases	1,697,171	276,531	1,420,640	0
552	Scholar.,Tuition, Incentive Pmt	340	343	-	(3)
554	Program Reimb,Litigation Costs	16,321,725	8,436,922	1,461,370	6,423,432
555	Pmts-Local Gov't,Non-Profits	11,982,256	1,200	1,241,860	10,739,196
559	Assistance Pymts to Agencies	3,594,000	-	-	3,594,000
561	Loans,Taxes,Other Disbursements	650	-	-	650
564	Merchandise For Resale	150,150	-	-	150,150
601	AFP Encumbrances	-	-	3,078,943	(3,078,943)
810	Req Only	-	-	3,306,492	(3,306,492)
	Operating Totals	81,988,395	13,652,755	43,517,511	24,818,129

Oklahoma Department of Agriculture, Food & Forestry
Monthly Budget Report - Budget Year 2024
As of August 31, 2023
Fiscal Year 2024 Annual Budget to Actuals for Budget Year 2024 thru August 31, 2023

Class Funding	Class Fund Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
19311	FY13 Carryover	-	-	89,732	(89,732)
19401	GRF- Duties	35,940,203	2,625,385	21,756,797	11,558,022
20500	Rural Fire Defense Eqp Rev Fd	199,449	-	40,000	159,449
21000	Agriculture Revolving Fund	24,997,140	2,339,532	18,691,571	3,966,037
22500	Enhancemnt & Diversificatn Fnd	250,000	14,981	71,844	163,175
23000	Okla Pet Overpopulation Fund	35,000	25,000	10,000	-
23500	Animal Friendly Revolving Fund	35,000	-	35,000	-
24000	Unwanted Pesticide Disp Fund	350,000	-	350,000	-
24500	Rural Fire Revolving Fund	50,000	-	-	50,000
25500	Ag. Evidence Law Enforce Fund	4,000	-	-	4,000
25600	Ok Viticulture Enology Revl Fd	439,275	33,031	134,513	271,731
26200	Poultry Grading Revolving Fund	1,154,297	172,882	874,509	106,906
28500	Milk & Milk Prod Inspec Rev Fd	471,032	45,003	376,117	49,913
28600	Ag In The Classrm Educ Rvlv Fd	24,000	-	-	24,000
28700	Healthy Food Financing Revl Fd	100,000	6,667	3,333	90,000
42000	Specialty Crop Federal Funds	1,140,000	-	279,403	860,597
43000	Farm and Ranch Stress Alliance	225,000	-	105,879	119,121
43500	Local Food for Schools Co-op	800,000	25,690	698,813	75,497
57901	Duties	15,773,999	8,364,585	-	7,409,414
	Totals	81,988,395	13,652,755	43,517,511	24,818,129

Employee FTE Totals Fiscal Year FY 2006 – FY 2024



Fiscal Year

Note 1: FTE listed for fiscal year 23 was based on the FTE from August 15, 2022 thru June 30, 2023 as the Workday HR system was implemented on August 15, 2022.

Note 2: FTE listed for fiscal year 24 was based on the FTE for July – August 2023.

OCTOBER 2023 BOARD REPORT
AGRICULTURE LABORATORY SERVICES
(August 2023 Activities)

QUALITY MANAGEMENT SECTION: (Daniel Tripp, QA Manager)

The QA Manager completed necessary updates for Inorganic and Microbiology (Food and Dairy) Sections. The updates included SOPs, Quality Control on testing reagents and other information as required by DEQ.

The Food and Dairy Section will be performing multiple in-house studies, under the supervision of the QA Manager.

Studies Include:

- Shelf-life extension for Molecular Detection Assy 2 – *Salmonella*. This reagent kit is used for screening enriched food/environmental samples for *Salmonella*.
- Instrument Verification check for screening of samples for *Listeria*.
- Validation of a modified *Listeria* enrichment/screening method. Once the method is validated it will reduce sample screen time.
- Shelf-life extension for Molecular Detection Assy 2 – *Listeria*. This reagent kit is used for screening enriched food/environmental samples for *Listeria*.

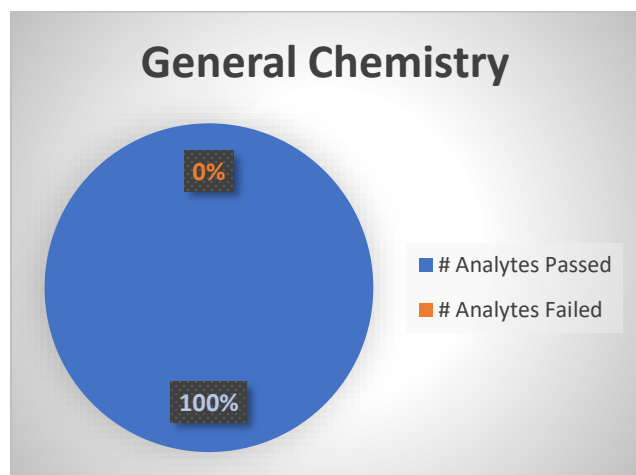
The Food and Dairy Section has already completed an instrument verification check for the screening of *Salmonella* samples. The QA Manager has completed a report for this study and has approved the new 3M Molecular Detection System for the use of screening samples for *Salmonella*.

The QA Manager has started yearly equipment checks for all Sections to include; refrigerators, incubators, and fume hoods. Temperature checks in the Pesticide, General Chemistry, and Inorganic Sections are still required checks.

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.

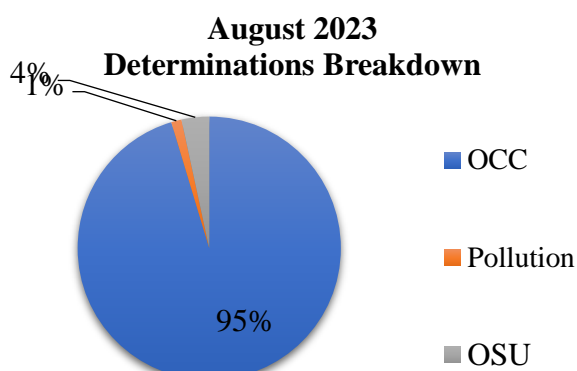
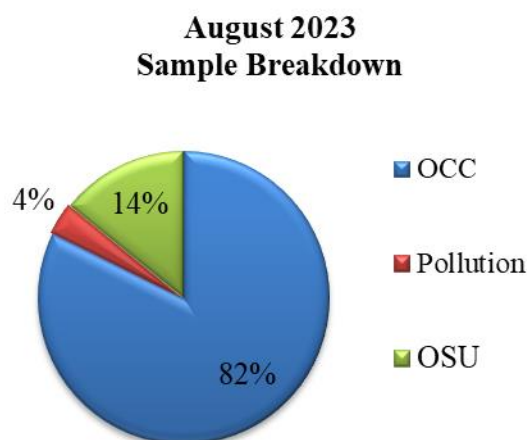
General Chemistry	
# Analytes Results Received	32
# Analytes Passed	32
# Analytes Failed	0



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

In August of 2023 the Section completed 169 samples consisting of 1416 determinations, with the following breakdown:

OCC	139	1350
OSU	24	48
Pollution	6	18
Total	169	1416



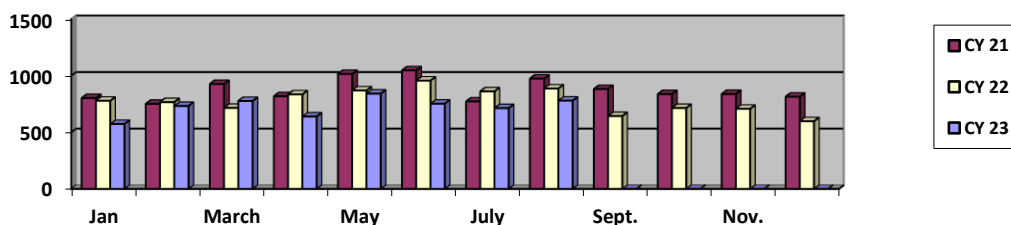
DAIRY/FOOD SAFETY SECTION: (Sharon Swyear, Environmental/Chemical Laboratory Scientist IV)

The month of August was a typical testing month for the Section. Only one dairy was not tested, and one dairy was dry. The Section tested thirty-three meat samples during the month of August. Only one meat sample was not able to be tested due to the receiving temperature above USDA limits. The Section had one presumptive positive Salmonella to confirm out the first week of August.

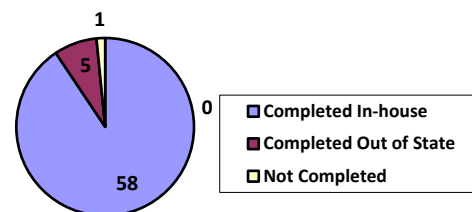
The FDA milk splits (proficiency testing for accreditation) are scheduled for the second week of September. Electronic somatic cell counts are included in this set of splits. FDA was contacted about the electronic somatic cell counter being inoperable. It will be noted on the Section's record and when the Section receives the new somatic cell counter, it will submit QC testing on the new instrument.

Under this year's AFDO grant for the FDA milk program, the Section has submitted to purchase a cryoscopy, another incubator and an analytical balance.

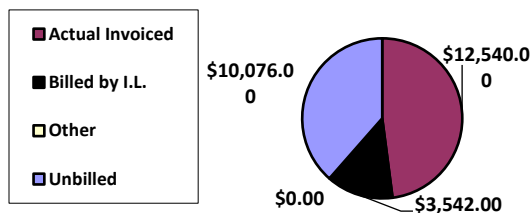
Total Determinations



Dairy Farms



Revenue Breakdown



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

Activity in the Section had a slight increase during August. Records indicate the Section received a total of 250 samples for testing. Wheat, rye, oats, and other small grains were the majority of crops tested while mostly turf and native grasses made up the remaining balance. There have been no significant issues with germination results. There were seed tag violations discovered on two different seed lots. A total of 16-50 pounds of annual ryegrass and 14-50 pounds of tall fescue were placed under stop sale due to test date expiration.

The Board of Directors of the Oklahoma Crop Improvement Association, as well as Oklahoma Genetics Incorporated, held their quarterly meetings on August 17th, in the Laboratory conference room. Laboratory Director Wade Krivanek attended the meeting on behalf of the Seed Section Supervisor Tori Gillispie. Tori traveled to the USDA Seed Regulatory and Testing Division in Gastonia, NC to take the Certified Seed Analyst exam through the Association of Official Seed Analysts.

Directors with Oklahoma Crop Improvement Association are reporting drought and prohibited noxious weeds concerns with the states certified wheat crops. Officials are indicating it is still too early to tell on seed sales.

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

In August the Section was able to make 1629 determinations and report out 342 completed samples, while maintaining a heavy fertilizer load. As the Section moves into fall, we will transition into primarily feed samples for feed rush. This will allow us to have some maintenance performed on fertilizer equipment. We will be coordinating with CPS during this time to make sure we are meeting their needs for feed and fertilizer testing.

All of our equipment was online and functioning correctly for the month allowing the Section to achieve good results. The workaround for the fat analyzers is continuing to work and our available dehumidifier has allowed us to lose minimal time due to humidity issues.

Overview of Section numbers for the month:

	Feed	Fertilizer	Lime	Total
Samples Received	162	68	10	240
Samples Completed	275	144	4	423
Determinations	1446	446	28	1920
Violations	131	59	2	192
Violation %	9.06%	13.23%	7.14%	10.00%

PESTICIDE SECTION: (David Smith, Environmental/Chemical Laboratory Scientist IV)

In the month of August, the Nitrogen generator supplying the new LC-QQQ (6470 system) stopped working. Eli Klimek has been helping with the Formulation sample backlog by using the Scion GC-FID. David Smith has taken the role of Pesticide Supervisor.



Pic 1. Scion GC-FID with samples

In the month of August, the Section completed 68 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 52 days.

	Number	Test	Det.	Average TAT (days)
Residue Vegetation	38	72	377	56
Residue Soil	16	16	16	25
Residue Water	2	4	40	77
Organic Act	-	-	-	-
Residue, Other	1	1	1	49
Concentrate	4	8	10	124
Tank Mix	2	4	7	69
Proficiency Test	5	11	38	33

Average Residue Turnaround
Time: 46 days

Average Formulation
Turnaround Time: 127 days

Average Organic Act
Turnaround Time: 18 days

Totals		
# of Samples	# of Tests	# of Determinations
68	116	489

The Section received 61 samples this month. Most of the samples received are for Residue Analysis (see Fig A).

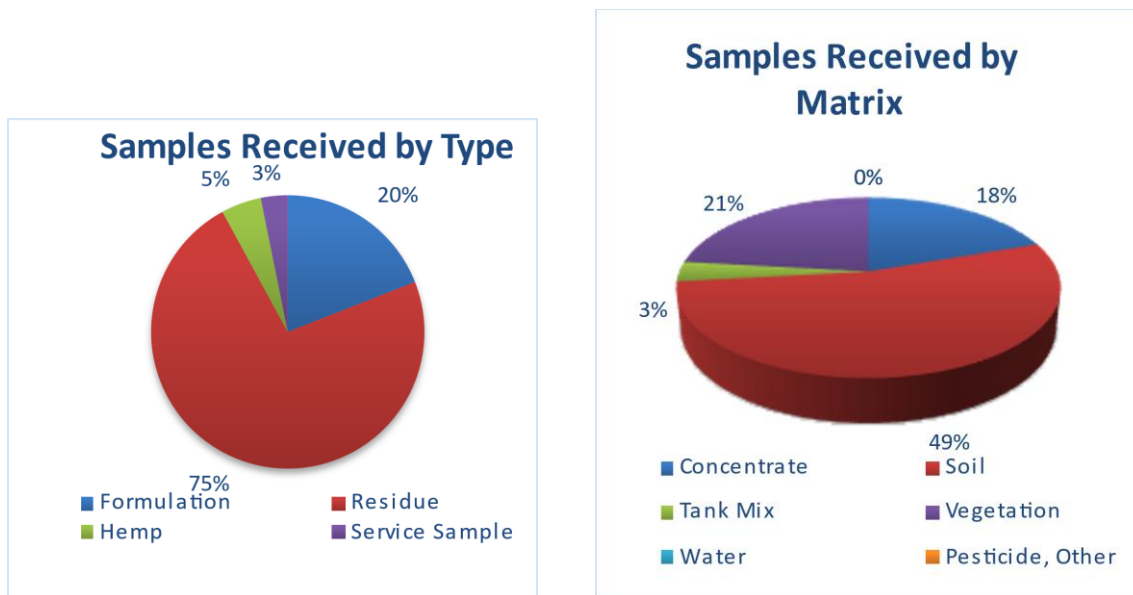


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right).

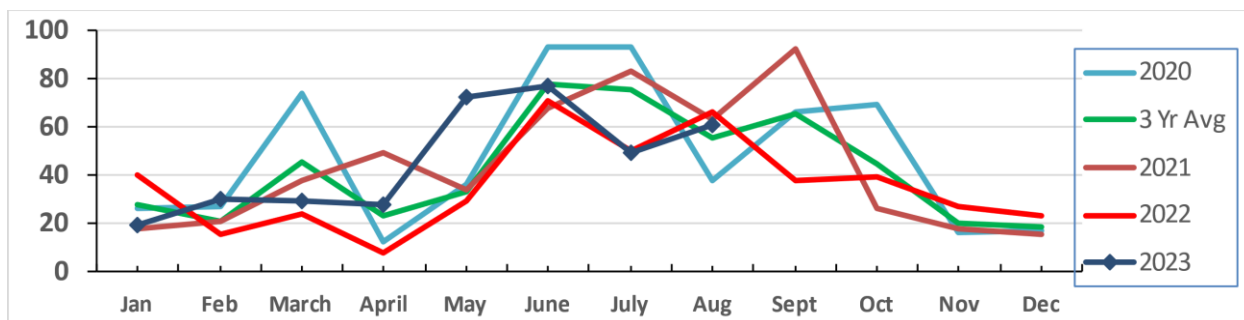


Fig B. Graph showing the number of samples received by the Section each month.

This month, the Section completed 489 determinations and most of the determinations were done on residue vegetation samples.

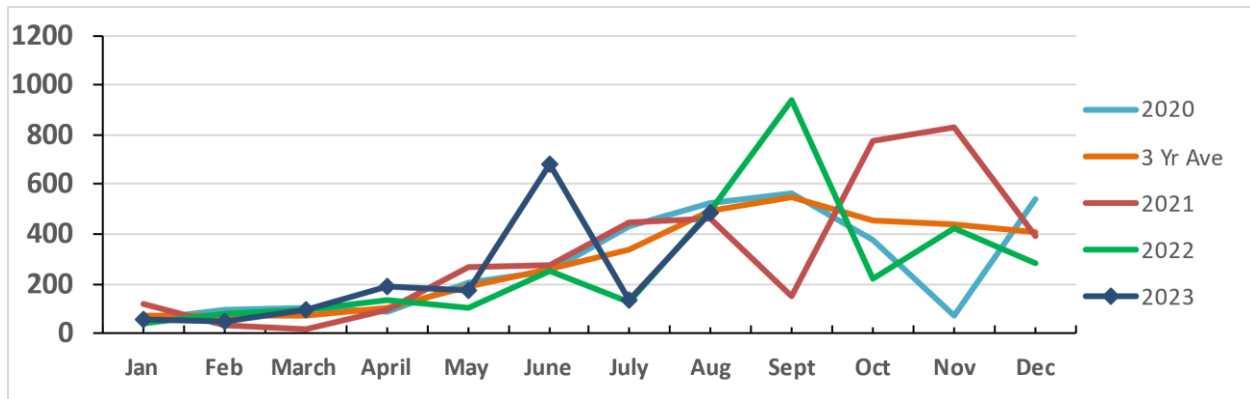


Fig C. Graph showing the number of determinations completed each month.

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

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

During August the Section accumulated a revenue of \$144.00. September will be a busier month for the Section, as multiple appointments are on the schedule. Despite August being a slower month, a lot of positive progress was made during this time. Termelia Hogg and William Krivanek attended and passed the Fundamentals of Metrology seminar that was held by the National Institute of Standards and Technology. Both metrologists were also able to attend the Southwest Assurance Program meeting in Little Rock, Arkansas. August was a very successful month in terms of gaining new knowledge and making connections with fellow metrologists in surrounding states. Experiences like these will ensure that the Bureau's staff possesses every helpful tool necessary.



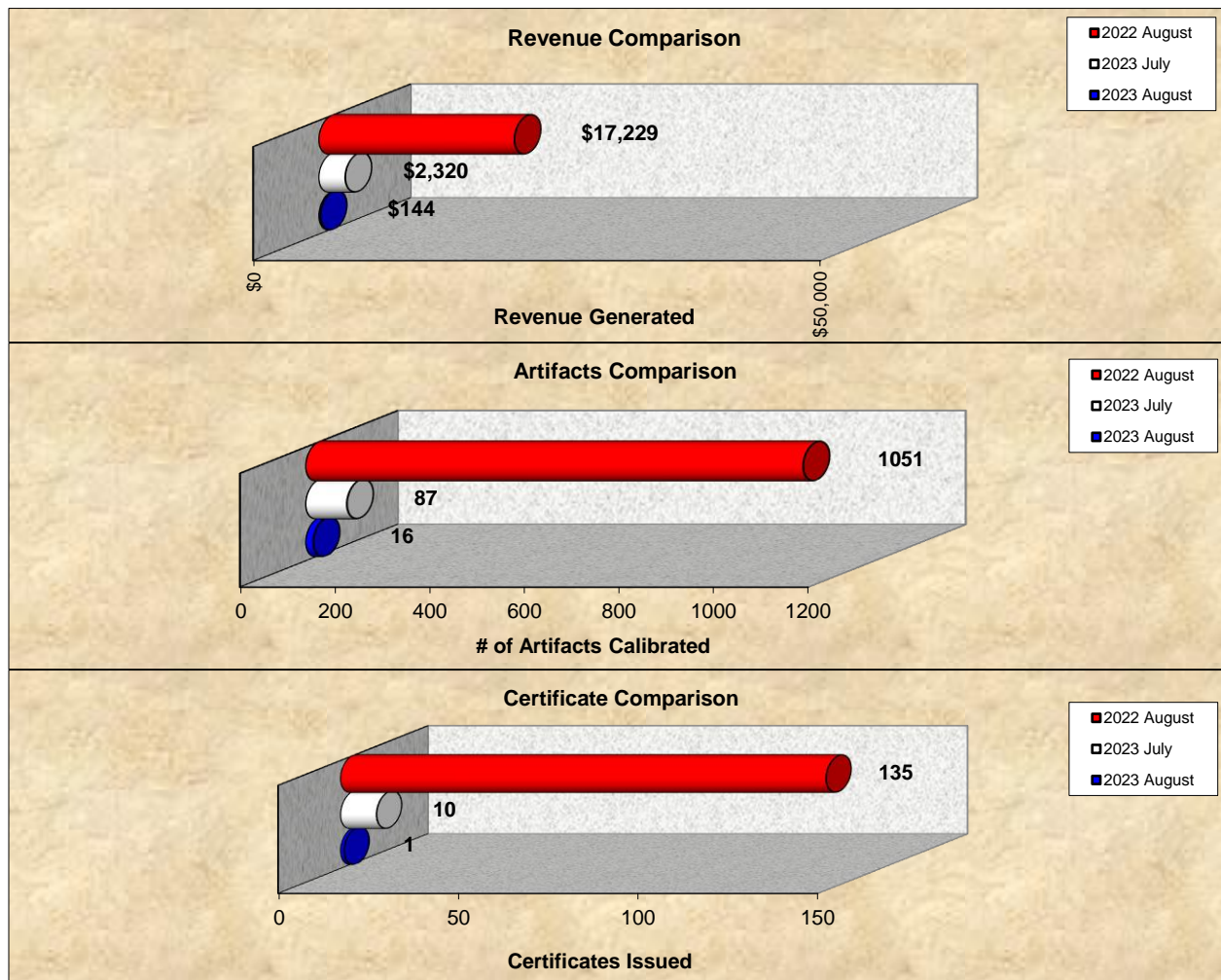
Pictured above: Termelia Hogg and William Krivanek in front of the Department of Agriculture, Food and Forestry building.



Pictured above: William Krivanek in front of the Oklahoma Bureau of Standards museum.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	0	\$0.00	0.00%	0	0.00%
In-State Customers	1	\$144.00	100.00%	16	100.00%
Totals	1	\$144.00	100.00%	16	100.00%

Echelon	Total Fees not Charged	# Working Days Lead Time to Next Available Date for Calibration
Mass I / II	\$0.00	0
Mass III	\$0.00	2
Volume	\$0.00	0



Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Wade Krivanek". The signature is fluid and cursive, with a long horizontal stroke at the end.

Wade Krivanek
Laboratory Director
Laboratory Services Division

BOARD REPORT
AGRICULTURAL LABORATORY SERVICES
AUGUST 2023 ACTIVITIES

FEED SAMPLES	199
FEED DETERMINATIONS	1238
POSSIBLE VIOLATIONS	121
 FERTILIZER SAMPLES	 88
FERTILIZER DETERMINATIONS	296
POSSIBLE VIOLATIONS	36
 LIME SAMPLES	 13
LIME DETERMINATIONS	95
POSSIBLE VIOLATIONS	1
 PESTICIDE SAMPLES	 68
PESTICIDE DETERMINATIONS	489
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 169
DETERMINATIONS	1416
 SEED SAMPLES	 250
SEED DETERMINATIONS	407
POSSIBLE VIOLATIONS	2
 BUREAU OF STANDARDS CERTIFICATES	 1
NUMBER OF STANDARDS CALIBRATED	16
FEE CHARGES	\$144.00
 DAIRY SAMPLES	 423
DAIRY DETERMINATIONS	780
POSSIBLE VIOLATIONS	13
 TOTAL SAMPLES	 1211
TOTAL DETERMINATIONS	4737
TOTAL POSSIBLE VIOLATIONS	173



OKLAHOMA FORESTRY SERVICES BOARD REPORT

Serving Oklahomans by conserving, enhancing, and protecting our forest and natural resources for present and future generations.

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

FOREST REGENERATION CENTER/FOREST TREE IMPROVEMENT CENTER



Through a federally-funded vegetative grant, the Forest Regeneration Center at Goldsby was able to purchase a new forklift to replace a tractor with mounted forks on the loader. This allows nursery staff to operate more efficiently and safer moving palletized material in the new containerized tree equipment facility. Staff obtained Forklift Operator Training certificates by completing training that included operational instruction with safety videos and a hands-on obstacle course.

Assistant Director Craig Marquardt and Forest Regeneration Program Manager Justin Jones visited D&C Holiday Farm in Muldrow. The visit focused on the farm's highlights this past Christmas season and the successful tree planting that followed with our OFS nursery grown Virginia pine Christmas tree seedlings. Discussions also included why the different cultivation techniques of maintaining proper tree density/spacing during planting, shearing and vegetative maintenance, and pesticide spraying for insect and fungus are very important for the success of the farm. Jones plans further visits with Christmas Tree Growers throughout the state.



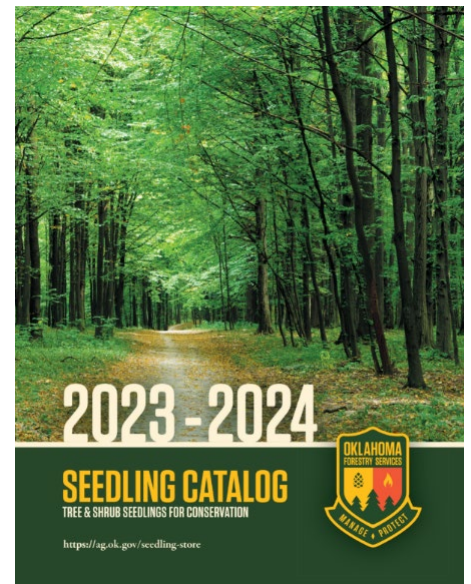
Through a federally-funded project, the Forest Regeneration Center completed the pour of a much-needed concrete slab. The upgraded flooring will allow us to utilize the containerized seedling facility in a more efficient manner for storage and operation of our automated container planting equipment. This automated equipment will increase our capacity to carry out present and future reforestation needs by decreasing the amount of manual labor involved in planting.



The FRC/FTIC recognized Idabel High School Vocational Agriculture Instructors McClure and Clardy for volunteering their forestry and horticulture classes to assist with the collection of sawtooth oak acorns for the OFS Forest Regeneration Center in Goldsby. Students were eager to jump in and help Regeneration Programs Coordinator Justin Jones collect the targeted number of acorns needed for this year's fall planting. The students were very attentive in learning what the valuable benefits the sawtooth oak species has to offer, and what the state's seedling nursery can provide for conservation needs throughout the state.

Fall Seedling Sale

The catalog for the Fall Seedling Sale went live on-line in mid-September on the ODAFF/Forestry website for the highly anticipated annual sale which began October 2nd. The public can access and order from the sale page at: ag.ok.gov/shop. Keith Merckx worked with Nursery staff to arrange final sale details on the website as well as publicity for the sale. Efforts to publicize the sale drew coverage in media around the state including the *McAlester News-Capital*, *Chickasha Express Star*, *Oklahoma City Sentinel*, Yahoo News, Ground News, and KFOR-TV (link: <https://kfor.com/news/local/alternative-tree-options-that-withstand-oklahomas-climate/>).



URBAN AND COMMUNITY FORESTRY

Heat Stress Impacting Tree Health

August 23rd Mark Bays appeared on KCOC with Sabrina Bates to discuss potential impacts the extended 100 degree plus temperatures may be having on trees. Newly planted trees may be more of a concern but mature healthy trees going into this extended period should not have significant damage. To minimize the heat and drought related stress, Mark encouraged homeowners to deeply water tree root systems to give them the best opportunity to thrive.



Tinker AFB Golf Course

On August 22nd Riley Coy and Mark Bays met with representatives of the Environmental Department and Golf Course on Tinker AFB to discuss turf and tree health on several tee boxes on the course. Dr. Dennis Miller, turf specialist for OSU was also on-hand for the discussion. Trees were being considered for removal due to low quality turf on these sites. Upon closer inspection there was no indication that the trees were causing any turf issues. Dr. Miller prescribed Best Management Turf Practices to improve the conditions and OFS suggested crown thinning instead of removing as a viable alternative.



OKC Drone Heat Mapping

OFS participated in a Heat Mapping project for Oklahoma City on August 25th and 26th. Sites were selected from across the city to map surface temperatures in city parks, public school properties and downtown parking lots. Drones with thermal mounted cameras were used to collect data. With air temperature in the upper 90's, surface temperatures ranged from as hot as 140 degrees Fahrenheit in parking lots and sidewalks to a cool 93 degrees in an irrigated high school football field. Results from the drone collected information and other surface collected data is being used to have a better understanding on how on buildings, streets, open space, and trees have an impact on heat variances within the city.

Keep Oklahoma Beautiful

On August 30th Riley Coy and Mark Bays helped Keep Oklahoma Beautiful deliver paint across the state in support of their Fresh Paint Days Program. They traveled a total of 709 miles through 21 counties delivering 78 five-gallon buckets of paint for seventeen projects. Communities will use the paint to give a face lift to building and structures. They will take photos before and after and submit them for an online competition for best project. The winner will be announced that the KOB Awards Banquet November 17th in Oklahoma City.



Oklahoma City Survivor Tree

Riley Coy and Mark Bays assisted with the removal of a large branch on the Survivor Tree September 8th. A soil test was also taken and sent to OSU. The results will help determine if any treatments are needed to improve the conditions around the tree. Several pine trees were also pruned to remove branches that could potentially cause damage to the overlook railing on the south side of the site.



Oklahoma Municipal League Annual Conference

Riley and Mark Bays staffed a booth at the 2023 OML Annual Conference September 20th – 21st in Oklahoma City. Attendees from cities and towns across the state stopped by to learn of services OFS provided to local communities. Tree health, Tree City USA certification, grant opportunities and important environmental services trees provide for human health were some of the main topics discussed.



Garden Club Talk

August 26th Mark Bays met with the Weeders and Seeders Garden Club in Oklahoma City at their quarterly meeting. He discussed appropriate trees to be considered for planting in Oklahoma City with fall being a great time to do so. Thirty-five members were on-hand for the discussion.

COMMUNITY OUTREACH AND COMMUNICATIONS

FORESTRY EDUCATION

Forestry Education Highlights Climate Science

On August 5th, Education Coordinator Tony Pascall partnered with Oklahoma Mesonet, the Oklahoma Conservation Commission, and the South Central Climate Adaptation Science Center to put on a workshop called “Teaching Climate Science in Oklahoma.” The 25 educators who attended the day-long workshop at the National Weather Center learned the science of our changing climate and how sustainable forestry plays a role in mitigating its effects. All attendees now have additional resources to teach these topics with their students.



PLT Workshop

On August 7th, Tony taught a K-8 PLT workshop to five educators at St. Francis of the Woods in Coyle. These educators will now have the resources to teach about the forest in their own programs with children.

Training the Trainers

From August 8th – September 7th, Tony conducted four education trainings for 50 OFS Rangers at the Broken Bow, Antlers, Tahlequah, and Wilburton offices. These training sessions went through the importance of education to our agency, strategies for educating young people, and lesson plans and materials in order for staff to have the tools needed to successfully run an education program. The goal of these trainings is to expand the reach of our agency into schools, scout groups, clubs, and more so that more youth are exposed to what we do and why it is important to practice good forest management and how to prevent wildfire.



Chandler Park Sustainability

On September 16th, Tony partnered with EcoRise to put on a workshop on teaching about sustainability at Chandler Park in Tulsa. The eleven educators who attended were trained on Project Learning Tree and the importance of sustainable forestry. They now have the resources to include these topics in their own classrooms in the future.



OSU Environmental Education

On September 20th, Tony went to OSU to teach two introductory classes on Natural Resources about the importance of environmental education in the field, and exposed them to a few activities from Project Learning Tree



Head Start

On September 21st, Tony trained 28 Head Start educators from the Iowa Tribe on Project Learning Tree. Now, the teachers are trained and ready to teach their students about the importance and function of the forest.

COMMUNICATIONS



SafeStayOK

The SafeStayOK website is now fully transferred over to the WordPress CMS and ready to go live once final adjustments and approvals are in place. Recognizing the importance for the tool to be highly portable and accessible to guests staying in the Beavers Bend area, it is optimized for use on mobile devices as well as desktop computing devices.



FOREST INVENTORY AND ANALYSIS



The Forest Inventory and Analysis (FIA) program completed its latest inventory of Oklahoma's forests in September. It took the team just 13 months to measure all 477 forest research plots located across Oklahoma's 77 counties. The data is now in the processing and analysis stage with a publish date in early 2024.

A two-person crew completed all plots in the Panhandle over a week duration. Plots in the Panhandle require crawling under wide spreading one-seed juniper and pinyon pine. Incredibly, each tree re-measured had significant growth. Despite years of drought and heat, NW Oklahoma's forests and woodlands are thriving.

EASTERN AREA OFFICES

NORTHEAST AREA

Forest Protection Highlights

From August 10th through September 29th, the Northeast Area had eight fires for 127 acres in the Protection Area. Education Coordinator Tony Pascal came to Tahlequah to train the Rangers on the new education material. Cliff Eppler and Dave Jones assisted SE Area with fires. Billy Riggs and Heath Jones assisted with fires outside of the Protection Area.

The NE Area had firefighting equipment and personnel in Texas through the end of September assisting with wildfire response. Several NE employees have assisted through the summer and continue to help. Billy Riggs and Travis Garrison are currently staffing a Type 6 Engine in Louisiana on compact assignment.

Charles Kimble has been hired as a Forest Ranger for the Northeast Area's Park Hill unit. His first day was September 11, 2023.

The NE Area has been saddened with the sudden loss of Forest Ranger Dakota Green. Dakota served at the Northeast Area's Jay unit, and will be deeply missed by us all.



Forest Management/Program Highlights

Connie Robinson had ten site visits during the reporting period: eight forest health issues and two stewardship planning meetings. She completed two Forest Stewardship plans, one in Mayes County and the other in Craig. Connie assisted OSU professors going to two sites for maple syrup study. Connie presented at two Conservation Days, one at Craig County with 160 students and the other at the Caney Valley Conservation Days in Bartlesville, attended by approximately 510 students. She assisted with Walk in the Forest Event in Norman, OK. Evan Long completed a plan in Delaware County and assisted with the maple syrup study. Evan Long, Roger Wilhite, and Kasandra Roberts assisted with the Smokey Bear program held at Sequoyah State Park on August 12th.

Administration

Kaley Helton, APO, completed several webinars, “Procurement 101 Refresher”, “What’s New in Central Purchasing”, and “Specification Development”. These webinars added three continuing education units toward her CPO certificate.

Ongoing Issues & Upcoming Events

- Seed Collection
- Smokey Fire Prevention Programs:
 - October 5 - Locust Grove Early Learning Center (Tony Hadley & Dustin Ryals)
 - October 6 - Adventure Head Start Tahlequah (Charles Kimble & Cole Hix)
 - October 9 - Moseley School (Chad Bateman & David Morris)
 - October 13 - Dewar, OK (Billy Riggs & Cliff Eppler)
 - October 18 - Tenkiller School (Cole Hix & Charles Kimble)
 - October 23 - Braggs Public Schools (Cole Hix & Charles Kimble)
 - October 25 - Stilwell Schools (Roger Wilhite & Dave Jones)
 - October 26 - Dahlenegah School (Roger Wilhite & Dave Jones)

EAST CENTRAL (EC) AREA



Forest Protection Highlights

Since the last report, EC has suppressed 17 fires that burned 577.8 acres for an average fire size of 33.9 acres. Three primary structures were saved at a value of \$443,070 and twelve secondary structures were saved at a value of \$86,500. One secondary structure lost at a value of \$3,000.

August and September marked an increase in wildfires within the protection areas. EC Rangers and other OFS personnel continued to travel out of state in support of wildfires nationally. EC Rangers suppressed wildfires within the EC area and provided suppression assistance in the SE area as well. Despite drought conditions in Southeast Texas, fire response crews still found some soft ground near Beaumont, TX.

Prescribed Fire

EC rangers constructed control lines for prescribed burning covering 220 acres.



Forest Management Highlights

Three new forest stewardship plans were completed since last report on a total of 1,002 acres and four new prescribed burn plans were written for 440 acres. Oklahoma Forestry Services recognizes landowners as “Forest Stewards” when they have successfully implemented at least some of the recommended practices in their plan and continue to demonstrate good stewardship in the management of their lands. Forest Stewards receive a sign to post on their property and additional educational materials.



Information / Education Highlights

Area forester, Caleb Fields, assisted with the Walk in the Forest event held at Ruby Grant Park in Norman on September 23rd. The event consisted of twelve stations that covered topics such as Soil Erosion, Water Quality, Invasive Species, Wildlife Habitat, and “Green” Spaces. The event was a collaborative effort between Oklahoma Forestry Services, Oklahoma State University, Society of American Foresters, the Oklahoma Historical Society, OG&E, University of Central Oklahoma, and the City of Norman.

EC personnel will have a forestry education booth set up at the annual Robber’s Cave Fall Festival October 20th – 22nd. EC personnel will also conduct a Smokey Bear Fire Prevention Program at the Talihina Fall Foliage Festival November 4th. These two weekend events expect to see a combination of 82,000 visitors by their close.

Personnel updates

EC Area currently has four vacancies. Service forester Tommy Frampton resigned on September 22nd. The remaining three vacancies are the District Forester position at Talihina, the Adamson Ranger I position, and the Blanco Ranger I position. EC hopes to fill all four of these positions in the near future.

Safety / Training Highlights

EC Ranger IIs participated in a forestry education training led by Tony Pascall. The education training was focused on forestry education in schools and covered topics from wildfire prevention to forestry job opportunities. The CDL curriculum for new employee training has also been finalized and will be distributed to the NE and SE areas along with “Train the trainer” instruction for OFS CDL instructors.



Ongoing Issues

Filling vacancies and new employee training will continue to be our most pressing issues.

SOUTHEAST AREA

Forest Protection Highlights

- Protection Area Fires: August - 70 fires that burned 1170.6 acres. To date in September - 42 fires that have burned 7,122.7 acres.
- August Large Fires: 4350 Road Fire – 2 acres – secondary structure lost; Rough Hollow Fire – 125 acres; 4430 Rd Fire – 1 acre – one primary and one secondary structure lost; Thunderstorm Fire – 235 acres; Tablerville Rd Fire – 207 acres; Coleman Rd Fire – 235 acres; White Oak Mountain Fire – 736 acres.
- September Large Fires: Freedom Rock Fire – 105 acres; Limestone Gap Fire – 5,284 acres; Moonshine Mountain Fire – 8 acres – two secondary structures lost.
- Several personnel were deployed to Texas and Montana during August and September on fire assignments.
- Currently five Antlers personnel on fire assignment in Louisiana through the Southern Area Compact agreement: Tony Macon, Steve Painter, Rodney Lovitt, Chris Hutson, and Tyler Hyatt.

Forest Management/Programs Highlights:

- Will Phifer had eight landowner contacts.
- JT Allen had nine landowner contacts.
- Tyler Hyatt had five landowner contacts.
- Site preparation for tree planting completed on 220 acres in McCurtain County.

Rx Assistance

- JT Allen and Christian Hayes met with the Beavers Bend Park Manager and the Corp of Engineers to begin planning prescribed burn operations for 2024.
- One prescribed burn completed on 60 acres in McCurtain County.

Safety/Training Highlights

- Don Cook attended the McCurtain County Firefighters Association meeting in September.
- Several SE Area personnel have been utilizing opportunities on out-of-state fire assignments to advance their fire qualifications.

Employee Recognition/Other

- JT Allen attended the Walk in the Forest event held in Norman, which engaged the public on topics related to forestry and the benefits forests provide.
- JT Allen completed the urban heat mapping drone flights in OKC, which will be used to illustrate the need for conserving green space in urban environments.
- JT Allen attended the OSU Career Fair to look for candidates for internships and full-time positions.
- New wifi hotspot for Antler's office was received and working.

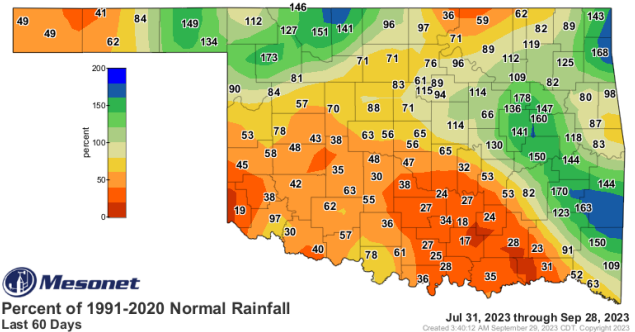
Upcoming events/activities

- Planning to utilize the drone in the fall to capture video and images of the soon-to-be state forest for promotional purposes.
- JT Allen will meet with USFS and ODWC to discuss upcoming prescribed fire operations in the SE Area.
- Tama Lester will attend the OKAPP Forum 2023 in October in Tulsa – Oklahoma Association of Public Procurement
- OK Forestry Association Banquet September 28, 2023

FIRE PROTECTION STAFF

Wildfire Activity & Outlook Executive Summary

Wildfire activity expressed a sharp increase in August into early September regarding both the number of wildfires and severity. A steady increase in average fire size served as a proxy indicator for suppression difficulty as the hot and dry cycle dominated the summer weather pattern. Soil moisture declined as growing plants utilized upper-level soil moisture until a point where herbaceous plants began to transition to early dormancy – especially across the southern one-third of the state. Somewhat more consistent rainfall occurring area wide by the second week of September served to calm some of the wildfire activity. Dry soil and stressed plants, both woody and herbaceous, remain across the southern one-third of Oklahoma and parts of central Oklahoma extending up into Seminole and Pottawatomie counties.



Since last report the the Board of Agriculture, Oklahoma Forestry Services has responded to 149 wildfires burning 10,278.4 acres. Year-to-date wildfire activity remains below normal despite a notable uptick in activity during the summer with OFS resources responding to **433 wildfires burning 44,948 acres**. During August, OFS responded to 85 wildfires compared to the 10-year average response of 37.5 incidents. Currently, OFS has equipment and personnel assigned to or returned home from wildfires in Louisiana, Texas, Montana, Washington, Oregon, North Carolina and Florida.

El Niño, and the general expectation of a somewhat cooler/wetter pattern overall, is strongly favored through the fall months and into winter. However, many continue to wonder when this transition will actually occur. The implications of a hot/dry summer preceded by a cool/wet spring has raised our concern given good growing conditions prompting heavier fuel loading than was observed last year. Drought implications remain on the landscape with extreme drought indices covering 13% of the state. While +/- 70% of Oklahoma remains classified as abnormally dry, the areas of highest concern are focused on southwestern Oklahoma and south-central Oklahoma where Keetch-Byram Drought Index (KBDI) values remain above 600 (scale of 0-800). This suggests potential for high severity fires. Those drought indices have backed off slightly from the late summer observations with some recent rainfall. However, the rainfall deficit that has built over summer in other areas will be challenging to overcome heading into the dormant season.

Wildfire potential heading into fall will remain normal with a balance of current conditions and current forecasts/weather outlooks. The current state of fuels holds concern across the southern one-third of Oklahoma although weather outlooks hold some promise of mitigating that concern. Shorter daylight periods, lower sun angle and cooler temperatures will result in shorter, less intense burning periods progressing into fall toward winter with moderating fire effects anticipated.

During this time of the year the following indicators are closely monitored for periods of increased wildfire activity:

- +/- 10 days separation from wetting rains.
- Anomalous high temperatures.
- Dry cold fronts.

STATE FORESTER ACTIVITIES from 16 August through 6 October 2023:

- Attended scheduled Director's Meetings
- Virtually attended two Steering Committee meetings for the *S-520 Advanced Incident Management Course* (Goeller serves as a Subject Matter Expert/Cadre/Steering Committee member)
- Attended the August and September monthly meetings of the Oklahoma Rural Fire Coordinators
- Participated on two Teams call with OMES regarding IIJA (BIL-IRA) funding
- Participated on the National Association of State Foresters' All State Foresters Monthly Policy Call in August
- Deployed to the River Road East Fire near Plains, Montana with Northern Rockies Incident Management Team #1 (18 August thru 2 September)
- Virtually met with the US Government Accountability Office to provide input and review the USDA Forest Service's Prescribed Burning Program.
- Attended the National Association of State Foresters' Annual Meeting in Baton Rouge, LA
- Virtually attended a presentation regarding the rollout of the National Wildland Fire Mitigation and Management Commission report to the US Congress
- Attended the Oklahoma Forestry Association Annual Banquet in Idabel
- Attended the Forestry Services' First Tuesday Meeting
- Attended the Oklahoma State Suppliers Expo
- Virtually participated in an Incident Management Team Course Development Steering Committee call.



CONSUMER PROTECTION SERVICES DIVISION

OCTOBER 19, 2023 BOARD MEETING REPORT FOR AUGUST/SEPTEMBER 2023

PESTICIDE SECTION

Pesticide Registration Activity

Pesticide registrations for July 1st to October 2nd in 2023 are presented in the following chart. A total of 4483 products were registered, of the products registered 4054 were renewals and 429 were new. There were 444 products cancelled.



Pesticide Samples

Pesticide samples taken Federal Fiscal Year (FFY 2023) are presented in the following chart. A total of 398 Residue, 63 Concentrate, 26 Plant Food, 35 Documentary, 42 Pollution, and 10 Tank mix samples were taken.

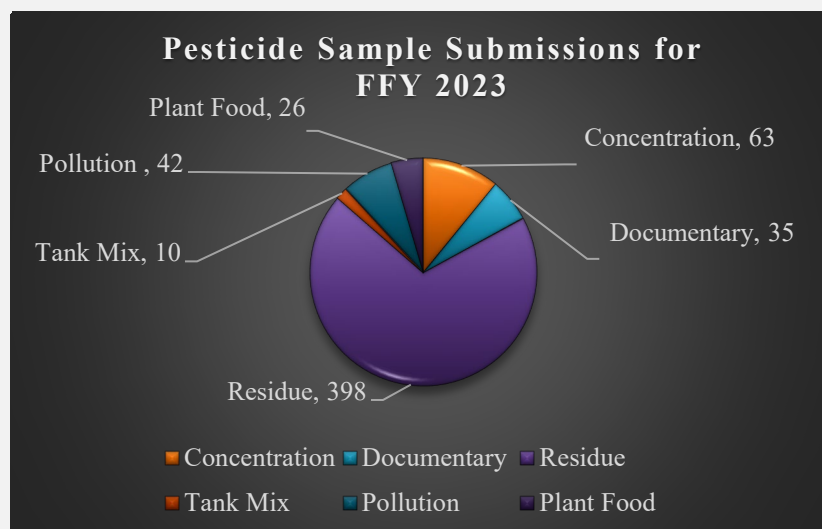


Table 1. Inspection Count for FFY 2023 (Oct. 1, 2022 - Sept. 30, 2023)

Inspection Type	Federal FY 2023
Experimental Use Permit	0
Marketplace	357
Pesticide Applicator Facility	264
Pesticide Service Inspection	0
Restricted Use Pesticide Dealer	130
Container Containment Inspection	6
Producer Establishment	10
Use	835
Termite	0
Wood	0
Pre-treat	34
Pesticide Label	24,155
Worker Protection	26
Total	25,817

Along with the above inspections CPS inspectors also took 221 nonagricultural use samples, 30 nonagricultural follow up samples, 188 agricultural use samples, 65 agricultural use follow up samples, 28 market samples and 42 producer establishment samples for a total of 574 samples.

Pesticide Testing & Updates

License Renewals

CPS currently is in the process of renewing pesticide licenses for company names that begin with a number or the letters A-L. A second notice was sent on September 13, 2023, for 556 companies who had not renewed their license. These companies now expire on September 30th of each year.

Applicator Renewals

Private applicator and certified applicator CEU letters describing how to renew their certification went out at the end of August. Applicators were able to begin renewing certifications September 1st.

OPMA

Megan Parker, Pesticide Program Administrator, attended the Oklahoma Pest Management Association Fall Conference on September 14th. She gave a presentation on CEUs, renewals, and recordkeeping to approximately 120 attendees.

Pesticide Complaints

PESTICIDE COMPLAINTS	August 15, 2023 – October 2, 2023			
	RECEIVED	CLOSED	WARNINGS ISSUED	NO ACTION
CONSUMER GENERATED:	16	13	6	13
MUSK THISTLE:	0	0	0	0
PMR CASES:	19	2	0	2
CASES REFERRED TO OGC:	6			

ENVIRONMENTAL RESOURCE AND HORTICULTURE SECTION

Plant Protection Program

Phytosanitary Certificates

Federal phytosanitary certificates Issued from August 1, 2023 – September 30, 2023

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

12 Federal phytosanitary certificates issued @ \$106.00 each

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

11 Federal phytosanitary Certificates issued @ \$61.00 each

<u>Federal Phytosanitary Certificates (August 1, 2023 - September 30, 2023)</u>			
Country	Product	Quantity	Phytos Issued
Canada	Iris Rhizomes	6 Rhizomes	1
China	Barrelclover Seed	70 G	2
France	Barrelclover Seed	5 G	1
Germany	Barrelclover Seed	2 G	1
Japan	Feed	7,220 Lbs	2
Japan	Plants	21 Plants	1
Japan	Walnut Logs	4 Logs	1
Mexico	Sesame Seed	344,713 Lbs	8
Netherlands	Barrelclover Seed	5 G	1
Spain	Barrelclover Seed	3 G	1
Taiwan	Miscanthus Seed	4 Bags	1
Thailand	Miscanthus Seed	40,000 Kg	2
United Kingdom	Wheat Seed	2 G	1

Companies applying for federal phytosanitary certificates:

OSU	7
TMX	1
Stout Gardens	1
International Ingredient	3
Sesaco	8
Bluebonnet Feeds	2
Tobin Newcomb	1

State phytosanitary certificates issued from August 1, 2023 – September 30, 2023.
213 phytosanitary certificates for 4,635 plants



HISSC Meeting – McMinnville, TN

State Survey Coordinator, Joe Rackley, along with CPS inspectors Jasmine Middleton, James Schoppa, and Gersende Cazaux attended the 2023 Horticulture Inspection Society Southern Chapter annual meeting in McMinnville, TN from September 18 – 21. They were able to participate in workshops and presentations concerning Japanese Beetle, Boxwood Blight, Vascular Streak Dieback, and several other plant pests.



Figure 1: HISSC Meeting Attendees

Box Tree Moth

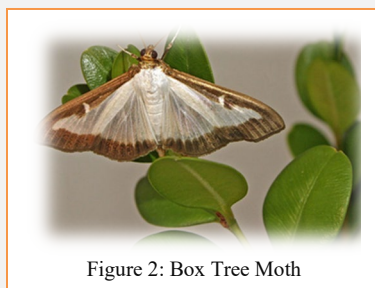
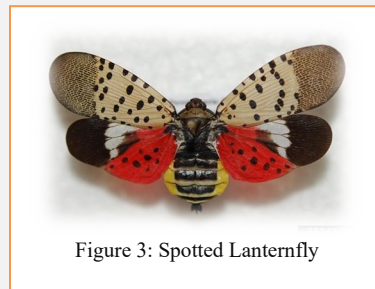


Figure 2: Box Tree Moth

On August 23, CPS personnel were contacted by a wholesale nursery in Oklahoma with some concerns regarding Box Tree Moth, a federally regulated pest of concern. This nursery had plants rejected in Michigan due to evidence of this pest being present. The nursery submitted a sample to PDIDL for identification of the caterpillars that were found on their plants. The sample came back as negative for Box Tree Moth. A sample submitted to USDA by the Michigan Department of Agriculture came back as Juniper Tip Moth.

Spotted Lanternfly:

Spotted Lanternfly is an invasive pest that has been found in the Northeastern part of the United States in the last few years. This hitchhiking pest has continued to spread quickly across the Eastern United States and is gradually making its way West by means of railways, shipments, and other modes of transportation. The pest is expected to reach Oklahoma sometime in the next few years and we are trying to prepare for its arrival by establishing a reporting infrastructure and preparing and gathering public outreach concerning this pest. TN, IL, IN, and IA have had recent positive finds in their states.



Hemp

Harvest season is beginning but remains slow. ODAFF has been receiving calls from OMMA growers about an interest in adding hemp to their operation or switching to hemp completely. Finally, OBN has requested training on hemp law/rules by ODAFF for their staff.

AGRICULTURE RESOURCE SECTION

Feed Program

During this reporting period there were a total of 233 official feed samples analyzed, with 1208 feed determinations made from these samples. These determinations resulted in the issuance of 51 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 Vitamin A, Phosphorus, Salt, Copper, Crude Fat, Crude Fiber, Zinc, Potassium and Calcium. Eighteen stop sale orders were issued for feed products with severe deviations from their guaranteed analysis. Ten stop sales were issued for products deficient in Vitamin A. Three stop sales were issued for products deficient in Calcium. Two stop sales were issued for products deficient in Crude Fat. One stop sale each was issued for one product deficient in Salt, one product deficient in Crude Protein, and one product with excessive Crude Fiber.

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.

Program Performance

Table 1. Feed Notice of Label Violation Summary July 2023 - August 2023

Nutritional Guarantee	Number of Label Violations		
	August ¹	July ²	Two Month Total
Crude Protein	21	8	13
Non-protein Nitrogen	0	0	0
Crude Fat	4	3	6
Crude Fiber	4	3	5
Calcium	6	1	7
Phosphorus	3	2	6
Salt	1	2	4
Magnesium	0	0	1
Potassium	2	0	1
Copper	3	2	4
Manganese	0	0	0
Zinc	5	1	5
Vitamin A	2	4	8
Methionine	0	0	3
Total	51	26	63

¹ 233 feed samples analyzed with 1208 determinations; ² 158 feed samples analyzed with 750 determinations

Table 2. Feed Stop Sale Summary July 2023 - August 2023

Nutritional Guarantee	Number of Stop Sales		
	August ¹	July ²	Two Month Total
Crude Protein	1	0	2
Non-protein Nitrogen	0	0	0
Crude Fat	2	1	4
Crude Fiber	1	0	1
Calcium	3	0	4
Phosphorus	0	0	0
Salt	1	1	5
Magnesium	0	0	1
Potassium	0	0	0
Copper	0	0	1
Zinc	0	0	0
Vitamin A	10	3	12
Medicated Feed	0	0	0
Total	18	5	30

¹ 233 feed samples analyzed with 1208 determinations; ² 158 feed samples analyzed with 750 determinations

Weights & Measures Program

During this period the large capacity scale technicians tested 119 Vehicle scales and 13 scales were rejected.

CPS inspectors checked a total of 954 small scales and 23 platform scales, 39 of the scales were rejected. There were 33 random pack inspections and 67 standard pack inspections conducted that resulted in 8 companies receiving letters of warning and 3 company's receiving a Stop Sale. Additionally, 103 price verification inspections were conducted at various retailers.

Fertilizer Program

Program Performance

Below you will find the performance numbers for the fertilizer, agricultural lime, and soil amendment programs for the time-period of June 30th through August 11th, 2023.

Sample Type	Number	Deficiency Penalty/SS
Fertilizer	103	22
Lime	11	2

Investigation Type	Number
Dry Bulk Fertilizer Storage Facility	29
Liquid Bulk Fertilizer Storage Facility	25
Facility Pre-Site	1

Brief History of Soil Amendment Program in Oklahoma

There are currently no federal regulations governing the distribution of fertilizers, agricultural lime, or soil amendments in the United States. As a result, it is up to each individual state to ensure that these types of products are properly labeled, and that the quality and claims represented by the manufacturer are accurate, while also protecting consumers and the environment. In Oklahoma, the distribution of these products is regulated by the Consumer Protection Services Division of the Oklahoma Department of Agriculture, Food, and Forestry.

The distribution of fertilizer and agricultural lime has been regulated in Oklahoma under the Oklahoma Fertilizer Act and the Oklahoma Agricultural Liming Materials Act since 1949 and 1973, respectively. However, in the mid 1970's new products were coming into the marketplace which claimed to be beneficial to plants and/or the soil but did not fit the definition of fertilizer or agricultural lime. As a result, the Oklahoma Legislature passed the Oklahoma Soil Amendment Act (OSA) in 1975. The passage of this law made Oklahoma the first state in the nation to address this issue, and Oklahoma is still one of only 30 states that currently have a soil amendment law. The soil amendment program has grown in Oklahoma over the last 50 years from where it originally began in the 1970's with less than 50 registered products to the more than 1,000 products we currently have registered today.

Grain Warehouse

Joe Privett, Grain Warehouse Inspector attended the 2023 Association of Grain Regulatory Official (AGRO) conference September 25th through 28th in Lexington, KY. AGRO provides a forum for state warehouse control officials, USDA, and grain warehouse industry representatives to discuss regulatory issues and policies.

The conference opened with updates from all members regarding business matters and crop conditions since last year's conference. Conference topics included, The Rising Cost of Insurance and its availability, Barge Shipping Challenges (low water levels), Cyber Security, Safety and Regulatory Affairs, etc., followed by AGRO committee meetings.

Most of the major grain states were in attendance. Additionally, Canada USDA, NGFA, Co-Bank, and other industry affiliate members were also on hand. Total registration for the meeting was 71.

ODAFF will host AGRO in October of 2024

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

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

Kenny M. Naylor



OKLAHOMA
**Agriculture, Food
and Forestry**

Oklahoma Department of Agriculture, Food and Forestry
Animal Industry Services Board Report
September 19, 2023
Activities August 12, 2023 – September 29, 2023

Animal Disease Traceability:

We continue to distribute the free RFID tags to interested veterinarians and producers. During this time, we shipped 9,000 tags. We are beginning to provide RFID readers to livestock market veterinarians as they request them. Two have been provided during this period.

The price of paper Certificates of Veterinarian Inspection increased during this time. We continue to offer market veterinarians a discount to purchase a pad of paper CVIs and encourage all others to utilize VET-CVI or other eCVI platform. VET-CVI continues to improve and has been updated to accept a spreadsheet of animal information to quickly populate animal records. This has greatly increased the efficiency of entering individual animals. We are working with other VET-CVI user states to develop and implement enhancements to make this free platform a more viable option for accredited veterinarians. We currently have 183 VET-CVI users, two of which, are market veterinarians that service ONSY and OKC West.

Aquaculture:

During this time, three aquaculture inspections were completed with no violations found.

We received two inquiries for initial aquaculture applications. Marissa McLaughlin has developed a comprehensive aquaculture FAQ document that can be found on the website that addresses the most common questions that we receive.

Biologics:

We registered two new products during this time.

Cattle Programs:

Brucellosis:

One Brucellosis Certified Free herd is currently completing their yearly testing, and a reminder has been sent to another herd that their re-certification is due.

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.

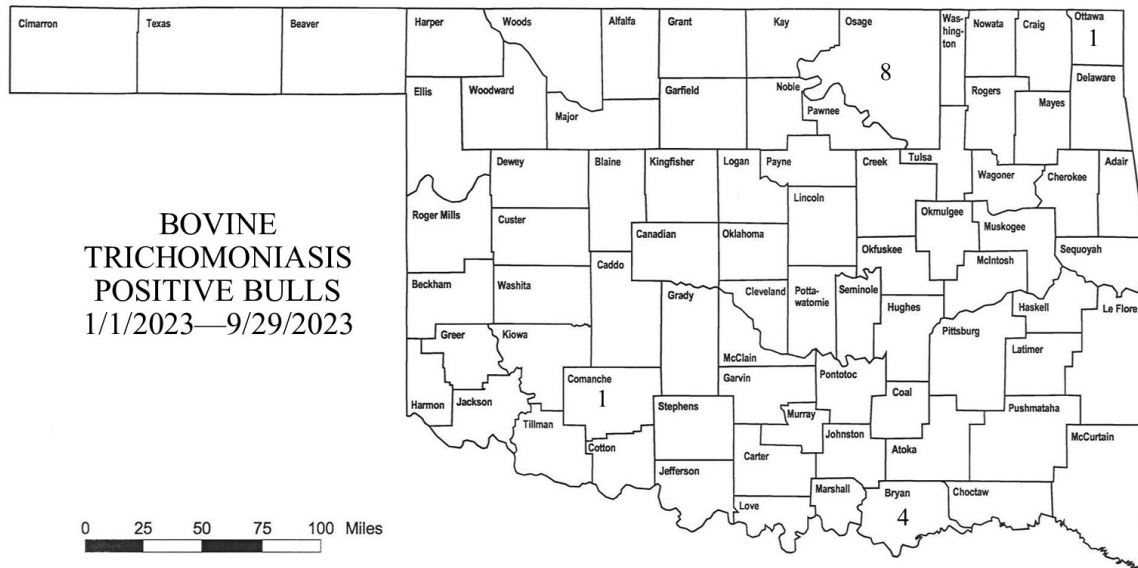
While there is very little need to test for *B abortus* any longer, this means we have very little or no surveillance for *Brucella suis* (Swine Brucellosis) in cattle, which currently infects approximately 20% of the feral swine that our Wildlife Services personnel test. *B suis* can, and does, infect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

Tuberculosis:

One TB Accredited Free herd is currently completing their biennial testing.

Trichomoniasis:

During this period there were 1,388 Oklahoma bulls tested for Trichomoniasis with three positive individuals found.



12,004 bulls tested / 14 positive = 0.12% 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:

Our positive reports are significantly higher this period. There are 21 total reported cases, with 11 from newly identified premises. 10 of these are from a single previously known positive premise. It's interesting that this positive premise has 2 farms, one of which is managed well and has been successful at eliminating the disease with no detections for several years. The other farm is not addressing management and is attempting to test often and cull often. Thus far it appears that the test and cull is not working.

We work with producers to address their operation goals and develop a strategy to reduce the incidence of Johne's without putting them out of business.

Emergency Management:

On August 21, Dr. Gorczyca provided a presentation covering emergency small animal sheltering to the Oklahoma Association of Animal Control Officers.

On August 25, Dr. Gorczyca attended the OKMRC Volunteer Workshop and provided an overview of the State Animal Response Team.

On August 30-31, Dr. Gorczyca participated in a workshop hosted by the Institute of Infectious Animal Diseases at Texas A&M addressing point of care diagnostics that could be developed and utilized during a foreign animal disease outbreak. Currently, there are no POC diagnostics approved for use in the United States for this purpose.

On September 5-7, Dr. Gorczyca and Dr. Hall attended the 3rd annual House of Delegates meeting for the US Swine Health Improvement Program as voting delegates.

On September 13, Dr. Gorczyca participated in a RABapp onboarding training with NCSU. We are now able to review and approve Secure Pork Supply plans that have been submitted to RABapp. Dr. Gorczyca held a staff training on September 22 on utilizing RABapp for SPS plan review.

Equine Programs:

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

There are no Piroplasmosis cases in Oklahoma.

Oklahoma averages 1 case of Equine Infectious Anemia a year. There have been 5 confirmed cases so far in 2023. This is consistent with the increase of EIA cases nationally. Cases have increased from approximately 40 a year to over a 100 cases in 2022 and 2023. There are currently 3 open EIA investigations in Oklahoma.

Carter County: The exposed herd, trace out horses, and adjacent herds all tested negative on their first test. We are currently working on getting the second round of testing done and hope to have it completed by Friday, October 6th. To date, no additional positive equine have been identified.

Tulsa County: On August 19th, we were notified of a 4 year old quarter horse gelding, with a history of racing, who had tested positive on an EIA test at a horse sale. The horse was returned to the seller's property and placed under quarantine, along with all equine species on the premises, while confirmatory testing was performed. The horse was confirmed to be positive for EIA at the National Veterinary Services Laboratory in Ames, IA. The owner elected to euthanize the positive reactor. All horses over the age of 6 months on the premises were tested and all initial tests were negative. All exposed horses will be retested after November 5th and if no additional positive cases are identified, the quarantine will be released. The epidemiological investigation revealed that this horse had traveled to Mexico and was likely incubating the virus when he was imported back into the US.

Payne County: On September 14th, Texas Animal Health Commission notified us of an Oklahoma horse that had tested positive on an EIA test at a Texas sale barn. TAHC shipped the suspect horse and 5 other horses that were on the same trailer back to the premises of origin in Oklahoma. The suspect horse was confirmed positive at the National Veterinary Services laboratory and the owner elected to euthanize the horse. The other 5 horses have been placed under quarantine and have tested negative on

their first test. The investigation to identify additional exposed horses, and the source of infection, is ongoing at this time.

There have been 6 confirmed cases of equine West Nile Virus in 5 different Oklahoma counties since the first of July. Four of the horses have recovered, one was euthanized, and one died due to the severity of symptoms.

Farmed Cervidae Programs:

Dr. Gorczyca-Southerland submitted a cooperative agreement proposal to the USDA and has received confirmation of funding for utilizing predictive genetics in breeding decisions for whitetail deer producers. The goal of the cooperative agreement is to build resistance to Chronic Wasting Disease (CWD) within the herd. The funding in the amount of \$248,000.00, will provide participating producers the ability to genetically test breeding females and their offspring produced by artificial insemination from known CWD resistant males to bolster their breeding programs for genetically resistant breeding stock. Dr. Gorczyca- Southerland has reached out to representatives of the farmed whitetail deer producers to discuss the activities outlined in the project.

AIS has seen an increase in Farmed Cervidae import permits during this reporting period. Our producers are actively importing from those states that are now open for entry into Oklahoma.

Dana Call has been working closely with Dr. Gorczyca-Southerland and me on behalf of a Red Deer producer based in New Zealand, and their US and Oklahoma partners, over the past several months to facilitate the establishment of a closed breeding herd and a private hunting ranch in Oklahoma. We believe the facilities will be completed within the next month as they prepare to move their herd into Oklahoma in November of this year. The producer has committed to maintaining the herd in compliance with the CWD Herd Certification, Tuberculosis Accredited and Brucellosis Certified Programs.

Dana Call mailed out non- renewal complaint letters to five Oklahoma Farmed Cervidae producers who failed to renew their license. She has contacted the LSI for each individual and provided a copy of the letter that was sent by certified mail.

Dana Call is working on an updated list of Farmed Cervidae Veterinary Service Providers and questionnaires have been sent out to veterinarians. Our goal is to have a comprehensive list of veterinarians both qualified and willing to provide services for our farmed cervid producers.

Feral Swine:

There has been an increase in feral swine hunter license applications in preparation for the cooler fall weather. Hunters are planning for upcoming trips to Oklahoma from all parts of the US. There are no active complaints or investigations at this time. A fee increase for Feral Swine Handling Facilities has gone into effect and the corresponding documents have been updated.

Foreign Animal Disease:

There were three FAD investigations during this time.

Two were horses from Okmulgee and Mayes Counties with vesicular lesions that were suspicious for Vesicular Stomatitis.

One was a calf from Okmulgee County that had oral vesicular lesions that were suspicious for Vesicular Stomatitis and Foot and Mouth Disease.

Thankfully, none of the three were diagnosed as a FAD.

There was a Foreign Animal Disease Refresher course held on August 21 thru 25 in Ames Iowa. Dr. Stone from ODAFF and Dr. Mikka Larssen from USDA participated in this valuable refresher course. This helps sharpen basic skill, updates disease risk and changes as well as improvements in the protocols needed to help contain and eliminate disease and to minimize the time necessary to regain our agricultural exports.

Livestock Market Audits:

During this period, staff approved the application of Poor Boy Livestock. The market is a brand new facility located just west of Wister, Oklahoma. Owned and operated by Mr. Tanner Ward, the market held their inaugural sale on Friday, September 29. Currently, Poor Boy Livestock is hosting a weekly cattle auction, but eventually plans to expand to sheep, goats and horses.

In addition to assisting Mr. Ward, multiple market ownership packets were requested, including one by an individual that has purchased the shuttered Prague sale barn, with intentions of opening a livestock auction in the near future. As well as the new market requests, this period also allowed for several custodial account reviews.

Livestock Auction Market Activities

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

Outreach:

On August 22, Jaycee Watkins, an Animal Science major and pre-veterinary student at OSU spent time with Dr. Gorczyca learning about Animal Industry Services and regulatory veterinary medicine.

On September 6 Dr. Stone met with approximately 80 OSU vet, pre-vet and RHT students for our State Fairs birthing center orientation. This is a fair favorite exhibit and is manned by many of our veterinary profession to answer questions and share agriculture

with our city neighbors. This is also a wonderful opportunity for students to work with and learn from local veterinarians while developing communication comfort skills with the public. This is another opportunity for our staff to meet with local veterinarians and helps keep communication open to with those that are on the front lines of disease.

On September 13 I gave a presentation to the OSU College of Veterinary Medicine's Veterinary Emergency Response and Disaster Management Class. The title of my presentation was *The State Veterinarian's Role in Emergency Management and Disaster Response*.

On September 20 I hosted a virtual meeting for Oklahoma State and Federal Veterinarians. Before the pandemic we hosted these meetings in person on a mostly monthly basis. During the pandemic we moved to virtual meetings and found that it was more difficult to achieve good attendance. The meetings are very valuable, so Dr. G and I decided to start back with virtual meetings and hopefully move back to in person meetings in 2024.

On September 24 I worked a shift at the Oklahoma State Fair Barnyard Birthing Center. I always enjoy interacting with the public and educating them about the way we raise livestock for food. Through the day I worked with six veterinary students and eight pre vet students. It was good to get to know the students a little, and to answer questions they had about practice, mentors, etc. We had a bovine birthing simulator courtesy of OSU Extension and we were able to give the students some instruction on various calving presentations.



On September 25 our Field Staff was in for their quarterly meeting. They updated computers, received updates on programs, and assisted in moving and organizing several pallets of official metal ID tags for cattle in the basement.

On September 26 I gave a brief virtual presentation to a group of State Animal Health Officials about the methods Dr. G and I use to decide what areas to nominate as food animal veterinary shortage areas for the Veterinary Medical Loan Repayment Program, how we gather the statistical information, and how we write the nominations to make them more attractive.

Poultry Programs:

There have been 16 sick or dead birds submitted for our sick bird/dead bird program since the last board report, for a total of 103 cases this year.

Dr. Ruby attended the Poultry Agri-Business course in Texas from August 20th to the 25th. The course included touring a large commercial egg layer facility, a commercial broiler facility, a hatchery and a poultry processing plant. It was a great opportunity for State Animal Health Officials to interact with industry and to gain a better understanding of the integration of the industry. The course will allow us as State Officials to work with industry during emergencies such as disease incursions or natural disasters. Since the course, Dr. Ruby has met with several of Oklahoma's commercial poultry companies to discuss biosecurity, emergency response, and strengthen communication with these companies.

On September 20th, Dr. Ruby traveled to Stillwater to do the biennial National Poultry Improvement Plan laboratory inspection of Oklahoma Animal Disease Diagnostic Laboratory. OADDL is the only NPPI approved laboratory in the state and continues to perform above the published standards. We are proud to have them as a partner in our disease response plans.

Public Health

There is nothing to report during this time.

Rabies in Livestock:

There were no cases of rabies in livestock during this time.

Sheep and Goat Programs:

I worked with Dr. Jill Duel, our USDA Veterinary Services epidemiologist, to find ways to collect more samples for Scrapie in sheep. Since we don't have a adult sheep slaughter plant in Oklahoma it is difficult for us to test the number of sheep necessary to be a Scrapie Consistent State with USDA>

Swine Programs:

On August 10 thru 15 the National Pork Board and Oklahoma Pork Council along with ODDAF held a depopulation and disposal functional exercise. A number of objectives were evaluated to assess what works well and what needs improvement in the case of a real-world event. August in Oklahoma is hot normally and that does create problems for both man and animals. However, for this exercise a cool front came in and the extreme heat dangers were avoided while still testing higher temperature issues. Most of the objectives were met or exceeded but as always we are looking for how we can improve.

We released the quarantine on the show pigs that were mentioned in the previous reports. The titers were lower on the last test to the point we could classify them as negative.

On September 5-7, Dr. Gorczyca-Southerland and I attended the United States Swine Health Improvement Plan (US SHIP) House of Delegates meeting in Minneapolis, MN.

Dana Call and Marissa McLaughlin participated in two software training exercises that track commercial swine movement. One of the programs is called AgView and the other is called RabApp. Each program has unique abilities to track commercial swine movements for monitoring logistics and FAD response. As more of our commercial swine producers join the Secure Pork Supply and US SHIP programs, access to these databases will assist AIS in following animal movement, which will be critical in a disease event. Dana and Marissa will begin reviewing production biosecurity plans for the participants who are sharing their information on RabApp. Dana Call has begun verifying the commercial swine farm premise identification numbers across all databases, using the information provided by the company and the USA Herds database. This will continue until all premises are verified by location and current 911 physical address.

AIS has received its first group of Certified Swine Sample Collector participants from Tyson Foods – The Pork Group. Twenty-two employees have completed the training and Tyson has implemented this certification as part of their new employee training. These individuals are now qualified to assist state and federal authorities in swine sample collection if needed, in a disease event.

Miscellaneous:

On September 5-7, administrative personnel Austyn Fuss, Dana Call, and Marissa McLaughlin participated in a virtual three day Swine Skills Training course. This training discussed animal care, sample collection, quarantine, and other vital information about program diseases.

Dr. Gorczyca-Southerland and Dana Call attended a virtual meeting to discuss strategies for gaining more participation in secure food supply plans.

Respectfully,

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

Rod Hall, DVM

Oklahoma Department of Agriculture, Food, and Forestry
Wildlife Services Division
Board Report for September 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 356 properties with an estimated 789,518 acres of land under agreement. Additionally, WS helped 163 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 \$131,138 during this period. Beaver damages accounted for losses totaling \$14,381. Coyotes were responsible for a number of damage requests, primarily to livestock, with losses totaling \$2,563. Feral swine damages accounted for losses totaling \$107,194, while other species of wildlife were responsible for \$7,000 in damages to property, agriculture, and livestock.

Providing Wildlife Services

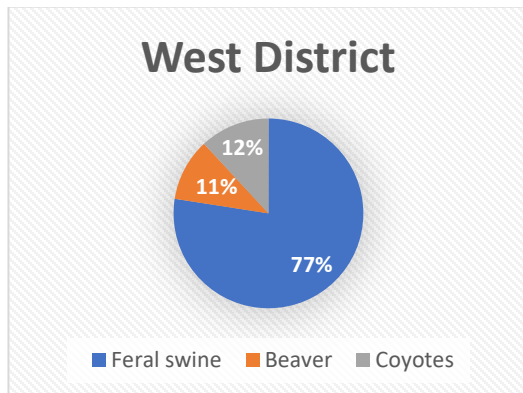


Figure 1: Species Removed in West District by percentage during September 2023

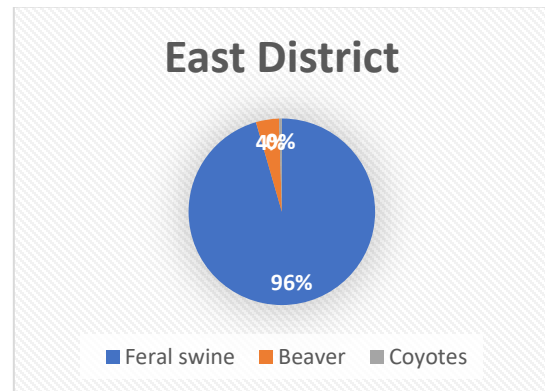


Figure 2: Species Removed in the East District by percentage during September 2023

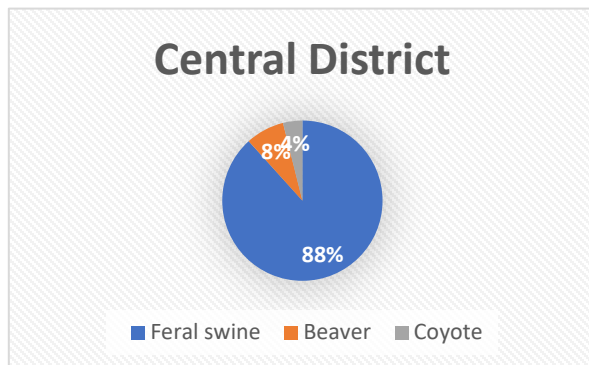


Figure 3: Species Removed in the Central District by percentage during September 2023

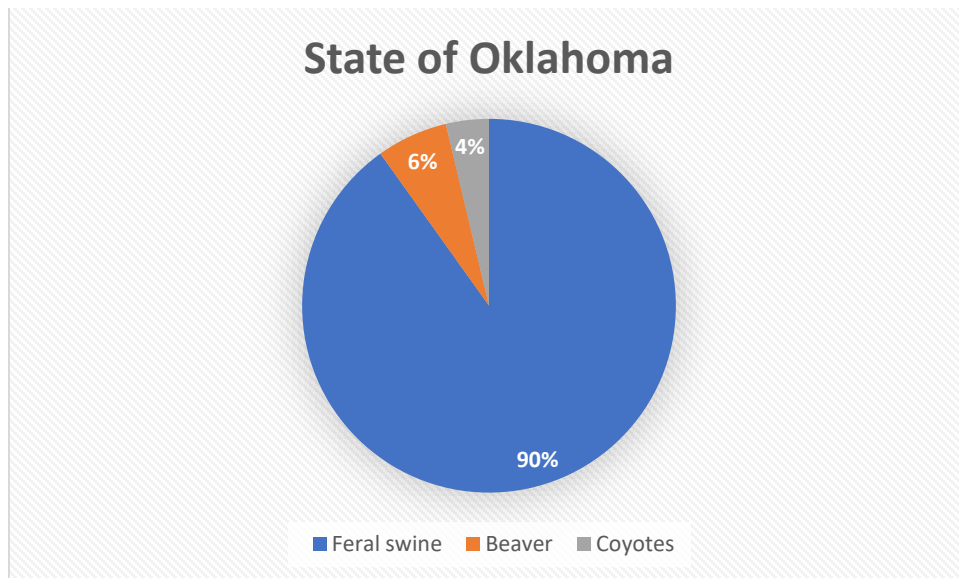


Figure 4: Species Removed in the State by percentage during September 2023

Coyote Damage Management

Greer County landowner requested assistance with coyotes depredating on two of his calves valued at \$2,400. The Wildlife Specialist assigned to Greer County examined one of the carcasses and verified coyotes were responsible for the loss. Damage management efforts were successful in removing four coyotes from the property. Control efforts continue to help further reduce the threat to the cooperator's calves.

Ellis County livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes had killed two calves valued at \$1,763. The Wildlife Specialist assigned to Ellis County responded to the request and examined the carcasses and confirmed coyotes were responsible for the loss of the calves. The Specialist used snares, leghold traps and shooting to remove eleven coyotes. Control efforts continue to prevent additional losses.

Comanche County livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes had killed six calves valued at \$18,000. The Wildlife Specialist assigned to Comanche County responded to the request and performed a site visit to confirm coyotes were responsible for the losses. The Specialist used snares and leghold traps to remove five coyotes. Control efforts continue to prevent additional losses.

Osage County producer called WS when he found damage to his watermelons. The damage was verified with 100 watermelons that were damaged/consumed for an estimated \$800 in losses. Coyotes and raccoons were identified as the wildlife species responsible for the damage. Leghold traps and neck snares were placed on the property. To date, three coyotes and four raccoons have been removed. The watermelon damage has slowed dramatically and this project is still being monitored.

Feral Swine Damage Management

Custer County landowner contacted WS needing assistance with feral swine rooting in his pastures. The landowner estimated that feral swine rooted up ten acres valued at \$2,000 in damages. The Wildlife Specialist assigned to Custer County responded to the request and verified the damage. A live trap was used to remove fifty-five feral swine from the property. No additional damage has occurred and the feral swine population in the area is being monitored to determine if additional management is needed.

Dewey County landowner contacted WS needing assistance with feral swine damaging his stored haybales. The landowner estimated the feral swine damage the hay to be \$1,500. The Wildlife Specialist assigned to Dewey County responded to the request and verified feral swine were responsible for the damage. A live trap was used to remove fifteen feral swine from the property. No additional damage has occurred and the feral swine population in the area is being monitored to determine if additional management is needed.

Ellis County landowner contacted WS needing assistance with feral swine damaging his pastures. The landowner estimated the damage the fields to be \$2,000. The Wildlife Specialist assigned to Ellis County responded to the request and verified the damage. A live trap was utilized to remove eighteen feral swine from the property. No additional damage has occurred and the population in the area is being monitored to determine if additional management is needed.

Creek County producer called WS for assistance with feral swine when he found rooting damage to his hay field. The damage was verified and estimated at \$1,000. After pre-baiting, a remote camera trap was placed on the property and fourteen feral swine have been removed to date. This project is still being monitored.

Wagoner County rancher called WS for assistance with feral swine when he found rooting damage to his hayfield. The damage was verified and estimated at \$1,400. After pre-baiting, a remote camera trap was placed on the property and five feral swine have been removed. This project is still being monitored.

Latimer County cattle rancher called WS for assistance when he found rooting damage to his pastures. The damage was verified and estimated at \$2,500. After pre-baiting, a remote camera trap was placed on the property and seventeen feral swine were removed to alleviate the rooting damage. This has concluded with no further damage reported.

Craig County rancher called WS for assistance when he discovered rooting damage to his hay field and damage to the landscaping around his home. The damage was verified and estimated at \$17,000. After pre-baiting, a remote camera trap was placed on the property. To date, fifty-two feral swine have been removed. This project is still being monitored and the owner was advised to construct barrier fencing to help deter future feral swine issues.

Okmulgee County rancher called WS for assistance with feral swine when he found rooting damage to his hay meadow. The damage was verified and estimated at \$500. After pre-baiting, a remote camera trap was placed on the property and eleven feral swine have been removed to date. This project is still being monitored.

Osage County cattle rancher called WS for assistance with feral swine rooting his pastures. The damage was verified and estimated at \$6,700. After pre-baiting, a remote camera trap was placed on the property. To date, sixteen feral swine have been removed. This project is still being monitored. The owner was advised of environmental changes and methods that could deter future feral swine issues.

Atoka County rancher called WS for assistance with feral swine when he discovered rooting damage to his cattle pastures. The damage was verified and estimated at \$3,000. After pre-baiting, a remote camera trap was placed on the property and thirty-three feral swine were removed to alleviate the rooting damage. This project is concluded.

Aerial Operations

Aerial operations were conducted in **Custer County**. Operations were conducted on roughly 5,000 acres in Custer County in response to request with feral swine damaging milo and corn fields. The helicopter was utilized for 7.2 hours with the removal of eight-seven feral swine. Additional flight operations are planned in this area to further reduce populations and damage associated with feral swine.

Le Flore County producer called WS for assistance with feral swine damaging his corn crop. The crop damage was verified and estimated at \$2,000. Due to the situation, aerial hunting was chosen as the best method to alleviate the damages. A drone was deployed to see if the feral swine were staying on the property. The thermal imagery confirmed that the feral swine were spending their days off the property. Ultimately, the WS Specialist used a thermal scope to remove three feral swine after midnight of the following day. This project is still being monitored for any further damage.

Seminole County producer called WS for assistance with feral swine when he found damage to his corn crop. The damage was verified and estimated at \$1,500. After checking on availability, an aerial hunt operation was planned to alleviate the damage. WS was able to remove thirty-two feral swine during the aerial hunting operation to conclude this project. No further damage has been reported.

Beaver Damage Management

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

Comanche County landowner contacted WS for assistance with beavers responsible for burrowing into the dam structure on his pond. The Specialist for Comanche County responded and verified beavers were responsible for \$1,000 in damage to the dam. The Specialist utilized conibear traps to remove four beavers from the pond. Control efforts are completed at this time.

The City of Chickasha contacted WS for assistance with beaver that were responsible for burrowing into the dam structure on one of the city's ponds. The Specialist for Grady County responded and verified beavers were responsible for \$3,000 in damages to the dam structure. The Specialist successfully used conibear traps to remove ten beavers from the pond. Control efforts are completed at this time.

Craig County property owner called WS for assistance when he found beavers were girdling several trees on his property. The beaver damage was verified and estimated at \$2,000. Conibear traps were placed to capture the beavers. To date, two beavers have been removed and this project is still being monitored. The owner was informed on different barrier fences that could help deter future beaver issues.

Pushmataha County Commissioner called WS for assistance with beavers when they discovered a dammed-up culvert that was causing flooding issues along a public road. The beaver damage was verified and estimated at \$1,500. After clearing the culvert, three leghold traps were placed and two beavers were removed. This project is concluded and no further damage has been reported.

Black Vultures Management

Delaware County rancher called for assistance and reported losing one calf to Black vultures. The owner had previously lost calves to Black vultures and was confident the Black vultures were once again causing predation to his calves. The calf loss was verified and estimated at \$700. A vulture corral trap was set on the property and forty-two Black vultures have been removed to date. This project is still being monitored.

Garvin County rancher contacted WS and reported that Black vultures were roosting in his barn causing structural damage. WS responded and verified the vultures were causing damages to the barn estimated at \$1000. Firearms were used and one Black vulture was removed causing the rest to leave the barn. No further damage has been reported.

Prairie Dog Management

Washita County landowner contacted Wildlife Services with prairie dogs damaging his pasture. The Specialist assigned to Washita County did a site visit and determined the prairie dogs damaged fifty acres of the pasture. The damages to the pasture and grazing loss were estimated to be \$5,000. Fumitoxin was applied to reduce the prairie dog population in the area. The area is closely being monitored to determine if addition applications are needed.

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

County	Beaver	Coyote	Feral swine	District
Adair	2		11	E
Alfalfa				W
Atoka			38	E
Beaver				W

Beckham				W
Blaine	5			W
Bryan	5		34	E
Caddo				W
Canadian				C
Carter	1			C
Cherokee	3		10	E
Choctaw	3		13	E
Cimarron		5		W
Cleveland				C
Coal				C
Comanche	4	1		W
Cotton				W
Craig			52	E
Creek			30	E
Custer	1		138	W
Delaware			27	E
Dewey	3		16	W
Ellis	1	2	11	W
Garfield	2			C
Garvin			22	C
Grady	10			W
Grant				C
Greer		5		W
Harmon				W
Harper				W
Haskell				E
Hughes			31	E
Jackson		2		W
Jefferson				C
Johnston	4			C
Kay				C
Kingfisher				C
Kiowa				W
Latimer	2		17	E
Leflore			3	E
Lincoln			1	C
Logan			28	C
Love	1			C
Major	2		16	W

Marshall				C
Mayes				E
McClain	1		16	C
McCurtain			16	E
McIntosh			7	E
Murray	3	2		C
Muskogee	1		17	E
Noble			28	C
Nowata			21	E
Okfuskee			19	E
Oklahoma		4		C
Okmulgee			23	E
Osage		3	136	E
Ottawa			17	E
Pawnee			41	C
Payne				C
Pittsburg			21	E
Pontotoc				C
Pottawatomie				C
Pushmataha	6		21	E
Roger Mills			6	W
Rogers				E
Seminole			32	E
Sequoyah	3		1	E
Stephens			2	W
Texas		2		W
Tillman				W
Tulsa				E
Wagoner				E
Washington				E
Washita		12		W
Woods				W
Woodward				W
TOTAL	63	38	922	

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

Respectfully submitted,

Scott Alls
Division Director
Wildlife Services Division

**September 2023 Activity Report
for
October 2023 Board Meeting

Agricultural Statistics Division**

General

Rainfall totals the **first week of September** in Oklahoma averaged 0.18 inches. According to the September 5th US Drought Monitor Report, drought conditions were rated 67 percent abnormally dry to exceptional drought, down 33 points from last year. Additionally, 43 percent of the state was in the moderate drought to exceptional drought categories, down 54 points from the previous year. Statewide, temperatures averaged in the upper 70's to mid 80's. Topsoil and subsoil moisture conditions were rated very short to short.

Rainfall totals the **second week of September** in Oklahoma averaged 1.26 inches. According to the September 12th US Drought Monitor Report, drought conditions were rated 62 percent abnormally dry to exceptional drought, down 38 points from last year. Additionally, 45 percent of the state was in the moderate drought to exceptional drought categories, down 52 points from the previous year. Statewide, temperatures averaged in the upper 60's to low 70's. Topsoil moisture conditions were rated short to adequate and subsoil moisture conditions were rated short to very short.

Rainfall totals the **third week of September** in Oklahoma averaged 1.61 inches. According to the September 19th US Drought Monitor Report, drought conditions were rated 72 percent abnormally dry to exceptional drought, down 28 points from last year. Additionally, 49 percent of the state was in the moderate drought to exceptional drought categories, down 50 points from the previous year. Statewide, temperatures averaged in the mid to upper 70's. Topsoil moisture conditions were rated adequate to short and subsoil moisture conditions were rated very short and short to adequate.

Rainfall totals the **fourth week of September** in Oklahoma averaged 0.06 inches. According to the September 26th US Drought Monitor Report, drought conditions were rated 66 percent abnormally dry to exceptional drought, down 34 points from last year. Additionally, 47 percent of the state was in the moderate drought to exceptional drought categories, down 53 points from the previous year. Statewide, temperatures averaged in the upper 70's. Topsoil moisture conditions were rated short to very short and subsoil moisture conditions were rated very short to short and adequate.

Small Grains: Winter wheat planted reached 27 percent, unchanged from the previous year but down 11 points from normal. Winter wheat emerged reached 10 percent, up 1 point from the previous year but down 1 point from normal.

Row Crops: Corn mature reached 85 percent, down 2 points from the previous year but up 1 point from normal. Corn harvested for grain reached 42 percent, up 2 points from the previous year but unchanged from normal. Sorghum coloring reached 90 percent, down 4 points from the previous year and from normal. Sorghum mature reached 51 percent, down 12 points from the previous year and down 11 points from normal. Sorghum harvested for grain reached 19 percent,

unchanged from the previous year but down 4 points from normal. Soybeans setting pods reached 95 percent, up 1 point from the previous year and from normal. Soybeans dropping leaves reached 40 percent, unchanged from the previous year but up 2 points from normal. Soybeans harvested reached 7 percent, up 7 points from the previous year and up 2 points from normal. Peanuts mature reached 59 percent, unchanged from the previous year but up 7 points from normal. Cotton bolls opening reached 78 percent, down 4 points from the previous year but up 7 points from normal.

Hay: The fourth cutting of alfalfa hay reached 75 percent, down 5 points from the previous year and down 10 points from normal. The fifth cutting of alfalfa hay reached 15 percent, down 4 points from the previous year but up 5 points from normal. The third cutting of other hay reached 45 percent, down 29 points from the previous year and down 7 points from normal.

Pasture and Livestock: Pasture and range condition was rated at 63 percent fair to good. Livestock condition was rated at 89 percent good to fair.

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

Survey	Enumerated by:	Survey Dates
Small Grains CE Tier 1	DCC	8/9 – 10/6
September Ag Yield	DCC	8/29 – 9/8
September Ag Survey	DCC	8/30 – 9/14
Grain Prices	DCC	9/7 – 9/14
October Ag Yield	DCC	9/29 - 10/5
Grain Prices	DCC	9/8 – 8/15
Pecan AP	DCC	9/29 -10/5

Statistics: On September 29, 2023, the Small Grains Annual Summary report was released. Highlights include:

Oklahoma wheat production totaled 68.6 million bushels, unchanged from 68.6 million in 2022 but down from 115 million bushels in 2021. Statewide yield averaged 28.0 bushels per acre, unchanged from last year. Harvested acreage for grain is 2.45 million acres, unchanged from 2022.

Information Requests: Phone calls, personal visits to our office, and requests via e-mail for information since last report totaled 16.

Releases for September:

Crop Production
Cattle on Feed
Hogs and pigs

Relating Dates:

September 1, 2023
September 1, 2023
September 1, 2023

Release Dates:

September 12, 2023
September 22, 2023
September 28, 2023

Small Grains Summary
Grains Stocks
Agricultural Prices

September 1, 2023
September 1, 2023
September 15, 2023

September 29, 2023
September 29, 2023
September 29, 2023

Releases for October:

Crop Production
Cattle on Feed
Agricultural Prices

Relating Dates:

October 1, 2023
October 1, 2023
October 15, 2023

Release Dates

October 12, 2023
October 20, 2023
October 31, 2023

Meetings and Events:

Bacone College
OLAC Board Meeting
Peanut Commission Meeting
TECO Meeting
OSU Career Fair
Langston Career Fair

Date:

September 7, 2023
September 12, 2023
September 14, 2023
September 19, 2023
September 21, 2023
September 28, 2023

Location:

Muskogee, OK
Virtual
Ft. Cobb, OK
Virtual
Stillwater, OK
Langston, OK

Respectfully Submitted,



Troy Marshall

MARKET DEVELOPMENT SERVICES

October 19, 2023

Report to the State Board of Agriculture

AG IN THE CLASSROOM

AG IN THE CLASSROOM IMPACT

- Total Number of Teachers/Administrators Impacted: 786
- Total Number of Pre-service Teachers Impacted: 35
- Total Number of Extension Educators Impacted: 31
- Total Number of Students Directly Impacted by Coordinators: 1,868
- Total Number of Resources Given: 4,316
- Total Number of Teachers/PreService Teachers Resources Given to: 153
- Total Number of PreK-12th Grade Students Resources Given to: 3,966

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

- The AITC monthly email is delivered to 16,951 accounts.
- The AITC Facebook page now has 9,638 followers.
- The AITC Twitter page now has 580 followers.
- Oklahoma AITC Instagram account now has 777 followers.
- Oklahoma AITC Pinterest account now has 225 followers.
- The AITC YouTube channel now has 9,321 views.

Ag in the Classroom- Professional Development Workshops

Number of Educators & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
7 OSU Pre-Service Ag-Ed Teachers	Oklahoma State University - Stillwater	Temple Grandin - Thinking in Pictures; Pumpkin' Chunkin'; and Food Supply Chain from AgBadging Field Guide	Barn full of upper level resources
28 Pre-service Elementary Teachers	Oklahoma University	Various Tear Sheet activities	Barn full of resources

Ag in the Classroom- Student Events

Number of Participants & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
24, 142 PreK through 12th grade students hear books about accurate agriculture across Oklahoma	Read an Accurate Ag Book Week - in classrooms and on Zoom all across Oklahoma	<p>Read an Accurate Ag Book Week - Teachers/Librarians, 4-H clubs, FCCLA Chapters, FFA Chapters, Legislators, and volunteers were asked to go into classrooms across Oklahoma and read books about accurate agriculture.</p> <p><i>Participants:</i></p> <ul style="list-style-type: none"> ● 31 4-H Clubs ● 6 FCCLA Chapters ● 68 FFA Chapters ● 329 Classroom Teachers/Librarians <p><i>Volunteer Readers:</i></p> <ul style="list-style-type: none"> ● Oklahoma Secretary of Agriculture, Blayne Arthur ● 8 Zoom Readers ● 27 State Legislators ● 3 ODAFF Board Members ● Over 100 Volunteer Readers 	Many volunteer readers left books in classrooms for teachers to keep
1,424 3rd, 4th, & 5th Grade students from the following schools: Rising High Christian Academy; Calumet Elementary; Horace Mann Elementary; Canton Public Schools; Home School; Asher Elementary; Justice Elementary; Northmoore Elementary; Canute Elementary; Eugene Field Elementary; Home School;	Oklahoma State Fair Academy	Greeting on Bus; Shared facts and information about the Oklahoma State Fair and its history; 550 students from 12 of those schools came and made butter with AITC that afternoon	Teachers received a bag of resources for their class including Elementary Dairy Tearsheets; Does Chocolate Milk Come from Brown Cows Tearsheets; Oklahoma Ag Mag; Ag on Rt 66; Red Dirt Symbols; OK AITC Lunchbox and State Fair Coloring Books
Enriching Foundations; Friend Public School; John Glenn Elementary; Willard Elementary; Ripley Elementary; Mountain View Gotebo School; Boone-Apache Elementary; Truman Elementary; Oakridge Elementary; 2 different home schools; Macomb Elementary School			

50 PreK - 5th grade students	Piedmont Founder's Day	Agriculture Trivia Wheel; making butter	Oklahoma Ag Mag, ABC Coloring Book; Ag on Rt 66 magazines
K-5th grades - 394 students	Cedar Ridge Elementary - Union Public Schools	Betsy the cow - Dairy	Beef or Dairy Reader, Does Chocolate milk come from Brown Cows, AITC info sheet and my business card

Ag in the Classroom- Resources Mailed or Delivered

Locations where Resources are Mailed or Delivered	
Bearden Schools	Idabel Central School
John K Hubbard Elementary - Noble	Valliant Elementary
Northern Hills Elementary - Edmond	Woodland Public Schools - Fairfax
Perry Lower Elementary	Summit Christian Academy - Broken Arrow
Paden High School	Welch Schools
Metro Christian Academy - Tulsa	Family Resource Center - Stillwater
Cheyenne Elementary	WOCS - Clinton

Tulsa Youthworks	Perkins-Tryon Elementary
White Rock Public School - McLoud	Earlywine Elementary - Oklahoma City
Wainwright Elementary	Jeff O Mills Elementary - Owasso
Willard 5th & 6th Grade Center - Ada	Justus Tiawah School - Claremore
Snyder Public School	Bennett Homeschool
Norman High School	Will Rogers Elementary - Stillwater
Oklahoma University - Early Childhood Educators	Morrison Elementary
Perkins Intermediate	Weatherford Farm Bureau
Connie Tabor - Oklahoma Cattlewomen	

Ag in the Classroom- Other Events

Event	Highlights
Oklahoma AITC has a seat on the National AITC Executive Committee	Emily Ague, Oklahoma AITC's program leader, was elected to one of two Southern Region Representative positions at the National Ag in the Classroom Conference in June. The Executive Meeting was held on September 27th, and she was also elected to serve as the National Ag in the Classroom Treasurer. She will continue holding the position of the National AITC Conference Committee Chair but will also chair the National AITC Finance Committee.

2023 Read an Accurate Ag Book Week





AGRITOURISM

Agritourism - Site Visits

Producer	Location	Category	Highlights
Selah OK	Goldsby	Petting Farm	Discussed plan for new venue, agritourism opportunities/events
Pumpkin Town	Tulsa	Pumpkin Patch	Site visit, created social media reel
Oklahoma Heritage Farm	Ramona	Pumpkin Patch	Site visit, delivered liability signage
Wind Drift Orchards	Harrah	U-Pick	Filming video for agritourism grant project
Farmers Public Market	Oklahoma City	Farmers Market	Site visit, price checking produce
360 Farms	Webbers Falls	Horticulture	Farm visit with International guest
Livesay Orchards	Porter	Pumpkin Patch, U-Pick, Teachable Moments	Farm visit with International guest
Peach Barn Orchard & Bakery	Porter	Farm-to-Table	Farm visit with International guest

Agritourism - New Producers or Potential Producers

Producer	Location	Category	Highlights
WanderFolk Spirits	Guthrie		Visited distillery, conversations about adding distillery category into agritourism
The Garden House	Enid	U-Pick	
The Twelves	Stillwater	Pumpkin Patch, Teachable moments	Site visit, added to the program.
Bigfoot Ranch Pumpkin Patch	Apache	Pumpkin Patch, Maze, Teachable moments	Site visit, added to the program.

Social media

Facebook

- 22,862 likes
- 25,353 followers

Instagram

- 2,620 followers

Agritourism - Other Activities

- Phone consult/conversations with: Ken Egnor, Whitney Wilson at Dusty's Adventure Farm, Charlie Waller at Tourism, Cori Warner at Tanglefoot Farms, Billy Mussett at Tourism, Pam Livingston w/ Leedey Chamber, Alacia Parker with Pure & Simple Market, Alli Jones, Dusty Baker w/ OK Buffalo Association, McKenzie Dossey – potential agritourism producer, Kelly Zimmerman w/ OK EAT, Kate Thomas w/ Fortress of Faith, Margaret Snow w/ OK Heritage Farm
- Zoom consults/meetings: Meeting w/ Courtenay DeHoff about OKLAS keynote presentation, monthly meeting w/ freestyle about wine trail campaign, biweekly OKLAS planning meetings,
- OKLAS planning
- Attended and setup booth for Western OLAC Workshop
- Assisted with AgHERculture conference

- Coordinated OK Jelly Trails materials for Lawton Farmers Market
- Assisted with OK State Fair Move-In and store shifts
- Assisted Mid America Technology Center with Floret Farm scholarship interviews
- Interview w/ Oklahoma Farm Network about fall pumpkin patches and mazes
- Assisted w/ Made in OK Café at TSF
- Sent out next batch of 13 free handwashing stations for SCBG for specialty crop agritourism producers
- Grant video planning and multiple meeting with filming crew
- Create organic produce survey
- Update craft beer trail listings

FARM TO SCHOOL

F2S Contact Meetings	Highlights
Southwest Region State Agency Farm to School Quarterly Meeting	<ul style="list-style-type: none"> • Strategic Planning Follow-Up – Kate Wheeler with the Utah State Board of Education • Formula Grant Updates • 2023 Farm to School Grant • 2023 Farm to School Census • Additional USDA updates
Sheri Glazier	Had an introduction meeting with Sheri. We discussed the program and talked about bringing her on the grant to work with school nutritionists.
Chris Jones: Senior Director, NASDA Foundation	Chris is working on a grant and would like to highlight Oklahoma MyPlate. We discussed a variety of ideas on how we can partner with NASDA to help enhance the Oklahoma MyPlate project.
Angus Martin: Better Day Farms Taryn DeWitt: Frontier Produce	Met with Angus and Taryn to discuss how F2S can partner in the future. Taryn is looking for local producers within the OKC and Tulsa area.
Nichell Garcia: Science Teacher at Rogers Middle School in Spencer Oklahoma	I visited Rodgers Middle School to see the three locations where they want to plant a school garden. I was able to send them resources and information on how to start a school garden. Since it is so late in the season, they are planting mustard seeds. I will be making a second trip to the school on October 17 th .
USDA Healthy Meals Incentives (HMI) Recognition Awards Informational Webinar	As part of a cooperative agreement to develop and implement the USDA Food and Nutrition Service's Healthy Meals Incentives Initiative, Action for Healthy Kids (AFHK) is offering Recognition Awards to celebrate School Food Authorities (SFA) that have made significant improvements to the nutritional quality of their school meals. The Recognition Awards will spotlight innovative practices, student and community engagement activities, and strategies

	<p>schools have used to provide meals that are consistent with the 2020-2025 Dietary Guidelines for Americans.</p> <p>SFAs meeting Recognition Award criteria will receive national and local recognition, as well as an awardee toolkit that includes digital assets, and travel stipends to attend a national Healthy Meals Summit. Action for Healthy Kids will highlight and share diverse best practices nationwide from Recognition Awardees through traditional and social media, stakeholder engagement, training and technical assistance activities, and Healthy Meals Summits.</p>
Leveraging the USDA Local Food for Schools Program with State-Level Local Food Purchasing Incentives Webinar	<p>This informational webinar touched on the following:</p> <ul style="list-style-type: none"> • How existing LFPIs supported the implementation of LFS and/or how LFS was used to expand existing LFPIs • How LFS is being positioned by states as a pilot for permanent state-level LFPI investment • How some states reimaged LFPIs through unique LFS models, such as directly contracting with producers instead of schools

Other Meetings	
Ag Her Conference	Teaching a workshop rotation for the conference. Zoom into Leadership Workshop Description: As a team member, you have a unique outlook when it comes to completing group tasks. Too often, people are unaware of how their perspectives and communication styles affect others, leading to conflict and problems within the team. This hands-on workshop will teach youth how to effectively work together as a group while developing communication, and problem-solving skills as they discover what a rooster, a desert island, and outer space have in common.
Ag Youth Council	The Ag Youth Council met for their first meeting on August 21 st . I facilitated the icebreakers and helped with the day's activities. We toured the Blue and Gold Sausage Company and met with the Oklahoma Pork Council.
Ag in the Classroom Advisory Meeting	I was invited to attend the AITC Advisory Meeting and give an update on the F2S program.

Events Attended	
Oklahoma State Fair MIO Store	Helped at the OKC fair with the MIO store.
Tulsa State Fair MIO Cafe	Helped at the Tulsa Fair at the MIO Café.

School Visits:

- Rogers Middle School, Spencer Oklahoma: Visited with the Science Teacher Nichell to see the three locations where they want to plant a school garden and give them advice.

F2S Social Media:

- Facebook has 926 followers
- Facebook: 47 new posts, reels, and stories
- From July 10th- August 15th, recent Facebook posts have reached 4,408

Current Projects:

National Farm to School Month: "Rooted in Community: Growing Stronger, Together"

October is National Farm to School Month! Join us and thousands of schools, early care and education sites, farms, communities, and organizations across the country as we celebrate food education, school gardens and lunch trays filled with healthy, local ingredients.



INTERNATIONAL

Activity	Action
Certificate of Free Sale	<ul style="list-style-type: none">• New Company OK Foods Muldrow OK

Food Export	<ul style="list-style-type: none"> • Buyers have been selected and secured for Expo East buyers mission. Currently working on gathering all the details and schedules for the mission. We have one Oklahoma company participating in the mission. Stryve out of Madill, OK • Recruitment for future activities PLMA, Trade Mission etc • Food Export launched their new data base Microsoft Dynamics. We are continuing to implement portions of the system to access the data and use new tools.
USLGE	<ul style="list-style-type: none"> • Received lead lists from Argentina, Columbia, and ILDEX Indonesia. We are still working on our distribution list to get this data to the OK producers that are relevant. • Continued planning for the 2024 Cattlemen's Congress
ODAFF Market Development Events	<ul style="list-style-type: none"> • Staff assisted with the OKC State Fair • Attended the NASDA Annual Meeting- Attended several meetings on various topics and shadowed for research for hosting in 2024 • Hosted the following professional exchange fellow as part of the University of Oklahoma Irani Center for the Creation of Wealth (ICCEW)

MADE IN OKLAHOMA COALITION

Made in Oklahoma Coalition – Advertising, Web and Social Traffic

Type	\$ Spent and Information	Highlights
MIO Featured Monthly Recipes in Tulsa World and Oklahoman	\$500/month each	Featured press release and 1-2 showcased recipes in food section
Marketing, Consulting and Graphics Retainer with Krush	\$6,750	Social media posts, digital presence, analytics, management of content and creation of digital footprint, graphic design, etc.
MIO TV Cooking Segments on Channel 6 in Tulsa and Channel 4, 5 & 9 in OKC	OKC – 8 appearances Tulsa – 4 appearances	Natalie Mikels & David Brooks, MIO TV Personalities filmed in-person and remote segments for TV
Restaurants of the Month	Each month staff, along with Food Service Committee present the restaurant with their award and eat lunch as a group at their establishment.	August – S&B's Burger Joint: OKC September – Homestead, Cushing October – Toast and McKinney's Modern Dining, Broken Arrow
Edible OKC Giveaways	\$100/giveaway	Each month MIO partners with Edible OKC to give away a \$100 gift card to our restaurant of the month.
MIO Monthly Newsletter		<ul style="list-style-type: none"> o 2400+ distribution list

OK Living Partnership highlighting MIO Recipes	Highlights 2-3 MIO recipes per month - 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.	August – - Pasta with Sweet Corn and Mushrooms - Oven Baked BBQ Brisket - Peanut Butter Pretzel Energy Bites September– - Okie Pesto - Meat Lovers Baked Beans - Sweet Potato Salad with Bacon October – - Banana Bread with Toasted Pecans - Apple Butter Danish - Pumpkin Crumb Bars - Sheet Pan Grilled Cheese with Tomato Soup
August Retailer of the Month	Harp's	OK, Kansas & Arkansas locations
September Retailer of the Month	Doc's Country Mart	Tulsa Area Locations
October Retailer of the Month	FireLake	Shawnee, Tecumseh, McCloud

Made in Oklahoma Coalition – Other Activities

Activity	Information
MIO Recipe Photoshoot - August 17 th	Staff and MIO food stylist and food photographer shot our September- March MIO recipes. We shot 9 new recipes that feature numerous MIO member companies and products. Our recipes are one of our most popular content veins with our audience.
Oklahoma Restaurant Association Show - August 22 nd – 24 th	Staff along with the MIO Food Service committee put together the MIO booth at the ORA show. The ORA show is Oklahoma's largest gathering of restaurants and food service operators. We had 16 MIO members participate in our booth area.
September MIO Meeting - September 1 st	MIO held our September MIO meeting in person at the Oklahoma Department of Agriculture, Food and Forestry. 35 members attended
Waggin Wheels Craft Beer Festival in Tulsa - September 3 rd	MIO participated in the Waggin' Wheels event put on by the Craft Brewers Association of Oklahoma. There were 30 breweries that participated as well. MIO had a booth where we handed out water and educated folks on what MIO is all about.
AWG Food Show - September 7 th	Staff and the MIO Retail Committee manned the MIO booth at the Associated Wholesale Grocers annual food show at the Embassy Suites in Norman. The OK independent grocers were all in attendance at this show as well as many MIO member companies. AWG is the largest grocery wholesaler in the state and makes a big impact on many of our members businesses.
Oklahoma Breast Institute Presentation - September 7 th	Staff was asked by Edward Clements, a founding MIO member, to present on MIO to the OK Breast Institute. I gave them an overview of what the Coalition is and why it is important to buy local and support our Oklahoma economy.
Buffalo Wild Wings Local Bar Branding - September 13 th	Staff met with Buffalo Wild Wings marketing manager to implement MIO marketing in the bar areas at 8 Buffalo Wild Wings concepts. The goal is to highlight the MIO beer and spirits carried in their restaurants.

Scissortail Park Event Walk-through - September 14 th	Staff and the MIO Special Events Committee did a walk-thru at Scissortail Park to discuss our June event with the event coordinator and park manager. We are very excited to host our first public event at the park and are expecting a great turnout.
OK State Fair Shifts - September 14, 15, 21	Staff worked the Made in Oklahoma Store at the Oklahoma State Fair.
MIO Membership Interview - September 18 th	MIO Board of Directors interviewed Pepper Creek Farms and approved them for membership.
MIO TV Commercial Shoot - September 19 th – 20 th	Staff and MIO agency of record, Krush Digital, arranged a day of filming our new 30 second TV spot at Homeland on 122 nd and Rockwell. The new commercial will air starting in November and features numerous MIO members who paid to be a part of the ad.
MIO Thunder + Levy Marketing and Court Cart Planning - September 22 nd	MIO is partnering with the OKC Thunder and Levy Food Service to implement the MIO Court Cart concept in the arena. Our cart will be located on the 100-level concourse in a prime location. MIO items will be served each game, along with snack items.
Sri Lankan Entrepreneurial Exchange Fellow Tours in Stillwater - September 25 th	Staff and Jamie Cummings hosted Sri Lankan entrepreneurial exchange fellow, Sanjay Ignatius on tours and meetings to expose him to Oklahoma agriculture and connections that might be beneficial to his business. Sanjay is an Aloe Vera processor that works with local aloe vera farms in Sri Lanka.
OK Café Load-in at Tulsa State Fair – September 27 th	Staff and Market Development team received and loaded in product for the café and got the café ready to go for 11 days of service.
Restaurant of the Month Visit to Toast and McKinney's in Broken Arrow - September 29	Staff and the MIO Food Service Committee met for lunch at MIO Restaurant of the Month, Toast & McKinney's in Broken Arrow to congratulate them on winning the award and eat lunch in support of the restaurant. We also got content for social media and a highlight video. Each visit is scheduled one month in advance so the content can run during the month they are highlighted.
Sri Lankan Entrepreneurial Exchange Fellow Tours in OKC - October 2 nd	Staff and Jamie Cummings hosted Sri Lankan entrepreneurial exchange fellow, Sanjay Ignatius on tours and meetings to expose him to Oklahoma agriculture and connections that might be beneficial to his business. Sanjay is an Aloe Vera processor that works with local aloe vera farms in Sri Lanka.

MADE IN OKLAHOMA PROGRAM

Events	Date	Location	Details
Oklahoma State Fair	Sept. 14-24	Bennett Event Center, Oklahoma State Fairgrounds	We had record setting sales from the MIO Store this year – more than \$194,000.
Tulsa State Fair, Vendor Area	Sept. 28-Oct. 8	Exchange Building, Tulsa State Fairgrounds	We contracted out 52 booths to companies of the Made in Oklahoma Program.
Tulsa State Fair, OK Cafe		Lower Ford Truck Arena, Tulsa State Fairgrounds	Daily duties include cooking/preparing food, serving, managing cash registers, coordinating volunteers and more.

New Producers:

- 65 new Producer and 18 Retailer applications came in during September and October, but I have not been able to review them yet due to working the state fairs.

Other Made in Oklahoma Activities:

- State Fair Store brought in more than \$179,000 this year, which is significantly above all previous years.
- Made in Oklahoma area at Tulsa State Fair
 - Contracted 52 booth locations for Made in Oklahoma companies and Tulsa State Fair
 - In frequent communication with vendor coordinator for TSF
 - Handled several pre-fair and on-site communications for participating vendors
- OK Café at Tulsa State Fair
 - Pre-café planning: creating menu, prices, ordering products, etc.
 - Developed an online menu, so customers could view our menu and information about the companies who were featured in the cafe
 - Discussions with our new chef, explaining expectations, logistics, menu items
 - Created graphics to promote the café: Flyer, social media graphic, QR code for website
 - Received cash from money room to run registers daily, and ‘cash out’ at the end of each day
 - Assisted in preparing food items to serve daily
 - Followed all health department protocol while running café
 - On-site coordinator, helped oversee daily operations of the café.
- Made in Oklahoma at the Market
 - Worked with colleagues to plan event. Made in Oklahoma items will be in the LTO space at Mother Road Market for two weeks in October.
 - Made, sent and gathered applications
 - Selected company and products to be in the store

VITICULTURE & ENOLOGY

Viticulture & Enology - Site Visits

Producer	Location	Category	Highlights
AgHer Conference	Oklahoma City	Conference	Built and assembled the photo backdrop for the AgHER conference. Attended both the college session on Friday night and the High School session on Saturday morning.
Conference Planning	Stillwater	Meeting	Met John Burge the new Beverage and Hospitality Director at Oklahoma State. We discussed with Stacy Tomas and Cortney Norris about a potential conference in November 2024 that would bring wine makers and grapegrowers from all around the region in order to further develop our industry.

Girls Gone Wine	Broken Bow	Winery/Vineyard	Did a site visit to Gils Gone Wine in the Southeast. The owners were not there, but I was able to inform the main front worker that the new trails are almost finished and discussed the new passport concept. I also took photos and videos to compile for a social media reel.
Knotted Rope	Broken Bow	Winery	Met with Julie the owner of Knotted Rope. We talked about her use of unique varietals, struggles with sourcing quality grapes, and competition with nearby wineries. She is excited for the new passports.
Producer Townhall Event	OKC	Networking/Conference	Brought many of our producers together in one room. Had presentations on enotourism, ABLE law, and state bills/committees involving wineries. Put a face to a lot of names and hopefully provided an opportunity for our producers to feel heard by several members of our state government.
State Fair	OKC	Fair	Worked shifts at the Made in Oklahoma Store. Also frequently checked in on Whispering Meadows, Urban Wineworks, B&G Meadery, Wakefield, and Sparks Winery. Made chalkboard signs and helped set up and breakdown.
State Fair	Tulsa	Fair	Worked shifts at the Made in Oklahoma Café. Helped set up and transport supplies from OKC to Tulsa.

Viticulture & Enology - Other Activities

- Finalized bid for wine trails brochures and passports. Sent to print.
- Created a relief application for wineries/vineyards who are approved for TODS signs for up to 70% reimbursement.
- Had a conversation with a food & wine social media influencer who expressed interest in partnering with ODAFF MD to promote wine trails passports when they are finished.
- Promoted several Fall events for wineries with great social media success
- Purchased a new domain name for the Wine Trails.

MARKET NEWS SERVICES

August 16, 2023 – September 29, 2023

- **Grain Report:**

	August 16, 2023	September 29, 2023	DIFFERENCE
WHEAT: (bu)	\$6.28-\$6.98	\$5.19-\$6.09	\$1.09 to \$0.89 Lower
MILO: (bu)	\$4.19-\$4.89	\$4.77-\$4.97	\$0.58 to \$0.08 Higher
SOYBEANS: (bu)	\$12.13-\$13.79	\$11.65-\$12.35	\$0.48 to \$1.44 Lower
CORN: (bu)	\$4.79-\$5.64	\$4.67-\$5.17	\$0.12 to \$0.47 Lower
COTTON: (lb)	77.57 cents	81.90 cents	\$4.33 Higher

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

FEEDER STEERS

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

- (8-27-22) \$166.00-197.00 Wtd. Avg \$181.50
- (8-26-23) \$231.00-312.00 Wtd. Avg. \$271.50

HEIFERS

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

- (8-27-22) \$152.00-172.50 Wtd. Avg \$162.25
- (8-26-23) \$230.00-260.00 Wtd. Avg. \$245.00

- **Weekly Report:**

- Six weekly Oklahoma Market Reports were sent to 10,892 subscribers
August 16, 2023-September 29, 2023 (**up from 101 subscribers last report**).

- **Voice Messaging System:**

- The market news voice messaging system during
- Monthly Total: August 16, 2023-September 29, 2023, **6,712 Accessed Times**
- Last Report June 23, 2023-August 16, 2023, **6,724 Accessed Times**
- Compared to Last Month: **Accessed Times-is DOWN 12 on Accessed times**

- **Oklahoma Agriculture Market News**

- **Facebook Page**
 - Likes/Followers 510
 - **UP 24 Likes/Followers**
 - People reached through pasted report: 707 people

- **Oklahoma Hay Directory**
 - Hay Directory
 - **65 people are on the Oklahoma Hay Directory now.**
- **Hay Report**

This Month: August 16, 2023-September 29, 2023, Hay Traded 20,605

Last Year August 12, 2022-September 23 2022, Hay Traded 14,847

DOWN 5,758 Bales Reported

OKLAHOMA HAY MARKET REPORT

9-30-23

Receipts: 4,650 Last Reported: 3,893 Year Ago: 0

Compared to the last report: Hay is slow to steady. Very little movement across Oklahoma. The state did receive some rainfall throughout most of the state, but we still need some widespread rain as we head into our fall season.

Trends:

Alfalfa Large squares \$180-\$200 a ton

Alfalfa Rounds - No Trend

Grinding hay - No Trend

Bermuda 5x6 rounds - \$70-\$100 a bale

Bermuda Large Squares - No Trend

Grass Hay 4x5-4x6 - \$60-\$70 a bale

Grass Hay 5x6 - \$70-\$80 a bale

The Oklahoma Mesonet Drought Monitor shows we are at 0 percent in exceptional drought, 12.91 percent in an extreme drought, 30.93 percent in severe drought, 46.76 percent in moderate, 65.71 percent in abnormally dry conditions, 34.29 percent that has no drought conditions.

*** The next report release will be on October 13***

Central

Alfalfa: Good/Premium (Trade/Per Ton)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	300	180.00	180.00	F.O.B

Grass: Fair/Good (Trade/Per Ton)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	500	90.00	90.00	Delivered

North Central

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	720	100.00	100.00	F.O.B

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

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

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Small Square	175	12.00	12.00	F.O.B

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round		70.00		F.O.B.

Northeastern				
Prairie/Meadow Grass: Good (Trade/Per Bale)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	1,635	65.00	65.00	F.O.B.

Northwestern				
Alfalfa: Good (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	200	180.00	180.00	F.O.B.
Bermuda Grass: Good/Premium (Trade/Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	400	175.00	175.00	Delivered
Grass: Good (Trade/Per Ton)				
Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	320	75.00	75.00	Delivered



Oklahoma Department of Agriculture,
Food, and Forestry
October Board Report for the
Agricultural Environmental
Management Services Division
August 1, thru September 3, 2023

AEMS Division Activities

- An AEMS representative participated in the Illinois River Watershed (IRW) Partnership conference calls to review technical efforts and monitoring of waterbodies within the watershed area.
- A staff member participated in the monthly Oklahoma Kill Response Management Team (OKRMT) call to monitor reported fish and other animal kills related to water pollution.
- AEMS staff members observed and participated in the National Poultry Board full-scale exercise August 15, 2023, in Ames, OK.
- A staff member participated in the Oklahoma Comprehensive Water Plan meeting organized by the Oklahoma Water Resources Board.
- An AEMS representative attended the Oklahoma Water Reuse Action Plan (OWRAP) planning meeting.

AgPDES Permitting Activities

- Number of AgPDES CAFO Authorizations this reporting period: 2
- Number of AgPDES PGP Authorizations this reporting period: 0
- Number of AgPDES CGP Authorizations this reporting period: 5

Complaints and Inspections

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

11	Complaints received and investigated this reporting period.
4	Complaints closed this reporting period.
Complaints Received - Breakdown	
Cattle - 4	
Swine – 0	
Poultry-0	
Misc. Animal - 1	
Other – 0	
Animal Shelter -0	
Pet Breeder- 6	
23	Year-to-date complaints received in FY 24
7	Year-to-date complaints closed in FY 24
91	LMFO/CAFO inspection and technical assistance.
246	Poultry inspections and technical assistance.
30	Pet Breeders/Shelters inspections and technical assistance.

CAFO and LMFO Activities - Month and Fiscal Year 2024

	Aug 1-Sept 3,2023	FY 24 Total
Complaint or Compliance Follow-ups	8	26
Annual Inspections	69	118
Technical Assistance with Contacts	22	59
Site Visit/Review – No contact made	11	22

Poultry Activities – Month and Fiscal Year 2024

	Aug 1-Sept 3,2023	FY 24 Total
Complaint or Compliance Follow-ups	1	2
Annual Poultry Inspections	10	41
Poultry Technical Assistance	236	453
Site Visit/Review – No contact made	73	131
Eucha-Spavinaw CNMP Written	11	26

Pet Breeders Activities – Month and Fiscal Year 2024

	Aug 1-Sept 3,2023	FY 24 Total
Complaint or Compliance Follow-ups	8	21
Breeder/Shelter Technical Assistance provided to owner/operator	14	37
Breeder/Shelter Annual Inspections	16	45
Breeder/Shelter Close out	1	2

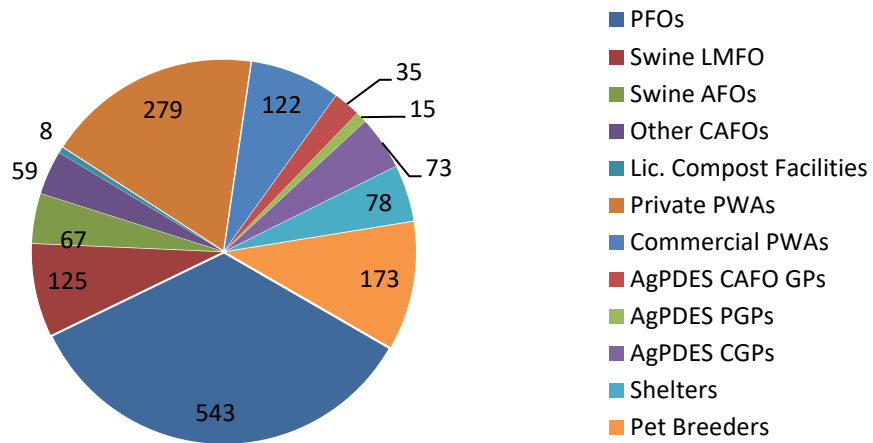
AGPDES – Month and Fiscal Year 2024

	Aug 1-Sept 3,2023	FY 24 Total
Complaint or Compliance Follow-ups	0	0
Site Inspections (Annual or Compliance Follow-ups)	1	3
Technical Assistance provided to owner /operator	3	12

Composting Activities – Month and Fiscal Year 2024

	Aug 1-Sept 3,2023	FY 2 Total
Complaint or Compliance Follow-ups	5	9
Site Inspections (Annual or Compliance follow-up)	1	1
Technical Assistance provided to owner /operator	1	1

Current FY 24 AEMS Numbers



Respectively,

Teena G. Gunter
AEMS Division

**BEFORE THE STATE BOARD OF AGRICULTURE
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
OCTOBER 2023 BOARD REPORT
REGARDING AUGUST 12, 2023 THROUGH OCTOBER 1, 2023 ACTIVITIES
OF THE OFFICE OF GENERAL COUNSEL**

AMOUNT OF ADMINISTRATIVE FINES COLLECTED:

Amount to Date (2023)	Amount of Fines for this Board Meeting
\$344,130.00	\$8,365.00
\$207,400.00	2022
\$57,475.00	2021 Total (5/31-12/31/2021)

CONTRACTS REVIEWED OR DRAFTED (84):

Marketing: 66
CPS: 2
Forestry: 5
Admin:3
AEMS: 3
Lab: 2
Wildlife: 2
Food Safety: 1

ADMINISTRATIVE HEARING PROCEEDINGS:

Total Number of Open Cases: 203
Total Number of New Cases: 6
Total Number of Cases Closed: 32
NOVs Sent: 172

OTHER ACTIONS AND PROCEEDINGS:

<i>Laura Garrison v. State of Oklahoma, ex rel. Oklahoma Department of Agriculture Food and Forestry</i> , Pittsburg County District Court, Case No. CJ-2020-111: Lawsuit involves vehicle accident between plaintiff and ODAFF employee. Attorney General's Office is handling this claim.
<i>Upton's Naturals Co v. Stitt and Arthur</i> , District Court, W.D. Oklahoma, Case No. 5:20-cv-00938: Lawsuit against Governor Stitt and Secretary Arthur in their professional capacities. Upton's Naturals challenges a state law that prohibits food manufacturers from using terms like "hot dogs," "burgers," or "bacon" on labeling for meat-free products. The Attorney General's Office is handling this claim.

<i>William Grossman v. Lori Howard et al.</i> , Cherokee County District Court, Case No. CJ-2020-111: Lawsuit filed on the agency and Forestry Services requesting damages for a car wreck that occurred during a prescribed burn. The prescribed burn was not performed by ODAFF and the agency was not involved with the circumstances. The Attorney General's Office is handling this claim.
<i>Spring Creek Coalition v. ODAFF and Trong</i> , Cherokee County Case Number CJ-2021-29: Petition seeking declaratory and injunctive relief. Answer filed.
<i>Spring Creek Coalition v. ODAFF and Phan, et al.</i> , Delaware County Case Number CJ-2021-33: Petition seeking declaratory and injunctive relief. Answer filed. Discovery ongoing. Responded to Motion for Summary. Motion to Dismiss filed. Hearing had March 2, 2023. Supplement brief filed regarding Motion to Dismiss.

MEETINGS:

Date	Activity
August 14, 2023	Employee Assistance Program
August 14, 2023	AEMS Legal
August 15, 2023	Attorney candidate interviews
August 16, 2023	Attorney candidate interviews
August 17, 2023	Intern candidate interview
August 18, 2023	State Water Plan Virtual Meeting
August 18, 2023	Case review
August 18, 2023	General Counsels Forum
August 21, 2023	AEMS Legal
August 22, 2023	Director's meeting
August 22, 2023	State Chamber OSHA rules
August 23, 2023	AR/Red River Report Card
August 25, 2023	Legislative Debrief
August 28, 2023	AEMS Legal
August 28, 2023	OMES regarding Lab contract
August 29, 2023	NASDA EPA Briefing on WOTUS rules
August 30, 2023	State Board of Agriculture
August 30, 2023	State Water Plan Public Meeting
August 31, 2023	OWRAP Documentation and Next Steps
August 31, 2023	OGC Staff
August 31, 2023	AgPDES
September 5, 2023	CLO Audit Committee
September 5, 2023	Directors
September 5, 2023	OBA GALPS
September 5, 2023	OMES Lab contract
September 10, 2023	AEMS Legal
September 11, 2023	NASDA Opening Plenary Session
September 11, 2023	MASDA

September 11, 2023	Food Export Midwest
September 11, 2023	Employee Assistance Program
September 12, 2023	OBA/Attorney General Employment Law
September 12, 2023	AR/Red River Watersheds Workshop: Inland Navigation and Infrastructure
September 13, 2023	FOR/HR/Admin
September 13, 2023	AR/Red River Watersheds Workshop: Structural and Non-Structural Solutions to Flooding
September 14, 2023	AALA webinar Prop 65
September 14, 2023	OMES Lab contract
September 15, 2023	HR/Admin
September 18, 2023	MKD/FS TCS
September 18, 2023	Directors
September 18, 2023	AEMS Legal
September 21, 2023	ODAFF AEMS AgPDES and EPA
September 22, 2023	OMES Lab contract
September 25, 2023	FOR HR issue
September 25, 2023	FOR Urban and Community
September 25, 2023	FSD enforcement
September 25, 2023	AEMS Legal
September 25, 2023	OU Whitten Burrage Negotiations Competition
September 26, 2023	Director's Meeting
September 26, 2023	LOK Lunch and Learn Simple Modern
September 27, 2023	OGC Staff Meeting
September 27, 2023	OU Whitten Burrage Negotiations Competition
September 28, 2023	AR/OK Arkansas River Compact Commission

RULE ACTIVITIES:

<p>Chapter 1. Administrative Operations (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Effective September 14, 2023.</p>
<p>Chapter 2. Fees (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Effective September 14, 2023.</p>
<p>Chapter 10. Agricultural Products (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Effective September 14, 2023.</p>

Chapter 15. Animal Industry (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Effective September 14, 2023.
Chapter 17. Water Quality (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Effective September 14, 2023.
Chapter 20. Forestry (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Notice of Withdrawal submitted to the Governor, Legislature, and Cabinet Secretary and filed with the Office of Administrative Rules on May 9, 2023. Effective September 14, 2023.
Chapter 30. Consumer Protection (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Effective September 14, 2023.
Chapter 37. Food Safety (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Notice of Partial Withdrawal submitted to the Governor, Legislature, and Cabinet Secretary and filed with the Office of Administrative Rules on May 9, 2023. Other rules effective September 14, 2023.
Chapter 40. Market Development (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Effective September 14, 2023.
Chapter 44. AgPDES (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Effective September 14, 2023.
Chapter 50. Aquaculture (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Effective September 14, 2023.
Chapter 55. Commercial Pet Breeders and Animal Shelters (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Effective September 14, 2023.

OPEN RECORDS REQUESTS (26):

AEMS: 8
CPS: 5
AIS: 4
Pet Breeders: 5
Admin/Mkt Dev: 2
Inv. Services: 1
Food Safety: 1

OTHER ACTIVITIES:

Phone calls or emails with the public: 15
Assistance to industry: 2
Assistance to AEMS: 12
Assistance to CPS: 7
Assistance to Wildlife Services: 1
Assistance to Forestry: 22
Assistance to AIS: 7
Assistance to Admin: 5
Assistance to Human Resources: 3
Assistance to Market Development: 12
Assistance to other state agencies: 6
Assistance to federal agencies: 1
Assistance to Food Safety: 14
Assistance to NASS: 0
Assistance to Executive Office: 8
Assistance to Lab: 5
Assistance to Investigative Services: 1
Assistance to Legislature: 0
Assistance to Attorney General: 0
Assistance to Public Information: 2

Respectfully Submitted,



Teena G. Gunter
General Counsel

FOOD SAFETY REPORT SEPTEMBER 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 6,469,759 pounds of poultry – boneless/skinless leg meat & bone in/skin on parts and ground meat. ODAFF inspectors provided USDA shell egg grading on 84,302 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:

- Nine organic crop producers
- One organic livestock producer
- Six organic processors
- Collected two organic samples
- Twelve retail organic inspections
- The organic section had requests for 4,000 certified organic stickers from Oklahoma Certified Organic producers and processors, which display the stickers on all products sold, labeled, or represented as Organic across the United States.
- The organic section had 4 requests for organic crop applications, 1 request for an organic livestock application and 2 requests for organic processing applications.

Produce Safety Section

- Visited 7 farms providing outreach and education to producers and to verify inventory
- Conducted outreach about the Produce Safety Rule at the Women in Agriculture Conference and Oklahoma Local Agriculture Collaborative Western Workshop
- Assisted 6 farms with remote technical assistance
- Visited 28 farmers markets/market hubs providing outreach and education to producers and to collect farm inventory
- Conducted 1 farm inspection
- Completed aggregate data report and financial report to FDA
- Meeting with FDA state liaison
- Sent out an e-mail newsletter about an upcoming hydroponic webinar series
- Regular conference calls with TX, LA, AR, NM, MO, MS

Homemade Food Freedom Act

- Received 24 complaints on Homemade Food Freedom Act businesses
- Sent 9 warning letters
- Meat compliance assisted with 14 complaints
- Taught a Homemade Food Freedom Act class in McAlester with OSU
- Outreach and education at OLAC Western Workshop
- Educated Tulsa Area Beekeepers on the differences between the Honey Sales Act and the Homemade Food Freedom Act

Oklahoma Meat Inspection Services Investigations and Compliance Activities

Planned Compliance Reviews	08
Random Compliance Reviews	202
Person-to-Person Contacts	78
Special Investigations and/or Projects	04
Reports of Apparent Violations	01
Detentions	01
Consumer Complaints	06
Verbal Warnings Issued	11
Letters of Warning Issued	01
Samples Submitted to Lab for Analysis	00
Accident Investigations	01
Administrative Procedures Act (Pending)	01 Enid Packing

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

See details below:

ACCIDENT LOCATION	Meat Product/Livestock	DISPOSITION
M-M 216 N. of Porum, OK	18 pallets fresh Chickens 35825.4 pounds	All product was taken to the landfill

Highlighted Activities:

During the course of Random Reviews and anonymous Consumer Complaints, Compliance and Investigation Services sent out One (1) Letter of Warning for Violations of the Oklahoma Meat Inspection Act and/or State Statutes.

Leave taken in September:

Ron Hall- 8 hours Brad Klaassen- 56 hours Wayne Mactolff- 8 hours

MEAT INSPECTION

Number of Cattle	1,218
Total Beef Condemned	19,130 lbs
Beef Heads & Livers	Avg. H wt 20, Avg. L wt 10
Number of Swine	143
Total Pork Condemned	1,364 lbs
Pork Heads & Livers	Avg. H wt 10, Avg. L wt 2 lbs
Number of Sheep and Goats	3,674
Total Condemned	16 lbs
Number of Chickens	825
Number of Rabbits	90
Total Condemnations	0 lbs
Number of Buffalo	20
Total Condemnations	320 lbs
TOTAL MEAT INSPECTED	1,287,200 lbs

PROCESSED MEAT INSPECTED

Processed Red Meat	1,093,711 lbs
Condemned on Reinspection	0 lbs
Poultry (Portions)	549,090 lbs
Condemned on Reinspection	0 lbs
Rabbit Meat	0
Condemned on Reinspection	0 lbs
Exotic Deer Meat	0
Condemned on Reinspection	0 lbs
TOTAL PROCESSED MEAT INSPECTED	1,642,801 lbs

AVG. CARCASS WT.

Beef 700 lbs., pork 250, sheep goat 100

AVG. BEEF HEAD / LIVER

Head 20 lbs. / Liver 10 lbs

AVG. SWINE HEAD / LIVER

Head 10 lbs. / Liver 2 lbs.

AVG. LAMB/GOAT HEAD

Head 2 lbs.

Meat Sample activity:

68 Samples Submitted for Analysis

4 (Heat) Samples Not Analyzed

64 Samples Analyzed

0 Samples Non-Compliant

64 Samples Negative Analysis

- Opened One-Sixty Processing in Shawnee (State Inspected)
- Jerry Blankenship was interviewed and hired for the Southeast area

DAIRY SECTION

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

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

Dairy Services staff recently completed a rating survey for Dairy Farmers of America and Central Equity. The surveys resulted in passing scores for sanitation and enforcement compliance. These passing scores are listed on FDA's Interstate Milk Shippers List website and allows for the interstate shipment of milk produced by Oklahoma dairy farmers.

Dairy Services staff continues to sample Swans Bros raw milk for *Campylobacter* and *Listeria*. Samples collected by ODAFF have all been negative.

Scott Fisher and Jayson Jones recently attended a Milk Pasteurization Equipment & Controls course presented by FDA in Arlington, Tx. This course provided training for pasteurization systems and highlighted essential controls to protect public health.

. Sincerely,

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

Scott Yates
Director of Food Safety

Communications

Compiled 10/6/23

Social Media Highlights

3rd Annual AgHERCulture Conference – Aug. 25-26 | 70 college women and 105 high school girls across the state gathered in OKC for the 3rd annual AgHERCulture Conference.

The 2-day event (divided between college and high school) provided an opportunity for the young women to develop connections that will help them become future agriculture professionals.



ODAFF Welcomes Dr. Lusk – Aug. 28 | ODAFF hosted Dr. Jayson Lusk, who's bringing a unique perspective and passion to his new position as the VP and Dean of OSU Agriculture.

Dr. Lusk and his staff at OSU are essential to the success of the Oklahoma agriculture industry. ODAFF looks forward to working with Dr. Lusk and are excited to see how his vision helps further Oklahoma agriculture.

ODAFF Send-Offs – Aug. 28 | It was a day of celebration at ODAFF as we recognized three team members for their exceptional service. Microbiologist Pete Bourns retired after 37 years at ODAFF (Pete and his wonderful shirt pictured).

Sherri Shadrick from AEMS also received a retirement party, and Danny Hodges received the ODAFF Award of Excellence for his service to the AEMS team. Congratulations to all!



Sec. Arthur Elected NASDA President – Sep. 13 | Sec. Arthur was elected President of NASDA at the conclusion of the 2023 NASDA Annual Meeting in Cheyenne, Wyo.

Arthur's term will last one year and conclude when Oklahoma hosts the 2024 NASDA Annual Meeting Sept. 22-25, 2024.

Social Media Impact

Facebook

21,792 followers (up 81 followers since last period)

Since August 31, 2023:

- Posts and content reached 29,719 users (up 16% from last period)
- 21,359 Page Likes (up 74 from last period)

Instagram

3,316 followers

Since July August 31, 2023:

- Posts and content reached 1,728 users (down 37%)
- 87 new Instagram users have followed the account

News & Notes

ODAFF Market Development Team Works Two State Fairs / From Sep. 12-22 the ODAFF Market Development team helped with the Made in Oklahoma store at the Oklahoma State Fair. Then, after a short break, the team made their way out east for the Tulsa State Fair from Sep. 28-Oct. 8 where they helped with the MIO Café.

Tree Seedling Sale / More than 30 varieties of tree seedlings native to Oklahoma went on sale October 2.

The annual sale of seedlings intended for conservation planting is highly anticipated and many of the more popular varieties sometimes sell out quickly.

Sec. Arthur to Receive Honorary American FFA Degree / Sec. Arthur will receive an Honorary American FFA Degree at the 96th National FFA Organization Convention & Expo in Indianapolis.

The event is set for November 3.

OCTOBER 19, 2023, BOARD MEETING

PURCHASES/CONTRACTS

ADMINISTRATIVE SERVICES

FY23 Petroleum Traders (Bulk Fuel) - (Overage – increase contract amount to \$71,417.17)

Due to rising fuel costs the agency request an increase of \$5,417.17 to complete FY2023 Bulk Fuel purchases. Forestry Services has several remote office locations with heavy firefighting equipment. Providing bulk fuel allows for these locations to fuel it firefighting equipment and remain in a ready status when dispatched. Without this purchase this could greatly reduce agency response times, thus putting the public and property at greater risk.

FY24 - \$18,900 – The purchase of twenty-seven (27) Dell 24" Video conferencing monitors and forty-two (42) Dell 24" monitors. These monitors will replace outdated devices within Forestry Services and Consumer Protections Services.

ANIMAL INDUSTRY

Grant from Homeland Security for \$80,000 – to assist in purchasing a new version of our USA Herds animal disease traceability software.

CONSUMER PROTECTION SERVICES

FY2024 Ideagen Software for Licensing, Registration, Tonnage and Data Analysis -- \$261,400.00

CPS would like to request approval of \$261,400.00 to purchase software for licensing, registration, tonnage and analytics from Ideagen (MI Corp). This is the same company we currently use for CPS' inspections and this request is to purchase the software to begin the process of moving our licensing, tonnage, and registration programs to their system. Additionally, the analytics program will provide us with the ability to produce reports and to establish a dashboard for all program managers and supervisors that need them.

Without this tool we will have greater difficulty meeting reporting requirements both federal and state and will have less tools to manage programs which could increase the amount of time needed to accomplish job associated tasks. Additionally, the legacy licensing, registration and tonnage system needs to be moved to an updated system this will improve ongoing maintenance issues and provide us with more institutional control over the program.

FORESTRY SERVICES

FY24- \$24,000

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

Oklahoma customers.

FY24- \$30,000

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

FY24- \$6,000

Pix4D is an essential program to fully utilize the capabilities of Oklahoma Forestry Services' UAV as well as its associated sensors. This program allows processing of the data captured by UAV for it to be analyzed and displayed to all parties. This will aid in OFS's program areas including response to wildfires, forest health threats, and forest management practices.

FY24 - \$200,000

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

FY24: UTV Trailers - \$23,540 (SFA Response, SICF)

Purchase three (3) UTV trailers to haul firefighting UTV's. Trailers will be 14-16 ft. tandem axle with heavy-duty axles to accommodate hauling of UTV loaded with skid unit and water as well as additional equipment and supplies related to fire management activities. Funding for this purchase will come from the FY22 US Forest Service, State Fire Assistance – SICF Grant. 100% of this purchase will be reimbursed.

FY24: Class 8 Tractor - \$204,600 (SFA – Forest Action Plan)

Purchase of one (1) Class 8 Truck Tractor. This tractor will be used to carry a John Deere 650P firefighting bulldozer. This is a mission critical piece of equipment that will respond to wildfires and all-hazard situations throughout the entire state. The transports will be replacing trucks that are undersized, has excessive mileage and require costly repairs. Funding for this purchase will come from the FY22 US Forest Service, State Fire Assistance – Forest Action Plan Grant. 100% of this purchase will be reimbursed.

FY24: Firefighting Bulldozers - \$1,163,932 (State appropriated – Wildland Response Resources)

Purchase four (4) 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. Funding for this purchase comes from the Oklahoma Legislative Session, FY24 appropriations.

FY24: Type 6 Engines - \$536,068 ((State appropriated – Wildland Response Resources)

Purchase six (6) Type 6 wildland firefighting engines. These engines will include the cab/chassis, slip-on firefighting unit, toolboxes, emergency lighting, mobile radios and

miscellaneous firefighting supplies. These engines will be used primarily for fire suppression response on a statewide level but will also support national response if requested. These engines will be replacing aging/high mileage engines approaching twelve years being in service. Funding for this purchase comes from the Oklahoma Legislative Session, FY24 appropriations.

FY24: UTV w/skid unit - \$71,425 (SFA Response, SICF)

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 in support of fire management activities. These UTVs will be configured with windshields, canopies and seatbelts allowing safe and efficient transport of fireline personnel. Funding for this purchase will come from the FY22 US Forest Service, State Fire Assistance – SICF Grant. 100% of this purchase will be reimbursed.

FY24: Pickups - \$120,000 (SFA Response and VFA, SIVF)

Purchase one (1) ¾-Ton pickup and one (1) 1-Ton pickup. The ¾-Ton will include emergency lighting, toolboxes, mobile radios, 4-wheel drive, brush guards and other features needed for off-road work. This truck will be used to support of our fire management program including wildfire suppression, fuels mitigation and emergency response. The 1-Ton will include a toolbox, mobile radio, 4-wheel drive and brush guard for cross country and off-road work. This truck will be used in support of the Firefighter Property Program (FFP) both for picking up and dropping off surplus property. Funding for these purchases will come from the FY23 US Forest Service, State Fire Assistance – Response Grant and the FY22 US Forest Service, Volunteer Fire Assistance – SIVF Grant. 100% of this purchase will be reimbursed.

FY24: Dovetail beds - \$208,000 (SFA Response and SFA Forest Action Plan)

Purchase four (4) custom dovetail beds that will be permanently mounted to Class 8 truck tractors for the purpose of hauling firefighting bulldozers. Beds will include headache rack, emergency lighting, blade rest, toolboxes, and hydraulic ramps. These specialized beds will allow OFS to safely secure and transport bulldozers responding to wildfires and all-hazard situations. Funding for these purchases will come from the FY23 US Forest Service, State Fire Assistance – Response Grant and the FY22 US Forest Service, State Fire Assistance – Forest Action Plan Grant. 100% of this purchase will be reimbursed.

FY24: Laptops - \$19,250 (SFA Response and CWDG)

Purchase five (5) laptop computers that will be used for supporting various Fire Management Programs including fire suppression, prescribed burning, dispatching, hazardous fuels mitigation and grant programs. These machines will be replacing outdated models and equipping newly hired personnel. Funding for this purchase will come from the FY22 US Forest Service, State Fire Assistance – Response Grant and the FY22 US Forest Service, Community Wildfire Defense Grant. 100% of this purchase will be reimbursed.

FY24: Lowboy trailers - \$110,000 (SFA Response)

Purchase two (2) heavy duty, 25-ton lowboy trailers. These trailers will have full-width upper deck, tool tray, lashing rings, hardwood floor and spring assisted ramps. These will be used to haul heavy equipment such as [bulldozers](#), skid steer w/attachments and other resources in

support of fire management activities statewide. Funding for this purchase will come from the FY23 US Forest Service, State Fire Assistance – Response Grant. 100% of this purchase will be reimbursed.

FY24: Radios - \$215,265 (SFA Response, SICF)

Purchase twenty-two (22) BKR 5000 handheld radios and sixty-two (62) KNG M150 mobile radios. These radios will be replacing handhelds and mobiles that are no longer being manufactured or supported by the vendor. The radios will be used by our Fire Management program to support wildfire/emergency response, fuels mitigation projects and communication with federal, state and local cooperators. These radios will be P25 compliant and purchased from the NASPO contract. Funding for this purchase will come from the FY23 US Forest Service, State Fire Assistance – SICF Grant. 100% of this purchase will be reimbursed.

LABORATORY SERVICES

FY24 - \$95,000.00 - Near InfraRed Scanner Analyzer

Purchase of a Near InfraRed Scanner to assess animal feeds for crude protein, fat and fiber to be used for quick and non-destructive assessment of samples using less consumables to be used in the General Chemistry Section. (To be purchased by Consumer Protection Services).

Justification: If purchased this unit would be utilized for approximately 95% of incoming feed samples which would reduce the need for consumables.

FY24 - \$15,000.00 - 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 ensure the overall quality of the data being reported. (To be purchased by Consumer Protection Services).

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.

MARKET DEVELOPMENT

FY 2023 – USDA has provided a Specialty Crop Block Grant to ODAFF with the objective to solely enhance the competitiveness of specialty crops. ODAFF is one of four grant partners included in this award. Effective: 9/30/23 - 9/29/26 - \$545,237.77.

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

FY24 – Ag in the Classroom Flat Aggie & Flat Annie – illustrator and graphic design - \$65,000.00

Justification: Aggie and Annie will come to life through a picture book and experience life through many interesting adventures, while being surrounded by accurate agriculture. In the

education setting, this project will be embedded with writing, reading, math and literature. Students will learn how to write a letter and format an email, all with a focus of agriculture. Students will be able to listen to the story of Flat Aggie and Flat Annie, create their own Flat Aggie or Flat Aggie, take pictures of adventures around agriculture, and share those experiences with other students nationwide. This project will ignite curiosity and stimulate creativity, while meeting the academic standards for reading, writing, math and literature in Oklahoma. This project will focus on providing educational materials for teachers of school age students, homeschool students, and groups in Oklahoma and has the potential to reach students across the United States with the support of NASDA, starting with a kickoff date at Ag Day 2024 at the Oklahoma Capitol.

If this proposed expense is not approved and therefore the project is not completed, the potential for students to continue to have misconceptions of real-life agriculture experiences around Oklahoma would continue.

FY2024 – Ag in the Classroom bilingual books - project funded entirely by the Specialty Crop Block Grant - \$10,000.00

WILDLIFE SERVICES

\$29,040 – ODAFF Wildlife Services is requesting approval for the cooperative agreement with the Southeast Landfill regarding the control and removal of nuisance birds defecating on and damaging property. As well as, reducing the threat of bird/aircraft interactions at Tinker AFB.

\$110,500 - ODAFF Wildlife Services is requesting approval to purchase two 4x4 trucks. These are replacements to the fleet of vehicles that have high mileage and will used for field staff in completing their duties. Not approving will result in excessive vehicle repairs.

**OCTOBER TRAVEL 2023
BOARD MEETING**

OUT OF STATE TRAVEL

ESTIMATED COST

Laboratory Services Division

William Krivanek – 10/22/23 - 11/04/23
National Institute of Standards and Technology
Gaithersburg, MD

\$5557.50

Required training for Mass Metrology Seminar, which the Bureau needs to continue Mass Echelon III calibrations and to obtain reinstatement of accreditation. (Pre-approval request attached).

Termelia Hogg – 10/22/23 - 11/04/23
National Institute of Standards and Technology
Gaithersburg, MD

\$6457.50

Required training for Mass Metrology Seminar, which the Bureau needs to continue Mass Echelon III calibrations and to obtain reinstatement of accreditation. (Pre-approval request attached).

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

APPROVAL OF CASES

ON THIS 17th day of October 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 17th day of October 2023.

Blayne Arthur
President
State Board of Agriculture

Exhibit A
Board of Agriculture
October 17, 2023

Cases Resolved by Stipulation

Agricultural Environmental Management Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Travis Clem	OGC-23-498	AEMS	\$100.00
Timothy Hammons	OGC-23-422	AEMS	\$100.00
Kerry Hollie	OGC-23-287	AEMS	\$100.00
Lee Kue	OGC-23-524	AEMS	\$100.00
Gary & Vickie Mead	OGC-23-472	AEMS	\$100.00
Xohnhia Moua	OGC-23-212	AEMS	\$115.00
Tong Nguyen	OGC-23-870	AEMS	\$200.00
Van Peng	OGC-23-880	AEMS	\$200.00
Hong An Phan	OGC-23-338	AEMS	\$200.00
Nick Thomas	OGC-23-550	AEMS	\$100.00
Duc and Quang Tran	OGC-23-389	AEMS	\$300.00
Tommy Tran	OGC-23-384	AEMS	\$200.00
Van Vu	OGC-23-421	AEMS	\$100.00
Doua & Fang Yang	OGC-23-456	AEMS	\$600.00

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Family Dollar	OGC-23-774	CPS	\$1,350.00
Erik Pinon	OGC-23-092	CPS	\$4,000.00

Consideration and Proposed Action on Final Order:

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Terminix	OGC-21-107	CPS	\$500.00

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. TRAVIS CLEM

Case File No. OGC-23-498

Travis Clem
23858 Brazil Creek Loop
Shady Point, OK 74956

Summary of Facts: Respondent failed to timely submit their annual Poultry Waste Applicator annual report.

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

Proposed Administrative Penalty: The penalty was assessed at \$100. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

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.

TRAVIS CLEM
23858 BRAZIL CREEK LOOP
SHADY POINT, OK 74956

RESPONDENT.

Case No: OGC-23-498

FILED
SEP 27 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollars (\$100.00) 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: 9/20/23

**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-23-498

**TRAVIS CLEM)
23858 BRAZIL CREEK LOOP)
SHADY POINT, OK 74956)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. January 11, 2024**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, § 31 and Okla. Stat. Tit. 2 § 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 being a Poultry Waste Applicator in Oklahoma.

16. Pursuant to the Oklahoma Poultry Waste Applicators Certification Act, Okla. Stat. Tit. 2 § 10-9.20, ODAFF has authority to regulate persons who are poultry waste applicators.

17. The Act at Okla. Stat. Tit. 2 § 10-9.18(A) states: *“Every certified poultry waste applicator shall file by September 1 of each year an annual report with the Oklahoma Department of Agriculture, Food, and Forestry regarding all poultry waste land-applied by such applicator for the period from July 1 of the previous year through June 30 of that year.”*

ALLEGATIONS OF FACT

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

19. On or about March 17, 2023, the Agricultural Environmental Management Services (“AEMS”) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Waste Applicator (“PWA”) annual report.

20. Annual Reports are due each year by September 1.

21. The Warning was accompanied by a blank annual report for Respondent to submit along with a deadline of April 14, 2023.

22. Respondent failed to submit their PWA annual report for 2022.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.18(A) by failing to submit their Annual Reports.

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

PRAYER FOR RELIEF

29. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 2-18(A). In this case we are seeking a One Hundred Dollar (\$100.00) administrative penalty, submission of the missing reports and submission of the poultry waste applicator certificate renewal.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

30. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 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 Okla. Stat. Tit. 2 § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, Okla. Stat. Tit. 12 § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Hundred Dollars (\$100.00).

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 submit your missing report and 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 24 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
Brady Robison, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

Requested, as follows:

TRAVIS CLEM
23858 BRAZIL CREEK LOOP
SHADY POINT, OK 74956

GINA BLAYLOCK

**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 DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. TIMOTHY HAMMONS

Case File No. OGC-23-422

Timothy Hammons
5983 N. 595 Rd.
Proctor, OK 74457

Summary of Facts: Respondent failed to timely submit their annual Poultry Feeding Operation annual report.

Statute or Rule Violation: 2 O.S. § 10-9.7(J)

Proposed Administrative Penalty: The penalty was assessed at \$100. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

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.

TIMOTHY HAMMONS
5983 N. 595 RD.
PROCTOR, OK 74457

RESPONDENT.

Case No: OGC-23-422

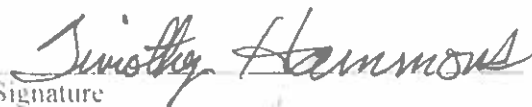
FILED
SEP 27 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollar (\$100.00) 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: 9-20-2023

**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.

**TIMOTHY HAMMONS
5983 N. 595 RD.
PROCTOR, OK 74457**

RESPONDENT.

Case No: OGC-23-422

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. December 14, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning or operating a Poultry Feeding Operation in Oklahoma.

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.3(A)(1) states: “*It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture.*”

18. That Act at Okla. Stat. Tit. 2 § 10-9.4(A) states: “*Every poultry feeding operation shall be required to register annually to operate pursuant to the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.*”

19. The Act at Okla. Stat. Tit. 2 § 10-9.8 states: “*Every application shall be accompanied by an annual registration fee of Ten Dollars (\$10.00), which is nonrefundable.*”

20. The Act at Okla. Stat. Tit. 2 § 10-9.7(J) states: “*Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year.*”

21. The Act at Okla. Stat. Tit. 2 § 10-9.7(C) states: *“Every poultry feeding operation shall have a Nutrient Management Plan . . .”* & (E)(1) *“Except as otherwise provided in this subsection, a Nutrient Management Plan for every poultry feeding operation shall be renewed and an updated plan shall be submitted to the Oklahoma Department of Agriculture, Food, and Forestry every six (6) years from the date the initial or previous plan was submitted.”*

ALLEGATIONS OF FACT

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

23. On or about March 15, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation Annual Litter Reports.

24. Annual Litter Reports are due each year by September 1.

25. The Warning was accompanied by a blank annual report for Respondent to submit along with the deadline of April 14, 2023.

26. Respondent failed to submit their annual report for 2022.

ALLEGED CONCLUSIONS OF LAW

27. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.7(J) by failing to submit their Annual Reports.

ATTORNEY CONFERENCES

28. 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.

29. 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.

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

ENFORCEMENT PROCEEDINGS

31. 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.

32. Pursuant to Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

33. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a One Hundred Dollar (\$100.00) administrative penalty and submission of the missing report.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

34. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 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 Okla. Stat. Tit. 2 § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, Okla. Stat. Tit. 12 § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Hundred Dollars (\$100.00).

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 submit your missing reports and 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 21 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
Brady Robison, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

Requested, as follows:

TIMOTHY HAMMONS
5983 N. 595 RD.
PROCTOR, OK 74457

GINA BLAYLOCK

**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 DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. KERRY HOLLIE

Case File No. OGC-23-287

**Kerry Hollie
PO Box 353
Bokoshe, OK 74930**

Summary of Facts: Respondent failed to timely submit their annual Poultry Feeding Operation annual report.

Statute or Rule Violation: 2 O.S. § 10-9.7(J)

Proposed Administrative Penalty: The penalty was assessed at \$100. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

SEP 25 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

Case No: OGC-23-287

KERRY HOLLIE
PO BOX 353
BOKOSHE, OK 74930

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollar (\$100.00) 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:

Kerry Hollie
Signature

Kerry Hollie Owner
Printed Name and Title

Date: 9-20-23

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

Case No: OGC-23-287

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning or operating a Poultry Feeding Operation in Oklahoma.

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.3(A)(1) states: “*It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture.*”

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21. The Act at Okla. Stat. Tit. 2 § 10-9.7(C) states: *“Every poultry feeding operation shall have a Nutrient Management Plan . . .”* & (E)(1) *“Except as otherwise provided in this subsection, a Nutrient Management Plan for every poultry feeding operation shall be renewed and an updated plan shall be submitted to the Oklahoma Department of Agriculture, Food, and Forestry every six (6) years from the date the initial or previous plan was submitted.”*

ALLEGATIONS OF FACT

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

23. On or about March 15, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation Annual Litter Reports.

24. Annual Litter Reports are due each year by September 1.

25. The Warning was accompanied by a blank annual report for Respondent to submit along with the deadline of April 14, 2023.

26. Respondent failed to submit their annual report for 2022.

ALLEGED CONCLUSIONS OF LAW

27. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.7(J) by failing to submit their Annual Reports.

ATTORNEY CONFERENCES

28. 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.

29. 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.

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

ENFORCEMENT PROCEEDINGS

31. 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.

32. Pursuant to Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

33. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a One Hundred Dollar (\$100.00) administrative penalty and submission of the missing report.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

34. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 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 Okla. Stat. Tit. 2 § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, Okla. Stat. Tit. 12 § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Hundred Dollars (\$100.00).

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 submit your missing reports and 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 17 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
Brady Robison, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

Requested, as follows:

KERRY HOLLIE
PO BOX 353
BOKOSHE, OK 74930

GINA BLAYLOCK

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

 \mathbf{y}_i

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 DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. LEE KUE

Case File No. OGC-23-524

**Lee Kue
2217 E. 580 Rd.
Rose, OK 74364**

Summary of Facts: Respondent failed to timely submit their Poultry Waste Applicator annual report.

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

Proposed Administrative Penalty: The penalty was assessed at \$100. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

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.

LEE KUE
2217 E. 580 RD.
ROSE, OK 74364

RESPONDENT.

Case No: OGC-23-524

FILED
AUG 30 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One ~~Hundred~~ Dollars (\$100.00) 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

Lee Kue
Printed Name and Title:

Date: 8-25-23

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

v.

RESPONDENT.

NOTICE OF VIOLATION

PREHEARING CONFERENCE NOTICE

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning or operating a Poultry Feeding Operation as well as being a Poultry Waste Applicator in Oklahoma.

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.3(A)(1) states: “*It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture.*”

18. That Act at Okla. Stat. Tit. 2 § 10-9.4(A) states: “*Every poultry feeding operation shall be required to register annually to operate pursuant to the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.*”

19. The Act at Okla. Stat. Tit. 2 § 10-9.8 states: “*Every application shall be accompanied by an annual registration fee of Ten Dollars (\$10.00), which is nonrefundable.*”

20. The Act at Okla. Stat. Tit. 2 § 10-9.7(J) states: “*Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year.*”

21. The Act at Okla. Stat. Tit. 2 § 10-9.7(C) states: *“Every poultry feeding operation shall have a Nutrient Management Plan . . .”* & (E)(1) *“Except as otherwise provided in this subsection, a Nutrient Management Plan for every poultry feeding operation shall be renewed and an updated plan shall be submitted to the Oklahoma Department of Agriculture, Food, and Forestry every six (6) years from the date the initial or previous plan was submitted.”*

22. The Act at Okla. Stat. Tit. 2 § 10-9.18(A) states: *“Every certified poultry waste applicator shall file by September 1 of each year an annual report with the Oklahoma Department of Agriculture, Food, and Forestry regarding all poultry waste land-applied by such applicator for the period from July 1 of the previous year through June 30 of that year.”*

ALLEGATIONS OF FACT

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

24. On or about March 17, 2023, the Agricultural Environmental Management Services (“AEMS”) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Waste Applicator (“PWA”) annual report.

25. Annual Reports are due each year by September 1.

26. The Warning was accompanied by a blank annual report for Respondent to submit along with a deadline of April 14, 2023.

27. Respondent failed to submit their PWA annual report for 2022.

ALLEGED CONCLUSIONS OF LAW

28. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.18(A) by failing to submit their Annual Reports.

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 Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

34. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a One Hundred Dollar (\$100.00) administrative penalty and submission of the missing reports.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

35. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

39. 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

40. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Hundred Dollars (\$100.00).

41. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may submit your missing report and 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 22 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
Brady Robison, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

Requested, as follows:

LEE KUE
2217 E. 580 RD.
ROSE, OK 74364

GINA BLAYLOCK

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

V.

RESPONDENT.

Case No: OGC-23-524

Page 9 of 9

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. GARY & VICKIE MEAD

Case File No. OGC-23-472

**Gary & Vickie Mead
18229 Hodgen Rd.
Heavener, OK 74937**

Summary of Facts: Respondent failed to timely submit their annual Poultry Feeding Operation annual report.

Statute or Rule Violation: 2 O.S. § 10-9.7(J)

Proposed Administrative Penalty: The penalty was assessed at \$100. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

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.

GARY & VICKIE MEAD
18229 HODGEN RD
HEAVENER OK 74937

RESPONDENT.

Case No: OGC-23-472

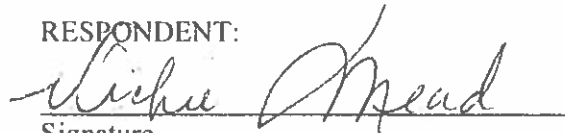
FILED
AUG 18 2023
STATE BOARD OF AGRICULTURE


STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollars (\$100.00) 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: 8-9-2023



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

 γ

RESPONDENT.

Case No: OGC-23-472

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.3(A)(1) states: *"It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture."*

18. That Act at Okla. Stat. Tit. 2 § 10-9.4(A) states: *"Every poultry feeding operation shall be required to register annually to operate pursuant to the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto."*

19. The Act at Okla. Stat. Tit. 2 § 10-9.8 states: *"Every application shall be accompanied by an annual registration fee of Ten Dollars (\$10.00), which is nonrefundable."*

20. The Act at Okla. Stat. Tit. 2 § 10-9.7(J) states: *"Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year."*

ALLEGATIONS OF FACT

21. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.
22. On or about March 8, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation annual registration.
23. Each annual application is accompanied by an annual nonrefundable registration fee of Ten Dollars (\$10.00).
24. Respondent failed to submit their annual registration for 2023.
25. Respondent responded to their Letter of Warning and submitted payment.
26. On or about March 15, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation annual report.
27. The Warning was accompanied by a blank annual report for Respondent to submit along with the deadline of April 14, 2023.
28. Respondent failed to timely submit their annual report for 2022.
29. Respondent failed to timely respond to their Letter of Warning by April 14, 2023.
30. To this date, Respondent has not submitted their report.

ALLEGED CONCLUSIONS OF LAW

31. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.3(A)(1), Okla. Stat. Tit. 2 § 10-9.4(A), and Okla. Stat. Tit. 2 § 10-9.8 by failing to submit their Annual Registration. Also based upon the application of the

aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.7(J) by failing to submit their Annual Report.

ATTORNEY CONFERENCES

32. 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.

33. 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.

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

ENFORCEMENT PROCEEDINGS

35. 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.

1. Pursuant to Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

2. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a One Hundred Dollar (\$100.00) administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

3. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

7. 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

8. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Hundred Dollars (\$100.00).

9. 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 28 day of July, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571
Brady Robison, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

GARY & VICKIE MEAD
18229 HODGEN RD
HEAVENER OK 74937

GINA BLAYLOCK

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. XOHNHIA MOUA

Case File No. OGC-23-212

**Xohnhia Moua
Rt. 1 Box 155
Westville, OK 74965**

Summary of Facts: Respondent failed to timely submit their annual Poultry Waste Applicator certification renewal.

Statute or Rule Violation: 2 O.S. § 10-9.17(E)(2)

Proposed Administrative Penalty: The penalty was assessed at \$115. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
SEP 06 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

XOHNHIA MOUA
RT 1 BOX 155
WESTVILLE, OK 74965

RESPONDENT.

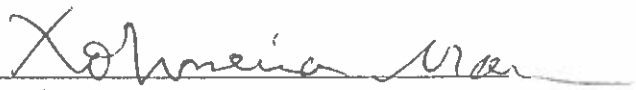
Case No: OGC-23-212


STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Fifteen Dollar (\$115.00) 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: 8-29-2023

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

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

COMPLAINANT,

v.

**XOHNHIA MOUA
RT 1 BOX 155
WESTVILLE, OK 74965**

RESPONDENT.

Case No: OGC-23-212

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

16. Pursuant to the Poultry Waste Applicators Certification Act ("The Act"), Okla. Stat. Tit. 2 § 10-9.20, ODAFF has authority to regulate persons who are poultry waste applicators.

17. The Act at Okla. Stat. Tit. 2 § 10-9.17(E)(1) states: "*All commercial applicator certificates shall expire on the thirty-first day of December following their issuance or renewal, and may be renewed for the ensuing calendar year, without penalty, if a properly completed application is filed with the Board not later than the first day of January of each year. A registration fee of Fifteen Dollars (\$15.00) shall accompany every initial application for certification. A renewal fee of Fifteen Dollars (\$15.00) shall accompany every renewal application.*"

18. That Act at Okla. Stat. Tit. 2 § 10-9.17(E)(2) states: "*All commercial applicator certificates shall expire on the thirty-first day of December following their issuance or renewal, and may be renewed for the ensuing calendar year, without penalty, if a properly completed application is filed with the Board not later than the first day of January of each year. A registration fee of Fifteen Dollars (\$15.00) shall accompany every initial application for certification. A renewal fee of Fifteen Dollars (\$15.00) shall accompany every renewal application.*"

ALLEGATIONS OF FACT

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.
20. On or about March 9, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Waste Applicators Certification.
21. Each certification is accompanied by a nonrefundable renewal fee of Fifteen Dollars (\$15.00).
22. Respondent's certificate expired on December 31, 2022.
23. Respondent failed to submit their certification renewal.

ALLEGED CONCLUSIONS OF LAW

24. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.17(E)(2), Okla. Stat. Tit. 2 § 10-9.4(A) by failing to submit their Poultry Waste Applicator certificate renewal.

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.

PRAYER FOR RELIEF

31. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 2-18(A). In this case we are seeking a One Hundred Fifteen Dollar (\$115.00) administrative penalty and submittal of the renewal if the Respondent plans to continue to engage in Poultry Waste Application.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

32. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 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 Okla. Stat. Tit. 2 § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, Okla. Stat. Tit. 12 § 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 Hundred Fifteen Dollar (\$115.00).

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 submit your certification renewal and 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 17 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
Brady Robison, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

Requested, as follows:

XOHNHIA MOUA
RT 1 BOX 155
WESTVILLE, OK 74965

GINA BLAYLOCK

**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 DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. TONG NGUYEN

Case File No. OGC-23-870

Tong Nguyen
6064 Yosemite Falls Cove
Springdale, AR 72792

Summary of Facts: Respondent failed to timely submit their updated Poultry Feeding Operation Nutrient Management Plan.

Statute or Rule Violation: 2 O.S. § 10-9.7(E)(1)

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

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
OCT 03 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

TONG NGUYEN
6064 YOSEMITE FALLS COVE
SPRINGDALE, AR 72762

RESPONDENT.

Case No: OGC-23-870

STIPULATION

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

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

RESPONDENT:


Signature

TONG NGUYEN, OWNER.
Printed Name and Title:

Date: 09/25/23

**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.

**TONG NGUYEN
6064 YOSEMITE FALLS COVE
SPRINGDALE, AR 72762**

RESPONDENT.

Case No: OGC-23-870

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on January 11, 2024** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning or operating a Poultry Feeding Operation (“PFO”), located in Oklahoma.

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.* (“the Act”), ODAFF has authority to regulate persons who own or operate PFOs.

17. The Act at Okla. Stat. Tit. 2 § 10-9.7(E)(1) states: *“Except as otherwise provided in this subsection, a Nutrient Management Plan for every poultry feeding operation shall be renewed and an updated plan shall be submitted to the Oklahoma Department of Agriculture, Food, and Forestry every six (6) years from the date the initial or previous plan was submitted.”*

ALLEGATIONS OF FACT

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

19. Nutrient Management Plans (“NMP”) for PFOs expire every six (6) years and must be renewed with the updated NMP submitted to the Department.

20. On or about June 7, 2023, the Agricultural Environmental Management Services (“AEMS”) Division of the Department sent Respondent a Letter of Warning regarding their expired NMP.

21. Respondent’s NMP expired June 29, 2022.

22. To this date, Respondent has failed to respond to their Letter of Warning or submit their updated NMP to the Department.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, Respondent violated Okla. Stat. Tit. 2 § 10-9.7(E)(1) by failing to submit their renewed and updated NMP to the Department.

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 Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

29. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a Two Hundred Dollar (\$200.00) administrative penalty and submission of the updated NMP.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

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

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 submit the updated NMP and 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 12 day of September, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA # 33571
Brady Robinson, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

TONG NGUYEN
6064 YOSEMITE FALLS COVE
SPRINGDALE, AR 72762

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.

**TONG NGUYEN
6064 YOSEMITE FALLS COVE
SPRINGDALE, AR 72762**

RESPONDENT.

Case No: OGC-23-870

STIPULATION

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

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

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. VAN PENG

Case File No. OGC-23-880

Van Peng
1705 Conley Rd.
Idabel, OK 74745

Summary of Facts: Respondent failed to timely submit their updated Poultry Feeding Operation Nutrient Management Plan.

Statute or Rule Violation: 2 O.S. § 10-9.7(E)(1)

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

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

RF. **FILED**
SEP 25 2023
STATE BOARD OF AGRICULTURE
C 23 880

RESPONDENT.

Case No: OGC-23-880

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

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

RESPONDENT:

Signature _____

Printed Name and Title:

Date: 9-20-23

**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.

**VAN PENG
1705 CONLEY RD.
IDABEL, OK 74745**

RESPONDENT.

Case No: OGC-23-880

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on February 8, 2024 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning or operating a Poultry Feeding Operation (“PFO”), located in Oklahoma.

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.* (“the Act”), ODAFF has authority to regulate persons who own or operate PFOs.

17. The Act at Okla. Stat. Tit. 2 § 10-9.7(E)(1) states: *“Except as otherwise provided in this subsection, a Nutrient Management Plan for every poultry feeding operation shall be renewed and an updated plan shall be submitted to the Oklahoma Department of Agriculture, Food, and Forestry every six (6) years from the date the initial or previous plan was submitted.”*

ALLEGATIONS OF FACT

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

19. Nutrient Management Plans (“NMP”) for PFOs expire every six (6) years and must be renewed with the updated NMP submitted to the Department.

20. On or about June 27, 2023, the Agricultural Environmental Management Services (“AEMS”) Division of the Department sent Respondent a Letter of Warning regarding their expired NMP.

21. Respondent’s NMP expired July 30, 2021.

22. To this date, Respondent has failed to respond to their Letter of Warning or submit their updated NMP to the Department.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, Respondent violated Okla. Stat. Tit. 2 § 10-9.7(E)(1) by failing to submit their renewed and updated NMP to the Department.

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 Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

29. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a Two Hundred Dollar (\$200.00) administrative penalty and submission of the updated NMP.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

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

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 submit the updated NMP and 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 day of September, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA # 33571
Brady Robinson, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

VAN PENG
1705 CONLEY RD.
IDABEL, OK 74745

Gina Blaylock

**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 DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. HONG AN PHAN

Case File No. OGC-23-338

Hong An Phan
469 Barn Swallow Rd.
Idabel, OK 74745

Summary of Facts: Respondent failed to timely submit their annual Poultry Feeding Operation annual report and Nutrient Management Plan.

Statute or Rule Violation: 2 O.S. § 10-9.7(J) and 2 O.S. § 10-9.7(E)(1)

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

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

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.

HONG AN PHAN
469 BARN SWALLOW ROAD
IDABEL, OK 74745

RESPONDENT.

Case No: OGC-23-338

FILED
SEP 18 2023
STATE BOARD OF AGRICULTURE

STIPULATION

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

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

RESPONDENT:



Signature

NHUT M. TRAN, OWNER
Printed Name and Title:

Date: 9/14/23

**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.)

Case No: OGC-23-338

**HONG AN PHAN)
469 BARN SWALLOW ROAD)
IDABEL, OK 74745)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. January 11, 2024**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning or operating a Poultry Feeding Operation.

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.7(J) states: *“Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year.”*

18. The Act at Okla. Stat. Tit. 2 § 10-9.7(C) states: *“Every poultry feeding operation shall have a Nutrient Management Plan . . .”* & (E)(1) *“Except as otherwise provided in this subsection, a Nutrient Management Plan for every poultry feeding operation shall be renewed and an updated plan shall be submitted to the Oklahoma Department of Agriculture, Food, and Forestry every six (6) years from the date the initial or previous plan was submitted.”*

ALLEGATIONS OF FACT

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

20. On or about March 15, 2023, the Agricultural Environmental Management Services (“AEMS”) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation annual report.
21. Annual Reports are due each year by September 1.
22. The Warning was accompanied by a blank annual report for Respondent to submit along with a deadline of April 14, 2023.
23. Respondent failed to submit their annual report for 2022.
24. On or about June 27, 2023, the AEMS Division of the Department sent Respondent a Letter of Warning regarding the Nutrient Management Plan (“NMP”).
25. NMPs expire every six (6) years and are required to be renewed with an updated NMP submitted to the Department.
26. Respondent’s NMP expired on June 30, 2021.
27. Respondent failed to renew and update their NMP.

ALLEGED CONCLUSIONS OF LAW

28. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.7(J) by failing to submit their Annual Reports. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.7(E)(1) by failing to renew and update their NMP.

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 Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

34. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a Two Hundred Dollar (\$200.00) administrative penalty and submission of the missing reports and updated NMP.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

35. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

39. 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

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

41. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may submit your missing report, updated NMP, and 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 24 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Wendi Morse, OBA #33571*

Brady Robison, OBA #33600

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

HONG AN PHAN
469 BARN SWALLOW ROAD
IDABEL, OK 74745

GINA BLAYLOCK

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

COMPLAINANT,

v.

**HONG AN PHAN
469 BARN SWALLOW ROAD
IDABEL, OK 74745**

RESPONDENT.

V.

RESPONDENT.

Page 9 of 9

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. NICK THOMAS

Case File No. OGC-23-550

**Nick Thomas
20598 NCR 4500
Stigler, OK 74462**

Summary of Facts: Respondent failed to timely submit their annual Poultry Waste Applicator annual report.

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

Proposed Administrative Penalty: The penalty was assessed at \$100. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
SEP 22 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

NICK THOMAS
20598 NCR 4500
STIGLER, OK 74462

RESPONDENT.


Case No: OGC-23-550

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollars (\$100.00) 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

Nick Thomas

Printed Name and Title:

Date: 9-5-23

**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.

**NICK THOMAS
20598 NCR 4500
STIGLER, OK 74462**

RESPONDENT.

Case No: OGC-23-550

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. December 14, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning or operating a Poultry Feeding Operation as well as being a Poultry Waste Applicator in Oklahoma.

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.3(A)(1) states: “*It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture.*”

18. That Act at Okla. Stat. Tit. 2 § 10-9.4(A) states: “*Every poultry feeding operation shall be required to register annually to operate pursuant to the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.*”

19. The Act at Okla. Stat. Tit. 2 § 10-9.8 states: “*Every application shall be accompanied by an annual registration fee of Ten Dollars (\$10.00), which is nonrefundable.*”

20. The Act at Okla. Stat. Tit. 2 § 10-9.7(J) states: “*Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year.*”

21. The Act at Okla. Stat. Tit. 2 § 10-9.7(C) states: *"Every poultry feeding operation shall have a Nutrient Management Plan . . ."* & (E)(1) *"Except as otherwise provided in this subsection, a Nutrient Management Plan for every poultry feeding operation shall be renewed and an updated plan shall be submitted to the Oklahoma Department of Agriculture, Food, and Forestry every six (6) years from the date the initial or previous plan was submitted."*

22. The Act at Okla. Stat. Tit. 2 § 10-9.18(A) states: *"Every certified poultry waste applicator shall file by September 1 of each year an annual report with the Oklahoma Department of Agriculture, Food, and Forestry regarding all poultry waste land-applied by such applicator for the period from July 1 of the previous year through June 30 of that year."*

ALLEGATIONS OF FACT

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

24. On or about March 17, 2023, the Agricultural Environmental Management Services ("AEMS") Division of the Department sent Respondent a Letter of Warning regarding their Poultry Waste Applicator ("PWA") annual report.

25. Annual Reports are due each year by September 1.

26. The Warning was accompanied by a blank annual report for Respondent to submit along with a deadline of April 14, 2023.

27. Respondent failed to submit their PWA annual report for 2022.

ALLEGED CONCLUSIONS OF LAW

28. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.18(A) by failing to submit their Annual Reports.

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 Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

34. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a One Hundred Dollar (\$100.00) administrative penalty and submission of the missing reports.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

35. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

39. 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

40. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Hundred Dollars (\$100.00).

41. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may submit your missing report and 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 22 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
Brady Robison, OBA #33600
Assistant General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

NICK THOMAS
20598 NCR 4500
STIGLER, OK 74462

GINA BLAYLOCK

**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 DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. DUC AND QUANG TRAN

Case File No. OGC-23-389

Duc and Quang Tran
485 Rooster Ln.
Idabel, OK 74745

Summary of Facts: Respondent failed to timely submit their annual Poultry Feeding Operation annual reports for 2020, 2021, and 2022.

Statute or Rule Violation: 2 O.S. § 10-9.7(J)

Proposed Administrative Penalty: The penalty was assessed at \$300. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

FILED
SEP 17 2023
STATE BOARD OF AGRICULTURE
-23-389

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: 9-7-23

**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-23-389

**DUC AND QUANG TRAN)
485 ROOSTER LN)
IDABEL OK 74745)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.3(A)(1) states: *“It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture.”*

18. That Act at Okla. Stat. Tit. 2 § 10-9.4(A) states: *“Every poultry feeding operation shall be required to register annually to operate pursuant to the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.”*

19. The Act at Okla. Stat. Tit. 2 § 10-9.8 states: *“Every application shall be accompanied by an annual registration fee of Ten Dollars (\$10.00), which is nonrefundable.”*

20. The Act at Okla. Stat. Tit. 2 § 10-9.7(J) states: *“Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year.”*

ALLEGATIONS OF FACT

21. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.
22. Annual registrations expire each year on December 31.
23. The fee for annual registrations is Ten Dollars (\$10) per year.
24. On or about February 23, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation annual registration.
25. Respondent failed to submit their annual registration for 2022 and 2023.
26. Respondent responded to the Letter of Warning and paid the fees.
27. On or about March 15, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent Letters of Warning regarding their Poultry Feeding Operation annual reports.
28. Annual reports are due each year by September 1.
29. The Warning was accompanied by a blank annual report for Respondent to submit along with the deadline of April 14, 2023.
30. Respondent failed to submit their annual report for 2020, 2021, and 2022.
31. Respondent failed to respond to their Letter of Warning by April 14, 2023.

ALLEGED CONCLUSIONS OF LAW

32. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.3(A)(1), Okla. Stat. Tit. 2 § 10-9.4(A), and Okla. Stat. Tit. 2 § 10-9.8 by failing to submit their Annual Registration. Again, based upon the application of the

above law to the aforementioned facts, Respondent has also violated Okla. Stat. Tit. 2 § 10-9.7(J) by failing to submit their Annual Reports.

ATTORNEY CONFERENCES

33. 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.

34. 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.

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

ENFORCEMENT PROCEEDINGS

36. 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.

37. Pursuant to Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

38. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a Three Hundred Dollar (\$300.00) administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

39. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

43. 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

44. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Three Hundred Dollars (\$300.00).

45. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may submit your missing reports and 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 28 day of July, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
Brady Robison, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

DUC AND QUANG TRAN
485 ROOSTER LN
IDABEL OK 74745

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.)
)
DUC AND QUANG TRAN)
485 ROOSTER LN)
IDABEL OK 74745)
)
RESPONDENT.)

Case No: OGC-23-389

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 DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. TOMMY TRAN

Case File No. OGC-23-384

**Tommy Tran
3202 Glover Golden Rd.
Broken Bow, OK 74728**

Summary of Facts: Respondent failed to timely submit their annual Poultry Feeding Operation annual reports for 2021 and 2022.

Statute or Rule Violation: 2 O.S. § 10-9.7(J)

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

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
SEP 14 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

TOMMY TRAN
3202 GLOVER GOLDEN RD.
BROKEN BOW, OK 74728

RESPONDENT.

Case No: OGC-23-384

STIPULATION

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

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

RESPONDENT:

Signature

Printed Name and Title:

Date:

**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-23-384

**TOMMY TRAN)
3202 GLOVER GOLDEN RD.)
BROKEN BOW, OK 74728)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. January 11, 2024**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning or operating a Poultry Feeding Operation in Oklahoma.

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.7(J) states: “*Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year.*”

ALLEGATIONS OF FACT

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

19. On or about March 15, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent Letters of Warning regarding their Poultry Feeding Operation Annual Litter Reports.

20. Annual Litter Reports are due each year by September 1.

21. The Warning was accompanied by blank annual reports for Respondent to submit along with the deadline of April 14, 2023.

22. Respondent failed to submit their annual report for 2021 and 2022.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.7(J) by failing to submit their Annual Reports.

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 Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

29. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a Two Hundred Dollar (\$200.00) administrative penalty and submission of the missing reports.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

30. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 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 Okla. Stat. Tit. 2 § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, Okla. Stat. Tit. 12 § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

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

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 submit your missing reports and 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 24 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
Brady Robison, OBA #33600
Assistant General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

TOMMY TRAN
3202 GLOVER GOLDEN RD.
BROKEN BOW, OK 74728

GINA BLAYLOCK

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

V.

RESPONDENT.

STIPULATION

Page 9 of 9

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. VAN VU

Case File No. OGC-23-421

Van Vu
6261 S. 444 Rd.
Locust Grove, OK 74352

Summary of Facts: Respondent failed to timely submit their Poultry Feeding Operation annul report.

Statute or Rule Violation: 2 O.S. § 10-9.7(J)

Proposed Administrative Penalty: The penalty was assessed at \$100. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
SEP 11 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

VAN VU
6261 S. 444 RD.
LOCUST GROVE, OK 74352

RESPONDENT.


Case No: OGC-23-421

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollar (\$100.00) 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

Van Vu Owner
Printed Name and Title:

Date: 8/26/23

**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-23-421

**VAN VU)
6261 S. 444 RD.)
LOCUST GROVE, OK 74352)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. December 14, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning or operating a Poultry Feeding Operation in Oklahoma.

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.3(A)(1) states: *"It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture."*

18. That Act at Okla. Stat. Tit. 2 § 10-9.4(A) states: *"Every poultry feeding operation shall be required to register annually to operate pursuant to the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto."*

19. The Act at Okla. Stat. Tit. 2 § 10-9.8 states: *"Every application shall be accompanied by an annual registration fee of Ten Dollars (\$10.00), which is nonrefundable."*

20. The Act at Okla. Stat. Tit. 2 § 10-9.7(J) states: *"Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year."*

21. The Act at Okla. Stat. Tit. 2 § 10-9.7(C) states: *“Every poultry feeding operation shall have a Nutrient Management Plan . . .”* & (E)(1) *“Except as otherwise provided in this subsection, a Nutrient Management Plan for every poultry feeding operation shall be renewed and an updated plan shall be submitted to the Oklahoma Department of Agriculture, Food, and Forestry every six (6) years from the date the initial or previous plan was submitted.”*

ALLEGATIONS OF FACT

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

23. On or about March 15, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation Annual Litter Reports.

24. Annual Litter Reports are due each year by September 1.

25. The Warning was accompanied by a blank annual report for Respondent to submit along with the deadline of April 14, 2023.

26. Respondent failed to submit their annual report for 2022.

ALLEGED CONCLUSIONS OF LAW

27. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.7(J) by failing to submit their Annual Reports.

ATTORNEY CONFERENCES

28. 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.

29. 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.

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

ENFORCEMENT PROCEEDINGS

31. 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.

32. Pursuant to Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

33. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a One Hundred Dollar (\$100.00) administrative penalty and submission of the missing report.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

34. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 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 Okla. Stat. Tit. 2 § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, Okla. Stat. Tit. 12 § 719 *et seq.*

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of One Hundred Dollars (\$100.00).

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 submit your missing reports and 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 21 day of August, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Wendi Morse, OBA #33571*

Brady Robison, OBA #33600

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

VAN VU
6261 S. 444 RD.
LOCUST GROVE, OK 74352

GINA BLAYLOCK

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

V.

Case No: OGC-23-421

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollar (\$100.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. DOUA AND FANG YANG

Case File No. OGC-23-456

Doua & Fang Yang
20855 County Rd. 502
Colcord, OK 74338

Summary of Facts: Respondent failed to timely submit their Poultry Feeding Operation annual reports for 2020, 2021, and 2022. Respondent also failed to timely submit their Poultry Feeding Operation annual renewal for 2021, 2022 and 2023.

Statute or Rule Violation: 2 O.S. § 10-9.7(J), 2 O.S. § 10-9.4(A), 2 O.S. § 10-9.8

Proposed Administrative Penalty: The penalty was assessed at \$600. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

FILED
SEP 14 2023
STATE BOARD OF AGRICULTURE

Case No: OGC-23-456

**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.

**DOUA & FANG YANG)
20855 COUNTY RD 502)
COLCORD OK 74338)**

RESPONDENT.)

Case No: OGC-23-456

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

16. Pursuant to the Oklahoma Poultry Feeding Operations Act, Okla. Stat. Tit. 2 § 10-9 *et seq.*, ODAFF has authority to regulate persons who are poultry feeding operations.

17. The Act at Okla. Stat. Tit. 2 § 10-9.3(A)(1) states: *“It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture.”*

18. That Act at Okla. Stat. Tit. 2 § 10-9.4(A) states: *“Every poultry feeding operation shall be required to register annually to operate pursuant to the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.”*

19. The Act at Okla. Stat. Tit. 2 § 10-9.8 states: *“Every application shall be accompanied by an annual registration fee of Ten Dollars (\$10.00), which is nonrefundable.”*

20. The Act at Okla. Stat. Tit. 2 § 10-9.7(J) states: *“Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year.”*

ALLEGATIONS OF FACT

21. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.
22. Poultry Feeding Operation registrations are due by December 31 each year.
23. On or about February 23, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation annual registration.
24. The registration fee each year is Ten Dollars (\$10.00).
25. Respondent failed to submit their annual registration for 2021, 2022, and 2023.
26. In response to the Letter of Warning, Respondent submitted payment.
27. On or about March 15, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent Letters of Warning regarding their Poultry Feeding Operation annual reports.
28. Annual reports are due by September 1 each year.
29. The Warning was accompanied by blank annual reports for Respondent to submit along with the deadline of April 14, 2023.
30. Respondent failed to submit their annual report for 2020, 2021, and 2022.

ALLEGED CONCLUSIONS OF LAW

31. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.3(A)(1), Okla. Stat. Tit. 2 § 10-9.4(A), and Okla. Stat. Tit. 2 § 10-9.8 by failing to submit their Annual Registration. Again, based upon the application of the above law to the aforementioned facts, Respondent has also violated Okla. Stat. Tit. 2 § 10-9.7(J) by failing to submit their Annual Reports.

ATTORNEY CONFERENCES

32. 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.

33. 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.

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

ENFORCEMENT PROCEEDINGS

35. 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.

36. Pursuant to Okla. Stat. Tit. 2 § 10-9.11(A)(1), any person violating the provisions of the Act may be punished by a fine not to exceed Two Hundred Dollars (\$200.00) per day of non-compliance.

PRAYER FOR RELIEF

37. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a Six Hundred Dollar (\$600.00) administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

38. The Oklahoma Small Business Regulatory Flexibility Act, Okla. Stat. Tit. 75 § 506, may apply to this action; please review the full act to determine if it applies to you.

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

43. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Six Hundred Dollars (\$600.00).

44. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may submit your missing reports and 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 28 day of July, 2023.

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

Wendi Morse

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Wendi Morse, OBA #33571*
Brady Robison, OBA #33600
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

DOUA & FANG YANG
20855 COUNTY RD 502
COLCORD OK 74338

GINA BLAYLOCK

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

v.

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Six Hundred Dollar (\$600.00) 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-23-774

**FAMILY DOLLAR
30516 HIGHWAY 59
WAYNE OK 73095**

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

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

Proposed Administrative Penalty: The proposed penalty for this case was One Thousand Three Hundred Fifty and 00/100 Dollars (\$1,350.00) (9 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

Other Actions Required: None

OGC Attorney: James W. Rucker

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 #31004
30516 HIGHWAY 59
WAYNE, OK 73095

RESPONDENT.

FILED
AUG 1 2023
STATE BOARD OF AGRICULTURE
STATE BOARD OF AGRICULTURE

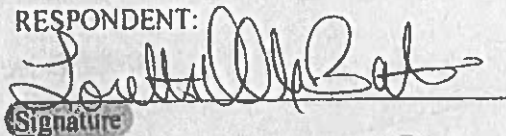
Case No: OGC 23-774

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Three Hundred and Fifty Dollars (\$1,350.00)** 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

Lonetta Olline Bates

Printed Name

District Manager

Job Title

8-2-23

Date

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

v.

RESPONDENT.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 1102 N. 4th in Sayre, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A third violation discovered within any twelve-month period will be assessed a penalty of One Hundred Fifty Dollars (\$150.00) per consumer item which results in an overcharge or potential overcharge.

ALLEGATIONS OF FACT

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

20. On or about November 8, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Sayre, Oklahoma. The inspection revealed that twenty-one (21) of the 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 February 27, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Sayre, Oklahoma. The inspection revealed that ten (10) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

24. On or about June 27, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Sayre, Oklahoma. The inspection revealed that nine (9) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

ALLEGED CONCLUSIONS OF LAW

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

ATTORNEY CONFERENCES

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

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

ENFORCEMENT PROCEEDINGS

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

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

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto,

unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Three Hundred and Fifty Dollars (\$1,350.00). (9 violations at \$150.00 per violation).**

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

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

DATED THIS 25 day of July, 2023.

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

James Rucker, Deputy General Counsel, OBA # 14574
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

**FAMILY DOLLAR
30516 HIGHWAY 59
WAYNE, OK 73095**

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 23-774

**FAMILY DOLLAR)
30516 HIGHWAY 59)
WAYNE, OK 73095)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Three Hundred and Fifty Dollars (\$1,350.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBER 23-JPS-0068

DATE* 6/27/2023

COUNTY McClain

LOCATION*

CORPORATE

AGN NUMBER AGN0147272

AGN NUMBER

Family Dollar

30516 Highway 59

Wayne OK 73095-

MANAGER INSPECTION TYPE Followup Original Insp# 23-JPS-0013

TELEPHONE* (405) 335-0273 Other Store Type ITEM STATUS NON-SALE

TYPE OF STORE FOOD

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
NG Blueberry Cereal Bar 8 Pack	038000357008	\$3.55	\$3.75	(\$0.20)
Silver Falls Strawberry Lemonade	032251676864	\$2.00	\$2.25	(\$0.25)
Hershey Milk chocolate Stand Up Bag	034000018765	\$3.75	\$4.25	(\$0.50)
Pantene Miracle Rescue Shots	080878192489	\$7.15	\$8.20	(\$1.05)
9 Lives Plus Care Dry Cat Food	079100514175	\$4.75	\$5.40	(\$0.65)
Nutrish Dry Dog Beef Brown Rice	071190012326	\$8.15	\$9.20	(\$1.05)
Little Tree Air Freshener New Car	076171320896	\$3.35	\$3.50	(\$0.15)
Air Wick Oil Starter Kit Warmer	062338897332	\$3.50	\$4.35	(\$0.85)
Purex Liquid 150 Fl Oz	024200092009	\$9.70	\$10.25	(\$0.55)

REC'D CPS
2023 JUL -5 A 11:38

Total Number Checked 50 Total Number Of Violation 9 Accuracy 82 % Inspection Result Notice of Violation

REMARKS

WITNESS

INSPECTOR*

James Schoppa

James Schoppa

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. ERIK PINON/TRIPLE V RECYCLING

Case File No. OGC-23-92

**Erik Pinon
Triple V Recycling
614 Donna Dr.
Guymon, OK 73942**

Summary of Facts: Respondent had multiple restricted use pesticide containers stored at his facility; these containers all had concentrate within them. Only licensed restricted use pesticide dealers, or certified applicators and persons under their direct supervision may be in possession of restricted use pesticides. Previous reports of dumping pesticide rinsate had been reported to DEQ. A fire occurred on Sept. 13, 2021, at this storage facility where it was discovered that the labels had been improperly removed which made identifying the chemicals impossible. This action is against statute. The unused portions of pesticides and rinsate, upon disposal, are classified as hazardous waste and must be disposed of in a permitted controlled industrial waste facility. None of this was done. Disposing of pesticide rinsate in a manner inconsistent with the pesticide product label, improper removal of labels from pesticide containers, and handling restricted use pesticides without permit or certification are violations of the Oklahoma Combined Pesticide Law and Rules.

Statute or Rule Violation: 2 O.S. §3-86(A)(4); 2 O.S. §2-18.1(A); O.A.C. 35:30-17-26(A); O.A.C. 35:30-17-90; O.A.C. 335:30-17-3.1

Proposed Administrative Penalty: \$4000; stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,)

v.)

ERIK PINON)
TRIPLE V RECYCLING)
614 DONNA DR.)
GUYMON OK 73942)

RESPONDENT.)

Case No: OGC-23-92

FILED
AUG 18 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Thousand Dollars (\$4000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

[Handwritten signature]
8-16-23

RESPONDENT:

x *[Handwritten signature]*

Signature

x *Erik Pinon*

Printed Name and Title:

Date: 8-9-23

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

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

COMPLAINANT,)

v.)

Case No: OGC-23-92

**ERIK PINON)
TRIPLE V RECYCLING)
614 DONNA DR.)
GUYMON OK 73942)**

RESPONDENT.)

2nd AMENDED NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 10th day of August 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of restricted use pesticide container recycling, located at Guymon, Oklahoma.

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

ALLEGATIONS OF FACT

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

18. On or about the 28th day of April 2021, the Consumer Protective Services Division of the Department conducted a site visit after receiving information from DEQ.

19. During this visit, our inspector noted that you had several containers of restricted use pesticide totes/containers stored on your property.

20. Only licensed restricted use pesticide dealers, or certified applicators or persons under their direct supervision may be in possession of restricted use pesticides.

21. On September 13, 2021 we discovered there had been a fire at your facility and discovered that chemical residues in these totes at that facility were no longer identifiable due to the deliberate and improper removal of the product labels.

22. Finally, the activity of rinsing totes/containers and dumping pesticide rinsate were previously reported by the DEQ. ODAFF defines the dumping of pesticide rinsate as a spill.

23. The unused portions of pesticides and rinsate of pesticides, which upon disposal are classified as hazardous waste and must be disposed or in a permitted controlled industrial waste facility.

24. Disposing of pesticide rinsate in a manner inconsistent with the pesticide product label, improper removal of labels from pesticide containers, and handling restricted use pesticides without a permit are all violations of Oklahoma Statutes and Rules.

ALLEGED CONCLUSIONS OF LAW

25. Based upon the application of the above law to the aforementioned facts, you are in violation of multiple rules and statutes including: 2 O.S. § 3-86(A)(4); 2 O.S. § 2-18.1(A); O.A.C. 35:30-17-26(A); O.A.C. 35:30-17-90 and O.A.C. 35:30-17-3.1 which state:

- **2 O.S. §3-86(A)(4):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”

- **2 O.S. §2-18.1(A):** “A. It shall be unlawful and a violation of the Oklahoma Agricultural Code for any person to cause pollution of any air, land or waters of the state by persons which are subject to the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Environmental Quality Act.”
- **O.A.C. 35:30-17-26(a):** “**Labeling of pesticides** (a) Every container used to dispense (apply) pesticide (except bait boxes used for rodent control) shall be accompanied by a copy of a readable label for the pesticide within the container. The label shall either be attached to the container or be present on or in the vehicle used to transport the container.”
- **O.A.C. 35:30-17-90:** “**“Spill”** means the accidental spilling, leaking, pumping, pouring, emitting, or dumping of controlled industrial waste, recyclable materials, or hazardous materials which when spilled become controlled industrial waste into or on any land or water.”
- **O.A.C. 35:30-17-3.1:** “**Restricted use pesticide dealer permit required** (a) It shall be unlawful for any person to sell, offer for sale, or distribute within this state any restricted use pesticide without first obtaining a pesticide dealer's permit issued by the Board.”

ATTORNEY CONFERENCES

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

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

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

ENFORCEMENT PROCEEDINGS

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

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

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

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

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

PRAYER FOR RELIEF

33. The Department is seeking an administrative penalty as set out in 2 O.S. §2-18(A). In this case we are seeking an amount of Four Thousand Dollars (\$4000.00) and for the Respondent

to either stop the business he is conducting, or gain the proper licensing required to continue with this operation.

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

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

DATED THIS _____ day of _____, 2023.

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

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:

ERIK PINON
614 DONNA DR.
GUYMON OK 73942

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-23-92

**ERIK PINON)
TRIPLE V RECYCLING)
614 DONNA DR.)
GUYMON OK 73942)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Thousand Dollars (\$4000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. TERMINIX

Case File No. OGC-21-107

**TERMINIX
9340 Pole Rd.
Moore, OK 73160**

Summary of Facts: Case from 2021. CPS conducted a complaint investigation at a residence in Midwest City. Inspectors found that there was a baiting system installed at the house, however the system had not been monitored per the terms of the contract with the consumer. Additionally, a spot treatment was performed on this location. Neither of the treatments on this residence were done in accordance with the rules. For example, the brick veneer voids were not drilled and treated where the records indicated they were done; records indicated that bait stations were placed in locations that no bait stations were found. The spot treatments as well as the bait systems were not performed nor monitored per the rules and product label. Both violations of the Rules.

Statute or Rule Violation: O.A.C. 35:30-17-69.2 (B)(3); O.A.C. 35:30-17-75-1(D); O.A.C. 35:30:17-75-2(A); O.A.C. 35:30-17-75-3(A).

Proposed Administrative Penalty: Default from ALJ; \$500

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

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

FILED
JUL 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-21-107

TERMINIX)
9340 POLE RD.)
MOORE, OK 73160)

RESPONDENT.)

PROPOSED FINAL ORDER

NOW on this 13th day of July, 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 13th day of July, 2023, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter delivered by personal service (Exhibit 1), to Terminix, 9340 Pole Rd, Moore, OK 73160 on May 25, 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 2) and Amended Notice of Violation (Exhibit 3), 3rd Amended Notice of Violation (Exhibit 4), and 4th Notice of Violation (Exhibit 5) delivered was attempted by certified mail, but service was unsuccessful.

3. Hearing was set for December 8, 2022, March 9, May 11, and July 13, 2023 at 1:30 pm.

4. On July 13, 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 Hundred (\$500) Dollars** 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 Amended Notice of Violation filed in this matter on May 15, 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 13 DAY OF July, 2023.


HONORABLE RACHEL LAWRENCE MOR
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail, return receipt requested, postage prepaid, on the date of filing to:

**TERMINIX
9340 POLE RD.
MOORE, OK 73160**

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

Gina Blaylock

Exhibit 1

STATE OF OKLAHOMA

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

COMPLAINANT,

OGC-21-107

TERMINIX
POLE RD.
MOORE, OK 73160

RESPONDENT.

CERTIFICATE OF HAND DELIVERY

This is to certify that a true and correct copy of the attached Notice of Violation was
delivered by the undersigned, a law enforcement officer duly appointed by the State Board
of Agriculture, by delivering said document to TERMINIX, a business, at 9340 POLE ROAD,
MOORE, OK 73160 on MAY 20, 2023 in person at the following
location: 9340 POLE RD., MOORE, OK 73160.

delivered: this 20 day of May, 2023

5085-015-20

Respondent Print:

By Print:

Respondent Signature:

By Signature:

Date

23 May 2020

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.)

Case No: OGC-21-107

**TERMINIX)
9340 POLE RD.)
MOORE, OK 73160)**

RESPONDENT.)

4th AMENDED NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

ALLEGATIONS OF FACT

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

18. On or about 15th day of March 2022, the Consumer Protective Services Division of the Department conducted a consumer complaint investigation.

19. It was reported that on February 26, 2020, you placed a residence located at 10121 Isaac Drive, Midwest City, OK under a termite baiting system contract. It was noted that you also performed Termidor HE liquid spot treatment at this location. Records show that this contract was cancelled on January 28, 2021, and the system was not monitored prior to the cancellation of the contract.

20. During this investigation it was also determined that you did not meet the termite spot treatment and termite baiting system minimum standards in the following areas: the brick veneer

voids were not drilled and treated in the location where your records indicate a sub-slab injection treatment was performed; your application records indicate that bait stations were placed around the storage shed in the back lawn of this residence, and our inspectors did not observed any bait stations around the storage shed; additionally, there were several areas around the house where the termite bait stations exceeded the 20 feet maximum spacing that is as required by the Trelona Compressed Termite Bait label.

21. ODAFF requires that termite bait and baiting systems contracts have a term for at least one year. When performing a termite spot treatment, you shall meet all minimum standards for the specific location identified. Termite bait or baiting systems shall be used according to the manufacturer's label. Accurate records are required to be kept on termite bait and baiting systems.

22. This failure to meet termite spot treatment and termite baits and baiting system minimum standards are violations of the Oklahoma Combined Pesticide Law and Rules: O.A.C. 35:30-17-69.2 (b)(3); O.A.C. 35:30-17-75-1 D; O.A.C. 35:30:17-75-2 A; O.A.C. 35:30-17-75-3 A.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you are in violation of multiple rules of the Department. Those rules state:

- **35:30-17-69.2(b)(3):** "The contract shall specifically identify the exact location where the spot treatment is performed and the treatment shall meet all minimum standards for the specific location identified. The identified spot treatment location shall be at least three feet (3') in two (2) or more directions but shall not be equal to the entire structure."

- **O.A.C. 35:30-17-75-1(d):** “A written contract pursuant to 2 O.S. § 3-81(11) and OAC 35:30-17-20 shall be completed prior to a termite bait or termite baiting system application and shall also include the following: (1) A term for at least one year with an option for renewal by the parties. (2) A block for the consumer to initial verifying a consumer information sheet on the termite bait or termite baiting system was provided.”
- **35:30:17-75-2(a):** “In addition to other recordkeeping requirements contained in OAC 35:30-17-21, the applicator shall maintain the following records: (1) Date, time, and location of all monitoring of a termite baiting system, including termite activity in non-baited stations and baited stations; (2) Linear feet of perimeter of a treated structure; (3) Number of monitored or baited ground and above-ground bait stations installed around a structure; (4) Inspection diagram; and (5) Any bait application in or around the termite baiting system stations.”
- **35:30-17-75-3(a):** Termite bait or termite baiting systems shall be used according to the manufacturer's label. (1) Monitoring of termite bait system stations shall be used to detect the presence of subterranean termites. Both baited and non-baited termite baiting system stations shall be monitored according to the manufacturer's label. If the manufacturer's label does not address monitoring of baited and non-baited termite baiting system stations, they shall be monitored no less than once per month during the entire length of the contract. (2) Termite bait system stations shall be placed according to manufacturer's label. Where the manufacturer's label does not address termite baiting system station placement, they shall be placed no more than twenty (20) feet apart around the perimeter of the structure as

practicable. If bait system stations cannot be installed according to the manufacturer's label or at a maximum of twenty (20) feet apart due to concrete or other obstructions, stations may be placed outside of the obstructions so long as the span between structure and station does not exceed twenty (20) feet. If the span between structure and station exceeds twenty (20) feet, an alternate method of treatment shall be utilized for that section of the structure. (3) Any deviation from the manufacturer's label or the twenty (20) feet maximum shall require a disclosure signed by the consumer prior to the termite bait or termite baiting system treatment. The disclosure shall include full identification of areas excluded and specify all reasons for not applying the termite bait or termite baiting system according to the manufacturer's label or the twenty (20) foot maximum and shall include all additional supplemental treatment rendered."

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.

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27. Enforcement proceedings may include but are not limited to:
 - a.) Administrative fines or penalties;

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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.

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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.*

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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*
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Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

**TERMINIX
9340 POLE RD.
MOORE, OK 73160**

Brady Robison

Brady Robison

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

v.

RESPONDENT.

Page 11 of 11