

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

Thursday, June 1, 2023  
10:00 a.m.

4518 Expo Cir E  
Stillwater, OK 74075

1. Call to Order
2. Roll Call
3. Declaration of a Quorum
4. Introduction of Guests
5. Consideration and Proposed Action on Minutes of Regular Board Meeting of April 26, 2023.
6. Consideration and Proposed Action on Division Reports
  - A. Administrative Services – Dan Ridings  
Summary of present financial condition of the agency and monthly activities in the following areas: Finance, Human Resources, Fleet Management, Data Processing and Agriculture Law Enforcement Investigators.
  - B. Laboratory Services – Wade Krivanek  
Summary of analytical activities, customer contacts, and other pertinent information related to laboratory operations.
  - C. Forestry Services – Mark Goeller  
Summary of activities and accomplishments in resource protection and rural fire defense, forest management and regeneration, water quality, urban forestry, forestry education and law enforcement. Includes statistics on wildfires and law enforcement activity and narrative of forestry program highlights for the month.
  - D. Consumer Protection Services – Kenny Naylor  
Addresses stop sale orders on insect and disease infested crops, phytosanitary certificates issued, insect survey summaries, pesticide registration updates, pesticide inspections, seed program and seed laboratory updates, weights and measures reports, scanner inspections, grain warehouses and meetings attended by division personnel.

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

7. Consideration and Proposed Action on Purchases/Contracts
8. Consideration and Proposed Action on Cases Resolved by Stipulations  
**Consumer Protection Services**  
**5 Star Lawn & Landscape, P. O. Box 96221, Oklahoma City, Oklahoma**  
**7-Eleven, 9001 S. May, Oklahoma City, Oklahoma**  
**7-Eleven, 1201 12th Avenue N. E., Norman, Oklahoma**  
**B & B Paint & Weed Serv., LLC, 11549 State HWY 76 N., Lindsay, Oklahoma**  
**Madison Davis, P. O. Box 256, Owasso, Oklahoma**  
**Dollar General, 811 N. Hazlett, Fort Cobb, Oklahoma**  
**Dollar General, 110 N. Bridge Road, Grandfield, Oklahoma**  
**Dollar General, 1500 N. Louis Tittle, Mangum, Oklahoma**  
**Dollar General, 1102 N.4th, Sayre, Oklahoma**  
**Dollar General, 211 N. 5th, Henryetta, Oklahoma**  
**Dollar General, 1730 E. 6th Street, Okmulgee, Oklahoma**  
**Dollar General, 303 N. LL Males, Cheyenne, Oklahoma**  
**Dollar General, 205 W. Broadway, Thomas, Oklahoma**  
**Dollar General, 825 W. Ozark Street, Morris, Oklahoma**  
**Dollar General, 8190 Council Ave., Blanchard, Oklahoma**  
**Dollar General, 207 N. Main, Bristow, Oklahoma**  
**Edko, LLC, 4615 Marlena Street, Bossier City, Louisiana**  
**Tyler Enyeart, 900 W. 1st., Moore, Oklahoma**  
**Family Dollar, 2107 Oklahoma Avenue, Woodward, Oklahoma**  
**Family Dollar, 411 E. Main, Tuttle, Oklahoma**  
**Family Dollar, 420 W. Main, Weleetka, Oklahoma**  
**Family Dollar/Dollar Tree, 324 N. Eastern Avenue, Hominy, Oklahoma**  
**Tanner Harper, 2400 S. W. 112TH, Oklahoma City, Oklahoma**  
**Quality Ranch, LLC, 4754 State Highway 76, Wilson, Oklahoma**  
**Red Dirt Grow, LLC, 7152 E. 136 Road, Holdenville, Oklahoma**  
**Paige Sherry, P. O. Box 1262, Wewoka, Oklahoma**  
**Southeast Vegetation MGMT., P. O. Box 43, Brierfield, AL**  
**Brent Thompson, 2194 CR 1375, Alex, Oklahoma**  
**Tractor Supply Co., 5401 Virginia Way, Brentwood, Tennessee**  
**Tractor Supply Co., 5401 Virginia Way, Brentwood, Tennessee**

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

9. Consideration and Proposed Action on Cases Resolved by Consent Order  
**Agricultural Environmental Management Services**  
**Tri-State Feeders, L.L.C, #18 Sandy Ridge Rd., Columbus, Nebraska**  
  
**Consumer Protection Services**  
**AAPEST, 2409 N. Broadway, Poteau Oklahoma**  
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10. Consideration and Proposed Action on Cases Resolved by Final Order  
**Consumer Protection Services**  
**Security Pest Control, Inc., 10323 E. 50th St., Tulsa, Oklahoma**  
**Jason Taylor, P. O. Box 70303, Tulsa, Oklahoma**

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11. Next Board meeting scheduled for **Wednesday, July 19, 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  
April 26, 2023

The Oklahoma State Board of Agriculture met in regular session at 10:00 a.m., April 26, 2023, in the Agriculture Building, Oklahoma City, Oklahoma. Written notice of this meeting was filed with the Secretary of State. A notice was posted at the Agriculture Building 24 hours prior to the meeting setting forth thereon the date, time, place and agenda for the meeting and an agenda was posted on the agency website.

Members Present:     Brent Bolen  
                               Blayne Arthur  
                               Joe Farris  
                               Nocona Cook

Others Present:        JanLee Rowlett, Deputy Commissioner  
                               Michaela Lembeck, Executive Assistant  
                               Dan Ridings, Director, Administrative Services  
                               Wade Krivanek, Director, Laboratory Services  
                               Mark Goeller, Forestry Services  
                               Kenny Naylor, Director, Consumer Protection Services  
                               Dr. Rod Hall, Director, Animal Industry Services  
                               Scott Alls, Director, Wildlife Services  
                               Troy Marshall, Agricultural Statistics  
                               Meriruth Cohenour, Director, Market Development  
                               Teena Gunter, Director, Agricultural Environmental  
   Management Services & Office of General Counsel  
                               Scott Yates, Director, Food Safety Services  
                               Lee Benson, Public Information Officer

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 March 8, 2023, as presented.

The vote was as follows:

Bolen	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

The vote was as follows:

Bolen	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

The vote was as follows:

Bolen	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

**Consumer Protection Services**

**Cart's Farm & Home Supply, Inc., 919 E. Main Street, Binger, Oklahoma**  
**Complete Ground Care, LLC, 6800 E. Covell Road, Edmond, Oklahoma**  
**Dollar General, 22910 State Highway 76, Dibble, Oklahoma**  
**Elite Lawn Care, 8505 Gateway Terr., Oklahoma City, Oklahoma**  
**Family Dollar, 101 East 1st., Granite, Oklahoma**  
**Family Dollar, 2107 Oklahoma Avenue, Woodward, Oklahoma**  
**James Jacobs, 1810 CR NS 223, Frederick, Oklahoma**  
**Orkin, 13465 Puppy Creek Rd., STE C, Springdale, Arkansas**  
**Redbud Pest Services, 13929 Technology Dr. STE B, Oklahoma City, Oklahoma**  
**Row Crop Ag LLC, 5721 IL 145 Road, Metropolis, Illinois**  
**Row Crop Ag LLC, 5721 IL 145 Road, Metropolis, Illinois**  
**Signature Landscape, LLC, 9600 N. Eastern Avenue, Oklahoma City, Oklahoma**  
**Sun City Farm, LLC, 179317 N. 2810 Road, Comanche, Oklahoma**  
**Benjamin Yost, 9008 Raven Avenue, Oklahoma City, Oklahoma**

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intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act.”

The vote was as follows:

Bolen	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

**Consumer Protection Services**

**Heinen Brothers, Inc., 1226 104th, Rd., Blackwell, Oklahoma**

**Mosquito Joe of Tulsa, 13795 S. 309th E. Ave., Coweta, Oklahoma**

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The vote was as follows:

Bolen	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

**Consumer Protection Services**

**Douglas Rose, Lawn Guy, 404 Broadway, Blanchard, Oklahoma**

**Douglas Rose, Lawn Guy, 404 Broadway, Blanchard, Oklahoma**

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The vote was as follows:

Bolen	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

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

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

# APRIL 26, 2023 BOARD MEETING

## **PURCHASES/CONTRACTS**

### **Administrative Services**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

uninsured state employees.

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

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

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

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

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

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

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

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

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

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

**FY24 Oklahoma Capital Improvement Authority – Bond Payments - \$1,704.768**

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

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

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

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

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

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

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

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

When an employee selects ‘Premium Conversion’ they can see a lowering of their tax base for tax

purposes and for the withholding of FICA. Since the State matches FICA withholding, this results in a savings for the state as well. These payments transfer that savings to EBC to administer the program. These payments are required by state law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**FY23 \$500,000 –** Purchase of new cubicles for Administration, Market Development, and the Office of General Counsel. The existing cubicles are outdated and no longer manufactured, and parts are no longer available when a repair need arises. This purchase is needed to modernize the modular furniture within each area and to project a professional image when entering these workspaces. Without this purchase we will continue to use our outdated, irreparable, and potentially hazardous modular furniture.

**Agricultural Environmental Management Services**

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

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

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

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

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

The AEMS Division has obtained a grant of \$185,614 from the Exchange Network (EN) to expand



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

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

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

**CONSUMER PROTECTION SERVICES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Food Safety Services**

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

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

## **Forestry Services**

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

For use of Purchase Orders to repair firefighting equipment including but not limited to dozers, Bambi buckets, UTVs and slip-on firefighting units. These purchases will be for repairs more than \$5,000 when a piece of equipment has significant issues and requires Board approval. Justification: This will allow the equipment to be repaired quickly after completion of the bidding process and back in service for fire management activities.

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

For use of PCards & Purchase Orders to repair firefighting equipment including but not limited to dozers, Bambi buckets, UTVs and slip-on firefighting units. These purchases will be for repairs more than \$5,000 when a piece of equipment has significant issues and requires Board approval. Justification: This will allow the equipment to be repaired quickly after completion of the bidding process and back in service for fire management activities.

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

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

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

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

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

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

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

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

Funding for this entire purchase will come the US Forest Service – FY22 SICF SFA Response Grant (\$107,800) as part of an approved budget revision.

**FY23 - \$15,000**

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

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

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

**FY23-\$50,000**

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

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

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

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

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

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

Upfit of two new 1/2 -ton pickups to include installation of emergency warning system, communication hardware, off-road capability and conspicuity striping. Specifically, the following will be included: Emergency warning system – Warning lights/siren meeting NFPA standards, Communication hardware – Radio console and associated wiring and cabling, Off-road capability –

grille guard and leveling kit, and Conspicuity striping to provide for visibility while working incidents in hazardous/low light conditions (i.e. smoke, nighttime, roadside). Justification: Warning lighting, siren and conspicuity striping to meet NFPA standards and enhance visibility during incident response. Radio console installation to provide secured housing for high-value communications equipment. Off-road capability equipment to facilitate efficient operation in routine off-road environments where brush, boulders and other obstacles are present.

#### **FY23- \$30,000**

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

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

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

#### **FY23 - \$13,200**

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

### **Laboratory Services**

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

Purchase of a one-year Preventative Maintenance Agreement for the HPLC-MSMS Triple quad 6470 in the Pesticide Section to ensure continuous and consistent operation of the instrument and improves overall quality of the data being reported.

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

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

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

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

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

**FY23 - \$7100.00 Service Contract**

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

**Market Development Services**

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

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

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

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

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

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

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

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

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

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

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

FY2024 – Agreement with Food Export Association of the Midwest USA (Food Export – Midwest) for membership to provide small and medium size food and agricultural companies' access to international markets through a variety of exporter programs and to increase volume and value of agricultural exports from the region in represents. - \$7,000.00

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

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



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

## **June 1, 2023, Board Report**

### **Administrative Services**

# Administrative Services – Investigative Services

## INVESTIGATIVE SERVICES ACTIVITIES

APRIL 2023



OKLAHOMA

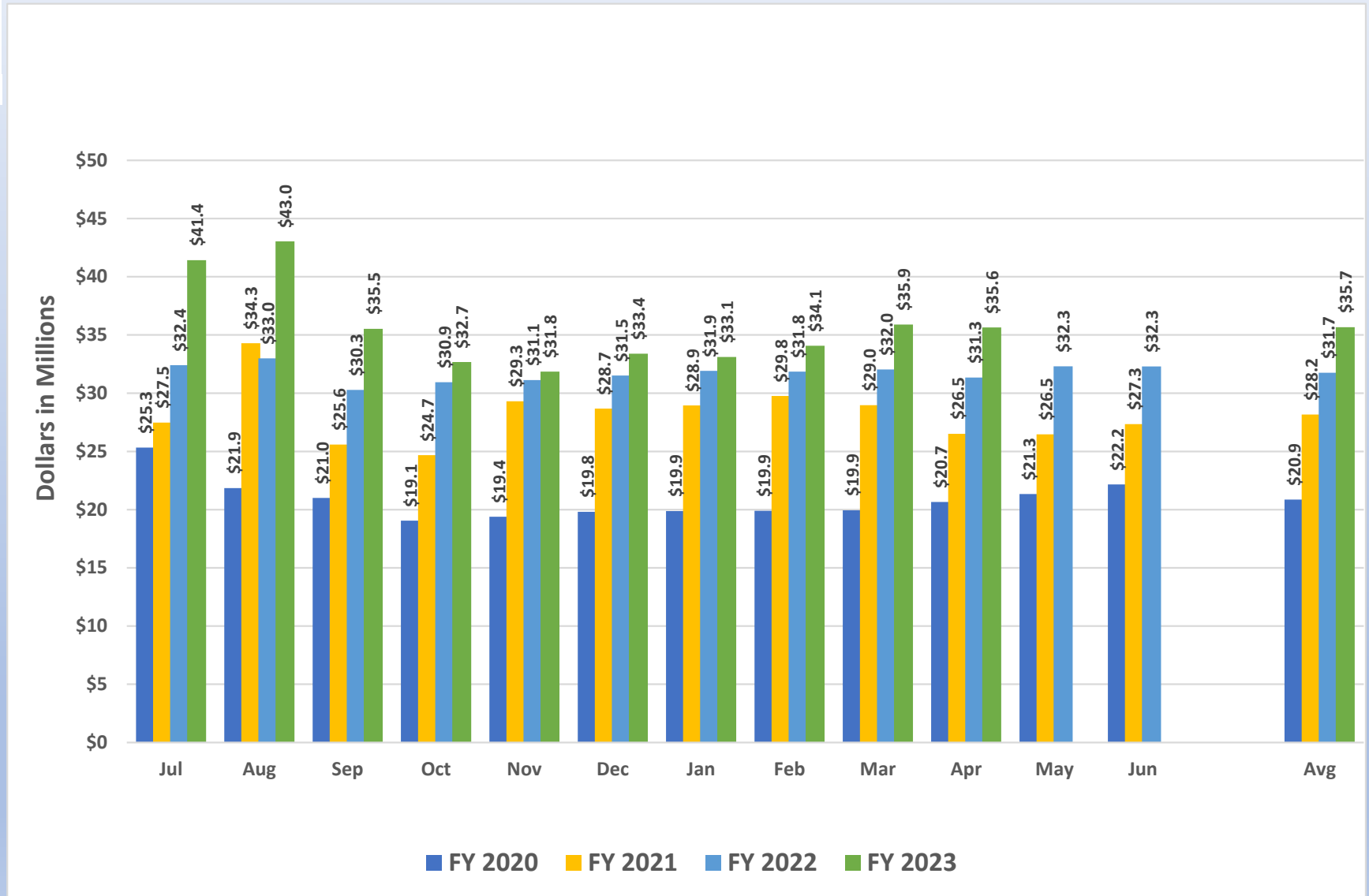


INVESTIGATIONS		APRIL	YTD	FYTD
LIVESTOCK		2	9	38
FIRE		1	3	16
PROPERTY		7	17	33
TIMBER			1	6
AGENCY ASSISTS	ODAFF		0	4
AGENCY ASSISTS	EXTERNAL		2	11
OTHER		2	5	16
TOTAL INVESTIGATIONS OPENED		12	37	124
CLOSED PENDING ADDITIONAL INFORMATION		1	6	39
NO CRIME		2	15	44
NO PROSECUTION			0	0
CLOSED - ASSIST CASE			3	8
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION		1	2	14
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		4	26	105
COUNTS FILED		5	5	58
VALUE OF LOSSES - ALL CRIMES		\$57,200	\$535,150	\$1,567,761
RECOVERED LOSSES - ALL CRIMES		\$37,000	\$275,400	\$1,090,311
NUMBER OF CATTLE REPORTED STOLEN		8	195	451
NUMBER OF CATTLE RECOVERED		6	16	63

# Administrative Services

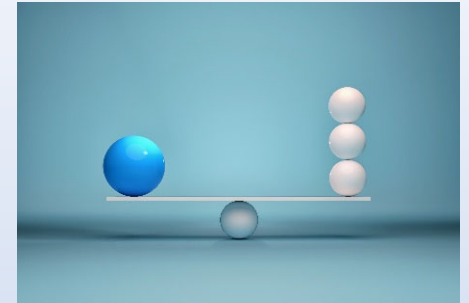
- Fiscal Year 2024 Budget
  - Preparing workpapers & reports
  - Meeting with divisions
  - Establishing purchase orders
- New Governmental Accounting Standards Board (GASB 96) pronouncement
  - New reporting requirement for Subscription Based Information Technology Arrangements (SBITA)
    - Effective Date - 7/1/2022 (fiscal year 2023)
    - Primarily software
    - Requires long term agreements to be capitalized
- Vacant Accountant position
- Three more vehicles were recently retired/surplused due to age, condition, and high mileage

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



*Note: The amounts above include fund 700, Commodity Storage Indemnity Fund, which had a balance of \$11,305,528 as of 4/30/2023.*

# Administrative Services - Finance



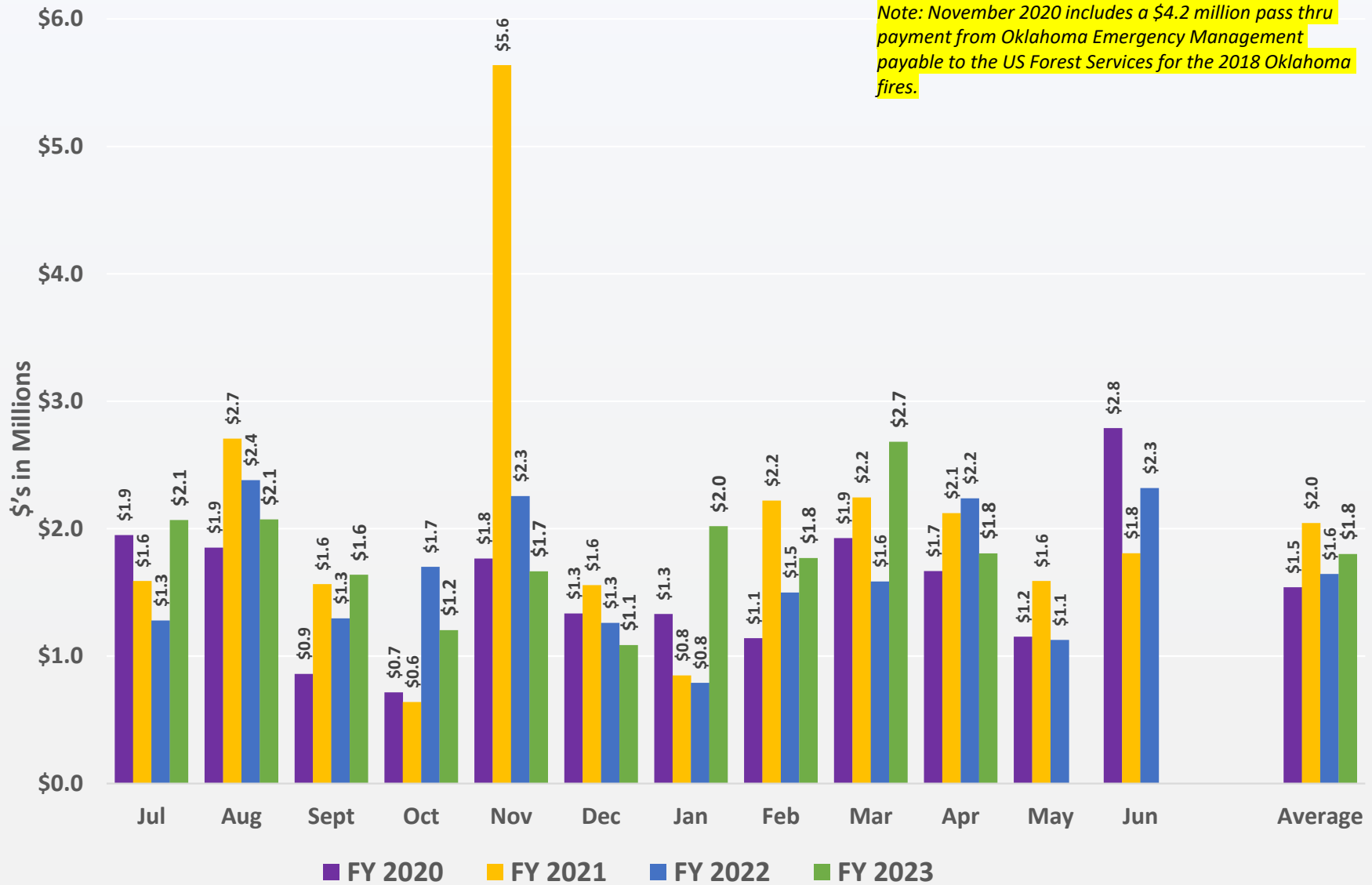
- Cash balance as of 4/30/2023 was \$35.6 million compared to \$31.3 million as of 4/30/2022.
  - Increase of \$4.3 million from the prior year and is primarily attributed to the following:
    - Increase in appropriations and appropriated cash for increases in legislative directed payments
    - Increase in revenue
    - Timing of payments

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



# Total Revenue by Month July 2019 – April 2023

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





## Revenue By Division July 2022 – April 2023

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD AND FORESTRY**  
**PROGRAM REVENUE SUMMARY**  
**4/30/2023**

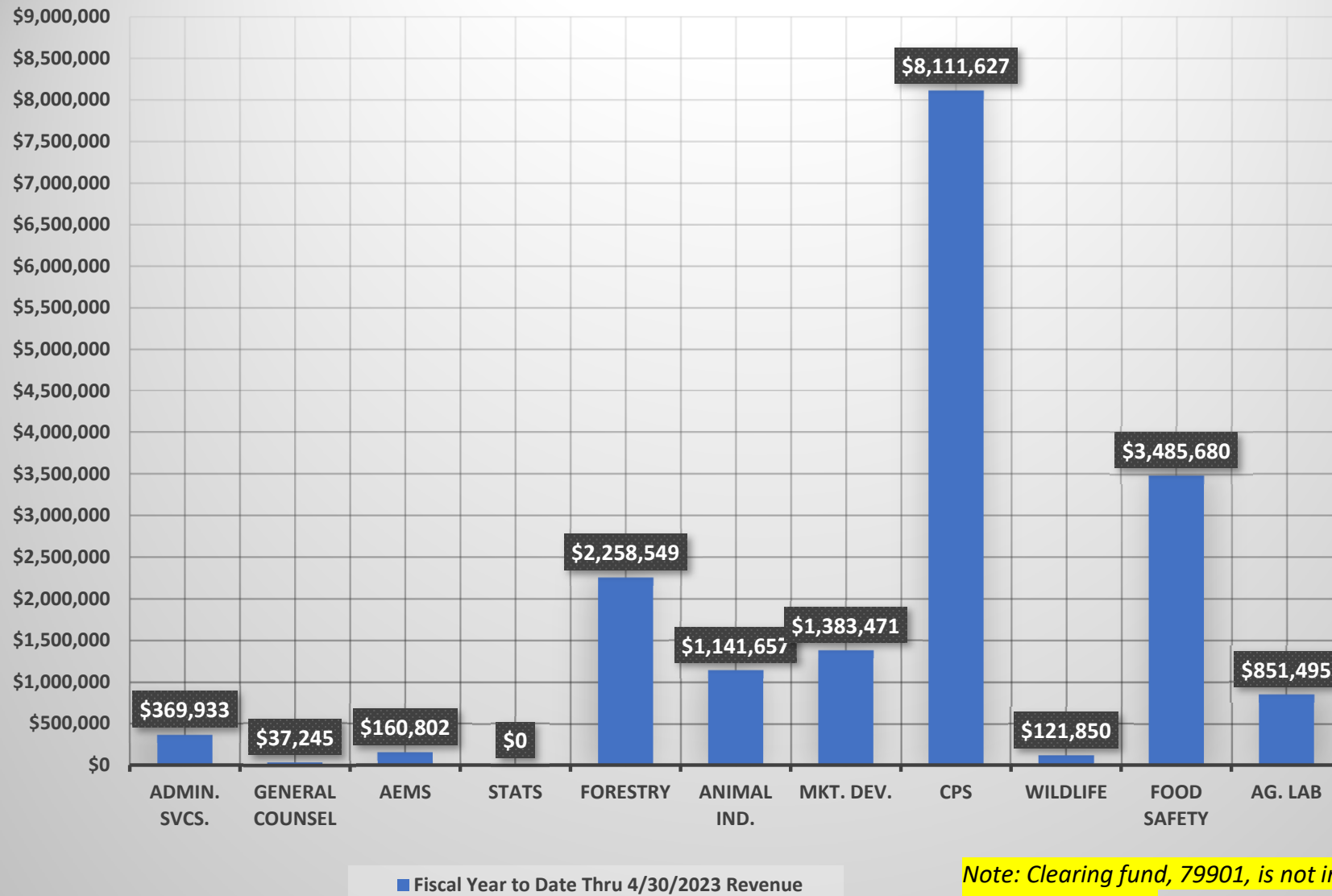
Division	April 2023 Revenue	Fiscal Year to Date Thru 4/30/2023 Revenue
Admin. Svcs.	150,650.05	369,933
General Counsel	2,325.00	37,245
AEMS	10,999.00	160,802
Stats		-
Forestry	318,665.98	2,258,549
Animal Ind.	138,742.80	1,141,657
Mkt. Dev.	153,209.81	1,383,471
CPS	606,447.60	8,111,627
Wildlife	12,500.00	121,850
Food Safety	453,625.15	3,485,680
Ag. Lab	45,684.00	851,495
<b>DIVISION TOTAL</b> (see division receipts graph below)	<b>1,892,849.39</b>	<b>17,922,308</b>
		-
Commodity Storage Indemnity	20,103.22	174,737
Appropriations	3,095,517.00	39,369,720
<b>AGENCY TOTAL</b>	<b>5,008,469.61</b>	<b>57,466,765</b>

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





## Revenue By Division July 2022 – April 2023



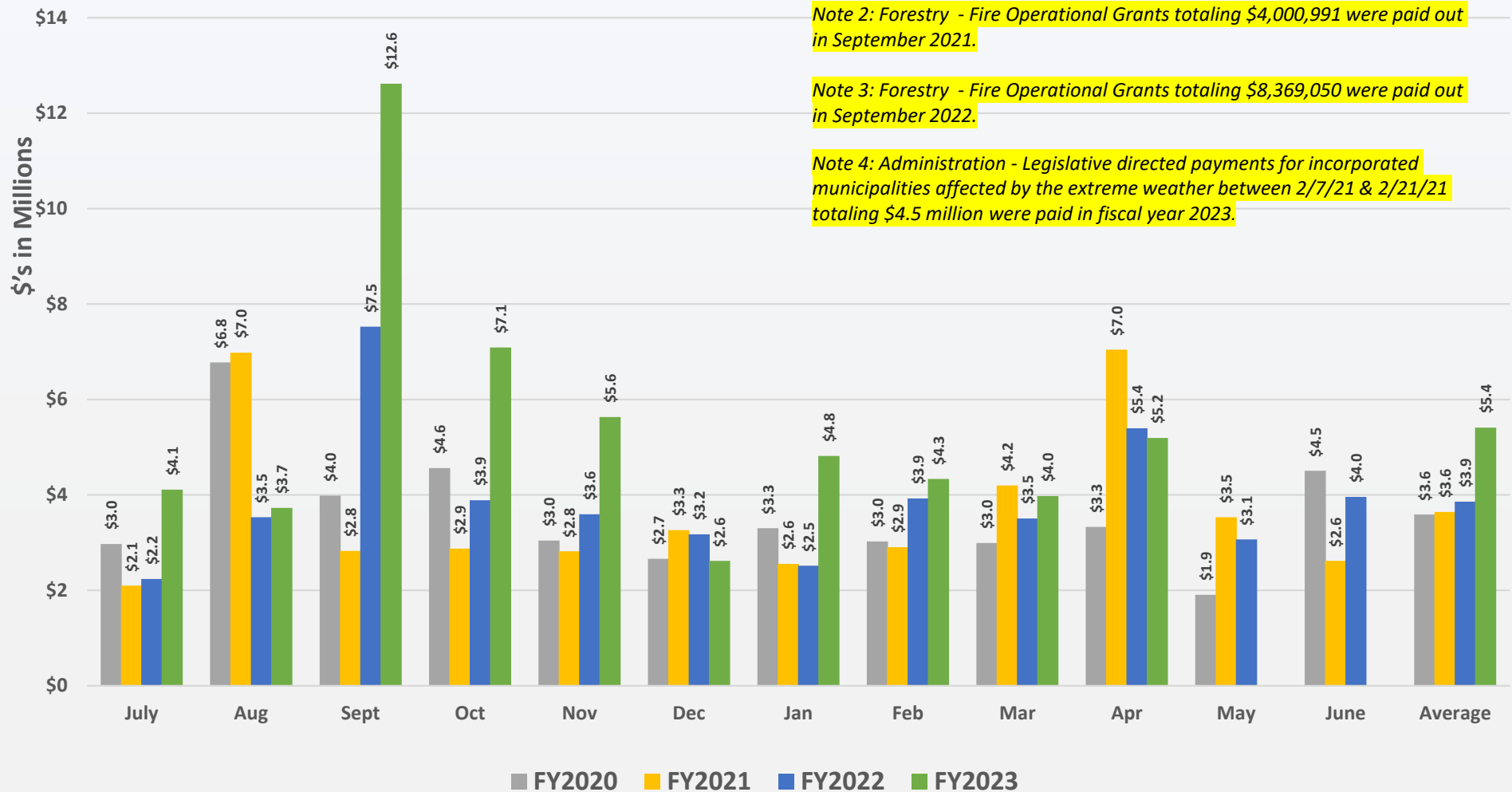
*Note: Clearing fund, 79901, is not included in the above table.*

# Administrative Services - Finance

- Revenues (excluding appropriations) for July 2022 thru April 2023 were \$18 million, compared to \$16.3 million for the same period last fiscal year.
  - This is an increase of approximately \$1.7 million
    - Primarily due to an increase in federal reimbursements
      - Additional funding
      - Timing of payments received



# Total Expenses by Month July 2019 – April 2023



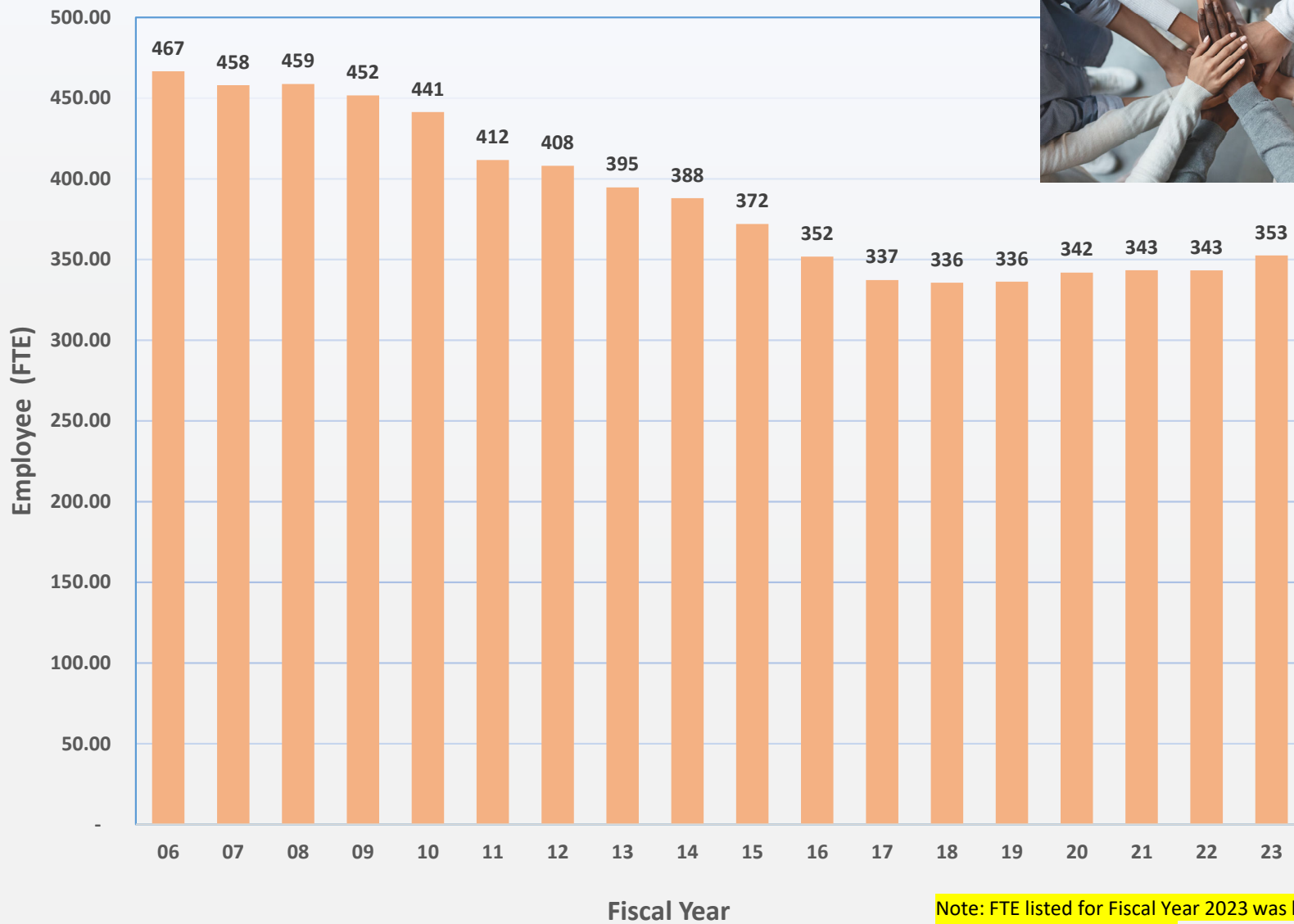
# Administrative Services - Finance

- The expenses for July 2022 – April 2023 were \$54.1 million
  - This is an increase of \$14.8 million compared to the prior year and was due to the following:
    - Increases in fiscal year 2023 legislative directed payments for:
      - OSU College of Veterinary Medicine
      - Fire Operational Grants
        - \$8.4 million paid out to Oklahoma fire stations
        - Increase of \$4.4 million from the prior year.
      - 80/20 Rural Fire Operational Grants
      - Payments to incorporated municipalities affected by extreme weather events during February 2021
        - \$4.5 million paid out
    - Timing of payments

## FY 2023 Total Expenses by Month with Budget Year



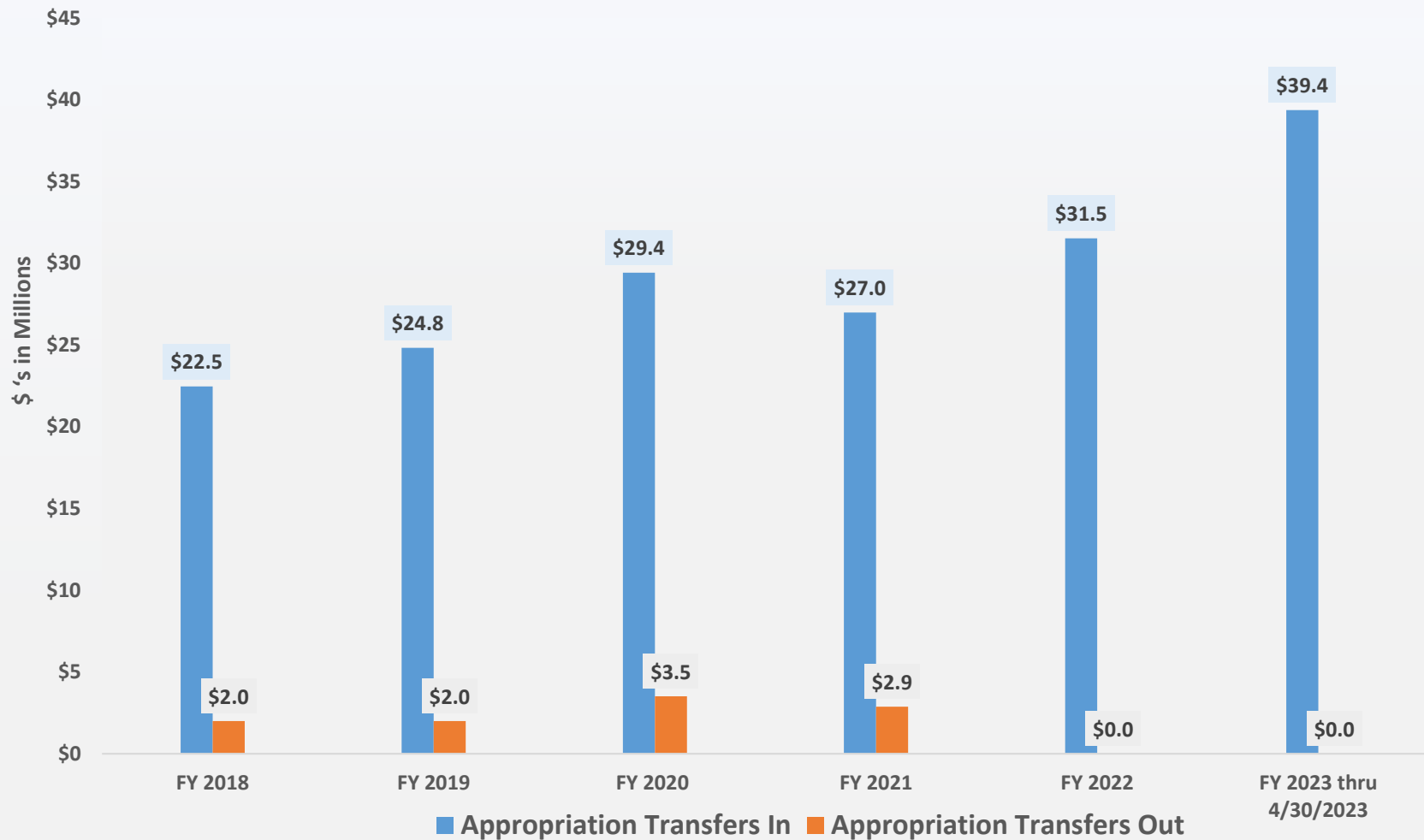
# Employee FTE Totals Fiscal Year FY 2006 – FY 2023



Note: FTE listed for Fiscal Year 2023 was based on the FTE as of 4/30/2023.

# Appropriations FY 2018 - thru April 2023

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





## Administrative Services – Commodity Storage Indemnity

Commodity Storage Indemnity			
Investment Report			
As of April 30, 2023			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,305,528
<u>FY-2023 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest		20,103	174,737
Reinsurance			-
ODAFF Support Services			(50,000)
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	20,103	124,737
		=====	=====



**Oklahoma Department of Agriculture, Food & Forestry**
**Monthly Budget Report - Budget Year 2023**
**As of April 30, 2023**
**Fiscal Year 2023 Annual Budget to Actuals for Budget Year 2023 thru April 30, 2023**

<b>Object Code</b>	<b>Account Description</b>	<b>Annual Budget</b>	<b>Expenditures</b>	<b>Encumbrances &amp; Pre Encumbrances</b>	<b>Available Budget</b>
511	Salary Expense	18,874,528	13,024,687	7,609,494	(1,759,652)
512	Insur.Prem-Hlth-Life,etc	5,973,536	3,601,688	134,367	2,237,481
513	FICA-Retirement Contributions	4,735,708	3,104,181	-	1,631,527
515	Professional Services	3,100,583	1,305,505	1,570,694	224,384
519	Inter/Intra Agy Pmt-Pers Svcs	30,000	20,227	23,707	(13,934)
521	Travel - Reimbursements	328,702	158,774	-	169,928
522	Travel - Agency Direct Pmts	365,898	263,131	6,272	96,495
531	Misc. Administrative Expenses	1,178,520	701,773	101,479	375,268
532	Rent Expense	686,033	443,273	207,443	35,317
533	Maintenance & Repair Expense	1,415,108	760,623	244,837	409,649
534	Specialized Sup & Mat.Expense	1,585,410	701,352	273,234	610,824
535	Production,Safety,Security Exp	201,456	61,844	-	139,612
536	General Operating Expenses	300,860	91,157	-	209,703
537	Shop Expense	603,831	396,232	88,111	119,488
541	Office Furniture & Equipment	3,170,652	660,723	778,112	1,731,817
542	Library Equipment-Resources	932	108	-	824
543	Lease Purchases	1,703,720	1,419,561	278,747	5,412
544	Livestock-Poultry	-	10,053	-	(10,053)
546	Buildings-Purch.,Constr,Renov.	-	9,080	-	(9,080)
552	Scholar.,Tuition,Incentive Pmt	-	250	-	(250)
553	Refunds,Idemnities,Restitution	20,000	-	-	20,000
554	Program Reimb,Litigation Costs	5,265,453	10,400,558	3,107,936	(8,243,041)
555	Pmts-Local Gov't,Non-Profits	15,953,116	9,313,234	1,650,177	4,989,705
559	Assistance Pymts to Agencies	8,248,687	2,250,000	750,000	5,248,687
561	Loans,Taxes,Other Disbursements	-	294	-	(294)
564	Merchandise For Resale	140,000	-	94,900	45,100
601	AFP Encumbrances	-	-	812,698	(812,698)
810	Req Only	-	-	781,068	(781,068)
	<b>Operating Totals</b>	<b>73,882,733</b>	<b>48,698,305</b>	<b>18,513,277</b>	<b>6,671,152</b>

Oklahoma Department of Agriculture, Food & Forestry					
Monthly Budget Report - Budget Year 2023					
As of April 30, 2023					
Fiscal Year 2023 Annual Budget to Actuals for Budget Year 2023 thru April 30, 2023					
Class Funding	Class Fund Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
19201	GRF - Duties	-	-	0	(0)
19211	Carryover	683,679	34,169	238,761	410,749
19301	GRF - Duties	37,146,198	24,167,286	7,574,321	5,404,590
20500	Rural Fire Defense Eqp Rev Fd	140,000	-	134,629	5,371
21000	Agriculture Revolving Fund	22,629,010	14,036,307	8,144,409	448,294
22500	Enhancement & Diversificatn Fnd	250,000	43,667	126,476	79,857
23000	Okla Pet Overpopulation Fund	13,000	13,000	-	-
23500	Animal Friendly Revolving Fund	13,000	2,000	11,000	-
24000	Unwanted Pesticide Disp Fund	350,000	68,306	281,694	-
24500	Rural Fire Revolving Fund	800,000	373,827	426,173	-
25600	Ok Viticulture Enology Revl Fd	350,000	32,148	97,587	220,264
26200	Poultry Grading Revolving Fund	1,049,479	684,234	277,748	87,498
28500	Milk & Milk Prod Inspec Rev Fd	379,817	218,797	100,363	60,657
28600	Ag In The Classrm Educ Rvlv Fd	24,000	-	6,272	17,728
28700	Healthy Food Financing Revl Fd	100,000	6,667	3,333	90,000
42000	Specialty Crop Federal Funds	690,000	339,276	626,697	(275,973)
43000	Farm and Ranch Stress Alliance	500,000	264,071	218,814	17,116
43500	Local Food for Schools Co-op	350,000	-	245,000	105,000
57604	Duties	8,414,550	8,414,550	-	0
	<b>Totals</b>	<b>73,882,733</b>	<b>48,698,305</b>	<b>18,513,277</b>	<b>6,671,152</b>

**JUNE 2023 BOARD REPORT**  
**AGRICULTURE LABORATORY SERVICES**  
**(March and April 2023 Activities)**

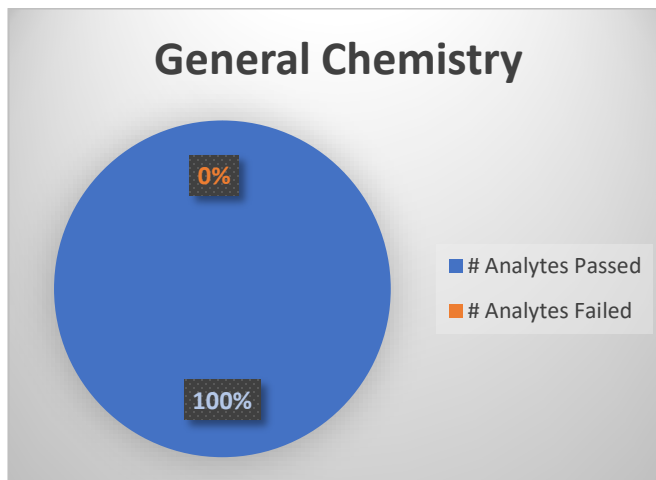
**QUALITY MANAGEMENT SECTION:** (Daniel Tripp, QA Manager)

The QA Manager completed the Inorganic Section's Internal Audit and is now working with the Food and Dairy Section performing validations on the newly installed autoclave. The autoclave validations ensure that the autoclave is capable of sterilizing contents exiting the chamber under the cycle's settings/parameters.

**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	27
# Analytes Passed	27
# Analytes Failed	0

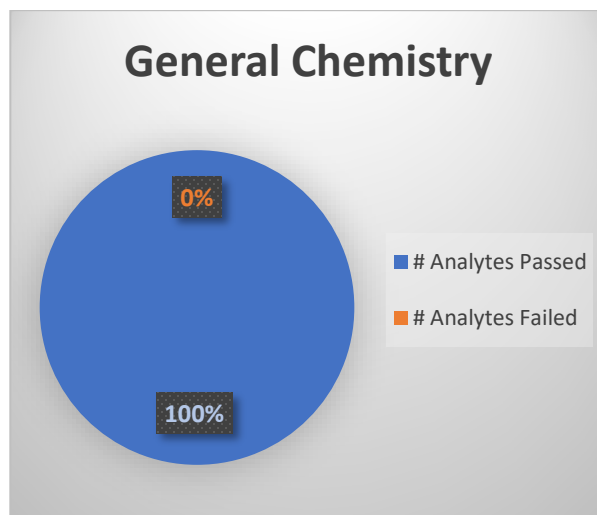


The QA Manager is continuing to conduct autoclave validations for the Food and Dairy Section for the month of April.

**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	24
# Analytes Passed	24
# Analytes Failed	0

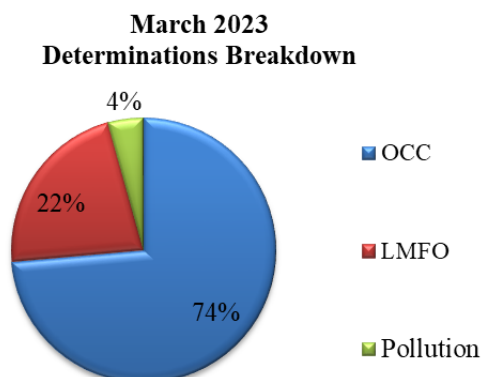
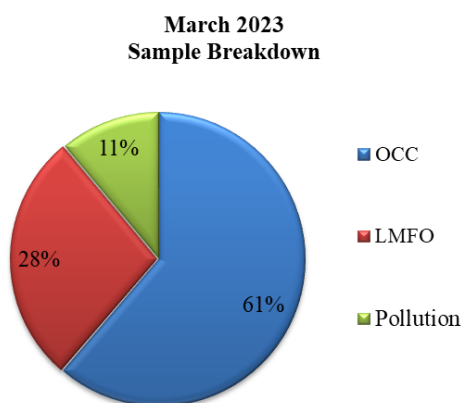


**INORGANIC SECTION:** (Elena Lyon, Environmental/Chemical Laboratory Scientist IV)

In March the Section completed 199 samples consisting of 943 determinations, with the following breakdown:

**March 2023 Inorganic Breakdown**

Customer	Samples	Determinations
OCC	122	1098
LMFO	55	330
Pollution	22	64
<b>Total</b>		<b>1492</b>

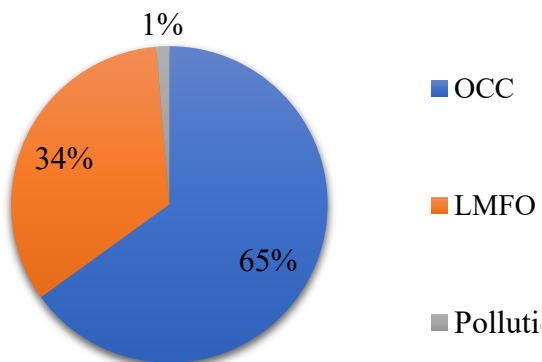


In April the Section completed 180 samples consisting of 1356 determinations, with the following breakdown:

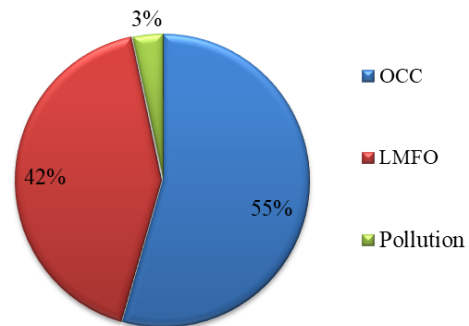
### April 2023 Inorganic Breakdown

Customer	Samples	Determinations
OCC	98	882
LMFO	76	456
Pollution	6	18
<b>Total</b>	<b>180</b>	<b>1356</b>

**April 2023  
Determinations Breakdown**



**April 2023  
Sample Breakdown**



Both sample digestors stopped working. The Section is trying to determine the cause and is planning to send both digestors for repair before looking at purchase options.

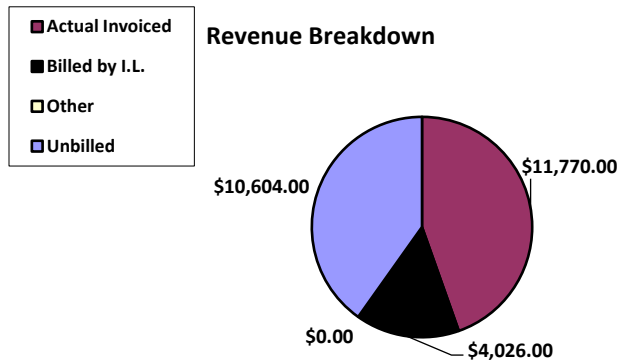
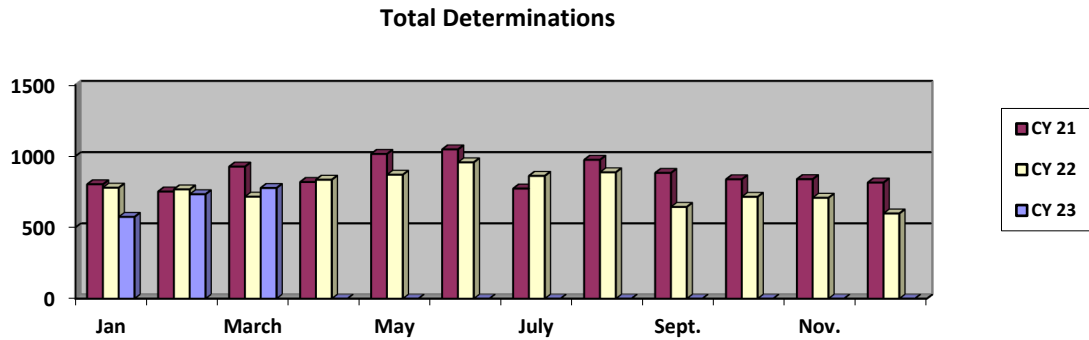
**DAIRY/FOOD SAFETY SECTION:** (Sharon Swyear, Environmental/Chemical Laboratory Scientist IV)

The month of March was a typical testing month and three dairies were not tested.

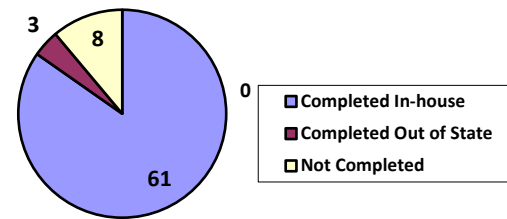
The isolated colonies from the Campylobacter investigation have been sent to the Nebraska Health Department for whole genome sequencing and we are waiting on those results.

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

The new autoclave has been installed and the Section is working on sterilization validations for the different types of media being prepared. Bids have been sent out for a new electronic somatic cell counter. The existing somatic cell counter is no longer supported by the manufacturer and the last repair used refurbished parts.

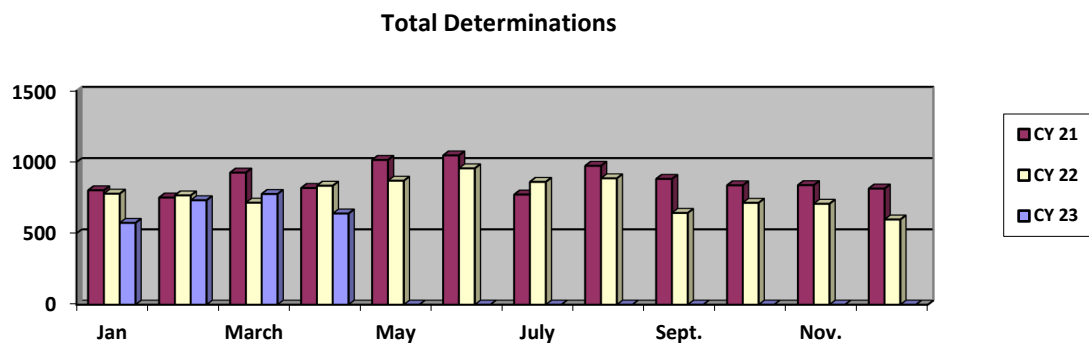


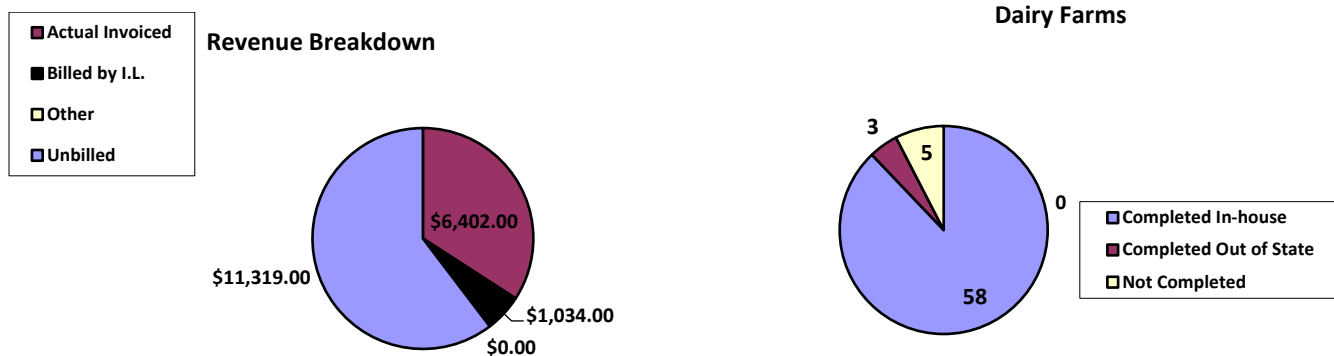
#### Dairy Farms



The month of April was a typical testing month. Five dairies were not tested for the month and an additional one is dry. There are a total of 67 dairies that the Section tests and six have closed this year.

Sharon Swyear attended the National Conference of Milk Shippers Bi-annual Conference in Indianapolis, April 2nd-7th. At the conference, state regulatory agency delegates, the FDA and industry delegates work together to approve legislation regarding the milk program. New methods, language changes, and up-dates to current methods are introduced and voted on during the conference.





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

Activity in the Seed Section remained normal for the month of March. Records indicate a total of 164 samples were received for testing. Crop types continue to consist mainly of corn, sorghum, soybean, peanuts and spring grasses. Most samples were taken by CPS inspectors following up on carry over seed needing updated germination tests. There were no Seed Law violations discovered.

The Section successfully completed proficiency testing for Non-mechanical Seed Count on Foxtail Millet through the Association of Official Seed Analysts.

The Oklahoma Crop Improvement Association (OCIA) held their quarterly Board of Directors Meeting at the Oklahoma Department of Agriculture. Crop updates from growers indicate that the states certified wheat crop remains in poor condition in nearly all areas of western and panhandle regions due to the drought. However, central and northern areas have seen great improvement and indicated they have cut more wheat this year than the previous years. It is still uncertain what to expect as far as quality for certified wheat seed production. Concerns remain that many certified fields in the state will not meet OCIA standards, primarily for purity content and test weight which can influence seed vigor.

In April the Section received a total of 119 samples. Seeds being analyzed consisted primarily of sorghum, soybean, corn, cowpeas, and summer grasses. Currently, there have been no quality issues discovered pertaining to summer crop seed. However, the Section received a certain variety of peanuts that failed to germinate. The analyst conducted different seed vigor testing, sand and soil, to determine the cause. The outcome of the tests determined most of the peanut seeds were weak and failed to germinate. Necessary action was taken to inform the grower. There were seed tag violations discovered on two different seed lots. A total of 15-30 pounds of bermudagrass seeds were placed under stop sale due to test date expiration. All of the infractions have since been remedied and released from stop sale.



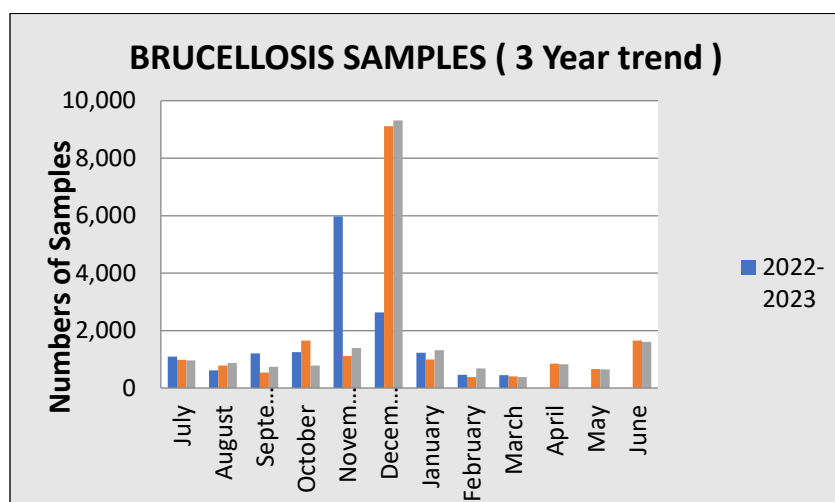
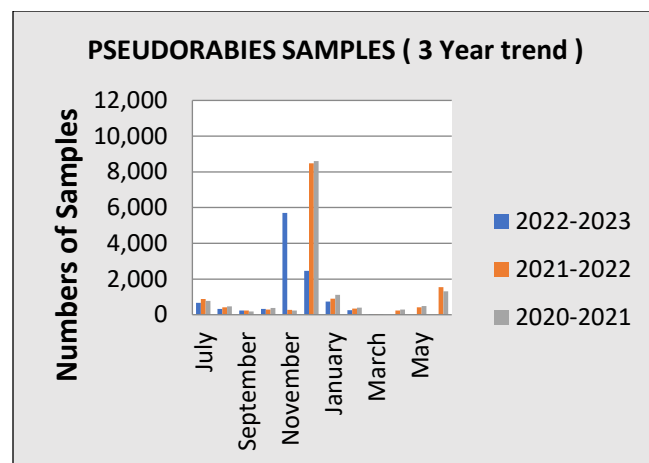
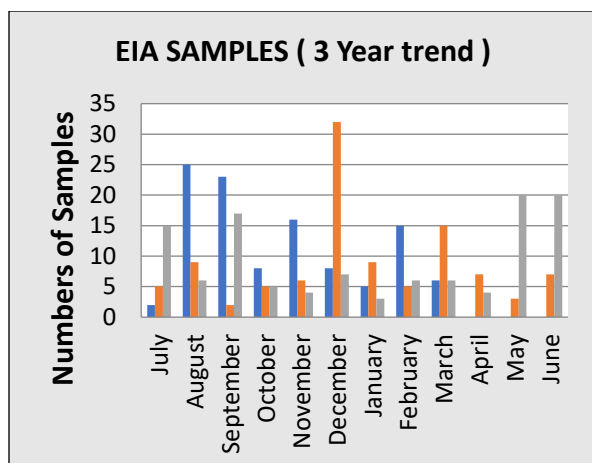
Brenda Gilbert performing sand test on foundation peanuts.

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

March

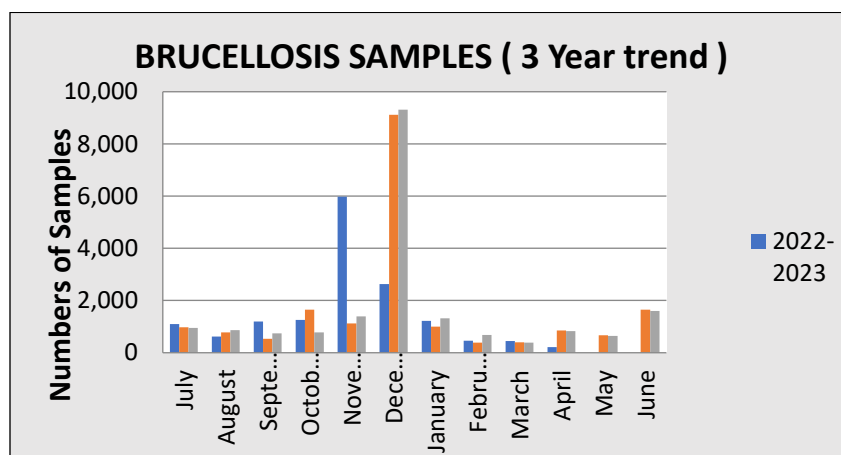
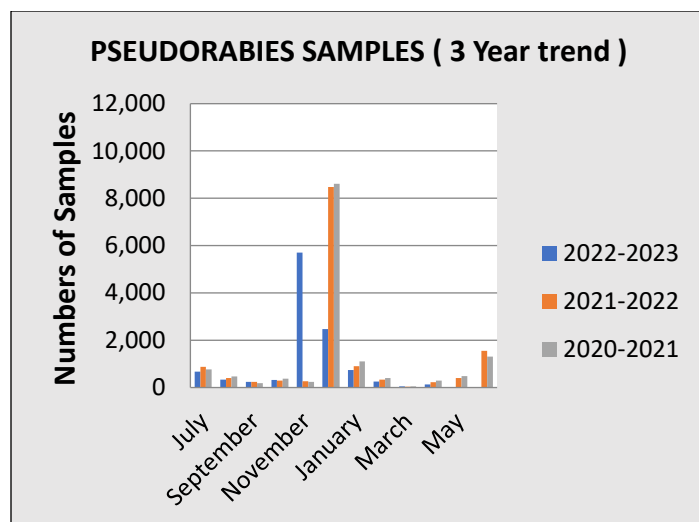
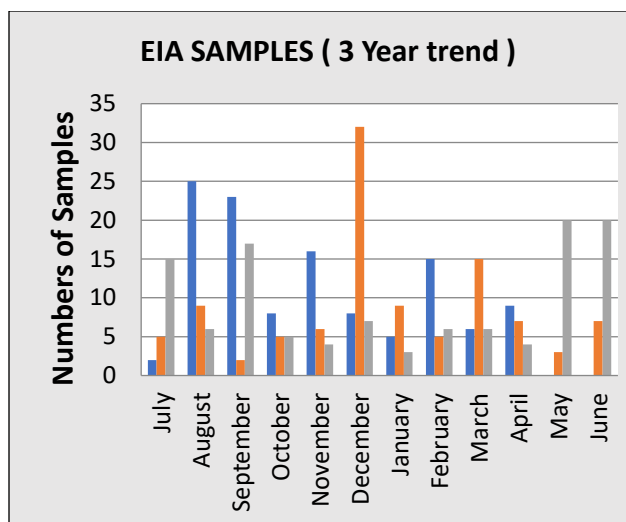
<b>3-year Summary of Samples Analyzed</b>			
<b>Year</b>	<b>Brucellosis</b>	<b>Pseudorabies</b>	<b>E.I.A.</b>
<b>2022</b>	<b>450</b>	<b>45</b>	<b>6</b>
<b>2021</b>	<b>402</b>	<b>38</b>	<b>15</b>
<b>2020</b>	<b>382</b>	<b>46</b>	<b>6</b>





April

3-year Summary of Samples Analyzed			
Year	Brucellosis	Pseudorabies	E.I.A.
2022	218	132	9
2021	849	227	7
2020	828	292	4



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

March was a very productive month for the Section, with 1449 determinations, completing 333 samples and continued exceeding our goal of 1000 determinations per month.

We have re-incorporated most of the fertilizer testing to our work load. It was discovered that the muffle furnace used for total phosphate analysis had failed and are waiting on delivery of a new unit. All other analyses are being conducted; this will only impact a small number of samples.

The Section is currently analyzing a mixture of feed and fertilizer samples but are anticipating a slight decrease in overall sample numbers as the Section starts to see more fertilizers over the next few months. This is being coordinated with CPS staff.

Turn around time was 15.31 days and is staying under the Section's 18-day target. The Section continues to hit an internal target of samples being run within a week of receiving for most analyses.

Overview of Section numbers for the month:

	<b>Feed</b>	<b>Fertilizer</b>	<b>Lime</b>	<b>Total</b>
<b>Samples Received</b>	232	79	7	318
<b>Samples Completed</b>	265	64	4	333
<b>Determinations</b>	1225	1498	26	1449
<b>Violations</b>	133	6	0	139
<b>Violation %</b>	10.86%	303%	0.00%	10.15%

In April the Section continued to maintain productivity, and was able to make 1210 determinations, completing 259 samples. The Section continues exceeding their goal of 1000 determinations per month. The ability of our staff to perform multiple roles and their willingness to step-up and do what is needed has allowed for the success of the Section. John Holden from the Inorganic Section provided some assistance with grinding samples which has allowed us to keep up with our other duties.

On May 8<sup>th</sup> a new lab tech will start and the Section will be back up to prior staffing numbers.

We have restarted all of our current fertilizer and lime analysis so we are providing all of the services we are set up for at this point. Hopefully we will be able to add back in some analysis that was cut due to staffing and prior equipment issues before the end of summer (heavy metals in fertilizers by ICP).

Our turnaround time was 16.43 days so we are staying under our 18 day target.

Overview of Section numbers for the month:

	<b>Feed</b>	<b>Fertilizer</b>	<b>Lime</b>	<b>Total</b>
<b>Samples Received</b>	176	64	6	246
<b>Samples Completed</b>	203	51	5	259
<b>Determinations</b>	1014	162	34	1210
<b>Violations</b>	82	16	0	98
<b>Violation %</b>	8.09%	9.88%	0.00%	8.10%

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

Two chemists and the supervisor attended the Agilent “Back to Basics” seminar which was held in Oklahoma City. The Section completed and submitted the proficiency test results (AAPCO Program) for formulation analysis and continues with routine work.

In the month of March, the Section completed 29 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 65 days.

	Number	Test	Det.	Average TAT (days)
IFA Soil	8	11	42	26
Organic Act	3	3	3	19
Concentrate	11	22	25	96
Tank mix	3	6	13	152
Hemp	2	2	2	6
Proficiency Test	2	4	7	44

Average Residue  
Turnaround Time: 27 days

Average Formulation  
Turnaround Time: 100 days

Average Hemp Turnaround  
Time:6 days

Totals		
# of Samples	# of Tests	# of Determinations
29	48	92

The Section received 30 samples for March with most of the samples received for Residue Analysis (see Fig A). The Section also received one service sample (vegetation) from OSU for glyphosate residue analysis.

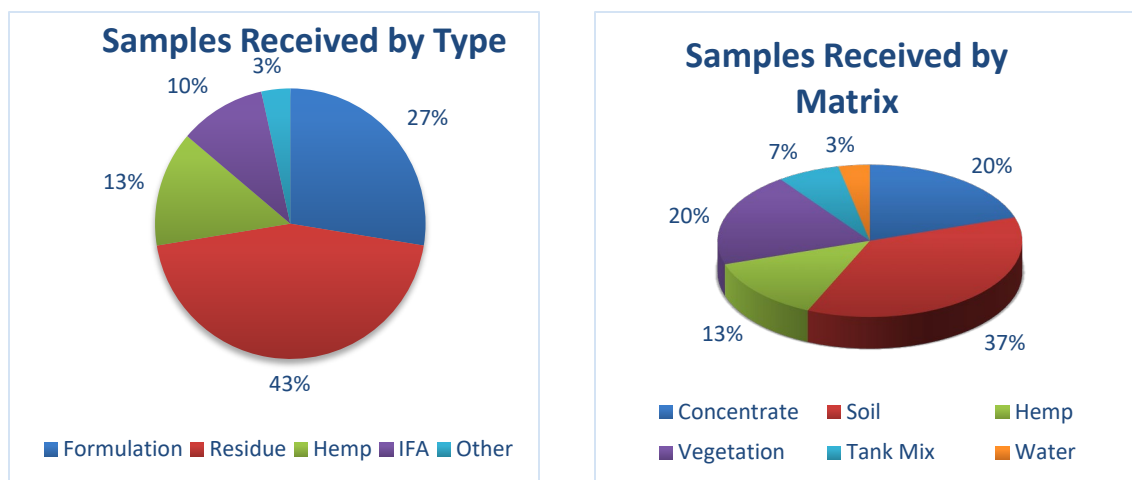


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right)

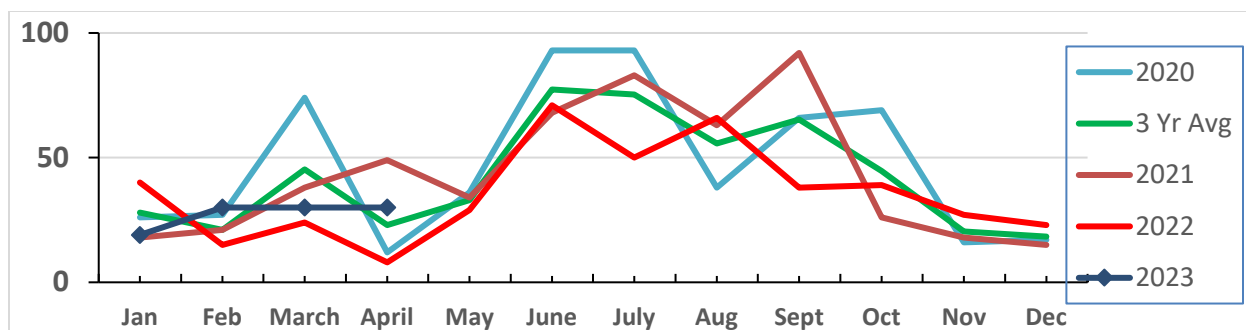


Fig B. Graph showing the number of samples received by the section each month.

This month, the Section completed 92 determinations and with most of the determinations on the IFA soil samples.

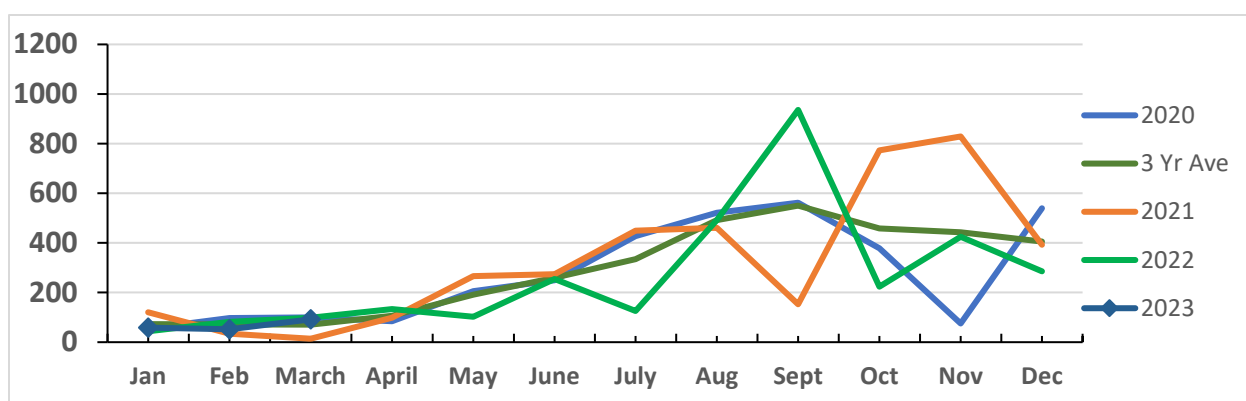


Fig C. Graph showing the number of determinations completed each month.

In the month of April, the Section completed 23 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 31 days.

	Number	Test	Det.	Average TAT (days)
Residue Vegetation	9	25	122	33
Residue Swab	2	4	20	44
Residue Soil	6	8	34	13
Organic Act	1	1	1	19
Concentrate	3	6	9	71
Hemp	2	2	2	6

Average Residue  
Turnaround Time: 27 days

Average Formulation  
Turnaround Time: 71 days

Average Hemp  
Turnaround Time: 6 days

Totals		
# of Samples	# of Tests	# of Determinations
23	46	188

The Section received 28 samples for the month of April. Most of the samples received were for Residue Analysis (see Fig A).



Kandy Ferry receiving and verifying information on hemp samples.

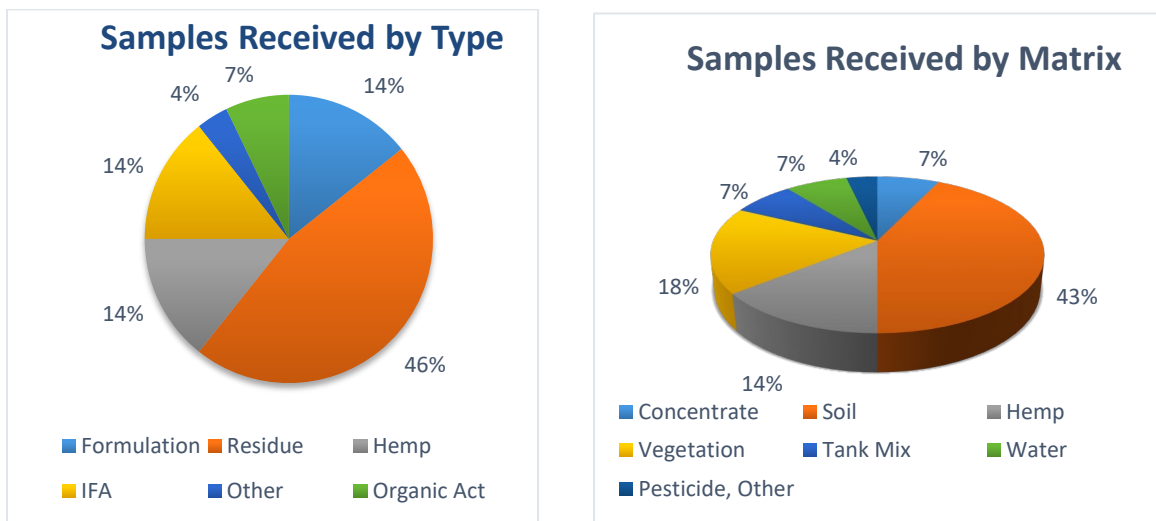


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right).

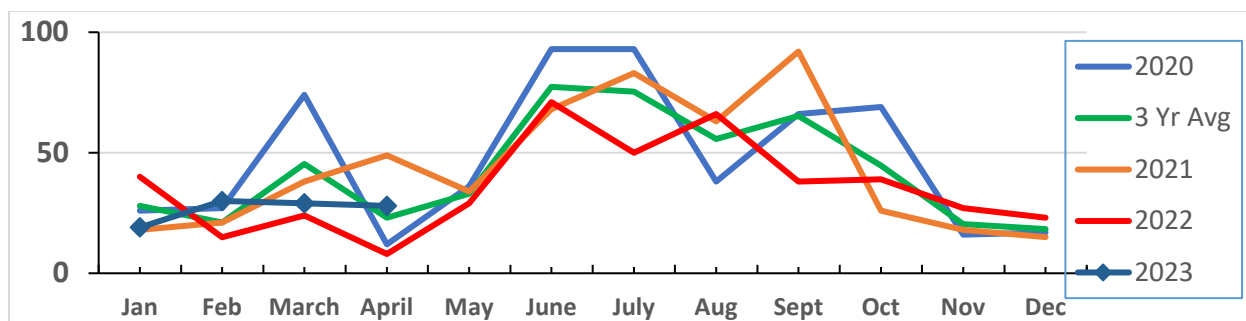


Fig B. Graph showing the number of samples received by the Section each month.

In April the Section completed 118 determinations with most of the determinations were on residue vegetation samples.

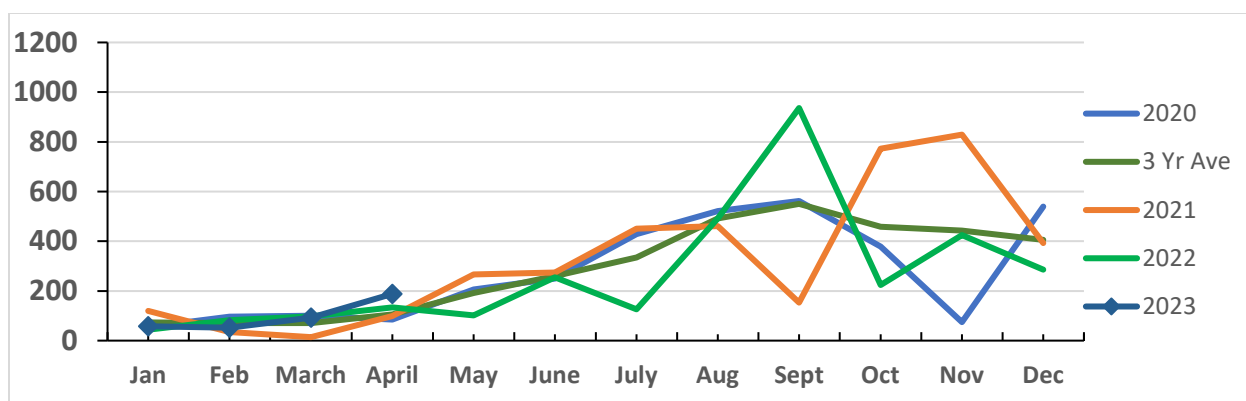


Fig C. Graph showing the number of determinations completed each month.

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

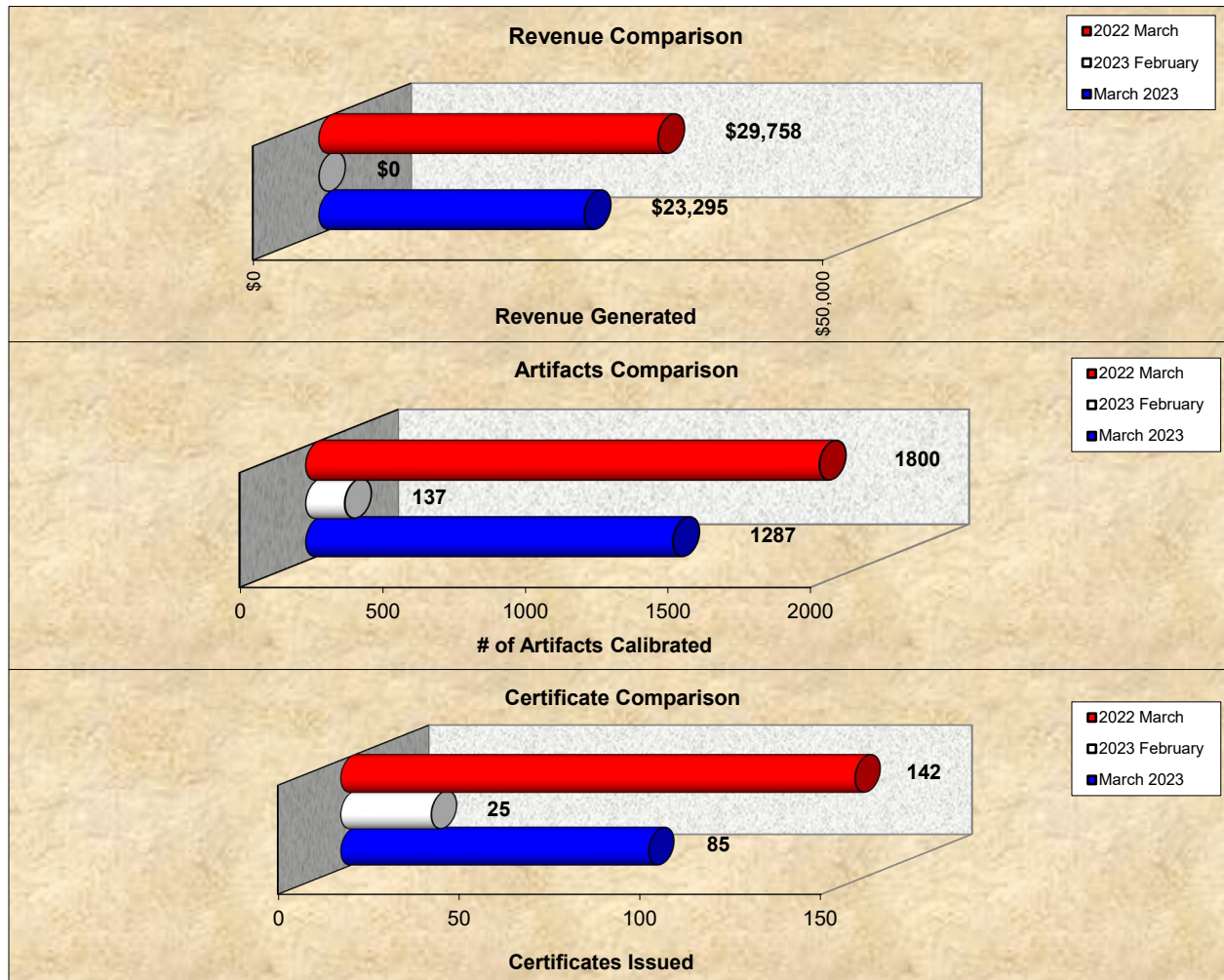
The following is a workload summary for the Oklahoma Bureau of Standards from March 1<sup>st</sup> through 31<sup>st</sup>.

The Section had several personnel changes take place since late February. Amanda Kramer resigned her position and William Krivanek accepted the position as Metrologist I. William will attend training with National Institute of Standard and Technology (NIST) and Southwest Assurance Program (SWAP) Meet, which will take place during the fall months. William is currently being trained by Richard Gonzales. The Bureau has posted a new metrologist position for hire at this time.

The Section is currently in a state of suspended accreditation due to the changes in personnel. The Section has been reaching out to clients and informing them that for the time being, the Section will not be able to provide accredited calibration results or accredited certificates. In some instances, clients have been inclined to cancel their appointment with the Section due to accreditation purposes. Clients have inquired as to when the Bureau will be regaining its accreditation status, and can resume performing accredited calibrations. The Section is expected to regain accreditation as soon as possible after newly acquired personnel receive the required training from NIST.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	1	\$100.00	0.43%	1	0.08%
In-State Customers	6	\$23,195.00	99.57%	1,286	99.92%
Totals	7	\$23,295.00	100%	1,287	100%

Echelon	Total Fees not Charged	# Working Days Lead Time to Next Available Date for Calibration
Mass I / II	\$220.00	0
Mass III	\$0	0
Volume	\$0	0



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



The Section did not complete any appointments during the month of April, therefore did not accumulate any revenue for the month. This is entirely due to accreditation being in a suspended status, until newly acquired personnel can receive required training from the National Institute of Standards and Technology (NIST).

The Section has hired Termelia Hogg, as a Metrologist and she will begin working on May 8<sup>th</sup>. Termelia will be sent to NIST for training at the earliest opportunity that is available. Richard Gonzales was a previous Bureau employee who has temporarily come back on contract to provide instruction and hands-on training. This will ensure that the new staff will be prepared and able to perform appointments in the future, as well as being able to return to a heavier workflow when accreditation is back in place.



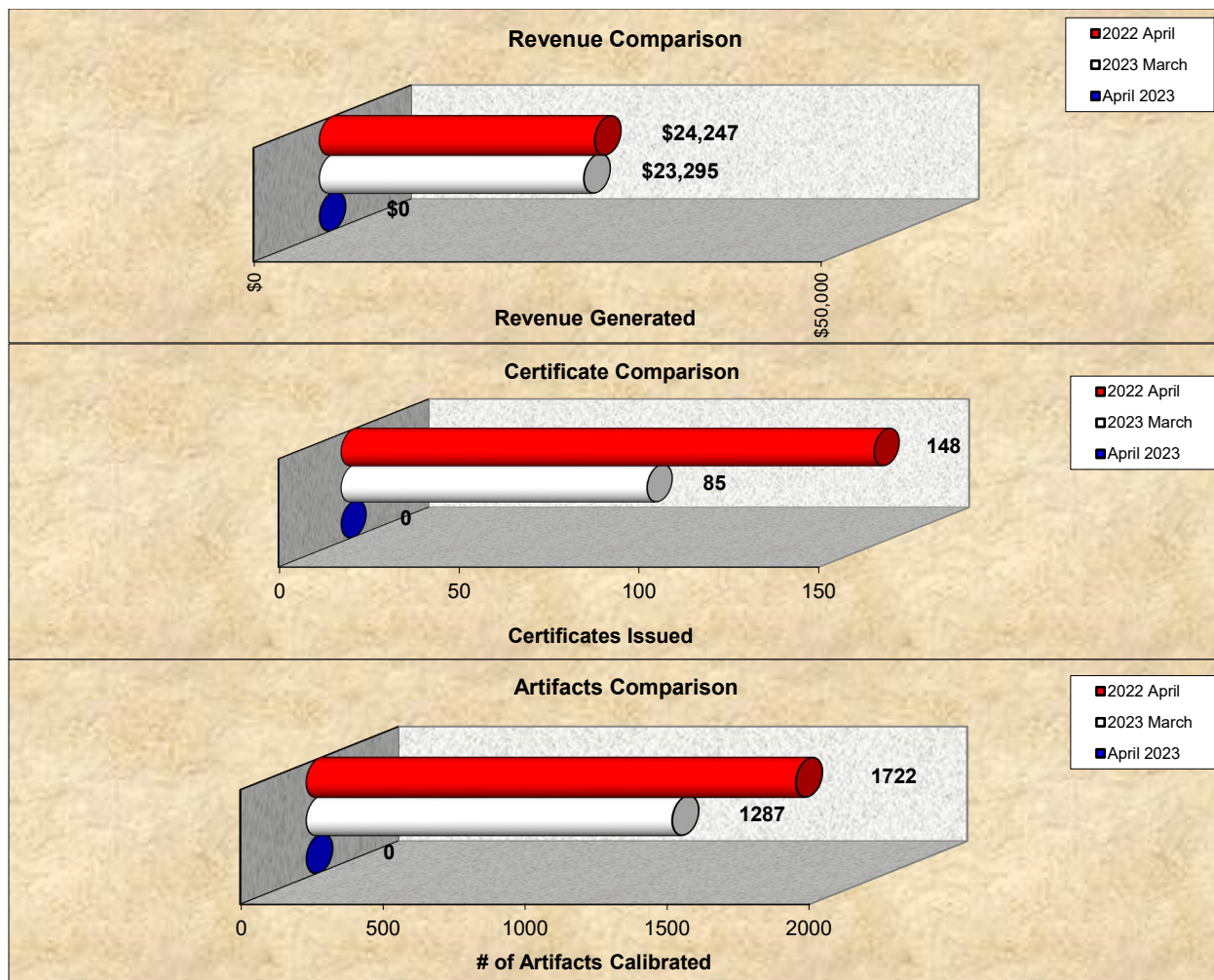
Pictured above: Richard Gonzales and William Krivanek are calibrating a weight cart in the Bureau's large Mass III laboratory.



Pictured above: Eli Klimek is performing a test on a test measure in the Bureau's volume laboratory.

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

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



Respectfully Submitted,

Wade Krivanek  
Laboratory Director  
Laboratory Services Division

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

FEED SAMPLES	232
FEED DETERMINATIONS	1225
POSSIBLE VIOLATIONS	133
 FERTILIZER SAMPLES	 79
FERTILIZER DETERMINATIONS	198
POSSIBLE VIOLATIONS	6
 LIME SAMPLES	 7
LIME DETERMINATIONS	26
POSSIBLE VIOLATIONS	0
 PESTICIDE SAMPLES	 29
PESTICIDE DETERMINATIONS	92
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 199
DETERMINATIONS	1492
 STATE-FEDERAL VET. LAB. SAMPLES	 501
STATE-FEDERAL VET. LAB. DETERMINATIONS	926
NUMBER POSITIVES	1
 SEED SAMPLES	 164
SEED DETERMINATIONS	176
POSSIBLE VIOLATIONS	0
 BUREAU OF STANDARDS CERTIFICATES	 85
NUMBER OF STANDARDS CALIBRATED	1287
FEE CHARGES	\$23,295.00
 DAIRY SAMPLES	 422
DAIRY DETERMINATIONS	777
POSSIBLE VIOLATIONS	5
 <b>TOTAL SAMPLES</b>	 <b>1718</b>
<b>TOTAL DETERMINATIONS</b>	<b>6199</b>
<b>TOTAL POSSIBLE VIOLATIONS</b>	<b>145</b>

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

FEED SAMPLES	176
FEED DETERMINATIONS	1014
POSSIBLE VIOLATIONS	82
 FERTILIZER SAMPLES	 64
FERTILIZER DETERMINATIONS	162
POSSIBLE VIOLATIONS	16
 LIME SAMPLES	 6
LIME DETERMINATIONS	34
POSSIBLE VIOLATIONS	0
 PESTICIDE SAMPLES	 23
PESTICIDE DETERMINATIONS	188
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 180
DETERMINATIONS	1356
 STATE-FEDERAL VET. LAB. SAMPLES	 359
STATE-FEDERAL VET. LAB. DETERMINATIONS	524
NUMBER POSITIVES	0
 SEED SAMPLES	 119
SEED DETERMINATIONS	125
POSSIBLE VIOLATIONS	0
 BUREAU OF STANDARDS CERTIFICATES	 0
NUMBER OF STANDARDS CALIBRATED	0
FEE CHARGES	\$0.00
 DAIRY SAMPLES	 172
DAIRY DETERMINATIONS	640
POSSIBLE VIOLATIONS	9
 <b>TOTAL SAMPLES</b>	 <b>1099</b>
<b>TOTAL DETERMINATIONS</b>	<b>4043</b>
<b>TOTAL POSSIBLE VIOLATIONS</b>	<b>107</b>





# OKLAHOMA FORESTRY SERVICES BOARD REPORT

*Division Activities from April 6, 2023 – May 12, 2023*

*Serving Oklahoma by conserving, enhancing, and protecting our forests and natural resources for present and future generations. The 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.*

## RESILIENT LANDSCAPES

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

#### **Program Highlights**

##### **Oklahoma Garden Clubs**

On April 5<sup>th</sup> Oklahoma State Garden Club Representatives brought the 2023 Smokey Bear-Woodsy Owl Poster Contest finalists from across the country to the Agriculture Building. The finalist's posters were ranked, and the Grade 1 – 5 National poster contest winner was selected. Urban Forestry Coordinator Mark Bays, Education Coordinator Tony Pascall, and Information Representative Keith Merckx helped with the judging and the winning posters were announced through the National Garden Clubs.

##### **Master Naturalists**

On April 8, the Oklahoma Master Naturalists Training Program was held in Oklahoma City at the OSU Extension office. Participants from across the state heard from Mark Bays on the benefits and services trees in our communities provide.

#### **NSU**

On April 18<sup>th</sup> Forester Riley Coy presented for Earth Day at Northeastern State University in Tahlequah about Urban Forestry and how faculty and students can get involved.

#### **Oklahoma City National Memorial**

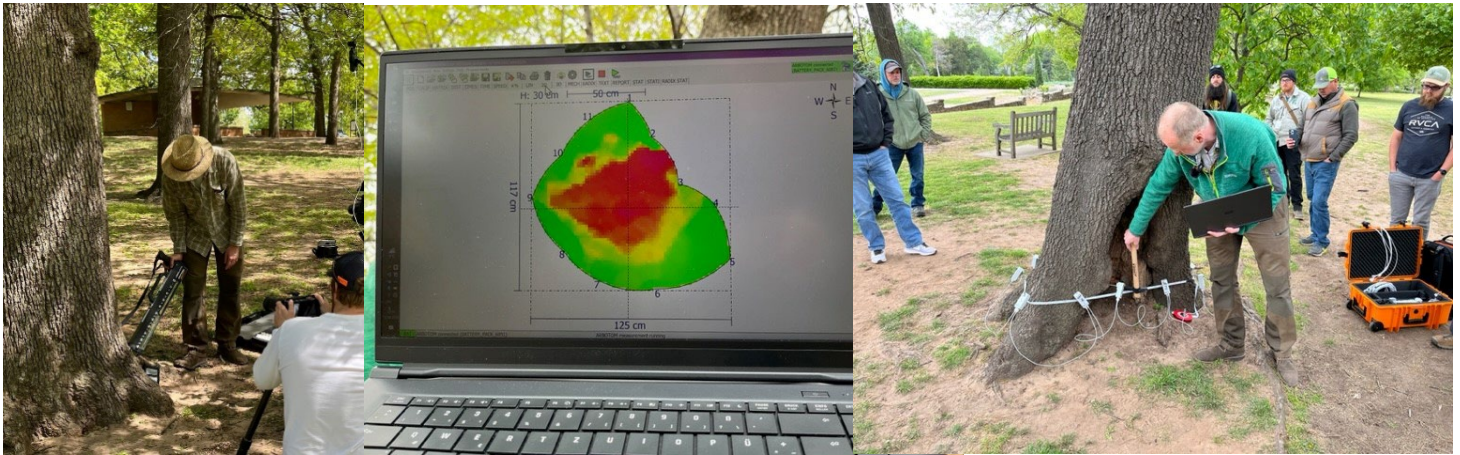
In preparation of the 28<sup>th</sup> Anniversary and Remembrance Ceremony of the bombing of the Alfred P. Murrah Federal Building, Mark coordinated the Survivor Tree seedling giveaway with Steve Bieberich of Sunshine Nursery, and staff and volunteers from the Oklahoma City National Memorial.

Riley, Mark, Forest Management Chief Craig Marquardt, and Keith Merckx helped sort and prepare seedlings from the Survivor Tree for the giveaway on April 19. Riley, Mark, and Keith were on hand to help volunteers and Memorial Foundation staff hand out over 325 seedlings following the Remembrance Ceremony. Individuals registered the planting location before receiving their seedling.



### Tree Decay Workshop

OFS co-hosted a Tree Decay Workshop with the Oklahoma Community Forestry Council April 21<sup>st</sup> – 22<sup>nd</sup> at Tulsa Community College's downtown campus. Over 35 arborists from Oklahoma, Arkansas and Kansas were on hand to learn from experts on various decay fungi within trees, what causes them and how they impact structural integrity. Part of the workshop included an outdoor demonstration at Woodward Park of specialized equipment including a Resist-o-graph and Sonic Tomography that allows the operator to map exactly where internal decay is in trees.



### Tree Risk Assessment Qualification (TRAQ) Training

On May 2<sup>nd</sup> - 5<sup>th</sup> OFS Foresters Connie Robinson and Evan Long attended Tree Risk Assessment Qualification training in Georgia. The session taught necessary skills and qualified the students to perform tree risk assessments on public lands.

### Oklahoma Gardening

The Oklahoma Gardening film crew was on hand to film the TRAQ's outdoor demonstration. The segment aired the weekend of May 6<sup>th</sup> – 7<sup>th</sup>. See the link to the segment here: [Oklahoma Gardening Tree Decay](#)

### Outdoor Classroom

On May 3<sup>rd</sup> and 4<sup>th</sup> Riley Coy and Chris Mask presented forestry topics at the Piedmont Outdoor Classroom event which was attended by approximately 200 4th grade students. Tree density and forest management were the topics presented utilizing a Project Learning Tree exercise called *Every Tree for Itself*.



### Grant Writing Workshop

On May 9<sup>th</sup>, the Oklahoma Municipal Assurance Group (OMAG) hosted a Grant Writing Workshop at the Moore Norman Technology Center. As many as seventy people representing 47 cities and towns were on hand to hear from state and federal agencies on different grant opportunities available. Mark Bays presented on the Urban & Community Forestry Grant Program sponsored by OFS. He also introduced a new funding program that will be available in the fall for tree planting in disadvantaged and lower income communities.

### OCFC UP With Trees

On May 11th Foresters Riley Coy and Mark Bays attended the quarterly meeting of the Oklahoma Community Forestry Council at *Up With Trees* in Tulsa.



## COMMUNITY OUTREACH AND COMMUNICATIONS

### FORESTRY EDUCATION



#### Project Learning Tree

On April 3<sup>rd</sup>, Education Coordinator Tony Pascall, Forest Management Chief Craig Marquardt, Urban Forestry Coordinator Mark Bays, Forest Management Coordinator Dieter Rudolph, and Service Forester Evan Long trained every Pre-K teacher and assistant in Broken Arrow Public Schools on Project Learning Tree. Now, over 100 teachers are trained and ready to teach

their students about the importance and function of the forest.

On April 8<sup>th</sup>, Tony trained twelve Early Childhood Educators on Project Learning Tree's *Trees & Me* curriculum.

On April 13<sup>th</sup>, Tony went to Duncan Elementary School for their Ag Day event and taught about the life of a tree and the importance of healthy forest management to over 180 students

On April 22<sup>nd</sup>, Tony staffed a booth at Scissortail Park's Earth Day event lead by OKC Beautiful. Over 300 people visited the booth receiving educational seedlings and information about tree care.



On April 27<sup>th</sup>, Tony taught several classes at Duncan Middle School about the value of forests and sustainable forest management. Approximately 150 students attended the classes.

On May 8<sup>th</sup>, Tony and GIS Specialist Chris Mask went to McAlester Early Childhood Center to teach approximately 200 Kindergartners about tree growth and the importance of trees as a part of their Native American Heritage Day. Smokey Bear was also present to assist with delivering a fire prevention message.

On May 10<sup>th</sup>, Tony had a booth at the 5<sup>th</sup> Green School Summit at Terra Verde Discovery School in Norman. Over 100 students and teachers from Green Schools around the state learned how they could bring resources from Project Learning Tree and OFS back to their home school.



## COMMUNICATIONS

### SafeStayOK.gov

Approval of the .gov domain is complete. The request for acquisition of that domain was made through the office of the state Chief Information Officer. The .com, .org., and .net domains have been acquired and will redirect to the .gov domain once that is in place. Further planning and implementation of the project is now moving forward.

### Circle Mountain Fuels and Fire

Information Representative Keith Merckx is completing post-production of a video highlighting the effectiveness of hazardous fuels mitigation in Oklahoma. Just weeks after OFS mitigation efforts were completed on Circle Mountain south of Bartlesville, the area experienced a wildland fire which was successfully stopped when it hit the treated area. Interviews were conducted with emergency management officials, the fire chief, and residents whose property/homes were spared due to the OFS mitigation efforts.

### Turkey Mountain Prescribed Burn

Keith and GIS Coordinator Chris Mask were on hand to document prescribed burning at the Turkey Mountain Urban Wilderness Area in Tulsa. They shot video both on the ground inside the fire and from the air with a UAS. Clearance to shoot the video with the UAS was obtained from R.L. Jones municipal airport. This footage will be included in future videos as well as the Fuels Mitigation Story Map which is nearing completion.

## COMMUNITY FIRE ASSISTANCE

The Community Fire Assistance Program assisted numerous fire departments with equipment issues during the reporting period. Two notable successes are shown below. Maramec Fire Department received title to the 2002 Stewart & Stevenson 2.5-ton 4x4 shown below after converting and placing it into service as a wildland firefighting engine. We passed title on the truck to the Fire Dept. this month. The green fire truck shown below is a 1993 Pierce fire engine that was acquired from the military this month. This engine will soon be placed with a rural fire department.



## FOREST REGENERATION CENTER/FOREST TREE IMPROVEMENT CENTER

Before the Regeneration team wrapped up this year's seedling sales, the staff was able to partner with the Garfield County Conservation District and USDA—NRCS and Farm Service Agency in Enid, OK for a great community outreach event. The four-hour event help to promote over 2,000 seedlings being sold to local landowners to help meet conservation needs and provided information to numerous landowner participants' requesting information for future conservation projects. In all, it was a successful event that helped the Forest Regeneration Center push the total number of seedling orders to over 700 orders statewide this harvest season.



## PROGRAM HIGHLIGHTS FROM THE EASTERN AREA OFFICES

### NORTHEAST AREA



#### Forest Protection Highlights

From April 1<sup>st</sup> through May 12<sup>th</sup>, the Northeast Area had 63 fires which burned 5,591.6 acres. NE Area Rangers also assisted with fires outside of the Protection Area during the reporting period. Matt Waldrop and Dakota Green completed *S-230 Single Resource Boss* training held in Broken Bow. Joe Leak and Dusty Ryals completed *S-215 Fire Operations in the Wildland Urban Interface* training in Broken Bow on April 15<sup>th</sup> – 16<sup>th</sup>. Cole Hix and Craig Longshore conducted interviews for the Park Hill Forest



Ranger I position on May 3<sup>rd</sup>. Billy Riggs and Cole Hix attended the *L-280 Followership to Leadership* training at the Arkansas River Valley Wildland Fire Academy.

#### Prescribed Burning

NE Area Rangers along with Rangers from East Central Area conducted the first prescribed fire within the City of Tulsa. They conducted the prescribed fire on April 12<sup>th</sup> and burned 12 acres on the property. Additionally, through April and May NE Area Rangers assisted with mechanical hazardous fuel reduction at Turkey Mountain.



Other prescribed fire activity in the Northeast Area included burning 138 acres in Adair County.

#### Forest Management/Program Highlights

Connie Robinson and Evan Long organized and assisted with several forest educational programs during the reporting period. They conducted the NE Area FFA regional forestry competition at Flint Ridge on April 4<sup>th</sup>. Connie hosted two educational presentations, one each for Caney Valley Conservation District and Jay Elementary School. These educational presentations covered topics for Earth Day and Fire Education for a combined total of 675 children in attendance. Evan assisted with a training that helped educators with Broken Arrow Public Schools System teach about forest ecology and conservation using the Project Learning Tree Book. Evan assisted with the Job Readiness Career Competition in Tulsa as a judge for the horticulture event. Evan and Connie also attended the ISA TRAQ Training in Georgia. Connie participated as member on 2023 SAF Certification Exam Committee for two days to set standard of performance for SAF Exam. Connie assisted five landowners last month and Evan assisted seven landowners regarding tree health and management options.



Travis Garrison & Smokey at Jay's Earth Day event



## ***EAST CENTRAL AREA***

### ***Forest Protection Highlights:***

Since the last board report date of March 31, 2023, the East Central Area has extinguished 14 fires which burned 1,996 acres with an average fire size of 142 acres. Five (5) primary structures at a total value of \$500,000 were threatened by wildfire but protected by OFS during suppression activities.

### ***Prescribed Fire:***

- East Central Rangers completed prescribed fires for eight private landowners, treating a total of 1,141 acres. Four (4) prescribed burn plans were completed covering 694 acres.
- East Central Rangers also assisted with the prescribed burn on Units 1 and 2 at Turkey Mountain in Tulsa.



### ***East Central Area Forest Management Highlights:***

- East Central rangers assisted with the fuels mitigation project at Turkey Mountain in Tulsa.
- During the reporting period one new forest stewardship plan was completed on a total of 339 acres.



### ***Information / Education Highlights:***

East Central Area foresters and rangers participated in local events that included the Old Timer's Day in Monroe and Kid's Fishing Derby's in Pittsburg and Haskell County. This is a community event that helps get school-age children outdoors and highlights recreational opportunities available to them.

Foresters Eddie Woods and Tommy Frampton assisted with the SE District FFA forestry judging contest at Beaver's Bend. They, along w/ East Central Area Rangers also set up and ran the Kiamichi Tech FFA forestry judging contest at Talihina. Eddie also set up and ran the State FFA and 4-H forestry judging contests.

Eddie also participated in the Blue Thumb Q&A in McAlester and water quality monitoring and the SAF field day at Pushmataha WMA.

EC also set up an OFS booth at the Simply Ag event in McAlester which is an educational event for both adults and children that highlights agriculture and its' commodities in SE Oklahoma.



### ***Personnel update:***

The Quinton unit Ranger vacancy was filled by EC's newest ranger Brett Boland on April 10, 2023.

Since the last board report, EC has had another ranger position vacated. Drake Smith, who hired on in January in the Adamson unit, left OFS employment for a law enforcement position in Atoka county. This vacancy is currently posted and OFS is accepting applicants for the position.

### ***OSU NREM Capstone update:***

OSU students completed their senior capstone forest management plans and presented them to the landowners, OSU professors, and OFS foresters Caleb Fields and Riley Coy on May 3<sup>rd</sup>. The students gained valuable, real world experience through this project and received positive feedback from all involved. Discussion is in progress regarding OFS foresters helping to provide even more guidance to OSU capstone students in the future. Thank you to Dr. Ryan Desantis and the students for involving OFS and for all their hard work in putting together the plans for the landowners.

### ***Safety / Training Highlights:***

When not fighting fire or conducting prescribed burns, OFS employees also attend training to enhance their firefighting knowledge, skills, and abilities. New employee, Brett Boland, completed S-130/S-190/L-180 in order to provide a presence on the fireline in support of wildfires and prescribed fire activities. These courses train new firefighters in basic firefighting skills.

An assortment of OFS rangers are also currently attending *S-212 Wildland Fire Chainsaws*, *S-290 Intermediate Wildland Fire Behavior*, *S-390 Introduction to Wildland Fire Behavior Calculations*, and *L-280 Followership to Leadership* at the Arkansas River Valley Wildland Fire Academy in Russellville, AR to advance their roles in wildland fire and prescribed fire.

This year the academy offered courses for wildland firefighters from all wildland fire agencies ranging from 4 to 40 hours in length. Each course is taught by instructors from state and federal agencies, allowing the academy to provide unique experiences as well as a wealth of professional knowledge and abilities to each course. OFS has several rangers serving in instructor roles at the academy.



#### ***Ongoing Issues:***

- Filling vacancies, retaining employees, new Class A CDL requirements, and new employee training will be our most pressing issues. A recurring theme within the past several years are employees leaving employment with OFS to seek higher paying jobs elsewhere.
- On a positive note, OFS has been in discussion with ODOT and other state forestry agencies regarding Entry Level Driver Training (ELDT) requirements. These federal requirements were implemented in February 2022 and require CDL applicants to take training that consists of theory and behind-the-wheel training. This is a 5-week course and costs ran from \$4,800-\$5,800 per employee. OFS will register to become a training provider for our employees and have designated Rangers to attend training to become federally-certified instructors.

#### ***SOUTHEAST AREA***

##### **Forest Protection Highlights**

- In April the SE Area responded to 13 fires that burned 473 acres
- In May the SE Area responded to 1 fire that burned 3 acres.
- Forest Rangers Steve Painter and Oley Walker assisted with the hazardous fuel mitigation project at Turkey Mountain
- SE Area Broken Bow District hired Jeffrey Kemp as a Forest Ranger 1. Jeffrey lives in the Pickens, OK area with his wife and baby.
- Don Cook attended the McCurtain County Fire Association meeting in April

##### **Forest Management Program**

- Will Phifer provided assistance to 13 landowners
- JT Allen provided assistance to 10 landowners
- Tyler Hyatt provided assistance to 7 landowners
- Tyler Hyatt completed two forest stewardship plans

- Brock Hill and JT Allen met with OFS, representatives from the Conservation Fund and AFM to plan forest management activities for the new State Forest near Nashoba, OK
- SE Area Foresters and Rangers assisted with the county and district Forestry contests for high school students
- Three tracts were aerially sprayed for herbaceous weed control on 250 acres

#### **Prescribed Fire Assistance:**

- One prescribed fire was completed which treated 320 acres on the Double E Ranch

#### **Safety/Training Highlights:**

- Tony Macon and Pat Wayman taught the *S-200 Initial Attack Incident Commander* class at Arkansas River Valley Wildland Academy
- Derik Gee, Tyler Hyatt and Steve Painter taught *S-130 Basic Wildland Firefighting* and *S-190 Introduction to Wildland Fire Behavior* for Caddo/Kiowa County RFDs
- Jared Burgett, Colton Fuller, Tyler Hyatt completed *S-290 Intermediate Wildland Fire Behavior* at Antlers
- Calvin Webb, Mark Webb, Jared Burgett, Tyler Hyatt, Cody Mack completed the *S-200 Initial Attack Incident Commander* and *S-230 Single Resource Boss* classes at Broken Bow. Instructors were Don Cook and Pat Wayman.
- Jeffrey Kemp, new Ranger I at Broken Bow, completed his initial wildland firefighter training with Don Cook and Sonny Johnson.
- Don Cook conducted *S-215 Fire Operations in the Wildland Urban Interface* course for local fire departments in McCurtain County. Assisting in the course were rangers Bradley Walker, Bryden Walker and Sonny Johnson;
- JT Allen attended Arkansas River Valley Wildfire Academy and completed the *L-380 Fireline Leadership* course;
- This week attending Arkansas River Valley Wildfire Academy are Tony Macon *S-220* course; Steve Painter, Sonny Johnson, Tyler Hyatt, *S-212 Wildfire Powersaws* course; and JT Allen *S-330 Task Force/Strike Team Leader* course; Cody Mack taking *S-219 Firing Operations* course.
- Attending Texas Wildfire Academy in Lufkin this week is Leon Macon *S-270 Introduction to Aviation Operations* course.

#### **Upcoming events/activities:**

- Hochatown Mapping Updates
- SE Area personnel will provide security for Forestry Youth Camp in June
- Jeffrey Kemp will attend a Wildfire Dozer Academy in North Little Rock, AR at the end of May

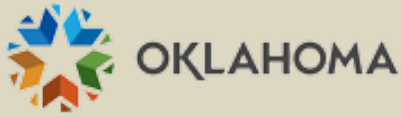
#### **STATE FORESTER ACTIVITIES from 6 April to 18 May:**

- Attended scheduled Director's Meetings
- Virtually attended one Steering Committee meeting for the *S-520 Advanced Incident Management* Course (Goeller serves as a Subject Matter Expert/Cadre/Steering Committee member)
- Attended the April Board of Agriculture Meeting
- Participated in numerous committee meetings planning for the Southern Group of State Foresters Annual Meeting to be held in June 2023 in OKC
- Participated on the National Association of State Foresters' All State Foresters Monthly Policy Call
- Participated in Ag Day at the Capitol events
- Attended organizational meeting for Northern Rockies Incident Management Team #1 in Kalispell, MT
- Attended a presentation of Forestry Services personnel to the Oklahoma House of Representatives
- Attended a meeting with Forestry Services Area Foresters and Fire Management Staff
- Attended the Director's Retreat in Oklahoma City
- Attended the National Association of State Foresters' Executive Committee Meeting in Washington, DC.
- Virtually attended two meetings of the Community Wildfire Defense Grant Program Policy Development team
- Participated in the April Southern Group of State Foresters Fire Management Chiefs' conference call

- Attended the Forestry Services' Leadership Team's "First Tuesday" meetings in April
- Attended a Forestry Services Budget Planning Session

Respectfully submitted by Mark E. Goeller





## *CONSUMER PROTECTION SERVICES DIVISION*

### **JUNE 1, 2023 BOARD MEETING REPORT FOR MARCH/APRIL/MAY 2023**

#### **PESTICIDE SECTION**

##### Pesticide Registration Activity

Pesticide registrations for April 1<sup>st</sup> to May 11<sup>th</sup>, 2023 are presented in the following chart. A total of 2515 products were registered, of the products registered 2379 were renewals and 136 were new. There were 142 products cancelled.



##### Pesticide Samples

Pesticide samples taken March-April 2023 are presented in the following chart. A total of 36 Residue, 8 Concentrate, 4 Plant Food, and 4 Tank mix samples were taken.

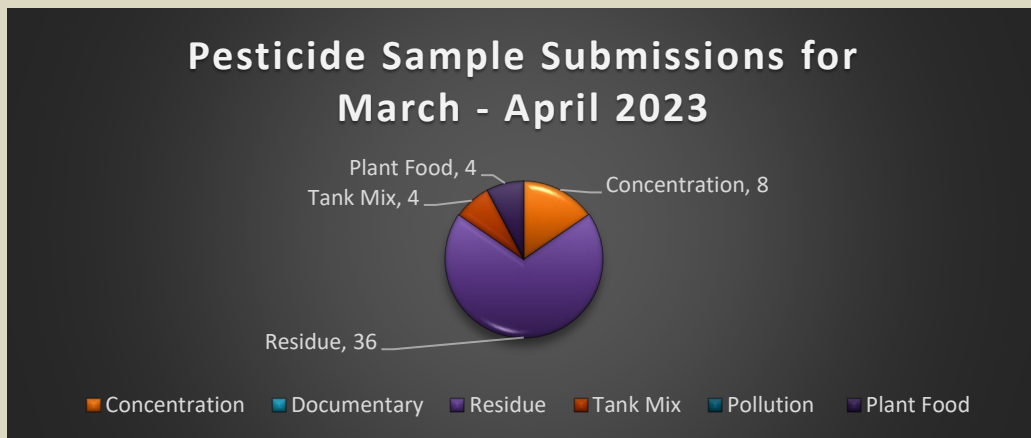




Table 1. Inspection Count for March - April 2023\*

Inspection Type	Number of Inspections		
	March	April	Two Month Total
Experimental Use Permit	0	0	0
Marketplace	41	20	61
Pesticide Applicator Facility	21	18	39
Pesticide Service Inspection	0	0	0
Restricted Use Pesticide Dealer	12	8	20
Container Containment Inspection	0	0	0
Producer Establishment	0	0	0
Use	78	71	149
Termite	0	0	0
Wood	0	0	0
Pre-treat	1	1	2
Drift Investigation	0	0	0
Pesticide Label	2322	1065	3387
Worker Protection	0	3	3
<b>Total</b>	<b>2475</b>	<b>1186</b>	<b>3661</b>

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

Along with the above inspections CPS inspectors also took 25 nonagricultural use samples, 18 agricultural use samples, 4 nonagricultural follow up samples and 5 marketplace samples for a total of 52 samples.

#### Unwanted Pesticide Disposal

ODAFF held two unwanted pesticide disposals the first on April 25<sup>th</sup> in McAlester at the Southeast Expo Center, the second was held April 27<sup>th</sup> in Kingfisher at the Kingfisher County Fairgrounds. The collection was scheduled from 8:00am until 1:00pm. The McAlester event collected 2,472 pounds and the Kingfisher event collected over 38,000 pounds. ODAFF started the Unwanted Pesticide Disposal Program in 2006, since the start of the program ODAFF has collected almost 1.3 million pounds of unwanted pesticides. ODAFF works with our hazardous waste contractor, CleanEarth to dispose of these pesticides properly.

## *Pesticide Testing & Updates*

### Licensing & Certification:

There are currently 2,014 active pesticide applicator licenses. There are 93 licenses under stop work order for nonrenewal in 2023.

Categories expiring this year – 1a-Ag Plant, A-Aerial, 7b-Structural Pest, 10-Demonstration & Research, and Private Applicators. CEU renewal letters will be sent out in September and again in November.

Private Applicators will be allowed to start retesting July 1<sup>st</sup>. Letters will be sent out to all active private applicators before July with new testing procedures and renewal information for those receiving CEUs

### Pesticide Complaints

PESTICIDE COMPLAINTS	April 12, 2023 – May 31, 2023			
	RECEIVED	CLOSED	WARNINGS ISSUED	NO ACTION
CONSUMER GENERATED:	13	4	3	4
MUSK THISTLE:	4			
PMR CASES:	12	0	7	0
CASES REFERRED TO OGC:	15			

## **ENVIRONMENTAL RESOURCE AND HORTICULTURE SECTION**

### **Plant Protection Program**

#### Phytosanitary Certificates

Federal phytosanitary certificates Issued from April 1, 2023 – April 30, 2023

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

13 Federal phytosanitary certificates issued @ \$106.00 each

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

3 Federal phytosanitary Certificates issued @ \$61.00 each

<b>Federal Phytosanitary Certificates (April 1, 2023 - April 30, 2023)</b>			
<b>Country</b>	<b>Product</b>	<b>Quantity</b>	<b>Phytos Issued</b>
Canada	Hydrangea Plants	1,800 plants	1
France	Barrelclover Seed	5 G	1
Indonesia	Miscanthus Seed	20,000 Kg	1
Mexico	Sesame Seed	339,119 Lbs	8
Republic of Korea	Walnut Logs	55 Logs	1
Spain	Barrelclover Seed	10 G	1
Thailand	Miscanthus Seed	40, 025 Kg	3

Companies applying for federal phytosanitary certificates

Ace Logistics	1
Greenleaf Nursery Company	1
International Ingredient	4
OSU Biosciences	2
Sesaco	8

State phytosanitary certificates Issued from April 1, 2023 – April 30, 2023  
262 phytosanitary certificates for 32,124 plants



### *Phytophthora ramorum* Survey

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

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

### Chrysanthemum White Rust

An Oklahoma, Chrysanthemum grower has been subject to various trace-forward and track-back events over the last few years concerning Chrysanthemum White Rust, a federally regulated disease caused by the fungus *Puccinia horiana*. The disease has never been found at his operation, but we are collecting data, inspecting each variety, and taking samples each month. We concluded our sampling in April, having inspected over 160 varieties of mums and collected 81 samples since January. All samples have come back negative for CWR. We will keep the data on file.



Figure 1: White Rust on Chrysanthemum.

### Japanese Beetle Survey

CPS will have 5 inspectors that are trapping for the Japanese Beetle survey this year, which begins at the end of May. They will place 42 traps over 7 counties. The traps will be checked every 2 weeks in June & July, and once per month in August and September. The traps will be removed at the end of September. Data will be collected and kept on file for use with compliance agreements and shipping certificates regarding Japanese Beetle compliance in other states.



Figure 2: Japanese Beetle

### Inspector Training and Visit to Guthrie Greenhouse



Figure 3: Guthrie Greenhouse Bedding Plants.

Kaci Hubbell, Joey Baker, and Jarrod Sanders conducted an inspection at Guthrie Greenhouse on May 11. Guthrie Greenhouse is a large wholesale nursery specializing in bedding plants, vegetables, and hanging baskets. They supply many Nursery operations in Oklahoma, including Atwoods, as well as nurseries in Kansas, Texas, Colorado, Arkansas, and Missouri. They have several compliance agreements with ODAFF.



Figure 4: Joey Baker and Jarrod Sander Completing a Nursery Inspection

## Hemp

Currently receiving some grower applications for both indoor and outdoor. We are currently at 19 active growers, 10,389sqft, and 250 acres.

## Apiary

The USDA/ODAFF 2023 National Honeybee Survey begins this month. We have received our supplies and will begin sampling various apiaries around the state for the remainder of the year. Our first sample will be conducted in Edmond. The samples we take including some live bees will be shipped to the University of Maryland for further assessment. Figure 5 is an example of what is contained within each sample box.



Figure 5: National Honeybee Supply Survey Supplies

## Environmental Resource Program

On March 3<sup>rd</sup>, 2023, ODAFF inspector, Keith Neugebauer investigated a complaint reporting a pesticide spill starting approximately 0.4 miles north of 67th Street and Tinney Road in Lawton, OK. Upon arrival, the inspector noticed the spill and followed the dye trail, which ended at the lawn company Rid a Weed/ Ultra Green in Walters, OK. The dye trail extended approximately 23 miles long. During the investigation, a water sample was collected at a puddled area at the intersection of 67th Street and Highway 36. Various pesticide residues, including 2,4-D, dicamba and MCPA, were detected in the sample. A letter of warning was issued to the Rid a Weed/ Ultra Green for label violations regarding the spill.

The photos from left to right are taken at the starting point on 67th Street, intersection of Highway 5 & Highway 277 west of Walters looking east, Rid-A-Weed/ Ultra Green's driveway.



Figure 6: photos from left to right are taken at the starting point on 67th Street, intersection of Highway 5 & Highway 277 west of Walters looking east, Rid-A-Weed/ Ultra Green's driveway.



## AGRICULTURE RESOURCE SECTION

### Weights & Measures Program

During this period the large capacity scale technicians tested 4 vehicle scales and 45 ranch scales, 2 of the vehicle scales were rejected for repairs and 7 ranch scales were also rejected. The ranch scale testing program has been completed and we are concentrating on checking vehicle scales at Coops and grain elevators prior to the start of wheat harvest.

CPS inspectors checked a total of 1281 small scales and 24 platform scales, 21 of the scales were rejected. There were 20 random pack inspections and 71 standard pack inspections conducted that resulted in 3 companies receiving letters of warning. Additionally, 102 price verification inspections were conducted at various retailers that resulted in 2 companies receiving letters of warning.

One company received a Stop Work order for operating without a Service Agent license.

### Feed Program

#### Program Performance

During this reporting period there were a total of 203 official feed samples analyzed, with 966 feed determinations made from these samples. These determinations resulted in the issuance of 42 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 Calcium. Other violation includes Crude Fat, Crude Fiber, Vitamin A, Phosphorus, Crude Protein, Salt, Copper, Manganese, and Zinc. Twenty-Eight stop sale orders were issued for feed products with severe deviations from their guaranteed analysis. Seven stop sales were issued for products deficient in Vitamin A. Six stop sales were issued for products deficient in Salt. Five stop sales were issued for products deficient in Calcium. Four stop sales were issued for products deficient in Crude Fat. Two stop sales were issued for products deficient in Zinc. One stop sale was issued for a product deficient in Phosphorus. One stop sale was issued for a product deficient in Copper. One stop sale was issued for a product deficient in Crude Protein. One stop sale was issued for a product with excessive levels of 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.

**Table 1. Feed Notice of Label Violation Summary April 2023- March 2023**

Nutritional Guarantee	Number of Label Violations		
	April <sup>1</sup>	March <sup>2</sup>	Two Month Total
Crude Protein	5	8	13
Non-protein Nitrogen	0	0	0
Crude Fat	5	5	10
Crude Fiber	1	3	4
Calcium	11	15	26
Phosphorus	1	13	14
Salt	3	5	8
Magnesium	0	0	0
Potassium	0	3	3
Copper	3	1	4
Manganese	2	1	3
Zinc	6	5	11
Vitamin A	5	4	9
Medicated Feed	0	0	0
<b>Total</b>	<b>42</b>	<b>63</b>	<b>105</b>

<sup>1</sup> 203 feed samples analyzed with 966 determinations; <sup>2</sup> 258 feed samples analyzed with 1225 determinations

**Table 2. Feed Stop Sale Summary April 2023- March 2023**

Nutritional Guarantee	Number of Stop Sales		
	April <sup>1</sup>	March <sup>2</sup>	Two Month Total
Crude Protein	1	3	4
Non-protein Nitrogen	0	0	0
Crude Fat	4	3	7
Crude Fiber	1	1	2
Calcium	5	15	20
Phosphorus	1	4	5
Salt	6	4	10
Manganese	0	0	0
Potassium	0	1	1
Copper	1	4	5
Zinc	2	1	3
Vitamin A	7	9	16
Medicated Feed	0	0	0
<b>Total</b>	<b>28</b>	<b>45</b>	<b>73</b>

<sup>1</sup> 203 feed samples analyzed with 966 determinations; <sup>2</sup> 258 feed samples analyzed with 1225 determinations

## Fertilizer Program

### Program Performance

Below you will find the performance numbers for the fertilizer, agricultural lime, and soil amendment programs for the time-period of March 31<sup>st</sup> to May 15<sup>th</sup>, 2023. The fertilizer program has been conducting anhydrous ammonia inspections for both nurse and storage tanks, and also completing ammonium nitrate audits.

Sample Type	Number	Deficiency Penalty/SS
Fertilizer	101	9
Lime	12	0

Investigation Type	Number
Anhydrous Ammonia Nurse Tanks	41 (850 Total Tanks)
Anhydrous Ammonia Storage Tanks	25 (43 Total Tanks)
Dry Bulk Fertilizer Storage Facility	10
Liquid Bulk Fertilizer Storage Facility	2
Facility Pre-Site	2

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



Kenny M. Naylor



**OKLAHOMA**  
Agriculture, Food  
and Forestry





Oklahoma Department of Agriculture, Food and Forestry  
Animal Industry Services Board Report  
June 1, 2023  
Activities April 1, 2023 – May 12, 2023

**Animal Disease Traceability:**

We continue to distribute the free RFID tags to interested veterinarians and producers. During this time, we shipped 3,820 tags to veterinarians and producers.

During this time, we selected wand recipients to receive the RFID wands purchased with ADT supplemental funding. 42 veterinary clinics were selected. Of these, 32 clinics received the Allflex AWR300 wand and 10 clinics received the Allflex LPR wand. We are currently working with the livestock market veterinarians to demonstrate the wands and provide an option for the wand of their choice in order to be prepared for the EID transition when the proposed rule is finalized. Any remaining wands after the markets are outfitted, will then be allocated to veterinarians and/or producers.

The comment period for the proposed changes to the ADT rule has closed. Comments are being reviewed. If adopted, we anticipate the rule will be published in late summer. The implementation date will be 180 days after the final rule is published.

**Aquaculture:**

We have finalized aquaculture renewals. We currently have 16 facilities that have renewed their licenses. A Letter of Warning was sent to three aquaculture producers who failed to renew their licenses. The letters resulted in the close out of 2 facilities.

**Biologics:**

During this time, biological product renewals were finalized. Stop Sales Notices were automatically generated for 4 companies that did not register products before the expiration date. 3 of the 4 companies renewed after receiving the notices. The last company does not have any biological products for distribution or sale in Oklahoma. This registration period resulted in 785 biological products being renewed, 11 products cancelled, and 21 new products registered. This resulted in \$161,200 in registration fees and \$2,000 in late fees.

**Cattle Programs:**

**Brucellosis:**

On May 8 I was notified of a positive Brucellosis test in a cow from McCurtain County. The group of cattle the cow is with are quarantined and we're waiting from confirmatory testing by National Veterinary Services Laboratory in Ames, IA.

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

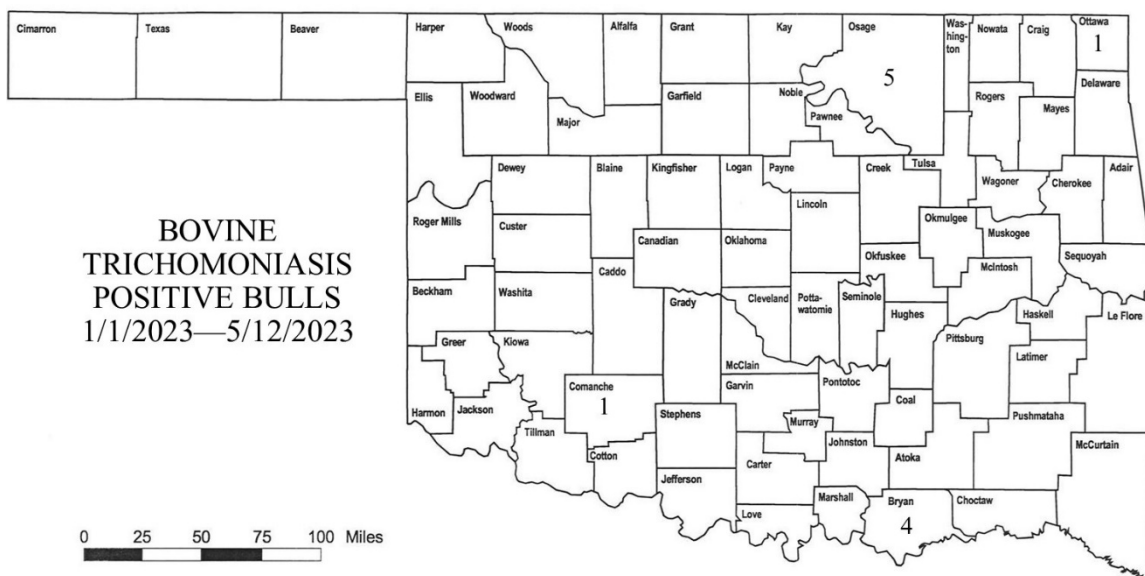
While there is very little need to test for *B abortus* any longer, this means we have very little or no surveillance for *Brucella suis* (Swine Brucellosis) in cattle, which currently infects approximately 20% of the feral swine that our Wildlife Services personnel test. *B suis* can, and does, infect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

### **Tuberculosis:**

We currently have no TB affected herds in Oklahoma.

### **Trichomoniasis:**

During this period there were 3,003 Oklahoma bulls tested for Trichomoniasis with five positive individuals found.



9,337 bulls tested / 11 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:**

During our reporting period we received seven new positive affected herds but a total of nine positive reports. Over the last eight years the number of new positive premises has remained basically the same, but the number of multiple positive reports is significantly less, average 1.5 the last two years verses 5.2 the previous six years. It is difficult to know if infected herd owners are simply recognizing the disease and culling animals rather than test or if management is improving.

### **Emergency Management:**

During this timeframe, Dr. Gorczyca worked with OK Medical Reserve Corps to submit a state application for the MRC-STRRONG award. The application, if awarded, would provide necessary funding to host training opportunities for the State Animal Response Team volunteers.

On April 1, Dr. Gorczyca assisted the Payne County Animal Response Team and the OSU CVM to conduct an emergency animal sheltering exercise utilizing veterinary students.

On April 6, the National Pork Board depopulation and disposal exercise team held a planning call with the proposed host producer, Hanor, to introduce the concept of the exercise and to answer any questions. On April 12, a Foreign Animal Disease disposal option webinar was provided to the NPB depopulation and disposal exercise team along with the host producer, Hanor. On May 2, a depopulation webinar was conducted for the host producer to assist with selection of the method of depopulation for the exercise. We held the regular planning team meeting on April 27. The timeframe to conduct this exercise has moved up significantly due to concerns of endemic diseases commonly seen on hog farms in the fall. The exercise will now be held August 10-11 and then conclude on August 14-15.

On April 13 and May 11, Dr. Gorczyca hosted the Multistate Partnership (MSP) for Security in Agriculture monthly call.

On April 18-20, Dr. Gorczyca and Dr. Ruby attended the Regional State Agricultural Emergency Management meeting, “Regional Ruckus”, in Charlotte, NC. This meeting brought together Ag emergency managers from 29 different states along with federal partners to discuss gaps in planning efforts and how to collaborate to assist planning efforts in all states.

On April 20 Dr. Gorczyca and I fielded several calls related to livestock injured in the tornado the night before at Cole, OK. We were able to connect the callers to the appropriate emergency responders.

### **Equine Programs:**

There are no reported cases or quarantines for CEM in Oklahoma

There is one known Piroplasmosis case in Oklahoma.

There is one known Equine Infectious Anemia case in Oklahoma

On April 20 I was notified that a horse that became ill and died on April 17 at the National Reining Breeders Classic show at the Tulsa Expo Square was confirmed to have Equine Herpes Virus. Dr. Zeke Proctor with USDA Veterinary Services began an epidemiological investigation that night and removed the horses that were most likely exposed to an isolation area. Those horses were tested and thankfully all were negative. The horses at the event were quarantined until we could gather more information and contact State Veterinarians in the 22 states that sent horses to the event. A product that

has proven anecdotally to eliminate shedding of the virus by infected horses was offered, and almost 600 horses were treated with it. By mid afternoon May 22 we had no reports of other symptomatic horses and the State Veterinarians had the information on the trainers from their states who had horses there. They gave permission for the horses to come back to their states under quarantine to be isolated and monitored. Thankfully, no other horses became ill. The isolation period ended on May 8<sup>th</sup> and no additional cases of EHV-1 were reported.

Oklahoma has one horse that has been confirmed to be positive for both Equine Infectious Anemia (EIA) and Equine Piroplasmiasis (EP). The infected horse is a 3-year-old racing quarter horse. There is no history of this horse participating in sanctioned racing in the United States and is known to have originated from Mexico. It is likely she was illegally imported into the United States and transported to a farm in Oklahoma with the intent to participate in unsanctioned racing. Because EIA is not treatable, options for this horse are lifelong quarantine in an area with a minimum distance of 200 yards from any other equine or euthanasia. If the owner opts to quarantine, the dual infection with EP will require that the horse be treated with an acaricide (tick preventive) year round, the vegetation in the quarantine area must be kept less than 4 inches tall, and a 10 foot barrier with no vegetation must surround the area of quarantine. We are working with the owner to determine if the requirements for quarantine can be met. Animal Industry and USDA field staff are working closely with the owner and neighbors to determine additionally exposed equine and implement testing to look for additional cases.

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

AIS continues to process Farmed Cervidae license renewals and schedule premises inspections for our cervidae producers. Letters of Warning were mailed out on April 21, 2023 to producers who have not submitted their annual renewals.

In the course of renewals for our monitored herds, laboratory results for tuberculosis testing have revealed that two herds have animals that have non-negative test results. Those premises continue to be under quarantine at this time.

Dana Call and I met with Oklahoma Elk producer Jason Parrish, who brought guests from New Zealand to discuss the possibility of establishing a premier farmed cervidae facility in Oklahoma. Hamish Fraser, CEO of Venator and Dr. Jeff Ward, Geneticist for Venator, discussed their ideas for a second operational facility here.

We've been in communication with white tail deer producers that are interested in pursuing funding from the USDA for antemortem testing research for Chronic Wasting Disease. Dr. Gorczyca and Dana Call attended a virtual information session hosted by the USDA regarding the process for requesting grant funding for this project.

A bill signed by Governor Stitt has removed the import and export restrictions that were previously in place for Whitetail Deer. Oklahoma producers are now free to import whitetail deer from Texas, Florida, New York, Pennsylvania and Indiana, so long as all

other import requirements are satisfied. The Cervidae Entry Permit Application has been updated to reflect this change.

**Feral Swine:**

AIS continues to process feral swine sporting facility and handling facility license renewals. Letters of Warning were mailed out on April 26, 2023 to facilities who have not submitted their annual renewal applications. There continues to be a high volume of feral swine hunter license requests.

**Foreign Animal Disease:**

There were three FAD investigations during this time.

One was for a backyard flock of chickens that had a high death loss. One was a small rabbit breeding operation that had several rabbits die suddenly. Thankfully, neither of these were diagnosed as a FAD.

The third case was a horse that tested positive for Equine Infectious Anemia. This was a quarter horse recently imported from Mexico. Since we see a fairly high incidence of a FAD called Piroplasmiasis in horses infected with EIA, we tested for Piroplasmiasis and it was positive. There is no treatment for EIA. We are encouraging the owner to euthanize the horse, but so far he is attempting to find a place to quarantine the horses at least 200 yards from any other horses.

The 2022 incursion of Highly Pathogenic Avian Influenza is continuing in the United States but confirmed cases appear to be declining with no reported cases in commercial poultry in the last month. Oklahoma has not had a confirmed case since December of 2022. We continue to investigate sick bird calls to test for Avian Influenza and encourage flock owners to report any clinical symptoms consistent with AI infection.

We continue to be part of three separate working groups that are planning to respond to African Swine Fever in case the disease makes it to the USA. This has gained greater significance due to the finding of ASF in the Dominican Republic and Haiti.

**Livestock Market Audits:**

During this period, one new livestock market license was issued to Okmulgee Livestock Auction. Blaze Simonson has leased the facility with plans to have periodic horse sales and a goat/sheep sale twice monthly. Mr. Simonson has completed the registration process with ODAFF, as well as USDA Packers and Stockyards. Okmulgee Livestock Auction has a horse sale scheduled for May 14 and their first sheep and goat sale on May 23<sup>rd</sup>.

Jeff Scott has continued to work with Tara Sanders of JT Livestock. Ms. Sanders is currently registered as a livestock dealer with USDA and is operating as such at the Overbrook, Oklahoma facility, with plans to eventually host a monthly horse sale. At this point in time, JT Livestock has not submitted any paperwork to become a licensed livestock market.

Although only one market application was received this month, packets were requested by a couple of others interested in sale barn ownership. This period also allowed for the completion of a new market orientation as well as a number of custodial account reviews.

#### Livestock Auction Market Activities

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

#### Outreach:

On April 5 our Field Staff was in for our quarterly meeting. We discussed upcoming changes to over the counter antibiotics, new livestock markets, they got their laptop computers updated, and several other tasks.

On April 18 I attended a virtual meeting of the National Assembly of State Animal Health Officials. About 20 of the State Veterinarians were attending the National Institute of Animal Agriculture meeting and met to discuss some issues that we are all dealing with.

On April 24 I was interviewed by Tulsa News 6 about the case of Equine Herpes Virus at Tulsa Expo Square.

On May 1 Dr. Stone presented to the Perkins 4-H and FFA community meeting. He presented an overview of regulatory medicine, agricultural improvement in America, biosecurity and protecting our food supply using HPAI as an example. He illustrated how it gets to the US, how it spreads, and what we can do to reduce risk. The group of 30 consisted of about half high school students and half adults. The group remained engaged and had a number of good really questions were asked.

On May 4 I traveled to Stillwater to attend the Oklahoma Animal Disease Diagnostic Laboratory Board of Advisors Meeting.

On May 5 I was interviewed by Savannah Magoteaux from Oklahoma Farm and Ranch magazine.

On May 10 I traveled to Stillwater to assist USDA Veterinary Services personnel in teaching an orientation class to begin the accreditation process to perform regulatory work. After the accreditation orientation, students who are staying in Oklahoma and will be doing some bovine work stayed and I gave them a presentation about our Trichomoniasis program so they can be approved to perform regulatory Trichomoniasis testing.

**Poultry Programs:**

There have been 27 sick or dead birds submitted for our sick bird/dead bird program since the last board report, for a total of 51 cases this year.

We held six Poultry Tester Training classes at various locations around the state and certified 52 Poultry Testers.

**Public Health**

There is nothing to report during this time.

**Rabies in Livestock:**

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

**Sheep and Goat Programs:**

There were no significant activities in this program.

**Swine Programs:**

On April 10 We hosted a virtual meeting of ODAFF personnel, OYE personnel, Oklahoma Pork Council personnel, and two private veterinarians to discuss the cases of Porcine Epidemic Diarrhea at OYE and how to minimize the potential for the disease to negatively impact the event in the future. The discussion was good and we have some plans as we move forward.

Veterinarians are beginning to use the online swine test charts OADDL has provided for swine testing. OADDL is sending electronic copies to the designated e-mail for AIS. There have been no issues with the initial transition. Letters of Warning were mailed out on April 27, 2023, to V/Q herd participants that have not updated their herd inventory for the program.

**Miscellaneous:**

On April 21 the Jackson County Sheriff's office contacted Dr. Stone for help in handling an exotic petting zoo monkey that bit a visitor. Dr. Stone and Oklahoma State Public Health Veterinarian Dr. LeMac' Morris worked together to get the animal quarantined and local health officials and veterinarians involved.

On April 27 I attended the ODAFF Directors Retreat at Hamm Institute for American Energy. We discussed how to communicate better with our stakeholders and received some good tips on conducting interviews.

On April 27 I was contacted by an employee of a bank in Pontotoc County. The bank is the trustee of land that was owned by a deceased client of theirs. They were getting complaints about cattle that were not authorized to be on the land being in poor condition. I assigned our Livestock Inspector, Robbie Sanders to meet with a representative of the bank and a deputy from Garvin County to assess the situation. Robbie and the others visited the premises on May 9. Robbie reported that some of the cows were thinner than they should be but most were in acceptable body condition. With grass coming he

believes the cattle have adequate feed. I reported back to the bank and told them there is currently no evidence of any reportable disease or mistreatment of the cattle and advised them to seek legal counsel for assistance with removing the cattle.

On May 5<sup>th</sup> the Texas County Sheriff requested help with an investigation of excessive animal deaths that involved cattle stolen by bogus check by a Texas county man. The cattle originated from an Okmulgee County producer. Neighbors reported the death and deteriorating condition.

On one premise of about Dr. Stone found 5 dead and 28 live cows: 7 dead young calves and 35 live young calves from a shipment of 139 cows and 46 calves. Multiple premises are involved but not all had been identified at the time of Dr. Stone's investigation.

Cause of death could not be determined in most cases because of severe decomposition. However, it appears that the cattle were dropped into a pasture and were not able to find water for up to 10 days. Some of the cows were calving during this time. The lack of water created enough dehydration to severely limit milk supply. Calves were starving as well as not receiving adequate colostrum. Official identification on any of the animals was a complicating factor throughout the investigation. A report has been sent to Texas County for the district attorney's use.

The man has been arrested and multiple charges filed.

On May 9 Drs. Gorczyca-Southerland, Ruby, and I cooked a meal for our Administrative Professionals and served it for lunch. We had intended to do it the last week of April during Administrative Professionals Week, but there were too many other things going on to do it then. We had an enjoyable time celebrating the great team we have.

Respectfully,

A handwritten signature in cursive script that reads "Rod Hall DVM". The signature is written in dark ink on a white background.

Rod Hall, DVM

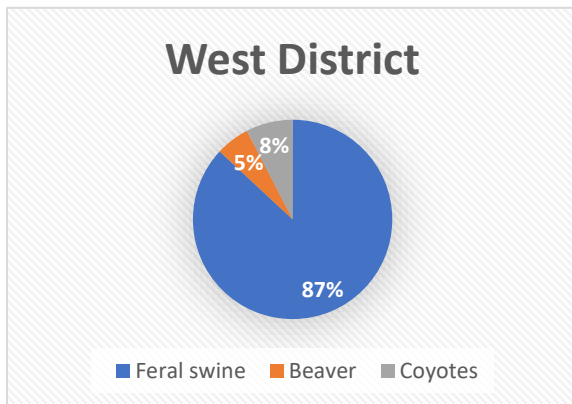


**Oklahoma Department of Agriculture, Food, and Forestry**  
**Wildlife Services Division**  
**Board Report for April 2023 Activities**

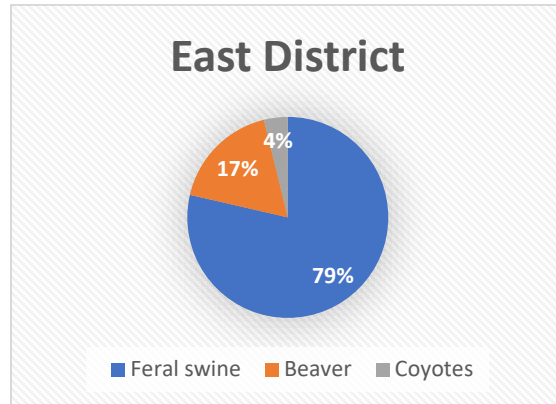
**Introduction**

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 548 properties with an estimated 2,332,143 acres of land under agreement. Additionally, WS helped 167 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 \$420,597 during this period. Beaver damages accounted for losses totaling \$188,157. Coyotes were responsible for a number of damage requests, primarily to livestock, with losses totaling \$35,645. Feral swine damages accounted for losses totaling \$192,695, while other species of wildlife were responsible for \$4,100 in damages to property, agriculture, and livestock.

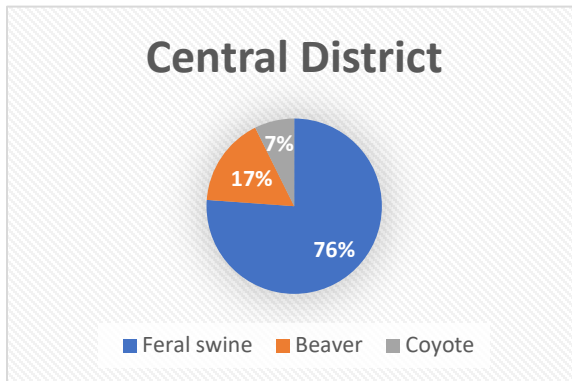
**Providing Wildlife Services**



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



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



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

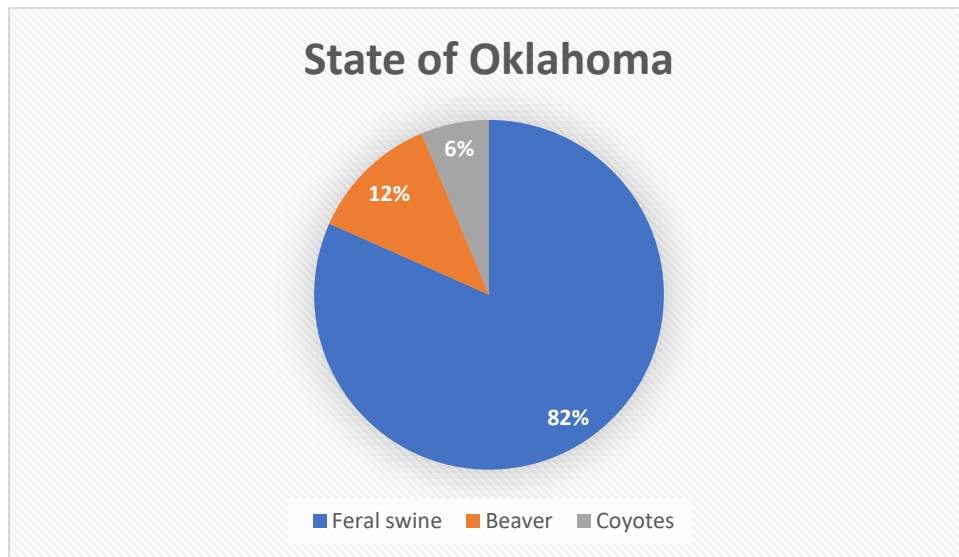


Figure 4: Species Removed in the State by percentage during April 2023

### **Coyote Damage Management**

**Comanche County** livestock producer requested assistance with coyotes depredating on his goats. The producer reported that coyotes had killed one goat valued at \$186. The Wildlife Specialist assigned to Comanche County responded to the request and examined the carcasses and confirmed coyotes were responsible for the loss of the goat. The Specialist used leg hold traps and snares to remove six coyotes. Control efforts continue to prevent additional losses.

**Woodward County** landowner requested assistance with coyotes depredating on his calves. The landowner reported coyotes had killed two calves valued \$1,700. The Wildlife Specialist assigned to Woodward County examined one of the carcasses and verified coyotes were responsible for the loss of the calf. Damage management efforts were successful in removing eleven coyotes from the property. Control efforts continue to help further reduce the threat to the cooperators' calves.

**Texas County** livestock producer requested assistance with coyotes depredating on his calves. The producer reported coyotes killed one calf valued at \$900. The Wildlife Specialist assigned to Texas County responded to the request and examined one of the carcasses and confirmed coyotes were responsible for the loss of the calf. Control efforts have removed five coyotes and are continuing at this time to further reduce predation losses to coyotes for the producer.

### **Feral Swine Damage Management**

**Ellis County** landowner requested assistance with feral swine that were destroying stored haybales. The landowner estimated that feral swine were responsible for \$900 in damage to his hay. The Wildlife Specialist assigned to Ellis County responded to the request and verified feral swine were responsible for the damage. The Specialist utilized a live trap to remove thirty-one feral swine

from the area. Feral swine activity in this area is closely being monitored to determine if further management is needed.

**Greer County** landowner contacted WS needing assistance with feral swine rooting in his pastures. The landowner estimated that feral swine rooted up twenty acres valued at \$5,000 in damages. The Wildlife Specialist assigned to Greer County responded to the request and verified feral swine were responsible for the damage. A live trap was used to remove twenty-seven feral swine from the property. No additional damage has occurred and feral swine population in the area is being monitored to determine if additional management is needed.

**Blaine County** farmer requested assistance with feral swine causing damage in his pastures. The farmer reported that feral swine are responsible for \$2,800 in damages to his pastures. The Wildlife Specialist assigned to Blaine County responded to the request and his field inspection verified feral swine were responsible for the damages to the pastures. The Specialist used a live trap to remove twenty-three feral swine from the property. This area continues to be monitored for feral swine activity to determine if additional management efforts are needed to further reduce damage.

**McCurtain County** producer called WS for assistance with feral swine. He reported that the feral swine were consuming his corn as soon as he planted it in the field. The damage was verified and estimated at \$4,000 in crop and production loss. After pre-baiting with corn, a remote camera trap was placed, and twenty-five feral swine have been removed to date. This project is still being monitored.

**Washington County** producer called WS for assistance with feral swine. The owner reported seeing several feral swine and had found significant damage to his pasture. The feral swine activity on the property was confirmed and rooting damage to the cattle pastures was estimated at \$3,200. After pre-baiting, a remote camera trap was placed and sixteen feral swine have been removed. This project is still being monitored.

**Seminole County** rancher called WS for feral swine damage to the owner's cattle pasture. The damage was verified and estimated at \$6,000. After pre-baiting, a remote camera trap was placed, and thirty-six feral swine were removed.

**Noble County** landowner contacted WS with concerns regarding feral swine damage. The landowner reported seeing signs of damage in a corn field that was just planted. A WS Specialist responded to the report and verified the damage. The damage is estimated to be 1 acre worth \$440. The Specialist used thermal hunting to remove seven feral swine. Work continues currently.

**Pawnee County** producer contacted WS because of feral swine consuming his wheat crop. WS set a feral swine trap in the area with the most recent damage. During the following week several feral swine were caught. Work will continue in this area and damage was estimated to 10 acres of wheat valued at \$1326.

### **Aerial Operations**

Aerial operations were conducted in **Washita and Custer Counties** in response to multiple farmers and ranchers requesting feral swine damage management. The Specialist for the counties reported damage to wheat fields and pastures totaling \$5,000. To reduce damage in this area the

helicopter was utilized for 5.3 flying hours to remove one hundred and ninety-three feral swine. This area will be closely monitored to determine if additional aerial operations are needed.

Aerial operations were conducted in ***Custer and Blaine Counties***. The area flown historically has high levels of feral swine damage to corn and milo production. To help reduce feral swine damage in these areas the helicopter was utilized to reduce feral swine populations prior to planting season. Aerial operations were conducted for six flight hours to remove one hundred and thirty-three feral swine. Feral swine activity will be closely monitored in the area to determine if additional operations are needed.

### **Beaver Damage Management**

***Blaine County*** Road Commissioner contacted WS for assistance with beaver that were responsible for damming a culvert on one of the roads in his district. The Commissioner estimated the damage to the road to be valued at \$2,000. The Specialist for Blaine County responded and verified beaver were responsible for damage. Control measures used by the Specialist were successful in removing eight beavers from the area to help reduce any additional damage to the road structure.

***Custer County*** Road Commissioner contacted WS for assistance with beaver that were responsible for damming up a road culvert and causing damage to the road structure. The Commissioner estimated the damage to the road to be valued at \$3,000. The Specialist for Custer County responded and verified beavers were responsible for damage. Control measures employed by the Specialist were successful in removing four beavers from the creek to help reduce any additional damage to road structure.

***Beckham County*** landowner contacted WS for assistance with beavers that were responsible for burrowing into his pond dam on his property. The landowner estimated the damage to the pasture to be valued at \$3,000. The Specialist for Beckham County responded and verified beaver were responsible for damage. Control measures used by the Specialist were successful in removing six beavers from the pond to help reduce any additional damage to the pond dam structure.

***Rogers County*** producer called WS for assistance with beavers. He reported losing several trees and damming activity on his stock pond. The damage was verified and estimated at \$4,500. Neck snares and spotlight/shooting were used to remove several beavers from the pond. This project is still being monitored. The owner was advised on exclusion/barriers that may help protect his trees.

***Ottawa County*** producer called WS for assistance with beavers when he found tree damage and other beaver sign on a drainage ditch. The flooding, tree damage, and burrowing into the dam was verified and estimated at \$15,000. Conibear traps were placed and two beavers were removed to date. The owner was advised to remove the beaver dam to deter future beaver issues.

***Pittsburg County*** rancher called WS for assistance with beavers when he noticed flooding issues on his property. The beaver flooding damage was verified and burrowing into the stock pond was also found, combined with tree losses the damages totaled \$2,500. Conibear traps were placed, and three beavers were removed to alleviate the damages. This project concluded and the owner was advised to remove the beaver dam to deter future beaver activity.

**Love County** Commissioner called and requested assistance with beavers damming culverts. Beavers had water flooding the roadway causing and estimated \$1000 in damages. Body grip traps were used and five beavers have been removed.

**Johnston County** property owner contacted WS about beavers cutting down their trees and clogging up their drain pipes. Estimated damages were valued at \$2,500. Body grip traps were set and seven beavers have been caught to date.

### **Black Vulture Management**

**Hughes County** rancher that had previously suffered calf losses from Black vultures called WS for assistance when he noticed large numbers of vultures around his cattle. The vulture threat was verified and a vulture trap was set on the property. To date, 157 black vultures have been removed from this property to reduce the risk of calf loss. This project is still being monitored and the preventative work has successfully kept calf losses down to nothing.

**Delaware County** rancher called WS for assistance with Black vultures. The owner reported losing six calves to the vultures and a large number of vultures was verified on the property. The owner purchased the supplies and WS assisted in constructing two vulture traps on the property. Two more calves were found and verified as losses to bring the total estimated losses to \$7,000. To date, 84 black vultures have been removed to alleviate the damage. This project is still being monitored.

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

County	Beaver	Coyote	Feral swine	District
Adair	3			E
Alfalfa		13		W
Atoka	3			E
Beaver	2	4		W
Beckham	6		29	W
Blaine			174	W
Bryan	12	4	70	E
Caddo	3		6	W
Canadian	8	1	41	C
Carter	9	6	16	C
Cherokee			2	E
Choctaw	7		14	E
Cimarron		12		W
Cleveland	8		23	C
Coal	1	10		C
Comanche	2		10	W

Cotton			22	W
Craig	5		19	E
Creek	4		68	E
Custer	21	3	74	W
Delaware			17	E
Dewey		1	174	W
Ellis		2	101	W
Garfield	6			C
Garvin	5	8		C
Grady	2		103	W
Grant	2			C
Harper		3		W
Haskell	5		2	E
Hughes	9		31	E
Jefferson	4			C
Kiowa		2	4	W
Leflore	8		17	E
Lincoln	10	5	22	C
Logan	3	5		C
Love	13			C
Major	2			W
McClain		4	9	C
McCurtain	12		10	E
McIntosh	2		23	E
Murray	6			C
Noble	3		11	C
Nowata			38	E
Okfuskee	5	3	83	E
Oklahoma	1	1	17	C
Okmulgee	15	16	1	E
Osage	5		128	E
Ottawa	2			E
Pawnee			276	C
Payne	3			C
Pittsburg	13			E
Pontotoc	8			C
Pushmataha	11	2	11	E
Roger Mills	3		9	W
Seminole		2	22	E
Stephens	10	5		W
Texas		7		W

Tillman	4	24	87	W
Tulsa	4			E
Wagoner	4	1	4	E
Washington			17	E
Washita			79	W
<b>TOTAL</b>	<b>274</b>	<b>144</b>	<b>1864</b>	

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

Respectfully submitted,

Scott Alls  
Division Director  
Wildlife Services Division

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

**General**

Rainfall totals the **first full week of April** in Oklahoma averaged 0.06 of an inch. According to the April 4th US Drought Monitor Report, drought conditions were rated 60 percent abnormally dry to exceptional drought, down 26 points from last year. Additionally, 54 percent of the state was in the moderate drought to exceptional drought categories, down 22 points from the previous year. Statewide, temperatures averaged in the 50's. Topsoil moisture conditions were rated very short to short and subsoil moisture conditions were rated very short to adequate.

Small grains continue to be stressed due to little rainfall and warm temperatures. Rainfall totals the **second week of April** in Oklahoma averaged 0.04 of an inch. According to the April 11th US Drought Monitor Report, drought conditions were rated 60 percent abnormally dry to exceptional drought, down 25 points from last year. Additionally, 54 percent of the state was in the moderate drought to exceptional drought categories, down 20 points from the previous year. Statewide, temperatures averaged in the low 60's. Topsoil and subsoil moisture conditions were rated very short to short.

Most of the state experienced severe storms which brought some rain and cooler temperatures. Rainfall totals the **third week of April** in Oklahoma averaged 0.12 of an inch. According to the April 18th US Drought Monitor Report, drought conditions were rated 64 percent abnormally dry to exceptional drought, down 17 points from last year. Additionally, 54 percent of the state was in the moderate drought to exceptional drought categories, down 19 points from the previous year. Statewide, temperatures averaged in the low 60's. Topsoil and subsoil moisture conditions were rated very short to short.

The state welcomed much needed rainfall for a majority of last week. Rainfall totals the **fourth week of April** in Oklahoma averaged 1.89 of an inch. According to the April 25th US Drought Monitor Report, drought conditions were rated 65 percent abnormally dry to exceptional drought, down 12 points from last year. Additionally, 54 percent of the state was in the moderate drought to exceptional drought categories, down 11 points from the previous year. Statewide, temperatures averaged in the low to mid 50's. Topsoil moisture conditions were rated adequate to short. Subsoil moisture conditions were rated very short to adequate.

**Small Grains:** Wheat continued to be cut for hay due to little grain development. Winter wheat jointing reached 92 percent, up 8 points from the previous year. Winter wheat headed reached 43 percent, up 6 points from the previous year but down 5 points from normal. Canola blooming reached 55 percent, down 5 points from the previous year and down 19 points from normal. Rye jointing reached 88 percent, up 2 points from the previous year but down 2 points from normal. Rye headed reached 53 percent. Oats jointing reached 63 percent, up 9 points from the previous year and up 11 points from normal. Oats headed reached 25 percent.



**Row Crops:** While the rainfall received might be too late for small grains, it will help provide needed moisture for row crops being planted. Corn planted reached 37 percent, up 6 points from the previous year and up 3 points from normal. Corn emerged reached 21 percent, up 15 points from the previous year and up 10 points from normal. Sorghum planted reached 16 percent, up 13 points from the previous year and up 10 points from normal. Soybeans planted reached 5 percent, down 10 points from the previous year and down 4 points from normal.

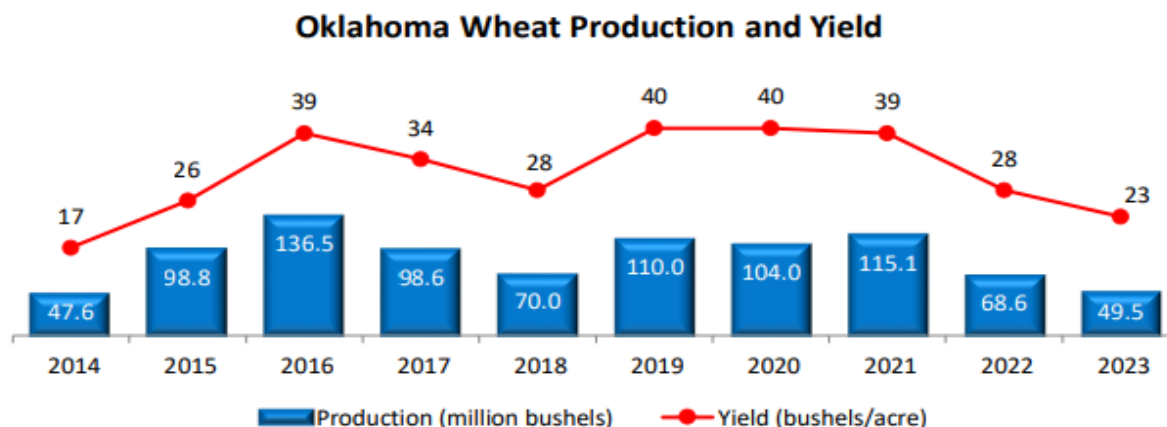
**Pasture and Livestock:** Pasture and range condition was rated at 62 percent very poor to fair. Livestock condition was rated at 77 percent fair to good.

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

Survey	Enumerated by:	Survey Dates
ITC/Census	DCC	12/15 -6/15
Cash Rents	DCC	4/17 – 6/22
Ag Labor	DCC	4/19 – 5/9
May Ag Yield	DCC	4/29 -5/9
June Crop APS	DCC	5/27 – 6/15
June Ag Yield	DCC	5/30 – 6/6
Grain Stocks	DCC	6/1 – 6/14
Grain Prices	DCC	6/1 – 6/14

**Statistics:** On May 12, 2023, the first look at the 2023 Wheat crop was published in the May Crop Production Report. Highlights include:

Wheat production for Oklahoma is forecast at 49.5 million bushels, down 28 percent from last year. Yield per acre is expected to average 23.0 bushels, down 5.0 bushels from the previous year. Acres expected to be harvested for grain, at 2.15 million acres, are down 12 percent from 2022.



**Information Requests:** Phone calls, personal visits to our office, and requests via e-mail for information since last report totaled 29.

**Releases for April:**

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

**Relating Dates:**

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

**Release Dates:**

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

**Releases for May:**

Crop Production  
Cattle on Feed  
Farm Labor  
Agricultural Prices

**Relating Dates:**

May 1, 2023  
May 1, 2023  
October 2022/April 2023  
May 15, 2023

**Release Dates**

May 12, 2023  
May 19, 2023  
May 24, 2023  
May 31, 2023

**Meetings and Events:**

AISES Science Fair  
OTCAC Producer Meeting  
OTCAC Producer Meeting  
Women in Ag Caddo Co  
OBHRPI Conference  
Ag Day at the Capitol  
OTCAC Producer Meeting  
Poteau Ag Show  
Wheat OY NASDA Training  
OTCAC Producer Meeting  
OTCAC Producer Meeting  
Kickapoo Tribe Meeting  
Oklahoma Wheat Commission  
OTCAC Producer Meeting  
OTCAC Producer Meeting  
AYC Final Session  
OTCAC Producer Meeting  
APHIS Phase II Training  
OTCAC Board Meeting  
OTCAC Producer Meeting  
AYC 2023-24 Interviews

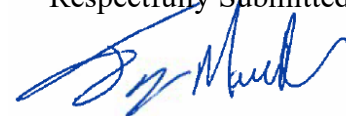
**Date:**

April 1, 2023  
April 4, 2023  
April 5, 2023  
April 6, 2023  
April 8, 2023  
April 11, 2023  
April 13, 2023  
April 15, 2023  
April 18-19, 2023  
April 25, 2023  
April 26, 2023  
May 4, 2023  
May 8, 2023  
May 9, 2023  
May 11, 2023  
May 12, 2023  
May 18, 2023  
May 22-23, 2023  
May 22, 2023  
May 30, 2023  
May 31, 2023

**Location:**

Stillwater, OK  
Miami, OK  
Shawnee, OK  
Ft. Cobb, OK  
OKC, OK  
OKC, OK  
Guthrie, OK  
Poteau, OK  
Elk City, OK  
Hugo, OK  
Kremlin, OK  
McLoud, OK  
OKC, OK  
Okmulgee, OK  
Ardmore, OK  
OKC, OK  
Ada, OK  
Sulphur, OK  
Sulphur, OK  
Ponca City, OK  
Virtual

Respectfully Submitted,



Troy Marshall

# MARKET DEVELOPMENT SERVICES

June 1, 2023

## Report to the State Board of Agriculture

### AG IN THE CLASSROOM

#### AG IN THE CLASSROOM IMPACT

- Total Number of Teachers/Administrators Impacted: 92
- Total Number of Pre-service Teachers Impacted: 93
- Total Number of Extension Educators Impacted: 5
- Total Number of Students Directly Impacted by Coordinators: 2,412
- Total Number of Resources Given: 2,698
- Total Number of Teachers/PreService Teachers Resources Given to: 216
- Total Number of PreK-12th Grade Students Resources Given to: 724

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

- The AITC website had 19,163 visits and 16,114 unique pageview visits.
- The AITC monthly email is delivered to 16,725 accounts.
- The AITC Facebook page now has 9,218 followers.
- The AITC Twitter page now has 584 followers.
- Oklahoma AITC Instagram account now has 711 followers.
- Oklahoma AITC Pinterest account now has 219 followers.
- The AITC YouTube channel now has 9,099 views.

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

Number of Educators & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
11 3rd-5th grade educators and 4-H extension educators	Liveasay Orchards in Porter, OK	Okies Earning Ag Badges workshop - used new National AITC AgBadging Field Guides and activities out of them	The Professional Development grant from National Ag in the Classroom allowed us to give each educator that attended 30 AgBadging Field Guides to take back to their classroom; Teachers also received Oklahoma Ag Mags
7 3rd-5th grade educators and 4-H extension agents	Magnolia & Prayers Alpaca Farm, Newcastle, OK	Okies Earning Ag Badges workshop - used new National AITC AgBadging Field Guides and activities out of them	The Professional Development grant from National Ag in the Classroom allowed us to give each educator that attended 30 AgBadging Field Guides to take back to their classroom; Teachers also received Oklahoma Ag Mags

13 Pre-service teachers	OSU Early Childhood Education	Egg catapults, Did you know posters, Grady in the silo, Garden in a glove	Barn full of resources
15 Pre-service teachers	NSU - Afton - NE Tech - Elem Ed	Did you know posters Strawberry Rocks Egg Glyph	Strawberry Tear Sheets, Ag Mags, Rt 66 Mags, Coloring Book, Stem Tear Sheet, Career Reader, HS Financial Literacy cards
50 Pre-service teachers	Stillwater OK OKSTATE Campus	Strawberry Tear Sheets, Egg Catapults, Egg Glyph, pig personality, strawberry smoothie	Barn full of resources
15 Pre-service teachers	NSU Broken Arrow	Strawberry Rocks Tear Sheets, Egg Glyph, Smoothies, Pig Personality	barn full of resources

### Ag in the Classroom- Student Events

Number of Participants & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
8 contest winners; 350 parents and members at banquet	Central High FFA Banquet	Oklahoma AITC Art Poster Contest winners - from 7th - 12th grade in the Central High FFA Chapter	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
2 winners presentation	Peavine Elementary in Stilwell, Oklahoma	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest PreK 1st Place Winner and Kindergarten 2nd Place Winner	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
70 1st-12th grade students	Mid-Del District Wide STEM Night	Hopping Corn from the Soil, Plants, & Animals Oh My resource	Oklahoma Ag Magazine or Ag on Rt 66 Magazine and age appropriate corn ag activity sheet
4 Overall contest winners; 14 3rd grade students	Ag Day at the State Capitol	Oklahoma AITC Art and Photography Contest Overall Contest Winner Presentations; Launch of the Oklahoma MyPlate with the Lt. Governor, Symon with Hot Toast Music, and 14 3rd graders from Minco Elementary school	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations; plaques
300 students PreK - 12th grade	Hillsdale Christian School Special Ag Day	Making butter; Newspaper pots; Bean is a seed necklace; What is your brand?; Street Cows; Ice Cream in a Bag	Various Oklahoma Ag Activity Tear sheets; Oklahoma Ag Mags, or Ag on Rt 66
150 8th-12th grade students	Oklahoma State FFA Convention	N/A	Oklahoma Ag Mags
160 4th & 5th grade students from Purcell and Wayne schools	McClain County Outdoor Day	Making Butter	Oklahoma Ag Mag

24 3rd grade students	Newcastle Elementary	Strawberry Rocks & Oklaberrynana smoothies	Strawberry Tear Sheets & Oklahoma Red Dirt Symbols
20 students	Oak Grove Elementary	Clucking Chickens	Chicken Tear Sheets
60 students	Cookson Hills Kansas, Oklahoma	Butter, Did you Know poster race	N/A
K-5th Grade 394 students	Union Farm to Student Event at Boevers Elementary	Betsy - Milking and Milk Race	N/A
116 students 3rd-5th	Skyline Elementary Stillwater OK	Betsy - Milking and Milk Race	N/A
200 K-5 Students	Ag Day Mark Twain Elementary, Duncan	Making Butter	N/A
20 PreK Students	Contest Winner--Fairview Oklahoma	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
20 8th Grade Students	Contest Presentation Perkins	Oklahoma AITC Art and Photography Contest Winner Presentation - Poster Contest	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations
100 4th graders	Frederick Outdoor Days; Frederick, Davidson, Snyder, Grandfield	Make Butter	N/A
400 students and adults	Canton Elementary Awards Assembly-Contest presentation	Oklahoma AITC Art and Photography Contest Winner Presentation - Coloring Contest	Framed Picture, AITC Medal, Gift Card (all sponsored by Oklahoma Beef Council), Legislator Citations

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

Locations where Resources are Mailed or Delivered	
Westwood Elementary Stillwater OK	Enid Schools
AITC Southern Region Meeting	Jamey Allen
Oklahoma Cattlewomen's Conference - Kelli Payne	

## Ag in the Classroom- Other Events

Event	Highlights
Ag in the Classroom Southern Region Meeting	The Oklahoma AITC team participated in 2 ½ days of professional development in Alabama with the other AITC Southern Region states; we shared our latest resources and professional development; participated in meetings about grants, NAITCO, etc; Went on farm tours in Alabama
Oklahoma State FFA Speech Contest	Two of the AITC coordinators were honored to judge the State FFA Speech contest.

## AGRITOURISM

### Agritourism - Site Visits

Producer	Location	Category	Highlights
Joe's Farm	Bixby	U-Pick, Farm-to-table, Farmers Markets, Horticulture	Checked out strawberry field and talked about upcoming products on farm.
Whitewater Hollow Farm	Jay	U-Pick, Pumpkin Picking, Teachable Moments	Checked out strawberry field.

### Agritourism - New Producers or Potential Producers

Producer	Location	Category	Highlights
Snider Exotics	Fletcher	Pumpkin Picking, Teachable Moments	Site visit and added into the program.
Simply Country Ranch	McAlester	Pumpkin Picking, Teachable Moments, Petting Farm	Site visit and added into program, Owner attended OKLAS and agritourism bus tour for the first time this year, we connected and officially added her into the program a month later.
Tinyhouse Farm	Webbers Falls	U-Pick, Horticulture	Site visit and added into program
Random Okie Farm	Davis	U-Pick, Horticulture	Site visit and added into program
Dorsey Ranch	Chouteau	Farm to Table	Site visit and added into program

### Social media

#### Facebook

- 22,650 likes
- 25,342 followers

#### Instagram

- 2,535 followers

### Agritourism - Other Activities

- Phone consult/conversations with: Ly Do – farm interested in agritourism, Charles Drury – cabins in NE OK, Scott Roberts – land in Cushing and interested in agritourism, Jamie Priddy – farm hub around Lake Eufaula, Seaira Hull – farmers market questions, Tressie Harzman – farmers

market questions, Marie – agritourism questions, Hoss Horsley – farmers market questions, Dusty Baker – bison conference/ODAFF support questions, Rita Weidemann – updates on strawberries/plans for year, Paula Parkhurst – AITC curriculum, Jimmy Magruder – OK Grown stickers, Glenn Orr – NAFDMA event,


- Email consultation with: Jeri Irby – cut flower association and specialty crop grant opportunities,
- Help conduct Market Gardener grant interviews
- Speak to OSU Ag Communications Class
- Judge Morrison FFA Speech Contest
- Send newsletter out to consumers about strawberry season
- Judge Amber Pocasset FFA speech contest
- Send newsletter out to producers about bee survey
- Participate Blue Cross and Blue Shield road show in Tulsa
- OSU AGCM student meeting with Brandy DeVous
- Participate in Southeast OLAC Conference
- Help at Oklahoma State FFA Convention
- Created farmers market reporting template
- McCurtain County Tour with McCurtain Co. Chamber
  - Met with OK Ag Board Member Brent Bolen and other chamber directors to tour McCurtain County for potential agritourism destinations
  - Spoke at lunch chamber meeting about agritourism program and ideas
  - One on one meetings with chamber members
- 3<sup>rd</sup> Batch of handwashing stations from SCBG sent out to agritourism producers
- Completed and submitted SCBG grant for 2024 and 2025 OKLAS conference



One of the hand washing stations we granted to an agritourism producer through the Specialty Crop Block Grant.



## **ECONOMIC DEVELOPMENT**

Activity	Action
Agriculture Enhancement & Diversification Program	The selection committee met on May 3 <sup>rd</sup> and voted in favor of recommending seven (7) Veteran/ Young Farmer grants, one (1) Farm Diversification grant and one (1) Ag Event grant for approval.
Healthy Food Financing Program	The selection committee met on May 4 <sup>th</sup> and voted in favor of recommending one (1) grant application for approval.
Viticulture & Enology grant	Sent out a Request for Proposals for the 2023 Viticulture & Enology grant. Proposals should help advance the grape or wine industry within the state and are limited to \$50,000 per application. Proposals must be submitted by June 1 <sup>st</sup> to be considered for funding.
Review and approve SCBG invoices	Approved 25 invoices for payment after reviewing receipts and purchases to make sure they were within the terms of the contractual agreement with ODAFF.
Review and approve Viticulture & Enology grant invoices	Approved 3 invoices for payment after reviewing receipts and purchases to make sure they were within the terms of the contractual agreement with ODAFF.
	In conjunction with the OKC Farm Show a cattle grading contest was held at the OKC West livestock auction in El Reno on April 14 <sup>th</sup> . This year there was over 400 4-H and FFA members competing in the contest. Market Development staff served as officials. During the contest, youth are tested on their ability to evaluate the carcass quality and projected growth pattern of beef cattle. The students determine the animal's gender, age, frame size, muscling and body condition. Each contest is starts by conducting a training "school" about the USDA grading system and providing some examples of animals.

## **FARM TO SCHOOL**

Visits Made:

- School Garden Visit – Guymon High School – April 18<sup>th</sup>





- School Garden Visit – Wister High School – April 25<sup>th</sup>



- School Garden Visit – Robert E. Lee ECE site. May 1<sup>st</sup>



- Sayre Head Start Visit – Farm to School activities– Farm to ECE – May 3<sup>rd</sup>
- School Garden Visit Stratford – May 8<sup>th</sup>



- School Garden Visit Oologah – May 10<sup>th</sup>



#### New Contacts:

- Amanda Wood – Sayre Head Start

#### Resource Requests

- 4 cookbooks, 4 poster sets

## Events

- Ag Day in Duncan – What's In Your Picnic Basket
- Producer Training – Fort Smith Arkansas. 5 Oklahoma producers were in attendance

## Active Partners

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

## Upcoming Events

- Southwest Region USDA Meeting – Dallas Texas – May 23-24<sup>th</sup>

## INTERNATIONAL

Activity	Action
Certificate of Free Sale	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
Food Export	<p>National Restaurant Association</p> <ul style="list-style-type: none"> <li>• May 20-23</li> <li>• Continued buyer coordination and scheduling meetings</li> <li>• Recruitment for OK Pavilion and worked on booth coordination for OK companies</li> <li>• We had 1 Oklahoma supplier participate in the buyers mission and exhibit in the show Matador Foods-company located in Blanchard, OK, they produce frozen appetizers for the food service industry</li> <li>• Continued coordination of Food Show Plus! Activity for Food Taipei June 12-17</li> </ul>
USLGE	<p>Inbound Mexico Mission</p> <ul style="list-style-type: none"> <li>• Hosted our first USLGE buyers mission with a delegation from Jalisco, Mexico</li> <li>• This was hosted in conjunction with the Kansas Dept of agriculture and the majority was funded by USLGE</li> <li>• We had 5 buyers from the state of Jalisco with varying operations from Dairy, Red Angus, Black Angus, Poultry, Agave production.</li> </ul> <p><b><i>Mexican Delegation</i></b></p> <ol style="list-style-type: none"> <li>1. Julio Cesar González Villaseñor, Rancho Buenavista (Charolais and Brahman)</li> <li>2. Carlos Ernesto González Villaseñor, Rancho Buenavista (Angus and Brangus)</li> <li>3 Enrique Gutierrez Gonzalez, Tepame Ranch (Angus and Holstein)</li> <li>4. Rafael Ramirez Gonzalez, Posta El Cuatro (Angus and Charolais)</li> <li>5. Eduardo Ramirez Gonzalez, PEC (semen sales, all breeds)</li> </ol>

We visited the following producers:

McMurphy Farms-Alva

Duff Cattle Co. -Hobart

Express Ranch-Yukon

Conley Cattle-Sulphur

7K Cattle -Marietta

Buck Cattle Co-Madill



	 	
GIT (Governor's International Team)/ODEC	<ul style="list-style-type: none"> <li>This group is meeting to discuss goals/strategy going forward and how we can assist the international community</li> </ul>	
ODAFF Market Development Events	<ul style="list-style-type: none"> <li>MIO Board Meeting</li> <li>MIO Booth Planning for NRA</li> </ul>	
Misc Meetings	<ul style="list-style-type: none"> <li>IBC Global/Commerce Meeting- Potential contractor for Oklahoma Commerce Contract work</li> </ul>	

## **MADE IN OKLAHOMA COALITION**

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

<b>Type</b>	<b>\$ Spent and Information</b>	<b>Highlights</b>
MIO Featured Monthly Recipes in Tulsa World and Oklahoman	\$500/month each	Featured press release and 1-2 showcased recipes in food section
Marketing, Consulting and Graphics Retainer with Krush	\$6,750	Social media posts, digital presence, analytics, management of content and creation of digital footprint, graphic design, etc.

MIO TV Cooking Segments on Channel 6 in Tulsa and Channel 4, 5 & 9 in OKC	OKC – 8 appearances Tulsa – 4 appearances	Natalie Mikels & David Brooks, MIO TV Personalities filmed in-person and remote segments for TV
FY23 Media Campaign Reporting	<a href="https://docs.google.com/spreadsheets/d/1HUhkBRVkJRgKwZf6ZZvyyTPeUTBx4I1-lprDwzDgnPwM/edit#gid=378323568">https://docs.google.com/spreadsheets/d/1HUhkBRVkJRgKwZf6ZZvyyTPeUTBx4I1-lprDwzDgnPwM/edit#gid=378323568</a>  April Report: <a href="https://www.dropbox.com/s/90t68p1w8lk3qgb/MIO_KRU_SH%20Report%20-%20April%202023.pdf?dl=0">https://www.dropbox.com/s/90t68p1w8lk3qgb/MIO_KRU_SH%20Report%20-%20April%202023.pdf?dl=0</a>	Here is a link to our original Google sheet workbook that we've been updating as the campaigns have evolved. You can toggle between all the logistical info for the co-op campaign such as the featured recipes per block, the annual media schedule, media budget, and the campaign spend tracker. It is a live link so it will be updated throughout the months as we continue our Co-Op campaigns.
Restaurant of the Month	Each month staff, along with Food Service Committee present the restaurant with their award and eat lunch as a group at their establishment.	<b>April</b> – Chicken n Pickle, OKC  <b>May</b> – Steer Inn
Social Media Stats	Staff, and MIO media committee plan social content each month with our advertising agency, Krush Digital Marketing.	<a href="https://www.dropbox.com/s/7fyc83iqu9aopsl/Profile%20Performance%20%28Krush%29%20April%201%2C%202023%20%E2%80%93%20April%2030%2C%202023%20%E2%82%29.pdf.pdf?dl=0">https://www.dropbox.com/s/7fyc83iqu9aopsl/Profile%20Performance%20%28Krush%29%20April%201%2C%202023%20%E2%80%93%20April%2030%2C%202023%20%E2%82%29.pdf.pdf?dl=0</a>
Edible OKC Giveaways	\$100/giveaway	Each month MIO partners with Edible OKC to give away a \$100 gift card to our restaurant of the month.
MIO Monthly Newsletter		<ul style="list-style-type: none"> <li>o 2400+ distribution list</li> </ul>
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.	April – <ul style="list-style-type: none"> <li>- Deviled Eggs Three Ways</li> <li>- Hallelujah Biscuits</li> <li>- Pineapple Honey Glazed Ham</li> <li>- Beef and Mushrooms Stir Fry</li> </ul> May – <ul style="list-style-type: none"> <li>- One Pot Salsa Chicken</li> <li>- Braised Beef Street Tacos</li> <li>- Angel Food Cake</li> <li>- Strawberry Lemonade Creamsicles</li> </ul>
April Retailer of the Month	On-Cue	
May Retailer of the Month	Love's Travel Stops	Statewide locations
		Statewide locations



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

<b>Activity</b>	<b>Information</b>
Made in Oklahoma Month Campaign - Month-long	Staff, MIO Media Committee and MIO Agency of Record (Krush) worked to develop a comprehensive social media campaign for the month of April (MIO Month). 35 members participated in the campaign. State officials created videos for us to share encouraging folks to shop local this month. Multiple call to actions were shared month-long to boost local product sales.
Craft Brewers Fest - April 8 <sup>th</sup>	Staff and MIO members manned the MIO booth at the Oklahoma Craft Brewers Fest held at the Chickasaw Ballpark. It was a great event where folks showed lots of interest in local products. It was also a way to support one of our associate members and our brewery members.
Ag Day at the Capitol - April 11 <sup>th</sup>	Staff assisted with Ag Day at the Capitol activities.
April MIO Meeting + New Member Interviews - April 14 <sup>th</sup>	Our monthly member meeting was held via zoom for the month of April. We interviewed two new MIO member candidates --Lorie's Fudge & Matador Foods. Both were onboarded as new members.
Restaurant of the Month Visit - April 22 <sup>nd</sup>	Staff and MIO Food Service Committee met for lunch at MIO Restaurant of the Month, the Steer Inn, to congratulate them on winning the award and eat lunch in support of the restaurant. We also got content for social media. The Steer Inn has been a family-owned restaurant in Cushing and Mannford for over 50 years.
Phelps Market Retail Promotion - April 22 <sup>nd</sup>	Staff worked with the owners of Phelps Market in Mannford, OK, a family-owned store for over 50 years, to set up a retail promotion in support of their anniversary sale. 8 MIO members set up and sampled products and we are working on creating an MIO section in their store.
MIO Legislative Lunch at the Capitol - April 25 <sup>th</sup>	Staff worked with Senator Darcy Jech's office to coordinate a lunch for his committee. MIO members gathered to educate and thank Senate committee members for funding MIO and allowing us to help companies.
MIO Market at Oklahoma State University Spring Carnival - May 1 <sup>st</sup>	Staff worked with the Student Union Activities Board and OSU dining to coordinate the MIO market during the OSU spring carnival. We had over 450 students stop by and visit with our MIO members and sample their products. We are in the process of working with OSU dining to bring in more local products into their C-store concepts.
MIO Legislative Dinner with House Appropriations Committee - May 1 <sup>st</sup>	Staff coordinated a dinner with the House Appropriations committee to provide an opportunity for MIO members to speak about the impact MIO has had on their business. It was a great night of dialogue and discussion about MIO.
Restaurant of the Month Visit to the Jones Assembly - May 2 <sup>nd</sup>	Staff and MIO Food Service Committee met for lunch at MIO Restaurant of the Month, The Jones Assembly, to congratulate them on winning the award and eat lunch in support of the restaurant. We also got content for social media.
BEK Food Show - May 3 <sup>rd</sup>	The MIO Coalition had 12 companies participate in the MIO Booth at the BEK show. At the show, we signed up over 25 new restaurants and our companies made great connections with restaurant owners statewide.

### **MADE IN OKLAHOMA PROGRAM**

<b>Meetings/Events</b>	<b>Date</b>	<b>Location</b>	<b>Details</b>
Site Visit	April 18	Bixby	Travelled to Bixby, OK to film for our Meet the Maker social media series.

NAAMO presentation	April 16	Virtual	Gave presentation regarding MIO Store at Oklahoma State Fair
MIO/OSF Store Jury	May 11	OKC	Jury for 2023 Made in Oklahoma Store at Oklahoma State Fair. There are multiple new companies, the store is full!
<b>Events:</b>			
Ag Day at the Capitol	April 11	OKC	26 agricultural organizations and 21 Made in Oklahoma companies were set up at the Capitol, sharing about their business with legislators
Co-Packing Workshop	May 15	OKC	We brought in Ashley Sutterfield, a co-packing expert to share about co-packing. 28 companies registered to attend.
<b>Upcoming Events:</b>			
Made in Oklahoma Showcase - Northeast	May 22	Bixby	Producers will set up for a wholesale, retailer-only market. Attendees must be associated with a retail store in order to attend.
Made in Oklahoma Market	June 3	OKC	Market will be held in Stockyards City, in conjunction with their Wines of the West event.
Made in Oklahoma Showcase - Central	June 5	Tuttle	Producers will set up for a wholesale, retailer-only market. Attendees must be associated with a retail store in order to attend.

#### **New Producers:**

We've had 55 new applications come in since last month, I plan to review them the week after the Bixby Showcase.







#### **Other Made in Oklahoma Activities:**

- Created MIO Store at Oklahoma State Fair layout, determine shelf space, product categories, displays
- Worked with new program members to create an e-commerce account on our webpage


## **VITICULTURE & ENOLOGY**

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

<b>Producer</b>	<b>Location</b>	<b>Category</b>	<b>Highlights</b>
Bois d'arc Winery	Madill	Winery/Vineyard	Met the entire Johnson family and saw their new tasting room and winery.

			
<p>B&amp;G Meadery Site Visit</p>	<p>Stonewall, OK</p>	<p>Meadery</p>	<p>Site visit and added them to agritourism.</p>
			



Countryaire Estates Site Visit	McAlester, OK	Winery	<p>Site visit and added to program</p> 
Plymouth Valley Site Visit	Fairview	Winery	Site visit

#### Viticulture & Enology - Other Activities

- Worked the booth at Craft Beer Day
- Sent out my first producer newsletter
- Worked with Darcen to reorganize the app into trail names.
- Attended the Oklahoma State Wine Forum
- Attended Newsom Wine Day in Plains, Texas
- Met with Kim McPherson of McPherson Cellars in Lubbock, Texas
- Researched the requirements to petition for an AVA (American Viticulture Area)

## MARKET NEWS SERVICES

April 4, 2023 – May 12, 2023

- **Grain Report:**

	April 4, 2023	May 12, 2023	DIFFERENCE
<b>WHEAT: (bu)</b>	\$7.77-\$8.47	\$8.02-\$8.52	\$0.25 to \$0.05 Higher
<b>MILO: (bu)</b>	\$6.54-\$6.94	\$6.06-\$6.36	\$0.48 to \$0.58 Lower
<b>SOYBEANS: (bu)</b>	\$14.67-\$15.22	\$13.55-\$13.95	\$1.12 to \$1.27 Lower
<b>CORN: (bu)</b>	\$7.19-\$7.84	\$6.61-\$7.36	\$0.58 to \$0.48 Lower
<b>COTTON: (lb)</b>	77.55 cents	75.78 cents	\$1.77 Lower

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

### **FEEDER STEERS**

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

- (5-10-22) \$175.00-205.00 Wtd. Avg \$190.00
- (5-9-23) \$234.00-277.00 Wtd. Avg. \$255.50

### **HEIFERS**

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

- (5-10-22) \$154.00-178.00 Wtd. Avg \$166.00
- (5-9-23) \$207.00-245.00 Wtd. Avg. \$226.00

- **Weekly Report:**

- Six weekly Oklahoma Market Reports were sent to 10,611 subscribers April 4, 2023-May 15, 2023 (**up from 102 subscribers last report**).

- **Voice Messaging System:**

- Monthly Total: April 4, 2023-May 15, 2023 **6,320 Accessed Times**
- Last Report: February 17, 2023-April 4, 2023 **6,587 Accessed Times**
- Compared to Last Month: **Accessed Times-is DOWN 267 on Accessed times**

- **Oklahoma Agriculture Market News**

- **Facebook Page**
  - Likes/Followers 444
  - **UP 25 Likes/Followers**
  - People reached through pasted report: 770 people

- **Oklahoma Hay Directory**

- Hay Directory
  - Currently have 14 producers that have hay

- **Hay Report**

**This Month:** April 4, 2023-May 15, 2023 Hay Traded 2,591  
**Last Year** April 8, 2023-May 6, 2023 Hay Traded 8,485  
**DOWN 5,894 Bales Reported**

**OKLAHOMA HAY MARKET REPORT**  
**5-12-23**

**Receipts: 1640 Last Reported: 136 Year Ago: 0**

Compared to the last report: Hay trade is slow with good demand. Drought is no help when it comes to crops in Oklahoma. Most of the wheat crop will become wheat hay this year. South of I-44 rain has helped their fields grow but has not allowed them to start cutting and bailing hay yet. Oklahoma as a whole is half a cutting behind schedule. Still, no price trends are available at this time. The Oklahoma Mesonet Drought Monitor shows we are at 10.09 percent in exceptional drought, 33.10 percent in an extreme drought, 48.07 percent in severe drought, and 52.47 percent in moderate, 60.81 percent in abnormally dry conditions, 39.19 percent that has no drought conditions.

\*\*\* The next report release will be on May 26\*\*\*

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	1200	250.00	250.00 Delivered/New Crop	

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	200	150.00	150.00 F.O.B/Crop	

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round		130.00	Delivered/New Crop	

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

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

**Wheat: Good/Premium (Ask/Per Ton)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round		170.00	F.O.B/New Crop	

**Wheat: Good (Ask/Per Ton)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round		140.00	F.O.B/New Crop	

**West**  
**Rye Grass - Good (Trade/Per Ton)**  

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	240	185.00	185.00 F.O.B/New Crop	

## **AEMS Division Activities**



Meet AEMS latest staff addition

**Tikisha Fagbemi**

Our new Poultry Admin Assistant II. She is handling the poultry program.

Welcome Tikisha!

- AEMS staff participated in the Illinois River Watershed (IRW) conference calls to review technical efforts and the monitoring of waterbodies within the watershed area.
- AEMS and Animal Industry staff participated in the first of two full-scale exercise planning meetings in preparation for the National Pork Board's full-scale exercise scheduled for this fall. It is designed to test response capabilities to keep African Swine Fever (ASF) out of the U.S. and prepare for other foreign animal diseases.
- Conservation Commission created an online app, with input from AEMS staff, that is now live and taking online requests for Poultry Feeding Operation's Nutrient Management Plans (NMPs)-export only at this time.
- AEMS staff attended and participated in the I9 education courses at OSU facilities on April 26, May 3, and May 10<sup>th</sup>.

### **AgPDES Permitting Activities**

- Number of AgPDES CAFO Authorizations this reporting period: 0
- Number of AgPDES PGP Authorizations this reporting period: 2
- Number of AgPDES CGP Authorizations this reporting period: 19

## 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:

10	Complaints received and investigated this reporting period
3	Complaints closed this reporting period
<b>Complaints Received - Breakdown</b>	
	Cattle - 0
	Swine – 0
	Poultry- 2
	Misc. Animal - 1
	Other – 2
	Animal Shelter - 1
	Pet Breeder- 4
123	Year-to-date complaints received in FY 23
56	Year-to-date complaints closed in FY 23
84	LMFO/CAFO inspection and technical assistance
257	Poultry inspections and technical assistance
13	Pet Breeders/Shelters inspections and technical assistance

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

	Apr 3-May7,2023	FY 23 Total
Complaint or Compliance Follow-ups	6	68
Annual Inspections	71	515
Technical Assistance with Contacts	13	133
Site Visit/Review – No contact made	6	193

### Poultry Activities – Month and Fiscal Year 2023

	Apr3 - May 7 2023	FY 23 Total
Complaint or Compliance Follow-ups	4	33
Annual Poultry Inspections	107	456
Poultry Technical Assistance	150	1237
Site Visit/Review – No contact made	85	470
Eucha-Spavinaw CNMP Written	27	131

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

	Apr3 –May 7 2023	FY 23 Total
Complaint or Compliance Follow-ups	7	140
Breeder/Shelter Technical Assistance provided to owner/operator	0	178
Breeder/Shelter Annual Inspections	13	299
Breeder/shelter Close out	0	7

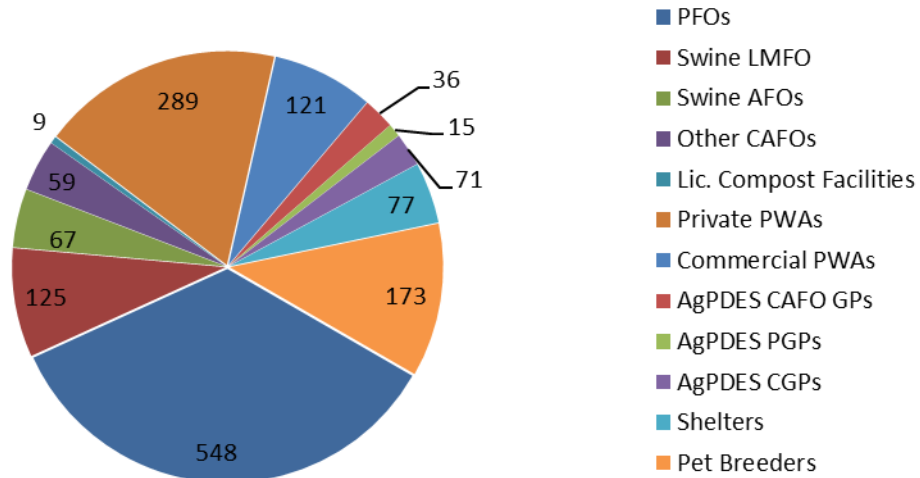
### AGPDES – Month and Fiscal Year 2023

	Feb 12 –Apr 2, 2023	FY 23 Total
Complaint or Compliance Follow-ups	0	5
Site Inspections (Annual or Compliance Follow-ups	2	21
Technical Assistance provided to owner /operator	0	31

### Composting Activities – Month and Fiscal Year 2023

	Feb 12 –Apr 2, 2023	FY 23 Total
Complaint or Compliance Follow-ups	5	39
Site Inspections (Annual or Compliance follow-up)	0	16
Technical Assistance provided to owner /operator	2	21

### Current FY 23 AEMS Numbers



Respectively,

Teena G. Gunter  
AEMS Division

**BEFORE THE STATE BOARD OF AGRICULTURE  
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
JUNE 2023 BOARD REPORT  
REGARDING APRIL 2, 2023 THROUGH MAY 12, 2023 ACTIVITIES OF THE  
OFFICE OF GENERAL COUNSEL**

**AMOUNT OF ADMINISTRATIVE FINES COLLECTED:**

<b>Amount to Date (2023)</b>	<b>Amount of Fines for this Board Meeting</b>
\$162,925.00	\$96,900.00
\$207,400.00	2022
\$57,475.00	2021 Total (5/31-12/31/2021)

**CONTRACTS REVIEWED OR DRAFTED (114):**

Marketing: 60
CPS: 7
Forestry: 6
AIS: 8
Wildlife Services: 26
Admin: 2
Inv. Serv: 2
AEMS: 3

**ADMINISTRATIVE HEARING PROCEEDINGS:**

Total Number of Open Cases: 77
Total Number of New Cases: 11
Total Number of Cases Closed: 8
NOVs Sent: 9

**OTHER ACTIONS AND PROCEEDINGS:**

<b><i>Kirk Marshall v. ODAFF</i></b> , Oklahoma County District Court Case No. CJ-2020-1347: Petition served. Time period tolled by Supreme Court Order until May 15, 2020. Answer drafted and prepared for filing. Application for Injunction Denied. Answer filed. Hearing held. Amended Petition filed by Plaintiff. Answer to Amended Petition filed. District Court Order AFFIRMED by Court of Civil Appeals. ODAFF Amended Motion to Dismiss pending.
<b><i>Laura Garrison v. State of Oklahoma, ex rel. Oklahoma Department of Agriculture Food and Forestry</i></b> , Pittsburg County District Court, Case No. CJ-2020-111: Lawsuit involves vehicle accident between plaintiff and ODAFF employee. Attorney General's Office is handling this claim.

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

### **MEETINGS:**

<b>Date</b>	<b>Activity</b>
4/3/2023	Senate Ag Committee
4/4/2023	OBA GALPS
4/4/2023	Director's Meeting
4/5/2023	General Counsels monthly
4/5/2023	Deposition
4/11/2023	House Ag Committee
4/11/2023	Ag Day at the Capitol
4/12/2023	OBA Women in Law
4/13/2023	EPA Inspector General
4/13/2023	Illinois River Discussion
4/14/2023	OU Ag Law Symposium
4/18/2023	Forestry planning
4/19/2023	OBA ILS
4/19/2023	CLO Audit Committee
4/20/2023	Tourism regarding MOU
4/20/2023	Director's Meeting
4/25/2023	Source Water Protection Workgroup
4/25/2023	AgPDES
4/26/2023	State Board of Agriculture
4/26/2023	OGC Staff
4/27/2023	Director's Retreat
4/28/2023	OBA regarding Ag Law Section and CLE
4/28/2023	2023 Kevin Mitnick Security Awareness Training
5/1/2023	AALA Symposium Planning Committee



5/2/2023	OBA GALPS
5/2/2023	Seaboard
5/2/2023	“Effective Communication-Building Trust in a Digital World” Webinar
5/4/2023	Western Environmental Law Conference
5/5/2023	Western Environmental Law Conference
5/8/2023	Boll Weevil Eradication Organization regarding NOV process
5/10/2023	House Admin Rules Committee
5/10/2023	Director’s Meeting
5/10/2023	OBA Women in Law
5/11/2023	Illinois River Technical Group

### **RULE ACTIVITIES:**

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

<b>Chapter 37. Food Safety (Permanent FY 2023):</b> Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Notice of Partial Withdrawal submitted to the Governor, Legislature, and Cabinet Secretary and filed with the Office of Administrative Rules on May 9, 2023
<b>Chapter 40. Market Development (Permanent FY 2023):</b> Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
<b>Chapter 44. AgPDES (Permanent FY 2023):</b> Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
<b>Chapter 50. Aquaculture (Permanent FY 2023):</b> Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
<b>Chapter 55. Commercial Pet Breeders and Animal Shelters (Permanent FY 2023):</b> Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
<b>OHRC</b>
<b>Chapter 10. Racing Organization (Permanent FY 2023):</b> Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
<b>Chapter 15. Licensing (Permanent FY 2023):</b> Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
<b>Chapter 25. Entries and Declarations (Permanent FY 2023):</b> Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
<b>Chapter 35. General Conduct (Permanent FY 2023):</b> Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.
<b>Chapter 50. Human Substance Abuse Testing (Permanent FY 2023):</b> Permanent rules adopted by Commission January 19, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on January 26, 2023. Statement of Submission filed with Office of Administrative Rules January 26, 2023.

**OPEN RECORDS REQUESTS (32):**

AEMS: 8
CPS: 14
AIS: 4
Forestry: 1
Pet Breeders: 5

### **OKLAHOMA HORSE RACING COMMISSION**

<b>Litigation: Alfredo Gomez and Cruz Villafranco v. OHRC</b> , Oklahoma County District Court Case No. CV-2020-430: Petition served. Response filed. Petitioners' Motion for Partial Summary Judgment responded to. Pending hearing.
<b>Litigation: Miguel Pena v. OHRC</b> , Oklahoma County District Court Case No. CV-2019-179: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held October 11, 2019. TRO entered. Amended Petition for TRO heard May 15, 2020. TRO denied. Permanent injunction denied. Pending Motion to Dismiss.
<b>Litigation: Jose Sanchez III, et al. V. Global Gaming, Heritage Place and OHRC</b> , Oklahoma County District Court Case No. CJ-2020-2395: Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held May 26, 2020. TRO denied. Further action pending.
<b>Litigation: Sammy Howard v. OHRC</b> , Oklahoma County District Court Case No. CV-2020-1921. Petition served. Response filed. Briefs filed. Oral arguments held. Remanded for further proceedings. Order filed. Motion to Reconsider filed. JE Entered. Motion to Reconsider pending.
<b>LITIGATION: Rogelio Marquez, Jr. V. OHRC</b> , Oklahoma County District Court Case No. CJ-2021-3393. Petition filed. Injunction sought. Hearing held; Injunction denied. Pending further proceedings. (Trailing OHRC v. Heltzel)
<b>Litigation: Carlos Ruiz v. OHRC</b> , Oklahoma County District Court Case No. CV-2021-2591. Petition Served. Response filed. Record filed. Pending briefing.
<b>Litigation: Etniel Sanabria v. OHRC</b> Tulsa County District Court Case No. CV-2022-1899. Petition for Temporary Restraining Order and Petition for Injunction. Ex Parte TRO hearing held September 21, 2022. TRO DENIED. OHRC Response and Motion to Dismiss filed. Motion to Disqualify Judge filed and heard. Case reassigned. OHRC Motion to Dismiss sustained. Motion to Vacate Order of Dismissal filed by Plaintiff. OHRC Response filed. Hearing held. Pending Order.
<b>Litigation: Kelly Marlene Hartzel v. OHRC</b> , Oklahoma County District Court Case No. CV-2023-387. Petition for Review of Final Agency Order filed and served. Pending Response.
Prepare cases for presentation at Stewards Hearings
Prepare cases for presentation in District Courts
Provide discovery to opposing counsel and Respondents regarding various hearings
Stewards Hearings at Remington Park
Hearings in District Courts
Prepare and file Motion to Reconsider and brief in support
Discuss possible rule revisions/amendments with Executive Director
Draft proposed rule revisions
Advise Executive Director on extent of delegated authority

Discuss certain policy issues with Executive Director
Review communication from Respondents' counsel in various cases
OHRC regular meeting
Supervise and direct OHRC legal intern
Attend ARCI Rules Committee meeting
Consult with OHRC regarding gaming issues
Attend briefings and meetings regarding Horse Racing Integrity and Safety Act (HISA)
Consult with concerned constituents regarding HISA
Respond to open records requests
Consult and advise on HR issues
Prepare files for return to OHRC

**OTHER ACTIVITIES:**

Phone calls or emails with the public: 5
Assistance to industry: 2
Assistance to AEMS: 2
Assistance to CPS: 7
Assistance to Wildlife Services: 2
Assistance to Forestry: 7
Assistance to AIS: 1
Assistance to Admin: 8
Assistance to Human Resources: 3
Assistance to Market Development: 2
Assistance to other state agencies: 3
Assistance to federal agencies: 2
Assistance to Food Safety: 0
Assistance to NASS: 0
Assistance to Executive Office: 13
Assistance to Lab: 0
Assistance to Investigative Services: 5
Assistance to Legislature: 10
Assistance to Attorney General: 1
Assistance to Public Information: 0

Respectfully Submitted,



Teena G. Gunter  
General Counsel

## **FOOD SAFETY REPORT MAY 2023**

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

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

In Broken Bow at Tyson Foods, USDA poultry grading was performed by ODAFF inspectors on 264,796 pounds of poultry – boneless/skinless leg meat and ground meat. ODAFF inspectors provided USDA Shell Egg grading on 32,590 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
- Three organic processors
- Fourteen retail organic inspections
- The organic section had requests for 3,000 certified organic stickers from Oklahoma Certified Organic producers and processors, which display the stickers on all products sold, labeled, or represented as Organic across the United States. The organic section had 5 requests for organic crop applications, 2 requests for organic processing applications and 1 request for a organic livestock application.

#### **Produce Safety Section**

- Completed 4 produce farm inspections for the Produce Safety Rule
- Visited 5 farmers markets providing outreach and education to producers and to collect farm inventory
- Shared information about the Produce Safety Rule at the McAlester Oklahoma Local Agriculture Collaborative Workshop
- Educated vendors at the Rogers County Farmers Market meeting
- Shared information about the Produce Safety Rule at the Craig County Homestead Conference
- Assisted farms with remote technical assistance
- Regular conference calls with TX, LA, AR, NM, MO, MS
- AFDO Produce Safety Committee work

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

- Received 1 complaint on Homemade Food Freedom Act business
- Sent 1 warning letter
- Meat compliance assisted with 1 complaint

## Oklahoma Meat Inspection Services Investigations and Compliance Activities

Planned Compliance Reviews	06
Random Compliance Reviews	172
Person-to-Person Contacts	35
Special Investigations and/or Projects	06
Reports of Apparent Violations	01
Detentions	03
Consumer Complaints	06
Verbal Warnings Issued	07
Letters of Warning Issued	01
Samples Submitted to Lab for Analysis	00
Accident Investigations	00
Administrative Procedures Act	01 (OK-1-835)

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

See details below:

ACCIDENT LOCATION	ANIMAL/PRODUCT	DISPOSITION
0	0	0

### 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 (hours)
Brad	8
Wayne	0
Ron	168

### MEAT INSPECTION

<b>Number of Cattle</b>	<b>1,124</b>
<b>Total Beef Condemned</b>	<b>9,990 lbs</b>
<b>Beef Heads &amp; Livers</b>	<b>Avg. H wt 20, Avg. L wt 10</b>
<b>Number of Swine</b>	<b>113</b>
<b>Total Pork Condemned</b>	<b>888 lbs</b>
<b>Pork Heads &amp; Livers</b>	<b>Avg. H wt 10, Avg. L wt 2 lbs</b>
<b>Number of Sheep and Goats</b>	<b>3,790</b>
<b>Total Condemned</b>	<b>0 lbs</b>
<b>Number of Chickens</b>	<b>305</b>
<b>Number of Rabbits</b>	<b>12</b>
<b>Total Condemnations</b>	<b>0 lbs</b>
<b>Number of Exotic Deer</b>	<b>24</b>
<b>Total Condemnations</b>	<b>40 lbs</b>
<b>TOTAL MEAT INSPECTED</b>	<b>1,210,850 lbs</b>

### PROCESSED MEAT INSPECTED

<b>Processed Red Meat</b>	<b>672,139 lbs</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Poultry (Portions)</b>	<b>170,078 lbs</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Rabbit Meat</b>	<b>0</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>Exotic Deer Meat</b>	<b>0</b>
<b>Condemned on Reinspection</b>	<b>0 lbs</b>
<b>TOTAL PROCESSED MEAT INSPECTED</b>	<b>lbs</b>

**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:

23 Samples Submitted for Analysis

0 Samples Not Analyzed

23 Samples Analyzed

0 Samples Non-Compliant

23 Samples Negative Analysis

**\*\*4/24 We hired Brian Stallings as a meat inspector for the Oklahoma City circuit**

## DAIRY SECTION

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

In April, Dairy Services staff represented The State of Oklahoma at The National Conference on Interstate Milk Shipments (NCIMS) held in Indianapolis, Indiana. NCIMS is where FDA, State and Industry collaborate, discuss potential or on-going public health issues, and vote on national milk related laws. The goal of this conference is to have the safest possible milk supply for all people. Participation in NCIMS is essential for The State of Oklahoma to participate in Grade A interstate milk commerce.

All dairy farm and dairy plant surveys are up to date; therefore, no additional surveys were conducted during this board report period.

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

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

. Sincerely,

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

Scott Yates  
Director of Food Safety



## Communications

Compiled 5/17/23

### *Social Media Highlights*

**Directors' Retreat – April 27** | ODAFF division directors gathered to grow as leaders and set personal and professional goals for the rest of the year.

One of the more interesting tidbits was learning about how younger generations interact in professional settings compared to those who came before them.



**Sec. Arthur Visits New Sidwell Distribution Facility in Enid – May 1** | Sidwell Distribution hosted Sec. Arthur and staff at the grand opening of their facility in Enid.

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

**AYC Members Elected to State FFA Officer Team – May 3** | Four Agriculture Youth Council members were named 2023-24 State FFA Officers at the State FFA Convention in Tulsa.

Sec. Arthur spoke to the more than 15,000 member group at the closing session.

**CONGRATULATIONS**  
to these Agriculture Youth Council members on their election to the 2023-2024 State FFA Officer Team!

 <b>Clara Duncan</b> Reporter	 <b>Garrett Case</b> Northeast Area Vice President	 <b>Alec Anderson</b> Northwest Area Vice President	 <b>Kayla Poling</b> Southeast Area Vice President
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## ***Social Media Impact***

### **Facebook**

*21,559 followers*

*Since April 10, 2023:*

- Posts and content reached 45,737 users
- 114 new Facebook users have liked the ODAFF page

### **Instagram**

*3,054 followers*

*Since April 10, 2023:*

- Posts and content reached 4,425 users
- 139 new Instagram users have followed the account (broke the 3k mark)

## **News & Notes**

***ODAFF Hosts Ranchers from Mexico*** / In mid-May, we hosted five ranchers from Mexico on an inbound trade mission. The ranchers visited farms in Alva, Hobart, and Sulphur.

***ODAFF Hosts Mona Lee Brock Event*** / On May 15, Mona Lee Brock was honored at ODAFF with a presentation produced by AFR. The program concluded with the unveiling of a curio cabinet display in Brock's memory.

***National Beef Month Campaign*** / Each week in May ODAFF is showcasing the beef industry with special social media posts.



# **June 1, 2023, BOARD MEETING**

## **PURCHASES/CONTRACTS**

### **Administration**

FY23 – Special Ops Uniforms -\$8775

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

### **Agricultural Statistics**

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

### **AMES**

#### **A request of \$30,000**

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

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

### **Animal Industry**

**Oklahoma Veterinary Medical Association (OVMA) - \$70,000.00** – This is pass through funds from Oklahoma Tax Commission to OVMA to help lower income Oklahomans get their pets spayed and neutered. OVMA is the only entity in the State of Oklahoma that has the ability and contracts statewide to enhance pet sterilization effort is the OVMA. No other entity has access to veterinarians and humane organizations on a statewide basis.

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

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

## **Consumer Protection Services**

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

## **Food Services**

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

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

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

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

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

## **Forestry Services**

### **FY24 - \$10,000 Federal Funds**

This request when approved will renew the Oklahoma Gardening Grant. This is a longstanding education and outreach grant sponsoring the popular Oklahoma Gardening program produced by OSU. This grant supports tree related educational programming. Without this purchase, we would lose an avenue of support and education. This purchase will be reimbursed through Federal funding.

### **FY24 - \$15,000 Federal Funds**

Renew nonbinding contract with the Oklahoma Urban and Community Forestry Council to perform services to assist in implementation of the continuing education component of Oklahoma's Urban & Community Forestry program in accordance with federal grant program

intent. Without this program outreach and education related to urban forest management and individual tree care would be limited. This purchase will be reimbursed through Federal funding.

#### **FY24 - \$60,000 Federal Funds**

Award Federal pass-through funding to communities for the Urban and Community Forestry Grants – Up to \$60,000. These grants support projects related to advancing local community forestry programs. Without these projects, we would lose an avenue of community support and education. This purchase will be reimbursed through Federal funding.

#### **FY24 - \$230,000 Federal Funds**

Award Federal pass-through funding up to \$230,000 to assist financially-challenged cities, neighborhoods, and communities for recovery of winter ice storm and cold damage. These grants support projects related to helping lower income neighborhoods and non-profit entities recover from the damage, mitigate existing risks and replace lost tree cover from recent winter storms. Without these projects, we would lose an avenue of community support and education. This purchase will be reimbursed through Federal funding.

#### **FY24 - \$100,000 Federal Funds**

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

#### **FY24 - \$101,760 Federal Funds**

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

#### **FY24- \$8,000 Wildland Firefighting Helmets**

OFS is in need of purchasing new wildland firefighting helmets for our firefighters. One hundred fifteen (115) helmets will be purchased through FedMall. New helmets are essential PPE for our

firefighters to ensure they are safe as they protect life and property while fighting wildfires across Oklahoma. The funds will be reimbursed through a federal grant.

#### **FY24 - \$15,000**

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

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

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

#### **FY 24 - \$55,000**

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

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

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

submitted for approval at the April Board of Agriculture Meeting. There was an error on the Fiscal Year funding information which required the resubmission for approval)

### **Laboratory Services**

#### **FY23 - \$15,000.00 – PCR**

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

#### **FY23 - \$5700.00 – DI Water and Maintenance**

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

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

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

### **Market Development**

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

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

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

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

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

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

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

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



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

## **Office of General Counsel**

### **A request of \$8,000**

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

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

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

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

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

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

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

## **Wildlife Services**

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

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

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

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

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

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

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

**APPROVAL OF CASES**

ON THIS 1<sup>st</sup> day of June 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 1<sup>st</sup> day of June 2023.

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Blayne Arthur  
President  
State Board of Agriculture

**Exhibit A**  
**Board of Agriculture**  
**June 1, 2023**

**Cases Resolved by Stipulation**

**Consumer Protection Services**

<b><u>Name</u></b>	<b><u>File No.</u></b>	<b><u>Division</u></b>	<b><u>Amount</u></b>
5 Star Lawn & Landscape	OGC-22-14	CPS	\$750.00
7-Eleven	OGC-22-510	CPS	\$300.00
7-Eleven	OGC-22-742	CPS	\$450.00
B&B Paint & Weed Serv., LLC	OGC-23-77	CPS	\$2,000.00
Madison Davis	OGC-23-001	CPS	\$2,000.00
Dollar General	OGC-22-754	CPS	\$4,500.00
Dollar General	OGC-22-755	CPS	\$1,400.00
Dollar General	OGC-22-758	CPS	\$900.00
Dollar General	OGC-23-049	CPS	\$3,500.00
Dollar General	OGC-23-050	CPS	\$825.00
Dollar General	OGC-23-051	CPS	\$900.00
Dollar General	OGC-23-052	CPS	\$525.00
Dollar General	OGC-23-053	CPS	\$1,500.00
Dollar General	OGC-23-055	CPS	\$450.00
Dollar General	OGC-23-058	CPS	\$300.00
Dollar General	OGC-23-062	CPS	\$225.00
Edko, LLC	OGC-22-750	CPS	\$3,000.00
Tyler Enyeart	OGC-23-005	CPS	\$750.00
Family Dollar	OGC-23-48	CPS	\$1,200.00
Family Dollar	OGC-23-54	CPS	\$450.00
Family Dollar	OGC-23-56	CPS	\$525.00
Family Dollar/Dollar Tree	OGC-23-57	CPS	\$225.00
Tanner Harper	OGC-23-12	CPS	\$500.00

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Quality Ranch, LLC	OGC-23-150	CPS	\$4,000.00
Red Dirt Grow, LLC	OGC-22-239	CPS	\$2,500.00
Paige Sherry	OGC-22-558	CPS	\$375.00
Southeast Vegetation MGMT	OGC-22-719	CPS	\$2,500.00
Brent Thompson	OGC-21-591	CPS	\$500.00
Tractor Supply Company	OGC-22-713	CPS	\$1,000.00
Tractor Supply Company	OGC-22-714	CPS	\$1,350.00

Cases Resolved by Consent Order:

Agricultural Environmental Management Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Tri-State Feeders, LLC	OGC-21-292	AEMS	\$44,250.00

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
AAPEST, LLC	OGC-22-703	CPS	\$5,000.00
	OGC-22-744		

Cases Resolved by Proposed Final Order:

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Security Pest Control, Inc.,	OGC-22-273	CPS	\$7,500.00
Jason Taylor	OGC-22-90	CPS	\$750.00



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

**v. 5-STAR LAWN & LANDSCAPE**

**Case File No. OGC-22-14**

**5-STAR LAWN & LANDSCAPE**

**P.O. BOX 96221**

**OKC, OK 73143**

**Summary of Facts:** CPS Inspectors conducted a use inspection of this business. This company was not on file with ODAFF as a commercial applicator. Additionally, this business was advertising as a commercial business and is not licensed to do so.

**Statute or Rule Violation:** 2 O.S. §3-82(A)(1) and 2 O.S. §3-86(A)(15)

**Proposed Administrative Penalty:** \$750; stipulation was signed and PIF

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
MAY 10 2023  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

5 STAR LAWN & LANDSCAPE  
P.O. BOX 96221  
OKLAHOMA CITY, OK 73143

RESPONDENT.

Case No: OGC-22-14

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Seven-Hundred and Fifty Dollars (\$750.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT

  
Signature

Paola Mendoza Owner/Manager  
Printed Name and Title:

Date: 5/11/23



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

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC-22-14**

**5 STAR LAWN & LANDSCAPE )  
6300 S. Bryant Ave. )  
OKLAHOMA CITY, OK 73129 )**

**RESPONDENT. )**

**AMENDED NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

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

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

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial application of pesticides, located at P.O. Box 96221, Oklahoma City, Oklahoma.

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

### **ALLEGATIONS OF FACT**

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

18. On or about the 21<sup>st</sup> day of October, 2021, the Consumer Protection Services Division of the Department performed a use inspection.

19. The Department found that you are not on file with the ODAFF as being a licensed commercial applicator.

20. On the above mentioned date our inspector observed your application vehicle parked at 407 Janeway Ave. in Moore, OK.

21. The license listed on the vehicle belonged to a different commercial applicator company.

22. In addition, your company website lists on its website it lists weed control.

### **ALLEGED CONCLUSIONS OF LAW**

23. Based upon the application of the above law to the aforementioned facts, you are in violation of Oklahoma Combined Pesticide Law & Rules 2 O.S. §3-82(A)(1) and 2 O.S. §3-86(A)(15).

24. Title 2 O.S. §3-82(A)(1) states that “It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.” You are in violation of this statute by not having the required license to apply commercial pesticide.

25. Title 2 O.S. §3-86(A)(15) state that (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...(15) “Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.” You may not act, operate, or advertise that you are a licensed applicator unless such license has been issued by ODAFF. On October 21, 2021 you were found to have been performing and advertising as a licensed applicator without having been licensed.

### **ATTORNEY CONFERENCES**

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

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

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

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

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

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

### **ENFORCEMENT OF JUDGMENTS**

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

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

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

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

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

### **STIPULATION**

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Seven Hundred and Fifty Dollars (\$750.00)**.

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

DATED THIS 31<sup>ST</sup> DAY OF JANUARY 2022.

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

*Brady Robison*

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

**CERTIFICATE OF MAILING**

This is to certify that on this 31<sup>st</sup> day of January 2023, a true and correct copy of the forgoing instrument was mailed, via email.

5 Star Lawn & Landscape  
6300 S. Bryant Ave.  
Oklahoma City, OK 73129

Brady Robison  
Brady Robison



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

**v.**

**RESPONDENT.**

**Case No: OGC-22-14**

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

Signature

Printed Name and Title:

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

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. 7-ELEVEN**  
**Case File No: OGC-22-510**

**7-ELEVEN**  
**9001 S MAY**  
**OKLAHOMA CITY, OK 73159**

**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 Three Hundred Dollars (\$300.00). (4 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT. )

v. )

Case No: OGC 22-510

SEVENTEEN )  
9001 S MAY )  
OKLAHOMA CITY, OK 73159 )


RESPONDENT. )

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 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

**Barbara A. Milfelt**

Printed Name

**Manager, Corporate Compliance**

Job Title

**5/2/2023**

Date

**FILED**  
**MAY 10 2023**  
STATE BOARD OF AGRICULTURE

**FILED**  
FEB 08 2023  
STATE BOARD OF AGRICULTURE  
2-510

RESPONDENT.

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of 7-Eleven, located at 9001 S. May, in Oklahoma City, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

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

20. On or about December 10, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Oklahoma City, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about August 11, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Oklahoma City, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

### **ALLEGED CONCLUSIONS OF LAW**

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

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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



### **ENFORCEMENT OF JUDGMENTS**

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

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

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

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

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

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Three Hundred Dollars (\$300.00). (4 violations at \$75.00 per violation).**

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

DATED THIS 7th day of February, 2023.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 8 day of Feb., 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**7-Eleven  
Attn: Legal Dept.  
3200 Hackberry Road  
Irving, TX 75063**



---

Gina Blaylock

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

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC 22-510**

**7-ELEVEN )  
9001 S MAY )  
OKLAHOMA CITY, OK 73159 )**

**RESPONDENT. )**

**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 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 22-GMC-0191 DATE\* 8/11/2022 COUNTY Cleveland  
LOCATION\* CORPORATE  
AGN NUMBER AGN0180728 AGN NUMBER \_\_\_\_\_  
7 Eleven \_\_\_\_\_  
9001 S May av \_\_\_\_\_  
Oklahoma City \_\_\_\_\_ OK 73159- \_\_\_\_\_  
MANAGER \_\_\_\_\_ INSPECTION TYP Followup Original Insp# 22-GMC-005  
TELEPHONE\* (800) 255-0711 Other Store Type \_\_\_\_\_ ITEM STATUS \_\_\_\_\_  
TYPE OF STORE CONVENIENCE STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Coca Cola 0 sugar 2L	04900000050141	\$2.89	\$2.99	(\$0.10)
Campbells Chunky 15.25oz	05000148780	\$3.99	\$4.39	(\$0.40)
Coke dt 20oz	049000000450	\$2.29	\$2.39	(\$0.10)
Takis Blue Heat 4oz	757528037468	\$2.29	\$2.59	(\$0.30)

Total Number Checked 50 Total Number Of Violation 4 Accuracy 92 % Inspection Result Notice of Violation

REMARKS

WITNESS

Bitter Deaton

INSPECTOR\*

Gersende Cazaux

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

**v. 7-ELEVEN**

**Case File No: OGC-22-742**

**7-ELEVEN**

**1201 12<sup>TH</sup> AVENUE NE**

**NORMAN, OKLAHOMA 73071**

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

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

**Proposed Administrative Penalty:** The proposed penalty for this case was Four Hundred Fifty Dollars (\$450.00). (6 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT, )

v. )

7-ELEVEN )

1201 12<sup>TH</sup> AVENUE NE )

NORMAN, OKLAHOMA 73071 )

RESPONDENT. )

Case No: OGC 22-742

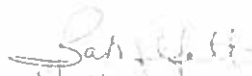
**FILED**  
MAY 10 2023  
STATE BOARD OF AGRICULTURE

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Fifty Dollars (\$450.00)** for the 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 73105-1298.

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

**Barbara A. Milfelt**

Printed Name

**Manager, Corporate Compliance**

Job Title

**May 2, 2023**

Date

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 7-Eleven, located at 1201 12<sup>th</sup> Avenue NE, in Norman, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.



### **ALLEGATIONS OF FACT**

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

20. On or about December 20, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Norman, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about November 10, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at 7-Eleven in Norman, Oklahoma. The inspection revealed that six (6) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

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

### **ALLEGED CONCLUSIONS OF LAW**

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

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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

### **ENFORCEMENT OF JUDGMENTS**

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

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

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

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

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

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Hundred Fifty Dollars (\$450.00). (6 violations at \$75.00 per violation).**

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

DATED THIS 7th day of February, 2023.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298


Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 8 day of Feb, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**7-ELEVEN  
ATTN: LEGAL DEPT.  
3200 HACKBERRY ROAD  
IRVING, TX 75063**

  
\_\_\_\_\_  
Gina Blaylock

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

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC 22-742**

**7-ELEVEN )  
1201 12<sup>TH</sup> AVENUE NE )  
NORMAN, OKLAHOMA 73071 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 5/16

INSPECTOR NUMBE 23-GMC-0064 DATE\* 11/10/2022 COUNTY Cleveland  
LOCATION\* CORPORATE  
AGN NUMBER AGN0179876 AGN NUMBER \_\_\_\_\_  
7 eleven  
1201 12th Avenue NE  
Norman OK 73071-  
MANAGER \_\_\_\_\_ INSPECTION TYP \_\_\_\_\_ Original Insp# 22-GMC-007  
TELEPHONE\* (405) 329-2744 Other Store Type \_\_\_\_\_ ITEM STATUS \_\_\_\_\_  
TYPE OF STORE \_\_\_\_\_

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Campbell Chicken noddles 10.75oz</u>	<u>051000012517</u>	<u>\$2.19</u>	<u>\$2.39</u>	<u>(\$0.20)</u>
<u>Cheez It Original 3oz</u>	<u>024100191345</u>	<u>\$1.79</u>	<u>\$1.89</u>	<u>(\$0.10)</u>
<u>Hersey's Chc 4.25oz</u>	<u>034000214600</u>	<u>\$3.19</u>	<u>\$3.39</u>	<u>(\$0.20)</u>
<u>MFC Cosmic Brownie 113g</u>	<u>024300837869</u>	<u>\$1.29</u>	<u>\$1.69</u>	<u>(\$0.40)</u>
<u>Strawberry cheesecake 7 select</u>	<u>052548615123</u>	<u>\$1.69</u>	<u>\$1.99</u>	<u>(\$0.30)</u>
<u>Mars M&amp;M 1.77oz</u>	<u>040000476528</u>	<u>\$2.49</u>	<u>\$2.79</u>	<u>(\$0.30)</u>

REC'D CRS  
2022 NOV 16 A 11:57

Total Number Checked 100 Total Number Of Violation 6 Accuracy 94 % Inspection Result \_\_\_\_\_  
Notice of Violation \_\_\_\_\_

REMARKS

WITNESS

INSPECTOR\*

  
Gersende Cazaux

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

**v. B&B PAINT & WEED SERVICE LLC**

**Case File No. OGC-23-77**

**B&B PAINT & WEED SERVICE LLC  
11549 STATE HWY 76 N.  
LINDSAY, OK 73052**

**Summary of Facts:** CPS Inspectors conducted a use inspection of this applicator's employee. The company truck had a tank full of mix driving down the road; inspectors learned that the applicator was enroute to apply to an oilfield right-of-way. The applicator informed inspectors that the tank mix was Gramoxone SL 3.0, Krovar IVM Herbicide, and Polaris Herbicide. Gramoxone is a restricted use pesticide and may only be purchased, sold to and applied by a certified applicator and the certified applicator must take the Paraquat training prior to applying (per label instructions). Additionally, there was not a closed transfer system, and the restricted use pesticide was unsecured, both a violation. Label requires transportation of the product by non-certified applicators to be secured from shifting and if less than 120 gallons the product must only be removed using a closed transfer system. Finally, this company is not licensed or certified and the applicator was not licensed and certified.

**Statute or Rule Violation:** 2 O.S. §3-82(A)(1); 2 O.S. §3-86(A)(15); 2 O.S. §3-86(A)(16); 2 O.S. §3-86(A)(4) and O.A.C. 35:30-17-25(a)

**Proposed Administrative Penalty:** \$2000; stipulation was signed and PIF

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison



BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
MAY 04 2023  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

B & B PAINT & WEED SERVICE LLC  
11549 STATE HWY 76 N.  
LINDSAY, OK 73052

RESPONDENT.

Case No: OGC-23-77

STIPULATION

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

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

RESPONDENT:

*B. P. Hightower*  
Signature

Brian P Hightower Owner  
Printed Name and Title

Date: 5/1/2023

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

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC-23-77**

**B & B PAINT & WEED SERVICE LLC )  
11549 STATE HWY 76 N. )  
LINDSAY, OK 73052 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

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

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

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide/herbicide applications, located at Lindsay, 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 7<sup>th</sup> day of September 2022, the Consumer Protection Services Division of the Department conducted a use inspection of your employee Jacob Crites in Lindsay, OK, who was driving an application vehicle with a spray tank full of mix.

19. Your company license expired on December 31, 2018.

20. During this inspection your employee informed our inspector that he was enroute to perform an application to an oilfield right-of-way.

21. The products in the tank mix were Gramoxone SL 3.0, Krovar IVM Herbicide, and Polaris Herbicide. Gramoxone SL 3.0 is a restricted use pesticide due to the acute toxicity of its active ingredient Paraquat. Gramoxone SL 3.0 can only be sold to and applied by certified

applicators, and the certified applicator must take Paraquat training prior to applying the product per its labeled use directions.

22. A sample of the tank mix was taken, and Imazapyr, Bromacil, Diuron, and Paraquat were detected.

23. Additionally, there was no closed transfer system on the truck and the 2.5-gallon container of Gramoxone SL 3.0 was unsecure on the flat bed of the truck.

24. The product's labeled directions for use requires that transportation of the product by non-certified applicators can only be done if the product is secure from shifting, and that if the container is less than 120 gallons the product must only be removed from the original container using a closed transfer system.

25. Operating commercially without a license and certification, an uncertified applicator applying a restricted use pesticide when the label requires that a certified applicator make the application, and the improper transportation and transfer of a restricted use pesticide as required by the label are violations of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-82 (A)1; 2 O.S. § 3-86 (A)15; 2 O.S. § 3-86 (A)16; 2 O.S. § 3-86 (A)4; O.A.C. 35:30-17-25(a).

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

26. Based upon the application of the above law to the aforementioned facts, your company is in violation of multiple Oklahoma Statutes and Rules including:

- 2 O.S. §3-82(A)(1): "A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's

license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.”

- **2 O.S. §3-86(A)(15):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”
- **2 O.S. §3-86(A)(16):** “6. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.”
- **2 O.S. §3-86(A)(4):** “4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”
- **O.A.C. 35:30-17-25(a):** “(a) A certified applicator shall be on site to use any pesticide when required by the label or labeling.”

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

34. 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**

35. 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**

36. 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**

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 Thousand Dollars (\$2000.00)**.

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 pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

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

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

*Brady Robison*

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

**CERTIFICATE OF MAILING**

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

**B & B PAINT & WEED SERVICE LLC  
11549 STATE HWY 76 N.  
LINDSAY, OK 73052**

*Brady Robison*  
\_\_\_\_\_  
Brady Robison

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

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

**COMPLAINANT,**

**v.**

**Case No: OGC-23-77**

**B & B PAINT & WEED SERVICE LLC  
11549 STATE HWY 76 N.  
LINDSAY, OK 73052**

**RESPONDENT.**

**STIPULATION**

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

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

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

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

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

**v. MADISON DAVIS/BELEAF CANNABIS LLC**

**Case File No. OGC-23-1**

**MADISON DAVIS  
BELEAF CANNABIS, LLC  
P.O. BOX 256  
OWASSO, OK 74055**

**Summary of Facts:** CPS Inspectors conducted a site inspection after this company failed to file the appropriate and required reports on time and after several attempts to get them. This company failed to provide a harvest report; failed to allow inspection and testing by ODAFF; interfered with the inspection process including refusal to grant unrestricted access to a cultivation site, impeding the sampling of plants, and refusal to fully cooperate with inspections. This company handled, processed, or sold non-compliant hemp products. Finally, they failed to disclose the different varieties of Cannabis sativa L plants in a single area.

**Statute or Rule Violation:** O.A.C. 35:30-24-6(a); 35:30-24-9; 35:30-24-12(h)(2); 2 O.S. §3-406; 35:30-24-11 and 2 O.S. §3-407(A); O.A.C. 35:30-24-12(h)(5); O.A.C. 35:30-24-12(h)(10) & (11)

**Proposed Administrative Penalty:** \$2000; stipulation was signed 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.

MADISON DAVIS  
BELEAF CANNABIS, LLC  
P.O. BOX 256  
OWASSO, OK 74055

RESPONDENT.

Case No: OGC-23-1

**STIPULATION**

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

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

RESPONDENT:

Signature

Printed Name and Title:

**Daniel Searcy,**  
**Owner**

Date:

**4/17/**

**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.**

**MADISON DAVIS  
BELEAF CANNABIS, LLC  
P.O. BOX 256  
OWASSO, OK 74055**

**RESPONDENT.**

**Case No: OGC-23-1**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

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

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

---

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

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

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

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

#### **DEFAULT**

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of Commercial Hemp Production, located at Owasso, 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 3<sup>rd</sup> day of January 2023, the Consumer Protective Services Division of the Department investigated after failure of the proper reports to be filed with the Department.

19. You have failed to provide current information to the Department.

20. Failed to provide a harvest report for each harvest.

21. Failed to allow inspection and testing by the Department.

22. Interfered with the inspection process, including, but not limited to, refusal to grant unrestricted access to a cultivation site, impeding the sampling of plants, or refusal or failure to fully cooperate with the Department's inspections.

23. Handled, processed, or sold non-compliant hemp which enters the stream of commerce.



24. Failed to disclose different varieties of Cannabis sativa L. (hemp) plants in a single growing area.

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

25. Based upon the application of the above law to the aforementioned facts, you are in violation of multiple Oklahoma State Statutes and Rules of the Oklahoma Department of Agriculture.

- By failing to provide current information to the Department you are in violation of **O.A.C. 35:30-24-6(a)** which states: “Every licensee shall have a continuing obligation to provide current information to the Department. The licensee shall provide updated information if there is any material change to the information provided in the application within ten (10) days of the material change unless otherwise specified herein, including but not limited to, changes in personnel or contact information.”.
- Failing to provide a harvest report for each harvest is a violation of O.A.C. 35:30-24-9, O.A.C. 35:30-24-12(h)(2), 2 O.S. §3-406 which state:
  - i. **O.A.C. 35:30-24-9:** “(a) Not less than thirty (30) days prior to harvest, the licensee shall file a harvest report on a form provided by the Department and shall, at a minimum, contain the following information: (1) The name of the licensee and any associated subcontractors; (2) The location of the cultivation site or parts thereof wherever situated; (3) A description of each variety of industrial hemp growing at the cultivation site; (4) The expected date or dates of harvest for each variety of industrial hemp growing at the cultivation site; (5) The expected yield for each variety of industrial hemp planted at the cultivation site along with a description of the growing area in which each variety was planted sufficient to calculate the growing area in acres for outdoor cultivation or square feet for indoor cultivation; (6) A description of the intended use and disposition of the industrial hemp product, including but not limited to: (A) Whether the whole plant will be sold or otherwise transferred to a third party with sufficient

additional information for the Department to identify the price for a specific quantity of industrial hemp; (B) Whether individual plant parts rather than the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department to identify the price for a specific quantity of plant parts along with a description of the plant parts sold or transferred; (C) A general description of any mechanical, chemical, or other processing techniques applied to the whole plant before sale or transfer to a third party; (D) The name and contact information of the person or business entity to which the whole plant or plant parts will be sold or transferred; and (E) Whether the whole plant or any part thereof will be destroyed after harvest; (7) A description of fertilizers, pesticides, or other chemicals applied to each variety of industrial hemp planted at the cultivation site; (8) A description of irrigation or water management practices applied to each variety of industrial hemp planted at the cultivation site; (9) A description of tillage or ground preparation practices applied to each variety of industrial hemp planted at the cultivation site; and (10) A description of the environmental impacts and viability of each variety of industrial hemp planted along with any supporting documentation.

- i. **O.A.C. 35:30-24-12(h)(2):** “(h) Violations of the Oklahoma Industrial Hemp Program and the rules of this subchapter shall include, but not be limited to, the following conduct: (2) Failure to timely, accurately, and truthfully complete and submit any application, report, or request for information from the Department.”
  - ii. **2 O.S. §3-406:** “A. At least thirty (30) days prior to harvest, each licensee shall file a harvest report on a form approved by the Department that includes: 1. A statement of intended disposition of its industrial hemp crop; and 2. The harvest date or dates, location and yield of each variety cultivated within a registered land area. B. A licensee shall notify the Department immediately of any changes in a reported harvest date by more than five (5) days.”
- Failing to allow inspection and testing by the Department is a violation of

O.A.C. 35:30-24-11 and 2 O.S. §3-407(A) which state:

- i. **O.A.C. 35:30-24-11:** “(a) The Department shall utilize an evidence gathering methodology approved by the United States Department of Agriculture for the inspection of cultivation sites and the collection of industrial hemp test samples.”

- ii. **2 O.S. §3-407(A):** “A. Any plants of the licensee are subject to at least annual routine inspections and sampling to verify that the plant meets the definition of industrial hemp. The Department shall notify each licensee of the scope of the inspection and the process by which the inspection will be conducted. The Department shall promulgate rules regarding the procedures of inspection and sampling.”
- Interfering with the inspection process, including refusal to grant access to a cultivation site and impeding the sampling of plants is a violation of **O.A.C. 35:30-24-12(h)(5)** which states: “(5) Interference with the inspection process, including, but not limited to, refusal to grant unrestricted access to a cultivation site, impeding the sampling of plants, or refusal or failure to fully cooperate with the Department's inspections.”
  - By handling, processing, or selling non-compliant hemp that enters the stream of commerce you are in violation of **O.A.C. 35:30-24-12(h)(10)** which states: “(10) Handling, processing, or selling non-compliant hemp which enters the stream of commerce.”
  - Failing to disclose the different varieties of hemp plants in a single growing area is a violation of **O.A.C 35:30-24-12(h)(11)** which states: “(11) Failure to disclose different varieties of *Cannabis sativa* L. plants in a single growing area.”

26. The punishment for violations of O.A.C. 35:30-24-12 are laid out in subsections (a) through (e) of the Oklahoma Administrative Code and 2 O.S. §3-401. Those penalties include a fine up to \$10,000 and or a civil action.

**i. ATTORNEY CONFERENCES**

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

**ENFORCEMENT PROCEEDINGS**

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

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

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

34. 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**

35. 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**

36. 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**

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 Thousand Dollars (\$2000.00)**.

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 pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

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

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

*Brady Robison*

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

**CERTIFICATE OF MAILING**

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

**Madison Davis  
BeLeaf Cannabis, LLC  
P.O. Box 256  
Owasso, OK 74055**

*Brady Robison*  
\_\_\_\_\_  
Brady Robison

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

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

**COMPLAINANT,**

**v.**

**Case No: OGC-23-1**

**MADISON DAVIS  
BELEAF CANNABIS, LLC  
P.O. BOX 256  
OWASSO, OK 74055**

**RESPONDENT.**

**STIPULATION**

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

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

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

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



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. DOLLAR GENERAL**  
**Case File No: OGC-22-754**

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

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

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

**Proposed Administrative Penalty:** The proposed penalty for this case was Four Thousand Five Hundred Dollars (\$4,500.00). (9 violations at \$500.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

FILED  
MAY 10 2022  
BOARD OF AGRICULTURE

COMPLAINANT.

Case No: OGC 22-754

RESPONDENT:

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Thousand Five Hundred Dollars (\$4,500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298

Gina - Here's  
your copy I  
put the HVE  
check in the  
SAFE THANKS

Orla Savalga  
Signature

Signature \_\_\_\_\_

Mia Sava Oja

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

Gr. Dir Store Ops

Job Title

4 24.23

Date \_\_\_\_\_

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

**Case No: OGC 22-754**

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

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**
4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

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

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

#### **DEFAULT**

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

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 811 N. Hazlett, in Ft. Cobb, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A sixth violation discovered within any twelve-month period will be assessed a penalty of Five Hundred Dollars (\$500.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

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

20. On or about November 24, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

22. On or about January 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that twelve (12) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

24. On or about March 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that eight (8) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

26. On or about May 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

28. On or about July 26, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that thirteen (13) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

30. On or about November 29, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Ft. Cobb, Oklahoma. The inspection revealed that nine (9) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

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

32. 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**

33. 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.
34. 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.
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 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.
38. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

### **ENFORCEMENT OF JUDGMENTS**



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

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

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

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

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

#### **STIPULATION**

43. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Thousand Five Hundred Dollars (\$4,500.00). (9 violations at \$500.00 per violation).**

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

DATED THIS 10th day of April, 2023.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298


Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 12 day of April, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail. Return Receipt Requested, as follows:

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

  
\_\_\_\_\_  
Gina Blaylock

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

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

**COMPLAINANT,**

**v.**

**Case No: OGC 22-754**

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

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Thousand Five Hundred Dollars (\$4,500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

\_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBE 23-RLF-0025

DATE\* 11/29/2022

COUNTY Caddo

LOCATION\*

CORPORATE

AGN NUMBER AGN014837

AGN NUMBER

Dollar General Store

811 N Hazlett

Ft. Cobb

OK 73038-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-RLF-0099

TELEPHONE\* 405 643-0017

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Command bath hooks 2ct	051141958408	\$4.00	\$4.75	(\$0.75)
GCE Knife Block Set 6 pc	076753542272	\$12.00	\$12.50	(\$0.50)
HotWheels Exposed Engines 5ct	194735061099	\$5.60	\$6.25	(\$0.65)
Minnie Mouse Plush doll	886144304576	\$5.10	\$5.35	(\$0.25)
TL 20oz Foam Cups 14ct	709859000628	\$2.35	\$2.60	(\$0.25)
CV Tomato soup 10.75 oz	071541993328	\$0.95	\$2.10	(\$1.15)
OLE' LG burrito tortillas 10ct	027331003135	\$3.00	\$3.25	(\$0.25)
Cheez-it crackers 7 oz	024100111350	\$2.85	\$2.95	(\$0.10)
Sweet Baby Ray's Beef Jerky 2.6oz	047500019897	\$4.75	\$5.00	(\$0.25)

RECD CPS  
2012 DEC - 5 P 12:24

Total Number Checked 50 Total Number Of Violation 9 Accuracy 82 % Inspection Result Notice of Violation

REMARKS

Follow up #2

WITNESS

*Michelle Price*

INSPECTOR\*

Richard Folsom

*R Folsom*

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. DOLLAR GENERAL**  
**Case File No: OGC-22-755**

**DOLLAR GENERAL**  
**110 N. BRIDGE RD**  
**GRANDFIELD, OK 73546**

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

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

**Proposed Administrative Penalty:** The proposed penalty for this case was One Thousand Four Hundred Dollars (\$1,400.00) (Four violations at \$350.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
APR 19 2023  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT, )

v. )

Case No: OGC 22-755

DOLLAR GENERAL )  
110 N. BRIDGE RD )  
GRANDFIELD, OK 73546 )

RESPONDENT. )

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Four Hundred Dollars (\$1,400.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

*Mia Savalaja*

Signature

Mia Savalaja

Printed Name

Sr Dir Store Ops

Job Title

4/5/23

Date

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

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

**COMPLAINANT,**

**v.**

**DOLLAR GENERAL  
110 N. BRIDGE RD  
GRANDFIELD, OK 73546**

**RESPONDENT.**

**FILED**

**MAR 28 2023**

**STATE BOARD OF AGRICULTURE**

**Case No: OGC 22-755**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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



3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**
4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

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

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

#### **DEFAULT**

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

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

**JURISDICTION, VENUE, AND APPLICABLE LAW**

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 110 N. Bridge Rd, in Grandfield, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A fifth violation discovered within any twelve-month period will be assessed a penalty of Three Hundred Fifty Dollars (\$350.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

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

20. On or about October 27, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

22. On or about December 27, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

24. On or about May 9, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

26. On or about July 8, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

28. On or about November 14, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Grandfield, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

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

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

### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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

### **ENFORCEMENT OF JUDGMENTS**

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

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

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

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

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

### **STIPULATION**

41. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Four Hundred Dollars (\$1,400.00). (4 violations at \$350.00 per violation).**

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

DATED THIS 21st day of March, 2023.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298


Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of March, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

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

  
\_\_\_\_\_  
Gina Blaylock



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

**V.**

**RESPONDENT.**

## STIPULATION

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

Date \_\_\_\_\_



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 23-KAN-0012

RECD CBS DATE 11/14/2022

COUNTY Tillman

LOCATION\*

CORPORATE

AGN NUMBER AGN0172736

AGN NUMBER

DOLLAR GENERAL

110 N. BRIDGE RD

GRANDFIELD

OK 73546-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-KAN-0051

TELEPHONE\* (580) 215-0924

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Hershey baking chips reeses 10oz	03414406	\$3.00	\$3.25	(\$0.25)
Nature valley Trail Mix Bars 6ct	016000439801	\$3.50	\$3.95	(\$0.45)
Chips Ahoy Cookies 13oz	044000032197	\$3.65	\$3.75	(\$0.10)
CV Shredded Cheese Mozzarella 8oz	071505005357	\$2.95	\$3.00	(\$0.05)

Total Number Checked 50 Total Number Of Violation 4 Accuracy 92 % Inspection Result Notice of Violation

REMARKS

**COPY**

WITNESS

*Ch Montezuma*

INSPECTOR\*

Keith Neugebauer

*Keith Neugebauer*

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. DOLLAR GENERAL**  
**Case File No: OGC-22-758**

**DOLLAR GENERAL**  
**1500 N. LOUIS TITTLE**  
**MANGUM, OK 73554**

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

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

**Proposed Administrative Penalty:** The proposed penalty for this case was Nine Hundred Dollars (\$900.00). (6 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
APR 10 2023  
STATE BOARD OF AGRICULTURE

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

COMPLAINANT, )

v. )

Case No: OGC 22-758

DOLLAR GENERAL )  
1500 N. LOUIS TITTLE )  
MANGUM, OK 73554 )

RESPONDENT. )

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** 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 73105-1298.

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

RESPONDENT:

*Mia Savaloja*

Signature

Mia Savaloja

Printed Name

Sr. Dir Store Ops

Job Title

4/5/23

Date

**FILED**

MAR 28 2023

STATE BOARD OF AGRICULTURE

**Case No: OGC 22-758**

**RESPONDENT.**

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

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 1500 N. Louis Tittle, in Mangum, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A 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 September 22, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Mangum, Oklahoma. The inspection revealed that eleven (11) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

22. On or about March 24, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Mangum, Oklahoma. The inspection revealed that eight (8) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

24. On or about July 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Mangum, Oklahoma. The inspection revealed that six (6) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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 **Nine Hundred Dollars (\$900.00). (6 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 21st day of March, 2023.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298


Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of March, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

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

  
\_\_\_\_\_  
Gina Blaylock

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

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC 22-758**

**DOLLAR GENERAL )  
1500 N. LOUIS TITTLE )  
MANGUM, OK 73554 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBER 22-RLF-0097

DATE\* 7/25/2022

COUNTY Greer

LOCATION\*

CORPORATE

AGN NUMBER AGN0076454

AGN NUMBER \_\_\_\_\_

Dollar General

1500 N Louis Tittle

Mangum OK 73554-

MANAGER \_\_\_\_\_ INSPECTION TYP Followup Original Insp# 21-RLF-0055

TELEPHONE\* (406) 825-1185

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Febreze Air Freshener 8.8 oz	037000622116	\$4.00	\$4.25	(\$0.25)
Ziploc Gallon Storage bags 19ct	025700706946	\$4.35	\$4.60	(\$0.25)
G&S Dinner Bowls 30ct	686390950257	\$4.35	\$4.60	(\$0.25)
Cesar Softies Dog Treats 4.0 oz	023100134581	\$3.25	\$3.85	(\$0.60)
Childrens Delsym cough syrup 3oz	363824272634	\$11.70	\$11.95	(\$0.25)
CB Wash Cloth 12ct	690443241285	\$6.40	\$6.65	(\$0.25)

REC'D CPS  
2022 AUG -3 A 11:00

Total Number Checked 100 Total Number Of Violation 6 Accuracy 94 % Inspection Result Notice of Violation

REMARKS

Follow up #3 on 22-RLF-0055 which was Follow up on 21-RLF-0092

WITNESS Kody Miser

INSPECTOR\*

Richard Folsom

R Folsom

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. DOLLAR GENERAL**  
**Case File No: OGC-23-49**

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

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

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

**Proposed Administrative Penalty:** The proposed penalty for this case was Three Thousand Five Hundred Dollars (\$3,500.00). (14 violations at \$250.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
APR 19 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 23-49

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

RESPONDENT. )

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Thousand Five Hundred Dollars (\$3,500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

*Mia Savalaja*

Signature

*Mia Savalaja*

Printed Name

*Sr Dir Store Ops*

Job Title

*4/5/23*

Date



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

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

**COMPLAINANT,**

**v.**

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

**RESPONDENT.**

**FILED**

**MAR 28 2023**

**STATE BOARD OF AGRICULTURE**

**Case No: OGC 23-49**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

**JURISDICTION, VENUE, AND APPLICABLE LAW**

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 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 fourth violation discovered within any twelve-month period will be assessed a penalty of Two Hundred Fifty Dollars (\$250.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

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

20. On or about March 30, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Sayre, Oklahoma. The inspection revealed that eleven (11) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

22. On or about June 1, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Sayre, Oklahoma. The inspection revealed that six (6) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

24. On or about October 11, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Sayre, Oklahoma. The inspection revealed that twenty-one (21) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

26. On or about December 14, 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 fourteen (14) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

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

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

#### **ATTORNEY CONFERENCES**

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

30. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

#### **ENFORCEMENT PROCEEDINGS**

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

a.) Administrative fines or penalties;

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

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

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

#### **ENFORCEMENT OF JUDGMENTS**

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

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

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

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

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

**STIPULATION**

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Three Thousand Five Hundred Dollars (\$3,500.00). (14 violations at \$250.00 per violation).**

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

DATED THIS 22nd day of March, 2023.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 29 day of March, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

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

  
\_\_\_\_\_  
Gina Blaylock



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

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

**COMPLAINANT,**

**v.**

**Case No: OGC 23-49**

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

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Thousand Five Hundred Dollars (\$3,500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/

INSPECTOR NUMBE 23-RLF-0028

DATE 12/24/2022

COUNTY Beckham

LOCATION\*

AGN NUMBER AGN050317

AGN NUMBER

Dollar General

1102 N 4th

Sa:re

OK

73662-

MANAGER

INSPECTION TYP Followup

Original Insp# 23-RLF-00C

TELEPHONE\* (405) 429-8369

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
CV French Roast coffee 12 cups	021800106091	\$4.95	\$5.25	(\$0.30)
Bagel Bites Pizza snacks 9ct	070085060121	\$3.75	\$4.25	(\$0.50)
Hostess Danish 6ct	888109113742	\$4.00	\$4.50	(\$0.50)
LaCostena Refried pintobbeans 20.5oz	076397031507	\$1.65	\$1.75	(\$0.10)
TL Clothesline 100 feet	430001403492	\$4.65	\$5.00	(\$0.35)
GoodCook Drip pans 4pc	076753541862	\$12.00	\$12.50	(\$0.50)
Toastmaster single burner	855772012784	\$18.00	\$18.50	(\$0.50)
DG Home flip mop refill	082269370155	\$4.00	\$6.00	(\$2.00)
Clorox Bleach 43 oz	044600322805	\$3.75	\$4.00	(\$0.25)
Son of a gun tire care 21.0 oz	071153655270	\$3.75	\$5.75	(\$2.00)
Hanes Tagless briefs 5ct	075338825335	\$10.75	\$11.00	(\$0.25)
Degree 48H antiperspirant 2pk	079400262806	\$6.15	\$6.85	(\$0.70)
Airborne Simply D	647865904212	\$10.25	\$10.75	(\$0.50)
Aspercreme pain relief liquid 1.5oz	041167056868	\$6.25	\$6.50	(\$0.25)

Total Number Checked 100 Total Number Of Violation 14 Accuracy 86 % Inspection Result Notice of Vic

REMARKS

Follow up #1

WITNESS

Starsha De

INSPECTOR\*

Richard Folsom

12/29/2022

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. DOLLAR GENERAL  
Case File No: OGC-23-50**

**DOLLAR GENERAL  
211 N. 5<sup>TH</sup>  
HENRYETTA, OK 74437**

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

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

**Proposed Administrative Penalty:** The proposed penalty for this case was Eight Hundred Twenty-five Dollars (\$825.00). (11 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
APR 19 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 23-50

DOLLAR GENERAL )  
211 N. 5<sup>TH</sup> )  
HENRYETTA, OK 74437 )

RESPONDENT. )

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Eight Hundred Twenty-five Dollars (\$825.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Mia Savalaja  
Signature

Mia Savalaja  
Printed Name

Sr Dir Store Ops  
Job Title

4/15/23  
Date

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

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

**COMPLAINANT,**

**v.**

**DOLLAR GENERAL  
211 N. 5<sup>TH</sup>  
HENRYETTA, OK 74437**

**RESPONDENT.**

**FILED**

**MAR 28 2023**

**STATE BOARD OF AGRICULTURE**

**Case No: OGC 23-50**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

**JURISDICTION, VENUE, AND APPLICABLE LAW**

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 211 N. 5th, in Henryetta, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

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

20. On or about October 17, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Henryetta, Oklahoma. The inspection revealed that eleven (11) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about December 19, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Henryetta, Oklahoma. The inspection revealed that eleven (11) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

### **ALLEGED CONCLUSIONS OF LAW**

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



### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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

### **ENFORCEMENT OF JUDGMENTS**

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

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

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

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

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

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Eight Hundred Twenty-five Dollars (\$825.00). (11 violations at \$75.00 per violation).**

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

DATED THIS 22nd day of March, 2023.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of March, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

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

  
\_\_\_\_\_  
Gina Blaylock

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL  
  
COMPLAINANT,  
  
v.  
  
DOLLAR GENERAL  
211 N. 5<sup>TH</sup>  
HENRYETTA, OK 74437  
  
RESPONDENT.

**DOLLAR GENERAL**  
**211 N. 5<sup>TH</sup>**  
**HENRYETTA, OK 74437**  
**RESPONDENT.**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Eight Hundred Twenty-five Dollars (\$825.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

Date \_\_\_\_\_



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBER 23-JRM-0016

DATE\* 12/19/2022

COUNTY Okmulgee

LOCATION\*

CORPORATE

AGN NUMBER AGN0109547

AGN NUMBER

Dollar General

211 N 5th

Henryetta

OK

74437-

MANAGER Elizabeth Mott

INSPECTION TYP Followup

Original Insp#

TELEPHONE\* (903) 904-0732

Other Store Type

ITEM STATUS

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Setton Farms Pistachios	0 34325 05721 0	\$3.75	\$4.00	(\$0.25)
Sweet Baby Ray Beef Jerky	0 47500 01987 3	\$4.50	\$4.75	(\$0.25)
Pringle Snack Stacks	0 38000 24832 0	\$4.75	\$5.50	(\$0.75)
Nature Valley Trail Mix Bars	0 16000 43980 1	\$3.50	\$3.85	(\$0.35)
Setton Farms Mixed Nuts	0 34325 05379 3	\$3.00	\$3.35	(\$0.35)
Clover Valley Milk Whole	0 70744 00219 6	\$4.15	\$4.40	(\$0.25)
Nature Valley Almond Bars	0 16000 27706 9	\$3.65	\$3.85	(\$0.20)
Maxwell House Coffee	0 43000 02922 0	\$5.95	\$6.00	(\$0.05)
Chinet Paper Plate	0 37700 32226 2	\$6.50	\$7.50	(\$1.00)
Pampers Baby Dry Diapr	0 37000 86212 3	\$10.50	\$11.00	(\$0.50)
Bounty Paper Towels	0 37000 66715 5	\$11.00	\$12.00	(\$1.00)

DEC 29 AM 11:50

Total Number Checked 50 Total Number Of Violation 11 Accuracy 78 % Inspection Result Notice of Violati

REMARKS

WITNESS Elizabeth Mott

ECTOR\*

Jack Mill

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. DOLLAR GENERAL  
Case File No: OGC-23-51**

**DOLLAR GENERAL  
1730 E. 6<sup>TH</sup> ST.  
OKMULGEE, OK 74447**

**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 Nine Hundred Dollars (\$900.00) (12 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT. )

v. )

DOLLAR GENERAL )  
1730 E. 6<sup>TH</sup> ST. )  
OKMULGEE, OK 74447 )

RESPONDENT. )

Case No: OGC 23-51

**FILED**  
APR 19 2023  
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

*Mia Savaloja*

Signature

Mia Savaloja

Printed Name

Sr Dir Store Ops

Job Title

4/5/23

Date



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

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

**COMPLAINANT,**

**v.**

**DOLLAR GENERAL  
1730 E. 6<sup>TH</sup> ST.  
OKMULGEE, OK 74447**

**RESPONDENT.**

**FILED**

MAR 28 2023

STATE BOARD OF AGRICULTURE

Case No: OGC 23-51

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on June 8, 2023, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

**JURISDICTION, VENUE, AND APPLICABLE LAW**

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 1730 E. 6<sup>TH</sup> St., in Okmulgee, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

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

20. On or about October 17, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Okmulgee, Oklahoma. The inspection revealed that eight (8) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about December 19, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Okmulgee, Oklahoma. The inspection revealed that twelve (12) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

### **ALLEGED CONCLUSIONS OF LAW**

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

### **ATTORNEY CONFERENCES**

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

26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

### **ENFORCEMENT OF JUDGMENTS**

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

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

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

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

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

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Nine Hundred Dollars (\$900.00). (12 violations at \$75.00 per violation).**

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

DATED THIS 22nd day of March, 2023.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of March, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

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

  
\_\_\_\_\_  
Gina Blaylock



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

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

**COMPLAINANT,**

**v.**

**DOLLAR GENERAL )  
1730 E. 6<sup>TH</sup> ST. )  
OKMULGEE, OK 74447 )**

**RESPONDENT. )**

**Case No: OGC 23-51**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Nine Hundred Dollars (\$900.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
**Signature**

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

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

\_\_\_\_\_  
**Date**



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/08

INSPECTOR NUMBER 23-JRM-0015

DATE\* 12/19/2022

COUNTY Okmulgee

LOCATION\*

CORPORATE

AGN NUMBER AGN0183300

AGN NUMBER

Dollar General

1730 E 6th St

Okmulgee

OK

74447-

MANAGER Michelle Hawkins

INSPECTION TYP Followup

Original Insp#

TELEPHONE\* (539) 244-0035

Other Store Type

ITEM STATUS

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Hostess Baby Bundt	8 88109 25022 5	\$3.50	\$3.75	(\$0.25)
Oreo Mega Stuff	0 44000 05869 2	\$4.75	\$4.85	(\$0.10)
Castrol Motor Oil 10W30HM	0 79191 00450 0	\$6.55	\$6.75	(\$0.20)
Pro Essentials N0103 Furn Slidr	4 30001 38122 8	\$5.25	\$5.75	(\$0.50)
Whal Haircutting Kit Combo	0 43917 10663 2	\$30.95	\$31.00	(\$0.05)
Febreze Plug Refill Unstop Breeze	0 37000 80577 9	\$11.00	\$11.50	(\$0.50)
Mr Clean Magic Eraser Sheets 8 Ct	037000 90656 8	\$3.00	\$3.25	(\$0.25)
True Living H0221 Hd Plate	8 40139 91296 2	\$6.25	\$6.95	(\$0.70)
Bounty Paper Towels	0 37000 66715 5	\$11.00	\$12.00	(\$1.00)
Huggies Snug & Dry Diap	0 36000 5147 4	\$9.95	\$10.50	(\$0.55)
DG Health A0404 E-Lyte	3 70030 65840 4	\$4.50	\$4.75	(\$0.25)
Hostess Ding Dongs Choc Bouncers	8 88109 25047 8	\$3.50	\$4.50	(\$1.00)

2022 DEC 29 A 11:50

Total Number Checked 50 Total Number Of Violation 12 Accuracy 76 % Inspection Result Notice of Violati

REMARKS

WITNESS Michelle

INSPECTOR\*

Jack Mills

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. DOLLAR GENERAL**  
**Case File No: OGC-23-52**

**DOLLAR GENERAL**  
**303 N. LL MALES**  
**CHEYENNE, OK 73628**

**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 Five Hundred Twenty-five Dollars (\$525.00). (7 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
APR 19 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 23-52

DOLLAR GENERAL )  
303 N. LL MALES )  
CHEYENNE, OK 73628 )

RESPONDENT. )

STIPULATION

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

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

RESPONDENT:

Mia Savaloja  
Signature

Mia Savaloja  
Printed Name

Gr Dir Store Ops  
Job Title

4/5/23  
Date

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

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

COMPLAINANT, )

v. )

DOLLAR GENERAL )  
303 N. LL MALES )  
CHEYENNE, OK 73628 )

RESPONDENT. )

**FILED**

MAR 28 2023

STATE BOARD OF AGRICULTURE

Case No: OGC 23-52

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on June 8, 2023, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 303 N. LL Males, in Cheyenne, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

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

20. On or about April 14, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cheyenne, Oklahoma. The inspection revealed that six (6) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

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 December 19, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cheyenne, Oklahoma. The inspection revealed that seven (7) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

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

### **ALLEGED CONCLUSIONS OF LAW**

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



### **ATTORNEY CONFERENCES**

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

### **ENFORCEMENT PROCEEDINGS**

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

### **ENFORCEMENT OF JUDGMENTS**

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

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

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

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

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

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Hundred Twenty-five Dollars (\$525.00). (7 violations at \$75.00 per violation).**

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

DATED THIS 23rd day of March, 2023.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of March, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

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

  
\_\_\_\_\_  
Gina Blaylock

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

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

**COMPLAINANT,**

**v.**

**Case No: OGC 23-52**

**DOLLAR GENERAL )  
303 N. LL MALES )  
CHEYENNE, OK 73628 )**

**RESPONDENT.**

**STIPULATION**

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

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBE 23-RLF-0031

DATE\* 12/19/2022

COUNTY Roger Mills

LOCATION\*

CORPORATE

AGN NUMBER AGN0163284

AGN NUMBER

Dollar General

303 N LL Males

Cheyenne OK 73628-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-RLF-0064

TELEPHONE\* (806) 621-1056

Other Store Type

ITEM STATUS NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Poptarts 8ct	038000222719	\$2.65	\$2.75	(\$0.10)
Old Spice Swagger deodorant 2.6oz	012044011133	\$6.10	\$6.55	(\$0.45)
Studio Selection Body wash 16 oz	072785137509	\$3.80	\$4.00	(\$0.20)
Sterilite touchtop trash can 7.5 gal	073149104397	\$15.50	\$16.00	(\$0.50)
ProEssentials Locking Pliers	430001362638	\$7.40	\$7.65	(\$0.25)
Rexall Melatonin 10mg 60 capsules	301220194914	\$8.05	\$8.25	(\$0.20)
CV Sweet & Spicey trail mix 10 oz	753519474014	\$2.95	\$3.50	(\$0.55)

2022 DEC 29 AM 11:47  
CPS

Total Number Checked 100 Total Number Of Violation 7 Accuracy 93 % Inspection Result Notice of Violati

REMARKS

Follow up #4

WITNESS

*Ray Vincent*

INSPECTOR\*

Richard Folsom

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. DOLLAR GENERAL  
Case File No: OGC-23-53**

**DOLLAR GENERAL  
205 W BROADWAY  
THOMAS, OK 73669**

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

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

**Proposed Administrative Penalty:** The proposed penalty for this case was One Thousand Five Hundred Dollars (\$1,500.00). (6 violations at \$250.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
APR 19 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 23-53

DOLLAR GENERAL )  
205 W BROADWAY )  
THOMAS, OK 73669 )

RESPONDENT. )

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Five Hundred Dollars (\$1,500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:  
*Mia Salvadoja*

Signature

*Mia Salvadoja*

Printed Name

*SN Dir Store Ops*

Job Title

*4/5/23*

Date



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

**THE OKLAHOMA DEPARTMENT OF** )  
**AGRICULTURE, FOOD, AND FORESTRY,** )  
**BY AND THROUGH THE** )  
**OFFICE OF GENERAL COUNSEL** )  
 )  
**COMPLAINANT,** )  
**v.** )  
 )  
**DOLLAR GENERAL** )  
**205 W BROADWAY** )  
**THOMAS, OK 73669** )  
 )  
**RESPONDENT.** )

**FILED**  
**MAR 28 2023**  
**STATE BOARD OF AGRICULTURE**

**Case No: OGC 23-53**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 205 W. Broadway, in Thomas, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A fourth violation discovered within any twelve-month period will be assessed a penalty of Two Hundred Fifty Dollars (\$250.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:
20. On or about February 2, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Thomas, Oklahoma. The inspection revealed that twelve (12) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.
21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).
22. On or about June 16, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Thomas, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.
23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).
24. On or about August 18, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Thomas, Oklahoma. The inspection revealed that seven (7) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.
25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

26. On or about December 19, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Thomas, Oklahoma. The inspection revealed that six (6) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

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

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

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

#### **ATTORNEY CONFERENCES**

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

30. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

#### **ENFORCEMENT PROCEEDINGS**

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

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;

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

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

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

#### **ENFORCEMENT OF JUDGMENTS**

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

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

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

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

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

**STIPULATION**

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Five Hundred Dollars (\$1,500.00). (6 violations at \$250.00 per violation).**

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

DATED THIS 22nd day of March, 2023.

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

*Kambi Maddy*

\_\_\_\_\_  
Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of March, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

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



---

Gina Blaylock



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

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

**COMPLAINANT, )**

**v. )**

**Case No: OGC 23-53**

**DOLLAR GENERAL )  
205 W BROADWAY )  
THOMAS, OK 73669 )**

**RESPONDENT. )**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Five Hundred Dollars (\$1,500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
**Signature**

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

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

\_\_\_\_\_  
**Date**



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/08

INSPECTOR NUMBE 23-RLF-0030

DATE\* 12/19/2022

COUNTY Custer

LOCATION\*

CORPORATE

AGN NUMBER

AGN NUMBER

Dollar General Store #16981

205 W Broadway

Thomas

OK

73669

MANAGER

INSPECTION TYP Followup

Original Insp# 22-RLF-0104

TELEPHONE\* (405) 594-0290

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Lysol Multipurpose Cleaner 22 oz</u>	<u>019200850179</u>	<u>\$3.50</u>	<u>\$3.75</u>	<u>(\$0.25)</u>
<u>Quaker Chewy Granola Bars 8ct</u>	<u>030000311820</u>	<u>\$2.50</u>	<u>\$2.95</u>	<u>(\$0.45)</u>
<u>S&amp;S rectangle containers 6pk</u>	<u>430001283599</u>	<u>\$2.85</u>	<u>\$3.00</u>	<u>(\$0.15)</u>
<u>Taco Bell Queso 15 oz</u>	<u>021000024490</u>	<u>\$2.95</u>	<u>\$3.00</u>	<u>(\$0.05)</u>
<u>Michelina's Cheeseburger Mac 8 oz</u>	<u>717854105743</u>	<u>\$1.25</u>	<u>\$1.50</u>	<u>(\$0.25)</u>
<u>CV Shredded Cheddar Cheese 8oz</u>	<u>071505009737</u>	<u>\$2.95</u>	<u>\$3.00</u>	<u>(\$0.05)</u>

2022 DEC 29 AM 11:47  
F. CO. CO.

Total Number Checked 100 Total Number Of Violation 6 Accuracy 94 % Inspection Result Notice of Violati

REMARKS

Follow up #2

WITNESS

Tenise Rauh

INSPECTOR\*

Richard Folsom

R. Folsom

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. DOLLAR GENERAL  
Case File No: OGC-23-55**

**DOLLAR GENERAL  
825 W. OZARK ST.  
MORRIS, OK 74445**

**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 Four Hundred Fifty Dollars (\$450.00). (6 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

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

COMPLAINANT, )

v. )

DOLLAR GENERAL )  
825 W. OZARK ST. )  
MORRIS, OK 74445 )

RESPONDENT. )

Case No: OGC 23-55

**FILED**  
APR 19 2023  
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

*Mia Savaloja*

Signature

*Mia Savaloja*

Printed Name

*Sr Dir Store Ops*

Job Title

Date

*4/5/23*

**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.**

**DOLLAR GENERAL  
825 W. OZARK ST.  
MORRIS, OK 74445**

**RESPONDENT.**

**FILED**

**MAR 28 2023**

**STATE BOARD OF AGRICULTURE**

**Case No: OGC 23-55**

**NOTICE OF VIOLATION**

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

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

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

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

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

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

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

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

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

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

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

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

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

#### **DEFAULT**

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

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

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

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 825 W. Ozark St., in Morris, Oklahoma.

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

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

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

20. On or about November 3, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Morris, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about January 4, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Morris, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

### **ALLEGED CONCLUSIONS OF LAW**

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



### **ATTORNEY CONFERENCES**

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

26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

### **ENFORCEMENT PROCEEDINGS**

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

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

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

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

### **ENFORCEMENT OF JUDGMENTS**

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

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

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

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

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

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Hundred Fifty Dollars (\$450.00). (6 violations at \$75.00 per violation).**

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

DATED THIS 22nd day of March, 2023.

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

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of March, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

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

  
\_\_\_\_\_  
Gina Blaylock

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

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

**COMPLAINANT,**

**v.**

**DOLLAR GENERAL )  
825 W. OZARK ST. )  
MORRIS, OK 74445 )**

**RESPONDENT. )**

**Case No: OGC 23-55**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

**RESPONDENT:**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBE 23-JRM-0023

DATE\* 1/4/2023

COUNTY Okmulgee

LOCATION\*

CORPORATE

AGN NUMBER AGN0112971

AGN NUMBER

Dollar General

825 W Ozark St

Morris

OK

74445-

MANAGER Kristy

INSPECTION TYP Followup

Original Insp#

TELEPHONE\* (539) 321-0013

Other Store Type

ITEM STATUS

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Hostess Ding Dongs Choc Bouncers</u>	<u>8 88109 25047 8</u>	<u>\$3.50</u>	<u>\$4.50</u>	<u>(\$1.00)</u>
<u>Little Debbie Bagged Donut Choc</u>	<u>0 24300 04432 8</u>	<u>\$2.15</u>	<u>\$2.50</u>	<u>(\$0.35)</u>
<u>Swt Baby Rays Beef Jerky Orginal</u>	<u>0 47500 01986 6</u>	<u>\$4.25</u>	<u>\$4.75</u>	<u>(\$0.50)</u>
<u>Clover Valley D0427 Jerky</u>	<u>0 47500 01998 9</u>	<u>\$3.75</u>	<u>\$4.00</u>	<u>(\$0.25)</u>
<u>Kelloggs Rice Krisp Trt Cookie &amp; Cr</u>	<u>0 38000 23431 6</u>	<u>\$2.85</u>	<u>\$3.20</u>	<u>(\$0.35)</u>
<u>Mtn Dew Single Bottle Bottle 20 oz</u>	<u>0 121310 4</u>	<u>\$2.00</u>	<u>\$2.25</u>	<u>(\$0.25)</u>

23 JAN 10 AM 11:58

Total Number Checked 50 Total Number Of Violation 6 Accuracy 88 % Inspection Result Notice of Violati

REMARKS

WITNESS Isajah

INSPECTOR\*

Jack Mills

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. DOLLAR GENERAL**  
**Case File No: OGC-23-58**

**DOLLAR GENERAL**  
**8190 COUNCIL AVE.**  
**BLANCHARD, OK 73010**

**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 Three Hundred Dollars (\$300.00). (4 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL. )

COMPLAINANT, )

v. )

DOLLAR GENERAL )  
8190 COUNCIL AVE. )  
BLANCHARD, OK 73010 )

RESPONDENT. )

Case No: OGC 23-58

**FILED**  
APR 19 2023  
STATE BOARD OF AGRICULTURE

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 it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

*Mia Savaloja*

Signature

Mia Savaloja

Printed Name

Sr. Dir Store Ops

Job Title

4/5/23

Date



**FILED**  
MAR 28 2023  
STATE BOARD OF AGRICULTURE

**Case No: OGC 23-58**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 8190 Council Ave., in Blanchard, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about October 20, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Blanchard, Oklahoma. The inspection revealed that ten (10) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent.

22. On or about January 11, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Blanchard, Oklahoma. The inspection revealed that four (4) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.

### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

### **ATTORNEY CONFERENCES**

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

28. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

### **ENFORCEMENT OF JUDGMENTS**

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Three Hundred Dollars (\$300.00). (4 violations at \$75.00 per violation).**

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 23rd day of March, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of March, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION  
ATTN: LEGAL DEPARTMENT  
100 MISSION RIDGE  
GOODLETTSVILLE, TN 37072**

  
\_\_\_\_\_  
Gina Blaylock



**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**Case No: OGC 23-58**

Date \_\_\_\_\_



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 23-JPS-0039 DATE\* 1/11/2023 COUNTY McClain  
LOCATION\* CORPORATE  
AGN NUMBER AGN0191399 AGN NUMBER \_\_\_\_\_  
Dollar General \_\_\_\_\_  
8190 Council Ave \_\_\_\_\_  
Blanchard \_\_\_\_\_ OK 73010- \_\_\_\_\_  
MANAGER \_\_\_\_\_ INSPECTION TYP Followup Original Insp# 23-JPS-0003  
TELEPHONE\* (405) 701-9630 Other Store Type \_\_\_\_\_ ITEM STATUS NON-SALE  
TYPE OF STORE CONVENIENCE STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Hanes D41WSC Cool Dry Hlnstr 3 Ct	090563308200	\$6.75	\$7.00	(\$0.25)
Gerber Puffs Stawberry Apple 1.48Oz	015000045203	\$2.40	\$2.65	(\$0.25)
Elmers Glue 1 Qu	026000182164	\$6.50	\$8.00	(\$1.50)
Cal Scents Air Freshener Cherry	091400000486	\$3.15	\$3.35	(\$0.20)

REC'D OPS  
JAN 17 P 12:16

Total Number Checked 50 Total Number Of Violation 4 Accuracy 92 % Inspection Result Notice of Violation

REMARKS

WITNESS

Daniel

INSPECTOR\*

James Schoppa

James Schoppa

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. DOLLAR GENERAL  
Case File No: OGC-23-62**

**DOLLAR GENERAL  
207 N. MAIN  
BRISTOW, OK 74010**

**Summary of Facts:** An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

**Statute or Rule Violation:** Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

**Proposed Administrative Penalty:** The proposed penalty for this case was Two Hundred Twenty-five Dollars (\$225.00). (3 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**

APR 19 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 23-62

DOLLAR GENERAL )  
207 N. MAIN )  
BRISTOW, OK 74010 )

RESPONDENT. )

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Hundred Twenty-five Dollars (\$225.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

*Mia Savaloya*

Signature

Mia Savaloya

Printed Name

Sr Dir Store Ops

Job Title

4/5/23

Date

**FILED**  
MAR 28 2023  
STATE BOARD OF AGRICULTURE

RESPONDENT.

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

#### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 207 N. Main, in Bristow, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about October 19, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Bristow, Oklahoma. The inspection revealed that five (5) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent.

22. On or about December 29, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Bristow, Oklahoma. The inspection revealed that three (3) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.

### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).



### **ATTORNEY CONFERENCES**

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

28. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

### **ENFORCEMENT OF JUDGMENTS**

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Two Hundred Twenty-five Dollars (\$225.00). (3 violations at \$75.00 per violation).**

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 23rd day of March, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 28 day of March, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**DOLLAR GENERAL CORPORATION  
ATTN: LEGAL DEPARTMENT  
100 MISSION RIDGE  
GOODLETTSVILLE, TN 37072**

*JB.*

---

Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )  
 )  
COMPLAINANT, )  
v. )  
 )  
DOLLAR GENERAL )  
207 N. MAIN )  
BRISTOW, OK 74010 )  
 )  
RESPONDENT. )**

**Case No: OGC 23-62**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Hundred Twenty-five Dollars (\$225.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBER 23-JRM-0021

DATE\* 12/29/2022

COUNTY Creek

LOCATION\*

CORPORATE

AGN NUMBER AGN039810

AGN NUMBER \_\_\_\_\_

Dollar General \_\_\_\_\_

207 N Main \_\_\_\_\_

Bristow \_\_\_\_\_ OK 74010- \_\_\_\_\_

MANAGER Darla INSPECTION TYPE Followup Original Insp# \_\_\_\_\_

TELEPHONE\* (918) 367-3100 Other Store Type \_\_\_\_\_ ITEM STATUS \_\_\_\_\_

TYPE OF STORE MASS MERCHANDISER \_\_\_\_\_

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Ritz Crackers Family Size 20.5 oz</u>	<u>0 44000 05824 1</u>	<u>\$4.75</u>	<u>\$4.85</u>	<u>(\$0.10)</u>
<u>Palmers C/BTR Cream Ltn Jar</u>	<u>0 10181 04000 9</u>	<u>\$4.40</u>	<u>\$4.75</u>	<u>(\$0.35)</u>
<u>Pepsi 6 Pack Bottles 6PK-16.9 oz</u>	<u>0 12000 50405 1</u>	<u>\$4.25</u>	<u>\$4.75</u>	<u>(\$0.50)</u>

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2023 JAN -4 P 4:13

COPY

Total Number Checked 50 Total Number Of Violation 3 Accuracy 94 % Inspection Result Notice of Violati

REMARKS

WITNESS Chrissy

Chrissy Baker

INSPECTOR\*

Jack Mills

Jack Mills

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. EDKO LLC**

**Case File No. OGC-22-750**

**EDKO LLC  
4615 MARLENA ST  
BOSSIER CITY, LA 71111**

**Summary of Facts:** CPS Inspectors conducted a drift complaint investigation in Woodward, OK. This was an application to the OG&E power right-of-way. Herbicide effects were observed outside of the right-of-way to trees and shrubbery. Application records indicated TerraVue, Escort XP, and Vaslan were applied. Vegetative samples indicated Triclopyr and Aminopyralid were detected.

**Statute or Rule Violation:** 2 O.S. §3-86(A)(3)

**Proposed Administrative Penalty:** \$3000; stipulation was signed 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.**

**EDKO LLC  
4615 MARLENA ST  
BOSSIER CITY, LA 71111**

**RESPONDENT.**

**Case No: OGC-22-750**

**AMENDED NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 11<sup>th</sup> day of May 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of Commercial Pesticide Applications, located at Bossier City, Louisiana.

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 9<sup>th</sup> day of September 2022, the Consumer Protective Services Division of the Department conducted a drift complaint investigation in Woodward, Oklahoma. This was a drift complaint investigation from an application to the OG&E power line right-of-way.

19. During the investigation our inspectors observed that locust trees and brush on the complainant's property exhibiting herbicide effects. These effects were observed beyond the OG&E right-of-way.

20. According to your application records you applied TerraVue, Escort XP, and Vaslan to the right of way on June 20, 2022.

21. A vegetative sample was taken from the complainant's property, and Triclopyr and Aminopyralid were detected in the analysis.

22. A vegetative sample was taken from your application area, and 2,4-D, Triclopyr, and Aminopyralid were detected in the analysis.

23. According to our investigation your application resulted in a drift-off target movement onto the complainant's property.

#### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, by allowing an off-target drift you are in violation of Oklahoma Statute 2 O.S. §3-86(A)(3) which states:

- "A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target."

#### **ATTORNEY CONFERENCES**

25. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

26. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

28. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

29. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

30. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

31. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

32. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

**OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

33. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

**ENFORCEMENT OF JUDGMENTS**

34. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

**INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

35. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

36. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

37. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Three Thousand Dollars (\$3000.00)**.

39. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 11 day of April, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

\_\_\_\_\_  
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 11th day of April, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**EDKO LLC  
4615 MARLENA ST  
BOSSIER CITY, LA 71111**

*Brady Robison*  
Brady Robison





**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. TYLER ENYEART/GE LANDSCAPES**

**Case File No. OGC-23-5**

**TYLER ENYEART  
GE LANDSCAPES  
900 NW 1<sup>ST</sup>  
MOORE, OK 73160**

**Summary of Facts:** CPS Inspectors conducted a use inspection of this business. This company was advertising commercial pesticide applications to which they denied actually having made any. Their Facebook page indicated they had been doing applications back to 2012. This company had three contacts with CPS Inspectors in a short amount of time. This company was not actually licensed with ODAFF at that time.

**Statute or Rule Violation:** 2 O.S. §3-82(A)(1); 2 O.S. §3-86(A)(15) & (16)

**Proposed Administrative Penalty:** \$750; stipulation was signed and PIF

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

**FILED**  
MAY 11 2023  
STATE BOARD OF AGRICULTURE

**Case No: OGC-23-5**

## Page 9 of 9

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**TYLER ENYEART  
GE LANDSCAPES  
900 NW 1ST  
MOORE, OK 73160**

**RESPONDENT.**

**Case No: OGC-23-5**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 11<sup>th</sup> day of May 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide/herbicide 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 the 13<sup>th</sup> day of September 2022, the Consumer Protective Services Division of the Department conducted a use inspection of your company.

19. Our inspector observed your company vehicle with weed control advertisements on it. While speaking with you, you informed our inspector that you had not made any applications, but your company's social media posts indicated otherwise. Your posts have you making applications back to 2012.

20. You are not licensed in Oklahoma to perform commercial pesticide/herbicide applications. This is a violation of Oklahoma State law.

### **ALLEGED CONCLUSIONS OF LAW**

21. Based upon the application of the above law to the aforementioned facts, advertising and performing commercial pesticide/herbicide applications is a violation of Oklahoma Statutes 2 O.S. §3-82(A)(1), 2 O.S. §3-86(A)(15), and 2 O.S. §3-86(A)(16) which state:

- **2 O.S. §3-82(A)(1):** “A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.”
- **2 O.S. §3-86(A)(15):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”
- **2 O.S. §3-86(A)(16):** “16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications

issued by the Board for the categories for which the persons are to be employed or supervised.”

### **ATTORNEY CONFERENCES**

22. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

23. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

24. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

25. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

26. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.



27. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Seven Hundred and Fifty Dollars (\$750.00)**.

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

\_\_\_\_\_  
Teena 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:

**TYLER ENYEART  
GE LANDSCAPES  
900 NW 1ST  
MOORE, OK 73160**

*Brady Robison*  
Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**TYLER ENYEART  
GE LANDSCAPES  
900 NW 1ST  
MOORE, OK 73160**

**RESPONDENT.**

**Case No: OGC-23-5**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Seven Hundred and Fifty Dollars (\$750.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

**Date:** \_\_\_\_\_

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. FAMILY DOLLAR  
Case File No: OGC-23-48**

**FAMILY DOLLAR  
2107 OKLAHOMA AVENUE  
WOODWARD, OK 73801**

**Summary of Facts:** An investigator conducted three routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

**Statute or Rule Violation:** Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

**Proposed Administrative Penalty:** The proposed penalty for this case was Twelve Hundred Dollars (\$1,200.00). (8 violations at \$150.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
APR 21 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 23-48

FAMILY DOLLAR # 22056 )  
2107 OKLAHOMA AVENUE )  
WOODWARD, OK 73801 )

RESPONDENT. )

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Twelve Hundred Dollars (\$1,200.00) for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

Zachariah Schneider  
Signature

Zachariah Schneider  
Printed Name

District Manager  
Job Title

4/14/2023  
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 23-48**

**FAMILY DOLLAR )  
2107 OKLAHOMA AVENUE )  
WOODWARD, OK 73801 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**
4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department



to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Family Dollar, located at 2107 Oklahoma Avenue, in Woodward, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A 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 August 12, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Woodward, Oklahoma. The inspection revealed that fourteen (14) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).

22. On or about October 13, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Woodward, Oklahoma. The inspection revealed that thirteen (13) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J).

24. On or about December 13, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Woodward, Oklahoma. The inspection revealed that eight (8) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.

25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

#### **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 **Twelve Hundred Dollars (\$1,200.00). (8 violations at \$150.00 per violation).**

38. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check

or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 28th day of March, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**FAMILY DOLLAR  
500 VOLVO PARKWAY  
CHESAPEAKE, VA 23320**

\_\_\_\_\_  
Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT,**

**v.**

**Case No: OGC 23-48**

**FAMILY DOLLAR )  
2107 OKLAHOMA AVENUE )  
WOODWARD, OK 73801 )**

**RESPONDENT.**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Twelve Hundred Dollars (\$1,200.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 23-CTS-0026

DATE\* 12/13/2022

COUNTY Woodward

LOCATION\*

CORPORATE

AGN NUMBER AGN030341

AGN NUMBER \_\_\_\_\_

FAMILY DOLLAR \_\_\_\_\_

2107 OKLAHOMA AVENUE \_\_\_\_\_

WOODWARD OK 73801- \_\_\_\_\_

MANAGER \_\_\_\_\_ INSPECTION TYP Followup Original Insp# 23-CTS-0008

TELEPHONE\* (580) 254-5416

Other Store Type \_\_\_\_\_

ITEM STATUS NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Always Ultra Thin Extra Heavy</u>	<u>37000889229</u>	<u>\$7.95</u>	<u>\$8.45</u>	<u>(\$0.50)</u>
<u>AXE Body Spray Excite</u>	<u>79400115010</u>	<u>\$6.00</u>	<u>\$6.15</u>	<u>(\$0.15)</u>
<u>Nuvel Petroleum Jelly</u>	<u>710632230026</u>	<u>\$3.10</u>	<u>\$3.45</u>	<u>(\$0.35)</u>
<u>Dial Complete Spring Water</u>	<u>17000026701</u>	<u>\$1.80</u>	<u>\$2.00</u>	<u>(\$0.20)</u>
<u>Silver Falls Apple Juice</u>	<u>32251676871</u>	<u>\$2.35</u>	<u>\$2.95</u>	<u>(\$0.60)</u>
<u>Mrs. Butter-Worth's Original Syrup</u>	<u>644209791293</u>	<u>\$3.35</u>	<u>\$3.80</u>	<u>(\$0.45)</u>
<u>Family Pet Scoopable Cat Litter</u>	<u>32251474132</u>	<u>\$5.40</u>	<u>\$5.75</u>	<u>(\$0.35)</u>
<u>Good'n' Fun Triple Flavor</u>	<u>91093941301</u>	<u>\$9.25</u>	<u>\$10.75</u>	<u>(\$1.50)</u>

2022 DEC 13 2:09

Total Number Checked 50 Total Number Of Violation 8 Accuracy 84 % Inspection Result Notice of Violation

REMARKS

WITNESS

*Cassie Wagon*

INSPECTOR\*

Colt Stearns

*Colt Stearns*



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. FAMILY DOLLAR**  
**Case File No: OGC-23-54**

**FAMILY DOLLAR**  
**411 E MAIN**  
**TUTTLE, OK 73089**

**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 Four Hundred Fifty Dollars (\$450.00). (6 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )

COMPLAINANT, )

v. )

FAMILY DOLLAR # 24495 )  
411 E MAIN )  
TUTTLE, OK 73089 )

RESPONDENT. )

Case No: OGC 23-54

**FILED**  
MAY 02 2023  
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

PLEASE SEE NEXT PAGE

Signature

Kelly Lee

Printed Name

District Manager

Job Title

04/18/2023

Date

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**FAMILY DOLLAR  
411 E MAIN  
TUTTLE, OK 73089**

**RESPONDENT.**

**Case No: OGC 23-54**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Family Dollar, located at 411 E Main, in Tuttle, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about August 24, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Tuttle, Oklahoma. The inspection revealed that eleven (11) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent.

22. On or about January 3, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Tuttle, Oklahoma. The inspection revealed that six (6) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.

### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

### **ATTORNEY CONFERENCES**

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

28. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

### **ENFORCEMENT OF JUDGMENTS**

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Hundred Fifty Dollars (\$450.00). (6 violations at \$75.00 per violation).**

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.



DATED THIS 28th day of March, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**FAMILY DOLLAR  
500 VOLVO PARKWAY  
CHESAPEAKE, VA 23320**

\_\_\_\_\_  
Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT,**

**v.**

**FAMILY DOLLAR )  
411 E MAIN )  
TUTTLE, OK 73089 )**

**RESPONDENT. )**

**Case No: OGC 23-54**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Four Hundred Fifty Dollars (\$450.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 23-JPS-0034

DATE\* 1/3/2023

COUNTY Grady

LOCATION\*

CORPORATE

AGN NUMBER AGN0050096

AGN NUMBER

Family Dollar

411 E Main

Tuttle

OK

73089-

MANAGER

INSPECTION TYP Followup

Original Insp# 22-JPS-0048

TELEPHONE\* (405) 381-5481

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE DEPARTMENT

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Colgate Optic White Stain Fighter	035000458360	\$4.10	\$4.45	(\$0.35)
Homeline 1000 Bath Tissue Lavender	032251428531	\$9.00	\$9.70	(\$0.70)
Daxton Mens Crossover Black 5 Blade	032251380587	\$6.40	\$6.65	(\$0.25)
Pampers Easyup 3T-4T Jumbo 22Ct	037000764632	\$11.25	\$12.25	(\$1.00)
Altex Household Latex Gloves 2Pk	7503018894072	\$2.50	\$2.75	(\$0.25)
Homeline Auto Refill Linen 2 Pk	032251181023	\$6.00	\$6.65	(\$0.65)

REC'D CPS  
2023 JAN - 6 P 4: 02

Total Number Checked 50 Total Number Of Violation 6 Accuracy 88 % Inspection Result Notice of Violation

REMARKS

WITNESS

INSPECTOR\*

James Schoppa

James Schoppa

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. FAMILY DOLLAR  
Case File No: OGC-23-56**

**FAMILY DOLLAR  
420 W. MAIN  
WELEETKA, OK 74880**

**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 Five Hundred Twenty-five Dollars (\$525.00). (7 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )

COMPLAINANT, )

v. )

Case No: OGC 23-56

FAMILY DOLLAR # 31557 )  
420 W. MAIN )  
WELEETKA, OK 74880 )

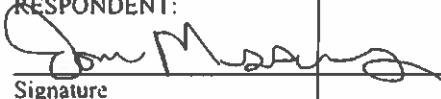
RESPONDENT. )

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Twenty-five Dollars (\$525.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:



Signature

Joni Messervy

Printed Name

District Manager

Job Title

4/14/23

Date

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC 23-56**

**FAMILY DOLLAR )  
420 W. MAIN )  
WELEETKA, OK 74880 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department



to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

**JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Family Dollar, located at 420 W. Main, in Weleetka, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about October 20, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Weleetka, Oklahoma. The inspection revealed that seven (7) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent.

22. On or about December 28, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Weleetka, Oklahoma. The inspection revealed that seven (7) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.

### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

### **ATTORNEY CONFERENCES**

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

28. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

### **ENFORCEMENT OF JUDGMENTS**

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Hundred Twenty-five Dollars (\$525.00). (7 violations at \$75.00 per violation).**

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 28th day of March, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**FAMILY DOLLAR  
500 VOLVO PARKWAY  
CHESAPEAKE, VA 23320**

\_\_\_\_\_  
Gina Blaylock

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )

v.

**RESPONDENT.**

Date \_\_\_\_\_



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/06

INSPECTOR NUMBE 23-JRM-0020

DATE\* 12/28/2022

COUNTY Okfuskee

LOCATION\*

CORPORATE

AGN NUMBER AGN0158654

AGN NUMBER

Familv Dollar

420 W Main

Weleetka

OK

74880-

MANAGER Tenni Morgan

INSPECTION TYP Followup

Original Insp#

TELEPHONE\* (405) 592-3600

Other Store Type

ITEM STATUS

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Loreal Paris	0 71249 64234 4	\$10.00	\$11.25	(\$1.25)
Homelone Cleani g Bleach Lemon	0 32251 71907 3	\$5.10	\$6.00	(\$0.90)
Purex Liquid Mountain Breeze	0 24200 04223 3	\$11.25	\$12.25	(\$1.00)
Bounty 6RI Paper Towel	0 37000 66715 5	\$10.75	\$11.25	(\$0.50)
Raid Ant & Roach Outdoor Fresh	0 46500 21613 8	\$5.10	\$5.65	(\$0.55)
Kind Rewards Beef Wraps	8 41351 19613 0	\$5.00	\$5.10	(\$0.10)
Tetra Goldfish Flakes	0 46798 78095 3	\$2.75	\$2.85	(\$0.10)

REC'D CPS  
2023 JAN - 4 P 4 13

Total Number Checked 50 Total Number Of Violation 7 Accuracy 88 % Inspection Result Notice of Violati

REMARKS

WITNESS Tenni

INSPECTOR\*

Jack Mills



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. FAMILY DOLLAR**  
**Case File No: OGC-23-57**

**FAMILY DOLLAR/DOLLAR TREE**  
**324 N. EASTERN AVE.**  
**HOMINY, OK 74035**

**Summary of Facts:** An investigator conducted two routine price verification inspections at Respondent's store. In each inspection it was revealed that consumer products were offered at prices which exceeded the publicly communicated price and the number of inaccurately priced products was over the allowable percentage of error. A letter of warning was sent after each inspection.

**Statute or Rule Violation:** Respondent violated 2 O.S. § 14-38 because there was a failure to accurately price 95% of all consumer items sampled which resulted in failed inspections subject to penalty.

**Proposed Administrative Penalty:** The proposed penalty for this case was Two Hundred Twenty-five Dollars (\$225.00). (3 violations at \$75.00 per violation). Respondent stipulated to and paid the penalty.

**Other Actions Required:** None

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL.

v. COMPLAINANT,

FAMILY DOLLAR/DOLLAR TREE #33342  
324 N. EASTERN AVE.  
HOMINY, OK 74035

Case No: OGC 23-57

RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two  
**Hundred Twenty-five Dollars (\$225.00)** for this action and has accordingly signed this Resolution by  
Stipulation and returned it along with a check or money order in full payment of the proposed penalty or  
fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food and Forestry, 2400 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

*M. Schultz*

*Mike Schultz*

*District Manager*

*4-14-2023*

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC 23-57**

**FAMILY DOLLAR/DOLLAR TREE )  
324 N. EASTERN AVE. )  
HOMINY, OK 74035 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on June 8, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.

5. Upon request of either party, Prehearing Conferences shall be on the record.

6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.

7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.

9. **The hearing date will be determined at the Prehearing Conference.**

10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.

11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department

to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

**JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Family Dollar/Dollar Tree, located at 324 N. Eastern Ave., in Hominy, Oklahoma.

16. Pursuant to 2 O. S. § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and processing administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(2), it is unlawful for a store to charge a retail price for any consumer item which exceeds the lowest then price in that store, whether a shelf, sale, advertised, or otherwise publicly communicated price, of the consumer item.

18. Under the provisions of 2 O.S. § 14-38(J), failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of an inspection shall be a failed inspection subject to penalty. A second violation discovered within any twelve-month period will be assessed a penalty of Seventy-five Dollars (\$75.00) per consumer item which results in an overcharge or potential overcharge.

### **ALLEGATIONS OF FACT**

19. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent:

20. On or about October 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar/Dollar Tree in Hominy, Oklahoma. The inspection revealed that three (3) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J). A letter of warning was sent.

22. On or about January 9, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar/Dollar Tree in Hominy, Oklahoma. The inspection revealed that three (3) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.

### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of the aforementioned inspections is a violation of 2 O.S. § 14-38(B)(2) and is subject to the penalty provided in 2 O.S. § 14-38(J).

### **ATTORNEY CONFERENCES**

25. If Respondent desires to meet with OGC attorneys prior to the Prehearing Conference to discuss the allegations or seek a possible resolution, please contact the undersigned at 405-522-5997.
26. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.
27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

28. Enforcement proceedings may include but are not limited to:
  - a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
29. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

### **ENFORCEMENT OF JUDGMENTS**

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Two Hundred Twenty-five Dollars (\$225.00). (3 violations at \$75.00 per violation).**

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.



DATED THIS 28th day of March, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**FAMILY DOLLAR  
500 VOLVO PARKWAY  
CHESAPEAKE, VA 23320**

\_\_\_\_\_  
Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**FAMILY DOLLAR/DOLLAR TREE  
324 N. EASTERN AVE.  
HOMINY, OK 74035**

**RESPONDENT.**

**Case No: OGC 23-57**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Hundred Twenty-five Dollars (\$225.00)** for this action and has accordingly signed this Resolution by Stipulation and returned it along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives the right to a full administrative or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date



OKLAHOMA DEPARTMENT OF AGRICULTURE  
FOOD, AND FORESTRY  
PRICE VERIFICATION REPORT

CPS 152 Rev 1/

INSPECTOR NUMBER 23-JRM-0026 DATE\* 1/9/2023 COUNTY Osage  
LOCATION\* CORPORATE  
AGN NUMBER \_\_\_\_\_ AGN NUMBER \_\_\_\_\_  
Family Dollar / Dollar Tree \_\_\_\_\_  
324 N Eastern Ave \_\_\_\_\_  
Hornby, OK 74035 \_\_\_\_\_  
MANAGER Jason INSPECTION TYP Followup Original Insp# 23-JRM-00  
TELEPHONE\* (918) 697-6005 Other Store Type \_\_\_\_\_ ITEM STATUS \_\_\_\_\_  
TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Multile Brands Whole White Milk</u>	<u>0 72060 00111 2</u>	<u>\$2.95</u>	<u>\$3.05</u>	<u>(\$0.10)</u>
<u>Bounty 4 RL SP Paper Towel White</u>	<u>0 37000 65534 3</u>	<u>\$7.50</u>	<u>\$8.75</u>	<u>(\$1.25)</u>
<u>Fanta Pineapple 20 Fl Oz</u>	<u>0 49000 02820 1</u>	<u>\$2.00</u>	<u>\$2.35</u>	<u>(\$0.35)</u>

REC'D CPS  
JAN 17 P 12:21

Total Number Checked 50 Total Number Of Violation 3 Accuracy 94 % Inspection Result Notice of Vio.

REMARKS

WITNESS Jason Jason Jackson INSPECTOR\* Jack Mills Jack Mills

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. TANNER HARPER/HARPER WEED CONTROL**

**Case File No. OGC-23-12**

**TANNER HARPER  
HARPER WEED CONTROL  
2400 SW 112<sup>TH</sup>  
OKC, OK 73170**

**Summary of Facts:** CPS Inspectors conducted a use inspection and learned that this applicator was making commercial applications without the proper licensing. This applicators business license expired on December 31, 2019.

**Statute or Rule Violation:** 2 O.S. §3-82(A)(1); 2 O.S. §3-86(A)(15); 2 O.S. §3-86(A)(16)

**Proposed Administrative Penalty:** \$500; stipulation was signed and PIF

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

**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: 5-5-23

**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.**

**TANNER HARPER  
HARPER WEED CONTROL  
2400 SW 112TH  
OKLAHOMA CITY, OK 73170**

**RESPONDENT.**

**Case No: OGC-23-12**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 11<sup>th</sup> day of May 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

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<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.



### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of Commercial Pesticide/Herbicide application, located at Oklahoma City, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 6<sup>th</sup> day of October 2022, the Consumer Protective Services Division of the Department conducted a use inspection at your residence where our inspector was informed by your father that you had been making commercial applications.

19. According to our records your business license expired on December 31, 2019, and you do not have a current fertilizer license.

20. Making commercial pesticide and fertilizer applications without a license and certification are a violation of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-82 (A)(1); 2 O.S. § 3-86 (A)(15); 2 O.S. § 3-86 (A)(16).

### **ALLEGED CONCLUSIONS OF LAW**

21. Based upon the application of the above law to the aforementioned facts, you are in violation of multiple Oklahoma Statutes. Those statutes state:

- **2 O.S. §3-82(A)(1):** “A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.”
- **2 O.S. § 3-86 (A)(15):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”
- **2 O.S. § 3-86 (A)(16):** “16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or

identifications issued by the Board for the categories for which the persons are to be employed or supervised.”

#### **ATTORNEY CONFERENCES**

22. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

23. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

24. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

#### **ENFORCEMENT PROCEEDINGS**

25. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

26. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

27. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Hundred Dollars (\$500.00)**.

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

\_\_\_\_\_  
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600\*  
Richard D. Herren, OBA # 13829  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt

Requested, as follows:

**TANNER HARPER  
HARPER WEED CONTROL  
2400 SW 112TH  
OKLAHOMA CITY, OK 73170**

*Brady Robison*  
Brady Robison



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. QUALITY RANCH LLC**

**Case File No. OGC-23-150**

**QUALITY RANCH LLC  
4754 STATE HIGHWAY 76  
WILSON, OK 73463**

**Summary of Facts:** CPS Inspectors conducted a follow-up use inspection of this grow operation after a referral from OMMA. OMMA reported that a batch sample had failed the threshold for Bifenazate. Inspectors found numerous pesticides being stored at the facility including Floramite SC/LS Miticide. Bifenazate is the active ingredient.

**Statute or Rule Violation:** 2 O.S. §3-86(A)(4)

**Proposed Administrative Penalty:** \$4000; stipulation was signed and paid in full

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison



BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )

COMPLAINANT, )

v. )

QUALITY RANCH LLC )  
4754 STATE HIGHWAY 76 )  
WILSON, OK 73463 )

RESPONDENT. )

**FILED**  
APR 14 2023  
STATE BOARD OF AGRICULTURE

Case No: OGC-23-150

**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

**RYAN JABER / MANAGER**

Printed Name and Title:

Date: **04/07/2023**

GINA,  
HERE IS YOUR COPY  
I put the LIVE  
CHECK IN THE  
SAFE

THANKS  
JOYD

**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-23-150**

**QUALITY RANCH LLC )  
4754 STATE HIGHWAY 76 )  
WILSON, OK 73463 )**

**RESPONDENT.**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 8<sup>th</sup> day of June 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial medical marijuana cultivation, located at Wilson, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 21<sup>st</sup> day of February 2023, the Consumer Protective Services Division of the Department conducted a use inspection of your grow operation in Wilson, OK. This inspection is after the Department received a report from the Oklahoma Medical Marijuana Association that one of your batch samples submitted for testing failed for the presence of pesticides.

19. The pesticide detected in the batch samples was Bifenazate.

20. During the inspection our inspector observed numerous containers of pesticides being stored in your facility, including Floramite SC/LS Miticide. Bifenazate is the active ingredient in Floramite SC/LS Miticide.

21. Additionally, many of the pesticide products that you have at your facility are not labeled to be used in medical marijuana production
22. Currently the only pesticide products that can be applied to medical marijuana are those products that are registered with ODAFF and are approved to be applied to hemp.
23. According to our investigation you have been misusing pesticide products by applying them to a crop that is not approved by the product label.

#### **ALLEGED CONCLUSIONS OF LAW**

24. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-86(A)(4) which states below:

- 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.”

#### **ATTORNEY CONFERENCES**

25. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

26. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

28. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

29. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

31. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **PRAYER FOR RELIEF**

32. The Department is not seeking to remove any license or registration of any business; we are seeking a monetary penalty as set out in statutes, specifically 2 O.S. §2-18(A). In this case we are seeking a **Four Thousand Dollar (\$4000.00)** administrative penalty.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

33. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

### **ENFORCEMENT OF JUDGMENTS**

34. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

35. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

36. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

37. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Thousand Dollars (\$4000.00)**.

39. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

\_\_\_\_\_  
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600\*  
Richard D. Herren, OBA # 13829  
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:

**QUALITY RANCH LLC  
4754 STATE HIGHWAY 76  
WILSON, OK 73463**

*Brady Robison*  
\_\_\_\_\_  
Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-23-150**

**QUALITY RANCH LLC )  
4754 STATE HIGHWAY 76 )  
WILSON, OK 73463 )**

**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. RED DIRT GROW**

**Case File No. OGC-22-239**

**RED DIRT GROW  
7152 E. 136 RD.  
HOLDENVILLE, OK 74848**

**Summary of Facts:** CPS inspectors conducted a use inspection based on an OMMA referral. The OMMA lab reported that a batch sample from this facility failed testing. CPS Inspectors conducted a follow-up. During this inspection containers of Eagle 20EW were being stored at the facility. OMMA reported that Myclobutanil was detected in the batch sample; this is the active ingredient in Eagle 20EW. This company was using pesticides off label.

**Statute or Rule Violation:** 2 O.S. §3-86(A)(4)

**Proposed Administrative Penalty:** \$2500; stipulation was signed 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.

RED DIRT GROW LLC  
7152 E. 136 RD.  
HOLDENVILLE, OK 74848

RESPONDENT.

Case No: OGC-22-239

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two-Thousand Five Hundred Dollars (\$2500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

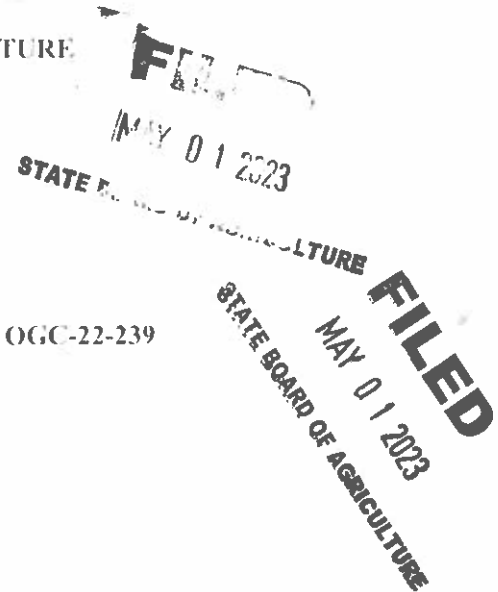
Signature

Printed Name and Title:

Date: 4-24-23

APR 28 2023

ODAFF FINANCE



Josue Madrigal on RECEIVED

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**RED DIRT GROW LLC  
7152 E. 136 RD.  
HOLDENVILLE, OK 74848**

**RESPONDENT.**

**Case No: OGC-22-239**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 12<sup>th</sup> day of January, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

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<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial medical marijuana production, located at Holdenville, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about 10<sup>th</sup> day of May, 2022, the Consumer Protective Services Division of the Department conducted a use inspection of your grow operation.

19. The Oklahoma Medical Marijuana Authority lab reported that a batch sample from your crop had failed inspections because pesticides were detected in the batch samples provided. Specifically, the pesticides detected were Myclobutanil, Malathion, and Spirotetramat.

20. Upon inspection of your facility our inspector found a partially used pesticide container of Eagle 20 EW being stored at the facility. Myclobutanil is the active ingredient in Eagle 20 EW. This product is not labeled for medical marijuana use; only pesticides approved by the

Oklahoma Department of Agriculture, Food and Forestry are able to be used with medical marijuana.

21. According to our investigation, you have been misusing pesticides by applying them to a site that is not approved by the product label.

**ALLEGED CONCLUSIONS OF LAW**

22. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-86(A)(4) which states:

- “(A.) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: (4.) A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”



### **ATTORNEY CONFERENCES**

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

26. Enforcement proceedings may include but are not limited to:
  - a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Two-Thousand Five Hundred Dollars (\$2500.00).

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 14<sup>TH</sup> day of December, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600\*  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 14<sup>th</sup> day of December 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

RED DIRT GROW LLC  
7152 E. 136 RD.  
HOLDENVILLE, OK 74848

*Brady Robison*  
\_\_\_\_\_  
Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**RED DIRT GROW LLC  
7152 E. 136 RD.  
HOLDENVILLE, OK 74848**

**RESPONDENT.**

**Case No: OGC-22-239**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two-Thousand Five Hundred Dollars (\$2500.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. PAIGE SHERRY**

**Case File No. OGC-22-558**

**PAIGE SHERRY  
P.O. BOX 1262  
WEWOKA, OK 74884**

**Summary of Facts:** CPS conducted a consumer complaint investigation on this property in Wewoka, OK. At this property inspectors observed trees, ornamentals, and garden plants exhibiting herbicide effects. An employee of this facility used a tractor and spray rig to down the road making an application to the weeds on the pasture fence; this property sits across the street from the complainant property. According to application records 2,4-D was applied using a mist sprayer with a N wind. Vegetative samples were taken and 2,4-D, Dicamba, and Triclopyr was detected in large amounts. Hormone type herbicides such as these are not allowed to be applied through a mist rig unless a terrain preclusion such as a gully prevents other types of application.

**Statute or Rule Violation:** 2 O.S. §3-86(A)(4); 2 O.S. §3-86(A)(17) and O.A.C. 35:30-17-24(E)(2)

**Proposed Administrative Penalty:** \$375; stipulation was signed and PIF

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**

APR 21 2023

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

PAIGE SHERRY  
P.O. BOX 1262  
WEWOKA, OK 74884

RESPONDENT.

Case No: OGC-22-558

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Hundred Seventy-Five Dollars (\$375.00)** 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:

4-17-2023

**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.**

**PAIGE SHERRY  
P.O. BOX 1262  
WEWOKA, OK 74884**

**RESPONDENT.**

**Case No: OGC-22-558**

**AMENDED NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 9<sup>th</sup> day of March, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.



4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide/herbicide application, located at Wewoka, 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 19<sup>th</sup> day of July 2022, the Consumer Protective Services Division of the Department conducted a consumer complaint inspection on a property located at 12565 NS 3660 Rd. in Wewoka, OK.

19. Our inspector observed the trees, ornamentals, and garden plants at this property exhibiting herbicide effects. You informed our inspector that one of your employees drove a tractor down the road and made an application to the weeds growing along your pasture roadside fence line. Your property is across the road east of the complainant's property.

20. . According to your application records on the morning of June 28, 2022, Alan Streater made an application of 2,4-D using a mist sprayer during a north wind.

21. The Holdenville Mesonet Weather Station recorded the winds being variable out of the north on the morning of June 28, 2022.
22. Our inspector also noted an application to the property south of the complaint's property. The owner of this property informed our inspector that he applied 2,4-D and Dicamba to his pasture. A vegetative sample was taken from the sprayed pasture south of the complainant's property, and 79.5 ppm of 2,4-D, 25.6 ppm of Dicamba, and a trace amount of Triclopyr were detected.
23. A vegetative sample was taken from the complainant's property, and trace amounts of 2,4-D and Triclopyr were detected. A vegetative sample was taken from the application area on your property, and 49.6 ppm of 2,4-D, 8.88 ppm of Picloram, and 157 ppm of Triclopyr were detected.
24. Additionally, hormone type herbicides such as 2,4-D, Triclopyr, and Picloram cannot be applied through mist type sprayers unless a terrain feature such as a gully precludes the use of any other types of ground application equipment. Furthermore, Picloram is an ingredient in restricted use pesticides, and you do not have a private applicator certification, and Alan Streater's private applicator certification expired December 31, 2018.
25. According to our investigation your application is the source of the Triclopyr found on the complainant's property.

#### **ALLEGED CONCLUSIONS OF LAW**

26. Based upon the application of the above law to the aforementioned facts, you applied pesticides in a manner that allowed off-target drift, used unapproved equipment and applied restricted use pesticides without certification. All are in violation of Oklahoma Statutes and Rules 2 O.S. §3-86(A)(4), 2 O.S. §3-86(A)(17) and O.A.C. 35:30-17-24(E)(2).

- **2 O.S. §3-86(A)(4)** states: “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: . A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board.”
- **2 O.S. §3-86(A)(17)** states: “17. Any person to act or operate as a private applicator unless the person has obtained a valid private applicator license issued by the Board”
- **O.A.C. 35:30-17-24(e)(2)** states: “(e) No person shall use a mist blower or other type of air blasting or misting equipment for the application of hormone type herbicides within the State except where the following specific conditions exist:  
(2) Range, pasture, and crop areas where control of undesirable vegetation with a hormone type herbicide is necessary and a specific type of terrain feature such as a gully precludes the use of any other type of ground application equipment.”

#### **ATTORNEY CONFERENCES**

27. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

28. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

29. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

30. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

31. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

32. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

33. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

34. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

### **ENFORCEMENT OF JUDGMENTS**

35. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

36. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

37. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

38. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### STIPULATION

39. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Three Hundred Seventy Five Dollars (\$375.00)**.

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 3RD day of March, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600\*  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 3<sup>rd</sup> day of March 2023, a true and correct copy of the forgoing instrument was emailed.

**PAIGE SHERRY  
P.O. BOX 1262  
WEWOKA, OK 74884**

*Brady Robison*  
\_\_\_\_\_  
Brady Robison



**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**V.**

**RESPONDENT.**

## STIPULATION

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. SOUTHEAST VEGETATION MANAGEMENT**

**Case File No. OGC-22-719**

**SOUTHEAST VEGETATION MANAGEMENT**

**P.O. BOX 43**

**BRIERFIELD, AL 35035**

**Summary of Facts:** CPS Inspectors conducted a consumer complaint follow-up investigation in Claremore. This company was contracted by BNSF Railroad to control vegetation along the right-of-way. According to application records Alligare 2,4-D Amine, Alligare Bromacil 80WG, Promenade SC Herbicide, and Ranger Pro were all applied. This was an off-target drift application. Finally, this company was/is not licensed with the Department as an applicator.

**Statute or Rule Violation:**

**Proposed Administrative Penalty:** \$2500; stipulation was signed and PIF

**Deviations:** None

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
APR 19 2023  
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

SOUTHEAST VEGETATION MANAGEMENT  
P.O. BOX 43  
BRIERFIELD, AL 35035

RESPONDENT.

Case No: OGC-22-719

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two **Thousand Five Hundred Dollars (\$2500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT:

  
Signature

Scott Dailey / owner  
Printed Name and Title:

Date: 4.12.2023

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-22-719**

**SOUTHEAST VEGETATION MANAGEMENT )  
P.O. BOX 43 )  
BRIERFIELD, AL 35035 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 13<sup>th</sup> day of April, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide/herbicide application, located at Brierfield, Alabama.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 16<sup>th</sup> day of June 2022, the Consumer Protection Services Division of the Department performed a complaint follow-up investigation located at 25955 S. 4110 Rd in Claremore, OK.

19. During the course of the investigation, it was found that your company is contracted for vegetation control along the BNSF railroad right of way.

20. According to your application records on April 6, 2022, you applied Alligare 2,4-D Amine, Alligare Bromacil 80WG, Promenade SC Herbicide, and Ranger Pro Herbicide to the railroad right of way.

21. Your employee Scott Dailey has a current certified applicator certification with ODAFF, however, our office does not have a record of your company being licensed as a commercial pesticide applicator in Oklahoma.

22. Additionally, your company received a stop work order on July 6, 2021, for working in Oklahoma without a commercial applicator license.

### **ALLEGED CONCLUSIONS OF LAW**

23. Based upon the application of the above law to the aforementioned facts, applying pesticides in Oklahoma without the proper license you are in violation of Oklahoma Statute. Specifically, 2 O.S. §3-82(A)(1) and 2 O.S. §3-86(A)(15) which state:

- 2 O.S. §3-82(A)(1): “It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.”
- 2 O.S. §3-86(A)(15): A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 15. Any person to act, operate, do

business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.

#### **ATTORNEY CONFERENCES**

24. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
25. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
26. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

#### **ENFORCEMENT PROCEEDINGS**

27. Enforcement proceedings may include but are not limited to:
  - a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
  - c.) Criminal actions, which could involve fines, imprisonment, or both; and
  - d.) Civil actions.
28. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.



29. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

30. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

31. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

32. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

33. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

34. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

35. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

36. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Two Thousand Five Hundred Dollars (\$2500.00)**.

38. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 2<sup>ND</sup> day of February, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

\_\_\_\_\_  
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600\*  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 2<sup>nd</sup> day of February, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**Southeast Vegetation Management  
P.O. Box 43  
Brierfield, AL 35035**

*Brady Robison* \_\_\_\_\_  
Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**SOUTHEAST VEGETATION MANAGEMENT  
P.O. BOX 43  
BRIERFIELD, AL 35035**

**RESPONDENT.**

**Case No: OGC-22-719**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand Five Hundred Dollars (\$2500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. BRENT THOMPSON**

**Case File No. OGC-21-591**

**BRENT THOMPSON  
2194 CR 1375  
ALEX, OK 73002**

**Summary of Facts:** CPS Inspectors conducted a use inspection of this facility. Upon arrival they determined that this person was not licensed to make commercial applications despite having been advertising commercial agricultural applications. Additionally, this company had been improperly disposing of pesticide containers.

**Statute or Rule Violation:**

**Proposed Administrative Penalty:** \$500; stipulation was signed and PIF

**Deviations:** There was a clerical error on the NOV “stipulation” page; it listed it as \$1000, but in the body of the NOV it was listed as \$500. The stipulation is paid at \$500 and that was what it was supposed to be.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**Case No: OGC-21-591**

**Brent Thompson  
2194 CR 1375  
Alex, ok 73002**

**RESPONDENT.**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Dollars (\$1000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

  
Signature

Brent A. Thompson  
Printed Name and Title:

Date: 3-7-23

**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.**

**Brent Thompson  
2194 CR 1375  
Alex, ok 73002**

**RESPONDENT.**

**Case No: OGC-21-591**

**2<sup>nd</sup> AMENDED NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 9<sup>th</sup> day of March 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.



### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Alex, 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 24<sup>th</sup> day of June, 2021, the Consumer Protective Services Division of the Department conducted a routine inspection of your facility where it was discovered that you have been advertising commercial agricultural applications.

19. ODAFF does not have you on file as being a commercial applicator. A company must be licensed and certified through ODAFF to advertise and perform commercial pesticide applications.

20. Additionally, it was documented that you have been improperly disposing of empty pesticide containers.

21. Advertising and operating without a commercial applicator license and certification, and improperly disposing of empty pesticide containers are violations of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-82 A(1); 2 O.S. § 3-86 A(15); O.A.C. 35:30-17-93.

### **ALLEGED CONCLUSIONS OF LAW**

22. Based upon the application of the above law to the aforementioned facts, you have been advertising commercial pesticide applications and improperly disposing of empty containers, both in violation of Oklahoma Statute and Rules. Specifically, 2 O.S. §3-82(a)(1), 2 O.S. §3-86(a)(15) and O.A.C. 35:30-17-93 which state:

- **2 O.S. §3-82(a)(1):** “It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.”
- **2 O.S. §3-86(a)(15):** “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: Any person to act, operate, do

business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”

- **O.A.C. 35:30-17-93:** “The following procedure governs handling of pesticide containers other than bulk pesticide containers by commercial applicators: (2) Empty containers. Empty containers shall be stored in a secured area and kept for no more than ninety (90) days following use. (3) Metal, glass, and plastic containers: (A) All metal, glass, and plastic containers shall be triple-rinsed or pressure rinsed immediately after the pesticide is removed by the following or equivalent procedures: (i) Using water or a detergent as a rinse capable of removing the pesticide, each container shall be filled with rinse equal to approximately ten percent (10%) of the volume of pesticides originally in the container. (ii) The rinse shall be agitated thoroughly on all interior surfaces of the container. Agitation shall be accomplished by use of agitation equipment approved by the Department or by manual agitation of the rinse. (iii) The rinsing procedure shall be repeated three times. (iv) If the rinsate containing the rinse can be used in subsequent applications of the pesticide without reducing the effectiveness of the pesticide, the rinsate may be placed in the containment tank specified for that pesticide. If the rinsate is not classified as a controlled industrial waste upon disposal, it shall be placed in an approved surface impoundment. (B) Upon completion of the triple-rinsing or pressure rinsing procedures, containers shall be disposed of as follows: (i) Disposal in any permitted solid waste facility or sanitary landfill so long as all metal and plastic containers are pierced in each end; (ii) Return, if possible, to the pesticide sales agent or the pesticide

manufacturer pursuant to prior agreement; or (iii) Resale to a third party for recycling or reconditioning.”

### **ATTORNEY CONFERENCES**

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

26. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

29. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

30. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

31. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

32. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

33. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

34. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Five Hundred Dollars (\$500.00).

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 25<sup>TH</sup> day of January, 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 25<sup>th</sup> day of January 2023, a true and correct copy of the forgoing instrument was emailed to Brent Thompson:

**Brent Thompson**  
**2194 CR 1375**  
**Alex, ok 73002**

---

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-21-591**

**Brent Thompson** )  
**2194 CR 1375** )  
**Alex, ok 73002** )

**RESPONDENT.** )

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Thousand Dollars (\$1000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

Date: \_\_\_\_\_



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. TRACTOR SUPPLY CO.**  
**Case File No: OGC 22-713**

**TRACTOR SUPPLY CO.**  
**5401 VIRGINIA WAY**  
**BRENTWOOD, TN 37027**

**Summary of Facts:**

- a) On or about June 14, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Atoka, OK. The inspection revealed the average was .661 lb. less than the marked net weight. On this date, there were 10 Maximum Allowed Variations. A letter of warning was sent.
- b) On or about September 15, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Atoka, OK. The inspection revealed the average was .528 lb. less than the marked net weight. On this date, there were 5 Maximum Allowed Variations. This was the second violation and a letter of warning was sent.
- c) On or about October 27, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Sulphur, OK. This inspection revealed the average was .74 lb. less than the marked net weight. On this date, there were 9 Maximum Allowed Variations. This was the third violation and a letter of warning was sent.
- d) On or about October 28, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Duncan, OK. This inspection revealed the average was .71 lb. less than the marked net weight. On this date, there were 4 Maximum Allowed Variations. This was the fourth violation and a letter of warning was sent.

**Statute or Rule Violation:**

Respondent is alleged to have violated 2 O.S. §14-38(B)(1) and OAC 35:10-11-1 of the Oklahoma Standard Weights & Measures Law and Rules by advertising and selling products packaged to be sold by weight which had underweight averages of more than the maximum allowed variation of 0.50 lb. A fourth violation following any twelve-month period in which no violation has been found will be assessed a penalty of \$250.00 per consumer item which results in an overcharge or potential overcharge. Respondent stipulated to and paid the penalty.

**Proposed Administrative Penalty:**

The proposed penalty for this case was One Thousand Dollars (\$1,000.00) (4 counts at \$250.00 per count).

**Other Actions Required:** None.

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
MAY 08 2023  
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL

COMPLAINANT,

v.

TRACTOR SUPPLY CO.  
5401 VIRGINIA WAY  
BRENTWOOD, TN 37027

RESPONDENT.

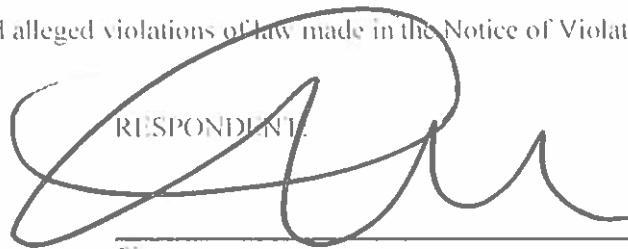
Case No: OGC: 22-713

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

RESPONDENT.



Signature

Printed Name and Title:

Date: \_\_\_\_\_

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. )

TRACTOR SUPPLY CO. )  
5401 VIRGINIA WAY )  
BRENTWOOD, TN 37027 )

RESPONDENT. )

Case Nos: OGC: 22-713

**FILED**

APR 14 2023

STATE OF AGRICULTURE

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on July 13, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

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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 weighted bags of feed under the business name of Tractor Supply Co. located at 5401 Virginia Way, Brentwood, Tennessee.

16. Pursuant to 2 O.S. § 2-4 (A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agriculture Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(1)(a), it is unlawful for any person to sell, offer, or expose for sale a quantity less than the quantity represented.

#### **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 June 14, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Atoka, OK. The inspection revealed the average was .661 lb. less than the marked net weight. On this date, there were 10 Maximum Allowed Variations. A letter of warning was sent.

20. On or about September 15, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Atoka, OK. The inspection revealed the average was .528 lb. less than the marked net weight.

On this date, there were 5 Maximum Allowed Variations. This was the second violation and a letter of warning was sent.

21. On or about October 27, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Sulphur, OK. This inspection revealed the average was .74 lb. less than the marked net weight. On this date, there were 9 Maximum Allowed Variations. This was the third violation and a letter of warning was sent.

22. On or about October 28, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Duncan, OK. This inspection revealed the average was .71 lb. less than the marked net weight. On this date, there were 4 Maximum Allowed Variations. This was the fourth violation and a letter of warning was sent.

#### **ALLEGED CONCLUSIONS OF LAW**

23. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. § 14-38(B)(1)(a) by selling, offering, or exposing for sale a quantity less than the quantity represented. A fourth violation following any twelve-month period in which no violation has been found will be assessed a penalty of Two Hundred Fifty Dollars (\$250.00) per consumer item which results in an overcharge or potential overcharge.

#### **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 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.

29. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

30. The provisions of the Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. § 501 *et seq.*, 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 **One Thousand Dollars (\$1,000.00) (4 counts at \$250.00 per count)**.

36. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 10th day of April, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA #14574

✓ Kambi Maddy, OBA #13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

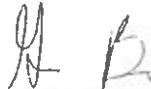
Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 12 day of April, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**TRACTOR SUPPLY CO.  
5401 VIRGINIA WAY  
BRENTWOOD, TN 37027**



\_\_\_\_\_  
Gina Blaylock

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )

**V.**

**RESPONDENT.**

**Case No: OGC: 22-713**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Dollars (\$1,000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**Signature**

Printed Name and Title:

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**  
**v. TRACTOR SUPPLY CO.**  
**Case File No: OGC 22-714**

**TRACTOR SUPPLY CO.**  
**5401 VIRGINIA WAY**  
**BRENTWOOD, TN 37027**

**Summary of Facts:**

- a) On or about June 14, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Atoka, OK. The inspection revealed the average was .661 lb. less than the marked net weight. On this date, there were 10 Maximum Allowed Variations. A letter of warning was sent.
- b) On or about September 15, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Atoka, OK. The inspection revealed the average was .528 lb. less than the marked net weight. On this date, there were 5 Maximum Allowed Variations. This was the second violation and a letter of warning was sent.
- c) On or about October 27, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Sulphur, OK. This inspection revealed the average was .74 lb. less than the marked net weight. On this date, there were 9 Maximum Allowed Variations. This was the third violation and a letter of warning was sent.

**Statute or Rule Violation:**

Respondent is alleged to have violated 2 O.S. §14-38(B)(1) and OAC 35:10-11-1 of the Oklahoma Standard Weights & Measures Law and Rules by advertising and selling products packaged to be sold by weight which had underweight averages of more than the maximum allowed variation of 0.50 lb. A third violation following any twelve-month period in which no violation has been found will be assessed a penalty of \$150.00 per consumer item which results in an overcharge or potential overcharge. Respondent stipulated to and paid the penalty.

**Proposed Administrative Penalty:**

The proposed penalty for this case was One Thousand Three Hundred Fifty Dollars (\$1,350.00) (9 counts at \$150.00 per count).

**Other Actions Required:** None.

**OGC Attorney:** Kambi Maddy

BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA

**FILED**  
MAY 08 2023  
STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )

COMPLAINANT, )

v. )

Case No: OGC: 22-714

TRACTOR SUPPLY CO. )  
5401 VIRGINIA WAY )  
BRENTWOOD, TN 37027 )

RESPONDENT. )

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Three Hundred Fifty Dollars (\$1,350.00)** 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. )

TRACTOR SUPPLY CO. )  
5401 VIRGINIA WAY )  
BRENTWOOD, TN 37027 )

RESPONDENT. )

Case Nos: OGC: 22-714

**FILED**

APR 14 2023

STATE BOARD OF AGRICULTURE

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on July 13, 2023, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing; witnesses and evidence will not be presented at the Prehearing Conference.**

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

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949101 6001

1350.00

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 weighted bags of feed under the business name of Tractor Supply Co. located at 5401 Virginia Way, Brentwood, Tennessee.

16. Pursuant to 2 O.S. § 2-4 (A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agriculture Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

17. Under the provisions of 2 O.S. § 14-38(B)(1)(a), it is unlawful for any person to sell, offer, or expose for sale a quantity less than the quantity represented.

#### **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 June 14, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Atoka, OK. The inspection revealed the average was .661 lb. less than the marked net weight. On this date, there were 10 Maximum Allowed Variations. A letter of warning was sent.

20. On or about September 15, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Atoka, OK. The inspection revealed the average was .528 lb. less than the marked net weight.

On this date, there were 5 Maximum Allowed Variations. This was the second violation and a letter of warning was sent.

21. On or about October 27, 2022, a standard package inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply Co. in Sulphur, OK. This inspection revealed the average was .74 lb. less than the marked net weight. On this date, there were 9 Maximum Allowed Variations. This was the third violation and a letter of warning was sent.

### **ALLEGED CONCLUSIONS OF LAW**

22. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. § 14-38(B)(1)(a) by selling, offering, or exposing for sale a quantity less than the quantity represented. A third violation following any twelve-month period in which no violation has been found will be assessed a penalty of One Hundred Fifty Dollars (\$150.00) per consumer item which results in an overcharge or potential overcharge.

### **ATTORNEY CONFERENCES**

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

26. Enforcement proceedings may include, but are not limited to:

a.) Administrative fines or penalties;

- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

27. Pursuant to 2 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.

28. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

29. The provisions of the Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. § 501 *et seq.*, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

30. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

31. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

32. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

33. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

34. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **One Thousand Three Hundred Fifty Dollars (\$1,350.00) (9 counts at \$150.00 per count)**.

35. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 10th day of April, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Kambi Maddy*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA #14574

✓ Kambi Maddy, OBA #13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 12 day of April, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**TRACTOR SUPPLY CO.  
5401 VIRGINIA WAY  
BRENTWOOD, TN 37027**

  
\_\_\_\_\_  
Gina Blaylock

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**TRACTOR SUPPLY CO.  
5401 VIRGINIA WAY  
BRENTWOOD, TN 37027**

**RESPONDENT.**

**TRACTOR SUPPLY CO.**  
**5401 VIRGINIA WAY**  
**BRENTWOOD, TN 37027**

**RESPONDENT.**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **One Thousand Three Hundred Fifty Dollars (\$1,350.00)** 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:**

Date: \_\_\_\_\_



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
v. RON STOCK AND TRI-STATE FEEDERS II, L.L.C.  
Case File No. OGC 21-292**

**RON STOCK AND  
TRI-STATE FEEDERS, L.L.C.  
#18 SANDY RIDGE ROAD  
COLUMBUS, NE 68601**

**Summary of Facts:** In 2016, Respondent purchased a working feedlot in Beaver County, Oklahoma. The feedlot was a Concentrated Animal Feeding Operation licensed pursuant to the Oklahoma CAFO Act. Under the CAFO Act and its rules, the feedlot was required to maintain a current Pollution Prevention Plan ("PPP"), keep and maintain required records, and maintain the feedlot in good working order. The PPP contained a carcass disposal plan developed by the feedlot and approved by the Department.

Beginning in 2016 and continuing through 2021, the Department found deficiencies during inspections and advised the feedlot thereof through compliance letters and letters of warning. During this period the feedlot failed to address most of the deficient items. Specifically, the feedlot failed to maintain required records, perform required maintenance, or have a current PPP. In fact, the feedlot did not have a current PPP until 2023 during the pendency of this action.

During an annual inspection, Department inspector, David Jett, discovered a pile of forty to fifty decomposing/deteriorating beef carcasses within the northeast area of the feedlot and other carcasses scattered within the pens. The feedlot was advised of the improper carcass disposal. Within a reasonable period, the feedlot properly disposed of the carcasses.

During the 2020 and 2021 annual inspection, Department inspector, David Jett, observed bones and skeletal remains in pens and in and around the disposal pit area. Mr. Jett advised that he observed at least five severely decomposing carcasses at these inspections. To the best of the Department's knowledge and believe, the feedlot did not properly dispose of the carcasses and bones until after this action was initiated.

During 2020 the feedlot ceased operating. Henceforth, the feedlot has not been occupied by any cattle (other than decaying carcasses).

**Statute or Rule Violation:** 2 O.S. 20-47, & 48(F)(1) and OAC 35:17-4-9 and 17-4-13.

**Proposed Administrative Penalty:** The monetary penalty was assessed at \$88,500.00 in the Notice of Violation "NOV"). Additionally, the Department sought to revoke the CAFO license and close the feedlot in conformity with the Closure Plan.

**Subsequent Remediation:** After service of the NOV, Mr. Stock retained counsel. In an effort to resolve this administrative matter, the feedlot has addressed and remediated most of the out of compliance items. Counsel advised the feedlot has incurred over \$100,000 of expense to resolve the compliance issue. These expenses do not include attorney fees. Additionally, Mr. Stock has placed the feedlot on the auction block. It is scheduled to be sold on July 20, 2023. Because the



feedlot has come into substantial compliance and will be sold, the Department agreed to a reduced penalty of \$44,250.00.

**Deviations:** Reduction of fifty percent (50%).

**Other Actions Required:** None.

**OGC Attorney:** Richard D. Herren

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT,**

**v.**

**RON STOCK AND TRI-STATE FEEDERS II, )  
L.L.C, H 18 SANDY RIDGE ROAD, )  
COLUMBUS, NE 68601 )**

**RESPONDENTS.**

**FILED**

**MAY 16 2023**

**STATE BOARD OF AGRICULTURE**

**Case No: OGC: 21-292**

**SETTLEMENT AGREEMENT AND CONSENT ORDER**

**PARTIES**

1. This Settlement Agreement and Consent Order (the "Agreement") is between the Oklahoma Department of Agriculture, Food, And Forestry (the "Department") and Ron Stock and Tri-State Feeders II, L.L.C (the "Respondents").
2. The facility which is the subject of this Agreement is owned and operated by Tri-State Feeders II, L.L.C. and located at 3 U.S. 83, Turpin, OK (the "Facility").

**AUTHORITY**

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7).

**DEPARTMENT'S NOTICE**

4. On March 4, 2022, the Department issued a Notice of Violation in Case No. OGC-21-292, ("Notice") to the Facility, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

**ORDER AND AGREEMENT**

5. As part of the Settlement of this matter, Respondents have performed certain Corrective Actions noted by the Corrective Action Plan, which is attached hereto as Exhibit "B". Upon approval of this Settlement Agreement and Consent Order the Department shall advise the public the administrative matter with Respondent has been concluded and Department looks forward to working with a purchaser of the Facility in the permit transfer process.

SETTLEMENT AGREEMENT AND CONSENT ORDER

Page 1 of 6

6. In compromise and full settlement of this matter, Respondents shall pay to the Department an administrative penalty of Forty-Four Thousand Two Hundred and Fifty Dollars (\$44,250.00). Upon the execution of this agreement by both parties, payment shall immediately be made by Respondents payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

Office of General Counsel  
Oklahoma Department of Agriculture, Food, and Forestry  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298

### **EFFECT OF THE AGREEMENT**

7. In exchange for Respondents' compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondents, their officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Notice. Respondent shall remain responsible for completing the compliance requirement set forth in the Corrective Action Plan. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondents from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondents from actions initiated by other state or federal agencies having jurisdiction over related matters.
8. Respondents and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondents and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
9. By entering into this Agreement, the Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondents, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this Agreement, Respondents do not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondents are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement. This Settlement Agreement and Consent Order fully and finally concludes this Action including all allegations contained in the Notice.

### **NO ADMISSION.**

10. This Agreement and any proceedings taken hereunder are not intended and shall not in any
- SETTLEMENT AGREEMENT AND CONSENT ORDER

event be construed as, or deemed to be, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of any party. The parties hereto specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in this action and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

#### **NON-ADMISSIBILITY.**

11. Settlement negotiations culminating in this Agreement have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder or culminating herein, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

#### **HEARING WAIVER**

12. Respondents hereby agree to waive their right to a hearing and an opportunity to appeal or contest this Agreement. Respondents enter into this Agreement freely and voluntarily.

#### **NOTICE**

13. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to:

For the Oklahoma Department of Agriculture, Food, and Forestry:

The Oklahoma Department of Agriculture, Food, and Forestry  
C/O Richard D. Herren  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298

For: Ron Stock

Ron Stock  
4860 33<sup>rd</sup> Avenue  
Columbus, NE 68601

With a copy to:

Sam L. Stein, Esq.  
Law Office of Sam L. Stein, P.L.L.C.  
305 S. Grand / P.O. Box 223  
Cherokee, OK 73728

**For: Tri-State Feeders II, LLC**

**Tri-State Feeders II, LLC  
c/o Ron Stock  
4860 33<sup>rd</sup> Avenue  
Columbus, NE 68601**

**MISCELLANEOUS**

- 14. This Agreement may be amended only by mutual agreement of the Department and Respondents. Such amendments shall be in writing, shall have as their effective date the date on which they are signed by both parties, and shall be incorporated into this agreement.**
- 15. The undersigned representative of the Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondents understand that the Office of General Counsel Representative neither possesses the legal power to bind the Board nor can the Office of General Counsel Representative promise acceptance of this Agreement by the Board. Respondents understand that it may attend the meeting of the Board but is not required to do so.**
- 16. Payment for the administrative penalty shall be presented upon the execution of this Agreement.**
- 17. In the event the Board accepts this Agreement, Respondents shall receive a copy of the Approval. Compliance with this Agreement shall constitute full and complete settlement.**
- 18. In the event the Board does not approve this Agreement, then Respondents or the Department are free to make a counterproposal for the Board's consideration, or the Parties may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.**
- 19. No breach of any provision of this Agreement can be waived by any undersigned party unless in writing. Waiver of any one breach by an undersigned party shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.**
- 20. This Agreement shall be governed by the laws of the State of Oklahoma.**

**Executed by the Parties on the dates set forth below:**

**OKLAHOMA DEPARTMENT  
OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF  
GENERAL COUNSEL**




Richard D. Hetton, OBA # 13829\*  
Brady Robison, OBA # 33600  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**COMPLAINANT**

Date: May 16, 2023

- and by -

**RESPONDENTS**

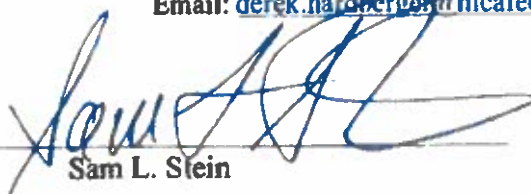
*for*   
Ron Stock, individually and as the  
Manager of Tri-State Feeders II, LLC

Date: May 15, 2023

**APPROVED BY COUNSEL FOR RESPONDENTS**

Sam L. Stein / OBA #12498  
LAW OFFICE OF SAM L. STEIN, P.L.L.C.  
305 S. Grand Ave.\ P. O. Box 223  
Cherokee, OK 73728  
Tel: (580) 596-3000  
Fax: (580) 596-3004  
Email: [sstein@steinlaw-ok.com](mailto:sstein@steinlaw-ok.com)

Derek Hardberger / OBA #16235  
MCAFEE & TAFT, P.C.  
Eighth Floor/Two Leadership Square  
211 N. Robinson  
Oklahoma City, OK 73102-7103  
Tel: (405) 552-2327 direct  
Fax: (405) 228-7327  
Email: [derek.hardberger@mcafeetaft.com](mailto:derek.hardberger@mcafeetaft.com)

  
Sam L. Stein

SETTLEMENT AGREEMENT AND CONSENT ORDER

Page 5 of 6

**EXHIBIT A & B**  
**(attached)**

**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.**

**RON STOCK AND  
TRI-STATE FEEDERS II, L.L.C.  
#18 SANDY RIDGE ROAD  
COLUMBUS, NE 68601**

**RESPONDENT.**

**FILED**

**MAR 04 2022**

**STATE BOARD OF AGRICULTURE**

**Case No: OGC-21-292**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on April 14, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.





4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

**JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.
14. Respondent has substantial business operations and assets within the State of Oklahoma.
15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of owning and operating a feedlot in Oklahoma.
16. Pursuant to 2 O.S. § 20-42, ODAFF has authority to regulate Concentrated Animal Feeding Operations.
17. Pursuant to 2 O.S. § 20-47(A), “[a]n animal feeding operation licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act (the “CAFO Act”) shall develop a Pollution Prevention Plan or may substitute equivalent measures contained in a site-specific Animal Waste Management Plan prepared pursuant to Section 36 of this act.”
18. Pursuant to 2 O.S. § 20-47(B)(1), “[t]he Pollution Prevention Plan shall be signed by the owner or as otherwise authorized by the Oklahoma Department of Agriculture, Food, and Forestry and a copy shall be retained on site.”
19. Pursuant to 2 O.S. § 20-47(F) and Oklahoma Administrative Code 35:17-4-9, Respondent shall maintain certain records regarding the facility, such as the water level in the retention structure, rain fall, and other information critical to proper administer of the Pollution Prevention Plan. Such requirements include maintaining a permanent measuring device for the waste retention structure and a rain gauge.

20. Pursuant to 2 O.S. § 20-48(F) (1), and OAC 35:17-4-13, "dead animals shall be disposed of in accordance with a carcass disposal plan developed by the applicant or licensee and approved by the Department."

#### **ALLEGATIONS OF FACT**

21. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

22. Respondent is a Concentrated Animal Feeding Operation licensed pursuant to the CAFO Act and has been for all times relevant to the allegations set forth herein. Respondent currently holds Concentrated Animal Feeding Operation License Number 93-0000 issued July 1, 2021 and valid until June 30, 2022.

23. Complainant has annually inspected Respondent's feedlot since at least 2016.

24. Since 2016, Complainant has advised Respondent of the deficiencies found during inspections through compliance letters or letters of warning (hereinafter "Compliance Letters").

25. In 2016, 2017, 2018, 2019, 2020 and 2021, Complainant requested Respondent provide an updated copy of the Pollution Prevention Plan specifically addressing the deficiency noted in the Compliance Letters.

26. During the 2018 annual inspection, the Complainant's inspector discovered a pile of forty to fifty decomposing/deteriorating cattle carcasses within the northeast area of the feedlot and other carcasses scattered within the pens. Respondent was advised of this improper carcass disposal. Respondent within a reasonable period properly disposed of the carcasses.

27. In 2020, Respondent was advised their mandatory records were deficient and needed to be corrected.

28. In 2020 and 2021, Respondent failed to provide any records to review that were required to be maintained under the Pollution Prevention Plan.
29. In 2020 and 2021, the inspections determined a staff gauge and a rain gauge needed to be replaced. Respondent failed to do so.
30. In 2020 and 2021, the inspections determined erosion areas within the pens needed to be repaired. Respondent failed to do so.
31. In 2020 and 2021, the contact person for Respondent failed to respond to Complainant hindering the inspections.
32. The 2020 inspection and subsequent Compliance Letter advise Respondent as follows:
- a. Repair erosion on NE side of interior embankment of AWRS #3;
  - b. Bait, repair, and monitor rodent holes on the exterior embankment of AWRS #3;
  - c. Sample Records: Sample data of water, soil, & effluent needs to be updated reflect a current analysis;
  - d. Remove vegetation for interior embankment of all waste retention structures; and
  - e. Mow grass on exterior embankment of all waste retention structures.
33. In 2020 and 2021, Respondent was advised carcasses were not disposed of properly. There were bones and skeletal remains seen within the pens and several skeletal remains were seen within the pit located on the southeast section of the feedlot. Complainant believes there were at least five severely decomposing carcasses observed by the inspector. To the best of our knowledge and belief, Respondent never properly disposed of these carcasses.
34. Respondent has failed to respond to the Compliance Letters, take corrective action or otherwise resolve the issues set forth above except as specifically noted.

35. On or about January 1, 2020, Respondent ceased operating as a feedlot. Henceforth, the facility has not been occupied by any cattle (other than decaying carcasses). The feedlot has not operated with live cattle for more than twenty-four months.

36. Based on observation and inspection, since ceasing operations, the Respondent has not properly maintain the facility and it appears in serious disrepair.

#### **ALLEGED CONCLUSIONS OF LAW**

37. Based upon the application of the above law to the aforementioned facts, Respondent has violated 2 O.S. §§ 20-47, & 48(F)(1), and OAC 35:17-4-9 and 17-4-13 and other statutory provisions and rules by failing to address deficiencies in the application of the PPP, to recertify the retention structure, to follow the carcass disposal plan, to keep vital records, and to properly operate and maintain the facility. The CAFO License should be revoked, the facility closed in conformity with the Closure Plan and Respondent fined.

#### **ATTORNEY CONFERENCES**

38. 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.

39. 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.

40. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

#### **ENFORCEMENT PROCEEDINGS**

41. 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.

42. 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.

43. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

44. 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**

45. 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**

46. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

47. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

48. 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**

49. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Eighty-Eight Thousand Five Hundred Dollars (\$88,500.00), revocation of the CAFO License and closure of the facility in conformity with the Closure Plan.

50. 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 4TH day of March, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Richard D. Herren*  
Teena G. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600  
Richard D. Herren, OBA # 13829\*  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 4th day of March, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**RON STOCK AND  
TRI-STATE FEEDERS II, L.L.C.  
#18 SANDY RIDGE ROAD  
COLUMBUS, NE 68601**

A handwritten signature in black ink, appearing to read 'Gina Blaylock', written over a horizontal line.

**GINA BLAYLOCK**



**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**RON STOCK AND  
TRI-STATE FEEDERS II, L.L.C.  
#18 SANDY RIDGE ROAD  
COLUMBUS, NE 68601**

**RESPONDENT.**

**v.**

**RON STOCK AND  
TRI-STATE FEEDERS II, L.L.C.  
#18 SANDY RIDGE ROAD  
COLUMBUS, NE 68601**

**RESPONDENT.**

Respondent accepts and stipulates to the proposed administrative penalty or fine of Eighty-Eight Thousand Five Hundred Dollars (\$88,500.00), revocation of the CAFO License and closure of the facility in conformity with the Closure Plan 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:**

Printed Name and Title:

Date: \_\_\_\_\_

91 7199 9991 7037 6524 9614

RON STOCK AND  
TRI-STATE FEEDERS II LLC  
#18 SANDY RIDGE ROAD  
COLUMBS, NE 68601

**FILED**

MAR 04 2022

STATE BOARD OF AGRICULTURE

## **CORRECTIVE ACTION PLAN FOR TRI-STATE FEEDERS**

1. Inspection and recertification of the waste retention structures by a qualified engineer.

COMPLETED

2. The facility has experienced erosion in the pens and waste retention structures. The erosion issues must be corrected. IN PROCESS

3. Upon purchase of the facility, it was contemplated a new waste retention structure was needed to capture the drainage from a portion of the east side of the facility; that waste retention structure has not been constructed. A qualified engineer shall be engaged to determine if that waste retention structure is needed and if so, it shall be constructed.

COMPLETED - No additional waste retention structure is required!

4. The carcasses presently strewn around the facility must be properly disposed.

COMPLETED

5. A Pollution Prevention Plan (PPP) must be developed for the facility that is in conformity with the CAFO Act and Rules. The new PPP will be submitted to the Department for approval. COMPLETED

6. Please provide special attention to the Carcass Disposal Plan given the serious historic issues. COMPLETED

7. The facility must be brought into full and complete compliance with the new PPP once approved by the Department. IN PROCESS

8. The facility is currently over-grown with weeds and other vegetation. Those need to be mowed regularly. Once accomplished the Department will reinspect the facility.

COMPLETED



9. The facility is in general disrepair. Maintenance and repairs must be performed to bring the facility to a proper working condition and in conformity with the new PPP. IN

PROCESS

10. The Animal Waste Management Plan (aka NMP) is in process and will be completed prior to the proposed sale date. IN PROCESS

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. AAPEST LLC**

**Case File No. OGC-22-703; OGC-22-744**

**AAPEST LLC  
2409 N. BROADWAY  
POTEAU, OK 74953**

**Summary of Facts:** 703: CPS Inspectors conducted a consumer complaint investigation. This company's license had expired in 2018 yet they continued to work and make applications. This company informed our inspectors that they were not going to stop working, despite having been warned and issued a stop-work order. This company has had numerous encounters with ODAFF Inspectors over the last several years to where he was hostile and aggressive with our inspectors. This was the first time that an NOV had been issued to this company. They had been given multiple opportunities to comply and refused to do so.

744: CPS Inspectors conducted a use inspection with McClendon Homes. This builder informed our inspectors that this company had been hired to perform termite pre-treatments for new homes. Inspectors obtained copies of an invoice from one of those pre-treats. This company was applying termiticide while under an active stop-work order. This company has had numerous encounters with ODAFF Inspectors over the last several years to where he was hostile and aggressive with our inspectors. This was the second time that an NOV had been issued to this company. They had been given multiple opportunities to comply and refused to do so.

**Statute or Rule Violation:** 2 O.S. §(A)(1); 2 O.S. §3-86(A)(15); 2 O.S. §3-86(B)

**Proposed Administrative Penalty:** \$5000 for the two cases (\$2500 each, OGC-22-703 & OGC-22-744); consent order signed and PIF

**Deviations:** This was a Settlement Agreement and Consent Order for two cases. Respondent obtained all the proper licensing in the process.

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**FILED**

APR 28 2023

STATE BOARD OF AGRICULTURE

THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )

COMPLAINANT, )

v. )

Case No: OGC: 22-703; OGC-22-744

AAPEST LLC )  
2409 N Broadway )  
404 Airport Rd. )  
POTEAU, OK 74953 )

RESPONDENT. )

**SETTLEMENT AGREEMENT AND CONSENT ORDER**

**PARTIES**

1. This Settlement Agreement and Consent Order (the "Agreement") is between the Oklahoma Department of Agriculture, Food, And Forestry (the "Department") and AA Pest LLC (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Christopher Mbala and located at Poteau, OK (the "Facility").

**AUTHORITY**

3. The Department has authority over this matter pursuant to Okla. Const. Art. VI, Section 31 and 2 O.S. § 2-4(7).

**DEPARTMENT'S NOTICE**

4. On November 4<sup>th</sup>, 2022, and February 3<sup>rd</sup>, 2023, the Department issued a Notice of Violation in Case No. OGC-22-703 and OGC-22-744, ("Notice") to the Facility, which is attached hereto as Exhibit 1 and Exhibit 2. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

**ORDER AND AGREEMENT**

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Five Thousand Dollars (\$5000.00). Upon the execution of this agreement by both parties, payment shall immediately be made by Respondent

payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

**Office of General Counsel  
Oklahoma Department of Agriculture, Food, and Forestry  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298**

#### **EFFECT OF THE AGREEMENT**

6. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
7. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
8. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

#### **NO ADMISSION.**

9. This Agreement and any proceedings taken hereunder are not intended and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of any party. The parties hereto specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in this action and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

### **NON-ADMISSIBILITY.**

10. These settlement negotiations have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or proceeding, for any purpose other than in an action or proceeding to enforce the terms of this Agreement.

### **HEARING WAIVER**

11. Respondent hereby agrees to waive its right to a hearing and its opportunity to appeal or contest this Agreement. Respondent enters into this Agreement freely and voluntarily.

### **NOTICE**

12. Unless otherwise specified, reports, notice, or other submissions required under this Agreement shall be in writing and shall be sent to:

For the Oklahoma Department of Agriculture, Food, and Forestry:

Brady Robison  
Assistant General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298

For:  
AAPEST LLC  
2409 N Broadway  
404 Airport Rd.  
POTEAU, OK 74953

### **MISCELLANEOUS**

13. This Agreement may be amended only by mutual agreement of the Department and Respondent. Such amendments shall be in writing, shall have as their effective date the date on which they are signed by both parties, and shall be incorporated into this agreement.
14. The undersigned representative of the Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry agrees to propose and recommend this Agreement to the State Board of Agriculture (the "Board"). Furthermore, Respondent understands that the Office of General Counsel Representative neither possesses the legal power to bind the Board nor can the Office of General Counsel Representative promise acceptance of this Agreement by the Board. Respondent understands that it may attend the meeting of the Board but is not required to do so.



15. Payment for the administrative penalty shall be presented upon the execution of this Agreement. Such payment will be tendered upon acceptance of this Agreement by the Board at its next regularly scheduled public meeting.
16. In the event the Board accepts this Agreement, Respondent shall receive a copy of the Approval. Compliance with this Agreement shall constitute full and complete settlement.
17. In the event the Board does not approve this Agreement, then Respondent or the Department is free to make a counterproposal for the Board's consideration, or the Parties may choose to go through a formal administrative hearing on the above charges, and the recitations herein will be held for naught and are inadmissible in any future proceedings.
18. No breach of any provision of this Agreement can be waived by any undersigned party unless in writing. Waiver of any one breach by an undersigned party shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.
19. This Agreement shall be governed by the laws of the State of Oklahoma.

Executed by the Parties on the dates set forth below:

OKLAHOMA DEPARTMENT  
OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL  
COUNSEL

Brady Robison

Brady Robison

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

COMPLAINANT

Date: April 3, 2023

- and by -

Nicholas E. Grant, Attorney

P.O. Box 127

Spiro, OK 74959

918-962-2436

COUNSEL FOR RESPONDENT

Date: April 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. )**

**Case No: OGC-22-703**

**CHRISTOPHER MABALA )  
AAPEST LLC )  
2409 N Broadway; )  
404 Airport Rd. )  
POTEAU, OK 74953 )**

**RESPONDENT. )**

**2<sup>nd</sup> AMENDED NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 13<sup>th</sup> day of April, 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**
4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the

Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Poteau, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 1<sup>st</sup> day of September 2022, the Consumer Protective Services Division of the Department conducted a consumer complaint follow-up use inspection.

19. ODAFF inspectors met with you on September 1, 2022, and determined that your company license had expired in December 2018. At this time, our inspector informed you that your license was expired and issued a stop-work order.

20. At this point you informed our inspector that you were not going to stop making commercial pesticide applications and that there was nothing ODAFF could do about it.

21. You were informed in the Letter of Warning dated November 1, 2022 that “A violation of ODAFF’s Combined Pesticide Law & Rules is punishable by misdemeanor, a fine up to \$10,000, and up to 1 year imprisonment in the county jail.” And issued another stop-work order.

22. You are in violation of Oklahoma Statutes 2 O.S. §3-82(A)(1), 2 O.S. §3-86(A)(15) and 2 O.S. §3-86(A)(16).

### **ALLEGED CONCLUSIONS OF LAW**

23. Based upon the application of the above law to the aforementioned facts, you are in violation of multiple Oklahoma Statutes, specifically 2 O.S. §3-82(A)(1), 2 O.S. §3-86(A)(15) and 2 O.S. §3-86(A)(16).

- **2 O.S. §3-82(A)(1):** “A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.”
- **2 O.S. §3-86(A)(15):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension,

cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”

- **2 O.S. §3-86(A)(16):** “16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised”

24. 2 O.S. §3-86(B) states: “B. Any person, holder or nonholder of a valid license violating any of the provisions of this subarticle shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.”

#### **ATTORNEY CONFERENCES**

25. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

26. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

27. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

#### **ENFORCEMENT PROCEEDINGS**

28. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

29. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

30. *Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86 shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.*

31. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

32. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

33. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

### **ENFORCEMENT OF JUDGMENTS**

34. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

35. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

36. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

37. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.



### STIPULATION

38. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Thousand Dollars (\$5000.00) and stop work until all licensing requirements are fulfilled.**

39. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 3rd day of February 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*  
Teena Q. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600\*  
Richard D. Herren, OBA # 13829  
Assistants General Counsel  
2800 N. Lincoln Blvd.  
Oklahoma City, OK 73105-4298  
Telephone: (405) 522-5997  
Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 3rd day of February 2023, a true and correct copy of the forgoing instrument was emailed, to Nick Grant, counsel for Respondent.

CHRISTOPHER MABALA  
AAPEST LLC  
2409 N Broadway;  
404 Airport Rd.  
POTEAU, OK 74953

*Brady Robison*  
\_\_\_\_\_  
Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF** )  
**AGRICULTURE, FOOD, AND FORESTRY,** )  
**BY AND THROUGH THE** )  
**OFFICE OF GENERAL COUNSEL** )  
 )  
**COMPLAINANT,** )  
**v.** )  
 )  
**CHRISTOPHER MABALA** )  
**AAPEST LLC** )  
**2409 N Broadway;** )  
**404 Airport Rd.** )  
**POTEAU, OK 74953** )  
**RESPONDENT.** )

**Case No: OGC-22-703**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Thousand Dollars (\$5000.00), and stop work until all licensing requirements are fulfilled**, 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-22-744**

**CHRISTOPHER MABALA )  
AAPEST LLC )  
2409 N. BROADWAY )  
404 AIRPORT RD. )  
POTEAU, OK 74953 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel (“OGC”) of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 13<sup>th</sup> day of April 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

---

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**
4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the

Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Poteau, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 1<sup>st</sup> day of September 2022, the Consumer Protective Services Division of the Department conducted a use inspection with McClendon Homes.

19. During this inspection our inspectors were informed that you had been performing termite pre-treats on the houses being built by McClendon Homes.

20. Our inspectors were given a copy of an invoice from a pretreat application you made on October 21, 2022. Your company license expired December 31, 2018. You were issued a stop-work order by our inspectors on September 1, 2022.

21. Operating commercially without a license is a violation of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. § 3-82 (A)1; 2 O.S. § 3-86 (A)15; 2 O.S. § 3-86 (A)16.

### **ALLEGED CONCLUSIONS OF LAW**

22. Based upon the application of the above law to the aforementioned facts, by performing termite pre-treatments without being licensed is a violation of Oklahoma Statutes 2 O.S. § 3-82 (A)(1); 2 O.S. § 3-86 (A)(15); 2 O.S. § 3-86 (A)(16) which state:

- **2 O.S. § 3-82 (A)(1):** “A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.”
- **2 O.S. § 3-86 (A)(15):** “A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 15. Any person to act, operate, do

business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged.”

- **2 O.S. § 3-86 (A)(16):** “16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised.”

### **ATTORNEY CONFERENCES**

23. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

24. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

25. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

26. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

27. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any



person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

28. Any person, holder or non-holder of a valid license violating any of the provisions of 2 O.S. §3-86(A)(1)-(22) shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

29. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

30. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

31. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

32. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

33. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

34. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

35. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

### **STIPULATION**

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Five Thousand Dollars (\$5000.00)**.

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 3<sup>RD</sup> day of February, 2023.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

---

Teena C. Gunter, General Counsel, OBA # 17767  
James Rucker, Deputy General Counsel, OBA # 14574  
Kambi Maddy, OBA # 13873  
Brady Robison, OBA # 33600\*  
Richard D. Herren, OBA # 13829  
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 3<sup>rd</sup> day of February, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**CHRISTOPHER MABALA  
AAPEST LLC  
2409 N. BROADWAY  
404 AIRPORT RD.  
POTEAU, OK 74953**

*Brady Robison*  
\_\_\_\_\_  
Brady Robison

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**V.**

**RESPONDENT.**

## STIPULATION

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

Date: \_\_\_\_\_



**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. SECURITY PEST CONTROL INC.**

**Case File No. OGC-22-273**

**SECURITY PEST CONTROL INC**

**10323 E. 50<sup>TH</sup> ST.**

**TULSA, OK 74146**

**Summary of Facts:** CPS Inspectors conducted a use inspection of a termite pre-treat on a new construction house. Upon inspection and after taking samples, it was determined that the vertical pesticide threshold was below the required 10.0ppm as required by the rules for Imidacloprid. Both horizontal samples were above the threshold, the vertical samples were 4.25 and 3.25ppm respectively.

**Statute or Rule Violation:** 2 O.S. §3-86(A)(2)

**Proposed Administrative Penalty:** \$7500; this the recommended amount from the ALJ after hearing

**Deviations:** ALJ Ruling after hearing

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

**FILED**  
APR 24 2023  
STATE BOARD OF AGRICULTURE

**RESPONDENT.**

1

6. Ms. Yvette Turner, Department Chemist; and,
7. Dr. Usha P. Kadel, Department Lab Supervisor.

The Respondent presented the following witnesses:

1. Mr. Jonovich, Expert Witness;
2. Mr. John Zetterberg, Spray Tech employed by Respondent;
3. Mr. Brian Baker, Manager for Respondent; and,
4. Mr. Carl Hushes, Representative and Employee of Respondent.

Each party provided a closing statement and argued the pertinent issues of their case. Upon conclusion of the hearing, this matter was taken under advisement.

#### **Statement of the Case**

On March 29, 2022, the Department's Consumer Protective Services Division conducted an inspection of a termite pretreatment performed by Respondent on a residence located in Bixby, Oklahoma. The Respondent had pretreated the area with the termiticide known as Imidacloprid. The soil samples collected from the Bixby site were tested in the Department's Laboratory ("Lab"). The tests results showed that two (2) vertical barrier samples had levels of 3.25 ppm and 4.25ppm. The minimum level permitted is 10ppm for vertical barriers. On September 9, 2022, the Department filed an Amended Notice of Violation alleging that Respondent was negligent in the application of the termiticide which resulted in the pesticide being ineffective for the purposes for which it had been employed, in violation of 2 O.S. § 3-86(A)(2).

#### **Burden of Proof**

The Respondent alleged in a Motion for Directed Verdict, in its Trial Brief and at the administrative hearing, that the Department could not meet its burden of proof by clear and convincing evidence. Respondent pointed to the fact that the Department had sought written



discovery in order to obtain evidence prior to the hearing. Respondent argued that the need for discovery showed the Department lacked the evidence to meet the burden of proof at the time the Notice of Violation was filed. Respondent asserted that when a professional license is involved, the proper burden of proof is by clear and convincing evidence. In response, the Department argued that because it was not seeking to revoke, suspend or terminate Respondent's license, the lower standard of proof should be applied which is substantial evidence.

The Department's Amended Notice of Violation stated that:

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.

Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, 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. (Notice at pp. 4 and 5)

In its trial brief, the Department presented OAC 35:1-9-7(d) which states "the standard of proof in all individual proceedings affecting or prejudicing an individual's license, registration, permit, certification or other authorization to engage in a given livelihood or occupation shall be clear and convincing. In all other matters the standard of proof shall be a substantial evidence."

The language found in the Amended Notice of Violation, under the heading of a Stipulation, the Department proposed that the Respondent waive its right to hearing and stipulate to the allegations of fact. The Notice states that "If Respondent desires to resolve the matter without a hearing or further action, Complainant proposes an administrative fine of Five Thousand Dollars

(5,000).” The Respondent declined to stipulate to the alleged facts and chose to have the matter heard by an ALJ in an administrative hearing.

Because the Notice of Violation contains the language that the Department has the power to revoke, suspend or deny a license, and no stipulation or payment of a fine occurred, this matter proceeded to hearing under the Oklahoma Administrative Procedures Act, and the burden of proof is by clear and convincing evidence. *Johnson v. Board of Governors of Registered Dentists*, 1996 OK 41.

### **FINDINGS OF FACT**

#### **The Department’s Witness Testimony and Evidence**

1. Respondent, Security Pest Control, is a licensed commercial pesticide applicator in Oklahoma and conducts termite pretreatments as a normal course of its business.
2. On or about March 10, 2022, Respondent applied Dominion PT, which contains the active chemical Imidacloprid to a pre-construction house in Bixby, OK.
3. On March 29, 2022, Department’s Inspector Kenneth Newton performed an inspection and collected samples at the Bixby location.
4. The homebuilder had placed an address sign on the property which gave the address as 13207 S. 72nd E. Ave., Bixby, OK. The address listed by the homebuilder was incorrect. The actual address was is 13207 S. 72nd E. Place and not Avenue.
5. There was no evidence presented that the Department’s Inspector collected samples from the wrong location.
6. Inspector Newton testified that he collected samples following Department protocol and submitted them to the Lab for analysis. Inspector Newton placed flags at the site to designate the area of sampling and took pictures of the slab area before the samples were taken.

7. Inspector Newton testified that he took two (2) representative samples for a horizontal baseline, which consists of twenty-four (24) randomly selected cored samples throughout the slab at a depth of 0-2 inches for a total of forty-eight (48) randomly selected samples.

8. Inspector Newton testified that he took two (2) samples for a vertical baseline, which consisted of ten (10) cored samples taken near the vertical protrusions at a depth of 0-6 inches for a total of twenty (20) samples.

9. On March 29, 2022, Inspector Newton completed the Pesticide Sample Form and emailed it to the Department's Lab and stated that the active ingredient to be searched for was Imidacloprid.

10. All samples were packaged, sealed in foil bags and sent to the Department's Lab for analysis.

11. The product used by the Respondent was Dominion PT which contains Imidacloprid as the active ingredient.

12. Dominion PT has an EPA Registration Number of 538837.

#### **Laboratory Procedure and Testing**

13. Department Chemist, Jim Voss, testified that on March 30, 2022, the samples were delivered to the Lab by FedEx and he signed for their receipt, inspected the packages and placed the samples in the termiticide refrigerator.

14. Department Chemist David Smith testified that on April 5, 2022, he retrieved the samples from the termiticide refrigerator and prepared them for analysis and then placed them back into the refrigerator where they were stored at 4 degrees Celsius.

15. Chemist Smith testified in detail regarding the process and procedure for testing the samples in the Lab. (Department's Ex. 18)

16. On May 2, 2022, Chemist Smith testified that he conducted an analysis of the samples and results were:

- The horizontal sample results were 15.9 ppm and 6.17ppm (Department Exhibits 5D and 6D)
- The vertical sample results were 4.25 ppm and 3.25ppm. (Department Exhibits 7D and 8D)

17. The Amended Notice of Violation stated that the vertical sample testing results were 6.17 and 4.25 but this was an error, the correct testing result was 4.25 ppm and 3.25ppm, which is well below the minimum level required.

18. The Lab results and analysis of Chemist Smith were peer reviewed by Chemist Yvette Turner.

19. The test results were then submitted to the Lab Supervisor Chemist Dr. Usha Kadel for review.

20. On May 6, 2022, Dr. Kadel reviewed the data sample from the analysis of Chemist David Smith and peer reviewed by Chemist Yvette Turner, and confirmed the data and approved the sampling.

21. On May 6, 2022, a Letter of Warning was sent to the Respondent.

22. On June 7, 2022, a Notice of Violation was sent to Respondent.

23. On September 9, 2022, an Amended Notice of Violation was sent to Respondent.

**Department's Expert Witness Dr. Bradford M. Kard**

24. Dr. Bradford M. Kard is a professor at Oklahoma State University, who has a PhD in Entomology, has authored and published over 250 peer reviewed papers, worked for the United

States Forestry Service, conducted research and tested the efficacy of termiticides, including Imidacloprid, and the United States Environmental Protection Agency uses his research to determine the efficacy of termiticides.

25. In 1989, Dr. Kard was the lead scientist for the field tests on Imidacloprid and testified that the minimum required threshold for vertical application of Imidacloprid is 10ppm.

26. He testified that the Dominion PT label required trenching or trenching and rodding for the vertical barriers.

27. The Department's Exhibit 3 at page 2, shows that Respondent stated the vertical barriers were rodded. There was no evidence that they were trenched.

28. Pursuant to requirements of the Environmental Protection Agency (EPA), the labels are considered to be legal documents and the label states that the applicator must follow, federal, state and local rules and regulations in its application of pesticides.

29. The Dominion label provides the details of the application requirements:

**CONCRETE SLAB-ON-GROUND OR BASEMENTS:** Apply on overall treatment to the entire surface of soil and other substrate to be covered by the slab including areas 10 to be under carports, porches, basement floors and entrance platforms. Apply at the rate of 1 gallon of solution to accurately and uniformly cover 10 square feet. If fill under slab is gravel or other coarse aggregate, apply at the rate of 1.5 gallons or sufficient volume of solution, to accurately and uniformly cover 10 square feet. In addition, apply 4 gallons of solution (see **APPLICATION VOLUME**) per 10 linear feet to provide a uniform treated zone in soil at critical areas such as along the inside of foundation walls, and around plumbing, bath traps, utility services, and other features that will penetrate the slab.

After completion of grading, make an application by trenching or trenching and rodding around the slab or foundation perimeter. Rodding may be done from the bottom of a shallow trench. When rodding, rod holes must be spaced in a manner that will allow for a continuous chemical treated zone, not to exceed 12 inches, to be deposited along the treated area. Rod holes must not extend below the footing. Apply 4 gallons of solution (see **APPLICATION VOLUME**) per 10 linear feet, per foot of depth to provide a uniform treated zone. When trenching, the trench along the outside foundation must be about 6 inches in width and 6 inches in depth. Use a low-pressure spray (not to exceed 25 PSI at the treatment tool when the valve

is open) to treat soil which will be placed in the trench after rodding. Mix the spray solution with soil as it is being placed in the trench. When treating voids in hollow masonry units, use 2 gallons of solution per 10 linear feet of wall. Apply solution so it will reach the footing by injecting into the lower areas of the wall just above the floor or footing.

When treating foundations deeper than 4 feet, apply the termiticide as the backfill is being replaced, or if the construction contractor fails to notify the applicator to permit this, treat the foundation to a minimum depth of 4 feet after the backfill has been installed. The applicator must trench and rod into the trench or trench along the foundation walls and around pillars and other foundation elements, at the rate prescribed from grade to a minimum depth of 4 feet. When the top of the footing is exposed, the applicator must treat the soil adjacent to the footing to a depth not to exceed the bottom of the footing. However, in no case treat a structure below the footing.

Rodding in trench followed by flooding of trench and treatment of backfill may provide a better opportunity to achieve a continuous chemical treated zone than using soil rodding along to establish a vertical termiticide treated zone. (Department's Ex. 19, p. 4);

30. Dr. Kard testified that if the application is done properly, Imidacloprid would remain effective for at least five (5) years and the correct application of the termiticide would achieve 20ppm or 30ppm.

31. Dr. Kard testified that his opinion it the application was not done in conformance with the label, or with federal and state statutes and rules.

32. Only professionals are authorized to apply this product and as such they are charged with the knowledge of how to conduct a vertical application properly to achieve at least the minimum level of 10ppm.

33. On cross-examination, Dr. Kard testified that rainwater, sunlight, acidity and alkalinity of the soil can alter the chemical but if the application is done correctly and a trench is dug properly, the chemical binds to the soil and is not diluted at the deeper level in the trench.

34. Dr. Kard's opinion is that two (2) inches of rainfall would result in only 1% decrease in chemical concentration.

35. The Lab tests of the vertical samples showed Imidacloprid levels of 4.25ppm and 3.25ppm, which did not meet the minimum requirements.

### **The Respondent's Witness Testimony**

#### **Respondent's Expert Witness Mr. Joe Jonovich**

36. Mr. Jonovich testified that he has been a consultant for the pest control industry since 2015.

37. His testimony was that according to the Dominion label, if the slab is monolithic, vertical applications do not require trenching.

38. Mr. Jonovich's testimony was that Oklahoma's protocol for testing does not completely follow the guidelines of the Association of Structural Pest Control Regulatory Officials but did not identify the deficiency or its effect in the case.

39. The Department called Dr. Kard as a rebuttal witness and he testified that professional, certified applicators know that vertical application requires trenching.

40. Dr. Kard testified that the nineteen (19) days between the time the termiticide was applied and the day the samples were collected would not make a difference as to the quality of samples taken.

41. Dr. Kard testified that the location of the pretreatment application was on level ground and not on a slope and subject to run off.

#### **Respondent's Witnesses**

42. John Zetterberg, testified that he has been employed by the Respondent for a little over three (3) years.

43. Mr. Zetterberg was the pesticide applicator for Respondent.

44. Mr. Zetterberg received on the job training and has an Oklahoma Pesticide license.

45. Mr. Zetterberg testified that in the vertical areas he rodded the backfill six (6) inches down and that he used a shovel to scrape an area of dirt and sprayed the area with the chemical.

46. He testified that he was not given training in how much pesticide needs to be applied to achieve the minimum of 10ppm.

47. Mr. Brian Baker, is a manager for the Respondent and a certified pesticide applicator. He received on the job training and obtained his structural certification from the Department.

48. Mr. Baker testified that the Respondent's records indicated that the vertical area was rodded but not trenched and that the application should result in Imidacloprid level of 10ppm at a minimum.

49. Mr. Baker identified the pretreatment contract exhibit and the five (5) year guarantee issued by the Respondent.

50. Mr. Baker testified that he believed Mr. Zetterberg applied the pesticide correctly.

51. Mr. Carl Hughes appeared as the Representative for the Respondent.

52. Mr. Hughes' job duties includes handling insurance matters, ordering product for the company and combating the allegations brought by the Department.

53. Mr. Hughes testified that he believes that Inspector Newton broke the pesticide barrier and cut into the Visqueen barrier when he took the samples.

54. The ALJ inquired whether the Respondent had considered changing its pretreatment procedure after the Department's testing results showed below minimum levels. Mr. Hughes stated that he believed Respondent's application was appropriate and did not need to be changed.



55. Mr. Hughes testified that Respondent provides a five (5) year guarantee and has never been called back to provide another pretreatment.

56. The summary of findings from the facts are that the Department's Inspector took samples from the Bixby site in accordance with normal procedure; that the transfer of the samples and the testing of the samples were properly performed and peer reviewed; that the testing of the vertical samples showed Imidacloprid levels of 4.25ppm and 3.25ppm, which are under the minimum level of 10ppm required by the Dominion PT Label and the Oklahoma Agriculture Departments rules and regulations.

57. The application of Dominion PT was not performed according to the Dominion PT label requirements or the Departments, statutes, rules and regulations.

#### **CONCLUSIONS OF LAW**

58. Pursuant to Article VI, Section 31 of the Oklahoma Constitution and 2 O.S. § 2-4(A)(7), the State Board of Agriculture serves in a quasi-judicial capacity and has subject matter jurisdiction over this matter.

59. The Oklahoma Department of Agriculture has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code. (2 O.S. § 2-4(A)(3))

60. According to Oklahoma Agriculture Code 35:30-17-73 - Concrete Slabs:

**(a) All pretreatment pesticide applications shall follow the pesticide label instructions including the application rates and methods. ....**

**(b) Pretreatment of main slab areas (including attached garages) is as follows:**

**(1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers...**

**(3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label....**

(Emphasis added)

61. According to Oklahoma Agriculture Code 35-30-17-27(b):

Pre-construction termiticide treatments (pre-treats) with sampling performed within 30 days or 180 days of treatment shall disclose residue threshold levels established in the veritcal barrier for termicides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established. (7) Premise: (A) Shall have a residue threshold level with 30 days of treatment of 10 ppm. (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 10ppm." (Emphasis added)

62. After notice and opportunity for a hearing, if the State Board of Agriculture finds any violation of the Oklahoma Agriculture Code or any rule or statute, the Board may 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. (2 O.S. § 2-18(A))

63. The Amended Notice of Violation alleged a violation under 2 O.S. § 3-86(A)(2), which states that it is a violation of the rules and statutes if, "A person has negligently used methods or pesticides that are ineffective or improper for the purpose for which they have been employed."

64. Based upon the Findings of Fact and Conclusions of Law, the Respondent was negligent in its pretreatment application of Imidacloprid at 13207 S. 72nd E. Place, Bixby, Oklahoma.

65. The Department has proved by clear and convincing evidence that the Respondent improperly and negligently applied Imidacloprid and did not follow the requirements pursuant to


the Dominion PT label and is in violation of the rules, regulations and statutes of the Oklahoma Department of Agriculture.

**RECOMMENDED ORDER**

The ALJ recommends an administrative penalty in the amount of Seven Thousand Five Hundred Dollars (\$7,500).

IT IS THEREFORE RECOMMENDED that this Proposed Final Order be adopted as the Final Order and all penalties be imposed on Respondent, Security Pest Control, Inc.

SIGNED THIS 24<sup>th</sup> DAY OF APRIL, 2023.

  
RACHEL LAWRENCE MOR  
ADMINISTRATIVE LAW JUDGE

**CERTIFICATE OF MAILING**

This is to certify that on this 24<sup>th</sup> day of April, 2023, a true and correct copy of the foregoing instrument was mailed to the following:

Brady Robison  
Richard D. Herren  
Office of General Counsel  
Oklahoma Department of Agriculture,  
Food, and Forestry  
2800 N. Lincoln Blvd.,  
Oklahoma City, OK 73105-4298

Security Pest Control  
c/o Daniel J. Gamino  
3635 N.W. 63<sup>rd</sup> Street, Suite 214  
Oklahoma City, OK 73116

 Rachel Saxe

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**FILED**

**JUN 08 2022**

**STATE BOARD OF AGRICULTURE**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-22-273**

**SECURITY PEST CONTROL INC. )  
10323 E. 50<sup>TH</sup> ST. )  
TULSA, OK 74146 )**

**RESPONDENT. )**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on the 8<sup>th</sup> day of September, 2022 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling; and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticides application, located at Tulsa, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about the 29<sup>th</sup> day of March, 2022, the Consumer Protective Services Division of the Department conducted a pre-treat inspection on a residential dwelling located at 13207 S. 72<sup>nd</sup> E. Pl. in Bixby, OK.

19. Upon inspection, sampling, and testing, it was found that the two vertical barrier samples taken had residue levels of 6.17 ppm and 4.25 ppm respectively. These samples were below ODAFF's acceptable Imidacloprid residue threshold level of 10.0 ppm for vertical barriers.

### **ALLEGED CONCLUSIONS OF LAW**

20. Based upon the application of the above law to the aforementioned facts, you are in violation of O.S. §3-86(A)(2) which states:

- “(A.) It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: (2.) A person has negligently used methods or pesticides that are ineffective or improper for the purpose for which they have been employed.”

#### **ATTORNEY CONFERENCES**

21. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.
22. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.
23. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

#### **ENFORCEMENT PROCEEDINGS**

24. Enforcement proceedings may include but are not limited to:
  - a.) Administrative fines or penalties;
  - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;



- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

25. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

26. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

27. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

#### **OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

28. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

#### **ENFORCEMENT OF JUDGMENTS**

29. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

#### **INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

30. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

31. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

32. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

#### STIPULATION

33. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Five Thousand Dollars (\$5,000.00).

34. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 7<sup>TH</sup> day of June, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

× Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

**CERTIFICATE OF MAILING**

This is to certify that on this 8 day of June, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**SECURITY PEST CONTROL INC.  
10323 E. 50TH ST.  
TULSA, OK 74146**



\_\_\_\_\_  
Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL** )

**COMPLAINANT,** )

**v.** )

**Case No: OGC-22-273**

**SECURITY PEST CONTROL INC.  
10323 E. 50<sup>TH</sup> ST.  
TULSA, OK 74146** )

**RESPONDENT.** )

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of Five-Thousand Dollars (\$5,000.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

Date: \_\_\_\_\_

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY**

**v. Jason Taylor**

**Case File No. OGC-22-90**

**Summary of Facts:** This is a default judgment from the ALJ from January. This case involved a use inspection from our CPS inspectors. This company was not on file as being licensed to perform commercial pesticide operations. Inspectors observed his employees making an application of Lesco Three-Way Select Herbicide without being certified.

**Statute or Rule Violation:** : 2 O.S. § 3-82 (A)1; 2 O.S. § 3-86 (A)15

**Proposed Administrative Penalty:** The penalty was assessed at \$750

**Deviations:** Default Judgement from ALJ

**Other Actions Required:** None.

**OGC Attorney:** Brady Robison

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF )  
AGRICULTURE, FOOD, AND FORESTRY, )  
BY AND THROUGH THE )  
OFFICE OF GENERAL COUNSEL )**

**COMPLAINANT, )**

**v. )**

**Case No: OGC-22-90**

**JASON TAYLOR )  
P.O. BOX 70303 )  
TULSA, OK 74170-3035 )**

**RESPONDENT. )**

**PROPOSED FINAL ORDER**

NOW on this 12<sup>th</sup> day of January 2023, this matter comes on before me, the undersigned Administrative Law Judge. The Complainant appears through Assistant General Counsel, Brady Robison. Respondent appears not.

On the 8<sup>th</sup> day of December 2022, this matter came on for Prehearing Conference. Respondents were provided a copy of the Notice of Violation entered in this matter delivered by email, at email address at.jt.taylor1@gmail.com; sent to Jason Taylor in this manner at his request after speaking to him personally on the phone, July 12<sup>th</sup>, 2022, September 29<sup>th</sup>, 2022.

The Notice of Violation advised Respondents that failure to appear at the designated time and place for hearing and failure to pay the recommended fine or penalty stated in the Notice of Violation following proper notice to the Respondents may result in a default judgment being entered against Respondents.

### **FINDINGS OF FACT**

1. The Respondents were properly served with process and failed to plead or otherwise defend this action within the time prescribed.
2. The Notice of Violation (Exhibit 1) was delivered by email on or about July 12, 2022.
3. Hearing was set for August 11, 2022, and again on December 8<sup>th</sup>, 2022, at 1:30 pm.
4. On August 11<sup>th</sup>, 2022, December 8<sup>th</sup>, 2022, at 1:30 pm, the Complainant appeared through its Counsel of Record and the Respondents appeared not.
5. The Complainant requested entry of default judgment against Respondents for all penalties imposed by the Notice of Violation.
6. An administrative penalty in the amount of Seven Hundred and Fifty Dollars (\$750.00) was proposed by the Notice of Violation.
7. The undersigned granted Complainant's request based on Respondents' failure to appear and defend the allegations contained in the Notice of Violation.


### **CONCLUSIONS OF LAW**

1. The Respondents are in violation of the laws alleged in the Notice of Violation, which is incorporated by reference.
2. The above Findings of Fact are hereby adopted and incorporated by reference as Conclusions of Law.
3. The Allegations of Fact and Conclusions of Law set forth in the attached Notice of Violation are hereby adopted and incorporated by reference as Findings of Fact and Conclusions of Law.

**RECOMMENDED ORDER**

IT IS THEREFORE RECOMMENDED that the Notice of Violation filed in this matter on January 12<sup>th</sup> 2023, be adopted as a Final Order and all penalties imposed by the Notice of Violation are incorporated herein and imposed on the Respondents.

SIGNED THIS 1 DAY OF February, 2023.

  
HONORABLE RACHEL LAWRENCE MOR  
ADMINISTRATIVE LAW JUDGE



**CERTIFICATE OF MAILING**

This is to certify that a true and correct copy of the above and foregoing Proposed Final Order was mailed by certified mail and email, return receipt requested, postage prepaid, on the date of filing to:

**JASON TAYLOR  
P.O. BOX 70303  
TULSA, OK 74170-3035**

---

Gina Blaylock

**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. )  
JASON TAYLOR )  
NATIVE OUTDOORS )  
5206 S. HARVARD )  
AVE. UNIT 310 )  
TULSA, OK 74135-3567 )**

**RESPONDENT. )**

**Case No: OGC-22-90**

**FILED**  
**JUN 07 2022**  
**STATE BOARD OF AGRICULTURE**

**NOTICE OF VIOLATION**

1. Complainant, the Office of General Counsel ("OGC") of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) advises Respondent of the following alleged violations of the Oklahoma Agricultural Code and/or rules.

**PREHEARING CONFERENCE NOTICE**

2. Respondent is hereby notified that a Prehearing Conference<sup>1</sup> will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on July 14<sup>th</sup>, 2022** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

3. **Please note the Prehearing Conference is not an evidentiary hearing: witnesses and evidence will not be presented at the Prehearing Conference.**

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<sup>1</sup> Prehearing Conferences may address any of the following: a.) Identification and simplification of issues, including the elimination of frivolous claims or defenses; b.) Amendments to the pleadings; c.) the plan, schedule, and limitations of discovery; d.) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence; e.) The identification of witnesses and substance of testimony, exhibits, and documents; f.) The use of prehearing briefs and pre-filed testimony in the form of sworn affidavits; g.) Settlement of all or some of the issues prior to the hearing; h.) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems; i.) Scheduling, and j.) Any other matters as may aid in disposition of the case.

4. The Prehearing Conference may be held by telephone; arrangements to do so should be made at least one full week in advance of the Prehearing Conference.
5. Upon request of either party, Prehearing Conferences shall be on the record.
6. A Prehearing Conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the ALJ by modifying the order for good cause.
7. Please note that failure to appear at the Prehearing Conference may result in a default judgment being entered against you.

#### **HEARING AND RIGHT TO COUNSEL**

8. Respondent may choose to proceed to a full evidentiary hearing on the merits, at which Respondent will be given the opportunity to cross-examine the Complainant's witnesses, present Respondent's witnesses, and present relevant evidence on Respondent's behalf.
9. **The hearing date will be determined at the Prehearing Conference.**
10. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act and the Department's Rules of Practice and Procedure, which may be found in the OAC at Title 35.
11. Respondent has the right to be represented by counsel in this matter.

#### **DEFAULT**

12. Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly scheduled meeting proposing the relief requested by the Notice of Violation, or other relief if justice so requires.

### **JURISDICTION, VENUE, AND APPLICABLE LAW**

13. Subject matter jurisdiction and venue are vested in the State Board of Agriculture in its quasi-judicial capacity, pursuant to Okla. Const. Art. VI, Section 31 and 2 O. S. § 2-4(7); accordingly, this is the proper forum to hear this matter.

14. Respondent has substantial business operations and assets within the State of Oklahoma.

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial herbicide/pesticide applications, located at Tulsa, Oklahoma.

16. Pursuant to Okla. Sta. Ann. 2 § 2-4(A)(3), ODAFF has authority to regulate persons who violate the Oklahoma Agricultural Code by initiating and prosecuting administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code.

### **ALLEGATIONS OF FACT**

17. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.

18. On or about 3<sup>rd</sup> day of March, 2022, the Consumer Protection Services Division of the Department conducted a use inspection of your employees making an application at 100 12<sup>th</sup> Ave. NE in Norman, OK.

19. Upon inspection, it was discovered that you are not on file as being a licensed or certified commercial applicator of pesticides in Oklahoma. The product being applied was Lesco Three-Way Select Herbicide.

### **ALLEGED CONCLUSIONS OF LAW**

20. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-82 which reads:

"A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a *valid applicator's license* issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged." By applying pesticide without a valid applicator's license you are in violation of the above cited statute.

21. Additionally, by not having a license to operate as a business applying said pesticides, you are in violation of 2 O.S. §3-86(A)(15) which reads:

"A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged."

### **ATTORNEY CONFERENCES**

22. If Respondent desires to meet with attorneys for the Department prior to the Prehearing Conference to discuss the allegations and/or seek a possible resolution, please contact the undersigned at 405-522-5997.

23. Additionally, OGC attorneys will be available for consultation on a first-come, first-served basis from 9:00 a.m. to 12:00 p.m. on the date of the Prehearing Conference.

24. Arrangements to discuss the matter before the Prehearing Conference are encouraged.

### **ENFORCEMENT PROCEEDINGS**

25. Enforcement proceedings may include but are not limited to:

- a.) Administrative fines or penalties;
- b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
- c.) Criminal actions, which could involve fines, imprisonment, or both; and
- d.) Civil actions.

26. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

27. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.

28. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

**OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

29. The Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. Supp. 2002, § 506, may apply to this action; please review the full act to determine if it applies to you.

**ENFORCEMENT OF JUDGMENTS**

30. Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 *et seq.*

**INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING**

31. Informal disposition of an Individual Proceeding may be made by Stipulation, Agreed Settlement, Consent Order, or Default.

32. Resolution by Stipulation, Agreed Settlement, Consent Order, or Default shall be approved by the State Board of Agriculture.

33. Proposed Final Administrative Orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for review and approval.

**STIPULATION**

34. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Seven Hundred and Fifty Dollars (\$750.00).

35. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may pay the full amount of the recommended penalty by check or money order and sign and return the attached Resolution by Stipulation along with your full payment of this penalty prior to the stated hearing date.

DATED THIS 6<sup>TH</sup> day of June, 2022.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND  
FORESTRY, OFFICE OF GENERAL COUNSEL

*Brady Robison*

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

✓ Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997


Facsimile: (405) 522-5789



**CERTIFICATE OF MAILING**

This is to certify that on this 1 day of June, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**JASON TAYLOR  
P.O. BOX 703035  
TULSA, OK 74170-3035**

  
\_\_\_\_\_  
Gina Blaylock

**BEFORE THE STATE BOARD OF AGRICULTURE  
STATE OF OKLAHOMA**

**THE OKLAHOMA DEPARTMENT OF  
AGRICULTURE, FOOD, AND FORESTRY,  
BY AND THROUGH THE  
OFFICE OF GENERAL COUNSEL**

**COMPLAINANT,**

**v.**

**Case No: OGC-22-90**

**JASON TAYLOR  
P.O. BOX 703035  
TULSA, OK 74170-3035**

**RESPONDENT.**

**STIPULATION**

Respondent accepts and stipulates to the proposed administrative penalty or fine of Seven Hundred and Fifty Dollars (\$750.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

Respondent waives their right to a full administrative and/or evidentiary hearing and enters this Resolution by Stipulation evidencing Respondent's consent to the proposed penalty and Respondent's stipulation to the allegations of fact and alleged violations of law made in the Notice of Violation.

**RESPONDENT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title:

Date: \_\_\_\_\_