

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

Wednesday, August 30, 2023
10:00 a.m.

2800 N Lincoln Blvd
Oklahoma City, OK 73105

1. Call to Order
2. Roll Call
3. Declaration of a Quorum
4. Introduction of Guests
5. Consideration and Proposed Action on Minutes of Regular Board Meeting of July 21, 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
Agricultural Environmental Management Services
Troy Keiss, 2827 State, HWY4, Smithville, Oklahoma
Leechi Moua, 36757 Petetree Road, Wister, Oklahoma
Wa Meng Moua, 36755, Petetree Road, Wister, Oklahoma
Pum Piang, 59599 S. 4710 Road, Watts, Oklahoma
Brandon Sorum, 7864 S. 449 Road, Rose, Oklahoma
Waurika Livestock Commission Co., P. O. Box 60, Waurika, Oklahoma
Kane Webb, P.O. Box 52, Watson, Oklahoma

Consumer Protection Services

7-Eleven, 1201 12th Ave. N. E., Norman, Oklahoma
Agwerx Aviation, P. O. Box 67, Tekmah, Nebraska
Cain's Lawn Care, 1421 N. Union, Ponca City, Oklahoma
Dodd's Complete Lawn Service, 2305 Oak Creek Drive, Blanchard, Oklahoma
Dollar General, 811 N. Hazlett, Fort Cobb, Oklahoma
Dollar General, 103 Nebraska, Cyril, Oklahoma
Dollar General, 1025 S.W. 89TH, Oklahoma City, Oklahoma
Family Dollar, 30516 Highway 59, Wayne, Oklahoma
Family Dollar, 420 W. Main, Weleetka, Oklahoma
Family Dollar, 411 E. Main, Tuttle, Oklahoma
Kirk Lawn Care, LLC, 16168 Spring Meadow Drive, Tahlequah, Oklahoma
Benson Kush, LLC, 9932 S. HWY 99, Prague, Oklahoma
Lone Pine Farm, LLC, 19525 E. 1120 Road, Elk City, Oklahoma
Tractor Supply, 1504 S.W. 27th Street, El Reno, Oklahoma
Vanish Pest & Wildlife Specialist, LLC, 1016 Maple, Muskogee, Oklahoma

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

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

Consumer Protection Services

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

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10. Consideration and Proposed Action on Emergency Rules

Market Development

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

Chapter 40. Market Development

Subchapter 25. Oklahoma Winter Storm Grant Program

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

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

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

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

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

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11. Next Board meeting scheduled for **Tuesday, October 17, 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
July 21, 2023

The Oklahoma State Board of Agriculture met in regular session at 1:34 p.m., July 21, 2023, at 2501 Conference Drive, Norman, OK 73069. Written notice of this meeting was filed with the Secretary of State. A notice was posted at the Agriculture Building 24 hours prior to the meeting setting forth thereon the date, time, place and agenda for the meeting and an agenda was posted on the agency website.

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

Others Present: JanLee Rowlett, Deputy Commissioner
 Michaela Lembeck, Executive Assistant
 Dan Ridings, Director, Administrative Services
 Wade Krivanek, Director, Laboratory Services
 Mark Goeller, Forestry Services
 Kenny Naylor, Director, Consumer Protection Services
 Scott Alls, Director, Wildlife Services
 Troy Marshall, Agricultural Statistics
 Teena Gunter, Director, Agricultural Environmental
 Management Services & Office of General Counsel
 Scott Yates, Director, Food Safety Services
 Lee Benson, Public Information Officer
 Emma Victory, Executive Office Intern
 Brady Robison, Office of General Counsel Attorney
 Michael Kelsey, Oklahoma Cattlemen's Association
 Abigail Burton, Stillwater FFA Chapter
 Others in attendance from the Oklahoma Cattleman's
 Association

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 June 1, 2023, as presented.

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

Consumer Protection Services

Evan Allard, 24669 EW 18 Road, Vinita, Oklahoma

Big John's Lawn Care, 879 CR 1403, Chickasha, Oklahoma

John Bonham, 2001 N. 9th. Street, Perry, Oklahoma

Matthew Cockrum, 35370 E. 850, Stroud, Oklahoma

Cotton Growers Coop., 1509 W. Broadway Street, Altus, Oklahoma

Dollar General, 1102 N. 4th, Sayre, Oklahoma

Dollar General, 18497 W. Woodward Road, Tahlequah Oklahoma

Dollar General, US, HWY 70, Ringling Oklahoma

Dollar General, 811 N. Hazlett, Fort Cobb, Oklahoma

Family Dollar, 3029 S. E. 44th. Del City, Oklahoma

Hammerheads, 627 Main Street, Waynoka, Oklahoma
Jiang Industries, LLC, 17558 S. 105th Street E., Webbers Falls, Oklahoma
Munie Greencare Professionals, 1000 Milburn School Rd., Caseyville, Illinois
Salvador Gutierrez, 3116 S. W. 45th St., Oklahoma City, Oklahoma
Sherwin Williams, 155 12th Avenue S. E., Norman, Oklahoma

Office of General Counsel

Greg & Corey Barnes, RR 1 Box 95, Guymon, Oklahoma

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The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

Agricultural Environmental Management Services

Seaboard Foods, LLC, 9000 West 67th St., STE 200, Shawnee Mission, Kansas
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Consumer Protection Services

Bulwark Exterminating, 9755 E. 55TH Pl, Tulsa, Oklahoma
Crescent Co-op., 215 E. Madison, Crescent, Oklahoma
Vira Guard Pro., 300 E. Choctaw Ave., McAlester, Oklahoma

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The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

Consumer Protection Services

Terminix, 13220 N. Santa Fe Ave., Oklahoma City, Oklahoma

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The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

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

Market Development

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

Chapter 40. Market Development

Subchapter 25. Oklahoma Winter Storm Grant Program

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

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

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The vote was as follows:

Bolen	Aye
Burtrum	Aye
Arthur	Aye
Farris	Aye
Cook	Aye

The motion carried.

There is no old business presented for the Board to take action upon. Mr. Burtrum moved, Mr. Bolen seconded, that the meeting be adjourned at 2:42 p.m.

By _____
President

ATTEST: _____
Executive Secretary

JULY 21, 2023, BOARD MEETING

PURCHASES/CONTRACTS

ADMINISTRATION SERVICES

FY24 – Court Ordered Payment - \$5,625 - Court ordered payment to attorney Matthew Frisby

FY24 - GeoSafe - \$12,000 - Smartphone/Tablet application software allowing mobile location services and addition of remote OLETS access for users. The importance of this application to the Investigative Services Unit is to provide our agents with a measure of safety by giving live locations of our agents across multiple jurisdictions. GeoSafe also allows our agents the capability to check for warrants on individuals and can check equipment to see if it is stolen

FY24 - Oklahoma State University - Agriculture Leadership Program - \$50,000

This contract is for the purpose of educating and training young leaders in the Oklahoma Agriculture Industry. The program focuses on developing potential leaders through personal and group study sessions. To help potential leaders develop a better understanding of the various systems of economics and government. To help program participants increase and utilize their own knowledge and skills in order to solve problems and explore opportunities for Oklahoma agriculture. To develop and teach a curriculum including, leadership development; communication; government operations and institutions; economics, resource allocation, marketing, and financial problems in agriculture; sociology; religious and cultural studies, major issues that affect Oklahoma and US agriculture, and political process, international trade, water, and energy. Legislative-directed spending.

FY24 - Oklahoma State University - \$1,000,000

To provide science-based research information developed in cooperation with the Oklahoma State University Agricultural Extension Service and Experiment Stations. The Oklahoma Agricultural Experiment Station conducts research for the purpose of developing technology/practices to address the needs of Oklahomans. Legislative-directed spending.

FY24 - Oklahoma Governor's Office - \$37,874 - The purpose of this MOU is to ensure efficiency in state government by allowing for an allocation of state resources that is most beneficial while also being responsible stewards of taxpayer funds. 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 State University - \$2,000,000 – Legislative directed expenditure to Oklahoma State University (OSU-DASNR) to provide Agriculture Research and Education Extension program support.

FY24 - Grants to Incorporated Municipalities - \$2,100,000 - Legislatively directed expenditure to provide grants to incorporated municipalities affected by the extreme weather events occurring between 2/7/2021 - 2/21/2021.

FY23 - Dale Rogers Training Center - \$10,670 – Purchase of employee appreciation gifts (Embroidered Backpacks) for agency staff.

FY24 - Oklahoma Horse Racing Commission (OHRC) - \$15,000 – Contract to provide shared services to the OHRC. ODAFF provides financial services limited to functions related to the processing of payroll and assistance in managing time administration systems.

AEMS

AEMS requests permission to continue our agreements with Oklahoma Water Resources Board (OWRB) and the Office of the Secretary of Energy & Environment (OSEE) for the Environmental Protection Agency (EPA) grant of two-year, \$170,000. OWRB collects data groundwater samples at monitoring wells of our Licensed Managed Feeding Operations (LMFO's).

AEMS requests permission to obtain services from Dana Safety Supply Inc., a statewide vendor, to install Brush Guards on 8 field inspectors' vehicles totaling \$8,924.16 to protect and sustain the front of the vehicles from rough terrain and deer as they inspect their areas of operations.

ANIMAL INDUSTRY SERVICES

Acclaim Systems, Inc. - \$9338.36 – In addition to the USAHerds maintenance contract, 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. This total includes an overage of \$3558.36 for USAHerds maintenance contract.

CONSUMER PROTECTION SERVICES

FY2023 OSU Plant Disease and Insect Diagnostic Lab (PDIDL) --\$11,250.00

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

A plant pest investigation occurred in June requiring the sampling of cucurbits for Cucumber Green Mottle Mosaic Virus in Oklahoma crops. ODAFF and USDA APPQ spent 2 weeks in June testing several vegetable farms that had tentatively tested positive through unverified University sampling and testing. Together USDA PPQ along with ODAFF personnel sampled those farms to verify if the original diagnosis is accurate. This request is to pay for the testing of those samples.

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

This pest is of concern to USDA PPQ and could potentially have further ramifications for the state if found here.

FORESTRY SERVICES

FY23 Southern Pine Beetle Prevention Program - \$30,000

This is funded from a USFS Federal Grant to prevent Southern Pine Beetle from spreading from timber stand to timber stand. This grant provides to Oklahoma southern pine timber owners funds for pre-commercial thinning and other cultural practices to prevent the spread of Southern Pine Beetle. This is a very invasive and destructive insect affecting southern pine timber plantations. This prevention program reduces the risk of infestation and helps protect the timber owner's investment and future revenue.

FY 23 - \$12,000

Purchase two (2) UTV trailers to haul firefighting UTV's. Trailers will be 14-16 ft. tandem axle with

heavy-duty axles to accommodate hauling of UTV loaded with skid unit and water as well as additional equipment and supplies related to wildland fire activities. Funding for this entire purchase will come the US Forest Service as part of an approved budget revision.

FY 23 – UTVs w/ slip-on firefighting units, \$5,000 (Federal Funding–SICF SFA Response)

Purchase two (2) 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 as part of an approved budget revision. **Original \$64,929 was approved April of 2023. Due to inflation and long lead times price went up before PO was created.**

FY24 - \$23,000 Federal Funds

Award Federal pass-through funding for Urban and Community Forestry Grants to neighborhoods/communities that traditionally face financial hardship – up to \$23,000. These grants support projects related to helping lower income neighborhoods plant and replace tree canopy. Without these projects, we would lose an avenue of community support and education. This money will be refunded to us through Federal funding.

FY24 – \$10,000 Southern Pine Beetle Federal Grant

Aerial detection for Southern Pine Beetle (SPB). Ensures early detection and treatment to limit the insect’s spread and possible timber stand infestation. Justification: SPB is a very invasive insect and this prevention program protects forest health, forest industry investments, landowner investments, and future revenue. (Federal Grant)

FY24 – \$78,000 Aerial Detection Contract Forestry Services’ Protection Area

Detection of wildfires in the Forestry Services Protection Area is primarily accomplished utilizing fixed-wing aircraft provided through a contract with a private vendor. This contract will require detection on high fire danger days in the East Central and Southeast Areas with an option for call-when-needed detection services in the Northeast Area. Justification: Without this contract new wildfires will go undetected for a longer period resulting in larger fire sizes, increased numbers of response personnel needed to control the wildfire, and possible increased loss of life, residences, and natural resources.

FY 24 - \$30,000

Purchase metal siding, purlin, posts and overhead equipment doors 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 24 - \$26,000

Purchase and have installed plumbing and electrical extensions and fixtures to an existing pole barn at the Forest Regeneration Center. This will provide utilities to the building that will house the container

filling equipment. 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 will require electricity and plumbing utilities to run and maintain it.

FY 24 -\$12,000

Purchase contract planting services to qualified, trained workers in order to plant for Fall plantings including Black Walnut and Bur Oak seeds at the Forest Regeneration Center. Each year, the Forest Regeneration Center delivers 2 to 7 million seedlings to Oklahomans for conservation planting. Recently, we cancelled our contract for up to 24 inmate laborers which was a big source of our labor crew. A labor crew is required to plant the seedlings within the short time that they must be planted to meet the harvest schedule for landowners. In order to make sure our customers have quality, healthy seedlings, delivered on schedule, we require contract planting for these seedling orders. Without this approval, we will not be able to plant these hardwoods in a timely manner and we will fail to meet the delivery requirements for Oklahoma customers.

FY24 – Wildfire detection cameras, \$118,580 (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.

FY24 - \$ 2,000,000

Rural Fire 80/20 Reimbursement Pass-through Grants awarded to certified rural fire departments serving communities under 10,000 in population. Funding limits per application are \$30,000 of state appropriated funds for construction and \$20,000 for fire equipment. **Justification:** Fire departments awarded these grants are able to fulfill a critical public safety function by purchasing firefighting equipment and/or build, remodel, or expand fire stations.

FY24 - \$8,414,550

State Operational Assistance Grants divided equally among the certified fire departments (Rural Fire Defense). Fire Departments receiving the Operational Grant can only use the funds for items authorized in Oklahoma State Statutes, Title 19, Chapter 21, and Section 901.56. **Justification:** Fire departments awarded these grants are able to fulfill a critical public safety function by purchasing firefighting equipment, purchase Worker Compensation Insurance, Vehicle Insurance, etc. as outlined in the above-mentioned statute.

FY24 - \$800,000

Contract with Oklahoma Association of Regional Councils for Rural Fire Coordinators to provide technical assistance and equipment placement services to new or established Rural Fire Departments within their districts to assure the capability of meeting local fire protection needs. Without this contract fire departments could lose much needed funding, equipment, and technical assistance.

FY24 - \$10,000

Uniforms for OFS employees. OFS employees are required for recognition by the public. Full allotments are purchased for new employees. **Justification:** Existing employees are provided an annual allotment of uniforms to replace worn and old uniforms. OFS employees provide a vital public

safety function, requiring public recognition of our personnel. (Federal & State Funds) **Original \$25,000 was approved January of 2023. Due to inflation the yearly budget must be increased.**

FY24- \$11,500

National Association of State Foresters is an organization composed of the directors of forestry agencies in the states, territories and the District of Columbia. Oklahoma has been a member of this organization for decades. This grant provides Oklahoma Forestry Services with the current policies and procedures regarding fire protection and forest management. (Federal Funds) **Justification:** Without this purchase we would lose our connections to other States and plans that emphasize forestry needs.

LABORATORY SERVICES

FY24 - \$17,998.83 – Reagents and Supplies

Purchase of reagents and supplies for the use in the Food and Dairy Section for the PCR equipment. Contract will be effective 07/01/23 through 06/30/24.

FY24 - \$5,700.00 – DI Water and Maintenance

Correction of fiscal year. Previously submitted on the June Board Report.

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

FY24 - \$7,436.00 – Eastern Laboratory Services, Ltd.

Correction of fiscal year. Previously submitted on the June Board Report.

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

MARKET DEVELOPMENT

FY2024 – Sage – MIO Co-Packer speaker & workshop - \$15,400.00

FY2024 – Oklahoma Youth Expo Junior Livestock Show & educational scholarship program – Legislative Directed Spending - \$85,000.00

Justification: This amount of \$85,000.00 will directly support the 2024 state-wide spring junior livestock show. For 105 years, the youth of the state of Oklahoma have exhibited some of the finest livestock in the country at OYE, which carries the title of “The World’s Largest Junior Livestock Show” with participants from all 77 Oklahoma counties. OYE also provides agricultural scholarships and leadership-training programs for Oklahoma students. The 10-day OYE generates an economic impact of \$24.5 million to the OKC economy and provides hundreds of youth with scholarships to continue their education at a collegiate level. If this purchase is not approved, there is negative impact on conducting the 2024 Oklahoma Youth Expo (OYE) as well as a reduction of show ring achievement and academic scholarships to the youth of Oklahoma.

FY2024 – Tulsa County Public Facilities Authority 2023 Junior Livestock Show – Legislative Directed Spending - \$50,000.00

Justification: The amount of \$50,000.00 goes directly for the purpose of promoting the Oklahoma agriculture industry through national agriculture events, Tulsa State Fair Junior Livestock Auction, and the Tulsa State Fair Livestock Scholarship Program. If this purchase is not approved, there will be a negative economic impact to Tulsa and surrounding communities with the loss of national ag events hosted at Expo Square. In addition, there would be a negative impact on conducting the 2023 Tulsa

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

FY2024 – Made in Oklahoma Coalition – Legislative Directed Spending - \$513,325.00

Justification: The amount of \$513,325.00 goes directly to support a unique public/private partnership that establishes a marketing program for the purpose of promoting food brand awareness, trade and consumer loyalty for Oklahoma food products through a variety of cooperative marketing activities. In addition, MIO promotes business retention, increase of sales to retail and foodservice outlets and business expansion. If this support is not provided, there is a negative impact on the seventy MIO members who employ over 26,000 Oklahomans who have reported increased sales directly related to the MIO marketing campaigns. In addition, the momentum of new, small businesses benefiting from MIO resources and connections will be impaired.

FY2024 – TasteAdvisor Explorer – Agritourism wine app – Renewal for Year 3 of 3 - Oklahoma Viticulture and Enology Center Development Revolving Fund - \$18,000.00

WILDLIFE SERVICES

\$ 24,500 - ODAFF Wildlife Services is requesting approval to purchase a Kawasaki 4x4 side by side UTV. This UTV will allow the wildlife specialist to move trapping equipment into remote locations unable to be accessed with a traditional vehicle, additionally they will be used to survey land looking for wildlife damage more efficiently.

Not approving of this purchase will mean we continue operating in a less efficient way. Currently, traps are moved manually into remote locations increasing the risk of injury to the employee and surveying for wildlife damage by foot decreases productivity. This way of operation is less efficient and costs the agency more dollars due to longer and fewer visits daily.

\$135,304 - ODAFF Wildlife Services is requesting approval to purchase twenty battery, 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.

Oklahoma Department of Agriculture, Food & Forestry

August 30, 2023, Board Report

Administrative Services

Administrative Services

- This report contains three sections
 - Section 1 – June 2023 report
 - Section 2 – Fiscal year 2024 budget report
 - Section 3 – July 2023 report
- Fiscal Year 2024 budget submitted on time and approved by OMES
- A defensive driver training class will soon be offered for staff
- Human Resources Administrative Assistant vacancy has been filled
 - New employee starts in early September

Administrative Services

Section 1 - June 2023

Administrative Services – Investigative Services

INVESTIGATIVE SERVICES ACTIVITIES

JUNE 2023



OKLAHOMA

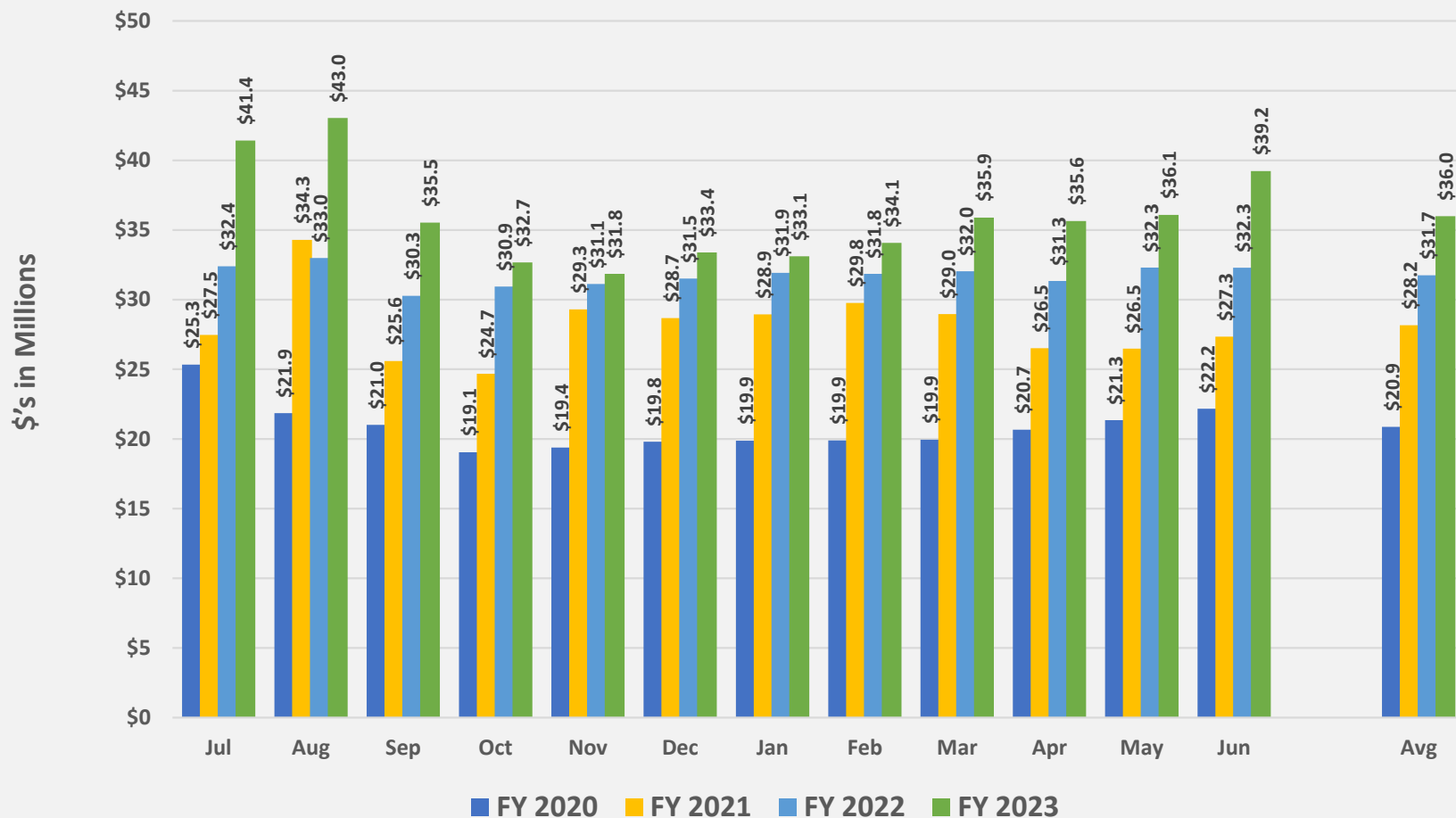


INVESTIGATIONS		JUNE	YTD	FYTD
LIVESTOCK		1	13	42
FIRE		1	4	17
PROPERTY		1	21	37
TIMBER		1	4	9
AGENCY ASSISTS	ODAFF		0	4
AGENCY ASSISTS	EXTERNAL		2	11
OTHER		1	10	21
TOTAL INVESTIGATIONS OPENED		5	54	141
CLOSED PENDING ADDITIONAL INFORMATION		1	12	45
NO CRIME		2	23	52
NO PROSECUTION			0	0
CLOSED - ASSIST CASE			3	8
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION		3	8	20
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		6	46	125
COUNTS FILED			13	66
VALUE OF LOSSES - ALL CRIMES		\$52,201	\$627,551	\$1,660,162
RECOVERED LOSSES - ALL CRIMES		\$7,000	\$315,400	\$1,130,311
NUMBER OF CATTLE REPORTED STOLEN		9	212	468
NUMBER OF CATTLE RECOVERED		3	25	72

Available Cash at Month End

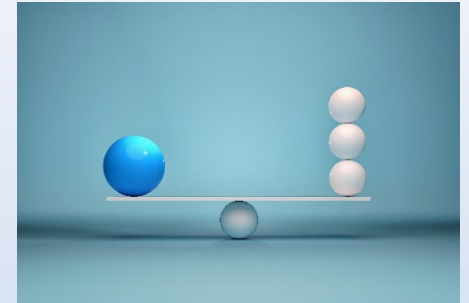
Months Ending: July 2019 – June 2023

per Allotment Budget & Available Cash Report Fiscal Year 2020-2023



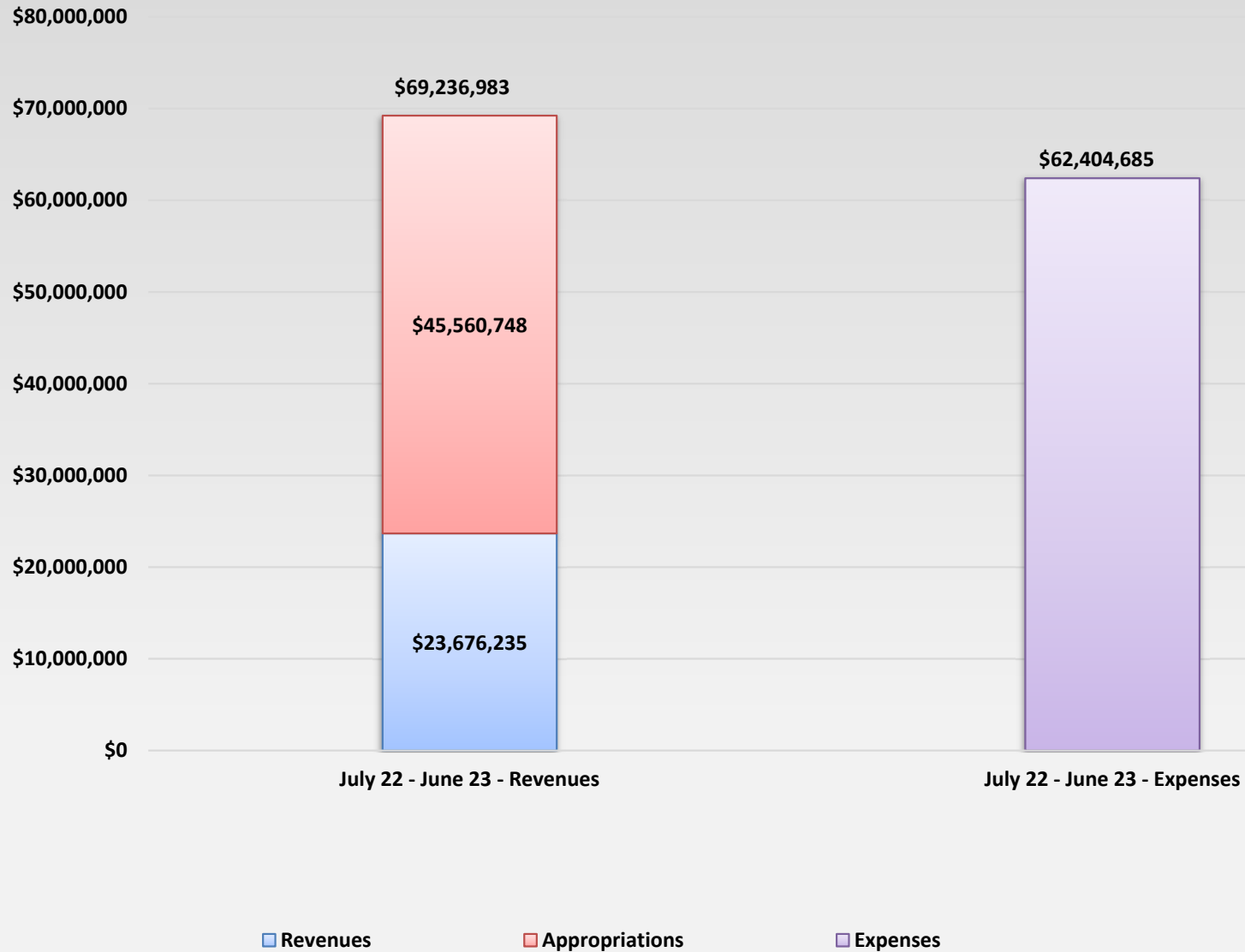
Note: The amounts above include fund 700, Commodity Storage Indemnity Fund, which had a balance of \$11,349,242 as of 6/30/2023.

Administrative Services - Finance



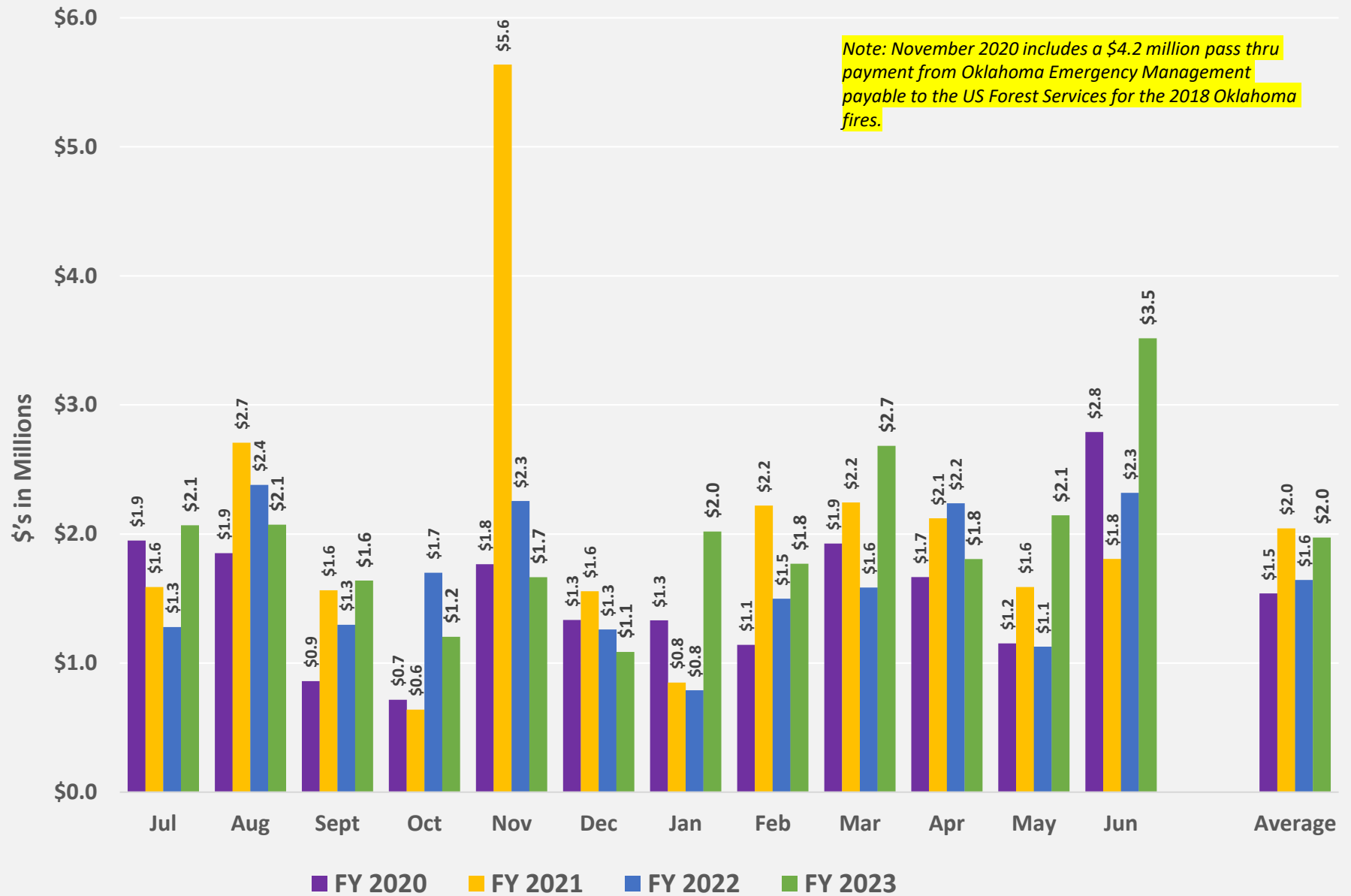
- Cash balance as of 6/30/2023 was \$39.2 million compared to \$32.3 million as of 6/30/2022.
 - Increase of \$6.9 million from the prior year and is primarily attributed to the following:
 - Increase in appropriations and appropriated cash for increases in legislative directed payments
 - Increase in revenue
 - Timing of payments

Total Revenues, Appropriations & Expenses July 2022 – June 2023



Total Revenue by Month July 2019 – June 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.





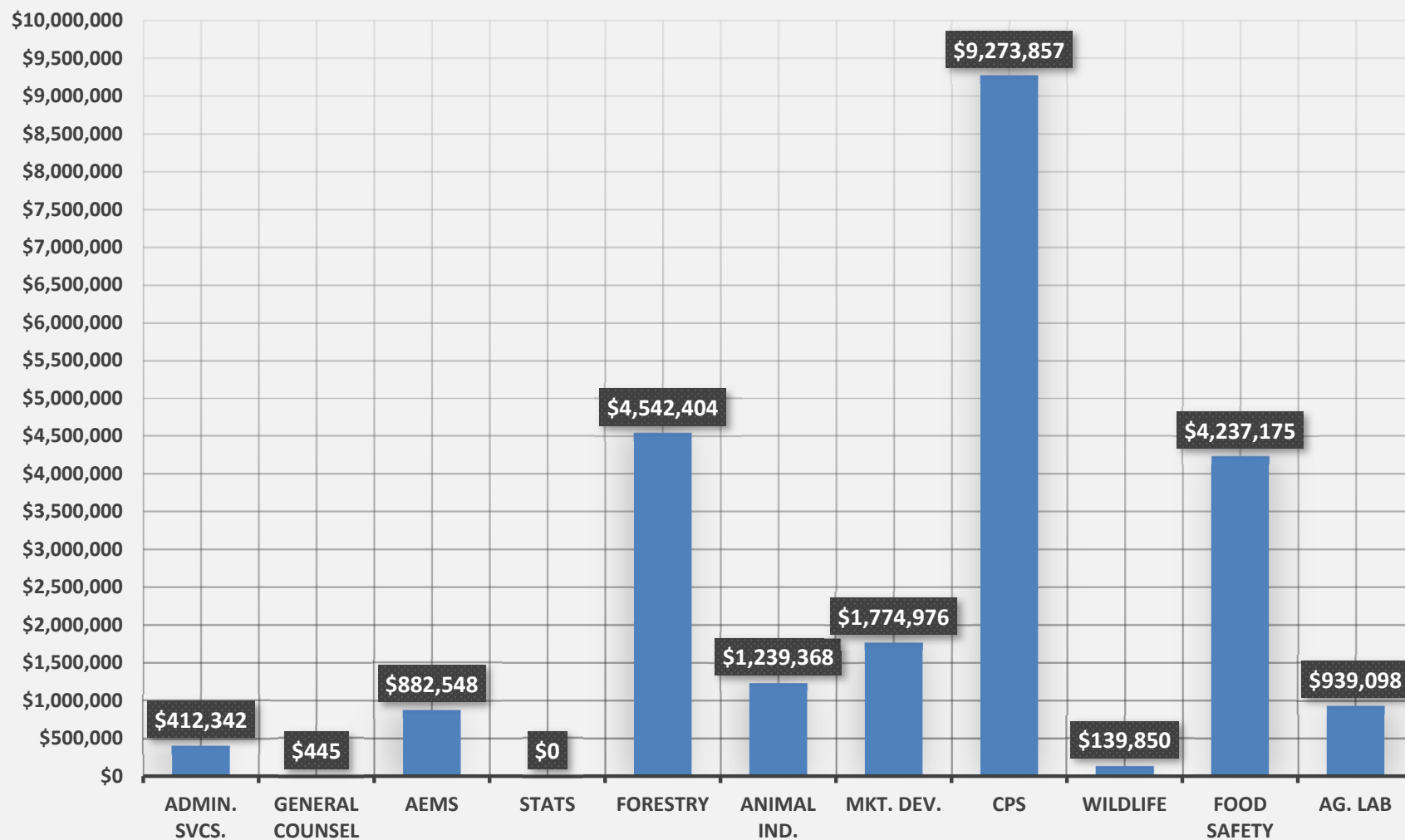
Revenue By Division July 2022 – June 2023

Division	June 2023 Revenue	Fiscal Year 2023 Revenue
Admin. Svcs.	1,217	412,342
General Counsel	18,250	445
AEMS	575,126	882,548
Stats	-	-
Forestry	1,836,159	4,542,404
Animal Ind.	8,938	1,239,368
Mkt. Dev.	160,137	1,774,976
CPS	673,868	9,273,857
Wildlife	13,200	139,850
Food Safety	132,230	4,237,175
Ag. Lab	45,779	939,098
DIVISION TOTAL (see division receipts graph on next slide)	3,464,903	23,442,063
		-
Commodity Storage Indemnity	22,484	218,451
Appropriations	3,095,517	42,465,237
AGENCY TOTAL	6,582,904	66,125,750

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



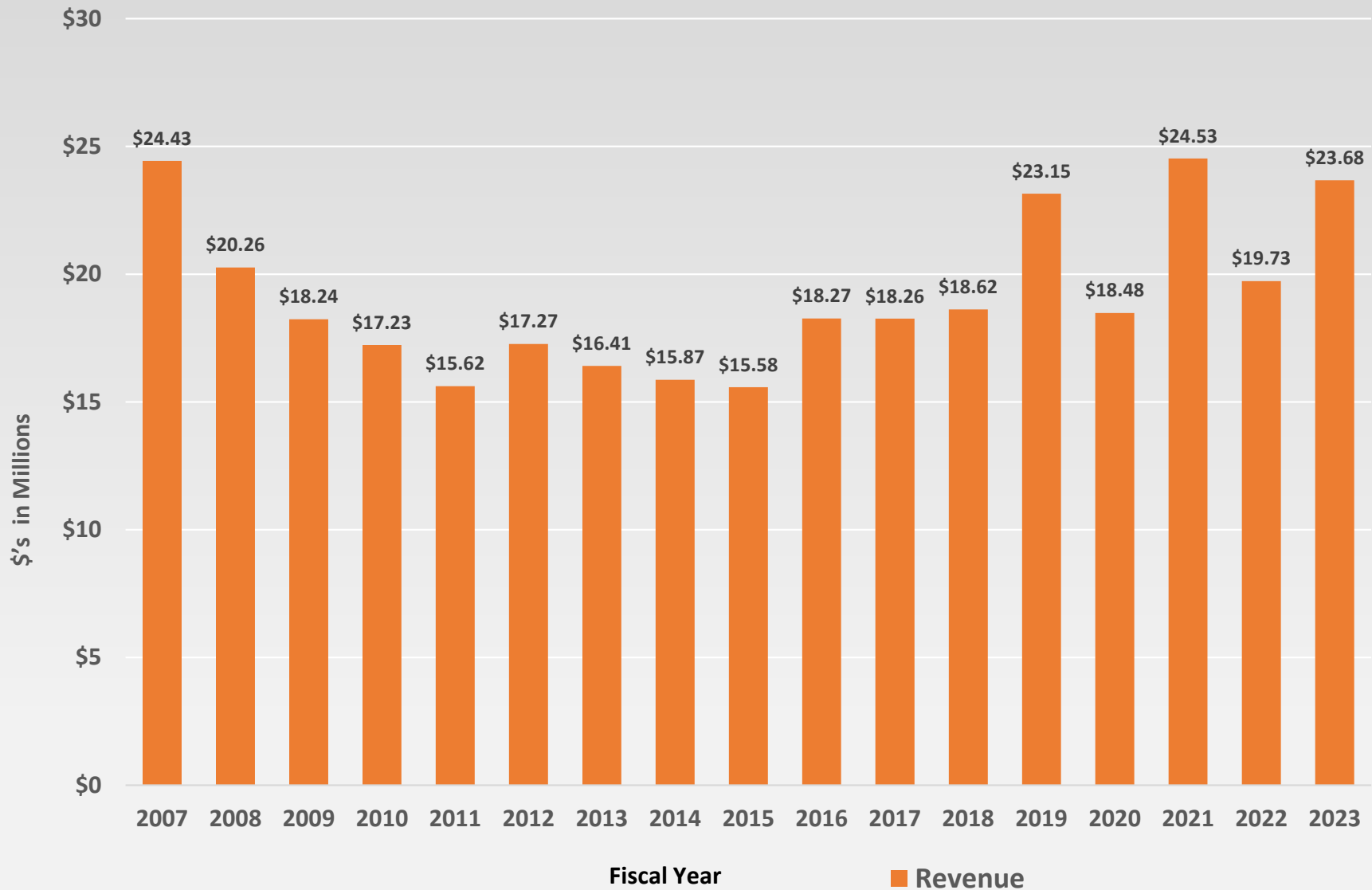
Revenue By Division July 2022 – June 2023



■ Fiscal Year 2023 Revenue

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

Total Revenue by Fiscal Year: FY 2007 – FY 2023

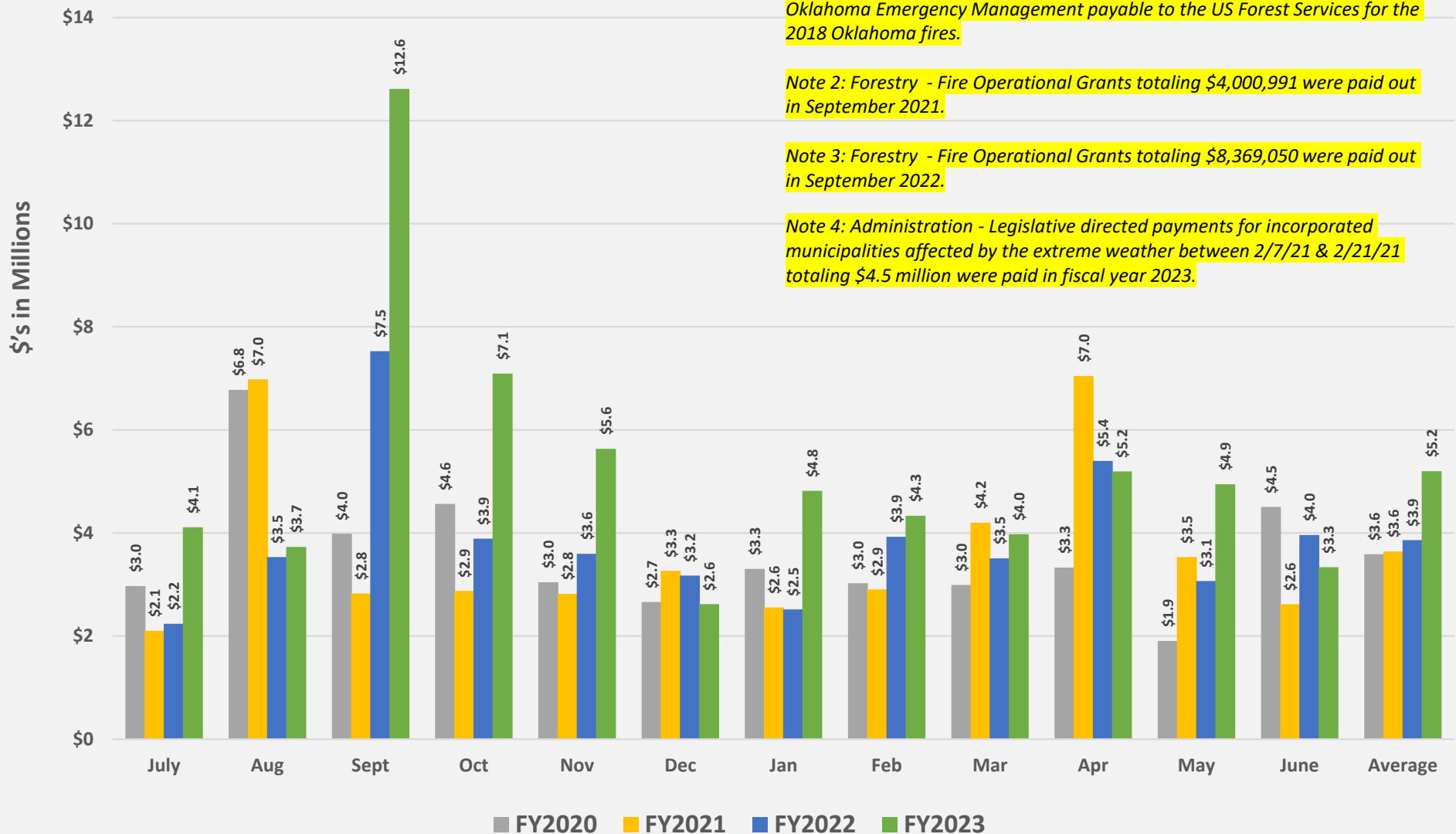


Administrative Services - Finance

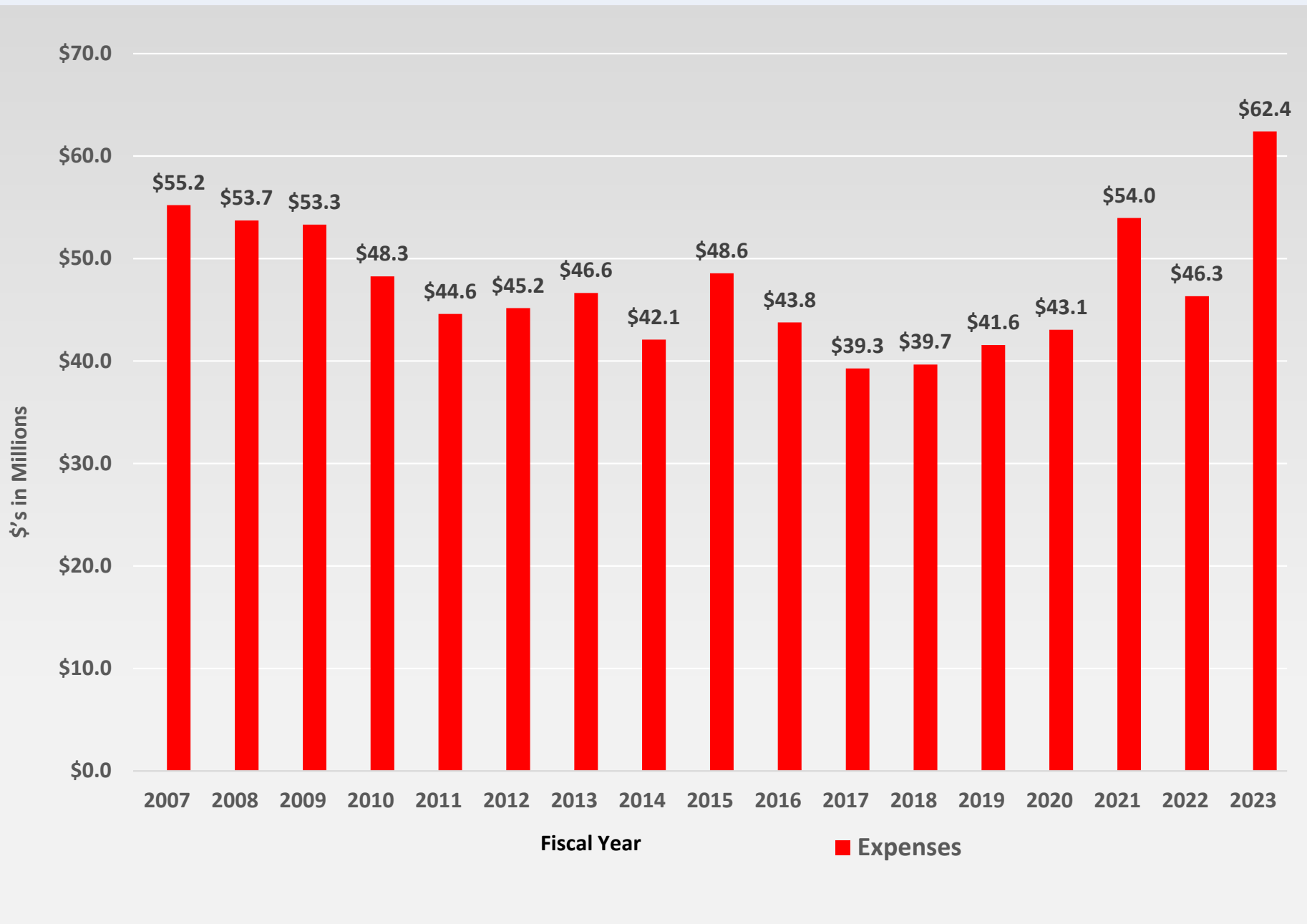
- Revenues (excluding appropriations) for fiscal year 2023 were \$23.7 million, compared to \$19.7 million for fiscal year 2022.
 - This is an increase of approximately \$4 million
 - Primarily due to an increase in federal reimbursements
 - Additional funding
 - Timing of payments received



Total Expenses by Month July 2019 – June 2023



Total Expenses by Fiscal Year: FY 2007 – FY 2023



Administrative Services - Finance

- Total expenses – for fiscal year 2023 were \$62.4 million
 - This is an increase of \$16.1 million compared to fiscal year 2022 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

Administrative Services - Finance

- Information technology upgrade
- Increased fuel costs

FY 2023 Total Expenses by Month with Budget Year

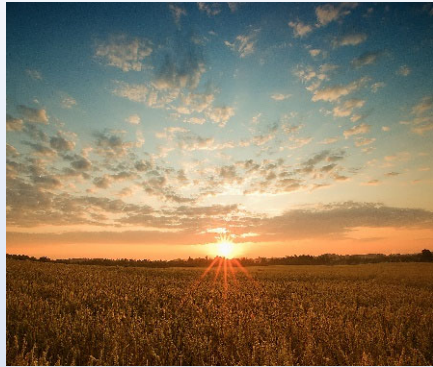


Appropriations

FY 2018 - thru June 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

Investment Report			
As of June 30, 2023			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,349,242
<u>FY-2023 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest Revenue		22,483	218,451
Reinsurance		-	-
ODAFF Support Services		-	(50,000)
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	22,483	168,451
		=====	=====

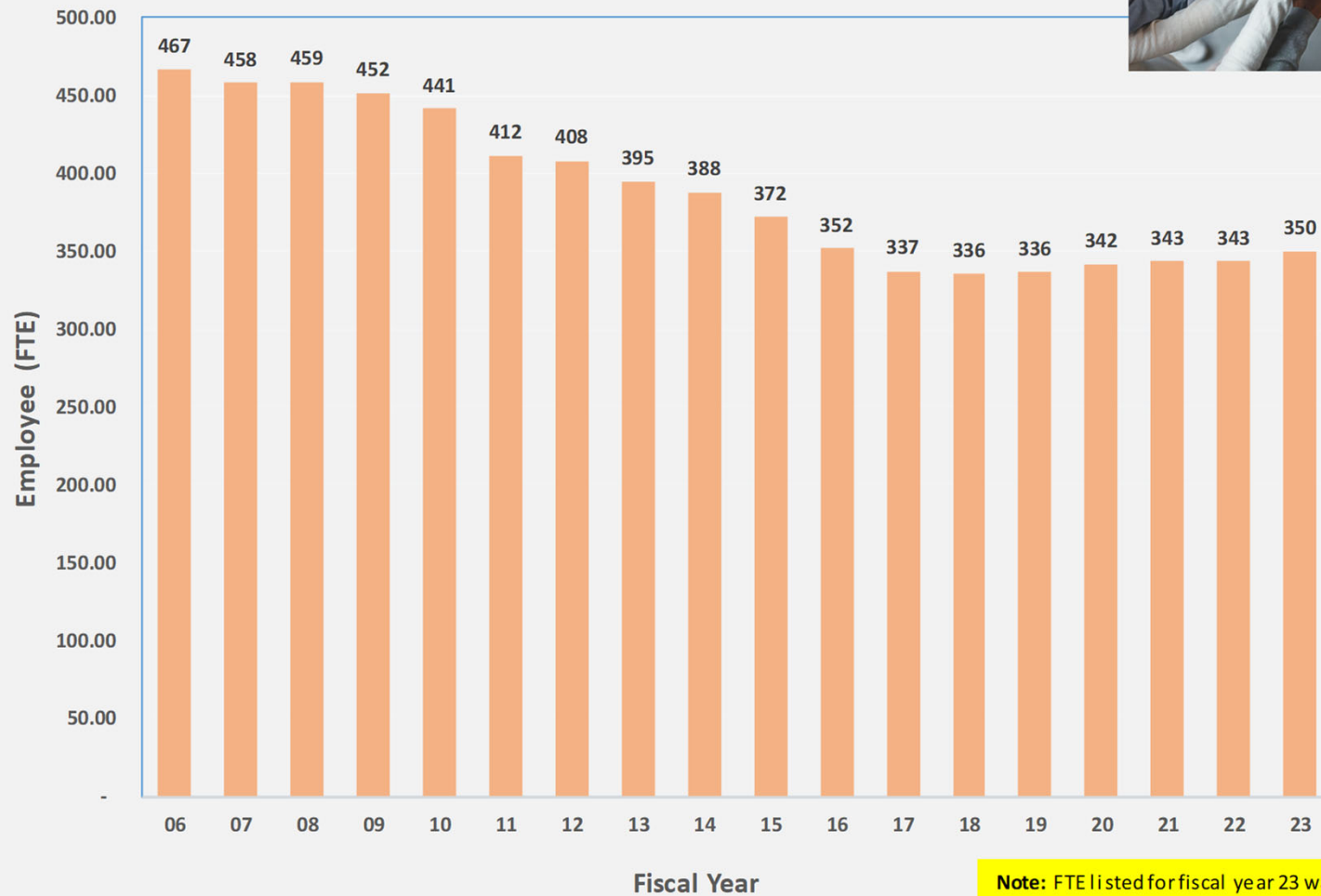
Oklahoma Department of Agriculture, Food & Forestry
Monthly Budget Report - Budget Year 2023
As of June 30, 2023
Fiscal Year 2023 Annual Budget to Actuals for Budget Year 2023 thru June 30, 2023

Object Code	Account Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
511	Salary Expense	23,527,278	16,284,467	9,510,064	(2,267,252)
512	Insur.Prem-Hlth-Life,etc	5,973,536	4,320,896	134,367	1,518,273
513	FICA-Retirement Contributions	4,735,708	3,870,246	-	865,462
515	Professional Services	3,100,583	1,548,207	1,385,297	167,079
519	Inter/Intra Agy Pmt-Pers Svcs	30,000	45,691	2,656	(18,347)
521	Travel - Reimbursements	328,702	212,314	-	116,388
522	Travel - Agency Direct Pmts	365,898	354,565	5,880	5,454
531	Misc. Administrative Expenses	1,178,520	820,171	146,070	212,279
532	Rent Expense	686,033	537,002	130,773	18,258
533	Maintenance & Repair Expense	1,415,108	960,516	69,975	384,617
534	Specialized Sup & Mat.Expense	2,182,660	893,885	681,767	607,008
535	Production,Safety,Security Exp	201,456	85,572	-	115,884
536	General Operating Expenses	300,860	107,024	-	193,836
537	Shop Expense	603,831	497,063	42,373	64,395
541	Office Furniture & Equipment	6,295,652	1,010,371	4,875,311	409,970
542	Library Equipment-Resources	932	84	-	848
543	Lease Purchases	1,703,720	1,703,719	-	1
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	(42)	-	20,042
554	Program Reimb,Litigation Costs	5,765,453	11,760,241	2,143,372	(8,138,160)
555	Pmts-Local Gov't,Non-Profits	15,953,116	9,491,872	1,484,221	4,977,023
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	-	-	1,066,837	(1,066,837)
810	Req Only	-	-	560,490	(560,490)
	Operating Totals	82,757,733	56,773,539	23,084,352	2,899,842

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

Class Funding	Class Fund Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
19201	GRF - Duties	-	-	0	(0)
19211	Carryover	683,679	240,458	238,761	204,460
19301	GRF - Duties	37,146,198	29,919,471	5,534,092	1,692,635
20500	Rural Fire Defense Eqp Rev Fd	140,000	-	134,630	5,370
21000	Agriculture Revolving Fund	30,629,010	15,508,839	14,817,278	302,894
22500	Enhancement & Diversificatn Fnd	250,000	76,381	97,959	75,661
23000	Okla Pet Overpopulation Fund	13,000	13,000	-	-
23500	Animal Friendly Revolving Fund	13,000	13,000	-	-
24000	Unwanted Pesticide Disp Fund	350,000	68,306	281,694	-
24500	Rural Fire Revolving Fund	1,175,000	435,508	560,107	179,386
25600	Ok Viticulture Enology Revl Fd	350,000	48,539	187,697	113,764
26200	Poultry Grading Revolving Fund	1,049,479	810,896	173,001	65,581
28500	Milk & Milk Prod Inspec Rev Fd	379,817	268,998	58,974	51,845
28600	Ag In The Classrm Educ Rvlv Fd	24,000	-	5,880	18,120
28700	Healthy Food Financing Revl Fd	100,000	10,000	-	90,000
42000	Specialty Crop Federal Funds	690,000	585,205	356,784	(251,990)
43000	Farm and Ranch Stress Alliance	500,000	279,984	202,900	17,116
43500	Local Food for Schools Co-op	850,000	80,404	434,596	335,000
57604	Duties	8,414,550	8,414,550	-	0
	Totals	82,757,733	56,773,539	23,084,352	2,899,842

Employee FTE Totals Fiscal Year FY 2006 – FY 2023



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

Administrative Services

Section 2 - Fiscal Year 2024 Budget

Fiscal Year 2024 Budget

- The Fiscal Year 2024 budget was submitted on time and was approved by OMES
 - Fiscal year 2024 appropriations consist of the following:
 - Regular appropriations of \$35,940,203
 - Approximately 36% of this amount is for Legislatively directed payments.
 - See a listing of Legislatively directed payments on the next slide.



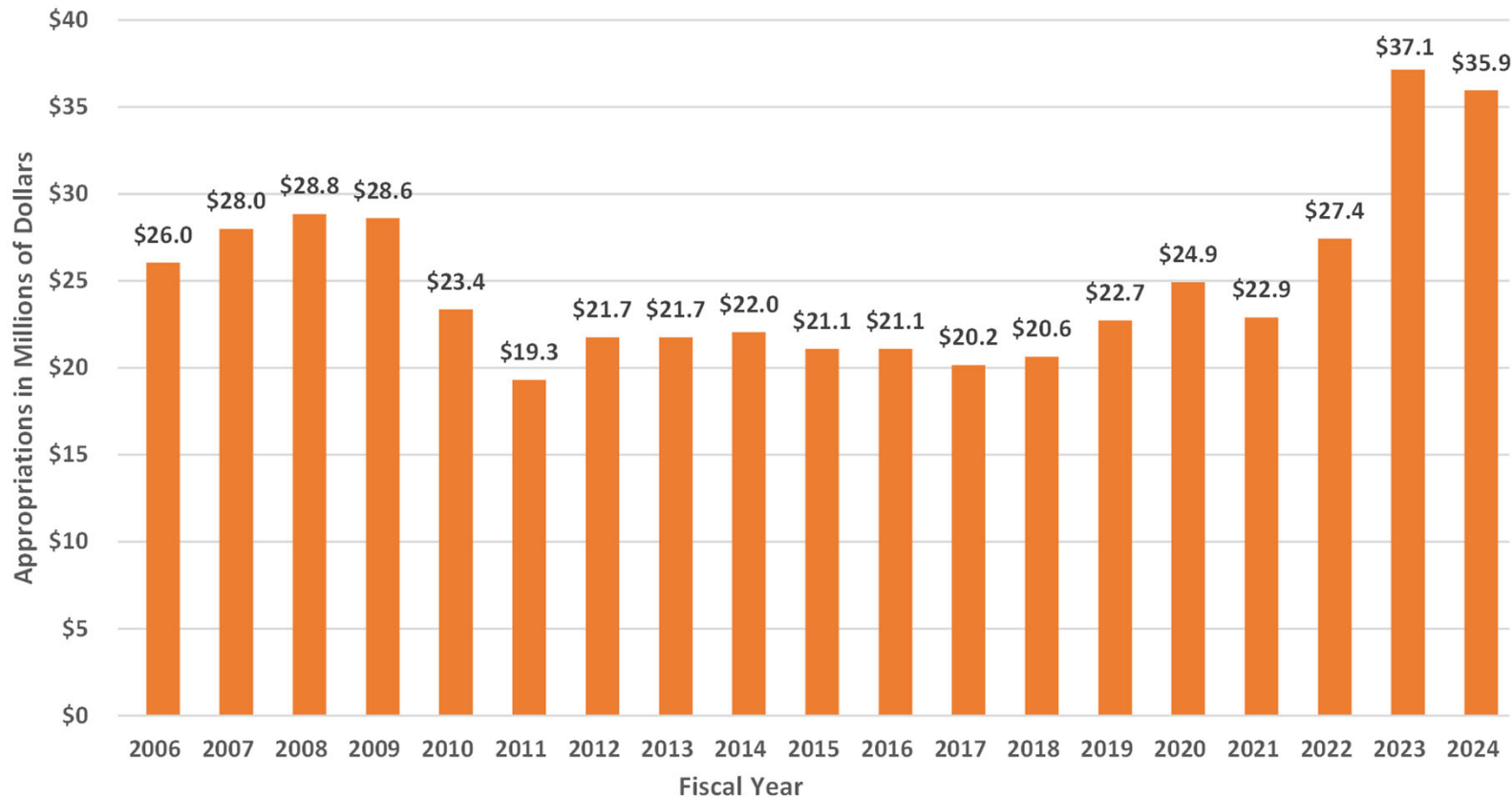
Fiscal Year 2024 Budget -Legislative Directed Spendings



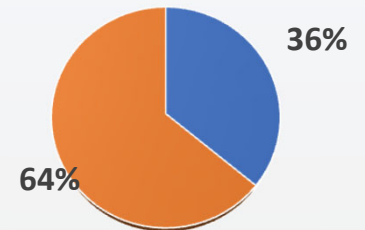
Legislative Directed Spendings - FY 2024	FY 2024
Grants to incorporated municipalities affected by the extreme weather events occurring between 2/7/2021 - 2/21/2021	\$2,100,000.00
Rural Fire Grants 80/20 (FORESTRY)	\$2,000,000.00
OSU Agricultural Extension (ADMIN)	\$2,000,000.00
Wildland Fire Response Resources	\$2,000,000.00
Bond Payment Expense (FY06) (LAB)	\$1,697,171.00
OSU Agricultural Experiment Stations (ADMIN)	\$1,000,000.00
Rural Fire Coordinators (FORESTRY)	\$800,000.00
Made in Oklahoma (FY03) (MD)	\$513,325.00
Salary Support for additional full-time meat inspectors hired (FOOD SAFETY)	\$330,000.00
Rural Fires Workers Compensation (ADMIN)	\$171,300.00
Rural Fire Pension (ADMIN)	\$92,000.00
Youth Expo (OYE) (FY04) (MD)	\$85,000.00
Tulsa State Fair/Cattle Shows (FY06) (MD)	\$50,000.00
Poultry & Disease Control Research Program (FY98) (AEMS)	\$48,276.00
Agricultural Leadership Program (FY93) (ADMIN)	\$40,000.00
Total Legislative Directed Payments from Appropriated Funds	\$12,927,072.00

Appropriations by Fiscal Year

Appropriations by Fiscal Year



FY 24
Appropriations



■ Directed Expenditures
■ ODAFF Funding

Fiscal Year 2024 Budget – Appropriated Special Cash

- Special cash fund appropriations of \$15.8 million
 - \$8.4 million is for Rural Fire Operational Grants
 - \$7 million is for rural fire departments to replace gear & equipment burned during fires
 - \$300,000 for Rural Fire Coordination
 - \$100,000 for a Wet Hydrant Program



Oklahoma Department of Agriculture, Food & Forestry
Fiscal Year 2024 Annual Revenue Budget by Division

Class Funding	Class Fund Description	Annual Budget
01	Administration Services	713,300
05	Legal Services	-
07	Agricultural Environmental Management Services	1,037,927
09	Statistical Reporting Services	-
11	Forestry Services	5,307,365
21	Animal Industry Services	1,200,336
31	Market Development Services	2,566,256
41	Consumer Protection Services	8,507,867
51	Wildlife Services	134,400
61	Food Safety	3,485,797
67	Agricultural Laboratory Services	605,700
		23,558,948

Oklahoma Department of Agriculture, Food & Forestry Fiscal Year 2024 Annual Expense Budget by Division		
Class Funding	Class Fund Description	Annual Budget
01	Administration Services	14,886,726
05	Legal Services	880,232
07	Agricultural Environmental Management Services	2,112,630
09	Statistical Reporting Services	66,925
11	Forestry Services	35,137,600
21	Animal Industry Services	2,816,910
31	Market Development Services	5,688,796
41	Consumer Protection Services	6,414,612
42	Commodity Storage Indemnity Fund	50,000
51	Wildlife Services	2,695,217
61	Food Safety	5,863,221
67	Agricultural Laboratory Services	4,538,843
88	ISD Information Technology	779,489
		81,931,201

Oklahoma Department of Agriculture, Food & Forestry Fiscal Year 2024 Annual Expense Budget by Object Code		
Object Code	Account Description	Annual Budget
511	Salary Expense	22,838,350
512	Insur. Prem-Hlth-Life,etc	5,558,363
513	FICA-Retirement Contributions	5,597,514
515	Professional Services	3,111,966
519	Inter/Intra Agy Pmt-Pers Svcs	30,000
521	Travel - Reimbursements	518,530
522	Travel - Agency Direct Pmts	495,863
531	Misc. Administrative Expenses	1,355,557
532	Rent Expense	690,348
533	Maintenance & Repair Expense	1,987,084
534	Specialized Sup & Mat.Expense	1,585,302
535	Production,Safety,Security Exp	160,843
536	General Operating Expenses	313,154
537	Shop Expense	584,517
541	Office Furniture & Equipment	3,356,536
542	Library Equipment-Resources	982
543	Lease Purchases	1,697,171
552	Scholar.,Tuition, Incentive Pmt	340
554	Program Reimb,Litigation Costs	16,321,725
555	Pmts-Local Gov't,Non-Profits	11,982,256
559	Assistance Pymts to Agencies	3,594,000
561	Loans,Taxes,Other Disbursements	650
564	Merchandise For Resale	150,150
601	AFP Encumbrances	
810	Req Only	-
	Operating Totals	81,931,201

Oklahoma Department of Agriculture, Food & Forestry Fiscal Year 2024 Annual Expense Budget by Class Fund		
Class Funding	Class Fund Description	Annual Budget
19401	GRF- Duties	35,940,203
20500	Rural Fire Defense Eqp Rev Fd	199,449
21000	Agriculture Revolving Fund	24,929,946
22500	Enhancements & Diversificatn Fund	250,000
23000	Okla. Pet Overpopulation Fund	35,000
23500	Animal Friendly Revolving Fund	35,000
24000	Unwanted Pesticide Disposal Fund	350,000
24500	Rural Fire Revolving Fund	50,000
25500	Ag. Evidence Law Enforce Fund	4,000
25600	Ok Viticulture Enology Revl Fd	439,275
26200	Poultry Grading Revolving Fund	1,154,297
28500	Milk & Milk Prod Inspec Rev Fd	431,032
28600	Ag In The Classrm Educ Rvlv Fd	24,000
28700	Healthy Food Financing Revl Fd	100,000
42000	Specialty Crop Federal Funds	1,140,000
43000	Farm and Ranch Stress Alliance	225,000
43500	Local Food for Schools Co-op	800,000
57901	Duties	15,773,999
70000	Commodity Storage Indemnity Fd	50,000
	Totals	81,931,201

Administrative Services

Section 2 - July 2023

Administrative Services – Investigative Services

INVESTIGATIVE SERVICES ACTIVITIES

JULY 2023



OKLAHOMA

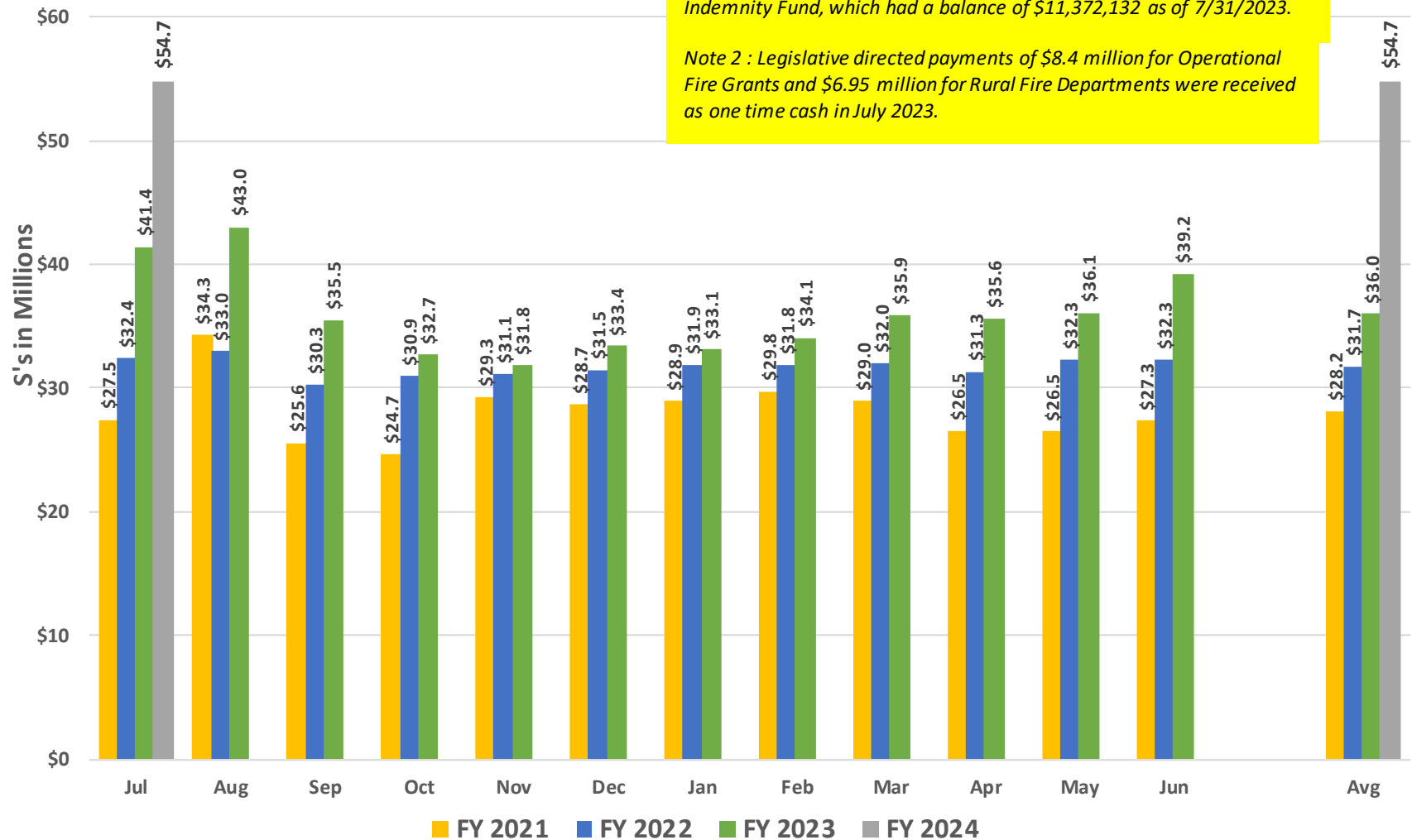


INVESTIGATIONS		JULY	YTD	FYTD
LIVESTOCK		1	14	1
FIRE		1	5	1
PROPERTY		3	24	3
TIMBER			4	0
AGENCY ASSISTS	ODAFF		0	0
AGENCY ASSISTS	EXTERNAL	2	4	2
OTHER			10	0
TOTAL INVESTIGATIONS OPENED		7	61	7
CLOSED PENDING ADDITIONAL INFORMATION			12	0
NO CRIME		1	24	1
NO PROSECUTION			0	0
CLOSED - ASSIST CASE		1	4	1
PRESENTED TO DISTRICT ATTORNEY FOR PROSECUTION		1	9	1
REFERRED FOR ADMINISTRATIVE ACTION			0	0
TOTAL INVESTIGATIONS COMPLETED		3	49	3
COUNTS FILED		1	14	1
VALUE OF LOSSES - ALL CRIMES		\$103,175	\$730,726	\$103,175
RECOVERED LOSSES - ALL CRIMES		\$49,175	\$364,575	\$49,175
NUMBER OF CATTLE REPORTED STOLEN		1	213	1
NUMBER OF CATTLE RECOVERED		1	26	1

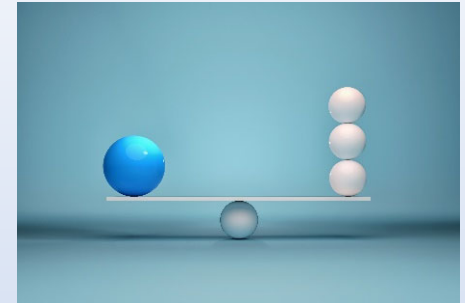
Available Cash at Month End

Months Ending: July 2020 – July 2023

per Allotment Budget & Available Cash Report Fiscal Year 2020-2023

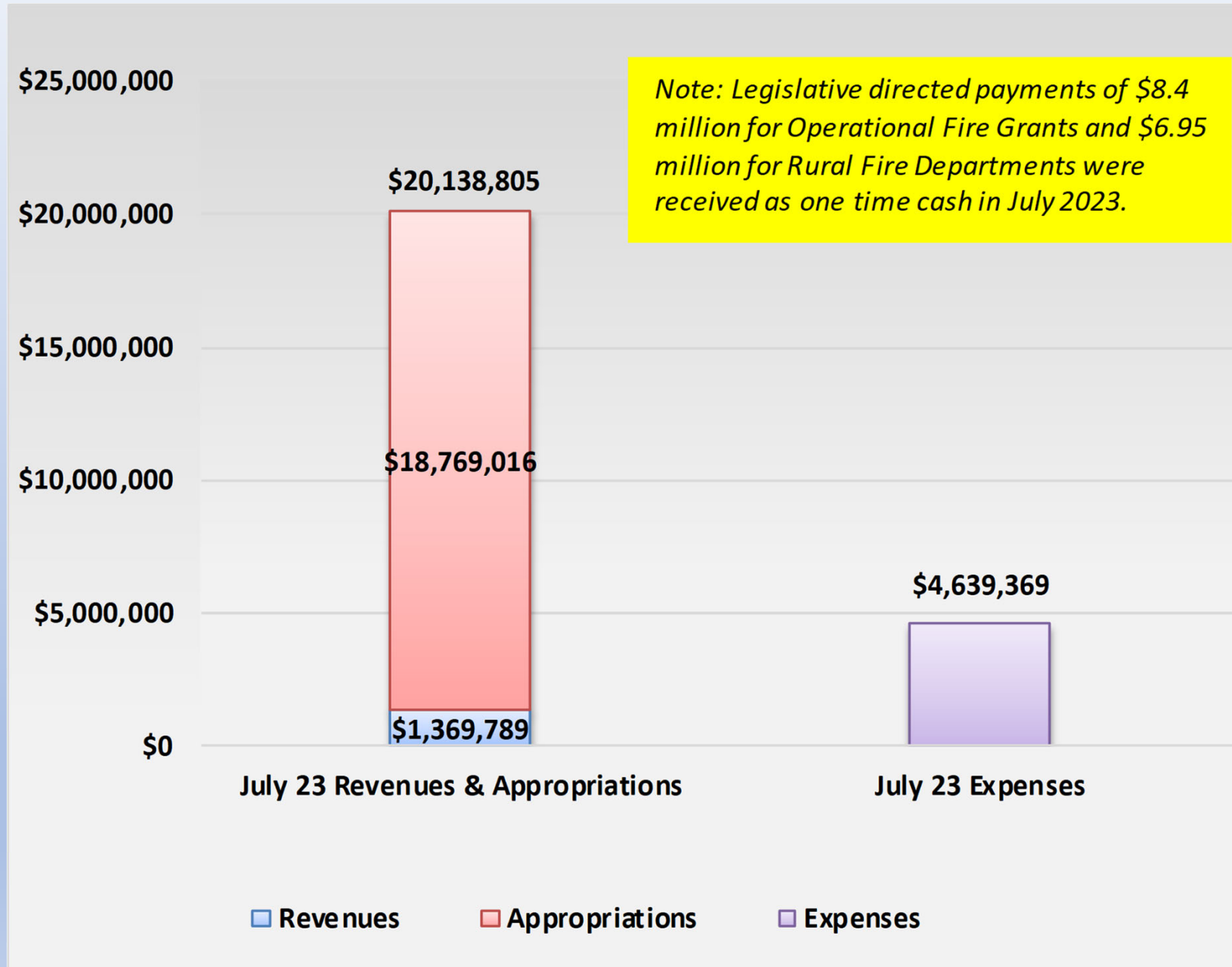


Administrative Services - Finance



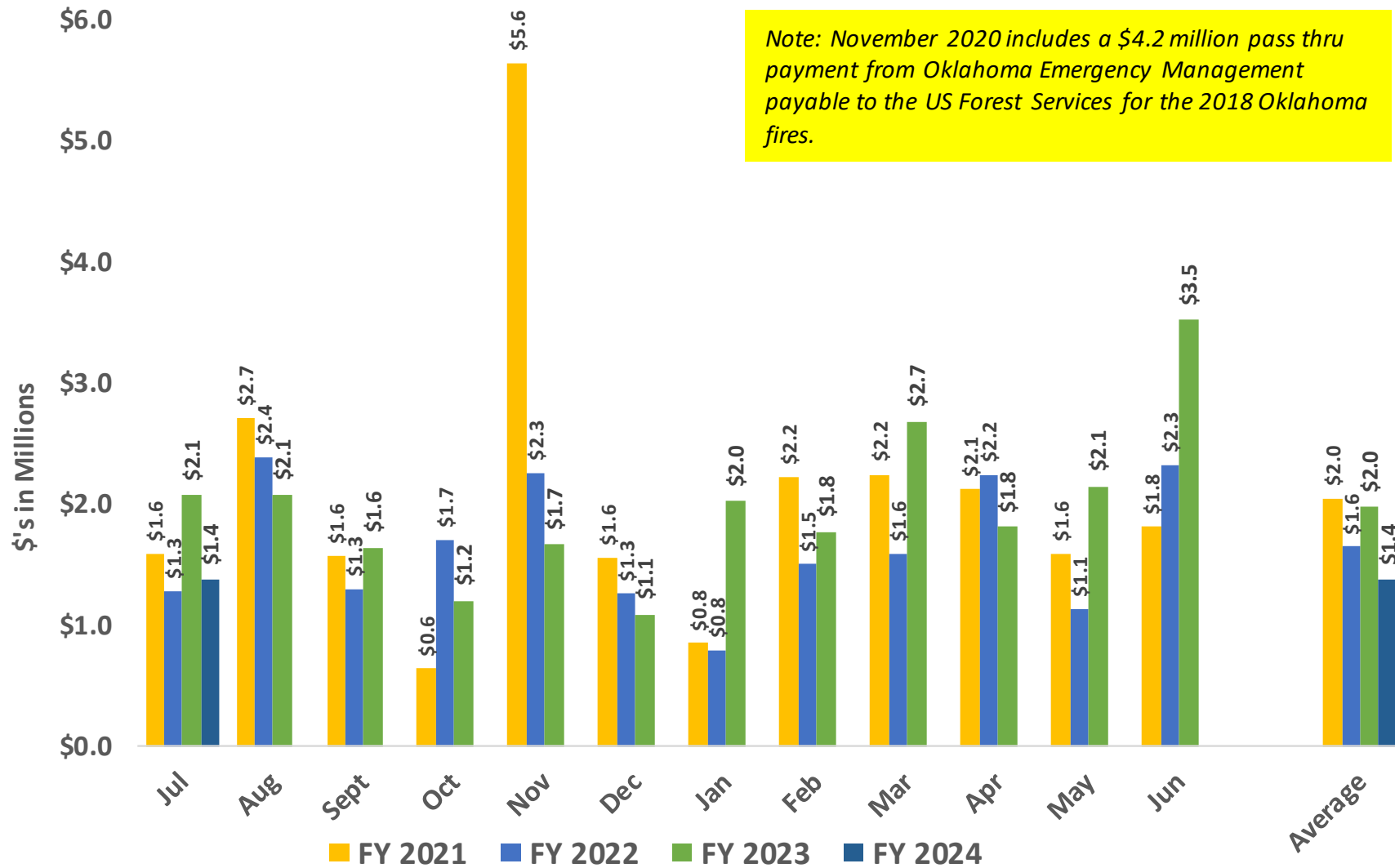
- Cash balance as of 7/31/2023 was \$54.7 million compared to \$41.4 million as of 7/31/2022.
 - Increase of \$13.3 million from the prior year and is primarily attributed to the following:
 - \$7.4 million increase in appropriated cash for increases in legislative directed payments includes funding for:
 - Rural fire departments for the replacement of equipment and gear burned during fires
 - Rural fire coordinators
 - Increase in revenue
 - Timing of payments

Total Revenues, Appropriations & Expenses July 2023



Total Revenue by Month July 2020 – July 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.





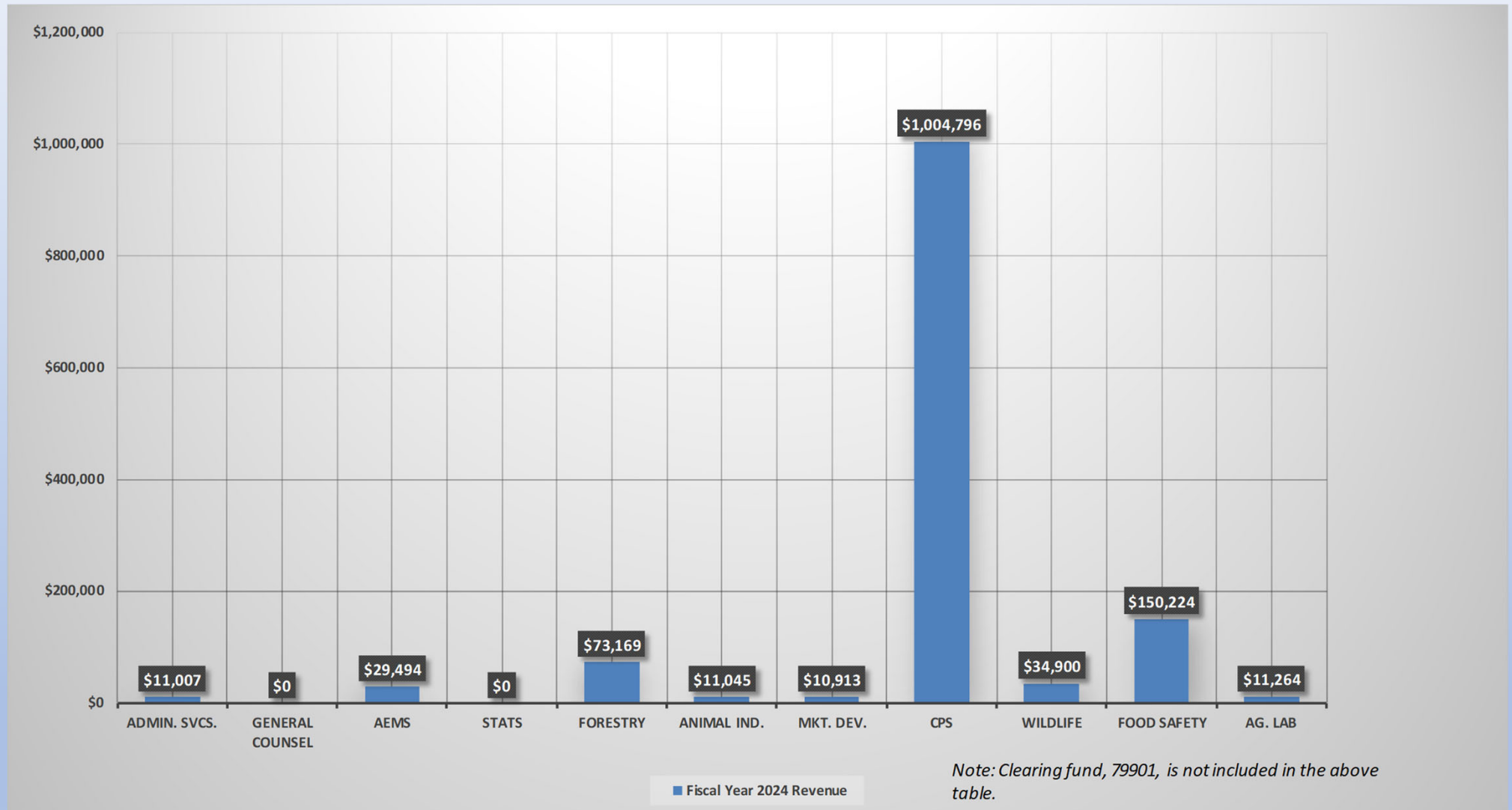
Revenue By Division July 2023

Oklahoma Department of Agriculture, Food and Forestry		
Revenue Summary by Division		
Fiscal Year 2024 thru 7/31/2023		
Division	July 2023 Revenue	Fiscal Year 2024 Revenue
Admin. Svcs.	11,007	11,007
General Counsel	-	-
AEMS	29,494	29,494
Stats	-	-
Forestry	73,169	73,169
Animal Ind.	11,045	11,045
Mkt. Dev.	10,913	10,913
CPS	1,004,796	1,004,796
Wildlife	34,900	34,900
Food Safety	150,224	150,224
Ag. Lab	11,264	11,264
Division Total (see division receipts graph on next slide)	1,336,813	1,336,813
Commodity Storage Indemnity	22,890	22,890
Appropriations	18,769,016	18,769,016
Agency Total	20,128,719	20,128,719

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



Revenue By Division July 2023



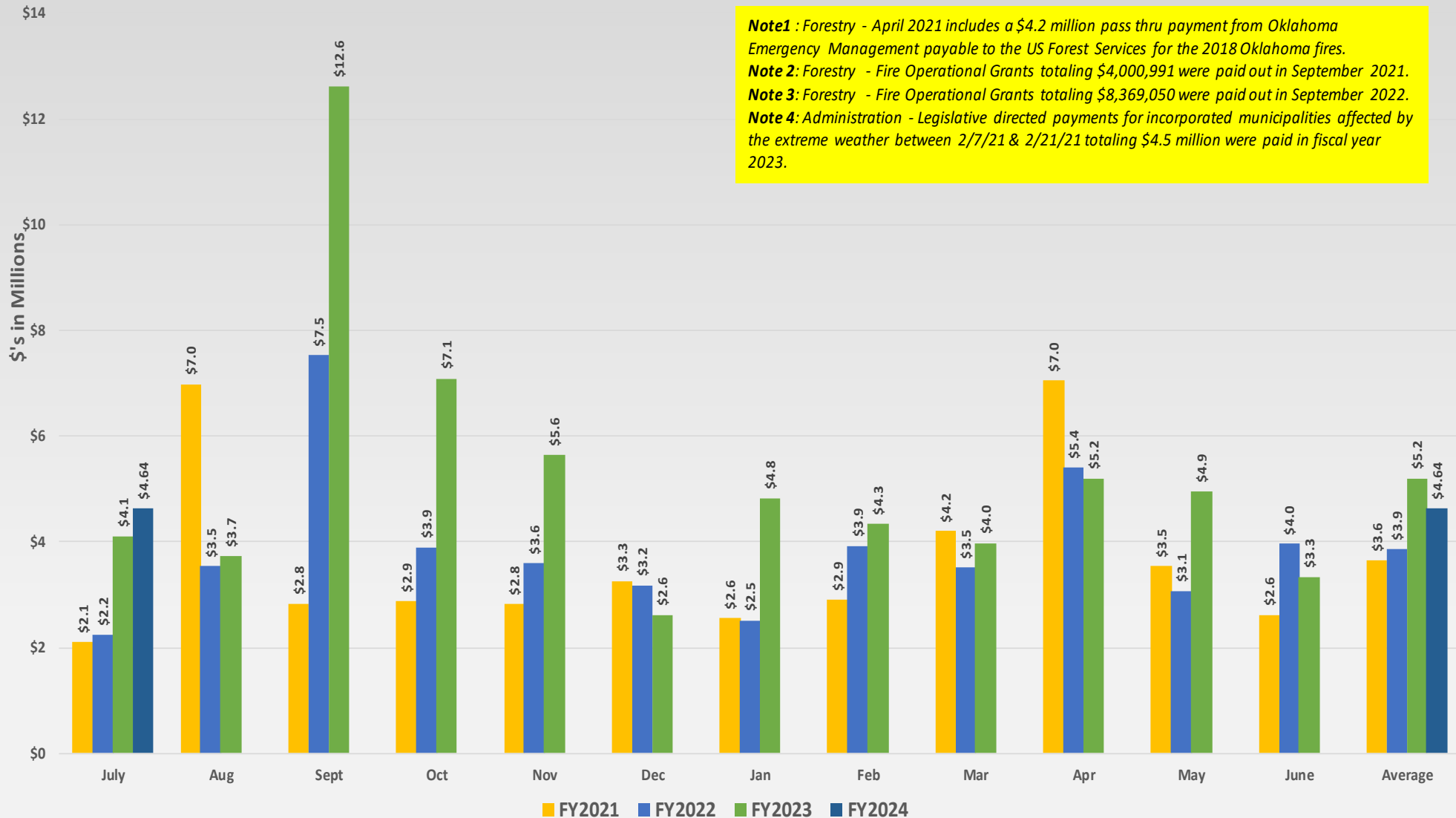
Note: Clearing fund, 79901, is not included in the above graph.

Administrative Services - Finance

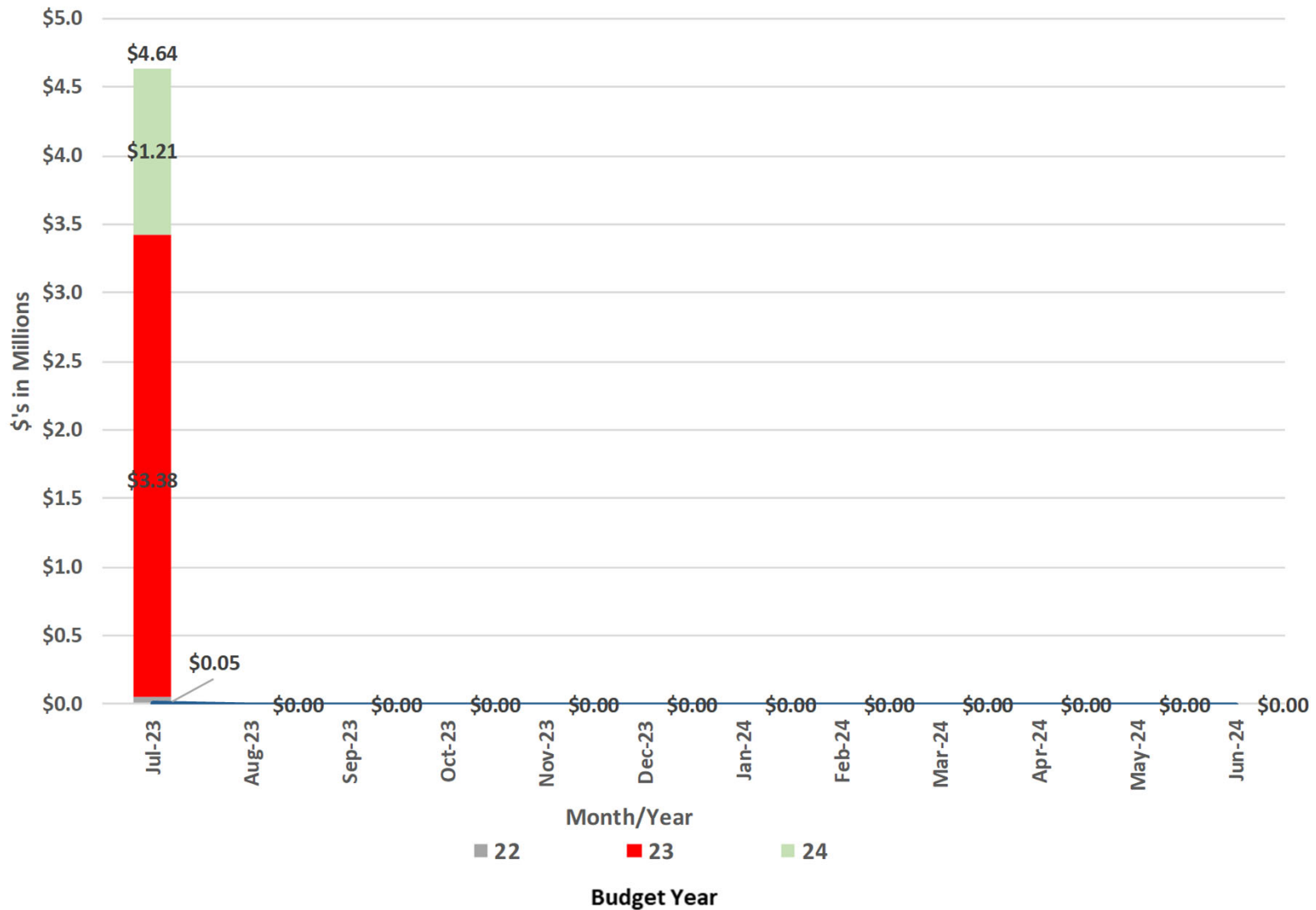
- Revenues (excluding appropriations) for July 2023 were \$1.4 million, compared to \$2.1 million in July 2022.
 - This is an increase of approximately \$700,000
 - Primarily due to a decrease in federal reimbursements
 - Timing of payments received



Total Expenses by Month July 2020 –July 2023



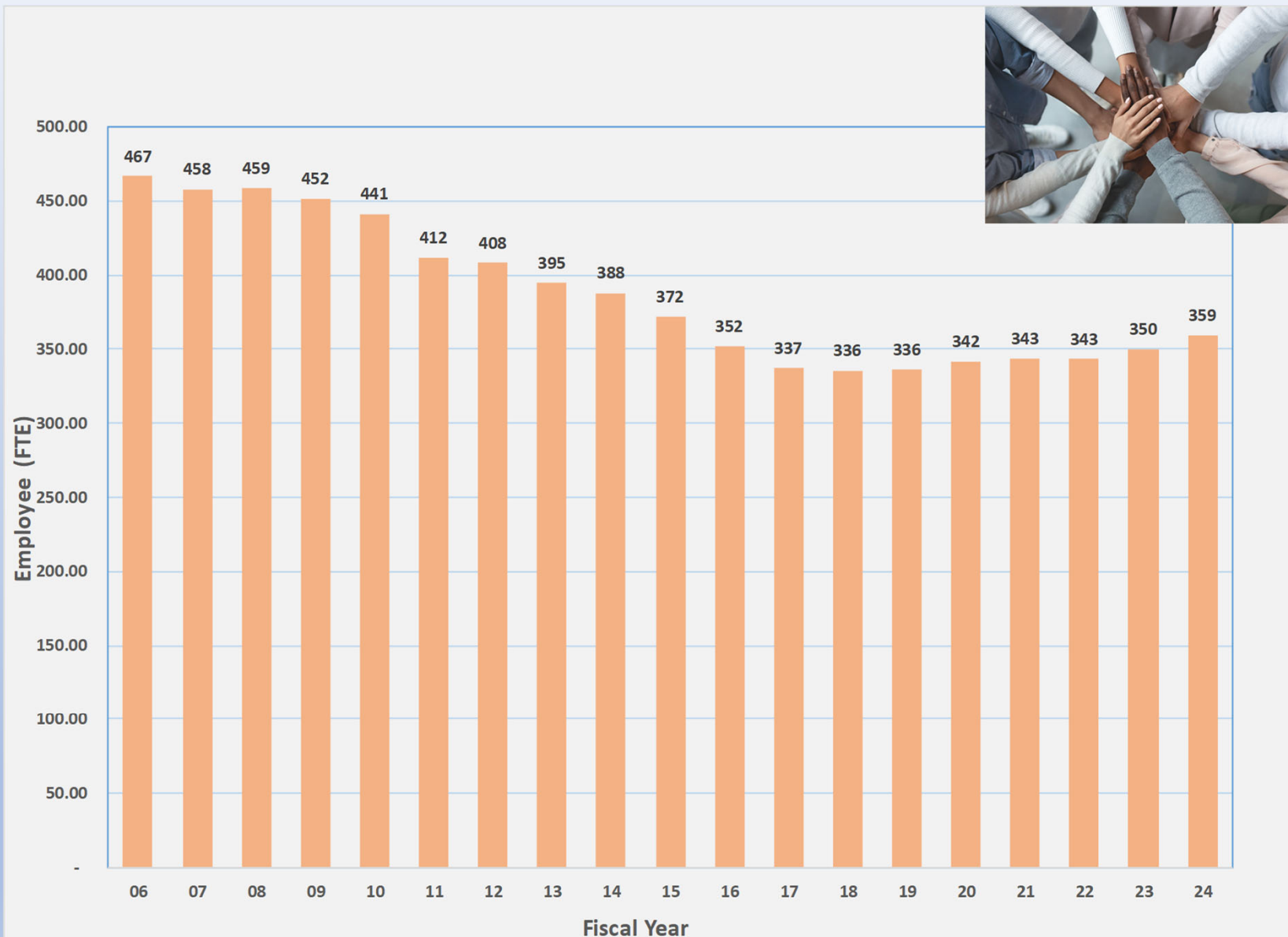
FY 2024 Total Expenses by Month with Budget Year



Administrative Services - Finance

- Total expenses – for July 2023 were \$4.6 million
 - This is an increase of \$529,000 from last July and was primarily due to the timing of payments.

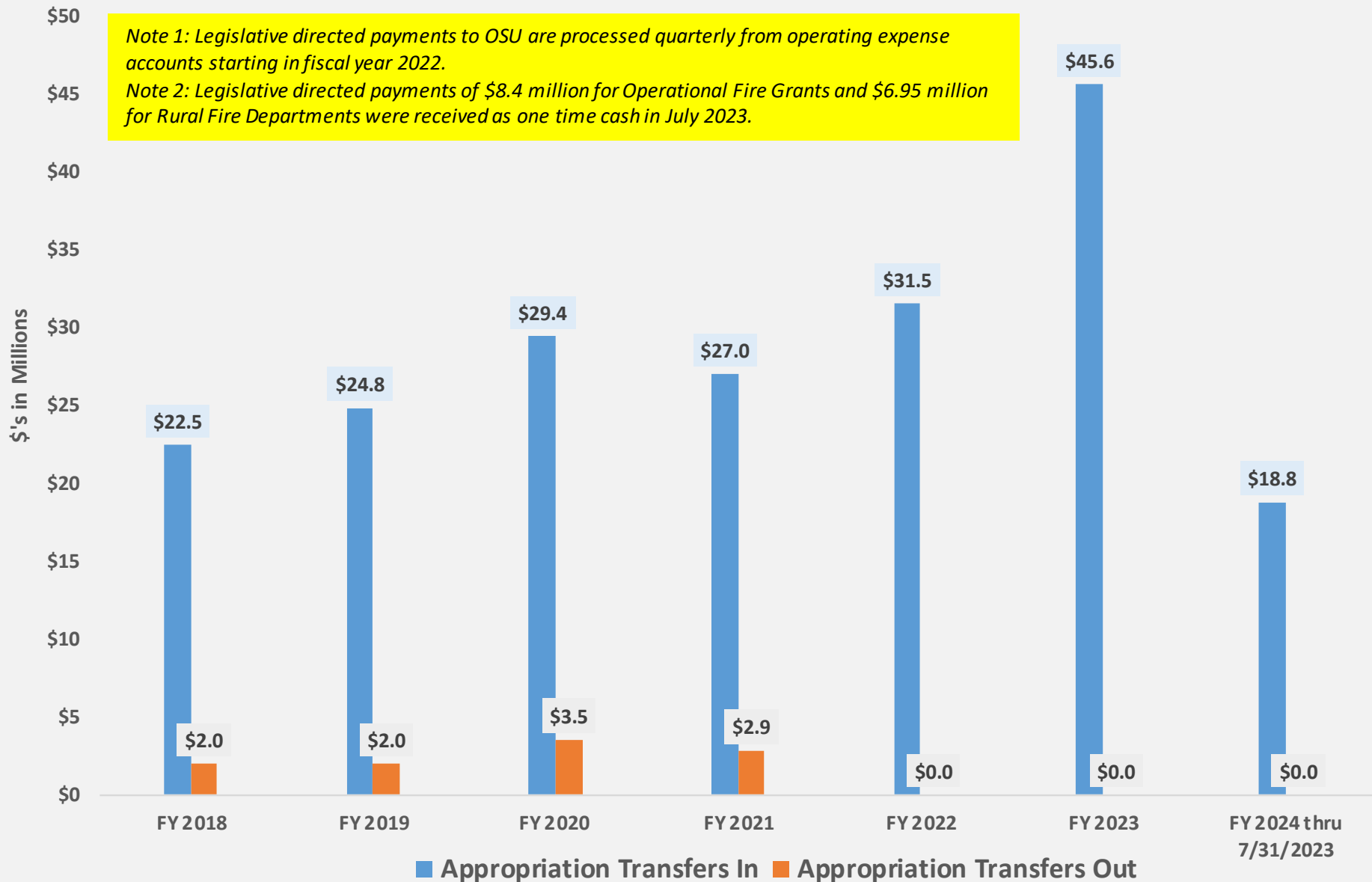
Employee FTE Totals Fiscal Year FY 2006 – FY 2023

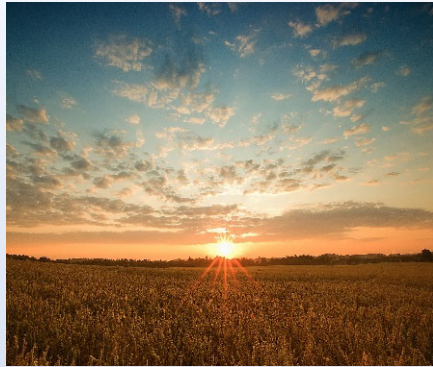


Note 1: FTE listed for fiscal year 23 was based on the FTE from August 15, 2022 thru June 30, 2023 as the Workday HR system was implemented on August 15, 2022.

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

Appropriations FY 2018 - thru July 2023





Administrative Services – Commodity Storage Indemnity

Investment Report			
As of July 31, 2023			
Investments with Office of State Treasurer			
Cash Management Account:			\$11,372,132
<u>FY-2023 Receipts</u>			
		Current Month	YTD
		-----	-----
New		-	-
Interest Revenue		22,890	22,890
Reinsurance		-	-
ODAFF Support Services		-	-
Recovered Salvage		-	-
Elevator Salvage		-	-
Matured Long Term Investments		-	-
		-----	-----
	TOTALS	22,890	22,890
		=====	=====

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

Object Code	Account Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
511	Salary Expense	22,838,350	813,065	31,472,239	(9,446,954)
512	Insur. Prem-Hlth-Life,etc	5,558,363	192,977	1	5,365,385
513	FICA-Retirement Contributions	5,597,514	198,864	1	5,398,649
515	Professional Services	3,111,966	-	1,753,243	1,358,723
519	Inter/Intra Agy Pmt-Pers Svcs	30,000	-	25,000	5,000
521	Travel - Reimbursements	518,530	-	-	518,530
522	Travel - Agency Direct Pmts	495,863	-	-	495,863
531	Misc. Administrative Expenses	1,355,557	-	258,459	1,097,098
532	Rent Expense	690,348	-	188,885	501,463
533	Maintenance & Repair Expense	1,987,084	-	535,000	1,452,084
534	Specialized Sup & Mat.Expense	1,585,302	-	996,000	589,302
535	Production,Safety,Security Exp	160,843	-	-	160,843
536	General Operating Expenses	313,154	-	-	313,154
537	Shop Expense	584,517	-	107,781	476,737
541	Office Furniture & Equipment	3,356,536	-	38,338	3,318,198
542	Library Equipment-Resources	982	-	-	982
543	Lease Purchases	1,697,171	-	1,697,171	0
552	Scholar.,Tuition, Incentive Pmt	340	-	-	340
554	Program Reimb,Litigation Costs	16,321,725	-	85,000	16,236,725
555	Pmts-Local Gov't,Non-Profits	11,982,256	-	1,191,860	10,790,396
559	Assistance Pymts to Agencies	3,594,000	-	-	3,594,000
561	Loans,Taxes,Other Disbursements	650	-	-	650
564	Merchandise For Resale	150,150	-	-	150,150
601	AFP Encumbrances		-	3,120,000	(3,120,000)
810	Req Only	-	-	3,676,234	(3,676,234)
	Operating Totals	81,931,201	1,204,905	45,145,212	35,581,084

Oklahoma Department of Agriculture, Food & Forestry					
Monthly Budget Report - Budget Year 2024					
As of July 31, 2023					
Fiscal Year 2024 Annual Budget to Actuals for Budget Year 2024 thru July 31, 2023					
Class Funding	Class Fund Description	Annual Budget	Expenditures	Encumbrances & Pre Encumbrances	Available Budget
19401	GRF- Duties	35,940,203	589,385	23,360,600	11,990,219
20500	Rural Fire Defense Eqp Rev Fd	199,449	-	40,000	159,449
21000	Agriculture Revolving Fund	24,929,946	559,573	19,561,118	4,809,255
22500	Enhancements & Diversificatn Fund	250,000	-	19,943	230,057
23000	Okla. Pet Overpopulation Fund	35,000	-	35,000	-
23500	Animal Friendly Revolving Fund	35,000	-	35,000	-
24000	Unwanted Pesticide Disposal Fund	350,000	-	350,000	-
24500	Rural Fire Revolving Fund	50,000	-	-	50,000
25500	Ag. Evidence Law Enforce Fund	4,000	-	-	4,000
25600	Ok Viticulture Enology Revl Fd	439,275	3,502	115,202	320,571
26200	Poultry Grading Revolving Fund	1,154,297	42,270	1,005,914	106,113
28500	Milk & Milk Prod Inspec Rev Fd	431,032	10,175	457,130	(36,274)
28600	Ag In The Classrm Educ Rvlv Fd	24,000	-	-	24,000
28700	Healthy Food Financing Revl Fd	100,000	-	10,000	90,000
42000	Specialty Crop Federal Funds	1,140,000	-	45,300	1,094,700
43000	Farm and Ranch Stress Alliance	225,000	-	-	225,000
43500	Local Food for Schools Co-op	800,000	-	110,005	689,995
57901	Duties	15,773,999	-	-	15,773,999
70000	Commodity Storage Indemnity Fd	50,000	-	-	50,000
	Totals	81,931,201	1,204,905	45,145,212	35,581,084

**AUGUST 2023 BOARD REPORT
AGRICULTURE LABORATORY SERVICES
(June and July 2023 Activities)**

QUALITY MANAGEMENT SECTION: (Daniel Tripp, QA Manager)

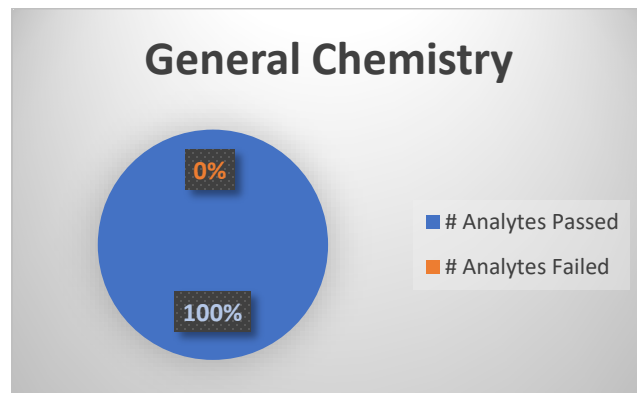
There will be a post audit review meeting to discuss findings and create an action plan for the quality audit of the Bureau of Standards before it is completed and officially finalized.

The Food and Dairy Section has successfully validated one-liter jars on the recently installed autoclave. Under the new cycle parameters, the Section will be able to sterilize up to 10 liters of media after one cycle run. This will allow the Section to double its' sterilized media output after a single cycle and make more efficient use of their time. The Section has plans to perform more validations going forward with 250 mL jars, glassware, and various items/utensils.

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	17
# Analytes Passed	17
# Analytes Failed	0



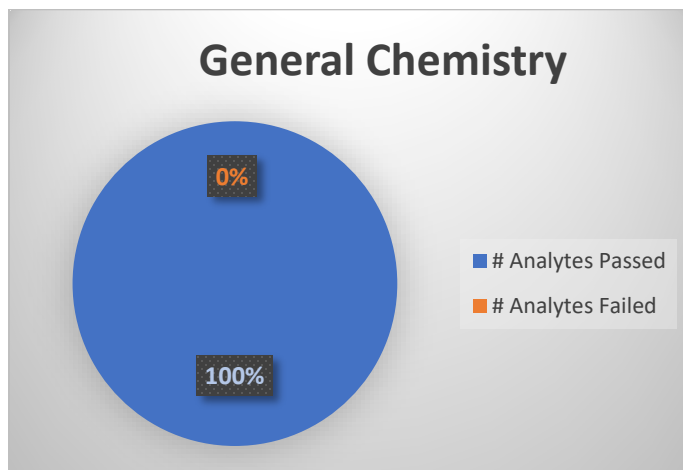
In July the QA Manager has been in the process of researching updates for the Inorganic and Microbiology Section that include changes to Total Dissolved Solids and Total Suspended Solids that are performed in Membrane Filtration for Coliform Testing in order to meet/maintain laboratory accreditation requirements.

The QA Manager has designed and approved a new form for the Food and Dairy Section to help aid and document the upcoming series of autoclave validations that will be performed as well as set a goal to perform one autoclave validation per month.

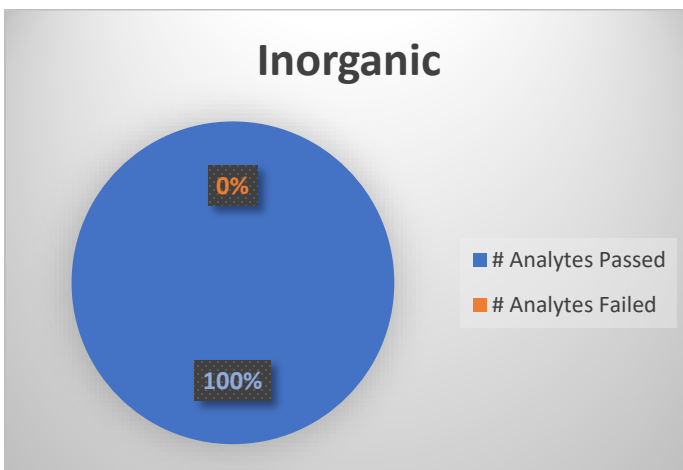
PT Results

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	23
# Analytes Passed	23
# Analytes Failed	0

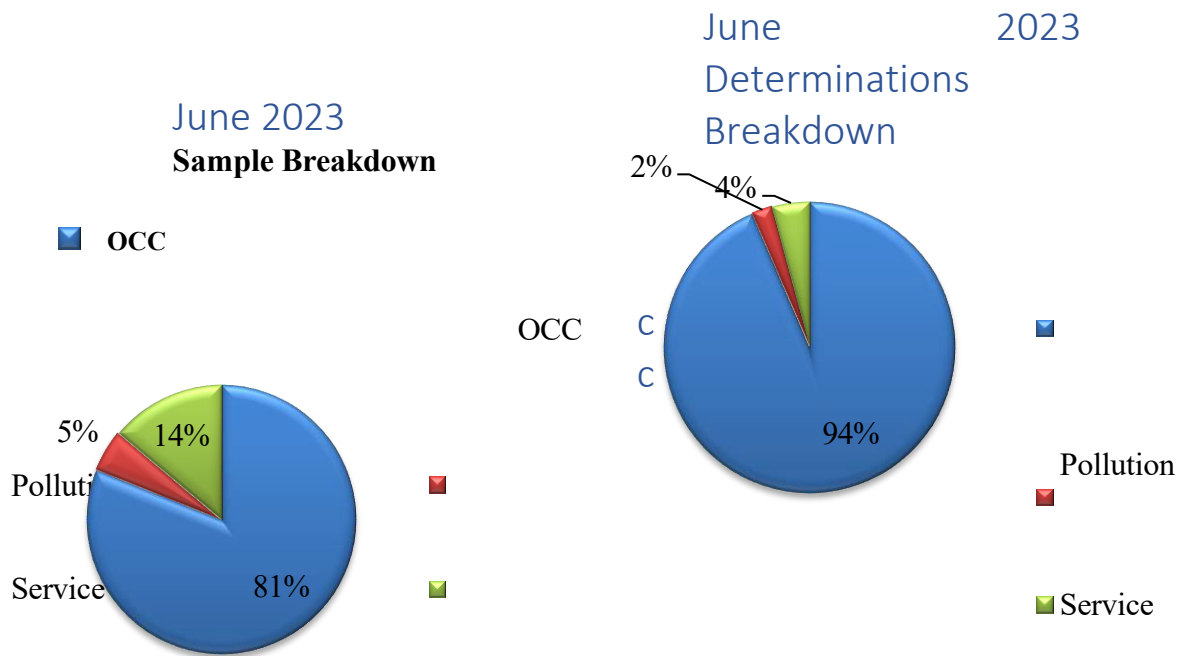


Inorganic	
# Analytes Results Received	12
# Analytes Passed	12
# Analytes Failed	0



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

In June of 2023 the Section completed 79 samples consisting of 528 determinations, with the following breakdown:



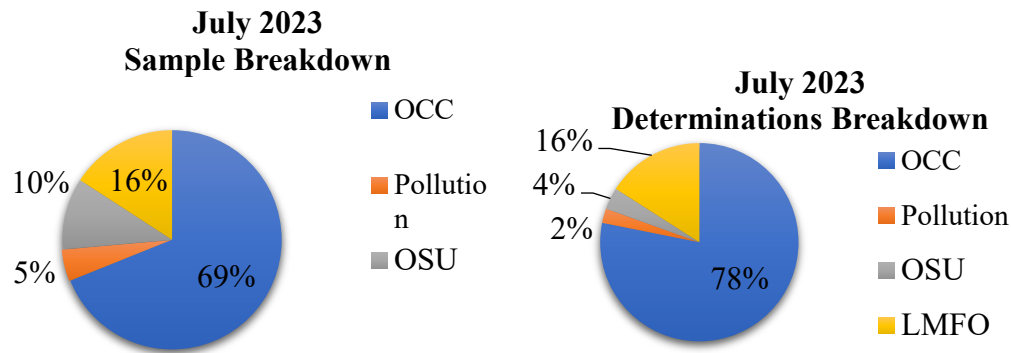
June 2023 Inorganic Breakdown

Customer	Samples	Determinations
OCC	64	494
Pollution	4	12
Service	11	22
Total	79	528

In July of 2023 the Section completed 341 samples consisting of 2031 determinations, with the following breakdown:

July 2023 Inorganic Breakdown

OCC	235	1587
OSU	36	72
Pollution	16	48
LMFO	54	324
Total	341	2031



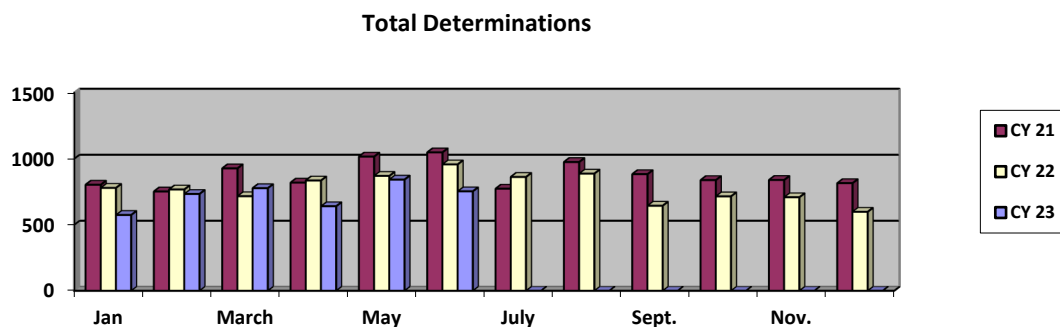
DAIRY/FOOD SAFETY SECTION: (Sharon Swyear, Environmental/Chemical Laboratory Scientist IV)

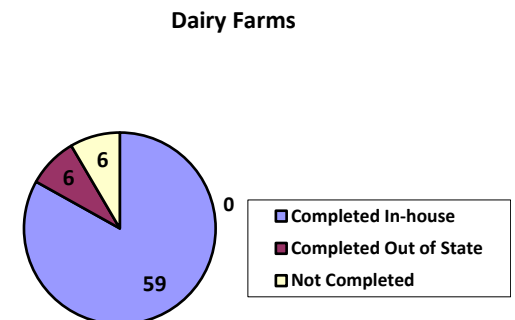
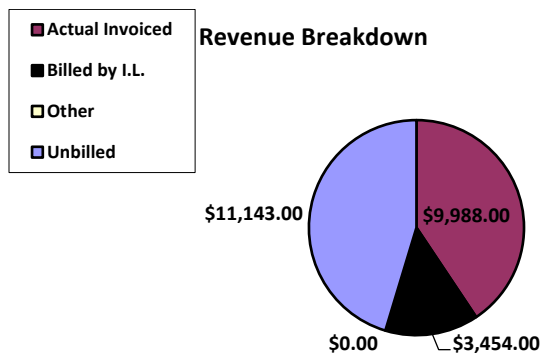
The month of June was a typical testing month. Six dairies were not tested, and one dairy is dry. Another dairy ceased operation due to the health of the owner. There are a total of 67 dairies that the Section tests and seven have closed this year.

The Section had a total of 26 meat samples this month and was able to confirm four *Listeria* presumptive positive samples from May. The isolated colonies were sent to the State Health Department and have been confirmed as two different *Listeria* species. There is very little media available for the isolation of non-O157 pathogenic *E. coli*. Due to cost and time associated with this, the Section was not able to isolate the *E. coli* presumptive samples.

The electronic somatic cell counter is no longer working. The purchase of a Somatic Cell Counter is in process. The Section is having to stain slides and count under a microscope until the new equipment is received.

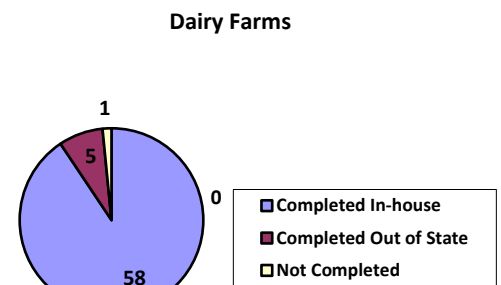
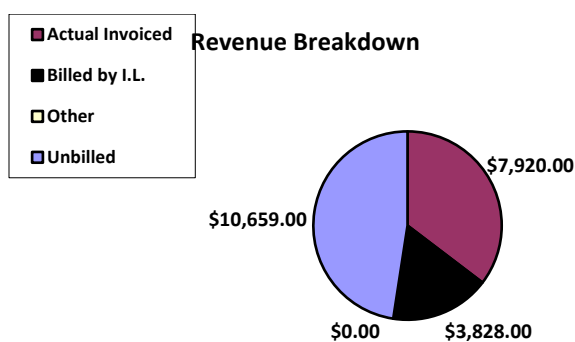
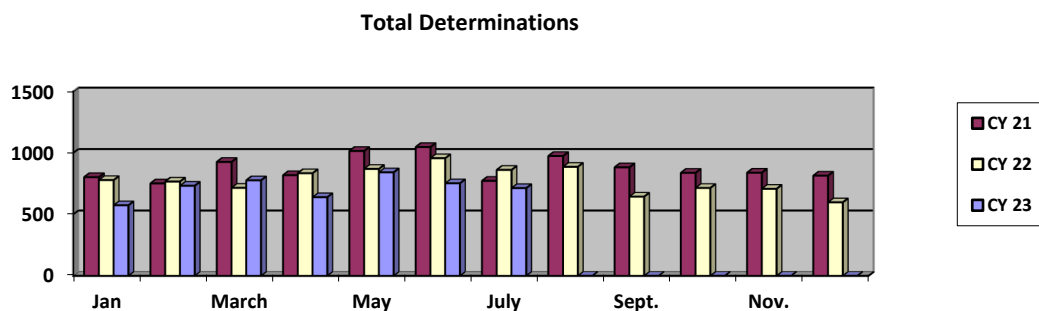
Under this year's AFDO grant for the FDA milk program, the Section has submitted to purchase a cryoscope, another incubator and an analytical balance.





The month of July was a typical testing month. Only one dairy was not tested, and one dairy is dry. The Section tested nine meat samples this month. Three additional meat samples were not able to be tested due to the receiving temperature above USDA limits. The Section had two positive E. coli samples to confirm that were received in June. The Section was not able to isolate one of the E. coli samples, but the other sample was confirmed to be E. coli O157:H7 and two isolated colonies were submitted to the State Health Department for genome sequencing.

The FDA milk splits are scheduled for the second week of September. The somatic cell counts are included in this set of splits. If the Section is unable to perform the test it could possibly lose the accreditation for this test until the FDA conducts an onsite visit. The Section has notified the FDA and is currently awaiting their decision regarding the Section's accreditation status for this test.



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

The Section received a total of 130 samples for the month of June. Crops being analyzed are still consisting primarily of summer crops including, sorghum, soybean, corn, cowpeas, sesame, and summer grasses. No quality issues have been discovered pertaining to the summer crop seed being tested. There were no Seed Law violations discovered during the month.

The Section is excited to announce a new analyst, Karon Kwok. Karen has worked in the Serology Lab for several years before making the transition to the Seed Lab. She will be a great addition to our Section.

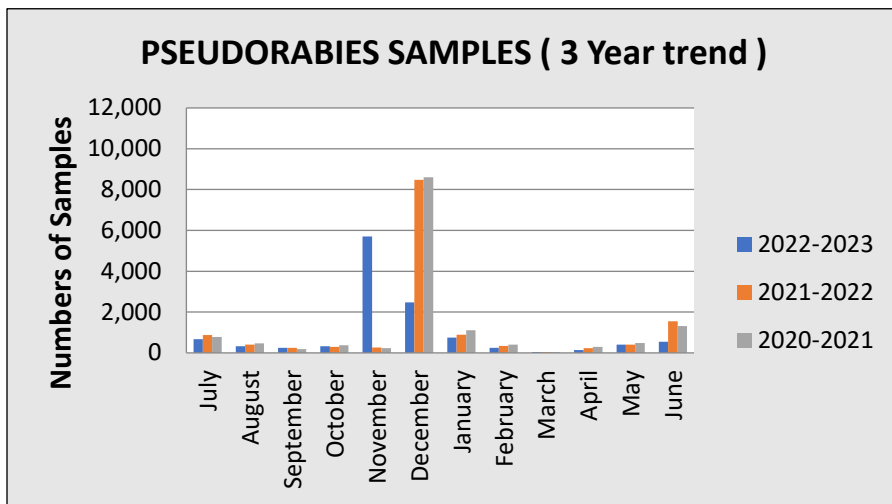
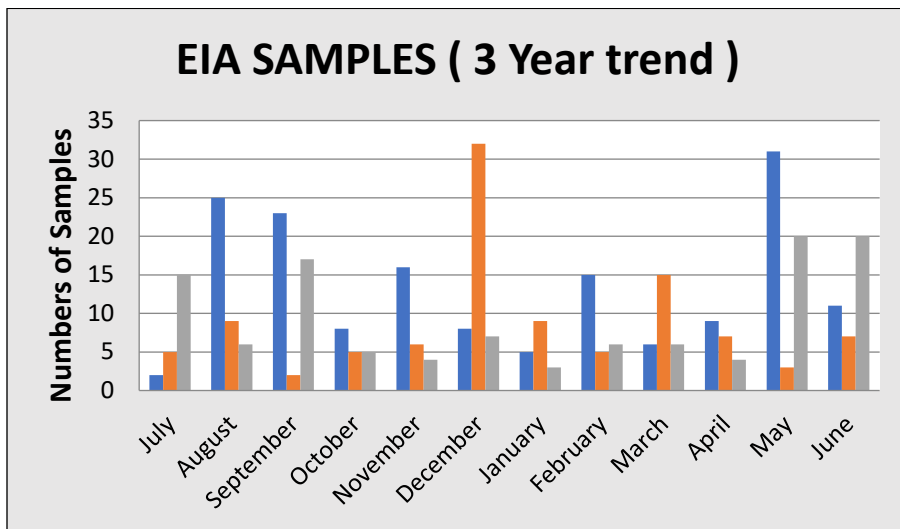


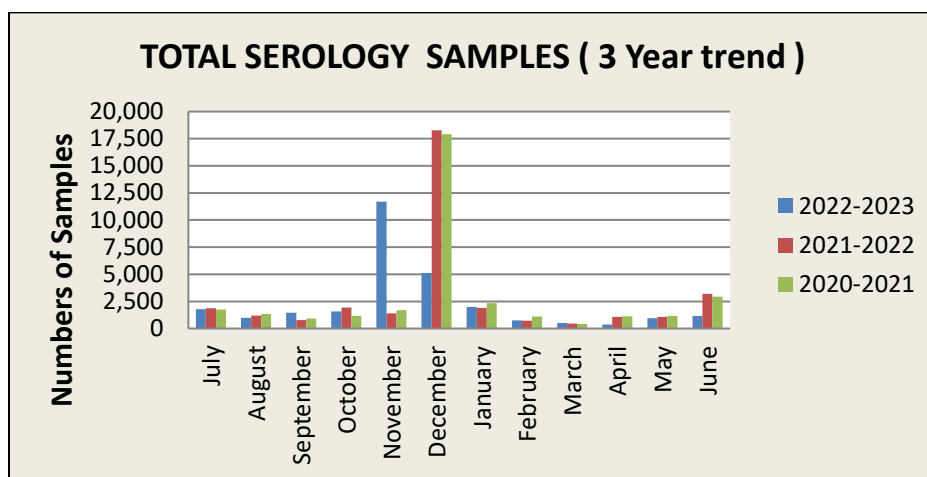
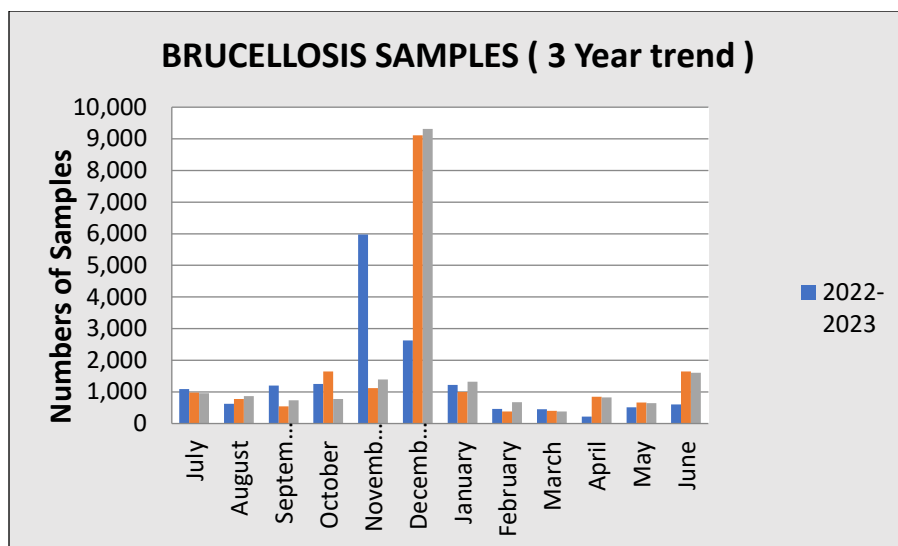
Activity in the Seed Section remained steady during the month of July. Records indicate the Section received a total of 150 samples for testing. Wheat, rye, oats, and other small grains were the majority of crops tested while mostly turf and native grasses made up the remaining balance. Up to now there have been no quality issues discovered pertaining to small grain crops.

Wheat producers in Southwest Oklahoma are reporting they had received significant rainfall at the end of April which has provided ideal conditions for wheat stalk heads to fill with grain. However, producers in Central Oklahoma are stating that the late rainfall they received caused a late harvest that ultimately has led to problems controlling grass and weeds in fields. In May, the Oklahoma Wheat Commission reported that an estimated two million acres of wheat would be harvested across the state, totaling 40.7 million bushels.

SEROLOGY SECTION: (Pete Bourns, Laboratory Scientist IV)

June 2023 will be the last month of operation for the Serology Section. Starting July 1st, 2023, all samples will be sent to OADDL in Stillwater for Brucellosis and Pseudorabies testing. As Supervisor of the Serology Section, it has been a pleasure to serve the Board and the State of Oklahoma.





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

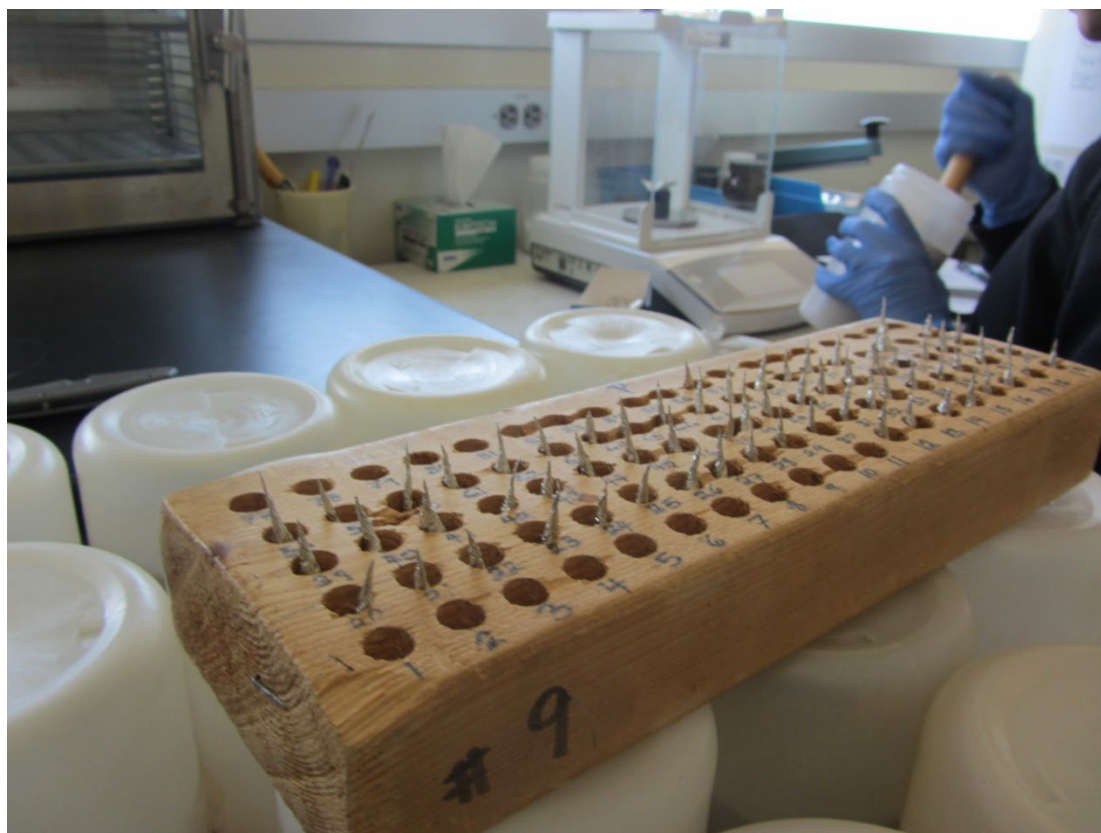
June was a productive month for the Section, with the combustion analyzer back in service we were able to complete testing on several samples. Humidity issues made it difficult to run fertilizer samples on the combustion analyzer (Total Nitrogen and Total Sulfur). We were able to run many of these samples by the end of the month but the delay in testing hurt our turnaround times.

Numerically the month was very productive completing 1446 determinations, giving us a yearly total of 11,473 determinations. Considering we started out the year slow due to construction we are very close to our yearly goal of 12,000 determinations. We did receive 2536 samples for the year so we were right on target.

As expected, our turnaround time took a significant hit this month due to the samples held up by the combustion analyzer. Our average turnaround for all samples was 30.63 days, this is mostly attributed to the combustion analyzer but is also complicated by the extra two weeks we were forced to wait for the humidity to reach acceptable levels to weigh fertilizer samples. Our turnaround time is still elevated as we finish clearing out the sample backlog, but hopefully we will be back to under 18 days by the end of the month.

Overview of Section numbers for the month of June:

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



Feed samples weighted up and sealed into foil packets for analysis in the combustion analyzer for protein.



Foil packets loaded into the carousel, there are three of these gears stacked on top of one another.

In July the Section continued to struggle with humidity issues making it difficult to run fertilizer samples on the combustion analyzer (Total Nitrogen and Total Sulfur). We were able to run most of these samples by the end of the month but the delay in testing hurt our turnaround times. We were able to complete all but four of our fiscal year 2023 samples and those four should be wrapped up by the end of this week. In addition to humidity issues, we also experienced a reoccurring issue with our fat analyzer unit and the water temperature being too warm for proper operation. In past years this issue has typically affected us for a few weeks in August but this year it started causing issues in early July. We have created a work around solution as shown in the next picture. The system is currently housed in a Styrofoam cooler, but a permanent plastic cooler has been ordered to help us reduce the chances of leaks.

Numerically the month was productive completing 1069 determinations during what is a historically slow month.

Our average turnaround for all samples was 23.46 days, this is due to continuing clean up associated with the combustion analyzer being down in May. If we do not have any further equipment issues or environmental challenges, we should be back to under 18 days by the end of the month.

Overview of Section numbers for the month of July:

	Feed	Fertilizer	Lime	Total
Samples Received	201	61	6	268
Samples Completed	151	61	14	226
Determinations	754	221	94	1069
Violations	67	27	5	99
Violation %	8.89%	12.22%	5.32%	9.26%



Water cooler consisting of 50 feet of drip irrigation line (thin walled poly tubing) placed inline before the fat analyzers. The cooler is filled with ice and the size and nature of the irrigation line allows for sufficient cooling at a rate that allows the two hour run time needed for analysis. Once we replace the styrofoam cooler this system will easily be detached and moved for storage when it is not needed. This will allow us to reduce the chances of leaks when the tap temperature is acceptable but have a solution on hand when it gets too warm in the summer.

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

In the month of June, training was completed on the new GC-FID. Two instruments are down this month, LC-QQQ is down because of a faulty nitrogen generator and the GC-FID is down due to software issues. The Section completed five rush residue analysis samples and one concentrate sample. David Smith also checked a sample of unknown matrix for possible strychnine contamination. Since strychnine is strongly poisonous, proper PPE was used during this extraction process (Pic.1).



Pic 1. David while extracting strychnine sample.

In FY2023, the Section received 504 total samples. 478 samples with 3725 determinations have already been reported. The annual revenue generated for this fiscal year is \$251,275

In the month of June, the Section completed 71 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 42 days.

	Number	Test	Det.	Average TAT (days)
Residue Vegetation	22	45	174	19
Residue Soil	15	23	96	25
Residue Water	19	71	370	31
IFA Soil	1	1	6	21
Residue, Other	1	2	10	22
Concentrate	11	21	26	142
Hemp	5	5	5	19

Average Residue Turnaround Time: 25 days

Average Formulation Turnaround Time: 142 days

Average Hemp Turnaround Time: 7 days

# of Samples	# of Tests	# of Determinations
71	165	684

The Section received 77 samples this month. Most of the samples received are for Residue Analysis (see Fig A).

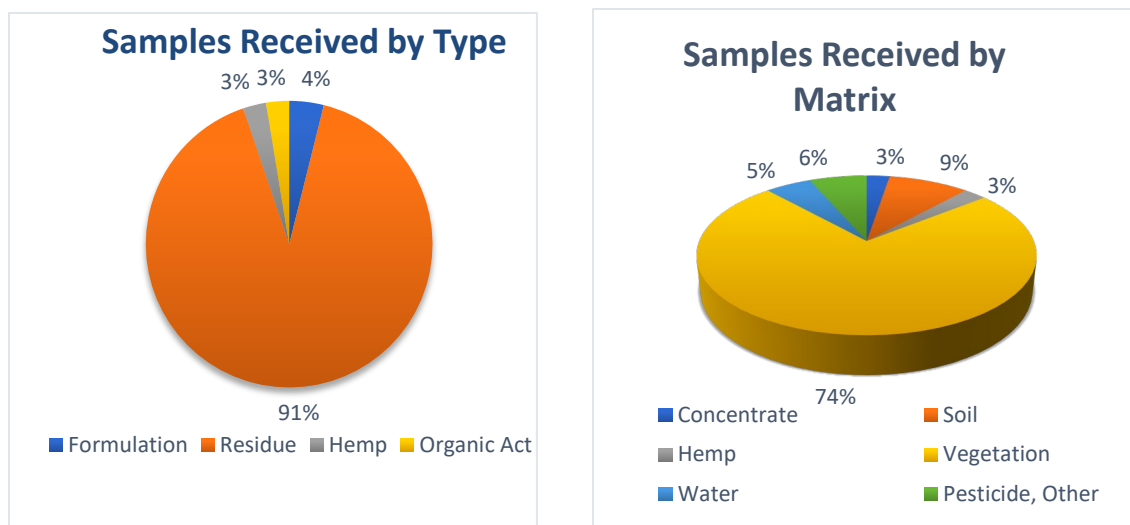


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right).

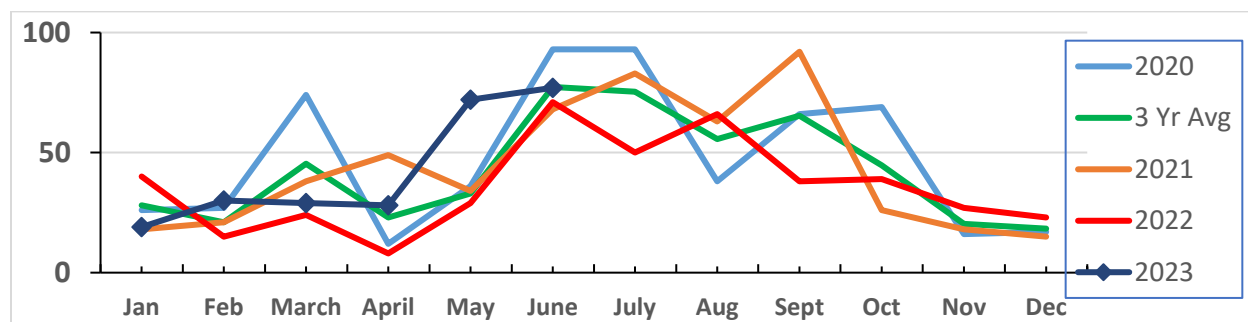


Fig B. Graph showing the number of samples received by the Section each month.

This month, the Section completed 684 determinations with most of the determinations on residue water samples.

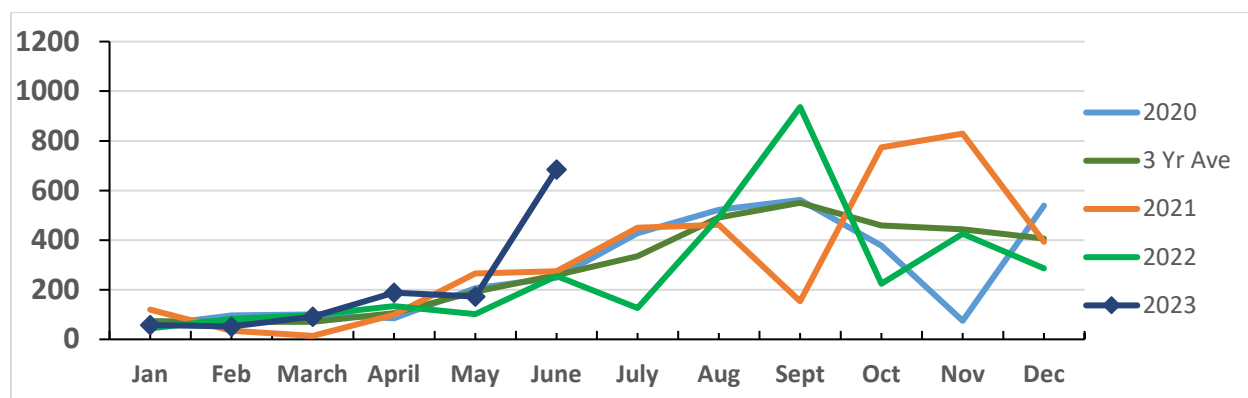
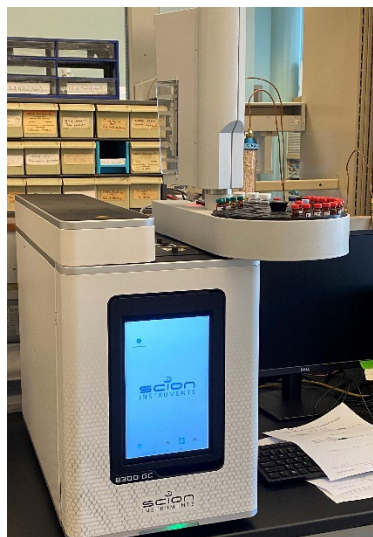


Fig C. Graph showing the number of determinations completed each month.

In the month of July, the new GC-FID is running samples (Pic. 1). The nitrogen generator has been fixed so both LC-QQQ are operational. The Agilent GC-FID is still down due to software issues.

Usha Pandey Kadel has resigned and her last day as the Pesticide supervisor was July 28th. The Division will begin the search for a new Pesticide supervisor.



Pic 1. New GC-FID with samples

In the month of July, the Section completed 24 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 73 days.

	Number	Test	Det.	Average TAT (days)
Residue Vegetation	6	17	63	45
Residue Soil	3	10	10	58
Residue Water	2	3	11	54
Organic Act	2	2	2	18
Residue, Other	2	4	21	53
Concentrate	8	15	25	127
Food	1	1	1	44

Average Residue Turnaround Time: 46 days

Average Formulation Turnaround Time: 127 days

Average Organic Act Turnaround Time: 18 days

Totals		
# of Samples	# of Tests	# of Determinations
24	52	133

The Section received 49 samples this month. Most of the samples received were for Residue Analysis (see Fig A).

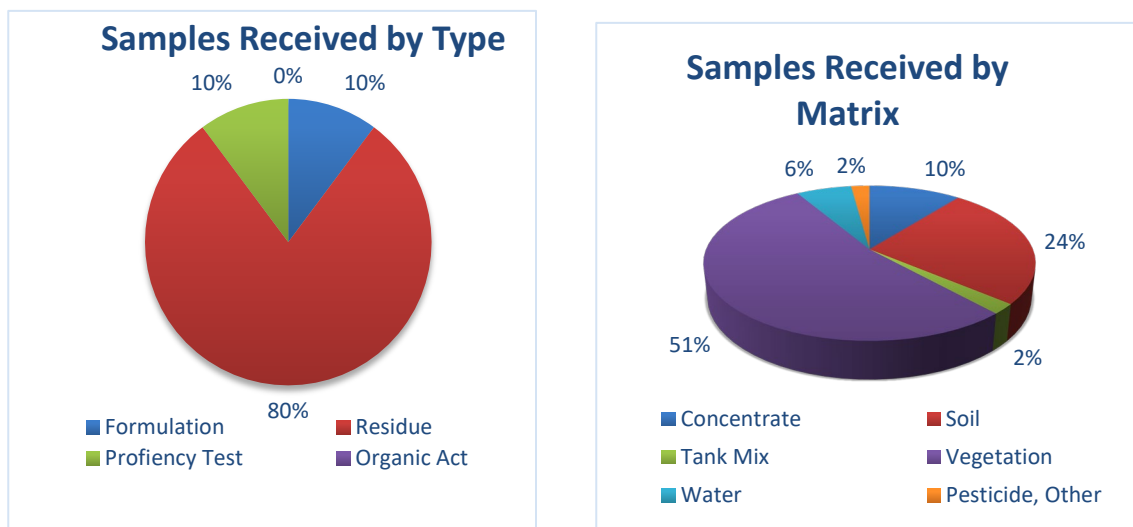


Fig A. Pie charts representing the number of samples received by type (left) and matrix (right).

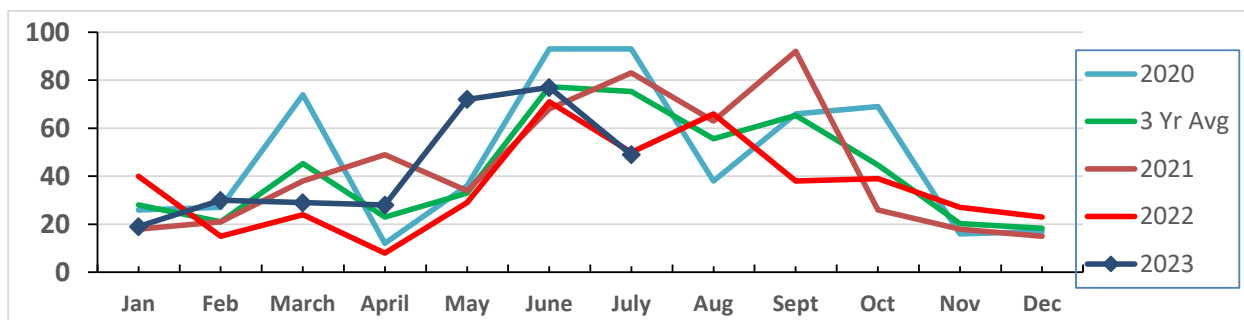


Fig B. Graph showing the number of samples received by the Section each month.

Determinations the Section completed by month:

This month, the Section completed 133 determinations and most of the determinations were done on residue vegetation samples.

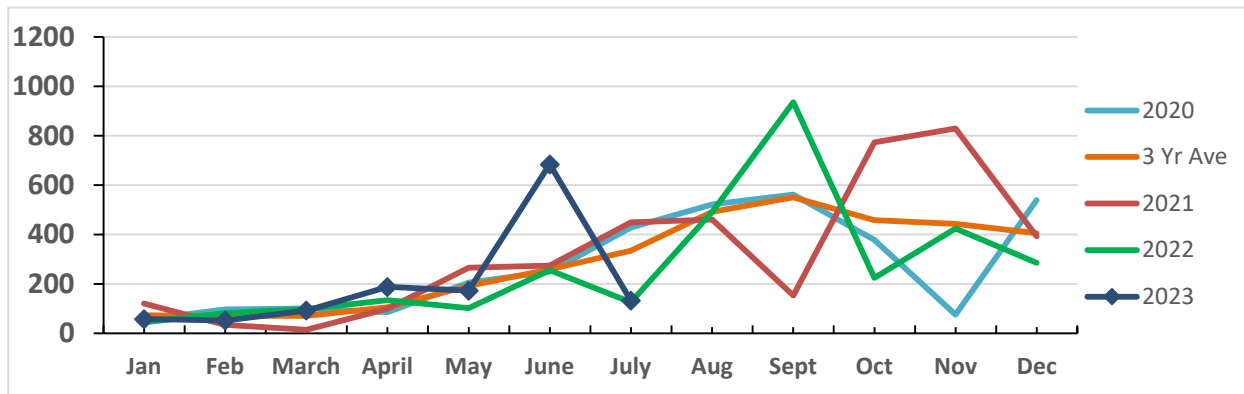


Fig C. Graph showing the number of determinations completed each month.

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

The following is a workload summary for the Oklahoma Bureau of Standards from June 1st through June 30th.

During June of 2023, the Oklahoma Bureau of Standards accumulated a revenue of \$3,169.00. The Bureau retains multiple Mass III appointments that are scheduled for July of 2023, along with one appointment that pertains to volumetric calibrations. It is an exciting time for the Bureau, as we are quickly approaching the Fundamentals of Metrology training being held in August. This is the first step to regain accreditation and recognition. The staff members feel confident about this training, as Richard Gonzales has continued to prepare the Bureau's employees for successful completion. This includes the review of quality management documents, standard operating procedures, and mathematical equations that will be needed in the field.



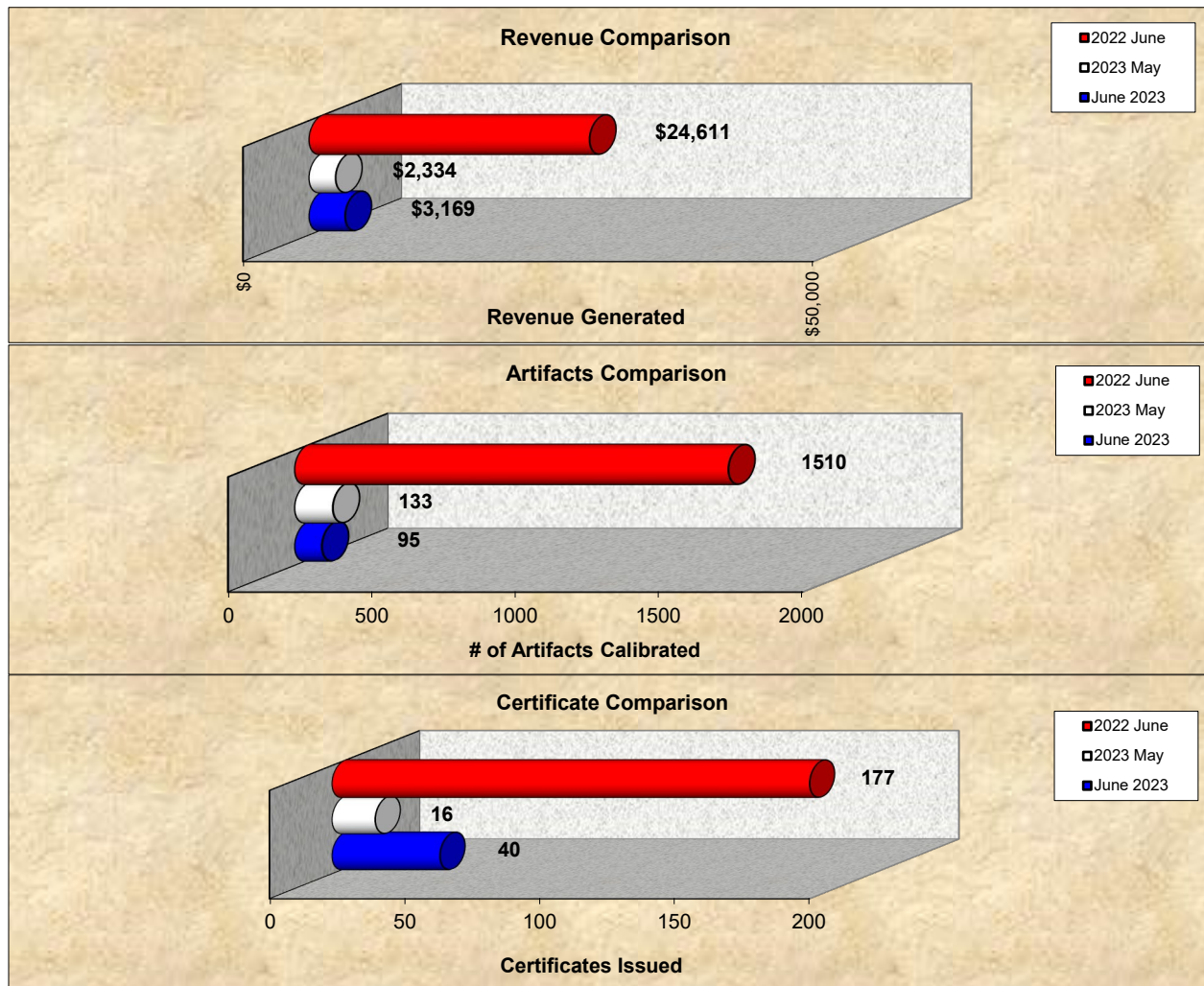
Pictured above: Eli Klimek, Termelia Hogg, and Richard Gonzales are checking water levels on the forklift stationed in the Oklahoma Bureau of Standards.



Pictured above: A group of Mass III 50-pound weights (Class F) are being relocated to the dock area for client pickup.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	0	\$0.00	0.00%	0	0.00%
In-State Customers	4	\$3,169.00	100.00%	95	100.00%
Totals	4	\$3,169.00	100.00%	95	100.00%

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



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

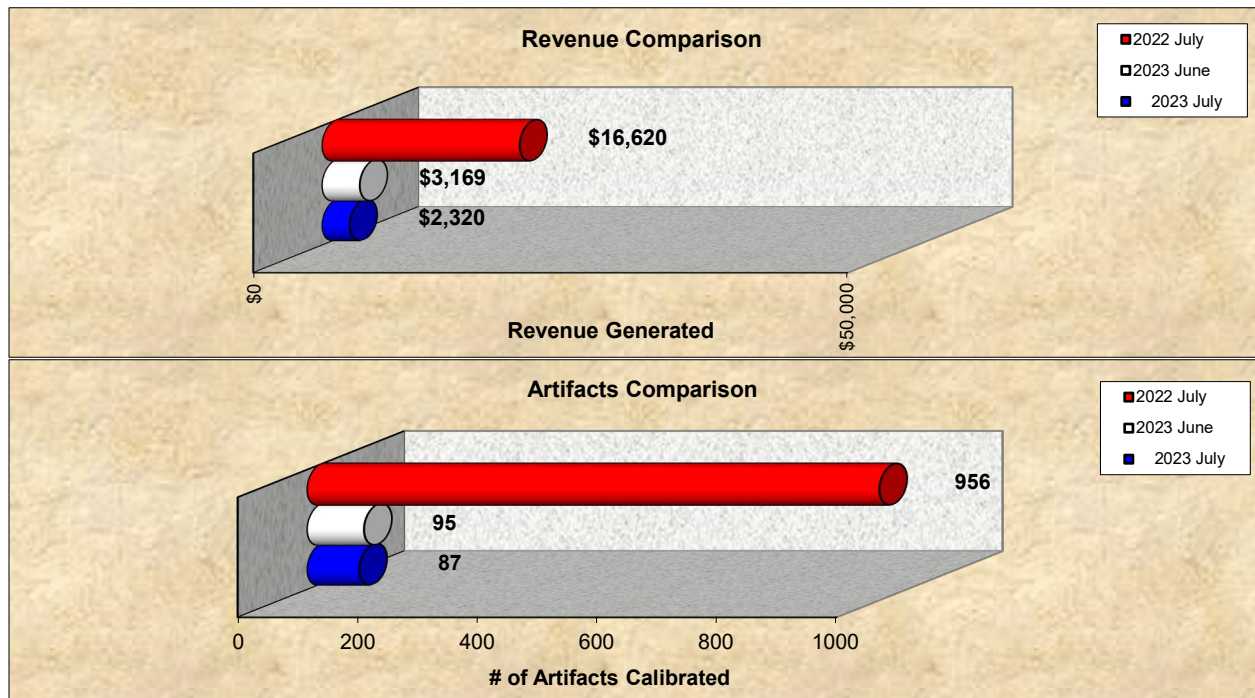
The Section has had multiple appointments in the month of July that consisted of volumetric calibrations and Class F calibrations. Richard Gonzales completed his contract with the Bureau on 7/31/23. Richard has helped ensure that the staff has been well-trained and is prepared to complete successful calibrations. During the month of August 2023, William Krivanek and Termelia Hogg will be participating in the Fundamentals training at the National Institute of Standards and Technology. They will also be participating in the Southwest Assurance Program seminar in Arkansas. The Bureau is making great progress towards returning to a fully accredited status.



Pictured above: William Krivanek is attempting to remove material from inside the cavity of a 1000-pound weight.

Month	#	Fees	% of Fees	# Standards	% of Standards
Out-of-State Customers	0	\$0.00	0%	0	0%
In-State Customers	4	\$2,320.00	100%	87	100%
Totals	4	\$2,320.00	100%	87	100%

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





Pictured above: Johnathan White, Supervisor of the General Chemistry Section, is helping on the grill during the Laboratory July 2023 Employee Appreciation Cookout. The Laboratory Director wanted to show his appreciation to the employees for their hard work. The Laboratory employees enjoyed the break from a busy fiscal year.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Wade Krivanek". The signature is stylized with a cursive script.

Wade Krivanek
Laboratory Director
Laboratory Services Division

BOARD REPORT
AGRICULTURAL LABORATORY SERVICES
JULY 2023 ACTIVITIES

FEED SAMPLES	201
FEED DETERMINATIONS	754
POSSIBLE VIOLATIONS	67
 FERTILIZER SAMPLES	 61
FERTILIZER DETERMINATIONS	221
POSSIBLE VIOLATIONS	27
 LIME SAMPLES	 6
LIME DETERMINATIONS	94
POSSIBLE VIOLATIONS	5
 PESTICIDE SAMPLES	 24
PESTICIDE DETERMINATIONS	133
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 341
DETERMINATIONS	2031
 STATE-FEDERAL VET. LAB. SAMPLES	 0
STATE-FEDERAL VET. LAB. DETERMINATIONS	0
NUMBER POSITIVES	0
 SEED SAMPLES	 150
SEED DETERMINATIONS	206
POSSIBLE VIOLATIONS	0
 BUREAU OF STANDARDS CERTIFICATES	 10
NUMBER OF STANDARDS CALIBRATED	87
FEE CHARGES	\$2,320.00
 DAIRY SAMPLES	 386
DAIRY DETERMINATIONS	714
POSSIBLE VIOLATIONS	11
 TOTAL SAMPLES	 1179
TOTAL DETERMINATIONS	4240
TOTAL POSSIBLE VIOLATIONS	110

BOARD REPORT
AGRICULTURAL LABORATORY SERVICES
JULY 2023 ACTIVITIES

FEED SAMPLES	201
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POSSIBLE VIOLATIONS	5
 PESTICIDE SAMPLES	 24
PESTICIDE DETERMINATIONS	133
POSSIBLE VIOLATIONS	0
 MEAT SAMPLES	 0
MEAT DETERMINATIONS	0
VIOLATIONS	0
 INORGANIC LAB SAMPLES	 341
DETERMINATIONS	2031
 STATE-FEDERAL VET. LAB. SAMPLES	 0
STATE-FEDERAL VET. LAB. DETERMINATIONS	0
NUMBER POSITIVES	0
 SEED SAMPLES	 150
SEED DETERMINATIONS	206
POSSIBLE VIOLATIONS	0
 BUREAU OF STANDARDS CERTIFICATES	 10
NUMBER OF STANDARDS CALIBRATED	87
FEE CHARGES	\$2,320.00
 DAIRY SAMPLES	 386
DAIRY DETERMINATIONS	714
POSSIBLE VIOLATIONS	11
 TOTAL SAMPLES	 1179
TOTAL DETERMINATIONS	4240
TOTAL POSSIBLE VIOLATIONS	110



OKLAHOMA FORESTRY SERVICES BOARD REPORT

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

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

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.

URBAN AND COMMUNITY FORESTRY

Program Highlights

Oklahoma City National Memorial

On July 18th Education Coordinator Tony Paschall, and Foresters Riley Coy and Mark Bays conducted a Family STEM class for the OKC National Memorial. Parents and their children learned about the environmental engineering process that transformed the outdoor site from destroyed buildings to its current design. Participants also spent time outside to measure trees on the grounds and learn of the environmental benefits they were providing.

Will Rogers Museum

July 20th Mark Bays and Riley Coy assessed trees on the grounds of the Will Rogers Museum in Claremore. Several trees were damaged by the June windstorm and there were questions as to their structural integrity. One large oak had been blown over and was in the process of being removed. Much of the remaining damage could be mitigated through pruning but a large sugarberry tree was identified for removal as it was severely damaged.



Oklahoma City Community Foundation

Mark Bays met with other members of the Oklahoma City Community Foundations (OCCF) Parks and Public Spaces Committee on July 27th to review tree planting and beautification grants submitted. Twenty-one projects totaling \$395,471 were submitted and 19 projects totaling \$206,250 were approved for funding.

Yukon Parks Department

Riley Coy and Mark Bays met with Yukon Park Superintendent D'Anthony Perkins and helped assess large cottonwood trees along a trail and others in Chisholm Trail Park on July 28th. Recent wind events and soil erosion along a waterway were beginning to impact the structural support of trees and the city was concerned about



their potential of failing and causing injury and damage. The future planting of trees to mitigate standing water was also discussed.

Oklahoma Community Forestry Council

August 10th Riley and Mark Bays represented OFS at the quarterly meeting of the Oklahoma Community Forestry Council in Stillwater. The upcoming Annual Conference in Tulsa on November 1st and future educational workshops were some of the main discussion topics.

Oklahoma State University Tree Preservation

Riley and Mark Bays met with OSU Arborist Catlin Gipson on August 10th to discuss tree preservation and possible treatments of four chinkapin oaks on the grounds where the new Agriculture College Building is being constructed. Soil improvements and the possibility of transplanting the trees were some of the opportunities that are being considered.



COMMUNITY OUTREACH AND COMMUNICATIONS

FORESTRY EDUCATION



On July 1st and 2nd, Education Coordinator Tony Pascall had a booth at the Tinker Air Show in the STEM hanger. He taught about the ways science and math interact with forestry and reached approximately 5,000 people.

On July 12th, Tony was interviewed at the “Sustainability Social Hour” hosted by OKC Beautiful. Tony spoke about the value of forestry education, invasive species, and urban forestry to about 50 people at this event.

On July 14th, Tony and Forester Dieter Rudolph taught a lesson on microhabitats and invasive species to 15 kids at Camp Discover in Beavers’ Bend, hosted by the Forest Heritage Center.

On July 15th, Tony taught about microhabitats and sustainable forestry to ten people at Historic Fort Towson for their summer learning series.



On July 19th, Tony trained ten early childhood educators on Project Learning Tree's "Trees & Me" guide at the Arcadia Conservation Education Area in Edmond. These educators will now have the resources to teach about the forest in their own programs with children.

On July 20th, Tony trained ten educators on Project Learning Tree's K-8 guide at the Arcadia Conservation Education Area in Edmond.

On July 25th, Tony had a booth promoting OFS education programs at the annual Ag in the Class conference. He reached over 200 educators

On July 26th, Tony went to the annual 4H round-up at OSU and presented on careers in the forestry sector to 17 kids.

On July 27th, Tony taught at a STEM camp at the First American Museum. He taught about sustainable forestry and the importance of prescribed fire to 15 kids.

On July 27th, Tony hosted a booth at the Oklahoma History Center Career Night. He spoke with around 100 people about careers in the forestry sector.

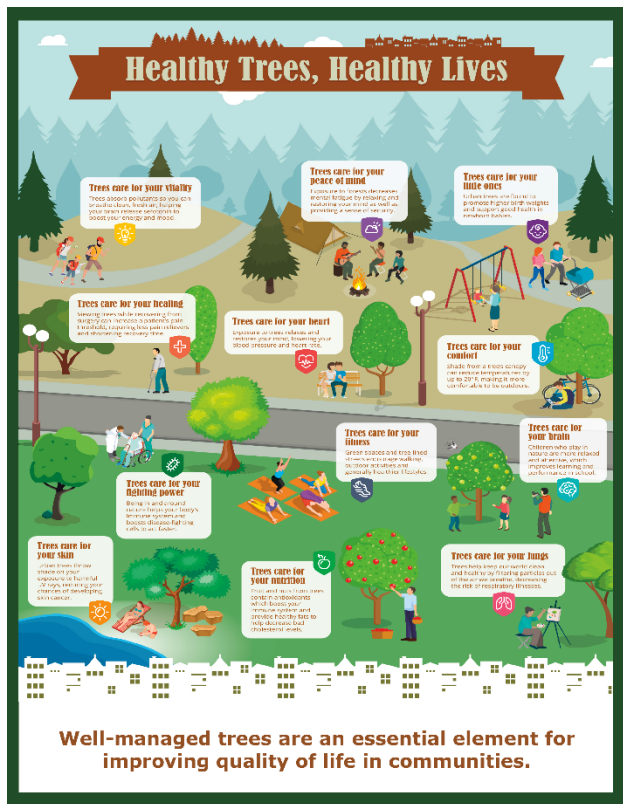
On August 3rd, Tony hosted a booth at the Back to School Bash at the Western Cowboy Museum, where he reached approximately 200 educators about OFS education programs.



COMMUNICATIONS

Urban Wood Utilization

Information Representative Keith Merckx collaborated with Forester Riley Coy on branding and publicity for the Urban Wood Works initiative. Grant-funded branded items are on order for use with further educational initiatives related to the use of wood from Oklahoma's urban areas which might otherwise be discarded.



Healthy Trees, Healthy Lives

Keith collaborated with Forester Mark Bays on branding and publicity for the Healthy Trees, Healthy Lives initiative. Grant-funded branded items were ordered and have been received. They include educational infographic brochures, branded wooden flash drives, and custom-designed bandanas. Keith was able to identify and secure a vendor of sustainably produced bandanas that utilizes USA-grown cotton in a solar-powered production facility.

Tulsa Storm Damage

Following a severe storm in Tulsa that downed many large trees in parks around the city, Keith successfully worked to arrange coverage of the Southern Group of State Foresters Urban Forestry Strike Team collaborative work with the City of Tulsa. The team, including representatives from Oklahoma, Arkansas, Texas, and Virginia, fanned out to city parks to identify trees that were damaged but would survive as well as trees that warranted removal. This resulted in highly favorable coverage on area television channels as well as the *Tulsa World* newspaper.

Emerald Ash Borer

With Emerald Ash Borer now confirmed in at least two more Oklahoma counties, Keith has been working with Forester Dieter Rudolph on ideal ways to publicize information regarding the invasive species. This includes educational information to be made available to Oklahomans on ways to best mitigate and manage the damage caused by the EAB.

EASTERN AREA OFFICES

NORTHEAST AREA

Forest Protection Highlights

From May 12th through June 30th, the Northeast Area had one fire for one acre in the Protection Area. Evan Long, Connie Robinson, and Wes Hayes attended first aid training held at Tahlequah. Tony Hadley, Dusty Ryals, and Cole Hix conducted a Fire Prevention program for the Cub Scouts in Tahlequah on July 10th. Craig Longshore and Cole Hix

conducted interviews for the Parkhill Forest Ranger I position. NE Area personnel assisted with Smokey Bear fire prevention event held at Sequoyah State Park on August 12th.

Several NE Area Rangers have been on fire details starting in July. Below is a list of Rangers and AD positions filled.

- Dakota Green – Texas FFT1
- Isaac Merchant – Washington DZIA
- Cole Hix – Texas DZIA
- Chad Bateman – Texas DZIA
- David Jones – Texas DZIA
- Heath Jones – Texas DZOP
- Joe Leak – Texas DZIA
- Dusty Ryals – Texas DZIA
- Tony Hadley - Texas TFLD
- Billy Riggs – Texas DZIA
- Merchant on fire detail in Washington

Forest Management/Program Highlights

Connie Robinson assisted seven landowners with forestry issues. She also had four site visits, two of which were assisting OSU with a maple tree study. She attended the Oklahoma Forestry Association meeting to distribute NFS grant information. Evan Long met with two landowners regarding issues such as tree health, disease, and stewardship planning. He responded to seven calls and emails assisting landowners with forest management. Evan completed three forest stewardship plans, one in Creek County for 155 acres, another in Adair County for 340 acres, and finally one in Wagoner County for 38 acres.

Evan Long had seven site visits with landowners to look at issues such as tree health, ID, and management concerns. He assisted eight more landowners with FIA to address these concerns. Evan and Connie aided THE foresters with timber harvest and optimization data collecting. They also attended a workshop in Arkansas to be certified to respond as an urban forest strike team. Connie made five site visits for forest health, tree removal, and stewardship planning. She wrote two management plans in the time frame. Connie also assisted the earth day at Jay elementary school; 550 students attended this event. Craig Longshore assisted with the skills competition held in Tulsa, he judged the horticulture contest. Craig Longshore assisted Stilwell high school with pine thinning on their campus.

Ongoing Issues & Upcoming Events

- S-130 Basic Wildland Firefighting & S-190 Introduction to Wildland Fire Behavior Training in Adair County
- Forest Ranger I Position Vacancy in the Colcord Unit
- Smokey Program @ Sequoyah State Park
- Forest Ranger I Vacancy in the Park Hill Unit
- S-130 Basic Wildland Firefighting & S-190 Introduction to Wildland Fire Behavior Training in Woods County

Administration

Kaley Helton completed two webinars towards her Certified Procurement Officer training- “What’s New in Central Purchasing” and “Understanding Sustainable Procurement.” These webinars give her two continuing education credits toward her training goals. Helton also completed a CPO webinar: Procurement 101 Refresher Training. A FY24 budget meeting was held at the NE Area Headquarters in Tahlequah on August 8th.

EAST CENTRAL (EC) AREA

Forest Protection Highlights

Since the last board report date of June 30, 2023, EC has suppressed eight fires that burned 264.8 acres for an average fire size of 33.1 acres. Two primary structures saved at a value of \$273,397 and one secondary structure saved at a value of \$25,000.

July marked an increase in EC Rangers and other OFS personnel traveling out of state in support of wildfires nationally. To date, we have had personnel assist with wildfires in Alaska, Colorado, Florida, Montana, Oregon, North Carolina, Texas, and Washington.



Prescribed Fire

EC Talihina District Forest Rangers pushed fire lines for prescribed burning covering 2,509 acres.



Forest Management Highlights

Four new forest stewardship plans were completed since last report on a total of 178 acres and one new Rx burn plan was written for 640 acres.



Information / Education Highlights

EC rangers participated in one 4th of July parade.

Personnel update

EC Area conducted forest ranger interviews for the Adamson unit, but no candidate was selected. It will be reposted for hire in the near future along with the Blanco Forest Ranger I vacancy that was created by Abe Grey's retirement.

These two positions, along with the District Forester vacancy at Talihina, are vacancies that we hope to fill within the next six months.

Safety / Training Highlights

Garret Rowland, Blanco unit ranger, completed his Entry Level Driver Training (ELDT) with Arron Sumpter, Red Oak ranger, as the instructor. Garret was instructed on the various aspects of vehicle operation that included pre-trip inspection, backing/parking, and Behind the Wheel driving. After completing the ELDT he took his state administered driver's examination, passed it, and has obtained his Class A commercial driver's license. Garret was the "guinea pig" since he is the first employee to go through the ELDT being administered by Oklahoma Forestry Services' trainers.



Ongoing Issues

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

SOUTHEAST AREA

Forest Protection Highlights

In Protection Fires: July had nine fires burning 72.1 acres; August through current date ten fires for 92.3 acres. The Southeast Area had one large fire, the 4350 Road Fire, which occurred on August 2nd; we lost a small outbuilding valued at \$5,000. False runs for July = 0 and August = 1.

Three Forest Rangers were sent to western Oklahoma on the Altus Taskforce: Don Cook, Jared Burgett, and Adam Burleson. Woodrow Wilson was hired as Forest Ranger I in the Pickens Unit, starting on July 17th.

Several SE Area resources and equipment have been and/or are deployed to fires in Texas and Montana.

Forest Management/Programs Highlights:

- Will Phifer made eight landowner contacts.
- JT Allen made twelve landowner contacts.
- Tyler Hyatt made ten landowner contacts.

Rx Assistance

- Privet Reduction 2023 (behind SE Area HQ) - 27 acres
- Purchased a brush hog for the skid steer to assist in the Privet Reduction Project.

Safety/Training Highlights

- Don Cook attended the McCurtain County Firefighters Association meeting in July.
- Jimmy Morris and Sonny Johnson conducted S130/190 for new hire Woodrow Wilson.
- Jeffrey Kemp and Woodrow Wilson attended new hire orientation at HQ in OKC.
- Fire prevention education training was provided by Tony Pascal to SE Area personnel.
- Adam Burleson, Kent Kellogg, Cory Kellogg hosted a Smoky Bear program for the Antlers Wildlife Center on June 30th.

Employee Recognition/Other

- New computers have been installed at the Antlers office and Broken Bow office and laptops assigned to various personnel.

Upcoming events/activities:

- Urban heat mapping with drones in OKC.
- PPE safety training
- New wifi hotspot installation for the Antlers District office

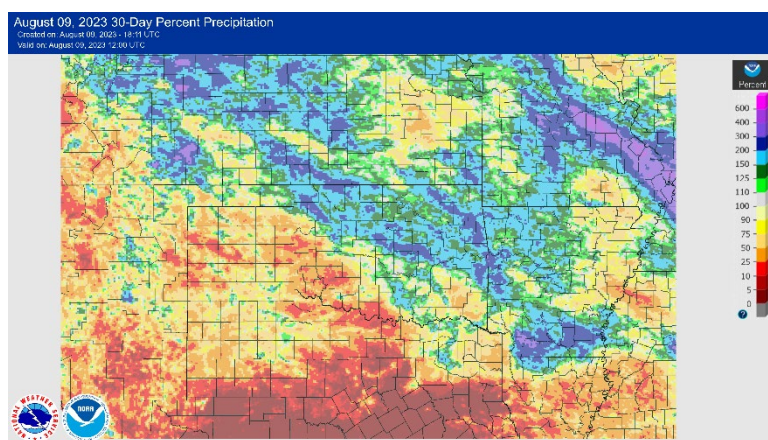
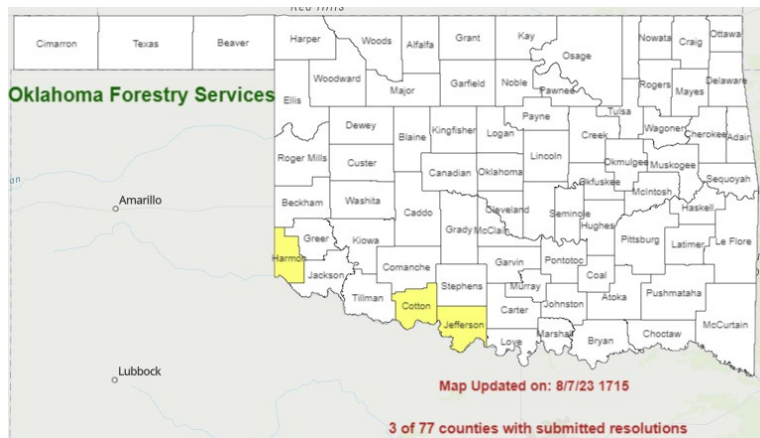
FIRE STAFF

Wildfire Activity & Outlook Executive Summary

A heat dome set up and dominated the general weather over much of Oklahoma the latter half of July into August. Hot temperatures and dry conditions targeted southwestern Oklahoma while much of the state registered above-normal temperatures. Herbaceous fuels that benefited from respectable early summer rains were subjected to accelerated drying conditions prompting increased wildfire potential moving into early August. The national Significant Wildfire Potential Outlook has highlighted areas in adjoining Texas immediately south of the Red River where more numerous wildfires are occurring. An uptick in fire occurrence has been noted in parts of Oklahoma, specifically in the southwestern / far south-central counties where County Burn Ban resolutions are now beginning to be issued.

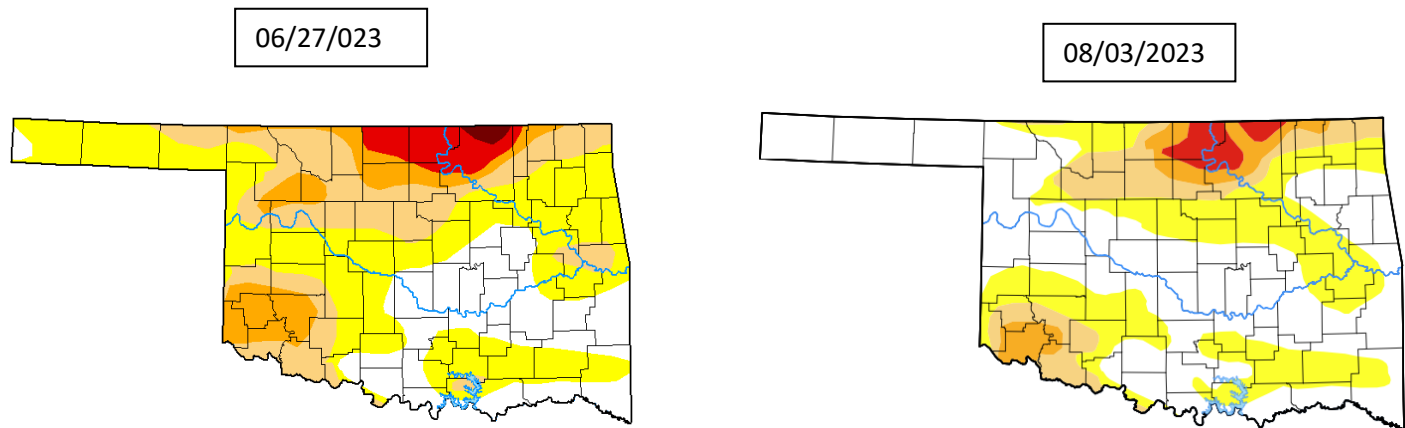
Overall, wildfire activity remains below normal for the year so far with OFS resources responding to 303 wildfires burning 34,943 acres. During July, OFS responded to 14 wildfires compared to the 10-year average response of 35 incidents. One new prescribed fire activity has occurred since last report bringing total acres treated in 2023 to 7,663 acres with 42 Rx fires. Currently, OFS has equipment and personnel assigned to or returned home from wildfires in Texas, Montana, Washington, Oregon, North Carolina, and Florida.

The heat dome referenced earlier continues to be centered over Texas with southwestern and far south-central Oklahoma on the periphery. Through satellite observations, fire activity increased somewhat in recent days although the majority



of ignitions are the result of prescribed/controlled burning. OFS did receive one request for assistance for a fire near Mangum although the fire size was rather small, the severity was elevated. The current area of developing concern is highlighted by the lagging rainfall over the past 30-days in southwestern Oklahoma. Currently, we are monitoring development of the fire environment.

The Drought Monitor has continued to show some improvement, although the wetter than normal trend has slowed.



The wildfire potential outlook will remain normal through the remainder of August with one caveat; the southwestern counties are becoming dry with stressed fuels. Any elevated fire weather day will prompt potential for increased initial attack activity with limited significant fire potential.

STATE FORESTER ACTIVITIES from 8 June through 15 August:

- 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)
- Served as a witness before the US House of Representatives Science, Space and Technology Committee. Testimony surrounded national wildfire issues related to fire weather forecasting and wildfire detection.
- Attended the July Board of Agriculture Meeting in Norman
- Attended the August monthly meeting of the Oklahoma Rural Fire Coordinators
- Participated on a Team call with OMES regarding BIL-IRA funding
- Participated on the National Association of State Foresters' All State Foresters Monthly Policy Call
- Participated on a Conference Call with the Conservation Fund regarding the Musket Mountain State Forest acquisition and the Forest Legacy Program.
- Participated on a Teams Meeting with the US Forest Service regarding threats to Mature and Old Growth Forests
- Represented ODAFF on a Teams Meeting with other Oklahoma Cabinet Secretaries to discuss BIL-IRA Funding.
- Deployed to the Colt Fire near Seeley Lake, Montana with Northern Rockies Incident Management Team #1
- Attended the Oklahoma Association of Regional Councils Monthly Meeting.



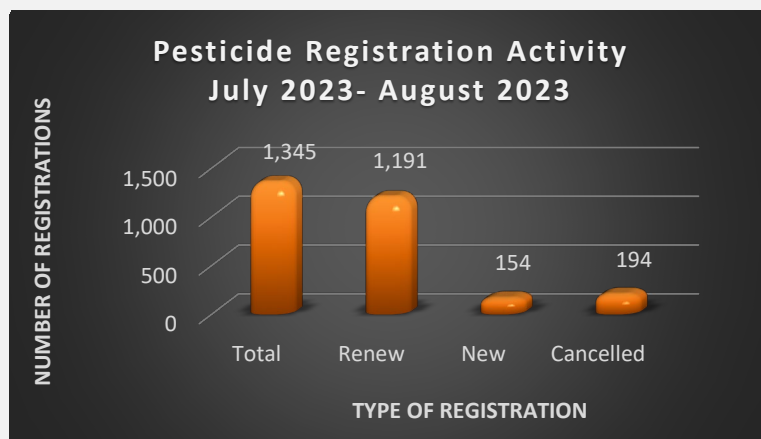
CONSUMER PROTECTION SERVICES DIVISION

AUGUST 30, 2023 BOARD MEETING REPORT FOR JUNE/JULY/AUGUST 2023

PESTICIDE SECTION

Pesticide Registration Activity

Pesticide registrations for July 1st to August 11th in 2023 are presented in the following chart. A total of 1345 products were registered, of the products registered 1191 were renewals and 154 were new. There were 194 products cancelled.



Pesticide Samples

Pesticide samples taken June-July 2023 are presented in the following chart. A total of 111 Residue, 5 Concentrate, 2 Plant Food, 9-Documentary, and 1 Tank mix samples were taken.

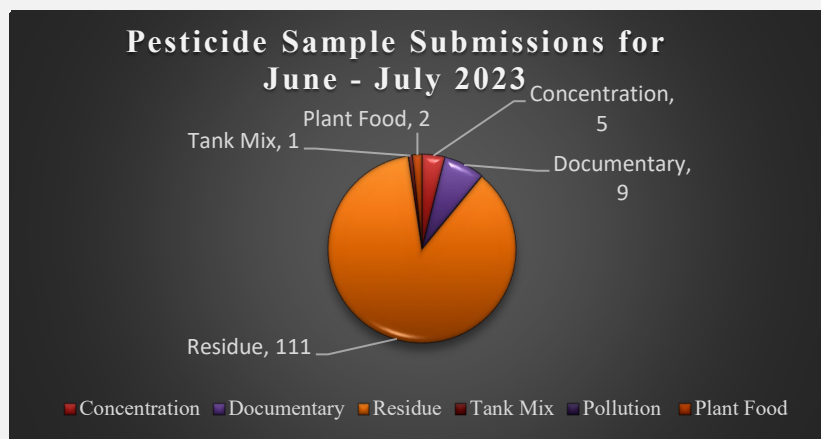


Table 1. Inspection Count for June - July 2023*

Inspection Type	Number of Inspections		
	June	July	Two Month Total
Experimental Use Permit	0	0	0
Marketplace	17	26	43
Pesticide Applicator Facility	11	23	34
Pesticide Service Inspection	0	0	0
Restricted Use Pesticide Dealer	7	18	25
Container Containment Inspection	1	1	2
Producer Establishment	0	2	2
Use	30	68	98
Termite	0	0	0
Wood	0	0	0
Pre-treat	1	3	4
Drift Investigation	0	0	0
Pesticide Label	1088	1531	2619
Worker Protection	0	0	0
Total	1155	1672	2827

* 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 29 nonagricultural use samples, 41 agricultural use samples, 4 nonagricultural follow up samples, 42 agricultural use follow up samples and 12 producer establishment samples for a total of 128 samples.

License Renewals

License renewals for company names that start with a # or A-L were sent out on August 2, 2023. These companies now expire on September 30th of each year.

Private Applicators

CPS had meetings with Amy from Kelly Solutions on the status of private applicator CEU database. Renewal letters for private applicators with CEUs are in the works. The online site for private applicators to check CEUs will be ready to go public soon.

Private Applicators – Renewal letters for those that have CEUs will go out at the end of August.

Cimarron Ag Conference

Megan Parker, Pesticide Program Administrator, attended the county ag conference at the Noble County Fairgrounds for private applicators where she gave a presentation on CEUs, renewals, and recordkeeping.

Pesticide Complaints

PESTICIDE COMPLAINTS	July 1, 2023 – August 14, 2023			
	RECEIVED	CLOSED	WARNINGS ISSUED	NO ACTION
CONSUMER GENERATED:	19	5	2	5
MUSK THISTLE:	7	0	0	0
PMR CASES:	11	4	0	4
CASES REFERRED TO OGC:	2			

ENVIRONMENTAL RESOURCE AND HORTICULTURE SECTION

Plant Protection Program

Phytosanitary Certificates

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

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

7 Federal phytosanitary certificates issued @ \$106.00 each

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

5 Federal phytosanitary Certificates issued @ \$61.00 each

<u>Federal Phytosanitary Certificates (July 1, 2023 - July 31, 2023)</u>			
Country	Product	Quantity	Phytos Issued
Canada	Iris Rhizomes	153 Rhizomes	5
Indonesia	Miscanthus Seed	20 Totes	1
Mexico	Sesame Seed	251,860 Lbs	6

Companies applying for federal phytosanitary certificates:

Stout Gardens	5
International Ingredient	1
Sesaco	6

We are currently looking into moving our state phytosanitary certificates to a digital platform, through PCIT.

State phytosanitary certificates Issued from July 1, 2023 – July 31, 2023
63 phytosanitary certificates for 3,416 plants



National Plant Board Meeting – July 30-August 3 in Little Rock, AR

Kaci Hubbell and Kenny Naylor attended the National Plant Board meeting in Little Rock, Arkansas. The annual meeting is an opportunity for the states, USDA, and Custom and Border Protection to meet to discuss plant protection issues and concerns. There were 34 states attending the meeting and the following items were some of the topics that were covered. An update on the federal Imported Fire Ant Quarantine, proposed status changes for the regulatory status of Tomato Brown Rugose Fruit Virus, citrus diseases, vascular streak dieback, the newly developed Strategic Plan for the Spotted Lanternfly program, as well as other plant pests of regulatory concerns.



Figure 1: NPB in Little Rock AR

Hemp

The dry, hot summer has negatively impacted Oklahoma hemp growers. Many are seeing a crop failure as they get closer to harvest season.

Apiary

The national honeybee survey continues. Beekeepers and bees are still recovering from the tough winter, which has limited the number of beekeepers who meet the hive requirements for sampling. Fortunately, we have not seen any diseases or pests of bees other than one hive beetle.

AGRICULTURE RESOURCE SECTION

Weights & Measures Program

During this period the large capacity scale technicians tested 188 Vehicle scales, 24 of the Vehicle scales were rejected for repairs.

CPS inspectors checked a total of 2325 small scales and 63 platform scales, 38 of the scales were rejected. There were 35 random pack inspections and 62 standard pack inspections conducted that resulted in 19 companies receiving letters of warning and 2 companies receiving a Stop Sale. Additionally, 173 price verification inspections were conducted at various retailers that resulted in 6 companies receiving letters of warning. A total of 3 scale companies received a letter of warning for not properly servicing scales and 1 company received a letter of warning for possessing a not approved scale.

Feed Program

AAFCO Meeting

Dakota Walls, Feed Program Administrator, virtually attended the Association of American Feed Control Officials (AAFCO) annual meeting that was hosted in Baltimore, Maryland. AAFCO provides a forum to help achieve regulatory uniformity through state regulations, as well as provide regulatory control officials and industry a chance to interact and discuss the implementation of regulatory decisions. Participation in AAFCO provides each state with a voice in the regulation of feed and feed ingredients and promotes uniformity among the states regarding regulation. Dakota is involved in committee meetings and discussions regarding updates, additions, and changes to ingredients for animal feed as well as sampling changes and regulation updates.

Program Performance

During this reporting period there were a total of 158 official feed samples analyzed, with 750 feed determinations made from these samples. These determinations resulted in the issuance of 26 violations for feeds or feed ingredients that did not meet established tolerances based on their guaranteed analysis. Most of these violations were issued for products deficient in Crude Protein. Other violation includes Vitamin A, Phosphorus, Salt, Copper, Crude Fat, Crude Fiber, Zinc and Calcium. Five stop sale orders were issued for feed products with severe deviations from their guaranteed analysis. Three stop sales were issued for products deficient in Vitamin A.

One stop sale was issued for a product deficient in Salt. One stop sale was issued for a product deficient in Crude Fat.

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 June 2023- July 2023

Nutritional Guarantee	Number of Label Violations		
	July ¹	June ²	Two Month Total
Crude Protein	8	5	13
Non-protein Nitrogen	0	0	0
Crude Fat	3	3	6
Crude Fiber	3	2	5
Calcium	1	6	7
Phosphorus	2	4	6
Salt	2	2	4
Magnesium	0	1	1
Potassium	0	1	1
Copper	2	2	4
Manganese	0	0	0
Zinc	1	4	5
Vitamin A	4	4	8
Methionine	0	3	3
Total	26	37	63

¹ 158 feed samples analyzed with 750 determinations; ² 274 feed samples analyzed with 1429 determinations

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

Nutritional Guarantee	Number of Stop Sales		
	July ¹	June ²	Two Month Total
Crude Protein	0	2	2
Non-protein Nitrogen	0	0	0
Crude Fat	1	3	4
Crude Fiber	0	1	1
Calcium	0	4	4
Phosphorus	0	0	0
Salt	1	4	5
Magnesium	0	1	1
Potassium	0	0	0
Copper	0	1	1
Zinc	0	0	0
Vitamin A	3	9	12
Medicated Feed	0	0	0
Total	5	25	30

¹ 158 feed samples analyzed with 750 determinations; ² 274 feed samples analyzed with 1429 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 June 30th through August 11th, 2023.

Sample Type	Number	Deficiency Penalty/SS
Fertilizer	93	12
Lime	11	1

Investigation Type	Number
Dry Bulk Fertilizer Storage Facility	21
Liquid Bulk Fertilizer Storage Facility	14
Facility Pre-Site	1

Other Fertilizer News

On July 13th, Fertilizer Program Administrator, Joshua Maples, presented to handlers of anhydrous ammonia at the annual Anhydrous Ammonia Safety Training provided by Triangle Insurance in conjunction with the Consumer Protection Services Division of the Oklahoma Department of Agriculture, Food, & Forestry. His presentation and discussions were regarding general anhydrous ammonia safety and the regulatory requirements set forth in the Oklahoma Fertilizer Act & Rules.



Figure 2: Anhydrous ammonia safety training class in Enid.

AAPFCO Meeting

Joshua Maples, Fertilizer Program Administrator recently represented Oklahoma at the 2023 Association of American Plant Food Control Officials (AAPFCO) Summer Annual Meeting in Baltimore, Maryland from August 2nd – 4th. His attendance provides Oklahoma with a voice in leadership in AAPFCO decision making, as Joshua is a vice-chair and committee member on numerous committees and is active in participating in discussions within the organization. He was acting chair of and led the meeting for the Education and Information committee, whose purpose is “*To promote the*

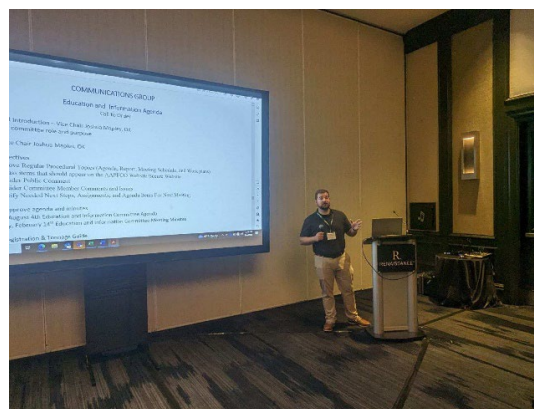


Figure 3: AAPFCO Summer Annual Meeting in Baltimore.

role of AAPFCO as a source of uniformity in plant food regulations, labels, and definitions. To develop and disseminate information and educational materials to help ensure the safe and effective use of fertilizers, beneficial substances, and soil amending products in agricultural and consumer applications.” He oversees the AAPFCO labeling guide, as well as the AAPFCO

inspector manual. The purpose of AAPFCO is to help achieve regulatory uniformity through state regulations, as well as provides regulatory control officials and industry a chance to interact and discuss the implementation of regulatory decisions. A new addition to this meeting was the inclusion of a AAPFCO Control Officials Leadership Training, where the discussion focused on the AAPFCO mission highlighting the benefits of involvement and inclusion from the state regulatory programs, Joshua was also selected as the newest incoming member of the AAPFCO Board of Directors, where he will serve a six-year term with the help and support of CPS, ODAFF, and the Board. Twenty-nine states, including Canada were represented by a total of 57 control officials, with 108 industry liaisons in attendance as well.

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
August 30, 2023
Activities July 1, 2023 – August 11, 2023

Animal Disease Traceability:

We continue to distribute the free RFID tags to interested veterinarians and producers. During this time, we shipped 4,800 tags. We are beginning to provide RFID readers to livestock market veterinarians as they request them. Three have been provided during this period.

On July 13, AIS staff provided a VET-CVI webinar to users to go over the update to the application that was released at the end of June as well as provide guidance on how to use the app in the most efficient way. The webinar was recorded and is available on the Department's YouTube channel. Six new veterinarians have signed up for VET-CVI for a total of 160 users/accounts.

Aquaculture:

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

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

We are assisting a currently licensed facility with the process of expanding and how to incorporate that expansion into the confines of the license.

Biologics:

One of our Livestock Inspectors found multiple expired vaccines at two stores. One store had a previous violation, so a letter of warning was issued.

Our LSI had a discussion with the second store. They will follow up by organizing their biologics section better and checking for expiring products.

Cattle Programs:

Brucellosis:

One Brucellosis Certified Free herd is currently completing their yearly testing.

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.

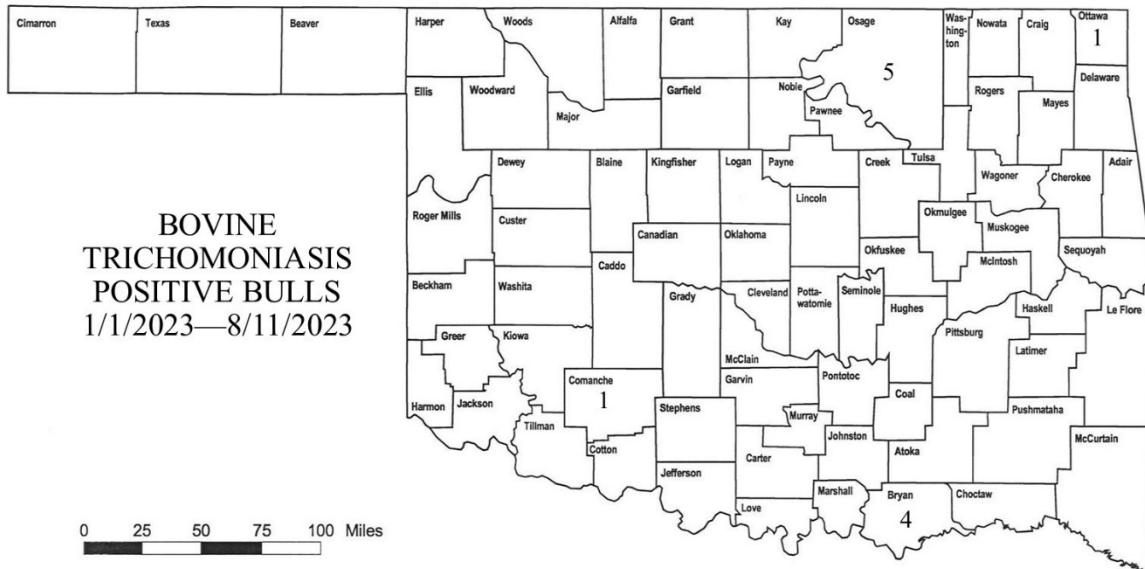
While there is very little need to test for *B abortus* any longer, this means we have very little or no surveillance for *Brucella suis* (Swine Brucellosis) in cattle, which currently infects approximately 20% of the feral swine that our Wildlife Services personnel test. *B suis* can, and does, infect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

Tuberculosis:

We currently have no TB affected herds in Oklahoma.

Trichomoniasis:

During this period there were 291 Oklahoma bulls tested for Trichomoniasis with no positive individuals found.



10,616 bulls tested / 11 positive = 0.10% 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:

This reporting period has been rather mild compared to our normal Johne's activity. During this time, we had nine positive reports with two being repeat premises. Year to date totals are 39 positive reports of which 31 of these are new premises.

Emergency Management:

On July 27, Dr. Gorczyca and Dr. Stone attended the Community Unified Response to Radiological Incidents and Emergencies that was hosted by the Department of Energy and the FBI and held in Oklahoma City.

On July 11, Dr. Gorczyca participated on the monthly Southern Agriculture and Animal Disaster Response Association call.

On July 13, Dr. Gorczyca participated in the monthly US SHIP OSA call and the monthly Multi-State Partnership for Security in Agriculture call.

On July 31, Dr. Gorczyca met with several volunteers with the OK State Animal Response Team to discuss strategic planning for the future of SART.

On August 10-15, we successfully held and executed the National Pork Board exercise.

Equine Programs:

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

There are no Piroplasmosis cases in Oklahoma.

On July 17th, we were notified by a livestock market veterinarian that a horse going through a livestock market sale had tested positive on a screening test for EIA (i.e. Coggins test). The horse was confirmed positive through additional testing performed at the National Veterinary Services Laboratory in Ames, IA.

The positive reactor was a 15 year old grade gelding that came from a closed herd in Carter county. The owner of the horses had inherited the land where the horses were residing from her father-in-law after his passing in 2014. The history of the herd was unknown and to the best of the owner's knowledge, the positive reactor had been on the property for the past 13 years and whether he was born on the property or purchased as a two year old, was unknown.

The positive horse was humanely euthanized, and the rest of the herd underwent an initial EIA test. All horses within 200 yards of where the positive horse was pastured have also undergone an initial screening test for EIA. There were 11 horses that left the herd on July 17th and all of those horses have been found, identified, quarantined, and have had an initial screening test performed. No additional positive horses have been found. All quarantines can be released after a second negative test at least 60 days after removal of the positive horse.

Farmed Cervidae Programs:

On July 7, Deputy Commissioner Rowlett and I met with ODWC to discuss changes to the State CWD Response Plan.

On July 10, Dr. Gorczyca was interviewed by OETA for the Oklahoma News Report concerning the confirmation of CWD in native white tail deer in the state.

On July 31, Deputy Commissioner Rowlett, Dr. Gorczyca-Southerland, and I met with ODWC, representatives of the cervid industry, and several legislators regarding the State's response to finding of CWD positive deer in Texas and Woodward Counties.

Dana Call has participated in three of five listening sessions hosted by the USDA. The listening sessions are covering the USDA CWD Herd Certification Program Standards. Participants of the listening sessions include all stakeholders who have been granted the opportunity to provide feedback on any modifications they would propose. Each session has specific topics to be discussed and everyone has the opportunity to comment. There

will be two more sessions over the following weeks and the USDA is accepting comments until December of this year.

During routine herd testing for tuberculosis, two separate herds were found to have potential TB positive animals. Both herds were quarantined until follow up testing was completed. AIS received the follow up test results and all animals involved have been declared negative for TB. The quarantine has been lifted for both producers.

Dana Call completed and submitted the Farmed Cervidae annual report to the USDA on August 8th. This is an annual accounting of the number of captive cervidae by species and herd status for Oklahoma. There have been modifications to recordkeeping to make this data easily accessible and as accurate as possible.

Feral Swine:

Feral Swine activity has slowed over the hot summer months. Many sporting and handling facilities suspend operations due to the very hot weather. There are no new complaints to report. License renewal and facility inspections have been completed for 2023-2024.

Foreign Animal Disease:

There were three FAD investigations during this time.

One was a pet rabbit in Tulsa County that died suddenly. The referring veterinarian was concerned it could have died from Rabbit Hemorrhagic Disease.

Two were horses from Wagoner and Beckham Counties with vesicular lesions that were suspicious for Vesicular Stomatitis.

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

Livestock Market Audits:

During this period, staff has been working with Tanner Ward of Wister regarding a new livestock auction license. Mr. Ward is in the process of building a new facility just east of Wister in LeFlore County. The new market, Poor Boy Livestock, is around eighty percent complete and has intentions of being complete and operating by mid-September. In addition to assisting Mr. Ward, multiple market ownership packets were requested and delivered. As well as the new market requests, this period also allowed for several custodial account reviews.

Livestock Auction Market Activities

Auction market licenses issued	0
Auction market licenses pending	0
Market custodial audits completed	6
Auction market complaints investigated	0
Fines collected	0
Livestock Markets with Legal Action	0

Outreach:

On July 24, Secretary Arthur, Deputy Commissioner Rowlett, Dr. Gorczyca-Southerland, and I met with representatives of OYE, OKPork, and CareerTech to discuss ways to decrease the potential for PED outbreaks at OYE.

On July 31, OKPork hosted a webinar to broach the subject of ODAFF proposing a rule to place a moratorium in place for swine exhibitions from March 1 until OYE begins. The purpose of the moratorium would be to allow show pigs to recover from cases of PED between the last show and OYE to decrease the number of potential virus shedders during OYE.

On August 6 I met with the membership of Oklahoma Livestock Marketing Association to discuss Livestock Health activities and Animal Disease Traceability.

Poultry Programs:

There have been 17 sick or dead birds submitted for our sick bird/dead bird program since the last board report, for a total of 87 cases this year.

On July 14th, Dr Ruby and Sherrie Davis visited one of the primary breeder complexes for Cobb Vantress that is located in Oklahoma. This provided an opportunity to better understand the enhanced biosecurity of a compartmentalized complex and to collaborate with the company on how we could best respond in the case of a reportable disease outbreak.

Public Health

There is nothing to report during this time.

Rabies in Livestock:

There has been one confirmed case of rabies in livestock since the last board report. The affected animal was a heifer that had been sent to another farm for artificial insemination. The clinical signs were initially thought to be due to heat stress but the condition of the heifer continued to decline and it later died. There were two cows that had been penned with the positive heifer and approximately 20 additional head of cows that had potential exposure. There is no plan to move any of the exposed cattle in the next 6 months. Owners of those animals will monitor and report any signs of illness.

Sheep and Goat Programs:

On August 7, Dr. Jill Duel and I met with personnel from Oklahoma Animal Disease Diagnostic Laboratory to discuss opportunities to collect more samples for Scrapie and BSE to help us meet our testing goals.

Swine Programs:

The two gilts from a commercial farm in Hughes County that tested positive for Brucellosis were euthanized and had tissues collected and forwarded to National

Veterinary Services Laboratory. The tissues cultured negative for Brucellosis, but did culture positive for *Yersinia enterocolitica*, which has been proven to cross react with Brucella antibodies. Since this bacteria is not zoonotic, we released the quarantine and the gilts were able to go to a processing plant.

The show pigs mentioned in the previous report have now had two additional tests. Two gilts are isolated and will be retested at the end of August. Their titers have been going down and we're hopeful that they will be negative at the next test. The quarantine on the remainder of the pigs has been released and they are able to be exhibited now..

On August 4, Dr. Gorczyca-Southerland and I attended the Oklahoma Pork Congress.

AIS has been fortunate to have two interns this summer. Kaitlyn and Brittney have been assisting with updating and converting our VQ herd files to an electronic format. They have also scanned and organized swine test chart files by the veterinarian of record and the owner of the VQ herd. There are now spreadsheets for each veterinarian and a more efficient system in place to count the number of brucellosis and pseudorabies tests that are run annually in Oklahoma for reporting purposes.

On August 1, 2023, AIS received confirmation of Stage V State-Federal-Industry Pseudorabies Eradication Program status based on our report submission in March of this year.

Submission of swine show permits have increased in preparation of the fall show season and local county fairs.

Miscellaneous:

There was no miscellaneous activity during this time.

Respectfully,

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

Rod Hall, DVM

Oklahoma Department of Agriculture, Food, and Forestry
Wildlife Services Division
Board Report for July 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 415 properties with an estimated 2,037,237 acres of land under agreement. Additionally, WS helped 172 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 \$309,118 during this period. Beaver damages accounted for losses totaling \$58,800. Coyotes were responsible for a number of damage requests, primarily to livestock, with losses totaling \$4,427. Feral swine damages accounted for losses totaling \$236,667, while other species of wildlife were responsible for \$9,224 in damages to property, agriculture, and livestock.

Providing Wildlife Services

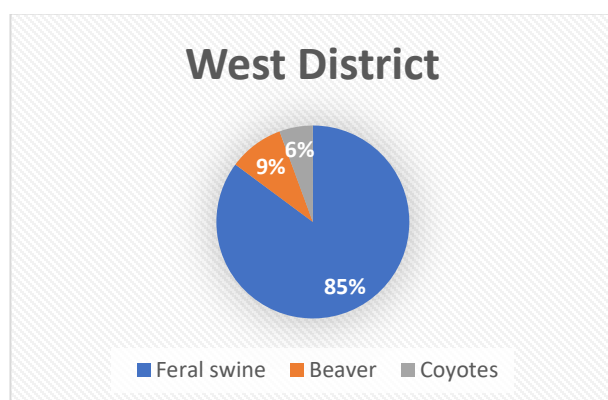


Figure 1: Species Removed in West District by percentage during July 2023

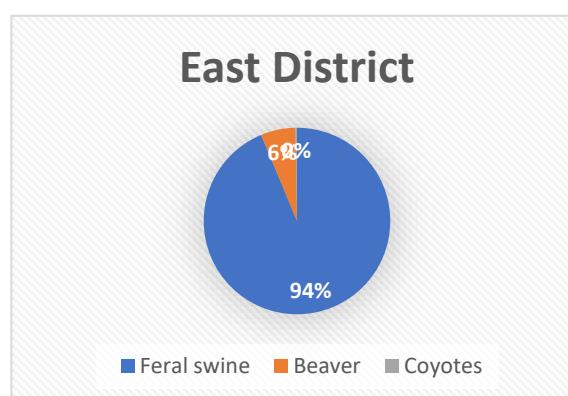


Figure 2: Species Removed in the East District by percentage during July 2023

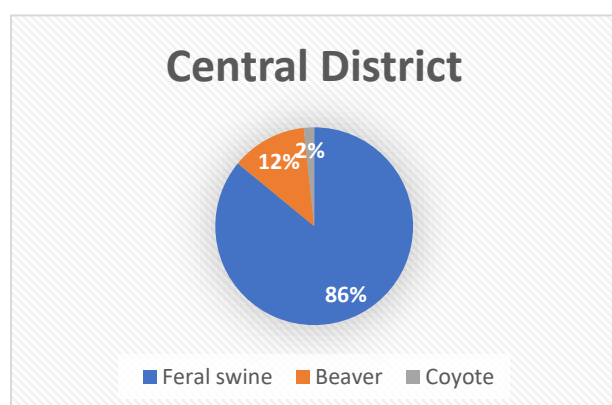


Figure 3: Species Removed in the Central District by percentage during July 2023

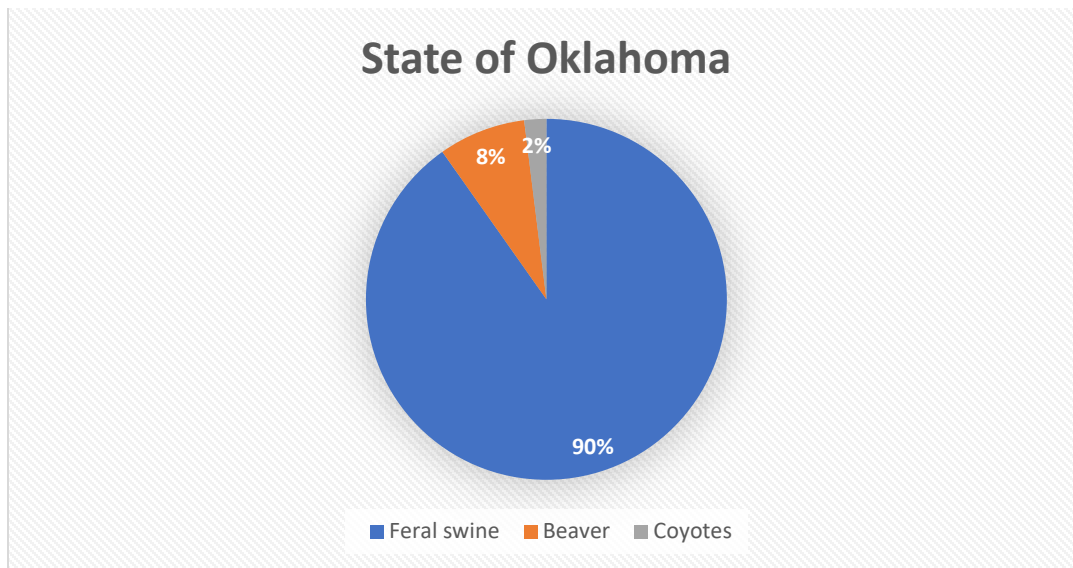


Figure 4: Species Removed in the State by percentage during July 2023

Coyote Damage Management

Washita County livestock producer requested assistance with coyotes depredating on his lambs. The producer reported that coyotes killed six lambs valued at \$1,205. The Wildlife Specialist assigned to Washita County responded to the request and examined one of the carcasses and confirmed coyotes were responsible for the loss. The Specialist recommended non-lethal methods of carcass removal, night penning, shed lambing, and guarding animals to help reduce future losses to coyotes. Control efforts have removed four coyotes and are continuing currently to further reduce predation losses from coyotes for the producer.

Beaver County landowner requested assistance with coyotes depredating on his calves. The producer reported that coyotes were responsible for the loss of one calf valued \$881. The Wildlife Specialist assigned to Beaver County examined the carcass and verified coyotes were responsible for the loss. Damage management efforts were successful in removing six coyotes from the property. Control efforts continue to help further reduce the threat to the cooperator's calves.

Stephens County livestock producer requested assistance with coyotes depredating on his calves. The producer reported that coyotes had killed one calf valued at \$881. The Wildlife Specialist assigned to Stephens County conducted a site visit and determined coyotes were responsible for the loss. Damage management efforts were successful in removing four coyotes from the property. No further losses have occurred, and work is ongoing to prevent additional losses.

Feral Swine Damage Management

Jackson County landowner contacted WS needing assistance with feral swine rooting in his wheat fields. The landowner estimated that feral swine rooted up twenty acres in two fields valued

at \$2,500 in damages. The Wildlife Specialist assigned to Jackson County responded to the request and verified the damage. A live trap was set and forty-seven feral swine were removed from the property. No additional damage has occurred and the population in the area is being monitored to determine if additional management is needed.

Greer County farmer requested assistance with feral swine causing damage in his pastures. The farmer reported feral swine were responsible for damaging twenty acres of pasture valued at \$1,000. The Wildlife Specialist assigned to Greer County responded to the request and his field inspection verified the damages to his pasture. The Specialist used a live trap to remove twenty-four feral swine. The area continues to be monitored for activity to determine if additional management efforts are needed to further reduce damage.

McCurtain County rancher called WS for assistance with feral swine when he found damage to his cattle pastures. The rooting damage was verified and estimated at \$1,200. After pre-baiting, a remote camera trap was placed out and twenty-one feral swine have been removed to date. This project is still being monitored.

Osage County rancher called for assistance when he found feral swine damage in his hay fields. The damage was recent and estimated at \$1,300. After pre-baiting, a remote camera trap was placed out and twenty-one feral swine have been removed to date. This project is still being monitored.

Kay County landowner called WS reporting feral swine damage on his property. The rooting damage was verified and estimated at \$850. After pre-baiting, a remote camera trap was placed out and eighteen feral swine were removed. This project is still being monitored. The owner was advised about environmental changes that could assist him to deter future feral swine on his property.

Atoka County rancher called for assistance with feral swine. He reported that feral swine had damaged his hay meadows. The damage was verified and estimated at \$6,000. After pre-baiting, a remote camera trap was placed out and five feral swine were removed. This project is concluded.

WS responded to a call inside city limits in **Oklahoma County** regarding feral swine in a major intersection. The city police had been called on numerous occasions to “scare” the feral swine out of the streets. WS met with city animal welfare officers and was able to determine where the feral swine were residing. WS pre-baited a live trap and was able to capture twelve feral swine. Monitoring of the area by city officers and WS personnel will continue. No additional action has been needed to date.

Aerial Operations

Aerial operations were conducted in **Custer and Blaine Counties** in response to three landowners experiencing feral swine damage on irrigated corn fields. Landowners reported to the Wildlife Specialist feral swine had damaged twenty-five acres of corn valued at \$16,000. The helicopter was utilized for 7.9 flying hours to remove sixty-one feral swine from the fields. Feral swine activity in the vicinity of the cornfields is closely being monitored to determine if additional aerial operations is necessary to further reduce damage from feral swine.

Beaver Damage Management

Caddo County Road Commissioner contacted WS for assistance with beaver that were responsible for damming up the creek on a bridge culvert, causing the water to go over the road. The Commissioner estimated the damage to the road and bridge structure to be \$2,500. The Specialist for Grady County responded and verified the damage. Control measures used by the Specialist were effective in removing the beavers from the creek to help reduce any additional damage to road and bridge.

Major County landowner contacted WS for assistance with beaver that were responsible for burrowing into his pond dam on his property. The landowner estimated the damage to the dam to be valued at \$1,000. The Specialist for Major County responded and verified beaver were responsible for damage. Control measures employed by the Specialist were successful in removing five beavers from the pond to help reduce any additional damage to the pond dam structure.

Blaine County landowner contacted WS for assistance with beaver that were responsible for damming up the creek on his property and flooding his pasture. The landowner estimated the damage to the pasture to be valued at \$500. The Specialist for Blaine County responded and verified beaver were responsible for damage. Control measures employed by the Specialist were effective in removing the beavers from the creek to help reduce any additional damage to pasture.

Sequoyah County property owner called WS reporting that beavers had moved into his pond. The beaver damage was confirmed and estimated at \$500 to remove the beaver dam constructed in the drainage of the pond. Conibear traps were placed out and three beavers were removed. This project is still being monitored. The owner was advised on environmental changes to his property that could help to discourage future beaver issues.

Adair County Commissioner called WS for assistance reporting that beavers were causing flooding and road damage on a county road. The damage was confirmed and estimated at \$300 to the roadway. The flooding issue was alleviated by removing the beaver dam from the culvert and two conibear traps were placed out. Two beavers were removed to conclude this project.

Carter County landowner called and had beavers cutting down trees around his pond. WS met with him and verified the damage estimated at \$1500. Body grip traps were set and three beavers were removed. Work has been completed.

Lincoln County property owner requested WS help with beavers that were cutting trees around her pond and damming up a creek on the property also. WS responded and verified that beavers were causing an estimated \$2000 in damages. Body-grip were set and two beavers have been removed from the location.

Miscellaneous Projects

Wagoner County resident called for assistance, reported that something was digging holes into his yard. The damage was confirmed and estimated at \$500. It was determined that a groundhog was responsible for the damage. After an instructional session, a live trap was left with the property

owner. To date, the groundhog has not been captured. The local Specialist will relocate the groundhog once he is captured.

Black Vultures Management

Carter County rancher contacted and said that Black vultures were roosting in a tree over his house causing damage to his residence. WS responded to the location and verified the damage at an estimated \$1500. Firearms were used to remove four Black vultures. No further damage has been reported.

Prairie Dog Management

Kiowa County landowner contacted Wildlife Services with prairie dogs damaging his pasture. The Specialist assigned to Kiowa County conducted a site visit and determined the Prairie dog damaged thirty acres of the pasture. The damages to the pasture and grazing loss were estimated to be \$4,000. Fumitoxin was applied to reduce the Prairie dog population in the area. The area is closely being monitored to determine if addition applications are needed.

Canadian County landowner contacted WS with an issue concerning Prairie dogs damaging his grazing pasture. Upon arriving at the location, WS confirmed that Prairie dogs were damaging the pasture with an estimated loss of \$7500. Zinc Phosphide Oats and Aluminum Phosphate tablets was applied to reduce the population. The area is closely being monitored to determine if addition applications are needed.

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

County	Beaver	Coyote	Feral swine	District
Adair				E
Alfalfa		1		W
Atoka	2		1	E
Beaver		5		W
Beckham		1	14	W
Blaine	10		49	W
Bryan			31	E
Caddo	5			W
Canadian				C
Carter	3		21	C
Cherokee				E
Choctaw	4		35	E
Cimarron				W
Cleveland		1		C
Coal				C
Comanche	1		30	W

Cotton				W
Craig				E
Creek	4		67	E
Custer	1	2	11	W
Delaware			6	E
Dewey			2	W
Ellis	1	1	12	W
Garfield	6			C
Garvin				C
Grady	6		43	W
Grant				C
Greer		2	62	W
Harmon				W
Harper	1			W
Haskell				E
Hughes			139	E
Jackson			47	W
Jefferson	1			C
Johnston				C
Kay			19	C
Kingfisher				C
Kiowa				W
Latimer				E
Leflore	4		60	E
Lincoln				C
Logan	3			C
Love	1		2	C
Major	5			W
Marshall				C
Mayes				E
McClain				C
McCurtain	4		11	E
McIntosh			2	E
Murray				C
Muskogee	1			E
Noble			27	C
Nowata			38	E
Okfuskee			2	E
Oklahoma	4	2	25	C
Okmulgee	2		35	E
Osage	7	2	75	E

Ottawa			48	E
Pawnee			59	C
Payne	4			C
Pittsburg	2		1	E
Pontotoc				C
Pottawatomie				C
Pushmataha	13		49	E
Roger Mills			33	W
Rogers	1			E
Seminole			85	E
Sequoyah				E
Stephens	3			W
Texas		8		W
Tillman				W
Tulsa				E
Wagoner			2	E
Washington				E
Washita			1	W
Woods				W
Woodward				W
TOTAL	99	25	1144	

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

Respectfully submitted,

Scott Alls
Division Director
Wildlife Services Division

**July 2023 Activity Report
for
August 2023 Board Meeting

Agricultural Statistics Division**

General

Most of the state welcomed rain and cooler temperatures. Rainfall totals the **first week of July** in Oklahoma averaged 3.01 inches. According to the July 4th US Drought Monitor Report, drought conditions were rated 74 percent abnormally dry to exceptional drought, up 10 points from last year. Additionally, 36 percent of the state was in the moderate drought to exceptional drought categories, up 5 points from the previous year. Statewide, temperatures averaged in the mid to upper 70's. Topsoil and subsoil moisture conditions were rated adequate to short.

Rainfall totals **the second week of July** in Oklahoma averaged 1.49 inches. According to the July 11th US Drought Monitor Report, drought conditions were rated 57 percent abnormally dry to exceptional drought, down 43 points from last year. Additionally, 24 percent of the state was in the moderate drought to exceptional drought categories, down 39 points from the previous year. Statewide, temperatures averaged in the upper 70's to low 80's. Topsoil and subsoil moisture conditions were rated adequate to short.

Rainfall totals **the third week of July** in Oklahoma averaged 0.59 inches. According to the July 18th US Drought Monitor Report, drought conditions were rated 50 percent abnormally dry to exceptional drought, down 50 points from last year. Additionally, 20 percent of the state was in the moderate drought to exceptional drought categories, down 80 points from the previous year. Statewide, temperatures averaged in the low 80's. Topsoil and subsoil moisture conditions were rated adequate to short.

Overall, extreme temperatures were experienced, while rainfall across the state was non-existent **the fourth week of July**. According to the July 25th US Drought Monitor Report, drought conditions were rated 48 percent abnormally dry to exceptional drought, down 52 points from last year. Additionally, 18 percent of the state was in the moderate drought to exceptional drought categories, down 82 points from the previous year. Statewide, temperatures averaged in the mid to upper 80's. Topsoil and subsoil moisture conditions were rated adequate to short.

Small Grains: Oats harvested reached 95 percent, down 3 points from the previous year and down 1 point from normal.

Row Crops: Another week of dry conditions and high temperatures pushed row crops to progress. Some crops are beginning to show signs of stress. Corn silking reached 83 percent, up 1 point from the previous year and up 5 points from normal. Corn dough reached 42 percent, up 20 points from the previous year and up 16 points from normal. Sorghum headed reached 26 percent, down 15 points from the previous year and down 10 points from normal. Sorghum coloring reached 8 percent, down 2 points from the previous year and down 3 points from normal. Soybeans emerged reached 95 percent, up 4 points from the previous week. Soybeans blooming reached 55 percent, up 13 points from the previous year and up 15 points from normal. Soybeans setting pods reached 7 percent, down 3 points from the previous year. Peanuts pegging

reached 57 percent, down 2 points from the previous year but unchanged from normal. Cotton squaring reached 84 percent, up 1 point from the previous year and up 5 points from normal. Cotton setting bolls reached 55 percent, up 26 points from the previous year and up 25 points from normal.

Hay: The second cutting of alfalfa hay reached 95 percent, up 9 points from the previous week. The third cutting of alfalfa hay reached 53 percent, down 5 points from the previous year and down 6 points from normal. The second cutting of other hay reached 40 percent, down 9 points from the previous year and down 3 points from normal.

Pasture and Livestock: Pasture and range condition was rated at 79 percent good to fair. Livestock condition was rated at 84 percent good to fair.

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

Survey	Enumerated by:	Survey Dates
ARMS 1	DCC	6/8 – 7/12
July Ag Yield	DCC	6/29 – 7/7
July Cattle Survey	DCC	6/30 – 7/14
Grain Prices	DCC	7/7 – 7/14
August Ag Yield	DCC	7/29 - 8/7
Grain Prices	DCC	8/8 – 8/15
Small Grains CE Tier 1	DCC	8/9 – 10/6

Statistics: On August 11, 2023, August Crop Production report was released. Highlights include:

Oklahoma Upland cotton production is forecast at 520 thousand bales, 71 percent higher than 2022. Yield averaged 594 pounds per acre, compared with 634 pounds last year. Acreage harvested, at 420 thousand acres, is up 83 percent from last year.

Oklahoma corn production is forecast at 44.6 million bushels, up 83 percent from the previous year. Statewide yields averaged 135 bushels per acre, 13.0 bushels higher than 2022. Acres harvested for grain, at 330 thousand, is up 65 percent from last year.

Oklahoma sorghum production is forecast at 19.2 million bushels, up 234 percent from last year. Yield averaged 52.0 bushels per acre, up 28.0 bushels from the previous year. Acres harvested, at 370 thousand acres, is 54 percent higher than 2022.

Oklahoma soybean production is forecast at 16.1 million bushels, up 146 percent from last year. Yield is expected to average 31.0 bushels per acre, compared with 17.0 bushels in 2022. Harvested acreage, at 520 thousand acres, is 35 percent higher than last year.

Oklahoma peanut production is forecast at 3 percent lower than last year, at 60.0 million pounds. Yield is forecast at 1.76 tons per acre, up 350 pounds from 2022. Harvested acres are down 12 percent from last year to 15.0 thousand acres.

Oklahoma hay production is forecast at 58 percent higher than last year, at 6.2 million tons. Yield is forecast at 4,000 pounds per acre, up 34 percent from 2022. Harvested acres are up 18 percent from last year to 3.5 million acres.

Information Requests: Phone calls, personal visits to our office, and requests via e-mail for information since last report totaled 19.

Releases for July:

Crop Production
July Cattle Report
Cattle on Feed
Farm Expenditures
Agricultural Prices

Relating Dates:

July 1, 2023
July 1, 2023
July 1, 2023
2022 Prod Year
July 15, 2023

Release Dates:

July 12, 2023
July 21, 2023
July 21, 2023
July 28, 2023
July 28, 2023

Releases for August:

Cash Rents (state)
Crop Production
Cattle on Feed
Cash Rents (county)
Agricultural Prices

Relating Dates:

January 1, 2023
August 1, 2023
August 1, 2023
January 1, 2023
August 15, 2023

Release Dates

August 4, 2023
August 11, 2023
August 18, 2023
August 25, 2023
August 31, 2023

Meetings and Events:

Sac and Fox Fair
TECO Meeting
OTCAC Producer Meeting
Plains Grains Inc MT Training
Oklahoma Wheat Commission
Oklahoma Cattlemen's Conference
ITEC Conference

Date:

July 6, 2023
July 12, 2023
July 13, 2023
July 17, 2023
July 19, 2023
July 21-22, 2023
July 25-26, 2023

Location:

Stroud, OK
Virtual
Altus, OK
Virtual
OKC, OK
Norman, OK
Tulsa, OK

Respectfully Submitted,



Troy Marshall

MARKET DEVELOPMENT SERVICES

August 30, 2023

Report to the State Board of Agriculture

AG IN THE CLASSROOM

AG IN THE CLASSROOM IMPACT

- Total Number of Teachers/Administrators Impacted: 705
- Total Number of Pre-service Teachers Impacted: 0
- Total Number of Extension Educators Impacted: 30
- Total Number of Students Directly Impacted by Coordinators: 120
- Total Number of Resources Given: 5,138
- Total Number of Teachers/PreService Teachers Resources Given: 1,516
- Total Number of PreK-12th Grade Students Resources Given: 120

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

- The AITC monthly email is delivered to 16,871 accounts.
- The AITC Facebook page now has 9,491 followers.
- The AITC Twitter page now has 584 followers.
- Oklahoma AITC Instagram account now has 758 followers.
- Oklahoma AITC Pinterest account now has 221 followers.
- The AITC YouTube channel now has 9,248 views.

Ag in the Classroom- Professional Development Workshops

Number of Educators & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
35 Educators/AITC Coordinators from across United States	National Ag in the Classroom Conference, Orlando, FL	Oklahoma Agriculture: Beyond Wheat and Cattle - activities from our Alpaca, Mushroom, and Pecan Tear sheets	Alpaca Elementary Tear Sheet, Mushroom Elementary Tear Sheet, Pecan Early Childhood Tear Sheet, Horse Early Childhood Tear Sheet
61 Educators/AITC Coordinators from across United States	National Ag in the Classroom Conference, Orlando, FL	Accurate Ag Book Week -- What is it? How does it work?	Gave out 1 accurate Ag book in each session
70 Educators/AITC Coordinators from across United States	National Ag in the Classroom Conference, Orlando, FL	Southern Region Trifecta - Oklahoma did a joint mini workshop with Florida and Georgia. We made Oklaberrynana smoothies.	Pack of 5 "In a Bag" recipe cards: Oklaberrynana Smoothie, Ice Cream in a Bag, Cornbread in a Bag, Tortilla in a Bag, and Pumpkin Pie in a bag
15 Oklahoma Educators	GRDA Education Center Disney/Langley	Program Resources, and Polymers with pencils and water; Aquifers - edible aquifers and MESONET	Resources order sheet so they could order what they

	Oklahoma - Riverology	Resources and activity	needed
250 teachers PK-12th grade from throughout Oklahoma (2 from Missouri), volunteers, and vendors	Metro Technology Center - Springlake Campus	Metro Technology Center - Springlake Campus	Various AITC resources throughout the day, but from AITC, the MyPlate menu placemat and the AITC lunchbox
12 3rd-5th grade educators and 4- H extension educators	Caddo Kiowa Technology Center and Horn Canna Farm	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
8 teachers from Oklahoma - Elementary to HS	Bethany Children's Health Center	Nutrition/How Did you Know? Posters Relay Game; Pig Personality Test; Oklaberrynana smoothie in a bag	Nutrition/Did You know Posters; Oklahoma MyPlate Placemat; Soil, Plants, & Animals, Oh My; Strawberry Elementary Tear Sheets
14 MillCreek Schools Teachers	Pryor's Place Event Center in Newcastle	Beanie Babies, Pumpkin Catapults, Ice Cream in a Bag	Barn full of resources for each teacher
40 Oklahoma Educators	Metro Tech Center OKC - with OSDE	AITC Resources to fit the writing rope	Coloring book, tear sheets, rt 66, red dirt symbols
30 Oklahoma Educators	Inspire Oklahoma with OSDE	Oklahoma AITC Tear Sheets	Oklahoma AITC Tear Sheets; AITC Activity Books
40 Oklahoma STEM teachers	Career Tech Summit	Soil, Plants, & Animals, Oh My activities	Soil, Plants, & Animals, Oh My; Oklahoma Ag Mag
30 teachers	County Wide Professional Development in Valliant, OK	Ice Cream in a Bag; showed and talked about several AITC lessons and resources	Oklahoma Ag Mag; Soil, Plants, & Animals, Oh My; Red Dirt Symbols; ABC Coloring Book; Dairy Tear Sheets
100 teachers	Back to School Night at the National Cowboy Hall of Fame	Vendor table - handed out AITC resources	Red Dirt Symbols; Oklahoma Ag Mag; Coloring Books

Ag in the Classroom- Student Events

Number of Participants & Grade Level(s)	Location	Lessons/Activities Used	Resources Given
100 4-H Students	Pete's Luau at Oklahoma 4-H Round-up	Handed out Read an Accurate Ag Book postcards	N/A
20 PreK - 12th grade	Wilson Elementary Health University - booth	Handed out resources - ABC Coloring Books, Ag on Rt 66, & Red Dirt Symbols	N/A

Ag in the Classroom- Resources Mailed or Delivered

Locations where Resources are Mailed or Delivered	
Denison Elementary	Lexington Elementary
Yale High School	Lakewood Christian School
Hinton Public School	Allen Schools
Bryant Elementary - Moore	Stafford Elementary School
Hayes Elementary School - Ada	Cross Timbers Elementary - Edmond
Park Place Head Start	Idabel Central Elementary
Marietta Elementary	Coalgate Elementary
U.S. Grant High School - OKC	Stratford Elementary School
Western Oklahoma Christian	Thackerville Elementary School
Coleman Elementary School	Jones Elementary School
Lawton Farmer's Market	Leonard Learning Center
Duke Elementary	Mark Twain Elementary - Duncan
Drummond Public School	Kingsgate Elementary
Banner Elementary	Central Elementary
Homeschool - Tulsa	Mills Elementary
Cowboy Junction Christian School	Anderson Elementary - Broken Arrow
Spiro Middle School	Library Summer Reading Program - 4-H
Bryan County 4-H	Hayes Elementary - Enid
Rose Witcher Learning Center - El Reno	Dale Middle School
Pocola Elementary	Tulsa County OSU Extension
CAP Tulsa	Homeschool Co-op - Lawton
Canton Elementary School	Choctaw Nation of Oklahoma
Washington Irving Elementary - Durant	Keys Elementary School
Straight Elementary School - Guymon	Marlow Middle School
Ketchum Elementary School	Harrah High School
Welch High School	Kiefer Elementary School

Griffith Meridian Elementary - Choctaw	Rosewood Elementary - Broken Arrow
Altus Early Childhood Center	Arkoma Junior High
Oologah-Talala Schools	Moon Middle School
Stone Canyon Elementary School - Owasso	Immanuel Christian Academy - Broken Arrow
Gore Elementary School	

Ag in the Classroom- Other Events

Event	Highlights
National Ag in the Classroom Conference in Orlando, FL	Oklahoma AITC was well represented at the National AITC Conference. Oklahoma had 18 attendees, including 3 AITC State Coordinators, 9 workshop presenters, 10 Oklahoma teachers, and 2 Farm Bureau Women's Committee representatives. Oklahoma taught 9 workshops, with over 500 workshop attendees from across the United States.

National Ag in the Classroom Summer Conference



Oklahoma State Summer Conference



AGRITOURISM

Agritourism - Site Visits

Producer	Location	Category	Highlights
Old Timers Farmers Market	Wilburton	Farmers Markets	Delivered OK Grown Bags
Red Bird Farm	Enid	u-pick, Christmas trees, pumpkin patch	Hosted farm tour at NW OK Field Day
Outback Farm	Pryor	U-pick, Farm-to-table	Farm visit for berry season. Took interns to visit with producer.
Owasso Christmas Tree & Berry Farm	Owasso	U-pick, Christmas Trees, farm-to-table	Farm visit for berry season. Took interns to visit with producer.
Creekside Berry Farm	Red Oak	U-pick, Farm-to-table	Farm visit for berry season. Took intern to create Instagram reel.
Maple Creek Berry Farm	Poteau	U-pick, Farm-to-table	Farm visit for berry season. Took intern to create Instagram reel.
Prairie's End	Osage	Farm-to-table, Teachable Moments	Farm visit to learn about the farm. Walked through new facilities and events on farm.
Red Bird Farm	Enid	U-Pick, Horticulture	Farm visit for berry season. Took photos of berries for producer.
Oklahoma Tulips	Harrah	U-Pick, Horticulture	Farm visit for sunflower season.
Lawton Farmers Market	Lawton	Farmers Market	Visited with market manager and several vendors.
Livesay Orchards	Porter	U-Pick, farm-to-table, pumpkins, maze, teachable moment	Farm visit for peach season. Took intern to create Instagram reel.
Wind Drift Orchards	Harrah	U-Pick	Visited farm for peach season.
Red Bird Farm	Enid	U-Pick, Horticulture, Christmas Trees, Pumpkin Picking, Teachable Moments	Hosted Northwest Oklahoma Agritourism Field Day at farm and hosted a farm tour.
The Peach Barn Orchard & Bakery	Porter	Farm-to-table	Farm visit for peach season. Took intern to create Instagram reel.

Agritourism - New Producers or Potential Producers

Producer	Location	Category	Highlights
Shortline Produce Co.	Tahlequah	Farm Hub	Added farm hub to program, conversations about adding meat to the hub, grant opportunities,
Peaches at Tiffany's	Stratford	Farm-to-table	Site visit and added to program, might eventually add u-pick,
Rough Day Brew Co.	Poteau	Brewery	Site visit, added to Oklahoma Craft Beer Trail
Ragtag Resilience	Bartlesville	Country Stay	Site visit, added into the program
Woodbridge Ranch	Coweta	Pumpkin Picking, Teachable Moment, Wedding	Site visit, added into the program, opportunity for future agritourism activities
Petal Patch	Coweta	Horticulture	Site visit, added into the program
Tulsa Farm Lab	Tulsa	Farm-to-table	Site visit, not ready for customers on the farm. Will follow up in a few months.

Social media

Facebook

- 22,798 likes
- 25,298 followers

Instagram

- 2,596 followers

Agritourism - Other Activities

- Phone consult/conversations with: Charlotte Andrew – Tourism – discussion about agritourism brochures, Margaret Snow – liability signs, Charles Drury, Lynn Whipple, Kent Evatt – field day details, Brady Bond – farmers markets, Zach Lamb – winery at farmers markets, Rick Manley, Allie B Country Getaway, Red Bird Farm, Lauren Minyard (women in ag), Harpers Little Acres, Jason Harvey, Shakespeare Wine Company, Wind Drift Orchards, Joe's Farm
- Zoom consults/meetings: OKLAS planning committee meeting, Adobe meeting about new features, field day planning meeting, TSET meeting about presenting at their meeting, Freestyle Reporting meeting about wine trails campaign, intern planning meeting w/ JB, WW, MF,
- Email consults: Selah – site visit coordination, Wander Folk – site visit coordination, Travis Marak – Pruett's Food contact, Dark Water Ranch, Petal Patch, Ragtag Resilience, Romance Blooms
- Attended OK Tourism Meeting
- Attended Food Distribution Network Meeting at the Community Hope Center in OKC
- Attended meeting with Tourism Dept Director and tourism staff about agritourism program
- Hosted Wellston FFA Officers at ODAFF and lead a session of their officer retreat
- Presented about agritourism and field trips at AITC Conference
- Hosted NW OK Field Day in Enid with 35 participants
- Worked with Chewy.com blog writer about Oklahoma dog friendly pumpkin patches
- Simple Snacks with Farm Fresh Food
- Send brochures to Payne County Fair
- Attend Tennessee Ag Venture Bus Tour
- Take photos for American International Junior Charolais Association at capitol
- Take photos at the Champions at the Capitol
- Attend OSU Women in Ag Conference

ECONOMIC DEVELOPMENT

Activity	Action
Agriculture Enhancement & Diversification Program	Deadline for applications was July 3 rd and a total of 12 proposals were received. (4 Ag Event, 6 Veteran/Young Farmer grants, 1 Young Farmer loan and 1 Product Development and Research grant) The selection committee met on July 24 th and voted to recommend 7 projects for funding.
Healthy Food Financing Program	A total of two (2) applications were submitted for the July 3 rd deadline. The selection committee will meet in August to decide on funding for these projects.
Resilient Food Systems Infrastructure Program	Staff has continued to participate in weekly conference calls with USDA staff as they continue updating the program. A state plan illustrating how Oklahoma plans on conducting a competitive review process to select projects that will receive \$6.4 million in funding to address middle of the supply chain issues must be submitted by August 23 rd .
Perkins Cattle Grading <div data-bbox="186 921 773 1209" data-label="Image"> </div>	<p>The annual Perkins cattle grading contest was held on July 18th. 317 4-H & FFA members from Oklahoma and Texas participated in the event.</p> <p>.</p>

FARM TO SCHOOL

F2S Contact Meetings	Highlights
Marcia Irvin: OK Farm Bureau Women's Leadership Committee Coordinator	I am working with Marcia and her committee on the 2023 School Garden Contest.
Jennifer Webber: Program Director Child Nutrition Programs Oklahoma State Department of Education	Spoke with her about the program and how we can be of assistance and partner in the future. She gave me a contact list for her field staff along with a schedule for upcoming cafeteria staff training.
Jenna Moore: OKC Food Hub	Met with Jenna to learn more about the OKC Food Hub and how we could collaborate in the future.
Chantal Beard and Melissa Campbell: Farm to School Specialists, Food & Nutrition Service-Southwest Region	This was an introduction meeting with the two F2S specialists who oversee the Southwest region.
Ashley Reinschmiedt: Teacher	Discussed what the Farm to School program is and how her school could get involved. She was also interested in AITC lessons and wanted more information.
Lisa Griffin: Former Union Public Schools Nutrition Director	Lisa is the former Nutrition Director for Union Public Schools and has been an avid F2S partner. Lisa and I will be meeting again soon as she takes me to meet some of the local producers she has formerly purchased from.

Other Meetings	
Ag Her Meeting	Teaching a workshop rotation for the conference. Zoom into Leadership Workshop Description: As a team member, you have a unique outlook when it comes to completing group tasks. Too often, people are unaware of how their perspectives and communication styles affect others, leading to conflict and problems within the team. This hands-on workshop will teach youth how to effectively work together as a group while developing communication, and problem-solving skills as they discover what a rooster, a desert island, and outer space have in common.
Ag Youth Council Meeting	The first AYC meeting with the delegates will be Monday, August 21 st . I will be conducting the morning icebreakers for this session.
Healthy Kids Coalition Meeting	This meeting was a recap of what the committees have worked on over the past year and an instruction for the new members.

Events Attended	
Tennessee Agritourism Bus Tour	Attended this bus tour with Whitney and learned a lot about the agritourism world.
Ag in the Classroom Summer Conference	Had a booth for this event where I met with numerous teachers who were interested in the program and school gardens. Helped Cheri Long with her School Gardens Workshop.

Cooking Up Success Cafeteria Training	Met with about 75 cafeteria personnel about the F2S Program along with giving them resources (cookbooks, F2S flyers, and F2S poster sets). Also promoted the Local Food for Schools Program
Women in Ag Conference	Attended this conference and made some good connections.

Farm Visits:

- Wind Drift Orchards: Met with the two owners of this farm and talked about partnering with them in the future with the F2S Program.

F2S Social Media:

- Facebook has 899 followers
- Facebook: 5 new posts
- From July 10th- August 15th, recent Facebook posts have reached 3,776

Current Projects:

School Garden Contest

Sponsored by the Farm Bureau Women's leadership team Applicants may be any public and/or private: PK-12 school, early childhood education facility, and alternative learning environment.

Contest Categories:

- Best Overall School Garden
- Best Education-Based School Garden
- Best Harvest Partnership School Garden
- Best Community Collaboration School Garden
- Best Start-up School Garden Proposal



INTERNATIONAL

Activity	Action
Food Export	<ul style="list-style-type: none"> • Buyers have been selected and secured for Expo East buyers mission. Currently working on gathering all the details and schedules for the mission. We have one Oklahoma company participating in the mission - Stryve out of Madill, OK • Recruitment for future activities PLMA, Trade Mission etc • Food Export is upgrading their database system, the system was down from the 6th- 16th and will launch with a new interface. We have been pulling recruitment and activity management manually during this time period. • Food Export is conducting a focus group on future strategy. I am currently serving on the committee and we will be participating in upcoming meetings set by their contractor. • Participated in the mid-year Marketing Directory virtual meeting
USLGE	<ul style="list-style-type: none"> • The 135th Exposición Rural, an exhibition of livestock, agriculture, and international industry at La Rural Fairgrounds in Buenos Aires, Argentina, from July 20 through 30, 2023. With more than 4,500 animal exhibitors and more than 400 commercial exhibitors, Expo Rural provides a meeting point for producers, contractors, entrepreneurs, professionals, students, and technicians from Argentina and the world. • Continued planning for the 2024 Cattlemen's Congress
GIT (Governor's International Team)/ODEC	<ul style="list-style-type: none"> • GIT has reorganized with the bulk of the meetings broken up into committees to come back to the group to discuss the solutions and issues that they have designated in each respective committee. They are focusing on member growth and event outreach. • ODEC is currently seeking nominations for a board position. The current US Commercial staff will send nominees in and one will be appointed by the Secretary of US Commerce.
ODAFF Market Development Events	<ul style="list-style-type: none"> • Staff met with MIO team to assist with recommendations for the new trade show Stipend that will be offered through the MIO Coalition. This will be a great opportunity to introduce and support these companies further with Food Export services at these domestic trade shows.
Misc Meetings	<ul style="list-style-type: none"> • Genesis Enterprises out of Davenport. They are seeking assistance with exporting genetics to Mexico and Argentina. We have looped them in with CITD and USLGE resources and will meet again in two weeks. • Matador Foods out of Blanchard. They are preparing for a meeting with buyer out of Mexico. We got them signed up for the Food Export advisor program and will be following up at the end of the following week. Also put them in touch with CITD and OMA and FAPC as they are looking to expand their equipment lines to accommodate this deal. • Styve Foods out of Madill. They are working with a buyer in Canada and will be participating in the Expo East buyers mission. • Nicole Boyles with ODOC to discuss collaboration and STEP grant opportunities for the 2024 step grant. The current STEP can allow for Oklahoma companies to utilize funds for website translation. • Joe Gribble CEO of the Producers Cooperative Oil Mill to discuss Cotton Exports as a part of our ongoing efforts to assist our commodity groups. The Oil Mill doesn't directly work with exports since it is the oil seed side of things but shared several names to reach out to and great suggestions for our research.

MADE IN OKLAHOMA COALITION

Made in Oklahoma Coalition – Advertising, Web and Social Traffic

Type	\$ Spent and Information	Highlights
MIO Featured Monthly Recipes in Tulsa World and Oklahoman	\$500/month each	Featured press release and 1-2 showcased recipes in food section
Marketing, Consulting and Graphics Retainer with Krush	\$6,750	Social media posts, digital presence, analytics, management of content and creation of digital footprint, graphic design, etc.
MIO TV Cooking Segments on Channel 6 in Tulsa and Channel 4, 5 & 9 in OKC	OKC – 8 appearances Tulsa – 4 appearances	Natalie Mikels & David Brooks, MIO TV Personalities filmed in-person and remote segments for TV
Media and Marketing Activities	June Report: https://www.dropbox.com/scl/fi/ad449g98wltgkoxz2peht/MIO_KRUSH-Report-June-2023.pdf?rlkey=1or9knqa00k0zm1imzb58n8ch&dl=0	July/August Report: https://www.dropbox.com/scl/fi/3moczkt4jybab8s395k8/MIO_KRUSH-Report-June-2023.pdf?rlkey=8izxecuoxy5911st2n3t4d8ae&dl=0
Restaurants of the Month	Each month staff, along with Food Service Committee present the restaurant with their award and eat lunch as a group at their establishment.	June – The Jones Assembly: OKC July – Frank and Lola’s: Bartlesville August – S&B’s Burger Joint: OKC
Social Media Stats	Staff and MIO media committee plan social content each month with our advertising agency, Krush Digital Marketing.	https://www.dropbox.com/scl/fi/h18935b9c7bhhakh5xlj3/Profile-Performance-Krush-July-1-2023-July-31-2023-2.pdf?rlkey=9gu7ap103raol4vxlabyeiuc&dl=0
Edible OKC Giveaways	\$100/giveaway	Each month MIO partners with Edible OKC to give away a \$100 gift card to our restaurant of the month.
MIO Monthly Newsletter		○ 2400+ distribution list
OK Living Partnership highlighting MIO Recipes	Highlights 2-3 MIO recipes per month - Free publication to electric coop members	MIO provides recipe content and OK Living does the ad design
Recipes of the Month	MIO recipes are developed each month highlighting member company products.	June – - Sheet Pan Shrimp Boil - Pineapple Upside Down Cake - Summer Fruit Tart - Summer Sparkler - Old Time Soda Floats July –

		<ul style="list-style-type: none"> - Chocolate Chip Cookie Ice Cream Sandwiches - Easy Foil Pack Dinner - The Ultimate BBQ Burger - Easy BBQ Grilled Chicken Thighs
June Retailer of the Month	QuikTrip	Statewide locations
July Retailer of the Month	Reasors	Tulsa Area Locations
August Retailer of the Month	Harps	OK, Kansas & Arkansas Locations

Made in Oklahoma Coalition – Other Activities

Activity	Information
MIO Membership Interviews <ul style="list-style-type: none"> - Clubby Seltzers - The Spice Girl Kitchen - Cobbler Mom 	Staff and the MIO Board of Directors interviewed three new member candidates on July 10 th . Clubby Seltzers and The Spice Girl Kitchen were both approved for membership. Cobbler Mom's sales were not yet at the threshold to qualify.
OK Food and Beverage Expo Planning Meeting <ul style="list-style-type: none"> - July 10th 	Staff along with MIO board members and the Oklahoma Grocers association met to plan the first annual OK Food and Beverage Expo which will be held in June at the OKC Convention Center. The show will be a combined effort between the OGA, MIO and CDO.
MIO Annual Planning Meeting <ul style="list-style-type: none"> - July 21st 	Staff and MIO Board of Directors met to plan and allocate funds for FY24. Each MIO committee presented their yearly reports and plans and requested dollars to run their proposed programs. Member marketing opportunity packages were agreed on and set in place.
Shopper Sweepstakes at Uptown Grocery <ul style="list-style-type: none"> - July 26th 	MIO partnered with OKC area grocer, Uptown Grocery to host a shopper sweepstakes contest. Shoppers entered to win during a two-week period. The winner was randomly selected and was able to run through the store and grab as many Made in OK products as possible in a 7 minute time frame. The sweepstakes was promoted on social media and by Uptown Grocery.
4-H Food Showdown Competition <ul style="list-style-type: none"> - July 27th 	Staff was asked to serve as a judge for the State 4-H Food Showdown Competition held at OSU FAPC. There were 6 teams from across the state that competed.
OSU Dining Strategic Planning Meeting	Staff met with 6 OSU Dining staff members to discuss the process of bringing more local products into their dining concepts and grab and go markets. OSU dining staff were very interested in bringing in more MIO products and were especially interested in healthy local products. Staff provided them with the BEK local products buying guide along with contacts for ordering products directly from MIO members.
Walmart Open Call Strategic Planning Meeting July 31 st	Staff visited with Walmart sourcing director Julia Rader along with OK State Senator Dave Rader about their interest in bringing more Oklahoma products into Walmart's. The Walmart open call for American made items is currently open. We discussed how best to facilitate this to our OK companies and how Walmart will keep a special eye out for OK products.
Restaurant of the Month Visit <ul style="list-style-type: none"> - August 2nd 	Staff and the MIO Food Service Committee met for lunch at MIO Restaurant of the Month, S&B Burger Joint to congratulate them on winning the award and eat lunch in support of the restaurant. We also got content for social media and a highlight video. Each visit is scheduled one month in advance so the content can run during the month they are highlighted.

MADE IN OKLAHOMA PROGRAM

Meetings	Date	Location	Details
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Site Visit	July 10	Bartlesville, OK	Visited The Crafty Candle Shoppe to film for social media, Meet the Maker
Site Visit	July 10	Mounds, OK	Visited Cherokee Copper to film for social media, Meet the Maker
Site Visit	July 10	Tulsa, OK	Visited Jordon's Flower Farm to film for social media, Meet the Maker
Site Visit	July 20	OKC	Visited Good Girl Chocolate to film for social media, Meet the Maker
Site Visit	July 20	Tuttle, OK	Visited 7 Acre Farms to film for social media, Meet the Maker
Mother Road Market	July 26	Tulsa	Met with Mother Road Market to discuss having a Made in Oklahoma 'pop up' store for a couple weeks in October
OK Dept. of Commerce	August 1	OKC	Met with Business Developer, Cathy Curtis, to discuss how Made in Oklahoma program could benefit the Women and Minority Owned businesses she works with.
Agritourism Field Day	August 10	Enid, OK	Assisted with day and gave presentation regarding On Farm Markets – Retail with Made in Oklahoma
Events:			
Oklahoma State Fair	Sept. 14-24	OKC	55 companies (653 products) are participating in the 2023 MIO Store at OSF.
Tulsa State Fair – Vendor Area	Sept. 28-Oct. 8	Tulsa	We will have 52 booths of Made in Oklahoma vendors.
Tulsa State Fair – OK Café	Sept. 28-Oct. 8	Tulsa	We will run a café, open for breakfast and lunch featuring many Made in Oklahoma companies
Stockyards Stampede	October 21	OKC	Made in Oklahoma market held in conjunction with Stockyards Stampede

New Producers:

- Cherokee Rose Handcrafted Jewelry
- Hundred Mile Homestead
- Rustic Grain Woodwork Co.
- Hurley Homestead LLC
- Susan Diann Designs
- Blue Green Earth Sciences
- Drink in Nature
- Okie Beef & Pork

- Heather Makes A Home
- Gina Marie Designs Co
- Paragon Sauce & Spice
- Broke Brewing Company
- GLASSIC Art by Liz
- Vintage Wareables
- Plaid Rooster Coffee Roaster, LLC
- Country Style Scents
- Simply Clean Handcrafted Soaps and More
- Vintage Reclaimed Lumber
- Ester Jude Design Co.
- Foster Defense
- Soaps by Sis, LLC
- Hummingbird Hilltop Farm
- Lucy Lynn Party
- Oklahoma Toffee Company

New Retailer:

- Above Board Food Shoppe






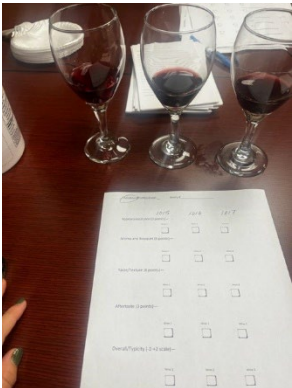
Other Made in Oklahoma Activities:



- Planned, ordered, picked up and delivered Made in Oklahoma products for International Finals Youth Rodeo
- Attended Women in Ag conference
- Planning for MIO Store at Oklahoma State Fair
- Planning for Tulsa State Fair
- Calls with prospective producers, retailers, various interested parties or those with questions

VITICULTURE & ENOLOGY

Viticulture & Enology - Site Visits

Producer	Location	Category	Highlights

C&H Garden & Vineyard	Jones	Vineyard	Met with Cindy Duncan and discussed how OGIC and ODAFF can work together more fluidly.
			
Prairie End	Osage	Homestead	The owner is a former member of the wine community and has viticulture experience.
			
State Fair judging	OKC	State Fair	Was able to get an idea of the products that all of our wineries are producing. Having them all in one place and categorized was a great way to understand where exactly our industry is at.
			

Old Silo	Tishomingo	Winery/Vineyard	Did a site visit with Stacy Tomas and Cortney Norris from Oklahoma State. Introduced them to some of our producers so that they can get a better understanding of our producers and how they can relate to tourism and hospitality and how OSU can be a part of that.
			
Blue River Valley Winery	Caddo	Winery	Also took Dr. Norris and Dr. Tomas here. BRV does an excellent job with event planning and coordinating.
Producer Townhall Event	OKC	Networking/Conference	Brought many of our producers together in one room. Had presentations on enotourism, ABLE law, and state bills/committees involving wineries. Put a face to a lot of names and hopefully provided an opportunity for our producers to feel heard by several members of our state government.
Women in Agriculture Conference	Edmond	Conference	Heard from many agritourism businesses. Attended a lecture on viticulture & enology in Oklahoma done by Aaron Essary. Attended a lecture on ag comm and learned new marketing techniques.
Shawnee Balloon Festival	Shawnee	Festival (wine included)	Stopped by the Shawnee Balloon festival to check in on OkeOzark and Wildhorse Canyon. Was able to meet with one of the grower's and winemakers of Wildhorse who I had not met before.
			

Viticulture & Enology - Other Activities

- Participated in an article about the new V&E ODAFF position in Edmond Outlook
- Finished AVA petition, and currently revising borders to exclude state parks

- Connected with the Lake Thunderbird Watershed Association to collaborate on a “Wine in the Watershed” event in November to raise awareness of the watershed and the wine and agritourism producers within the boundaries.

MARKET NEWS SERVICES

June 23, 2023 – August 16, 2023

- **Grain Report:**

	June 23, 2023	August 16, 2023	DIFFERENCE
WHEAT: (bu)	\$7.24-\$8.10	\$6.28-\$6.98	\$0.96 to \$1.12 Lower
MILO: (bu)	\$6.11-\$6.61	\$4.19-\$4.89	\$1.92 to \$1.72 Lower
SOYBEANS: (bu)	\$13.54-\$14.09	\$12.13-\$13.79	\$1.41 to \$0.30 Lower
CORN: (bu)	\$6.71-\$7.11	\$4.79-\$5.64	\$1.92 to \$1.47 Lower
COTTON: (lb)	72.08 cents	77.57 cents	\$5.49 Higher

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

FEEDER STEERS

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

- (8-16-22) \$182.00-224.00 Wtd. Avg \$203.00
- (8-15-23) \$264.00-308.00 Wtd. Avg. \$286.00

HEIFERS

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

- (8-16-22) \$172.00-189.00 Wtd. Avg \$180.50
- (8-15-23) \$240.00-285.00 Wtd. Avg. \$262.50

- **Weekly Report:**

- Six weekly Oklahoma Market Reports were sent to 10,791 subscribers June 23, 2023-August 16, 2023 (**up from 82 subscribers last report**).

- **Voice Messaging System:**

- The market news voice messaging system during
- Monthly Total: June 23, 2023-August 16, 2023, **6,724 Accessed Times**
- Last Report May 15, 2023-June 23, 2023, **6,504 Accessed Times**
- Compared to Last Month: **Accessed Times is UP 220**

- **Oklahoma Agriculture Market News**

- **Facebook Page**
 - Likes/Followers 486
 - **UP 32 Likes/Followers**
 - People reached through pasted report: 726 people
- **Oklahoma Hay Directory**
 - Hay Directory
 - **47 people are on the Oklahoma Hay Directory now**
- **Hay Report**

This Month: June 23, 2023-August 16, 2023, Hay Traded 22,806
Last Year June 17, 2022-August 12, 2022, Hay Traded 26,614
DOWN 3,808 Bales Reported

OKLAHOMA HAY MARKET REPORT

8-4-23

Receipts: 6,141 Last Reported: 5,435 Year Ago: 0

Compared to the last report: Drought is beginning to set back into parts of our state. Oklahoma needs some scattered rain showers once again, along with cooler temperatures. The central part of Oklahoma- Trades are good. Demand is moderate to light demand. Western Oklahoma - Trades are slow, and the demand is light. Barns are full of hay. The eastern part of Oklahoma - Trade is good, and the demand is high. Hay is being sold as soon as it is baled in the field. Drought is in site once again. Which is causing the demand to rise.

Trends so far:

Alfalfa Large squares \$200-\$225 a ton
 Alfalfa Rounds - No Trend
 Grinding hay - \$170-\$180 a ton
 Bermuda 5x6 rounds - \$100-\$120 a bale
 Bermuda Large Squares - No Trend
 Grass Hay 4x5-4x6 - \$60-\$70 a bale
 Grass Hay 5x6 - \$70-\$80 a bale

The Oklahoma Mesonet Drought Monitor shows we are at 0 percent in exceptional drought, 2.58 percent in an extreme drought, 7.58 percent in severe drought, 17.90 percent in moderate, 47.67 percent in abnormally dry conditions, 52.33 percent that has no drought conditions.

*** The next report release will be on August 18***

Central

Alfalfa: Good/Premium (Trade/Per Ton)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	1200	225.00	225.00	Delivered

Prairie/Meadow Grass: Premium (Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	1200	100.00	100.00	F.O.B

North Central

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	600	120.00	120.00	F.O.B

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Small Square	0	9.00		Out of the field

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Small Square	210	12.00	12.00	F.O.B

Northeastern**Alfalfa: Premium/Supreme (Contract (Trade)/Per Ton)**

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	1561	250.00	250.00	Delivered

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Medium Round	1120	65.00	65.00	F.O.B.

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

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Square	200	200.00	200.00	Delivered

Bermuda Grass: Fair/Good (Trade/Per Bale)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	250	85.00	85.00	F.O.B

Wheat: Good (Trade/Per Ton)

Size	Qty	Price Range	Wtd.Avg.	Freight/Used
Large Round	40	130.00	130.00	Delivered

AEMS Division Activities



Drone image of established vegetation to prevent runoff
Taken by one of AEMS field inspectors

- AEMS Technical staff participated in the Conservation Commission's revival, overhaul, and moving of the Nutrient Management Tracker (NMT) program to Oklahoma. NMT is currently housed at the University of Missouri.
- AEMS purchased two drones to assist in field inspections.
- AEMS staff participated in one of the planning meetings for the upcoming National Pork Board exercise scheduled August 10-16.
- AEMS staff participated in the Illinois River Technical Group planning meetings.

AgPDES Permitting Activities

- Number of AgPDES CAFO Authorizations this reporting period: 2
- Number of AgPDES PGP Authorizations this reporting period: 6
- Number of AgPDES CGP Authorizations this reporting period: 18

Complaints and Inspections

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

11	Complaints received and investigated this reporting period.
16	Complaints closed this reporting period.
Complaints Received - Breakdown	

	Cattle - 0
	Swine – 0
	Poultry-0
	Misc. Animal - 1
	Other – 1
	Animal Shelter - 3
	Pet Breeder- 6
14	Year-to-date complaints received in FY 24
7	Year-to-date complaints closed in FY 24
92	LMFO/CAFO inspection and technical assistance.
217	Poultry inspections and technical assistance.
29	Pet Breeders/Shelters inspections and technical assistance.
141	Year-to-date complaints received in FY 23
103	Year-to-date complaints closed in FY 23

CAFO and LMFO Activities - Month and Fiscal Year 2024

	June 19-July 30,2023	FY 24 Total
Complaint or Compliance Follow-ups	18	18
Annual Inspections	55	55
Technical Assistance with Contacts	37	37
Site Visit/Review – No contact made	11	11

Poultry Activities – Month and Fiscal Year 2024

	June 19-July 30,2023	FY 24 Total
Complaint or Compliance Follow-ups	1	1
Annual Poultry Inspections	31	31
Poultry Technical Assistance	217	217
Site Visit/Review – No contact made	58	58
Eucha-Spavinaw CNMP Written	15	15

Pet Breeders Activities – Month and Fiscal Year 2024

	June 19-July 30,2023	FY 24 Total
Complaint or Compliance Follow-ups	13	13
Breeder/Shelter Technical Assistance provided to owner/operator	23	23
Breeder/Shelter Annual Inspections	29	29
Breeder/shelter Close out	1	1

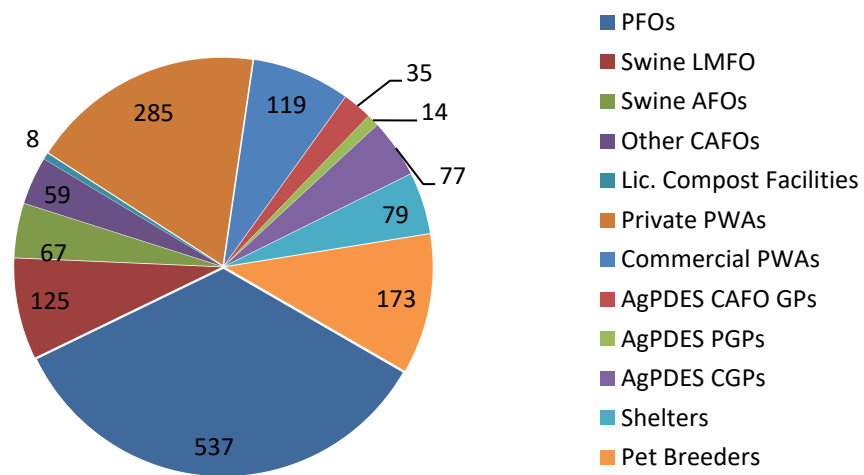
AGPDES – Month and Fiscal Year 2024

	June 19-July 30,2023	FY 24 Total
Complaint or Compliance Follow-ups	0	0
Site Inspections (Annual or Compliance Follow-ups	2	2
Technical Assistance provided to owner /operator	9	9

Composting Activities – Month and Fiscal Year 2024

	June 19-July 30,2023	FY 2 Total
Complaint or Compliance Follow-ups	4	4
Site Inspections (Annual or Compliance follow-up)	0	0
Technical Assistance provided to owner /operator	0	0

Current FY 24 AEMS Numbers



Respectively,

Teena G. Gunter
AEMS Division

**BEFORE THE STATE BOARD OF AGRICULTURE
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
AUGUST 2023 BOARD REPORT
REGARDING JULY 1, 2023 THROUGH AUGUST 11, 2023 ACTIVITIES OF
THE OFFICE OF GENERAL COUNSEL**

AMOUNT OF ADMINISTRATIVE FINES COLLECTED:

Amount to Date (2023)	Amount of Fines for this Board Meeting
\$306,275.00	\$37,855
\$207,400.00	2022
\$57,475.00	2021 Total (5/31-12/31/2021)

CONTRACTS REVIEWED OR DRAFTED (73):

Marketing: 56
CPS: 3
Forestry: 3
AIS: 1
Admin: 7
AEMS: 2
Lab: 1

ADMINISTRATIVE HEARING PROCEEDINGS:

Total Number of Open Cases: 162
Total Number of New Cases: 49
Total Number of Cases Closed: 114
NOVs Sent: 22

OTHER ACTIONS AND PROCEEDINGS:

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

Upton's Naturals Co v. Stitt and Arthur, 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.

William Grossman v. Lori Howard et al., 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.

Spring Creek Coalition v. ODAFF and Trong, Cherokee County Case Number CJ-2021-29: Petition seeking declaratory and injunctive relief. Answer filed.

Spring Creek Coalition v. ODAFF and Phan, et al., Delaware County Case Number CJ-2021-33: Petition seeking declaratory and injunctive relief. Answer filed. Discovery ongoing. Responded to Motion for Summary. Motion to Dismiss filed. Hearing had March 2, 2023. Supplement brief filed regarding Motion to Dismiss.

MEETINGS:

Date	Activity
July 7, 2023	OBA ELS
July 10, 2023	AEMS Legal
July 11, 2023	OBA GALPS
July 12, 2023	Directors Meeting
July 14, 2023	Oklahoma Source Water Protection
July 19, 2023	Oklahoma Board of Equalization Subcommittee
July 19, 2023	Job Shadow
July 19, 2023	OBA ILS
July 20, 2023	Directors Meeting
July 21, 2023	Board of Agriculture
July 24, 2023	Office of Administrative Rules
July 24, 2023	AEMS Legal
July 25, 2023	AALA Webinar: Understanding FCS
July 26, 2023	Westlaw Precision Training
July 27, 2023	OGC Staff
July 27, 2023	AALA Webinar
July 27, 2023	Director's Meeting
July 27, 2023	Illinois River Technical Group
July 31, 2023	EPA
July 31, 2023	AEMS Legal
August 1, 2023	OBA GALPS
August 2, 2023	Illinois River Management Plan
August 2, 2023	Director's Meeting
August 3, 2023	HR personnel matters

August 7, 2023	AEMS Legal
August 7, 2023	Interviews
August 8, 2023	Interviews
August 8, 2023	AIS NVAP
August 9, 2023	HR personnel matters
August 9, 2023	Women in Law CLE
August 10, 2023	Illinois River Management Plan Public Meeting
August 10, 2023	OGC Docket
August 11, 2023	OBA GALPS Budget Committee

RULE ACTIVITIES:

Chapter 1. Administrative Operations (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 2. Fees (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 10. Agricultural Products (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 15. Animal Industry (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 17. Water Quality (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 20. Forestry (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023. Notice of Withdrawal submitted to the Governor, Legislature, and Cabinet Secretary and filed with the Office of Administrative Rules on May 9, 2023.
Chapter 30. Consumer Protection (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 37. Food Safety (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of

Administrative Rules February 2, 2023. Notice of Partial Withdrawal submitted to the Governor, Legislature, and Cabinet Secretary and filed with the Office of Administrative Rules on May 9, 2023
Chapter 40. Market Development (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 44. AgPDES (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 50. Aquaculture (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.
Chapter 55. Commercial Pet Breeders and Animal Shelters (Permanent FY 2023): Permanent rules adopted by Board January 26, 2023. Agency Rule Report submitted to the Governor, Legislature, and Cabinet Secretary on February 2, 2023. Statement of Submission filed with Office of Administrative Rules February 2, 2023.

OPEN RECORDS REQUESTS (18 pending):

AEMS: 9
CPS: 3
AIS: 4
Forestry: 4
Pet Breeders: 2
Admin/Mkt Dev: 3
Inv. Services: 2

OTHER ACTIVITIES:

Phone calls or emails with the public: 16
Assistance to industry: 4
Assistance to AEMS: 10
Assistance to CPS: 14
Assistance to Wildlife Services: 1
Assistance to Forestry: 8
Assistance to AIS: 13
Assistance to Admin: 3
Assistance to Human Resources: 7
Assistance to Market Development: 7
Assistance to other state agencies: 5
Assistance to federal agencies: 0
Assistance to Food Safety: 8

Assistance to NASS: 0
Assistance to Executive Office: 3
Assistance to Lab: 1
Assistance to Investigative Services: 0
Assistance to Legislature: 0
Assistance to Attorney General: 0
Assistance to Public Information: 3

Respectfully Submitted,



Teena G. Gunter
General Counsel

FOOD SAFETY REPORT AUGUST 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 2,446,052 pounds of poultry – boneless/skinless leg meat & bone in/skin on parts and ground meat. ODAFF inspectors provided USDA Shell Egg grading on 37,650 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. Child Nutrition Labeling Program Review was conducted under the USDA cooperative agreement at Mitchell's Sausage Rolls in Claremore. Also, routine egg quality inspections under the Oklahoma egg law were conducted.

Organic Foods Section

Organic inspectors completed compliance and certification inspections at:

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

Produce Safety Section

- Visited 13 farms to determine coverage/exemption under the Produce Safety Rule
- Produce Safety Alliance grower training course at Pawnee Nation College
- Assisted 2 farms with remote technical assistance
- Visited 29 farmers markets/market hubs providing outreach and education to producers and to collect farm inventory
- Conducted 3 farm inspections
- 3 FDA webinars
- Regular conference calls with TX, LA, AR, NM, MO, MS

Homemade Food Freedom Act

- Received 10 complaints on Homemade Food Freedom Act businesses
- Sent 2 warning letters
- Meat compliance assisted with 8 complaints
- Taught a Homemade Food Freedom Act class in Anadarko with OSU

Oklahoma Meat Inspection Services Investigations and Compliance Activities

Planned Compliance Reviews	10
Random Compliance Reviews	232
Person-to-Person Contacts	81
Special Investigations and/or Projects	05
Reports of Apparent Violations	00
Detentions	00
Consumer Complaints	09
Verbal Warnings Issued	11
Letters of Warning Issued	00
Samples Submitted to Lab for Analysis	00
Accident Investigations	00
Administrative Procedures Act (Pending)	01 Enid Packing

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

See details below:

ACCIDENT LOCATION	Meat Product/Livestock	DISPOSITION
None	None	None

Highlighted Activities:

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

MEAT INSPECTION

Number of Cattle	1,341
Total Beef Condemned	20,070 lbs
Beef Heads & Livers	Avg. H wt 20, Avg. L wt 10
Number of Swine	196
Total Pork Condemned	1,352 lbs
Pork Heads & Livers	Avg. H wt 10, Avg. L wt 2 lbs
Number of Sheep and Goats	2,960
Total Condemned	8 lbs
Number of Chickens	1,621
Number of Rabbits	95
Total Condemnations	0 lbs
Number of Buffalo	5
Total Condemnations	45 lbs
TOTAL MEAT INSPECTED	1,287,200 lbs

PROCESSED MEAT INSPECTED

Processed Red Meat	1,040,552 lbs
Condemned on Reinspection	0 lbs
Poultry (Portions)	308,765 lbs
Condemned on Reinspection	0 lbs
Rabbit Meat	0
Condemned on Reinspection	0 lbs
Exotic Deer Meat	0
Condemned on Reinspection	0 lbs
TOTAL PROCESSED MEAT INSPECTED	1,349,317 lbs

AVG. CARCASS WT.

Beef 700 lbs., pork 250, sheep goat 100

AVG. BEEF HEAD / LIVER

Head 20 lbs. / Liver 10 lbs

AVG. SWINE HEAD / LIVER

Head 10 lbs. / Liver 2 lbs.

AVG. LAMB/GOAT HEAD

Head 2 lbs.

Meat Sample activity:

28 Samples Submitted for Analysis

0 Samples Not Analyzed

28 Samples Analyzed

0 Samples Non-Compliant

28 Samples Negative Analysis

8/14 We opened Kinnamon Processing in Shawnee. That will be an inspected establishment.

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.

Additionally, Dairy Services conducted a dairy farm survey: DFA South East Council 31 (BTU 40-031) and a Receiving Station Survey at Blue Bell Creameries (BTU 40-009) in Broken Arrow. Both surveys received passing scores. Information regarding these surveys can be found on FDA's Interstate Milk Shippers List website.

Dairy Services will assist in hosting an OTED led FD375 Dairy Farm Sanitation Course in Tulsa during August 21-25, 2023. We will have state and federal dairy regulators from all over the country participating and learning the national standards for dairy farm inspections. This course will include onsite visits to dairy farms located in Inola and Chouteau.

Continuing our efforts, Dairy Services is sampling Swan Bros. Dairy Inc. for Listeria and Campylobacter on a quarterly basis.

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

In professional development, Inspector Jayson Jones recently completed a dairy plant pasteurization course held in Boise, ID August 14-18, 2023.

. 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 8/17/23

Social Media Highlights

NW Oklahoma Tour – July 26 | Sec. Arthur, Joe Farris, Rep. Dell Kerbs, and members from Sen. Lankford’s staff toured parts of NW Oklahoma. The day included tours of Buffalo Feeders, LLC, Collective Roots in Laverne, and Rock Creek Distillery in Shattuck.



Junior National Champs Honored at Capitol – August 1 | Junior National Grand Champions and Reserve Grand Champions from across the state were honored by Governor Stitt.

NW OK Agritourism Field Day – Aug. 10 | Market Development put together a day in Enid at Red Bird Farm and Autry Technology Center.



Fresh Beef in Altus – Aug. 16 | Altus Public Schools has partnered with Route 66 Meat Processing & Market to bring fresh burgers into all 7 district schools. The partnership was made possible by the Local Food for Schools Program.

We posted their story to social media and the ODAFF YouTube with hopes that more schools will sign up!

Social Media Impact

Facebook

21,711 followers

Since July 22, 2023:

- Posts and content reached 25,426 users
- 43 new Facebook users have liked the ODAFF page

Instagram

3,229 followers

Since July 22, 2023:

- Posts and content reached 2,761 users (up 47%)
- 78 new Instagram users have followed the account

News & Notes

ODAFF helps with CharFocus youth leadership conference / On August 1, members of the American International Junior Charolais Association got a chance to tour the Capitol and meet with legislators and ag industry leaders.

Sec. Arthur Involved in Trade Missions to Indonesia and Canada / Sec. Arthur spent the first half of August traveling internationally on trade missions representing the U.S. and Oklahoma.

2023 Agriculture Youth Council Begins / The 15 members of the council met for the first time August 21. Activities included a tour of Blue and Gold Sausage and the Oklahoma Pork Council.

AUGUST 30, 2023, BOARD MEETING

PURCHASES/CONTRACTS

ADMINISTRATIVE SERVICES

FY23 - Oklahoma Management Enterprises Services (OMES) FICA Savings - Adding \$5,000 to the previous approval for \$25,000 (May 2022) bringing the Board approved amount for FY23 = \$30,000; When an employee selects 'Premium Conversion' they can see a lowering of their tax base for tax purposes and for the withholding of FICA. Since the State matches FICA withholding, this results in savings for the state as well. These payments transfer that savings to EBC to administer the program. These payments are required by state law.

FORESTRY

FY24 - \$300,000

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

FY24 - \$150,000 Federal Funds

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

FY 24 - \$40,000

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

FY 24 - \$22,000

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

and decrease survivability and productivity.

FY24 - \$80,000

Purchase of Rotary Cutters, tree saws, grapple rakes, & root grapples attachments. Justification: Purchase of multiple skid Steer's attachments to complete mechanical mitigation projects currently identified in Community Wildfire Protection Plans. They will also be used for treating hazardous fuels in and around At-Risk Communities statewide This program is part of the National Cohesive Wildland Fire Management Strategy with the intent of developing fire adapted communities. Funding for this purchase will come from the Federal Grants. 100% of this purchase will be reimbursed.

LABORATORY SERVICES

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

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

MARKET DEVELOPMENT

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

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

Justification: This project is entirely funded by the Oklahoma Viticulture and Enology Center Development Revolving Fund. This grant project with Oklahoma State University will promote and encourage growth and development of the grape and wine industries in Oklahoma through educational and marketing campaigns along with increasing the positive economic impact of the wine industry in Oklahoma. If this proposed expense is not approved and therefore the project is not completed, the State not only loses money immediately that is important to the grape and wine industry through the economic impact, but also runs the risk of not being awarded money from the Oklahoma Viticulture and Enology Center Development Revolving Fund in the future. FY2024 – printing – Ag in the Classroom educational teacher resources - \$19,000.00.

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

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

impact, but also runs the risk of not being awarded money from the USDA Specialty Crop Block Grant Program in the future.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OFFICE OF GENERAL COUNCIL

Contract for an OGC Administrative Law Judge for FY 2024, effective 07/1/2023 - 6/30/2024.

The Contract not to exceed \$10,000 to perform services as a Hearing Officer/Administrative Law Judge (ALJ) in cases assigned, in accordance with a signed agreement on file with the Oklahoma Depart of Agriculture Food, and Forestry. The vendor will perform services at an hourly rate of \$125.00/hour.

WILDLIFE SERVICES

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

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

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

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

APPROVAL OF CASES

ON THIS 30th day of August 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 30th day of August 2023.

Blayne Arthur
President
State Board of Agriculture

Exhibit A
Board of Agriculture
August 30, 2023

Cases Resolved by Stipulation

Agricultural Environmental Management Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Troy Keiss	OGC-23-257	AEMS	\$100.00
Leechi Moua	OGC-23-265	AEMS	\$210.00
Wa Meng Moua	OGC-23-267	AEMS	\$410.00
Pum Piang	OGC-23-275	AEMS	\$100.00
Brandon Sorum	OGC-23-264	AEMS	\$100.00
Waurika Livestock Commission Co.	OGC-23-656	AEMS	\$1,000.00
Kane Webb	OGC-23-278	AEMS	\$210.00

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
7-Eleven	OGC-23-606	CPS	\$600.00
Agwerx Aviation	OGC-22-562	CPS	\$5,000.00
Cain's Lawn Care	OGC-23-101	CPS	\$500.00
Dodd's Complete Lawn Service	OGC-23-103	CPS	\$1,000.00
Dollar General	OGC-23-594	CPS	\$4,500.00
Dollar General	OGC-23-595	CPS	\$2,100.00
Dollar General	OGC-23-603	CPS	\$750.00
Family Dollar	OGC-23-601	CPS	\$750.00
Family Dollar	OGC-23-604	CPS	\$450.00
Family Dollar	OGC-23-605	CPS	\$450.00
Kirk Lawn Care, LLC	OGC-23-118	CPS	\$500.00
Benson Kush, LLC	OGC-23-433	CPS	\$4,000.00
Lone Pine Farm, LLC	OGC-23-165	CPS	\$4,000.00

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Tractor Supply	OGC-23-611	CPS	\$375.00
Vanish Pest & Wildlife Specialist, LLC	OGC-22-494	CPS	\$500.00

Cases Resolved by Consent Order:

Consumer Protection Services

<u>Name</u>	<u>File No.</u>	<u>Division</u>	<u>Amount</u>
Agwerx Aviation	OGC-21-806	CPS	\$1,500.00
Agwerx Aviation	OGC-22-447	CPS	\$1,500.00
Gary Canfield	OGC-23-646	CPS	\$750.00
Gregg Hobbs	OGC-23-151	CPS	\$2,000.00
Judy Ortiz	OGC-23-097	CPS	\$3,500.00
Outdoor Creations Mgmt.	OGC-23-009	CPS	\$1,000.00

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. TROY KEISS

Case File No. OGC-23-257

**Troy Keiss
2827 State Highway 4
Smithville, OK 74957**

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

Statute or Rule Violation: 2 O.S. § 10-9.4(A)

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

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

TROY KEISS / KEISS LOGGING CO
2827 STATE HIGHWAY 4,
SMITHVILLE OK 74957

RESPONDENT.

Case No: OGC-23-257

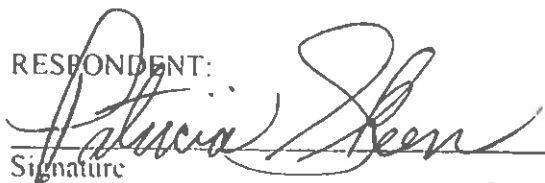
FILE
JUL 10 2023
STATE BOARD OF AGRICULTURE

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollars (\$100.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:


Signature

Patricia Skeen, Co-owner
Printed Name and Title: *Secretary/Treas.*

Date: 7-3-23

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

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

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

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

ALLEGATIONS OF FACT

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

21. On or about March 8, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their annual Poultry Feeding Operation registration.

22. Each annual application is accompanied by an annual nonrefundable registration fee of Ten Dollars (\$10.00).

23. Respondent failed to timely submit their annual registration for 2023.

24. Respondent responded to their Letter of Warning and submitted a late payment by March 24, 2023.

ALLEGED CONCLUSIONS OF LAW

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

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.

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

PRAYER FOR RELIEF

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

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

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

DATED THIS 21st day of July, 2023.

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

Richard D. Herren

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

CERTIFICATE OF MAILING

This is to certify that on this 21st day of July, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

TROY KEISS / KEISS LOGGING CO
2827 STATE HIGHWAY 4,
SMITHVILLE OK 74957

G.B. _____
GINA BLAYLOCK

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

V.

RESPONDENT.

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STIPULATION

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

Signature

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. LEECHI MOUA

Case File No. OGC-23-265

Leechi Moua
36757 Petetree Rd.
Wister, OK 74966

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

Statute or Rule Violation: 2 O.S. § 10-9.4(A)

Proposed Administrative Penalty: The penalty was assessed at \$210. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

AUG 08 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

LEECHI MOUA
36757 PETETREE RD
WISTER, OK, 74966

RESPONDENT.

Case No: OGC-23-265

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Hundred and Ten Dollars (\$210.00) 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:

Leechi Moua
Signature

Leechi Moua
Printed Name and Title:

Date: 8-3-2023

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

FILED

JUN 20 2023

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

STATE BOARD OF AGRICULTURE

COMPLAINANT,

v.

Case No: OGC-23-265

LEECHI MOUA
36757 PETETREE RD
WISTER, OK, 74966

RESPONDENT.

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. August 10, 2023, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

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

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

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

ALLEGATIONS OF FACT

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

21. On or about March 8, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation annual registration.

22. Each annual application is accompanied by an annual nonrefundable registration fee of Ten Dollars (\$10.00).
23. Respondent failed to submit their annual registration for 2023.
24. Respondent failed to respond to their Letter of Warning and submit payment by March 24, 2023.

ALLEGED CONCLUSIONS OF LAW

25. "It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture." Okla. Stat. Tit. 2 § 10-9.3(A).
26. "Every poultry feeding operation shall be required to register annually to operate pursuant to the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto." Okla. Stat. Tit. 2 § 10-9.4(A).
27. "Every application shall be accompanied by an annual registration fee of Ten Dollars (\$10.00), which is nonrefundable." Okla. Stat. Tit. 2 § 10-9.8.
28. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 § 10-9.3(A), Okla. Stat. Tit. 2 § 10-9.4(A), and Okla. Stat. Tit. 2 § 10-9.8 by failing to submit their Annual Registration.

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

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

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

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

PRAYER FOR RELIEF

34. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a Two Hundred and Ten Dollar (\$210.00) administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

40. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Two Hundred and Ten Dollars (\$210.00).

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 20th day of July, 2023.

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

Richard D. Herren

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873

Brady Robison, OBA #33600

Richard D. Herren, OBA #13829*

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 20th day of July, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

LEECHI MOUA
36757 PETETREE RD
WISTER, OK, 74966

G.B.

GINA BLAYLOCK

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. WA MENG MOUA

Case File No. OGC-23-267

**Wa Meng Moua
36757 Petetree Rd.
Wister, OK 74966**

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

Statute or Rule Violation: 2 O.S. § 10-9.4(A) and 2 O.S. § 10-9.8

Proposed Administrative Penalty: The penalty was assessed at \$410. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 08 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

WA MENG MOUA
36757 PETETREE RD
WISTER, OK, 74966

RESPONDENT.

Case No: OGC-23-267

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Four Hundred and Ten Dollars (\$410.00) 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.

GINA, HERE IS
YOUR COPY
THE LIVE CHECK
IS IN THE SAFE
THANKS JOY

RESPONDENT:

Wa Meng Moua
Signature

Wa Meng Moua
Printed Name and Title:

Date: 8-3-2023

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

V.

RESPONDENT.

NOTICE OF VIOLATION

PREHEARING CONFERENCE NOTICE

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

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

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

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

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

ALLEGATIONS OF FACT

21. Based upon current information and belief, the following allegations of fact summarize the alleged violations committed by Respondent.
22. On or about March 8, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation annual registration.
23. Each annual application is accompanied by an annual nonrefundable registration fee of Ten Dollars (\$10.00).
24. Respondent failed to submit their annual registration for 2023.
25. Respondent failed to respond to their Letter of Warning and submit payment by March 24, 2023.
26. Regarding another matter, on or about March 15, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their Poultry Feeding Operation annual report.
27. The Warning was accompanied by a blank annual report for Respondent to submit along with the deadline of April 14, 2023.
28. Respondent failed to timely submit their annual report for 2022.
29. Respondent failed to timely respond to their Letter of Warning by April 14, 2023.

ALLEGED CONCLUSIONS OF LAW

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

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

ATTORNEY CONFERENCES

31. 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.

32. 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.

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

PRAYER FOR RELIEF

36. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a Four Hundred and Ten Dollar (\$410.00) administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

42. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of Four Hundred and Ten Dollars (\$410.00).

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

DATED THIS 20th day of July, 2023.

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

Richard D. Herren

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873

Brady Robison, OBA #33600

Richard D. Herren, OBA #13829*

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20th day of July, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

WA MENG MOUA
36757 PETETREE RD
WISTER, OK, 74966

G.B. _____

GINA BLAYLOCK

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

V.

WA MENG MOUA)
36757 PETETREE RD)
WISTER, OK, 74966)

Page 9 of 9

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. PUM PIANG

Case File No. OGC-23-275

**Pum Piang
59599 S. 4710 RD.
Watts, OK 74964**

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

Statute or Rule Violation: 2 O.S. § 10-9.4(A)

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

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

JUL 11 0 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-23-275

PUM PIANG)
59599 S. 4710 RD.)
WATTS OK 74964)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollars (\$100.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:



Signature

PUM PIANG
Printed Name and Title:

Manager

Date:

7/30/23

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

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

COMPLAINANT,)

v.)

Case No: OGC-23-275

**PUM PIANG)
59599 S. 4710 RD.)
WATTS OK 74964)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. August 10, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

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

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

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

ALLEGATIONS OF FACT

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

21. On or about March 8, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their annual Poultry Feeding Operation registration.

22. Each annual application is accompanied by an annual nonrefundable registration fee of Ten Dollars (\$10.00).
23. Respondent failed to timely submit their Annual Registration for 2023.
24. Respondent responded to their Letter of Warning and submitted a late payment by March 24, 2023.

ALLEGED CONCLUSIONS OF LAW

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

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.

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

PRAYER FOR RELIEF

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

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

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

DATED THIS 21st day of July, 2023.

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

Richard D. Herren

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

CERTIFICATE OF MAILING

This is to certify that on this 21st day of July, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

PUM PIANG
59599 S. 4710 RD.
WATTS OK 74964

G.B.

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-23-275

**PUM PIANG)
59599 S. 4710 RD.)
WATTS OK 74964)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollars (\$100.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. BRANDON SORUM

Case File No. OGC-23-264

Brandon Sorum
7864 S. 449 RD.
Rose, OK 74364

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

Statute or Rule Violation: 2 O.S. § 10-9.4(A)

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

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

BRANDON SORUM
7864 S. 449 RD.
ROSE OK 74364

RESPONDENT.

Case No: OGC-23-264

GINA HERE ARE
YOUR COPIES THE
FIVE ONES ARE IN
THE SAFE
THANKS
JUD

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollars (\$100.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Brandon Sorum Sr
Signature

Brandon Sorum Sr
Printed Name and Title

Date: 7/3/23 - July 3, 2023

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

V.

RESPONDENT.

NOTICE OF VIOLATION

PREHEARING CONFERENCE NOTICE

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

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

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

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

ALLEGATIONS OF FACT

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

21. On or about March 8, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their annual Poultry Feeding Operation registration.
22. Each annual application is accompanied by an annual nonrefundable registration fee of Ten Dollars (\$10.00).
23. Respondent failed to timely submit their annual registration for 2023.
24. Respondent responded to their Letter of Warning and submitted a late payment by March 24, 2023.

ALLEGED CONCLUSIONS OF LAW

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

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.

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

PRAYER FOR RELIEF

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

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

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

DATED THIS 21st day of July, 2023.

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

Richard D. Herren

Teena G. Gunter, General Counsel, OBA # 17767
James Rucker, Deputy General Counsel, OBA # 14574
Kambi Maddy, OBA #13873
Brady Robison, OBA #33600
Richard D. Herren, OBA #13829*
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 21st day of July, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

BRANDON SORUM
7864 S. 449 RD.
ROSE OK 74364

G.B.

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-23-264

**BRANDON SORUM)
7864 S. 449 RD.)
ROSE OK 74364)**

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of One Hundred Dollars (\$100.00) for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. WAURIKA LIVESTOCK COMMISSION COMPANY

Case File No. OGC-23-656

Waurika Livestock Commission Company

P.O. Box 60

Waurika, OK 73573

Summary of Facts: Respondent failed to report a discharge.

Statute or Rule Violation: 2 O.S. § 20-48(B)(1)

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

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUL 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-23-656

WAURIKA LIVESTOCK)
COMMISSION COMPANY)
P.O. BOX 60)
WAURIKA, OK 73573)

RESPONDENT.)

STIPULATION

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

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

RESPONDENT:

Mike Pett
Signature

Yard Foreman
Printed Name and Title:

Date: 07-15-23

**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.

**WAURIKA LIVESTOCK
COMMISSION COMPANY
P.O. BOX 60
WAURIKA, OK 73573**

RESPONDENT.

Case No: OGC-23-656

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of a livestock market that holds a CAFO License in Oklahoma.

16. Pursuant to Okla. Stat. Tit. 2 O.S. § 20-40 *et seq.*, ODAFF has authority to regulate Concentrated Animal Feeding Operations.

17. Pursuant to Okla. Stat. Tit. 2 O.S. § 20-48(B)(1), *"There shall be no discharge of process wastewater to waters of the state except in accordance with the provisions of the Oklahoma Concentrated Animal Feeding Operations Act."*

ALLEGATIONS OF FACT

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

19. On April 28, 2023, Respondent experienced a discharge of process wastewater.

20. The discharge consisted of approximately 200 gallons of effluent. It was caused by excessive run off from a rain event and rusty equipment that was improperly maintained.

21. On or about May 1, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding the discharge of process wastewater into a nearby creek.

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

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, Respondent has violated Okla. Stat. Tit. 2 O.S. 20-48(B)(1) by discharging process wastewater into the waters of the state outside of the provisions of the Oklahoma Concentrated Animal Feeding Operations Act.

ATTORNEY CONFERENCES

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

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

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

ENFORCEMENT PROCEEDINGS

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

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

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

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

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

PRAYER FOR RELIEF

30. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 2-18(A). In this case we are seeking a One Thousand Dollar (\$1,000.00) administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

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

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

DATED THIS 23rd day of June, 2023.

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

Richard D. Herren

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

CERTIFICATE OF MAILING

This is to certify that on this 23rd day of June, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**WAURIKA LIVESTOCK
COMMISSION COMPANY
P.O. BOX 60
WAURIKA, OK 73573**

G.B.

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-23-656

**WAURIKA LIVESTOCK)
COMMISSION COMPANY)
P.O. BOX 60)
WAURIKA, OK 73573)**

RESPONDENT.

STIPULATION

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

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

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENTT OF AGRICULTURE, FOOD, AND FORESTRY

v. KANE WEBB

Case File No. OGC-23-278

**Kane Webb
PO Box 52
Watson, OK 74963**

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

Statute or Rule Violation: 2 O.S. § 10-9.4(A)

Proposed Administrative Penalty: The penalty was assessed at \$210. Respondent stipulated and paid the penalty.

Deviations: None.

Other Actions Required: None.

OGC Attorney: Wendi Morse

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

JUL 24 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

KANE WEBB
PO BOX 52
WATSON, OK 74963

RESPONDENT.

Case No: OGC-23-278

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of Two Hundred and Ten Dollars (\$210.00) 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: 7-19-23

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

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

COMPLAINANT,)

v.)

Case No: OGC-23-278

**KANE WEBB)
PO BOX 52)
WATSON, OK 74963)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. August 10, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

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

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

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

ALLEGATIONS OF FACT

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

21. On or about March 9, 2023, the Agricultural Environmental Management Services (AEMS) Division of the Department sent Respondent a Letter of Warning regarding their annual Poultry Feeding Operation registration.

22. Each annual application is accompanied by an annual nonrefundable registration fee of Ten Dollars (\$10.00).
23. Respondent failed to submit their Annual registration for 2023.
24. Respondent failed to respond to their Letter of Warning and submit payment by March 24, 2023.

ALLEGED CONCLUSIONS OF LAW

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

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

PRAYER FOR RELIEF

31. The Department is not seeking to remove any license or registration. We are seeking a monetary penalty as set out in Okla. Stat. Tit. 2 § 10-9.11(A)(1). In this case we are seeking a Two Hundred and Ten Dollar (\$210.00) administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

32. The Oklahoma Small Business Regulatory Flexibility Act, 75 Okla. Stat. 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 Okla. Stat. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 Okla. Stat. § 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 Hundred and Ten Dollars (\$210.00).

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 20th day of July, 2023.

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

Richard D. Herren

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA #13873

Brady Robison, OBA #33600

Richard D. Herren, OBA #13829*

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

This is to certify that on this 20th day of July, 2023, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

KANE WEBB
PO BOX 52
WATSON, OK 74963

G.B.

GINA BLAYLOCK

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

V.

RESPONDENT.

STIPULATION

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

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. 7-11

Case File No. OGC-23-606

7-11

**1201 12th Ave. NE
Norman, OK 73071**

Summary of Facts: There were eight prices that were off at checkout out of 100 items checked. 2nd violation within a 12 month period.

Statute or Rule Violation: 2 O.S. §14-38

Proposed Administrative Penalty: \$600, stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

RECEIVED

JUL 05 2023

OFFICE OF GENERAL COUNSEL
OKLA. DEPT OF AGRICULTURE

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

COMPLAINANT,)

v.)

Case No: OGC 23-606

7-ELEVEN)
1201 12th AVENUE NE)
NORMAN, OK 73071)

RESPONDENT.)

STIPULATION

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

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

RESPONDENT:


Signature

Barbara A. Milfelt
Printed Name

Manager, Corporate Compliance
Job Title

7/5/2023
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.

**7-ELEVEN
1201 12th AVENUE NE
NORMAN, OK 73071**

RESPONDENT.

Case No: OGC 23-606

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on August 10, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of 7-Eleven, located at 1201 12th 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 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.

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 March 24, 2023, 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 eight (8) of the one hundred (100) products inspected were offered at a price which exceeded the publicly communicated price.

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

ALLEGED CONCLUSIONS OF LAW

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

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

35. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Six Hundred Dollars (\$600.00). (8 violations at \$75.00 per violation).**

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

DATED THIS 22nd day of June, 2023.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

**7-ELEVEN
ATTN: LEGAL DEPT.
3200 HACKBERRY ROAD
IRVING, TX 75063**

Gina Blaylock



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 23-GMC-0158

DATE* 3/24/2023

COUNTY Cleveland

LOCATION*

CORPORATE

AGN NUMBER AGN0179876

AGN NUMBER

7 eleven

1201 12th Avenue NE

Norman OK 73071-

MANAGER

INSPECTION TYP

Original Insp# 23-GMC-006

TELEPHONE* (405) 329-2744

Other Store Type

ITEM STATUS

TYPE OF STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
CheezIt white cheddar 3oz	024100315345	\$1.89	\$2.19	(\$0.30)
Takis Fuego 9.9oz	757528008680	\$4.29	\$5.29	(\$1.00)
Hershey's cookies	034000214624	\$3.19	\$3.39	(\$0.20)
Trail Mix Swiss 6.3oz	052548601621	\$2.79	\$3.29	(\$0.50)
MFC NTY Bars 3oz	024300865664	\$1.69	\$2.19	(\$0.50)
Life savers mints wint o green 6.25	01900085047	\$3.09	\$3.49	(\$0.40)
Haribo Goldbears 142g	042238302211	\$2.39	\$2.89	(\$0.50)
7 eleven gum green apple rings 5oz	052548730864	\$2.19	\$2.39	(\$0.20)

COPY

REC'D CPS
2023 MAR 28 A 11:07

Total Number Checked 100 Total Number Of Violation 8 Accuracy 92 % Inspection Result Notice of Violation

REMARKS

WITNESS

INSPECTOR*

Gersende Cazaux

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. AGWERX AVIATION

Case File No. OGC-22-562

AGWERX AVIATION

P.O. BOX 67

TEKAMAH, NE 68061

Summary of Facts: ODAFF Inspectors conducted a consumer complaint at a residence where inspectors noticed and observed herbicide effects on the vegetation of this residence. Application records showed that Alligare Triclopyr 4 and Alligare 2,4-D Amine were applied to the pasture across the road west of the complainant's property. Video footage of the application showed the boom on the plane continuing an application onto the complainant's property. A vegetative sample showed 2,4-D and Triclopyr was present from the complainant's property and 2,4-D and Triclopyr was present in a vegetative sample taken from the target property. This company is responsible for a direct application off-target in violation of statute.

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

Proposed Administrative Penalty: \$5000; stip'd and PIF

Deviations:

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

JUL 24 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-22-562

AGWERX AVIATION
P.O. BOX 67
TEKAMAH, NE 68061

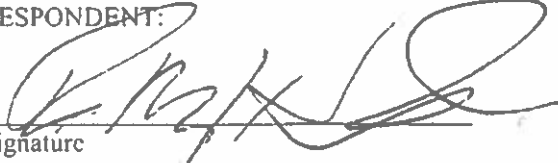
RESPONDENT.

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five-Thousand Dollars (\$5000.00)** 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:

Timothy Hauder, Owner

Date:

7-18-23

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

V.

AGWERX AVIATION
2000 NW WILL ROGERS ROAD
BARTLESVILLE, OK 74003

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Bartlesville, 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 25th day of July 2022, the Consumer Protective Services Division of the Department conducted a drift complaint investigation at 1550 N. 3990 Rd. in Copan, OK.

19. During this investigation our inspector observed herbicide effects on the trees on the complainant's property. You made an application to pastureland in section 15-29N-13E, which is across the road west of the complainant's property. According to your application records you applied Alliagre Triclopyr 4 and Alligare 2,4-D Amine to the pastureland.

20. The complainant provided our office with video footage of the application. This footage shows that the aircraft boom remained on, and your application continued onto the complainant's property.

21. A vegetative sample was taken from the complainant's trees, and 2,4-D and Triclopyr were detected. A vegetative sample was taken from your application area, and 2,4-D and Triclopyr were detected.

22. Our investigation found that your application resulted in a direct off-target drift on to the complainant's property.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you applied herbicide in a negligent manner and allowing a pesticide to drift off-target is violation of 2 O.S. §3-86(A)(3) which states:

- "A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target."

ATTORNEY CONFERENCES

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

ENFORCEMENT PROCEEDINGS

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

36. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **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 14TH day of October, 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 14th day of October, 2022, a true and correct copy of the forgoing instrument was mailed, via Certified Mail, Return Receipt Requested, as follows:

**AGWERX AVIATION
2000 NW WILL ROGERS ROAD
BARTLESVILLE, OK 74003**


Brady Robison

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

y.

AGWERX AVIATION
2000 NW WILL ROGERS ROAD
BARTLESVILLE, OK 74003

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five-Thousand Dollars (\$5000.00)** 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. CAIN'S LAWN CARE

Case File No. OGC-23-101

**CAINS LAWN CARE
1421 N UNION
PONCA CITY, OK 74601**

Summary of Facts: ODAFF Inspectors conducted a follow-up inspection at this location due to a suspended business license in 2022. Upon inspection, it was observed that there were signs of spray dye and a strong odor of pesticides in the gravel parking lot behind the business. A sample was taken and 2,4-D, Pendimethalin, Simazine, Dichlorprop and Mecoprop were detected at various levels. This company had been improperly disposing of pesticides and using outside of label instructions both contrary to state statutes and ODAFF Rules.

Statute or Rule Violation: 2 O.S. §2-18.1(A); O.A.C. 35:30-17-24(c)

Proposed Administrative Penalty: \$500; stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 08 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

CAINS LAWN CARE
1421 N UNION
PONCA CITY, OK 74601

RESPONDENT.

Case No: OGC-23-101

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Dollars (\$500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

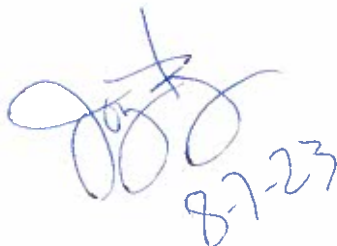


Signature

Jason Cain owner

Printed Name and Title:

Date: 8-3-23



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

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

COMPLAINANT,)

v.)

Case No: OGC-23-101

**CAINS LAWN CARE)
1421 N UNION)
PONCA CITY, OK 74601)**

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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on 10th day of August 2023** in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide/herbicide applications located at Ponca 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 12th day of January, the Consumer Protective Services Division of the Department conducted an inspection/follow-up inspection of your business due to a suspended business license.

19. Upon arriving at your business, our inspector detected the odor of pesticides/herbicides in the gravel parking lot behind your shop. Additionally, our inspector noticed that there were signs of spray dye in the same location.

20. Our inspector took a soil sample of the gravel parking lot behind your shop where several different chemicals were detected. These chemicals include but are not limited to 2,4-D, pendimethalin, simazine, dichlorprop and mecoprop.

21. Improper disposal/discharge of chemicals/pesticides/herbicides and using a pesticide in a manner inconsistent with its label are violations of the Oklahoma Statutes and Rules.

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. §2-18.1(A) and O.A.C. 35:30-17-24(c) which read:

- **2 O.S. §2-18.1(A):** “A. It shall be unlawful and a violation of the Oklahoma Agricultural Code for any person to cause pollution of any air, land or waters of the state by persons which are subject to the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry pursuant to the Oklahoma Environmental Quality Act.”
- **O.A.C. 35:30-17-24(c):** “(c) To protect public health and the environment, failure to follow precautionary and recommended language included in the pesticide product label may be considered a use inconsistent with the label.”

ATTORNEY CONFERENCES

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

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

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

ENFORCEMENT PROCEEDINGS

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

- a.) Administrative fines or penalties;

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

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

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

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

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

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

DATED THIS _____ day of _____, 2023.

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

Brady Robison

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

CERTIFICATE OF MAILING

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

CAINS LAWN CARE
1421 N UNION
PONCA CITY, OK 74601

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. DODD'S COMPLETE LAWN SERVICE

Case File No. OGC-23-103

**DENNIS DODD
DODD'S COMPLETE LAWN SERVICE
2305 OAK CREEK DR.
BLANCHARD, OK 73010**

Summary of Facts: ODAFF Inspectors made an inspection at this company facility where they informed our inspectors that they have been making applications. Inspectors observed a truck with advertising on it, as well as a tank loaded with mix and a concentrate bottle on the truck. This company's license expired in 2019; this company was actively advertising and performing commercial applications without the appropriate licensing from the Department contrary to statute.

Statute or Rule Violation: 2 O.S. §3-86(A)(9); 2 O.S. §3-86(A)(15); 2 O.S. §3-86(A)(16)

Proposed Administrative Penalty: \$1000; Stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,

v.

DODD'S COMPLETE LAWN SERVICE
2305 OAK CREEK DR.
BLANCHARD, OK 73010

RESPONDENT.

Case No: OGC-23-103

FILED
JUL 11 2023
STATE BOARD OF AGRICULTURE

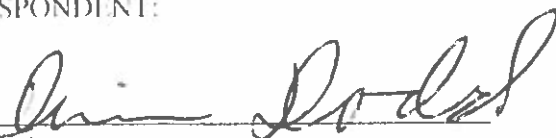
GINA, HERE ARE
YOUR COPIES THE
FIVE ONES ARE IN
THE SAFE
THANKS
JOYD

STIPULATION

Respondent accepts and stipulates to the proposed administrative
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

NO FINE
Darnice Dodd
Printed Name and Title:

Date: 7-14-23


7-11-23

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

v.

Case No: OGC-23-103

DODD'S COMPLETE LAWN SERVICE
2305 OAK CREEK DR.
BLANCHARD, OK 73010

AMENDED NOTICE OF VIOLATION

PREHEARING CONFERENCE NOTICE

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

ALLEGATIONS OF FACT

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

18. On or about the 12th day of January 2023, the consumer Protective Services Division of the Department conducted a use inspection of your business.

19. During this inspection our inspector met with you at your office in Blanchard, OK. During this inspection our inspector observed your application truck and trailer with weed control advertisements, and a spray tank with tank mix and pesticide concentrates were found on the truck.

20. You informed our inspector that you have made commercial pesticide applications in 2020, 2021, and 2022.

21. Advertising and making commercial pesticide applications without a license and certification are violations of the Oklahoma Combined Pesticide Law & Rules: 2 O.S. §3-86(A)9; 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, you are in violation of multiple Oklahoma Statutes including 2 O.S. §3-86(A)9; 2 O.S. §3-86(A)15; 2 O.S. §3-86(A)16 which are stated below:

- **2 O.S. §3-86(A)(9):** “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: 9. Advertising or offering to perform in a category of pesticide application for which no license is held or under a name for which no license is held.”
- **2 O.S. §3-86(A)(15):** “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 **One Thousand Dollars (\$1000.00)**.

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

DATED THIS _____ day of _____, 2023.

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

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

CERTIFICATE OF MAILING

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

**DODD'S COMPLETE LAWN SERVICE
2305 OAK CREEK DR.
BLANCHARD, OK 73010**

Brady Robison

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. DOLLAR GENERAL

Case File No. OGC-23-594

**DOLLAR GENERAL
811 N. HAZLETT
FT. COBB, OK 73038**

Summary of Facts: This is the 7th violation in a 12-month period at this location. At this location there were nine of the 50 items scanned that registered incorrectly. Nine violations at \$500 each for a total of \$4500.

Statute or Rule Violation: 2 O.S. §14-38

Proposed Administrative Penalty: \$4500; stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,)

v.)

DOLLAR GENERAL)
811 N. HAZLETT)
FT. COBB, OK 73038)

RESPONDENT.)

Case No: OGC 23-594

FILED
JUL 18 2023
STATE BOARD OF AGRICULTURE

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:

rebecca obrien

Signature

rebecca obrien

Printed Name

Director-Store Operations

Job Title

6/30/2023

Date

Gina, HERE ARE
YOUR COPIES
I put the live
ONES IN THE
SAFE

THANKS
JGD

**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 23-594

**DOLLAR GENERAL)
811 N. HAZLETT)
FT. COBB, OK 73038)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on August 10, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 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 seventh 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).

32. On or about January 30, 2023, 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.

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

ALLEGED CONCLUSIONS OF LAW

34. 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

35. 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.

36. 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.

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

ENFORCEMENT PROCEEDINGS

38. 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.

39. 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.

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

ENFORCEMENT OF JUDGMENTS

41. 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

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

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

44. 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

45. 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).**

46. 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 June, 2023.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

**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 23-594

**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-0040

DATE* 1/30/2023

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# 23-RLL-0025

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
<u>Jolly Rancher Peach Candy 7 oz</u>	<u>010700517265</u>	<u>\$2.00</u>	<u>\$2.35</u>	<u>(\$0.35)</u>
<u>Brach's Kiddie Mix candy 60pc</u>	<u>041420069413</u>	<u>\$5.75</u>	<u>\$6.00</u>	<u>(\$0.25)</u>
<u>CV Grated parmesan cheese 8oz</u>	<u>070506030009</u>	<u>\$3.65</u>	<u>\$3.75</u>	<u>(\$0.10)</u>
<u>CV Chicken Breast 5oz</u>	<u>019722167229</u>	<u>\$2.25</u>	<u>\$2.35</u>	<u>(\$0.10)</u>
<u>TL 20oz Foam Cups 14ct</u>	<u>709859000628</u>	<u>\$2.35</u>	<u>\$2.60</u>	<u>(\$0.25)</u>
<u>Fresh Step cat liter 14 lb</u>	<u>044600020495</u>	<u>\$11.95</u>	<u>\$12.75</u>	<u>(\$0.80)</u>
<u>TL Slider storage bags 1 gallon</u>	<u>430001567903</u>	<u>\$2.50</u>	<u>\$3.15</u>	<u>(\$0.65)</u>
<u>Aspercreme Arthritis cream 1.76oz</u>	<u>041167057421</u>	<u>\$9.95</u>	<u>\$10.00</u>	<u>(\$0.05)</u>
<u>Colgate medium toothbrush 3pk</u>	<u>035000555359</u>	<u>\$3.00</u>	<u>\$3.25</u>	<u>(\$0.25)</u>

COPY

Total Number Checked 50 Total Number Of Violation 9 Accuracy 82 % Inspection Result Notice of Violati

REMARKS

Follow up #1

2023 FEB - 9 - 10:08

REC'D CPS

WITNESS

Robin Kelley

INSPECTOR*

Richard Folsom

R Folsom

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. DOLLAR GENERAL

Case File No. OGC-23-595

**DOLLAR GENERAL
103 NEBRASKA
CYRIL, OK 73029**

Summary of Facts: This price verification had 6 incorrect prices out of the 100 items checked. This is the 5th violation at this location in a 12-month period; the penalty went out at \$350 for each penalty with six incorrect totals for a total of \$2100.

Statute or Rule Violation: 2 O.S. 14-38

Proposed Administrative Penalty: \$2100; stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUL 18 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

DOLLAR GENERAL
103 NEBRASKA
CYRIL, OK 73029

RESPONDENT.

Case No: OGC 23-595

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand One Hundred Dollars (\$2,100.00)** 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:

rebecca obrien

Signature

rebecca obrien

Printed Name

Director-Store Operations

Job Title

6/30/2023

Date

GINA, HERE ARE
YOUR COPIES
I put the live
ONES IN THE
SAFE

THANKS

JGD

**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 23-595

**DOLLAR GENERAL)
103 NEBRASKA)
CYRIL, OK 73029)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on August 10, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 103 Nebraska, in Cyril, 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 November 16, 2021, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma. The inspection revealed that seven (7) of the hundred (100) products inspected were offered at a price which exceeded the publicly communicated price. A letter of warning was sent.
21. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a violation of 2 O.S. § 14-38(J).
22. On or about January 18, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma. The inspection revealed that seven (7) of the 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 18, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma. The inspection revealed that fifteen (15) of the 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 May 25, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma.

The inspection revealed that eight (8) of the 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).

28. On or about January 30, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Cyril, Oklahoma. The inspection revealed that six (6) of the hundred (100) 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 **Two Thousand One Hundred Dollars (\$2,100.00). (6 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 23rd day of June, 2022.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

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

Gina Blaylock

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

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

COMPLAINANT,

v.

**DOLLAR GENERAL)
103 NEBRASKA)
CYRIL, OK 73029)**

RESPONDENT.

Case No: OGC 23-595

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Two Thousand One Hundred Dollars (\$2,100.00)** 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-0041

DATE* 1/30/2023

COUNTY Caddo

LOCATION*

CORPORATE

AGN NUMBER AGN022158

AGN NUMBER

Dollar General

103 Nebraska

Cyri OK 73029-

MANAGER INSPECTION TYP Followup Original Insp# 22-RLF-0075

TELEPHONE* (405) 594-0625

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>TL Oxy Shower/Tub/Tile Cleaner 32oz</u>	<u>051266101624</u>	<u>\$2.65</u>	<u>\$3.75</u>	<u>(\$1.10)</u>
<u>ScotchBrite SS scrubbers 2 pk</u>	<u>051141254449</u>	<u>\$2.75</u>	<u>\$3.00</u>	<u>(\$0.25)</u>
<u>Conair Ceramic Curling iron</u>	<u>074108421609</u>	<u>\$14.70</u>	<u>\$15.25</u>	<u>(\$0.55)</u>
<u>HotShot Wasp/Hornet Killer 17.5 oz</u>	<u>071121134165</u>	<u>\$5.00</u>	<u>\$5.50</u>	<u>(\$0.50)</u>
<u>Velveeta Mac&Cheese 12 oz</u>	<u>021000658930</u>	<u>\$3.95</u>	<u>\$4.00</u>	<u>(\$0.05)</u>
<u>CV Sweet&Spicy Trail Mix 10 oz</u>	<u>753519474014</u>	<u>\$2.95</u>	<u>\$3.50</u>	<u>(\$0.55)</u>

COPY

Total Number Checked 100 Total Number Of Violation 6 Accuracy 94 % Inspection Result Notice of Violat

REMARKS

Follow up #4

2023 FEB - 6 - 10:08

REC'D CPS

WITNESS

Liberty Blackwell

INSPECTOR*

Richard Folsom

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. DOLLAR GENERAL

Case File No. OGC-23-603

DOLLAR GENERAL

1025 SW 89TH

OKLAHOMA COTY, OK 73139

Summary of Facts: This is this location's second violation in a 12-month period. There were 100 items scanned and 10 of them came back with a discrepancy for a 90% accuracy. The penalty was assessed at \$75 per item for a total of \$750.

Statute or Rule Violation: 2 O.S. §14-38

Proposed Administrative Penalty: \$750; stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUL 18 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 23-603

DOLLAR GENERAL)
1025 S.W. 89th)
OKLAHOMA CITY, OK 73139)

RESPONDENT.)

STIPULATION

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

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

RESPONDENT:

rebecca obrien

Signature

rebecca obrien

Printed Name

Director-Store Operations

Job Title

6/30/2023

Date

Gina, HERE ARE
YOUR COPIES
I put the live
ONES IN THE
SAFE

THANKS
JCD

**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

1025 S.W. 89th

OKLAHOMA CITY, OK 73139

RESPONDENT.

Case No: OGC 23-603

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on August 10, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Dollar General, located at 1025 S.W. 89th, 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 October 18, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Oklahoma City, Oklahoma. The inspection revealed that (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 March 2, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Dollar General in Oklahoma City, Oklahoma. The inspection revealed that ten (10) 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 **Seven Hundred Fifty Dollars (\$750.00). (10 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 June, 2023.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

**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 23-603

DOLLAR GENERAL)

1025 S.W. 89th)

OKLAHOMA CITY, OK 73139)

RESPONDENT.)

STIPULATION

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

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

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBER 23-GMC-0144

DATE* 3/2/2023

COUNTY Cleveland

LOCATION*

CORPORATE

AGN NUMBER AGN050309

AGN NUMBER _____

Dollard General

1025 SW 89th

Oklahoma City OK 73139-

MANAGER _____ INSPECTION TYP Followup Original Insp# 23-GMC-001

TELEPHONE* (405) 653-9045

Other Store Type

ITEM STATUS _____

TYPE OF STORE CONVENIENCE STORE

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>5 hours energy 2L</u>	<u>719410740016</u>	<u>\$3.25</u>	<u>\$3.45</u>	<u>(\$0.20)</u>
<u>Kelloggs Pop Tarts 10.32oz</u>	<u>038000222672</u>	<u>\$3.95</u>	<u>\$4.00</u>	<u>(\$0.05)</u>
<u>Reynolds aluminium foil 90sf</u>	<u>430001703424</u>	<u>\$5.25</u>	<u>\$5.50</u>	<u>(\$0.25)</u>
<u>True Living Cleaner oxy 32oz</u>	<u>851266101624</u>	<u>\$2.65</u>	<u>\$3.75</u>	<u>(\$1.10)</u>
<u>Clover Valley salsa medium 15.5oz</u>	<u>072940750406</u>	<u>\$1.95</u>	<u>\$2.25</u>	<u>(\$0.30)</u>
<u>Packaging tape standard grade 40yd</u>	<u>075353309483</u>	<u>\$2.65</u>	<u>\$2.75</u>	<u>(\$0.10)</u>
<u>Sheba wet cat food 2.6oz</u>	<u>023100110202</u>	<u>\$1.00</u>	<u>\$1.25</u>	<u>(\$0.25)</u>
<u>Heartland Farm ribs triple flavor 3</u>	<u>041351198813</u>	<u>\$2.85</u>	<u>\$2.95</u>	<u>(\$0.10)</u>
<u>Kiss DH54 Duraq satin bonnet</u>	<u>73150984006</u>	<u>\$2.00</u>	<u>\$4.00</u>	<u>(\$2.00)</u>
<u>Lubriderm lotion adv 10oz</u>	<u>052800482357</u>	<u>\$5.50</u>	<u>\$6.00</u>	<u>(\$0.50)</u>

REC'D CPS
MAR -8 A 11:58

Total Number Checked 100 Total Number Of Violation 10 Accuracy 90 % Inspection Result Notice of Violation

REMARKS

WITNESS John Groodwin

INSPECTOR*

Gersende Gizaux

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. FAMILY DOLLAR

Case File No. OGC-23-601

**FAMILY DOLLAR #31004
30516 HIGHWAY 59
WAYNE, OK 73095**

Summary of Facts: Ten items out of 50 that were checked came back with errors in the price verification process. This is the 2nd violation at this location in a 12 month period.

Statute or Rule Violation: 2 O.S. §14-38

Proposed Administrative Penalty: \$750; stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Family Dollar, located at 30516 Highway 59 in Wayne, 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 8, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Wayne, Oklahoma. The inspection revealed that twenty-one (21) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

22. On or about February 27, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Family Dollar in Wayne, Oklahoma. The inspection revealed that ten (10) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

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 **Seven Hundred Fifty Dollars (\$750.00). (10 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 June, 2023.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

**FAMILY DOLLAR CORPORATION
ATTN: LEGAL DEPARTMENT
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)
30516 HIGHWAY 59)
WAYNE, OK 73095)**

RESPONDENT.)

Case No: OGC 23-601

STIPULATION

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

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

RESPONDENT:

Signature

Printed Name

Job Title

Date



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBER 23-JPS-0047

DATE* 2/27/2023

COUNTY McClain

LOCATION*

CORPORATE

AGN NUMBER AGN0147272

AGN NUMBER

Family Dollar

30516 Highway 59

Wayne OK 73095-

MANAGER

INSPECTION TYP Followup

Original Insp# 23-JPS-0013

TELEPHONE* (405) 335-0273

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE FOOD

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
Stic Pen Black 10 Pack	070330201231	\$1.80	\$2.00	(\$0.20)
Suavitel Complete Fabric Softener	035000973399	\$3.60	\$4.10	(\$0.50)
Secret Outlast Invisible Deodorant	037000808053	\$5.65	\$6.15	(\$0.50)
Cambells Chicken & Rice 13.8Oz	051000224729	\$1.80	\$2.00	(\$0.20)
Homeline Hinged Lid Foam Tray 20 Ct	032251516092	\$4.10	\$5.10	(\$1.00)
Cheezit Extra Cheesy 7Oz	024100705719	\$2.55	\$2.70	(\$0.15)
Chips Ahoy Family Size Chewy 19.5Oz	044000033392	\$4.75	\$5.10	(\$0.35)
Eatz Salsa Con Queso	032251730788	\$3.25	\$3.35	(\$0.10)
Pringles Potato Chips Original 5.2Oz	038000138416	\$2.00	\$2.40	(\$0.40)
Jimmy Dean Meat Lovers Breakfast	077900471315	\$3.50	\$3.60	(\$0.10)



REC'D CPS
2023 MAR - 6 A 7 H

Total Number Checked 50 Total Number Of Violation 10 Accuracy 80 % Inspection Result

REMARKS

WITNESS

Jennifer Dugley

INSPECTOR*

James Schoppa

James Schoppa

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. FAMILY DOLLAR

Case File No. OGC-23-604

FAMILY DOLLAR #31557

420 W. MAIN

WELEETKA, OK 74880

Summary of Facts: Three of 50 items checked were incorrect. This is the 3rd violation at this location in a 12-month period. Assessed at \$150 per item for a total of \$450.

Statute or Rule Violation: 2 O.S. §14-38

Proposed Administrative Penalty: \$450; Stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,)

v.)

FAMILY DOLLAR # 31557)
420 W. MAIN)
WELEETKA, OK 74880)

RESPONDENT.)

Case No: OGC 23-604

RECEIVED
JUL 05 2023
OFFICE OF GENERAL COUNSEL
OKLA. DEPT 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:

Patricia Haas
Signature

Patricia Haas

Printed Name

Assistant General Counsel

Job Title

6/29/23

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 23-604

**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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on August 10, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of 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 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 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 six (7) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.
23. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a second violation of 2 O.S. § 14-38(J). A letter of warning was sent.
24. On or about February 27, 2023, 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 three (3) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.
25. Respondent's failure to accurately price ninety-five percent (95%) of all consumer items sampled as part of this inspection, is a third violation of 2 O.S. § 14-38(J).

ALLEGED CONCLUSIONS OF LAW

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

ATTORNEY CONFERENCES

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

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

ENFORCEMENT PROCEEDINGS

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

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

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto,

unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

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

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 **Four Hundred Fifty (\$450.00). (3 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 22nd day of June, 2023.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

**FAMILY DOLLAR CORPORATION
ATTN: LEGAL DEPARTMENT
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 23-604

**FAMILY DOLLAR)
420 W. MAIN)
WELEETKA, OK 74880)**

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

**FOOD, AND FORESTRY
PRICE VERIFICATION REPORT**

CPS 152 Rev 1/06

INSPECTOR NUMBE 23-JRM-0030

DATE* 2/27/2023

COUNTY Okfuskee

LOCATION*

CORPORATE

AGN NUMBER AGN0158654

AGN NUMBER _____

Family Dollar

420 W Main

Weleetka OK 74880-

MANAGER Tenni Morgan

INSPECTION TYP Followup

Original Insp# 23-JRM-0020

TELEPHONE* (405) 592-3600

Other Store Type

ITEM STATUS

TYPE OF STORE MASS MERCHANDISER

PRODUCT	UPC CODE	OFFERED PRICE	PRICE CHARGED	PRICE ERROR
<u>Tostitos Queso Blanco Dip</u>	<u>0 28400 21573 2</u>	<u>\$4.75</u>	<u>\$4.85</u>	<u>(\$0.10)</u>
<u>Pringles Cheddar Cheese</u>	<u>0 38000 13857 7</u>	<u>\$2.00</u>	<u>\$2.40</u>	<u>(\$0.40)</u>
<u>Wonderful Piatachios</u>	<u>0 14113 91195</u>	<u>\$4.35</u>	<u>\$4.60</u>	<u>(\$0.25)</u>

COPY

Total Number Checked 50 **Total Number Of Violation** 3 **Accuracy** 94 % **Inspection Result** Notice of Violat

REMARKS

WITNESS Tenni Morgan

INSPECTOR*

Jack Mills

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. FAMILY DOLLAR

Case File No. OGC-23-605

**FAMILY DOLLAR
411 E. MAIN
TUTTLE, OK 73089**

Summary of Facts: Three of 50 items scanned were incorrect. This is the third violation in a 12-month period. Fine was assessed at \$150 each for a total of \$450.

Statute or Rule Violation: 2 O.S. §14-38

Proposed Administrative Penalty: \$450; Stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

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

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

COMPLAINANT,)

v.)

FAMILY DOLLAR # 24495)
411 E. MAIN)
TUTTLE, OK 73089)

RESPONDENT.)

RECEIVED

JUL 05 2023

OFFICE OF GENERAL COUNSEL
OKLA. DEPT OF AGRICULTURE

Case No: OGC 23-605

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:

Patricia Haas
Signature

Patricia Haas
Printed Name

Assistant General Counsel
Job Title

6/29/23
Date

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

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

COMPLAINANT,

v.

**FAMILY DOLLAR)
411 E. MAIN)
TUTTLE, OK 73089)**

RESPONDENT.

Case No: OGC 23-605

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on August 10, 2023**, in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of 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 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 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.

24. On or about March 16, 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 three (3) of the fifty (50) products inspected were offered at a price which exceeded the publicly communicated price.

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

ALLEGED CONCLUSIONS OF LAW

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

ATTORNEY CONFERENCES

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

28. Additionally, OGC attorneys will be available for consultation from 9:00 a.m. until 12:00 p.m. on the date of the Prehearing Conference.

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

ENFORCEMENT PROCEEDINGS

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

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

31. Pursuant to 2 O.S. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto,

unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.

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

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 **Four Hundred Fifty Dollars (\$450.00). (3 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 22nd day of June, 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 CORPORATION
ATTN: LEGAL DEPARTMENT
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 23-605

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-0050

DATE* 3/16/2023

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
Powerade Mountain Blast 28 Fl Oz	049000079357	\$1.35	\$1.45	(\$0.10)
Homeline Microfiber Flip Mop Refill	032251703942	\$5.00	\$6.00	(\$1.00)
Pringles Potato Chips Cheddar Chees	038000138577	\$2.00	\$2.40	(\$0.40)

2023 MAR 21 A 10:55
REC'D CPS

COPY

Total Number Checked 50 Total Number Of Violation 3 Accuracy 94 % Inspection Result Notice of Violation

REMARKS

WITNESS

INSPECTOR*

James Schoppa

James Schoppa

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. KIRK LAWN CARE LLC

Case File No. OGC-23-118

**KIRK LAWN CARE LLC
16168 SPRING MEADOW DR.
TAHLEQUAH, OK 74468**

Summary of Facts: ODAFF Inspectors made a site inspection at this company's business location. The purpose was to review application records. This company was not keeping the proper records, despite having been warned of this previously.

Statute or Rule Violation: 2 O.S §3-86(A)(8); O.A.C. 35:30-17-21

Proposed Administrative Penalty: \$500; Stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUL 13 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,)

v.)

Case No: OGC-23-118

KIRK LAWN CARE LLC)
16168 SPRING MEADOW DR)
TAHLEQUAH, OK 74468)

RESPONDENT.)

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Dollars (\$500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:



Signature

Nick Kirko - Owner, Kirk Lawn Care, LLC
Printed Name and Title:

Date: 7/9/2023

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Tahlequah, 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 18th day of January 2023, the Consumer Protective Services Division of the Department conducted a use inspection at your facility in Tahlequah, Oklahoma.

19. While inspecting your records, our inspectors determined that you were only keeping the location of your applications and the target pest of the application. ODAFF Rules require that records be kept for each commercial application that a company makes.

20. By not keeping those records, you are in violation of 2 O.S. §3-83(A), 2 O.S. §3-86(A)(8) and O.A.C. 35:30-17-21.

ALLEGED CONCLUSIONS OF LAW

21. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-83(A), 2 O.S. §3-86(A)(8) and O.A.C. 35:30-17-21 which state:

- **2 O.S. §3-83(A):** “A. Every commercial and noncommercial applicator shall keep accurate records pertaining to pesticide activities, applications, and wood infestation reports, as required by the State Board of Agriculture. The records of the applicator shall be kept intact at the principal business location in this state for at least two (2) years after their date of expiration and copies shall be furnished to any authorized agent of the Board, immediately upon request in person, at any time during the regular business hours of the applicator. Copies of records shall be furnished to any authorized agent of the Board within seven (7) working days of a written request, in summary form, by mail, fax, e-mail, web site, or any other electronic media customarily used.
- **2 O.S. §3-86(A)(8):** “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: 8. Failure or refusal to keep and maintain complete and accurate records as specified in this subarticle.”

- **O.A.C. 35:30-17-21:** “(a) Commercial and non-commercial applicators shall keep accurate records pertaining to pesticide activities, which, at a minimum, show: (1) Start and stop time of application. (2) Total amount of pesticide used. (3) Name and address of the commercial or non-commercial company. (4) Name and address of person for whom applied. (5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address. (6) Date of application. (7) Application rate. (8) Dilution rate for mixing. (9) Total quantity tank mix used. (10) Complete trade name of pesticide product used. (11) EPA registration number of pesticide product used. (12) Name of adjuvants used when the label requires specific adjuvants. (13) Name of drifting agents used when the label requires specific drifting agents. (14) Target pest for the application. (15) Site where the pesticide was applied. (16) Restricted Entry Interval as stated on the product label. (17) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case. (18) Copies of any contracts issued. (19) Copies of any wood infestation reports issued. (20) Other information as required by the Board.”

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.

PRAYER FOR RELIEF

29. 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 **Five Hundred Dollar (\$500.00)** administrative penalty.

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:

KIRK LAWN CARE LLC
16168 SPRING MEADOW DR
TAHLEQUAH, OK 74468

Brady Robison
Brady Robison

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

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. BENSON KUSH LLC

Case File No. OGC-23-433

**BENSON KUSH LLC
9932 S. HWY 99
PRAGUE, OK 74864**

Summary of Facts: This was a referral from the OMMA. This company submitted a batch sample of marijuana for testing and that batch tested positive for Malathion. ODAFF Inspectors conducted a site inspection at this facility where they observed Spectracide Malathion Insect Sprat Concentrate on the property. There were several other products being kept at the facility and none of them are labeled for use on hemp. Only products approved by ODAFF may be applied to hemp products. This company was misusing the product off-label.

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

Proposed Administrative Penalty: \$4000; stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUL 13 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,)

v.)

BENSON KUSH LLC)
9932 S. HWY 99)
PRAGUE, OK 74864)

RESPONDENT.)

Case No: OGC-23-433

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:

Bing Yun Li
Signature

BING YUN LI
Printed Name and Title:

Date: 07/13/2023

**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-23-433

**BENSON KUSH LLC)
9932 S. HWY 99)
PRAGUE, OK 74864)**

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 Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on 10th day of August 2023 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial marijuana cultivation, located at Prague, Oklahoma.

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

ALLEGATIONS OF FACT

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

18. On or about the 28th day of February 2023, the Consumer Protection Services Division of the Department conducted a follow-up use inspection of your facility in Prague, OK. The nature of this visit was from a referral from the Oklahoma Medical Marijuana Authority on a batch sample that failed testing.

19. OMMA reported that your batch sample had an above acceptable amount of Malathion.

20. During the February 28th inspection, our inspectors noted that you had Spectracide Malathion Insect Spray Concentrate containers being stored at your facility. Malathion is the active ingredient in Spectracide Malathion Insect Spray Concentrate.

21. 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. 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

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.

PRAYER FOR RELIEF

29. 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

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 **Four Thousand Dollars (\$4000.00)**.

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:

BENSON KUSH LLC
9932 S. HWY 99
PRAGUE, OK 74864

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-23-433

**BENSON KUSH LLC)
9932 S. HWY 99)
PRAGUE, OK 74864)**

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. LONE PINE FARMS LLC

Case File No. OGC-23-165

**LONE PINE FARMS LLC
19525 E 1120 RD.
ELK CITY, OK 73644**

Summary of Facts: This case came from an OMMA referral. This company submitted a batch sample to OMMA for testing and that batch failed testing when it tested positive for Myclobutanil. ODAFF Inspectors made a site inspection where they observed Eagle 20 EW on site. The active ingredient in Eagle 20 EW is Myclobutanil. There were several other products at this location as well, none of them were labeled to be used on hemp. Only products labeled to be applied to hemp are allowed. ODAFF must approve those products. This company was applying off-label.

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

Proposed Administrative Penalty: \$4000; stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUL 17 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-23-165

LONE PINE FARMS LLC)
19525 E. 1120 RD.)
ELK CITY, OK 73644)

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:

Prentice Wood
Signature

Prentice Wood OWNER
Printed Name and Title

Date: 07/08/2023

GINA, HERE IS
YOUR COPY THE
LIVE CHECK IS IN
THE SAFE
THANKS JMD

**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-23-165

**LONE PINE FARMS LLC)
19525 E. 1120 RD.)
ELK CITY, OK 73644)**

RESPONDENT.)

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of Commercial Marijuana Cultivation, located at Elk 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 27th day of February 2023, the Consumer Protection Services Division of the Department conducted a use inspection at your facility in Elk City, OK. The nature of this inspection was a referral from the Oklahoma Medical Marijuana Authority's (OMMA) lab. The OMMA reported that one of your batch samples had failed testing and those pesticides were detected above threshold levels.

19. The pesticide detected was Myclobutanil.

20. During the inspection of your facility there were several pesticides at your facility including: Spectracide Malathion Insect Spray Concentrate, Bonide Pyrethrin Garden Insect Spray Concentrate, Forbid 4F Ornamental Insecticide/Miticide, 70% Neem Oil

Fungicide/Insecticide/Miticide, Eagle 20W Specialty Fungicide, Martin's Permethrin 13.3% Multi-Purpose Insecticide, Garden Safe Brand Neem Oil Extract Concentrate, Garden Safe Brand Fungicide 3 Concentrate, and Ecoworks EC Botanical Insecticide/Miticide/Nematicide & Fungicide.

21. Of these products, the only product approved to be used on hemp is Ecoworks EC Botanical Insecticide/Miticide/Nematicide & Fungicide.

22. Myclobutanil is the active ingredient Eagle 20 EW Specialty Fungicide.

23. 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. According to our investigation you have been misusing pesticide products by applying them to a crop that is not approved by the product label. By applying Eagle 20 EW contrary to the labeling, you are in violation of 2 O.S. §3-86(A)(4).

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: "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.

PRAYER FOR RELIEF

31. The Department is not seeking to remove any license or registration of any business; we are seeking a monetary penalty as set out in statutes, specifically 2 O.S. §2-18(A). In this case we are seeking a **Four Thousand Dollar (\$4000.00)** administrative penalty.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Thousand Dollars (\$4000.00)**.

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

DATED THIS _____ day of _____, 2023.

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

Brady Robison

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600*

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

LONE PINE FARMS LLC
19525 E. 1120 RD.
ELK CITY, OK 73644

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-23-165

**LONE PINE FARMS LLC)
19525 E. 1120 RD.)
ELK CITY, OK 73644)**

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. TRACTOR SUPPLY

Case File No. OGC-23-611

**TRACTOR SUPPLY
1504 SW 27TH STREET
EL RENO, OK 73036**

Summary of Facts: Second infraction at this location in a 12-month period. Five of the 50 items scanned registered the wrong price. The penalty went out at \$75 per infraction with five infractions for a total of \$375.

Statute or Rule Violation: 2 O.S. §14-38

Proposed Administrative Penalty: \$375; stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

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

COMPLAINANT,)

v.)

TRACTOR SUPPLY)
1504 S.W. 27th STREET)
EL RENO, OK 73036)

RESPONDENT.)

Case No: OGC 23-611

FILED
AUG 03 2023
STATE BOARD OF AGRICULTURE

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 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

615 440 4835

KE. TRACTOR
SUPPLY CO

GINA, HERE IS
YOUR COPY THE
HIDE CHECK IS IN
THE SAFE
THANKS
TJ

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

y.

RESPONDENT.

NOTICE OF VIOLATION

PREHEARING CONFERENCE NOTICE

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of selling consumer items under the business name of Tractor Supply, located at 1504 S.W. 27th in El Reno, Oklahoma.

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

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

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

ALLEGATIONS OF FACT

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

20. On or about July 28, 2022, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply in El Reno, 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 February 28, 2023, a price verification inspection was performed by an Oklahoma Department of Agriculture, Food, and Forestry inspector at Tractor Supply in El Reno, Oklahoma. The inspection revealed that five (5) 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 Seventy-five Dollars (\$375.00). (5 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 June, 2023.

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

Kambi Maddy

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

✓ Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600

Richard D. Herren, OBA # 13829

Assistants General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

**TRACTOR SUPPLY COMPANY
ATTN: LEGAL DEPARTMENT
5401 VIRGINIA WAY
BRENTWOOD, TN 37027**

Gina Blaylock

Date _____



OKLAHOMA DEPARTMENT OF AGRICULTURE
FOOD, AND FORESTRY
PRICE VERIFICATION REPORT

CPS 152 Rev 5/19

INSPECTOR NUMBE 23-JPS-0048

DATE* 2/28/2023

COUNTY Canadian

LOCATION*

CORPORATE

AGN NUMBER AGN0054490

AGN NUMBER

Tractor Supply

1504 SW 27th Street

El Reno

OK 73036

MANAGER

INSPECTION TYP Followup

Original Insp# 22-JPS-0028

TELEPHONE* (405) 262-2037

Other Store Type

ITEM STATUS

NON-SALE

TYPE OF STORE OTHER

PRODUCT

UPC CODE

OFFERED PRICE

PRICE
CHARGED

PRICE ERROR

Retriever training pads 100ct

749394060541

\$24.99

\$25.99

(\$1.00)

Temptations 16Oz cat food

023100107561

\$8.49

\$8.99

(\$0.50)

Trvx Grey 50 in blackout light bar

749394221799

\$329.99

\$349.99

(\$20.00)

78 in rooster weather sheppards hoo

749394232504

\$34.99

\$38.99

(\$4.00)

Magnetic pickup tool 35in handheld

095421072477

\$26.99

\$28.99

(\$2.00)

REC'D CPS
2023 MAR -6 A 7:54

Total Number Checked 50 Total Number Of Violation

Accuracy

88%

Inspection
Result

Notice of Violation

REMARKS

WITNESS

INSPECTOR*

James Schoppa

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. VANISH PEST & WILDLIFE SPECIALIST LLC

Case File No. OGC-22-494

**VANISH PEST & WILDLIFE SPECIALIST LLC
1016 MAPLE
MUSKOGEE, OK 74403**

Summary of Facts: ODAFF Inspectors conducted a complaint investigation at a residence. Upon inspection it was discovered that this company had made a partial treatment using Termidor HP II then again on a different day made another partial treatment using Taurus SC. Neither label allows to be used as a complete termite protection system. Both labels specifically state that they can be used in conjunction with another primary treatment, as a spot/supplemental treatment. Both products were applied off-label.

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

Proposed Administrative Penalty: \$500; stip'd and PIF

Deviations: None

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
AUG 15 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,

v.

VANISH PEST & WILDLIFE SPECIALIST LLC
1016 MAPLE
MUSKOGEE, OK 74403

RESPONDENT.

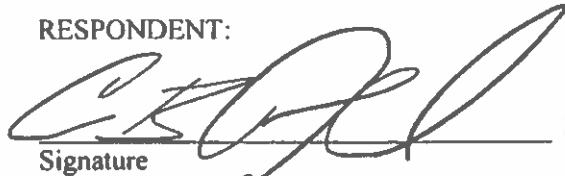
Case No: OGC-22-494

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Dollars (\$500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:


Signature


Printed Name and Title:

Date:



**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.

**VANISH PEST & WILDLIFE SPECIALIST LLC
1016 MAPLE
MUSKOGEE, OK 74403**

RESPONDENT.

Case No: OGC-22-494

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

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

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

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

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 Muskogee, 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 17th day of June 2022, the Consumer Protective Services Division of the Department conducted a complaint investigation at 10990 Highway 150 in Checotah, OK.

19. Your company performed a conventional termite treatment on this home. According to your application records the treatment was started on May 16, 2022 and completed May 27, 2022.

20. Your records indicate that you applied Termidor HP II to the outside vertical areas, and you applied Taurus SC to the sub slab areas, the inside vertical of the crawl space, around the support piers, and in the concrete block voids.

ENFORCEMENT PROCEEDINGS

27. Enforcement proceedings may include but are not limited to:
- a.) Administrative fines or penalties;
 - b.) Revocation, suspension, or denial for up to one (1) year of any license, permit, or charter issued by ODAFF or the Board;
 - c.) Criminal actions, which could involve fines, imprisonment, or both; and
 - d.) Civil actions.
28. Pursuant to 2 Okla. Stat. § 2-18(A), after notice and opportunity for a hearing in accordance with the Administrative Procedures Act, if the State Board of Agriculture finds any person in violation of the Oklahoma Agricultural Code or any rule promulgated or order issued pursuant thereto, unless otherwise specifically provided by statute or rule, the Board shall have the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation.
29. Each animal, each action, or each day a violation continues may constitute a separate and distinct violation.
30. Fine matrixes containing typical fines for most violations of statutes and rules enforced by ODAFF may be found in the OAC at Title 35.

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

STIPULATION

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

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

DATED THIS 30TH day of September, 2022.

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
Assistants General Counsel
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298
Telephone: (405) 522-5997
Facsimile: (405) 522-5789

**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.

**VANISH PEST & WILDLIFE SPECIALIST LLC
1016 MAPLE
MUSKOGEE, OK 74403**

RESPONDENT.

Case No: OGC-22-494

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Five Hundred Dollars (\$500.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. AGWERX AVIATION

Case File No. OGC-21-806

**AGWERX AVIATION
P.O. BOX 67
TEKAMAH, NE 68061**

Summary of Facts: ODAFF Inspectors conducted a consumer complaint at a residence where the homeowner had a license to cultivate medical marijuana. Inspectors observed dead plants including marijuana, oak trees, and other vegetation. Application records showed that an application of Remedy, Patriot, and Weed Master was applied during a 3mph east wind. The Mesonet showed the wind to be between 3 and 7mph at the time of application. A vegetative sample was taken and Triclopyr was detected in the sample. There was not a buffer zone in the aerial application. The drift from the application was the cause of the dead vegetation and plants. This company applied during conditions that allowed for an off-target drift in violation of statute.

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

Proposed Administrative Penalty: \$1500; consent order signed

Deviations: Reduced penalty from \$3000 to \$1500 as part of an agreement to settle three cases.

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED

JUL 24 2023

STATE BOARD OF AGRICULTURE

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

COMPLAINANT,)

v.)

Case No: OGC-21-806; 22-447

AGWERX AVIATION)
P.O. BOX 67)
TEKAMAH, NE 68061)

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 Agwerx Aviation (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Agwerx Aviation and located at 2000 NW Will Rogers Road, Bartlesville, 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 the 22nd day of February 2023, the Department issued a Notice of Violation in Case No. **OGC-21-806** and **OGC-22-447**, ("Notice") to the Facility, which is attached hereto as Exhibit A and B, respectively. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

ORDER AND AGREEMENT

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of **One Thousand Five Hundred Dollars (\$1500.00)** for each case for a total of **Three Thousand Dollars (\$3000.00)**. 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 Agwerx Aviation:

Yolanda Hauder
P.O. Box 67
Tekamah, NE 68061

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) 522-6104
Facsimile: (405) 522-5789

COMPLAINANT

Date: July 18, 2023

- and by -

Agwerx Aviation


Timothy Hauder
Owner

Agwerx Aviation
P.O. Box 61
Tekamah, NE 68061
402-682-1528
yolanda@agwerxaviation.com

Date: 7-18-23

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

V.

AGWERX AVIATION
P.O. BOX 67
TEKAMAH, NE 68061

2nd AMENDED NOTICE OF VIOLATION

PREHEARING CONFERENCE NOTICE

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Bartlesville, 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 12th day of August, 2021, the Consumer Protective Services Division of the Department conducted a complaint investigation at 462 CR 3001 in Bartlesville, OK.

19. During the investigation our inspectors observed dead medical marijuana plants and herbicide effects on the trees and other vegetation of this property. Your company made an application to the property adjacent to this property on the north side.

20. According to your application records you applied Remedy, Patriot, and Weed Master on June 12, 2021 during a 3 mph east wind between 10:00 AM and 1:20 PM.

21. The Copan Mesonet weather station recorded the wind being from the north northeast at 3-7 mph during the application. The Skiatook and Talala Mesonet weather stations also recorded

the winds being from the northeast on June 12, 2021. The wind was blowing towards the complainant's property during your application and there did not appear to be a buffer zone between your application area and the property boundary.

22. A vegetative sample was taken from the complainant's property and .213 ppm of Triclopyr was detected in the medical marijuana; a sample was taken from the grape vines, raspberry plants, and oak trees and a trace amount of 2,4-D and 6.45 ppm of Triclopyr were detected in the sample.

23. A vegetative sample was taken from your application area, and 0.252 ppm of 2,4-D and 5.91 ppm of Triclopyr were detected in the sample.

24. Our investigation found that your application resulted in an off-target drift on to the complainant's property.

ALLEGED CONCLUSIONS OF LAW

25. Based upon the application of the above law to the aforementioned facts, you applied herbicide in a negligent manner and allowing a pesticide to drift off-target is violation of 2 O.S. §3-86(A)(3) which states:

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

identification may be made if the Board finds: 3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target.”

ATTORNEY CONFERENCES

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 **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 _____ 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 hand service, Return Receipt Requested, as follows:

**AGWERX AVIATION
P.O. BOX 67
TEKAMAH, NE 68061**

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-21-806

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three-Thousand Dollars (\$3000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature _____

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. AGWERX AVIATION

Case File No. OGC-22-447

AGWERX AVIATION

P.O. BOX 67

TEKAMAH, NE 68061

Summary of Facts: ODAFF Inspectors conducted a consumer complaint at a residence where inspectors noticed and observed herbicide effects on the vegetation of this residence. Application records showed that Alligare Gunslinger P+D and Alligare MSM 60 were applied during a north wind. A vegetative sample showed 2,4-D was present from the complainant's property and 2,4-D was present in a vegetative sample taken from the target property. This company is responsible for an application that drifted off-target in violation of statute.

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

Proposed Administrative Penalty: \$1500; consent order signed

Deviations: Reduced penalty from \$3000 to \$1500 as part of an agreement to settle three cases.

Other Actions Required: None.

OGC Attorney: Brady Robison

BEFORE THE STATE BOARD OF AGRICULTURE
STATE OF OKLAHOMA

FILED
JUL 24 2023
STATE BOARD OF AGRICULTURE

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

COMPLAINANT,)

v.)

Case No: OGC-21-806; 22-447

AGWERX AVIATION)
P.O. BOX 67)
TEKAMAH, NE 68061)

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 Agwerx Aviation (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Agwerx Aviation and located at 2000 NW Will Rogers Road, Bartlesville, 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 the 22nd day of February 2023, the Department issued a Notice of Violation in Case No. OGC-21-806 and OGC-22-447, ("Notice") to the Facility, which is attached hereto as Exhibit A and B, respectively. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

ORDER AND AGREEMENT

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of **One Thousand Five Hundred Dollars (\$1500.00)** for each case for a total of **Three Thousand Dollars (\$3000.00)**. 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 Agwerx Aviation:

Yolanda Hauder
P.O. Box 67
Tekamah, NE 68061

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) 522-6104
Facsimile: (405) 522-5789

COMPLAINANT

Date: July 18, 2023

- and by -

Agwerx Aviation


Timothy Hauder

Owner
Agwerx Aviation
P.O. Box 61
Tekamah, NE 68061
402-682-1528
yolanda@agwerxaviation.com

Date: 7-18-23

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

v.

AGWERX AVIATION
P.O. BOX 67
TEKAMAH, NE 68061

2nd AMENDED NOTICE OF VIOLATION

PREHEARING CONFERENCE NOTICE

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide application, located at Bartlesville, 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 2nd day of June, 2022, the Consumer Protective Services Division of the Department conducted a complaint investigation at 11851 N. 4040 Rd. in Wann, OK.

19. During the investigation our inspectors observed herbicide effects on the trees in a windbreak on the north side of this property. Your company made an application to the pasture that surrounds this property on the north and west sides.

20. According to your application records you completed the application to the 2,845 acres on June 2, 2022, using Alligare Gunslinger P+D and Alligare MSM 60. During this application there was a north wind.

21. A vegetative sample was taken from the complainant's property and 2, 4-D was detected. A vegetative sample was also taken from the application area north of the complainant's property and 2, 4-D was detected as well.
22. Our investigation found that your application resulted in an off-target drift on to the complainant's property.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you applied herbicide in a negligent manner and allowing a pesticide to drift off-target is violation of 2 O.S. §3-86(A)(3) which states:

- "A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target."

ATTORNEY CONFERENCES

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

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

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

DATED THIS _____ day of _____, 2023.

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

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

CERTIFICATE OF MAILING

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

**AGWERX AVIATION
P.O. BOX 67
TEKAMAH, NE 68061**

Brady Robison

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. GREEN JEANS LAWN MANAGEMENT

Case File No. OGC-23-646

**GARY CANFIELD
GREEN JEANS LAWN MANAGEMENT
1919 ELKS RD.
SEMINOLE, OK 74868**

Summary of Facts: ODAFF Inspectors conducted a routine inspection. This applicator is not on file as a licensed commercial applicator. Inspectors observed this applicator's unmarked application vehicle and met with him as he made an application to a lawn. ODAFF had this applicator as having a license with a different company, that was also unlicensed with ODAFF. This applicator did not possess the proper licensing to make commercial applications in Oklahoma.

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

Proposed Administrative Penalty: \$375; PIF

Deviations: Settlement Agreement and Consent Order; originally \$750. No history reduction of penalty.

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.

GARY CANFIELD
GREEN JEANS LAWN MANAGEMENT
1919 ELKS RD
SEMINOLE, OK 74868

RESPONDENT.

RECEIVED

JUL 26 2023

OFFICE OF GENERAL COUNSEL
OKLA. DEPT OF AGRICULTURE

Case No: OGC: 23-646

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 GARY CANFIELD (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by GARY CANFIELD and located at SEMINOLE, 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 the 7th day of July, 2023, the Department issued a Notice of Violation in Case No. OGC-23-646, ("Notice") to the Facility, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

ORDER AND AGREEMENT

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Three Hundred and Seventy-Five Dollars (\$375.00); the Respondent has already obtained the proper and appropriate licensing according to the Department Rules and State Statutes. 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 Green Jeans Lawn Management:

Gary Canfield
1919 Elks Rd.
Seminole, OK 74868

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: July 17, 2023

- and by -

Gary Ganfield

Name

Owner

1919 Elks Rd.
Seminole, OK 74868

Date: 7/19/23

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

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

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

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

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

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

DEFAULT

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

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Seminole, 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 3rd day of April 2023, the Consumer Protective Services Division of the Department conducted a use inspection.

19. ODAFF Inspectors observed your unmarked application vehicle and made contact with you while making an application to a lawn located at 1905 Oak Tree Court in Shawnee, OK.

20. ODAFF has you on file as being a certified applicator with Pinstripe Lawn Care.

21. Your uniform and invoice showed the company name of Green Jens Lawn Management. This company is not on file as being licensed through ODAFF.

22. Making commercial applications without a license is a violation of statute.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you have been making applications without proper licensing in violation of 2 O.S. §3-82(A)(1) and 2 O.S. §3-86(A)(15) 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."

PRAYER FOR RELIEF

24. For the above and previously listed infractions and violations of statute, the Department is seeking a SEVEN HUNDRED AND FIFTY DOLLAR (\$750.00) administrative penalty.

ATTORNEY CONFERENCES

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

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

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

ENFORCEMENT PROCEEDINGS

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

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

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

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

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

OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

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

ENFORCEMENT OF JUDGMENTS

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

INFORMAL DISPOSITION OF AN INDIVIDUAL PROCEEDING

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

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

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

STIPULATION

37. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of SEVEN HUNDRED AND FIFTY Dollars (\$750.00).

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

DATED THIS _____ day of _____, 2023.

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

Brady Robison

Teena G. Gunter, General Counsel, OBA # 17767

James Rucker, Deputy General Counsel, OBA # 14574

Kambi Maddy, OBA # 13873

Brady Robison, OBA # 33600*

Richard D. Herren, OBA # 13829

Assistant General Counsel

2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

Telephone: (405) 522-5997

Facsimile: (405) 522-5789

CERTIFICATE OF MAILING

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

**GARY CANFIELD
GREEN JEANS LAWN MANAGEMENT
1919 ELKS RD
SEMINOLE, OK 74868**

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-23-646

**GARY CANFIELD)
GREEN JEANS LAWN MANAGEMENT)
1919 ELKS RD)
SEMINOLE, OK 74868)**

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: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. GREGG HOBBS

Case File No. OGC-23-151

**GREGG HOBBS
902 S. 13TH ST. 5
KINGFISHER, OK 73750**

Summary of Facts: ODAFF Inspectors conducted an investigation from a consumer complaint. While conducting this investigation inspectors observed a wheat field with yellow in color wheat stalks with some of them being completely necrotic. Inspectors learned that the field to the south of this complainants had recently had a pre-plant burn down application. Inspectors retrieved the application records from the owner of this field and learned that this person had a private applicator's license/certification. A vegetative sample was taken from the complainant's field and Dicamba and Glyphosate were detected; a vegetative sample was taken from this applicators field and 2,4-D and Glyphosate was detected. This individual's application to his own field drifted on to the adjacent property and is the source of the Glyphosate in the complainant's field. Additionally, records were requested from this individual and were never provided. A settlement agreement was entered into in an attempt to reduce any further civil liabilities and to reduce the amount of the penalty which was reduced to \$2000 from \$3000.

Statute or Rule Violation: 2 O.S. §3-86(A)(3) and O.A.C. 35:30-17-20(d)

Proposed Administrative Penalty: \$2000; PIF

Deviations: Settlement Agreement and Consent Order

Other Actions Required: None.

OGC Attorney: Brady Robison

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

FILED
AUG 15 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-23-151

GREGG HOBBS)
902 S. 13th St. 5)
KINGFISHER, OK 73750)
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 GREGG HOBBS (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by GREGG HOBBS and located at KINGFISHER, 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 July 11th 2023, the Department issued a Notice of Violation in Case No. OGC-23-151, ("Notice") to the Facility, which is attached hereto as Exhibit A. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

ORDER AND AGREEMENT

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of TWO THOUSAND DOLLARS (\$2000.00). 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 on 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 Greg Hobbs:

Greg Hobbs
902 S. 13th St. 5
Kingfisher, OK 73750

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) 522-6104
Facsimile: (405) 522-5789

COMPLAINANT

Date: August 10, 2023

- and by -

Greg Hobbs

[Signature]

Date: 8-14-2023

**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.

**GREG HOBBS
902 S. 13TH ST. 5
KINGFISHER, OK 73750**

RESPONDENT.

Case No: OGC-23-151

AMENDED NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at 1:30 p.m. on 10th day of August 2023 in the Board Room on the first floor of the Oklahoma Department of Agriculture, Food, and Forestry building, located at 2800 North Lincoln Blvd, Oklahoma City, Oklahoma.

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

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

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

ALLEGATIONS OF FACT

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

18. On or about the 4th day of January 2023, the Consumer Protective Services Division of the Department conducted a complaint investigation at a wheat field in the NW ¼ of section 21-17N-7W and involves herbicide drift onto the wheat field.

19. This field is adjacent to the north of your field in the SW ¼ of section 21-17N-7W.

20. During the investigation our inspectors observed the southern part of Ms. Feagins' wheat field having sparsely growing wheat plants that were yellow in color, and some plants were completely necrotic.

21. Our inspectors observed that your field had a recent pre-plant burn down application.

22. A vegetative sample was taken from Ms. Feagins' wheat field and trace amounts of Dicamba and Glyphosate were detected.

23. A vegetative sample was taken from your field and a trace amount of 2,4-D and 0.424 ppm of Glyphosate were detected.

24. According to our investigation the application to your field is the source of the Glyphosate that was found on the adjacent property's wheat.

25. Additionally, our records show that you hold a current private applicator certification. An application records request was mailed to you on December 29, 2022, and as of today our office has not received a response to the request.

ALLEGED CONCLUSIONS OF LAW

26. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-86(A)(3) and O.A.C. 35:17-21(d) which state:

- **2 O.S. §3-86(A)(3):** "A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds: 3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target."
- **O.A.C. 35:17-21(d):** "(d) Failure to allow inspection of records by the Board, to provide copies of records to the Board when requested in person, or to provide a

summary of records to the Board within seven (7) working days when requested by mail or in person shall be a violation of this section.”

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.

PRAYER FOR RELIEF

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

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 **Three Thousand Dollars (\$3000.00)**.

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 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:

**GREG HOBBS
902 S. 13TH ST. 5
KINGFISHER, OK 73750**

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.

**GREG HOBBS
902 S. 13TH ST. 5
KINGFISHER, OK 73750**

RESPONDENT.

Case No: OGC-23-151

STIPULATION

Respondent accepts and stipulates to the proposed administrative penalty or fine of **Three Thousand Dollars (\$3000.00)** for this action and has accordingly signed this Resolution by Stipulation and returned same along with a check or money order in full payment of the proposed penalty or fine to: Office of General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105-4298.

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

RESPONDENT:

Signature

Printed Name and Title:

Date: _____

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. USCP

Case File No. OGC-23-97

**JUDY ORTIZ
USCP
5733 HUETTNER DR.
NORMAN, OK 73069**

Summary of Facts: ODAFF Inspectors conducted an investigation into this company's hemp producing operation. Upon inspection inspections found employees packaging multiple items into retail packaging. Inspectors requested records and were told that they would be produced at a later date; those records were not ever produced. Inspectors took samples for testing to ensure that it was actually hemp; those items tested with a higher THC content that allowed by law. This company did not have and has not obtained a hemp processor or handler license. This company hindered the inspection process by restricting access to parts of the property from the inspectors. This company failed to provide a copy of the hemp growers license for raw product, a certificate of analysis for the harvested hemp, or a processors license number, name, address, or other contact information. Additionally, this company did not produce any proof that the harvested hemp met allowable lab thresholds. Finally, this company allowed non-compliant hemp to enter into the stream of commerce. All in violation of Oklahoma statutes and ODAFF Rules.

Statute or Rule Violation: 2 O.S. § 3-403; 2 O.S. §3-404; O.A.C. 35:30-24-3; O.A.C. 35:30-24-7; 2 O.S. §3-408; O.A.C. 35:30-24-6; O.A.C. 35:30-24-12; O.A.C. 35:30-24-6.1; O.A.C. 35:30-24-10; O.A.C. 35:30-24-11; and O.A.C. 35:30-12(h)(10)

Proposed Administrative Penalty: \$3500

Deviations: Settlement Agreement and Consent Order, reduced from \$4000 to \$3500

Other Actions Required: None.

OGC Attorney: Brady Robison

FILED
AUG 10 2023
STATE BOARD OF AGRICULTURE

Case No: OGC-23-97

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of Three Thousand Five Hundred Dollars (\$3500.00). 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, 33600
2800 N. Lincoln Blvd.
Oklahoma City, OK 73105-4298

For USCP:
James Barnes
USCP
5733 HUETTNER DR.
NORMAN, OK 73069

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 27, 2023

- and by -

USCP

JAMES BARNES
USCP

5733 HUETTNER DR. NORMAN,
OK 73069

Date: 8/9/23

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

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

COMPLAINANT,

v.

**Judy Soria Ortiz
USCP
5733 Huettner Dr.
Norman, OK 73069**

RESPONDENT.

Case No: OGC-23-97

NOTICE OF VIOLATION

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

PREHEARING CONFERENCE NOTICE

2. Respondent is hereby notified that a Prehearing Conference¹ will be held before an impartial Administrative Law Judge (ALJ) at **1:30 p.m. on the 11th 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.**

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of hemp production, located at Norman, 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 17th day of August 2022, the Consumer Protection Services Division of the Department conducted an investigation into your hemp producing operation.

19. During the course of the investigation, our inspectors went to your place of business located at 5733 Huettner Drive in Norman.

20. While at this location our inspectors were able to observe your employees packaging multiple different items into retail packaging.

21. Our inspectors requested certain records from you, to which you stated that you would have to provide to us; as of the date of the letter of warning, September 30, 2022, we did not have those records.

22. Our inspectors collected multiple samples of hemp flower and submitted for testing. Several of those samples tested had higher than allowable THC content to be considered “hemp.”
23. You failed to destroy hemp that tested higher than the allowable amounts under the statute.
24. You have failed to apply and submit fees for an ODAFF Hemp Processor/Handler License.
25. You failed to cooperate and assist the Department with the inspection process; failed to provide information required by the Department; knowingly provided incorrect information pertaining to the handling/processing of hemp, failed to pay fees required by the ODAFF Hemp Program.
26. Failed to provide copy of hemp grower license for raw hemp product, current approved certificate of analysis for the harvested crop, and processor/handler’s license number, name, address, and contact information.
27. Failed to provide proof that the hemp and processed hemp meet the allowable laboratory testing thresholds.
28. Handled, processed, or sold non-compliant hemp which entered the stream of commerce.
29. You are in violation of multiple Oklahoma Statutes and Rules, including 2 O.S. §3-403; 2 O.S. §3-404; O.A.C. 35:30-24-3; O.A.C. 35:30-24-7; 2 O.S. §3-408; O.A.C. 35:30-24-6; O.A.C. 35:30-24-12; O.A.C. 35:30-24-6.1; O.A.C. 35:30-24-10; O.A.C. 35:30-24-11 and O.A.C. 35:30-24-12(h)(10).

ALLEGED CONCLUSIONS OF LAW

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

- **Failing to dispose of products with a measured total THC content of greater than 1.0% is a violation of 2 O.S. §3-403(A)(2):** “A remediation facility shall be an option of the remediation process. The licensee may remediate any noncompliant industrial hemp at its own facilities, affiliated facilities, or third-party facilities as long as these facilities are licensed and approved by the State Board of Agriculture as a remediation facility. The State Board of Agriculture shall be notified before any noncompliant industrial hemp is transported to a remediation facility. Retesting of any noncompliant industrial hemp shall be done within sixty (60) days post-harvest. Within seven (7) days of receiving notice of a measured tetrahydrocannabinol concentration that exceeds the acceptable hemp tetrahydrocannabinol level but is less than one percent (1.0%), the licensed grower shall consent to the destruction of all cannabis from that lot, or he or she may request remediation and a post-harvest retest in a homogenized form in accordance with the procedures established by the State Board of Agriculture. A measured tetrahydrocannabinol concentration that exceeds one percent (1.0%) shall require the licensed grower to properly dispose of all cannabis from that lot. The retest fee shall be paid in an amount established by the State Board of Agriculture. Samples with a measured tetrahydrocannabinol concentration of one percent (1.0%) or greater shall not be eligible for a post-harvest retest or remediation and shall be destroyed.”
- **Failing to apply and submit fees for an ODAFF Hemp Processor/Handler License**

are violations of **2 O.S. §3-404; O.A.C. 35:30-24-3; O.A.C. 35:30-24-7** which read:

- 2 O.S. §3-404:** “A. A person intending to engage in industrial hemp growth, cultivation, handling or processing authorized under the Oklahoma Industrial Hemp Program shall apply to the Oklahoma Department of Agriculture, Food, and Forestry for a license prior to planting, handling or processing the industrial hemp.”
- O.A.C. 35:30-24-3:** “(a) Any person, eighteen (18) years of age or older, or business entity may participate in in the Oklahoma Industrial Hemp Program by filing an application with the Department for a license. (b) An applicant shall submit a separate application, pay separate

application and inspection fees, and obtain a separate license for each cultivation site.”

iii. **O.A.C. 35:30-24-7:** “(a) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable application fee at the rate of Five Hundred Dollars (\$500.00).”

- Failing to cooperate and assist the Department with the inspection process; failed to provide information required and requested by the Department; knowingly provided incorrect information pertaining to the handling/processing of hemp, failed to pay fees required by the ODAFF Hemp Program are violations of **2 O.S. §3-408; O.A.C. 35:30-24-6; and O.A.C. 35:30-24-10** which state:

i. **2 O.S. §3-408(A):** “The Department may deny, revoke or suspend a license if the licensee: 1. Violates any provision of the Oklahoma Industrial Hemp Program or rules adopted pursuant to the program; 2. Engages in fraud or deception in the procurement of or attempt to procure a license under the Oklahoma Industrial Hemp Program or provides false information on a license application; 3. Refuses or fails to cooperate and assist the Department with the inspection process; 4. Refuses or fails to provide any information required or requested by the Department for purposes of the Oklahoma Industrial Hemp Program; 5. Knowingly provides false, misleading or incorrect information pertaining to the licensee's cultivation, handling or processing of industrial hemp to the Department by any means, including information provided in any application form, report, record or inspection required or maintained for purposes of the Oklahoma Industrial Hemp Program; 6. Fails to submit any report required by the Oklahoma Industrial Hemp Program; or 7. Fails to pay fees required by the Oklahoma Industrial Hemp Program.”

ii. **O.A.C. 35:30-24-6:** “(a) 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.”

- iii. **O.A.C. 35:30-24-10:** “(a) The licensee shall retain the following records for no less than three (3) years from the date the record is obtained or generated: (1) All records relating to information supplied in the application for a license; (2) All records relating to the use and disposition of industrial hemp harvested or any plant parts thereof; (3) All records relating to the storage or processing of industrial hemp or any plant parts thereof; and (4) All records relating to the destruction of industrial hemp harvested or any plant parts thereof, including but not limited to, any affidavits, notifications, and electronic records required by this subchapter.

- Failing to provide copy of hemp grower license for raw hemp product, current approved certificate of analysis for the harvested crop, and processor/handler’s license number, name, address, and contact information is a violation of **O.A.C. 35:30-24-6.1** which states:

- i. **O.A.C. 35:30-24-6.1:** “Upon the request of the Department or any authorized law enforcement officer, any person transporting industrial hemp shall produce the following documents for inspection: (1) Copy of current hemp grower's license; (2) Current approved certificate of analysis for the harvested hemp crop; and (3) Processor/Handlers license number, name, address, and contact information.”

- Failing to provide proof that the hemp and processed hemp meet the allowable laboratory testing thresholds is a violation of **O.A.C. 35:30-24-11** which states:
 - i. **O.A.C. 35:30-24-11:** “(a) The Department shall utilize evidence an gathering methodology approved by the United States Department of Agriculture for the inspection of cultivation sites and the collection of industrial hemp test samples. (b) Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) shall be conducted and reported by a laboratory registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13.”
- 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:
 - i. **O.A.C. 35:30-24-12(h)(10):** “(h) Violations of the Oklahoma Industrial Hemp Program and the rules of this subchapter shall include, but not be limited to, the following conduct: (10) Handling, processing, or selling non-compliant hemp which enters the stream of commerce.”

ATTORNEY CONFERENCES

31. 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.
32. 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.
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 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.

36. 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.

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

38. 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

39. 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

40. 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

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

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

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

STIPULATION

44. If Respondent desires to resolve this matter without a hearing or further action, Complainant proposes an administrative penalty of **Four Thousand Dollars (\$4000.00)**.

45. If you wish to waive your right to hearing and stipulate to the above alleged findings of fact and conclusions of law, you may 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:

**Judy Soria Ortiz
USCP
5733 Huettner Dr.
Norman, OK 73069**

Brady Robison

Brady Robison

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

v. OUTDOOR CREATIONS MANAGEMENT

Case File No. OGC-23-9

**OUTDOOR CREATIONS MGMT
16085 ROLLING HILLS ROAD
YUKON, OK 73099**

Summary of Facts: ODAFF Inspectors conducted a use inspection of this company's applicators. Upon making contact the inspector was notified that the applicators were not aware of what they were applying, only that they were treating for worms. A tank mix was taken and Bifenthrin was detected in the tank mix. Neither applicator was licensed, certified or otherwise qualified to make this application. There was not a certified supervisor on site to supervise this application contrary to statutes and rules. A consent order was entered into to reduce the amount of the administrative penalty.

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

Proposed Administrative Penalty: \$1000; consent order and settlement to reduce the penalty.

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.

**OUTDOOR CREATIONS MGMT
16085 ROLLING HILLS RD
YUKON, OK 73099**

RESPONDENT.

Case No: OGC-23-9

FILED
JUL 12 2023
STATE BOARD OF AGRICULTURE

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 OUTDOOR CREATIONS MGMT (the "Respondent").
2. The facility which is the subject of this Agreement is owned and operated by Outdoor Creations MGMT and located at Yukon, 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 February 6th and again on May 15th, 2023, the Department issued a Notice of Violation in Case No. OGC-23-9, ("Notice") to the Facility, which is attached hereto as Exhibits A and B, respectively. The Allegations of Fact and Summary of Applicable Law of that Notice are incorporated herein by reference.

ORDER AND AGREEMENT

5. In compromise and full settlement of this matter, respondent shall pay to the Department an administrative penalty of ONE THOUSAND DOLLARS (\$1000.00). Upon the execution of this agreement by both parties, payment shall immediately be made by Respondent payable to the "Oklahoma Department of Agriculture, Food, And Forestry" and mailed to the following address:

Office of General Counsel
Oklahoma Department of Agriculture, Food, and Forestry
2800 N. Lincoln Blvd.

Oklahoma City, OK 73105-4298

EFFECT OF THE AGREEMENT

6. In exchange for Respondent's compliance with the terms of this Agreement, the Department agrees not to initiate any further administrative, civil, or criminal proceedings against Respondent, its officers, directors, agents, customers, servants, employees, representatives, parents, subsidiaries, successors and assigns, based or relating to the facts alleged in the Department's Notice. This release shall not prevent the Department from enforcing the terms of this Agreement and does not release Respondent from liability for other unknown or undiscovered past violations or potential future violations of state or federal law. This Agreement relates only to claims within the jurisdiction of the Department and specifically does not release Respondent from actions initiated by other state or federal agencies having jurisdiction over related matters.
7. Respondent and the Department recognize there is risk and expense inherent in any litigation. Thus, the parties agree to enter into this compromise and settlement to avoid incurring any further cost and expense arising as a result of this dispute. Respondent and the Department each do not waive and each expressly reserves all of its rights in any future proceeding against it.
8. The Department does not by entering into this Agreement concede that its factual basis for initiating this Action, and violations found based upon those facts, are not true and accurate. Respondent, without admitting the truth of said factual averments and having previously contested the alleged violations in informal discussions with representatives of the Department, voluntarily waives its right to a formal evidentiary hearing to contest such factual averments. By entering into this agreement, Respondent does not admit or consent to the truth of the factual averments set forth in the Notice. The Department and Respondent are avoiding further contention, including litigation of this matter, through settlement of this Action by this Agreement.

NO ADMISSION

9. This Agreement and any proceedings taken hereunder are not intended and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of any party. The parties hereto specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the allegations and claims asserted against them in this action and enter into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

NON-ADMISSIBILITY

10. These settlement negotiations have been undertaken by the parties in good faith and for settlement purposes only, and neither this Agreement nor any evidence of negotiations hereunder, shall be offered or received in evidence in this Action, or any other action or

SETTLEMENT AGREEMENT AND CONSENT ORDER

Page 2 of 4

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 Outdoor Creations Mgmt.:
Steve Huddleston
Attorney for Respondent
Stevehuddleston@hotmail.com
405-204-5441

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.

SETTLEMENT AGREEMENT AND CONSENT ORDER

Page 3 of 4

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: July 5, 2023

- and by -


Steve Huddleston
Attorney for Respondent
405-204-5441

COUNSEL FOR RESPONDENT

Date: July 10, 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-23-9

**OUTDOOR CREATIONS MGMT)
16085 ROLLING HILLS RD)
YUKON, OK 73099)**

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

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

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

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

HEARING AND RIGHT TO COUNSEL

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

DEFAULT

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

JURISDICTION, VENUE, AND APPLICABLE LAW

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

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

15. Based upon current information and belief, at all relevant times hereto, Respondent has, among other things, engaged in the business of commercial pesticide applications, located at Yukon, 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 August 23rd, 2022, the Consumer Protection Services Division of the Department conducted a use inspection of your employees making an application to a flowerbed located at 733 Dover Lane in Yukon, OK.

19. Your employees informed our inspector that they were treating for worms.

20. Neither one of your employees were a certified applicator or service technician and information on what was in the tank mix could not be provided.

21. A tank mix was taken from the sprayer, and .06 ppm of Bifenthrin was detected in the tank mix.

22. To make a commercial pesticide application you must be a certified applicator, service technician, or a certified applicator must be on site to directly supervise a non-service technician.

ALLEGED CONCLUSIONS OF LAW

23. Based upon the application of the above law to the aforementioned facts, you are in violation of 2 O.S. §3-86(A)(16) and O.A.C. 35:30-17-25(b) which states:

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

ATTORNEY CONFERENCES

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 Dollars (\$2000.00)**.

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

DATED THIS _____ day of _____, 2023.

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

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

CERTIFICATE OF MAILING

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

OUTDOOR CREATIONS MGMT
16085 ROLLING HILLS RD
YUKON, OK 73099

Brady Robison

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

COMPLAINANT,

v.

**OUTDOOR CREATIONS MGMT
16085 ROLLING HILLS RD
YUKON, OK 73099**

RESPONDENT.

OUTDOOR CREATIONS MGMT
16085 ROLLING HILLS RD
YUKON, OK 73099

RESPONDENT.

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:

Printed Name and Title:

Date: _____

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY
CHAPTER 40. MARKET DEVELOPMENT**

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 25. Oklahoma Winter Storm Grant Program [NEW]

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

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

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

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

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

AUTHORITY:

Oklahoma Constitution, Article 6, Section 31; State Board of Agriculture; and 2 O.S. §§2-4 and 3-401 et seq.

ADOPTION:

July 21, 2023

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The proposed emergency rule amendments are consistent with the Oklahoma Legislature's declaration that establishment of the February 2021 Winter Storm Grant Revolving Fund and direction of the Oklahoma Department of Agriculture, Food, and Forestry to develop a program for distribution of grant funds is "necessary for the public peace, health or safety" and that an emergency is declared to exist. See SB 1091 (approved by the Governor on May 26, 2022). This emergency rule restarts the ability to take applications for additional funding as approved by the 2023 Oklahoma Legislature,

GIST/ANALYSIS:

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

CONTACT PERSON:

Teena G Gunter, (405) 522-4576, teena.gunter@ag.ok.gov

PURSUANT THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

SUBCHAPTER 25. OKLAHOMA WINTER STORM GRANT PROGRAM

35:40-25-1. Purpose

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

35:40-25-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, or its designee.

"Extraordinary costs" means costs incurred by an incorporated municipality's unregulated utility related to the extreme weather that occurred beginning February 7, 2021, and ending February 21, 2021, including but not limited to, fuel-related storage and associated costs, emergency compressed or liquified natural gas supplies, contracts for services providing additional pressurization on lines and transportation pipeline penalties. "Extraordinary costs" shall not include fees for late payments or "Extreme purchase costs", as defined in this section.

"Extreme purchase costs" means expenses incurred for the purchase of fuel, purchased power, natural gas commodity, or any combination thereof, whether at spot pricing, index pricing, or otherwise with delivery beginning February 7, 2021, and ending February 21, 2021.

"Unregulated utility" shall mean any utility, as defined in this section, which is not subject to the regulatory jurisdiction of the Corporation Commission with respect to its rates, charges, and terms and conditions of service.

"Utility" shall mean any person or entity doing business in this state that furnishes natural gas or electric current to its customers located at an address within this state and within the service area of the utility.

35:40-25-3. Applicant eligibility

Each applicant shall meet the following requirements:

(1) The incorporated municipality shall show proof of extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility;

(2) The population of the incorporated municipality shall be no greater than three thousand five hundred (3,500) persons according to the most recent Federal Decennial

Census or most recent annual estimate of the population by the United States Census Bureau; and

(3) The incorporated municipality's owned or controlled unregulated utility shall have had no costs mitigated through securitization as provided by Sections 9070 through 9081 of Title 74 of the Oklahoma Statutes.

35:40-25-4. Evaluation criteria

(a) The Department shall evaluate applications and determine the priority of applicants after considering the following criteria:

(1) The implications of the extraordinary costs and extreme purchase costs regarding an incorporated municipality's solvency; and

(2) The amount of an incorporated municipality's extraordinary costs and extreme purchase costs on a per capita basis.

(b) The Department shall have discretion to award funding based upon its findings and upon its level of available funds.

35:40-25-5. Application requirements

Each applicant for program funds shall:

(1) Execute documents as required by the Department;

(2) Submit the incorporated municipality's energy bills for the five (5) years preceding and ending on February 7, 2021;

(3) Agree to prioritize the use of awarded grant funds for extreme purchase costs when requesting grant funds for both extreme purchase costs and extraordinary costs; and

(4) Submit all required documents electronically to the Oklahoma Department of Agriculture, Food, and Forestry.

RULE IMPACT STATEMENT

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 40. WINTER STORM GRANT PROGRAM

(A) PURPOSE OF THE PROPOSED RULE:

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

(B) CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:

The proposed emergency rule amendments primarily affect incorporated municipalities that owned or controlled unregulated utilities affected by the extreme weather event that began February 7, 2021.

(C) PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:

Incorporated municipalities that owned or controlled unregulated utilities affected by the extreme weather event that began February 7, 2021 shall benefit from the proposed emergency rules.

(D) DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:

Incorporated municipalities that intend to apply for grants to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021, shall be permitted to do so.

(E) PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:

The source of revenue for the implementation and enforcement of the proposed rule shall be provided by the February 2021 Winter Storm Grant Revolving Fund.

(F) DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:

If incorporated municipalities apply and qualify for grants to mitigate certain costs, a positive economic impact for those municipalities is anticipated by the proposed emergency rule amendments.

(G) DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:

No adverse impacts on small businesses are anticipated.

(H) DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULE:

No less costly or non-regulatory method is available.

(I) DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT:

The proposed emergency rule amendments are consistent with the Oklahoma Legislature's declaration that establishment of the February 2021 Winter Storm Grant Revolving Fund and direction of the Oklahoma Department of Agriculture, Food, and Forestry to develop a program for distribution of grant funds is "necessary for the public peace, health or safety" and that an emergency is declared to exist. See SB 1091 (approved by the Governor on May 26, 2022).

(J) DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT:

No detrimental effect upon the public health, safety, or environment is anticipated with the implementation of the proposed emergency rule amendments.

(K) DATE RULE IMPACT STATEMENT WAS PREPARED:

July 20, 2022 (amended July 26, 2022)