

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF BLUE EARTH

FIFTH JUDICIAL DISTRICT

State of Minnesota, by the Minnesota
Department of Agriculture, and Thom
Peterson in his Official Capacity as the
Commissioner of the Department of
Agriculture,

Court File No. _____
Case Type: Civil Other/Misc.

Plaintiff,

vs.

Donata J. Klingel (a/k/a Donata J. Adam),
James R. Adam, and any other residents of
125 W. Lewis Street, Mankato, Minnesota
56001,

Defendants.

**MEMORANDUM OF LAW IN
SUPPORT OF COMMISSIONER'S
MOTION FOR AN EX PARTE
TEMPORARY RESTRAINING ORDER
EXPEDITED REVIEW REQUESTED**

INTRODUCTION

The Defendants have placed rat poison outside their home for the purpose of harming dogs, in violation of federal and state law. Minnesota Department of Agriculture (the Department) Commissioner Thom Petersen seeks expedited treatment and entry of a temporary restraining order pursuant to Rule of Civil Procedure 65.01 enjoining the Defendants from this illegal activity. The Defendants' conduct presents an imminent threat to dogs, wildlife, and children that necessitates emergency relief.

BACKGROUND

Pesticides (including rodenticides) are regulated in Minnesota through a regulatory scheme that relies on a combination of federal statutes and rules (the Federal Insecticide,

Fungicide, and Rodenticide Act (“FIFRA”)) and related State statutes (generally contained in chapters 18B and 18D). In general, those statutes and rules operate in coordination by prohibiting the use of pesticides except in strict accordance with the approved federal labels. These regulations exist to prevent rodenticides from poisoning people, domestic animals, and non-targeted wildlife – or otherwise harming the environment.

The United States Environmental Protection Agency (EPA) is the primary regulator of pesticides and exercises this authority under several federal statutes. The most important of these is FIFRA. *See* 7 U.S.C.A § 136 *et seq.* Relevant here, FIFRA (and rules promulgated thereunder) prohibits the use of pesticides within the United States unless they are registered for use by the EPA. 7 U.S.C. § 136a(a). This process ensures that when applied properly a pesticide will not generally cause unreasonable risk to human health or the environment. 40 C.F.R. 152.112; 40 C.F.R. 158.34. One way pesticide registration achieves this goal is through the review and approval of the pesticide’s label. 40 CFR 152.100-.119. The label includes, among other things, the site of application, the target pests associated with each site, and other requirements that protect public health and the environment. *See* 40 CFR 156.10(i)(2). EPA-registered pesticide labels carry the full force and effect of law. *See* 7 U.S.C. § 136j(1)(G). This means any use of a pesticide that is inconsistent with its label is a violation of federal pesticide regulations. *Id.*

In Minnesota, the legislature delegated to the Department “the sole regulatory authority over the terrestrial application of pesticides” within the state. Minn. Stat. § 18B.03, subd. 1. Minnesota law mirrors FIFRA and prohibits the use of a pesticide that is inconsistent with its EPA-approved label. Minn. Stat. § 18B.07, subd. 1-2(a)(1). If

Department staff observe illegal pesticide usage, the Department may bring an enforcement action in district court that seeks injunctive relief, as well as a civil penalty of up to \$7,500 per day of violation. Minn. Stat. §§ 18D.301, subd. 3-4 and 18D.325, subd. 1. Further, a person who knowingly violates state pesticides laws, or does so in a manner that endangers human health, is guilty of a gross misdemeanor. Minn. Stat. § 18D.331, subd. 2.

Public records show that Defendant Donata Klingel is the registered owner of a home located at 125 W. Lewis Street in Mankato (the “Property”), and also indicate that James R. Adam is a resident of the home.

On June 26, a neighbor walked their dog past the Property, and the dog consumed part of what appeared to be a block of rat poison bait. (Rockvan Dec. ¶ 2.) The neighbor returned home with the dog and a piece of the rat poison bait. (*Id.*) Suspecting the block to be poison, the neighbor’s wife, Ms. Rockvan, induced vomiting. (*Id.*) After learning of another report of potential poisoning, Ms. Rockvan returned to the Property where she observed what appeared to be blocks of rat poison adjacent to the sidewalk, beneath a sign that said “No Dog Piss.” (*Id.*) Ms. Rockvan took pictures of the poison and sign. (Rockvan Dec. Ex. 1.)

On or about June 27, public social media posts began to report that rat poison had been intentionally placed outside the Property, adjacent to the sidewalk, in areas easily accessible to the public and their dogs. (Maranell Dec. ¶ 2.) Signs already posted at the Property evinced an animus by the Defendants towards dogs – with the apparent reason being dogs relieving themselves in the home’s gardens. (*Id.* ¶ 4.) These reports indicated that at least one dog had consumed rat poison, and the owner induced vomiting. (*Id.* ¶ 4.)

In response to the social media postings, on June 29, 2026, a second neighbor registered a complaint on the issue to the Department of Agriculture, along with her own corroborating observations. (Rolling Dec. ¶ 2.) The reporting neighbor, Ms. Maranell, recognized the house in the photograph as a nearby residence. (*Id.* ¶ 2.) Ms. Maranell had also previously observed the placement of signs and a putative webcam at the Property. (*Id.*) The Ms. Maranellobserved what appeared to be rat poison, on the ground, outside the Property's home adjacent to the sidewalk. (*Id.*) Ms. Maranell took photos of the poison and signs (Maranell Dec. Ex. 1):









In response to the June 29 complaint, the Department of Agriculture commenced an investigation, pursuant to its statutory powers in chapters 18B and 18D. (Rolling Dec. ¶ 2.) Department investigator Nathan Rolling visited the Property on June 30. (*Id.*) Investigator Rolling knocked on the home's door but received no response. (*Id.* ¶ 3.) Rolling returned to his vehicle, then observed a pickup truck park behind him. (*Id.* ¶ 3.) A woman exited the vehicle and entered the home.¹ (*Id.*) Investigator Rolling again knocked on the door with no response. (*Id.*) A man in the pickup truck then asked Investigator Rolling what he was doing. (*Id.* ¶ 4.) Investigator Rolling introduced himself as a Department inspector and showed his credentials. (*Id.* ¶ 5.) Inspector Rolling explained that he was at the Property investigating the use of rodenticide blocks without bait stations adjacent to a public sidewalk. (*Id.*) The male individual told the inspector that the Property was private property, denied him entry, and said that there was nothing to discuss. (*Id.* ¶ 6.)² Inspector Rolling was able to observe what appeared to be rodenticide bait blocks inside the fenceline of the property, not in a bait station. He did not observe bait outside the fenceline. (*Id.* ¶ 8.)

As a result of the Defendants' failure to cooperate, Inspector Rolling was not able to inspect the label for the rodenticide at the Property. However, Inspector Rolling is familiar with rodenticide labeling, and is not aware of any rodenticide label that authorizes it to be used in outdoor locations without a tamper resistant bait station that is resistant to destruction by pets or children. (*Id.* ¶ 9.)

¹ It is assumed that the woman was Donata Klingle/Adam.

² It is assumed that the man was James Adam.

An example of a typical label for a bait block rodenticide (Tomcat) clearly discloses that it may not be used in outdoor, above ground locations unless used with a tamper resistant bait station designed to prevent access by dogs, children, and wildlife (Rolling Dec. ¶ 10, Exhibit 1):

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

READ THIS LABEL: Read this entire label and follow all use directions and use precautions. Use only for sites, pests, and application methods described on this label.

IMPORTANT: Do not expose children, pets, or nontarget animals to rodenticides. To help to prevent accidents:

1. Store unused product out of reach of children and pets.
2. Apply bait in locations out of reach of children, pets, domestic animals and nontarget wildlife, or in tamper-resistant bait stations. These stations must be resistant to destruction by dogs and by children under six years of age, and must be used in a manner that prevents such children from reaching into bait compartments and obtaining bait. If bait can be shaken from bait stations when they are lifted, units must be secured or otherwise immobilized. Stronger bait stations are needed in areas open to hoofed livestock, raccoons, bears, or other potentially destructive animals, or in areas prone to vandalism.
3. Dispose of product container and unused, spoiled, or unconsumed bait as specified on this label.

Note: Bait stations are mandatory for outdoor, above-ground use. Tamper-resistant bait stations must be used if children, pets, non-target mammals, or birds may access the bait.

PRECAUTIONARY STATEMENTS

Hazards to Humans and Domestic Animals

CAUTION: Harmful if swallowed. Keep away from children, domestic animals and pets.

All handlers (including applicators) must wear shoes plus socks, and gloves. Any person who retrieves carcasses or unused bait following application of this product must wear waterproof gloves.

ARGUMENT

The Commissioner seeks an order: (1) enjoining Defendants from using rodenticides in violation of state and federal law; (2) requiring Defendants to gather any rodenticide present at the Property, secure it in a closed container inside the home at the Property until further order of the Court, and certify their compliance with this portion of the order; (3) requiring Defendants to preserve any packaging for rodenticide for inspection; (4) allowing Department of Agriculture employees access to inspect the

exterior of the Property, any rodenticide on the Property, and any packaging and labels controlling the use of any rodenticide at the Property; and (5) requiring Defendants to preserve all camera footage recorded by the camera placed outside Defendants' residence beginning April 1, 2026 and on an ongoing basis until the bait blocks are removed. A TRO is required to abate an imminent, illegal use of rodenticide that endangers the public, domestic animals, and wildlife.

I. THE DEFENDANTS HAVE VIOLATED STATE AND FEDERAL LAW BY PLACING RODENTICIDE BAIT BLOCKS ADJACENT TO PUBLIC SIDEWALKS.

The Defendants have clearly violated State and federal law by placing rodenticide bait blocks in outdoor areas next to sidewalks, without the use of a bait station.

FIFRA and Minnesota Statutes, Section 18B.07 ("Section 18B.07") prohibit the open placement of rodenticide bait blocks, requiring that bait blocks instead be placed in enclosed bait stations to prevent the ingestion of bait blocks by children, domestic animals and non-targeted wildlife. Commissioner Peterson is charged with enforcement of Section 18B.07. Violations of Section 18B.07 may be enjoined pursuant to Minnesota Statutes, Section 18D.30. Section 18D.301 allows the Commissioner to initiate suit in district court to obtain injunctive relief to prevent illegal uses of rodenticides. Minn. Stat. § 18D.301, subds. 1, 3, 4.

The Defendants' violations are easily identified and traced:

- State law provides that a "person may not use, store, handle, distribute, or dispose of a pesticide, . . . in a manner: (1) that is inconsistent with a label or labeling as defined by FIFRA." Minn. Stat. § 18B.07, subd. 2(a); *see also* Minn. Stat. § 18B.07, subd. 1.

- Pesticides are defined to include rodenticides. Minn. Stat. § 18B.01, subds. 17, 18.
- FIFRA rodenticide labels prohibit the outdoor, above ground use of rodenticides unless the rodenticide is placed into bait stations that are resistant to destruction by dogs. (Rolling Dec. Ex. 10.)
- FIFRA rodenticide labels also prohibit application of rodenticides in locations within the reach of children, pets, domestic animals, and non-target wildlife. (Rolling Dec. Ex. 10.)
- Defendants placed rodenticide bait blocks in outdoor, above-ground locations adjacent to public sidewalks. (Rockvan Dec. ¶ 2; Maranell Dec. ¶ 2.)
- State law authorizes the Commissioner to file civil actions and seek injunctions to enjoin illegal uses of pesticides. Minn. Stat. § 18D.301, subds. 3, 4.

In sum, the record clearly demonstrates that the Defendants violated State and federal law with their use of rodenticide bait blocks, and that the Commissioner has the authority to seek appropriate relief in this Court.

II. TEMPORARY RESTRAINING ORDER IS NECESSARY TO PREVENT AN IMMINENT AND ONGOING POISONING OF DOGS AND OTHER ANIMALS.

The Defendants' conduct presents an egregious, willful violation of public safety regulations that should be immediately enjoined.

Minnesota courts have broad discretion to grant a temporary restraining order. *Carl Bolander & Sons Co. v. City of Minneapolis*, 502 N.W.2d 203, 209 (Minn. 1993); *Metro. Sports Facilities Comm'n v. Minn. Twins P'ship*, 638 N.W.2d 214, 220 (Minn. Ct. App. 2002). Here, the Defendants are intentionally deploying rodenticide in violation of federal and State law, in a manner that endangers the public and wildlife, allowing for the entry of a temporary restraining order until this matter may be heard for entry of a temporary injunction.

Injunctions are generally considered to be an equitable remedy, but they also may be provided by statute. The latter is at issue here. Where a statute provides for injunctive relief as a remedy, a court is not required to apply the normal *Dahlberg* multi-factor analysis in determining whether to issue an injunction. *State v. Minnesota School of Business, Inc.*, 899 N.W.2d 467, 471–72 (Minn. 2017).³ Instead, court’s task is simply to determine whether the conditions set forth in the statute for issuing an injunction are met. *Id.*

Even if the Court applies the *Dahlberg* Factors, the Commissioner has met the burden required for a TRO. Under *Dahlberg*, courts consider five factors: (1) the likelihood of success on the merits; (2) the nature and relationship of the parties; (3) the balance of relative harm between the parties; (4) public policy considerations; and (5) any administrative burden involving judicial supervision and enforcement. *Dahlberg Bros., Inc. v. Ford Motor Co.*, 137 N.W.2d 314, 321-22 (Minn. 1965). Each of these factors supports issuance of the temporary injunction.

A. The Commissioner is Likely to Succeed on the Merits.

As set forth above, federal and state law clearly and unambiguously preclude a person from placing rodenticide *anywhere* in an outdoor, above ground area without the use of a bait station. The evidence establishes that the Defendants did exactly that. Their

³ For a statutory injunction, a State agency is also not required to make a showing of irreparable harm. *Minnesota School of Business*, 899 N.W.2d at 472. Here, one dog has already encountered and consumed the poison, and the dangers of open access to rat poison for dogs, wildlife, and children is obvious – and risks harms that are irreparable.

violations are even more egregious because it appears that the very point of their placement of bait blocks adjacent to a city sidewalk was to poison dogs.

B. The Nature and Relationship of the Parties.

For purposes of a temporary injunction, the relationship of the parties is typically a material factor in a court's analysis only where there is an existing contractual or other relationship between the parties that will be disrupted in the *absence* of an injunction. *See e.g. Pac. Equip. & Irrigation v. Toro, Co.*, 519 N.W.2d 911 (Minn. Ct. App. 1994). The classic example is the one seen in *Pacific Equipment* – where a manufacturer was seeking to terminate a distributor agreement that constituted a substantial portion of the distributor's business. *Id.* at 913. This factor is fundamentally tied to the idea of preserving the status quo where the disruption of the status quo would in and of itself either cause harm or effectively resolve the case as a practical matter before a final judgment can be entered. Here, there is no relationship between the Commissioner and the Defendants that needs to be preserved. The factor is either irrelevant, or favors issuing the TRO.

C. The Balance of Harms, and Public Policy Considerations Favor the Commissioner.

The Defendants are placing rat poison next to public sidewalks for the purpose of poisoning dogs. The laws they are breaking are designed to prevent that exact thing – the poisoning of dogs and other non-target animals – even where it is not the intent of the person placing the rodenticide. Put another way, even if the Defendants misunderstood the risks of rat poison, and had legitimate concerns with the presence of rodents, the balance of harms and public policy would favor a TRO. Here – where the very purpose of the

misconduct appears to be to harm dogs, the factor weighs overwhelmingly in favor of the Commissioner.

D. There is No Material Administrative Burden Involving Judicial Supervision and Enforcement.

The Defendants are being ordered to cease conduct that the law already clearly prohibits. The Commissioner also requests entry of an order requiring the Defendants to preserve evidence, allow Department of Agriculture employees to inspect the exterior portions of the Property along with the rodenticide labels the Defendants are ordered to preserve, and certify compliance with certain portions of the order to the Court. Notably, State law already authorizes inspections by the Department of Agriculture to control illegal uses of pesticides. Minn. Stat. § 18D.201, subd. 1.

The relief the Commissioner is seeking is easy to understand and implement. The Defendants would be ordered to:

- Cease using rodenticides in exterior areas;
- Gather any rodenticide present at the Property, and secure it in a closed container inside the home at the Property until further order of the Court;
- File a certification with the Court that they have gathered all exterior rodenticide at the Property, and secured it;
- Preserve any packaging for rodenticide for inspection;
- Allow Department inspectors access to inspect exterior portions the Property, any rodenticide on the Property, and any packaging and labels controlling the use of any rodenticide at the Property; and
- Preserve all camera footage recorded by the camera placed outside Defendants' residence beginning April 1, 2026 and on an ongoing basis until the bait blocks are removed.

These injunctive relief elements will pose no significant administrative burdens on the Court.

CONCLUSION

State law does not allow a person to openly place rodenticide bait blocks in outdoor, above ground areas because that is incredibly dangerous. Here, the Defendants' conduct is even more egregious because it appears their *intent* was harm dogs. And the risks their conduct poses endangers not just dogs, but wildlife and children as well. This case calls for the entry of a temporary restraining order until such time as a temporary injunction can be litigated.

Dated: July 1, 2026

Respectfully submitted,

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/s/ Oliver J. Larson

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ATTORNEY FOR PLAINTIFFS

MINN. STAT. § 549.211 ACKNOWLEDGMENT

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211.

Dated: July 1, 2026

/s/ Oliver J. Larson

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