

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

**REPORT OF
INVESTIGATION**



**AGENCY: OHIO DEPARTMENT OF NATURAL RESOURCES
FILE ID NO.: 2013-CA00059
DATE OF REPORT: APRIL 22, 2014**

The Office of the Ohio Inspector General ... The State Watchdog

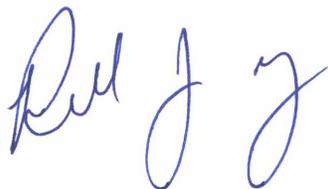
“Safeguarding integrity in state government”

The Ohio Office of the Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General’s Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



Randall J. Meyer
Ohio Inspector General



STATE OF OHIO
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RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2013-CA00059

SUBJECT NAME: Korre Boyer

POSITION: Park Manager, Malabar Farm State Park

AGENCY: Ohio Department of Natural Resources

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Failure to Exercise Adequate Oversight of Agency/Departmental Functions/Activities;
Failure to Comply with State or Department Rules, Procedures or Policies.

INITIATED: September 6, 2013

DATE OF REPORT: April 22, 2014

INITIAL ALLEGATION AND COMPLAINT SUMMARY

The Office of the Ohio Inspector General received a complaint on July 29, 2013, alleging Korre Boyer, park manager at Malabar Farm State Park (Malabar), improperly authorized the transfer of state property to a private citizen. Malabar is controlled by the Ohio Department of Natural Resources (ODNR). In addition to the transfer of state property, several other allegations were made, including concerns about livestock care, electrical issues, and public safety concerns regarding possible contamination of water available at the Malabar Springhouse.

A preliminary inquiry was opened on August 6, 2013. After reviewing the findings of the preliminary inquiry, an investigation was opened on September 6, 2013, to address the allegations.

BACKGROUND

Ohio Department of Natural Resources

The Ohio Department of Natural Resources is responsible for the state's wildlife, forests, natural areas, state parks, geological and mineral resources, inland lakes and waterways, regulation of the issuance of hunting and fishing licenses, watercraft registrations, the Lake Erie coastline; and enforces state law in regard to natural resources and conservation. ODNR is also responsible for more than 714,000 acres of land, including 75 state parks, 21 state forests, 135 state nature preserves, and 140 designated wildlife areas. In addition, ODNR oversees 120,000 acres of inland waters, 7,000 miles of streams, 481 miles of the Ohio River, and 2.25 million acres of Lake Erie. ODNR has 10 operating divisions to carry out these functions, as well as a central administrative office that oversees day-to-day operations. The director of ODNR, who acts as the agency's chief executive officer, is appointed by the governor and confirmed by the Ohio Senate. Funding for ODNR is provided through General Revenue Funds, federal funds, and licenses and fees for those they regulate.¹

¹ Source: Biennial budget documents

Malabar Farm State Park²

Malabar Farm State Park is located in Richland County, Ohio, and was established by Pulitzer Prize-winning author, Louis Bromfield. Malabar was named as a state park in 1976 and is under the control of the Ohio Department of Natural Resources. The park maintains a working farm with outbuildings and pastures housing chickens, goats, and beef cattle. Corn, wheat, oats, and hay are also cultivated on the park's grounds.

The park provides various activities and amenities, including: tours of the original Bromfield house, hiking, hayrides, youth hostel, primitive campground, horse camps, onsite restaurant, and picnic grounds. Additionally, exhibits on grass farming, interpretive programs, and a twenty-five-hundred volume library on sustainable agriculture are available to the public.

A Malabar Farm Foundation was created in 1993 to provide resources and support for the state park. Donations to the Foundation have funded several projects at the park and helps maintain the park's official website. The Louis Bromfield Society is the membership program established to raise funds in support of the mission to promote the fields of agriculture, conservation, and literature.

Asset Management

The Ohio Department of Administrative Services (ODAS) is responsible for overseeing agencies reporting of inventory and disposal of excess/surplus supplies and equipment under Ohio Revised Code Chapter 125. Pursuant to the "Asset Management Policies and Procedures" released by ODAS, agencies are to update and certify their inventory each fiscal year by October 1st. In addition, a physical inventory is to be conducted at least once every two fiscal years.³ All forms and supporting documentation are to be submitted to ODAS.⁴

Pursuant to Ohio Revised Code §125.13, when "Disposing of excess and surplus supplies," each state agency notifies ODAS' State Surplus Services office when the agency determines it has supplies or equipment that are no longer in use. This includes items that cannot be repaired and

² Source: <http://parks.ohiodnr.gov/>

³ The state's fiscal year is July 1st – June 30th.

⁴ Source: <http://das.ohio.gov/>

are subject to disposal. ODAS will determine if the item should be donated to another government entity or sold to the general public via auction, sealed bid or negotiation. All items that are disposed of or are no longer in use are to be marked as such in the state's asset management system, a component of OAKS.⁵

INVESTIGATIVE SUMMARY

In response to the allegations received, an investigator from the Office of the Ohio Inspector General (OIG) visited Malabar Farm State Park on August 26, 2013. While at Malabar, the investigator met with park manager Korre Boyer and was told the buildings on the property, including the former home of Louis Bromfield, referred to as the "Big House," have been in decline over the past two decades. As a result, the Ohio Department of Natural Resources approved funding for repairs and renovations which were currently taking place. Additionally, after the original springhouse deteriorated, a new springhouse was built in its place. This springhouse provides water for cattle while grazing on Mt. Jeez, and is open to the public near Malabar's roadside market.

Transfer of State Property

Boyer was questioned about the allegations of the transfer of Malabar Farm State Park property, specifically bricks and a train bell, to Robert Berry, a private citizen. Boyer confirmed these items were transferred to Berry after he inquired about the property shortly after Boyer became the park manager. Boyer told investigators Berry is a descendant of the Pugh family, who originally donated several antique train bells for display purposes at Malabar. Boyer also said the bricks used in the original walkway to the Pugh Cabin, located at Malabar, were originally acquired by Berry's grandfather.

After the brick walkway to the Pugh Cabin was removed and replaced, to be in compliance with the Americans with Disabilities Act (ADA), Berry requested the original bricks.⁶ The bricks, which Boyer reported to be mostly damaged, were loaded onto pallets by state employees and

⁵ OAKS stands for the Ohio Administrative Knowledge System and is the state's accounting system.

⁶ According to the ADA website, the ADA prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. It also applies to the United States Congress.

hauled away by Berry. A payment of one dollar was received for the bricks from Berry. A receipt was given to Berry and a copy of the receipt was provided to the OIG investigator.

Receipt for Sale of Bricks to Robert Berry

GENERAL RECEIPT		A 210976
OHIO DEPARTMENT OF NATURAL RESOURCES DIVISION OF PARKS AND RECREATION		
STATE PARK	<u>Malabar Farms State Park</u>	DATE <u>12-13-12</u>
RECEIVED FROM	<u>Robert Berry</u>	\$ <u>1</u> <u>00</u>
<u>one dollar</u>		
FOR	<u>Discarded Bricks</u>	
DOCKS	DUMP FEE	RECEIVED BY <u>Kevin L. Boyer</u>
DUCK BLIND	FACILITY RENTAL	
CAMPING	REFUND	
DNR 6231		
Distribution: White to payor Yellow to payee Pink stays in book		

Berry also received one train bell in exchange for agreeing to refinish the remaining six train bells. Boyer initially believed approval, which was made prior to his arrival as park manager, was provided through a signed agreement. Boyer provided a copy of the agreement; however, it was an agreement from 1994 for one bell to be given to Betty Pugh Berry (mother of Robert Berry), approved by then-Governor George Voinovich. Boyer later discovered this was unrelated to the current transfer of a train bell to Berry. ([Exhibit 1](#))

While researching the recent agreement made with Berry, Boyer learned of a draft agreement between Berry and ODNR. Boyer said the agreement was drafted by previous ODNR legal counsel and was not formally approved due to a change in personnel within ODNR. Boyer forwarded a copy of the unapproved agreement to the Office of the Ohio Inspector General. ([Exhibit 2](#))

ODNR was unable to provide documents showing prior approval for the transfer of the items in question to Berry as required by Ohio Revised Code §125.13, “Disposing of excess and surplus supplies.” This approval should have been obtained prior to Berry taking possession of the bricks and train bell.

Livestock Care

The complainants alleged in their letter to the Office of the Ohio Inspector General that livestock on the farm were not receiving adequate shade and water as required by Ohio law. The complainants also provided information regarding a three-year-old cow that recently died but a veterinarian had not been called to determine the cause of death. In addition, the complainants stated poultry remaining at Malabar where being kept in poor living conditions.

On September 18, 2013, the OIG accompanied a veterinarian from the Ohio Department of Agriculture, Division of Animal Health, for an inspection of the livestock. All farm animals appeared to be in overall good health, had access to food and water, along with available shade from trees and access to the barns. Boyer was also asked about the recent death of the three-year-old cow. Boyer confirmed there was a death and said the cow died of apparent natural causes. At the time of the death, Boyer said there was no evidence to suggest disease. Additionally, Boyer said the rest of the herd is healthy and is examined twice a year by a local veterinarian.

Electrical Issues

The complainants also alleged there were apparent electrical code violations throughout the various structures at Malabar. They were concerned this could be a safety issue to the public visiting the park. An electrical inspection was conducted by the Ohio Department of Commerce's Building Code Compliance section at the OIG's request and they reported no serious electrical issues. Commerce did recommend repairs be made for a broken conduit with exposed wires and deteriorated insulation of a cable.

Water Safety at Malabar Springhouse

In addition to the livestock and electrical issues, the complainants alleged a structure was built around a spring that locals collect water from for their personal use. This structure, known as a springhouse, was poorly constructed and maintained leading to possible contamination of the spring. While signs have been placed indicating the spring is not to be used for drinking, the signs were not placed in a clearly visible location.

The Office of the Ohio Inspector General contacted the Ohio Department of Health (ODH) who stated the spring was not within their jurisdiction as the spring was described as a “non-communal transient water source.” According to ODH, because of this type of water source, they did not believe the Ohio Environmental Protection Agency (OEPA) would have jurisdiction of the spring either. ODH did offer to pay for testing of a sample of the spring if one was obtained by the Richland County Health Department (RCHD).

Contact was made with RCHD and they confirmed they do not have authority over the springhouse at Malabar either as the spring water is not used as a “potable”⁷ water source. However, RCHD had previously tested the water from the springhouse after receiving a complaint in 2004 of people consuming the water. RCHD said the results showed the springhouse water tested positive for contaminants. RCHD recommended changing the springhouse to a decorative non-accessible water source.

After contacting ODH and RCHD and learning the springhouse falls outside of their authority, the Office of the Ohio Inspector General contacted OEPA. OEPA responded that springs typically require surface water treatment when defined as a public water system. OEPA contacted Boyer at Malabar to assist in determining whether water from the springhouse is being regularly consumed by visitors. Additionally, OEPA requested photographs of the springhouse and roadside stand to determine if it would fall under their authority. OEPA also physically examined the springhouse and roadside stand. They have reported to the OIG they have been in communication with Boyer and are working to resolve any water safety concerns.

CONCLUSION

The Office of the Ohio Inspector General received a complaint regarding the transfer of state property, livestock care, electrical issues, and concerns of possible water contamination at the springhouse located at Malabar Farm State Park. The OIG visited Malabar Farm State Park to see firsthand about the issues noted in the complaint. After visiting Malabar, investigators contacted the Ohio Department of Commerce Chief of Building Code Compliance and the Ohio Department of Agriculture’s Division of Animal Health to requested further inspections of

⁷ Potable means water that is suitable for drinking.

Malabar. Contact was also made with the Ohio Department of Health, the Ohio Environmental Protection Agency, and the Richland County Health Department regarding the water from the springhouse.

After completing an inspection, the electrical safety inspector reported finding no serious electrical issues. Repairs were recommended for a broken conduit with exposed wires and deteriorated insulation of a cable. In response, Malabar corrected the electrical issues noted. Additionally, the veterinarian from ODA reported no concerns regarding the health of all animals, but noted one issue involving an unsanitary water source for the cattle located inside one of the barns. Malabar park manager Korre Boyer was also made aware of the finding during the inspection and has since corrected the unsanitary water source. This correction was independently verified by ODA. Finally, the springhouse has been examined by OEPA and both OEPA and Boyer are working to resolve any water safety concerns.

Accordingly, the Office of the Ohio Inspector General does not find reasonable cause to believe a wrongful act or omission occurred in these instances.

In regards to the transfer of state property to a private citizen, the Office of the Ohio Inspector General found Boyer did not follow the proper procedures when transferring the bricks and train bell to Richard Berry. Ohio Revised Code §125.13, “Disposing of excess and surplus supplies,” states agencies are to notify ODAS’ State Surplus Services office when it determines they have supplies or equipment that are no longer in use. Boyer stated he was unaware of this requirement and believed there had been a prior written agreement allowing Berry to take possession of these items. Even if ODNR had entered into such an agreement, they still were required to seek approval from the state’s surplus office prior to finalizing the agreement.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the director of the Ohio Department of Natural Resources to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Department of Natural Resources should:

- 1) Review the state surplus rules and regulations with all park managers. A similar recommendation was made as part of a previous investigation (Case file #2011-231) released on April 11, 2013.
- 2) Follow all of the recommendations of the Ohio Environmental Protection Agency addressed to the Ohio Department of Natural Resources dated December 20, 2013, "... highly encouraging you to install barriers to physically prevent use of the water from the spring ...".

[\(Click here for Exhibits 1 – 2 combined\)](#)



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RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Natural Resources

FILE ID #: 2013-CA00059

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

Jill Jones
KEEPER OF RECORDS

CERTIFIED
April 22, 2014

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