EXHIBIT B

BY THE COURT:

DATE SIGNED: January 9, 2025

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY
BRANCH 16

Electronically signed by Rhonda L. Lanford
Circuit Court Judge

IN RE: PETITION TO APPOINT SPECIAL PROSECUTOR TO INVESTIGATE RIDGLAN FARMS

Case No. 2024JD000001

DECISION AND ORDER

Wayne Hsiung, Dane4Dogs, and Alliance for Animals petitions this Court to appoint a special prosecutor to investigate alleged violations of Wisconsin's animal cruelty laws by Ridglan Farms, Inc., a commercial dog breeding facility located in Dane County, Wisconsin. Consistent with Wis. Stat. § 968.02(3), the Court held an evidentiary hearing on October 23, 2024, where it heard testimony from six witnesses and received evidence in the form of documents, photos and videos.

Based on the testimonial evidence presented at this hearing, as well the exhibits received, the Court finds that Petitioners have met their burden of proof under Wis. Stat. § 968.02(3). Petitioners have shown that there is probable cause to believe that Ridglan has committed crimes under Wisconsin's animal cruelty laws, and the district attorney has failed to issue a complaint or commence an investigation into Ridglan's conduct.

Based on the entirety of the record, the Courts grants Petitioners' Petition to appoint a special prosecutor.

BACKGROUND

Petitioners bring this action under Wis. Stat. § 968.02(3):

> If a district attorney refuses or is unavailable to issue a complaint, a circuit judge may permit the filing of a complaint, if the judge finds there is probable cause to believe that the person to be charged has committed an offense after conducting a hearing. If the district attorney has refused to issue a complaint, he or she shall be informed of the hearing and may attend. The hearing shall be ex parte without the right of cross-examination.

Petitioners allege that Ridglan Farms has violated several of Wisconsin's animal cruelty laws. It is important to the analysis of the facts and law in this case to examine the history of Wisconsin's animal cruelty laws and the reason they were enacted.

In 1966 President Lyndon Johnson signed the Animal Welfare Act, which set minimum standards of care for animals bred for use in laboratories, as well as regulated the transport and sale of any animals to laboratories to prevent stolen pets from entering the pipeline.[1] While Wisconsin put its first animal cruelty law on the books in 1849 (one year after its statehood), [2] it chose to overhaul and modernize those laws in the wake of passage of the Animal Welfare Act. Specifically regarding animals bred for research, a Wisconsin legislative committee in 1973 noted the changes were necessary to fill perceived gaps left by the Animal Welfare Act, finding "[w]hile the federal government has authority under the Animal Welfare Act to regulate most persons who are in the business of transporting, buying or selling animals for the purpose of research…it may choose not to exercise this power to its full extent."[3] The updated cruelty laws contained in Chapter 951[4] removed intent requirements to increase effective prosecution of

[1] Animal Welfare Act, 7 U.S.C. §§ 2131 et seq.
[2] Revised Statutes of the State of Wisconsin, passed January 10, 1849.
[3] Wisconsin Legislative Council, Report to the 1973 Legislature on Humane Treatment of Animals.
[4] Originally numbered Ch. 948, renumbered Ch. 951 in 1987 by Wis. Act 332.

violations and addressed ambiguities in the federal act by listing, for example, specific requirements for proper shelter for animals.[5]

The legislative research committee tasked with drafting these proposed changes noted "much of the enforcement burden is on regular enforcement agents who may or may not be zealous in their enforcement of animal treatment laws."[6] The committee also noted "Although [Department of Agriculture, Trade and Consumer Protection (DATCP)] and [Department of Natural Resources (DNR)] are involved in the enforcement of animal cruelty laws, primary enforcement is on the local level through a humane officer," of which DATCP appointed and certified 33 statewide in 1972. *Id*. As of 2024, DATCP lists 58 humane officers for the state of Wisconsin[7].

Turning to the case at hand, the Court held an evidentiary hearing in this matter on October 23, 2024. Petitioners submitted multiple DATCP reports dating from October 2016 wherein Ridglan is cited for various violations and directed to make changes in how its animals are housed and cared for. The most recent DATCP report, dated September 16, 2024, was created during a follow-up inspection necessitated by Ridglan's ongoing unaddressed violations, and the report itself noted still more violations.

Petitioners submitted this and other evidence of violations of animal cruelty laws to the Dane County Sheriff's Office, the Dane County District Attorney's Office, and Dane County Animal Control multiple times, beginning in May of 2018. To date, the Court is not aware of any action taken by any of the aforementioned county entities. Petitioners now seek the appointment

[5] Wisconsin Legislative Council, Report to the 1973 Legislature on Humane Treatment of Animals.
[6] Research Bulletin 72-2, Legislative Council Staff, January 24, 1972.
[7] Appointed Humane Officers in Wisconsin, Wisconsin DATCP, 2024.

of a special prosecutor to investigate Ridglan under Wis. Stat. § 978.045 and authorize the issuance of a criminal complaint under Wis. Stat. § 968.02(3).

LEGAL STANDARDS

1. Circuit Court's authority to issue a criminal complaint.

Ordinarily, "a complaint charging a person with an offense shall be issued only by a district attorney of the county where the crime is alleged to have been committed." Wis. Stat. § 968.02(1). In certain circumstances, however, Wisconsin state law allows a circuit judge to "permit the filing of a complaint." Wis. Stat. § 968.02(3). To determine what this statute means, "[a]s always, we begin with the text of the statute." *Fleming v. AAU*, 2023 WI 40, ¶21, 407 Wis. 2d 273, 287; *Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, 271 Wis. 2d 633, 681 N.W.2d 110.

The text of Wis. Stat. § 968.02(3) reads as follows:

> If a district attorney refuses or is unavailable to issue a complaint, a circuit judge may permit the filing of a complaint, if the judge finds there is probable cause to believe that the person to be charged has committed an offense after conducting a hearing. If the district attorney has refused to issue a complaint, he or she shall be informed of the hearing and may attend. The hearing shall be ex parte without the right of cross-examination.

This statute "is clear and unambiguous." *See Kalal*, 2004 WI 58, ¶53. It creates a two-step process that requires a threshold determination of probable cause, then "contemplates an exercise of discretion by the judge following these threshold determinations: the statute says the judge 'may permit' the filing of a complaint." *Id.* ¶6.

In *Kalal*, the Wisconsin Supreme Court imported this standard of prosecutorial discretion to circuit judges. There, the Court ruled it was clear the legislature specifically intended §968.02(3) as a "check upon the district attorney who fails to authorize the issuance of a

complaint, when one *should* have been issued …." *Kalal*, 2004 WI 58, ¶35 (emphasis added, citing Ch. 255, Laws of 1969, Judicial Council Cmte. Note to Wis. Stat. § 968.02)). To answer the question of whether a complaint "should" have issued from the district attorney's office, it follows a court must look to the standards district attorneys' offices follow when determining whether or not to issue charges. The Wisconsin Supreme Court has repeatedly referred to the American Bar Association's multi-factor standard for prosecutorial discretion. *Karpinski*, 92 Wis. 2d at 609; *Kurkierewicz*, 42 Wis. 2d at 378; *Kalal*, 2004 WI 58, ¶¶31-32. The very first of those factors inquires into "the strength of the case." American Bar Association, *Criminal Justice Standards* (4th ed. 2017), Standard 3-4.4 § (a).[8] It follows that when determining whether or not to use its discretionary power to issue a complaint, a judge should look beyond the minimum threshold standard of probable cause and ask whether a reasonably prudent prosecutor would issue charges given the particular allegations. A judge in these circumstances should bear in mind that "it is an abuse of discretion for the prosecutor to bring charges when the evidence is

[8] The American Bar Association's standards for prosecutorial discretion are available online at https://www.americanbar.org/groups/criminal_justice/standards/ProsecutionFunctionFourthEdition/
Here is a complete list of the ABA charging decision factors:

(i) the strength of the case;
(ii) the prosecutor's doubt that the accused is in fact guilty;
(iii) the extent or absence of harm caused by the offense;
(iv) the impact of prosecution or non-prosecution on the public welfare;
(v) the background and characteristics of the offender, including any voluntary restitution or efforts at rehabilitation;
(vi) whether the authorized or likely punishment or collateral consequences are disproportionate in relation to the particular offense or the offender;
(vii) the views and motives of the victim or complainant;
(viii) any improper conduct by law enforcement;
(ix) unwarranted disparate treatment of similarly situated persons;
(x) potential collateral impact on third parties, including witnesses or victims;
(xi) cooperation of the offender in the apprehension or conviction of others;
(xii) the possible influence of any cultural, ethnic, socioeconomic or other improper biases;
(xiii) changes in law or policy;
(xiv) the fair and efficient distribution of limited prosecutorial resources;
(xv) the likelihood of prosecution by another jurisdiction; and
(xvi) whether the public's interests in the matter might be appropriately vindicated by available civil, regulatory, administrative, or private remedies.

clearly insufficient to support a conviction ….” *State v. Karpinski*, 92 Wis. 2d 599, 609, 285 N.W.2d 729 (1979).

It is clear that if the Court finds probable cause and that a reasonably prudent prosecutor would issue charges given the particular circumstances in this case, the Court is authorized to act in the absence of prosecutorial action.

2. Circuit Court’s authority to appoint a special prosecutor under Wis. Stat. § 978.045.

Wis. Stat. § 978.045 states:

> (1g) A Court on its own motion may appoint a special prosecutor under sub. (1r) or a district attorney may request a Court to appoint a special prosecutor under that subsection. Before a Court appoints a special prosecutor on its own motion or at the request of a district attorney for an appointment that exceeds 6 hours per case, the Court or district attorney shall request assistance from a district attorney, deputy district attorney or assistant district attorney from other prosecutorial units or an assistant attorney general. A district attorney requesting the appointment of a special prosecutor, or a Court if the Court is appointing a special prosecutor on its own motion, shall notify the department of administration, on a form provided by that department, of the district attorney's or the Court's inability to obtain assistance from another prosecutorial unit or from an assistant attorney general.
>
> (1r)(am) Any judge of a Court of record, by an order entered in the record stating the cause for it, may appoint an attorney as a special prosecutor to perform, for the time being, or for the trial of the accused person, the duties of the district attorney. An attorney appointed under this subsection shall have all of the powers of the district attorney.
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> (bm) The judge may appoint an attorney as a special prosecutor at the request of a district attorney to assist the district attorney in the prosecution of persons charged with a crime, in grand jury proceedings, in proceedings under ch. 980, or in investigations. Except as provided under par. (bp), the judge may appoint an attorney as a special prosecutor only if the judge or the requesting district attorney submits an affidavit to the department of administration attesting that any of the following conditions exists:
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> 1. There is no district attorney for the county.
> 2. The district attorney is absent from the county.

> 2m. The district attorney, or a deputy or assistant district attorney for the district attorney office, is on parental leave.
> 3. The district attorney has acted as the attorney for a party accused in relation to the matter of which the accused stands charged and for which the accused is to be tried.
> 4. The district attorney is near of kin to the party to be tried on a criminal charge.
> 5. The district attorney is unable to attend to his or her duties due to a health issue or has a mental incapacity that impairs his or her ability to substantially perform his or her duties.
> 6. The district attorney is serving in the U.S. armed forces.
> 7. The district attorney stands charged with a crime and the governor has not acted under s. 17.11.
> 8. The district attorney determines that a conflict of interest exists regarding the district attorney or the district attorney staff.
>
> (bp)…..[9]
>
> (cm) The judge may not appoint an attorney as a special prosecutor to assist the district attorney in John Doe proceedings under s. 968.26 unless a condition under par. (bm) 1. to 8. exists, par. (bp) applies, or the judge determines that a complaint received under s. 968.26 (2) (am) relates to the conduct of the district attorney to whom the judge otherwise would refer the complaint. This paragraph does not prohibit assistance authorized by s. 978.05 (8).

To determine what this statute means, "[a]s always, we begin with the text of the statute." *Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, 271 Wis. 2d 633. Statutory interpretation should focus primarily on the language of the statute—if the meaning of the statute is plain and unambiguous, it begins and ends with the language of the statute. *Kalal*, 2004 WI 58, ¶ 44. Context within the structure of the statute is an important consideration—a statute should not be interpreted in isolation but as part of a whole, and in relation to the language of surrounding statutes. *Id*. at ¶46. Where possible, it should be read to give reasonable effect to every word in order to avoid surplusage. *State v. Martin*, 162 Wis. 2d 883, 894 (1991). Finally, and relevant to the case at hand, "there is a presumption that the legislature intends to change the law by creating a new right or

[9] Section (bp) is irrelevant to this case and is omitted for brevity.

withdrawing an existing right when it amends a statute." *Lang v. Lang*, 161 Wis. 2d 210, 220, 467 N.W.2d 772 (1991) (citing *Estate of Nottingham*, 46 Wis. 2d 580, 590, 175 N.W.2d 640 (1970)).

The Wisconsin Supreme Court examined Wis. Stat. § 978.045 in *State ex rel. Two Unnamed Petitioners v. Peterson*, 2015 WI 85, ¶ 2, 363 Wis. 2d 1, 26, *decision clarified on denial of reconsideration sub nom. State ex rel. Three Unnamed Petitioners v. Peterson*, 2015 WI 103, ¶ 2, 365 Wis. 2d 351. In that case, the court was addressing in relevant part whether circuit courts had the authority to appoint a special prosecutor for the specific purpose of carrying out an investigation under Wis. Stat. § 968.26, a so-called John Doe proceeding.

Between the court's initial review of the case in July of 2015 and its decision on a motion to reconsider published December 2015, the Wisconsin legislature amended Wis. Stat. § 978.045: it divided the former section (1r) into the three separate sections shown above in the statute's current form: (1r)(am), (1r)(bm), and (1r)(cm).

In the court's December 2015 decision denying reconsideration and clarifying its original holding, the court stated the "appointment [of] the special prosecutor in the John Doe II proceedings…was invalid" for the reasons set forth in Justice Prosser's concurrence in the earlier case, 363 Wis. 2d 1, ¶¶ 203-39. In footnote 4, the court acknowledged the legislature had amended the statute. *Peterson*, 2015 WI 85, n.4. As a result, "it is now clear that in order for an individual to be appointed as a special prosecutor in a *John Doe proceeding*, one of the conditions listed in the special prosecutor statute must exist," citing the legislature's addition of Wis. Stat. § 978.045(cm). *Id*. (emphasis added).

To be clear, this Court in the present action is *not* appointing a special prosecutor to assist a district attorney with a John Doe complaint as described in Wis. Stat. § 978.045(1r)(cm). Rather, this Court is issuing a complaint pursuant to Wis. Stat. § 978.045(1r)(am). The Court draws

attention to the language of section (cm) and its corresponding case law to make it clear that while some trial courts have interpreted *Peterson* to require one of the conditions listed in (bm) to be present for *any* court appointment of a special prosecutor, this Court interprets Wis. Stat. § 978.045(1r)(am), when read in the context of the larger statute, to give it the authority to appoint a special prosecutor regardless of whether the conditions under (bm) are met. It is clear, when the statute is read as a whole, that (1r)(cm) applies specifically to John Doe appointments; (1r)(bm) applies specifically to appointments to assist the District Attorney at their request for certain enumerated tasks; and (1r)(am) applies to all other appointments. This reading of the statute avoids surplusage and abides by the statutory interpretation principle that when the legislature amends a statute, as it did here, it intends such a change to have meaning.

Furthermore, it would not make sense for the legislature to authorize the courts to permit the filing of a criminal complaint under sec. 968.02(3), but give it no authority to appoint a special prosecutor to perform the prosecutorial task once the judge has determined probable cause exists and the prosecutor has failed to act. In addition, in one other Dane County case involving alleged animal cruelty, the court found probable cause and failure to act by the district attorney and appointed a special prosecutor to investigate the alleged abuse. *In re Alliance for Animals,* No. 2010-CV-1398 (Dane Cnty. Cir. Ct. June 2, 2010).

ANALYSIS

Turning to the case at hand, the Court will now analyze whether the two required conditions are in place that would authorize this Court to permit a criminal complaint to be filed under Wis. Stat. § 968.02(3). First, the Court must find that the Dane County District Attorney

refuses or is unavailable to issue a complaint against Ridglan Farms. Second, the Court must find that that there is probable cause to believe Ridglan Farms has committed criminal offenses.

I. REFUSAL TO PROSECUTE.

The Court in *Kalal* determined the word "refusal," as it is used in Wis. Stat. § 968.02(3), is unambiguous and should be given its ordinary meaning without reference to legislative history: to refuse is "[t]o indicate unwillingness to do, accept, give, or allow." *Kalal*, 2004 WI 58, ¶54, citing *The American Heritage Dictionary of the English Language* 1519 (3d ed.1992). The *Kalal* Court goes on to clarify:

> This common and accepted definition implies more than mere inaction, but does not necessarily require an express statement from the district attorney. As with other elements of courtroom proof, a refusal under this statute may be proven directly or circumstantially, by inferences reasonably drawn from words and conduct.

Kalal, 2004 WI 58, ¶55.

At the evidentiary hearing held October 23, Attorney Hsiung testified that since May of 2018 he has contacted the Dane County District Attorney's office and provided video and documentary evidence of the conditions at Ridglan at least seven separate times, including during an in-person meeting with District Attorney Ozanne on April 18, 2024. This evidence included multiple reports from the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) and the U.S. Department of Agriculture (USDA) documenting conditions at Ridglan beginning in October 2016 through September of 2024, each time noting aspects of Ridglan's facilities that fell below the standards required by law. Hsiung also testified that a public records request revealed the district attorney's office had received 983 separate emails

requesting an investigation of Ridglan. District Attorney Ozanne has also been present at two of the preliminary court hearings in this matter. Neither he nor any members of his office attended the evidentiary hearing.

While District Attorney Ozanne stated at a September 12, 2024 hearing that he did not believe his office had refused to prosecute, this Court is not bound by the district attorney's own assessment of his actions. Instead, as *Kalal* instructs, the Court draws reasonable inferences from District Attorney Ozanne's conduct over the past six years. The evidence shows District Attorney Ozanne and his office failed to take any action with regard to the allegations made against Ridglan, despite the petitioner's video and photographic proof and multiple reports from state and federal agencies documenting Ridglan's abuse. On that basis, the Court finds District Attorney Ozanne and his office have refused to issue a complaint as that term is understood in Wis. Stat. § 968.02(3).

II. PROBABLE CAUSE.

The Court next addresses whether probable cause exists that Ridglan committed criminal violations of Wisconsin's animal cruelty laws. Probable cause is defined as "such a state of facts in the mind of the prosecutor as would lead a man of ordinary caution and prudence to believe or entertain an honest and strong suspicion that the person arrested is guilty." *Petrie v. Roberts*, 242 Wis. 539, 547 (1943); citing *Eggett v. Allen*, 119 Wis. 625 (1903); and *Schwartz v. Schwartz*, 206 Wis. 420 (1932).

In order to analyze probable cause, the Court makes the following findings of fact based on the evidence presented at the October 23rd hearing.

Ridglan Farms, Inc. ("Ridglan") is a commercial dog breeding facility located in Blue Mounds, Wisconsin, which houses at any one time approximately 3,200 beagles. At the hearing, the Court heard from six witnesses: two former employees of Ridglan, two veterinarians, an animal behaviorist, and Hsiung, an attorney and animal rights activist who had personally observed and had taken video of Ridglan's facilities.

Petitioners allege the evidence presented demonstrates Ridglan treated the dogs in its care in a cruel manner as prohibited by Wis. Stat. § 951.02 as well as failed to provide dogs adequate shelter, in violation of Wis. Stat. § 951.14. The Court addresses each statute and the corresponding violations in turn.

A. Ridglan's Violations of Wis. Stat. § 951.02: Mistreating Animals.

Wis. Stat. § 951.02, titled "Mistreating animals," states "No person may treat any animal, whether belonging to the person or another, in a cruel manner. This section does not prohibit normal and accepted veterinary practices." The statute defines "cruel" as "causing unnecessary and excessive pain or suffering or unjustifiable injury or death." Wis. Stat. § 951.01(2). Further, if the cruel treatment results in the "mutilation" or "disfigurement" of an animal—even if that mutilation or disfigurement was not itself intended—then the violation of § 951.02 is a Class I felony. A Class I felony is punishable by a fine not to exceed $10,000 dollars or imprisonment not to exceed 3 years and 6 months, or both. Wis. Stat. § 939.50(3)(i).

Petitioners presented evidence sufficient to satisfy this Court that probable cause exists that Ridglan committed a felony by using two specific regularly conducted practices at Ridglan: the mutilation of so-called "cherry eyes," and the mutilation of dogs' vocal cords.

Scott Gilbertson, a former employee of Ridglan, testified that in January of 2022, he participated in so-called "cherry eye" removal as part of his employment duties. He stated he was instructed to hold dogs down while another Ridglan employee, Leah Staley, cut off a gland protruding from the corner of the dog's eye. Gilbertson testified this was done without administering any kind of anesthesia or pain medication, and nothing was done to control the bleeding that would result, despite the dog bleeding to a degree that produced a "pretty good size puddle" on the floor. Mr. Gilbertson also testified that during this procedure the dogs "would be thrashing around in pain, often yelping, crying out. Then we just put them back in the cage." The employees performing these surgeries were not licensed veterinarians. Matthew Reich, another employee of Ridglan from 2006-2010, testified that he also held down dogs while other Ridglan employees, Jim Hiltbrandt or Al Olson, cut off their eye glands, also without any anesthesia, pain medication or blood control. Reich testified the dog's eyes "would bleed profusely for several minutes. Sometimes it would start pouring onto my hand before I even let go of the dog," and the dog would usually "go to the side of the cage where their neighbor was and the other dog would lick the blood off them. It was a very graphic scene."

Dr. Sherstin Rosenberg, a licensed veterinarian, testified that the removal of the "cherry eye" as conducted by Ridglan's employees, without anesthesia, blood control, or aftercare, subjects the dogs to significant pain because the eye is a highly sensitive organ.

Matthew Reich also testified that he witnessed Ridglan employees mutilate dogs' vocal cords in order to prevent them from barking at full volume. Reich testified he observed the dogs be administered a paralytic agent which rendered them unable to move, but they were not given any anesthesia or pain medication. The dogs' mouths were then pried open and held in place by a contraption, and a Ridglan employee would then reach down their throat with a sharp tool and

sever the flaps in the back of their throat. Reich testified he saw this procedure conducted for thirty to forty dogs at a time on a monthly basis.

Dr. Rosenberg also testified this mutilation of dogs' vocal flaps, as conducted by Ridglan, was a painful and risky procedure which caused unnecessary and excessive pain and suffering to the dogs.

None of the employees Gilbertson and Reich observed mutilating dogs' eye glands and vocal flaps were veterinarians. Dr. Lowell Wickman, a Wisconsin based and licensed veterinarian, testified these acts violated accepted veterinary practices, because "[p]erforming surgery, which means any procedure in which the skin or tissue of the patient is penetrated or severed…may not be delegated to or performed by veterinary technicians or other persons not holding" a veterinary license. Wis. Admin. Code VE 1.44 ("Delegation of veterinary medical acts"). Dr. Rosenberg also testified that even if the procedures described were done by a veterinarian, a failure to use anesthesia, blood control, or aftercare is completely inconsistent with normal and accepted veterinary practices.

Based on this evidence, the Court finds probable cause that Ridglan, through its employees, committed a felony violation of the animal cruelty statutes by having caused "unnecessary and excessive pain or suffering" by mutilating dogs' eye glands and vocal flaps, and that their actions were not within "normal and accepted veterinary practices," constituting a violation of Wis. Stat. § 951.01(2), a Class I felony punishable by a fine not to exceed $10,000 dollars or imprisonment not to exceed 3 years and 6 months, or both. Wis. Stat. § 939.50(3)(i).

B. Ridglan's Violations of Wis. Stat. § 951.14: Providing Proper Shelter

Wis. Stat. § 951.14, titled "Providing proper shelter," dictates certain minimum requirements by which persons or companies responsible for housing animals must abide. This includes the minimum amount of space an animal may be enclosed in (Wis. Stat. § 951.14(3)(b)), sanitation standards (Wis. Stat. § 951.14(4)), ventilation standards, (Wis. Stat. § 951.14(1)(b)), and prohibiting enclosure structures which cause injury to the animals contained in them (Wis. Stat. § 951.14(3)(a)). An intentional or negligent violation of any section of Wis. Stat. § 951.14 is a Class A misdemeanor punishable by a fine not to exceed $10,000 dollars or imprisonment not to exceed 9 months, or both. Wis. Stat. § 939.51(3)(a). A violation without a showing of intention or negligence results in a Class C forfeiture not to exceed $500.

Petitioners presented evidence Ridglan intentionally and negligently violated each of the above described sections of Wis. Stat. § 951.14, which the Court sets forth *infra*.

i. Space requirements

Wis. Stat. § 951.14(3)(b) states:

> **(b)** *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

Reich testified while he was employed by Ridglan from 2006 to 2010, he saw a variety of abnormal behaviors on a daily basis, including dogs fighting, pacing and spinning endlessly in their cages. Ridglan did not separate the dogs who were fighting. Reich testified that he once saw the aftermath of an especially violent fight—while checking cages containing groups of dogs, he observed one was lying on its side apparently deceased. When he attempted to take hold of the

dog's body to remove it from the cage, his hand passed through the dog's chest and into the body cavity—the other dogs had apparently devoured a portion of the dog's innards.

A DATCP inspection report from October 26, 2016, notes "[a] number of adult dogs in the facility were displaying prominent stereotypical behaviors; such as: circling, pacing, and wall bouncing. . . . Efforts should be taken to address dog's abnormal, stereotypical behaviors. Such behaviors are an indicator of the dog's welfare."

Hsiung also testified about the abnormal behaviors he observed when he personally visited Ridglan's facility in 2017. He presented video documentation of what he observed in Court during the evidentiary hearing. In the videos dogs can be seen spinning in circles, pacing, and barking continuously.

Gilbertson, who worked at Ridglan in January of 2022, testified he saw hundreds of dogs housed in solitary confinement. Gilbertson observed the dogs were never taken out of the cages or allowed any access to the outdoors. Gilbertson also testified that he saw a variety of abnormal behaviors on a daily basis, including dogs fighting and spinning endlessly in their cages. Ridglan did not separate the dogs who were fighting.

There was also evidence presented that the dogs housed in these conditions were not ever removed from these conditions for any meaningful period of time. A DATCP inspection report from September 16, 2024, states: "Ridglan Farms has approximately 3,200 dogs present within the facility, and approximately 16 full-time employees (at the time of the 6/6/24 routine inspection, not including manager and lead veterinarian). Three of these sixteen employees' duties primarily consist of dog socialization. All dogs within the facility are not receiving daily positive human contact and/or socialization, not limited to feeding time." Assuming these

employees work 40-hour weeks with no breaks or other tasks, that averages out to a little more than two minutes per dog per week, making it virtually impossible to undertake exercising the dogs or removing them from these conditions for any meaningful length of time.

Professor Marc Bekoff, an animal behaviorist, reviewed video footage and inspection reports from Ridglan and testified that the dogs at Ridglan were "extremely stressed to the point where they were behaving in a very abnormal way." He testified that he was especially concerned with the manic barking and spinning, which were "off scale" based on the thousands of hours he has spent observing dogs. He testified that the abnormal behaviors were "way beyond anything I've ever seen in what I would consider to be a normal dog." He concluded the dogs were traumatized and suffering unnecessarily and excessively.

The DATCP reports presented at the evidentiary hearing clearly demonstrate Ridglan was aware of the problems with its cages since 2016, and as the most recent DATCP report makes clear the problem persists in 2024. This demonstrates Ridglan's actions are intentional, or at the very least demonstrate a negligent disregard for the lawful standard of care for its animals.

Based on this evidence, the Court finds probable cause that Ridglan intentionally and/or negligently violated Wis. Stat. § 951.14(3)(b) by failing to provide adequate space to the dogs in its care, a Class A misdemeanor punishable by a fine not to exceed $10,000 dollars or imprisonment not to exceed 9 months, or both. Wis. Stat. § 939.51(3)(a).

ii. Sanitation standards

Wis. Stat. § 951.14(4) states "[m]inimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards."

Gilbertson testified that in January of 2022, he regularly witnessed the buildup of feces in the dogs' cages. Gilbertson also testified he was directed by Ridglan to clean hundreds of cages by himself, which proved to be a near-impossible task.

A DATCP inspection report from June 6, 2024, notes: "In several buildings within the facility, the drainage systems are not constructed and/or operated so that animal waste is rapidly eliminated, contributing to odors observed by the inspection team. Low spots where waste accumulates and becomes stagnant were consistent in the catch pans beneath the second-level enclosures where adult dogs were kept, with the exception of the pre-shipment / order dogs area and the whelping rooms. Drainage channels and the graded surfaces beneath the enclosures in the aforementioned areas had excess accumulation of excreta and other organic matter."

A follow up DATCP inspection report from September 16, 2024, notes the problems remained months later: "In several buildings within the facility, the drainage systems are not constructed and/or operated so that animal waste is rapidly eliminated. Excess excreta, low spots where waste and wash water accumulates and becomes stagnant were consistent in the catch pans beneath the second-level enclosures where adult dogs were kept, and on the concrete flooring beneath the first level enclosures - with the exception of the pre-shipment / order dogs area and the whelping rooms. A film of organic waste material was present on the concrete flooring beneath the enclosures throughout the facility."

Dr. Rosenberg testified that pictures of fecal buildup—including decomposing feces—showed that the feces had not been removed for days. Dr. Rosenberg concluded that Ridglan's sanitation protocols were inadequate and posed a health risk to the dogs.

Again, the DATCP reports and their accompanying photographs serve as strong evidence that Ridglan was made aware multiple times that its sanitation practices fell below the legally required standards, and that the conditions persisted as of September 2024. This demonstrates Ridglan's lack of sufficient sanitation practices is intentional, or at the very least demonstrate a negligent disregard for the lawful standard of care for its animals.

Based on this evidence, the Court finds probable cause that Ridglan intentionally or negligently failed to provide proper sanitation for the animals in its care, in violation of Wis. Stat. § 951.14(4), a Class A misdemeanor punishable by a fine not to exceed $10,000 dollars or imprisonment not to exceed 9 months, or both. Wis. Stat. § 939.51(3)(a).

iii. Ventilation standards

Wis. Stat. § 951.14(1)(b) states "[i]ndoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times."

An inspector notes in their DATCP report from July 6, 2022, that "[t]he ammonia / odor level in several locations within [Ridglan] buildings (7, 1, 2a, 2b and 3) was bad enough that I experienced nausea on one occasion, and my throat and nostrils were irritated for several hours after I left the facility." A DATCP inspection report from June 6, 2024, notes: "In several buildings within the facility, the drainage systems are not constructed and/or operated so that animal waste is rapidly eliminated, contributing to odors observed by the inspection team." Finally, a third DATCP inspection report from September 16, 2024, notes "[i]n several buildings

within the facility, the drainage systems are not constructed and/or operated so that animal waste is rapidly eliminated."

Dr. Rosenberg testified that high ammonia levels—like the ones described in DATCP inspection reports—raise blood ammonia levels and thus cause nausea in the dogs. Gaseous ammonia injures the mucus lining of the dogs' airways and can cause tissue to die. This cell death can cause extreme discomfort and pain, and impair long-term lung functioning.

The testimony and evidence demonstrates the ventilation of Ridglan's housing has been noted by both former employees and DATCP inspectors as inadequate, and remains inadequate as of September 2024. This demonstrates Ridglan's ventilation system, or lack there of, is an intentional choice, or at the very least demonstrates a negligent disregard for the lawful standard of care for its animals.

Based on this evidence, the Court finds probable cause exists that Ridglan intentionally or negligently failed to provide properly ventilated housing for the animals in its care in violation of Wis. Stat. § 951.14(1)(b), a Class A misdemeanor punishable by a fine not to exceed $10,000 dollars or imprisonment not to exceed 9 months, or both. Wis. Stat. § 939.51(3)(a).

iv. Improper enclosures causing injury

Wis. Stat. § 951.14(3)(a) states "[t]he housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals."

Evidence showed the floor of Ridglan's kennels to be constructed of a wire mesh coated with a hard plastic or rubber. Urine and feces passed through the mesh into either a drip pan or the floor, where it was theoretically supposed to then travel down a drain and be emptied into a lagoon outdoors.

Petitioners presented evidence that the constant confinement on the wire mesh floor caused the dogs to develop sores on their feet. Reich testified during his employment at Ridglan from 2006 to 2010, he saw dogs with large blisters or ulcers—sometimes the size of golf balls—between their toes on a daily basis. In his five-year tenure with Ridglan, he never saw anyone remove or replace a cage. A DATCP inspection report from October 26, 2016, noted that "puppies' feet and legs were passing through the gaps in the flooring." Gilbertson, who worked for Ridglan in January 2022, testified that the flooring in the cages was wire flooring with rust in some spots. He also testified that he saw dogs with inflamed feet or lying down for long periods of time to relieve pressure on their feet on a daily basis. He was not aware of Ridglan ever changing their flooring to alleviate these foot issues. A DATCP inspection report from July 6, 2022, notes that "[a]pproximately 30% of the enclosures with walls constructed of coated wire had some degree of rust or the wire coating was worn off." Dr. Rosenberg testified that this high prevalence of rusty wiring increases the odds of painful infections and thus causes unnecessary and excessive pain. A USDA inspection report from December 5, 2023, found that "[s]ome of the weaned puppies and pre weaning-aged puppies in eleven enclosures were observed to have feet or legs pass through the smooth-coated mesh floors when they walked." This was the same issue Ridglan had been cited for by DATCP seven years prior.

A DATCP inspection report from June 6, 2024, found that a dog "was limping and keeping weight off her front right paw, which had what appeared to be a ruptured interdigital cyst. No documentation of the cyst was present on the information cards located outside of the enclosure(s) or the dry erase board(s) utilized to document interdigital cysts." A DATCP inspection report from September 16, 2024, found a dog "was limping while moving through the enclosure, not bearing any weight on the right front leg. Two partially healed scratches and/or

puncture wounds and swelling were present on the leg near the carpal joint. No documentation of the injury was present on the enclosure card or the whiteboard documenting ongoing or necessary treatment(s)."

As with the other substandard conditions at Ridglan, the issues with the enclosures are documented in DATCP reports as early as 2016 and as recently as September 2024. This demonstrates Ridglan's choice of enclosures was intentionally made despite being aware of the harm the enclosures were causing the animals in its care, or at the very least with negligent disregard to the enclosures effect on its animals.

Based on this evidence, the Court finds probable cause exists Ridglan intentionally or negligently failed to provide properly structured enclosures for the animals in its care in violation of Wis. Stat. § 951.14(3)(a), a Class A misdemeanor punishable by a fine not to exceed $10,000 dollars or imprisonment not to exceed 9 months, or both. Wis. Stat. § 939.51(3)(a).

CONCLUSION

The Court finds probable cause exists that Ridglan Farms, Inc., has committed multiple criminal violations of Wis. Stat. § 951, and the Court also finds the Dane County District Attorney has refused to issue a complaint related to these allegations. The Court will exercise its authority as "a limited check upon the district attorney's charging power" (K*alal*, 271 Wis. 2d at 645) in order to ensure the important societal interests protected by Wis. Stat. § 951 are properly served.

The Court orders the appointment of a special prosecutor as soon as is practicable. Pursuant to Wis. Stat. § 978.045(1)(g), the Court shall first seek assistance in this matter from other prosecutorial units such as other county's district attorneys, assistant district attorneys, and

assistant attorneys general. Should the Court be unable to appoint a special prosecutor from that pool, it shall appoint a private attorney.

The Petition is GRANTED.