

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARGILL MEAT SOLUTIONS
CORPORATION, *et al.*,

Defendants.

Civil Action No.: 1:22-cv-01821-SAG

[PUBLIC REDACTED VERSION]

**MEMORANDUM IN SUPPORT OF THE UNITED STATES' MOTION
TO ENFORCE THE FINAL JUDGMENT AGAINST WAYNE-SANDERSON FARMS**

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For decades, Defendant Wayne-Sanderson Farms engaged in a conspiracy with other poultry processors to share sensitive compensation information for processing plant workers. The processors frequently shared the information through third-party consultants, who collected the information and then disseminated it among the processors. This conduct distorted the competitive process, suppressing wages and benefits and harming a generation of poultry processing plant workers.

To resolve the United States’ serious competition concerns about this illegal conduct, this Court entered a consent decree, to which Wayne-Sanderson agreed, that orders it to stop exchanging information about “all forms of payment for work” with other poultry processors, including—expressly—through a third-party consultant called Agri Stats. Nevertheless, Wayne-Sanderson admits that it continues to send to Agri Stats payroll, general ledger, and other data about wages and other payment for work, as it did before the Final Judgment went into effect. Wayne-Sanderson also still receives Agri Stats reports containing sensitive information about competing processors’ labor costs and paid wages, also in violation of the Final Judgment.

In an attempt to justify its conduct, Wayne-Sanderson has adopted interpretations of the decree that contradict the plain meaning of its terms and definitions. For example, Wayne-Sanderson has taken the position that the payroll data that it sends Agri Stats is not competitively sensitive “Compensation” information. A straightforward interpretation of the Final Judgment confirms that Wayne-Sanderson is in violation of its Court-ordered obligations. The question of whether Wayne-Sanderson’s conduct would violate the Sherman Act absent the decree is not presented because Wayne-Sanderson *resolved* the United States’ Sherman Act claim by agreeing to the Final Judgment.

As to the reports Wayne-Sanderson receives from Agri Stats, the company argues it has asked Agri Stats to excise a few of the many labor-related statistics in the reports it receives from Agri Stats. Wayne-Sanderson still receives a broad range of compensation data about its competitors, including labor-cost and labor-efficiency metrics, among others. Wayne-Sanderson also continues to receive reports that rank its compensation against its competitors, allowing the company to compare its worker pay to its competitors. Further, Wayne-Sanderson can easily reverse engineer—through simple arithmetic—many of the excised fields from the data it continues to receive.

After learning of Wayne-Sanderson’s systemic and ongoing violations of the Final Judgment, the United States asked the company to suspend its exchanges of data with Agri Stats until the Court-appointed Monitors and the United States could ensure compliance. Wayne-Sanderson has refused to do so, while continuing to adopt interpretations of the decree that are irreconcilable with its plain terms. Amid ongoing and knowing violations, the onus lies on Wayne-Sanderson to pause its information exchanges with Agri Stats until it can assure the Monitors and the Court of its compliance with the decree.

The Final Judgment prohibited Wayne-Sanderson from providing compensation information *to* third party consultants like Agri Stats, and receiving such information *from* such consultants, but Wayne-Sanderson continues to do both. Thus, the United States now seeks an order enforcing the plain language of the Final Judgment to prevent Wayne-Sanderson’s ongoing violations. In addition, the United States requests an order prohibiting Wayne-Sanderson from sending any data to Agri Stats, and receiving any data from Agri Stats, until the Monitors and the United States, or this Court, can confirm that Wayne-Sanderson has sufficiently remediated its

conduct such that it is no longer violating the decree. In addition, the United States requests an extension of the term of the Final Judgment, as well any other appropriate relief.

BACKGROUND

I. United States’ Complaint and the Final Judgment

On July 22, 2022, the United States filed a complaint against several defendants, including Sanderson Farms, Inc. and Wayne Farms, LLC (now Wayne-Sanderson Farms) for conspiring to collaborate on compensation decisions for workers at poultry processing plants, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. ECF 1.¹ The complaint alleged that, for decades, Wayne-Sanderson and its co-conspirators exchanged detailed current and future compensation information about poultry processing plant workers, including through third-party consultants. The complaint further alleged that allowing poultry processors to exchange competitively sensitive information about wages and benefits with knowledge of the compensation paid at competitor plants subverted competition. This information sharing artificially suppressed wages for poultry plant workers, depriving them of the benefits of free-market competition to set their wages and benefits for their valuable, difficult, and sometimes dangerous labor. *See generally* ECF 37 (Competitive Impact Statement). The complaint also alleged that third-party consultants participated in, and facilitated, the unlawful exchange of compensation information between processors. *See, e.g.*, ECF 48 (Am. Compl.) ¶¶ 125-130.

Wayne-Sanderson settled the claims against it by agreeing to the Final Judgment, which the Court entered on June 5, 2023.² As relevant here, the Final Judgment specifically orders

¹ The United States later amended the complaint to add George’s, Inc. and George’s Foods, LLC (collectively, “George’s”) as Defendants. ECF 48.

² The Final Judgment (“WS FJ”) was modified on April 9, 2024, and the operative Final Judgment is docketed as ECF 85. The modification did not affect the scope of the information-sharing prohibitions.

Wayne-Sanderson (1) not to “Communicate,” meaning to “disclose,” “transfer,” “provide,” “send,” or “receive,”³ (2) “Competitively Sensitive Information about Compensation” (3) to other processors and to “*any Consulting Firm that produces reports regarding Compensation for Poultry Processing Workers that are shared with other Poultry Processors . . .*” WS FJ §§ II.F, IV.A.4 (emphasis added).⁴ Wayne-Sanderson is also prohibited from “directly or indirectly, including through a Consulting Firm,” using, encouraging, or facilitating the communication of such information. WS FJ §§ IV.A.2, 5 & 6. These restrictions apply to any Consulting Firm that meets the definition in the Final Judgment.⁵

As defined in the Final Judgment, “Compensation” includes “all forms of payment for work, including salaried pay, hourly pay, regular or ad hoc bonuses, over-time pay, and benefits, including healthcare coverage, vacation or personal leave, sick leave, and life insurance or disability insurance policies.” WS FJ § II.G. “Competitively Sensitive Information” means “information that is relevant to, or likely to have an impact on, at least one dimension of competition, including price, cost (including Compensation), output, quality, and innovation.” WS FJ § II.H.

³ As defined in the Final Judgment, “‘Communicate’ means to discuss, disclose, transfer, disseminate, circulate, provide, request, solicit, send, receive or exchange information or opinion, formally or informally, directly or indirectly, in any manner, and regardless of the means by which it is accomplished . . .” WS FJ § II.F.

⁴ Further underscoring the importance of Wayne-Sanderson not sharing compensation information with consultants, Section VII.D.1 of the Final Judgment required Wayne-Sanderson to notify “Consulting Firms,” including Agri Stats, that Wayne-Sanderson is “largely prohibited from communicating with other poultry processors, whether directly or indirectly (such as through a Consulting Firm or temporary employment agency, including your agency)” compensation information, and “[i]n addition . . . from sending any non-public information about our processing plant workers’ wages and benefits to any third party, such as a Consulting Firm or temporary employment agency, including your agency.” WS FJ Ex. 1. Wayne-Sanderson failed to send Agri Stats this notice.

⁵ Under the decree, “‘Consulting Firm’ means any organization, including Webber, Meng, Sahl & Company, Inc. and Agri Stats, Inc., that gathers, sorts, compiles, and/or sells information about Compensation for Poultry Processing Workers, or provides advice regarding Compensation for Poultry Processing Workers; ‘Consulting Firm’ does not include job boards, employment agencies or other entities that facilitate employment opportunities for employees.” WS FJ § II.I.

Agri Stats, Inc. is a data broker and consultant that operates in the poultry industry. On a weekly basis, poultry processors send Agri Stats granular, competitively sensitive information about their businesses. Agri Stats processes that sensitive data into voluminous reports that detail information about pricing, operations, and margins, including calculations of labor costs and wages paid.⁶ The Final Judgment identifies “Agri Stats, Inc.” by name as an example of a “Consulting Firm.” WS FJ § II.I.

In sum, the Final Judgment prohibits Wayne-Sanderson from, among other things, sending competitively sensitive compensation information *to* third party consultants such as Agri Stats, and receiving such information *from* such consultants.

II. Violations of the Final Judgment

Wayne-Sanderson has violated its consent decree by (1) sending competitively sensitive compensation information about its poultry workers to Agri Stats, and (2) receiving reports from Agri Stats that contain competitively sensitive compensation information from its competitors.

A. The Monitors’ Findings

On August 28, 2024, the Court-appointed Monitors overseeing compliance with the Final Judgment reported to the United States that their “investigation has led to the conclusion that Wayne-Sanderson has violated the plain language of Section IV.A.4 of the Final Judgment by communicating information about its poultry worker compensation with Agri Stats, Inc.” Ex. 1 at 3. Specifically, the Monitors found that “Wayne-Sanderson has not changed its participation in Agri Stats after stipulating to the Proposed Final Judgment and has provided compensation data to Agri Stats on a monthly basis, from July 2022 to present (August 2024).” *Id.* at 10.

⁶ In 2023, the United States and the States of California, Minnesota, North Carolina, Tennessee, Texas, and Utah brought a civil antitrust enforcement action against Agri Stats in which they allege that Agri Stats’ conduct in the broiler chicken, turkey, and pork markets is anticompetitive. *See United States v. Agri Stats, Inc.*, No. 0:23-cv-03009 (D. Minn.). That case is currently in litigation.

Wayne-Sanderson later produced to the Monitors the reports it receives from Agri Stats, which demonstrated violations beyond those initially addressed in the Monitors' August 2024 report to the United States. One Agri Stats report that Wayne-Sanderson received after entry of the Final Judgment included compensation information for Wayne-Sanderson's competitors, such as a "[REDACTED]" showing the "[REDACTED]" in business segments such as "[REDACTED]," "[REDACTED]," and "[REDACTED]," expressed in labor cost per pound—meaning total employee compensation at a particular processor divided by the number of pounds those employees produced.⁷ Ex. 2 at 625 (see b.1); *see* Ex. 3 at 145. This information reflects compensation paid to certain categories of workers in particular types of chicken processing facilities. The Agri Stats reports received by Wayne-Sanderson show other "[REDACTED]" data throughout, often calculated on a per-pound or per-bird basis. *E.g.*, Ex. 2 at 577 ([REDACTED]); Ex. 3 at 119 (see a.1, a.2).⁸

B. The United States' Engagement with Wayne-Sanderson

After receiving the Monitors' reports, the United States raised its concerns about the ongoing violations with Wayne-Sanderson and requested that it "propose remedies to ensure . . . compliance." Ex. 4 at 2. In response, Wayne-Sanderson argued that the Final Judgment did not require *any* change to the information it exchanges with Agri Stats.⁹ Wayne-Sanderson also did

⁷ "[REDACTED]," "[REDACTED]," and "[REDACTED]" are terms Agri Stats uses to refer to groups of workers within certain types of poultry processing plants. Ex. 3 at 140-143.

⁸ The Monitors' August 2024 report also discussed Wayne-Sanderson's data sharing with other consultants, but only Wayne-Sanderson's data exchanges with Agri Stats are ripe.

⁹ *See, e.g.*, Ex. 5 at 9 ("Wayne-Sanderson's position is that the Agri Stats reports, as they existed at the time of the entry of the Final Judgment, did not run afoul of any aspect of the Final Judgment . . ."). Indeed, although the Final Judgment specifically identifies Agri Stats as a "Consulting Firm" that, *inter alia*, "gathers, sorts, compiles, and/or sells information about Compensation for Poultry Processing Workers," WS FJ § II.I, Wayne-Sanderson asserts that the Final Judgment does not apply to Agri Stats at all, because Agri Stats does not "create[] reports regarding Compensation for Poultry Processing Workers." Ex. 5 at 8.

not identify any changes in the nature of the information that it provides to Agri Stats since the Final Judgment came into effect, *see infra* Section I.A.

With respect to the data Wayne-Sanderson receives *from* Agri Stats, Wayne-Sanderson requested certain adjustments in the reports Agri Stats sent them—while maintaining that such adjustments were not obligatory under the Final Judgment. Specifically, Wayne-Sanderson requested that Agri Stats remove “labor cost per hour data belonging to other poultry processors from [Agri Stats] reports” received by Wayne-Sanderson, Ex. 5 at 9-10. But these changes fail to remove much of the competitively sensitive compensation information from Agri Stats reports as required by the Final Judgment. For example, even after these changes, Wayne-Sanderson continues to receive reports containing various “labor costs” or “labor efficiency” statistics.

Because Wayne-Sanderson has continued to send compensation data to Agri Stats and receive poultry industry compensation data from Agri Stats, on December 27, 2024, the United States demanded that Wayne-Sanderson “immediately terminate [its] subscription to Agri Stats, including both the sending and receiving of information or data, unless and until the Monitors and the Department of Justice are comfortable that any information exchanged will not be in violation of the Final Judgment.” Ex. 6 at 3. The United States also informed Wayne-Sanderson that a failure to meet this demand “may require the Division to move to enforce the Final Judgment to secure compliance.” *Id.* Wayne-Sanderson has refused to temporarily suspend its exchange of compensation information with Agri Stats. *See* Ex. 7. It has instead proposed additional negotiations, which are infeasible given that Wayne-Sanderson’s interpretation of the decree is irreconcilable with its plain terms. *See* Ex. 8; Ex. 9. Because Wayne-Sanderson has not agreed to the preliminary remedial measures the United States requested, the United States now brings this motion to enforce the Final Judgment.

LEGAL STANDARD

District courts “may interpret [a consent decree] and enter remedial orders enforcing its terms.” *Johnson v. Robinson*, 987 F.2d 1043, 1048 (4th Cir. 1993). “Issues of interpretation and enforcement of a consent decree typically are subject to traditional rules of contract interpretation.” *Thompson v. U.S. Dep’t of Hous. & Urb. Dev.*, 404 F.3d 821, 832 n.6 (4th Cir. 2005); *accord Willie M. v. Hunt*, 732 F.2d 383, 386 (4th Cir. 1984). Moreover, the “Court may consider the surrounding circumstances and ‘the general nature of the remedy’” in interpreting a consent decree. *United States v. S. Coal Corp.*, 64 F.4th 509, 514 (4th Cir. 2023) (quotation omitted). “Legal doctrines that would apply to the underlying disputes are inapplicable.” *McKeon Prods., Inc. v. Howard S. Leight & Assocs., Inc.*, 15 F.4th 736, 742 (6th Cir. 2021).

The Final Judgment provides that it “should be interpreted to give full effect to the procompetitive purposes of the antitrust laws,” to adhere to “ordinary tools of interpretation,” and “to restore the competition the United States alleges was harmed” WS FJ § XIII.B. The United States “retains and reserves all rights to enforce the provisions of” the Final Judgment, and to do so, “the United States may establish a violation of th[e] Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence” WS FJ § XIII.A.

Upon finding a violation of a decree, a court has “broad discretion to fashion remedies.” *See Victor Stanley, Inc. v. Creative Pipe, Inc.*, No. MJG-06-2662, 2016 WL 1597119, at *5 (D. Md. Apr. 20, 2016). The United States may seek “an extension of [the] Final Judgment, together with other relief that may be appropriate.” WS FJ § XIII.C. This provision is in keeping with the Court’s inherent equitable power to “tighten the decree in order to accomplish its intended result.” *United States v. W. Elec. Co., Inc.*, 46 F.3d 1198, 1202 (D.C. Cir. 1995); *see also New York v. Microsoft Corp.*, 2008 WL 254126, at *1 (D.D.C. 2008) (extending term of consent

decrees when delay in implementation prevented them from “achieving their principal objectives”).

ARGUMENT

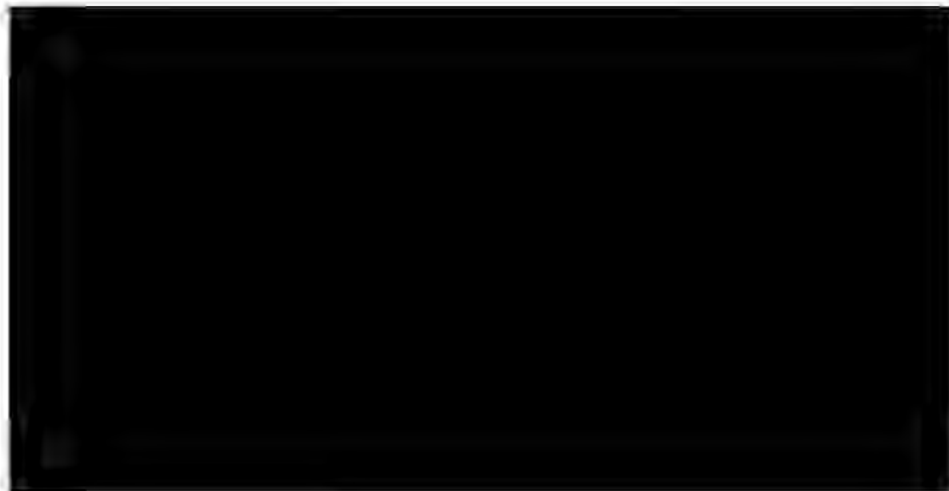
I. Wayne-Sanderson Is Violating the Final Judgment by Exchanging Competitively Sensitive Compensation Information with Agri Stats

A. Sending Compensation Data to Agri Stats Violates the Final Judgment

Under the Final Judgment, Wayne-Sanderson may not, *inter alia*, “disclose,” “send,” “transfer,” or “provide” to Agri Stats any competitively sensitive information about “Compensation” of workers, which broadly encompasses information about “all forms of payment for work.” WS FJ § II.F, G. Yet Wayne-Sanderson concedes that it continues to provide Agri Stats with “access to its general ledger and payroll systems.” Ex. 5 at 9. To this day, Wayne-Sanderson routinely provides to Agri Stats data that contains earnings information for specific pay groups, broken out both by each of Wayne-Sanderson’s plants and then by department. The data categorizes worker earnings—such as holiday pay, regular pay, or overtime—and identifies both the hours and earnings amount.

The following chart (Figure 1) is an example of the information that Wayne-Sanderson submits to Agri Stats. The first line shows that a Wayne-Sanderson plant, designated 505, paid \$[REDACTED] to workers in the “[REDACTED]” department (which the United States understands to refer to the “deboning” department or a portion thereof) for [REDACTED] hours worked. It also shows that these earnings were for “holiday” hours. The second row shows that the same plant paid workers \$[REDACTED] in “regular” pay for [REDACTED] hours worked. Dividing “Earnings” by “Hours” would yield dollars-per-hour rates.

Figure 1¹⁰



As another example, Figure 2 below shows the column headings and a brief excerpt from another file Wayne-Sanderson sent to Agri Stats. It displays some of the “Direct Labor” costs Wayne-Sanderson provides to Agri Stats for a specific general ledger account (122-021) for the Albertville plant.

Figure 2¹¹



The “[REDACTED]” descriptions above include subcategories for [REDACTED]

[REDACTED]

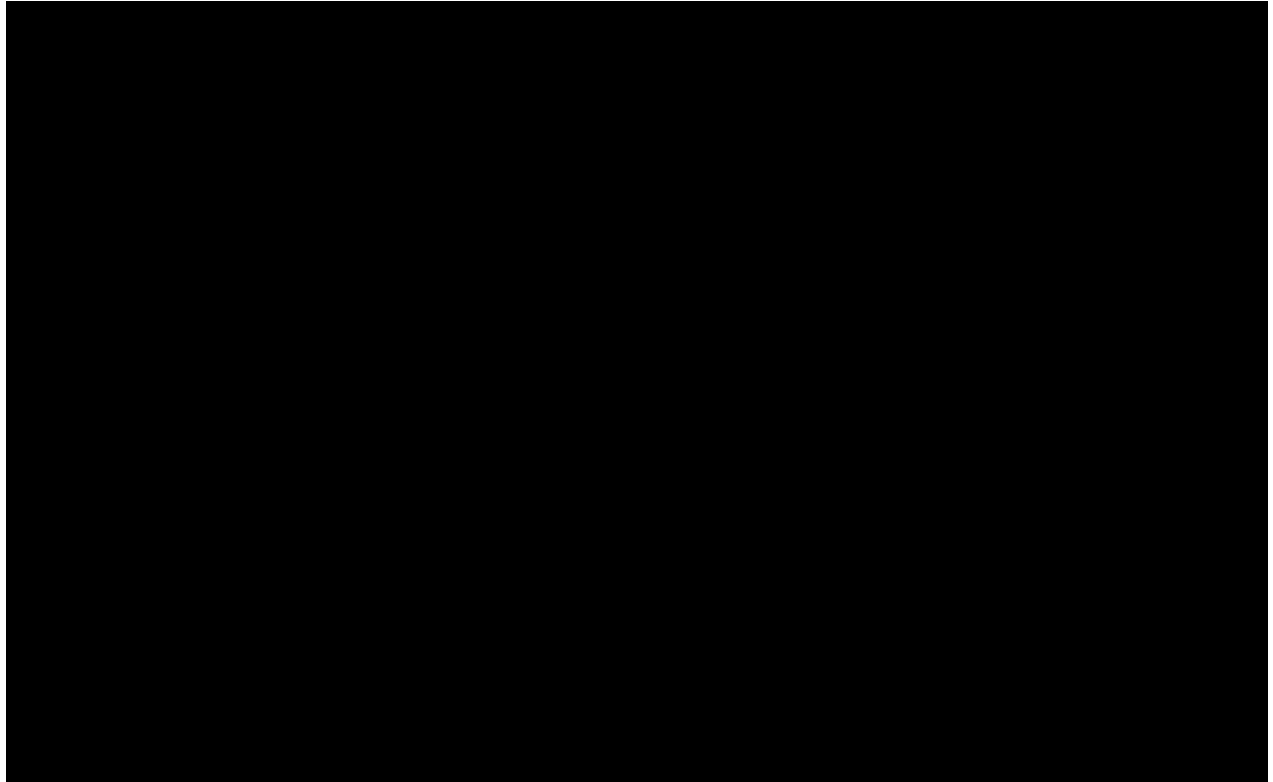
¹⁰ Figure 1 depicts a portion of an Excel spreadsheet with the filename 24.6.27.13548.WSF.CSV that was produced by Wayne-Sanderson at the request of the monitors.

¹¹ Figure 2 depicts a portion of an Excel spreadsheet with the filename 24.6.27.13541.WSF.CSV that was produced by Wayne-Sanderson at the request of the monitors.

██████████. The examples of data in Figures 1 and 2 are “Compensation” information under the plain language of the Final Judgment, which includes “salaried pay, hourly pay, regular or ad hoc bonuses, over-time pay, and benefits, including healthcare coverage, [and] vacation[.]” WS FJ § II.G. They are also “Competitively Sensitive Information” because they are “relevant to . . . cost (including Compensation)” and reflect Wayne-Sanderson’s internal, nonpublic wages. WS FJ § II.H.

A review of the reports that Agri Stats provides to Wayne-Sanderson also demonstrates the kind of detailed compensation data Wayne-Sanderson sends to Agri Stats. For instance, Figure 3 below is an excerpt from one Agri Stats report to Wayne-Sanderson that shows “hours” and “labor dollars” for dozens of different jobs at Wayne-Sanderson processing plants, from “██████████” to “██████████” to “██████████.” Ex. 2 at 29.

Figure 3¹²



Even if Wayne-Sanderson does not provide Agri Stats with specific wage rates for any individual employee, it provides sufficiently granular information about payments made to workers that Agri Stats can calculate “labor costs” for specific positions at the company. Such data, supplied by Wayne-Sanderson, violates the Final Judgment. It is Competitively Sensitive Information under the Final Judgment because “cost (including Compensation)” —i.e., the cost of labor—is one example of “information that is relevant to . . . at least one dimension of competition” between processors. WS FJ § II.H. The Final Judgment prohibits Wayne-Sanderson from communicating this type of information with a “Consulting Firm,” such as Agri Stats.

¹² Figure 3 is an excerpt from page 29 of an August 2024 Agri Stats Processing Analysis prepared for Wayne-Sanderson and dated Sept. 30, 2024 from a file titled 24.6.27.18413.WSF.

Wayne-Sanderson asserts that “[t]he information that Wayne-Sanderson provides is not Compensation data as defined by Section II.G.” Ex. 5 at 9. But Wayne Sanderson continues to provide Compensation information to Agri Stats by sharing its “labor cost data,” Ex. 5 at 9, which, as shown in Figures 1 through 3 above, includes information about various “forms of payment for work,” including salary, bonuses, and paid time off, as well as the hours worked. WS FJ § II.G.

Whether Wayne-Sanderson’s sending of compensation data violates the Final Judgment does not depend upon any assurances that Agri Stats might offer about how Agri Stats uses the data once it is received. The Final Judgment prohibits “Communicat[ing]” such information to consultants in the first place. WS FJ § IV.A.4. The Final Judgment imposes a bright-line prohibition against sending compensation data to consultants for good reason—as the Monitors point out, they cannot police a third party’s use of information it receives from Wayne-Sanderson.¹³ *See* Ex. 1 at 19.

B. Receiving Compensation Data from Agri Stats Violates the Final Judgment

In addition to “provid[ing]” compensation data to consultants such as Agri Stats, Wayne-Sanderson is also violating the Final Judgment by continuing to “receive” reports from consultants that contain data about competitors’ “labor costs.” WS FJ §§ II.F & IV.A. This receipt of compensation data also violates the Final Judgment’s prohibition on receiving, using, encouraging, or facilitating the communication of compensation information. *See, e.g.*, WS FJ §§ IV.A.2, 5 & 6.

¹³ This is particularly true considering Agri Stats does not limit its services to sending reports; it provides consulting services to processors.

Agri Stats' data manual describes its "labor cost[s]" reporting as "[REDACTED]"

[REDACTED] Ex. 3 at 109. This information, which is sent to Wayne-Sanderson in Agri Stats reports, *see, e.g.*, Ex. 2, falls squarely within the definition of "Compensation" paid to poultry processing workers because "Compensation" broadly covers "all forms of payment for work," including, among other things, "benefits," "vacation or personal leave," "sick leave" and "over-time pay." WS FJ § II.G.

For example, Figure 4 below provides an excerpt from one portion of an Agri Stats First Processing Report, which identifies where a specific Wayne-Sanderson plant's "[REDACTED]" ranks among competing plants on a monthly basis over the prior year.

Figure 4¹⁴



The highlighted rows reflect hourly workers' compensation rates at Wayne-Sanderson's Moultrie facility. The lower row, "[REDACTED]," shows how the Moultrie facility compares in dollars/hour to the average of the facilities Agri Stats reports on over time. *See* Ex. 3 at 22. The upper row shows how the Moultrie facility is ranked against the other [REDACTED] facilities Agri Stats reports on (including competitor plants).

¹⁴ Figure 4 is an excerpt from page 213 of a November 2024 Agri Stats Processing Analysis prepared for Wayne-Sanderson and dated January 7, 2025 from a file titled 10.25.24.22756.WSF.

Wayne-Sanderson argues that statistics such as these, including those labeled “Total Hourly Wage Rate” or others labeled “Processing Wage Rates – Hourly Personnel” are “misnomer[s]” because they represent “labor cost” information as opposed to “wage rate” information. Ex. 5 at 9. The Final Judgment’s definition of “Compensation” is not so limited. The Final Judgment broadly prohibits the sharing of information about “all forms of payment for work,” WS FJ § II.G, and information about processors’ “labor costs” is information about what those processors’ “pay[] for work.” Moreover, the compensation information Wayne-Sanderson receives is traceable to narrow groups of workers, such as “[REDACTED]” or “[REDACTED].” *E.g.*, Ex. 2, at 577-81 ([REDACTED]), 594-97 ([REDACTED]). Indeed, Agri Stats itself defines “labor costs” as a metric intended to assess wages paid to specific groups of workers. *See, e.g.*, Ex. 3 at 121 ([REDACTED] [REDACTED]), 123 (same for “[REDACTED]”), 125 (same for “[REDACTED]”).

Wayne-Sanderson also receives from Agri Stats other reports that disclose the Compensation information of Wayne-Sanderson’s competitors. For example, in its set of “Processing Analysis” reports, Agri Stats compares the “[REDACTED]” and “[REDACTED]” of over 100 poultry processing plants, including Wayne-Sanderson’s. The report ranks those plants, and it provides averages for the “top 50%,” “top 25%,” and “top 5” companies who participated, with “top” referring to the companies who pay their workers the *least*. *See, e.g.*, Ex. 2 at 242. The reports also disclose, among other things:

- The numerical ranking of Wayne-Sanderson’s “[REDACTED]” [REDACTED] [REDACTED] [REDACTED]

- The 50% hourly wage paid to sanitation, maintenance, and sewage treatment workers.
- The top 25% hourly wage for each of these types of workers, with “top 25” referring to the 25% of companies who paid the *least* in wages for sanitation, maintenance, or sewage treatment workers.
- The average hourly wage for certain workers at the “top 5” companies, referring to the five companies who paid the *least* for that labor.¹⁵

Exhibit 2 contains other, non-exhaustive examples of Compensation information contained in the Agri Stats reports received by Wayne-Sanderson.

Although Wayne-Sanderson has argued that no changes to the reports it received from Agri Stats were necessary to comply with the Final Judgment, it nonetheless asked Agri Stats to make minor changes to the reports it receives—namely, to remove a limited set of specific statistics about wage rates. Ex. 5 at 9. These changes do not address at all Wayne-Sanderson’s violations arising from its “send[ing]” of data to Agri Stats, but neither do they address the United States’ concerns that Wayne-Sanderson has been “receiv[ing]” compensation information through Agri Stats in violation of the Final Judgment. While some of the compensation information has been redacted from these reports at Wayne-Sanderson’s request, many of these limited redactions are easily circumvented with simple arithmetic.

For example, as discussed above, Wayne-Sanderson continues to subscribe to Agri Stats’ set of “Processing Analysis” reports. These reports provide an estimated hourly “[REDACTED]” for specific departments of Wayne-Sanderson and its competitors. *E.g.*, Ex. 2 at 577-81 ([REDACTED]), 582-83 ([REDACTED]), 584-88 ([REDACTED]), 594-97 ([REDACTED]). As Agri Stats’ data manual explains, the “[REDACTED]”

¹⁵ Ex. 2 at 538 lines 238, 240-242.

statistic in the “ [REDACTED] ” labor segment of these reports provides “ [REDACTED] ”

the “[REDACTED]” information itself is now redacted from the report at Wayne-Sanderson’s request, Wayne-Sanderson can still calculate it from other columns of data, namely by multiplying per-unit labor cost by units of output per manhour. *See, e.g.*, Ex. 2 at 577.

Figure 5 below shows an example from a recent Processing Analysis in which the hourly wage rates in column (c.1) (“\$/HR”) are redacted. Each line represents a processing plant; Wayne-Sanderson plants are underlined to distinguish them from competitor plants.

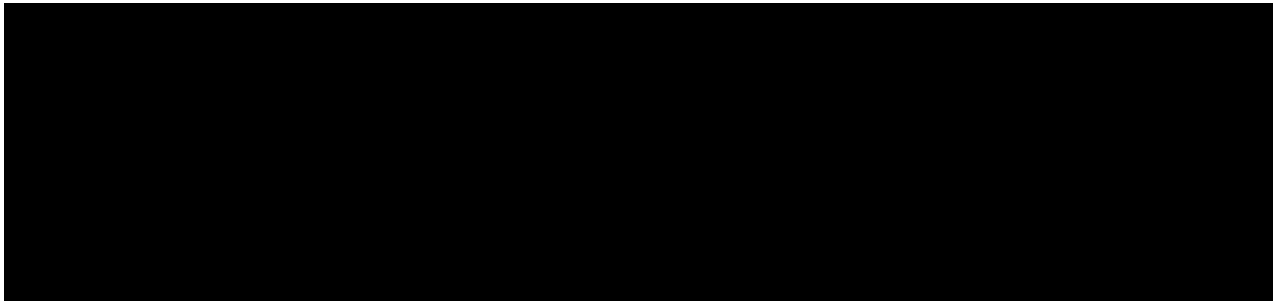
Figure 5¹⁶

Although the data in (c.1) is redacted, it can be calculated within a rounding error by converting the [REDACTED] into dollars and multiplying that by the [REDACTED]

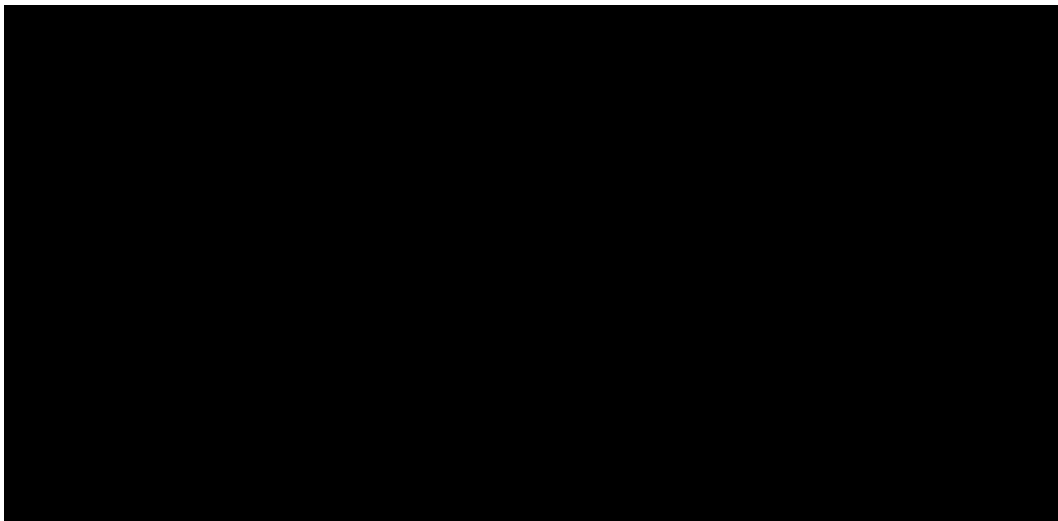
[REDACTED] The relationship between this calculation and the hourly wage rates can be seen by reviewing an older, unredacted report, as in Figure 6.

¹⁶ Figure 5 is an excerpt from page 577 of a November 2024 Agri Stats Processing Analysis prepared for Wayne Sanderson and dated January 7, 2025 from a file titled 10.25.24.22756.WSF.

Figure 6¹⁷



As demonstrated in the chart below, multiplying the [REDACTED] converted from cents into dollars) by the [REDACTED] yields a figure within a few pennies of the hourly wage rate provided in column (c.1).



One could do the same calculation to determine the redacted information in Figure 5.

Because the Final Judgment prohibits Wayne-Sanderson from receiving *any* competitively sensitive information about “Compensation” from third-party consultants, Wayne-Sanderson’s ongoing receipt of such information in Agri Stats reports violates the Final Judgment.

¹⁷ Figure 6 is an excerpt from page 382 of a June 2022 Agri Stats Processing Analysis prepared for Wayne-Sanderson and dated July 28, 2022 from a file titled 24.6.27.13743.WSF.

II. To Remediate Wayne-Sanderson’s Ongoing and Knowing Decree Violations, the Court Should Order It to Pause Its Data Sharing with Agri Stats and Extend the Decree.

Wayne-Sanderson’s knowing and persistent violations of the Final Judgment require enforcement “to accomplish [the Final Judgment’s] intended result,” *W. Elec. Co.*, 46 F.3d at 1202; *see also Am. Rivers v. United States Army Corps of Eng’rs*, 274 F. Supp. 2d 62, 70 (D.D.C. 2003) (“If the rule of law is to be upheld, it is essential that the judiciary takes firm action to vindicate its authority and to compel compliance with lawfully issued directives.”).

The United States therefore seeks an order temporarily prohibiting Wayne-Sanderson from sending any data to Agri Stats, and receiving any data from Agri Stats, until the Monitors and the United States, or this Court, can ensure that Wayne-Sanderson’s sharing of data with Agri Stats (including the “general ledger” and “payroll” data Wayne-Sanderson sends Agri Stats, and the “labor cost” data Wayne-Sanderson receives in Agri Stats reports) complies with the Final Judgment.¹⁸

Assessing Wayne-Sanderson’s complex and extensive exchanges of information with Agri Stats is precisely the kind of task the Court-appointed Monitors are well-suited to accomplish. Allowing the violations to continue indefinitely during that process is not fair to poultry plant workers at Wayne-Sanderson and other processors and is inconsistent with “restor[ing] the competition the . . . harmed by the challenged conduct.” WS FJ § XIII.B. Given Wayne-Sanderson’s implausible interpretations of the decree as to what constitutes compensation information, this Court’s intervention is needed.

¹⁸ Doing so will require significant work by the Monitors because the data passed back and forth between Agri Stats and Wayne-Sanderson is voluminous, and Compensation data is often comingled among the “payroll” and “general ledger” systems that Wayne-Sanderson provides to Agri Stats. In addition, the record here shows that it is often possible to calculate that the same prohibited data using other data points in the same reports. For example, Wayne-Sanderson’s request that Agri Stats redact “[REDACTED]” data is readily circumventable.

An extension of the term of the Final Judgment equivalent to the length of time Wayne-Sanderson has failed to be in compliance is also appropriate. *See Holland v. N.J. Dep't of Corr.*, 246 F.3d 267, 284 (3d Cir. 2001) (“Courts have extended a decree or parts of a decree when . . . one party was in substantial non-compliance with the decree.”). Wayne-Sanderson agreed to a consent decree that included a ten-year term starting on July 25, 2022. ECF 2-2. Wayne-Sanderson has not complied with the Final Judgment for any part of that time period, and thus the Final Judgment should run for 10 years from the date of the Court’s order. An extension of the Final Judgment’s duration is therefore necessary to ensure Wayne-Sanderson is held to its obligation of compliance for the agreed-to period of time. *See, e.g., David C. v. Leavitt*, 242 F.3d 1206, 1211-12 (10th Cir. 2001) (affirming grant of “relief from the four-year Termination Provision by extending the term of the Agreement” “to allow [the defendant] to fulfill the very obligations it voluntarily undertook when it entered into the Agreement”).

CONCLUSION

Wayne-Sanderson has disregarded the obligations it has agreed to in the Final Judgment. Therefore, the United States requests that the Court (a) order Wayne-Sanderson to cease sharing all information with Agri Stats until the Monitors and the United States, or this Court, can ensure compliance with the Final Judgment, (b) extend the term of the Final Judgment, and (c) order any additional relief as may be appropriate.

Dated: January 18, 2025

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Respectfully submitted,

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