



**DRUG AND ALCOHOL
TESTING POLICY**

CANADIAN COUNTY

2013



Effective February 1, 2013

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CANADIAN COUNTY
DRUG AND ALCOHOL TESTING POLICY

To enforce the policy against drugs and alcohol in the workplace and the policy against employees reporting to work under the influence of illegal or abused drugs or alcohol, Canadian County will/may require an individual to undergo a test for drugs and/or alcohol under the following circumstances.

It is the County's intention to comply fully with the Oklahoma Statute on drug and alcohol testing, and the regulations of the U.S. Department of Transportation (49 CFR, Parts 40 and 382). In the event the State laws, State regulations or the DOT regulations are changed, this policy will be amended to reflect those changes and to remain consistent with State laws and regulations and DOT regulations. In such event, the County will notify all employees of these changes.

Paragraphs "1" through "16" below apply to all employees of Canadian County except those covered by federal law or regulation through the Department of Transportation because they drive Commercial Motor Vehicles (CMV) requiring a Commercial Drivers License (CDL).

Drug or alcohol testing of all drivers of Commercial Motor Vehicles (CMV) which require a Commercial Drivers License (CDL) is required by and conducted pursuant to federal law or regulation through the Department of Transportation. This testing is exempt from the provisions of paragraphs "1" through "16" below and is covered by paragraphs "17" through "31" below.

NON-CDL/CMV EMPLOYEES

PARAGRAPHS 1 – 16:

1. Individuals Subject to Drug or Alcohol Testing

All employees, applicants who have received a conditional offer of employment, independent contractors, subcontractors, and/or employees of independent contractors or subcontractors are subject to drug or alcohol testing and the provisions of this Policy.

2. Applicant Testing: Applicants who have received a conditional offer of employment will be required to submit to drug and/or alcohol testing. A positive test or a refusal to undergo testing may result in a refusal to hire.

3. For-Cause Testing: Any time the County reasonably believes an individual is under the influence of drugs or alcohol, the County may require a drug or alcohol test. Circumstances causing the County to require testing of an individual may include, but are not limited to:

- A. Drugs or alcohol on or about the individual's person or an individual's vicinity;
- B. Conduct on the individual's part that suggests impairment or influence of drugs or alcohol;
- C. A report of drug or alcohol use while at work or on duty;
- D. Information that an individual has tampered with drug or alcohol testing at any time;
- E. Negative performance patterns; or
- F. Excessive or unexplained absenteeism or tardiness.

4. Post-Accident Testing: If an employee or another person has sustained any injury while at work, or in cases in which the County's property has been damaged while at work, including damage to equipment, the County may require drug and/or alcohol testing.

5. Random Testing: The County may require the following individuals to undergo drug or alcohol testing at random and may limit its random testing to particular employment classifications or groups:

- A. Are police or peace officers;
- B. Have drug interdiction responsibilities;
- C. Are authorized to carry firearms;

- D. Are engaged in activities which directly affect the safety of others;
 - E. Are working for a public hospital, including any hospital owned or operated by a municipality, county, or public trust; or
 - F. Work in direct contact with inmates in the custody of the Department of Corrections or work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services.
6. Scheduled Periodic Testing: The County may require the following individuals to undergo drug or alcohol testing if the testing is conducted as a part of a routinely scheduled fitness for duty medical examination or is scheduled routinely as part of the County's written policy:
- A. Are police or peace officers;
 - B. Have drug interdiction responsibilities;
 - C. Are authorized to carry firearms;
 - D. Are engaged in activities which directly affect the safety of others;
 - E. Are working for a public hospital, including any hospital owned or operated by a municipality, county, or public trust; or
 - F. Work in direct contact with inmates in the custody of the Department of Corrections or work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services.
7. Post-Rehabilitation Testing: In those instances in which the County offers or requires an employee the opportunity to successfully complete a drug and/or alcohol rehabilitation program in lieu of dismissal or following a positive test that did not result in dismissal, the employee may be required to undergo drug or alcohol testing for a period of up to two years commencing with the employee's return to work.
8. Transfer / Reassignment: If an employee transfers to a new position or job, or if an employee is reassigned to a different position or job.
9. Return From Leave: If an employee returns to duty from a leave of absence.
10. Substances Which May Be Tested

Under this Policy, the County shall test for drugs and alcohol.

11. Testing Methods and Collection Procedures

- A. Samples shall be collected and tested only by individuals deemed qualified by the State Department of Health and may be collected on the premises of the employer;
- B. Only samples deemed appropriate by the State Department of Health for drug and alcohol testing shall be collected;
- C. The collection of samples shall be performed under reasonable and sanitary conditions;
- D. A sample shall be collected in sufficient quantity for splitting into two separate specimens, pursuant to rules of the State Board of Health, to provide for any subsequent independent analysis in the event of challenge of the test results of the main specimen;
- E. Samples shall be collected and tested with due regard to the privacy of the individual being tested. In the instances of urinalysis, no employer or representative, agent or designee of the employer shall directly observe an applicant or employee in the process of producing a urine sample; provided, however, collection shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples;
- F. Sample collection shall be documented, and the documentation procedures shall include:
 - 1. Labeling of samples so as reasonably to preclude the probability of erroneous identification of test results, and
 - 2. An opportunity for the applicant or employee to provide notification of any information which the applicant or employee considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant information;
- G. Sample collection, storage, and transportation to the testing facility shall be performed so as reasonably to preclude the probability of sample contamination or adulteration;
- H. Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing shall include confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by Board rule, at the cutoff levels as determined by Board rule, before the result of any test may be used as a basis for refusal to hire a job applicant or any action by an employer pursuant to 40 O.S. § 562 of this act;

- I. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required; and
- J. The County will use testing services and facilities which have been licensed by the State Department of Health to test for the presence of or abuse of drugs or alcohol.

12. Records

Records of all drug and alcohol test results and related information are the property of the County. However, upon written request, those test results and related information will be made available for inspection and copying to the individual tested. The drug and alcohol test results and related information will be treated as confidential and will be maintained separate from other personnel records. Testing records may be provided to County employees, agents or representatives who need access to such records in the administration of the Standards for Workplace Drug and Alcohol Testing Act.

The County may share drug and alcohol test results and related information regarding employees of independent contractor or subcontractors with the respective independent contractor or subcontractor, as provided by the County's contractual agreement.

The employee grants permission to the County to release testing records and/or results for purposes of unemployment, Workers' Compensation and other employment-related legal actions. Additionally, testing records are admissible as evidence in a case or proceeding before a court of record or administrative agency if either the County or the individual tested are named parties in the case or proceeding. Further, testing records shall be released in order to comply with a valid judicial or administrative order.

The testing facility, or any agent, representative or designee of the facility, or any review officer, will not disclose to the County, based on the analysis of a sample collected from an individual under this Policy, any information relating to the general health, pregnancy or other physical or mental condition of the individual. The testing facility will release the results of the drug or alcohol test, and any analysis and information related thereto, to the individual testing upon request.

13. Consequences for Violating the Testing Policy

- A. Refusal to be Tested: Any individual who refuses to submit to the County's request for drug and/or alcohol testing, or refuses to complete the required forms will be subject to termination from employment, or will not be eligible for employment, as the case may be. Interfering with and/or failing to cooperate with the testing process will be treated as refusal to be tested.
- B. Adulteration, Tampering or Manipulation of Samples: The actual or attempted tampering, adulteration and/or manipulation of drug and alcohol testing samples is prohibited. Any individual who attempts to alter, tamper or manipulate any

testing samples will be subject to termination from employment, or will not be eligible for employment, as the case may be.

C. Personnel Action Which May Be Taken as a Result of Policy Violation or a Positive Test Result:

1. Any individual who violates this Policy regarding actual or intent to possession, consumption, use, transfer, solicitation or sale of illegal drugs, illegal possession or inappropriate or moderate use of alcohol or the abuse of prescription or over-the-counter drugs will be subject to disciplinary action, including but not limited to termination.
2. Any employee who tests positive will be subject to discipline up to and including termination. However, the County may, in its sole discretion, suspend disciplinary action or impose discipline less than termination, on the condition that the employee successfully completes a program of rehabilitation or treatment satisfactory to the employer. An employee who refuses such an opportunity or who has been afforded this opportunity, but who does not successfully complete their rehabilitation or treatment of the program will be subject to termination from employment.

14. Confidential Explanation by Individual

Any individual who receives a positive drug test result or has otherwise violated this Policy will be given an opportunity to offer an explanation, in confidence, to a representative of the County.

15. Appeal Procedures

Within 24 hours of receiving notice of a positive test, an individual may request a subsequent confirmation test of a sample. The individual shall pay all costs of the subsequent confirmation test, unless the subsequent confirmation test reverses the findings of the challenged positive test. In those cases where the confirmed test reverses the initial findings, the County will reimburse the individual for the cost of the subsequent confirmation test.

An individual who is aggrieved by an alleged violation of the Oklahoma Standards for Workplace Drug and Alcohol Testing Act may file a civil action within one year of the alleged willful violation.

16. Changes to this Policy

Any part of this Policy can be changed by the County with ten (10) days written notice.

CDL/CMV EMPLOYEES

PARAGRAPHS 17-31:

17. Employees Subject to Testing

All drivers who drive Commercial Motor Vehicles (CMV) which require a Commercial Drivers License (CDL) are subject to controlled substance and alcohol testing. This policy follows Department of Transportation and Federal Motor Carrier Safety Administration regulations found in 49 CFR Parts 40 and 382 (attached). If there are any conflicts or omissions between this policy and the federal regulations, the federal regulations shall control.

- A. Testing of Applicants or Transfers: All applicants for employment with Canadian County and all current employees who are requesting transfer to a position covered by this paragraph "17" shall be subject to this policy. This includes applicants for, or requests for transfer to, full-time or part-time employment and applicants for regular or temporary employment.
- B. All employees covered by this paragraph "17" shall be subject under this policy to the following listed testing. This includes full-time or part-time employees and regular or temporary employees.
 - i. Post-Accident Testing
 - ii. Random Testing
 - iii. Reasonable Suspicion Testing
 - iv. Return-To-Duty Testing
 - v. Scheduled, Periodic Testing
 - vi. Follow-Up Testing

18. Testing of Applicants or Transfers

Prior to the first time that a driver performs safety-sensitive functions for the County, the driver shall undergo testing for alcohol and controlled substances. This testing shall be in accordance with 49 CFR §382.301. The employee shall not be allowed to perform any safety-sensitive functions unless the County has received:

- A. A controlled substances test result indicating a verified negative test result for that driver;
- B. An alcohol test result indicating an alcohol concentration of less than 0.04; and
- C. An authorization and release signed by the employee for each employer during the previous three years authorizing the County to obtain the information required by 49 CFR §391.23.

Under very limited circumstances, a driver may be exempted from this requirement if the driver meets the requirements of 49 CFR § 382.301(b).

19. Post-Accident Testing

As soon as practical following an occurrence involving a CMV operating on a public

road, the driver shall be tested for alcohol and controlled substances if any of the following circumstances apply:

- A. The occurrence involved the loss of human life;
- B. The driver employed by the County receives a citation under State or local law for a moving traffic violation arising from the occurrence and either:
 - 1. the occurrence involved bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the occurrence; or
 - 2. one or more motor vehicles incurred disabling damage as a result of the occurrence, requiring the motor vehicle to be transported away from the scene by tow truck or other motor vehicle.

This testing shall be in accordance with 49 CFR §382.303.

20. Random Testing

The County shall randomly select a sufficient number of drivers for testing each calendar year to equal an annual rate not less than the minimum annual percentage rate for random alcohol and controlled substances testing determined by the Administrator of the Federal Motor Carrier Safety Administration. Each driver selected for random testing shall have an equal chance of being tested each time selections are made. This means that some drivers may be tested more than once during a year while others drivers are not tested. This testing shall be in accordance with 49 CFR §382.305.

21. Reasonable Suspicion Testing

If Canadian County has reasonable suspicion that a driver has violated DOT Regulations in regards to alcohol or controlled substances, the County shall require a driver to submit to an alcohol and/or controlled substance test. In the case of alcohol, the testing will occur only if the reasonable suspicion arises during, just preceding, or just after the period of the work day that the driver is required to be in compliance with DOT Regulations. This testing shall be in accordance with 49 CFR §382.307.

22. Return-To-Duty Testing

If a driver has violated DOT Regulations in regards to alcohol and controlled substances, the County has the sole discretion as to whether to return the driver to a safety sensitive function. However, if the appropriate authority determines that the driver has successfully completed a prescribed education and/or treatment program, and if the County decides to return the driver to a safety sensitive function, the driver shall be required to submit to an alcohol and/or controlled substance test. The driver must have a negative controlled substance test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming safety sensitive functions. This testing shall be in accordance with 49 CFR §382.309 and 40 CFR §§40.305, 40.307 and 40.311.

23. Scheduled Periodic Testing

Canadian County may request or require a driver to undergo drug or alcohol testing when scheduled routinely for all drivers subject to scheduled, periodic tests. A refusal to take the test or a confirmed positive test may result in discipline up to and including termination of employment. This testing shall be in accordance with 49 CFR §382.111.

24. Follow-up Testing

If Canadian County decides to return a driver to safety-sensitive functions under paragraph “22” above, the driver will be subject to follow-up testing. Such testing shall be in accordance with the plan established by a Substance Abuse Professional, but shall not be less than six unannounced follow-up tests in the first 12 months of safety sensitive duty following the driver’s return to safety sensitive functions. Such testing shall be in accordance with 49 CFR §382.311 and 40 CFR Subpart O, §§40.281-313.

25. Definitions

For the purposes of this policy, the definitions found in 49 CFR §382.107 shall apply and are incorporated herein. The following definitions are repeated for convenience only:

- a. ALCOHOL. Means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.
- b. ALCOHOL CONCENTRATION (or CONTENT). Means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.
- c. ALCOHOL USE. Means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication) containing alcohol.
- d. CONFIRMATION (or CONFIRMATORY) DRUG TEST. Means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.
- e. CONTROLLED SUBSTANCES. Means only the following five drugs or classes of drugs:
 - i. marijuana metabolites;
 - ii. cocaine metabolites;
 - iii. amphetamines;
 - iv. opiate metabolites;
 - v. phencyclidine (PCP).
- f. DISABLING DAMAGE. Means damage which precludes departure of a motor vehicle from the scene of an occurrence in its usual manner in daylight after simple repairs.
 - i. Includes damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
 - ii. Excludes:
 - (1) damage which can be remedied temporarily at the scene of the

- occurrence without special tools or parts;
 - (2) tire disablement without other damage even if no spare tire is available;
 - (3) headlight or taillight damage;
 - (4) damage to turn signals, horn, or windshield wipers which makes them inoperative.
 - g. PERFORMING (a Safety Sensitive Function). Means a driver is considered to be performing a safety sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety sensitive function.
 - h. REFUSE TO SUBMIT (to an alcohol or controlled substance test). Means that a driver:
 - i. fails to appear for any test (except a pre-employment test) within a reasonable time after being directed to do so;
 - ii. fails to remain at the testing site until the testing process is complete;
 - iii. fails to provide a urine specimen for any required drug test;
 - iv. in the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;
 - v. fails to provide a sufficient amount of urine when directed, and it has been determined through a required medical evaluation, that there was no adequate medical explanation for the failure;
 - vi. fails or declines to take a second test the driver has been directed to take;
 - vii. fails to undergo a medical examination or evaluation, as directed by a Medical Review Officer or by the Designated Employer Representative;
 - viii. fails to cooperate with any part of the testing process (e.g. refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or
 - ix. is reported by the Medical Review Officer as having a verified adulterated or substituted test result.
 - i. SAFETY SENSITIVE FUNCTION. Shall include:
 - i. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
 - ii. All time inspecting equipment as required by 49 CFR, Subchapter B, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
 - iii. All time spent at the driving controls of a commercial motor vehicle in operation;
 - iv. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (as defined in 49 CFR, Subchapter B);
 - v. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving

- receipts for shipments loaded or unloaded; and
 - vi. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
 - j. STAND DOWN. Means the practice of temporarily removing an employee from the performance of safety sensitive functions based only on a report of a laboratory to the Medical Review Officer of a confirmed positive drug test or drug metabolite, an adulterated test, or a substituted test, before the Medical Review Officer has completed verification of the test results.
 - k. PROHIBITED CONDUCT. Means that no driver shall:
 - i. report for duty or remain on duty requiring the performance of safety sensitive functions with an alcohol concentration of 0.04 or greater;
 - ii. use alcohol while performing safety sensitive functions;
 - iii. perform a safety sensitive function within 4 hours after using alcohol;
 - iv. if required to take a post-accident alcohol test (under paragraph “P” above), use alcohol for 8 hours following the occurrence , or until he/she undergoes a post-accident alcohol test, whichever occurs first;
 - v. refuse to submit to any required alcohol or controlled substances test;
 - vi. report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 40 CFR, Subchapter B, who has advised the driver that the substance will not adversely affect the driver’s ability to safely operate a CMV. (Any driver using any therapeutic drug pursuant to the instructions of a licensed medical practitioner must inform his/her supervisor of such use prior to performing any safety sensitive functions.);
 - vii. report for duty, remain on duty, or perform any safety sensitive function if the driver has tested positive or has adulterated or substituted a test specimen for controlled substances.

26. Test Procedures

All regulations and procedures used to test for controlled substances and alcohol in order to protect the integrity of the testing process, safeguard the test validity, and insure results are attributed to the correct driver are found in 49 CFR §§40 and 382. They are incorporated into this policy by reference herein and copies are attached hereto.

27. Consequences of Violations of this Policy

Drivers who violate this policy or who commit any of the prohibited conduct in paragraph “25(k)” above will experience the following consequences in accordance with Federal Regulations:

- a. Immediate removal from any and all safety sensitive functions;
- b. Will not be able to again perform safety sensitive functions for any employer until he/she has completed the evaluation, referral and education/training set forth in 49 CFR, Part 40, Subpart O;

- c. In addition, will not be able to again perform safety sensitive functions for any employer until he/she has successfully completed a Return-To-Duty Test as described in paragraph “20” above;
- d. Shall be subject to civil and/or criminal penalties as recommended by the Secretary of Transportation under the provisions of 49 U.S.C. §521(b).

Also, any driver tested for alcohol under the provisions of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall immediately be removed from any safety sensitive functions and shall not be allowed to resume safety sensitive functions until the start of the driver’s next regularly scheduled duty period, or 24 hours from the administration of the test, whichever is longer.

28. Disciplinary Action

In addition to the consequences in paragraph “27” above, and under authority separate from the Federal Regulations, drivers who violate this policy or who commit any of the prohibited conduct in paragraph “25(k)” above;

- a. Will immediately be placed on unpaid, disciplinary suspension for any period when they are not eligible to perform safety sensitive functions. Such disciplinary action will not be imposed based solely on a laboratory report of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, until the Medical Review Officer has verified the test results; and
- b. If the violation is based upon a positive test result, and if the positive test result is confirmed by a second test and the results are verified by the Medical Review Officer, will be subject to discipline up to and including discharge.
- c. If the violation is based on some action other than a positive test result (e.g. refusing to submit to a test, using alcohol within 4 hours prior to performing safety sensitive functions), will be subject to discipline up to and including discharge.

29. Effects of Alcohol and Controlled Substance Use

Attached is information concerning:

- a. the effects of alcohol and controlled substance use on an individual’s health, work, and personal life;
- b. symptoms of an alcohol or a controlled substance problem (either the driver or a co-worker); and
- c. available methods of intervening when an alcohol or a controlled substance problem is suspected, including confrontation, and/or referral to management.

30. Treatment Program For Return To Duties

For an employee who drives a CMV requiring a CDL, the employee will be permitted to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert. Also,

prior to the employee returning to safety sensitive duties, the employee shall undergo:

- a. a return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02; and/or
- b. a return to duty controlled substance test with a verified negative test result for controlled substances use.

All employees undergoing an educational or treatment program will be subject to follow-up testing in accordance with Paragraph "24" above.

31. Appeals

As in all cases of job-related problems, concerns or questions regarding the County's drug and alcohol policy should be referred initially to the employee's supervisor and, if necessary, to the elected official. Within Canadian County, the Designated Employer Representative has been designated to answer questions about this policy or any of the attached materials.

ACKNOWLEDGMENT OF RECEIPT OF
CANADIAN COUNTY'S DRUG AND ALCOHOL TESTING POLICY
(Not for use with applicants and employees covered by DOT Regulations.)

This is to certify that I have received a copy of the 2013 Canadian County Drug and Alcohol Testing Policy and understand that paragraphs 1 through 16 apply to me.

I understand the contents of the Policy and the reasons behind the Policy. I agree to adhere to the terms of the Policy as a condition of my employment with Canadian County or as a condition of my continued employment with Canadian County.

Witness

Employee/Applicant

Date Signed: _____

ACKNOWLEDGMENT OF RECEIPT OF
CANADIAN COUNTY'S DRUG AND ALCOHOL TESTING POLICY
(Only for use with applicants and employees covered by DOT Regulations.)

This is to certify that I have received a copy of:

1. The 2013 Canadian County Drug and Alcohol Testing Policy; and
2. The Federal Motor Carrier Safety Regulations Pocketbook, which contains the complete text of 49 CFR Parts 40, 382, 383, 387, 390-397, and 399.
3. A Driver Handbook entitled *Drug & Alcohol Testing: Training and Awareness* which contains significant information about:
 - a. 49 CFR Part 40;
 - b. 49 CFR Part 382; and
 - c. material on the effects of alcohol and controlled substance use.

I understand that paragraphs 17 through 31 of the Canadian County Drug and Alcohol Testing Policy apply to me.

I understand the contents of the Policy and the reasons behind the Policy. I agree to adhere to the terms of the Policy as a condition of my employment with Canadian County or as a condition of my continued employment with Canadian County.

Witness

Employee/Applicant

Date Signed: _____

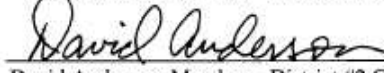
CANADIAN COUNTY
DRUG AND ALCOHOL TESTING POLICY

Adopted this 17th Day of Dec., 2012.

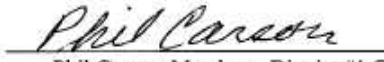
BOARD OF COUNTY COMMISSIONERS OF CANADIAN COUNTY



Jack Stewart, Chairman – District #3 Commissioner



David Anderson, Member – District #2 Commissioner



Phil Carson, Member – District #1 Commissioner

ATTEST: 
Shelley Dickerson, County Clerk

