IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. W.A. DREW EDMONDSON, in his capacity as ATTORNEY GENERAL OF THE STATE OF OKLAHOMA and OKLAHOMA SECRETARY OF THE ENVIRONMENT C. MILES TOLBERT, in his capacity as the TRUSTEE FOR NATURAL RESOURCES FOR THE STATE OF OKLAHOMA, Plaintiffs, v. TYSON FOODS, INC.; TYSON POULTRY, INC.; TYSON CHICKEN, INC.; COBB-VANTRESS, INC.; AVIAGEN, INC.; CAL-MAINE FOODS, INC.; CAL-MAINE FARMS, INC.; CTP, INC.; CTP TURKEY PRODUCTION, LLC; GEORGE'S, INC.; GEORGE'S FARMS, INC.; PETERSON FARMS, INC.; SIMMONS FOODS, INC.; and WILLOW BROOK FOODS, INC., Defendants.	Case No. 05-CV-0329 JOE-SAJ

ANSWER OF CARGILL TURKEY PRODUCTION LLC TO PLAINTIFFS' FIRST AMENDED COMPLAINT

Defendant Cargill Turkey Product, LLC ("CTP") responds to the Plaintiffs' First Amended Complaint ("First Amended Complaint" or "Complaint"), filed on August 22, 2005, as follows:

CTP denies that this case is a "related case" to City of Tulsa v. Tyson Foods, 01-CV-0900-EA(C).

CTP denies generally and specifically each and every allegation, statement and assertion contained and set forth in the First Amended Complaint, except for those allegations, statements and assertions specifically admitted herein.

CTP objects to the term "Poultry Integrator Defendants" and denies any express or implied allegations made by use of this term throughout the First Amended Complaint.

CTP objects to the use of the term "poultry waste" and denies any express or implied allegations made by the use of this term throughout the First Amended Complaint.

CTP objects to the use of the term "poultry growing operations" and denies any express or implied allegations made by the use of this term throughout the First Amended Complaint.

CTP objects to the First Amended Complaint on the grounds that no relevant time period is provided. CTP answers, therefore, based on the current time period. To the extent the First Amended Complaint is construed to encompass a different time period, CTP specifically denies any liability for such time period.

For reference purposes only, CTP will refer to the section headings and description of Plaintiffs' counts and claims. In doing so, CTP does not admit that these section headings are accurate descriptions of the claims made therein and denies any express or implied allegations contained in the section headings and description of Plaintiffs' counts and claims.

CTP specifically denies that any provisions of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601 et seq., the Solid Waste Disposal Act ("SWDA") 42 U.S.C. §6972, 27A Okla. Stat. §§2-6-105, 2-18.1, and 10-9.7 and Oklahoma Administrative Code §§ 35-17-5-5, 35:17-3-14, are applicable to this action. CTP specifically denies that Plaintiffs may maintain any cause of action under CERCLA, the SWDA, 27A Okla. Stat. §§2-6-105, 2-18.1, and 10-9.7, Oklahoma Administrative Code §§ 35-17-5-5, 35:17-3-14, state law nuisance, federal common law nuisance, trespass and unjust enrichment/restitution/disgorgement. CTP specifically denies that Plaintiffs are entitled to any relief requested.

Subject to the foregoing, CTP answers only on its own behalf and makes no responses on behalf of any other Defendant in this action.

"I. NATURE OF THE CASE"

1. CTP admits that it owns turkeys that are raised on farms located within the Illinois River Watershed ("IRW") for food products and/or breeding, and denies the remaining allegations of fact contained in the first sentence of paragraph 1 of the First Amended Complaint. CTP further denies the allegations of fact contained in the second, third, and fourth sentences of paragraph 1 as to CTP. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations in paragraph 1 as they relate to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in the first four sentences of paragraph 1 that call for a legal conclusion, and CTP therefore denies same. The last sentence in paragraph 1 contains allegations that are not averments of fact that require admission or denial, and CTP therefore denies same.

"II. JURISDICTION & VENUE"

2. The allegations contained in the first two sentences of paragraph 2 are not averments of fact that require admission or denial, and CTP therefore denies same. The remaining allegations contained in the last two sentences of paragraph 2 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same.

3. CTP admits that the IRW is situated, in part, in the Northern District of Oklahoma. CTP denies the remaining allegations of fact contained in paragraph 3 as to CTP. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations in paragraph 3 as they relate to the other Defendants, and therefore denies same. An admission or

denial is not required for allegations contained in paragraph 3 that call for a legal conclusion, and CTP therefore denies same.

4. CTP denies the allegations of fact contained in paragraph 4 as to CTP. CTP is without knowledge or information sufficient to form a belief regarding the truth of these allegations as they relate to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 4 that call for a legal conclusion, and CTP therefore denies same.

"III. THE PARTIES"

"A. Plaintiff"

5. CTP admits that the State of Oklahoma is a state of the United States. CTP denies the remaining allegations of fact contained in paragraph 5. An admission or denial is not required for allegations contained in paragraph 5 that call for a legal conclusion, and CTP therefore denies same.

"B. Defendants"

6. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 6, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 6 that call for a legal conclusion, and CTP therefore denies same.

7. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 7, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 7 that call for a legal conclusion, and CTP therefore denies same.

8. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 8, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 8 that call for a legal conclusion, and CTP therefore denies same.

9. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 9, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 9 that call for a legal conclusion, and CTP therefore denies same.

10. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 10, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 10 that call for a legal conclusion, and CTP therefore denies same.

11. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 11, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 11 that call for a legal conclusion, and CTP therefore denies same.

12. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 12, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 12 that call for a legal conclusion, and CTP therefore denies same.

13. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 13, and therefore denies same. An admission

or denial is not required for allegations contained in paragraph 13 that call for a legal conclusion, and CTP therefore denies same.

14. CTP admits that it is a Delaware corporation. CTP further admits that it owns turkeys that are raised on farms located within the IRW for food products and/or breeding and denies the remaining allegations of fact in paragraph 14. An admission or denial is not required for allegations contained in paragraph 14 that call for a legal conclusion, and CTP therefore denies same.

15. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 15, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 15 that call for a legal conclusion, and CTP therefore denies same.

16. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 16, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 16 that call for a legal conclusion, and CTP therefore denies same.

17. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 17, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 17 that call for a legal conclusion, and CTP therefore denies same.

18. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 18, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 18 that call for a legal conclusion, and CTP therefore denies same.

19. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 19, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 19 that call for a legal conclusion, and CTP therefore denies same.

20. The allegations in paragraph 20 are not averments of fact that require admission or denial, and CTP therefore denies same. CTP objects to the term "Poultry Integrator Defendants" and denies all express and implied allegations contained in the designation.

21. The allegations in paragraph 21 are not averments of fact that require admission or denial, and CTP therefore denies same. CTP answers only on its own behalf and makes no responses on behalf of any other Defendant in this action.

"IV. FACTUAL ALLEGATIONS"

"A. The Illinois Watershed"

22. CTP admits that the IRW is located in both Arkansas and Oklahoma. CTP further admits that the IRW is located within portions of Delaware, Adair, Cherokee and Sequoyah counties in Oklahoma. CTP is without knowledge or information sufficient to form a belief regarding the truth of the remaining allegations of fact contained in paragraph 22, and therefore denies same. CTP is without knowledge or information sufficient to form a belief regarding the accuracy of Exhibit 1 and, therefore, denies any allegations relating to Exhibit 1.

23. CTP admits that the Baron (a/k/a Barren) Fork River, the Caney Creek and the Flint Creek are tributaries to the Illinois River. CTP is without knowledge or information sufficient to form a belief regarding the truth of the remaining allegations of fact contained in paragraph 23, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 23 that call for a legal conclusion, and CTP therefore denies same.

24. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 24, and therefore denies same.

25. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 25, and therefore denies same.

26. CTP admits that the Illinois River feeds Tenkiller Ferry Lake. CTP is without knowledge or information sufficient to form a belief regarding the truth of the remaining allegations contained in paragraph 26, and therefore denies same.

27. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 27, and therefore denies same.

28. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 28, and therefore denies same.

29. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 29, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 29 that call for a legal conclusion, and CTP therefore denies same.

30. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 30, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 30 that call for a legal conclusion, and CTP therefore denies same.

31. CTP denies the allegations of fact in paragraph 31. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 31 with respect to the other Defendants, and therefore denies same. An admission or denial is not

required for allegations contained in paragraph 31 that call for a legal conclusion, and CTP therefore denies same.

"B. The Defendants' Domination and Control of the Actions and Activities of their Respective Poultry Growers"

32. CTP admits that it is in the business of producing poultry which is ultimately sold and/or used/consumed in the United States and denies the remaining allegations in paragraph 32. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 32 with respect to the other Defendants, and therefore denies same.

33. CTP denies the allegations in paragraph 33. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 33 with respect to the other Defendants, and therefore denies same.

34. CTP admits that it sometimes raises birds itself and sometimes contracts with farmers to raise its birds. CTP denies any remaining allegations as to CTP in paragraph 34. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 34 with respect to the other Defendants, and therefore denies same.

35. CTP denies the allegations of fact as to CTP in paragraph 35. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 35 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 35 that call for a legal conclusion, and CTP therefore denies same.

36. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 36 and therefore denies same.

37. CTP admits that it sometimes delivers poults to farmers and it sometimes picks up the birds from the farmers when the birds reach maturity. CTP denies any remaining allegations contained in paragraph 37. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 37 with respect to the other Defendants, and therefore CTP denies same.

38. CTP admits that it owns birds in the IRW throughout the entire growing process and denies any remaining allegations in paragraph 38. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 38 with respect to the other Defendants, and therefore CTP denies same.

39. CTP admits that it formulates, provides and owns the feed that is fed to its birds in the IRW. CTP is without knowledge or information sufficient to form a belief as to the remaining allegations, and CTP therefore denies same. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 39 with respect to the other Defendants, and therefore CTP denies same.

40. CTP denies the allegations as to CTP in paragraph 40. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 40 with respect to the other Defendants, and therefore CTP denies same.

a. CTP denies the allegations as to CTP in paragraph 40(a). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 40(a) with respect to the other Defendants, and therefore CTP denies same.

b. CTP denies the allegations as to CTP in paragraph 40(b). CTP is without knowledge or information sufficient to form a belief regarding the truth of

the allegations contained in paragraph 40(b) with respect to the other Defendants, and therefore CTP denies same.

c. CTP denies the allegations as to CTP in paragraph 40(c). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 40(c) with respect to the other Defendants, and therefore CTP denies same.

d. CTP denies the allegations as to CTP in paragraph 40(d). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 40(d) with respect to the other Defendants, and therefore CTP denies same.

e. CTP denies the allegations as to CTP in paragraph 40(e). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 40(e) with respect to the other Defendants, and therefore CTP denies same.

41. CTP denies the allegations as to CTP in paragraph 41. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 41 with respect to the other Defendants, and therefore CTP denies same.

42. CTP denies the allegations as to CTP in paragraph 42. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 42 with respect to the other Defendants, and therefore CTP denies same.

43. CTP denies the allegations of fact as to CTP in paragraph 43. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 43 with respect to the other Defendants, and therefore denies same. An

admission or denial is not required for allegations contained in paragraph 43 that call for a legal conclusion, and CTP therefore denies same.

44. CTP denies the allegations of fact as to CTP in paragraph 44. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 44 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 44 that call for a legal conclusion, and CTP therefore denies same.

45. CTP admits that it owns poultry breeding farms in the IRW and that it controls the care and handling of its birds at these poultry breeding farms. CTP denies the remaining allegations of fact in paragraph 45. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 45 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 45 that call for a legal conclusion, and CTP therefore denies same.

"C. The Defendants' Poultry Waste Generation"

46. CTP denies the allegations contained in paragraph 46.

47. CTP denies the allegations of fact as to CTP in paragraph 47. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 47 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 47 that call for a legal conclusion, and CTP therefore denies same.

"D. The Defendants' Improper Poultry Waste Disposal Practices and Their Impact"

48. CTP denies the allegations of fact as to CTP in paragraph 48. CTP is without knowledge or information sufficient to form a belief regarding the accuracy of Exhibit 2 and,

therefore, denies any allegations relating to Exhibit 2. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 48 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 48 that call for a legal conclusion, and CTP therefore denies same.

49. CTP denies the allegations of fact as to CTP in paragraph 49. CTP is without knowledge or information sufficient to form a belief regarding the accuracy of Exhibit 3 and, therefore, denies any allegations relating to Exhibit 3. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 49 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 49 that call for a legal conclusion, and CTP therefore denies same.

50. CTP denies the allegations of fact as to CTP in paragraph 50. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 50 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 50 that call for a legal conclusion, and CTP therefore denies same.

51. CTP denies the allegations of fact as to CTP in paragraph 51. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 51 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 51 that call for a legal conclusion, and CTP therefore denies same.

52. CTP denies the allegations of fact as to CTP in paragraph 52. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 52 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 52 that call for a legal conclusion, and CTP therefore denies same.

53. CTP denies the allegations of fact as to CTP in paragraph 53. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 53 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 53 that call for a legal conclusion, and CTP therefore denies same.

54. CTP denies the allegations of fact as to CTP in paragraph 54. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 54 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 54 that call for a legal conclusion, and CTP therefore denies same.

55. CTP denies the allegations of fact as to CTP in paragraph 55. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 55 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 55 that call for a legal conclusion, and CTP therefore denies same.

56. CTP denies the allegations of fact as to CTP in paragraph 56. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 56 with respect to the other Defendants, and therefore denies same. An

admission or denial is not required for allegations contained in paragraph 56 that call for a legal conclusion, and CTP therefore denies same.

57. CTP denies the allegations of fact as to CTP in paragraph 57. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 57 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 57 that call for a legal conclusion, and CTP therefore denies same.

58. CTP denies the allegations of fact as to CTP in paragraph 58. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 58 with respect to the other Defendants, and therefore denies same.

a. CTP denies the allegations in paragraph 58(a). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 58(a) with respect to the other Defendants, and therefore denies same.

b. CTP denies the allegations in paragraph 58(b). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 58(b) with respect to the other Defendants, and therefore denies same.

c. CTP denies the allegations in paragraph 58(c). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 58(c) with respect to the other Defendants, and therefore denies same.

d. CTP denies the allegations in paragraph 58(d). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 58(d) with respect to the other Defendants, and therefore denies same.

e. CTP denies the allegations in paragraph 58(e). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 58(e) with respect to the other Defendants, and therefore denies same.

f. CTP denies the allegations in paragraph 58(f). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 58(f) with respect to the other Defendants, and therefore denies same.

g. CTP denies the allegations in paragraph 58(g). CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 58(g) with respect to the other Defendants, and therefore denies same.

59. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 59, and therefore denies same.

60. CTP denies the allegations of fact as to CTP in paragraph 60. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 60 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 60 that call for a legal conclusion, and CTP therefore denies same.

61. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 61, and CTP therefore denies same. CTP is without knowledge or information sufficient to form a belief regarding the accuracy of Exhibit 4 and, therefore, denies any allegations relating to Exhibit 4. An admission or denial is not required for allegations contained in paragraph 61 that call for a legal conclusion, and CTP therefore denies same.

62. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 62, and CTP therefore denies same. An admission or denial is not required for allegations contained in paragraph 62 that call for a legal conclusion, and CTP therefore denies same.

63. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 63, and CTP therefore denies same.

64. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 64, and CTP therefore denies same.

"E. The Reason for this Lawsuit"

65. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations of fact contained in paragraph 65, and CTP therefore denies same.

66. CTP states that the open letter speaks for itself and CTP denies any allegations of paragraph 66 to the contrary.

67. CTP states that the open letter speaks for itself and CTP denies any allegations of paragraph 67 to the contrary.

68. CTP denies the allegations of fact contained in Paragraph 68. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations

contained in paragraph 68 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 68 that call for a legal conclusion, and CTP therefore denies same.

69. CTP denies the allegations of fact as to CTP in paragraph 69. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 69 with respect to the other Defendants, and therefore denies same. An admission or denial is not required for allegations contained in paragraph 69 that call for a legal conclusion, and CTP therefore denies same.

"IV. CAUSES OF ACTION"

"A. Count 1: CERCLA Cost Recovery – 42 U.S.C. § 9607"

70. CTP incorporates by this reference, as if fully set forth herein, all objections to the First Amended Complaint and its answers to paragraphs 1 through 69.

71. The allegations contained in paragraph 71 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 71. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 71 with respect to the other Defendants, and therefore denies same.

72. CTP objects to the allegations in paragraph 72 on vagueness grounds. To the extent an answer is required, CTP states that the allegations contained in paragraph 72 that call for a legal conclusion do not require and admission or a denial, and CTP therefore denies same. CTP further denies any allegations of fact as to CTP in paragraph 72. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 72 with respect to the other Defendants, and therefore denies same.

73. The allegations contained in paragraph 73 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 73. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 73 with respect to the other Defendants, and therefore denies same.

74. The allegations contained in paragraph 74 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 74. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 74 with respect to the other Defendants, and therefore denies same.

75. The allegations contained in paragraph 75 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 75. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 75 with respect to the other Defendants, and therefore denies same.

76. The allegations contained in paragraph 76 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 76. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 76 with respect to the other Defendants, and therefore denies same.

77. The allegations contained in paragraph 77 call for a legal conclusion, for which an admission or denial are not required, and CTP therefore denies same.

"B. Count 2: CERCLA Natural Resource Damages – 42 U.S.C. § 9607"

78. CTP incorporates by this reference, as if fully set forth herein, all objections to the First Amended Complaint and its answers to paragraphs 1 through 77.

79. The allegations contained in paragraph 79 call for a legal conclusion, for which an admission or denial are not required, and CTP therefore denies same. CTP denies any allegations of fact in paragraph 79.

80. The allegations contained in paragraph 80 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 80. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 80 with respect to the other Defendants, and therefore denies same.

81. CTP objects to the allegations in paragraph 81 on vagueness grounds. To the extent an answer is required, CTP states that the allegations contained in paragraph 81 that call for a legal conclusion do not require and admission or a denial, and CTP therefore denies same. CTP further denies any allegations of fact as to CTP in paragraph 81. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 81 with respect to the other Defendants, and therefore denies same.

82. The allegations contained in paragraph 82 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 82. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 82 with respect to the other Defendants, and therefore denies same.

83. The allegations contained in paragraph 83 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of

fact as to CTP in paragraph 83. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 83 with respect to the other Defendants, and therefore denies same.

84. The allegations contained in paragraph 84 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 84. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 84 with respect to the other Defendants, and therefore denies same.

85. The allegations contained in paragraph 85 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 85. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 85 with respect to the other Defendants, and therefore denies same.

86. The allegations contained in paragraph 86 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact in paragraph 86.

87. The allegations contained in paragraph 87 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 87. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 87 with respect to the other Defendants, and therefore denies same.

88. The allegations contained in paragraph 88 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact in paragraph 88.

89. The allegations contained in paragraph 89 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact in paragraph 89. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 89 with respect to the other Defendants, and therefore denies same.

"C. Count 3: SWDA Citizen Suit"

90. CTP incorporates by this reference, as if fully set forth herein, all objections to the First Amended Complaint and its answers to paragraphs 1 through 89.

91. CTP admits that Exhibit 5, Notice of Intent to File Citizen Suit Pursuant to the Solid Waste Disposal Act, 42 U.S.C. §6972(a)(1)(B), speaks for itself and denies any allegations in paragraph 91 to the contrary. CTP denies any allegations contained in Exhibit 5. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 91 with respect to the other Defendants, and therefore denies same. The remaining allegations contained in paragraph 91 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same.

92. The allegations contained in paragraph 92 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact in paragraph 92.

93. The allegations contained in paragraph 93 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of

fact as to CTP in paragraph 93. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 93 with respect to the other Defendants, and therefore denies same.

94. The allegations contained in paragraph 94 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 94. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 94 with respect to the other Defendants, and therefore denies same.

95. The allegations contained in paragraph 95 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 95. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 95 with respect to the other Defendants, and therefore denies same.

96. The allegations contained in paragraph 96 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 96. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 96 with respect to the other Defendants, and therefore denies same.

97. The allegations contained in paragraph 97 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact in paragraph 97.

"D. Count 4: State Law Nuisance"

98. CTP incorporates by this reference, as if fully set forth herein, all objections to the First Amended Complaint and its answers to paragraphs 1 through 97.

99. The allegations contained in paragraph 99 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 99. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 99 with respect to the other Defendants, and therefore denies same.

100. The allegations contained in paragraph 100 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 100. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 100 with respect to the other Defendants, and therefore denies same.

101. The allegations contained in paragraph 101 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact in paragraph 101.

102. The allegations contained in paragraph 102 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 102. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 102 with respect to the other Defendants, and therefore denies same.

103. The allegations contained in paragraph 103 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 103. CTP is without knowledge or information sufficient to form a

belief regarding the truth of the allegations contained in paragraph 103 with respect to the other Defendants, and therefore denies same.

104. The allegations contained in paragraph 104 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 104. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 104 with respect to the other Defendants, and therefore denies same.

105. The allegations contained in paragraph 105 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 105. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 105 with respect to the other Defendants, and therefore denies same.

106. The allegations contained in paragraph 106 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 106. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 106 with respect to the other Defendants, and therefore denies same.

107. The allegations contained in paragraph 107 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 107. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 107 with respect to the other Defendants, and therefore denies same.

108. The allegations contained in paragraph 108 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same.

"E. Count 5: Federal Common Law Nuisance"

109. CTP incorporates by this reference, as if fully set forth herein, all objections to the First Amended Complaint and its answers to paragraphs 1 through 108.

110. The allegations contained in paragraph 110 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 110. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 110 with respect to the other Defendants, and therefore denies same.

111. The allegations contained in paragraph 111 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 111. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 111 with respect to the other Defendants, and therefore denies same.

112. The allegations contained in paragraph 112 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 112. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 112 with respect to the other Defendants, and therefore denies same.

113. The allegations contained in paragraph 113 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 113. CTP is without knowledge or information sufficient to form a

belief regarding the truth of the allegations contained in paragraph 113 with respect to the other Defendants, and therefore denies same.

114. The allegations contained in paragraph 114 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact in paragraph 114.

115. The allegations contained in paragraph 115 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 115. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 115 with respect to the other Defendants, and therefore denies same.

116. The allegations contained in paragraph 116 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 116. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 116 with respect to the other Defendants, and therefore denies same.

117. The allegations contained in paragraph 117 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 117. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 117 with respect to the other Defendants, and therefore denies same.

118. The allegations contained in paragraph 118 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 118. CTP is without knowledge or information sufficient to form a

belief regarding the truth of the allegations contained in paragraph 118 with respect to the other Defendants, and therefore denies same.

"F. Count 6: Trespass"

119. CTP incorporates by this reference, as if fully set forth herein, all objections to the First Amended Complaint and its answers to paragraphs 1 through 118.

120. The allegations contained in paragraph 120 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 120. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 120 with respect to the other Defendants, and therefore denies same.

121. The allegations contained in paragraph 121 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 121. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 121 with respect to the other Defendants, and therefore denies same.

122. The allegations contained in paragraph 122 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 122. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 122 with respect to the other Defendants, and therefore denies same.

123. The allegations contained in paragraph 123 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as in paragraph 123.

124. The allegations contained in paragraph 124 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 124. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 124 with respect to the other Defendants, and therefore denies same.

125. The allegations contained in paragraph 125 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 125. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 125 with respect to the other Defendants, and therefore denies same.

126. The allegations contained in paragraph 126 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 126. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 126 with respect to the other Defendants, and therefore denies same.

127. The allegations contained in paragraph 127 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same.

"Count 7: Violation of 27A Okla. Stat. § 2-6-105 & 2 Okla. Stat. § 2-18.1"

128. CTP incorporates by this reference, as if fully set forth herein, all objections to the First Amended Complaint and its answers to paragraphs 1 through 127.

129. The allegations contained in paragraph 129 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 129. CTP is without knowledge or information sufficient to form a

belief regarding the truth of the allegations contained in paragraph 129 with respect to the other Defendants, and therefore denies same.

130. The allegations contained in paragraph 130 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 130. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 130 with respect to the other Defendants, and therefore denies same.

131. The allegations contained in paragraph 131 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 131. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 131 with respect to the other Defendants, and therefore denies same.

132. The allegations contained in paragraph 132 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 132. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 132 with respect to the other Defendants, and therefore denies same.

"H. Count 8: Violation of 2 Okla. Stat. § 10-9.7 and Oklahoma Administrative Code § 35:17-5-5"

133. CTP incorporates by this reference, as if fully set forth herein, all objections to the First Amended Complaint and its answers to paragraphs 1 through 132.

134. The allegations contained in paragraph 134 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of

fact as to CTP in paragraph 134. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 134 with respect to the other Defendants, and therefore denies same.

135. The allegations contained in paragraph 135 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 135. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 135 with respect to the other Defendants, and therefore denies same.

136. The allegations contained in paragraph 136 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 136. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 136 with respect to the other Defendants, and therefore denies same.

"I. Count 9: Violation of Oklahoma Administrative Code, § 35:17-3-14"

137. CTP incorporates by this reference, as if fully set forth herein, all objections to the First Amended Complaint and their answers to paragraphs 1 through 136.

138. The allegations contained in paragraph 138 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 138. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 138 with respect to the other Defendants, and therefore denies same.

139. The allegations contained in paragraph 139 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of

fact as to CTP in paragraph 139. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 139 with respect to the other Defendants, and therefore denies same.

"J. Count 10: Unjust Enrichment/Restitution/Disgorgement"

140. CTP incorporates by this reference, as if fully set forth herein, all objections to the First Amended Complaint and its answers to paragraphs 1 through 139.

141. The allegations contained in paragraph 141 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 141. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 141 with respect to the other Defendants, and therefore denies same.

142. The allegations contained in paragraph 142 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 142. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 142 with respect to the other Defendants, and therefore denies same.

143. The allegations contained in paragraph 143 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 143. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 143 with respect to the other Defendants, and therefore denies same.

144. The allegations contained in paragraph 144 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of

fact as to CTP in paragraph 144. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 144 with respect to the other Defendants, and therefore denies same.

145. The allegations contained in paragraph 145 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 145. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 145 with respect to the other Defendants, and therefore denies same.

146. The allegations contained in paragraph 146 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 146. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 146 with respect to the other Defendants, and therefore denies same.

147. The allegations contained in paragraph 147 call for a legal conclusion, for which an admission or denial is not required, and CTP therefore denies same. CTP denies any allegations of fact as to CTP in paragraph 147. CTP is without knowledge or information sufficient to form a belief regarding the truth of the allegations contained in paragraph 147 with respect to the other Defendants, and therefore denies same.

"VI. PRAYER FOR RELIEF"

The allegations contained in Section VI are not averments of fact that require admission or denial, and CTP therefore denies same. CTP specifically denies that Plaintiffs are entitled to any relief.

"VII. JURY TRIAL"

The allegations contained in Section VII are not averments of fact that require admission or denial, and CTP therefore denies same.

AFFIRMATIVE DEFENSES

CTP alleges that:

1. Plaintiffs fail to state a claim upon which relief may be granted and must be dismissed.
2. Plaintiffs' claims are barred by the applicable statutes of limitation.
3. Plaintiffs' claims are barred by the doctrines of laches, estoppel, and waiver.
4. Plaintiffs' claims are barred by the doctrine of unclean hands.
5. Plaintiffs' claims are barred by the doctrines of license and consent.
6. Plaintiffs' claims are barred in whole or in part by the doctrine of accord and satisfaction.
7. Plaintiffs' claims are barred by the doctrine of abstention.
8. Plaintiffs lack standing to bring this action.
9. Plaintiffs have failed to join indispensable parties.
10. Plaintiffs have not joined the party/parties at fault for Plaintiffs' alleged injuries. CTP reserves its right at trial to seek an allocation of fault to, and contribution from, such party/parties.
11. The Court does not have subject matter jurisdiction over some or all of the claims alleged in the Complaint.
12. Plaintiffs' claims are barred, because the activities that are the basis of Plaintiffs' claims are authorized by state statute, including OKLA.STAT. tit. 50 § 4,

OKLA.STAT. tit. 50 § 1.1(d), OKLA.STAT. tit. 2 § 10-9.1 et seq., OKLA.STAT. tit. 2 § 9-200 et seq., ARKANSAS CODE ANNOTATED § 2-4-101.

13. Plaintiffs' claims are barred by the applicable statutes of repose.

14. Plaintiffs' claims are barred by the doctrine of contributory and/or comparative negligence. In the alternative, Plaintiffs' claims for damages must be reduced by the doctrine of comparative negligence.

15. Plaintiffs' claims are subject to either the exclusive or the primary jurisdiction of the United States Environmental Protection Agency, the Oklahoma Department of Agriculture, Food and Forestry, the Arkansas Department of Environmental Quality, the Arkansas Department of Health, the Arkansas Forestry Commission, and/or the Arkansas Soil and Water Conservation.

16. Plaintiffs' claims are barred until the Oklahoma Department of Environmental Quality and other state agencies establish Total Maximum Daily Loads, as required by the Clean Water Act, for each of the alleged pollutants at issue in the First Amended Complaint.

17. Plaintiffs' claims are barred to the extent they rely on the retroactive application of statutes, rules, regulations or common-law standards of conduct, as that reliance would violate the Constitutions of the United States and the State of Oklahoma.

18. Plaintiffs' improperly seek to impose Oklahoma statutes and common law upon practices occurring outside the borders of Oklahoma in violation of the due process clause under the Fourteenth Amendment to the United States Constitution the Dormant Commerce Clause, Article I, Section 8 of the United States

Constitution, and the federalism and comity principles inherent in the United States Constitution.

19. Plaintiffs' claims improperly violate the sovereignty of Arkansas.

20. Plaintiffs' claims violate CTP's constitutional rights of due process and equal protection under the Fifth and Fourteenth Amendments to the U.S. Constitution and under analogous state constitutional provisions.

21. Some or all of Plaintiffs' claims are not amenable to judicial resolution because they present a political question.

22. Plaintiffs' claims are barred in whole or in part because the statutory or regulatory provisions upon which they are based are unconstitutionally void for vagueness or otherwise violate due process.

23. Plaintiffs' state law claims are preempted in whole or in part by CERCLA, the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. (a.k.a, Clean Water Act), the Packers and Stockyards Act, 7, U.S.C. § 181 et seq., and/or other federal statutes.

24. Plaintiffs' claims are preempted by the Arkansas River Basin Compact, OKLA.STAT. tit. 82.

25. The Northern District of Oklahoma is not a proper venue for Plaintiffs' claims.

26. Plaintiffs do not have a right to a jury trial.

27. Any liability that CTP may bear in connection with the events described in the Complaint, which liability it specifically denies, is several only and not joint.

28. Any liability that CTP may bear in connection with the events described in the Complaint, which liability it specifically denies, is liability for contribution only.

29. Plaintiffs' cannot assert a claim for equitable relief because they failed to join all potentially responsible parties.

30. Plaintiffs fail to state facts sufficient to constitute a cause of action against CTP for which punitive or exemplary damages may be granted and, any award of punitive damages against CTP would be unconstitutional.

31. Plaintiffs seek damages and attorneys' fees and costs that are not recoverable as a matter of law and fact, including, without limitation contingency fees and attorneys' litigation fees under CERCLA.

32. Plaintiffs seek damages that exceed statutory liability caps or are otherwise excessive.

33. To the extent plaintiffs' Complaint asserts claims for equitable relief, such claims are barred to the extent that plaintiffs have an adequate remedy at law.

34. Any damages plaintiffs may have suffered, which damages are specifically denied, are divisible and segregable, both in cause and in effect.

35. Plaintiffs have failed to mitigate damages, if any.

36. Plaintiffs' damages, if any, result in whole or part from their own acts, errors, omissions, or negligence or that of third parties over whom CTP has no control.

37. Plaintiffs' damages, if any, were proximately caused by an unforeseeable, independent, supervening, intervening and/or superseding event beyond the control and unrelated to any conduct of CTP. CTP's actions, if any, were superseded by the negligence and wrongful conduct of others.

38. Plaintiffs assumed the risk relative to damages, if any.

39. Some or all of Plaintiffs are not the real parties in interest as to some or all of the claims and damages alleged in the Complaint.

40. Plaintiffs' claims for relief are barred because Plaintiffs injuries, if any, were caused by acts, conditions, and circumstances of an indeterminate or unknown character or nature and, therefore, it is impossible to determine facts as to time, place, product, and causal relation.

41. CTP has neither the ability nor authority to control or affect the timing, manner, and location of the application of poultry litter.

42. To the extent that any "growers" are agents or employees of CTP, which agency and employee status is specifically denied, some or all of the acts complained of in the Complaint were and are outside the scope of any such agency and employment, and CTP therefore is not liable.

43. CTP acted in compliance with all applicable laws, regulations, permits, and industry standards at all applicable times.

44. CTP's conduct is not the direct or proximate cause of any damages alleged to have been suffered by Plaintiffs.

45. The conduct and conditions alleged by Plaintiffs do not constitute a recurring or permanent nuisance.

46. CTP has not been unjustly enriched by any conduct alleged by Plaintiffs.

47. Any response costs incurred by Plaintiffs, which CTP specifically denies were incurred, were inconsistent with the National Contingency Plan.

48. Plaintiffs CERCLA claims are barred by the Plaintiffs' status as potentially responsible parties.

49. To the extent Plaintiffs' Complaint asserts CERCLA claims on the grounds that there are or have been releases, which CTP specifically denies, such claims are barred by the exception under CERCLA to the definition of a release for the normal application of fertilizer, 42 U.S.C. §9601(22).

50. To the extent Plaintiffs' Complaint asserts CERCLA claims on the grounds that there are or have been releases, which CTP specifically denies, such claims are barred by the exception under CERCLA to the definition of a release for federally permitted releases, 42 U.S.C. §9601(10).

51. To the extent Plaintiffs' Complaint asserts CERCLA claims on the grounds that there are or have been releases, any such releases, which CTP specifically denies, would be de minimis releases.

52. Plaintiff's SWDA claim is barred for failure to comply with the requirements under 42 U.S.C. § 6972(b)(2).

53. Plaintiffs' are not entitled to recover past costs under the SWDA.

54. Plaintiffs' SWDA claims are barred because the poultry litter at issue is used as an effective substitute for commercial fertilizer and, therefore, is not a solid waste, 40 C.F.R. §261.2 (e).

55. Plaintiffs' SWDA claims are barred because agricultural wastes which are returned to the soil a fertilizers or soil conditioners are not discarded materials, and, therefore are not solid wastes.

56. Plaintiffs' SWDA claims are barred because wastes generated by the raising of animals, incuding animal manures, which are returned to the soils as fertilizers are not hazardous wastes pursuant to 40 C.F.R. 261.4(b)(2)(ii).

57. Plaintiffs' SWDA claims are barred because Plaintiffs lack standing to bring a citizen suit under the SWDA.

58. Plaintiffs SWDA and CERCLA claims are barred by exemptions and exclusions contained within those statutes.

59. Plaintiffs' state common law nuisance claim is invalid on its face and must fail due to the existence of state statutes directly governing and authorizing the conduct that is the basis of Plaintiffs' state common law nuisance claim (Count 4).

60. Plaintiffs' state common law trespass claim is invalid on its face and must fail due to the existence of state statutes directly governing and authorizing the conduct that is the basis of Plaintiffs' state common law trespass claim (Count 6).

61. Plaintiffs' unjust enrichment claim is invalid on its face and must fail due to the existence of state statutes directly governing and authorizing the conduct that is the basis of Plaintiffs' unjust enrichment claim (Count 10).

62. Plaintiffs have failed to exhaust available administrative remedies for alleged violations of the Oklahoma Agricultural Code (Count 7).

63. Plaintiffs have failed to exhaust administrative remedies for alleged violations of the Oklahoma Registered Poultry Feeding Operations Act (Count 8).

64. Plaintiffs have failed to exhaust administrative remedies for alleged violations of the Oklahoma Concentrated Animal Feeding Operations Act (Count 9).

65. State agencies, including Oklahoma Department of Agriculture, Food and Forestry, and Arkansas Soil and Water Conservation Commission, have been entrusted with the responsibility of regulating the practices and conduct that is the basis of Plaintiffs' claims of nuisance (Count 4), trespass (Count 6), violations of the Oklahoma Agricultural Code (Count 7), violations of the Oklahoma Registered Poultry Feeding Operations Act (Count 8), violations of the Oklahoma Concentrated Animal Feeding Operations Act (Count 9), and unjust enrichment (Count 10), and accordingly this Court must exercise judicial abstention under the doctrine of primary jurisdiction.

66. CTP adopts and incorporates by reference all affirmative defenses presently or subsequently asserted by any of their co-defendants.

RESERVATION OF RIGHTS

The above stated affirmative defenses are based on the knowledge and information currently possessed by CTP. CTP reserves the right to assert any additional defenses that it may discover throughout the course of this case. CTP further reserves the right to amend its answers or otherwise plead in response to Plaintiff's Complaint.

WHEREFORE, Cargill Turkey Production, LLC, having answered the allegations of the First Amended Complaint, prays that the Court:

(a) enter judgment in its favor and against Plaintiffs on all claims alleged against it by Plaintiffs;

(b) dismiss this case with prejudice;

(c) award Cargill Turkey Production, LLC its costs and expenses, including expert witness fees, incurred in connection with defending this case;

(d) award Cargill Turkey Production, LLC its reasonable attorneys' fees incurred in connection with defending this case;

(e) award Cargill Turkey Production, LLC prejudgment and post-judgment interest, as applicable, on all costs and fees incurred in connection with this case; and

(f) award Cargill Turkey Production, LLC such other further relief as the Court may deem just and equitable under the circumstances.

Respectfully submitted,

s/ John H. Tucker

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ATTORNEYS FOR DEFENDANT CARGILL TURKEY PRODUCTION LLC

CERTIFICATE OF SERVICE

I certify that on the _____ day of October, 2005, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached document by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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s/ John H. Tucker