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

STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Case No. 4:05-cv-00329-TCK-SAJ**
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

PLAINTIFF STATE OF OKLAHOMA'S MOTION TO STAY THE TIME FOR THIRD-PARTY DEFENDANTS TO ANSWER THE THIRD-PARTY COMPLAINTS PENDING RESOLUTION OF THE STATE'S "MOTION TO STAY OR SEVER AND / OR STRIKE OR DISMISS THE CLAIMS ASSERTED IN THE THIRD-PARTY COMPLAINTS, BRIEF IN SUPPORT, AND REQUEST FOR ORAL ARGUMENT"

COMES NOW Plaintiff, the 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 under CERCLA ("the State"), and respectfully moves the Court to stay the time for third-party defendants to answer the third-party complaints pending resolution of the State's "Motion to Stay and Sever and / or Strike or Dismiss the Third-Party Complaints, Brief in Support, and Request for Oral Argument," for the reasons that follow:[1]

1. On October 4, 2005, Poultry Integrator Defendants Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., George's, Inc., George's Farms, Inc. and Willow Brook Foods, Inc. filed a third-party

[1] Counsel for the State have conferred with counsel for Poultry Integrator Defendants Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., George's, Inc., George's Farms, Inc., Willow Brook Foods, Inc., Cargill Turkey Production, LLC, and are informed that they do not consent to the relief being sought by the State in this motion.

complaint ("Tyson's Third-Party Complaint") naming 160 third-party defendants and 150 "Doe" third-party defendants.

2. Also on October 4, 2005, Poultry Integrator Defendant Cargill Turkey Production, LLC filed a third-party complaint ("Cargill's Third-Party Complaint"), naming two municipalities -- the City of Tahlequah and the City of Westville -- as third-party defendants.

3. Upon information and belief, service of the third-party complaints has been effected on some of the third-party defendants and is underway for the remaining third-party defendants. Pursuant to Fed. R. Civ. P. 12(a)(1), the third-party defendants must answer within 20 days after being served with the summons and complaint.

4. Tyson's Third-Party Complaint and Cargill's Third-Party Complaint assert nearly identical claims against the third-party defendants under the theories of contribution and indemnity. *See* Tyson's Third-Party Complaint, ¶ 2, & Cargill's Third-Party Complaint, ¶ 2.

5. On April 3, 2006, the State filed a motion to sever and stay and / or strike or dismiss the claims in these third-party actions on the grounds, *inter alia*, that -- assuming *arguendo* that the third-party claims are even legally cognizable -- permitting these contribution and indemnity claims to proceed contemporaneously with the State's case will severely prejudice the State.

6. In the event the State is successful in its motion to sever and stay and / or strike or dismiss these third-party claims, there will be, at a minimum, no need for the third-party defendants to presently answer, and likely there will be no need for the third-party defendants to ever answer.

7. Accordingly, a stay pending resolution of the State's motion will effectuate the interests of justice and judicial economy, as well as conserve the State's and the third-party defendants' financial resources.

WHEREFORE, premises considered, this Court should stay the time for third-party defendants to answer the third-party complaints pending resolution of the State's motion to sever and stay and / or strike or dismiss the claims in the third-party complaints.

Respectfully submitted,

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April 3, 2006