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

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

OBJECTIONS AND RESPONSES OF STATE OF OKLAHOMA TO SEPARATE DEFENDANT TYSON CHICKEN INC.'S FIRST SET OF INTERROGATORIES PROPOUNDED TO PLAINTIFFS

The Plaintiff State of Oklahoma respectfully submits its objections and responses to Defendant Tyson Chicken, Inc's First Set of Interrogatories propounded to Plaintiffs. The State maintains numerous records at many agencies and its records review is ongoing. The State shall supplement the following responses and attached privilege logs should additional responsive or privilege-protected documents come to its attention.

GENERAL OBJECTIONS

1. The State objects to these discovery requests to the extent that they seek the discovery of information that is protected by the attorney-client privilege and/or the work product doctrine.

2. The State objects to these discovery requests to the extent that they seek the discovery of information that is already in the possession of defendant, is obtainable from another source that is more convenient, less burdensome or less expensive, or is as accessible to defendant as it is to the State. As such, the burden of obtaining such sought-after information is substantially the same, or less, for defendant

EXHIBIT
1

The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 8: Please Identify all reports, studies, Publications, research, sampling data or monitoring data which You contend establishes or tends to establish the contamination, degradation, pollution or any other adverse impact upon any Water Body in the IRW as result of the release of arsenic or arsenic compounds.

OBJECTIONS AND RESPONSE TO NO 8: The State objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work production protection.

The State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). As of the date of this response, the State has not determined which experts retained by it or by its counsel will provide expert testimony in this case, and the Court has neither established the times and sequence of disclosure of such expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2)(C), nor has the Court established a trial date to trigger the obligation of expert disclosure 90 days in advance of trial under that rule. The State will comply with the order of the Court establishing the time of expert disclosures as required by Fed. R. Civ. P. 26. Therefore, the State also objects to this interrogatory to the extent it calls for information which constitutes expert opinions, the disclosure of which is premature.

The State also objects pursuant to Fed. R. Civ. P. 26(b)(3) to any discovery of documents or tangible things prepared in anticipation of litigation or for trial by it or by consultants retained by it or by its counsel.

Pursuant to Fed. R. Civ. P. 26(b)(5) and LCvR 26.4, the State's claim of attorney-client privilege and work product protection is supported by its privilege log. Also, pursuant to LCvR 26.4(b), the attached privilege log does not contain any work product protection material or attorney-client privileged material created after the commencement of this action on June 13, 2005. The State reserves its work product protection claim and attorney-client privilege claim for all such materials, and reserves its right to supplement the attached privilege log should the Court enter any order requiring a log for protected or privileged materials created after the commencement of this action, or if the State identifies additional documents subject to a claim of privilege or protection.

The State objects to this interrogatory on the grounds that it improperly seeks identification of "all" items of responsive information, which renders it overly broad, oppressive, unduly burdensome and expensive to answer. It may be impossible to locate "all" items of responsive information to this interrogatory.

Subject to and without waiving its specific and general objections, the State believes that the following reports demonstrate or tend to demonstrate that contamination, degradation, or pollution have adversely impacted the IRW as a result of the release of arsenic or arsenic compounds from poultry waste:

Arai, Y.; Lanzirotti, A.; Sutton, S.; Davis, J.A.; Sparks, D.L. (2003) Arsenic Speciation and Reactivity in Poultry Litter. Environmental Science and Technology, 37(18): 4083 - 4090

Brown, B.L. (2003) The Sorption of Roxarsone, an Organoarsenical Animal Feed Additive. M.S. Thesis, Virginia Polytechnic Institute and State University, 95 p.

Bellows, B.C. (2005) Arsenic in Poultry Litter: Organic Regulations. National Sustainable Agriculture Information Service, 12 p.

Blackerby, S.D. (1997) Evaluation of Nonpoint Source Pollution Concentrations Due to Runoff from Agricultural Land Applied with Broiler Litter. M.S. Thesis, Stephen F. Austin State University, Nacogdoches, TX, 100 p.

Moore, P.A., Jr.; Daniel, T.C; Gilmour, J.T; Shreve, B.R; Edwards, D.R. (1998) Decreasing Metal Runoff from Poultry Litter with Aluminum Sulfate. Journal of Environmental Quality. 27:92-99.

Nachman, K.E.; Graham, J.P.; Price, L.B.; Silbergeld, E.K. (2005) Arsenic: A Roadblock to Potential Animal Waste Management Solutions. Environmental Health Perspective 113:1123-1124 (2005). doi:10.1289/ehp.7834 available via http://dx.doi.org/ [Online 12 May 2005].

Wilde, F.D.; Britton, L.J.; Miller, C.V.; Kolpin, D.W. (2000) Effects of Animal Feeding Operations on Water Resources and the Environment - Proceedings of the technical meeting, Fort Collins, Colorado, August 30 - September 1, 1999. United States Geological Survey Open-File Report 00-204, 107 p.

The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 9: Please Identify all reports, studies, Publications, research, sampling data or monitoring data which You contend establishes or tends to establish the contamination, degradation, pollution or any other adverse impact upon any Water Body in the IRW as result of the release of zinc or zinc compounds.

OBJECTIONS AND RESPONSE TO NO 9: The State objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work production protection.

The State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). As of the date of this response, the State has not determined which experts retained by it or by its counsel will provide expert testimony in this

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

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

OBJECTIONS AND RESPONSES OF STATE OF OKLAHOMA TO SEPARATE DEFENDANT TYSON POULTRY INC.'S FIRST SET OF INTERROGATORIES PROPOUNDED TO PLAINTIFFS

The Plaintiff State of Oklahoma respectfully submits its objections and responses to Defendant Tyson Poultry, Inc's First Set of Interrogatories propounded to Plaintiffs. The State maintains records in numerous locations and many agencies and its records review is on going. The State shall supplement the following responses and attached privilege logs should additional responsive or privilege-protected documents come to its attention.

GENERAL OBJECTIONS

1. The State objects to these discovery requests to the extent that they seek the discovery of information that is protected by the attorney-client privilege and/or the work product doctrine.

2. The State objects to these discovery requests to the extent that they seek the discovery of information that is already in the possession of defendant, is obtainable from another source that is more convenient, less burdensome or less expensive, or is as accessible to defendant as it is to the State. As such, the burden of obtaining such sought-after information is substantially the same, or less, for defendant as it is for the State.

agreement of the parties

The State objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work production protection.

The State objects to this interrogatory on the grounds that it improperly seeks identification of "all" items of responsive information, which renders it overly broad, oppressive, unduly burdensome and expensive to answer. It may be impossible to locate "all" items of responsive information to this interrogatory.

The State further objects to this interrogatory to the extent this information has already been provided to the Poultry Integrator Defendants in responses to previous interrogatories, and/or in response to one or more Open Records Requests made by one or more of the Poultry Integrator Defendants.

INTERROGATORY NO. 3: Please describe in detail all actions taken and practices employed by You to manage, address, control or reduce the entry of phosphorus/phosphorus compounds, nitrogen/nitrogen compounds, arsenic/arsenic compounds, zinc/zinc compounds, cooper/cooper [sic] compounds, hormones or microbial pathogens into the IRW from activities of persons, Entities and industries other than poultry operations (including, but not limited to, cattle operations, hay operations, septic tanks, commercial fertilizer applications, mining, municipal POTW discharges, land application of biosolids and utilization of herbicides and pesticides). Also, please Identify all Documents Related to such actions.

OBJECTIONS AND RESPONSE TO NO. 3: The State objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work production protection.

The State objects to this interrogatory on the grounds that it improperly seeks identification of "all"

items of responsive information, which renders it overly broad, oppressive, unduly burdensome and expensive to answer. It may be impossible to locate "all" items of responsive information to this interrogatory.

Subject to and without waiving its general or specific objections, the State has enacted various statutory and regulatory schemes to prevent adverse impacts on the waters of Oklahoma without regard to the sources/factors described. In addition, the State has enacted statutory and regulatory schemes to manage, address, and control the entry of phosphorus/phosphorus compounds, nitrogen/nitrogen compounds, arsenic/arsenic compounds, zinc/zinc compounds, copper/copper compounds, hormones or microbial pathogens into the waters of the state, including from activities of persons, entities and industries other than poultry operations to the extent that any such pollutants actually enter the IRW from their activities. The State refers Defendant to, without limitation, Title 2 (Agriculture), Title 27A (Environment and Natural Resources), and Title 82 (Water and Water Rights) of the Oklahoma Statutes and all associated regulations. As part of these statutory and regulatory schemes, the State monitors, samples, and tests the waters of the State, and enforces the applicable statutes and regulations.

Subject to and without waiving any of its general or specific objections, and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found within the business records being provided to this Defendant. Identification of such business records will occur on a rolling basis as the State's review of its business records proceeds.

The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 4: Please specifically Identify (without just referring to Your Complaint) each and every provision of the Oklahoma Confined Animal Feeding Operations Act and/or

The State also objects pursuant to Fed. R. Civ. P. 26(b)(3) to any discovery of documents or tangible things prepared in anticipation of litigation or for trial by it or by consultants retained by it or by its counsel.

Pursuant to Fed. R. Civ. P. 26(b)(5) and LCvR 26.4, the State's claim of attorney-client privilege and work product protection is supported by its privilege log. Also, pursuant to LCvR 26.4(b), the attached privilege log does not contain any work product protection material or attorney-client privileged material created after the commencement of this action on June 13, 2005. The State reserves its work product protection claim and attorney-client privilege claim for all such materials, and reserves its right to supplement the attached privilege log should the Court enter any order requiring a log for protected or privileged materials created after the commencement of this action or if the State identifies additional documents subject to a claim of privilege or protection.

The State further objects to this interrogatory to the extent this information has already been provided to the Poultry Integrator Defendants in response to one or more Open Records requests made by one or more of the Poultry Integrator Defendants.

Subject to and without waiving its general or specific objections, the State contends that violations of the Oklahoma Administrative Code by Tyson Defendant and / or persons and entities for which Tyson Defendant are legally responsible include, without limitation, one or more of the following specific provisions: OAC 785 Chapter 45 and 46 (Water Quality Standards and Implementation). The State's investigation of these matters is, however, continuing, and this could change. The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e)

INTERROGATORY NO. 9: Please Identify all reports, studies, Publications, research, sampling

data or monitoring data which demonstrates or which the State believes tends to demonstrate that the soil, water, sediments or biota in the IRW has been injured by or become contaminated with phosphorus or phosphorus compounds disposed of or released by the Tyson Defendant or any person or Entity for which the Tyson Defendant may allegedly be held legally responsible.

OBJECTIONS AND RESPONSE TO NO. 9: The State objects to this interrogatory on the ground that it seeks information protected by the attorney-client privilege and / or work product protection.

The State objects to this interrogatory on the grounds that it improperly seeks identification of "all" items of responsive information, which renders it overly broad, oppressive, unduly burdensome and expensive to answer. It may be impossible to locate "all" items of responsive information to this interrogatory.

The State further objects to this interrogatory to the extent this information has already been provided to the Poultry Integrator Defendants in responses to previous interrogatories, and/or in response to one or more Open Records Requests made by one or more of the Poultry Integrator Defendants.

The State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). As of the date of this response, the State has not determined which experts retained by it or by its counsel will provide expert testimony in this case, and the Court has neither established the times and sequence of disclosure of such expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2)(C), nor has the Court established a trial date to trigger the obligation of expert disclosure 90 days in advance of trial under that rule. The State will comply with the order of the Court establishing the time of expert disclosures as required by Fed. R. Civ. P. 26

The State also objects pursuant to Fed. R. Civ. P. 26(b)(3) to any discovery of documents or tangible things prepared in anticipation of litigation or for trial by it or by consultants retained by it or by its counsel.

Pursuant to Fed. R. Civ. P. 26(b)(5) and LCvR 26.4, the State's claim of attorney-client privilege and work product protection is supported by the attached privilege log. Also, pursuant to LCvR 26.4(b), the attached privilege log does not contain any work product protection material or attorney-client privileged material created after the commencement of this action on June 13, 2005. The State reserves its work product protection claim and attorney-client privilege claim for all such materials, and reserves its right to supplement the attached privilege log should the Court enter any order requiring a log for protected or privileged materials created after the commencement of this action or if the State identifies additional documents subject to a claim of privilege or protection.

Subject to the forgoing general and specific objections the State believes that following publically available websites contain information that demonstrates or tends to demonstrate that the soil, water, sediments or biota in the IRW has been injured by or become contaminated with phosphorus or phosphorus compounds disposed of or released by the Tyson Defendant or any person or Entity for which the Tyson Defendant may allegedly be held legally responsible:

http://www.ose.state.ok.us/documents.html#972
http://www.owrb.state.ok.us/quality/monitoring/bump.php
http://www.okcc.state.ok.us/WQ/WQ_reports.htm
http://www.deq.state.ok.us/WQDnew/pubs.html
http://ok.water.usgs.gov

Subject to the foregoing general and specific objections, the State believes the following studies demonstrate or tend to demonstrate that the soil, water, sediments or biota in the IRW has been injured

by or become contaminated with phosphorus or phosphorus compounds disposed of or released by the Tyson Defendant or any person or Entity for which the Tyson Defendant may allegedly be held legally responsible:

Aillery, M.; Gollehon, N; Johansson, R.J.; Kaplan, J.; Key, N.; Ribaudo, M. (2005) Managing Manure to Improve Air and Water Quality. Economic Research Report 9. U.S. Department of Agriculture, Economic Research Service.

Carpenter, S.R.; Caraco, N.F.; Correll, D.L.; Howarth, R.W.; Sharpley, A.N.; Smith, V.H. (1998 Nonpoint Pollution of Surface Waters with Phosphorus and Nitrogen. Ecological Applications 8(3):559-568.

Chapman, S.L. (1996) Soil and Solid Poultry Waste Nutrient Management and Water Quality. Poultry Science 75(7):862-866

Daniel, T.C.; Sharpley, A.N.; Lemunyon, J.L. (1998) Agricultural Phosphorus and Eutrophication: A Symposium Overview. Journal of Environmental Quality. 27:251-257.

Gade, D.R. (1998) An Investigation of the Sources and Transport of Nonpoint Source Nutrients in the Illinois River Basin in Oklahoma and Arkansas. M.S. Thesis, Oklahoma State University, 286 p.

Phan, T. (2001) Cost of Water Pollution Abatement for Poultry Farms in Beaty Creek Watershed, Oklahoma. PhD Dissertation. Oklahoma State University, 114 p.

Sharpley, A. (1999) Agricultural Phosphorus, Water Quality, and Poultry Production: Are They Compatible? Environment and Health, Symposium: Reducing the Environmental Impact of Poultry Production: Focus on Phosphorus, 660-673.

Slaton, N.A.; Brve, K.R.; Daniels, M.B.; Daniels, T.C.; Norman, R.J.; Miller, D.M. (2004) Nutrient Input and Removal Trends for Agricultural Soils in Nine Geographic Regions in Arkansas. Journal of Environmental Quality. 33:1606-1615.

The State also refers you to Interrogatory answers previously given in Tyson Chicken Interrogatory Nos. 5 and 6. The State reserves its right to supplement its answer to this interrogatory pursuant to Fed.

R. Civ. P. 26(e).

INTERROGATORY NO. 10: Please Identify all reports, studies, Publications, research, sampling data or monitoring data which demonstrates or which the State believes tends to demonstrate that the soil, water, sediments or biota in the IRW has been injured by or become contaminated with nitrogen or nitrogen compounds disposed of or released by the Tyson Defendant or any person or Entity for which the Tyson Defendant may allegedly be held legally responsible.

OBJECTIONS AND RESPONSE TO NO. 10: The State objects to this interrogatory on the ground that it seeks information protected by the attorney-client privilege and / or work product protection.

The State objects to this interrogatory on the grounds that it improperly seeks identification of "all" items of responsive information, which renders it overly broad, oppressive, unduly burdensome and expensive to answer. It may be impossible to locate "all" items of responsive information to this interrogatory.

The State further objects to this interrogatory to the extent this information has already been provided to the Poultry Integrator Defendants in responses to previous interrogatories, and/or in response to one or more Open Records Requests made by one or more of the Poultry Integrator Defendants.

The State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ P. 26(b)(4)(A) and (B). As of the date of this response, the State has not determined which experts retained by it or by its counsel will provide expert testimony in this case, and the Court has neither established the times and sequence of disclosure of such expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2)(C), nor has the Court established a trial date to trigger the obligation

of expert disclosure 90 days in advance of trial under that rule. The State will comply with the order of the Court establishing the time of expert disclosures as required by Fed. R. Civ. P. 26

The State also objects pursuant to Fed. R. Civ. P. 26(b)(3) to any discovery of documents or tangible things prepared in anticipation of litigation or for trial by it or by consultants retained by it or by its counsel.

Pursuant to Fed. R. Civ. P. 26(b)(5) and LCvR 26.4, the State's claim of attorney-client privilege and work product protection is supported by the attached privilege log. Also, pursuant to LCvR 26.4(b), the attached privilege log does not contain any work product protection material or attorney-client privileged material created after the commencement of this action on June 13, 2005. The State reserves its work product protection claim and attorney-client privilege claim for all such materials, and reserves its right to supplement the attached privilege log should the Court enter any order requiring a log for protected or privileged materials created after the commencement of this action or if the State identifies additional documents subject to a claim of privilege or protection.

Subject to the foregoing general and specific objections, the State believes that the following publically available websites demonstrate or tend to demonstrate that the soil, water, sediments or biota in the IRW has been injured by or become contaminated with nitrogen or nitrogen compounds disposed of or released by the Tyson Defendant, or by a person or Entity for which the Tyson Defendants are legally responsible:

http://www.owrb.state.ok.us/quality/monitoring/bump.php
http://www.okcc.state.ok.us/WQ/WQ_reports.htm
http://www.deq.state.ok.us/WQDnew/pubs.html
http://ok.water.usgs.gov
http://www.ose.state.ok.us/documents.html#972

Subject to the foregoing general and specific objections, the State believes that the following studies demonstrate or tend to demonstrate that the soil, water, sediments or biota in the IRW has been injured by or become contaminated with nitrogen or nitrogen compounds disposed of or released by the Tyson Defendant, or by a person or Entity for which the Tyson Defendants are legally responsible:

Adamski, J.C.; Steele, K.F. (1988) Agricultural Land Use Effects on Groundwater Quality in the Ozark Region: Proceedings of Agricultural Impacts on Groundwater Conference, National Water Well Association, Dublin, OH, pp. 593-614.

Buchberger, E. (1991) An Economic and Environmental Analysis of Land Application of Poultry Litter in Northwest Arkansas. M.S. Thesis, University of Arkansas, Fayetteville, 108 p.

Cox, G.D.; Ogden, A.E.; and Slavik, G. (1980) Contamination of Boone-St. Joe Limestone Groundwater by Septic Tanks and Chicken Houses. Arkansas Academy of Science Proceedings, Vol. XXXIV, 41-44.

Peterson, E. W.; Davis, R. K.; Brahana, J. V.; Orndorff, H.A. (2002) Movement of Nitrate Through Regolith Covered Karst Terrain, Northwest Arkansas. Journal of Hydrology 256(1-2):35-47.

Phan, T. (2001) Cost of Water Pollution Abatement for Poultry Farms in Beaty Creek Watershed, Oklahoma. PhD Dissertation. Oklahoma State University, 114 p.

Sauer, T. J.; Moore, P. A., Jr.; Coffey, K. P.; Rutledge, E. M. (1998) Characterizing the Surface Properties of Soils at Varying Landscape Positions in the Ozark Highlands. Soil Science 163(11):907-915.

Smith, C.R. (1992) Ground Water Chemistry and Quality in Benton County, Arkansas with a Suggested Ground Water Flow Model for Northwestern Arkansas. MS Thesis, University of Arkansas, Fayetteville, 192 p.

Steele, K.; McCalster, W.K. (1990) Nitrate Concentrations of Ground Water from Limestone and Dolomitic Aquifers in the Northeastern Washington County Area, Arkansas. Arkansas Water Resources Center Publication No. MSC-68, 33 p.

Wolf, D. C.; Gilmour, J. T.; Gale, P. M. (1988) Estimating Potential Ground and Surface Water Pollution from Land Application of Poultry Litter; II. Arkansas Water Resources Research Center Publication No. 137, 34 p.

The State also refers you to previous answers given in Tyson Chicken Interrogatories No. 7. The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 11: Please Identify all reports, studies, Publications, research, sampling data or monitoring data which demonstrates or which the State believes tends to demonstrate that the soil, water, sediments or biota in the IRW has been injured by or become contaminated with arsenic or arsenic compounds disposed of or released by the Tyson Defendant or any person or Entity for which the Tyson Defendant may allegedly be held legally responsible.

ANSWER TO NO. 11: The State objects to this interrogatory on the ground that it seeks information protected by the attorney-client privilege and / or work product protection.

The State objects to this interrogatory on the grounds that it improperly seeks identification of "all" items of responsive information, which renders it overly broad, oppressive, unduly burdensome and expensive to answer. It may be impossible to locate "all" items of responsive information to this interrogatory.

The State further objects to this interrogatory to the extent this information has already been provided to the Poultry Integrator Defendants in responses to previous interrogatories, and/or in response to one or more Open Records Requests made by one or more of the Poultry Integrator Defendants.

The State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). As of the date of this response, the

State has not determined which experts retained by it or by its counsel will provide expert testimony in this case, and the Court has neither established the times and sequence of disclosure of such expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2)(C), nor has the Court established a trial date to trigger the obligation of expert disclosure 90 days in advance of trial under that rule. The State will comply with the order of the Court establishing the time of expert disclosures as required by Fed. R. Civ. P. 26

The State also objects pursuant to Fed. R. Civ. P. 26(b)(3) to any discovery of documents or tangible things prepared in anticipation of litigation or for trial by it or by consultants retained by it or by its counsel.

Pursuant to Fed. R. Civ. P. 26(b)(5) and LCvR 26.4, the State's claim of attorney-client privilege and work product protection is supported by the attached privilege log. Also, pursuant to LCvR 26.4(b), the attached privilege log does not contain any work product protection material or attorney-client privileged material created after the commencement of this action on June 13, 2005. The State reserves its work product protection claim and attorney-client privilege claim for all such materials, and reserves its right to supplement the attached privilege log should the Court enter any order requiring a log for protected or privileged materials created after the commencement of this action.

Subject to the foregoing general and specific objections, the State believes that the following reports demonstrate or tend to demonstrate that the soil, water, sediments or biota in the IRW have been injured by or become contaminated with arsenic or arsenic compounds disposed of or released by the Tyson Defendants or by a person or Entity for which the Tyson Defendant are legally responsible:

> Arai, Y.; Lanzirotti, A.; Sutton, S.; Davis, J.A.; Sparks, D.L. (2003) Arsenic Speciation and Reactivity in Poultry Litter. Environmental Science and Technology, 37(18): 4083 - 4090

Brown, B.L. (2003) The Sorption of Roxarsone, an Organoarsenical Animal Feed Additive. M.S. Thesis, Virginia Polytechnic Institute and State University, 95 p

Bellows, B.C. (2005) Arsenic in Poultry Litter: Organic Regulations. National Sustainable Agriculture Information Service, 12 p.

Blackerby, S.D. (1997) Evaluation of Nonpoint Source Pollution Concentrations Due to Runoff from Agricultural Land Applied with Broiler Litter. M.S. Thesis, Stephen F. Austin State University, Nacogdoches, TX, 100 p.

Moore, P.A., Jr.; Daniel, T.C; Gilmour, J.T; Shreve, B.R; Edwards, D.R. (1998) Decreasing Metal Runoff from Poultry Litter with Aluminum Sulfate. Journal of Environmental Quality. 27:92-99.

Nachman, K.E.; Graham, J.P.; Price, L.B.; Silbergeld, E.K. (2005) Arsenic: A Roadblock to Potential Animal Waste Management Solutions. Environmental Health Perspective 113:1123-1124 (2005). doi:10.1289/ehp.7834 available via http://dx.doi.org/ [Online 12 May 2005].

Wilde, F.D.; Britton, L.J.; Miller, C.V.; Kolpin, D.W. (2000) Effects of Animal Feeding Operations on Water Resources and the Environment - Proceedings of the technical meeting, Fort Collins, Colorado, August 30 - September 1, 1999. United States Geological Survey Open-File Report 00-204, 107 p.

The State also refers you to previous answers given in Tyson Chicken Interrogatories No. 8. The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e).

Respectfully submitted,

W.A. Drew Edmondson (OBA #2628)
Attorney General
Kelly H. Burch (OBA #17067)
J. Trevor Hammons (OBA #20234)
Assistant Attorneys General
State of Oklahoma
2300 North Lincoln Boulevard, Suite 112
Oklahoma City, OK 73105
(405) 521-3921

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

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

OBJECTIONS AND RESPONSES OF STATE OF OKLAHOMA TO SEPARATE DEFENDANT COBB-VANTRESS INC.'S SECOND SET OF INTERROGATORIES PROPOUNDED TO PLAINTIFFS

The Plaintiff State of Oklahoma respectfully submits its objections and responses to Separate Defendant Cobb-Vantress, Inc's Second Set of Interrogatories propounded to Plaintiffs. The State maintains records in numerous locations at many agencies and its record review is ongoing. The State shall supplement the following responses and attached privilege logs should additional responsive or privilege-protected documents come to its attention.

GENERAL OBJECTIONS

1. The State objects to these discovery requests to the extent that they seek the discovery of information that is protected by the attorney-client privilege and/or the work product doctrine.

2. The State objects to these discovery requests to the extent that they seek the discovery of information that is already in the possession of defendant, is obtainable from another source that is more convenient, less burdensome or less expensive, or is as accessible to defendant as it is to the State. As such, the burden of obtaining such sought-after information is substantially the same, or less, for defendant

interrogatory.

In further response to this Interrogatory and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found within the business records being provided to this Defendant. Identification of such business records will occur on a rolling basis as the State's review of its business records proceeds.

The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P 26(e).

INTERROGATORY NO. 9: Please identify by name and Chemical Abstracts Survey Registry Number ("CASRN") each hazardous substance You contend any Tyson Defendant has released or disposed of in the IRW for which You contend the [sic] any Tyson Defendant is liable under CERCLA, 42 U.S.C. § 9607 et seq.

OBJECTIONS AND RESPONSE TO NO. 9: The State objects to this interrogatory to the extent it seeks information protected by the attorney client privilege and / or the work product doctrine.

The State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). As of the date of this response, the State has not determined which experts retained by it or by its counsel will provide expert testimony in this case, and the Court has neither established the times and sequence of disclosure of such expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2)(C), nor has the Court established a trial date to trigger the obligation of expert disclosure 90 days in advance of trial under that rule. The State will comply with the order of the Court establishing the time of expert disclosures as required by Fed. R. Civ. P. 26. Therefore, the State

also objects to this interrogatory to the extent it calls for information which constitutes expert opinions, the disclosure of which is premature.

The State also objects pursuant to Fed. R. Civ. P. 26(b)(3) to any discovery of documents or tangible things prepared in anticipation of litigation or for trial by it or by consultants retained by it or by its counsel.

Pursuant to Fed. R. Civ. P. 26(b)(5) and LCvR 26.4, the State's claim of attorney-client privilege and work product protection is supported by its privilege log. Also, pursuant to LCvR 26.4(b), the attached privilege log does not contain any work product protection material or attorney-client privileged material created after the commencement of this action on June 13, 2005. The State reserves its work product protection claim and attorney-client privilege claim for all such materials, and reserves its right to supplement the attached privilege log should the Court enter any order requiring a log for protected or privileged materials created after the commencement of this action, or if the State identifies additional documents subject to a claim of privilege or protection.

The State further objects to this interrogatory on the ground that it is premature; the State's investigation of Tyson Defendant's conduct is on-going, and as such it is not possible to identify "each" hazardous substance that Tyson Defendant has released or disposed of in the IRW for which the State contends Tyson Defendant is liable. The State reserves all rights to supplement this interrogatory answer pursuant to Fed. R. Civ. P. 26(e). The State also objects to this interrogatory to the extent it calls for expert opinions, the disclosure of which is premature. The State also objects to this interrogatory insofar as it improperly attempts to narrow the scope of "hazardous substances" to only those chemicals specifically named on List 302.4. As explained in *City of Tulsa v. Tyson Foods, Inc.*, 258 F.Supp.2d 1263,

1283-85 (N.D. Okla. 2003), vacated pursuant to settlement, CERCLA is a remedial statute that courts construe liberally to effectuate its broad response and reimbursement goals. Consistent with these goals and the mandated liberal construction, the term "hazardous substances" means not only chemicals specifically named on List 302.4, but also chemical compounds, chemical forms and chemical combinations of those chemicals specifically named on List 302.4. Id.; see also *B.F. Goodrich Co. v. Murtha*, 958 F.2d 1192, 1201 (2d Cir. 1992) ("Liability under CERCLA depends only on the presence in any form of listed hazardous substances"). Subject to and without waiving its general or specific objections, the State contends that a Tyson Defendant has released or disposed of in the IRW:

Substance	CASRN
Aluminum compounds	-
Arsenic and compounds	-
Ammonia	7664417
Ammonium and compounds	-
Cadmium and compounds	-
Chromium and compounds	-
Copper and compounds	-
Lead and compounds	-
Manganese compounds	-
Nickel and compounds	-
Nitric acid	7786-81-4
Nitrogen oxides	-

Nitrosamines	-
Phosphorus and compounds	-
Phosphoric acid	7664382
Polynuclear Aromatic Hydrocarbons	-
Radionuclides	-
Selenium and compounds	-
Sodium compounds	-
Sulfuric acid	7664939
Thiourea	62566
Unlisted hazardous waste characteristic of reactivity	
Zinc and compounds	-
Iron compounds	-

The State reserves its right to supplement its answer to this interrogatory pursuant to Fed R. Civ. P. 26(e).

INTERROGATORY NO. 10: Please Identify and describe each applicable or relevant and appropriate ("ARAR") you have met in complying with the National Contingency Plan.

OBJECTIONS AND RESPONSE TO NO.10: The State objects to this Interrogatory because Defendant has exceeded the limit of 25 interrogatories or discrete subparts found in Fed. R. Civ. P. 33(a). After conferring in good faith with counsel for Defendant, counsel for Defendant has, without agreeing with the State''s count of interrogatories or discrete subparts, designated this interrogatory as one which, if not posed, would, by the State''s count, reduce the total number of interrogatories and discrete subparts to