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August 6, 2007

VIA E-MAIL

Mr. Richard T. Garren
Riggs, Abney, Neal, et al.
502 West Sixth Street
Tulsa, OK 74119-1010

Mr. Louis W. Bullock
Miller, Keffer & Bullock, PC
222 S. Kenosha Avenue
Tulsa, OK 74120

Re: State of Oklahoma v. Tyson, et al.
Case No. 05-CV-0329 GKF-SAJ

Dear Messrs. Garren and Bullock:

This letter follows our August 1st meet and confer discussing the Cargill Defendants' concerns about the State's Rule 30(b)(6) Deposition Notice served on July 16, 2007. During the meet and confer the parties were not able to reach agreement on any of the points discussed. However, it is my hope that we can yet reach an understanding that will allow the Cargill Defendants to adequately identify and prepare appropriate designee(s) on the noticed topics.

Period of Inquiry

As we discussed, it is the Cargill Defendants' position that, but for the issue of corporate knowledge of the allegedly detrimental effects of land application of poultry litter, the appropriate period of inquiry for discovery has yet to be determined. This issue was raised in connection with the State's Motion to Compel, and the Court ordered the parties to meet and confer at least with regard to the production of documents. During that meet and confer, the State agreed to limit its requests for documents as far back as the Cargill Defendants' possess them to certain categories/types of documents. However, it is our understanding that for the 30(b)(6) deposition the State would like to inquire into the Cargill

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Defendants' knowledge on all of the identified topics from the date they "commenced any poultry growing operations located within the boundaries of the IRW."

After considering the State's position in the meet and confer and the burden on the Cargill Defendants to identify and prepare witness(es) on each of these topics since the late 1960s (when Cargill, Inc.'s operations began in the IRW), the Cargill Defendants will agree to designate current or former employees who are most knowledgeable about the noticed topics. The designee(s) would testify from first-hand knowledge of the topics for as far back as their personal knowledge goes. The designee(s) would be familiar with the documents that the Cargill Defendants have produced in response to Plaintiffs' discovery requests as well as any pertinent documents (without regard to date) of which the designee(s) have an independent recollection. However, because of the burden of preparing the designee(s) to discuss more than forty years of history on thirty-six discrete topics, particularly in light of the on-going status of the Cargill Defendants' document production (discussed below), the designee(s) will not be prepared to discuss corporate documents not yet produced or with which the designee is not independently familiar.

Geographic Scope of Inquiry

With regard to the appropriate geographic scope, the Court has determined that the State is entitled to corporate knowledge about the detrimental effects of land application of poultry litter without regard to the geographical location to which it relates. However, as to all other issues, the Court limited the State's ability to discover data related to areas outside the IRW. It is our understanding that the State interprets the Court's Order to permit inquiry not just into the Cargill Defendants' knowledge of allegedly detrimental effects of land application of poultry litter within the United States, but also to include knowledge of environmental effects (a) globally, (b) regardless whether in the context of land application, and (c) with regard to each individual constituent of poultry litter at issue in this litigation (e.g. phosphates, arsenic, copper, zinc, etc.) even where the constituent's environmental effects have no relation to the land application of poultry litter. The Cargill Defendants consider the State's construction of the Court's Order to be vastly over-reaching.

Nonetheless, in an attempt to try to move forward with the proposed 30(b)(6) deposition, the Cargill Defendants will agree to identify a current or former employee who is most knowledgeable about the allegedly detrimental environmental effects of the land application of poultry litter in the United States. To the extent this designee has first-hand knowledge of environmental effects of poultry litter land application in areas outside the United States, the Cargill Defendants would permit this inquiry. The designee would be familiar with the documents the Cargill Defendants have produced to date and would be able to testify about any other documents related to the detrimental environmental effects of poultry litter land application (without regard to geographical scope) of which the designee has independent knowledge. Again, due to burden and ongoing document production, the

designee would not be able to discuss documents not yet produced or documents with which the designee is not personally familiar.

So that there is no misunderstanding, the Cargill Defendants do not agree to produce a designee knowledgeable about every conceivable environmental effect that may occur globally from the individual components of poultry litter when those components are not bound in poultry litter. The Cargill Defendants also do not agree to produce a designee knowledgeable about the worldwide environmental effects of commercial fertilizer, an entirely different product than naturally occurring poultry litter. As we have previously indicated, we do not believe that these areas of inquiry are reasonably calculated to lead to the discovery of admissible evidence in this litigation. Moreover, the effort and expense to identify and prepare witnesses on these topics would be extraordinary.

Inquiry Into Corporate Organization

As discussed during the meet and confer, the Cargill Defendants construe Topic #36 related to corporate organizational structure to be the only noticed topic that conceivably reaches areas pertaining to interests of the Cargill Defendants outside of live poultry production. It is our understanding that the State wishes the Cargill Defendants to provide designee(s) who can discuss the details of their corporate organizational structure globally. However, as reflected in the Affidavit of Steve Willardsen previously provided to the State in opposition to its Motion to Compel, Cargill, Inc. has over ninety different business units in more than sixty different countries. It would both reach beyond the bounds of relevance and be unduly burdensome for the Cargill Defendants to attempt to prepare a witness on the corporate structure of each and every business affiliated with them throughout the world.

In an effort to accommodate the State as much as reasonably possible, the Cargill Defendants will agree to identify a corporate employee who can discuss generally the various segments of industry in which Cargill is involved worldwide. However, the designee(s) would only be prepared to testify specifically to the organizational structure of the businesses with which the Cargill Defendants are affiliated that are involved in live poultry production in the United States. To the extent the U.S. designee has first-hand knowledge of the Cargill Defendant's involvement with live poultry production in countries outside the U.S., the designee would be permitted to discuss his/her knowledge of the corporate structure of those companies. So that we are clear, the Cargill Defendants' designee(s) would be prepared to discuss the production of poultry feed and the production of live turkeys. The designee(s) would not discuss processing or marketing of poultry products.

Inquiry into "Run-off" or "Direct" Environmental Effects

The Cargill Defendants have had a lengthy history of trying to obtain satisfactory interrogatory responses from the State with regard to the actions of the companies or their

contract growers that have allegedly harmed the IRW. Even the State's most recent supplementation of responses in accordance with the Court's Order fails to identify any specific instances of "run-off" allegedly occurring at a Cargill owned operation or the operations of their contract growers or of alleged environmental effects "directly" caused by the Cargill Defendants or their contract growers. At present, the State's supplemental responses appear to be limited to "circumstantial" evidence.

While we will continue to disagree with regard to the sufficiency of the State's supplemental responses, for the purposes of attempting to proceed with this deposition, the Cargill Defendants will agree to designate an individual who can testify generally with regard to activities known by the companies to have occurred either at their IRW breeder farms or those of their IRW contract growers. To the extent the designee has any personal knowledge of "run-off" occurring, the State may inquire into that knowledge. However, the designee(s) would not be prepared to discuss any specific instances of "run-off" (as interpreted by the State) that have not been disclosed in the State's interrogatory responses.

Status of Cargill Defendants' Document Production

As you are aware the Cargill Defendants are preparing to produce additional documents responsive to the Court's Order. We have met and conferred with Trevor Hammons and Bob Nance on this issue, and believe that an agreement on the contours of the anticipated supplemental production is imminent. However, it may not be possible for the Cargill Defendants to complete its supplemental production by the time the State wishes to conduct this 30(b)(6) deposition.

As we discussed, the noticed topics cover issues that are pertinent to the additional document production, including identification of other contract growers in the IRW prior to 2002 and identification of documents addressing corporate knowledge of environmental effects of land application of poultry litter in the U.S. It is our understanding from the meet and confer that the State would like to proceed with this 30(b)(6) deposition before the Cargill Defendants' document production is complete.

Although the Cargill Defendants have serious concerns about producing a corporate witness prior to completion of document production, in order to accommodate the State's request to move forward on the deposition, the Cargill Defendants will agree to designate individuals on the noticed topics (subject the reservations and objections noted in this letter as well as my July 23rd letter). However, to the extent the designee(s) purport to speak on behalf of the company and not of their personal knowledge, they will be prepared to discuss only the documents that have been produced by the Cargill Defendants up to and including the date of the deposition. Moreover, the Cargill Defendants will object to any attempt by the State to re-depose the identified designees on the basis of any information that may later be identified in documents produced after the date of the deposition. If the State agrees to

proceed at this time despite full knowledge that additional document production is forthcoming, the State must take the risk of the Court's ultimate ruling on this issue.

Please note that the concessions the Cargill Defendants contemplate for the State's 30(b)(6) notice with regard to temporal and geographic scope apply only to the scope of permitted inquiry in this 30(b)(6) deposition. The Cargill Defendants do not agree to a broader interpretation of the temporal or geographic scope of document production (or any other discovery) than that specifically outlined in the Court's Order or that may otherwise be agreed to by the parties.

Duration of Inquiry

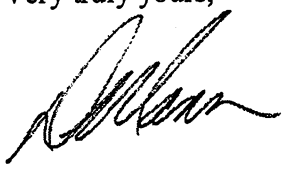
For the purposes of this 30(b)(6) notice, the Cargill Defendants will agree to allot Plaintiffs a maximum of seven hours per witness of each individual designated by the Cargill Defendants.

Date of 30(b)(6) Deposition

If we are able to reach an agreement on the issues outlined above, the Cargill Defendants will agree to provide proposed deposition dates to the State as soon as possible. As we are not able to identify the appropriate designees until the issues in this letter are addressed, we cannot commit to identifying proposed dates during the month of August. However, should the State wish to proceed given the Cargill Defendants' position, we will make every effort to find mutually agreeable dates for completion of the 30(b)(6) deposition between now and September 14th.

Please contact either Theresa Hill or me by Wednesday with the State's position on the Cargill Defendants' offer. If you think it will be helpful, we will be happy to engage in another meet and confer with an eye toward resolving any remaining areas of disagreement.

Very truly yours,



Dara D. Mann

MANDD
cc: John Tucker (via email)
Theresa Hill (via email)

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