EXHIBIT B

KUTAK ROCK LLP

THE THREE SISTERS BUILDING
214 WEST DICKSON STREET
FAYETTEVILLE, ARKANSAS 72701-5221

479-973-4200
FACSIMILE 479-973-0007

www.kutakrock.com

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SUITE 2000
124 WEST CAPITOL AVENUE
LITTLE ROCK, ARKANSAS 72201-3706
501-975-3000

ROBERT W. GEORGE
robert.george@kutakrock.com
(479) 973-4200

November 30, 2007

VIA ELECTRONIC MAIL

Louis W. Bullock
Miller, Keffer, Bullock & Pedigo LLC
222 S. Kenosha Avenue
Tulsa, Oklahoma 74120

Dear Louis:

Re: Oklahoma, et al. v. Tyson Foods, Inc., et al.,

The State's strategy of delayed and piecemeal productions of data and test results continues to prejudice the Defendants' ability to investigate and defend against the State's claims. This prejudice has now been compounded by the State's recent filing of a Motion for Preliminary Injunction supported by opinions from experts purportedly based on sampling, testing and investigation conducted by the State in the Illinois River Watershed ("IRW"). Defendants can no longer accept any delays or incompleteness in the State's production of the information which you were ordered to produce by February 1, 2007.

In my letter dated August 29, 2007, Defendants raised serious concerns regarding the status of the State's "court-ordered scientific production." Despite the assurances in your response letter dated September 19, 2007 many of these concerns have not been satisfactorily addressed. Notably, in your letter, the State made promises to produce certain identified missing information but failed to indicate when such information would be produced. Nearly two months have now passed, and the promised supplementation has not yet occurred. This delay is unacceptable. Also, although your letter vaguely referenced prior productions where certain missing information reportedly could be found, the State did not specify where such information was actually located. The State's failure to identify precise Bates ranges or adequately describe where the requested information can be found continues to cause unnecessary problems. The Court has consistently found that the State has failed to be sufficiently specific in producing documents to Defendants, and this pattern of behavior must cease.

As explained further below, we ask that by the December 7, 2007 you 1) supplement the State's prior productions with the identified missing information, or 2) specify where in the data

produced to date such information exists. We also ask that you specify what information in the data produced to date you claim is responsive to prior discovery requests.

I. Information The State Indicated It Would Produce That It Has Not Yet Produced.

In your September 19, 2007 letter, you indicated that the State would supplement its earlier production to correct for several identified deficiencies. Approximately two months have now passed, and we have yet to see this promised data. In particular, you indicated that the following data or information would be produced:

1. Geoprobe groundwater sampling data;

2. Sampling and location information for the benthic macroinvertebrates and periphyton data; and

3. A complete set of QA/QC lab packages.

This information should be produced immediately. If there is any reason the information cannot be produced in the next few days, please inform us of a date certain by which you will produce the data. In addition, with respect to the missing QA/QC lab packages, if you are unable to produce a complete set at this time, we expect written confirmation that a complete set for the existing data has already been produced such that no further supplementation will be made.

Likewise, with respect to the benthic and periphyton data produced, Defendants informed you that it was not in a readable format. In response, you indicated that if we identified the unreadable pages, you would see to it that readable information was produced. The pages Bates-numbered with ranges STOK0016943-0017146 are the pages that are unreadable. For example, on the attached page STOK0016966, the tally marks and names listed are illegible. Further, the information is nonsensical in the current format inasmuch as you provide no key or explanation regarding the notations. As previously requested, the benthic and periphyton data must be immediately produced in a readable, useable format. Please provide us with a date certain when the State will supplement its earlier production with this information.

II. The State Has Failed To Produce Other Identified Missing Information.

In addition to failing to supplement the data as promised, the State has also failed to adequately respond to the following concerns we previously identified:

1. <u>The Court's Order Includes Production of Raw Data, Not Just QA/QC data.</u> As soon as the State's laboratories generate raw data, that data should be produced to Defendants pursuant to the Court's January 5, 2007 Order. Nothing in that Order

suggests that the State can limit its production to QA/QC'd data only. Defendants are concerned that the State is attempting to use the QA/QC process to delay production of data, as Defendants are entitled to begin reviewing the State's raw data as soon as it is generated. If the State chooses not to share such data with its own experts, that is its own choice, but that decision does not alter the State's obligations under the January 5, 2007 Order to promptly produce such data to Defendants. Please immediately produce all outstanding raw data.

2. Incomplete DNA/Microbial Source Tracking Data. In correspondence dated October 19, 2007, you indicated that the sampling methodology conducted by the DNA/Microbial Source Tracking is in the field notebooks. Please direct us to the specific pages that contain this information. Also, the State continues to provide Defendants with only bits and pieces at a time of the DNA/Microbial Source Tracking data it appears to have collected to date. While you have produced some analytical data, such data appears to be summary data as opposed to a complete set of data collected and analyzed to date. Please either immediately supplement your prior productions with a complete set of the data collected for purposes of the State's DNA/Microbrial Source Tracking efforts or confirm that no other such data exists at this time.

3. Missing GPS Coordinates. With respect to the GPS coordinates, you stated in your September 19, 2007 letter that you would provide information to us as soon as you received it. As of the date of this letter, we are still missing GPS coordinates for sampling station SD-005 referenced at Bates page STOK0000920. The State must either immediately produce the location information for this station or confirm that no data was ever collected from this location.

4. Agricultural Census Data. Item No. 214 on the State's privilege log indicates that the State has collected and analyzed certain agricultural census data. However, no specifics are given regarding the nature of that data (*e.g.*, what years, species, etc.). The State has asserted work product protections against the production of the analysis of this data. Regardless of whether the State agrees to produce the analysis of this data, the State must immediately produce the underlying data itself, which the State has collected and reviewed. Raw facts cannot be protected under the work product doctrine.

5. Correlation chart. Defendants previously requested that the State produce a key or chart correlating sample numbers used in field notebooks with sample numbers shown on lab reports. This is necessary because the State appears to have assigned multiple identifiers to the same samples. This use of multiple sample identifiers has prejudiced Defendants in their review of the data. The State has not provided any justification for why multiple identifiers were used or why it has

not produced a correlation chart for all samples. Please produce a correlation chart immediately.

6. Automated High Flow Sampling Data. With respect to the automated high flow sampling data, you indicated that the height and width information was in the field notebooks but did not identify particular pages where such information is located. This statement was not responsive to the concern we identified because the notebooks provide speed and depth but not width. As an example, on page STOK0019428 (attached) there is a height and depth value (in feet) and a velocity value (in feet per second), but the width is not provided. As explained in our earlier letter to you, we have been unable to locate storm hydrographs that provide height and width information or direct width measurements taken at the ISCO samplers. If this information is in the field notebooks, as you assert in your last letter, please immediately direct us to precisely where the width information is recorded. Otherwise, please immediately supplement your prior productions with this information.

Pursuant to the Court's January 5, 2007 Order, the State must produce this information immediately – as this information should have been produced last February. To the extent you are unable or unwilling to produce this data within the next few days, the parties must schedule a meet and confer.

III. The State Has Failed To Specify Where In Its Scientific Production Responsive Information Exists.

Defendants continue to be concerned, moreover, with the unorganized production of the data in this case and the State's refusal to specify where relevant information exists within the data set that has been produced. As highlighted above, in response to our August 29 letter, the State merely responded that certain responsive information had already been produced, but the State did not specify where (*e.g.*, at what Bates page) the responsive information was located. Likewise, the State has improperly responded to numerous Defendant's discovery requests by asserting that responsive information is contained in the court-ordered scientific production without pointing to where in the scientific production such responsive information is located.

In numerous responses to written discovery served by the defendants, the State has simply referred defendants generically to "documents included in the State's February 1, 3, and 8, 2007 document production and subsequent updates produced pursuant to the Court's January 5, 2007 Order." *See, e.g.* Responses to Cargill, Inc.'s Interrogatory Nos. 9 and 13; State's Supplemental Responses to Tyson Poultry Interrogatory Nos. 4 – 8; State's Supplemental Responses to Cobb-Vantress Interrogatory Nos. 4, 8; State's Supplemental Responses to Tyson. The Court has repeatedly directed the State to specify with particularity what documents or information it believes are actually responsive to the discovery requests at issue. (*E.g.*, Order of

May 17 at 5-7 (regarding hardcopy documents); Order of Oct. 24, 2007 at 5 (regarding items listed on privilege logs); Order of Oct. 24, 2007 at 9 (regarding ESI).) The State cannot merely point to unorganized data sets or multiple boxes of information not produced in the ordinary course of business as places where Defendants can go search to find an answer. We therefore ask that the State supplement all prior responses to written discovery which include generic references to the State's court-ordered, scientific production to specify where in the scientific production responsive information can be found.

Please let me know how the State intends to proceed with respect to these issues. The State's recently served Motion for Preliminary Injunction of course make resolution of these issues all the more urgent. If Defendants' above-mentioned concerns are not fully and adequately addressed by December 7, 2007, the parties will need to schedule a meet and confer and, if necessary, bring the appropriate motion. Please be advised that if we are unable to resolve these issues soon, we intend to seek assistance from the Court.

Sincerely,

Robert George

cc: All Counsel of Record (via e mail)

Cardinal Shiner - 2nd pass 2/2

Cardinal Shiner		
109 9 7	𝍸 𝍸 |||	13
98	𝍸 𝍸 𝍸 𝍸 |	21
82	𝍸 ||||	9
70	𝍸 |||| + 23 + |	33
57	𝍸 𝍸 𝍸 + 17 + ||||	36
30	𝍸 𝍸 𝍸 𝍸 𝍸 ||	27
Stone Roller		
135	|||	3
113	𝍸 𝍸 |	11
98	𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 ||	37
69	𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 |||| + 22 + 𝍸 𝍸 𝍸 |	97
39	𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 𝍸 + 48 + 13 + 8 + 3 +	14
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95		
85	𝍸 |||	8
75	𝍸 ||	7
65	𝍸 𝍸 𝍸 ||	17
46	|||	3
Creek Chubs		
96	|	1
70	||	2
60	𝍸 |	6
40	𝍸 |	6
Orange Sided Darter		
62	|	1
50	𝍸 𝍸 ||	12
36	𝍸 ||	7
Green Sided Darter	Length/weight 52, 43, 52, 56	
Sm Mouth Bus	Length/weight 2@ 95, 68/4.6, 75/5.3,	
~~[illegible]~~	48	
Sand pin		
~~[illegible]~~	105, 80/9.5, 102/14.0	
Mosquito Fish		
~~[illegible]~~	25, 31, 26, 29	
Blue Gill	100	

OVER

STOK0016966

5/15/05

HFS026 06:56
SIGNAL STR 5
SPECTRUM 89
.548 FT
1.03 FPS

LID RESET
BUNG SEALED W/ DUCT TAPE
FRAME 688 BARREL BEFORE RESET
699 STREAM DEPLOYMENT

APP059 Shores Away From Road
NO SAMPLE 07:30

APP051 Covered BY FOFOZ 0733

APP041 Shores Away no sample 0735

APP036 Shores Away no sample 0738