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December 19, 2007

Robert George
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(VIA EMAIL ONLY)

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

Dear Robert:

In an effort to assist you in interpreting the information you have received, and in response to your letter of November 30, 2007, I am providing the following:

A. Information Previously Requested:

1. Geoprobe groundwater sampling data has been provided in the same manner as the other data. You have received the field book documenting the sampling and the locations at which the samples were taken. See Bates Numbers STOK 25748-25792. In the normal course of producing lab data, you have also received the sampling results as the samples have completed our internal QA/QC. Those productions are contained in the results obtained from Environmental Microbiology Laboratory, Aquatic Research Inc., and A&L Laboratory. They bear a GP-GW ### sample designation.

2. I thought we had provided the sampling and location information for the benthic macroinvertebrates and periphyton data. Apparently, I was mistaken. We will get it to you promptly. In light of your suggestion that the urgency of your request is based upon the Plaintiff's Motion for a Preliminary Injunction, it is important to note that this data is not relevant to that motion. In spite of this, we will provide this data promptly.

3. I believe you have all of the QA/QC documents, but if you could specify which you believe you are missing, I will attempt to run them to ground.

Exhibit 9

B. Other Information Allegedly Requested But Not Produced:

1. Requested "Raw" Data Prior to Internal QA/QC: Perhaps it would help if I explained in greater detail the purpose of our internal QA/QC review. The purpose of this internal process is, in part, to insure that the information is complete before it is sent out. This includes assuring that we have the QA/QC results from the individual labs and the chain of custody information, and that it is indexed so it can be provided to our scientists and produced to you in an orderly manner. NO DATA is being withheld nor will any be withheld as the result of this process, and no results have been or will be changed as a result of this internal QA/QC procedure. Providing the data prior to this process will only invite chaos and confusion. You have unfairly complained about the organization of our production. Complying with your demand that we provide this data without the organization provided by our internal QA/QC process will only serve to raise the possibility that there will be some validity to your complaints. Finally, the Court's Order does not require us to change our procedures. It only requires us to give you the data, and we are doing that.

2. DNA/Microbial Source Tracking Data: We will fully comply with the Court Order requiring us to provide both the information relied upon and the information considered at least 21 days prior to Dr. Harwood's deposition. To the maximum extent possible we will provide this information in advance of that date. I understand that some of this information will be produced later this week. As part of the effort to provide you this information, a report is being completed to provide the details of the lab procedures and the results of those procedures. My understanding of this report is that it should be responsive to your inquiry. Dr. Harwood is in New Zealand at the moment which is delaying the completion of that report. I will provide you a date for producing that report as soon as possible. Once you have reviewed it, we can discuss whether other information is needed.

3. GPS Coordinates: I previously provided you with a spread sheet concerning all of the GPS coordinates which you reported having difficulty locating. I was able to provide coordinates for the majority of those. In those limited instances where we were unable to provide coordinates, it was due to the fact that the sample identification name about which you inquired did not reflect our sample numbering system. We do not know if your staff misread the sample designation; if the writing in the log book was difficult to read; if one of our scientists made an entry error; or if there was some other cause for your difficulty. Therefore, the comment column in the spread sheet asks for information that would help us determine the actual sample ID number and its coordinates. For example, SD-05 is not one of our sample designations. As a result, we asked for a reference to either the collection date or the lab where you found the reference. You have not provided any of that information, making it impossible for us to further assist you. Please provide that information so we can fully respond.

4. Agricultural Census Data: The census data is publicly available data. We are not hiding any "raw facts." Your experts can review the agricultural census data and select that which they believe to be relevant, the same as we can. As I stated previously it was the analysis of that data which we were protecting as work product. That issue aside, you will receive this data as part of the information relied upon or considered by Dr. Fisher.

5. Correlation Chart: In light of the inquiry above regarding GPS Coordinates, it appears that you have been able to do the same work that we have done, correlating data with actual sampling events. I am still of a view that there is nothing in either the Court's Orders or the federal rules which requires us to do this for you. However, I am open to discussing a possible exchange of these charts -- sort of a, you show us yours and we will show ours. Let me know if such a discussion might bear fruit.

6. Automated High Flow Sampling Data: In order to expedite this matter, I am having a chart made with the width data that you have requested.

C. The Responsiveness of the State's Production:

Your complaints concerning the quality of our production and its "responsiveness" to the discovery served on the Plaintiff by the Defendants are again ill founded. It is true that we have produced the data as it has become available resulting in the Defendants receiving it in pieces rather than in one completed package. This has resulted in your receiving it much in the same manner as the Plaintiff has received it.

The Court did not require us to provide Defendants with our analysis of the data, and we have not. At least we did not do so until we filed the Motion for Preliminary Injunction at which time you did receive affidavits containing our experts' analysis relative to the bacterial contamination of the Oklahoma portion of the IRW by your clients and the other Defendants. At the same time, we have pointed to the data as being relevant to certain questions which have been asked relative to our case. While Defendants understandably wish for us to set out our entire expert case before the time set by the Court for the filing of such reports, that is not required. With the experience and sophistication of the Defendants, even in the face of their claims that they are unable "after reasonable inquiry" to discover such things as whether the feces from their poultry contains any pathogenic bacteria, I am confident that they are quite capable of connecting the dots.

I trust this letter is fully responsive to your requests.

Sincerely,

Louis W. Bullock