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 FOODS INC.'S FIRST SET OF INTERROGATORIES PROPOUNDED TO PLAINTIFFS

The Plaintiff State of Oklahoma respectfully submits its objections and responses to Defendant Tyson Foods, Inc's Interrogatories propounded to Plaintiffs. The State maintains numerous records 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 as it is for the State.

Exhibit 18-3

3. The State objects to these discovery requests to the extent that they are overly broad, oppressive, unduly burdensome and expensive to answer. Providing answers to such discovery requests would needlessly and improperly burden the State.

4. The State objects to these discovery requests to the extent that they improperly seek identification of "all" items or "each" item of responsive information. Such discovery requests are thus overly broad and unduly burdensome. It may be impossible to locate "all" items or "each" item of responsive information to such discovery requests.

5. The State objects to the extent that discovery sought is unreasonably cumulative or duplicative.

6. The State objects to these discovery requests to the extent that they do not state with the required degree of specificity and particularity what information is being sought. As such, such discovery requests are vague, indefinite, ambiguous and not susceptible to easily discernible meaning.

7. The state objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties resources, and the importance of the proposed discovery in resolving the issues.

8. The State objects to these discovery requests to the extent that they improperly attempt to impose obligations on the State other than those imposed or authorized by the Federal Rules of Civil Procedure.

9. The State objects to the definitions of these discovery requests to the extent that they improperly attempt to alter the plain meaning of certain words.

10. By submitting these responses, the State does not acknowledge that the requested information is necessarily relevant or admissible. The State Expressly reserves the right to object to further discovery into the subject matter of any information provided and to the introduction of such information into evidence.

OBJECTIONS AND RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1: Please Identify any persons You expect to call as an Expert witness in the trial of the Lawsuit or during any evidentiary hearing conducted in the Lawsuit. In doing so, please provide the following information for each Expert:

(a) Name, address and telephone number;

(b) The subject matter on which the Expert is expected to testify;

(c) The substance of the facts and opinions to which the Expert is expected to testify, and

(d) A summary of the grounds for each opinion to be offered by the Expert.

OBJECTION AND RESPONSE TO NO. 1: 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 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. Further, to the extent this interrogatory seeks the identification of, or 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 who the State may call "during any evidentiary hearing in the Lawsuit," the State states that a response

to this interrogatory is presently impossible inasmuch as no "evidentiary hearings" are presently scheduled. To the extent such evidentiary hearings occur in the future, the State will, of course, comply with all requirements pertaining to the disclosure of any expert witnesses.

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.

INTERROGATORY NO. 2: Please describe in detail and by category the nature and amount of damages You are seeking to recover in the Lawsuit, the specific calculations utilized to arrive at each specific damage type and amount, and Identify all Documents that Relate to such damages and calculations.

OBJECTIONS AND RESPONSE TO NO. 2: 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 25 for this Defendant. The parties have agreed that the State has not waived its objection to the number of interrogatories and discrete subparts posed by responding to any other interrogatory. See Email exchange between Robert George and Robert Nance, Exhibit 1 attached hereto for the full text of the agreement of the parties

The State further 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 expert 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 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.

INTERROGATORY NO. 3: Please Identify each tract of real property situated within the IRW in which the State of Oklahoma currently owns, or has owned during the three years prior to the filing of the Lawsuit, any legal or equitable interest (including but not limited to, ownership in fee, surface ownership,

mineral ownership, lease or license), and indicate for each such tract the specific time periods in which the State of Oklahoma owned an interest, the nature of the interest, the specific use(s) for and activity(ies) that has been conducted on the tract during the period the State of Oklahoma owned the interest. Also, please Identify any Documents that Relate to the State of Oklahoma's interest in such property.

OBJECTIONS AND RESPONSE TO NO. 3: The State objects to this interrogatory on the grounds that it is overly broad, oppressive, unduly burdensome and expensive to answer, especially to the extent that it asks about "each" tract of real property owned by the State. Providing answers to such discovery requests would needlessly and improperly burden the State.

Subject to and without waiving its general or specific objections, the State has no readily available source of information from which to derive the answer to this Interrogatory. Pursuant to F.R.Civ.P. 33(d), the answer to this interrogatory may be found in the land records of the County Clerks of those counties of Oklahoma which include some portion of the IRW and on the websites of various state agencies, such as the Oklahoma Department of Wildlife Conservation. The burden of determining the answer to this interrogatory is substantially the same for Defendant Tyson Foods, Inc., as it is for the State of Oklahoma, and thus the Defendant may search the land records. The pertinent land records are available for inspection and copying during normal business hours of the respective County Clerks' offices. Further, without waiving its objections, the State states that the type of properties the State owns includes, but not limited to, universities and associated properties, various State agencies and associated properties, and state parks and associated properties. The uses and activities of these properties are typical of universities, State agency offices and state parks.

Subject to and without waiving its general or specific objections, the State refers Defendant to its

initial response to Fed. R. Civ. P. 26(a)(1)(A). 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. 4: For each specific tract of real property identified in Your answer to the preceding Interrogatory on which You or any other person or Entity has collected, handled, treated, stored, or disposed of any type of chemicals, fertilizers or waste material (including but not limited to, solid wastes, semi-solid wastes, liquid wastes, industrial wastes, municipal, industrial wastes, municipal, industrial, or household waste water, grey water, sewage or effluent of any type), please Identify the specific materials collected, handled, treated, stored, used or disposed of by chemical composition, volume, and processes employed for each month of the term of the State of Oklahoma's ownership or interest. Also please Identify any Documents that Relate to those activities.

OBJECTION AND RESPONSE TO NO. 4: The State objects to this interrogatory on the grounds that it is overly broad, oppressive, unduly burdensome and expensive to answer. Providing answers to such discovery requests would needlessly and improperly burden the State.

The State objects to this interrogatory on the grounds that it seeks 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.

Subject to and without waiving its general or specific objections, the State has no readily available source of information from which to derive the answer to this Interrogatory. See Response to Interrogatory No. 3. 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. 5: Please Identify every potential source of phosphorus/ phosphorus compounds, nitrogen/nitrogen compounds, arsenic/arsenic compounds, zinc/zinc compounds, cooper/cooper [sic] compounds, hormones or microbial pathogens known by the State of Oklahoma to be present within the IRW or which may be affecting the IRW, other than the sources You allege in the Complaint to be Related to poultry industry operations. In doing so, please Identify each source by location, owner or operator, if any, particular substance released or potentially released by each such source and the mechanism and/or pathway for the transport of the substances from the source to the streams, tributaries, rivers and lakes within the IRW. Also please Identify all Documents Related to such potential sources.

OBJECTION AND RESPONSE TO NO. 5: 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 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 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 in that it is overly broad, unduly burdensome and hypothetical. The State cannot speculate about "potential" sources, which would be unduly burdensome and is not likely to lead to the discovery of admissible evidence.

Subject to and without waiving any of its general or specific objections and pursuant to Fed. R. Civ. P. 33(d), the State states that information responsive to this portion of the interrogatory, 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. 6: Please Identify all permits, licenses or other forms of government authorizations issued by the State of Oklahoma or its agencies which permit, authorize or approve of the conduct of persons or Entities located or operating in the IRW with respect to the handling, treatment, storage, use or disposal of any type of chemicals, fertilizers or waste material (including but not limited to, solid wastes, semi-solid wastes, liquid wastes, industrial wastes, municipal, industrial, or household waste water, grey water, sewage or effluent of any type) known or believed by the State to include phosphorus/phosphorus compounds, nitrogen/nitrogen compounds, arsenic/arsenic compounds, zinc/zinc compounds, cooper/cooper compounds, hormones or microbial pathogens. In doing so, please Identify the holder of each such permit, license or authorization by name, location, permit or license number, date of first and last issuance of the permit or license and provide a description of the conduct permitted or authorized by the State. Also, please Identify all Documents Related to such permits, licenses or authorities.

RESPONSES AND OBJECTIONS TO NO. 6: The State objects to this interrogatory on the grounds that it improperly seeks identification of "every" or "all" items of responsive information, which

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

The State further objects that the information sought is irrelevant given the joint and several liability of the Defendant Poultry Integrators, and is not reasonably calculated to lead to the discovery of admissible evidence.

The State also objects to this interrogatory to the extent it suggests, directly or implicitly, that the mere permitting of persons / entities necessarily insulates one against liability. Permitted persons must at all times act in full compliance with all applicable federal, state and local law. Indeed, although certain persons / entities for whom the Poultry Integrator Defendants bear legal responsibility have been issued permits, the State has alleged that these persons / entities have not acted in compliance with the law in connection with their management, handling, storage, transport and disposal of poultry waste, thereby causing pollution of the IRW within Oklahoma.

Subject to and without waiving any of its general or specific objections, and pursuant to Fed. R. Civ. P. 33(d), the State states that information responsive to this portion of the interrogatory may be found in the business records identified to date, 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. 7: Please describe all evidence and Identify all Documents You contend support Your allegation that the Tyson Defendants caused the release of any "hazardous substance" (as that

term in defined in CERCLA, 42 U.S.C. § § 9601 et seq.) into any Water Body within the IRW, and in doing so, Identify each such release by specific hazardous substance, location, source, volume, time period of release, owner and/or operator of the source, generator of the hazardous substance, and the transport mechanism and pathway from the source location to the identified Water Body.

RESPONSES AND OBJECTIONS TO NO. 7: 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 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 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 "every" or "all" items of responsive information, which renders it overly broad, oppressive, unduly burdensome and expensive to answer. It may be impossible to locate "every" or "all" items of responsive information to this interrogatory.

The State also objects because this Interrogatory seeks information that is as readily available to, known by, and identifiable by the Defendant. Further, information regarding this request is doubtless in the files of the Tyson Defendants regarding the generation, release, storage, or disposal of wastes by their own operations, or those of contract growers for which they are legally responsible.

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. Additionally, the Defendant is directed to response to Interrogatories 5-11 (Tyson Poultry, Inc.), Interrogatory No. 5 (Tyson Chicken, Inc.), and Interrogatory No. 9 (Tyson Foods, Inc.).

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

INTERROGATORY NO. 8: Please describe all activities that have been conducted by any

person, Entity or Agency within Your knowledge to investigate, evaluate, study, model or otherwise determine any characteristic of the water in the IRW, contaminant loading, or the conditions of any Water Body within the IRW, and in doing so, Identify all persons, Entities of Agencies with knowledge of such activities, and state for each such activity, what actions were taken, the time period of the activity, the objective(s) of the activity, who funded the activity, any conclusions, observations, or recommendations from the activity. Also, please Identify all Documents Related to such activity.

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 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 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.

Subject to and without waiving its general or specific objections, the State refers Defendant to its initial response to Fed. R. Civ. P. 26(a)(1)(A). 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 every source of phosphorus/phosphorus compounds, nitrogen/nitrogen compounds, arsenic/arsenic compounds, zinc/zinc compounds, cooper/cooper compounds, hormones, microbial pathogens or other alleged hazardous substances,

pollutants or contaminants within the IRW, which you allege in the Complaint to be Related to poultry industry operations. In doing so, please Identify each source by specific location, owner or operator, if any, and the mechanism and/or pathway for the transport of the alleged hazardous substances, pollutants or contaminants from the source to any Water Body within the IRW. Also, please Identify all Documents Related to such sources.

OBJECTIONS AND RESPONSE NO. 9: 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 25 for this Defendant. The parties have agreed that the State has not waived its objection to the number of interrogatories and discrete subparts posed by responding to any other interrogatory. See Email exchange between Robert George and Robert Nance, Exhibit 1 attached hereto for the full text of the 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 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 expert 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.

INTERROGATORY NO. 10: Please describe all evidence and Identify all Documents You

contend supports Your allegation that the actions or inactions of any Tyson Defendant pose a threat to the health of any person in the IRW, and in doing so, please state for each such action or inaction, the specific conduct and Tyson Defendant You contend is responsible, and describe the specific threat posed to human health.

OBJECTIONS AND RESPONSE TO NO. 10: 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 the 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.

Without waiving the foregoing 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. Additionally, the Defendant is directed to response to Interrogatory No 2 (Cobb-Vantress), response to Interrogatories 9, 10, and 11 (Tyson Poultry, Inc), and response to interrogatories 1, 2, 3, 4, 7, 8, 9, 10 and 11 (Tyson Chicken, Inc).

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

INTERROGATORY NO. 11: Please describe all evidence and Identify all Documents You contend support Your allegation that the actions or inactions of any Tyson Defendant pose an imminent and substantial endangerment to the environment in the IRW, and in doing so, please state for each such action

or inaction, the specific conduct and Tyson Defendant You contend in responsible, and describe the specific endangerment.

OBJECTIONS AND RESPONSE TO NO. 11: 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 expert 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 the 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.

Without waiving the foregoing general and 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.

Without waiving the foregoing objections, see Responses to Interrogatory No 2 (Cobb-Vantress), responses to Interrogatories 9, 10, and 11 (Tyson Poultry, Inc), and responses to interrogatories 1, 2, 3, 4, 7, 8, 9, 10 and 11 (Tyson Chicken, Inc).

Respectfully submitted,

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Attorneys for the State of Oklahoma

June 15, 2006

VERIFICATION

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, Miles Tolbert, being of legal age, hereby depose and state that I have read the foregoing responses to interrogatories and that they are true and correct, to the best of my knowledge and belief, and and that I furnish such responses based on consultation with representatives of the State of Oklahoma based on documents identified as of the date of this response.

Miles Tolbert
Secretary of the Environment
State of Oklahoma

Signed and subscribed to before me on this 15th day of June, 2006.

Notary Public

JOYCE K. BOYD
NOTARY PUBLIC
02017963
EXP 11/9/06
IN AND
FOR
STATE OF OKLAHOMA
OKLAHOMA COUNTY

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2006, I electronically transmitted the foregoing document to the following ECF registrants or via United States Mail postage prepaid to the following:

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Robert A. Nance

Robert A. Nance

Bob Nance

From: George, Robert W. [Robert.George@KutakRock.com]
Sent: Friday, June 02, 2006 9:49 AM
To: Bob Nance; Kelly_Burch@oag.state.ok.us; Trevor_Hammons@oag.state.ok.us; Richard Garren
Cc: Jay Jorgensen; Webster, Timothy K.; Burns, Bryan; sjantzen@ryanwhaley.com; Patrick Ryan; Hopson, Mark D.
Subject: RE:

Bob,

You have accurately stated our agreement. I look forward to receiving the State's discovery responses. After reviewing those responses, I will determine whether a motion to compel responses to Tyson Poultry, Inc., Interrogatory No. 2, Tyson Foods, Inc., Interrogatories 2 and 9, and Cobb-Vantress Inc. Interrogatory 10 is necessary. I will, of course, confer with you in one final attempt to resolve the State's objections to these and other discovery requests before filing such a motion.

From: Bob Nance [mailto:rnance@riggsabney.com]
Sent: Wednesday, May 31, 2006 4:40 PM
To: George, Robert W.; Kelly_Burch@oag.state.ok.us; Trevor_Hammons@oag.state.ok.us; Richard Garren
Subject:

Robert, this is to confirm our agreement today regarding interrogatories you have submitted to the State on behalf of your clients Tyson Poultry, Inc., Tyson Foods, Inc., Cobb-Vantress, Inc. and Tyson Chicken, Inc. The State contends that you have submitted more than 25 interrogatories or discrete subparts for each of these clients except Tyson Chicken, Inc. You disagree with our count of the interrogatories and subparts. We have conferred in good faith and arrived at an agreement which preserves all of our respective positions on the interrogatory count issue. On behalf of your clients, you will not withdraw any of the interrogatories or subparts. However, you designated Tyson Poultry, Inc., Interrogatory No. 2, Tyson Foods, Inc., Interrogatories 2 and 9, and Cobb-Vantress Inc. Interrogatory 10 as interrogatories which, if not posed, would, by the State's count (to which you retain your disagreement), reduce the total number of interrogatories and discrete subparts to 25 for each of these three Defendants. The State will present its objections and responses to all interrogatories except the four designated interrogatories. The State will not presently answer the four designated interrogatories, but will present its objections to these designated interrogatories, including the objection that they exceed the limit of 25 interrogatories and discrete subparts. By doing so, you agree that the State has not waived its objection to the number of interrogatories and discrete subparts posed by responding to the others. If you wish to pursue responses to these designated interrogatories, you will move to compel and the State will respond, and retains the right to argue that it has already provided more than the Rules require.

Additionally, you agreed to allow the State an additional week to present its responses and objections to all the interrogatories posed by your clients. These responses and objections will be due on June 8, 2006. By agreeing to this enlargement of time you are not waiving any claim or objection you may wish to present upon receipt of our responses and objections.

Please respond by email to confirm this is our agreement.

Robert A. Nance
RIGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS

EXHIBIT
1

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==========

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State of Oklahoma, et al. v. Tyson Foods, Inc., et al.

Privilege Log

	Date	Author	Is Author a Lawyer?	Recipient(s)	Type of Document	General Subject Matter of the Document	Privilege Asserted *FRCP*	Bates Number(s)
280	2004/11/15	Lithochimeia, Inc.	No	Stratus Consulting, Inc., Miller Keffer Bullock Pedigo LLC, Landreth Law Firm	e-mail	correspondence regarding manure-borne estrogens	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
281	2005/04/12	Landreth Law Firm	Yes	Landreth Law Firm, Miller Keffer Bullock Pedigo LLC, Oklahoma Office of the Attorney General	e-mail	correspondence regarding damages and remediation	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
282	2005/03/29	Oklahoma Office of the Attorney General	Yes	Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc., Landreth Law Firm	e-mail	correspondence regarding arsenic from poultry litter	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
283	2005/01/27	Miller Keffer Bullock Pedigo LLC	Yes	Lithochimeia, Inc., Stratus Consulting, Inc., Camp Dresser & McKee, Inc., HydroQual (cc: Oklahoma Office of the Attorney General, Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc., Motley Rice LLC, Landreth Law Firm)	e-mail	correspondence regarding re-damage proof and evidence issues	attorney work product Fed. R. Civ. P 26(b)(3)&(4) and attorney-client privilege	none
284	2005/01/18	Miller Keffer Bullock Pedigo LLC	Yes	Stratus Consulting, Inc., Lithochimeia, Inc., Camp Dresser & McKee, Inc.	e-mail	correspondence regarding and attaching draft Items of Proof	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
285	2005/01/07	Miller Keffer Bullock Pedigo LLC	Yes	Landreth Law Firm	e-mail	correspondence regarding settlement issues	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none

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Privilege Log

	Date	Author	Is Author a Lawyer?	Recipient(s)	Type of Document	General Subject Matter of the Document	Privilege Asserted *FRCP*	Bates Number(s)
286	2004/12/07	Stratus Consulting, Inc.	No	Landreth Law Firm (cc: Miller Keffer Bullock Pedigo LLC)	e-mail	correspondence regarding Federal Register document FRL-7845-7, "Notice of Proposed NPDES General Permit for Discharges From Concentrated Animal Feeding Operations (CAFOs) in New Mexico, Oklahoma, and on Indian Lands in New Mexico and Oklahoma"	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
287	2005/04/13	Stratus Consulting, Inc.	No	Landreth Law Firm, Miller Keffer Bullock Pedigo LLC (cc: Oklahoma Office of the Attorney General)	e-mail	correspondence regarding damage and remediation	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
288	2005/04/12	Stratus Consulting, Inc.	No	Miller Keffer Bullock Pedigo LLC, Landreth Law Firm (cc: Oklahoma Office of the Attorney General)	e-mail	correspondence regarding damage and remediation	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
289	various dates in 2004	various authors including those from the Oklahoma Office of the Attorney General and Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc.	Yes	various	log of e-mails	correspondence regarding damages	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
290	2004/12/07	Oklahoma Office of the Attorney General	Yes	Motley Rice LLC (cc: Landreth Law Firm, Miller Keffer Bullock Pedigo LLC, Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc., Oklahoma Office of the Attorney General,	e-mail	correspondence attaching draft chart regarding damages	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
291	2004/11/18	Oklahoma Office of the Attorney General	Yes	Stratus Consulting, Inc., Landreth Law Firm (cc: Miller Keffer Bullock Pedigo LLC)	e-mail	correspondence regarding Oklahoma Department of Agriculture enforcement	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none

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Privilege Log

	Date	Author	Is Author a Lawyer?	Recipient(s)	Type of Document	General Subject Matter of the Document	Privilege Asserted *FRCP*	Bates Number(s)
292	2004/11/17	Oklahoma Office of the Attorney General	Yes	Landreth Law Firm, Stratus Consulting, Inc. (cc: Miller Keffer Bullock Pedigo LLC)	e-mail	correspondence regarding Oklahoma Eastern Shore Monitoring Program	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
293	2004/09/20	Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc.	Yes	Motley Rice LLC, Oklahoma Office of the Attorney General, Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc., Landreth Law Firm, Miller Keffer Bullock Pedigo LLC	memorandum	Memorandum regarding alternative remedies for repairing the environmental damage to the Illinois River Watershed and Lake Tenkiller and other affected Eastern Oklahoma watersheds	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
294	2004/05/16	Landreth Law Firm	Yes	Landreth Law Firm	e-mail	correspondence attaching Illinois River Damages spreadsheet	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
295	2004/11/29	Stratus Consulting, Inc.	No	Motley Rice LLC, Oklahoma Office of the Attorney General, Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc., Landreth Law Firm, Miller Keffer Bullock Pedigo LLC	presentation	presentation entitled "Oklahoma Poultry Litigation"	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
296	various dates in 2004	various authors including those from Landreth Law Firm and Stratus Consulting, Inc.	Yes, in part	Motley Rice LLC, Oklahoma Office of the Attorney General, Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc., Landreth Law Firm, Miller Keffer Bullock Pedigo LLC	log of notes and presentation portions	Damages Presentation 11/29/2004 - 11/30/2004	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
297	undated	Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc.	Yes	Motley Rice LLC, Oklahoma Office of the Attorney General, Riggs, Abney, Neal, Turpen, Orbison & Lewis, Inc., Landreth Law Firm, Miller Keffer Bullock Pedigo LLC	typed notes	typed notes on 11/29/04 Stratus Presentation	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none

State of Oklahoma, et al. v. Tyson Foods, Inc., et al.

Privilege Log

	Date	Author	Is Author a Lawyer?	Recipient(s)	Type of Document	General Subject Matter of the Document	Privilege Asserted *FRCP*	Bates Number(s)
298	2004/12/21	Miller Keffer Bullock Pedigo LLC	Yes	Stratus Consulting, Inc.	e-mail	correspondence regarding proposed sampling	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	none
299	2003/04/04	Oklahoma Conservation Commission	No	Oklahoma Conservation Commission	e-mails	e-mails regarding monitoring agreement with Arkansas	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	0002801 - 0002803
300	2002/07/23	Oklahoma State University	No	Oklahoma Office of the Attorney General	draft Scope of Work	draft Scope of Work submitted to Attorney General's office estimating or establishing threshold phosphorus in IRW using SWAT	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	0002904-0002906
301	2002/04/28	Oklahoma Water Resources Board	No	Derek Smithee, Phillip Moershel, Jon Craig, Mark Derichsweiler, Oklahoma Conservation Commission, Oklahoma Office of the Attorney General, Ed Fite, Teena Gunter, Susan Krug, Dan Parrish, Michelle Sutton, Mike Smolen, Chris Bruehl (and cc: Duane Smith, Mark Coleman, Kristye Kirkshores, Mike Thralls)	e-mail	correspondence attaching handwritten annotations and also attaching document regarding possible implementation actions for phosphorus control	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	0002909 - 0002915
302	1997/07/30	Oklahoma Office of the Attorney General	Yes	Oklahoma Scenic Rivers Commission, Oklahoma Department of Environmental Quality, Oklahoma Water Resources Board, Oklahoma Conservation Commission, Oklahoma Secretary of the Environment	fax	correspondence regarding citizens' suit	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	0003264 - 0003267

State of Oklahoma, et al. v. Tyson Foods, Inc., et al.

Privilege Log

	Date	Author	Is Author a Lawyer?	Recipient(s)	Type of Document	General Subject Matter of the Document	Privilege Asserted *FRCP*	Bates Number(s)
303	2002/08/06	Oklahoma Conservation Commission	No	Margaret Blevins	e-mail	correspondence regarding bacterial data request	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	0002695
304	2005/03/31	Oklahoma Conservation Commission	No	Margaret Blevins	e-mail	correspondence regarding a reference stream	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	0002717
305	2005/04/05	Margaret Blevins	No	Oklahoma Conservation Commission	e-mail	correspondence regarding a reference stream	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	0002718
306	2004/09/21 - 2004/09/22	various (including Oklahoma Conservation Commission, Dan Storm, Margaret Blevins)	No	various (including Oklahoma Conservation Commission, Dan Storm, Margaret Blevins)	e-mails	correspondence regarding reference streams	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	0002739
307	2005/03/31	Oklahoma Conservation Commission	No	Oklahoma Conservation Commission	e-mails	correspondence regarding water quality sites	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	0002756 - 0002757
308	2004/10/14	Oklahoma Office of the Attorney General	Yes	Oklahoma Conservation Commission	letter	correspondence regarding data on Illinois River and other listed watersheds	attorney work product Fed. R. Civ. P. 26(b)(3)&(4) and attorney-client privilege	0002762