IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel, W.A. DREW EDMONDSON, in his capacity as ATTORNEY GENERAL OF THE STATE OF OKLAHOMA, et al.

Plaintiffs,

V.

TYSON FOODS, INC., et al.,

Defendants.

No. 05-CV-329-GKF-SAJ

TRANSCRIPT OF PROCEEDINGS

JUNE 15, 2007

MOTIONS HEARING

BEFORE THE HONORABLE GREGORY K. FRIZZELL, Judge

APPEARANCES:

For the Plaintiffs: Mr. Louis W. Bullock
Mr. M. David Riggs
Mr. Richard T. Garren
Mr. Frederick C. Baker
Mr. W.A. Drew Edmondson
Ms. Kelly S. Burch
Mr. Robert A. Nance
Mr. J. Trevor Hammons
Ms. Ingrid Moll

For the Defendants: Mr. Robert W. George
Mr. Jay T. Jorgensen

(APPEARANCES CONTINUED)

For the Defendants: Mr. Stephen L. Jantzen
Mr. Michael R. Bond
Mr. John R. Elrod
Mr. A. Scott McDaniel
Ms. Nicole M. Longwell
Mr. Phillip D. Hixon
Ms. Theresa Noble Hill
Mr. Robert P. Redemann
Mr. Robert E. Sanders
Mr. Bruce Jones
Mr. Paul Thompson, Jr.

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PROCEEDINGS

June 15, 2007

THE COURT: Be seated, please.

THE CLERK: Call case number 05-CV-329-GKF, Attorney General for State of Oklahoma vs. Tyson Foods. Continued motion hearing.

THE COURT: What I would like to do on number 66 is also wrap up the aspect that we had discussed at the earlier hearing, specifically the argument that Tyson withdrew as to Clean Water Act preemption. And have we discussed on both sides, has everybody been given an opportunity to reply to that?

MR. MCDANIEL: I would like to have an opportunity to respond to Mr. Baker's comments of yesterday, Your Honor.

THE COURT: All right, go ahead.

MR. MCDANIEL: Thank you. Good morning Your Honor.

THE COURT: Mr. McDaniel, good morning.

here. They ask in the alternative that Counts 2, 4, 6 and 10 be dismissed or in the alternative, that the Court should limit plaintiffs' claims in Counts 2, 4, 6 and 10 to those discrete properties and natural resources within the portion of the IRW located in Oklahoma. I'm going to rule on this in part and reserve it in part to get a little more up to speed on parens patriae. First of all, I'm not going to grant the motion to dismiss in toto as requested by the defendants. So the motion document 1076 is denied insofar as the Court is not dismissing in its entirety 2, 4, 6 and 10.

I am going to require the plaintiff to replead Count 6 to specifically set forth those properties which they would have standing to assert a trespass claim upon. So in that respect, I guess technically I am dismissing 6 and requiring the State to replead because clearly the State doesn't have standing to assert trespass over all the lands, biota, et cetera, et cetera, in the IRW or even within the IRW within the State of Oklahoma.

So, Mr. Overton, if you'll change that to indicate that the Court is dismissing 6 and requiring the State to replead that to assert those properties over which it has standing to assert a trespass claim on. And how much time do you need to do that?

MR. BULLOCK: Could we have 30 days to do that, Judge?

THE COURT: Any objection?