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October 17, 2008

Richard T. Garren
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502 West Sixth Street
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Re: State of Oklahoma v. Tyson, et. al.
Court File No. 05-CV-00329 CKF-SAJ
Our File No. 320833

Dear Rick and David:

I write to follow up on plaintiffs' responses to Cargill Turkey Production's and Cargill Inc.'s interrogatories, which your office served in December 2006 and in some instances later supplemented. Many of those responses qualified their answers by stating that certain facts were not yet known or understood, or that some or all of the answers to certain questions would be part of plaintiffs' expert disclosures. Given the extensive discovery that has taken place since these responses and given plaintiffs' expert disclosures earlier this year, I write to ask that plaintiffs now supplement their original responses to the Cargill Defendants' interrogatories as set forth below.

1. Responses Specific to Cargill Turkey Production and Cargill, Inc.

With respect to many of the interrogatories in both sets that requested information as to each Cargill entity, plaintiffs responded in part with language similar to the following:

> As regards the request for information regarding "each Cargill entity at issue," the State understands that Cargill created Cargill Turkey in 2004 and transferred some or all of its poultry operations in the IRW to it thereafter. The State does not presently know the exact relationship between Cargill and Cargill Turkey, and is investigating that relationship and the particular activities of each of the Cargill entities. The State

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> requested documents relevant to this relationship on July 10, 2006, and only received them on December 5, 2006, and has not had an opportunity to review or analyze the documents produced. Therefore, it cannot at present state its response "with particularity" as to each Cargill entity.

Plaintiffs' attorneys have now had the documents in question for over 21 months, and have also taken both 30(b)(6) and individual depositions of Cargill personnel. Given the investigation that plaintiffs have now conducted concerning "that relationship and the particular activities of each of the Cargill entities" as your response puts it, we ask that you supplement your responses specifically addressing the "specific activities" of Cargill, Inc. and Cargill Turkey Production with which plaintiffs take issue and the facts supporting those claims. Specifically, this request involves CTP interrogatory numbers 11, 12, 13, 14, 15, 16, 17, and 18, and Cargill, Inc. interrogatory numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17.

2. Identification of Witnesses.

In response to a number of interrogatories requesting the identities of the witnesses on whom plaintiffs intend to rely to establish certain facts, plaintiffs responded with words to the following effect:

> Because discovery is ongoing, the State has not determined which witnesses it will use to support its claims referenced in this interrogatory.

Plaintiffs have now had nearly two years of additional discovery since framing that response, and should have a better idea at this point in the litigation of the witnesses that provide factual support for plaintiffs' allegations, particularly inasmuch as those witnesses must necessarily have been included in plaintiffs' disclosures of persons with knowledge of the subject matter of the action. Recognizing that discovery remains open and acknowledging that plaintiffs' identification of some witnesses on these topics now will not preclude plaintiffs from adding additional witnesses on these topics later in the discovery period, we ask that you supplement these responses to identify those witnesses that you know of now.

The Cargill Defendants could,of course, simply serve 30(b)(6) deposition notices addressing these subjects to obtain some of the same information, but we think it is cleaner and more efficient—and more in keeping with the intent of the Rules—for plaintiffs to actually identify these witnesses by name. This request for supplementation involves CTP interrogatory numbers 9, 13, 14, 15, 16, and 17, and Cargill, Inc. interrogatory numbers 1,2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17. In addition, with respect to CTP interrogatory number 18, plaintiffs' original response did not include the "ongoing

discovery" qualification quoted above but nevertheless failed to identify any witnesses. We ask that plaintiffs supplement this response as well.

3. Deferral to Expert Reports.

In response to a number of the Cargill Defendants' interrogatories seeking the facts underlying plaintiffs' specific claims against Cargill Turkey Production and Cargill, Inc., plaintiffs stated that the subject matter of those questions was within the scope of plaintiffs' anticipated expert witnesses' testimony, and that the questions were therefore premature inasmuch as plaintiffs' expert disclosures were not yet due.

The deadline for plaintiffs' expert disclosures has passed, and plaintiffs have disclosed the intended testimony of a number of different experts on a number of different topics. In reviewing those expert disclosures, however, we are unable to find specific facts or analysis relating to the claimed individual conduct of Cargill Turkey Production or Cargill, Inc., and indeed we rarely find either company mentioned at all. We therefore ask that you supplement your responses to these interrogatories to identify the facts specific to Cargill Turkey Production and Cargill, Inc. on which you intend to rely for the specific allegations described in the interrogatories. If you contend that these specific facts are contained in plaintiffs' expert disclosures, we ask that you identify by author and page number where we may find those facts. This request applies to Cargill Turkey Production interrogatory numbers 6, 7, 8, 9, 13, 14, 15, 16, 17 and 18 and Cargill, Inc. interrogatory numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17.

4. Promised Supplementation.

In response to a number of interrogatories, plaintiffs stated that discovery was continuing and promised to supplement their responses later as additional information was developed. Plaintiffs have conducted a great deal of investigation and discovery over the last 21 months, and yet we have not received any of the promised supplementation. We ask that you provide it now. This request applies to CTP interrogatory numbers 3, 5, 6, 7, 8, 13, 15 and 16 and Cargill, Inc. interrogatory numbers 2, 3, 4, 6, 13, 14 and 16.

5. General Obligation to Supplement.

Finally, Federal Rule of Civil Procedure 26(e)(1)(A) provides:

> A party who has made a disclosure under Rule 26(a) – or who has responded to an interrogatory, request for production, or request for admission – must supplement or correct its disclosure or response:
> (A) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and

> if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing;

We ask that plaintiffs review their prior responses to assure that they are fully complying with this obligation. This request applies to all of plaintiffs' discovery responses.

We appreciate your attention to these requests. We would appreciate confirmation within a week of plaintiffs' intentions with respect to these requests for supplementation. We ask that you provide the supplementations themselves not later than October 31, 2008. Please do not hesitate to contact us if you have any questions or concerns about these requests. We look forward to receiving the requested materials.

Very truly yours,

Bruce Jones

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cc: All Defense Counsel of Record