IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.)4:05-CV-00329-TCK-SAJ
)
TYSON FOODS, INC., et al,)
)
Defendants.)

- -

VOLUME I OF THE VIDEOTAPED
30(b)(6) DEPOSITION OF TEENA GUNTER, produced
as a witness on behalf of the Defendants in the
above styled and numbered cause, taken on the 27th
day of August, 2008, in the City of Oklahoma City,
County of Oklahoma, State of Oklahoma, before me,
Lisa A. Steinmeyer, a Certified Shorthand Reporter,
duly certified under and by virtue of the laws of
the State of Oklahoma.

TEENA GUNTER

having first been duly sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. HIXON:

Q Can you state your name for the Record, please?

A It's Teena Gale Gunter.

Q And, Miss Gunter, what's your current position? 09:20AM

A I'm a deputy general counsel at the Oklahoma Department of Agriculture, Food & Forestry.

Q How long have you been in that position?

A In that position, approximately probably four years. 09:20AM

Q Okay, and prior to that position, what position did you hold?

A I was a staff attorney with the Oklahoma Department of Agriculture, Food & Forestry in the agricultural environmental management services division. 09:21AM

Q Okay, and how long did you hold that position?

A I don't remember exactly when I switched to that position. I held another position before that, 09:21AM

litter application rates for use in the TMDL?
A Assumptions?
Q Or data.
A We provided our litter applicator reports that we had at that time. 11:39AM
Q Okay. What information would be contained in the litter applicator reports?
A Each applicator provides a report annually that contains where they got the litter from and where they spread it, soil test analysis, poultry 11:39AM
litter analysis, other details of the specific application event.
Q And do you know when that information was provided to DEQ?
A I don't recall. 11:39AM
Q When was the litter or -- yeah, the Litter Applicator Act enacted?
A July 1st, 1997.
Q So it would have been at least since July 1st, 1997 that that information was provided to DEQ? 11:40AM
A Would have been after that.
Q Okay. Do you know if that was just a one-time production to DEQ or whether that's been an ongoing process?
A I know I was involved in it one time. 11:40AM

Q Can you tell me what the ODAFF's water quality standards implementation plan is?

A It's a document prepared by or rules actually prepared by the department in response to statutory requirement that required all state environmental agencies to prepare a water quality standards implementation plan. 11:47AM

Q Okay. These rules, who is the regulated community that would be subject to those rules; who do those rules apply to? 11:47AM

A Those rules apply to anyone that's expected to comply with water quality standards. It's a knowledge based -- it's a summary of everything that might potentially apply to them.

Q Okay. So would it apply -- is there, I mean, a body of the public that it would apply to or is it more -- it's something that ODAFF uses as a guide in regulating? 11:47AM

A It's a guidance document, probably better characterized as, but it is promulgated by a rule because the statute requires that. 11:48AM

Q Okay, but it's not a body of regulation?

A Unto itself.

Q Unto itself, but Poultry Farmer Jones goes and says what does the Water Quality Standard 11:48AM

Implementation Act require of me?
A Right.
Q It's something that would apply to ODAFF?
A Yes.
Q That it would use in its regulation of water 11:48AM
quality standards?
A Yes.
Q What regulations are there that apply would
govern potentially the land application of poultry
litter? 11:49AM
A Regulations?
Q Uh-huh, regulations or statutory provisions.
MR. LENNINGTON: Are you speaking -- I
don't understand the question. Object to the form.
State of Oklahoma or federal law or -- 11:49AM
MR. HIXON: State of Oklahoma.
MR. LENNINGTON: Okay.
A Oklahoma statutes contain the Concentrated
Animal Feeding Operations Act that contains some
requirements. 11:49AM
Q Okay.
A Poultry -- Registered Poultry Feeding
Operations Act contains some requirements.
Q Okay.
A Rules pursuant to both of those contain 11:49AM

requirements.

Q Okay. What about the Applicator's Act?

A The applicators -- the Certified Applicator's Act and Rules.

Q Is there any other state statutory provisions or any state rules that apply to land application of litter? 11:50AM

A There are general statutes regarding no pollution to waters of the state, those sorts of things, that we have a title. In Title 2 we have a 18.1 provision, 2-18.1 that refers to any pollution of air, land and waters is prohibited. 11:50AM

Q Is that in Title 2 you said?

A Yes.

Q Okay. Is there anything else in Oklahoma law that would apply to the land application? 11:50AM

A I don't recall anything else related to statute or rules.

Q Okay. Is there any federal law that's enforced by ODAFF that would apply to the land application of litter? 11:51AM

A We don't enforce federal law.

Q Okay. Is there anything similar to your arrangement with the EPA on the NPDS permits?

A We perform inspections on behalf of EPA for 11:51AM

in Mr. Parrish's deposition subject to the objection?

A I can't really -- I mean, I remember the deposition, but I don't remember specific instances. I didn't read it in the last few weeks by any means. 03:28PM

Q Okay. When did you read it?

A After he did it.

Q Okay. Under the Oklahoma Registered Poultry Feeding Operations Act, what's required or I guess who -- let me use my regulated community again. Who 03:28PM is the regulated community under the Oklahoma Registered Poultry Feeding Operations Act; who does it apply to?

A It applies to poultry feeding operations within the state of Oklahoma that are defined in the 03:29PM statute.

Q Okay, and who's regulated; the poultry feeding operation?

A The facility.

Q Who is the person that's regulated or entity 03:29PM that's regulated?

A The registration requirement is for any person to construct or operate a new poultry feeding operation without having first registered, and it also states that the owner or operator -- and I'm 03:29PM

reading from 10-9.3 in Title 2. The owner or operator of a poultry operation not classified -- well, wait -- may register, may elect to come under them and anyone -- yeah. It's going to be the owner or operator typically. 03:30PM

Q Okay. Of the poultry facility?

A Yes.

Q Okay. Is there anything in this Act that applies to poultry integrators with the exception of a poultry integrator actually owning or operating a poultry facility? 03:30PM

A Yes.

Q Okay, and what is that?

A Specifically they're required to provide us with a name and address of the integrator whose poultry will be raised by that operation. 03:30PM

Q Okay. The integrator has to provide you that information?

A No. The individual has to provide that information. 03:30PM

Q Maybe my question wasn't clear. I was asking whether any of this applies to the integrator.

MR. LENNINGTON: Objection to the word this.

MR. HIXON: This Act, this Exhibit 8A. 03:31PM

MR. LENNINGTON: You have two Acts here in Exhibit 8A.

MR. HIXON: Do I have two?

MR. LENNINGTON: Yeah.

MR. HIXON: Registered Poultry Feeding Act. I think the Waste Transfer and Waste Applicator Act are also included in this. 03:31PM

A Yes.

Q The Registered Poultry Feeding Operation Act, is there anything in here that regulates poultry integrators who are not owners or operators? 03:31PM

A Are you talking about regulating or requirements for them?

Q What's the difference between a regulating them or requirements? 03:31PM

A Requirements are things that the integrator is asked to do under this -- under this.

Q Okay. What's the integrator asked to do under this?

A I'm trying to find the provision. It's in my head but I just haven't come across yet. Here it is. 10-9.5, it says regarding the section on registration, education, et cetera, Subsection G, which is at the very end of that section, no integrator shall enter into any contract with an 03:31PM 03:32PM

operator of a poultry feeding operation who is not in compliance with the requirements of Subsection F of this section.

Q Okay. What is Subsection F?

A Which is the education materials. All operators -- that's the previous section. All operators of feeding operations shall attend educational sources on poultry waste handling. 03:32PM

Q Okay. I'm sorry. Go ahead.

A The nine-hour and three-hour rule. 03:32PM

Q Okay. Is there anything else in here that's required of integrators?

MR. LENNINGTON: Objection, vague.

A There's one more section I need to check. No, it's not a requirement of the integrators that I was looking at. 03:33PM

Q Okay. Is this the only -- this 10-9.5G, is this the only requirement of an integrator in this Act?

A Are we talking about the Senate Bill 1170 as a whole or are we talking about the Oklahoma Registered Poultry Feeding Operations Act as it exists today? 03:34PM

Q What was in Senate Bill 1170 other than the Oklahoma Registered Feeding Operation Act? 03:34PM

A There was an educational provision that required -- yes. It's 10-9.22 regarding funding of the educational programs and the initials days, and I'm looking at A2, about the second sentence down, to ensure that the educational programs are fully 03:34PM and adequately funded, integrators doing business in the state shall contract with the Oklahoma State University through the Oklahoma Cooperative Extension Service to provide educational training courses and certification of operators of poultry 03:35PM feeding operations and land applicators of poultry waste.

Q Okay.

A That's still the status of the law; however, that was only for three subsequent fiscal years from 03:35PM the passage in 1998.

Q Okay. So the legislature could have required certain acts of the integrators in Senate Bill 1170?

MR. LENNINGTON: Objection, vague.

A Legislature can do whatever they want to do. 03:35PM

Q Okay, and these two instances that you pointed out, are they only to integrator-related requirements?

MR. LENNINGTON: Object to the form.

A That I can recall and find perusing through 03:35PM

here, yes.

Q Okay. Has the Register Poultry Operations Feeding Act, has that been amended at all since it was enacted or went into effect in 1998?

A I know of at least once it was amended -- 03:36PM twice. Excuse me.

Q Do you know the substance of those amendments were?

A In 2002 it was a new provision added regarding new facilities located within one mile upstream of 03:37PM the Pensacola Project boundary pursuant to the Grand River Dam and FEMA.

Q Okay, and that's related to Grand Lake?

A Yes.

Q Okay, and what was the other amendment that 03:37PM you're aware of?

A Here it is. In 2005 there was amendments to Section 10-9.5. The major change there was regarding the educational requirements, and it essentially changed the -- it changed the year that 03:38PM we counted education on from a fiscal year to a calendar year.

Q Okay. Is that the only change?

A I can look here. I printed all the historical pages out. To the Registered Poultry Feeding 03:38PM