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

STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Case No. 05-CV-00329-GKF-SAJ**
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

SUPPLEMENTAL OBJECTIONS AND RESPONSES OF STATE OF OKLAHOMA TO SEPARATE DEFENDANT TYSON FOODS, INC.'S FIRST SET OF INTERROGATORIES PROPOUNDED TO PLAINTIFFS

COMES NOW, the Plaintiff, the State of Oklahoma, ex rel. 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 under CERCLA, (hereinafter "the State") and supplements its April 27, 2007, response to Defendant Tyson Foods, Inc's First Set of Interrogatories The State incorporates its previous response and objections to these interrogatories as if fully stated herein. Further, the State reserves the right to supplement its responses as responsive information is identified.

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.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO.7:

The State hereby incorporates its April 27, 2007, supplemental response and objections to this Interrogatory as if stated fully herein. The previous supplemental response already provides the evidentiary basis upon which Plaintiff will prove the release of hazardous substances against Tyson and all other Defendants through circumstantial evidence.

The State does not, and need not, rely for proof of its case evidence directly documenting each individual release of a hazardous substances and tracing it directly back to Tyson. The State will prove through direct and circumstantial evidence that Tyson Defendant is legally responsible for the release of a hazardous substance under CERCLA. Poultry waste contains hazardous substances within the meaning of CERCLA. *See* Response to Cobb-Vantress Interrogatory No. 9. Further, even if a mixture is not specifically listed as a hazardous substance, if its components include hazardous substances, the mixture is regulated by CERCLA. *See, e.g., Louisiana-Pacific Corp. v. ASARCO, Inc.*, 24 F.3d 1565, 1573 (9th Cir. 1994).

The State has already provided its particularized sampling data, which includes the sampling results, which under CERCLA are hazardous substances, and will continue to provide additional data as it is developed. Additionally, in those circumstances in which the State will rely on the fact of release of waste at specific times and places to prove its case, it will supplement its responses with the specific, direct evidence it will use.

INTERROGATORY NO. 9:

Please identify every source of phosphorus/phosphorus compounds, nitrogen/nitrogen compounds, arsenic/arsenic compounds, zinc/zinc compounds, cooper/cooper [sic] 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.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:

The State hereby incorporates its April 27, 2007, supplemental response and objections to this Interrogatory as if stated fully herein. The grower files referenced in our previous response do specifically indicate where land application has occurred. The State contends that each poultry grower operation identified in the ODAFF grower files or the State's February 1, 2007, production is a source of contamination or injury to the Illinois River Watershed

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.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10:

The State hereby incorporates its April 27, 2007, supplemental response and objections to this Interrogatory as if stated fully herein. The State also incorporates its April 27, 2007, supplemental response and objections to Tyson Chicken No 4. to this Interrogatory as if stated fully herein.

The State supplements its response to this interrogatory by referring Defendant to the following:

1. USGS Prepared in Cooperation with the Arkansas Soil and Water Conservation Commission – Phosphorus and Nitrogen Concentrations and Loads at Illinois River South of Siloam Springs, Arkansas, 1997 – 1999. OSRC 2-10