1 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA
2 STATE OF OKLAHOMA, et al.,

3 Plaintiff,
vs. CASE NO. 05-CV-00329-GKF SAJ
4 TYSON FOODS, INC., et al.,

5 Defendants.

6 VIDEOTAPED DEPOSITION OF STEPHEN WAYNE WILLIAMS
TAKEN ON BEHALF OF THE DEFENDANTS
7 ON MARCH 11, 2009, BEGINNING AT 9:30 A.M.
IN OKLAHOMA CITY, OKLAHOMA
8

APPEARANCES:

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On behalf of the PLAINTIFF:
10 Mr. J. Trevor Hammons
OKLAHOMA ATTORNEY GENERAL'S OFFICE
11 313 Northeast 21st
Oklahoma City, Oklahoma 73105
12 (405) 522-2801
thammons@oag.state.ok.us
13

On behalf of the PLAINTIFF:
14 Ms. Tracy S. Zahl
RIGGS, ABNEY, NEAL, TURPEN, ORBISON & LEWIS
15 5801 North Broadway, Suite 101
Oklahoma City, Oklahoma 73118
16 (405)843-9909
tzahl@riggsabney.com
17

On behalf of the DEFENDANT-PETERSON FARMS, INC.:
18 Ms. Nicole Longwell, Attorney at Law
MCDANIEL, HIXON, LONGWELL & ACORD
19 320 South Boston, Suite 700
Tulsa, Oklahoma 74103
20 (918) 382-9200
nlongwell@mcdaniel-lawfirm.com
21

22
23 ALSO PRESENT: Stephen Carns, Videographer
24 Reported by: Laura L. Robertson, CSR, RPR
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A. Let me correct that. As far as I know, it is the same pumping system, okay?

Q. Who's responsible for replacing that pumping system?

A. That would be Pine Cove Marina.

Q. Okay. Is Pine Cove Marina's -- they lease that facility; correct?

A. Correct.

Q. Do they lease that directly from the Corps of Engineers?

A. They lease it from the Division of State Parks.

Q. Who then, and then the Division of State Parks leases it from the Corps; is that accurate?

A. Yes. Our entire property is under lease with the Corps of Engineers.

Q. But there is like a sublease with Pine Cove by, with the Oklahoma Department of Tourism?

A. I don't know that it is called a sublease. It is called a lease, yes.

Q. What was the total usage volume that could be maintained in the old system? When I say old system, I mean the system prior to the renovation in 2004, 2005 that you identified?

A. The holding tank on the rented parking lot?

Q. Did you ever refer to them?

A. Yes.

Q. Did you ever look over them or ask questions about them with the engineering firm?

A. Yes.

Q. Let me have you turn to page 8 of 14 of this document.

A. Okay.

Q. Let me go back for just a second and ask you a question generally. And that is, do you know whether or not there were any changes made to these plans during the renovation itself?

A. Yes.

Q. Okay. So is there -- are there aspects of Tenkiller's sewer system that may not be reflected in these documents?

A. Yes.

Q. Okay. Do you recall specifically what things those may be -- what aspects those may be?

A. I recall one change order specifically was done to replace a force main from the lift stations close to our kids' fishing pond to the sewage lagoons. That was not part of the original plans.

Q. And why was that change order made, do you know?

A. We determined that there was an elevated E. coli count in our kids' fishing pond, and we could not crack the cause of that, so we, between the engineers and our staff, we felt the best course of action was to replace that entire force main.

Q. Okay. Do you recall when that decision was made?

A. Oh, that would have been late 2004, early 2005.

Q. Okay.

A. Somewhere in that time frame.

Q. Did you make a report to ODEQ about your concerns with regards to that fishing pond?

A. We reported to DEQ that we had elevated E. coli counts in the pond, yes.

Q. I'm going to hand you a document real quick. Let's mark this document as Exhibit 2 to your deposition today.

(Defendant's Exhibit 2 marked for identification)

A. Okay.

Q. After you have reviewed this document, can you tell me what it is?

A. Yes. That is a report from December 4th, 2005, when we had a breach of one of the lagoon cells

at Tenkiller State Park during the construction, during the renovation.

Q. Does this affect the kids' fishing pond?

A. Yes.

Q. Was this before or after you recognized the higher levels of E. coli?

A. Well, this began the testing of the kids' pond.

Q. Okay.

A. The breach of the sewage lagoon, which I personally am the one who found that breach, about 11:00 a.m. July the 4th, that effluent flowed into the kids' fishing pond. So we immediately closed the kids' fishing pond to public use and began taking E. coli counts.

When the E. coli counts, several months did not go down, as a matter of fact they were fluctuating, they would go down and then they would come back up, that's when we began presuming that we must have another problem.

Q. Okay. So had you not begun testing as this event, you may not have known about the other issues with the fishing pond; is that accurate?

A. I don't -- about other problems with the sewer line, you mean?

A. Yes.

Q. Let me also have you look down on page 8 of 14 --

A. Okay.

Q. -- to the lagoon construction sequence.

A. Okay.

Q. So starting with item number one, they were to construct cells one and two, and those were the new cells; correct?

A. Correct.

Q. And was that done in that order? Was that the first thing done?

A. Yes.

Q. Okay. And then there were extended forced mains to direct all wastes to cells one and two; correct?

A. Yes.

Q. And the forced mains, are those from the other lagoons or just simply from the park, do you know?

A. There wouldn't have been forced mains in place from the park. I can't recall how the contractor did that, how he laid that out. Specifically to get the effluent from the old cells to the new cells.

Q. Okay. And then the next one is pump supernatant from existing lagoons to cells one and two.

Is that the liquids from the other, do you know what that word --

A. I have no idea what that word means.

Q. I don't either. I was hoping you would.

A. I presume it means the liquids.

Q. Okay. So do you know what happened to the liquids that were in the four cells that were part of the Lake Tenkiller's previous sewage system?

A. Yes.

Q. What happened?

A. They were all pumped to cells one and two.

Q. Okay. So the entire -- the entire effluent from those four lagoons were pumped into cells one and two?

A. Yes.

Q. Was there any spray irrigation of those liquids on any lands at that time in Lake Tenkiller State Park?

A. At what time?

Q. During the renovation.

A. Yes.

Q. Where was it -- where was it sprayed during

the renovation?

A. We had an area approved by DEQ for a temporary permit that was just adjacent to cell three, would have been an open area more or less right in there, that was planted in grass. And we had Rain Bird sprinklers in there, and we used that area to land apply effluent from cell -- at the time cell number four, which would have been the closest cell to that, and that would have been the cell that all of the other effluent flowed into.

Q. Okay.

A. And we did land apply during the construction to keep the lagoon cells down so they would not overtop.

Q. How much effluent was land applied in this area?

A. I don't recall. We land applied any day that we could, where it was -- we would apply to a point of saturation of the soil, to where there was no runoff.

Q. Okay. Is this location -- let me just clarify for the record. Where you have drawn this land application area is just on top of this area where cells three, four and five are; correct?

A. It is to the side of it.

operation.

Q. The July 4th, 2004, breach of the lagoon, was that just an overflow of the lagoon or was there a portion of the dike that broke?

A. That would have -- that would have actually been '05, I guess, according to this. No, it was '04. I have got the wrong date on the form. It was '04.

I think it was a combination of overtopping and a breach of the dike, because we brought in a lot of sandbags to fix that.

Q. Which one of the lagoons was it, lagoon two?

A. Lagoon cell number two, yes.

Q. And that was the prior lagoon cell number 2, not the new number two reflected on the new diagrams; correct?

A. That is correct.

Q. Did you erect the effluent that had gathered within lagoon number two to other lagoons during -- as a result of the breach?

A. We did that, yes. We used transfer pumps to move it through the process. It was lagoon cells, one, two, three and four. So we would move it to like lagoon cell number three. But, yes, we did use transfer pumps to lower that cell.

Q. At that time did you use the -- did you

1 irrigate any of it at the effluent?
2 A. Yes, we did also. I think at that time we
3 were irrigating out of the last cell, as we do now,
4 which was cell number four at that time.
5 Q. To your knowledge, were any records
6 maintained with regards to that irrigation?
7 A. Not to my knowledge.
8 Q. What about with regards to the measures that
9 were taken within the park to transfer the effluent
10 and manage the breach, were there any records
11 maintained with regards to that?
12 A. Not to my knowledge, no.
13 Q. Do you need a break?
14 A. No, I'm good.
15 Q. Do you know whether or not the Corps of
16 Engineers ever came out and made any findings with
17 regards to how the park was managed?
18 A. Yes, the Corps comes out yearly and inspects
19 the park.
20 Q. Do you know whether there were any negative
21 findings with regards to the sewage system at Lake
22 Tenkiller in any of these yearly reviews?
23 A. I don't recall the specific findings, no. I
24 would have to review the reports.
25 Q. Do you know whether or not the Corps of