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

STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Case No. 4:05-cv-00329-TCK-SAJ**
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

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

The Plaintiff State of Oklahoma respectfully submits its objections and responses to Defendant Tyson Poultry, Inc's First Set of Interrogatories propounded to Plaintiffs. The State maintains records in numerous locations and many agencies and its records review is on going. The State shall supplement the following responses and attached privilege logs should additional responsive or privilege-protected documents come to its attention.

GENERAL OBJECTIONS

1. The State objects to these discovery requests to the extent that they seek the discovery of information that is protected by the attorney-client privilege and/or the work product doctrine.

2. The State objects to these discovery requests to the extent that they seek the discovery of information that is already in the possession of defendant, is obtainable from another source that is more convenient, less burdensome or less expensive, or is as accessible to defendant as it is to the State. As such, the burden of obtaining such sought-after information is substantially the same, or less, for defendant as it is for the State.

Code § 35:17-3-14 (Animal Waste Management Plans),and Okla. Admin. Code § 35:17-3-20 (Best Management Practices).

Violations of these provisions have occurred wherever poultry waste for which Tyson Defendant is legally responsible and which was generated at concentrated animal feeding operations in Oklahoma has been, without limitation, overapplied, stored or land applied and run off, thereby resulting in a discharge to surface and/or ground water in those portions of the IRW located within Oklahoma. The State's investigation of these matters is continuing. Further, information responsive to this interrogatory may exist within the Poultry Integrator Defendants' own files.

Subject to and without waiving any of its general or specific objections, and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found within the business records being provided to this Defendant. Identification of such business records will occur on a rolling basis as the State's review of its business records proceeds.

The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 5: Please specifically Identify (without just referring to Your Complaint) each and every provision of the Oklahoma Registered Poultry Operations Act and/or its implementing regulations which You contend has been violated by any Tyson Defendant or any person or Entity for which any Tyson Defendant may allegedly be held legally responsible and provide:

(a) the date, location and a description of each such violation for which You contend a Tyson Defendant may be held liable;

(b) the name and address of the contract Grower or other person involved the violation(s)

identified in response to the preceding interrogatory subpart; and

(c) Identity [sic] any notices of violations, warnings, complaints, investigative reports, agency orders, correspondence, photographs, video recordings or witness statements (written or audio) and other Documents or items of evidence which Relate To each such violation or form the basis of Your belief that such a violation has occurred.

OBJECTIONS AND RESPONSE TO NO. 5: The State objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege and / or work production protection.

The State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). As of the date of this response, the State has not determined which experts retained by it or by its counsel will provide expert testimony in this case, and the Court has neither established the times and sequence of disclosure of such expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2)(C), nor has the Court established a trial date to trigger the obligation of expert disclosure 90 days in advance of trial under that rule. The State will comply with the order of the Court establishing the time of expert disclosures as required by Fed. R. Civ. P. 26. Therefore, the State also objects to this interrogatory to the extent it calls for information which constitutes expert opinions, the disclosure of which is premature.

The State also objects pursuant to Fed. R. Civ. P. 26(b)(3) to any discovery of documents or tangible things prepared in anticipation of litigation or for trial by it or by consultants retained by it or by its counsel.

Pursuant to Fed. R. Civ. P. 26(b)(5) and LCvR 26.4, the State's claim of attorney-client privilege

and work product protection is supported by its privilege log. Also, pursuant to LCvR 26.4(b), the attached privilege log does not contain any work product protection material or attorney-client privileged material created after the commencement of this action on June 13, 2005. The State reserves its work product protection claim and attorney-client privilege claim for all such materials, and reserves its right to supplement the attached privilege log should the Court enter any order requiring a log for protected or privileged materials created after the commencement of this action or if the State identifies additional documents subject to a claim of privilege or protection.

The State further objects to this interrogatory to the extent this information has already been provided to the Poultry Integrator Defendants in response to one or more Open Records Requests made by one or more of the Poultry Integrator Defendants.

Subject to and without waiving its general or specific objections, the State contends that violations of the Oklahoma Registered Poultry Feeding Operations Act and / or its implementing regulations by Tyson Defendant and / or persons and entities for which Tyson Defendant are legally responsible include, without limitation, one or more of the following specific provisions: 2 Okla. Stat. § 10-9.7 (Best Management Practices -- Requirement of Animal Waste Management Plans), and Okla. Admin. Code § 35:17-5-5 (Animal Waste Management Plan Requirements).

Violations of these provisions have occurred wherever poultry waste for which Tyson Defendant is legally responsible and which was generated at registered poultry feeding operations or applied to land in Oklahoma, without limitation, has not been handled, treated, or managed in accordance with the requirements of the Poultry Act and associated rules; has not been managed in accordance with an operation's Animal Waste Management Plan and Best Management Practices; has been applied to land

at inappropriate times or excessive rates or without regard to soil and waste test results; has been applied without required soil and waste testing; has been managed without keeping records of application or transfer; has been improperly stored and exposed to rainfall and runoff; or has been applied to land without appropriate runoff controls. Additionally, violations of these provisions have occurred, without limitation, wherever poultry waste or associated pollutants for which Tyson Defendant is legally responsible and which was generated at registered poultry feeding operations or applied to land in Oklahoma, without limitation, have been discharged or runoff into waters of the state in those portions of the IRW located within Oklahoma, including surface water and groundwater, from storage or land application sites; have been discharged or run off causing violations of state water quality standards; or where the handling, treatment, management and removal of such waste has created an environmental or a public health hazard or resulted in the contamination of waters of the state in those portions of the IRW located within Oklahoma, including surface and groundwater. The State's investigation of these matters is continuing. Further, information responsive to this interrogatory may exist within the Poultry Integrator Defendants' own files.

Subject to and without waiving any of its general or specific objections, and pursuant to Fed. R. Civ. P. 33(d), information sought in this Interrogatory, and whose production is not objected to herein, may be found within the business records being provided to this Defendant. Identification of such business records will occur on a rolling basis as the State's review of its business records proceeds.

The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 6: Please specifically Identify (without just referring to Your Complaint) each and every provision of the Oklahoma Agricultural Code which You contend has been

violated by the defendants or any person or Entity for which the defendants may allegedly be held legally responsible and provide:

(a) the date, location and a description of each such violation for which You contend a Tyson Defendant may be held liable;

(b) the name and address of the Grower or other person involved the violation(s) identified in response to the preceding interrogatory subpart; and

(c) Identity [sic] any notices of violations, warnings, complaints, investigative reports, agency orders correspondence, photographs, video recordings or witness statements (written or audio) and other Documents or items of evidence which Relate To each such violation or form the basis of Your belief that such a violation has occurred.

OBJECTIONS AND RESPONSE TO NO. 6: The State objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege and / or work production protection. The State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). As of the date of this response, the State has not determined which experts retained by it or by its counsel will provide expert testimony in this case, and the Court has neither established the times and sequence of disclosure of such expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2)(C), nor has the Court established a trial date to trigger the obligation of expert disclosure 90 days in advance of trial under that rule. The State will comply with the order of the Court establishing the time of expert disclosures as required by Fed. R. Civ. P. 26. Therefore, the State also objects to this interrogatory to the extent it calls for information which constitutes expert opinions, the

disclosure of which is premature.

The State also objects pursuant to Fed. R. Civ. P. 26(b)(3) to any discovery of documents or tangible things prepared in anticipation of litigation or for trial by it or by consultants retained by it or by its counsel.

Pursuant to Fed. R. Civ. P. 26(b)(5) and LCvR 26.4, the State's claim of attorney-client privilege and work product protection is supported by the its privilege log. Also, pursuant to LCvR 26.4(b), the attached privilege log does not contain any work product protection material or attorney-client privileged material created after the commencement of this action on June 13, 2005. The State reserves its work product protection claim and attorney-client privilege claim for all such materials, and reserves its right to supplement the attached privilege log should the Court enter any order requiring a log for protected or privileged materials created after the commencement of this action or if the State identifies additional documents subject to a claim of privilege or protection.

The State further objects to this interrogatory to the extent this information has already been provided to the Poultry Integrator Defendants in response to one or more Open Records Requests made by one or more of the Poultry Integrator Defendants.

Subject to and without waiving its general or specific objections, and in addition to those provisions cited in response to interrogatories 4 and 5 above, the State further contends that violations of the Oklahoma Agricultural Code by Poultry Integrator Defendants and / or persons and entities for which Poultry Integrator Defendants are legally responsible include, without limitation, 2 Okla. Stat. § 2-18.1 (Pollution of Air, Land or Waters Unlawful -- Powers of Board -- Orders, Penalties). Violations of this provision have occurred wherever poultry waste for which Poultry Integrator Defendants are legally

responsible and which was generated or land applied in Oklahoma has been, without limitation, stored or land applied and run off, leached into groundwater, discharged, or otherwise been released into the environment thereby causing pollution of surface water, ground water and / or land in those portions of the IRW located within Oklahoma. The State's investigation of these matters is continuing, but non-privileged, non-protected information responsive to subparts (a) through (c) may be found in documents being produced by the State pursuant to Rule 26(a). See Fed. R. Civ. P. 33(d). Further, information responsive to this interrogatory may exist within the Poultry Integrator Defendants' own files. The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 7: Please specifically Identify (without just referring to your Complaint) each and every provision of the Oklahoma Environmental Quality Act and/or its implementing regulations which You contend has been violated by any Tyson Defendant or any person or Entity for which any Tyson Defendant may allegedly be held legally responsible and provide:

(a) the date, location and a description of each such violation for which You contend a Tyson Defendant may be held liable;

(b) the name and address of the Grower or other person involved the violation(s) identified in response to the preceding interrogatory subpart; and

(c) Identity [sic] any notices of violations, warnings, complaints, investigative reports, agency orders correspondence, photographs, video recordings or witness statements (written or audio) and other Documents or items of evidence which Relate To each such violation or form the basis of Your belief that such a violation has occurred.

OBJECTIONS AND RESPONSE TO NO. 7: The State objects to this interrogatory to the extent

it seeks information protected by the attorney-client privilege and / or work production protection.

The State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). As of the date of this response, the State has not determined which experts retained by it or by its counsel will provide expert testimony in this case, and the Court has neither established the times and sequence of disclosure of such expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2)(C), nor has the Court established a trial date to trigger the obligation of expert disclosure 90 days in advance of trial under that rule. The State will comply with the order of the Court establishing the time of expert disclosures as required by Fed. R. Civ. P. 26. Therefore, the State also objects to this interrogatory to the extent it calls for information which constitutes expert opinions, the disclosure of which is premature.

The State also objects pursuant to Fed. R. Civ. P. 26(b)(3) to any discovery of documents or tangible things prepared in anticipation of litigation or for trial by it or by consultants retained by it or by its counsel.

Pursuant to Fed. R. Civ. P. 26(b)(5) and LCvR 26.4, the State's claim of attorney-client privilege and work product protection is supported by its privilege log. Also, pursuant to LCvR 26.4(b), the attached privilege log does not contain any work product protection material or attorney-client privileged material created after the commencement of this action on June 13, 2005. The State reserves its work product protection claim and attorney-client privilege claim for all such materials, and reserves its right to supplement the attached privilege log should the Court enter any order requiring a log for protected or privileged materials created after the commencement of this action or if the State identifies additional

documents subject to a claim of privilege or protection.

The State further objects to this interrogatory to the extent this information has already been provided to the Poultry Integrator Defendants in response to one or more Open Records Requests made by one or more of the Poultry Integrator Defendants.

Subject to and without waiving its general or specific objections, the State further contends that violations of the Oklahoma Environmental Quality Act and / or its implementing regulations by Poultry Integrator Defendants and / or persons and entities for which Poultry Integrator Defendants are legally responsible include, without limitation, 27A Okla. Stat. § 2-6-105 (Unlawful to Pollute - Order to Cease). Violations of this provision have occurred wherever poultry waste for which Poultry Integrator Defendants are legally responsible has been, without limitation, managed, stored or land applied in a manner that poultry waste or associated constituents or pollutants have run off, leached or otherwise been released into the environment, thereby causing, or being likely to cause, pollution of surface water, air, ground water and / or land in those portions of the IRW located within Oklahoma. The State's investigation of these matters is continuing, but non-privileged, non-protected information responsive to subparts (a) through (c) may be found in the documents identified to date being produced by the State pursuant to Rule 26(a). See Fed. R. Civ. P. 33(d). Further, information responsive to this interrogatory may exist within the Poultry Integrator Defendants' own files. The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 8: Please specifically Identify (without just referring to Your Complaint) each and every provision of the Oklahoma Administrative Code which You contend has been violated by any Tyson Defendant or any person or Entity for which any Tyson Defendant may allegedly be

held legally responsible and provide:

(a) the date, location and a description of each such violation for which you contend a Tyson Defendant may be held liable;

(b) the name and address of the Grower or other person involved the violation(s) identified in response to the preceding interrogatory subpart; and

(c) Identity [sic] any notices of violations, warnings, complaints, investigative reports, agency orders correspondence, photographs, video recordings or witness statements (written or audio) and other Documents or items of evidence which Relate To each such violation or form the basis of Your belief that such a violation has occurred.

OBJECTIONS AND RESPONSE TO NO. 8: The State objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege and / or work production protection.

The State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). As of the date of this response, the State has not determined which experts retained by it or by its counsel will provide expert testimony in this case, and the Court has neither established the times and sequence of disclosure of such expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2)(C), nor has the Court established a trial date to trigger the obligation of expert disclosure 90 days in advance of trial under that rule. The State will comply with the order of the Court establishing the time of expert disclosures as required by Fed. R. Civ. P. 26. Therefore, the State also objects to this interrogatory to the extent it calls for information which constitutes expert opinions, the disclosure of which is premature.

The State also objects pursuant to Fed. R. Civ. P. 26(b)(3) to any discovery of documents or tangible things prepared in anticipation of litigation or for trial by it or by consultants retained by it or by its counsel.

Pursuant to Fed. R. Civ. P. 26(b)(5) and LCvR 26.4, the State's claim of attorney-client privilege and work product protection is supported by its privilege log. Also, pursuant to LCvR 26.4(b), the attached privilege log does not contain any work product protection material or attorney-client privileged material created after the commencement of this action on June 13, 2005. The State reserves its work product protection claim and attorney-client privilege claim for all such materials, and reserves its right to supplement the attached privilege log should the Court enter any order requiring a log for protected or privileged materials created after the commencement of this action or if the State identifies additional documents subject to a claim of privilege or protection.

The State further objects to this interrogatory to the extent this information has already been provided to the Poultry Integrator Defendants in response to one or more Open Records requests made by one or more of the Poultry Integrator Defendants.

Subject to and without waiving its general or specific objections, the State contends that violations of the Oklahoma Administrative Code by Tyson Defendant and / or persons and entities for which Tyson Defendant are legally responsible include, without limitation, one or more of the following specific provisions: OAC 785 Chapter 45 and 46 (Water Quality Standards and Implementation). The State's investigation of these matters is, however, continuing, and this could change. The State reserves its right to supplement its answer to this interrogatory pursuant to Fed. R. Civ. P. 26(e)

INTERROGATORY NO. 9: Please Identify all reports, studies, Publications, research, sampling

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