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.	)	

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VOLUME I OF THE VIDEOTAPED DEPOSITION OF BERTON FISHER, PhD, produced as a witness on behalf of the Defendants in the above styled and numbered cause, taken on the 3rd day of September, 2008, in the City of Tulsa, County of Tulsa, 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.

EXHIBIT
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actually greater than the average; right?
A That's correct.
Q Okay. So more than 100 percent variation sample to sample; correct?
A Correct. 03:14PM
Q Okay. Now, if you look at total arsenic, and total arsenic is important to your analysis, is it not?
A Total arsenic does have some import to the analysis. The other -- there are other measure of 03:14PM spread, by the way, that need to be looked at, but we can look at this one for the moment.
Q That's the one I want to look at.
A I figured it would be.
Q Okay. You'll agree with me, total arsenic is 03:14PM one of the constituents that you use in your ratio or fingerprint analysis in this case; correct?
A It's part of it, yes.
Q It's part of the data on which you rely to offer opinions regarding the source of certain 03:15PM things found in the water in the watershed; correct?
A That's correct.
Q And those comparisons involve comparisons of ratios back to poultry litter samples shown in Table 10; correct? 03:15PM

me, on this plot is a function of the relative ratio of phosphorus to one of the other constituents?

A That's correct.

Q Okay. All right. Is it your opinion that evidence of contamination by poultry waste exists if samples from runoff water, groundwater, stream sediment or lake sediment exhibit relationships of phosphorus concentration to zinc, copper and arsenic concentration that are similar to those of poultry litter? 04:02PM 04:03PM

A Yes.

Q Okay. Dr. Fisher, are you aware of any other scientists in the world, other than those perhaps retained by Motley Rice in this case, that has tried to identify or fingerprint poultry waste as the source of contamination based on the ratio method that you've used in this case? 04:03PM

A Okay. I can speak only as a geochemist, and this is a standard geochemical methodology that is applied in looking at mixing problems globally by all geochemists in pretty much all time. 04:03PM

Q Are you through?

A You can apply it to poultry waste. I'm unclear as to anybody that's ever applied this to poultry waste, but it certainly is not a novel 04:03PM