UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	4:05-cv-00329-GKF-SAJ
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

TYSON FOODS, INC.'S RESPONSES TO THE STATE OF OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF MARCH 17, 2009

Defendant TYSON FOODS, INC. (hereinafter referred to as "Defendant" or "Tyson Foods") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Tyson Foods submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Foods, Inc.

Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN88893SOK – TSN88943SOK, TSN88945SOK – TSN88949SOK, TSN89062SOK – TSN89293SOK, TSN89502SOK – TSN89515SOK, TSN89579SOK – TSN89656SOK, TSN89662SOK – TSN89664SOK, TSN89674SOK – TSN89681SOK, TSN89682SOK, TSN89690SOK – TSN107695SOK, TSN112595SOK – TSN115598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113898SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114545SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN117054SOK – TSN117074SOK, TSN117317SOK – TSN117327SOK, TSN117349SOK – TSN117372SOK, TSN118075SOK, TSN118083SOK – TSN118084SOK, TSN118145SOK – TSN118148SOK, TSN118145SOK – TSN118148SOK, TSN121263SOK – TSN121266SOK, TSN121505SOK – TSN121509SOK, TSN121810SOK – TSN121826SOK, TSN121984SOK – TSN121987SOK, TSN122012SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK, and TSN124099SOK – TSN124127SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Foods, Inc. on the following topics associated with the land application of poultry litter: a) "industry practice and your contract poultry growers practice regarding handling, storage, and spreading on

land of poultry waste" and b) "the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW."

Subject to and without waiving the foregoing objections, Tyson Foods has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Foods does not routinely maintain litter application records, but any such documents which are in the possession of Tyson Foods are located in grower files Bates numbered TSN0001SOK – TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Foods, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including

documents Bates numbered TSN88893SOK – TSN88943SOK, TSN88945SOK – TSN88949SOK, TSN89062SOK – TSN89293SOK, TSN89502SOK – TSN89515SOK, TSN89579SOK – TSN89656SOK, TSN89662SOK – TSN89664SOK, TSN89674SOK – TSN89681SOK, TSN89682SOK, TSN89690SOK – TSN107695SOK, TSN112595SOK – TSN115598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113898SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114545SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN117054SOK – TSN117074SOK, TSN117317SOK – TSN117327SOK, TSN117349SOK – TSN117372SOK, TSN118075SOK, TSN118083SOK – TSN118084SOK, TSN118145SOK – TSN118148SOK, TSN118145SOK – TSN118148SOK, TSN121263SOK – TSN121266SOK, TSN121505SOK – TSN121509SOK, TSN121810SOK – TSN121826SOK, TSN121984SOK – TSN121987SOK, TSN122012SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK, and TSN124099SOK – TSN124127SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Foods, Inc. on the following topics associated with the land application of poultry litter: a) "industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste" and b) "the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW."

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Tyson Foods is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Tyson Foods has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Foods does not routinely maintain litter application records, but any such documents which are in the possession of Tyson Chicken are located in grower files Bates numbered TSN0001SOK – TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

Tyson Foods requires that its company-owned and company-managed poultry growing operations, as well as poultry growing operations under contract with it, follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As the purpose of an AWMP is to "protect the natural resources of the State" (O.A.C. 35:17-5-2), Tyson Foods submits that such AWMP's are evidence that no run-off of any kind has occurred following the land application of poultry litter generated at its company-owned and company-managed poultry growing operations or at poultry growing operations under contract with it. All NMP's and AWMP's in the possession of Tyson Foods have been produced and are located within the grower files referenced above or within Bates range TSN18472SOK – TSN20640SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on the 16th day of April 2009, I transmitted the attached document to the following:

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COUNSEL FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

Mr. J.D. Strong
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118

Erin Thompson

Erin Thompson

4813-7329-3571.1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	4:05-cv-00329-GKF-SAJ
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

TYSON CHICKEN, INC.'S RESPONSES TO THE STATE OF OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF MARCH 17, 2009

Defendant TYSON CHICKEN, INC. (hereinafter referred to as "Defendant" or "Tyson Chicken") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Tyson Chicken submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Chicken, Inc.

Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112595SOK – TSN112598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113889SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114565SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, and TSN157975SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Chicken, Inc. on the following topics associated with the land application of poultry litter: a) "industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste" and b) "the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW."

Subject to and without waiving the foregoing objections, Tyson Chicken has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Chicken does not routinely maintain litter application records, but any such documents which are in the possession of Tyson Chicken are located in grower files Bates numbered TSN42786SOK – TSN59499SOK, TSN62427SOk – TSN63342SOK, TSN65032SOK – TSN86625SOK, TSN89690SOK – TSN90078SOK, TSN118280SOK –

TSN119578SOK, TSN127426SOK – TSN128049SOK, and TSN141139SOK – TSN154304SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Chicken, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112595SOK – TSN112598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113889SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114565SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, and TSN157975SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Chicken, Inc. on the following topics associated with the land application of poultry litter: a) "industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste" and b) "the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW."

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Tyson Chicken is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Tyson Chicken has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Chicken does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Tyson Chicken are located in grower files Bates numbered are located in grower files Bates numbered TSN42786SOK – TSN59499SOK, TSN62427SOk – TSN63342SOK, TSN65032SOK – TSN86625SOK, TSN89690SOK – TSN90078SOK, TSN118280SOK – TSN119578SOK, TSN127426SOK – TSN128049SOK, and TSN141139SOK – TSN154304SOK.

Tyson Chicken requires that its company-owned and company-managed poultry growing operations, as well as poultry growing operations under contract with it, follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As

the purpose of an AWMP is to "protect the natural resources of the State" (O.A.C. 35:17-5-2), Tyson Chicken submits that such AWMP's are evidence that no run-off of any kind has occurred following the land application of poultry litter generated at its company-owned and company-managed poultry growing operations or at poultry growing operations under contract with it. All NMP's and AWMP's in the possession of Tyson Chicken have been produced and are located in the above-referenced contract grower files or at Bates numbers TSN18472SOK – TSN20640SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract

growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

KUTAK ROCK LLP

By _____

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CERTIFICATE OF SERVICE

I certify that on the 16th day of April 2009, I electronically transmitted the attached document to the following:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

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State of Oklahoma
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Oklahoma City, OK 73118

Erin Thompson

Erin Thompson

4816-9238-8355.1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	4:05-cv-00329-GKF-SAJ
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

TYSON POULTRY, INC.'S RESPONSES TO THE STATE OF OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF MARCH 17, 2009

Defendant TYSON POULTRY, INC. (hereinafter referred to as "Defendant" or "Tyson Poultry") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Tyson Poultry submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Poultry, Inc.

Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112603SOK, TSN112625SOK, TSN113738SOK – TSN112739SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, TSN159236SOK – TSN159359SOK, TSN159528SOK – TSN159554SOK, TSN159573SOK – TSN159577SOK, TSN159750SOK – TSN159751SOK, TSN161606SOK, TSN162772SOK – TSN162935SOK, TSN162940SOK – TSN162945SOK, TSN162951SOK – TSN162957SOK, and TSN162958SOK – TSN162971SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Poultry, Inc. on the following topics associated with the land application of poultry litter: a) "industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste" and b) "the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW."

Subject to and without waiving the foregoing objections, Tyson Poultry has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Poultry does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Tyson Poultry are located in grower files Bates numbered TSN0001SOK –

TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Poultry, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, TSN112603SOK, TSN112625SOK, TSN113738SOK – TSN112739SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, TSN159236SOK – TSN159359SOK, TSN159528SOK – TSN159554SOK, TSN159573SOK – TSN159577SOK, TSN159750SOK – TSN159751SOK, TSN161606SOK, TSN162772SOK – TSN162935SOK, TSN162940SOK – TSN162945SOK, TSN162951SOK – TSN162957SOK, and TSN162958SOK – TSN162971SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No.

16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Poultry, Inc. on the following topics associated with the land application of poultry litter: a) "industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste" and b) "the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW."

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Tyson Poultry is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Tyson Poultry has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Poultry does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Tyson Poultry are located in grower files Bates numbered TSN0001SOK – TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

Tyson Poultry requires that poultry growing operations under contract with it follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As the purpose of an AWMP is to "protect the natural resources of the State" (O.A.C. 35:17-5-2), Tyson Poultry submits that such AWMP's are evidence that no run-off of any kind

has occurred following the land application of poultry litter generated at poultry growing operations under contract with it. All NMP's and AWMP's in the possession of Tyson Poultry have been produced and are located within the above-referenced contract grower files or within the following Bates range: TSN18472SOK – TSN20640SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

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By Erin Thompson

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I certify that on the 16th day of April 2009, I electronically transmitted the attached document to the following:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

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Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118

Erin Thompson

Erin Thompson

4844-9405-2355.1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	4:05-cv-00329-GKF-SAJ
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

COBB-VANTRESS, INC.'S RESPONSES TO THE STATE OF OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF MARCH 17, 2009

Defendant COBB-VANTRESS, INC. (hereinafter referred to as "Defendant" or "Cobb-Vantress") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Cobb-Vantress submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Cobb-Vantress, Inc.

Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112625SOK, TSN114670SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Cobb-Vantress, Inc. on the following topics associated with the land application of poultry litter: a) "industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste" and b) "the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW."

Subject to and without waiving the foregoing objections, Cobb-Vantress has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Cobb-Vantress does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Cobb-Vantress are located in grower files Bates numbered TSN59500SOK – TSN60270SOK, TSN60333SOK – TSN60334SOK, TSN60336SOK – TSN60338SOK, TSN60340SOK - TSN60343SOK, TSN60347SOK, TSN60376SOK – TSN62426SOK, TSN86626SOK – TSN86657SOK, TSN90079SOK – TSN90420SOK, TSN115147SOK – TSN115149SOK, TSN115161SOK - TSN115358SOK, and TSN125180ASOK –

TSN125638SOK. With respect to poultry growing operations owned or managed by Cobb-Vantress, any litter application records maintained by Cobb-Vantress have been produced and are contained in the following Bates number range: TSN60271SOK – TSN60332SOK, TSN60335SOK, TSN60339SOK, TSN60344SOK – TSN60346SOK, TSN60348SOK – TSN60375SOK, TSN86658SOK – TSN86919SOK, TSN115069SOK – TSN115146SOK, TSN115150SOK – TSN115160SOK, and TSN164412SOK – TSN164414SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Cobb-Vantress, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112625SOK, TSN114670SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7

and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Cobb-Vantress, Inc. on the following topics associated with the land application of poultry litter: a) "industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste" and b) "the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW."

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Cobb-Vantress is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Cobb-Vantress has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Cobb-Vantress does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Cobb-Vantress are located in grower files Bates numbered TSN59500SOK – TSN60270SOK, TSN60333SOK – TSN60334SOK, TSN60336SOK – TSN60338SOK, TSN60340SOK - TSN60343SOK, TSN60347SOK, TSN60376SOK – TSN62426SOK, TSN86626SOK – TSN86657SOK, TSN90079SOK – TSN90420SOK, TSN115147SOK – TSN115149SOK, TSN115161SOK - TSN115358SOK, and TSN125180ASOK – TSN125638SOK. With respect to poultry growing operations owned or managed by Cobb-Vantress, any litter application records maintained by Cobb-Vantress have been produced and

are contained within the following Bates number range: TSN60271SOK – TSN60332SOK, TSN60335SOK, TSN60339SOK, TSN60344SOK – TSN60346SOK, TSN60348SOK – TSN60375SOK, TSN86658SOK – TSN86919SOK, TSN115069SOK – TSN115146SOK, TSN115150SOK – TSN115160SOK, and TSN164412SOK – TSN164414SOK.

Cobb-Vantress requires that its company-managed poultry growing operations, as well as poultry growing operations under contract with it, follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As the purpose of an AWMP is to "protect the natural resources of the State" (O.A.C. 35:17-5-2), Cobb-Vantress submits that such AWMP's are evidence that no run-off of any kind has occurred following the land application of poultry litter generated at its company-owned and company-managed poultry growing operations or at poultry growing operations under contract with it. All NMP's and AWMP's in the possession of Cobb-Vantress have been produced and are located in contract grower files Bates numbered TSN59500SOK – TSN62426SOK, TSN86626SOK – TSN86919SOK, TSN900079SOK – TSN90420SOK, TSN115069SOK – TSN115358SOK, TSN164412SOK – TSN164414SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract

growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on the 16th day of April 2009, I electronically transmitted the attached document to the following:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

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Erin Thompson

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