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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DEPOSITION OF MICHAEL DICKS, PhD, produced as a witness on behalf of the Plaintiff in the above styled and numbered cause, taken on the 13th day of February, 2009, 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 33

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MR. BURNS: Object to form.
A Yes.
Q Do you also agree that each defendants' choice is based in part on the location of the grower in relation to the feed mills, hatchery or processing plants of that defendant? 11:42AM
A Yes.
Q Do you agree that each defendant controls the number of growers it will have in a region or complex? 11:42AM
A Yes.
Q And do you agree then as a result of that, each defendant controls the density of the growers it will have in an area or region or it's sometimes referred to as complex? 11:43AM
MR. BURNS: Object to form.
A Yes. Certainly they would exhibit a certain percent of that control, correct.
Q Why a percentage?
A Well, it takes two to sign a contract. 11:43AM
Q Okay, but the author of the contract is made from the integrator, is it not?
A That's correct.
Q And so they choose a person to give an offer to; is that correct? 11:43AM

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A Correct.
Q Would you agree with me each defendant controls when and how many birds are to be grown by their growers?
A Correct. 11:43AM
Q Would you agree that each defendant integrator sets the schedule for when birds are in or out of the growers' houses?
A Yes.
Q And do you agree with me that each defendant 11:43AM
controls the type and size of birds in the grower -- I'm sorry, I'll restate that. Do you agree with me that each defendant controls the type and size of birds that growers will grow for that integrator defendant? 11:43AM
A State that again.
Q Would you agree that each defendant controls the type and size of birds the growers will grow for them?
A Well, you know, I guess my problem is with 11:44AM
your word control because do they -- do they -- you know, do they guide it? Yes. Obviously they don't have any control over what the producers do in terms of the actual production. Do you follow me?
Q Let me clarify my question then. 11:44AM

A Correct.
Q And you have not undertaken any scientific studies, survey or investigation of owners in the IRW who own pastureland who refuse to use poultry waste on their land and how many acres that 02:51PM represents?
A Correct.
Q And you agree that historically the predominant use of poultry litter has been to land apply it in the IRW? 02:51PM
A Yes.
MR. BURNS: Object to the form.
Q Would you agree that poultry farmers generally would apply it on their land or nearby neighbors' land when they do? 02:51PM
MR. BURNS: Object to form.
A I don't think I could stipulate that.
Q Do you believe or agree that generally the same land is used for application each year?
MR. BURNS: Object to form. 02:51PM
A I don't -- past or present?
Q Past.
A That's -- that may be true. I don't have any -- I don't have any knowledge of that.
Q Let me hand you what's been marked as Exhibit 02:51PM