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

STATE OF OKLAHOMA, et al.,

Plaintiff,

vs. CASE NO. 05-CV-00329-GKF SAJ

TYSON FOODS, INC., et al.,

Defendants.

VIDEOTAPED DEPOSITION OF TEENA GUNTER
TAKEN ON BEHALF OF THE DEFENDANTS
ON OCTOBER 29, 2008, BEGINNING AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

APPEARANCES:

On behalf of the PLAINTIFF:
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(APPEARANCES CONTINUED ON PAGE 2)

REPORTED BY: Laura L. Robertson, CSR, RPR

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On behalf of the DEFENDANT-TYSON FOODS, TYSON CHICKEN, TYSON POULTRY AND COBB-VANTRESS, INC.:
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ALSO PRESENT: Stephen Carns, Videographer

1 MR. VIDEOGRAPHER: This is the videotape
2 deposition of Teena Gunter, taken on behalf of the
3 defendant, in the matter of State of Oklahoma vs.
4 Tyson Foods, Case Number 05-CV-0329-GKF-SAJ.
5 It is being held at the Attorney General's
6 office at 313 Northeast 21st Street in Oklahoma City,
7 Oklahoma, on the 29th of December, 2008. On record at
8 9:05 a.m. Counsel, please state your appearance for
9 the record.
10 MR. LENNINGTON: Dan Lennington for the
11 State of Oklahoma.
12 MR. HAMMONS: Trevor Hammons for the State
13 of Oklahoma.
14 MR. HIXON: Philip Hixon for Peterson Farms.
15 MR. BURNS: Ryan Burns for the Tyson
16 defendants and Cobb-Vantress.
17 MS. TUCKER: K.C. Tucker for the George's
18 entities.
19 MR. VIDEOGRAPHER: On the phone.
20 MR. SANDERS: Bob Sanders for Cal-Maine
21 defendants.
22 MS. SOUTHERLAND: Leslie Southerland for
23 Cargill.
24 WHEREUPON,
25 TEENA GUNTER,

after having been first duly sworn, deposes and says in reply to the questions propounded as follows, to-wit:

DIRECT EXAMINATION

BY MR. HIXON:

Q. Good morning, Ms. Gunter, we are back. Just so we will have some continuity from our last session, we had, or I had offered into the last sessions of the deposition Exhibits 1, 2, 3, 4, 5, 6, 7, 8-A, 8-B, 8-C, 10, 11, 12, 17, 18, 19 and 20, which are all contained in that folder, and I don't know that we will need any of those, but just in case, they are there.

A. Okay.

Q. For your benefit. And again for the record, I think Exhibit 1 was the deposition notice, and it is my understanding that you're here as representative of the state of Oklahoma for the poultry topics that are identified in the notice; is that correct?

A. Yes, sir.

Q. Okay. Can you tell me what the Oklahoma Water Quality Monitoring Council is?

A. The Oklahoma Water Quality Monitoring Council?

Q. Uh-huh.

swine, we put swine in there, if it is cattle, we put cattle in there, if it is a dog, we put dog in there. Mice.

Q. Okay. I think that may answer my question. I'm looking at the Exhibit 20 version and it doesn't appear that type column is included in this.

A. Okay.

Q. Let's go on. What is our next integrator complaint?

A. What was the last one we talked about?

Q. The odor complaint, C05122, the George's.

A. Okay. That would be all of the Adair.

Q. Before we leave Adair County, on this complainant column on this page 5 of 5, there is a familiar name on the C08149 and 150?

A. Uh-huh.

Q. Can you tell me what those complaints are?

A. They were complaints that were filed back in April of this year, regarding several poultry facilities. Mr. Lennington filed those complaints from the Attorney General's office regarding those two facilities as well as a couple of others.

We investigated them, as we do all complaints and treated them as we have the rest of these.

1 **Q.** Okay. And this is Voo and Mullins?
2 **A.** Right, Voo Lauren, Voo Blia. B-L-I-A.
3 **Q.** Do you know what the other complaints were
4 that were made by Mr. Lennington?
5 **A.** I think they are listed in here. Three were
6 in Delaware County, I'm looking at page 8 of 8,
7 beginning at C-08-152, C-08-153, C-08-157, would be
8 three additional complaints that were filed in April
9 of '08 by Mr. Lennington.
10 **Q.** Okay. Have these complaints that were filed
11 by Mr. Lennington, have these files been produced to
12 the defendants?
13 **A.** They should have in the --
14 **Q.** The supplemental production that was just
15 made?
16 **A.** That's what I was just thinking is that
17 these would have been contained in that supplemental
18 production.
19 **Q.** Do you know whether there were any
20 violations found in any of these cases?
21 **A.** There were problems, I'm looking still at
22 8- -- 8 of '08, the C-08-152 indicates that we had to
23 make corrective actions were required for the Monty
24 Jones facility. The John C. Jones facility, the next
25 one on the list there received a letter of warning,

and there was also a letter of warning for piling poultry waste outside unprotected for Dale and Sharon Guthrie.

The ones we started with here on page 5 of 5 for Adair, letter of warning was issued for the 08-149 against Voo Lauren Blia Voo. And a letter of warning was also sent to Daniel Mullen, C-08-150, for letting poultry litter stack outside. And that appears to be all of them.

Q. Was there any determination in any runoff in any of those complaints?

A. I said 8 of 8 didn't I? Yes, I did. Those are stored in the individual producer files. Based on the spreadsheet, the first one, Monty Jones does not indicate what the problem was in here, except that there needed to be follow-up and the requirements were completed.

The letter of warning was sent because the piles of waste are required to be protected, and what that basically means is protected from runoff to make sure that the pile doesn't runoff. That's the terminology used by Mr. Parrish. Dome berm was built, that's to take care of the runoff issue on that facility.

Same with Dale and Sharon Guthrie. Litter

warning for piling poultry waste outside, unprotected from rainfall, et cetera, that would cause the -- cause runoff from that facility.

Q. When you're saying cause runoff, was there an actual determination of runoff or are you just saying that there is the potential for runoff on these events?

A. I don't see that they actually identified particular runoff, but that would depend on how long it had been sitting out there and such as that. But I don't see that they have identified specific runoff, instead they just said fix it, make sure there is no -- make sure there isn't any runoff from this pile.

Q. Okay. So there was no affirmative finding of runoff from any of these incidents?

A. Not identified here.

Q. Do you know if there were any fines levied in any of these complaints made by Mr. Lennington?

A. Those three, it doesn't appear to. They were letter of warnings instead as issued. No, the other two also received letter of warnings.

Q. Okay. Did ODAFF take any action against the, any of the integrators for these complaints by, made by Mr. Lennington?

A. No. These were identified as poultry

operators, and we made the corrective actions through the poultry grower.

Q. Okay. Let's go back to our integrator questions. We were in Cherokee County, what integrator violations or complaints do we have in Cherokee County?

A. There is -- the second one down on page 1 of 3 of Cherokee County, there is a Cobb-Vantress complaint, AIC-97-159, improper disposal of litter, no violations. It was closed without any indications, that they identified anything at that time.

MR. LENNINGTON: Let's change the tape real quick.

(Short break)

Q. (BY MR. HIXON) Okay. We were at, left off with the Cobb-Vantress, there is no violation there. What is under the next Cherokee County complaint?

A. I have C-05-112, it says Simmons-Carl Guthrie.

Q. Okay. Is that a Simmons --

A. I'm not positive that that is a Simmons owned facility. It has got a license number, and I don't know of any currently Simmons owned facilities at that time. So there is -- Carl Guthrie could be the grower for a Simmons facility. But again, it was

were run.

Q. Okay.

A. And that date is identified on the bottom.

Q. And the complaints made against integrators, there were no complaints finding runoff; is that correct?

A. Other than the ones that were related to improper storage or something to that effect, but runoff was not the finding.

Q. There was no finding of runoff, there was simply the potential for runoff in those cases?

A. Yes, sir.

Q. Was there any action taken against any of the integrators on these complaints that we have talked about under this 2-18.1?

A. Many of those were much older, and we didn't have that statute until later on. Do you have the exhibit with the --

Q. You should also have the exhibit.

A. The very first time that law was in effect was April 6th of '04.

Q. Okay.

A. So if it was previous to that, we didn't have this at our disposal.

Q. Okay. Let's add that one, the official one