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

STATE OF OKLAHOMA,	)	
Plaintiff,	)	
v.	)	Case No. 05-CV-329-GKF(PJC)
TYSON FOODS, INC., et al.,	)	
Defendants.	)	

AFFIDAVIT OF DELMAR EHRICH IN SUPPORT OF THE CARGILL DEFENDANTS' RESPONSE AND NON-OPPOSITION TO PLAINTIFFS' MOTION FOR LEAVE TO SUPPLEMENT SUMMARY JUDGMENT RECORD (DKT. 2452)

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

I, Delmar Ehrich, state the following under oath based upon my personal knowledge.

1. I am a partner with Faegre & Benson LLP. I am among the counsel representing Cargill, Inc. ("Cargill") and Cargill Turkey Production LLC ("CTP") in this litigation.

2. Following commencement of this lawsuit, in 2005 Faegre & Benson engaged Dr. Thomas Ginn and Mr. Gary Bigham of Exponent as a consulting experts to assist Cargill's and CTP's outside counsel with preparing the respective companies' defense.

3. After engaging Messrs. Ginn and Bigham, I directed Faegre & Benson attorney Kristen Carney and co-counsel at the Rhodes Hieronymus firm to evaluate litter management practices by interviewing certain CTP independent contract growers who had operations in the Illinois River Watershed ("IRW"). Those contract growers were identified using CTP information that listed all CTP contract growers in the IRW, which information was produced to Plaintiffs on June 29, 2007 at CTP 95366. Related information, such as address lists and driving directions, have been produced for the CTP contra ct growers to Plaintiffs at various times, including productions dated December 5, 2006, May 15, 2007, September 14, 2007, October 30, 2007, and December 3, 2007.

Exhibit A

4. As a result of counsel's investigation, Ms. Carney prepared the "Cargill Grower Summary" that is attached as Exhibit A to the State's Motion. That document was prepared exclusively as work product for use by counsel.

5. On November 3, 2005, Mr. Carney transmitted the Cargill Grower Summary by privileged and confidential communication of attorney work product to consulting experts Ginn and Bigham to further counsel's efforts to evaluate Plaintiffs' claims and develop Cargill's and CTP's defenses. *See* Ex. F to Pl's. Mot.

6. For the purpose of furthering counsel's efforts at preparing Cargill's and CTP's defense, and at my direction and request, Mr. Bigham and staff at Exponent conducted further analysis that resulted in the preparation of attorney work product in or about March 2006 that is attached as Exhibits L, M, and N to the State's Motion (collectively referred to by the State as the "Applications Chart"). *See* Ex. K to Pl's. Mot.

7. Until July 27, 2009, the documents contained in Exhibits A, L, M, and N to the State's Motion were exclusively maintained in the files of Cargill's and CTP's counsel and at Exponent. At no time did counsel or Exponent discuss, provide, or show those documents to any non-lawyer at Cargill or CTP, specifically including non-lawyers Tim Maupin, Tim Alsup, and Steve Willardsen of CTP.

Delmar Ehrich

Subscribed and sworn to before me
this 12th day of August, 2009.

Barbara L. Nallick
Notary Public

BARBARA L. NALLICK
Notary Public
Minnesota
My Commission Expires January 31, 2013

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