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Shareholder Resolution at Tyson Foods on Policy to Address Water Impacts of Business Operations and Suppliers

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Tyson shareholders are encouraged to vote FOR the following resolution at the 2016 Annual Meeting of Tyson Foods, Inc.: Shareholders request the Board of Directors adopt and implement a water stewardship policy designed to reduce risks of water contamination at: Tyson-owned facilities; facilities under contract to Tyson; and Tyson's suppliers.

Overview of Water Risk and Resolution

Tyson Foods has a history of water contamination incidents at its facilities and among suppliers and contract farmers and its business is exposed to significant water risk. Meanwhile Tyson has no policy to comprehensively manage water stewardship. Proponents of this resolution share a common concern regarding the financial and reputational risks associated with water contamination from the company's operations and its supply chain, and shareowners request that Tyson Foods adopt and implement a water stewardship policy that outlines leading practices to improve water quality for all company-owned facilities, facilities under contract to Tyson, and suppliers.

Proponents believe Tyson can add a water stewardship policy to the existing Environmental, Health, and Safety Management Systems. The policy should:

- Encourage leading practices for nutrient management and pollutant limits in its direct operations, suppliers, and contract farms, including by providing financial and technical support to help implement the policy;
- Outline robust and transparent measures to prevent water pollution incidents;
- Outline specific time-bound goals; and
- Include a mechanism to regularly disclose progress on implementation.

Tyson Does Not Sufficiently Manage Water Risk:

- ▶ While Tyson has an Environmental Management Systems (EMS) at each facility that it states helps to achieve environmental sustainability goals, there is **no transparency** on how these systems improve water management and reduce risks of serious contamination incidents. The EMS is **limited only to Tyson facilities** does not address risks of contamination within the supply chain or among contract farmers where water risk is greatest.
- ▶ Tyson Foods operates 36 full treatment and 55 pre-treatment facilities and has a long-term goal to eliminate Notices of Violations and permit exceedances. Government oversight and permitting amounts are insufficient to manage wastewater discharges, as demonstrated by Tyson's history of violations and fines (see more on fines below). In addition, Tyson's wastewater treatment facilities **only serve the company processing plants, and do not address risks of water contamination from non-point source pollution from contract farmers.**

- ▶ While Tyson Foods has a Water Council to understand the landscape for water management, this Council is **focused primarily on water conservation** (i.e. quantity of water used not quality) and addresses only Tyson operations, not supply chain risks. The greatest risk for fines and illegal activity lies within the potential for contamination, not over quantity of water used.
- ▶ Tyson reports on water usage in its Sustainability Report, but this reporting **does not include information on water management in its supply chain or contract farmers**. Tyson indicated that it plans to complete the CDP Water Questionnaire in 2016. This is a positive step and there are some relevant questions in CDP Water that address issues raised in the resolution (e.g. on penalties paid for discharges). However, this disclosure, even if fully completed, will not address the full scope of the concerns raised in the resolution to reduce water risk.
- ▶ Tyson Foods does business with 3,800 independent poultry producers and 6,100 cattle and hog producers and requires that these facilities comply with law. Meanwhile, **state law requirements vary** for critical water protection mechanisms, such as nutrient management plans. This leads to different behavior by different contract farmers and does not adequately manage water risk throughout the broad supply chain. Even if there are laws requiring a nutrient management plan, a state may lack capacity to adequately enforce these laws to reduce risk.
- ▶ Tyson indicates that it encourages its contract farms to be independent and sustainable. However, in poultry production, Tyson maintains control over nearly every aspect of growth and production of the eggs, chicks, and processing of the chickens it sells. **Yet Tyson does not provide support, guidance, training, or incentives to reduce the risk of water contamination from animal waste**. Tyson provides a Handbook to farmers in addition to high levels of oversight and guidance on the production of animals, including providing feed, monitoring the quantity of feed used, scheduling visits from field technicians, providing veterinary services and medication. The company retains title to the birds, feed, and administered medication throughout its growth period with the contract farmers.
- ▶ The Company has had a [Supplier Code of Conduct](#) since 2010 that includes protection of the environment. However, **the Supplier Code of does not address water management** and lacks specific requirements and standards that could reduce the risk of water pollution. No incentives are provided to contract farmers to manage animal waste in a manner that would reduce the risk of contamination.

New Information Strengthens Case for Investor Support of the Resolution

Proponents filed a substantially similar resolution for consideration at the 2015 Annual Meeting that received support from 10.8% of shareholders. There are a few changes to the 2016 resolution that proponents believe strengthen the case for shareholder support:

- ▶ The 2016 resolution notes that there are **new regulatory and policy developments** that may increase the risk to Tyson Foods. Specifically, a recent lawsuit in Washington State about local groundwater pollution from factory farms found that manure from livestock facilities should be regulated as solid waste.
- ▶ The 2016 resolution includes a **recent water violation** at a Missouri facility, demonstrating that stronger water management is needed at Tyson Foods. Tyson faces an ongoing federal criminal investigation related to the discharge of wastewater from a Missouri treatment plant into a local stream that caused fish kills and pollution. Tyson paid a \$540,000 judgment in response to the civil suit and the U.S. Environmental Protection Agency's criminal investigation linked to this

incident could cost the company up to \$500 million annually if government contracts are suspended.

- ▶ Tyson **continues to lag behind peers** on its disclosure of water metrics, as indicated in the Ceres benchmarking report, *Feeding Ourselves Thirsty*: This recent benchmarking study by Ceres on water management gave Tyson a score of 8/100, demonstrating that its management, policies and disclosure lags behind peers. For example, Smithfield Foods discloses total water discharge and water discharge quality data by effluent parameters.

Background About Tyson Foods and Water Risk

- ▶ **Tyson is the single largest producer** of both beef and poultry in the country. It acquired Hillshire last year, increasing its pork business. **Tyson has a vertically integrated structure** for its poultry operations, allowing it to maintain control over nearly every step of animal rearing and production: Tyson provides the chicks and feed to independent contract farmers who care for and raise the chicks according to company standards then the company processes them.
- ▶ **Wal-Mart Stores, Inc. accounted for 16.8%** of Tyson's fiscal 2015 consolidated sales. Tyson and its suppliers must be prepared to meet Wal-Mart's evolving standards for supplier sustainability, fertilizer optimization, and water management.
- ▶ **Feed represents roughly 64% of the cost** of growing a live chicken domestically, indicating this is a key area of water risk for Tyson, as it relates to fertilizer optimization and pollution from runoff.
- ▶ **Potential Sources of Water Contamination Risk in Tyson's operations:**
 - Waste disposal and chicken litter runoff at contract farms;
 - Nutrient runoff from fertilizer at farms that provide feed - corn, soybean meal are primary inputs for feed ingredients;
 - Wastewater from 60 processing and slaughtering facilities. Discharges are permitted, but still contaminate waterways.
 - Water contamination associated with commodity based raw materials used in prepared foods (e.g. corn, flour and vegetables) – from fertilizer

Tyson Has Not Made Changes to Address Concerns in This Resolution

- ▶ Since this resolution was filed for consideration at the 2015 Annual Meeting, there have been **no significant public changes** to Tyson's management of water stewardship.
- ▶ Tyson has announced that intend to complete the CDP Water Questionnaire in 2016. This is a positive step and there are some relevant questions in CDP Water (e.g. on penalties paid for discharges) which are helpful. However, **CDP disclosure, even if fully completed, will not address the full scope of the issues addressed in the resolution.** For example, the CDP questionnaire does not request information on leading practices for nutrient management and pollutant limits or measures to prevent water pollution incidents, as called for by the resolution. Also, because the disclosure is forthcoming, it is difficult to assess the quality and scope of information Tyson intends to provide. Further, it is not clear that this disclosure would change Tyson's management strategy to reduce water risk.

Water Contamination Poses Financial Risk For Tyson Foods

<i>History of Water Pollution Incidents & Fines at Tyson Foods</i>	
January 2015	In a settlement with the Attorney General of Missouri, Tyson agreed to pay a fine of \$540,000 , consisting of natural resource damages, civil penalties, and environmental improvements relating to the Monett, MO facility wastewater discharge incident.
May 2014	Missouri attorney general filed a civil lawsuit after incident where feed supplement discharged from Tyson plant in Monett, MO; Criminal investigation launched by Environmental Protection Agency (EPA) with risk of debarment from Government Contracts.
September 2013	United States Department of Justice (DOJ) alleged that one of company's subsidiaries did not comply with the Clean Water Act with respect to a spill that occurred in North Carolina in January 2010. Settled the allegations and underlying claims for \$305,000 .
April 2013	Paid \$3.95 million and settled a case with the EPA and DOJ after releasing anhydrous ammonia at facilities in Missouri, Kansas, Iowa, and Nebraska
2012	Arkansas rice growers filed <u>suit</u> alleging that 3-Nitro, linked to high arsenic levels, was present in chicken litter.
2009	NE Fecal Coliform and nitrates enter Missouri River, violating a permit \$2 million civil penalty and \$4.1 million fine
2003	20 felony counts for MO Untreated waste into tributary of Lamine River \$7.5 million fine to EPA and <u>DOJ</u>
2001	\$7.3 million fine for pollution of drinking water in Tulsa, Ok

For questions regarding Tyson Foods Proposal #2 Policy to Address Water Impacts of Business Operations and Suppliers please contact Mary Beth Gallagher, Tri-State Coalition for Responsible Investment, (973) 509-8800 or mbgallagher@tricri.org