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MAR 17 2004

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )

Complainant, )

vs. )

PCB No. 00-104  
(Enforcement)

THE HIGHLANDS, LLC, an Illinois limited )  
liability corporation, MURPHY FARMS, INC., )

a/k/a MURPHY FAMILY FARMS, a North )  
Carolina corporation, and BION )

TECHNOLOGIES, INC., a Colorado )  
corporation, )

Respondents. )

**RESPONDENT THE HIGHLANDS, L.L.C., ANSWER TO COUNT III OF  
COMPLAINANT'S SECOND AMENDED COMPLAINT**

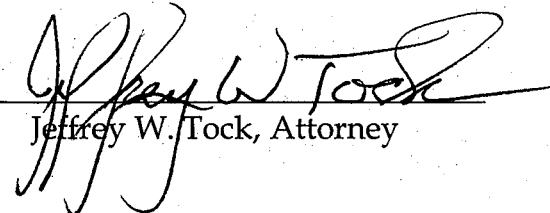
COMES NOW the Respondent The Highlands, L.L.C. by its attorneys,  
Harrington, Tock & Royse, and, for its answer to Count III of Complainant's  
Second Amended Complaint, states as follows:

1. Respondent admits the allegations contained in paragraph 1.
- 2-7. Respondent restates and incorporates by reference herein its  
answers to paragraphs 4 through 8 and paragraph 10 of Count I as  
its answers to paragraphs 2 through 7 of this Count III.
- 8-16. Respondent restates and incorporates by reference herein its  
answers to paragraphs 8 through 15 and paragraph 18 of Count II  
as its answers to paragraphs 8 though 16 of this Count III.
17. Respondent admits the allegations contained in paragraph 17.

18. Respondent denies knowledge and information sufficient to form a belief as to what an Illinois EPA inspector may have observed on November 18, 2003, but admits the description and condition of the facility was as stated on November 18, 2003.
19. Respondent admits the allegations contained in paragraph 19.
20. Respondent denies that a significant leak was observed along the 6 inch diameter aluminum pipe on November 18, 2003. The Respondent admits that there was a small pond of lagoon waste water on the surface of the field north of the aluminum irrigation pipe. The Respondent admits that the periodic presence of water in the field in this location has drowned volunteer plant material. Respondent denies that a leak was observed at a 90 degree elbow at the west end of the aluminum irrigation pipe on November 18, 2003. Respondent admits that there was a hole in the field beneath the 90 degree elbow caused by an accidental uncoupling of the aluminum line at that point on one occasion. Respondent denies all other allegations contained in paragraph 20.
21. Respondent denies knowledge and information sufficient to form a belief as to whether or not the Illinois EPA conducted a site visit on October 30, 2003, denies knowledge of any observation of a leak and denies any knowledge of observation of ponding in the application field.

22. Respondent admits that the discharge from the PVC pipe drains east beneath a road and enters an unnamed tributary to French Creek and admits the PVC pipe discharges from a field tile that is connected to a field tile that runs on the south side of Township Road 1100 North immediately in front of the swine facility. Respondent denies knowledge and information sufficient to form a belief as to what the Illinois EPA inspector observed on November 18, 2003. Respondent denies that the field tile is located in proximity to where waste water was ponded in the application field.
23. Respondent denies knowledge and information sufficient to form a belief as to whether or not the Illinois EPA inspector took samples of waste water and denies knowledge and information sufficient to form a belief as to where such samples were taken if they were taken. Respondent admits that it has received copies of lab analyses of water samples and that those values are as stated in paragraph 23.
24. Respondent denies the allegations contained in paragraph 24.
25. Respondent denies the allegations contained in paragraph 25.
26. Respondent denies the allegations contained in paragraph 26.

WHEREFORE, Respondent prays for a ruling in its favor and against the Complainant on Count III.

  
Jeffrey W. Tock, Attorney

Prepared by:

Jeffrey W. Tock  
Harrington, Tock & Royse  
201 W. Springfield Avenue  
P.O. Box 1550  
Champaign, IL 61824-1550  
Telephone: (217) 352-4167

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Complainant,

vs.

THE HIGHLANDS, LLC, an Illinois limited  
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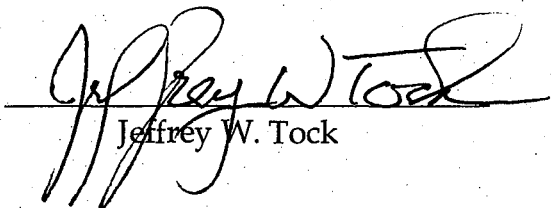
PCB No. 00-104  
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**NOTICE OF FILING**

To: Ms. Jane E. McBride  
Assistant Attorney General  
Environmental Bureau  
500 S. Second Street  
Springfield, IL 62706

Mr. Charles M. Gering  
McDermott, Will & Emery  
227 West Monroe Street  
Chicago, IL 60606-5096

PLEASE TAKE NOTICE that I have today filed with the Office of the  
Clerk of the Pollution Control Board Respondent The Highlands, L.L.C., Answer  
To Complainant's Second Amended Complaint, a copy of which is herewith  
served upon you.

  
Jeffrey W. Tock

March 15, 2004

Jeffrey W. Tock  
Harrington, Tock & Royse  
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Champaign, IL 61824-1550  
Telephone: (217) 352-4167

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MAR 17 2004

**CERTIFICATE OF SERVICE**

STATE OF ILLINOIS  
Pollution Control Board

I hereby certify that I did on March 15, 2004, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled Respondent The Highlands, L.L.C., Answer To Complainant's Second Amended Complaint

To: Ms. Jane E. McBride  
Assistant Attorney General  
Environmental Bureau  
500 S. Second Street  
Springfield, IL 62706

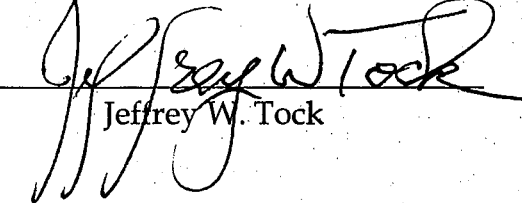
Mr. Charles M. Gering  
McDermott, Will & Emery  
227 West Monroe Street  
Chicago, IL 60606-5096

and the original and four copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 W. Randolph, Suite 11-500  
Chicago, IL 60601

a copy was also sent by First Class Mail with postage thereon fully prepaid

To: Mr. Brad Holloran, Hearing Officer  
Illinois Pollution Control Board  
State of Illinois Center  
100 W. Randolph, Suite 11-500  
Chicago, IL 60601

  
Jeffrey W. Tock