

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 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.)
)

PCB No. 00-104
(Enforcement)

**RESPONDENT THE HIGHLANDS L.L.C.'S
ANSWER TO AMENDED COMPLAINT**

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

COUNT I

(Air Pollution - Odor Violations)

1. Respondent admits the allegations contained in paragraph 1.
2. Respondent admits the allegations contained in paragraph 2.
3. Respondent admits the allegations contained in paragraph 3.
4. Respondent denies that it is a limited liability corporation, but admits
all other allegations contained in paragraph 4.

5. The allegations of paragraph 5 are not directed against this Respondent and allege facts not within the knowledge of this Respondent.
6. The Highlands admits that it owns and operates a swine facility as alleged in paragraph 6 and that the facility's offices are located at 1122 Knox Highway 18, Williamsfield, Illinois 61489, but denies all other allegations contained in paragraph 6.
7. Respondent admits that it owns and operates the property and buildings and operates the waste water treatment facility and provides labor for operation of the facility and denies all other allegations contained in paragraph 7.
8. Respondent admits that the allegations contained in paragraph 8 were true as of the date that the Amended Complaint was filed, but denies that the allegations contained in paragraph 8 are true at this time.
9. Respondent admits the allegations contained in paragraph 9.
10. Respondent admits the allegations contained in paragraph 10.
11. Respondent admits the allegations contained in paragraph 11 were true through December of 2002.
12. Respondent denies that waste water in the third lagoon was land applied by a traveling gun irrigation unit, but admits all other allegations contained in paragraph 12.
13. Respondent admits the allegations contained in paragraph 13.

14. Respondent admits the allegations contained in paragraph 14.
15. Respondent admits the allegations contained in paragraph 15.
16. Respondent admits the allegations contained in paragraph 16.
17. Respondent admits that it started the conversion from Bion to BioSun on July 17, 2000, admits that the BioSun system utilizes the two large lagoons of the original lagoon series, admits that the two small lagoons that served as the entry point for the waste stream and the Bion system were pumped out and taken out of operation, admits that the two small lagoons have not been closed and that they remain available for any future alteration of the lagoon system, but denies all other allegations contained in paragraph 17.
18. Respondent denies the allegations contained in paragraph 18.
19. Respondent admits the allegations contained in paragraph 19.
20. Respondent admits the allegations contained in paragraph 20.
21. Respondent admits the allegations contained in paragraph 21.
22. Respondent admits the allegations contained in paragraph 22.
23. Respondent admits the allegations contained in paragraph 23.
24. Respondent admits the allegations contained in paragraph 24.
25. Respondent admits the allegations contained in paragraph 25.
26. Respondent admits the allegations contained in paragraph 26.
27. Respondent admits the allegations contained in paragraph 17.
28. Respondent denies the allegations contained in paragraph 28.

29. Respondent denies knowledge as to whether or not a neighbor who lives approximately one-quarter mile from the facility is asthmatic and denies knowledge and information sufficient to form a belief as to all other allegations contained in paragraph 29.
30. Respondent admits that neighbors within one mile of the facility who have complained about offensive odors lived on their property prior to construction of the facility, admits that a tornado struck the area on July 29, 1998, admits that one of the complainant families did not rebuild their home in its former location, but denies all other allegations contained in paragraph 30.
31. Respondent denies knowledge and information sufficient to form a belief as the allegations contained in paragraph 31.
32. Respondents admits that the home of one of the complainants is located one-quarter mile from the facility and other complainants' homes are located approximately one mile form the facility and admits that the regulatory setback requirement is one-quarter mile from the facility, but denies knowledge and information sufficient to form a belief as to all other allegations contained in paragraph 32.
33. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 33.
34. Respondent admits the allegations contained in paragraph 34.

35. Respondent admits that the Illinois EPA inspected the facility on April 23, 1998, but denies knowledge and information sufficient to form a belief as to all other allegations contained in paragraph 35.
36. Respondent denies that Doug Baird confirmed that a strong swine waste odor had been produced during the start-up period, but admits all other allegations contained in paragraph 36.
37. The Highlands denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 37.
38. Respondent admits the allegations contained in paragraph 38.
39. Respondent admits that the Illinois EPA inspected the facility on June 2, 1998, but denies knowledge and information sufficient to form a belief as to the remaining allegations contained in paragraph 39.
40. Respondent denies that the Bion system was operating properly, but admits the other allegations contained in paragraph 40.
41. Respondent admits the allegations contained in paragraph 41.
42. Respondent admits the allegations contained in paragraph 42.
43. Respondent admits that the Illinois EPA conducted another inspection of the facility on June 12, 1998 and that at the time of the inspection approximately 3,650 sows were on site, but denies knowledge and information sufficient to form a belief as to the remaining allegations contained in paragraph 43.

44. Respondent denies the Bion system was operating properly and denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 44.
45. Respondent admits Roy Kell resides one-quarter mile from the facility and admits that prevailing winds in June are from the southwest, but denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 45.
46. Respondent admits the allegations contained in paragraph 46.
47. Respondent denies the Bion system was operating properly and denies knowledge and information sufficient to form a belief as to the remaining allegations contained in paragraph 47.
48. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 48.
49. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 49.
50. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 50.
51. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 51.
52. Respondent admits the allegations contained in paragraph 52.
53. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 53.

54. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 54.
55. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 55.
56. Respondent admits the allegations contained in paragraph 56.
57. Respondent admits the allegations contained in paragraph 57.
58. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 58.
59. Respondent admits the allegations contained in paragraph 59.
60. Respondent admits the allegations contained in paragraph 60.
61. Respondent admits the allegations contained in paragraph 61.
62. Respondent admits the allegations contained in paragraph 62.
63. Respondent denies there was a two inch frozen manure crust, denies very strong swine waste odor, but admits all other allegations contained in paragraph 63.
64. Respondent denies that the waste water had a very strong swine waste odor, but admits all other allegations contained in paragraph 64.
65. Respondent admits that on December 22, 1998 the first cell of the third lagoon contained waste water that was turbid and had a reddish color, but denies all other allegations contained in paragraph 65.

66. Respondent admits that on December 22, 1998 waste water in the second cell of the third lagoon was turbid and reddish in color, but denies all other allegations contained in paragraph 66.
67. Respondent denies the presence of a very strong swine waste odor, but admits all other allegations contained in paragraph 67.
68. Respondent admits that on December 22, 1998 the fourth lagoon contained a two inch thick ice cover, but denies all other allegations contained in paragraph 68.
69. Respondent admits the weather conditions on December 22, 1998, but denies knowledge and information sufficient to form a belief as to all other allegations contained in paragraph 69.
70. Respondent admits the allegations contained in paragraph 70.
71. Respondent admits the allegations contained in paragraph 71.
72. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 72.
73. Respondent admits the allegations contained in paragraph 73.
74. Respondent admits the allegations contained in paragraph 74.
75. Respondent admits that there was an ammonia odor emanating from the lagoon system on July 30, 1999, but denies that there was a strong waste odor experienced at each lagoon and denies knowledge and information sufficient to form a belief as to whether or not the first

three lagoons in the system were anaerobic and denies all other allegations contained in paragraph 75.

76. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 76.

77. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 77.

78. Respondent denies that the Bion system was operating properly on July 30, 1999, but admits all other allegations contained in paragraph 78.

79. Respondent admits the allegations contained in paragraph 79.

80. Respondent denies the allegations contained in paragraph 80.

81. Respondent denies the allegations contained in paragraph 81.

82. Respondent admits the facility met setback requirements, but denies the other allegations contained in paragraph 82.

83. Respondent denies the allegations contained in paragraph 83.

84. Respondent denies knowledge of what complaints are received by IEPA and denies that the facility is causing any unreasonable interference with the use and enjoyment of property of neighbors of the facility.

85. Respondent denies the allegations contained in paragraph 85.

86. Respondent denies the allegations contained in paragraph 86.

WHEREFORE, The Highlands L.L.C. respectfully requests that the Board enter an order in favor of The Highlands L.L.C. and against the Complainant finding that The Highlands L.L.C. has not violated either the Environmental Protection Act or any regulations alleged to have been violated as set forth in Count I of the Complainant's Amended Complaint.

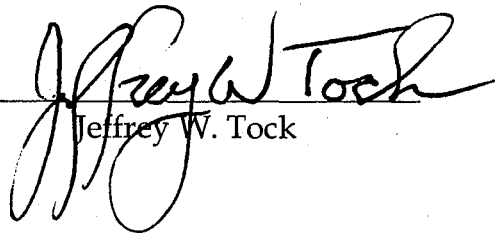
COUNT II

(Water Pollution Violations)

Respondent The Highlands L.L.C. has previously filed its Answer to Count II of Complainant's Amended Complaint.

The Highlands L.L.C. by its
attorneys, Harrington, Tock &
Royse

By: _____



Jeffrey W. Tock

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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Carolina corporation, and BION)
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VERIFICATION

I, Douglas Baird, being first duly sworn under oath, depose and state that the Answers of The Highlands L.L.C. to the allegations contained in the Amended Complaint are true and accurate to the best of my knowledge.

The Highlands L.L.C.

Doug Baird
Douglas Baird

Subscribed and sworn before me
this 31st day of October, 2003.

Susan M. Kelly
Notary Public



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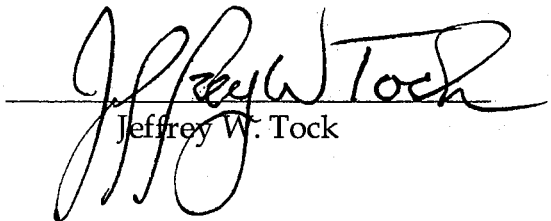
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NOTICE OF FILING

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 The Highlands, LLC's Answer to Complainant's Amended Complaint, a copy of which is herewith served upon you.



Jeffrey W. Tock

October 31, 2003

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

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CERTIFICATE OF SERVICE

STATE OF ILLINOIS
Pollution Control Board

I hereby certify that I did on October 31, 2003, 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 The Highlands, LLC's Answer to Complainant's Amended Complaint

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

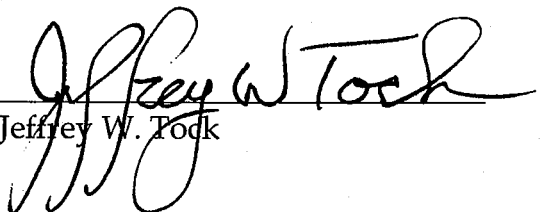
Mr. Charles M. Gering
McDermott, Will & Emery
227 West Monroe Street
Chicago, IL 60606-5096

and the original and nine 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 Halloran, Hearing Officer
Illinois Pollution Control Board
State of Illinois Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601


Jeffrey W. Todd