

ILLINOIS POLLUTION CONTROL BOARD

January 4, 2007

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 00-104
)	(Enforcement – Water)
THE HIGHLANDS, L.L.C., and MURPHY)	
FARMS INC. (a division of MURPHY)	
BROWN, LLC, a North Carolina limited)	
liability corporation, and SMITHFIELD)	
FOODS, INC., a Virginia corporation),)	
)	
Respondents.)	

ORDER OF THE BOARD (by N.J. Melas):

On February 18, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a second amended complaint against The Highlands, LLC (Highlands), and Murphy Farms, Inc.¹ (Murphy Farms) (collectively, respondents). *See* 35 Ill. Adm. Code 101.516. The Board granted the People leave and accepted the second amended complaint for hearing on May 6, 2004.

The People allege in the three-count second amended complaint that respondents violated Sections 9(a) and 12(a), (d), and (f) of the Environmental Protection Act (Act) and Section 501.405(a) of the Board's agriculture regulations (415 ILCS 5/9(a) and 12(a), (d), and (f); 35 Ill. Adm. Code 501.405(a)). The People further allege that respondents violated these provisions by causing or allowing the emission of offensive odors, and causing or allowing the discharge of livestock waste to a tributary of French Creek without a National Pollutant Discharge Elimination System (NPDES) permit so as to create a water pollution hazard. The complaint concerns respondents' swine facility located just south of Williamsfield in Elba Township, Knox County.

On December 20, 2006, the People and the Highlands filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)). *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, the Highlands admits that it caused or allowed unreasonably offensive odors in 1999, 2000, 2002, and 2003, as alleged in the second amended complaint. The Highlands further admits that it caused or allowed a release of livestock waste from the facility on June 18, 2002. The Highlands denies all other alleged violations in the second amended complaint. In addition

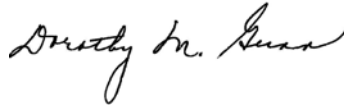
¹ Murphy Farms, Inc. is a division of Murphy Brown, LLC, a North Carolina limited liability corporation, and Smithfield Foods, Inc., a Virginia corporation.

to approximately \$116,320 in compliance costs, and a fish kill claim of \$1,114.51 already paid by Highlands, the Highlands agrees to pay a civil penalty of \$9,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. 415 ILCS 5/31(c)(2) (2004); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk of the Board to provide the required notice.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 4, 2007, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board