

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) A.Q. Docket No.07-0067
)
Gustavo Garcia, aka)
Gustavo G. Perez,)
)
Respondent)
) Default Decision and Order

This is an administrative proceeding for the assessment of a civil penalty for a violation of the regulations governing the movement of birds or poultry that could spread exotic Newcastle disease (“END”) (9 C.F.R. §§ 82.1 et seq.), hereinafter referred to as the regulations, in accordance with the Rules of Practice in 7 C.F.R. §§ 1.130 et seq. and 9 C.F.R. §§ 99.1 et seq.

This proceeding was instituted under the Animal Health Protection Act (7 U.S.C. §§ 8301 et seq.), and the regulations promulgated thereunder (9 C.F.R. §§ 82.1 et seq.), by a complaint filed on March 2, 2007, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. The Respondent failed to file an answer within the time prescribed in 7 C.F.R. § 1.136(a). Section 1.136(c) of the Rules of Practice (7 C.F.R. § 1.136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. Further, the admission of the allegations in the complaint constitutes a waiver of hearing. 7 C.F.R. § 1.139. Accordingly, the material allegations in the complaint are adopted and set forth in this Default Decision as the

Findings of Fact, and this Decision is issued pursuant to section 1.139 of the Rules of Practice applicable to this proceeding. 7 C.F.R. § 1.139.

Findings of Fact

1. Gustavo Garcia, aka Gustavo G. Perez, hereinafter referred to as Respondent, is an individual with a mailing address of 18714 Altario St., La Puente, California 91744-6105.
2. On or about January 29, 2003, the Respondent moved seven (7) chickens from Los Angeles County, California, a quarantined area, to Monterey County, California. Respondent violated 9 C.F.R. § 82.4(a)(5) by moving intrastate a flock of live birds infected with or exposed to END.

Conclusion

By reason of the Findings of Fact set forth above, the Respondent has violated the Animal Health Protection Act (7 U.S.C. §§ 8301 et seq.), and the regulations issued under the Act. Therefore, the following Order is issued.

Order

The Respondent is hereby assessed a civil penalty of one thousand dollars (\$1,000.00). This penalty shall be payable to the "Treasurer of the United States" by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

United States Department of Agriculture
APHIS Field Servicing Office
Accounting Section
P.O. Box 3334
Minneapolis, Minnesota 55403

Respondent shall indicate that payment is in reference to: A.Q. Docket No. 07-0067.

This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Default Decision and Order upon Respondent, unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding. 7 C.F.R. § 1.145.

Done at Washington, D.C.
this 4th day of January, 2008.

MARC R. HILLSON
Administrative Law Judge