REC'D - USDA/OALJ/OHC
2019 JUN 28 PM4:17

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	
Redland Nursery, Inc.	)	Docket No. 15-0104 (PQ)
	)	
Respondent	)	**Consent Decision and Order**
	)	

This proceeding was instituted under the Plant Protection Act (7 U.S.C. §§ 7701 *et seq.*) ("the Act"), and the regulations promulgated thereunder by the Secretary of Agriculture (7 C.F.R. § 301.81 *et seq.*) ("Regulations"), by a Complaint filed by the Administrator of the Animal and Plant Health Inspection Service ("Complainant") alleging that Respondent violated the Act and regulations.[1] The Complainant and the Respondent have agreed that this proceeding should be terminated by entry of this Consent Decision.

Respondent admits the jurisdictional allegations in the complaint, specifically admits that the Secretary of the United States Department of Agriculture ("USDA") has jurisdiction in this matter, neither admits nor denies the remaining allegations in the complaint, and admits to the findings of fact set forth below and waives:

(a) Any oral hearing and further procedure;

(b) Any requirement that the final decision in the proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof;

[1] The Complaint was initially filed against Respondent's John C. DeMott and Redland Nursery, Inc. On April 18, 2018, Respondent Redland Nursery filed a Statement of the Fact of the Death of Respondent John DeMott notifying the Court and Complainant of the death of Mr. DeMott on November 17, 2018. On May 1, 2019, Complainant filed a Notice of Withdraw of Complaint as to Respondent John C. DeMott. On May 6, 2019, the Chief ALJ issued an order dismissing the case as to Mr. DeMott, Docket No. 15-0105, and amending the case caption. *See* Order Dismissing Complaint as to Respondent John C. DeMott and Case Caption Amendment (May 6, 2019).

(c) All rights to seek judicial review and otherwise challenge or contest the validity of this decision.

(d) Any action against the USDA under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) for fees and other expenses incurred by the Respondents in connection with this proceeding.

The parties consent and agree to the entry of this decision for the purpose of settling this proceeding and any and all other alleged and potential violations of the Act and regulations, up to and including the effective date of this Consent Decision and Order. This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F. R. § 1.138).

Findings of Fact

1. Respondent Redland Nursery, Inc., is a corporation incorporated under the laws of the State of Florida with its principal place of business and business mailing address at 18455 S.W. 264 Street, Homestead, Florida, 33031.

2. On October 11, 2011, a Consent Decision issued by Administrative Law Judge Janice Bullard against the Respondents in *In re: Redland Nursery, Inc., and John C. Demott*, P.Q. Docket No. 10-0331 became effective, holding a civil penalty of $50,000 in abeyance provided Respondents did not violate 7 C.F.R. § 301.81 for a period of three years, beginning October 11, 2011. The Consent further cancelled Respondents' compliance agreement with APHIS for one year, effective October 11, 2011.

3. During the period from on or about April 17, 2012 through May 23, 2012, Respondent moved regulated articles interstate from Florida, a quarantined area through and into Maryland and Delaware, areas that were not quarantined.

Conclusions

The Respondent has admitted the jurisdictional facts and agreed to the provisions set forth in the following Order in disposition of this proceeding; therefore, this Consent Decision will be issued.

ORDER

The Respondent is assessed a civil penalty of seventy-five thousand dollars ($75,000). This civil penalty includes all amounts previously held in abeyance pursuant to the Consent Decision and Order, Docket No. 10-0331, and any and all other alleged and potential violations of the Act and regulations up to and including the effective date of this Consent Decision and Order.

The Respondent shall send a certified check or money order, payable to the Treasurer of the United States, to U.S. Department of Agriculture, APHIS, U.S. Bank, P.O. Box 979043, St. Louis, Missouri 63197-9000 in accordance with the following quarterly installment schedule. All certified checks or money orders shall include the docket number of this proceeding.

PAYMENT	DUE DATE	AMOUNT DUE
One	July 10, 2019	$9,375.00
Two	October 1, 2019	$9,375.00
Three	January 1, 2020	$9,375.00
Four	April 1, 2020	$9,375.00
Five	July 1, 2020	$9,375.00
Six	October 1, 2020	$9,375.00
Seven	January 1, 2021	$9,375.00

Eight	April 1, 2021	$9,375.00
TOTAL DUE		**$75,000.00**

This Order shall become effective when served on the Respondents.

[redacted]

REDLAND NURSERY, INC.
Respondent

[redacted]

ELIZABETH M. KRUMAN
Attorney for Complainant

Issued this 28th day of June, 2019,
in Washington, D.C.

[redacted]

Chief ADMINISTRATIVE LAW JUDGE
Channing D. Strother