

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) E.S.A. Docket No. 03-0001
)
Matsui Nursery, Inc., a.k.a.)
Matsui Wholesale Florist, Inc.)
)
Respondent) Consent Decision

This proceeding was instituted under the Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531 et seq.)(the Act), by a complaint filed by the Acting Administrator of the Animal and Plant Health Inspection Service alleging that the respondent violated the Act and regulations promulgated thereunder (50 C.F.R. §§ 23 et seq. and 7 C.F.R. §§ 355 et seq.). The complainant and the respondent have agreed that this proceeding should be terminated by entry of this Consent Decision.

For the purposes of this Consent Decision only, respondent specifically admits that the Secretary of the United States Department of Agriculture 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.

Respondent waives:

- (a) Any further procedure;
- (b) Any requirement that the final decision in this proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof;
- (c) All rights to seek judicial review and otherwise challenge or contest the validity of this decision; and
- (d) Any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.) for fees and other expenses incurred by the respondent in connection with this proceeding.

Findings of Fact

1. Matsui Nursery, Inc., a.k.a. Matsui Wholesale Florist, Inc., hereinafter referred to as respondent, is a business with a mailing address of 1645 Old Stage Road, Salinas, California 93908.

2. On or about March 14, 2001, and other dates, four (4) shipments of CITES II regulated terrestrial plants were exported to Ontario, Canada. These plants were required to be accompanied by certain documents issued by the U.S. Department of Interior and validated by U.S. Department of Agriculture inspectors at the port of export prior to the exportation of the plants.


Conclusions

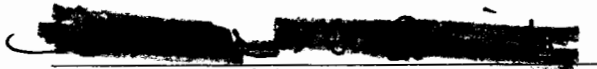
The respondent has admitted the jurisdictional facts and has agreed to the following Order in disposition of this proceeding; therefore, this Consent Decision will be issued.

Order

The respondent, Matsui Nursery, Inc., a.k.a. Matsui Wholesale Florist, Inc., is assessed a civil penalty of eighteen thousand dollars (\$18,000.00). The respondent shall send a certified check or money order for eighteen thousand dollars (\$18,000.00), payable to the Treasurer of the United States, to United States Department of Agriculture, APHIS, Accounts Receivable, P.O. Box 3334, Minneapolis, Minnesota 55403, within thirty (30) days from the effective date of this Order. The certified check or money order should include the docket number of this proceeding.

This Order shall become effective when served on the respondent.


Matsui Nursery, Inc., d.k.a.
Matsui Wholesale Florist, Inc.
Respondent


Thomas N. Bolick
Attorney for the Complainant

Issued this 2 day of August, 2004

at Washington, D.C.

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Jill S. Clifton

Administrative Law Judge