UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re: ProdiGene, Inc.,

Respondent.

P.Q. Docket No. 07-0075

CONSENT DECISION AND ORDER

This proceeding was instituted under the Plant Protection Act (7 U.S.C. §§ 7701, et seq.), the Act, by a complaint filed by the Acting Administrator of the Animal and Plant Health Inspection Service (APHIS) alleging that the respondent violated the Act and regulations promulgated thereunder (7 C.F.R. §§ 340, et seq.). The complainant and the respondent have agreed that this proceeding should be terminated by entry of this Consent Decision and Order.

For the purposes of this Consent Decision only, the 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

Findings of Fact

1. ProdiGene, Inc, hereinafter referred to as respondent, is a Delaware corporation with a mailing address of 22555 Laredo Trail, Adel, Iowa 50003.

2. On April 28, 2004, APHIS issued respondent a permit that allowed the respondent to plant transgenic corn in three separate test plots located at a field test site in Garfield County, Nebraska.

3. At all times material herein, respondent’s transgenic corn was a regulated article under 7 C.F.R. §§ 340, et seq. which required a permit for introduction into the environment under conditions determined by the complainant.

Conclusions

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

Order

1. The respondent ProdiGene, Inc., is assessed a civil penalty of three thousand five hundred dollars ($3,500.00). The respondent shall send a certified check or money order for three thousand five hundred dollars ($3,500.00), 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.
2. The respondent ProdiGene, Inc., and its successors in interest, directly or through any corporate device, shall not apply to the USDA APHIS Biotechnology Regulatory Service for (a) a notification for the introduction of certain regulated articles, as defined in 7 C.F.R. § 340.1, in accordance with 7 C.F.R. §§ 340.0(a)(1) and 340.3; and (b) a permit authorizing the introduction of a regulated article, as defined in 7 C.F.R. § 340.1, in accordance with 7 C.F.R. §§ 340.0(a)(1) and 340.4.

3. This Order shall become effective when served on the respondent.