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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P.Q. Docket No. 08-0022
)
The Scotts Company, LLC,)
)
)
Respondent) 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 Administrator of the Animal and Plant Health Inspection Service 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.

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.

Nothing in this consent decision and order shall abrogate the respondent's obligations to continue to monitor and destroy GE-GTCB plants and to eliminate GE-GTCB seed in and around the Oregon control district and defined surroundings located in Jefferson County, Oregon, in accordance with the most recent corrective action plan and compliance agreement submitted by respondent to the Animal and Plant Health Inspection Service and any subsequent corrective action plan and/or compliance agreement that respondent submits to the Animal and Plant Health Inspection Service with respect to said control district.

The 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 respondents in connection with this proceeding

Findings of Fact

1. The Scotts Company, LLC, is a company incorporated in the State of Ohio, with its corporate headquarters located at 14111 Scottslawn Road, Marysville, Ohio 43041.
2. From August, 1999, through December, 2005, genetically-engineered Glyphosate-tolerant creeping bentgrass (GE-GTCB) was introduced into the environment in test plots located at golf courses, universities, and research centers in 21 different states.
3. From April, 2003, through December, 2005, GE-GTCB was introduced into the environment in Shelby County, Alabama.
4. From October, 2003, through May, 2005, GE-GTCB was introduced into the environment in Maricopa County, Arizona.
5. From October, 2002, through May, 2005, GE-GTCB was introduced into the environment in San Diego County, California.
6. From September, 2004, through May, 2005, GE-GTCB was introduced into the

environment in Jefferson County, Colorado.

7. From September, 2001, through July, 2003, GE-GTCB was introduced into the environment in New Castle County, Delaware.

8. From September, 2001, through May, 2005, GE-GTCB was introduced into the environment in Cook County, Illinois.

9. From June 2003, through March, 2005, GE-GTCB was introduced into the environment in DuPage County, Illinois.

10. From June, 2003, through May, 2005, GE-GTCB was introduced into the environment at a second location in DuPage County, Illinois.

11. From September, 2000, through August, 2005, GE-GTCB was introduced into the environment in Tippacano County, Indiana.

12. From September, 2001, through May, 2005, GE-GTCB was introduced into the environment in Story County, Iowa.

13. From May, 2002, through May, 2005, GE-GTCB was introduced into the environment in Polk County, Iowa.

14. From September, 2001, through May, 2005, GE-GTCB was introduced into the environment in Boone County, Kentucky.

15. From September, 2001, through December, 2005, GE-GTCB was introduced into the environment in Baltimore County, Maryland.

16. From March, 2003, through December, 2005, GE-GTCB was introduced into the environment in Montgomery County, Maryland.

17. From August, 2002, through May, 2005, GE-GTCB was introduced into the environment in St. Louis County, Missouri.

18. From August, 1999, through May, 2005, GE-GTCB was introduced into the environment in Monmouth County, New Jersey.
19. From September, 2001, through May, 2005, GE-GTCB was introduced into the environment in Broome County, New York.
20. From October, 2003, through May, 2005, GE-GTCB was introduced into the environment in Wake County, North Carolina.
21. From October, 2000, through May, 2005, GE-GTCB was introduced into the environment in Franklin County, Ohio.
22. From September, 2001, through May, 2005, GE-GTCB was introduced into the environment in Delaware County, Ohio.
23. From September, 2002, through November, 2004, GE-GTCB was introduced into the environment in Jefferson County, Oregon.
24. On or about August 2, 2004, 205 transgenic Kentucky bluegrass seedheads were shipped from a cooperator in Illinois to a facility in Marion County, Oregon.
25. From June, 2003, through April, 2005, GE-GTCB was introduced into the environment in Allegheny County, Pennsylvania.
26. From September, 2003, through April, 2005, GE-GTCB was introduced into the environment in Delaware County, Pennsylvania.
27. From September, 2003, through May, 2005, GE-GTCB was introduced into the environment in Pickens County, South Carolina.
28. From March, 2001, through February, 2005, GE-GTCB was introduced into the environment in Montgomery County, Virginia.
29. From October, 2002, through May, 2005, GE-GTCB was introduced into the

environment in the City of Virginia Beach, Virginia.

30. From September, 2001, through May, 2005, GE-GTCB was introduced into the environment in Sheboygan County, Wisconsin.

31. From September, 2000, through May, 2003, GE-GTCB was introduced into the environment in Dane County, Wisconsin.

32. In March, 2005, an existing introduction of GE-GTCB in Canyon County, Idaho, was continued under a multi-year shipping and field release permit.

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.

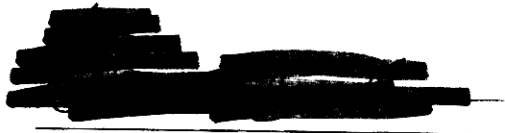
Order

1. The respondent is assessed a civil penalty of five hundred thousand dollars (\$500,000.00). The respondent shall send a certified check or money order for five hundred thousand dollars (\$500,000.00), 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.

2. The respondent shall organize, promote, and conduct three (3) public workshops. One such workshop shall be conducted at a suitable location at or near the Oregon control district and shall address respondent's current and on-going efforts to monitor and destroy GE-GTCB plants and to eliminate GE-GTCB seed in and around the Oregon control district and defined surroundings. This workshop also shall present best management practices and technical

guidance for the identification and prompt resolution of biotechnology incidents. A second workshop shall be conducted for interested persons at a national conference of seed producers or turfgrass specialists and a third workshop shall be conducted at a location selected by the respondent and approved by the Animal and Plant Health Inspection Service. The second and third workshops also shall present the aforementioned best management practices and technical guidance. Respondent shall consult with the Animal and Plant Health Inspection Service about the content of all three (3) workshops, and said content shall be subject to the approval of the Animal and Plant Health Inspection Service prior to each workshop. All three (3) workshops shall be conducted within one year of the effective date of this Order.

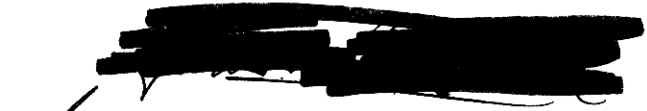
3. This Order shall become effective when served on the respondent.



VINCENT C. BROCKMAN
INTERIM GENERAL COUNSEL FOR
THE SCOTTS COMPANY, LLC
Respondent

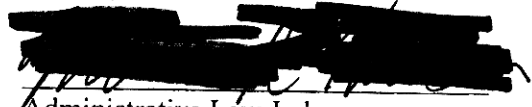


EDWARD M. RUCKERT
Attorney for Respondent


for THOMAS N. BOLICK
Attorney for Complainant

Issued this 27th day of November, 2007

at Washington, D.C.



Administrative Law Judge