

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) P.Q. Docket No. 07-0140)
))
Esteban Tapia, dba)
Central Chilera De Puebla,)
))
Respondent) Consent Decision)
))

This proceeding was instituted under the Plant Protection Act (7 U.S.C. §§ 7701 et seq.) by a complaint filed by the Administrator of the Animal and Plant Health Inspection Service alleging that the Respondent violated the Acts and regulations promulgated thereunder (7 C.F.R. §§ 319.56 et seq.). The complainant and the Respondent have agreed that this proceeding should be terminated by entry of this Consent Decision, and have agreed to the following stipulations:

1. For the purpose 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, admits to the Findings of Fact set forth below, and 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; and
 - (c) All rights to seek judicial review and otherwise challenge or contest the validity of this decision.

2. The Respondent also stipulates and agrees that the United States Department of Agriculture is the "prevailing party" in this proceeding and waives 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. Esteban Tapia, dba Central Chilera De Puebla, hereinafter referred to as Respondent, has a mailing address of 349 Chestnut Street, Passaic, NJ 07055-3123.

2. On or about December 2, 2003, the Respondent imported 28 boxes of prohibited guava and tejocote fruits from Mexico into the United States.

3. On or about December 11, 2003, the Respondent imported 11 boxes of prohibited tejocote fruits from Mexico into the United States.

Conclusions

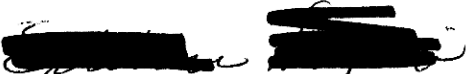
The Respondent has admitted the jurisdictional facts and has agreed to the following Order in disposition of this proceeding; therefore, this Consent Decision will be issued.

Order

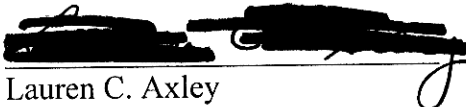
The Respondent, Esteban Tapia, dba Central Chilera De Puebla, is assessed a civil penalty of two thousand and five hundred dollars (\$2,500.00). The Respondent shall send a certified check or money order for two thousand and five hundred dollars

(\$2,500.00), payable to the Treasurer of the United States, to United States Department of Agriculture, APHIS, Field Servicing Office, Accounting Section, 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.



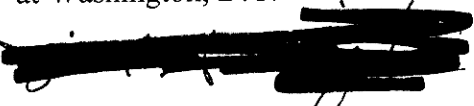
Esteban Tapia, dba Central Chilera De Puebla
Respondent



Lauren C. Axley
Attorney for Complainant

Issued this 11 day of Jan, 2008

at Washington, D.C.



Jill S. Clifton
Administrative Law Judge