

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: )  
) P.Q. Docket No.09-0007  
)  
Flamingo Holland, Inc. )  
)  
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 Act. 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, 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. Flamingo Holland, Inc., hereinafter referred to as Respondent, has a mailing address of 1250 Avenida Chelsea, Vista, CA 92081.
2. On or about October 7, 2003, the Respondent re-exported from the United States to Mexico approximately 287 crates of lily flower bulbs (approximately 108,850 bulbs) using Phytosanitary Certificate for Reexport #540377. In order to obtain the re-export certificate, Respondent presented phytosanitary certificate #56632 from the Netherlands to the authorized officer for the U.S. Department of Agriculture (USDA).
3. On or about December 8, 2003, the Respondent re-exported from the United States to Mexico approximately 137 crates of lily flower bulbs (approximately 54,075 bulbs) using Phytosanitary Certificate for Reexport #540704. In order to obtain the re-export certificate, Respondent presented phytosanitary certificate #56632 from the Netherlands to the authorized officer for the U.S. Department of Agriculture (USDA).

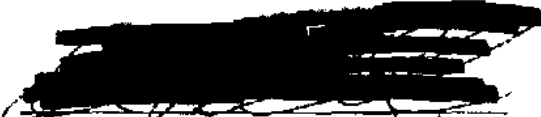
#### Conclusions


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, Flamingo Holland, Inc., is assessed a civil penalty of seven thousand and five hundred dollars (\$7,500.00). The Respondent shall send a certified check or money order for seven thousand and five hundred dollars (\$7,500.00), 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.

  
DAVID B. CHIDLAW 11/21/08  
Attorney for Respondent

  
LAUREN C. AXLEY  
Attorney for Complainant

Issued this 24th day of November, 2008  
at Washington, D.C.

  
Administrative Law Judge