

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

P.Q. Docket No. 09-0141

In re: NICHINGHSIANG FISH FARM,
d/b/a NI CHING FISH FARM,
d/b/a NI CHING HSIANG FISH FARM,

Respondent

DEFAULT DECISION AND ORDER

This is an administrative proceeding for the assessment of a civil penalty for a violation of the Plant Protection Act (7 U.S.C. §§ 7701 et seq.) in accordance with the Rules of Practice in 7 C.F.R. §§ 1.130 et seq. and 7 C.F.R. §§ 380.1 et seq.

This proceeding was instituted under the Plant Protection Act (7 U.S.C. §§ 7701 et seq.), and the regulations promulgated thereunder, by a complaint filed on June 26, 2009, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. The Respondent failed to file an answer within the time prescribed in 7 C.F.R. § 1.136(a). Section 1.136(c) of the Rules of Practice (7 C.F.R. § 1.136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. Further, the admission of the allegations in the complaint constitutes a waiver of hearing. 7 C.F.R. § 1.139. Accordingly, the material allegations in the complaint are adopted and set forth in this Default Decision as the Findings of Fact, and this Decision is issued pursuant to section 1.139 of the Rules of Practice applicable to this proceeding. 7 C.F.R. § 1.139.

Findings of Fact

1. Nichingsiang Fish Farm, dba Ni Ching Fish Farm, dba Ni Ching Hsiang Fish Farm, hereinafter referred to as Respondent, has a mailing address of 91600 82nd Avenue, Thermal, CA 92274.

2. On or about May 23, 2005, the Respondent imported into the United States from Taiwan, 13 2-kg bags of *Ipomoea aquatica* seeds, a noxious weed, (postal parcel no. CC006849002 TW), without a permit in violation of 7 C.F.R. § 360.300(a)(1).

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. By reason of the Findings of Fact set forth above, the Respondent has violated the Plant Protection Act (7 U.S.C. §§ 7701 et seq.).

Order

The Respondent is hereby assessed a civil penalty of twenty thousand dollars (\$20,000.00). This penalty shall be payable to the "Treasurer of the United States" by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

United States Department of Agriculture
APHIS
U.S. BANK
P.O. Box 979043
St. Louis, MO 63197-9000

Respondent shall indicate that payment is in reference to: P.Q. Docket No. 09-0141.

This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Default Decision and Order upon

Respondent, unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding. 7 C.F.R. § 1.145.

Done at Washington, D.C.
May 25, 2010

PETER M. DAVENPORT
Acting Chief Administrative Law Judge