UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)   Docket No. 15-0117
)
Beverly Axelsen,   )
)
                Respondent.   )   Consent Decision

This proceeding was instituted under the Plant Protection Act (7 U.S.C. §§ 7701 et seq.), the Animal Health Protection Act (7 U.S.C. §§ 8301 et seq.), (Acts), 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 under the Acts (7 C.F.R. §§ 319.56 et seq. and 9 C.F.R. §§ 94.0 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, 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

(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 respondent in connection with this proceeding.

FINDINGS OF FACT

1. Beverly Axelsen (respondent), is an individual. Respondent is the sole owner/operator of Healing Earth LLC that was incorporated in the state of Montana in May 2011. This company was previously operated by respondent as Healing Earth and Herbs, which was incorporating the state of Montana from October 2003 until October 2008. Healing Earth LLC is an herb farm primarily dealing with the selling of herbal teas and medicinal remedies.

2. On April 13, 2011, respondent moved into the territorial limits of the United States from Costa Rica 11 packets of seeds without obtaining a written permit as allowed by 7 C.F.R. § 319.37-4(d)(1) or without phytosanitary certificates as required by 7 CFR § 319.37-4(a). The Secretary has determined that it is necessary to prohibit the importation of these seeds without written

permit or phytosanitary certificates to prevent the introduction into the United States of a plant pest or noxious weed.

3. On April 13, 2011, respondent moved into the territorial limits of the United States from Costa Rica, moist soils in violation of 7 C.F.R. § 330.300 without the permits required by 7 C.F.R. §§ 318.60 or 319.69, which the Secretary has determined are necessary to prevent the introduction into the United States of a plant pest or noxious weed.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. By reason of the Findings of Fact set forth above, respondent Beverly Axelsen violated the Plant Protection Act (7 U.S.C. § 7701 et seq.) and regulations promulgated thereunder (7 C.F.R. § 301.10 et seq. and 9 C.F.R. §§ 93.103 et seq.).

ORDER

1. Respondent Beverly Axelson is hereby assessed a civil penalty of one thousand one hundred dollars ($1,100.00). 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:

USDA, APHIS
Accounts Receivable
P.O. Box 979043
St. Louis, MO 63197-9000

Respondent Beverly Axelsen shall indicate that payment is in reference to

Docket No. 15-0117.

2. Copies of this Decision and Order shall be served on the Parties by the

Hearing Clerk's Office.

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

_____   _____
Beverly Axelsen   Jonathan Gordy
Respondent   2-22-16   Attorney for Complainant

Issued this __3__ day of __MAR__, 2016
at Washington, D.C.

_____
Administrative Law Judge
Jill S. Clifton