

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P.Q. Docket No.
Dale L. Siemens d/b/a Daylen, Inc.,) 07 - 0142
Respondent) Consent Decision

This proceeding was instituted under the Plant Protection Act (7 U.S.C. § 7701 et seq.)(Act), by a complaint filed by the Administrator of the Animal and Plant Health Inspection Service alleging that the respondent violated the Act and the regulations promulgated thereunder (7 C.F.R. § 301.81 et seq.)(regulations). 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.

(e) Any other action against the United States Department of Agriculture and its employees based on the facts and circumstances that gave rise to this proceeding.

Findings of Fact

1. Daylen, Inc., owned and operated by Dale L. Siemens, hereinafter referred to as respondent, was at all times material herein a business with a mailing address of 1039 E. Santa Ana, Fresno, CA 93704.

2. On September 12, 2002, respondent caused soil-moving equipment, infested with fire ants, to be moved interstate from a quarantined area to a non-quarantined area .

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 is assessed a civil penalty of one thousand dollars (\$1,000.00). The respondent shall send a certified check or money order for one thousand dollars (\$1,000.00), 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, P.Q. Docket No. 07-0142.

The provisions of this order shall become effective on the first day after service of this decision on the respondent.

This Order shall become effective when served on the respondent.


Dale L. Siemens for himself and for
Daylen, Inc.
Respondent


Krishna Ramaraju, Esq.
U.S.D.A. - Office of General Counsel
Attorney for Complainant

Issued this 25 day of Feb, 2008
at Washington, D.C.


Administrative Law Judge
Jill S. Clifton