

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

US ENVIRONMENTAL
PROTECTION AGENCY-REG. 2
2009 DEC -9 PM 3:56
REGIONAL HEARING
CLERK

In the Matter of:)
)
Finca Aurito Gomez Lopez)
) Docket No. FIFRA-02-2009-5301
)
)
Respondent)

ORDER OF DISMISSAL

On June 30, 2009, the United States Environmental Protection Agency, Region 2, ("EPA" or "Complainant") initiated this action by issuing a Complaint and Notice of Opportunity for Hearing against Aurito Gomez Lopez ("Respondent"). The Complaint alleged that, at his farm known as Finca Aurito Gomez Lopez in Las Piedras, Puerto Rico, Respondent violated Section 12(a)(2)(G) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), as amended, 7 U.S.C. § 136j(a)(2)(G), and the Worker Protection Standard regulations at 40 C.F.R. Part 170. On September 9, 2009, Respondent filed an Answer to the Complaint, denying the allegations. EPA subsequently notified the Court of its withdrawal of the Complaint in a submission described as "Complaint Withdrawal," dated November 25, 2009.

The rules governing this proceeding, set forth at 40 C.F.R. Part 22, provide that a complainant may withdraw the complaint after the filing of an answer without prejudice only upon motion granted by the presiding Administrative Law Judge. 40 C.F.R. § 22.14(d). No motion has been filed by EPA seeking withdrawal of the complaint without prejudice. Rather, EPA has simply filed the Complaint Withdrawal, as noted above, advising that the Director of the Enforcement Division for Region 2 has withdrawn the administrative Complaint. Therefore, the Court dismisses the Complaint in this matter, but with prejudice.

So ordered.

William B. Moran
William B. Moran
United States Administrative Law Judge

Dated: December 7, 2009
Washington, D.C.

In the Matter of Finca Aurito Gomez Lopez
Docket No. FIFRA-02-2009-5301

CERTIFICATE OF SERVICE

I certify that the foregoing **Order of Dismissal**, dated December 7, 2009 was sent this day in the following manner to the addressees listed below:

Original by Regular Mail to:

Karen Maples
Regional Hearing Clerk
U.S. EPA - Region 2
290 Broadway
New York, NY 10007

Copy by Regular Mail and fax to:

Attorney for Complainant:

Bruce Aber, Esq.
Assistant Regional Counsel
U.S. EPA
290 Broadway
New York, NY 10007

Copy by Regular mail to:

Respondent:

Mr. Aurito Gomez Lopez
P.O. Box 1205
Las Piedras, PR 00771



Knolyn R. Jones
Legal Staff Assistant

Dated: December 7, 2009