



Department of Pesticide Regulation



Paul E. Helliker
Director

Gray Davis
Governor
Winston H. Hickox
Secretary, California
Environmental
Protection Agency

December 18, 2000

EXECUTIVE OFFICE #00-06

TO: County Agricultural Commissioners

SUBJECT: ORDER TO DISMISS APPEAL
PHIL SCHUH/PHIL SCHUH FARMS, INC. V. DPR (CASE NO. 630353-1)
COURT OF APPEAL, FIFTH APPELLATE DISTRICT

The Court of Appeal for the State of California, 5th Appellate District, issued an order on November 30, 2000 dismissing the appeal in the above-entitled action. The petitioner, PHIL SCHUH/PHIL SCHUH FARMS, appealed from the judgement of the Fresno County Superior Court, which denied petitioner's Petition for Writ Of Mandate seeking to order the Department of Pesticide Regulation (DPR) to set aside and vacate the Director's March 19, 1999 Decision. The Director's decision upheld the Fresno County Agricultural Commissioner's December 8, 1998 Decision imposing a total civil penalty of \$14,832.00 for 32 violations of Food and Agricultural Code (FAC) section 12973, and one violation each of Title 3, California Code of Regulations (3CCR), sections 6618(b) and 6776.

Approximately four months after filing their Notice of Appeal with the court, the petitioners decided to dismiss their appeal and pay the civil penalty to the Fresno County Agricultural Commissioner's Office. The Court of Appeal issued the dismissal order, and the petitioners thereafter submitted the civil penalty check to the Attorney General's Office on or about December 6, 2000. The Attorney General's Office, in turn, sent the penalty check via overnight mail to the Fresno County Agricultural Commissioner's Office.

For a complete discussion of the facts and legal issues in this case, please refer to the Legal Office's May 30, 2000 letter to the County Agricultural Commissioners (Executive Office #00-01). If you have any questions regarding this case, please contact Staff Counsel Dee Brown at (916) 324-2666.

Sincerely,

Sharon Dobbins
Chief Counsel
(916) 324-2666

cc: Mr. David Duncan
Mr. Daniel Merkley, Agricultural Commissioner Liaison

