

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

2016 AUG -9 PM 12: 10

RECEIVED

Docket No. 16-0016-AO-FV
AMS-SC-16-0011; SC16-989-1

In re:

Raisins Produced From Grapes Grown in California;
Hearing on Proposed Amendment of Marketing
Order No. 989

APPEARANCES:

On Behalf of the U.S. Department of Agriculture:

Rupa Chilukuri, Esq., U.S. Department of Agriculture Office of General Counsel Trial Attorney

Melissa Schmaedick, U.S. Department of Agriculture Agricultural Marketing Service Senior
Marketing Specialist

Geronimo Quinones, U.S. Department of Agriculture Agricultural Marketing Service Senior
Marketing Specialist

Maria Stobbe, U.S. Department of Agriculture Agricultural Marketing Service Senior Marketing
Specialist California Marketing Field Office Marketing Order and Agreement Division

Marc McFetridge, U.S. Department of Agriculture Agricultural Marketing Service Agricultural
Economist

On Behalf of the Raisin Administrative Committee:

Debbie Powell, Interim President and General Manager, Raisin Administrative Committee

Dori Rothweiler, Field Representative Raisin Administrative Committee, and Project Coordinator
for the California Raisin Marketing Board

Monte Schutz, Chairman, Raisin Administrative Committee

BEFORE:

Chief Judge Bobbie J. McCartney

ORDER CERTIFYING TRANSCRIPT

Pursuant to 5 U.S.C. § 553 and notice published in the Federal Register, 81 Fed. Reg. 23650 (April 22, 2016), a hearing on the proposed amendments to the marketing order that regulates the handling of raisins produced from grapes grown in California (Marketing Order No. 989, 7 CFR Part 989) was held on May 3 and 4, 2016, in Clovis, California.

On May 27, 2016, two volumes of transcript, one for each hearing day, were filed with the Department of Agriculture (USDA) Hearing Clerk.

On July 8, 2016, the Agricultural Marketing Service (AMS) filed proposed corrections to the record transcript of the hearing. No objections having been raised, those proposed corrections are hereby **ADOPTED** as follows:

May 3, 2016:

| <u>Page</u> | <u>Line/Exhibit</u> | <u>Correction</u> |
|-------------|---------------------|-----------------------------------------------------------|
| 4 | Ex 7 | Add at end of document "Provided by RBA" |
| 5 | Ex 18 | Strike "Spate", insert "of Steve Spate" after "Testimony" |
| 5 | Ex 19 | Insert at the end title "for 2008-09" |
| 5 | Ex 20 | Insert at the end title "for 2009-10" |
| 5 | Ex 21 | Insert at the end title "for 2010-11" |
| 5 | Ex 22 | Insert at the end title "for 2011-12" |
| 5 | Ex 23 | Insert at the end title "for 2012-13" |
| 5 | Ex 24 | Insert at the end title "for 2013-14" |
| 5 | Ex 25 | Insert at the end title "for 2014-15" |
| 5 | Ex 26 | Insert "Rick" before "Stark" |
| 5 | Ex 27 | Insert "Rick" before "Stark" |
| 5 | Ex 28 | Insert "Sonet" before "Van" |

| <u>Page</u> | <u>Line/Exhibit</u> | <u>Correction</u> |
|-------------|---------------------|----------------------------------------------------------------------------------------------------------------|
| 5 | Ex 29 | Insert "Kalem" before "Barsarian" |
| 5 | Ex 30 | Insert "Jeff" before "Milinovich", insert ": Quality control" after "Milinovich" |
| 5 | Ex 31 | Insert "Jeff" before "Milinovich", insert ": Regulations for different market destinations" after "Milinovich" |
| 5 | Ex 32 | Insert "Richard" before "Sahatjian" |
| 5 | Ex 33 | Insert "Barry" before "Kriebel" |
| 13 | 4 & 5 | Insert "er" at the end of the word "farm", strike the first appearance of "for", insert "of" before "grape" |
| 13 | 10 | Insert "Van" before "Zyl" |
| 13 | 11 | Capitalize the letter "V" in "van" |
| 14 | 6 | Strike the letter "e" at the end of "Propose" and insert "al" at the end of the word |
| 19 | 18 | Change last word from "then" to "than" |
| 27 | 9 | Add the letter "s" at the end of the word "Proposal" |
| 31 | 20 | Change the word "Rath" to "RAC" |
| 36 | 21 | Change "REINHART" to "RYMER" and correct the spelling "Jeffrey Reinhart" to "Jeffery Rymer" |
| 37 | 1 | Change "REINHART" to "RYMER" |
| 37 | 4 | Change "REINHART" to "RYMER" |
| 41 | 18 | Add the letters "ad" to the beginning of the word "minister" |
| 43 | 9 | Remove the letter "g" at the end of the word "Raising" |
| 46 | 16 | Replace the "2015/2015" to read "2014/2015" |
| 68 | 11 | Change the word "growers" to "handlers" |
| 71 | 13 | Change "perspective" to "prospective" |
| 76 | 19 | Change "Schmaedick" to "Chilukuri" |
| 75 | 3 | Change the word "changed" to "charged" |
| 76 | 20 | Replace the word "on" with "off" |
| 85 | 13 | Replace the words "okra toxin" with "ochratoxin" |
| 86 | 12 | Replace "CRB" with "CRMB" |
| 89 | 20 | Replace "41416" with "4-14-16" |
| 90 | 3 | Replace "41416" with "4-14-16" |

| | | |
|------|---------|--------------------------------------------------|
| 93 | 21 | Replace the words "okra toxin" with "ochratoxin" |
| 93 | 22 | Replace the words "okra toxin" with "ochratoxin" |
| 98 | 11 | Replace "CRB" with "CRMB" |
| 132 | 13 | Replace "Ocnology" with "Enology" |
| 137 | 3 | Change "him" to "her" |
| 146 | 21 | Change "Schmaedick" to "Chilukuri" |
| 151 | 18 | Replace "OIG" with "PED" |
| 159 | 15 | Replace "Oenology" with "Enology" |
| 162 | 11 | Replace "Counsel" with "Committee" |
| 1655 | 14 | Change "Schmaedick" to "Sonet Van Zyl" |
| 176 | 17 | Replace "RDA" with "RBA" |
| 187 | 6 | Replace "organiz" with "organization" |
| 188 | 14 & 15 | Change "Glenn" to "Glen" |
| 208 | 18 | Replace "Delray" with "Del Rey" |
| 228 | 16 | Replace "mem" with "me" |
| 231 | 16 | Remove the word "at" before "30" |
| 231 | 18 | Remove "box for a toxin" replace with " " |
| 261 | 10 | Change "product" to "produce" |
| 267 | 13 | Change 'destiny" to "destination" |

May 4, 2016:

| | | |
|-----|----|-----------------------------------------------|
| 27 | 12 | Replace "modc" with 'mold" |
| 55 | 4 | Replace "FISMA" with "FSMA" |
| 67 | 6 | Replace "John Marthadal" with "Jon Marthedal" |
| 88 | 22 | Replace "differentients" with "differences" |
| 98 | 9 | Replace "SHERIDAN" with "MCCARTNEY" |
| 103 | 18 | Change "Horn" to "Horne" |
| 104 | 1 | Change "Horn" to "Horne" |

Add the letter "A" to "ILP" to
read "AILP"

On July 21, 2016, the Raisin Administrative Committee (RAC) emailed to the parties proposed corrections to the record transcript of the hearing. The hard copy was filed on July 25, 2016. No objections having been raised, except as to RAC's proposed correction to May 3, 2015 292:4 to delete "as much as I" which objection was **GRANTED**, those proposed corrections are hereby **ADOPTED** as follows:

May 3, 2016

| Page | Line/Exhibit | Correction |
|------|--------------|----------------------------------------------------|
| 289 | 5 | change "head" to "heard" |
| 130 | 21 | change "Steven R. Spate" to "Rick Stark" |
| 132 | 2 | change "Sunmaid" to "Sun-Maid" |
| 132 | 3 | change "Sunmaid" to "Sun-Maid" |
| 132 | 13 | change "Oenology" to "Enology" |
| 132 | 15 | change "County's" to "County" |
| 132 | 20 | change "test" to "pest" |
| 134 | 3 | change "productions" to "production" |
| 138 | 6 | change "Christiansen" to "Christensen" |
| 138 | 6 | change "Dane" to Daane" |
| 138 | 7 | change "Mick Dekusian" to "Nick Dokoozlian" |
| 142 | 20 | change "CMRB" to "CRMB" |
| 13 | 12 | change "Agriculture" to "Viticulture" |
| 159 | 19 | change "taking" to "completing" |
| 160 | 6 | change "a" with "the" |
| 73 | 19 | change "rules" to "ruled" |
| 73 | 20 | change "consists" to "constitutes" |
| 73 | 20 | remove "of" |
| 75 | 3 | change "changed" to "charged" |
| 83 | 10 | after the word "District" add numeric word "three" |
| 85 | 13 | change "okra toxin" to "ochratoxin" |
| 86 | 12 | change "CRB" to "CRMB" |
| 88 | 5 | change "referencing" to "reference" |

May 4, 2016

| Page | Line/Exhibit | Correction |
|------|--------------|-------------------------|
| 27 | 12 | change "mode" to "mold" |

I hereby certify that to the best of my knowledge and belief, the transcript of the testimony given during the hearing is a true rendition of the testimony, except for any remaining obvious or immaterial spelling, typographical, or grammatical errors, and with the corrections as adopted hereinabove. In accordance with 7 C.F.R. § 900.10, the corrections identified above shall be made by the Hearing Clerk upon the official record copy of the transcript. It should be noted that there may be overlap in the proposed corrections.

I further certify that the record includes the following exhibits:

May 3, 2016:

| Exhibit No. | Description | Mark | Read |
|-------------|-------------------------------------------------------|------|------|
| 1 | Notice of Hearing | 29 | 36 |
| 2 | Certificate of Mailing | 33 | 36 |
| 3 | Certificate of News Release | 34 | 36 |
| 4 | Certificate Notice of Officials | 34 | 36 |
| 5 | Testimony of Marc McFetridge | 40 | 48 |
| 6 | US Raisins; Crop Year 2000-2014 | 40 | 48 |
| 7 | Natural Seedless Crop Year Report | 61 | 66 |
| 8 | CA Raisin Marketing Board. Administrative Committee | 62 | 66 |
| 9 | Testimony of Debbie Powell | 73 | 81 |
| 10 | Marketing Policy & Industry Statistics 2015 Marketing | 78 | 81 |
| 11 | Policy & Industry Statistics 2014 Marketing | 78 | 81 |
| 12 | Policy & Industry Statistics 2013 Marketing | 78 | 81 |
| 13 | Policy & Industry Statistics 2012 | 78 | 81 |

| Exhibit No. | Description | Mark | Recd |
|--------------------|---------------------------------------------------------------------------------|-------------|-------------|
| 14 | Marketing Policy & Industry Statistics 2011 RAC Minutes 1/27/2016 | 79 | 81 |
| 15 | | 75 | 81 |
| 16 | RAC Minutes 4/14/2016 | 80 | 81 |
| 17 | CA Marketing Board Minutes 4/14/16 Spate Testimony | 81 | 81 |
| 18 | | 106 | 130 |
| 19 | California Raisin Marketing Board Annual Report California Raisin Marketing | 106 | 130 |
| 20 | | 106 | 130 |
| 21 | Board Annual Report California Raisin Marketing | 106 | 130 |
| 22 | Board Annual Report California Raisin Marketing | 106 | 130 |
| 23 | Board Annual Report California Raisin Marketing | 106 | 130 |
| 24 | Board Annual Report California Raisin Marketing | 106 | 130 |
| 25 | Board Annual Report California Raisin Marketing | 106 | 130 |
| 26 | Board Annual Report Stark prepared statement | 131 | 157 |
| 27 | Stark outline for additional remarks Van Zyl witness statement | 131 | 157 |
| 28 | | 159 | 172 |
| 29 | Barsarian witness statement | 175 | 201 |
| 30 | Milnovich witness statement | 208 | 241 |
| 31 | Milnovich witness statement | 208 | 241 |
| 32 | Sahatjian witness statement | 269 | 269 |
| 33 | Kriebel witness statement | 323 | 323 |
| 34 | Letter on behalf of Sun-Maid, dated 11-17-14 Table of statistics prepared by | 323 | 323 |
| 35 | Raisin Administrative Committee | 323 | 323 |

May 4, 2016:

| | | | |
|----|---------------------------------------------------------------------------------------------|-----|-----|
| 36 | Federal Marketing Order for Raisins | 13 | 17 |
| 37 | Testimony of Jeffrey June | 19 | 36 |
| 38 | Guideline for Fruit, Vegetable, and Specialty Crop Marketing Orders, dated January 25, 1982 | 19 | 36 |
| 39 | Statement of Steve Kister | 38 | 45 |
| 40 | Statement of Jane Asmar | 46 | 63 |
| 41 | Minutes of Raisin Administrative Committee Meeting January 27, 2016 | 64 | 75 |
| 42 | U.S. Standards for Grades of Processed Raisins, December 1, 1978 | 79 | 79 |
| 43 | 7 C.F.R. 36 | 93 | 97 |
| 44 | Testimony of Michael Durando | 99 | 105 |
| 45 | Letter dated July 16, 2015 | 99 | 105 |
| 46 | USDA Guidelines | 100 | 111 |
| 47 | Committee Member Information Table | 100 | 113 |
| 48 | Modified Language for 989.28 | 100 | 115 |

Copies of this Certification of Transcript shall be served upon the parties by the Hearing Clerk. The Hearing Clerk is also requested to serve this Certification of Transcript by email on the following persons:

Chilukuri, Rupa - OGC Rupa.Chilukuri@ogc.usda.gov

Wray, Debbie - AMS Debbie.Wray@ams.usda.gov

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Debbie Powell - Debbie@raisins.org

Dori Williams - dori@raisins.org

So ORDERED this 9th day of August, 2016, in Washington, D.C.

A large black rectangular redaction box covers the signature area of the document.

Bobbi J. McCartney
Chief Administrative Law Judge