

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	Docket Nos. 11-0093; AO-370-A9
Tart Cherries	)	
Grown in Michigan, New York,	)	FV-10-930-5; AMS-FV-10-0087
Pennsylvania, Oregon, Utah,	)	
Washington, and Wisconsin	)	Certification of Transcript

This certifies that the foregoing 779-page transcript, in 3 volumes,¹ to the best of my knowledge and belief, is a true transcript of the testimony given during the 3-day hearing on proposed amendments to Marketing Agreement Order No. 930 (in Grand Rapids, Michigan on April 20-21, 2011; and in Provo, Utah on April 26, 2011), except for obvious or immaterial typing, spelling, or grammatical errors, and except for the following corrections:

all corrections proposed by the Proponents, the Cherry Industry Administrative Board, in the May 31, 2011 filing, EXCEPT that for (a) Page 59 Line 17 use the correction proposed by the Rulemaking Team (see next paragraph); (b) Page 99 Line 14 is actually on Page 100; (c) Page 216 Lines 17-18 use the correction proposed by the Rulemaking Team; (d) Page 227 Line 20 the correction is “7 CFR 930 et seq.”; (e) Page 228 Lines 10-11 ignore the 6 words following the correction; (f) Page 238 Line 4 the correction is to insert “in”; (g) Page 247 Lines 10-12 the correction is “The Proposed Amendment and How It Will Operate. As mentioned above ”² (h) Page 316 Line 12 correction is needed also on Line 9; (i) Page 319 Line 7 use the correction proposed by the Rulemaking Team; and (j) Page 360 Lines 1-3 use the correction proposed by the Rulemaking Team. [Where puzzlement was noted but no proposed change, no change will be made; obtaining and listening to the tape recording in the possession of the Court Reporter is not merited for these instances.]

AND

¹ The three volumes contain pages 1-311, 312-519, and 520-779.

² Ex 15 page 9 is helpful.

all corrections proposed by the U.S. Department of Agriculture, Agricultural Marketing Service (AMS), Fruit and Vegetable Programs, Marketing Order Administration Branch, Rulemaking Team, Parisa Salehi, in the May 31, 2011 filing, EXCEPT that for (a) Page 3 Perry Hedin Page ~~111~~ the correction will substitute "138" and add "sworn in Page 141"; (b) Page 18 Line 7 correction is needed also on Line 9; (c) Page 37 Line 15 is actually on Line 16; (d) Page 118 Line 9 change "desert" to "dessert"; (e) Page 265 Line 7 use the correction proposed by the Cherry Industry Administrative Board (see foregoing paragraph); and (f) Page 334 Line 21 is actually on Page 333.

AND

the following corrections on my own motion: (a) Exhibit copies that were provided for the convenience of the transcriber and are **not** identical to the official record copies were included in the Transcript by the Court Reporter. For example, the copy of Exhibit 18, from Ray Rowley, that is included in the Transcript does not include all the attachments that are part of the record copy. The Hearing Clerk has on file the official record copy of the exhibits, which is NOT fastened into the Transcript. The official record copy of the exhibits can also be viewed on the U.S. Department of Agriculture website identified below; (b) Page 316 Line 8 strike ~~Agency~~ and add "Office of the General Counsel"; and (c) Page 520 strike ~~Country~~ and insert "County".

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.

I further certify that 20 exhibits were admitted into evidence, Exhibits 1-20. [Exhibit 7 was modified to include not only page 9 but also 9A; not only page 10 but also 10A, and not only page 13 but also 13A.] A document that I took official notice of is also included as an exhibit, entitled "Agricultural Economics Report, Report #639, September 2010." The exhibits are found in the Hearing Clerk's record file and also on the U.S. Department of Agriculture website

<http://www.ams.usda.gov/AMSV1.0/FVMarketingOrderIndexTartCherriesMore>

No later than two weeks following the parties' receipt from the Hearing Clerk of this "Certification of Transcript," the parties shall file with the Hearing Clerk any **briefs**. **These briefs shall include argument, proposed findings and proposed conclusions.** See 7 C.F.R. § 900.10. I recommend that the parties coordinate with one another to choose the

same deadline and to identify that deadline in their briefs (even if their receipt dates were different).

Copies of this Certification of Transcript shall be served by the Hearing Clerk upon each of the parties, including:

- (1) Sharlene Deskins, Esq., USDA, Office of General Counsel (Marketing Division);
- (2) Brian T. Hill, Esq., USDA, Office of General Counsel (Marketing Division);
- (3) Kathleen M. Finn, USDA, Agricultural Marketing Service, Fruit and Vegetable Programs, Marketing Order Administration Branch; and
- (4) Parisa Salehi, USDA, Agricultural Marketing Service, Fruit and Vegetable Programs, Marketing Order Administration Branch.

Done at Washington, D.C.
this 15th day of June 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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