UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re: 

AO Docket No. 20-J-0011
Walnuts Grown in California

AMS-SC-19-0082
SC-19-984-1

ORDER CERTIFYING TRANSCRIPT

Appearances:

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

Rupa Chilukuri, Esq., and Tracy McGowan, Esq., Trial Attorneys, Office of the General Counsel, United States Department of Agriculture; and

Melissa Schmaedick, Senior Marketing Specialist, Agricultural Marketing Service ("AMS"), United States Department of Agriculture.

On Behalf of the California Walnut Board:

Michelle Connelly, Executive Director, California Walnut Board.

Pursuant to 5 U.S.C. § 553 and notices published in the Federal Register, a hearing on proposed amendments to the marketing order that regulates the handling of walnuts grown in California, Federal Marketing Order No. 984 (7 C.F.R. § 984), was held remotely via ZOOM audio-video conferencing system on April 20 and 21, 2020.

On May 7, 2020, the Agricultural Marketing Service ("AMS") filed proposed corrections to the record transcript of the hearing, which it states incorporate the proposed corrections of the California Walnut Board. No other proposed corrections have been filed or otherwise received

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2 The online hearing location was at https://www.zoomgov.com/s/1601790781.
from any participant, and no objections have been raised as to the proposed corrections. Upon my review those proposed corrections, except where changes from the proposed changes are noted parenthetically, are hereby **ADOPTED**, as follows:

![April 20, 2020](image)

<table>
<thead>
<tr>
<th>Page</th>
<th>Line</th>
<th>Correction</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>5</td>
<td>Strike &quot;gathering&quot; insert &quot;governing&quot;</td>
</tr>
<tr>
<td>11</td>
<td>14</td>
<td>Strike &quot;regulation&quot; insert &quot;regulations&quot;</td>
</tr>
<tr>
<td>14</td>
<td>16</td>
<td>Strike &quot;summary&quot; insert &quot;some more&quot;</td>
</tr>
<tr>
<td>18</td>
<td>5</td>
<td>Strike &quot;<a href="mailto:walnuthearing@usda.gov">walnuthearing@usda.gov</a>&quot; insert &quot;<a href="mailto:walnut.hearing@usda.gov">walnut.hearing@usda.gov</a>&quot;</td>
</tr>
<tr>
<td>21</td>
<td>3</td>
<td>Strike &quot;is&quot; insert &quot;If&quot; and insert period after first &quot;hearing reporter&quot; (small modification of, but same substance as, proposed correction)</td>
</tr>
<tr>
<td>26</td>
<td>6</td>
<td>Strike &quot;Connolly&quot; insert &quot;Connelly&quot;</td>
</tr>
<tr>
<td>29</td>
<td>17</td>
<td>Strike &quot;his&quot; insert &quot;this&quot;</td>
</tr>
<tr>
<td>36</td>
<td>14</td>
<td>Insert &quot;the&quot; between &quot;rescheduled&quot; and &quot;in&quot; (the proposed correction stated an incorrect page number)</td>
</tr>
<tr>
<td>39</td>
<td>8-9</td>
<td>Insert &quot;of&quot; between &quot;notice&quot; and &quot;hearing&quot;</td>
</tr>
<tr>
<td>42</td>
<td>16</td>
<td>Insert &quot;he&quot; between &quot;Podesta&quot; and &quot;contacted&quot;</td>
</tr>
<tr>
<td>44</td>
<td>11</td>
<td>Strike &quot;we'd&quot; insert &quot;you'd&quot;</td>
</tr>
<tr>
<td>55</td>
<td>18</td>
<td>Strike &quot;the fence (phonetic)&quot; insert &quot;this&quot;</td>
</tr>
<tr>
<td>64</td>
<td>11</td>
<td>Strike &quot;a&quot;</td>
</tr>
<tr>
<td>65</td>
<td>22</td>
<td>Strike &quot;products&quot; insert &quot;product&quot;</td>
</tr>
<tr>
<td>68</td>
<td>10</td>
<td>Strike &quot;market&quot;, insert &quot;markets&quot;</td>
</tr>
<tr>
<td>70</td>
<td>22</td>
<td>Strike &quot;smaller&quot; insert &quot;small&quot;</td>
</tr>
<tr>
<td>74</td>
<td>19</td>
<td>Strike &quot;unshelled&quot;, insert &quot;inshell&quot;</td>
</tr>
<tr>
<td>87</td>
<td>2</td>
<td>Strike &quot;cropping&quot; insert &quot;crop&quot;</td>
</tr>
<tr>
<td>90-91</td>
<td>22-1</td>
<td>Strike &quot;with this stuff&quot; insert &quot;on the record&quot;</td>
</tr>
<tr>
<td>91</td>
<td>18</td>
<td>Strike &quot;Chilukuri&quot; insert &quot;Connelly&quot;</td>
</tr>
<tr>
<td>97</td>
<td>5</td>
<td>Strike &quot;19&quot; insert &quot;2019&quot;</td>
</tr>
<tr>
<td>98</td>
<td>6-7</td>
<td>Strike &quot;farm fresh hammer size, SBA definitions&quot; insert &quot;Farm/Handler Size (SBA definitions)&quot; (slight modification of, same substance as, proposed correction)</td>
</tr>
<tr>
<td>99</td>
<td>5</td>
<td>Strike &quot;microeconomic&quot; insert &quot;macroeconomic&quot;</td>
</tr>
</tbody>
</table>
Strike "micro-cluster"
Strike "maybe" insert "may be"
Strike "130 thousand" insert "630 thousand"
Strike “exit” insert “exhibit”
Strike "Cain" insert "Crain" (slight correction to proposed correction)
Strike "nationally" insert "nominally"
Strike "climates" insert "formulations"
Strike "maybe" insert "may be"
Strike "problem" insert "program"
Strike "unshelled" insert "inshell"
Strike "unshelled" insert "inshell"
Strike “through” insert “throughout”
Strike “then” insert “than”
Strike “15” insert “14”
Strike "Walnuts" insert "Walnut"
Strike "with pre-" insert "increasing"
Strike "up" insert "for"
Insert "budget" after "Board"
Strike “right, to” insert “write to”
Strike “sable” insert “able”
Strike "somebody" insert "something"
Strike "Walnut" insert "walnuts" (slight correction to proposed correction)
Strike "unmuted" insert "muted"
Strike "mute" insert "unmute"
Strike "credible" insert "creditable"
Strike "Market" insert "Marketing"

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3 The proposed correction to page 182, line 16, did not match the text appearing at that place in the transcript, or in nearby text not otherwise corrected.

4 The proposed correction to page 212, line 17, is rejected. To the best of the undersigned’s recollection, the witness simply pronounced the word “almonds” in two different ways—“almonds” and “am-monds.” The undersigned’s understanding of the oral testimony is that the same written word, “almonds,” was intended by the witness in each instance.
Strike "no" insert "new"
Strike "," insert "?"; strike "but anything" insert "Anything"
Strike second "grower" insert "handler"
Strike "confectional" insert "confectionary"
Strike "Walnut Marketing Board" insert "California Walnut Board"
Strike "CWC" insert "CWB"
Strike "Review" insert "Revision"
Strike "Special" insert "official"
Strike "a.m." insert "p.m."
Strike "raison d'etres" insert "reasons"
Strike "squares" insert "answers"
Strike "programs" insert "prevent"
Strike "Maybe" insert "Ms. Schmaedick"
Strike "Connolly" insert "Connelly"

April 21, 2020

Page Line Correction
9 21 Strike "I" insert "you"
27 13 Strike "October 1" insert "September 1"
30 13 Strike "annual life" insert "annualized"
31 18 Strike "that"
31 20 Strike "exception" insert "exceptions"
34 11 Strike "filed had"
34 11 Strike "Listed" insert "list"
36 5 Strike "SCHMAEDICK" insert "CHILUKURI" (slight modification of, same substance as, proposed correction)
56 7 Strike "credible" insert "creditable" (slight modification of, same substance as, proposed correction)
76 1 Strike "reg" insert "regulatory"
76 11 Strike "year" insert "years"
76 17 Strike "your,"
77 12 Strike "handlers" insert "claim"
80 18 Strike "it" insert "is"
Strike "would,"

Strike "Walnuts" insert "Walnut"

Strike "they" insert "the"

Strike "the,"

Strike "Connolly" insert "Connelly"

Strike "Connolly's" insert "Connelly's" (slight modification of, same substance as, proposed correction)

Strike "cross" insert "cross examination"

Strike "process of" insert "processor"

Strike "Connolly" insert "Connelly"

Strike "Walnuts" insert "Walnut"

Strike "Connolly" insert "Connelly"

Strike "1920" insert "2019/20"5

Strike "Connolly" insert "Connelly"

Strike "Connolly" insert "Connelly" (two times)

Strike "our,"

Insert "a" between "be" and "qualified"

Insert "a" between "be" and "qualified"

Strike "practices" insert "activities"

Strike "asked you" insert "was asked"

Strike "reg" insert "regulatory"

Strike "your,"

Strike "Carrier" insert "Carriere"

Strike "the,"

Strike "the" insert "then"

Strike "appeals" insert "appeal"

Strike "Walnuts" insert "Walnut"

Insert "I appreciated" before "admonishment"

5 There were two nearly identical proposed corrections to page 101, line 4. This correction reflects the second proposal. The first proposed correction ("Strike '19-20' insert '2019-20'") is not adopted.
The undersigned has, sua sponte, identified additional corrections to be made to the record transcript, which are hereby ADOPTED as follows:

**April 20, 2020**

<table>
<thead>
<tr>
<th>Page</th>
<th>Line</th>
<th>Correction</th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>14</td>
<td>Strike “even if -- if” insert “USDA will”</td>
</tr>
<tr>
<td>18</td>
<td>15</td>
<td>Strike “it looks like --” insert “be able to”</td>
</tr>
<tr>
<td>20</td>
<td>8</td>
<td>Strike “-- base regarding proposed”</td>
</tr>
<tr>
<td>30</td>
<td>15</td>
<td>Strike “there”</td>
</tr>
<tr>
<td>128</td>
<td>1</td>
<td>Strike “witness’” insert “witness’s”</td>
</tr>
<tr>
<td>128</td>
<td>16</td>
<td>Strike “Walnuts” insert “Walnut”</td>
</tr>
<tr>
<td>159</td>
<td>22</td>
<td>Strike “That is” insert “Those are”</td>
</tr>
<tr>
<td>256</td>
<td>7</td>
<td>Insert “witness” after “Board”</td>
</tr>
<tr>
<td>294</td>
<td>11</td>
<td>Strike “;” insert “?”</td>
</tr>
<tr>
<td>352</td>
<td>13</td>
<td>Insert “I” between “Again,” and “encourage”</td>
</tr>
</tbody>
</table>

**April 21, 2020**

<table>
<thead>
<tr>
<th>Page</th>
<th>Line</th>
<th>Correction</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>8</td>
<td>Strike “CLJ’s” insert “OALJ’s”</td>
</tr>
</tbody>
</table>

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6 There were two nearly identical proposed corrections to page 194, line 8. This reflects the second proposal. The first proposed correction (“Strike ‘it’s guessed’ insert ‘addressed’”) is not adopted.
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 and any typographical or grammatical errors, and with the corrections as adopted hereinabove.⁷

⁷ Given the circumstances of this proceeding, I find that it would be counterproductive for the Hearing Clerk to note the corrections on the “hard copy” of the transcript; therefore, I find the Hearing Clerk need not follow the specifications set forth to that effect in 7 C.F.R. § 900.10. The above-referenced corrections that are adopted herein are deemed to be a part of the transcript as if the Hearing Clerk had actually noted those corrections on a hard copy, and a copy of this
I further certify that the record includes the following exhibits, which were each received into evidence at the indicated transcript page, as follows, and that these exhibits are all of the exhibits as introduced at the hearing:

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
<th>Marked</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Notice of Hearing</td>
<td>31</td>
<td>36</td>
</tr>
<tr>
<td>2</td>
<td>Notice of Hearing: Correction</td>
<td>31</td>
<td>37</td>
</tr>
<tr>
<td>3</td>
<td>Certificate of Mailing: Notice</td>
<td>32</td>
<td>37</td>
</tr>
<tr>
<td>4</td>
<td>Certificate of Mailing: Correction</td>
<td>33</td>
<td>37</td>
</tr>
<tr>
<td>5</td>
<td>Certificate of Press Release: Notice</td>
<td>33</td>
<td>38</td>
</tr>
<tr>
<td>6</td>
<td>Certificate of Press Release: Certification</td>
<td>33</td>
<td>39</td>
</tr>
<tr>
<td>7</td>
<td>Certificate of Notification of Officials: Notice</td>
<td>34</td>
<td>39</td>
</tr>
<tr>
<td>8</td>
<td>Certificate of Notification of Officials: Correction</td>
<td>34</td>
<td>39</td>
</tr>
<tr>
<td>9</td>
<td>Notice of <em>Ex Parte</em> Communications 1</td>
<td>41</td>
<td>43</td>
</tr>
<tr>
<td>10</td>
<td>Notice of <em>Ex Parte</em> Communications 2</td>
<td>43</td>
<td>44</td>
</tr>
<tr>
<td>11</td>
<td>Don Hinman USDA Walnut Testimony</td>
<td>47</td>
<td>59</td>
</tr>
<tr>
<td>12</td>
<td>Don Hinman USDA Walnut Tables 1-5</td>
<td>49</td>
<td>59</td>
</tr>
<tr>
<td>13</td>
<td>Don Hinman USDA Walnut Table 6</td>
<td>53</td>
<td>59</td>
</tr>
<tr>
<td>14</td>
<td>Chuck Crain CWB Testimony</td>
<td>129</td>
<td>129</td>
</tr>
<tr>
<td>15</td>
<td>Chuck Crain CWB Testimony Exhibit: PowerPoint Industry Overview</td>
<td>129</td>
<td>129</td>
</tr>
<tr>
<td>16</td>
<td>Chuck Crain CWB Testimony Exhibit: University of California, Cooperative Extension, Agricultural and Natural Resources, Agricultural Issues Center, 2018 Sample Costs to Establish and Produce English Walnuts Study</td>
<td>129</td>
<td>129</td>
</tr>
</tbody>
</table>

Order Certifying Transcript shall accompany any and all official copies of the transcript in this matter.

8 Although it appears in the official bound volume of exhibits provided by the hearing reporter on file with the Hearing Clerk, Proposed Exhibit 27 was withdrawn by Michelle Connelly of the California Walnut Board and is therefore not a part of this certified record. See April 21, 2020 Tr. Volume II at 24:4-10.
17 Jack Mariani CWB Testimony 132 183
18 Jack Mariani CWB Testimony Exhibit: 
PowerPoint Industry Overview of the Proposal, 
Program Communication Samples 131 183
19 Bill Carriere CWB Testimony 215 216
20 Rachael Goodhue CWB Testimony 217 256
21 Rachael Goodhue CWB Testimony Exhibit: 
Kaiser Economic Analysis 217 256
22 Bill Toss CWB Testimony 256 273
23 Robert Driver CWB Testimony 276 296
24 Donald Norene CWB Testimony 299 332

April 21, 2020

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
<th>Marked</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td>Michelle Connelly CWB Testimony</td>
<td>24</td>
<td>99</td>
</tr>
<tr>
<td>26</td>
<td>Michelle Connelly CWB Testimony Exhibit: PowerPoint with Activity Types, Sample Calculations of Creditable Expenditures, Sample Calculation of Handler Share of Available Dollars</td>
<td>24</td>
<td>99</td>
</tr>
<tr>
<td>28</td>
<td>Heather Donaho CWB Testimony</td>
<td>138</td>
<td>149</td>
</tr>
<tr>
<td>29</td>
<td>Testimony of Eric Heidman, Diamond Foods, Inc.</td>
<td>335</td>
<td>348</td>
</tr>
<tr>
<td>30</td>
<td>Testimony of John MacTavish</td>
<td>7, 206</td>
<td>206</td>
</tr>
</tbody>
</table>

Pursuant to the schedule established at the hearing, all briefs shall be filed with the Hearing Clerk by 4:30 p.m. (Eastern) on Friday, May 22, 2020, which is 14 calendar days after this certification.9

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

Rupa Chilukuri, Esq.
Trial Attorney, USDA OGC
rupachilukuri@ogc.usda.gov

Tracy McGowan, Esq.
Trial Attorney, USDA OGC
tracy.mcgowan@ogc.usda.gov

9 See April 21, 2020 Tr. Volume II at 225.
Ms. Erin Hoagland, Attorney Advisor to the undersigned, will this same date also email copies of this Order Certifying Transcript, time-stamped as received today by the Hearing Clerk’s Office, to the above persons so that each is aware and on notice that the record has been certified this same date.

Done at Washington, D.C.,
this 8th day of May 2020

[Signature]
Channing D. Strother
Chief Administrative Law Judge

Hearing Clerk’s Office
United States Department of Agriculture
Stop 9203, South Building, Room 1031
1400 Independence Avenue, SW
Washington, DC 20250-9203
Tel.:  202-720-4443
Fax:  202-720-9776
SM.OHA.HearingClerks@USDA.GOV