00-037-2
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GUNSTER YOAKLEY
ATTORNEYS AT LAW

January 8, 2001

VIA FEDERAL EXPRESS & FACSIMILE

Docket No. 00-037-2
Attention: Stephen Poe
Regulatory Analysis and Development,
PPD, APHIS, Suite 3C03
4700 River Road, Unit 118
Riverdale, MD 20737-1238

Re: Docket No. 00-037-2

Dear Mr. Poe:

These comments are filed on behalf of Star-Glo Associates Limited Partnership ("Star-Glo"), 2250 Avenida Del Vera, North Fort Myers, Florida 33917 and Ruby Red Equities Limited Partnership ("Ruby Red"), 2250 Avenida Del Vera, North Fort Myers, Florida 33917 regarding the proposed rules noticed in the Federal Register on Thursday, December 7, 2000. Star-Glo is the owner of citrus groves located in Section 31, Township 48 South, Range 32 East, Hendry County, Florida. Ruby Red is the owner of citrus groves located approximately 13 miles southeast of Immokalee, also in Hendry County, Florida. Both groves have been subject to citrus canker eradication orders of the Florida Department of Agriculture and Consumer Services ("DACS"), due to the presence, in a few trees, of citrus canker. Pursuant to DACS' order, the citrus trees in those groves have been destroyed. Accordingly, both Star-Glo and Ruby Red will be eligible to receive payments to recover production income lost as a result of the removal of commercial citrus trees to control citrus canker.

Star-Glo, Ruby Red, and their consultants and attorneys have carefully reviewed the proposed rules and are now offering the following comments. We are offering these comments and are suggesting modifications or amendments to the proposed rules because the methodology set forth in the rule seriously understates Star-Glo's and Ruby Red's production income lost as a result of the destruction of their trees. We have proposed a preferred alternative, i.e., creating a separate category for tangerines. Should that not be accepted, we are also suggesting two fallback positions.

1. Tangerines should have their own unique category and valuation under the proposed rules.

The proposed rule categorizes citrus varieties to be treated by the proposed rules in the

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following manner:

A) Grapefruit
B) Orange, Valencia
C) Orange, Navel
D) Tangelo
E) Lime
F) Other or mixed citrus

While those categories may have adequately described the affected varieties of citrus at the time the underlying statute and the proposed rules were developed, they do not take into account varieties that are presently being removed according to DACS' eradication orders. Paragraph (C) of section 810 of the Agricultural, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2001 (Pub. L 106-387) states that the affected trees may be reimbursed, if funds remain available, by this compensation program through September 30, 2001. The ambiguity of the categories would cause many varieties to fall into the "other or mixed citrus" category, when in fact they are not minor varieties and their net present values ("NPVs") are not adequately represented by this grouping.

For example, lime trees have been heavily impacted by the canker eradication program, due to their location in Dade County's urban quarantine zone. However, there are less than 2500 total planted acres in the state of Florida. Still, this minor variety has a separate category under the proposed ruling.

According to Florida Agricultural Statistics Service, Citrus Summary 1998-99 (1), tangelos comprised a total of 11,700 acres in the state of Florida. This group of minor varieties has been designated as a separate category by the proposed rules, apparently due to the fact that some of the early eradication efforts impacted tangelo groves in Manatee County.

These two groups, limes and tangelos, collectively represent less than 15,000 total planted acres in the State of Florida. However, two of the six categories are given to these minor varieties, giving each of them the same status as oranges, which comprise over 600,000 acres or approximately 80% of the planted acreage in the State of Florida.

Given the acreage represented by early and late tangerines combined of over 27,000 acres (1), their distinct characteristics in relation to market, yields, and tree fruit price, resistance to canker, and their higher NPV, tangerine groves should have their own unique category and valuation under the proposed rules. To group these varieties into the "other or mixed citrus" category would not be just treatment for this high value crop. Furthermore, it does not really fit into the "tangelo" group, as that group presently stands, because the NPV calculations for this category did not take into account these higher valued crops. During the past ten years, the average price per box of tangerines

has been $12.30 (5), so lumping tangerines into the "other or mixed citrus" category with its substantially lower prices would be manifestly unfair.

II. First Alternative: Broaden the definition of the "tangelo" category

The Florida Department of Citrus categorizes tangelos along with all other tangerine and tangerine hybrids as "Specialty Varieties (2)." This all-encompassing category includes early tangerines, 'Honey tangerines', 'Temples', Tangelos, and 'K-Early' varieties. These are all fresh fruit varieties having similar costs of production, planting densities and yield characteristics. The price for this entire group combined has averaged $6.59 per box on the tree, during the last 5 years (2). Since these are all fresh fruit varieties, and all mandarins or mandarin hybrids, with high degree of tolerance to citrus canker, one would logically assume that the discount rate should be similar to that utilized in the proposed rules for tangelos, if treated as a group.

The Florida Agricultural Statistical Service, Citrus Summary 1998-99 (1) reported that the above referenced group of "Specialty Varieties," combined bearing acreage was 45,000 acres. A Specialty Varieties grouping treats, as a homogenous group, a significantly larger acreage than tangelos alone, which comprised only 11,700 acres (1). It should also be pointed out that the NPV for this group should be recalculated, since the on tree fruit value of this group, as an average, significantly exceeds that of tangelo alone, though the average yield per acre of the group is similar (1).

III. Second Alternative: Broaden definition of orange category

An alternative position in which to place the unclassified tangerine varieties that do not fit into the tangelo classification, due to far differing NPV values from tangelo, would be to fit them into the appropriate orange category, according to date of maturity. For example, if the tangerines were included in the "oranges, Valencia" category, the price per box reflected in the proposed rule ($5.29), though still inadequate, would increase the NPV for the tangerines to a level more reflective of market conditions. This would not create an additional category to treat these varieties and would more fairly compensate growers of these varieties for their higher NPV.

Due to the time remaining in the referenced FDA and Related Agencies Appropriations Act, 2001, it is extremely likely that other varieties that do not obviously fall into one of the designated proposed categories will enter the program. Accordingly, we propose that the categories be more encompassing and descriptive. It is in the growers', as well as the agencies', best interests to remove ambiguities in the rule, which may create problems in interpreting the rule after it is published. For example, the proposed rules do not clearly speak to "Ambersweet Orange," an early orange variety. This variety, as well as "Hamlin," "Parson Brown," "Pineapple" and "Queen" varieties should fall under the category of "Orange, Navel." The proposed rules should be clarified to reflect this proper categorization.

As growers that have been severely impacted by the eradication efforts of Citrus Canker to date (3,4), Star-Glo and Ruby Red request that this petition be given serious consideration. Under the proposed rule, we will be unjustly compensated for portions of our production loss of Sunburst and Fallglo Tangerines. Because of the tangerine's greater resistance to the canker, these groves would have remained viable and productive. They were destroyed to eliminate them as a potential source of infection to other, more susceptible varieties of citrus. Since they were removed for the benefit of the industry, the compensation for their loss must be substantially increased to adequately reflect their NPV.

We appreciate this opportunity to provide these comments. Of course, if you have any questions, please do not hesitate to give me a call.

Very truly yours,

William L Hyde

William L. Hyde
Attorney for Star-Glo and Ruby Red

WLH:nl

Reference no. 1

FLORIDA CITRUS PRODUCTION, BEARING ACREAGE & YIELD PER ACRE SIX SEASONS

(Thousands of 1-3/5 Bu. Boxes and Acres)

Season	Production	Bearing Acreage	Box Yield Per Acre
EARLY & MIDSEASON ORANGES			
1993-94	107,300	271.7	395
1994-95	119,700	299.4	400
1995-96	121,200	314.5	385
1996-97	134,200	328.9	408
1997-98	140,000	317.4	441
1998-99	112,000	317.7	353
VALENCIA			
1993-94	67,100	239.1	281
1994-95	85,800	263.4	326
1995-96	82,100	280.3	293
1996-97	92,000	296.0	311
1997-98	104,000	291.8	356
1998-99	73,700	294.9	250
TOTAL FLORIDA ORANGES			
1993-94	174,400	510.8	341
1994-95	205,500	562.8	365
1995-96	203,300	594.8	342
1996-97	226,200	624.9	362
1997-98	244,000	609.2	401
1998-99	185,700	612.6	303
TEMPLES			
1993-94	2,250	6.7	336
1994-95	2,550	6.8	375
1995-96	2,150	6.6	326
1996-97	2,400	6.7	358
1997-98	2,250	6.2	363
1998-99	1,800	6.0	300
TANGELOS			
1993-94	3,350	11.3	296
1994-95	3,150	12.4	254
1995-96	2,450	12.7	193
1996-97	3,950	13.3	297
1997-98	2,850	12.2	234
1998-99	2,550	11.7	218
HONEY TANGERINES			
1993-94	1,730	5.6	309
1994-95	1,200	6.0	200
1995-96	1,600	7.0	229
1996-97	1,800	8.0	225
1997-98	2,000	8.4	238
1998-99	1,900	8.7	218
ALL SEEDY GRAPEFRUIT			
	1,050	4.7	223
	1,300	4.6	283
	1,050	4.3	244
	900	4.4	205
	650	3.4	191
	550	2.6	212
WHITE SEEDLESS GRAPEFRUIT			
	24,500	49.7	493
	25,700	51.8	496
	23,200	52.6	441
	23,500	54.5	431
	18,300	49.6	369
	17,800	44.0	405
RED SEEDLESS GRAPEFRUIT			
	25,500	63.9	399
	28,700	70.9	405
	28,100	75.9	370
	31,400	80.3	391
	30,600	74.8	409
	28,700	70.0	410
TOTAL ALL GRAPEFRUIT			
	51,050	118.3	432
	55,700	127.3	438
	52,350	132.8	394
	55,800	139.2	401
	49,550	127.8	388
	47,050	116.6	404
EARLY TANGERINES *			
	2,370	10.8	219
	2,350	14.1	167
	2,900	17.3	168
	4,500	20.5	220
	3,200	19.1	168
	3,050	18.6	164
ALL FLORIDA CITRUS **			
	235,150	663.5	354
	270,450	729.4	371
	264,750	771.2	343
	294,650	812.6	363
	303,850	782.9	388
	242,050	774.2	313

SOURCE: Florida Agricultural Statistics Service, Citrus Summary 1998-99.

* Includes Robinson, Dancy, Sunburst and Fallglo beginning 93-94.

** K-Early not included.

Reference no. 2

EXHIBIT 8
On-Tree Box Returns for Florida Specialty Citrus by Variety

Type of Fruit by Season	Method of Sale		
	Fresh	Processing	All
	dollars per box		
Early Tangerines			
1994-95	10.40	.06	7.95
1995-96	14.85	1.29	10.76
1996-97	9.85	.86	6.28
1997-98	10.40	.03	6.71
1998-99f	14.20	2.11	11.63
Honey Tangerines			
1994-95	26.50	2.15	19.76
1995-96	20.25	3.33	15.16
1996-97	20.15	1.18	12.18
1997-98	15.70	1.33	11.16
1998-99f	17.20	6.52	12.86
All Tangerines			
1994-95	15.70	.84	11.98
1995-96	17.15	2.01	12.59
1996-97	12.75	.96	7.99
1997-98	12.50	.50	8.41
1998-99f	15.15	4.49	12.10
Temples			
1994-95	4.30	3.10	3.47
1995-96	5.55	3.91	4.44
1996-97	7.00	2.08	3.22
1997-98	4.60	2.25	2.84
1998-99f	5.00	4.79	4.87
Tangelos			
1994-95	4.60	1.58	2.64
1995-96	5.35	2.40	3.63
1996-97	4.05	1.53	2.19
1997-98	3.90	.36	1.49
1998-99f	4.10	3.75	3.88
K-Early			
1994-95	3.40	1.00	2.30
1995-96	5.25	.40	2.28
1996-97	3.85	-.10	1.40
1997-98	-1.90	-.10	-1.45
1998-99f	3.10	3.99	3.70
All Specialty			
1994-95	10.90	2.00	6.39
1995-96	12.68	2.74	8.02
1996-97	10.38	1.45	5.22
1997-98	9.92	.99	5.25
1998-99f	11.33	4.30	8.05

HISTORICAL SOURCE: Florida Agricultural Statistics Service.

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Acreage Report

Star-Glo Associates, L.P.

Reference no. 3

ACREAGE ANALYSIS
By Scion Variety

Block Number		Rootstock	Tree Setting			Trees per Acre	Number of Trees	Number of Acres	Date Planted	Age 1998 Yrs. Mos
AMBERSWEET										
A - 1	Ambersweet	Carrizo citrange	10	x	25	174.24	2,198	12.61	Apr-91	4.80
A - 2		Carrizo citrange	10	x	25	174.24	4,437	25.46	Apr-91	4.80
A - 2 A		Swingle citrumelo	10	x	25	174.24	-	-	Apr-91	4.80
A - 6A		Carrizo citrange	10	x	25	174.24	1,948	11.18	Nov-91	4.10
A - 11		Swingle citrumelo	10	x	25	174.24	871	5.00	Mar-91	4.90
	TOTAL						*9,454*	*54.26*		
FALL GLO										
A - 4		Cleopatra mandarin	10	x	25	174.24	5,140	29.50	Mar-91	4.90
A - 5 A		Sour orange	10	x	25	174.24	-	-	Apr-91	4.80
A - 6		Cleopatra mandarin	10	x	26	174.24	4,173	23.95	Mar-91	4.90
A - 8		Cleopatra mandarin	10	x	25	174.24	1,362	7.82	Mar-91	4.90
A - 9 A		Swingle citrumelo	10	x	25	174.24	-	-	Aug-91	4.80
A - 10		Cleopatra mandarin	10	x	25	174.24	1,162	6.67	Mar-91	4.90
A - 13		Cleopatra mandarin	10	x	25	174.24	1,288	7.39	Mar-91	4.90
	TOTAL						*13,125*	*75.33*		
SUNBURST										
A - 5 A	Sunburst	Sour orange	10	x	25	174.24	700	4.02	Apr-91	4.80
A - 6	Sunburst	Sour orange	10	x	25	174.24	2,121	12.17	Mar-91	4.90
A - 8	Sunburst	Cleopatra mandarin	10	x	25	174.24	2,827	16.22	Mar-91	4.90
A - 9 A	Sunburst	Swingle citrumelo	10	x	25	174.24	700	4.02	Apr-91	4.80
A - 10	Sunburst	Cleopatra mandarin	10	x	26	174.24	2,433	13.96	Mar-91	4.90
A - 13	Sunburst	Cleopatra mandarin	10	x	25	174.24	2,360	13.54	Mar-91	4.90
	TOTAL						*11,141*	*63.94*		
GRAPEFRUIT										
A - 1	Star Grt.	0 Sour orange	10	x	25	174.24	2,860	16.41	Apr-91	4.80
A - 3	Star Grt.	0 Sour orange	10	x	25	174.24	2,368	13.78	Apr-91	4.80
A - 5	Star Grt.	0 Sour orange	10	x	25	174.24	1,688	9.69	Apr-91	4.80
A - 7	Star Grt.	0 Sour orange	10	x	25	174.24	2,185	12.60	Apr-91	4.80
A - 7A	Star Grt.	0 Sour orange	10	x	25	174.24	700	4.02	Apr-91	4.80
A - 9	Star Grt.	0 Swingle citrumelo	10	x	25	174.24	3,648	20.94	Mar-91	4.90
A - 12	Star Grt.	0 Swingle citrumelo	10	x	23	189.39	1,009	5.33	Aug-91	4.40
A - 14	Star Grt.	0 Sour orange	10	x	23	189.39	2,221	11.73	Jan-91	4.00
A - 14	Red Grt.	Sour orange	10	x	23	189.39	-	-	Jan-91	4.00
A - 15	Red Grt.	0 Carrizo citrange	10	x	23	189.39	2,381	12.62	Jan-91	4.00
A - 15	Star Grt.	0 Carrizo citrange	10	x	23	189.39	2,256	11.91	Apr-91	4.80
A - 16	Red Grt.	Carrizo citrange	10	x	23	189.39	-	-	Apr-91	4.80
A - 17	Star Grt.	0 Swingle citrumelo	10	x	23	189.39	2,277	12.02	Feb-91	3.90
A - 18	Star Grt.	0 Swingle citrumelo	10	x	23	189.39	2,427	12.81	Feb-91	3.90
A - 19	Star Grt.	0 Swingle citrumelo	10	x	25	174.24	2,239	12.85	Feb-91	3.90
A - 20	Star Grt.	0 Sour orange	10	x	25	174.24	3,884	22.29	Apr-91	4.80
A - 21	Star Grt.	0 Sour orange	10	x	25	174.24	5,744	32.97	Apr-91	4.80
B - 1	Star Grt.	0 Swingle citrumelo	10	x	23	189.39	2,540	13.41	Jan-91	4.00
B - 2	Star Grt.	0 Swingle citrumelo	10	x	23	189.39	2,891	15.26	Dec-90	5.00
B - 3	Star Grt.	0 Swingle citrumelo	10	x	23	189.39	2,664	14.07	Dec-90	5.00
B - 4	Star Grt.	0 Swingle citrumelo	10	x	23	189.39	2,469	13.04	Dec-90	5.00
B - 4 A	Star Grt.	0 Carrizo citrange	10	x	23	189.39	1,858	9.81	Nov-91	4.10
B - 5	Star Grt.	0 Carrizo citrange	10	x	25	174.24	5,260	30.19	Nov-91	4.10
B - 6	Star Grt.	0 Sour orange	10	x	25	174.24	5,639	32.36	Apr-91	4.80
B - 7	Star Grt.	0 Sour orange	10	x	25	174.24	2,949	16.92	Apr-91	4.80
B - 8	Star Grt.	0 Swingle citrumelo	9	x	23	210.43	4,245	20.17	Apr-91	4.80
B - 9	Star Grt.	0 Swingle citrumelo	9	x	23	210.43	4,886	23.22	Apr-91	4.80
	TOTAL						*73,338*	*400.41*		
TOTAL ALL VARIETIES							*107,058*	*593.93*		

Acreage Report

Ruby Red Equities, L.P.

Reference no. 4

ACREAGE ANALYSIS
By Scion Variety

Block Number	Rootstock	Tree Setting	Trees per Acre	Number of Trees	Number of Acres	Date Planted	Age 1999 Yrs.Mos
Valencia Orange							
I Rhode Red	Carrizo citrange	7.5 x 25	232.32	7,147	30.76	Apr-93	7.00
I Valencia	Carrizo citrange	7.5 x 25	232.32	5,265	22.66	Apr-88	14.00
I Valencia	Carrizo citrange	10 x 25	174.24	6,045	34.69	Apr-88	14.00
II Valencia	Carrizo citrange	10 x 25	174.24	5,415	31.08	Apr-88	14.00
TOTAL				23,872	119.20		
Ruby Red Grapefruit							
II Ruby Red	Carrizo citrange	10 x 25	174.24	11,666	66.95	Apr-88	14.00
IB Ruby Red	Carrizo citrange	10 x 25	174.24	18,429	105.77	Apr-91	9.00
IV Ruby Red	Carrizo citrange	10 x 25	174.24	17,684	101.49	Apr-91	9.00
TOTAL				47,779	274.21		
TOTAL ALL VARIETIES				71,651	393.41		

REFERENCE NO. 5

Table 1. Florida tangerine production and on-tree values.

Season	Utilization of Production			On-Tree Value					
				Actual			CPI Deflated (1999-00=1)		
	Total	Fresh	Processed	Total	Fresh	Processed	Total	Fresh	Processed
	1,000 boxes			1,000 dollars					
1989-90	1,700	999	701	25,981	24,376	1,605	34,111	32,004	2,107
1990-91	1,950	1,227	723	33,349	31,043	2,306	42,016	39,111	2,905
1991-92	2,600	1,965	635	46,797	44,409	2,388	57,236	54,316	2,921
1992-93	2,800	2,065	735	38,503	37,790	713	45,723	44,877	847
1993-94	4,100	2,985	1,115	40,303	39,701	602	46,666	45,969	697
1994-95	3,550	2,662	888	42,539	41,793	746	47,898	47,058	840
1995-96	4,500	3,144	1,356	56,646	53,920	2,726	61,952	58,971	2,981
1996-97	6,300	3,757	2,543	50,343	47,902	2,441	53,824	51,214	2,610
1997-98	5,200	3,428	1,772	44,126	42,850	1,276	46,454	45,110	1,343
1998-99	4,950	3,570	1,380	60,908	55,871	5,037	62,735	57,547	5,188
1999-00e	7,000	4,395	2,605	54,400	55,200	-800	54,400	55,200	-800

Source: Trends in Florida Fresh Tangerine Shipments and Prices, and Clementine and Tangerine Imports. Economic and Market Research Department, Florida Department of Citrus, September 20, 2000.