

802.2(g)

APR 22 11 00 AM '96  
April 22, 1996

**VIA FEDERAL EXPRESS**

Ms. Nancy Ovuka  
Premerger Notification Office  
Bureau of Competition, Room 303  
Federal Trade Commission  
Washington, D.C. 20580

Re: [REDACTED] / Acquisition of [REDACTED]

Dear Ms. Ovuka:

As I discussed with you this morning, we represent [REDACTED] a Delaware corporation, in connection with a proposed acquisition of a corporation known as [REDACTED]. This letter is provided to you to confirm the substance of our telephone conversation of this morning that the acquisition by [REDACTED] of certain fruit packing facilities owned by [REDACTED] will qualify for the exemption from the Hart-Scott-Rodino Premerger Notification Filing Requirements provided by Section 802.2(g) of the new regulations governing premerger notifications.

Background.

[REDACTED] currently owns or controls approximately 40,600 acres, with its largest property totaling approximately 31,800 acres at [REDACTED]. The Company has developed 1,360 acres of land at [REDACTED] and plans to cultivate an additional 8,000 acres of agricultural land.

[REDACTED] is engaged in negotiations to acquire all of the outstanding common and preferred stock of [REDACTED] is currently the subject of a bankruptcy proceeding under Chapter 11 of the Federal Bankruptcy Code in the United States Bankruptcy Court for the Central District of [REDACTED] owns approximately 19,000 acres of farm land on which it produces approximately 7.0 million units of [REDACTED] annually. The products farmed by the company include both row crops and permanent crops. The permanent crops consist primarily of [REDACTED]

[REDACTED]

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[REDACTED] The row crops consist primarily of [REDACTED]

Among the assets of [REDACTED] that will be acquired through the corporation, is a

[REDACTED] that is located approximately 15 miles northwest of [REDACTED]

[REDACTED] and known as [REDACTED] is a two story facility located on freeway frontage

[REDACTED] Key features of the facility include:

An automated stonefruit (peaches, plums, etc.) packing line

A manual stonefruit packing line

Product precooling rooms

Product cold storage facilities

Six fumigation machines

Two fixed and two portable grape pallet squeezing and netting machines

A shipping dock

The activities that take place at the [REDACTED] facility primarily involve sorting, cleaning and packing of fruit. Stonefruit are harvested from the fields in large bins that are used to transport the fruit to the packing facility. At the facility, the bins are dumped onto moving conveyers where the fruit is cleaned and sorted by size, either manually or by machine sorting processes. The sorted fruit is placed in boxes, unitized onto shipping pallets and placed in refrigeration facilities until shipment.

[REDACTED] are placed in boxes in the fields, so that when it is brought to the packing facilities, it is fumigated, placed on pallets and cooled, pending shipping.

Over 95% of the packing activities that take place at the [REDACTED] facility are performed for produce harvested from [REDACTED] property.

The acquisition will occur after April, 29, 1996, the effective date for the recently published premerger notification, reporting and waiting period regulations under 16 C.F.R. Parts 801 and 802.

#### Applicable Law.

Section 802.2(g) of the new regulations exempts acquisitions of agricultural property, assets incidental to the ownership of the property and associated assets integral to the agricultural business activities conducted on the property. The exemption states that associated agricultural assets are assets integral to the agricultural business activities conducted on the property. It also states that associated agricultural assets generally do not include processing facilities such as processing and packing facilities.

[REDACTED]

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However, based on the foregoing facts, you have indicated that the [REDACTED] packing facility would be deemed to be an asset that is integral to [REDACTED] agricultural business activities conducted on its property and therefore would qualify for the exemption provided under Section 802.2(g) of the new regulations. As you noted, any assets that are not covered by this exemption would be separately subject to the notification requirements.

Very truly yours,

[REDACTED]

[REDACTED]