

## Summary of the Application

*Applicant:* Western Fruit Exporters, L.L.C. ("WFE"), 105 South 18th Street, Suite # 205, Yakima, Washington 98901, Contact: Donald K. Franklin, Attorney, Telephone: (206) 777-7421.

*Application No.:* 03-00006.

*Date Deemed Submitted:* September 8, 2003.

WFE is a Limited Liability Company formed under the laws of the State of Washington. Members (in addition to applicant): Eola Cherry Company, Inc., Gervais, OR; Diana Fruit Co., Inc., Santa Clara, CA; Johnson Foods Co., Inc., Sunnyside, WA; and Oregon Cherry Growers, Inc., Salem, OR.

WFE seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

## I. Export Trade

### 1. Products

Brine sweet cherries in any stage of processing and finished maraschino cherry products in any stage of packaging.

### 2. Services

Inspection, quality control, marketing and promotional services.

### 3. Technology Rights

Proprietary rights to all technology associated with Products or Services, including, but not limited to: Patents, trademarks, service marks, trade names, copyrights, neighboring (related) rights, trade secrets, know-how, and sui generis forms of protection for databases and computer programs.

### 4. Export Trade Facilitation Services (as they relate to the Export of Products, Services and Technology Rights)

All export trade-related facilitation services, including, but not limited to: Consulting and trade strategy; sales and marketing; export brokerage; foreign marketing research; foreign market development; overseas advertising and promotion; product research and design, based on foreign buyer and consumer preferences; communication and processing of export orders; inspection and quality control; transportation; freight forwarding and trade documentation; insurance; billing of foreign buyers; collection (letters of credit and other financial instruments); provision of overseas sales and distribution facilities and overseas sales staff, legal, accounting and tax assistance; management information systems development and application; assistance and administration related to participation in government export assistance programs.

## II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

## III. Export Trade Activities and Methods of Operation

In connection with the promotion and sale of Members' Products, Services, and/or Technology Rights into the Export Markets, WFE and/or one or more of Members may:

1. Design and execute foreign marketing strategies for Export Markets;
2. Prepare joint bids, establish export prices for Members' Products and Services, and establish terms of sale in Export Markets in connection with potential or actual bona fide opportunities;
3. Grant sales and distribution rights for the Products, whether or not exclusive, into designated Export Markets to foreign agents or importers ("exclusive" meaning that WFE and Member may agree not to sell the Products into the designated Export Markets through any other foreign distributor, and that the foreign distributor may agree to represent only WFE and/or Member in the Export Markets and none of its competitors);
4. Design, develop and market generic corporate labels for use in Export Markets;
5. Engage in joint promotional activities directly targeted at developing Export Markets, such as: arranging trade shows and marketing trips; providing advertising services; providing brochures and industry newsletters; providing product, service, and industry information; conducting international market and product research; and procuring, international marketing, advertising, and promotional services;
6. Share the cost of joint promotional activities among the Members;
7. Conduct product and packaging research and development exclusively for export in order to meet foreign regulatory requirements, foreign buyer specifications, and foreign consumer preferences;
8. Negotiate and enter into agreements with governments and other foreign persons regarding non-tariff trade barriers in Export Markets such as packaging requirements, and providing specialized packing operations and other quality control procedures to be followed by WFE and Member in the

export of Products into the Export Markets;

9. Assist each other in maintaining the quality standards necessary to be successful in Export Markets;

10. Provide Export Trade Facilitation Services with respect to Products, Services and Technology (including such items as commodity fumigation, refrigeration and storage techniques, and other quality control procedures to be followed in the export of Products in the Export Markets);

11. Advise and cooperate with agencies of the United States Government in establishing procedures regulating the export of the Members' Products, Services and/or Technology Rights in the Export Markets;

12. Negotiate and enter into purchase agreements with buyers in Export Markets regarding export prices, quantities, type and quality of Products, time periods, and the terms and conditions of sale;

13. Broker or take title to Products intended for Export Markets;

14. Purchase Products from non-Member to fulfill specific sales obligations, provided that WFE and/or Member shall make such purchases only on a transaction-by-transaction basis and when the Members are unable to supply, in a timely manner, the requisite Products at a price competitive under the circumstances;

15. Solicit non-Member producers to become Members;

16. Communicate and process export orders;

17. Procure, negotiate, contract, and administer transportation services for Products in the course of export, including overseas freight transportation, inland freight transportation from the packing house to the U.S. port of embarkment, leasing of transportation equipment and facilities, storing and warehousing, stevedoring, wharfage and handling, insurance, and freight forwarder services;

18. Arrange for trade documentation and services, customs clearance, financial instruments, and foreign exchange;

19. Arrange financing through private financial entities, government financial assistance programs and other arrangements;

20. Negotiate freight rate contracts with individual carriers and carrier conferences, either directly or indirectly through shippers associations and/or freight forwarders;

21. Bill and collect monies from foreign buyers; and arrange for or provide accounting, tax, legal and consulting services in relation to Export