

Commodity Futures Trading Commission
CEA CASES

NAME: P. J. TAGGERES COMPANY, CHEF-REDDY FOODS, PETER J. TAGGARES, KENNETH L. RAMM, IDAHO POTATO PACKERS CORP., IDAHO POTATO PACKERS OF IDAHO, INC., ROBERT H. ABEND, HAROLD ABEND, SAN JACINTO PACKING CO., AGRI-EMPIRE, INC., JAMES MINOR, UNIVERSAL LAND-SNAKE RIVER, EDWARD SPIEGEL, J. R. SIMPLOT COMPANY, SIMPLOT EASTERN IDAHO PRODUCE, INC., J. R. SIMPLOT, DECIDED, WITH RESPECT TO J. R. SIMPLOT COMPANY, SIMPLOT EASTERN IDAHO PRODUCE, INC., AND J. R. SIMPLOT, JANUARY 10, 1973

CITATION: 32 Agric. Dec. 10

DOCKET NUMBER: 200

DATE: JANUARY 10, 1973

DOCUMENT TYPE: DECISION AND ORDER

(No. 14,937)

In re P. J. TAGGERES COMPANY, a corporation, CHEF-REDDY FOODS, a corporation, PETER J. TAGGARES, an individual, KENNETH L. RAMM, an individual, IDAHO POTATO PACKERS CORP., a corporation, IDAHO POTATO PACKERS OF IDAHO, INC. a corporation, ROBERT H. ABEND, an individual, HAROLD ABEND, an individual, SAN JACINTO PACKING CO., a proprietorship, AGRI-EMPIRE, INC., a corporation, JAMES MINOR, an individual, UNIVERSAL LAND-SNAKE RIVER, a partnership, EDWARD SPIEGEL, an individual, J. R. SIMPLOT COMPANY, a corporation, SIMPLOT EASTERN IDAHO PRODUCE, INC., a corporation, J. R. SIMPLOT, an individual. CEA Docket No. 200. Decided, with respect to *J. R. Simplot Company, Simplot Eastern Idaho Produce, Inc., and J. R. Simplot*, January 10, 1973.

Manipulation of market prices -- Denial of trading privileges

The joint stipulation of respondents J. R. Simplot Company, Simplot Eastern Idaho Produce, Inc., and J. R. Simplot has been accepted; these three respondents have consented to the issuance of the order herein, and said respondents are denied trading privileges for a period of 90 days.

Gilbert A. Horn, for complainant.

L. E. Haight, Boise, Idaho, for respondents J. R. Simplot Company Simplot Idaho Produce, Inc., and J. R. Simplot.

Decision by Donald A. Campbell, Judicial Officer.

DECISION AND ORDER

PRELIMINARY STATEMENT

This is an administrative proceeding under the Commodity Exchange Act (7 U.S.C. § 1 et seq.), instituted by a complaint and notice of hearing. The complaint charges that the respondents attempted to manipulate the prices of potato futures on the Chicago Mercantile Exchange, in violation of §§ 6 (b), 6(c) and 9 of the Act (7 U.S.C. §§ 9, 13b and 13).

No hearing has been held with respect to this proceeding. Respondents J. R. Simplot Company, Simplot Eastern Idaho Produce, Inc., and J. R. Simplot have filed a joint amended stipulation under § 0.4(b) of the rules of practice (17 CFR § 0.4(b)), in which (1) they admit the facts hereinafter set forth in findings of fact one through five, (2) they admit, for the purposes of this proceeding and for such purposes only, the facts hereinafter set forth in

finding of fact six, (3) they state that nothing in such stipulation shall be deemed to constitute an admission that the Commodity Exchange Act or regulations thereunder have been violated by them, and (4) they waive hearing on the charges, and consent to the entry of the order contained herein.

FINDINGS OF FACT

1. Respondent J. R. Simplot Company is a corporation organized under the laws of the State of Nevada, with a principal office and place of business at Boise, Idaho; and respondent Simplot Eastern Idaho Produce, Inc., is a corporation organized under the laws of the State of Idaho, with its principal office and place of business at Blackfoot, Idaho. The said J. R. Simplot Company is now and was at all times material to this complaint engaging in the potato growing, processing, and shipping business. Simplot Eastern Idaho Produce, Inc., its wholly-owned subsidiary, is engaged solely in the shipping of fresh potatoes. At all such times, respondent J. R. Simplot, whose business address is 805 Idaho Street, Boise, Idaho, was a stockholder and president of the said corporations; traded in potato futures on the Chicago Mercantile Exchange in the name of the said Simplot Eastern Idaho Produce, Inc.; and directed, controlled, and was responsible for the said corporations' transactions herein involved.

2. The Chicago Mercantile Exchange is now and has been at all times material to the complaint a board of trade duly designated as a contract market under the Commodity Exchange Act.

3. The futures transactions referred to in the complaint relate to the May 1971 potato future on the Chicago Mercantile Exchange. Trading in such future commenced on May 11, 1970, and continued until its termination on May 10, 1971. A potato futures contract on the Exchange is a contract for 50,000 pounds of Idaho Russet Burbank potatoes.

4. At all times material to the complaint, respondent J. R. Simplot, trading in the manner specified in paragraph 1 hereof, sold May 1971 Idaho potato futures contracts on the Chicago Mercantile Exchange and obtained, held and controlled a "short" position in such future.

5. Respondent J. R. Simplot sold in transactions on the Chicago Mercantile Exchange over a period of time beginning on or about March 22, 1971, and continuing until on or about April 30, 1971, numerous contracts of the May 1971 Idaho Potato future for the account of respondent Simplot Eastern Idaho Produce, Inc., and established, maintained and kept open in increasing quantities over a period of time from on or about March 22, 1971, through the expiration of trading on or about May 4, 1971, a "short" position in such future which advanced to 260 open contracts by on or about April 30, 1971, and which remained at such level through the close of trading on or about May 4, 1971.

6. Beginning on or about May 5, 1971, and continuing until on or about May 7, 1971, respondent J. R. Simplot increased the "short" position of the respondent Simplot Eastern Idaho Produce, Inc., to approximately 783 open contracts by selling in transactions on the Exchange approximately 523 contracts of such future. Thereafter, and through the expiration of trading on May 10, 1971, respondent J. R. Simplot maintained and kept open the respondent Simplot Eastern Idaho Produce, Inc.'s "short" position in the May 1971 Idaho potato future of approximately 783 open contracts.

CONCLUSIONS

Section 0.4(b) of the rules of practice under the Commodity Exchange Act (17 CFR § 0.4(b)) provides as follows:

(b) *Consent Order*. At any time after the issuance of the complaint and prior to the hearing in any proceeding, the

Secretary, in his discretion, may allow the respondent to consent to an order. In so consenting, the respondent must submit, for filing in the record, a

stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction and agrees that an order may be entered against him. Upon a record composed of the complaint and the stipulation or agreement consenting to the order, the Secretary may enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearings.

The facts admitted by respondents J. R. Simplot Company, Simplot Eastern Idaho Produce, Inc., and J. R. Simplot and set forth in the findings of fact are sufficient to subject them to the jurisdiction of the Secretary of Agriculture under the provisions of the above section.

The complainant has filed a recommendation which recites that it has carefully considered the stipulation and the terms of the proposed order. It is the view of the complainant that the proposed sanctions would be adequate, and that the prompt entry of such an order without further proceedings would constitute a satisfactory disposition of this case as to respondents J. R. Simplot Company, Simplot Eastern Idaho Produce, Inc., and J. R. Simplot, serve the public interest, and effectuate the purposes of the Commodity Exchange Act. The complainant therefore recommends that the stipulation and waiver be accepted and that the proposed order be issued, terminating this proceeding as to respondents J. R. Simplot Company, Simplot Eastern Idaho Produce, Inc., and J. R. Simplot. It is so concluded.

ORDER

Effective immediately, respondents J. R. Simplot Company, Simplot Eastern Idaho Produce, Inc., and J. R. Simplot shall cease and desist from manipulating or attempting to manipulate the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market.

Effective on the 30th day after the date of this order, (1) the said respondents are prohibited from trading on or subject to the rules of any contract market for a period of 90 days, and (2) all contract markets shall refuse all trading privileges to the said respondents during this period; such prohibition and refusal to

apply to all trading done and all positions held by the said respondents, or any of them, directly or indirectly.

A copy of this decision and order shall be served upon each of the parties and upon each contract market.

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