Deterioration (PSD) requirements of 42 U.S.C 7470, *et. seq.*, and the regulations promulgated thereunder. Pursuant to the Consent Decree, defendant has agreed to pay a civil penalty of $90,000, to cease the plant process which was the source of the violation, and not to recommence that process except in compliance with the Clean Air Act.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Mundet-Hermetitite, Inc., DOJ Ref.* #90–5–2–1–1949.

The proposed consent decree may be examined at the office of the United States Attorney, 105 Franklin Rd. SW, Suite 1, Roanoke, VA 24011; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $3.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–6048 Filed 3–10–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Partial Consent Decree for Claims Under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy notice is hereby given that on February 10, 1995, a proposed Partial Consent Decree in *United States* v. *Smuggler-Durant Mining Corporation, et al.*, Civil Action No. 89–C–1802, was lodged with the United States District Court for the District of Colorado. The Complaint in this case was brought under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. § 9601 *et seq.*, against several parties who are owners or operators of facilities at which hazardous substances are being released into the environment, or who owned or operated facilities at a time when hazardous substances were disposed of there. The United States' Complaint sought recovery of costs incurred and to be incurred by the United States in connection with the clean up of hazardous substances at the Smuggler Mountain Superfund Site (''Site'') in and adjacent to the City of Aspen, Colorado.

The proposed partial Consent Decree involves the MAXXAM, Inc. and Top of Aspen, Inc. (''MAXXAM''). This decree settles claims brought by the United States against MAXXAM under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and provides the MAXXAM a covenant not to sue for past and future response costs or response actions under Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), and Section 7003 of RCRA, 42 U.S.C. § 6973 as well as a limited covenant for natural resource damages on Operable Unit 1 of the Site. In return, MAXXAM will reimburse the United States $1,700,000,00 for response costs incurred in connection with the Site. Finally, the decree resolves potential counterclaims by MAXXAM against the United States for any activities conducted on-site by any instrumentality of the United States.

The Department of Justice will receive for a period of thirty (30) days from the date of entry of this publication comments relating to the proposed Partial Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States v. Smuggler-Durant Mining Corporation, et al.*, DOJ Ref. No. 90–11–2–174.

The proposed Consent Decree may be examined at the Region VIII Office of the Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC 20005, 202–624–0892. Copies of the proposed Consent Decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of *$8.25* (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–6049 Filed 3–10–95; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Proposed Termination of Final Judgment; Bardahl Manufacturing Corporation, et al.

Notice is hereby given that defendant Bardahl Manufacturing Corporation (''Bardahl'') has filed with the United States District Court for the Western District of Washington a motion to terminate the Final Judgment in *United States* v. *Bardahl Manufacturing Corporation, et al.*, Civil No. 83–71; and that the Department of Justice (''Department''), in a stipulation also filed with the Court, has consented to termination of the Final Judgment but has reserved the right for at least seventy (70) days after the publication of the notice to withdraw its consent. The complaint in this case (filed June 30, 1969) alleged that Bardahl and other companies affiliated with Bardahl had conspired to fix uniform prices and allocate exclusive geographical sales territories for the sale of motor oils, greases and lubricants manufactured by Bardahl and sold by Bardahl distributors in the United States.

The Final Judgment (entered August 11, 1969) enjoined the defendants from selling any finished Bardahl products to any person upon any conditions which restrict the persons to whom, the prices at which, or the territory within which such products may be sold.

The Department has filed with the court a memorandum setting forth the reasons why the Government believes that termination of the Final Judgment would serve the public interest. Copies of the Complaint and Final Judgment, Bardahl's motion papers, the stipulation containing the Governemnt's consent, the Government's memorandum, and all further papers filed with the court in connection with this motion will be available for inspection at Room 10–437, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20001, and at the Office of the Clerk of the United States District Court for the Western District of Washington, 1010 Fifth Avenue, Room 215, Seattle, Washington 98104. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Government. Such comments must be received by the Division within sixty (60) days and will be filed with the court by the Government. Comments should be addressed to Christoper S.

Crook, Acting Chief, San Francisco Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102 (Telephone: (415) 556–6300).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 95–6050 Filed 3–10–95; 8:45 am]

BILLING CODE 4410–01–M

United States, State of Florida and State of Maryland, v. Browning Ferris Industries, Inc.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(c)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States, State of Florida and State of Maryland* v. *Browning Ferris Industries, Inc.,* Civil Action No. 94–2588, filed in the United States District Court for the District of Columbia, together with the United States' responses to those comments.

Copies of the comments and responses are available for inspection and copying in room 3233 of the Antitrust Division, U.S. Department of Justice, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. and for inspection and copying at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, 333 Constitution Avenue, N.W., Washington, D.C.

Constance K. Robinson,

Director of Operations.

Comments on the Proposed Final Judgment and the United States' Responses to the Comments

United States of America, State of Florida, by and through its Attorney General Robert A. Butterworth, and State of Maryland, by and through its Attorney General J. Joseph Curran, Jr., Plaintiffs vs. Browning-Ferris Industries, Inc., Defendant. Civil Action No.: 1:94CV02588.

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), the United States hereby files the attached comments on the proposed Final Judgment in the above-captioned civil antitrust proceeding, together with the United States' responses to those comments.

This action was commenced on December 1, 1994, when the United States, the State of Maryland (''Maryland'') and the State of Florida (''Florida'') filed a Complaint that the acquisition by Browning-Ferris Industries, Inc. (''BFI'') of the ordinary voting shares of Attwoods plc (''Attwoods'') violated Section 7 of the Clayton Act because the effects of the acquisition may be substantially to lessen competition in interstate trade and commerce for small containerized hauling services in the following relevant markets: Baltimore, MD; Broward County, FL; Chester County, PA; Clay County, FL; Duval County, FL; Polk County, FL; the Southern Eastern Shore of Maryland; Sussex County, DE; and Western Maryland.

At the same time the United States, Maryland, and Florida filed a proposed Final Judgment, a Stipulation signed by the parties stipulating to entry of the Final Judgment, and a Hold Separate Stipulation and Order. Shortly thereafter the United States filed a Competitive Impact Statement. The proposed Final Judgment requires BFI to divest certain Attwoods' assets in Chester County, PA; Clay County, FL; Duval County, FL; the Southern Eastern Shore of Maryland; Sussex County, DE; and Western Maryland. It also requires BFI to offer new, less restrictive contracts to its small containerized hauling customers in Broward County, FL; Polk County, FL; and the greater Baltimore, MD metropolitan area. The Hold Separate Stipulation and Order requires BFI to preserve, hold, and continue to operate the assets that may be divested under the Final Judgment as separate ongoing businesses. The Stipulation provides that the proposed Final Judgment may be entered by the Court after the completion of the procedures required by the APPA.

The APPA requires a sixty-day period for the submission of public comments on the proposed Final Judgment, 15 U.S.C. 16(b). In this case, the sixty-day comment period commenced on December 15, 1994 and terminated on February 13, 1995. During this period, the United States received two comments on the proposed Final Judgment. The United States considered the comments and sent written responses to the commenting parties.[1]

Pursuant to 15 U.S.C. 16(e), the proposed Final Judgment can be entered only after the Court determines that the Judgment is in the public interest. The focus of this determination is whether the relief provided by the proposal Final Judgment is adequate to remedy the antitrust violation alleged in the Complaint.[2]

Both comments expressed concern about the contracts used by BFI with its small containerized hauling customers. One of the comments expressed concern that the contract currently in use by BFI in the greater Baltimore metropolitan area is one-sided. The other comment stated that the new contracts required to be used by BFI in Broward County, FL under the proposed Final Judgment were being used by BFI as marketing tools to the disadvantage of small haulers. That comment suggested that BFI should be required to cancel all its existing contracts immediately and implement the new contracts all at one time. The comment went on to suggest that the combination of BFI and Attwoods' municipal franchises would permit BFI to subsidize cheaper prices in the small containerized hauling service market to the detriment of other haulers.

[1] The Comments and Responses are attached as Exhibit A.

[2] United States v. Bechtel Corp., 1979–1 Trade Cases (CCH) ¶ 62,430 (N.D. Cal. 1979), *aff'd,* 648 F.2d 660, 665 (9th Cir. 1981), *cert. denied,* 454 U.S. 1083 (1982).

The United States explained in its responses to these comments that, in the greater Baltimore area, the concern about BFI's use of restrictive customer contracts has been expressly rectified by the proposed Final Judgment. BFI is required to use less restrictive customer contracts that do not have the effects complained of in the comment. The Department also explained that, in Broward County, FL, BFI was being required to phase in the new contracts rapidly—within one year. The proposed Final Judgment requires that the new contracts be made available immediately to all new customers and all customers signing new contracts. A one year period to convert all other customers seemed reasonable in order to avoid unnecessary confusion and the probable higher cost of immediately converting all customers to the new contract. Finally, the Department explained that using franchised business, in which municipal entities solicit bids and award contracts to serve consumers within their boundaries, to subsidize the small containerized hauling market would likely occur only if bidding for franchises is not competitive. The Department was not persuaded, given the number of actual and potential bidders for municipal franchises in the Florida markets, that the acquisition raised any concerns in the market for bidding on municipal franchises.

After careful consideration of the comments, the United States continues to believe that, for the reasons stated in the responses to the comments and in the Competitive Impact Statement, the proposed Final Judgment would be adequate to remedy the risks to competition presented by the proposed acquisition and, therefore, the proposed Final Judgment is in the public interest.

After the comments and responses have been published in the Federal Register, pursuant to 15 U.S.C. 16(d) of the APPA, the United States will move this Court for entry of the proposed Final Judgment.

Dated: March 2, 1995.

Respectfully submitted,

Nancy H. McMillen,

Peter H. Goldberg,

Eva Almirantearena,

Attorneys, Antitrust Division, Department of Justice.

Eastern Trans-Waste of Maryland, Inc.

December 15, 1994.

Anthony V. Nanni,

Chief, Litigation I Section, Antitrust Division, U.S. Dept. of Justice, 1401 H Street NW., Suite 4000, Washington, DC 20530

Re: BFI's Settlement

Dear Mr. Nanni: As I am sure you are well aware the matter of EWI's takeover by BFI is of grave concern. I am an owner of a small women-owned refuse business and I am writing this letter to voice my awareness regarding various unethical procedures being practiced by big business. Small business concerns are being gobbled up by big business. This development should alert all interested in economic fairplay, because these unfair and illegal practices can lead to