abstract: Primary: State, Local or Tribal Governments. Other: None.

The information collected is used to determine grantee progress on its COPS Hiring grant. Completion of such report is a condition of all COPS hiring programs. The COPS Office achieves the goals hiring of the crime bill by offering the Universal Hiring grant program. It is designed to assist with the implementation of community policing by providing funding for up to $75,000 of the salaries and benefits of newly hired officers for a three year period. Throughout the grant period, law enforcement agencies are expected to plan, in good faith, to retain the funded positions through full local funding.

As the COPS Office's grants mature, it is important that it monitor the progress of this good faith planning for retention. Thus, the COPS Office has expanded its Department Annual Report by adding a question specific to retention planning. The remainder of the information collected under the previously approved [1] Department Annual Report will remain the same: questions aimed at collecting the minimum information necessary to monitor the progress of law enforcement agencies as successfully hiring their COPS funded officers and implementing community policing as they indicated they would in their grant application. With the anticipated OMB approval of the revised Department Annual Report, the COPS Office will retire its predecessor from dissemination to its grantees.

The information collected in the Department Annual Report will continue to be collected once per year so long as the law enforcement agency receives COPS program hiring monies. The Instruments will be mailed to the grantees with instructions and a sample completed Progress Report Document.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 10,000 responses; 1.3 hours per response. The information will be collected one time per year from each respondent.

(6) An estimate of the total public burden (in hours) associated with the collection: 38,000 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

[1] OMB Approval Number 1103–0030.

Dated: September 16, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–25058 Filed 9–19–97; 8:45 am]

BILLING CODE 4410–21–M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment and Competitive Impact Statement; United States v. Mid-America Dairymen, Inc., Southern Foods Group LP, and Milk Products LLC

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Northern District of Texas in *United States* v. *Mid-America Dairymen, Inc., Southern Foods Group LP, and Milk Products, LLC,* Civil No. 3:97 CV 2162–P. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b)–(h).

On September 3, 1997, the United States filed a Complaint seeking to enjoin a transaction in which Mid-America Dairymen, Inc. (''Mid-America'') would acquire the voting stock of Borden/Meadow Gold Dairies Holdings, Inc. (''Borden/Meadow Gold''). Mid-America, through its affiliate Southern Food Group LP (''Southern Foods''), and Borden/Meadow Gold are two of the primary, and often the only, bidders to supply milk to school districts in Eastern Texas and Louisiana, and this transaction would have combined them to create a monopoly in many of those school districts. The Complaint alleged that the proposed acquisition would substantially lessen competition in providing milk to school districts in Eastern Texas and Louisiana in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

The proposed Final Judgment orders Mid-America to sell the Texas, Louisiana and New Mexico assets to be acquired from Borden/Meadow Gold and, to the extent it sells them to a purchaser who has already agreed to buy them (Milk Products LLC), to limit the financing that Mid-America had agreed to provide to the purchaser. In the event Mid-America does not sell to that purchaser, it must divest the assets to a purchaser who has the capability to compete effectively in the manufacture, sale and distribution of dairy products in New Mexico, Texas and Louisiana. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

The public is invited to comment within the statutory 60-day comment period. Written comments should be addressed to Roger W. Fones, Chief, Transportation, Energy and Agriculture Section, U.S. Department of Justice, Antitrust Division, 325 Seventh Street, N.W., Suite 500, Washington, D.C. 20530 (telephone: (202) 307–6351). Comments must be received within 60 days. Such comments, and the responses thereto, will be published in the **Federal Register** and filed with the Court.

Copies of the Complaint, Stipulation, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 Seventh Street, N.W., Washington, D.C. 20530 (telephone: (202) 514–2481), and at the office of the Clerk of the United States District Court for the Northern District of Texas, 1100 Commerce Street, Dallas, Texas 75242. Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations, Antitrust Division.

Stipulation and Order

It is stipulated by and between the undersigned parties, through their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the Northern District of Texas.

2. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)–(h)), and without further notice to any party or other proceedings, provided that plaintiff United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. The defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry

of the Final Judgment, or until expiration of time for all appeals of any court ruling declining entry of the proposed Final Judgment and shall, from the date of signing of this Stipulation, comply with all terms and provisions of the proposed Final Judgment thereof as though the same were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

5. In the event plaintiff United States withdraws its consent, as provided in Paragraph 2, above, or if the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the Final Judgment and if the Court has not otherwise ordered continued compliance with the terms and provision of the Final Judgment, then the parities are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

6. Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that they will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

7. The parties request that the Court acknowledge the terms of this Stipulation by entering the Order in this Stipulation and Order.

Respectfully submitted.

For Plaintiff United States of America:

Joel I. Klien,

Assistant Attorney General.

A. Douglas Melamed,

Deputy Assistant Attorney General.

Roger W. Fones,

Chief, DC Bar # 303255.

Donna N. Kooperstein,

Assistant Chief, PA Bar # 26770.

Joan S. Huggler,

DC Bar # 927244.

Michael P. Harmonis,

PA Bar # 17994.

Robert D. Young,

DC Bar # 248260.

Attorneys, Antitrust Division, U.S. Department of Justice, 325 Seventh St. N.W., Washington, D.C., (202) 307–6456, (202) 616–2441.

Dated: September 2, 1997.

For Defendant Mid-America Dairymen, Inc.

W. Todd Miller,

DC Bar # 414930.

Baker & Miller PLLC, Suite 615, 700 Eleventh Street, NW, Washington, D.C. 20001, (202)–637–9499, (202–637–9394 (Facsimile).

Attorneys for Mid-America Dairymen, Inc.

Dated: September 2, 1997.

For Defendant Southern Foods Group LP:

Jerry L. Beane,

TX Bar #01966000.

Strasburger & Price LLP, Suite 4300, 901 Main Street, Dallas, Texas 75202, (214–651–4521), (214)–651–4330 (Facsimile).

Attorneys for Southern Foods Group LP

Dated: September 2, 1997.

For Defendant Milk Products LLC:

Jerry L. Beane,

TX Bar #01966000.

Strasburger & Price LLP, Suite 4300, 901 Main Street, Dallas, Texas 75202, (214–651–4521), (214)–651–4330 (Facsimile).

Attorneys for Milk Products LLC

Dated: September 2, 1997.

Upon Review of this Stipulation by the parties, the Court acknowledges by this Order that the parties have consented to the terms specified in this Stipulation and the entry of the Final Judgment subject to the provisions of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16 (b)–(h)).

So Ordered on this _____ day of _____, 1997.

_____

United States District Court Judge

Final Judgment

Whereas, plaintiff, United States of America (hereinafter ''United States''), having filed its complaint herein on September 3, 1997, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, prompt and certain divestiture is the essence of this agreement to assure that competition is not substantially lessened;

And Whereas, defendants have represented to plaintiff that the divestiture required below and the relief related thereto can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained below:

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties thereto, it is hereby

Ordered, Adjudged and Decreed:

I

Jurisdiction

This Court has jurisdiction of the subject matter of this action and each of the defendants hereto. The complaint states a claim upon which relief may be granted against each defendant under Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

II

Definitions

As used in this final judgment:

A. *Mid-America* means Mid-America Dairymen, Inc., a Kansas corporation with headquarters in Springfield, Missouri, its members, directors, officers, employees, affiliates, joint venture or limited liability company partners, successors or assigns, and any agent or representative thereof.

B. *Southern Foods* means Southern Foods Group LP, a partnership organized under the laws of Delaware with headquarters in Dallas, Texas, its members, directors, officers, employees, affiliates, joint venture or limited liability company partners, successors or assigns, or any agent or representative thereof.

C. *Milk Products* means Milk Products LLC, the limited liability company formed by Allen A. Meyer to receive certain dairy processing assets located in New Mexico, Texas and Louisiana formerly owned by Borden/Meadow Gold Dairies Holdings, Inc., its members, directors, officers, employees, affiliates, joint venture or limited liability company partners, successors or assigns, or any agent or representative thereof.

D. *Divestiture Asserts* or *the Assets* means the Borden/Meadow Gold assets located in New Mexico, Texas and Louisiana that Mid-America will acquire through purchase of the voting stock of Borden/Meadow Gold Dairies Holdings, Inc.

E. *The Marks* means certain trademarks described in a Sublicense Agreement between Southern Foods and Milk Products, which include Borden, Elsie and other trademarks granted to Mid-America and/or Southern Foods by license from Borden, Inc. and BDH Two, Inc.

F. *Divest* or *Divestiture* means the complete relinquishing of all rights and equity and other interests in the Divestiture Assets, provided that if Mid-America divests the Assets to Milk Products, it may extend to Milk

Products the Loan defined herein. Divestiture also means to grant an exclusive, royalty-free sublicense to use the Marks in Texas, Louisiana and New Mexico and a non-exclusive, royalty-free sublicense to use the Marks in Alabama, Arkansas, Florida, Mississippi, Tennessee, and Mexico.

G. *Milk Products Loan or the Loan* means the approximately $40 million advanced by Mid-America or Mid-Am Capital LLC for the purchase by Milk Products of the assets located in New Mexico, Texas and Louisiana held by Borden/Meadow Gold Dairies Holdings, Inc., and for which Milk Products has executed Note Purchase Agreements and other related debt instruments setting forth the terms of the loan arrangements.

III

Applicability

A. The provisions of this final judgment shall apply to the defendants, Mid-America Dairymen, Southern Foods Group, and Milk Products, their respective successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this final judgment by personal service or otherwise.

B. Each defendant shall provide written notice to the plaintiff no later than 10 days subsequent to the effective date of any action whereby the defendant (1) changes its name or corporate or organizational structure; (2) liquidates or otherwise ceases operation; or (3) declares bankruptcy. Such notice shall include a full explanation of the action that invokes this provision and shall include full documentation required to be filed with any judicial, administrative or other official entity in connection with that action.

IV

Divestiture

A. Defendant Mid-America is hereby ordered and directed in accordance with the terms of this Final Judgment, within 65 days of the filing of this Final Judgment, or five days after notice of entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets and the Marks to a purchaser acceptable to the United States. Plaintiff may, in its sole discretion, extend the time period for an additional period of time, not to exceed 90 calendar days in total.

B. Unless the United States otherwise consents in writing, the divestiture of the Assets and the Marks pursuant to Paragraph IV (A), or by a trustee appointed pursuant to Paragraph V of this Final Judgment, shall include all of the Assets and the Marks to be divested to a purchaser in such a way as to satisfy the United States in its sole discretion that the Assets and the Marks can and will be used by the purchaser as part of a viable, ongoing business engaged in the manufacture, sale and distribution of dairy products in New Mexico, Texas and Louisiana. The divestiture, whether pursuant to Paragraph IV or V of this Final Judgment shall be made to a purchaser for whom it is demonstrated to the sole satisfaction of the United States that (1) the purchaser has the capability and intent of competing effectively in the manufacture, sale and distribution of dairy products in New Mexico, Texas and Louisiana; (2) the purchaser has or soon will have the managerial, operational, and financial capability to compete effectively in the manufacture, sale and distribution of dairy products in New Mexico, Texas and Louisiana; and (3) none of the terms of any agreement between the purchaser and Mid-America give Mid-America the ability unreasonably to raise the purchaser's cost, to lower the purchaser's efficiency, or otherwise to interfere in the ability of the purchaser to compete effectively in the manufacture, sale and distribution of dairy products in New Mexico, Texas and Louisiana.

C. The Divestiture of the Assets and the Marks to Milk Products, if accomplished in accordance with this Final Judgment within twenty-four hours following the acquisition by Mid-America of the voting stock of Borden/Meadow Gold, is acceptable to the United States and no further approval of plaintiff pursuant to this Paragraph IV or Paragraph IX is required.

V

Apppointment of Trustee

A. In the event that Mid-America has not divested the Divestiture Assets and the Marks within the time specified in Paragraph IV (A) of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States to effect the divestiture of the Divestiture Assets and the Marks.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to accomplish the divestiture of the Assets and the Marks. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Paragraphs V and IX of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Paragraph V (C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of Mid-America any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to the United States, and shall have such other powers as this Court shall deem appropriate. Mid-America shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to plaintiffs and the trustee within ten (10) calendar days after the trustee has provided the notice required under Paragraph IX of this Final Judgment.

C. The trustee shall serve at the cost and expense of Mid-America, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Mid-America and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and the Marks and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Mid-America shall use its best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of defendants, and defendants shall develop financial or other information relevant to such assets as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Mid-America shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, that the required divestiture has not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the plaintiffs.

VI

Divestiture of the Loan

If Mid-America sells the Divestiture Assets to Milk Products,

A. Mid-America shall reduce its holdings in the Milk Products Loan as follows:

(1) to $30 million or less by December 31, 1997;

(2) to $13 million or less by September 1, 1998; and

(3) to zero by September 1, 1999.

B. Mid-America may sell off any portion of the Milk Products Loan in order to meet the requirements of Paragraph VI(A), provided that no third party purchaser of all or part of the Loan shall (1) be affiliated in any way with Mid-America or (2) be a person engaged in the production, sale or delivery of milk in the sales area of Milk Products.

C. In connection with sale of the Milk Products Loan pursuant to Paragraph VI(A), Mid-America shall not provide a guarantee to any third party purchaser, provided, however, that Mid-America may, in its discretion, after it has reduced its holdings in the Loan to not more than $13 million, guarantee some or all of the remaining $13 million. Any guarantee by Mid-America must be without recourse against Milk Products for any sums paid by Mid-America by virtue of the guarantee.

D. At no time while Mid-America holds all or part of the Milk Products Loan shall Mid-America (1) require that Milk Products seek approval from, or give notice to, Mid-America before incurring any indebtedness, or (2) place any restriction on Milk Products' ability to conduct its operations as it sees fit.

VII

Acquisitions and Access to Information

During any period in which Mid-America retains an ownership interest in Southern Foods,

A. No member, officer, employee or agent of Southern Foods or Mid-America (other than members, officers, employees, or agents of Land-O-Sun Dairy LLC, who are not otherwise affiliated with Mid-America or Southern Foods) shall be employed by or serve as an officer, director, member, or agent of Milk Products.

B. No member, officer, employee or agent of Milk Products shall be employed by or serve as an officer, director, member or agent of Mid-America or Southern Foods (other than members, officers, employees or agents of Land-O-Sun Dairy LLC, who are otherwise not affiliated with Mid-America or Southern Foods).

C. Neither Mid-America nor Southern Foods shall merge or consolidate with, acquire membership in or securities or assets of, or provide loans or other financing to (except for trade credit extended in the ordinary course of business) Milk Products, without having first obtained the written approval of the United States. Any request for such approval shall be directed to the Antitrust Division, U.S. Department of Justice, Transportation, Energy and Agriculture Section, with a copy to the Director of Operations.

D. Mid-America, Southern Foods, and Milk Products shall not disclose to each other, directly or indirectly, any competitively sensitive information including, but not limited to, information concerning present or future prices or other terms or conditions of sale including discounts, slotting allowances, bids or price lists, costs, capacity, distribution, marketing plans or territories, supply, sales forecasts, customer relationships (including the identity of actual or potential customers or quantities sold to any particular customer).

E. Notwithstanding Paragraph VII(D), Mid-America may, during any period in which it is a creditor of Milk Products, obtain and retain copies of the following information, solely to protect its interests as a creditor:

(1) Copies of Milk Products' federal income tax returns for each year; and

(2) quarterly financial statements, including a balance sheet, a statement of profits and losses, and a statement of cash flow, aggregated for the entire company. Nothing in this provision shall limit the information that a purchaser of any portion of the Milk Products Loan may request and obtain, subject to reasonable commercial credit practices.

F. Nothing in this Final Judgment shall prohibit the orderly transfer of business records, reports or accounting materials from Borden/Meadow Gold to Southern Foods or to Milk Products, which shall be accomplished within 120 days of the closing of the transaction.

VIII

Sublicense Agreement

A. Southern Foods, as sublicensor of the Marks, shall promptly notify Borden, Inc. and BDH Two, Inc., the owners of the Marks, of any unauthorized use of the Marks when such use comes to the attention of Southern Foods from any source, including Milk Products, and Southern Foods shall take all actions as may be required by Borden, Inc. and BDH Two, Inc. regarding the unauthorized use of the Marks.

B. Neither Mid-American nor Southern Foods shall assert or claim that on any sublicensee of the Marks' sale of any equity interest in the sublicensee or any change in control or ownership in the sublicensee will affect or diminish the sublicensee's rights in or use of the Marks.

C. Mid-American and Southern Foods shall ensure that the rights that any sublicensee obtains in the Marks are equal to all the rights and privileges that Southern Foods obtains for itself in its license of the Marks from Borden, Inc. and BDH Two, Inc.

IX

Notification

Within two (2) business days following execution of a definition agreement, contingent upon compliance with the terms of this Final Judgment, any proposed divestiture pursuant to Paragraph IV, V or VI of this Final Judgment, Mid-America or the trustee, whoever is responsible for the divestiture, shall notify plaintiff of the proposed divestiture and provide documentation that the conditions set forth in Paragraphs IV through VII have been met.

If the trustee is responsible, it shall similarly notify Mid-America. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each

person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the Assets, together with full details of same. Within fifteen (15) calendar days of receipt by plaintiff of such notice, plaintiff may request from Mid-America, the proposed purchaser, any other third party, or the trustee if applicable, additional information concerning the proposed divestiture and the proposed purchaser. Mid-America and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after plaintiff has been provided the additional information requested from Mid-America, the proposed purchaser, any third party, and the trustee, whichever is later, the United States shall provide written notice to Mid-America and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice to Mid-America and the trustee that it does not object, then the divestiture may be consummated, subject only to Mid-America's limited right to object to the sale under Paragraph V(B) of this Final Judgment. Absent written notice that the United States does not object to the proposed purchaser or upon objection by the United States, a divestiture proposed under Section IV shall not be consummated. Upon objection by the United States, or by Mid-America in accordance with Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

X

Affidavits

A. Within twenty (20) calendar days of the closing of any transaction in which Mid-America directly or indirectly acquires all or any part of the assets or capital stock of Borden/Meadow Gold, and every thirty (30) calendar days thereafter until the divestiture of the Divestiture Assets and the Loan has been completed pursuant to Paragraphs IV, V and VI of this Final Judgment, Mid-America shall deliver to plaintiff an affidavit as to the fact and manner of compliance with Paragraph IV, V and VI of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, at any time after the period covered by the last report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire or was contacted or made an inquiry about acquiring any interest in the Divestiture Assets or in the Loan, and shall describe in detail each contact with any such person during that period.

B. Mid-America shall preserve all records of all efforts made to divest the Loan and the Assets. This provision shall not apply to divestiture of the Assets if they are sold pursuant to Paragraph IV(C) herein.

XI

Compliance Inspection

Only for the purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the plaintiff, including consultants and other persons retained by the United States, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

(1) Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to enforcement of this Final Judgment; and

(2) Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division made to defendants' principal offices, defendants shall submit such written reports, under oath if requested, with respect to enforcement of this Final Judgment.

C. No information or documents obtained by the means provided in Paragraph XI of this Final Judgment shall be divulged by a representative of the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the plaintiff is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) calendar days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XII

Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII

Termination

Unless this Court grants an extension, this Final Judgment will expire on the tenth anniversary of the date of its entry.

XIV

Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____

_____

United States District Judge

Certificate of Service

I hereby certify that a copy of the foregoing has been served upon the attorneys for Mid-America Dairymen, Inc., Southern Foods Group LP, and Milk Products LLC by placing a copy in the U.S. Mail, directed to each of the above named parties at the addresses given below, this 3rd day of September 1997.

Mid-America Dairymen, Inc., c/o W. Todd Miller, Baker & Miller PLLC, Suite 615, 700 Eleventh Street, NW., Washington, DC 20001.

Southern Foods Group LP, c/o Jerry L. Beane, Strasburger & Price LLP, Suite 4300, 901 Main Street, Dallas, Texas 75202.

Milk Products LLC, c/o Jerry L. Beane, Strasburger & Price LLP, Suite 4300, 901 Main Street, Dallas, Texas 75202.

Joan S. Huggler,

DC Bar #927244, Attorney, Antitrust Division, U.S. Department of Justice, 325 Seventh St. NW., Suite 500, Washington, DC 20530, (202) 307–6456, (202) 661–2441 (Facsimile).

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. § 16 (b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

The United States filed a civil antitrust Complaint on September 3, 1997, alleging that the proposed acquisition by Mid-America Dairymen, Inc. (''Mid-America'') of the voting stock of Borden/Meadow Gold Dairies Holdings, Inc. (''Borden/Meadow Gold'') would violate Section 7 of the Clayton Act, 15 U.S.C. § 18, by combining the two main suppliers of milk to schools in Eastern Texas and Louisiana.

The Complaint alleges that the acquisition of Borden/Meadow Gold's fluid milk processing plants in Eastern Texas and Louisiana by Mid-America, owner of a substantial interest in Southern Foods Group LP (''Southern Foods''), would substantially lessen competition in the production, sale and distribution of milk to schools in the area where Borden/Meadow Gold and Southern Foods each has operations and competes for school milk business.

The Complaint also alleges that the parties' proposed remedy—divestiture of the overlapping facilities formerly held by Borden/Meadow Gold to a newly-formed company called Milk Products LLC that would be financed in large part by a loan to Milk Products from Mid-America affiliate Mid-Am Capital LLC—would not adequately replace the competition now provided by Borden/Meadow Gold in Eastern Texas and Louisiana.

At the same time the suit was filed, a proposed settlement was filed that would permit Mid-America to complete the acquisition of Borden/Meadow Gold, yet preserve competition in the areas where the transaction would raise significant competitive concerns.

The proposed Final Judgment orders Mid-America to divest the Borden/Meadow Gold assets in Texas, Louisiana and New Mexico to a purchaser acceptable to the United States. The Final Judgment would allow divestiture to Milk Products if the loan to Milk Products by Mid-Am Capital is appropriately conditioned and sold off in its entirety within two years. If Mid-America divests the overlapping assets to Milk Products within 24 hours of its acquisition of the voting stock of Borden/Meadow Gold in accordance with the Final Judgment, no further approvals would be needed.

If Mid-America does not divest to Milk Products, the assets must be divested to another purchaser within 65 days of the closing of the acquisition of the Borden/Meadow Gold voting stock (''the stock transaction''), which period may be extended by the United States to no more than 90 days. If the divestiture still has not occurred after 90 days, the United States may ask the Court to appoint a trustee who shall assume the responsibility for selling those assets.

The Final Judgment sets out the conditions for reduction of the loan amount advanced to Milk Products by Mid-Am Capital. The loan amount may be reduced in three segments, to reach zero by September 1, 1999. The Final Judgment also imposes other restrictions on Mid-America's ability to affect the competitive performance of Milk Products because of its creditor relationship through Mid-Am Capital.

Finally, the Final Judgment contains provisions that limit communications and other interaction among Mid-America, Southern Foods, and Milk Products, with the purpose of minimizing or eliminating the opportunity or ability of any of them to affect competitive outcomes in school milk bid markets in Eastern Texas and Louisiana.

The United States, Southern Foods and Milk Products have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify or enforce the provisions of the Final Judgment and to prevent violations of it.

II

Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Mid-America is the nation's largest cooperative of diary farmers, with some 18,000 members in 30 states. In addition to marketing the milk of its members, Mid-America has extensive ownership and other interests in dairy manufacturing and processing operations and in the sale of products and services related to dairying, such as farm equipment and cleaning supplies. Mid-America had revenues of more than $4 billion in 1996.

Southern Foods in one of Mid-America's joint venture affiliates. It is organized as a partnership whose owners are Mid-America (50%) and, until recently, two individual owners of the remaining 50% share of the partnership. (One of these individuals is Allen A. Meyer, who will sell his interest in Southern Foods to Pete Schenkel, the other 25% owner, as a precondition to the divestiture of the Borden/Meadow Gold assets in Eastern Texas and Louisiana into Milk Products, of which Meyer will be the sole owner.) From its plants in Eastern Texas and Louisiana, Southern Foods sells a variety of dairy products including fluid milk for schools. In 1996, Southern Foods had revenues of more than $550 million. Southern Foods operates eight fluid milk processing plants—five in Eastern Texas and three in Louisiana. Southern Foods sells under a number of brand names including Oak Farms, Golden Royal, Midwest Farms, Sunnydell, Texas Bluebonnet, Schepps, Dairyland, Gooddy, Brown's Velvet, Medallion, Foremost, Barbe, and Guth.

Milk Products is a newly-formed limited liability company that will purchase the Borden/Meadow Gold facilities whose marketing areas in Eastern Texas and Louisiana overlap with the marketing area of Southern Foods in these states.

On May 22, 1997 Mid-America and Borden/Meadow Gold entered into an agreement whereby Mid-America would acquire all of the voting stock of Borden/Meadow Gold for $435 million. Mid-America would thereby acquire 25 processing plants and related facilities in all states. On May 28, 1997, Mid-America agreed that it would sell the to-be-acquired assets in Texas, Louisiana and New Mexico to Milk Products for $65 million and that the purchase would be financed in part by a loan from Mid-Am Capital of at least $35 million. The Loan amount was later increased to $40 million.

B. Fluid Milk Sold to Schools

Fluid milk is pasteurized milk sold for human consumption in liquid form. In addition to supermarkets and grocery stores, other major buyers of fluid milk are institutional customers such as schools, hospitals, military installations and prisons. Whereas supermarkets and other large grocery stores buy most of their milk packaged in gallon, half gallon an quart size containers, other customers, particularly schools, purchase most, if not all, of their milk in half pint containers, which is a

convenient size for storage and for serving to children in school cafeterias. Virtually all fluid milk processing plants package milk in gallons and half gallons, but not all of them produce half pints. Therefore, school districts that are looking for suppliers have a smaller universe of potential of potential sellers than do most retail outlets, warehouses and other customers.

Most schools participate in the federally-funded National School Lunch Program and School and Breakfast Program. In order to receive reimbursement for meals served at lower than cost to eligible children in these programs, schools must offer eight ounces of milk as part of each meal they serve. It is thus important for many school districts, which often operate on limited budgets, to have a steady and reliable source of milk. There are no substitutes for milk that schools can use still received such reimbursement. Therefore, even a substantial rise in the price of milk to schools would not cause a school district to turn to another product.

Schools also have special delivery and service needs that other buyers of fluid milk often do not have. Because their storage space and equipment such as coolers are often limited, many schools require frequent deliveries, sometimes as many as five days a week. Many schools specify that the milk be delivered at particular hours during the day. These factors, plus the seasonal nature of their purchases, generally dictate the methods to be used by their milk suppliers in servicing them. Most often, school milk is delivered on small (14 feet to 18 feet) route trucks that also carry milk and other dairy products for non-school customers such as small grocery or convenience stores, restaurants, or hospitals.

School districts that require such service can obtain supplies only from a milk processor that has both the ability and the desire to package milk in half pint containers and also has an established small route truck distribution system in or near the school district. As a general rule, only such a processor can economically serve those districts.

School districts purchase their milk on the basis of competitive bids that are requested annually. Contracts are usually awarded for a one-year term. Each bid cycle may produce a new set of bidders for that business in that time period.

C. Competition Between Southern Foods and Borden/Meadow Gold

Southern Foods and Borden/Meadow Gold are the primary, and often the only, actual or potential suppliers of fluid milk to schools in Eastern Texas and Louisiana. These firms also compete with other processors for sales to supermarkets and grocery stores. These other processors do not compete for school milk, however, because they lack half-pint packaging equipment, small delivery truck routes, or both. Both Southern Foods and Borden/Meadow Gold also compete with others for the private label milk business of large wholesalers and retailers.

In the school milk markets, however, Southern Foods and Borden/Meadow Gold are often the only bidders for a particular school district. This is true both in large metropolitan areas such as Dallas/Fort Worth, Waco, and San Antonio and in many other less populated areas of Eastern Texas. In the Houston area, and around Bryan and College Station, Southern Foods and Borden/Meadow Gold sometimes compete with one other milk processor. In most of Louisiana, the only third bidder to school districts is a small dairy processing firm located in Baton Rouge whose ability to serve schools is limited to an area about 50 miles around Baton Rouge.

The Complaint alleges that, were Mid-America to retain the Borden/Meadow Gold assets it will own as a result of the stock transaction, there would be a significant loss of competition for school milk business in Eastern Texas and Louisiana. This is because Mid-America would replace an independent firm (Borden/Meadow Gold) that is the most significant school milk competitor of Southern Foods, a Mid-America affiliate.

The Complaint also alleges that the parties' proposed remedy—divestiture of the Texas, Louisiana and New Mexico assets to Milk Products with a loan to Milk Products by a Mid-America affiliate, Mid-Am Capital—is inadequate to cure the anticompetitive effects of the stock transaction. Mid-America has a substantial ownership interest in Southern Foods. The size and terms of the loan as originally proposed, together with Mid-America's financial interest in Southern Foods, could give Mid-America's financial interest in Southern Foods, could give Mid-America both the incentive and the ability to inhibit competition between Southern Foods and Milk Products.

The Complaint alleges that school milk markets in many areas of the country have been subject to collusive behavior by dairy firms and that where collusion in these markets has been detected it has been shown to persist for many years. Thus, according to the Complaint, new entry into the provision of milk to schools in Eastern Texas and Louisiana by other processors is unlikely to counteract the anticompetitive effects of the stock transaction, even with the remedy as proposed by the parties.

III

Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve competition in the sale of fluid milk to schools in Eastern Texas and Louisiana. The Judgment reflects the intention of Mid-America to sell the Borden/Meadow Gold assets in Texas, Louisiana and New Mexico to Milk Products promptly following the closing of the stock transaction. Should that divestiture not occur, the proposed Final Judgment requires divestiture of these assets within 65 days of the stock transaction of the stock transaction or five days after notice of the entry of this Final Judgment by the Court, whichever is later, to a purchaser acceptable to the United States. That period could be extended by the United States to 90 days. Should Mid-America be unable to divest the assets to an acceptable purchaser within the appointed time, the Final Judgment requires that the United States request the Court to appoint a trustee, who will assume the responsibility of selling the assets to a purchaser acceptable to the United States. Under the terms of the proposed trusteeship, the trustee will have the incentive to quickly conclude a sale of the assets. After the appointment, the trustee will file monthly reports with the parties and the Court regarding the efforts made to sell the assets. If divestiture has not occurred within six months, the trustee and the parties will make recommendations to the Court, which shall enter such orders as are appropriate.

The Final Judgment also places restrictions on the size and terms of the loan that Mid-America or its affiliate, Mid-Am Capital, will make to Milk Products in connection with divestiture of the assets to Milk Products. Financing for the purchase of the assets by Milk Products will come from two sources. One is a secured revolving loan provided by Bank of America. The other is a $40 million loan provided by Mid-Am Capital that is unsecured and not convertible to equity. The Final Judgment prohibits Mid-America and Mid-Am Capital from requiring that Milk Products obtain their approval before incurring any indebtedness and from interfering in any way in the operation of Milk Products' business because of the creditor relationship.

The proposed Final Judgment also places limits on the length of time that Mid-American or Mid-Am Capital may hold the loan and restricts the amount of the loan that either may hold at any particular time. The Final Judgment requires Mid-America or Mid-Am Capital to terminate its interest in the loan by selling it to a third party purchaser or purchasers if necessary by no later than September 1, 1999, and to reduce its interest in the loan before that at least by amounts sufficient to meet two interim goals. The Final Judgment recognizes that sale of the last portion of the loan (not to exceed $13 million) may be facilitated if Mid-American were to guarantee that part of the loan. Nevertheless, the Judgment prohibits any guarantee that would allow Mid-American to recover from Milk Products any monies paid in its role as guarantor.

The Final Judgment contains additional provisions that are designed to protect against anticompetitive effects that might occur because of Mid-America's relationships with Southern Foods and Milk Products. The Final Judgment prohibits Milk Products. The Final Judgment prohibits Milk Products, Southern Foods and Mid-America from exchanging competitively sensitive information among themselves and thereby dampening competition between Milk Products and Southern Foods in Eastern Texas and Louisiana.

The Final Judgment also enjoins Southern Foods and Mid-America, in any period while Mid-America has an interest in Southern Foods, from sharing employees, members, officers, or agents with Milk Porducts. Such intermingling of personnel could easily inhibit vigorous competition between Milk Products and Southern Foods. Because the owner of Milk Products will retain his ownership interest in Land-O-Sun Dairy LLC, a Mid-American joint venture based in Tennessee which does not operate in Texas or Louisiana, the prohibition against sharing officers, employees or agents does not apply to Land-O-Sun's employees, members, officers or agents.

Finally, the Final Judgment contains provisions that are designed to ensure that Milk Products or any purchaser of the divested assets will have full rights in and use of certain trademarks of Borden, Inc. and BDH Two, Inc. (''Borden''). Borden will grant to Mid-American and/or Southern Foods an exclusive, royalty-free license to use the Borden, Elsie and other trademarks in Texas, Louisiana, and New Mexico and a non-exclusive license to use them in Alabama, Arkansas, Florida, Mississippi, Tennessee, and Mexico. The Final Judgment provides that Southern Foods, in term, will sublicense the Borden and Elsie marks to Milk Products and that Mid-American and Southern Foods will ensure that Milk Product's (or another purchaser's) rights in the marks will be equal to all the rights and privileges that Southern Foods obtains for itself in its license of the marks from Borden. Mid-American and Southern also are enjoined from asserting or claiming that a sale of an equity interest in Milk Products will affect or diminish Milk Products' rights in the marks.

IV

Remedies Available To Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16 (a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendants.

V

Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides that there be a period of at least sixty (60) days prior to the effective date of a proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. All comments will be given due consideration by the United States, which remains free to withdraw its consent to the Final Judgement at any time prior to entry. The United States will respond to the comments and file both the comments and the responses with the court.

Any person believing that the proposed Final Judgment should be modified may submit written comments to: Roger W. Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, United States Department of Justice, Suite 500, 325 Seventh Street, N.W., Washington, D. C. 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI

Alternative to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its Complaint in this case. Such litigation would involve all of the issues in this case, including the proposed remedy of the parties. In the view of the Department of Justice, a full trial on the merits is not warranted in this case because divestiture of the assets and loan, under the terms of the Final Judgment, as well as the additional relief relating to possible spillover effects stemming from the relationships of Mid-America, Southern Foods and Milk Products, would preserve the competition adversely affected by the acquisition of the Borden/Meadow Gold voting stock by Mid-America. The proposed Final Judgment is designed to achieve fully adequate relief, while avoiding the expense and uncertainty of a full trial on the merits.

VII

Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the court *may* consider—

> (1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;
>
> (2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e). As the United States Court of Appeals for the D.C. Circuit has held, this statute permits a court to consider, among other things, the relationship between the remedy

secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft,* 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

In conducting this inquiry, ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.[1] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988), *quoting United States* v *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir.), *cert. denied,* 454 U.S. 1083 (1981); *see also Microsoft,* 56 F.3d at 1460–62. Precedent requires that

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is *within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[2]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree mut be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted).'' [3]

VII

Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: September 5, 1997.

Respectfully submitted.

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Certificate of Service

I hereby certify that I have caused a copy of the foregoing Competitive Impact Statement to be served on counsel for defendants in this matter in the manner set forth below:

By first class mail, postage prepaid:

W. Todd Miller, Esquire, Baker & Miller PLLC, Suite 615, 700 Eleventh Street, N.W., Washington, D.C. 20530

(Counsel for Mid-America Dairymen, Inc.)

Jerry L. Beane, Esquire, Strasburger & Price LLP, Suite 4300, 901 Main Street, Dallas, Texas 75202

(Counsel for Southern Foods Group LP and Milk Products LLC)

Dated: September 5, 1997.

Joan S. Huggler,

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[1] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.,* 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9, *reprinted in* (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[2] *United States* v. *Bechtel,* 648 F.2d at 666 (citations omitted) (emphasis added); *see United States* v. *BNS, Inc.,* 858 F2d at 463; *United States* v. *National Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.,* 406 F. Supp. at 716; *see also Microsoft,* 56 F.3d at 1461 (whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.' '') (citations omitted).

[3] *United States* v. *American Tel. and Tel. Co.;* 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom, Maryalnd* v. *United States,* 460 U.S. 1001 (1983), *quotating United States* v. *Gillette Co., supra,* 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619, 622 (W.D. Key. 1985).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: NASA will conduct an open forum meeting to solicit questions, views and opinions of interested persons or firms concerning NASA's procurement policies and practices. The purpose of the meeting is to have an open discussion between NASA's Associate Administrator for Procurement, industry, and the public.

DATES: November 12, 1997, from 2:00 p.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Florida Solar Energy Center Auditorium located at 1679 Clearlake Road, Cocoa, Florida.

FOR FURTHER INFORMATION CONTACT: Joy Colston, NASA Kennedy Space Center, Code OP, Kenndey Space Center, FL 32899, (407) 867-7212.

SUPPLEMENTARY INFORMATION:

Format

There will be a presentation by the Associate Administrator for Procurement, followed by a question and answer period. Procurement issues will be discussed including NASA policies used in the award and administration of contracts.

Admittance

Doors will open at 1:30 p.m. Admittance will be on a first-come, first-served basis. Auditorium capacity is limited to approximately 120 persons; therefore, a maximum of two representatives per firm is requested. No reservations will be accepted. Questions for the open forum should be presented at the meeting and should not be submitted in advance. Position papers are not being solicited.

Initiatives

In addition to the general discussion mentioned above, NASA invites comments or questions relative to its