approval of consent decrees'' serves as a public means to counterbalance the ''great influence and economic power'' available to antitrust violators. Sen. Rept. No. 93–298, at 5 (1973).

The House Report echoes this concern:

Given the high rate of settlement in public antitrust cases, it is imperative that the integrity of and public confidence in procedures relating to settlements via consent decree procedures be assured. Your Committee agrees with S. Rept. No. 93–298, 'The bill seeks to encourage additional comment and response by providing more adequate notice to the public,' (p. 5) but stresses that effective and meaningful public comment is also a goal.'' H.R. Rept. No. 93–1463, at 6–7.

It is not possible for the public to play the role envisioned by the statute unless adequate information is presented in the CIS, with the result that the Court cannot fulfill its own role of determining whether the proposed decree will serve the public interest. 15 U.S.C. 16(e). With respect to the corn syrup and HFCS markets, the CIS fails to disclose essential facts necessary to an understanding of either the competitive problem or the selected remedy. With respect to the ethanol market, the CIS is totally silent, despite the apparent fact that ADM is the leading producer and MCP is the second leading producer. We recognize that the Department may have been aware of all the relevant facts and may have carried out a perfectly designed and perfectly executed investigation, reaching a perfectly understandable compromise. Nevertheless, neither the public nor the Court can evaluate whether the proposed decree is in the public interest because there is too little disclosure for an evaluation to be made.

The Department has traditionally been reluctant to say a great deal in its CIS disclosures, presumably because it risks disclosure of confidential information, adds to the staff's workload, and opens up the door to additional inquiry. We urge the Department to look to the example of the Federal Trade Commission in its handling of the recent cruise case, in which it permitted two possible mergers to go forward, without condition, but (without the requirements of a Tunney Act hanging over its head) provided a detailed explanation of its reasoning, accompanied by a minority statement.[1] After the Enron and related scandals, we operate in a new age where transparency of government regulation is of even greater importance. ADM is a company that has had more than its share of scandal and illegal activity.[2] In order to sustain the public's confidence in the antitrust settlement process, we urge the Department and the Court to give the Tunney Act the benefit of any doubt by revising the CIS so as to meet Professor Carstensen's objections.

Sincerely.

Albert A. Foer,
*President.*
433 Hager Drive, Gibson City, IL, 60936.
(217) 784–4425.

Send by Express Mail.

Mr. Roger W. Fones,
*Chief, Transportation, Energy & Agriculture, Division, Antitrust, Justice Department, Suite 500, Washington, DC 20530.*

Gentlemen (& women); I am thankful for this opportunity to offer my brief comment to you on the proposed ADM–MCP purchase transaction.

I will try not to duplicate the obvious facts and data that you no doubt have indicating the anticompetitive effect this transaction could have on:

(1) The market price the farmer receives (and *growth of same*)

(2) The ethanol and

(3) Sweetener industry market prices.

I will instead attempt to offer some of the not so obvious that you may not have but are never the less, just as important.

I am hopeful that you can provide evidence that this public comment opportunity *does have meaning* instead of [being 'cut & dried' or a 'done deal' that ADM has under control], the well grounded perception that most have expressed to me. This perception plus (1) the extended corn harvest in SW MN, (2) most stakeholders being unaware of this public comment forum and (3) many of us who are (aware of), being poor writers and cramped for time means relatively few comments from those who would otherwise do so, which is unfortunate. So I hope you can bear with us and receive what we (I) intended to convey on this very important issue. To provide *all* of the important details is beyond the scope of this comment writing, but please if u do want more detail, I'd be most honored to respond with the full impact & detail that you need (if I know it not redundant) to make your most important decisions and conveyance of same!

I have personal knowledge that many of the new coops that have formed & now producing ethanol did so with the knowledge that MCP was a positive role model. This transaction not only erases that positive role model but becomes a *very* negative factor. (MCP was the largest by a factor of 5X, the oldest & relied on by others in many respects) If you need I'd love to give details showing the 'chilling' net impact on new producer equity formation.

The superior third party acquisition proposal (p.pg 48) that was in the MCP office on August 31, could have & indeed perhaps should have been handled differently *i.e.,* at least let the board or voting members know of its existence. (The vote would've been different)

The implementation of that proposal offers to

(1) Retain the more competitive environment for corn markets, ethanol, sweeteners, etc.

(2) Retain each members freedom to sell or not to sell.

(3) ''The new CP MCP development opportunity.

(4) The producer (corngrower) processor opportunity, that was conceived in the mid '70's.

(5) Be less likely to be challenged, changed, *delayed* or terminated on grounds posed by the Antitrust Division of the US Justice Department (p, pg 43).

I'd sure love to give details on this if u need some.

Then I have many questions regarding how the information was A. Presented to the members at the 'information' meetings. In consideration our limited time at this point & hoping most of these questions have been submitted by others I'll bring up only one question I had as follows:

I asked specific questions about the probability of regulatory delays or indeed a Department of Justice complaint challenging the merger. The answer I receive was—*No way. ADM has that under control.* If the Department of Justice does anything it will be a mere formality of no consequence! Vote for this transaction & you'll have your money 'very soon' after the vote on Sept. 5. Clarification of 'very soon' was given as before the end of the month (September). Each of the questions (answers) were (superbly) handled in a similar tone.

And B. How the vote was handled.

(i) Was it true that the company (MCP) wouldn't allow one of the board members who voted No to look at the ballot talley?

Ref. Dean Buesing

(2) Was it true that one of the no votes cast early at the Marshall office couldn't be found when the member asked for it back before the final tally was to be tabulated?

Same referense.

Thanks,

C. LeRoy Deichman, CPAg.,
*433 Hager Drive, Gibson City, IL 60936, (217) 784–4425.*

P.S.

If every component of this transaction was legal (I'm not saying it wasn't)—then I'd like to meet with the people who make the laws.—To see that this injustice never happens again!

I wish my appraisal of the growth that could've occurred would be asked for by the decision makers.

I repeat, since I don't know which of what else I had to say would be redundant & other reasons listed herin I defer for now pending your request for more. (Including any resume in this field)

I *out of time!*

Thanking you again for this opportunity.

[FR Doc. 03–9290 Filed 4–15–03; 8:45 am]
**BILLING CODE 4410–11–M**

[1] *See http://www.ftc.gov/os/caselist/021004.htm.* Also *see* Warren Grimes, Norman Hawker, John Kwoka, Robert Lande, and Diana Moss, ''The FTC's Cruise Lines Decisions: Three Cheers for Transparency, *http//www.antitrustinstitute.org/recent2/217.cfm.*

[2] *See, e.g.,* James B. Lieber, Rats in the Grain, the Dirty Tricks and Trials of Archer Daniels Midland (200) and Kurt Eichenwald, The Informant (2000).

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Mico-Optio-Electro-Mechnical Systems

Notice is hereby given that, on January 31, 2003, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act)'',

Micro-Opto-Electro-Mechanical Systems (MOEMS) has filed written notifications siumulaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Corning Intellisense, Boston, MA has been added as a party to this venture. Also, Standard MEMS, Hauppauge, NY has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MOEMS intends to file additional written notification disclosing all changes in membership.

On December 29, 1998, MOEMS filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published in a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 19, 1999 (64 FR 13603).

The last notification was filed with the Department of August 3, 1999. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 21, 2000 (65 FR 15177).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 03–9292 Filed 4–15–03; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antritrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Water Heater Industry Joint Research and Development Consortium

Notice is hereby given that, on March 3, 2003, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Water Heater Industry Joint Research and Development Consortium (''the Consortium'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status and an extension of its term. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances Specifically, the membership of GSW Water Heating Company, a Division of GSW Inc., Fergus, Ontario, CANADA, has been transferred to GSW Water products Inc., a new wholly owned subsidiary of GSW Inc, Fergus, Ontario, CANADA. Also, the term of the Consortium has been changed as of February 20, 2003, from a term of eight years beginning February 27, 1995, to a period of nine years beginning February 27, 1995.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Consortium intends to file additional written notification disclosing all changes in membership.

On February 28, 1995, the Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 27, 1995 (60 FR 15789).

The last notification was filed with the Department on March 4, 2002. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 4, 2002 (67 FR 16125).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 03–9291 Filed 4–15–03; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

**[Application No. D–11146, *et al.*]**

### Proposed Exemptions; ACR Homes, Inc. Employee Stock Ownership Plan and Trust (the ESOP)

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Notice of proposed exemptions.

**SUMMARY:** This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

#### Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

**ADDRESSES:** All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: ''*moffittb@pwba.dol.gov*'', or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

#### Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

**SUPPLEMENTARY INFORMATION:** The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed