

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
)
) *Plaintiff,*)
) CASE NUMBER: 1:02CV01768 (JDB)
) v.)
)
) ARCHER-DANIELS-MIDLAND)
) COMPANY, and)
)
) MINNESOTA CORN PROCESSORS, LLC,)
)
) *Defendants.*)
)

**MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION FOR ENTRY OF FINAL JUDGMENT**

Plaintiff files this memorandum in support of its motion for entry of the Final Judgment, filed by the parties on September 6, 2002. The Court should enter this Judgment because it serves the public interest.

The parties have complied with all provisions of the Antitrust Procedures and Penalties Act (the "Tunney Act"), 15 U.S.C. § 16(b)-(h) as follows:

(1) The Complaint and proposed Final Judgment were filed on September 6, 2002;

(2) The Competitive Impact Statement ("CIS"), which recites the nature and purpose of the this proceeding, describes the practices and events giving rise to the violations of the antitrust laws alleged in the Complaint, and explains the proposed Final Judgment, was filed on September 13, 2002;

(3) Defendants filed statements pursuant to 15 U.S.C. § 16(g) on September 17 and 18, and October 2, 2002;

(4) A summary of the terms of the proposed Final Judgment and CIS was published in the *Washington Post*, a newspaper of general circulation in the District of Columbia, for seven days during the period September 23, 2002 through September 29, 2002;

(5) The Complaint, proposed Final Judgment, and CIS were published in the *Federal Register* on November 7, 2002, 67 Fed. Reg. 67,864 (2002);

(6) The sixty-day public comment period specified in 15 U.S.C. § 16(b) commenced on November 7, 2002, and terminated on January 7, 2003;

(7) Comments of members of the public and the Response of the United States to Public Comments on the Proposed Final Judgment were filed on April 1, 2003; and

(8) Comments of members of the public and the Response of the United States to Public Comments on the Proposed Final Judgment were published in the *Federal Register* on April 16, 2003, 68 Fed. Reg. 18,674 (2003).¹

The Court may enter the Final Judgment after it determines that such Judgment serves the public interest. 15 U.S.C.

¹The Department also posted the Complaint, proposed Final Judgment, the CIS, and the comments of members of the public and the Response of the United States to Public Comments on the Proposed Final Judgment on its Website, <http://www.usdoj.gov/atr/cases/indx358.htm>.

§ 16(e). Plaintiff's CIS and Response to Comments demonstrate that the Final Judgment satisfies the Tunney Act's public interest standard (discussed at pages 7-9 of the CIS and at page 5 of Plaintiff's Response to Comments).

Dated this 23rd day of April, 2003.

Respectfully submitted,

_____/s/_____

Michael P. Harmonis

Jessica K. Delbaum
Attorneys
United States Department of Justice
Antitrust Division
325 7th street, NW, Suite 500
Washington, D.C. 20530
(202) 307-6371

CERTIFICATE OF SERVICE

I hereby certify that I am an attorney for the United States in this action, and have caused copies of the foregoing MOTION BY THE UNITED STATES FOR ENTRY OF FINAL JUDGMENT, together with the accompanying supporting memorandum of points and authorities and final judgment to be served by first-class mail, postage prepaid, or by more expeditious means on:

David James Smith
Vice President, Secretary & General Counsel
Archer-Daniels-Midland Company
4666 Faries Parkway
Decatur, IL 62526
Telephone: (217) 424-6183
Facsimile: (217) 424-6196
Counsel for Defendant Archer-Daniels-Midland Company

Paul B. Hewitt
Akin Gump Strauss Hauer & Feld L.L.P.
1333 New Hampshire Avenue, Northwest
Washington, DC 20036
Telephone: (202) 887-4000
Facsimile: (202) 887-4288
Counsel for Defendant Archer-Daniels-Midland Company

Neil W. Imus
Vinson & Elkins L.L.P.
1455 Pennsylvania Avenue, Northwest
Washington, DC 20004
Telephone: (202) 639-6675
Facsimile: (202) 879-8875
Counsel for Defendant Minnesota Corn Processors, LLC

Dated this 23rd day of April, 2003.

“/s/”
Jessica K. Delbaum
Attorney, Antitrust Division
U.S. Department of Justice
325 Seventh St., NW, Suite 500
Washington, D.C. 20530
Telephone: (202) 616-1636
Facsimile: (202) 616-2441