

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|--------------------------|---|----------------------|
| UNITED STATES OF AMERICA |) | Filed: [8/8/97] |
| |) | |
| v. |) | Criminal No.: 97-133 |
| |) | |
| NUTRITE CORP., |) | |
| |) | (15 U.S.C. § 1) |
| Defendant. |) | |
| |) | Judge Lee |

INFORMATION

The United States of America, acting through its attorneys, charges:

1. NUTRITE CORP. is made a defendant.

DESCRIPTION OF THE OFFENSE

2. During May 1992, the exact dates being unknown to the United States, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to restrain competition in the pricing of ammonium nitrate. The combination and conspiracy unreasonably restrained interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

3. The combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendant and co-conspirators to increase the price of ammonium nitrate.

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and co-conspirators did the following things, among others:

- (a) discussed and exchanged information about their future pricing plans; and

(b) discussed and exchanged information about the future pricing plans of other competitors.

DEFENDANT AND CO-CONSPIRATORS

5. The defendant is a Delaware corporation headquartered in Allentown, Pennsylvania. It is engaged in the distribution and sale of ammonium nitrate in western Pennsylvania and elsewhere.

6. Various persons and firms, not made defendants in this Information, participated as co-conspirators in the charged combination and conspiracy, and performed acts and made statements in furtherance of it.

7. Whenever this Information refers to any act, deed or transaction of any corporation, it means that the corporation engaged in the act, deed or transaction by or through its officers, directors, agents, employees or other representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

TRADE AND COMMERCE

8. Ammonium nitrate is a raw material used in the manufacture of certain kinds of explosives, including ANFO (ammonium nitrate combined with fuel oil).

9. During the period covered by this Information, the defendant and co-conspirators sold and distributed ammonium nitrate in Pennsylvania that was manufactured outside of that state. This ammonium nitrate was shipped in a continuous and uninterrupted flow of interstate commerce from their places of manufacture to customers located in Pennsylvania.

10. The activities of the defendant and co-conspirators that are the subject of this Information were within the flow of, and substantially affected, interstate trade and commerce.

JURISDICTION AND VENUE

11. The combination and conspiracy charged in this Information was carried out, in part, within the Western District of Pennsylvania within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

Dated:

_____/s/_____
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