UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff; v. BAROID CORPORATION, BAROID DRILLING FLUIDS, INC., DB STRATABIT (USA) INC., and DRESSER INDUSTRIES, INC.; Defendants.	)	Civil Action No.: 93-2621 (RCL)

REPLY OF THE UNITED STATES TO OPPOSITION OF HALLIBURTON COMPANY TO THE PROPOSAL TO MODIFY FINAL JUDGMENT

On September 18, 2000, Halliburton Company ("Halliburton"), the successor to all of the defendants, filed a memorandum in opposition to the joint motion of the United States and Diamond Products International ("DPI") to modify Paragraph V.F. of the Final Judgment entered in this case on April 12, 1994. Halliburton had earlier filed the only public comment received by the United States regarding the proposed modification, and the United States' response to that comment was filed with this Court on September 6, 2000.

In its opposition to the joint motion, Halliburton elaborates upon one of the arguments it made in its public comment -- its belief that, because Halliburton is opposed to the proposed modification, the Court should apply a more stringent standard than the public interest. In doing so, however,

Halliburton mischaracterizes the United States' position, the state of the law, and the purpose of the Final Judgment in general and the particular provision that is the subject of the proposed modification.

Contrary to Halliburton's claim, the United States is not seeking to "force the defendants to submit to new or changed provisions." The proposed modification would not impose further obligations upon the defendants or take away any benefit that the decree conveyed upon them. To say that the restriction upon DPI's alienation rights in Paragraph V.F. provided protection to the defendants would turn the decree on its head, since the central purpose of the decree was to deprive Dresser, now Halliburton, of ownership and control of the divestiture assets.

The United States' position is that where, as here, the United States has consented to the proposed modification and there is no objection from a party whose interest the provision in question was designed to protect, the appropriate standard for review is the public interest. Such a position is both equitable and consistent with the law in this circuit.

Halliburton claims it has an interest protected by the decree because it "could sustain antitrust injury in an anticompetitive combination of DPI and another competitor."[1] While Halliburton understandably may desire to avoid the possibility of facing a more effective competitor than DPI is presently, that is not an interest this decree or the antitrust laws protect.[2] Thus, Halliburton's position is

---

[1] Halliburton, which is the largest diamond drill bit competitor in the United States, as well as the largest oilfield services company in the world with revenues of almost $15 billion, offers no support for its assertion.

[2] Since the modified Paragraph V.F. would require DPI to provide notice of a transaction between it and Smith, Baker Hughes or Camco, the United States would have the opportunity to

not comparable to AT&T's in United States v. Western Electric, 969 F.2d 1231 (D.C. Cir. 1992), where prevention of discriminatory behavior against AT&T was consistent with the decree's goal of promoting competition.

Halliburton also argues that it is not fair to continue the prohibition on transactions between it and DPI while removing the restriction as to Smith, Baker Hughes, and Camco (Schlumberger). But Halliburton ignores the fact that it was its predecessor's proposed illegal merger with Baroid that led to the case and the decree in the first place. Dresser would have been barred from reacquiring the divestiture assets even if an explicit prohibition had not been included in Paragraph V.F. in the decree.

The United States has concluded that it is no longer in the public interest to place a restriction on DPI's alienation rights beyond the antitrust laws -- a restriction that is greater than those typically imposed on purchasers of divested assets.[3] Halliburton's opposition does not displace the public interest standard. The decree deprived Halliburton of virtually all of its control over the divested assets,

---

determine if the transaction would be anticompetitive and if a court action to enjoin it should be initiated. Halliburton's concern, therefore, is more likely that such a transaction would result in a more effective competitor for its diamond drill bit business. The Supreme Court has held that a desire to avoid competition is not a cognizable antitrust injury. Cargill, Inc. v. Monfort, Inc., 479 U.S. 104, 115 (1986); Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc., 429 U.S. 477, 487-89 (1977).

[3] While there likely have been changes in the diamond drill bit business since the Final Judgment was entered in 1994, the United States does not believe there have been sufficient unanticipated changes in fact of the degree and type that would warrant granting a modification motion if the United States opposed it. Because the United States supports the proposed modification and there is no opposition from a party whose interests are protected by the decree provision at issue, however, the United States does not believe it is necessary for the Court to evaluate changes in the industry in making its public interest determination here.

leaving it with no interest protected by the restriction.[4] Accordingly, the United States asks this Court to reject Halliburton's arguments and order the proposed modification with no further proceedings. Attached for the Court's convenience is another copy of the proposed order.

Dated: September 27, 2000

Respectfully submitted,

"/s/"

Angela L. Hughes
Member of The Florida Bar, #211052

Matthew O. Schad

Attorneys, Antitrust Division
United States Department of Justice
325 7th Street, N.W., Suite 500
Washington, D.C. 20530
Telephone: (202) 307-6410
Facsimile: (202) 307-2784

[4] The decree provided only one exception to its requirement that the defendants give up all control over the divestiture assets: the defendants were allowed to prohibit the transfer by the purchaser of licenses "except in connection with the sale of all or substantially all of Baroid's diamond bit business." Paragraph II.E., page 4 of the Final Judgment. With that one exception, which permitted the defendants to prevent the purchaser from going into the licensing business, the decree removed from the defendants all say in what the purchaser did with the assets.

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of September, 2000, I have caused a copy of the foregoing Reply of the United States to the Opposition by Halliburton Company to the Proposal to Modify Final Judgment to be served on counsel for defendants and other affected companies by first class mail, postage prepared, and by facsimile.

Counsel for Defendant Halliburton Company (Baroid Corporation, Baroid Drilling Fluids, Inc., DP Stratabit (USA) Inc., and Dresser Industries, Inc).:

Ky P. Ewing, Jr., Esquire
Neil Imus, Esquire
Vinson & Elkins
1455 Pennsylvania Avenue, NW
Washington, D.C. 20004-1008
Telephone: (202) 639-6580
Facsimile: (202) 639-6604

Counsel for Diamond Products Int'l.:

Lisa Jose Fales, Esquire
Howrey Simon Arnold & White, LLP
1299 Pennsylvania Avenue, NW
Washington, D.C. 20004
Telephone: (202 383-7022
Facsimile: (202) 383-6610

Counsel for Smith International, Inc.:

Neal S. Sutton, General Counsel
Smith International, Inc.
P.O. Box 60068
Houston, Texas 77208
Telephone: (281) 443-3370
Facsimile: (281) 233-5996

Counsel for Schlumberger Ltd.

James Gunderson, General Counsel
Schlumberger Ltd.
277 Park Avenue
New York, NY 10172
Telephone: (212) 350-9400
Facsimile: (212) 350-9467

Counsel for Baker Hughes, Inc.:

Sean F. X. Boland, Esquire
Howrey Simon Arnold & White, LLP
1299 Pennsylvania Ave., NW
Washington, D.C. 20004
Telephone: (202) 383-7122
Facsimile: (202) 383-6610

"/s/"
Angela L. Hughes
Antitrust Division, U.S. Department of Justice