



Department of Justice

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The Department of Justice today filed a civil antitrust suit that challenges the 1983 acquisition of Terra Aqua, Inc., of Reno, Nevada, by S.p.A. Officine Maccaferri of Bologna, Italy. A proposed consent decree that would settle the suit was filed simultaneously.

The suit and proposed consent decree were filed in U.S. District Court in Baltimore. The decree will become final if approved by the court, following a 60-day waiting period for public comment.

W. Stephen Cannon, Acting Assistant Attorney General in charge of the Antitrust Division, said the suit alleges that the acquisition substantially lessened competition in the United States for the manufacture and sale of gabions.

Gabions are rectangular, wire mesh containers which are filled with hand-size stones and wired together to form large structures that are used in river training, flood control, landscaping, and erosion control. They are used primarily in public works projects.

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Officine Maccaferri, through its subsidiary, River and Sea Gabions (London) Limited, acquired Terra Aqua from Bekaert Steel Wire Corp., of Pittsburgh, Pennsylvania, on February 15, 1983.

River and Sea was named as a defendant in the suit filed today, as was Maccaferri Gabions Manufacturing Company, Inc. (MGMC), also controlled by Officine Maccaferri, which manufactures gabions at its plant in Williamsport, Maryland, and sells them throughout the United States.

MGMC and Bekaert Steel Wire were recently charged by the Department of Justice with a criminal violation of Section 1 of the Sherman Act. On March 6, 1985, MGMC pleaded guilty to a criminal information charging it with conspiring to fix prices and divide the United States gabion market from 1976 until early 1981.

MGMC agreed with the Justice Department to recommend jointly that it be sentenced to a \$500,000 fine. MGMC later paid \$115,340 to the government as civil damages resulting from the conspiracy.

On March 8, 1985, Bekaert Steel Wire and its Belgian parent company, N.V. Bekaert S.A., were indicted for their role in the conspiracy to fix prices and divide the gabion market in the United States. Bekaert Steel Wire and N.V. Bekaert pleaded guilty on October 16, 1985.

Bekaert Steel Wire paid a fine of \$325,000 and N.V. Bekaert paid a \$300,000 fine. Soon afterward, Bekaert Steel Wire paid the government \$112,731 as civil damages resulting from the conspiracy.

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Cannon said that under the proposed consent decree filed today, Officine Maccaferri and River and Sea would be required to sell their interest in Terra Aqua within six months. If they fail to do so, the decree provides that Terra Aqua will be sold by a trustee in a manner that will restore effective competition to the gabion market.

Prior to the acquisition in 1983, Cannon said, MGMC and Terra Aqua were the only two manufacturers of gabions in the United States. As a result of the acquisition, the Herfindahl-Hirschman Index for the gabion market currently approaches 10,000. (The index is a measure of market concentration. The Department of Justice 1984 Merger Guidelines characterize any market with an index above 1,800 as "highly concentrated.")

The proposed consent decree also requires the defendants to maintain and make certain repairs and improvements to Terra Aqua's production equipment prior to divesting the company, Cannon said. In addition, the decree contains other provisions designed to protect Terra Aqua's ability to compete after its divestiture.

"The aim of the consent decree is to ensure that competition is restored to the gabion market in the United States," Cannon said. "The divestiture of Terra Aqua is meant to create an ongoing and viable competitor for that purpose."

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