



Department of Justice

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JUSTICE DEPARTMENT REACHES SETTLEMENT WITH CONNECTICUT FERTILIZER CO. THAT PREVENTS COMPANY FROM CONTINUING COLLUSIVE PRACTICES

WASHINGTON, D.C. -- The Department of Justice reached a settlement today with a Connecticut company, formerly a major fertilizer manufacturer, that will prevent the company from again using collusive practices to restrain competitive bidding on a Tampa, Florida, facility used to store an ingredient that makes fertilizer.

In a lawsuit filed in U.S. District Court in Tampa, the Department's Antitrust Division alleged that the Stamford, Connecticut-based Seminole Fertilizer Corp. entered into a secret agreement with its chief rival on the terms of a bid for an ammonia storage facility in Tampa. Ammonia is a primary raw material for the production of diammonium phosphate fertilizer.

The Department alleged that the agreement had the effect of eliminating Seminole as a viable competing bidder for the facility, thereby restraining trade. Had the agreement not been discovered prior to the sale, the seller would have received an artificially lower price.

"This settlement will foster competition by ensuring that Seminole does not again restrain competition by entering into private bidding agreements that eliminate any competing producer

from the field of potential bidders," said Joel I. Klein, Acting Assistant Attorney General in charge of the Department's Antitrust Division.

Under the settlement, Seminole agreed not to enter into agreements with others illegally setting the price of assets used in the production and distribution of fertilizer. Seminole also agreed not to submit joint bids for fertilizer assets without first notifying the seller of the asset and the person administering the sale of the asset that the bid was jointly proposed.

The Department alleged in its complaint that representatives for Seminole and two of its competitors--Norsk Hydro USA Inc. and Farmland Industries Inc.--met in March 1992 at a hotel in New York to discuss sharing pipeline capacity and the cost of bidding on the Tampa facility.

Two hours before the March 12, 1992, auction took place, Seminole and Norsk Hydro USA agreed that Norsk would receive bid support of up to \$2.5 million from Seminole, if necessary, to defeat a competing bid. In exchange, Norsk agreed to give Seminole increased pipeline capacity if Norsk was the successful bidder. Farmland benefitted from the arrangement because of its partnership with Norsk which intended the Tampa facility to be an asset of Farmland Hydro Ltd. Partnership--a joint venture formed by the two companies in November 1991. Seminole withdrew from the auction leaving Norsk as the only bidder.

The agreement among the companies had the effect of eliminating Norsk's chief rival as a viable competing bidder.

Seminole is not currently in the fertilizer business. Until all of its assets were sold in May 1993, Seminole was one of the largest domestic manufacturers of diammonium phosphate--the leading internationally traded phosphatic fertilizer. Seminole had customers in China, India and Pakistan, among other countries. Seminole retains expertise and know-how about the business, and the decree applies not only to Seminole, but also to its parent company and any successor firm.

If approved by the court, the proposed settlement, which would alleviate the Department's competitive concerns, would settle the lawsuit.

As required by the Antitrust Procedures and Penalties Act, the proposed consent decree, along with the Department's competitive impact statement, will be published in the Federal Register. Any person may submit comments on the proposed decree within 60 days to John T. Orr, Chief, Atlanta Field Office, Antitrust Division, Department of Justice, Richard B. Russell Bldg., 75 Spring Street, S.W., Suite 1176, Atlanta, Georgia 30303. At the conclusion of the comment period, the court may enter the consent decree upon finding that it serves the public interest.

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