

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

STONE CANYON INDUSTRIES  
HOLDINGS LLC;

SCIH SALT HOLDINGS INC.;

MORTON SALT, INC.;

and

K+S AKTIENGESELLSCHAFT,

*Defendants.*

Case No. 1:21-cv-01067-TJK

**UNITED STATES' UNOPPOSED MOTION AND MEMORANDUM  
IN SUPPORT OF ENTRY OF FINAL JUDGMENT**

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) (“APPA”), the United States of America (“United States”) moves the Court to enter the proposed Final Judgment filed in this civil antitrust proceeding on April 19, 2021 (Dkt. No. 2-2) (attached as Exhibit A).

The proposed Final Judgment may be entered at this time without further proceedings if the Court determines that entry is in the public interest. 15 U.S.C. § 16(e). The Competitive Impact Statement (“CIS”) filed in this matter on April 29, 2021 (Dkt. No. 5) explains why entry of the proposed Final Judgment is in the public interest. The United States is also filing a Certificate of Compliance (attached as Exhibit B) showing that the parties have complied with all

applicable provisions of the APPA and certifying that the 60-day statutory public comment period has expired.

## **I. BACKGROUND**

On April 19, 2021, the United States filed a civil antitrust Complaint seeking to enjoin the proposed acquisition of assets, including Morton Salt, Inc. (“Morton”), from K+S Aktiengesellschaft (“K+S AG”) by Stone Canyon Industries Holdings LLC (“Stone Canyon”) and SCIH Salt Holdings Inc. (“SCIH”). The Complaint alleges that the likely effect of this acquisition would be to substantially lessen competition in the production and sale of evaporated salt products, including pharmaceutical-grade salt in the United States and Canada, round-can table salt in the United States, and bulk evaporated salt in the northeastern United States, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. This loss of competition likely would result in higher prices, lower quality, and poorer service for customers.

At the same time the Complaint was filed, the United States also filed a proposed Final Judgment and an Asset Preservation and Hold Separate Stipulation and Order (“Stipulation and Order”) on April 19, 2021 and a CIS describing the events giving rise to the alleged violation and the proposed Final Judgment on April 29, 2021. The Stipulation and Order, which was agreed to by the parties and which was entered by the Court on April 22, 2021 (Dkt. No. 4), provides that the proposed Final Judgment may be entered by the Court once the requirements of the APPA have been met. The proposed Final Judgment requires SCIH to divest US Salt LLC (“US Salt”) in order to establish a competitor in the production and sale of evaporated salt products. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the Final Judgment and to punish violations thereof.

## II. COMPLIANCE WITH THE APPA

The Certificate of Compliance filed with this Motion and Memorandum states that all the requirements of the APPA have been satisfied. In particular, the APPA requires a 60-day period for the submission of written comments relating to the proposed Final Judgment. 15 U.S.C. § 16(b). In compliance with the APPA, the United States filed the proposed Final Judgment and the CIS with the Court on April 19, 2021 and April 29, 2021, respectively; published the proposed Final Judgment and CIS in the *Federal Register* on May 5, 2021 (*see* 86 Fed. Reg. 23982 (2021)); and caused a summary of the terms of the proposed Final Judgment and the CIS, along with directions for the submission of written comments, to be published in *The Washington Post* for seven days during the period of May 5, 2021 to May 13, 2021. The public comment period concluded on July 12, 2021, and the United States did not receive any comments.

## III. STANDARD OF JUDICIAL REVIEW

Before entering the proposed Final Judgment, the APPA requires the Court to determine whether the proposed Final Judgment “is in the public interest.” 15 U.S.C. § 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, “shall consider”:

- (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
- (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A), (B). Section 16(e)(2) of the APPA states that “[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to

permit anyone to intervene.” 15 U.S.C. § 16(e)(2). In its CIS, the United States explained the meaning and the proper application of the public interest standard under the APPA to this case and now incorporates those statements by reference.

**IV. ENTRY OF THE PROPOSED FINAL JUDGEMENT IS IN THE PUBLIC INTEREST**

The United States alleged in its Complaint that SCIH’s proposed acquisition of Morton likely would substantially lessen competition in the production and sale of evaporated salt products, including pharmaceutical-grade salt in the United States and Canada, round-can table salt in the United States, and bulk evaporated salt in the northeastern United States, in violation of Section 7 of the Clayton Act. As explained in the CIS, the proposed Final Judgment is designed to eliminate the likely anticompetitive effects of the acquisition alleged by the United States by requiring SCIH to divest US Salt to an acquirer acceptable to the United States. The public, including affected competitors and customers, has had the opportunity to comment on the proposed Final Judgment, and no comments were submitted. As explained in the CIS, entry of the proposed Final Judgment is in the public interest.

**V. CONCLUSION**

For the reasons set forth in this Motion and Memorandum and in the CIS, the United States respectfully requests that the Court find that the proposed Final Judgment is in the public interest and enter the proposed Final Judgment.

Dated: August 3, 2021

Respectfully submitted,

/s/ Kerrie J. Freeborn

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