

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

UNITED STATES OF AMERICA,

and

STATE OF CALIFORNIA,

Plaintiffs,

v.

TAIHEIYO CEMENT CORPORATION,

CALPORTLAND COMPANY,

and

VULCAN MATERIALS COMPANY,

Defendants.

ASSET PRESERVATION AND HOLD SEPARATE STIPULATION AND ORDER

It is hereby stipulated by and among the undersigned parties, subject to approval and entry of this Order by the Court, as follows.

I. DEFINITIONS

As used in this Asset Preservation and Hold Separate Stipulation and Order (“Stipulation and Order”):

A. “CalPortland” means Defendant CalPortland Company, a California corporation with its headquarters in Las Vegas, Nevada, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. “Taiheiyo” means Defendant Taiheiyo Cement Corporation, a Japanese corporation with its headquarters in Tokyo, Japan, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. “Vulcan” means Defendant Vulcan Materials Company, a New Jersey corporation with its headquarters in Birmingham, Alabama, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. “Holliday Rock” means Holliday Rock Co., Inc., a California corporation with its headquarters in Upland, California, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. “Acquirer” means Holliday Rock or another entity approved by the United States in its sole discretion, after consultation with the State of California, to which Defendants divest the Divestiture Assets.

F. “Divestiture Assets” means all of Defendants’ rights, titles, and interests in and to the following property and assets used in connection with the design, production, development, distribution, and sale of Ready-Mix Concrete by CalPortland associated with the Escondido Plant and the Oceanside Plant, and by Vulcan associated with the Lakeside Plant:

1. the real property and CalPortland’s Ready-Mix Concrete plant located at 550 North Tulip Street, Escondido, California 92025 (the “Escondido Plant”), as described in Exhibit 1 to this Final Judgment;

2. CalPortland's Ready-Mix Concrete plant located at 1050 West Airport Road, Oceanside, California 92054 (the "Oceanside Plant"), as described in Exhibit 1 to this Final Judgment;

3. leasehold interests that will be in effect during the entire period of this Final Judgment in the Ready-Mix Concrete plant located at 12494 CA-67, Lakeside, California, 92040, assessor's parcel number 375-041-18 and licensed portions of 375-041-19 and 375-171-05 (the "Lakeside Plant"), as described in Exhibit 1 to this Final Judgment;

4. leasehold interests in the real property on which the Oceanside Plant and Lakeside Plant are located that will be in effect during the entire period of this Final Judgment;

5. fifteen (15) CalPortland Ready-Mix Concrete trucks servicing the Escondido Plant and Oceanside Plant as of date of the entry of the Asset Preservation and Hold Separate Stipulation and Order in this matter;

6. to the extent permissible by law, all licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations, including those issued or granted by any governmental organization, and all pending applications or renewals that are utilized by the plants listed in Paragraphs II(F)(1)-(3);

7. the following records and data that are utilized by or related to the plants listed in Paragraphs II(F)(1)-(3): (a) production, repair, maintenance, and performance records, and (b) manuals and technical information Defendants provide to their own employees, customers, suppliers, agents, or licensees;

8. If Holliday Rock is not the Acquirer, at Acquirer's option:

a. all other real property, including fee simple interests, real property leasehold interests and renewal rights thereto, improvements to real property, and options to

purchase any adjoining or other property, together with all buildings, facilities, and other structures;

b. all tangible personal property located in or utilized by the plants listed in Paragraphs II(F)(1)-(3), including fixed assets, machinery and manufacturing equipment, tools, inventory, materials, office equipment and furniture, computer hardware, and supplies;

c. all contracts, contractual rights, and customer relationships, and all other agreements, commitments, and understandings, including supply agreements, teaming agreements, and leases, and all outstanding offers or solicitations to enter into a similar arrangement that are utilized by or related to the plants listed in Paragraphs II(F)(1)-(3);

d. the records and data that are utilized by or related to the plants listed in Paragraphs II(F)(1)-(3), including (a) customer lists, accounts, sales, and credit records, (b) records and research data concerning historic and current research and development activities, including designs of experiments and the results of successful and unsuccessful designs and experiments, and (c) drawings, blueprints, and designs.

e. all intellectual property owned, licensed, or sublicensed, either as licensor or licensee that is utilized by or related to the plants listed in Paragraphs II(F)(1)-(3), including (a) patents, patent applications, and inventions and discoveries that may be patentable, (b) registered and unregistered copyrights and copyright applications, (c) registered and unregistered trademarks, trade dress, service marks, trade names, and trademark applications, and (d) trade secrets; and

f. all other intangible property that is utilized by or related to the plants listed in Paragraphs II(F)(1)-(3), including (a) commercial names and d/b/a names, (b)

technical information, (c) computer software and related documentation, know-how, trade secrets, design protocols, specifications for materials, specifications for parts, specifications for devices, safety procedures (e.g., for the handling of materials and substances), quality assurance and control procedures, (d) design tools and simulation capabilities, and (e) rights in internet web sites and internet domain names.

G. “Divestiture Date” means the date on which the Divestiture Assets are divested to Acquirer pursuant to the Final Judgment.

H. “Including” means including, but not limited to.

I. “Person” means any natural person, corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute, or other legal entity.

J. “Ready-Mix Concrete” means a building material used in the construction of buildings, highways, bridges, tunnels, and other projects that is produced by mixing cementitious material and aggregate with sufficient water to cause the cement to set and bind.

K. “Relevant Personnel” means all full-time, part-time, or contract employees of CalPortland and Vulcan located at, or who work out of, the Escondido Plant, Oceanside Plant and/or Lakeside Plant, holding the titles identified in Exhibit 2 or whose job responsibilities primarily relate to the Divestiture Assets or the design, production, development, distribution, and sale of Ready-Mix Concrete by CalPortland or Vulcan at the Escondido Plant, Oceanside Plant, or Lakeside Plant, at any time between October 27, 2025, and the Divestiture Date. The United States, in its sole discretion, will resolve any disagreement relating to which employees are Relevant Personnel. “Primarily” as used in this Paragraph II(L) means over 50 percent of the individual’s time.

L. “Transaction” means CalPortland’s proposed acquisition of Vulcan’s California Ready-Mix Concrete operations.

II. OBJECTIVES

The proposed Final Judgment filed in this case is meant to ensure Defendants’ prompt divestiture of the Divestiture Assets to resolve claims that Defendants’ Transaction would allegedly violate Section 7 of the Clayton Act, 15 U.S.C. § 18. This Stipulation and Order ensures that, prior to divestiture, the Divestiture Assets remain independent, economically viable, competitive, and saleable; that Defendants will preserve and maintain the Divestiture Assets; and that the level of competition that existed between Defendants prior to the Transaction is maintained during the pendency of the required divestiture of the Divestiture Assets.

III. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over the parties to it. Venue for this action is proper in the United States District Court for the District of Columbia. Defendants waive service of summons of the Complaint.

IV. CONSUMMATION OF THE TRANSACTION

Defendants will not consummate the Transaction before the Court has signed this Stipulation and Order.

V. COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT

A. The proposed Final Judgment filed with this Stipulation and Order, or any amended proposed Final Judgment agreed upon in writing by the United States, the State of California, and Defendants, may be filed with and entered by the Court as the Final Judgment, upon the motion of the United States or upon the Court’s own motion, after compliance with the requirements of the Antitrust Procedures and Penalties Act (“APPA”), 15 U.S.C. § 16, and

without further notice to any party or any other proceeding, as long as the United States has not withdrawn its consent. The United States may withdraw its consent at any time before the entry of the Final Judgment by serving notice on Defendants and by filing that notice with the Court.

B. From the date of the signing of this Stipulation and Order by Defendants until the Final Judgment is entered by the Court, or until expiration of time for all appeals of any ruling declining entry of the proposed Final Judgment, Defendants will comply with all of the terms and provisions of the proposed Final Judgment.

C. From the date on which the Court enters this Stipulation and Order, the United States and the State of California will have the full rights and enforcement powers set forth in the proposed Final Judgment as if the proposed Final Judgment were in full force and effect as a final order of the Court, and Section XV of the proposed Final Judgment will also apply to violations of this Stipulation and Order.

D. Defendants agree to arrange, at their expense, publication of the newspaper notice required by the APPA, which will be drafted by the United States in its sole discretion. The publication must be arranged as quickly as possible and, in any event, no later than three business days after Defendants' receipt of (1) the text of the notice from the United States and (2) the identity of the newspapers within which the publication must be made. Defendants must promptly send to the United States and the State of California (1) confirmation that publication of the newspaper notices have been arranged and (2) the certification of the publication prepared by the newspapers within which the notice was published.

E. Any person who wishes to submit to the United States written comments regarding the proposed Final Judgment should do so within 60 calendar days beginning with the first day of the publication of the newspaper notice required by APPA or the publication of the

proposed Final Judgment and the Competitive Impact Statement in the *Federal Register* as required by APPA, whichever is later.

F. This Stipulation and Order applies with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the United States, the State of California, and Defendants and filed with the Court.

G. Defendants represent that the divestiture ordered by the proposed Final Judgment can and will be made and that Defendants will not later raise a claim of mistake, hardship, or difficulty of compliance as grounds for asking the Court to modify any provision of the proposed Final Judgment or this Stipulation and Order.

H. This Stipulation and Order, including the proposed Final Judgment filed with this Stipulation and Order or any amended proposed Final Judgment agreed upon in writing by the United States, the State of California, and Defendants, constitutes the final, complete, and exclusive agreement and understanding among the United States and Defendants with respect to the settlement of the claims expressly stated in the Complaint filed in this above-captioned case, and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein.

VI. ASSET PRESERVATION AND HOLD SEPARATE

From the date of the signing of this Stipulation and Order by Defendants and until the divestiture required by the proposed Final Judgment has been accomplished:

A. Defendants must take all actions necessary to operate, preserve, and maintain the full economic viability, marketability, and competitiveness of the Divestiture Assets, including by (1) operating the Divestiture Assets in the ordinary course of business and consistent with past practices and (2) providing sufficient working capital and lines and sources of credit.

B. Defendants must use all reasonable efforts to maintain and increase the sales and revenues of the products and services provided by the Divestiture Assets and must maintain at 2025 or previously approved levels for 2026, whichever are higher, all promotional, advertising, sales, technical assistance, customer support and service, marketing, research and development, and merchandising support for the Divestiture Assets.

C. Defendants must use all reasonable efforts to maintain and preserve existing relationships with customers, suppliers, governmental authorities, vendors, landlords, creditors, agents, and all others having business relationships relating to the Divestiture Assets.

D. Defendants must maintain, in accordance with sound accounting principles, separate, accurate, and complete financial ledgers, books, or other records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, and income of the Divestiture Assets.

E. Defendants must maintain the working conditions, staffing levels, and work force training and expertise of all Relevant Personnel. Relevant Personnel must not be transferred or reassigned except to Acquirer or via transfer bids initiated by employees pursuant to Defendants' regular, established job posting policy. Defendants must provide the United States with 10 calendar days' notice of the transfer of Relevant Personnel, and, upon objection by the United States to such transfer, Relevant Personnel may not be transferred or reassigned. Defendants must use all reasonable efforts, including by providing financial incentives, to encourage Relevant Personnel to continue in the positions held as of the date of the signing of this Stipulation and Order by Defendants, and financial incentives may not be structured so as to disincentivize employees from accepting employment with Acquirer.

F. Defendants must maintain all licenses, permits, approvals, authorizations, and certifications related to or necessary for the operation of the Divestiture Assets and must operate the Divestiture Assets in compliance with all regulatory obligations and requirements.

G. Defendants must take all steps necessary to ensure that the Divestiture Assets are fully maintained in operable condition at no less than their current capacity and level of sales, with the same level of quality, functionality, access, and customer support, and must, consistent with past practices, maintain and adhere to normal repair and maintenance schedules for the Divestiture Assets.

H. Except as approved by the United States in accordance with the terms of the proposed Final Judgment, Defendants must not remove, sell, lease, assign, transfer, pledge, encumber, or otherwise dispose of any of the Divestiture Assets.

I. Defendants must take no action that would jeopardize, delay, or impede the sale of the Divestiture Assets.

J. Management, sales, and operations of the Divestiture Assets must be held entirely separate, distinct, and apart from Defendants' other operations. Defendants must not coordinate the production, marketing, or terms of sale of any products produced or sold by the Divestiture Assets with the production, marketing, or terms of sale of any other products produced or sold by Defendants.

K. Defendants must appoint, subject to approval of the United States in its sole discretion a person or persons to oversee the Divestiture Assets. Such person or persons will be responsible for Defendants' compliance with this Section VI, for managing the sales and operations of the Divestiture Assets separately from Defendants' other operations, and for ensuring the preservation of the Divestiture Assets for the duration of this Stipulation and Order.

In the event any such person is unable to perform his or her duties, Defendants must appoint, subject to the approval of the United States in its sole discretion a replacement within 10 business days. Should Defendants fail to appoint a replacement acceptable to the United States within this time period, the United States will appoint a replacement.

L. Within 20 calendar days after the entry of this Stipulation and Order, Defendants will inform the United States and the State of California of the steps Defendants have taken to comply with this Stipulation and Order.

VII. DURATION OF OBLIGATIONS

Defendants' obligations under Section VI of this Stipulation and Order will expire upon the completion of the divestiture required by the proposed Final Judgment or unless otherwise ordered by the Court. In the event that (1) the United States has withdrawn its consent, as provided in Paragraph V(A) of this Stipulation and Order; (2) the United States and the State of California voluntarily dismiss the Complaint in this matter; or (3) the Court declines to enter the proposed Final Judgment, the time has expired for all appeals of any ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, Defendants are released from all further obligations under this Stipulation and Order, and the making of this Stipulation and Order will be without prejudice to any party in this or any other proceeding.

Dated: May 21, 2026

Respectfully submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA:

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ORDER

IT IS SO ORDERED by the Court, this _____ day of _____, _____.

United States District Judge