DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–1430–EU; A–033531, AA–086554]

Notice of Realty Action: Direct Sale of Reversionary Interest of Recreation and Public Purposes Patent; Eagle River, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: Reversionary interest held by the United States in 3.9 acres of land located in Eagle River, Alaska, has been determined to be suitable for direct sale to the Corporation of Saint Andrew's Parish of the Archdiocese of Anchorage under the authority of Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at not less than fair market value of $850,000.

DATES: Comments must be received by 45 days from the date of publication of this Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robert Lloyd, BLM Anchorage Field Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507, (907) 267–1246.

SUPPLEMENTARY INFORMATION: The lands, located in Eagle River, Alaska, are described as:

Seward Meridian

T. 14 N., R. 2 W.
Sec. 11, Lots 7 and 10 (3.9 acres).

The lands are currently owned by the Corporation of Saint Andrew's Parish of the Archdiocese of Anchorage and continue to be operated as Saint Andrew's Catholic Church. The patent for the lands is restricted by a reversionary clause. The lands are isolated, difficult and uneconomic for BLM to manage as part of the public lands and not needed for Federal purposes. The sale is consistent with BLM's land use planning for the area. The sale will further the original intent of the patent by facilitating the landowners' long-term growth and development goals.

Title to these lands was transferred to the Corporation of the Catholic Bishop of Juneau on October 6, 1960 (Pat. 1213492), using the Act of Congress of June 14, 1926 (44 Stat. 741: 43 U.S.C. 869), as amended by the Recreation and Public Purpose Act of June 4, 1954 (68 Stat. 173), and September 21, 1959 (73 Stat. 751), (the Act) as the authority for the transfer. The patent is subject to a reversionary clause as required by the Act. The subject lands, lots 7 and 11, comprise two of the 13 lots owned by the church in this location. Lots 7 and 11 are the only lots that contain a reversionary clause. The church has fee title to the remaining properties that surround lots 7 and 11. The patent, when issued, will be for the reversionary interest only. All other terms and conditions of Patent No. 1213492 will continue to apply.

For a period of 45 days from the date of publication of this Notice, interested parties may submit comments regarding the proposed direct sale of the reversionary interest to the BLM Anchorage Field Office Manager at the address above. Adverse comments will be evaluated and could result in the modification or vacation of this decision. The reversionary interest will not be offered for conveyance until at least 60 days after the date of this Notice.

Any written comments received during this process, as well as the commenter's name and address, will be available to the public in the administrative record and/or pursuant to Freedom of Information Act requests. You may indicate for the record that you do not wish to have your name and/or address made available to the public. Any determination by the BLM to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. A request from a commenter to have name or address withheld from public release will be honored to the extent permissible by law.

Dated: January 22, 2007.

Mike Zaidlicz,

Acting Field Manager.

[FR Doc. E7–2953 Filed 2–21–07; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States et al. v. Dairy Farmers of America et al.; Response to Public Comments on the Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes the public comments received on the proposed Final Judgment in *United States of America et al.* v. *Dairy Farmers of America, Inc. et al.,* Civil Action No. 6:03–206–KSF and the responses to such public comments. On April 24, 2003, the United States and Commonwealth of Kentucky filed a Complaint alleging that the acquisition by Dairy Farmers of America (''DFA'') of an ownership interest in Southern Belle Dairy Co., LLC (''Southern Belle''), violated Section 7 of the Clayton Act, 15 U.S.C. 18. An Amended Complaint was filed on May 6, 2004. The proposed Final Judgment, filed on October 2, 2006, requires DFA to divest its interest in Southern Belle and use its best efforts to cause its partner, the Allen Family Limited Partnership, to divest its interest in Southern Belle. Public comment was invited within the statutory 60-day comment period. Copies of the Amended Complaint, proposed Final Judgment, Competitive Impact Statement, public comments and the United States' responses to such comments and other papers are currently available for inspection in Room 200 of the Antitrust Division, Department of Justice, 325 Seventh Street, NW., Washington, DC 20530, *telephone:* (202) 514–2481 and the Office of the Clerk of the United States District Court for the Eastern District of Kentucky, 310 South Main Street, London, Kentucky 40745.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

J. Robert Kramer II,

Director of Operations.

United States District Court Eastern District of Kentucky Southern Division at London

[Civil Action No.: 6:03–206–KSF]

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), the United States hereby files comments received from members of the public concerning the proposed Final Judgment in this civil antitrust suit and the responses by the United States to these comments. The United States and Commonwealth of Kentucky will move the Court for entry of the proposed Final Judgment after the public comments and this Response have been published in the **Federal Register**, pursuant to 15 U.S.C. 16(d).

I. Background

The United States and Commonwealth of Kentucky (the ''government'') filed a civil antitrust Complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, on April 24, 2003, alleging that the acquisition by Dairy Farmers of America, Inc. (''DFA'') of its interest in Southern Belle Dairy Co., LLC (''Southern Belle'') violated Section 7 of the Clayton Act, 15 U.S.C. 18. An Amended Complaint was filed on May 6, 2004.

The Amended Complaint alleged that the acquisition will likely substantially

lessen competition for the sale of milk to schools in one hundred school districts in eastern Kentucky and Tennessee. On August 31, 2004, the District Court granted summary judgment to DFA and Southern Belle. The government appealed, and on October 25, 2005, the Court of Appeals reversed the grant of summary judgment as to DFA and remanded the case for trial. The Court of Appeals affirmed the dismissal of Southern Belle, leaving DFA as the only defendant. *See United States* v. *Dairy Farmers of America, Inc.*, 426 F.3d 850 (6th Cir. 2005).

On October 2, 2006, the government filed a proposed Final Judgment that requires DFA to divest its interest in Southern Belle and use its best efforts to require its partner, the Allen Family Limited Partnership (''AFLP''), to divest its interest in Southern Belle. DFA proposed divesting its interest and AFLP's interest in Southern Belle to Prairie Farms Dairy, Inc. (''Prairie Farms''), and the government approved Prairie Farms as a suitable buyer of DFA's and AFLP's interests in Southern Belle.

The government and DFA have stipulated that the proposed Final Judgment may be entered after compliance with the Tunney Act. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.[1]

II. Standard of Judicial Review

Upon the publication of the public comments and this Response, the United States will have fully complied with the Tunney Act and will move for entry of the proposed Final Judgment as being ''in the public interest.'' 15 U.S.C. 16(e), as amended. In making the ''public interest'' determination, the Court should apply a deferential standard and should withhold its approval only under very limited conditions. *See, e.g., Mass. Sch. of Law at Andover, Inc.* v. *United States,* 118 F.3d 776, 783 (D.C. Cir. 1997).

[1] Prairie Farms and DFA executed a purchase agreement for Southern Belle's assets on October 2, 2006. In keeping with the United States' standard practice, the proposed Final Judgment does not prohibit the completion of the divestiture before it is entered. See ABA Section of Antitrust Law, *Antitrust Law Developments* 387 (5th ed. 2002) (noting that ''[t]he Federal Trade Commission (as well as the Department of Justice) generally will permit the underlying transaction to close during the notice and comment period''). Such a prohibition could interfere with many time-sensitive deals, prevent or delay the realization of substantial efficiencies, and delay effective relief.

Specifically, the Court should review the proposed Final Judgment in light of the violations charged in the complaint. Id. (quoting *United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1462 (D.C. Cir. 1995) (''Microsoft'')).

Before entering the proposed Final Judgment, the Court is to determine whether the Judgment ''is in the public interest.'' 15 U.S.C. 16(e). The Tunney Act states that, in making that determination, the Court may 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).

The United States described the courts' application of the Tunney Act public interest standard in the Competitive Impact Statement filed with the Court on October 2, 2006.

III. Summary of Public Comments and Responses

During the sixty-day comment period, the United States received four comments from dairy farmers in Kentucky, one comment from a former Southern Belle employee, one comment on behalf of a cooperative of dairy farmers in Kentucky, and one anonymous comment. These comments are attached in the accompanying Appendix. After reviewing the comments, the United States continues to believe that the proposed Final Judgment is in the public interest.

A. Southeast Graded Milk Producers Association

Southeast Graded Milk Producers Association (''SEGMPA''), a cooperative of dairy farmers in Kentucky, submitted a comment which both thanked the government for challenging DFA's acquisition of its interest in Southern Belle, and expressed concerns about DFA's raw milk procurement practices. SEGMPA has been a long-time supplier of raw milk to Southern Belle. When SEGMPA tried to re-negotiate its supply contract with Southern Belle in 2006, Southern Belle decided not to renew the contract. SEGMPA then negotiated an agreement to supply raw milk to the Flav-O-Rich dairy in London, Kentucky. Flav-O-Rich is owned by National Dairy Holdings (''NDH''), which itself is 50%-owned by DFA. Shortly after the contract negotiations with Flav-O-Rich concluded, Flav-O-Rich told SEGMPA that it could not go through with the supply contract, since DFA is the raw milk supplier to NDH's dairies, including Flav-O-Rich. According to SEGMPA, this left it with no outlet for its members' raw milk other than Southern Belle. SEGMPA went back to Southern Belle, and although it was able to negotiate a new raw milk supply contract, it was on much less favorable terms than it had previously negotiated. SEGMPA is concerned that in the future it will not be allowed to compete with DFA for raw milk supply contracts at Southern Belle, and urges that the government ensure that there is competition for raw milk as well as for school milk.

SEGMPA acknowledges in its comment that these raw milk concerns are different from the harm to competition for school milk alleged in the Amended Complaint and addressed by the proposed Final Judgment. While the government brought this case to protect competition in the market for the sale of milk served by schools in Kentucky and Tennessee, SEGMPA's concerns are about a different market, *viz.* the sale of raw milk to dairy processors like Southern Belle and Flav-O-Rich. Under the Tunney Act, however, a court's public interest determination is limited to whether the government's proposed Final Judgment remedies the violations alleged in its Amended Complaint. A review of the market for raw milk, which was not at issue in this litigation, would be inappropriate because it would construct a ''hypothetical case and then evaluate the decree against that case,'' something the Tunney Act does not authorize. *Microsoft,* 56 F.3d at 1459.

B. Carl Phelps

A former Southern Belle employee, Carl Phelps, submitted a comment expressing concerns about the effect of the divestiture on the market for raw milk in Kentucky. As a Southern Belle employee, Mr. Phelps was the plant's contact with the dairy farmers that supplied Southern Belle with raw milk and the haulers that transported the milk from the farms to the Southern Belle plant in Somerset, Kentucky. When SEGMPA negotiated a milk

supply contract with Flav-O-Rich as a result of Southern Belle's decision not to renew its raw milk supply contract with SEGMPA, Mr. Phelps resigned from Southern Belle and joined Flav-O-Rich as a liaison between the plant and SEGMPA's members. Shortly after the contract negotiations with Flav-O-Rich concluded, Mr. Phelps was told that the contract between Flav-O-Rich and SEGMPA would not be finalized.

Mr. Phelps's first concern is that, in the future, Prairie Farms will not contract with SEGMPA for Southern Belle's raw milk, but instead choose to supply the plant with raw milk from its own members or DFA. This would effectively leave SEGMPA no customers for its members' raw milk, forcing SEGMPA to fold and its members to either join DFA or Prairie Farms. Mr. Phelps is concerned about these alternatives because he understands that SEGMPA's members have approached Prairie Fanns about joining that co-op, but have been turned down. If SEGMPA were to shut down, Mr. Phelps contends that DFA would be the only outlet for SEGMPA's farmer members and would be able to reduce prices paid to farmers because it would have no competition.

This concern about competition in the market for raw milk is not related to competition in the markets for school milk at issue in this case. Mr. Phelps, like SEGMPA and other commentors expressing concerns about competition in the market for the sale of raw milk, does not argue that the proposed Final Judgment is not ''within the reaches of public interest.'' Nor do they contest that because of their concerns about the market for raw milk, the divestitures required by the proposed Final Judgment will not remedy the competitive harm alleged in the Amended Complaint. Rather, Mr. Phelps and these other commentators raise competitive issues in markets separate and distinct from those relevant to this matter.

Mr. Phelps's second concern is that, despite the divestiture of Southern Belle to Prairie Farms, DFA still may be able to influence Southern Belle's behavior in the school milk markets at issue because DFA and Prairie Farms are joint venture partners in the Roberts Dairy, Hiland Dairy, and Turner Dairy. He suggests that a third party monitor Prairie Farms to ensure that its operation of Southern Belle is totally independent of DFA, and that Southern Belle will compete with dairies partially owned by DFA, such as Flav-O-Rich.

Mr. Phelps's concern that joint ventures between Prairie Farms and DFA will affect Prairie Farms' operation of Southern Belle was considered by the government when evaluating Prairie Farms as a potential purchaser of Southern Belle. The government believes that the joint ventures will not undermine the proposed relief for several reasons.

First, these joint ventures involve dairies located in completely different geographic markets than those in which Southern Belle competes for school milk contracts. The Roberts and Hiland dairies, both 50%-owned by Prairie Farms and DFA, are located in Arkansas, Iowa, Kansas, Missouri, Nebraska, and Oklahoma. In addition, Prairie Farms recently acquired a partial ownership interest in the Turner dairy, which has plants in Arkansas, Kentucky, and Tennessee, and is 20%-owned by DFA. Turner's Kentucky plant is in Fulton, on the far western edge of the state, and does not compete against Southern Belle for school milk contracts.

Second, because these joint ventures involve different markets, Prairie Farms will not have the same incentive to lessen competition between Southern Belle and Flav-O-Rich (or any other DFA-affiliated dairy) that led to the filing of this case. The government challenged DFA's acquisition of a 50% ownership interest in Southern Belle because DFA's partial ownership of both Southern Belle and Flav-O-Rich created a substantial incentive to reduce competition between those two dairies. The acquisition of Southern Belle by Prairie Farms has eliminated that common ownership between those two dairies. In the future, Prairie Farms will have a strong incentive to compete to obtain school milk contracts for its Southern Belle dairy at the expense of Flav-O-Rich. The dairies jointly owned by Prairie Farms and DFA do not compete for school milk contracts with Southern Belle, so Prairie Farms will not be able to reduce competition for school milk between Southern Belle and any of those dairies.

Third, the government evaluated and approved Prairie Farms as a buyer of Southern Belle because it has a demonstrated ability to operate dairy processors and compete for school milk contracts independent of any influence or control by DFA. Prairie Farms, as an agricultural cooperative of dairy farmers, has an economic incentive to supply its processing plants with raw milk from its members, so it is not dependent on DFA for its raw milk supply to its wholly owned processing plants. Its dairies compete for school milk contracts, and there is no evidence that it competes less effectively in geographic markets where it competes against processing plants partially owned by DFA.

Finally, the proposed Final Judgment protects against DFA's ability to exert control over Southern Belle. Section XI of the proposed Final Judgment prohibits DFA from reacquiring, directly or indirectly, any ownership interest in Southern Belle. As a result, if Prairie Farms transferred the assets of Southern Belle to one of its joint ventures with DFA, DFA would be in violation of the proposed Final Judgment. The government reviewed the terms of the proposed sale to Prairie Farms, and is confident that DFA will not retain any control over Southern Belle. If the government learned of any agreement prohibited by the proposed Final Judgment, pursuant to Section X it could inspect DFA's records and request reports from DFA regarding its compliance. Similarly, this Court retains jurisdiction under Section XII of the proposed Final Judgment to enforce the proposed Final Judgment and punish any violations. For these reasons, the government believes that Mr. Phelps's suggested modification to the proposed Final Judgment is not warranted.

C. William R. Sewell and Bill L. Guffey

William R. Sewell and Bill Guffey, two dairy farmers from Kentucky, submitted comments raising the concern that the competition for raw milk in Kentucky could be lessened if SEGMPA is not able to supply Southern Belle with raw milk. As is the case with Carl Phelps's concerns about the market for raw milk, the concern expressed by Messrs. Sewell and Guffey does not address a violation alleged in the Amended Complaint, nor does their concern question whether the proposed Final Judgment remedies the harm alleged in the Amended Complaint.

D. Bradley J. Marcum

Bradley J. Marcum, a dairy farmer from Alpha, Kentucky, submitted a comment expressing concerns about the raw milk purchasing practices for Southern Belle after its divestiture to Prairie Farms. He notes that Prairie Farms has retained many of Southern Belle's key employees, and suggests that, therefore, DFA still influences Southern Belle's decisions.

To the extent that Mr. Marcum's comment suggests that the adequacy of the divestiture of Southern Belle to Prairie Farms as a remedy to the Amended Complaint's allegations is undermined by Prairie Farms' retention of Southern Belle's employees, the government disagrees. Permitting Southern Belle's new owner to retain the plant's existing employees allows it

to maintain the plant's customer accounts and keep its operations running smoothly with minimal interruption. The continued efficient operation of the Southern Belle dairy during the transition to a new owner was the reason why Section IV.F of the proposed Final Judgment was included. This section expressly allows a purchaser of Southern Belle to retain the plant's employees. Section IV.F also requires DFA to ''not interfere with any negotiations by the Acquirer to employ any employee whose primary responsibility is the production, sale, marketing or distribution of products from the Southern Belle Dairy.'' By retaining employees who have been responsible for Southern Belle's operations, marketing, and sales, but who no longer have any connection to DFA, Southern Belle is better able to compete against Flav-O-Rich and other processing plants for school milk and other accounts.

E. Ronald Patton

Ronald Patton, a dairy farmer and past-president of SEGMPA, submitted a comment expressing concerns that other parties were not allowed to purchase DFA's interest in Southern Belle, including a local group of potential investors who wished to operate the Southern Belle plant independent of DFA or any other processing company. Mr. Patton is concerned that Prairie Farms' purchase from DFA of Southern Belle and its 2006 purchase from DFA of Turner Dairies indicates that other parties were foreclosed from bidding on Southern Belle.

As described in Section IV of the proposed Final Judgment, DFA was required to inform ''any potentially qualified purchaser making inquiry regarding a possible purchase of the [Southern Belle dairy] that such assets are being offered for sale,'' and provide information about Southern Belle to all potential purchasers. The government, pursuant to Section IX.B–E of the proposed Final Judgment, received periodic updates on the inquiries DFA received from parties interested in purchasing Southern Belle, and the status of DFA's negotiations with those interested parties. Based on these updates, the government is aware that DFA received multiple offers to buy Southern Belle.

The proposed Final Judgment does not require DFA to accept a particular offer, only that any acquirer of Southern Belle meet the conditions set out in Section IV.H(1)–(2). These provisions require Southern Belle to be sold to a purchaser who ''has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in school and fluid milk markets in Kentucky and Tennessee, * * * [and] that none of the terms of any agreement between [the purchaser] and DFA give DFA the ability to act unreasonably to raise the [purchaser's] costs, to lower the [purchaser's] efficiency, or otherwise to interfere with the ability of the [purchaser] to compete effectively.'' The government reviewed information from both DFA and Prairie Farms regarding the purchase of Southern Belle and the presence of Prairie Farms in school milk markets in Kentucky and Tennessee. As noted earlier, Prairie Farms owns and operates multiple dairy processing plants elsewhere in the country, and has the knowledge and expertise to operate the Southern Belle Dairy efficiently, including the dairy's school milk business. It also has the capacity to supply its dairies with raw milk independent of DFA, whether through its own members or through other suppliers such as SEGMPA. The purchase agreement between Prairie Farms and DFA has no terms or conditions that would adversely affect the costs, efficiencies, or ability of Southern Belle to compete effectively for school and fluid milk sales. Based on this information, the government approved Prairie Farms as a buyer of Southern Belle because it met the requirements of Section IV.H(1)–(2) of the proposed Final Judgment.

F. Anonymous

The United States received an anonymous comment expressing the opinion that DFA agreed to sell Southern Belle to Prairie Farms because the sale would somehow allow DFA to eliminate SEGMPA as a competitor for raw milk contracts, and that Prairie Farms would refund the purchase price of the Southern Belle dairy back to DFA through some type of rebate mechanism. This commentor provides a lengthy history of Southern Belle, and suggests that DFA divested Southern Belle to Prairie Farms because it negotiated a side deal with Prairie Farms to have the new owner take steps to force SEGMPA out of business. The commentor, however, did not provide any evidence of such an agreement.

This comment's concerns about the market for raw milk, like other comments discussed earlier, are not germane to the evaluation of the conduct alleged in the Amended Complaint and addressed by the proposed Final Judgment. The government has no evidence of a side agreement between Prairie Farms and DFA relating to the sale of Southern Belle. If there were credible evidence of such an agreement, the government could investigate any potential violations of the proposed Final Judgment pursuant to its inspection rights in Section X of the proposed Final Judgment, and if it believed any provisions of the proposed Final Judgment were violated, Section XII of the proposed Final Judgment allows this Court to fashion an appropriate remedy.

IV. Conclusion

After careful consideration of the public comments, the United States concludes that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Amended Complaint and is therefore in the public interest. Accordingly, after publication of this Response in the **Federal Register** pursuant to 15 U.S.C. § 16(b) and (d), the United States will move this Court to enter the Final Judgment.

Dated: February 7, 2007.

Respectfully Submitted,

Jon B. Jacobs,
Ihan Kim
Attorneys, Litigation I Section, Antitrust Division, United States Department of Justice, City Center Building, 1401 H Street, NW., Suite 4000, Washington, DC 20530. 202–307–0001. (f) 202–307–5802. ihan.kim@usdoj.gov.

Certificate of Service

This certifies that I caused a true and correct copy of the foregoing to be served on February 7, 2007, via electronic mail and first-class mail on the following:

David A. Owen, Esq., Greenebaum Doll & McDonald, PLLC, 300 West Vine Street—Suite 1100, Lexington, KY 40507. *Telephone:* 859–231–9500. Counsel for Dairy Farmers of America, Inc.

W. Todd Miller, Esq., Baker & Miller, PLLC, 2401 Pennsylvania Avenue, NW.—Suite 300, Washington, DC 20005. *Telephone:* 202–663–7820. Counsel for Dairy Farmers of America, Inc.

R. Kenyon Meyer, Esq., Dinsmore & Shohl LLP, 1400 PNC Plaza, 500 West Jefferson Street, Louisville, KY 40202. *Telephone:* 502–540–2300. Counsel for Chicago Tribune Company.

Charles E. Shivel, Jr., Esq., Stoll, Keenon & Park, LLP, 300 West Vine Street—Suite 2100, Lexington, KY 40507. *Telephone:* 859–231–3000. Counsel for Southern Belle Dairy Co., LLC

J. Jackson Eaton, III, Esq., Gross, McGinley, LaBarre & Eaton, LLP, PO Box 4060—33 South Seventh Street,

Allentown, PA 18105. *Telephone:* 610–820–5450. Counsel for Southern Belle Dairy Co., LLC.

Maryellen B. Mynear, Esq., Assistant Attorney General, Consumer Protection Division, Office of the Kentucky Attorney General, 1024 Capital Center Drive, Suite 200. *Telephone:* 502–696–5389. Counsel for Commonwealth of Kentucky.

Ihan Kim

Appendix: Public Comments on the Proposed Final Judgment

Comment Submitted by Southeast Graded Milk Producers Association

Southeastern Graded Milk Producers Association

P. O. Box 25, Somerset, Kentucky 42502
Phone (606) 679–3504, Fax (606) 678–4696
January 9, 2007

Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division
U.S. Department of Justice
1401 H St. NW., Suite 4000
Washington, DC 20530

IN RE: United States of America, et al., vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Dear Mr. Botti:

The Association wishes to express its thanks and appreciation to the Antitrust Division for its pursuit of the foregoing matter. Without that, this small association of milk producers would have been swallowed up by Dairy Farmers of America.

As I am sure you are aware, there is much more to be done to reign in the antitrust activities of Dairy Farmers of America, and we hope you will pursue that just as you did the above-styled action. About a year ago, when DFA owned 50% of the National Dairy Holdings plant in London, Kentucky, and 50% of Southern Belle Dairy in Somerset, Kentucky, we were able to work out a contract to supply milk to the NDH plant at London, Kentucky, whereby our producers received twenty (.20¢) cents per hundredweight more for their milk. DFA killed the contract. We then had no choice except Southern Belle Dairy and since there was no competition for our milk our producers lost the twenty (.20¢) cents per hundredweight. Since DFA still owns 50% of the London plant, we still have no competition for our milk.

In other words, the foregoing lawsuit provides for competition for school milk, but does not address the problem of competition in the procurement of raw milk. That competition is stifled by the exclusive contracts that DFA has to supply milk to numerous plants. It is just such a contract that shut our association out of the NDA plant at London, Kentucky, which reduced our choice of plants to one. Each independent producer or association needs at least two (2) totally independent plants to which he could market his milk. Only then can the antitrust activities be controlled.

Thanks again for what was done. Keep up the good work.

Very truly yours,

JOHN T. MANDT,

Secretary.

JTM: jlm

Comment Submitted by Carl Phelps

To: Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division, U.S. Department of Justice
1401 H St. NW, Suite 4000
Washington, DC 20530

RE: United States of America, et al. vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Dear Mr. Botti,

I want to thank the DOJ's Antitrust Division for the interest you have shown regarding the ownership of Southern Belle Dairy. This is a step in the right direction but there is still more to do to ensure that the Southeastern Graded Milk Producers survive. I think a third party should be involved to make certain that Prairie Farms will not have contact with DFA because they do have joint ventures with them.

I spent 30 years working at Southern Belle as a fieldman. I came to know and care deeply for the producers and always tried to make sure whatever I did was in their best interest. When Southern Belle was being run by the Shearer family, I didn't have a problem with this goal. When Southern Belle was purchased by DFA and Bob Allen, it seemed the best interest of the producers was of little concern. To my disappointment, I was told that I was not to get any more producers. I believe this was because they didn't want Southeastern to survive. I believe they wanted to control all of the raw milk supply and to force Southeastern producers to become DFA. When it came time to renew their contract with Southeastern, the producer board was told that they had a problem renewing their contract as it was. I feel that what it all boiled down to was they didn't really want to renew their contract which would have meant they had no where to sell their milk to and so would have been forced to become DFA members. Southeastern tried to find another place to market their milk. Southeastern negotiated with Charles Hyatt at Flav-O-Rich Dairy in London, Kentucky about supplying milk to that plant. An agreement was made with National Dairy Holdings which owns Flav-O-Rich to buy Southeastern's milk.

Then, I was hired by Charles Hyatt as a fieldman for Flav-O-Rich Dairy to continue taking on producers for Southeastern and was told that I could take on all I could find to supply milk for the plant in London and a plant in Madisonville, Kentucky. I resigned from Southern Belle Dairy and was happy to do so, thinking the producers had a good deal and would be taken care of. Guess what? Flav-O-Rich Dairy is 50 percent owned by DFA. About a week after being hired, I was told the deal was off, that DFA wasn't going to furnish raw milk to the rest of their National Dairy Holdings plants if they let the Flav-O-Rich plant have Southeastern as their own raw milk supply. DFA got their way again. The producers wound up having to sign a contract that many were not happy with in order to have a place to sell their milk.

After learning that Southern Belle had been purchased by Prairie Farms, I had high hopes for the producers and the milk haulers, as many have kept in contact with me. Producers and milk haulers have called me to tell me of their fear about their future with Southern Belle. Some employees were told their jobs would be moved to Illinois; this made them very nervous about losing their jobs. Some employees were even told not to associate with certain people such as myself, making them feel this could put their job in danger.

The management at Southern Belle has known for a long time that I know the truth about their connection with DFA. Management seems to be troubled that I would try to help the producers. Since taking over Southern Belle on 10/01/06, producers and milk haulers have contacted Gary Lee, Vice President of Prairie Farms, about becoming Prairie Farms producers and they were turned down. Haulers also have talked to Gary Lee about taking on new members. Producers and haulers have been puzzled that they were not contacted about their future with the new owners, making them feel that they are of little concern.

I wonder if there might have been a deal made under the table between DFA and Prairie Farms when Southern Belle was sold to them. Perhaps, Southern Belle was a gift to Prairie Farms. Raw milk credits could be part of the deal. If this deal is approved by the DOJ, I think DFA will have it made and the SEGMPA will be put in a situation that will eventually destroy them. After all, if they were gone, DFA would be the sole supplier to the Southern Belle plant owned by Prairie Farms with joint ventures with DFA and the Flav-O-Rich plant in London, Kentucky (50 percent owned by DFA and 50 percent by National Dairy Holdings). I think DFA would probably give up something now and if the DOJ approves this, it won't be long before another plan of action will start against the Southeastern Graded Milk Producer Association. Also, with Prairie Farms owning Southern Belle and having joint ventures with DFA, if the Federal Order System is voted out or changed in any way, SEGMPA producers would be better off selling their milk to Southern Belle with an owner who is not connected to DFA because there will be no competition and DFA can potentially pay producers whatever they want to.

I hope that you will really think about what your decision will mean to the people who make up the Southeastern Graded Milk Producers Association. In my opinion, the only right way to resolve this is to make sure that whoever ends up with Southern Belle has no connection to DFA.

Thank you,

Carl Phelps,

6790 Hwy 1643, Somerset, KY 42501, 606–382–5836.

If you have any questions, please feel free to contact me.

Comment Submitted by William R. Sewell

January 15, 2007

To: Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division, U.S. Department of Justice
1401 H St. NW., Suite 4000
Washington, DC 20530

RE: United States of America, et al. vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Dear Mr. Botti,

I would like to express my concern about the future operation and working relationship between Southern Belle Dairy and the Southeastern Graded Milk Producers Association.

I am in the third generation of my family as a producer of this operation. I have been told about things that have happened and directions that have been given that has caused me to ask the proper individuals to reinvestigate the situation.

The future welfare of my family depends much on this ongoing operation.

William R. Sewell,

Producer #107.

Comment Submitted by Bill L. Guffey

Guffey Farms LLC
Bill Guffey
Rt 3 Box 301
Albany, KY 42602

January 12, 2007

Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division
U.S. Department of Justice
1401 H St. NW. Suite 4000
Washington, DC 20530

IN RE: United States of America, et al Vs. Dairy Farmers of America, Inc., Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Mr. Botti:

I am writing the letter to express my thanks for initiating the Civil Action Suite against Dairy Farmers of America, Inc. by the Antitrust Division.

However, the speedy sale of DFA's percent of interest in Southern Belle Dairy to Prairie Farms has raised concerns that this may only a deploy to lessen the investigation by the Antitrust Division. I would hope that this would not be the case and the Antitrust Division would continue to investigate DFA.

Being a Dairy farmer and a former Board of Education member and chairman, I understand the real need for competition for raw milk and the need for competition on bids for school milk also. With the continuing investigation by the Antitrust division this is assured to happen.

Thanks for reading this and your work on this matter.

Respectfully yours,

Bill L. Guffey.

Comment Submitted by Bradley J. Marcum

Bradley J. Marcum
HC–71 Box 454
Alpha, KY 42603
606.387.5193

January 10, 2007

Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division
U.S. Department of Justice
1401 H St. NW. Suite 4000
Washington, DC 20530

IN RE: United States of America, et al vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Dear Mr. Botti:

I personally would like to express my gratitude and appreciation to the Antitrust Division for its incomparable pursuit of the abovementioned matter. The Antitrust Division has been an asset to dairy owners, such as me.

Although the action of the Antitrust Division was beneficial in alleviating symptomatic problems that were occurring, the predominant problem remains. Dairy Farmers of America, Inc. still have an affluent influence upon decision making concerning the new plant of Prairie Farms, formally known as Southern Belle Dairy. Recently, it has been rumored that Prairie Farms have been manipulating individual producer pay price on raw milk. Some producers are receiving more than the contract allocated amount for raw milk; while others only receive a percentage of what the other producers are paid.

To the naked eye, it is difficult to understand why Prairie Farms would allow such a discrepancy between individual producers, yet when you begin to look closer, the picture becomes clear. Although the Dairy Farmers of America, Inc. were ordered to recede from the area and Southern Belle Dairy, many associates and ''key'' employees remain the same. To put it frankly, names on uniforms have changed to Prairie Farms, yet policies and business remain the same.

Thanks again for what was done. Keep up the good work.

Very truly yours,
Bradley J. Marcum.

Comment Submitted by Ronald Patton

5049 Hwy 490
East Bernstadt, KY 40729
January 12, 2007

Hon. Mark J. Botti,
Chief, Litigation I Section
Antitrust Division, U.S. Department of Justice
1401 H St., NW., Suite 4000
Washington, DC 20530

IN RE: United States of America, et al. vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

Dear Mr. Botti,

I wish to express my gratitude to the Antitrust Division for their efforts in pursuing the above mentioned matter. Even though the sale of Southern Belle Dairy to Prairie Farms may appear to resolve the competition for school milk bids, several issues remain.

My concern is that Dairy Farmers of America and Prairie Farms have made two transactions within the past year, The DFA sales of Turner Dairies and Southern Belle. Turner Dairies also has a milk processing plant in Kentucky. DFA's hasty sale of Southern Belle to Prairie Farms raises concerns that other interested parties were not allowed to make an offer for this plant. I am knowledgeable of at least one offer that was not acted upon by DFA. The offer was from a local group of business officials who desired to see the plant operate independently of DFA and its associated partners. The independent group would have assured competition for bids for school milk and retail sales, as well as ensuring a market through which local farmers could sell raw milk rather than to the mega-coops.

It is imperative that the Antitrust Division investigate to ensure that the process under which Southern Belle Dairy was sold was fair and did not exclude other potential offers. It is my belief that the Antitrust Division has been lax regarding issues of the dairy industry, especially in area of raw milk procurement, which ultimately affects the price of school milk!

Thank you for your attention to this matter. I look forward to discussing this matter further with you.

Sincerely,

Ronald Patton,

Past President, Southeastern Graded Milk Producers Assoc.

Comment Submitted by Anonymous

To: Hon. Mark J. Botti
Chief, Litigation I Section
Antitrust Division, U.S. Department of Justice
1401 H St., NW., Suite 4000
Washington, DC 20530

RE: United States of America, et al. vs. Dairy Farmers of America, Inc., U.S. District Court, Eastern District of Kentucky, London Division, Civil Action No.: 6:03–206–KSF

From: A VERY concerned citizen who would love to sign this comment but out of fear of being retaliated against it is probably in my best interest not to sign it.

Dear Mr. Botti,

Please consider this information before giving final approval to the Prairie Farms purchase of Southern Belle Dairy.

It seems to me that Dairy Farmer of America (DFA) and Robert Allen (Good Ole Bob) chose to sell to the entity that would serve their best interest * * * NOT the best interest of the public. I base this conclusion on the fact that at least one group that was interested was not even given the opportunity to submit a bid or make a proposal. Another interesting thing is I believe Prairie Farms would know exactly how that felt because I believe the very same thing happened to them when Suzia was forced to spin Southern Belle off in order to purchase Broughton Foods. Is it possible that Prairie Farms wasn't willing to play the DFA games at that time but for some reason they are willing to play those games now? The

game plan DFA has for the Southern Belle Dairy case, I believe, is to see the Southeastern Graded Milk Producers Association (SEGMPA) disappear. SEGMPA is a group of dairy farmers that has supplied Southern Belle for many years. It seems DFA has viewed SEGMPA as a thorn in their side for a long, long time.

You will see in the following history how DFA had played a role in going to great and expensive lengths to see that Prairie Farms did not take ownership of Southern Belle. I never could understand this because DFA and Prairie Farms had some joint ventures that Prairie Farms managed. It is my belief, and I think it could be backed up with financial information from the two organizations, that DFA should have been very happy with those joint ventures with Prairie Farms. I heard in the past that there were years that had it not been for those joint ventures with Prairie Farms, DFA would have seen red ink instead of black ink on their financials. The following history will show how DFA went to great lengths to keep Prairie Farms from owning Southern Belle yet now they seem to have pushed Southern Belle to Prairie Farms. Why? Maybe because Leonard Southwell and Roger Capps (two long-time leaders of Prairie Farms) both passed away within the last six months. Maybe they knew better than to play the DFA games. I hope you find the following history helpful and not too boring.

Southern Belle History

1951–1997: Family owned company, that family being the Ralph Shearer family. Very early on, Mr. Shearer recognized that the relationship between SEGMPA was vital to the company for two reasons.

1.) From the get go, he felt a good, close relationship with these farmers and working together with them the dairy could have a raw supply with superior quality that would give Southern Belle an edge over its competition.

2.) Then in the 60's, when the larger Co-ops became prevalent, he felt the relationship with SEGMPA became even more vital to the company. He felt these larger Co-ops would get into the processing side of the business, which they did. This along with all of the hidden charges the larger Co-ops had meant that SEGMPA would be able to supply the company at a fair price to the producers but also at a price where Southern Belle could remain competitive in the market place.

1997: Because it became more and more difficult to survive as a stand alone dairy with Dean Foods and Suzia (a relatively young company but they were giving Dean Foods a run for their money to be the largest fluid milk processor in the country), both were buying every dairy they could get their hands on. Martin Shearer had replaced his father, Ralph, as president of Southern Belle back in the 80's and Ralph Shearer passed away in the early to mid 90's. It was at this time Martin felt the best thing for the company was to join other dairies in some type of merger or sell to someone who had other plants before Dean and Suzia owned every dairy in the country. This led to the Shearer family selling the dairy to Broughton Foods in Marietta, Ohio. Broughton had a plant in Marietta and a plant in Charleston, West Virginia and would later buy a milk plant in Port Huron, Michigan and an ice cream plant in Burton, Michigan. Broughton was owned by a group of investors headed up by Marshall Reynolds of Huntington, West Virginia. Mr. Reynolds' right hand man at that time was Kirby Taylor. Kirby was also a stockholder in Broughton Foods. Martin Shearer remained as president of the Southern Belle division of Broughton Foods. Martin, following in his father's footsteps, continued the relationship with SEGMPA. He believed that relationship was good for both parties.

1998: It became known in early April that Dean and Suzia were both interested in acquiring Broughton Foods. The winner of that bidding war was Suzia. The rest of 1998 was spent by Suzia and Broughton getting DOJ approval

1999: Finally, in the spring approval to the deal was given but with one stipulation * * * that was Suzia was given six months plus a possible one month extension, it was warranted, to spin Southern Belle off. At that time the DOJ feared there would be no competition for the school milk business in parts of Kentucky and Tennessee because Suzia already owned Flav-O-Rich, a dairy located in London, Kentucky, thirty miles from the Southern Belle plant. Tracy Noll, with Suzia, who had played a role in the purchase of Broughton Foods, now was playing a role in spinning Southern Belle off. It was my understanding that Prairie Farms was interested in purchasing Southern Belle but was not given an opportunity to make a proposal. I wonder why. DFA, an investor in Suzia at the time and partner in joint ventures with Prairie Farms * * * STRANGE * * * No, I believe Suzia and DFA knew Prairie Farms would do what was best for Prairie Farms and the farmers who owned them (something DFA certainly doesn't understand) without any consideration of what was best for DFA or Suzia. The spin off was completed just as time was running out. If time had run out, DOJ had a trustee standing by to complete the spin off. Maybe it would have been best had they missed the deadline. Nevertheless, Southern Belle was purchased by a group of investors, several of which were former Broughton Foods stockholders. The group was headed up by Marshall Reynolds. Tracy Noll, for Suzia, and Kirby Taylor, for the investor group, played a significant role in the spin off. The price tag was $6,500,000., a very good deal for the investors. Martin Shearer remained on as President of the company and there were virtually no changes.

2001: Marshall Reynolds decided it might be the right time to sell the company. Leonard Southwell and Roger Capps (two long-time leaders of Prairie Farms) visited the Southern Belle plant in Somerset, Kentucky and quickly made a $13,000,000. offer for the company. This seemed to be a fair price for Prairie Farms and a very nice return for the investors. Double your money in two years * * * not bad. So it looked like Prairie Farmers would own Southern Belle. Not so fast * * * Enter Tracy Noll, no longer with Suzia, now an owner in the newly born company called National Dairy Holdings (NDH) * * * yep, the same Tracy Noll that negotiated the sale of Broughton Foods to Suzia for $80 plus million, then negotiated the spin off of Southern Belle for $6,500,000., now back on the scene and upped the offer for Southern Belle to $19,000,000. I'll bet that pissed Prairie Farmers off. You see by this time Suzia had bought Dean the number (1) and number (2) in size as far as fluid milk processors in the country. As part of the Dean-Suzia deal, DFA had to sell their stock in Suzia * * * not to worry * * * they could re-invest now and own 50 percent of the newly formed NDH, who just happened to be the recipient of the dairies the new Dean had to spin off to gain DOJ approval. How nice this was for DFA; they now had 100 percent supply agreements with many of the new Dean company dairies and were 50 percent owners in the newly formed NDH and held 100 percent supply agreements with most of the NDA plants. Sounds like a plan is coming together. By the way, if you're ever in a position to sell or buy a dairy, get Kirby Taylor, not Tracy Noll.

1.) Kirby negotiates to sell Broughton Foods to Suzia, represented by Tracy Noll for $80 plus million. Southern Belle went with the deal.

2.) Tracy Noll negotiates for Suzia to spin Southern Belle off to Kirby Taylor representing an investor group. The price: $6,500,000.

3.) Kirby Taylor negotiates for the investor group and sells Southern Belle to none other than Trace Noll, now representing NDH for $19,000,000.

Good Job Kirby!

I will have to commend Tracy Noll for having guts and a big set of you know what. Because you see * * * DOJ had required Suzia/Tracy Noll to spin off Southern Belle because they did not want the same company to own both Flav-O-Rich and Southern Belle. Guess what?? Flav-O-Rich was one of those plants spun off by the new Dean to NDH and part owner Tracy Noll and now he is about to buy Southern Belle. He must have figured because it was under the $50,000,000 threshold, DOJ couldn't stop it. Tracy Noll must have got nervous because on Friday before the Southern Belle Board was to meet to recommend the sale of NDH to stockholders, Kirby Taylor said, ''The deal to NDH has been handed off to DFA.'' If I were Prairie Farms, I would really be mad now. DFA, a partner to Prairie Farms, buys Southern Belle right out from under them. You now see what lengths DFA will go to keep Prairie Farms from having Southern Belle. On Tuesday before the Southern Belle Board meeting, enter Jerry Boss, representing DFA and Bob Allen. The next day Southern Belle voted to recommend the sale of the company to DFA. To no one's surprise, Bob Allen is going to be the managing partner for DFA. He invested $1,000,000. of his money to become a 50 percent owner in a $19,000,000. company. Good ole Bob, a perfect partner in the words of Gary Hanman (the head man of DFA). Good ole Bob must have seen $ signs, why not after walking away with $17,000,000. in a very short period of time in a deal very similar to this one and also with DFA that involved Tuscan

and Lehigh Dairies up in the northeast. Most anyone would be a perfect partner for an easy and quick $17,000,000.

After the deal was complete and DFA and good ole Bob took over Southern Belle, good ole Bob almost immediately began laying the groundwork to give the SEGMPA two wonderful options:

1.) Become a DFA producer or

2.) Go fly a kite.

It was also apparent soon after Bob took over that he needed someone to be his yes man because Martin Shearer just did not fit the bill. The yes man suddenly appeared * * * why, it's Mike Chandler right out of the sales department. Mike is the kind of guy that gives all salespeople a bad name. People say he would climb a tree to tell a lie. However, he was lacking when it came to speech because he couldn't say shit with a mouthful. Now this is where DOJ gets a well deserved Pat On The Back. Much to the surprise of DFA and good ole Bob, DOJ filed a lawsuit asking DFA to divest itself of its ownership in Southern Belle. Good ole Bob had to put the brakes on his plan. After all, it wouldn't look good if he sent Martin Shearer home and kicked the producers right between the legs, at least not right now. DFA and good ole Bob put up a good fight and finally finagled a judge into giving them a Summary Judgment. Good ole Bob must have known he was going to get it, as he sent Martin Shearer home before the Summary Judgment was made public and he put his yes man in place. When the Summary Judgment in favor of DFA and good ole Bob was made public, celebrations broke out to honor the victory over DOJ. After all, who is the DOJ that would question DFA and the perfect partner, good ole Bob.

Here is another well-deserved Pat-On The Back for DOJ. You didn't quit. DOJ filed an appeal. The judge who was tricked by DFA and good ole Bob had his decision overturned. This really made DFA and good ole Bob mad. But what could they do? * * * Give up and agree to sell it and quickly find someone to move it to that would finish the job for them. Why after going to great and expensive lengths to keep Prairie Farms from owning Southern Belle do they quickly sell it to them without even giving one group a chance to make a proposal? I know opinions are like assholes; every body has one. Here's my opinion—Whatever Prairie Farms might have given will be returned to them in some way, probably in credits toward raw milk purchases, making the price tag this time around $00. plus keep lying Mike Chandler in charge to oversee DFA's best interests of seeing SEGMPA die a slow but sure death. At last, mission accomplished for DFA.

Please do whatever it takes to see Southern Belle end up in the hands of someone who has (zero) connection to DFA. Thanks for listening.

A very concerned citizen

P.S. Something else you may need to take a look at. Remember the children and families and taxpayers you were trying to protect when you made the new Dean spin off those plants.

1.) The one in northern Alabama that needed to give Dean competition; you may not know but it's gone. Dean has North Alabama schools all to themselves now. Poor children.

2.) The one in Virginia that was supposed to give Dean competition in parts of Virginia; you may not know but it's gone. Poor children.

3.) The one in Indiana that was supposed to give Dean competition; you may not know it but it's gone. Poor children.

You might ought to watch the rest that were spun off because some of them may soon disappear as well.

Thanks again for listening.

[FR Doc. 07–709 Filed 2–21–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a regulation under 21 U.S.C. § 952(a)(2)(B) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on November 27, 2005, Cambrex Charles City, Inc., 1205 11th Street, Charles City, Iowa 50616, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Phenylacetone (8501), a basic class of controlled substance listed in schedule II.

The company plans to import Phenylacetone for use as a precursor in the manufacture of amphetamines only.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, *Attention:* DEA Federal Register Representative/ODL; or any being sent via express mail should be sent to DEA Headquarters, *Attention:* DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than March 26, 2007.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR § 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substance listed in schedule I or II are, and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(b), (c), (d), (e) and (f) are satisfied.

Dated: February 14, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–2992 Filed 2–21–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 21, 2006 and published in the **Federal Register** on December 1, 2006, (71 FR 69591), JFC Technologies LLC., 100 West Main Street, P.O. Box 669, Bound Brook, New Jersey 08805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Meperidine intermediate-B (9233), a basic class of controlled substance listed in schedule II.

The company plans to import the basic class of controlled substance for production of controlled substances for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. § 823(a) and § 952(a) and determined that the registration of JFC Technologies LLC to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated JFC Technologies LLC to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical