a result of an asbestos removal project at a Cytec facility located in Marietta, Ohio.

In the proposed settlement, Cytec and Baker agree to: achieve full compliance with the National Emission Standards for Hazardous Air Pollutants for asbestos (the ''asbestos__NESHAP''); implement an Asbestos Control Program as provided in the consent decree; and pay civil penalties of $176,135 and $49,518, for Cytec and Baker respectively.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Cytec Industries, Inc., et al.,* No. C–2–98–1020, DOJ Ref. #90–5–2–1–2223.

The proposed consent decree may be examined at the office of the United States Attorney, 2 Nationwide Plaza, 280 N. High St., Fourth Floor, Columbus, Ohio 43215; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Wahsington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and decree and enclose a check in the amount of $6.25 (25 cents per page reproduction costs) for the consent decree.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29203 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Resource Conservation and Recovery Act of 1976 (RCRA) as Amended, 42 U.S.C. 6928

Under 28 CFR § 50.7, notice is hereby given that on October 16, 1998, a proposed Consent Decree in *United States* v. *FMC Corporation, Inc.,* Civil Action No. 98–0406–I–BLW, was lodged with the United States District Court for the District of Idaho.

In this action, the United States sought injunctive relief and penalties for violations by FMC Corporation (FMC) of the requirements of Sections 3004, 3005, and 3008 of RCRA, 42 U.S.C. §§ 6924, 6925, and 6928, and the regulations promulgated thereunder, in particular 40 CFR parts 261, 262, 265, and 270, at its facility near Pocatello, Idaho. This facility is the world's largest producer of elemental phosphorus, which is used in detergents, beverages, foods, synthetic lubricants, and pesticides, and is located on 1,400 acres within the Shoshone-Bannock Tribe's Fort Hall Indian reservation. The Consent Decree resoled the RCRA violations alleged in the Complaint filed simultaneously with the lodging of the Consent Decree, which stem primarily from FMC's use of certain surface impoundments used to store, treat and dispose of FMC's precipitator slurry/dust, which is also known as furnace off-gas solids, and waste water from the production of elemental phosphorus, which is also called phossy water. These wastes contain phosphorus, and have been determined to be ignitable and reactive pursuant to 40 CFR § 262.21(a) and 40 CFR § 261.23(a).

The injunctive relief required under the proposed Consent Decree requires FMC to close all ponds illegally handling phosphorus bearing wastes, and operate certain interim use replacement ponds under strict limitations. FMC also must construct a wastewater treatment plant to deactivate the phosphorus bearing wastes, and implement plant upgrades to meet RCRA secondary containment requirements for all units handling ignitable or reactive wastes. FMC also will pay a civil penalty to the United States of $11,864,800, and will offset approximately $5 million in additional penalties through the implementation of fourteen Supplemental Environmental Projects (SEPs'), which will reduce air emissions substantially in advance of the anticipated requirements of a future Federal Implementation Plan governing the facility under the Clean Air Act. FMC also will undertake as a SEP an environmental and public health assessment to evaluate effects of local pollutants on biota used by the Shoshone-Bannock Tribe in cultural practices, coupled with a public health component to measure any health effects of exposure and to present the findings to tribal members.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *FMC Corporation, Inc.*, D.J. Ref. 90–7–1–889.

The Consent Decree may be examined at the Office of the United States Attorney, 877 W. Main Street, Suite 201, Boise, Idaho 83702, at U.S. EPA Region 10, 1200 Sixth Avenue, ORC–158, Seattle, Washington 98101, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $12.50 (25 cents per page reproduction cost), with attachments a check in the amount of $20.75, payable to the Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–29201 Filed 10–30–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment and Competitive Impact Statement

United States v. *Halliburton Company and Dresser Industries, Inc.*

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Halliburton Company and Dresser Industries, Inc.*, Civil Action No. 98–CV–2340. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h).

On September 29, 1998, the United States filed a Complaint seeking to enjoin a transaction in which Halliburton Company (''Halliburton'') would merge with Dresser Industries, Inc. (''Dresser''). The Complaint alleges that the merger would combine two of four companies that provide logging-while-drilling (''LWD'') services for oil and natural gas drilling projects. Oil and gas companies use LWD tools and services when drilling non-vertical wells, especially when drilling offshore. While the drilling ongoing, sensors in

these tools send back data that allow the drillers to evaluate the formation through which the drill bit is cutting. The formation evaluation data assist the driller in locating oil and gas reserves. Because LWD tools transmit formation data during the drilling, the driller can detect changes in downhole pressure and prevent the drill bit from straying out of the zone of oil and gas, thereby reducing the time and risk of drilling. The Complaint alleges that the proposed acquisition would substantially lessen competition in the provision of LWD services in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

The proposed Final Judgment orders defendants to sell Halliburton's worldwide LWD Business, as defined in Schedule A of the Proposed Final Judgment, to a purchaser acceptable to plaintiff in its sole discretion. The Final Judgment and the stipulation and Order also impose a hold separate agreement that, in essence, requires the defendants to ensure that, until the divestiture mandated by the Final Judgment has been accomplished, the LWD Business will be held separate and apart from, and operated independently of, any of defendants' other assets and businesses. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Roger W. Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, 325 Seventh Street, N.W., Suite 500, Washington, DC 20530 (telephone: (202) 307–6351).

Copies of the Complaint, Stipulation and Order, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 Seventh Street, N.W., Washington, DC 20530 (telephone: (202) 514–2481), and at the office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, N.W., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations and Merger, Enforcement, Antitrust Division.

Stipulation and Order

It is hereby *Stipulated* by and between the undersigned parties, by their respective attorneys, as follows:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States Court for the District of Columbia.

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedure and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. Defendant shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though they were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final judgment agreed upon in writing by the parties and submitted to the Court.

5. In the event that plaintiff withdraws its consent, as provided in paragraph 2 above, or in the event that the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court 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, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any part in this or any other proceeding.

6. Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that the defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Respectfully submitted,

For Plaintiff, United States of America:

Angela L. Hughes,

Member of the Florida Bar No. 211052, Attorney, Antitrust Division, U.S. Department of Justice, 325 Seventh St., N.W., Suite 500, Washington, DC 20530, (202) 307–6410 or (202) 307–6351, Facsimile: (202) 307–2784.

Dated: September 29, 1998.

For Defendant, Halliburton Company:

Ky P. Ewing, Jr.,

District of Columbia Bar No. 41285, Vinson & Elkins L.L.P., The Willard Office Building, 1455 Pennsylvania Avenue, N.W., Washington, DC 20004–1008, (202) 639–6500.

For Defendant, Dresser Industries, Inc.:

David A. Hickerson,

District of Columbia Bar No. 414723, Weil, Gotshal & Manges L.L. P., 1615 L Street, N.W., Washington, DC 20035, (202) 682–7000.

Order

It is So Ordered, this _____ day of _____, 1998.

_____

United States District Court Judge

Final Judgment

Whereas, plaintiff, the United States of America, filed its Complaint in this action on September 29, 1998, and plaintiff and defendants Halliburton Company (''Halliburton'') and Dresser Industries, Inc. (''Dresser'') by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, the essence of this Final Judgment is prompt and certain divestiture of Halliburton's LWD Business to assure that competition is not substantially lessened;

And Whereas, plaintiff requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And Whereas, defendants have represented to the plaintiff that the divestiture ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture requirements contained below;

Now, Therefore, before the taking of any testimony, and without trial or

adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, Adjudged, and Decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over defendants hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants, as hereafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. ''Dresser'' means Dresser Industries, Inc., a Delaware corporation with its headquarters and principal place of business in Dallas, Texas, and its; successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, directors, officers, managers, agents, and employees.

B. ''Halliburton'' means Halliburton Company, a Delaware corporation with its headquarters and principal place of business in Dallas, Texas, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, directors, officers, managers, agents, and employees.

C. ''HESI'' means Halliburton Energy Services, Inc., a wholly owned subsidiary of Halliburton.

D. ''Intellectual Property'' means intellectual property used in connection with the use, manufacture and/or sale of the transferred LWD and MWD tools and related software, including without limitation, foreign and domestic patent applications and patents; trade secrets; foreign and domestic copyrights and copyright registrations; and foreign and domestic common law and registered trademarks or service marks, and trademarks or service mark applications.

E. ''LWD Services'' means the services and products used to provide real-time logging-while-drilling formation evaluation data is utilized to evaluate the formation characteristics of a given geologic formation. LWD Services also include MWD Services provided in conjunction with LWD Services.

F. ''LWD Business'' means 'HESI's worldwide business providing LWD Services and includes the tangible and intangible assets, obligations, and understandings set forth in Schedule A.

G. ''MWD Services'' means the services and products used in drilling directional wells to provide real-time information about the inclination and azimuth of downhole drilling tools at the bottom of the hole.

H. ''Person'' means any natural person, corporation, association, firm, relationship, or other business or legal entity.

III. Applicability

A. The provisions of this Final Judgment apply to each of the defendants, their successors and assigns, their subsidiaries, directors, officers, managers, agents, and employers, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of the LWD Business, that the acquiring party agree to be bound by the provisions of this Final Judgment.

IV. Divestiture

A. Defendants are hereby ordered and directed in accordance with the terms of this Final Judgment, within one hundred and eighty (180) calendar days after this Final Judgment is filed by plaintiff or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the LWD Business as an ongoing business, in accordance with the terms and commitments set forth in Schedule A, to an acquirer acceptable to plaintiff in its sole discretion.

B. Defendants shall use their best efforts to accomplish the divestiture ordered by this Final Judgment as expeditiously and timely as possible. Plaintiff, in its sole discretion, may extend the time period for any divestiture for an additional period of time not to exceed thirty (30) days.

C. In accomplishing the divestiture ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability for sale of the LWD Business Defendants shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of the Final Judgment. Defendants shall also offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, all information regarding the LWD Business customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Defendants shall make available such information to plaintiff at the same time that such information is made available to any other person. Defendants shall not interfere with any negotiations by any purchaser to employ any Halliburton employee of the LWD Business.

D. Defendants shall permit prospective purchasers of the LWD Business to have reasonable access to their personnel and to make such inspection of the physical facilities and any and all of their financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall not take any action, direct or indirect, that will impede in any way the operation of the LWD Business.

F. Unless plaintiff otherwise consents in writing, divestiture pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include all of the LWD Business, and shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that the LWD Business can and will be used by the purchaser as part of a viable, ongoing business engaged in the provision of LWD Services. The divestiture, whether pursuant to Section IV or Section V of this Final Judgment, shall be made (1) to a purchaser who is demonstrated to plaintiff's sole satisfaction (a) to have the capability and intent of competing effectively in LWD Services, and (b) to have the managerial, operational, and financial capability to compete effectively in LWD Services, and (2) on terms none of which give defendants the ability unreasonably to raise the purchaser's costs, to lower the purchaser's efficiency, or otherwise to interfere in the ability of the purchaser to compete effectively.

G. Defendants shall not sell the LWD Business to Baker Hughes, Inc., Schlumberger Limited, or any of their affiliates or subsidiaries during the life of this decree.

V. Appointment of Trustee

A. In the event that defendants have not divested the LWD Business within the time specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by plaintiff to effect the divestiture of the LWD Business. Until such time as a trustee is appointed, defendants shall continue their efforts to effect the divestiture as specified in Section IV.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the LWD Business. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and VI

of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to plaintiff in its sole discretion, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to plaintiff and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants, and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture, including their best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall develop financial or other information relevant to the business to be divested customarily provided in a due diligence process as the trustee may reasonable request, subject to customary confidentiality assurances. Defendants shall permit bona fide prospective purchasers of the assets to have reasonable access to their personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestiture required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the LWD Business.

F. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by plaintiff.

VI. Notification

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole in part, any proposed divestiture pursuant to Section IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify plaintiff of the proposed divestiture. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the business to be divested, together with full details of same. Within fifteen (15) calendar days of receipt by plaintiff of such notice, plaintiff may, in its sole discretion, request from defendants, the proposed purchaser or purchasers, or any other third party, additional information concerning the proposed divestiture and the proposed purchaser. Defendants and the trustee shall furnish any additional information requested from then within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice of within twenty (20) calendar days after plaintiff has been provided with the additional information requested from defendants, the proposed purchaser or purchasers, and any third party, whichever is later, plaintiff shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If plaintiff provides written notice to defendants and the trustee that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(B) of this Final Judgment. Absent written notice that plaintiff does not object to the proposed purchaser or upon objection by the plaintiff, a divestiture proposed under Section IV or V may not be consummated. Upon objection by defendants under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed, whether pursuant to Section IV or Section V of this Final Judgment, defendants shall deliver to plaintiff an affidavit as to the fact and manner of compliance with Section IV or V of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about

acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendants have taken to solicit a purchaser for the relevant business and to provide required information to prospective purchasers including the limitations, if any, on such information.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to plaintiff an affidavit which describes in detail all actions defendants have taken and all steps defendants have implemented on an on-going basis to perserve the LWD Business pursuant to Section VIII of this Final Judgment. The affidavit also shall describe, but not be limited to, defendants' efforts to maintain and operate the LWD Business as an active competitor, maintain the management, staffing, research and development activities, sales, marketing and pricing of the LWD Business, and maintain the LWD Business in operable condition at current capacity configurations. Defendants shall deliver to plaintiff an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, defendants shall preserve all records of all efforts made to preserve the business to be divested and effect the divestiture.

VIII. Preservation of Assets

Until the divestiture required by the Final Judgment has been accomplished:

A. Defendants shall take all steps necessary to assure that the LWD Business will be maintained as a separate and independent, economically viable, ongoing business with its assets (including Intellectual Property, management, operations, and books and records) separate, distinct, and apart from those of defendants. Defendants shall use all reasonable efforts on behalf of themselves and the LWD Business to maintain and increase sales of LWD Services, continue current plans for research, development, and testing of LWD Services, and otherwise maintain the business as a viable and active competitor. Defendants shall take no action that would jeopardize the sale of the LWD Business.

B. Defendants shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans (except such loans as are currently outstanding or replacements or substitutes therefore), assets required to be divested pursuant to Section IV or V, except that any component of such assets as is replaced in the ordinary course of business with a newly purchased, assembled, remanufactured or manufactured component may be sold or otherwise disposed of, provided the newly purchased, assembled, remanufactured or manufactured component is so identified as a replacement component for one to be divested.

C. Defendants shall provide and maintain sufficient working capital to maintain the LWD Business as a viable, ongoing business consistent with the requirements of Section VIII(A).

D. Defendants shall preserve the assets required to be divested pursuant to Section IV or V, except those replaced with newly acquired assets in the ordinary course of business, in a state of repair equal to their state of repair as of the date this Final Judgment is filed, ordinary wear and tear excepted. Defendants shall preserve the documents, books, and records relating to the LWD Business until the date of divestiture of the LWD Business.

E. Except in the ordinary course of business, Defendants shall refrain from terminating or altering current employment, salary, or benefit agreements for any executive or managerial person whose principal responsibilities are with the LWD Business, or for any sales, manufacturing, marketing, engineering, or other technical person of the LWD Business. Defendants shall also refrain from transferring any employee so employed without the prior approval of plaintiff.

F. Defendants shall use all reasonable efforts to maintain the manufacturing activities of the LWD Business, and shall maintain at a level no less than the highest level since February 25, 1998, research and development funding, promotional, advertising, sales, technical assistance, marketing, and merchandising support for the LWD Business.

G. Defendants shall provide and maintain sufficient lines and sources of credit to maintain the LWD Business as an economically viable, ongoing business.

H. Defendants shall take all steps necessary to ensure that the facilities associated with the LWD Business are fully maintained in operable condition at no lower than their current rated capacity, and shall maintain and adhere to normal repair and maintenance schedules for the LWD Business.

I. Defendants shall maintain, in accordance with sound accounting principles, separate, true, accurate and complete financial ledgers, books and 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, income, profit and loss of the LWD Business.

J. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestiture pursuant to the Final Judgment to a suitable purchaser.

K. Until such time as the LWD Business is divested, the assets to be divested shall be managed by a person appointed by Halliburton within ten (10) business days of consummation of the merger of Halliburton and Dresser, subject to plaintiff's approval. The person so appointed shall have complete managerial responsibility for the LWD Business, subject to the provisions of this Order and the Final Judgment. In the event that the person becomes unable to perform his duties, defendants shall appoint, subject to plaintiff's approval, a replacement within ten (10) business days. Should defendants fail to appoint a replacement acceptable to plaintiff within ten (10) business days, plaintiff shall appoint a replacement.

IX. Financing

Defendants are ordered and directed not to finance all or any part of any purchase by purchaser made pursuant to Sections IV or V of this Final Judgment.

X. Compliance Inspection

For purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time.

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

1. Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to the matters contained in this Final Judgment; and

2. Subject to the reasonable convince of defendants and without restraint or interference from them, to interview, either informally or on the record, their officers, employees, and agents, who

may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General of the Assistant Attorney General in charge of the Antitrust Division, made to defendants' principal offices, defendants shall submit such written reports, under oath if requested, with respect to any matter contained in the Final Judgment.

C. No information or documents obtained by the means provided in Sections VII or X of this Final Judgment shall be divulged by a representative of the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course or legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff, defendant represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material: ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) calendar days notice, if practicable, shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which each defendant is not a party.

XI. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the day of its entry.

XIII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated _____, 1998.

_____

United States District Judge

Schedule A

1. LWD and MWD Tools

Subject to the other provisions of this Schedule A, HESI shall transfer to purchaser all of its LWD tools and such quantity of MWD tools as will allow purchaser to operate such LWD tools. Such LWD tools shall include the following tools:

	Approximate current quantity
LWD:	
CWRGM Resistivity—GR Tool	111
DNSC Density—Neutron Tool	53
SCWR Slim Resistivity Tool	42

In order to allow purchaser to operate such LWD tools, HESI will transfer the following MWD tools to purchaser:

MWD:	
HDSM Directional Tool (positive pulse)	95
HDS1 MWD Kits (positive pulse)	17
RX4 MLWD Surface System	50

Included with such tools shall be the software required to operate such tools in their current mode of operation by HESI and a hard copy and copy of all computer tapes and discs containing any data in the possession or control of HESI (but not data owned by a customer unless the customer consents) that record the performance anywhere of those tools, together with instructions and all other materials necessary to use or interpret the data. HESI will use its best efforts to obtain the consent of customers who own such data that is in its possession or control.

2. Sonic Tools

HESI shall transfer to purchaser 50% of its CLSS Sonic Tools (approximately 23 tools), 50% of its SCLSS Sonic (slim) Tools (approximately 9 tools), and 50% of its Sonic Workstations (approximately 7 workstations). HESI will also grant to purchaser a worldwide, royalty-free, irrevocable, non-exclusive license covering HESI's Intellectual Property for the use, manufacture and sale of such Sonic Tools. Such license will not be subject to any requirement to grant back to HESI rights to any improvements made by purchaser to such tools.

Included with such tools shall be the software necessary to operate such tools in their current mode of operation by HESI and a hard copy and copy of all computer tapes and discs containing any data in the possession or control of HESI (but not data owned by a customer unless the customer consents) that record the performance anywhere of those tools, together with instructions and all other materials necessary to use or interpret the data. HESI will use its best efforts to obtain the consent of customers who own such data that is in its possession or control. HESI shall be permitted to offer Sonic LWD services worldwide using the Sonic LWD tools and workstations it retains. HESI shall be permitted to rent from purchaser sufficient other HESI LWD tools to allow it to provide sonic LWD services until such tine as HESI is able to adapt its sonic LWD tools to operate in real time with LWD tools acquired from Dresser Industries, Inc., but in any event not longer than 12 months after the merger of Halliburton Company and Dresser Industries, Inc. is consummated. To the extent and for the period that HESI retains LWD tools (other than sonic tools) for such purpose, it shall pay purchaser a reasonable rental amount for such retained tools.

3. Buildings

(a) In the United States, the LWD Business is operated from the HESI-owned Lafayette, Louisiana service center, which is a 63,400 sq. ft. facility located on a 9.8 acre site, and configured for the storage of radioactive well logging sources. HESI shall transfer to purchaser the entire Lafayette facility, including all workshop, testing, and repair equipment required for the maintenance of the tools.

(b) With respect to equipment and facilities located outside the United States which are used by HESI to conduct the LWD Business, HESI will transfer to purchaser all workshop, testing, and repair equipment used by HESI to conduct the LWD Business and such of the buildings HESI owns or leases which are used solely for purposes of conducting the LWD Business. Where HESI conducts its LWD Business from a facility that is also used by HESI for other purposes, HESI will transfer such workshop, testing and repair equipment to purchaser at a nearby facility of purchaser's selection which purchaser has acquired for such purpose. In those areas where, following the merger of Halliburton Company and Dresser Industries, Inc., a facility formerly used by one of the companies to provide LWD services will not be used by HESI to provide LWD services, purchaser will have the option to

acquire that facility from HESI as part of the LWD Business.

4. Manufacturing

(a) HESI will transfer to purchaser manufacturing, assembly, testing, calibration and other machinery and equipment, including related software, to equip a building, to be supplied by purchaser, with sufficient equipment to permit purchaser to conduct the manufacturing, assembly, testing, and calibration of LWD tools and MWD tools used in conjunction with the LWD tools currently performed by HESI (with the exception of a test well). HESI will make its current test well in Fort Worth, TX available to purchaser for a period of two years for a charge not to exceed the amount charged by AMOCO at its test well in Catoosa, OK, which is available on a rental basis to the industry. This transferred equipment shall include HESI designed automated test equipment and accelerated stress screen test equipment, and standard injection molding equipment used to ''pott'' circuit boards in shock resistant elastomer. Also included will be a hydraulic shake table used to perform tool chassis testing. HESI will provide purchaser with copies of all drawings, histories, manuals, lab notebooks, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, and quality assurance control procedures and other records maintained by HESI related to the tools specified in paragraphs 1 and 2.

(b) A reasonable number of employees whose qualifications are suited to conduct the management of the manufacturing, assembly, testing or calibration process will be selected by purchaser from a list HESI shall supply to purchaser of all of its skilled technical and management employees who work in the manufacturing, assembly, testing, or calibration of LWD tools and MWD tools used in conjunction with the LWD tools, which list shall include their expertise, qualifications, job descriptions, salary, date of hire, and all other information from the employee's personnel file that HESI can legally provide to purchaser. Purchaser will be responsible for offering such employees such compensation and benefit program as will induce such persons voluntarily to agree to leave HESI's employment and become employees of purchaser. HESI will use its best efforts to work with purchaser to make reasonable arrangements to cause such employees to accept such employment by purchaser.

(c) If at the time of sale there exist continuing contract obligations of HESI to sell or maintain or support LWD tools previously sold to third-parties, HESI shall identify and purchaser shall assume such obligations.

5. R&D

HESI will deliver to purchaser R&D equipment, including related software, and copies of tool histories, development records and laboratory records related to the LWD tools and MWD tools listed in paragraphs 1 and 2, including the results of unsuccessful designs. HESI will provide purchaser, at a location to be supplied by purchaser, a LWD research laboratory capable of conducting the research projects existing at any time on or after February 25, 1998 with respect to existing LWD or MWD tools or new tools that extend the technology contained in the tools listed in paragraphs 1 and 2. A reasonable number of employees whose technical qualifications are suited to conduct the types of LWD research and development purchaser wishes to conduct will be selected by purchaser from HESI's current LWD technical staff. HESI shall supply to purchaser a complete list of all its LWD technical staff members who have participated in any research projects with respect to LWD or MWD tools, including their expertise, qualifications, job descriptions, salary, date of hire, and all other information from the employee's personnel file that HESI can legally provide to purchaser. Purchaser will be responsible for offering such employees such compensation and benefit programs as will induce such persons voluntarily to agree to leave HESI's employment and become employees of purchaser. HESI will use its best efforts to work with purchaser to make reasonable arrangements to cause such employees to accept employment by purchaser.

6. Licenses

(a) HESI will grant to purchaser a worldwide, royalty-free, irrevocable, non-exclusive license covering HESI owned Intellectual Property. Purchaser shall not be granted any rights, including trademarks and service marks, associated with the use of the trade names or commercial names of Halliburton or HES; provided, however, that in the marketing of LWD services using LWD or MWD tools acquired from HESI, purchaser will possess the right following the date of the purchase of the LWD Business to identify its LWD and MWD tools as being manufactured pursuant to a license from HESI and its LWD Business as having been acquired from HESI. Such license will not be subject to any requirement that purchaser grant back to HESI rights to any improvements made by purchaser to such tools.

(b) HESI will grant to purchaser sublicenses covering the use of third-party technology and related software embodied in the transferred LWD and MWD tools and software, to the extent permitted by its licenses from such third parties. Such sublicenses will not be subject to any requirement that purchaser grant back to HESI rights to any improvements made by purchaser to such tools. To the extent that the third party licenses do not permit HESI to grant purchaser a sublicense, HESI will identify each such third party license and use its best efforts to assist purchaser in obtaining a license from the third party.

7. Contracts

(a) At the time of sale, HESI will assign to purchaser all of its contracts with customers to provide LWD services in the United States, or to the extent applicable, portions of contracts to provide LWD services in the United States that are outstanding at closing. To the extent not assignable, HESI will use its best efforts to obtain for purchaser the benefit of such contracts by designating purchaser as HESI's agent for the purposes of performing such contracts and paying to purchaser all monies due under such contracts for the performance of such LWD services.

(b) At the time of sale, HESI will assign to purchaser all of its contracts with customers to provide LWD Services outside the United States, or to the extent applicable, portions of contracts to provide LWD Services that are outstanding at closing. To the extent not assignable or to the extent that the assignment is unacceptable to the customer, in order to allow HESI to complete contracts existing at the time of sale any resulting from the award under a tender outstanding at the date of sale, HESI shall be allowed to rent from purchaser such LWD and MWD tools, and to use equipment and facilities of the LWD Business and such employees of the LWD Business as are reasonably required for HESI to complete the performance of LWD Services under such contracts. HESI shall pay to purchaser a reasonable rental amount for such tools, equipment, facilities, and employees during the period from the close of the sale of the LWD Business to the time such contracts are completed.

8. Employees

Subject to the other terms of this Schedule A, HESI and purchaser will enter into commercially reasonable arrangements for purchaser to employ such of the employees of the LWD Business as purchaser requires to operate the LWD Business.

9. Customer Lists, Credit Records, and Supplied/Vendor Lists and Supplier/Vendor Contracts

HESI will transfer to purchaser its lists of customers, customer credit records, and supplier/vendor lists and supplier/vendor contracts for its LWD Business anywhere in the world.

10. Technical Support and Training

HESI will transfer to purchaser technical support and training services employees and related assets with respect to the LWD Business. Purchaser will be responsible for offering such employees such compensation and benefit programs as will induce such persons voluntarily to agree to leave HESI's employment and become employees of purchaser. HESI shall be permitted to utilize the services of sufficient technical support and training services employees and related assets to the extent required for HESI to complete the contracts referred to in paragraph 7(b). To the extent and for the period that HESI utilizes the services of technical support and training services employees and related assets, it shall pay purchaser a reasonable fee for those services.

11. Spare Parts

HESI's inventory of spare parts and consumables relating to the LWD Business will be transferred to purchaser, provided, however, that the inventory of Sonic LWD tool parts shall be divided between HESI and purchaser in the same proportions as the Sonic tools are divided pursuant to paragraph 2. Purchase will agree to sell to HESI at reasonable prices spare parts sufficient to permit HESI to complete the contracts referred to in paragraph 7(b).

12. Continuing LWD Services

HESI agrees that after the sale of the LWD Business it will not offer LWD services, directly or indirectly, including by a licensee other than purchaser, anywhere in the world using any of the HESI tools of the type sold to purchaser, except (i) LWD services necessary to complete the contracts referred to in paragraph 7(b); (ii) LWD services using LWD tools acquired from Dresser; and (iii) sonic LWD services using sonic LWD tools of the type sold to purchaser. Further, HESI may continue to use the underlying technology licensed to purchaser in its wireline logging tools and other products and in Dresser tools.

13. No Transfer of Acquired Assets

HESI may require purchaser to agree that it will not transfer by any means any of the tangible or intangible property or assets it acquires from HESI to either Schlumberger Limited, or Baker Hughes Incorporated, or their affiliates for the life of the consent decree. This provision does not prevent purchaser from making the property or assets available to any joint venture in which it participated.

Excluded assets:

Excluded from the LWD Business are (1) all business, assets and technology of Dresser Industries, Inc. which is being acquired by Halliburton; (2) all business, assets and technology of NUMAR; and (3) Intellectual Property, except to the extent provided in paragraphs 2 and 6.

Certificate of Service

I hereby certify that I have caused a copy of the foregoing Complaint and proposed Final Judgment to be served on counsel for defendants in this matter in the manner set forth below:

By first class mail, postage prepaid, and by facsimile:

Helene D. Jaffe, Esquire, Weil, Gotshal & Manges, 767 Fifth Avenue, New York, NY 10153

Ky P. Ewing, Esquire, Vinson & Elkins, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004–1008

Andrew K. Rosa,

Antitrust Division, U.S. Department of Justice, 325 Seventh Street, N.W., Suite 500, Washington, D.C. 20530, (202) 307–0886, (202) 616–2441 (Fax).

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On September 29, 1998, the United States filed a civil antitrust Complaint alleging that the proposed merger of Dresser Industries, Inc. (''Dresser'') and Halliburton Company (''Halliburton'') would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint alleges that Halliburton and Dresser are two of only four companies that provide logging-while-drilling (''LWD'') services to oil and gas drilling companies and are the only sources of current and likely future innovations in new and improved LWD tools. The request for relief in the Complaint seeks: (1) a judgment that the proposed merger would violate Section 7 of the Clayton Act; (2) a permanent injunction preventing consummation of the merger agreement; (3) an award of costs to the plaintiff; and (4) such other relief as the Court may deem just and proper.

When the Complaint was filed, the United States also filed a proposed settlement that would permit the merger of Halliburton and Dresser to proceed, but require a divestiture that will preserve competition in the market for provision of LWD services. This settlement consists of a Stipulation and Order and a proposed Final Judgment. The proposed Final Judgment orders defendants to divest ''the LWD business,'' which is described in Schedule A of the proposed Final Judgment, within one hundred and eighty (180) calendar days after the filing of the Final Judgment in this matter, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later. The purchaser of the LWD Business must be acceptable to the Antitrust Division of the Department of Justice (''DOJ''). The LWD Business includes virtually all of Halliburton's LWD tools; sufficient measurement-while-drilling (''MWD'') tools for use with the LWD tools; manufacturing equipment; workshop, testing, and repair equipment used by Halliburton to conduct the LWD Business anywhere in the world; research and development equipment; Halliburton's Lafayette, Louisiana, facility and the option to acquire facilities outside the United States previously used by Halliburton or Dresser to provide LWD services that will not continue to be used by Halliburton; the right to hire employees of the LWD Business as the purchaser requires to operate the LWD business, including a reasonable number of employees to manage the manufacture, assembly, testing or calibration of LWD tools and associated MWD tools and to conduct LWD research and development; and worldwide, royalty-free, irrevocable licenses to the intellectual property used in connection with the use, manufacture, or sale of the transferred tools.

The plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed final Judgment would terminate the 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.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Halliburton is a Delaware corporation, with its principal office in Dallas, Texas. It provides products and services for the exploration, development, and production of oil and natural gas. It is one of the ''Big Four'' oil field service companies—along with Dresser and two other companies. In 1997, Halliburton had revenues of over $8 billion. Dresser is also a Delaware corporation headquartered in Dallas, Texas. In 1997, it reported total sales of about $7.5 billion.

On February 25, 1998, Halliburton and Dresser entered into an Agreement and Plan of Merger under which Halliburton would merge with Dresser. This transaction, which would increase concentration in the already highly concentrated market for the provision of LWD services, precipitated the government's suit.

B. The LWD Service Market

Oil and gas companies use data from LWD tools, which are placed behind the drill bit, to guide drilling operations, particularly in offshore drilling projects. The data from LWD tools, which is transmitted to the surface while the drilling is ongoing, allows the driller to evaluate the formation that the drill bit is cutting. With this data, the driller can detect changes in downhole pressure, prevent the drill bit from straying out or oil or gas deposits, and otherwise determine the optimum drilling path.

There are four types of LWD tools, each of which provide different data to evaluate the formation: (1) gamma ray, (2) resistivity, (3) neutron density, and (4) sonic. Gamma ray tools, which are the most rudimentary LWD tools, identify the type of formation (*e.g.*, shale or sand) by measuring natural radioactivity. Data from LWD resistivity tools help detect the presence of oil, gas, and water in the formation. Data from LWD neutron density and sonic tools help determine the formation's porosity, which indicates the amount of liquid in the formation and the formation's permeability.

There are no realistic substitutes for LWD services for offshore drilling projects. Drillers can use wireline logging tools to gather similar data, but, in order to use wireline logging, they must cease drilling, remove the drill from the well, lower tools into the well by wire, collect data downhole, remove the tools, and read the data on the surface. During this entire operation, which may take as long as a day and a half, the drilling rig sits idle (costing the operator $250,000 to $300,000 per day in deepwater areas of the Gulf of Mexico), which makes wireline logging much more expensive than LWD services. A small but significant and nontransitory increase in the price of LWD services would not cause a significant number of customers drilling offshore wells to switch to wireline services, or to any other method for obtaining formation evaluation data.

C. Harm to Competition as a Consequence of the Merger

Halliburton and Dresser are two of only four firms that provide the full range of LWD services. The proposed transaction would reduce to three the number of firms providing the full range of LWD services in the United States.

Moreover, successful entry into the market for provision of LWD services would be difficult, time-consuming, and costly. Even if a new entrant invested in the research, development, and engineering programs required to produce the current generation of LWD tools, it would also have to engage in extensive testing, and, over a course of years, eventually establish a reputation for quality and reliability—particularly for customers drilling offshore for whom the costs of delay due to failure of LWD tools can be great.

Halliburton and Dresser are also two of only four firms that are engaged in the research, development, and commercialization of new LWD tools. Competition between these firms to develop new and better LWD tools is important to oil and gas companies, in order to minimize the per-barrel cost of producing oil and gas. This competition has hastened the pace of innovation and given customers a variety of solutions to their formation evaluation needs.

The Complaint alleges that the transaction would have the following effects, among others:

a. Actual and potential competition between Halliburton and Dresser will be eliminated;

b. Competition generally in the provision of LWD services will likely be substantially lessened;

c. Prices for LWD services will likely increase; and

d. Competition in the development, commercialization, and improvement of LWD tools will likely be substantially lessened.

III. Explanation of the Proposed Final Judgment

The provisions of the proposed Final Judgment are designed to eliminate the anticompetitive effects of the proposed merger of Halliburton and Dresser.

The proposed Final Judgment provides that, within one hundred and eighty (180) calendar days after the filing of the Final Judgment in this matter, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, defendants must divest the LWD Business to an acquirer acceptable to DOJ. If defendants fail to divest the LWD Business within this period, a trustee, selected by DOJ, will be appointed by the Court to sell the LWD Business.

The Final Judgment provides that defendants will pay all costs and expenses of the trustee. After the trustee's appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the parties will have the opportunity to make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust and the term of the trustee's appointment.

Section IV of the proposed Final Judgment requires defendants to divest ''the LWD Business' as an ongoing business to a purchaser acceptable to the United States in its sole discretion. ''The LWD Business'' is defined as Halliburton Energy Services, Inc.'s (''HESI'') worldwide business providing LWD Services and includes the tangible and intangible assets, obligations, and understandings set forth in Schedule A of the proposed Final Judgment.[1]

The assets to be divested include:

(1) HESI's resistivity tools, density-neutron tools, and slim resistivity tools;

(2) half of Halliburton's sonic tools and sonic workstations;

(3) enough MWD tools to allow the purchaser to operate these LWD tools;

[1] HESI is a wholly owned subsidiary of Halliburton. ''LWD Services'' means the services and products used to provide real-time logging-while-drilling formation evaluation data which is utilized to evaluate the formation characteristics of a given geologic formation. LWD Services also include MWD Services provided in conjunction with LWD Services. MWD tools are used when drilling non-vertical wells to measure and transmit data from downhole during the drilling process on the inclination and azimuth of the downhole drilling tools. When LWD tools are used, the driller also uses MWD tools, and the driller usually obtains both types of tools from the same company because the MWD tools and LWD tools must be compatible.

(4) software required to operate the tools, information about tool performance history, and spare parts;

(5) a building from which Halliburton currently supplies LWD services to U.S. offshore drilling projects;

(6) equipment necessary to allow the buyer of the LWD Business to manufacture, assemble, test, and calibrate LWD and MWD tools,[2]

(7) worldwide, royalty-free, irrevocable, non-exclusive licenses to use HESI-owned intellectual property, and sublicenses covering the use of third-party technology and related software embodied in the transferred LWD and MWD tools and software, to the extent permitted by HESI's licenses from such third parties;

(8) research and development equipment and development and laboratory records related to the LWD tools and MWD tools to be sold, including the results of unsuccessful designs;

(9) all assignable contracts to provide LWD services worldwide, as well as lists of customers, customer credit records, and supplier/vendor lists and supplier/vendor contracts; and

(10) the opportunity to hire Halliburton employees to operate the LWD Business, including employees in manufacturing, research and development, and technical support and training services.

After the sale of the LWD Business, defendants will not be able to offer LWD services using any of the tools of the type sold with the LWD Business, except for (i) LWD services necessary to complete existing contracts for which Halliburton will rent the tools from the purchaser; (ii) LWD services using LWD tools acquired from Dresser; and (iii) sonic LWD services using sonic LWD tools of the type sold to purchaser.

Although the Complaint alleges the United States as the relevant geographic market, the proposed Final Judgment requires divestiture of the assets that Halliburton has used to provide LWD Services worldwide. Divestiture of the worldwide LWD business is necessary to preserve competition in the United States LWD services market because Halliburton, Dresser, and the other two major providers of LWD Services have worldwide operations that provide them a revenue base to support LWD research and development efforts. Thus, the divestiture is designed to ensure that the new buyer is viable and to put the purchaser in Halliburton's place as an international LWD company, enabling the purchaser to continue the innovation of LWD tools, which will benefit U.S. customers.

[2] Excluded from the divestiture package is HESI's test well. The purchaser will be able, for a fee, to use HESI's test well at Fort Worth, Texas, for two years.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, United States Department of Justice, 325 Seventh Street, NW., Suite 500, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Halliburton and Dresser. The United States is satisfied that the divestiture of the described assets specified in the proposed Final Judgment will facilitate continued viable competition in the market for the provision of LWD services. The United States is satisfied that the proposed relief will prevent the merger from having anticompetitive effects in this market. The divestiture of the LWD Business will preserve the structure of the market for the provision of LWD services that existed prior to the merger and will preserve the existence of an independent competitor.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the court *may* consider—

> (1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;
>
> (2) The impact of entry of such judgment 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 trail.

15 U.S.C. § 16(e). As the Court of Appeals for the District of Columbia Circuit held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995).

In conducting this inquiry, ''the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly

settlement through the consent decree process.'' [3] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508, at 71,980, (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v, *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), *quoting United States* v. *Bechtel Corp.*, 648 F. 2d 660, 666 (9th Cir.), *cert denied*, 454 U.S. 1083 (1981). Precedent requires that

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is *''within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[4]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted).'' [5]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

For Plaintiff United States of America:

Dated: October 21, 1998.

Respectfully submitted,

Angela L. Hughes,

Trial Attorney, U.S.C. Department of Justice, Antitrust Division, 325 Seventh Street, N.W., Suite 500, Washington, DC 20530, Telephone: (202) 307–6410 or (202) 307–6351, Facsimile: (202) 307–2784.

Certificate of Service

I hereby certify that on this 21st day of October, 1998, I have caused a copy of the foregoing Competitive Impact Statement to be served on counsel for defendants in this matter by first class mail, postage prepared, and by facsimile.

Counsel for Defendant Halliburton Company:

Ky P. Ewing, Jr., Esquire, Vinson & Elkins, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004–1008, Telephone (202) 639–6580, Facsimile: (202) 639–6604

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BILLING CODE 4410–11–M

[3] 119 Cong. Rec. 24598 (1973). *See also United States v. Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, reprinted in (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[4] *United States v. Bechtel*, 648 F.2d at 666 (internal citations omitted) (emphasis added); *see United States v. BNS, Inc.*, 858 F.2d at 463; *United States v. National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. *See also United States v. American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983).

[5] *United States v. American Tel & Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983), *quoting Gillette*, 406 F. Supp. at 716; *United States v. Alcan Aluminium, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

DEPARTMENT OF JUSTICE

Antitrust Division

Public Comments and Response of the United States

United States of America, State of New York and State of Illinois v. *Sony Corporation of America, LTM Holdings, Inc. d/b/a Loews Theatres, Cineplex Odeon Corporation, and J.E. Seagram Corp.*

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that Public Comments and the Response of the United States have been filed with the United States District Court for the Southern District of New York in *United States of America, State of New York and State of Illinois* v. *Sony Corporation of America, LTM Holdings, Inc. d/b/a Loews Theatres, Cineplex Odeon Corporation, and J.E. Seagram Corp.*, Case No. 98–CIV–2716.

On April 16, 1998, plaintiffs United States, State of New York and State of Illinois filed a Complaint seeking to enjoin a proposed merger of LTM Holdings, Inc. (''Loews'') and Cineplex are the two largest exhibitors of first-run films in Manhattan and the City of Chicago. The Complaint alleged that the proposed merger would substantially lessen competition and tend to create a monopoly in the theatrical exhibition of first-run films in both of these markets in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

Public comment was invited within the statutory 60-day comment period. Such comments, and the responses thereto, are hereby published in the **Federal Register** and filed with the Court. Copies of the Complaint, Stipulation, proposed Final Judgment, Competitive Impact Statement, Public Comments and the Response of the United States are available for inspection in Room 215 of the Antitrust Division, Department of Justice, 325 7th Street, N.W., Washington, D.C. 20530 (telephone: 202–514–2581) and at the office of the Clerk of the United States District Court for the Southern District of New York, 500 Pearl Street, New York, NY 10007.

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

Constance K. Robinson,

Director of Operations, Antitrust Division

Response of the United States to Public Comments

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) (the ''Tunney