

program to the current "Standard Criteria for Evaluating Water Management Plans" (Standard Criteria). The Sacramento River Contractors that participate in the development of a Regional Water Management Plan (Plan) will have 5 years in which to successfully implement their Plan under these approved Regional Criteria. If the Contracting Officer deems this pilot program to be unsuccessful, these Regional Criteria will be discontinued. All subsequent Plans would then be evaluated under the then current Standard Criteria.

**DATES:** All public comments must be received by March 1, 2004.

**ADDRESSES:** Please mail comments to Leslie Barbre, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, 916-978-5232 (TDD 978-5608), or e-mail at [lbarbre@mp.usbr.gov](mailto:lbarbre@mp.usbr.gov).

**FOR FURTHER INFORMATION CONTACT:** To be placed on a mailing list for any subsequent information, please contact Leslie Barbre at the e-mail address or telephone number above.

**SUPPLEMENTARY INFORMATION:** These Regional Criteria were developed by Reclamation under the authority of the CVPIA and in accordance with the RRA. These Regional Criteria state that all Participating Contractors that take delivery of Municipal and Industrial (Urban) water in excess of 2,000 acre-feet and/or Agricultural water to serve over 2,000 irrigable acres will be evaluated based on the required information detailed in the sections listed below.

1. Description of the Region Covered by the Plan
2. Inventory of Water Resources
3. Identify Regional Water Measurement Program
4. Analyze Water Management Quantifiable Objectives (QOs)
5. Identify Actions to Implement and Achieve Proposed QOs
6. Establish Monitoring Program
7. Budget and Allocation of Regional Costs
8. Regional Plan Coordination
9. Five-Year Plan Revision Procedure

Reclamation will evaluate the Plan based on these Regional Criteria.

Public comments for the Regional Criteria for the Sacramento River Contractors are now being accepted.

Dated: December 1, 2003.

**Donna E. Tegelman,**  
Regional Resources Manager, Mid-Pacific Region.

[FR Doc. 04-1902 Filed 1-28-04; 8:45 am]

**BILLING CODE 4310-MN-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States v. Village of Orland Park*, (ND IL) Case No. 04 C 220, was lodged with the United States District Court for the Northern District of Illinois on January 21, 2004. This proposed Consent Decree concerns a complaint filed by the United States against the Village of Orland Park, pursuant to section 301(a) of the Clean Water Act ("CWA"), 33 U.S.C. 1311(a), to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendant to restore the impacted areas and to pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Kurt N. Lindland, Assistant United States Attorney, U.S. Attorney's Office, Northern District of Illinois, 219 S. Dearborn Street, Chicago, Illinois 60604 and refer to *United States v. Village of Orland Park*, USA No. 2003V2834. The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, Illinois 60604. In addition, the proposed Consent Decree may be viewed at <http://www.usdoj.gov/enrd/open.html>.

**Kurt N. Lindland,**

Assistant United States Attorney.

[FR Doc. 04-1869 Filed 1-28-04; 8:45 am]

**BILLING CODE 4410-15-M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Responses to Public comments on the Proposed Final Judgment in *United States v. General Electric Company and Instrumentarium OYJ*

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States hereby publishes the one comment received on the proposed Final Judgment in *United States v. General Electric Company and Instrumentarium OYJ*, Civil No. 1:03CV01923, filed in the United States

District Court for the District of Columbia, together with the response of the United States to the comment. On September 16, 2003, the United States filed a Complaint alleging that General Electric Company's proposed acquisition of Instrumentarium OYJ would substantially lessen competition in the sale and development of patient monitors used to take the vital physiologic measurements of patients requiring critical care ("critical care monitors") and of mobile, full-size C-arms used for surgical, orthopedic, pain management, and basic vascular procedures, in violation of Section 7 of the Clayton Act. To restore competition in these markets, the proposed Final Judgment, if entered, would require General Electric company to fully divest two Instrumentarium OYJ businesses: Spacelabs, which was its primary critical care monitors business, and Ziehm, the business through which it developed and sold C-arms. Public comment was invited within the statutory 60-day comment period. The comment and the response of the United States thereto are hereby published in the **Federal Register**, and shortly thereafter these documents will be attached to a Certificate of Compliance with Provisions of the Antitrust Procedures and Penalties Act and filed with the Court, together with a motion urging the Court to enter the proposed Final Judgment. Copies of the Complaint, the proposed Final Judgment, and the Competitive Impact Statement 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 Clerk's Office, United States District Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001. (The United States's Certificate of Compliance with Provisions of the Antitrust Procedures and Penalties Act will be made available at the same locations shortly after they are filed with the Court.) Copies of any of these materials may be obtained upon request and payment of a copying fee.

**J. Robert Kramer II,**

Director of Operations, Antitrust Division.

#### Response to Public Comment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h) ("Tunney Act"), the United States hereby responds to the public comment received regarding the proposed Final Judgment in this case. After careful consideration of the comment, the United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation

alleged in the Complaint. The United States will move the Court for entry of the proposed Final Judgment after the public comment and this Response have been published in the **Federal Register**, pursuant to 15 U.S.C. 16(d).

On September 16, 2003, the United States filed the Complaint in this matter alleging that the proposed acquisition of Instrumentarium OYJ ("Instrumentarium") by General Electric Company ("GE") would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18. Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment and a Stipulation signed by the United States and the defendants consenting to the entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act. Pursuant to those requirements, the United States filed a Competitive Impact Statement ("CIS") in this Court on October 30, 2003; published the proposed Final Judgment and CIS in the **Federal Register** on November 12, 2003; and published a summary of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, in the Washington Post for seven days beginning on November 9, 2003 and ending on November 16, 2003. The 60-day period for public comments, during which one comment was received as described below, expired on January 12, 2004.

### I. Background

As explained more fully in the Complaint and CIS, this transaction lessened competition in the sale and development of patient monitors used to take the vital physiologic measurements of patients requiring critical care ("critical care monitors") and of mobile, full-size C-arms used for surgical, orthopedic, pain management, and basic vascular procedures. To restore competition in these markets, the proposed Final Judgment, if entered, would require GE to fully divest two Instrumentarium businesses: Spacelabs, which was its primary critical care monitors business, and Ziehm, the business through which it developed and sold C-arms. 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.

### II. Legal Standard Governing the Court's Public Interest Determination

Upon the publication of the public comment and this Response, the United States will have fully complied with the Tunney Act and will move the Court for entry of the proposed Final Judgment as being "in the public interest." 15 U.S.C. 16(e). The Court, in making its public interest determination, should apply a deferential standard and should withhold its approval only under limited conditions. Specifically, the Court should review the proposed Final Judgment in light of the violations charged in the complaint and "withhold approval only if any of the terms appear ambiguous, if the enforcement mechanism is inadequate, if

third parties will be positively injured, or if the decree otherwise makes 'a mockery of judicial power.'" *Mass. Sch. of Law v. United States*, 118 F.3d 776, 783 (D.C. Cir. 1997) (quoting *United States v. Microsoft Corp.*, 56 F.3d 1448, 1462 (D.C. Cir. 1995)).

It is not proper during a Tunney Act review "to reach beyond the complaint to evaluate claims that the government did not make and to inquire as to why they were not made." *Microsoft*, 56 F.3d at 1459; *see also United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6–7 (D.D.C. 2003) (rejecting argument that court should consider effects in markets other than those raised in the complaint); *United States v. Pearson PLC*, 55 F. Supp. 2d 43, 45 (D.D.C. 1999) (noting that a court should not "base its public interest determination on antitrust concerns in markets other than those alleged in the government's complaint"). Because "[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place" it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters the United States might have but did not pursue. *Microsoft*, 56 F.3d at 1459–60; *see also United States v. W. Elec. Co.*, 993 F.2d 1572, 1577 (D.C. Cir. 1993) (noting that a Tunney Act proceeding does not permit "de novo determination of facts and issues" because "[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General" (citations omitted)).

Moreover, the United States is entitled to "due respect" concerning its "prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case" *Archer-Daniels-Midland Co.*, 272 F. Supp. 2d at 6 (citing *Microsoft*, 56 F.3d at 1461).

### III. Summary of Public Comment

The United States received a comment from one entity, Visiontec (comment attached as Exhibit 1). Visiontec, a company providing electronic services, states that it entered into a manufacturing agreement with Spacelabs in September 2001, prior to Instrumentarium's purchase of Spacelabs. Visiontec expressed concerns about Instrumentarium's adherence to this manufacturing agreement, claiming that Instrumentarium made a deliberate decision not to adhere to the agreement after its purchase of Spacelabs, and that the pace at which Visiontec is being disengaged has accelerated since General Electric's acquisition of Instrumentarium was announced. Visiontec asked that the United States provide assistance, including the imposition of provisions to protect it, prior to approving the acquisition of Spacelabs.

### IV. The United States' Response to Comment

The concerns raised in the comment appear to relate to a possible contractual dispute between Visiontec and Spacelabs, Instrumentarium, or GE. They do not relate to the sufficiency of the relief in the proposed Final Judgment, whether the proposed Final Judgment is in the public interest, or

otherwise raise issues appropriate for action by the Antitrust Division. Thus, Visiontec's concerns do not provide any basis for establishing any conditions in connection with the divestitures required by the proposed Final Judgment or warrant any other action by the United States.

### V. Conclusion

After careful consideration of this public comment, the United States has concluded that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is, therefore, in the public interest. Pursuant to Section 16(d) of the Tunney Act, the United States is submitting the public comment and Response to the **Federal Register** for publication. After the comment and Response are published in the **Federal Register**, the United States will move this Court to enter the proposed Final Judgment.

Dated this \_\_\_\_ day of January 2004.

Respectfully submitted,

Joan Hogan,  
DC No. 451240, Litigation III Section,  
Antitrust Division, United States Department  
of Justice, 325 7th Street, NW., Suite 300,  
Washington, DC 20530.

### Certificate of Service

The undersigned certifies that a copy of the Response to Public Comment was served on the following counsel by electronic mail in PDF format or hand delivery, this \_\_\_\_th day of January 2004:

Deborah L. Feinstein,  
Arnold & Porter, 555 Twelfth Street, NW.,  
Washington, DC 20004-1206.

Joan Hogan, DC Bar No. 451240,  
U.S. Department of Justice, Antitrust  
Division, 325 Seventh Street, NW., Suite 300,  
Washington, DC 20530.

October 24, 2003

Mr. James R. Wade  
Chief, Litigation III Section  
Antitrust Division  
U.S. Department of Justice  
325 Seventh Street, NW., Suite 300  
Washington, DC 20530

Dear Mr. Wade,

I am writing with regard to the proposed acquisition of Instrumentarium OYJ by General Electric Corporation, specifically the part of the settlement reached that includes General Electric divestiture of Instrumentarium's Spacelabs subsidiary.

Visiontec is a privately held company providing electronic manufacturing services located in Spokane, Washington. It began a seven-year manufacturing agreement with Spacelabs in September 2001, prior to being purchased by Instrumentarium in 2002. Visiontec produces approximately 50% of the electronic circuit cards used in Spacelabs medical equipment sold to hospitals. Spacelabs is Visiontec's largest customer.

After the Instrumentarium purchase of Spacelabs completed in June of 2002, Instrumentarium made a deliberate decision not to adhere to the manufacturing agreement originally between Spacelabs and Visiontec prior to the acquisition. Since General Electric's acquisition announcement of

Instrumentarium, the pace and approach at which to disengage Visiontec has accelerated.

As Instrumentarium's subsidiary Spacelabs is being positioned to be sold, it has selectively and deliberately moved product from Visiontec, delayed and then cancelled orders that should have been produced by the terms of the manufacturing agreement. Instrumentarium has effectively and so stated that the manufacturing agreement was only a working document. These actions are preventing Visiontec the ability to pay back an obligation originally established with Spacelabs as well as preventing a recovery of the investment made by Visiontec.

As a result of Instrumentarium positioning Spacelabs in the most favorable position to be sold, some of that favorable positioning is coming at Visiontec's unwarranted expense. This is causing Visiontec cash flow and financial distress, severely damaging its ability to service its other customers, and a loss of fifty percent of its high-tech manufacturing work force.

It appears Instrumentarium's approach is to cause so much financial distress, that Visiontec becomes a non-viable company and thereby allowing them to remove Visiontec and the existing orders from the Spacelab books to better position Spacelabs for the prospective buyers.

Due to Visiontec's size, we would like to request assistance from the Department of Justice as to what kind of positive options may be available prior to approving the acquisition. We also request that the business practices of Instrumentarium's subsidiary Spacelabs dealing with Visiontec regarding the seven-year manufacturing agreement originally established with Spacelabs be reviewed.

Prior to completion of the acquisition approval by the Department of Justice, Visiontec would ask for suitable provisions to be established allowing Visiontec to remain viable for at least two years, otherwise the result is the company closes down.

Sincerely,

Rick L. Hansen,  
President & CEO.

RLH\2355

c. Attorney General—State of Washington  
Chuck Cleveland. P.S.

[FR Doc. 04-1901 Filed 1-28-04; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF LABOR

### Federal Mine Safety and Health Review Commission

#### Sunshine Act Meeting

January 20, 2004.

**TIME AND DATE:** 10 a.m., Thursday,  
January 29, 2004.

**PLACE:** Hearing Room, 9th Floor, 601  
New Jersey Avenue, NW., Washington,  
DC.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following in open session:

*Secretary of Labor v. Dacotah Cement*, Docket No. CENT 2001-218-M. (Issues include whether Dacotah Cement satisfied the task training requirements of 30 CFR 46.7(d) when it permitted two miners to replace a hydraulic hose on a losche mill.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

**CONTACT PERSON FOR MORE INFO:** Jean Ellen (202) 434-9950/(202) 708-9300 for TDD Relay 1-800-877-8339 for toll free.

Jean H. Ellen,  
Chief Docket Clerk.

[FR Doc. 04-1981 Filed 1-27-04; 1:34 pm]

BILLING CODE 6735-01-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04-011]

### Government-Owned Inventions, Available for Licensing

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of availability of inventions for licensing.

**SUMMARY:** The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

**DATES:** January 29, 2004.

**FOR FURTHER INFORMATION CONTACT:** James McGroary, Patent Counsel, Marshall Space Flight Center, Mail Code LS01, Huntsville, AL 35812; telephone (256) 544-0013; fax (256) 544-0258.

*NASA Case No. MFS-31490-1:*

Electrodynamic Tether;

*NASA Case No. MFS-31814-1:* Method for Producing Metal Lined, Composite Overwrapped Pressure Vessels;

*NASA Case No. MFS-31815-1:* Distributed Solid State Programmable Thermostat/Power Controller;

*NASA Case No. MFS-31841-1:* Material for Producing Composite Overwrapped Pressure Vessels That Are Impact Resistant and Suitable for Low Temperature Use;

*NASA Case No. MFS-31944-1:* Variable Distance Angular Symbolology Reader;

*NASA Case No. MFS-31952-1:* Balanced Orifice Plate.

Dated: January 21, 2004.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 04-1846 Filed 1-28-04; 8:45 am]

BILLING CODE 7510-01-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04-012]

### Government-Owned Inventions, Available for Licensing

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of availability of inventions for licensing.

**SUMMARY:** The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

**DATES:** January 29, 2004.

**FOR FURTHER INFORMATION CONTACT:** Linda Blackburn, Patent Counsel, Langley Research Center, Mail Code 212, Hampton, VA 23681-2199; telephone (757) 864-9260; fax (757) 864-9190.

*NASA Case No. LAR-16499-1:*

Controlled Deposition and Alignment of Carbon Nanotubes;

*NASA Case No. LAR-16539-1:* Resonant Wingbeat Tuning Circuit Using Strain-Rate Feedback for Ornithoptic Micro Aerial Vehicles.

Dated: January 21, 2004.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 04-1847 Filed 1-28-04; 8:45 am]

BILLING CODE 7510-01-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04-013]

### Government-Owned Inventions, Available for Licensing

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of availability of inventions for licensing.

**SUMMARY:** The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

**DATES:** January 29, 2004.

**FOR FURTHER INFORMATION CONTACT:** Randy Heald, Patent Counsel, Kennedy