8024

December 31, 1987

This ... subject to the confidentiality provision of Section 7A (h) of the Clayton Act which restricts release under the Freedom of Information Act

VIA FEDERAL EXPRESS

Mr. Patrick Sharp
Federal Trade Commission
Pennsylvania Avenue at Sixth Street, NW
Washington, D.C. 20580

Dear Sir:

We are writing on behalf of our client, [redacted] affiliate of [redacted] Nebraska corporation, an the [redacted] s acquiring from California partnership consisting of [redacted] a [redacted] California partnership, certain real property (the "Property") for the sum of Fifty Seven Million Dollars ($57,000,000).

The Property consists of approximately 395 acres of land located on contiguous parcels in San Diego ... California, as follows: ...

... of the five buildings, and on which are located five ... improvements, such as streets, approximate... one is ...

... Two and One-Half Million Dollars ... buildings, together valued at ... ($2,500,000). The

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mately Two and One-Half Million Dollars ($2,500,000), suitable

[illegible]

currently leased out, are the only income generating property

[illegible]

percentage of the total development.

[redacted] is engaged in the business of acquiring undeveloped or partly developed land for development, developing such land and selling the land and its improvements upon completion of development. [redacted] are engaged in the busi-

[illegible]

Property being transferred, and other assets incidental to the ownership of the Property, are the sole assets of [redacted]

Under Section 7A of the Clayton Act, certain acquisitions of assets or securities must be preceeded by notification from both parties to the Federal Trade Commission. Section 7A(c)(1) exempts acquisitions of goods or realty transferred in

[illegible]

business.

[illegible]

developed land from which no income stream has been derived, and

[illegible]

Section 7A(c)(1).

Accordingly, in the case of [redacted] we believe that the transfer of 210 acres of raw, undeveloped land, and the transfer of 185 acres of land developed with site improvements, including one office building, but excluding those parcels on which four industrial buildings are located, as described above, are exempt

[illegible]

The transfer of any remaining Non-Exempt Realty is

[illegible]

exempt from the requirements of the Section 7A if as a result of the acquisition the acquiring person would not hold assets of the acquired person valued at more than $15 million. It is our

whether acquired assets exceed a value of more than $15 million.

Four industrial buildings constitute the only Non-Exempt Realty being transferred. The transfer of these four industrial buildings involves consideration of approximately $2,500,000, and is therefore well below the $15 million reporting

7A.

On behalf of [redacted] we request that you confirm our understanding that the entire transaction described herein is not subject to the notification requirements of Section 7A of the Clayton Act.

Please feel free to contact me if you require any additional information.

[redacted]

[redacted]

called [redacted] 1-9-88

Office buildings should be carved out of the value of real estate for purpose of size of transaction (exempt 802.1)

Th...

carved out as well. (exempt 802.1)

As to the 185 acre parcel (minus the office building) you must make a determination here. Where the land is an integral part of the operation of the business, then it must be included as a part of the business. There may not be a clear way or (they may not) be able to draw a clear line to separate the industrial park from the rest of the land and thus the whole 185 acre parcel must be included in the size of transaction.

W.K. had input into this analysis.