

Interlocutory Orders, Etc.

IN THE MATTER OF

**LINDE AG,
AND
THE BOC GROUP PLC**

Docket No. C-4163

Order, September 9, 2008

Letter granting the request of the Monitor to extend the 2-year time limit within which TNSC must complete construction of its Northern California Helium Transfill, and until which Linde must continue to provide Helium Transfill Tolling Services to TNSC at its Richmond, California, Escrow Transfill due to unanticipated delays in receiving the necessary local permits.

LETTER RESPONSE GRANTING THE REQUEST

Dear Mr. Klein:

This letter is in response to your August 11, 2008, request, which you filed as the Commission-appointed Monitor in the above-referenced matter, that the Commission extend the two-year time limit within which Taiyo Nippon Sanso Corporation (“TNSC”) may construct a Helium Transfill, as that term is defined in the Order in Docket No. C-4163 (“Order”), in Northern California, until December 31, 2008. You also request that the Commission extend the two-year time limit during which Respondent Linde AG (“Linde”) must provide Helium Transfill Tolling Services to TNSC at Linde’s Richmond, California, Escrow Transfill, pursuant to Paragraph III.B.6. of the Order, until December 31, 2008.

Your request was filed pursuant to Paragraph N.G. of the Order and Linde supports your request for the extension regarding TNSC’s construction of its Northern California Helium Transfill, and has consented to the extension of its obligation to provide Helium Transfill Tolling Services to

Interlocutory Orders, Etc.

TNSC at its Richmond, California, Escrow Transfill, and to the Order's escrow procedures.

After consideration of your request, as well as other available information, the Commission has determined, pursuant to Rule 4.3(b) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 4.3(b), to extend the time within which TNSC may construct a Helium Transfill in Northern California, and the time during which Linde must provide Helium Transfill Tolling Services to TNSC at Linde's Richmond, California, Escrow Transfill, until December 31, 2008. In granting the extension, the Commission has relied upon the information submitted and representations made in connection with your request, and has assumed them to be accurate and complete.

By direction of the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

**WHOLE FOODS MARKET, INC.,
AND
WILD OATS MARKETS, INC.**

Docket No. 9324 Order, September 10, 2008

Order approving the Scheduling Order.

SCHEDULING ORDER

In accordance with Federal Trade Commission rule 16 C.F.R. § 3.21(b) a Scheduling Conference with Complaint Counsel and counsel for Respondents was held September 8, 2008 at 10:00 a.m.¹ The schedule imposed by this order shall not be altered absent leave of the Commission.

1. Initial Disclosures: Complaint Counsel and Respondent have agreed that the parties will not produce any further material than what was exchanged in the federal court proceedings for the purposes of satisfying 16 C.F.R. § 3.31(b). Ten (10) days following Respondent's Answer to the Amended Complaint, the parties shall exchange the name, and if known, the address and telephone number of each individual likely to have discoverable information relevant to the allegations in the Amended Complaint, to the proposed relief or to the defense of the Respondent.

2. Statement of Facts. On February 21, 2007, Whole Foods and Wild Oats executed an agreement whereby Whole Foods would acquire all the voting securities of Wild Oats. The FTC issued an administrative complaint on June 27, 2007 alleging that Whole Foods' acquisition of Wild Oats violates the antitrust laws. On

¹ The parties' positions on the discovery schedule and other matters were described in a Joint Case Management Statement on August 28, 2008. See Joint Case Management Statement (Aug. 28, 2008).