

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

IN RE: READY-MIXED CONCRETE PRICE )	Master Docket No.
FIXING LITIGATION )	1:05-CV-00979-SEB-VSS
_____ )	
)	
THIS DOCUMENT RELATES TO: )	
ALL ACTIONS )	
_____ )	

**GOVERNMENT’S MOTION TO LIMIT THE SCOPE OF  
DISCOVERY UNTIL COMPLETION OF CRIMINAL PROCEEDINGS**

The United States of America (“the government”) requests this Court to protect an ongoing grand jury investigation by limiting the scope of discovery to certain classes of documents and staying all other discovery (including but not limited to depositions) undertaken pursuant to civil litigation founded on the very conduct the grand jury is investigating. Further, the government requests that the order limiting discovery remain in effect during the pendency of the grand jury’s investigation and resulting criminal proceedings. Such protection is necessary to preserve the secrecy of ongoing grand jury proceedings, as well as to prevent broad discovery in a civil case that would interfere with the government’s investigation.

If unlimited discovery is allowed to go forward, it will undermine the grand jury’s investigation by allowing the parties involved in the civil action to determine the scope and focus of the investigation, interfere with the privacy rights of witnesses and potential witnesses, facilitate the destruction of evidence by those who have not yet produced documents, and encourage coordination of stories by subjects and potential witnesses. *See Douglas Oil Co. v.*

*Petrol Stops Northwest*, 441 U.S. 211, 219 & n. 10 (1979).

In order to protect the integrity of the grand jury's investigation and to prevent unwarranted discovery in the government's criminal investigation, the government respectfully requests that this Court issue an Order limiting discovery in this matter to the following classes of documents during the pendency of the grand jury's investigation and resulting criminal proceedings:

1. Pricing Documents
  - Price Cards & Schedules
  - Published or benchmark prices
  - Discount Policies
  - Historical Price & Discount Records – January 1, 1995 to present.
2. Transactional Documents
  - Actual transaction and customer documents
  - Records and summaries of transactions
  - Historical transactional documents – January 1, 1995 to present.
3. Profit & Loss Documents
  - Quarterly, or monthly P&L's
  - Backup Schedules and documents
  - P&L's for specific products/locations
  - Historical P&L documents – January 1, 1995 to present.
4. Financial Statements
  - Current and historical financial statements
  - Third-party financial statements provided to lenders, suppliers, etc.

The government believes that limiting reciprocal discovery to the above categories of documents until the completion of criminal proceedings will protect the government's legitimate interest in ensuring that the grand jury's investigation is not compromised while advancing discovery in the civil matters to the extent possible.

A Proposed Order is attached to this motion.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of November, 2005, a copy of the Government's Motion to Limit the Scope of Discovery Until Completion of Criminal Proceedings and Memorandum in support thereof were served upon the following counsel of record by electronic mail, pursuant to the October 31, 2005 Case Management Plan and Order Providing for Consolidation and Organizational Matters:

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