

It is further ordered, That each of the respondents herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF

NATIONAL PORTLAND CEMENT COMPANY

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF
THE CLAYTON ACT

Docket 8654. Complaint, Jan. 22, 1965—Decision, Mar. 31, 1967

Order dismissing complaint, vacating initial decision and terminating a divestiture proceeding against a Philadelphia manufacturer of portland cement, because the respondent no longer owns any of the assets or stock of the Ryan Ready Mixed Concrete Corporation whose acquisition by the respondent was the basis for this proceeding.

COMPLAINT

The Federal Trade Commission has reason to believe that National Portland Cement Company has acquired the stock and assets of Ryan Ready Mixed Concrete Corporation and its affiliate N. Ryan Company, Incorporated in violation of Section 7 of the Clayton Act (U.S.C., Title 15, Section 18) as amended, and therefore, pursuant to Section 11 of said Act, it issues this complaint, stating its charges in that respect as follows:

I

DEFINITIONS

1. For the purpose of this complaint the following definitions shall apply:
 - a. "Portland cement" includes Types I through V of portland cement as specified by the American Society for Testing Materials. Neither masonry nor white cement is included.
 - b. "Ready-mixed concrete" includes all portland cement concrete which is manufactured and delivered to a purchaser in a plastic and unhardened state. Ready-mixed concrete includes central-mixed concrete, shrink-mixed concrete and transit-mixed concrete.
 - c. "The New York City metropolitan area" consists of the

five boroughs of the City of New York and the New York counties of Nassau, Suffolk and Westchester.

II

NATIONAL PORTLAND CEMENT COMPANY

2. National Portland Cement Company (National), respondent herein, is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal office located at 1842 Fidelity-Philadelphia Trust Building, Philadelphia, Pennsylvania.

3. Respondent is principally engaged in the manufacture and sale of portland cement from its plant at Brodhead, Pennsylvania. In 1963, National had sales of \$4,407,058, assets of \$5,338,371, and net income of \$332,290.

4. The New York City metropolitan area is one of the principal markets for portland cement manufactured in National's plant. In 1962, the total shipments of portland cement from this plant amounted to 1,370,600 barrels, of which approximately 17% was shipped to customers located in the New York City metropolitan area.

5. At all times relevant herein, National was a corporation engaged in commerce, as "commerce" is defined in the Clayton Act.

III

RYAN READY MIXED CONCRETE CORPORATION AND N. RYAN COMPANY

6. Prior to September 23, 1963, Ryan Ready Mixed Concrete Corporation (Ryan) and its affiliate N. Ryan Company, Incorporated (N. Ryan), were corporations organized and existing under the laws of the State of New York, with principal offices located at 491 Smith Street, Brooklyn, New York.

7. At the time of the acquisition Ryan was, and for many years had been, engaged in the production and sale of ready-mixed concrete in the New York City metropolitan area. For the fiscal year ending February 28, 1963, Ryan had sales of \$10,937,593, assets of \$3,280,567 and net profits of \$268,041.

8. Ryan operated five ready-mixed concrete plants in the New York City metropolitan area. Ryan is one of the four largest producers of ready-mixed concrete, and one of the four largest consumers of portland cement, in the New York City metropolitan area. During 1962, Ryan consumed 958,305 barrels of portland

cement and sold approximately 697,000 cubic yards of ready-mixed concrete.

9. At the time of the acquisition, N. Ryan was, and for many years had been, operated as the associated purchasing company for Ryan. For the fiscal year ending April 30, 1963, N. Ryan had sales of \$6,531,032, assets of \$1,708,050, and net profits of \$187,345.

10. At all times relevant herein, Ryan and N. Ryan were corporations engaged in commerce, as "commerce" is defined in the Clayton Act.

IV

ACQUISITION

11. On or about September 23, 1963, National acquired all the outstanding capital stock of Ryan and N. Ryan by exchanging therefor 57,000 shares of National common stock and 7,000 shares of National Class B Preferred Stock.

V

THE NATURE OF TRADE AND COMMERCE

12. Portland cement is a material which in the presence of water binds aggregates, such as sand and gravel, into concrete. Portland cement is the essential ingredient in the manufacture of ready-mixed concrete. There is no practicable substitute for portland cement in the manufacture of concrete.

13. The portland cement industry in the United States is substantial. In 1963, there were about 51 cement companies in the United States operating approximately 182 plants. Total shipments of portland cement in that year amounted to 349,321,000 barrels having a value of \$1,116,555,000.

14. On a national basis, approximately 57% of all portland cement is shipped to companies engaged in the production of ready-mixed concrete. In the heavily populated metropolitan areas, the percentage of portland cement consumed by ready-mixed concrete companies is generally higher. Ready-mixed concrete producers are the only businesses engaged in the sale of concrete as a commodity.

15. Due to such factors as transportation costs and the necessity of supplying competitive delivery service to consumers, the effective market area of portland cement production and distribution facilities is limited. Similar considerations limit the market area for ready-mix companies.

16. Cement producers sell their portland cement to consumers, such as ready-mixed concrete companies, manufacturers of concrete products, contractors and building materials dealers. In the past such consumers, in general, have not been integrated or affiliated with portland cement producers.

17. In recent years there has been a trend of mergers and acquisitions by which ready-mixed concrete companies in major metropolitan areas in various portions of the United States have become integrated with portland cement companies. As ready-mix companies have been acquired by producers of cement, competing cement producers have sought to acquire other cement consumers in order to protect their markets against the actual or expected foreclosure caused by these acquisitions, and to prevent additional foreclosure of their markets as a result of future such acquisitions by their competitors. Thus each acquisition by a cement producer of a substantial consumer of portland cement forms an integral part of a chain reaction of acquisitions—contributing both to the share of the market already foreclosed by acquisitions, and to the impetus for further such acquisitions.

18. Three of the five largest ready-mixed concrete producers in the New York City metropolitan area have, since 1960, become integrated, through acquisition, with portland cement companies.

VI

VIOLATION OF SECTION 7

19. The effect of the acquisition of Ryan Ready Mixed Concrete Corporation and N. Ryan Company, Incorporated by National Portland Cement Company, both in itself and by aggravating the trend towards vertical integration between suppliers and consumers of portland cement, may be substantially to lessen competition or to tend to create a monopoly in the production and sale of portland cement and ready-mixed concrete in the New York City metropolitan area, in adjoining markets, or in the United States as a whole, in the following ways, among others:

(a) Competitors of respondent may have been or may be foreclosed from a substantial share of the market for portland cement.

(b) The entry of new sellers of portland cement and ready-mixed concrete may be inhibited or prevented.

(c) The ability of nonintegrated competitors of respondent effectively to compete in the sale of portland cement may be substantially impaired.

(d) As an integrated manufacturer and seller of portland ce-

ment and ready-mixed concrete respondent has achieved or may achieve a decisive competitive advantage over its competitors which are engaged only in the manufacture and sale of portland cement, or ready-mixed concrete.

(e) The production of ready-mixed concrete, now a decentralized, locally controlled, small business industry, may become concentrated in the hands of a relatively few producers of portland cement.

Now, therefore, the acquisition of Ryan and N. Ryan by National Portland Cement Company, as above alleged, constitutes a violation of Section 7 of the Clayton Act (U.S.C., Title 15, Section 18), as amended.

Mr. Robert L. Heggen, Mr. Joel Davidow and Mr. Alan C. Schneeberger supporting the complaint.

Cadwalader, Wickersham & Taft, by *Mr. George D. Reycraft, Mr. P. Jay Flocken*, and *Mr. Charles B. Degnan*, of New York, N.Y., for respondent National Portland Cement Company.

White & Case, by *Mr. Edgar E. Barton, Mr. Scott E. Bohon*, and *Mr. Thomas J. Maroney*, of New York, N.Y., for respondent United States Steel Corporation.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

IN THE MATTER OF

NATIONAL PORTLAND CEMENT COMPANY

Docket No. 8654

and

IN THE MATTER OF

UNITED STATES STEEL CORPORATION

*Docket No. 8655**

MAY 20, 1966

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* Final order of Dec. 2, 1968, reported in 74 F.T.C. 1270, 1319.

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STATEMENT OF PROCEEDINGS

These are two separate proceedings, instituted by the issuance of separate complaints, charging each of the above-named respondents with having violated Section 7 of the Clayton Act, as amended, by acquiring the stock or assets of a ready-mixed concrete producer in the New York City metropolitan area. After the filing of their respective answers by respondents, separate prehearing conferences were held in each proceeding, *viz*, on May 5 and August 3, 1965, in Docket No. 8654, and on May 20 and August 4, 1965, in Docket No. 8655. Prehearing Orders embodying the results of said conferences were issued by the undersigned hearing examiner on June 4 and August 30, 1965, in Docket No. 8654, and on June 15 and August 30, 1965, in Docket No. 8655. An application by respondent National Portland Cement Company to take the deposition of a prospective industry witness, and for the issuance of a subpoena duces tecum in connection therewith, was granted by order of the undersigned dated May 28, 1965. On motion of the proposed deponent, the undersigned, by order dated August 25, 1965, quashed the aforesaid subpoena duces tecum except as to a portion of one specification. A further application by said respondent to take the depositions of a number of additional industry witnesses, and for the issuance of subpoenas duces tecum in connection therewith, was denied by order of the undersigned dated August 27, 1965, without prejudice to the right of said respondent to renew such application at a subsequent stage of the proceeding, upon a proper showing. No further application for the taking of the depositions of said witnesses was made by respondent.¹ An application by counsel supporting the complaint to take the deposition of a proposed witness in the United States Steel Corporation proceeding was granted by order of the undersigned dated September 23,

¹ Respondent National Portland Cement Company originally requested leave to take the depositions of 38 witnesses. At the close of the evidence in support of the complaint, said respondent indicated that it intended to renew its application to take some of said depositions. However, it subsequently advised the examiner by letter dated November 5, 1965, that it had decided not to proceed with the taking of any further depositions (Tr. 898, 1145, Doc. No. 8654).

1965. Said deposition was read into the record of that proceeding at the request of respondent, without objection from counsel supporting the complaint.

On motion of counsel supporting the complaint, the undersigned issued an order, dated June 17, 1965, directing the holding of partial joint hearings in the above-entitled proceedings for the purpose of receiving testimony from certain industry witnesses, whose testimony complaint counsel claimed would be substantially identical in each proceeding. The request of respondent National Portland Cement Company for permission to file an interlocutory appeal from said order was denied by order of the Commission issued July 2, 1965. Upon the filing of a certificate of necessity by the undersigned, based on the application of counsel supporting the complaint, the Commission, by order issued August 19, 1965, authorized the suspension of hearings in the National Portland Cement Company proceeding, at the conclusion of complaint counsel's case-in-chief, until the completion of the separate hearings in the United States Steel Corporation proceeding, and authorized the holding of hearings in more than one place.

Hearings for the reception of evidence in support of, and in opposition to, the complaint in Docket No. 8655, were thereafter held in Washington, D.C., and New York, New York, between October 11, 1965, and November 22, 1965. Hearings for the reception of evidence in support of the complaint in Docket No. 8654 were held in Washington, D.C., and New York, New York, between October 11, 1965, and November 3, 1965, and hearings for the reception of evidence in opposition to the complaint in said proceeding were held in Washington, D.C., between November 22, 1965, and December 17, 1965.² Except for those portions of the hearings at which testimony was received from officials of the acquired and acquiring companies, and the testimony of three ready-mix producers, the hearings in these proceedings were held jointly in accordance with the undersigned's order of June 17, 1965.³

² Defense hearings in Docket No. 8654 were substantially completed on November 23, 1965. However, a brief hearing was held on December 17, 1965, for the reception of certain documentary evidence which was not theretofore available. The date for the filing of proposed findings was fixed at the close of the hearing on November 23, 1965.

³ In view of its opposition to the holding of joint hearings with respondent United States Steel Corporation, respondent National Portland Cement Company was given an opportunity for separate cross-examination of joint witnesses and to exclude from its record the cross-examination of such witnesses by counsel for United States Steel Corporation. While engaging in separate cross-examination of such witnesses, counsel for National Portland Cement Company elected to have the cross-examination by counsel for United States Steel Corporation included in its record (Tr. 329, Docket No. 8654).

All testimony taken in these proceedings was duly recorded, and such testimony and all other evidence received into the record have been filed in the office of the Commission. All parties were represented by counsel, participated in the hearings, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the close of all the evidence, and pursuant to leave granted by the undersigned, proposed findings of fact, conclusions of law and an order, together with supporting briefs, were filed by the parties on January 26, 1966, and replies thereto were filed on February 7, 1966.

Although the parties have filed separate proposed findings in these proceedings, the undersigned has concluded that it would be appropriate to issue a single, combined initial decision in the two proceedings in view of the substantial identity of the records,⁴ the similarity of market conditions, and the interrelationship of the two acquisitions (both *inter sese* and with other companies in the market). To the extent any findings are based on evidence which does not appear in both records, appropriate reference thereto will be made.

After having carefully reviewed the evidence in these proceedings, and the proposed findings and conclusions submitted (including the replies thereto and supporting briefs),⁵ and based on his observation of the witnesses, the undersigned makes the following:

⁴ As heretofore noted, most of the hearings in these proceedings were joint. The evidence at such hearings consisted of testimony and documentary evidence from officials of cement and ready-mixed concrete companies purporting to be in competition with respondents or the companies acquired by them, in the New York City metropolitan area. The separate hearings were devoted principally to receiving evidence from officials of the acquired and acquiring companies regarding the facts and circumstances incident to each of the acquisitions. The differences in the records based on the testimony received at the separate hearings have been narrowed somewhat since the testimony of the president of the acquired company in the United States Steel Corporation proceeding was incorporated into the record of the National Portland Cement Company proceeding on motion of the latter respondent (Tr. 976-977, Doc. No. 8654). Although certain industry statistical exhibits were also received at separate hearings, these exhibits are, for the most part, identical in each record.

⁵ Proposed findings not herein adopted, either in the form proposed or in substance, are rejected as not supported by the evidence or as involving immaterial matters. References to the proposed findings are made with the abbreviations: "CPF" (for complaint counsel); "NPF" (for respondent National Portland Cement Company); and "UPF" (for respondent United States Steel Corporation). References to supporting briefs are made with the abbreviations: "CB" (for complaint counsel); "NB" (for respondent National Portland); and "UB" (for respondent U.S. Steel). References to replies or answers to opposing counsel's findings or briefs are made with the abbreviations: "CR" (for complaint counsel); "NR" (for respondent National Portland); and "UR" (for respondent U.S. Steel).

FINDINGS OF FACT⁶*I. Identity and Business of Respondents
and Acquired Companies**A. National Portland Cement Company*

1. Respondent, National Portland Cement Company (hereinafter sometimes referred to as "National") is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal office located at 1842 Fidelity-Trust Building, Philadelphia, Pennsylvania. The company was incorporated on November 4, 1931, under the laws of the Commonwealth of Pennsylvania (Admitted, Ans., par. 3; NCX 37 A). The major stockholders of National are, (a) Tunnel Portland Cement Company, Ltd., of London, England, owning about 54% of the stock, (b) F. L. Schmidt, of New York City, owning about 22% of the stock, and (c) members of the Ryan family, of New York City, owning most of the balance of the stock (N Tr. 883-885, 911-913).

2. National is principally engaged in the manufacture and sale of portland cement. It operates a plant for the manufacture of portland cement at Brodhead, Pennsylvania. Such plant has an annual rated capacity of two million barrels of cement (Admitted, Ans., par. 4; N Tr. 865). It ships and sells cement from such plant to customers located principally in the Middle Atlantic States, including eastern Pennsylvania, New Jersey, southern New York, eastern Connecticut, northeastern Maryland, Delaware, and the District of Columbia. In addition to its plant at Brodhead, it maintains a distribution terminal at Bridgeport, Connecticut (N Tr. 865; NRX 39 G, I).

3. National's net sales and income for the fiscal years ending March 31, 1962, and March 31, 1963, prior to its acquisition of the Ryan companies, and its net consolidated sales and income for the fiscal years 1964 and 1965, after the acquisition, were as follows (NCX 18, 20, 46):

⁶ References are hereinafter made to certain portions of the record in support of particular findings. Such references are to the principal portions of the record relied upon by the examiner, but are not intended as an exhaustive compendium of the portions of the record reviewed and relied upon by him. In the interest of expedition, reference will be made to the U.S. Steel record, except where the evidence appears only in the National Portland record (that being the method utilized by respondent National Portland in its proposed findings). References to the record will be made with the following abbreviations: "Tr." (for the transcript of testimony); "CX" (for complaint counsel's exhibits); and "RX" (for respondent's exhibits). Where the examiner relies on evidence which appears only in the National Portland record, the letter "N" will be used in juxtaposition to the above-mentioned abbreviations.

	Net sales	Net income
1962.....	\$ 4,542,296	\$422,938
1963.....	4,407,058	332,290
1964.....	† 11,736,293	356,915
1965.....	† 8,224,817	(119,533)

B. The Ryan Companies

4. Prior to their acquisition by National, on or about September 23, 1963, Ryan Ready Mixed Concrete Corporation (hereinafter sometimes referred to as "Ryan") and N. Ryan Company, Inc. (hereinafter sometimes referred to as "N. Ryan"), were corporations organized and existing under the laws of the State of New York, with their principal offices located at 491 Smith Street, Brooklyn, New York. Ryan and N. Ryan were incorporated in New York State on March 26, 1930, and April 27, 1928, respectively. Ryan and N. Ryan were owned and controlled by substantially the same interests (Admitted, Ans., par. 3; NCX 38 A-B and 40 E; Prehearing Order, par. 8; N Tr. 68).

5. At the time of its acquisition, and for many years prior thereto, Ryan was engaged in the production of ready-mixed concrete and the sale thereof to construction contractors in the New York City metropolitan area (hereinafter referred to as the NYMA). At all of said times N. Ryan was a dealer in raw materials, including portland cement, and sand and gravel, and resold most of said materials to Ryan, for which it acted as exclusive purchasing agent (Admitted, Ans., par. 3 and 6; Prehearing Order, par. 10, 11; N Tr. 934-936; NCX 38 D and 40 E).

6. At the time of its acquisition by National, Ryan operated five ready-mixed concrete plants in the NYMA. Three of said plants were located in New York City, two being in Brooklyn and one in the Bronx. The remaining two plants were located in Nassau County, one being at Hicksville, and the other at Great Neck. From such plants Ryan served New York City (except for Staten Island) and portions of the adjacent Long Island counties of Nassau and Suffolk (Admitted, Ans., par. 6; NCX 38 B-C).

7. At the time of its acquisition by National, Ryan purchased substantial quantities of portland cement for use in the production of ready-mixed concrete. It was the fourth largest consumer

† The sales figures for 1964 and 1965, while consolidated with Ryan's, do not include sales by National to Ryan, which amounted to \$1,129,856 in 1965 and \$646,752 in 1964 (NCX 20 F).

of cement among ready-mix companies in the NYMA. Its purchases of portland cement for the years 1958 through 1964 were as follows (NCX 38 C, 39, 40 C, and 47 A):

	Purchases (barrels)
1958.....	529,650
1959.....	652,220
1960.....	529,797
1961.....	604,394
1962.....	958,305
1963.....	^a 790,245
1964.....	524,352

8. Prior to its acquisition by National, Ryan purchased a portion of its cement requirements from National. Following its acquisition, Ryan's purchases from National increased substantially. Set forth below is a table reflecting Ryan's purchases of cement from National, both before and after its acquisition in September 1963, and the percentage which such purchases represented of its total purchases (NCX 37 D, 38 C, 39, 40 C):

	Ryan's cement purchases from National (bbis.)	Percentage of total cement purchases
1958.....	70,920	13.4
1959.....	82,397	12.5
1960.....	62,593	11.7
1961.....	67,749	11.1
1962.....	23,574	2.4
1963.....	129,164	16.3
1964.....	406,397	77.5

9. Ryan's net sales and its net income, after taxes, for the fiscal years 1962 and 1963 (ending February 28), for the eight-month period ending October 31, 1963, and for the fiscal years 1964 and 1965 (ending March 31) were as follows (NCX 25-27, 31 E; NRX 66):

^a These figures include purchases for the period after September 23, 1963, when Ryan became a subsidiary of National.

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Initial Decision

	Net sales	Net income
1962	\$ 7,181,006	\$(235,004)
1963	10,937,593	268,041
1963 (8 mos.)	6,823,253	432,854
1964 (11 mos.)	⁹	⁹ (10,824)
1965	4,914,598	¹⁰ (402,518)

10. N. Ryan's net sales and its net income, after taxes, for the fiscal years 1962 and 1963 (ending April 30), and for the six-month period ending October 31, 1963, were as follows (NCX 28-30):

	Net sales	Net income
1962	\$4,815,076	\$(48,670)
1963	6,531,032	187,344
1963 (6 mos.)	356,437	59,568

11. Prior to its acquisition by National, Ryan, through its wholly owned and controlled subsidiary, N. Ryan, made substantial purchases of portland cement from sources located outside the State of New York, such purchases being shipped to it in interstate commerce. All of the cement was manufactured into ready-mixed concrete by Ryan within the State of New York and was sold by Ryan within the State of New York (Prehearing Order, par. 11; N Tr. 68-69; NCX 38 C and 40 C).

C. U.S. Steel Corporation

12. Respondent, United States Steel Corporation (hereinafter sometimes referred to as "U.S. Steel"), is a corporation organized and existing under the laws of the State of New Jersey, with a general office located at 71 Broadway, New York, New York (Admitted, Ans., par. 2; Prehearing Order, par. 2; Tr. 7-8).

13. U.S. Steel is, and for many years has been, the largest steel producer in the United States, and a major integrated producer of raw materials for the production of iron and steel

⁹ The record does not contain information as to Ryan's sales in 1964. The figure of its losses is for the 11-month period ending March 31, 1964 (NRX 66).

¹⁰ Includes figures for N. Ryan operation, which was merged into Ryan on March 1, 1964 (NCX 40 F).

products (Admitted, Ans., par. 3). In the years 1962 to 1964 its sales, net income and assets were as follows (CX 18-20):

	Sales (\$000)	Net income (\$000)	Assets (\$000)
1962	\$3,500,955	\$163,679	\$4,982,949
1963	3,637,173	203,549	5,033,528
1964	4,129,352	236,785	5,206,119

14. U.S. Steel, through its Universal Atlas Cement Division (hereinafter sometimes referred to as "UAC"), is, and for some time last past has been, a manufacturer of portland cement. UAC is one of the four largest portland cement manufacturers in the United States. It operates 11 cement plants, having an annual capacity of over 30 million barrels and serves 37 States. During the years 1962 to 1964 its net profit, after taxes, was in excess of \$3 million annually (Admitted, Ans., par. 3; Tr. 900; CX 99).

15. UAC serves the NYMA from its plants located at Hudson, New York, and Northampton, Pennsylvania, such plants having an annual capacity of 4 million barrels and 2.9 million barrels, respectively. UAC also operates a distribution terminal at Glen Cove, New York, from which it serves the NYMA. In the year 1963 the total shipments of portland cement by UAC's Hudson and Northampton plants amounted to 4,770,339 barrels, of which 967,549 barrels were shipped to consumers located in the New York City metropolitan area (Admitted, Ans., par. 5; Prehearing Order, par. 5; CX 41 A and 42).

D. Certified Industries, Inc.

16. Prior to the acquisition of its assets by a subsidiary of U.S. Steel on or about April 30, 1964, Certified Industries, Inc. (hereinafter sometimes referred to as "Certified"), was a corporation organized and existing under the laws of the State of Delaware, with its principal office located at 201 Park Avenue, Hicksville, New York (Admitted, Ans., par. 7). It was organized under the laws of the State of Delaware on March 9, 1959 (CX 35, p. 5).

17. At the time of its acquisition Certified was, and for a number of years prior thereto had been, engaged in the production and sale of ready-mixed concrete and mineral aggregates (sand and

gravel) in the NYMA (Admitted, Ans., par. 8). At the time of the acquisition Certified owned nine stationary ready-mixed concrete plants (of which seven were in operation), six of such plants being located in Nassau and Suffolk Counties, and one each in Manhattan, Queens, and Brooklyn. It also owned several pits for the extraction of sand and gravel, and a quarry for the extraction of lightweight aggregates (CX 38 and 47).

18. Certified entered the ready-mixed concrete business under the name Certified Transit Mix Corporation in 1953, when its president, E. L. Litwin, and three other individuals (all of whom had previously been in the building supplies business) acquired the assets of a small, one-plant, four-truck ready-mixed concrete company located at Copiague on the south shore of Long Island in Suffolk County. During 1953 and 1954 Certified bought additional trucks, a property with sand and gravel materials and opened an additional ready-mix plant at Commack in central Suffolk County. In 1956 or 1957 Certified acquired the business of Central Rock Ready-Mix Company, a small, six-eight truck operation at Island Park on the south shore of Long Island in Nassau County. By 1957, Certified was operating approximately 30 trucks and had three permanent batch plants for the production of ready-mixed concrete, and one portable plant. During this period it began to supply ready-mixed concrete on out-of-State construction projects, using portable batch plants. On June 15, 1961, Certified acquired most of the assets of Preferred Transmix Concrete, Inc., of Hicksville, New York. Preferred was actually a larger company than Certified, but was having financial difficulty. It operated approximately 65 trucks, and had six batch plants in Nassau and Suffolk Counties, and one plant in Queens. On August 18, 1961, Certified acquired the stock of Northern Lightweight Aggregate, Inc., of Cohoes, New York, a producer of expanded shale lightweight aggregates used in the production of lightweight concrete. With its acquisition of Preferred's Queens plant in 1961 and the opening of additional plants in Manhattan and Brooklyn in 1961 and 1962, Certified expanded its basic sales area for ready-mixed concrete from Nassau and Suffolk Counties to New York City proper (Tr. 787-796; CX 22-24, and 35, pp. 5, 11-17).

19. At the time of its acquisition by U.S. Steel in April 1964, Certified was one of the four largest producers of ready-mixed concrete in the NYMA (Admitted, Ans., par. 9). Its sales of ready-mix for the years 1961 through 1963 were as follows (CX 37):

	Ready-mix sales (cu. yds.)
1961	330,000
1962	763,002
1963	772,241

20. At the time of its acquisition, Certified was the second largest consumer of portland cement among ready-mixed concrete producers in the NYMA. Certified's purchases of portland cement for the years 1961 through 1964 were as follows (CX 36, 38, and 93):

	Purchases, portland cement (barrels)
1961	451,898
1962	823,352
1963	1,054,072
1964	793,479

21. Certified purchased a portion of its cement requirements from UAC prior to its acquisition. The amount of such purchases increased very significantly in 1963 when U.S. Steel assisted Certified in obtaining a long-term loan, and the trend continued in 1964 when it was acquired by U.S. Steel. Set forth below is a table reflecting the amount and proportion of Certified's cement purchases from UAC between 1961 and 1964:

	Certified's cement purchases from UAC (bbl.)	Proportion of total cement purchases (%)
1961	36,675	8.4
1962	123,731	14.9
1963	567,470	53.8
1964	701,151	88.4

22. Certified's net sales, income, retained earnings and total assets for the fiscal years 1960 through 1963 (ending June 30), for the six-month period ending December 31, 1963, and for the four-month period ending April 30, 1964 (prior to its acquisition), and the eight-month period ending December 31, 1964 (after its acquisition), were as follows (CX 21-24, 30, 32 A-B, 33 B):

