

801.10
802.3

Verne, B. Michael

From: [REDACTED]
Sent: Thursday, October 25, 2012 3:15 PM
To: Verne, B. Michael
Subject: HSR Question

Mike, quick question: my client wants to acquire certain mineral interests in an asset transaction. The assets are owned by 30 or so unaffiliated sellers, each of whom owns an undivided interest in the assets. Is it proper to view this as 30 separate acquisitions, the value of each such transaction being the value of such seller's undivided interest in the assets? I am not aware of a rule that requires aggregation of the assets of unaffiliated sellers (even if each seller holds an undivided interest in the assets).

As a hypothetical example, assume that the assets to be acquired are producing mineral reserves valued at \$1 billion. Further assume that each of the 30 owners will sell its undivided 1/30 interest in the assets to the buyer for \$33.3 million. Since the buyer is acquiring assets worth \$33.3 million from each seller (well under the \$500 million exclusion for minerals and under the \$68.2 million threshold), no filing would be required.

Do you concur?

Thank you very much, [REDACTED]

You would treat them as 30 separate asset acquisitions. If the value of each undivided interest is less than \$68.2 million, no filing is required. Note for future reference that § 802.3 does not exempt all mineral reserve acquisitions, only carbon based minerals. Oil, natural gas, shale or tar sands have a \$500 million limitation and coal has a \$200 million limitation.

BM
10/25/12