

award of a preference right lease, using information generated during the R&D phase. Approval of conversion to a commercial lease will depend upon the Secretary's determination that a commercial operation on the acreage selected could be conducted in an environmentally acceptable manner. BLM is prepared to ensure adequate compliance with NEPA and the Endangered Species Act (ESA).

#### *Methodology for Determining Fair Market Value*

There were three comments relating to fair market value. One comment suggested that the BLM should determine fair market value by using the valuation system used by the Utah State Tax Commission. The second comment suggested that it could be counterproductive to require payment of market value in transitioning from R&D to commercial lease. This comment went on to state that a fixed conversion fee should be set at the greater of \$1,000/acre or \$1.00 per barrel of oil equivalent produced and removed from the R&D site. The last comment suggested that the BLM "examine the carrying costs of comparable private oil shale lands and strive for parity with private land holders."

The issue of determining the Fair Market Value to be paid at conversion is a complex one. Accordingly, BLM has decided it should be addressed later in a rulemaking or other public process.

#### *Other Comments*

#### **Section 10—Water Rights**

Several comments suggested that the section (Section 10) on water rights should be rewritten for clarity. Some expressed concern that the language on water rights could be construed to mean that water rights development off the Leased Lands will automatically become the property of the lessor upon termination of the lease. One comment suggested that the lessor should reimburse the lessee, at a fair market value, for costs associated with the development of the water rights.

The language on water rights has been rewritten to clarify that only water rights developed on the lease will be relinquished by the lessee upon termination of the lease.

#### *Research Parks*

A few comments suggested the idea of research parks, which "would be best operated on the Ua/Ub in Utah or the Anvil Points in Colorado." A comment suggested that rather than conventional leasing, a better approach may be to utilize "government land as a technology proof test center." One of the comments suggested that BLM make Ua/Ub and Anvil Points sites available as "research parks," because some level of infrastructure exist on these sites. However, these comments did not elaborate on the idea or give a framework under which the idea could be feasible in advancing the course of oil shale extraction, associated technology and subsequent commercial operation. One of the comments cites the relationship between the Canadian oil sands industry and the provincial and federal governments as a possible model. Again, the comment did not

explain how the relationship informs the BLM project.

Some comments were in opposition to the idea of Research Parks. They believe that it is an idea that offers no protection to proprietary trade data, and lacks equitable accountability for environmental responsibilities.

Anvil Point is currently undergoing reclamation at great expense. The Utah facility is currently under a closure order while issues relating to the buildup of methane are resolved. Accordingly, at this time, BLM is unwilling to assume the liability for any additional reclamation costs or environmental risks which would be associated with its operation of these sites as public facilities. Any further use should be dependent on the willingness of bonded private entities to accept the responsibility for any additional liabilities.

#### *Bonding*

A majority of the comments suggested that the criteria for awarding leases should include a requirement for a potential lessee to demonstrate, in advance, the ability to obtain a sufficient reclamation bond. One comment suggested that the bond amount be set at \$20,000,000. A comment suggested that oil shale bonding should be structured like the oil and gas bonds. Another suggested that any bond posted for "reclamation performance" should be made payable to the state regulatory authority where the project is located in addition to the lessor, BLM.

After a thorough review of the bonding comments, BLM determined that the existing language in the draft form (under Section 7—Bonds) is an appropriate mechanism to ensure adequate bonding for the R, D & D leases. The draft language states that the "bond shall be of a type authorized by 43 CFR 3104.1 and must be sufficient to cover all costs associated with reclamation and abandonment activities." It was concluded that the sufficiency of a bond will be best determined by an authorized officer.

#### **Section 11—Development by In Situ Methods**

##### *Fracture Length*

One comment questioned "how to either prove or enforce the limits of fracturing." In response to this issue, the phrase "nor shall induced fracture extend to within 100 feet from the boundary line" has been deleted.

##### *500 Feet Perimeter Limit*

Some comments suggested that the requirement that "the lessee shall not place any entry, well, or opening for such operations within 500 feet of the boundary line of the Leased Lands" be modified. One comment stated that the limitation should be eliminated, because it reduces the effective R & D area to approximately 2.35 acres. This requirement has been addressed by increasing the size of the R, D & D lease to 160 acres, while retaining the 500 foot perimeter to protect against removal of resources associated with other properties.

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## **INTERNATIONAL TRADE COMMISSION**

[Investigation No. 337-TA-518]

### **In the Matter of Certain Ear Protection Devices; Notice of Commission Issuance of a Limited Exclusion Order and a Cease and Desist Order Against a Respondent Found in Default; Termination of Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order and a cease and desist order against a respondent found in default in the above-captioned investigation, and has terminated the investigation.

#### **FOR FURTHER INFORMATION CONTACT:**

Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3041. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on August 6, 2004, based on an amended complaint filed by 180s, Inc. and 180s, LLC of Baltimore, Maryland, 69 FR 47955-56. The amended complaint alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ear protection devices by reason of infringement of claims 1, 3, 13, 17-19, and 21-22 of U.S. Patent No. 5,835,609. The complaint named nine respondents: Ningbo Electric and Consumer Goods, Import & Export Corp. (Ningbo) of China; Vollmacht Enterprise Co., Ltd. (Vollmacht) of Taiwan; March Trading of New York, NY; Alicia International,

Inc., d/b/a Lincolnwood Merchandising, of Niles, IL; Hebron Imports of Chicago, IL; Ross Sales of Commack, NY; Value Drugs Rock, Inc. of New York, NY; Song's Wholesale of Washington, DC; and Wang Da, Inc. Retail and Wholesales (Wang Da) of New York, NY. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337.

The ALJ issued an ID on November 2, 2004, finding that respondents Ningbo, Vollmacht, and Wang Da did not respond to the complaint, notice of investigation, or an order to show cause. Consequently, the ALJ found the three respondents in default, and pursuant to Commission Rule 210.16(b)(3), to have waived their right to appear, be served with documents, or contest the allegations in the complaint. No petitions for review of the ID were filed. The Commission did not review the ID, and it thereby became the determination of the Commission.

On March 23, 2005, the complainants filed six motions for termination of the investigation with respect to the six remaining respondents. The Commission Investigative Attorney ("IA") filed a response in support of the motions on March 25, 2005. On April 1, 2005, the ALJ granted the motions for termination. No party petitioned for review of this ID. On April 19, 2005, the Commission published a notice indicating that it would not review the ID, thereby allowing the ALJ's ID to become the Commission's final determination. The Commission requested that the parties brief the issues of remedy, the public interest, and bonding with respect to the three defaulting respondents.

On April 29, 2005, complainants and the IA submitted their main briefs, and on May 5, 2005, complainants filed a reply brief. Complainants and the IA both maintained that the appropriate remedy is a limited exclusion order and a cease and desist order.

The Commission found that each of the statutory requirements of section 337(g)(1)(A)-(E), 19 U.S.C. 1337(g)(1)(A)-(E), has been met with respect to the defaulting respondents. Accordingly, pursuant to section 337(g)(1), 19 U.S.C. 1337(g)(1), and Commission rule 210.16(c) 19 CFR 210.16(c), the Commission presumed the facts alleged in the amended complaint to be true.

The Commission determined that the appropriate form of relief in this investigation is a limited exclusion order prohibiting the unlicensed entry of certain ear protection devices that are covered by one or more of claims 1, 3,

13, 17-19, and 21-22 of U.S. Patent No. 5,835,609. The order covers certain ear protection devices that are manufactured abroad by or on behalf of, or imported by or on behalf of the three defaulting respondents or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns. The Commission also determined to issue a cease and desist order prohibiting domestic respondent Wang Da from importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for ear protection devices covered by the above-mentioned claims of the '609 patent. The Commission further determined that the public interest factors enumerated in section 337(g)(1), 19 U.S.C. 1337(g)(1), do not preclude issuance of the limited exclusion order and cease and desist order. Finally, the Commission determined that the bond under the limited exclusion order during the Presidential review period shall be in the amount of 100 percent of the entered value of the imported articles. The Commission's orders were delivered to the President on the day of their issuance.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.16(c) of the Commission's Rules of Practice and Procedure (19 CFR 210.16(c)).

By order of the Commission.

Issued: June 3, 2005.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States v. Newdunn Associates, LLP., Orion Associates, and Northwest Contractors*, E.D. Va., Civil Action No. 2:01cv508, was lodged with the United States District Court for the Eastern District of Virginia on May 20, 2005.

This proposed Consent Decree concerns a complaint filed by the United States against Newdunn Associates, LLP., Orion Associates, and Northwest Contractors, pursuant to section 301(a) of the Clean Water Act,

33 U.S.C. 1311(a), to obtain injunctive relief from, and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to restore the impacted areas, perform mitigation, and pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Kent E. Hanson, United States Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, P.O. Box 23986, Washington, DC 2002-3986, and refer to Newdunn Associates.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Eastern District of Virginia, 600 Granby Street, Norfolk, Virginia 23510. In addition, the proposed Consent Decree may be viewed at <http://www.usdoj.gov/enrd/open.html>.

**Russell M. Young,**

*Assistant Chief, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice.*

[FR Doc. 05-11423 Filed 6-8-05; 8:45 am]

**BILLING CODE 4410-15-M**

## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms and Explosives

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-day notice of information collection under review: firearms transaction record, part 1, over-the-counter.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** volume 70, number 61, page 16525 on March 31, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public