DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,399]

BBA Nonwovens Simpsonville Inc., Lewisburg, PA; Notice of Revised Determination on Reconsideration

By letter postmarked August 15, 2002, the Paper, Allied-Industrial, Chemical and Energy International Workers Union, Local PACE 2–1318, requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on July 1, 2002, based on the finding that imports of apparel interlinings and disposable diaper components did not contribute importantly to worker separations at the Lewisburg plant. The denial notice was published in the **Federal Register** on July 18, 2002 (67 FR 47399).

To support the request for reconsideration, the union supplied additional information to supplement that which was gathered during the initial investigation. Upon further review and contact with the company, it was revealed that the company had sold off a major product line of apparel interlinings to a manufacturer with foreign production capacity.

In addition, contact with the major declining domestic customer of this product revealed that they replaced their purchases of apparel interlinings from the subject firm with products from the foreign plant during the relevant period. The imports accounted for a meaningful portion of the subject plant's lost sales and production.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at BBA Nonwovens Simpsonville Inc., Lewisburg, Pennsylvania, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

''All workers of BBA Nonwovens Simpsonville Inc., Lewisburg, Pennsylvania, who became totally or partially separated from employment on or after March 25, 2001 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.''

Signed in Washington, DC this 19th day of February 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,851]

Burlington Resources, Gulf Coast Division, Houston, TX; Notice of Negative Determination Regarding Application for Reconsideration

By application received on October 10, 2002, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Burlington Resources, Gulf Coast Division, Houston, Texas was signed on September 11, 2002, and published in the **Federal Register** on September 27, 2002 (67 FR 61160).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition was filed on behalf of workers at Burlington Resources, Gulf Coast Division, Houston, Texas engaged in activities related to clerical, accounting, legal and marketing services. The petition was denied because the petitioning workers did not produce an article within the meaning of section 222(3) of the Act.

The petitioner alleges that the majority of the petitioning worker group at Burlington Resources, Gulf Coast Division, Houston, Texas were production workers.

Upon further review and company contact, it was revealed that, although the overwhelming majority of workers in the petitioning worker group were office workers, a small percentage of the group fulfilled other job functions. A review of the job descriptions of these few workers revealed that, in addition to administrative functions, they were engaged in safety and environmental assessment services, and supervisory functions. As these functions do not constitute production, the original finding established in the initial investigation remains valid.

The petitioner also cites company data that indicates increased imports in natural oil and gas with corresponding declines in domestic production. As the petitioning worker group does not produce a product, however, this information is irrelevant.

Finally, the petitioner asserted that a very similar worker group at Texaco Exploration (TA–W–41,243 and TA–W–41,243 A–G), was certified for trade adjustment assistance, and attached a copy of this certification to the request for reconsideration. The petitioner also notes that other Burlington Resources facilities have been certified in the past.

A review of the Texaco certification revealed that production workers were involved in the petitioning worker group. Although it is not indicated that similar work functions were involved in this certification, it is possible that workers performing the same functions as those in the petitioning worker group could have been part of the Texaco certification. If service workers are in direct support of petitioning or TAA certified production workers, then workers in these support functions may be eligible. In the case of the petitioning worker group in this investigation, there are no production workers represented. Similarly, past certifications for Burlington Resources involved worker groups that included production workers.

Only in very limited instances are service workers certified for TAA, namely the worker separations must be caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are currently under certification for TAA.

In conclusion, the workers at the subject firm did not produce an article within the meaning of section 222(3) of the Trade Act of 1974.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.