

relates to surface operations on lands within national forests west of the 100th meridian. Neither of those exceptions applies to the request now under consideration.

The introductory paragraph of section 522(e) also provides two general exceptions to the prohibitions on surface coal mining operations in that section. Those exceptions apply to operations in existence on the date of enactment of the Act (August 3, 1977) and to land for which a person has VER. SMCRA does not define VER. We subsequently adopted regulations defining VER and clarifying that, for lands that come under the protection of 30 CFR 761.11 and section 522(e) after the date of enactment of SMCRA, the applicable date is the date that the lands came under protection, not August 3, 1977.

On December 17, 1999 (64 FR 70766–70838), we adopted a revised definition of VER, established a process for submission and review of requests for VER determinations, and otherwise modified the regulations implementing section 522(e). At 30 CFR 761.16(a), we published a table clarifying which agency (OSM or the State regulatory authority) is responsible for making VER determinations and which definition (State or Federal) will apply. That table specifies that OSM is responsible for VER determinations for Federal lands within national forests and that the Federal VER definition in 30 CFR 761.5 applies to those determinations.

At 30 CFR 761.16(b) we published the information needed for OSM to make a determination of VER, which includes information required to demonstrate the “good faith/all permits” standard in accordance with 30 CFR 761.16(b)(2) or the “needed for and adjacent” standard in accordance with 761.16(b)(3).

III. What Information Is Available Relevant to the Basis for the Request?

The request included a Property Rights Demonstration, as required by 30 CFR 761.16 (b)(1) pursuant to the definition at 30 CFR 761.5. Included were two deed conveyances referenced in the Property Rights Demonstration, containing a legal description of the land owned by the petitioner that is the subject of the request, and the subsequent severance of the surface and mineral estates.

IV. How We Processed the Request

We received the request on July 18, 2008, through a letter dated July 15, 2008, submitted by David Altizer on behalf of Jack Smith *et al.* The request did not include all of the information required for the “good faith/all permits”

standard in accordance with 30 CFR 761.16(b)(2) or the “needed for and adjacent” standard in accordance with 30 CFR 761.16(b)(3). Therefore, we determined that the request was not administratively complete. Because the request was not administratively complete, our review did not include an assessment of the technical or legal adequacy of the materials submitted with the request.

In a letter dated August 13, 2008, we informed the requester that the information submitted was incomplete. As required by 30 CFR 761.16(c)(2), we provided an additional 30 days within which to submit the required information. No additional information was submitted by the requester.

V. How We Made Our Decision

Because we did not receive any further information in support of the request, and we did not receive a request for an extension of time within which to submit additional information, the request remains incomplete and cannot be processed. In such a situation, our regulations at 30 CFR 761.16(e)(4) require us to issue a determination that an applicant has not demonstrated VER. This determination is made without prejudice therefore the requester may submit a revised request with the appropriate information at any time.

VI. How Can I Appeal the Determination?

Our determination that the applicant has not demonstrated VER is subject to administrative and judicial review under the Federal regulations at 30 CFR 775.11 and 775.13.

VII. Where Are the Records of This Determination Available?

Our records on this determination are available for your inspection at the Lexington Field Office at the location listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: April 23, 2009.

Thomas D. Shope,

Regional Director, Appalachian Region.

[FR Doc. E9–15000 Filed 6–24–09; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Park Service

Temporary Vehicle Restriction on U. S. Route 209

AGENCY: National Park Service, Delaware Water Gap, National Recreation Area.

ACTION: Temporary Vehicle Restriction on U.S. Route 209.

SUMMARY: The National Park Service (NPS), Delaware Water Gap National Recreation Area, in conjunction with the Federal Highway Administration, is repairing and reconstructing the Bushkill Creek Bridge along U.S. Route 209. During the repair and reconstruction period, Bushkill Creek Bridge will be closed. A detour route is available, but can only accommodate vehicles with a gross vehicle weight rating (GVWR) less than 15 tons. For this reason, NPS is instituting a temporary restriction of vehicles with a GVWR in excess of 15 tons (30,000 lbs GVWR) along U.S. Route 209 in the park. This temporary restriction will be in effect starting July 9, 2009 at 1800 hours and will remain in effect 24 hours a day until July 27, 2009 at 1800 hours.

DATES: July 9, 2009 at 1800 through July 27, 2009 at 1800.

ADDRESSES: Requests for copies of, and written comments on U.S. Route 209 closure should be sent to John J. Donahue, Superintendent, Delaware Water Gap, National Recreation Area, River Road, Bushkill, PA 18324.

FOR FURTHER INFORMATION CONTACT: John J. Donahue at (570) 426–2418.

SUPPLEMENTARY INFORMATION: The main problems to be corrected on the Bushkill Creek Bridge are moderate spalling throughout the north pier bearing area on both sides, which has partially undermined several bearing plates. Other problems being corrected are deterioration of the wearing surface, paint deterioration throughout the steel beams, and rusting of the bearing devices. Additionally, repairs are being made to several large vertical cracks in the abutment breastwalls, and large quantities of gravel and debris in the channel at the structure site. In the fall of 2008, Delaware Water Gap National Recreation Area maintenance employees performed and completed the gravel removal operation. In order to repair the wearing surface, milling and removal of 2” of the bridge deck is required and needs to be replaced with new latex concrete. The process for milling, removal, and pouring of new latex concrete is 4 days with an additional 14 days for the curing of the new latex concrete, thus requiring the closure of the bridge for 18 consecutive days. During this time, vehicles with a GVWR less than 15 tons may use the identified detour route. Vehicles with a GVWR greater than 15 tons will not be able to use U.S. Route 209 in the park.

Public Availability of Comments: John J. Donahue, Superintendent, Delaware

Water Gap, National Recreation Area,
River Road, Bushkill, PA 18324.

Dated: May 5, 2009.

John J. Donahue,

*Superintendent, Delaware Water Gap,
National Recreation Area.*

[FR Doc. E9-15021 Filed 6-24-09; 8:45 am]

BILLING CODE 4312-J6-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-565]

In the Matter of Certain Ink Cartridges and Components Thereof Consolidated Enforcement Proceeding and Enforcement Proceeding II; Notice of a Commission Determination Not To Review an Enforcement Initial Determination Finding a Violation of Cease and Desist Orders and a Consent Order; Schedule for Filing Written Submissions on Civil Penalties

AGENCY: U.S. International Trade
Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an enforcement initial determination ("EID") of the presiding administrative law judge ("ALJ") in the above-captioned proceeding finding a violation of cease and desist orders and a consent order. The Commission is requesting briefing on the amount of civil penalties for violation of the orders.

FOR FURTHER INFORMATION CONTACT:

Michael Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3041. Copies of all nonconfidential 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 the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the underlying

investigation in this matter on March 23, 2006, based on a complaint filed by Epson Portland, Inc. of Oregon; Epson America, Inc. of California; and Seiko Epson Corporation of Japan (collectively, "Epson"). 71 FR 14720 (March 23, 2006). The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930 ("section 337") in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink cartridges and components thereof by reason of infringement of claim 7 of U.S. Patent No. 5,615,957; claims 18, 81, 93, 149, 164, and 165 of U.S. Patent No. 5,622,439; claims 83 and 84 of U.S. Patent No. 5,158,377; claims 19 and 20 of U.S. Patent No. 5,221,148; claims 29, 31, 34, and 38 of U.S. Patent No. 5,156,472; claim 1 of U.S. Patent No. 5,488,401; claims 1-3 and 9 of U.S. Patent No. 6,502,917; claims 1, 31, and 34 of U.S. Patent No. 6,550,902; claims 1, 10, and 14 of U.S. Patent No. 6,955,422; claim 1 of U.S. Patent No. 7,008,053; and claims 21, 45, 53, and 54 of U.S. Patent No. 7,011,397. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainants requested that the Commission issue a general exclusion order and cease and desist orders. The Commission named as respondents 24 companies located in China, Germany, Hong Kong, Korea, and the United States. Several respondents were terminated from the investigation on the basis of settlement agreements or consent orders or were found in default.

On October 19, 2007, after review of the ALJ's final ID, the Commission made its final determination in the investigation, finding a violation of section 337. The Commission issued a general exclusion order, a limited exclusion order, and cease and desist orders directed to several domestic respondents. The Commission also determined that the public interest factors enumerated in 19 U.S.C. 1337(d), (f), and (g) did not preclude issuance of the aforementioned remedial orders, and that the bond during the Presidential period of review would be \$13.60 per cartridge for covered ink cartridges. Certain respondents appealed the Commission's final determination to the United States Court of Appeals for the Federal Circuit ("Federal Circuit"). On January 13, 2009, the Federal Circuit affirmed the Commission's final determination without opinion pursuant to Fed. Cir. R. 36. *Ninestar Technology Co. et al. v.*

International Trade Commission,
Appeal No. 2008-1201.

On February 8, 2008, Epson filed two complaints for enforcement of the Commission's orders pursuant to Commission rule 210.75. Epson proposed that the Commission name five respondents as enforcement respondents. On May 1, 2008, the Commission determined that the criteria for institution of enforcement proceedings were satisfied and instituted consolidated enforcement proceedings, naming the five following proposed respondents as enforcement respondents: Ninestar Technology Co., Ltd.; Ninestar Technology Company, Ltd.; Town Sky Inc. (collectively, the "Ninestar Respondents"), as well as Mipo America Ltd. ("Mipo America") and Mipo International, Ltd (collectively, the "Mipo Respondents"). On March 18, 2008, Epson filed a third enforcement complaint against two proposed respondents: Ribbon Tree USA, Inc. (dba Cana-Pacific Ribbons) and Apex Distributing Inc. (collectively, the "Apex Respondents"). On June 23, 2008, the Commission determined that the criteria for institution of enforcement proceedings were satisfied and instituted another formal enforcement proceeding and named the two proposed respondents as the enforcement respondents. On September 18, 2008, the ALJ issued Order No. 37, consolidating the two proceedings.

On April 17, 2009, the ALJ issued his Enforcement Initial Determination (EID) in which he determined that there have been violations of the Commission's cease and desist orders and a consent order and recommended that the Commission impose civil penalties for such violations.

On April 29, 2009, the Ninestar Respondents filed a petition for review of the EID. On May 7, 2009, Epson and the Commission investigative attorney filed responses to the petition for review.

Having considered the EID, the petition for review, the responses thereto, and other relevant portions of the record, the Commission has determined not to review the EID. The Commission may levy civil penalties for violation of the cease and desist orders and consent order.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the amount of civil penalties to be imposed. Such submissions should address the April 17, 2009, recommended determination by the ALJ on civil penalties. The