

produce an article and who are currently under certification for TAA.

In conclusion, the petitioning workers at the subject firm did not produce an article within the meaning of Section 222(3) of the Trade Act of 1974, nor were separations caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produced an article and who are currently under certification for TAA.

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.

Signed at Washington, DC, this 11th 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-41,987]

Alcoa Wenatchee Works, A Division of Alcoa, Inc., Malaga, WA; Notice of Negative Determination Regarding Application for Reconsideration

By application dated November 18, 2002, the Wenatchee Aluminum Trade Council requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The Notice of Termination of Investigation was signed on October 18, 2002 and published in the **Federal Register** on November 5, 2002 (67 FR 67423).

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 petition for the workers of Alcoa Wenatchee Works, a division of Alcoa, Inc., Malaga, Washington engaged in the production of aluminum was terminated based on the plant ceasing production of aluminum in July 2001, more than one year prior to the August 1, 2002, date of the petition.

The petitioner on reconsideration questions the exact findings that the facility ceased production in July 2001.

The Department of Labor's Notice of Negative Determination Regarding Application for Reconsideration pertains to the impacted worker group producing aluminum cited in the petition. It was determined that the company ceased production of aluminum on July 1, 2001, more than one year prior to the date of the petition, August 1, 2002. Contact with the company confirmed that production of aluminum ceased on July 1, 2001. As such, layoffs occurring after August 1, 2001 cannot be attributable to the cessation of aluminum production as it had already occurred at least one month earlier.

The petitioners also infer that we erred in our use of Section 223(b)(1) referencing it to the ceased production date.

We do not agree that there was an error made in our use of Section 223(b)(1). The termination notice states "Section 223(b)(1) of the Trade Act of 1974 provides that a TAA certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed on behalf of affected workers." As noted above, since production ceased more than a year prior to the petition date, workers separated subsequent to July 2001 would not have been engaged in the production of aluminum when separated.

The petitioner on reconsideration further indicates that they are asking for reconsideration of laid-off workers after August 1, 2001.

The initial investigation addressed the group of workers as stated in the petition and thus the investigation was conducted for the workers engaged in the production of aluminum. In conducting the initial investigation the Department was aware that the plant remained open due to a contract agreement that required that Alcoa maintain at least 400 employees. The Department was also aware that a portion of the workforce began producing carbon anode blocks for another Alcoa Aluminum plant, while that plant rebuilds their anode baking

facility. The carbon blocks act as a sacrificial anode in the aluminum production process, so most of the aluminum smelters, including Wenatchee Works, have such a production facility. The major contributing factor leading to the layoffs at the subject firm was the curtailment of aluminum production. Neither of the activities as described above led to the aluminum worker layoffs for which the investigation was conducted. In any event, if employment declines or threat of layoffs occurred relating to the worker groups engaged in the production of carbon blocks and/or electricity, a petition for Trade Adjustment Assistance may be filed on their behalf.

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.

Signed at Washington, DC, this 11th 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-41,872]

Breed Technologies Incorporated, Knoxville, TN; Notice of Negative Determination Regarding Application for Reconsideration

By application of October 30, 2002, the Union of Needletrades, Industrial & Textile Employees, Tennessee/Kentucky District, requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on September 24, 2002, and published in the **Federal Register** on October 10, 2002 (67 FR 63159).

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;