remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Indian Affairs and Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact John Madsen, Repatriation Coordinator, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 621-4795, before January 21, 2005. Repatriation of the human remains and associated funerary objects to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The Arizona State Museum is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: November 16, 2004

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 04–28000 Filed 12–21–04; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Nebraska State Historical Society, Lincoln, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of Nebraska State Historical Society, Lincoln, NE. The human remains and cultural items were removed from the Oacama site, Lyman County, SD.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Nebraska State Historical Society professional staff in consultation with representatives of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1951 and 1952, human remains representing a minimum of three individuals were removed from the Oacama site, Lyman County, SD, by Dr. Martin Kivett of the Nebraska State Historical Society. The site was on land that was probably private at the time that it was excavated. No known individuals were identified. The four associated funerary objects are two animal bones and two fragments of burned earth.

The Oacama site was excavated by Dr. Kivett in 1951 and 1952. The investigation was completed in association with the Smithsonian River Basin Survey in the area of Chamberlain, SD. Oacama is a postcontact earthlodge village, which Dr. Kivett believes dates to the period A.D. 1675–1725 (unpublished manuscript on file, Nebraska State Historical Society, 1958), and is most likely an Arikara village. The pottery recovered in association with the human remains is typical of that made by the Arikara, who occupied a number of villages in this area during the postcontact period. Cranial morphology also supports affiliation to the Arikara. The simple–stamped pottery noted by Dr. Kivett has not been located. The Arikara are today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota

Officials of the Nebraska State Historical Society have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of three individuals of Native American ancestry. Officials of the Nebraska State Historical Society also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the four objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Nebraska State Historical Society have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Rob Bozell, Associate Director, Nebraska State Historical Society, 1500 R Street, P.O. Box 82554, Lincoln, NE 68501–2554, telephone 402–471–4789, before January 21, 2005. Repatriation of the human remains and associated funerary objects to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota may proceed after that date if no additional claimants come forward.

The Nebraska State Historical Society is responsible for notifying Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota that this notice has been published.

Dated: November 3, 2004

Sherry Hutt, Manager

National NAGPRA Program.

[FR Doc. 04–28003 Filed 12–21–04; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF LABOR

Employment And Training Administration

[TA–W–56,018]

Alphatech, Inc, Fletcher, NC; Notice of Termination of Investigation.

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 17, 2004 in response to a worker

petition filed by a company official on behalf of workers at AlphaTech, Inc., Fletcher, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 3rd day of December, 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4–3775 Filed 12–21–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment And Training Administration

[TA–W–53,918]

BMC Software, Inc., Houston, TX; Notice of Revised Determination on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for voluntary remand for further investigation in *Former Employees of BMC Software, Inc.* v. *U.S. Secretary of Labor* (Court No. 04–00229).

The Department's denial of the initial petition (filed on December 23, 2003) was issued on January 20, 2004. The Notice of determination was published in the **Federal Register** (69 FR 11888) on March 12, 2004. The negative determination was based on the finding that, while the subject company experienced significant employment declines, the worker group did not produce an article within the meaning of section 222 of the Trade Act of 1974 (TAA), as amended. Workers at the subject facility develop software solutions.

By letter dated February 9, 2004, the petitioner requested administrative reconsideration, contending that the subject company did, in fact, produce articles. During review of the request for reconsideration, the Department asked the company to characterize the work performed at the subject facility. The company responded that workers of BMC Software, Inc., Houston, Texas, are software developers. The official further stated that software developed at the subject firm is not mass-produced on media devices and is not sold in an ''off-the-shelf'' manner. The company official also stated that due to significant restructuring actions to reduce ongoing operational expenses, BMC Software, Inc., had implemented a large reduction of its worldwide workforce, which included the Houston, Texas location of the firm. Based on the information provided by the company official, the Department confirmed its initial finding and issued a Notice of Negative Determination Regarding Application for Reconsideration on March 31, 2004 and published the Notice in the **Federal Register** on April 16, 2004 (69 FR 20642).

By letter dated June 1, 2004, the petitioner filed an appeal with the USCIT, alleging that the Department had erred in its determination that the subject facility did not produce an article. The appeal included photocopied pictures of packaged software produced at the subject facility, which the Department had not seen before. Having identified the need to resolve the apparent conflict between information provided by the petitioners and that provided by the employer, the Department filed a motion for voluntary remand, on July 6, 2004. In an Order issued on August 11, 2004, the USCIT granted the Department's uncontested motion for voluntary remand and further investigation.

The Department conducted a remand investigation in order to determine whether the subject worker group met the criteria set forth in the Trade Act of 1974 for TAA certification as primarily-affected workers. Section 222(a) of the Trade Act (19 U.S.C. 2272(a)) provides:

> A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance under this part pursuant to a petition filed under section 2271 of this title if the Secretary determines that—
>
> (1) A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; and
>
> (2)(A)(i) The sales or production, or both, of such firm or subdivision have decreased absolutely; (ii) imports of articles like or directly competitive with articles produced by such firm or subdivision have increased; and (iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or
>
> (B)(i) There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and (ii)(I) the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States; (II) the country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or (III) there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

During the remand investigation, the Department raised additional questions and obtained detailed supplemental responses from the company. In particular, the new information showed that, in addition to software design and development, the firm does, in fact, mass-replicate software at the subject facility. Further, software produced by the firm at the subject facility includes not only custom applications, but packaged ''off-the-shelf'' applications which are mass-replicated on various media (CDs and tapes) at the subject facility. Workers at the subject facility are not separately identifiable by product line. Therefore, the subject worker group did engage in activity related to the production of an article.

The Department has consistently maintained that the design and development of software is a service. In order to be treated as an article, for TAA purposes, a software product must be tangible, fungible, and widely marketed. The Department considers software that is mass-replicated on physical media (such as CDs, tapes, or diskettes) and widely marketed and commercially available (*e.g.*, packaged ''off-the-shelf'' programs) and dutiable under the Harmonized Tariff Schedule of the United States to be an article. The workers designing and developing such products would be considered to be engaged in services supporting the production of an article.

On remand, the Department also investigated the petitioner's allegations that the firm shifted production. Based on the information generated through that investigation, the Department determined that there was no shift in production, for TAA purposes, to a foreign country of articles like or directly competitive with the packaged, mass-replicated software produced by BMC during the relevant period.

The investigation also revealed that employment and production of packaged, mass-replicated software at the subject facility had declined significantly from 2002 to 2003, while company imports of mass-replicated software increased during the same period. The Department has found that the increase in company imports represented a significant percentage of the decline in production at the subject facility during the relevant period.

Conclusion

After careful review of the facts generated through the remand investigation, I determine that increases of imports of articles like or directly