

substantial remaining use of their mineral property interests in the form of oil and gas production; (3) prohibition of the proposed surface coal mining would cause a diminution in value of the Blaires' property; and (4) the Blaires have no reasonable, investment-backed expectations of surface mining this land.

Finally, the agency finds that mining of this national forest tract would not contribute significantly to the harm Congress addressed through the prohibition of mining on federal lands within national forests. Because of its small size, isolated location relative to other national forest lands, and previously mined condition, the tract is of limited current use for the designated national forest purposes. The proposed surface coal mining operation would have only minimal short-term impacts on the current use and value of the land. There are no anticipated adverse long-term impacts. Thus, mining the tract would have no significant impact on the forest and reclamation will restore the land to the planned uses under the management plan. Therefore, OSM concludes that the record does not demonstrate that prohibition of surface coal mining of the property in question would substantially advance the section 522(e) prohibition.

OSM also finds that, because most of the coal on this property has already been mined, the use of that part of the Blaires' property interest has already occurred. Therefore, a prohibition on surface mining the remaining coal would not totally abrogate a property interest historically viewed as an essential stick in the bundle of property rights. However, because prohibition would diminish the value of the Blaires' property and would not substantially advance a legitimate public purpose of SMCRA, OSM finds that application of the statutory prohibition on surface mining the Blaires' property would constitute a compensable taking of the Blaires' property interests under the Fifth Amendment to the U.S. Constitution. Therefore, OSM finds that the Blaires have VER for the lands in question and that Buckingham acquired VER for the same lands by virtue of its lease of the Blaires' coal rights.

VII. Appeals

Any person who is or may be adversely affected by this decision may appeal to the Interior Board of Land Appeals under 43 CFR 4.1390 *et seq.* (1988). Notice of intent to appeal must be filed within 30 days from the date of publication of this notice of decision in a local newspaper with circulation in Perry County, Ohio.

Dated: November 19, 1997.

John A. Holbrook, II,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 97-31041 Filed 11-25-97; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-372 (Enforcement Proceeding)]

In the Matter of Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same; Notice of Commission Determination to Deny Motion of YBM Magnex, Inc. to be Substituted for Complainant Crucible Materials Corporation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission ("the Commission") determined to deny as moot the September 25, 1997, motion of YBM Magnex, Inc. ("YBM") to substitute YBM for complainant Crucible Materials Corporation ("Crucible") in the above-referenced enforcement proceeding.

FOR FURTHER INFORMATION CONTACT: Jay H. Reiziss, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3116.

SUPPLEMENTARY INFORMATION: On May 16, 1996, the Commission instituted a formal enforcement proceeding based on an enforcement complaint filed by Crucible Materials Corporation ("Crucible") alleging that respondents San Huan New Materials High Tech, Inc. ("San Huan"), Ningbo Konit Industries, Inc. ("Ningbo"), and Tridus International, Inc. ("Tridus") (collectively "respondents") had violated the Commission's October 11, 1995, consent order wherein those respondents agreed not to sell for importation, import, or sell after importation magnets which infringe any of claims 1-3 of Crucible's U.S. Letters Patent 4,588,439 ("the '439 patent") by importing or selling magnets that infringed the claims in issue of the '439 patent. On December 24, 1996, following an evidentiary hearing, the presiding administrative law judge ("ALJ") issued a recommended determination ("RD") finding that respondents had violated the consent order on 33 different days and recommending that the Commission impose a civil penalty of \$1,625,000 on

respondents. The Commission adopted the bulk of the RD's findings on violation on April 8, 1997, and issued an opinion explaining that determination on April 15, 1997, finding that respondents violated the consent order on 31 days between October 11, 1995, and October 10, 1996. On September 26, 1997, the Commission issued its final determination in the enforcement proceeding, imposing a \$1.55 million civil penalty on respondents, revoking the consent order and issuing an exclusion order directed to foreign respondents San Huan and Ningbo and a cease and desist order directed to domestic respondent Tridus, denying Crucible's request for attorneys' fees and its petition for reconsideration of the Commission's prior determination regarding the application of the Federal Circuit decision in *Maxwell v. J. Baker, Inc.* 86 F.3d 1098, 29 U.S.P.Q.2d 1001 (Fed. Cir.), *reh'g denied, suggestion of reh'g in banc declined (1996), cert. denied*, 117 S. Ct. 1244 (1997), and denying respondents' request that the Commission require the domestic industry to submit periodic reports regarding its status as a domestic industry. Thus, there are no outstanding issues in this investigation.

On September 25, 1997, YBM moved to be substituted as the complainant in this investigation in place of Crucible in light of the fact that YBM had acquired the '439 patent from Crucible. On October 6, 1997, respondents and the Commission investigative attorney filed replies to YBM's motion opposing it as moot in light of the fact that the Commission concluded this investigation on September 26, 1997.

Because the Commission concluded this investigation on September 26, 1997, the Commission determined to deny YBM's motion as moot. The Commission noted, however, that it would have granted YBM's motion had this proceeding still been ongoing.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and section 210.75 of the Commission's Rules of Practice and Procedure (19 CFR § 210.75).

By order of the Commission.

Issued: November 20, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97-31091 Filed 11-25-97; 8:45 am]

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