

indicator that IBM, and not BP, controlled the workers in question. While the petitioners themselves may have worked only for BP, this is not the case for the entire worker group.

IBM has stated [Business Confidential] SAR at 761. See also SAR at 723, 790.

6. BP was not responsible for establishing wage rates or paying salaries to individual IBM workers.

This issue does not appear to be a matter of contention. The petitioners have indicated that PwC/IBM, not BP, set their wage rates and paid their salaries, once they were outsourced. SAR at 913. Therefore, the evidence generated for evaluation of this criterion indicates that BP did not exercise operational control over the former IBM employees.

7. BP did not provide skills training to the workers of IBM.

This finding, which has been corroborated by both IBM and BP officials, is another strong indicator that IBM controlled the workers in question. [Business Confidential]

Moreover, there is evidence that PwC/IBM provided training to the outsourced Tulsa employees, both to ensure both that they maintained the ability to perform the duties they had previously handled for BP and to help them acquire new skills for career development within their new firm. The "Pricewaterhouse Coopers Questions and Answers for Outsourcing" (SAR at 69) states:

[Business Confidential] (*Id.*) (emphasis in original).

Further, as instructed by the Court, DOL did consider the fact that the former IBM employees had been employed by BP, performing the same tasks as they subsequently performed for PwC/IBM after being outsourced. Opinion at 43, n. 38. While the situation presented is superficially similar to that presented in *Former Employees of Pittsburgh Logistics Systems, Inc. v. USDOL*, 27 ITRD 2125, 2003 WL 716272 \*10 (February 28, 2003) (See SAR at 945), the IBM petitioners were not part of a subdivision that was "integrated into the [BP] corporate structure" (*Id.*) and did not report "directly to [BP] employees on all operational matters." (*Id.*) Further, BP personnel did not manage "all job tasks, direct[] which employees could work at specific locations and specifically relocate[] the [IBM] subdivision along with certain [BP] facilities \* \* \* to [BP's] facilities, evaluate[] [IBM] employee job performance, and advise[] which [IBM]

employees should receive merit salary increases." *Id.*<sup>7</sup>

Further, the situation of the petitioners in *Former Employees of Wackenhut Corp. v. USDOL*, Ct. No. 02-00758, is not precedent as it was decided under the former leased worker policy, which looked only at whether there was a contract and whether the workers were on-site.

#### Conclusion

After careful consideration of the record evidence, particularly that developed through the remand investigation, and the applicable Department policy, I affirm the original notice of negative determination of eligibility for trade adjustment assistance on the part of workers and former workers of International Business Machines Corporation, Tulsa, Oklahoma. Signed at Washington, DC this 6th day of February, 2006.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E6-2989 Filed 3-1-06; 8:45 am]

**BILLING CODE 4510-30-P**

#### DEPARTMENT OF LABOR

##### Employment and Training Administration

[TA-W-58,838]

##### Isabel Bloom LLC, Davenport, IA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 13, 2006 in response to a petition filed by a company official on behalf of workers at Isabel Bloom LLC, Davenport, Iowa.

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

Signed at Washington, DC, this 16th day of February, 2006.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E6-2969 Filed 3-1-06; 8:45 am]

**BILLING CODE 4510-30-P**

<sup>7</sup> The Department has considered the issue of whether to characterize employee leasing firms as appropriate subdivisions of the producing firm. The Department believes that this mode of analysis does violence to the separate nature of independent corporations. This case is an excellent example. No one can reasonably suggest that IBM and BP are legally related. The Department believes its new leased worker policy, using an operational control analysis, arrives at the same result without doing violence to corporate legal formalities.

#### DEPARTMENT OF LABOR

##### Employment and Training Administration

[TA-W-58,045]

##### Lexel Company Including On-Site Leased Workers of Westaff, Inc., Hutsonville, IL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 6, 2005, applicable to workers of Lexel Company, including on-site leased workers of Westaff, Inc., Hutsonville, Illinois. The notice was published in the **Federal Register** on December 21, 2005 (70 FR 75845).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of small electric motors (fractional H.P. electrical motors).

A previous certification, TA-W-52,202, was issued on August 7, 2003, for workers of Lexel Company, Hutsonville, Illinois which did not include on-site leased workers of Westaff, Inc. That certification expired August 7, 2005. This certification is being amended to change the impact date for workers of Westaff, Inc., from August 8, 2005 to September 28, 2004 (one year prior to the September 28, 2005 petition date). The impact date for workers of Lexel Company remains August 8, 2005.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to clarify the period of eligibility to apply for all workers of Lexel Company, including on-site leased workers of Westaff, Inc., Hutsonville, Illinois, who were adversely affected by increased customer imports.

The amended notice applicable to TA-W-58,045 is hereby issued as follows:

All workers of Lexel Company, Hutsonville, Illinois who became totally or partially separated from employment on or after August 8, 2005 through December 6, 2007, and including on-site leased workers of Westaff, Inc. at the Hutsonville site who

became totally or partially separated from employment on or after September 28, 2004 through December 6, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 16th day of February, 2006.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E6-2975 Filed 3-1-06; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-58,816]

#### Outokumpu Advanced Superconductors, Waterbury, CT

##### Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 9, 2006 in response to a worker petition filed by a company official on behalf of workers at Outokumpu Advanced Superconductors, Waterbury, Connecticut.

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

Signed at Washington, DC this 17th day of February, 2006.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E6-2968 Filed 3-1-06; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) number and alternative trade adjustment assistance (ATAA) by (TA-W) number issued during the periods of February 2006.

In order for an affirmative determination to be made and a certification of eligibility to apply for

directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. 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;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. 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;

B. 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

C. one of the following must be satisfied:

1. 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;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. 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.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

#### Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

TA-W-58,571; *Parlex Corporation, Multi Layer Business Unit, Methuen, MA, January 4, 2005*

TA-W-58,597; *Cooper Standard Automotive, North American Sealing Systems Division, Gaylord, MI, December 27, 2004*

TA-W-58,630; *Swagelok Biopharm Services Company, North Tonawanda, NY, January 5, 2005*

TA-W-58,705; *Daisy Outdoor Products, BB Production Div., Salem, MO, January 20, 2005*

TA-W-58,750; *Robert Bosch Tool Corp., A Subsidiary of Robert Bosch Corp., Leased Production Workers From ESA/Resource, Heber Springs, AR, January 30, 2005*

TA-W-58,757; *Swarovski North America Limited, Crystal Goods Div., Cranston, RI, January 30, 2005*

TA-W-58,757A; *Swarovski North America Limited, Crystal Components Div., Cranston, RI, January 30, 2005*

TA-W-58,658; *CMOR Manufacturing, Inc., Rocklin, CA, January 18, 2005*

TA-W-58,431; *Clarion Sintered Metals, Ridgway, PA, November 30, 2004*

TA-W-58,491; *Hanes Dye and Finishing Co., Winston-Salem, NC, October 9, 2005*

TA-W-58,570; *Sierra Manufacturing Group, LLC, Including on-Site Lease*