

The Department's initial denial for the workers transporting crude oil and petroleum products at Marathon Ashland Pipe Line, LLC, Bridgeport, Illinois, issued on December 2, 1999, and published in the **Federal Register** on December 28, 1999 (64 FR 72691), was based on the finding that the group eligibility requirements of section 222 of the Trade Act of 1974, as amended, were not met.

The petitioners request for reconsideration resulted in a negative determination regarding the application which was issued on February 11, 2000, and was published in the **Federal Register** on February 22, 2000 (64 FR 8743). The Department's findings affirmed that the workers were providing a service and were not producing an article.

On remand, in order to determine if the worker group supported crude oil production of the parent company, the Department contacted officials of Marathon Ashland Pipe Line LLC, to obtain additional information regarding the transportation of articles produced by the parent company, Marathon Oil Company, Inc. The Department found that in 1997, 1998 and in January through March of 1999, Marathon Ashland Pipe Line Company did not transport via pipeline any articles produced by the parent company, Marathon Oil Company, Inc.

The Department further found that in 1997, the parent company purchased crude oil at the lease (Illinois Basin) that was transported by Marathon Pipe Line Company. In 1998, Marathon Ashland Petroleum LLC was formed and it purchased from the lease crude oil which it transported via the pipe line. In 1999, Marathon Ashland Petroleum LLC did not purchase from the lease.

On July 16, 2002, the court remanded to the Department of Labor, USCIT Case No. 00-04-00171, that they investigate the duties and nature of the work performed by the gaugers of Marathon Ashland Pipe Line, Bridgeport, Illinois and provide a reasoned analysis as to whether such duties qualify as "producing" an article within the provisions of 19 U.S.C., section 2272(a).

After the investigation, the Department of Labor found that Marathon Ashland Pipe Line LLC is a common carrier pipeline company. The company provides a service by transporting crude oil and petroleum products. The subject workers were primarily responsible for activities related to the transportation of crude oil produced in Southern Illinois/Indiana via Marathon Ashland Pipe Line LLC pipelines. The gaugers, a part of the group for Marathon Ashland Pipe Line

LLC, were not engaged in activities related to the production of crude oil. They were responsible for determining the quality and quantity of crude oil bought by the purchasing company from third party leases. The gaugers were responsible for ensuring quality control by collecting representative samples from crude oil tanks and certifying that the crude oil was acceptable for purchase. Once the crude oil quality was certified, the gauger would verify the quantity of the product from the tank and allow delivery into the Marathon Ashland Pipe Line facility either by truck to the pipeline or directly into the pipeline. After the crude oil was placed in the pipeline, it was then delivered to the customer's specified destination or Marathon Ashland Petroleum's refinery in Robinson, Illinois. Thus, based on the functions performed by the gaugers they did not "produce" an article.

The court also ordered that if the workers do not "produce" an article, the Department of Labor shall determine and explain whether a "causal nexus" exists between the gaugers' responsibilities and the production of an "article".

Since the gaugers, who are employed by the pipeline company were merely responsible for certifying the quality and quantity of crude oil being shipped to customers, the gaugers were not engaged in activities related to the exploration or production of crude oil. The gaugers worked from crude oil already in tanks. Their functions were after the stage of the production of crude oil. The gaugers' functions were related to ensuring that crude oil purchasers received the quality and quantity of crude oil they were purchasing. Once the gaugers performed these functions, the crude oil was shipped via truck to the pipeline or directly to the pipeline to the customer or Marathon Ashland Petroleum's refinery located in Robinson, Illinois. The Robinson, Illinois refinery was not under an existing Trade Adjustment Assistance certification during the relevant period.

The court further ordered that the Department of Labor investigate the reasons behind the sale of Marathon Oil's assets and the plaintiffs' claim that a decision by Marathon Oil to import crude oil caused their separation from Marathon Ashland.

Of note, the parent of Marathon Ashland Pipe line, LLC is Marathon Ashland Petroleum LLC which is a joint venture owned by Marathon Oil Corporation (formerly Marathon Oil Company) and Ashland, Inc. Marathon Oil owns 62 percent of Marathon Ashland Petroleum, LLC and Ashland,

Inc. owns 38 percent of Marathon Ashland Petroleum, LLC.

The Department found that the sale of assets in question were not assets sold by Marathon Oil, but rather a sale of Marathon Ashland Petroleum LLC. In 1999 Marathon's Ashland Petroleum's LLC sold Scurlock Permian LLC, a crude oil gathering and transportation business in an area from the Rocky Mountains to the Gulf of Mexico, part of its Illinois Basin assets, to Plains All American Pipeline, L.P. These assets were part of an overall sale of assets by Marathon Ashland Petroleum LLC because they were not of strategic value to the company. Marathon Ashland Pipeline LLC still transports Illinois Basin crude oil (gauged and trucked by various companies from the wellhead to Marathon Ashland Pipeline LLC facilities) to locations determined by the crude oil purchases. The company indicated that the employees at Marathon Ashland Pipe Line LLC, Bridgeport, Illinois were terminated as a result of an asset sale in May 1999, not the decision by Marathon to import crude oil. In any event, since the workers were engaged in a service, they can not be certified under the Trade Act of 1974, as amended, since they were not in direct support of a TAA certified facility during the relevant period.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Marathon Ashland Pipe Line, LLC, Bridgeport, Illinois.

Signed in Washington, DC, this 17th day of October, 2002.

Edward A. Tomchick

Director, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has

instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the

subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 2, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 2, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C-5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 30th day of September, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 09/30/2002]

TA-W	Subject firm (petitioners)	Location	Date of petition	Product(s)
42,178	Microtek Medical, Inc. (Comp)	Columbus, MS	09/10/2002	Microscope drapes, camera drapes.
42,179	Kirkwood Industries (Comp)	Hebron, OH	09/09/2002	Commutators, electromechanical component.
42,180	Hy Lift (UAW)	Muskegon, MI	09/17/2002	Valve Lifters.
42,181	Georgia Pacific (Wrks)	Bowden, NC	09/11/2002	Hardwood lumber.
42,182	American Tramway's (Wrks)	Watertown, NY	09/10/2002	Aerial tramways and chairlifts.
42,183	Inabata (Wrks)	El Paso, TX	09/17/2002	Assembling.
42,184	Graphic Sportswear (Wrks)	Austin, TX	09/10/2002	T-shirts, polo shirts, and sweatshirts.
42,185	Juno (Wrks)	Blytheville, AR	09/11/2002	Plastic tool parts.
42,186	AMF Reece, Inc. (Comp)	Mechanicsville, VA	09/10/2002	Sewing machines and parts.
42,187	Faith Apparel, Inc. (Comp)	Richlands, VA	09/09/2002	Ladies sleepwear and lounge wear.
42,188	Laird Technologies (Wrks)	Del Water Gap, PA	09/12/2002	Copper metal stampings, tool dye work.
42,189	Baker Electrical Products (Comp)	Memphis, MI	09/12/2002	Coil windings.
42,190	Pechiney Rolled Products (Comp)	Ravenswood, WV	09/11/2002	Aluminum flat rolled sheet plates.
42,191	Tytex, Inc USA (Wrks)	Woonsocket, RI	09/11/2002	Hip protector plants, cotton briefs.
42,192	Waukesha Electric Systems (Comp)	Milpitas, CA	08/08/2002	Large power transformers.
42,193	Vulcan Chemicals (Comp)	Wichita, KS	09/19/2002	Chloroform.
42,194	Jean Michael's, Inc. (UNITE)	Willingboro, NJ	09/20/2002	Women's skirts.
42,195	3M EdUSA (Wrks)	El Paso, TX	06/11/2002	Bandages, first aid kits, dressings.
42,196	Hy-Tec Manufacturing (Wrks)	Ada, OK	09/13/2002	Alternator and starter parts.
42,197	Georgia Pacific Corp. (PACE)	Baileyville, ME	09/16/2002	Wood construction panels.
42,198	Tritex Sportswear, Inc. (Comp)	Altoona, PA	09/09/2002	Men's, women's and children's outerwear.
42,199	Harting Manufacturing (Comp)	Elgin, IL	09/19/2002	Cable and related components assemblies.
42,200	Multi Tool, Inc. (Wrks)	Saegertown, PA	08/27/2002	Plastic injection molds.
42,201	International Rectifier (Wrks)	Temecula, CA	09/24/2002	Wafer chips for semiconductors.
42,202	Empire Blue Cross (Wrks)	Syracuse, NY	09/09/2002	Technical assistance service.
42,203	Motorola (Wrks)	Austin, TX	09/16/2002	Semiconductor packaging.
42,204	G.S. of West Virginia (Comp)	Ravenswood, WV	09/13/2002	Automotive wire harness.
42,205	Sutherland Sheet Metal (Wrks)	Woonsocket, RI	09/11/2002	Custom fabrication and welding.
42,206	Hoffco/Comet (Comp)	Rushville, IN	09/16/2002	Transmission assembly.
42,207	Xerox Corp (UNITE)	Canandaigua, NY	09/17/2002	Printhead and ink tank.
42,208	Engelhard Corp (Wrks)	Erie, PA	09/18/2002	Nickel and maleic products.
42,209	Duro Industries, Inc. (Comp)	Fall River, MA	09/16/2002	Apparel dyeing, finishing, printing.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-42,291]

Playtex Apparel, Inc., Dover, DE; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 28, 2002 in response to a worker petition, which

was filed on behalf of workers at Playtex Apparel, Inc., Dover, Delaware.

The petitioners have requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.