

A review of that decision shows the workers produced different products than the subject plant products and thus that decision is not relevant to the work performed at the subject plant.

#### 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 13th day of June, 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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#### DEPARTMENT OF LABOR

##### Employment and Training Administration

[TA-W-51,085]

##### **Fluor Daniel, Facility and Plant Services, Rochester, MN; Notice of Negative Determination Regarding Application for Reconsideration**

By application of June 3, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Fluor Daniel, Rochester, Minnesota was signed on April 29, 2003, and published in the **Federal Register** on May 9, 2003 (68 FR 25060).

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 TAA petition was filed on behalf of workers at Fluor Daniel, Rochester, Minnesota engaged in activities related to facility management services for an unaffiliated firm. The petition was denied because the petitioning workers

did not produce an article within the meaning of section 222(3) of the Act.

Having reviewed the initial investigation, it was established that the correct subsidiary of the affected worker group is Fluor Daniel, Facilities & Plant Services, Rochester, Minnesota.

The petitioner quotes a section of the petition instructions concerning "Secondary Worker Impact" that defines secondary workers as "employed by firms that either supply components (emphasis provided by petitioner) to a trade affected firm, or assemble of finish products for a trade-affected firm." The petitioner also cites the certification of IBM Storage Technology Division, Rochester, Minnesota, for whom the subject firm workers performed facility management services on a contract basis. The petitioner appears to be implying that the petitioning worker group is eligible for TAA as a secondary supplier to a primary trade-certified firm.

In fact, eligibility on the basis of secondary supplier impact concerns production workers exclusively. However, as has already been noted, the petitioning worker group was not found to have produced a product. In addition, facility management services cannot be construed as a component part of the final product produced by the trade certified firm.

Only in very limited instances are service workers certified for TAA, namely the worker separations must be caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce 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 13th day of June, 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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#### DEPARTMENT OF LABOR

##### Employment and Training Administration

[TA-W-51,282]

##### **Gateway Country Store LLC, Asheville, NC; Notice of Negative Determination Regarding Application for Reconsideration**

By application postmarked May 17, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Gateway Country Store LLC, Asheville, North Carolina was signed on April 29, 2003, and published in the **Federal Register** on April 24, 2003 (68 FR 20177).

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 TAA petition was filed on behalf of workers at Gateway Country Store LLC, Asheville, North Carolina engaged in activities related to computer sales and related retail services. The petition was denied because the petitioning workers did not produce an article within the meaning of section 222(3) of the Act.

The petitioner asserts that the main competition for the Gateway computers sold by the petitioning worker group is a company that produces computers in China. Apparently, the allegation appears to be that this competition is affecting the downturn in production of Gateway computers, and consequently leading to layoffs of the retail workers selling these products.

In order to be eligible for trade adjustment assistance, the subject firm workers must produce an article within the meaning of section 222 of the Trade Act. Workers of Gateway Country Store LLC, Asheville, North Carolina do not produce an article and thus do not meet the eligibility requirements for TAA.

Only in very limited instances are service workers certified for TAA, namely the worker separations must be