Similarly, with respect to the sale of pseudoephedrine to Cedar Market, the Respondent's records reveal that the customer purchased caseload quantities of pseudoephedrine from the Respondent in 1999 and 2000, but according to a DEA investigator the store's management had not heard of the Respondent. The Acting Deputy Administrator also finds curious, the Respondent's sale of forty-three cases of pseudoephedrine to Georgia Meat Market, an establishment that specialized in the sale of meat products, and the fact that the Respondent's invoices identified these transactions as having been made to a discount store.

With regard to Respondent's New Jersey customer, Getty Deli, the Acting Deputy Administrator finds disturbing, evidence in the record of the Respondent's apparent distribution of listed chemicals to this customer, which is totally at odds with the recollection of Getty's owner who in a written statement, denied ever purchasing or selling any products of the Respondent. In Michigan, and despite distribution records to the contrary, DEA investigators conducting verifications of Respondent's customers were told by the owners of Dollar City Plus, a dollar store, Duke's Oil, a Detroit-area gas station, and Harmon Mini Mart in Highland Park, that they had never dealt with the Respondent or only ordered from distributors in Michigan.

While not asserting any wrongdoing on the part of any of the above-referenced business establishments, the Acting Deputy Administrator remains concerned about the circumstances surrounding DEA's unsuccessful attempts at conducting customer verifications. The consistent, across-the-board denials by these firms of any business ties to the Respondent left DEA personnel in an untenable situation and rendered them unable to establish the validity of the distributions of a highly abused product. Consequently, DEA's inability to corroborate the Respondent's records of regulated transactions raise questions not only to the accuracy of the Respondent's distribution records and the legitimacy of its customer base, but most significant, raise further questions about the ultimate disposition of the listed chemical products purportedly distributed to those customers. Therefore, with respect to the eight customers referenced above, the Acting Deputy Administrator finds that DEA's inability to verify the distribution of list I chemicals to these establishments is relevant under factor five.

As noted above, the Government filed exceptions to the Opinion and Recommended Ruling of Judge Bittner. The Acting Deputy Administrator has addressed in this final order each of the matters raised in the Government's exceptions, specifically, arguments raised with respect to the interlocutory appeal, the results of the DEA accountability audit of Respondent's handling of pseudoephedrine products, and evidence of DEA site visits to purported customers of the Respondent. Therefore, those matters will not be revisited here.

On December 23, 2002, the Respondent also filed exceptions to Judge Bittner's recommended ruling. In its exceptions, the Respondent argued in relevant part, that ''its post-hearing submission * * * fully and completely provides a basis for the conclusions that [Respondent's] continued registration is not inconsistent with the public interest.'' While not addressing any specific matter raised by the Opinion and Recommended Ruling of the Administrative Law Judge, the Respondent asserts generally that the evidence in this proceeding does not support the revocation of its DEA Certificate of Registration. By not providing counter-arguments to any specific factual finding, legal conclusion or recommendation of the Administrative Law Judge, the Acting Deputy Administrator is limited in giving any consideration to the Respondent's generally stated exceptions. As a result, the Respondent's exceptions to the Opinion and Recommended Ruling are not sufficient to impact the ruling in this matter.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, 002330BNY, previously issued to Branex, Incorporated, be, and it hereby is, revoked. the Acting Deputy Administrator further orders that any pending applications for renewal or modification of said registration be, and they hereby are, denied. This order is effective March 26, 2004.

Dated: February 10, 2004.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–4127 Filed 2–24–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated January 27, 2003, and published in the **Federal Register** on February 6, 2003 (68 FR 6183), Houba, Inc., 16235 State Road 17, Culver, Indiana 46511, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of two basic classes of Schedule II controlled substances, oxycodone (9143) and hydrocodone (9193).

Two registered manufacturers of bulk controlled substances filed comments and objections in response to the Notice in a timely manner. Both objectors filed comments and objections with respect to oxycodone and hydrocodone. By Notice dated May 23, 2003 and published in the **Federal Register** on June 11, 2003 (68 FR 35006), the DEA acknowledge the receipt of the comments and objections, and its intent to investigate and resolve the issues raised.

Both objectors argue that Houba, Inc. (hereafter referred to as Houba) cannot prove its registration as a bulk manufacturer of opiates is in the public interest, that Houba is in a precarious financial state which could have a negative impact on its ability to fulfill its activity as a bulk manufacturers, that Houba does not have adequate experience as a manufacturer, that Houba will not promote technical advances, that Houba's registration is not required to produce an adequate and uninterrupted supply of oxycodone and hydrocodone, that there is sufficient competition with the present bulk manufacturers, and that Houba's registration will add to the risk of diversion both domestically and internationally. Additionally, the first objector argues that Houba's parent company can control Houba's management and operations and the parent company has a history of non-compliance with Federal laws and regulations. Both objectors request that DEA issue an Order to Show Cause, pursuant to 21 CFR 1301.37(a) by one objector and pursuant to 21 CFR 1301.44(a) and 1301.48(a) by the other objector, as to why the agency should not deny Houba's application for re-registration on the ground that Houba has not demonstrated that its application is in the public interest. (Title 21 CFR 1301.48 was deleted and currently is re-codified under 21 CFR 1301.37 in 1997.)

One of the objectors is apparently under the belief that if an order to show cause were issued to revoke Houba's renewal applications for the two bulk narcotic controlled substances at issue, then Houba would bear the burden of proof to show that granting such renewal applications would be in the public interest pursuant to 21 U.S.C. 823(a). Houba would have the burden of proof if the applications were initial applications pursuant to 21 CFR 1301.44(a) and section 823(a). Since Houba already is registered to bulk manufacture oxycodone and hydrocodone, DEA bears the burden of proof to revoke Houba's DEA registrations pursuant to 21 CFR 1301.44(e) and 21 U.S.C. 824(a).

With respect to the objectors' contentions that Houba is in a precarious financial state, the DEA has reviewed the information submitted as well as conducted independent investigation. The DEA has determined that while Houba's parent company has had and continues to have documented financial difficulty, Houba is a corporation in and of itself. There is insufficient evidence at this time to revoke the registration of a subsidiary corporation based on the financial standing of the parent company.

Houba currently has a pending application to import raw opium (9600), poppy straw (9650) and poppy straw concentrate (9670) pursuant to 21 U.S.C. 958(a). Pursuant to 21 U.S.C. 958(i) and 21 CFR 1301.34(a), three bulk manufacturers filed objections and requested a hearing to contest Houba's pending import application. At this time, this hearing is still pending. *Houba, Inc.,* Docket No. 02–6. One of the issues will be Houba's current financial status and whether its alleged financial problems would impact on its ability to utilize its import registration and otherwise comply with its duties under the Controlled Substances Act and the Act's implementing regulations. DEA may reassess Houba's manufacturing registrations after the proceedings on Houba's import application are completed. At this point, however, there does not appear to be sufficient grounds to revoke Houba's bulk manufacturing registration.

Moreover, if the financial conditions do make it impossible for Houba to utilize its bulk manufacturing registration, DEA anticipates that Houba would notify DEA, under 21 CFR 1301.52, that it is out of business either altogether or with respect to the controlled substances at issue. But at this point in time, DEA does not have evidence that Houba is renewing its registrations merely to have a ''shelf'' registration.

With respect to the objectors' contentions that Houba lacks manufacturing experience and will not promote technical advances, Houba has been registered with the DEA as a bulk manufacturer since 2002. Houba has provided DEA with confidential information regarding its intent to pursue technological advancement.

With respect to the remaining contentions submitted by both objectors: that there already exists an adequate and uninterrupted supply of oxycodone and hydrocodone, that there is sufficient competition with present bulk manufacturers, and that Houba's registration will add to the risk of diversion both domestically and internationally, the arguments of the objectors were considered. Pursuant to 21 CFR 1301.33(b), DEA is not: required to limit the number of manufacturers in any basic class to a number less than that consistent with maintenance of effective controls against diversion solely because a smaller number is capable of producing an adequate and uninterrupted supply. DEA previously registered Houba to manufacture these two bulk controlled substances and in so doing made the determination that Houba's registration would comply with section 1301.33(b) without resulting in an excessive supply of these controlled substances domestically or excessive cultivation abroad.

One of the objectors noted that DEA lowered the aggregate production quota for oxycodone in response to the domestic diversion of this Schedule II narcotic (67 FR 59313). The objector argues that DEA, consistent with this action, should issue an order to show cause to revoke Houba's registration to bulk manufacture oxycodone. DEA does have the discretion to limit the granting of Schedule II bulk manufacturers and Schedule II bulk importers under the circumstances, but DEA is not compelled by section 823(a)(1) or 21 U.S.C. 958(d). Notwithstanding the lowering of the quota, DEA does not see the need to commence to revoke existing registrations at this time.

Indeed, DEA may not have the statutory authority to revoke an existing Schedule II bulk manufacture registration under 21 U.S.C. 824(a)(4) solely on the basis of limiting the bulk manufacture of these controlled substances ''to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes.'' (quoting from section 823(a)(1)). Section 824(a)(4) permits DEA to revoke a registration when the registrant ''has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section * * *'' (Emphasis supplied). ''[S]uch acts'' may be, however, limited to the individual acts of the particular registrant as set forth in 21 U.S.C. 824(a)(2)–(6). A registrant cannot commit ''such acts'' by lawfully manufacturing and distributing controlled substances under its registration. Thus, there is some considerable question whether DEA could seek a revocation of a registration for a bulk manufacturer of Schedule II controlled substances based solely on the micro-economic competition issue in section 823(a)(1). (This micro-economic issue, however, could be considered if DEA had other grounds to revoke a bulk manufacturing registration pursuant to 824(a)(4) and 823(a)(2)–(6). In any event, it is not necessary for DEA to reach this statutory construction issue at this time, since there are not sufficient grounds under Sections 824(a)(4) and 823(2)–(6) to issue an order to show cause to revoke Houba's bulk manufacturing registrations.

DEA is confident that the registration of Houba will not impede DEA's statutory obligation to guard against the diversion of controlled substances.

With regard to the first objector's contention that Houba has a history of non-compliance with Federal statutes and regulations, DEA finds that with a single exception, the comments offered pertained to Houba's parent company and not to Houba itself. The remaining circumstance involved the Foods and Drug Administration and was not related to violations of the CSA. Additionally, DEA has investigated Houba on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's compliance with state and local laws, and a review of the company's background and history. The results of these investigations have led DEA to conclude that at this time, Houba is in compliance with the CSA and that its continued registration is consistent with the public interest.

After reviewing all the evidence, including the comments filed, DEA has determined, pursuant to 21 U.S.C. 823(a), that the registration of Houba as

a bulk manufacturer of oxycodone and hydrocodone is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823(a) and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basis classes of controlled substances listed is granted.

Dated: February 10, 2004.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 04–4029 Filed 2–24–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,222]

Bechtel Jacobs Company, LLC, Piketon, Ohio; Notice of Revised Determination on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *Paper, Allied-Industrial, Chemical and Energy International Union, Local 5–689* v. *Elaine Chao, U.S. Secretary of Labor*, No. 03–00356.

The Department's initial determination regarding Bechtel Jacobs Company, LLC (hereafter ''Bechtel Jacobs'') was issued on July 1, 2002 and published in the **Federal Register** on July 18, 2002 (67 FR 47400). The determination was based on the finding that the workers did not produce an article within the meaning of section 222 of the Trade Act of 1974. The workers provided environmental management and site restoration services.

By letter dated August 15, 2002, the petitioner requested administrative reconsideration for Trade Adjustment Assistance (TAA). The reconsideration determination was issued on March 18, 2003 and published in the **Federal Register** on April 7, 2003 (67 FR 16837). The determination was based on the findings that the workers did not produce an article within the meaning of section 222 of the Trade Act and that the workers were not service providers in direct support of a Trade Adjustment Assistance (TAA) certified firm.

The remand investigation revealed that Bechtel Jacobs has a contract to provide on site services with a TAA certified facility (United States Enrichment Corporation (USEC), Piketon, Ohio, TA–W–41,285). The USEC, Piketon, Ohio facility was certified for TAA on June 27, 2002.

Conclusion

After careful review of the additional facts obtained on the current remand, I conclude that the worker group provided services at USEC, Piketon, Ohio, the worker group is co-located with a trade-certified firm, and there is a contract between the subject firm and the trade-certified firm. In accordance with the provisions of the Trade Act, I make the following certification:

All workers of Bechtel Jacobs Company, LLC, Piketon, Ohio, who became totally or partially separated from employment on or after March 14, 2001, through two years from the issuance of this revised determination, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 12th day of February, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4–385 Filed 2–24–04; 8:45 am]

BILLING CODE 4510–13–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–54,145]

The Boeing Company, Commercial Aircraft Division, Puget Sound, Washington And Spokane, Washington, Portalnd, Oregon and Wichita, Kansas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 2, 2004 in response to a worker petition filed by the Aerospace Machinists Industrial Local 751 on behalf of workers at the above locations of The Boeing Company, Commercial Aircraft Division.

The petitioning group of workers is covered by an earlier petition filed on January 29, 2004 (TA–W–54,114) that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC, this 5th day of February 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4–386 Filed 2–24–04; 8:45 am]

BILLING CODE 4510–13–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,912]

Boise Cascade Corporation, Yakima, Washington; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of December 3, 2003, the Western Council of Industrial Workers, Local Union 2739, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance, applicable to workers of the subject firm.

The negative determination was signed on October 20, 2003. The Notice of determination was published in the **Federal Register** on November 6, 2003 (68 FR 62833).

The petitioner asserts that the worker separations at the subject firm are the result of increased imports. The petitioner further asserts that the Department of Labor's interpretation of submitted documents was erroneous.

The Department has reviewed the request for reconsideration and has determined that the petitioner has provided additional information. Therefore, the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 10th day of February, 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4–384 Filed 2–24–04; 8:45 am]

BILLING CODE 4510–13–P