

Finding

The Fort Peck Tribes and the Dry Prairie Rural Water Association Incorporated submitted the "Water Conservation Plan for the Fort Peck Reservation Rural Water System: Fort Peck Assiniboine and Sioux Rural Water System and Dry Prairie Rural Water System", dated April 10, 2002, that includes prudent and reasonable water conservation measures for the operation of the Assiniboine Sioux Rural Water System that have been shown to be economically and financially feasible.

In addition to authorizing construction of the Fort Peck Reservation Rural Water System, the Act authorizes appropriations of \$175,000,000 to Reclamation over a period of 10 fiscal years. The Act states under section 4(g)(3) that "The Secretary shall not obligate funds for construction of the Assiniboine and Sioux Rural Water System until the Secretary publishes a written finding that the water conservation plan developed under section 7 includes prudent and reasonable water conservation measures for the operation of the Assiniboine Sioux Rural Water System that have been shown to be economically and financially feasible." Identical provisions limiting obligations of funds for construction of the Dry Prairie Rural Water System are stated under section 5(e)(3) of the Act.

The requirements for the conservation plan are described under section 7 of the Act that states:

"(a) In General.—The Fort Peck Tribes and Dry Prairie Rural Water Association Incorporated shall develop a water conservation plan containing—

(1) a description of water conservation objectives;

(2) a description of appropriate water conservation measures; and

(3) a time schedule for implementing the measures and this Act to meet the water conservation objectives.

(b) Purpose.—The water conservation plan under subsection (a) shall be designed to ensure that users of water from the Assiniboine and Sioux Rural Water System and the Dry Prairie Rural Water System will use the best practicable technology and management techniques to conserve water."

To fulfill the requirements of section 7, the Fort Peck Tribes and Dry Prairie Rural Water Association Incorporated transmitted a water conservation plan (Plan) to Reclamation, dated April 10, 2002. The Plan fulfills all the requirements of the Act as discussed below.

In fulfillment of section 7(a)(1), the Plan contains six reasonable and

prudent water conservation objectives appropriate for the pre-construction phase of this multi-phase project:

1. Achieve average in-house water use of 69 gpcd (gallons per capita day) starting in 2005 and fully implemented by 2011.

- Lower average in-house water use to 57 gpcd beginning in 2011 and fully implemented by 2030.

- Lower average in-house water use to 45 gpcd beginning in 2030.

2. Achieve average outside residential water use of 66 gpcd beginning in 2005 and fully implemented by 2011.

3. Maintain variable operating costs at Final Engineering Report levels plus inflation beginning in 2005.

4. Provide emergency preparedness to limit interruptions to 24 hours beginning in 2005.

5. Public information dissemination beginning in 2005.

6. Limit Missouri River diversions to 6,200 acre-feet annually beginning in 2005.

To accomplish these objectives, and in fulfillment of section 7(a)(2) of the Act, the Plan identifies 17 water conservation measures to be implemented starting in 2005 with full implementation scheduled for 2011.

Metering, Audits, and Leakage Control

- Installation of meters on all accounts

- Installation of meters on community non-account water

- Record keeping and water audits

- Control connection pressures at 65 pounds per square inch (psi)

- Implement system and household leakage repair; limit to 7 gpcd

- Publish lawn and garden water use data

Cost Accounting and Rates

- Cost-of-service accounting

- Water audits and associated costs to public

- Dry Prairie annual water review to promote conservation

- Assiniboine and Sioux leak repair program

Public Involvement and Information

- Disseminate clear billing and educational materials

- Disseminate water use statistics and retrofit guidance

- Promote landscape efficiency on a voluntary basis

- Promote lawn and garden water use efficiencies

- Disseminate cost information via radio, television, etc.

Additional Measures

- Analysis of peak water use

- Annual review of water conservation measures and new proposals

Reclamation Manual Directives and Standards (WTR 01-01), published in December 1996, identify "Fundamental Water Conservation Measures" that are considered economically and financially feasible and applicable to all water conservation programs. The fundamental measures include a water measurement and accounting system, water pricing structure, and an information and education program. All but one of the water conservation measures included in the Plan are considered by Reclamation as fundamental. The conservation measure "Control connection pressures at 65 psi", while not considered fundamental, is an appropriate water conservation measure and will not result in increased project cost. It is an acceptable design standard because it will reduce the potential for leakage from excess water pressure which can also damage residential plumbing systems causing major leakage and significant property damage.

In fulfillment of section 7(a)(3), the plan contains a time schedule for implementing the measures to meet the water conservation objectives. This time schedule is included with the above description of the objectives and measures.

In fulfillment of section 7(b), Reclamation has reviewed the planning and engineering designs included in the Final Engineering Report for this project and has conducted a "Value Engineering" (VE) study to assure that the best available engineering design and techniques are utilized for construction and operation of the project. Additional VE studies will be performed during the final design phase of major system components.

Dated: August 2, 2002.

Gerald W. Kelso,

Assistant Regional Director.

[FR Doc. 02-22580 Filed 9-4-02; 8:45 am]

BILLING CODE 4310-MN-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-747 (Final)]

Fresh Tomatoes From Mexico

AGENCY: United States International Trade Commission.

ACTION: Resumption and scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the resumption and scheduling of the final phase of antidumping investigation No. 731-TA-747 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value (LTFV) imports from Mexico of fresh tomatoes, provided for in subheadings 0702.00 and 9906.07.01 through 9906.07.09 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, C, and D (19 CFR part 207).

EFFECTIVE DATE: July 30, 2002.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202-205-3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office

¹ For purposes of this investigation, the Department of Commerce has defined the subject merchandise as all fresh or chilled tomatoes (fresh tomatoes) except for cocktail tomatoes and those tomatoes which are for processing. For purposes of this investigation, cocktail tomatoes are greenhouse-grown tomatoes, generally larger than cherry tomatoes and smaller than Roma or common round tomatoes, and are harvested and packaged on-the-vine for retail sale. For purposes of this investigation, processing is defined to include preserving by any commercial process, such as canning, dehydrating, drying, or the addition of chemical substances, or converting the tomato product into juices, sauces, or purees. Further, imports of fresh tomatoes for processing are accompanied by an "Importer's Exempt Commodity Form" (FV-6) (within the meaning of 7 CFR 980.501(a)(2) and 980.212(l)). Fresh market tomatoes that are imported for cutting up, not further processed (e.g., tomatoes used in the preparation of fresh salsa or salad bars), and not accompanied by an FV-6 form are covered by the scope of this investigation. All commercially-grown tomatoes sold in the United States, both for the fresh market and for processing, are classified as *Lycopersicon esculentum*. Important commercial varieties of fresh tomatoes include common round, cherry, plum, and pear tomatoes, all of which, with the exception of cocktail tomatoes, are covered by this investigation. Imported tomatoes are classified under the following subheadings of the Harmonized Tariff Schedule of the United States (HTS), according to the season of importation: 0702.00 (covering imports from all sources) and 9906.07.01 through 9906.07.09 (covering imports from Mexico only).

of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-O-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1996, the Commission instituted a preliminary antidumping investigation in response to a petition filed on April 1, 1996, by the Florida Tomato Growers Exchange, Orlando, FL; Florida Fruit and Vegetable Association, Orlando, FL; Florida Farm Bureau Federation, Gainesville, FL; South Carolina Tomato Association, Inc., Charleston, SC; Gadsden County Tomato Growers Association, Inc., Quincy, FL; Accomack County Farm Bureau, Accomack, VA; Florida Tomato Exchange, Orlando, FL; Bob Crawford, Commissioner of Agriculture, Florida Department of Agriculture and Consumer Services, Tallahassee, FL; and the Ad Hoc Group of Florida, California, Georgia, Pennsylvania, South Carolina, Tennessee, and Virginia Tomato Growers (61 FR 15968, April 10, 1996). On May 16, 1996, the Commission notified the Department of Commerce (Department) of its affirmative preliminary injury determination (61 FR 18891, June 6, 1996). On October 10, 1996, the Department and Mexican tomato growers/exporters initialed a proposed agreement suspending the antidumping investigation, and on October 28, 1996, the Department preliminarily determined that imports of fresh tomatoes from Mexico are being sold at LTFV in the United States (61 FR 56607, November 1, 1996). Also on October 28, 1996, the Department and certain growers/exporters of fresh tomatoes from Mexico signed the final suspension agreement (61 FR 56617, November 1, 1996). Accordingly, effective November 1, 1996, the Commission suspended its antidumping investigation involving imports from Mexico of fresh tomatoes (61 FR 58217, November 13, 1996). On October 1, 2001, the Commission instituted a five-year review of the suspension agreement concerning fresh tomatoes from Mexico to determine whether its termination would be likely to lead to continuation or recurrence of material injury (66 FR 49975, October 1, 2001). On January 4, 2002, the Commission determined that responses to its notice of institution were such that a full review should proceed (67 FR

3229, January 23, 2002), and subsequently the Commission established a schedule for its full five year review (67 FR 30962, May 8, 2002). On May 31, 2002, Mexican tomato growers/exporters accounting for a significant percentage of all fresh tomatoes imported into the United States from Mexico submitted to the Department a notice of their withdrawal from the agreement suspending the antidumping investigation on fresh tomatoes from Mexico. On July 30, 2002, because the suspension agreement no longer covered substantially all imports of fresh tomatoes from Mexico, the Department terminated the suspension agreement, terminated its review of the suspension agreement, and resumed the antidumping investigation (67 FR 50858, August 6, 2002). Accordingly, the Commission terminated its review involving imports from Mexico of fresh tomatoes effective July 30, 2002 (67 FR 53361, August 15, 2002) and the final phase of this investigation is being resumed and scheduled.

Participation in the investigation and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Former Commission employees who are seeking to appear in this final phase investigation are reminded that they are required, pursuant to 19 CFR 201.15 to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to

§ 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on December 3, 2002, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on December 16, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 9, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 12, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

Written submissions. Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is December 10, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is December 23, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a

written statement of information pertinent to the subject of the investigation on or before December 23, 2002. On January 8, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before January 10, 2003, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 29, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02-22604 Filed 9-4-02; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-454]

Certain Set-Top Boxes and Components Thereof; Notice of Decisions to Review in Part, Take No Position in Part, and Not Review in Part the Administrative Law Judges Final Initial Determination; Notice of Decisions to Affirm Three Rulings of the Administrative Law Judge; Notice of Determination of No Violation of Section 337 of the Tariff Act of 1930

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part, to take no position in part, and

to not review in part the final initial determination ("final ID") issued by the presiding administrative law judge ("ALJ") on June 21, 2002, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the above-captioned investigation. Specifically, the Commission determined to review the issue of the technical prong of the domestic industry as it relates to claim 42 of U.S. Letters Patent 4,706,121 for the purpose of making a finding as to claim 42 of that patent that was omitted by the ALJ. The Commission also determined to take no position on the issue of patent misuse and to not review the remainder of the final ID. Finally, the Commission determined to affirm three ALJ rulings (involving ALJ Order No. 62, an ALJ ruling excluding evidence concerning the doctrine of equivalents, and an ALJ ruling limiting the testimony time of one witness) that were appealed to the Commission by the complainants. In light of these determinations, the Commission determined that there is no violation of section 337 in this investigation.

FOR FURTHER INFORMATION CONTACT:

Michael Liberman, Esq., or David Wilson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephones (202) 205-3115 or (202) 708-2310, respectively. Copies of the public versions of the final ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS -ON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION: The Commission instituted this patent-based investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain set-top boxes, on March 14, 2001. 66 FR 15887 (2001). Complainants Gemstar-TV Guide International, Inc. of Pasadena, California, and StarSight Telecast, Inc. of Fremont, California, named Pioneer