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U.S. Citizenship
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FILE: EAC 07 236 52907 Office: VERMONT SERVICE CENTER

Date: OCT 03 2007

IN RE: Petitioner:
Beneficiaries:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was approved by the Director, Vermont Service Center, and certified to the Administrative Appeals Office (AAO) for review as required by 8 C.F.R. § 214.2(h)(9)(iii)(B)(2)(ii). The decision of the director will be affirmed and the petition will be approved.

The petitioner is a fully integrated service company offering oil field construction services in pipeline, diving, fabrication and construction, both inland and offshore. It desires to employ the beneficiaries as welders from October 1, 2007 to June 1, 2008. The Department of Labor (DOL) determined that unique, complex, and persistent circumstances generated in the Gulf Region by Hurricanes Katrina and Rita made it impossible to determine whether a temporary labor certification should be issued in the present case.

The director determined that sufficient countervailing evidence has been submitted to show that qualified persons in the United States are not available, that the employment policies of the Department of Labor have been observed and that the need for the services to be performed is temporary.

Upon review of the evidence contained in the record, the decision of the director is found to be correct. It is supported by the totality of evidence, including the evidence presented with the petition about the petitioner's need to employ the beneficiaries since the petitioner is behind in its committed schedules for oil field construction, service and repair of rigs, vessels, and port casualties. The totality of evidence establishes a one-time occurrence as defined in the H-2B regulations and extraordinary circumstances that justify the beneficiaries' H-2B employment in accordance with 8 C.F.R. § 214.2(h)(6)(ii)(B). The Vermont Service Center will issue the appropriate approval notice.

ORDER: The decision of the director is affirmed. The nonimmigrant visa petition is approved.