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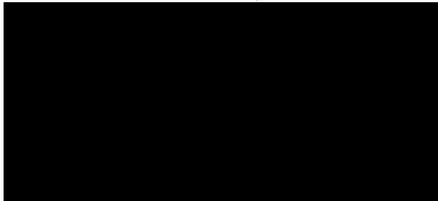
U.S. Department of Homeland Security

Citizenship and Immigration Services

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invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street N.W.
Washington, DC 20536

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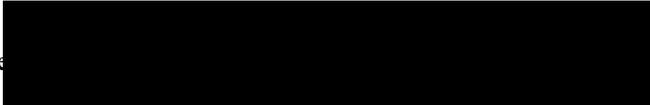


FILE: SRC 03 032 51805

Office: Texas Service Center

Date: NOV 26 2003

IN RE: Petitioner:
Beneficiary:



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: Self-represented

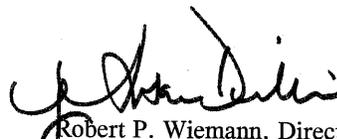
INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner engages in the business of reforestation and vegetation management. It seeks to extend its authorization to employ the beneficiaries as forestry workers for seven and one-half months. The Department of Labor (DOL) determined that a temporary certification by the Secretary of Labor could be made. The director determined that the copy of the DOL's Application for Alien Employment Certification (Form ETA 750) #T2002-AR-06342332 certified for 320 forest workers, which was submitted with this I-129 petition, was previously submitted with I-129 petition SRC-02-240-52970. The director states that, since the I-129 petition SRC-02-240-52970 was approved for all 320 forest workers, additional workers cannot be approved using the same certification.

On appeal, the petitioner refers to 8 C.F.R. §214.2(h)(8)(i)(C) and (ii)(A) to substantiate her use of the same labor certification. However, this regulation refers to the total number of aliens who can be provided H-2 nonimmigrant classification during each fiscal year. It does not refer to the use of the labor certification.

After review of the evidence contained in the record, the decision of the director is found to be correct. Since the I-129 petition SRC-02-240-52970 was approved for all 320 forest workers and a new ETA 750 was not submitted with this petition extension, this petition cannot be approved.

ORDER: The appeal is dismissed.