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U.S. Citizenship
and Immigration
Services

DL



FILE: EAC 07 175 50351 Office: VERMONT SERVICE CENTER Date: **AUG 01 2007**

IN RE: Petitioner: [Redacted]
Beneficiaries: [Redacted]

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 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.

for Michael T. Kelly
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will be affirmed and the petition will be approved for all of the named beneficiaries, except [REDACTED] whose name was withdrawn by the petitioner.

The petitioner operates a construction company in Metairie, Louisiana. It desires to employ the beneficiaries as construction laborers from April 1, 2007 to January 31, 2008. The Department of Labor (DOL) determined that a temporary certification by the Secretary of Labor could not be made.

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. Subsequently, the petitioner withdrew [REDACTED] from the petition.

Upon review of the evidence contained in the record, the decision of the director is found to be correct. The petitioner has provided sufficient evidence to establish that the need for the beneficiaries' services is peakload and temporary. The AAO notes that there is a short-term demand for the petitioner's services based on the effects of Hurricane Katrina, which distinguishes it from other construction company petitions that are based on a peakload need. The Vermont Service Center will issue the appropriate approval notice.

ORDER: The decision of the director is affirmed. The nonimmigrant visa petition is approved for all of the named beneficiaries, except [REDACTED] whose name was withdrawn by the petitioner.