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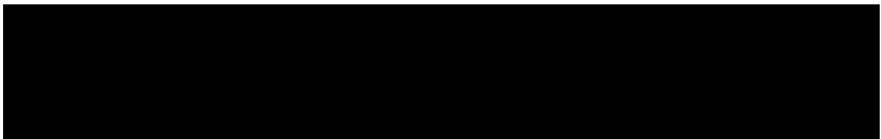
U.S. Citizenship  
and Immigration  
Services

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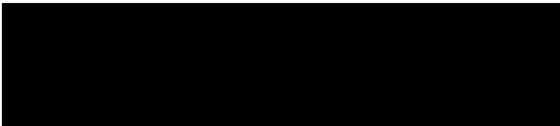
FILE: EAC 07 219 50839 Office: VERMONT SERVICE CENTER Date: AUG - 8 2007

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was approved by the Acting 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 director's decision will be affirmed, and the petition will be approved.

The petitioner is a labor contractor in Mandeville, Louisiana. It desires to employ the beneficiaries as construction laborers from March 1, 2007 to December 15, 2007. In its Final Determination letter notifying the petitioner that it could not issue a temporary labor condition certification, the Department of Labor indicated that "unique and complex circumstances" inherent in the destruction caused by Hurricanes Katrina and Rita render the Department of Labor unable to determine whether a temporary labor certification is merited where the applicant is "an employer requesting temporary workers based on a need identified as a result of Hurricanes Katrina or Rita."

On petition to the United States Citizenship and Immigration Services, counsel asserts that the Department of Labor should have evaluated the temporary labor condition application on its own merits, which, counsel contends, establishes that the services sought by the petitioner qualify as temporary and seasonal within the meaning of the H-2B regulations. Counsel further asserts: "The only mention of Hurricane Katrina in the petitioner's documentation is on the job order form for 'Katrina Recovery Connection,' which was required by the Louisiana Department of Labor."

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. The director noted: "The dates of need appear to be consistent with the yearly periods of highest construction activity in the area."

Upon review of the evidence contained in the record, the AAO finds that decision of the director is correct, as the evidence establishes that the need for the proffered position is seasonal and temporary. The Vermont Service Center will issue the appropriate approval notice.

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