



U.S. Citizenship
and Immigration
Services

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FILE: EAC 07 167 53056 Office: VERMONT SERVICE CENTER Date: **AUG 16 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 initially 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). Upon review, the AAO withdrew the director's decision and remanded it to the director for further action and consideration. The director has now issued a new decision denying the petition and has certified it to the AAO for review. The director's decision will be withdrawn and the petition will be approved.

The petitioner is engaged in the construction business. It seeks to employ the beneficiaries as concrete finishers for the period June 1, 2007 to December 14, 2007. The Department of Labor (DOL) determined that a temporary certification by the Secretary of Labor could not be made.

The director determined that the petitioner failed to establish a temporary need as described in 8 C.F.R. § 214.2(h)(6)(ii) and that the beneficiaries are not qualified to perform the job. The director's decision to approve the petition has now been certified to the AAO for review.

Upon careful review of the entire record of proceeding, the AAO finds that the evidence of record does not support the director's decision to deny the petition. The AAO finds 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 DOL have been observed, and that the need for the services to be performed is peakload and temporary. The Vermont Service Center will issue the appropriate approval notice.

ORDER: The decision of the director is withdrawn and the petition approved.