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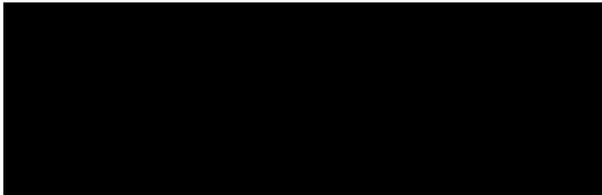
FILE: EAC 07 264 52911 Office: VERMONT SERVICE CENTER Date: NOV 29 2007

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 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 shipbuilding company located on Florida's Gulf Coast, and its principal business is building commercial vessels for the offshore oil industry in the Gulf of Mexico. It seeks to employ 30 named aliens as pipefitters from October 1, 2007 to September 30, 2008. The petitioner asserts that it has an H-2B temporary peakload need as defined at 8 C.F.R. § 214.2(h)(6)(ii)(B)(3). The Department of Labor determined that a temporary certification by the Secretary of Labor could not be made because the employer had not established a temporary need for the beneficiaries' services.

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 is temporary.

The evidence in this record of proceeding establishes that the petitioner's shipbuilding commitments for vessels to be delivered by the end of 2008 have reached a temporary level that exceeds the working capacity of its permanent staff, and that this situation is partly a function of the fact that, in contrast to other shipbuilding concerns in the Gulf, the petitioner's facilities were not seriously damaged by the hurricanes of 2004 and 2005.

The AAO finds that the director's decision accords with the evidence of record, which is sufficient to establish a temporary and peakload need in accordance with the regulations at 8 C.F.R. § 214.2(h)(6). The Vermont Service Center will issue the appropriate approval notice.

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