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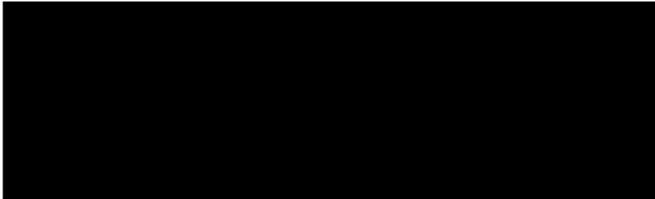


FILE: EAC 08 002 54045 Office: VERMONT SERVICE CENTER Date: NOV 28 2007

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:



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.

The petitioner operates a Chinese restaurant in New Orleans, Louisiana. It desires to employ the beneficiaries as kitchen helpers from October 1, 2007 to August 1, 2008. The Department of Labor (DOL) determined that unique, complex, and persistent circumstances generated in the Gulf Region by Hurricanes Katrina and Rita made it impossible to determine whether a temporary labor certification should be issued in the present case.

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.

Upon review of the evidence contained in the record, the decision of the director is found to be correct. It is supported by the totality of evidence, including the evidence presented with the petition showing the damages to the restaurant caused by Hurricane Katrina. The petitioner explains that the restaurant was reopened in March 2007 after more than one-year restoration and repair. The totality of evidence establishes a one-time occurrence as defined in the H-2B regulations. The Vermont Service Center will issue the appropriate approval notice.

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