U.S. Department of Homeland Security
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Washington, DC 20536

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U.S. Citizenship and Immigration Services

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[redacted]

FEB 26 2004

FILE: LIN 02 052 53147 Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

[redacted]

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, Director
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal. On July 8, 2002, counsel requested that the appeal on behalf of the petitioner be withdrawn. Based upon the petitioner's motion to withdraw and for the reasons set forth below, the AAO dismisses the appeal.

The director initially approved this petition, which was filed on December 3, 2001. On May 22, 2002, the director properly issued a notice of intent to revoke based on evidence obtained in connection with a prior petition (LIN 00 243 54045). In turn, on July 8, 2002, the petitioner submitted a motion to withdraw the December 3 petition. The director determined, however, that the petitioner's motion to withdraw was untimely submitted. Consequently, the director reviewed the petition and, on November 26, 2002, issued a decision revoking the initial approval.

The director's failure to acknowledge the withdrawal of the petition was erroneous. *See Matter of Cintron,* 16 I&N Dec. 9 (BIA 1976); 8 C.F.R. §§ 103.2(b)(14), (15). Therefore, the AAO withdraws the November 26, 2002 decision and grants the motion to withdraw. The AAO observes that, when considering later petitions, the director may rely on facts and circumstances, such as a U.S. consulate's report, surrounding prior petitions. *See* 8 C.F.R. §§ 103.2(b)(15) and 214.2(l)(2)(i).

ORDER: The appeal is dismissed.