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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals (AAO)  
Massachusetts Ave., N.W. MS 2090  
Washington, DC 20529-2090



**U.S. Citizenship  
and Immigration  
Services**



B6

FILE: [REDACTED]  
LIN 08 045 51608

Office: NEBRASKA SERVICE CENTER

Date: **APR 04 2011**

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as an Other, Unskilled Worker pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. § 103.5(a)(1)(i).

Thank You,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, Nebraska Service Center. It then came before the Administrative Appeals Office (AAO) on appeal. On January 20, 2011, this office issued a Notice of Derogatory Information and Request for Evidence (NDI/RFE) which informed the petitioner of adverse information in the record and afforded the petitioner an opportunity to provide evidence that might overcome this information. The petitioner did not respond to the NDI/RFE. Thus, the appeal will be dismissed.

The petitioner is a dairy farm. It seeks to employ the beneficiary permanently in the United States as a farm worker. As required by statute, a Form ETA 750, Application for Alien Employment Certification, approved by the United States Department of Labor, accompanied the petition. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition. The director also determined that the petitioner had not established that the beneficiary had the education, training, and experience required for the job offered. The director denied the petition accordingly.

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The NDI/RFE informed the petitioner that, according to the Wisconsin Department of Financial Institutions online database, the status of Soaring Eagle Dairy, LLP (EIN 20-2107645) had been withdrawn in 2002. The NDI/RFE also noted that the record contained tax returns for a different entity named [REDACTED] and for [REDACTED]

[REDACTED] The NDI/RFE requested the petitioner to submit documentary evidence establishing: its current name and EIN; any assumed name(s) under which it has operated; and that it is currently in active status as an entity doing business in the State of Wisconsin. The NDI/RFE also instructed the petitioner to fully describe and document any successor-in-interest relationship between [REDACTED] and [REDACTED]

This office afforded the petitioner 30 days in which to provide a response to the NDI/RFE, and advised the petitioner that if it chose not to respond, the appeal would be dismissed without further discussion. More than 30 days have passed and the petitioner has failed to respond. Thus, the appeal will be dismissed as abandoned.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The appeal is dismissed.