

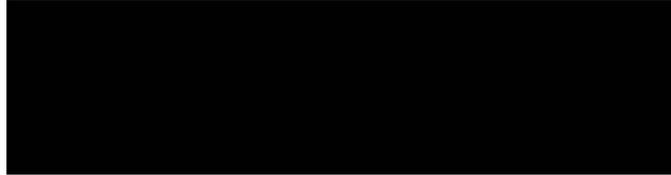
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U.S. Citizenship
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FILE: WAC 09 011 51623 Office: CALIFORNIA SERVICE CENTER Date: JAN 30 2009

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:

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.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a ski resort and it desires to employ the beneficiaries as lift operators pursuant to section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(H)(ii)(b) for the period from October 25, 2008 to April 19, 2009. The Department of Labor (DOL) issued the petitioner a temporary labor certification by the Secretary of Labor, valid for the dates of October 25, 2008 until April 19, 2009.

On December 18, 2008, the director denied the petition concluding that: (1) the petitioner failed to provide evidence in response to the director's request for evidence; and (2) the petitioner did not establish that the petitioning entity qualifies as a United States agent.

Upon review of the record, sufficient evidence was submitted by the petitioner to qualify for H-2B classification on behalf of the listed beneficiaries on the Form I-129. The record indicates that the petitioner sufficiently responded to the director's two requests for additional information. In addition, the record sufficiently evidences the relationship between the employer and its agent.

Upon request of the petitioner, in a letter dated November 11, 2008, the following individuals will be removed from the petition: I Made [REDACTED] and I [REDACTED]

On appeal, the petitioner has overcome the concerns addressed in the director's decision. The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has met that burden. The California Service Center will issue the appropriate approval notice.

ORDER: The appeal is sustained. The petition is approved.