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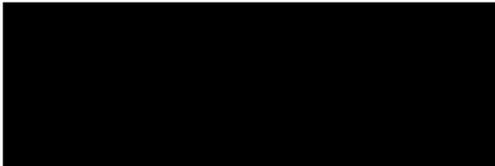
U.S. Department of Homeland Security  
20 Massachusetts Ave. N.W., Rm. 3000  
Washington, DC 20529



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JUN 29 2007

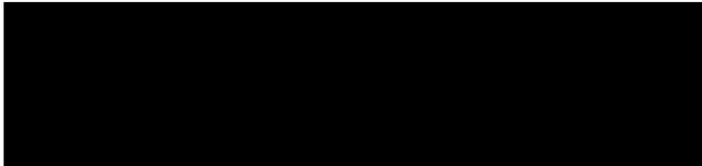
FILE: EAC 07 167 51861 Office: VERMONT SERVICE CENTER Date:

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.

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 temporary labor business in Sulphur, Louisiana. It desires to employ the beneficiaries as restaurant workers from June 1, 2007 to January 31, 2008. The Department of Labor (DOL) determined that a temporary certification by the Secretary of Labor could not be made.

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. The director's decision to approve the petition has now been certified to the AAO for review.

The petitioner relies upon the H-2B "one-time occurrence" provision, due to the effect that the extensive damages wrought by Hurricanes Rita and Katrina have upon the nature of the need that is the subject of this petition. The AAO finds that the totality of evidence in the record supports the petitioner's position.

Upon review of the evidence contained in the record, the decision of the director is found to be correct. The petitioner has provided sufficient evidence to establish that the need for the beneficiaries' services is temporary and a one-time occurrence. The Vermont Service Center will issue the appropriate approval notice.

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