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U.S. Department of Homeland Security
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**U.S. Citizenship
and Immigration
Services**

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FILE: EAC 07 242 52187 Office: VERMONT SERVICE CENTER Date: **SEP 25 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 is a disaster restoration corporation that has been involved in construction and recovery efforts in response to the devastation caused by Hurricane Katrina in the New Orleans area. The petitioner seeks to classify 250 aliens as H-2B workers in order to employ them as disaster remediation workers for its continuing operations in the New Orleans area during the period November 1, 2007 to July 31, 2008.

The Department of Labor 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.

The director's decision is correct. It is supported by the totality of evidence, including the evidence presented with the petition about the devastation wrought in the New Orleans area by Hurricane Katrina. The record establishes a one-time occurrence as defined in the H-2B regulations and extraordinary circumstances under 8 C.F.R. § 214.2(h)(6)(ii)(B) that justify the petitioner's present use of H-2B workers to continue its operations in response to the Hurricane Katrina disaster.

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