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FILE: EAC 09 016 51741 Office: VERMONT SERVICE CENTER

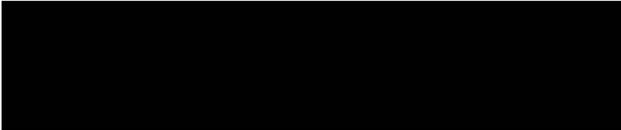
Date: DEC 18 2008

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.


John F. Grissom, Acting 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 nursery and engaged in the landscaping services. It desires to employ the beneficiaries as landscape laborers from April 1, 2009 to June 30, 2009. The Department of Labor (DOL) determined that a temporary certification by the Secretary of Labor could not be made because the petitioner failed to submit evidence to establish the petitioner's seasonal need.

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 seasonal and temporary.

Upon review of the evidence contained in the record, the decision of the director is found to be correct. The Vermont Service Center will issue the appropriate approval notice.

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