

U.S. Department of Labor

Office of Administrative Law Judges
Washington, DC



**U.S. DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES**

DATE PREPARED

RE: MANTEROLA SHEEP COMPANY & WESTERN RANGE ASSOC.
CASE NO. 79-TLC-5

THIS MATTER IS ON APPEAL BY THE ABOVE NAMED EMPLOYERS OF A DENIAL OF TEMPORARY LABOR CERTIFICATIONS BY THE REGIONAL ADMINISTRATOR (RA), DATED JANUARY 18, 1979 BUT CORRECTED TO JANUARY 22, 1979.

APPEAL WAS RECEIVED ON JANUARY 24, 1979, AND THE PERTINENT CASE FILE WAS RECEIVED IN THIS OFFICE ON JANUARY 26, 1979.

THESE APPLICATIONS FOR TWO SHEEPHERDERS WERE DENIED BASED ON THE RA'S FINDING THAT THE TIME REQUIREMENTS FOR THEIR FILING WERE NOT MET. WHETHER SUCH ACTION WAS WARRANTED DEPENDS UPON THE RESOLUTION OF A DISPUTE CONCERNING WHETHER THEY WERE FILED ON THE DATES THEY SHOW THEY WERE SIGNED (9/26/78 & 10/17/78) OR ON THE DATE THEY BOTH SHOW THEY WERE RECEIVED (12/20/78). THE EMPLOYER CONTENDS THAT IT HAS PROOF OF HAVING FILED ON THE DATES THAT WOULD HAVE BEEN TIMELY, WHICH INCLUDES EVIDENCE OF THE SUBMISSION OF SEVERAL FOLLOW UP MESSAGES. SUCH PROOF IS NOT, HOWEVER, CONTAINED IN THE RECORD NOW BEFORE ME, AND I AM NOT PERMITTED BY 20 CFR 655.212(a) TO ATTEMPT TO OBTAIN IT. IN THESE CIRCUMSTANCES THE RECORD SUPPORTS THE RA'S FINDING OF UNTIMELINESS, AND THEREFORE THE DENIALS OF CERTIFICATION ARE AFFIRMED.

THIS IS THE FINAL DECISION OF THE DEPARTMENT OF LABOR IN THIS MATTER. FURTHER REVIEW MAY BE OBTAINED BY FILING A PETITION WITH THE DISTRICT DIRECTOR, IMMIGRATION AND NATURALIZATION SERVICE IN YOUR GEOGRAPHICAL AREA PURSUANT TO 8 CFR 214.2(H)(3)(I).

THIS DECISION IS BEING TRANSMITTED TO BOB LANG, WESTERN RANGE ASSOC., THE REGIONAL ADMINISTRATOR, THE ADMINISTRATOR OF THE U.S. EMPLOYMENT SERVICE, THE ASSOCIATE SOLICITOR FOR EMPLOYMENT AND TRAINING AND THE DIRECTOR OF THE IMMIGRATION AND NATURALIZATION

SERVICE.

ERIC FEIRTAG
HEARING OFFICER
U.S. DEPARTMENT OF LABOR