



**UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATOR LAW JUDGES**

Date Prepared: 4-19-79

RE: STROSCHEIN RANCHES, AND WESTERN RANGE ASSOCIATION (WRA)  
79-TLC-12, AND FINE SHEEP CO. AND WRA, 79-TLC-13.

STROSCHEIN RANCHES AND WRA, 79-TLC-12, AND FINE SHEEP CO. AND WRA, 79-TLC-13, REQUEST FOR EXPEDITED ADMINISTRATIVE JUDICIAL REVIEW UNDER 20 CFR 655.212 FROM DENIAL(S) BY REGIONAL ADMINISTRATOR (FA), ETA, SEATTLE, WASHINGTON, DATED APRIL 5, 1979, OF TEMPORARY LABOR CERTIFICATIONS FOR FOUR(4) SHEEPHERDERS, ONE (1) FOR STROSCHEIN AND THREE (3) FOR FINE. REQUEST FOR REVIEW RECEIVED APRIL 10, 1979, APPEAL FILE(S) WERE RECEIVED ON APRIL 17, 1979.

ON APRIL 5, 1979, RA J.C. RAMAKER ADVISED WRA - JOINT EMPLOYER IN BOTH CASES (STROSCHEIN RANCHES APPEAL FILE (AF-6,7); FINE SHEEP CO (AF-6, 7)) - THAT TEMPORARY LABOR CERTIFICATION APPLICATIONS RECEIVED ON MARCH 9, 1979 FOR FOUR( 4) SHEEPHERDERS, ONE(1) FOR STROSCHEIN AND THREE( 3) FOR FINE, WERE DENIED BECAUSE FOUND DEFICIENT:

1) APPLICATION(S) DO NOT CONTAIN COPY OF WORK CONTRACTS INCLUDING ALL THE PROVISIONS REQUIRED BY 20 CFR 655.202 (a) AND (b); AND 2) THE REQUIREMENT OF TRAINING IN SHEEP BURDEN FROM THE AGE OF SIX (6) YEARS IS UNDULY RESTRICTIVE AND POSES REQUIREMENTS THAT ARE TAILORED TO FIT THE ALIEN(S) ONLY. RA ALSO ADVISED WRA OF "APPEAL RIGHTS" SUBSTANTIALLY REPEATING 20 CFR 655.212 (ADMINISTRATIVE JUDICIAL REVIEW).

ALL FOUR(4) APPLICATIONS WERE RECEIVED BY RA ON MARCH 9, 1979, STROCHSCHEIN'S FILED WITH LOCAL OFFICE ON MARCH 6, 1979, AND FINE'S ON MARCH 7, 1979, AND REQUESTED TEMPORARY LABOR CERTIFICATION FOR PERIOD MAY 20, 1979 TO APRIL 19 , 1990. ACCOMPANYING THE APPLICATIONS WERE DESCRIPTIONS OF HOUSING AND FACILITIES AND ASSURANCES. STROSCHEIN'S APPLICATION INCLUDED AN "ADDENDUM TO JOB OFFER" WHICH COVERED SOME BUT NOT ALL THE REQUIREMENTS OF 20 CFR 655.202(a) AND (b).

20 CFR 655.202(b)(14) REQUIRES THAT THE WORKER BE PROVIDED WITH A COPY OF THE WORK CONTRACT WHICH CONTAINS ALL THE PROVISIONS REQUIRED BY (a) AND (k) OF 20 CFR 655.202. IT IS NOT, THEREFORE, UNREASONABLE, AND ALBEIT MAKES PREPARATION OF THE APPLICATION EASIER, FOR THE EMPLOYER TO SUBMIT A COPY OF THE WORK CONTRACT. THE 202(a) and (b) REQUIREMENTS CAN THEN BE COMPARED WITH THE WORK CONTRACT FOR COMPLIANCE. THIS IS NOT CONSIDERED RULE MAKING BUT SURELY A MEANS TO DOCUMENT ALREADY EXISTING RULES. RA'S DENIAL BASED ON THE UNDULY RESTRICTIVE REQUIREMENT OF SHEEPHERDER TRAINING FROM THE AGE OF SIX( 6) YEARS IS CORRECT AS THAT OCCUPATION IS DEFINED IN THE D.O.T.

WHILE A 27 DAY DELAY FROM RECEIPT OF THE FILE AND DENIAL CERTAINLY DOES NOT CONFORM TO "SHORTLY AFTER" OR "PROMPTLY", SUCH DELAY DOES NOT RENDER DECISION INVALID AND WE ARE STILL WELL WITHIN THE 80 DAY TIME FRAME.

ACCORDINGLY, THE DENIALS ARE AFFIRMED ON THE MERITS.

ROBERT J. SHEA  
HEARING OFFICER  
U.S. DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES