UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATOR LAW JUDGES

Date Prepared: 9/5/79

RE: GOWAN FARMS, INC., 79-TLC-23

THIS MATTER IS ON APPEAL BY THE ABOVE NAMED EMPLOYER OF A DENIAL OF TEMPORARY LABOR CERTIFICATION BY THE REGIONAL ADMINISTRATOR (RA), DATED AUGUST 23, 1979. APPEAL WAS RECEIVED ON AUGUST 27, 1979, AND THE APPEAL FILE WAS RECEIVED ON AUGUST 31, 1979.

ON MAY 25, 1979, EMPLOYER FILED AN APPLICATION FOR TEMPORARY LABOR CERTIFICATION FOR 8 APPLE PICKERS FOR THE PERIOD SEPTEMBER 12, 1979 THROUGH OCTOBER 22, 1979. THE RA'S DENIAL OF CERTIFICATION WAS BASED ON 20 CFR 655.203 WHICH REQUIRES THE EMPLOYER TO INCLUDE WITH HIS TEMPORARY LABOR CERTIFICATION APPLICATION CERTAIN ASSURANCES; ASSURANCES THAT WILL ENABLE THE RA TO DETERMINE:

1) WHETHER U.S. WORKERS ARE AVAILABLE TO PERFORM THE TEMPORARY EMPLOYMENT AND 2) WHETHER THE EMPLOYMENT OF THE ALIENS WILL ADVERSELY AFFECT THE WAGES OR WORKING CONDITIONS OF SIMILARLY EMPLOYED U.S. WORKERS. AS PART OF THESE ASSURANCES THE EMPLOYER MUST PROVIDE THE RA WITH DOCUMENTATION OF THE EMPLOYER'S RECRUITMENT EFFORTS OF U.S. WORKERS 20.CFR 655.203(d).

ALTHOUGH THE EMPLOYER FAILED TO SUBMIT SUCH DOCUMENTATION BY THE AUGUST 23, 1979 DEADLINE, HE STATES IN HIS APPEAL THAT "WE WILL SEND A LETTER WITH FURTHER INFORMATION REGARDING OUR EFFORTS." SUCH INFORMATION IS NOT, HOWEVER, A PART OF THE RECORD BEFORE ME AND I AM NOT PERMITTED BY 20 CFR 655.212(a) TO RECEIVE IT. IN THESE CIRCUMSTANCES, THE RECORD SUPPORTS THE RA'S FINDING THAT THE RECORD IS DEFICIENT OF DOCUMENTATION OF THE EMPLOYER'S RECRUITMENT EFFORTS AND DENIAL OF CERTIFICATION IS PROPER AND IS HEREBY AFFIRMED.

THIS IS THE FINAL DECISION OF THE DEPARTMENT OF LABOR ON THIS MATTER. FURTHER REVIEW MAY BE OBTAINED BY FILING A PETITION WITH TEE 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 TIMOTHY M. BARNICLE, THE REGIONAL ADMINISTRATOR, THE ADMINISTRATOR OF THE U.S. EMPLOYMENT SERVICE, THE ASSOCIATE SOLICITOR FOR EMPLOYMENT AND TRAINING AND THE DIRECTOR OF IMMIGRATION AND NATURALIZATION SERVICE.

ERIC FEIRTAG
ADMINISTRATIVE LAW JUDGE
U.S. DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES