



Issue Date: 08 December 2017

BALCA Case No.: 2018-TLN-00022
ETA Case No.: H-400-17192-444204

In the Matter of:

PLANT PROCESSING EQUIPMENT, INC.
Employer

ORDER GRANTING CERTIFYING OFFICER'S MOTION TO REMAND

This matter arises under the temporary non-agricultural employment provisions of the Immigration and Nationality Act ("INA," or "the Act"), 8 U.S.C. § 1101(a)(15)(H)(ii), and the implementing regulations set forth at 20 C.F.R. Part 655, Subpart A.¹

On December 7, 2017, the Certifying Officer ("CO"), through counsel, submitted a Motion for Remand ("Motion"). In the Motion, the CO indicated that "[t]he [CO] and the Employer have reached an agreement in the above-referenced case and have determined that the Employer's H-2B application for temporary labor certification should be remanded to the [CO] for certification. The Motion also stated that the Employer's counsel "was contacted and has no objection to the granting of this motion."

The regulations provide the Board of Alien Labor Certification Appeals the authority to remand matters to the CO. *See* 20 C.F.R. § 655.61(e)(3). Based on the parties' mutual agreement, it is established that remand is appropriate in this matter.

Therefore, this matter is **REMANDED** to the CO for further processing of Employer's H-2B application for temporary labor certification.

¹ On April 29, 2015, the Department of Labor (DOL) and the Department of Homeland Security (DHS) jointly published an Interim Final Rule to replace the regulations at 20 C.F.R. Part 655, Subpart A. *See* 80 FED. REG. 24042, 24109 (Apr. 29, 2015) ("2015 IFR"). The 2015 IFR applies if an employer filed its temporary labor certification application after April 29, 2015 and requested a start date after October 1, 2015. In the present case, Employer filed its temporary labor certification application after April 29, 2015, requesting a start date of need after October 1, 2015. Thus, the 2015 IFR applies.

SO ORDERED

LYSTRA A. HARRIS
Administrative Law Judge

Cherry Hill, New Jersey