



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

DATE PREPARED: 5/21/80

RE: JEAN MARC BOULET, 80-TLC-7

JEAN MARC BOULET, 80-TLC-7, REQUEST FOR EXPEDITED ADMINISTRATIVE/JUDICIAL REVIEW UNDER 20 CFR 655.212 FROM DENIAL BY REGIONAL ADMINISTRATOR(RA), ETA, BOSTON, MASSACHUSETTS, DATED MAY 2, 1980, OF TEMPORARY LABOR CERTIFICATIONS FOR FOURTEEN LOGGERS AND ONE COOK. REQUEST FOR REVIEW WAS RECEIVED ON MAY 6, 1980, APPEAL FILE WAS RECEIVED ON MAY 12, 1980, REACHING THE UNDERSIGNED ON MAY 15, 1980.

EMPLOYER FILED TEMPORARY LABOR CERTIFICATION APPLICATIONS FOR FOURTEEN LOGGERS AND ONE COOK ON FEBRUARY 12, 1980. IT APPEARS FROM THE RECORD THAT THE COOK'S CERTIFICATION WAS DENIED BECAUSE A U.S. WORKER WAS AVAILABLE AND THAT CERTIFICATION WAS DENIED FOR THE FOURTEEN LOGGERS BASED ON THE RA'S FINDING THAT THE EMPLOYER HAD ADVERSELY AFFECTED U.S. WORKERS AS SET FORTH AT 20 CFR 655.206(a)(2). THIS FINDING WAS BASED ON THE NEWSPAPER ADVERTISEMENTS, SUBMITTED IN ACCORDANCE WITH 20 CFR 655.203(d)(2), WHICH OFFERED LOGGERS \$7.88 PER CORD OF WOOD, WHEREAS THE RATE OFFERED THE ALIENS WAS \$8.20 PER CORD.

THE EMPLOYER, IN HIS REQUEST FOR ADMINISTRATIVE-JUDICIAL REVIEW, ASSERTS THAT THE FEE OFFERED IN THE NEWSPAPER ADVERTISEMENTS WAS A TYPING OR PRINTING MISTAKE.

ADMINISTRATIVE-JUDICIAL REVIEW IS CONFINED TO REVIEW OF THE RECORD FOR LEGAL SUFFICIENCY. 20 CFR 655.212. THE RECORD REFLECTS THE DIFFERENCES IN WAGE RATES OFFERED U.S. WORKERS AND THOSE OFFERED THE ALIENS THAT THE RA CITED. THERE IS NO EVIDENCE TO SUPPORT THE EMPLOYER'S CLAIM OF TYPOGRAPHICAL ERRORS.

THE RECORD SUPPORTS THE RA'S FINDING THAT U.S. WORKERS WERE OFFERED WAGES LESS FAVORABLE THAN THOSE OFFERED FOREIGN WORKERS.

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 C.F.R. 214.2(h)(3)(i).

THIS DECISION IS BEING TRANSMITTED TO JEAN MARC BOULET, 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.

DAVID A. CLARKE, JR.
Administrative Law Judge
U.S. Department of Labor