



Issue Date: 29 May 2018

Case No.: 2017-TAE-00019

In the Matter of:

ROGERS HEREFORD RANCH,
Employer.

ORDER APPROVING CONSENT FINDINGS

This proceeding arises under the H-2A provisions of the Immigration and Nationality Act (“Act”), as amended by the Immigration Reform and Control Act (“IRCA”), 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(c), and 1186, and regulations found at 20 C.F.R. Part 655 and 29 C.F.R. Part 501.

By letter dated February 2, 2017, the Acting District Director for the Kansas City District Office of the Wage and Hour Division, U.S. Department of Labor, notified Rogers Hereford Ranch (“Employer”) that an investigation during the period August 1, 2013 to July 31, 2015, regarding the employment of H-2A workers revealed that Respondent failed to comply with certain legal requirements.¹ As a consequence, \$12,628.10 in unpaid wages to two individuals and \$5,250.00 in civil money penalties were assessed against Employer.

On February 27, 2017, Employer timely submitted a letter to the Administrator of the Wage and Hour Division, objecting to the assessment of unpaid wages and civil money penalties, and requesting a formal hearing.² On September 20, 2017, the Office of Administrative Law Judges (“OALJ”) received the *Order of Reference* on this matter from counsel for the

¹ The Acting District Director noted the following violations of the regulatory requirements found at 20 C.F.R. Part 655, Subpart B: failure to comply with requirement that copy of work contract be provided; failure to pay the offered/required wage rate; failure to comply with pay statement requirements; and failure to provide required information relative to each fixed site agricultural business to which the H-2A labor contractor expects to provide H-2A workers.

² In its letter requesting a hearing, Employer notes that the Acting District Director’s letter is titled “Notice and Determination [] Assessing Civil Money Penalties,” despite that unpaid wages are also assessed therein. It therefore “infers that it can expect another determination at a later point in time as the CMP Assessment does not put into issue anything relating back to wages.” However, the letter also addresses the assessment of unpaid wages, stating, “As for the claim that [Employer] did not pay the Adverse Effect Wage Rate, it did and, therefore, does not owe any back wages.” The *Order of Reference* addresses both unpaid wages and civil money penalties.

Administrator.³ A hearing before the undersigned scheduled for March 6, 2018 was cancelled upon notice that the parties had reached a settlement resolving the disputed matters.

On May 25, 2018, the Administrator filed *Consent Findings*, in which the Respondent agrees to pay a total of \$11,881.68, comprising \$7,381.68 to satisfy the unpaid back wages and a \$4,500.00 reduced CMP, provided Respondent complies with the remaining terms and conditions set forth in the agreement. These actions would resolve all issues for litigation.

Section § 501.40(d) provides that the presiding Administrative Law Judge shall accept any agreement containing consent findings if he or she is “satisfied with its form and substance.” After reviewing its terms, I am satisfied that the agreement conforms to the requirements set forth in § 501.40(b)(1)-(4) and is a satisfactory resolution of the issues previously contested.

The terms of the *Consent Findings* filed on May 25, 2018 are APPROVED, and adopted and incorporated in full into this Order. This case is hereby DISMISSED.⁴

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

³ The *Order of Reference* states that since the initial February 2, 2017 notice, the Wage and Hour Division “has reduced its total assessment against Respondent to \$11,881.68, which includes \$7,381.68 in back wages, and \$4,500 in [civil money penalties].”

⁴ However, in the event Respondent defaults on the terms and conditions set forth in the *Consent Findings* and this Order, the Administrator’s conditional amendment referenced in paragraph 4 of the *Consent Findings* becomes void and the entire adjusted back wages and civil money penalty shall become due and payable immediately without further notice or demand by the Administrator and any outstanding balance shall be subject to the assessment of interest and penalties at rates determined by the U.S. Treasury as required by the Debt Collection Improvement Act of 1996.