



**Issue Date: 11 September 2018**

Case No.: 2018-TAE-00033

*In the Matter of:*

**HEARN FARMS INC.,**  
*Employer.*

**ORDER APPROVING WITHDRAWAL OF REQUEST FOR HEARING**

This matter arises under the H-2A provisions of the Immigration and Nationality Act, 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1184(a), (c), and 1188, and the implementing regulations found at 20 C.F.R. Part 655 and 29 C.F.R. Part 501.

By letter dated July 2, 2018, the Administrator, Wage and Hour Division (“WHD”), U.S. Department of Labor, notified Hearn Farms, Inc. (“Employer”) that an investigation concluded Employer failed to comply with certain legal requirements with respect to the Employer’s petitioning for and employing H-2A workers and assessed civil money penalties.<sup>1</sup>

On July 26, 2018, counsel for Employer submitted a letter to the U.S. Department of Labor, Office of Administrative Law Judges, objecting to the assessment of civil money penalties and requesting a review of the Administrator’s determination. On August 21, 2018, the Office of Administrative Law Judges (“OALJ”) received a letter from counsel for Employer petitioning to withdraw Employer’s request for hearing “as it does not want to pursue an appeal, according to 29 C.F.R. §503.43.”<sup>2</sup>

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<sup>1</sup> The Employer did not include the Wage and Hour Division’s notification.

<sup>2</sup> The regulations provide that an Employer may request review of a determination by making “a written request for an administrative hearing to the official who issued the determination at the WHD address appearing on the determination notice, no later than 30 days after the date of issuance of the notice . . . .” 29 C.F.R. § 501.33. After the Employer makes a request for hearing, WHD files an Order of Reference to initiate the proceedings with the OALJ:

the WHD Administrator, by the Associate Solicitor for the Division of Fair Labor Standards or by the Regional Solicitor for the Region in which the action arose, will, by Order of Reference, promptly refer a copy of the notice of administrative determination complained of, and the original or a duplicate copy of the request for hearing signed by the person requesting such hearing or by the authorized representative of such person, to the Chief ALJ, for a determination in an administrative proceeding as provided herein.

Based on the above, the Employer's petition to withdraw its hearing request is GRANTED; this matter is DISMISSED.

**SO ORDERED:**

**STEPHEN R. HENLEY**  
Chief Administrative Law Judge