

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 22 May 2012**

**OALJ Case No.: 2012-TLC-00064**

**ETA Case No.: C-12094-33924**

*In the Matter of:*

**ZIRKLE FRUIT COMPANY,**

*Employer.*

Certifying Officer: William L. Carlson  
Chicago Processing Center

**ORDER OF DISMISSAL**

This case arises under the temporary agricultural labor provisions of the Immigration and Nationality Act of 1952 (Act), 8 U.S.C.A. § 1101(a)(15)(H)(ii)(a) and §1184(c)(1), as amended, and its implementing regulations found at 20 CFR Part 655, Subpart B.

By the Certifying Officer's (CO) "2<sup>nd</sup> Notice of Deficiency" of April 25, 2012, the CO found that the Employer's "Application for Temporary Employment Certification" (ETA 9142) impermissibly involved an application from a single employer for more than one area of intended employment and extended the opportunity for the Employer to correct the noted deficiency and amend the current application to one area of intended employment and file a separate application for each other area of intended employment (ETA Case No. C-12094-33924). Employer's counsel filed an appeal of the "Notice of Deficiency" and a request for formal hearing on April 27, 2012. A formal hearing was held on May 14 and 15, 2012.

On May 18, 2012 the Parties filed a joint "Stipulation of Dismissal" in this case. The Parties stipulated that:

1. The Certifying Officer for the U.S. Department of Labor and the named petitioners have settled Cases Nos.2012-TLC-64, 2012-TLC-70, and 2012-TLC-71.

2. All issues raised by these cases have been resolved. As modified to remove the Rock Island/CRO, Pateros/Azwell, and Okanogan/JAW worksites, the application (C-12094-33924) that gave rise to Case No. 2012-TLC-64 will be accepted for processing.
3. Petitioner agrees to modify the application (C-12122-34327) which gave rise to 2012-TLC-70, so that the application references only the following locations: Rock Island/CRO, Pateros/Azwell, and Okanogan/JAW. With this modification, application C-12122-34327 (2012-TLC-70) will be accepted for processing.
4. Petitioner withdraws the application (C-12122-34328) which gave rise to 2012-TLC-71, upon entry of an Order confirming this stipulation. Petitioner's Request for *De Novo* Hearing with respect to this file is therefore withdraw as moot.

The Parties "request that the Court enter an Order consistent with the parties' stipulation."

In that no issue remains to be adjudicated, the request for de novo hearing is **DISMISSED WITH PREJUDICE**, pursuant to 5 U.S.C. §556(c) and 29 CFR §18.29.

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ALAN L. BERGSTROM  
Administrative Law Judge

ALB/jcb  
Newport News, Virginia