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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

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FILE: WAC 02 289 54462 Office: CALIFORNIA SERVICE CENTER Date: MAY 23 2005

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part:

> (1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> > (A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --
> >
> > > (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
> > >
> > > (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
> > >
> > > (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The applicable regulation defines the statutory term "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.*

In this case, the petitioner seeks classification of the beneficiary as an alien with extraordinary ability in the sciences, specifically in the field of plant biology and horticulture. The record contains numerous documents submitted with the petition and in response to two requests for evidence (RFEs). The director determined the record did not establish that the beneficiary was an alien with extraordinary ability. On appeal, counsel contends that the director did not properly evaluate the evidence submitted and imposed a standard of review that is not supported by the statute or the regulations. Counsel's claims do not overcome the insufficiency of the evidence and the substantive reasons for denial. The evidence submitted, counsel's contentions and the director's decision are addressed in the following discussion of the regulatory criteria relevant to the petitioner's case.

(iii) Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

To satisfy this criterion, the evidence must establish that the publication is about the alien and his or her work, hence the alien must be a primary subject of the publication. The mere listing of an alien as a subject matter expert or the simple citation of an alien's work without substantive analysis or discussion is insufficient. In this case, the petitioner submitted evidence that the beneficiary's work had been cited in two treatises in her field, the *CRC Handbook of Flowering* and *The Physiology of Flower Bulbs* and that she was listed in the *International Directory of Specialists in Herbs, Spices, and Medicinal Plants*. The director correctly determined that this evidence was insufficient to establish the beneficiary's eligibility under this criterion and counsel does not contest that determination on appeal.

The record contains an excerpt from Volume II of the *CRC Handbook of Flowering* that cites the beneficiary's work in a section entitled "Crocus Sativus." An article of which the beneficiary is the lead author is cited once in one paragraph under the subheading "Periodicity and Differentiation." An article of which the beneficiary is a co-author is cited once in the following paragraph. The excerpt shows that the *CRC Handbook of Flowering* is a five-volume treatise that was published in 1985. In response to the second RFE, the petitioner submitted printouts from the publisher's website and Amazon.com. The former simply recites the history of the CRC press, but says nothing about the *CRC Handbook*. The latter states that the *CRC Handbook* is "an exhaustive source of information on the control and regulation of flowering." The beneficiary's work is cited twice in a two-paragraph sub-entry in a five-volume treatise that was published 17 years prior to the filing of her petition. The citation is brief and does not reflect the sustained acclaim necessary to classification as an alien with extraordinary ability.

The citation of the beneficiary's work in *The Physiology of Flower Bulbs* is similarly insufficient. The record contains an excerpt from a section on crocuses. Two of the beneficiary's articles are cited in two paragraphs under the sub-heading "B.19.7.3.2. Exogenous Growth Regulators." This book is subtitled "A Comprehensive Treatise on the Physiology and Utilization of Ornamental Flowering Bulbous and Tuberous Plants" and was published in 1993. The record contains evidence that this treatise was edited by a renowned expert in the field, August De Hertogh, Professor Emeritus of the Department of Horticultural Science at North Carolina State University. The petitioner also submitted a support letter from Professor De Hertogh that states that the beneficiary's "research contributed greatly to our knowledge of this cormous plant" and confirms that her work was cited in his treatise. The solicited endorsement of an expert in the field does not overcome the fact that the petitioner's work is cited only twice in this comprehensive treatise that was published nearly a decade before the petition was filed and does not reflect the requisite sustained acclaim. The citation of the beneficiary's research in this treatise and the *CRC Handbook* is also relevant to and is discussed below under the sixth criterion.

Finally, the mere listing of the beneficiary in the *International Directory of Specialists in Herbs, Spices, and Medicinal Plants* is also insufficient to meet this criterion. The excerpt and documents relating to this publication that were submitted with the petition show that the beneficiary was listed along with 900 other specialists from 85 countries. The *Directory* was published in 1993, nearly a decade before the petition was filed and also does not reflect the requisite sustained acclaim. The beneficiary's inclusion in this book is more relevant to and is discussed below under the fifth criterion.

(v) Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The director correctly determined that the beneficiary did not meet this criterion. In his discussion of the support letters submitted as evidence under this criterion, the director noted that "the definition of extraordinary ability for purposes of the benefit sought is a much more specific definition that is clearly different from how it is being used in the letters of support.... It is not sufficient to simply show that the beneficiary has achieved three of the ten criteria enumerated in the regulation if the sustained acclaim either nationally or internationally has not been reached and the recognition of achievement in the field has not reached the level expected within this highly restrictive definition." On appeal, counsel claims that these comments constitute a "misapplication of the statutory standards for extraordinary ability." We do not read the director's decision as imposing a standard outside of the statute or the regulation. Rather, the director correctly noted that support letters alone rarely suffice to meet this criterion and that the weight given to evidence submitted under this category must depend on the extent to which the evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the field of endeavor.

In addition to his own letters, the petitioner submitted ten support letters from experts in the beneficiary's field or related areas of specialization. Seven of these letters were written by the beneficiary's former supervisors, collaborators or colleagues. While such letters provide relevant information about an alien's experience and accomplishments, they cannot by themselves establish the alien's eligibility under this criterion because they do not demonstrate that the alien's work is of major significance in his or her field beyond the limited number of scientists with whom he or she has worked directly. The record also contains three letters from independent experts in the beneficiary's field who were requested to provide their assessments of her abilities. These letters are also informative, but cannot establish the beneficiary's eligibility by themselves. Recommendation letters solicited by an alien for his or her immigration case carry far less weight than preexisting, independent evidence of major contributions that one would expect of a scientist who has achieved sustained national or international acclaim. Accordingly, the letters will be discussed as they relate to other evidence in the record relevant to this criterion.

The petitioner claims the beneficiary has made the following original scientific contributions of major significance to her field: 1) research on the saffron crocus; 2) research on the Cuban lilly (*Scilla Peruviana*); and 3) research leading to the introduction of new varieties of plant bulbs. We examine each claim in turn. First, the record shows that the beneficiary gained expertise in the saffron crocus while a doctoral student at the Timiryazev Institute of Plant Physiology at the Academy of Sciences of the former Soviet Union. Dr. Elvina Milyaeva, one of the beneficiary's dissertation advisors, confirms that the topic of the beneficiary's dissertation was the investigation of saffron growth and productivity. Dr. Milyaeva notes that saffron is an important plant for both medicine and agriculture and that the beneficiary's research made her "a unique expert not only in the field of the Saffron investigation, but in the field of studying many bulb plants too." Professor Meira Ziv confirms that the beneficiary continued her work on saffron in Professor Ziv's research group at the Department of Agricultural Botany within the Hebrew University of Jerusalem where she "helped advance the commercial growing and enhance flowering in this plant using her previous research on the manipulation of growth with plant hormones." As discussed above under the third criterion, Professor De Hertogh states that the beneficiary's research "contributed greatly to our knowledge of this cormous plant" and notes that her work was cited in his treatise, *The Physiology of Flower Bulbs*.

The record indicates that the beneficiary's saffron research resulted in five articles published in scientific journals and a chapter contribution to a book. The beneficiary is the lead author of five of the articles and the book chapter and a co-author of the sixth article. The petitioner submitted a cited reference search for the beneficiary as Exhibit AA in response to the second RFE. This list states only the names of the journals and not the titles of the articles. The dates of the publications are cut off such that the exact year is illegible. Given these limitations, it appears that three of the petitioner's articles on saffron have been cited a total of five times. The record contains no information about the individual citations from which we could determine whether or not the citations were by independent research teams. The evidence shows that the beneficiary is a recognized expert on the saffron crocus, but the minimal citation of her work indicates that her research does not constitute a contribution of major significance to her field.

The beneficiary subsequently conducted research on the Cuban lily (*scilla peruviana*) while working at the Biotechnology Laboratory of the University of British Columbia in Vancouver, Canada. As confirmed by Professor Brian Ellis (her supervisor) and Christia M. Roberts (Industrial Technology Advisor at the National Research Council of Canada, Industrial Research Assistance Program), the beneficiary received competitive funding to research the Cuban lily. Professor Ellis explains that she conducted a detailed developmental study and developed an efficient micropropagation method for rapid multiplication of Cuban lily stock plants. The beneficiary's research was published in *Hort Science* in 1998, but the record contains no citation information for this article. A letter from Ruth Gaumond, Production Editor of *Hort Science*, confirms the publication of the beneficiary's article in this journal and states that "[t]he pioneering research done by [redacted] has . . . enabled growers to force flowering to increase sales during the main high seasons, making *Scilla* profitable for domestic and international markets." The beneficiary's research was jointly funded by Milner Greenhouses in British Columbia. Milner President Marc Shane states that the beneficiary's work enabled his company "to ship 8,000 Scilla plants to Canada and USA. Moreover, it created 15 additional jobs at the company and increased revenues by $100,000.00 in the first year alone." The petitioner jointly funded further research by the beneficiary on the micropropagation of *Scilla* and *Eucomis*. An August 22, 2002 letter from the petitioner states that these bulbs are relatively new to the market and that the beneficiary's "pioneering research has enabled us to enter the market with successful introductions of both these crops." However, the evidence is insufficient to establish that the beneficiary's work in this area constitutes a scientific contribution of major significance to her field. Rather, the record indicates that the beneficiary's work led to significant economic benefits for two floriculture businesses. These economic benefits are more relevant to her subsequent work for the petitioner (discussed below) and the eighth criterion.

The beneficiary left British Columbia to begin working for the petitioner who claims that her research has led to the introduction of new varieties of plant bulbs, specifically the aforementioned *Scilla Peruviana, Eucomis* hybrids, begonia, amaryllis and calla lilies. The petitioner states that because [redacted] supplies 90 percent of the tubers bulb market, [the beneficiary's] work directly impacts the horticultural market." The record contains no evidence to substantiate the petitioner's claim that his company supplies 90 percent of the bulb market, yet other letters attest to the general economic value of the beneficiary's work. Professor Lyle E. Craker of the Laboratory for Natural Products, Medicinal and Aromatic Plants at the University of Massachusetts Amherst (and publisher of the aforementioned *International Directory of Specialists in Herbs, Spices, and Medicinal Plants*) states that the beneficiary's "innovative approach to bulb multiplication in *Scilla, Eucomis,* and *Calla* are actively contributing to the vitality of the American floral industry. She is one of the foremost researchers using *in vivo* and *in vitro* techniques to develop both the science and practical aspects of floriculture." Citing support letters from the petitioner and Milner Greenhouses, Professor Timothy A. Nelson of Seattle Pacific University (who was requested to write an "opinion letter" on

the beneficiary's qualifications) states that the beneficiary's work has led to "substantial economic benefits for the horticulture trade." Professor De Hertogh echoes the economic value of the beneficiary's recent work: "[f]or the past three years, she has been conducting research on several other speciality [sic] flower bulbs that are becoming commercially important [sic]."

Professor De Hertogh also states that the beneficiary "has developed skills in several disciplines, e.g., physiology, tissue culture, and cytology; and has successfully applied them to several unique and challenging flower bulb species . . . . To the best of my knowledge there is no other scientist in the U.S., who currently has these skills in the field of flower bulbs." He concludes that the beneficiary "is quite unique in our field in the U.S." because he knows of only one other scientist who has similar qualifications. On appeal, counsel quotes these latter statements as *prima facie* evidence of the beneficiary's eligibility. Yet Professor De Hertogh is simply praising the beneficiary's technical skills and qualifications. He does not equate those skills and qualifications with original scientific contributions of major significance to the field. Besides the letters of Professors De Hertogh and Nelson and the documented economic value of the beneficiary's work to the petitioner, the record contains no other corroborative evidence that the beneficiary's recent work has made a major impact in her field. Accordingly, the evidence regarding this work is also insufficient to meet this criterion. The commercial implications of the beneficiary's work are also relevant to and will be discussed below under the eighth criterion.

(vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The director correctly concluded that the beneficiary did not meet this criterion. Frequent publication of research findings is inherent to success as an established scientist and does not necessarily demonstrate the sustained acclaim requisite to classification as an alien with extraordinary ability. Evidence of publications must be accompanied by documentation of consistent citation by independent experts or other proof that the alien's publications have been recognized in his or her field in a manner consistent with the requisite sustained acclaim. In this case, the record indicates that the beneficiary has published articles in reputable journals in her field, but the evidence is insufficient to establish that her work has been consistently cited by independent researchers.

The beneficiary is cited as an expert on the saffron crocus in the two treatises and directory discussed above under the fifth criterion. In addition, the beneficiary has published 13 articles in scientific journals in her field. She is the lead author of seven of these articles and a co-author of six. The citation list submitted as Exhibit AA in the second RFE response indicates that the beneficiary's work has been cited a total of 16 times. The beneficiary's doctoral thesis has been cited once. As previously discussed under the fifth criterion, this citation list is partially illegible, does not indicate the title of the cited articles and whether the beneficiary is the lead or co-author. Most importantly, the list provides no information about the individual citations from which we could determine whether or not the beneficiary's work has been cited by independent researchers.

On appeal, counsel contends that the beneficiary "has demonstrated the major significance of her research [on the saffron crocus] because it continues to be cited more than 25 years after her original work on this species in the Soviet Union." Counsel's claim is unsupported by the record. The beneficiary lists five articles and one book chapter that discuss her saffron research published between 1978 and 1999. The most recent recognition of the beneficiary as a saffron expert was the brief citation of her 1978 and 1983 work in the treatise *The Physiology of Flower Bulbs* and her listing in the *International Directory of Specialists in Herbs, Spices, and*

Medicinal Plants. Both of these books were published in 1993, fifteen years after the publication of her earliest work on the subject and nearly a decade prior to the filing of her petition. Although the evidence establishes that the beneficiary is recognized for her expertise in saffron, it does not show that her articles have been consistently cited in a manner that reflects sustained national or international acclaim. Accordingly, the beneficiary does not meet this criterion.

(vii) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.

The petitioner submitted copies of the beneficiary's abstracts and other evidence of her participation in various scientific conferences in her field. The director found this evidence inapplicable to this criterion because the conferences were not artistic exhibitions or showcases. Counsel does not contest this determination on appeal. We note that even if we considered the documents submitted under the comparable evidence provision of 8 C.F.R. § 204.5(h)(4), they would still be insufficient to establish the beneficiary's eligibility. Frequent presentation of research findings is intrinsic to the scientific profession. Thus the evidence must establish that the alien's role at a given conference reflects sustained national or international acclaim and does not simply document the alien's continued activity in his or her field. The record in this case does not do so. Although the beneficiary has attended several conferences in her field, the evidence does not indicate that she has been a featured speaker or in any other way distinguished from other participants. In fact, the evidence shows that the beneficiary has presented her work at conferences mainly through posters and abstracts.

(viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

To demonstrate eligibility under this criterion, a petitioner must establish the nature of the alien's role within the entire organization or establishment and the reputation of the organization or establishment. Where an alien has a leading or critical role for a section of a distinguished organization or establishment, the petitioner must establish the reputation of that section independent of the organization itself. The petitioner originally claimed that the beneficiary met this criterion through her work at the Hebrew University of Jerusalem, the University of British Columbia and at his company, [redacted] The director determined that the beneficiary did not meet this criterion, but did not fully discuss the relevant evidence. On appeal, counsel contends that the beneficiary plays a crucial role for the petitioner due to her "horticulture business-related contributions." We find that the record demonstrates the beneficiary's eligibility under this criterion by virtue of her work for the petitioner, but not for her former employers.

The record is insufficient to show that the beneficiary met this criterion through her work at the Hebrew University of Jerusalem. A letter from Professor Meira Ziv confirms that the beneficiary was a "senior research associate" in the Department of Agricultural Botany of the Hebrew University of Jerusalem from August, 1991 to November, 1993. Professor Ziv states that the beneficiary was "a leading researcher in projects dealing with newly introduced flower crops" and notes her "leading research and application, in collaboration with Israeli growers, on *Crocus Sativus*." The beneficiary also worked with Professor Ziv's "group on Nerine, Gladiouls, Brodiea, as will [sic] as Banana and Aspen in liquid cultures in bioreactors." In particular, the beneficiary "provided anatomical information which helped solve some of the problems of malformation encountered in large scale liquid cultures particularly with banana plant propagated in tissue culture." Professor Ziv adds that the beneficiary provided "training to some of our graduate students and researchers." The record also contains a printout from the University's website, a copy of a brochure of the University that states that its "researchers are at the forefront of international science" and a copy of a brochure for the Faculty of Agriculture, Food and

Environmental Quality Sciences that includes a two-paragraph description of the Department of Agricultural Botany. This evidence indicates that the petitioner made valuable contributions to, but did not play a leading or critical role in Professor Ziv's research group. The record also contains no independent evidence that the Hebrew University of Jerusalem's Department of Agricultural Botany is recognized for its distinguished reputation.

Similarly insufficient is the evidence regarding the petitioner's work at the Biotechnology Laboratory of the University of British Columbia. Professor Brian Ellis states that the beneficiary "was a valued member of my research group at the University of British Columbia from August 1994 to [December] 1999." The successful results of the beneficiary's research conducted at Professor Ellis' laboratory were discussed above under the fifth criterion. Professor Ellis explains that the beneficiary first joined his group as a volunteer and then became a "research associate" when she successfully obtained funding for her research on *Scilla peruviana*, *Eucomis* and the calla lily. He notes that the beneficiary "provided effective training for the personnel who worked with her" and that her research associate later became a manager of a commercial tissue culture facility. Although he opines that the beneficiary "ran the best research tissue culture facility in British Columbia during the two year period that she worked at the University," he does not state that such a facility was critical to his laboratory or that it continued after the beneficiary left. Rather, the letter indicates that if the beneficiary had not volunteered and then later secured her own research funding, Professor Ellis would not have been able to employ her. The record also contains a printout from the website of the University of British Columbia that states that the University is "aspiring to be Canada's best university." The record thus indicates that the beneficiary engaged in valuable research while working at Professor Ellis' laboratory, but it is insufficient to establish that she played a leading or critical role. The record also contains no evidence that the University of British Columbia and the Biotechnology Laboratory have distinguished reputations.

The record is also insufficient to establish the beneficiary's eligibility by virtue of her recent work for the petitioner. The petitioner's September 6, 2002 letter accompanying the petition claims that the beneficiary "currently serves in a leading and critical capacity as a plant biologist for [redacted] The petitioner states that the beneficiary's work has allowed the company to introduce new plant varieties which has in turn "increased company revenues and created several new job openings. Her work has allowed us to maintain our competitive edge by the introduction and development of new crops and the improvement of existing crop selections." The record also contains an organizational chart of the "Research Division of [redacted] that places the beneficiary on top as "Lab Director/Lead Research Scientist (Reports to CEO)." The beneficiary supervises a Field Researcher/Quality Control Manager, Lab Pathologist and Field Pathologist/Plant Breeder and other staff. The chart notes that "[a]ll staff is new since [redacted] joined the company" except for the Field Pathologist/Plant Breeder. The petitioner submitted charts indicating that from 2000 to 2002 the beneficiary's work enabled the company to increase its plant varieties from 21 to 107 and its total plant production from 263,551 to 1,253,500. The petitioner states that this "increased output of new plant varieties has in turn increased company revenues and created new job openings." The record contains tax returns and financial reports showing that the company's gross sales increased from $16,250,790 in 2000, the year the beneficiary began working for the company, to $19,622,794 in 2002, the year the petition was filed (on September 27). This evidence demonstrates that the beneficiary performs a critical role for the petitioner.

The record also indicates that [redacted] has a distinguished reputation. Evidence submitted regarding [redacted] reputation includes: 1) an undated, incomplete copy of an article entitled "The Calla Lilies are in Bloom Again" from an unidentified source that states that [redacted] "is the largest grower of colored callas in the world;" 2) an undated article from www.homestore.com that also refers to

[redacted]s "the largest grower of colored callas in the world;" 3) excerpts from *Greenhouse Management and Production* magazine that briefly mention [redacted] new calla varieties; 4) A short entry under "New Varieties" in the August 1999 edition of *GrowerTalks* that begins: "One of our favorite stops each year is at [redacted] where company president Tom Lukens wows us with his enthusiasm and knowledge of calla lilies;" 5) an undated article from an unidentified source that discusses the company's move to Watsonville, California; 6) an article entitled "15 Must-Dos for Quality Callas" written by tw[redacted]employees and published in the Fall 1999 edition of *GrowerTalks*; 7) an advertisement for the company's "California Callas" published in the October, 2000 edition of *FloraCulture International*; and 8) a short entry under the company's name in a piece entitled "Pack Trials 2002 Part II" published in the August, 2002 edition of *GrowerTalks* that notes "HIPP – High Input Potted Product: That's the hottest thing in calla lilies since Bonzi. It's also top secret technology. [redacted]President Tom Lukens would only say that it's a method of producing calla bulbs in greenhouses rather than in the field." In response to the second RFE, the petitioner submitted three more substantive articles that feature Golden State, but were all published after the petition was filed and consequently cannot be considered. Eligibility must be established at the time of filing. *See* 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). Yet the remaining evidence is sufficient to show that [redacted] is a recognized leader in its industry, specifically for its expertise in colored calla lilies. Thus we find the record establishes that the beneficiary performs a critical role for the petitioner, a company with a distinguished reputation in the floriculture industry and thereby meets this criterion.

(ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The petitioner originally claimed that the beneficiary met this criterion because her purported salary of $70,000 was above that of the level two wage for a biologist in Santa Cruz County, California according to an Occupational Employment Statistics salary survey. The first RFE asked the petitioner to provide primary evidence of the beneficiary's income and additional comparative evidence for the salaries of plant biologists and horticulturists. The petitioner did not submit the requested evidence and the director correctly determined that the evidence was insufficient to meet this criterion. Counsel does not contest that determination on appeal.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act only if the petitioner can establish the alien's extraordinary ability through extensive documentation of sustained national or international acclaim demonstrating that the alien has risen to the very top of his or her field. The petitioner bears this substantial burden of proof. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner in this case has not sustained that burden. The evidence indicates that the beneficiary is a valued researcher who is a noted expert on the saffron crocus and serves a critical role for a distinguished floriculture company. However, the record does not establish that she is a scientist of extraordinary ability. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.

U.S. Department of Homeland Security
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Washington, DC 20529

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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U.S. Citizenship and Immigration Services

PUBLIC COPY

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FILE: [redacted] Office: VERMONT SERVICE CENTER Date: SEP 0 2 2005
EAC 03 242 51865

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

Review of Citizenship and Immigration Services (CIS) records indicates that, subsequent to filing the instant petition, the petitioner filed another Form I-140, receipt number EAC 04 098 50202. That petition for classification under section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2), was approved on March 30, 2005. The alien's Form I-485 Application to Adjust Status, receipt number EAC 04 111 50024, was approved on March 31, 2005. Because the alien has adjusted to lawful permanent resident status, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed, based on the alien's adjustment to lawful permanent resident status.