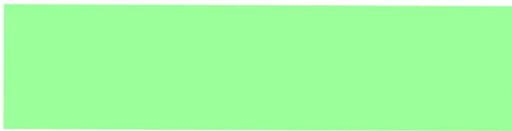


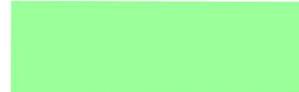


U.S. Citizenship
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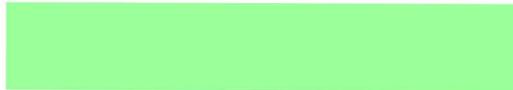
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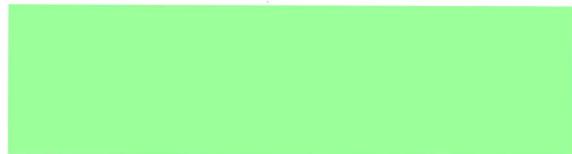


IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. We will dismiss the appeal.

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability in the sciences, the arts, or business, and as a member of the professions holding an advanced degree. The petitioner is a petroleum engineer. At the time the petitioner filed the petition, he worked for [REDACTED] (described as the successor in interest of [REDACTED]), and stated his intention to continue working for that employer. U.S. Citizenship and Immigration Services (USCIS) records show that he left that employer during the first half of 2013, and has since begun working for [REDACTED]. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a legal brief.

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

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –

(A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of Job Offer –

(i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director found that the petitioner qualifies as a member of the professions holding an advanced degree. (An additional finding of exceptional ability would be moot.) The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term “national interest.” Additionally, Congress did not provide a specific definition of “in the national interest.” The Committee on the Judiciary merely noted in its report to the Senate that the committee had “focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . .” S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990, Pub. L. 101-649, 104 Stat. 4978 (Nov. 29, 1990), published at 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991), states:

The Service [now USCIS] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the “prospective national benefit” [required of aliens seeking to qualify as “exceptional.”] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

In re New York State Dep’t of Transportation, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm’r 1998) (*NYSDOT*), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that the alien seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must establish that the proposed benefit will be national in scope. *Id.* Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. *Id.* at 217-18.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien’s past record justifies projections of future benefit to the national interest. *Id.* at 219. The petitioner’s assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The term “prospective” is included here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative. *Id.*

The regulation at 8 C.F.R. § 204.5(k)(2) defines “exceptional ability” as “a degree of expertise significantly above that ordinarily encountered” in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on November 27, 2012. An accompanying statement indicated that the petitioner:

is employed as a Petroleum Engineer for [REDACTED] where he is in the process of discovering, identifying, and evaluating “new” shale plays that would enable the US private producers to reduce the cost of extraction from geological formations that would significantly increase the availability of fossil fuels and US’s energy independence.

The introductory statement provided background information about shale gas production, and indicated that “the U.S. oil and gas industry is experiencing a . . . shortage of experienced technical professionals for upstream exploration and production. This shortage threatens the U.S.’s ability to meet growing energy demands.” The labor certification process is the means by which the Department of Labor confirms that qualified United States workers are not available for a given job opening. A shortage of such workers, therefore, is not grounds for waiving the job offer requirement. See *NYS DOT*, 22 I&N Dec. at 218. USCIS grants national interest waivers on a case by case basis, and does not establish blanket waivers for entire fields of specialization. *Id.* at 217.

The introductory statement stated:

[The petitioner] is a new kind of Petroleum Engineer for the new future of the U.S. oil and gas industry, young and skilled in the areas most needed. . . .

[The petitioner’s] work is critical because:

1. [The petitioner] is an expert in [the] use [of] current industry analytical technologies needed to locate, analyze, assess and access previously bypassed reserves in shale plays;
2. [The petitioner] has a proven and continuing track record of research and technology applications including a publication in a nationally supported technical industry journal;
3. [The petitioner] has a *complete understanding* of his subject area which is *necessary* to the US in our continued search for current and future sources of energy. . . .
4. [The petitioner] is filling a[] timely and urgent need in the US labor market for skilled and trained petroleum engineers experienced in the areas of hard to access unconventional oil and gas exploration and production.

[The petitioner’s] work is therefore at the forefront of the U.S.’s search for current and future energy through the employment of analytical tools, new modeling technologies, exploration of datasets and finally the interpretation of that data.

The petitioner submitted a copy of [REDACTED], a [REDACTED] report for [REDACTED] which names the petitioner as one [REDACTED] authors. Excerpts of the study appeared in the trade publication [REDACTED] in 2007.

In terms of specific achievements, the introductory statement indicated that the petitioner performed “assessments . . . on the [REDACTED] plays in various areas of the U.S. including Oklahoma, Pennsylvania and Texas,” and that he participated in a study that “evaluated a small area known as the [REDACTED] trend.” The petitioner cited various statistics regarding the [REDACTED] play in order to demonstrate that “the economic impact of one shale play is significant.”

The petitioner devoted several pages of his *curriculum vitae* to details of his work, such as: “Identifying new unconventional plays ([REDACTED] utilizing existing old well logs from producing fields” and “Identifying and discovering ‘new’ shale plays containing multi-billion dollar value proved reserves.”

The petitioner submitted five letters in support of the petition. [REDACTED] whose graduate studies at the [REDACTED] overlapped with those of the petitioner, is now a petroleum engineer with [REDACTED]. Mr. [REDACTED] stated that the petitioner’s graduate work involved “performing reservoir analysis to uncover bypassed oil and gas reserves in mature fields. . . . His findings were published in noted industry publications and were cited by other authors and independent oil producers in Oklahoma utilized the findings of his research to increase oil and gas production from their oilfields.” The petitioner did not submit evidence to establish the extent to which his work led to increased production in mature Oklahoma oilfields.

Mr. [REDACTED] also stated:

[The petitioner] has studied an area with no previous shale production, identified the presence of shale rocks, determined the properties of this shale rock and de-risked it by proving the existence of commercially producible oil and gas reserves which he reported to be about 6 billion barrels of oil equivalent. [The petitioner] has designed well completions for producing the oil and gas in this field. . . . [T]his region which was a marginal producer of oil and gas will become one of the huge oil and gas producing areas in the state of Texas due to the impact of [the petitioner’s] work.

[REDACTED] studied alongside the petitioner at the [REDACTED] and, later, the [REDACTED]. Similar to Mr. [REDACTED] Mr. [REDACTED] stated that the petitioner “has been directly involved in the discovery of a new unconventional oil and gas play in Texas with about 6 billion barrels in undeveloped oil and gas reserves.” Neither Mr. [REDACTED] nor Mr. [REDACTED] identified the site or specified the extent, if any, to which the above predictions have borne fruit.

[REDACTED] president of [REDACTED] stated that the petitioner “has made significant scientific contributions to the field of reservoir engineering in unconventional reservoirs otherwise known as shale plays,” but Mr. [REDACTED] did not identify those contributions. He stated:

[The petitioner] was recommended by a partner to perform reservoir engineering field studies on [REDACTED] wells and leases. [The petitioner] displayed

great aptitude and knowledge in the area of reservoir description and management, as well as by-passed and additional reserves determination. Specifically his unique experience with shale plays having worked on the [REDACTED] . . . prompted me to inquire [the petitioner's] opinion on our shale play. . . . I had [the petitioner] gather [a] significant amount of data . . . and had him interpret the results of the data analysis to show the similarities of this play to other known producing shale plays in the United States. . . .

[The petitioner] was able to show that the huge oil and gas reserves in this world class resource play are . . . ready for development and [are] attractive to my investor's interest. With his previous experience, [the petitioner] was also able to suggest the current state-of-the-art well completion and stimulation techniques . . . that will help to recover the most amounts of oil and gas during the development phase of the field.

. . . Another similar producing shale play in South Texas – the [REDACTED] . . . generated over \$25 billion in revenue[,] supported 47,000 full-time jobs in the area and provided \$257 million in local government revenue in 2011.

[REDACTED] is projecting similar economic impact will be realized in its leasehold area. . . . [The petitioner] will continue to provide his invaluable expertise as our company drills and produces these wells.

Mr. [REDACTED] did not discuss the results of the petitioner's own past work to show that his projections of future benefit are consistent with known facts.

[REDACTED] chairman and chief executive officer of [REDACTED] stated that the petitioner "has made several significant scientific contributions to the field of reservoir engineering in . . . shale plays," but he did not identify those contributions or explain their significance. Also lacking detail is his assertion that the petitioner "will soon have new inventions in Oil and Gas which will revolutionize the industry, and be used worldwide." In terms of the petitioner's past work, Mr. [REDACTED] stated that the petitioner "was an excellent source of third party confirmation, on the well logs of the wells his company [REDACTED] and partners had drilled."

[REDACTED] a director of [REDACTED] claimed no expertise in the fossil fuel industry. Instead, she has "worked extensively in the financial industry," and her current company "invests in oil exploration projects." Ms. [REDACTED] stated:

I have known about [the petitioner] since 2011 since his work with Mr. [REDACTED] . . . I was informed that [the petitioner] performed a reservoir field study on the regional area where [REDACTED] had been in operation. [The petitioner] was able to demonstrate that there were additional oil and gas reserves in this area that had not been developed and produced prior to that time. [The petitioner] indeed identified and quantified the volume of oil and gas contained in the [REDACTED] in this

area. This kind of research requires outstanding abilities and talents [and] is only performed by those who are highly knowledgeable and skilled in evaluating shale plays since the shale rocks are not typical like other known producing oil and gas reservoirs. . . .

Development of the reserves in the [REDACTED] will be across the board as it will include both the upstream oil industry and the downstream oil industry as more pipelines will have to be built to be able to transport the increased production of oil and gas to the refineries. It will also impact the petrochemical industry as there will be an increase in domestic feedstock for chemical manufacturing.

Ms. [REDACTED] did not claim that the petitioner discovered reserves that otherwise would not have been found; she stated only that the petitioner performed a task that requires considerable skill and knowledge. The petitioner did not show that his work on the [REDACTED] or on earlier projects has already resulted in economic benefits, such as increased employment, that would not have resulted from the work of a minimally qualified United States worker. (The term “minimally qualified” is not synonymous with “unqualified” or “underqualified” and should not be construed as such.)

The letters submitted with the petition focused on speculation about the possible future impact of the petitioner’s work on projects such as the [REDACTED] without documented examples of comparable past impact. Those letters that credited the petitioner with discovering, or helping to discover, 6 billion barrels of undeveloped reserves in Texas did not show that this discovery was beyond the abilities of minimally qualified United States workers. For example, they did not show that engineers had previously studied the same tracts of land and found no recoverable deposits.

The petroleum industry and related industries, both upstream and downstream, have substantial intrinsic merit and national scope. Major fossil fuel projects, as a matter of course, have a significant economic impact. It does not follow that engineers in the field collectively qualify for a blanket waiver of the job offer requirement. The petitioner must show not only that he works on profitable projects, but that his work stands out from that of others in his field, such that it would be in the national interest to ensure that he, rather than a qualified United States worker, continue to engage in such projects in the United States.

The director issued a notice of intent to deny the petition on September 12, 2013. The director acknowledged the letters and evidence submitted with the petition, but concluded that the petitioner had not established “a past record of specific prior achievement with some degree of influence on the field as a whole . . . [upon] which to base reasonable projections of future benefit to the national interest.” The director instructed the petitioner to “[s]ubmit corroborative and independent evidence to establish the [petitioner’s] influence on the field of petroleum engineering at large.”

In response to the notice, the petitioner stated that he “is innovative in his degree choice,” having pursued a degree “when no one wanted to be in this field despite the immediate job opportunities,”

resulting in “a tremendous short fall of Petroleum Engineers.” We have explained, above, why a shortage of qualified workers in a given occupation would be a favorable consideration in granting, rather than waiving, labor certification.

The petitioner stated that he “has vast and broad experience” in several areas of engineering, whereas “[m]ost engineers specialize in only one area for their entire career,” and therefore “he has no equal in the industry.” The petitioner claimed to have “developed new geologic concepts and models, to re-define and re-assess reservoirs for new potential,” as well as “a novel nano based Gas-to-Liquids technology.” The petitioner did not establish that the field has adopted this technology.

The petitioner indicated that he “is currently positioned as an independent consultant to smaller and independent oil and gas companies, and would prefer to remain in this realm. He does not currently have a job offer that would lead to an employer filing a labor certification.” On Part 6, lines 7-8 of Form I-140, the petitioner indicated that he intended to work in a permanent, existing (not new) position with [REDACTED]. The subsequent assertion that labor certification is inapplicable because he seeks to work “as an independent consultant,” therefore, deviates from his initial claim. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm’r 1998); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg’l Comm’r 1971), which require that beneficiaries seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition. The assertion that the petitioner would work as an independent consultant, unable to obtain labor certification through an employer, did not apply at the time of filing.

The petitioner submitted several new letters. [REDACTED] stated that the petitioner “has presented new insights [and] applied new geological concepts” which are “unique for a reservoir engineer. . . . [The petitioner’s] abilities and concepts have unlimited impacts in re-defining, re-modeling and re-assessing reservoirs that are resulting in identification of sweet spots for exploration, drilling and production of unconventional resources in old or emerging oil fields.” Mr. [REDACTED] asserted that the petitioner’s recommendations have “proved correct as industry activity increases in the area as predicted.”

[REDACTED] second letter repeats much of his first letter with added language regarding the petitioner’s use of “his proprietary tools to identify and evaluate a new shale play in the heart of Texas” “[b]etween 2010 and 2012.”

[REDACTED] mechanical engineer with [REDACTED] worked with the petitioner in 2002 at [REDACTED]. He stated:

[The petitioner] through his knowledge of reservoir/fracture engineering and new insights into geological concepts of sequence stratigraphy has developed a robust methodology for analyzing and integrating geological, petrophysical, geochemical and geomechanical datasets to prove commercially viable shale oil/gas assets. His publications, presentations and recommendations directly led to capital providers

investing over \$10MM to secure acreage in a mature oil field in North Texas and 3 years on, this has led to a flurry of oil/gas prospecting activities by competing oil/gas companies seeking to secure exploration rights to the multi-billion barrel of oil equivalent of shale oil and gas reserves uncovered that directly resulted from [the petitioner's] body of work.

The petitioner did not submit copies of the claimed "publications, presentations and recommendations" said to have led to the investment in Texas. All of the petitioner's papers submitted with the initial submission, and all the publications listed on his *curriculum vitae*, concerned sites in Oklahoma rather than in Texas.

[redacted] general director of [redacted] stated that the petitioner "discovered a petroleum field in South Texas while working for [redacted] assets in that region. This is today one of the biggest producing fields in the State of Texas – the [redacted] field." Mr. [redacted] also listed other projects that the petitioner undertook, one of which, Mr. [redacted] claimed, resulted in [redacted] assessing and proving the commercial value, resulting in a 50,000 acres lease acquisition . . . in West Texas, for the [redacted] play." Mr. [redacted] also asserted:

His presentation of the potential of natural gas from shale sources . . . was adjudged to have a huge impact in the field of petroleum engineering and served as the basis of business development negotiations between [redacted] and [redacted], resulting in a contract of over forty million dollars for the construction of a such a plant to be located within [redacted] It is unfortunate that the contract was not performed because of the bankruptcy filing of [redacted] . . . It is fair to say that [the petitioner] was instrumental and in fact an integral part of the developmental research that is now patented by the [redacted] and the companies.

Mr. [redacted] did not identify the patented technology, and the petitioner did not submit a copy of the patent or show that his name appears on it. The petitioner has not established the impact of the airport project which, from the description above, appears to have been abandoned at a very early stage.

A new letter from [redacted] is largely identical to his previous letter, except that where he had previously referred to an unidentified "area with no previous shale production," the new letter identifies the site as the [redacted]" which "has the potential of becoming one of the biggest shale oil and gas producing areas in the State of Texas partly due to the impact of [the petitioner's] contributions."

The petitioner has submitted some documentary evidence, but it fails to corroborate key claims in the letters. The letters that mentioned the [redacted] used the terms [redacted] interchangeably, but the documentation relating to the [redacted] does not show that the terms are synonymous. [redacted] in "[redacted];" stated that the [redacted]

shale is “[a]lso known as the lower [REDACTED]” The petitioner has not shown that the term “[REDACTED]” refers to the entire [REDACTED] rather than to a smaller subdivision thereof.

A report that the petitioner prepared for [REDACTED] indicated that “[t]he [REDACTED] . . . [is] attracting a lot of attention in the industry currently and is being described in recent industry publications as potentially the largest shale play in the United States. . . . Currently, the industry is estimating the resources within the [REDACTED] at about 30 billion barrels of oil equivalent.” The petitioner’s biographical sketch at the end of that report indicates that he “discovered . . . the [REDACTED] A separate [REDACTED] indicated that the petitioner discovered the [REDACTED] by reviewing, in 2010, data gathered in 2004, which showed that “the reservoir characteristics of the Shale . . . [are] similar to existing prolific producing shale gas plays in the US.” The petitioner’s initial submission did not identify the [REDACTED] by name, and the petitioner has not submitted any independent, documentary evidence (as opposed to his own claims and letters prepared specifically to support the petition) to confirm this claim. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm’r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg’l Comm’r 1972)).

The petitioner claimed that he “identified the [REDACTED] site in 2010[,] two years before the general public” became aware of the site. The petitioner submitted copies of electronic slide presentations that he prepared, referring to the [REDACTED] field. The presentations show creation dates in mid-2010 and early 2011, and “Last Modified” dates in October 2013, when the petitioner responded to the director’s notice. The record does not specify the nature of the modifications.

The petitioner submitted a printout of an article, [REDACTED] [REDACTED] Though undated, the article originates from *circa* December 2012, as shown by a passage which reads: “we will know a lot more about the [REDACTED] potential in about four months, at the end of the first quarter of 2013.” The article also stated: “Over the past three years, some of the biggest exploration companies have set up shop in the area.” Taken together, these two passages indicate that exploration of the [REDACTED] began in late 2009, although the petitioner claimed to have identified the field in the summer of 2010.

The petitioner, in his biographical sketch, claimed that he “also discovered the [REDACTED]” [REDACTED] in his letter quoted earlier, mentioned the [REDACTED] but did not credit the petitioner with its discovery or initial exploitation. The petitioner’s previously submitted *curriculum vitae* indicated that he performed assessments on unconventional plays, including [REDACTED] but not that he discovered it. The petitioner’s claimed work on [REDACTED] began no earlier than April 2010, when he began consulting with [REDACTED] but background materials submitted with the petition show that oil and gas production from [REDACTED] was already underway in 2008. The record therefore does not support the petitioner’s claim to have discovered the [REDACTED]

The director denied the petition on May 3, 2014, stating that the petitioner's initial evidence included "generic statements" that "do not describe in sufficient detail the exact nature of the [petitioner's] work." The director determined that the petitioner's work had led to successful investments by his employers and clients, but did not show influence on the field as a whole. The director acknowledged the intrinsic merit of the petitioner's occupation, and the national scope of the benefit from the occupation. The director's discussion focused on the third prong of the *NYSDOT* national interest test.

The first 17 pages of the appellate brief comprise excerpts from previous statements submitted with the petition and the response to the notice of intent to deny the petition. We have already addressed these materials. The petitioner asserts on appeal that the director failed "to use the two-step approach developed by the *Kazarian* case to the evaluation of evidence regarding exceptional ability." The director, however, did not deny the petition based on a failure to establish exceptional ability. The director acknowledged that the petitioner is a member of the professions holding an advanced degree. A separate finding of exceptional ability would not have changed the outcome of the proceeding.

The petitioner asserts that the submitted evidence "**clearly demonstrates** that Petitioner has had influence on the field of petroleum engineering. First, Petitioner's colleagues **clearly note** that Petitioner has had an influence on his field. With respect, it is Petitioner's position that Petitioner's colleagues are in the best position to evaluate Petitioner's work" (emphasis in original). The petitioner asserts that the submitted letters are the best available evidence of his influence on the field, because he has worked "for private industry which is why there has not been a great deal of published information."

The petitioner has asserted, correctly, that letters have some weight in this proceeding, but letters alone cannot establish claims of fact for which first-hand verifiable evidence ought to exist. The Board of Immigration Appeals (BIA) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The BIA also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The opinions of experts in the field are not without weight and have received consideration above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as above, evaluate the content of those letters as to whether they support the alien's eligibility. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA 2008) (noting that expert opinion testimony

does not purport to be evidence as to “fact”). *See also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm’r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg’l Comm’r 1972)).

As explained further above, the letters include claims of fact that the record does not corroborate, such as the assertion that the petitioner discovered the [REDACTED]. Rather than show that the petitioner has made contributions beyond the capabilities of others in his field, or is responsible for innovations that others have since adopted or emulated, the letters indicated that the petitioner has helped his clients by using technologies and methods already found in the field.

The record shows that the petitioner has identified promising sites for oil and gas exploration, but he has not shown that this is beyond what is expected of engineers employed for that purpose. The petitioner has established that the identification of the [REDACTED] has made significant news within the industry, but he has not submitted sufficient verifiable, documentary evidence to support the claim that he identified the [REDACTED] (as opposed to subdivisions or individual well sites within it).

The petitioner has not established a past record of achievement at a level that would justify a waiver of the job offer requirement. The petitioner need not demonstrate notoriety on the scale of national acclaim, but the national interest waiver contemplates that his influence be national in scope. *NYSDOT*, 22 I&N Dec. at 217, n.3. More specifically, the petitioner “must clearly present a significant benefit to the field of endeavor.” *Id.* at 218. *See also id.* at 219, n.6 (the alien must have “a past history of demonstrable achievement with some degree of influence on the field as a whole”).

As is clear from the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

We will dismiss the appeal for the above stated reasons. In visa petition proceedings, it is the petitioner’s burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BLA 2013). Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.