



CALIFORNIA FARM BUREAU FEDERATION

NATIONAL AFFAIRS & RESEARCH DIVISION

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**Testimony of
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House Judiciary Subcommittee on Immigration Policy and
Enforcement
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Good Morning, Chairman Gallegly and Vice-chairman King, Ranking Member Lofgren, and distinguished Members of the Subcommittee. I am Paul Wenger, President of the California Farm Bureau Federation (CFBF). I am a third-generation almond and walnut farmer in Modesto, Ca. CFBF is the largest general interest farm organization in the largest farm producing state in the nation. The California Farm Bureau Federation works to protect family farms and ranches on behalf of more than 74,000 members statewide, who produce a variety of fruits, nuts, vegetables, livestock, dairy, flowers, shrubs, and other crops that feed and clothe the world.

I am here today, because farmers and ranchers across the nation need a solution that provides a legal workforce to cultivate and harvest our crops and tend our livestock. Any solution must be economically practical and recognize the value of the people who work in agriculture to provide Americans with products grown in the US.

The national agricultural workforce consists of an estimated 1.83 million hired workers. According to the U.S. Department of Labor's National Agricultural Worker Survey (NAWS), more than half of agricultural workers are unauthorized. However, that estimate may be too low. Some experts estimate that 70% or more of hired farm employees responsible for America's fruit, vegetable, dairy, livestock, nursery plant, and other production are, in fact, not authorized to work in the United States. In California alone, we rely on 400,000 employees during peak season. The Agricultural sector is diverse, year-round and highly labor-intensive, with many commodities that require human hands for cultivation and harvest. Crops like dairy, sheep herding, strawberries, leafy greens, tree fruits, grapes are cared for and harvested by a labor force that is mostly foreign born.

Agriculture is a very diverse industry; the needs across sectors and states are similarly diverse and cannot be addressed through a one-size-fits-all, single-program solution. It is not a problem confined to agriculture in the northeast, southern Border States or western states. This also is not just a problem for large farmers. According to U.S. Department of Agriculture, 60% of hired farm labor is hired by farms with annual sales less than \$1 million.

One study done by Center for North American Studies, Texas AgriLIFE Extension Service found more than three-fourths of employers surveyed in that state indicated that labor shortages had already forced them to reduce the size and/or scope of their operations. Others reported considering moving to another country or going out of business entirely. Labor shortages approaching 17 percent occurred among nearly two-thirds of the firms responding to this survey during 2006 and 2007. Labor shortages for 2008 were expected to range from 11-14 percent. Onion and melon crops were most affected by labor shortages and those shortages were expected to be most prevalent in May-June 2008. An aging workforce also affects the industry with employers reporting that 28 percent of their workers exceed 45 years of age, which is fairly old for field labor employees. Employees 25 years of age and younger represented only 10 percent of the labor force.¹

¹ Parr Rosson, Flynn Adcock, Marco Palma, Luis Ribera and Jose Pena, *Hired Labor use in the Texas Fruit and Vegetable Industry*, (Center for North American Studies, Texas Agrilife Extension Service, 2008)

Imposing Mandatory E-verify

We are here today because last year, this committee approved a bill that would make E-Verify mandatory for all employers, regardless of size or industry. That bill offered no solution to address the unique challenges that a national E-Verify mandate will create for agriculture. As a result, we would be forced to oppose any E-Verify legislation that does not address the farm workforce supply issues a national E-Verify mandate will create. We are here today because a growing number in Congress are beginning to recognize what we in agriculture already know: E-Verify without a workable, economical way to ensure a legal agricultural workforce will be a disaster for American agriculture. E-Verify without a workable solution will send American agricultural production, and the on-farm and off-farm jobs that go with it, to other countries.

We need not speculate about what will happen “the day after” if Congress chooses to impose a national E-Verify mandate. We have ample experience from Alabama and Georgia where there is not an available domestic labor force for our industry, including prisoners and parolees. One Florida citrus harvester found his workforce dried up as a result of the mere discussion of an E-Verify mandate in Florida. After the state’s employment service was unable to help him, he turned to his local sheriff, who offered him inmates on work-release. Sixteen inmates made themselves available, but only 8 actually showed up at the farm; 2 finished the week; none returned for the next week.

Experience also shows us there is no realistic prospect of a domestic work force for agriculture. We in California have learned the hard way that few Americans seek agricultural jobs. In the late 1990’s, facilitated by the leadership of Sen. Dianne Feinstein, a multi-county welfare-to-farm-work program was launched in the Central Valley. Regional unemployment rates ranged from nine to 12 percent; in some localities, unemployment exceeded 20%. State and county agencies and grower associations collaborated to identify cropping patterns, labor needs, training, transportation, and other impediments. Out of over 100,000 prospective “welfare to work” placements, three individuals were successfully placed. In the aftermath of the program, several employment agencies indicated – in writing – that they would no longer seek to place the unemployed in seasonal agricultural work. Other examples of this “on-the-ground” truth include the UFW’s “Take Our Jobs” campaign, which placed a total of 9 people in agricultural jobs, few of whom lasted more than a few days.

These jobs are not for the unskilled, farm work requires experience, stamina and dedication. As our society has grown older, better educated, and more urban, our native-born seek other jobs outside the agricultural sector. A farmer cannot survive and compete without a skilled and dedicated workforce.

Agriculture needs a timely solution that will work in the real world. A day without harvesting a ready to pick crop can result in lost product and lost markets. Whatever the components of a solution, the challenge is real. The solution we need must somehow fill the gap between the tiny legally-authorized workforce and the agricultural needs. Our industry today employs at least 900,000 and possibly 1.2 million unauthorized workers with special skills and abilities that we cannot exist without. The daunting reality is that a true solution must be capable of converting or replacing these workers with legally authorized workers.

Any solution must address the following:

A workable solution must deal with the industry's ongoing need for a future workforce.

The overall size of our workforce has been stable for decades. Because much agricultural work is seasonal, intermittent, and physically demanding, agriculture does not attract a domestic workforce. Some advocate for improvements to the existing temporary work visa program intended for agriculture, the H-2A program. Let me be clear; while few producers in California have been able to utilize the H-2A program we support improvements to it. The program has long needed an overhaul; the Department of Labor's new rules that took effect March 15, 2010 have nearly destroyed the program.

There are many examples of the dysfunction of the current H-2A program. One of New York State's largest apple producer's experience helps prove the point. In 2010, delays in processing meant 100 H-2A visa holders failed to arrive on time for the harvest. His apples were harvested, but quality had deteriorated by the time the workers arrived, and those quality losses are now showing because the apples have not stored well and have lost market value. The grower is now seriously thinking of pushing out trees and leasing the land to others who grow lower value but mechanized grain crops. The instability of the H-2A program is not worth the gamble on growing apples. In addition to loss of payroll, taxes, and other local impacts, 18 full time American jobs and a 300,000 bushel apple crop are at stake.

While the program provides only a tiny share of the industry's workforce, in some sectors and some regions the program is important for producers who can use it. H-2A reform is a vital piece of the reform puzzle. However, the program suffers from huge structural, administrative and other flaws that make it unlikely the program can scale up to meet the huge need:

- California relies on the labor of at least 400,000 hired farm and ranch workers each year. In 2009, only 3503 farm jobs in California were certified for H-2A.
- Florida farmers directly hire farm employees to fill 115,306 positions. In 2009, 5820 jobs were certified for H-2A, meaning that H-2A provides, at most, 3.8% of Florida's needed farm labor.
- In Texas, about 100,000 workers fill roughly 155,000 farm jobs each year. In 2009, only 2807 farm jobs in Texas were certified for H-2A, meaning that H-2A currently fills only 1.8% of Texas' farm labor needs.

California Farm Bureau is a member of the National Council of Agricultural Employers, which recently released a study illustrating the major flaws of the H-2A program; I have a copy of that study with me today, and I respectfully request that it be included in the record of this hearing.

Yet even if H-2A could be substantially improved, reform of that program cannot alone stabilize the farm labor situation. Extensive reform of the program, intensive education of agricultural

employers and expansion of the Department of Labor's labor certification program and American consulates abroad would be needed for H-2A to provide a meaningful percentage of the agricultural labor force. It will be impossible for the program to scale up quickly from admitting 50,000 to 60,000 workers to admitting the much larger numbers agriculture will need the day after E-Verify becomes the law of the land.

To ensure our industry a future workforce, we need a new program model that is more flexible, scalable, and market-oriented. Such a program can only succeed with less interference from government at the state and federal level. That kind of interference has hampered the H-2A program, making it unusable for most producers. It should include biometric visas, and incentives for workers to abide by the terms of their visas and return home when the work is done. The closer a new program comes to replicating the way the farm labor force moves now among employers and crops, the more likely it will be able to meet the industry's needs. Agricultural and rural organizations agriculture should be able to file the required paperwork with the agency on behalf of producers seeking labor. To ensure programs actually work, they likely need to be administered by USDA instead of the Department of Labor, which has a long and checkered history of misadministration of the H-2A program.

A workable program must also see to the needs of the dairy and livestock. Western dairies and ranches may be larger than their counterparts in many parts of the country, but again, the problem of finding a viable, legal workforce is the same, only the scale is different. It is not merely an issue of raising wages and benefits to attract more domestic workers. The jobs in the dairy industry typically start at twice the minimum wage with some additional benefits. However, time and time again few applicants apply and rarely any of the applicants are still working by the end of the first week. Under current law, dairies and ranches have no "safety net" program to obtain legal workers. The industry needs work visas that allow workers to stay long enough to meet the industry's year-round needs. It also needs options for the experienced dairy workforce currently in the country to obtain a visa authorizing them to work here legally.

Any solution must avoid needless disruptions of the industry and must accommodate the large, experienced labor force our industry has now. Our industry now has an experienced workforce that we rely on to help us operate our farms and ranches. It has been and will be impossible to find and deport the current unauthorized farm workforce and replace it with new workers properly authorized under a new visa program or a combination of a new program and improved H-2A. Any solution must deal somehow, in a practical and humane way, with current workers. For others, especially long-tenured and highly-skilled employees and employees with close family members who are U.S. citizens, options beyond temporary visas are needed. The most important features of a solution for our industry will be to recognize that many of our workforce want and need the ability to come to the U.S., work on our farms and ranches, and return to their home country.

The consequences of getting it wrong are very serious. California leads the nation in fruit, vegetable, dairy, and nursery production. These sectors are high-value agriculture, responsible for farm income and farm-dependent jobs that sustain communities and economies in California and across the country. Agriculture is a \$38.5 billion industry that employs 175,000 Californians every day, and as many as 400,000 during peak season per year. Across America, several million jobs are at risk, both on the farm and in farm-dependent business that provide goods and

services used by farms: every single on farm job in California creates three jobs the metropolitan areas of the Central Valley, the Central Coast, and other important agricultural areas. Undoubtedly, denying our industry a means of obtaining a legal workforce will jeopardize the Nation's economy and deprive our state of an important economic engine.

Impacts to American farmers

Imposing an E-Verify mandate will endanger America's food supply, grown in America. USDA statistics show that foreign producers are gaining market share in the U.S. Fruit and vegetable exports from China have increased 555.6% over 10 years; Mexico has seen a 156% increase in their share of the U.S. market and Peru has seen a staggering 693% increase. American producers have responded to this by moving some of their operations out of California and other parts of the United States, taking jobs and economic vitality with them. Indeed, the United States is well on the road to reliance on food imports, especially in the fruit and vegetable sectors. According to a 2008 Congressional Research Service report:

Over the last decade, there has been a growing U.S. trade deficit in fresh and processed fruits and vegetables. Although U.S. fruit and vegetable exports totaled nearly \$9 billion in 2007, U.S. imports of fruits and vegetables were more than \$16 billion, resulting in a gap between imports and exports of more than \$7 billion. This trade deficit has widened over time — despite the fact that U.S. fruit and vegetable exports have continued to rise each year — because growth in imports has greatly outpaced export growth. As a result, the United States has gone from being a net exporter of fresh and processed fruits and vegetables in the early 1970s to being a net importer of fruits and vegetables today. ("The U.S. Trade Situation for Fruit and Vegetable Products", Renée Johnson, Congressional Research Service, October 15, 2008)

You might wonder why it matters whether we produce our own food or import our food from other countries. The United Nations Food and Agriculture Organization (FAO) recently released a report on global food inflation. That report had some interesting findings:

*The F.A.O. price index, which tracks 55 food commodities for export, rose 3.4 percent in January (2011), hitting its highest level since tracking began in 1990. **Countries not dependent on food imports are less affected by global volatility.** Still, food prices are expected to rise 2 percent to 3 percent in the United States this year. [Emphasis added]*

Imposing an E-Verify mandate without a workable way for farmers and ranchers to obtain a stable, legal workforce will also run counter to consumers' growing interest in organic food, "locally grown" foods and sustainable agriculture. Why? Organic and "locally grown" foods require even more people to produce than conventionally grown food. A successful agriculture industry that can feed America with food grown in America needs all types of producers, growing all sorts of crops that American consumers want to eat. In testimony before the Senate Judiciary Committee last October, Dr. Ronald Knutson, former Director of the Food and Agricultural Policy Center at Texas A&M University testified:

The shift in American diet is new, major, and will require increased production of fruits and vegetables. Farm labor immigration policy will have a major impact on whether the fruit and vegetables used to improve the health of Americans will be produced in the United States or in foreign countries. Initiatives that involve an even higher level of government regulation will assure that an increased share of fruit and vegetable production, as well as of other agricultural products, will be produced overseas—outsourced. (Testimony of Dr. Ronald Knutson, Senate Judiciary Committee, October 4, 2011)

Finally, a 2006 USDA report on the fruit and vegetable sector underscored the importance of immigration reform to the continued economic vitality of American agriculture and the contributions it makes to the economy as a whole. Though the report was narrow in its focus, the implications are equally true for other agricultural sectors including dairy, nursery and greenhouse, and even ranching.

The U.S. fruit and vegetable sector is at a crossroads. As an increasingly important component of U.S. agriculture, with nearly a third of U.S. crop cash receipts and a fifth of U.S. agricultural exports, the industry is becoming recognized by policymakers as pivotal to the health and well-being of consumers and to the economy of rural America. The various challenges facing the sector come from both domestic and international trade arenas. Key issues include labor cost and availability (including immigration reform and access to an affordable labor pool), strategies to enhance domestic demand, increased access and competition in foreign markets, and environmental issues. Confronting these challenges is vital for the U.S. fruit and vegetable industry to continue into the future as a healthy and vibrant sector of the U.S. economy. USDA "Fruit and Vegetable Backgrounder" (Electronic Outlook Report from the Economic Research Service, Gary Lucier, Susan Pollack, Mir Ali, and Agnes Perez, April, 2006).

Conclusion

In conclusion, I urge you to remember that the farmers and ranchers who produce your food need a workable means of hiring the people required to do the work. We need a solution that is economically practical, one that recognizes the impact of our past inability to resolve this problem by resolving the problem in a humane way that recognizes the humanity and value of the people who work for us, and our families.