

Lake Home

Business Services, Inc.

Bookkeeping, Payroll & H-2A Business Services

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Picture of Lake Home Farm, Inc. located in Orwell, Vermont

Good Morning! My name is Alyson Eastman, and I am the President and Owner of Lake Home Business Services, Inc., doing business as Book-Ends Associates. I purchased Book-Ends Associates from the previous owner in 2010 after collaboratively working with her for five years. Book-Ends Associates has been assisting H-2A employers for since 1993. At Book-Ends Associates, we offer a variety of Business Services, including Payroll, Bookkeeping and H-2A processing. I'd like to thank Chairman Leahy, and all the Members of the Committee for providing me the opportunity to appear before you today on behalf of the agricultural employers that I represent in Vermont, New Hampshire and New York as an H-2A Agent. As a member of the National Council of Agricultural Employers and through my work with US Apple I've kept abreast of the Ag issues on a National level through weekly H-2A conference calls and annual meetings.

I am a fourth generation farmer, born and raised on Lake Home Farm, Inc., a 278 acre family dairy farm in Orwell, Vermont. I have firsthand experience with dairy and beef farming. In fact, we sold our dairy cows in 2006 in part because of our inability to hire legal, reliable domestic employees. Since then, we have been raising Grass Fed Beef, which can be managed mostly by my father. Though I still have many family members that currently own and operate dairy farms within a 20 mile radius of our farm, there is not a day that goes by that I regret going into business to assist farmers from the business side.

Agricultural employers face many challenges these days, but a shared challenge faced by all farmers seems to be finding legal and experienced laborers who can provide the agricultural employers with competence, predictability, and stability. In fact, Vermont's Legislature recognized the importance of the H-2A program in our Agricultural Sector- please refer to the enclosed House Resolution H.R. 10. With such help, employers would be free to focus on other aspects of their operations; rather than who will milk the cows, who will harvest the produce or who will process this year's turkeys for Thanksgiving. H-2A currently is limited to a 10 month maximum. The proposed bill would be useful as it no longer draws a distinction between the seasonal and non-seasonal employers such as dairy farmers. This will allow dairy farmers to hire visa workers and also some of their workers could even be considered for legalization. At present, there is no program to get documented workers here legally for dairy. The Vermont Legislature is considering a driving privilege card that is designed to address undocumented workers- refer to S.38. I conclude my introduction by stating a solid Immigration Bill will solidify and resolve many of these above issues.

The remainder of my testimony will concentrate on the following three issues that I feel are most important:

- Misconception that Foreign workers displace US Workers
- Challenges with the current H-2A application process
- Experienced Workers

MISCONCEPTION THAT FOREIGN WORKERS DISPLACE US WORKERS

A common misconception is that H-2A seasonal guest workers are displacing US Domestic workers. In our office we not only facilitate the H-2A Application for USDOL and Immigration Petition for employers, but in some cases we also process their payroll. What I have seen is a direct correlation between the hiring of H-2A workers and the hiring of domestic employees, based on payroll data. In short, the harvest work done by the H-2A seasonal guest workers sets up year-round employment opportunities for domestic help.

I have received permission from two of my clients to share with you data from their operations that will help make my point:

Forrence Orchards, Inc. in Peru, New York applied and petitioned for the following foreign workers in 2012:

- 200 H-2A workers from Jamaica to pick apples over an eight week period
- 12 H-2A workers from Jamaica to harvest apples, prune and grade apples over an eight month period
- 12 H-2A workers from Jamaica to harvest, sort and grade apples over a five month period.

The above foreign workers created 50 year-round domestic jobs. Their payroll for the fiscal year which ended on 6/30/12 was \$2,359,500.00.

Sunrise Orchards, Inc. in Cornwall, Vermont applied and petitioned for the following foreign workers in 2012:

- 44 H-2A workers from Jamaica to pick apples over a 9 week period
- 7 H-2A workers from Jamaica to harvest, prune, pack and grade apples over an eight month period
- 1 H-2A worker from Jamaica to operate agricultural equipment and make deliveries over an eight month period.

The above seasonal workers clearly created approximately 20 US Domestic year round positions. Also to be noted is the fact that this is a \$700,000.00 payroll for the fiscal year end of 12/31/2012.

My point is that without the H-2A workers neither Forrence or Sunrise would find it possible to harvest the apples according to the quality method and therefore would not have a marketable crop for the fresh fruit market that would be

stored, sorted, packed, and shipped – work that in large part is done by “local” help. All employers will tell you that it requires appropriate timing and skilled labor to pick the produce in such a way that will ensure a quality product and market opportunity.

I would also like to add that money earned by H-2A workers is put back into our own economy. Each fall U-haul trucks will be loaded with the following: barrels full with goods from places like Walmart & Costco, purchases such as motorcycles, washing machines, lawn mowers, weed whackers and even chainsaws. The baggage trucks have routes that have been in place for years. The items are all shipped from the Fort Lauderdale Port to the final destination where the worker or their family will claim it. It is cheaper for the H-2A worker to purchase such items in the US and pay to have them shipped to their home country. The convenience stores in the rural locations make sure to stock their shelves accordingly upon the arrival of the seasonal ag workers.

CHALLENGES WITH CURRENT H-2A APPLICATION PROCESS

Employers face many challenges with the current H-2A Application Process, and the majority agree that the issues are simply because U.S. Department of Labor does not understand agriculture. In reading further I believe one will understand the importance for US Department of Ag to administer the program going forward rather than US Department of Labor. For example, in 2010 Stonewood Farm (in my hometown of Orwell) applied for 18 seasonal foreign laborers to assist with slaughtering turkeys from mid-October until the beginning of December. U.S. Department of Labor sent a Notice of Deficiency because as it was unclear to them: 1) who did this work, and 2) why temporary workers were needed. The fact that Thanksgiving happens once a year and this farm had 27,000 turkeys to slaughter and process between October 11th and December 3rd apparently was lost on them! I've enclosed the Notice of Deficiency and the employer's response- please refer to the enclosed pages labeled **Exhibit 1**.

Another example is in 2012, Mother Nature was quick to bring on the warm weather and an early spring in New England. Many apple trees had already gone to bud when they were damaged by an otherwise “normal” spring frost, and in some orchards, much of the surviving young fruits were by hit by hail. Some employers had a total crop loss and therefore did not apply for any foreign workers. In 2013 some of them decided they'd like to apply for foreign workers to clean up the orchard floor and prune the trees, in order to get the orchard ready, after last year's loss. US Department of Labor sent a Notice of Deficiency asking why the temporary dates of need changed from the previous applications.

Please refer to the enclosed pages labeled **Exhibit 2** for the Notice of Deficiency and also the employer's response.

NOTE- many employers are growing new varieties which make their seasons longer and we've experienced numerous Notices of Deficiencies across the country as US Department of Labor requires proof and written justification for the longer harvest schedule.

The application process is very time-sensitive. The employer must: list the job opportunity at 60 days prior to date of need, apply to US Dept. of Labor 45 days prior to date of need, and, if applicable, answer any Notice of Deficiencies in order to obtain a Letter of Acceptance, and then file a Recruitment Report according to the Notice of Acceptance to obtain a Labor Certification. Upon receipt of the Labor Certification an I-129 Petition is submitted to Immigration. It is nearly impossible to get workers here in timely fashion due to the convoluted process and the unnecessary Notices of Deficiencies. These employers are in the H-2A program because they want a legal workforce, reliable, experienced workforce. However, in the last 4 years it has become more difficult for employers to navigate the bureaucratic processes of the program in order to comply with the tougher regulations. The H-2A employers desperately need a user-friendly guest worker program that will enable them to obtain their current legal H-2A employees in a timely manner. For the reasons above, it would be most advantageous for USDA to facilitate the application processing for the proposed Non-Immigrant Agriculture Visa.

I've traveled to DC on several occasions including two bipartisan meeting with US Department of Labor officials and members of Congress which took up the better part of each day. There is bipartisan agreement that the current system is broken and that the H-2A program as it stands today is nearly impossible to use. Workers have been arriving late for many reasons, some I've already stated. It truly means that farms may go out of business if the produce isn't picked timely or the turkeys are slaughtered the week after Thanksgiving. I think back to August of 2010 when there was no movement of workers because Department of State had been notified by U.S. Department of Labor not to let any Jamaican workers enter the country due to an ongoing investigation of Jamaica Central Labor Organization (JCLO). Thankfully, Senator Leahy's seasoned staff quickly sprung into action. An agreement was reached within a week and each employer signed an affidavit that they would not take any deductions from the workers pay for JCLO. Another 48-72 hour delay and we would have seen thousands of bushels of apples on the ground. Needless to say our office didn't get any sleep for a straight week just knowing crop insurance wouldn't cover this type of loss.

EXPERIENCED WORKERS

H-2A workers return to the same employer(s) each year and are like family to the employers. I enjoy going onsite to Sunrise Orchards, Inc. during harvest. It's great to see the entire domestic staff happily greet the bus of H-2A workers as they arrive for harvest. Barney Hodges Jr and his wife Dee raised their children on the farm; now Barney Hodges III is the President. I love the fact that some of their H-2A Jamaican workers have been coming for over 30 years and they talk about watching their boss grow from a young child to a grown man. It is important to H-2A employers such as Barney Hodges III that he can continue to get his experienced workers back each year. Barney has said, "Without these experienced H-2A workers my orchard would be crippled and we'd be done farming and looking at developing."

Please note the term "experienced" and also note the fact that these H-2A workers return year after year to the same farm. Unfortunately, currently in Vermont, H-2A employers cannot require any experience on their H-2A applications. That's right...each employer has to hire any willing and able individual. This is due to the Prevailing Wage Survey, a broken system that is currently in place in Vermont. The survey is an attempt to use wages paid by employers in a given sector as a guide to set wages for H-2A employees. It is poorly handled and lacks credibility. For example, in Vermont the survey goes to all apple orchards, including those that do not use H-2A workers- each orchard is asked if they require experience, what they pay hourly and/or as a piece rate, as well as various other questions. The interesting part is that the only non H-2A Orchards in Vermont are "pick your own," which would make the results inconclusive. For example, an orchard in Vermont has to pay \$1.00 per box of handpicked cider apples, whereas an orchard 1 mile away across Lake Champlain in New York can pay .62 per box for handpicked cider apples.

Imagine for a moment you buy a McDonald's franchise and U.S. Department of Labor tells you that you must hire any willing and able individual and you cannot require that they have previous experience- yet you have to pay them all \$10.91 per hour, provide housing and pay for transportation. This includes high school students. If the worker is not experienced why can't the employer pay start them at minimum wage and give raises on merit?

CONCLUSION

The only con I see is the proposed name of the W-2 and W-3 Visas since all employees' annual wages are reported on form W-2 and the gross for the employer is reported on form W-3.

The pros certainly outweigh the cons. I feel that all employers will be in favor of the written part of the bill which refers to an employer's ability to give preference to the loyal H-2A worker who has worked for the employer three out of the last four years. Also, the logic behind the proposed wage rates seems much more commonsensical and affordable. The idea of the W-2 or W-3 Visa is exciting as it should make the transferring of workers between employers easier and more transparent. Though the majority of my testimony is about H-2A, it is believed that those undocumented workers also follow much of what is said above. It would be a great opportunity for the employer to obtain a legal workforce and provide them with stability. I believe that the public does not understand that the many of the undocumented workers have been paying into Social Security and Medicare with the expectation that they would never benefit from the system. It seems ludicrous to me to even consider sending all the undocumented workers home as it would significantly impact our Social Security and Medicare funding, while at the same time losing those folks who support our farms by doing jobs that Americans simply don't want to do. No doubt that whether one is referring to an undocumented Ag worker or an H-2A Ag worker, they share the following in common: these workers are ambitious and here to work, they want to please their employers and improve their lot in life, and they are willing to do the jobs that we cannot get Americans to do. Let's not forget through doing these jobs that Americans don't want, they create other jobs on the farm for the domestic worker.

Thank you again for providing me with this opportunity to testify. I look forward to answering any questions you might have.