

Written Statement
of
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Titan Farms LLC
Ridge Spring, South Carolina
September 6, 2011

United States House of Representatives
Judiciary Subcommittee Hearing
on
Immigration Policy and Enforcement

"American Specialty Agriculture Act"

September 8, 2011

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Thank you for inviting me to be here today to share with you my thoughts on the “American Specialty Agriculture Act” and why I believe this bill will have lasting positive effects on agriculture as we know it today. I would like to thank the Chairman and his staff for all their hard work on this legislation.

My name is Chalmers Carr. I am the owner and operator of Titan Farms in Ridge Spring, South Carolina. I currently grow 5000 acres of peaches and 700 acres of vegetables encompassing 20 square miles. For the past 13 years my company has been legally employing alien workers via the H-2A guest worker program and this summer we provided jobs, housing, and transportation for over 450 workers. I am also currently president of USA FARMERS, a national organization with over 1000 members representing 34 states and all facets of agriculture. Part of the mission of USA FARMERS is to represent agricultural employers in public policy concerning guest worker programs. In that respect the USA Farmers unanimously support Chairman’s Smith Bill, the “American Specialty Agriculture Act”. In addition, I am active in Farm Bureau and serve as Chairman of the South Carolina Farm Bureau Labor Committee and have previously served as Chairman of the American Farm Bureau Labor Committee.

Due to growing public sentiment surrounding the vast population of undocumented and unauthorized foreign nationals present in our country, numerous states have passed their own immigration laws and/or mandatory E-verification bills. The combination of the states’ action and Congressional discussion of a mandatory national E-verification law proves that now is the time for Congress to take steps to preserve agriculture and to reform the agriculture guest worker program to ensure American farmers have access to a sufficient pool of available legal labor.

Without question, the agriculture industry will continue to be adversely affected by these immigration and E-verification laws suffering greater negative impact than any other industry. Regardless of which statistics you read, it is commonly agreed that well over 50% of the agricultural workers in our country are unauthorized and using false documentation for employment. If bills creating a workable guestworker program, like this one offered by the Chairman, are not passed, then the agricultural industry as we know it today will no longer exist. Without a complete overhaul of the agricultural guest worker program we are at risk of becoming dependent on foreign countries to feed and clothe America. In that regard, this is not only an agricultural issue, but an issue of national safety and security. A country that cannot feed itself cannot defend itself and will be dependent on other countries for basic needs. I feel certain no United States citizen wants to ever see this become reality.

Only a small portion of agricultural employers who require manual labor to plant, cultivate, harvest, pack and process their crops participate in the current agricultural guest worker program offered by our government. This program, known as the H-2A program, is not widely used because of its lack of accessibility, bureaucratic nature, high cost of participation and the readily-available supply of other labor sources. I have made financial sacrifices to participate in this program because I support the laws of our country and this was the only legal means of obtaining the labor necessary for my operation. It is my sincere opinion that farmers are some of the greatest patriots today. We take sincere pride in waking everyday to go to work to produce the food and fiber that feeds, clothes, and provides shelter not only for every American but nearly 20% of the world's population. It is my opinion these same patriots would support the laws of our country and participate in a guest worker program if legal US workers willing to perform the work required were not available. Such a government offered program should allow access and use by all types of agricultural operations regardless of whether they are seasonal year-round employers or processors of agricultural products or animals. Furthermore their participation should not place them at a cost disadvantage in the marketplace, the program should be simple to administer, and frivolous lawsuits from organizations with ulterior agendas should be non-existent.

The agricultural industry has served as an entry gate for illegal foreign nationals to gain access to the US job market for decades. While imposing a nationwide E-verify mandate, Congress has a unique opportunity to find a solution to this repetitive cycle of illegal immigration by creating a new guest worker program coupled with a transitional period allowing agricultural employers and workers to move into the new program.

I commend the Chairman for his vision and comprehension of the dilemma facing agricultural employers and for his leadership in offering the American Specialty Agriculture Act as a solution to this very problem.

Upon passage, the positive initiatives contained in this bill will provide a better and more viable guest worker program for agriculture than exists today. It will also help to shut down the flow of illegal workers entering the US work force who end up in agriculture. As proposed, the Chairman's bill positively addresses most every major issue that has been raised by the agricultural industry for many years.

The bill expands use of the program across the entire industry by dropping the illogical requirement of seasonal employment for participation in the program. The bill properly focuses on the guestworker being "temporary" rather than the job. This provision recognizes the current trend of diversification within the agriculture industry where many growers raise multiple crops over multiple seasons. It also allows for participation by almost every agricultural employer whether they are a six week strawberry producer or a year-round milk producer. I would also like to see the bill clarify that on-farm processors are not subject to arbitrary restrictions on their eligibility to participate in the program.

The transfer of this program from the Department of Labor to the Department of Agriculture is another very positive step. It is logical that as the federal agency most accustomed to servicing the agriculture industry, USDA should be responsible for administration of a guest worker program designed to meet the needs of agriculture. The bill offers substantial protections for US workers and also includes commonsense provisions to ensure its predictability and workability for employers.

While US workers are theoretically available for jobs in agriculture, the reality of the situation is that the vast majority choose not to work in production agriculture. Last year, due to the current administration's disdain for guest worker programs, my company was forced to absorb a 28% wage increase in the H-2A program. Wages jumped from \$7.25 per hour to \$9.12. As a result of high unemployment and DOL referring workers to our farm, I saw a significant increase in the number of US workers applying for jobs. What has not changed, however, is the number of US workers who will perform the job. Over the past year, I had 285 US referrals who applied for and were offered employment. Of that number, 60 never reported to work, another 190 of them quit, with most quitting before the end of the second day of work, and another 20 were terminated for cause. Just 15 workers -- or 5% -- actually completed the term of employment. No employer can effectively conduct business with this amount of turnover in employment and should not be forced to do so! In fact, we have had to hire another secretary just to process all the paperwork associated with hiring all of these workers who then do not show up to work or quit within a few days.

The Chairman's bill calls for the use of a prevailing wage rate for similar employment in the same regional area. This approach is preferred much more so than using the current adverse wage effect rate (AWER), which has been criticized for years for its artificially high wage rates that do not reflect actual market wages in the locality. Although I prefer the wage calculation methodology contained in the bill over the current wage program, I remain concerned about the unpredictability and volatility associated with wage surveys. To the extent Congress mandates a wage for the guestworker program, I support the Chairman's provision but would also suggest that consideration be given to wage rate that is truly market-based and tied to the federal minimum wage. Such a solution would provide much-needed transparency to the process and would help guard against manipulation of wages by administrative agencies, while providing protection for the US work force.

For decades, many farmers have attempted to comply with the law by hiring farmworkers through the overly complex H-2A program but have found themselves subject to predatory lawsuits. Many of these lawsuits involve questionable interpretations of law or hopelessly confusing or contradictory DOL requirements. Too often farmers are forced to settle these cases because it is simply cheaper to do so than to endure years of litigation. The Chairman's

bill would make much needed improvements in this area by including mediation and arbitration to resolve employment disputes, rather costly lawsuits. These reforms are vital to increasing grower participation in the program.

In closing I would like to again commend Chairman Smith for his vision and leadership. I would also like to remind the Committee and Congress that this issue goes well beyond a guest worker program for agriculture. It goes directly to the core of the life we enjoy as American citizens. We have the safest and cheapest food supply in the world. However that will no longer be the case without a viable guest worker program that is embraced by all branches of agriculture. Without guest workers in this country, our domestic food will increasingly be produced abroad.

And so I leave you with this question – would you rather have the food you feed your family grown on our fertile soils under the governance of the USDA and harvested by lawfully admitted foreign nationals? Or will you accept putting food on your dinner table tonight that was grown in a foreign country with unknown production practices and food safety protocols? Either way, the food will still be harvested by a foreign worker. I hope that Congress wants to help ensure American farmers can continue to feed Americans at home, with plenty left over to feed much of the rest of the world.

Thank you for your time and consideration.