

Testimony of Eric A. Ruark, Director of Research for the Federation for  
American Immigration Reform (FAIR) Senate Subcommittee on Immigration,  
Citizenship, Refugees, and Border Security

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Mr. Chairman, and members of the subcommittee, thank you all very much for the opportunity to testify here today. I am Eric Ruark, Director of Research for the Federation for American Immigration Reform (FAIR). FAIR is a national, non-profit public interest organization representing more than 200,000 members and activists nationwide. We have been working for more than 30 years to promote policies that will end illegal immigration, restore moderate legal immigration, and to reform our immigration laws to bring them into accord with the national interest.

### **Farm Laborers and the United States**

The crop farm sector contains the highest concentration of illegal alien workers of any U.S. industry.<sup>1</sup> Securing the U.S. border, enforcing immigration law in the interior, and requiring all employers to hire only authorized workers would have a profound effect on farming operations in this country, but not a negative effect as some have argued. While representatives of the agricultural industry contend that compliance with current immigration law would force farmers out of business, result in crops being left to rot in the fields, and lead to exorbitant food prices, the best available evidence reveals a much different scenario.

The National Agricultural Workers Survey (NAWS), published by the U.S. Department of Labor, the Agricultural Resource Management Survey (ARMS), collected annually by the U.S. Department of Agriculture, and other research by government and academic sources indicate that raising agricultural wages would attract a legal workforce, including Americans, who currently comprise roughly 30 percent of farm workers in the United States. My research estimates that large commercial farms, which are the predominant employers of illegal farm workers, could raise wages by as much as 30 percent and still remain highly profitable, even without passing any of the increased costs onto customers in higher food prices.<sup>2</sup> This finding corresponds to a 2006 study by Philip Martin, a professor at the University of California, Davis, who found that a 40 percent increase in wages for farm workers would result in an average increase in household expenditures on food of \$9.00 per year (in 2005 dollars) if all additional labor costs were passed on to consumers.

### **Description of Farming Operations in the United States**

**Farm size:** The farming sector is extremely diverse in terms of size and profitability, and is classified depending on whether a farm is operated solely for profit or also is the primary residence of the owner/operator. When discussing the use of illegal farm labor, the focus must be on large-scale commercial farms (generating profits of \$250,000 or more) that produce 84 percent of the total agricultural output in the United States. Small commercial farms, those generating annual sales of \$100,000 or less, are not likely to hire

illegal workers because these farms hire, on average, only two workers over the entire year and many do not hire any additional labor at all. Non-commercial farms largely consist of residential farms that rely on non-farm income as their main source of income and whose operators consider farming to be a lifestyle choice. Non-commercial farms also generally do not employ seasonal help and, therefore, are not reliant on illegal alien labor.

**Farm Type:** In our study, FAIR examined farms producing: (i) corn, (ii) soybeans, (iii) fruits, nuts, and vegetables, (iv) general cash grains, and (v) other field crops as classified in the Farm Business and Household Survey, a component of ARMS. Within each category, we examined practices on both rural residence farms and commercial farms between the years 1996-2008. All conclusions about the impact of higher labor costs on farming operation are based on the farm business performance over this period.

**Workforce and Wages:** Approximately half of all farm jobs in the United States since 2000 have been held by illegal aliens, and wages for these workers have been lower than for legal workers across all farm types. Data compiled by the Congressional Research Service (CRS) shows that from 1994 to 2008, the unemployment rate for farm workers was consistently higher than for any other occupation, indicating that there is no labor shortage in this area. Likewise, CRS found that the average hourly wage paid to field workers was half that paid to non-farm workers of comparable skill levels.<sup>3</sup>

### **Assessing the Impact of Higher Labor Costs on Farming Operations**

Using data from NAWS and ARMS, we examined the impact of higher labor costs on profitability of commercial farms engaged in crop farming. The degree of impact of higher labor costs on net farm incomes (NFI) for both commercial and rural-residence farms was examined and a Replacement Cost Model developed using the difference in wages and annual working hours of authorized and unauthorized workers. Our model estimates the labor cost increase under a scenario where all illegal workers were replaced by legal workers employed at the higher wage earned by legal workers.

### **Major Findings**

(a) During the time period we analyzed unauthorized workers consistently accounted for half of all hired farm workers. However, this proportion varies between types of commodity farms. On average, 55 percent of all workers in fruits, nuts, and vegetables farming were unauthorized with the percentage of illegal workers gradually increasing over time. Field crop worker composition displays a contrasting pattern where the average proportion of unauthorized workers has declined sharply from 60 per cent in 1996 to around 20 percent in 2006.

(b) For all commodity farms and skill levels surveyed, authorized workers consistently earned significantly higher wages than unauthorized workers and, on average, this difference has increased. In 2006, the mean hourly wage rate of legal workers in field crop farming was 22 percent higher than that of illegal workers. The difference was 18 percent in fruits, nuts, and vegetable farming.

(c) Total hours of farm work reported by crop farm laborers have gradually increased. The average authorized farm worker worked 700 hours more in 2006 than he did in 1990, and authorized workers have consistently worked more hours annually than their unauthorized counterparts, although this ratio has declined over the years.

(d) All field crop categories experienced insignificant decline in net farm incomes. Within field crops, corn is impacted the least, likely because of the high level of mechanization in this category. Rural residence farms experienced a smaller decline compared to commercial farms across all commodity farms and over all the years studied. This is due to the lower use of hired labor in these farms compared to commercial farms.

<b>Estimated Percentage decrease in Net Farm Income after Imputing Cost of Converting to a Legal Workforce —1996 to 2006</b>				
	<b>Commercial</b>		<b>Rural Residence</b>	
	<b>Average</b>	<b>Worst Year</b>	<b>Average</b>	<b>Worst Year</b>
<b>Corn</b>	1.23%	2.01%	0.43%	0.87%
<b>Fruits, nuts, and vegetables</b>	12.3%	15.5%	5.63%	7.72%
<b>General cash grains</b>	1.64%	2.19%	0.46%	0.55%
<b>Other field crop</b>	5.03%	7.17%	0.85%	0.96%
<b>Soybean</b>	1.00%	1.31%	NA	NA

## **Limitations**

The calculated labor cost increases did not take into account benefits workers may receive above and beyond their reported wages. However, since farm workers generally do not receive significant extra-wage benefits, the impact on our model is minimal. Also, possible transition costs like administrative fees for hiring new workers and costs of possible loss of productivity resulting from training interruptions have not been included. However, compliance with existing laws cannot be reasonably be considered an operating cost unless one assumes that choosing to break the law is a legitimate way to reduce labor costs. To the extent transition costs exist, we estimate them to be minimal. First, a changeover to a legal workforce change will not occur overnight and will realistically be implemented in phases, reducing the impact on the employer. Also, the skill level required of hired farm laborers does not require significant training.

## **Higher Food Costs**

Because paying higher wages to workers will reduce a company's profits, it is likely that a profit maximizing firm will react to a cost increase by passing it on, at least partially, to its customers. While this study has estimated the effect on profits if farms absorbed the full burden of the wage increase, it would be misleading to assert that this would actually be the case. The conclusion here is that commercial farms can absorb substantial labor cost increases, not that they will. Farm workers presently receive only 5 to 6 cents of every dollar spent on agricultural produce. After the 30 percent wage increase, this will increase to 6 ½ to 8 cents. An alternative assessment of the impact of any increase in wages assumes that farms will pass on a part of this cost as higher prices and absorb the remainder as reduced profits. The relative share of the burden of higher costs borne by consumers and producers is determined by the price elasticity of demand of the

commodity. It has been demonstrated that the impact of higher labor costs on net farm incomes is quite small and, when shared between consumer and producer, becomes almost negligible. However, for a farm worker this change could result in a substantial escalation of annual wages (from \$14,000 to \$18,200, 2006 dollars).

## **H-2A Visas**

In a market economy, most producers will not willingly offer higher wages if an abundant supply of cheaper labor is available. As illustrated by our findings, the number of illegal workers has been increasing over the years, which has suppressed wages for farm laborers. Stagnant wages in the agricultural sector over a long period of time have made it difficult to assess whether there is in fact a shortage of legal workers.

The H-2A program provides for the issuance of temporary visas to an unlimited number of temporary foreign workers in the agriculture sector. Workers hired under this program must be paid established prevailing wage rates and have access to affordable housing, food, and transportation. These requirements make the H-2A visa program a less attractive prospect for potential employers who have access to an extensive pool of illegal workers willing to work for low wages. This fact explains the low utilization of the H-2A program. In 2007, only about 5 percent of farm workers had a H2-A visa whereas approximately 50 percent were illegally employed.<sup>4</sup>

In order to design a viable guest worker program it is important to first determine that there is an actual shortage of workers. One must therefore identify and locate any actual labor shortage and the prevailing wage by making sure that only authorized workers participate in the labor market. The underground supply of labor distorts both these market signals making it impossible to judge the feasibility of the H-2A program under the existing circumstances. Those farm operators who are using the highest number of unauthorized workers are also enjoying the highest profit margins, while opposing increased enforcement that would tighten the labor market and increase wages for agricultural workers. They argue that if laws against hiring unauthorized workers were enforced, an acute labor shortage would arise resulting in crops rotting in the field. Government and academics researchers point to stagnant wages and the increasing reliance on labor intensive operations as evidence that there is, at present, no shortage of farm laborers in the United States.

This debate cannot be resolved unless the unabated flow of illegal labor is ended. The market economy is supposed to ensure that jobs are designed for people instead of the other way around and so, if the argument is that the market should decide, then we should allow the market to deal with the necessary structural changes that will occur in the agriculture industry as a result of the implementation of laws that have long been on the books.

## **Recommendations**

The success or failure of a guest worker program, or the willingness of Americans to take farm jobs, cannot be accessed under current conditions that allow a constant supply of illegal workers. Not until the federal government takes seriously its responsibility to secure America's borders and to enforce immigration law will an effective change be possible. Congress must demand that the Executive Branch enforce federal immigration and employment laws, and should provide the resources

necessary for that to happen. Border security and interior enforcement have too long been politicized, much to the detriment of the American people. If national security and national sovereignty cannot transcend partisanship, then there is little hope that any genuine solution can be reached.

However, a solution is not hard to come by if Congress and the federal government are willing to take action. Below are recommendations for achieving a legal agricultural workforce.

- **Secure American's borders and enforce immigration laws on the interior.** The failure to accomplish either of these things has been the result of a lack of political will at the federal level. Holding employers who knowingly hire illegal aliens criminally responsible will go a long way toward minimizing illegal immigration and will greatly facilitate border security. In addition, the ban on open field searches by federal immigration authorities should be ended, bringing the agricultural industry up to the same standard as all other sectors.
- **Make E-Verify mandatory for all U.S. employers.** E-verify is efficient, effective, and extremely accurate. It is not a radically new approach. It is, in effect, an improvement on the current I-9 requirement established in 1986 under IRCA. There is no compelling reason why employers are not already utilizing a web-based program that accesses Social Security and Department of Homeland Security information to determine the work authorization status of employees.
- **Require agricultural employers who hire seasonal workers to comply with the conditions of the H-2A program.** Critics of the H-2A program who point to its low utilization rate are ignoring the fact that the federal government has allowed agricultural employers to circumvent the program by importing illegal workers for the past 25 years. The H-2A program cannot be adequately accessed, and necessary improvements implemented, unless and until employers are required to participate. When Congress passed the H-2A program in 1986, its purpose was to foster the transition to an agricultural workforce made up of American workers. That objective cannot be met if employers resort to illegally hiring foreign workers who drive down wages and conditions for farm workers.
- **Request the Department of Agriculture to report to Congress on wage and working conditions on farms.** A detailed study of the industry, by crop sector, size of operation, and profitability that focuses on the composition of the labor force and the employers who are using foreign labor will give Congress much needed information on the current situation. Relying solely on industry sources for recommendations on farm labor policy is unlikely to provide a reliable or accurate representation of the current situation.

- **Request the Department of Labor to produce a report on the employment practices of the agricultural industry.** The responsibility of the DOL is to protect the interests of all workers in the United States, but its first responsibility is to American workers. The DOL should investigate illegal wage and employment practices in the agricultural sector, and report on the authorization status of foreign national employed on commercial farms. These findings should be presented to Congress.

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#### ENDNOTES

<sup>1</sup> Jeffrey S. Passel, “Size and Characteristics of the Unauthorized Migrant Population in the U.S.,” The Pew Hispanic Center, March 7, 2006 (<http://pewhispanic.org/files/reports/61.pdf>); Steven A. Camarota and Karen Jensenius, “Jobs Americans Won’t do?: A detailed Look at Immigrant Employment by Occupation,” *Memorandum*, Center for Immigration Studies, August 2009 (<http://www.cis.org/articles/2009/occupations.pdf>).

<sup>2</sup> Research findings presented here are found in Eric A. Ruark and Aniq Moinuddin, “Illegal Immigration and Agribusiness: The Effect on the Agriculture Industry of Converting to a Legal Workforce,” Federation for American Immigration Reform (Washington, D.C.: FAIR Horizon Press, 2010). ([http://www.fairus.org/site/DocServer/agribusiness\\_rev.pdf?docID=5541](http://www.fairus.org/site/DocServer/agribusiness_rev.pdf?docID=5541)).

<sup>3</sup> Linda Levine, “Farm Labor Shortages and Immigration Policy,” Congressional Research Service, RL30395, November 9, 2009, p. 11 (<http://www.nationalaglawcenter.org/assets/crs/RL30395.pdf>).

<sup>4</sup> For H-2A visa numbers see, *The Foreign Labor Certification Report: 2009 Data, Trends and Highlights Across Programs and States*, U. S. Department of Labor (Washington DC.: Employment and Training Administration, Office of Foreign Labor Certification), p. 30 ([www.foreignlaborcert.doleta.gov/pdf/2009\\_Annual\\_Report.pdf](http://www.foreignlaborcert.doleta.gov/pdf/2009_Annual_Report.pdf)).