



Testimony of

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**Protecting America's Harvest**

Committee on Judiciary  
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Good Morning Chairwoman Lofgren, Ranking Member King, and distinguished members of the Committee. Thank you for the opportunity to testify today on behalf of the U.S. Apple Association and the Agriculture Coalition for Immigration Reform (ACIR). My name is Phil Glaize and I am a third generation fruit farmer with operations in Shenandoah and Frederick Counties Virginia.

Today, Glaize Orchards operates 650 acres of orchard, along with a packing house and cold storage. We are a medium sized operation for our industry. We have 15 full time employees and employ anywhere from 15 to 80 seasonal employees depending upon the time of year. In addition, we must add 95 harvest workers to this workforce for the months of September and October.

When my grandfather founded the business in 1921 things looked a lot different in Winchester. There were more farms, fewer people, and no pressure from developers. Over the years, the invention of dwarf trees, bulk bins, and packing house automation have allowed us to work more efficiently, but nothing has changed the fundamental fact that apples still need to be manually pruned, and hand-picked. The work is physically demanding and it is temporary, but it is also highly skilled. If you don't pick each apple correctly, the fruit can become bruised, damaged and less marketable. You can also harm the tree's productivity for the following season, and beyond.

What is most worrisome to me as a grower is the reality that we could lose a large portion or even a whole crop if willing and able pickers are not available. This cannot be equated to freezing out in the spring because we can minimize our inputs going forward from the freeze date. At harvest time, all but the picking costs have been invested. Our lines of credit are fully utilized. We have a leveraged investment that must be converted to cash. If we lose apples to the ground due to a lack of pickers, we could easily be forced to liquidate part of the farm to pay our lenders.

As the apples ripen, there is about a 5 day window to pick them at the proper maturity. Different varieties and different strains of each variety allow us to manage harvest timing over the course

of 8 to 10 weeks. We recruit the proper number of pickers so harvest doesn't progress too fast or too slow. A slow down due to lack of productivity, shortage of required workers, or delay in arrival of workers has a domino effect that leads to overripe fruit or fruit on the ground for the rest of the season. The value of the crop can be significantly reduced if time constraints governed by weather are not met.

The bottom line is that for the apple industry and other industries ranging from strawberries to vegetables to dairy to survive, in Virginia and nationwide, we need a legal, reliable, stable and skilled workforce. Farms will convert to low-value grain crops or fail altogether. We will export jobs, we will import food. As this happens, it will likely happen just slowly enough that it won't receive the same attention as an automotive plant moving to Mexico or a factory going to China, but the impact will be the same – loss of jobs, loss of payroll and taxes, loss of dollars spent in our communities on equipment, supplies, and services.

This hearing in part considers whether America needs foreign-born farm workers. The facts speak for themselves. The UFW's "Take Our Jobs" campaign is only the latest effort to try to recruit and place Americans into farm jobs. The results so far are no surprise. In the late 1990's, after Congress passed welfare reform, Senator Dianne Feinstein insisted on establishment of a program to try to place the unemployed into farm jobs in California's Central Valley. State and county workforce agencies and grower associations worked together to map out when and where the labor was needed. Much like today, unemployment was double-digit regionally, and over 20% in some communities. **Yet, fewer than five workers were successfully placed.**

In 2006, the Washington State apple industry acted to avert a looming harvest worker shortage. Again, state and county agencies and grower groups set up an advertising, recruitment, and training program. Roughly 1700 workers were sought. About 40 were successfully placed. The program was documented in a 2007 letter sent by Washington State agriculture director Valoria Loveland to the Senate Judiciary Committee.

I am not suggesting that Americans are lazy. I am suggesting that our U.S.-born population has changed dramatically over the years. We are growing older, we are better educated, we have chosen to live in cities and suburbs. People think our food comes from Kroger or Safeway. Many farm kids themselves pursue a lifestyle off the farm. We have lost much of our culture of

agriculture. It isn't about hourly wages. Our harvest workers earn an average of \$93 for a 9 hour day. The better pickers earn more. Farm workers can earn more per hour picking apples than flipping burgers or stocking shelves in a big-box retail store. But like so many agricultural jobs, picking apples is highly seasonal. It is out in the weather, and it is demanding.

Who is doing the work on the farm? Government statistics tell us that the workforce is over 80% foreign-born, and over half of farm workers are unauthorized. Private estimates run higher. Only two percent come in through the existing H-2A program. While most employers meet their legal obligations when hiring, the realities I describe are well-documented. The late Dr. James S. Holt, a deeply respected expert in farm labor economics, provided extensive testimony on the agricultural labor crisis before the House Committee on Agriculture in October, 2007. I have attached a copy of this important testimony to my own for the hearing record.

So what does this all mean for U.S. jobs and rural communities? Statistically, we know that every harvest worker supports at least three full time jobs. Some are on the farm. More are off the farm, in ancillary industries from equipment sales to box makers to food processing to truckers to port workers handling exports of high-value crops. Rural communities and rural economies depend upon these jobs! But the jobs are tied to U.S. farm production, and if production moves to other nations, so too will these jobs. Their loss will be devastating and irreversible.

The threat is not hypothetical, it is real, and worsening in the face of Congressional inaction. In the 1950's, colleagues tell me there was a thriving greenhouse vegetable industry southwest of Toledo, Ohio. It is gone, largely to Canada. Colleagues in the West report that at least 80,000 acres of high-value vegetable production has left southern Arizona and California for Mexico. Florida tomatoes and citrus are leaving for Mexico and Brazil. In 2008, Texas A&M University noted that 77% of Texas vegetable producers surveyed had reduced the size or scope of their business due to lack of employees. One quarter reported moving some of their operations out of the U.S. Another third were considering such a move. China has requested access to our market for fresh apples and they are the world's largest producer. If the U.S. apple industry were to go out of business, the Chinese are ready to step in and supply our apples.

Ladies and gentlemen, the challenge we face is fundamentally about our food security as a nation. A 2007 examination of USDA import and export data showed alarming trends that should have spurred Congressional action. From 1990 to 2006, U.S. producers' share of the U.S. market for fresh fruits and vegetables declined substantially. Nearly a third of fresh fruit and a fifth of fresh vegetables consumed in the U.S. are now imported, double to and in some cases triple the proportions in 1990. U.S. producers are steadily losing market share to imports of virtually all fruits and vegetables grown in the U.S., including fresh production, but especially frozen and canned production and juices.

We are talking about our ability to produce our own food. Without a stable labor force we will soon see a day where we rely on foreign countries to feed us, much as we do for oil. Is that what we as a country want? I believe that is the legacy we give our children if Congress and the President continue to ignore this critical problem.

Specialty crop production is extremely risky. Average profitability doesn't really give a proper return given the risk we take. For most of us, the reasons we stay in it are not economical. A major life goal for me is to continue to provide jobs for as many people as possible. While only 5% of family businesses make it to the fourth generation, I am compelled to pass on or sell an organization that can sustain itself. Aside from weather risk, which we can't control, there are two issues that will stop the next farmer from growing apples: low prices due to world supply and demand, and the tenuous nature of our current labor supply.

Many say the immigration system is "broken" but what does that actually mean in the real world? I will describe what it means specifically for apples. Apples are grown commercially in over 30 states. We are a \$2 billion industry, with over 7,500 commercial growers nationwide, most of whom are multi-generational family operations. Harvest season is now underway across the country and the crop is strong. Total crop projection for this year is 200 million bushels or about 90 apples for every man, woman and child in the U.S.

To get all of those apples off the trees in the next couple of months it will take over 75,000 harvest workers. Harvest is the culmination of a full-year's work, from pruning the trees in the winter to pollinating in the spring and maintaining the growing crop during the summer.

Harvest season is short and worker shortages can mean the difference between making money and losing money as even a few extra days on the tree can greatly reduce the value of the crop.

Apple growers must be able to count on a legal, reliable, stable, and skilled workforce. Like other labor-intensive crops, few U.S. born “domestic” workers seek these jobs. Growers are forced to choose between using the broken H-2A guest-worker program which is bureaucratic, inefficient and downright unreliable, or hire migrant workers who present documents that appear to be “good” but who may or may not be in this country legally. This is not about wages. These workers – whether legally authorized or not – are on the books, paying taxes and contributing to society.

The “enforcement only” approach currently being employed to immigration policy in many parts of the country has resulted in even more chaos and uncertainty. In the summer of 2009, there were widespread reports of workers fleeing western New York just before harvest started as a result of overzealous enforcement practices. Practices by the Border Patrol and local law enforcement, such as pulling drivers over and asking for immigration papers instead of license and registration, and staking out health clinics and Catholic Church parking lots during the Spanish mass. These practices began under the Bush Administration and have continued under the Obama Administration.

The consequences of immediate 100% enforcement only would drastically limit supply of fruits and vegetables the first year, causing food shortages and skyrocketing prices. The following year, producing acreage would be so limited that imports would fill our shelves. In a short span of time, the safety of our food supply would be dependent on other countries’ good agriculture and good handling practices, and frankly, good will.

I-9 audits in many states have resulted in agricultural employers having to dismiss long-term, valued employees. One Washington state fruit grower was subject to such an audit last year and as a result is now one of the largest H-2A users in the industry, employing 1,250 workers from Jamaica and Mexico this year alone. But the H-2A program comes with massive administrative challenges impacting nearly every grower who utilizes the program.

Growers using the H-2A program are required to aggressively recruit U.S. workers, and to file detailed recruitment reports. State workforce agencies routinely refer workers to H-2A employers during the first half of the employer's H-2A contract. Many referred workers never show up for an interview. Of those that do, few actually report to work. And far fewer stay more than a week or two. Employers who routinely perform pre-employment drug testing are being told they cannot drug test worker referrals.

Users of the program are required to advertise for jobs not later than 75 days prior to the date of need; the practical effect of this is to advance the minimum start date of the H-2A process to more than 80 days. This is so far in advance that many growers have not yet made crop decisions for the year. For apple growers, it is very difficult to predict the number of workers needed as well as the start and stop dates accurately that far in advance. Weather conditions throughout the year play a major role in the size of the crop as well as the start and stop dates for pruning, pest management, harvest and other activities.

A few years ago a neighbor of mine here in Virginia who uses the program realized that due to weather conditions he would need his fall workers to stay several weeks longer than initially anticipated. He filed the necessary paperwork and asked for an extension. By the time he heard back it was nearly Easter the next year, the crop and the workers were long gone. He had to leave apples on the trees.

Just last month, apple growers in the Northeast had a near-disaster when the State Department made a last minute ruling putting the application of hundreds of Jamaican workers in jeopardy just days before the harvest was to begin. Members of Congress intervened and the workers arrived on time (or nearly on time) but just a few more days of inaction could have meant losses estimated at \$95 million for affected growers.

Many of these problems pre-date the Obama Administration. During the Bush Administration, one long-time user had his application *rejected* because – when he could not fit the entire answer to a question on the form in the space provided he wrote "see attachment." The H-2A administrators at the Department of Labor (DOL) told him that he should have fit as much of the answer as possible in the box and then said "see attachment." Another apple industry leader had questions about his applications and had a staff person from his operation spend literally an

entire day hitting the redial button on the telephone before she finally got an answer at the DOL office in Chicago. Close to home, the Frederick County Fruit Growers Association, on behalf of five growers, sent five identical H-2A job orders at the same time to DOL's Chicago Processing Center. Three orders were accepted, two were sent back for changes and the changes demanded were different for each of those two.

So what is the answer? Congress and the President must address this problem *NOW* -- for the future of Glaize Orchards and other businesses like mine. A common sense approach is needed both to reform the H-2A program and find a way to retain long-term valued employees. We must stop politicizing this issue and instead keep in mind that farms and businesses, jobs, rural economies, and our national food security are on the line. That is why I strongly support the AgJOBS legislation.

The AgJOBS bill has been available to Congress for consideration and action since at least the year 2000. And yet, no action has been taken. Some refuse to consider any measure that provides a realistic solution for the experienced and hard working souls whose labor feeds us all. Some refuse to take up worthy individual measures as if every problem with our immigration system can or must be fixed at once. Yet, the costs of inaction are accumulating.

Save our farms, save U.S. jobs, save our rural communities and economies, save our American food supply. Compelling reasons to act. I sincerely hope you will.