



September 8, 2011

The Honorable Elton Gallegly, Chairman
The Honorable Zoe Lofgren, Ranking Member
House Judiciary Subcommittee on Immigration Policy and Enforcement

Re: "The American Specialty Agriculture Act"

Dear Chairman Gallegly and Ranking Member Lofgren,

Farmworker Justice welcomes the opportunity to submit this statement for the hearing on "The American Specialty Agriculture Act." For three decades, Farmworker Justice has been advocating for farmworkers and helping farmworkers improve their living and working conditions. Throughout this time, Farmworker Justice has worked with Congress and the Department of Labor to protect U.S. workers' jobs and labor standards and prevent exploitation of vulnerable guestworkers in the H-2A agricultural guest worker program.

Chairman Lamar Smith's "Legal Workforce Act," which would require all employers in the U.S. to use the flawed E-Verify program to check the work eligibility of new hires, would harm agriculture, where more than one-half of the labor force is undocumented. Many farm operators would lose access to highly productive workers because they are undocumented, threatening their businesses' viability and the jobs of U.S. workers they employ as well. Though the bill includes special exemptions and rules for agriculture, these would only exacerbate problems for farmworkers. For example, agricultural employers would not be required to verify workers who had worked for them in the past. This would disrupt the workings of the free labor market by creating huge pressure for workers to continue working for the same employer. A captive workforce would be reluctant to challenge illegal or unfair conduct by their employers, driving down wages and working conditions for all farmworkers. Many undocumented farmworkers would remain in the U.S. but would suffer at the hands of abusive farm labor contractors who would be hired as farmers seek to escape liability for violating immigration and labor laws.

Though it is clear that a solution is needed to address our farm labor needs, guest worker program "reforms" that slash the protections for U.S. and guest workers are not the answer. The H-2A program allows agricultural employers to bring in temporary foreign workers as long as the U.S. workers do not suffer job loss or negative impacts on their wages and working conditions. The program contains modest worker protections, most of which existed in the notoriously abusive Bracero program. Despite these protections, the H-2A program today is rife with abuse of both U.S. and foreign workers.

Farmworker Justice this week released a report entitled, "No Way to Treat a Guest: Why the H-2A Agricultural Visa Program Fails U.S. and Foreign Workers."¹ The report includes the stories of U.S. citizens and legal permanent residents who were denied work or mistreated because their employers

¹ Available at <http://farmworkerjustice.org/images/stories/eBook/pages/fwj.pdf>.

preferred to hire vulnerable guest workers. The report also exposes the rampant abuse resulting from the recruitment of foreign workers abroad. Many guest workers must pay recruiters for H-2A jobs and enter the U.S. indebted, desperate to work, and fearful that the loss of their job will lead to financial ruin. Bound to their employer and fearful of being deported or denied a visa in the next season, guestworkers routinely accept onerous conditions that U.S. workers are more likely to reject. One former H-2A shepherd quoted in the report referred to his status as “a form of modern day slavery.”

The “American Specialty Agriculture Act” would result in job loss for hundreds of thousands of U.S. workers, lower the wages and benefits that U.S. workers would be offered by employers who claim they can’t find enough workers, and facilitate the exploitation of hundreds of thousands of foreign citizens from poor nations. The proposal would create a new visa, the “H-2C” visa, which would replace the H-2A program after two years. In the two-year interim, the H-2A program would be changed based on the harsh wage cuts and elimination of labor protections that the Bush-Chao Administration imposed and that the Obama-Solis Administration reversed. The Bush H-2A regulations were devastating for US and foreign workers. The H-2C program would eliminate or substantially weaken longstanding protections that evolved to address decades of guestworker program abuses. Growers would have even wider latitude to invent unfair job terms that guestworkers have no choice but to accept to discourage U.S. workers from applying. The H-2C program, for example, would allow employers to “attest” that they will protect U.S. workers and otherwise comply with the law while depriving the government agencies, workers, attorneys and the courts of the means to ensure that those attestations are fulfilled.

The American Specialty Agriculture Act’s approach of slashing wages and working conditions to facilitate the hiring of hundreds of thousands of guestworkers would not fix our broken immigration system nor would it create a stable, legal agricultural workforce. The proposal does nothing to address the presence of roughly one million productive agricultural workers in the U.S. who lack authorized immigration status. In fact, by authorizing a massive influx of guestworkers, the bill would further destabilize the farm labor market, resulting in higher unemployment and a spiraling down of wages and working conditions.

The American Specialty Agriculture Act would guarantee agribusiness easy access to hundreds of thousands of additional foreign workers at low wages with minimal government oversight. The result of this new guestworker program would be the displacement of hundreds of thousands of American farmworkers and sharp wage drops and reduced labor protections for those workers fortunate enough to keep their jobs. Congress should reject this disastrous approach and instead provide undocumented farmworkers with the opportunity to earn legal immigration status with a path to citizenship and strengthen US worker protections in the H-2A program. Rather than replace one vulnerable farm workforce with another, Congress should search for ways to help hard-working farmworkers to improve their wages, working conditions, health, and communities.

Thank you for the opportunity to submit these comments.

Sincerely,

A handwritten signature in black ink that reads "Bruce Goldstein". The signature is written in a cursive, flowing style.

Bruce Goldstein
President
Farmworker Justice