

Mr. Chairmen and members of the committees, good morning and thank you for inviting members of the agriculture industry to this hearing. My name is Chris Baugher. I am Vice President of Operations at Adams County Nursery, Inc., in Aspers, PA. Our farm is a family owned corporation operated by my two brothers, my sister, and me. We grow and market approximately 600,000 fruit trees annually, with the commercial orchard industry as our target market. We also operate nearly 300 acres of orchard with an average annual production of 120,000 bushels of apples, and about 4,000 bushels of peaches.

Our workforce averages 35 to 40 year round employees. 15 to 20 of these are immigrant workers, with an additional 15 to 20 (mostly immigrant) harvest workers hired during apple harvest. The majority of the workers are hired as full time workers.

The legal status of these workers I regret to admit is questionable.

The reason for this situation, however, is, in my opinion unquestionable. It is a lack of action on the part of our Federal Government that has put us in this situation. In 1986 Congress passed IRCA (Immigration Reform and Control Act of 1986) and we as employers started filling out I-9 Forms, to verify the legal status of every new hire. I cannot recall exactly when it happened but my guess is within four or five years. A United States Justice Department ruling stated that because we were not documents experts, if we were shown documents that were the right size and color, and had a picture on it, we were to accept them. Otherwise we were at risk of being charged with discrimination. At this point we were put in an impossible position, and have been there ever since.

To complicate the situation, it has been difficult, in Pennsylvania, to use the H-2A program. In addition to the red tape, pitfalls and headaches involved in applying, the adverse affect wage rate (rate that must be paid to H-2A workers) has always been very high in our area. Adverse affect wage rate is estimated to be \$9.56/hr. for 2008, this puts H-2A employers at a competitive disadvantage. Further, the rumor around the Ag Community was that anyone filing an application for H-2A workers in Pennsylvania was asking for trouble with Friends of Farmworkers, a legal advocacy group focused on farm worker issues. Whether or not there was or is any truth to those allegations I do not know. But this was the atmosphere we were working in.

I realize that this hearing is not to be about immigration, but I thought I should give you my historical perspective.

I very much appreciate your desire to help us in acquiring a legal workforce. That has been our desire for a long time. I have been a member of the Pennsylvania Farm Bureau labor committee since the early 1990's and this has been at the top of our agenda ever since the very first meeting I attended.

So what should the State of Pennsylvania do, and, perhaps as importantly, what should the State of Pennsylvania not do to help?

Immigration / illegal immigration has become a hot button issue in American politics. I have heard it called the new third rail. I am concerned that any attempt, to do anything legislatively at the state level, may, by opening a pandora's box, put at risk the workforce that we now have, and can ill afford to lose. Also, there is some sentiment out there that employers of illegals should be "thrown in jail."

I believe the best role for the State in this case is to educate the Public. Help them understand that we are not hiring illegals by choice. We have been forced into the situation we are in.

Another reason I am concerned is the image of Hispanic immigrants today. To many they are here illegally and therefore automatically criminals. They are often viewed as freeloaders on the welfare system, inner city gangsters, criminals and generally a burden on society.

This is the same image society once had of Irish, Italian, Polish and many other immigrant communities.

The Hispanic community we see does not reflect that image at all. We see hard working individuals trying to make a better life for themselves. We see loving families in a tight knit community taking their kids to soccer games on Saturday mornings. One third of the players on the Biglerville High School soccer team are Hispanic. These are good kids from good families.

Furthermore, the service that these workers do for the rest of society is immeasurable. Picking apples is hard physical work. Many other jobs that must be done in agricultural labor are as well. This work must be done to provide the abundant and inexpensive food supply American consumers have come to expect. Our experience has shown us that most Americans will not do this work.

I believe the State not only should, but must help us to correct this false image. The economy of this State could not survive a series of legislative acts that would drive this important workforce elsewhere.

The gangsters, criminals and welfare freeloaders within every demographic of society need to be dealt with, not because they are a member of some group, because they are a drain on society.

Illegal aliens working in agriculture, but otherwise not breaking the law, are not a drain on society, they are a benefit to society. They need to be dealt with through Federal, not State or Local laws.

Immigration is a Federal issue. The Federal Government needs to fix it.

Availability of workers has fluctuated for us over the past few years. In 2005 we were very short of harvest workers. If my neighbor had not come to my rescue with his crew at the end of the season, we would not have gotten the crop in. In 2006 we had an adequate workforce from the start, but there was no excess of workers. This year has been much the same. Anyone who didn't have their crew put together by September 15 had a hard time finding people.

Historically, during harvest one or two people a week would stop by looking for work. This has not been the case for the last 3 or 4 years.

I believe that growers are not dismissing workers for substandard work, for fear of not being able to find replacement workers. So the feel of things is unstable. If you have workers you need to keep them.

Fortunately we have been able to do that, but the future seems quite uncertain.