

**House Committee on the Judiciary**  
**Subcommittee on Immigration Policy and Enforcement**  
**Hearing on H.R. 1773**  
**Testimony of Christopher Gaddis, Chief Human Resources Officer**  
**JBS USA**

**May 16, 2013**

Mr. Chairman and Members of the Committee, thank you for this opportunity to testify today on H.R. 1773, the Agricultural Guestworker Act of 2013. My name is Chris Gaddis, and I am the Chief Human Resources Officer for JBS USA. JBS USA employs approximately 60,000 people in the United States and is a division of JBS S.A., the largest animal protein processor in the world, with over 120,000 employees globally. My remarks today are on behalf of JBS USA, and also on behalf of the Food Manufacturers Immigration Coalition, a broad coalition of the leading meat and poultry processing companies and a variety of trade associations including: the North American Meat Association, the American Meat Institute, the National Chicken Council, the National Turkey Federation, the National Cattlemen’s Beef Association, and the National Pork Producers Council. We thank the Chairman and his cosponsors for the introduction of H.R. 1773 and for its constructive attention to an essential component of immigration reform – addressing the labor needs of many U.S. employers and the current sources of such labor. There is no question that immigration reform will not be successful unless we reckon with: (i) the needs of U.S. employers for less-skilled labor to take positions that often go unfulfilled by U.S. workers; and (ii) those persons who are present in the United States in an unlawful status who attempt to fill these positions by engaging in document fraud or identity theft.

We believe this legislation contains a number of positive features, and we wish to comment on specific provisions of interest to the animal protein industry.

Definition of Agriculture

We support the definition of “agricultural labor or services” contained in this bill. We believe it important that the legislation recognizes that “all activities required for the preparation, processing or manufacturing of a product of agriculture . . . for further distribution” are an essential ingredient in the agricultural labor equation. These activities, which include the immediate packing or processing of raw agricultural commodities, and the preparation and processing of animal protein products for further distribution in the food chain, are a critical second step in the manner by which our companies feed the country and feed the world today. By recognizing this fact, the legislation updates legal definitions that were last revised in the 1930s or 1950s. Much has changed in our industry in the intervening decades, and much has changed globally: the US and global population has increased exponentially. The resulting food supply chain has developed and evolved in a parallel manner. This definition recognizes the realities of 21<sup>st</sup> century agricultural labor and services, and the drafters are to be commended for that advance.

### 36-Month Stay.

We also support the bill's provision of 36-months of uninterrupted stay for H-2C workers who obtain positions in the preparation, processing or manufacturing of an agricultural product for further distribution. The positions we offer are permanent, full-time, non-seasonal jobs. After an initial probationary period, our new employees are eligible for full benefits, including a 401(k) program. Many of our beef, pork, and poultry plants are unionized, and we have a constructive relationship with organized labor, including the United Food and Commercial Workers Union (the UFCW). Our companies expend, on average, between \$12,000 and \$15,000 to train a new employee to become productive, and the training period usually takes between four and eight months. The 36-month period of stay is the minimum necessary for our companies to invest in the training of a new employee, and then to receive some return on our investment before this person would be required to leave the country for six months. The initial 36-month period of stay is critical.

We note that the legislation only provides for maximum subsequent periods of stay of 18 months, and does not allow H-2C workers to bring spouses or minor children with them. The touch-back requirement also raises logistical issues for our member companies. We would appreciate your reconsidering these issues, including whether the touch-back period could be shortened for second and subsequent employment terms with an agricultural manufacturing employer. We think the characteristics of this flow of labor are different from the classically transient, temporary guestworker. Because the U.S. agricultural economy has evolved over the decades -- as I described earlier in my testimony -- so has the nature of the migratory flow of labor that has provided some of the required labor. As a result, longer subsequent periods of stay, and some prospect for unification of immediate family members, should be provided, for H-2C workers fulfilling the positions that are more permanent in nature. We look forward to working with the Committee on this topic as the bill is further considered.

### Date of Enactment Eligibility.

We commend the bill's sponsors for taking a practical approach to dealing with the labor that is presently here in an unauthorized status. By granting eligibility for H-2C status to any person physically present in the United States as of the bill's introduction -- April 25, 2013 -- the bill: (i) recognizes the unlikelihood that this population will be removed involuntarily, (ii) maximizes the pool of persons who could qualify for the agricultural labor or services definition, and (iii) avoids creating an incentive for increased unauthorized migration by people reading the bill in a foreign country. We think this approach strikes a reasonable balance between enforcement priorities and labor-force requirements. The Senate legislation is already being criticized for setting its legalization cut-off date at December 31, 2011. This bill wisely avoids some of those issues.

### U.S. Workers and Wages and Working Conditions

We would like to comment on the complex topic of wages, working conditions, U.S. worker recruitment, and related issues. The legislation contains requirements to:

- Recruit for U.S. workers before seeking H-2C workers;
- Prevent displacement of U.S. workers by H-2C workers;

- Provide equivalent wages, benefits and working conditions to U.S. workers and H-2C workers;
- Provide prevailing wages to H-2C workers;
- Guarantee that at least 50% of the work offered in an H-2C contract is provided, notwithstanding other economic factors; and
- Allow H-2C workers to change U.S. employers that offer positions within the definition of “agricultural labor or services.”

These topics, taken together, address the major topics on which previous guestworker programs have been criticized. The companies in our coalition do not want to be associated with a program that could facilitate or allow improper treatment of foreign or domestic workers. At JBS and our affiliate, Pilgrim’s Pride, wages and working conditions are critical topics that we fully and thoroughly negotiate with our constituent unions. Our coalition has been working with the UFCW on immigration reform topics, and we do not want this legislation to become a vehicle for discord on the issues that we have been able to resolve at the bargaining table to date. We commend the bill’s drafters for ensuring that these important issues are fully considered in the H-2C process. Reasonable people can disagree on the proper wage or benefit result, but there are private sector and public sector processes in place to resolve these questions. We imagine there will be significant comment on these topics as the Committee further considers H.R. 1773, but we note that the issues are resolvable, and we pledge to play a constructive role in contributing to their resolution in the legislative process.

#### Concerns about Worker Verification.

Employment verification is an essential ingredient to immigration reform – particularly because identity theft defeats the current electronic systems in place. This issue is addressed in companion legislation, H.R. 1772, on which we are submitting detailed testimony, and I encourage the Committee to review it.

#### Conclusion.

The Food Manufacturers Immigration Coalition thanks Chairman Goodlatte and this Committee for taking an important step forward in the immigration reform process through the introduction of the H-2C legislation, and through its concurrent consideration of Congressman Smith’s employment verification legislation. The Coalition supports effective and meaningful immigration reform, and we understand that the road to such reform is probably not a straight path down a four-lane road. We appreciate the important steps forward taken by the legislation under consideration today.