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Workforce Issues: Profiles of Specialty Crop Farms in New York State

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Executive Summary

The purpose of this study was to gather information from eight New York specialty crop growers regarding management of their agricultural workforce. Specifically, growers were asked in a personal interview about their experiences in hiring and managing farm employees. This project grew out of anecdotal reports that some specialty crop growers were facing unprecedented workforce challenges including heavy immigration enforcement, shortages of qualified workers, stiff competition for agricultural workers, and a cumbersome and expensive H-2A Program.

Eight selected specialty crop growers were each asked to describe their farm operation, characteristics of their workforce, and the workforce challenges they face. The interviews addressed four main topics: Description of Farm Operation and Current Workforce, Recruiting and Hiring Practices, Staffing Challenges, and Labor Concerns and Exploring Workforce Alternatives.

The interview discussions revealed a number of issues that significantly influence farm management decisions. Immigration reform is a major concern for the growers interviewed, although most were not optimistic that reform would come soon. Most of the agricultural employers interviewed feel that workable immigration reform is essential to the future of U.S. agriculture. Many reported that fewer qualified agricultural workers have been available over the last five years. As a result, there is greater competition for workers among farmers, as well as nonfarm employers.

In an attempt to expand the pool of qualified workers, some farmers are looking at alternative labor pools such as refugees, Puerto Rican workers and workers with J-1 visas. Tighter labor supplies have also resulted in increased use of the H-2A Program, especially by owners of larger farms. All farm employers interviewed also discussed efforts to mechanize the most labor-intensive jobs on the farm. Some reported substantial capital investments in new labor-saving equipment and facilities.

Introduction and Methodology

The availability of qualified agricultural workers has become an increasing concern for specialty crop growers in recent years. Stalled immigration reform, a decreasing unemployment rate and fewer workers coming to the United States from Mexico and other Central American countries have combined to create a tight labor situation for U.S. growers of fresh fruits and vegetables. This study is funded by the USDA through a block grant program and is administered by the New York State Department of Agriculture and Markets. The purpose of the study is to identify and describe the various strategies and practices followed by New York specialty crop growers to secure and manage a reliable supply of qualified workers. The study is also intended to identify workforce challenges facing specialty crop growers and to explore solutions to those challenges. Case-study results are intended to be helpful to specialty crop growers, policymakers and educators as they participate in agricultural labor policy discussions at the federal, state and local levels.

This study is intended to describe employment practices and challenges on individual farms. It is not a comprehensive survey of specialty crop growers and as such cannot be used to describe the entire industry. It describes only those farm businesses profiled here. The case study approach is valuable, however, because it allows the opportunity to examine workforce issues at a level of detail that would not be possible with a conventional survey.

Eight New York specialty crop farms were selected for a 60 to 90 minute recorded interview. The farms selected were large, progressive farms utilizing modern human resource management practices. The individuals interviewed from each farm were asked a series of questions relating to four primary topic areas; a description of the farm operation and workforce, recruiting and hiring practices, staffing challenges, and labor concerns and alternatives. The interviews were transcribed, edited and are included in alphabetical order in the pages that follow.

Case Study Interviews

DeMaree Farms Williamson, New York Interview with Tom & Alison DeMaree June 8, 2015

Description of Farm Operation and Current Workforce

As of 2015, our 180-acre farm operation consists solely of apple production. This past spring, all remaining peach trees were removed and 18 acres of apple trees were planted on newly purchased land, which constitutes 10% of current apple production. In the next two years, a total of 24 acres of apples will be added to the current 180 acres already in production, making apple production a total of 204 acres.

During peak season, 40 workers are employed in the operation. Twenty more H-2A workers from Jamaica are brought in and a few local people are also hired to help with harvest, truck driving and other activities. In total, the harvest crew is typically between 30-32 workers. Approximately five or six local workers are also hired from December through April to trim trees.

Recruiting and Hiring Practices

Although we advertise for local workers, few very hires end up being from the local community because we are primarily in need of laborers that can operate machinery but also have experience picking and trimming. Furthermore, experienced trimmers typically either don't want to work on a fruit farm in the summer or are employed in off-farm jobs, so we are forced to look for summer and harvest help from other labor pools. Wayne County is the country's 5th largest county for apple production, so the demand for workers and the competition between growers for the small handful of local full time and seasonal workers is high. We have, however, been able to find and retain a few key local employees. We also offer housing for H-2A workers and the two year-round employees.

We have been using the H-2A Program for 8 or 9 years. We primarily bring in workers from Jamaica, and we work with the Jamaica Labor Organization and Florida East Coast Travel to help organize their travel arrangements. We've had mostly positive experiences with our H-2A workers, and they want to come back year after year.

However, Washington State has also started drawing people from Jamaica and there are more work opportunities in Washington; workers can pick cherries in the summer and apples in the fall, so they can work in Washington for more months than they can work in New York. Historically, Washington has used workers from Mexico and Central America. However, as the economies of Central American countries have developed, Washington farms have had to look elsewhere to fill their work requirements. In response, they have turned to Jamaica and other

places, and Washington is now a new competitor we have to take into consideration. Michigan farms have also started using H-2A, and they are getting workers from Mexico and Jamaica as well.

In terms of recruitment, New York City has a huge Jamaican population so Jamaicans living there will often try to find agricultural work for family members still living in Jamaica. Indeed, many of our workers have families and friends living in the city, so they have an incentive to return to our farm year after year. In the past, our Jamaican workers will also phone us regularly during the growing season to check in on our crop; staying in contact ensures the connections both ways are maintained.

We also recruit workers from farms that have discontinued using H-2A. The H-2A workers will request the farms on which they've previously worked to refer them to farms that still use H-2A, such as ours. We've hired some really great workers this way.

In terms of domestic workers, we haven't received any calls or referrals from the New York Labor Department this year, which is quite a new development. After we advertise, we usually get some referrals. To maintain unemployment, people will apply for jobs for which they are not qualified, and the Labor Department will usually just pass them along to us despite them being under qualified, but that's not really happening anymore. For example, we were once referred an 18 year old that "worked" on an apple farm when in reality, he had only picked apples for his uncle for one hour a day, two or three times with his father. Albany is now doing a better job screening employees and making sure our qualifications are met before they refer people to us.

We will continue to use the H-2A Program despite the many challenges and hoops we need to jump through with the state and federal government. It's very expensive, but as long as we continue to bring back 80-90% of our workforce on an annual basis, we start to develop key relationships that help our operation run more smoothly. The workers better understand our expectations and how the farm operates. The transition is much easier and efficient because of their past experience.

The paperwork H-2A requires is also very burdensome. For the past eight years, we have basically been using the same forms, just tweaking them a little bit, and yet they always claim we have a deficiency. This year, we applied online for the first time, and they claimed the deficiency was that we were asking for workers on April 11 but the previous two years, we asked for workers at the end of May - they wanted us to explain the reasoning behind this, so we had to justify why we were asking for workers earlier than we have the last two years. We replied by noting if they looked at past submissions, we have brought in workers earlier than May in previous years, but we haven't planted any new trees in the last two years so we didn't need H-2A workers until May. This spring, we needed the workers to help us plant 25,000 trees. As soon as we replied explaining the earlier start date, they accepted the application. Usually they find issue with minute details, such as this, and there may not even be consistency from one year to the next; it really depends on who reviews the paperwork. Also, the letter needs an original signature, which is just a pain when you are travelling to winter meetings and need to respond quickly to avoid delaying your work order. We understand there will always be inconveniences

when dealing with paperwork and making sure all details are met on their end, so we try to respond as fast as possible.

With H-2A, we also have to be creative at managing a diverse group of people. For instance, we sometimes get one or two contracted H-2A workers that don't get along, but we are stuck with them for the contract period and must reconcile any issues internally. When workers are working and living together, there are more opportunities for conflict. Also, for the first half of the work order, if any domestic candidate comes looking for work, we are required by law to hire them. We then have to send an equal number of H-2A workers home. However, there is the potential that the newly hired domestic worker might only stay a week, and then we would be short a worker.

Staffing Challenges

In terms of experiencing crop shortages because of labor, last year we could have used more help thinning. However, the H-2A contract requires we keep the H-2A workers for the duration of the work order if it's within the first half of the contract, so we can't hire a group of ten people just for a few days, and we can't afford to add ten additional workers for the entire contract. So, the crop doesn't get thinned on time and we accept the losses because the economic consequences of not thinning are less severe than taking on an additional ten workers for the entire season. Thankfully, since participating in the H-2A Program, this isn't a problem very often. Apple growers all want their trees thinned at the same time, so it's inevitable that labor will be a bit short during this time. However, if we hire people from out of the area, we need to house them, so we actually encounter more problems when out of area people come in for only two to three weeks to do hand thinning. Overall, even though there are some constraints with the H-2A Program, we have been able to make enough adjustments to alleviate any real crop losses from lack of labor.

We've responded to challenges by planning our business so that the focus is on planting higher value varieties and varieties that are more in demand. Cutting back on varieties that won't sell as readily in the future has helped us offset costs. Planning for the future is key. Properly assessing the crop size also helps us plan for the H-2A work order; we can always bring in less people, but we can't bring in more. If our crop is bigger, we hope people are willing to work more, but if we don't have enough work, we still have to pay them 75% of the promised wages. Good management and the ability to be flexible are also very important; we plan in a way that we can more readily expand or contract labor to meet the work requirement.

We recently built new housing for our workers and spent more than we anticipated. The New York State program for migrant labor housing improvement, administered by Farm Credit, is interest free and paid back over ten years. This building can be used year round because there is in-floor heating, and the units are a little larger. We can now house 39 people in total comfortably and provide amenities and more privacy.

Labor Concerns and Exploring Labor Alternatives

We have mechanized quite a bit over the years. Eight years ago, we bought a man lift, which is a platform to raise workers so they can do trellis building and trimming more easily. Then two years ago, we bought a harvest machine to assist with harvesting. This year, we bought a sprayer that sprays three middles at a time as opposed to one middle at a time. We've really focused our improvements on efficiencies, and we are investing in machines that will make jobs easier to complete with fewer people. When we purchased two tower sprayers, a conventional air blast spray and an over the row sprayer, it cut everyone's spray time by three to four hours every time they sprayed, which made our workers happier. We are also installing high-density systems so we can use an over the row sprayer. We've therefore tried to make sure we have at least 500 ft. row lengths, and if two orchards are back to back, we want to make sure we can drive straight through to spray both orchards at the same time because at the end of the row, it's difficult to turn and we don't want to hit the fences.

We are very much planning with the future in mind. We're focusing on intensive planting and using equipment that works in intensive planting; for example, our tree spacing is planned on mechanization that can be done in the future. We are also planting varieties that will be higher returning so we can pay our employees more, which helps give us greater ability and leverage to attract and retain highly skilled employees.

We use local people for trimming in winter from December 1 through April 1, and H-2A workers from September 1 through November 1 for seasonal work. We have also hired several retirees, many of whom only want to work part-time and seasonally.

We have used an employment agency in the past to find full time employees. There is a pretty big pool of early retirees that work on fruit farms in our area, so we look for people who have worked for a town highway department or have experience operating equipment, and see if they're interested in working part-time. We are still interested in using people from the local area, but again, there's lots of competition from other farms for these workers.

We believe there will have to be some type of immigration reform in the coming years, but we have no idea what it's going to look like given the number of illegal immigrants currently in the United States. Replacement people are not coming in, and it's becoming harder and harder for undocumented people currently here to stay here and continue to find jobs.

Also, it's harder for employers and farms to hire people given all the immigration and labor regulations. If the E-verify system goes through without some sort of program to integrate people into the workforce (or without some sort of working status paper that allows them to work here legally), it will be even harder to find workers.

The impact would first be felt by the processed apple industry because they still have lots of large trees, and those trees may not get pruned. Large apple trees have to be pruned at least every other year to maintain the crop level, and the bigger the tree, the more pesticides are used, and the less control of insects you have – overall, larger apple trees are harder to maintain. So, you would expect to see those farm owners retire or sell their land. Because fresh fruit growers have

smaller trees, it's easier for them to train people to prune. However, they might not be able to get as many people as they need because it is cold weather work, so it would still be tough to find an adequate workforce to prune small trees.

Regarding possible improvements to the H-2A Program, the 50% rule should be eliminated. The 50% rule is that if you have a contract that is six months long, for example, for the first half of the work order (or the first three months in this example), any domestic worker who is qualified has to be hired if they apply. Then we're supposed to send an equal number of H-2A workers home. But again, the domestic worker may only decide to work for a week or two for whatever reason, and then we're short a worker because we can't bring the H-2A worker back.

We would also like a more streamlined application process— there is too much paperwork. First we have to send it to the state. Once we get it back from the state, we have to answer their questions. Then we send it to Chicago, and have to answer their questions. Then our forms go to California. All three places can hold up our paperwork for any reason - it's too redundant. In Chicago, there are a large number of people approving applications and each person may focus on a different issue when reviewing your application. They want farmers to line up with the industry average, but there's a wide range within the industry; one size does not fit all. That is a real problem. There should be a simpler, easier, more straightforward way to place orders for workers.

Several years ago, we had different people come in during the spring and fall, and the state agency wanted us to change the picking standard for the workers that were coming in the fall. They expected us to have two different picking standards at the same time depending on the H-2A worker. One person would have to pick at one standard, and a fellow worker would have to pick at another standard - the agency was rather insistent on this. We protested making any changes and were able to convince officials at the state level that the changes were disruptive.

When we first started using H-2A, we had a contact person's name and email address in case we had a question. However, we now send emails to Chicago's general email address and there is no way to track our request or question. If a deficiency with our paperwork is cited, we cannot identify the person making the comments so we can't ask questions or for clarification. If they don't respond to us in a timely manner, we can reach out to the ombudsman and then someone will get back to us.

It would be beneficial if Cornell Cooperative Extension could help explain the rules and regulations regarding the Affordable Care Act. That way, farmers can more clearly explain the options to their H-2A workers. If we provide health insurance, we have a 90-day window to start providing health insurance. If you're not providing health care, workers have to sign up for insurance within 60 days of beginning work. Although Farmworker Justice put out a two-page flyer with some of this information, not all of the information is accurate. Also, not many farmers want to send their workers to Farmworker Justice because they are afraid Farmworker Justice will ask lots of questions and potentially interfere with their operations. Overall, it would be a great help if the general process and requirements for growers and workers could be simplified because the 145-page document is filled with legal and medical jargon that is not

easily understandable. We think many farmers have similar questions and would benefit from such support.

Also, our workers each paid around \$700 in federal income taxes last year for working June 1 through November, but one worker got back a check for \$1800 - how does this happen? Two other employees got a letter from the IRS stating if they could answer the three given questions, they should be able to get earned income credit and another \$450 back. Can foreign workers get earned income credit? We don't know who should be answering these questions because accountants have mixed opinions, and we would prefer not involving labor advocacy groups, so Cornell could try to educate farmers regarding eligibility requirements.

Other Noteworthy Issues that Emerged from the Discussion

The movement to increase minimum wage could be a potential issue. If the food service industry in New York increases the minimum wage to \$15/hr., other industries will follow. The H-2A rate will be higher than that, which would make the program way too expensive. Other employees will want a raise. How we would be able to compete and maintain the industry when fruit laborers in Argentina and elsewhere are getting \$3/day, which allows the price of imported apples to be very low? New York farmers wouldn't be able to pass the new increased costs along because New York farmers are already pressured on price. Apple production is ramping up, and pressure on price is forcing us to decide whether or not we are going to continue growing processing fruit.

W.D. Henry and Sons, Inc.
Eden, New York
Interview with Mark, Dan and BG Henry
September 17, 2014

Description of Farm Operation and Current Workforce

We are a fresh market vegetable farm and greenhouse/floral farm with 350 acres of fresh market vegetables and four acres of greenhouses for floral and vegetable transplant production. The floral side of our business is fairly steady; there is not much growth or decline. The vegetable side has experienced a steady increase over the last five years. We now plant fewer crops (seven or eight crop groups now, as opposed to 22 in the past) but more acreage per item for efficiency. We are streamlining equipment, harvesting and packing so people aren't jumping around from crop to crop. Now workers either focus on broccoli or squash all day, or they're still on the packing line, but specialization equates to efficiency so that's what we are emphasizing.

We are now specializing in four or five groups, specifically, corn, cucumbers, broccoli, squash, peppers, and we also grow some cauliflower and a reduced acreage of cabbage. However, we still have 10-12 items because we have a few varieties of peppers, for example. The reduction in the number of crops grown is partly because of reduced labor availability. We used to handpick peas and greens, but we don't have the workers to do so anymore. We also used to have cantaloupes and melons, but we can't afford to grow crops that are too labor-intensive.

We have 15 full time year round local workers, with seven or eight in the greenhouse and seven or eight in the vegetable farm. We have about 60 to 65 seasonal workers; this figure varies a little depending on the year. About 20% of our workforce is domestic (full time), and 80% is foreign born (all seasonal).

In terms of peak needs for labor throughout the year, there's a big rush to plant in April, and another big rush around July 1. Our payroll is highest in August, and it winds down come October and November.

We have a harder time adjusting for large crop years because it is difficult getting seasonal labor here to begin with. If we need more workers, it's quite challenging. It's not as easy as putting out an ad in the local paper. Local employees, who have been coming to work for Henry Farms for years, are loyal and have an expectation to work. If the crop is small, we don't want to send them home because we're then at risk of them not returning the following year, so we do our best to keep people busy.

Between planting and harvesting (around June), we put workers on rotation, which they don't really like because they are here to work as many hours as they can. Sometimes, they may only get 38-45 hours per week as opposed to 60 hours per week. Also, if they aren't receiving enough work, most seasonal workers qualify for unemployment so they can leave.

Our packing shed crew is a group of refugees because we had no more housing available to bring workers in from Puerto Rico. Erie County Extension approached us earlier this spring about spearheading a refugee workforce development program, and we needed people ASAP. However, bringing in these refugees and the program in general has presented a whole new set of challenges. The refugees come from multiple places including Nepal, Congo, Somalia, Iraq, and Burma. They all get along well with each other for the most part, but the people we had from Nepal have more experience with animals, whereas people from Burma typically have more experience with vegetables, so the program could better match experience with work.

Wyoming County has a grant to implement this program, and Erie County has applied for similar funding, but hasn't received it just yet. The grant includes workforce development training, relocation, and transportation. Transportation is a big issue because we try to make sure refugees are located near their jobs, and even though they qualify for a 50% discounted monthly bus pass, they complained the hour and a half bus ride was too long to commute daily.

We are reluctant to hire refugee workers next year, but right now, we are desperate and that's why the refugee workers are still here now. We would maybe consider hiring back two of the original 15 (we now only have 10-11 workers). The refugees are currently only working on the packing line because that's the only job they can handle. They couldn't pick vegetables - that was a complete disaster - because quality and consistency are key, and we need to make sure our vegetables are of high grade.

Recruiting and Hiring Practices

We don't really actively recruit because workers usually just come to us. We do not use H-2A because we have heard horror stories and have not gotten that desperate yet. We would start growing cow feed before we use H-2A. Staffing the business is easier for farms that grow fruit, and our jobs may be too diversified for the program to be worth it. We feel that the H-2A Program is prohibitively expensive but we do acknowledge the program works for some farms.

Because the supply of labor is very small, we understand that some people want to lock in labor through H-2A but other farms still refuse to use the program. If we needed 200 or 300 workers every year, we would have to use H-2A because we wouldn't really have any other choice. However, because we're still able to secure and attract the 60 seasonal workers we need through one means or another, we can manage, for now.

We were very close to using the H-2A Program two to three years ago after talking to many farmers who used H-2A— we even got the paperwork to enroll – but then we heard that farms using H-2A kept getting audited for labor, health, and other state and federal regulations. The last time the Department of Labor (DOL) audited Henry Farms, they asked if we used H-2A and as soon as we said no, we don't use H-2A, the Department of Labor backed off and became almost friendly. They were definitely less aggressive and just looked at paychecks, labor housing, and transportation; it was a very easy audit. You would think the Department of Labor would want farms to use H-2A. We were also worried about the paperwork involved in H-2A.

As a side note, many people have been checking out worker housing conditions recently, including the Health and Labor Departments. This isn't an orderly process at all. We are confused over who has the right to inspect property and speak with workers.

Erie County Health Department does inspections yearly, but the Department of Labor also comes in occasionally. Randomly, migrant community outreach workers will come by to teach workers English, but we have no idea what type of authority these agency workers have. This needs to be better organized and structured. Agencies and workers shouldn't be able to show up unannounced. There was a new initiative three years ago that aimed at changing things for the better, but migrant advocacy groups came in, handed out business cards to workers, and told workers to contact them if they have any problems.

Most of our workers are from Puerto Rico, and we have three from Mexico. We had more Mexicans 15-20 years ago before Immigration & Customs Enforcement, September 11 and the ensuing immigration problems. The Mexicans lived here and did a great job on our farm; if anything, the government abuses them because they're paying into social security but never collect. The three Mexicans are older guys that have been coming back for 20 years; one is 72 years old. They are able to cross the border every year because they have the necessary paperwork. Everyone on the farm is legal, but we are paying for it through unemployment. Still, this is less stressful than dealing with H-2A; we would rather pay unemployment, which is just the cost of doing business for us. We never really win any unemployment cases. The workers don't want to be here all winter because understandably they want to go home, collect unemployment, and take the winter off.

We would be out of business if Puerto Rico didn't go into a tremendous economic decline. A few years ago, there was a huge influx of workers from Puerto Rico. At first, there were about eight to ten workers, and then those workers brought their brothers, uncles, nephews, etc. Puerto Ricans are U.S. citizens so there are a lot fewer hurdles to overcome and we don't have to worry about I-9 forms.

The Puerto Ricans collect unemployment all winter. Sometimes, workers won't come back but still collect unemployment. We will contact these workers telling them there's work to be done, but some may still not come back. One worker worked here six to eight years in a row and then he refused to come back. Lawyers ended up getting involved because they can keep collecting unemployment because the commute was too far for the wage rate that was being offered. So, now that worker is still collecting unemployment. This happens occasionally.

If Puerto Rico's economy recovered, we would be in trouble. Puerto Rican workers are fine employees. Some of them used to be policemen, garbage collectors, or firemen, and they are more familiar with running equipment and machinery, but they don't work as hard at picking in the field as Mexicans. In general they are more Americanized. Some Puerto Rican workers that worked for us for four to six years found jobs elsewhere, such as pouring cement for neighbors. They have more mobility and a greater ability to find higher paying jobs than non-U.S. workers. One time, ICE audited us, but as soon as they realized all the workers were Puerto Rican and American citizens, the audit was over very quickly and we had no problems.

Staffing Challenges

We have not had to decide the least valuable crops to forgo, yet. If we did, we would figure out what crops are worth the most money and pick those first, and then we would go down the line picking the most valuable to least valuable crop. We are currently losing some peppers to sun tanning and rotting because we can't pick them fast enough; it's a matter of harvesting in a timely manner within the right window.

Weather is a huge factor in our labor decisions. If we can't harvest because it's raining, we might need our workers to work more hours a few days later. Given the variable weather and supply and demand issues, there are many pressures to manage and overcome. There is also competition for labor from the apple business. When we had more Mexican workers, we would lose about half a dozen workers all of a sudden around Labor Day (when we need them most) because they would go pick apples – this was stressful.

Because of the smaller labor supply, we are growing less hand-intensive produce and specializing in fewer crops. Labor supplies in New York are not adequate – we would have lost a lot of production if we didn't have our refugee workers. We are doing what we have to do in order to get by. This means we are forced to hire people that are not qualified or well suited for certain jobs, but it's the only option we have other than disking our crops up, so we deal with it one way or another. Also, lead times are very short nowadays, which creates a huge pressure on us. We have our product and want to sell it, but if the labor crew is not large enough, it's very difficult to meet the tight time frames.

Labor Concerns and Exploring Labor Alternatives

Again, because of labor concerns, we are growing less and specializing in fewer areas for efficiency. Although we used refugees this year, we are not sure if we'll continue using them in the future.

As for a new guestworker program or possible improvements to the current H-2A Program, New York should use a template from someplace else that has an efficient guestworker program and mimic key components. The program also needs to be streamlined through one agency. This is a big problem with H-2A – multiple state and federal agencies all have the ability to severely affect farms' ability to recruit workers.

We are not optimistic about immigration reform given the current political situation. We are somewhat comfortable with our operation, but this could change quickly; our farm business is just hanging on from a labor standpoint.

We have a few large impending challenges, the first being if Puerto Rico's economy recovered, fewer workers would be traveling to the United States seeking farm work. If the minimum wage increases, we will be forced to rethink our labor and operations. If the quality of labor decreases, forcing us to hire more workers to get the same amount of work done, that would be another huge challenge to overcome. Lastly, paying time and a half is a big legislative issue in New York: how many hours need to be worked before workers qualify for time and a half of current

pay? There could be seasonal exemptions, or total hours could be averaged over time. In the past we paid time and a half on Sundays (a few workers would come in for three to four hours, complete specific time sensitive jobs). Of course we want to be able to pay time and a half, but we just can't afford it.

Regarding overtime pay, we are somewhat optimistic. We are collaborating with Northeast Dairy Producers (NEDPA), vegetable growers, and the New York State Horticultural Society to enlist experts to help consult and lobby on our behalf. This issue is quite nerve-wracking for everyone because if we don't give workers roughly 70 hours a week, they will find work elsewhere. California may have seasonal exemptions to this rule, but we are not sure. We are being told legislation will be passed in the next six months, so we are waiting for elections to be over. The time is ripe for change.

The Farm Bureau is also telling groups to negotiate. We need to educate senators, specifically the Labor Committee, and we need to make sure we're at the round table. The New York produce growing season is only about 120 days, which is short compared to the rest of the country. Some people have too much influence, and private affairs need to be kept separate. We need education more than anything else. The Farm Bureau does a very valuable service, but sometimes they get complacent. Because they are the only organization in town and have blind spots (especially with the time and a half issue), maybe setting up a competing agricultural organization could help keep them honest. Their attention is too focused on keeping the Senate from ever coming to a vote, but it's inevitable.

Also, neighboring states have lower minimum wages, but we need a level playing field, such as a federal minimum wage. How do we compete with Minnesota or Wisconsin, which have a \$2.94 advantage per hour, when they can easily ship product to New York and be more competitive than New York growers? Even Pennsylvania and Ohio have lower operational costs; this is a competitive disadvantage for New York growers. The dairy industry and Farm Bureau should have supported Ag Jobs a few years back. It wouldn't have been perfect, but it would have been better than the current situation. Policies have been proposed but just haven't passed.

What Cornell Cooperative Extension is doing now is helpful – we need someone to bridge the gap between producers and the government/legislators making policy. Growers can write letters and preach to Albany, but our pleas fall on deaf ears, or so it feels that way. When government agencies and elected officials go to Cornell as a respected institution asking for advice, Cornell can help broker information with the facts to help educate and guide them. For example, Cornell can help negotiate deals and work with the Agricultural Commissioner and markets to make sure growers' needs are heard, understood and hopefully met.

There is a large gap between reality on the farm and what politicians understand. There is also a gap between consumers and reality. The current view of agriculture is not accurate so we need to continuously educate the public. We would like to show the film "Farmland" to the Chamber of Commerce. This could help explain the facts without politics imbued in the message and help demonstrate that farmers are trying to make agricultural work a valuable experience, but it takes a lot of bridge building to ensure the influential people in community are on same page as farmers and the public.

Lastly, it would be useful if Cornell could help explore the merits of other guestworker programs (like the program currently operating in Canada, for example) and maybe provide feedback regarding the beneficial components.

Hunt Country Vineyards
Branchport, New York
Interview with Art Hunt
May 8, 2014

Description of Farm Operation and Current Workforce

I operate Hunt Country Vineyards with my wife, Joyce. We are currently looking to transition our operation to the next generation, namely our son and daughter-in-law, both of whom are in their thirties. The next generation is more interested in the organic produce business. We had 171 acres of land, and deeded 25 acres over to Jonathan and Caroline. When we were first selling to the Taylor Wine Company 40 years ago, our goal was to have 80 acres of grapes. Native varieties are at the same price today as they were 40 years ago. Early on, we planted 40 acres of concord grapes for Welch's/National Grape. Once the winery opened, we gradually began to pull out native varieties, and almost all have been removed now. There has been a gradual, but dramatic, decrease in grape acreage on our farm in order to minimize dependence on hand labor. We have five acres of concord grapes left, and only 35 acres of wine grapes today total.

We have ten full time workers, and 15-20 part time workers. At any given pay period, there are about 30 paychecks being distributed. We have a full time marketing manager, gift buyer, and tasting room manager, and everyone works on event weekends. We usually have more than 75 W-2 forms at the end of the year.

There are six to eight Mexicans in the vineyard doing pruning, tying, vine training, suckering, and harvest. Our group of six to eight Mexicans is drawn from a pool of about 15-20 potential workers. Many have worked here ten years or more at this point, and while many are here legally, I'm not sure exactly how many. They are here under the auspices of a NYS-approved labor contractor.

I use a lot of retired people, including two in the vineyards, one is a town justice and the other a retired electrical worker. We also have two retired fellows in their 70's working two days a week mowing and maintaining the trellises. In the summer, we try to have kids help with haying and lawn mowing. Jonathan is in charge of winemaking, a process he oversees part-time, and he has a very capable assistant winemaker. They don't have help except on bottling days. Jon spends most of his time operating his organic business. My brother, a retired doctor, also works here at least halftime, mainly to get benefits. We hedge labor risks through networks and diversity, flexible shifts and overall scheduling adjustments.

In terms of peak needs for labor, we do need help with harvest, but handling visitors on fall weekends is also a big draw on labor. We have a lean workforce that we must utilize as efficiently as possible.

In a low yield year, the only part of the growing cycle from which we can save labor is harvest. We must maintain vineyards, vines and production as best we can during bad-weather years as well as in bountiful years.

Recruiting and Hiring Practices

We don't use H-2A because it doesn't work for us, nor does it work for the region. It requires that workers only be attached to one employer, which isn't flexible enough for our needs. The NYS Department of Labor would prefer to work with a manageable guestworker program, which does not exist (thanks to Congress). We use a state approved labor contractor to recruit workers, and they require proof that I am a worthy employer.

Staffing Challenges

It has been harder in recent years to find local workers to do the many jobs I don't have time to do myself.

At the moment, because the labor contractor we use is good at finding and managing workers for us, and because our workers can work for other farms when we don't have work, our business is doing well with respect to finding an adequate supply of qualified workers. The contractor also finds housing for the workers and takes care of other off-farm needs, but I am the employer and I pay the wages as well as the contractor's commission.

Labor Concerns and Exploring Labor Alternatives

Wine is a luxury; food is not. Our son and his wife are steadily increasing their organic produce business. Profit margins in the grape business aren't enough to cover the capitalization costs of new technology. Mechanized pruning is likely to be introduced because technology in this area is advancing. However, since grape prices are stagnant, \$40,000 for a mechanized pruning machine is not an expenditure we're able to afford. Also, high quality wine production almost always requires hand pruning and harvesting in order to ensure the high quality of the grapes.

Because of labor concerns, we are growing more hay than ever and keeping fewer acres in high-end grapes. Our neighbor and we have some haying equipment, which we use on both farms. What should two old guys do when we can't rely on future labor supplies?

The high school labor pool is no longer available. In the past, high school spring break coincided with tying grape time. High school workers made some money for a couple of weeks, we were able to get the work done, and everyone benefitted. This is no longer possible because of high school sports, other commitments, and lack of interest in farm work.

We do not expect to see broad immigration reform in the United States in the foreseeable future - maybe by 2020. It will take a major catastrophe to move our politicians, who are not statesmen, to do the right thing.

A legal guestworker program would need to be kept simple; for example, arrangements could be made in the originating country through the embassy system.

Cornell Cooperative Extension is doing all they can responsibly do, and that is to gather useful information and use that information to educate people and perhaps a few responsible

Congressmen. I stand ready to offer my experience to any Congressman or woman who would like to draft and pass a straightforward immigration bill.

Hurd Orchards
Holley, New York
Interview with Amy Machamer
June 1, 2015

Description of Farm Operation and Current Workforce

We are primarily fruit-growers and have been for many generations. We own about 1000 acres, and production occupies approximately 150 acres. Non-specialty crop acreage includes woodland and rented out crop and vegetable land. We have tree fruits including 35 acres of apples, 25 acres of sweet cherries, 15 acres of peaches and nectarines, five acres of sour cherries, two acres of plums, two acres of pears and one acre of apricots. We also have 30 acres of berries including two acres of strawberries, ten acres of blueberries, six acres of raspberries and blackberries, two acres of currants, elderberries, juneberries and gooseberries, and several other unusual berry varieties. In addition to fruit, we grow 20 acres of cut flowers, and two acres of herbs and vegetables including asparagus, herbs, and greens for our marketing programs.

Because we grow a wide range of crop varieties, our seasonal operations and labor requirements are complex.

Structurally, there are two sides to our business: production agriculture and marketing. Our marketing business consists of a roadside market, featuring picked and pick your own fruits, a bakery, a jam kitchen, and outreach events. The baked and canned items are all handmade from our farm's harvest. The two entities are separate in part for labor, zoning and other reasons. Operations overlap between our marketing and farming operations, which has implications for labor needs.

One of our main challenges is that labor is enormously seasonal, and labor needs ebb and flow depending on seasonal requirements. Our production agriculture business, Hurd Orchards Springbrook Farms, employs between 40 and 50 farm workers in the summer. During our peak season, July through October, there are moments when we do not have enough people working, and the contrast to that would be January, where we will have three full-time people working on the farm. During spring before harvest, we have a total of six people working full-time on the farm, and two people who rotate between the farm and market. In total, there are approximately eight people on the farm during the months of March, April, and May. We have about 30 people working on the market at the current time, many of whom work full time and many of whom work part time during the growing and marketing season.

Recruiting and Hiring Practices

On our farm we have explored many labor pools to fit the unique needs of both fruit production and our marketing goals. These include our local workforce, new Americans (both Hispanic families who have lived and worked on our farm for many years) and refugees, college students

through the U.S. State Department's J-1 Program, American college students, and on occasion high school students.

We have never used the H-2A Program as, after reviewing it carefully, we felt that it did not give us the flexibility to meet our farm labor needs, nor do we feel that it is an effective use of either finances or management.

We have two related Hispanic families that have been helping us for over 20 years. The men in those families are essentially our foremen, and they have been absolutely integral and essential to our farm. We would not be carrying on without them. Their wives move between both businesses as needed, and they are powerhouses and amazing women. They're fantastic people.

Two brothers do most of our tractor operation, all of our spraying, and organize much of the machinery work, including the irrigation pump, for instance. Their skill sets are not duplicate; for example, one of the two is much more modern thinking about pruning and horticultural practices. On rare occasions, some Hispanic helpers may recruit other Hispanic helpers. We prefer to employ farm workers whose status with the U.S. State Department is clearly documented. For this reason alone, we have not casually employed foreign-born workers over the last half-decade.

The second group we employ beginning a half a dozen years ago are Burmese and Nepali refugees. They all have experience working on farms in their native countries, and in terms of getting jobs done that take many, many people, they are our backbone. Right now, there are four refugees, but by the time we hit mid-summer, that number will increase to 20 or 30.

We generally recruit refugees through the Catholic Family Center in Rochester, New York. We hope to continue using their services as long as the refugee option remains feasible. It's ever evolving, but there are still many viable folks coming from Southeast Asia. In the past, we've also had Somalis and people from the Congo. They have all been more or less successful.

A couple people within our refugee group have been here for five years and they are recruiting other refugees for us, so the group we have this year is self-recruited. We do try to make sure they all are registered with Catholic Family Center, because that assures us that they have the I-94 form, which is the document that proves they are legally able to work in the United States. Having that legal assurance is part of the reason we go through the Catholic Family Center. The refugees that have been here for a few years know the skills we need, as well as the attitude, willingness, and energy we want from our workers. One of them said to us this spring, "I get good guys, good guys." So they're recruiting their own crowd for us, choosing people they know will be successful and they would like to work with.

We interview each refugee. During the interview, we typically ask them questions related to their experience in agriculture, such as, "Did they have a subsistence farm? Have they worked on an orange plantation in Thailand? What is your experience?" The refugees have been wonderful because the ones we've had on our farm are not afraid of work, are high-energy, honest, quick, and overall good people. I would say the ones over 40 are better workers than the ones that are 20 to 30, who tend to feel a little more entitled.

July is a peak time for us because of the small berry crops and stone fruit. Everything overlays at once, so if we feel as though we need more workers as we approach that season, we can rely on both the Catholic Family Center and our current refugee group to find additional laborers. So far, we have had fairly good luck in this respect.

However, most refugees have very poor English skills, which is a large barrier because we cannot have them do any job that would either make it unsafe for them or for other workers. They can't operate machinery so the refugees mostly plant, fertilize, and help with the berry pruning, which is labor-intensive. They also help with all of harvest (they're wonderful harvesters), they assist with irrigation, and they do a lot of hand weeding.

We also have two groups of college students. We use the J-1 Program, which is run by the State Department. The purpose is to have foreign born university students come work in the United States for a summer. There are several tiers to the J-1 Program, and we use one tier, which is the Summer Work and Travel Program, because of our seasonal needs. One of the other branches of J-1 is the yearlong internship program, which is at a higher level of education where they receive specialized training in an occupation. The benefit to the State Department is that we're building long-term relationships. For example, a student from Kyrgyzstan will be able to say, "I lived in America, I feel a kinship, I loved my family there," instead of being anti-American.

We began using J-1 after hearing about it from a blueberry grower in New Hampshire who used J-1 exclusively to run a very large, commercial blueberry farm wholesaling into Boston and New York City. This is our sixth season using this program. Our plan was that we would try it and if it worked, we would expand it. We do need to house them, so we now have housing on our farm. However, the State Department has eliminated agriculture as a viable occupation for students operating on J-1 visas because we were told there was an abusive situation in California where students were kept in a barracks and never allowed to go to town or do anything. We now use J-1 workers exclusively in our market, which we do need. Students help with hosting, setting up produce for the day, cleaning our market, and help pack our produce; for example, they might help pack blueberries in clamshells for Wegmans.

We also have a lot of American college students that work for us in the summer. They are helpful, but we are constantly wishing we could get them to be more productive. Generally the failings seem to be that they have a million other obligations, whether they have to stop early for another program, to study for their medical exams, or they have a basketball league. There are always reasons that limit their availability, which is really frustrating. There's not enough continuity in their presence for them to accomplish much. They will start on a project and when eleven o'clock comes, they've rush off to their next obligation, or they don't want to work on the weekends. I think the problem with the American-born college students is their lack of availability, tenacity, and gumption.

We do employ a small amount of high school students. We try very hard to limit the number of high school student workers, but sometimes we employ the children of customers in order to maintain some key customer relationships. High school students can be helpful. Our biggest worry is working around the labor laws, and because we don't have a Human Resources

Department following each individual, it can be difficult to manage all the rules and regulations. We prefer hiring people age sixteen or older.

We also employ local Americans. Many of these people drive quite far to work at our farm, coming from local villages but also from Rochester and sometimes from Buffalo. How often they work depends on the individual, their monetary needs, and their interest in working. Many are women who are either newly-retired, young mothers with children just going off to school, second income earners in their family, or teachers during the summer, etc. There are quite a few little subsets there. They are integral and essential to our farm. For example, a few of our truck drivers are retired males, mostly from Eastman Kodak.

Many of these local women and men work on the production agriculture side of our business. They also work on our marketing programs. Considering both businesses together, these Americans are a large part of our total employment. It's a very important group.

Staffing Challenges

In addition to the refugee's poor English skills, the second negative is they are plugged into social services the minute they arrive here. On one hand that is okay because in the winter we don't have to worry about them as much because social services supports them. However, it's not where we want to be on our farm in the end. We want people who we can advance, pay more, and enable them to be free from government services. Transportation and housing are also major issues. They're grouped in cultural communities by their refugee center, and they tend to be low-income neighborhoods in urban areas. They've previously taken the bus—that has been fine—but now they won't take the bus anymore because they speak little or no English and are completely vulnerable, they've been mugged or robbed waiting at the stop. We ran a door to door service transporting them ourselves two summers ago when nobody had a car. We're lucky right now; at least two people have cars and they drive every day, but come summertime, they need to have cars or we'll have to pick them up. That's a major problem right now. The solution is to get them out of those neighborhoods, but that isn't quite as easy and smooth as one might think. They also don't want to live here on our farm because they have big families and want to be with the rest of their communities, and we can't afford to house them all.

These issues are part of the reason why we wanted to explore the J-1 Program. We thought if we had college kids that live on the farm but then returned to their parents or university in their home country, then we don't have the transportation issue, they're not going to be drawing unemployment, and we don't have to worry about social services or that we're underpaying somebody supporting a large household.

This doesn't mean refugees are not viable employees—they're an incredibly viable workforce—but our challenges are year-round employment so they're not on social services. We want to help them improve their English skills, get them into safe neighborhoods, and enable them to afford a car and obtain a driver's license. Those are our next steps.

Each of the cultures that I've mentioned – Somali, Congo, Nepali, Burmese - are rural people whose family roots were on farms. Refugee centers like the Catholic Family Center are based in

urban areas because it's an easy access point to the United States. If there were refugee centers in rural areas, they would be structured differently.

The most effective changes in the refugee employment at our farm would be: improved transportation systems to our farm (or rural or on farm housing); improvement of English skills; and decreased dependence upon Social Services. The latter could be aided by English skills and education as we could advance employees to more responsible positions and their wages could increase.

Having many different labor groups coming from different backgrounds and availability, much more time is spent organizing and managing people than in doing other management tasks, and that's a little bit frustrating.

Labor Concerns and Exploring Labor Alternatives

I think that accessing and managing workers is challenging, as is finding appropriate labor, but we do feel that viable labor is not there. We have lots of people who apply to work on our farm. Figuring out which people to employ, how much to pay them, and how to manage them effectively are our tasks.

Workforce challenges are centered primarily on the never-ending demand for higher wages and management issues. One of the major challenges is that everybody wants more money. Every one of those groups of workers is continually requesting more money. It is non-stop. We always increase wages every year at every level but it is never enough.

One year ago, our Hispanic workers asked for more money, but we also provide them with beautiful rural homes. They work by the hour, with men earning \$13.75 per hour because they operate the sprayers and machinery, and the women earn \$11.00. Considering the value of the homes, we calculated their earnings were upwards up of \$75,000 per household because some of the men working on production work long hours. Yet, they still never seem to have enough money. Much of that money goes home across the border because they're supporting elderly and extended family members, or they are paying for education for young nieces and nephews, etc.

First year refugees with little to no English skills may start at minimum wage and earn between \$9.00 and \$10.50 per hour, and that would probably only be for a season. We want them to better their English skills so we can train them and increase their pay.

College and high school students would probably be fitting into that \$9.00 to \$10.50 range, depending on the commitment that they make. We talked about their lack of availability, yet that is still \$2.00 an hour more than we were paying three years ago. We can't start any lower or we wouldn't have anyone work for us. If they tell us they can only work for three weeks, then it's a lot less valuable to us than if they can give us the full three months of their summer.

At the upper end of the pay spectrum would be the people earning \$11.00 to \$14.00 an hour, but then there are other perks like housing that are included. We also give a bonus at the end of the year to those people. That group of Hispanic workers at that upper end is seasoned and has made

a commitment to our farm. We can count on them. I could easily list ten farms right now that have the same relationship with their long-term Hispanic workers, male and female. That immigrant group is, I would say at this point in time, essential to the continuation of the Western New York fruit farm. I think you have to recognize that these Hispanic families have committed to living in the United States, committed to their community and committed to the farm that employs them. If they were to disappear tomorrow, that would be the biggest, absolutely the hugest change in the employment of Western New York farms. There is enormous dependence going both ways, which is one of the things I think is positive in agricultural employment. We cut through a lot of ridiculous stereotypes because we're dependent on one another and so we create relationships.

I don't think we're that different now than we were a hundred years ago; we're employing different groups but we have the same staffing requirements and the same challenges.

Right now, I have two different people that I would really like to be advancing and giving more responsibility, but I can't because of their lack of technical and people skills. We need people who have the technical, social and economic skills and experience to make the right decisions. When we're marketing and growing at the same time, we need those people to whom we can comfortably delegate a project (like a project manager or a foreman). Management at every level needs to be improved, especially with the broad spectrum of employment needs that we have.

Other Noteworthy Issues that Emerged from the Discussion

We are trying to get better at utilizing herbicides because hand weeding is just too expensive. The more mechanizing we can do on any of these jobs makes sense.

We hope for more realistic immigration policy in the United States in the future, but it's obviously not realistic now. Four years ago I was on a berry farm in England, and in terms of employment, they had a very beautiful, highly regulated government program. They had a large binder on every single one of the three hundred employees on their farm. I think it was a lot of work, but they were able to very easily connect with their government contact to request the number of people they needed and get those people delivered to their farm for the specified period of time. They had started with people from Portugal, but labor pools were drying up for one reason or another, so when I visited, they were hiring people out of Georgia and Belarus. They had one person employed full time to manage the workforce. There was order to the system, and while there were lots of regulations and they were highly inspected, they seemed comfortable with it. Here in the United States it is like the Wild West, a free for all; some farmers don't know where labor is coming from tomorrow. Many farmers here do use the H-2A Program, and even though some complain bitterly about the administrative difficulties, there are people who think it is valuable. I wish the program would be improved or a new program be developed that would allow us to effectively use it. Developing a more efficient government program would be great. Keeping those avenues open and having people always looking for the new solution is important. It's also important to remember not every farm is the same, so a flexible program should be designed to meet a wide variety of farm's needs.

Regarding the role of Cornell University, it would be useful if Cornell could advocate to the State Department to demonstrate that agriculture is not a negative occupation. The State Department has encountered circumstances that are not wholesome for students, and because of this, agriculture was eliminated off the J-1 list. We would much, much rather they have regulations and inspections, because working at our farm is a beautiful, wholesome experience and provides wonderful opportunities for the students to interact with all kinds of people, learn about America, and travel to nearby attractions. In fact, we've had inspections by the State Department where they come and ask us, "What have the students gotten to see?" Our obligation is to make sure they're exposed to American culture, and we feel we've done that really well. In any case, the J-1 Program currently isn't as flexible a program as we need.

Pedersen Farms
Seneca Castle, New York
Interview with Rick and Laura Pedersen
March 19, 2014

Description of Farm Operation and Current Workforce

Our operation is between 1200-1500 acres, with half of production being organic and half conventional. We also have a 1200 sow hog operation, but the majority of our income comes from vegetable production. The number of acres we produce on each year varies, but besides adding organic strawberries in 2014, there haven't been many changes in recent years. Cabbage, cauliflower, pumpkins, and butternut squash are our major staple crops, although this can change. For example, we've considered dropping pumpkins altogether, and our cucumber acreage used to be major but we cut way back last year. Our cauliflower acreage is largely based on whether or not we have a market with Wegmans; if we don't have a market, we don't grow the crop. We needed a better price for cucumbers so we raised the price and were able to keep the market. We now also have 40 acres of organic sweet corn, up from ten acres during our "pilot" experiment, because the markets are there, demand is strong, and prices are encouraging. We also cut back on pickling cucumbers and eliminated tomatoes due to food safety and labor issues. In 2015, pickling cucumbers were completely eliminated. Labor is a major factor in our decisions about the mix of crops in a given year.

In March we have about 14 workers, counting one minimally part-time worker, Rick and myself. About 11 of these employees are full time and local, which is about 20% of our workforce, because most of our labor is seasonal. In May we hire 20 seasonal people, but during the growing and harvest season, we can have anywhere between 40-60 workers. In August 2015, we had about 40-45 workers, 16 H-2A and 16 local seasonal. We file between 70-90 W-2's every year due to people coming and going. Our peak year for W-2's was 2012; we filed 99 W-2's total. The apple crop that year was a disaster so we had an abundance of workers that we were not able to efficiently manage. In 2013 we had the opposite problem; we didn't have enough workers given the large apple crop yield. Thankfully, the number of W-2's we file has been reduced considerably by the use of H-2A.

The numbers of workers we employ changes yearly based on shortages and surpluses in available workers. Our decisions regarding which crops to plant are based on the labor requirements for each crop. The season, weather and availability are also determining factors. We are not ramping up, nor ramping out. Our expansion is limited more so by land than labor concerns, but labor is always an issue. Land, labor availability, and price are determined by competition from other agricultural sectors, particularly dairy and apple production.

Recruiting and Hiring Practices

We've used H-2A for two to three years out of the last six years. We used it one year, didn't for a year or two after that, and then began to use H-2A again in 2014. Also, it appears that once we use the program, we then become targets for labor investigations. In 2014 and 2015 we used

MAS Labor, a firm we've used once before, to coordinate the paperwork for our H-2A workers in the States and in Mexico. We got half of the workers we needed, and there is no known reason why the others didn't get through initial interviews. The H-2A Program is very expensive and difficult to use, and although I've tried managing the program myself with help from a former New York State Department of Labor employee, we couldn't manage the paperwork or transactions that had to be dealt with in Chiapas, Mexico. Everything had to happen in Monterey, which was too far from the workers who were applying. It was impossible to contact someone by phone so we had to hire someone to be our liaison.

This year, the H-2A Program has already cost us over \$12,000 (not including travel and housing) for 16 people who are not here yet. We also pay a high wage rate of \$11.40/hour, plus housing and travel. However, our buyers will not pay higher crop prices to cover these very high costs. Our neighboring farm is expecting delays. We also have no guarantee that the contracted workers will show up by May 5 even though the Department of Health has the necessary paperwork and our housing inspection was successful. Since using MAS Labor, I have stayed out of the process; instead, an employee of ours who is originally from Mexico oversees it.

We have had very good luck with the H-2A workers and will continue to use them. They are very expensive, which also influences which crops we will grow. Some crops just aren't profitable enough to grow given our high cost of hand labor.

Staffing Challenges

We've suffered some labor shortages, the border being the problem. Rick believes we lost a lot of crops last year, especially organic crops. The weather was poor, we didn't have enough people, weeds spread before we could control them, and yields suffered as a result. We couldn't keep up with cauliflower and cabbage during harvest because there was a coinciding large apple harvest that was competing for our workers during peak harvest time. We threw out thousands of transplants and left 100-acres unplanted so we could concentrate on what we were able to plant.

Crop insurance is pretty useless. We purchase Prevented Planting policies, which are not available for cabbage - we did not know this.

Labor Concerns and Exploring Labor Alternatives

We fabricate harvest aids ourselves, such as wagons with arms to receive and pack produce picked in the fields. Kraut cabbage harvest is also mechanized. We also modified cultivators and flammers for organic weed control.

In terms of alternative labor pools we've considered, teenagers are not available for the times when they are needed.

We're not expecting any immigration reform or policy changes in the foreseeable future. ICE actions are meant to put pressure on farmers so that farmers will push Congress. If the enforcement pressure wasn't so great, we might not bother lobbying for reform. We believe that maybe the country is coming around; we don't hear as many horrible comments about jailing

employers and deporting workers. We will work with our current workforce and the 16 we hope to get from H-2A; if they show up, we will be all right. The two-acres of organic strawberries intended for wholesale will be fine because we have an experienced worker originally from Red Jacket Orchards to oversee this.

If there are no policy changes, we will plant fewer vegetable acres and invest in more mechanization. Acreage will definitely decrease. We've spent \$50,000 on equipment to reduce labor for organic production. Weed control in organic production is paramount. The technology available in the United States is far behind that in Europe, so that's where we go for labor-saving machinery. Even if we had labor, technological progress is important.

If there were to be a new guestworker program, or if H-2A could be modified, first and foremost the process needs to be simplified. I don't know if government can do anything simply. For example, an electronic ID card that enables workers to be verified and allows for easy coming and going would be hugely beneficial. Very few controls on border crossings should be implemented. Mexican workers have been coming here since the late sixties. We will tell the crew leader we need x number of workers and they just come. If I must provide housing, I will. Canada seems to have a good system, so maybe we could replicate parts of their program. The New England Apple Growers offer services regarding how the H-2A process operates, so maybe we could benefit from similar support. Also, Florida is subject to receiving workers who know how to manipulate the program, so they get paid and then leave, which is an issue for Florida growers.

From Cornell Cooperative Extension, it would be helpful if economic data were collected, analyzed and shared. Also, working with Farm Credit to demonstrate policy impacts on the agricultural economy would be useful for farmers and legislators.

Sievert Farms
Burt, New York
Interview with Dan Sievert and Kathleen Walker
May 14, 2015

Description of Farm Operation and Current Workforce

Production on Sievert Farms occupies approximately 1000 acres. For apples, we have 520 acres bearing, 35 acres nonbearing. Cherry production is 210 acres bearing and 20 acres nonbearing. For peaches, 120 acres are bearing and 60 acres are nonbearing. We had not planted plums for the past six years, but last year, the quarantine on plum pox was finally lifted so we have been actively planting new plum trees to keep up production.

We have 95 workers total. We use the H-2A Program, and those workers constitute over half of our workforce. In 2014, we had a total of 62 H-2A workers, and we requested 62 for 2015 as well. All of these H-2A workers are seasonal, with the first 18 coming around June or July. The rest of the H-2A workers are brought in at the end of August or early September, and they stay until November.

We have 34 workers that are non H-2A, and four or five of those are non-seasonal and full time. We have 19 men trimming, ten people driving tractors and doing other farm work including spraying, two men running the shop, and three administrators. We have adequate housing for 78 workers, and we are able to secure local housing for up to 122 more workers if necessary.

Approximately 85% of our workers are foreign born and 15% of our workers are domestic. All of the 62 H-2A laborers are from Jamaica. We probably could have more Hispanic workers if we didn't use E-verify, but we voluntarily choose to use this program to ensure to the best of our abilities that our non H-2A workers are legally in the United States. When federal inspectors come to do I-9 audits, which they have done more than once in the past, we can show we are making every effort to comply with the law. Our most recent audit occurred four years ago, and everything was routine and went well. Our farm tends not to be a target for these types of inspections.

In terms of being able to change our labor supply depending on our crop yields, we do have the capacity to downsize, but we do not have the ability to upsize or increase our labor pool if needed. There are no extra workers in this area, so if we don't request enough H-2A workers, we end up being short on labor. We have to manage our demand and supply internally. Most often, if we are short on labor, we determine what the least valuable crop is and leave it in the field. For example, we always pick apples, but not always on time, and we hardly ever pick up juice apples because of the pricing we receive for them. We probably leave roughly 10-20% of the juicing apples on the ground for one reason or another, but mostly because that's the least valuable part of our crop. Fortunately, our H-2A workers will work in any weather conditions and for more hours than is even expected from them if it is necessary to get the crop picked.

Recruiting and Hiring Practices

Our non H-2A workers return every year, so we don't really have to recruit this group. Some of these workers have been with us for 30 years or more. The majority of these Hispanic and Jamaican workers live in Niagara Falls, and a few live in Lockport. When we lost our mechanic, it was very difficult to replace him. The new person we hired didn't last a week because he lacked the necessary skills. We ran ads in the Lockport paper and Penny Savers in the surrounding areas, but we didn't get one response. We found our current mechanic by word of mouth.

Sometimes the labor pool might be so small that we have no other choice but to hire a worker whom we know doesn't have the best work ethic. Competition is fierce between farms, and people with mechanical skills can make more money working for a car dealership. This has also contributed to the dwindling labor pool.

We have been using H-2A since 1974, and we rely heavily on this program. The H-2A workers constitute more than half our workforce. The process to request H-2A workers begins in February, when we send our list of preferred workers to Florida East Coast Travel. We specifically ask for workers that have been working for us for many years. Every year, we get four to five new workers, but most are returning. We also receive sons or nephews of past workers.

In March or April, we send in our first request, ETA 792, to NY State, and usually there's a pretty quick turnaround. We then send that form electronically to Chicago. We need a copy of ETA and have to fill out the 9142 form, which is long, and send both those forms to Chicago. At that point, Chicago will determine if there are any deficiencies that need clarification or if our forms are approved for processing. Once approved for processing, Chicago will send us a list of three states in which we need to advertise to recruit workers. In the past, we've run advertisements in New Jersey, Pennsylvania, and Puerto Rico. After the ads run, Chicago has ten days to confirm that we are actively trying to recruit workers. At that point, we get their approval, and our request goes to the Homeland Security office in California. We need to fill out another Ag 129 form along with 9142 and ETA 790; these are all sent to California, and they have ten days to decide whether we can bring in the H-2A workers we requested.

Last year, we kept our number of seasonal workers under the limit to ensure we did not have to comply with the Affordable Care Act because that is a major cost. However, this means our workforce is severely limited for two crucial weeks. Under the Affordable Care Act, H-2A workers could have healthcare in the United States, but not Jamaica. However, that would also mean that the 19 trimmers, ten tractor drivers and three administrative workers would all be entitled to be placed into the healthcare system as well. So, compliance with Affordable Care Act for 34 workers at \$500/month (not including spouses, children, etc.) would cost an estimated \$204,000. It would also require another full time employee just to deal with all the required paperwork. If we had to provide insurance under the Affordable Care Act for everybody, there would be a "for sale" sign in front of the farm right now. The margins aren't there to cover the insurance costs. New York State unemployment insurance for H-2A workers adds an additional expense. We currently pay a minimum of \$40-50K for unemployment insurance.

Staffing Challenges

The labor supply has gotten very tight, especially in the last ten years. Even before that, the labor pool was noticeably dwindling. New York State in general is a welfare state. Lockport and Niagara Falls are the nearest big cities, so why would people come to our farm to work when they can collect welfare? Around 1987, a survey was conducted in Niagara Falls that showed over 70% of the workforce age 18 and over was on some type of relief, yet not one of them would come to our farm to look for a job. It's also very rare that local people stop in looking for work.

Because labor is so tight, we now rely more heavily on H-2A workers and have been increasing the number of H-2A workers we use on our farm in past years. We have also considered bringing in four or six H-2A Jamaicans at the end of March or early April to start driving tractors, which is three months earlier than they usually come, in order to ensure adequate labor supply for that period.

We are also considering downsizing. Between six to eight years ago, we had over 700 acres of apples, which we have since reduced significantly. We also had about 150 acres of peaches. We're keeping the peach acreage because we have a specialty market, Wegmans, and we've been extending both ends of peach season.

We've been mechanically harvesting cherries for a long time because the technology is available, so we're not planning on downsizing our cherry acreage. However, we do need adequate, skilled workers with some experience and expertise to operate the \$200,000 shaker machine. Currently for this job, we use a key employee that has decision-making authority, such as one of the men that works in the shop. One person has been running the same shaker since 1992.

In terms of shortages, it's not uncommon to leave 15-20% of the apples that would be harvested for juice because juice apples account for a far smaller percentage of crop and farm revenue. This isn't necessarily due to lack of H-2A labor, but sometimes because local employees wouldn't show up to drive the tractor that day. Then, if a supervisor is running the tractor, there's no one else to oversee the operation. We're actually thinking about bringing in four to six H-2A workers just to drive tractors. More farmers are doing this. Basically, if the price was right and labor was there, we would harvest more juice apples.

Labor Concerns and Exploring Labor Alternatives

As mentioned above, cherries have been mechanically harvested for about the last 40 years. For peaches, we train H-2A workers to pick and pack in the field so that peaches do not have to be repacked later.

Apples are picked in sleds by the hour, not by piece rate, so we don't have to provide any make-up pay or worry about accountability. Paying by the hour simplifies the whole process, and picking by sled enables laborers to work together and keep pace with one another, which helps to ensure uniformity as well. They are told to pick apples with little bruising, 2.5 inch and up, and 50% color. Such standardization makes the task simpler to complete. Specifications do differ by

variety, but workers that have been around many years know the subtle differences and where specific orchards and varieties are located, so they help guide and train the newer employees. Even though our apple acreage has decreased, we have reduced spacing between plantings, which has enabled production to stay high. The learning curve has been a little stressful, because we now cut the big branches and leave the younger branches, which is the opposite of what we have previously done.

Regarding changes in land use and crop mix, we are now producing fewer apples because of labor challenges and the changing market. Apple production in Washington State is so great that New York and Michigan don't even need to grow apples anymore. Our competitive advantage is beginning to rest with peaches and cherries, but Michigan is also planting lots of cherries. In New York, we can grow cherries inexpensively because they only need to be sprayed until July and harvest is completely mechanized.

Our operation is built around H-2A workers. Local workers are not responding to ads, and ads are expensive to run; no one is inquiring. There is also the problem of people being under qualified. It's difficult and time consuming to train new workers.

I wanted to see broad immigration reform in the United States ten years ago. Now it will depend largely on the White House, Senate and House of Representatives; everyone is going to need to want it and work together.

The H-2A Program, or a new similar guestworker program, would be improved if it was simpler and involved less paperwork. The H-2A Program could be easy if government would just trust farmers. When we place orders, the orders we submit will be exactly the same as previously accepted orders with the exception of the date, but while one order might be approved without any problems, the second order could be held up because of some deficiency. This is largely because Chicago and the H-2A system in general have so many people reviewing the paperwork that many times, whether or not an order is accepted is based largely on personal interpretation. There are too many rules and regulations that cost farmers more money than is necessary. Farms can lose two weeks of productivity because of red tape. So, we submit orders as early as possible to compensate for expected delays to help ensure we aren't short on labor at crucial times. We are willing to pay workers' transportation, housing, and a fair working wage, but government regulators are very demanding and micro-manage farmers, which makes it very difficult for us to do our job.

We appreciate Cornell Cooperative Extension talking with farmers and conducting surveys to better understand our needs, thereby informing the conversation and giving growers a greater voice in the policy area. Growers as individual owners are often not listened to because we're taken as self-serving, but policy makers will pay attention to a Cornell study.

Other Noteworthy Issues that Emerged from the Discussion

Only New York and California have a law that requires farms to pay unemployment on H-2A workers. There is a current bill to eliminate the unemployment insurance requirement on H-2A workers and we hope this gets passed. Also, pesticides can be easily registered in 48 states very

quickly, but California and New York are typically the last to receive new pesticides, which puts growers in these states at a disadvantage.

Torrey Farms LLC
Elba, New York
Interview with Maureen Torrey
May 15, 2015

Description of Farm Operation and Current Workforce

We have 13,000 acres of farm crops total. Our seasonal vegetables require six weeks of planting and 10-12 weeks of harvesting. Crops include cabbage, cucumbers, green beans, summer squash, zucchini, mini pumpkins, and winter squash. We have 1100 acres each of cucumbers and green beans, 175 acres zucchini, 175 acres winter squash, 110 acres mini pumpkins, 156 acres peas, and 375 acres carrots. We also have processing vegetables that are machine harvested.

Our year round crops include cabbage, onions, and potatoes. We have 2000 acres of onions, 550 acres of potatoes, and 800 acres of cabbage. We have 140 year round workers (production and trucking) to support these crops. We rotate specialty crops with grain crops including 3400-3500 acres field corn, 500 acres hay, and 400 acres wheat. Some grains are used for our dairy operation, wheat is sold to flour mills, and corn is sold on the grain market.

The number of H-2A workers employed depends on time of year. We have 273 H-2A workers at peak season and even that is not enough. Approximately 40 H-2A workers arrive in December to pack cabbage and potatoes. They usually go home mid-July. Starting in the beginning of April, we bring in an additional 150 H-2A workers who stay through mid-June. We also bring in 40 workers to weed onions in mid-June. In early July, we bring in another 195 people to harvest and pack summer vegetables. We occasionally hire a few seasonal non-H-2A workers if they are referred to us and have experience; they come and go. There are usually five people or less in this group.

Out of 140 year round workers, 42 are domestic and 98 are foreign born. The total foreign born workforce at peak harvest is 333 out of 375 total workers, which is almost 90% of our workforce. We base our H-2A orders on yield expectations, pests, weeds, and weather, and we process all orders internally. We are required to place work orders at least 60 days ahead of needs. However, some plants are ready to be harvested 45 days after being planted. Because of long lag times between orders and harvest, and because farms have to guarantee 75% of the hours advertised, we could see crops go unharvested due to lack of workers if yields are higher than expected. If crop yields are lower than expected and there isn't enough work for all H-2A workers, we still have to pay all workers at least 75% of advertised hours.

Recruiting and Hiring Practices

We have been using H-2A for seven years for our seasonal vegetable crop needs. For local workers, we advertise at colleges and in newspapers (especially for equipment operators, truck drivers, and even management positions). Some immigrants who have been working for us for many years are in management positions. We also find people by word of mouth. If a neighboring farm is sold or land is being rented out, we will recruit those workers. We actively

look for this because these workers are already skilled and local so it makes for an easy transition. Workers feel Torrey Farms is an attractive option for them. Ag-businesses will often refer workers to us. We take applications year round and do all of our recruiting in house. We have a dedicated phone number and email address, so anyone interested can easily apply.

Staffing Challenges

About ten years ago, we had an excess supply of farm workers but now, because of intense government enforcement, that pool of workers no longer exists in this area. We used to always be a magnet for farm workers because we offered sufficient hours, housing, and 401K benefits for all workers if they worked more than 1000 hours a year. Workers wanted to work six days a week, ten hours a day. Now many people have left the area or have been deported. The workforce is aging and not as physically able to do labor-intensive jobs. New workers are not coming, and farm workers' children are going to college instead of working on farms.

These factors make H-2A even more important. The first year we used H-2A, we only hired 40 workers. We have experienced tremendous growth in our H-2A hiring ever since. If H-2A did not exist, we would not be able to grow any specialty crops and would likely go out of business because there are no other options. We already have crop losses at times because of labor shortages. If yields are larger than expected, we may not have enough H-2A workers to harvest the entire crop. Even Florida and California, which have large worker bases, do not have enough labor to harvest all their crops.

The current H-2A Program doesn't provide enough flexibility. For example, in October, we were ready to disk up cucumbers. Then I asked a grower in Florida about the cucumber market. The grower said there were no cucumbers in the country, so we contacted some customers and were able to sell the crop. If we didn't have the labor, we would have forgone \$500,000 in income.

Another problem with H-2A is that workers can't be moved. For example, a neighboring farmer had 40 H-2A workers but lost the early crop to a hail storm, so he didn't have any work for the 40 H-2A workers that he had hired for a month. Even though we had weeding that these 40 workers could have done, these workers couldn't be transferred temporarily to our farm. This can be very costly for farmers because they still have to pay these workers 75% of the promised wages even though there is no work. Farmers don't have the flexibility to transfer workers anymore because of regulations. The economic impact of this is great. It makes it difficult to reinvest in the company.

We expect almost no domestic workers this year. The local Penny Saver has five pages of help wanted ads competing for the same type of farm labor. Labor provisions are really tightening up. Therefore, we are counting on orders already submitted for H-2A workers and hoping they all get accepted. We are already experiencing some problems. The labor department didn't want to give us 40 workers for weeding because they said planting and weeding are same thing. We had to have an attorney write a six-page letter explaining why we needed these 40 workers. This back and forth occurs all the time. To hire 150 workers, we needed congressional help because we couldn't get what we needed from the USCIS office. Sometimes we also need help from the consulate office to ensure we can get the required number of workers. We were supposed to have

our workers by April 1, but didn't receive the workers until the April 16. The economic impact is huge when we can't get these workers or their arrival is delayed. We used to pick cucumber fields five to six times a year, which would help average out our input costs. Now that we don't have the labor pool to harvest this often, we only pick the best fields two to three times instead of five to six times. This is significant because there is only one crop a year and that's where the margin is. This is a direct result of labor shortages.

Labor Concerns and Exploring Labor Alternatives

I do not expect to see comprehensive immigration reform in the near future. I expect to see crop shortages. Farmers are changing what crops they grow. Much of the farmer population is near the age of retirement and may not reinvest in the farm.

We are starting to look into pilot programs with specific countries (Haitian workers for dairy, for example). If nothing changes with the labor supply, we could potentially go out of business or we will switch to mechanized crops like field corn.

Regarding mechanization, we are building in-house mechanical harvest aids to increase productivity. This is less physically demanding for workers, more efficient, and requires less handling of produce. In the last five years, we have been trying to do this for as many crops as possible.

Regarding expansion, we look at crops that can be harvested with harvest aids. We want to increase acreage but use about the same labor. We are losing efficiencies because of loss of laborers; agriculture is not advancing in specialty crops like we should be. We don't have labor to try new technologies. Every decision we make is a labor related decision. Labor is the biggest constraint. For example, we really need some new buildings, but we don't want to invest in multi-million dollar buildings in such an uncertain environment.

Guestworker programs are very important for both dairy and specialty crops, and should not be solely seasonal. We need a year round guestworker program because we are growing, packing, trimming, planting, and shipping 12 months a year to stay competitive. Current programs are designed as though specialty crop farming is only ten months a year. However, many farms are able to be in the marketplace and do a production or crop related job every month. The program hasn't kept up with changes in production and technology.

We need Cornell at the table to provide economic information, including the potential impacts of differing labor policies on farmers. We need someone to look at property values. Real estate assessment is too high. Extension is too focused on hobby farms and the "local movement." As commercial farmers, we are not considered "local" and this influences buyers. Also, in regard to exemptions, Torrey Farms feels a little discriminated against because we are too large to qualify for exemptions because we have an effective and efficient business model.

Other Noteworthy Issues that Emerged from the Discussion

An overtime pay requirement at a rate of time and a half would be a huge issue for us. Workers are focused on earning the most income possible, but farmers can't control weather conditions.

Crops we grow can change quickly, so there are times when overtime is a necessity. In these circumstances, it can be very hard for us to reduce hours, and if we did, we risk losing crops and workers. Workers often want more hours and will go to where they can get the most work. Torrey Farms and others are losing business to California because it is cheaper to grow crops there and then ship them to New York from California.

Future challenges include coping with an aging population, lack of new farmers and trade skills, a focus on education, and the loss of general agricultural expertise. Labor programs with other countries will be important sources of new labor. We are therefore encouraging the Department of Labor to expand and approve pilot programs with specific countries.

Some of our truck drivers are retiring in the next five years and we don't know how we are going to replace these workers. Good wages and benefits cannot attract drivers.

We have H-2A audits by the Department of Labor (federal and state) at least once a year, which includes loads of paperwork, and it is super intensive and inefficient. This is an enormous amount of work for us (it takes at least five people in the office working on H-2A). We need improved programs or agriculture is in big trouble. The current program needs to be streamlined and made user friendly for both the worker and the employer.

Amos Zittel and Sons, Inc.
Eden, New York
Interview with David Zittel
June 3, 2015

Description of Farm Operation and Current Workforce

We have almost four acres of greenhouses. We are in the process of rebuilding right now after last year's November snowstorm. We grow finished floral cuttings, which take up between two and two and a half acres. We grow our own transplants: cabbage, brussel sprouts, peppers mainly.

Regarding the cuttings, we bring them in from offshore about two and one half million cuttings a year from foreign markets. We root those and send them all over the country. We sometimes rotate our greenhouses two to three times between our floral cuttings in the winter and then our finished flowers in the spring.

Outdoors, we have about 220 acres and the primary crops are sweet corn, peppers, lettuce, cabbage, summer squash, zucchini, and eggplant. Minor crops include beans and brussel sprouts. Some of these acres are double cropped.

We have a family and a hired workforce. About half of us are family and salaried employees and the other half are hourly employees that include high school kids, college kids, migrant workers and local people. There are four primary owners including my brother and I, Bill, and my two cousins, Mark and Kevin. Just joining us back this year is my son Evan. In addition, we have other family employees. We have 30 full time employees. We have four to five salaried employees that have been with us from 40 years all the way down to about ten years. Most of them have some specific expertise; one is an electrician, one is a mechanic, one attends to all of our gas wells on the property, and then the rest are managers. Beyond that, most employees are hourly. We carry a minimum of 25 to 30 employees in the dead of the winter. We have between 40 and 60 migrant workers depending on how many locals we have from high schools, etc. Our migrant workers are primarily Mexicans (75% to 80%); the others are Guatemalans and Haitians. The Haitians come from Miami to work in the summer. The workforce I am starting to see and may use as a reserve if needed is refugees. Our biggest challenge with hiring refugees is housing because usually they come as families. Right now, all of our migrant workers are male and housed together. We realize we might house families someday but we are not set up for it today.

Regarding the H-2A Program, I think it has its place in agriculture, but it is cumbersome and unreliable. The timing has to be perfect in our business. It is not like apple production, where picking the crop a few days one way or the other won't have any major consequences. Our business is days specific so when I need workers to start putting pepper transplants in, I can't have a work order that will be filled weeks late. We are so diversified it is almost impossible to write a specific work order for workers that are doing multiple tasks during one day. Our current migrant workers are very flexible and good at their jobs. I had a group of ten workers a while back, but even though I didn't work them two days in a row, they were fine with that because

they know that once we get into production, there are going to work 12 to 14 hours a day - that is what they are here for. The more diversified we are, agriculturally and horticulturally, and the more crops we grow, the harder it is to use H-2A because we don't have long term jobs that consist of just one task.

Recruiting and Hiring Practices

I have five to seven migrant workers that have been with me for 25 to 30 years. They make up most of our migrant labor force. Our migrant workers also help us recruit through word of mouth. Everybody has friends and family looking for work, so word gets out that we're a fair business, pay well, have housing, provide for them, and also assure they will get the hours they want. We hire local workers through word of mouth as well, but the number of local people willing to do what we need them to do is dwindling. When I was growing up it was easy - there were more kids than I could recruit for my dad - but now it has become very hard because of the labor laws for youth labor. We will not hire anyone under the age of 16 because of all the restrictions. This is very sad for us because we believe that how we were brought up builds a work ethic. A work ethic is very tough to start building at the age of 16; it needs to start earlier.

Staffing Challenges

In agriculture in general, I believe labor supplies are very short. Every year it's on our mind. I have been back on the farm 20 some years now, but it has never come to a point where we have left crops in the field or where we couldn't get things done. It always seems to work out. I think there are some undue immigration enforcement pressures in our area that sometimes restrict the availability of labor, but to this point it has never impacted our business. We feel very fortunate to have workers when we need them. However, I think there is a labor shortage for agriculture in general. I think that there is a public misconception that there are people locally, Americans who are unemployed that will do the farm work that is currently done by migrant laborers. This is not true. My grandfather hired Jamaicans. My dad hired Puerto Ricans. When I got out of college, we started hiring Mexicans.

Our migrant pay rates are between \$8.75 and \$11.00 per hour. Regarding wages, we start everybody at the minimum wage, which in New York State is in the process of increasing in steps. We went from \$7.50 to \$8.00 to \$8.25 to \$8.75 this year and will go to \$9 next year. Our migrant laborers get \$200 worth of transportation money to start and if they stay the entire season (five to seven months), we give them a \$600 transportation bonus. They also get free housing and utilities, including water, gas, and electric. They pay their own telephone and cable bills.

We start high school kids at minimum wage, but again, the minimum is increasing. Then we base pay rates on the years of service. We try to give about a 25 to 30 cent raise per year, which I think equates to a four or five percent increase. We feel that it's fair even for our salaried workers that have been here for 30 to 40 years. Our philosophy is that we are never going to take a good year and say that we will give everybody huge raises and vice versa - we never eliminate raises because of a bad year. You try to keep wages on a consistent upward slope. I don't think we've ever not given raises, and our employees know this. There two ways an employee can get

ahead here, one is the annual increase and the other is being promoted from within. We are working with a high school graduate right now and looking possibly to paying a portion of his education with hopes of eventually promoting him to a higher-level position.

I think that agriculture has got to compete in the labor market just like any other business. We still have to hire good workers just as much as anybody else does. The talent we need on our farm, I would say, is comparable to any industry. It's not unskilled labor. It's far from unskilled. Many people, including policymakers, don't understand that, and I don't necessarily blame them for not understanding. You've got to walk a mile in a person's shoes to know what they do. I know that everybody has the fear that I work harder than the next guy. I don't believe that. I believe that everybody works hard. But I whole-heartedly agree with the notion that farm work is not unskilled work.

Labor Concerns and Exploring Labor Alternatives

I think we have made some significant changes with mechanization and efficiency, but we find ourselves with the same size labor force. What we find is that we mechanize in order to get bigger. We use the same amount of people and just do more. People accomplish more because of the modern facilities and equipment that we provide for them. For example, last year we purchased a corn picker and that saved a substantial amount of labor. We have also mechanized the grading of peppers. We used to maybe max out at 500 boxes a day. On a good day we can now run 2000 to 2500 boxes.

Regarding the crop mix, we have gotten away from some of our minor crops. When I was growing up, we grew some beets, a small amount of parsley, just minor things like that. We stopped because it's another job to include into the work schedule during the course of the day.

Immigration reform is an important issue and I don't know why it has to be that difficult. Costa Rica, with a huge coffee industry, has a guestworker program, and Canada has one also. I don't know how it functions, but you would think that being the greatest country in the world that we would be able to come up with a process that is fair for everybody. One of the biggest misconceptions among politicians is that we have our own workforce here. They argue there are plenty of unemployed people here, why can't we give them those jobs? You can't make somebody take a job that they don't want. Americans do not want to spend 12-14 hours out working in the field doing monotonous labor, day in and day out. So, you have to ask, what are we going to do? The answer is we have been hiring immigrants for 100 years or more. You have to bring in people that want to do that task. And I am not just talking about farming. I am talking about construction, restaurant work, and landscaping, etc. I think this is where you have to look outside the box and ask where are we going to get these workers? You don't have to look very far; there are plenty of workers from other countries that want to perform these jobs and want the hours. It seems to me that somebody has to look at it politically and make it fair for the immigrants to be able to work in this country. I think it is wrong that there are currently undocumented workers in the United States paying into the social security program for services they will never receive, such as the tax program or the unemployment program. It is impossible for them to see even a dime of that money. I know for a fact in talking to immigrants that they would be willing to pay a yearly fee to have the privilege of coming into this country to work. I

never understood why we couldn't look at the dynamics of the benefits they pay for that they will never receive. In my view, there would be a fee that these workers would pay for the privilege to come in and work for you. If you could set that up, you would not have a border problem anymore because you would have documented people that pay a fee to enter and are willing to pay that fee because they know they have opportunity in a country that has work for them.

Other Noteworthy Issues that Emerged from the Discussion

Let me address the issue of a guestworker program that would bring people in and send them back within a designated timeframe. Most of them want to go back. It's sad that they can't go back. Many feel trapped here. In a way, we're holding them hostage and complaining that they shouldn't be here. We need to give them a way to go back and see their families, maybe even re-create their own job back at home. There will always be people that want to work. It's just a matter of finding them and creating a process that is easy for everyone to navigate. I don't understand why a guestworker program has to be so complicated. I know there has to be documentation to allow them to enter into the country legally. I want that for the safety of my own country. If somebody applies for a work permit in order to come into our country to do a job that nobody else wants to do and is willing to live within the constraints of the program, I don't really understand why that can't work. Even in dairy, I understand it is a year round industry, but I often have said that I don't understand why you can't have an eight month program or train a double workforce so they overlap. We could allow immigrants to work for eight, nine, or ten months, send them back to their home country, and farmers could fill in these labor gaps with another group until the immigrants return at a later date. Therefore immigrants still have a job and can travel safely. The United States can do the humane thing and allow people to see their family. I know of cases where people have children but have not seen them for eight to ten years. I can't put my head around that. I can't fathom that. But they are dedicated to what they do, they need the job, they are willing to do the job that nobody here is going to do. They know that they can only do that here in a land of opportunity but they are caged in. This is frustrating to me.

Discussion

Description of Farm Operation and Current Workforce

The eight farms interviewed include three vegetable farms, two farms primarily engaged in apple production, one vineyard/winery, one fruit and retail operation, and one greenhouse and vegetable operation. Most farms have adjusted their crop mix and crop acreage in recent years in order to increase profit margins, efficiency, mechanization, and as a way to deal with uncertain labor supplies. The size of the workforce also varies and fluctuates depending on acreage, crops grown, cropping systems and seasonal needs. For example, the 35-acre vineyard employs between 15-20 part time workers, while the largest farm will employ 235 H-2A workers at the peak of the season with 140 year round workers.

These eight operations also draw their workers from various labor pools. The majority of workers are foreign born, but farms also use people from their local communities. Many foreign born workers are here on H-2A visas. In addition, there is a large number of Hispanic non-H-2A workers who constitute a large component of the New York agricultural workforce. Farms have also started employing foreign-born refugees who have sought asylum in the United States. The jobs these workers perform vary; some are laborers, some are equipment operators and others are supervisors or managers. All farms expressed concern regarding their ability to secure adequate labor and the uncertainty surrounding the legal status of foreign born workers. Given thin operating margins associated with labor-intensive enterprises, risk related to labor is a constant, significant management concern.

Recruiting and Hiring Practices

The case-study farms use a variety of ways to recruit and hire workers. Four of the eight farms interviewed hire workers through the H-2A Program. Some farms process the H-2A paperwork internally, whereas one farm outsources the H-2A processing requirements to labor recruiting specialists. One farm using H-2A also reports that they recruit workers from farms that have discontinued using H-2A. This helps to ensure that workers being recruited are experienced and productive. The cited benefits of using H-2A include minimizing the risk of losing crops due to labor shortages, being able to secure a large number of workers for a specific time period, and knowing that the workers they hire have experience harvesting specialty crops. Another noted advantage of the H-2A Program is that many H-2A workers will return to the same farm year after year, which farmers note allows them to develop key relationships and helps operations run more smoothly. The workers are already trained and have an understanding of work requirements.

However, the farms that opt to not use H-2A argue the program is too expensive, inflexible, difficult to manage, requires too much paperwork, and does not address their business needs. Each of the four, non-H-2A farms interviewed cited a specific reason that their operation has chosen to use alternative labor pools. For example, because one farm has so many different enterprises and jobs that overlap, they do not believe H-2A would sufficiently fit their complex and versatile positions. Vegetable growers in particular find the H-2A Program unfit for their needs because peak labor requirements vary depending on the weather, crop yield, and other

factors. Employers interviewed also cited costly problems related to the 50% rule. The rule “requires employers to continue to consider for employment and hire any qualified and eligible U.S. worker who applies for the position up until the end of the first half of the contract period” (DOL Office of Foreign Labor Certification, 2010). However, the newly hired U.S. worker can leave at any time, and if H-2A workers are sent home, the farmer may then be short of labor. Across the board, farmers agree that major changes to H-2A are needed.

Even farms that use H-2A must recruit from other labor pools depending on the time of year, number of additional workers needed, and the job skills required. As a result of the current labor environment, farms have been turning to other labor pools and trying new programs they would not have previously considered. However, choices are limited, and farms must therefore be flexible. Several farms have started hiring refugees. While some farm employers report having great experiences with this labor pool, others continue to struggle with issues including overcoming a language barrier and providing adequate training and transportation.

One farm has used the J-1 Training Program, administered by the State Department, to recruit international college students for the summer months. However, the State Department eliminated agriculture as a viable occupation for students issued J-1 visas, so now these students can only work in the retail markets or perform other non-agricultural tasks.

American college and high school students are also occasionally hired for summer work, but farmers note that many of these students have multiple obligations which prevent them from being as productive and reliable as they would like. Farms also recruit and hire local residents, especially retirees. This group is often able to work year round, have prior experience operating equipment and machinery, and do not have to be housed on site, given they live in the area. These factors make local workers an attractive option, but there are a limited number of local people who want to do agricultural work and there can be a great deal of competition and turnover.

Another substantial subset of the New York agricultural workforce consists of Puerto Rican and non-H-2A Hispanic workers, mostly from Mexico and Guatemala. These workers often have established relationships with a specific farm and return yearly, in which case the farm does not have to actively recruit these returning employees. On occasion, laborers will come to farms looking for work or they may be referred by agribusinesses, but in general, the manner in which Hispanic workers are recruited varies widely. One farm uses a New York State approved labor contractor to secure legal Mexican laborers. Some farms use Puerto Rican workers, although the number of this labor subset is far less than the number of Mexican, Guatemalan and other Latino workers. The major advantage of Puerto Rican workers is that they are U.S. citizens. Farms might also advertise for workers in local papers, although farms note these ads are usually ineffective recruitment tools. One farm maintains a dedicated phone number and email address for applications.

Given the uncertainties in the current labor environment, recruitment and hiring practices may change yearly, especially because farms are adjusting their crop acreage and mechanizing in order to stay efficient, profitable and competitive.

Staffing Challenges

Staffing challenges are significant regardless of whether farms use H-2A or recruit non-H-2A workers. All farms experience increasing difficulties meeting their respective workforce needs. Faced with intense immigration enforcement and increasing competition from states that can offer more year round work opportunities, many farms report being short of labor for various labor-intensive agricultural tasks at certain times over the last few years. Furthermore, because peak needs for labor vary each year and harvest windows are often tight due to weather variability, farms have had to learn how to best manage their operations given a smaller labor pool.

In order to combat some of these labor challenges, farm managers have started growing higher value crop varieties or have built new housing to attract and retain key employees. Farms have also considered downsizing their acreage of labor-intensive specialty crops or changing what they grow to reduce the number of workers required. Farmers have also mitigated risks associated with uncertain labor supplies through mechanization.

Many staffing challenges stem from the complex H-2A Program requirements. Occasionally, farms will experience difficulties getting the requested H-2A workers to their farm because of issues with the United States Citizenship and Immigration Services (USCIS). Some issues are merely clerical which can result in processing delays, but other times additional information or clarification is needed from the grower. If this occurs, farms may request help from their local Congressional representatives or the home country's consulate office.

The economic impact of labor shortages can be very costly, especially early in this season. One farm noted the immigrant workforce is aging and not as physically able to do labor-intensive jobs. However, new workers are not coming in. The children of current farm workers are going to college, and in general people are less willing to work on farms. This represents yet another farm management challenge to which employers will have to adjust.

Furthermore, workers are primarily interested in maximizing their earnings. Farmers argue that H-2A requirements restrict their ability to sensibly manage common situations in which one farm has a smaller harvest than expected or doesn't need its entire hired labor force for a few weeks. H-2A prevents the workers from being transferred to a neighboring farm for temporary work. Farmers report that laborers prefer working for apple producers because they are guaranteed a more stable work schedule and paycheck. In one case, a vegetable grower reported difficulty securing fall harvest labor due to competition from apple growers. One farm reported not having enough workers for the cabbage and cauliflower harvest because the harvest overlapped with the apple harvest. Overall, although some farms experience crop losses due to insufficient labor, especially if yields are high in a particular year, high value crops are prioritized so that losses are kept to a minimum. For example, one farm will sometimes leave juice apples in the field if they don't have enough workers.

The crop losses reported by growers have not yet been substantial. However, the threat of lost production due to labor uncertainty is a constant concern that could change at any time due to the dynamic nature of both agriculture and the labor environment.

The refugee workforce presents challenges related to lack of English skills and issues with housing and transportation. Refugee settlement programs are largely urban-centric, and finding ways to safely and cost effectively transport refugee farm workers from cities to their rural workplaces can be difficult. Thus, addressing these housing and transportation issues to allow settlement or easier access to rural New York would benefit both the refugees and farm employers.

Labor Concerns and Exploring Labor Alternatives

Given the variability in crop yields year to year, managing agricultural workers presents dynamic challenges for farmers. Across the board, farmers are mechanizing in order to reduce their reliance on human labor. Whether farms invest in machinery or fabricate harvest aids, mechanization reduces risks associated with uncertain labor supplies and increases productivity. One farm has integrated peach packing with harvesting by having workers pack the peaches in the field while they pick. Some growers interviewed have also mechanized cherry harvest, apple production, sweet corn picking and pepper grading, but growers comment that more technological advancements in mechanizing specialty crop production are needed. Farms are also changing what they grow so production and harvest can be mechanized. For example, one farm has begun growing more hay and putting fewer acres in grapes to capitalize on mechanized production. Another farm stated they are growing less and specializing in fewer crops to compensate for tight and uncertain labor supplies.

Increasing pressure to raise wages has also been a commonly cited issue among growers. Farms must offer competitive wages and sufficient incentives to recruit and retain employees, yet farmers are progressively feeling that given the thin operating margins, such requests cannot always be granted. However, because labor is already tight, farmers also try to compensate their employees appropriately through other means, including offering comfortable housing or benefits.

The largest and most commonly reported concern among growers interviewed is that there could be an insufficient number of workers at the most critical times. This is a constant risk that constrains farmers in planning their annual operations and making longer term decisions. Growers attribute this shortage to a broken immigration system with poor political prospects for necessary reform; and a costly, inefficient seasonal guestworker program. Some growers noted that without H-2A, they would be out of business. One farm even commented they were afraid to expand operations due to labor uncertainty. Because Americans are not interested in performing farm work, nor are they qualified, improvements to the current H-2A Program or creating a new guestworker program is necessary. Specifically, farmers believe eliminating the 50% Rule and unemployment insurance requirements, having a contact in the department responsible for reviewing H-2A applications, and streamlining the application process would make it much easier for farms to secure adequate labor. One farm worries that if E-Verify becomes mandatory, they would not be able to secure enough legal labor and could be put out of business.

Lastly, farmers noted the importance of Cornell research and extension in a few roles. Growers stated that Cornell is an effective mediator and should continue to inform agriculture labor policy conversations, bridging the gap between various stakeholders in order to hopefully create sound

agricultural labor policies. In general, growers noted that gathering and disseminating this type of information is a valuable resource for farms. Specifically, growers want Cornell to continue collecting and providing information on the economic impacts of labor policies. One farm also noted it would be helpful for Cornell to explain the Affordable Care Act's policies and requirements so farms can provide adequate resources for their workers. One employer requested that Cornell educate the State Department regarding farm work so they will refer refugees and work with the refugee settlement centers to increase productivity and effectiveness at all levels. Some farms also noted that exploring the merits of guestworker programs in other countries could help bring improvements to H-2A. Specifically, one farm mentioned the inability of H-2A to accommodate dairy producers and year round vegetable packing. Learning how other countries manage their guestworker programs may prove useful for immigration reform. Some farmers interviewed are also concerned that one day the law will change and they will be required to pay overtime. This would dramatically increase labor costs.

Key Points

H-2A

The H-2A Program, administered by the United States Citizenship and Immigration Services (USCIS), enables the admission of foreign nationals into the United States to complete temporary agricultural jobs. In order for farm employers to request temporary agricultural workers, they must go through a lengthy and costly process involving considerable paperwork. One recurring criticism among the farmers using H-2A was that I-129 forms are reviewed by multiple agencies, and each agency has the authority to cite discrepancies based on their interpretation, which can result in delays in getting the workers to the farm. The discrepancies with which agencies take issue often vary from year to year. Such inconsistencies place an unnecessary administrative burden on farmers.

Farmers also note how the program's inflexible nature makes it difficult for them to staff their farms for the entire growing season. H-2A workers are unable to work for multiple farms, but given the many uncertainties in agricultural production arising from weather events, market conditions and other external factors, labor needs vary throughout the seasons depending on the operation. There are also times when farms may experience labor surpluses or shortages (depending on their crop yield) because H-2A workers are unable to work for a neighboring farm that may need labor, yet farms are still required to pay 75% of the advertised salary under H-2A's "three-fourths guarantee" rule (DOL Wage and Hour Division, 2010).

Farmers also stated the 50% rule stipulated by the H-2A Program makes requesting the correct amount of employees difficult. As defined by the Office of Foreign Labor Certification, under the 50% rule, "the employer must provide employment to any able, willing, qualified and available U.S. worker who applies to the employer until 50 percent of the period of the work contract has elapsed, regardless of the number of H-2A workers covered by the employer's certification" (DOL Office of Foreign Labor Certification, 2010). Farmers may then be faced with surplus labor, in which case they are pressured to let go of H-2A workers. However, if local workers leave after a few weeks, the farms cannot bring back the H-2A workers, potentially

leaving farmers with a labor shortage. These rules make it risky and difficult for farmers to manage their labor needs.

Nationwide, the H-2A Program is responsible for providing less than 4% of hired agricultural workers, and the seasonality of the program hinders the ability of year round producers to utilize the program (Agriculture Workforce Coalition). Farmers interviewed that do not use H-2A said they didn't use the program because it was too costly, difficult to manage, and inflexible for their operation. All agree that a more streamlined process would make the H-2A Program much more efficient and beneficial for all parties. Growers understand and accept that oversight and regulation is necessary, but not to the extent currently being employed.

Immigration Reform

The agricultural industry nationally has a focused immigration policy agenda. The Agricultural Workforce Coalition (AWC), a group of agricultural producer organizations from across the United States, represents agriculture's interests related to immigration. The stated position of the AWC is that agricultural operations must have access to a stable and skilled workforce. In order to achieve that goal, the coalition is calling for two major policy changes. First, a program is needed that provides adjustment in immigration status for current undocumented workers employed in agriculture. Second, the coalition is calling for a modern guestworker visa program that will address current agricultural workforce needs and include the dairy industry. Presumably a new guestworker program would replace the current H-2A Program (Agriculture Workforce Coalition).

The general sentiment among farmers interviewed for this study is that they are not optimistic about the near-term possibility of immigration reform, nor do they believe the government is willing or able to address the many issues with the H-2A Program or create a new, adequate guestworker program. However, most of the farm owners interviewed stand ready to engage in the political process relating to immigration reform if and when future opportunities arise.

Alternative Labor Pools

Given that most of the farms in this study have experienced tight labor supplies to one extent or another, most have explored alternative labor pools. These include Puerto Rican workers, U.S. citizens (including students and retirees), refugees and J-1 workers. However, growers noted issues with each of these alternative labor pools that have prevented their widespread use and adoption. For example, refugees are largely urban-based and a more rural model is needed; J-1 student workers aren't allowed to directly engage in agricultural labor. The growers interviewed also acknowledged that local workers increasingly do not want to do agricultural work. Yet, some of those interviewed continue their attempts to recruit and hire local workers as much as possible to alleviate the risk of hiring undocumented workers. Even though many of the farms interviewed do draw from these alternative labor pools, undocumented Hispanic workers continue to provide a substantial amount of labor for agriculture. In the absence of Hispanic workers, many employers have begun to use the H-2A Program. Although there are alternatives to both these labor pools as previously mentioned, none of the alternative labor pools to date provide the opportunity to hire large numbers of agricultural workers. So, while Puerto Rican

workers, refugees, and J-1 workers will continue to provide some relief for a handful of farm employers, they do not represent a wholesale solution for labor-intensive agriculture.

Mechanization

All of the farm owners interviewed for this study reported increased interest in mechanization as a way to alleviate some of their labor challenges. Agriculture has been adopting labor-saving mechanization for decades as technological improvements become more readily available and affordable. As the pool of available workers shrinks, the adoption of new equipment and facilities increases. Most of those interviewed reported making major capital investments in new, modern labor-saving equipment. Others reported fabricating labor-saving equipment in their farm shop. All of these efforts have the goal of either reducing the amount of workers hired or substantially increasing productivity with the same number of workers. Some farms also reported shifting production from hand harvested crops to mechanized row crops. Mechanization is usually highly capital intensive, however, so farm employers are constantly examining the trade-off between labor costs and capital investments in labor-saving equipment. The trend toward mechanization of labor-intensive agricultural jobs is likely to continue, if not accelerate.

Tighter Labor Supplies

Most of the farm employers interviewed reported that labor is now much tighter than it was five to ten years ago. Much of the pressure on labor supplies has to do with the decreasing number of undocumented Hispanic workers that have entered the agricultural workforce over the last decade and recent pressure from immigration enforcement officials. As a result of tighter labor supplies, many farm employers are using the H-2A Program and/or seeking other labor alternatives. The available supply of labor is also smaller than it was decades ago, as both Americans and children of immigrants are less willing to do agricultural work, and those that are willing are demanding higher wages. Farm employers noted various ways in which they have come to cope with tight labor supplies, including growing less labor-intensive crops, mechanizing, or relying on H-2A. Most employers interviewed believe that the tightness in labor supplies for agriculture is likely to continue for years to come, and a critical element for relief is immigration reform.

Competition for Workers

A number of farm employers reported competition for workers between farms. One of the most dramatic examples was that vegetable growers had difficulty getting fall crops harvested because apple harvest occurred at the same time and some workers shift to picking apples because they can make more money (picking apples) than harvesting vegetables. Another grower noted workers are drawn to larger farms that are able to provide housing and benefits, and smaller operations have a difficult time offering competitive wages and benefits. One grower interviewed also voiced concern that New York State's decision to increase the minimum wage to \$15/hour for fast-food chain restaurant employees could draw more people away from the agricultural sector, placing additional strain on farm employers' ability to secure adequate labor supplies. Competition for workers is likely to continue and that will, in turn, put upward pressure on wages and benefits for farm workers.

Areas for Further Study

During the case study interviews, a number of topics were discussed that deserve further examination in subsequent research. They are outlined below.

How to Employ Refugees Effectively

About half of the farm employers interviewed have already hired refugees to perform agricultural jobs. The two biggest advantages of the refugee workforce are that they are legal immigrants, and many come from rural areas and are familiar with farm work. The most common difficulties related to refugees are housing and transportation. Most refugees live in cities, so transporting them to relatively distant rural farms is often an obstacle. Solutions to resolve the housing and transportation issues are needed in order to more effectively utilize refugee workers on farms.

Comparative Analysis of Guestworker Programs

The farm employers interviewed were unanimous in their belief that a strong viable guestworker program was necessary for agriculture to survive and thrive in the future. Some suggested that guestworker programs from other countries should be studied to determine the elements that could be adapted to U.S. conditions. Farm employers suggested that programs in Canada, England, and Costa Rica be studied to identify potential guestworker strategies that could be used in the United States.

H-2A Program Costs

One of the often-discussed disadvantages of the H-2A Program is its high cost. The wage rates are set at a high level, transportation costs are included, and there are many other tangential costs as well. Research is needed to identify the true costs of the H-2A Program so they can be fairly compared to the costs of non-H-2A workers, including related risk and uncertainty, as well as the costs of labor-saving mechanization.

Advances in Mechanization

The use of labor-saving equipment and facilities has been incorporated into agricultural operations for decades. As labor costs and uncertainty continue to rise, further work is needed to determine the cost-effectiveness of replacing some agricultural jobs with labor-saving machines.

Progressive Wages, Benefits and Working Conditions

Many of the interviews in this study include a discussion of how agricultural producers compete with other employers. Implicit in the discussion is the likelihood that future compensation for agricultural jobs will necessarily increase to keep pace with compensation provided by other, perhaps non-agricultural, employers. Further study is needed to determine the level of wages and benefits agricultural producers will have to provide to be competitive in the future. Likewise, additional research is needed to determine what farm working and living conditions need to be improved to make agricultural jobs more attractive.

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