

**TESTIMONY**  
**Presented to the Committee on Agriculture**  
**Subcommittee on General Farm Commodities and Risk Management**  
**U.S. House of Representatives**  
**Commodity in Focus: Stress in Cotton Country**  
**by**  
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**Introduction**

Chairman Crawford, Ranking Member Walz, and Members of the Subcommittee, thank you for the opportunity to testify today regarding the current condition of the U.S. cotton industry, the significant challenges cotton producers face, and what policy changes are needed to address this worsening situation. My name is Nathan Reed and I farm in Marianna, Arkansas.

**Farm and Background**

I am the owner of Nathan B. Reed Farms and Eldon Reed Farms, Inc. which are row crop operations. I farm approximately 7,000 acres of rice, cotton, corn, soybeans, and cereal rye in the Delta region of Southeast Arkansas.

**Acreage and Infrastructure Impacts**

The acreage planted to cotton in the Mid-South region of Arkansas, Louisiana, Mississippi, Missouri, and Tennessee for 2015 is 980,000 acres, the lowest amount in several decades. A decline of this magnitude is having severe consequences for the entire cotton industry in the region, from producers, gins, warehouses, marketing cooperatives, merchants, and cottonseed processors and merchandisers. This region has the capability to produce some of the highest cotton yields across the Cotton Belt and has historically been a major area of cotton production. However, in recent years due to the influence of many factors, some driven by Federal policies, and some by economics, acreage has continued to decline. I fear our region is at a tipping point with regard to cotton acreage and the remaining infrastructure. If some stabilizing policy is not implemented very soon, cotton acres are likely to continue their decline to the point that what is left of our infrastructure cannot survive. As you know, once the infrastructure of gins, warehouses, and related businesses are gone, they are not likely to return, making it unlikely cotton production will return to our region.

**Policy Needs**

In an effort to address the current economic crisis in the cotton industry, the National Cotton Council and other cotton industry organizations have developed a proposal to help bring some stability to the industry. This proposal is based on the administrative authority that Congress has provided to USDA in the current and previous farm bills that allows the Secretary of Agriculture

to designate other oilseeds as eligible for farm program participation. We believe that cottonseed, which is an important co-product of cotton production, should be designated as an oilseed and defined as a covered commodity under this farm bill, making cottonseed eligible for the PLC/ARC program. The importance of cottonseed continues to grow, as it now represents about 25% of the total revenue or value from an acre of cotton production.

It is important to note that the designation we are seeking would not require any legislative action by Congress and would not reopen the 2014 Farm Bill. The farm bill provides this authority to the Secretary of Agriculture and we strongly believe the current economic circumstances of the U.S. cotton industry warrant this action. Without some stabilizing policy put in place for the cotton industry, given the current and projected prices and costs of production, we can expect to see a continued decline in Mid-South cotton acres and the associated infrastructure. As the acreage continues to shrink, our region is planting more corn and soybeans and this trend will continue. A more recent development has been the production of peanuts in this region, and with our productive soils, irrigation capabilities, and the current farm bill policies, I expect to see further increases of peanut acreage in the Mid-South absent some response to the current cotton economic situation.

As further evidence of the need for the cottonseed policy, at least 125 lenders across the Mid-South region have written to Secretary Vilsack urging him to take action on the cottonseed proposal to help address the deteriorating situation. The national Farm Credit Council, representing all the local farm credit associations, sent a similar letter outlining the current need for USDA to use whatever authorities available to assist the industry. Additionally, state farm bureaus representing four of the five states in the Mid-South region have also written to the Secretary urging him to move forward with the cottonseed policy.

### **Costs of Production**

Production costs have continuously increased over the last decade. According to the University of Arkansas Extension service, average production costs for irrigated cotton have increased by \$147 per acre since 2008. With low cotton prices and tight margins, some producers will likely have negative cash flows in 2015 and 2016. For 2015, the University of Arkansas extension budgets show a loss of \$33 per acre for center pivot irrigated GLB2 cotton and a loss of \$95 per acre for non-irrigated GLT cotton.

The increase in production costs for the Delta region as reported by Mississippi State Extension is even higher with an average increase of about \$180 per acre since 2008 for the B2RF variety. Mississippi State published 12 cotton budgets for 2015 based on different varieties/practice/regions and all showed negative net returns above total costs for 2015, with an average loss of \$67. The University of Tennessee extension budgets report an average loss of \$166 for 2015. For 2016, the Mississippi State budgets are showing even greater losses for the Delta and non-Delta regions as compared to 2015. Production costs for irrigated B2RF cotton

are projected to be \$65 higher in 2016. Average losses across all varieties/practices/regions are \$90 per acre.

### **Policy Costs**

#### *'Actively Engaged' Rulemaking*

One significant policy concern regarding farm bill implementation is USDA's current rulemaking to modify the parameters used to determine whether an individual is 'actively engaged' in a farming operation and eligible to participate in farm programs. While we have concerns about the potential unintended consequences from this rulemaking, we want to emphasize the very narrow scope of the farm bill provision that resulted in the 'actively engaged' rulemaking. The farm bill clearly stipulates that no changes in the 'actively engaged' provisions will apply to individuals or entities comprised solely of family members. Further, the bill only requires the Secretary of Agriculture to define the term "significant contribution of active personal management." Beyond this, the only other possible change is, if the Secretary determines it is appropriate, to establish limits on the number of individuals by farm type that can qualify based on active personal management. However, this is not a change required by the statute. And even this provision cannot apply to or impact any individuals or entities made up solely of family members. We urge this Subcommittee to continue to work closely with USDA as this rulemaking proceeds to ensure any changes to 'actively engaged' provisions closely adhere to the narrowly crafted provision in the farm bill.

The NCC has always maintained that effective farm policy must maximize participation without regard to farm size or income. Artificially limiting benefits is a disincentive to economic efficiency and undermines the ability to compete with heavily subsidized foreign agricultural products. Artificially limited benefits are also incompatible with a market-oriented farm policy. Arbitrary restrictions on the contribution of management and labor are out of touch with today's agricultural operations and would only contribute to inefficiencies.

Earlier this year, USDA issued the proposed rule on 'actively engaged' and NCC along with numerous other commodity and farm organizations commented on the proposal. Of the approximately 90 comments received, 26 were from various groups, with 18 of those groups opposed to the changes and expressing concern about the potential impacts. We urge USDA to seriously consider the issues raised in these comments regarding the implications of the proposed rule. It is our understanding that the final rule is at the Office of Management and Budget for review, and we strongly ask that the final rule not apply for the 2016 crop year, given that the 2016 crop year has already started for fall-planted crops. The final rule should not go into effect until 2017 at the earliest to allow producers and their families an opportunity to make the necessary transitions to comply with any new requirements.

In addition to the 'actively engaged' rulemaking, we also want to ensure that no other changes or modifications are made relative to program eligibility, including the spousal rule and how USDA implements this provision.

## **Regulatory Costs**

### *Spill Prevention, Control, and Countermeasures Rule*

The EPA's Spill Prevention, Control, and Countermeasures (SPCC) rule is a prime example of an ongoing regulation that is unnecessarily burdening farmers and adding compliance costs to address a problem that does not exist or a concern that is not realistic. The SPCC rule places specific requirements on above-ground oil and fuel storage tanks located on farms. The rule was initially promulgated by the Environmental Protection Agency (EPA) under the jurisdiction of the Clean Water Act (CWA) as an attempt to protect navigable waters. However, the rule lacks a common-sense approach to how best to ensure natural resources on agricultural land are protected from possible fuel spills.

Chairman Crawford, we are extremely appreciative of your leading the efforts to rein in this regulation and ensure it is a more meaningful, realistic, and cost-effective rule. We are pleased that the U.S. House has passed both standalone legislation and as part of broader legislation to address this costly regulation, but we are still awaiting action in the Senate to finally see enactment of legislation to make the needed changes to the SPCC rule.

### *Approval of Herbicide Tolerant Trait and Labels*

One of the largest production costs on U.S. cotton farms across the cotton belt today is managing herbicide-resistant weeds and the activities involved in doing so. The 'management' of weeds includes field preparation activities, cover crops, purchasing seed with herbicide-tolerant traits, and the use of herbicides. The tools that farmers have available to them in their toolbox for managing herbicide-resistant weeds are becoming fewer and fewer, greatly increasing the need for approval of new herbicide traits and the necessary herbicide label approvals. With regard to weed control, it is particularly important that farmers have options and the ability to use multiple modes of action.

Currently, there are two new cotton traits to help manage weed resistance that have been approved by USDA's Animal and Plant Health Inspection Service (APHIS), but are still awaiting label approval by the EPA. It is taking an inordinate amount of time to have new technologies approved by EPA. For example, one important technology that would allow farmers to use dicamba over the top of cotton and soybeans has been pending for over five years at EPA. In addition, EPA just revoked the label for a formulation of 2-4-D that was used on limited soybean acreage this year and was scheduled for traited cotton varieties in the 2016 crop.

Neither of these new tools were made available in time for the 2015 planting season, although the reasons for the delay were weak at best. Yet today, we are less than three months away from the earliest cotton planting in parts of the Cotton Belt, and still neither of the two products have approved labels by EPA. At this rate, EPA is very likely to cause cotton producers to begin yet another production season handicapped in their efforts to control herbicide-resistant weeds, and the reasons for the seemingly unending delay are questionable at best. The approval process at

EPA is being hijacked by a broken and unworkable Endangered Species Act, which one of my fellow panelists addresses in more detail in his testimony. In addition, EPA, and the executive branch, are allowing those groups opposed to any advances in modern agriculture to use the court system to slow, and in many cases halt, the approval process. A recent example is the decision by EPA to withdraw the registration for the use of a new herbicide label on a new trait due to ongoing court action.

We strongly urge this Committee and others in Congress to engage with EPA to hold them accountable for the actions that are continuing to delay the availability of safe and effective crop protection products. Without the availability of new tools to control weeds and other pests, the production costs for cotton will continue to increase, leading to a further decline in cotton acreage as producers shift to other crops with lower costs of production, partly due to the availability of newer, more effective weed control products.

#### *Waters of the U.S. Rule*

The final rule provides none of the clarity and certainty EPA claims. Instead, it creates confusion and risk by providing EPA and Corps of Engineers (the Agencies) with almost unlimited authority to regulate, at their discretion, any low spot where rainwater collects, including common farm ditches, ephemeral drainages, agricultural ponds, and isolated wetlands found in and near farms and ranches across the nation. The proposed rule defines terms like "tributary" and "adjacent" in ways that make it impossible for a typical farmer or rancher to know whether the specific ditches or low areas at their farm will be deemed "waters of the U.S." These definitions are certainly broad enough, however, to give regulators (and citizen plaintiffs) plenty of room to assert that such areas are subject to CWA jurisdiction.

Moreover, no crisis exists. The Agencies do not argue that they need to regulate farming and ranching to protect navigable waters. Yet, the regulation gives them sweeping authority to do so, which they may exercise at will, or in response to a citizen plaintiff. Farming is a water-dependent enterprise, especially in the part of the country where I farm. The majority of my acreage is irrigated, which is common for most row crop farms in the Mississippi Delta region. Irrigation ditches carry flowing water to fields throughout the growing season as farmers open and close irrigation gates to allow the water to reach particular fields. These irrigation ditches are typically close to larger sources of water, irrigation canals, or actual navigable waters that are the source of irrigation water, and these ditches channel return flows back to those source waters.

Except for very narrow exemptions, regulating drains, ditches, ponds, and other low spots within farm fields as "navigable waters" would mean that *any* discharge of a pollutant (e.g., soil, dust, pesticides, fertilizers and "biological material") into those ditches, drains, ponds, etc. will be unlawful without a CWA permit.

This jurisdictional expansion will be disastrous. Farmers need to apply weed, insect, and disease control products to protect their crops. On much of our most productive farmlands (areas with plenty of rain), it would be extremely difficult to avoid entirely the small wetlands, ephemeral

drainages, and ditches in and around farm fields when applying such products. If low spots in farm fields are defined as jurisdictional waters, a federal permit will be required for farmers to protect crops. Absent a permit, even accidental deposition of pesticides into these "jurisdictional" features (even at times when the features are completely dry) would be unlawful discharges.

The same goes for the application of fertilizer, another necessary aspect of farms. It is simply not feasible for farmers to avoid adding fertilizer to low spots within farm fields that may become jurisdictional. As a result, the rule imposes on farmers the burden of obtaining a section 402 National Pollutant Discharge Elimination System permit to fertilize their fields and put EPA into the business of regulating whether, when, and how a farmer's crops may be fertilized.

### **Conclusion**

I appreciate the members of this Subcommittee for holding this timely hearing to review the current state of the U.S. cotton industry and hear some suggestions from across the cotton belt of policy actions that can bring some level of stability back to our industry. We know that agriculture and farming always has its share of ups and downs – that is to be expected – but the current situation in the cotton industry goes beyond these expected challenges and is to the breaking point for many producers and those in other industry segments. Thank you for this opportunity and I will be glad to respond to any questions at the appropriate time.