

Testimony of Bernie Kohl, Jr.
before the
House Committee on Agriculture
Subcommittee on Horticulture and Organic Agriculture
July 21, 2010

Thank you, Chairman Cardoza, Ranking Member Schmidt, Subcommittee members, and distinguished guests, for this opportunity to present testimony on implementation of the 2008 Farm Bill's Specialty Crop title, on behalf of the U.S. nursery and greenhouse industry. I am Bernie Kohl, president of Angelica Nurseries, located on the beautiful and agriculturally important Eastern Shore of Maryland. Angelica Nurseries is a third-generation wholesale growing operation producing quality landscape plants for customers up and down the Eastern Seaboard and into the Midwest. Angelica is the largest nursery in the state of Maryland, and one of the largest agricultural employers in the state.

My remarks today are presented on behalf of the American Nursery & Landscape Association (ANLA). ANLA is a leading member of the Specialty Crop Farm Bill Alliance, with whom we collaborated on the 2008 Farm Bill's specialty crop provisions. We join in thanking the Chairman and the Subcommittee for successfully crafting a Farm Bill that for the first time recognizes in a serious way the role of specialty crops, including nursery crops and floriculture. We look forward to working with you as the 2012 Farm Bill begins to take shape.

Though struggling through the economic downturn, the nursery and greenhouse industry is a bright spot in U.S. crop agriculture. The combined U.S. nursery, floriculture, and landscape industry, collectively known as the "green industry," has an estimated economic impact of \$147.8 billion¹. The industry employs 1.95 million individuals, generates \$64.3 billion in labor income, and provides \$6.9 billion in indirect business taxes. Products and services offered by the green industry directly contribute to production of apples, citrus, grapes, strawberries, and other food crops; to sustaining our environment; and to improving the quality of life in rural, suburban and urban communities. Landscape plants provide ecosystem service benefits that range from reducing energy needs, to fostering carbon sequestration, and improving water quality and storm water management.

U.S. nursery and floriculture crop production represents a major component of the nation's specialty crop agriculture. According to the USDA's 2007 Census of Agriculture, nursery, greenhouse and floriculture annual crop sales totaled roughly \$17 billion at farm gate. Nursery and greenhouse crop production now ranks among the top five agricultural commodities in 28 states, and among the top 10 in all 50 states. The sector represents roughly a third of the value of all specialty crop production in the U.S. In Maryland, nursery and greenhouse annual production totaled about \$209 million according to the 2007 Census.

The Economic Impact of the Green Industry in the United States. Hall, Charles R., Alan R. Hodges, John J. Haydu. Southern Agricultural Economics Association, 2006.

The Farm Bill and the Nursery Industry

The U.S. nursery industry has developed and thrived without the influence of market-distorting subsidies, price supports, or similar programs. Most wish to keep it that way. Consistent with this history and philosophy, our priorities in the 2008 Farm Bill focused on critical infrastructure and programs to deal with plant pest and disease threats, and to fund needed research. Global trade and travel have accelerated the pace of new pest introductions. Given the diversity of crops that the industry produces, virtually every new plant pest that arrives and establishes in the U.S. becomes a production or market access problem for the nursery industry. Emerald ash borer, Asian longhorned beetle, and the pathogen responsible for “sudden oak death” are just a few examples with which the industry is struggling.

The 2008 Farm Bill did several positive things relating to the serious threat of plant pests and diseases:

- Section 10201 provided critical funding and direction for innovative initiatives to identify and mitigate offshore threats, and improve pest detection and rapid response in the U.S. So far, USDA’s Animal & Plant Health Inspection Service (APHIS) has set priorities based upon six goal areas drawn directly from the language of the Farm Bill. While this is long-term work, and success at prevention is not always easy to measure, we believe APHIS has so far done a good job of involving stakeholders in an open and transparent process for identifying and funding the best ideas to accomplish the goals.

Specific projects funded and suggested for future funding under the “Safeguarding Nursery Production” goal are setting the stage for a modernized system for the certification of nursery crops moving in interstate and international commerce.

One critically important goal under 10201 is to more effectively identify and mitigate, potential threats plant pest threats to U.S. agriculture before they arrive at our airports and ports, and make their way to our farms and forests. Strategic research and analysis on pest threats which might reach our shores in the next few years is essential to our ability to avoid introduction, or to eradicate pests or diseases quickly if they do arrive here. If we were to share one constructive criticism for the deployment of 10201 funds so far, it would be that too few projects have been designed and implemented for offshore pest threat identification and mitigation.

- Section 10202 of the Farm Bill established the National Clean Plant Network (NCPN). The NCPN was created to protect U.S. specialty crops, such as grapes, nuts, apples, peaches and other fruits, from the spread of economically harmful plant pests and diseases. The NCPN will contribute to the global competitiveness of U.S. specialty crop producers by creating high standards for our clean plant programs for these vital crops. The program will improve U.S. growers’ access to the newest and most profitable plant varieties from around the world, without the devastating plant diseases that exist elsewhere in the world.

Robert Woolley, an internationally respected grower of deciduous fruit and nut tree nursery stock, represents ANLA in the NCPN governance structure. He recently participated in the

annual meeting of parties involved in NCPN, and had this to say after the meeting concluded:

“The NCPN could be considered the poster child for positive impact we have enjoyed from inclusion of specialty crops funding in the latest Farm Bill. With Farm Bill funding, the NCPN has enabled nurseries to eliminate common virus from nursery stock and, at the same time, to monitor for exotic, invasive disease in a unique and innovative surveillance program. The NCPN is also providing a mechanism to update and harmonize state certification programs which will facilitate interstate commerce of “clean” nursery trees. Perhaps the most significant benefit of the establishment of the NCPN, however, is the maintenance and improvement of clean plant programs at Washington State University and the University of California as well as Clemson University in South Carolina. These programs provide essential disease testing and therapy for both domestic and imported fruit and grape varieties, and Farm Bill funding via the NCPN has been timely, and critically important to sustaining their survival.”

The establishment and maintenance of the National Clean Plant Network was one of our highest Farm Bill priorities. We are truly impressed with the progress that has been made already on this program.

- In Section 10203, Congress intended the Secretary of Agriculture to be the final word on emergency pest funding decisions. In California, we have witness time and again where the experts at fighting pests are overruled by the Office of Management and Budget. The result has been delayed funding and more pests. We appreciate this Committee’s efforts to correct this bureaucratic problem. Early indications suggest that OMB remains the final word and we would ask that you closely monitor this situation.

Specialty Crops Research Initiative

We appreciate the recognition, through the Specialty Crops Research Initiative in the 2008 Farm Bill, of the need for research funding to support the specialty crop industry. We remain concerned, however, with the required 1:1 funding match for these grants. This requirement puts many specialty crop growers at a disadvantage, especially in industries that do not have check-off programs. SCRI grants are multi-year, and most traditional industry funding sources (including our own research endowments, the Horticultural Research Institute, and the American Floral Endowment) cannot commit funding for multiple years. We are also concerned that the match requirement, as implemented, is placing USDA-ARS and other federal partners on a less-than-competitive playing field because other federal funds and resources cannot be used to meet the matching requirement.

A longer term concern with the creation of the National Institute for Food and Agriculture – NIFA – is that the move toward long term, systems competitive funded research reduces funding that could be applied to meet immediate or quickly emerging research needs, such as those resulting from the introduction of invasive pest species. We feel that it is critical for USDA to maintain and increase funding efforts for its intramural research agency, USDA-ARS, in a

balanced way with respect to competitive funds available through NIFA. Increased funding is also needed for the formula-funded Smith-Lever and Hatch Act as these programs provide for the base research and educational delivery infrastructure for Cooperative Extension and State Experiment Station programs. If we allow our national research infrastructure to deteriorate for lack of funding for traditional pest and disease research, we will not easily be able to rebuild it.

Unintended Consequences of the Biomass Crop Assistance Program

While many provisions of the 2008 Farm Bill are already making a positive difference, we must alert you to a serious potential unintended consequence of one particular program, the Biomass Crop Assistance Program, or BCAP. While the program's goals are worthy, the potential diversion of certain forestry byproducts – most notably softwood and hardwood bark – from established value-added markets could devastate nursery producers across the U.S. for these simple reasons: most nursery crops are now grown in containers, and the single most important component of the growing substrate that fills these containers is bark.

Over 70 percent of the nursery crops and 100 percent of the greenhouse crops produced in the U.S. are now grown in containers. The major ingredient for the growing media or “substrates” used in container production is bark. Diversion of bark supplies for other uses, or a sharp and significant change in their market price due to market-distorting subsidies, threatens the domestic nursery and greenhouse industry and much of the \$17 billion in annual nursery and greenhouse crop sales across the country. Market price distortions or diversion of bark resulting from inclusion in the BCAP will seriously impact domestic production and could fuel loss of market share to imports from Canada and elsewhere.

It is worth noting that already, over 95% of bark byproducts have established value-added markets. Roughly 83% of softwood bark, and 70% of hardwood bark, is already used for energy generation. In this respect, BCAP subsidies would seem to represent a solution in search of a problem. Concerns about future bark availability due to market forces had already prompted the industry to fund a multi-year project to develop alternative substrates. However, the work is long-term, and the disruption and damage done by bark subsidies is a clear and immediate danger.

ANLA recently submitted official comments to USDA's Farm Service Agency, in which we offered a series of recommendations on how to address this concern. While the issue is now in the regulatory realm, we are grateful for the opportunity to alert the Subcommittee to the potential unintended consequences that will result if bark and other wood waste materials with established markets are included in the BCAP.

Specialty Crop Block Grant Program

One aspect of the Specialty Crop title of the farm bill is the Specialty Crop Block Grant Program. This program provides grants on a formula basis to the states to fund projects important to the success of specialty crop industries. A number of state associations in our industry have successfully applied for these grants. Following are two examples of the types of projects funded:

- Pennsylvania Landscape & Nursery Association received a grant to develop a technical manual for PennDOT on proper installation and maintenance plant material along road rights-of-way to mitigate stormwater runoff from highways. The project should be completed by June, 2011.
- The North Carolina Green Industry Council received a \$47,000 specialty crop block grant last year to promote outdoor water use efficiency and water conservation to the citizens of NC in an effort to reinvigorate consumer purchasing of plants, trees and turf. Three major droughts over the last ten years in the region have led to outdoor watering bans and water restrictions which crippled nursery growers, garden centers and landscape contractors.-In partnership with North Carolina State University, the GIC published and distributed over 200,000 Water Wise Works and Watering Tips brochures to consumers across North Carolina using retail displays and direct distribution to landscape contractors, nurseries, sod growers, extension agents and municipalities. The Governor designated July 2010 as Smart Irrigation Month. A statewide billboard campaign is directing consumers to a new website developed with the specialty block grant money, www.SavingWaterNC.com.

Risk Management, Crop Insurance, and Tree Assistance Program

Nursery growers appreciate that the 2008 Farm Bill expanded eligibility under the Tree Assistance Program (TAP). However, we have encountered problems with TAP implementation. USDA's Farm Service Agency (FSA) took the position that trees were ineligible unless they produced a crop. This was contrary to Congressional intent which expanded TAP coverage by recognizing trees and "bushes" as crops themselves. We believe that a recent communication involving FSA, Congressional and Committee staff resolved the matter and that FSA is correcting its TAP handbook. We hope the Committee can help us to ensure that FSA has communicated this policy correction to its local offices.

Another apparent glitch, in FSA's TAP computer program, resulted in disallowing reimbursement of rehabilitation, pruning, and site preparation costs for containerized trees while nevertheless allowing reimbursement of such costs for in-ground trees. We have been assured this technical error is in the process of being corrected, but no timetable has been given. Again, we would appreciate the Committee's assistance ensuring that FSA has resolved or is resolving this.

On the broader question of risk management, the crop insurance system is not serving the needs of the nursery and greenhouse sector. Growers report that crop insurance agents in Tennessee, for example, have had over 70 % of their policies dropped since the nursery crop insurance calamity that happened as a result of the Easter freeze and drought of 2007. Prominent factors for the decline are a lack of educated adjusters and a lack of clear interpretation (adjuster to adjuster and even within RMA) of the specialty crop insurance policy. We would be happy to share previous testimony on problems with the crop insurance system and nursery crops.

Agricultural Labor and Immigration Policy

As important as the Farm Bill has become to America's specialty crop industries, it is difficult to have a serious discussion about the future success of specialty crop producers without acknowledging the elephant in the room: farm labor. Hired labor is critical to most specialty crop producers, and we now face a "perfect storm" resulting from Congressional inaction and regulatory excess.

The facts are stark. Most farm workers lack legal status. Many have been here for years, and are highly skilled and essential. The recession has done virtually nothing to change the reality: While we have seen a small uptick in Americans applying for farm jobs, few actually report to work, and many fewer stay.

Aggressive worksite enforcement that began near the end of the Bush Administration has accelerated under the Obama Administration. Specialty crop and dairy producers are especially vulnerable. Farmers are one I-9 audit away from disaster. Meanwhile, the only legal labor safety net, known as H-2A, has long been difficult and unattractive. Producers are now struggling through the third set of rules in three years. The program has descended into regulatory chaos. I can say this with authority, as we have been using the program for over ten years.

We fully recognize that farm labor is not a traditional Farm Bill issue. Nonetheless, we raise it for this simple reason: lack of timely and thoughtful resolution of the farm labor crisis will hasten the offshoring of our specialty crop and livestock agriculture. As production shifts to Canada or Mexico or Chile or China, America will lose thousands upon thousands of U.S. jobs upstream and downstream of the farmer that exist here now because we are producing here. We respectfully urge your leadership and support for enactment of the bipartisan and urgently needed reforms of the AgJOBS bill, H.R.2414, whether as part of a comprehensive immigration reform bill, or an important step toward fixing our broken immigration system.

Conclusion

Members of the Subcommittee, thank you for the opportunity to testify on behalf of the U.S. nursery and greenhouse industry. The 2008 Farm Bill for the first time truly recognized the importance of specialty crops, including nursery and floriculture. Together, specialty crops now represent almost half of the value of total crop production in America, and the specialty crop title of the 2008 Farm Bill placed emphasis on practical, solutions-oriented programs. We recognize that the next Farm Bill cycle will be exceptionally difficult from a budgetary standpoint. We thank you for your work to date, and hope you will join together to protect specialty crops' place at the table going forward.

BERNARD KOHL JR.

APPEARING ON BEHALF OF

ANGELICA NURSERIES INC.

11129 Locust Grove Rd., Kennedyville, MD 21645

410-928-3111

AND THE

American Nursery and Landscape Association

1000 Vermont Ave. NW Suite 300

Washington DC

202-789-2900

EXPERIENCE

Angelica Nurseries, Inc.

PRESIDENT

VICE-PRESIDENT OF HARVEST OPERATIONS

Kennedyville, Md

(2000-PRESENT)

YEARS EMPLOYED (1970- 1999)

Angelica Nurseries is a wholesale grower of landscape grade woody ornamental plants for use in the landscape industry. We are one of the largest growers on the east coast and are one of the largest agricultural employers in the state of Maryland. I am a current board member and third generation owner in this, my family's business.

My current responsibilities are to manage the harvesting and delivery of our plant stock, to customers from Maine to Virginia to Illinois. As part of this job, I oversee customer service, sales, digging operations, and shipping departments. My administrative duties range from safety and health issues, to working with human resources personnel in attaining our needed workforce. I am also involved in policy and strategy decisions that are made at the board level.

Nursery Cargo Inc.

PRESIDENT

Nursery Cargo Inc. is a shipping company that specializes in hauling nursery stock. It ships up the east coast to Maine, south to Georgia, and west to Illinois.

Kennedyville, MD

(2000-PRESENT)

Maryland Nursery and Landscape Assoc.

PRESIDENT

FIRST VICE-PRESIDENT

BOARD MEMBER

YEARS (2008-2009)

YEARS (2006-2007)

YEARS (1997-2006)

National Council of Agricultural Employers

BOARD MEMBER

YEARS (1999- PRESENT)

GOVERNOR'S COMMISSION ON MIGRATORY AND SEASONAL FARM LABOR

OBSERVER/ LIAISON *Representing the Maryland Nurseryman's Assoc.* YEARS (1998- 2002)

I have been present at most meetings since the Spring of 1998. My purpose is to report back to the MNLA the topics of discussion and how I feel they may effect our industry. I have given my input where appropriate and have had many discussions with Mr. Larry Worthington and to a lesser extent Mr. Leon Johnson.

Farmer's Bank of MD (Now First Virginia)

ADVISORY BOARD MEMBER

Millington, MD

YEARS (1994- 1997)

EXPERIENCE (con't)

Kent County Planning Commission
COMMISSION MEMBER (FILLED TEMPORARY VACANCY)

Chestertown, MD
YEAR (1995)

EDUCATION

HIGH SCHOOL
Kent County High School

GRADUATED 1979
Chestertown, MD

Graduated in top 1% of class. Honor roll listed throughout.
Vocationally oriented - Auto mechanics
During senior year competed in VICA competitions, winning a
gold medal at state level and silver medal at national level in
auto mechanics.

SKILLS & TRAINING

- X Certified Professional Horticulturist- Maryland Nurseryman`s Association
- X Have attended numerous OSHA, DOT, EPA seminars on at compliance issues.

Committee on Agriculture
U.S. House of Representatives
Required Witness Disclosure Form

House Rules* require nongovernmental witnesses to disclose the amount and source of Federal grants received since October 1, 2007.

Name: BERNARD KOHL JR.
Address: 11129 LOCUST GROVE RD KENNEDYVILLE, MD 21645
Telephone: 410-928-3111

Organization you represent (if any): ANGELICA NURSERIES INC +
AMERICAN NURSERY AND LANDSCAPE ASSOCIATION

1. Please list any federal grants or contracts (including subgrants and subcontracts) you have received since October 1, 2007, as well as the source and the amount of each grant or contract. House Rules do **NOT** require disclosure of federal payments to individuals, such as Social Security or Medicare benefits, farm program payments, or assistance to agricultural producers:

Source: NONE Amount: _____


Source: _____ Amount: _____

2. If you are appearing on behalf of an organization, please list any federal grants or contracts (including subgrants and subcontracts) the organization has received since October 1, 2007, as well as the source and the amount of each grant or contract:

Source: NONE Amount: _____

Source: _____ Amount: _____

Please check here if this form is NOT applicable to you: _____

Signature: 

* Rule XI, clause 2(g)(4) of the U.S. House of Representatives provides: *Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by any entity represented by the witness.*

PLEASE ATTACH DISCLOSURE FORM TO EACH COPY OF TESTIMONY.