# Statement of the American Farm Bureau Federation

**TO THE HOUSE COMMITTEE ON AGRICULTURE,
SUBCOMMITTEE ON CONSERVATION AND FORESTRY**

**IMPACTS OF ENVIRONMENTAL REGULATIONS AND VOLUNTARY CONSERVATION SOLUTIONS**

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Good morning, my name is Kate English. I grow citrus in southwest Florida with my family under the business name of English Family Limited Partnership, LLC. I am here representing my family, as well as Florida Farm Bureau Federation and American Farm Bureau Federation.

I want to thank Chairman Thompson, Ranking Member Lujan Grisham, and fellow members of the House Committee on Agriculture for the opportunity to speak with you today about the costs of conservation compliance in accordance with the farm bill, and the myriad federal environmental regulations imposed upon Florida agriculture. There exists a widening chasm between the demands imposed on farmers by regulatory compliance, supplier and consumer requirements, and our ability to meet these obligations while remaining profitable enough to continue producing the fresh, nutritious food that we all take for granted. I am focusing my comments today on the issues of increasing complexity, expense of compliance, lack of science-based decision-making, and lack of partnership with the federal government. The point of my comments today is that **a farmer shouldn't have to have a lawyer and an engineer on staff to grow food**.

## Complexity and Lack of Science

### U.S. Environmental Protection Agency's Actions on Nutrients

Florida farmers work hard to implement effective strategies for resource conservation, but they're continually confronted with the sentiment that their extensive science-based efforts are never sufficient to protect the resource. New regulations expand the jurisdiction of agencies far beyond the regulatory space previously occupied. A prime example of this is the recent "waters of the United States" rule., The rule not only expands the regulatory footprint for farming and increases the uncertainty we battle daily, but it also lacks peer-reviewed sound science. These regulations appear instead to be based on public opinion and social media trends rather than facts and science. The result is a highly unpredictable regulatory environment and uncontrolled costs when faced with compliance based on a moving target rather than a rational, science-based goal.

We are doing more than ever to protect the environment--much of it at our own expense--while facing increasingly expensive inputs, skyrocketing regulatory compliance costs, and stronger competition in a global marketplace in which we are price takers, not price makers. Our profit margins are slim at best and these factors are not a recipe for long-term success.

Florida and its farmers have worked hard to address the impacts of agriculture on the state's natural systems. We have worked hand–in-hand with the State of Florida and other stakeholders to develop programs to effectively and responsibly use nutrients and water. Using sound, peer-reviewed science developed by the University of Florida/Institute of Food and Agricultural Sciences, best management practices (BMPs) were developed for Florida soils and climate conditions minimizing the use of nutrients and managing water use. Florida farmers were quick to recognize the benefits of BMPs and readily adopted them, utilizing the cost- and time-efficiencies found in better nutrient and irrigation management.

The Florida Department of Environmental Protection reviewed and approved these practices, noting their effectiveness in reducing nutrients and runoff while protecting the environment.

At the same time, we have struggled with litigation filed by special interest groups against the U.S. Environmental Protection Agency (EPA) claiming that Florida's efforts to protect its water supply were insufficient to comply with the Clean Water Act. Extensive litigation and negotiations at taxpayers' expense finally resulted in a settlement that provided for the adoption of Florida's proposed numeric nutrient criteria. The settlement recognizes Florida's ability to enforce its water quality standards.

The Florida Department of Environmental Protection's work on Basin Management Action Plans (BMAPs) is collaborative and intensive. These BMAPs are developed in a joint effort with stakeholders to address Total Maximum Daily Load (TMDL) exceedance. For a farm located within a BMAP, the Best Management Practices program empowers farmers to avoid the significant expense of water quality monitoring (which does not include any land management component) and instead address concerns about their operation by filing a Notice of Intent to comply with the best management practices and then working with the Florida Department of Agriculture and Consumer Services to ensure those practices are used. The other benefit of the Best Management Practices program is it allows farmers to choose from a range of management tools for their commodities. The options allow each farmer to customize environmental protections based on his or her particular operation.

Many decades of development created the conditions that we have today (though some science is now noting that naturally occurring nutrient levels may have been higher than first believed), but special interest groups are using litigation against EPA to drive policy decisions, including a demand to immediately improve water quality to standards that will realistically require decades and billions of dollars to achieve. At worst, this strategy could result in removing farming from the landscape entirely. The most extreme groups seem to seek that result based on my experiences in working with stakeholder groups. Members of these most extreme groups slander best management practices as mere "window dressing" and claim the farmers are not performing the practices or the practices do not work because immediate results downstream are not apparent. Claims like these drove the Florida Legislature to require the Florida Department of Agriculture and Consumer Services to begin development on an Implementation Assurance Manual, creating yet one more unnecessary level of bureaucracy at an additional cost to the farmer.

In response to these claims, I would instead cite the success of farmers in the Everglades Agricultural Area using best management practices who have managed to reduce phosphorus discharges from their drainage basin by more than 56 percent over the last 20 years. For a milestone 20th year, water flowing from farmlands in the Everglades Agricultural Area achieved phosphorus reductions that significantly exceed those required by Florida's Everglades Forever Act. This improvement is the result of farmers implementing improved farming techniques under the South Florida Water Management District's Source Control Permitting Program. This program has an overall average annual phosphorus reduction of 56 percent – more than twice the 25 percent required by law.

We have tools that will work which do not require pyramiding local, state and federal regulation on farmers who are working hard to protect their most basic tool and greatest investment, their land. We must use reasonable, economically feasible approaches and allow those approaches

time to work. We cannot survive ever-mounting regulation and ever mounting costs of compliance when the benefits of those regulations and costs do not result in meaningful improvement.

Removing Products Due to Public Perceptions

Citrus Greening (Huanglong or HLB) disease is spread by a single vector, the Asian Citrus Psyllid, first detected on the east coast of Florida in June 1998. By September 2000, this pest had spread to 31 Florida counties. Currently, 90 percent of all groves and 80 percent of all citrus trees in Florida are infected with greening disease. Once a thriving industry producing more than 250 million boxes, this past season Florida citrus growers produced less than 80 million boxes (90 pound equivalent), the lowest production in more than 50 years. We are perilously close to falling below the volume of fruit required to maintain the industry's infrastructure for processing, packing and marketing our crop. We will not long survive if we cannot maintain our infrastructure and our markets.

Congress has been incredibly generous and responsive during this time. It has authorized and allocated millions of dollars for research in the hopes of finding a cure to this economically devastating disease. At the same time, EPA is actively working to remove some of the few crop protection products that can control populations of the Asian Citrus Psyllid.

Public sentiment has risen against neonicotinoid chemical use due to one-sided media reports and social media campaigns claiming that these materials are responsible for the honey bee population decline. The research is ongoing, but there are a number of factors that may contribute to honey bee population changes. Studies note that decreasing population in some locales may be climatic in nature or a result of Colony Collapse Disorder (CCD), of which no scientific cause has been proven.

Florida growers have worked with beekeepers to develop schedules to time the use of neonicotinoid sprays so that honey bee populations are not present when these products are applied or when the ingredients are active. Honey bees in Florida citrus groves are transient, as beekeepers bring the hives in for the citrus bloom then move the hives on to other crops. The pesticides' labels clearly indicate how to use the product to minimize the impact to beneficial insects and citrus farmers are well aware of the potential harm caused by improper use.

We have very few options when combating the psyllid and EPA needs to make decisions based on sound, peer-reviewed science rather than fears and rumors.

**Complexity and Conflict**

Permitting at All Levels of Government

The cost of compliance continues to rise due to the volume and complexity of information required to obtain and maintain compliance with a permit at all levels of government – local, state and federal. Land activities such as leveling, clearing or routine water management that used to be allowed, either without a permit or with a minimal permit that denoted the activity on

the land, now require more complex technical information and the fulfillment of ongoing reporting. Permit applications that initially could be completed by the farmer in a few hours now require many months of preparation and expert assistance from legal and engineering professionals to navigate the agencies' review of the application, which can take more than a year. These changes have exponentially increased the cost of farming and the costs are not prorated to the size of the farm, disproportionately impacting small and mid-sized farms.

Much of the information generated for the permitting process becomes public information. This information is used to both challenge the permits being sought and as fodder for litigation challenging existing operations. The statutory provisions that allow third parties to sue farmers under the citizen suit provisions of a number of environmental laws can create significant financial roadblocks and push smaller farmers to consider other options for their land, particularly as development presses closer to farms. While a cow or a farm field may be aesthetically appealing in concept, the reality of living next door to even a small commercial farming operation is most usually perceived by a home owner as a nuisance. Right-to-Farm laws found in most states do not protect against environmental litigation. Challenging the farm's compliance with environmental regulations is typically a very successful tool to force a farmer out, especially as he contemplates the possibility of having to pay his own attorney's fees along with the fees incurred by the people suing him. The result is frequently a sale of the property for development.

USDA NRCS Conservation Programs

USDA's Natural Resources Conservation Service (NRCS) has an 80-year history of helping farmers and others "maintain healthy and productive working landscapes." The keyword in the above quote from NRCS is "working," which should be interpreted as a landscape that combines commodity production (i.e. agriculture) with ecosystem protection.

In recent years, the process NRCS uses to help farmers has become increasingly complex and difficult to navigate. At the same time, staffing challenges at the agency are increasing as experienced staffers retire, taking their institutional knowledge with them. Though cost-share opportunities exist for the implementation of conservation measures, many farmers in Florida avoid these programs due to their complexity and lack of transparency. Besides the time and intricate detail required to complete the paperwork, under the most recent farm bill, NRCS programs can now require the farmer to provide an affidavit signed under penalty of perjury that certain practices impacting sensitive lands have never occurred on the property. Farmers are often unable to obtain the corresponding back-up documentation for the affidavit to ensure they are prepared for future audits or compliance reviews, so they choose to avoid this program in its entirety.

To many Florida farmers today, USDA's NRCS is a regulatory entity. Contrast that with the view of farmers in the 1970s who welcomed the NRCS' ancestor, the Soil Conservation Service, whose scientists tirelessly worked to get Florida farms permitted when a new Water Resources Act required that every well, pump and surface water management system be accounted for and permitted. My grandfather's farm in Lee County has those permits that I now work so hard to

maintain because a Soil Conservation Service scientist came out to the farm and educated him about the requirements and helped him with the paperwork.

Citrus Crop and Tree Insurance

Farmers appreciate the federal government's recognition that food security is vital to our nation. Congress' crop insurance program helps farmers recover from catastrophic crop failures that occur from weather and other events. In citrus, we have the distinct benefit of having both crop insurance and tree insurance. While the loss of a crop can be devastating, the loss of our trees can destroy, and is destroying, our industry. This program is quite complex with distinctions being drawn about what entity can hold which kind of policy. In addition, to obtain any insurance, a grower must provide sworn testimony by affidavit that all of his farming operations are in strict compliance with the Food Security Act's Swampbuster provisions. Curiously, citrus is not defined as one of the commodity crops that must comply with the Swampbuster provisions.

Threatened/Endangered Species

Farmlands frequently provide habitat for threatened and endangered species for a number of reasons, such as the availability of prey and forage, cover for nesting and denning, and protection from people. Farmlands in southwest Florida are providing habitat for the Florida panther, the Florida bonneted bat, the crested caracara and the gopher tortoise, among other species. Unfortunately, very little recognition is given to tfarmers for the habitat that they're providing. Instead, we face the imposition of additional regulations that limit or eliminate the farming practices which created the habitat benefitting the species in residence. This is particularly apparent when farmers sell the development rights over a property and finds, to their surprise that they now have a partner in their farm who has no knowledge, understanding of the land or farming practices and no economic risk, but imposes its management practices all the same. Often these management practices are based on the current fashions of wildlife management rather than knowledge of the land and the creatures that live there.

Farmers are intimately involved with the land they farm. They have a culture of stewardship to protect and maintain the most significant asset they have, the land. They know what lives on their land and why. For many of us, it is matter of pride that we coexist with these animals and have the luxury of observing them. And yet, frequently this approach leads to even greater regulatory pressure. For example, when we construct a surface water management impoundment to manage water quality in accordance with Section 401 of the Clean Water Act, we may be creating an area that will subject us to additional regulation and the threat of enforcement by the U.S. Fish and Wildlife Service when a listed species uses that area. The rules prohibiting habitat modification can prevent farmers from effectively using the impoundment or changing the system to accommodate future needs and changing regulatory requirements.

**Recognition/Lack of Partnership**

Slow Progress on the Comprehensive Everglades Restoration Plan

South Florida has been the recipient of heavy rainfall events in the past year, leading to local and regional flooding. Winter vegetable crops that feed much of the nation were destroyed this past winter due to flooded fields.

Lake Okeechobee is over 700 square-miles. It receives the water that falls on a 4,600 square-mile basin stretching from Orlando south to the lake. The outfalls of the lake flow south into the remnant Everglades, east to the St. Lucie Canal and west to the Caloosahatchee River. The towns and farmlands around Lake Okeechobee received flooding rains this past winter. The flood control efforts to protect those farms and communities, as well as the discharges from the lake into the Caloosahatchee and Saint Lucie to prevent a breach to the aging dike surrounding the lake, resulted in outcries from people living on both the east and west coasts of Florida regarding impacts to their estuaries.

Environmental activists claim that agriculture is ultimately to blame for degradation in the Indian River Lagoon and the Caloosahatchee Estuary after the U.S. Army Corps of Engineers authorized releases from Lake Okeechobee to lower lake levels and protect those living around the lake. False claims abound that water was not moved south because the sugar industry did not want the water. Water from the lake was moved south to the extent possible but this year's rains had left the water conservation areas full and the amount of water that could be drained through that system was very limited. With Lake Okeechobee continuing to rise, alternative actions had to be taken by the Corps to protect lives and property.

Just as Hurricane Katrina devastated New Orleans, Florida was swept by two category four hurricanes, one striking Broward and Dade Counties in 1926 and the second bringing destruction to the people, livestock and lands around Lake Okeechobee in 1928. The 1928 hurricane pushed water out of Lake Okeechobee and destroyed the towns of Belle Glade, Canal Point, Chosen, Pahokee and South Bay. The loss of life for humans and animals was unimaginable. My grandfather told the story of going to the area after the hurricane to help bury the dead, afraid of the disease that the Caloosahatchee River could transport to our family farm. My grandmother told the story of being left to shovel the mud from the ground floor of their flooded home while taking care of her husband's aged and infirmed parents. While the exact number of people killed will never be known, the death toll ranges from 1,836 to more than 2,500. When we discuss the need to protect the integrity of the dike around Lake Okeechobee by controlling the lake's water elevation, we can never forget what prompted the decision to build the dike.

These losses along with the impacts of the Fort Lauderdale Hurricane of 1947 that caused flooding and significant crops in Fort Lauderdale and threatened to breach the dike around Lake Okeechobee again prompted Congress to pass the Flood Control Act of 1948, authorizing the first phase of the Central and South Florida Project which completely replumbed south Florida.

Remember that our culture at that time supported the concept that nature should be controlled and lands should be converted to human use. The extensive levee, canal and gate system of the

Central and Southern Florida Flood Control Project is very efficient at moving water and protecting life and property, just as it was designed. The project's environmental impacts, while extensive, were not considered until the project was very near completion in the late 1960s. Environmental awareness and scientific research has driven us to reconsider the Central and Southern Florida Flood Control Project and develop plans to restore portions of the system to reduce the environmental impact and protect precious natural resources. Florida has worked hard to develop a restoration plan that balances the needs of the environment with society's needs to protect a population of 8.1 million people and an agricultural industry that generates billions dollars of economic activity each year by feeding our citizens throughout the winter months.

Those demanding immediate restoration of the system refuse to take into account that it took decades to implement the original plan and it will take a significant investment in time and money to implement the works needed to improve the environmental health of the system, including improving water quality.

We can take actions to implement this plan more quickly, including moving more water south toward the Everglades, if the Comprehensive Everglades Restoration Plan (CERP) was sufficiently funded. CERP includes a suite of projects needed to restore South Florida's ecosystem and we can accelerate the construction of a number of key projects that address those needs. The state of Florida and the federal government agreed to a 50/50 joint effort to fund CERP, but we have struggled to obtain appropriations from our federal partner even as the state has allocated more funds for project construction.

We need our federal partner to meet its fiscal commitment to to support these vital restoration efforts, while also understanding the need for the measures alleviating flooding and protecting human lives in the interim.

County Alliance for Responsible Environmental Stewardship

The County Alliance for Responsible Environmental Stewardship (CARES) is an award and recognition program that was established in 2001 by Florida Farm Bureau Federation to recognize farmers who have voluntarily implemented best management practices on their farms and promoted environmentally sound and economically viable farming practices. The CARES program also serves as a tool to educate and demonstrate to the public that Florida agriculture is actively involved in protecting our resources by implementing sound environmental management and nutrient stewardship practices.

The CARES program is a cooperative effort between Florida Farm Bureau Federation, federal agencies, county governments, businesses, other organizations and state officials. Independent experts review the farming practices and approve the farms to be recognized. Starting in the Suwannee basin of north Florida, the U.S. Environmental Protection Agency was an early participant with the Suwannee River Partnership to promote best management practices in the region. Not long after the creation of the CARES program and the partnership, EPA discontinued their participation, even though the programs promote a joint vision of environmental improvement.

Florida Farm Bureau Federation invited Ms. Allison Wiedeman, then EPA Agricultural Counselor to the Administrator, to attend a CARES recognition event in the summer of 2014. Ms. Wiedeman was quite impressed and noted that this is the type of proactive work that the EPA should support.

EPA and other federal agencies struggle to partner with the private sector. The agencies focus on using regulatory action to address its concerns with small and medium farming operations, rather than working to address compliance issues in an effective way. Voluminous paperwork and unattainable compliance goals make it hard for the farming community to work with federal agencies. Further, the limited options for challenging the decision of a federal agency in an enforcement action drive many farmers to settle rather than face the prospect of litigation with an entity that pays its lawyers an annual salary rather than a billable hour. The threat of mounting fines and the expense of litigation drive decisions to settle, and sometimes agree to impossible standards simply to avoid the threat of astronomical fines and attorney fees.

Closing

Our society has grave misunderstandings about conventional agriculture and as farmers we have not effectively countered the campaign to paint us as abusers, rather than stewards, of the land we farm, the resources we need, and the creatures we care for. I have heard agriculture described as a form of "violence on the landscape." Most people in the United States are several generations removed from the farm and have no functional understanding of agriculture as the provider of their food and fiber. Without personal knowledge, they have great difficulty finding reliable sources of information and even greater difficulty resisting emotionally charged words and downright horrifying misrepresentations. Even for those of us who farm, it is difficult to avoid the lure of social media and the 24/7 news cycle. We must support the development of, and encourage the effective use of, peer-reviewed science. As farmers, we must do a better job of telling our story.

An outgrowth of this misunderstanding is the abuse of litigation by particular interest groups to drive the development of unworkable regulatory programs at the federal level. The pressure for ever-lower compliance numbers that are elusive at best and unattainable at worst is never ending. Further, this approach to developing regulation exacerbates the difficulty for state agencies required to comply with federal regulations. Only the largest and most sophisticated farmers can afford to retain the services of engineers and lawyers to help them navigate this challenging landscape. Those who do have one or both on staff or retainer can only do so by vastly increasing in size, despite the interminable cry of the same special interest groups against "industrial agriculture."

To my family, growing citrus is not a hobby or a game. It is who we are. We define ourselves by our connection to the land we have farmed for more than 130 years. This is what sustainable agriculture means to me. I am charged with a stewardship to farm the land in a responsible way and hand it down intact so that my children, my nephew and my cousins' children can enjoy this legacy.

We have faced the challenges of farming for more than a century. We have faced uncertainty and existential threats brought about by economic collapse, social change and pestilence in our time on this farm. We continue to grow citrus in an uncertain environment and challenging conditions. We do not control the inputs of sunlight, rainfall and temperature. We do not control the price of the goods we produce to sell. We do not control the pests and diseases that find their way to our farm. We face the challenges of a deadly disease which is, as yet, without a cure, and race to find ways to continue to produce citrus until one can be found. We live in a state which is ground zero for imported pests and diseases.

I am here today to ask that you keep these things in mind as you work to develop programs in support of conservation of our landscape and recognize that agriculture is working hard to do the same thing while we feed and clothe you. I ask that you recognize that clear and predictable regulations can be met, but regulations based on unreasonable demands, emotion or litigation put our ability to do our job in jeopardy.

Without the support of Congress to rein in the actions of federal agencies, much of Florida agriculture is at a crossroads where the next step may be the growth of a terminal crop of residential, commercial or industrial developments. Disease pressure, increasing regulations, stagnant prices and a weary farmer are a recipe for disaster when it comes to the food security for the people of the United States.