

Good morning Chairman Issa, [Ranking Member Cummings] and Members of the Committee. Thank you for convening this hearing and for allowing me to speak before you today on a topic so critical to American agriculture.

My name is Mike Jarrard. I am the President and CEO of Mann Packing Company, located here in Salinas. My company ships field-packed and fresh-cut, value-added vegetable commodities to customers here in California, and across the country. We are local and national, contributing to the health and well-being of people in California and across the country. Moreover, my growers and I employ 3100 agricultural workers in Salinas, who contribute to the economic strength of this community.

As you are aware, today the produce industry is facing a multitude of challenges, but none perhaps as significant as environmental regulation. We are profoundly concerned with the process being used by the USEPA and other relevant federal agencies (Departments of Agriculture, Commerce and Interior) to advance environmental regulation. In a nutshell, the process is broken. Regulations are being promulgated in a silo-ed fashion without the taking into account complete scientific information, the use of real world data, or adequate input from agricultural stakeholders including farmers.

In my testimony, I will focus on the issue of numeric nutrient criteria (NNC) which are used by regulators to establish the amounts of nutrients allowed for discharges into waters such as ditches, canals, streams, rivers and lakes. NNC also are used to determine if a body of water is "impaired" under the Clean Water Act, which triggers Total Maximum Daily Loads (TMDLs), a calculation of the maximum amount of a pollutant that a body of water can receive and still safely meet water quality standards, and a torrent of mandatory requirements on dischargers.

America's farmers have made great progress in reducing the loss of nutrient and sediment from their land. The use of inputs is declining. The efficiency of nitrogen use is improving. We remain committed to continuing this progress. But the current spate of NNC policies are not economic for growers, who are facing the imposition of impractical controls, administrative burdens and timelines.

The science behind the development and use of NNC is often criticized as inadequate for the establishment of fair and sound water quality regulatory standards. The ability to correlate NNC with actual biological conditions and across geographic areas is limited.

When NNC are established incorrectly, they are costly to the regulated community and leave questions as to the observable impact on the actual biological conditions of the waters being

regulated. On the national stage, the NNC policies established in Florida and the Chesapeake Bay watershed are front and center, and have now established a template for how NNC should be structured nationwide.

In Florida, the requirements in development are the result of a settlement agreement with activists, which is not only highly problematic but also raises fundamental questions of fairness and transparency, effectively undermines the rights of the regulated community to customary, open proceedings.

Agriculture has urged USEPA to delay further NNC policymaking until it has effectively engaged all relevant stakeholders in a thorough and transparent review of the strategic direction of NNC policies. We asked EPA to revisit and update the 1998 "National Strategy for the Development of Regional Nutrient Criteria, and to table the NNC for Florida's lakes and streams slated for implementation this fall; to work instead on these in concert with the NNC EPA is planning to finalize in August 2012 for all other Florida waters. As part of this processes, we believe EPA must answer the numerous and significant scientific, economic and policy questions about these NNC in an open and transparent manner, and reject policymaking by settlement agreement, with its inherent opaqueness and the distrust that creates.

Revisiting and updating the 1998 National Strategy is warranted. During the 12 years since the strategy was issued a considerable body of applied scientific knowledge and policy experience has been developed by the research community, states, and EPA. Work on NNCs at the state-level has involved considerable debate on substantive matters within states, between states, and between EPA and the states. Much remains unresolved.

This substantive experience with the difficult scientific and practical pitfalls of NNC needs to be drawn upon to develop a sound path forward for NNC policies in general. In the case of Florida, there are significant questions about the statistical, modeling and biological science used by EPA. By EPA's own admission in the proposed rulemaking, there is no scientifically established correlation between what has been proposed NNC in Florida and the desired biological conditions for the regulated waters. In general, we believe there is a serious lack of rigorous, generally accepted science that justifies the particular methods EPA adopted to generate the NNC in Florida.

In addition, since the development of the 1998 National Strategy, there has been little or no significant or organized public participation in NNC policy development. An open and transparent process is essential if specific NNC being advanced by EPA and the states are to be embraced. This is certainly a far more acceptable process than letting policy be driven by settlement agreements developed behind closed doors solely with activist groups, as has been the recent case with NNC and in other important Clean Water Act policy areas.

One of the most serious drawbacks of the 1998 National Strategy is that it failed to undertake any substantive analysis of the economic costs and benefits of NNC; for the regulated

community, for the economy as a whole, or for the public sector that must develop and administer the NNC.

In the particular case of the Florida NNC it is very clear that adopting the wrong criteria can cause enormous economic harm—both in the direct costs to the regulated community but also for the economy as a whole. The Florida Department of Agriculture estimates that the total initial cost for agricultural producers to comply with the NNC for lakes, rivers and streams to be between \$855 million to \$3.069 billion, and the subsequent annual compliance costs to be \$902 Million to \$1.605 billion. As a result, they estimate that the size of the Florida economy will be reduced by \$1.148 billion a year and that 14,545 full and part time jobs would be lost.

Not just agriculture is at risk. The Florida Department of Environmental Protection estimates that the total capital cost for utilities to comply with these NNC would be \$4.167 billion. The Florida Water Environment Association estimates the cost for compliance with all of the NNC that EPA has under development to be \$47.6-\$98.7 billion over 30 years. It also estimates that the average household utility bill will increase \$673-\$726 a year.

The size of these costs for Florida alone are reason enough to justify revisiting the National Strategy to ensure that a sound and responsible path forward is developed.

Lastly, with regard to the substance of the proposed NNC, EPA needs to fully consider the implications and outcomes that will result if it sets the NNC for the lakes and streams at standards that are far too stringent, impractical and unattainable for Florida and the rest of the United States. The goals of the Clean Water Act must not be set and pursued in isolation from all of the other important goals and priorities that society has, including promoting vibrant, strong job creating businesses, economically strong communities, and the productive and valuable use of the land for agricultural and other purposes.

For all these reasons, it is imperative that EPA open a meaningful, working dialogue on the strategic direction of NNC policies. The dialogue must be carried out with all the relevant stakeholders in an open and transparent manner, not simply with the activist NGOs. In the particular case of the Florida NNC, given the host of legitimate economic and scientific questions and issues, the NNC must be subjected to further scientific development and review as part of EPA's broader effort involving the NNC for the other waters of the state. This work on the Florida NNC should be carried out in parallel to the national working dialogue agriculture has suggested.

In the Chesapeake Bay watershed, the recently finalized EPA-issued Chesapeake Bay Total Maximum Daily Load (TMDL) could push hundreds of thousands of acres of productive farmland out of cropland. EPA projects that roughly 20 percent of cropped land in the watershed (about 600,000 acres) will have to be removed from production and be converted to grassland or forest in order to achieve the required loading reductions. This, despite the USDA National Resources Conservation Service's (NRCS) finding in its draft 2010 report on the progress made by agriculture in conservation and natural resource improvements from 2003-

2006, that farmers were actively implementing erosion control practices on about 96 percent of the cropland acres in production in the watershed. As a result, NRCS states that sediment contributions from cultivated cropland to the Bay's rivers and streams are reduced by 64 percent, nitrogen by 36 percent and phosphorus by 43 percent.

Nonetheless, the progress made by agriculture was seemingly ignored. EPA moved forward with an unnecessarily inflexible new plan to regulate farming practices in the Chesapeake Bay Watershed. In developing this plan, EPA relied on a scientific model that *EPA itself* admits was flawed, and failed to give stakeholders a meaningful opportunity to review its assumed facts. The rigidity of the plan also appears to limit the states' flexibility to change and adapt their water quality plans, even though EPA regulations specifically allow states to modify water quality goals when necessary to avoid substantial economic and social disruption. The Bay states estimate that implementation will cost billions of dollars (\$7 billion for Virginia and between \$3-6 billion for New York alone).

With regard to nutrient standards closer to home, farmers in the California Central Coast are experiencing first-hand how Federal regulatory policy is driving our state regulatory process for water quality.

The Central Coast Regional Water Quality Control Board is in the process of developing a new regulatory paradigm for California growers in the Central Coast region, **in much the same manner as the requirements in FL and the Chesapeake Bay Watershed, i.e., without full use available scientific data, real world information and adequate stakeholder outreach. As this is in my own backyard, I'd like to describe some of the specifics.** The Order that is being contemplated would automatically place growers of nutrient intensive commodities into a high risk category and require costly on-farm monitoring, development and implementation of detailed management plans and require unachievable reductions in nutrients by unrealistic timelines. Specifically growers will be required to demonstrate that irrigation runoff does not cause or contribute to exceedences of nutrient water quality standards in waters of the State or the United States within four years of the adoption of the proposed order. To do this they will be required to monitor individual discharges at the farm level, demonstrate a 50% reduction in 2 years and a 75% reduction in three years. As noted earlier, while agriculture is willing and already working to reduce deleterious impacts of nutrients in water through new technology such as slow release fertilizers, careful development of nutrient budgets and reducing the amount of water that runs off an operation, the regional goals that are born out of flawed numeric nutrient criteria policies will be impossible to achieve.

Mr. Chairman let me put this in simple economic terms. In a preliminary study conducted by the Grower-Shipper Association of Central California, it is estimated that the Central Coast could lose between \$231,453,103 and \$298,070,621 in business revenue; between \$19,624,441 and \$25,326,816 in tax revenue; and could lose as much as 3,320 jobs.

In the Central Valley, despite the significant progress growers have made in meeting water quality objectives by the implementation of best management practices, the Central Valley

Regional Water Quality Control Board is moving toward requiring all growers, regardless of growing practices and/or threat to surface or ground water, to comply with new requirements. These include geographic/commodity specific general waste discharge requirements (WDRs) and/or conditional waivers of WDRs that would include surface and groundwater monitoring and management plans, individual farm evaluations and individual certified nutrient management plans which would dictate how much and when a nutrient is allowed to be applied. Staff recognizes that implementation of this type of regulation would result in some prime/unique farmland and farmland of statewide importance being converted to nonagricultural use. In closing, we are asking for your help to fix the broken environmental regulatory process. We need to depend on a process that uses best available science, takes in account operational data, and encourages input from agricultural stakeholders. Without this certainty, our livelihoods and the food and fiber we produce for this country are threatened.

Michael Jarrard
President/CEO
Mann Packing Company, Inc.
Salinas, California

Mike Jarrard hails from a family farming background in Bakersfield, CA. He graduated from the University of California at Davis with a Bachelor of Science in agriculture and managerial economics. After college Mike took a position in the Salinas Valley with Dole Fresh Vegetables and progressed through various analytical positions in operations, financial accounting, and sales. Five years later he moved to Mann Packing Company and held various positions within the areas of information systems, cost accounting, quality assurance, food safety, new product development, product line management and general management before taking the helm as president and chief executive officer.

Mann Packing is a shipper of both field-packed commodity items and fresh-cut value-added vegetable items. Commodities include broccoli, cauliflower, leaf lettuce, iceberg, broccolini, snap peas and fresh-cut vegetable blends. During the past 17 years, Mike has served on numerous community and industry affiliated boards. Mike was first elected to the Western Growers board in 2007 and is serving as the current senior vice chairman.

Committee on Oversight and Government Reform
Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)(5)

Name:

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2008. Include the source and amount of each grant or contract.

None.

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

Mann Packing Company, Inc. President / CEO

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2008, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None.

I certify that the above information is true and correct.

Signature:

m. f. amand

Date: *4-15-11*