

## deSupplemental Evidence

Pursuant to 8 CFR 2154.2(h)(5)(i)(F)

**Approving H-2A visa petitions filed by Adee Honey Farms and other American beekeepers for Nicaraguan workers is essential to: (1) guaranteeing the stability of the American honey production and pollination industries; (2) ensuring that billions of dollars in American agricultural products are sufficiently pollinated; and (3) preserving and creating thousands of American jobs in the honey, pollination services, and agricultural industries**

Adee Honey Farms ("Adee") is a commercial honey production and pollination company established in 1957. Adee operates approximately 80,000 colonies of bees across the United States and employs one hundred people with a payroll of more than \$2 million. Ten percent of those employees, on average, are Nicaraguans on H-2A status.

For more than 5 years, Adee Honey Farms has relied on Nicaraguan H-2A workers to supplement its American beekeeping workforce where additional Americans were not available, willing or able to take the jobs. On December 18, 2008, a notice listing the countries eligible for H-2A classification was published in the Federal Register with an effective date of January 17, 2009 (73 FR 77043). Nicaragua was not one of the eligible countries listed in that publication. As a result, Adee's petitions for Nicaraguan workers in 2009 were denied. The same publication provided an exception for nationals of countries not otherwise listed as eligible for H-2A classification where the Secretary of Homeland Security determines that it is in the United States interest to allow that national to be a beneficiary of such a petition (8 CFR 214.2(h)(5)(i)(F)).

According to the newly published rule, the Secretary, in making a determination of United States interest, will take into account: (1) evidence demonstrating that a worker with the required skills is not available either from among U.S. workers or from among foreign workers from a country currently on the list; (2) evidence that the beneficiary has been admitted to the United States previously in H-2A status; (3) the potential for abuse, fraud, or other harm to the integrity of the H-2A visa program through the potential admission of a beneficiary from a country not currently on the list; and (4) such other factors as may serve the United States interest. (8 CFR 214.2(h)(5)(i)(F)(1)(i)(a-d))

***i. Skilled beekeepers are not available within the United States or from H-2A eligible countries sufficient to meet the workforce demand of Adee Honey Farms***

There is not a sufficient American workforce in South Dakota willing or able to accept Adee's specialized beekeeping jobs. For five years, Adee Honey Farms has successfully petitioned the United States for approval of H-2A workers from Nicaragua. Each year, prior to final approval, Adee Honey Farms is required to first petition the United States Department of Labor for a "certification" that there are not American workers willing or able to accept the jobs

for which the company seeks foreign workers. In 2009, Adee applied for and was granted a labor certification on February 5<sup>th</sup>, 2009 (DOL case number C-09012-16834).

Additionally, there are not skilled workers from other eligible countries who are willing or able to accept Adee Honey Farm's jobs. Adee has relied on Nicaraguan workers in H-2A status since 2005. Prior to 2005, many of the same workers had been employed by a predecessor beekeeping operation for at least three years. As a result of more than eight years of employment, these Nicaraguans are highly skilled at beekeeping and cannot be replaced by untrained workers from other countries.

To begin, beekeepers must be trained on a wide variety of equipment that is used in this specialized industry. These Nicaraguan workers have each been trained on and are proficient in using all necessary equipment. In addition, beekeepers place hives on farms and ranches over a large geographic area, usually located on back-roads and off the grid. Highly trained workers are responsible for over 18,000 colonies of bees placed on 250 bee yard locations in at least eight counties and four states (South Dakota, Minnesota, North Dakota and Nebraska). These Nicaraguan workers have learned the exact locations of the hives and understand the critical nature of maintaining relationships with host farmers and landowners.

In addition to geographic skill requirements, beekeepers must be prepared to deal appropriately with bee health threats. To combat these health threats, field workers have been trained to assess hives and determine appropriate treatments. Poor field analysis will result in death of hives. As the past few years have been particularly distressing with regard to bee health threats, these Nicaraguan workers have gained extensive on the job training and have developed an expertise in field assessment of bee and bee colony diseases, such as American Foul Brood, Varroa Mites, or Chalkbrood, and of nutrition deficiencies, such as feed/carbohydrate and protein problems. These Nicaraguan beekeepers have also gained substantial experience with Colony Collapse Disorder (CCD), a widely publicized new illness that has required aggressive treatments and queen breeding programs. Health assessment skills require years of hands-on experience to develop. These Nicaraguan workers have acquired those skills, and without them Adee and other bee keepers who rely on these skills would be unable to sufficiently guard the health of its bee populations.

***ii. Each Nicaraguan beneficiary requested by this petition has previously been admitted to the United States in H-2A status***

Included in the accompanying petition, Adee Honey Farms provides the names of all ten Nicaraguan nationals for whom they seek H-2A visas. Also included are copies of their respective passports, demonstrating that each worker has previously entered the United States in H-2A status.

***iii. Admission of Nicaraguan workers for Adee Honey Farms does not pose any specific potential for abuse, fraud, or other harm to the integrity of the H-2A visa program***

As a general principle, the Department of Homeland Security is in the best position to determine whether admitting Nicaraguan workers poses a potential for abuse, fraud, or other harm to the integrity of the H-2A visa program. With regard to the petition at hand, each of the ten workers have previously been admitted to the United States in H-2A status and each have worked at the same site for between one and eight years. In that time, none of these Nicaraguan workers have violated the terms of their visas or been cited for any other violation of U.S. law.

***iv. Permitting Nicaraguan workers the benefit of admission to the United States in H-2A status will promote the U.S. interest by significantly benefiting the American honey, pollination services, and agricultural industries and the American workers they employ***

Adee Honey Farms is a commercial honey production and pollination company established in 1957. Adee operates approximately 80,000 colonies of bees across the United States and employs one hundred people with a payroll of more than \$2 million, placing Adee among the largest of American commercial honey producers. Ten percent of Adee's workforce, on average, is comprised of Nicaraguans in H-2A status. In past years, these workers have provided Adee with opportunities to expand geographic presence and market share as well as to sufficiently respond to industry crises associated with Colony Collapse Disorder ("CCD").

The honey bee industry has faced numerous challenges in recent years, including the emergence of new bee diseases and health threats such as CCD, restrictive government regulation, product adulteration, trade gamesmanship by countries such as China, and ultimately, a shrinking market share in the United States. During these challenging times, the H2-A program has provided Adee Honey Farms with the capacity to grow its honey production and pollination businesses. Specifically, Nicaraguan workers in H-2A status permitted Adee to acquire its South Dakota operations in 2005. Without these Nicaraguan workers, Adee would be incapable of providing a sufficient workforce to maintain operations at that site.

In addition to aiding in Adee's honey production business, these Nicaraguan workers have been essential in ensuring an adequate United States food supply. One-third of the food we eat comes from bee-pollinated plants. According to Cornell University Professors Dr. Roger Morse and Dr. Nicholas Calderone's published research "*The Value of Honey Bees in U.S. Crops in 2000*," approximately \$15 billion dollars in food is at stake without honey bee pollination. Dr. Jeff Pettis, Research Leader of the USDA-ARS Lab in Beltsville, MD indicates that "our food supply is at risk if commercial honey bees are not available."

According to a survey conducted in the United States from the Fall of 2007 to the Spring of 2008, U.S. beekeeping operations lost an average of 31.3% of their bee populations, putting

many beekeepers out of business and adding to the burden of remaining beekeepers the responsibility of fulfilling a growing number of pollination contracts across the country. In 2008 Adee Honey Farms itself suffered a loss of 40% of its hives due to Colony Collapse Disorder (CCD).

Having a trained Nicaraguan workforce provided Adee with the means to respond to this crisis without ultimately disrupting pollination services demanded by almond, blueberry and apple growers. The Nicaraguan workers were integral in transporting surviving bees to breeding facilities and in providing a sufficient bee supply to Adee's pollination clients. In 2008, without the Nicaraguan workers, Adee Honey Farms would not have been sufficiently flexible to respond to the crises. Adee would have been forced to cut operations in half based on bee supply at hand. The result would have been a reduction in Adee's U.S. workforce and an insufficient supply of bees to fulfill the pollination needs of almond, blueberry and apple growers. Undoubtedly, the U.S. workforce in those industries would also have suffered.

Adee Honey Farms required ten Nicaraguan beekeepers to arrive on March 1<sup>st</sup> of 2009. Due to the change in agency rules and subsequent denial of Adee's petition, Adee has been forced to cut back and restructure its queen breeding operation. If the Secretary does not approve Adee's petition for admission of Nicaraguan H-2A workers as a matter of United States interest, Adee will be forced to reduce its pollination contracts and cut back on its U.S. workforce, particularly in South Dakota. Adee Honey Farms respectfully requests that the Secretary to exercise her full discretion pursuant to 8 CFR 2154.2(h)(5)(i)(F) to permit the entrance of 10 Nicaraguan beekeepers in H-2A status.

Respectively Submitted,

Richard Adee, Adee Honey Farms  
Chairman, American Honey Producers Association  
Legislative Committee