



TESTIMONY OF DONN TESKE

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**SUBMITTED TO THE U.S. SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
REGARDING THE IMPACT OF FEDERAL ENVIRONMENTAL REGULATIONS AND POLICIES ON
AMERICAN FARMING AND RANCHING COMMUNITIES**

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Chairman Barrasso, Ranking Member Carper, and members of the committee, thank you for the opportunity to testify today. My name is Donn Teske, I farm and ranch near Wheaton, Kansas, and serve as vice president of the National Farmers Union (NFU). NFU represents roughly 200,000 family farmers, ranchers, and rural members across the country.

Examining the impact of federal environmental regulations and policies on farming and ranching is an important discussion to have. The effects of climate change have had a significant impact on farmers and ranchers for years. Rising temperatures, extreme precipitation, and severe drought and flooding have had far-reaching impacts on farm productivity. Extreme weather events limit farmers' number of workable days and affect plant and animal growth and reproduction, pest and weed pressure, and soil health.

As a family farm organization, NFU is particularly concerned with the challenges climate change poses to family farmers' ability to pursue improvements in global food security. Thus far, we have adapted to meet the needs of consumers despite the changing climate thanks in large part to public and private research and energy development. However, in the longer term, our existing technologies will not be enough to buffer climate change's impacts on farmers and consumers.

United States environmental regulations and policies must promote innovation beyond what will make our farms more productive. We must also look to make our agricultural systems and entire food supply more resilient and sustainable. We share a collective responsibility to preserve a world where our children and grandchildren can thrive and prosper. The challenge we face is understanding how to improve our sustainability while also maintaining productivity and opportunities to farm and ranch profitably.

Clean Water Act

Rural America's passionate response to the 2014 rule defining "waters of the United States"¹ was indicative of the agricultural community's wariness of uncertainty. NFU policy opposes broadening the definition of what waters are considered jurisdictional.² At the same time, NFU recognized the agencies' rulemaking process as an opportunity to bring certainty to a regulatory landscape that allows for inconsistent determinations of the Clean Water Act's definition of jurisdictional waters. While the final rule reflected improvements from the initial proposal, it still lacked the clarity that farmers and ranchers need.

Since its establishment in 2008, I have served on the Environmental Protection Agency's (EPA) Farm, Ranch, and Rural Communities Federal Advisory Committee (FRRCC). The committee serves an important role in providing policy advice, information and recommendations on a range of

¹ Definition of "Waters of the United States" Under the Clean Water Act, 79 Fed. Reg. 22198, (proposed April 21, 2014) (amending 33 C.F.R. §328.3).

² National Farmers Union, *2017 Policy of the National Farmers Union (2014)*, 97, http://1yd7z7koz052nb8r33cfxyw5-wpengine.netdna-ssl.com/wp-content/uploads/2017/04/2017-Policy-Book_FINAL.pdf

environmental issues that are important to agriculture and rural communities.³ Unfortunately, the FRRCC was never consulted when the EPA and the Army Corps of Engineers (Corps) introduced the WOTUS rule. I believe the FRRCC's input could have resolved a lot of the uncertainty surrounding the ambiguity of the Clean Water Act's definition of jurisdictional waters. Given the opportunity, we could have provided a valuable contribution in helping EPA and the Corps better achieve the CWA's purpose to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters."⁴

Last June, EPA and the Corps proposed a rule that would rescind WOTUS and recodify previous regulations that existed prior to 2015.⁵ The FRRCC was not consulted in this decision nor have we received any correspondence from EPA over the last year. Protecting the nation's water resources is a complicated matter, and so by necessity are the CWA and any rule implementing it. The topic requires careful consideration and thoughtful engagement with the regulated community. While I agree that WOTUS's broadening of the definition of jurisdictional waters would be harmful to the agricultural community, I am deeply concerned by the lack of any subsequent plan to promote consistent application of EPA policies regarding jurisdictional waters.

While regulation is often seen as a burden, it's important to remember that appropriate regulation also presents opportunities. I previously worked for the Kansas Rural Center on a clean water initiative that was funded by a Clean Water Act Section 319 Nonpoint Source Management Program. In this project, I helped farmers across Kansas apply for small grants to improve the waters of their operations. I then helped them implement best management practices. Once the practices had been successfully implemented, we would host tours to demonstrate the value of those practices to other farmers in the same watershed.

Of the Section 319 funds that go to watershed projects, 30 to 40 percent annually go toward addressing agricultural sources of pollution. Our work in Kansas resulted in the removal of several segments of the Neosho River and many of its tributaries from Kansas' list of impaired waters. Collectively, Section 319 programs nationwide have restored over 6,000 miles of stream and over 164,000 acres of lakes since EPA began tracking progress in 2005.⁶ These projects are a great example of how targeted incentives and appropriate regulation can act in concert to help us achieve our environmental goals.

Carbon Cap and Trade

Carbon credit exchanges are another example of how regulations can create opportunities for farmers and ranchers. In 2006, North Dakota Farmers Union (NDFU) and National Farmers Union partnered to create the National Farmers Union Carbon Credit Program. NDFU and NFU served as an aggregator of

³ <https://www.epa.gov/faca/frrcc>

⁴ 33 USC §1241(a).

⁵ Definition of "Waters of the United States" – Recodification of Existing Rules, 82 Fed. Reg. 34899, (proposed July 27, 2017)(amending 33 C.F.R. §328.3).

⁶ Environmental Protection Agency, *National Nonpoint Source Program: A catalyst for water quality improvements (2017)*, 3, https://www.epa.gov/sites/production/files/2016-10/documents/nps_program_highlights_report-508.pdf

carbon credits that were traded on the Chicago Climate Exchange (CCX), which was a voluntary cap and trade system similar to the mandatory system enacted internationally under the Kyoto Protocols.

The NFU Carbon Credit Program employed a national model that was adapted from the successful in-state model utilized by Iowa Farm Bureau. NDFU served as the fiscal agent, selling carbon credits earned by acreage with land management practices such as no till and reduced till cropping, long-term grass seeding, and intensive rangeland management. Along with storing carbon in the soil, the conservation methods implemented provided substantial fuel savings, improved soil tilth, water storage and water efficiency, and reduced soil erosion.

The program was highly successful, and NDFU became the largest aggregator of carbon credits in the United States. Over five years, NDFU distributed over \$7.4 million to 3,900 farmers who sequestered carbon on over five million total acres. Ironically, it was a lack of regulation that ultimately led to the demise of the voluntary carbon market. Following the Supreme Court's ruling in *Massachusetts v. Environmental Protection Agency* (2007), Congress failed to pass legislation to address the EPA's role in regulating greenhouse gas (GHG) emissions. The lack of any cap and trade legislation ultimately limited the viability of the voluntary market and trading on the CCX market ceased.

The earlier success of the carbon market indicates farmers' and ranchers' willingness to adopt practices if they can receive incentives to offset their costs. In many ways, the program's function was similar to the Environmental Quality Incentives Program and Conservation Stewardship programs currently administered by the United States Department of Agriculture's Natural Resources and Conservation Service. The success of these NRCS programs is further evidence of family farmers' and ranchers' desire to serve as good stewards of our natural resources. However, we operate in a marketplace with incredibly tight margins, especially with the current state of the farm economy. Access to government and market-based incentives is critically important to offset the costs of implementing and adopting new practices.

While the primary goal of the Carbon Credit Program was to reduce carbon dioxide in the atmosphere, it also improved soil and water resources. Despite expiration of the Carbon Credit Program, many farmers and ranchers continue to utilize these practices, because the methods enhance farm productivity. Appropriate regulation that confronts our growing climate challenges could once again make a carbon market viable.

Renewable Fuel Standards

NFU has also been a longstanding proponent of the RFS's proper implementation. The RFS provides numerous benefits, including:

- The reduction of GHG emissions that drive climate change;
- The creation of jobs that cannot be outsourced;
- The reduction of U.S. dependence on foreign fuel sources;
- Incentives for additional investment in rural communities;
- Opening the transportation fuels market to competition; and

- Lowering transportation fuel prices for consumers.

Farmers have been the backbone of the growing renewable fuels industry in the United States. In addition to supporting the corn ethanol industry; farmers contribute to ensuring that advanced biofuel volumes can be met.

The RFS, when implemented properly, offers farmers and consumers a way to reduce emissions by producing and utilizing transportation fuels with lower lifetime emissions than transportation fuels derived from fossil sources. Over ten years, the RFS reduced carbon emissions by 589.33 million metric tons. That's the equivalent of removing more than 124 million cars from the road.⁷ These reductions, combined with price advantages that can be expected as production and distribution expands, could substantially lower the transportation sector's total emissions.

Advances in both the popularity and efficacy of practices like nutrient stewardship, soil health, cover cropping, riparian buffer strips, precision conservation and other practices, work to counter many of the expressed concerns over water quality or habitat regarding additional planting. The RFS will allow producers, refiners and consumers to establish a strong market for perennial and low-input cropping systems that achieve far greater GHG emission reductions than we are yet experiencing through the program. As feedstock production practices and biofuel technology continue to advance, the RFS should encourage development of a market for advanced biofuels, which have even greater GHG benefits.

A 2017 report from USDA titled, a Life-Cycle Analysis of the Greenhouse Gas Emissions of Corn Based Ethanol in 2017, finds that GHG emissions associated with corn-based ethanol in the United States are about 43 percent lower than gasoline when measured on an energy equivalent basis. The report also examined the benefits of improving the efficiency of ethanol refinery plants and adoption of additional conservation practices on corn-producing farms. In a scenario where these improvements and practices are universally adopted, the GHG benefits of corn ethanol are even more pronounced over gasoline, about a 76 percent reduction.⁸ We must seek new ways to harness the greater GHG benefits of growing feedstocks for lower emission fuels in a farming system that promotes soil carbon sequestration. NFU supports the proper implementation and continued stability of the RFS. At the same time, we urge Congress to examine opportunities to promote the development of government or market-based incentives for climate-friendly conservation practices.

Conclusion

When properly implemented, environmental regulations and policies can promote innovation that make America's farms more productive, sustainable, and profitable. We have the technology and the resources in our toolbox to leave a better world for our grandchildren. To accomplish that goal, farmers

⁷ Biotechnology Industry Organization, *The Renewable Fuel Standard: A decade's worth of carbon reductions* (2015), 3, <https://www.bio.org/sites/default/files/RFS%2010%20Year%20GHG%20Reductions.pdf>

⁸ Mark Flugge et. al., J. A *Life-Cycle Analysis of the Greenhouse Gas Emissions of CornBased Ethanol* (2017), Report prepared by ICF under USDA Contract No. AG-3142-D-16-0243, https://www.usda.gov/oce/climate_change/mitigation_technologies/USDAEthanolReport_20170107.pdf

and consumers must work collectively to become better stewards of our nation's natural resources.
Thank you for the opportunity to testify.