Statement of Christopher Pawelski of Pawelski Farms
Before the United States Senate Committee on Agriculture, Nutrition & Forestry
Farm Bill Reauthorization Hearing 1
"Maintaining Our Domestic Food Supply through a Strong U.S. Farm Policy"
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I would like to first thank Chairman Lincoln, Ranking Member Chambliss, members of the Committee, and especially my Senator, Senator Kirsten Gillibrand, for affording me this opportunity and privilege to address you today as a small family specialty crop farmer from New York State who has had extensive experience with the federal crop insurance program, specifically the Multiple Peril Crop Insurance (MPCI) policy the past 15 years. Allow me to also state that though I am testifying alone today my wife Eve has been my full partner these past fourteen years in working on this issue and making the various improvements we have to the policy and without her and her hard work and imagination I would not be here today.

As a point of introduction I'm a fourth generation onion farmer from Orange County, New York. My great grandfather arrived in the United States in 1903 and bought a farm in the rich muck soils or "black dirt" region of Orange County. "The Black Dirt Region" is the second largest collection of muck soils in the United States, after the Florida Everglades. My father Richard and my younger brother Brian and I currently grow together 99 acres of onions and 8 acres of butternut squash.

On Monday I received a letter from the head of RMA Bill Murphy who soundly rejected my wife and my reform proposals for the MPCI policy. I have included it for the record. Bottom line, when you read this letter you walk away with the notion there is absolutely nothing wrong with the MPCI policy and all is functioning well. Of course this doesn't explain why Congress the last 15 years had to pass multiple crop loss programs as well as create a permanent disaster aid program as part of the last Farm Bill or why I could have 70-100 coverage last year, pay a $10,000 premium and the taxpayer pay a $20,000 premium, suffer a $115,000 loss and I collect a $6,000 indemnity.

Since 1996 our region has been struck with a series of catastrophic weather events, including 4 "50 year" floods of the Wallkill River, 2 large scale hail storms and numerous other weather events. Over the years Eve and I have done our very best to work towards creating an MPCI policy for onions that has real value. The expected market price for our crop was initially set at less than half of what it should have been. We worked with FCIC, RMA, AMS and NASS so that our price now accurately reflects the market. The replanting payment was set artificially low. We gathered data from our seed and chemical companies and worked with RMA to increase the replant payment. A staged production guarantee was added to the onion MPCI policy where it pays only a percentage of the policy based on the growth stage of the plant. For example, if you lost your crop in Stage 1 the most you could possibly collect is 26% of the value of the policy. Thanks to political pressure brought to bear by our congressional representative at the time, Ben Gilman, a pilot program was created so our growers in NYS have the option to purchase insurance without a staged production guarantee.

Unfortunately, there are two main facets of the MPCI policy that we have made no headway on, and it is for this reason that for the first time since 1996 we have NOT purchased buy up coverage for our crop this year (nor have many of our neighbors from Orange County). We

believe that the minimal catastrophic coverage is virtually worthless, but we have paid the administrative fee for this coverage so that we have access to other USDA programs.

Crop insurance reform over the years has typically involved increasing the federal subsidy rates to make the policies cheaper to the farmer. But there has been very little discussion as to why these policies don't pay out, which is a primary reason why farmers are reluctant to participate. Farmers wonder why anyone would think making a problematic policy cheaper would entice them to buy it. When will someone address the various problematic policy provisions or what I call gimmicks that quite often make the policies resemble more of a "shell game" than insurance?

Hopefully without getting too technical, there are two main provisions that are disproportionately decreasing the value of MPCI policies. All MPCI policies, not just the onion policy specifically, have a facet called Production To Count and all decrease drastically in value when a farmer's Actual Production History, or APH, starts to plummet due to successive weather disasters. What happened to me last year perfectly illustrates the problem.

In 2009 I grew 41 acres of onions. I had purchased crop insurance at the buy-up level of 70/100 coverage, 70% of my crop was insured at 100% of the expected market price. The total premium for this policy was $29,507. My portion was $9,924; the rest was taxpayer subsidized. Last season we had 28 inches of rain that led to significant losses. Many onions never matured to make a bulb while many others were rotten.

The first problem I face is that due to successive disaster years, the average that I insure my crop on (APH) is artificially low. My loss, in real world terms, was in the neighborhood of $115,000. But, thanks to successive disaster years production to count my insurance indemnity was: $6,729. I did not even make back my premium. The insurance company pocketed the $22,778 difference as an "underwriting gain." I suffered a crop loss and still owed them $3,195! What is the purpose of this policy? Obviously it isn't working.

<u>Suggestion for crop insurance reform</u>: allow farmers to throw out 1 bad year out of 5 or 2 bad years out of 10 when calculating their APH, or allow farmers to insure their crop using the county average yield in place of their production history for the year in which the disaster designation occurred.

In a hearing held in 2009 by the House Subcommittee for Risk Management the topic of "shallow losses" repeatedly came up. No one seemed to understand why shallow losses are a problem with MPCI policies. The cause behind shallow losses not resulting in a crop insurance indemnity is the policy provision of production to count. Production to count is a feature of all MPCI policies, yet the basis for it is found nowhere in the statute. We believe that unless it is removed or drastically changed serious reform to the MPCI policy is not possible.

In implementing the statute on which the MPCI policy is based the FCIC decided that the farmer should have shared risk. They determined that the "deductible" would be the portion of the crop that is not covered which when salvaged is subtracted against the portion of the crop that is covered. The result is that when the farmer needs to rely upon his crop insurance policy it is no longer a shared risk. It is a guaranteed loss. This is where your shallow losses are--in what amounts to a shell game.

Essentially production to count acts as a deductible unlike any other form of insurance. First, FCIC does not provide 100% coverage. The highest level for most policies is 75%. Whatever you happen to salvage and sell is subtracted from your indemnity to create FCIC's version of a deductible.

Bottom line, as the current policy exists the farmer only receives full value of their policy if they lose 100% of their crop. The problem is that in most situations 100% of a crop is not lost. So, since if in most cases the producer never gets full value of the policy in claims situations, are the premiums being rated accordingly? Or are producers being charged a rate reflective of the 75% coverage they have selected but with the understanding that for overwhelming majority of claims a 100% loss will never occur? I have had numerous insurance policies over the years, health, auto, homeowner, etc ... and none of them have a "deductible" facet like what exists for the MPCI policies. For under the MPCI policies the deductibles are not fixed dollar amounts but are percentages that exist on a sliding rate that grows larger as the damage percentage decreases. For example, if someone has 75% coverage and experiences a 100% loss their "deductible" under this creative interpretation is 25%. If the damage is 75% then the "deductible" becomes 50%, for that same supposed 75% coverage. If the farmer has a 25% loss then the "deductible" becomes 100%, for theoretical 75% coverage of the crop. They collect NOTHING!

<u>Suggestion for crop insurance reform</u>: use a loss threshold instead of production to count.

Our reform proposal for production to count is that whatever one salvages and sells plus their indemnity, which is based on their percentage level of coverage, cannot exceed 100% of their APH. Simple. To deal with the moral hazard issue a crop loss percentage would be established as a loss threshold to file a claim. The concept of a loss threshold has already been used in private crop hail insurance policies. The farmer would have the ability to choose their coverage level and their loss threshold. For example, a farmer may want 75% coverage but to get a less expensive policy choose a loss threshold percentage of 40%. This means their coverage and the ability to make a claim would not kick in unless they met the 40% loss threshold. It seems that this proposed solution would potentially equal less exposure for the insurers, whether it be the government or the reinsurance "partners." The premiums would be adjusted accordingly based on the percentage levels selected (please see the other submitted materials for further details and additional examples).

We have had this reform proposal for a number of years now and have presented it to RMA officials multiple times but what we have found over the years is that while the political appointees in Washington DC have been sympathetic if not supportive, we have found that the bureaucrats that appear to make the real decisions in Kansas City, Raleigh, etc…, are resistant, reluctant to change, suspicious, etc…. The arguments are always the same. "Farmers have to pay a deductible." "We can't provide 100% coverage." "That would be an income transfer program for farmers." "The farmer should have bought buy-up coverage." "The farmer should have purchased at a better subsidized level of coverage." The stonewalling and arguments over semantics are endless, usually ending with it being the fault of the farmer. And yet the problem is still there, crop insurance, specifically the MPCI policy, **<u>which is the primary tool available to mono cropping specialty crop farmers</u>**, is an inadequate safety net that has resulted in the need for perpetual ad hoc disaster aid programs and now a permanent disaster aid program. You will never address shallow losses, you will never have true crop insurance reform unless you address this problem of production to count. Increasing the subsidy rates making it cheaper for the farmer is not the

solution. The solution is to fix the gimmicks in these policy provisions. Do that and disaster aid programs will be unnecessary.

Let me add this one final example related to production to count and the Kafkaesque ways of the RMA. The following language in the Onion Crop Provisions of the MPCI policy is used to determine whether or not there is sufficient damage to warrant destroying the crop in the field. It states:

"if the damage to harvested or unharvested onion production exceeds the percentage shown in the Special Provisions for the type, no production will be counted for that unit or portion of a unit unless such damaged onion production from that acreage is sold."

For the onion policy the percentage is 50%. So, simply put, if the damage in a crop exceeds 50% you have the option to destroy the crop in the field. If the damage occurs when the plants are *immature* and you decide to destroy the crop, the remaining undamaged plants are counted as production and deducted from your indemnity. Even though what remained was destroyed and not sold, RMA counts those plants as "production to count" and subtracts those plants from your indemnity. If the damage occurs when the plants are *mature* and you decide to destroy the crop, no production is counted against your indemnity. Why the difference? Why does RMA do this? In a letter to the New York Commissioner of Agriculture & Markets, Patrick Hooker, RMA Administrator Eldon Gould explained that, "since immature onions are not of recoverable size and condition, in accordance with the Onion Crop Provisions, they are not considered onion production. The percentage shown in the Special Provisions only applies to onion production as defined by the Onion Crop Provisions. Therefore, since onion production only consists of onions of recoverable size and condition, the percentage referenced in the crop provisions and shown in the Special Provisions only applies to mature onions." Does this make any sense? This is all another unintended consequence of production to count.

Conclusion

Thank you once again for this hearing and inviting me to appear before you. My wife and I have spent a great deal of time and energy trying to improve the MPCI policy. We firmly believe that if true Actual Production History (APH) reform would take place and our proposal to reform production to count were implemented, the MPCI policy would be a valuable tool and integral part of a specialty crop producer's safety net.