
# National Farmers Union
# Testimony of Roger Johnson

## Before the
## U.S. House of Representatives Agriculture Committee

## Climate Change

## Thursday, June 11, 2009

## Washington, D.C.

**STATEMENT OF ROGER JOHNSON, PRESIDENT**
**NATIONAL FARMERS UNION**
**BEFORE THE HOUSE COMMITTEE ON AGRICULTURE**
**CONCERNING: CLIMATE CHANGE**
**JUNE 11, 2009**

Chairman Peterson, Ranking Member Lucas, and members of the committee, thank you for the opportunity to testify today. My name is Roger Johnson, and I am president of National Farmers Union (NFU). The organization was founded in 1902 in Point, Texas, to help the family farmer address profitability issues and monopolistic practices. Today, with a membership of 250,000 farm and ranch families, NFU continues its original mission to protect and enhance the economic well-being and quality of life for family farmers, ranchers and their rural communities. We believe that farmers and ranchers have a significant role to play in addressing the energy and environmental challenges facing our nation.

Today's hearing marks a vital opportunity as Congress deliberates how best to address climate change. NFU has been working proactively and constructively through the legislative debate to ensure our priorities and concerns are addressed. The cap and trade section of the American Clean Energy and Security Act of 2009 (ACES) approved by the Energy and Commerce committee is a good first step for agriculture in that it does not attempt to cap emissions from our sector of the economy and includes 2 billion tons of allowable offsets. However, the legislation has serious deficiencies that prevent maximum participation from farmers and ranchers. NFU is part of a coalition that has worked to include additional improvements within the offset sections of the bill.

The intersection of climate change mitigation and American agriculture is complex to navigate. It often requires access to a special dictionary to define words like additionality, permanence, early actors and leakage. NFU has emerged as a leading voice for how agriculture can play a significant role in combating global climate change. Our members were early to acknowledge the negative effects climate change has on domestic food and fiber production. To address these issues, our policy supports a national, mandatory carbon emission cap and trade system to reduce non-farm greenhouse gas (GHG) emissions.

Failure to reduce GHG emissions poses significant economic impacts on agriculture and populations whose welfare is of special interest to the agricultural community. Models of climate change scenarios demonstrate increased frequency of heat stress, droughts and flooding events that will reduce crop yield and livestock productivity. According to the U.S. Department of Agriculture (USDA), risk of crop failure will increase due to rising temperatures and variable rainfall. Further, earlier spring seasons and warmer winter temperatures will increase pathogen and parasite survival rates leading to disease concerns for crops and livestock.

Although several policy options exist to address climate change, NFU believes the flexibility of a cap and trade program holds the most potential for actual GHG emissions reductions while mitigating increased energy costs resulting from such a program. A cap and trade system could provide farmers and ranchers the opportunity to be a part of the climate change solution by

utilizing soil carbon sequestration and methane capture from certain livestock projects. These projects could be valuable revenue streams for producers who will experience increased agricultural input costs.

On April 17, 2009 the Environmental Protection Agency (EPA) issued its "proposed endangerment finding" which concluded GHG emissions are a threat to public health. The report was in response to a 2007 U.S. Supreme Court ruling that ordered EPA to determine whether carbon dioxide and other GHG emissions qualify as pollutants under the Clean Air Act. The proposed endangerment finding did not include any proposed regulations and remains open for public comment. It is understood that an endangerment finding under a single provision of the Clean Air Act cannot by itself trigger regulation under the entire Act. If Congress fails to pass climate change legislation, the EPA will move to regulate GHG emissions. It is not reasonable to expect EPA to try to regulate agricultural GHG emissions on the farm. A purely regulatory approach to addressing GHG emissions will bring all of the downsides of increased energy inputs without the upsides of carbon offset opportunities. For these reasons, NFU supports a comprehensive legislative approach to addressing climate change.

**AGRICULTURE'S ROLE IN A CAP AND TRADE SYSTEM**

NFU strongly believes that the agriculture and forestry sectors should not be subject to an emissions cap as they are too small and diffuse to be directly regulated. According to analysis completed by USDA and EPA in 2005, the two million U.S. farms and ranches emit minor quantities of GHG emissions, approximately seven percent of all U.S. emissions. Establishing a regulatory scheme to capture emissions from each of these two million farms would be extremely costly and burdensome and would likely fail to yield significant GHG emission reductions. Currently, EPA estimates that carbon sequestration by forests and agricultural lands offsets approximately 12 percent of annual GHG emissions with the capacity to offset 20 percent of GHG emissions from all sectors of the economy. A flexible offset program with appropriate financial incentives will accelerate sequestration practices under a cap and trade system. Carbon sequestration projects on agricultural and forestry lands are the easiest and most readily available means of reducing GHG emissions on a meaningful and expedited scale.

In April 2008, the Dole-Daschle 21st Century Agricultural Policy Project released a report, "The Role of Agriculture in Reducing Greenhouse Gas Emissions: Recommendations for a National Cap and Trade Program." The report cited EPA analysis that estimated up to 168 million tons of carbon dioxide could be sequestered in U.S. agricultural soils on an annual basis. The Dole-Daschle report went on to illustrate EPA's projection of total income opportunity associated with the estimates at a price per ton range consistent with current modeling estimates of carbon permit prices:

$10/ton $CO_2$ = $1.17 billion/year
$15/ton $CO_2$ = $2.5 billion/year
$20/ton $CO_2$ = $3.4 billion /year

This income potential is significant to our farm and ranch members who will be faced with further increased energy input costs. Energy-based GHG emissions related to the agricultural sector would be regulated upstream at the fuel supplier, electric utility or large industrial level.

Our members know they will face increased energy costs, but do not agree with those who claim there can be no economic benefits from addressing climate change.

The distribution of emission allowances will be extremely important to the ultimate viability of a national cap and trade program. We believe the majority of emission allowances should be auctioned by the federal government with the generated revenue used to mitigate the cost a cap and trade program would have on impacted parties and foster the development of renewable, low-carbon energy sources and technologies. A portion of the allowances should be given away to critical sectors of the economy to reduce overall transition costs, as well as to provide economic incentives to drive further carbon reductions.

Providing a percentage of overall allowances to the agricultural sector as proposed in the 2008 Lieberman-Warner climate change bill would offer flexibility for agriculture producers to implement activities that provide GHG benefits but may not technically fall within the scope of an offset program. For example, a smaller agriculture operation could engage in a practice appropriate for its size that provides GHG emission reduction could be eligible for an appropriate allowance benefit as determined by USDA. Under this scenario, farmers and ranchers would be given the flexibility to participate in different aspects of a cap and trade program, maximizing both producer participation and environmental benefits for our society.

In addition to receiving allowances, mechanisms should be established that allow agriculture to generate offset credits by implementing practices to more quickly reduce GHG emissions. Agricultural offsets provide the easiest and most readily available means of reducing GHG emissions on a meaningful scale. Farmers and ranchers, who demonstrate GHG sequestration and/or reduction, should be able to sell credits to regulated entities at a fair market price.

All existing rules-based and independently verified and registered tons implemented under current programs, such as the Chicago Climate Exchange (CCX), should be integrated into the federal program to serve several important policy objectives. Specifically, incorporating existing verified and registered tons will prevent potential backsliding and continue to encourage agriculture offset projects while a federal program is being debated, enacted and implemented. The ACES Act is unsatisfactory in its current form related to this issue.

## LEGISLATIVE PRIORITIES

### USDA's Role

With more than 20 years of targeted climate change research, USDA is well positioned to promulgate the rules and administer the agricultural offset program. USDA should be directed to promulgate regulations determining eligibility of agricultural and forestry offset projects and to administer related elements of such a program.

Currently, USDA maintains observation and data systems to monitor both changes in climatic patterns as well as beneficial practices put in place to reduce GHG emissions and increase carbon sequestration. USDA has the institutional resources, administrative structure and established relationships with producers to launch an effective offset program. The 2008 Farm Bill provided the department with the statutory authority necessary to create and administer any offset program. USDA can leverage its experience working with farmers and ranchers to promote

appropriate land based and manure management practices to drive maximum participation in the agricultural community. Agencies within USDA that have been working on agriculture sequestration projects include the Natural Resource Conservation Service; Cooperative State Research, Education, and Extension Service; Farm Service Agency, Economic Research Service; and Agricultural Research Service. Furthermore, for most farmers and ranchers in the country, USDA offices are located nearby.

Early Actors

Farmers, ranchers and landowners that already have entered into a voluntary, legally-binding contract and adopted certain practices to reduce GHG emissions should be allowed to participate under a federal mandatory cap and trade offset program. Often referred to as "early actors," these individuals are leaders who should be recognized and rewarded, rather than penalized and excluded. Some offset critics suggest early actors should not be compensated for carbon sequestered under a federal offset program. Such an argument, however, runs counter to the overall purpose of an offset program, to encourage widespread adoption of practices that reduce GHG emissions or sequester carbon. We do not advocate that early actors be automatically issued offset credits or receive retroactive payments. However, if an early actor meets and complies with all offset protocols for a practice, technique or project type under the new law, then he or she should be eligible for offset credits and paid for future GHG emissions reductions or sequestered carbon.

Unlimited Domestic Offsets

As I stated earlier, EPA estimates agricultural soils and forestry lands have the potential to sequester enough carbon to offset 20 percent of annual emissions in the United States. The goal is to remove as much GHG from the atmosphere as possible. Legislation should not artificially limit the amount of domestic agricultural project offsets. The ACES Act limits the total quantity of offsets to 2 billion tons, split between domestic and international offsets. Domestic agriculture and forestry projects alone have the potential to meet the limit, yet we do not know what other types of non-agricultural activities will qualify under the offset program. In order to aggressively address the impacts of climate change, there should be no limit on offsets, including those generated by agriculture and forestry, in order to provide the easiest and most readily available means to reduce GHG emissions on a meaningful scale.

**Other Concerns/Priorities**

There are three other topics I would like to briefly highlight.

Additionality – Defining additionaility has proven to be a challenging and highly subjective task. The basic concept behind additionality is that a project or activity should receive credit under a cap and trade program to the extent it generates benefits that are in "addition" to what would have occurred absent the project. NFU supports the establishment of a static baseline of activity to measure against when determining additionality. The fixed baseline should institute what practices were being performed on a specific piece of land on a specific date; any activity that results in GHG reductions measured against that baseline should be deemed eligible and additional. Defining this term quickly becomes a slippery policy slope that threatens to limit participation under an offset program. Opponents argue projects would not be additional if a practice is common in a given geographic area, if the practice would have occurred due to a pre-existing law or regulation, or if the rationale behind implementing the action includes

justifications beyond a cap and trade program. Each of these arguments creates a perverse definition of additionality that would exclude appropriate projects that offer real GHG emission reductions.

Reversals – The establishment of an offset reserve pool to address potential reversals of carbon sequestration projects is prudent for the integrity of the program. However, the differentiation must be made between anthropogenic (human-caused) and non-anthropogenic (natural) emissions. The purpose of the cap and trade program is to reduce man-made/anthropogenic carbon emissions. Therefore, in establishing a reserve pool of offsets, participants should not be required to account for reversals caused by natural acts such as hurricanes, drought and wildfires. A key factor in the establishment of the reserve fund is who pays for such a system. NFU supports holding an individual responsible for intentionally reversing a carbon sequestration project. Under current CCX protocols, twenty percent of a pool's credits are set aside in a reserve account for reversals. These credits may not be sold until the associated contracts expire and all conditions are fulfilled. Penalties are levied against enrollees who intentionally break their contracts and reverse a carbon sequestration project. It is not equitable, however, to place the cost of unintentional reversals on offset providers. Resolving such reversals should be the responsibility of the government, not individual offset project representatives.

Stackable Credits – The benefits accrued from a project established under a GHG offset market often provide additional environmental benefits including clean water, wildlife habitat and reduction of soil erosion. Sometimes these practices provide additional income to producers beyond the economic value of the offsets. Allowing offset project managers to "stack" credits will maximize the economic benefits to producers, encourage additional projects to be launched and amplify the environmental benefits accrued.

## FARMERS UNION CARBON CREDIT PROGRAM

Farmers Union became a CCX aggregator in early 2006 upon meeting the minimum eligibility requirements. The organization became involved in this effort with a goal of enhancing farm income through economically successful and environmentally sound land management practices that reduce or offset carbon emissions. Initially launched in North Dakota, the Farmers Union Carbon Credit Program was expanded in the fall of 2006.

CCX is North America's only, and the world's first, GHG emission registry, reduction and trading system for all six greenhouse gases. Members of CCX make a voluntary, but legally binding commitment to reduce GHG emissions. Many Fortune 500 companies, multinational corporations, utility and power generation companies and municipalities are purchasing CCX carbon credits for a variety of reasons. Some buy credits to boost public relations, while others have subsidiaries based in foreign countries and are obligated to reduce emissions or buy offset credits per obligations under the Kyoto Treaty. Still others are simply concerned about the environment and want to reduce GHG emissions.

Under the Commodity Exchange Act, CCX is defined as an "exempt commercial market." Only firms that qualify as "exempt commercial entities" may have direct access to the CCX trading platform. Qualifications to become an aggregator include a minimum of $10 million in assets and net annual income of $1 million. CCX further stipulates that potential aggregators

participate in educational sessions about the offset program and demonstrate a thorough understanding of the program requirements and protocols prior to engaging in aggregation.

The CCX program has developed standardized trading instruments and workable protocols for aggregation, registration, verification and sale of agricultural and forestry offsets. Currently, NFU is the largest aggregator of agriculture carbon credits on CCX. To date more than 5 million acres are enrolled across 31 states and nearly $9.5 million has been earned for the almost 4,000 producers that are voluntarily participating in our program. NFU has learned valuable lessons on how to properly construct a cap and trade program. Attached to my testimony is a state-by-state summary of the acres enrolled in each eligible category.

Rules and protocols for trading carbon offsets are currently developed by a CCX offsets committee with information provided by soils, rangeland and forestry professionals via various technical advisory boards. Currently, not all regions of the United States are eligible for all classes of offsets. The following is a list of projects for which CCX has developed standardized rules, as well as the total related percentage of registered offsets: agricultural soil carbon (27.52%); agricultural methane (1.92%); forestry (14.21%); renewable energy (3.53%); coal mine methane (32.23%); landfill methane (7.48%); and ozone depleting substance destruction (1.49%).

Eligible practices under the Farmers Union Carbon Credit Program are limited to agricultural soil carbon including no-till crop management, conversion of cropland to grassland and sustainable management of native rangelands; forestry; and agricultural methane. Chapter 9 of the CCX Rulebook relates to offsets and early action credits and outlines detailed protocols. As an aggregator, it is our job to translate technical requirements into easily understood project obligations and communicate that information to producers. We believe the protocols and methodologies within CCX can serve as a starting point for a federally mandated offset program administered by USDA.

Since launching our program, many producers have inquired as to why they cannot sell their carbon credits directly to the market, rather than going through an aggregator. As with other agricultural commodity markets, carbon credits are registered and traded in large, standardized quantities. Similarly, a Minnesota spring wheat producer cannot simply haul his harvest directly to the Minneapolis Grain Exchange to sell. To access the CCX trading market, a producer must contract with an approved aggregator, who pools many producers' credits, arranges for annual verification, registers credits with CCX, sells credits and returns sales proceeds to enrollees.

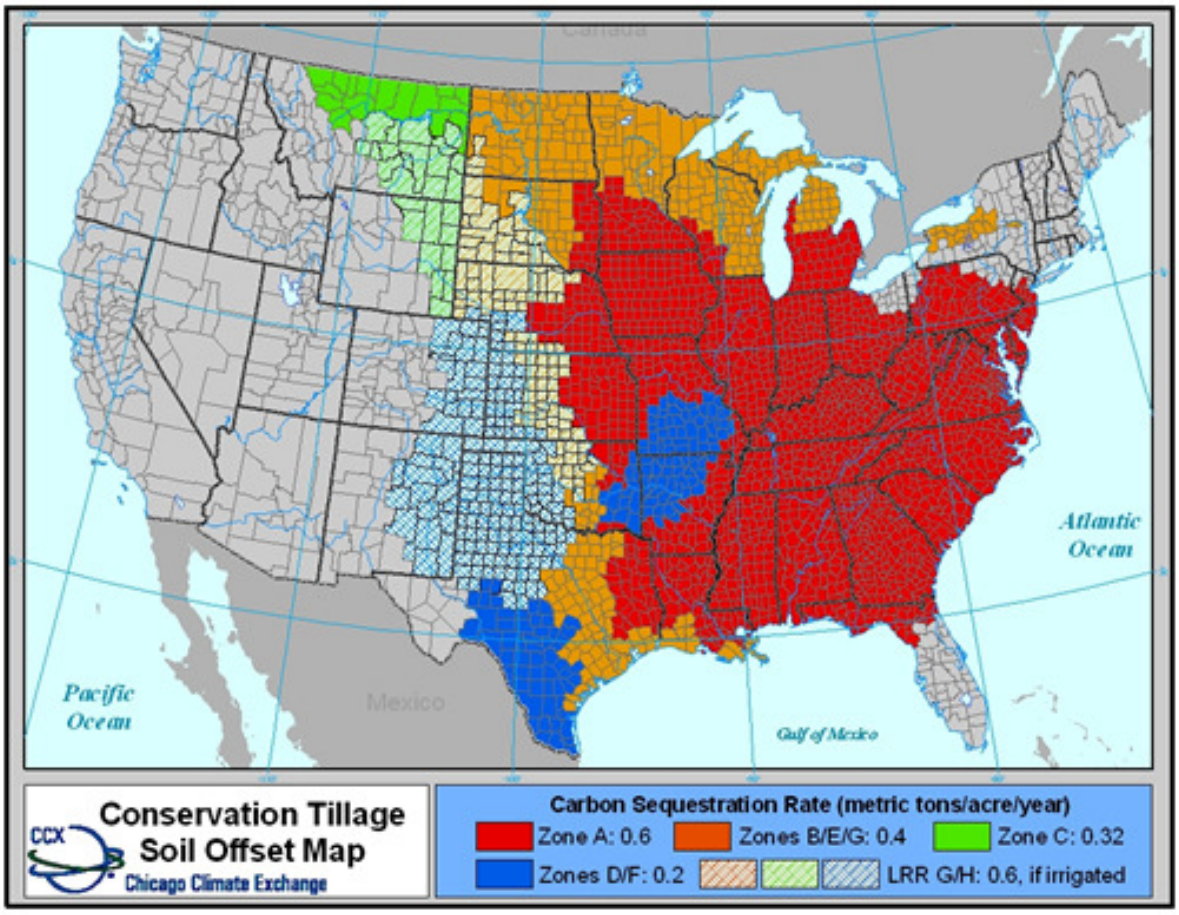
Different types of aggregators exist. Some focus on a particular project type such as sustainable rangeland management, continuous conservation tillage or sustainable forestry. Others focus on a specific geographic area of the country. The aggregator can ultimately be referred to as the "project manager" of an aggregated offset pool, as the carbon offsets are the property of the aggregator for the duration of the contract. Aggregators are responsible to CCX for any losses due to non-compliance or failure of a producer to honor the five-year contractual commitment to maintain the conservation practice.

NFU retains ten percent of the gross sales as an aggregator's fee to cover program development, software costs, program promotion, education and other costs. Other costs associated with the program include a mandatory $0.20 per ton charged by CCX to register and sell an offset and third-party verification charges that average $0.10 per ton of soil offsets and $0.30 for forestry offsets. Despite the fee's, producers can net a profit. For example in 2008, fees accounted for $0.74 of every ton of carbon credits sold through the Farmers Union program. In the first two full years of the Farmers Union Carbon Credit Program (2007 and 2008), the pools earned, on average, between $3.75 and $4.50 per ton, allowing us to return more than $8 million to producers.

*Example: Kandiyohi County, Minnesota*
A farmer in Kandiyohi County has 1000 acres of no-till he wants to enroll in the Farmers Union Carbon Credit Program. According to the CCX Conservation Tillage Soil Offset Map below, his county is in Zone A and accrues 0.60 tons of carbon per acre annually. Under this example, the Kandiyohi County farmer will accrue 600 tons of carbon annually.

Upon successful certification and verification of the project, the Farmers Union Carbon Credit Program staff would register the 600 tons, but because CCX mandates 20 percent of the offset tons are held in reserve until the end of the five-year contract, can only sell 480 tons. Assuming $4.00 per ton (2008 price), the Kandiyohi County farmer would gross $1,920. CCX charges $0.20/ton for registering and selling the credits, the verification fee is $0.10 per ton and Farmers Union aggregation fees total 10 percent of sales, leaving this farmer with a $1,548 for the year.

This calculation process is repeated annually at the varying offset price and at the end of the contract period, assuming full compliance, the farmer would receive the sales from the cumulative tons that had been held in the mandatory CCX reserve fund.




*Zone A =.60 ton per acre annually; Zone B= .40 ton per acre annually; Zone C= .32 ton per acre annually; Zone D= .20 ton per acre annually; Zone E= .40 ton per acre annually; Zone F= .20 ton per acre annually; Zone G= .40 ton per acre annually*

Enrollment Process

An interested producer can log onto *www.carboncredit.ndfu.org* to enroll in the Farmers Union Carbon Credit Program. Currently, the website utilizes a map-based enrollment method for the nine Midwestern states, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Wyoming and Montana (a 48-state map will be launched by the end of this summer). Upon creation of an account, the producer selects the appropriate contract(s) and adds acres by selecting the appropriate parcels on a digital map. Required information, such as farm and tract numbers must be input to allow the system to automatically calculate total acreage. The producer can continue to add parcels until all acreage he/she wishes to enroll has been selected.

A customized five-year contract must be printed, signed and sent to Farmers Union with appropriate documentation. Upon submission of all required paperwork, the producer enrollment process is complete. Producers must maintain the contracted conservation practice for the full five years, submit an annual postcard re-certification to Farmers Union, notify Farmers Union of any changes and make contracted acres available for verification. Farmers Union Carbon Credit Program staff contracts and coordinates with third-party verifiers, registers and sells credits with CCX and distributes annual earnings to the enrollee.

*No-Till Required Documentation Checklist*
After entering acres into the online database, the producer must print and sign the contract and certification page. The following is a checklist of required documentation to complete enrollment of a no-till soil carbon project:

- Most recent FSA Form 578 Report of Commodities (Farm and Tract Detail Listing) for all acres enrolled;
- Most recent FSA Form 578 Report of Commodities (Farm Summary) for all farms enrolled; and
- Most recent Aerial Maps for all parcels enrolled. Maps must be originals or clear copies. Maps MUST be marked with:
    - Farm and Tract numbers;
    - Acres in each tract; and
    - Legal Description of mapped areas.

Additional documentation is required for contracts outside Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Wyoming and Montana.

*No-Till Crop Production Practice Management Guidelines*
Crops must be grown annually. Pulse crops (e.g. beans, pea's, lentils) may be seeded no more than three of five years, the use of chemical fallow is not permitted; and crop residue shall not be burned.
Implements acceptable for use include: no-till planter/drill; subsurface disturbance implements (vertical slot created by these implements must be closed at the soil surface), anhydrous applicator, manure knife applicator, subsoil/ripper. Implements NOT acceptable for use include: moldboard plow, tandem/offset disk, chisel plow, field cultivator, row crop cultivator, harrow (limited or emergency work only).

<u>Verification</u>
CCX protocols require a minimum random sample of 10 percent of contracts and enrolled acres be verified on an annual basis. The sample must include a minimum of 10 percent of contracts representing 10 percent of acres in order to prevent a single, large enrollee from skewing results. The Farmers Union Carbon Credit Program actual verification sample is generally closer to 15 percent of all contracts and enrolled acres. The verification process is conducted by CCX-approved third-party vendors. The North Dakota Association of Soil Conservation Districts, Association of Official Seed Certifying Agencies, AgriWaste Technology, Inc., SES Inc and Winrock International have conducted audits under the Farmers Union program.

The producer's costs of verification are split evenly on a per-ton basis since the compliance rate of the verified sample is credited to the entire pool of credits. Farmers Union covers the cost of verification and is reimbursed out of the pool sales proceeds prior to calculating the effective average ton price payable to producers. Very large projects (ranches of more than 30,000 acres and forestry projects earning more than 12,500 tons annually) must receive a site compliance check prior to initial offset registration. The actual verification process is completed through paperwork review and site visits. Verifiers do not take individual soil samples, but rather confirm the contracted practice is being conducted and maintained. Since the beginning of our

program, we have not found the verification costs or process to be a deterrent to producer participation.

Confidentiality

As a private enterprise, all contracts and supporting documentation are held in complete confidentiality by the Farmers Union Carbon Credit Program. In order to complete the verification process, approved third-party verifiers are provided copies of necessary documents for the sole purpose of program compliance confirmation. Verifiers are legally bound to protect producers' information. Further, as an aggregator, we must submit limited information, enrollee's name, contact information and acreage totals, to CCX when requesting credits be registered on the exchange.

## CONCLUSION

The Farmers Union Carbon Credit Program and other aggregators are the bridge between agricultural producers and the carbon offsets market. For producers willing to commit to a management system, carbon credits are currently an additional source of income today. If Congress successfully crafts a cap and trade system that includes a robust and flexible offset program, the cost of compliance for capped sectors will be reduced and significant amounts of GHG emissions can be mitigated.

Enacting legislation to address global climate change will be one of the most significant challenges and opportunities for this Congress to undertake. Balancing environmental goals with consumer and economic impacts will be difficult. Yet, the chorus of those calling for action continues to get louder. While my testimony aims to detail the role of aggregators and opportunities for agricultural producers to participate in an offset program as well as highlight some of the policy priorities for NFU in the climate change debate, there is no question other issues and concerns will arise. As an organization that has been around for more than 100 years, we stand ready to help Congress accomplish one of the most significant policy challenges facing our country today. I look forward to answering any questions committee members may have and thank you again for including our perspective.