

**UNITED STATES****DEPARTMENT OF LABOR****FACSIMILE TRANSMISSION****OFFICE OF CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS**

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IMMEDIATE OFFICE OF THE ASSISTANT SECRETARY

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MESSAGE:

Gohl Earl

From: center@cis.org[SMTP:center@cis.org]
Sent: Tuesday, May 18, 1999 10:54 AM
To: CISNEWS@cis.org
Subject: Migrant workers

[For CISNEWS subscribers: Four items --

- * California firms praise employer verification pilot; foils would-be illegal workers;
- * Georgia town outlaws employers picking up day laborers; most of whom are immigrants;
- * New report claims shortage of highly skilled workers costing Silicon Valley billions; and
- * Migrant workers not guaranteed workers compensation in Georgia fields.

-- Mark Krikorian]

Pilot plan foils would-be illegal workers
By Edgar Sanchez
The Sacramento Bee, May 14, 1999

The word seems to be out in Yuba County: If you're undocumented, don't bother looking for work at Excel Specialty Products, a meatpacking plant in Marysville.

Nine months after the company beefed up screening of job applicants, not one illegal worker has applied to work there, said Victoria S. Delgado, the firm's human resources manager.

"The word seems to be out" that Excel "carefully scrutinizes" its potential workers, she said. Between 1993 and July 1998, at least three undocumented immigrants applied for employment at Excel's Marysville plant, Delgado said, but their green cards were obvious fakes and they were not hired.

Excel is one of five Sacramento-area companies involved in a test program that allows employers to check quickly on whether a prospective employee is legally authorized to work in the United States. The federal Immigration and Naturalization Service has not identified the other four.

Participants in the Basic Pilot Program, as it is called, dial a computer hotline that plugs into a federal database and within seconds determines whether an applicant's green card and Social Security card are authentic.

The program, created by the INS and the Social Security Administration, is in the spotlight at a time when the immigration service has shifted tactics, reducing work site raids and putting more pressure on employers to know the legal status of those they hire.

So far, Basic Pilot is winning praise from users.

"It's been like a protective umbrella for us," Delgado said.

Employers caught hiring illegal workers are subject to first-time fines of \$250 to \$2,000 for each unauthorized worker.

The new program takes the guesswork out of the process, according to INS officials.

"It's almost impossible to make a mistake when hiring under this system," said INS spokeswoman Sharon Rummery.

Basic Pilot was launched in 1997 to help thwart undocumented job-seekers carrying bogus residency cards or other counterfeit papers. Its goal, Rummery said, is to create more jobs for legal residents by taking opportunities away from the nation's estimated 5.5 million illegal residents.

The program began in the "immigrant-heavy" states of California, Florida, Illinois, New York and Texas. It recently was expanded to Nebraska, where the INS is targeting illegal residents in the meatpacking industry.

In all, 1,826 companies, some of them with multiple sites, are voluntarily involved in the six states.

Authorized through 2001, the program is free to employers. Besides paying the cost of the verification queries, the government provides special software to access the SSA and INS databases, plus training and instructional materials. Employers must obtain other equipment needed to make the inquiries, including a dedicated phone line, a personal computer and a modem.

Excel joined the program in August after its "employment verifiers" completed training.

"The program's a piece of cake," said Erica Young, a personnel clerk who assists Delgado in making the Basic Pilot checks.

Excel, a division of Cargill Inc., the Minneapolis-based food and grain conglomerate, uses Basic Pilot for all new hires at its Marysville plant, which has 225 workers. Delgado said the program makes life easier.

"Before this program, it was up to the employer to be judgmental in verifying that the documents were correct," she said.

For more information on the Basic Pilot Program, call 1-888-464-4218.

Marietta outlaws picking up laborers

By Henry Farber

The Atlanta Journal-Constitution, May 13, 1999

The Marietta City Council voted Wednesday night to force construction companies to share the burden of a problem that has baffled several metro communities--crowds of immigrant day laborers blocking traffic and leaving litter.

The council voted to prohibit construction crews from picking up the laborers, most of whom are Hispanic, on sidewalks, streets and other city property.

The ordinance marks a new strategy as the city addresses complaints that

the workers create a nuisance: Employers--and not just the laborers--can be fined as much as \$500.

But James Dodd, the only council member to vote against the ordinance, said it will force immigrants and other minorities out of work, prompting them to turn to crime.

"This will absolutely prevent a day laborer from being gainfully employed, to feed his family, and I can't go along with that," Dodd said. He predicted a rise in burglaries and purse snatchings.

Gas station operators and other small business owners have protested that gatherings of hundreds of workers block access to customers and spill into private parking lots.

"Homeowners feel like they can't patronize their local businesses," said Councilman Johnny Sinclair, who proposed the ordinance.

The private property owners already have the right to prosecute for loitering, although few have gone to court.

The new ordinance eliminates the loophole that allowed the laborers to move from private property to adjacent public property.

The problem focuses mainly on a portion of Powder Springs Road about a quarter-mile south of the Marietta Conference Center.

City leaders said they are not trying to chase away Hispanics and, instead, want to force a solution to avoid confrontations that have strained relations in other communities.

Unlike Roswell's controversial ban on soliciting day labor on all private property, Marietta's ordinance is intended to channel the day laborers to a new private location, city officials said.

Sinclair said the strategy is to start the clock ticking toward July 1, when the ordinance takes effect. That deadline will give construction companies, Hispanic associations, churches or employment agencies time to find alternate pickup sites, Sinclair said.

Councilwoman Betty Hunter, whose ward includes Powder Springs Road, has met with Latin-American ministers and others in an effort to coordinate a solution. The city cannot offer a location because of liability concerns, officials said.

The law expands a decade-old ordinance that forbids gatherings by day laborers around the Marietta Square. It was passed in the late 1980s in response to complaints about workers seeking day jobs downtown.

The new regulation covers the entire city and threatens penalties of up to \$500 or six months in jail--against both workers and the drivers who pick them up.

High Tech Cos. Lack Trained Workers
Tuesday, May 18, 1999

SAN JOSE, Calif. (AP) -- High tech companies in Silicon Valley can't find enough qualified workers to fill job openings and it's hampering the industry's growth, a study released Tuesday found.

That employee shortage is translating into a \$3 billion loss for local high tech companies, according to a study by Joint Venture: Silicon Valley Network, a group of public organizations and private businesses working to improve the economic vitality and quality of life in Silicon Valley, where most of the top high tech businesses in the U.S. are headquartered.

"Our study confirms that the area's high tech industry is not growing as fast as it could be because there simply are not enough skilled people to fill the jobs," said Ruben Barrales, president of the group. "If Silicon Valley wants to remain the capital of high tech, we need to become the top producer of qualified high tech workers."

The report found that 160,000 high tech positions -- roughly one-third of the high tech industry demand in Silicon Valley -- are filled by recruits from outside the region, by long-distance commuters -- or they go unfilled.

Ben Smith, who conducted the study with the management consulting firm A.T. Kearney, said the "gap" between demand and supply in the local high tech work force means employers have to pay higher salaries, have to spend more on recruiting, and lose money during long gaps without employees. Smith said those costs amount to between \$6,000 and \$8,000 per employee, or an annual total of \$3 billion to \$4 billion.

The study projects that the area workforce shortage will increase to 200,000 positions by the year 2010, driven in part by a lack of interest among area high school students in high tech careers.

The report comes just one week after Immigration and Naturalization Service's announcement that the U.S. is about to run out of available visas for foreign workers with high-tech skills.

Joint Venture managers said their findings do not necessarily point to a need for more visas. Instead, said Barrales, Joint Venture will be focusing on improving training and education programs at local schools.

****EDITOR'S NOTE:** The Report can be downloaded from the Joint Venture: Silicon Valley Network site. The web address is:

<http://www.jointventure.org/news/press/gap.htm>

Migrant workers at risk: Onion harvesters get no guarantees in their dangerous business.

By Lori Henson
Savannah (Georgia) Morning News, May 16, 1999

The lightning bolt that shot through Oscar Patonza's body left him lifeless in the Cobbtown onion field where he was working May 6.

Patonza, 16, had no shelter and little warning of danger. His body has, by now, arrived in Mexico. But just as Patonza had nowhere to turn in the

onion field for safety, his large family in Mexico has nowhere to turn now for compensation for his death.

Patonza was among the estimated 10,000 migrant farm workers in the Coastal Empire who are not covered by workers' compensation or other insurance. His family will get none of the \$100,000 normally paid when a foreign worker in the United States is killed on the job.

In Georgia, any employer with three or more employees is required by law to take out workers' compensation insurance. In case of injury or death, the worker or his family is entitled to benefits, regardless of the person's legal working status.

Although agriculture is Georgia's most dangerous occupation, it is the only industry in Georgia exempted from covering workers, who number 100 or more on most Vidalia onion farms during peak harvest. Georgia is one of 13 states that does not require farmers to take out workers' compensation insurance for their workers.

The only farm workers guaranteed workers' compensation are those operating some machinery, working in an enclosed factory and foreign workers brought in on a temporary work visa through the federal H-2A program.

Those facts anger migrant advocates and some legislators, including state Rep. Tom Bordeaux, D-Savannah.

"It hardly seems fair. If you work in a factory and produce a car, you're covered," Bordeaux said. "If you're working on a farm factory, producing a crop, you're not covered."

Bordeaux serves on the state House of Representatives' Industrial Relations Committee. He is chairman of the Workers' Compensation subcommittee.

He said what employers don't realize is that providing worker's compensation actually exempts them from civil liability if workers are injured or killed on their farms.

Agriculture has consistently ranked with mining as one of the most hazardous industries in the United States, according to the Bureau of Labor Statistics. In 1994, the fatality rate for agriculture was 26 per 100,000 workers, compared with a rate of four per 100,000 for all industries combined.

Andrea Cruz, director of Southeast Georgia Communities Project in Lyons, said her agency continually works with farm laborers who are unprotected by any form of insurance, despite their strenuous, sometimes dangerous jobs.

"This is how everybody gets treated all the time," she said. "I'm so sick of trying to do things to help people out and nobody's paying attention. We never get anywhere with this."

Patonza's death is being called accidental, an "act of God," by officials who investigated his death, including Candler County Coroner David Moore and the Tattnall County Sheriff's Office. Moore said Patonza was not standing on or near any lightning-attracting metal at the time of his death.

The approximately \$4,000 cost of Patonza's funeral and transport to Mexico was paid for by his fellow field workers and Ronnie Collins, owner of Plantation Sweets, where Patonza was working, according to Kennedy-Morgan

Funeral Home owner Sonny Morgan and Collins' attorney, Glen Cheney.

"It was a real disturbing thing. This was a pop-up thunderstorm and it was the first crack of lightning that got this guy," Cheney said.

Cheney said Collins does not provide workers' compensation for the hundreds of field onion clippers during peak harvest, but he pays it, as required by law, to workers in other jobs on the farm.

Cruz credits R.T. Stanley for providing basic insurance coverage on all his workers, regardless of their work or legal status. Stanley's coverage is through Georgia Farm Bureau. But Cruz said Stanley's effort is not typical of most farmers.

"I think the farmers are really getting off too easy," she said.

But past legislation to rid the workers' compensation exemption for farmers has failed, said Judge Carolyn Hall, a director for the Georgia Board of Workers' Compensation.

For now, migrant farm workers can seek compensation through Georgia Legal Services. One of the organization's attorneys, Nan Schivone, said social agencies such as Cruz's should refer all farmworker injury and death cases to her office, even though options for illegal workers are limited.

"Farmworkers in Georgia are not the luckiest workers," she said. "Many don't file claims" even when they are covered by workers' compensation.

Cruz said the solution is more education for workers about their rights and the laws that affect them. But she said change could be slow coming because even many legal residents of the United States are not naturalized citizens eligible to vote.

Bordeaux said the issue isn't likely to die.

"Obviously, they need to be covered," he said. Otherwise, "they end up at Memorial's emergency room and taxpayers pay for their injuries."

Vidalia onions

Season runs: April-June

Estimated value of 1999 crop: \$65 million

Total economic impact in Georgia: About \$100 million

Migrant farm labor

Number in Vidalia area to harvest onions: About 10,000

What they earn: Field workers get a piece rate of 70 cents per 50-pound bag of onions they clip, which are then sold for \$40-50 retail. Packers make at least minimum wage of \$5.15 per hour to work in a warehouse.

Percent who are in the United States illegally: As many as 50 percent

Trend: Pressure by the U.S. Immigration and Naturalization Service to rid farms of illegal workers has shifted. Once, farmers were held accountable

for illegal workers. Now, the crackdown is on the labor contractors who provide workers.

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**Update on Georgia Delegation Proposals for H-2A Changes,
Coverdell's 6/26/98 Letter Regarding Same, and DOL's Actions/Responses**

	Georgia Recommendation	Coverdell 6/26 Letter	DOL Action/Response
1	Change employer's application filing date from 60 days to 30 days prior to the "date of need."	Acknowledges DOL's proposed regulation shortening from 60 to 45 days, although still want 30 days. Note that benefit of this requirement (to allow for domestic recruitment) is supplanted by the 50% rule.	– Changed from 60 to 45 days in proposed regulation. DOL continues to feel that 30 days is too short a period, as it allows only 10 days for domestic recruitment. – Proposed transferring of visa petition process to DOL to further simplify application process. (Note: No Georgia growers submitted comments during reg process either offering alternatives, or supporting reg proposal.)
2	Change contract time to "duration of crop activity." Currently, the contract period is set by the employer in the H-2A application, and that period is fixed. This change would make the contract period more flexible, at the employer's discretion.	Grower should not have to pay wages for work not performed. Note that poor market condition <i>could</i> be a result of "Act of God", and that CRS has opined that DOL can do this administratively.	Currently, the contract period -- <u>set by the employer-applicant</u> in the first place -- can end prematurely only due to "an act of God." The "3/4 guarantee" requires that H-2A employers provide recruited domestic and H-2A workers with employment , or pay, for at least 3/4 of the number of hours in the job offer. Giving greater flexibility to terminate the contract period effectively eliminates the 3/4 guarantee.
3	Allow minimum wage as "training wage" for inexperienced worker.	Given DOL's views, dropped item from consideration.	Nearly all H-2A jobs require virtually no training. Most orders now have a 3 day training period, during which there is no lower "training wage" permitted.

4	Change 50% rule to require preferential hiring throughout duration of crop activity, but apply only to local workers.	Given DOL's views, dropped item from consideration.	Under this proposal, any U.S. worker who migrated for work, but arrived after the work had begun, could be rejected.
5	Allow reasonable charge to workers for maintenance, repair, and utilities of employer-provided housing.	Adamant. While acknowledging that housing will be necessary, want to provide farmers an incentive to provide quality housing by allowing reasonable charges (suggest capped at \$25 / week) for utilities and maintenance. Express willingness to work under FLSA/MSPA housing regs governing migrant workers. Note that CRS indicates administrative flexibility exists for changes.	U.S. farmworkers tend to be among America's working poor. Employers using the H-2A program must provide safe, sanitary and healthful housing to all workers, domestic and foreign, from outside the commuting area. Any transfer of those costs to workers undercuts the wages they are promised in the contract.
6	Elimination of the "adverse effect wage rate" (AEWR) (in favor of prevailing wage in area of employment).	Given DOL's views, dropped item from consideration.	Employers using H-2A workers are required to pay both domestic and H-2A workers the higher of: (a) locally prevailing wage; (b) the state or federal minimum wage; or (3) the AEWR. The AEWR is a state-wide average agricultural wage set by DOL that is intended to alleviate the depressing effect on wages caused by the presence of many foreign farmworkers.
7	Allow movement of H-2A workers from one certified job to another, with final employer paying return trip.	Ask for written clarification on issue, since DOL staff has indicated that this practice is acceptable under current law.	Provided requested clarification in 7/21/98 letter from the Secretary to Senator Coverdell.

8	Require certification/ licensing and bonding of farm labor contractors (FLCs).	Adamant. Note that CRS has determined that DOL can act on matter administratively. Say DOL staff have indicated that Department may be willing to allow farmers to require FLC bonding, and do not understand why we would block such a proposal that would protect workers and farmers.	Administration proposed bonding of FLC's in 1993, but was opposed by grower groups. DOL cautions that requiring bonding of FLC's could make it more burdensome to recruit legal domestic workers.
9	Eliminate requirement that FLCs must be hired by H-2A employers if use of FLCs is prevailing practice in area.	Adamant that DOL do more. Concede that we have made a change, but want DOL to go further and eliminate any requirement that growers use FLC's. Argue that even DOL concedes that FLC's are often the problem in farm labor situations, and growers should not be required to hire them.	– Proposed regulation would allow growers not to use FLC's with demonstrated history of misconduct. FLCs are a major source of domestic farmworkers. Removing this requirement could eliminate a major source of domestic workers -- particularly in those areas where the use of FLCs is the prevailing practice. (Note: No Georgia growers submitted comments during regulatory comment period on this rule.) – President has proposed the funding of a worker registry to provide another resource for growers to recruit domestic workers.
10	Create a national verification system so employers can check the status of domestic workers hired during H-2A process.	Dropped item from consideration.	In IRIRA -- pilots being developed by INS.

NOTE: In October 1998, the Department of Labor published a proposed rulemaking in the Federal Register that asked for comments on six specific rule changes and asked for suggestion of other regulatory changes the Department should consider making. No comments were received from either Georgia growers or Georgia grower organizations.

Congress of the United States
Washington, DC 20515

May 27, 1999

The Honorable William J. Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, DC

Dear Mr. President:

We, as Members of the Congressional Hispanic Caucus (CHC), write to thank you for your assistance during the 105th Congress in defeating the proposed H-2A legislation, and to reiterate our opposition in the strongest terms to any effort to expand the current H-2A/ guestworker program. We again look for your leadership on this issue in the 106th Congress.

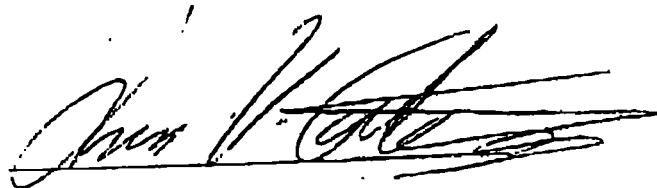
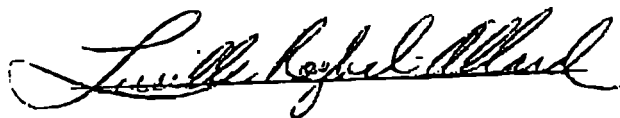
We are aware that over the past few months there have been renewed discussions in Congress and the Administration about guestworker legislation. We believe that expansion of the H-2A/ guestworker program would be extremely harmful to domestic agricultural workers. To expand the current program would only increase the number of individuals who are exposed to already deplorable working conditions in our country's fields.

To maintain our sound domestic agricultural market, we must address the problems of farm labor such as declining real wages, deteriorating housing and poor working conditions of the people who pick our crops. To protect the agricultural labor force and reduce poverty, we should increase the enforcement of agricultural labor laws, promote better wages, working conditions and housing. Only by ensuring safe and equitable working standards and wages can we accomplish a just balance between the needs of the farmers and the workers they employ.

The CHC has been an active participant in the H-2A/guestworker legislation debate and has identified this issue as a priority in the 106th Congress. For this reason, we respectfully request a meeting with you and members of your staff to discuss our concerns.

We look forward to working with you to improve the standard of living for thousands of domestic farmworker families. Thank you for your attention to this most important issue.

Sincerely,



President Clinton
Page 2

Ciro Rodriguez

Ed Pastor

~~Ed Pastor~~

Robert Pham

Carlos Roman-Bauer

Ed Pastor

James Sun

Lois Sanchez

Mark A. Jorgensen

Rubén Hinojosa

Grace J. Napolitano

Immig- H2A

United States Senate

WASHINGTON, DC 20510

January 11, 1999

cc: Bruce
Barbara Chaw
Tulie F.
Maria G.

The Honorable William J. Clinton
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

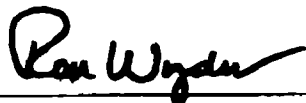
Late last year we considered legislation designed to reform the current temporary and seasonal alien agricultural worker program, known as the "H-2A" program. Few will disagree that the current program is broken and badly in need of reform.

Farmworkers are entitled to protections that will improve their lives and the lives of their families. Growers are entitled to a labor program that will end the uncertainty in finding a stable and legal supply of workers. The current H-2A program does neither.

Each of us has been working on this problem for many months, if not years. Over the last several months, officials within your Administration have committed to work with us to develop a solution. The time to move forward is now. We cannot wait for another growing season and harvest to come and go without a solution in place, particularly given the current financial crisis in American agriculture and the usual immigration pressures facing the United States.

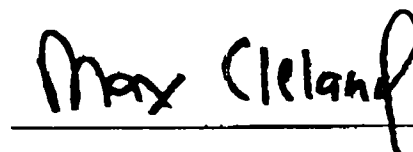
Therefore, we seek your commitment to work with us to develop a package of meaningful and workable reforms to the current H-2A program no later than February so that the Congress will have time to enact the reforms into law in time for the 1999 harvest.

Respectfully Yours,



Ron Wyden

Bob Graham

Blanche Lincoln

Max Cleland

The Honorable William J. Clinton

Page 2

Chuck Robb

The Honorable Sanford Bishop
Democratic Whip At-Large
House of Representatives
Washington, DC 20515-1002

Dear Representative Bishop:

Thank you for your letter of February 10, 1999 regarding reform of the current temporary foreign agricultural worker (H-2A) program. *[The President has asked me to respond on his behalf.]*

In your letter, you seek a commitment to work with Congress to develop a package of meaningful and workable reforms to the current H-2A program. We share the goal of assuring an adequate, predictable labor supply of farm workers and will work with the Congress to develop reforms to the current program to ensure that it responds to agricultural needs while protecting U.S. farm workers who are among the poorest and most vulnerable in our society.

We have acknowledged the administrative difficulties that have plagued this program. As a result, we joined a bipartisan working group last fall to examine the specific issues raised by Congress and to work together to develop reform proposals. *[Flag this for Elena, given the process last fall fell apart.]* In addition, the Departments of Labor and Justice issued proposed regulations to streamline the current application process. We plan to proceed with these and other proposals as soon as possible.

We are committed to improving and enhancing existing programs to meet the labor requirements of our vital agricultural industry consistent with our obligations to U.S. workers. We are ready to again join a bipartisan working group to examine these matters.

We look forward to working with you on this important issue.

Sincerely,

XXXXX



Debra J. Bond

04/12/99 04:40:47 PM

Record Type: Record

To: Irene Bueno/OPD/EOP

cc:

Subject: H-2A -- AgNet

Welcome back from your vacation. I hope you are well rested.

One issue that I need to take up with you this week is the proposed AgNet system in the budget. You may recall that we proposed \$10 million for DOL to set up a recruitment system for agricultural employers and workers to use. DOL has been shopping this proposal around on the Hill-- specifically asking Feinstein to champion the proposal. However, she is not willing to do this absent immigration verification. Therefore we need to sit down with DOL and INS to have another discussion on verification. Are you available Thursday afternoon? If so, I will call DOL and INS to set up a time. If not, what day is good for you (that is in the very near future)?

TRANSMISSION RECORD

IMMIGRATION AND NATURALIZATION SERVICE
OFFICE OF CONGRESSIONAL RELATIONS
425 I STREET, N.W.
WASHINGTON, D.C. 20536

TO: <i>Irene Bueno</i>	FROM: ALLEN ERENBAUM
ORGANIZATION:	TELEPHONE: (202) 514-5231
TELEPHONE:	FAX NUMBER: (202) 514-1117
FAX TELEPHONE: <i>456-5581</i>	DATE:

NUMBER OF PAGES (including cover sheet):

COMMENT/MESSAGE:

1st A Coverdell letter

*Enjoy your trip
Love*



U.S. Department of Justice
Immigration and Naturalization Service

Office of the Commissioner

425 I Street NW.
Washington, DC 20536

CO 703. 2042

MAR 22 1999

The Honorable Paul Coverdell
United States Senate
Washington, DC 20510

Dear Senator Coverdell:

Thank you for the opportunity for Commissioner Meissner to meet with you and other members of the Georgia delegation on March 4, 1999, to discuss the agricultural community's concerns in your State. I would like to summarize the Immigration and Naturalization Service (INS) Atlanta District's Office extensive outreach to the Vidalia onion employer industry and other growers and the agency's efforts to reform the H-2A program.

In the past three and a half years, the INS Atlanta District Office has made numerous contacts through written communications, negotiations, and educational seminars with employers in the Vidalia onion industry and other growers on the requirements of the immigration laws, especially the Immigration Reform and Control Act of 1986 (IRCA).

As a result of the worksite enforcement operation that was conducted May 13, 1998, INS agents on May 19, 1998 agreed to suspend the operation, and the growers agreed to identify Farm Labor Contractors (FLCs) with whom they did business and supply INS with their own and FLC employment eligibility verification (Form I-9) records.

Atlanta District Office Director Thomas Fischer sent a follow-up letter on the agreement on June 16, 1998, and encouraged Vidalia onion industry employers to comply with the agreement. Of the approximately 147 Vidalia growers, 126 submitted their Forms I-9 and 21 did not respond. Of the 5768 Forms I-9 that were submitted, 3259 were identified with apparently fraudulent permanent residence cards or Social Security Administration (SSA) numbers. In addition, 8-10 FLCs have been identified as apparent major violators.

The Honorable Paul Coverdell
Page 2

Since January 1999, the Atlanta District has done 6 major presentations in and around the South Georgia (Vidalia) agricultural areas with total aggregated attendance of about 250 growers, Congressional staffers and agribusiness leaders.

On January 13, 1999, District Director Fischer sent a letter to Mr. R.T. Stanley, of the Vidalia onion industry to schedule a meeting with a grower representative to discuss INS' enforcement intentions prior to the 1999 hiring and harvest season. To date, Mr. Fischer has not received a response.

On March 23 and 24, 1999, representatives from the INS, the U.S. Department of Labor (DOL), the Georgia Department of Labor, and the SSA, Office of Inspector General, will conduct two educational training seminars in Lyons, Georgia and two in Glennville, Georgia regarding the employer's responsibilities under the immigration laws.

On March 29, 1999, Notices of Inspection will be sent primarily to the registered FLCs and to a randomly selected group of growers. The INS will review the Forms I-9 provided in response to these notices and determine its next steps accordingly. Plans for any enforcement action will be shared with the Georgia delegation, excluding specific operational details.

As stated in the meeting, our goals are to focus on unscrupulous FLCs and violators who through investigative efforts indicate involvement in alien smuggling, and to avoid any direct effect on growers who hire legal workers. However, those growers whose workforce is suspect may be audited with on-site visits by INS agents to determine work status and compliance with the immigration laws.

With regards to the H-2A program, the Administration recognizes that the existing program needs reform and has been working to improve and streamline the process through regulatory and administrative channels. In particular, the INS and DOL have published proposed regulations to streamline the H-2A process in order to better meet the needs of growers. INS published a proposed rule in December 1998 that would delegate its responsibility for adjudicating certain H-2A petitions to DOL, taking one step out of the process for employers. The proposed delegation would cover petitions for initial H-2A employment for aliens who are not already in the United States. The comment period closed on February 5, 1999, and a final rule has not yet been published. We understand that DOL expects to publish its final regulation shortly. Among other improvements, that rule will reduce the lead-time for requesting H-2A workers from 60 to 45 days. In addition it is our understanding that, of the Vidalia onion growers, Bland, G & R, Braddy, McLain and Herndon Farms have an approved H-2A application.

The Honorable Paul Coverdell
Page 3

We look forward to continuing to work with you and other interested Members concerning INS enforcement operations and improvements to the H-2A program. If we may be of further assistance on this or any other matter please do not hesitate to contact us at 202- 514-5231.

Sincerely yours,

FOR THE COMMISSIONER



Allen Erenbaum
Director
Congressional Relations

cc: Senator Max Cleland
Congressman Saxby Chambliss
Congressman Sanford D. Bishop, Jr.



Irene Bueno

03/17/99 11:46:16 AM

.....

Record Type: Record

To: Debra J. Bond/OMB/EOP

cc:

bcc:

Subject: Re: H2A & H1B 

Sorry it's taken so long to get back to you.

H2A - Per Barbara, the meeting between Coverdell included Rep. Chambliss, Rep. Bishop and other staff went better than they expected. The Senator and members were concerned that there is not another repeats of the INS raid during harvest that occurred last year. Commissioner said that they plan to focus their enforcement on smuggling and farmworker contractors but she could not promise it would not spill into the field. They asked for a letter that indicated this and INS is working on the letter. I asked Barbara to send me a draft but have not seen it yet.

I also asked her about the document that she indicated she would draft for us in follow up to our meeting with her and Phil Busch a couple of weeks ago on worksite priorities. She had forgotten but will work on it.

Let me know if you have any questions. See you at the IWG meeting. Thanks

Debra J. Bond



Debra J. Bond

03/15/99 09:59:22 AM

Record Type: Record

To: Irene Bueno/OPD/EOP

cc:

bcc:

Subject: Re: H2A & H1B 

H-2A: Thanks for the info. I am very interested in what was said at the meeting. Also, have you received anything from INS as result of our meeting with them? As you may recall, Barbara Strack said they would put together various materials and get them to us.

H-1B: Heads-up. Barbara received a call late Friday from Abraham's staff requesting a meeting on H-1B. We are trying to get more information on exactly what they want to talk about -- the cap or the proposed rule. DOL published the proposed rule on January 5th and the comment period closed on February 19th. DOL received between 80 and 90 comments. From what I understand, nobody is happy -- business or labor. DOL sent me copies of the comments last week but I have not received them yet. If you want copies let me know. I doubt that we will see a draft of the final

rule before April.

Worker Exploitation Meeting: Is this meeting still scheduled for tomorrow at 11:00 am? Is there anyway to move this meeting into the afternoon (1:00 pm or later)? I figured it couldn't hurt to ask.

Irene Bueno



Irene Bueno

03/12/99 10:11:53 AM

.....

Record Type: Record

To: Debra J. Bond/OMB/EOP@EOP

cc:

Subject: H2A & H1B

H2A - I am getting info about the meeting Coverdell last week. I understand that some type of letter is being drafted but I am waiting to hear back from INS and let you know as soon I hear anything.

H1B - I have heard about H1B regs that pending or have been published. Do you have a copy or know where I can get a copy. What's the status of the regulations and what are the issues of concern?

Thanks.

United States Senate

WASHINGTON, DC 20510

January 11, 1999

The Honorable William J. Clinton
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

Late last year we considered legislation designed to reform the current temporary and seasonal alien agricultural worker program, known as the "H-2A" program. Few will disagree that the current program is broken and badly in need of reform.

Farmworkers are entitled to protections that will improve their lives and the lives of their families. Growers are entitled to a labor program that will end the uncertainty in finding a stable and legal supply of workers. The current H-2A program does neither.

Each of us has been working on this problem for many months, if not years. Over the last several months, officials within your Administration have committed to work with us to develop a solution. The time to move forward is now. We cannot wait for another growing season and harvest to come and go without a solution in place, particularly given the current financial crisis in American agriculture and the usual immigration pressures facing the United States.

Therefore, we seek your commitment to work with us to develop a package of meaningful and workable reforms to the current H-2A program no later than February so that the Congress will have time to enact the reforms into law in time for the 1999 harvest.

Respectfully Yours,

Ron Wyden

Bob Graham

Blanche L. Lincoln

Max Cleland

The Honorable William J. Clinton

Page 2

Chuck Robb



UNITED STATES

DEPARTMENT OF LABOR

FACSIMILE TRANSMISSION

OFFICE OF CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS

200 Constitution Avenue,
N.W.
Room S-1325
Washington, DC 20210

Confirmation:
202/219-6141

May 12, 1999/10:34AM

To: IRENE BUENO

DEPARTMENT/COMPANY:

FACSIMILE NUMBER: 456-5581

FROM: EARL GOHL

NUMBER OF PAGES INCLUDING COVER:

FACSIMILE REPLIES: CONGRESSIONAL AFFAIRS

202/219-5120

INTERGOVERNMENTAL AFFAIRS

202/219-5736

IMMEDIATE OFFICE OF THE ASSISTANT SECRETARY

202/219-5288

MESSAGE: I am having the material we spoke about this morning messengered
over....the attached is an immigration newsletter that you might find
helpful

RURAL MIGRATION NEWS

FARM WORKERS

Volume 5, Number 2

April 1999

Florida: Mechanization

For many years, economists thought that higher farm wages, effectuated by farm worker unions, the availability of nonfarm jobs or reduced immigration, would force farmers to raise productivity in fruit and vegetable agriculture. In most of US agriculture, productivity was raised by substituting capital for labor, or using machines to save labor, with the result that the fewer remaining farmers and farm workers had higher incomes.

However, labor-saving mechanization research was slowed in the 1980s and 1990s by lawsuits that challenged the use of public funds at land grant universities to develop machines that displaced small farmers and farm workers, and by the ready availability of labor. Galen Brown, director of harvesting research for the Florida Department of Citrus, said that "A significant portion of our labor force has been undocumented, and that has allowed us to operate with relatively low labor costs for decades."

In the 21st century, a combination of more intense international competition, break-throughs in electronics and biotechnology, and the fact that some experienced farm workers can find nonfarm jobs in today's economy may lead to another round of mechanization.

One of the industries most interested in mechanization is Florida oranges, most of which are processed into juice. There are at least ten prototype harvesting machines, from tree shakers to fingers that penetrate the canopy and pull out oranges. None of the machines harvests all of the fruit, as hand harvesters could, but the potential labor savings are enormous.

Some 40,000 to 50,000 workers are employed in the December-April orange harvesting season: one estimate is that 45,000 workers are employed on peak days in January-February. Florida has about 775,000 acres of oranges, which yield 300 to 400 boxes of oranges an acre. Workers climb trees that are up to 15- to 18-feet high, hand pick each orange, and place the orange into a picking sack, which can weigh 70 to 90 pounds when full. Picking sacks are emptied into field tubs or bins that hold about ten 90-pound boxes or 900 pounds of oranges. A "goat truck" picks up these 900-pound field bins and dumps them in a trailer, which then hauls the fruit to a concentrate plant.

Growers receive \$5 to \$6 for a box of oranges, or \$0.05 to \$0.06 a pound, and workers typically receive about \$0.75 for each box picked and dumped into a plastic field bin, or less than \$0.01 a pound. The average worker picks about nine 90-pound boxes an hour, for hourly earnings of \$6.75; with 1,000 hours of work each season, seasonal earnings are \$6,750. An article discussing labor shortages near the end of the 1998-99 citrus harvest discussed piece rates of \$6 to \$8.50 a bin, or \$0.60 to \$0.85 a box.

Florida expects 190-million 90-pound boxes of oranges in 1998-99, down from a record 244 million in 1997-98. Each 90-pound box yields about 1.6 gallons of orange juice.

There are several ways to harvest oranges mechanically, with the tree shaker the most likely of the six approaches under development to be adopted--a metal arm grabs the tree and shakes oranges into a catching frame that unfolds around the tree. Six firms are producing mechanical harvesters: Compton Enterprises and Coe Orchard Equipment, of California; J & G Enterprises, of Arcadia; Fruit Harvesters International, of Alva; and Cronkelton Enterprises, of Avon Park.

A mechanical harvester costs about \$200,000, and replaces 20 to 30 hand harvesters who earn an average \$7,000; growers need at least 600 acres to justify the machine. The Coe Orchard trunk-shaker harvests 240 to 480 boxes an hour, while the average hand harvester picks nine boxes an hour. The machine works best on large acreages of uniformly spaced trees that are pruned to expedite mechanical harvesting.

In March 1999, the Jack M. Berry Corp was found to have failed to pay the federal minimum wage between 1991 and 1994 to 2,800 orange and grapefruit pickers in La Belle and Immokalee. The workers were employed by Eagle Lake Harvesting Corp., which was owned by the late Jack M. Berry of Winter Haven. Eagle paid the pickers \$0.65 for each 100 pounds of oranges picked; when yields were low, some pickers earned less than the \$4.25 minimum wage. At the trial, it was determined that Eagle's computer was programmed to flash when a worker was not earning \$4.25 an hour, prompting the payroll entry clerk to reduce the worker's hours, a willful violation of the minimum wage law. Damages will be determined in a second trial.

Clarence Anthony, mayor of South Bay, has been elected president of the 7,000-member National League of Cities. South Bay in Palm Beach county is 90 percent minority, has a per capita income of \$13,000 and an unemployment rate that hovers around 30 percent. South Bay's largest employer, a vegetable packing house, closed in 1994, eliminating 1,300 seasonal jobs; the city replaced it with a prison that employs 300 people.

John Reinan, "Trio Seeks to Develop Mechanical Citrus-Fruit Picker in Florida," Tampa Tribune, April 6, 1999. Victor Epstein, "Migrant workers hold breath on move toward mechanization," Naples Daily News, February 21, 1999. Martin, Philip L. and Alan L. Olmstead. 1985. The agricultural mechanization controversy. Science, Vol 227, No. 4687. February. 601-606.

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RURAL MIGRATION NEWS

RURAL COMMUNITIES

Volume 5, Number 2

April 1999

California: Citrus Freeze Effects

The December 20-28, 1998 freeze caused an estimated \$700 million in damage to California crops, primarily navel oranges in the San Joaquin Valley. Fresno, Kern, Kings, Madera, Merced, Monterey and Tulare counties were declared state and federal disaster areas, which made some workers usually not eligible for unemployment insurance benefits eligible for up to 26 weeks of benefits. A December 1990 freeze caused \$800 million in damages, and about 12,200 workers lost an estimated \$83 million in wages.

Navel oranges were damaged the most, with \$512 million lost, followed by \$175 million in losses for Valencia oranges; \$81 million in lemons; and \$41 million in avocados.

As of early February, the California Employment Development Department had received 5,981 disaster-related claims for unemployment benefits. Total employment in the winter San Joaquin Valley citrus industry is estimated to be 12,000 to 15,000, with 60 percent in the fields and 40 percent in the packing houses. EDD estimated that 7,286 farm workers would lose \$32 million in earnings, and that 6,600 additional packing house workers may lose their jobs. The sharpest drop in farm employment as measured by EDD was in Tulare county, where farm production and services employment fell from 30,000 in January 1998 to 24,500 in January 1999.

Many reports quoted the UFW's Citrus Freeze Worker Committee's estimate that 28,500 citrus workers were left jobless by the freeze, including: Porterville, 4,500; Orange Cove, Lindsay, and Exeter/Farmersville, 3,000 each; Orosi, Terra Bella and Woodlake, 2,000 each; and Cutler Dinuba Strathmore, Ivanhoe, Tonyville, and Woodville, 1,000 to 1,800 each. The UFW played a major role in organizing appeals for federal and state aid for farm workers who lost their jobs or were not hired due to the freeze.

Almost half of the losses were in Tulare county, the center of navel orange production, with 43 orange-packing sheds. The Sacramento Bee profiled the city of Lindsay on January 17, 1999, a city of 9,000 residents in which about half of the 3,600 jobs are related to citrus. About 360 people apply for welfare assistance in a normal month; in the first half of January, 630 applied, and many wanted to avoid the 30-day wait for aid. Interviews with laid-off citrus workers indicated that many had limited English and few skills to find other jobs.

Orange Cove, a city of 7,700 with eight packing houses, had a 30 percent unemployment rate before the freeze. Victor Lopez, who has been mayor of Orange Cove since 1986, said in January 1999 that 49 percent of residents were receiving public assistance and 34 percent were jobless. Orange Cove, Parlier and Huron in Fresno County, and the Tule River Indian Reservation in Tulare County were designated as federal enterprise cities, thus becoming eligible for \$250,000 in federal tax breaks and other assistance. Many of the facilities built in Orange Cove are named for Mayor Lopez, including the

Victor P. Lopez Rural Development Job Training Center, built with a \$1.8 million grant from the Economic Development Administration. The city plans a shopping center and prison to expand its economic base.

Relief. Governor Gray Davis redirected \$1.5 million in unused federal flood relief funds to permit laid-off citrus workers to be hired to repair streets, parks, school grounds and riverbanks damaged in 1997 flooding; later, an additional \$3.5 million was made available, and the Assembly approved another \$1.8 million to hire 500 more workers in April 1999. MSFW assistance programs hired 648 workers by April 1999; most program recipients are permitted to earn a maximum \$12,000 or work for 1,080 hours on relief funds.

As relief poured into the valley, there were fears that unauthorized workers would be deemed ineligible for government benefits and that legal immigrants would avoid requesting assistance so that their applications to INS to unify families would not be denied on the grounds that the family members they sponsor could become public charges. The INS said that it would look at receipt of emergency food stamps after a freeze differently than continuous receipt of welfare, but advocates failed to win an assurance that the INS would not take such assistance into account in future immigration decisions.

In an unusual change of policy in March 1999, the governor of California signed into law on April 12 Senate Bill 1303, a change to the UI code that will permit unemployed citrus workers to take part-time jobs and earn up to \$200 a week and keep their jobless benefits until August 7, 1999. The average UI benefit payment in California is \$140 a week--UI benefits range from \$40 to \$230 a week. Under current rules, jobless workers can earn up to \$25 a week, or 25 percent of their UI benefits, and keep their full UI benefits.

Legal farm workers displaced or not hired after December 20, 1998 because of the freeze can apply for federal grants for temporary housing, mortgage or rental assistance, free food programs, extended unemployment benefits, crisis counseling and help in paying electric bills. USDA's Farm Service Agency has \$2.4 billion available to growers who lost more than 35 percent of their 1998 crop, or who had losses in any three of the five years between 1994 and 1998.

Unintended Consequences. Damage to the citrus crop was not as bad as first feared, and the 1999-00 crop is expected to be larger than usual because the 1998-99 freeze did not "work" the trees as hard as usual.

Picking resumed in January, but as farmers and packing houses recalled workers to return to pick navel oranges they complained that generous aid made some farm workers reluctant to return to their regular jobs. Several farmers, who reported harvesting 20 to 50 percent of their usual crop, reported that they had trouble finding harvesters. However, most did not raise piece rates, and some workers complained that they had a harder time achieving their usual earnings at pre-freeze piece rates of \$11.50 to \$12.50 a bin for picking navel oranges, with relatively little variation for hills etc. Many packing houses reduced benefits for workers, for example, eliminating health insurance coverage for dependents.

In the Ventura area, the piece rate for picking navel oranges is \$14 for a standard 49,603-cubic inch bin, with adjustments of \$1 to \$1.50 for taller trees, hills or other obstacles. Lemon harvesters typically receive a minimum \$18 a bin.

Many citrus packers accused their competitors of selling freeze-damaged fruit. Retail demand clearly

dropped after the freeze, limiting the higher prices that usually accompany smaller crops; pre-freeze retail prices of \$0.50 a pound doubled to \$1 a pound, but have since receded. California was shipping about one million cartons of navel oranges a week in March 1999, about half normal levels. The smaller Valencia orange crop, which is harvested in summer, suffered more damage, and may result in the loss of 800 to 2,800 jobs in the summer of 1999.

California citrus growers asked the US Department of Agriculture to delay for two months hearings on whether to permit imports of lemons, oranges and grapefruit from Argentina. Growers argued that imports could include pests, and that, with freeze losses, they did not want imports lowering prices for salvageable fruit. Nonetheless, USDA seems poised to free up imports.

Not all groups presumed to have been hurt by the freeze sought aid. For example, Hmong families were notably absent from emergency aid centers.

Economy. The National Journal on February 27, 1999 surveyed the effects of immigration in the San Joaquin Valley, entitling its story "Inviting Workers, Importing Poverty." Carol Whiteside of the Great Valley Center is quoted: "The Central Valley will either end up as a contributor to the state's economic development, or it will wind up as California's Appalachia." Roberto Suro in his 1998 book, Strangers Among Us: The Promise and the Peril of Latino Immigration, wrote that "The Latino poor are here, and they are not going to go away. Unless new avenues of upward mobility open up for Latino immigrants and their children, America's underclass will quickly double, and over the course of a generation, it will double again."

Agriculture in the Central Valley is growing. The number of irrigated acres of farm land increased by one million between 1992 and 1997 despite urbanization, including 315,000 more acres of perennial fruit trees and grape vines.

Unemployment rates in the rural and agricultural areas of California continue to be among the highest in the US. In February 1999, five of the six highest unemployment rates in the US were in California, led by Visalia-Tulare, Merced, McAllen (Texas), Yuba City, Fresno, and Salinas—all had unemployment rates above 16 percent. Most of the economic development plans in the San Joaquin Valley have as a major goal to reduce unemployment, or to "diversify our economy while maintaining our agricultural base." Fresno ranked 122 of 125 metropolitan areas in a survey of personal savings and investment, reflecting low retirement savings and high unemployment. Bakersfield, Stockton-Lodi and Modesto were also among the bottom 10 areas.

Despite these high unemployment rates, complaints of labor shortages persist, even for unskilled workers. Some believe that the San Joaquin Valley labor market has evolved in such a manner that workers and employers anticipate periodic layoffs and dependence on public (UI or welfare) and private (food banks) support. Thus, when employers attempt "early" recalls to work, some workers may be reluctant to return.

Del Monte Foods, the largest US processor of canned fruits and vegetables, expanded its Hanford Contadina tomato processing plant after closing plants and eliminating 1,000 jobs in Stockton and San Jose. In Hanford, Del Monte will add 335 seasonal jobs that last from July through September and offer entry wages of \$7.52 an hour, i.e., 12 weeks at 40 hours a week would mean earnings of \$3,610. The Hanford plant currently employs 936 workers, with about half working year round. Hanford's mayor said that the expansion is "exactly what we need."

Some have said that the major governmental effort to create jobs in the San Joaquin Valley is building prisons, even though many of the jobs created do not go to unemployed local residents. The Corrections Corporation of America is planning a \$64 million, 1,024-bed prison in 8,000-resident Mendota to house INS detainees, and promising 300 jobs and a \$10 million annual payroll. However, when state prisons opened in Avenal and Corcoran, only 30 and 14 percent, respectively, of the jobs went to local residents. CCA requires new employees to have a high-school diploma.

The California Department of Finance released new projections that suggest that the state and the San Joaquin Valley will grow slower than expected. The state's population is projected to be 46 million in 2020, down from a 1993 projection of 49 million, and the eight-county San Joaquin Valley is projected to have five million residents in 2020, down from an earlier projection of six million.

A review of the demography and economy of Fresno county concluded that "The county has become poorer, not richer, as it expands." During the 1990s, there was net domestic migration out of Fresno County; a net 17,600 residents left the county between 1992 and 1997, including large numbers of young and well-educated residents as well as southeast Asians who arrived as refugees (Fresno county provides up to \$1,500 a family for welfare recipients who leave the county for jobs elsewhere). About 27,400 adults in Fresno county were obtaining cash welfare payments early in 1999.

The Central California Futures Institute's forecast for 2010 concludes that Fresno county has "irreversible high unemployment, shallow income growth and a renewed wave of population growth." Joseph J. Penbera says that "relatively low-wage job growth" will lead to an economic development crisis. Fresno's median income in 1998 was \$13,564, 68 percent of the state's median income.

There were 15,130 babies born in Fresno county in 1998; 20 percent of the county's almost 800,000 residents are under 10 and one-third are under 20. The county's median age is 30, well under the 37 median age of California and the US. The 78,300-student Fresno Unified School District is the fourth largest in California.

The Great Valley Center and the American Institute of Architects have co-sponsored a \$100,000 prize for the best idea to plan for the up to 10 million residents expected in the Central Valley by 2040. The contest, "Housing the Next 10 Million: Envisioning California's Great Central Valley," closes in May 1999. The 450-mile long, 42,000 square Central Valley includes 18 counties and 96 cities; the population in 1990 was about five million.

There are about 30,000 to 40,000 Indians among the 3.2 million residents of the San Joaquin Valley. Sikhs from the Punjab region of India reportedly own about 20 percent of the raisin acreage and operate 80 percent of Fresno's convenience stores and 70 percent of its Subway sandwich franchises.

The city of Dinuba in Tulare county was ordered to pay \$12.5-million after its SWAT team killed an unarmed 64-year-old farm worker while serving a search warrant. Dinuba, with 15,000 residents, was ordered to pay almost three times more than the \$3.8 million awarded to Rodney King for the police beating he suffered in Los Angeles.

Dick Kirschten, "Inviting Workers, Importing Poverty," National Journal, February 27, 1999. Jim Wasserman and Cyndee Fontana, "As more babies, not more taxpayers, account for a population boom, Fresno County must try to avoid...Growing trouble," Fresno Bee, February 21, 1999. Harriet Chiang, "Latino group wins Supreme Court ruling," San Francisco Chronicle, January 21, 1999. Jim

Steinberg, "Orange Cove's Victor Lopez fights for his freeze-stricken town with a scrappy intensity," Fresno Bee, January 18, 1999. M.S. Enkoji, "Many jobless workers struggle," Sacramento Bee, January 17, 1999.

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RURAL MIGRATION NEWS

RURAL COMMUNITIES

Volume 5, Number 2

April 1999

Rural Housing

The year 1999 may be a watershed for rural and farm worker housing. In Washington state, a compromise that lets short-season farm workers live in tent cabins is likely to be accompanied by more state funds to build permanent housing. In California, a foundation announced a major new grant program to improve farm worker housing, and in Florida, the newly elected governor met several times with farmers and farm worker representatives to make more farm worker housing available.

Washington. In mid-January 1999, the Board of Health, at the request of Washington Governor Gary Locke, reversed an August 1998 decision to ban temporary tent camps for the cherry harvest. This means that in 1999 some of the 16,000 cherry workers will be able to pitch tents on growers' property for up to 21 days if growers provide electricity, refrigerators, cooking stoves, hot water for hand washing, dry food storage containers and garbage collection; the tents can be provided by workers or employers, but they must be store bought, and have sewn-in floors. Between 1995 and 1998, the program licensed 80 tent camps that served roughly 5,600 migrant workers.

Locke requested \$8 million from the Legislature in 1999 to begin a \$40 million, 10-year plan to construct permanent, low-income housing -- subsidized and managed by the state -- for seasonal farm workers who live in Washington year-round, as well as community-based housing for migrants.

In Mattawa, a city of 2,300 on the Columbia River whose population doubles during harvest season, the county housing authority is coordinating a \$323,000 project to use big shipping containers, outfitted with plumbing, air conditioning and heating systems, to create temporary farm worker housing. Housing authority director Ken Palek needs 20 acres to set up two dozen containers, along with support units for extra bathrooms and laundry facilities.

A 1996 study by the state Department of Health estimated that 37,700 of the state's peak 62,300 farm workers -- about 60 percent -- work without employer-provided housing. The Washington Ecology Department wants the state Department of Health to test the water from the 1,600 wells that serve migrant labor camps and campgrounds.

California. The California Endowment has pledged \$20 million in zero-interest loans and \$11 million in grants to the Rural Community Assistance Corp. of Sacramento to build housing and provide health care for farm workers. RCAC plans to have a Visalia-based organization called Self-Help Enterprises build 1,000 rental units and health clinics for farm workers.

Assembly Bill 1505, introduced on March 11, 1999, would permit farmers to retain their Williamson Act tax breaks on five-acre parcels of land they donate for up to 50 units of farm worker housing in rural areas, up from the current 20-unit limit (in urban areas, with at least 1,000 people per square mile, the limit would increase from 45 to 100 units). Each unit can be a single-family dwelling or a

barracks, so that several hundred workers could be housed in 50 units. Farmers would donate up to five acres to a nonprofit or similar group, which would be responsible for securing financing, constructing, and operating or selling the housing.

The bill would also make it harder for local communities to use the California Environmental Quality Act to block permanent housing for migrant workers by exempting such housing from environmental reviews.

The 1997-98 state budget included \$4.5 million in grants to local governments and nonprofit groups to build or rehabilitate homes owned or rented by farm workers. Governor Gray Davis in his 1999-2000 budget proposed \$2 million for the housing grant program and another \$5.9 million to rehabilitate state-owned farm worker housing in camps for migrant families. California gets about \$8 million a year in federal money to provide rental units for farm workers.

The state of California operated 27 centers in 1998 that provide housing for migrant families, up from 13 centers in 1966, and 25 centers in 1986 (two centers were closed for reconstruction in 1998). Most migrant centers are open from May 1 to October 31, and 2,000 to 2,100 units served 12,000 migrant workers and their families in 1998: during the mid-1980s, they served an average 2,400 families each year.

In December 1998, Riverside county cracked down on illegal trailer parks in the Coachella Valley, affecting an estimated 2,000 families, including many farm workers. County authorities said that none of the 91 trailer parks in the Coachella Valley had proper permits. In summer 1998, two people, one in Mecca and one in Thermal, died after being electrocuted by faulty wiring and two others were seriously injured in other accidents in the parks.

Most tenants pay \$200 to \$225 a month to park their trailers on a lot. Many owners live in trailers on-site, and they complained that they could not afford the average \$80,000 in repairs and upgrades demanded by the county. After protests that those facing eviction had no place to move, the county stopped its aggressive enforcement.

Florida. Florida's newly elected Governor Jeb Bush met with some of the state's largest growers to discuss ways to expand and improve housing for farm workers. Bush would like to obtain federal funds to produce 450 new farm worker housing units around the state.

Three southwest Florida tomato growers, Six L's (Lipman family), Taylor & Fulton Inc, and Gargiulo Inc. provide free or low-cost housing for workers. Taylor & Fulton Inc. charge each adult worker \$14 a week for housing, but does not charge for children in two-earner families; Six L's houses 500 workers who are employed on a 4,500-acre tomato and vegetable farm in East Naples. Tomato growers put the total costs of labor at 35 to 38 percent of gross costs of \$7,000 an acre. The prevailing piece rate is \$0.45 a bucket.

Farm worker advocates want the housing to be built and operated by public agencies or nonprofit groups, not by growers. One complained: "It [grower-provided housing] gives the big growers control over the labor supply."

The Clinton administration proposed \$6.3 billion for the USDA Rural Housing Service in FY00, up from \$5.7 billion in FY99. In testimony to Congress, USDA proposed reducing Section 515 rural rental housing by \$14 million and increasing Section 502 single family direct loans to \$1.1 billion; the

president's budget provides \$25 million for farm labor housing loans and \$15 million for farm labor housing grants.

Mike Lewis, "Bill would benefit farmers, farmworkers," Fresno Bee, March 12, 1999. Jennifer Maddox, "Bush to meet with growers to discuss improving migrant housing," Naples Daily News, March 11, 1999. Mark Arax, "Foundation to spend \$31 million on farm worker housing, health care," Los Angeles Times, February 26, 1999.

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RURAL MIGRATION NEWS

IMMIGRATION

Volume 5, Number 2

April 1999

H-2A in California

Non-Sheep H-2A. In September 1998 and again in December 1998, the US Department of Labor certified the need for nonimmigrant foreign workers to harvest crops in Fresno, Kern and Riverside counties. Ag-One, owned by Fresno farm-labor contractor Robert Jacildone, filed an application on July 13, 1998 to bring 145 workers to the Central Valley, saying that he has been unable to recruit US workers despite promising to pay them the AEWR of \$6.87 an hour (\$7.23 in 1999). He said, "Ag-One has exhausted every means available to us in search of eligible workers." Mel Tano, who runs Asian Pacific Protocol, an H-2A consulting business in Visalia, helped Ag-One advertise farm jobs with the state Employment Development Department and in the Fresno Bee, and reported that he got few responses.

On September 2, 1998, DOL certified Ag-One to bring 145 H-2A workers into the state from September 20, 1998, to August 30, 1999, saying: "It has been determined there are not sufficient U.S. workers to fill all the job openings." DOL certified the H-2A workers for 11 months, even though the "labor shortage" in the Fresno area is for the four- to eight-week raisin harvest in August-September. Ag-One reportedly recruited in the Philippines, where foreign workers typically pay 20 to 25 percent of their expected wages abroad as recruitment fees. In 1999, Ag-One withdrew its request for H-2A workers.

A second Fresno grower, Don Craeger, was certified to bring 20 H-2A workers into the state between January 1999 and January 2000 (364 days). Craeger is reportedly recruiting workers in India and Pakistan but, as of April 1999, had not brought any H-2A workers into California. Craeger is required to accept referrals from EDD, and EDD referred dozens of workers. For example, workers learned about the job, were deemed qualified by EDD staff, and were sent to Craeger to apply for work. Only a few of these workers were hired, reportedly because they could not document that they had at least three months experience doing farm work, as required by the clearance or job order.

DOL's certification of H-2A workers in crops raised several issues, including: (1) the fact that the employer's job orders were "suppressed," which means that workers had to see the jobs posted at EDD, be interviewed by an EDD staffer to ensure that the worker was qualified, and then learn which employer was offering the job; (2) that FLCs without firm contracts with employers to do farm work were certified (the FLCs had to promise to pay the H-2A and any US workers employed for at least three-fourths of the time specified); and (3) that DOL/EDD did not establish a mechanism for checking on the status of US workers who applied for jobs with the employers who requested H-2A workers (GAO criticized DOL for not establishing such a follow-up procedure in a 1988 report: ES "will normally only obtain growers' accounts of the outcome of the referrals...DOL did not actively monitor the referral process after certification." (GAO-PEMD, 89-3, 72-3). The number of H-2A workers admitted to the US was 16,011 in 1997.

California's EDD operates a no-fee employment service, called Cal Jobs. Employers seeking workers can list them at the Employment Service, where workers seeking jobs can learn about the openings. For 96 percent of the jobs offered, employer contact information is provided with the job description; in four percent, the employer contact information is suppressed, which means that, if a worker is interested in a job, he is first interviewed by an ES person, and then referred to the employer, that is, given employer contact information. For most of the farm jobs listed in Cal Jobs, the employer contact information is suppressed, and obtained by the worker only after being interviewed by an ES person who determines whether the worker is qualified for the job.

President Clinton's FY00 budget includes \$10 million to expand the farm labor section of "America's Job Bank," or AgNet.

Sheep H-2A. About one-third of the 3,000 US farm employer applications filed for H-2A workers each year are filed by sheep and lamb growers in the western states seeking shepherds. In most cases, a shepherd is assigned a band of 800 to 1,200 ewes, which he will care for alone--shepherding has been described as a man, dog, and rifle occupation.

Most sheep ranchers who hire shepherds are members of the Sacramento-based Western Range Association, which maintains an open job order for shepherds at ES offices throughout the Western states. If American shepherds are not available, WRA arranges to obtain DOL certification of the need for H-2A foreign shepherds, usually from Mexico and Peru. The H-2A foreign shepherds are admitted to the US initially for 11 months less one day, and then, after re-certification of the need for them, permitted to remain for up to two additional years, for a total stay in the US of almost three years. There are 1,000 to 1,200 H-2A shepherds in the western states at any one time, and the WRA arranges for the entry of 300 to 400 each year. For example, in FY97, 316 ranchers were certified for 441 foreign shepherds; one-third were in California.

Prevailing wages for H-2A shepherds were \$600 to \$700 monthly in the mid-1990s. Shepherds are provided with a trailer, and either cooking facilities or food. Sheep operators paying \$700 monthly to shepherds have total labor costs of about \$880--the additional \$180 is the amortized cost of transportation, workers compensation and WRA costs.

Foreign workers are also admitted, usually from Australia and New Zealand, to help with sheep shearing. Sheep shearers are employed only seasonally, and they differ in demographic characteristics, pay system and earnings, and career paths. Sheep shearers travel from farm to farm to shear the eight to nine pounds of wool on each sheep for a piece-rate wage of, for example, \$1.40 a ewe--less for lambs and more for rams. The shearing team of three or four to 30 or 40 arrives where the flock has been assembled for shearing, and shears sheep one by one; most of the contracts are verbal.

The US sheep industry in the western states is declining for three major reasons. First, the National Wool Act, through which the US government provided 10 to 20 percent of the industry's income by paying above market prices for wool, ended in 1995, making the industry more dependent on unsubsidized meat sales. Consumption of lamb and mutton is declining--per capita consumption fell almost 50 percent since the 1970s to one pound a person in the mid-1990s, and there are few prospects for a sharp increase in US demand for lamb. Farm-level lamb prices range between \$0.60 to 0.90 cents a pound, while retail prices are often \$2.50 to \$3.50 a pound, creating one of the widest farm-retail price spreads in agriculture.

Second, the cost of feed-- half of the costs of raising sheep--is likely to rise in the western states as the federal government increases the cost of permits to graze sheep on public land, pushing up private grazing fees as well. Sheep ranching in the western states usually involves letting sheep roam on large acreages of non-irrigated and often mountainous rangeland that does not have sufficient grass to support cattle. Sheep and goats convert forage that would otherwise have no market value into meat, wool and hides. In many instances, sheep ranching is the last type of farming attempted before land is left to nature.

Third, other countries, especially New Zealand and Australia, can produce lamb cheaper than US producers, and US producers in February 1999 won a ruling by the International Trade Commission that imports of lamb have hurt them, allowing the president to impose tariffs to protect US producers. In 1997, the US produced 223 million pounds of lamb and mutton, and imported 85 million pounds, so that imports accounted for almost 30 percent of US consumption. US producers in February 1999 won a ruling by the International Trade Commission that imports of lamb have hurt them, allowing the president to impose tariffs to protect US producers. However, Transhumance Holding Co., the parent of the largest US lamb meat packer, Superior Packing, as well as a leading lamb importer, opposed the ITC finding that US producers were injured by imports.

Jim Steinberg, "Farm labor imports reap controversy," Fresno Bee, January 22, 1999. GAO. The H-2A Program. Protections for US Farmworkers. GAO/PEMD-89-3.

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RURAL MIGRATION NEWS**FARM WORKERS**

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Farm Labor Data, 402s

USDA USDA's NASS conducts a quarterly survey of persons employed on US farms during the week that includes the twelfth of the month. The quarterly Farm Labor publication reported that there were 844,000 hired workers on US farms the week of January 10-16, 1999, including 689,000 hired directly by growers and 155,000 brought to farms by agricultural service firms (labor contractors). About 70 percent of hired workers were employed on farms that had annual sales of \$250,000 or more; 51 percent were employed on farms with 11 or more farm workers.

Almost six percent of the hired farm workers were migrants, defined as workers whose employment required travel that prevented the farm worker from returning to his/her permanent place of residence the same day.

There were 224,000 hired workers in California, followed by 55,000 in Florida; average hourly earnings for field workers were \$7.09 in California and \$7.35 in Florida. There were 65,000 agricultural service workers in California and 12,000 agricultural service workers in Florida; their average hourly earnings were \$7.75 in California and \$8.50 in Florida.

Average hourly earnings were \$7.90 an hour, with field workers averaging \$7.21 and livestock workers \$7.31 (high supervisory wages pull up the overall hired worker average). According to NAWS data on 4,642 farm workers interviewed in 1996-97, about 77 percent were paid hourly wages only, 21 percent were paid piece rates, and two percent were paid a combination hourly and piece-rate wage. For the 1,503 harvest workers in this sample, 56 percent were paid hourly wages only, 41 percent were paid piece rates only, and four percent were paid a combination hourly and piece-rate wage.

Farm-Nonfarm Wages. Between 1950 and 1990, the farm-nonfarm wage ratio varied between 0.45 and 0.55. About half of the lower farm wages could be explained by the lower cost of living in rural areas and the characteristics of farm workers-- their youth and labor market inexperience--according to an article in the American Journal of Agricultural Economics. The more capable workers, the article concludes, leave the farm labor market in brain drain fashion, so that "the older employees who stay on the farm are relatively less skilled," explaining why they have lower wages.

There is no apparent relationship between farm prices and farm wages: farm wages rose fastest in periods of declining farm commodity prices--1950-53, 1966-70 and 1979-83.

NAWS California. The NAWS interviewed 1,885 crop workers employed in nine counties between 1995 and 1997, and concluded that the hired farm work force is becoming increasingly Mexican-born, newly arrived and unauthorized. The data were collected for the three-year period 1995-97, but earnings, jobs and other flow variables were reported for a one-year period.

About 95 percent of interviewed workers were foreign-born, including 91 percent who were born in Mexico. About 53 percent of those interviewed were in the US less than five years; 26 percent were in the US less than two years. About 48 percent were legal immigrants and 42 percent were unauthorized.

Most farm workers are young men with families. In 1995-97, about 82 percent were men (86 percent of the unauthorized). The median age of farm workers was 30--31 percent were under 24, and 63 percent were under 34. About 61 percent are married, and most married workers have families, with an average three children each--despite their youth, 22 percent have four or more children. About 60 percent of farm workers have their families living with them while they are doing US farm work; 40 percent leave their families remain outside the US.

About 95 percent of farm workers speak Spanish. Two-thirds of the workers have less than eight years education, which they usually acquired abroad--median years of schooling is six.

There is no single definition of migrant: NAWS defined migrants as those who traveled 75 miles or more to do farm work in the previous year. According to this definition, over half of the workers interviewed were migrants, including workers who migrated from Mexico to do one or several farm jobs from one temporary US residence.

About 18 percent of workers interviewed held one farm job during the previous year, 53 percent held two to four jobs, and 30 percent held five or more jobs. Farm workers average 23 weeks of farm work, three weeks of nonfarm work and 26 weeks without US farm work--in most cases, time not working is spent outside the US. Over 50 percent of the workers interviewed paid for rides to work.

Most interviewed workers were employed in fruits and vegetables, 91 percent, suggesting an undersampling of especially unionized farm workers employed in nurseries and horticultural specialties--perhaps one-third of UFW members are employed in nurseries and mushrooms. Of the jobs performed by sample workers in the previous 12 months, about 70 percent were pruning, irrigating and other non-harvest operations, and 31 percent were harvesting. Hours of work averaged 42 a week, and average hourly earnings were \$5.69 [average hourly earnings in 1990-91 were \$5.41; the minimum wage rose from \$4.25 to \$4.75 in October 1996 and today is \$5.75]. About 73 percent of the jobs held by interviewed workers paid hourly wages, not piece-rate wages.

Most interviewed workers had low incomes; 55 percent earned less than \$7,500, including almost 20 percent who earned less than \$500. Over half of the interviewed workers owned a car or truck. Almost half of those interviewed reported that they had been to a doctor or clinic in the previous 12 months, with most seeing private doctors or visiting hospital emergency rooms.

The new INS border control strategy of deterring entries with fences, lights, and additional agents seems to have: (1) increased the danger of unauthorized entries, as migrants are diverted to the deserts and mountains; (2) reduced the number of women and children attempting unauthorized entry; but (3) not deterred young men from attempting entry. The result is an increase in the number of unauthorized solo men entering entry-level jobs such as farm worker.

A 1995 survey of 265 farm workers in the northern San Joaquin Valley found that most were satisfied with their jobs, but they also had many suggestions for improvement, including raising wages. On a scale of 1 to 5, with "five" being the best, workers rated their jobs "four" on average. In the 1999,

Jobs Rated Almanac, web-site manager was ranked number one, farmer was number 233 and cowboy was number 246; farm worker did not make the top 250 occupations. For more information:
<http://www.msnbc.com/local/Wnyt/99578.asp>

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H2A



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Immigration Senate Subcommittee Hearing On Employment of Foreign Fa

Congressional debate over new procedures for employing foreign farm workers resumed May 12 at a hearing of the Senate Judiciary Subcommittee on Immigration, where there appeared to be some bipartisan support for addressing difficulties in filling jobs in the agricultural sector.

Alleged labor shortages in the agricultural arena and the means of dealing with the problem are not a new topic of concern in Congress. Hotly debated efforts to incorporate a new guest worker program in immigration legislation enacted in 1996 were unsuccessful, as were subsequent proposals introduced during the 105th Congress. However, both Republican and Democratic members of the subcommittee indicated that they are willing to revisit the problem this year, and even entertain the possibility of legalizing undocumented workers who already are performing farm work in the United States.

Sen. Spencer Abraham (R-Mich.), chairman of the subcommittee, said that while a "number of differences remain on several issues," he is hopeful the panel's hearing will lay the groundwork to "bring together those who have been on opposite sides on this issue to see if we can find common solutions that can benefit the nation." Abraham said he had been contacted by colleagues from both political parties who are "interested in exploring more options and legislative solutions to improve on the current system for hiring and protecting the working conditions of agricultural workers."

AgNet Proposal

Sen. Edward Kennedy (D-Mass.), ranking Democrat on the subcommittee, observed that the Clinton administration is willing to establish a registry listing farm workers in an effort to help agricultural employers link up with available labor. Kennedy expressed concern, however, with past proposals establishing a new guest worker program for foreign workers, pointing to high rates of unemployment in a number of agricultural communities, the "abysmal wages and working conditions" many farm workers currently endure, and the "extraordinary profits" agricultural employers enjoy.

As part of its proposed fiscal year 2000 budget for the Labor Department, the Clinton administration has recommended a new \$10 million agricultural labor network, an information system containing job

opportunities and worker resumes. The system is intended to match job listings with potential candidates and would include conditions of employment, such as the location, crop, duration, wages and benefits, and necessary skills.

Kennedy said he is willing to consider the proposal, acknowledging the need for a "dependable, reliable workforce" in the agricultural sector, while stressing the importance of treating farm workers in a "fair, decent way." As envisioned by the budget proposal, "AgNet" would benefit growers by providing a mechanism for obtaining workers and giving them a means of advertising their job openings. ♡

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