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# CALIFORNIA AGRICULTURE

## DIMENSIONS AND ISSUES



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## CHAPTER 8

# Hired Workers on California Farms

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Agriculture is a major industry and major employer in California. Over the course of a year, some 35,000 of the state's 750,000 employers hire a total 800,000 individuals to work on the state farms, so that about 5 percent of California's 16 million workers are "farm workers" sometime during a typical year.

Agriculture is a seasonal industry, hiring a peak 455,000 workers in September 2002 and a low of 288,000 in February 2002. Since most farm workers are employed for fewer hours than manufacturing workers, and earn lower hourly wages, they have lower than average annual earnings. Average hourly earnings in California agriculture are about half of average manufacturing wages, \$7 to \$8 an hour versus \$14 to \$15 per hour,<sup>1</sup> and farm workers average about 1,000 hours a year, so that farm workers have annual earnings of \$7,000 to \$8,000 a year, a fourth of the \$30,000 to \$35,000 average for factory workers.

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<sup>1</sup> California's minimum wage has been \$6.75 an hour since January 2002.

Since 1975, farm workers have had organizing and bargaining rights, but there have been elections on only about 5 percent of the state's farms, and there are contracts on only about 1 percent. Farm worker unions have about 30,000 farm worker members; the organizing and bargaining activities of the dominant union, the United Farm Workers, have increased since founder Cesar Chavez died in 1993. Beginning in 2003, the state can require mandatory mediation that results in an imposed contract if employers and unions cannot negotiate a first agreement.

During the 1990s, the percentage of unauthorized farm workers increased along with the market share of farm labor contractors and other intermediaries who, for a fee, bring workers to farms. Wages and fringe benefits generally declined in the 1990s, and farmers, fearing losses if unauthorized workers were to be removed suddenly, have lobbied in Congress since the mid-1990s for an employer-friendly guest worker program. They have not yet succeeded in winning such a program, and the debate in 2003 is whether surging Mexico-U.S. illegal migration is best managed with guest workers, legalization, or a combination of the two, so-called earned legalization, under which unauthorized foreigners in the U.S. would obtain a temporary legal status that could be converted to an immigrant visa with continued U.S. employment.

## **FARM EMPLOYERS**

Food and fiber is produced on farms, which are defined in the U.S. Census of Agriculture as places that sell at least \$1,000 worth of farm commodities a year. Most of the 2.2 million U.S. farms are considered family farms, a term that is not defined officially, but a common definition is that a family farm uses less than 1.5 person-years of hired labor.<sup>2</sup> Most family farms are diversified crop and livestock operations that provide work for farmers and family members year-round, and the mechanization of many farm tasks has enabled most farm families to include one or more persons employed in nonfarm jobs.

California farms are different because of specialization, size, and the presence of hired workers. Instead of combining crops and livestock, most California farms specialize, producing only lettuce, peaches or grapes. These FVH crops—fruits, nut and berries, vegetables and melons, and horticultural specialties that range from nursery and greenhouse crops to Christmas trees, mushrooms, and sod—require large amounts of labor for short periods of time, so large FVH farms can require hundreds of workers for 3 to 6 weeks, and only a handful the rest of the year. In California, FVH commodities occupy a third of the state's irrigated crop land and account for half of the state's farm sales.

Producing FVH commodities with hired workers in California fields is often compared to manufacturing products on factory assembly lines. Like factories, the farms bring together people, land, water, and machines to transform seeds into crops, with agriculture's biological production process marked by risks that do not arise in manufacturing production processes governed by engineering relationships. FVH commodities are considered "labor-intensive:" labor costs range from 20 percent to 40 percent of total production costs—higher than labor's 20 percent share of average

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<sup>2</sup> This is the definition of a family farm in the Food Security Act of 1985. Other definitions are that the farmer and his/her family members must do more than half of the work on the farm: see <http://www.ers.usda.gov/briefing/FarmStructure/Questions/familyfarms.htm>.

production costs in manufacturing, but less than labor's 70 to 80 percent share of costs in many service industries.

The people relationships on California farms are also different from stereotypical U.S. family farmers. Unlike family farmers who do most of the farm's work with their hands every day, the managers responsible for most of California's labor-intensive crops rarely hand-harvest themselves. Indeed, many are unable to communicate with the workers in their native languages: most managers are U.S.-citizen non-Hispanic whites, while most farm workers are Hispanic immigrants. A familiar adage captures many of the differences between California agriculture and midwestern family farms: California agriculture is a business, not a way of life (Fisher, 1953, 1).

Production and employment are concentrated on the largest 5 percent of the state's farms, and in most commodities, the 10 largest producers account for 30 to 50 percent of total production. However, there are many small farmers and small farm employers, which tend to obscure the degree of concentration. Dole Food Company is probably the largest California farm employer, issuing over 25,000 W-2 employee-tax statements annually. However, Dole does not show up in state employment records as a farm employer. Dole's Bud of California vegetable growing operation is one of the largest employers in Monterey County, and is considered in the business of selling Groceries & Related Products, not farming (<http://www.calmis.cahwnet.gov/file/MajorER/monteER.htm>). Sun World International is also classified in Groceries & Related Products, as is Grimmway Farms. Similarly, Beringer Blass Wine Estates is classified as a Beverages manufacturer, as is Giumarra Vineyards Corp. and Ironstone Vineyards.

Many of these nonfarm operations use custom harvesters and labor contractors to bring workers to their farms, and they are required to report their employment and wages to EDD. During the 1990s, when average annual farm employment rose to a peak 413,000 in 1997, so did the percentage of workers on farms whose employers were non-farmer intermediaries—usually labor contractors who are classified as farm services by EDD. The percentage of workers on farms whose employer is a non-farmer intermediary is about 45 percent, up sharply from less than 30 percent in the mid-1980s.

**Table 1. Average Annual Wage and Salary Employment in California Agriculture**

	1985	1990	1995	2000	1985-2000-change
Farm Production	232,700	229,700	228,400	228,500	-2%
Farm Services	102,700	133,800	145,100	179,500	75%
Total	335,400	363,500	373,500	408,000	22%
Farm Sers Share	31%	37%	39%	44%	

Source: [http://www.calmis.ca.gov/file/indhist/cal\\$haw.xls](http://www.calmis.ca.gov/file/indhist/cal$haw.xls)

## DEMAND FOR LABOR

### Seasonal Patterns

Employment in California agriculture is highly seasonal. The most labor-intensive phase of production for most commodities is farming, and the peak demand for labor shifts around the state in a manner that mirrors harvest activities. Harvesting fruits and vegetables occurs year-round, beginning with the winter vegetable harvest in Southern California and the winter citrus harvest in the San Joaquin Valley. However, the major activity during the winter months between January and March is pruning—cutting branches and vines to promote the growth of larger fruit. Pruning often accounts for 10 to 30 percent of production labor costs but, because pruning occurs over several months, there are fewer workers involved, and many pruners are year-round residents of the area in which they work.

Harvesting activity moves to the coastal plains in the second quarter of April–June, as lemons and oranges are harvested in southern California and vegetable crops are thinned and then harvested in the Salinas Valley of northern California. June marks the second highest month of employment on the state's farms, as workers harvest strawberries and vegetables as well as early tree fruits, including cherries and apricots; melons and table grapes are harvested in the desert areas. Other workers thin peaches, plums, and nectarines, remove leaves in some vineyards, and thin large acreage crops such as cotton.

Farm employment peaks in September, during the third quarter, reflecting the harvests of crops from Valencia oranges to tomatoes to tree fruits in the Central Valley of the state. However, the single largest labor-intensive harvest involves raisin grapes—some 40,000 to 50,000 workers have been hired to cut bunches of 20 to 25 pounds of green grapes and lay them on paper trays to dry into raisins. The workers typically receive \$0.20 a tray, and the contractor who assembles them into crews of 30 to 40, and acts as their employer, receives another \$0.05 a tray. During September, there is something of an early morning traffic jam, as vans ferry workers to fields and orchards, and employers wanting to wait as long as possible to harvest to raise the sugar content of their grapes worry that not enough workers will show up.

During the fourth quarter, harvesting activities slow, and after the last grapes, as well as olives and kiwi fruit are harvested in October, most seasonal farm and food processing workers are laid off. Most workers remain in the areas in which they have worked—most workers are not migrants who follow the ripening crops—but many were born in Mexico, and some return to Mexico with their families for the months of December and January.

If workers were willing to follow the ripening crops, and to switch between citrus and grapes, they could harvest work for 6 to 8 months a year. But few workers migrate from one area to another, and few switch crops within an area. In the mid-1960s, when migrancy was at its peak, a careful survey of farm workers found that only 30 percent migrated from one of California's six major farming regions to another (California Assembly, 1969). A 1981 survey of Tulare county farm workers found only 20 percent had to establish a temporary residence away from their usual home because a farm job took them beyond commuting distance (Mines and Kearney, 1982), and surveys of

California farm workers in the 1990s found that fewer than 12 percent followed the crops ([www.dol.gov/asp/programs/agworker/naws.htm](http://www.dol.gov/asp/programs/agworker/naws.htm)). A 2000-01 survey of 300 farm workers found 19 percent who moved in the previous two years to find farm work; fewer than 25 percent planned to move in the current year to find a farm job (Alvarado and Luna).

There are many reasons why most farm workers stay in one area of California: the harvesting of many fruits and vegetables has been stretched out for marketing and processing reasons; the availability of unemployment insurance makes migration less necessary; and some farm workers with children who are not likely to follow them into the fields realize that migrancy makes it very difficult for children to obtain the education needed to succeed in the U.S. An easy test of the degree of follow-the-crop migrancy is to check turnover in a farm labor center. If follow-the-crop migrants filled the center, workers and families would be constantly arriving and departing, as they moved on to another job in a distant area. In fact, most migrant centers fill as soon as they open, and keep the same tenants for the season: workers know that they can obtain services for themselves and their children, especially in the state-run centers, and it is very hard to find alternative housing if the family packed up and sought another job in the manner of John Steinbeck's Joad family.

**Table 2. Monthly Employment in California Agriculture: 1993, 2000**

	2000 Max	2000 Min	2000 Difference	2000 Ratio	1993 Max	1993 Min	1993 Difference	1993 Ratio
Farm Prod	266,400	179,600	86,800	1.48	267,200	175,500	91,700	1.52
Farm Sers	219,900	133,000	86,900	1.65	176,700	103,500	73,200	1.71
Total	486,300	312,600	173,700	1.55	443,900	279,000	164,900	1.59

Source: <http://www.calmis.ca.gov/file/indhist/fresnhws.xls>

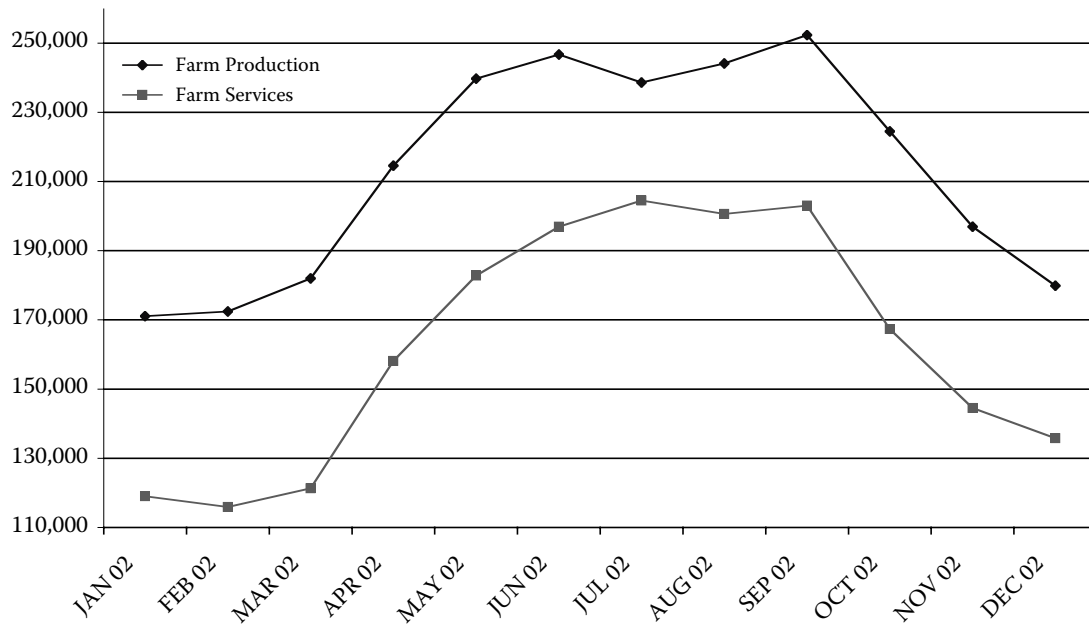
Until the 1940s, it was common for the wives of field workers to be employed in the packing houses that canned, froze or dried fruits and vegetables. However, after unions pushed packing-house wages to twice field worker levels in the 1950s and 1960s, packing-house jobs became preferred to field worker jobs, often representing a first rung up the American job ladder for field workers. About 40,000 workers are employed in the preserved fruits and vegetables subsection of the state's manufacturing industry, down from 50,000 in the early 1990s.<sup>3</sup>

Trends in farm and near-farm jobs are mixed. In the case of some vegetables and melons, nonfarm packing and processing jobs have been turned into farm worker jobs by field packing, having workers in the field put broccoli or cantaloupes directly into

<sup>3</sup> Annual average employment was 50,600 in 1987, and ranged from 38,500 in January to 77,100 in August.

cartons rather than having the crop picked by field workers and packed by nonfarm workers in packing houses.<sup>4</sup> In other cases, farm jobs have become nonfarm jobs, as when the cutting and packing of lettuce in the field is replaced by fewer workers simply cutting lettuce, and when there are more nonfarm jobs in packing plants as lettuce is cut and bagged: bagged lettuce uses almost 40 percent of U.S. lettuce.

**Figure 1. Farm Production and Farm Services Employment**



Source: EDD

## **Mechanization Trends**

Employment on California farms was expected to drop sharply in the 1960s, as the end of the Bracero program, which brought Mexicans to work in U.S. fields between 1942 and 1964, was followed by sharply rising wages and unionization—the United Farm Workers union won a 40 percent wage increase in its first table grape contract in 1966.

Processing tomatoes provides an example of the sharp drop in farm worker employment as a result of labor-saving mechanization. In 1960, a peak 45,000 workers, 80 percent Braceros, hand picked 2.2 million tons from 130,000 acres of the processing tomatoes used to make ketchup. In 2000, about 5,000 workers were employed to sort 11 million tons of tomatoes from 350,000 acres that were picked by machines. The keys to tomato harvest mechanization included cooperation between scientists and between farmers, government, and processors. Plant scientists developed smaller tomatoes more uniform in size that ripened at the same time, and were firm enough so that the stalk could be cut, and the tomatoes shaken off, without damage. Engineers

<sup>4</sup> Fieldpacking has farm workers picking and packing the commodity for shipment to market in the field, and is widespread for iceberg lettuce, broccoli, melons, and table grapes. Workers walk behind a conveyor belt that moves slowly through the field, pick and place the head of lettuce or melons on the belt so that packers riding on the machine can wrap and pack the commodity. Field packing involves less handling, and field workers' wages are generally lower than packinghouse wages.



developed a machine to cut the plant, shake off the tomatoes, and use electronic eyes to distinguish red and green tomatoes and discard the green ones (Rasmussen, 1968). Processors agreed to accept tomatoes in 12.5 ton truck mounted tubs rather than 60-pound lugs, and the government established grading stations at which random samples were taken to determine the quality and price. The cost of mechanizing the tomato harvest was relatively small—less than \$1 million—and the estimated rate of return was hundreds of percent.<sup>5</sup>

The rapid diffusion of tomato harvesting machines in California—none were harvested by machine in 1960, and all were harvested by machine by 1970—was expected to usher in an era of machines replacing men on farms, economists and engineers boldly predicted that, by 2000, there would be practically no jobs left for unskilled seasonal farm workers by 2000 (Cargill and Rossmiller, 1969).<sup>6</sup>

However, the cooperation between researchers, farmers, processors, and the government that transformed the processing tomato industry in the 1960s proved to be the exception, not the rule. Farmers remained very interested in and supportive of mechanization research during the 1970s, when there were hundreds of public and private efforts to develop uniformly ripening crops and machines to harvest them, but interest waned in the late 1970s due to rising illegal immigration and a lawsuit.

Mexico devalued the peso in 1976, and in 1977, for the first time, apprehensions of unauthorized Mexicans in the U.S. first topped 1 million. Apprehensions remained at about 1 million a year until after 1982, when another peso devaluation caused them to jump by 25 percent, and the rising number of unauthorized Mexicans, many of whom were from rural Mexico and sought jobs on U.S. farms, guaranteeing an ample supply of hand workers. Meanwhile, the UFW and California Rural Legal Assistance in 1979 filed a lawsuit against the University of California (UC), charging that efforts to develop labor-saving machines were an unlawful expenditure of public funds because they displaced small farmers and farm workers (Superior Court of California, Case 516427-5, September 4, 1979). The suit asked that UC mechanization research be halted and a fund was created to assist small farmers and farm workers equal in size to what UC earned from royalties and patents on agricultural innovations (Martin and Olmstead, 1985). The suit was eventually settled by establishing a committee to review research priorities, but public and private support for mechanization research decreased, and scientists and engineers moved on to other issues.

Most labor-saving research today is conducted by the private sector, and most of it is far less visible than machines replacing 90 percent of the hand harvesters, as in tomato processing. Precision planting and improved herbicides have dramatically reduced the need for thinning and hoeing labor. Many farmers have planted dwarf trees to increase yields, which can also reduce harvest labor needs. Much of today's mechanization is motivated as much for non-labor reasons as to save on labor costs. For example, drip irrigation systems reduce the need for water as well as irrigator labor, and a machine harvesting wine grapes at night results in higher-quality grapes and uses less labor.

<sup>5</sup> Most of the research was done at the University of California, Davis, at a cost of about \$700,000. The major private manufacturer spent an additional \$500,000 to do research on machines in the 1960s (Seckler and Schmitz, 1969, 14).

<sup>6</sup> A UC study concluded that "California farmers will continue the intensive search for labor solutions, particularly mechanical harvesting." Dean et al. 1970, 52

## FARM WORKERS

### Waves of Immigrants

In the 19<sup>th</sup> century, U.S. agriculture in general and California agriculture in particular were considered land-abundant and labor short, which led to labor shortages that were compounded in California by the dominance of large and specialized farms. California began producing fruits in the 1870s, when the completion of the transcontinental railroad and falling interest rates encouraged a shift from grazing cattle and growing grain without irrigation to labor-intensive, irrigated fruit and vegetable farming. The expectation was that large farms, many derived from Spanish and Mexican land grants, would be broken up into family-sized units and sold to farmers arriving on the railroad, because only with a family-farm system would there be enough workers for labor-intensive agriculture (Fuller, 1940).

However, large farms were not broken up into family-sized units because new workers were available to be seasonal farm workers. Some 12,000 Chinese workers had been imported to help build the railroad through the Sierra Nevada mountains and, when they were laid off in 1870, they were kept out of urban jobs by anti-Chinese movements (Fuller, 1940, 19809). Chinese workers were paid low wages only when they were needed which helped to raise land prices, and made it hard for family farmers to buy land and get started in farming, and gave landowners an incentive to keep the door open to immigrants. However, anti-Chinese sentiment eventually led to a halt to Chinese immigration in 1883, but a new source of immigrant workers was found, in Japan. Japanese immigration was stopped in 1907, and workers were imported from present-day India and Pakistan until World War I.

There was little immigration during World War I, when Mexico was experiencing a civil war. The U.S. government was trying to restrict immigration from Europe, imposing head taxes and literacy tests on new arrivals in 1917, but western farmers won an exemption for Mexican farm workers coming to the United States for up to one year, beginning the U.S.-government-approved recruitment of Mexican farm workers. There were many problems with this first Bracero program, and government-approved recruitment was halted in 1921, but Mexicans continued to arrive and travel around California seeking farm work.

Many Mexicans were sent back to Mexico during the Great Depression, and the source of farm workers in the mid-1930s shifted to the Midwest, where many of the Okies and Arkies who lost their farms during the so-called Dust Bowl moved to California, expecting to become small family farmers. The gaps between farmers and farm workers in California led to some of the most enduring American literature, including John Steinbeck's 1939 novel, *The Grapes of Wrath*.

Okies and Arkies continued to be the mainstays of the seasonal harvest work force in the 1940s, when "fruit tramps" migrated from farm to farm, but their children often went in to the military during World War II, or found jobs in wartime factories, and California farmers asked the federal government to once again approve the recruitment of Mexican Bracero workers. The federal government agreed, and the first of a series of Bracero agreements was signed in 1942; almost 5 million Mexican workers were admitted over the next 22 years—many individuals returned year after

year, so that only 1 to 2 million Mexicans gained experience working on U.S. farms. Illegal Mexico-U.S. migration increased along with Bracero admissions, and over the 22-years of the Bracero program, there were more apprehensions than legal admissions—both data series measure events, not unique individuals.

**Table 3. Bracero Admissions, Apprehensions, and Immigrants, 1942-64**

<b>Year</b>	<b>Mexican Braceros</b>	<b>Mexican Apprehensions</b>	<b>Mexican Immigrants</b>
1942	4,203	--	2,378
1943	52,098	8,189	4,172
1944	62,170	26,689	6,598
1945	49,454	63,602	6,702
1946	32,043	91,456	7,146
1947	19,632	182,986	7,558
1948	35,345	179,385	8,384
1949	107,000	278,538	8,803
1950	67,500	458,215	6,744
1951	192,000	500,000	6,153
1952	197,100	543,538	9,079
1953	201,380	865,318	17,183
1954	309,033	1,075,168	30,645
1955	398,650	242,608	43,702
1956	445,197	72,442	61,320
1957	436,049	44,451	49,321
1958	432,857	37,242	26,721
1959	437,643	30,196	22,909
1960	315,846	29,651	32,708
1961	291,420	29,817	41,476
1962	194,978	30,272	55,805
1963	186,865	39,124	55,986
1964	177,736	43,844	34,448
Total	4,646,199	4,872,731	545,941
Source: INS Statistical yearbook, various years			

During the 1960s and 1970s, California's farm work force was dominated by Mexican Americans, many of whom joined Cesar Chavez's United Farm Workers union, which aimed to transform the farm labor market by having UFW hiring halls rather than labor contractors organize crews of farm workers. In 1975, California enacted the Agricultural Labor Relations Act, which granted farm workers organizing and bargaining rights and established a state agency, the Agricultural Labor Relations

Board, to supervise elections in which workers decided whether they wanted to be represented by a union, and to resolve charges that the ALRA was violated.

The UFW reached its high water mark in the late 1970s, when it had about 200 contracts with California farms, and claimed more than 60,000 members. However, in 1978-79, when the first contracts signed under the ALRA were expiring, the UFW demanded a 40 percent wage increase, which employers, especially Imperial Valley vegetable growers experiencing increased illegal Mexico-U.S. migration, rejected. The UFW called a strike, and the supply of iceberg lettuce shipped fell by one third, but the price tripled, since demand was inelastic. The UFW won a Pyrrhic victory—some vegetable firms, such as Sun-Harvest (Chiquita bananas), agreed to the 40 percent wage increase, went out of business, and were replaced by independent growers less vulnerable to UFW-mounted consumer boycotts.

In the early 1980s, the farm work force was about a quarter unauthorized, and patterns of illegality were linked to the risk of losses if there were Border Patrol raids. For example, there were fewer unauthorized workers in highly perishable strawberries than in citrus, since oranges and lemons can be left on trees for a week or two without damage. However, a decade long federal effort to reduce illegal immigration culminated in the Immigration Reform and Control Act of 1986, which for the first time imposed sanctions—fines and prison terms—on U.S. employers who knowingly hired unauthorized workers. Sanctions were expected to reduce illegal Mexico-U.S. migration and, to assure agriculture a legal work force, unauthorized workers in 1985-86 could apply for immigrant status, and the theory was that wages would have to rise and benefits would have to improve for farmers to retain these Special Agricultural Workers (SAW).

**Table 4. SAWs and Unauthorized Workers, 1989-98**

Year	SAWs	Unauthorized
1989	37	8
1990	30	17
1991	27	19
1992	23	33
1993	12	44
1994	20	38
1995	19	40
1996	16	50
1997	17	51
1998	15	52

Source: NAWS,  
<http://www.dol.gov/asp/programs/agworker/naws.htm>

Some 1.1 million unauthorized foreigners were legalized as SAWs in 1987-88,<sup>7</sup> far too many in a legalization program rife with fraud (Martin, 1994). Most did not continue working in agriculture. In 1989-90, 33 percent of U.S. crop workers, and 58 percent of California crop workers, said they were SAWs; a decade later, the share of SAWs among crop workers was down to 16 percent in the U.S., and 26 percent in California. During the 1990s, the movement of SAWs out of agriculture almost exactly matched the increase in unauthorized farm workers.

## **NAWS: 1990s Workers**

The most widely cited farm worker data are from the National Agricultural Workers' Survey (NAWS), a survey conducted in 85 counties across the U.S. three times a year for the U.S. Department of Labor. The NAWS is not designed to estimate the number of workers, only their characteristics. In USDA surveys of employment on crop and livestock farms, California accounts for 30-35 percent of U.S. farm worker employment, and the percentage of NAWS interviews done in California was 30-33 percent in the 1990s.

California had higher percentages of Mexican-born and male workers than other states in the early 1990s, but the rest of the U.S. caught up to California during the 1990s. Between 1990 and 2000, the percentage of foreign-born workers rose from 60 to 80 percent in the entire U.S., while the percentage of foreign-born farm workers remained at 93-96 percent in California. Similarly, the percentage of males rose outside California from 72 to 81 percent, but remained at 75 to 85 percent in California.

Farm workers were asked a series of questions about their place of birth and legal status—authorization to work in the U.S. was inferred from their answers. The percentage of unauthorized workers in the entire sample increased sharply in the 1990s, from 12 to 52 percent. In California, the percentage of unauthorized workers was lower than in the rest of the U.S. in the early 1990s, but also increased fourfold during the decade.

Farm workers are unlike other U.S. workers. In 1998, about 54 percent of U.S. workers were male, and 39 percent were under 35 years of age. About 80 percent of crop workers in the U.S. and California were men, and 67 percent were under 35. About 84 percent of U.S. crop workers speak Spanish and 12 percent speak English; 85 percent, compared to 11 percent of all U.S. workers, have not completed high school. The median years of schooling of the workers who were interviewed was six, and most crop workers completed their education in Mexico. Alvarado and Luna found similar characteristics, a work force that was 76 percent male, an average 33 years old, with 5.7 years of education. In California's Central Valley, 83 percent of the workers interviewed were employed by FLCs, and it was hard to find seasonal workers who were employed directly by growers.

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<sup>7</sup> Another 70,000 farm workers were legalized under the general legalization program; they should have been in the U.S. continuously since January 1, 1982. At least half of the foreigners who received SAW status did not do this requisite farm work (Martin, 1994).

## Migration

Since most farm workers were born abroad, their first migration is entering the U.S., usually at age 18 to 25. During the 1990s, a rising percentage of farm workers seemed to shuttle between homes outside the U.S. and U.S. farm jobs—in California, the percentage of “international shuttle migrants” in the NAWS rose from 27 to 46 percent, even as the Border Patrol made illegal entry more difficult with more agents, fences, and lighting. The increased percentage of international shuttle migrants may be a statistical artifact, reflecting the high percentage of recently arrived workers—30 percent of California farm workers, and 41 percent of non-California crop workers, entered the U.S. to do farm work within the previous two years, and such workers are considered shuttle migrants. Since the September 11, 2001 terrorist attacks, shuttle migration has decreased.

The 4,199 workers interviewed around the U.S. between 1996 and 1998 had a total 7,697 farm jobs—60 percent had only one job, while seven percent had four or more jobs. This suggests that relatively few workers fit the stereotype of a migrant who follows the ripening crops from south to north, working on many farms.<sup>8</sup>

NAWS defined a migrant as a worker who moved 75 miles or more from his usual residence to find a U.S. farm job; an overnight stay away from home was not required to be considered a migrant. The largest group of crop workers interviewed, 44 percent (750,000 of an estimated U.S. total of 1.7 million) were not migrants. Another 39 percent (660,000 in the U.S.) were international shuttle migrants<sup>9</sup>—their usual homes were generally in Mexico, and they traveled more than 75 miles from these usual Mexican homes to their U.S. farm jobs. Only 17 percent (290,000) crop workers were stereotypical follow-the-crop migrants who have one farm job and then travel at least 75 miles for another farm job.

The myth of widespread follow-the-crop migration persists for several reasons. First, there is significant migration—if one in 6 crop workers needs at least two U.S. homes to do farm work, then almost 300,000 U.S. farm workers, and 100,000 to 125,000 in California, need temporary homes, and there are relatively few in inspected private or public farm labor centers. For example, the state of California has 2,100 family housing units in 26 centers and each houses fewer than two workers. State inspectors certified 1,044 units to house five or more workers in 1999, the most recent data available, so that about 4,000 workers were housed in state centers, and another 21,000 in inspected private housing (HCD, 2000).

Second, shuttle or commuter migrants between Mexico and the U.S. are often grouped with follow-the-crop migrants, even though they remain in one U.S. home while here for 6 to 10 months—or since their arrival, for the newly arrived.

Third, the federal government provides about \$1 billion a year to government agencies and NGOs that serve migrant and seasonal farm workers. The original 1960s War on Poverty justification for federal Migrant and Seasonal Farm Worker

<sup>8</sup> In the nonfarm labor market, 143.2 million workers had at least one job in 1997, and 15.6 million experienced unemployment—annual average employment was 129.6 million, and annual average unemployment was 6.7 million. An average eight million workers held two or more jobs simultaneously in 1998—about 4.5 million had one full-time and one part-time job. For more information: <http://www.bls.gov/news.release/work.nws.htm>.

<sup>9</sup> NAWS defined shuttle migrants as persons who spent at least 28 days a year outside the U.S., so that a worker who was interviewed soon after arrival in the U.S. could be considered a shuttle migrant even if the move to the U.S. was permanent. The home base of 88 percent of shuttle migrants and 43 percent of the follow-the-crop migrants is Mexico, usually rural areas.

assistance programs was that many states had residency requirements to be eligible for welfare assistance, so the federal government stepped in to provide services to migrant workers in the state only a few months. These residency requirements disappeared in the 1970s, but MSFWs remain among the poorest U.S. workers, and service providers continue to seek federal funds to assist them by arguing that farm workers have special needs not easily accommodated in regular assistance programs (Martin and Martin, 1994).

## **Employment and Earnings**

About 70 percent of U.S. crop workers interviewed in the NAWS found their current job through a friend, relative, or work mate; 25 percent applied on their own, and one percent used the Employment Service. Of the workers interviewed, 33 percent were employed in fruits and nuts, 28 percent in vegetables, and 14 percent in horticultural specialties—these crops employed 75 percent of the workers interviewed. About 80 percent of the workers were employed directly by the growers.

Across the U.S., workers averaged \$5.93 an hour in 1997-98 for 38 hours a week, which generated weekly earnings of \$225—average weekly earnings for all private sector workers were \$442 in 1998 (the federal minimum wage rose from \$4.25 to \$4.75 on October 1, 1996 and to \$5.15 on September 1, 1997). The quarterly USDA publication, *Farm Labor*, reports higher average hourly earnings and hours worked—an average \$6.98 an hour for field and livestock workers in 1998, and 40 hours a week, but USDA includes hired managers and supervisors.

Farm workers interviewed in the NAWS averaged 24.4 weeks of farm work, for farm earnings of \$5,500 in 1997-98. They also averaged 4.6 weeks of nonfarm work, for nonfarm earnings of \$1,000. Farm workers averaged 10 weeks of unemployment in the U.S. and 12 weeks abroad. Weeks of farm and nonfarm work in the U.S. have been declining, while weeks abroad have been increasing, reflecting the rising share of recently arrived and unauthorized workers—that is, if workers are interviewed in July soon after their arrival in the U.S., they appear in the NAWS as having, e.g., 4 weeks of farm work and 20 weeks of time spent abroad.<sup>10</sup>

Unemployment is pervasive, even during the summer months. If the status of workers is recorded on a month-by-month basis, the percentage of workers doing farm work peaks in the summer months at 55 to 60 percent, when the unemployment rate is at least 15 percent, meaning there is one unemployed farm worker for each three or four at work. During the winter months, the percentage of workers employed is 35 to 40 percent, and unemployment is 20 to 23 percent, meaning one unemployed worker for every two employed workers. A third of workers are outside the U.S. in the winter months, but the post September 11, 2001 tightening of border controls has probably discouraged unauthorized workers from returning to Mexico during the winter months.

The crop workers interviewed in 1997-98 had an average eight years of U.S. farm work experience. This eight year average may be misleading, since the half of the workers who were U.S. work-authorized had an average of 13 years of U.S. farm

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<sup>10</sup> The NAWS defines a newcomer farm worker as one who first entered the U.S. less than 24 months before being interviewed, and who has less than 12 months of U.S. work (farm or nonfarm) or unemployment.

work experience, while the half who were unauthorized had an average of four years of U.S. farm work experience—that is, workers were concentrated at the two extremes of the U.S. farm work experience spectrum. About half of the crop workers interviewed in 1997-98 said that they intended to remain farm workers as long as possible; the other half intended to exit the farm work force within five years. About 60 percent of farm workers said they had relatives or friends with nonfarm U.S. jobs, and 35 percent thought they could find a nonfarm U.S. job within one month.

Farm employers must provide some benefits to workers—in California, mandatory benefits include Social Security, unemployment insurance and worker's compensation. Farm employers may provide additional benefits, including pensions, health insurance and vacation pay. Many farm workers interviewed by the NAWS did not think that they were covered by mandatory benefits, and few received voluntary benefits. For example, about 60 percent said that they were not eligible for UI benefits, a result that may be explained by the fact that, in many states, only workers employed on the largest farms must be covered by unemployment insurance, and unauthorized workers are not eligible for UI benefits, even if their employers pay UI taxes on their wages. Workers compensation pays for medical costs associated with work-place injuries and provides payments to workers who cannot work as a result of work-place injuries. About half of the states do not require farmers to provide workers compensation coverage for farm workers, and two-thirds of farm workers said they were not covered. About five percent of crop workers received health insurance for off-the-job injuries to themselves or their families, and 10 percent received vacation pay.

NAWS obtains income data by range; it does not obtain point estimates of individual or family income. Half of the workers had 1997 incomes of less than \$7,500, and half had family incomes of less than \$10,000, which means that most individuals and families had incomes below the poverty line—\$8,350 for an individual in 1997, and \$12,800 for a family of three. About 20 percent of farm workers said that they or someone in their family received UI benefits within the past two years. Since 50 percent of farm workers are unauthorized, and 14 percent work year-round, this means that many of the 36 percent who would appear to be eligible for UI benefits received them. About 17 percent of those interviewed received benefits through means-tested programs: one-third of the legally authorized farm workers received means-tested benefits—the three most common assistance programs accessed were Medicaid (Medi-Cal), Food Stamps, and the Women, Infants and Children (WIC) program.

## **FARM LABOR MARKET**

Labor markets match workers and jobs by performing recruitment, remuneration or motivation, and retention functions. These 3 R's are handled in unique ways in agriculture. For example, farmers rarely place ads in newspapers to recruit workers, or send recruiters to high school or college campuses in search of workers. More typical is how one farmer described his recruitment strategy: "when we need X amount of workers, we call up the contractor, and they supply the workers." Agriculture has one of the highest percentage of jobs paid piece rate wages—a third or more—which makes careful screening of workers, and supervision to encourage fast work, less



necessary. Finally, few farm employers have personnel systems aimed at forming long-term relationships with seasonal workers. Instead, most farmers believe it is more efficient to work collectively to ensure an ample supply of workers.

## **Recruitment**

Recruitment matches workers and jobs. In seasonal industries such as agriculture that require a large number of workers to fill seasonal jobs, a central clearinghouse for farmers to list vacancies and for workers seeking jobs should be the most efficient way to match hundreds of thousands of workers with a similar number of jobs. A clearinghouse could be operated by employers, unions (hiring halls), or the tax-supported Employment Service (EDD in California).

The logic of a job-worker clearinghouse to minimize uncertainty for growers and unemployment for workers is clear, but there are few examples of their successful operation in agriculture. Until the early 1970s, the Employment Service and employer associations were the major clearinghouses. However, DOL curtailed its farm job-matching to settle lawsuits that charged the ES discriminated against farm workers by not telling them about nonfarm jobs (Goldfarb, 1981). Many employer associations that served as clearinghouses disbanded after their workers voted for union representation in the 1970s.

The UFW tried to become an alternative clearinghouse with union-run hiring halls in the 1970s, but farmers who did not have contracts requiring them to obtain workers via UFW-run hiring halls did not do so, and many workers objected to having to pay dues to the UFW before being sent to farm jobs. The UFW tried to operate hiring halls in the 1970s without the benefit of computers, and deployed those seeking jobs on the basis of their seniority with the UFW, which sometimes split families and workers who wanted to work together; with the loss of contracts in the 1980s, most of the UFW-run hiring halls closed.

Today job-worker matching in California agriculture is decentralized, with farm labor contractors (FLCs) and other intermediaries assembling crews of workers to fill seasonal jobs. FLCs, for a fee, organize crews of workers and bring them to farms. FLCs in western agriculture originally were bilingual go-betweens. The Chinese workers who had been imported to build the transcontinental railroad in the 1860s were barred from urban jobs, and a bilingual “head boy” both worked and arranged seasonal farm jobs for his 20 to 30 compatriots. In the 1920s, FLCs became independent businesses whose profit was the wedge between what an employer pays to have a job done and what is paid to the worker.

FLCs can often “drive the hardest kinds of bargain” with immigrant workers because they know the circumstances from which they come (Fisher, 1952, p. 43). Immigrant farm workers rarely complain about labor law violations and, even if they do, the general absence of written contracts makes it hard for often illiterate and non-English speaking workers to provide the evidence needed for effective enforcement. Enforcement has not prevented widespread labor law violations.

The key intermediary is a foreman or crew boss in charge of a crew of 20 to 40 workers. Smaller FLCs may have only one crew, but most California FLCs have multiple crews, and they make a foreman responsible for hiring and disciplining a

crew. Most hiring is via networks, as the crew boss tells the crew that more workers are needed, and the workers currently in the crew inform their friends and relatives that a job is available. There is no need to spend money on help-wanted ads, and workers who are often grateful for the chance to tell friends and relatives about jobs tend to bring only “good” workers to join the crew. Once hired, the friend or relative who brought the new worker to the workplace is usually responsible for her: the experienced worker teaches the new hire how to work, the work rules, and other job-related information.

Crew bosses are often more than just employers. Especially when the workers are recent immigrants, the boss may be the worker’s banker, landlord, transportation service, restaurant, and check-cashing service. Crew bosses provide such services to workers to make money off them and because newly-arrived workers often need such services. Federal and state governments have enacted an ever-growing body of laws and regulations that attempt to regulate these sideline activities of farm employers such as crew bosses, but they are not widely enforced—it is not unusual for a worker to pay for rides to work as a condition of getting the job.

In some “farm worker towns,” especially those along the U.S.-Mexican border, workers are recruited in so-called day-haul labor markets. Workers begin to congregate in parking lots at 3 or 4 am, where contractors arrive with buses, posting on the bus the task and the wage. The workers then board the bus that seems to offer prospects for the highest earnings. Some workers board the same bus every day, while others switch from bus to bus.

## **Remuneration or Wages**

The second function of labor markets is to remunerate or motivate workers. There are two major pay systems in which wages are used to motivate workers: hourly and piece rate. Employers pay hourly wages when they want slow and careful work, such as pruning trees and vines, when the employer can easily control the pace of the work, as when a crop such as broccoli is harvested by workers following a conveyor belt through the field whose speed is controlled by the driver/employer, and when piece rate wages would yield low hourly earnings, as for early season fruit picking.

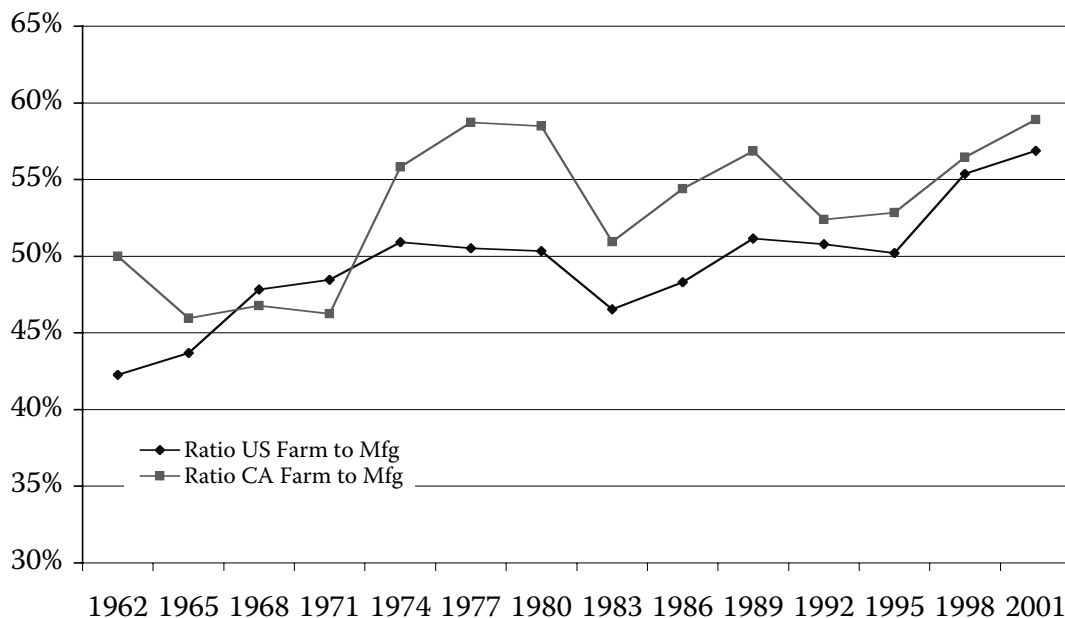
Piece rates are common when it is hard to regulate the pace of work, as when workers climb trees to pick fruit (and are thus often out of sight), when quality is less important (as for picking oranges that will be processed into juice), and when an employer wants to keep labor costs constant with a diverse work force—it costs the employer \$100 to have 1,000 pounds of table grapes picked if the piece rate is 10 cents a pound whether one fast picker or 3 slow pickers do the work. If workers are paid piece rate wages, employers must record the units of work and hours worked of each worker and, if a piece rate worker does not earn at least the minimum wage, the employer must provide “make up” pay, so the worker gets at least the minimum wage. As the minimum wage has risen, some farm employers have switched to hourly wages to reduce record keeping.

The U.S. minimum wage has been \$5.15 an hour since September 1, 1997; the California minimum wage has been \$6.75 since January 1, 2002. Most farm employers pay the minimum wage or \$0.50 or \$1 an hour more, and increase their entry-level

wage when the minimum wage rises. When reviewing farm wage data, it is important to remember that most data sources report earnings, which is what workers who are employed under a variety of wage systems—hourly, piece rate and others—actually earn, not the wage rate that would be announced to a newly hired worker. Piece rate workers tend to earn more per hour, \$8 to \$10 versus \$7 to \$8, but most piece rate workers cannot sustain their typically faster pace of work for more than 6 to 7 hours a day, so that the weekly earnings of piece rate and hourly workers are similar because the hourly workers tend to be employed more hours. Average hourly earnings on California farms were almost 60 percent of average manufacturing worker earnings in the late 1970s, fell to 55 percent in the 1990s, and rose in the late 1990s with the state's minimum wage increases.

The cost of employing workers includes wages as well as mandatory and voluntary fringe benefits. Mandatory benefits are those that the employer must provide to workers—social security, unemployment and disability insurance, and workers compensation. Voluntary fringe benefits include health insurance, paid vacations and holidays, and extra pension benefits. The U.S. Bureau of Labor Statistics computes the cost of wages and fringe benefits, and in March 2000 reported that the total cost of employing workers in the U.S. private sector was \$21 an hour, including \$15 an hour in wages and salaries (73 percent) and \$6 an hour in benefits (27 percent). The cost of mandatory fringe benefits was \$1.67 an hour or nine percent of total compensation, and employers provided voluntary fringe benefits worth \$4.33 or 19 percent of total compensation, including \$1.42 an hour for paid leave (vacation and holiday pay) and \$1.36 for health and other insurance.

**Figure 2. Ratio of Farm to Manufacturing Worker Earnings, 1962-2001**



Source: U.S. DOL and USDA

Fringe benefits can be expensive for farm workers with low earnings, since benefits such as health insurance for workers and their families that cover off-the-job injuries and illnesses require monthly payments that are independent of earnings. A low-cost \$160 a month or \$1 an hour health insurance premium for a full time worker adds 16 percent to the cost of a worker earning \$6 an hour and 7 percent to the cost of a \$14 an hour worker.

Farmers in the past often provided housing in order to attract and retain good workers. However, poor farm worker housing led to higher standards and, since farmers are not required to provide housing, many responded to tougher housing rules by closing their housing. Farm workers were thus pushed into cities and towns in agricultural areas, where they competed with other tenants for housing, sometimes living in rented houses or sheds that were no better than the on-farm housing that was closed. However, the cost of living in cities was usually more than what farmers charged—often \$50 to \$100 a week—and workers living away from the fields must usually pay for rides to work, which adds another \$20 to \$25 a week to their costs of working. The government, which used to regulate farmer-provided housing, today primarily makes grants and loans to provide subsidized housing for farm workers, often families with children. Alvarado and Luna found that 13 percent of SJV farm workers in 2001 lived in housing provided by their employers, and 50 percent lived with non-family members; they paid an average \$238 a month in rent. Fewer than a third of the workers interviewed had a California drivers' license, and 70 percent paid an average \$5 a day for transportation from the city or town in which they lived to their farm job.

## **Retention**

The third key labor market function is retention—identifying and keeping the best workers, or encouraging the best seasonal workers to return next year. Most U.S. employers have formal evaluation systems under which supervisors evaluate each worker, and these evaluations are used to determine promotions and wage increases. Few farm employers have formal personnel systems. Instead, there are two methods of recruitment and worker evaluation that illustrate agricultural extremes in personnel practices. Some farmers, especially those who work closely with one or a few year-round workers in dairies and similar operations, treat hired workers “as part of the family,” selecting workers carefully and providing them with housing near the farmer’s home (Billikopf, 2001). The other extreme is exemplified by a grower who hires a crew of workers through a contractor or a foreman, and never deals directly with workers.

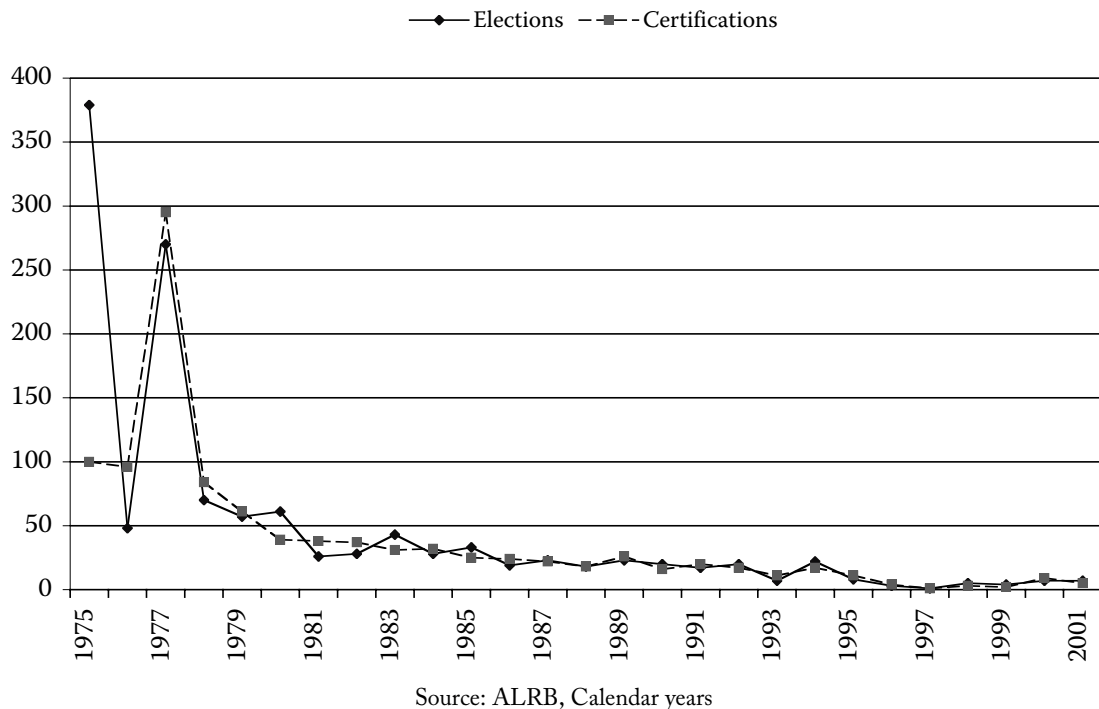
Crew-based hiring explains why recruitment and retention are often part of the same labor market function in agriculture. Indeed, an analogy to obtaining irrigation water may be helpful to understand the recruitment and retention options. There are two major ways to supply irrigation water to crops: a field can be “flooded” with water so that some trickles to each tree or vine, or fields can be irrigated with a drip system that involves laying plastic pipes down or under the rows and dripping water and nutrients to each tree or vine. If water is cheap, farmers flood fields with water; if water is expensive, farmers may invest in drip irrigation systems. The analogy to recruitment and retention is clear: farmers more often work collectively to flood the

labor market with workers, usually by getting border gates opened or left ajar, instead of recruiting and retaining the best farm workers for their operation, the drip irrigation model. The best way to ensure plenty of irrigation water is to invest in more dams and canals; the best way to flood the labor market is to invest in politicians willing to ease access to foreign workers.

## UNIONS, BARGAINING, MEDIATION

Farm workers were not granted federal collective bargaining rights in the 1935 National Labor Relations Act, and remain excluded from the NLRA. In 1975, California enacted the Agricultural Labor Relations Act to provide state-level organizing and bargaining rights: the purpose of the ALRA was to end a decade of strife in the fields, to “ensure peace in the agricultural fields by guaranteeing justice for all agricultural workers and stability in labor relations.” The ALRA includes three major elements: organizing and bargaining rights for farm workers, unfair labor practices that employers and unions can commit when they interfere with these worker rights, and a state agency, the Agricultural Labor Relations Board (ALRB), to supervise elections in which farm workers decide if they want to be represented by unions and to remedy ULPs. Between 1975 and 1984, there were over 1000 elections on California farms, and unions were certified by the ALRB to represent workers on 70 percent of these farms (ALRB). Since then, there have been fewer than 250 elections, and unions were certified on less than 50 percent of the farms on which they requested elections (Martin, 2001).

Figure 3. ALRB Elections and Union Certifications, 1975-2001



Farm worker unions were often unable to negotiate first agreements with most of the farms on which they were certified to represent workers, and in many cases, were unable to re-negotiate first agreements. The number of collective bargaining agreements in California agriculture has never exceeded 300 at any time, and in 2002 was about 225—80 percent of the current contracts cover 3-4 workers under Christian Labor Association contracts with dairy and poultry farms. The United Farm Workers (UFW), Teamsters, and other unions representing field workers have fewer than 30 contracts covering less than 25,000 workers.

Unions such as the UFW charge that farm employers are able to avoid reaching first or subsequent contracts by refusing to bargain toward agreement. In 2002, the UFW led an effort to amend the ALRA to provide for state intervention to ensure contracts on farms on which workers voted for union representation. The UFW's original goal was binding arbitration, under which a union and employer that cannot negotiate a contract typically go through a three-step procedure. First is mediation, when a neutral third party listens to each party separately and makes suggestions to narrow differences and allow them to reach a voluntary settlement. Second is fact finding, when a neutral party listens to both sides and proposes a non-binding settlement. Third is binding arbitration, when a neutral party proposes either any settlement deemed best or when the arbitrator is required to recommend one of the party's final offers at the bargaining table. Binding arbitration is normally restricted to public employees such as police and firefighters who cannot strike lawfully.

The California Legislature approved binding arbitration in agriculture, but Governor Gray Davis threatened to veto the bill, so a last-minute compromise, "mandatory mediation," was approved. Mandatory mediation, which went into effect January 1, 2003, requires unions and farm employers to bargain for at least 180 days for a first contract. If they cannot reach agreement, a mediator tries to help the parties to resolve their differences for another 30 days but, if mediation fails to produce an agreement, the mediator must, within 21 days, recommend the terms of a collective bargaining agreement that the ALRB can then impose on the parties. Although mandatory mediation might result in a greater number of collective bargaining agreements, other factors suggest that the new law will not affect a large number of agricultural employers or employees while it is in effect through at least 2007 (Martin and Mason).

## **IMMIGRATION REFORM**

The hired farm workers of tomorrow are growing up today outside the U.S., usually in rural Mexico and Central America. A major federal policy issue is what conditions, including what housing provisions, U.S. farm employers should satisfy to get access to these foreign workers. The U.S. has a guest worker program for farm workers, known as the H-2A program. It requires DOL to certify a farmer's need for H-2A guest workers. In order to obtain certification, a farmer must satisfy certain recruitment, wage, and housing regulations, including applying for certification and trying to recruit U.S. workers at least 45 days before they are needed, offering to pay the higher of the minimum, prevailing, or Adverse Effect Wage Rate, and offering to provide free and approved housing to out-of-area U.S. and H-2A workers.

Except for sheep farmers, California farm employers have traditionally not obtained workers through the H-2A program; most admissions have been in eastern states such as North Carolina. But the number of H-2A admissions in these eastern states has been rising, and H-2A workers for non-shepherding jobs were approved in California in March 2002, when a Ventura county custom harvester/FLC brought 38 H-2A workers from Mexico to California to harvest lemons, possibly a precursor to more H-2A farm workers. If the H-2A program expands, there would likely be an increased demand for barracks or dorm style housing, and inspectors to check it.

Instead of expanding the H-2A program, three other concepts are being debated to regulate the access of farmers to foreign farm workers: temporary guest workers, legalization, and earned legalization. Temporary guest workers are nonimmigrants, persons in the U.S. to work generally for one employer, who must leave when the work ends—guest workers, under U.S. law, do not generally obtain any preference for admission as immigrants.

During the 1990s, the SAWs—unauthorized farm workers legalized in 1987-88—and their replacement with newly arrived unauthorized workers increased the risk to farmers that they may be fined or lose their workers at critical harvest times. Farmers could avoid such risks by having DOL certify their need for H-2A workers, but certification required offering at least a DOL-set wage and free housing.

Many California farmers want an alternative guest worker program that does not require certification, and they do not want to offer free housing to legal guest workers. In July 1998, the U.S. Senate approved one grower proposal, the Agricultural Job Opportunity Benefits and Security Act (AgJOBS), which avoided the need for farmers to be certified by creating a registry in each state to enroll legally authorized farm workers. Under AgJOBS, farmers would apply to the registry, for example, requesting 100 workers. If only 60 registry workers were available, the farmer would be automatically “certified” to recruit and have admitted to the U.S. 40 foreign workers. AgJOBS would also end the housing requirement by allowing the governor to certify that there is “sufficient” farm worker housing in the area, and then the farmer could offer a housing allowance equivalent to “the statewide average fair market rental for existing housing for nonmetropolitan counties for the State...based on a two-bedroom dwelling unit and an assumption of two persons per bedroom,” about \$500 a month in the northern Sacramento Valley and \$800 a month in San Benito in 2000. However, most California agriculture is in metro counties, where 40<sup>th</sup> percentile fair market rents in 2000 are about \$525 (Fresno-Tulare-Kern) to \$1,100 (Santa Cruz) for two-bedroom units. Under AgJOBS, typical housing payments for guest workers would have been \$125 to \$150 per worker per month in California.

President Clinton opposed AgJOBS, and issued a statement: “When these programs were tried in the past, many temporary guest workers stayed permanently and illegally in this country. Hundreds of thousands of immigrants now residing in the U.S. first came as temporary workers, and their presence became a magnet for other illegal immigration.” In 1999, after consultations with worker advocates, a new concept was added to AgJOBS: earned legalization. Legalizing unauthorized farm workers might encourage many of them to leave for nonfarm jobs, as SAWs did in the 1990s, so farmers who wanted guest workers and worker advocates who wanted legalization agreed to a program that would grant unauthorized workers a temporary legal status.

Under their compromise, unauthorized workers who could prove that they did 100 or 150 days of farm work in the preceding year would get a temporary legal status that permitted them to live and work in the U.S. In order to maintain this temporary legal status, and eventually apply to become a regular U.S. immigrant, the temporary worker would have to do a certain amount of farm work each year for several years, e.g., 80 or 100 days of farm work for three to five years. Thus, after several years and 240 or 500 days of farm work, the temporary legal worker could earn an immigrant status.

Farmers and worker advocates argued over the details of a revised AgJOBS program that included earned legalization throughout 2000, with farmers wanting more days of farm work to qualify for eventual immigrant status, and worker advocates fewer days. After the November 2000 elections, some worker advocates, noting that both U.S. President Bush and Mexican President Fox favored a new guest worker program, agreed to a compromise that won the endorsement of the United Farm Workers and the National Council of Agricultural Employers. Under this December 2000 compromise, unauthorized workers who did at least 100 days of farm work in the preceding 18 months could qualify for temporary legal status, and they could convert this temporary legal status into an immigrant status if they did at least 360 days of farm work in the next six years. The compromise included (1) freezing the minimum wage that had to be paid to foreign workers for several years and (2) giving farmers the option of providing a housing allowance rather than housing to workers. The AgJOBS compromise came close to Congressional approval in December 2000, but was blocked by those opposed to any type of amnesty for unauthorized foreigners.

The atmosphere changed in 2001, especially after U.S. President Bush and Mexican President Fox met in Mexico in February 2001 and agreed to establish a migration working group that was charged with creating "an orderly framework for [Mexico-U.S.] migration that ensures humane treatment [and] legal security, and dignifies labor conditions." Senator Phil Gramm (R-TX) became the leading proponent of the guest worker-only approach, favoring a program that would permit unauthorized Mexicans already in the U.S. to obtain seasonal or year-round work permits: seasonal workers could return to the U.S. indefinitely, and year-round workers could remain in the U.S. three years, and then they would have to stay in Mexico at least one year before returning legally. U.S. employers and guest workers would pay social security taxes to a trust fund that would reimburse U.S. hospitals that provided emergency medical care for injured guest workers; the balance of the social security taxes paid would be placed in individual IRA-type accounts that workers could receive when they surrendered their work permits to U.S. consulates in Mexico.

Gramm's proposal covers Mexicans employed in all U.S. industries, but does not include a path to immigrant status. The other extreme is legalization. Under a plan embraced by the AFL-CIO and many church and ethnic groups, unauthorized foreigners in the U.S. from any country, and employed in any industry, could become immigrants, and then sponsor their families for admission. Rep. Luis V. Gutierrez (D-IL) introduced a bill that would grant immigrant status to all persons who were in the U.S. at least five years, and temporary legal status to those in the U.S. less than five years. When unauthorized foreigners reach the five-year U.S. residence mark, they could apply to convert their temporary status to an immigrant status.



Earned legalization is billed as the compromise between guest workers and legalization. Only unauthorized foreigners who have worked in the U.S. would be eligible, and they must continue working (in agriculture under AgJOBS) to maintain their temporary legal status and to eventually become immigrants. Earned legalization appeals to those who associate immigration with work in the U.S., and allows Mexican President Fox to keep his promise of improving conditions for the migrants he calls “heroes” for working in the U.S. and sending remittances to Mexico. A spokesperson said President Bush supports “a new temporary-worker program that would allow for some of the [unauthorized] workers to achieve permanent residency status over a period of time.” In 2003, it appears that Democrats, unions and immigrant rights groups will settle for earned legalization, but they oppose new temporary worker programs, while Republicans and most employers favor new temporary worker programs, but oppose an easy transition to legal immigrant status.

## **CONCLUSIONS**

California agriculture continues to employ large numbers of seasonal workers to prune, irrigate and harvest a vast array of crops. Since the 1970s, labor-saving changes have been more than offset by increased plantings of labor-intensive fruits, vegetables and horticultural specialty crops, so that the average annual employment on the state’s farms has risen.

Most farm workers are employed seasonally and, since the 1880s, when labor-intensive agriculture developed, most of the seasonal workers were from other regions and countries. Since 1942, when the federal government assured farmers foreign workers through the Bracero program, most farm workers have come from Mexico. Despite legalization in 1987-88, a majority of the Mexicans employed on California farms are not authorized to work in the U.S. Most children of farm workers educated in the U.S. do not follow their parents into the fields, which explains why over 90 percent of California farm workers are born outside the U.S. and gives farmers a keen interest in immigration policies and their enforcement.

One significant change in farm labor markets in the 1980s and 1990s has been the rising market share of farm labor contractors: their share of average annual farm employment has almost doubled. The state government has aimed to increase the regulation of farm labor contractors, requiring them to be registered, and requiring bonds as well as passage of tests to be registered. There have also been efforts to increase penalties for labor law violations and require safer transportation for farm workers.

Historically, agriculture was exempted from many federal and state labor laws. Regulation of the farm labor market has increased, reducing the agricultural exceptionalism as minimum wage, workers’ compensation insurance, and workplace safety requirements were extended to agricultural employment. The most recent state attempt to regulate farm labor markets is the 2002 mandatory mediation amendment to the Agricultural Labor Relations Act, which will allow imposition of a collective bargaining contract by a third-party mediator/arbitrator, suggesting that state policy makers may switch from exempting agriculture from labor laws to developing unique farm labor laws.

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