

FARMWORKERS IN OREGON

A Study of the League of Women Voters of Oregon Education Fund

STUDY FINDINGS:

- Oregon relies on farmworkers to produce its labor-intensive crops. Most workers are Hispanic and many are undocumented residents.
- While a strong partnership exists between farmers and workers on most Oregon farms, language and cultural differences and the immigrant status of the workforce make workers vulnerable to exploitation and farmers vulnerable to the loss of workers at critical harvest times.
- While the state struggles to deal with this situation, some factors are national or global in context:
 - * The flow of workers between Mexico and the United States is well established, but much is illegal under national immigration laws.
 - * The globalized market for agriculture lowers many commodity prices; the prices Oregon farmers receive are sometimes below their costs of production.
- Federal and state laws concerning working conditions for farmworkers set standards that are different from those for most of America's workers. Compliance with and enforcement of laws that do exist are uneven.
- The search for solutions has become highly politicized; there is very little constructive dialogue between farmer organizations and farmworker advocates. A stalemate exists on clarifying the collective bargaining rights of workers, which neither the courts nor the legislature has been able to resolve.
- The serious shortage of decent and affordable housing for farmworkers is a problem that has persisted for decades. Farmers say they are turning away from housing their workers because of costs and regulations.
- Many parties have a role in the search for solutions:
 - * State lawmakers and voters need to understand the complexity of farm labor issues.
 - * Service providers need to collaborate; services and training need to be offered in culturally effective models.
 - * A dialogue is needed between farmer organizations and worker advocates.
 - * Communities which are struggling to serve farmworker populations need support.
 - * Consumers must recognize that "cheap food" does not support a viable state agriculture and just treatment of workers.

THE OREGON FARMWORKER EXPERIENCE

This report begins with the story of one hypothetical farmworker to give some sense of the experiences later discussed in terms of state laws. This story is based on a compilation of interviews with farmworkers and accounts told by those who work with farmworkers.



Leaving home and crossing the border: Manuel comes from Oaxaca, in Southern Mexico. He is 17, the oldest son from a large family; his uncle has been migrating to the United States for five years, and the money he has earned has brought improvements to his uncle's home. Manuel hopes to earn the same improvements for his own family. His family supports itself by working in onion fields outside his village. Manuel has six years of schooling. This year he will leave with his uncle in February to plant trees in Lane County. The first challenge is to clear the U.S. Immigration and Naturalization Service (INS) blockade. They travel 1800 miles from Oaxaca to the border town. Manuel and his uncle find a guide, called a coyote, who charges \$800 each. They are caught by INS officials four times, thus delaying their departure several weeks, but on the fifth try they are across.

First job, with an unlicensed labor contractor: The uncle's connection gets Manuel to Oregon to a Mexican labor contractor and crew. They show Manuel where to get his residency papers — forged documents — for \$50. They live in a wilderness camp in a tent, cook their own food at a campfire, and use an open pit for a latrine. The work is hard: a large bag is carried over the back filled with Douglas fir seedlings. The crew boss wants him to work faster. At the end of two weeks, he is given \$300. He pays

back some of his debt to his uncle. He learns later he has earned less than others. Maybe he can find another boss. He knows if he complains, his boss may call “la migra” and he will be sent back across the border.

Many jobs through the season and a lonely first winter in Oregon: Manuel finds a new boss, another labor contractor in Junction City. First there is spring orchard work, then jobs planting row crops, moving irrigation pipe in mint and grass fields, harvesting grapes in the fall and Christmas trees in the winter. Many weeks there is no work. He lives in a labor camp in bunk housing with 60 other men for which he pays \$20 a week. He works with Christmas trees 10 to 12 hours a day, from dark to dark in the late fall. He cuts trees, bundles them, and brings them to the machine where they are put in netting. He catches his finger in the netting machine and breaks it. He makes his own splint and keeps working. He sends money home every month. He stays the winter in Oregon because of the difficulty and expense of re-crossing the border. Most weeks there is no work. He takes some of his meals at a program at the Catholic Church. He feels isolated and lonely in Oregon. He speaks Mestican, and without Spanish or English many people take advantage of him.

Five Seasons in Oregon: During the following seasons Manuel acquires some English. He learns he must keep track of his hours to see if he has been paid minimum wage. When he and three co-workers complain, the boss fires them. They hear of work in Eastern Oregon and travel there but find no jobs: onions were not planted because the farmers could not pay the workers. On the way back, the workers find jobs in pear orchards near Hood River. Here the housing is better. This is the first time they have worked directly for a farmer. They return to this farmer every year and travel around the state to find their own jobs during the other seasons.

After a decade, a permanent job and hope for amnesty: By now Manuel has a wife and child in Mexico. He sends them \$300 a month, which is enough to live on. He would like to have them in the U.S., but he could never support them here. He has found year-round work at a nursery in Boring and takes language classes offered by his employer. He notices that in town, the people who don't speak English get treated worse. He has heard of the farmworkers' union but doesn't know much about it. He expects and hopes that somehow the U.S. will grant amnesty to workers like him. Then he

will have more job security to advance and settle his family in Oregon.

PART I - HISTORY OF AGRICULTURAL LABOR AND IMMIGRATION; CURRENT FARM WORKFORCE

AGRICULTURAL LABOR

According to Daniel Rothenberg, author of *With These Hands: The Hidden World of Migrant Farmworkers Today*, “The American agriculture industry has always relied on marginalized workers.” Slaves in the South and Chinese workers on the West Coast are a well-known part of our history. Mexican immigration began in the early twentieth century but was not a major trend until World War II when Congress passed the Labor Importation Program, known as the “bracero program.” This program, which brought 4.8 million Mexican workers to the U.S., was terminated in 1964 through pressure from unions, churches, and community groups concerned about worker mistreatment and exploitation.



Twenty-eight Oregon counties imported 15,000 workers under the bracero program. Many observers think the bracero program continues to influence farmwork today because it established Mexico-to-U.S. migration and settlement patterns and depressed farm wages and working conditions. Although most farmworkers in Oregon today are immigrants from Mexico and Central America, in previous decades youth, housewives, and the unemployed did hoeing, irrigation, and hand harvesting.

IMMIGRATION LAW

The U.S. has had immigration laws since 1882, when it required a head tax on immigrants and barred admission to “idiots, lunatics, convicts, and persons likely to become public charges.” These restrictions still exist. The Immigration Quota Act of 1921 initiated our present quota system. Despite these laws, large numbers of immigrants continue to enter the country illegally. In 1986 Congress, in an attempt to deal with the issue, passed the Immigration Reform and Control Act (IRCA) which granted amnesty to many of these immigrants. More than 1.25 million agricultural workers applied for legalization, and more than a million applications were approved.

Farmworkers in Oregon

IRCA also codified the H-2A Agricultural Guest-worker Program, through which farmers can obtain documented foreign workers by following complicated application procedures requiring long processing times. In Oregon, only one large nursery has used H-2A since 1997 to hire skilled workers. The other major feature of IRCA was that, for the first time, employers were required to verify the identity and employment eligibility of everyone they hire. Fines for violations of this law were established.

In sum, the approach taken by IRCA was to grant existing foreign workers legal status and then close the border, with the new H-2A program taking care of any need for additional workers. At first this seemed to be working for farm labor. But the newly legal residents moved on to jobs in other industries and were replaced by a new wave of undocumented workers, whose number is now believed to equal or surpass the number in the U.S. in 1986.

Mexico and the United States share one of the "longest land borders between two countries with disparate earnings and income levels."

—Binational Study on Migration
Between Mexico and the United States

INS Enforcement

The INS is responsible for enforcing the various immigration laws. Workers found to be without proper papers can be deported, and their employers can be fined. Until recently INS agents made unannounced inspections of premises believed to be hiring undocumented workers and took into custody workers suspected of being here illegally. More recently the INS has been inspecting and verifying Social Security and alien registration numbers. When workers whose documents do not match official data are identified, the employer must give them an opportunity to clarify the information, but if a problem still exists they must terminate the worker or face sanctions and financial penalties. Because deportation is expensive and often results in the immediate return to the U.S. of the offending worker, the practice has dropped steeply.

Proposals to Change Immigration Law

"The time has come to see U.S. immigration policy toward Mexico for what it is – a dismal failure – and to chart a new course of action."

—Douglas Massey,
University of Pennsylvania

With the support of the agriculture industry, Oregon senators introduced a bill in 1998 to revise the H-2A program. This failed. Two new versions are currently before Congress: one, HB 4548, was passed by the House Judiciary Committee in September, 2000; while the Smith/Graham bill has languished in the Senate. Both attempt to meet the need for a supply of documented farmworkers by allowing temporary workers to be brought in as needed. Standards for housing, transportation, and wages are weakened from the H-2A program. The Senate version would allow workers to become legal residents after working in agriculture for 180 days a year for five years, while the House bill makes no provision for amnesty or legal residency. Labor organizations fiercely oppose both bills as thinly disguised "indentured servitude" because workers are tied to one employer.

Farmworker unions argue that there is no labor shortage, an argument they say is bolstered by a 1997 General Accounting Office (GAO) study finding, and that any apparent labor shortage is instead a shortage of good wages and working conditions. However, the GAO report did not distinguish between legal and undocumented workers, and under present conditions massive labor shortages would exist if only legal workers were available. This spring the AFL/CIO announced support for a general amnesty for unauthorized residents, a new position for the union movement.

Scholars studying the farmworker issue have generally agreed that the present system needs revision. Daniel Rothenberg argues that unionization is the answer. Another researcher, Douglas Massey of the University of Pennsylvania, says our legislative approach is based on an erroneous understanding of the incentives that bring foreign workers to America and that our immigration policies actually increase illegal immigration. Massey proposes a 12-step program "for a healthier North American labor market." In brief, this involves liberalizing immigration quotas from Mexico and Canada and issuing large numbers of visas for agricultural workers while also instituting effective steps to improve economic conditions in Mexico. Such a program, he says, "will not eliminate" the problem but will "reverse the deleterious consequences of our current policies."

A binational study of migration authorized by the Mexican and U.S. governments predicts that demographic and economic factors will soon reduce fu-

ture migration. It calls on both governments to assess strategies to reduce demand for unauthorized workers and provide increased economic opportunities in Mexico. It says a guestworker program might actually add to, rather than substitute for, unauthorized workers by stimulating new migration networks. The report deplors the social costs to Mexican families of migration and calls for ways to alleviate the disruption to families and communities. These same themes were emphasized by Mexico's president-elect in his August, 2000 visit to the U.S.

CURRENT FARM WORKFORCE

A **farmworker** is any person who works for pay in the production and harvesting of agricultural commodities, including crops, animals, and horticulture specialties.

- **Permanent workers** have year-round jobs in agriculture of at least 150 days a year.
- A **migrant farmworker** moves from his home location to one or more work locations and is absent from his permanent home for months at a time.
- A **seasonal worker** works for part of the year in agriculture within commuting distance of his home.

The combined total of migrant and seasonal farmworkers in the United States is estimated at four million.

Who Are The Farmworkers?

The National Agricultural Workers Survey of 1997-1998 reports that the typical worker tending and harvesting fruits, vegetables, nursery, field and other crops in the U.S. is

- Young (2/3 are under age 35)
- Male (80%)
- Hispanic (90%, mostly from Mexico)
- Not authorized to work in the U.S. (52% admitted being illegal)
- Poorly educated (median years of education is six)
- Lack year-round employment (worked in agriculture for 24 weeks and outside of agriculture for five weeks)
- About equally likely to be married or single and to have children or be childless, and if has a family, to live separately from them or with them
- Low income (half of the workers earned less than \$7500 a year)

How Many Farmworkers Are In Oregon?

The Oregonian says 150,000, the 1997 Census of Agriculture 124,400, and the Oregon Employment Department (OED) 40,100 to 86,400 depending upon the month. Who should you believe? We used the OED estimates because these numbers show the regional and seasonal patterns of farm employment. They are also the most recent and are based on many sources, including the Census of Agriculture.

The commonly cited 150,000 number was a 1989 estimate of the number of **seasonal and migrant farmworkers and their dependents**. Nearly half of the 150,000 were children and other dependents. Permanent farmworkers were not included. With recent changes in migration and settlement patterns and the growth in year-round jobs in the nursery industry, the 1989 estimates are outdated.

"Go north for opportunity"

—an idea embedded in Mexican youth
Binational Study

Research for this report indicates that Oregon farmworkers fit this national portrait except that most observers think at least 50-70% of Oregon farmworkers are not authorized to work in the U.S. Community and Shelter Assistance Corporation of Oregon (CASA) estimates that about half of Oregon farmworkers are settled here and half migrate to Oregon for all or part of the summer season. In the early 1990s the migrant population included many families. People who provide services to migrant workers are now reporting a new wave of unaccompanied males. Many women and children have also been observed in farm labor camps. It is speculated that families are moving north sooner because the men are prevented from returning to them seasonally by the difficulty and expense of border crossing.



PART II – AGRICULTURE

“Farm workers need farmers and farmers need farm workers.”

—Tim Bernasek, Oregon Farm Bureau

OREGON’S AGRICULTURE

Oregon is an average state in agricultural production (ranked 26th according to the 1997 Census of Agriculture) but a major user of agricultural labor (ranked 6th in payroll expenses). Like its neighbors, California and Washington, Oregon grows commodities that require the use of human hands. The largest sector of Oregon’s agriculture—nursery and greenhouse crops—is labor intensive. Oregon produces berries, pears, cherries, Christmas trees, and other crops that require hand harvesting or pruning. In addition, workers drive tractors and combines, move irrigation equipment, feed cattle, and milk cows on Oregon’s farms and ranches.

Who Are Oregon’s Farmers?

Families own and operate most farms in Oregon. About 85% of farms are sole proprietorships, 7% partnerships, and 6% corporations (many family owned). Farmers are getting older, and few young people are choosing farming. The average age is 53 years, the highest since records were kept.

Oregon’s farmers grow a greater variety of crops than farmers in any state except California and Florida. Oregon is the country’s only commercial producer of black raspberries, blackberries, hazelnuts, loganberries, and various kinds of grass seed. Oregon is a leading producer of many other crops including peppermint, azaleas, onions, sweet cherries, and vegetable and flower seeds.

Table 1 summarizes the relationship between agriculture production and farm labor by looking at six regions with distinct crops and labor needs. The **Willamette Valley**, home to 70% of Oregon’s residents, is also the most productive agricultural region. More than half the state’s farmworkers are employed in this valley. They pick berries, grow nursery plants, cut Christmas trees, and tend other crops. **Irrigated parts of Eastern Oregon** produce the second highest level of farm sales but employ a smaller share of farmworkers because the growing and harvesting of the major crops—potatoes, sugar beets, and seed crops—is highly mechanized. **Dry parts of Eastern Oregon** grow

traditional commodities—cattle, wheat, and hay. The **Coast** specializes in dairy products. The latter two areas require a small, year-round workforce. **Mid-Columbia** and **Southern Oregon** are both areas with orchards that require large numbers of workers for short picking seasons.

The graphs in Table 1 show that all areas have year-round farmwork, but each region has a unique pattern of seasonal work. Some areas need bursts of workers for harvests of strawberries, cherries, wheat, and other crops. Other places need workers for four to six months. The needs for housing, day-care, medical clinics, and other services for farmworkers and their families likewise vary by season and region.

THE ECONOMICS OF AGRICULTURE

“The (agriculture) industry today suffers from the same problems it has always suffered from: droughts, locusts, and market disruptions. It is a risky enterprise, and anyone who really understands the economies of agriculture can only have great respect for those who cope and prosper in this business.”

—K. Kliesen, economist, and W. Poole, President, Federal Reserve Bank of St. Louis

Most farmers must take the prices the market gives them, like the wheat and strawberry growers described below. Farmers with specialized products can sometimes set prices or even adjust them to reflect the cost of production.

The consolidation of the food industry and competition from other countries have pushed down the price of many farm products. In 1994 **twelve** supermarket chains accounted for 40% of U.S. food sales, but in 1999 only **four** supermarket chains accounted for the same 40% of sales. Chains with large market shares can insist on lower prices because wholesalers and food processors cannot afford to lose these accounts. Processors, in turn, must cut costs. They can pay U.S. farmers less or look for cheaper sources in other countries.

Farmers also have little control over the cost of inputs. In recent years, the price of high quality land in the Willamette Valley has increased due to land demand from nurseries. The cost of borrowing operating capital has increased as the prime rate has

Farmworkers in Oregon

Table 1: Oregon Agricultural Commodities and Farmworkers By Regions, 1999

REGION Gross Farm Sales % of Oregon Sale	COUNTIES BY RANK IN SALES	NUMBER OF FARMWORK- ERS EMPLOYED BY MONTH (Note: scales of vertical axes vary.)	MAJOR COMMODITIES (Harvest Times for Labor- Intensive Crops)
Willamette Valley Sales = \$1,708,266,000 54% of Oregon sales Average share of	Marion 1 Clackamas 2 Washington 4 Linn 5 Yamhill 6 Polk 10 Lane 11 Benton 13 Multnomah 15		Nursery crops (Feb.-June) Berries (June-Sept.) Vegetables (June-Nov.) Hazelnuts (Sept.-Oct.) Wine grapes (Sept.-Oct.) Christmas trees (Nov.) Ryegrass seed
Eastern Oregon – Irrigated Sales = \$713,688,000 23% of Oregon sales Average share of	Umatilla 3 Malheur 7 Klamath 8 Morrow 9 Jefferson 18 Union 22		Vegetables (May-Sept.) Onions (June-Sept.) Potatoes (July-Oct.) Peppermint (Aug.-Sept.) Sugar beets (Oct.-Nov.) Vegetable & flower seeds (Aug.-Sept.) Cattle, Hay, and Wheat
Eastern Oregon – Ranching and Dry Farming Sales = \$282,051,000 9% of Oregon sales Average share of farmworkers = 8%	Baker 20 Lake 21 Harney 23 Crook 25 Wallowa 26 Sherman 28 Deschutes 29 Grant 30 Gilliam 34		Cattle Hay Wheat Potatoes (Aug.-Oct.) Peppermint (Aug.-Sept.) Vegetable & flower seeds (Aug.-Sept.) Farm forestry products
Mid-Columbia Sales = \$113,079,000 4% of Oregon sales Average share of farmworkers = 7%	Hood River 16 Wasco 17		Cherries (June-July) Pears (Sept.-Oct.) Apples (Oct.-Nov.) Wheat Cattle Farm forestry products
Southern Oregon Sales = \$140,043,000 4% of Oregon sales Average share of farmworkers = 8%	Douglas 14 Jackson 19 Josephine 31		Peaches (July-Aug.) Pears (Aug.-Oct.) Apples (Oct.-Nov.) Nursery crops (Feb.-June) Vegetables Farm forest products Cattle and dairy products
Coastal Sales = \$199,126,000 6% of Oregon sales Average share of farmworkers = 4%	Tillamook 12 Coos 24 Columbia 27 Clatsop 32 Curry 33		Dairy products Farm forestry products Cranberries Bulbs

Sources: Gross farm sales and commodities from Oregon Agriculture Information Network, <http://ludwig.orec.orst.edu/oain/>. Estimates of farmworkers from Oregon Employment Department. (Employment may be part time.)

Who Determines Prices Farmers Get?

Wheat. World supply and demand determines wheat prices. The Asian economic downturn in 1996 reduced demand for wheat. This downturn combined with record production to drop prices to the lowest level in 50 years, below the cost of production in Oregon.

Strawberries. Premium ice cream makers are willing to pay a little more for flavorful Oregon strawberries than for California or Mexican ones because flavor sells ice cream. In order to get this sale, farmers must agree in advance to use certain farming practices and to fill out paperwork verifying compliance with the standards. Prices, however, aren't set until picking is about to begin. The ice cream maker and the fruit packer mutually agree to a price, or the ice cream maker may decide to buy from other packers or in other regions. If there is agreement the packer notifies the growers of the price they will receive. If the ice cream maker decides to buy from others, the packer will have to find another buyer who probably will pay only the going rate.

Shade Trees. The Willamette Valley is an ideal place for starting shade trees. Trees grow strong and fast in the mild climate and rich soil. Wholesale nurseries across the country pay a premium for quality Oregon trees. Oregon nurseries with a reputation for quality can negotiate the price of their trees in a market with a limited number of sellers and many buyers.

climbed. Prices for feed, fertilizer, and agricultural chemicals have risen at the rate of inflation, and fuel costs have gone up faster. The U.S. Department of Agriculture reports that production expenses in Oregon rose by 15% between 1994 and 1998. The largest single factor pushing up costs was labor, accounting for half the increase. Between 1994 and 1998, Oregon's minimum wage rose from \$4.75 to \$6.00, while the federal minimum wage increased from \$4.25 to \$5.15.

Ed Merriman, *Capitol Press* staff writer, comments that *"expenses associated with favorable treatment of workers and the environment may pencil out in an economic vacuum. But the real world for U.S. processed vegetable producers means competing in a less-than-compassionate global economy with many countries where wages and environmental regulation are lower. For regions like the Northwest, with a high minimum wage, competition is especially tough."*

Farmers have adopted a number of strategies to survive in this competitive world:

- Mechanizing to reduce labor costs
- Supplementing their income with off-the-farm jobs
- Switching to more profitable crops (specialty grass seed, nursery crops)
- Raising new products (native plant seeds for riparian habitats)
- Selling directly to consumers (farmer's markets, U-pick)
- Adding value to farm products (drying nuts, processing sweet potatoes)

- Expanding production (lease or buy additional land)
- Reducing inputs (using fewer chemicals or workers)

Many strategies involve eliminating some of the middlemen between the farmer and consumer. This is not new. For over a century, dairy, grain, fruit, vegetable, and other farmers have joined together in co-operatives to process and market the commodities they raise. This has helped make farming profitable. Having an Oregon co-operative process farm products has kept the income earned in Oregon.

In addition to economic pressures, farmers face other challenges including adverse weather; conflicts with urban neighbors over noise, dust, etc.; finding an adequate supply of qualified labor; government regulation and extensive paperwork; environmental regulation; increased transportation costs due to a declining number of processors; and a declining supply of farmland as gravel is mined, urban growth boundaries are expanded, and additional non-farm uses are permitted on farmland.

FUTURE TRENDS

As the U.S. has moved from being a primarily agrarian society to an urbanized industrialized society and now a communications and service-oriented society, the rural scene has been transformed. In many areas family farms with a house, barn, garden and orchard have given way to large fields worked by huge machines. Population is increasingly concentrated in urban and suburban ar-

eas. Industrial or production agriculture, aided by science and technology, has worked wonders in meeting the challenge of feeding the world population. But expanding production takes a toll on the environment, and global competition often forces prices below the cost of production. These trends impact farmers heavily but have even greater consequences for farmworkers.

Unless drastic changes are made, several agricultural professionals predict that the U.S. will no longer be food self-sufficient. As pressure mounts for land to go to the “highest use,” growing food will lose out to industrial uses, housing, malls, golf courses, and lawns. This issue is international in scope and countries that still attempt to defend their own production of food within their borders inevitably do so through some form of subsidy.

It is difficult to predict the future of Oregon agriculture. Some fear that it will lose its diversity as farmers reduce costs by getting out of crops that require hand labor or switch to currently profitable sectors. Others see promise in the growing number of farms that fill specialty niches in the market, such as organic producers. Perhaps the only certainty is that agriculture and the jobs of those who work on farms will change.

PART III – EMPLOYMENT RIGHTS AND PRACTICES; STATE LAWS AND PROGRAMS

“We’re here to help. Our goal is to make sure that all who work in Oregon enjoy fair working conditions. The State of Oregon has many laws for your protection that are enforced by the Bureau of Labor and Industries.”

—BOLI poster

Most Americans take for granted basic worker protections and guarantees including minimum wage, overtime provisions, Social Security, unemployment insurance, child labor protections, and the framework for union organizing. These standards, initiated as federal reforms of the 1930’s, excluded farmworkers. Agriculture groups were a powerful lobby that argued that the industry needed to be protected from harvest strikes and higher labor costs because of the importance of agriculture to the national

economy and the need for food security. Others assert racism against African American workers in the South was a strong factor in the exclusion of farmworkers from these laws.

Before the 1960’s, working conditions for farmworkers were virtually unregulated. During that decade, Americans became more concerned about poverty and civil rights. The Farm Labor Contractor Registration Act of 1963 set forth rules to protect farmworkers hired by farm labor contractors. These laws were replaced in 1983 by the Migrant and Seasonal Agricultural Worker Protection Act, which provided more protections for farmworkers and extended liability to farmers as well as labor contractors. Oregon’s involvement in passing laws to regulate farmwork dates back to 1959. When state and federal laws differ, the law providing more protection to employees or setting higher standards applies.

We continue today with a set of laws for farmworkers that is different and less stringent than laws that regulate the working conditions for the majority of Americans.

FARMWORKER WAGES

- **Minimum wage** in Oregon is \$6.50/hour, which along with Washington’s, is the highest rate in the U.S.
- Minimum wage applies to all farmwork, with the **exemptions** of certain small farms and family employees.
- Many farmworkers are paid by “**piece rate**.” This is an amount paid per pound or other unit picked at harvest times. Under this system, farmworkers can earn well over minimum wage when the crop is good. However, most incidents of underpayment to farmworkers are in situations where piece rate is used.
- If piece rate is used, the weekly amount paid divided by the number of hours worked must equal minimum wage. Employers are required to keep extensive records on employees, hours, and wages paid. Workers are encouraged to keep records also.
- **Deductions** for services may reduce a worker’s pay below minimum wage; this may be legal or illegal, depending on a variety of factors.
 - Tax and Social Security deductions are made, but unauthorized workers will most likely never benefit from these deductions.
 - Statistics show Oregon field workers earn an average of \$7.73 an hour (1999:



Farmworkers in Oregon

Oregon Agricultural Statistics Service). While most harvest work earns minimum wage, higher wages are offered in some areas. Examples are tree and vineyard pruners (\$13-\$17/hour), chemical applicators (more than \$12/hour), and equipment operators (\$9.50/hour).

- An *Oregonian* survey of berry pickers in 1998 showed an average pay of \$5.60 an hour, with a range of \$3.06 to \$9.30 an hour.
- **Compliance** with minimum wage law varies. Non-English-speaking workers, new immigrants, and those employed by unlicensed labor contractors are most likely to be underpaid.
- Most farmwork is **seasonal** and **temporary**: farmworkers work an average of 24 weeks a year in agriculture. Migrant workers are not paid for their time traveling to a harvest or for delays due to weather. The seasonal nature of the work as well as low wages make many farmworkers among the poorest of all workers; nationally, the median annual income of a single worker is below \$7500, and for families, between \$10,000 and \$14,000.

HOURS WORKED

- Federal and state laws requiring overtime pay (more than 40 hours a week) do not cover agricultural workers.
- Many farmworkers work long hours, especially during harvests. The number of hours worked may be at the discretion of the employee to allow maximum earnings for the day. Long working days of 10 to 12 hours may also be a requirement of the job.
- California requires payment of overtime to farmworkers if they work more than 10 hours a day or more than 60 hours a week.

UNEMPLOYMENT INSURANCE

- Oregon and federal laws exempt agricultural employers with payrolls of less than \$20,000 per quarter or with fewer than ten employees in each of 20 weeks during a calendar year.
- Washington and California require full coverage.
- Unauthorized workers cannot collect unemployment insurance. The OED must verify status of non-citizens with INS before paying insurance.
- Nationally, fewer than one-third of farmworkers apply for unemployment benefits.

WORKERS' COMPENSATION (reimbursement for on-the-job injury)

- Oregon, Washington, and California all require full coverage insurance by employers.
- Most unauthorized workers are reluctant to report work injuries for fear of losing their jobs.

BREAKS AND REST PERIODS

Farmworkers are exempted from Oregon rules requiring minimum meal and rest periods.

HEALTH AND SAFETY IN THE WORKPLACE

The Oregon Safe Employment Act (1974) gave the state a role in insuring the safety of its workforce. Rules are in place to require permits, postings, training, and record keeping for agricultural operations. The Oregon Occupational Safety and Health Division (OR OSHA) is responsible for enforcing these rules, conducting inspections, and responding to complaints.

Field Sanitation

Farmers are supposed to supply field workers with toilets, hand washing facilities, and drinking water.

Pesticides

Although both federal and state laws require safety measures and equipment for those who handle pesticides, the U.S. Environmental Protection Agency (EPA) estimates each year 300,000 farmworkers suffer acute pesticide poisoning in the U.S. Safety measures required by OR OSHA and the EPA include:

- Protective equipment for workers and handlers as specified by the pesticide used.
- Restriction from entering fields where pesticides have been applied for four to 72 hours, depending on the chemical used.
- Posted warning signs in sprayed fields that are proximate to workers.
- Records of applications, safety training, display of safety posters, and use of decontamination sites.
- Farmers are required to have a material safety data sheet (MSDS) on file for each hazardous substance in the workplace and ensure that MSDSs are readily accessible to employees when they are in the work area. Still, farmworker advocates find the system does not make it easy to anonymously access information regarding specific pesticides used at work-sites.

The Food Quality Protection Act (1996) sets limits of pesticide residue on foods to levels tolerable to

children. *The Oregonian* covered the politics of implementation of this federal law in a series of articles in December 1999. They emphasized the growing scientific evidence that there is need for change in pesticide use.

The Oregon Department of Agriculture is developing a statewide pesticide use reporting system, the result of 1999 state legislation. The system, when implemented in 2001, will provide information on all types of pesticides used in Oregon, including agriculture, forestry, and others in both urban and rural settings. This data will be collected, evaluated, summarized, and reported by quantities and locations.

In Oregon, the **Pesticide Analytical Review Center (PARC)** is a multi-agency response program for pesticide poisoning incidents in the state. PARC prepares and distributes bilingual educational publications on pesticides and also summarizes incidents and cases investigated. Incidents are reported by doctors, service agencies, workers' compensation claims, and self-referrals. The system is not comprehensive. Many poisonings go unreported as they are mistaken for flu or because workers may fear losing their jobs if they report. PARC keeps information confidential at the individual's request.

In 1996, **The Oregon Child Development Coalition (OCDC)** with the **Center for Research on Occupational and Environmental Toxicology (CROET)** at Oregon Health Sciences University (OHSU) began a community-based environmental research program to prevent pesticide exposure to farmworker families. Their aims are both to advance scientific knowledge of health effects of pesticide exposure and to empower the farmworker community. They interviewed workers and growers on culturally effective training methods for migrant workers and their families and developed a video. Their work is ongoing, collaborative, and a good model for other projects.

Two Oregon experts interviewed for this study observed that rules for safe pesticide application are not always followed. A 1998 EPA study was unable to fully assess compliance rates of farmers but was able to identify potential areas of concern for non-compliance. These areas were posting of chemicals used, training, and maintenance of personal protective equipment.

Workers housed proximate to fields are vulnerable to exposure through air drifts and water contamination. Culturally appropriate education is crucial. The OHSU research project suggests that people

TREE PLANTERS

Similar to farmwork:

- Reforestation work is seasonal, physical, outdoor work. Reforestation workers plant trees, cut brush, thin trees, and do other work to help manage timberlands.
- Reforestation is increasingly done by Hispanic crews. Some workers do tree planting in the winter and farmwork in the summer.
- Laws about working conditions are enforced by BOLI and OR OSHA.
- Northwest Treeplanters and Farmworkers United (PCUN) represents both tree planters and farmworkers, although it has no contracts with reforestation companies.
- There are complaints about unregistered contractors, contractors who cheat their workers on wages, and poor conditions in labor camps—especially unregistered camps.

Different from farmwork:

- All work is through labor contractors, who bid on jobs for private and public land managers.
- Beginning jobs start at \$8 an hour and go up to \$12. Workers want to work for contractors out of Woodburn or Medford who bid on federal jobs all over the West, but work may only be for a few winter months.
- Workers are covered by the same labor laws as most industries, such as the requirement to provide paid breaks and time-and-a-half pay for overtime.
- Jobs can be in remote locations. When they are, contractors house workers in motels or in isolated wilderness camps.
- Much of the work is on land managed by the U.S. Forest Service and the Bureau of Land Management. The state cannot require that federal agencies follow state laws, and state workers say conditions are often worst in camps on federal lands.



may be aware of some danger but may not understand how or believe they will be affected, nor do they always understand the risk to their children. Children may ingest toxins by eating unwashed fruit or vegetables, playing in fields, or through residue on their clothing, sometimes acquired through laundering with parent workers' clothes. The EPA's Pesticide Reentry Interval (REI) is the minimum period of time workers must be kept out of the field after pesticide application. This standard has been determined by using the model of a 154-pound male: many women, children, and migrant men, for that matter, are smaller.

FARM LABOR CONTRACTORS (FLC)

Many farmers hire their laborers through a contractor, most of whom are Hispanic in Oregon. While the employer is ultimately responsible for compliance with laws and regulations governing working conditions, a contractor recruits, performs record-keeping, and often provides housing and transportation for the workers.

State law requires

- **Licensing** by the Oregon Bureau of Labor and Industries (BOLI) either as a farm labor contractor, or a farm and forest labor contractor.
- **Bonding** of \$10,000 for contractors with up to 20 employees and \$30,000 for 21 or more employees.
- **Workers' compensation insurance**
- **Insurance for vehicles** used to transport workers.

The contracting system makes sense in an industry that needs a workforce for short periods of time. To make money, contractors may cut corners. Nationally, the practice of not reporting the entire crew payroll to the government and keeping payroll deductions has made contracting profitable. Some believe the penalty for hiring an unlicensed contractor should be increased, in order to put more responsibility on the farmers. A service provider who works closely with farmworkers in the Willamette Valley, observed, "I would estimate that three quarters of the labor contractors exploit the farm workers in one way or another..."

Labor contractors can also provide greater job security to workers. Some contractors may operate farm labor camps and then coordinate a variety of jobs with different growers to keep their housed workers employed over a longer season, with weeks of

work from early spring through late fall.

DISCLOSURE

- Both farmers and contractors are required by federal law to give migrant farmworkers **written statements of the conditions of employment**. This statement must include place of employment, wage rates, crops and kinds of work, period of employment, housing, transportation, or benefits provided and their cost to the worker, and information about workers' compensation and unemployment insurance.
- **Payroll records** must also be kept for migrant and seasonal workers. An itemized written statement of payroll information must be provided to the worker at the time of payment, which cannot be for more than 35 days per pay period.
- **Bilingual posting** of workers' rights and protections is also required at the place of employment.

DISCRIMINATION

Agricultural employers are required to obey the same anti-discrimination laws as other employers and cannot refuse employment on the basis of race, religion, color, sex, marital status, national origin, age, or disability.

CHILD LABOR

United Farm Workers estimates that approximately 800,000 children under the age of 18 work in agriculture in the United States. Historically, teenagers have been an important component of the farm workforce; the work has provided summer jobs and exposure to a hard work ethic. Laws now regulate the involvement of minors in agriculture. Some feel that minors of a certain age benefit from exposure to farm work; others feel that children must be protected from inherent dangers and exploitation.

The GAO reports, "Children can legally work in agriculture under conditions that would be illegal in other work settings." Oregon law allows children 16 years or older with minimum training to operate machinery on farms. Children 14 to 16 may be employed in farmwork outside school hours for as much as ten hours a day, six days a week. Even children age nine to 12 may do farmwork under specific conditions.

The National Institute for Occupational Safety and Health estimates that nationally as many as

Farmworkers in Oregon

100,000 children are injured and 100 are killed in farmwork yearly. Human Rights Watch is advocating new child labor laws. The Association of Farmworker Opportunity Programs and National Consumers League are sponsoring the Children in the Fields Campaign in response.

There is a history of lax enforcement of existing laws in Oregon and Washington; no citations for child farm labor were issued from 1994 until 1998. In August 1998, *The Oregonian* published a series of articles on child farm labor in the Northwest. In 1999 after the Department of Labor launched an initiative targeting selected crops for increased compliance in child labor practices, state and federal inspectors found 109 children younger than the legal age of 12 working in berry fields and cited the farmers involved. Children of farmworkers often work to supplement the family income which is usually below the poverty level.

Child Care and Migrant Education

Often children are in fields because of the dearth of affordable child care. In 1971, as a response to the death of a three-year-old farmworker child, farmers' wives started a volunteer child-care center, an alternative to leaving children in parked cars or accompanying parents into the fields. This cooperative effort evolved into the largest child development and child-care network in the state, the Oregon Child Development Coalition. More than 8000 children are served in nine counties through Migrant Head Start, Oregon Head Start, Migrant Education Preschool Programs, Migrant Child Care, and the Early Literacy Program.

HEALTH SERVICES

Farmworkers have different and more complex health problems than those of the general population. Farmworkers suffer more often from infectious diseases, AIDS, diabetes, hypertension, contact dermatitis, eczema, and ear infections than the general population. Because of limited access to health care, farmworkers often are seen only when their health problems are at an advanced stage. More than 40% of all farmworkers who visit health clinics have multiple and complex health problems.

Average life expectancy for a migrant farmworker is 49 years, compared to 73 for the general U.S. population (Center for Disease Control, 1988). Infant mortality is 25% higher than the national average. Farmworkers' dental health is that of a third-world population. From their work in the

fields, farmworkers frequently have back and muscle problems as they grow older. Depression (related to isolation and economic hardship) is also common among farmworkers. Poverty, stress, mobility, and lack of recreational opportunities make farmworkers vulnerable to substance abuse.

The U.S. Health Resources and Services Administration funds 14 migrant and community health clinics in Oregon. Some of these clinics are augmented by funding from the farming community. Even so, services are not sufficient to meet the need: nationally, migrant clinics serve less than 20% of farmworkers. Bilingual staff, outreach, health education, and transportation to health services are all important in serving farmworkers. The Oregon Health Plan does not serve farmworkers who do not meet residency requirements, except on an emergency basis.

PART IV - ENFORCEMENT OF LAWS

On the one hand, Oregon's farmers and labor contractors often complain that they are over-regulated and cannot possibly conform to all government requirements. On the other hand, stories abound in the media and in our interviews of routine violations of the rules. Communication between workers and employers is greatly complicated by language and literacy problems, and workers are commonly reported not to know their rights, the wages they are to be paid, and the safety requirements. Workers who do know their rights are often afraid to complain for fear of losing their jobs.

The Wage and Hour Divisions, Farm Forest Labor Unit of the Oregon Bureau of Labor and Industries (BOLI)

The BOLI farm forest unit enforces laws on prevailing wage, child labor, minimum wage, the wage security fund, and farm and forestry labor contracts. To cover the entire state, the unit has a staff of seven, including three compliance officers and one outreach worker. Most of their enforcement is complaint driven. If evidence exists to show an infraction, BOLI tries to resolve it, and if this is not successful an administrative hearing is set. In the case of an unlicensed contractor, one month is given to get the license. The maximum penalty for using an unlicensed contractor is \$2000. Also, large

Farmworkers in Oregon

amounts (over \$2 million by IRS, and \$445,000 by Oregon Department of Revenue) have been collected from labor contractors for lack of tax compliance since 1996.

In the case of underpayment of wages, BOLI tries to collect from the employer. Critics say collection of back wages alone is not sufficient; penalties are needed to encourage compliance with the law. BOLI assesses penalties (paid to farmworkers) only if forced to pursue collection through a contested case. In the 29 months ending May 31, 2000, 354 wage claims were filed and \$73,000 was collected in payments to workers. BOLI does not possess legal authority to assess civil penalties on employers who underpay workers. They can assess civil penalties for contractor violations, and these fines are sent to a state fund for farmworker housing.

Oregon Department of Consumer and Business Services; Occupational Safety and Health Division (OR OSHA)

In the area of farmworkers, OR OSHA is responsible for enforcement of laws on general agricultural safety, pesticides, and farm labor camps. OR OSHA has five field offices in Oregon, with approximately 80 compliance officers: 25 of them trained in agriculture, 12 of whom are also trained in pesticides. The managers interviewed believe this is an adequate staff for enforcement for the current number of farm labor camps. Their work is performed in three facets: consultation, training, and inspections. Consultation gives employers a chance to learn of compliance issues without being fined. OR OSHA has the authority to give sanctions and assess fines. They do not issue warnings but use citations on a first-time offense. In 1999 they conducted 160 inspections of farm labor camps and 22 pesticide inspections. OR OSHA has adopted a program directive to improve its inspection of pesticide use; increased inspections were planned for 2000. Inspections will not be solely complaint driven in the future.

In early 2000, PCUN filed a complaint with federal OSHA alleging that OR OSHA was not adequately enforcing laws. Points of concern were failure to inspect labor camps and workplaces at times workers were present and when pesticides were being applied, the need to interview workers out of the presence of employers, failure to make referrals to other agencies (Department of Health), and inadequacy of penalties. In response, OR OSHA drew up an Agricultural Action Plan and meets with PCUN

quarterly to review their progress in implementation. OR OSHA recently worked with a group of growers, labor organizers, legislators, and other agency representatives to revise the standards for farm labor camps; some rules were weakened, others strengthened. OR OSHA improved its system of labor camp inspections in 1998, coinciding with media attention. The agency seems generally responsive to criticism and has shown a willingness to work with outside parties.

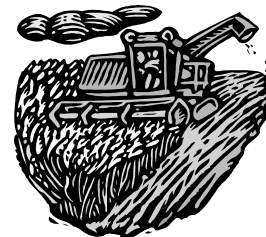
Other Agencies' Roles in Awareness and Enforcement

Enforcement of Oregon farm labor laws is also supported by the activity of organizations that are advocates for farmworkers. Such organizations may gather information on violators, bring lawsuits, file complaints, seek media coverage, etc., and are generally credited with keeping the issues alive in the Legislature and in the consciousness of the enforcement agencies and the general public. The OED also has a role in informing workers of their services, the laws, and the avenues for registering complaints.

In 1998 *The Oregonian* featured articles on farmworker issues that described poor conditions in farm labor camps, lack of enforcement of child labor laws on farms, and lack of payment of minimum wage. Since the series, some increase in enforcement has occurred.

Complaint-driven Enforcement and an Unauthorized Workforce

Enforcement of laws governing working conditions for individual farmworkers is hampered by the immigration status of many workers as well as by such factors as cultural and language barriers, lack of education, and isolation. While regulations apply to all workers, regardless of residency status, undocumented and even legal alien workers' willingness to file complaints or answer inspectors' questions is profoundly affected by their distrust of government agencies and fear of deportation or loss of employment.



Farmworkers in Oregon

PART V - FARMWORKER HOUSING

“Farmworkers will tell you it is easier to find another job than it is to find another place to live.”

—Larry Kleinman, PCUN



Although farmers have traditionally been the suppliers of housing for migrant farmworkers, the state has become involved in regulating the housing farmers provide and in finding other solutions to the shortage of decent and safe housing for migrant as well as seasonal and permanent farmworkers. In 1989, the Legislature adopted a policy that the state was “to insure adequate agricultural labor accommodations commensurate with the housing needs of Oregon’s workers that meet decent health, safety and welfare standards.” Also adopted were policies to encourage communities to site more housing within their boundaries. A tax credit program was created to help finance the construction and rehabilitation of farmworker housing. Today the shortage of farmworker housing is as bad as (if not worsen than) it was in 1989. The last decade has also been a time where many exemplary models for farmworker housing have been introduced in the state.

Farmworkers encounter special problems in finding adequate housing. Most cannot afford market rate rents, rental deposits, and other costs of private housing in the community. Finding short-term housing for seasonal work is difficult, if not impossible. Many migrants send money home to support family members and need to spend a minimum on housing for themselves. Language and cultural barriers are also a factor.

Farm Labor Camps

Farmers are increasingly turning away from housing their workers. In 1999, 310 farm agricultural labor camps (formally called agricultural labor housing) were registered with OR OSHA, the state agency charged with regulating this housing supply. These 310 camps reported 12,454 occupants. This is a decrease from about 1000 camps in 1959 (an era of greater reliance on hand harvesting). Farmers say the cost of providing and maintaining this housing and increased government regulations are the main disincentives to providing farmworker housing.

The state requires operators of farm labor camps to

register annually. Failure to register results in penalties, recently increased from \$250 to \$2500. A pre-occupancy inspection for new camps determines if health and safety standards are met. Registered camps are required to meet

state standards and are visited randomly or in response to a complaint. Inspectors cite problems which must be corrected and issue fines, depending on the seriousness of the violation. Before 1998, OR OSHA inspection of camps was minimal, averaging one inspection per registered camp every 17 years. OR OSHA has increased inspections to 150 camps a year.

Many unregistered camps exist. In some cases farmworkers are living in a farm building not intended for human habitation – a barn or other outbuilding. Old housing trailers have been observed which are not hooked up to any sewage or septic system. Workers may use irrigation water for drinking, cooking, and bathing. The number of unregistered camps is unknown but has been estimated to be as high as twice the number of registered camps. The living conditions in unregistered camps have been described as abominable.

Some further issues related to farm labor camps include:

- The landlord and the employer (either a farmer or labor contractor) are usually the same party with a great deal of power over the farmworker, who may not complain for fear of losing both housing and employment.
- Rural locations isolate farmworkers from communities and services. Transportation is an additional service need.
- Tenants’ access to outside parties may be limited. State law allows access by medical, public and other service providers, and religious representatives, but workers may fear reprisals from employers if they talk with these people.
- Even though some camps are substandard, the closure of a camp leaves workers with no housing. If a camp is closed, state law requires the farm labor camp operator to provide housing to workers free of charge for seven days.
- Living in labor camps used to be free; now it costs about \$20 a week per person. Charging for housing, some say, is a method to offset costs incurred by the raise in minimum wage.
- Farm labor camps intended for single men are often unsuitable places for families with children.

Farmworkers in Oregon

- Farmworker advocates say fines for bad conditions in camps are not enough to motivate operators to comply with state standards. Farmers resent inspections and fines when they know unregistered camps exist with much worse conditions.
- Tenant/landlord law may or may not apply to the worker/farmer relationship, depending on a variety of factors, such as proximity of housing to work.
- One third of the state's registered farm labor camps are in Hood River County. Farmers built these camps decades ago to attract workers to their orchards. These camps have been noted for their above average conditions, probably among the best in the Northwest.
- Farm labor camps qualify for the state's tax credit, and farmers would like the state to continue this program.

Publicly Financed Community-based Housing

Because of the many problems involved with farm labor camps, community-based housing has become a more popular model for new farmworker housing construction. A variety of state and federal funding and loan sources are packaged to make these projects feasible and affordable to farmworkers. CASA of Oregon, a non-profit agency with expertise in farmworker housing development, has worked with local agencies throughout the state to build community-based housing projects. Since 1988, 530 units have been constructed in 14 locations. Settled workers occupy most units, with a smaller proportion reserved for migrant workers. This type of housing includes several advantages:

- The community location gives farmworkers access to services and a better chance to become integrated into the community.
- Housing meets building code standards and is relatively affordable.
- The farmworker's landlord and employer are separate parties.
- Some projects encourage a sense of community and offer on-site services to assist farmworkers to improve their lives.

The major problem with providing community-based housing projects is the cost. These developments require a deep public subsidy, limiting the number of units that can be built. According to CASA, current cost for a four- to eight-occupant unit is \$90,000. In addition to public cost, this housing is difficult to develop because of problems finding acceptable building sites, encountering

community resistance, and developing expertise required to fund and manage these projects. Projects housing seasonal workers require operating subsidies to cover turnover costs and maintenance during periods when the units are vacant.

Market-rate Housing in Communities and Homelessness

The vast majority (over 60%) of farmworkers are housed in Oregon communities, competing with other low income groups for the scarce, lowest cost housing. CASA estimates that an additional 10% of all farmworkers are homeless.

Farmworkers who are best able to locate and afford market-rate housing are those who have year-round work, have been working in this country for several years, and are becoming permanent residents. Farmworkers who are just arriving in this country to work, are migrants, or are sending money elsewhere to support family members are housed in the poorest conditions.

Proposed Solutions

Efforts to study and find solutions to Oregon's farmworker housing problem date back several decades. The 1999 Legislature appointed a Farm Worker Housing Task Force (FWHTF), to study the problem and make recommendations for action for the 2001 legislative session. Some of the major issues and ideas for solutions discussed over the years include the following:

- Solving the problem of farmworker housing will require significant investment. The 1999 Legislature allocated \$1 million this biennium for migrant farmworker housing. Washington state has a comprehensive farmworker housing strategy supported by \$40 million over ten years (\$8 million this biennium). Funding is needed not only for development costs but to support planning, start up costs, operating subsidies, emergency housing, and capacity building for organizations developing and operating community-based housing.
- Community-based farmworker housing provides many benefits over farm labor camps, but farm labor camps use private as well as public resources to house farmworkers. There is a question as to whether the state should encourage both types of housing with public support.
- The local review process has prevented many multi-family farmworker projects from occurring. Making farmworker housing an outright allowable use in some land-use zones is a possi-

ble solution.

- Infrastructure (water, sewer, utilities) is lacking in many rural areas where farmworker housing is needed.
- CASA of Oregon has developed a prototypical multi-family project for use in rural Oregon communities. The use of prison-manufactured housing, yurts, and tents has been discussed.
- There is agreement that the state should be more involved in locating unregistered farm labor camps, assessing fines, and requiring operators to become compliant with state standards.
- A great variety of agencies is involved in farmworker issues without a process in place to coordinate their efforts.

PART VI - THE POLITICAL ENVIRONMENT

UNIONS

A union's mission is to afford workers the right to participate in decisions that affect their working environment. The 1935 National Labor Relations Act (NLRA) gave most workers the right to organize, strike, and collectively bargain with employers, but it excluded farmworkers. The right of farmworkers to engage in collective activity is left to state law. Organizing farmworkers is difficult. Much of the workforce is seasonal and migratory, and workers lack the financial resources to sustain a strike. Workers and employers are dispersed in thousands of farms with all scales of operation. There is an imbalance of power between the agricultural industry and workers who are at the lowest rung of the economic ladder.

Efforts to attain collective bargaining rights for farmworkers in different states have met with different results. In California, the United Farm Workers' (UFW) campaign led to the passage of laws in 1975, creating an agricultural labor relations board to oversee union elections and contracts. This model places farm labor in a political arena, with funding decisions and board appointments at the discretion of elected officials. With the Farm Labor Organizing Committee (FLOC) in Ohio and more recently in Washington state, labor relations have been successfully overseen by a private commission, not by state laws. Such a private commission is established with rules for union elections and contracts that are agreeable to farmworkers

and farmers who are equally represented on the board. Grants and private contributions are the funding source. The advantage of such a model is its independence from state politics.

While labor organizing is naturally adversarial, when union contracts are established, the relationship may change to be more collaborative. In the best examples of current UFW contracts, the words "trust" and "communication" are used to describe relations between workers and employers. Nationally, few farmworkers work under a union contract. Union involvement can achieve improvements in working conditions, wages, and most importantly, the right to speak up about unfair labor practices.

Pineros y Campesinos Unidos del Noroeste

Oregon has one farmworker union, Pineros y Campesinos Unidos del Noroeste (PCUN), Northwest Treeplanters and Farmworkers United. Established in 1985, it is active in Marion, Polk and south Clackamas Counties. An initiation fee to join PCUN has been paid by 4500 farmworkers. Located in Woodburn, its goal is to "empower farmworkers to understand and take action against systematic exploitation and all of its effects." The union's multi-faceted program includes:

- a service facility (for information and advocacy on immigration, financial, legal, consumer and employment issues)
- educational workshops
- language and citizenship training
- a women's project (offering leadership and economic development through making and marketing Christmas wreaths)
- advocacy work in all arenas (Legislature, legal cases, labor camps, state and federal agencies, etc.)
- a pesticide project
- a media and archives project which includes newsletters and updates to more than 2700 supporters
- an immigrant rights coalition
- farmworker housing activities

PCUN has negotiated contracts with three small-scale Oregon farmers. The boycott against NORPAC Foods continues to be a major effort. (See: **NORPAC Boycott**)

Collective bargaining: PCUN believes collective bargaining and union contracts are the best way to achieve changes in working conditions for farmworkers. The right of Oregon farmworkers to engage in collective activity without employer retaliation is currently unclear. (See: **Oregon Roses**)

NORPAC boycott

The PCUN-organized boycott of NORPAC, a cooperative that produces canned and frozen fruits and vegetables under the Santiam and Flav-R-Pac labels, is at the center stage of a battle between many Oregon farmers and PCUN farmworker supporters. The heated rhetoric includes claims that are flatly denied by opponents.

PCUN began boycotting NORPAC products in 1992 after a large NORPAC grower refused to negotiate with the union. The boycott's goal is to achieve collective bargaining agreements for farmworkers employed on NORPAC-member farms. PCUN lists 100 community groups, unions, religious organizations, and universities as supporters in the boycott campaign. PCUN believes the boycott is a significant strategy in gaining union reforms for workers.

Farm associations are alarmed that the boycott targets a cooperative that has helped farmers stay in business. They state that NORPAC has no authority over the relationship between its 240 members and their workers. Most NORPAC growers do not employ farmworkers. NORPAC was founded in 1924, and its 4000 employees are unionized through the Teamsters, making it the largest unionized business employer in Marion County.

Oregon churches are divided on whether to support the boycott. The Board of Ecumenical Ministries of Oregon, which includes 16 denominations, voted in 1996 to support PCUN and its boycott of NORPAC. The governing bodies of the United Church of Christ and the United Methodists Church have given official support. A number of individual churches and church officials in other denominations support PCUN and the boycott.

Primary or Secondary? PCUN says the NORPAC boycott is a primary boycott because the cooperative is grower-owned. Farmer groups call it a secondary boycott. By definition, a primary boycott is carried on against a party to punish or coerce it into a particular course of conduct. A secondary boycott is against a third party in order to place pressure on another. Secondary boycotts are prohibited in industries regulated by the NRLA.

Case) PCUN wishes to retain the ability to organize consumer boycotts, including secondary boycotts.

PCUN as advocate: Many recognize the important role of PCUN as an advocate for a group of workers that has little voice. Efforts by PCUN and legal aid attorneys as well as media attention have increased awareness and enforcement of farm labor laws. The union is seen as an effective organization in increasing attention to farmworker issues and bringing pressure for improvements.

FARMER ORGANIZATIONS

The Oregon Farm Bureau Federation (OFBF), with 10,000 farmer members, is the largest agricultural organization in Oregon. The Oregon Association of Nurserymen, with 1400 members, represents the largest and fastest growing sector of Oregon agriculture. Other groups represent tree fruit, Christmas tree, and other sectors of farming. The mission of these non-profit agricultural associations is finding solutions to problems facing farmers and promoting Oregon agriculture.

Farmer associations have been proactive in many agricultural labor issues. The unauthorized status of many of Oregon's farmworkers is a major concern. Without a legal workforce, farmers fear that Social Security audits or INS investigations will force them to lay off their workers at critical times and cause them to lose their crops. A major legislative focus is to obtain a legal workforce. Farmers agree with Senator Gordon Smith, who has said, "It's an impossible situation to have farmers as felons and farm workers as fugitives."

Farmer organizations and unions

Farmers need certainty in employment practices and are uncomfortable with the present situation where some firing practices may be countered by law suits. **(See: Oregon Roses Case)** Some farmers believe it is time for a collective bargaining law to clarify the rules under which working conditions are negotiated. Two pillars of any act supported by farmers would be prohibitions of secondary boycotts and harvest strikes.

Farmworkers in Oregon

Farmers and regulations

Farmers find that compliance with a large number of state and federal labor laws is costly and difficult. When labor rules and their enforcement become too onerous, farmers say they will stop raising crops that require workers. Farmers think that the number of farmers who willfully violate laws and fail to treat their employees with respect is small. They think these lawbreakers should be punished. The Coalition of Agricultural Employers—a coalition of OFBF, Oregon Association of Nurserymen, Northwest Food Processor's Association, and other agricultural groups—is discussing ways to help members work with their peers to assure that all employees are treated with respect.

Other issues

OFBF is a strong supporter of the state's land use system, especially the preservation of agricultural lands. Farmer organizations are concerned over the shortage of farmworker housing. They favor retention of state programs that assist farmers to build and rehabilitate agricultural labor housing.

STATE LEGISLATION

Proposed legislation often divides into two categories: that which supports increased worker protections and that which works for safeguards for the agricultural industry. In the conservative climate

of recent sessions, most bills have been introduced by the agriculture industry, with worker advocates taking a reactive stance.

The last comprehensive package of worker-oriented legislation was enacted in the 1989 session. Laws were passed to reform farm labor contracting rules, increase regulation as well as access to farm labor camps, establish the farm worker housing tax credit program, and commit the state to address the housing needs of farmworkers.

The sessions of the early and mid 90's saw minor revisions to state laws. Registration of farm labor camps was transferred from the BOLI to OR OSHA. Revision of farm labor contracting law, including licensing and bonding requirements, was enacted.

Farmer associations introduced a variety of bills in 1997 and 1999. In both sessions, legislation concerning farmworkers' rights to bargain collectively was proposed (**See: Oregon Roses Case**). The governor vetoed both proposals. Also in both sessions, proposals to exempt some agricultural workers from minimum wage were sponsored, both times without success. Other proposals included looser requirements for farm labor contractors' written agreements with workers, some exemp-

Oregon Roses Case

In 1993, 11 workers filed suit against their employer, Oregon Roses of Hillsboro, because they were fired for complaining about changes in their wages. The case was settled out of court in an agreement that provided a \$30,000 payment to the group for lost wages and allowed the defendants to appeal over the issue of the law. The issue of the law was debated in the courts and in the Legislature until the Oregon Supreme Court dismissed the case in August of 1999 by ruling that the defendants had no right to appeal because the original case had not gone to trial.

The issue of the law was the right of agricultural employers and employees to bargain collectively. Were the actions of the workers who complained about their working conditions "protected" activities? Oregon is an at-will employment state, which means employers can fire their workers without cause. There are some exceptions or protections, such as protecting employees from being discharged because of race, age, or gender.

Oregon Law Center attorneys cited a 1930's statute known as the Norris-LaGuardia Act as the basis for protecting the collective activity of the workers. In the spring of 1997, the Court of Appeals said that "concerted activities" of farmworkers were protected. Farm groups rushed a bill through the Legislature that would have overturned this decision, but the governor vetoed it.

In 1999, farmer organizations were back at the Legislature with a bill that protected all collective activity except slowdowns, strikes, and refusals to return to work when asked to do so. Opponents charged that the bill rolled back workers' rights, and the governor vetoed it. Two weeks later the Oregon Supreme Court dismissed the case. This leaves the issue of farmer and farmworkers' rights unresolved. Both sides claim the law supports their position.

Farmworkers in Oregon



tions of requirements for a workplace safety committee, and less use of citations by OR OSHA on non-serious violations during first inspections of farm labor camps. All three of these bills failed.

Bills passed included a 1997 requirement that operators of farm labor camps provide housing free of charge for seven days to residents in the event of closure of a farm labor camp. A task force was appointed and an allocation was made for migrant farmworker housing in the 1999 session (see discussion under “Farmworker Housing”). Laws were enacted to increase fees and requirements for farm labor contractor licensing, and a labor mediation program was approved under the Department of Agriculture.

In the area of increased worker protections, all legislative sessions of the last decade have seen unsuccessful proposals to extend unemployment insurance coverage to all farmworkers. In 1999, a law was enacted to establish a pesticide use reporting system administered by the Department of Agriculture. (See discussion under “Pesticides.”)

LEGAL PROCEEDINGS

The courts are an important arena for interpretation and enforcement of state agricultural labor law. Farmworker attorneys initiate lawsuits seeking correction of individual infractions, interpretations of the law to clarify worker protections, and increased awareness and enforcement of the law. Farmers are increasingly aware of lawsuit vulnerability. Many attend seminars sponsored by The Farm Employers Labor Service on “Trends in Farm Labor Litigation.” In the legislative arena, the agricultural industry introduces most of the legislation which worker advocates work to defeat. In the area of litigation, the worker advocates are the proactive party, with the farmers in the reactive role.

Both Legal Aid Services of Oregon and the Oregon Law Center represent farmworkers in litigation on matters of noncompliance with state and federal laws. Both agencies have active outreach programs to make farmworkers aware of their legal rights and the legal representation available. If farmworkers meet income guidelines, services are provided free of charge.

Farmers must hire their own attorneys when cases

are brought against them. Farmers think that many of the cases are on minor technical violations. Many believe they would win in the courts but will settle out of court to avoid the cost and stress of a court case. In most cases, the result of the lawsuit is compensation to the worker, correction of the situation, and/or payment of penalties.

MEDIATION PROGRAMS

The Oregon Department of Agriculture offers a labor mediation program as an alternative to court legal proceedings. In demand letters sent by Oregon Legal Services or the Oregon Law Center, farmers are normally told of the availability of this mediation program at no cost. If the farmer wishes to participate, the mediator meets initially with the lawyers representing both the farmer and the worker. After researching the case, the mediator sets up a time where all parties and their legal representatives meet to express their grievances. Most mediated cases require a one-day proceeding to reach settlement. The program has handled 40 to 50 cases since its inception in 1996 and has a high rate of resolution. Farmers may feel that a legal complaint is unwarranted, but they will participate in this program to avoid the expense and stress of a court proceeding.

Services to Agricultural Workers (SAW) is a mediation program funded by the Coalition of Agricultural Employers to promote dialogue between workers and farmers in a labor dispute. The goal is better communication between the two groups through private discussion. Farmers and farmworkers can invite the SAW mediators, the Latino clergyman and his wife from the House of Zion Ministries, to facilitate a dialogue which is kept confidential. The program has been in existence for about a year. A separate, non-agricultural Board of Directors oversees the program. The program is designed to address misunderstandings that may arise due to language and cultural differences, fear of speaking out, and any area where greater communication is needed.

OREGON COMMUNITIES

Many communities in Oregon are experiencing a change in demographics due to large farmworker populations. The reactions are many and range from welcoming these residents and the diversity they bring to being resentful of community change. In “Immigrants in Rural Communities; Policy Implications,” Susan Martin from Georgetown University presents a model for communities in serv-

ing their farmworker population:

- Newcomers need orientation services including explanations of U.S. laws, principles of democracy, and financial institutions; drivers' training; and an understanding of how to obtain services including housing, health care, child care, and schools.
- Educational opportunities should be emphasized and enhanced for adult immigrants without a high school education as well as for immigrant children and U.S.-born children of immigrants. Education and language acquisition are crucial for integration.
- A final suggestion is that governments provide aid to communities that are experiencing an influx of immigrants and that this be part of a national immigration policy. Without such assistance, communities struggle with limited resources to serve the needs of immigrants, setting the stage for a backlash against these new residents.

A Sampling of Community Programs

Catholic Charities runs El Program Hispano in Gresham, with 18 employees offering mental health counseling, gang outreach, language classes, and student retention projects. A similar program in Canby also operates a 26-unit housing complex. A Washington County outreach program will open soon, with emphasis on information and referral. The **Oregon Human Development Corporation** has seven offices around the state which channel federal funding into job training for farmworkers who want to move into other, more permanent jobs.

This private, non-profit agency offers other services by contracting with the state, including bilingual information on immigration rules and other topics. The **Linn County Extension Service** offers bilingual, culturally effective training on farm safety and has expanded to offer other needed classes, such as drivers' training. **Community colleges and Education Service Districts** often offer language classes or programs for Latino children and adults to boost their success.

In Oregon today, a broad array of programs and services has been created by churches, service providers, and community organizations attempting to respond to the needs of farmworkers. Several programs receive financial support from farmers. All these efforts are too numerous to be listed in this report.

FARMWORKERS AND RACISM

Perhaps the most difficult aspect of the relationship between farmworkers and their employers is racism. Although pay and working conditions are important to all workers, being treated with respect and dignity is considered crucial. Most farmworkers come to Oregon from Latin America desperate to find work. For persons of color from another culture, often with little education and a language barrier and performing a type of manual labor that is not desired by others, the potential for exploitation is high. Although most employers believe themselves to be fair, open, and decent (farmers frequently mention the loyalty of their workers and warm personal relationships) it is important to recognize and guard against patronizing behavior.

Problems of race and class also pervade life outside farmwork. Latin Americans who come to do this work often want to stay on and find non-agricultural jobs as soon as possible. But the stigma of color follows them to the new job, housing, community, and school. Often, even proficiency in English, educational achievement, and job skills do not protect an individual from racist discrimination. White people are frequently unaware of the pervasiveness of white privilege, which gives subtle advantages to them and disadvantages to people of color.

Prejudice and discrimination are manifest in many ways, all of which are a denial of a person's civil and human rights. If our neighboring country with serious economic problems were Canada instead of Mexico, would workers encounter the same difficulties? Any efforts to improve the situation for farmworkers in Oregon will need to address the problems caused by race, class, culture, language, and educational differences.

PART VII – CONSUMER ISSUES

“Eating is an agricultural act.”
—Wendell Berry, writer and farmer

Do consumers bear any responsibility for our country's system of food production, including our treatment of farmworkers? The average U.S. family uses 8% to 10% of its expenditures on food to be prepared for home consumption. This percentage

Farmworkers in Oregon

Where does your grocery dollar go?

On average, farmers receive 23 cents for each dollar consumers spend on food. For each dollar spent on fresh produce, farmers get an average of 18% for fruit and 20% for vegetables. Farmworker wages and benefits average a third of farmers' costs. So, for a \$1 head of lettuce, the farmer gets 20 cents and the farmworker gets about six cents (or less after labor costs such as housing and transportation). For a box of Wheaties, the farmer receives three cents for the wheat that makes the product and Tiger Woods, whose picture is on the box, gets ten cents per box.

is the smallest of all counties in the world. For comparison: 14% is spent on food in England, 20% in Japan, 50% in India and China; the percentage is even higher in the developing world.

In 1900 the average American family spent 60% of its income on food. Much has changed in farming in the last 100 years. Improved technology has allowed global trade of agricultural goods. Items sold in American grocery stores travel an average of 1300 miles from production to the market shelf. Most Americans know little about the chain of food production, the pressures on American farmers, or the treatment of workers on U.S. farms. They know even less about the way food is produced in other countries. U.S. food policy has long emphasized cheap food, and most Americans shop for the lowest prices without considering the larger consequences

of their spending choices.

Efforts do exist to help the consumer consider the political nature of food buying: consumer boycotts aim to draw attention to unfair production methods. Some food is labeled for its method of production, union labor, or limited use of pesticides. The Food Alliance markets food produced according to a certification process that includes some labor standards; however, this food is found almost exclusively in higher priced markets. While most Americans are primarily interested in low prices for food, the potential exists, through awareness campaigns, to educate consumers about issues that can be supported through food purchase: socially just labor practices, support for local agriculture, and environmentally healthy farming methods.

Daniel Rothenberg reminds us:

"The apparent invisibility of production is a form of social forgetting, a politics of glossing over the real social and economic relations that allow for our high standard of living. Considering the world of farm laborers presents a powerful corrective to a society easily enamored with its own self-serving myths. Still, it is Americans' deep-rooted desire to believe in equality and the march of progress that makes farmworkers' situation so poignant, creating a discomfort born of our country's failure to live up to its own ideals."

INTERVIEWS AND OTHER CONTACTS

Members of both the League's statewide committee and local League committees interviewed or obtained information from a wide range of individuals in the course of this study. Many of these people are listed below.

FARMERS AND FARMER ORGANIZATIONS

Agribusiness Council of Oregon – Mary Stewart, Roy Malensky, Marcus Simantel.
Columbia Empire Farms – Floyd Ayler.
Farm Employment Labor Service – Roberta Gruber, Roy Mosqueda, George Daniels.
Holiday Tree Farms – John Schudel.
J. Frank Schmidt & Sons – Norbert Kinen, Marilyn Becker, Gary Furr, J. Frank Schmidt III.
Mid Valley Farms – Dennis Glaser.
Monrovia Nursery - Rick Wells, Christine Ames, Mark Buckels, Salvador Zamadio.
Naumes, Inc. – Sue Naumes.
Northwest Food Processors Assoc. – Kenneth Yates.
One Step Forward Farm – Dave DeCou.
Oregon Assoc. of Nurserymen – John Aquirre, Clayton Hannon.
Oregon Farm Bureau – Tim Bernasek, Don Schellenberg.
Parks Nursery – Rod Parks.
Stalhbush Farms – Karla Chambers.
Townsend Berry Farms – Mike Townsend.

Woodburn Nursery and Azaleas – Tom Fessler.
Barbara and Lynn Lundquist, Leslie Elliott-Knight, Stan Dansky, and others who wish to remain anonymous.

CHURCH AND COMMUNITY GROUPS

Catholic Charities – Dennis Keenan.
Community Outreach, Corvallis – Patty Pate.
Ecumenical Ministries of Oregon – Jan Harkness, Dan Bryant.
El Programa Hispano – Francisco Lopez, Carlos Nunez.
Friends of Seasonal and Service Workers – Barbara Sarantitis.
House of Zion – Martha Garcia.
Lutheran Advocacy Ministry – Norene Goplen.
Methodist Farm Worker Task Force – John Pitney, Del Shirley.
Oregon Human Development Corporation – Frances Alvarado, Delta Colbray, Diane Treadway, Laura Soliz, Yolanda Heminger.
Oregon Farm Worker Ministry - Sara Meza-Romero.
St. Joseph Shelter – Sister Adele Mansfield.
St. Mary's Church, Corvallis – Silvia Vasquez-Rios.
St. Vincent de Paul – Janice Telster.

Farmworkers in Oregon

FARMWORKER ORGANIZATIONS

PCUN – Ramon Rameriz, Erik Nicholson, Susan Dobkins, Leonidos Avila.

Unete - Dagoberto Morales.

Western Farm Workers Assoc. – Lazaro Gomez et al.

FARMWORKERS AND TREEPLANTERS

A number of farmworkers and tree planters were interviewed as part of this study. They wish to remain anonymous.

FORESTRY/TREE PLANTING

Bureau of Land Management – Bill Bentley.

Douglas County Woodlands Assistance Program – Gary Groth.

Menasha Corporation - Mike Enyeart.

Messerle and Sons, Inc. - Donald E. Messerle.

Miller Timber Services – Lee Miller.

Oregon Dept. of Forestry – Bob Young.

STATE AND FEDERAL AGENCIES

Oregon Bureau of Labor and Industries – Jack Roberts, Nedra Cunningham, Raul Ramirez.

Oregon Dept. of Agriculture – Phil Ward, Brent Searle.

Oregon Employment Dept. – Virlena Crosley, Larry Hanson, Mary Lewis, Elaine Morales, Jan Swander, Christina Dunker, Chuck Wood, Joe Eddy, Don Baldwin, Eric Villegas, Susan Austermler.

Oregon OSHA – Rod Comstock, Nancy Cody, Tom Hoffman.

U.S. Immigration and Naturalization Service – Kelley Slaughter.

HEALTH, EDUCATION AND HUMAN SERVICES

Ad Hoc Health Care Group – Nancy Abrams, Millie Lane, Tina Castnares.

Centro Latinoamericano – Maria Maldonado.

Clinica del Valle – Rachel Linder.

Family Medical Center, Walla Walla – Sylvia Arroyo.

Hermiston Community Health Clinic – Jim Gallagher.

Jackson County Head Start – Alan Berlin.

Malheur County Migrant Head Start – Lori Clarke.

Migrant Education - Crook, Deschutes, Jefferson, Grant and Wheeler Counties – Frank O’Hearn.

Milton Freewater WIC Office – Micki Winnett.

Morrow-Umatilla County ESD – Yadira Gonzalez.

Oregon Child Development Corporation – Juanita Santana,

Graciela Howard, Gracie Cortez, Martha Elena Molitar.

Salud – Carlos Medina, Esther Madrigal.

Talent Schools, ESL – Julia Garcia

Umatilla County Migrant Head Start – Roxanne Malmberg.

Bruce Campbell, Health Consultant.

Tom Maravilla, Teacher.

Linda Johnson, Teacher.

Terri Jimanez-Sutton, Social Service Worker.

HOUSING

CASA of Oregon – Peter Hainley, Lucia Pena.

Farm Worker Housing Development Corp. – Roberto Franco.

Malheur County Housing Authority – Sierra Vista – Jane Rodriguez.

Oregon Legislative Farmworker Housing Task Force.

LEGAL SERVICES

Oregon Dept. of Agriculture Mediation Services– Ken Pallack.

Oregon Law Center – Michael Dale.

Oregon Legal Services – Denise Harrington, Bob Turner, Raul Herrera, Magdalena Reyes.

Mike Unfred, Attorney.

OSU EXTENSION SERVICE

College of Agricultural Sciences – Thayne Dutton, Mike Burke, Peter Bloome.

Dept. of Agricultural and Resources Economics – James Cornelius.

Linn County Extension Service –Alex Muñoz, Mark Mellbye.

Malheur County Extension Service – Marilyn Moore.

Malheur Experiment Station – Clinton Shock.

Marion County Extension Service – John Burt, Dan Hoynacki, Mary Lou Cornejo

North Willamette Research and Extension Center - Hannah Mathers.

Willamette Valley Vegetable Crops – Dan McGrath.

OTHER

City of Independence – John McArdle.

Consul General de Mexico - Alma p. Soria Ayusa.

Hasta Aqui, Inc. – Zulma Huggins.

Human Rights Watch – Darlene Adkins, Coordinator, National Consumers League Child Labor Coalition.

Marion County Sheriff – Raul Ramirez.

Medford Police Dept. – Maria Swann.

OSU Dept. of History – William Robbins

Senator Ron Wyden’s Office – David Blair.

Senator Susan Castillo.

The Food Alliance – Jennifer Allen.

The Oregonian – Alex Pulaski.

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West Medford Community Coalition – Gigi Michaels.

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TABLE OF CONTENTS

Labor History and Current Workforce	2
Agriculture	5
Employment Rights, Laws and Programs	8
Enforcement of Laws	12
Farmworker Housing	14
Political Environment	16
Consumer Issues	20