

Privatizing the Costs of the California Farm Labor Force

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"A damp chill and fog of the December morning jarred my senses as we drove from Orange Cove to a vineyard near Kerman. The eight-unit housing complex just off the road resembled a small unmarked motel. The resemblance was gone when we entered one of the small two-room apartments. Three women, one man and three children, all indigenous migrants from southern Mexico, were leery of the tall white man but were reassured in the Mixtec language by our guide, their paisano from Oaxaca.

"The furnishings were sparse: a metal frame cot with a bare mattress, a small kitchen table, a refrigerator, a gas stove and two wooden chairs in the first room. Because the gas heater was broken all of the gas jets of the stove were burning strong, providing some warmth to fend off the morning chill. But there was no exhaust or vent. I focussed on the danger, not the cold, something that I realized later was because I didn't live there.

"The second room held three more metal cots that, like their neighbor, had bare mattresses. A single wooden chair and a small TV set placed in the middle of one of the cots completed the furnishings. A small closet with the door ajar revealed crumpled up sleeping bags on the floor. I learned later that the children slept there, the better to huddle together for warmth. Another door led to a tiny toilet. Unlike the motel in my mind there was no shower, no bath, and no basket of toiletries on a spotless sink counter.

"The man held his youngest child close while we spoke as if to shield him from the stranger. He said that three families shared the two rooms. The other men were working, pruning vines. Their boss was a labor contractor who rented them the apartment. I asked how much was the rent. He said they paid \$375 per month. I recalled the \$27 per week average rent that we had found in the labor contractor survey and realized it was right on target. I asked what he thought of the apartment. He

spoke of the broken heater and the crowded facilities. I asked what he thought was a fair rent. He said that \$250 per month would be fair. I asked if there was anything that he thought the contractor should provide with the apartment but did not have. He paused for a moment and, while holding the child close in his arms, said, 'I would like some sheets and a blanket for the bed.'"

- Kerman, California, December 15, 1991

Historical Perspective: Keep Them Separate

Some fifty years ago, Carey McWilliams, in his social history of farm labor markets in California agriculture, emphasized that in the decades before World War II most agricultural communities in the state sought to keep farm workers on the move, discouraging settlement.¹ As he demonstrated, this perspective was based on an intuitive understanding of social dynamics: a transient labor force would be easier to control, and would inhibit developments that might ultimately contribute to increased farm operating costs, such as labor unions.

Despite a steady increase in hired labor needs in California agriculture during this period, anti-immigrant policy initiatives underscored the perspective of trying to keep people from settling. From the 1917 Immigration Act with its head tax and English literacy examination, to the 1924 Immigration Act designed to exclude Japanese and Mexican immigrants, to the 1929 administrative action to stop Mexicans at the border, and the widespread anti-Mexican social pressures of the early depression years, foreign-born workers were less than welcome in California. In fact, as Paul Taylor showed, there was a strong net movement of Mexican nationals back to their homeland during the 1930s when Dust Bowl migrants displaced Mexican field workers in California.²

At the same time some rural communities in the state included, albeit reluctantly, substantial numbers of settled farm workers in this period. As Ernesto Galarza pointed out, "Hardly a town of any size or pretensions - Delano, Hanford, Brawley, Sacramento, San Diego, Fresno - failed to acquire between 1900 and 1940 its Mexican colonia on the weathered side of the railroad tracks."³ These informally segregated "villages" reflected a predominant pattern of social, if not physical, exclusion in the California communities where they had settled.⁴

With the outbreak of World War II, inter-state immigrants from the Dust Bowl states moved out of farm work and into other

occupations, such as the naval shipyards and airframe manufacturing facilities, where new job opportunities were abundant. Their places in the fields were taken by new recruits, largely Mexican contract workers under the Bracero program.

Throughout this period a significant number of farm employers did understand the importance of providing living quarters for hired workers, and their private labor camps served as an incentive to their employees. But, on the whole, these facilities were thought of as "temporary quarters" for individuals who would be only seasonally employed. Private labor camps with units for families were rare; barracks for single workers were the rule.

However, new research by Margo McBane demonstrates that an important Ventura County citrus farm, the Limoneira Company, realized that it could attract a stable labor force for the long-duration citrus harvest by building family housing units, albeit segregated along racial/ethnic lines.⁵ By 1920, the company provided 160 units for Mexican families and 36 units for non-Hispanic white families.⁶

Interestingly, McBane also reports that settled Mexican family laborers and their citizen children served as important catalysts for the February 1940 Ventura County citrus strike, leading the company to evict all but four of the Mexican families housed by the company.⁷ Evidently, the widespread view of farmers that keeping workers on the move and resisting settlement as a means of inhibiting labor unions activities had some merit.

The Bracero program was fully congruent with the employers' desire to bring foreign nationals to "temp" jobs in the U.S., and was a politically acceptable compromise with nativists. Mexican workers who signed up for the Bracero program appear to have understood the terms of the arrangement, and many built up their home villages with remittances from these temporary U.S. jobs. The "social contract" was clear: come to the job when you are needed and leave when the work is done. Under no circumstances are you to stay and settle. But, despite the nature of the program, the settled Mexican population continued to increase. Migration patterns have their own dynamic that is not fully capable of being controlled by governments.

The same understanding was pervasive among domestic interstate migrant workers in the post-war period: you would be welcomed when workers are needed but it would be especially appreciated if you left when the job was done. Generally speaking, settlement was not encouraged. However, the Farm Security Administration and a few private groups, such as the American Friends Service Committee,

sought to counter the prevailing view. The government project at Delhi (Merced County) was designed to settle migrant farm worker families and create a community of farmers. The romanticized ideal of resident farm family entrepreneur was held out as the most viable alternative to hired farm work under prevailing conditions.

While some of the Mexican sojourners of this period found non-agricultural employment in rural communities in the state - mostly in blue-collar or service sector jobs - their efforts to become part of California society were often frustrated. In many rural California communities the tiny Mexican-origin population found themselves viewed as outsiders, often facing discrimination in employment, housing and education. The sojourners learned to build their own informal support networks. A Mexican-owned beauty parlor in a rural Northern California town, for example, became the primary, if not the only, place in the entire county where Mexican immigrant workers could find assistance, and Spanish-speaking friends.

The shocking living conditions endured by migrant farm workers in the U.S. were brought to the nation's attention in the early 1960s through the medium of television, and these news reports helped to create a climate of opinion that lent broad public support to creating federally-funded facilities and services. But, once again, the dominant perspective, growing out of that of the earlier period, was to provide services for migrant workers. Publicly-funded farm worker housing projects in California, for example, were designed and built for prospective residents who could qualify only if they could prove that their permanent home was demonstrably distant. No possibility of settlement was allowed. And by requiring under law that these facilities are to be open only for six months of the year, their very operation insured that, as fifty years before, their tenants would be, again, "on the move" once the season ends.

Even more to the point of preventing integration of farm workers into the community, many of the publicly-funded farm labor housing projects built in the 1960s and 1970s were located far from adjacent communities, most often at distances too great to even allow their residents to conveniently walk into town. To this day, in many cases, the desire of the host community to inhibit social cohesion between migrant farm workers who live in the projects and townsfolk is underscored by their great distance from town. The Davis camp, for example, is located seven miles from the City of Davis, the Dixon camp is four miles from Dixon, the Madison camp is six miles from Woodland, the French Camp farm labor camp is ten

miles from Stockton, the Arvin camp is outside of Arvin, the Williams camp is south of Williams. Publicly-funded camps for migrant farm workers that are located in the bosom of their namesake communities are more likely to be found in towns in which a plurality of the population is Mexican origin.

The consequences of this form of apartheid are not as obvious as the terrible housing conditions that were publicly exposed in Ed Murrow's "Harvest of Shame." But forced separation has its impact. In Davis, for example, in the wake of the passage of Proposition 13, the Property Tax Reduction Initiative, bus service from all rural areas, including the Davis migrant housing camp, to schools in town was suspended. A mass protest of migrant parents was voiced at a subsequent Davis School Board meeting, but the full board voted unanimously not to reinstate busing for the migrant children because, in their opinion, to do so without providing the same service for permanent rural residents, such as the rural gentry on the west side of town, would be discriminatory. Despite the extraordinary difference in social class and income between the two groups, the school board could not bring itself to recognize the deliberate community-imposed isolation of the Davis camp.

Consider also another consequence of labor camp apartheid, the subtle impacts on children who are bussed into town to attend school. Unlike children who live in town, those served by the migrant programs are not allowed to simply play in a local park after school, can not walk to a new friend's home to visit and can not even go to the local library after school. Cultural barriers are subtly reinforced. And, of course, the message in the community is clear: migrant families are so different from townspeople that they must be kept in a segregated facility.

Among the few exceptions to this pattern of resistance to farm worker settlement were federally-funded government projects designed to encourage migrant farm workers to become resident farm operators, such as the Delhi project in the 1930s. But the vision of the "human resource engineers" did not include an understanding of the social dynamics of community economic development. Most of the settlers' farming businesses were economic failures and this type of social experiment was deemed a failure.

In retrospect, the experience of the first sixty years of the present century was fairly consistent in its treatment of hired farm workers. Either keep them "on the move" or provide facilities that are, by design, intended to serve migrants. The idea of permanent settlement and inclusion in the life of the community was too difficult for the majority population to contemplate.

Sometimes social problems contain the germ of a solution. The social and cultural barriers that served to isolate most farm workers from the agricultural communities where they work also created opportunities for political organizers. The Community Service Organization, where César Chávez learned how to build mass organizations, was created precisely to meet the needs of a segregated minority population.

Complementary Paths: More Farm Production, More Settled Workers

The thirty-year period following the end of the Bracero program in 1964 was a time when California agriculture continued a transformation that is among the more spectacular business success stories of this generation. Production of fruit, vegetable and ornamental horticultural products in the state increased dramatically - annual tonnage of fruit and vegetable crops alone grew by more than 100% in the last twenty years.⁸ Extensive crop production, especially barley, oats and sorghum, sharply declined. Three-fourths of California's crop production is now in the fruit, vegetable and nursery crop sectors and one-fourth is in extensive crop production, exactly the reverse of the national shares by type of commodity.

But not all types of fruit, vegetable and ornamental horticultural crops fared equally well; there have been uneven distributional consequences among different segments of the same industry. For example, while the premium segment of the wine grape industry that is centered in the northern coastal counties has enjoyed a strong boom, the lower-priced wine producers of the San Joaquin Valley have been hit by a crisis of over-production that, in turn, spilled over into the raisin industry. Large plantings of Thompson seedless wine grapes, used for both raisins and wine, are in surplus. Knowledgeable industry leaders have suggested that as many as 50,000 acres of Thompsons should be pulled out and the fields used for something else.

The persistent broad economic problems faced by medium-size family-operated farm businesses throughout the nation for many years reached a crescendo in the mid-1980s driving thousands of farm families off the land. While most public attention was directed to rural mid-Western communities, California farmers had their share of serious financial troubles. Bankruptcies, farm auctions and foreclosures reached deep into a number of long-established farm communities in rural California. At the same time, a number of successful large-scale farm businesses, mostly

owned by families with roots in rural or agricultural communities, have been able to persistently expand their share of the state's production. This has resulted in a displacement of farmers on the land by businesses relying on employees.⁹

Both of these factors have contributed to an ever greater reliance on hired farm labor. Estimates of seasonal labor requirements furnished by workers who are temporarily employed in farm jobs suggests that, despite technological improvements, labor demand in California agriculture is higher today it was fifteen years ago.¹⁰ And the share of all California farm work performed by farmers and unpaid family members has decreased over the past forty years from about 40% of the total to less than 15% today.¹¹

A somewhat more subtle factor affecting the pattern of farm labor demand, but not its annual average value, has been the slow increase in the duration of seasonal employment opportunities in California agriculture.¹² This is reflected in a reduction in the magnitude of seasonal swings in on-farm employment over the past several decades. Increases in year-round employment in the ornamental horticultural crop industry and in dairies are obviously important contributing factors to this reduction of the seasonal fluctuation of labor demand. Less apparent is the extension of the production season through the more effective utilization of the differing micro-climates of the state's diverse farm areas. For example, lettuce is harvested in the southern desert in the winter season, then in the San Joaquin Valley in the spring, then in the South Central Coast, then in the Central Coast and South Central Coast, then in the San Joaquin Valley in the autumn season, and, finally, in the southern desert again.

The main consequence of this shift in the relative amounts of production - and associated labor demand - over the course of the four seasons is that employment becomes more evenly distributed in time. This shift makes it possible for farm workers today to gain earnings from on-farm employment during a larger part of the year than was the case a generation ago.

On December 31, 1964, thirty years ago, Public Law 78 (Bracero program) was purposefully allowed to expire by Congress. Labor movement activists and the scholar-activist Ernesto Galarza devoted years of effort to persuade Congress to end the program, successfully arguing that Braceros were being used to drive down wages for all workers and had even been used as strike breakers.

The phasing down and eventual end of the Bracero program in the 1960s signaled a the beginning of a new phase in farm labor relations in California. Simultaneously, there was a dramatic rise

in Mexican settlement in rural and agricultural communities of California.

On September 16, 1965, thirty years ago this coming September, the Delano table grape strike, which had been initiated a few days earlier by the Agricultural Workers Organizing Committee (Larry Itliong & Philip Vera Cruz/Filipinos and Dolores Huerta/Chicana) was greatly expanded when the three-year old National Farm Workers Association (Chávez/Chicano-Mexicano) voted to join the strike. Just one month later César Chávez announced a new approach to win support for the on-going strike: a consumer boycott of table grapes produced in Delano, a brilliant new tactic that transformed farm labor unionization efforts. The boycott captured the imagination of thousands of liberals and leftists across the nation, as well as support from the insurgent civil rights, student and anti-war movements.

On July 29, 1970, twenty-five years ago, and after five years of bitter strife, the Delano grape growers signed contracts with the UFWOC, the new union formed by the merger of the two predecessors. Word of the agreement spread among farm workers throughout the state. The UFW was recognized to be a force that had shaped a victory that had eluded generations of farm worker organizers: solid, three-year union contracts with some of the industry's biggest and most recalcitrant employers.

This enormous success propelled Chávez to declare that the Salinas vegetable producers would be next. But the Salinas Valley growers had already taken steps that they thought would protect them from the UFW: on July 23, 1970, just six days before the Delano table grape growers settled, the Salinas Valley lettuce growers signed contracts with the Western Conference of Teamsters, expecting that this would head off UFW efforts. None of the Salinas Valley lettuce field workers covered by these contracts were asked if they wanted the Teamsters to represent them.

On August 24, 1970, in an action that everyone who witnessed it has termed "incredible" nearly all of Salinas Valley agriculture was shut down by a largely spontaneous strike that brought 10,000 farm workers onto picket lines. The UFW flag, a black eagle on a red banner, was soon waving in the hands of farm laborers next to nearly every field in the Valley. Just one week later, Inter-Harvest, Inc., the largest lettuce producer, signed a contract with the UFW. But the other lettuce growers remained under Teamsters contract.

For nearly five more years, despite winning a few more contracts in the lettuce industry, the UFW was locked in a

stalemate with a majority of the growers, and the growers' sweetheart ally, the Teamsters, for the right to represent workers in the fields. When the hard-won table grape contracts expired the grape growers turned around and signed contracts with the Teamsters. It seemed that whenever the UFW would take an initiative the Teamsters would show up: industry giant E & J Gallo Winery signed a contract with the Teamsters shortly after their contract with the UFW expired in 1973.

And the level of violence grew. The UFW made a compelling film about this period: "Fighting for Our Lives" which shows scene after scene, throughout agricultural areas of California, in which the largely Anglo Teamster goons can be seen attacking the mostly Chicano UFW activists with steel pipes and baseball bats.

In June 1975, twenty years ago, Gov. Jerry Brown signed the ALRA into law, and, in so doing, hoped to bring an end to the violence in the fields and state-supervised procedures to govern collective bargaining in California agriculture. The new law also marked the symbolic end of the historic exclusion of farm workers from the protections afforded all other private sector workers in this country. Within six months the UFW won 114 ALRB-supervised union representation elections and ultimately defeated the Western Conference of Teamsters in election after election. However, Teamsters, Local 890, soundly defeated the UFW in elections held at Bud Antle, Inc.

On March 10, 1977 the UFW and Western Conference of Teamsters reached a five-year agreement under which the UFW was given sole jurisdiction over all agricultural field workers. The agreement was silent regarding Bud Antle, Inc., and was not renewed when it expired in 1982.

By 1978 the UFW had won some 250 ALRB-supervised elections. In 1982, they could claim 182 contracts with growers, and another 89 were in active negotiation. Estimates of the number of farm workers under contract in this period range from 30,000 (peak work force of all growers under contract) to 108,000 (UFW membership count based on the number of different individuals).

By 1981 the UFW had clearly established its deserved position of national leadership of the struggle of farm workers for a better life. But there were already signs of trouble, both external and internal.

The emergence of the United Farm Workers (UFW) provided a much-needed social and political focus for the large numbers of Mexican-American and Mexican immigrant workers who increasingly filled the farm jobs that were formerly held by contract guest

workers. In some cases it was the same individual. Thousands of former Braceros returned on their own to work in California, often without immigration documents.

Ironically, the explicit exclusion of agricultural employees from the protections of the National Labor Relations Act and its processes had consequences that were certainly not intended by the agricultural employers who sought the exclusion. For example, the Taft-Hartley amendments to the NLRA placed serious restrictions on mass picketing, secondary boycotts and other tactics traditionally used by insurgent labor unions. But the UFW was not subject to these restrictions since its members were explicitly excluded from NLRB jurisdiction. The national grape boycott and the associated picketing of supermarkets, perhaps the most successful tactic of the UFW in winning popular support, was precisely the kind of pro-labor weapon that Taft-Hartley sought to ban.

The UFW and its emerging political allies in rural and agricultural areas pressed forward on two fronts. Most important was the focus on organizing workers in the fields. But less well understood was the building of a social and political movement in rural and agricultural communities of California. Chicano political activists, many of whom were the children of field workers even if they did not earn their own livelihood in the fields, found that building local community support for the UFW provided them with a focus that served their own political agenda. The slogan "Chicano Power" referred to the UFW as well as to demands to open up the local power structure to Mexicans and Mexican-Americans.

The 1966 UFW March on Sacramento cemented the unity of community activists in numerous rural California towns behind the political leadership of César Chávez. Long-standing resentment over years of discrimination and other abuses led many to believe that direct action provided a mechanism to open up the political process. The philosophy of non-violence provided these same activists with a socially recognized tactic that was respected if not admired by the top leaders of President Johnson's administration.

The 1960s saw a marked increase in Mexican migration to the U.S., particularly to California. The well-travelled paths followed by Bracero program guest workers became the same paths for tens of thousands of their children. Demographic data show that the population of many rural California towns in 1970 reflected a sharp increase of the numbers of persons of Latino/Hispanic origin, especially Mexican immigrants.

Under the leadership of the UFW the new immigrants and settled families found they had articulate leaders who spoke of their needs and aspirations. And each year, their numbers continued to increase. Unlike earlier decades when there were few friendly faces in most rural California communities, the assertiveness of the younger generation of Latino political leaders in the community helped to create a climate of public opinion that was more receptive to the newly arriving immigrants. Mexican-American Concilios, the newly established California Rural Legal Assistance, and a host of community-based organizations helped to link the newly arrived Spanish-speaking immigrants with services and, if necessary, defend their rights in U.S. courts.

The long-established non-Hispanic white local political power structures were defensive about the newly-settling immigrant populations and their rapidly increasing numbers. Local political figures in rural California often had strong connections to farm operators, in some cases controlling county Boards of Supervisors; they also had friendly relations with law enforcement agencies that serve unincorporated rural areas, such as the Sheriff's Department, and heavily influenced County Departments of Agriculture and local Boards of Education.

The deep divisions between newly settling immigrant populations and established, mostly non-Hispanic white local power structures was frequently acted out in local farm labor struggles. When agricultural strikes or mass picketing in support of the grape or lettuce boycotts at a local Safeway market broke out, local authorities found that those on the picket line often included their own local political opponents.

What the 1960s brought to rural California communities was both a mass immigration of Mexicans as well as insurgent political leadership. The established political power structures in these communities were slow to incorporate the Chicano/Latino civil rights movement. Watsonville, for example, is described by writer Frank Bardake as "...a binational, bicultural town since the massive immigration of Mexicans in the 1960s (that) had elected, in all its history, but one Mexican-American to its city council."¹³

However, the successes of the UFW insurgency were short-lived. The 1979 lettuce strike, initially called to force lettuce growers to renew their expired contracts, quickly degenerated into a bitter, no-holds-barred contest for survival. Just eleven of the twenty-eight Imperial Valley growers were struck, but their production accounted for about one-third of the winter lettuce harvest. Ultimately, just six of the struck lettuce growers signed

contracts with the UFW, including Sun Harvest, Inc., the largest.

The rancor of the 1979 lettuce strike brought the UFW face-to-face with a hardened and even tougher employer community. Some growers relocated their operations to Yuma, Arizona, to evade the ALRB and its requirement to bargain in good faith. Most importantly, Sun Harvest, Inc., the largest lettuce grower and the most important UFW contract, re-organized their operations, sub-contracting out to non-union sub-contractors work that had previously been performed directly by unionized Sun Harvest employees, a practice that is plainly an unfair labor practice, in fact if not in law. Ultimately, hundreds of UFW members were laid off and not rehired. Finally, in 1983, Sun Harvest discontinued business and sold all of its equipment.

The success of Sun Harvest in shedding the UFW, the contract held out by the union as symbolic of its own success, was a harbinger of a new strategy adopted by farm employers. Sub-contracting out farm work to newly created legal entities created a nightmare for the union and the ALRB. This spin-off strategy went in many directions, among the most important was the deliberate creation of labor contractor businesses. In some cases, supervisors or foremen for the farm operator were deliberately set up as labor contractors through a "loan" of equipment or other resources.

One of the most successful of these "new" labor contractor businesses is, in fact, a "captive" contractor who serves an elaborate network of incorporated businesses, partnerships and other legal entities. Fully licensed, registered and above-board, the contractor insulates the farm operators from the difficulties of labor management in a climate that threatens to organize its workers into labor unions.

Finally, the election of a Republican governor in California in 1982 brought new anti-labor pressures on the ALRB. In the words of one long-time former ALRB staffer, the struggle in the fields was brought directly into the staff and Board of the agency that had been intended to defend the rights of workers.

The newly aggressive grower community, with the tacit, and sometimes overt cooperation of the increasingly pro-grower ALRB, began to take initiatives to reverse UFW representation. In 1986, the Deukmajian-appointed majority took control of the ALRB. By 1987 decertification elections, stripping the UFW of the right to represent workers where they had previously won representation elections, comprised a majority of those supervised by the ALRB.

In the course of the past fifteen years, the UFW experienced

decline, losing contracts and increasingly unable to defend its members. From a peak of perhaps 75,000 members under contract, the number reached as low as 10,000 or less by 1994. The combined force of the growers in the fields and political pressures from Republican Presidents and Governors showed that the ALRA was only as strong as its governmental hosts, and could not be relied upon to protect the rights of farm workers.

Today, none of the Delano table grape growers have collective bargaining agreements with any union. Their farm labor force is mostly supplied by labor contractors who have recruited workers from areas of Mexico that previously had not historically supply farm workers for the Delano table grape harvest. Only three Salinas Valley vegetable producers have union contracts covering field workers: Bud Antle, Inc., Royal Packing Company, and a small organic farm, Riverside Farms, all with Teamsters, Local 890.

There are probably fewer than 20,000 California field workers under union contract today. No one publicly discusses the number of non-dairy farm operator contracts but it is surely fewer than forty.

It is in expanded use of labor contractors that we find the core of the increased externalization and privatization of labor costs by farm operators. Producers reduce or eliminate their liability, and the associated responsibility, for the workers on their farm through the device of hiring "independent contractors."

Crew leaders, immigration & the social organization of production

Mines and Anzuldua were among the first to fully describe the anti-union motivation of Ventura County citrus growers in their decision to turn to farm labor contractors for their labor supply.¹⁴ The painful experience of the Coastal Valley Growers' Association, a major harvesting association, in attempting to negotiate a renewal of their collective bargaining agreement with the UFW in the late 1970s led most member growers to leave the organization and instead turn to labor contractors. New immigrants, mostly from areas of Mexico that had not historically supplied Ventura County citrus pickers, were the core of the labor contractors' work force. They were used by citrus producers to undermine and ultimately defeat the UFW. Labor contractors were simply a convenient tool to engineer the change.

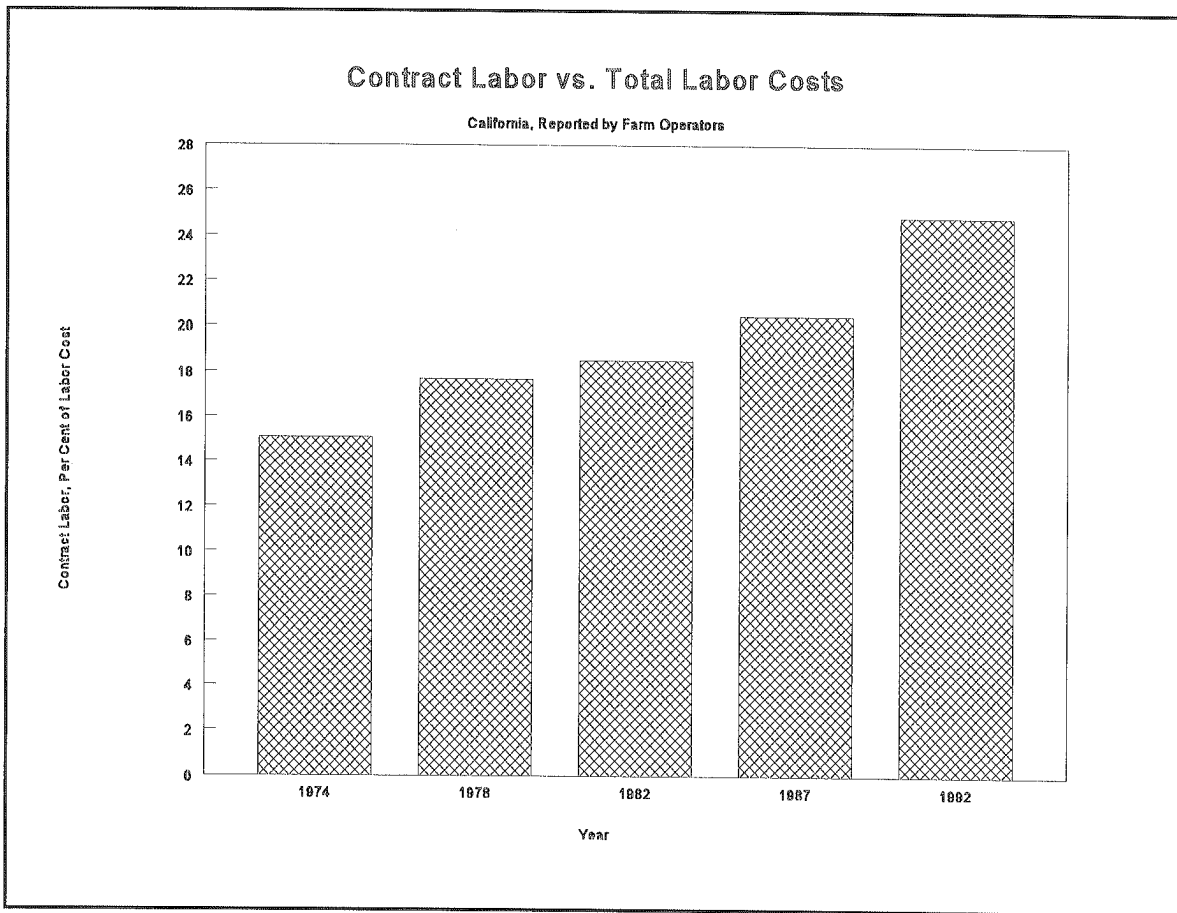


Figure 1. Contract labor expense as per cent of total labor costs, California. Source: Census of Agriculture.

Virtually all of the net growth in farm labor demand over the past two decades has been met by contract laborers. More precisely, over the course of the eighteen years from 1974 to 1992, contract labor expenditures, corrected for inflation, reported by U.S. farm operators increased by 60%, while direct-hire labor expenses declined by 2%.

Figure 1 shows the growth in the share of total farm operator labor expense in California reportedly accounted for by contract labor. By 1992, fully one-quarter of all labor costs paid by farm operators was for contract labor.

There is compelling evidence that the share of farm labor demand that is supplied by contract labor, measured in hours of work, is substantially greater than indicated by labor expense figures. This is because average wage rates paid by labor contractors are lower than those paid by farmers. According to reports from employers, in 1993 the average weekly earnings of a

California farm labor contractor production worker was \$218.40 for 36.4 hours of employment.¹⁵ For a direct-hire employee of a California vegetable and melon crop farm, the type of farm reporting the greatest degree of utilization of contractors, the corresponding weekly earnings were \$310.80 for 44.4 hours of work, some \$92 per week more.¹⁶ Thus, directly-hired vegetable & melon crop farm employees averaged \$7.00 per hour while employees of labor contractors averaged \$6.00 per hour.¹⁷

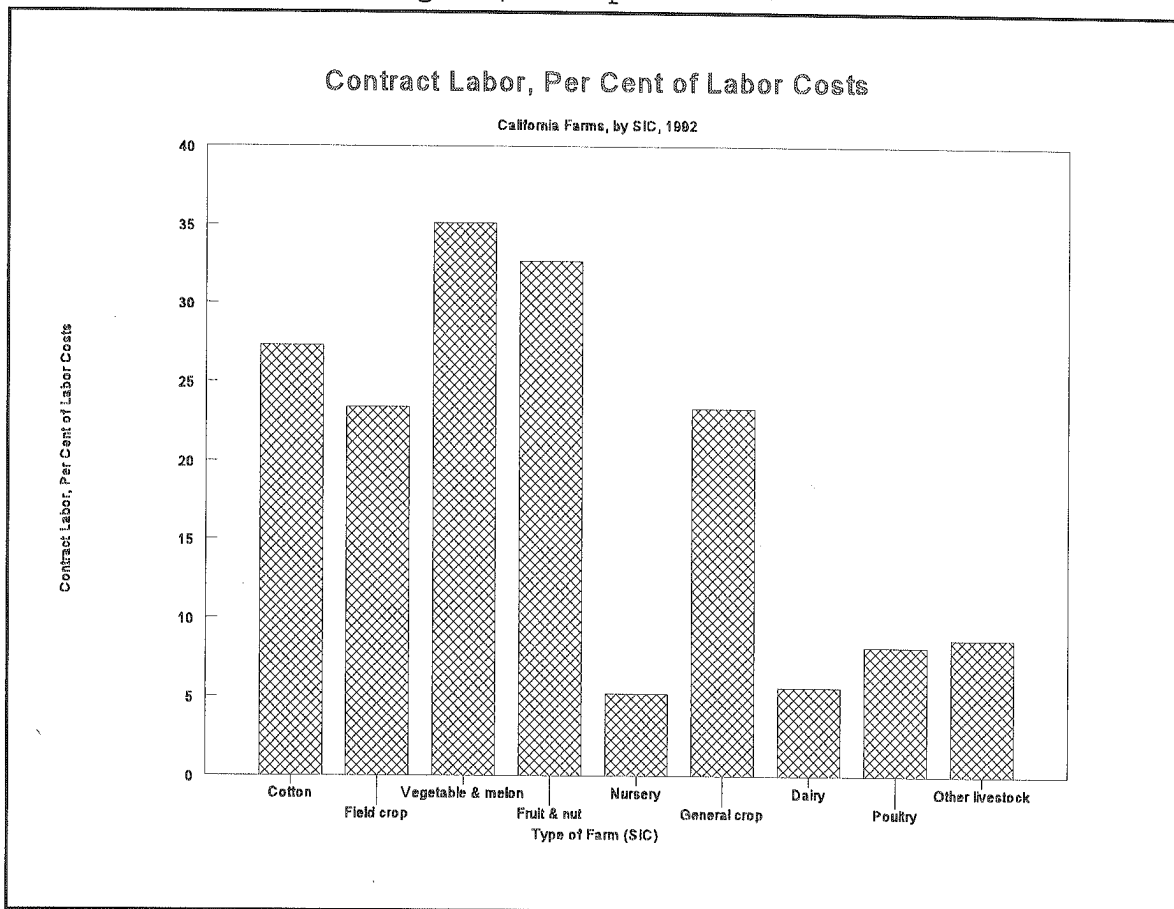


Figure 2. Share of total labor costs represented by contract labor expense, California, by type of farm. Source: Census of Agriculture.

Figure 2 indicates the relative reliance by various types of California farms on contract labor, as reflected in the share of total labor expense accounted for by farm labor contractors. Clearly, more permanent, year-round employment, as in dairies and nursery crop farms, relies most heavily on directly-hired employees and only uses contract labor to a limited extent. In contrast, farms with high seasonal labor needs, such as cotton, vegetable and

fruit and nut farms, rely more heavily on contract labor.

In California, corrected for inflation, the growth of reported contract labor expenses paid by farm operators amounted to 212% in the eighteen years from 1978-92, while direct-hire labor expenses actually declined by 29%. This decline in real direct-hire labor expenses, partly reflecting decreases in real wages, together with the simultaneous growth of contract labor expenditures strongly supports previously published studies indicating that labor contractors were being substituted for direct-hire employees.

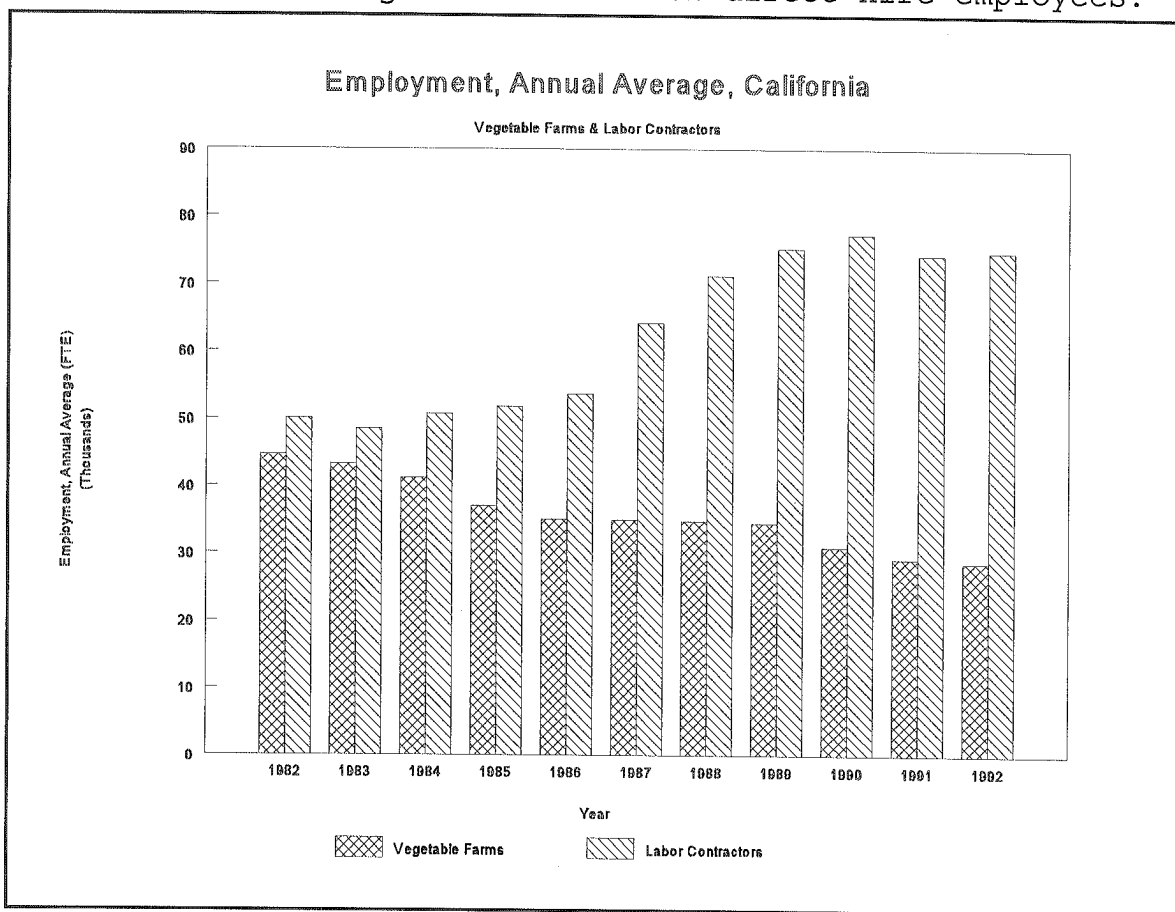


Figure 3. Annual Average Employment, California Vegetable & Melon Farms, and Farm Labor Contractors. Source: Employment Development Department.

The substitution of labor contractors for directly-hired workers in California is reflected in the doubling of reported labor contractor employment between 1978 and 1992. Simultaneously, direct-hire employment by California vegetable producers actually declined. Figure 3 shows this comparison. Note that the decline of vegetable farm direct hire employment coincides with the sharp

rise of contract labor employment.

This type of substitution of labor contractors for direct-hire employees has been reported by Ann Vandemann and, independently, by Susan Gabbard. Both studies examined the Salinas Valley. The evidence we cite herein suggests that substitution is widespread throughout the state.

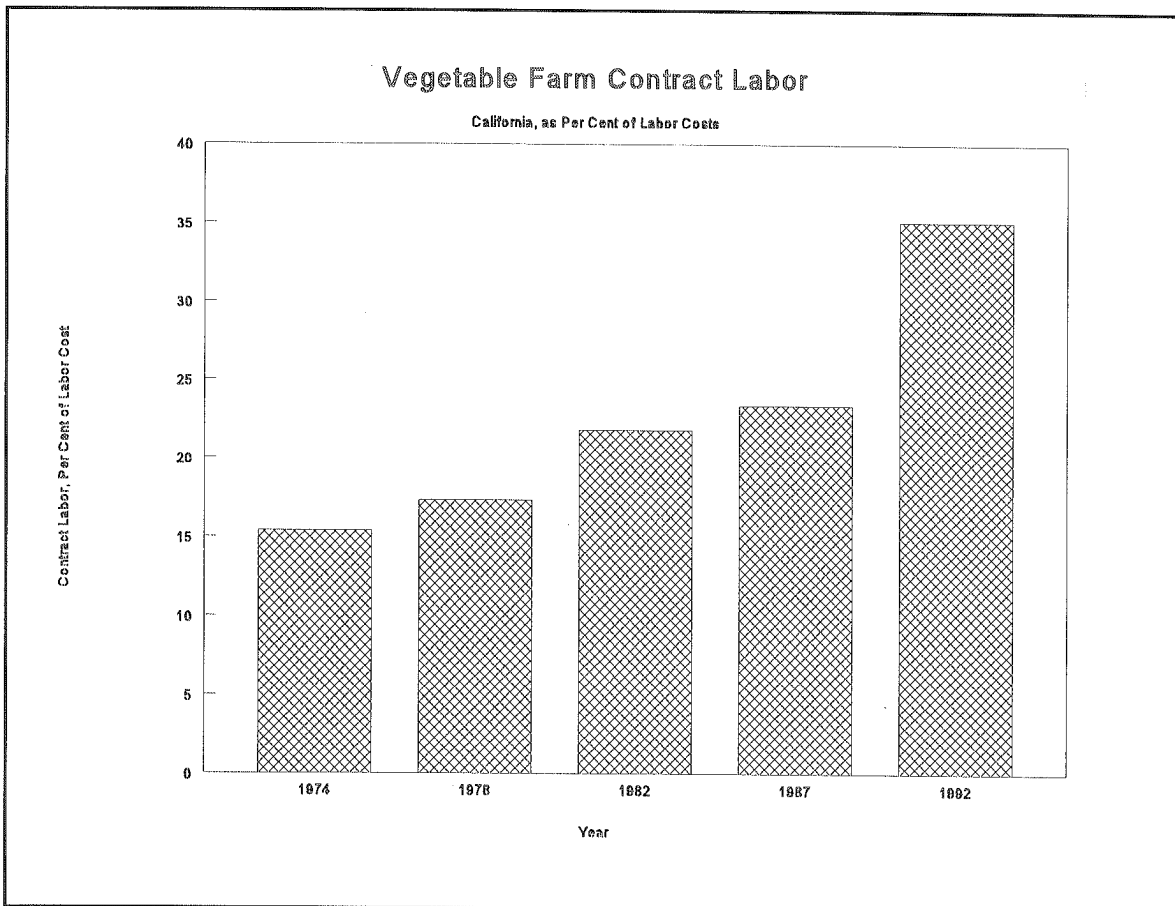


Figure 4. Contract labor as per cent of total labor costs, California vegetable & melon farms. Source: Census of Agriculture.

Another independent measure of the change of the increased utilization of labor contractors in the vegetable industry can be obtained from reported contract and direct-hire labor expenses. Figure 4 shows California vegetable farm contract labor expense as a per cent of total labor costs in the period 1974-92. The sharp rise, to 35% of total labor costs, of vegetable farm contract labor expense in just the past few years is quite striking.

When corrected for inflation, California vegetable farm direct-hire labor costs have declined by about 20% over this

period, but contract labor costs have grown, again inflation-corrected, by a somewhat larger amount. In real terms, reported vegetable farm contract labor expense grew by approximately \$172 million in this nineteen-year period but their direct-hire labor expense decreased by \$141 million. Using this measure, more than 80% of the increase in the contract labor share of total labor costs represented in Figure 4 represents the substitution of contractors for directly hired workers.

The total employment figures reported by the California Department of Employment Development that we have used without further correction very likely seriously understate the full extent of this substitution. This is because of significant errors in the classification by EDD of both farm operators and of labor contractors according to SIC Code. For example, in the study of California farm labor contractors in which we participated it was found that fully 40 of 180 contractors interviewed were not classified in the SIC Code 0761, Farm Labor Contractors. Of course, this can be understood from the additional finding that about one-fourth of California farm labor contractors also operate another business: farming, trucking, and even operating restaurants.

Among the 40 found not to be classified as Labor Contractors, the largest number were categorized as one or another type of farm operator. Most of the rest were classified in the SIC Codes 0721, 0722 or 0723, which are various types of providers of crop and market services to farm operators. These possibly erroneous classifications of employers by SIC Code may lead to incorrect employment and wage totals for some SIC Codes, although county-wide and state-wide figures may not be seriously affected. In fact, the largest and most important labor contractor in the Salinas Valley, employing 930 workers at peak season is incorrectly classified as SIC Code 0161 (Vegetable Farm). And the second largest Salinas Valley vegetable farm operator, employing 1,250 workers at peak season, is classified as SIC Code 0723, Crop Services for Market.

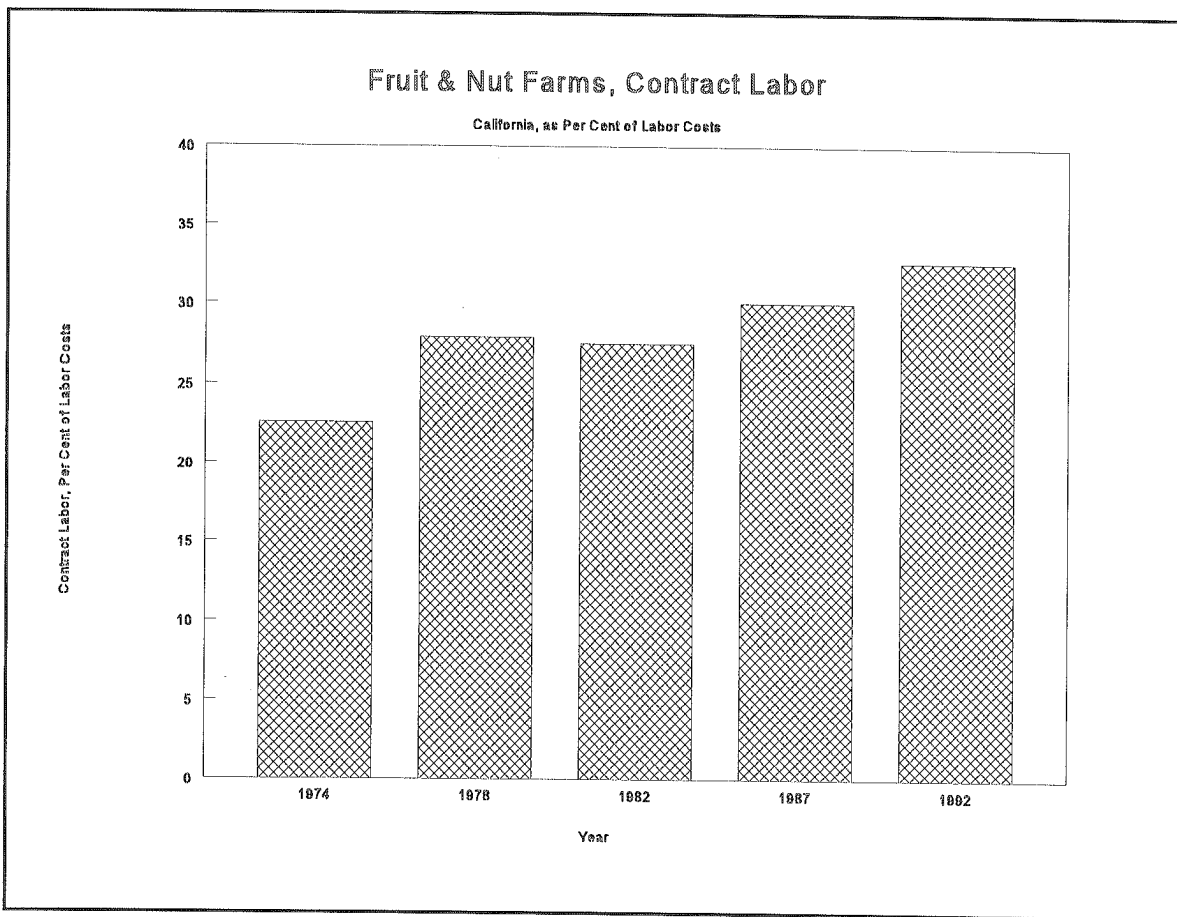


Figure 5. Contract labor as per cent of total labor costs, California fruit & nut farms. Source: Census of Agriculture.

There is additional evidence of this substitution effect. In 1974, just 715 California vegetable farms, or 35% of the total, reported any contract labor expense at all. By 1992, 1,103 California vegetable farms, or more than half, reported contract labor costs, an increase of 54% over the 1974 figure in the number using contractors.

California fruit and nut farms also increased their reliance on labor contractors, although not by such a large factor as in the case of vegetable farms. This is shown in Figure 5, which summarizes California fruit & nut farm contract labor expenses as a per cent of total labor costs. In 1974 the fraction was 22%, much higher than for vegetable farms at that time, and then rose to 32% in 1992, slightly lower than for vegetable farms.

The correspondence of the arrival of recent immigrant workers from new villages of origin with an increased reliance on labor contractors noted first by Mines & Anzaldua is important to the

full understanding of the evolving agricultural labor markets of this nation. From the point of view of immigrant workers, finding a job and a place to live are the most difficult and crucial steps. Labor contractors can provide both, and they often experienced in dealing with other problems: how to get to the job if you don't have your own transportation, living and working as an undocumented worker, and obtaining access to needed services.

Contrast this with the services provided to farm workers by the Job Service and state employment agencies. No more than 1% of California agricultural jobs are filled through the state-operated job service. Most recently, the State of California, in its wisdom, has decided that proof of legal residency shall be required of all persons using Employment Development Department services, and the same shall be required of everyone seeking a drivers' license, whether new or renewal. Both of these measures were put into place well before Prop. 187 was voted into law and will not be affected by court decisions regarding the constitutionality of that law!

As life has become more difficult and problematic for immigrants who are not authorized to work in the U.S., state agencies have inadvertently assisted those who would provide "underground" services. Surely those who provide forged papers, including drivers' licenses, have benefitted financially from the state's action just as efforts to seal the border to new immigrants provides financial benefits to those who smuggle workers across.

The spin-off of much of the seasonal agricultural tasks to labor contractors has also created new opportunities for entrepreneurs to provide for the needs of those seeking work to fill the jobs. According to the National Agricultural Workers Survey (NAWS), one of every of three California farm workers pays for a ride to the job arranged through their employer. Among labor contractor employees slightly more than half (53%) do so. Our 1991 survey of farm labor contractor employees found the identical fraction paying the labor contractor or their supervisor or foreman for rides (53%) and also found that the average payment was \$3.24 per day. Recent anecdotal evidence indicates that it is now common for a week's worth of rides (6 days) to cost \$30 in cash.¹⁸ Even among direct-hire employees nearly one-fourth pay for a ride. The sight of a "reitero" driving a van or other vehicle filled with farm workers is now more regularly seen on our state's freeway system than are public transit buses.

An important but ill-understood side effect of the reitero system is that fully half of all job-related farm employee deaths

in California each year are vehicular accidents. Each year there are reports of major multiple-death accidents involving undocumented immigrant workers being hauled to a destination where a job awaits.

Most reiteros are sub-contractors whose livelihood depends on receiving direct unrecorded cash payments from workers. The worker understands that paying for the ride is a condition of the job. But if you don't have a car, and at least one-third of California farm workers does not own a car, then this may be the only reliable way to get to the job. So everyone wins. Of course, there are additional potentially lucrative possibilities of kick-backs to the supervisor as well as payments to the labor contractor.

One of the terrible ironies of our agricultural system is that private entrepreneurs, such as reiteros, find a way to fill an important social need, in this case as basic as getting a ride to work. But they do so at a cost that is borne by the worker. Even if a worker earns the average of \$218 per week reported by EDD as the statewide average for employees of labor contractors, a \$30 per week payment to a reitero will amount to one-fifth of take home pay.

The second-most frequent payment made by employees of labor contractors is for tool rental, a charge that, like the ride, is "understood" to be condition of the job. If the individual wants the job then the tool rental payment is required. Our survey of employees of labor contractor employees found that nearly half (46%) of farm labor contractor employees paid the labor contractor, their supervisor or foreman, a fee for the rental of needed tools. In contrast, California law provides that workers who are required to supply their own tools must be paid twice the minimum wage. Of course, proving that the tool rental payment is a condition of the job may well prove to be impossible since the proof would hinge on the testimony of an employee against his or her employer.

Finally, in our survey, about one of every seven or eight labor contractor employees pays the labor contractor or their supervisor or foreman a fee for housing. The average amount of such payments was reported to be \$27.60 per week, again in 1991. The NAWS survey found that one in five labor contractor employees obtained housing through their employer.

Housing expenses in California are notoriously high as compared with the nation, a major contributing factor to our high living costs. For employees who earn \$10,000 per year or less, a reasonable guess of the average earnings of farm employees, paying high housing costs is problematic. But a societal shortcoming can

become someone's economic opportunity.

In the cross-sectional household survey initially conducted in 1990 in Parlier by Runsten, Kissam and Garcia, and later, in 1992, conducted again under the sponsorship of CIRS and the Agricultural Health and Safety Center of the University of California, the entrepreneurial possibilities were evident. We found people living on the floors of one and two-car garages, in backyard tool sheds, under a porch, in barns, in abandoned automobiles, and, out of town in a place known locally as "The Jungle," in every variety of cardboard or wooden shack you can imagine. We soon learned to distinguish the "front" unit of the landlord from the "back" unit of the tenant.

Each renter of these unconventional housing units payed their rental in cash, typically \$25 per week. It is hard to imagine that any of these cash payments are reported to the IRS by the landlord as earned income. And on more than one occasion, interviewers were actively dissuaded from entering the "back" unit.

At the same time it is essential to realize that the absence of adequate and affordable farm worker housing means that the entrepreneurial spirit will provide a solution. In Parlier, we chose not to "blow the whistle" on an individual violating housing codes, probably also violating tax law and, on more than a few occasions, affronting human dignity. For where would the displaced people live? Society's failure to answer that question assures that the "underground" housing system will be kept in place.

Public-policy issues in the crew leader and labor contractor system

The main findings of this work are:

1. Employee payrolls are deliberately under-reported by some agricultural employers in paying mandated employer taxes. These payroll taxes, such as Social Security and Unemployment Insurance, are based on total payroll; these employers are able to save an aggregate of millions of dollars in taxes each year. This is nothing less than tax evasion and puts an extra burden on legitimate taxpayers. Not only is the state of California denied taxes owed, the individual employee also suffers. This is because the employer payroll taxes provide the funds for the employee's potential future benefits such as Social Security (FICA and Medicare) and Unemployment Insurance (UI as well as SUI and Employment Training).

In the UC/CIRS survey of California farm labor contractors

(FLCs), published by the California Department of Employment Development (EDD), our interviewers asked each contractor to provide us with a statement of their annual payroll. We then compared this self-reported information for each employer against their actual EDD record of wages reported for tax purposes in the same year. For the 179 FLC employers who cooperated with our interviewers, the average reporting gap was 52%.¹⁹ In other words, these labor contractors told our interviewers that their true annual payroll was an average of 52% greater than what they reported when paying their employer payroll taxes. The case-by-case data on which this analysis is based is presented elsewhere.

In the case of California FLCs, the total of reported wages in 1991 amounted to \$556 million. Based on this figure we estimate that the under-reported wages by farm labor contractors may amount to as much as \$290 million per year. This results in uncollected state taxes of more than \$14 million per year.

There is anecdotal evidence supporting the fact that this practice actually occurs. Legal service attorneys regularly report instances of farm workers who have been laid off at the end of the season only discover that there is no record of their employment in the EDD's files. These individuals are therefore found not to be eligible for UI benefits despite the fact that they have met all of the required tests. The full extent of this impact on otherwise eligible workers is not accurately known.

There are also major discrepancies among the agencies required to monitor labor contractor activities. Less than half of the farm labor contractors licensed to operate in California actually are properly registered with the U.S. Department of Labor and report paying required employer taxes as farm labor contractors.²⁰ It is not possible to estimate the tax loss resulting from the operation of farm labor contractors whose entire operation is clandestine.

2. Survey data obtained by the National Agricultural Workers Survey (NAWS), sponsored by the U.S. Department of Labor, provides independent evidence concerning this practice. The NAWS is a national survey of U.S. perishable crop employees and is conducted by Aguirre International, a private contractor, under the able direction of Dr. Susan Gabbard. Now in its sixth year, the NAWS has obtained useable data from more than 6,000 farm workers, including more than 2,000 in California. Among other data, the NAWS participants are asked to provide the name and Social Security number under which they have been employed.

The name and Social Security numbers of 783 NAWS participants

who reported employment in California was provided to the Employment Development Department of the State of California. EDD searched its employer quarterly reports (Form DE-3) and was able to find records for just 83%. In 17% of the cases (1 out of 6), no record was found in the EDD file.²¹ Correspondingly, no employment taxes were paid on the wages earned by these individuals and no unemployment insurance coverage was available for them.

It was also found that California farm workers without EDD records show a distinctive demographic pattern. They tended to be younger, foreign-born, or had worked fewer weeks per year in California than individuals who did have records in the EDD file.

Finally, those individuals who were found to have records of employment in the EDD file had fewer work days reported to EDD than they reported to NAWS. On average, this discrepancy amounted to approximately 7%.

3. Thousands of workers regularly make cash payments, on a daily or weekly basis, to farm labor contractors and/or their foremen. These cash payments are made in return for rides to the job, or for housing, or for other services provided by the contractor and/or foremen. Such payments are rarely, if ever, reported as income by the recipients. This is another clear-cut case of tax evasion. We estimate that this unreported income exceeds \$42 million annually.

In many cases FLCs and/or foremen (crew leaders) extract such cash payments from workers in return for providing rides, housing, tools, meals or other services; these payments are "understood" by both parties to be a condition of obtaining the job. Since an average farm worker earns just \$7,500 per year, few can afford the prices found on the normal housing market. A small cash payment to the contractor may provide such an individual with "affordable" housing, though it usually does not meet even minimal standards of decency. Similarly, survey data show that as many as one-third of all current farm workers do not own a car, and so the individual worker may have no alternative means of transportation available. In this context, paying the "reitero" for a ride to the job may actually seem to be reasonable.

In the UC/CIRS survey of FLCs we also interviewed their employees and found that 53% paid the FLC or the foreman in cash for a ride to the job at an average cost of \$3.24 per day. We also found that 13% of all employees of labor contractors paid the FLC or foreman in cash for housing at an average cost of \$27.60 per week. In addition, we found that 46% of all employees of labor

contractors directly paid the FLC or foreman for the cost of tools needed for the job. Finally, we found that 5% of the FLC employees paid the contractor or foreman for food or beverages supplied in the fields.

The annual average FLC employment reported to EDD in 1991 was 74,308. Applying the above figures, we estimate that the annual unreported FLC or foreman income from cash payments for rides and housing is \$42 million. Since this unreported income should be taxed at the much higher personal income tax rates (28% or more) as compared with employer tax rates (5% for UI), the total missing taxes will be substantial. Obviously, any cash payments for tools or food would raise the above figure.

4. An additional significant category of non-payment of employer taxes concerns individuals who are forced to sign on as non-employee "independent" contractors but, in reality, are subject to the same set of working conditions as genuine employees. In this case the employer avoids payment of legally required employer taxes. This type of arrangement appears to be widespread in the strawberry industry in the Santa Maria area of Santa Barbara County but its full extent is not known.

Below we provide evidence that indicates the total amount of unreported wages in the strawberry industry in Santa Barbara County to be as much as \$20 million per year.

Estimated Under-Reporting of Wages, Santa Maria Berries

1. Santa Barbara County strawberry production, 1990

4,530 acres harvested (4,035 fresh; 4,530 processing)

Fresh: 11,903,815 trays, or 2,950 trays per acre

Process: 17,531 tons, or 7,740 lbs per acre

2. Labor demand estimate #1 (demand-for-labor method)

Mamer & Wilkie determined following

Orange County 1,534 total hours per acre

Ventura County 1,612 total hours per acre

Take average of these figures; apply to Santa Barbara County
Labor demand estimate: 1,573 hours per acre (Mamer & Wilkie)

Total hours of labor required: 7,125,690 hours

3. Labor demand estimate #2 (rate-of-pay method)

Harvest, pack, haul labor: \$1.77 per tray fresh (AFBF-NAFTA);
Strawberry harvest wage rate: \$6.36 per hour (1990 EDD survey)

Total wages for fresh harvest, pack, haul: \$21,069,753
Total wages for process harvest, pack, haul: \$2,283,300

Estimated wages for other production labor: \$13,627,508

Total wage bill for production labor: \$36,980,561

Supervision, administration (10%): \$3,698,056

Estimated Total Wages: \$40,678,617

Estimated labor demand: 6,184,359 hours

Note: We have used \$6.36 per hour for field labor
and \$10 per hour for supervision and administration
labor in this estimate.

4. Comparison of employer-reported berry crop wages, Santa Barbara
County, EED Report 882, 1990

First Quarter, 1990:	\$1,557,985
Second Quarter, 1990:	\$8,484,493
Third Quarter, 1990:	\$7,619,065
Fourth Quarter, 1990:	\$2,734,271

Total reported wages, 1990: \$20,395,814

Conclusion: Only about one-half of the labor required for 4,530 acres of berry production in 1990 is accounted for by berry crop farm employers in EDD wage reports. The discrepancy represents labor contractor employment and crop share/independent contractor employment. The discrepancy is roughly 2,600 FTE workers.

This discrepancy could be accounted for by a combination of farm labor contractor employment and "independent contractor" arrangements. However, comparison of month-by-month employment data reported by Santa Barbara County farm labor contractors and

strawberry farm employers shows only a weak correlation of reported labor contractor hiring with berry farm hiring. Since the difference between off-season (January-February) FLC employment (2,015) and peak berry season (May-June) FLC employment (2,880) is 864, and since the nominal discrepancy is 2,600 FTE, there are still an estimated 2,200 FTE unaccounted for. The monthly Berry Farm and Farm Labor Contractor employment figures are shown below.

Santa Barbara County, Reported Employment, 1990

<u>Month</u>	<u>Berry Farms</u>	<u>Farm Labor Contractors</u>
January	633	1,949
February	584	2,082
March	597	2,171
April	3,356	2,158
May	5,068	2,634
June	3,639	2,880
July	3,262	2,819
August	2,890	2,972
September	2,347	2,905
October	1,212	2,449
November	1,050	2,139
December	782	2,043

Policy Recommendations

A. **Simplify the registration, licensing and tax reporting information by farm labor contractors to better enable enforcement agencies to track their activities.** A single, one-stop licensing and registration procedure using verifiable Social Security numbers and associated business taxpayer ID numbers should replace the chaotic and independent systems now being used by four different agencies.

B. **Concentrate field audits among categories of employers known to be problematic, such as California farm labor contractors and strawberry farms in the Santa Maria area.** The pattern of field enforcement actions of Labor Commissioner Victoria Bradshaw should be analyzed to guide future field audit efforts.

C. **Utilize the services of knowledgeable persons in designing and conducting field audits.** For example, there are CPAs, economists

and business investigators who specialize in agricultural labor. Such persons could provide guidance to the system. It is not very much of a secret to determine how many hours of labor are needed, on average, to produce one acre of strawberries in Santa Maria.

D. **The California Labor Commissioner, Victoria Bradshaw, should expand her field enforcement efforts in agriculture.** The latest reported enforcement efforts from her agency showing hundreds of criminal and civil citations are just an indicator of what is really going on. Moreover, the tax funds recovered as a result of this enforcement effort should be invested in expanding these activities. By so doing we would insure an even larger return in the future.

E. **Farm Operators should be jointly liable for the actions of farm labor contractors with whom they contract to perform on-farm services.** It is evident that labor contractors are important labor market intermediaries and perform vital services in this capacity. They link a foreign-born, non-English speaking, and increasingly undocumented, labor force to a major component of California's economy. California farm operators reported spending about \$967 million in 1992 to pay for the services of labor contractors. But California farmers also report receiving over \$17 billion in cash receipts from the sale of agricultural commodities. It is clear where the money is. If there are problems with labor contractors, they should be solved by accessing the resources of those who directly receive the greatest benefit from the labor that has been provided.

Endnotes

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6. Ibid.
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12. John Mamer has emphasized this point.
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16. Ibid.
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18. CIRS employee Luis Magaña, on April 18, 1995, near Five Points, California, received oral reports from field workers who were hoeing weeds in sugar beets that they were paying \$30 per week for six days of rides.
19. EDD, Farm Labor Contractors in California Agriculture, XXX.
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21. Susan Gabbard, private communication, January 1994.