

Labor Management Decisions

Snapshots in a Farm Labor Tradition

Fifty years ago, absorption of U.S. labor by the World War II effort led to creation of the "Bracero Program," through which Mexican citizens contracted for employment on U.S. farms as nonimmigrant guestworkers. Photographs taken in the program's first year recorded steps in the contracting process, which at that time began with waiting outside a soccer stadium in Mexico City. These men had learned through newspapers and word of mouth about the opportunity to work in the United States. Many had been standing for five days and five nights when the photo was taken.



Howard R. Rosenberg

We are very grateful to Jack Lloyd and Hilda Mayer for providing these photos (continuing on pages 3-6) and personal observations on the circumstances around them. Ms. Mayer was on the administrative staff of the Farm Security Administration and its successor, the War Food Administra-

tion, in Mexico City in 1942-46 and in Los Angeles during 1947. She then joined the Ventura County Citrus Growers' Committee, Oxnard, where she served as office manager through 1969. As an officer of the U.S. Department of Labor from 1958 through 1961, Mr. Lloyd enforced employer compliance with terms of the Bracero Program. He organized and managed Coastal Growers citrus harvesting association, Ventura County, from 1962 until his retirement in 1986.

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High rates of unemployment and underemployment today make farm labor shortages of the past seem even longer ago than they were. The very idea of a tight labor market rings peculiar to people who are either young enough to have not experienced one or old enough to have failing memory of those they lived through. Members of my generation may qualify for tolerance under both these criteria. But acute shortages have occurred, and programs established by our federal government to help cope with them have left their legacies.

Near the end of World War I, economic expansion reduced availability of labor for agriculture and led to a

formal guestworker arrangement with the Republic of Mexico. In May 1917 the U.S. Department of Labor issued an order allowing farmers to bring Mexicans here exempt from the usual head tax, literacy test, and other restrictions as long as they were to perform agricultural work. After the wartime emergency order expired in 1920, immigration and hiring of Mexican agricultural workers expanded through informal arrangements, even as quotas were being imposed to stem the postwar flow of immigrants from non-western (chiefly European) nations. A few legislative proposals that would have similarly controlled Mexican immigration all failed in the later 1920s.

The great economic contraction that began in 1929, however, did much of what this legislation would have. Scarcity of job opportunities in and out of agriculture had a chilling effect on new immigration from Mexico. While prospective entrants were discouraged from coming, immigrants already here were encouraged socially as well as economically to go home, their repatriation peaking in 1931-32. Climbing unemployment meant even greater hardships for minority group members displaced by refugees from dust bowl and industrial states. Many Mexicans were forcibly deported by U.S. authorities, others merely left to their own devices and whatever assistance they could muster through the consul or local agencies.

An official welcome to Mexican workers was again extended ten years later, when the World War II effort had drawn U.S. citizens away from agriculture, and it lasted for more than two decades. The "Bracero Program" ran from 1942 through 1964 with an evolving set of rules initially established as the Bracero Agreement of 1942, continued after the war emergency under a Proviso to the Immigration Act of 1917, and further codified as Public Law 78 (amending the Agriculture Act of 1949) in 1951, during the Korean conflict that was absorbing much U.S. manpower.

In all, nearly 5 million foreign workers were contracted to work through the Bracero Program. During 1956-59, with use of the program at its peak, some 450,000 Braceros worked on nearly 50,000 farms in 38 states. More than three-quarters in 1959, however, were concentrated in Texas and California, 94 percent in those two states plus Arizona, New Mexico, and Arkansas. With increasing mechanization of the cotton harvest, California overtook Texas in 1962 as the leading user of Bracero labor. Tomatoes, citrus, lettuce, other vegetables, cotton, sugar cane, and strawberries were the crops in which most Bracero labor was applied that year. Ranked by ratio of foreign labor to all labor employed, the most Bracero-dependent crops were lettuce, sugar cane, cucumbers, melons, tomatoes, citrus, sugar beets, and strawberries.

From the outset the Mexican government was interested in cooperating but mindful of the depression-era experiences of its citizens who had worked on U.S. farms. Its leaders insisted on having the 1942 Bracero Agreement include special provisions to safeguard guestworker welfare. The U.S. War Food Administration served as the contractor of Mexican workers, and each Bracero became party to a written contract promising a minimum wage, employment or subsistence payments for at least 75 percent of his time in the United States, transportation from and back to the recruitment center, and living expenses while traveling. With domestic labor increasingly available after the war, official Bracero admissions dropped from roughly 80,000 in fiscal years 1944 and 1945 to about 20,000 in fiscal 1947 (12 months ending June 30, 1947). Meanwhile illegal immigration began to surge.

Program revisions in 1948 shifted the contractor role to the individual farm employer and removed from the U.S. government responsibility for guaranteeing terms of the work contract. An intergovernmental agreement the next year allowed for the contracting of Mexican agricultural laborers already in the United States on or before August 1, 1949. During the following 11 months, a total of 19,813 Mexican farm workers were admitted into this country and another 96,239 already here were contracted under the 1949 agreement. Public concern mounted in Mexico about how the reduction of U.S. government control was affecting Bracero terms of employment, and in the United States about how the guestworker program was affecting the domestic labor force.

Congress addressed these concerns when it enacted P.L. 78 on July 12, 1951, giving new structure to the Bracero Program. This law, refined through amendments at virtually every biennial extension, authorized the Secretary of Labor to arrange for recruitment of Mexicans to work temporarily in U.S. agriculture when (1) U.S. domestic workers were not sufficiently available, (2) employment of Mexican workers would not adversely affect wages and working conditions of U.S. workers similarly employed, and (3) employers had made reasonable efforts to attract enough U.S. workers. It was up to state employment agencies to certify shortages, investigate potential adverse effects, and certify employers to contract with foreign workers. The federal government arranged for the movement of workers from Mexico. Bracero employers were strictly forbidden from hiring unauthorized foreign workers. If found with even a single such illegal worker, their certifications to employ any Braceros at all were subject to summary revocation.

Duration of a Bracero work contract could range from four weeks to six months, extendible to 18 months.

Employers were required to guarantee employment for 75 percent of the contract period, pay the prevailing wage in their area, supply adequate meals at limited charge and housing at no charge to the worker, provide medical care, and furnish free transportation between Mexico and the work location. Braceros were advised to call the nearest Mexican consulate if they wanted to lodge any complaint about unfair treatment under the work contract. The consul was to routinely relay the complaint to the U.S. Department of Labor, which had agents assigned to investigate cases and empowered to issue remedial orders. A major criticism of the program was that this enforcement machinery was intimidating to many aggrieved workers and insufficiently staffed to handle even the cases that were brought.

Probably contributing most to the program's ultimate termination was the sense that it was preventing normal interplay of labor supply and demand, infringing on employment opportunities for U.S. resident workers, and dragging down their wage levels. With each successive extension, proponents of the Bracero Program faced greater opposition. Reduction of demand for Braceros after 1959 was related not only to mechanization in cotton and sugar beet production but also to tightened enforcement of program requirements. Tests for "adverse effect" were made more specific, and in early 1962 Bracero wage rates were raised sharply to a level determined to protect the wages of U.S. workers. When P.L. 78 came up for renewal in 1963, Congress decided to give it but one final year.

Representative B. F. Sisk of California, a long time supporter of the program, observed that ". . . the time has come to serve notice on the American farmer that he and we combined must come up with an alternative program. . . This is the last time I shall enter the well to ask for an extension. . . We have come to the end of the line." In his statement upon the end of the Bracero Program on December 31, 1964, Secretary of Labor Willard Wirtz presented three policies to guide the government's role in the farm labor market: (1) there will be no administrative extension of the situation existing under Public Law 78; (2) the responsibilities of the Secretary of Labor under the Immigration and Nationality Act will be strictly administered; and (3) an active domestic labor recruitment program has been instituted and must be continued.

The accompanying photos show steps in contracting for employment on U.S. farms in 1943, during the very first year of the 22-year Bracero Program, when it was a World War II emergency effort. The Bracero Agreement between Mexico and the United States became effective in August 1942, and Mexican farm laborers began to enter El Paso under the program in late September that year. Recruitment was directed for a brief period by the Farm Security Administration, U.S. Department of Agriculture, and then assumed by the War Food Administration, U.S. Department of Labor. At that stage of the program a soccer stadium in Mexico City was the screening and contracting center for all prospective Braceros.



A large area inside the stadium included stations for processing by U.S. Immigration, Mexican Immigration, and Social Security Administration (for railroad but not farm work recruits); issuance of ration books and train tickets; preparation of contracts; and official stamping of documents.



First step was the line-up (left) for smallpox vaccinations administered by nurses (above). Not just anybody could walk in here. Every man in line had to have already obtained a paper from the Mexican government.



Left: At the Selection Unit typists initiated forms for workers. The men were questioned about their agricultural experience. A preliminary examination was made for calluses on their hands and other indications of agricultural work.

Below left: Physical examinations began with line-up for a chest x-ray.

Below right: Medical staff included doctors from both the U.S. and Mexican Federal Health Departments. Examination went from head to toe.





Above left: Applicants were photographed in groups of four. Each man received an identification card containing his picture.



Above right: After the physical examination, men assembled in the bleachers to hear the terms of their work contracts. A labor department official explained the work contract, paragraph by paragraph, in Spanish.

Right: The men then went back inside to sign contracts in quadruplicate. One copy each went to the worker, U.S. Immigration, Mexican Immigration, and the eventual U.S. employer.



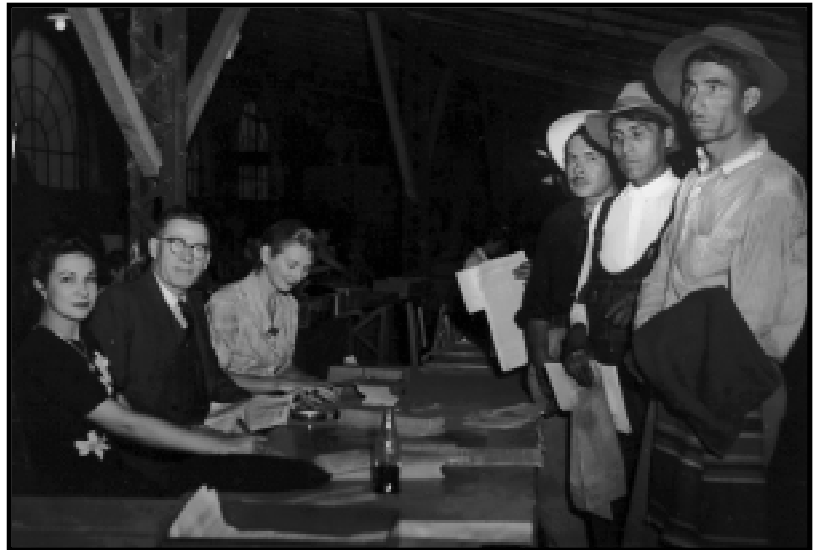
Below left: Signed contracts were processed in the U.S. Immigration Alien Registration Unit.

Below right: Fingerprints were taken for the contract and the identification card.





Workers also had their contracts processed by the Mexican Immigration Department.



Above: Newly contracted workers received ration books that they or their employers would need to purchase food and other life necessities in the United States.



The waiting, examinations, explanations, and paper work complete, workers reached a final table to have their papers checked and organized.

At the end of the line all papers, ration books, and forms were taken from the workers. Portions were put into an official envelope that served as passport and transportation ticket to the U.S. border.

Further reading on the Bracero Program:

Craig, Richard B. 1971. *The Bracero Program: Interest Groups and Foreign Policy*. University of Texas Press, Austin, TX.

Dellon, Howard N. 1966. "The Adverse-Effect Policy for Agricultural Labor." In *Farm Labor Developments*, August, pp. 15-26. U.S. Dept. of Labor, Manpower Administration, Washington, D.C.

Fuller, Varden. 1968. "Hired Farm Labor in the West." In President's National Commission on Rural Poverty, *Rural Poverty in the United States*. U.S. Government Printing Office, Washington, D.C.

Krichesky, Gertrude D. 1956. "Importation of Alien Laborers." *I and N Reporter*, 5 (July). pp. 4-8. U.S. Dept. of Justice, Immigration and Naturalization Service, Washington, D.C.

McElroy, Robert C., and Earle E. Gavett. 1965. *Termination of the Bracero Program: Some Effects on Farm Labor and Migrant Housing Needs*, Report No. 77. Economic Research Service, U.S. Department of Agriculture, Washington, D.C.

The Packer. 1942. "War Drains Industry's Labor" and "Plan Temporary Migration of Mexican Workers into U.S." Editorials, October 9, 1942, and August 15, 1942, cited in Donna Vestal, "Where Did All the Workers Go?" *The Packer*, February 27, 1993, p. 2E.

Rasmussen, Wayne D. 1951. *A History of the Emergency Farm Labor Supply Program, 1943-47*, Agriculture Monograph No. 133. U.S. Department of Agriculture, Washington, D.C.

Turner, William. 1965. "No Dice for Braceros." *Ramparts*, September, pp. 14-26.

United States Congress, House of Representatives. 1951. *An Act to Amend the Agricultural Act of 1949*, 82d Congress, 1st Session. 65 stat. 119, Public Law 78, ch. 223, Title V—Agricultural Workers, sec. 503, p. 120. (U.S. Government Printing Office, Washington, D.C.) □

DOL Operates Nationwide Seasonal Job Service

The Employment and Training Administration, U.S. Department of Labor (DOL), has recently clarified procedures for its interstate referral service that links employers looking to fill seasonal agricultural and food processing jobs with workers willing to move temporarily from their areas of residence. State employment service offices throughout the country cooperate in the Agricultural Recruitment System (ARS), formerly re-

ferred to as the Intra/Interstate Clearance System or the Agricultural Clearance System. No fees are charged for the service.

To use the system in California, employers (including registered farm labor contractors) or workers would contact their local field office of the state Employment Development Department (EDD). When a farm employer requests help in recruiting nonlocal workers for temporary jobs, the office first ascertains that local workers are in fact not available, then prepares an Agricultural Clearance (Recruitment) Order for signature by the employer, listing the type and duration of work to be done; wages, benefits, and any bonuses offered; type of housing provided; and transportation arrangements.

Employers who recruit through the ARS are obliged to provide no-cost or public housing for workers and — if it is the practice in the area — housing for workers' families. Employers also agree to pay no less than the highest of the: (1) prevailing wages for similar work in the area, (2) federal minimum wage, or (3) state minimum wage. Any performance quality or quantity standards to be used are subject to DOL approval. Workers recruited through the system are protected by regular federal and state standards for health, safety, wages, and working conditions while on the job.

The Clearance Order is sent to employment service offices in other states where qualified and interested workers are available, and it becomes the basis for active recruitment. An employer or representative may go to the worker supply area to interview potential employees.

Once having accepted an interstate job offer, workers check with their local employment service between five and nine working days before the specified beginning of work. Unless told at that time that the start date is changed, they are guaranteed wages for the first week of scheduled employment. The employer provides or pays for transportation from and back to the permanent residence area on at least the same terms as it is commonly provided in the region of employment to workers from the same area of supply.

ARS is distinctly separate from the H-2A Program, through which employers may request approval to hire nonimmigrant *foreign nationals* for temporary agricultural work when there is a shortage of U.S. resident agricultural workers. But the two programs are related in that employers try to recruit U.S. workers through the ARS as part of the H-2A certification process.

Further information on the Agricultural Recruitment System can be obtained from local EDD offices or from David Webb at the U.S. Department of Labor, Employment and Training Administration, P.O. Box 193767, San Francisco, CA 94119-3767 (phone 415/744-7648). □

Project Report Summary

Ventura County Survey Focuses on Women Agricultural Workers

Ellen M. Brokaw

President, Brokaw Nursery, Inc., Saticoy, and
Co-Chair, Committee on Women in Agriculture,
Ventura County

Luisa and Ana were two of the women interviewed in 1990 by the Ventura County Committee on Women in Agriculture in an effort to better understand the work experience of female farm workers, the opportunities and barriers they face.

Ana has worked in a Ventura County packing house for 32 years — all her working life. She works all year, earning more than \$16,000 annually, and likes her job. She says she would never want to work outside in the fields. Her husband worked for 20 years in agriculture but now has a nonagricultural job that he likes. Both speak fluent English, and they own their own home.

Luisa has been picking strawberries almost every year since she came to California in 1972, only missing occasional seasons for the births of her six children. She has advanced to inspecting boxes and earned about \$5,800 in 1990 for six months of work. Luisa identifies many problems she has encountered over the years, including an injury to her knee, lack of maternity leave, inadequate child care during work hours, and health problems in her family. She finds bending over to be increasingly difficult and worries about pesticides. She would like to work in a hospital but thinks that it is an impossible dream because of her inability to speak English, the cost of getting trained, and the needs of her children. She says that, despite the physical stress, field work would be okay for her if she could have year-round employment, health insurance, child care, and vacation and sick pay. Her husband also works in agriculture and does not seek a change, although he says that pesticides are a health risk and that "farm work imprisons one." Luisa expresses concern about an influx of "outsiders" who are taking jobs and lowering wages.

The Ventura County Committee on Women in Agriculture is an informal, diverse group of women and men who became interested in the problems of women farm workers when the Ventura County Commission on Women held a meeting in 1986 to publicize the discrimination claims of some female packing house workers. In the ensuing years, the Committee organized two forums, bringing together women to discuss health, immigration, education, and other employment-related topics. But the Committee felt handicapped by insufficient knowledge about the experience of women working in Ventura County fields and packing houses. We knew, for instance, that large numbers of women were employed in strawberry harvesting for a few months each year, but not whether they wanted to find year-round work or were content with their patterns of income from seasonal earnings and unemployment benefits. The need to learn more about these workers led to this survey.

The committee conducted a survey of 256 households in predominantly Hispanic neighborhoods during spring and summer 1990. The households were randomly selected from Ventura County 1980 census tracts data. All adults present in each household, a total of 733 persons, were interviewed. The 433 adults who had worked in agriculture at any time since January 1988 were asked for detailed work histories. Although the study focuses on women, both men and women were interviewed to develop a picture of the entire agricultural workforce.

What We Found

In many respects, the picture revealed by our survey data is gloomy: 82 percent of agricultural workers, male and female, want to obtain nonagricultural work, and 93 percent of the women identifying themselves as strawberry harvesters want to leave agriculture. Only 6 percent of those interviewed want their children to work in agriculture. However, 64 percent of those who want to find nonagricultural work identify serious, if not insurmountable, barriers to changing jobs, with their lack of English fluency at the head of the list.

An image emerges of an established workforce that feels trapped in jobs that do not offer opportunities for adequate annual income or advancement. A majority of both men and women voiced this frustration, but women are employed in fewer crops and tasks than men and in lower paid, shorter term jobs. The average work year of women interviewed is 4.9 months, and women are two and one-half times more likely to be unemployed than men.

Detailed employment information collected in the survey is summarized in the full report in a number of

ways, such as by crop, task, respondent sex, and type of employer (farm labor contractor, grower or packing house). Opinions were also solicited on a variety of topics, such as good and bad aspects of agricultural work and benefits most desired. The most important benefit for the women interviewed is paid sick leave, currently received by only 11 percent as compared with 24 percent of male respondents. Health insurance for self, received by 35 percent of the women and 49 percent of the men, is ranked as the third most important benefit by both. Health insurance for dependents is second in importance to women and fifth to men; 19 percent of women and 33 percent of men receive that benefit. Other benefits among the top six for both men and women are paid vacation, paid holidays, and a bonus/incentive program.

The most likable aspect of agricultural work is being outside in the "free air," cited by 20 percent of the male and 12 percent of the female workers. Half of the women believe they can do the same work as men if they receive training; 90 percent believe they can be crew leaders, and two-thirds of the men agree. Both men and women respondents cite lack of English, poor health, and injuries as having been problems for them in agricultural work. Women also mention lack of child care, discrimination due to sex or ethnicity, and family responsibilities as problems. Most commonly mentioned as problems confronting agriculture are chemicals, insufficient pay, and poor working conditions.

The Committee now knows the answer to one of the questions that launched the project: Do female seasonal workers want year-round work? Sixty-one percent, most of whom are employed in harvesting and packing houses, say they do. These women have fewer alternative sources of income than those who prefer to work seasonally. Of those who would like to work year-round, 64 percent receive unemployment benefits, and 45 percent are supported by income from other family members. Among women who prefer seasonal work, 83 percent receive unemployment checks, and 62 percent have income from others in the family.

Recommendations for Action

Now comes the hardest part, and the real point of the project: taking action to improve the work experience of Ventura County female farm workers. Recommendations in the report are grouped under nine categories: a longer work year, access to higher skilled and higher paid jobs in agriculture, access to jobs outside agriculture, opportunity to learn English, improvement of health benefits, access to child care, access to social services, response to workplace health and safety fears, and compliance with labor laws. Within each category, the Committee has formulated specific ideas for imple-

mentation by a variety of groups in Ventura County, such as employer and employee organizations, job training agencies, medical and legal service organizations, state and local government agencies, and educational institutions. The Committee believes that change will be successfully implemented only by the joint effort and resources of private and public entities.

A few days after presenting the full report and distributing copies to board members of the Ventura County Agricultural Association and Ventura County Farm Bureau, we released copies to the press. Initial response of the employer community, represented by the directors of these two main Ventura County agricultural employer organizations, has ranged from lack of interest to outrage. The latter can be understood as a reaction to the local newspaper stories about the report, which most people saw before reading the report itself. A *Los Angeles Times* story, "The Female Farmworker Blues," was picked up by an Orange County paper under the headline "Harvest of Shame."

This reaction is initially discouraging but is overshadowed by two features of Ventura County agriculture — the great variety of crops grown, in which work (combined) extends throughout the year and can thus provide more lengthy employment, and the large number of progressive, far-sighted employers. One of the Committee's next jobs is to tell the stories of local farmers who now employ women in nontraditional jobs and under conditions conducive to high performance. The most important challenge is to seek out and implement ways in which producers of different commodities with complementary seasons can cooperate to "share" workers, providing more year-round employment.

Obviously, the current labor market, in which there is an abundance of labor, in combination with problems threatening the profitability of all agricultural operations, does not motivate employers to spend money on more benefits or training. Thus, while the problems are clear, the solutions are elusive. Committee members hope that our survey findings will provide the basis for improved choices and conditions for a large and valuable segment of the Ventura County agricultural workforce.

Initial funding for the project was provided by the University of California Agricultural Personnel Management Program and matched by local contributions. Suzanne Vaupel, agricultural economist, worked closely with Committee members during the project, performing data analysis and writing the report. Copies of the report, *A Study of Agricultural Workers in Ventura County, California* (31 pages of text, 36 tables), can be obtained for \$5.00 from The Committee on Women in Agriculture, P.O. Box 4818, Saticoy, CA 93007. □

Sexual Harassment: It Happens in Agriculture

Steve Sutter

One of the workplace safety concerns identified by four farm workers participating in a recent AgSafe forum was sexual harassment. The number of sexual harassment cases filed with the California Department of Fair Employment and Housing (DFEH) grew from 1,457 in 1990 to 2,239 in 1992. In Hawaii this year, a nursery was ordered by the state Civil Rights Commission to pay a former employee \$99,000: nearly \$9,000 in back pay, \$80,000 in compensatory damages, and \$10,000 in punitive damages for "offensive and unwelcome sexual conduct" by a board member, which "created a hostile, intimidating, and offensive work environment."

There is little doubt that sexual harassment is of importance to both employers and employees in agriculture. Most victims are sexually harassed by persons of the opposite sex who are married and are older than the victim. One nationwide survey found that 76 percent who reported sexual harassment were under age 35 at the time of the incident. California employers are now obligated by law to communicate information about sexual harassment to all employees. Agricultural employers are advised to include rules related to sexual harassment in their performance and conduct standards, and to communicate their policy.

Examples

Sexual harassment may include unwelcome advances by supervisors or co-workers acting within the scope of employment at work, at work-related activities, or after hours. Objectionable conduct includes comments, jokes, and romantic letters, if unwelcome in that the employee does not solicit or incite it and regards it as undesirable or offensive. Derogatory remarks about inferiority, frivolousness, or emotionalism of women may also be considered sexual harassment.

Although touching or remarks may not be intended to harass, those actions are harassment if they have the effect of making the recipient feel uncomfortable, humiliated, embarrassed, or unsafe in the work surround-

ings. The victim's perceptions count. Sexual harassment laws are not made to protect the rare hypersensitive employee, but courts look at whether the conduct would offend a "reasonable person."

Unwelcome, intentional touching of an employee's intimate body areas is sufficiently offensive in most cases to be considered sexual harassment and to create a hostile environment. More so than verbal remarks or advances, a single unwelcome touching can seriously poison the victim's work situation. If a supervisor sexually touches an employee, government agencies normally find sexual harassment.

A woman may be promoted because she submits to unwelcome requests for sexual favors from a supervisor. Under those circumstances, not only the promotee but also both female and male co-workers can allege sexual harassment for having been denied a fair chance to be promoted. Cases related to consensual sexual relationships between a supervisor and a subordinate who is given preferential treatment, however, have so far failed to persuade courts that such treatment creates a hostile environment for other employees.

Flirtation, innuendo, even vulgar language that is trivial or merely annoying, may not meet the legal definition of a "hostile environment" but can still be prohibited by an employer. Although sexual attraction is often part of employees' social exchange, workplace sexual activity is generally not advised. What is invited today could be unwelcome tomorrow.

Employer's and Supervisor's Responsibilities

It is important for supervisors to avoid behavior that may be sexual harassment, recognize and work to end others' harassment, and react appropriately to persons who disclose harassment. Supervisors can be held personally liable for their own offensive conduct or for tolerating such behavior. Tolerating or committing offensive acts may cost them their house or boat along with their job. Supervisors should receive training on the definition of sexual harassment, its illegality and inappropriateness, and its business cost in lower productivity and morale, stress-related workers' compensation claims, damaging publicity, and possible litigation.

A complaint policy and investigation procedure that employees trust are essential to effective management of harassment claims. The policy should be announced initially upon its creation and reviewed periodically in small group employee meetings. Because most victims are female and may be reluctant to report incidents to a male, at least one female should be among those designated to take complaints.

If sexual harassment allegations are found to be true, corrective action should be taken to end the harassment, punish the offender, and prevent future occurrences. The more serious the harassment, the more severe should be the disciplinary response. Consistency in disciplinary action is additionally important to minimize chances of real and perceived discrimination against the alleged harasser on the basis of race, national origin, age, etc. Follow-up in all cases is recommended to make sure the harassment has actually stopped.

An employer who finds it impossible to draw a clear conclusion about the validity of a claim, even after careful investigation and fact-finding, might consider nondisciplinary action—such as transfers, rescheduling, and reassignment of duties—to prevent further contact between the involved parties. In any event, the employer should promptly notify the complainant of the result.

In California, employees have up to a year to file legal charges of harassment complaint. As the Hawaiian ruling illustrates, costs of losing a sexual harassment case can include not only back pay but also damages for pain and suffering and punitive damages. The Hawaiian Civil Rights Commission found that even though the person charged was not an employee, he was an agent of the company because he exercised supervisory authority as a member of the board of directors and had “significant control over the conditions of her employment.” Courts ruling on penalties in harassment cases are likely to give serious consideration to whether the employer learned of the problem as soon as it should have, whether the offender was disciplined promptly, how the victim was treated, and whether efforts were made to prevent future problems.

Poster and Fact Sheet Available

As directed in A.B. 2264 last year, the Department of Fair Employment and Housing has revised its discrimination poster (DFEH-162, rev. 12/92) to include information on the illegality of sexual harassment. California employers are required to obtain and to display the poster in a prominent, accessible work location. Further, they are to distribute to employees a fact sheet on sexual harassment, either a copy of the one available from DFEH or an individually prepared one with comparable information. Specified elements of the fact sheet are: the illegality of sexual harassment, its legal definition, a description with examples, the employer’s internal complaint process for employees, legal remedies available through the DFEH and the federal Equal Employment Opportunity Commission (EEOC), with directions for contacting those agencies, and protection against retaliation for resisting sexual harassment, fil-

ing a complaint, or otherwise participating in proceedings conducted by the agencies.

References

- BNA Communications, Inc. February 1992. *Sexual Harassment — Addressing the New Realities in the 1990s*. BNA Communications, Inc., 9439 Key West Avenue, Rockville, MD 20850-3396.
- Chambers, Coeta. July 1992. “Employer Avoids Liability in Case Involving Off-Premises Sexual Harassment by Supervisor.” *Personnel Law Update*, Vol. 7, No. 7. Borgman Associates, 321 Lennon Lane, Walnut Creek, CA 94598.
- Commerce Clearing House, Inc. 1991. *Sexual Harassment Manual for Managers and Supervisors*. Commerce Clearing House, Inc., 4025 West Peterson Avenue, Chicago, IL 60646.
- Department of Fair Employment and Housing. Various dates. *Summary of Employment Cases Filed/Closed*, DFEH-EMF-80. DFEH, State of California, 2000 “O” Street, #120, Sacramento, CA 95814-5212.
- Morrison and Foerster Law Firm. *California Employers’ Guide to Employee Handbooks and Personnel Policy Manuals*. Matthew Bender and Co., Inc., 2101 Webster Street, Oakland, CA 94612-3027.
- Omilian, Susan M. November 1991. *What Every Employer Should Be Doing About Sexual Harassment*. Business and Legal Reports, Inc., 39 Academy Street, Madison, CT 06443-1513.
- Orrick, Herrington, and Sutcliffe. March 1991. “Sexual Harassment and the Reasonable Woman,” Special Report. *Employment Law Update*, No. 91-2. Orrick, Herrington, and Sutcliffe, 400 Sansome Street, San Francisco, CA 94111. □

Steve Sutter has prepared a booklet, *Sexual Harassment Information, Investigation, and Compliance Guide*, which includes the DFEH pamphlet and poster order form, a sample written policy against harassment (English and Spanish), a supervisor’s guide to investigating a complaint of sexual harassment, and the EEOC Sexual Harassment Regulations with examples. For ordering information, see page 14.

ALRB Goals for Today and Tomorrow

Bruce J. Janigian
Chairman, Agricultural Labor Relations Board

The Agricultural Labor Relations Board (ALRB) has exclusive authority to conduct representation elections and settle formal labor disputes in California agriculture, which is outside the jurisdiction of the National Labor Relations Board. In 1975 the Agricultural Labor Relations Act gave farm workers fundamental legal rights to organize and act together for mutual aid or protection—with or without union involvement, and it made the board's procedures "the exclusive method of redressing unfair labor practices." Even in a period of declining union membership nationwide, the ALRB has been receiving an increased flow of claims filed by farm workers. Unfair labor practice charges have grown slightly over the past five years as a whole.

Our protracted state budget crisis is challenging the ALRB as never before. The board began its current fiscal year (on July 1, 1992) with a budget 18.5 percent lower than in the previous year, and it is preparing for an additional 15 percent reduction. Staffing is down to 54 persons statewide, which is about one-fifth of the staff in fiscal year 1978-79, and one-half the number authorized as recently as 1989-90. Two major legislative efforts last year to defund the ALRB entirely were forestalled, but it is clear that some restructuring is necessary to meet the state's legal obligations to agricultural employers and employees within resource constraints.

Mindful of the board's responsibilities and despite budgetary obstacles, we vigorously and successfully stepped up efforts in 1991-92 to enhance our level of public service to California. We resisted closing one or more field offices as a short-run expedient to cost savings, which would have been quite detrimental at first to the directly served public and ultimately to the general public. We chose instead to further reduce headquarters staffing, office space, and library services, to create staffing and operational efficiencies throughout our organization, and to utilize cooperative services from other state agencies. The principal contributions to each measure came from our highly trained and dedicated staff, who willingly and sometimes acrobatically extended themselves to meet increased expectations.

We achieved systemic improvement and coordinated with other institutions to reduce costs. One example was the initiation of combined liability and compliance hearings, using new regulatory provisions designed to save time and expense. We have also increased outreach efforts through the news and trade media, electronic and print communications of the state's University systems, and other agencies and groups concerned with agricultural employment. The board prepared new English and Spanish statements of worker and employer rights for the Employment Development Department (EDD) to distribute through its 41 field offices. The new notices emphasize awareness of individual rights for mutual support under the ALRA in the absence of union representation (see accompanying box). They point out the accessibility of board staff for assistance and investigation of alleged violations. Guidelines were also given to other state agencies for making referrals to ALRB regional offices.

During this current fiscal year, our principal concern has been to develop a strategy for restructuring while maintaining attention to our case-driven workload. Numerous changes associated with downsizing will continue to direct many of our internal adjustments, as they did in 1991-92. We are successfully expanding the use of board counsel to encompass appellate litigation and are cross-training secretaries to handle myriad functions. Active membership on the board itself has decreased from five to three, barely a quorum for decision making, but the resources normally allocated to the two vacant board positions have been freed to support staff enforcement of the ALRA.

We have developed options for the ALRB to share staffing or offices with other state agencies. Preliminary discussions were held with EDD, which has farm labor services in 41 rural offices, and with the Public Employment Relations Board (PERB), which maintains a staff of administrative law judges and labor law specialists in Sacramento. Potential movement of ALRB field offices into existing EDD facilities was examined for its impact on costs and on functions as a single local point of contact for comprehensive state farm labor services. Similarly, locating ALRB headquarters with PERB's was considered with respect to cost savings through pooling administrative and library costs and sharing administrative law judges.

Beyond these larger organizational issues, the board is examining measures to enhance follow-up on its case decisions. A substantial total of sums found to be owing have been thusfar uncollectable, because many compliance cases await lengthy resolution of federal bankruptcy proceedings or are thwarted by business reorganizations and dispersal of assets. When cases are not rapidly resolved, it is often difficult to locate beneficia-

ries for payment. We will be exploring use of private collection agencies to assist in securing compensation for successful claimants within a reasonable time. We also expect to systematically file unappealed board orders as court judgements to enhance collections and to support contempt charges when appropriate. More use of court protective orders and notices of pending unfair labor practices are anticipated.

The board is continuing to streamline its procedures, consistent with the concept of total quality management. Approaches for realizing efficiencies across agency lines are being explored. For the first time, the board is also reviewing the possibility of seeking private grants to support some of its outreach efforts.

A final adjustment that must be considered, reluctantly, is the possibility of charging for some ALRB proceedings that have been conducted entirely at state

expense. Imposing fees for filings that are determined to be abusive or frivolous would make sense. Record preparation fees for appellate filings by the board would also seem reasonable in most cases. We are reluctant to pursue filing or hearing fees as a general practice, however, and would obviously prefer to increase the early settlement of cases as a means of avoiding the major state and party expenses that accrue over lengthy board proceedings. The history of this agency clearly demonstrates that the only winners in protracted cases are legal counsel.

Ultimately, public cooperation and the totality of relationships at the farm level will determine how much additional cost savings can be achieved in these difficult times. As long as agricultural labor disputes arise, dedicated efforts to maintain an effective ALRB are essential to their orderly, just settlement. □

ALRB Statement of ALRA Fundamentals

The California Agricultural Labor Relations Act gives farm workers the right to:

- Form, join, or assist labor organizations;
- Bargain collectively through representatives of their own choosing; and
- Engage in other concerted activities for the purpose of mutual aid or protection.

Employers may not discriminate or retaliate against farm workers for exercising any of these rights. For example, even where there is no union representation, or when no union contract is in effect, farm workers still have the right to cooperate to seek improved pay and working conditions. An employer may not retaliate against a worker merely for speaking out or taking other protected actions with or on behalf of one or more fellow workers. Prohibited retaliation may take the form of discharge, layoff, failure to recall to work, a reduction in pay or benefits, or assignment to less desirable jobs or working conditions made in response to protected activity.

Similarly, unions may not restrain or coerce farm workers in exercising any of these rights, or in refraining from doing so.

Workers who believe their rights have been violated and employers or labor organizations con-

cerned with avoiding violations of the law, or learning their own rights under the Act, are advised to contact their closest Agricultural Labor Relations Board office for assistance.

ALRB Offices

Headquarters

Agricultural Labor Relations Board
915 Capitol Mall, 3rd Floor Phone: 916/653-3699
Sacramento, CA 95814 FAX: 916/653-2743

Regional Offices

Region 1
319 Waterman Avenue Phone: 619/353-2130
El Centro, CA 92243 FAX: 619/353-2443

Region 2
112 Boronda Road Phone: 408/443-3161
Salinas, CA 93907 FAX: 408/443-3225

Region 3
711 North Court Street Phone: 209/627-0995
Visalia, CA 93291 FAX: 209/627-0985

Resources

Personnel Decisions in the Family Farm Business, Special Publication 3357. 61 pages. \$6.00. Written by Dr. Amy R. Lyman, Lecturer, Department of Applied Behavioral Sciences, University of California, Davis, with support from the APMP. Six case studies show how family considerations can influence decision making and business results in family owned and managed farms. Each case focuses on a different situation — responsibilities and job descriptions, retirement, choosing a successor, displacing a nonfamily employee, linking pay to performance, and separation of a family member from the firm — followed by questions and discussion of key points. The booklet is available from ANR Publications, University of California, 6701 San Pablo Avenue, Oakland, CA 94608-1239 (phone 415/642-2431). Order with check (payable to the UC Regents) for \$6, which includes tax, postage, and handling.

Report of the Commission on Agricultural Workers. The commission, created by the Immigration Reform and Control Act of 1986 (IRCA) to answer several questions related to the special agricultural worker (SAW) program and the demand for and supply of farm labor, has submitted its final report to the U.S. Congress. In preparing its report, the commission reviewed results of both existing and new studies and conducted public hearings, workshops, and field tours. For more information on obtaining the 219-page report and separately printed record of the hearings and studies, or the 13-page executive summary, write the Commission on Agricultural Workers, 1825 Connecticut Avenue, N.W., Suite 511, Washington, D.C. 20009, phone 202/673-5348, or FAX 202/673-5354.

Sexual Harassment Information, Investigation, and Compliance Guide. Prepared by Steve Sutter for the UCCE "Improving Your Supervisory Skills" seminar in Stockton in March, the 22-page publication includes a discussion of sexual harassment (see page 10), the DFEH pamphlet and poster order form, a sample written policy against harassment in English and Spanish, a supervisor's guide to investigating a complaint of sexual harassment, and the EEOC Sexual Harassment Regulations with examples. It is available for \$2 (checks payable to *County of Fresno*) from Steve at UC Cooperative Extension, 1720 South Maple Avenue, Fresno, CA 93702 (phone: 209/488-3285 or 800/742-1011, ext. 3285).

HIV/AIDS information available A 14-page booklet compiled by Steve Sutter, *Starting an HIV/AIDS Program — HIV/AIDS Education for Agricultural Employers and Su-*

pervisors, includes statistics, medical, and legal information, a sample English/Spanish HIV/AIDS policy guideline for employers, and a comprehensive English/Spanish reference list. Contact Steve for a free copy.

The Agricultural Personnel Management Program has purchased a 37-minute video, *AIDS: The Workplace and the Law*, with Leader's Guide and Participant's Workbook, produced by MTI Film and Video. To take out on loan, contact Steve at 209/488-3285.

Audio cassette gives Cal/EPA pesticide safety information in Spanish. Steve Sutter has co-produced, with station KGST, Fresno, an audio tape of Pesticide Safety Information leaflets A-8 and A-9 read in Spanish. The Spanish narration is by Jenny Rodriguez, UC Ag Health and Safety Center Representative, and Steve has added short introductory and closing statements in English. Cal/EPA's hazard communication standards for pesticide handlers and field workers require the employer to read, upon request, leaflet A-8 (for handlers) or A-9 (for field workers) "in a language understandable to that employee." Cal/EPA is distributing Spanish and English versions of the leaflets through County Agricultural Commissioners' offices. The audio cassette can be obtained from Steve for \$5 (checks payable to *County of Fresno*) at UC Cooperative Extension, 1720 South Maple Avenue, Fresno, CA 93702.

Workforce is a quarterly magazine published by the Interstate Conference of Employment Security Agencies (ICESA) and International Association of Personnel in Employment Security (IAPES). ICESA, Washington, DC, represents officials who administer the Employment Service, Unemployment Insurance, Labor Market Information, Job Training Partnership Act, and Job Opportunities and Basic Skills training programs throughout the United States. IAPES, Frankfort, KY, is a professional association of employees in the programs administered by ICESA members. Articles in the Fall 1992 *Workforce* included a special feature by then Vice President Dan Quayle on workforce and workplace issues; features on affirmative action compliance, reasonable accommodation, skill shortages; articles on evaluation/performance; and a commentary on workplace literacy programs. Subscriptions at \$15 per year or single copies at \$5 can be obtained from IAPES, 1801 Louisville Road, Frankfort, KY 40601 (phone 502/223-4459).

The Measure of California Agriculture: Its Impact on the State Economy, Leaflet 21517. Farming and related activities are responsible, directly and indirectly, for nearly 1.4 million, or 9.8 percent, of the state's total number of jobs (13.8 million in 1990), according to the 62-page report by Harold O. Carter, Director, Agricultural Issues Center, University of California, Davis, and

George Goldman, Economist, Department of Agricultural and Resource Economics, UC Berkeley. The report, now in its second printing, includes chapters on farms and farmer characteristics, employment, and aggregate measures of the food and fiber sector. To order Leaflet 21517, contact ANR Publications, University of California 6701 San Pablo Avenue, Oakland, CA 94608-1239 (phone 415/642-2431). Price is \$10 for one copy; \$8 per copy for 10 to 50 copies; and \$6 per copy for 51 or more; make checks payable to the *UC Regents*. □

Events

Labor Law Compliance Seminars. The joint state-federal "TIP" described in our previous issue of *LMD* (v.2, no. 3, p. 7) has added a "P" to become the Targeted Industries *Partnership* Program, a coordinated effort to increase compliance with labor laws in agriculture and garment manufacturing. The enforcement component was launched on November 17 with a sweep in Imperial County, followed by another in Imperial and the Coachella Valley in late January. The Division of Labor Standards Enforcement reports that these actions included a total of 195 inspections of agricultural employers and ancillary farm worker services, resulting in 98 citations, 2 lawsuits, and assessed penalties of more than \$500,000.

In anticipation of similar investigatory pushes further north this summer, various organizations have scheduled informational meetings to help employers understand their legal obligations and potential liabilities. The California Farm Bureau is presenting a series of seminars. Phone local Farm Bureau offices for program details:

April 14 in Hanford and in Fresno

April 15 in Bakersfield and in Visalia

April 27 in Madera and in Merced

April 28 in Modesto

On *April 28, 9:00 a.m. to 12:00 noon*. Kerman: Fresno West Golf and Country Club, 23986 West Whitesbridge. State and federal agency representatives will provide information to help employers and supervisors develop employment practices that conform to legal standards and reporting requirements. Topics include sexual harassment and discrimination; transportation, housing, payroll records, and preparing for the TIPP; completing I-9s; pesticide worker safety; and common pitfalls in payroll tax filing. Presented by Edie Hatton, employee benefits consultant, with UC Cooperative Extension. Registration fee of \$20 covers materials and lunch. Con-

tact Edie Hatton at 209/225-6805 or Steve Sutter at 209/488-3285.

On *April 29* California Women for Agriculture (CWA) is presenting an employer seminar in Coachella. Information is available from CWA at 619/393-3036.

On *June 3*, two half day sessions will be held: 8:00 to 11:00 a.m. in Fresno at the Hacienda Convention Center; 2:00 to 5:00 p.m. in Visalia at the Visalia Convention Center. Sponsoring organizations include the Center for Agricultural Business of California State University, Fresno, Agricultural Producers, Fresno and Tulare County Farm Bureaus, Western Growers Association, Agricultural Personnel Management Association, UC Cooperative Extension, the California Grape and Tree Fruit League, and several other agricultural organizations. Scheduled speakers include Lloyd Aubry, Jr., Director, California Department of Industrial Relations; Victoria Bradshaw, State Labor Commissioner; José Millan, Senior Deputy Labor Commissioner; and Tim Reardon, Area District Director, U.S. Department of Labor. Cost to attend either session is \$20 for advance registration on or before May 28 or \$25 at the door. For details, call Kimberly Naffziger at the Center for Agricultural Business at 209/278-4405.

Health and Safety Seminars. The remaining two Friday noontime seminars in the current series presented by UC Agricultural Health and Safety Center at Davis are scheduled for May and June in the Institute of Toxicology and Environmental Health Conference Room on Old Davis Rd., Davis. For more information, phone Janice Abrinko at 916/752-4050.

May 7. "Agricultural Studies at DHS: The Farm Family Health and Hazards Survey, and Nurses Using Rural Sentinel Events (NURSE)." Carol Conroy, California Department of Health Sciences.

June 4. "Health Beliefs of Mixtec Migrants." James Grieshop, Applied Behavioral Sciences, UC Davis. □

Seeking Material for Teacher Manual

Gregory Billikopf, APMP Farm Advisor, is asking academicians, consultants, and management practitioners for contributions to an "implementor's manual" that will be used in conjunction with the book he is developing, *Labor Management in Ag*. Teaching materials that he would like to have include cases, role plays, lecturettes, research notes, instruments, and experiential activities. Prospective contributors can get more information and guidelines directly from Gregory at 733 County Center III Court, Modesto, CA 95355 (phone 209/525-6654).



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