



Toiling Under Abuse: Farm Workers' Struggle Goes On

A SACRAMENTO BEE SPECIAL REPORT

By Andy Furillo

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A farm employer in Tulare County skirted the minimum wage by grouping four workers under a single Social Security number.

Another, in Imperial County, hired his workers at 4:30 a.m. but kept them sitting on a bus for two hours before he started to pay them.

A third, in Fresno County, paid at a per-vine-pruned rate that added up to barely half the legal minimum of \$6.25 an hour.

By the thousands, agricultural employers in California are breaking state and federal labor laws by underpaying, sometimes entirely stiffing, tens of thousands of farm workers toiling at the bottom rung of the state's economic ladder. Some of the workers are undocumented, some are legal day laborers from Mexico, others are just poor.

Their desperation contributes to a growth industry of loopholes, cultivated by some unscrupulous growers and farm labor contractors in California's \$27 billion agriculture industry.

Four decades after Cesar Chavez marched into California's consciousness, there is still no guarantee that a farm worker in this state will get paid a day's wages for a day's work.

Violations of labor laws remain so prevalent that farm workers expect to be cheated.

"It's like a given," said Antonio Perez, 44, a Santa Maria farm worker. "They steal your hours from you. They steal your time."

Perez waited four months to get paid \$700 from one strawberry picking job last year. He's still waiting for the \$1,000 he earned from another.

In a five-month investigation, The Bee interviewed 200 people -- including more than 30 farm workers and two dozen agricultural employers -- and examined court records, state labor commissioner's cases against farm labor contractors, and government reports on immigration and labor law violations.

The investigation found that despite decades of scrutiny and attempts at reform, little has changed in California's agricultural labor landscape, where 800,000 to 900,000 people work every year.

The abuses are most likely to take place at the height of the harvest of the most labor-intensive crops -- such as raisins, melons and fruit orchards -- where workers are

paid according to how much they pick.

These days, violations of wage and hour laws are increasingly the result of a transformation in the industry's employment structure.

Instead of growers directly hiring their workers, they are now employing middlemen -- farm labor contractors -- to round up their pickers and pruners. That system has obscured lines of responsibility and entangled workers' efforts to attain the minimum wage.

Enforcement of the state's labor laws remains scattered, with only a couple of dozen field inspectors statewide to monitor tens of thousands of work sites.

When legislators last year tried to get tough on employers who willfully and repeatedly violate the state's labor laws, their efforts were thwarted by Gov. Gray Davis who said in his veto message he would not single out agriculture for punishment.

Another bill that would have made growers jointly liable for violations committed by their farm labor contractors was crushed in the Assembly when rural and moderate Democrats joined forces with Republicans.

Growers and farm labor contractors who underpay blame each other for the problem. They talk about getting squeezed by dropping commodity prices, the rising cost of production and increased competition from other states or countries.

"I'm more concerned about interstate competition than I am of the inequities," said John R. Benson, a Brawley city councilman who grows lettuce in the Imperial Valley.

Even the state's largest grower representative -- the California Farm Bureau Federation -- concedes that illegal underpayment is a disconcerting fact of life in the industry.

"It's not fair to the legitimate employer to

have individuals who are out there in competition that are not operating fairly," said J. Roy Gabriel, the Farm Bureau's director of labor affairs.

Contract labor on rise

Over the past quarter-century, farm labor contractors have stepped into the center of the farm workers' lives.

Farm worker advocates see the contracting system as a grower scheme to avoid responsibility for violations.

Growers see it as a more efficient way to hire and pay workers.

Contractors see their peers as competitors driven to underbid each other. And that competition is ever more fierce as the contractors' prominence in the industry grows.

About 90 percent of the state's fruit and nut farms were using the contractors in 1997, compared to 50 percent in 1974, according to a study by Don Villarejo, the retired former executive director of the California Institute for Rural Studies in Davis. Two-thirds of California's vegetable and melon operations also had switched to labor contractors, up from 42 percent.

Today, the number of state-licensed farm labor contractors has reached 1,200 and many more operate without licenses.

Many of the contractors are former farm workers who gained legal status in this country under the 1986 federal Immigration Reform and Control Act. And many growers turned to their services because that 1986 law also held employers responsible for securing two pieces of legal identification for every worker -- and assigned criminal penalties if the ID proved to be fake.

"If I were a grower, I'd hire the best farm labor contractor I could to insulate me," said Stockton attorney Leroy Pierce, who represented growers and contractors in two immigration prosecutions filed last year in U.S. District Court in Sacramento.

Contractors sometimes play a key role in the business of illegal immigration, linking the "coyotes" who smuggle people across the border and the farms that need workers, according to the Immigration and Naturalization Service.

"Some labor contractors deal directly with smugglers to obtain workers for farm labor operations," reads part of the text in INS search warrants.

The Farm Bureau's Gabriel said the bureau supports strict regulation of contractors, "to see more done to raise the professionalism of the industry, not put it out of business." Contractors, he said, are critical, especially to smaller farms.

Lynden Brack, who owns a vineyard outside Fresno, said she would be lost if it weren't for her contractor. "I like dealing with one person instead of having 20 standing at my door and me writing checks," she said.

But problems often begin when farm labor contractors, to survive, find themselves underbidding each other to take cut-rate jobs from growers.

"I turn down two or three jobs a week this time of year because of what the farmer is offering," said Larry Peters, vice president of the Fresno Ag Labor contracting firm. "Unfortunately, I know the next farm labor contractor is going to take the jobs."

Peters said he knew of seven contractors who worked raisin-pruning jobs he had rejected as too lean.

"So what they do then is falsify the hours worked," he said. "A man works an eight-hour day and they only pay him \$40. But they report only five hours. It looks like the man made \$8 an hour. It's crooked, it's dirty, and I don't do that."

Jesse Mendoza was a farm labor contractor who operated out of Pixley in Kern County until he lost his license last year because of an unrelated insurance scam.

He said a quarter of the contractors he knows are involved in some illegal activity.

"Not paying taxes, not paying insurance," Mendoza said. "Not paying anything."

Competition among farm labor contractors is "dog eat dog," he said, and intensified by unlicensed contractors who don't, for example, pay workers' compensation insurance.

"I mean it's vicious," Mendoza said. "You're with a grower for years, but for maybe 2 percent, he'll go with somebody else."

Some contractors, as well as farm workers and their advocates, say it's also common for cheating contractors to pay two or more employees under a single Social Security number. On the books, it looks like one worker was paid a legal wage.

Tulare County farm worker Daniel Marquez, 44, has a check stub in his name for \$88 that he said he and three other farm workers shared for five hours of work picking olives last year near Woodlake. That works out to \$4.55 an hour.

"How can you expect me to live on that?" Marquez said.

His check stub listed a farm labor contractor from Lindsay in Tulare County. Asked about the stub, the contractor responded: "I don't remember."

Violations Widespread, U.S. Finds

On a mild February afternoon outside Fresno, about 20 farm workers pruned their way through the Charanjit S. Batth raisin vineyards, paring each vine down to the trunk.

They were getting paid 13 cents a vine, meaning they had to cut back nearly 50 vines an hour to make minimum wage. One worker said he had pruned 180 vines in five hours -- an hourly rate of only \$4.70.

"We can't do it," he said. "It's impossible."

The forewoman at the site, Teresa Gonzalez, said that only 12 of the 28 workers under her supervision were making minimum wage. She suggested the workers could always complain to her boss, Trinidad Rodriguez, a farm labor contractor.

Rodriguez, who works out of the Tulare County town of Cutler, said that if someone doesn't make minimum wage, "we pay them for their hours." But he said no workers have ever asked him to make up the difference.

At another Fresno-area vineyard, farm worker Sergio Salazar said he and his brother and sister were set to be paid \$72 total for their combined 21 hours of piece-rate labor -- \$3.43 an hour. Salazar, 33, shares a one-bedroom West Fresno apartment with four other farm workers.

"It's difficult," he said "But we need the work."

Bharpur S. Dhaliwal, the vineyard's owner, did not disagree with Salazar's wage calculations. He blamed the workers.

They "come and go as they please" when they are on a job, he said, then complain that their piece rates do not amount to the minimum wage. When they bring their complaints to him, he said he pays them the difference -- but then tells them not to come back to work for him again.

"I might pay him for that day, but then I will make a judgment that he is too slow and maybe I will look for somebody else," Dhaliwal said.

A survey conducted by the U.S. Department of Labor three years ago indicated that tens of thousands of Sergio Salazars

work for less than minimum wage -- yet never report the violations to the authorities.

The government conducted the survey during the 1998 pruning season at 66 sites in the San Joaquin, Coachella and Napa valleys. It found minimum wage violations at more than a third of the raisin, table grape and wine grape vineyards checked. The investigators found 369 farm workers who did not receive minimum wage, a loss of nearly \$40,000.

Four of the employers cited in 1998 got caught shorting their workers again in a follow-up survey last year and were fined once again.

If the survey numbers are extrapolated across the state's 8,000 vineyards, as the surveyors say they can be, 2,800 employers would cheat 42,000 workers out of minimum wages in any given pruning season -- a loss to the employees of more than \$4.2 million.

The survey also found that employers and contractors at 16 additional job sites failed to keep proper piece-rate records on workers. Tony Perrou, director of the Wage and Hour Division of the Labor Department's Sacramento office, called this a "big red flag" signaling minimum wage violations.

Irene Gomes, whose family owns a 120-acre raisin vineyard outside the Fresno County town of Caruthers, was cited by the federal labor inspectors for failing to pay five of her workers the minimum wage. She said the inspectors scared her workers so much they slowed down.

"They came out into the field, these inspectors ... right behind our workers," Gomes said, "and our workers got so shook up by them watching, they didn't prune as fast as they usually do."

Of the 369 employees identified as victims in the federal survey, only five complained to state or federal labor

law officials, according to state labor commissioner's records.

"People in the field are afraid to talk to you," said Thomas Grogan, the chief deputy in the state labor commissioner's office. "They're afraid the foreman or the contractor or the grower will see them talking to you if you're an inspector."

If they do complain, the advocates say, farm workers fear they will lose their jobs or, if they are in the country illegally, their employers will turn them over to the Immigration and Naturalization Service.

The Border Buses

At 3 a.m., the border town of Calexico becomes the busiest city in the state.

Mexican folk music wafts out of donut shops and taquerias bustling with some of the 15,000 farm workers who daily, and legally, cross from Mexicali to work in California's fields.

Dozens of converted school buses idle in the darkness, exhaust mixing with the crisp morning air. They provide the gateway to employment.

On a January morning, clipboard-toting foremen signed up farm workers for day jobs as far off as Yuma, Ariz., about 70 miles away. By 4:30 a.m., many of the buses were filled.

And that's when the long wait began.

Maria Espinoza, 33, had gotten out of bed at 2:30 a.m. to arrive in Calexico by 4. She is a mother of four and has been boarding buses for 15 years. She found a seat on a bus operated by the MJS farm labor contracting company for a job that wouldn't begin for two and a half hours.

"Of course we'd like for them to pay us for that time," Espinoza said. The foreman who hired Espinoza agreed. "That's a lot of

time that people have to wait around," Jose Fernandez said.

Farm workers have been grumbling for years about not getting paid for the time they spend waiting and traveling on the buses.

Last May, the state Supreme Court bolstered the workers' position. The court ruled on an appeal of a Monterey County case, Morillion vs. Royal Packing, that "compulsory travel time" must be compensated.

The farm workers in Calexico say their travel -- and waiting -- time certainly fits that definition. Many have no other transportation; others say that if they don't sign up early, they don't get a job in the field.

"We have to do it; we have no choice," said Victor Ramirez, who boarded a bus owned by the EZ Labor contracting firm at 4 a.m. but didn't start getting paid until he reached a cauliflower ranch two hours later.

Faustino Farias and his friend, Jesus Jimenez, crossed the border at 2 a.m. to sign up for a job that didn't begin until almost 7 a.m. They arranged their own transportation to the work site.

"We'd be happy if they just paid us for one of the hours," Farias said. EZ Labor's owner, Alex Jack, said a sign in his buses tells workers the transportation is voluntary. "We're giving them a free service," he said.

David A. Rosenfeld, the Oakland lawyer who argued for the plaintiffs in the case considered by the Supreme Court, said signs shouldn't exempt contractors from the ruling.

But the general manager of the company that owns the cauliflower ranch where the EZ Labor crew worked said that paying the farm workers for waiting time might well mean the difference between a profit and loss.

"If you've got to pay them for four hours out of 10 hours total, you're only going to

get six hours work out of them," said Rio Farms' Bob Martin. "The rest of the time, you've got to haul 'em back. It's tough enough to make ends meet in 10 hours."

1,600 Not Paid At All

Along with the minimum wage violations, a Bee review of court and state records turned up 18 instances over the past two years in which agricultural employers completely failed to pay an estimated 1,600 farm workers \$820,000 in wages.

Details on 13 of the cases lie in labor commissioner documents about unpaid wage claims or in contractor license revocation proceedings. Five other cases are outlined in federal bankruptcy and other court actions.

In many instances, the farm workers said they had gone without pay for a few hours of work. But hundreds of them said they had not been compensated for weeks of labor.

Farm worker advocates say that the figures could represent just a fraction of the cases in which agricultural employers don't pay their workers.

"We're just scratching the surface," said Jeff Ponting, a farm workers' attorney in Fresno for California Rural Legal Assistance.

Migrant farm workers don't know how to use the complaint process, Ponting said. And even when they do know how to work the system, they are reluctant because pursuing a wage complaint may well cost them another day's wages.

"If a grower owes you 20 bucks, you've got to drive to Fresno, and that's going to cost you \$10, plus your time," said Pablo Espinoza, director of the American Friends Service Committee's farm workers project in Visalia. "You might lose a \$50 job to get the labor commissioner to pay you the \$20 you're owed."

Then, under the labor commissioner's rules, if a farm worker who has pursued a complaint does not show up at his or her hearing, the case is automatically dismissed.

Isabel Lopez, 42, failed to appear at her Fresno hearing and lost a \$362 unpaid wages claim last year against farm labor contractor Rodolfo Ramirez. She lives about 45 minutes away, in the Tulare County town of Orosi.

"We didn't have somebody to take us up there," she said. "It's sad, because we wanted to buy some things for the new year. I just worked for free."

Ramirez could not be reached for comment. According to the labor commissioner's office, he was never licensed and is no longer living at the address he gave Lopez.

Jesse Mendoza, the farm labor contractor who lost his license, was among the employers named in non-payment complaints filed last June with the labor commissioner's office.

Mendoza -- a former migrant worker who became a contractor three years ago -- admits that he never paid the workers. He couldn't, he said, because the growers never paid him.

"These growers do this continuously," Mendoza said.

He named Dad's Ranch, a Tulare County orange harvesting company, as a firm that never paid him, for a job worth \$6,100.

The ranch owner, Craig Schletewitz, said he was just following instructions.

"When it came time to pay, the state told us all the monies had to be paid to them because Mendoza had 80 claims against him," Schletewitz said.

Schletewitz said he sent a check to the labor commissioner "right before Christmas" for work performed last June.

But the labor commissioner's office never received the check, according to the state Department of Industrial Relations.

Another grower singled out by Mendoza also confirmed that he didn't pay the contractor, but for a different reason: he disputed Mendoza's \$15,000 bill.

"As soon as we come to an agreement, we'll send money to the state," grower Jeff Kidwell said seven months after Mendoza's crew installed an irrigation system in his Tulare County orange grove. Kidwell has since paid the state about half of Mendoza's bill.

Growers have their own gripes, often about paying contractors who wind up pocketing the money and never paying their workers.

One vineyard owner in Fresno County said she paid Ramon Valenzuela of C&R Harvesting for a three-week pruning job by 80 farm workers. She wrote three checks to Valenzuela, she said, but he didn't share the money with his employees.

The next thing the grower knew, the farm workers were knocking on her door. "It was truly ugly," she said.

Judgments against Valenzuela's firm for 11 of her workers, totaling more than \$8,000, have been entered in Fresno County Superior Court.

In those cases, as in many others, when farm labor contractors bicker with growers, or the growers bicker with their financial backers, farm workers wind up suffering the most.

One case involved hundreds of workers on 10,000 acres of prime Central Valley farmland. It began with a millionaire La Jolla real estate entrepreneur and his politically connected father who got into a nasty fight with a giant New York City bank. It ended with a farm labor contractor who sent his work force into the fields when he had no money to pay them.

When it was over, it was the farm workers who lost.

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Citations Rare For Violators: The State's Labor Chief Points To An Alternate Approach -- Education.

By Andy Furillo

Bee Staff Writer

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The state labor commissioner says his office is committed to enforcement in agriculture, but the numbers tell another story.

In a state with more than 36,000 agricultural job sites, the Division of Labor Standards Enforcement conducted only 583 inspections in 2000.

And in an industry where The Bee found that thousands of employers fail to pay tens of thousands of farm workers the minimum wage, the state issued only 11 citations for that offense in 1999, the most recent year for which that information is available.

The scarce numbers are not lost on California Labor Commissioner Arthur S. Lujan.

In an interview, Lujan acknowledged that the 19 full-time inspectors his agency devotes to the \$27 billion agricultural industry can't possibly have much enforcement impact. He advocates a different approach: education.

"We don't have enough people to visit every single one of those work sites," Lujan said. "At the very least, we want to educate those employees about what their rights are, and second of all, to educate employers of their rights and responsibilities."

Under the state Labor Code, it's a misdemeanor to pay less than the minimum wage -- \$6.25 an hour. Conviction can bring a fine of \$100 and 30 days in jail.

But even though the labor commissioner's resources devoted to agriculture have grown over the past two years -- from 14 to 19 inspectors, with four more budgeted for this year -- the office has shown a greater reluctance than ever to drop the hammer on agricultural lawbreakers.

Of the 583 inspections conducted in 2000, 87 citations were issued and \$530,000 in fines were assessed, but only \$66,000 was collected.

The number of citations and the fines collected are the lowest since the 1993 launch of Targeted Industries Partnership Program or TIPP, a joint effort involving the labor commissioner, Cal-OSHA and the state Employment Development Department.

Roger Miller, the labor commissioner's chief of enforcement, attributed the low number of citations and fines to the relative inexperience of his field inspectors, most on staff fewer than two years.

Many of the field inspectors "really weren't trained in investigations," Miller said, and they might have failed to cite some of the violations they found.

"We asked them why not, and the investigators ... did not know there was a violation, or they didn't have the ability to communicate with people that there was a violation," Miller said.

On a recent inspection sweep of four farm job sites near Delano in Kern County, labor commissioner field inspectors teamed with

Cal-OSHA agents found apparent minimum wage violations in one raisin vineyard and one orange grove.

At the vineyard, seven workers pruning the raisin grape stock told inspectors they were being paid four cents a vine. At that rate, the workers would have to prune 156 vines an hour to earn the minimum wage of \$6.25.

The fastest, a 17-year-old girl with a bandana covering her face -- working without the permit required for any school-age employees -- had a nonstop shearing rate of about a vine a minute. She would earn just \$2.40 an hour.

In the orange grove a few miles away, 20 workers toting shoulder bags that hold 90 pounds of the fruit said that for every 1,000-pound bin they could fill they were getting paid about \$12 -- a standard rate for the crop. But the workers told inspectors they had to show up at 9 a.m. even though they couldn't start working, and getting paid, until 11 a.m.

One worker there said that on her latest paycheck, she made \$150 for "between 30 and 40 hours" of work -- an illegal rate of somewhere between \$3.75 and \$5 an hour. She was 15 years old.

Inspectors cited both the raisin vineyard and orange grove employers for child labor law violations. They also scheduled both for follow-up payroll audits to determine whether back wages were due.

Miller, the labor commissioner's enforcement chief, said the agency is reluctant to write up employers for minimum wage violations, preferring instead to prod the bosses into paying their employees back wages.

"Generally, you're not going to get both the wages and penalties from them," Miller said.

Officials with the labor commissioner say they can't remember the last time the agency referred a minimum wage case for criminal prosecution.

Big Deal Pays Off For All But Workers: A Court Settlement Reveals Flaws In The State's Farm Labor Contracting System.

By Andy Furillo

Bee Staff Writer

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The war is over now, and peace has returned to the New York offices of international banking giant Credit Suisse First Boston and to the La Jolla mansion of real estate entrepreneur William J. Barkett.

For more than a year, the bank and Barkett lobbed legal bombs at each other in an \$85 million foreclosure fight in Fresno federal court.

Credit Suisse accused Barkett of misappropriating millions of dollars from a huge farming operation that produced juice and other commodities for name-brand companies such as Tree Top, Korbel, Gallo and Glen Ellen.

Barkett countered that the bank had set him up to fail with an illegal loan.

Even though the two parties have since resolved their differences in a confidential

settlement, more than 300 farm workers have never been paid for their labor.

Barkett came out of the deal with \$10 million to cover debts and fees. Credit Suisse ended up with their collateral -- 10,000 acres of prime Central Valley farmland -- and bankers and lawyers walked away with their \$5 million in fees and commissions.

California politicians also pocketed a hefty chunk of money from Barkett's farming business in the form of campaign contributions. The bulk of the cash, \$135,000, went to Gov. Gray Davis.

But Rosaline Barrios Lopez is still waiting for the \$250.88 she earned tying off grapevines outside Madera in June 1999.

Barrios, 21, lives in a tiny cottage she and her husband and 2-year-old daughter share with another family on Madera's dusty east side.

"We don't have money to pay the rent, to pay the bills," she said. "I want to get paid. I need money to pay the baby sitter. We need money for diapers."

Lopez and the other workers weren't paid the combined \$110,000 they were owed because their farm labor contractor went bankrupt. The contractor went bankrupt and blames Barkett's farm management company, Sunmet, which court records show never paid him. Sunmet blames Credit Suisse bank for foreclosing on the property.

The chain reaction of missed payments provides a high-stakes illustration of the flaws in the state's farm labor contracting system, in which wealth is shielded from responsibility for the wages of field hands.

"This is a classic example of how the farm labor contractor system as a whole is working against the farm worker," said Jeff Ponting, an attorney with the California Rural Legal Assistance office in Fresno. "The only people who suffered here are the farm workers. ... And they continue to suffer

and pay."

Official Says State Balked

The vast majority of the 376 farm workers employed by a Sunmet-hired farm labor contractor named Ruben Beas never have been paid.

Of the workers, about 225 filed claims with the state labor commissioner, and 70 were able to regain their full wages, \$56,000 total, from an account funded by farm labor contractor licensing fees. The 150 or so farm workers who did not show up for their hearings had their cases dismissed.

Jose Millan, the former supervisor of the labor commissioner's office in Fresno, said he sought last year to have the agency's attorneys intervene in the Credit Suisse-Sunmet litigation or file a separate class-action lawsuit on behalf of all the workers not yet paid.

But Millan, chief of the agency under former Republican Gov. Pete Wilson, said officials at the labor commissioner's headquarters in San Francisco failed to act on his requests.

"I wrote up a recommendation for our attorney in Fresno that this is what we needed to do," Millan said. "Then the case was taken away by our chief counsel in San Francisco."

Chief Deputy Labor Commissioner Tom Grogan responded in an e-mail that attorneys worked to revoke Beas' contracting license but said they took no further legal action against the bank or Barkett.

Barkett and Fred Grand, the Credit Suisse First Boston vice president who oversaw the \$85 million loan for the bank, declined to comment about the farm workers' situation, citing confidentiality provisions of the settlement reached in the bank's suit against Barkett.

"I really don't know what you're referring to," Grand said, when asked if he was aware that the farm workers never got paid.

Barkett, 42, is a Stockton native who moved to the San Diego area after graduating from Santa Clara University. Speaking through the intercom of his seven-bedroom, six-bath, 8,760-square foot La Jolla mansion, Barkett said the settlement of the Sunmet case settled the farm worker claims as well.

"There is a lot of money sitting there," he said. "Now it's up to all the creditors."

But one of Barkett's lawyers, David Gilmore of Fresno, said the problem of the farm workers not getting paid wasn't lost on everyone.

"Everybody is aware of the situation," he said. "There are some steps being taken to see that they can get at least some of the funds."

Not The Only Case

The Credit Suisse-Barkett case is not the only time huge corporate operations have left farm workers unpaid.

Last summer, bankruptcy records show Reno-based Lindemann Produce -- a quarter owned by a division of Chiquita Brands International -- wrote bad checks to a farm labor contractor who wrote bad checks on top of them to about 400 farm workers.

"It seems like we get one of these every year," said Millan, the supervising deputy labor commissioner in Fresno until he resigned in February.

In the Lindemann case, the 400 employees not paid for two weeks' work picking cantaloupe near the Fresno County town of Huron were hired by the MJS Inc. farm labor contracting company.

Lindemann filed for bankruptcy in Reno last year and paid the workers \$40,000 of the \$130,000 they were owed, according to the U.S. Department of Labor.

In another case, court records indicate more than 100 Santa Maria strawberry pickers went four months without pay for six weeks of work because of a legal dis-

pute between Apio, a multimillion-dollar firm, and the grower, Gonzalo Maldonado, the cousin of state Assemblyman Abel Maldonado, R-Santa Maria.

Apio agreed to settle the case and release money for the workers to end what had become "a public relations nightmare," said Effie Anastassiou, one of the company's lawyers.

\$85 Million Deal

Prospects for an equally favorable outcome for Sunmet workers are uncertain.

Barkett, who had no experience managing large farming operations, put together the \$85 million deal with Credit Suisse in December 1997. He provided no down payment, using the loan money to purchase 10,000 acres in Kern, Tulare, Fresno and Madera counties from the MetLife insurance company.

Along with the land, Barkett obtained MetLife's farm management company, MetWest, renaming it Sunmet. The company harvested and packed an average of \$40 million a year in almonds, grapes, apples, peaches, plums and other commodities. It employed 470 full-time and 4,000 seasonal workers and owned 4,000 pieces of machinery.

But almost as soon as Barkett bought the operation, factors conspired to give California agriculture its worst year in a decade. The 1998 El Niño storms caused more than \$530 million in damage to California's crops, according to the state Department of Food and Agriculture. Economic turmoil in Asia slowed the appetite for California farm imports.

Meanwhile, Chinese producers flooded the U.S. market with inexpensive apple juice concentrate, undercutting one of Sunmet's staples.

Sunmet's 1998 bottom line was a \$10 million loss, according to a deposition from the former company manager. Lawyers for Credit Suisse put the loss closer to \$40 million.

By spring 1999, Barkett had started missing interest payments accruing at a rate of nearly \$30,000 a day, according to Credit Suisse. In June 1999, Credit Suisse bank filed a foreclosure suit in U.S. District Court in Fresno against Barkett and his companies.

The war was on between the bank and the entrepreneur.

In its opening salvo, Credit Suisse charged that Barkett -- while defaulting on the loan -- had distributed \$600,000 in cash to himself "and other insiders and equity holders," in violation of the loan's rules. The suit also accused him of using \$2 million of the loan money to pay off unrelated obligations and of not paying \$660,000 in federal taxes.

Barkett fired back in an August 1999 countersuit that the bank had set him up to fail so it could take over the 10,000 acres. His lawyers contended that the bank had appraised the land at \$116 million, far more than the \$85 million the bank had loaned Barkett to pay for it.

Debts Not Covered

The fate of the unpaid farm workers began to unfold when Credit Suisse filed the foreclosure suit and got a judge to install a receiver to oversee the Sunmet operation.

Once the receiver was put in place, on July 2, 1999, it was the bank's position that it had no obligation to pay off the company's debts that had been accrued beforehand. There were 800 trade creditors who together were owed \$10 million, according to court papers, and they would only be paid if there was money left after the case was settled.

Included in those debts was a \$497,042 bill from a Madera farm labor contracting company, Beas Agricultural Services. The firm, owned and operated by Ruben Beas, had employed 376 workers at Sunmet operations stretching from the Fresno area to leased land in Yolo County.

Beas is one of seven farm labor contractors who had not been paid by Sunmet at the time the receiver was appointed. He was the only one who kept them working, but didn't pay them. As a result, he lost his contractor's license.

Those who went out into the fields for Beas were unaware of the problem until payday. Then, they had to scramble to make ends meet.

"I didn't have money to pay the rent," Joaquin Hernandez, 25, recalled. "I had to borrow money. I paid off my friends, but I'm waiting for the money right now because I need it."

Hernandez lives in an apartment in Lodi with his pregnant wife and another couple. Court records show he is still owed \$507.04 for two weeks pruning vineyards in June 1999.

The abrupt halt in paychecks was a particularly confusing turn of events for Gilberto Morales, 23. Without transportation, day after day he walked the five miles from his Madera apartment to Beas' office to collect his \$124.11. The answer was always the same.

"They told me they didn't have the money," Morales said. "Every day I go to the office, every day they said the same thing."

Beas expressed no apologies during an interview on the doorstep of his ranch-style house across from the Madera Golf and Country Club.

"That happens everywhere in the world today," he said.

He also blamed Sunmet.

"How would you like to have somebody give you a check with no funds in it?" Beas said. "The check bounces, and they tell you it's coming. Ask them why they didn't pay Ruben Beas."

Beas has since filed for bankruptcy.

"They put me out of business," he said.

"They ruined my reputation."

Dad Got \$770,333

The ensuing court fight between Barkett and the bank filled more than 40 court volumes over 17 months, with the parties accusing each other of questionable behavior.

Credit Suisse lawyers charged that Barkett paid his politically influential father, Stockton physician Joseph A. Barkett, \$770,333 under a "consulting agreement" for which there were no records. The bank's lawyers also questioned Barkett's \$50,000-a-month management fee payments to himself, another \$86,500 stipend and the \$6.8 million in crop proceeds he spent to lease three additional properties.

Proceeds from the farming operation had been "misappropriated and diverted" to such an extent, the bank charged, that the examples it cited in the lawsuit "may prove to be only the tip of the iceberg."

Attorneys for the court-appointed receiver used harsher language in characterizing how the money was spent. In a related court action, they suggested the assets essentially had been "stolen" by Sunmet.

One Credit Suisse lawyer alleged in court that William Barkett had distributed \$175,000 in political campaign contributions "with our collateral."

An attorney for the receiver said that unnamed officials in Sunmet "asked the receiver to make political contributions on behalf of Sunmet to increase apple sales."

According to secretary of state records, the biggest single donation was the \$125,000 that went to then-candidate Gray Davis on Oct. 23, 1998, toward the end of a year in which the Sunmet operation was losing millions.

Sunmet contributed another \$10,000 to Davis on May 10, 1999, when the company was missing interest payments to the bank. That was about a month before farm labor contractor Beas claimed in bankruptcy court that the company failed to pay the

money it owed him.

Davis' political adviser, Garry South, described Barkett as a "well-known Democratic giver" whom the governor knows. "There's no Democratic officeholder in the state of California who doesn't know him" and his dad, South said.

But South said he personally knew nothing about the unpaid farm workers. Nor did the Davis campaign operation, which South said routinely does criminal background checks on contributors, know about a March 1993 federal stock fraud indictment of William Barkett in San Diego.

The case was dismissed when a federal judge ruled that the 2* years prosecutors took to unseal the indictment represented an unreasonable pre-trial delay. Barkett, however, paid \$135,000 to settle a civil suit filed against him for the same allegations, according to a San Diego Union-Tribune article cited in court files.

Told about that, South responded, "There's no way you can know every single thing about every person who gives you money."

Even after Beas' workers went without wages, the contributions continued. Records show that Merjan Financial Corp., the company Barkett formed to purchase the original 10,000 acres, contributed \$20,000 to Attorney General Bill Lockyer and \$10,000 to state Sen. Don Perata, D-Alameda, in September and October of 1999.

Perata's spokeswoman, Erin Niemala, said Barkett never asked the senator's office for any favors. Attorney General's Office spokesman Nathan Barankin said a representative of Sunmet did pass on information about some licensing problems with Credit Suisse. But Barankin said the response was that "was not something this office would pursue."

Barkett did not respond to questions about the campaign contributions either in court or in person. In a deposition, he did discuss the money he paid his father for consulting.

"He was helping sell our apples," he said. "We were trying to sell them into schools, and into businesses that his friends owned."

The senior Barkett had high-level political connections. He helped arrange the Sunmet purchase along with his business partner, the late state Controller Ken Cory, and then became the company's chairman. Joseph Barkett also is a member of the governor's Commission on Building for the 21st Century.

Joseph Barkett declined to be interviewed.

Case Settled In August

Just when things looked bleak for William Barkett's case, his lawyers apparently found leverage in a \$250 bank error in their favor.

Credit Suisse had failed to pay the \$250 license fee to the state at the time it loaned the money and, as a result, its loan license had lapsed. Technically, Barkett's lawyers argued, the loan was illegal and he didn't have to pay back the \$85 million at all.

Attorneys for Barkett then discovered another \$1.1 billion in potentially illegal loans made by Credit Suisse during the same time period.

The findings triggered a state Department of Corporations investigation into Credit Suisse. "Then they got re-licensed right away," said agency spokeswoman Julie Stewart.

With the legal fight gaining intensity, Credit Suisse filed papers last August indicating the case was being settled. Lawyers for Barkett and the bank agreed that terms of the deal would be sealed. But the creditors' attorney opposed the settlement.

According to court papers filed by Ted Frame, the Fresno lawyer who represented the creditors, the deal included a \$5.4 million payment to Barkett to get his La Jolla mansion out of hock, another \$2.7 million to Barkett to pay off a third-party finance company, \$700,000 to pay off "professional

fees" Barkett owed and another \$300,000 in miscellaneous payments.

One of Barkett's former lawyers, who has since sued him in Santa Monica Superior Court for nonpayment of nearly \$1 million in fees, provided additional information.

Los Angeles attorney Cynthia Futter said in her lawsuit against Barkett that at his direction, "certain individuals and regulatory agencies were paid \$600,000 on claims or judgments" owed by Barkett and his father. Some of the money also paid for tax services for Barkett and his wife, the suit alleged.

Another \$550,000 in settlement money went to Byron Georgiou, who was legal affairs secretary under Gov. Jerry Brown. Georgiou is now a principal in the San Diego-based American Partners Capital Group. Futter said in the suit that Georgiou was "a conduit to payment of a personal friend of Mr. Barkett and (his wife) Mrs. Lisa Barkett for unknown personal obligations."

Sunmet's 800 creditors, meanwhile, were assigned \$6.4 million, enough to pay them off at a rate of 60 to 70 cents on the dollar, according to Frame. So far, the bank has disbursed more than \$50,000 -- none of it to Beas or the farm workers.

In an interview, Frame said the chances are "very good" that at least some of the workers eventually will be paid some of the money they are owed -- assuming they can be found whenever the money is disbursed.

"We feel very good about what we've been able to do," Frame said in a telephone interview.

Ponting, the CRLA attorney, said the trustee in the Beas bankruptcy told him last month that Credit Suisse is now trying to settle the workers' claims. But as Ponting tries to contact the farm workers, he is finding that many have left the area. It may be the farm workers' only recourse.

Labor contractor Beas -- who under current

laws represents the workers' best opportunity for getting paid -- is bankrupt.

And the workers have no legal grounds for going after Barkett directly, thanks in part to a bill that crashed and burned in the state Legislature last year.

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Farm labor Reforms Far From Certain

By Andy Furillo

Bee Staff Writer

(Published May 22, 2001)

There he was, the speaker of the California Assembly, waving the red-and-black colors of the United Farm Workers.

Shoulder to shoulder, Bob Hertzberg marched with the union's president, Arturo Rodriguez, from Cesar Chavez Plaza to the Capitol.

The two had joined forces to push for a bill they hope will end wage-and-hour abuses that are stealing millions of dollars from the state's farm workers. And the speaker's position at the head of last month's parade was a striking symbol of the influence California's once-powerless field hands would appear to enjoy.

"Damn right!" said Hertzberg, D-Sherman Oaks, after giving a lectern-pounding speech. "The UFW has the force of the speaker right behind them."

Appearances can be deceiving. Even with Democrats controlling the Legislature and the Governor's Office, success is far from guaranteed.

After all, the traditional party of labor was calling the shots last year, when farm

workers came up empty.

Democratic Gov. Gray Davis vetoed a compromise measure nearly identical to the one proposed this year to stiffen criminal sanctions for labor law violations in agriculture. That bill was a fall-back after Assembly Democrats helped kill a tougher proposal to hold growers civilly liable for abuses committed by their farm labor contractors.

"It's been a puzzlement to me why Democrats would feel any compunction to not vote for what should be a bread-and-butter issue," said Gail Kaufman, a Democratic strategist. "Taking care of people who can't take care of themselves used to be a basic premise for Democratic initiatives."

Officials in the Davis administration say he has not ruled out signing the bill this year, and proponents hope that its earlier timing will give the governor a chance to weigh in before it reaches his desk.

Some political observers warn farm workers not to hold their collective breath. They say that Davis remembers only too well how his former boss, Jerry Brown, estranged growers and their bounty of campaign contributions with his strong support of farm worker issues as governor in the 1970s.

Davis received nearly \$556,000 from agricultural interests last year.

"Gray Davis is a very moderate Democrat who is trying to gauge his future political moves, and he is not likely to be a major advocate for farm workers," said Dr. Ann Crigler, director of the Unruh Institute of Politics at the University of Southern California. "I don't think anyone should expect any different."

Davis' political adviser, Garry South, sharply disagreed, saying the governor's veto should not be viewed in isolation. Davis' budgets have dramatically increased funding for farm workers, South noted, and the governor signed a bill to increase bonds that farm labor contractors must post to pay off workers' wage claims and

another to improve the safety of worker transport vans.

"He's not going to sign every bill that comes to him because it has the word farm workers in it," South said. "But I think if you objectively analyze what he's done on behalf of farm workers over the last two years, it's pretty damn impressive."

The bill Davis vetoed would have imposed jail time and a stiff fine on the most chronic offenders: any farm employer who, on a third conviction, knowingly and intentionally failed to pay the minimum wage. Even though the state labor commissioner hasn't referred a criminal minimum wage case to local prosecutors in at least five years, maybe more, the bill drew intense opposition from some agricultural organizations.

In his veto message, Davis stated one of his common criticisms: The bill singled out one industry for punishment.

That vetoed bill had emerged from the rubble of a joint liability measure that angered growers. The joint liability bill, in turn, was killed when 17 Assembly Democrats -- 16 of them supported by agricultural campaign money -- either voted to kill it or didn't vote at all.

Davis' veto was "a major disappointment" to state Sen. Gloria Romero, D-Los Angeles, who carried both bills and didn't receive any money from agricultural political action committees in the last legislative session. But Romero also noted "it was our own Democrats" who had helped kill the earlier grower-liability bill.

Still, Romero doesn't consider her time wasted. The sanctions legislation was the first UFW-sponsored bill ever to clear the Legislature. And she's optimistic that with Hertzberg carrying its twin, it will have a better chance of getting signed into law this time.

"I believe Californians want to know that the most vulnerable people in the state are treated with fairness and dignity," Romero said.

Recent history indicates it won't be a breeze. Influential agricultural groups such as the California Farm Bureau Federation, the Agricultural Council and the Wine Institute ultimately supported the employer sanctions bill last year. But opposition to the concept lingers among small farmers reliant on farm labor contractors.

"I'm against farmers going to prison," said Manuel Cunha, president of the 1,000-grower Nisei Farmers League. "If you want to put everybody in jail, fine. But I'm against singling out farmers and contractors."

Some farm worker advocates believe Cunha has nothing to fear. They see the bill as symbolic, with little potential for ending wage violations.

"It's impractical," one legislative insider said of the sanctions bill. "It's not going to accomplish that much."

Even Romero acknowledged that the sanctions bill is not the ultimate solution to employer abuses. She would rather see her original approach, joint liability, become law. But, she figures, the compromise could shock farm employers into complying with the law.

"Will it solve all of the farm workers' problems? Of course not," she said. "But a lot of pressure can come to bear over this."

Under state law, it already is a misdemeanor for any employer to not pay minimum wage. Violations can carry \$100 fines and jail terms of up to 30 days.

Under the pending sanctions bill, a first-time offender would face a fine 10 times higher -- a minimum \$1,000. A second conviction within three years of the first would bring the possibility of six months in jail and at least a \$5,000 fine. A third conviction within five years of the second offense would mean at least 30 days in jail and a minimum fine of \$10,000.

The bill also would require growers to verify with the labor commissioner that the farm labor contractors they hire are li-

censed. It would create a new state agency to help local prosecutors enforce the law.

Speaker Hertzberg stepped up to carry the bill at the urging of Richie Ross, a political consultant and longtime United Farm Workers union lobbyist.

"We asked the speaker to carry the bill this year as a way to communicate to the world that this is a serious issue," Ross said.

The bill is one of three addressing farm worker concerns now under consideration by the Legislature. Assemblyman Darrell Steinberg, D-Sacramento, sponsored one to require growers to keep written contracts of deals with farm labor contractors "so there can be an appropriate inquiry," he said, if a farm worker accuses a contractor of not paying.

A third bill, by state Senate President Pro Tem John Burton, D-San Francisco, would make it easier for unpaid farm workers to get their wages out of bonds posted by contractors.

Hertzberg says the reform effort contained in those and his AB 423 is long overdue.

"These farm workers are getting ripped off because a lot of growers, many growers, hire farm labor contractors and use this mechanism to not pay," he said. "We know it's happening."

Farm worker advocates have come to accept the sanctions bill as the best deal they can get.

Even though Democrats enjoy comfortable majorities in the Legislature, many of them represent rural or conservative districts that could easily shift to Republican control -- especially if agricultural campaign contributors get upset. And term limits may play a role as well.

"With term limits, people don't have a long history of understanding and fighting battles, so they are very singular in their approach," Democratic consultant Kaufman said. "They're less willing to take risks. ... They don't have a historical perspective

about the things people fought for for years."

Yet some farm worker advocates went into last year's session thinking they had a chance at joint liability. One of them was Romero.

As a concept, joint liability had been killed by the Legislature twice in the previous seven years.

Mark Schacht, a lawyer and lobbyist for the California Rural Legal Assistance Foundation, who wrote the joint liability bill, decided to give it another try.

Romero agreed to handle the measure, and the UFW signed on as a sponsor, even though Ross was skeptical it had a chance.

The bill eased through two Assembly committees. Then, it moved to the top of the agricultural lobby's hit list.

George Soares, a lobbyist for 30 agricultural organizations, called it "a declaration of war on California agriculture, pure and simple."

As an industry, agriculture invests enough money in the state's political process to defend its interests. About 40 farm-related political action committees contributed more than \$1.7 million to candidates and ballot measures in the 1999-2000 election cycle, according to an analysis by The Bee. Democrats scored \$920,000 in farm PAC cash, and Republicans got \$520,000.

Major agricultural donors contributed about \$170,000 more. Individual farmers and others pushed farm-related campaign contributions to well past \$2 million.

The agricultural industry spent about \$2 million more on lobbying costs last session.

It wasn't nearly the war chest of utilities, education groups, manufacturers, lawyers or labor unions. But it was enough to preserve agriculture's reputation for being a major force in California politics.

"They're right up there," said Common Cause's executive director, Jim Knox.

As the joint liability bill coursed toward the Assembly floor, the vote-counters knew they were in trouble. Trying to head off opposition from rural and other moderate Democrats, Schacht said he and the proponents fashioned an amendment to exempt growers who posted \$1 million bonds.

The amendment made it to the Assembly floor on June 1 but won the support of only 27 of the house's 44 Democrats. Seven Democrats joined 28 Republicans in opposing it. The remaining 10 Democrats were absent, abstained or didn't vote.

With the compromise amendment dead, Romero knew the bill had no chance. She pulled it off the floor.

Mike Machado, now a state senator from Linden in San Joaquin County, was one of the Assembly Democrats who opposed joint liability. The very idea is unfair, he said.

"A lot of times, the grower isn't aware of the practices going on in the field on behalf of the contractor," said Machado, a third-generation family farmer. "That's guilt by implication. ... I was maybe the only (legislator) who had dealt with farm labor contractors and how they deal with their employees."

After the joint liability bill was killed, Ross met with Hertzberg, seeking a compromise. The result was the sanctions bill carried by Romero.

Hertzberg had made it clear he would broker a deal only if it met with the approval of Machado and Assemblyman Dennis Cardoza, D-Merced, who now chairs the Assembly agriculture committee.

Cardoza did not return phone calls to discuss the bill. Machado said he had made it clear he would support criminal sanctions and mandatory jail time only if it included requirements for knowledge, willful intent and multiple convictions.

"If (employers) violate that threshold, then there should be severe enough penalties that would send the message that this be-

havior would not be tolerated," he said.

Machado and Cardoza, also a third-generation Central Valley farmer, are centrist Democrats. Each raised more than \$100,000 in campaign contributions from agricultural interests in the last election cycle. They also rounded up impressive sums for the Legislature's Democratic leadership, which then spreads the money to candidates throughout the state.

Campaign contributions are just part of the political process, Machado said. "I don't think any good legislator should let them influence what they do."

Ross and the two legislators worked on the proposed legislation through June and July. Hertzberg entered the discussions in August. He summoned to his office agricultural industry lobbyists who negotiated 68 amendments, according to Bill Thomas, a lobbyist-lawyer with the firm of Livingston and Mattesich, which boasts on its Web site of close ties to Gov. Davis.

Thomas, who represented the California Grape and Tree Fruit League in the negotiations, said he dropped his opposition because of some of those changes, particularly the knowledge and intent standard and the limit on imposing mandatory jail time only on a third conviction.

The amendments also were enough to win the endorsement of big agricultural organizations such as the California Farm Bureau Federation, the Ag Council and the Wine Institute.

Yet the measure still drew heavy fire from other organizations, including the Nisei Farmers League, the California Citrus Mutual and the California Cotton Ginners and Growers Associations. They branded it "the send-a-farmer-to-prison bill."

Lobbyist Soares, who represents those three organizations, said his clients thought the bill took away judicial discretion and, more importantly, unfairly singled out agriculture.

Romero introduced the bill on Aug. 25. Six

days later, the Senate and the Assembly passed it. The Senate vote was 23-14, and Jim Costa of Fresno was the only Democrat present to vote no.

Costa, who chairs the Agriculture and Water Resources Committee and comes from a dairy farming family, has often sided with growers. And they have backed him as well. Costa received \$125,000 in agricultural campaign contributions in 1997-98. He got \$36,000 more in 1999-2000, even though he can't run for re-election in 2002 because of term limits.

The Assembly passed the bill on a 44-27 vote. The only Democrat to vote no was another rural Democrat, Sarah Reyes of Fresno. Reyes received \$43,000 in agricultural campaign contributions in the last session.

Reyes said she based her vote on an understanding that paying farm workers the minimum wage "is not a requirement in the state of California." Section 1199 of the state Labor Code, however, says it is.

Reyes also said she opposed the Romero bill because "it had nothing to do with the minimum wage," when, in fact, penalties for violating minimum wage provisions were among the most controversial aspects of the bill.

No Republican in either house voted for it.

"I was concerned about a number of things," said Sen. Charles Poochigian, R-Fresno. "It would set a whole new standard of criminal liability for one class of employers, who, in many cases, were one step removed from the farm labor contractors who were the central part of the bill."

Poochigian, who received more than \$90,000 in ag-related campaign funds in the session when the sanctions bill came up, said those contributors "want nothing more or less than anyone else. I am pleased to represent the people I represent."

After the bill passed the Legislature, Grape and Tree Fruit League lobbyist Thomas

said he felt good because "we finally got this behind us."

But opposition among individual growers simmered through the Central Valley. Cory, the farm bureau lobbyist, said provisions of the bill were misconstrued by growers, despite his attempts to educate them.

"If you had the time to sit down with them, they could be assuaged," Thomas said. "But time wasn't a luxury we had."

Soares rallied the opposition. "Our clients sent letters of opposition to their members, and there were other organizations well beyond our clients who also sent letters," he said.

In spite of the gathering opposition, Thomas said he expected the governor to sign the bill -- and was "dumbfounded" at the Sept. 29 veto.

"I have the greatest respect for farm workers," Davis said in his veto message. "They do some of the most backbreaking work there is, and the fruits of their labor are vital to our economy. I also believe that most employers are responsible and law-abiding. And for those employers who ignore our laws or knowingly use contractors to avoid compliance with those laws, I believe in imposing the stiffest possible sanctions."

"But I cannot support singling out one industry for unequal treatment under the law, even when I find the violations totally repugnant. Civil penalties properly applied can be just as effective in deterring violations."

Ross said that both he and Hertzberg spoke with Davis' legislative liaison after the bill was passed, urging the governor to sign it. But, "with all the things going on at the end of the session, we were just not able to get enough of the governor's attention to help him think this through," Ross said.

Ross, Hertzberg, Romero and the rest think they can get through to Davis this

year. And one top gubernatorial aide, at least, suggested that a veto is not a foregone conclusion.

"Any time you get a bill talked about earlier, it will be talked about more thoroughly, and there's a much better chance of reaching consensus," said Stephen J. Smith, Davis' director of the state Department of Industrial Relations.

In the march to the Capitol last month, an upbeat Hertzberg said he hoped to fast-track the bill to force the governor's hand as soon as possible.

"We were hopeful he'd sign it last year," Hertzberg said. "He didn't, but that's OK. But this is what we do in the Legislature. We put up bills, and we fight for what we believe in."

With Union In Decline, Farm Workers Turning Elsewhere

By Andy Furillo

Bee Staff Writer

(Published May 22, 2001)

Unionization efforts in the state's agricultural industry have fallen off dramatically from the glory days of the past, and organizers blame the proliferation of farm labor contractors.

And with the union movement in decline, farm workers have taken their grievances elsewhere.

Thousands are going to California Rural Legal Assistance offices up and down the state every year to get employers to pay what they owe. Record numbers are taking their own cases to the Agricultural Labor Relations Board. And many more are trying to weave themselves into the civic fabric,

to understand their rights and how to fight for them.

"The laws aren't going to work for you unless you make them work," said Pablo Espinoza, director of a farm labor project run by the American Friends Service Committee in Visalia.

After boasting a membership of as much as 100,000 in the 1970s, the United Farm Workers' ranks had dropped to 20,000 by 1993, when legendary founder Cesar Chavez died. The union claims that recent organizing success in strawberries, mushrooms and wine grapes has increased its membership to about 27,000.

That still remains a fraction of the 500,000 farm workers employed in California at the peak of the fall harvest, leaving most agricultural laborers without a grass-roots champion.

"That's something that would help us," said Placido Gil, 28, a Fresno farm worker who said he has never seen a UFW organizer in 15 years working in California's fields.

The UFW is still making an effort here and there, targeting the D'Arrigo Brothers vegetable farm in Salinas and the Warmerdam fruit-growing operation out of Hanford, in Kings County, among others.

But it holds just one contract in the table grape industry, the crop that gained Chavez worldwide prominence and where more than 50,000 workers still toil every summer.

UFW President Arturo Rodriguez blamed the system of hiring farm labor contractors -- who supply and manage workers for nine in 10 fruit growers and two thirds of vegetable growers -- for sharply curtailing the union's organizing power.

"You just can't do it with contractors," Rodriguez said. "What happens is, either during or after a (union organizing) campaign, the employer will bring in a contractor, which makes it almost impossible for us to win an election. The labor contractor can replace all the workers every single day.

They control them lock, stock and barrel."

Disputes pending at the state's Agricultural Labor Relations Board, the state agency formed in 1975 primarily to arbitrate farm union elections, confirm the decline of organizing efforts. Only five bargaining disputes made it to the board last year, compared to a peak of 108 cases in 1978.

But last year, some 581 individual farm workers lodged charges against their employers -- the highest number since the ALRB began keeping statistics on individual cases in 1991.

Most accused employers of retaliating against them for collectively confronting their bosses about working conditions -- usually about their pay, according to ALRB General Counsel Norma Turner.

Some slack has also been picked up by the federally funded CRLA, which operates out of 17 offices statewide to provide nonprofit legal help to the rural indigent.

The agency estimates it represents 20,000 clients every year in cases of unjust evictions, pesticide poisonings, access to health care, immigration, housing and, often, unpaid wages.

Jeffrey Ponting, managing attorney in the CRLA's Fresno office, said his staff members respond to the complaints by trying to directly contact the employers, whether they are growers or farm labor contractors. Then the staffers try to persuade the employers to pay the workers.

In about a third of the cases, employers agree.

The office tries to resolve the cases as promptly and informally as possible, Ponting said, because half the time "our clients just want their unpaid wages as quickly as possible."

If the growers don't pay, CRLA refers the case to the labor commissioner's office, where employers can be subjected to thousands of dollars in penalties. The labor commissioner's decisions are entered as

judgments in superior court on behalf of the workers.

But the court filing presents no guarantee of payment. Dozens sit in courthouses statewide, while employers disappear or claim poverty.

Social service agencies also have tried to help farm workers learn how to stand up for their rights.

In Visalia, the American Friends Service Committee's Farm Labor Project conducts citizenship classes with a dual purpose: helping eligible residents become citizens so they can feel more knowledgeable about how to use the institutions of American society.

Last year, 700 students went through the classes, and nearly half became citizens, said Espinoza, the project director.

Editorial

'Honored' By Neglect: Will State Again Ignore Farm Workers' Plight?

(Published May 22, 2001)

With much fanfare last year, the Legislature passed and Gov. Gray Davis signed into law a bill to create a state holiday honoring Cesar Chavez, who fought for justice for farm workers. Is it too much to ask that, this year, lawmakers do a little fighting for justice themselves?

The holiday did nothing to improve the lives of Rosaline Barrios Lopez or Antonio Perez or Sergio Salazar, farm workers profiled this week in The Bee's "Dirt Cheap," staff write Andy Furillo's investigation of farm labor contracting. "They steal your hours from you," one farm worker told Furillo. "They steal your time."

The farm labor contractor system, in which middlemen assume legal responsibility for supplying and paying farm workers, shields growers from liability if the workers are not paid. While contractors are often portrayed as the culprits, "Dirt Cheap" illustrates that they, too, are squeezed by farmers, who set off brutal bidding wars that force contractors to cheat to survive. Either they don't pay their insurance, their taxes or their workers.

Meanwhile, a shamefully inadequate state enforcement apparatus, which employs only 19 full-time inspectors to police 36,000 agricultural job sites, ensures that stealing work and time from workers is seldom punished. Inspectors issued only 11 citations in all of 1999 even though a government survey at 66 work sites found one-third of the growers violated minimum-wage laws.

Despite the union organizing efforts of the legendary Chavez, despite the landmark legislation that created the Agricultural Labor Relations Board, despite the growing political clout of Hispanic legislators and despite labor-friendly Democratic majorities in both houses of the Legislature, little has been done to reform the system. Every year, bills to protect farm workers are smashed by agricultural interests, who distribute hundreds of thousands of dollars in campaign contributions.

This year again, three bills have been introduced in the Legislature to toughen laws that regulate farm labor contractors: One (AB 638) would require written contracts between growers and contractors; a second (AB 423) would require growers to validate that the farm labor contractor has a valid license; a third (SB 1125) would expand the ability of farm workers to col-

lect damages from labor contractors when they are cheated.

These bills are helpful and deserve to become law. However, they do not get to the heart of the problem -- an oversupply of desperate workers, many of them undocumented; a labor contractor system that shields the grower, the deep pocket in the system, from responsibility; and a toothless state government that praises the idea of better treatment of farm workers but won't even enforce its own laws. ers to collect damages from labor contractors when they are cheated.

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