



# FARMWORKER JUSTICE NEWS

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Farmworker Justice Fund, Inc.

Spring 2003

## CONGRESS MAY ACT ON FARMWORKER IMMIGRATION POLICY

By Bruce Goldstein

The 108th Congress began in January 2003. It is likely to be a profoundly important session for farmworkers.

The Republican Party's control over both the Senate and the House of Representatives, as well as the White House, will undoubtedly embolden the agribusiness groups to seek passage of legislation for which they have been lobbying actively since 1995.

The National Council of Agricultural Employers would like to strip away the labor rights of farmworkers under the H-2A guestworker program, lower the wage rates, open loopholes on the few labor protections that would remain, and reduce government oversight.

More importantly, many of the NCAE's members (though not all) would like the H-2A program to

become the principal method by which the farm labor force is augmented. That is, they would like the majority of the farm labor force to hold the status of guestworkers.

Farmworker supporters believe that farmworkers, like other contributors to the U.S. economy, should be immigrants and citizens. There is no shortage of agricultural labor. However, several hundred thousand agricultural workers in the U.S. lack authorized immigration status. They should be granted the opportunity to become immigrants and citizens.

If the growers' demands were met, most farmworkers would be indentured servants at their employers and politically powerless residents of the United States.

H-2A guestworkers may only work for the one employer that got them the

temporary work visa. When the job ends, the worker must return home. If the worker says, "I'd like a raise of 10 cents per hour," the employer can reject the demand and hire another worker as long as it is paying the low minimum wage rates required under the H-2A program. In practice, these minimum wage rates become the maximum wages offered because the employer has no economic reason to offer more than the minimum.

In addition, the H-2A guestworkers have no right to become immigrants or citizens. They are called "non-immigrants." When the growers complain to Congress or the Administration about H-2A program requirements, the

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## ADVOCATES CRITICIZE EPA'S METHOD OF EVALUATING FARMWORKERS' PESTICIDE RISKS

By Shelley Davis

Advocates, academics and scientists from around the country came to Washington D.C. on October 29-30, 2002, to attend a Worker Risk Assessment Seminar, hosted by the U.S. Environmental Protection

Agency (EPA). The meeting was held to enable the EPA to explain to stakeholders its methods for determining health risks to farmworkers from pesticide exposure.

The EPA conducts as an occupational risk assessment as part of its process

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## CONGRESS MAY ACT

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politicians in charge of government have no obligation to represent the guestworkers because they don't vote.

When U.S. citizens and immigrants must compete for jobs with non-immigrant temporary foreign workers, they have no bargaining power. The guestworkers are often far more preferable to the growers because of their economic and political weakness. Also, employers save money because they do not have to pay Social Security or unemployment taxes on the wages of guestworkers.

With newly-elected Senator Saxby Chambliss of Georgia chairing the Senate immigration subcommittee, the growers may feel confident. Chambliss vigorously asserted the growers' guest-worker legislation when he was in the House of Representatives.

In the House, the situation is more complicated. The Judiciary Committee is chaired by Rep. James Sensenbrenner, and the immigration subcommittee is now chaired by Rep. John Hostettler (R.-IN), both of whom fall into the camp of conservative immigration restrictionists who prefer to reduce the number of foreign workers, in any status, in the United States.

There exists the possibility of a compromise regarding immigration and guestworker issues for the agricultural sector during the 108th Congress.

A compromise probably would fall somewhere between two pieces of legislation that were introduced during the last (107th) Congress, one set of bills by Rep. Howard Berman and Sen. Edward Kennedy, and another bill by Sen. Larry Craig. Both sets of bills contained a method for undocumented farmworkers employed in the U.S. to gain immigration status, but the Craig bill's qualification criteria were so stringent that the majority of farmworkers would not qualify. The result would be that many more employers would hire guestworkers. The other aspect of Craig's bill was that it would make the H-2A guest-worker program far worse. Wages and benefits would be lower. Government oversight would be virtually nonexistent.

The farm labor force would be transformed. By contrast, the Berman-Kennedy legislation would have created a meaningful legalization program and would have revised the H-2A program to respond to criticisms by growers about too much bureaucracy, as well as by workers.

Much of the current disagreement concerns the labor rights that guestworkers would have: the growers want to continue to deprive guestworkers of the limited rights that citizens and immigrants have under the Migrant and Seasonal Agricultural Worker Protection Act of 1983.

Congress and the White House may be inclined to take action this year. The Farmworker Justice Fund will be monitoring, reporting and advocating to protect farmworkers' interests. Keep informed by visiting our website, [www.fwjjustice.org](http://www.fwjjustice.org). ♦

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The Network for Good has made donating to charities like the Farmworker Justice Fund, Inc. simple and quick. Just go to FJF's website, which is [www.fwjjustice.org](http://www.fwjjustice.org), and click on the button that says "Network for Good." You will be able to make a tax-deductible donation using a credit card, and the entire donation will go to FJF. You will receive an online confirmation. You will also receive a letter from FJF acknowledging your donation.

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# FJF LITIGATES WAGE CASE TO VICTORY AGAINST DEPARTMENT OF LABOR

By Bruce Goldstein

Thousands of seasonal farmworkers in the United States who have been underpaid during parts of the past two years due to illegal conduct by the U.S. Department of Labor should not have to suffer the same fate in 2003, thanks to a federal court decision issued on September 10, 2002.

In *United Farm workers of America, AFL-CIO, and Farm Labor Organizing Committee, AFL-CIO v. Elaine Chao, Secretary of Labor*, a federal court ruled in favor of two farm labor unions and against Secretary of Labor and the U.S. Department of Labor in an important case regarding migrant farmworkers' wage rates under the H-2A temporary foreign agricultural worker program.

On September 10, 2002, Judge Gladys Kessler of the U.S. District Court for the District of Columbia ruled that the Department of Labor had violated its own regulations and the federal Administrative Procedure Act by adopting a policy that was inconsistent with its own regulations. Under the new policy, the DOL granted itself the discretion to delay issuing annual wage rates applicable to employers who hire guestworkers under the H-2A program. Implementing that policy led to thousands of farmworkers – foreign and domestic workers at those H-2A program employers—earning improperly low wage rates. The court held that the agency must follow its own regulations until it gives the public an opportunity to comment on proposed changes and then issues a reasoned explanation for any change in policy.

The DOL initially appealed the decision but then dismissed its appeal in December 2002, and the court's decision is now final. DOL also paid the

plaintiffs attorneys' fees for the work the Farmworker Justice Fund, Inc. and its cocounsel, James & Hoffman, P.C. David Dean of James & Hoffman served as lead counsel. FJF deeply appreciates the pro bono services the firm provided. The case is reported at 227 F. Supp. 2d 102 (D.D.C. 2002).

The case involves the “adverse effect wage rate” (AEWR or “ay-were”) under the H-2A program. A long-standing regulation requires the Department of Labor to annually issue the AEWR. For the prior ten years, the AEWR had generally been issued in February. The H-2A wage rates for one year are determined by a survey of the wages paid to farmworkers during the prior year. The survey is conducted by the US Department of Agriculture and is completed during November of that prior year. The wage rates are issued by DOL for each state. Although H-2A program employers may use piece rate wage systems, the workers must earn at least the AEWR on an hourly basis.

In 2001, the DOL refused to publish the results of the USDA survey until the lawsuit was filed and the court scheduled a hearing on the plaintiffs' motion for a preliminary injunction in August 2001. DOL issued the wage rate just before the hearing was held. In 2002, the DOL again refused to publish the results of the wage survey until the plaintiffs went back into court, but then issued the wage rate before a court hearing could be held in May 2002.

The AEWR, under DOL's rules, does not take effect until it is published in the Federal Register and is not retroactive. Consequently, until August in 2001 and until May in

2002, many workers were underpaid. DOL allowed H-2A employers to pay the previous year's wage rates (which, in most cases, were lower). DOL contended that it had the authority to delay issuing the wage rates until December 31 of the year if it so chose, and that it was responding to Congressional requests in making that choice. However, DOL, besides lacking such authority, also ignored the requests to issue the wage rates on time by several members of Congress.

DOL now approves about 45,000 jobs under the H-2A program annually, a significant increase from a few years ago. Although, small in comparison to the national farm labor force, the H-2A program is used heavily on the East in tobacco, especially in North Carolina. It is also popular among growers in eastern apple orchards and nurseries, as well as for the harvesting of Christmas trees in several states. A variety of other locations across the country also use H-2A workers. In Kentucky, home to Senator McConnell, the husband of Secretary of Labor Chao, there were 2,663 H-2A workers approved for the year 2001 by the Department of Labor, mostly in tobacco. Some of the states in which the hourly wage rates are affected include the following:

	2000	2001	2002
New England & New York	\$7.68	\$8.17	7.94
Georgia & South Carolina	6.72	6.83	7.28
Kentucky	6.39	6.60	7.07
N. Carolina	6.98	7.06	7.53

For more information on the H-2A program and the wage rates, visit our website at [www.fwjjustice.org](http://www.fwjjustice.org) and click on “legislative updates” and then click on “guestworker legislation.” ♦



# FJF SPONSORS SOCIALLY-RESPONSIBLE WINE TASTING

By Bruce Goldstein

Farmworker advocates are well-known for boycotts of companies that mistreat their employees and violate labor laws. But farmworker advocates also like to support products made by companies that act responsibly toward their workers.

To highlight companies producing wines where farmworkers are treated responsibly, the Farmworker Justice Fund sponsored a fine wine tasting. The event was held during the evening of

receive fringe benefits and work under safe conditions negotiated by their union, the United Farm Workers of America, AFL-CIO (UFW).

Jonathan Hiatt, the General Counsel of the AFL-CIO, welcomed the group of about 85. Bruce Goldstein, co-executive director of FJF, provided background on the event. Then Washington Post wine columnist Michael Franz described the wines we would taste and gave tasting tips.

The wines tasted are listed below. They

range in geographic location, color, grape, age and cost (list prices ranged from about \$11 to \$43 per bottle). Of course personal taste determines whether people like a

particular wine, but the crowd's general view was that the wines were of consistently high quality.



AFL-CIO General Counsel Jonathan Hiatt and FJF's Bruce Goldstein.

December 11, 2002, at the AFL-CIO's headquarters in Washington, D.C.

The wine tasting was a benefit for FJF but also intended to showcase a variety of fine wines from California and Washington State — all produced at wineries whose farmworkers earn decent wages,



Wine expert Michael Franz.

For a list of wineries with unionized vineyard workers, visit the union-label web page of the United Farm Workers of America, AFL-CIO (<http://www.ufw.org/ulmth.htm>).

FJF deeply appreciates the financial support it received. Special thanks to the American Federation of Labor-Congress of Industrial Unions, the United Mine Workers, and the Service Employees International Union, and others who are listed at our website. ♦

## The wines we tasted: (with approximate list prices)

<b>St. Supery, Sauvignon Blanc,</b> Napa Valley, California, 2000	\$16
<b>Columbia Crest, Grand Estates Chardonnay,</b> Washington State, 2001	\$13
<b>Frei Brothers, Russian River Valley Reserve Chardonnay,</b> Sonoma, California, 2000	\$18
<b>Anapamu Cellars, Pinot Noir,</b> Monterey County, California, 2000	\$14
<b>Snoqualmie Vineyards, Columbia Valley Syrah,</b> Washington State, 2000	\$11
<b>Chateau Ste. Michelle, Columbia Valley Reserve Merlot,</b> Washington State, 1999	\$43
<b>Gallo of Sonoma, Stefani Vineyard Cabernet Sauvignon,</b> Sonoma County, California, 1997	\$28
<b>St. Supery, Cabernet Sauvignon,</b> Napa Valley, California, 1999	\$24
<b>Chateau Ste. Michelle, Cold Creek Vineyard Columbia Valley Cabernet Sauvignon,</b> Washington State, 1999	\$33
<b>Rancho Zabaco, Dancing Bull Zinfandel,</b> Sonoma County, California, 2001	\$12

# SPREADING AIDS AWARENESS ON EL DÍA DE LOS MUERTOS

By Myrtelina González

Health promoters in El Paso, Texas used El Día de los Muertos (the Day of the Dead), Nov. 2, 2002 as an occasion to spread an AIDS prevention message to farmworkers and their families. The Day of the Dead is celebrated throughout Latin America every year in different ways. In Mexico this holiday is traditionally an opportunity to remember those who have passed away, and to celebrate the continuity of life.

Generally on this occasion families visit the cemetery, place flowers on the graves of their loved ones, set out a picnic and socialize with friends and

neighbors who have gathered there. Families erect an altar with pictures and souvenirs of the deceased and tell stories to remember the good times spent together.

Last November the promotores de salud (health promoters), organized by FJF and Las Americas Immigrant Advocacy Center of El Paso, erected an altar at the Plaza de los Lagartos (the Plaza of the Alligators), the center of town, on el Día de los Muertos. They used their altar to educate the community about HIV/AIDS.



*The Day of the Dead is celebrated throughout Latin America.*

.....

Using the theme "Remembering", the  
twenty-eight promotores de salud  
dedicated their altar to  
those who had died of AIDS.

.....



*The altar had traditional trimmings such as pictures, paper dolls, Pan de Muerto ("Bread of the Dead"), cookies and even tequila.*

Using the theme "Remembering", the twenty-eight promotores de salud dedicated their altar to those who had died of AIDS. The altar had traditional trimmings such as pictures, paper dolls, Pan de Muerto ("Bread of the Dead"), cookies and even tequila. But the most important object at the altar for those who gathered there were the leaflets distributed by promotores about HIV/AIDS prevention.

Junior high school students who were visiting the plaza were assigned to choose and replicate at school, the altar they liked best. "Remembering" was one of the altars they chose.

The promotores' use of an El Día de los Muertos altar was an effective way to draw the community's attention to this important issue. These activities demonstrate the promotores' creativity in combining cultural events of the Mexican-American community with the HIV/AIDS prevention message. ♦

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# FJF TARGETS YOUNG MIGRANT LATINO MEN ALONG THE BORDER FOR HIV PREVENTION

By Steven Diego Díaz

A recent study by the California Department of Health Services measured the prevalence of HIV infection among Latino young men who have sex with men in San Diego, California and in Tijuana, Mexico. The study found that the prevalence between these two groups is 35% for the San Diego group and 19% for the Tijuana group. This is over 10 times the prevalence of HIV prevalence in the United States.

According to the Centers for Disease Control and Prevention in Atlanta, young men of color are the group that

is at highest risk of HIV infection. Twenty years of HIV prevention and treatment work have helped many live longer, healthier lives, but it also has caused much complacency among younger adults who have not experienced the sense of loss that older adults have due to the epidemic. This awareness from the CDC has encouraged them to fund special projects targeting young men of color that have sex with other men.

The Farmworker Justice Fund, Inc. has been the recipient of a small supplemental grant to conduct HIV prevention pilot projects along the

USMexico border targeting young Latino migrant men who have sex with other men. The two pilot projects will be taking place in McAllen, Texas and in Vista, California. The projects are based on the "Popular Opinion Leader" model that is one of the HIV prevention interventions that has been scientifically assessed and is sponsored by the CDC in its Compendium of Effective HIV Prevention Interventions manual. The pilots are scheduled to last four months and a curriculum handbook is being developed targeting this specific population. ♦

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## Advocates Criticize EPA's Method

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for registering a pesticide and determining whether and under what circumstances the product can be used. During the meeting, worker advocates used the public comment periods to describe their clients' exposures to unsafe levels of pesticides and to identify deficiencies in EPA's risk assessment process. Participants in the meeting included representatives from the American College of Occupational and Environmental Medicine, Comité de Apoyo a los Trabajadores Agrícolas (which is headquartered in New Jersey), Farmworker Justice Fund, Inc., Florida Rural Legal Services, Migrant Clinicians Network, Florida Legal Services, Natural Resources Defense Council, Southern Migrant Legal Services, and the United Farm Workers of America, AFL-CIO.

In one session, epidemiologists and researchers from the EPA, the National Institute of Occupational Safety and Health (NIOSH),

California and elsewhere described what is known about the pesticide poisoning incidents that occur. However there is no comprehensive national data because the EPA has not established a national pesticide incident reporting system. Many farm workers are poisoned by pesticides each year while at work. Some of these exposures are reflected in the Incident Data System, where pesticide manufacturers report to EPA approximately 2,000 major poisonings each year. But the lack of a national incident reporting system makes it impossible for the EPA to evaluate the accuracy of its risk assessment or the effectiveness of the protective measures it requires.

Worker representatives were also surprised to learn that the EPA presumes 100% compliance with its safety measures when it assesses worker risk. As several advocates noted, the EPA's presumption flies in the face of the poor record of compliance that farm-

workers and their representatives see around the country. Moreover, most state do not adequately enforce the Worker Protection Standard or the protective measures mandated by pesticide labels, so that growers suffer few consequences for failing to ensure the safety of their workers.

Advocates also noted that EPA's worker risk equations don't accurately reflect reality for most workers. For example, the EPA presumes that workers are only exposed to pesticides for a maximum of eight hours in a workday. But often the workday exceeds eight hours, and even when it doesn't, most farmworkers must travel some distance before they can shower and change into clean clothes. Moreover, some migrants lack access to showering facilities on a daily basis because they sleep in fields, in their cars or in tents. Others wear the same pesticide-contaminated work clothes for an entire week before they have an opportunity to wash them.

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# COURT RULES IN FAVOR OF H-2A WORKERS ON TRANSPORTATION COSTS

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By Bruce Goldstein

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Farmworkers recently won an important appellate court case. The Farmworker Justice Fund provided assistance through an amicus curiae (friend of the court) brief that it co-wrote with the National Employment Law Project. Now, FJF is helping in efforts to persuade the Department of Labor to follow the law despite strong pressure by agricultural employers on DOL to reject the court decision.

The U.S. Court of Appeals recently ruled in *Arriaga v. Pacific Farms*, 305 F.3d 1228 (11th Cir. 2002), that H-2A program employers have been violating the Fair Labor Standards Act by depriving migrant workers of the federal minimum wage of \$5.15 per hour. The employers essentially reduced the workers' earnings in the first week or two of the season by forcing the workers to absorb the costs of long-distance transportation to the place of employment and visas. The court ruled that these expenses paid by the workers are primarily for the benefit of the employer, constituted a de facto wage deduction, and did not fall within the category of wage deductions that may be used to depress earnings below the minimum wage.

The court's ruling means that the H-2A program employers (and others) must reimburse the workers each week for at least enough of their travel costs so that they earn the minimum wage of \$5.15 per hour (the higher H-2A adverse effect wage rates were not at issue). Also, for example, an employer could pay these costs up front and then obtain reimbursement from the workers through weekly payroll deductions but must limit the deduction so that the worker earns at least the federal minimum wage during each week of the season.

The plaintiffs were represented by Greg Schell of Florida Legal Services, Edward Tuddenham of Austin, Texas, and the firm of Wilmer, Cutler & Pickering of Washington, D.C. (which is receiving a pro bono award due to the importance of the case). The FJF-NELP amicus brief explained to the court the nature of the guest-worker program and the reason why the elaborate recruitment and transportation system established by the growers "primarily benefits" the employer, rather than the workers, and therefore may not result in earnings below the federal minimum wage.

With this clear-cut court of appeals decision, now is the time for the Department of Labor to finally begin effectively enforcing this policy. While DOL for years has been advising H-2A program employers that the policy reflected in *Arriaga* required under the Fair Labor Standards Act, the agency has taken no meaningful steps to enforce it.

We understand that the DOL, which should be enforcing the decision by requiring H-2A program employers to comply with it, may not enforce the decision on H-2A employers outside the geographic area of the Eleventh Circuit (in the Southeast). Growers have been pressing DOL to announce disagreement with the court decision.

FJF and others have contacted the Secretary of Labor and members of Congress to seek the agency's cooperation in enforcing the farmworkers' rights. FJF also is assisting other lawyers around the country as they consider filing similar cases. FJF's efforts on this project have been led by volunteer attorney James B. Leonard. ♦

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## Advocates Criticize EPA's Method

*Continued from Page 6*

In addition, the EPA's methodology for calculating worker exposure does not account for unintentional exposures through pesticide spills, splashes, or drift. Moreover, the EPA has recently approved agricultural uses for Azinphos-Methyl (and other pes-

ticides), which has levels of toxicity that are unacceptable, even by the EPA's standards. But the Agency has allowed these uses because it found that the predicted financial benefits to agribusiness outweigh the health risks to the workers. The EPA has

scheduled its second Worker Risk Assessment Seminar for March 2003.

FJF will continue to collaborate with other organizations to provide farmworkers with a voice in these governmental processes and reduce their exposure to toxic pesticides. ♦

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# ENVIRONMENTAL HEALTH EDUCATION FOR BORDER COMMUNITIES

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By Virginia Ruiz

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In October 2002, FJF re-launched its environmental health education project, Project Clean Environment for Healthy Kids. This project, a continuation of a two-year effort during 1999-2001, targets low-income community residents and health professionals living in the US-Mexico border region.

This year, we return to the communities of McAllen, Texas and Yuma, Arizona, to work with thirty-five promotores de salud (lay health educators) who conduct outreach and education to their families, neighbors and other community residents. After attending four intensive one-day workshops, the

promotores go into their communities to discuss health hazards related to their environment, including pesticide exposure, asthma, lead poisoning, and contaminated drinking water. In the McAllen area, FJF collaborates with Texas Rural Legal Aid of Weslaco, Texas, to recruit, train and supervise the promotores. In Yuma, our local partner is Campesinos Sin Fronteras (Farmworkers Without Borders) of Somerton, Arizona. FJF will also hold a community forum on environmental health issues for lay health educators in San Diego County, California.

The promotores work closely with area migrant health centers and link health professionals to underserved farmworker communities. Clinic staff

also benefit from this project through workshops sponsored by FJF on the health effects of acute and chronic exposure to pesticides. Dr. Marion Moses, a renowned pesticide expert, and longtime health advisor to Cesar Chavez, serves as the main presenter at these workshops for health professionals. This year, in addition to our activities in the lower Rio Grande Valley and Yuma, Arizona, we will offer a workshop to migrant health centers in San Diego County, California.

FJF has developed a curriculum for peer educators and a manual for health professionals. For more information on the project and materials available, please contact Shelley Davis or Virginia Ruiz. ♦

# ADVOCATES ASK LABOR DEPARTMENT TO IMPROVE WORKPLACE PROTECTIONS FOR YOUNG WORKERS

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By Shelley Davis

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In October 2002, representatives from the Child Labor Coalition (including FJF) met with U.S. Department of Labor (DOL) Wage and Hour Administrator Tammy McCutchen to request improvements in workplace protections for young workers. Specifically, the advocates urged DOL to adopt the recommendations of the National Institute of Occupational Safety and Health (NIOSH) for a broader designation of hazardous activities that cannot be performed by workers under age 16 in agriculture (and under age 18 in general industry).

Under the Fair Labor Standards Act, (FLSA), children who are 12 years old or older can work in agriculture outside of school hours, but only

adolescents, aged 16 or older can do jobs designated as hazardous. The Secretary of Labor designated 28 tasks as hazardous, about half of which are apply to agricultural work. These designations, called Hazardous Orders, were issued in 1970 and have not been revised since. At the request of DOL, NIOSH conducted an extensive review of all existing Hazard Orders and collected available epidemiological data on the number of adults and children who suffered fatal and non-fatal injuries while performing these dangerous tasks. (The report called, National Institute for Occupational Safety and Health Recommendations to the U.S. Department of Labor for Changes to Hazardous Orders May 3, 2002 is not available on DOL's web site. It can be obtained by request from Art Kirschner, Wages

& Hour Division, U.S. Department of Labor, 200 Constitution Ave N.W. Washington D.C. 20210) NIOSH makes many excellent recommendations for expansion of the Hazardous Orders for young agricultural workers and all should be adopted. For example, currently young workers are only prohibited from driving a tractor with over 20 Power Take Off (PTO) horsepower; and 14 and 15 year olds are exempt from this restriction if they get a tractor certification. Since tractor and transportation accidents are the leading cause of fatalities among agricultural workers - and rollovers top the list of these incidents - NIOSH recommended that young workers be prohibited from driving any tractor and that 14 and 15 years olds only be permitted

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# BUILDING THE CAPACITY OF OREGON AGENCIES TO PROMOTE HIV/AIDS PREVENTION AMONG FARMWORKERS

By Rossana Cardoso

On October 15, 2002, FJF held a one-day forum in Dalles, Oregon entitled "HIV/AIDS Prevention Among Latino Migrant Communities." The purpose of the event, co-sponsored by the Oregon Department of Human Services - HIV Prevention office, was to build the capacity of local service providers to promote HIV/AIDS prevention among farmworkers in their area. Fifteen people from local health departments and HIV/AIDS agencies participated. Workshop sessions addressed: HIV/AIDS among migrant communities; Migrant Culture; Challenges and Barriers to HIV Prevention among Migrants; Promotores de Salud Model; and Examples of how Promotores de Salud have Made an Impact on HIV/AIDS prevention in their communities.

Over the past decade the number of Latino farmworkers in Oregon has grown substantially. The most recent Census shows that there were 275,000 Latinos living in Oregon in 2000, which accounts for 8% of the state's population. It is estimated that there are 103,453 migrant and seasonal farmworkers in that state, 90% of whom are from Latin America

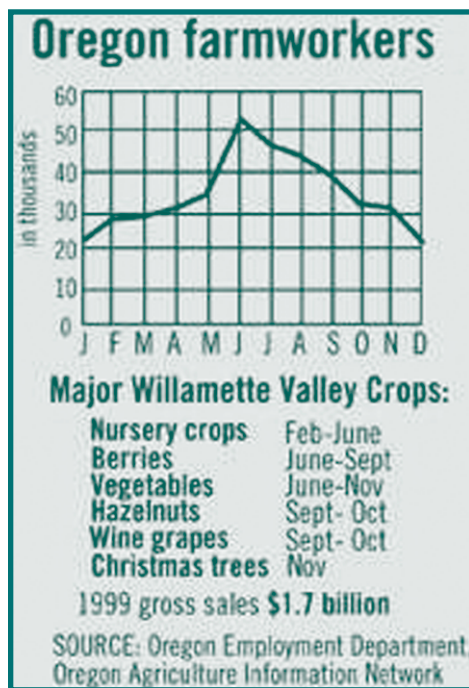
(Migrant Health Program, Migrant and Seasonal Farmworker Enumeration Study, 2000). The graph below illustrates how the population of Oregon farmworkers fluctuates throughout the year.

The prevalence of HIV/AIDS among Oregon Latinos surprised the forum participants. For example, in the one-year period, October 1, 2001 to September 30, 2002, 316 Oregon Latinos were diagnosed with AIDS. In the same time period, an addition-

al 53 Latinos were reported to be HIV positive. The rate of HIV infection among Latinos in Oregon is 19.25 per 100,000 people per year.

The development of effective Promotores de Salud projects was a primary focus of the program. Madeline Sanchez of the Grant County Health Department in nearby Washington State, was a guest speaker and she described how her promotores de salud program was successfully implemented. Other Promotores de Salud, who work with migrant and seasonal farmworkers, also provided insights on their outreach strategies and the importance of developing culturally appropriate HIV/AIDS prevention programs.

Participants were particularly interested in learning about the differences between the migrant culture and that of the settled Latino population. In addition, several attendees noted that the forum had opened their eyes to the growing need for HIV/AIDS prevention efforts aimed at migrant workers and helped them conceptualize the kind of program that their organization could develop to address this issue. As one participant put it, "I realized how easy it would be to ... utilize promotores ..." ♦



## Advocates Ask Labor Department

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to drive tractors with rollover protective devices and seat belts.

In addition, current Hazardous Orders prohibit young workers from working at heights of over 20 feet. Data shows that serious accidents

can occur at much lower heights. NIOSH recommends that protective devices be available for work at heights of over six feet.

Finally, young workers are prohibited from handling the most immediately toxic pesticides, but are permitted to

handle products which could cause cancer, birth defects or sterility. NIOSH recommends that young workers be prohibited from applying any pesticide. FJF and other farmworker advocates are working together to persuade DOL to adopt NIOSH's recommendations. ♦

# PROMOTORES DE SALUD PROVIDING HIV TESTING AND COUNSELING

By Myrtelina Gonzalez

Over the past five years, FJF has trained several hundred farmworkers and their family members to be lay health educators (promotores de

Recently six of our Promotores were trained to administer the oral HIV test (Orasure) and to provide pre- and post-test counseling, free of charge. These promotores now conduct testing in the privacy of



*The local agencies provide the promotores with materials to distribute and referrals for follow-up health care.*

salud) to promote HIV/AIDS prevention. These peer educators are active in farmworker communities in Arizona, California, Florida, New Mexico and Texas. One important goal of the project has been to encourage at-risk farmworkers to get tested for HIV.

Many obstacles prevent farmworkers from getting tested. Often, health clinics only open for testing during working hours; some do not have Spanish-speaking staff; others charge a fee; and many are located far from farmworker communities. Many farmworkers also choose not to be tested because they fear the results. It is a part of the work of promotores to persuade farmworkers to get tested and to assist them in overcoming these barriers.

the farmworkers' homes. As a result, farmworkers who lacked access to or felt uncomfortable at testing facilities are now getting tested.

In addition FJF's promotores collaborate with local health departments



*Simon Ladino, Jose Aceves, Jesus Martinez and Veronica Suarez at the Free HIV Test, Arizona Regional College*

and HIV service providers. The local agencies provide the promotores with materials to distribute and referrals for follow-up health care. The pro-



*Many obstacles prevent farmworkers from getting tested. Often, health clinics only open for testing during working hours.*

motores assist the agencies by informing them of the extent of the epidemic in the farmworker community, and by helping them reach migrants who might not otherwise visit their facilities. ♦

## Visit our website at: [www.fwjjustice.org](http://www.fwjjustice.org)

## HELP FJF EXPAND IN ITS 22<sup>ND</sup> YEAR

**P**lease support the work of the Farmworker Justice Fund by making a generous, tax-deductible donation. (FJF is a 501(c)(3) nonprofit corporation.) Help us make 2003, our twenty-second anniversary — our most effective year of advocacy ever.

FJF plays a leadership role in advocacy for migrant farmworkers in the nation's capital. We have creatively used all available tools to further the cause of farmworkers. Litigation. Administrative and Legislative Advocacy. Training and technical assistance for lawyers, paralegals, government personnel, health care providers, and farmworkers. Media work and other public education. Building coalitions of farmworker organizations, Latino organizations, civil rights groups, immigrants rights advocates, labor unions, religious institutions, environmentalists, and many others. These activities and more have made a difference in the lives of thousands of farmworkers. Labor law. Immigration policy. Occupational Safety and Health. Access to the Justice System. Women's Issues. All of these have been advanced by FJF's work. In each of these areas, FJF has helped to defend farmworkers' interests against attacks and rollbacks.

Despite our important work and the efforts of many others, the wages, working conditions and living conditions of most of America's migrant farmworkers remain unacceptable. Please help the Farmworker Justice Fund, Inc. continue and expand its work by making a financial contribution to our work. Thank you very much.

Mail to:

Farmworker Justice Fund, Inc.  
1010 Vermont Avenue, NW, Suite 915  
Washington, DC 20005



I would like to support the Farmworker Justice Fund, Inc. in its twenty-first year of helping migrant and seasonal farmworkers.

Enclosed is my tax-deductible donation of \$ \_\_\_\_\_. Please place me on your mailing list.

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# FARMWORKER JUSTICE FUND AND MEXICAN FARM LABOR UNION JOIN FORCES TO SEEK ENFORCEMENT OF FARMWORKERS' RIGHTS

By Bruce Goldstein

On Tuesday, February 11, 2003, FJF and a Mexican labor organization, Central Independiente de Obreros Agrícolas y Campesinos (CIOAC) filed a request for action by the governments of the U.S., Mexico, and Canada to improve conditions for Mexican migrant farmworkers employed under the H-2A temporary foreign agricultural worker program.

The request for investigation and action occurs under the "labor side agreement" of the North American Free Trade Agreement (NAFTA), which is formally known as the North American Agreement on Labor Cooperation (NAALC).

The submission was filed in Mexico City with Mexico's "National Administrative Office" (NAO) for the NAALC.

The request focuses on the treatment of Mexican citizens who are recruited to work as farmworkers in the state of North Carolina by several hundred agricultural employers and their recruiter, known as the North Carolina Growers Association (NCGA). More than 10,000 "H-2A workers" are now hired annually in North Carolina, more than are hired in any other state.

The NAALC requires each of the three nations to cover "migrant workers" under its labor laws to the same extent as other workers and to enforce their own labor laws effectively. The purpose of the submission is to (1)

remedy discriminatory legal standards that deny the H-2A program farmworkers the rights of other workers, including other farmworkers in the United States, and deny workers rights guaranteed under international labor law, including the right to organize unions free from retaliation and to bargain collectively, and (2) end a persistent pattern by the U.S. Government of failing to enforce effectively the applicable labor laws.

There are few sanctions available under the NAALC but we hope that the obligation to consult to resolve abuses will be taken seriously and will lead to reform of the H-2A program. More information on this international advocacy is available at our website, [www.fwjjustice.org](http://www.fwjjustice.org). ♦

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