Farmworker Advocates Praise the Department of Labor’s New H-2A Regulations

The H-2A Agricultural Guestworker Program has been the subject of much attention recently. In February, Secretary of Labor Hilda Solis announced new H-2A program regulations that took effect on March 15. The new rules mostly reversed the very harmful changes made by the Bush-Chen Administration to wage rates, benefits and other labor protections. Farmworker Justice praised the new regulations as a victory for our nation’s farmworkers and thanked the Secretary of Labor for her commitment to farmworkers. From the beginning of her term, Secretary Solis made farmworkers a priority and allocated the substantial resources needed to rewrite the H-2A program regulations.

Agricultural employers expressed dismay over the new regulations, even though the regulations largely restored the basic procedures and worker protections that had been in place since 1987. The American Farm Bureau Federation and the North Carolina Growers Association filed a lawsuit against the Department of Labor in federal court in North Carolina seeking to overturn the latest revisions. On April 9, the court rejected the growers’ request for an emergency injunction to overturn the new regulations. At press time, the Solis regulations remained in place but it was unclear how the lawsuit would proceed. Farmworker Justice was one of several organizations providing legal representation to farmworker labor unions and individual farmworkers who intervened in the case.

Interestingly, while a broad range of grower groups filed the 2009 lawsuit to stop the H-2A regulations, only the North Carolina Growers

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Dept of Labor’s New H-2A Regulations

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Association and the American Farm Bureau Federation brought the 2010 lawsuit. Many of the agribusiness critics view the new regulations as another reason to support a compromise in Congress on immigration, the “AgJOBS” bill, which we have described in past newsletters. AgJOBS would revise the H-2A program in balanced ways and offer hundreds of thousands of agricultural workers the opportunity to earn a legal immigration status. The pro-AgJOBS groups did not join the 2010 lawsuit.

Farmworker advocates have long criticized the H-2A guestworker program for its lax labor protections for both U.S. farmworkers and guestworkers. Despite the program’s history of abuses, the Bush Administration’s changes reduced government oversight and diminished the program’s protections for farmworkers, including by cutting farmworkers wages on average by $1.00 but in many places by $2.00 per hour. Secretary Solis restored the old formulas for the wage rates and transportation cost reimbursements, the job preference for U.S. workers, the minimum work guarantee, and the oversight of employer applications. She also strengthened some of the few positive changes made in the Bush regulations, such as the requirements that farm labor contractors provide a surety bond. Solis added several new protections, including a requirement that foreign workers be informed of the job terms by the time they apply for a visa and a requirement that H-2A applications be posted on an electronic job registry so that US workers can learn about the jobs.

In 2010, the tens of thousands of U.S. workers and foreign workers employed at H-2A program employers will receive job opportunities with higher wages and benefits and government oversight as a result of Secretary Solis’s action. We also appreciate the coalition effort among farmworker organizations, advocates and allies to persuade the Administration to take such action, to submit the factual materials and comments that demonstrated the need for such action, and to intervene in the lawsuits to represent the interests of farmworkers.

Read the latest developments on the H-2A Guestworker Program on our website, www.farmworkerjustice.org/guestworker-programs/h-2a

Expanding Funding for Community Health Centers May Help Farmworkers

In the United States over 17 million people rely on community health centers for access to basic health care. Serving primarily the uninsured and underinsured, these health centers receive federal funding to provide health care for clients based on a sliding scale fee. Because they are such a crucial source of health care to so many Americans, the recent health insurance overhaul and the stimulus package of 2009 gave significantly increased funding to these organizations, and the 2010 health care reform legislation includes about $11 billion over the next five years for expanded programs, facilities and services.

Community health centers, including some that are called “migrant health centers” because they receive dedicated funding to focus on farmworkers, are an important source of medical care for many farmworker families. In 2008, migrant health centers provided care to over 834,000 agricultural workers in the U.S.
New Chair, Vice Chair of Farmworker Justice Board of Directors

The Farmworker Justice Board of Directors has elected Grizelle Apodaca to a two-year term as Chair of the Board and Ramon Ramirez as Vice-Chair.

Grizelle is President and CEO of Eslabon Associates, a consulting and organizational development firm based in Goodyear, Arizona, near Phoenix. Throughout her career she has assisted many organizations, including Lideres Campesinas, a farmworker women’s organization in California, served as Director of Affiliate Services for the National Council of La Raza, in Washington, D.C. and was the monitor-advocate for migrant and seasonal farmworkers in Maryland under a federal-state employment and training program. Grizelle has been serving as the Development Committee Chair on FJ's Board. Grizelle is the first woman to serve as Board chair in the organization's 29-year history.

Ramon Ramirez, the Vice-Chair of the Board, is President of Pineros y Campesinos Unidos del Noroeste (Treeplanters and Farmworkers United of the Northwest, "PCUN"), Oregon's farmworker union, www.pcun.org. Ramon has co-founded several organizations in Oregon to advance the interests of farmworkers and immigrants. He is also active at the national level with major immigration rights organizations. Ramon and his family live in Woodburn, Oregon.

Expanding Funding for Health Centers continued from page 2

The Migrant Health Program of the U.S. Department of Health and Human Services helps community health centers provide culturally and linguistically appropriate medical and support services for migrant and seasonal farmworkers and their families. Farmworker Justice collaborates with the Migrant Clinicians Network and several other organizations to provide technical assistance to the health centers to optimize their service to farmworkers.

The health care reform legislation will expand access to Medicaid and subsidized health insurance for many low-income people. However, many farmworkers will not be eligible for those insurance programs. Some will be barred because they are undocumented immigrants, recent lawful immigrants are prohibited from receiving Medicaid for five years and many farmworkers’ employers will continue to not offer workers health insurance, claiming that they are not obligated to provide it under loopholes for small businesses and companies that employ seasonal workers. With family incomes under $20,000 per year, the cost of purchasing health insurance will be prohibitive for most farmworkers. For the hundreds of thousands of farmworkers who will not be able to obtain Medicaid or health insurance under the new legislation, the expansion of the community and migrant health centers is an important development.

Major Court Victory for Migrant Forestry Workers

In one of the largest settlements of its kind, an Arkansas forestry company has agreed to pay $2.75 million to settle the legal claims of foreign guestworkers who say they were cheated out of the wages they earned planting trees for the company.

Superior Forestry Service Inc.’s agreement to pay more than 2,200 guestworkers makes this one of the largest settlements ever reached under the Migrant and Seasonal Agricultural Worker Protection Act.

The lawsuit was brought on behalf of the workers by the Southern Poverty Law Center (SPLC), Farmworker Justice, the Legal Aid Justice Center and attorneys from two Chicago-based private law firms: Willenson Law, LLC and Hughes, Socol, Piers, Resnick & Dym. Superior Forestry is one of the largest forestry contractors in the United States.

Farmworker Justice contributed substantially to this class action case, with extensive worker by Litigation Coordinator Marni Willenson, who recently returned to private practice. This litigation is another example of the vital role FJ plays in remedying and deterring labor law violations and aiding vulnerable guestworkers.
Weeun Wang to Lead Farmworker Justice Litigation Team

We are pleased to announce that Weeun Wang, a retired attorney with the U.S. Department of Justice and long-time supporter of our organization, will be joining our team this summer as a Senior Attorney/Litigation Coordinator. Weeun, an immigrant who came to the United States with his parents, who were from China, has done pro bono work for Farmworker Justice and his son, Nick, has worked for us as a high school volunteer. Weeun is a graduate of the University of Delaware and the Delaware School of Law at Widener University and is eager to delve into farmworker law.

For almost 30 years, Weeun worked for the U.S. Department of Justice as an antitrust attorney, often working on complex cases. As he retires from government, Weeun decided that he would like to work in the public interest field, specifically for farmworkers.

While at Farmworker Justice, Weeun will focus on leading litigation to address systemic violations of farmworkers’ rights, and, as needed, on cases against the government for failure to follow the law. He will collaborate with other organizations around the country, arrange for pro bono legal assistance from law firms, and coordinate skills training programs. We look forward to working with Weeun and welcome him to the farmworker advocacy community.

Addressing Health Topics in Rural Latino Communities

The FJ Health Initiative, Poder Sano, is pleased to announce the launch of its bimonthly webinar series presenting topics of interest to organizations promoting health in rural Latino communities. Through this series, FJ will improve the knowledge and capacity of service providers in subjects as diverse as HIV/AIDS in rural communities, working with the media to promote health, and conducting community needs assessments. Each multimedia webinar will feature an extended interview presentation from a nationally recognized expert in the topic area, and allow for a question and answer period from participants.

The first webinar of the series, “Community Mobilization for HIV/AIDS Prevention in Rural Latino Communities,” was presented on March 22, 2010 and featured our own Director of Health Programs, Carlos Ugarte. This webinar discussed best practices in community mobilization efforts utilizing promotores de salud, or lay health educators. Using NCLR’s ground-breaking Sana La Rana community health mobilization program (“rana” means frog and the name comes from a popular children’s rhyme about being healthy), Ugarte demonstrated how successful promotores can be in effecting healthy behavior changes and encouraging people to get screened by providers. This first webinar drew 32 attendees from 26 organizations from across the country.

If you are interested in learning about upcoming webinars or downloading past presentations, please visit us at: www.PoderSano.org
Farmworkers and Immigration Reform: What’s Next?

Immigration reform continues to be a critical need for our nation’s farmworkers, the majority of whom are undocumented. Unfortunately, because Congress was tied up with health care reform for much of 2009, it made little progress on immigration reform. The end of March brought a swell of energy for immigration reform. Over 200,000 people gathered on the National Mall in Washington, D.C. for a national rally for reform; President Obama held meetings with key immigration reform stakeholders, and Senators Schumer (D-NY) and Graham (R-SC) released a framework for comprehensive immigration reform in the Senate. Senator Schumer is the leader of the Judiciary Committee’s subcommittee on immigration.

The next couple months are a critical time for immigration reform. As the November 2010 election nears, the prospects for passage of comprehensive immigration reform become more challenging.

AgJOBS remains a critical component of comprehensive immigration reform addressing the unique needs of agriculture. AgJOBS was included in the House Comprehensive Immigration Reform bill, CIR ASAP, introduced by Rep. Luis Gutierrez (D-Ill.) and will likely be included in any comprehensive immigration reform bill introduced in the Senate. AgJOBS was also introduced as a stand-alone bill in May 2009.

AgJOBS remains a bipartisan bill with strong support. Senator Lugar (R-Ind.) recently became a cosponsor of AgJOBS and with his leadership could bring even more cosponsors to the AgJOBS bill. In the House, Representative Putnam (R-Fl) has been a strong supporter of AgJOBS. Stay tuned to our website, www.farmworkerjustice.org, for updates and more detailed information.
You’re Invited

to our
11th Annual Farworker Justice Award Reception

SECRETARY OF LABOR HILDA L. SOLIS:
Farmworker Justice Awardee for 2010

Farmworker Justice at press time was set to hold its annual award reception on Tuesday, May 11, 2010. The Farmworker Justice Awardee for 2010 is Secretary of Labor Hilda L. Solis. The Irma Flores Gonzales Awardee is Joel Davis and the first annual Shelley Davis Memorial Awardee is Patti Goldman, Vice President for Litigation of Earthjustice. This year we are proud to welcome the National Rural Funders Collaborative as Co-Host of this event.

Secretary Solis, throughout her career as a legislator in California, as a Representative in Congress and now as a leader in the Administration of President Obama, has demonstrated an inspiring commitment to empowering migrant and seasonal farmworkers to get their voices and issues heard in the halls of power with the lawmakers whose decisions affect their lives. She has been a supporter of farmworkers for many years. As Secretary of Labor she has included farmworker issues among her top priorities, including by revising the H-2A temporary foreign agricultural worker program and defending those revisions in court over the objections of major agribusiness organizations. We are pleased and honored to present our 11th award to Hilda L. Solis.

Patti Goldman, the recipient of the Shelley Davis Memorial Award, collaborated with our late Deputy Director, Shelley Davis, on advocacy and litigation to reduce farmworkers' exposures to toxic pesticides, and has continued to work with Farmworker Justice and farmworker organizations to improve the Environmental Protection Agency’s policies, practices and enforcement efforts.

Joel Davis helped Farmworker Justice establish and build the Shelley Davis Memorial Fund to carry on the creative work of his sister, Shelley Davis, our late Deputy Director. Joel, who is Shelley's oldest brother and a retired corporate executive who is active in charitable organizations, will be receiving the Irma Flores Gonzales Award.
The Award Reception is a great opportunity for you to support the important work of Farmworker Justice. Please become a Sponsor of this event.

Sponsors may designate their donation for the Shelley Davis Memorial Fund.

Sponsorships are available at the levels of:

**Presenting**  $15,000  
15 tickets and a brief welcoming statement

**Harvester of Justice**  $10,000  
12 tickets and special placement in event materials

**Benefactor**  $5,000  
10 tickets and prominent placement in written materials

**Patron**  $2,500  
8 tickets

**Friend**  $1,000  
5 tickets

**Sponsor**  $500  
3 tickets

**Supporter**  $250  
1 ticket

Individual tickets will be sold for $90.

Donations are tax deductible to the full extent of the law as Farmworker Justice is a 501(c)(3) tax-exempt organization.

You may send a check to:  
Farmworker Justice  
1126 16th Street NW, Suite 270  
Washington, D.C. 20036

Or donate online through our PayPal account:  
www.farmworkerjustice.org/2010-award

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Yes, we’d like to promote Farmworker Justice by being a sponsor of the 11th Annual Award Reception! Enclosed is a check to Farmworker Justice, 1126 16th Street, N.W., Suite 270, Washington, D.C. 20036.

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This past December Farmworker Justice held its Eighth Annual Socially Responsible Wine Tasting at the AFL-CIO’s Samuel Gompers Hall in Washington, D.C. We held a special tribute to honor Jim Leonard and Jack Gallon, two attorneys who have dedicated countless hours over the years towards helping migrant and seasonal farmworkers achieve justice in the courts.

Jim Leonard, a retired supervisory attorney at the Department of Labor volunteered as a lawyer for Farmworker Justice for ten years. Jim was especially helpful in advocating for effective labor law enforcement by the Department of Labor and seeking changes in the child labor laws, as well as providing litigation support to farmworker attorneys around the country. Jack Gallon has volunteered as General Counsel for the Farm Labor Organizing Committee (FLOC, AFL-CIO) for over thirty-five years and sits on the Farmworker Justice Board of Directors.

It was an honor and a pleasure to thank these two talented lawyers for their work on behalf of our nation’s farmworkers.

We had a fine selection of wines from unionized vineyards on hand while Michael Franz, an entertaining and informative wine columnist, explained the differences between various vintages and demonstrated the proper techniques for tasting.

Many thanks to all who attended and/or sponsored this very special event!

Farmworker Justice Fellowship

We are pleased to announce the creation of a one-year Fellowship position at Farmworker Justice to support our work on occupational and environmental health, labor rights and immigration policy. The Fellowship is a paid, full-time position with health insurance and other benefits. A step beyond an unpaid internship, this position will provide those just entering or rejoining the workforce with an exciting opportunity to gain experience doing research, helping to provide farmworkers and farmworker organizations with technical and program support and assisting FJ attorneys on litigation and policy advocacy -- a great way to join the movement for justice for farmworkers!
Octaviana Trujillo: It Takes A Village

This interview is part of our oral history project exploring the early childhood experiences of those who later became advocates for farmworkers. Octaviana Trujillo is a Professor and Chair of the Applied Indigenous Studies department at Northern Arizona University and is a member of the Board of Directors of Farmworker Justice.

Growing up in Guadalupe, Arizona, a small town halfway between Phoenix and Tempe, with seven brothers and three sisters, Octaviana Trujillo worked in the fields with her family but when you ask her about her childhood what she mostly talks about isn’t her immediate family but the larger community.

She begins with a bit of history. The story of the Yaquis in Arizona dates back to the late 1800s and early 1900s when many fled persecution in Mexico and came north to present-day Arizona where they had established military and trading posts to support the warriors fighting back home. There the Yaquis became a major labor force in the development of the area. “They worked on the railroads and in the mines, building dams and of course in agriculture. Yaqui are very good at agriculture because the place we come from in Mexico is very fertile land so Yaqui were prized farmworkers. We didn’t migrate, but we were seasonal workers, picking cotton, collecting citrus crops, then watermelon, onions, potatoes.”

Guadalupe was a small, rural town without much infrastructure. At the time Octaviana was growing up there was no sewer system. “Everyone had outhouses. Everyone built their own home out of adobe brick. You didn’t get a mortgage back then; you got help from all your relations.” It was also a time and place of much discrimination, racism and classism. “We had segregated schools and the segregated elementary school was English only. In pre-first-grade --they didn’t have kindergarten back then-- I remember not understanding a word my teacher said!” There was strict enforcement of the English-only rule. “The teachers would monitor the students [to make sure they weren’t speaking Yaqui or Spanish] even in the bathrooms.” If caught, students would get their mouths washed out with soap, collect trash on the playground or suffer corporal punishment.

Still she loved her community and you can see that love in her eyes when she talks about the place she grew up. “I had no conception that we were “poor,” we felt very rich, we had a very rich cultural heritage and a strong community, it wasn’t until we started getting bussed to Tempe for middle school that we realized that we were “poor.”

Octaviana’s experiences in the fields gave her an early taste of injustice. “As a child I worked with the short hoe and I can tell you it was work that I dreaded. I remember the first day I did it, I was about 11 and it hurt so bad I laid in bed for two days and even developed a fever. It was excruciating. There were no porta-potties in the fields either you just had to go where you could and you can imagine if you were in the middle of a field of potatoes or onions you had to walk a long way to find some place to get some cover.”

Guadalupe, however, was also a hot-bed of community organizing. “There were a lot of social movements that were born in Guadalupe. Remember, we had little infrastructure, no paved streets, no home mail delivery, everyone had to go to the town center to get their mail. In the early/mid 60s there was an organization established called the Guadalupe Organization, GO, and that was [a community development organization] to help people establish credit, do economic development, they had a job developer to help people find jobs because a lot of people were looking for work. Few people attended high school even and no one went to college until this one young lady wanted to become a nun so she joined a religious society and she was the first to go to college because the religious society paid for it. Octaviana became the first Yaqui woman from Guadalupe with a college degree.

“Cesar Chavez came to Guadalupe. Most of us were farmworkers even though we weren’t migrants. And Saul Alinsky sent his protégé to help with community organizing and to get people registered to vote because it continued page 10
turned out that Guadalupe was a pivotal area for elections, so we got a lot of political power and politicians started coming out there promising all sorts of things, we got our sewer system, paved streets, we got home mail delivery.

“When I met Raul Yzaguirre [President of the National Council of La Raza] about fifteen years ago in New York City, and I told him I was from Guadalupe, because they had done farm labor organizing there. As a young person during the grape boycott I’d go to the supermarket with the leaders of the boycott and hold up signs and pass out literature.”

Octaviana continued to work with and for farmworkers throughout her life. In college she worked with migrant farmworkers through the Office of Economic Opportunity, helped rebuild native traditional gardens, and worked with farmers in Northern Ireland. She obtained a PhD in Curriculum and Instruction and went on to become a professor and chair of her department at Northern Arizona University. In Spring 2008 she joined Farmworker Justice’s Board of Directors. Her lived experience growing up in Guadalupe helped make her who she is today: a strong advocate on behalf of farmworkers, indigenous peoples and other marginalized communities across the Americas. •

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**Pushing for Better Policies on Pesticides**

In recent months, the US Environmental Protection Agency (EPA) has sought public comment on several new policy considerations. Taken as a whole, these policy initiatives could provide increased protections against pesticides for farmworkers and their families. Farmworker Justice has worked closely with other advocates to comment on the proposals. We will provide updates on EPA’s final decisions as they are made public in the coming months.

- Last October, Farmworker Justice and Earthjustice filed a petition asking EPA to assess and mitigate pesticide drift to places where kids are present. The petition asked EPA to evaluate children’s exposure to pesticide drift and to adopt, on an interim basis, requirements for “no-spray” buffer zones near homes, schools, day-care centers, and parks. EPA published the petition in the Federal Register and requested comments by March 5.

- EPA also proposed guidance for new pesticide labeling to reduce off-target spray and dust drift. Spray drift has been and continues to be a problematic source of exposure for those who live near farm fields, orchards, vineyards and other pesticide application sites. FJ and other advocates urged EPA to phase out drift-prone pesticides and phase in safe alternatives for growing food.

- In December 2009, the EPA announced in a Federal Register notice the availability of a policy paper that revised risk assessment methods for farmworkers and their children regarding pesticide uses and exposures. FJ and other farmworker advocates supported many of the principles outlined in the paper as an important step towards recognizing the susceptibility of farmworkers and their children to aggregate and cumulative exposures to pesticides. Advocates also urged EPA to include as part of its risk assessments an evaluation of less-toxic alternatives available for pest control and to facilitate transitions to safer products and methods.

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photo credit: Earl Dotter

continued page 11
• Also in December, the EPA initiated rulemaking to increase public availability of the identities of the inert ingredients in pesticide products. Inert ingredients are ingredients that do not kill or control a pest, but are designed to make a pesticide easier to apply or to stay on the crop longer. In some cases, those ingredients may be equally or more toxic to health and the environment than the active ingredients, but pesticide manufacturers generally do not identify them on pesticide labels.

FJ and other advocates are encouraging EPA to require disclosure of inert ingredients in order to provide the public with important information about potential health hazards, and to encourage manufacturers to phase out use of toxic substances. The Northwest Coalition for Alternatives to Pesticides has more information and materials on inert ingredients in pesticides at: www.pesticide.org

In March, we collaborated with Pesticide Action Network and the Farm Worker Pesticide Project to circulate a petition urging the EPA to ban all uses of chlorpyrifos, a widely used nerve toxin pesticide. In 2000, after studying the risks posed to children by chlorpyrifos, EPA prohibited most home and residential uses of the pesticide. But chlorpyrifos remains widely used in U.S. agriculture, and exposure to rural and farmworker kids continues. Even very small doses of chlorpyrifos can be toxic to humans, especially at critical periods of fetal development when it can disrupt hormonal systems and cause permanent developmental harms. More information on the petition is available on Pesticide Action Network North America’s website at: www.panna.org •

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**Update on Lawsuit Challenging the Use of Two Toxic Pesticides**

There have been some recent developments in our lawsuit challenging the EPA’s approval of two toxic pesticides, guthion and phosmet. In May 2008, the US District Court for the Western District of Washington dismissed the case for lack of subject matter jurisdiction, finding that such challenges to EPA decisions must be brought directly to an appellate court. We appealed the decision and in January, a three-judge panel of the Ninth Circuit Court of Appeals upheld the lower court’s ruling. On April 19, the Ninth Circuit denied our petition to review the case. This means that any future court challenges of the EPA’s pesticide re-registration decisions must be brought directly to the Court of Appeals within 60 days of the decision. Such challenges will be difficult because the EPA does not always announce its pesticide re-registration decisions in a public forum, such as a posting in the Federal Register.

During earlier settlement negotiations in the case, EPA agreed to phase-out of all guthion uses by 2012. While we had hoped for an earlier end to the use of this chemical, the 2012 date still stands.

This lawsuit was filed by Farmworker Justice, Earthjustice, Natural Resources Defense Council, and California Rural Legal Assistance, on behalf of plaintiffs United Farm Workers, Sea Mar Community Health Center, PCUN, Beyond Pesticides and Frente Indigena de Organizaciones Binacionales.
Farmworker Justice plays a leadership role in advocacy for migrant and seasonal farmworkers in the nation's capital. For twenty-nine years, FJ has been helping empower farmworkers to improve their wages and working conditions, labor and immigration policy, health and safety, and access to justice.

Our work depends on you! Please help Farmworker Justice continue and expand its work by making a financial contribution.

Thank you very much.

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

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