

# THE CALIFORNIA INSTITUTE FOR RURAL STUDIES

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## Agriculture's Underground Economy

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Submitted to Committee on Revenue & Taxation  
California State Assembly

1. Employee payrolls are deliberately under-reported by some agricultural employers in paying mandated employer taxes. These payroll taxes, such as Social Security and Unemployment Insurance, are based on total payroll; so these employers are able to save an aggregate of millions of dollars in taxes each year. This is nothing less than tax evasion and puts an extra burden on legitimate taxpayers. As described in more detail below, we estimate that the amount of under-reported payrolls by farm labor contractors may be \$290 million per year.

Not only is the state of California denied taxes owed, the individual employee also suffers. This is because the employer payroll taxes provide the funds for the employee's potential future benefits such as Social Security (FICA and Medicare) and Unemployment Insurance (UI as well as SUI and Employment Training).

In the CIRS survey of California farm labor contractors (FLCs), published by the California Department of Employment Development (EDD), our interviewers asked each contractor to

provide us with a statement of their annual payroll. We then compared this self-reported information for each employer against their actual EDD record of wages reported for tax purposes in the same year. For the 179 FLC employers who cooperated with our interviewers, the average reporting gap was 52%. In other words, these labor contractors told our interviewers that their true annual payroll was an average of 52% greater than what they reported when paying their employer payroll taxes. The large discrepancy between self-reported payroll figures and the total payroll reported to EDD by farm labor contractors is illustrated in Figure 1 (attached). The case-by-case data on which this analysis is based is presented in Appendix A (attached).

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

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

There are also major discrepancies among the agencies required

to monitor labor contractor activities. Figure 2 shows that less than half of the farm labor contractors licensed to operate in California actually are properly registered with the U.S. Department of Labor and report paying required employer taxes as farm labor contractors. It is not possible to estimate the tax loss resulting from the operation of farm labor contractors whose entire operation is clandestine.

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

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

actually seem to be reasonable.

In the CIRS survey of FLCs we also interviewed their employees and found that 53% paid the FLC or the foreman in cash for a ride to the job at an average cost of \$3.24 per day. We also found that 13% of all employees of labor contractors paid the FLC or foreman in cash for housing at an average cost of \$27.60 per week. In addition, we found that 46% of all employees of labor contractors directly paid the FLC or foreman for the cost of tools needed for the job. Finally, we found that 5% of the FLC employees paid the contractor or foreman for food or beverages supplied in the fields.

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

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

We estimate that the total amount of unreported wages in the strawberry industry in Santa Barbara County is \$20 million per year. This estimate is discussed in detail in Appendix B of this report and is based on the known amount of production and well-established wage rates vs. total annual payroll reported to EDD.

Recommendations

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

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

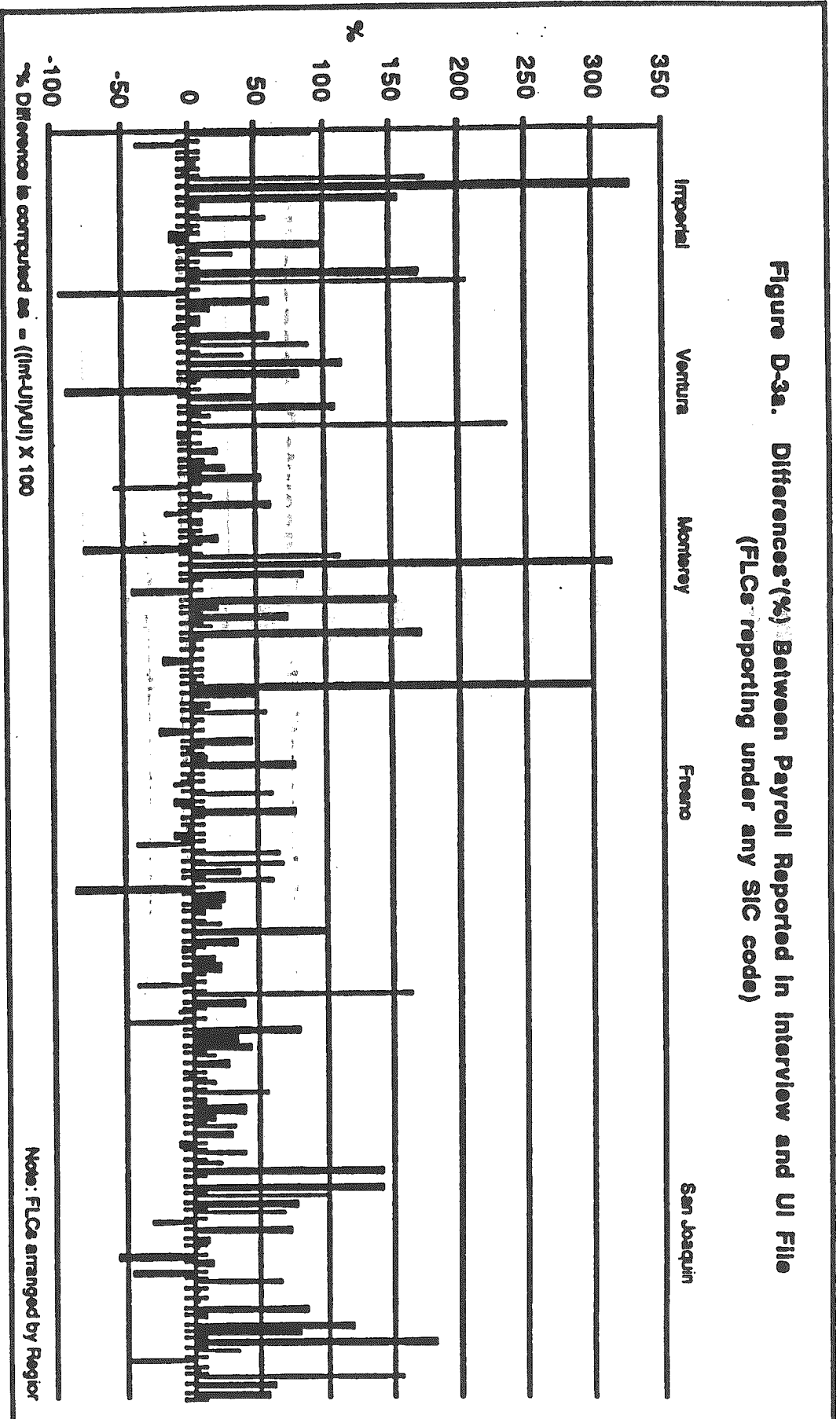
C. **Utilize the services of knowledgeable persons in designing and conducting field audits.** For example, there are CPAs, economists and business investigators who specialize in agricultural labor issues. Such persons could provide guidance in conducting audits. It is not very much of a secret to determine how many hours of labor are needed to produce one acre of strawberries in Santa Maria.

D. **The California Labor Commissioner, Victoria Bradshaw, should**

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

# Differences Between Payroll Reported in Interview and UI File (all SICs)

Figure D-3a. Differences(%) Between Payroll Reported in Interview and UI File (FLCs reporting under any SIC code)

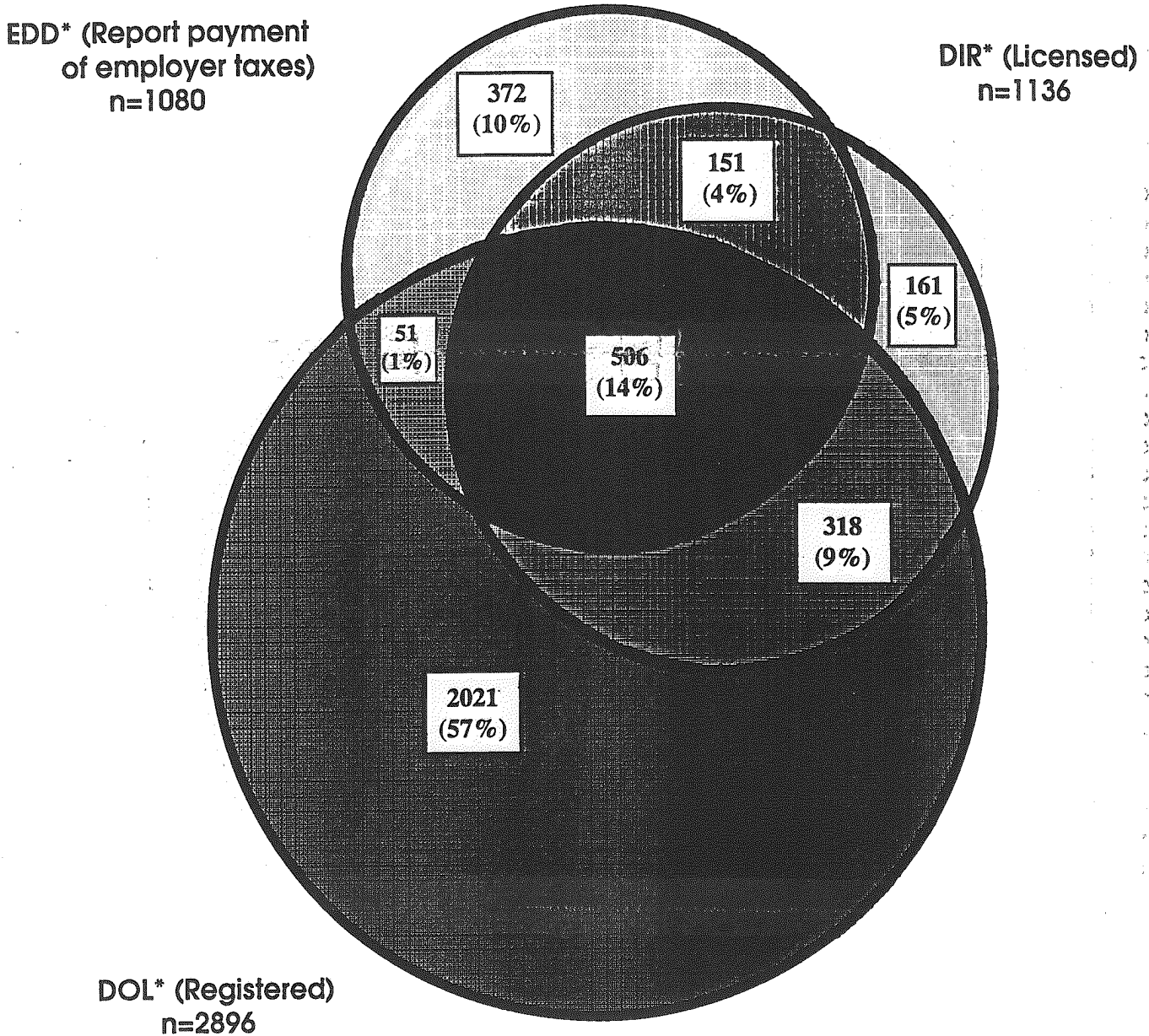


% Difference is computed as = ((Int-UI)/UI) X 100

Note: FLCs arranged by Region

Figure 2

## Labor Contractors: Registered, Licensed, and Paying Employer Taxes



**TOTAL ENTITIES = 3580**

Source: California Institute for Rural Studies

\* EDD: Employment Development Department, State of CA

DIR: Labor Commissioner, Department of Industrial Relations, State of CA

DOL: US Department of Labor



## Comparison of Data from Interviews and UI Files

County	SIC	Total Payroll (Dollars)		% Difference (Int-UI)/UI	Peak Employment		% Difference (Int-UI)/UI	
		Interviews	UI Files		Interviews	UI Files		
Imperial	761	5,000,000	2,606,327	+92	500	600	-17	
	761	1,250,000	1,298,498	-4	500	463	+8	
	761		14,625		450	3	+14,900	
	761	780,000	740,050	+5	230	350	-34	
	761	780,000	825,720	-6	150	143	+5	
	761	200,000	72,207	+177	23	20	+15	
	761	5,500,000	864,225	+536	2,500	914	+174	
	761	12,600,000	234,901	+5,264	2,360	10	+23,500	
	761	300,000	117,320	+156	40	45	-11	
	761	265,000	168,501	+57	60	142	-58	
	761	1,005,000	999,097	+1	200	175	+14	
	761		350,860		360	81	+344	
	761	1,100,000			400			
	761	4,500,000	5,239,865	-14	620	674	-8	
	761	600,000	301,855	+99	200	105	+90	
	761	1,600,000	592,113	+170	1,200	450	+167	
	761	400,000	253,120	+58	250	288	-13	
	Ventura	761	2,000,000	1,762,452	+13	250	345	-28
		761	700,000	799,156	-12	100	102	-2
		761	950,000	502,802	+89	300	131	+129
761		970,000	695,335	+40	150	101	+49	
761		700,000	326,914	+114	85	132	-36	
761		1,200,000	659,562	+82	130	93	+40	
761		1,900,000	1,809,076	+5	350	304	+15	
761		1,000,000	10,563,523	-91	500	10,275	-95	
761		100,000	47,657	+110	22	13	+69	
761		415,000	363,412	+14	85	78	+6	
761		4,500,000	409,576	+999	780	97	+704	
761		75,000	22,322	+236	20	12	+67	
761		370,000	313,293	+18	65	97	-33	
761		1,200,000	11,307	+10,513	250	26	+862	
761		900,000	724,810	+24	90	172	-48	
761		260,000	170,685	+52	80	136	-41	
761		12,000	27,503	-56	14	8	+75	
761		350,000	307,440	+14	70	107	-35	
Monterey		761	2,000,000	1,242,952	+61	275	319	-14
		761	900,000	886,231	+2	160	213	-25
	761	273,582	1,308,653	-79	700	579	+21	
	761	650,000	308,570	+111	485	236	+106	
	761	5,000,000	1,215,338	+311	900	300	+200	
	761				250			
	761	4,500,000	2,443,907	+84	450	545	-17	
	761		68,876		25	7	+257	
	761	2,900,000	2,909,092	0	1,800	1,267	+42	
	761	1,570,000	622,690	+152	175	230	-24	
	761	2,000,000	1,167,661	+71	240	206	+17	
	761	1,900,000	1,667,439	+14	115	177	-35	
	761	1,000,000	370,998	+170	250	76	+229	
	761	3,218,000	3,159,097	+2	375	324	+16	
	761	500,000	504,099	-1	60	316	-81	

continued

Comparison of Data from Interviews and UI Files (cont'd.)

County	SIC	Total Payroll (Dollars)		% Difference (Int-UI)/UI	Peak Employment		% Difference (Int-UI)/UI
		Interviews	UI Files		Interviews	UI Files	
Monterey (cont'd.)	761	1,275,500	1,645,566	-22	1,000	917	+9
	761	1,000,000	962,087	+4	150	240	-38
	761	1,000,000	250,114	+300	80	84	-5
	761	160,000	108,355	+48	35	42	-17
	761	250,000	222,229	+12	20	103	-81
	761	3,000,000	214,236	+1,300	600	72	+733
Fresno	761	335,000	215,795	+55	150	81	+85
	761	1,700,000	1,651,882	+3	500	193	+159
	761	372,900	495,025	-25	140	239	-41
	761	183,000	125,916	+45	225	135	+67
	761	83,271	88,626	-6	60	97	-38
	761	241,000	218,001	+11	700	42	+1,567
	761	628,198	354,113	+77	220	559	-61
	761	1,200,000	1,265,977	-5	375	699	-46
	761		80,600		340	111	+206
	761	160,000	189,919	-16	70	18	+289
	761	500,000	311,668	+60	200	130	+54
	761	82,000	97,182	-16	150	200	-25
	761	106,000	59,690	+78	100	38	+163
	761	537,320	537,319	0	300	407	-26
	761	147,595	155,338	-5	150	249	-40
	761	1,500,000	1,732,864	-13	500	333	+50
	761		529,122		40	45	-11
	761		74,891		80	120	-33
	761	1,600,000	977,622	+64	400	65	+515
	761	70,000	41,758	+68	40	237	-83
	761	1,200,000	750,326	+60	500	407	+23
	761	3,000,000	2,491,934	+20	700	823	-15
	761	15,000,000	1,611,539	+831	250	525	-52
	761	250,000	5,641	+4,332	300	2	+14,900
	761	60,000	55,170	+9	40	49	-18
	761	888,000	750,986	+18	200	423	-53
	761	200,000	7,488	+2,571	70	2	+3,400
	761	289,000	142,996	+102	550	100	+450
	761	220,000	166,492	+32	65	166	-61
	761	135,000	152,111	-11	80	64	+25
	761	2,241,000	1,982,862	+13	350	400	-13
	761	1,500,000	1,238,534	+21	150	322	-53
761	250,000	272,619	-8	100	55	+82	
761	300,000	520,274	-42	300	43	+598	
761	800,000	304,723	+163	150	139	+8	
761	1,500,000	1,103,479	+36	300	212	+42	
761		90,102		200	43	+365	
761	1,500,000	1,713,089	-12	350	478	-27	
761	100,000	198,163	-50	50	91	-45	
761	360,000	199,596	+80	220	112	+96	
761	1,149,114	861,075	+33	462	568	-19	
761	1,800,000	1,269,971	+42	380	544	-30	
761	1,000,000	872,118	+15	850	423	+101	
761	3,000,000	2,420,695	+24	500	670	-25	

continued

Comparison of Data from Interviews and UI Files (cont'd.)

County	SIC	Total Payroll (Dollars)		% Difference (Int-UI)/UI	Peak Employment		% Difference (Int-UI)/UI
		Interviews	UI Files		Interviews	UI Files	
Fresno	761	280,000	2,010	+13,830	830	1	+82,900
(cont'd.)	761	2,872,062	3,010,566	-5	700	608	+15
	761	1,100,000	948,868	+16	250	270	-7
	761	800,000	515,637	+55	200	328	-39
	761	4,500,000	4,178,870	+8	700	1,053	-34
	761	500,000	365,454	+37	300	133	+126
	761	300,000	230,557	+30	350	138	+154
	761	800,000	624,856	+28	350	150	+133
	761	60,000	68,908	-13	75	17	+341
	761	808,000	585,159	+38	300	264	+14
	761	84,000	69,738	+20	100	101	-1
San Joaquin	761		82,472			30	
	761	180,000	74,950	+140	65	74	-12
	761	400,000	413,113	-3	100	125	-20
	761	1,000,000	414,927	+141	380	155	+145
	761	680,000	342,594	+98	85	60	+42
	761	1,800,000	1,011,815	+78	800	603	+33
	761		572,680		100	102	-2
	761	300,000	451,561	-34	150	207	-28
	761	240,000	240,507	0	100	107	-7
	761	26,500	60,670	-56	15	16	-6
	761	201,372	180,354	+12	90	50	+80
	761	26,500	49,242	-46	75	44	+70
	761	400,000	243,884	+64	89	9	+889
	761	338,000	328,017	+3	70	22	+218
	761	850,000	855,798	-1	400	240	+67
	761	200,000	108,192	+85	150	9	+1,567
	761	26,000	23,995	+8	19	2	+850
	761	200,000	91,623	+118	150	13	+1,054
	761		495,139		120	432	-72
	761	10,180	1,637	+522	8	0	
	761	65,000	36,129	+80	15	7	+114
	761	200,000	71,364	+180	100	186	-46
	761	350,000	264,859	+32	160	93	+72
	761	20,000	41,578	-52	50	104	-52
	761	940,000	928,095	+1	500	352	+42
	761	89,000	34,784	+156	150	96	+56
	761	80,000	49,960	+60	40	25	+60
	761	40,000	26,102	+53	25	6	+317
Average 0761		1,199,485	744,206	+61	301	291	+4

continued

Comparison of Data from Interviews and UI Files (cont'd.)

County	SIC	Total Payroll (Dollars)		% Difference (Int-UI)/UI	Peak Employment		% Difference (Int-UI)/UI
		Interviews	UI Files		Interviews	UI Files	
Imperial	722	120,000	193,181	-38	20	35	-43
	9999	344,000	80,417	+328	200	126	+59
	722	2,000,000	1,829,261	+9	600	766	-22
	161	400,000	302,155	+32	120	84	+43
	721	386,000	385,863	0	30	27	+11
		264,388			25		
	9999	1,000,000	169,757	+489	600	111	+441
		250,000			90		
					1,500		
	723	700,000	229,688	+205	250	125	+100
Ventura	722	150,000	3,423,377	-86	150	915	-84
	5083		169,315		50	19	+163
	721	500,000	471,772	+6	38	59	-36
	762	3,300,000	2,052,015	+61	590	989	-40
	174	400,000	268,337	+49	45	42	+7
	762	700,000	47,007	+1,389	140	4	+3,400
	762	43,072	47,007	-8	4	4	0
	171	5,500,000	60,164	+9,042	700	16	+4,275
	174	268,000	268,337	0	35	42	-17
	179	1,200,000	1,093,347	+10	90	180	-50
	722	800,000	27,503	+2,809	30	8	+275
	179	16,000			2		
	Monterey	722	250,000	315,912	-21	60	174
723		3,000,000	2,802,876	+7	450	430	+6
723		2,500,000	2,081,780	+20	590	356	+66
9999		250,000	436,057	-43	50	274	-82
		30,000	25,069	+20	31	32	+3
723		1,739,316	1,739,314	0	160	219	-27
		350,000			65		
Fresno		1,300,000			200		
	175	181,000	314,255	-42	75	46	+63
	191	326,000	243,701	34	175	29	+503
	174	50,000	371,621	-87	30	48	-38
	172	800,000			300		
	762	6,500,000	5,316,194	+22	260	1,200	-78
	762	75,000	65,223	+15	35	51	-31
San Joaquin	179	1,500,000	896,388	+67	180	169	+7
	172	150,000	86,670	+73	50	32	+56
	7361	2,520,000	2,275,876	+11	300	502	-40
	191		670,618		150	232	-35
					20		
<b>Average Non-0761</b>		<b>1,077,372</b>	<b>871,517</b>	<b>+24</b>	<b>207</b>	<b>223</b>	<b>-7</b>
<b>Average Total</b>		<b>1,172,102</b>	<b>768,919</b>	<b>+52</b>	<b>280</b>	<b>278</b>	<b>+1</b>

## Appendix B

### Estimated Under-Reporting of Wages, Santa Maria Berries

1. Santa Barbara County strawberry labor requirement, 1990

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

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

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

2. Demand-for-labor estimate

Mamer & Wilkie determined following

Orange County            1,534 total hours per acre

Ventura County           1,612 total hours per acre

Take average of these two figures and apply to SB County

Labor demand estimate: 1,573 hours per acre (Mamer & Wilkie)

**Total hours of labor required: 7,125,690 hours (CIRS-Mamer)**

3. Rate-of-pay estimate

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

Total wages for fresh harvest, pack, haul: \$21,069,753

Total wages for process harvest, pack, haul: \$2,283,300

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

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

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

**Total wage bill: \$40,678,617**

**Estimated labor demand: 6,184,359 hours**

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

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

First Quarter, 1990:	\$1,557,985
Second Quarter, 1990:	\$8,484,493
Third Quarter, 1990:	\$7,619,065
Fourth Quarter, 1990:	\$2,734,271
<b>Total reported wages, 1990:</b>	<b>\$20,395,814</b>

**Conclusion:** Only about one-half of the labor required for 4,530 acres of actual berry production is accounted for by berry crop farm employers in the EDD wage report. The discrepancy represents labor contractor employment and crop share/independent contractor employment. The actual discrepancy is roughly 2,588 FTE workers.

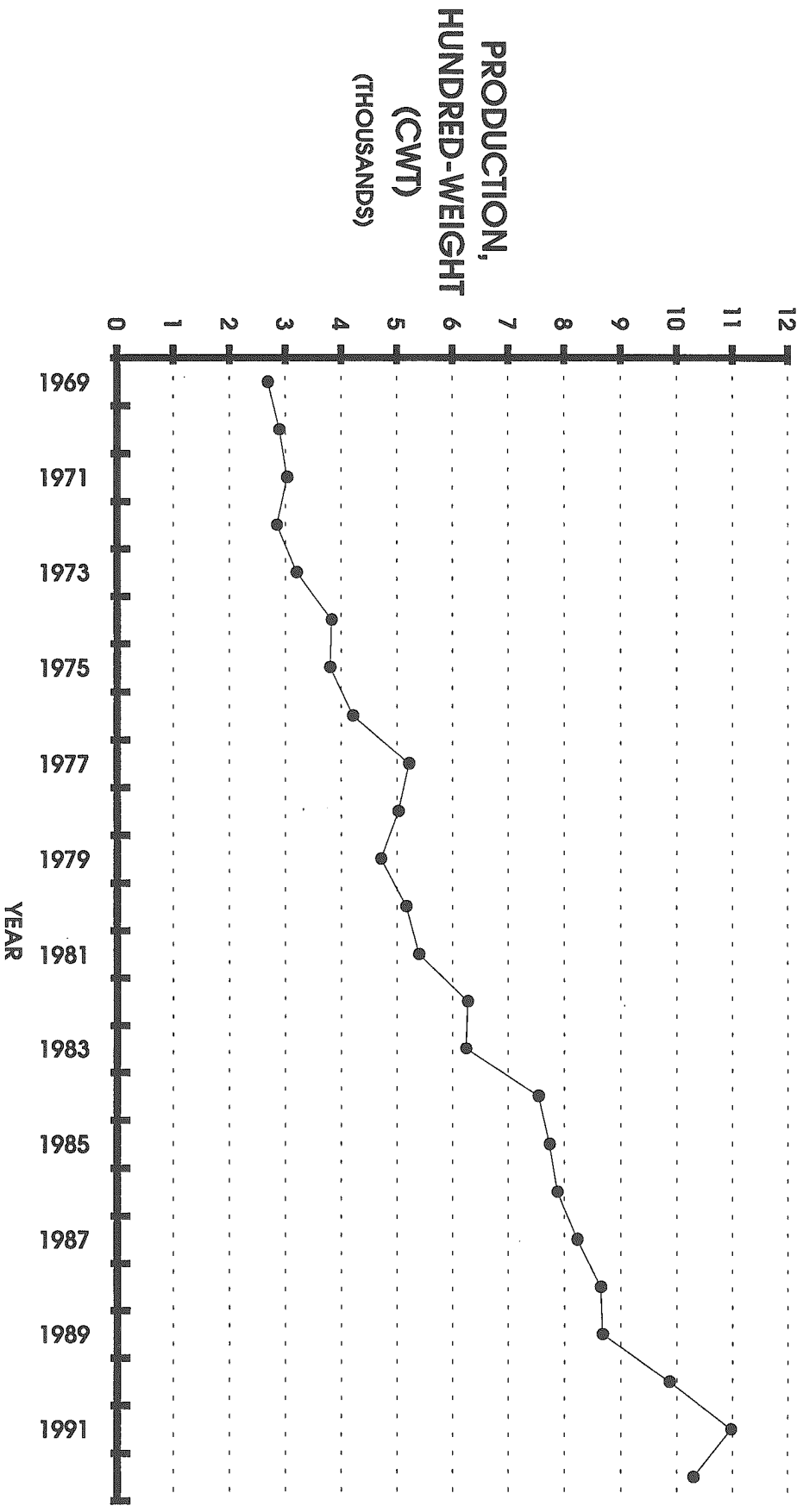
This discrepancy could be accounted for by a combination of farm labor contractor employment and "independent contractor" arrangements. However, comparison of month-by-month employment data reported by Santa Barbara County farm labor contractors and strawberry farm employers shows no correlation of labor contractor hiring with berry farm hiring. This is shown below.

Santa Barbara County, Reported Employment, 1990

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

FIGURE 7

# CALIFORNIA STRAWBERRY PRODUCTION



Source: California Fruit And Nut Statistics  
California Agricultural Statistics Service

AGRICULTURAL EMPLOYMENT  
CALENDAR YEAR 1991

COUNTY=SANTA BARBARA

SIC	INDUSTRY TITLE	REPORTING UNITS	JAN	FEB	MAR	APR	MAY	JUN	JULY	AUG	SEPT	OCT	NOV	DEC
MISC. AGRICULTURE														
0119	OTHER GRAINS	14	78	65	62	67	65	66	79	72	65	71	68	68
0139	OTHER FIELD CROPS	15	58	73	43	124	235	194	224	267	219	156	90	64
0161	VEGETABLES & MELONS	9	17	14	14	74	75	77	80	82	88	89	92	92
0171	BERRY CROPS	58	1,293	1,326	1,446	1,465	1,620	1,601	1,760	1,721	1,743	1,626	1,352	1,062
0172	GRAPES	100	589	646	819	4,023	3,960	3,798	3,382	3,251	2,625	2,061	1,352	1,062
0173	TREE NUTS	27	307	326	263	181	217	203	214	205	366	462	1,849	1,408
0174	CITRUS FRUITS	6	18	14	14	18	17	17	25	21	20	38	260	245
0175	TREE FRUITS	18	75	78	61	75	17	88	88	93	82	82	34	23
0179	OTHER FRUITS & NUTS	7	6	6	9	20	17	27	18	18	31	25	43	40
0181	ORNMNTL FLORICULTURE	81	299	308	330	362	392	381	420	421	441	397	25	25
0191	GENERAL CROP FARMS	78	1,301	1,378	1,593	1,471	1,635	1,505	1,351	1,379	1,375	1,390	351	302
0212	BEEF CATTLE	101	583	609	674	939	1,098	1,121	927	924	866	1,017	1,417	1,352
0272	HORSES	45	107	98	102	109	111	112	102	97	96	126	855	765
0291	GENERAL LIVESTOCK	29	112	110	113	120	117	117	105	113	106	96	126	117
0721	CROP PREHARV. SRVCS	8	29	24	21	26	25	29	29	30	25	25	97	95
0722	CROP HARVESTING	11	115	115	124	109	110	111	113	119	119	113	114	26
0723	CROP PREP. SRVCS	10	350	383	523	574	675	770	854	882	835	622	623	116
0742	VET SRVCS, PETS	12	451	455	465	460	462	474	585	559	562	574	507	353
0752	NONVET SRVCS, PETS	47	278	283	293	291	295	286	300	299	306	306	314	507
0761	FARM LABOR CNTRCTRS.	51	206	192	208	219	211	200	203	210	202	203	314	316
0762	FARM MANGEMNT SRVS.	29	2,025	2,058	2,045	2,439	3,018	2,972	3,203	3,390	3,526	3,441	3,233	185
0781	LANDSCAPING	10	157	151	157	126	122	112	138	122	105	107	68	151
0782	LAWN & GARDEN SRVCS	25	125	123	129	125	132	138	135	136	137	146	148	139
0783	SHRUB & TREE SRVCS	121	416	431	434	503	529	503	486	513	510	525	521	541
		17	120	117	142	153	150	158	179	181	175	193	189	187
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COUNTY		928	9,115	9,383	10,084	14,073	15,366	15,060	15,000	15,105	14,724	13,891	12,607	11,017