

# The 1990 California Freeze: Disaster Relief Leaves Farmworkers in the Cold

*The following addresses the difficulties confronted by California during the December, 1990 freeze. This comment discusses the lack of physical destruction, the socio-economic classes affected by the freeze and how these factors had an effect on the responses of local, state and federal agencies. An examination of other state freeze plans is also presented to illustrate that resourceful solutions are required to assist those who are adversely impacted. The author concludes that the most effective response to a freeze necessitates improved communication and increased community awareness through education.*

## INTRODUCTION

Beginning December 20, 1990, California, and particularly the Central Valley,<sup>1</sup> experienced unprecedented freezing temperatures, with low temperatures of eighteen degrees lasting up to twelve hours.<sup>2</sup> By the end of the freeze on January 3, 1991, at least 200,000 acres of citrus crops were destroyed.<sup>3</sup> Other crops, including avocados, pistachios and olives suffered damage. The record-breaking freeze caused nearly \$1 billion in crop damages statewide.<sup>4</sup>

As a direct result of the freeze, at least 15,000 farmworkers in the

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<sup>1</sup> The Central Valley of California is situated between the Pacific coastal mountain range to the west and the Sierra Nevada mountains to the east. This valley stretches as far north as Stockton and as far south as Bakersfield. The single greatest source of income for the Central Valley is agriculture. The most adversely affected counties in this area as a result of the freeze were: Fresno, Kern, Madera, and Tulare.

<sup>2</sup> Kathleen Hendrix, *The Gold is Gone; Suffering Haunts Tulare County After Bad Weather Freezes the American Dream*, L.A. TIMES, March 31, 1991, at E1, col. 2.

<sup>3</sup> *Id.* The freezing temperatures began on December 20, 1990, and did not end until January 3, 1991. During this time 70% of the winter navel oranges were still on the trees and the summer crop of Valencias were just developing.

<sup>4</sup> *Id.* Maria LaGanga and Nancy Brooks, *Agriculture: Despite Heavy Damages From Drought and Cold, 1990 State Farm Revenues are Expected to Show an Increase*, L.A. TIMES, January 6, 1991, at D1, col. 4. Estimated freeze damage for the hardest hit counties in the Central Valley were: Madera: \$16.3 million; Fresno: \$68 million; Kern: \$100 million; Tulare: \$250 million. Source: County agriculture commissioners.

Central Valley lost their jobs.<sup>5</sup> Statewide, an estimated 100,000 farmworkers were left jobless.<sup>6</sup> When workers indirectly affected by the freeze are included (e.g., packing house workers and truck drivers), the human toll of the freeze is staggering.<sup>7</sup>

Local, state, and federal agencies such as the California Office of Emergency Services<sup>8</sup> and the Federal Emergency Management Agency (FEMA) were created to provide immediate, organized and structured disaster assistance. Yet when the affected farmworkers desperately needed immediate assistance in 1990, these agencies failed to recognize their plight during the initial months following the freeze.

Slow and ineffective response to farmworker needs by disaster relief agencies is typical. For example, following the October 17, 1989 San Francisco earthquake, farmworkers in affected areas complained about FEMA offices staffed with non-Spanish speaking workers, untimely assistance and the difficult application process.<sup>9</sup> The relative invisibility of the freeze disaster exacerbated the problems faced by the farmworkers in obtaining disaster assistance following the 1990 freeze.

This comment will explore the function of disaster relief, while exposing the blindness of the system to the needs of the farmworkers following the 1990 freeze, as a result of both the invisibility of a freeze as a disaster and the inherent discrimination of the disaster relief system towards farmworkers.

## I. DISASTER ASSISTANCE

### A. *The Disaster Relief Act of 1974*

Congress intended the Disaster Relief Act of 1974<sup>10</sup> (hereinafter "the Act") to aid state and local governments in alleviating suffering and

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<sup>5</sup> Hendrix, *supra* note 2.

<sup>6</sup> *Id.*

<sup>7</sup> Ann Bancroft, *Central Valley Citrus Workers Squeezed to Limit*, SAN FRANCISCO CHRONICLE, July 1, 1991, at A4. At least 15,000 packing house workers statewide were affected by the freeze. The number of other workers indirectly affected such as truck drivers, bookkeepers, grocery store clerks, etc. were not available.

<sup>8</sup> This agency coordinates the efforts of private, local and state agencies, which are ready to aid those affected by disasters.

<sup>9</sup> Jesse Chavarria, *Culture Clash Mars Quake Relief*, Gannett News Service, November 4, 1989, available in LEXIS, Nexis Library, Omni File. Many farmworkers complained that FEMA and others providing disaster relief services failed to take into account the unique needs of the farmworkers. Examples include: the language barrier, food, and that the hours the FEMA offices were staffed did not coincide with the times when the head of the household could inquire.

<sup>10</sup> Disaster Relief Act of 1974, PUB. L. NO. 93-288, 88 Stat. 143 (1974), codified at

mitigating damage following a major disaster.<sup>11</sup> The Act defines "major disaster" as any catastrophe which causes damage of a sufficient severity to warrant specific assistance from the Federal Government.<sup>12</sup> This assistance supplements the efforts and available resources of states, local governments and private disaster relief organizations in alleviating the damage, loss, hardship, or suffering.<sup>13</sup> For an area to obtain federal assistance, there must first be a disaster declaration.

### B. *The Process of Disaster Declaration*

The declaration process for obtaining federal assistance begins locally. The local government assesses the damage caused by the natural disaster and determines whether an effective response is beyond its resources. If so, the governing body declares the area a disaster (i.e., a county declaration is made by the Board of Supervisors).<sup>14</sup>

The state governor then receives the county disaster declaration along with a request that the governor declare the area a "local emergency." California, like most states, defines a "local emergency" as the existence of disaster conditions or peril to the community which exceed the capabilities of local government.<sup>15</sup> The governor or his staff then surveys the

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42 U.S.C.A. §§ 5121 *et seq.* (West 1983 & Supp. 1991).

<sup>11</sup> 42 U.S.C.A. § 5121 (West 1983 & Supp. 1991).

<sup>12</sup> 42 U.S.C.A. § 5122(2) (West 1983 & Supp. 1991):

"'Major disaster' means any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby."

<sup>13</sup> *Id.*

<sup>14</sup> CAL. GOV'T CODE § 8630 (West 1980 & Supp. 1992).

<sup>15</sup> CAL. GOV'T CODE § 8558(c) (West 1980 & Supp. 1992):

"'Local emergency' means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to

affected area prior to making a determination. Once the governor declares a "local emergency," the county is eligible for state disaster assistance.

After the governor makes a local emergency declaration, he may expend any money appropriated for support of the California Emergency Services Act.<sup>16</sup> If needed, expenditures may also be made from any other fund legally available.<sup>17</sup> But tight budget constraints may limit the monetary assistance available from the state. In 1990, both budget constraints and the magnitude of the freeze damage statewide prevented California from providing adequate financial assistance. Thus, a request for federal assistance was warranted, with federal monetary assistance the primary objective.<sup>18</sup>

### 1. Obtaining Federal Aid

To obtain federal disaster assistance, the governor must request a Federal Disaster Declaration. "Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary."<sup>19</sup>

The type or value of damage required in order to obtain federal disaster relief has not been reduced to a mathematical formula. The major factor in determining a state's eligibility for federal disaster assistance is the inability of non-federal sources to meet the needs of those affected by the disaster. Funds for federal disaster relief never run dry and are to be used to provide immediate relief.<sup>20</sup>

## II. POOR DISASTER RESPONSE TO CALIFORNIA FREEZE VICTIMS

The freeze had a devastating effect on the residents of towns that depend on the citrus industry for their livelihood. For example, in Orange Cove, a town with a population of 5600, approximately 2300 people lost their jobs, thus depriving them of a major source of income as a result of the freeze.<sup>21</sup> In the city of Tulare, the unemployment rate rose

combat. . . ."

<sup>16</sup> CAL. GOV'T CODE § 8566 (West 1980).

<sup>17</sup> CAL. GOV'T CODE § 8645 (West 1980).

<sup>18</sup> Hendrix, *supra* note 2. The freeze caused \$1 billion in crop damage statewide and at least 100,000 farmworkers were left unemployed.

<sup>19</sup> 42 U.S.C.A. § 5141 (West 1983 & Supp. 1991).

<sup>20</sup> Alicia Brooks, *Federal Funds Headed to Guam in Wake of Typhoon Russ*, States News Service, December 27, 1990, available in LEXIS, Nexis Library, Omni File.

<sup>21</sup> Interview with Victor Lopez, Mayor of Orange Cove, California (August 1,

from 15% to 19.2% during the three months following the freeze.<sup>22</sup> In Lindsay, the unemployment rate skyrocketed to 47.2%.<sup>23</sup>

By January 11, 1991, Governor Wilson declared thirty-three affected counties a disaster and also requested a federal disaster declaration on January 18, 1991. The declaration acknowledged the state's inability to meet the needs of those affected by the disaster.

One month later, the President signed a limited disaster declaration which provided twenty-six weeks of Disaster Unemployment Benefits to workers affected by the freeze.<sup>24</sup> The average farmworker received approximately \$90 to \$100 per week in unemployment benefits. No additional federal disaster assistance was provided for another two months.

On April 17, 1991, the President amended the disaster declaration to include a mortgage and rental assistance program.<sup>25</sup> By this time, many of the farmworkers and their families were in serious debt, falling several months behind in their household payments. Financial assistance was desperately needed. Unfortunately, strict documentation requirements rendered the application process for FEMA mortgage and rental assistance cumbersome, ineffective and nearly impossible to obtain for most of the farmworkers.<sup>26</sup>

#### A. Case Example of FEMA Response

FEMA officials arrived in the Central Valley on April 17, 1991, to begin processing applications for the mortgage and rental assistance program. Under FEMA eligibility guidelines, an applicant must show documentation of freeze related unemployment and an eviction or mortgage foreclosure notice. D.M.<sup>27</sup> applied for the individual mortgage and

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1991).

<sup>22</sup> Hendrix, *supra* note 2.

<sup>23</sup> *Id.*

<sup>24</sup> Report from FEMA-894-DR-CA (July 22, 1991) (regarding the California freeze and disaster recovery efforts). The authority is designated pursuant to 42 U.S.C.A. § 5177 (West 1983 & Supp. 1991). Federal Disaster Unemployment benefits supplement the state's Unemployment Assistance Compensation program.

<sup>25</sup> Federal Emergency Management Agency, 44 C.F.R. § 206.101(g)(3) (1990); Report from FEMA-894-DR-CA, *supra* note 24.

<sup>26</sup> Report from FEMA-894-DR-CA, *supra* note 24; Interview with Josie Arcurio, FEMA Individual Assistance Officer at the Fresno, California office (July 24, 1991); Interview with Gloria Hernandez, Attorney at Law, California Rural Legal Assistance (CRLA) at the Fresno, California office (August 28, 1991).

<sup>27</sup> D.M. is a real person whose identity cannot be revealed because of confidentiality requirements.

rental assistance program in April, 1991.<sup>28</sup> Although D.M. had a long employment history with a local citrus grower and was scheduled to begin work in late December, his application was denied by FEMA because he was not working in the citrus industry at the time of the freeze.

Thus, on May 16, 1991, D.M. filed an appeal of the FEMA denial. In July, he sought assistance with the application process from California Rural Legal Assistance (CRLA).<sup>29</sup> Four months after filing his appeal, D.M. had yet to receive a reply from FEMA.<sup>30</sup> D.M. again sought help from CRLA. The CRLA attorney contacted FEMA and was informed that D.M.'s unemployment status was determined to be freeze related. However, D.M. had not yet been fully approved for assistance as FEMA was now scrutinizing the eviction notice.<sup>31</sup> On August 14, four months after applying for assistance, and over three months after appealing the denial of the application, D.M. had been found eligible for assistance.<sup>32</sup> According to FEMA regulations, the Regional Director should have responded to the appeal within fifteen calendar days of its receipt.<sup>33</sup>

The slow response by the federal disaster relief program to D.M.'s needs exemplifies FEMA's typical response to farmworkers following a disaster. Factors such as the invisibility of freeze as a disaster, and the inherent discrimination toward farmworkers in the federal disaster relief system, compound the problems faced by the Central Valley farmworkers after a freeze.

### *B. Freeze, The Invisible Disaster*

A freeze devastates agricultural communities, with farmworkers the most adversely affected.<sup>34</sup> Crops are destroyed, farmworkers are left

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<sup>28</sup> Interview with Gloria Hernandez, Attorney at Law, California Rural Legal Assistance (CRLA) at Fresno CRLA office (August 28, 1991) (confirmed by review of actual case file).

<sup>29</sup> *Id.* Gloria Hernandez, CRLA attorney, filed supporting declarations with FEMA to supplement D.M.'s application for disaster assistance.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* On August 12, 1991, Gloria Hernandez demanded that FEMA respond to D.M.'s application within 24 hours.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*; 44 C.F.R. § 206.101(m)(1) (1990).

<sup>34</sup> Growers may obtain disaster relief from crop insurance or through the Farmers Home Administration. In 1992, the House and Senate approved an emergency spending bill that includes \$995 million for disaster stricken farmers. Farmworkers, however, must rely solely on FEMA assistance and limited unemployment benefits.

jobless and packing houses stand empty. In turn, local economies suffer as residents have little or no money to spend. The havoc wrought by a freeze is primarily economic and not physical. Accordingly, the losses are not readily visible. Even though the 1990 freeze ranks as the third worst disaster in the history of California,<sup>35</sup> it did not receive the same media attention as disasters which cause greater physical devastation, such as an earthquake or a flood.

Media coverage of a disaster increases community awareness and promotes immediate response by the disaster relief system.<sup>36</sup> Local response teams are mobilized and communication regarding the needs of the community is facilitated through media coverage.<sup>37</sup> For example, mass media coverage of the 1989 San Francisco earthquake brought the plight of the earthquake victims into homes around the world. Response came from disaster organizations across the state.<sup>38</sup> Within five days after the earthquake, FEMA offices were established in affected communities to provide earthquake victims with a variety of services.<sup>39</sup> In contrast, farmworkers did not obtain Disaster Unemployment Benefits until one month after the freeze; four months expired before FEMA established local offices to provide mortgage and rental assistance to eligible freeze victims.

For farmworkers and others adversely affected, the invisibility of the freeze meant the need for assistance went unrecognized by the federal government for far too long.<sup>40</sup> This was further exacerbated by a disaster relief system which is not prepared to respond to an economic, as opposed to a physical, disaster.

Historically, disaster relief programs were developed to respond to physical disasters.<sup>41</sup> Typical relief includes emergency medical care, temporary housing and shelter, food, clothing, counseling services and

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<sup>35</sup> Vlae Kershner, *Lawmakers Seek Freeze Aid; Bills would ease effects of December's cold on Valley farms*, SAN FRANCISCO CHRONICLE, February 13, 1991, at A5.

<sup>36</sup> Hernandez, *supra* note 28; Arcurio, *supra* note 26.

<sup>37</sup> Telephone interview with Dorothy Corless, Fresno County Mental Health Disaster Coordinator (July 17, 1991). On October 17, 1989, in response to the media coverage of the 1989 San Francisco earthquake, the Fresno County Mental Health Disaster Unit went into action, sending a mental health response team to the stricken area that night.

<sup>38</sup> *Id.*; Bancroft, *supra* note 7.

<sup>39</sup> Jay Mathews, *Rain Threatens to Halt Quake Rescue Efforts*, WASHINGTON POST, October 23, 1989, at A1. The services to be provided included temporary housing, Disaster Unemployment Benefits, Small Business Association loans, and individual and family grants.

<sup>40</sup> Bancroft, *supra* note 7.

<sup>41</sup> Arcurio, *supra* note 26.

community rebuilding. The provision of these services has become so routine that the system's ability to respond adequately to unprecedented or unusual situations is hindered.<sup>42</sup> Disasters such as the California freeze require a more individualized approach because the victims and their needs are much different than victims of an earthquake or a flood.

However, the federal disaster relief system is not designed to respond to individual needs. Consequently, the services provided to freeze victims are slower in developing. Disaster relief systems need to be restructured to allow more creative responses to new situations. Once this is done, the system must develop an internal structure which perpetuates these responses to unique disaster situations.

### C. *The Federal Disaster Relief System Discriminates Against Farmworkers*

Failure of the system to aid farmworkers after the California freeze resulted not only from the unique nature of the disaster, but also from the special needs of the particular victims. FEMA failed to discover the special needs of the farmworkers prior to its arrival. The experience of farmworkers after the California freeze suggests that the federal disaster relief system discriminates against farmworkers.

Many farmworkers hesitated to apply for disaster relief for fear of jeopardizing their immigration status. New or aspiring citizens who have gone through the Amnesty program signed promises not to seek public aid for at least five years.<sup>43</sup> Though FEMA aid should not affect immigration status, farmworkers were fearful or uninformed and refused to apply for aid for fear of losing their right to seek American citizenship.<sup>44</sup> Farmworkers who apply for FEMA aid must confront a system which is at odds with the current farm labor system. To apply for the mortgage and rental assistance program, individuals must bring in verifiable documentation of layoff notices and either (1) notices of eviction or foreclosure, or (2) notices of an intent to evict or foreclose.<sup>45</sup>

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<sup>42</sup> Robert Rabin, *Dealing with Disasters: Some Thoughts on the Adequacy of the Legal System*, 30 STAN. L. REV. 281, 289 (1977-78).

<sup>43</sup> Telephone interview with Amnesty International Staff, Fresno office, regarding section 210(f) of the Immigration Reform and Control Act of 1986, PUB. L. NO. 99-603, 100 Stat. 3359 (August 28, 1991).

<sup>44</sup> Hernandez, *supra* note 28; Federal Emergency Management Agency Form 90-57, Mortgage or Rent Assistance Application Benefits (August 1990). The back of the form states that applying for or accepting Disaster Housing Assistance from FEMA will not affect citizenship or Amnesty program status, nor is any information to be provided to I.N.S.

<sup>45</sup> Report from FEMA-894-DR-CA, *supra* note 24; Arcurio, *supra* note 26.



Complying with these requirements is difficult, if not impossible, for most farmworkers.

To meet FEMA requirements the layoff notice must be on the growers' letterhead and must indicate that the layoff was freeze related. Frequently, such a notice is difficult to obtain because of the lack of an employer-employee relationship between the grower and the farmworker.<sup>46</sup> Generally, a company foreman or the grower hires a farm labor contractor, who then hires the farmworker. This system creates an atypical employer-employee relationship between the grower and the farmworker which is not readily translated into the disaster relief application system. FEMA was unaware of this prior to its arrival in the Central Valley. Communication with the Justice Department had not fully prepared them for the task at hand.

The FEMA requirement of a layoff notice on letterhead has led to exploitation of the farmworker by the labor contractors. Some contractors have reportedly been charging the farmworker a fee prior to providing the needed layoff notice.<sup>47</sup> Also, due to either the lack of a direct employer-employee relationship or a fear of involvement with the federal government, some growers have been reluctant to provide farmworkers with the necessary documentation.<sup>48</sup> Because FEMA has no mechanism to incorporate the special needs of the farm labor system and its employment hierarchy into the regulations and application system, FEMA discriminates against the farmworker in times of disaster.<sup>49</sup>

The cyclical and seasonal nature of agricultural employment also impeded provision of disaster relief. Many of the workers who initially applied for the mortgage and rental assistance program were denied eligibility as they were unable to prove their unemployment was freeze related, much like D.M.<sup>50</sup> The citrus season had not fully begun when the freeze struck. Workers scheduled to begin work in January were idle at the time of the freeze. Initially, FEMA found them ineligible for

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<sup>46</sup> Hernandez, *supra* note 28.

<sup>47</sup> *Id.*

<sup>48</sup> Arcurio, *supra* note 26. At least one local grower refused to supply FEMA with any documentation regarding the farmworkers he laid off. Hernandez, *supra* note 28.

<sup>49</sup> Federal Disaster relief programs must include provisions which insure that disaster relief efforts are provided to victims without any discrimination. 42 U.S.C.A. § 5151 (West 1983).

<sup>50</sup> Report from FEMA-894-DR-CA, *supra* note 24. As of July 22, 1991, the local FEMA office had received 4599 applications, of which only 1660 applicants were found eligible for benefits; 1006 still had applications pending and 1120 applicants were deemed ineligible.

benefits as their unemployment was not deemed freeze related. In July, 1991, after much political prompting from Central Valley Congressional representatives, FEMA agreed to accept old pay stubs, tax forms and unemployment benefit notices as proof that a worker's unemployment resulted from the freeze.<sup>51</sup>

The requirement of an eviction or foreclosure notice acted as an additional obstacle to qualifying for mortgage or rental assistance. Unlike the stereotypical migrant laborer, citrus industry workers are steadily employed ten months out of the year. Many have mortgages, car payments, credit cards and are longtime community members. A vast majority of these workers have not collected unemployment benefits for the past ten to twelve years.<sup>52</sup> Yet, in order to qualify for FEMA mortgage or rent assistance, the farmworker must first be on the brink of eviction or foreclosure. Many of these families made great personal sacrifices (i.e., securing high interest loans) in order to pay the mortgage or rent following the freeze. As a result, these individuals were not eligible for FEMA assistance.

The farmworkers made these sacrifices in order to survive until disaster relief became available. Ironically, in choosing to keep their mortgage or rent payments current and perhaps fall behind in other obligations, the farmworkers were ineligible for assistance when it finally arrived. A more timely FEMA response could have prevented this financial trap.

### III. RESPONSE TO FARMWORKERS IN TEXAS AND FLORIDA AFTER A FREEZE

Discrimination against farmworkers by the federal disaster relief system is not new. Both Texas and Florida, which have large farm laborer populations, have experienced similar problems. Federal disaster assistance was very slow to arrive following the 1983 and 1985 freezes which occurred in Texas and Florida and destroyed much of the citrus and vegetable crops. Many workers waited nine months before receiving federal disaster assistance following the 1983 freeze.<sup>53</sup> As a result of

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<sup>51</sup> *Id.*; Telephone interview with Kelly Smith, Administrative Assistant to Congressman Calvin Dooley (July 24, 1991). Congressional representatives advocating on behalf of the farmworkers included Rusty Areias, Calvin Dooley, and Richard Lehman.

<sup>52</sup> Hernandez, *supra* note 28.

<sup>53</sup> *Government Newswire; Hightower Says South Texas Freeze Damage Totals \$450 Million*, Southwest Newswire, January 24, 1990, available in LEXIS, Nexis Library, Omni File (confirmed by telephone interview with Andy Welch, Texas Department of Agriculture (August 28, 1991)).

the inadequate disaster response to these freezes, Jim Hightower, Agriculture Commissioner of Texas, has taken a very active role in assisting the agricultural community to receive prompt disaster relief.<sup>54</sup>

### A. Texas Emergency Plan

In December, 1989, in anticipation of a forecasted freeze, Jim Hightower and the Texas Department of Agriculture (TDA) developed and implemented an emergency plan to assist both producers and farmworkers. The eight-point plan channeled funds and personnel to where they were needed most. Features of the plan include:

- 1) the use of more than forty field inspectors to assess growers' freeze damage;
- 2) TDA assisting county judges in preparing requests for federal disaster assistance;
- 3) TDA's marketing staff working with the citrus industry to market freeze damaged fruit and juice concentrate;
- 4) TDA's nursery/floral staff assisting in finding nursery stock to replace damaged trees;
- 5) TDA working with unemployed farmworkers to obtain training, housing, emergency sources of food, clothing and other social services;
- 6) TDA publishing a comprehensive list of agencies providing emergency services;
- 7) TDA's food surplus program assisting local food banks and charities; and
- 8) TDA locating mobile offices in the hardest hit areas to provide immediate services to farmworkers.<sup>55</sup>

This plan was implemented on December 21, 1989, prior to a freeze which was predicted to hit that night.<sup>56</sup>

The plan was designed to alleviate the "economic and human hardships"<sup>57</sup> experienced following the 1989 freeze. The freeze hit Texas as predicted and a federal disaster declaration was made by the President on January 24, 1990. Enactment of a similar plan by California would benefit the agricultural industry, as it may speed up the federal decla-

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<sup>54</sup> Jim Hightower, Agriculture Commissioner of Texas, has spoken out regarding farmworker needs at various legislative functions. He and members of the Texas Department of Agriculture developed and implemented an emergency plan to assist farmworkers and growers following the devastation of a freeze.

<sup>55</sup> *Government Newswire; Hightower Implements Eight-Point Assistance For Freeze-Damaged Valley Agriculture*, Southwest Newswire, December 21, 1989, available in LEXIS, Nexis Library, Omni File (confirmed by telephone interview with Andy Welch, Texas Department of Agriculture (August 28, 1991)).

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

ration process. However, this plan alone will not alleviate all the problems for farmworkers inherent in the federal disaster assistance program and its application process.

#### CONCLUSION

The nature of a disaster and the individual needs of its victims should dictate the assistance given. Disaster assistance providers must be able to assess the needs of these communities and tailor the provisions of services accordingly. This requires direct communication between the government agencies providing services and the community. Without this communication, the services provided will be inadequate.

Had FEMA officials directly communicated with prominent individuals of the affected communities, the special needs of the farmworker population, the profile of a citrus industry worker, the difficulty in satisfying the documentation requirements and the lack of an employer-employee relationship would have been quickly determined. This information would have enabled FEMA to adapt the application process at the onset to fit the special needs of farmworkers.

Once a community has been declared a disaster and federal funding becomes available, those agencies providing assistance must conduct outreach services to ensure that all who are in need receive assistance. Because the freeze affected farmworkers, a predominantly Spanish-speaking population, outreach services should have included advertising on Hispanic television and radio stations. Increased utilization of local resources having the most contact with this population, such as California Rural Legal Assistance and Centro La Familia, would also have assisted with quick dissemination of information.

The application process for receipt of federal disaster assistance must be administered in a non-discriminatory fashion. Political or legal intervention should not be a prelude to the receipt of services. If the intent is to provide immediate relief to all who suffer, then the application process must be free of inhibiting factors and the regulations guaranteeing a timely appeal process must be enforced.

Additionally, the federal disaster assistance program needs increased flexibility so that it might address the needs of special populations and economic disasters. This must be done in order to prevent insidious discrimination of farmworkers. While advocating these changes by the federal government, the state must also take action to facilitate the adequate provision of disaster assistance to the farmworker population following a freeze. Implementation of a disaster plan by the California Department of Agriculture, similar to that utilized in Texas, would be

a good start.

Finally, education about the devastating economic impact of a freeze would enhance the provision of disaster services which follow. The farmworkers in the Central Valley and throughout this country provide a valuable service and must be accorded the respect deserved.

RISSA A. STUART