

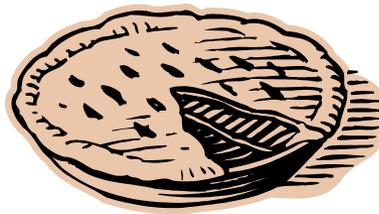
Labor / OSHA Issues Affecting Small Family Farms

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The problem is as basic and
American as (and goes against)

“Mom and Apple Pie”



Our American Colonial times

- Were based on ‘Community and neighborly help’
- Corn huskings and barn raisings symbolized the overall cooperation among Neighbors.



Today ??

(EDITORIAL)

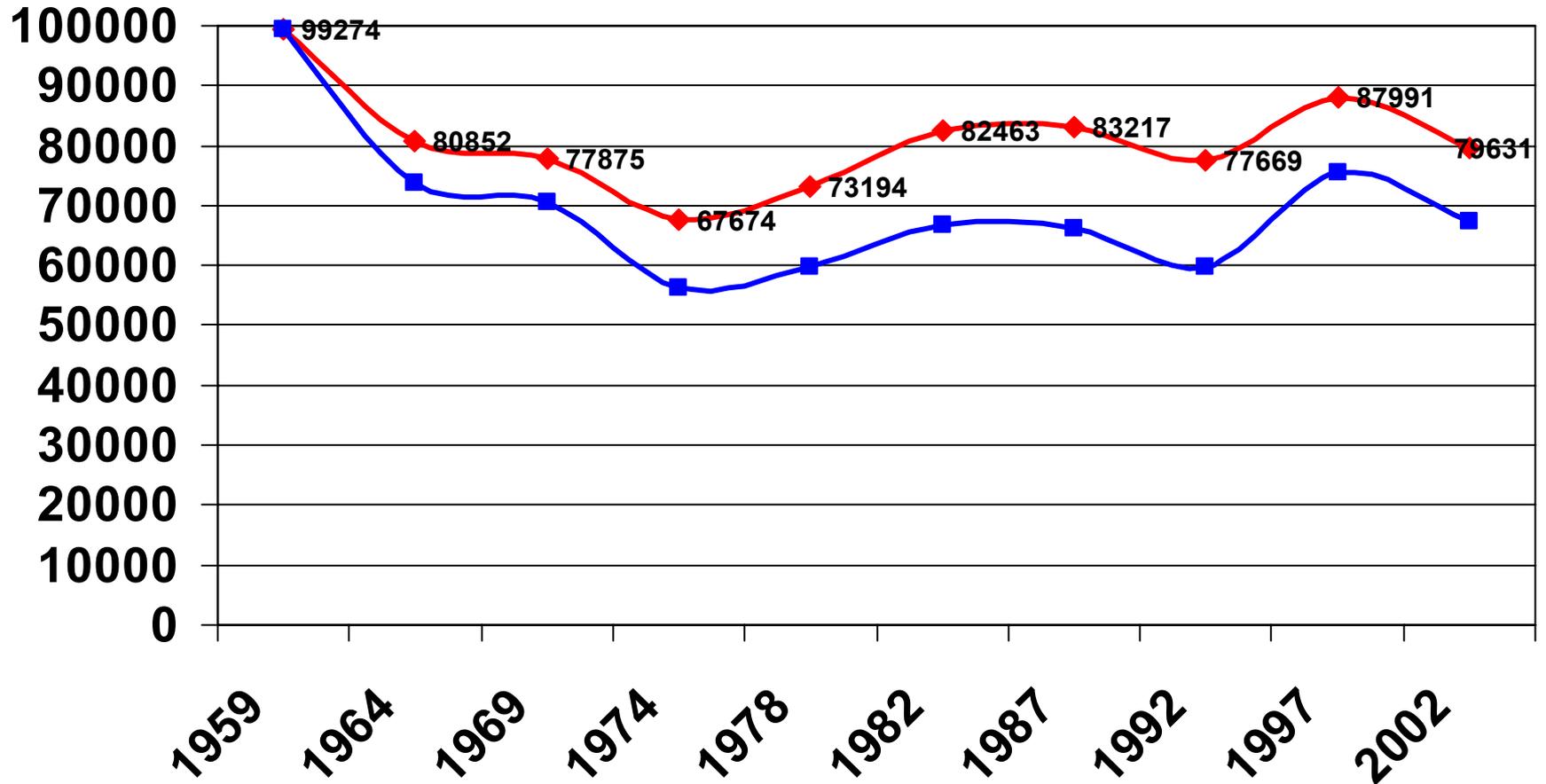
The farmer cannot have neighbors (volunteers) over to help put up a barn

‘unless’

1. He has a worker’s compensation policy
2. Pays volunteers a wage and complies w/ child labor laws
3. He has 2 toilets: 1-male and 1-female per 20 ‘volunteers’, able to hold 40 gallons, located within ¼ mile or 5-minute walk, screened and sanitary

The Demise of the Small Family Farm

Ag Census 2002



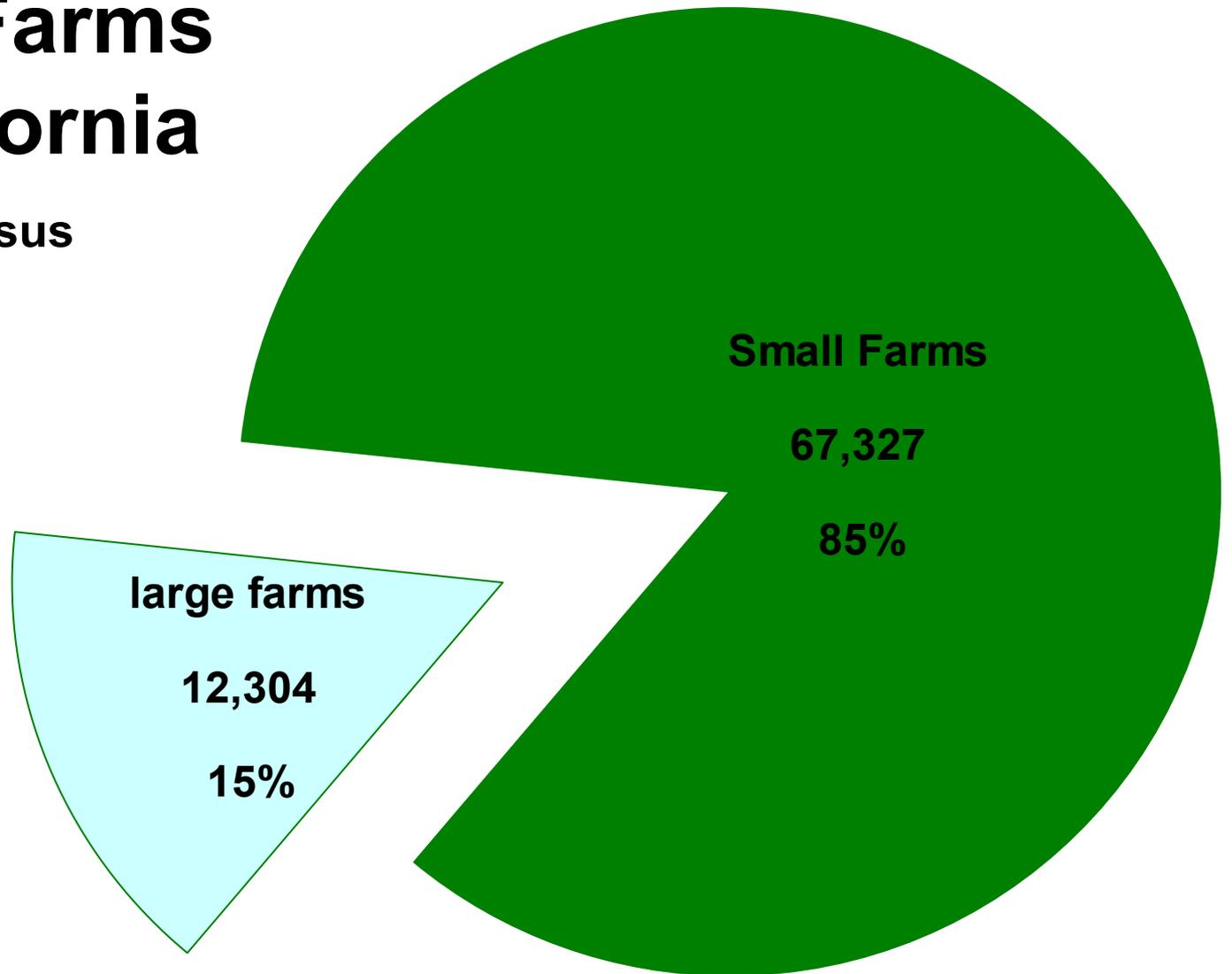
Total all farms



Total small farms

Small Farms in California

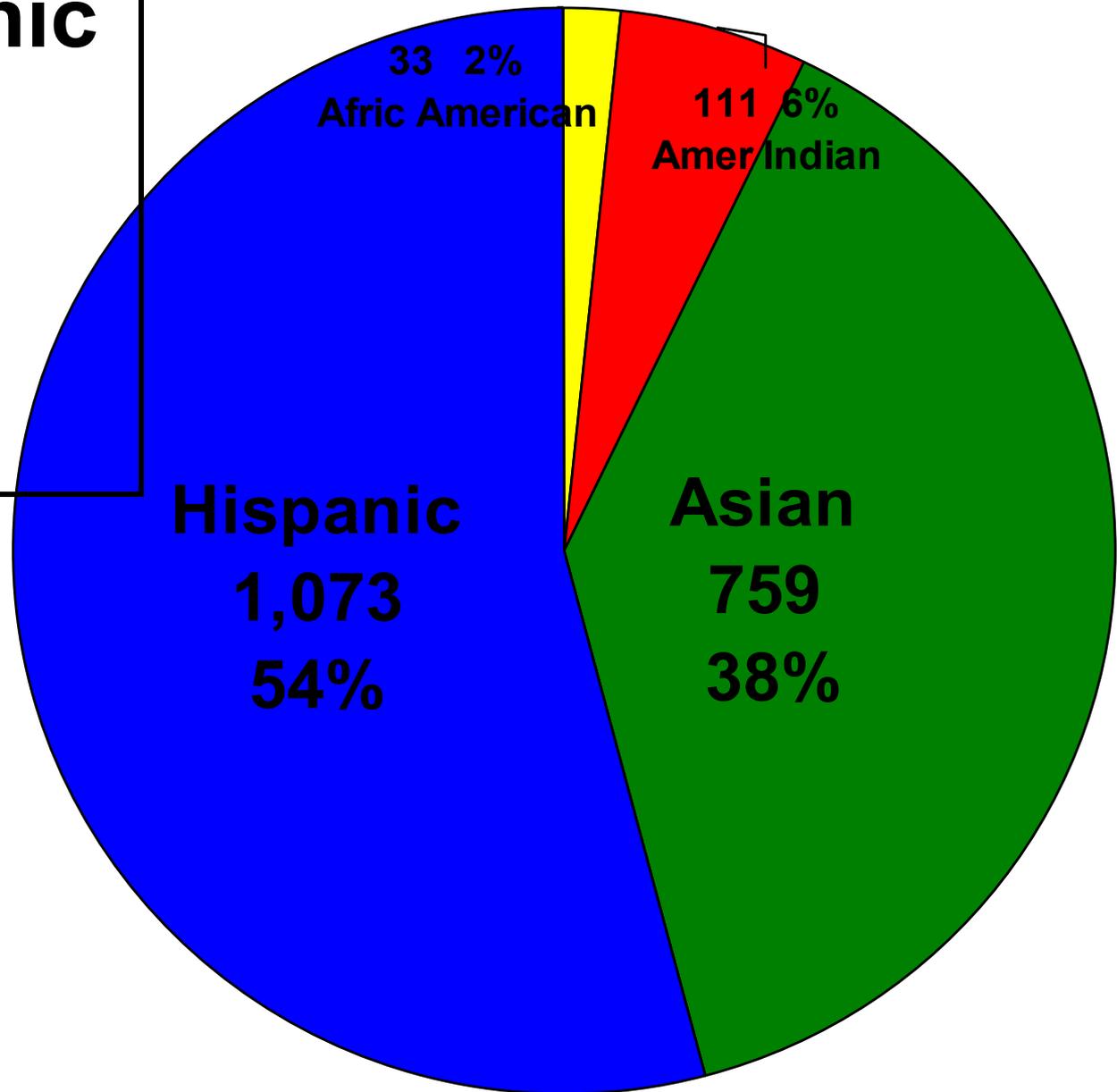
2002 Ag Census



Fresno Ethnic Diversity

(almost 1/2 of small farms are minority operated)

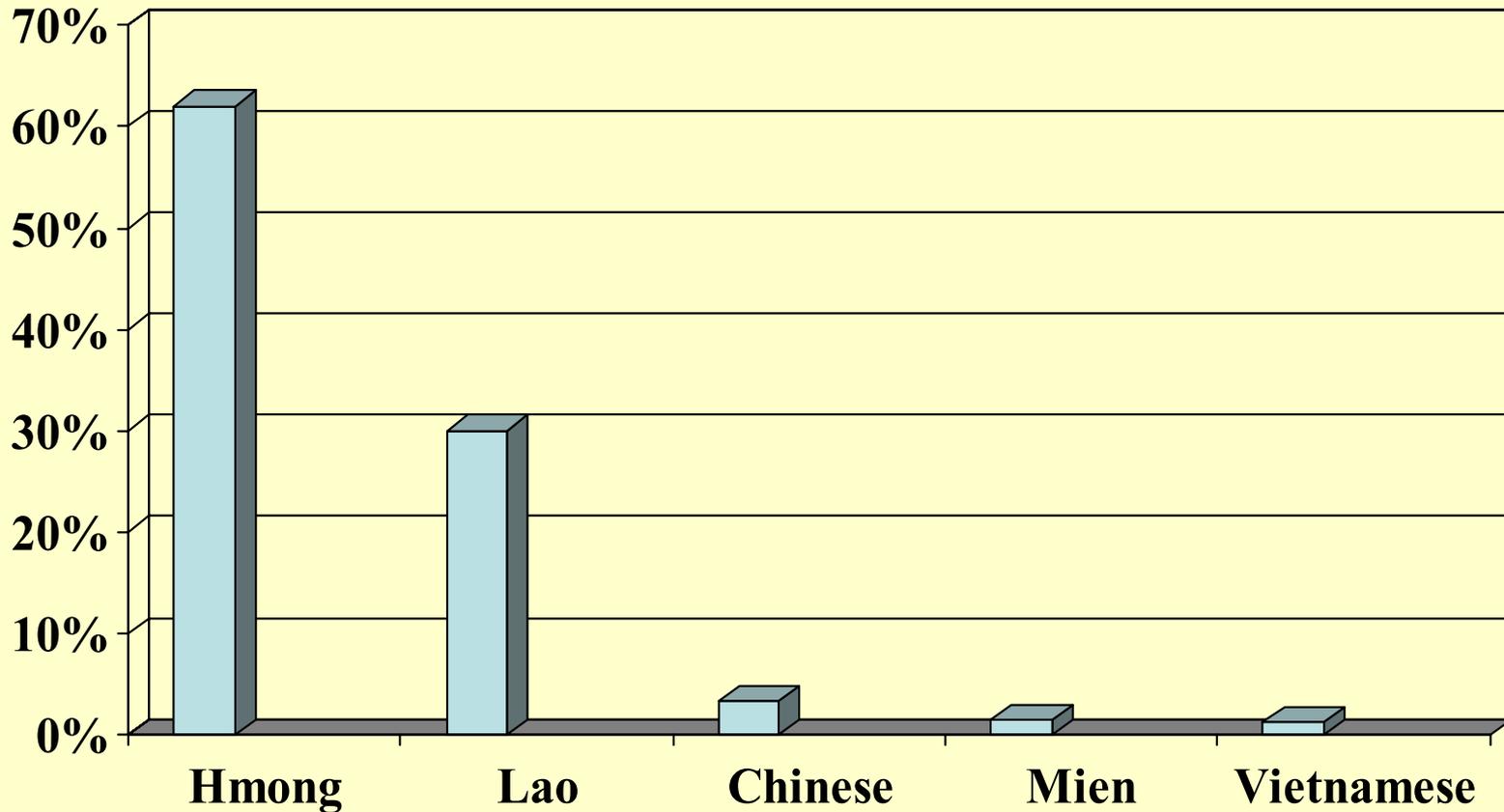
Ag Census 2002



Hmong farmer profile

- Over 1,200 Hmong in Fresno
 - Came to California from Laos/Thailand (1976 -.....)
 - 30,000 in California (1,200 farmers in Fresno)
 - 4th grade education at most
 - In Laos were either farmers or in military
 - Slash and burn type agriculture
 - Average 6-8 kids
 - Average size farm 8 acres (specialty crops)
 - Average income \$20,000
 - * **Extended family help – cousins, brothers, uncles, grandparents**

SE Asian Vegetable Farmers in Fresno -734 Asians



1992 Pedro Ilic survey

2004 multi-agency “sweeps” Fresno

- 3 Hmong farmers fined Sept 2004
- Reason – no workers compensation insurance
- \$14,500 – 22,000 fines

Trials and Tribulations of

- **XXXX XXXX** is Hmong. He came to this country in 1990. He was 27 years old at the time of the inspection “sweep”. He speaks some English but could not understand the inspectors legal language. On August 31, 2004 **XXX** was cited for not having workers compensation insurance and wage violations for 12 unpaid volunteer extended family members who were helping him with his crop. He was fined \$14,500. He was frightened by the ordeal, did not understand the explanations offered by the inspectors and by what the documents implied if he did not pay the fine, so he paid the fine on Sept. 17, 2004. According to **XXXX**, “the Hmong do not understand these labor issues. No one has ever explained the laws to them from the state labor department”.

Results and Impact

- Sept 30, 2004, 3 Hmong growers fined \$14,500-\$22,000 each
- US HUD, USDA-FSA, Hmong American Community and others ban together to help farmers
- November 2004, 106 Hmong growers attend meeting in Cooperative Extension office
- Dec 2004, USDA Civil Rights assist with meetings in Sacramento w/ officials
- February 2005, 125 Hmong growers attend DIR meeting to learn more and protest
- Feb-present, Information passed on to growers via Hmong radio
- More than 10 growers are taken to State Fund Insurance to obtain quotes on policies





Family Farm Legal Compliance Issues

1. **Pesticides** — County Ag Department (Ag Commissioner)
2. **Burning** — SJ Valley Air Pollution District
3. **Labor** — Deputy Inspector in Fresno
4. **OSHA** - Cal/OSHA enforcement
5. **Posting Requirements**
6. **Health Dept.**
7. **Internal Revenue Service**

State of California Farm “sweeps”

- 1992 – 1997? TIPP program
 - Targeted Industries Partnership Program
- 2004,2005 Multi agency “sweeps”

Unannounced sweeps on farms by
DLSE, OSHA, EDD, CCC, US DOL

Department Labor Standards Enforcement
Occupational Safety and Health Agency
Employment Development Department
California Conservations Corps
US Department of Labor

- **OSHA** - Cal/OSHA enforcement 559-445-5302

- **a. Field Sanitation**

- - drinking water – cool, with faucet, disposable cups, 4 gallons/worker/8hrs
- - hand washing – soap, single use towels, 15 gallons minimum, ‘clearly marked’
- - ‘water is for hand washing only’
- - toilet: 1-male and 1-female / 20 employees. (exception, if less than 5 employees then only 1 toilet is required (lockable)
- * able to hold 40 gallons, supplied with toilet paper, located within ¼ mile or 5-minute walk, screened and sanitary.

- **b. Hazard Communication Program**

- **c. Use of Short-Handled Hoes – prohibited while kneeling or squatting**

- **d. Medical Aid - First aid kit at the farm**

- - one trained in first aid for every 20 employees
- - exception = not needed if medical care facility is within 15 minutes
- - CPR qualified person to provide assistance within 4 minutes

- **e. Injury and Illness Prevention Program (IIPP)**

- - Must have a written program **for employees** that contains 8 parts

- **Labor** – Deputy Inspector in Fresno 559-244-5352

a. Worker's Compensation Insurance – required in all ag situations where employees or extended family members help. Only exception is the farmer, kids, and his/her partner(s)

b. Minimum Wage

c. Child Labor

d. Misc.

Definition of “Employee”

- Labor code, State of California
section 3351

“Employee” means every person in the service of an employer under any appointment or contract of hire or apprenticeship....

- Section 3352

“Employee” excludes the following:

Any person... who is employed by his or her parent, spouse, or child

Any person performing voluntary service.... (subsection d-o)

What is needed

- Clarification of the labor code pertaining to definition of employee and volunteer
 - State senate
 - Dean Flores
 - Charles Poochigian
 - State Assembly
 - Juan Arambula
 - Nicole Parra
 - Michael Villines

Alternative:

State of Calif. –

Shoots themselves in the foot



- farmers quit farming and/or go back on welfare