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HAPpenings!

HAP is dedicated to providing attention to the needs and social development of the Hispanic immigrant community via a focus on leadership formation, community organizing and advocacy

HISPANIC AFFAIRS PROJECT

The Shepherder campaign in Colorado

Fighting against one of the state's lowest paying industries

Grave human rights violations are happening right in our backyard

Many Coloradans are unaware that herders come to labor in the most desolate and isolated regions of the west

The shepherders are required to be on call 24 hours per day, 7 days per week, living in small campers without electricity, running water and bathroom. Campers are exempt from typical H2A farmworker housing standards



Foreign Labor Certification Data Center
Online Wage Library:

- ◆ 2405 Shepherders were hired with H2A visas to work in the US in 2012, the vast majority of them with contracts of \$750/mo. earning them only \$9000/yr.
- ◆ Under decades' old regulations called "Special Procedures" for this industry salaries have remained artificially low for the workers since then. Most of the shepherders we meet are the sole support for households of four or more.
- ◆ 100 % of the U.S. poverty rate for a household of one is \$11,490. For a household of four it would be \$23,000. The shepherders have expressed that \$1000 a month would be an acceptable salary.

Western range operations produce nearly 60 percent of the nation's lamb and wool

Ranchers act as personal accountants for shepherders, keeping track of expenses, making purchases and transactions, and transferring money home for them

For decades, there is not a domestic labor force willing to work as shepherders.



This herder spent 3 months alone at 12,226 feet high on Engineer Pass, Hinsdale County. The HAP team spent 2 days to find him.

Close To Slavery. Guest worker program in United States

Rafael is a Peruvian with an H2A visa who has worked for many years in the sheep industry in Colorado. He and his companions faced serious consequences after Rafael appeared on television to speak about his partial vision loss from working in the snow without proper eyewear. His employer saw the interview and decided not to renew his contract; he also refused a Grand Junction doctor's offer to treat Rafael's eyes free of charge. There were four other Peruvians working on the same ranch at the time. They told their employer that if he did not renew Rafael's contract, they would no longer work for him. The rancher decided to renew Rafael's contract; shortly thereafter, Rafael suffered a work-related accident which resulted in the

amputation of one of his fingers. The rancher then terminated the employment of Rafael and the other four workers without any reasonable explanation. For example, one of the workers was fired for sleeping at 6:30 a.m.; he was told that a sheepherder is required 24 hours a day, 7 days a week. Rafael has now lost the legal status afforded by the H2A visa. He is working to save up enough money to return to his country. H2A range worker visas link sheepherders to their employers in a way that renders them completely vulnerable to their employers, thanks to obsolete labor regulations. **In other countries, such an arrangement would literally be considered human trafficking.**

Overworked, Underpaid and the Wage Theft

Hotchkiss, February 14, 5:30 p.m.
Interview with a shepherd preparing a lawsuit for wage theft,

"My boss was always hard on me, but I finally had enough when he sent me to the mountains without the basic necessities for survival. I spent an entire week without food, water or propane gas. I had to find another shepherd to ask for food and water, and to borrow his cell phone to call my boss; I called him twice to tell him that I was tired of his mistreatment and that he needed to pick up his sheep because I was quitting. When my boss arrived, he took me and his sheep to another place without acknowledging my request. I told him, once again, that I had been working for him for 10 months and that nothing had changed".

He said that if I quit, he would not pay me my monthly salary". I told him to send someone else the next day to take care of his sheep because I was going to leave. A friend came and picked me up and helped me find another job. A few days later, I called him to ask for the money he owed me. He said that

his son owned that ranch and that I should speak with him; when I spoke with the son, he said that his father owned the ranch. The debt is \$500 for 25 days of work. I have a wife and a daughter and I am only asking for what is rightfully mine. This money represents nearly a month of work for me... Recently, I met a kind man and I told him what had happened with my former employer. The man felt so badly that he gave me \$100. This is the truth."

Annually, 19 billion dollars are stolen through obligated extra hours and/or violations of minimum wage. This crime is often connected to trafficking people with legal work visas in this country



In one year, 5,200 Colorado workers contacted the Colorado Department of Labor & Employment (CDLE) to report wage theft. This department receives 30,000 calls with questions related to this issue. Lack of resources and lack of authority to penalize employers who violate this law inhibit solutions. At this time, employers who ignore a request from the CDLE are not subject to any legal consequences.



Stories of shepherders

“I felt very lucky when I was offered a job as a shepherd. I was coming to the richest nation in the world where there are many laws to protect all people. I never thought that I would be coming to suffer hunger. During my first summer in the mountains, I was left for 15 days without food. Ironically, I came to care for animals but spent my first 6 months without ever eating a piece of meat. I had never known hunger in my home country because my parents had fields and animals. My first experience of hunger was here in the U.S. I would even watch birds fly back to their nests so I could go eat their eggs.

One time, I was near a city and some missionaries came to read me the Bible. My boss showed up and wanted to know who they were. They told him that they were simply preaching and my boss told them, ‘Get out of here. This man has come to work, not to study the Bible.’ The missionaries noticed that I was very depressed and decided to return. They asked to join me for a cup of coffee in my camper. When they came inside and saw that I had nothing to eat, they were furious and left immediately to buy me food. It was the first time I was able to eat something recently prepared. I calculated how much my boss was spending on my food; it was exactly \$7 per week, including sodas.”

-F. R.

“My name is J.S. Alvarado. I am Peruvian and I came to work as a shepherd in Utah in November of 2012. My boss brought food for me and the animals about every 2 weeks. I asked Western Range Association to move me to another ranch because my food allotment only lasted 9 or 10 days. This is how I ended up in Montrose. A few days after moving here, I became ill with a throat infection, fever and body aches. I began to have problems walking. My boss said I was lying and that I just didn’t want to work. I asked him to take me to the doctor and he did, but I’m not sure what the doctor said because my boss was the interpreter. After leaving the clinic, he gave me pills (acetaminophen) and said that I would be ready to work the next day.

One day, the boss’s son came and I couldn’t walk fast enough, so he punched me in the arm and yelled at me. I have already requested to return to my country. They tell me that I’ll have to pay for my plane ticket. The boss deducted \$350 from my check for the doctor’s visit and he will also deduct for the 5 days I was unable to care for his sheep.”

Wages

“We’ve been working as shepherders for 7 years. The salary was always \$720 per month. When we requested a wage



increase, our boss said that business was bad and he couldn’t afford it. A few months ago, we told him that we would be returning home when our contract was up, and we would not be coming back. Since we are good workers, he asked us if we would be willing to stay, even though we would lose our visas. He offered to pay us more. Now he pays us \$1,250 and he treats us better. We don’t understand how this country works. Now we’re undocumented, but we’re making more money and are treated with respect...”T.B.



Weak legislation to regulate the industry and an extremely strong rancher lobby have led to decades of inhuman and unjust circumstances, including: wage theft, lack of medical attention, and neglect of basic needs, such as having days off from work, being allowed to receive visitors and having proper refrigeration storage options for food

Photo at left: these workers requested help to “escape” from their ranch. They worked for 2 years for a boss who has had numerous lawsuits and complaints for labor abuses. They decided to flee, and now we don’t know where they are.

Interviews with Shepherdes

Montrose, July 7, 2013.

First shepherd

How long have you been working as a shepherd?

Eight months. This is my first contract.

What was your first impression of the U.S. when you arrived?

Very different from what I expected. I arrived at the Montrose airport at about 2:30 p.m. My boss picked me up, took my documents, and took me to his ranch. By 5 p.m., I was already working.

Are you saying that you don't have any identifying documents in your wallet?

That's right. He took my passport and my work permit. That's how they do it. One of my coworkers had his documents returned only after working for a year and a half.

Why do you think they do that?

Maybe they think we're going to escape.

How did you open a bank account?

I don't have a bank account. My boss has all my money. He sends money to my family every month. It's like I'm undocumented here! *(He laughs.)*

Second Shepherd:

What would you like to change about your contract or the treatment you receive as a shepherd?

I would like to have some freedom. It would be a great help to welcome any visitors we would like. The boss doesn't like us to have any visitors.

And when someone comes to visit us, like you, we're afraid that our boss will find out. Sometimes they ask if anyone has come to visit. We tell him, "no," so that he doesn't get angry. It would also be good if we could at least have two days off each month. It would make a huge difference in our lives here to be able to go into town and buy what we would like, go to the Laundromat, or eat in a restaurant, because we're always at work, caring for the sheep.

Has your boss ever offered you a day off?

Never! We're always expecting him to show up and ask us to do a job, including Sundays. If he said to us, "Tomorrow is your day off," it would be a huge change for us because we could rest and be calm.

Does your contract mention days off?

The contract that we signed said that we should be willing to work every day and to go wherever the boss tells us to go.

Has your boss ever taken you to a store?

No. He says that we don't have any reason to go to the store, and that we shouldn't spend money. He says we should save it. He shouldn't prohibit us from spending because it's our money. It's not like we're asking him to spend his money.

And how do you get your food?

The boss brings it to us. Each shepherd makes a list. I think that's why he doesn't want us to go to the store; maybe we'll see a different type of food and then we'll ask for it and then he'll have to say, "no," because it's too expensive and business is very bad right now.

Third Shepherd:

Do you have a cell phone?

Yes, now I have one. But during my first 3-year contract, I borrowed a phone from another guy to call my family each time. When I went to the mountains for 3 months, I lost communication with my family, and they thought I had died or something terrible had happened to me.

Fourth Shepherd:

And do you have a cell phone?

Yes, I bought it a few months before I came, but my boss doesn't know that I have it. He doesn't like us to have phones and he has told us all that we have no need to talk to anyone.

"I came to the country where the UN headquarters is housed; I never thought that human rights would be violated here. I've come to work at the request of my employer. We have not done anything wrong."



A radio/cell phone is a basic tool for any job out in the wilderness, yet it is prohibited by some bosses.

The *Salt Lake Tribune* published a disturbing story on September 5 about a Peruvian named Hugo Macha who was attacked by an elk. He walked for 5 hours, bleeding and with an injured lung, to find help from another shepherd. The other shepherd managed to find Forest Service agents, who had him transferred by helicopter to the Grand Junction hospital. This type of situation shows the vulnerable conditions created by isolation, lack of communication, and safe working conditions for shepherders.



Weak legislation regulating the industry has led to decades of abuse for shepherders, that could be considered human trafficking by any UN member nation.



Interviews...

Rangely – November 27

“I’m from Mexico and I have been working for many years on this ranch. I was told by my boss a few days ago that there was little work and that it would be better for me to return to Mexico, where he would send me the 8 months of pay he still owes me. I told him that I am going to stay. I do not want to leave because my boss does not always pay his workers as promised. The last unpaid worker was a Peruvian who came with an H2A visa for a 3 year contract. When he finished, his employer sent him back to his country with the promise that he would send him the \$3,000 still owed him. As of today, he has still not paid the man. He gives us food and what we need to survive, but not all of our monthly salary. This is how we have been living all this time.”

San Miguel County– Thanksgiving Day

“Last year, my boss came to visit on Thanksgiving. He asked if anyone had come to visit me. I told him that no one had come. I remember his words clearly, ‘You don’t need to talk to anyone. There are lots of bad people

here, especially the Mexicans. If one of them comes, you take your rifle and shoot them.’ - I am glad that you (HAP volunteers/staff) visit us because we have someone to talk with; we are so grateful to all of the people who donate things for you to bring us, like phone cards to call our families. We are thankful for this support because we did not have any help before you began visiting us.”

Gunnison– October 24

“In just a few days, I will be returning to my homeland and I have asked my boss for a few days off so I can go shopping to bring home things to my family. He said that he didn’t know if he could. Up to this point, our employer always keeps us at the job site until it’s time to take us to the airport. He doesn’t even tell us what day we are going to travel. But now we are aware that this is not right and I am asking for a few days off to shop for my family.”

Montrose– November 2

“I have been a shepherd for 16 years. My boss paid me \$850 monthly before, but last year he told me that he couldn’t pay that anymore. Now he’s paying me \$800 a month. They change rules about our jobs and we have no say at all.”

that things have not changed at all. Shepherders have a very hard life, and the amount of abuses they endure is unacceptable. I was somewhat fortunate to be Spanish, but I see the abuse suffered by the Peruvians, Chileans, Bolivians and Mexicans.

I don’t understand the reason for humiliating them and treating them as if they aren’t human beings.

Now I am a volunteer with HAP; I visit shepherders to support them



Delta– August 16

“Our boss wants us to continue working on his ranch. We’ve done a very good job for him. Three months ago, he even brought me a refrigerator, but I can’t use it because he hasn’t brought me any gas. The other day, he was almost in tears, telling us that he loves us like his own family.”

because they endure the same experiences I had for many years. And **I’m not afraid to tell the truth if I must speak out.**”

Who is Basilio?

“My name is Basilio Collado. I was born in Santander, Spain. I came to the U.S. to work as a shepherd on February 15, 1969. As soon as I arrived, my employer took my contract and asked me to pay him for my flight from Spain to the USA; the industry agency had promised that my flight was paid for as part of my contract. This is how my life here began. It was a very difficult experience, and **I see**

Basilio leans on a tree where he carved his name in 1988 when he was still a shepherd



A report by Migrant Division of Colorado Legal Services

- ◆ Almost 73 percent of the herders reported having zero days off over the course of a year
- ◆ More than 80 percent were not permitted to leave their ranch
- ◆ Approximately 35 percent were paid less than once a month
- ◆ 85 percent were not allowed to have visitors who were not ranch employees
- ◆ Roughly 70 percent reported never having access to a functioning toilet
- ◆ 85 percent were never permitted to engage in social activities
- ◆ Almost 50 percent reported not having the opportunity or ability to read their employment contracts



The federal Fair Labor Standards Act (FLSA),²⁹ which sets the federal minimum wage and generally provides an overtime premium for hours worked over 40 in a week, exempts H2A workers in important ways. They are completely exempt from overtime coverage.



- ◆ An overwhelming majority of the herders were not permitted to participate in activities such as shopping for personal necessities or attending church
- ◆ Upon arrival in the United States, 42 percent of the herders had their identity documents taken by their employers. These documents included their passport, H2A Visa and their I-94 arrival/departure documents by USCIS.
- ◆ Even herders' access to the use of a phone was often inconsistent. When asked how often they had access to a phone, 37 percent of the herders said they sometimes" had access to a phone, while 20 percent said they "never" had access and 19 percent "always" had access to a phone
- ◆ Many herders reported that their employers did not permit them to have any visitors, including coworkers. 85 percent of the herders said their employers would not allow them to have visitors who did not work at the ranch



"in the desert, yes, because the boss isn't watching you". —A Colorado Sheepherder, when asked if he is permitted to have visitors

Yes, I want to support HAP!

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