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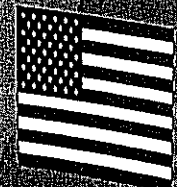
# INDUSTRY

OFFICIAL PUBLICATION OF THE IRRIGATION ASSOCIATION

FEBRUARY 2007

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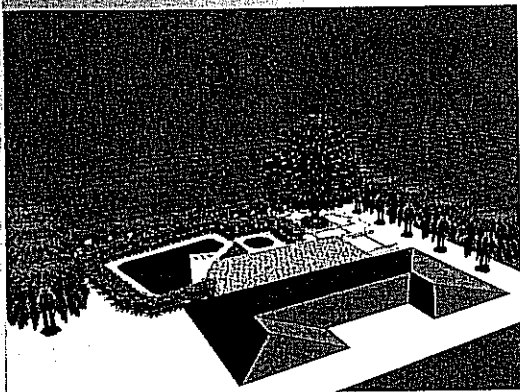
# Irrigation & GREEN INDUSTRY

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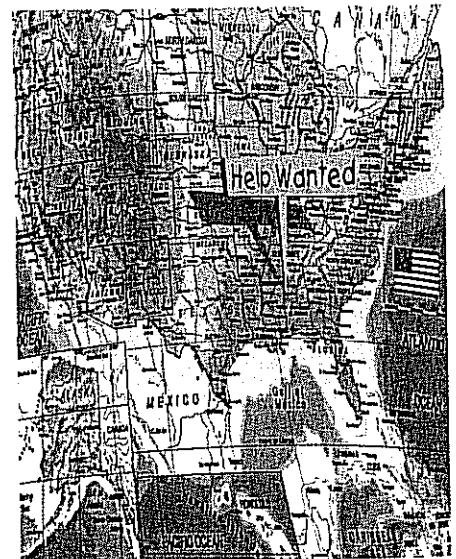


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### ON THE COVER...

The "Help Wanted" sign is out all over the country for seasonal workers.  
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# SOFTEN the labor shortage

BY REBECCA PETERSON

In recent politics, one of the issues that's received the most widespread media attention is immigration. It's been splashed across newspaper headlines and television news programs for months, particularly when immigrant workers went on large-scale strikes.

Big-name reporters, pundits, and politicians have debated the issue incessantly and vocally, trying to whip up support one way or the other, either for immigration reform, or against it. Unfortunately, one voice that's been relatively silent and unheard as the arguments wage on is the voice of one

industry that will be impacted the most—the green industry.

For example, one of several points that seems to be hashed over and over again is the assertion that foreign workers are taking jobs away from Americans. However, had newsmakers talked to any landscape contractors, they would have seen just how incorrect that belief is.

"No American workers want to do this work for this pay," says Steve Miserocchi, president and owner of Cara-Tera Landscape and Statuary,

Kirkwood, Missouri. "In my experience, many American workers tend not to respect the job or the clients, don't want to work hard for the pay, want to show up late and leave early, and aren't careful with the equipment."

Larry Rohlfes, assistant executive director for the California Landscape Contractors Association (CLCA), says that Miserocchi's experience isn't uncommon among contractors: "I know a contractor who pays \$30 an hour, and still can't find any American workers willing to take the job."

Contractor Jeff Korhan, president of Tremendous Landscape Company, Plainfield, Illinois, says that his problem with American workers is the revolving door. "There's a strong

grass-is-always-greener mentality, so you're constantly losing employees," he says. "They're always on the lookout for what they think is a better deal somewhere else. It's difficult, because you put so much time and money into training each one, and then you blink and they're gone."

On the other hand, the general consensus about foreign workers couldn't be more different. They're commonly described as being eager to work, wanting to work hard, showing up early, and willing to work a full eight-hour day. Many landscape contractors have found immigrant labor to be an integral part of their business if they plan to grow their company in this competitive market. Some rely on foreign

labor for up to 90% of their workforce.

The problem is, with the current state of immigration reform in America, or lack thereof, legal immigrant labor can be extremely difficult to get.

### *The temporary solution*

The most common way landscape contractors hire legal immigrant labor is through the government's H-2B program. You've probably already heard of H-2B, at least in passing. It's the existing program that allows guest workers to temporarily work in the U.S. to fill non-agricultural jobs. Employers can legally hire foreign workers, and foreign workers can get valid visas, but only for a temporary period of time,

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and only for jobs in which American workers are in short supply.

The operative words here are "temporary" and "for which American workers are in short supply." If you want to apply for H-2B workers, you'll have to prove both. In other words, you have to prove the seasonality of your work, by showing such documents as contracts. You must show why you need workers on a certain date, and why you will cease to need them after a later date. For contractors in many parts of the country, these dates coincide with spring and winter—you need workers starting in spring, and don't need them during winter.

You will also have to prove that no American workers are hireable, by placing ads in the paper, and interviewing everyone who answers them, as well as any potential workers the State Department sends you. If any American workers are hireable, you must hire them; if not, you can apply for H-2B workers.

Most contractors can't make enough positive statements about the foreign laborers they've received through the program. "They've really helped my company to grow," says Miserocchi. "They're great guys, and seem to enjoy the work. They work hard, and walk away with a real sense of pride—I built that."

Korhan agrees. "H-2B workers have stabilized my workforce. I can count on them to be willing to come back every year." He cites another side-benefit of getting the extra workers as forcing him to standardize his training and orientation system. "Having to train guest workers helped us to be more methodical, and run the business more cleanly."

Most of the workers in the U.S. on H-2B visas are Hispanic. While you can expect there to be a language barrier, it doesn't present a huge difficulty if you plan for it in advance.

Korhan already knew Spanish when he began using the program;

Miserocchi has hired interpreters, and eventually learned Spanish. Either way, being able to train the workers in their native language is imperative.

The best employers take the H-2B program even a step beyond that, however. Understanding how hard it is to work in a strange country where you don't speak the language, many feel that it's common courtesy to help their workers rent an apartment, and provide them with transportation to and from every jobsite, even though they're not legally required to do so.

After that, it comes down to basic respect. "You wouldn't work an

**"There are no shortcuts with H-2B. It has to be done correctly, to the letter of the law. There's no room for interpretation. There's also a lot of proof required. You can't just do things right; you have to prove you did them right."**

American crew for 70 hours a week on minimum wage; they wouldn't accept it," says Miserocchi. "But that's what some contractors ask foreign workers to do. It's not right, and it's not safe. They'll be too tired, and it could cause an accident."

Some contractors never have to worry about this issue, because they don't receive the workers they request. "H-2B is not necessarily a predictable process," says Tom Delaney, director of government affairs for the Professional Landcare Network (PLANET). "It may or may not get you workers, but it's still safer than hiring them illegally, which can net you hefty fines."

One of the biggest challenges with H-2B is the cap of 66,000 placed on

the program. In other words, no more than 66,000 foreign workers can be brought to work in America under the H-2B program during any given year. It sounds like a large number, but keep in mind that numerous industries are drawing on the same 66,000-person cap—retail, restaurants, hotels, home building, asphalt and paving, etc.—not just the green industry. All industries must "share" the total, lessening the labor pool landscape contractors have to draw on.

To many green industry professionals, this hardly seems fair. While the cap wasn't a huge problem when the 66,000-worker maximum wasn't being reached each year, it's now a significant issue: the government is consistently getting applications requesting workers far in excess of the 66,000 cap, and companies are finding their requests for workers denied.

Thankfully, the government has tried to partially mitigate this factor by specifying that returning workers—workers who have previously been in the program and are returning for another season of work the next year—do not count against the cap. However, not getting new workers can still be a problem for contractors trying to grow.

"If I take on many more clients, I won't be able to get the jobs done, because I won't have enough workers," Miserocchi says. "I put bids out on numerous maintenance contracts last fall. If I win half of those, I'm in trouble." You simply can't grow your business without easy access to labor.

Additionally, the H-2B application process requires tremendous amounts of complex paperwork. "There are no shortcuts with H-2B," Korhan says. "It has to be done correctly, to the letter of the law. There's no room for interpretation. There's also a lot of proof required.

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## Soften the Labor Shortage

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You can't just do things right; you have to prove you did them right."

Last year, Korhan missed out on getting new workers because his paperwork was filed one day too early. The H-2B process has very specific time-frames for every step, and being off as little as a day can ruin your chances. We're often taught that being early is better than being late; with H-2B, neither is a good idea. You have to be right on time. This is just one example of the many complexities of the process.

A few contractors choose to wade through this mire on their own, but the time, patience, and attention to detail that it requires uses up far more resources than most contractors can spare. Luckily, companies have been created with the express purpose of helping contractors through the difficulties of H-2B.

These companies, often called agents, simplify the H-2B process by taking the pressure off of you. They know what paperwork is required, and when it needs to be filed, so you don't have to spend time figuring out the details for yourself, and possibly getting something wrong. You're paying them a fee to ensure that no mistakes happen, that every "i" is dotted and every "t" is crossed. Many contractors find agents through word-of-mouth referrals or at tradeshow.

Ultimately, when H-2B works, it works beautifully; when it doesn't work, it can make running or growing your business more difficult. While it's an excellent solution for now, especially compared to the alternative of hiring illegal immigrant workers, it isn't a viable program to sustain America's needs for the long term. All parties agree that new legislation needs to be passed, but the sea of politics is a tricky one

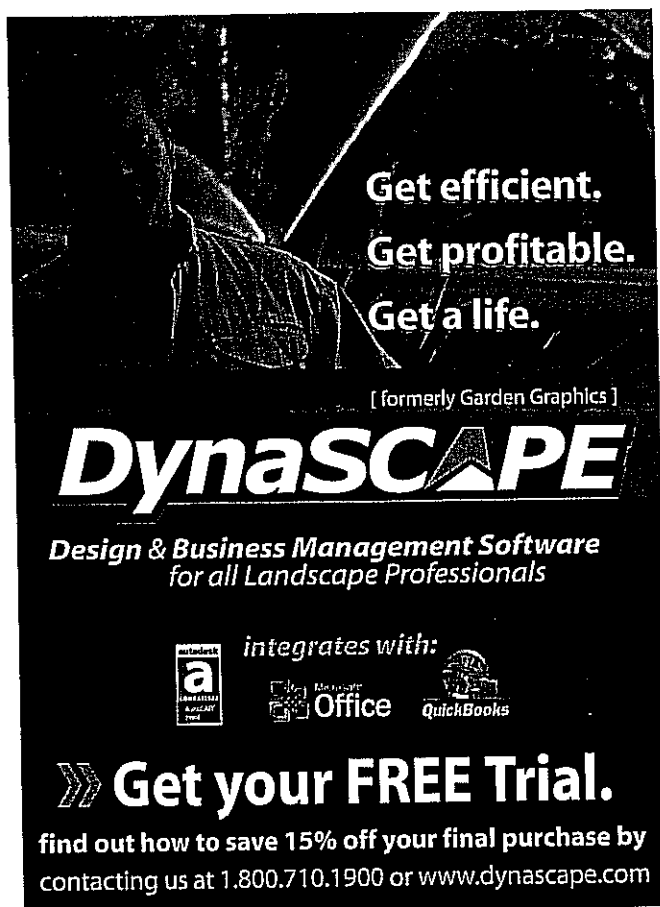
to navigate, and the issue of immigration in particular is very touchy.

### A complicated issue

We have the makings of what should be a win-win situation: there are foreign workers who want to work, and American businesses that need the labor force. So why is the situation still such a mess? For one thing, the pro-immigration side of the debate has been relatively silent. "Congress is getting ten letters against immigration for every one letter they get from our side," Rohlfs says. "For whatever reason, many employers are silent on this issue."

CLCA used to be silent as well, but a sizeable group of its members began urging the organization as a whole to get involved. Immigration was a key issue, and members wanted to see their association dealing with it.

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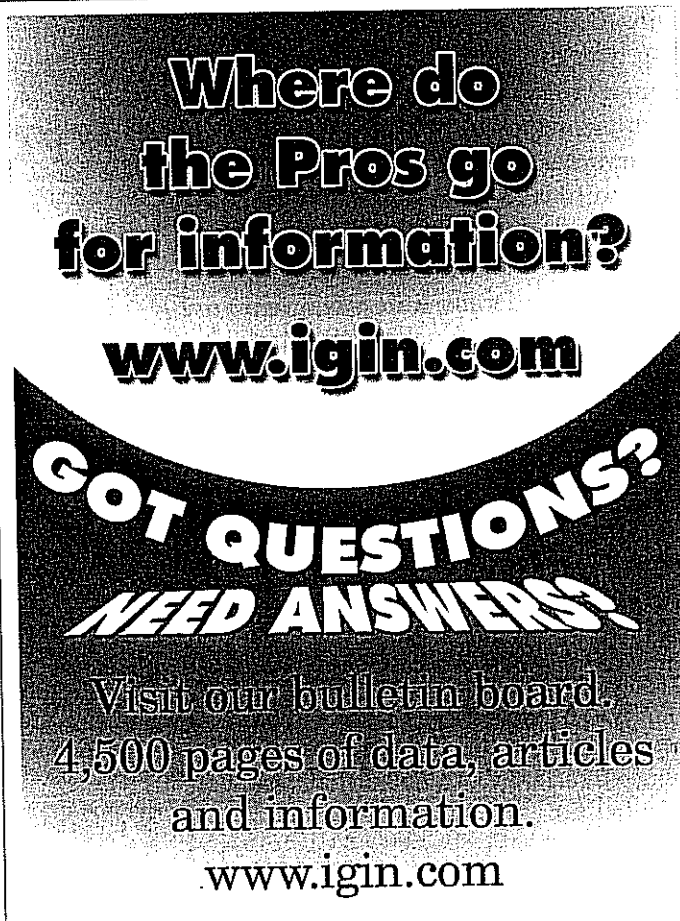
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## Soften the Labor Shortage

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CLCA jumped into the fray head-first. It hired a lobbyist to work in Washington, D.C., established a task force on immigration, generated a letter-writing campaign, and took three trips across the country to meet with congressmen. The trips to Washington seemed particularly effective—CLCA representatives found themselves meeting with pro-business Republicans, working to hammer out what could be an acceptable bill.

As far as many experts are concerned, such a bill would include three key points. First of all, it would put measures in place to create stronger border enforcement. Most Americans agree: foreign workers need to be discouraged from coming here illegally. However, the flip side of that coin is that we need to make it easier for them to work here with the support of the

law. That means the bill would also need to create an expanded temporary worker program. Such a program would be market-based, and would match an available job with a specific worker. The program would not be seasonal, and would have no cap.

Finally, the bill would need to address the fact that there are an estimated 12 million illegal immigrants already living in America. As they don't intend to leave, and many are helping the American economy, it makes sense for the bill to give them a way to earn legalization.

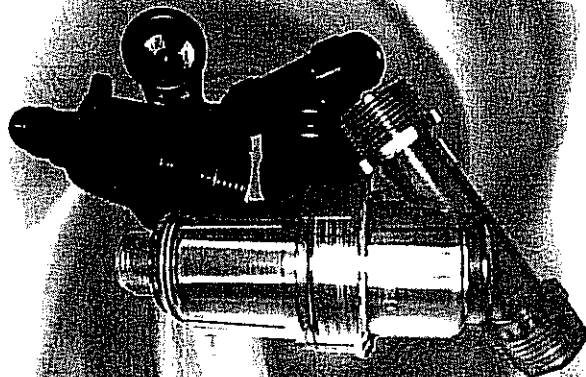
Unfortunately, for various political reasons, immigration reform broke down in 2006, and Congress passed no sweeping new laws. However, the fact that the bill came so close to being passed has given many experts a guarded optimism for 2007. The Senate judiciary committee is already scheduled to do a mark-up of a new bill early this year;

if it is approved, it will go to the floor in the first or second quarter. The House is supposed to be considering a similar bill in roughly the same time frame.

If you've felt the pinch of the labor shortage, you know just how critical such a bill is. Immigration is a make-it-or-break-it issue for many green industry businesses, something that Congress hasn't yet seemed to realize. Landscape contractors can help educate their congressmen on this issue by sending letters and e-mails, attending meetings, and giving input to other state and national trade organizations.

The green industry as a whole is large enough that if it raises its voice, Congress can't help but listen. It has the numbers; what remains is for it to speak out. It's worth remembering: easier access to labor makes the grass greener on this side of the border for everyone. ☺

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