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Quarry owners say visa program keeps them in business

By [Barbara Ferry](#) | The New Mexican
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Beth Vasquez said she has tried to find local workers for the flagstone quarries she and her husband operate in Colorado and Northern New Mexico.

“It's impossible, absolutely impossible,” she said.

“Quarry labor is intense,” she said. “The workers are lifting, splitting and chiseling stone by hand and working in the sun eight to nine hours a day.”

Vasquez said she has advertised the jobs in major newspapers in Denver but has gotten little or no response.

“One year we did have a gentleman call, but he was only interested in operating machinery. We explained to him what the job entailed, and he never called back,” she said.

So year after year, Vasquez and her husband have relied on a crew of 40 to 45 Mexican laborers who work the nine-month quarry season. Their company, O and A Stone, obtains visas for the workers through the H-2B program, set aside for unskilled seasonal workers from around the world.

The H-2B program, which was created by the last major overhaul of immigration laws in 1986, has grown tenfold in the last decade, with the construction and landscaping industries and increasingly seasonal hotel and resorts looking abroad for help.

A separate program, H-2A, provides visas for farmworkers.

President Bush and some in Congress proposed expanding guest-worker programs as a way of solving the problem of illegal immigration.

But Congress took a different tack, with the Senate on Friday approving a 700-mile border fence and other enforcement-only measures. Congressional leaders said any legislation to address the country's estimated 11 million undocumented residents and future flow of immigrant workers was dead for the year.

Sen. Republican Pete Domenici, R-N.M., voted for the fence measure while Jeff Bingaman, D-N.M., voted against it.

Vasquez joined other business owners in lobbying lawmakers last week to lift an annual cap of 66,000 H-2B workers. Congress on Saturday extended the Worker Replacement Act, which allowed companies to hire workers who held visas before without counting them against the cap.

“Year after year, we have the same guys,” Vasquez said. Her Mexican crew spends nine months working in the quarries in Lyons, Colo., and outside Las Vegas, N.M., returning home to Mexico for the winter. The minimum hourly pay for the job -- set by the Department of Labor -- is \$11.25 an hour, she said, but many of the workers make between \$16 and \$25 an hour.

“They own land and have built houses down in Mexico,” she said. “These guys are doing very well.”

Vasquez said stone companies are all desperate to get H-2B workers. Those that get shut out by the cap and aren't able to recruit foreign workers remain idle for the year, she said.

(H-2B) is a really good program,” she said. “But it's really a minute amount of workers, when you think of all the

industries that need them."

However, legal advocates for immigrant workers see problems with the current H-2B program, both for immigrant workers and their American counterparts.

"We see guest-worker programs as one means that industry has to attempt to undermine our nation's labor standards," said Jerome Wesevich, an attorney in Austin who negotiated an out-of-court settlement for six former H-2B workers at Bishop's Lodge in Santa Fe.

Wesevich said he often sees H-2B workers caught in abusive situations, ranging from poor housing conditions to illegal payroll deductions. He said the workers commonly don't seek redress because they don't know the U.S. legal system.

Immigrant advocates have filed suit against a Louisiana hotelier, charging he lured immigrant workers to the Gulf Coast in the wake of Hurricane Katrina. According to the suit, the workers were charged thousands of dollars each in illegal recruiting fees while the company made no effort to recruit local people displaced from their jobs by the storm.

Roman Ramos, a legal advocate in San Antonio who represents H-2B workers, said because the visas are tied to a specific employer, foreign workers are more willing to "tolerate bad situations."

"Foreign workers are hungrier," he said. "They think twice about complaining."

He sees particular problems with companies that subcontract out to other employers, selling available guest workers for a fee. He said that legally, farmworkers have more protections than H-2B workers.

Immigrant advocates generally don't oppose guest-worker programs but recommend visas be made "portable" so that workers who hold them could apply for other jobs without having to return to their home country.

Marcela Diaz said the case of six former Bishop's Lodge employees from Mexico who reached an out-of-court settlement with the former manager of the hotel illustrates the need for more protections for H-2B workers.

She also recommends the guest workers who establish ties to the United States be given an opportunity to become permanent residents. The McCain-Kennedy immigration bill, which failed in the face of border security concerns and anti-immigrant sentiment, would have done that, she said.

To qualify for H-2B workers, employers must show they've made efforts to find local workers by advertising the available jobs in a local newspaper and posting them at the local Department of Labor office.

The Labor Department sets the minimum wage for the job. The wage must meet local requirements, such as Santa Fe's "living wage" law.

Employers often rely on third-party recruitment companies to find workers overseas. They have to apply to Immigration Customs and Enforcement for visas for the employees they find.

Vasquez said the process is laborious but necessary. "We foot the bill to bring them here. It's expensive, but we understand that those are the costs of getting our work force."

But Ramos said in some cases, local recruitment efforts are nothing more than a formality. The employer only has to run an ad for the job for three days, he said, and the ad can be run up to six months before the worker is needed.

"No local unemployed person is going to wait six months for a temporary job," he said.

While companies in the neighboring states of Texas and Colorado use the largest number of H-2B workers, companies in New Mexico's use few.

According to Labor Department records, Bishop's Lodge, three stone companies, three ski-related businesses and a soccer club applied for H-2B workers in 2005. The low usage of H-2Bs here is a reflection, said Mark Boyd, a Department of Labor economist, of New Mexico's poor economy.

