

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)
)
PUBLIC HEARING TO RECEIVE)
)
COMMENT ON WORKSITE ACCESS)
_____)

SALINAS SPORTS COMPLEX

1034 NORTH MAIN STREET

FRESNO, CALIFORNIA

MONDAY, SEPTEMBER 14, 2015

Reported By:

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1 half decades. He and Mr. Blanco came to this Agency three
2 and a half decades ago. And Mr. Barbosa has coordinated
3 these hearings with his normal and extraordinary skill, and
4 dedication.

5 Now, these hearings, commencing in Fresno last
6 week, and continuing both here in Salinas and in Santa
7 Maria tomorrow, and we are making plans to go to Oxnard in
8 October, are designed to obtain the full public input into
9 this process. A process which already began with a meeting
10 which I held with our newly created Ad Hoc Labor Management
11 Committee, in Sacramento, on August 3 of this year.

12 And I would like to thank the members of this Ad
13 Hoc Committee, some of whom are here, I see are here today,
14 for getting out the word on the hearings and for appearing
15 before the Board, and presenting public comment on this
16 important subject.

17 These hearings focus upon worker access, worker
18 education and access to promote such exclusively. While
19 there are many other matters pending before our Board and
20 the courts, relating to the Agricultural Labor Relations
21 Act, these September hearings are not concerned with such
22 matters. And any commentary about them, of course is out
23 of order as not being germane to the proceedings.

24 However, any number of these other matters can be
25 raised to the Board's attention at our regularly noticed

1 public hearings, public meetings held in Sacramento.

2 To ensure that farmworkers are fully able to
3 participate in this process, we have made arrangements to
4 have Spanish, Mixtec. And this afternoon Triqui and Hmong
5 interpreters on hand, who are available to provide language
6 assistance, either in the presentation of public comment to
7 the Board, or in listening to the conduct of the hearing,
8 itself.

9 The interpreters will be in the back, as they are
10 here, one is here, and will offer simultaneous interpreting
11 as needed.

12 As I said, on August 3, at the time of our Ad Hoc
13 Committee meeting, and in earlier testimony that I gave to
14 the Legislature this year, this exercise flows directly
15 from the invitation provided us, or extended to us by the
16 Court of Appeal for the Fourth District in the *San Diego*
17 *Nursery Company* case, to the Agricultural Labor Relations
18 Board to engage in rulemaking regarding worker education
19 and access to private property. In *San Diego*, the focus
20 was upon the worker education program devised by the Board
21 in the 1970s relating to the Board's election machinery.

22 Now, much has changed since then. From 1979, at
23 the time of that exercise through 2015. The focus of the
24 Board at that time was on the election machinery, itself.
25 That's not our focus here, and here today.

1 Although there are some decertification petitions
2 pending before the Board, there are no representation
3 petitions calling for certification before our agency, and
4 none of them filed since I became Chairman a year and a
5 half ago.

6 But most of the unfair labor practice docket at
7 present consist of protests by unorganized workers, dealing
8 with employment conditions. That, for the most part, I
9 have nothing whatsoever to do with union representation.
10 That, itself, is a big change from 1979.

11 Finally, before we commence, I would be remiss if
12 I didn't take notice of some of the experience I've had
13 over these past 54 years, focusing mainly on the National
14 Labor Relations Act as a practitioner, an academic, an
15 arbitrator, and a government servant in the field of labor
16 law. And that is that the most people are unaware, be they
17 lawyers, as well as lay people, that the National Labor
18 Relations Act and the Agricultural Labor Relations Act,
19 which is -- which mirrors it in major respects, are
20 fundamentally something that is concerned with concerted
21 activities.

22 That is the bedrock of the NLRA and that is the
23 bedrock of the National -- of the Agricultural Labor
24 Relations Act, concerted activities to protest what workers
25 deem to be low wages, inferior or unsatisfactory conditions

1 of employment.

2 And in the private sector, generally, under the
3 National Labor Relations Act, the same holds true. About
4 80 years after that statute was passed, our statute has
5 been on the books for 40 years, now, it remains the case
6 that despite the distribution of a great deal of written
7 material, and remedial notices relating to violations that
8 this basic reality, that the public is not aware that our
9 statute is concerned with protests about employee
10 conditions. And it is not simply a labor management
11 statute remains a reality.

12 And so I, and my colleagues, welcome all input
13 and advise from all interested parties, lay people,
14 lawyers, farmworkers, growers, unions and others. And we
15 appreciate your willingness to participate in this
16 important process.

17 Witnesses will be called by Mr. Blanco. If you
18 haven't given your name to us, please do so now. And
19 you'll be asked to make some kind of opening statement.
20 Questions will be put to you by the Board members, sitting
21 to my left. I may have a few questions. Mr. Blanco,
22 acting as our Counsel, will have questions for you.

23 And if you have -- you want to try to keep your
24 comments brief so that we can hear from everyone here. If
25 you have additional comments, you're welcome to submit them

1 to the Board, to Mr. Barbosa, the Executive Secretary, in
2 writing any time before October 15.

3 After the Board completes this fact-finding
4 process, we'll hold the public meeting where proposals
5 about regulations will be voted upon. And you'll have
6 another chance to express your views at that particular
7 time.

8 So now, we can begin. And, Mr. Blanco, if you
9 would call the first witness.

10 MR. BLANCO: Yes, our first speaker today is Mr.
11 Mariano Alvarez.

12 CHAIRMAN GOULD: Mr. Alvarez, if you would please
13 be seated here and wherever is comfortable for you.

14 MR. BLANCO: So, Mr. Alvarez, can you identify
15 yourself and where you work?

16 MR. ALVAREZ: Sure. Mariano Alvarez, California
17 Rural Legal Assisting.

18 MR. BLANCO: And how long have you worked for
19 them?

20 MR. ALVAREZ: This year it will be about nine
21 years.

22 MR. BLANCO: And you worked in, as I understand,
23 the Indigenous Project?

24 MR. ALVAREZ: That's right, correct.

25 MR. BLANCO: So, first, we would like to get your

1 own opinion as to whether or not you are supportive of our
2 efforts, the Board's efforts to create a new regulation
3 that would allow our staff to visit agricultural worksites
4 for the purposes of educating farmworkers and field
5 supervisors.

6 (Off-record conversation.)

7 MR. ALVAREZ: I support your regulation that the
8 ALRB is going to -- is planning to have in the future. So,
9 based on our community, different things that we need on
10 those education, I support.

11 BOARD MEMBER SHIROMA: Can we hear about his
12 work?

13 MR. BLANCO: So, with the Indigenous Project, the
14 Board received a lot of information regarding that from Ms.
15 Maureen Keffer and Mr. Fausto Sanchez in Fresno. But maybe
16 you could tell us a little about your duties that you
17 performed for the Indigenous Project. And also, in that
18 regard, what languages do you speak?

19 MR. ALVAREZ: Sure. I am from Oaxaca, so I speak
20 Triqui Bujo, indigenous language from Oaxaca. In my work,
21 at CLRA, pretty much we do a lot of outreach, education,
22 presentation to our community about their rights, laborers
23 right, housing right, school right. All the things that
24 we're receiving an invitation from schools, migrant
25 education. We choose a community meeting. If they invite

1 us or we go work on the issues, or what kind of
2 presentation they need. So, we go and talk about that to
3 our community.

4 MR. BLANCO: And how do you accomplish this
5 outreach? What methods do you use to do it?

6 MR. ALVAREZ: Well, I speak the language, the
7 indigenous language. Usually, I go and I ask in our
8 community what language they prefer to be present that
9 presentation. So, usually, they prefer to have me speak
10 the indigenous language of Triqui, because most of my work
11 is with the indigenous community.

12 MR. BLANCO: And other than Triqui, are there
13 other indigenous language spoken here in the Salinas
14 Valley?

15 MR. ALVAREZ: Yes, we have Mixtecos, Zupetecs,
16 Chatinos, and NahvaH. Also, we have Purepecho. But most
17 of the workers that I see here is Triqui.

18 MR. BLANCO: And there are various types of crops
19 grown here in the Salinas Valley. Are there ones that
20 primarily find Triqui farmworkers in?

21 MR. ALVAREZ: Yes. In our indigenous community,
22 most of our community work with strawberry, lettuce,
23 cauliflower, broccoli, green beans. So, you can -- pretty
24 much you can find them anywhere.

25 MR. BLANCO: And over the past ten years, how

1 many indigenous farmworkers do you think you've had contact
2 with? Or the past 9 years?

3 MR. ALVAREZ: Well, based on my research, most
4 of -- there's about 200,000 indigenous farmworkers.

5 MR. BLANCO: And that's been in large meetings,
6 small meetings, in homes, et cetera?

7 MR. ALVAREZ: Anywhere. Anywhere, when we do the
8 outreach, field (indiscernible), school presentation,
9 community meeting at the house or in park, anywhere.

10 MR. BLANCO: Now, we've received, in Fresno, a
11 number of individuals who said that the farmworkers,
12 including indigenous farmworkers, had access to the
13 internet and Smart phones, and we should be able to use
14 those methods of educating them. And what's your thoughts
15 about that?

16 MR. ALVAREZ: Well, based on my education
17 outreach and outreach, with our community, the indigenous
18 community, most of them do not speak the language, the
19 Spanish or English language. So, it will be very hard for
20 them to go through even in the Smart phone or by the
21 internet. So, also, the Smart phone is very expensive and
22 computer is very expensive. And to have the access to the
23 internet is very expensive, too.

24 So, even if they have those equipment, it will be
25 hard for them to get the access or to know how to read what

1 we have in the computer.

2 CHAIRMAN GOULD: All right, other questions?

3 BOARD MEMBER SHINTO: Yes, thank you, Senor
4 Alvarez, thank you for being here.

5 Can you tell us about your story, how you are
6 here in the Salinas Valley and now working for CRLA for
7 nine years? Your story on how that happened with you?

8 MR. ALVAREZ: Sure. Sure. I came in Santa Rosa.
9 All of my family is in Santa Rosa. All my family worked in
10 the field in Santa Rosa. But I start involved in the
11 community because the need of our indigenous community,
12 they don't have access of anything of what we have in the
13 community.

14 So, at that time have been listening to me. I
15 work in the field, so that's why I started both with the
16 community. And I feel that I have the obligation that I
17 should be delivering some information that I can provide to
18 our indigenous community, the language.

19 So, also at that time, CRLA was opening up a
20 position to hiring a new community worker, so I applied for
21 there, for the position that they have. So, I explained
22 that why I'm serving in my community, the need of my
23 community, the need that the CRLA need to deliver that
24 services that they have in our community, of course. So,
25 here I did.

1 BOARD MEMBER SHINTO: Wonderful. Wonderful. For
2 your work at CRLA, are there specific topics, health, wages
3 that you focus on in educating the community? Are there
4 specific goals to educate the Triqui community about, for
5 example, signing up for health care, or are you being paid
6 the wages that you're supposed to be paid, or something
7 else?

8 MR. ALVAREZ: Well, in CRLA, we can't do all the
9 job, right. But we have -- we have the services that we
10 provide as a service to our communities, the rights, of
11 course. When we go through the presentation in the
12 community, well, we talk about the worker's rights.

13 (Outside noise)

14 BOARD MEMBER SHINTO: They've moved on so, yeah.

15 MR. ALVAREZ: Well, when we go to do the
16 presentation in the community, we do the rights, school
17 right. But there is a big concern that our community have.
18 Most of the time, they have a very simple question that
19 they, when they go to a hospital, clinic, or any other
20 urgency, they have a question like where is it. This
21 person, they come to us and talk to us, but we don't -- we
22 don't quite what they say, what they have been saying to
23 our community, to us. So, that one of the big things that
24 we see with our community is that the language access.

25 BOARD MEMBER SHINTO: Uh-hum.

1 MR. ALVAREZ: They don't have most of the urgency
2 or most of the providers, they don't have an interpreter
3 for our community. So, that's a big, big issue.

4 BOARD MEMBER SHINTO: Thank you. English access
5 and language access, what is the view of the government,
6 would you say that you've observed? Is it positive or is
7 there distrust about the government?

8 MR. ALVAREZ: Can you explain?

9 BOARD MEMBER SHINTO: For example, if a State
10 official comes to talk with a community group, are they
11 viewed as experts or are they viewed with distrust, or
12 neither, or neither?

13 MR. ALVAREZ: Well, the only thing if the
14 government have a person that can interpret for the
15 indigenous community, it would be -- that would be bring
16 the trust to our community. Because usually what happen
17 with the other agency, they just go and present anything to
18 our community. And based on our history, the story that we
19 have as the indigenous, so usually we don't trust people
20 from the outside. So, that is why if anyone that wanted to
21 provide anything or services to our community, it would be
22 better to have someone who can interpret or translate what
23 you want to present to the community.

24 BOARD MEMBER SHINTO: Thank you. Thank you.

25 MR. ALVAREZ: Thank you.

1 BOARD MEMBER RIVERA-HERNANDEZ: A primary goal of
2 this process is I'm trying to understand the best mechanism
3 or combination of methods in order to communicate what the
4 ALRB does with their services and how we can help them.
5 And I am trying to understand, from the testimony we
6 received in Fresno, they talked a lot about the community
7 leaders.

8 And I'm wondering, what would the reaction be if
9 we showed up at a workplace? Would that be -- would they
10 be receptive to that? Or, do you find it best to meet, you
11 know, in a community setting, with the community leader?
12 Is there another way to communicate information? What do
13 you suggest?

14 MR. ALVAREZ: Well, if that happened a little bit
15 to go with leaders in the community, but also it would be
16 help more if you have someone that can translate what you
17 have --

18 BOARD MEMBER RIVERA-HERNANDEZ: Speak the
19 language.

20 MR. ALVAREZ: Speak the language.

21 BOARD MEMBER RIVERA-HERNANDEZ: Right.

22 MR. ALVAREZ: Because now we -- not all the
23 leaders speak the language, the same language of where
24 you're going to be. Also, not all the leaders have the
25 same point of view of what the community need. So, it

1 would be nice to have your own interpreter or your own
2 translator, so that way would be -- you want to deliver the
3 information that you want to deliver into the community.

4 BOARD MEMBER RIVERA-HERNANDEZ: Thank you.

5 CHAIRMAN GOULD: I don't have any questions, but
6 I think Mr. Blanco has a few more.

7 MR. BLANCO: You were also an interviewer in the
8 Indigenous Farmworker Study, done by Dr. Rick Mines?

9 MR. ALVAREZ: Yes.

10 MR. BLANCO: And most of those or all of those
11 interviews were done in the homes of the farmworkers; is
12 that correct?

13 MR. ALVAREZ: That's correct.

14 MR. BLANCO: And how many interviews did you do,
15 yourself, in that program?

16 MR. ALVAREZ: Between 250 and 300.

17 MR. BLANCO: And the homes that you were in, did
18 you see any computers?

19 MR. ALVAREZ: No, I have not.

20 MR. BLANCO: Now, as I understand it, in your
21 work with the CLRA Indigenous Project, you actually cannot
22 really talk about the Agricultural Labor Relations Act or
23 the rights and protection that the Labor Relations Act
24 provides. Is that correct?

25 MR. ALVAREZ: Excuse me, say again?

1 MR. BLANCO: You can't -- when you do your work
2 with CLRA, you cannot talk about the ALRB. Is that
3 correct?:

4 MR. ALVAREZ: That's correct.

5 MR. BLANCO: And do you think that most -- from
6 your experience from talking to the farmworkers, though,
7 about their rights, and they recognize that if the employer
8 doesn't provide water, or if he doesn't provide bathrooms,
9 or shade from heat, they understand that they have those
10 rights? Do they or not?

11 MR. ALVAREZ: Yes, they understand when you speak
12 their language. I have a time before worked in
13 collaboration with the other agency that do the same thing,
14 and they having asked me and say, when you do -- when you
15 do the presentation, I feel that they understand enough
16 Spanish. I feel that they -- sometimes agencies try to
17 guess and say that let's do it in Spanish. So I say,
18 that's fine, do your presentation.

19 But, of course, our community say yes, yes, yes.
20 If you ask them, do you understand what I've been telling
21 you, they're going to tell you yes. But they not
22 understanding.

23 MR. BLANCO: So, this concept, one of the
24 concepts that the -- as part of the Agricultural Labor
25 Relations Act, in terms of rights provided to workers is

1 that they can get together as a group and protest working
2 conditions. And then the Act protects them from
3 retaliation from the employer.

4 But do you think that the many workers understand
5 that kind of a protection?

6 MR. ALVAREZ: No. Our indigenous community, no.

7 MR. BLANCO: Okay, that should be sufficient.

8 CHAIRMAN GOULD: Are there any other questions
9 that anyone has?

10 All right, well, thank you very much. Thank you
11 for coming.

12 BOARD MEMBER RIVERA-HERNANDEZ: Thank you.

13 MR. ALVAREZ: Thank you.

14 CHAIRMAN GOULD: And our next --

15 MR. BLANCO: So, our next speaker is Ellen Lake.

16 MS. LAKE: Good afternoon.

17 CHAIRMAN GOULD: Good afternoon.

18 MS. LAKE: I'm Ellen Lake. I am a lawyer. I was
19 a lawyer working -- oh, sorry. Working for the ALRB from
20 the day it began, August 28th, 1975, for sixteen years,
21 until 1991. I worked for a Board member for part of that
22 time and for the General Counsel's office the rest of the
23 time.

24 And I was the lawyer who principally handled the
25 litigation involving the access rule, ALRB v. Superior

1 Court, and the San Diego Nursery case.

2 And my theme, my message is that, as the Chairman
3 said, the Court of Appeals in the San Diego Nursery case
4 invited you to pass a regulation that would set forth the
5 parameters of workers' education. They said that would be
6 an absolutely valid regulation, but it was not valid until
7 it took the form of a regulation.

8 They said this in 1979. It's 36 years later and
9 I think it's time for that regulation.

10 CHAIRMAN GOULD: Could you tell us a little bit
11 about the reasoning in that regard, why you think this is
12 very important?

13 MS. LAKE: Well, you have the power. That's what
14 the court, the Supreme Court said in the ALRB case, and the
15 Court of Appeals said in the San Diego Nursery case. You
16 have the power. They also recognized that the Board had
17 made findings about the need for access to the workforce.
18 In the access case, it was access by union organizers.

19 And in the San Diego Nursery case they recognized
20 the findings of the access case as applicable to worker
21 education. So, there is a great deal of history of the
22 Board making findings about the reasons why more
23 information is needed by farmworkers about the Act.

24 And I think, from the little I know now, which I
25 haven't totally kept up, is that the workforce, which is

1 covered by the Act, is more remote, more language -- in
2 terms of languages, as the last speaker spoke -- said, is
3 much more out of the mainstream. They don't speak Spanish.
4 They speak languages where the ALRA is not translated into
5 Triqui very often.

6 So, these workers know less about their rights
7 than those -- than they did in 1975 or '79, when to some
8 extent they were being educated by union organizers about
9 the processes of the Board.

10 Here, these workers are getting, I'm guessing, no
11 education about their rights under the Board.

12 And as the Chairman said, the issue of concerted
13 activity is already an area that very few workers under the
14 ALRA or the NLRA know much about. And since those are the
15 relevant activities and rights that are affected now,
16 there's all the more need for education of the workforce.
17 And that can only be done if you pass a regulation.

18 CHAIRMAN GOULD: Any questions?

19 BOARD MEMBER SHINTO: Yes. Ms. Lake, it's an
20 honor to have you in the room. We've relied on the access
21 regulation all these years and have had a number of cases
22 which have helped to fine tune and define the union
23 organizers' role.

24 And on San Diego Nursery, itself, it speaks to
25 pre-election petition, the time frames. When back in the

1 day our staff attempted to or took access as State
2 employees.

3 Speak up? All right, I'll speak up. So, is it
4 your view or do you have any advice? The Chair has talked
5 about the application of San Diego Nursery beyond elected
6 activity to concerted activity, and that we can interpret
7 San Diego Nursery using the same tests, the same legal
8 tenets to expand that.

9 And any insights that you have on that would be
10 very welcome.

11 And in Fresno, we heard from testifiers saying
12 that go forward in the modern day, and don't -- we need to
13 look at the nonproductive time, and what the Department of
14 Industrial Relations has ruled in terms of payment for that
15 time.

16 We don't have a proposed regulation, yet, but
17 looking at what period of time would we actually be on
18 property, and so forth.

19 But back to the first part of it, any insights or
20 advice as far as how to look at San Diego Nursery as
21 applying to concerted activity?

22 MS. LAKE: Yes, I do. both the access case and
23 San Diego Nursery talked about the really broad power and
24 discretion that the Board has to educate workers, as
25 necessary, to exercise their rights under the Act.

1 It was not -- although those cases came up in the
2 context of pre-election activities, nothing that the either
3 court said was limited in terms of your power to affect, to
4 provide such education outside of the limited pre-election
5 context.

6 The statute, and I tried to go through it last
7 night, the statute has numerous places in which it
8 specifically says that the Board is to protect the right of
9 workers to engage in concerted activities.

10 Section 1140.2, it's the policy of the State of
11 California to encourage and protect the right of
12 agricultural employees to full freedom of association,
13 self-organization and free from interference, et cetera, et
14 cetera, or in other concerted activities for the purpose of
15 collective bargaining or other mutual aid or protection.

16 So, that's the State's public policy. You're
17 there to carry it out.

18 And, of course, Section 1152, the real expression
19 of rights of agricultural employees, says, "Employees shall
20 have the right of self-organization and to engage in other
21 concerted activities, or other mutual aid or protection."

22 So, the statute urges you to protect the right of
23 self-organization and of concerted activity. And,
24 therefore, you have the right, in order to make that
25 realistic, to make that effective for workers you have the

1 right to present education so that workers understand that
2 these are their rights and they can exercise them.

3 I also think that even the specific analysis --
4 you remember San Diego Nursery talked about Section
5 1151(a), the Board's right of free access to all places of
6 labor. That's an incredibly strong statutory provision
7 which doesn't even appear in the NLRA. And the San Diego
8 Nursery court said this means that this is a stronger right
9 of access by the Board under the ALRA than there is under
10 the NLRA.

11 And that right is available not only in terms of
12 hearing investigations in the pre-election context, but
13 also in the context of preventing unfair labor practices.

14 And as the Chairman told us, the --
15 (Technical difficulties)

16 MS. LAKE: Yeah, so the right of access or free
17 access to all places of labor is not only available under
18 1151(a) in the pre-election context, but also to prevent
19 unfair labor practices.

20 And as the Chairman told us, the concerted
21 activity issues that you're seeing arise, arise -- come to
22 the Board in the context of unfair labor practice cases.

23 So, you have the right to use that language about
24 the right of free access to all places of labor in a broad
25 array of activities. And I urge you to do that.

1 BOARD MEMBER RIVERA-HERNANDEZ: I don't have any
2 questions, but thank you.

3 MS. LAKE: Thank you.

4 MR. BLANCO: And I would be remiss to forget to
5 note that Ms. Lake was involved in my getting hired. So,
6 thank you again for that.

7 MS. LAKE: I think I did and made a good
8 decision.

9 CHAIRMAN GOULD: Thank you very much.

10 BOARD MEMBER SHINTO: Thank you.

11 MR. BLANCO: And our next speaker is Jason
12 Resnick, who just stepped into the room just in time.

13 MR. RESNICK: Good afternoon. Thank you very
14 much. Well, thank you very much for hosting these
15 meetings. We very much appreciate the opportunity to speak
16 about the proposed access rule.

17 I'm Jason Resnick. I'm Vice President and
18 General Counsel of Western Growers. I'm on the Ad Hoc
19 Committee with the labor management group, so we've had the
20 opportunity to discuss some of these issues already.

21 So, I'll keep my comments brief and discuss
22 Western Growers' concerns and our members' concerns about
23 this. We have several.

24 First and foremost, we question whether the
25 proposal, as we understand it, to give ALRB staff the

1 opportunity to take access is an efficient way of
2 communicating to employees about the rights and obligations
3 under the Agricultural Labor Relations Act.

4 As you know, there are many, tens of thousands of
5 farmworkers in California and it just seems like it will be
6 impossible for the Board staff to reach the workers in the
7 numbers that would be expected to have any meaningful
8 impact.

9 How many staff will you have doing the education?
10 Two, four, ten, fifty? Whatever the number is, it will be
11 woefully short of what would be necessary to meaningfully
12 educate for workers.

13 CHAIRMAN GOULD: You want the perfect to be the
14 enemy of the good?

15 MR. RESNICK: Should the perfect be the enemy of
16 the good? No, of course not. But we should consider
17 what's the most effective means and methods of
18 communicating. Is this an appropriate and efficient way?

19 So, what are the more appropriate and effective
20 alternatives?

21 Have we considered social media? Have we
22 considered flyers? Have we considered posters? Have we
23 considered doing outreach sessions in areas, in different
24 communities where farmworkers work and reside?

25 Why do we think that going onto the farm to speak

1 to a handful of crews, maybe tens of crews, maybe 20 crews
2 over a period of time, is that really going to have the
3 desired outcome and effect educating the workers?

4 I would submit, respectfully submit that there
5 are many more appropriate and desirable, desirable from the
6 perspective of the Board, from the employers, from the
7 employees that can reach a far number -- a far greater
8 number of workers than access.

9 So, I don't think that the access is going to
10 reach anywhere near the numbers of workers that you would
11 expect and it would take a significant increase in
12 resources to have any measurable impact or affect.

13 Next, I would ask who is going to be doing the
14 educating? Who are the individuals, the staff that are
15 going to be tasked with educating workers? What part of
16 the Board would they be? Are they going to be part of the
17 Board, the General Counsel's Office? Are they going to be
18 part of the same prosecutorial arm of the Board that's
19 doing the educating?

20 It seems to me that's an inherent conflict to
21 have those who are tasked with doing educating also doing
22 the prosecuting or vice-versa. And that it's going to
23 create a great deal of distrust. And you're not going to
24 have the openness from the employers because it's the
25 prosecutors who are doing the educating.

1 I think there's going to be a great number of
2 workers who are going to have -- who already have
3 demonstrated their distrust of the Board given recent
4 events, in recent election and decertification election
5 proceedings.

6 There is a lot of questions that need to be
7 answered in that regard.

8 One model to look at, and I'm not suggesting this
9 is the model, but that one model that deals with this issue
10 is CalOSHA, that has an enforcement branch that enforces
11 the CalOSHA violations and can cite employers for
12 violations of health and safety violations.

13 And in addition, they also have a consultation
14 branch that goes out, at the request of the employer, to
15 come out to the worksite to give the employer guidance and
16 consultation on how they can comply with the Act.

17 And because there's a wall between those two
18 units or divisions, there's no fear by the employer that
19 they're going to be cited when they're trying to do the
20 right thing and have someone come in to help them to ensure
21 that they stay or become in compliance with the health and
22 safety provisions.

23 The next point I'd like to make I think is one
24 that has not been given any thought at all, and it's one
25 that I think is one that should give significant pause, is

1 how are the workers going to be compensated for their time
2 when they're being educated? And whose time is that?
3 Workers go to work to work and they earn money while
4 they're working.

5 There is, as you know, recent Court of Appeal
6 decisions that have now become law. Those decisions are
7 Bluford v. Safeway and Gonzales v. Downtown LA Motors, that
8 say that piece rate workers have to be compensated,
9 separately compensated for their nonproductive time when
10 they're doing piece rate work. And they have to be
11 separately paid for their rest and recovery periods.

12 So, how are the workers going to be compensated?
13 This is presumably going to be done during work hours and
14 that would be, by definition, nonproductive time that has
15 to be separately compensated from the piece rate
16 activities.

17 Does the Board expect the employer to pay for
18 that nonproductive time? I'm sure you'll be hearing from
19 Western Growers and, more importantly, constitutional
20 attorneys and scholars who, I'm sure, would forward the
21 argument that that would be considered a taking. If you're
22 taking, requiring the employer to take time to have the
23 Board staff come onto the property and educate, and require
24 the employer to pay for that.

25 I wonder whether, how has the -- how has this

1 issue been handled both as a legal matter and also as a
2 practical matter in connection with the access cases that
3 the California Supreme Court has already decided?

4 MR. RESNICK: You're asking how has this question
5 been decided in other access cases?

6 CHAIRMAN GOULD: Well, the Supreme Court of
7 California has held that access is part of our statute in
8 the cases that have gone to the Supreme Court in union
9 access.

10 So, the one question that would occur to me would
11 be, well, how would this differ as a matter of law, and how
12 would this differ in terms of a practical matter in terms
13 of compensating?

14 MR. RESNICK: Well, first of all, there's been no
15 case that's come relative to access since the Gonzalez case
16 and the Bluford case, that I'm aware of. So, there's been
17 no case that has dealt with the issue of nonproductive time
18 or compensation for rest and recovery periods. That is a
19 relatively new issue under the law, compensation for
20 nonproductive time. Those cases came down in April and May
21 of 2013. And to my knowledge, the California Supreme Court
22 has not opined on access in some time, any time since those
23 cases have been decided.

24 CHAIRMAN GOULD: But weren't the earlier cases,
25 cases dealing with compensation that employees received

1 during nonworking time, the access not interfering with the
2 employer's business?

3 MR. RESNICK: Well, as you know, the Act gives
4 the union the opportunity to take access for the purpose of
5 union organizing activity for 30 minutes before work,
6 during the meal period and after work.

7 So, during those periods of time, that would not
8 be considered hours worked. Before work, after work or
9 during the meal period.

10 The problem is that because you would be
11 requiring -- well, let me put it this way. How is the
12 Board going to take access before work or after work, and
13 expect the employees to be there and to expect them to
14 assemble for the purposes of education?

15 And then, also, does the Board want to take the
16 only time during the day where the employees have the
17 opportunity to take free time, where they're not burdened
18 by work, where their time, rest time and meal time is
19 considered their own time? Does the Board want to encumber
20 that time? You're taking the employees' time if you do
21 that.

22 And I would suggest that is not going to be
23 welcomed by the workers. And again, going back to my first
24 point, it's not the most efficient means and method of
25 communicating with the workers.

1 I mentioned CalOSHA as an example of having
2 separate enforcement and consultation branches. And it's
3 important to know that other agencies, and there are
4 numerous other agencies in California, none of them do or
5 propose to do what the Board is proposing here, to take
6 access onto private property for the purpose of educating
7 workers.

8 One, it assumes that the workers need educating.
9 I don't know -- in fact, I'm quite sure that case has not
10 been made, that the workers require educating. We're not
11 opposed to education. We think workers should know and
12 understand their rights.

13 Again, we just question the access regulation,
14 the proposed access regulation as being the most efficient
15 and effective way to educate those workers. Other agencies
16 are doing this. Other agencies have enforcement powers
17 under their statutes to go onto the worksite for the
18 purpose of doing spot checks, looking for violations,
19 speaking to a couple of workers to see, make sure for the
20 example of CalOSHA, that they've been provided shade, and
21 water, and break times, and cool off, cool down periods.

22 We're not talking about wholesale educational
23 opportunities where the workforce, whole crews are stopped
24 from doing their productive work, or stopped from taking
25 their lunch, or expected to arrive at work early or to stay

1 late. None of those seems to me to be appropriate from the
2 employer's stand point, and certainly not from the
3 employees' stand point.

4 So, I would submit that the Board go back to the
5 drawing board, take a look at other alternative means. A
6 poster, using social media, using a campaign, you know, an
7 advertising campaign. Those things are being done now.
8 Media, including social media, traditional media, radio and
9 television has all been used to educate workers.

10 And, of course, the union has the power now to
11 take access and to educate workers about the Act. And it
12 seems to me that they are already doing some of these
13 things.

14 But that, combined with other media opportunities
15 is really, in the 21st Century, where we should be thinking
16 about spending our time, about social media, radio,
17 television, print media to reach the workers that we want
18 to reach.

19 And I will end there and thank you for your time.

20 CHAIRMAN GOULD: Thank you.

21 MR. RESNICK: And I'll answer any questions, if
22 you have any.

23 CHAIRMAN GOULD: Ms. Shiroma?

24 BOARD MEMBER SHINTO: Yes. Now, I'm going to
25 study Bluford, myself. But in Bluford, this nonproductive

1 time was bookended around State regulatory requirements for
2 required actions? If an employee is required to, whether
3 it's education or what have you, required by the State that
4 that became --

5 CHAIRMAN GOULD: You have to speak up.

6 BOARD MEMBER SHINTO: I'm sorry. Lo siento. I'm
7 asking Jason his legal viewpoint or -- and I won't hold you
8 to it, even though it's going to be on the record.

9 MR. RESNICK: Yeah.

10 BOARD MEMBER SHINTO: Is it triggered by State
11 regulatory action that then puts it into the nonproductive
12 time? Because the Chair was asking about union access and
13 we haven't seen those union access, and NAs have been filed
14 and so forth, we haven't seen a trigger of nonproductive
15 time.

16 MR. RESNICK: That's correct. And that's
17 because, by definition, nonproductive time is time during
18 work hours, when there are work activities and the
19 employees are engaged in work. And then the rest and
20 recovery period is separate.

21 BOARD MEMBER SHINTO: So, not lunch?

22 MR. RESNICK: No, lunch is also -- is in addition
23 to nonproductive time. Because there's two cases, and I
24 don't want to get into the weeds, their nuance, but there's
25 nonproductive time and there's rest and recovery periods.

1 And so, for rest and recovery periods, and nonproductive
2 time, piece rate workers must be compensated separately
3 from their piece rate earnings.

4 The access rules give the union opportunity to
5 take access before work, during the meal period, and the
6 meal period is not compensated time, and after work, which
7 is not compensated time because it's after work.

8 So, the current access rules do not interfere
9 with the nonproductive time issues. They're done at
10 different times. Access is not done during compensated
11 time. Does that make sense?

12 BOARD MEMBER SHINTO: Uh-hum.

13 MR. RESNICK: Okay.

14 BOARD MEMBER SHINTO: Thank you.

15 MR. RESNICK: You're welcome.

16 BOARD MEMBER RIVERA-HERNANDEZ: As a State
17 employee, I have to take training for ethics, and sexual
18 harassment, and defensive driving, and any number of
19 things. And luckily, I'm fortunate, I get paid to do that.

20 Is there training currently required that, a
21 course now for them, and are they compensated for that?

22 MR. RESNICK: Yes, there is lots of training
23 that's required under a multitude of statutes, including
24 sexual harassment, anti-sexual harassment training, or
25 sexual harassment prevention training, heat illness

1 prevention training, just to name a couple. Those are
2 required to be done and they're done during working time
3 and employees must be compensated for the time they're
4 being trained.

5 So, if these are piece rate workers, which much
6 of that in cultures, you know, workers are paid by piece
7 rate, and they would have to be separately paid for that
8 training time. Sexual harassment training, you know, heat
9 illness prevention training, for example.

10 And this training that's being proposed, if it's
11 done during work time, would have to be separately paid by
12 the employer.

13 So, unless the proposal is going to mirror the
14 access provisions that exist now, where the Board agents
15 can take access before work, during the meal period, or
16 after, then you're going to run into these NPT,
17 nonproductive time and rest and recovery compensation
18 issues.

19 BOARD MEMBER RIVERA-HERNANDEZ: But I just wanted
20 to make sure I understood because when you made the point
21 about no other State agency does this, it sounded like we
22 were setting precedent. But it sounds like workers are
23 educated on their --

24 MR. RESNICK: By the employer.

25 BOARD MEMBER RIVERA-HERNANDEZ: Right, by the

1 employer or a contractor. But the time, so it's about who,
2 like you mentioned before.

3 MR. RESNICK: Yes.

4 BOARD MEMBER RIVERA-HERNANDEZ: Not so much that
5 there isn't education as to their rights occurring at the
6 workplace.

7 MR. RESNICK: Exactly right. That's a very good
8 point, thank you.

9 BOARD MEMBER RIVERA-HERNANDEZ: Okay.

10 MR. RESNICK: The education that's being done now
11 is being done by the employer, or third parties brought in
12 by the employer and not by the government.

13 BOARD MEMBER RIVERA-HERNANDEZ: Okay.

14 MR. RESNICK: And that's a very important
15 distinction.

16 CHAIRMAN GOULD: It's mandated by the government.

17 MR. RESNICK: I'm sorry?

18 CHAIRMAN GOULD: It's mandated by the government?

19 MR. RESNICK: There are mandates. The two
20 examples I gave are both mandated by the government.

21 CHAIRMAN GOULD: Yeah. So, if we mandated this
22 and brought in -- had someone else do it, would that be
23 comparable?

24 MR. RESNICK: It wouldn't be because the
25 employer, under the current statutes where there's

1 mandatory training, the employer gets to choose who does
2 the training and when the training is done.

3 I assume, and because we haven't seen a draft
4 proposal we can't speak to any points, but I would presume
5 that the proposal, as I understand it, is that staff would
6 just show up or maybe make a phone call and say we're
7 coming on your farm and we're going to do training today.

8 That's a very different proposition than the
9 employer choosing when they're going to provide training.
10 And they're providing the training, not having the
11 government, the ALRB come in is a very, very different
12 notion altogether.

13 And because of the trust issues, I think the
14 issues of the reputation of the Board, not this Board but
15 the Board generally, the Regional Offices of late, the
16 General Counsel's office, there are issues that would need
17 to be resolved before we could even talk about the ALRB
18 staff enter the farm.

19 BOARD MEMBER RIVERA-HERNANDEZ: I just wanted to,
20 I would not want anybody to leave believing that there have
21 been proposals in regards to us calling and saying we're
22 going to show up, and here we are.

23 In fact, one of the reasons that we're doing
24 these hearings is in fact to listen to the issues so that
25 when we develop whatever ends up being the proposal, it

1 will be an informed decision.

2 So, I just want to make sure that that's not put
3 out there as something that's been proposed by the Board,
4 because it hasn't.

5 MR. RESNICK: I understand. Thank you for that
6 clarification.

7 MR. BLANCO: Do you have -- okay, so with respect
8 to the trainings that are mandated, the content of those
9 trainings is designed by the State regulation.

10 MR. RESNICK: No. The question is, is the
11 content created by the regulators? No, the content is not
12 created by the State. The content is -- there are outlines
13 about what needs to be covered.

14 So, for example, there's nothing in AB 1852,
15 which is the statute that -- the bill that created
16 mandatory sexual harassment training for supervisors. It
17 creates a broad brush of what is to be required. But it
18 leaves to the practitioners and the experts to create the
19 content.

20 The same with the CalOSHA heat illness prevention
21 standard training. There is a regulation in place and
22 those who do the training know the regulation and what's
23 required relative to shade, and water, and emergency
24 services, and an emergency program, for example.

25 And so, any good training is going to have

1 components that mirror what's in the regulation.

2 CHAIRMAN GOULD: Just one quick question because
3 our next group of speakers are the farmworkers who have to
4 leave by 3:00 p.m.

5 Let me just ask you this, if for instance the
6 ALRB prepared a video and said that -- to the employer,
7 you're going to have training, you reserve a certain amount
8 of training for the workers to see this video or social
9 media. Good idea?

10 MR. RESNICK: I think that you're on the right
11 track. Now, you're using video, social media. That's a
12 much better way. And so, I would applaud that and
13 encourage that as a method and means to reach more workers
14 on their time, and to be more effective.

15 CHAIRMAN GOULD: No, this would be during the
16 workday, part of the regular training.

17 MR. RESNICK: Part of training. And that, we do
18 training all the time, that would be -- that would be
19 welcome.

20 CHAIRMAN GOULD: All right, thank you very much,
21 Mr. Resnick.

22 And I'm going to now turn to the farmworkers who
23 have to leave by 3:00 p.m.

24 MR. RESNICK: Thank you, Mr. Chairman and Board.

25 BOARD MEMBER SHINTO: Thank you.

1 MR. BLANCO: So, is this the group of Laura
2 Caballero, Emilio Garcia, Maria and Jose Luis Arevalo? Is
3 it that group? No.

4 BOARD MEMBER SHINTO: Which group? Which group?

5 MR. BLANCO: That's the group that's supposed to
6 be at 2:00. Well, we'll find out who's who.

7 CHAIRMAN GOULD: Who's who, yes.

8 (Multiple off-record Spanish conversations)

9 CHAIRMAN GOULD: Maybe if they could each tell us
10 their name, and maybe we could go one by one, each person
11 tell us who they are and what they want to say.

12 (Interpreter translating)

13 MS. BAUTISTA: So, good evening, my name is Lidia
14 Bautista. I am from Oaxaca, Mexico. I speak Mixteco and
15 Spanish.

16 (Inaudible) -- but also I have been
17 (inaudible) -- and now I am temporarily working for that
18 UFW organizing. I support this regulation for ALRB to pass
19 this because a lot of farmworkers don't know their rights.
20 And lots of them don't know about ALRB.

21 In the past three months we have been informing
22 workers in the field about their rights and organizing them
23 to get a union contract to get better benefits.

24 We've seen in the field, we have been visiting,
25 is to (inaudible) -- most of -- all you know those are

1 workers that are a culture by other countries, that they
2 are being here to work. And most of them, they don't know
3 their rights. They don't know anything about ALRB. And
4 the reason is because that most of them, it's their first
5 time coming here to work.

6 So, now my question is how can ALRB protect these
7 workers, these H2A (phonetic) workers?

8 MS. GONZALES: (Through Interpreter) Good
9 evening. My name is Maria Amalia Gonzales. I am from
10 (inaudible Spanish). I have worked in several packing
11 sheds locally, packing lettuce, cauliflower for about seven
12 years. I suffered a work injury and after that I opened my
13 own store.

14 At the store I sell items that the agricultural
15 workers use at their work. And I see all kinds of workers
16 there. And I've met people who have come here from other
17 countries or other places to work by contract. And I've
18 heard some very sad stories. Forgive me if I cry.

19 Some have told me stories that they've suffered
20 abuse. That they somehow are injured and they're pushed or
21 told to not to say that they have no rights. They're told
22 that if they get injured and they say, well, I'm hurt. And
23 they say we have no rights here. And they're also told
24 that if they say something, that they will make them write
25 something so they can go back to their -- where they came

1 from.

2 And I would like to be the voice of these young
3 men, because they are young men. A lot of them have come
4 to work here, got injured and most of them were sent back
5 to their place of birth or where they're from. And I don't
6 think that's fair. I would like to now have this amendment
7 or this law that's going to help protect them.

8 And I would like to know how is this law or
9 amendment, how is this going to be -- how is this going to
10 help? These young men come out here and work and they're
11 not working by the hour, they make them work even worse.

12 Well, it would be nice if you could go and see
13 these people and their setting, how they're being abused.
14 They're actually -- you could say they're incarcerated.
15 They have nowhere to go, no one to see. I tell them, at
16 least come out and talk to me. And I thank God that they
17 did so that I could come here and let you know what they
18 tell me. They abuse them. And if they say anything, they
19 make them go back to Mexico. And they tell them, you know
20 what to expect, go back to Mexico, there's plenty more down
21 there.

22 Thank you for listening to me and I hope that
23 this amendment helps these -- helps and protects these
24 young men that come out here to work. And I hope that they
25 come out here and work and enjoy their working conditions.

1 And they should be able to come enjoy it, and come back and
2 work some more. Please look into this and I hope that this
3 can help these young men. Thank you.

4 MR. AREVALO: My name is Jose Luis Arevalo. I've
5 from the south state of Michoacán (phonetic). I've worked,
6 I've been a strawberry picker for the last 16 years. I'm
7 not currently working because of a work injury. But as
8 soon as I get well again, I will go back to my job.

9 In my work, I have met other fellow workers who
10 come here, either work for a labor contractor or for the
11 company directly. And I've met any other workers who are
12 contracted from Mexico that we call -- well, they call
13 these the "H" workers, in the country that come here.

14 Working either through a labor contractor or
15 directly for a company I've worked there, my parents worked
16 there, my brothers, my cousins, my neighbors. They all
17 work. And to set the stage, as local workers we don't know
18 our rights as employees. And it's sad.

19 At the start of the season they weather is very
20 hot. And they told me there was this young lady who fell
21 down, fell to the ground. She was a victim of the heat.
22 And they didn't do anything to help her. They just put her
23 to the side, under some small shade and that's all they
24 did. They didn't provide any help for her.

25 At the same ranch, they have a crew with people

1 working by rate piece. And on the same ranch they have
2 another crew where they have these H2 workers that come
3 from Mexico. And on that crew, there was a young man who
4 also fell ill. He fell. And in speaking to the quality
5 assurance ladies who were standing there, and they said,
6 well, no wonder they're falling down, they're under-
7 nourished. All they had was a taco.

8 Well, my question to you, respectfully is, how is
9 this amendment going to help us, the local workers and the
10 H2 workers who come down here? How is it going to protect
11 them at their worksite? How is it going to protect them
12 where they live or even where they gather to eat? They
13 need protection.

14 We, as farmworkers, take the blunt of punishment.
15 But no one comes out and tells us what our rights are.

16 THE INTERPRETER: I'm asking him anything else.
17 And he says, "I'm waiting for my answer".

18 CHAIRMAN GOULD: Oh, I was -- I had assumed,
19 given the period of time we have available, I hope this
20 translates into Spanish, but your question was rhetorical.

21 MR. AREVALO: Well, my question is very urgent --
22 well, statement. It's very urgent that we get this
23 information.

24 CHAIRMAN GOULD: Yes. Information about the law
25 or --

1 MR. AREVALO: This law that protects the workers.
2 We all get up at about the same time every morning, 4:35 in
3 the morning and go to work. Don't come back home until
4 5:00 or 6:00. So, it's kind of difficult for us to go to
5 you. It's a lot easier for you to come to us.

6 CHAIRMAN GOULD: Thank you.

7 BOARD MEMBER RIVERA-HERNANDEZ: Can I -- I really
8 appreciate the stories that they're sharing. And I think I
9 want to answer you and let you know that we are here to
10 find out how best to inform you and your fellow workers
11 about their rights. And if you have an idea about is that
12 do we show up in the morning at your workplace? Do we show
13 up in the evening? Do we go to your church? What is the
14 best way so that we want as many workers to know that we
15 are here to help?

16 CHAIRMAN GOULD: And just speaking for myself, I
17 want to reiterate that. I want to emphasize that, that how
18 do we get information about the law to working people?
19 That's what we're -- that's the purpose of these hearings.
20 And we need your advice and your input.

21 MR. AREVALO: The best way to get that
22 information to us would be at our workplace because that's
23 where you will find us all. That's all.

24 BOARD MEMBER RIVERA-HERNANDEZ: Gracias.

25 MR. RODRIGUEZ: (Through Interpreter) My name is

1 Rafael Rodriguez. I've lived here for over 40 years, in
2 Watsonville, he said. And he has worked for Monterey
3 Mushrooms for 30 of those 40 years.

4 My question is -- my question is, does the La Ley
5 Laboral have the resources needed by region to fill the
6 needs of all these hard workers?

7 CHAIRMAN GOULD: Well, we get appropriations from
8 the Legislature to do our work. And we are always seeking
9 more appropriations, more resources to do our work. We
10 can't do our work without resources.

11 MR. RODRIGUEZ: Well, I have a brief question. I
12 drive by some fields and on the way to my work I see that
13 Driscoll has these tents or tarps that they are covering.
14 And I've noticed that the smaller farmers don't have any of
15 those. That's all, thank you.

16 MS. CABALLERO: I'm going to try to do it in
17 English. Good afternoon, my name is Laura Caballero. And
18 yet to hear to ALRB when I arrive in this country and for
19 Mexico. I come here when I was about 16 years old. I work
20 35 years in the fields.

21 I'm part of the organize the union. They recruit
22 me in the Central Valley. And I was a lead in Tulare
23 County. And then I worked, I helped to organize, I was
24 working in Sandrini Brothers in that time, in the time to
25 try to do access to organize.

1 And back to my point to this comment, I hear to
2 say to use our time. And I am really disappointed. Last
3 fellow that talked, I forget his name, he say why do you
4 want to inform people on their own time? This is our own
5 time.

6 And I think the really difficult, to my years
7 right now, how to change the different agriculture and
8 industrial. So, it's difficult for a union to organize
9 farmworkers. And this really is a struggle because more
10 and more mediators, you know, labor contract, under labor
11 contract, under labor contract and it's never worked. And
12 it's getting really tough for the Farmworker's Union to
13 organize in the fields.

14 And also, when you take the union, and no matter
15 that you agency tried to get informed they have a right to
16 organize, the big problem is intimidators. And that's my
17 situation.

18 I was fired in 1979 for to try to want the union
19 come in on the lunch time to inform, you know, what is the
20 situations. And I got fired.

21 And then I was working in Central Valley and
22 also -- and it's no matter where you work, no matter under
23 ALRB or under, you know, there was the same -- there was
24 always intimidation for farmworkers when they try to
25 organize, to try to get it together and have a security job

1 and have a contract.

2 A big concern in these days, farmworkers getting
3 worse because they make the less money. Their rent is
4 high. Their bills is, too. And that's why we have a --
5 you can see the history. I even for right now, for the
6 last three years in the grape fields. And I know the
7 indigenous community right now, when they arrive, and right
8 now you have a family that are probably either 30, 20
9 people in one housing. And how they live is because
10 there's no way. To farmworkers, we only work seven months
11 of the year. And plus they pay, right, and plus
12 babysitters. And, you know, you can go on and on. At
13 \$9.00 an hour, and the cost of living.

14 And I have these concerns always they say for the
15 farmworkers like here, the thing is like every year we see
16 in the last -- probably in the last 20 years, more labor
17 farm -- you know, labor contract be performed. Well, why
18 it was that difficult in the fields and in the industry of
19 agriculture, in the industry, why they form more and more
20 labor -- you know, farm -- you know, labor contracts to
21 abuse these farmworkers.

22 And like I said it, I know I have the privilege
23 to organize for the UFW, for the Teamsters, for the United
24 Farmworkers. And no matter where you are. But it's hard
25 for me these days is to organize the farmworkers because

1 everything is industrial and farmworkers. And it's
2 difficult because you have a lot of people. And in case
3 you inform, to try to those farmworkers to organize and in
4 case the few they have, then as soon as they saw you, that
5 you go talk to probably later, no matter they listen to
6 you, later they say they will come and say people, what did
7 they say to you and what do you think? Oh, I have a right
8 to this. And they probably say, well, that's not true. We
9 have the authority to fire you, to not give a job anymore.
10 They can give (inaudible) -- and that's just my -- but I'm
11 glad, I hope we have in the future change.

12 I know for a fact, in all the laws we have, no
13 matter we have pretty good, different laws they've been
14 passed to progress it on the Farmworker's Union to try to
15 organize and pass a good -- like the heat, you know, like
16 the different proposals.

17 But the other thing is they always on the board,
18 the school board, and I know we have it difficult to let
19 the parents, when they have difficult, the bosses always
20 complain. You want to know for the doctor, you want to
21 know where you go. They want everything. They have a lot
22 of control. And I know the fact because I was working in
23 the fields.

24 CHAIRMAN GOULD: So, you think apropos of the
25 idea of having the ALRB communicate about the law on the

1 worksite, would that make a difference as far as you're
2 concerned?

3 MS. CABALLERO: Probably some. It probably is in
4 the future to only try to change. How do we organize not
5 only another culture, because we know that probably, say,
6 the argument is we not in the culture anymore, we in this
7 here. Because that was part of this agreement, you know
8 longer in machinery, this takes a lot of machineries in the
9 field. And it's difficult. And it's difficult to organize
10 those farmworkers. And in case you inform, it's difficult.

11 CHAIRMAN GOULD: Okay. Well, thank you. Thank
12 you very much. And I thank all of you for your
13 contributions very much.

14 MR. BLANCO: So, our next speaker is Guadalupe
15 Sandoval.

16 MR. SANDOVAL: Good afternoon.

17 CHAIRMAN GOULD: Good afternoon.

18 MR. SANDOVAL: It seems like there's been a
19 couple of different formats here, from a little Q and A to
20 semi-formal presentations. I'm not sure which your
21 preference would be.

22 CHAIRMAN GOULD: Whatever you feel comfortable
23 with, sir. If you would like to tell us a little bit about
24 yourself and what kind of work you do, and what your views
25 are on the ideas that are being discussed here today, that

1 would be terrific.

2 MR. SANDOVAL: Sure. I don't come from Oaxaca or
3 from Zacatecas, or from Guanajuato. My parents immigrated
4 from Mexico from Jalisco and from Sinaloa.

5 And we did farm work. That was the work my
6 parents did. That was the work we did as kids. We were
7 seasonal farmworkers, picking -- we were raised in the
8 Modesto, California area, a little town, Riverbank. We
9 were picking cherries, picking boysenberries, picking
10 apricots, picking peaches. Doing the crops that were
11 there, local, during the months when we weren't in school.
12 My parents continuing during labor during the school year,
13 when we were in school.

14 For the last 28 years I've been a worker, health
15 and safety educator and consultant. And in that context,
16 I've worked for the University of California, at Davis,
17 developing pesticide safety training materials and
18 programs. I've worked in the insurance industry in trying
19 to help our clients reduce injuries to their workers,
20 reduce their worker's comp rates, stay in compliance with
21 OSHA, and other regulations.

22 I continue consulting as an independent
23 consultant these days. And one of my largest clients is
24 the California Farm Labor Contractors Association, for
25 which I serve as their Executive Director.

1 The Association is dedicated to helping
2 employers, specifically farm labor contractors, to comply
3 with regulations, to understand the changes in the
4 regulations, to learn how they can take care of the valued
5 workforce.

6 It's a challenge. I wish I could say I could
7 speak for all contractors. I can speak for our members and
8 most of the contractors out there. They are required, as
9 part of their licensing, to participate in nine hours of
10 continuing education each year. They're required to be
11 tested, so they are supposed to know the laws and
12 regulations.

13 As was attested to earlier, there's a wide range
14 of training requirements by these employers. Those that
15 are established by CalOSHA on issues such as heat illness.
16 I'm sure that every -- I would be very surprised if every
17 worker that's here hasn't received some kind of tailgate
18 training, some kind of information on heat illness through
19 their worksite.

20 There's also requirements on a vast range of
21 issues, such as the sexual harassment training requirements
22 for supervisors, now being extended to employees of farm
23 labor contractors.

24 There's requirements to inform workers about
25 their right in case of a workplace injury, to medical

1 provider networks and to get medical treatment in the event
2 of injury, and transportation to medical providers.

3 There's a requirement to train workers about
4 pesticides and their exposures to pesticides, whether
5 they're applicators or fieldworkers.

6 All of these requirements are placed upon
7 employers, farm labor contractors, farmers. As a result,
8 employers are given the mandate. Employer, thou shalt
9 train your employees. And this is whether they do it
10 themselves, or through a third-party consultant, trainer,
11 their insurance person. There's a wide range of persons
12 who are out there, required to provide this type of
13 training for workers.

14 Part of what we have to train the farm labor
15 contractors on, as part of the curriculum that's
16 established by the Labor Commissioner, is about the ALRB
17 and concerted activities.

18 What we are teaching, in our classes, is what the
19 ALRA says about access and how that's achieved through
20 petitioners through the ALRB, and what the employer's
21 obligations are as far as not harassing, or discriminating
22 against, or retaliating against folks as a result of union
23 access if there is a petition that's been formally accepted
24 by the ALRA.

25 It sounds as if there are no such petitions these

1 days. I think that's a thing of the past, it seems. I'm
2 not sure. Evidently, that's an historical artifact. I'm
3 not sure why. I'm not sure if workers now feel that they
4 are receiving the wages that they deserve, the conditions
5 that they deserve.

6 CHAIRMAN GOULD: Do you train them, also, about
7 their right to speak and protest about wages that they
8 think are inferior or unsatisfactory?

9 MR. SANDOVAL: Part of what we discuss in our
10 program is not just the union issues, but also about
11 concerted activity, which isn't just limited to being able
12 to talk about unions. It's also about when a worker speaks
13 on behalf of other workers, that they have the right to
14 request better working conditions, wages, treatment, et
15 cetera, without fear of retaliation, without fear of losing
16 their jobs.

17 Obviously, employers are not required to provide
18 higher wages. They have to provide at least a minimum
19 wage. But what we do tell them is you can't discriminate
20 against somebody or retaliate against them for having asked
21 for better working conditions, better wages, et cetera.

22 At least that's my understanding of what the ALRA
23 concerted activity means. I could be wrong. Am I off base
24 on that?

25 CHAIRMAN GOULD: Oh, no, no.

1 MR. SANDOVAL: One of the things that we also
2 advise farm labor contractors about is that there's an
3 interesting quirk in the definition of agricultural
4 employers under the ALRA. And there's a significant
5 segment of the agricultural community who's not considered
6 an agricultural employer under the ALRA. And that's farm
7 labor contractors.

8 If a worker is going to ask for union
9 representation, it goes through the grower or the packing
10 house. It does not go through the farm labor contractor.
11 I'm not sure why the ALRA was written that way, but it was
12 written that way. Back in the 60s, 70s, when I did farm
13 work, there was no ALRA. If you wanted better working
14 conditions you went to the grower, you went to the
15 contractor and you asked for better working conditions,
16 better pay. And sometimes you got it, sometimes you
17 didn't.

18 Nowadays, I don't know how many people haven't
19 heard that there's a significant shortage of farmworkers in
20 California. Which is why I heard several complaints here,
21 not about our typical farmworkers that we've had in the
22 past, but about H2A workers. The condition of their work
23 is governed under contracts, which are designed by the U.S.
24 Department of Labor. I don't know if that's within the
25 realm of the ALRB to address U.S. Department of Labor

1 regulations under the H2A. And it is a testament to the
2 fact that there are labor shortages to the point where
3 employers now find it necessary to go recruit workers under
4 visa in Mexico, and other countries. Bring them here, pay
5 for their transportation, pay for their costs of the fees,
6 pay for their housing, pay for their food, pay for their
7 transportation.

8 Costs which are typically not borne by an
9 employer for non-visa workers. This is -- in fact, I find
10 it hard to believe that if somebody really wanted to create
11 better working conditions that the workers couldn't achieve
12 that in this day of labor shortages.

13 Workers are -- a lot of what we are talking about
14 in our farm labor contractor classes is the need to really
15 value those workers. That those workers will leave you and
16 go down the street, and find a better employer if you're --
17 and we're not talking about wages. We're talking about the
18 way you treat and respect your workers.

19 That workers might leave because of wages, but
20 they can also leave because they don't like the way their
21 supervisors are treating them.

22 The unfortunate thing is that while farm labor
23 contractors are highly regulated, I don't know to what
24 extent people, if they rely on extensively, which are the
25 majordomos and the crew leaders who bring workers to them.

1 Who, under Federal law, have to be registered as farm labor
2 contractor employees. If they either furnish, recruit,
3 hire, transport or house workers, they're considered to be
4 farm labor contractor employees who must be Federally
5 registered.

6 Unfortunately, it stops at that. Unlike farm
7 labor contractors, who must be -- who must engage in nine
8 hours of continuing education each year, who must undergo
9 testing at least every two years, there isn't really a
10 specific Federal regulation or State regulation on the
11 qualifications and the training for those majordomos who
12 control a lot of what happens to a worker.

13 That's going a little bit off the path of where
14 we need to be.

15 CHAIRMAN GOULD: Yeah, but I was wondering what
16 your views are about the ideas that are being discussed
17 here tonight?

18 MR. SANDOVAL: In regards to access, I think it
19 also becomes, as was discussed earlier about the
20 nonproductive time, and would this be, unlike CalOSHA,
21 Worker's Compensation, the Department of Fair Employment
22 and Housing, sexual harassment, where you have posting
23 requirements, where you have notification requirements,
24 where you have training requirements.

25 Those are given as mandates to the employer. The

1 employer chooses who trains and how they're going to train,
2 and what the message is going to be. And as long as it
3 complies with the guidelines set forth in law on what you
4 have to train on harassment, worker safety, wage-an-hour
5 posting, Worker's Compensation, medical provider units, et
6 cetera.

7 I'm not sure how, if you do move forward on this,
8 how you're going to design a regulation that gives that
9 power to the employer. And I think that's critical when
10 you look at is this going to be paid time, which I think
11 if -- the way I understand the access rules, as they exist,
12 when the union is provided access, it is, as was discussed
13 earlier, half-hour before work, during the lunch hour, and
14 half-hour after work. Okay. Unpaid time. Lunch hour is
15 not paid. Before work is not paid. After work is not
16 paid.

17 I think that's what might be one of the
18 discouraging facts about why don't workers want to hear the
19 union message. Well, I don't want to hear it on my own
20 time. I'm tired. I'm going to show up to work when I have
21 to and I'm going to leave as soon as I have to.

22 And during my lunch hour, I probably want to eat
23 my lunch rather than listen to somebody talk about what a
24 horrible situation I have, and why I need to join a union
25 and give them three percent of my wages.

1 I think that if it's given to the employers, a
2 mandate, here is as CalOSHA does, as other agencies do,
3 here are the topics that you must cover and educate your
4 workers on. Just as the Labor Commissioner requires us to
5 provide a certain amount of education on ALRA to our
6 contractors, it seems that there would be a way of
7 outlining one of the requirements, if this is going to be a
8 message, or of having a posting that is available to
9 workers.

10 Currently, as far as I know, we have a myriad
11 amount of posting requirements, which are either stacked
12 around the bathrooms, on a big poster, or in a binder
13 available to workers. It is required as a way of notifying
14 workers about their rights, to what's your payday, what's
15 CalOSHA say, how do you contact one of their offices,
16 what's your protections against discrimination and
17 harassment. What's the migrant agricultural seasonal
18 worker MISPA (phonetic) requirements say?

19 CHAIRMAN GOULD: Well, the point that's been made
20 here is that written materials would be difficult for a
21 member of the -- one of the points that's been made is that
22 the written materials would be difficult for some of the
23 workers.

24 MR. SANDOVAL: There were some discussions about
25 using social media. I would assume that if I know about

1 it, then most farmworkers know about "Habe Bilingue", "La
2 Hora Mixteca", which provides a wide range of information.
3 I'm assuming that there's the opportunity for people to go
4 on "Univision", and some of their local news programs and
5 provide outreach and information.

6 CHAIRMAN GOULD: Okay.

7 MR. SANDOVAL: I'm assuming there's a lot of NGOs
8 that are willing to go out and provide that information.
9 I'm assuming the Mexican Consulates would love to have an
10 opportunity to further engage with their community that's
11 here in the United States, and educate them about their
12 work, about their workplace rights. There's a wide range
13 of opportunity to get that information out there, besides
14 the workplace and what employers can do for them.

15 CHAIRMAN GOULD: Your point is that there are a
16 number of alternate avenues.

17 MR. SANDOVAL: You know, it could be part of the
18 workplace, it could be a variety of other avenues as well.
19 It could be a multi-faceted approach to worker education.

20 CHAIRMAN GOULD: I'll turn to my colleagues and
21 see if they have any questions for you.

22 BOARD MEMBER SHINTO: Just to reinforce, now
23 we're going to hear from a representative from DIR. But
24 the FLC training that includes information about the ALRA,
25 I'm recalling that some years ago previous General Counsel

1 worked with DIR to include, I think it's a -- I don't know
2 if it's adopted into the regulation. As you recall, the
3 FLC training where they talk about the ALRA. I don't know
4 if it happened under -- but as far as you know, it's a
5 requirement by DIR that it be included in them?

6 MR. SANDOVAL: There is a regulatory requirement.

7 BOARD MEMBER SHINTO: A regulatory.

8 MR. SANDOVAL: About the number of hours that are
9 required for contractors to have their license. And it's
10 set at nine hours under Senate Bill 1087, last year.

11 BOARD MEMBER SHINTO: Uh-huh.

12 MR. SANDOVAL: It increased from eight hours to
13 nine hours.

14 The Labor Commissioner, Julie Su, has outlined
15 the content for those nine hours. It's very specific and
16 it includes information on labor relations, which includes
17 the ALRA.

18 BOARD MEMBER SHINTO: Okay.

19 MR. SANDOVAL: And that's -- the content is not
20 spelled out in regulation, but the Labor Commissioner has
21 spelled out, with her mandate, what the content is of the
22 nine hours.

23 CHAIRMAN GOULD: Subject matter.

24 BOARD MEMBER SHINTO: Subject matter.

25 CHAIRMAN GOULD: Any further questions?

1 BOARD MEMBER SHINTO: No, thank you. Thanks.

2 MR. BLANCO: I have a few questions for you, Mr.
3 Sandoval.

4 MR. SANDOVAL: Sure.

5 MR. BLANCO: So, you were talking about the
6 supervising foremen are not being required to be trained
7 under the various regulations?

8 MR. SANDOVAL: As an employee of the contractor
9 or the grower, they are required to get their sexual
10 harassment training, and they're required to get training
11 on CalOSHA requirements. But I think it could be -- you
12 know, they've got to get to be first aide certified.
13 There's a wide range of training requirements.

14 But it seems like there should be something more
15 focused on what it means to be a majordomo, what it means
16 to be somewhat of an intermediary between that employer and
17 the workforce.

18 MR. BLANCO: So, you would -- if we designed a
19 video that would assist in training foremen and supervisors
20 regarding the responsibilities for an employer under an
21 ALRA, would that be helpful?

22 MR. SANDOVAL: I'm sorry, video training is one
23 of the worst types of trainings I've ever seen. They're
24 not interactive. They don't allow people to participate.
25 I think a video would be one of the worst things you can

1 do. As a person who dedicates a lot of time to training
2 workers, I feel if you're not interacting with the worker,
3 you're getting question and answers, doing situational
4 stuff, doing scenarios, pointing out situations, I think
5 that a video -- people tune out on those very, very
6 quickly. Unless there's, you know, car crashes, naked
7 women, drugs, they're probably not going to pay attention.

8 MR. BLANCO: So, how would you recommend to us to
9 assist farm labor contractors in ensuring that their
10 supervisors and foremen do get some training about the
11 ALRA?

12 MR. SANDOVAL: I think that there are ways that
13 you could create requirements. You know, just as CalOSHA
14 requires employers, thou shalt train your supervisor.

15 You know, the Labor Commissioner requires
16 supervisor training on harassment and signing off
17 affidavits that they haven't been accused of or found
18 guilty of harassment in the last three years.

19 I think there's ways that through the employer it
20 can be mandated and that they can stipulate -- I can state
21 from the farm labor contractor perspective that it can be
22 mandated as part of their licensing requirements to make
23 sure that supervisors are training specifically on certain
24 issues.

25 MR. BLANCO: Okay. And I was kind of curious, so

1 between the grower and you, the FLC, who's being employed
2 by the grower to provide the workers, which one of you has
3 the obligation to do, for example, the heat illness
4 training?

5 MR. SANDOVAL: The employer.

6 MR. BLANCO: The employer.

7 MR. SANDOVAL: So that would be the farm labor
8 contractor who is the employer of the crews. And again,
9 that also creates some interesting things with the ALRA
10 because you're going to do a mandate to the grower, who is
11 an agricultural employer. But where does the farm labor
12 contractor fit under that when they're not stipulated as an
13 employer under the ALRA?

14 MR. BLANCO: And from your perspective, as an
15 association, what percentage of a grower hires FLCs to
16 provide their labor?

17 MR. SANDOVAL: It's been on the increase. When I
18 was a kid, working in agricultural, we would occasionally
19 find ourselves working for a farm labor contractor. You
20 showed up at a worksite and you started working, and you
21 found out who was your supervisor, and what they're paying.
22 And then, you got paid at the end of the week, usually, and
23 that's when you found out who you were working for.

24 Sometimes you found out further up front.

25 Now, it's a little more up front. And back then

1 it was maybe 10 to 15 percent of the agricultural payroll
2 was with a farm labor contractor. I'm talking about in the
3 60s and 70s.

4 Now, I believe the amount of payroll that goes to
5 farm labor contractors is closer to about 45 percent. And
6 that's a result of everything from immigration reform,
7 Worker's Compensation Insurance rates, ALRA. There's a lot
8 of reasons why growers have opted to go through farm labor
9 contractors.

10 And the fact that most of the farm labor
11 contractors have a ready access to farmworkers that
12 sometimes non-Spanish-speaking growers might have a
13 difficulty accessing and recruiting those workers.

14 I would probably also throw in a little warning.
15 I think sometimes regulations are passed without
16 consideration of possible unintended consequences.

17 Earlier, we heard about the Gonzales v. Downtown
18 LA Motors decision and the Bluford v. Safeway decision,
19 which mandate separate payment for nonproductive time for
20 people who are not working hourly.

21 As a result, this summer I saw a lot of
22 farmworkers, who typically would have been making their
23 prime wages in piece rate harvest season. But because of
24 the fear of class action lawsuits for not properly
25 compensating workers for that nonproductive time, many

1 growers are now saying straight hourly pay. I don't care
2 if it takes more workers, more time, and it might even cost
3 us some more money immediately. But I'm not going to risk
4 a multi-million dollar class action suit by paying piece
5 rate.

6 So, a lot of the workers are making a lot less
7 money, from a regulation that I think was supposed to make
8 workers whole and make them have a more complete income
9 stream.

10 For some farmworkers it has resulted in the
11 opposite.

12 CHAIRMAN GOULD: So, you're saying -- is there a
13 trend away from piece rate, now, as a result of this?

14 MR. SANDOVAL: I have seen, this summer, several
15 growers who were not paying piece rate, who typically did.
16 And workers are making minimum wage, 9 bucks an hour there,
17 versus making 15 to 20 bucks an hour, which they would have
18 been making under piece rate.

19 BOARD MEMBER SHINTO: Here in the valley or all
20 over California?

21 MR. SANDOVAL: I saw that specifically in the
22 Fresno Valley area. I don't know, I don't think that's yet
23 impacting strawberries. I believe it is. I've heard of
24 some growers trying to figure out how can we do a fair
25 compensation system that is not piece rate? Can we do an

1 hourly plus production bonus? But I would almost guarantee
2 that most workers are probably not going to do as well
3 under alternate compensation systems, as they would under a
4 straight piece rate system.

5 MR. BLANCO: So, and how many members do you have
6 in your FLC Association?

7 MR. SANDOVAL: We have 80 members in our
8 association. And that's out of approximately 1,200 farm
9 labor contractors in the State of California.

10 BOARD MEMBER SHINTO: Eighty out of 1,200.

11 MR. SANDOVAL: We started with five, six years
12 ago, so we're making progress and we're getting there.

13 MR. BLANCO: And do you know, do any of your
14 members have foremen and supervisors that are indigenous?

15 MR. SANDOVAL: There are some. I do know that
16 some of our members do have indigenous workers who are
17 supervisors. What I also know is that when there are
18 training programs that are held, if there's not an
19 indigenous person who's a crew leader, he is being accessed
20 as -- they know who the leaders are for these groups of
21 indigenous workers who have been recruited. And they know
22 who can translate, who's that multi-lingual person that
23 speaks both Spanish, and Triqui, Mixteco, Zapoteco,
24 whatever the language might be. There's usually somebody,
25 who is the leader of that group, who is bilingual, Spanish

1 and that native tongue, who does the translations.

2 MR. BLANCO: Thank you.

3 CHAIRMAN GOULD: Okay, thank you. Thank you very
4 much.

5 MR. SANDOVAL: Thank you.

6 CHAIRMAN GOULD: Thank you. All right.

7 MR. BLANCO: So, our next speaker is Dominic
8 Forrest. And I understand, Mr. Forrest, you have a
9 statement you wish to read into the record.

10 MR. FORREST: Good afternoon.

11 CHAIRMAN GOULD: Good afternoon.

12 MR. FORREST: My name is Dominic Forrest. I'm
13 the Chief of the Labor Enforcement Task Force with the
14 Department of Industrial Relations. And I have a statement
15 on behalf of the Department of Industrial Relations
16 regarding our education and outreach efforts.

17 So, DIR, or the Department of Industrial
18 Relations is committed to education and outreach for both
19 workers and employers. The mission of DIR is to improve
20 working conditions for California's wage earners and to
21 advance opportunities for --

22 CHAIRMAN GOULD: Can you speak up a little, Mr.
23 Forrest, because the translator has to hear you loud and
24 clear.

25 MR. FORREST: Okay. The mission of DIR is to

1 improve working conditions for California's wage earners
2 and to advance opportunities for profitable employment in
3 California.

4 DIR publishes materials, and holds workshops and
5 seminars to promote healthy employment relations, conduct
6 research to improve its programs, and coordinates with
7 other agencies to target egregious violators of labor and
8 tax laws in the underground economy.

9 LETF, or the Labor Enforcement Task Force, under
10 the direction of DIR, is a coalition of California State
11 governments' enforcement agencies. We work together in
12 partnership with local agencies to combat the underground
13 economy.

14 In this joint effort, information and resources
15 are shared to ensure that employees are paid properly and
16 have safe working conditions, and that lower-abiding
17 businesses have the opportunity for healthy competition.

18 LETF is committed to raising public awareness of
19 fair, safe and healthful work places.

20 To this end, LETF has developed and implemented a
21 model education and outreach effort to support the
22 communication, outreach and enforcement activities of the
23 LETF. The objections are the following; to raise the
24 awareness of workers in the underground economy about their
25 rights and to raise the awareness of employers about their

1 legal responsibilities, and to promote compliance with
2 requirements related to wages, insurance, licenses,
3 benefits and safety.

4 LETTF has released new education materials,
5 including the booklet titled "All Workers have Rights in
6 California". This booklet covers such topics as minimum
7 wage, overtime, rest and meal breaks, safety and health on
8 the job, and benefits for those injured or unemployed.

9 The booklet is available online, on our website.
10 It's being translated to English, Spanish, Chinese, Korean
11 and Vietnamese.

12 We also have resources for employers. The fact
13 sheet's an overview for employers and provides information
14 about what an LETTF inspection entails. And we've also
15 developed customized brochures for construction and
16 restaurant employers. And we're currently working on new
17 employee brochures for other specific industries, including
18 agriculture.

19 CHAIRMAN GOULD: Okay, do you have anything about
20 the Agricultural Labor Relations Act in your booklet?

21 MR. FORREST: I don't believe we do. No, not
22 for -- I don't believe a work, as writes one, does contain
23 that.

24 I've actually brought a sample with me here
25 today, so we can maybe take a look. But I don't believe

1 so.

2 CHAIRMAN GOULD: Uh-hum.

3 MR. FORREST: DIR participations regularly in
4 outreach events statewide. We participate on local radio,
5 television broadcasts in multiple languages. During the
6 summer months, DIR representatives educates agricultural
7 workers about their rights and, specifically, about heat
8 illness prevention.

9 The LETF website is available in English and
10 Spanish, and includes an online referral form. The public
11 can now use this online referral form, available in English
12 and Spanish, to submit leads to LETF. And all the
13 educational materials I've referenced are also available
14 online.

15 During on-site inspections, the Labor Enforcement
16 Task Force investigators have an opportunity to engage
17 face-to-face with workers. LETF teams interview workers
18 during on-site inspections and also provide workers with
19 resources to help them understand their rights.

20 Deputy Labor Commissioners, from the Labor
21 Commissioner's Office, will explain to workers that their
22 employer cannot fire, demote, suspend or discipline them
23 for answering any questions or for speaking with a
24 government agency.

25 CHAIRMAN GOULD: Can you tell us a little bit

1 about how that occurs? How do you get on site? Under what
2 circumstances.

3 MR. FORREST: Well, on our Task Force we have the
4 Labor Commissioner's Office is a primary member. And under
5 Labor Code 90, the Labor Commissioners is able to go onto
6 any, essentially any site of business. And we have CalOSHA
7 as one of our partners, as well. And they have a similar
8 situation where they're able to inspect pretty much any
9 work that's in California, anywhere where there are
10 employees.

11 So, for our Task Force, wherever we see
12 employees, that's where we're going to do our inspections.

13 So, Deputy Labor Commissioners, they also
14 sometimes speak with the workers and arrange to meet
15 outside of a workplace, with workers, to give them an
16 opportunity to provide more information or ask more
17 questions without the fear of retaliation from the
18 employers.

19 CalOSHA inspectors, on the Task Force, they will
20 also advise workers on how to stay safe on the job, how to
21 use certain equipment safely.

22 Agricultural inspections, during the summer
23 months, CalOSHA inspectors ask employees if they have been
24 trained on heat illness, if their employer provides shade
25 and water, and if the workers are aware of the symptoms of

1 heat illness. We find this is an effective way of ensuring
2 that employers are complying with heat illness prevention
3 and to also make sure that workers stay safe while working
4 outdoors in high temperatures.

5 DIR has also engaged employers and workers
6 through worker's rights training. Participants learn about
7 basic workers' rights through interactive methods. They
8 brainstorm around resources in their region to support
9 workers facing issues at work. They learn about the work
10 of the Labor Enforcement Task Force, and other State
11 agencies, and they explore ways how to support workers
12 facing problems.

13 Participants develop a short action plan to
14 implement the ideas and strategies in their workplace. And
15 these workshops are being conducted in both English and
16 Spanish.

17 And I think that concludes the statement I have.

18 CHAIRMAN GOULD: Okay. All right, questions from
19 Board Members?

20 BOARD MEMBER SHINTO: We heard from Mr. Sandoval
21 about the Labor Commissioner's requirement that training
22 for farm labor contractors include information about our
23 Act, the ALRA. And are you familiar with that particular
24 program?

25 MR. FORREST: I'm afraid not. No, I'm not really

1 involved in the farm labor contractor program under the
2 Labor Commissioner.

3 BOARD MEMBER SHINTO: Okay.

4 BOARD MEMBER RIVERA-HERNANDEZ: I've been told
5 that an employer can say no if you show up, or if CalOSHA
6 shows up at their place of employment. But that the threat
7 of getting the warrant and then coming back is the reason
8 why they usually allow them on. Is that your
9 understanding, as well? I mean that -- when you were
10 saying they have the enforcement mechanism, can they show
11 up to any employer in the State and say, I have the right
12 to walk into your employment right now and do these things,
13 or is it the threat of going and getting the warrant is why
14 they are allowed, essentially?

15 MR. FORREST: Yeah, some of the -- with Labor
16 Enforcement Task Force inspections, employers sometimes do
17 refuse us entry. And in that case, we do notify the
18 employer that we will issue a warrant. And then we would
19 leave that business and consult with our legal department,
20 and try to obtain a warrant to return and do the
21 inspection.

22 BOARD MEMBER RIVERA-HERNANDEZ: Okay.

23 BOARD MEMBER SHINTO: Who gives the warrant?

24 MR. FORREST: It's issued from the -- I believe
25 from the Labor Commissioner. We consult with the legal

1 unit of the Labor Commissioner. Because as I mentioned,
2 under Labor Code 90, the Labor Commissioner does have the
3 right to inspect the workplace. So, I believe it's issued
4 from the Labor Commissioner's Office.

5 BOARD MEMBER RIVERA-HERNANDEZ: Have you been
6 involved in an inspection of an agricultural operation?

7 MR. FORREST: Yes.

8 BOARD MEMBER RIVERA-HERNANDEZ: Can you tell us
9 about that? I mean, how did that go? What was your
10 experience in that respect?

11 MR. FORREST: Yes. So, back in August I joined a
12 team, with the Labor Enforcement Task Force, so we had a
13 member from the Labor Commissioner's Office, a member from
14 CalOSHA, and a member from EDD. And we all went out,
15 together, and inspected some businesses up in Yuba City
16 area. And we were specifically doing agriculture that day.

17 And so we did three inspections on that day. I
18 should also mention, what we do on the Task Force, we do
19 targeted inspections. We don't do any random inspections.
20 So, our team members share information in advance and pick
21 targets where we believe there is underground economy
22 activities.

23 BOARD MEMBER RIVERA-HERNANDEZ: So, you have a
24 basis for going to those employers that you chose that day?

25 MR. FORREST: Correct. Yeah, through -- we do

1 surveillance and data sharing. And so, for example, the
2 first thing we'll do is we'll go as a team, we'll introduce
3 ourselves to the employer or to the foreman, explain who we
4 are and why we're there. And then ask permission to talk
5 with some of the workers.

6 And the Labor Commissioner's Office will do their
7 inspection related to wages per hour. CalOSHA will look at
8 the health and safety issues. And EDD will do their
9 inspection related to tax laws.

10 BOARD MEMBER RIVERA-HERNANDEZ: Did all three of
11 the employers allow you to come on?

12 MR. FORREST: Yes.

13 BOARD MEMBER RIVERA-HERNANDEZ: And were the
14 workers receptive to talking with you?

15 MR. FORREST: It was a sort of mixed reaction.
16 Some of them, actually most of them did talk with us. A
17 few of them very briefly. They answered a few questions
18 very briefly.

19 The employers were very helpful, very
20 cooperative, as were the foremen. But I think we find
21 sometimes some workers don't want to speak with us and
22 sometimes we can't oblige them to speak with us. But other
23 times, workers do want to ask us questions and solicit our
24 help, so it depends.

25 BOARD MEMBER RIVERA-HERNANDEZ: For the workers'

1 rights training, how do you reach them to invite them to
2 the training?

3 MR. FORREST: We've been -- I believe we've been
4 reaching out to various worker rights advocacy groups. And
5 we also, through the Labor Enforcement Task Force, we
6 collaborate with LOHP, which is the Labor Occupational
7 Health Program at UC Berkeley. They help us and they
8 actually, sometimes, conduct these workshops on our behalf.

9 BOARD MEMBER RIVERA-HERNANDEZ: Okay, thank you.

10 MR. BLANCO: You mentioned the employee handbook,
11 booklet and you talked about the various languages in it.
12 And, conspicuously out of that were any of the indigenous
13 languages. And can you tell us why that is?

14 MR. FORREST: I think that's a challenge to find
15 sort of a written translation. I'm not sure if we've
16 pursued that to a certain extent, looking into that.

17 I know that -- well, for example, our Task Force,
18 we inspect other industries, other than agriculture. So,
19 for example, construction, automotive repair, garment
20 manufacturing. Those are our -- some of our key
21 industries. And some of those languages, such as Chinese,
22 Korean, Vietnamese, a lot of the workers in those
23 industries speak those languages.

24 So, I'm not sure if, yeah, we've actually pursued
25 looking at those other languages.

1 MR. BLANCO: And so, that booklet is a
2 generalized one meant to reach workers regardless of
3 industry. Is that right?

4 MR. FORREST: Correct, yes. It's for any worker
5 in California, and specifically for workers in the so-
6 called underground economy, who may not be aware of all of
7 the rights that they have.

8 MR. BLANCO: And you mentioned that's also on
9 your website?

10 MR. FORREST: Yes.

11 MR. BLANCO: And in Spanish, as well as English.
12 But that's also more designed for the urban area employee,
13 as opposed to rural area employees, would you say?

14 MR. FORREST: I'm not sure we designed it with
15 that in mind. It's for, essentially, anyone who has
16 internet access. Yeah, it's available. We also, on some
17 of our LETF trifold brochures, we now have a QR code which,
18 hopefully, people with Smart phones can employ that and use
19 that.

20 MR. BLANCO: So, you were mentioning the DLSC
21 representatives that will discuss retaliation protections
22 with the employees, when they're on these LETF visits. And
23 the workers gather around the group, are they working?
24 What are they doing when this is going on?:

25 MR. FORREST: We try to minimize disruptions of

1 business operations. So, we generally inspect -- or excuse
2 me, talk with one worker at a time. So, we -- for example,
3 yeah, we try to avoid having them all stop working and
4 gather round.

5 So, for example, we'll have -- we'll just go
6 around one by one. And we won't necessarily interview
7 everyone on site, but we'll try and get to as many workers
8 as we can.

9 MR. BLANCO: In the span of what time are we
10 talking about?

11 MR. FORREST: That depends. If, for example, we
12 don't find many issues, then the inspection wouldn't take
13 very long. It could take, say, 20 minutes if we interview
14 the employer or some of the employees, and there's no
15 issues.

16 If we do find -- for example, if CalOSHA finds a
17 serious health and safety violation, which is causing an
18 imminent hazard, then that could take a bit longer because
19 we have to address that.

20 So, it's hard to put an exact timeframe on our
21 inspections. It really depends on what we find when we get
22 there.

23 MR. BLANCO: So, on the three visits that you
24 participated on, on the average how many workers,
25 farmworkers did you guys actually talk to that you saw?

1 MR. FORREST: We probably spoke to, I would say,
2 between five and ten on each inspection.

3 CHAIRMAN GOULD: Out of what kind of complement
4 of workers?

5 MR. FORREST: I remember two of them had quite a
6 few workers, maybe say 50. But these two sites, in
7 particular, didn't have too many issues, so they were
8 relatively quick inspections.

9 So, obviously, when you have larger farm sites,
10 with lots of workers, we can't expect to interview all of
11 them, so we'll just -- we'll try and talk with a few and
12 get an idea of if there are any issues they have and what's
13 going on.

14 MR. BLANCO: So, this issue about idle time, that
15 doesn't really come up in your situation because the
16 workers are working when you're talking to them?

17 MR. FORREST: Correct, yeah. I haven't had any
18 issues of idle time.

19 BOARD MEMBER SHINTO: These Task Force
20 inspections are for inspecting for violations as the first
21 priority, versus worker education?

22 MR. FORREST: That's correct, yeah. Well, I mean
23 they sometimes go both hand in hand. We are looking, our
24 mission is to target the egregious offenders in the
25 underground economy. So, we're looking for those

1 violations.

2 But then, at the same time, when we interview
3 workers we can say, towards the end, say the end of the
4 interview with them, you have these rights. Call us if you
5 need anything here, some resources.

6 BOARD MEMBER SHINTO: But the interview is
7 towards finding fact on whether or not their employer has
8 violated the law?

9 MR. FORREST: Yes.

10 BOARD MEMBER SHINTO: Okay, all right.

11 BOARD MEMBER RIVERA-HERNANDEZ: Thank you.

12 CHAIRMAN GOULD: Thanks very much.

13 MR. FORREST: Thank you. Thank you very much.

14 CHAIRMAN GOULD: And we'll have one more speaker,
15 Ana Toledo, and then I think we will take a bit of a
16 stretch and a break for, according to our schedule, an hour
17 and a half.

18 BOARD MEMBER SHINTO: No, no, no.

19 BOARD MEMBER RIVERA-HERNANDEZ: We better
20 reconvene in half an hour.

21 CHAIRMAN GOULD: So, half an hour, okay.

22 MS. TOLEDO: Good afternoon. My name is Ana
23 Toledo and I'm an attorney with the law firm of Noland,
24 Hamerly, Etienne & Hoss, here in Salinas.

25 And I represent employers in labor and employment

1 law matters. And many of my clients are growers or related
2 to the agricultural industry. I have also represented
3 employers at the ALRB and interact very frequently with the
4 Salinas Regional Office.

5 And before I share my comments, there's a few
6 observations. Because we don't have a lot of information
7 regarding what the ALRB is contemplating, except this
8 general access to workplaces for the purpose of worker
9 education, there's a lot of questions that I have.

10 And my concerns, in part, stand by my experiences
11 with the ALRB. And this question of nonproductive time has
12 come up with a few speakers.

13 My experience, when the ALRB shows up at the
14 workplace, it is for purposes of investigation. So,
15 whether it's interviews, examining a worksite, noticing
16 because it's been mandated by a Board order, or the parties
17 have entered into a settlement agreement.

18 All of these situations, the employer is paying
19 for the time that the agency is on their premises. And
20 what I mean by that is they're interviewing, let's say a
21 foreman, they're paying for that foreman's time. They are
22 speaking to the crew, they're paying for that time.

23 So, when we hear the ALRB having access for
24 educational purposes, I'm hearing it's going to be on
25 employer time. And I understand that that has not been

1 clarified or defined, but that's a genuine concern.

2 So, I think any -- and tied with that is the
3 takings issue, which I think several people have spoken on
4 that issue, not just here, or submitted written comments
5 regarding some of the constitutional issues around that.

6 The other concern that I have is that as far as I
7 understand it, the Labor Code Section 1151 does grant the
8 Board access to places of employment for investigative
9 purposes and for hearings, not for educational purposes.

10 So, I would question the Board's authority to be
11 able to do that unless it is tied to one of those goals or
12 proceedings.

13 With respect to the notion of educating
14 farmworkers, myself, and I'm sure a lot of my clients are
15 not opposed to worker education. But I am here to speak,
16 today, against the ALRB having access for purposes of
17 worker education. I think today, in 2015, there are
18 multiple ways in which a government agency can reach
19 farmworkers. And several people have mentioned social
20 media, print media, radio. There's also collaboration with
21 employers.

22 And to my knowledge, there has not been an
23 intentional effort on collaboration with employers for
24 worker education.

25 It's been pointed out by several people here,

1 today, that CalOSHA went down that path and, with some
2 success, did education on heat illness prevention.

3 And I would ask that the Board consider some type
4 of collaborative effort with employers on this topic before
5 it takes the step of mandating worker education, where the
6 agency is going to come on to worker property.

7 And I'm also not aware of extraordinary
8 educational efforts by the Board in terms of outreach to
9 workers. I think all of these efforts should be explored
10 and tried before the Board takes the step of mandating
11 access to private property for the purposes of education.

12 I understand the issues of a workforce that has
13 unique language needs. Agricultural employers are not the
14 only ones who face that challenge. There are other
15 industries, there are other languages that may have a
16 specific workforce that does not have a large number of
17 workers with that language.

18 But yet, both agricultural employers and other
19 employers are already figuring out ways to educate workers
20 on the topics that they're mandated to do trainings on.

21 And so, I go back to exploring some collaboration
22 with employers because there are employers who are --
23 they're already dealing with this issue and they're already
24 finding effective ways to communicate with workers.

25 And I think government agencies can learn

1 something from the private sector because they're being
2 forced to do this, whether it's heat illness, safety
3 training for equipment, sexual harassment prevention
4 training it's they're already having to deal with the
5 situation.

6 The other issue that I want to put out is, as
7 you're probably all aware of, there's a fundamental
8 distrust by the agricultural employer community of the
9 ALRB. And the expectation is that this agency should be
10 conducting itself in a fair and unbiased manner.

11 And I don't have to go through any litany of
12 reasons why that isn't the case. But that's the reputation
13 this agency has right now with the grower community. And
14 again, taking the step of forcing employers to accept your
15 presence on their property will further deteriorate any
16 positive, collaborative relationship that this agency can
17 have with the agricultural employer community.

18 So, that's -- in summary, I would ask that the
19 Board first engage in a very focused, aggressive worker
20 education program before it takes a step like this. And if
21 the Agency has tried it, I would be happy to hear about it.
22 I would be curious to hear about it. But as far as I know,
23 it's usually education happens through the office. I mean,
24 I don't really know, to be honest of you. I'm not aware of
25 any campaign that this agency has done with farmworkers.

1 But I would suggest that the agency try that
2 before it takes a step of accessing private property for
3 education.

4 Any questions?

5 BOARD MEMBER SHINTO: No, thank you.

6 BOARD MEMBER RIVERA-HERNANDEZ: Thank you.

7 MR. BLANCO: So, when you talk about this
8 collaboration with employers, how do you envision that
9 occurring? What do we -- what do we need to do to make
10 that happen?

11 MS. TOLEDO: I think that there's significant
12 agricultural associations. Western Growers is here. I
13 believe Jim Bogart is here, now, with the Grower Shipper
14 Association. There's the Farm Labor Contractor
15 Association. I think there's enough structure in the
16 agricultural community that you can begin to have some of
17 those conversations regarding -- because there are
18 employers right now who are providing education to their
19 workforce regarding the Agricultural Labor Relations Act.
20 It's some are doing it, are already telling workers about
21 the Act and their rights under the Act.

22 So, I would suggest having some conversations
23 with some of those stakeholders and figuring out what might
24 make sense in the community we're talking about.

25 MR. BLANCO: That sounds like a topic for the

1 Labor Management Advisory Committee.

2 CHAIRMAN GOULD: Okay, thank you very much.

3 Thank you very much.

4 MS. TOLEDO: Thanks.

5 CHAIRMAN GOULD: Now, we'll take that break and
6 we'll come back at 4:30.

7 (Off the record at 3:57 p.m.)

8 (On the record at 4:33 p.m.)

9 CHAIRMAN GOULD: We can go back on the record.
10 Okay. All right, let's go.

11 We're back on the record. Let's see, who do we
12 go to next?

13 MR. BLANCO: Anjelica Isidro.

14 CHAIRMAN GOULD: Okay. Do we have Anjelica
15 Isidro?

16 MR. BLANCO: Yes, I made sure. Ms. Isidro,
17 Senora Isidro?

18 CHAIRMAN GOULD: How are you. Welcome, Ms.
19 Isidro.

20 MS. ISIDRO: Good morning. (Through Interpreter)

21 CHAIRMAN GOULD: Do you want to say something by
22 way of introduction as to what you do and what your
23 interest in these proceedings is?

24 MS. ISIDRO: Yes, thank you. My name's Anjelica
25 and I'm here to urge you to do some work for the

1 farmworkers.

2 MR. BLANCO: And can you tell us what you do for
3 a living?

4 MS. ISIDRO: I am currently a Mixteco
5 interpreter.

6 MR. BLANCO: And you work at the -- with the
7 Natividad Hospital Program?

8 MS. ISIDRO: Well, I wouldn't want to mention
9 where I work. I'm just here representing the community.

10 MR. BLANCO: Okay. So, outside of your official
11 work, do you work with the Mixteco community?

12 MS. ISIDRO: Yes, I do.

13 MR. BLANCO: And can you tell us what that work
14 is? And let him interpret.

15 MS. ISIDRO: Well, when I worked out in the
16 fields I would help my fellow workers, interpreting for
17 them what the foremen and other people that they needed to
18 speak with. I really don't know how they're getting by,
19 now. How they're getting -- how they're getting other
20 people to understand them, I don't know.

21 MR. BLANCO: And so today, the Board is gathering
22 information regarding the right to allow ALRB staff to
23 visit agricultural worksites for the purpose of educating
24 farmworkers and field supervisors. Can you -- can you tell
25 us what your position is on that, what you think of that?

1 MS. ISIDRO: Well, what is it you want to talk
2 about because there's so many things that could be covered?
3 What do you have in mind?

4 MR. BLANCO: So, we're specifically talking about
5 the rights provided to workers under the Agricultural Labor
6 Relations Act.

7 MS. ISIDRO: Okay. Well, first of all, you need
8 to start with providing an interpreter so they know what it
9 is that you're telling them.

10 Well, you need to be able to communicate with
11 them and you also need to work with them to be able to go
12 back --

13 CHAIRMAN GOULD: I didn't understand you. What
14 did you say?

15 THE INTERPRETER: Not only do you need to let
16 them know, be able to speak with them with an interpreter,
17 but you need to work with them. Go back, inspect these
18 worksites.

19 And I don't know if you work with CalOSHA or
20 you're similar to them, but the foremen fear CalOSHA. They
21 hear CalOSHA is coming around and they're afraid. And if
22 you have the power, authority, you should do the same
23 thing, show up and inspect.

24 MR. BLANCO: Now, you mentioned you were a
25 farmworker. How long did you do that?

1 MS. ISIDRO: From '91 to 2012.

2 MR. BLANCO: And in all those years did you ever
3 hear about the Agricultural Labor Relations Board, also
4 known as "La Ley Laboral"?

5 MS. ISIDRO: No.

6 MR. BLANCO: Okay. And do you think that many
7 Mixteco farmworkers currently are in that same situation,
8 that they don't know about the Agricultural Labor Relations
9 Board?

10 MS. ISIDRO: Well, perhaps some of them, but not
11 everyone.

12 MR. BLANCO: And I think she also said the
13 majority --

14 THE INTERPRETER: Most of them do not.

15 MR. BLANCO: Okay, thank you.

16 Now, in the work that you do with the Mixteco
17 community, do you have the occasion to visit their homes?

18 MS. ISIDRO: Yes, I do visit them in their homes.
19 And some of them, actually all of them are farmworkers.
20 Some of them work in the peach, some of them work in the
21 cauliflower and other crops. And I speak with them or they
22 speak with me about many things. But it's not the same as
23 if I speak with them or you speak with them.

24 MR. BLANCO: So, when you visit their homes, have
25 you noticed whether or not they have computers?

1 MS. ISIDRO: Okay. No, they do not have access
2 to the internet or computers. Some of them -- well, most
3 of them don't even speak Spanish, can't even -- or some
4 can't even read or write. They get up, they work all day,
5 they start at 5:00 in the morning. They get home very
6 late, 5:00, 6:00. They get home, they have to cook -- or
7 let me go back. They go pick up their children from the
8 babysitters. Go home, have to cook for themselves for the
9 next day, for their kids. And they're not able to do
10 anything else.

11 MR. BLANCO: Now, we also hear and have heard for
12 a long time that all farmworkers have cell phones. And
13 would you agree with that?

14 THE INTERPRETER: I'm sorry, I didn't hear you.

15 MR. BLANCO: That all farmworkers have cell
16 phones and if she would agree with that statement?

17 MS. ISIDRO: Well, yes, because they need to be
18 able to communicate with their family and they're easy to
19 have them. You know that.

20 MR. BLANCO: And do you know if these are basic
21 phones or if these are what is now called a Smart phone?

22 MS. ISIDRO: Well, I believe some of those are
23 intelligent phones, but they may be able to use them
24 because their children show them how to do it. But as I
25 said, some of them don't read or write so they can't do

1 much with them.

2 MR. BLANCO: And in the indigenous language that
3 you speak, which I believe you said was Mixteco, are you
4 aware, is there a written version of the language?

5 MS. ISIDRO: Well, there is. But just like
6 English, if you don't know English, how are you going to be
7 able to understand it? It's got to be easier to do it in
8 Spanish or do it in their own language.

9 MR. BLANCO: I think she was referring to talking
10 to them in their own language. No, okay.

11 Does the Board have any questions?

12 BOARD MEMBER SHINTO: Okay, yeah. Thank you.
13 Thank you. So, for the farmworker community, who do they
14 listen to for advice on dealing with the government?

15 MR. BLANCO: It looks like it's not on, now.

16 BOARD MEMBER SHINTO: Oh, you have to press it
17 down until it's red. No, maybe the battery is -- it's on
18 the side. You have to hold it down for just a second.

19 MR. BLANCO: Nope.

20 BOARD MEMBER SHINTO: Maybe it ran out. It
21 works, that's it.

22 THE INTERPRETER: It may be low on battery, it's
23 blinking.

24 BOARD MEMBER SHINTO: Oh, okay. Sorry.

25 MS. ISIDRO: Well, just like everybody else,

1 there are people in the community that we can contact and
2 we have access to them.

3 BOARD MEMBER RIVERA-HERNANDEZ: Okay. You
4 mentioned how busy the lives are of many of the community
5 members and farmworkers. When is the best time to try to
6 talk to them about their rights?

7 MS. ISIDRO: Well, during the working season it
8 would be very difficult because they work all the time.
9 But once the season ends, they're at home and you can have
10 access to them -- you can have access to them. That would
11 be November through January.

12 BOARD MEMBER SHINTO: Oh, okay.

13 BOARD MEMBER RIVERA-HERNANDEZ: Thank you.

14 CHAIRMAN GOULD: You mentioned reading the
15 language -- reading the written language. Can the average
16 Mixtec worker read the -- his own indigenous language?

17 MS. ISIDRO: Well, you would have to go to school
18 to learn something and I would not recommend that. I would
19 recommend that you explain it either verbally, in Spanish,
20 or in their own language.

21 CHAIRMAN GOULD: But again, can the average
22 Mixtec farmworker read something in their own language?

23 MS. ISIDRO: No, I don't think they would
24 understand. They would still have to go to school and
25 learn Mixteco to be able to read it or write.

1 CHAIRMAN GOULD: Okay. All right, well, thank
2 you very much for your time.

3 MS. ISIDRO: Well, now, since I'm here I would
4 like to say something. Do you have the authority, can you
5 help the community, to help them with childcare? They're
6 having strangers take care of their children. I don't
7 know, could something come from the government that could
8 help them with childcare, that would help them protect
9 their children?

10 CHAIRMAN GOULD: Well, our agency is -- is not
11 involved directly with childcare issues. I believe that
12 there are other portions of the California government who
13 have responsibility for this. And speaking for myself, I
14 cannot speak with any measure of expertise on this.

15 Our agency is designed to protect employees who
16 want to change their working conditions, or protest against
17 their working conditions, or who want to either join unions
18 or who want not to join unions.

19 And so our mission, while we think it is
20 important, is a narrow one. Sometimes -- oh, sorry.

21 (Interpreter translating)

22 CHAIRMAN GOULD: So, sometimes employers may have
23 their own policies. Where there are unions, that is an
24 issue which can be negotiated between the union and the
25 employer. But we are not directly involved with an issue

1 like childcare, regrettably.

2 Thank you, thank you. Is there anything else you
3 would like to say?

4 MS. ISIDRO: No, that is all right. Thank you
5 for being here and I hope you accomplish what you're
6 looking for. Please protect the farmworkers because they
7 live from their work and they need protection before
8 something happens, not afterwards.

9 CHAIRMAN GOULD: Thank you very much, indeed.

10 (Off-the-record conversation)

11 MR. MATURINO: My name is Pete Maturino, and I'm
12 with the UFCW Local 5. (Speaking Spanish)

13 So, we invited several people to be here to talk
14 to you today. And we just found out that when you're
15 talking the language, Triqui, that there's three dialects.
16 And the interpreter that's been provided by the State does
17 not understand or cannot translate the dialects that the
18 workers that came here today.

19 So, it's going to be next to impossible or not
20 possible at all for these employees to talk to you today,
21 and for you to ask these questions that you might have.

22 And I'm not sure what, if anything, we can do
23 about this, other than try to schedule another meeting or
24 something like that.

25 BOARD MEMBER RIVERA-HERNANDEZ: Would it be

1 possible to have them testify so that we have it in the
2 record, and then we can have -- at least get that
3 translated at a later date, so that what they want to
4 communicate is at least on the record?

5 CHAIRMAN GOULD: Well, this is a question. I
6 think this is a really technical question for the reporter.
7 And that is you're taking an auditory -- so, you could make
8 a recording of what they say and we could arrange for this
9 to go to someone who can do this. The only problem, of
10 course, the regrettable problem here is that there can be
11 no back and forth, unless we do that at a subsequent date.

12 But I think maybe that's -- maybe that's the
13 answer.

14 MR. MATURINO: That could be the answer except
15 that how do I really -- that information to the people, for
16 them to --

17 CHAIRMAN GOULD: Yes, yes.

18 MR. MATURINO: And that's the problem.

19 CHAIRMAN GOULD: Yes.

20 BOARD MEMBER RIVERA-HERNANDEZ: So, there's no
21 one in the group that knows any Spanish. That can even
22 look at --

23 MR. MATURINO: I don't know what to tell you.

24 CHAIRMAN GOULD: Well, maybe --

25 MR. MATURINO: Can I say this?

1 CHAIRMAN GOULD: Sure.

2 MR. MATURINO: (Speaking Spanish with audience)

3 He says that there is individuals that are here,
4 that are willing to come up and talk, and then you can
5 record them, and then figure out what the translation is.

6 CHAIRMAN GOULD: Okay, go ahead.

7 (Testimony of Triqui witnesses to be interpreted
8 and transcribed at a later date)

9 TRIQUI WITNESS: (Through Interpreter) I also
10 speak Mixteco, Espanol and Triqui.

11 CHAIRMAN GOULD: Yes, can you --

12 THE INTERPRETER: I will just inform that we
13 actually spoke Mixteco and we do have a Mixteco interpreter
14 here. But the other gentlemen spoke Triqui, although they
15 didn't say what their petition was on the issue.

16 CHAIRMAN GOULD: Can you communicate to them that
17 we would like to -- if you can communicate to him in
18 Spanish, that we would like to hear from them about what
19 the position is on the issue before us.

20 (Triqui Witness Speaking)

21 CHAIRMAN GOULD: Okay, can you repeat that?

22 MR. DIAZ: (Through Interpreter) Yes, my name is
23 Jacinto Diaz. I am a farmworker and I speak Triqui. And I
24 agree with what is proposed here because we need to protect
25 the -- to be protected at work. A lot of farmers look down

1 upon us if we complain.

2 (Triqui Witnesses Speaking)

3 UNIDENTIFIED SPEAKER: Thank you. Also, I can
4 speak a little bit of Spanish. And, hopefully, what you're
5 trying to accomplish does happen, that you'll be able to go
6 in and speak to the workers at work. But make sure you
7 bring an interpreter for each dialect, specific dialect,
8 whether it be Triqui or Mixteco. Because if you speak in
9 our language, that would make it easier for us to trust
10 you.

11 If you bring somebody that speaks Spanish, that
12 would make us nervous, the same with English. So, please,
13 if you come in, bring somebody that speaks our specific
14 language. And go with each worker and have them tell you
15 about their own experiences. Thank you.

16 MR. MARTINEZ: (Through Interpreter) Yes, thank
17 you. I also speak a little bit of Spanish. Earlier, I
18 interpreted for Jacinto Diaz. Now, I'm going to say what I
19 would like to say.

20 Thank you for the opportunity for me to be here.
21 Before I get started, I'd like to mention that I am a
22 member of the Indigenous Union.

23 Well, I want to let you know that there are many
24 problems, that there are many, many, many problems. When
25 they know that you're coming, they make sure that we wash

1 our hands. They tell us there's a buyer coming in and they
2 make sure that we wash our hands, that all the ears are
3 clean.

4 And on these days where they tell us that a
5 buyer's coming in, we really don't know if it's a buyer or
6 "La Ley Laboral" coming in.

7 So, yes, please come into the fields and talk to
8 us. And when you do, please bring your two interpreters,
9 Triqui and Mixteco. And I'd just like to point out it's --
10 it is not a dialect, it's a language.

11 And we will know that here or there people look
12 down at people that are not able to speak much. And they
13 speak all the time in their language in Spanish, the
14 supervisors do. And they don't pay much attention to the
15 indigenous person.

16 When they do bring information out, they do their
17 spiel and then they start yelling, did you understand? Is
18 it clear to you? And they did it in Spanish, not in Triqui
19 or Mixteco, Zapoteco or whatever may be out there. They do
20 it in Spanish and they have no idea if the person
21 understood or not.

22 Now, let's see, some action out in the fields.
23 Sometimes we tell them something and they ignore us.

24 Again, thank you and that is my comment now. My
25 name is Antonio Martinez, a member of an Indigenous Union.

1 CHAIRMAN GOULD: Okay.

2 BOARD MEMBER RIVERA-HERNANDEZ: We're trying to
3 find out the best time to provide information on your
4 rights to workers, like yourself. When is that time? Is
5 it before work, after work, on a Saturday? When would --
6 when would you take the time from your day to do that, to
7 have that education?

8 MR. MARTINEZ: As farmworkers, the best time to
9 speak with us would be on a Sunday. There is very many of
10 us that have problems and have comments that we would like
11 to get to you.

12 I am a little confused. The best time would be
13 like a Wednesday or a Thursday, any of those days.

14 BOARD MEMBER SHINTO: Thank you.

15 CHAIRMAN GOULD: That would be -- that would be
16 at work?

17 MR. MARTINEZ: Yes.

18 CHAIRMAN GOULD: Thank you very much. Thanks
19 very much for -- oh.

20 MR. NAJERA: (Through Interpreter) Good
21 afternoon to everybody. My name is Gonzalo Najera
22 Santiago. I am from the State of Oaxaca and my native
23 language is Mixteco.

24 I have worked for Huntington Farms for 18 years.
25 And I have worked for many other industries in the fields

1 to make many different vegetables.

2 I work with our union contract and I also,
3 temporarily, am working with the union to provide
4 information to the workers in the fields. And I have
5 witnessed the needs that are still present in the fields.

6 And my question is, is why is the ALRB forbidden
7 from visiting the worksites?

8 CHAIRMAN GOULD: Well, one of the questions --
9 we're looking right now at the question of what the best
10 way to communicate with workers is. And one of the things
11 that we are considering is that -- is to have access to the
12 fields.

13 There is a decision, a judicial decision which
14 has said to us that we have that authority to have access
15 to the fields.

16 So, we are trying to obtain the best information,
17 the best facts from everyone who would be affected by this.
18 Because the court has said that we must engage in a fact-
19 finding process. And if we do something, come up with
20 something which is based upon facts.

21 MR. NAJERA: Thank you.

22 CHAIRMAN GOULD: Thank you.

23 THE INTERPRETER: He's going to translate what he
24 said.

25 MR. DIAZ: (Through Interpreters) Well, another

1 thing I want to mention, as an employee of Asconan
2 (phonetic), is that we have need there. They need to
3 provide us with knee pads and they're not providing them.

4 BOARD MEMBER SHINTO: With what?

5 BOARD MEMBER RIVERA-HERNANDEZ: Knee pads.

6 MR. DIAZ: And as far as work goes, sometimes
7 they provide water. They should provide clean water for
8 us. There's times that we take the water and it has a
9 strange taste or smell to it. And we need clean water.

10 Most of us speak Triqui and our foreman speaks
11 Spanish, and most of the time we cannot understand him.
12 And he gets upset when we don't understand him.

13 Well, I hope that the ALRB passes this. And I
14 don't speak just for myself. I speak for many, many, many
15 others. And it's not just at my workplace, there are other
16 contractors or the companies out there, the Perez, the
17 Navarro. And we need better working conditions. We should
18 have a foreman that we can understand, maybe get somebody
19 that speaks Triqui.

20 That's all I would like to say, thank you.

21 CHAIRMAN GOULD: Well, thank you. Thank you very
22 much to all of you. We deeply appreciate your
23 participation in this process.

24 (Interpreters Translating)

25 MR. BLANCO: So, Mr. Scaroni.

1 MR. SCARONI: Good afternoon. Thank you for
2 taking the time to have this forum and this ability to
3 discuss these issues.

4 Oh, okay. Thank you for taking the time to be
5 here today. I know you all have a lot of work to do, as we
6 all do in the room here.

7 My name is Steve Scaroni. I'm the owner of Fresh
8 Harvest, Incorporated. We, the ALRB and I, have similar
9 histories. We both started in business in 1979. So, I've
10 been out there for a long time.

11 CHAIRMAN GOULD: We actually started in 1975.

12 MR. SCARONI: I thought the ALRB was voted in --
13 it's '79?

14 CHAIRMAN GOULD: It's '75. But that's
15 unimportant. That's all right.

16 MR. SCARONI: I was just -- I was still in high
17 school.

18 (Laughter)

19 MR. SCARONI: Okay, you guys got me by four years
20 then.

21 CHAIRMAN GOULD: We're a little older than you,
22 yes.

23 MR. SCARONI: But I go way back, having observed
24 the ALRB be created and grow into what it is today. I was
25 born and raised on a farm. I started doing farm work at

1 eight years old, before the child labor laws were in place.
2 And done everything that most of the folks in this room
3 have done.

4 Over the years, we've built a labor farm --
5 farming, labor, harvesting company serving mostly the
6 larger brands that you see in the stores here in California
7 and Arizona.

8 And one of our -- I'm not sure if it's a claim to
9 fame or a claim to being put out of business, but we're one
10 of the largest H2A providers on the West Coast and the
11 fourth largest in the nation.

12 So, one of the things I wanted to offer is you've
13 heard -- I've heard some comments here today about the H2A
14 program. And I would like to be a resource to the Board as
15 far as helping you to understand how H2A works. We've been
16 doing it for 11 years. I'm not the only guy doing it, but
17 we've been doing it for quite a while.

18 And the program is growing every year, now. We
19 went from a thousand H2A workers last year to 3,000 this
20 year. We still employ a lot of domestic workers. Our
21 workers, whether they be H2A or local domestics, as we call
22 them, are our most important asset. We have absolutely no
23 motivation to not take care of our workers as best as we,
24 both economically and morally can. They are our largest
25 asset.

1 The H2A program is a very complex program and
2 very heavily regulated, and a lot of oversight.

3 But with that little introduction aside, what I
4 wanted to do -- and excuse me, I'm a little bit
5 scatterbrained here, so I want to just go through some of
6 my notes.

7 And I would just like to ask the Board, I've
8 heard the word "indigenous worker". Can you explain to me
9 how does the ALRB describe indigenous worker?

10 CHAIRMAN GOULD: Well, I don't think the ALRB is
11 in the business of describing indigenous workers. There's
12 a literature that exists about this and dealing with the
13 question of definition. There's a lot that's been written
14 about this.

15 But we are not in the business of describing who
16 is indigenous and who is not.

17 MR. SCARONI: Okay. Well, I've always thought it
18 meant, and I barely got out of high school, so I'm not a
19 very educated person, but I always thought it meant someone
20 who really didn't have any education or --

21 CHAIRMAN GOULD: No, no, no.

22 MR. SCARONI: No. Okay, well, I guess my point
23 is that as I've been in the industry since 1979, I've
24 witnessed my workers and the workers in the industry become
25 very educated as to their rights and to what services and

1 agencies are available to them when there is abuse in the
2 workplace.

3 So, sometimes I think we get a picture painted
4 that these farmworkers are out here without any ability to
5 resource agencies that are in place, both governmental
6 agencies and agencies like the CLRA, who just stand ready
7 to help them and defend them against any employer who would
8 be abusive, not pay them correctly, et cetera.

9 I can almost promise you and I invite you to come
10 out and visit my workforce, 95 percent of my workforce all
11 have Smart phones. They're all on Facebook. They have
12 grasped social media like a teenager and it's amazing to
13 see.

14 My H2As I bring up here, who are basically people
15 that we've recruited out of Mexico, and really have never
16 come to the United States, they're unfamiliar up here.
17 They're even educated to the point that the first thing
18 they do when they come to the United States is they go buy
19 a Smart phone and they get on Facebook.

20 I can show you how we manage our social media
21 campaign. We use social media to educate and to
22 communicate with our workforce because we are spread out
23 over a large geographically area, and it's hard to see
24 everybody every day. And we're constantly feeding
25 information and part of that information we feed our

1 workers is their rights and, you know, what's available to
2 them.

3 The H2As, specifically, we spend hours in an
4 onboarding indoctrination process before we even bring them
5 across the border explaining their rights to them.

6 We are required by law to do that. And that's
7 one of the, probably, a thousand things that if I don't do
8 it, the Department of Labor, when they come out to audit
9 and interview my crews, which they do every season, and if
10 they find out that I did not indoctrinate or onboard my
11 H2As and my employees about their rights, they will debar
12 me. And it's like being fired. If I don't have my H2A
13 program, in today's labor shortage reality, I'm out of
14 business. And that's how I feed my family.

15 So, I even have a customer that was present
16 earlier today, I'm not sure if they're still here, that I
17 provide H2A to, that contractually requires me to read
18 every right that an H2A worker has under the H2A program,
19 and under the Federal, and State, and local labor laws.

20 But we're doing it anyway. Even though this
21 customer puts it in the contract with us, we're doing it
22 anyway because we're required by the Department of Labor
23 and we have to do it.

24 So, without becoming redundant or going off on
25 rabbit trails today, I'm here today to tell you that I

1 would appreciate it that if you all would focus on the
2 business of ALRB. We don't need any more agencies out
3 educating the workforce. We have a very educated,
4 knowledgeable workforce out there. And here again, I
5 invite you to come visit my workforce. See how many people
6 have Smart phones. See how many people have Facebook. See
7 how many people are communicating and spreading the word
8 about, you know, where the CLRA is, where the UFW is, and
9 where the Department of Labor is, and how you can contact
10 this agency or that.

11 I would challenge someone to take a poll here of
12 how many of these great farmworkers that are here today
13 have Smart phones and are on Facebook. I would probably
14 tell you that most of them do, even the ones that have
15 the -- because we employ a lot Oaxacans in our company, in
16 our H2A and our domestic -- H2A and domestic programs.

17 So, I -- there are so many different ways to
18 communicate workers' rights out there today. And I don't
19 think it's a secret and I don't think I'm speaking, I'm
20 telling you anything new, the ALRB and the ag industry is
21 really viewed as being pro-union, and doing all they can to
22 help the UFW organize workers.

23 I think this would just be another negative thing
24 to drive a wedge between the ALRB and the farmers as far as
25 what is perceived in the community, that the ALRB is biased

1 towards assisting the UFW.

2 And my question would be is if you were to have
3 access to the farmworkers, there's been some really great
4 points brought up. When are you going to do it? Who's
5 going to pay for that time?

6 And I guess the one question I haven't heard
7 today is who's going to bring accountability to the ALRB
8 staff that will be out there talking to the employees,
9 giving them their rights, and making sure that they're only
10 given their rights and not doing referrals to the UFW or
11 the CLRA.

12 I think it's statistically a fact that many ALRB
13 field people and employees are former CLRA and UFW
14 sympathizers. That's just a reality. I won't comment at
15 this time on the right or wrong of that.

16 But who's going to bring accountability to the
17 ALRB? You're here to bring accountability to the UFW and
18 the grower doing the right thing. But all of the sudden,
19 if the ALRB inserts themselves into this process of giving
20 out information, who's going to keep the ALRB teams that
21 are out there, making sure that they're sticking to the
22 letter of the law and the regulations, and they're not
23 giving them pro-union advice and encouragement?

24 These are some things that I just think that this
25 is not an area that the ALRB -- first of all, we all -- I

1 don't think we have to tell you about the backlog that
2 exists within the ALRB of all of these ULPs, and elections
3 that haven't been counted, et cetera, et cetera. I'm not
4 sure, where is the backlog? Still quite a backlog going on
5 there? Our ag attorneys are all nodding their head yes.

6 So, I'm not sure we're going to get the staffing
7 to go out and do all this education. And I didn't know
8 that the State of California was in a very flush position
9 to go out and hire a bunch of people to go out and do all
10 this education.

11 What I'm trying to say is the vehicle for
12 education of a farmworker is out there. There are many
13 agencies, public and private, that are out there educating
14 the farmworker. The social media is a tremendously
15 effective tool. I believe in it. I invest in it for my
16 workforce, to communicate with them.

17 You've also got Capancino Radio that the
18 farmworkers are listening to.

19 There's many ways to disseminate information to
20 the farmworkers out there. The information is out there.

21 And I think I will close, and to the joy of many
22 I will close in a minute. I did want to share one thing to
23 you. You talk about -- we talk about transparency. I just
24 want to show you the binder. I'm not sure if you can see
25 this. I'll be glad to e-mail it to you. This is the

1 binder that every one of my crews has. It's literally
2 about six inches thick. It has all these disclosures.
3 These are just some random shots of the pages in this
4 binder.

5 We're required by law, by several agencies to
6 have this information available to the crews, either in a
7 large poster format or in a binder format. Because we move
8 around a lot, it's more efficient that we keep a binder
9 right there with the crew. And we literally hang it. On
10 our harvest machines, we literally hang these binders from
11 a rope, right there where -- you know, it's not hidden in
12 someone's pickup. It's not under somebody's seat.

13 So, I just want to exhort you to really look
14 into, you know, is this just another feel good thing to go
15 out and think we're solving a problem that I'm not sure
16 exists. I don't think there's any problem with the current
17 private and public vehicles and agencies that are out
18 educating the farmworker.

19 I'm very proud of the fact, we have a very
20 educated farmworker base today. And it's because of all
21 these efforts of many agencies, public and private,
22 educating the farmworker.

23 So, thank you for your time. And like I said, i
24 would like to continue this conversation with some housing
25 visits, some field visits. Talk to my employees.

1 CHAIRMAN GOULD: I think there's some questions
2 for you.

3 MR. SCARONI: Sure.

4 BOARD MEMBER SHINTO: So, Steve, you mentioned
5 you had the one client that requires you to read all the
6 rights to the workers as part of the contract you've got
7 with that client.

8 Do you include the ALRB information about the
9 right to be free from retaliation for speaking up?

10 MR. SCARONI: The information that we give is
11 pretty extensive. And I don't want to sit here and say we
12 actually give a piece of paper to the farmworkers, saying
13 it's from the ALRB.

14 If it's required to give to them, we give it to
15 them. But I'm not intimately knowledge -- I will be glad
16 to confirm whether we have a document.

17 We do give them a document from several agencies
18 that repeats that, that they are -- that they have the
19 right to not be retaliated against for concerted
20 activities, or age, gender, discrimination, et cetera.

21 So, that particular notice appears in several
22 different papers or disclosures that we give all the
23 employees, and is in the binder.

24 Now, whether there's one that specifically has an
25 ALRB header on it, I can't answer that. But I will ask my

1 HR team about that. That's a fair question.

2 CHAIRMAN GOULD: Any more questions?

3 BOARD MEMBER RIVERA-HERNANDEZ: I have nothing,
4 no. Thank you.

5 CHAIRMAN GOULD: Thanks. Thank you very much.

6 MR. SCARONI: Okay, thank you very much for your
7 time and thank you, again, for coming to Salinas, and not
8 doing this in Imperial Valley, where it's 115 degrees
9 today.

10 CHAIRMAN GOULD: Okay.

11 MR. BLANCO: So, is there a Juan Carlos Ramirez
12 here?

13 MR. RAMIREZ: (Through Interpreter) Good
14 afternoon, my name is Juan Carlos Ramirez. I work for a
15 strawberry company. And the reason for me being here is to
16 give you my point of view. And not only mine, but many
17 fellow workers on what we're speaking about here, about the
18 access of going into the fields and giving information.

19 Well, I don't think it's a good idea to go out
20 there. First of all, you need to change the perspective of
21 the workers on the ALRB. They all consider you as a
22 governmental agency and some things have happened that I
23 believe we're not very trusting. And things might not have
24 gone the way they believed they did, but some do.

25 CHAIRMAN GOULD: I don't quite get that.

1 BOARD MEMBER RIVERA-HERNANDEZ: Did he also say
2 we're too slow? No?

3 CHAIRMAN GOULD: I didn't quite get --

4 MR. RAMIREZ: They might have believed things
5 happened a certain way that maybe they didn't happen that
6 way.

7 Oh, yes, I don't trust the ALRB much because I
8 don't think you're there to take the employer to employees
9 rights. I think you're there to take more the rights for
10 the employee to join a union.

11 Well, whatever you do as part of the -- with, or
12 as part of the Board or the ALRB, some things, whether --
13 something with discrimination or anything like that,
14 anything that you do, I'm not saying everybody does it, but
15 if someone does, people believe that everybody is part of
16 it.

17 When the company that I work for gave access to
18 the union to come and talk to us, we weren't happy with
19 that. We sought the ALRB and we didn't get help. We felt
20 like we were discriminated.

21 I spoke to a lady attorney about filing a
22 complaint against the UFW and the attorney was with the
23 ALRB. And there were other people present, who were there
24 and saw this. And, basically, what she told me was that,
25 well, sir, the UFW, it's up here and you're down here.

1 You're not going to do much against them.

2 I filed a complaint against the UFW and what came
3 of that was I got a letter, six months later, asking me if
4 I had current phone numbers for the witnesses that I had.
5 And then a year later, I got another letter telling me that
6 my case was dismissed.

7 I can give you many examples. Another one was
8 when I testified in favor -- I actually helped clear some
9 lies that the UFW was saying about my employer. There were
10 several of us that helped.

11 And the ALRB was quick to go and respond to
12 something that involved the UFW, but not when it was us.
13 They came down and asked several people, some of my fellow
14 workers in advance, and interrogated them with several
15 attorneys. And I don't think that's fair.

16 I could spend all afternoon giving you examples
17 of situations where the ALRB acted differently with
18 employees who did not want to join a union.

19 And, again, I don't think it's a good idea for
20 you to go out in the fields and stuff. The people are
21 working. Number one, you don't have much credibility with
22 the workers. And secondly, the workers don't like it when
23 you go and stop them from earning their living.

24 I know what I'm about to say is going to sound
25 very harsh and I hope I don't offend anybody. But I

1 believe that the ALRB needs the unions. Because if the
2 unions weren't out there trying to take the money away from
3 their employees, because that's what they do, they make
4 business with the employees. And if they weren't getting
5 farms out there, then with that the ALRB wouldn't continue.
6 Couldn't continue working.

7 And I know that it would be probably easy for you
8 to get the -- it would be a good idea for you to go out in
9 the fields and bring your interpreters, all the
10 interpreters, Triqui or whatever it may be. But it would
11 probably be easier if you used the media. All the
12 employees have phones. You can do it on Twitter, on
13 Facebook, or any of those. You can make a television
14 commercial and everybody watches the TV.

15 I think that's going to be all. Thank you for
16 the opportunity for me to tell you this. And there's many
17 ways to get this information out there. I know there's a
18 lot of people out here who are representing the union. And
19 I tell you most of them are probably being told what to
20 say. And again, what I said is that there's many ways to
21 get that information.

22 THE INTERPRETER: I need to go back and say
23 something I omitted from the last statement he made. He
24 said, take time to figure out or find out what the people,
25 the workers actually, truly feel about you, if we have

1 credibility with you or not, or if they trust you or not.

2 And now he says that, while there's charges have
3 been made against the -- something that the employer did
4 wrong, the union makes up these posters to place them out
5 near the bathrooms, where people go do their thing. But
6 there's also charges where the union failed the worker.
7 And you don't see them making these posters and placing
8 them where they can be seen.

9 I thank you for your time. And again, take time
10 to find out what people, the workers feel about you. It
11 sounds terrible for me to tell you here, but I don't trust
12 you. And please figure out what your posture is with the
13 workers, first of all. And I hope you take action on that.

14 And please don't take it as I'm saying it for
15 each one of you in particular that are in front of me. By
16 that I mean, when I say ALRB, I mean any person
17 representing ALRB comes out and does something against it,
18 we take it -- we feel that it's ALRB, wholly ALRB.

19 CHAIRMAN GOULD: Any questions?

20 It would be improper for any representative of
21 the Board, or anyone else, to say to you that anybody is up
22 there and you are down there. And so, if you have
23 information about that, you should bring that to the
24 attention of the Acting General Counsel in Sacramento, and
25 to me, personally. Because I don't know anything about

1 many of the things you've talked about. But I know that
2 that would be wrong if, in fact, it happened. And you
3 should say when it happened, who said it, and who was
4 there.

5 Thank you. Thank you very much.

6 MR. RAMIREZ: At the moment I did place a call to
7 Sylvia Torres and she never returned my call. Instead, she
8 referred me to someone local, I believe in -- and she told
9 me that perhaps I didn't understand what they were telling
10 me. But like I told her, I may not have much education,
11 but I know when somebody's telling me that the union's up
12 here and I'm down here, and that it's impossible for me to
13 do anything.

14 CHAIRMAN GOULD: Okay, thank you very much.

15 MR. RAMIREZ: Thank you.

16 (Off-the-record conversation)

17 MR. BLANCO: So, let's see Gonzalo Najera,
18 Anjelica Bautista, Pablo Gregorio, Santiago Hernandez, and
19 Selma Barrios, Luis Vasquez, Edgar Urias.

20 MS. BAUTISTA: Hi, my name is Anjelica Bautista.
21 I work for (inaudible). And I support the ALRB because I
22 want my people to know their rights and the laws of
23 California.

24 And one other thing I want to know is that I want
25 to tell you that there is -- I want the people to know

1 about the new regulation over here, and about sick days,
2 because many people don't know about it. And one of the
3 things the Fresh Harvest supervisor, I think he said, that
4 the people had like Smart phones and everything. But it's
5 not like enough for them to know their rights.

6 Some of them, they don't like their food and it's
7 paid for. And I know that because I went to work for the
8 union for a month, and I talked to those people and they
9 told me that there's like -- their living's not okay for
10 them. Their food, they don't like the food, but they had
11 to pay for it. So, that's all.

12 And one of my questions is what are you guys
13 going to do -- what are the themes you're going to take to
14 the field?

15 CHAIRMAN GOULD: Excuse me?

16 MS. BAUTISTA: What are the themes?

17 CHAIRMAN GOULD: The things?

18 BOARD MEMBER SHINTO: The themes we'll take to
19 the field, what will we say?

20 CHAIRMAN GOULD: Oh, themes. Well --

21 MS. BAUTISTA: Well, what information are you
22 going to take to the field?

23 CHAIRMAN GOULD: Well, we're trying to -- we're
24 talking about the idea of advising people about what is
25 contained in the Agricultural Labor Relations Act and what

1 procedures could be employed by the Board.

2 MS. BAUTISTA: And one other question is how
3 often you're going to go?

4 CHAIRMAN GOULD: We have no idea. And that would
5 be -- the whole question of where we go, under what
6 circumstances we go, how often we go, if indeed we do go,
7 is something that is under consideration. And we want the
8 best advice of all parties.

9 MS. BAUTISTA: Okay, thank you.

10 MR. VASQUEZ: (Through Interpreter) Hello, my
11 name is Luis Vasquez. I'm from the State of Oaxaca and I
12 speak Zapoteco. I work for Dole Berry Leaf Farms.

13 I am currently working with the UFW and visiting,
14 working with the farmworkers as an organizer, visiting the
15 crews. And for me, it's very important that the law
16 passes. To be able to go out and disseminate information.

17 But my question to the ALRB is what information
18 or training are you going to give to the foremen or
19 management? That is all.

20 CHAIRMAN GOULD: Yeah, so again, this is
21 something that is being considered by us. We would like
22 the advice of everyone, including yourself, as to whether
23 we should speak to management. You know, whether we should
24 say something that is different in structure or form from
25 what we say to employees. We want your advice and input.

1 MR. VASQUEZ: Okay, thank you.

2 MR. HERNANDEZ: (Through Interpreter) Good
3 afternoon, everybody. My name is Santiago Hernandez. I am
4 from the State of Oaxaca and I speak Mixteco.

5 I am working under a union contract with Dole
6 Berry. I am currently working with the UFW as an
7 organizer, bringing information to the workers about their
8 rights. And I agree it's important, the amendment that the
9 Labor Relations Board is proposing.

10 Because we have gone to several of the companies
11 where the employees do not know their rights. Also, since
12 we have no access to the labor contractors, it would be
13 good if you went in there also with them, and with the
14 growers, also.

15 And I have a question for the ALRB. How can the
16 ALRB get information to the workers as far as the working
17 hours and such in their own language, providing different
18 interpreters?

19 CHAIRMAN GOULD: How can we get what?

20 MR. HERNANDEZ: How can the workers have better
21 access to the resources at the ALRB, such as shifts,
22 working hours, and their rights?

23 CHAIRMAN GOULD: Well, the statute is concerned
24 with the rights of employees to have a voice and to speak
25 on employment conditions, be they wages, conditions of

1 employment that they are unsatisfied with and not to be
2 retaliated against.

3 And the statute is also concerned with the rights
4 of workers to join unions or, if they wish, not join
5 unions. And we are not concerned -- it's not our charge,
6 it's not our responsibility to deal with the particulars of
7 the working conditions, themselves.

8 It's the right of employees to speak about these
9 working conditions that is our concern.

10 BOARD MEMBER RIVERA-HERNANDEZ: A tambien, and we
11 hope to have the help of translators in Mixteco, Triqui,
12 Zapoteco and so forth.

13 MR. HERNANDEZ: Okay, thank you. I also would
14 like to mention that maybe your office should keep longer
15 hours. We work long hours and we would like to be able to
16 file, talk to you, and we cannot do that if you have no
17 more hours to draw this.

18 MR. GREGORIO: Good afternoon. My name is Pablo
19 Gregorio. I am also from the State of Oaxaca. And I have
20 been working here many years. I'm currently working -- for
21 the last two or three months, I've been working as an
22 organizer.

23 We've been visiting workers and we've been
24 finding that they have no idea of their rights. They have
25 no idea of what their rights are.

1 And I don't understand why there's so much
2 opposition against this. Or, maybe I do, because they
3 don't want the employees to know that they have the right
4 to speak out. There are many violations out there and I
5 believe they don't want their employees to feel, or know if
6 they can speak out and tell about it.

7 As far as going to go in, you can go in and
8 disseminate the information in 15 minutes. My boss is not
9 going to pay me for something that I don't produce. So, go
10 during our lunchtime, it's not going to take long. And the
11 only way you're going to get this information out to us is
12 going out to the fields.

13 I have also heard about the internet and about us
14 having phones. But many people don't know how to use the
15 internet. Many others don't even know how to read or
16 write. Yes, some may have -- a few may have Facebook and
17 such. But, no, the best way to do it is to go out to the
18 fields.

19 What are the topics of information that you'll
20 bring out to the fields? Is it going to be -- how often?
21 Is this going to be on a continuous basis?

22 CHAIRMAN GOULD: Well, as we said, I think a
23 similar question was asked earlier. And what we're doing
24 is discussing should there be a rule of this kind? If so,
25 what are the circumstances relating to the rule? How

1 frequently should we go into fields? Which fields? There
2 are a wide -- and what should trigger our attention?
3 There's a wide variety of issues that we haven't begun to
4 address and that we would sit down, subsequent to the close
5 of these hearings, and the input of all involved and make
6 some kind of judgment about.

7 MR. GREGORIO: Thank you. I am in favor of this
8 amendment. And there are thousands of workers out there,
9 waiting for you to come out and give them the information,
10 for you to deliver the information on their rights. Thank
11 you.

12 MS. SANTIAGO: (Through Interpreter) Good
13 afternoon, my name is Daniela Santiago. And thank you for
14 the opportunity to be here. And I would like to let you
15 know that the language, Triqui, you cannot put it on a
16 sheet, or a tablet or the internet. It's a struggle.

17 Just like someone else came and gave their point
18 of view, I'm going to give you my own and I'll give you an
19 anecdote. I work for a company in Watsonville for eight
20 years. And the labor organizer came from the union, came
21 directly to me. This organizer came and told me about my
22 rights as a worker, as an immigrant. I tried to help. My
23 boss found out and he fired me. And only for asking for
24 what was just, good working conditions, a lunch period on
25 time, only those essential.

1 I thank the UFW and the ALRB for showing,
2 teaching me what rights I have as a farmworker. And I
3 would like to ask you, fervently, get to work, please, and
4 provide a better working environment for the indigenous
5 immigrant worker that they would deserve. We're not here
6 to commit crimes. We're only here to earn a decent wage.

7 Please enforce the laws. There are many, many
8 injustices out there. And the only one who benefits from
9 all this is the owner.

10 I'm asking not only for the indigenous group, but
11 for many others who shouldn't have to work in the fields.
12 But because their parents cannot take care of them, they
13 must work in the fields.

14 I would also request of you to give information
15 and train the farmers, and their subordinates, whether you
16 call them foremen, supervisors or whatever.

17 I would like the ALRB to at least take the time
18 to get the information out to the workers in the field.
19 And like the person next to me said, there are many who
20 can't read and write. But if you get somebody that can
21 help -- some can't even speak Spanish, but there could be
22 somebody that could translate for them.

23 I could share more of my experiences but,
24 instead, I'm going to tell you that we're here -- we came
25 here to work. And all we ask is that we have fair working

1 conditions and to be treated fairly.

2 Unfortunately, I suffered an accident that left
3 me permanently disabled, but I would like very much, even
4 if it was from afar, to continue helping my fellow workers
5 getting them to know their rights.

6 I thank you. And if it's within your means to
7 get these laws into effect on working conditions, I would
8 be very grateful. And it would help our workers to feel
9 better, produce better for their employers.

10 Thank you and God bless.

11 CHAIRMAN GOULD: Thank you.

12 MS. BARRIOS: (Through Interpreter) Good
13 afternoon, my name is Anselma Barrios. I am from the State
14 of Oaxaca and I am working under a union contract.

15 I work for Dole Berry and I have worked for them,
16 picking strawberries, for 16 years. I am currently working
17 as a temporary organizer, taking the information to my
18 people, letting them know more about their rights.

19 My question is, how would ALRB disseminate the
20 information appropriately to farmworkers?

21 CHAIRMAN GOULD: Well, again, this in a way is
22 the two questions that were asked earlier. This is what we
23 are here to get your input about, whether this can be done,
24 how it can be done, the circumstances relating to it.
25 Nothing has been decided. The purpose of this process is

1 to get input from you and others.

2 MS. BARRIOS: That is all, thank you.

3 CHAIRMAN GOULD: Okay, thank you.

4 MR. URIAS: (Through Interpreter) Good
5 afternoon, my name is Edgar Urias. I worked for 15 years
6 for the union contract as a picker for Countryside
7 Mushroom.

8 I am currently a temporary organizer for the UFW
9 for the last three months, but I've gone to the fields to
10 inform workers about their rights.

11 For example, I know this law -- this year a law
12 was passed about sick leave. And also, others were passed
13 for heat-related illness. And that's the information we're
14 submitting to the workers.

15 We have seen and heard about the need of very
16 much information about their rights, and we see that all
17 over in this valley. We have also noticed that there's an
18 influx of young workers, coming into the valley, who can't
19 read or write and have no idea about their working rights.

20 I'm in support of this amendment. And I don't
21 say it just as an organizer, a union organizer, but also as
22 a farmworker. In giving consideration of whether it be
23 before, or lunchtime, or after work.

24 There are many companies, crews for labor
25 contractors who are very large, and it may be very

1 difficult to get this information out. But if you do it,
2 perhaps at the times I specified, do you think that would
3 be peaceable?

4 CHAIRMAN GOULD: Do we do it -- if we do it what?
5 At lunchtime?

6 MR. URIAS: Before or after?

7 CHAIRMAN GOULD: Yeah. Well, this is something
8 we're considering. This is what -- we're asking you this.

9 MR. URIAS: Well, I believe that would be the
10 best option because I hear many people worried that their
11 production may be disturbed.

12 CHAIRMAN GOULD: And you think that would be less
13 likely to interfere with their production?

14 MR. URIAS: Yes, I believe that kind of work
15 would probably pay more attention and feel free to ask any
16 question and free its reply.

17 Please make sure that at these meetings, where
18 you give this information to the workers, about their
19 rights, that you have no one from management. Because we
20 have noticed sometimes, when we have sometimes meetings,
21 usually someone's there from management. Please make sure
22 that there's no one there.

23 Thank you.

24 CHAIRMAN GOULD: Thank you. Okay, thank you to
25 all of you. Thank you very much.

1 MR. BLANCO: Mr. Jim Bogart.

2 MR. BOGART: Good evening, Chairman Gould,
3 Members Shiroma and Rivera, Board Counsel. It's good to
4 see all of you again. Welcome back to Salinas.

5 My name's Jim Bogart. I'm the President and
6 General Counsel of the Grower Shipper Association of
7 Central California. We represent approximately 400
8 growers, shippers, packers, processors and other businesses
9 affiliated with the agriculture industry here in the
10 Central Coast Counties of Monterey, Santa Cruz, San Benito
11 and Santa Clara.

12 I've had the opportunity and distinction to
13 practice before the ALRB since its inception, back in 1975.

14 I appreciate you giving me the opportunity, and
15 other stakeholders, to address this proposed regulation.
16 And I want to state at the outset that my organization, me
17 personally, I think the agriculture industry in general is
18 not opposed to education at all.

19 I think informed workers, informed citizens,
20 enlightened people are better off having that knowledge.

21 That said, I'm not sure promulgating a regulation
22 is the best way to go about educating workers. And I'll
23 express my concerns and reasons for that as we go.

24 I'm kind of operating at a disadvantage here,
25 kind of flying in the dark because I haven't had the

1 opportunity to see a draft regulation. But I'd be
2 interested in --

3 CHAIRMAN GOULD: There isn't one.

4 MR. BOGART: Yeah, well --

5 CHAIRMAN GOULD: That's why you haven't seen it.

6 MR. BOGART: It's tough to comment on basically
7 what we don't know. So, I'm just kind of flying in the
8 dark here, maybe some concerns I may have.

9 CHAIRMAN GOULD: The subject is -- the subject is
10 worker education and access in that connection.

11 MR. BOGART: Okay. Well, thank you. I guess
12 I'll start right up front with my belief that the Board may
13 not even have statutory authority to promulgate a
14 regulation like this. I've looked through the Act several
15 times, specifically Section 1140.2. And I haven't seen
16 anything in the statute that talks in terms of educating
17 workers. So, I'm troubled by that.

18 Another concern I have is the -- is there really
19 the necessity for a regulation that would allow worksite
20 access for Board agents to educate workers?

21 I think that there are alternative means of
22 communication. Some have been expressed by speakers before
23 me. The internet, brochures, public meetings that are not
24 on Board time, social media. I think that there's
25 alternative means and methods of communicating with workers

1 that should at least be explored or tried before
2 promulgating a regulation like this, which would give
3 worksite access to Board agencies.

4 I mean, I would think that that would be
5 incumbent upon you to say we've tried these other methods
6 and they just haven't worked for various reasons.
7 Therefore, we're left with no alternative, other than to
8 take worksite access to educate workers.

9 I also think -- the methodology, I think that's
10 all got to be worked through. You know, who's going to do
11 it, when are they going to do it? Who is going to be doing
12 the educating? Are they from the General Counsel's Office?
13 I'm sure all of this stuff has to be worked through.

14 CHAIRMAN GOULD: Well, what are your ideas about
15 those questions?

16 MR. BOGART: Well, you know, I would want to look
17 at the credentials, honestly, of the people that would be
18 doing this training. I mean, like it or not, there is a
19 perception of bias among many in the agricultural
20 community, with respect to the objectivity of the Board.

21 So, I would think that maybe with input from the
22 community, the broad-based community, you could get the
23 information, which would be provided to workers. I would
24 want to know that.

25 Along those lines, it's kind of interesting

1 because how would employers be selected? Would it be
2 random? Would they have a track record of unfair labor
3 practices?

4 But be that as it may, it would seem to me that
5 there would be a perception among workers, and even the
6 employer of, well, why is the ALRB visiting my farm? Why
7 are they educating my workers? Have I done something
8 wrong? Does it give rise to the inference that I've done
9 something wrong?

10 I think that's a real problem. And I think there
11 needs to be a lot more discussion along those lines or
12 exploration of that very issue.

13 Because it could even be interpreted by workers
14 that, well, if the Board agents are here, informing me of
15 my rights, that must mean my employer is doing something
16 wrong. And I think that is a real problem.

17 Another thing that -- I call it the Pandora's
18 Box. I'm wondering why a regulation like this, which would
19 confer upon agents of the ALRB access rights, when other
20 representatives of other regulator and administrative
21 agencies don't have that right?

22 And my fear is that somebody over at DFEH says,
23 well, gee, the ALRB agents can take worksite access. We
24 should have that for our agents. And EEOC, or the Labor
25 Commissioner, or somebody could chime in. And it could,

1 like I say, open up Pandora's Box.

2 And the other thing, too, if I didn't mention it,
3 that deals with the methodology is that if the worksite
4 access takes place during working hours, you know,
5 nonproductive time is now compensable. So, you know, I
6 mean I hate using expenses and costs as a reason for
7 opposing something like that. But that's something to take
8 into consideration. Not just in terms of compensation, but
9 would it disrupt production?

10 How long would these meetings, how long would
11 these educational sessions take place? And is there an
12 extensive Q and A session that's going to take place for
13 each one of these visits? That could take up a lot of time
14 and it could disrupt production.

15 So, I think that's something that should be
16 considered.

17 And then, when I talked about the Pandora's Box,
18 similarly I look at this as here are agricultural employers
19 being singled out for special rules. And there are other
20 industries, other employers throughout the State that would
21 not have to have this burden.

22 And so, it kind of ties in with what I said
23 before, with the Pandora's Box, with all the administrative
24 regulatory agencies wanting in on something similar to
25 this.

1 And then, it's all of my members saying, well,
2 why me? Why is the farmer -- why is the farmer being
3 singled out for something like this? So, that's troubling
4 to me, as well.

5 I think I've covered just about all the points I
6 wanted to make. But I appreciate the opportunity to engage
7 with you. Always appreciate seeing all of you. And I'd be
8 happy to answer any questions you may have. Thank you.

9 CHAIRMAN GOULD: Thank you.

10 BOARD MEMBER RIVERA-HERNANDEZ: Thank you.

11 BOARD MEMBER SHINTO: Thank you.

12 CHAIRMAN GOULD: Okay, Jim, thank you very much.
13 Thank you.

14 MR. BOGART: Okay, bye.

15 MR. BLANCO: Fritz Conle, Crisencio Diaz, Susana
16 Hernandez, Maria Alvarado.

17 MS. DIAZ: Hello. My name is Crisencio Diaz. I
18 work for the Teacher's union here, in Salinas. Okay, I
19 argue in supporting, and not only supporting, but I would
20 explain the reasons why we're supporting this regulation.

21 I mean, we know that people in agricultural, they
22 are not stable for 20, 40, for 30 years. They keep on
23 coming every year, every other year. They move along in
24 the industry. And always, we have a lot of young people or
25 new people coming to do the harvest in the fields.

1 Most of the people come from different states in
2 Mexico and Central America. They don't know the law of
3 this State. They don't know the rules of the game. So, if
4 we want them to play with the rules, we need to instruct on
5 the rules.

6 I hear pros and cons. I agree with some of them.
7 For instance, recently Mr. Bogart say that he agreed that
8 education is valid. I do agree with that, too.

9 But, you know, one thing that was brought up was
10 when and how going and educating the people in the fields?
11 I think we need to pay attention when there is issues, such
12 as violations to the law, like wages not paid properly. We
13 have a lot of (inaudible) -- when there is discrimination
14 of any kind, when there's complaints about anything, you
15 know, against the workers, I think at that time is when
16 ALRB should go and instruct the people and let them know --
17 and instruct them, sorry, and let the people know their
18 rights under the law. Okay.

19 CHAIRMAN GOULD: So, to answer one of the -- he's
20 left, now. But to answer one of his questions, he said a
21 lot of employers would say why me, as opposed to any number
22 of other people?

23 You would say those, where there have been a
24 violation of some employment law established, or something
25 to that effect?

1 MR. DIAZ: That is correct. Yeah, why me?
2 Because there is these complaints and violations to the
3 law, because why people need to know of their rights.

4 I think that pretty much that's something that
5 benefits everybody here, especially all the workers working
6 in the fields. Because a lot of these people, they don't
7 care all that education they were claiming that they have.
8 That's going to be in the middle of the nice novella,
9 Spanish novella, a commercial from ALRB or somebody else
10 saying, you know, by the way, these are your rights. It
11 will cost a lot of money and I don't think that would
12 happen.

13 I don't think that at this point they are any --
14 I don't believe that there's the media that they can reach
15 out to them better than face to face, because that's a
16 better communication. It's the best way that you can
17 convey a message to people.

18 Okay, so for that reason, our organization is
19 this. Thank you, all.

20 CHAIRMAN GOULD: Thank you.

21 BOARD MEMBER RIVERA-HERNANDEZ: Thank you.

22 MS. ALVARADO: (Through Interpreter) Good
23 evening, my name is Maria Alvarado. I have lived around
24 here for 26 years in this, the Watsonville area. And I
25 have worked under a union contract and without the

1 contract, or without the union.

2 And throughout all those years I have worked with
3 many companies. But TNE, Escamilia (phonetic), Foothill.
4 I have also worked for many packing sheds, but that's a
5 different story. I've been -- I've worked for many places
6 and I've seen many injustices, many violations. And most
7 people don't speak out because they're afraid to speak out.

8 I hope this amendment passes. And you're going
9 to have your work cut out for you. And because we need
10 this information, we need to let people know about their
11 rights.

12 And like I said, you have your work cut out and
13 it's going to be a big task to get people to get rid of
14 their fear. Because a lot of people do know their rights,
15 but they're afraid to speak up.

16 I will speak about some of the violations.
17 Sexual abuse, yes, it happens out there. Lunches and
18 breaks are not given at the time they should have. And,
19 yes, I am in support of this amendment passing. And I
20 would love to see you out in the fields, giving us the
21 information on how to make our rights upheld.

22 CHAIRMAN GOULD: Thank you.

23 MS. ALVARADO: Thank you.

24 CHAIRMAN GOULD: Thank you. Thank you very much.

25 Any questions?

1 Okay, thank you very much.

2 (Off-the-record discussion)

3 CHAIRMAN GOULD: Okay, let's take a five-minute
4 break. Come back in five minutes.

5 (Off the record at 7:07 p.m.)

6 (On the record at 7:17 p.m.)

7 MR. BLANCO: Horacio Ramirez and Daisy. Okay.

8 MR. RAMIREZ: (Through Interpreter) Good
9 evening, my name is Horacio Ramirez and I'm a farmworker.
10 I have worked picking strawberries, picking berries with
11 many years. Six of those are with Dole and I'm working
12 under a union contract.

13 MR. AGUILAR: (Through Interpreter) My name is
14 Jose Aguilar and I'm also a farmworker. I have worked for
15 Dole Berry for 16 years, eight of those under union
16 contract.

17 And I'm here to see what suggestions you have to
18 make our work environment better for us.

19 MS. SOTO: (Through Interpreter) My name is
20 Daisy Soto and I work for Monterey Mushroom. And I'm an
21 alternate mushroom picker.

22 MR. AGUILAR: (Through Interpreter) My question
23 to you is what is the purpose of this amendment? Is it to
24 open more doors for the unions to go in and organize freely
25 or is it to disseminate information to the workers?

1 CHAIRMAN GOULD: There is no proposal at this
2 point. But the discussion is about worker education and
3 the question of whether or not that education should take
4 place on company property.

5 The idea, if this comes into reality, the idea
6 would be that in some way workers would be advised of their
7 right to protest employment conditions that they find
8 unsatisfactory, wages that they consider to be too low. If
9 they wish to become part of the union, they are aware of
10 that right. And if they wish not to become a member of the
11 union, they're aware of that right, too.

12 And so, the idea is for the ALRB to, in some way,
13 play a role in promoting of this educational process.

14 And the purpose of this hearing is to get views
15 from all interested parties, as they say these days,
16 stakeholders, to see what you thing about this. And so,
17 that's why we're here today.

18 MR. AGUILAR: As a union contract worker, I need
19 to ask you who -- who would put in check a union -- an
20 employer who does practices outside of the contract?

21 CHAIRMAN GOULD: Who would what?

22 MR. AGUILAR: Who checks on the unions? Who
23 regulates the unions when they don't comply with the
24 conditions of the contract?

25 CHAIRMAN GOULD: Well, under our law, there are a

1 number of ways that employees could complain about the
2 failure to adhere to a contract.

3 Although, principally, our law provides for the
4 enforcement of contracts in court and, through that, the
5 promotion of arbitration, if there's an arbitration
6 provision in the agreement.

7 MR. AGUILAR: Well, I have filed many complaints
8 and I've only had one response. On one occasion I was
9 taken to court. Being a farmworker, a worker, a union
10 member, I was taken to court by the UFW because I was not
11 agreeing to their practices. What can be done in that
12 situation?

13 CHAIRMAN GOULD: Well, there are a number -- the
14 question of whether the union has violated our law could
15 arise where the union is, to use the language of the
16 statute, restraining or coercing employees.

17 You could complain through unfair labor practice
18 provisions. You can complain through representation
19 petitions.

20 But the fundamental purpose of our meeting today
21 is to consider the question of whether the Board, this
22 Board, should disseminate information in some way, about
23 the basic purposes of the statute? The statute protects
24 employees to complain about employment conditions and not
25 be retaliated against for complaining, where they do so

1 with other employees in a group.

2 The statute provides that workers have the right
3 to both -- to protest wages, which they consider to be
4 unsatisfactory, or conditions that they consider to be
5 unsatisfactory when they do so as a group.

6 The statute also provides that workers have the
7 right to join unions or not to join unions. And that is
8 the major purpose of our meeting today, to see whether it's
9 a good idea to try to disseminate this information. And,
10 if so, how to do it.

11 MR. AGUILAR: Well, I don't understand why is it
12 now that you want to do this. I have several complaints
13 against the UFW and I have never received help from the
14 ALRB.

15 CHAIRMAN GOULD: Well, the question of whether
16 you have a complaint against the UFW, which could be heard
17 by the ALRB, would depend upon the facts and what it is
18 that you're alleging. I don't know about your personal
19 experience and I'm very uneasy about giving advice on a
20 particular case that may or may not be before us.

21 I would suggest that a good thing to do would be
22 to go to the local Regional Office here, which could make
23 available to you a copy of our law. I think some of the
24 people will sit down and discuss this law with you. And
25 you could -- that would be one way you could learn more

1 about the law.

2 I don't want to get in the business of advising
3 you how to proceed in connection with a particular
4 complaint. So, I'll just leave it there.

5 And they could show you, at the Regional Office,
6 how -- if you wish to do so, and you think the facts
7 warrant it, to file an unfair labor practice. They would
8 be able to put that information in front of you.

9 MR. AGUILAR: Well, like I mentioned earlier, I
10 have several cases pending -- or they were filed, never
11 resolved. Only one of them was. One was where several
12 workers were intimidated and threatened by UFW members.
13 And the result of that was that the UFW members were going
14 to be counseled as to not do that again. But what's going
15 to happen after that?

16 CHAIRMAN GOULD: Well, did the -- it depends on
17 whether or not the General Counsel, the Regional Director
18 acting on behalf of the General Counsel, finds that they
19 have cause to believe that that conduct violated the unfair
20 labor practice prohibitions in the statute. And if they
21 find that, then a hearing can be held before what we call
22 an Administrative Law Judge.

23 And if the matter still cannot be resolved, at
24 that point then it comes to us in Sacramento. That's how
25 it would work insofar as the ALRB is concerned.

1 MR. AGUILAR: I would highly recommend that you
2 would first clear your image before you go into the fields
3 to disseminate information. There are so many cases
4 pending that have not resolved, I would suggest that you
5 resolve those cases, clear your image, and then go to the
6 fields and disseminate information.

7 MS. SOTO: Well, I would love for you to go out
8 and give us the information because the union has not
9 provided it to us. Besides that, it will give us
10 information on how to get a hold of you, if we have to.

11 CHAIRMAN GOULD: We have a Regional Office here,
12 in Salinas. At the conclusion of this meeting here,
13 someone -- we have a number of people from the region and
14 they can come up and give you their address and telephone
15 number. That's how you would get a hold of us most
16 immediately.

17 Thank you.

18 MR. RAMIREZ: Well, yes, I'd like to -- good
19 afternoon, again. I'd like to give you my point of view on
20 your proposed visits to the fields.

21 Just like this amendment, when you go out to give
22 information about the rights, I would also like to hear you
23 go out and give us information about other things. Such
24 as, let us know what our rights are when a union is working
25 against us, how can we defend ourselves?

1 Well, I'd like to mention another charge that my
2 fellow worker didn't mention. The (inaudible) -- where the
3 union intimidated and threatened our employees and workers
4 and nothing was done about that. What were the
5 consequences?

6 So, yes, we need you to go out and give us
7 information, let us know how we can defend ourselves. The
8 union doesn't do as much as go out and admit that they made
9 a mistake or even apologize to us.

10 CHAIRMAN GOULD: Well, we cannot through this
11 rule, or through any other mechanism, give legal advice to
12 employees, whether they're for the union or against the
13 union. And we cannot give advice in particular cases.

14 This is particularly true of us because we are
15 supposed to hear these cases in a judicial capacity, once
16 they come to Sacramento. And all that we're talking about
17 here is to establish, to advise employees of what their
18 rights are under the law, but not to give advice about
19 particular complaints and particularly complaints that are
20 pending before the Board.

21 THE INTERPRETER: He also said that when you go
22 out and give -- or go out and respond to charges --

23 (Interpreter interrupted)

24 THE INTERPRETER: I know, but I'm trying to tell
25 him what --

1 CHAIRMAN GOULD: He wanted to -- probably there's
2 more, yeah.

3 THE INTERPRETER: I wasn't done.

4 CHAIRMAN GOULD: Go ahead.

5 THE INTERPRETER: When you go out to make sure
6 and be impartial -- I know he said partial, but I
7 understood what he said -- what he meant by what he said.

8 CHAIRMAN GOULD: What?

9 THE INTERPRETER: Be impartial.

10 CHAIRMAN GOULD: What did he -- what was your
11 last phrase, what he --

12 THE INTERPRETER: Be impartial.

13 CHAIRMAN GOULD: Yeah, but before that?

14 THE INTERPRETER: Although he said partial, he
15 meant impartial.

16 CHAIRMAN GOULD: Uh-hum.

17 THE INTERPRETER: Don't make it seem you're on
18 the union side.

19 CHAIRMAN GOULD: Right, right, right.

20 THE INTERPRETER: Show us that you're on both
21 sides, that you're there for both of us.

22 CHAIRMAN GOULD: Well, our obligation, and this
23 goes both for the regions and us, in Sacramento, is to
24 objectively find the facts, find what the truth is about a
25 particular case so we can determine whether there is a

1 violation or not a violation of the law.

2 MR. RAMIREZ: Well, and it's great to go out in
3 the fields and disseminate information on the rights. But
4 before you do that, I urge you to develop teeth on these
5 statutes --

6 CHAIRMAN GOULD: Develop what?

7 THE INTERPRETER: Develop teeth on these
8 statutes. So that when you go out and tell someone you
9 have right, but then there's a violation and nothing ever
10 happens to that one. So, yes, I want you going out there,
11 but I want you to please take into consideration that some
12 of these workers may eventually join a union. And if that
13 union doesn't comply with what they're supposed to comply,
14 and someone complains, what are the consequences for the
15 union?

16 CHAIRMAN GOULD: Well, the consequences are that
17 an administrative proceeding, a hearing could take place
18 where they are found to be unlawful, have engaged in
19 unlawful conduct if, in fact, that is the fact. That has
20 to be an objective inquiry.

21 And let me say that the remedies under our law,
22 as they apply to anybody, employers as well as labor
23 organizations, are not as strong as many people, including
24 myself, believe that they should be.

25 But only the Legislature can provide stronger

1 remedies. That is the fact of it.

2 But we do have remedies it parties, I want to
3 say, I want to use the word "flout", you know what I mean?
4 If they refuse to abide by the law, then they are going to
5 be in contempt of a court. Just as this lady in Kentucky
6 has been in contempt of the court.

7 MR. RAMIREZ: When you show up to the fields,
8 you're automatically telling the workers that they have the
9 right to organize and join the union -- join a union.

10 Sadly, you do not tell them that they -- that, I
11 don't know, they need to develop a plan. Tell them, let
12 them know that when they decide, when they're not happy
13 with a union anymore how to get rid of them, because they
14 don't know. I urge you to develop a plan.

15 Before you do that, go out and do that, I urge
16 you to clear your name. Many things happened at that
17 company that I work for. Many people who worked there a
18 long time left and went to work somewhere else, because
19 they figured that the ALRB did not help them.

20 And let me tell you, the word got out everywhere
21 because it spread out from word to word. So, people don't
22 trust you very much.

23 CHAIRMAN GOULD: Well, the basic point that he
24 makes is a good one. And that is that there is a way to --
25 if workers are dissatisfied with the union and they want to

1 do more than file an unfair labor practice, they can file a
2 so-called decertification petition. And that is part of
3 our statute and that information should be made available,
4 just as the right to file a certification petition is
5 available.

6 Okay, I think we have four more people that we
7 want to hear from tonight. And I'm very grateful to have
8 heard from this gentleman here. Thank you.

9 (Off-the-record conversations)

10 MR. BLANCO: Okay, so Sandra Olvera, Edith Ruiz
11 and Armando Lopez. Oh, gracias.

12 Oh, separate. Okay.

13 MS. OLIVERA: (Through Interpreter) Good
14 evening. My name is Sandra Olvera and I work for Monterey
15 Mushrooms. And I'm here to give my opinion on the
16 amendment that you're seeking from us.

17 Well, it's great that you -- well, I support that
18 you're contemplating going out to the worksites and tell
19 workers their rights. A lot of people know their rights.
20 They hear them from other people. But if it came from you,
21 that would help get rid of their fears.

22 Well, I thank you -- I am in support and I thank
23 you for taking the initiative to come up and listen to each
24 one of us workers from this side of the State.

25 And, personally, I'd like to express my

1 gratitude. I am happy and satisfied by the work that has
2 been done by ALRB locally. Although the process, they have
3 been a little slow.

4 MS. RUIZ: I have worked in this area for --
5 well, in the fields of California since 1980. Many years
6 with Monterey Mushroom. Well, I worked under contract for
7 many different unions. And for many years I have worked
8 with Monterey Mushroom, and that has been the worst
9 experience of my life. That is a place where the rights of
10 employees are not respected.

11 I have known about ALRB for a long time, but I
12 never had a need to seek help. I, at work, have told other
13 workers, coworkers of mine about our rights.

14 I'm going to give mention to our -- like I was
15 going to mention my coworkers about their rights, so that
16 they can stand up and complain about these -- the way
17 they're being treated. Although, some of them don't want
18 to do it because the ALRB does not have much credibility
19 with them. Why? Because the cases take too long to get
20 resolved and when they are resolved, they're dismissed
21 either because of lack of information or because the
22 witnesses are no longer around.

23 And we also need information on how we could be
24 protected from the unions, specifically the UFW.

25 Like I mentioned earlier, I have experiences with

1 other unions. My only bad experience is with the UFW. I
2 don't believe their practice is to defend or promote the
3 rights of the workers.

4 Thank you.

5 CHAIRMAN GOULD: Thank you. Thank you very much.

6 All right, now, let's see, we have one more?

7 MR. BLANCO: We have Armando Lopez and then Mr.
8 Bautista. So, that's it.

9 CHAIRMAN GOULD: Oh, are they together or --

10 MR. BLANCO: I don't think they're together, no.

11 MR. LOPEZ: Buenos noches.

12 CHAIRMAN GOULD: Buenos noches.

13 MR. LOPEZ: (Through Interpreter) Thank you for
14 coming out to this area and bringing this information. I
15 believe it's a great idea for someone, like you, go out to
16 the fields and give information. But also, informally, you
17 should let them know more about you.

18 It would also be good if you gave them
19 information or people found out what each agency is
20 responsible for. We have heard, earlier, that they didn't
21 get any gloves or there was no water provided. So, they'd
22 know which agency would they need to get a hold of.

23 CHAIRMAN GOULD: Thank you. Thank you very much.

24 MR. LOPEZ: Thank you very much. And I am in
25 support of what you're seeking.

1 CHAIRMAN GOULD: Okay.

2 MR. BLANCO: The last speaker, Gregorio Bautista.

3 MR. BAUTISTA: (Through Interpreter) Good
4 evening. My name is Gregorio Bautista. I am from Oaxaca.

5 I am glad that you are considering going out in
6 the fields and I support that. I have been here since this
7 morning and I have heard many opinions. And I agree that
8 during the break, lunch, or even after work would be good.
9 Or, even during work. I work by piece rate and if I don't
10 produce anything, I'm not going to collect anything,
11 anyway.

12 I have so many people come up here and tell you
13 that TV's a good idea or the cell phones, but I don't
14 believe so. Because when we get home, after working 10
15 hours, we're so tired the first thing we want to do is take
16 a shower, eat and go to bed. We have no time to watch TV.

17 So, I support your idea of going out to the
18 fields and give that information.

19 And then, also, it will let the foremen know that
20 there is a law.

21 I have heard people say that who's going to pay
22 for the -- who's going to pay for the time that you're
23 talking to the workers? Well, our bosses, if we produce
24 2,000 boxes, he's going to pay us for 2,000 boxes.

25 Now, we work by the piece rate. I know there are

1 people who work by the hour. But perhaps their option,
2 better often for them would be during a break.

3 It would also be good for the foremen to know
4 that there's a law. There's one time when ALRB came out to
5 the field -- well, before that. He says, they place the
6 bathrooms eight minutes away from us. I complained, I told
7 the foreman they were too far. And he told me that the law
8 says that they have to be a mile away.

9 Then the ALRB came to our work and I told them
10 about the bathrooms. And I told the foreman again and he
11 says, okay, okay, okay, I'll go move them right now. I'll
12 bring them closer.

13 That is all. Thank you for your time and for
14 taking us into account. We need your help. God bless you.

15 CHAIRMAN GOULD: Well, thank you very much. And
16 thank you all very much. And I appreciate your time and
17 input.

18 (Interpreter Translating)

19 And this concludes the Salinas aspect of our
20 proceeding.

21 (Off the record at 8:14 p.m.)

22

23

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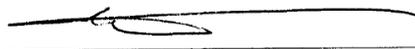
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of September, 2015.



PETER PETTY
CER**D-493
Notary Public

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Barbara Little
Certified Transcriber
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