

Holtville, California

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

| | | |
|------------------------|---|----------------------|
| SAM ANDREWS' SONS, |) | |
| |) | Case No. 81-CE-258-D |
| Respondent, |) | |
| |) | |
| and |) | |
| |) | 15 ALRB No. 17 |
| UNITED FARM WORKERS |) | (11 ALRB No. 29) |
| OF AMERICA, AFL-CIO, |) | (8 ALRB No. 87) |
| |) | |
| <u>Charging Party.</u> |) | |

SUPPLEMENTAL DECISION AND MODIFIED ORDER

In Sam Andrews' Sons (1985) 11 ALRB No. 29, pursuant to a Remand Order of the Second District Court of Appeal, Division Four, in Sam Andrews' Sons v. Agricultural Labor Relations Bd . (1984) 162 Cal.App.3d 923, we reconsidered our remedial Order regarding labor camp access in Sam Andrews ' Sons (1982) 8 ALRB No. 87, and refrained it pursuant to the court's instruction to include specific detail as to time and number of organizers taking access. We entered a new Order directing Sam Andrews' Sons (Andrews) to allow the United Farm Workers of America, AFL-CIO (UFW) access to Andrews' labor camps except: (1) where the number of representatives present in a bunkhouse exceeded one for every ten employees residing therein; (2) during an eight-hour sleep period to be designated by the Regional Director; and (3) where the number of representatives exceeded the number of employees present in the camp.

The UFW appealed our Decision, and in June 1987 the Second District Court of Appeal, Division Seven, issued its

opinion holding that the Agricultural Labor Relations Board's (ALRB or Board) time and number restrictions on UFW representatives' access violated the free speech rights of the employees and the UFW because Andrews had failed to demonstrate that such restrictions were necessary to prevent interference with its normal business operations. The court remanded the matter to the Board with directions to reinstate our previous Order in 8 ALRB No. 87 permitting unrestricted access to the camps.

Meanwhile, the California Supreme Court granted review of the Court of Appeal's decision in 11 ALRB No. 29 as well as the Court of Appeal's decision in 10 ALRB No. 11, a related case involving the same parties, similar facts and a similar labor camp access order.

In Sam Andrews Sons v. Agricultural Labor Relations Bd. (1988) 47 Cal.3d 157, the Supreme Court issued its decision upholding the Board's finding in the related case (10 ALRB No. 11) that Andrews had denied the UFW access to its labor camps in violation of Labor Code section 1153(a). However, the court held that the Board's Order granting the UFW unrestricted labor camp access violated Andrews' right to make regulations establishing reasonable time, place and manner restrictions regarding such access. The Supreme Court held that the labor camp owner, not the Board, was the proper entity to establish reasonable restrictions on access in the first instance, although the court observed that if a grower continued to promulgate unreasonable access rules, the Board might in such a case properly establish its own reasonable limitations on access.

After issuance of its decision in the related case of 10 ALRB No. 11, the Supreme Court transferred the instant case (11 ALRB No. 29) back to the Court of Appeal with directions to vacate its opinion and reconsider the matter in light of Sam Andrews' Sons v. Agricultural Labor Relations Bd., supra, 47 Cal.3d 157. On June 27, 1989, the Court of Appeal issued an unpublished decision vacating the Board's Order in 11 ALRB No. 29 and remanding the case to the Board with directions to issue a new order consistent with the views expressed by the Supreme Court in 47 Cal.3d 157. (United Farm Workers of America, AFL-CIO v. Agricultural Labor Relations Bd. (June 27, 1989) B018251.)

In accordance with the Court of Appeal's remand herein, we hereby issue the attached Modified Order, including the Notice to Agricultural Employees, in place of the original Order issued in 11 ALRB No. 29, which has now been vacated.

MODIFIED ORDER

By authority of Labor Code section 1160.3, the Agricultural Labor Relations Board (Board) hereby orders that Respondent Sam Andrews' Sons, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Preventing, limiting or restraining any union organizers or agents from entering and remaining on the premises of Respondent's labor camps for the purpose of contacting, visiting, or talking to any agricultural employees on the premises, except in accordance with regulations promulgated by Respondent establishing reasonable time, place and manner

restrictions on such visitation.

(b) In any like or related manner interfering with, restraining, or coercing any agricultural employee in the exercise of the rights guaranteed by section 1152 of the Agricultural Labor Relations Act (Act).

2. Take the following affirmative actions which are deemed necessary to effectuate the policies of the Act:

(a) Sign the Notice to Agricultural Employees attached hereto and, after its translation by a Board agent into all appropriate languages, reproduce sufficient copies in each language for the purposes set forth hereinafter.

(b) Mail copies of the attached Notice, in all appropriate languages, within 30 days after the date of issuance of this Order, to all agricultural employees employed by Respondent at any time during the period from October 28, 1981 until October 28, 1982.

(c) Post copies of the attached Notice, in all appropriate languages, in conspicuous places on its property for 60 days, the period(s) and place(s) of posting to be determined by the Regional Director, and exercise due care to replace any Notice which has been altered, defaced, covered or removed.

(d) Arrange for a representative of Respondent or a Board agent to distribute and read the attached Notice, in all appropriate languages, to all of its agricultural employees on company time and property at time(s) and place(s) to be determined by the Regional Director. Following the reading, the Board agent shall be given the opportunity, outside the presence of

supervisors and management, to answer any questions the employees may have concerning the Notice or their rights under the Act. The Regional Director shall determine a reasonable rate of compensation to be paid by Respondent to all nonhourly wage employees in order to compensate them for time lost at this reading and during the question-and-answer period.

(e) Notify the Regional Director in writing, within 30 days after the date of issuance of this Order, of the steps Respondent has taken to comply with its terms, and continue to report periodically thereafter, at the Regional Director's request, until full compliance is achieved.

DATED: November 16, 1989

GREGORY L. GONOT, Acting Chairman^{1/}

IVONNE RAMOS RICHARDSON, Member

JIM ELLIS, Member

JOSEPH C. SHELL, Member

^{1/} The signatures of Board Members in all Board decisions appear with the signature of the Chairman first, if participating, followed by the signatures of the participating Board Members in order of their seniority. There is currently one vacancy on the Board.

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating charges that were filed in the Delano Regional Office by the United Farm Workers of America, AFL-CIO, the certified, exclusive bargaining agent for our agricultural employees, the General Counsel of the Agricultural Labor Relations Board (Board) issued a complaint which alleged that we, Sam Andrews' Sons, had violated the law. After a hearing at which each side had an opportunity to present evidence, the Board found that we did violate the law by denying union organizers access to agricultural employees at our Lakeview Labor Camp. The Board has told us to post and publish this Notice. We will do what the Board has ordered us to do.

We also want to tell you that the Agricultural Labor Relations Act is a law that gives you and all other farm workers in California these rights:

1. To organize yourselves;
2. To form, join, or help unions;
3. To vote in a secret ballot election to decide whether you want a union to represent you;
4. To bargain with your employer about your wages and working conditions through a union chosen by a majority of the employees and certified by the Board;
5. To act together with other workers to help and protect one another; and
6. To decide not to do any of these things.

Because it is true that you have these rights, we promise that:

WE WILL allow the UFW to take reasonable access to our labor camps and WILL NOT otherwise interfere with the legitimate efforts of the UFW to communicate with our employees.

WE WILL NOT In any other manner unreasonably restrain or interfere with the right of our employees to communicate freely with any union organizers or agents on the premises of our labor camps.

DATED:

SAM ANDREWS' SONS

By:

Representative Title

If you have a question about your rights as farm workers or about this Notice, you may contact any office of the Agricultural Labor Relations Board. One office is located at 319 Waterman Avenue, El Centro, California 92243. The telephone number is (619) 353-2130.

This is an official Notice of the Agricultural Labor Relations Board, an agency of the State of California.

DO NOT REMOVE OR MUTILATE

CASE SUMMARY

SAM ANDREWS' SONS
(UFW)

15 ALRB No. 17
Case No. 81-CE-258-D
(11 ALRB No. 29)
(8 ALRB No. 87)

CASE SUMMARY

The Board issued a supplemental decision and modified order in accordance with the Court of Appeal and California Supreme Court remand of 11 ALRB No. 29. In conformity with the court decisions, the Board retained its previous unfair labor practice findings, but revised its labor camp access order, acknowledging the Employer's right to establish reasonable time, place and manner restrictions on labor camp access.

* * *

This Case Summary is furnished for information only and is not an official statement of the case, or of the ALRB.

* * *