

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)	
)	
TEX-CAL LAND MANAGEMENT, INC.)	
)	Nos. 75-CE-24-F
Respondent,)	75-CE-52-F
)	75-CE-85-F
and)	75-CE-100-F
)	
UNITED FARM WORKERS OF AMERICA,)	3 ALRB No. 14
AFL-CIO,)	
)	
Charging Party.)	
_____)	

DECISION AND ORDER

On February 11, 1976, Administrative Law Officer (ALO) Kenneth C. Robertson issued his Decision in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices within the meaning of the Agricultural Labor Relations Act and recommending that it cease and desist therefrom and take certain affirmative action as set forth in the attached Administrative Law Officer's Decision. He also found that it had not been proved that the Respondent had engaged in other unfair labor practices alleged in the complaints. Thereafter the Respondent and the General Counsel filed exceptions to the Decision and supporting briefs.^{1/}

Pursuant to our authority under Labor Code Section 1146, the decision in this matter has been delegated to a three-member panel of the Board. Member Ruiz did not participate in the discussion or consideration of this matter.

^{1/}The charging party did not intervene in the proceeding.

The Board has considered the ALO's decision, the exceptions and briefs, and the entire record in the case, and with the limitations and modifications set forth hereafter, adopts the findings, conclusions and recommendations of the ALO.

1. The ALO's findings in connection with the allegations of discriminatory layoffs, threats of loss of employment, and interrogation of employees concerning union affiliation and sympathies were substantially based upon his adverse credibility resolutions as to employer witnesses Baltazar and Pritchett. Baltazar plays a major role in all three charges and her testimony is therefore pivotal. So also with Pritchett who figures as a primary participant in the alleged threats, access denials and assaults on organizers. Where credibility resolutions are based on the demeanor of witnesses they will not be overturned unless a clear preponderance of all of the relevant evidence shows that the resolutions are incorrect [American Swift Co., 109 NLR3 885, 34 LRRM 2464 (1954)], such as where the ALO has inconsistently credited and discredited different portions of the same witnesses' testimony or has discounted obvious bias or prejudice of a witness [NLR3 v. Elias Bros. Big Boy, Inc., (6th Cir. 1964), 55 LRRM 2402, enf'g in part 51 LRRM I486.] Here there are no such factors present, but rather the record as a whole preponderates in favor of the ALO's findings on these issues.

Nina Baltazar, the crew boss of the alleged discriminatees, admitted that she knew or suspected that these persons were union sympathizers or supporters, and that they were in fact laid off by her while other crew members were retained. Baltazar testified further that she laid these people off because they were "lazy" or not other-

wise good workers. The employer offered additional evidence that its overall workforce was sharply reduced about this time in response to a customary lull in harvest activity, and that other workers in Baltazar's crew, known not to be union supporters were also laid off. This evidence does not negate the ALO's contrary finding. The mere fact that other known union adherents were not laid off or discharged does not disprove or preclude a finding of a violation of the Act as to those incidents charged. See, e. g. , NLRB v. Puerto Rican Telephone Co. , 61 LRRM 2516 , enf'g 57 LRRM 1511 (1st. Cir. 1966) ; Primadonna Club, Inc. , 165 NLRB 111, 65 LRRM 1423 (1967) .

Baltazar's testimony was characterized by uncertainty. She alternately did not remember a conversation with two discriminatees within a few days of the layoff in which they asked about returning to work, and then did remember it; she likewise had no recollection of a meeting in a field with four discriminatees at which a supervisor was present and allegedly made admissions regarding the Respondent's policy of laying off union adherents, then did recall such an occasion, but denied the conversation; her claim that she laid off both pro-union and non-union workers was undermined by her inconsistent admission that some six workers whom she had identified as laid off on September 15 were in fact working on September 17. She eventually admitted that she could not recall whom she had laid off. These important vacillations do not compare favorably with the credited and generally corroborative testimony of witnesses O. Diaz and Marina C. Marquez that Baltazar had laid them and others off on September 15 for the stated reason that they were "Huelgistas". Nor with their further testimony that in the company of two other workers they had

later confronted Baltazar regarding their layoff and had been told by a supervisor, also present, and in response to Baltazar's question, that it was the company's idea to lay Huelgistas off, not the supervisor's personally. The discriminatees A. Garcia, F. Garcia, and Mendoza all additionally testified to a conversation with Baltazar at her bank in Delano at which time she made the statement that there would be no work for them if they were "Chavistas." Again, Baltazar denied any such conversation while admitting that she did bank at the institution referred to by the discriminatees in their testimony. In the face of the totality of this testimony, we find the ALO's resolution of these issues fully supported by the record.

In the face of the above evidence as a whole, the Respondent's argument that these workers were laid off because they were "lazy" and as part of a general seasonal layoff does not cause the balance of the evidence to swing in its favor. The record shows that some of those laid off had known and worked with Baltazar for many years, at Tex-Cal and other ranches. Despite her testimony that these persons had also been poor workers for these other employers, she had in fact hired these same people upon her move to the employ of the Respondent. All had been working with her crew since at least June of 1975, and by the layoff date had been so employed for over three months. There was no clear evidence of any complaints regarding the quality of the work performed by these individuals. In light of these facts, and in the context of the above evidence relative to the ALO's view of Baltazar's testimonial appearance and the comparative demeanor of the discriminatees, the ALO's finding that the asserted grounds for the layoff of these workers - their collective "laziness" - was pretextual is supported by the weight

of the evidence.

The Respondent's generalized argument regarding seasonal layoffs does not meet the specific record relative to the layoffs of these discriminatees. The fact that workers identified as anti-union, laid off on September 15 with the discriminatees, also due to their alleged "laziness" are shown by the employer's own records to be back working nine hour days on September 17 devalues the weight which the generalized layoff figures might otherwise carry. Although the need for a layoff may be generally justified on economic grounds, this fact alone will not preclude a finding that the motivation for the inclusion of union adherents within those to be laid off or discharged arose from the employer's anti-union animus. See, e.g., Federal Prescription Service, 86 LRRM 2185, (8th Cir. 1974), enf'g 83 LRRM 1435; McGraw-Edison Co. v. NLRB 419 F. 2d 67, 96, 72 LRRM 2918 (8th Cir. 1969). Where, as here, the record shows a totality of conduct including illegal interrogation of employees, threats regarding the consequences of union adherence, denial of access, assaults on organizers, and the company's expressed anti-union stand, the discriminatory motivation may properly be inferred. Federal Prescription Service; supra; Allied Drum Service, Inc., Astro Container Co., Division, 180 NLRB No. 123, 73 LRRM 1161 (197C). Viewed from this perspective, this record supports the inference that the motivation for the discharges was violative of Section 1153(c) of the Act, and derivatively, of Section 1153(a).

The ALO's finding regarding interrogations of workers and threats of loss of employment by Baltazar is also premised primarily upon his resolution of testimonial conflicts against her. For the reasons articulated above, we find no manifest error in this

determination. So also with the ALO's finding regarding supervisor Pritchett (not fluent in Spanish) who was alleged to have conveyed his threats to the workers through the medium of crew leader Medina as translator. We note that, as the ALO found, the record showed Medina to have been a witness under subpoena for the hearing, but he was not called to corroborate Pritchett's denial of the alleged threats.

2. The ALO, although finding various violations of Section 1153 (a), was of the opinion that the respondent did not violate the Act on September 30 and October 3, 1975, by denying access to union organizers on those dates or by assaulting the organizers. We do not agree.

A. September 30, 1975

The record showed that on this date, five organizers were arrested for trespassing on the Respondent's property, and that one of the organizers, Vasquez, was lifted bodily by one of the Respondent's supervisors, carried some distance and deposited on the roadway skirting the field. This activity occurred in the presence of a substantial number of workers.

In his analysis, the ALO found that the evidence established that there were two crews working at opposite ends of a field (the crew of one "Junior" Galindo, consisting of approximately 50 workers and that of Nina Baltazar, of about the same size) that day and that, in fact, the five organizers all had been assigned to the Galindo crew. With these facts in mind, the ALO concluded that the organizers were violating the numerical limitation of Section 20900(5) (c) of the

Regulations^{2/} and that their removal was therefore not violative of the Act. Having found the organizers in violation of the Regulations and no injury to the organizer who had been physically removed from the property, the ALO did not conclude that an assault had been shown.

At the outset we stress that the protected rights of agricultural employees under Section 1152 of our Act and the Regulations includes the right to receive information regarding the advantages and disadvantages of unionization. The access rule enunciated in Section 20900 of the Regulations expresses our judgment that this right, because of the factual conditions of agricultural labor in this State is best served by allowing organizational activity on the employer's property within narrowly prescribed parameters as to time of day, duration and number of organizers. As with other protected employee rights, employer interference with the operation of the access rule is violative of Section 1153 (a) of the Act.

Although the ALO concluded that all five organizers were in fact assigned to the 50 person Galindo crew, we do not view the record as unambiguously establishing this fact. The Respondent's witnesses stated that both the Baltazar and Galindo crews were working the same field on this day, although the field was bisected by a private excess road and the crews were at opposite ends of the acreage. The estimates of the total number of workers represented by these two crews range from approximately 80 persons to 90 or 100. Accepting either figure the ratio of organizers present in the field did not violate the terms

^{2/}Section 20900(5) (c). Access shall be limited to two organizers for each crew on the property, provided that if there are more than 30 workers in a crew, there may be one additional organizer for every 15 additional workers.

of the Regulations.^{3/} The ALO concluded, however, that because the organizers all eventually met just prior to their arrest at the Respondent's instigation in the quadrant in which the Galindo crew was working, all five had in fact been assigned to that crew. While as aforesaid, we are not convinced that the record unequivocally establishes this fact, we need not resolve this issue, as we disagree with the fundamental assumption underlying his resolution of this charge.

Assuming arguendo that the ALO correctly assessed the evidence in arriving at his conclusion that there were excessive number of organizers present on September 30, his determination that the removal of all organizers was therefore not violative of the Act is erroneous. The evidence most favorable to the Respondent's position establishes that there were at least fifty workers in Galindo's crew; under the terms of the pertinent regulatory section the workers were therefore entitled to the presence of four organizers, assuming other conditions of the rule were satisfied. The ALO's analysis does not accord this important point any weight, and for this reason is not adopted. We hold that the presence of an excess number of organizers does not operate by itself to negate the worker's general right under Section 20900 of the Regulations and Section 1152 of the Act to have the appropriate number of organizers present in the fields. An employer confronted with excess organizers must first notify them of the facts giving rise to the alleged violation and provide an opportunity for voluntary compliance before the invocation of whatever

^{3/}See note 2, supra.

Although not essential to our decision of this case, we note for clarification that the majority reading, Member Johnsen disagreeing, of Section 20900 (5)(c) [now Section 20900 (e)(4)C\)] of the new Regulations is that for each additional 15 workers, or any part thereof, one additional organizer shall be permitted. So that in this case, for example, a total of four organizers would be permissible if between 43 and 60 workers were present.

remedies it may rightfully be possessed. See our holding on page 11, infra.

We therefore find that the Respondent violated Section 1153 (a) of the Act on September 30, 1975, by the acts of its agents in removing and/or securing the arrest of all five organizers present on its property on that date otherwise in conformity with the access regulation and in the presence of its employees without first advising the organizers of the facts constituting the alleged violation and providing for voluntary compliance with the provisions of the Regulations. We also find Respondent's conduct to be violative of the Act even apart from the fact that a denial of access was involved.

Our Act expressly recites in Section 1 that in enacting the legislation the people of the State of California sought ". . . to ensure peace in the agricultural fields by guaranteeing justice for all agricultural workers..." and further that the enactment was intended ". . . to bring certainty and a sense of fair play to a presently unstable and potentially volatile condition in the State." In promulgating our access rule, we expressly recognized the primacy of these principles and sought to further their,. See Section 20900(5) of Regulations.^{4/} The conduct depicted in the record of this case departs in every material respect from the expressed goals of the legislation and our regulation and will not be countenanced by this Board. On September 30, the record reflects that a supervisor

^{4/} 8 Cal. Admin. Code Section 20900(4), in the new Regulations now Section 20900(d) .

"bear hugged" and physically carried an organizer from Respondent's property and deposited him on a public roadway.^{5/} This activity occurred in the view of the workers. On October 1, the evidence is that an organizer, again in the presence of the workers, was pushed and kicked several times and forced from the property by a supervisor. On October 2, two organizers were prevented from leaving in their vehicle, one was pushed, a punch was directed at the other, all in the view of workers. On October 3, as the Respondent's witness testified, one organizer was physically carried, despite his struggles, at least several hundred feet and physically restrained in the bed of a pick-up truck and another was led by the arm the same distance. They were forced off the property. Again, these incidents occurred in the presence of workers. The bitterness and chaos which historically has characterized the situation in agricultural labor will never be alleviated 5.f physical confrontation of this sort is allowed to occur without sanction.

The NLRB has found a violation of Section 8(a)(1) of the National Labor Relations Act (which is identical in substance to Section 1153 (a) of our Act) where an agent of an employer forcibly ejected two organizers from the store in the presence of workers irrespective of the agent's subjective belief in the unlawful presence of organizers:

President Shapiro's assault on Business Agent Sterns on February 17, 1964, which was seen by at least two employees, constituted a further violation of Section 8(a)(1) of the Act. Regardless of whether Shapiro rightly or wrongly believed that presence of the two organisers was unlawful, Shapiro was not

^{5/} Although the testimony is at variance as to whether the organizer was thrown down or merely dropped, we need not resolve that dispute under our view of the case.

justified *in* taking the law in his own hands and forcibly ejecting Sterns from the store. The normal effect of Shapiro's conduct, which so forcefully demonstrated to the employees witnessing the attack the intensity of Shapiro's opposition to the Union, is to restrain them in the exercise of the rights guaranteed in the Act. Accordingly, Shapiro's conduct in this regard violated Section 8(a)(1) of the Act. *NLRB v. H. R. McBride, dba W. R. McEride Construction Co.*, 274 F. 2d 124, 126-127 (C.A. 10); *NLRB v. Gibbs Corporation, et al.*, 297 F. 2d 649, 650-651 (C.A. 5). *Sullivan Surplus Sales, Inc.*, 152 NLRB 132, 149, 59 LRRM 1041 (1965).

In other cases, the National Labor Relations Board has found Section 8(a)(1) violations for conduct ranging from that as seemingly minimal as pushing a union organizer in the presence of workers (Green Briar Nursing Home, 201 NLRB, 503, 82, LRRM 1249 (1973)), to that as aggravated as mob attacks on organizers (Gibbs Corporation, 129 NLRB No. 80, 47 LRRM 1047, enf'd in pertinent part, 297 F. 2d 649, 49 LRRM 2340 (5th Cir. 1962)). Nor, under Federal labor precedent, does resort to law enforcement officials to remove organizers provide insulation from unfair labor practice violations. See, e.g., Central Hardware Co., 181 NLRB No. 74, 73 LRRM 1422 (1970?); Priced-Less Discount Foods, Inc., 162 NLRB 872, 64 LRRM 1065 (1967).

With this Federal experience before us, and cognizant of the record in this case, it is our view that physical confrontations between union and employer representatives are intolerable under our Act. Absent compelling evidence of an imminent need to act to secure persons against danger of physical harm or to prevent material harm to tangible property interests, resort to physical violence of the sort revealed herein shall be viewed by this Board as violative of the Act. Such conduct has an inherently intimidating impact on workers and is incompatible with the basic processes of the Act.

Therefore, under either the ALO's theory *that* there was no access right of any degree or under our view that at a minimum, the workers had a right to have four organizers present, the forcible physical ejection of organizer Vasquez on September 30, 1975, violated the Act and we so find.

B. October 3, 1975

On the date in question two organizers, Green and Lara entered the Respondent's field within one hour before work began, and by their own un rebutted testimony were moving toward the area where the workers were congregating before work. The Respondent's defense to the allegation, accepted by the ALO, was that the organizers were in violation of that portion of Section 20900 (c) of the Regulations which states that the right of access shall not include conduct disruptive of the employer's property or agricultural operations. The claim is that by their presence in a field road intersection they were interfering with the movement of workers and equipment in preparation for work. Based upon his finding of disruption the ALO found no violation of the access rule by Respondent and no assault upon the person of Green. He made no finding as to organizer Lara.

Our analysis and holding in part 2A, *supra*, requires that we not accept the ALO's finding that there was no violation of the Act when Randy Steele, an employee of the Respondent and son of its President, at the President's direction and in his presence, physically moved organizer Green several hundred feet to the vehicle in which he and his companion had arrived. The evidence is that Green attempted

to resist this handling, but to no avail.^{6/} Green testified that in the course of these events he was scratched and bloodied and his shirts were torn, he was thrown down several times, grabbed around the neck, and had his arm twisted by Randy Steele. D. M. Steele, although admitting that Green was on the ground on several occasions, characterized these occurrences as the result of falls or "passive resistance" techniques. There is no substantial dispute that Green was forcibly restrained in the back of his pick-up truck by Randy Steele, a man 8-9 inches taller and one hundred pounds heavier than he. The record contains no evidence of an imminent need to secure persons against the danger of physical harm or to prevent material harm to tangible property interests and therefore this physical confrontation, in the presence of workers, was violative of the Act, and we so find.

Additionally, we do not accept the ALO's conclusion that the record shows by a preponderance of the evidence that the organizers were engaging in conduct disruptive of the employer's property or agricultural operations.

Green testified without contradiction^{7/} that he and his companion Lara first encountered Randy Steele before they had reached the intersection at which the disruption is alleged to have occurred, and at that time upon learning that they were organizers, Steele ordered them off the property. Green further testified that thereafter, until the arrival of President Steele on the scene, Randy

^{6/} The record reflects that Green is approximately 5'7" tall and weighs 145 pounds. Randy Steele on the other hand, a former football tackle, is 6" 4 " tall and weighs approximately 250 pounds.

^{7/} The record reflects that Randy Steele was present under subpoena but he was never called to testify.

Steele attempted to block the organizers' progress toward the workers by driving his vehicle back and forth across the roadway. Without resolving the testimonial conflict between Green and D. M. Steele regarding the location of the organizers, it is clear that although he pictures both of them as in the intersection, the testimony of Steele established that he ordered the organizers to leave because they were trespassing on his posted property, not because they were disrupting his agricultural operation by hindering the movement of men and equipment.^{8/} Indeed, upon direct examination by his own counsel, Steele admitted that the equipment was in fact able to make the turn in the intersection in which the organizers were standing. Green meanwhile, denies seeing any heavy equipment in the area while he was there. This evidence is of significance, for although this Board is now dealing with the Respondent's allegations that technical violations of the access rule by organizers justified the act of its agents in physically removing them from the property, the record clear, shows that from August 30, 1975, through the period at issue here, the Respondent adopted and attempted to enforce a blanket no trespassing rule precluding any organizational activity on its property despite the existence of the access rule. In light of this admitted general policy to deny organizers any access, and the absence of evidence that the Respondent's agents adverted to the interference as the basis for their denial of access, we regard the present technical arguments advanced by the Respondent as constituting a rationalization for conduct in fact inspired by other considerations.

Cf. Remington

^{8/} "I went up to them, and I addressed both of them and informed them that they were trespassing and that we had a policy that when the property was posted, and I asked them to leave." (TR 526:9-12.)

Rand, Inc., 103 NLRB 152, 31 LRRM 1517 (1953). We therefore find that the Respondent violated Section 1153 (a) of the Act when, on October 3, 1975, it interfered with access by union organizers and engaged in an assault on organizer Green in the presence of workers.^{9/}

3. The ALO found, and we adopt his finding, that on October 1 and October 2, 1975, the Respondent violated the Act by its agents' denial of access to organizers and physical assault on the former date and access denial alone on the latter. Respondent's supervisor Pritchett was involved in both incidents. As to the former, he admitted pushing, grabbing, and kicking several times organizer Ortiz and effectively forcing the organizers from the field. The Respondent's defense that the organizers were violating the access rule by passing out literature rather than merely speaking with workers, was never adverted to at the time that the organizers were confronted by Pritchett, and we view it, pursuant to our analysis in Part 23 supra, as a rationalization for conduct in fact inspired by other considerations and we do not accept it. In any event, it is premised upon a misunderstanding of the relation of the NLRB "solicitation rule" cases to our access rule and is incorrect on legal grounds.

The access rule has never been interpreted by this Board as distinguishing between oral communication and the distribution of literature. We expressly reject such an interpretation herein. The rule was designed to secure the right of agricultural employees to effectively acquire knowledge and information about the advantages

^{9/} As a finding regarding organizer Lara would not materially affect our remedial order, we do not reach the question.

and disadvantages of unionization. An obvious and traditional mode for such communication is the distribution of printed matter. This technique is fully within the sweep of our rule, as it furthers the goal of effectively informing agricultural employees about the issues impacting upon the question of unionization.

The NLRB cases cited by Respondent as supporting its interpretation of the access rule ^{10/} are not persuasive authority under our Act. All of these decisions arise out of the case-by-case approach which the NLRB has adopted to deal with the issue of employer-promulgated no solicitation rules. On this basis alone, they are completely distinguishable, since we are here not dealing with an employer rule but rather our own administrative regulation. More importantly, however, our rule expressly rejects as inappropriate a case-by-case approach to this problem of union contact with employees on the employer's property. The regulation expresses and reflects our finding that as a general principle the alternative channels of effective communication which the NLRB and the Federal courts evaluate in each case are not adequate in the context of agricultural labor? therefore, on-site organizing is necessary to further the fundamental policy of the Act that agricultural employees determine, free of coercion, whether they wish or do not wish to be represented by a union. The regulation balances the competing interests of the employer and the employees by its exclusion of conduct disruptive of the agricultural operations or property of the employer from the sweep of its protections.

^{10/} See, e.g., Stoddard-Quirk Manufacturing Co., 138 NLRB No. 75, 51 LRRM 1110 (1962); Patio Foods v. NLRB, 415 F. 2d 1001, 12 LRRM 2066 (5th Cir. 1969); Seng Company, 210 NLRB No. 129, 86 LRRM 1372 (1974).

4. We adopt the administrative law officer's determination that the action of Respondent's foreman Medina in taking a union leaflet from a worker and tearing it up in his presence constituted a violation of Section 1153(a) of the Act. See NLRB v. Elias Brothers, Big Boy, Inc. , 325 F. 2d 360 (1963) , 54 LRRM 2733, enf'g 137 NLRB 1057, 50 LRRM 1329.

5. The Remedy

We modify the terms of the administrative law officer's recommended remedies in the following respects:

1) We hereby order that interest be paid on any sum of back pay due to the discriminatees, and that it be computed at the rate of 7% pursuant to our decision in Valley Farms & Rose J. Farms , 2 ALRB No. 41 (1976) . See also Isis Plumbing and Heating Co. , 138 NLRB 716 , 51 LRRM 1122 (1962) rev'd on other grounds, 322 F. 2d 913 , 54 LRRM 2235 (9th Cir. 1963) .

2) We order that the reinstatement offer to the discriminatees shall be effective in the 1977 season rather than the 1976 season.

3) To the ALO's proposal that a Notice to Employees be issued, we add the additional requirement that it be read in English and Spanish at the commencement of the 1977 harvest season, en company time, to all those then employed, by a company representative or by a Board agent, and that the Board agent be accorded the opportunity to answer questions which employees might have regarding the Notice and their rights under Section 1152 of the Act.

Also, we require the Respondent to mail a copy of the attached Notice and Order printed in both English and Spanish, to

all of the employees listed on its master payroll for the payroll period immediately preceding the filing of the petition for certification on October 1, 1975.

We deem the above remedial provisions necessary in view of the overall context of agricultural labor in this State and the fact that, as we recognized in Samuel S. Vener Co., 1 ALRB No. 10 (1975) and as has been pointed out to us in hearings which we have conducted, there is a significant amount of illiteracy and semi-literacy among agricultural employees. In another context, this factor has also been recognized by the NLRB as constituting a basis for ordering the reading of notices. See, e.g., Marine Welding and Repair Works, 439 F. 2d 395, 76 LRRM 2660 (8th Cir. 1971) enf'g as modified 174 NLRB No. 102 (1969); Bush Hog, Inc., 405 F. 2d 755, 70 LRRM 2070 (5th Cir. 1968) enf'g 161 NLRB 136 (1966).

4) The Regional Director shall conduct an investigation to determine the amount of back pay, if any, due the discriminatees and shall calculate the interest thereon. If it appears that there exists a controversy between the Board and the Respondent concerning the amount of back pay due which cannot be resolved without a formal proceeding, the Regional Director shall issue a notice of hearing containing a brief statement of the matter in controversy. The hearing shall be conducted pursuant to the provisions of Section 20370 of the Regulations, 3 Cal. Admin. Code Section 20370.

Accordingly, pursuant to Labor Code Section 1160.3, IT IS HEREBY ORDERED that the Respondent Tex-Cal Land Management, Inc., its officers, agents, successors and assigns shall:

1. Cease and desist from:

(a) Interrogating employees concerning their union affiliation and sympathy.

(b) Threatening employees with layoff, termination or loss of employment because of their union activities.

(c) Discourging or otherwise discriminating against employees because of their union activities.

(d) Denying access by union organizers to its premises for the purpose of organizing pursuant to the duly published Regulations or Orders of the Board.

(e) Assaulting union organizers who are attempting to communicate with its workers.

(f) In any other manner interfering with, restraining or coercing its employees in the exercise of their rights guaranteed by Sections 1152, 1153 (a) and 1153 (c) of the Act, including the right to receive, unmolested, union pamphlets or other union literature.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

(a) Offer Elvira Banuelos, Ofelia Diaz, Amparo Garcia, Francisco Garcia, Marina Marquez, Ruben Mendoza and Linda, Perez full reinstatement to their former position, beginning with the date in the 1977 season when the crop activity in which they are qualified commences.

(b) Make each of the employees named above in subparagraph 2(a) whole for any loss of earnings suffered by reason of discrimination against them, including interest thereon at the rate of 7% per annum.

(c) Preserve and, upon request make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of back pay due and the right of reinstatement under the terms of this Order.

(d) Issue the following NOTICE TO WORKERS (to be printed in English and Spanish) in writing to all present employees, wherever geographically located, and to all new employees and employees rehired, and mail a copy of said Notice to all of the employees listed on its master payroll for the payroll period immediately preceding the filing of the petition for certification on October 1, 1975, and to post such Notice immediately for a period of not less than 60 days at appropriate locations proximate to employee work areas, including places where notices to employees are customarily posted, such locations to be determined by the Regional Director.

(e) Have the attached NOTICE read in English and Spanish at the commencement of the 1977 harvest season on company time, to all those then employed, by a company representative or by a Board agent and to accord said Board agent the opportunity to answer questions which employees may have regarding the Notice and their rights under Section 1152 of the Act.

IT IS FURTHER ORDERED that allegations contained in the Third Amended Consolidated Complaint not specifically found herein as violations of the Act shall be, and hereby are, dismissed.

Dated: February 15, 1977

Gerald A. Brown, Chairman

Richard Johnsen, Jr., Member

Robert B. Hutchinson, Member

NOTICE TO WORKERS

After a trial where each side had a chance to present their facts, the Agricultural Labor Relations Board has found that we interfered with the right of our workers to freely decide if they want a union. The Board has told us to send out and post this Notice.

We will do what the Board has ordered, and also tell you that:

The Agricultural Labor Relations Act is a law that gives all farm workers these rights:

- (1) to organize themselves;
- (2) to form, join or help unions;
- (3) to bargain as a group and choose whom they want to speak for them;
- (4) to act together with other workers to try to get a contract or to help or protect one another;
- (5) to decide not to do any of these things.

Because this is true we promise that:

WE WILL NOT do anything in the future that forces you to do, or stops you from doing any of the things listed above.

Especially:

WE WILL NOT ask you whether or not you belong to any union, or do anything for any union, or how you feel about any union;

WE WILL NOT threaten you with being fired, laid off, or getting less work because of your feelings about, actions for, or membership in any union.

WE WILL NOT fire or do anything against; you
because of the union;

WE WILL NOT prevent union organizers from coming onto
our land to tell you about the union when the law allows
it;

WE WILL NOT assault union organizers who are
trying to talk with you;

WE WILL NOT interfere with your rights to get and
keep union papers and pamphlets;

WE WILL OFFER Elvira Banuelos, Ofelia Diaz, Amparo
Garcia, Francisco Garcia., Marina Marquez, Ruben Mendoza
and Linda Perez their old jobs back if they want them,
beginning in this harvest and we will pay each of them any
money they lost because we laid them off.

Dated:

TEX-CAL LAND MANAGEMENT, INC.

By: _____
(Representative) (Title]

This is an official Notice of the Agricultural Labor Relations Board, an
agency of the State of California. DO NOT REMOVE OR MUTILATE.

STATE OF CALIFORNIA
BEFORE THE, AGRICULTURAL LABOR RELATIONS BOARD



In the Matter of:

TEX-CAL LAND MANAGEMENT, INC.,

Respondent,

and

UNITED FARM WORKERS OF AMERICA,
AFL-CIO,

CASE NOS. 75-CE-24-F
75-CE-52-F
75-CE-85-F
7S-CE-100-F

Charging Party.

Ronald Ruiz, Esq. , Betty Oducayen, Esq.
and Byron S. Georgiou, Esq. , for the
General Counsel.
Michael J. Machan , Esq . , Seyfarth, Shaw,
Kairweather & Geraldson, for Respondent.

DECISION

Statement of the Case

KENNETH C. ROBERTSON, Administrative Law Officer: This case was heard by me in Delano, California during four days of hearing beginning, on December 1 and ending on December 4, 1975. The hearing was held pursuant to the Third Amended Consolidated Complaint issued by the Regional Director of the Fresno Regional Office of the Agricultural Labor Relations Board (" Board ") , based upon unfair labor practice charges identified in the caption. The charging party, United Farm Workers of America, AFL-CIO CUFW") did not intervene in the hearing. The Respondent's Answer was a general denial of the Complaint.

Upon the entire record, including my observation of the demeanor of the witnesses, and after due consideration of the briefs filed by the General Counsel and the Respondent, I make the following:

Findings of Fact

I. Jurisdiction

The Respondent, Tex-Cal Land Management, Inc. ("Tex-Cal") is an agricultural employer within the terms of the Agricultural Labor Relations Act ("Act").

II. The Labor Organization

The charging party, United Farm Workers of America, AFL-CIO ("UFW") is a labor organization within the terms of section 1140.4(f) of the Act, notwithstanding Respondent's denial in its answer.

III. The Unfair Labor Practices

A. The Issues

1. Did Respondent violate section 1153 (a) of the Act by interrogating its employees regarding their union membership, activities and sympathies?

2. Did Respondent violate section 1153 (a) of the Act by threatening its employees with loss of employment if they supported the UFW?

3. Did Respondent violate section 1153 (a) of the Act when crew boss Joe Medina tore up a UFW leaflet that had been handed to an employee by a UFW organizer?

4. Did Respondent violate sections 1153 (a) and (c) of the Act by discharging 11 of its employees for engaging in union activity or other protected concerted activity as a means of discouraging UFW membership?

5. Did Respondent violate section 1153 (a) of the Act by denying access to and/or effecting the arrest of UFW organizers who were attempting to communicate with Respondent's employees?

6. Did Respondent violate section 1153 (a) of the Act by assaulting UFW organisers who were attempting to communicate with Respondent's employees?

B. The Evidence

The evidence will be discussed in relation to four major categories of activity: (1) illegal interrogations, threats and layoffs, (2) denial of access, (3) assaults on UFW organizers, and (4) the tearing up of a UFW leaflet.

1. Interrogations, threats and layoffs. Testimony relating to interrogation of workers about union affiliation and sympathy was limited to charges against crew leader Nina Baltazar. Three workers testified in support of the allegations and Nina Baltazar denied the charges. The evidence was introduced in inverse order. It was discovered on the second day of hearing that Nina Baltazar was leaving for Hawaii prior to the presentation of Respondent's case in rebuttal. The General Counsel called her as an adverse witness and her denial of the charges occurred before testimony was adduced in their support. Notwithstanding this awkward array of the evidence, I credit the testimony of the three workers, Amparo Garcia, Ruben Mendoza and Isabel Barajas over that of Nina Baltazar. Mrs. Baltazar was not the straightforward witness pictured by Respondent in its brief. See examples of her conflicting testimony at Tr. 137, lines 23 and 24 compared to Tr. 138, line 2; and Tr. 138, lines 12-14, compared to Tr. 138, lines 16-22. See, also, her testimony at Tr. 149, -lines 3-5, 22-25 and Tr. 150, lines 1-4, where she identified 9 non-union workers she laid off on September 15 (as a means of demonstrating she was not motivated by anti-union bias in connection with the other layoffs) as contrasted to her testimony on redirect examination that

6 of these non-union workers had, in fact, not been laid off (Tr. 160, lines 23-25, Tr. 161, lines 1-25, and Tr. 162, lines 1-7). Nina Baltazar's demeanor suggested a nervous witness who had great difficulty remembering details. Witnesses Garcia, Mendoza and Darajas were more straightforward in their testimony.

Threats of less of employment by union supporters were charged against Nina Baltazar and supervisor Bill Pritchett. Testimony in support of the charge against Nina Baltazar was presented by Amparo Garcia and I credit his testimony over that of Mrs. Baltazar for the reasons I have already articulated, supra. Eliseo Jiminez testified, in support of the charge against Pritchett, that crew leader Joe Medina translated Pritchett's threats to the workers. Although Joe Medina was available as a witness (Tr. h, lines 20-22) he was not called to corroborate Pritchett. For reasons discussed infra (section 3) in connection with the assault charges, I credit the testimony of Eliseo Jiminez over that of Pritchett.

The allegations of discriminatory layoffs by Nina Baltazar of 9 union workers on September 15 were supported by Elvira Banuelos (Tr. 263), Ofelia Diaz (Tr. 165), Amparo Garcia (Tr. 328), Marina Marquez (Tr. 184), Ruben Mendoza (Tr. 211) and Isabel Barajas (Tr. 347). Discriminatee Aurora Barajas was absent in Mexico and discriminatee Gloria Barajas was expected to deliver a child within three weeks of the hearing (Tr. 347), which accounted for their absence as direct witnesses. The testimony in support of discriminatory layoffs of Elvira Banuelos, Ofelia Diaz, Amparo and Francisco Garcia, Marina Marquez, Ruben Mendoza and Linda Perez was, in my view, more persuasive than testimony adduced by Respondent in defense of the charges. The insistence of Nina Baltazar

that all the union workers were laid off because they were "lazy" will not square with the clear showing that many of those discharged had several years of experience and had, in fact, worked with Nina Baltazar at both Tex-Cal and other companies for many years without any complaint about the quality of their work. The testimony of Isabel Barajas in support of the discriminatory layoffs of Aurora and Gloria Barajas was entirely hearsay, admitted over the objection of Respondent, and I find, without further corroboration, it is too weak to carry the burden of proof required. The reasons for the departure from work of Eliseo and Francisco Jiminez on October 22 are unclear. I have heretofore credited Eliseo Jiminez's testimony with respect to threats of reprisal by Bill Pritchett for the reasons there cited. I do not believe, however, that the General Counsel has sustained his burden of proof on the charge that the two Jiminez brothers were discharged on October 22. The record would equally support the claim by Respondent that they quit because of a work-related argument with supervisor Bill Pritchett. The assignment of the Jimines brothers to the work of repacking grapes theretofore packed by other crew- members, although picked by them, does not on this record constitute a transfer to more onerous jobs as urged by the General Counsel in his brief.

2. Denial of access. Before turning to the alleged violations of the Board's access regulation (8 Cal. Admin. Code sec. 20900), I shall dispose of the charge that Respondent, through its ranch superintendent, illegally effected the arrest of p. UFW organizer on September 4, 1975, during the 10-day period the Board was enjoined by the Federal District Court for the Eastern District of California from enforcing its access regulation. The evidence establishes that Respondent's conduct ceased with the arrival of a deputy sheriff at the edge of Respondent's field.

The deputy sheriff ordered the organizer to leave, and the organizer was arrested only after he handed a leaflet to a worker in the presence of the deputy, and with no additional intervention by Respondent's ranch superintendent. Without commenting on the legality of the arrest, I do not believe it can be attributed to Respondent.

I shall turn, now, to the denials of access by Respondent:

September 30. Five organizers, including Amelia Nieto and Manuel Vasquez, entered the field in question. The credible evidence establishes that there were two crews at opposite ends of the field, one supervised by Nina Baltazar and the other by Junior Galinda. All five organizers were assigned to the Junior Galinda crew, which numbered approximately 40 workers, divided into two adjoining segments. The five organizers exceeded the permissible number authorized by section 20900.5.C by two.^{1/} The action of the UFW organizers did not, therefore, conform "to the following limitations" established by the Board's regulation, and the removal of the organizers did not violate the terms of that regulation. The ejection of Vasquez is discussed under section 3, infra.

October 1. Two organizers, Porter and Ortiz, entered the Respondent's field prior to start of work and distributed UFW literature until they were ordered off the property by Bill Pritchett, who called the sheriff.

^{1/} The regulation provides: "c. Access shall be limited to two organizers for each crew on the property, provided that if there are more than 30 workers in a crew, there may be one additional organizer for every 15 additional workers."

The circumstances of Ortiz' removal are discussed under section 3, Infra. The organizers left the field without arrest.

October 3. Two UFW organizers, Green and Lara, entered Respondent's field before work had commenced. They were restrained from speaking or passing leaflets to workers by supervisor Randy Steele and Respondent's President, Buddy Steele, and were physically ejected from the property. After being ordered to leave by both Randy and Buddy Steele, Green was admittedly carried to the roadside and placed in the body of his pickup truck by Randy Steele, and forcibly kept there. The testimony of Green and Buddy Steele is in sharp conflict, both as to the degree of force used and the conditions in the field. Green denied the presence of himself and Lara was interfering with work in the field. Steele gave convincing testimony that their continued presence in an intersection in the field was interfering substantially with the movement of equipment and the cars of arriving workers, thereby preventing the commencement of work. According to the credible testimony, Green was engaging in "conduct disruptive of the employer's property or agricultural operations" within the meaning of subsection c.e of the access regulation. The access was, therefore, not protected by the regulation and I find no violation thereof. Further discussion relating to the removal of Green and his restraint in the pickup truck are discussed under section 3, infra.

3. Assaults on UFW organizers.

September 30. Manuel Vasquez was allegedly assaulted by supervisor Larry St. Clair who enveloped him in a bear hug and carried him about six feet to the property line in the presence of Ranch Superin-

tendent Martin Jelacich. Fellow UFW organizer Amelia Nieto testified that Jelacich pushed her while she was proceeding toward the workers, although he did not bar her progress. Jelacich denied the pushing. There is sharp disagreement as to the manner in which Vasquez was released when he was deposited at the roadside. He testified he was thrown head first, at an angle, while still in the bear hug. Jelacich testified he was merely dropped to his feet when the bear hug was released. I do not consider it necessary to resolve the conflict. Vasquez admittedly was not injured (Tr. 234) and I have already indicated his presence on the property was not in conformity with the access regulation of the Board. An assault, under the circumstances, was not, in my opinion, proven. I similarly do not agree with the contention of the General Counsel in his brief that the "pushing" of Nieto by Jelacich was an "assault".

October 1. UFW organizers Frank Ortiz and L. D. Porter entered Respondent's field before work commenced. A third organizer, Jay Dee Patrick, first entered the field but was in the process of returning to his car when supervisors Bill Pritchett and Larry St. Clair arrived. Pritchett and St. Clair ordered Ortiz and Porter out of the field after the latter invoked their rights under the access regulation. Ortiz testified that Pritchett shoved him hard and pushed him back 10 or 15 feet, and thereafter kicked him several times. He testified Pritchett attempted to provoke him into violence on his own part, without success. Ortiz made a complaint to the sheriff's office about the assault. Pritchett's version of this incident portrays Ortiz (whom he described as five feet 10 or 11 inches, as compared to Pritchett's six feet 1 inch, 240-pound frame) as the provocateur of the violence, who dared Pritchett

to try to put him off the property and that Ortiz threatened to "have me burned out". Respondent's brief makes the point that Jay Dec Patrick did not testify to having seen any shoving of Ortiz by Pritchett and, therefore, argues that Ortiz fabricated this incident, which taints his whole testimony. Patrick, on the other hand, observed the altercation between Pritchett and Ortiz while he was retreating toward the roadway, and only occasionally glanced over his shoulder to watch the participants. I do not consider there is a substantiated inconsistency between Ortiz and Patrick. Pritchett, on the other hand, demonstrated very obvious belligerent and domineering traits on the witness stand and showed complete confusion in describing the alleged threat by Ortiz that he would have Pritchett "burned out" (Tr. 467). Pritchett's penchant for acting as a bully in his dealings with UFW organizers causes me to disbelieve his testimony that he was merely using reasonable force in removing trespassers. Corroboration of his testimony might have been supplied if his fellow participant, Larry St. Clair, had been called by Respondent as a witness. Therefore, as between Pritchett on the one hand, and Ortiz and Patrick on the other, I credit the testimony of the two UFW organizers. I am not impressed by the argument of Respondent in its brief that distribution of union literature is outside the permissible activities in the fields authorized by the access regulation. I find the organizers were legally on the property and that an assault was committed on the person of Ortiz.

October 2. The alleged assaults by Bill Pritchett on UFW organizers Sanchez and Green occurred, according to the testimony of the two organizers, during the lunch break on October 2. Pritchett placed the incident on September 30. According to the credible evidence, the two organizers had already left the field because the crew boss had

ordered the crew back to work, and had almost reached their car when Pritchett and Larry St. Clair arrived on the scene. Pritchett tried to prevent them from leaving by holding the car door shut. Pritchett became enraged at Sanchez because he disputed Pritchett's assertion to the deputy sheriff, who had arrived, that the organizers had been ordered off the property and refused to leave. Pritchett roughly pushed Green aside and attempted to get at Sanchez inside, but was pulled back by the deputy sheriff. Pritchett's testimony that Sanchez had threatened to have him "burned out" was denied by the two organizers. The Respondent did not call Larry St. Clair to corroborate Pritchett's testimony. I believe Pritchett's version of the incident was substantially discredited on cross-examination (Tr. 454, 455). I, therefore find an assault on the persons of Sanchez and Green was established.

October 3- The final alleged assault involved Edward Green, who was in Respondent's field with Ramon Lara on October 3. I have already described, in detail, the circumstances surrounding the removal of Green by Randy Steele in the discussion of the access incident of this date in section 2, supra. Based upon my finding that Green's and Lara's presence was not in compliance with the access regulation, and in the light of Green's stubborn and persistent resistance to his removal, and his repeated attempts to leave the truck bed to reenter the field, I do not find an assault was committed on the person of Green.

h. Tearing up of UPW leaflet. The Third Amended Consolidated Complaint, paragraph 8 (r :) , alleges crew leader Joe Medina grabbed and tore up a pamphlet which had been handed to an employee by a UFW organ-

izer. Eliseo Jiminez testified to the incident and said Bill Pritchett was present when the incident occurred. This testimony stands undenied in the record. Bill Pritchett was not questioned about the incident and Joe Medina was not called as a witness. I reject the assertion in Respondent's brief that the incident is do minimis and does not warrant rebuttal or comment. It has clearly been proven.

Conclusions of Law

1. Respondent, Tex-Cal Land Management, Inc. is an agricultural employer within the terms of the Agricultural Labor Relations Act, hereafter "Act".

2. The charging party, United Farm Workers of America, AFL-CIO, hereafter "UFW" is a labor organization within the terms of section 1140.4 (f) of the Act.

3. By the acts and conduct of Respondent's supervisor, Nina Baltazar, in questioning workers about their union affiliation and sympathy, Respondent has engaged in unfair labor practices proscribed by section 1153 (a) of the Act.

4. By the acts and conduct of Respondent's supervisors, Nina Baltazar and Bill Pritchett, in threatening its employees with loss of employment if they should support the UFW, Respondent has engaged in unfair labor practices proscribed by section 1153 (a) of the Act.

5. By the acts and conduct of Respondent's supervisor, Joe Medina, in grabbing a UFW pamphlet from an employee and tearing up such pamphlet, Respondent has engaged in an unfair labor practice proscribed by section 1153 (a) of the Act.

6. By the acts and conduct of Respondent's supervisor, Nina Baltazar, in discharging Elvira Banuelos, Ofelia Diaz, Amparo Garcia,

Francisco Garcia, Marina Marquez, Ruben Mendoza and Linda Perez for their union activity, Respondent has engaged in unfair labor practices proscribed by sections 1153 (a) and 1153 (c) of the Act.

7. By the acts and conduct of Respondent's supervisor, Bill Pritchett, in denying access to Respondent's property by UFW organizers L. D. Porter and Frank Ortiz in contravention of the access regulation of the Board (8 Cal. Admin. Code sec. 20900),^{2/} Respondent has engaged in an unfair labor practice proscribed by section 1153 (a) of the Act.

8. By the acts and conduct of Respondent's supervisor, Bill Pritchett, in physically assaulting Frank Ortiz on October 1, 1975, and Daniel Sanchez and Edward Henry Green on October 2, 1975, all three being UFW organizers who were attempting to communicate with Respondent's workers, Respondent has engaged in unfair labor practices proscribed by section 1153(a) of the Act.

The Remedy

Having found that Respondent has engaged in certain unfair labor practices, I shall recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Upon the basis of the foregoing findings of fact and conclusions of law and the entire record in this case, and pursuant to section 1160.3 of the Act and section 20234.1 of the Board's Regulations, I hereby issue the following recommended:^{3/}

2/ The parties made extensive arguments in their briefs concerning the validity of the Board's access regulation. I do not consider it appropriate for this decision to be burdened with a discussion of that issue which is awaiting resolution in another forum.

3/ In the event no timely or proper exceptions are filed as provided by section 1160.3 of the Act and section 202354(a) of the Regulations of the Board, the findings, conclusions and recommended Order herein shall become its findings, conclusions, and order, and all objections and exceptions thereto shall be deemed waived for all purposes.

ORDER

Respondent, Tex-Cal Land Management, Inc., its officers, agents, successors and assigns, shall:

1. Cease and desist from:

(a) Interrogating employees concerning their union affiliation and sympathy.

(b) Threatening employees with layoff, termination or loss of employment because of their union activities.

(c) Discharging or otherwise discriminating against employees because of their union activities.

(d) Denying access by union organizers to its premises for the purpose of organizing pursuant to the duly published Regulations or Orders of the Board.

(e) Assaulting union organizers who are attempting to communicate with its workers.

(f) In any other manner interfering with, restraining or coercing its employees in the exercise of their rights guaranteed by sections 1152, 1153 (a) and 1153 (c) of the Act, including the right to receive, unmolested, union pamphlets or other union literature.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act :

(a) Offer Elvira Banuelos, Ofelia Diaz, Amparo Garcia, Francisco Garcia, Marina Marquez, Ruben Mendoza and Linda Perez full reinstatement to their former positions, beginning with the date in the 1976 season when the crop activity in which they are qualified commences.

(b) Make each of the employees named above in subparagraph 2 (a) whole for any loss of earnings suffered by reason of the discrimination against them, the determination of the actual amount thereof to await

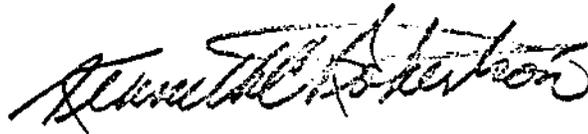
further proceedings by the Board.

(c) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of back pay due and the right of reinstatement under the terms of this Order.

(d) Issue the following NOTICE TO EMPLOYEES (to be printed in English and Spanish) in writing to all present employees, wherever geographically located, and to all new employees and employees rehired, and to post such Notice at the commencement of the 1976 harvest season for a period of not less than 60 days at appropriate locations proximate to employee work areas, including places where notices to employees are customarily posted.

IT IS FURTHER ORDERED that allegations contained in the Third Amended Consolidated Complaint not specifically found herein as violations of the Act shall be, and hereby are, dismissed.

Dated: February 11, 1976



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Kenneth C. Robertson
Administrative Law Officer

Appendix

N O T I C E T O E M P L O Y E E S

Issued and Posted by order of the
AGRICULTURAL LABOR RELATIONS BOARD
An Agency of the State of California

After a trial at which all parties had the opportunity to present their evidence, the Agricultural Labor Relations Board has found that we interfered with the statutory rights of our employees to select their own bargaining representative, if such should be their desire, and has ordered us to issue and post this Notice.

We intend to carry out the Order of the Board and abide by the following:

The Agricultural Labor Relations Act gives all employees these rights:

- To engage in self-organization;
- To form, join, or help unions;
- To bargain collectively through representatives of their own choosing;
- To act together for collective bargaining or other mutual aid or protection;
- To refrain from any or all these things.

WE WILL NOT do anything that interferes with, restrains, or coerces you with respect to these rights. More specifically,

WE WILL NOT interrogate employees concerning their union activities.

WE WILL NOT threaten employees with layoff, termination or loss of employment because of their union activities.

WE WILL NOT discharge or otherwise discriminate against employee; because of their union activities.

WE WILL NOT deny access by union organizers to own premises for the purpose of organizing pursuant to the duly published Regulations or Orders of the Agricultural Labor Relations Board.

WE WILL NOT assault union organizers who are attempting to communicate with our workers.

WE WILL NOT interfere with the rights of our employees to receive unmolested, union pamphlets or other union literature.

WE WILL offer Elvira Banuelcs, Ofelia Dial, Amparo Garcia, Francisco Garcia, Marina Marquez, Ruben Mendoza and Linda Perez full reinstatement to their former positions, beginning with the date in the 1976 season when the crop activity in which they are qualified commences, and WE WILL compensate each of them, for any loss of pay they may have suffered because of our discrimination against them.

Dated _____

TEX-CAL LAND MANAGEMENT, INC.
By _____

(Representative)

(Title)

CERTIFICATE OF SERVICE

Copies of the Administrative Law Officer's Decision herein have this 11th day of February, 1976, been sent to the following parties of record by depositing them in the United States Mails, with prepaid.

First Class Registered postage:

Mr. Michael Machan
Seyfarth, Shaw, Fairweather & Geraldson,
1801 Century Park East, Suite 2450 Los
Angeles, California 90067

Mr. Byron S. Georgiou General
Counsel's Office, Agricultural
Labor Relations Board 4433 Florin
Road Sacramento, California 95823

The original of the Administrative Law Officer's Decision herein has this 11th day of February, 1976, been mailed for filing to the Agricultural Labor Relations Board, Sacramento, California.

A handwritten signature in cursive script, reading "Kenneth C. Robertson". The signature is written in black ink and is positioned above a horizontal line.

KENNETH C. ROBERTSON
Administrative Law Officer