

STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:	)	
	)	
BUD ANTLE, INC. ,	)	No. 75-RC-19-M
	)	
Employer,	)	
	)	
and	)	3 ALRB No. 7
	)	
GENERAL TEAMSTERS, WAREHOUSEMEN	)	
AND HELPERS, LOCAL 890 ,	)	
	)	
Petitioner,	)	
	)	
and	)	
	)	
UNITED FARM WORKERS	)	
OF AMERICA, AFL-CIO,	)	
	)	
Intervenor.	)	
	)	

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On September 2, 1975, General Teamsters, Warehousemen and Helpers, Local 890 ("Teamsters"), filed a petition for certification with the Salinas Regional Office of the Agricultural Labor Relations Board pursuant to Labor Code Section 1156.3 in which it sought to represent a single collective bargaining unit all agricultural employees employed in California by Bud Antle, Inc. ("employer"). Thereafter, on September 4, 1975, the United Farm Workers of America, AFL-CIO ("UFW"), responded with a cross-petition for a different and smaller unit of employees. On September 5, 1975, the regional director determined that a statewide unit was appropriate, and ordered that an election be held on September 9, 1975, in accordance with the Teamster petition.

The UFW then intervened in the statewide unit election.

The election was conducted as directed on September 9, 1975, with the following results:<sup>1/</sup>

Teamsters	- 880
UFW	- 265
No Union	- 40
Challenged Ballots	- 106
Void Ballots	- 8

Thereafter, on September 17, 1975, the UFW moved timely the setting aside of the election on the grounds of approximately 45 separate allegations of misconduct by the employer, the Teamsters, and this Board. Eighteen days of evidentiary hearing were conducted in Salinas, Coalinga, and Huron between October 15, 1975, and December 11, 1975, before Hearing Officer James R. Webster.<sup>3/</sup>

Each of the allegations in the UFW's petition sets forth in some detail a particular event or events. The hearing officer admitted evidence of similar incidents to those alleged where the same conduct was alleged, but different persons, dates, or places were involved.<sup>4/</sup> The resulting record is voluminous and frequently

<sup>1/</sup> The UFW appealed the regional director's unit determination and the ballots in this election were impounded pending hearings on this question. On September 12, 1975, the ballots were released and tallied. See footnote 5, infra.

<sup>2/</sup> Three allegations were dismissed by the executive secretary for failure to establish a prima facie case in support of the . allegations, see former 8 California Administrative Code Section 20365( a ) , and seven allegations were dismissed by the hearing officer for failure to present evidence.

<sup>3/</sup> On the second day of hearing, the employer filed a written motion that Board Chairman Roger Mahony and Member Leroy Chatfield disqualify themselves from participation in this matter. That portion of the motion as to Chairman Mahony was subsequently withdrawn. The motion to disqualify Member Chatfield was rejected by decision of the Board in Bud Antle, Inc., 2 ALRB No. 35 (1976). We note that both Chairman Mahony and Member Chatfield have left the Board and took no part in this decision.

<sup>4/</sup> The UFW has appealed his refusal to admit evidence regarding events not described in its petition, and argues that the events

(fn. 4 cont. on p. 3)

does not follow the events described in the petition. Virtually each one of over 60 witnesses was examined concerning both pre-election and election day conduct. Many of these witnesses were either unable to recall precise dates or times or failed to identify the particular crew or locale in which they were employed at the time of the incident to which they testified. In regard to some of the alleged happenings, the record is not always clear as to whether there is an actual conflict in testimony or whether the offered evidence is in fact in reference to a different event.

The eligibility list in this election contained 1,743 names, of whom 1,299 voted. These employees were working in areas stretching from Blythe to Salinas and Huron, California. Balloting was conducted in five separate locations. The testimony at hearing covered events going back as early as July 1975.

Given the size of the unit and volume of testimony, the state of the record has presented us with considerable difficulty in determining whether objectionable conduct occurred, and in assessing the weight to be accorded objectionable conduct which did occur in terms of its impact on the outcome of the election. Based on our review of the entire record and the facts established therein, we find that the UFW has failed to show either particular events or a cumulation of events which affected the outcome of this election in which a high turnout of voters chose a representative by a 600 vote margin.

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(fn. 4 cont.)

described were merely examples of the general types of conduct alleged. We think that the hearing officer effectively treats them as such, and permitted testimony on similar events within each general heading. On our review of the record including offers of proof submitted by the UFW, and its arguments in its post-hearing brief, we do not find that the UFW was prejudiced by the hearing officer's ruling.

I. The Appropriate Unit<sup>5/</sup>

Bud Antle, Inc., is a major grower of agricultural commodities which it produces on several farming operations within the State of California. Growing, harvesting, and packing functions are carried on in at least five areas within the state: the Salinas, Santa Maria, San Joaquin and Imperial Valleys and the Oxnard areas.

Due to climatic differences, production schedules-vary among the major growing areas and permit a year-around interchange of most employees, supervisors and equipment. Lettuce and celery hoeing, thinning and ground crews, each with its own supervisor, travel in accordance with production schedules, as do truck drivers and glue machine operators. Except for eight stationary vacuum cooler plants and a few permanently located tractors, all harvesting machinery, farm equipment, and a portable maintenance shop for field repairs are also transferred to meet production schedules. Lettuce and celery production patterns in all areas require

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<sup>5/</sup> As the Board was confronted for the first time in this case with a dispute over the proper unit, it decided to hold hearings on the issue before tallying ballots of the election which was conducted in the unit described in the regional director's notice of election. At the hearing, conducted on September 11-12, all parties and the Board agreed that the proper place for examining the unit question was in the objections proceeding under Labor Code Section 1156.3 (c). It was stipulated that all testimony introduced in this pre-tally hearing would be incorporated into any objection proceeding if objections were timely filed. Objections were filed by the UFW, but neither at the hearing nor in the posthearing briefs was the question of the appropriate-unit broached by any party. However, we note that discrepancies exist between the unit petitioned for, the unit covered by the Teamsters' contract, and the unit described in the notice and direction of election. Labor Code Section 1156.2 requires us to determine the appropriate unit where as here, two or more noncontiguous areas are involved. We therefore make the findings set forth in this section based on the transcript of the hearing conducted on September 11-12, 1975.

identical methods of planting, irrigating, soil preparation, hoeing, thinning, harvesting, packing, cooling and shipping. In addition to its primary products, the company also produces less labor-intensive grain crops following lettuce and celery harvests in some areas which require year-around land preparation, cultivation, and irrigation.

The Teamsters have had companywide contracts covering these employees since 1961.<sup>6/</sup> They petitioned for a bargaining unit of "all the agricultural employees of the employer in the Huron area, Imperial Valley area, Watsonville area, Salinas Valley, Oxnard area, Blythe area." The UFW cross-petitioned for an election covering "all the agricultural employees of the employer in the Salinas and Pajaro Valleys, excluding any packing sheds or coolers which in this case are noncontiguous. Additionally excluding any mechanics and maintenance employees who are represented by the International Association of Machinists, AFL-CIO."

The notice and direction of election called for a unit described as all agricultural employees of the employer in the Huron, Imperial Valley, Watsonville, Oxnard and Salinas Valley areas, but excluding all vacuum cooler plant and Salinas plastic container manufacturing plant employees. As these areas encompass

<sup>6/</sup>We note that hearsay testimony at the pre-tally hearing indicates that the regional director excluded, the plastics manufacturing plant employees from the unit because he found it to be commercial and thus outside our jurisdiction. The pre-tally hearing also showed that there is much interchange between job classifications described in the Teamster contract, including the plastics manufacturing plant workers. Although the Teamster contract with Antle covers employees working at the plastics manufacturing plant, the Teamsters did not object to such employees being excluded from the unit.

all the operations of the employer in the State of California, we consider this notice to have been statewide in scope, less the exclusions.

We find that the regional director's unit determination as set forth in the notice and direction of election was proper. Therefore, the bargaining unit shall be comprised of the agricultural employees of the employer excluding all vacuum cooler plants and Salinas plastic container manufacturing plant employees and all employees employed exclusively out of state. <sup>7/</sup>

## II. The Objections

### 1. Access

The access issue as submitted by the UFW comprises two separate questions: whether the employer denied access<sup>8/</sup> to its fields to UFW organizers and whether the employer granted preferential rights of access to the Teamsters' union.

Since 1961, the employer has had a collective bargaining agreement with Teamsters Local 890, which permitted Teamster access for contract-related matters.<sup>9/</sup> The employer's general

<sup>7/</sup> We have clarified two points in the regional director's findings and have made changes in wording to so reflect. The first change eliminates the listing of areas where the employer operates in California and makes the unit expressly, rather than implicitly, statewide. The second, excluding non-California employees, is made to comport with our jurisdictional limitations. See Bruce Church, Inc., 2 ALRB No. 38 (1976).

<sup>8/</sup> On August 29, 1975, the Board's access rule (former 8 California Administrative Code Section 20900) went into effect. The Board was enjoined from enforcing the rule by federal and state courts from September 3, 1975, through September 18, 1975.

Our concern in a representation case is not with the enforceability of the organizer's access rights but with the effect which the conduct alleged has on the employee's ability to make a free and informed choice. See Samuel S. Vener, 1 ALRB No. 10 (1975).

<sup>9/</sup> Section II (f) of the contract in effect at the time of the election provided that: "Authorized agents of the union shall

(fn. 9 cont. on p. 7)

manager, John Buffington, testified that the employer has always encouraged Teamster representatives to convey directly to employees those matters pertaining to the bargaining agreement. In addition, Buffington testified that the employer established a policy applicable to campaigning by all union organizers about five weeks prior to this election. Buffington informed the employer's supervisors, who in turn informed its foremen that organizers could enter its field's to campaign at any time, as long as work was not interrupted.

Several of the employer's foremen testified that they were informed of its policy and denied any discriminatory enforcement. Two foremen testified that they were unaware of the policy, but nevertheless permitted campaigning during nonworking periods. Testimony of employees, employer witnesses, UFW and Teamster organizers indicated that the UFW", as well as Teamsters, frequently spoke with employees in the fields during the weeks preceding the election, both during working hours and during breaks. However, UFW organizers testified that on several occasions, foremen refused to permit them to approach workers during working hours while permitting Teamsters to do so, on the ground that the Teamsters had a contract with the employer. In addition, testimony of UFW organizers and employees indicates that Teamsters were sometimes permitted to call meetings to address an entire crew while UFW organizers were not permitted to do so.

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(fn. 9 cont.)

have access to the employer's establishment during working hours for the purpose of adjusting disputes, investigating working conditions, collection of dues, and ascertaining that the agreement is being adhered to; however, that there is no interruption of the firm's working schedule."

The employer's foremen either deny permitting such meetings, assert that they only permitted a crew to break somewhat earlier than usual, or assert that the Teamsters were permitted such meetings to service their contract. In addition, testimony of foremen, corroborated by employee witnesses, indicates that at least on some occasions Teamster organizers called the meetings in the absence of foremen or against their orders to return to work; moreover, the record indicates that workers initiated discussion of campaign issues in at least one meeting called by Teamster organizers to discuss contract matters.

This record establishes that Teamster organizers had freer access to employees than did UFW organizers. However, it does not appear that the Teamsters were permitted access for campaign purposes which was significantly, if at all, beyond what they were normally permitted for contract purposes.<sup>10/</sup> Moreover, it is clear that the Teamsters were in fact engaged in servicing their contract during much of the time they spent in the fields. To the extent that the employer's foreman restricted UFW access in contravention of its policy of equal campaign access for both unions, we think it unlikely on this record that this would have been perceived by employees as an expression of employer preference for Teamsters sufficient to affect their free choice in the election. Nor has the UFW established that the discrepancy gave the Teamsters such a significant campaign advantage that the employees were unable to cast an informed vote. With the exception of some incidents occurring in a limited number of crews,

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<sup>10/</sup>The employer's testimony that he routinely entrusted substantial responsibility to the Teamsters for communicating with employees on contract matters is not disputed.



the UFW was permitted and in fact took the opportunity to campaign regularly among these employees. See Certified Eggs, Inc., 1 ALRB No. 5 (1975).

## 2. Discharges

The UFW objected that the discharge of six employees for union adherence prior to the election was conduct tending to affect the results thereof.

The UFW contended that three unidentified employees who had been employed for one week failed to report for work on August 26, 1975, the day following their refusal to sign cards as requested by Teamster representatives. There is no evidence of threats or that the three were in fact fired, nor is the record clear as to the nature of the cards. On the inconclusive state of this record we conclude that the objection is without merit.

As to three other workers (Carlos Madrid Morales, Epimeno Manual Madrid and Daniel Meraz), the UFW alleges that they were discharged for their UFW support. The record indicates that Morales had a pattern of absenteeism over the period of his three-year association with the employer and was absent during the week that he was eventually fired. He was terminated July 10, 1975, five days after he had signed a UFW authorization card. Without resolving the issue of the conflicting evidence as to the basis for discharge, we do not find that the firing of Morales on July 10, 1975, was conduct tending to affect the results of an election conducted on September 9, 1975, nearly two months later, in which over 1,200 employees cast ballots. Similarly so with the cases of Madrid and Meraz, both of whom were reinstated by the employer after missing only part of one day of employment.

### 3. Survey and Surveillance

UFW objections alleged that the employer conducted surveys of employees and engaged in surveillance of UFW organizing efforts. The sole witness testifying as to the survey allegation claimed that on August 22, 1975, Teamster organizers approached him while he was working in labor contractor Nava's crew, claiming to have been sent to the fields by the employer to determine how many workers he (the employer) could count on. The witness also testified that promises of benefits for signing a Teamster authorization card and a threat of imminent firing for failure to sign such a card were made at this time. The witness testified that he did not take it seriously because he was employed by a labor contractor, not the employer. The threat was not mentioned in the witness<sup>1</sup> original declaration, and the totality of the witness' testimony does not establish that there was conduct or threats calculated to engender a climate of fear or reprisal sufficient to impinge upon the employees' free exercise of choice in the election. Jack or Marion Radovich, 2 ALRB No. 12 (1976); Ralph Samuel Company, 2 ALRB No. 10 (1975).

The evidence of the alleged surveillance of UFW organizing activity among the workers is insufficient to support the objection. While we will not condone activity which could be construed by employees as amounting to surveillance, in this instance the evidence establishes only that a UFW organizer had been speaking to employees for a period during lunch, the group broke up and dispersed upon the appearance of a foreman who thereafter spoke to the workers regarding a new medical insurance program. The record does not indicate whether the lunch period

had ended or whether the employees had ended their business with the organizer. In view of the state of this evidence, we are unable to conclude that surveillance has been established.

#### 4. Threats

The UFW alleges that on election day and the preceding day, Teamster organizers were allowed to board the employer's work buses and threaten workers with firing if they supported the UFW while denying UFW organizers access to the same buses.

Additionally, it is claimed that a supervisor assisted the Teamster organizing on these occasions.

As to the threats on the day before the election, the record establishes that organizers from both unions were on the scene. Teamster organizer Araiza found a group of 40 people chanting pro-UFW slogans. UFW organizer Leon arrived at about 5:30 a.m. and claims he was prevented from boarding buses by Teamsters who were forcibly holding the doors closed.

Other UFW witnesses testified that on at least four occasions, Teamster organizer Charles told employees, including guards, that if they did not vote for the Teamsters, they would shortly lose their work. This claim by Charles was challenged by a UFW organizer who also challenged his claim that he (Charles) had the power to fire employees. A Teamster accompanying Charles on that day denied the allegations.

Similar happenings allegedly occurred on election day at the bus yard. Again, there was testimony of Teamster denial of access to buses and allegations of threats and campaigning. Our review of the record, however, convinces us that in the context of this emotional and heated election campaign conducted

in a unit with large number of voters, these statements, now characterized as "threats" were the sort of exaggerations, name-calling, and obvious propaganda which would be easily recognized as such and do not serve as a basis for setting the election aside. See Merck & Co., 104 NLRB No. 124 (1953); West Foods, Inc., 1 ALRB No. 12 (1975). (Specifically, as to the alleged threats, see Bancroft Mfg. Co., 210 NLRB No. 90 (1974).) Also, there is no indication that any substantial number of workers witnessed these occurrences between organizers.

The claim of employer support and assistance focuses on the activities of crew supervisor Oliveti, who was present in the bus yard on both days, and called out "Viva Teamsters" or "Arriba Teamsters" in the presence of employees. Our review of the evidence reveals that these comments, admittedly made, were largely jesting and in the context of a general exchange of cheers for both of the competing unions. Oliveti testified that he also yelled "Arriba Chavez" with the UFW supporters.

In cases relating to the conduct of an election, we must evaluate the circumstances with due regard to the realities, and consider the magnitude of the election, the bitterly contested rival union dispute, and the total factual situation within which the election was held. We find that the several statements involved herein are not sufficient to warrant setting aside this election.

##### 5. Voter Eligibility List

The UFW asserted that its organizing efforts were hampered by a voter list of eligible employees which failed to meet the requirements of the Act as to current addresses and that

it was therefore unable to contact employees prior to the election due to a series of obstacles: names without addresses, names with addresses that were nonexistent, and addresses where the named employee was unknown. The condition of the list was cited as employer misconduct affecting the results of the election. Labor Code Section 1157.3 provides that employers are to maintain accurate and current payroll lists containing the names and addresses of all their employees, which lists the employer will make available to the Board upon request. Section 20310(d) of Title 8 of the California Administrative Code carries out the statutory policy by requiring that upon service of a petition upon an employer, the employer shall be under an immediate obligation to provide the Board with a complete and accurate list limited to the complete and full names and addresses of all employees who are in the bargaining unit sought by the petitioner and who appear on the payroll applicable to the payroll period immediately preceding the filing of the petition. Such lists are transmitted to remaining parties by Board agents. The employer timely complied with the rule on September 3.

In Yoder Brothers, Inc., 2 ALRB No. 4 (1976), we noted that one of the functions of this list is to "serve as information to the unions participating in the election for the purpose of enabling them to attempt to communicate with eligible voters and to determine what names on the employer's list they may wish to challenge at the election". We have previously set aside elections in which defects of the type alleged here "substantially impair the utility of the list in its informational function". Mapes Produce Company, 2 ALRB No. 54 (1976); see also Valley Farms, Maple Farms & Rose J. Farms, 2 ALRB No. 42 (1976).

The evidence showed that the question of the accuracy of the list was raised by the UFW at the pre-election conference, but no resolution of the issue occurred at that time. The bulk of the evidence presented at hearing on this issue concerns a post-election investigation of the list conducted by the UFW. The investigation allegedly showed a high incidence of inaccurate addresses.

We do not believe that much probative weight can be attached to the results of this survey. The surveys were conducted during a period 54 to 68 days after the expiration of the applicable payroll period. This timing seriously undermines the weight which can be accorded the evidence as it relates to the inaccuracy of the data as of the election period, or as it relates to any prejudice which the UFW may have suffered in attempting to use the list to campaign.

#### 6. Invocation of Presumptions

The UFW contends that the Board agents erred by their failure to invoke the presumptions regarding voter eligibility contained in Regulation Section 20310(e). As we have determined supra, that the evidence regarding the list is insufficient to establish its inaccuracy as of the election period, it follows that the failure of the Board agents to invoke the regulatory presumptions evinces no abuse of the broad discretion which those agents have to determine voter eligibility. See Yoder Brothers, Inc., 2 ALRB No. 4 (1976).

#### 7. Bumper Stickers on Buses Transporting Workers to the Polls

We confront the question of whether the Teamsters placed bumper stickers on the inside and/or outside of company buses on

the morning of the election and, if so, whether this constituted conduct affecting the results of the election. The evidence on this issue was partly contradictory, but on balance the record reveals that at least some of the Teamster literature which had earlier been distributed to workers remained on some buses at the time they were transporting workers to vote.

We have previously considered the issue of bumper stickers and other campaign materials in or near the voting area and have found that the presence of literature, standing alone, does not constitute improper conduct sufficient to interfere with an election. Harden Farms of California, Inc. , 2 ALRB No. 30 (1976).

#### 8. Election Site

The UFW objection presents the question whether the determination by the Board agent to hold the Salinas portion of the election in a shed in the midst of company buildings and offices had the effect of intimidating employees and thereby interfered with their free choice in the election.

Regulation Section 20350 ( a ) , 8 California Administrative Code Section 20350 ( a ) provides in pertinent part that:

"All elections . . . shall be conducted at such times and places as may be ordered by the Board or the regional director. Reasonable discretion shall be allowed to the agent supervising the election to set the exact times and places to permit the maximum participation of the employees eligible to vote."

Our review of the entire record reveals no abuse of the discretion vested in the Board agent by this regulation. After its intervention in the election, the UFW participated in the second pre-election conference and presented its views in opposition to the proposed voting area. We find that the

testimony concerning the physical layout of the polling area and its environs and the demonstrative evidence of the layout fails to reveal that the election site tended to affect the results of the election. Moreover, the UFW offered no specific evidence to establish why holding the election on the farm site would be or was intimidating to the employees. See Ralph Sarosel Company, 2 ALRB No. 10 (1976).

#### 9. Security Guards

The record showed that the employer hired 12 uniformed but unarmed security guards who were stationed at the main entrance to and various exits from the polling area at the Salinas election site. Organizers for both the petitioner and intervenor, as well as representatives of the employer, were also congregated outside the main entrance at various times throughout the day. A UFW organizer testified that at one point during the election he saw two guards walk into the voting area. Two guards testified they crossed the voters' line to reach a coffee stand, but were noticed and stopped by employer representatives. The testimony of several employer witnesses indicated that as they approached the polling area, they were aware of the presence of the guards and organizers, but felt no intimidation or fright.

We note that the guards were hired by the employer with Board agent approval for limited duty on the day of the election. Inasmuch as they were not employees eligible to vote, we have no reason to believe they had any interest in the outcome of the election or any reason to attempt to influence voters. The record showed that employer representatives instructed the guards to remain free of the voters' line immediately upon learning of their



entry into that area so that contact between voters and guards at any time was minimal. The record also showed that this employer maintains a regular security corps, so that employees are accustomed to seeing security guards on the employer's premises. We find no evidence showing that the presence of the security guards intimidated or adversely influenced the employees' free choice in voting during this election

#### 10. Supervisors in the Polling Area

The UFW objections petition named specific supervisory personnel whose alleged presence in the polling area affected the results of the election. We shall consider the supervisory personnel on an individual basis.

The testimony of the UFW witness regarding foreman Tony Onario indicated that Onario was present in the polling area in Salinas. There was, however, no testimony which indicated that Onario ever spoke with the prospective voters or otherwise attempted to influence their vote. Although Onario was improperly present in the polling area, the record showed that his presence was immediately reported to the Board agents conducting the election and that he left the area upon request and without incident.

Another witness testified that he saw foreman Atancio Solis-Puga standing alongside workers as they waited to vote at the Huron election site, and that he saw Solis accompany some employees back to their bus after they had voted. However/ this witness could not state that Solis spoke to anyone. We find that the evidence relating to Solis and Onario's presence at or near the two polling places docs not establish a level of interference sufficient to set aside this election.

The testimony in regard to supervisor Paul Nava is limited and contradictory as to whether or not he was actually in the polling area, and if he was present when that occurred and how many voters v/ere present. On this record, we cannot determine that he engaged in any objectionable conduct.

A UFW witness testified that at one point when 70 to 100 employees were waiting to vote at the Salinas election site, he saw bus drivers in the same line. The only driver specifically identified by name was Donate Gonzales, who was an eligible voter. Because none of the other drivers alleged to have been in the voters' line were identified by name, we are unable to determine whether they were supervisors or prospective voters properly in the polling area.

A UFW observer at the Salinas election site testified he saw supervisor Hector Acuna four places from the head of the line and heard him tell the employees to vote for the Teamsters. However, the Board agent conducting the election testified that from his position at the voting table, he would have been aware of such activity had it occurred. A UFW witness testified and the employer stipulated that another supervisor, Oliveti, was also present in the voting area.

The testimony regarding the activities of both Acuna and Oliveti is at best contradictory. The objecting party only presented one witness who testified Acuna encouraged the voters to vote for the Teamsters and one witness who testified Oliveti encouraged the voters to vote Teamsters. The employer presented numerous witnesses, including a disinterested Board agent, who testified neither supervisor spoke to the workers. In light of these facts, we resolve this contradictory testimony in favor of

the employer. We note further that even if the presence of the two supervisors influenced the free choice of the voters, their presence and anything they may have said to both crews of 40-60 voters had no discernible impact upon the results of this election where the Teamsters won by a margin of more than 600 votes.

11. Employer Restrictions on UFW Access to Election Area

The UFW specifically alleged that Jeffrey Lewis and Roberto Garcia, both representatives of the UFW and not employees of the employer, were denied access at the main gate in Salinas between 8:30 and 9:30 a.m. while access for the purpose of observing the election was available to both the company and the Teamsters. Lewis testified that at 7:00 a.m., just before the polls opened, Board agent Nutt instructed, all union personnel to leave the company's property on which the election would be taking place. The record showed that in fact the UFW's representatives were allowed, along with the Teamsters' representatives and the employer's representatives, to be on the company's premises in the area of the main gate and entrance to the voting area, and that none of them were permitted to enter the voting area.

The general rule is that parties to an election or their representatives must remain clear of the voting area during the election so that voters are not exposed to potentially persuasive or intimidating influences while they are waiting to vote. It was in accord with this policy that Lewis and Garcia were denied permission to enter the voting area. Such a denial of access during the election to this part of the company's premises was therefore not conduct interfering with the election.

## 12. Bus Jam at Election Site

The record showed that at the pre-election conference the parties agreed the employer would bus the employees to the election site from both the bus yard and the fields, and that the employer agreed to stagger the bus arrivals to avoid the massing of voters. In spite of this agreement, the record revealed that the buses did not consistently arrive at staggered intervals. While most bus waits were only 10 to 15 minutes, not including the time the employees spent waiting in the voters' line, some waits were 20-30 minutes and one wait was one and one-half hours. Although the stacking of buses occurred, there was no evidence it occurred intentionally or could otherwise have been avoided considering *the* large number of employees that had to be bused to the election. Furthermore there was no evidence that the seemingly long waits had any affect on the results of the election. The record reflected that all employees who presented themselves at the checking table had the opportunity to vote and that the waiting did not cause the disenfranchisement of any voters.

## 13. Board Agent Misconduct - Double Line of Voters

In order to accommodate more efficiently the large number of potential voters, Board agent Nutt decided to conduct simultaneous balloting by two rather than one line of voters. Accordingly he set up two tables at which observers checked the names of prospective voters against the divided eligibility list. Although the broken list arrangement created some confusion for voters who used both parental surnames interchangeably, and may have required some of those employees to wait in both lines to be cross-checked, there was no evidence indicating any of there employees were disenfranchised as a result of the split list.

The UFW alleged that the two-table procedure made it impossible for observers to challenge ineligible voters. No evidence was presented as to either numbers or names of ineligible employees who voted without being challenged, nor was any evidence presented to indicate how this arrangement impaired the ability of observers to challenge voters.

It is the established rule of this Board that all elections shall be conducted under the supervision of the Board or the regional director, Regulation Section 20350 (a), 8 California Administrative Code. In the absence of extraordinary circumstances, the Board will defer to the judgment of the regional director or the Board agent in charge who is in a better position to determine the mechanics of balloting in any given election. Moreover, we find nothing in our rules or procedures that would preclude a Board agent from ruling in favor of one, two, or several lines of voters if it is his reasoned opinion that doing so would increase the efficiency or enhance the integrity of the election process.

#### 14. Instructions to Observers

The record showed that at the pre-election conference Board agent Nutt distributed to all parties printed instructions for observers in Spanish and English. Prior to the opening of the polls in Salinas, he assembled all the observers then present and orally explained and amplified the printed instructions. The observers were advised in regard to their personal conduct, the division and checking off of the voters' list, and challenge procedures. Bilingual Board agents were present near the tables throughout the voting and were able to answer questions from and

advise the observers. Observer witnesses testified that they did receive instructions prior to serving as observers. We find no objectionable conduct here.

15. Employees Not on Eligibility List Voting Without Challenge

The UFW alleged there was misconduct by Board agent Nutt in allowing people not on the list to vote without being challenged.

A Board agent present at the election testified that he only knew of one employee whose name did not appear on the eligibility list and who voted without challenge at the Salinas election site. Board agent Nutt also testified that another Board agent had informed him that an employee whose name was not on the list had voted without being challenged, but that this voter had been recognized as an employee by observers. It is not clear from the record whether both Board agents were testifying about the same employee. No other evidence with regard to this issue was presented. It appears that, at most, two potentially ineligible employees were permitted to vote without being challenged. Inasmuch as two votes could not have affected the results of the election, and because the record is not clear whether it was one or two voters, and whether they were in fact ineligible voters, we fail to find Board agent misconduct affecting the results of the election.

16. Employees without Identification Denied Right to Vote Challenged Ballots

The UFW alleged that the Board agent at the Huron election site refused to accept payroll check stubs or social security cards as a means of voter identification and then contravened the Board's regulation which provides that prospective

voters without adequate identification may vote a challenged ballot.<sup>11/</sup>

Two witnesses testified that although they attempted to vote at the Huron election site, they were turned away because they did not have any identification and were not permitted to vote challenged ballots. Although we find that both witnesses should have been permitted to vote challenged ballots in accordance with prescribed procedures, and while we do not condone the conduct of the Board agent, we find that the ballots of these two employees, regardless of whether or not they were in fact eligible voters, would not have affected the results of this election.

17. Employer's Failure to Bus 500 Employees to the Polls

In its objections petition the UFW alleged that the employer failed to bus 500 employees to the polls. Although this objection was noticed for hearing, the UFW presented no evidence regarding this allegation. Accordingly, we dismiss this objection.

CONCLUSION

Having found no evidence of conduct which warrants our setting aside this election, we hereby certify the General Teamsters, Warehousemen and Helpers, Local 890, as the exclusive collective bargaining agent of all the agricultural employees of Bud Antle, Inc., excluding employees of all vacuum cooler plants

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8 California Administrative Code Section 20350(c), in effect at the time of this election, states in pertinent part "the Board agent will challenge any prospective voter who fails to supply evidence of identification which the Board agent in his discretion deems adequate, or any prospective voter concerning whom the Board agent concludes there is a substantial question of identity".

and Salinas plastic container manufacturing plant employees and excluding those employees employed exclusively out of the State of California.

Certification ordered.

Dated: February 2, 1977

Gerald A. Brown, Chairman

Richard Johnsen, Jr. , Member

Ronald L. Ruiz, Member Robert

B. Hutchinson, Member



State of California  
AGRICULTURAL LABOR RELATIONS BOARD

Estado de California

CONSEJO DE RELACIONES DE TRABAJADORES AGRICOLAS

CERTIFIED COPY

STATE OF CALIFORNIA }  
County of Sacramento } SS

I, ANNIE M. GUTIERREZ, Executive Secretary of the Agricultural Labor Relations Board of California, do hereby certify that this document is a full, true and correct copy of the original document, and that I have carefully compared the same with the original. **Case No. 75-RC-1971**  
Caso Num.

Witness, my hand and the seal of said Agricultural Labor Relations Board this  
2nd day of February, 1977  
ANNIE M. GUTIERREZ, Executive Secretary  
by E. Schaefer  
Deputy

In the Matter of:  
  
BUD ANTLE INC.,  
Employer,  
  
and  
  
GENERAL TEAMSTERS, WAREHOUSEMEN AND  
HELPERS, LOCAL 890,  
Petitioner,  
  
and  
  
UNITED FARM WORKERS OF AMERICA,  
AFL-CIO  
  
Intervenor.

**CERTIFICATION OF REPRESENTATIVE  
CERTIFICACION DEL REPRESENTANTE**

An election having been conducted in the matter under the supervision of the Agricultural Labor Relations Board in accordance with the Rules and Regulations of the Board; and it appearing from the Tally of Ballots that a collective bargaining representative has been selected; and no petition filed pursuant to Section 1156.3(c) - within the time provided therefore, remaining outstanding;

Habiendose couducido una eleccion en el asunto arriba citado bajo la supervision del consejo de Relaciones de Trabajadores Agricolas de acuerdo con las Reglas y Regulaciones del Consejo; y aparcciendo por la cuenta de votos que se ha seleccionado un representante de negociacion colectiva; y que no se ha registrado (archivado) una peticion de acuerdo con la Seccion 1156.3 (c) dentro del tiempo estipulado por consiguiente;

Pursuant to the authority vested in the undersigned by the Agricultural Labor Relations Board, IT IS HEREBY CERTIFIED that a majority of the valid ballots have been cast for

De acuerdo con la autoridad establecida en el suscribiente por el Consejo de Relaciones de Trabajadores Agricolas, por LA PRESENTE SE CERTIFICA que la mayoría de las balotas validas han sido depositadas en favor de

GENERAL TEAMSTERS, WAREHOUSEMEN AND HELPERS, LOCAL 890

and that, pursuant to Section 1156 of the Agricultural Labor Relations Act, the said labor organization is the exclusive representative of all the employees in the unit set forth below, found to be appropriate for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

y que, de acuerdo con la Seccion 1156 del Acto de Relaciones de Trabajadores Agricolas, dicha organizacion de trabajadores es el representate exclusivo de todos los trabajadores en la unidad aqui implicada, y se ha determinado que es apropiada con el fin de llevar a cabo negociacion colectiva con respecto al salario, las horas de trabajo, y otras condiciones de empleo.

All agricultural employees of Bud Antle, Inc., excluding employees of all vacuum cooler plants and Salinas plastic container manu-

UNIT: facturing plant employees and excluding those employees employed

UNIDAD: exclusively out of the State of California.

Signed at Sacramento, California  
On the 2nd day of February 1977

Firmado en  
En el 2nd día de February 1977

On behalf of  
AGRICULTURAL LABOR RELATIONS BOARD

De parte del  
CONSEJO DE RELACIONES DE TRABAJADORES  
AGRICOLAS