Terra Bella, California

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

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| GOLDEN VALLEY FARMING,<br>Respondent,<br>and<br>PORFIRIO MONTEON,<br>Charging Party. | Case No. 78-CE-33-D<br>6 ALRB No. 8 |

ERRATUM

In Hickmott Foods, Inc., 242 NLRB No. 177 (1979), the NLRB announced that it would not issue a broad cease and desist order except when a respondent is shown to have a proclivity to violate the Act, or has engaged in such egregious or widespread misconduct as to demonstrate a general disregard for the employees' fundamental statutory rights. We intend to follow this standard, and we hereby substitute the following for Paragraph 1(d) of the Administrative Law Officer's recommended Orders

In any like or related manner interfering with, restraining or coercing employees in the exercise of their rights guaranteed them by Section 1152 of the Act.

Dated: February 26, 1980

RONALD L. RUIZ, Member

HERBERT A. PERRY, Member

JOHN P. McCARTHY, Member

Terra Bella, California

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AGRICULTURAL LABOR RELATIONS BOARD

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| GOLDEN VALLEY FARMING,<br>Respondent,<br>and<br>PORFIRIO MONTEON,<br>Charging Party. | Case No. 73-C2-33-D<br>6 ALRB No. 8 |

DECISION AND ORDER

On May 20, 1979, Administrative Law Officer (ALO) Matthew Goldberg issued the attached Decision, in which he found that Respondent had denied Porfirio Monteon reemployment in violation of Labor Code Section 1153 (c) and (a), and that Respondent had interfered with, restrained and coerced its employees in violation of Labor Code Section 1153 (a). Thereafter, Respondent filed-timely exceptions to the ALO's Decision only insofar as it pertained to the refusal to rehire Mcnteon. General Counsel filed a reply brief.

Pursuant to the provisions of Labor Code Section 1146, the Agricultural Labor Relations Board has delegated is authority in this proceeding to a three-member panel.

The Beard has considered the record and the ALO’s Decision in light of the exceptions and briefs and has decided

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# CASE SUMMARY

Golden Valley Farming
(Porfirio Monteon)

6 ALRB No. 8
Case No. 7S-CE-33-D

ALO DECISION

The ALO concluded that Respondent had violated Section 1153 (c) and (a) by its refusal to rehire Porfirio Monteon because of his union and other protected activity. Monteon, an irrigator, had completed the 1977 season with Respondent's assurance that he would be recalled in about six months when irrigation activity resumed. Shortly before the new season commenced, Respondent informed him that he would not be needed due to a decrease in acreage under cultivation and a corresponding decline in manpower requirements. The ALO compared payroll records for the 1977 and 1978 seasons but found no significant change in Respondent's manpower requirements for the relevant season but did find circumstantial evidence of anti-union animus in conjunction with Respondent's knowledge of and attitude towards Monteon's union and concerted activities in the period preceding and following the 1977 layoff. He concluded that Respondent's stated justification for its failure to rehire Monteon was pretextual.

The ALO also concluded that Respondent had interfered with, restrained and coerced its employees in violation of Section 1153 (a) by its implied threats of loss of employment in response to their complaints about working conditions, a matter not alleged in the complaint but fully litigated at the hearing.

BOARD-DECISION

The Board affirmed the ALO's findings and conclusions and adopted his recommended order.

REMEDY

The Board ordered Respondent to cease and desist from: (1) failing or refusing to hire or rehire any employee because of his or her union activity or other protected concerted activity, and (2) threatening employees With reprisals for engaging in union activity or ether proceeds concerted activity; and to offer to reinstate Porfirio Monteon to his former or substantially equivalent job without prejudice to his seniority or other rights and privileges, and to make him whole for any loss of pay or other economic losses he has suffered as a result of this being refused reemployment from the date that a position was available for which he was qualified.

* * *

to affirm the rulings, findings, and conclusions [1/] of the

to adopt his recommended Order.[2/]

Dated: February 4, 1980

RONALD L. RUIZ, Member

HERBERT A. PERRY, Member

JOHN P. McCARTHY, Member

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[1/] We reject the ALO's conclusion that, to establish a discriminatory refusal to rehire, the General Counsel must prove in all cases that work was available at the time of application and that the employer had a policy of recalling former employees as work became available. Cur Decision in Prohoroff Poultry Farms, 3 ALRB No. 9 (1979) , cited by the ALO, does not require the General Counsel to shew the existence of a recall policy to prove a discriminatory refusal to rehire. Furthermore, to establish such a violation, it is not always necessary to shew a contemporaneous job vacancy, Shawree Industries, Inc., 140 NLRB 1451, 52 LRRM l270 (1363), reversed on other ground's, 333 ?. 2d' 221, 55 LRRM 2357 (10th Cir. 1954).

[2/] We note that the ALO erroneously referred to December of 1377 instead of November 7, 1977, as the date or which Monteon was laid off, and that he erroneously referred to April and May of 1577, instead of 1973, as the period when work became available These errata are hereby corrected. During the compliance stage of this proceeding the regional director will determine the precise date on which work for which Monteon was qualified become available, for the puposes of establishing backpay liability

STATE OF CALIFORNIA

BEFORE THE

AGRICULTURAL LABOR RELATIONS BOARD

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| In the Matter of: | ) | |
| GOLDEN VALLEY FARMING, | ) | |
| Respondent, | ) | Case No. 78-CE-33-D |
| and | ) | |
| PORFIRIO MONTEON, | ) | |
| Charging Party. | ) | |

APPEARANCES:

Ricardo Qrnelas, Esquire,
for the General Counsel;

Richard Glade, Esquire, of
Gordon & Glade, for the Respondent;

Porfirio Monteon, in
Propria Persona

BEFORE:

Matthew Goldberg,
Administrative Law Officer

DECISION OF THE
ADMINISTRATIVE LAW OFFICER

STATEMENT OF THE CASE

Based upon a charged filled and served on Golden valley Farming referred to hereafter as the “respondent” on June 8, 1978, the general counsel for the board issued the complaint herein on Saturday 8, 1979. The charge and the complaint alleged violations of sections refusal to rehire the porfirio Monteon the charging party.

Copies of the complaint and notice of hearing were duly served, or. Respondent. Respondent submitted an answer denying in substance that it had committed the unfair labor practices sec cur in the complaint. Respondent also pleaded, by way of an affirmative defense, chat action on the alleged violations was "barred by laches."

A hearing in the matter was held before me in Porterville, commencing on March 13, 1979, The General Counsel and Respondent appeared through their respective counsels: the S Charging Party appeared in propria persona. All parties were afforded the opportunity to present evidence, to examine and cross-examine witnesses, and to submit oral arguments and briefs.

From the entire record in this matter, having observed the demeanor of the witnesses while they testified, and having 9 ' read the briefs submitted to rue since the hearing closed, I make the following:

## FINDINGS OF FACT

### I. Jurisdiction

A. The Respondent is and was, at all times material, an: agricultural employer within the meaning of Section 1140.4 (c) of the Act.

B. The Charging Party is and was, at all times material, an agricultural employee within the meaning of the Act.[1/]

### Preliminary Statement

The Respondent is engaged in the cultivation (including pruning, spraying, and irrigation) of a variety of tree fruit crops. In 1978, its operations were carried on over some 4,000 acres; in the current year (1979) , the average managed by Respondent was reduced to about 3,000 acres. The Respondent does not own any of the farm lands which it manages. At peak times, Respondent employees between 40 and 45 "seasonal" individuals; it also has a complement of between 10 and 12 "regular," or year round employees. The "seasonal" employees are, for the most part, workers whose skills are limited to irrigation functions, whereas "regular" employees have a more versatile range of skills and are capable of performing a wider variety cf functions (such as tractor-driving, spraying and general maintenance; which may or may not be related to irrigation.

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[1/] The jurisdictional facts were admitted by Respondent in its answer.

III. The Unfair Labor Practices Alleged

A. The Testimony Of Porfirio Monteon.

Porfirio Monteon, the Charging Party, was employed by the Respondent as an irrigator from March until November, 1977.' Monteon had worked on other ranches as an irrigator since 1964.; In November, 1977, he was laid off, along with all other "seasonal" irrigation employees, as Respondent obviously does not require their services during the rainy winter months.

Monteon testified that during his tenure with the Respondent, his work was never criticized by his foreman or by supervisors. He had not received any disciplinary notices or warnings, oral or written, regarding poor work performance. He also stated he would not be absent from work without informing the proper parties at Respondent's office, in keeping with Respondent's policy in this regard. He was corroborated by Foreman Ramon Quesada concerning one of these instances.

While employed by Respondent, Monteon continually and visibly wore a button from the United Farm Workers of America. He has been a member of that Union since 1965. He testified that he discussed the Union on several occasions with his fellow \workers, telling them that it was in their best interests to be organized, that they would have more protection and better benefits in their work if a union contract were signed. Although Monteon did not state that Respondent's foremen or supervisors were present during these discussions,[2/] the parties stipulated that the Respondent had knowledge and was aware of the fact that Monteon was a UFW supporter. Monteon was called as a witness by the General "Counsel on August 31, 1977, at a prior ALRB hearing involving this. Respondent, Case Nos. 77-CE-32-D and 77-CE-32-1-D (4 ALRB No. 79). Over continuing objection by Respondent's counsel, Monteon described an incident, which he had also related, or attempted to relate, at the previous hearing:[3/]

> We were placing the irrigation, in order when a plane began fumigating for the orange and lemon-—for those eggs on the orange and lemon.

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[2/] However, on one occasion in December, 1977, Monteon. Emphasized positive effects unionization to his supervisors. This events will be more discussed below.

[3/] Respondent's counsel also objected to this line of inquiry at one previous hearing as irrelevant. The transcript of Monteon's prior testimony was not admitted into evidence.

> And then being a sign ought to be posted in Spanish and in English. Then I refused going in, because it was wet with poison.
>
> Then Marcello [Mendoza][4/] said that we had to go in to continue working.
>
> I answered, "No, 15 days are necessary."
>
> He said that was when there was a Union contract, not now.
>
> The rest of the boys, we all got ill. I got ill.
> . . .

Another spraying incident, this time involving trucks, took place soon afterward. Monteon testified that while he and his crew were working, trucks began to spray the area with pesticide. Monteon stated that he went up to one of the truck drivers, showed him his Union button, and warned the driver that if anything should happen to the workers as a result of the -spraying, then not only the Company, but the drivers as well would be responsible. As a result, the truck drivers stopped the spraying. The foreman, Ramon Quesada, informed the workers on that occasion that he would take them to the doctor if they "felt bad."[5/]

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[4/] Marcello Mendoza is the brother of Supervisor Martin Mendoza. For the sake of simplicity, the Mendozas will hereafter be referred to by their respective first names.

Marcello held (and holds) the title of assistant fore man, Respondent denied in its answer that he was a supervisor. In the prior hearing (4 ALRB No. 79) involving events in April, 1977, Marcello was found to be a supervisor. Marcello failed to assert that his duties had been changed between the events in the previous hearing and those involved herein. Testimony in the instant case established that Marcello had the authority to fire employees, assign overtime and direct work. Although Marcello said that he did not have the authority to discharge anyone, it appeared that he could do so in emergencies.

[5/] Ramon Quesada testified about a state pest control inspector who visited him in December, 1977, and had Quesada sign a report of a spaying incident which occurred at fields managed by Respondent. Quesada stated that the last time he saw the inspector in these fields was in September. Monteon also stated chat "a person, came -o my home. I don't knew who it was; it was an Anglo who had a sign with him on the door of his car, and he asked me for some information regarding that because he said some boys were ill." Monteon placed the spraying incident in the summer of 1977.

Monteon stated that after he testified at the prior hearing, the foremen treated the workers differently. As an example, he staged that Marcello, before the hearing, would supply the crews with clean, cold water, but afterward, the practice was discontinued.[6/]

Monteon further testified that he complained to his foreman about the manner in which workers were transported from field to field during the course of the work day. The workers would ride in vehicles driven by Marcello at excessive speed. Monteon complained to Marcello that the practice was dangerous, and later told fellow worker Juan Orona that he would complain to, the UFW about the situation.[7/]

Martin Mendoza admitted that Monteon brought the transportation problem to his attention and that he acted upon Monteon's suggestions. He also stated that Monteon had made I several suggestions to him concerning equipment that workers needed for their jobs, such as rubber boots, rain gear, and pliers, that Martin passed the suggestions on to Farm Manager Cleland, and that the equipment was procured.

As noted above, Monteon was laid off in December of , 1977, along with the other irrigators. Martin and Rarnon Quesada both told Monteon that he would be called back to work when his services were needed once again.

However, Respondent's office manager, Marge Ziegler, stated that it would not necessarily be incumbent on the Company to inform workers that the new season was beginning; owing to the migratory nature of the work force, communications between its members and the Respondent would be difficult to maintain. More often than not, the workers themselves would reappear at places "where the Respondent was engaged in its operations, and would obtain employment on their own initiative.[8/]

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[6/] Marcello did not deny any of the foregoing, particularly any of the assertions made concerning his conduct during ; the pesticide incidents. In the absence of conflicts, Monteon's testimony in this regard must be credited.

[7/] Monteon's testimony in this regard dovetails with co-workers Margarito Lopez' account of an incident which occurred at a later date involving Lopez' problems with the method then ;used by the Company to move workers from field to field. This incident will be discussed below in greater detail. The credibility of these witnesses are thereby enhanced by their mutually corroborative testimonies.

[8/] Martin testified however that respondent would "Make sure employees got contacted" regarding re-employment that Monteon would have been notified about the –[coninued]

As for Monteon, after he did not; hear from Respondent for a while following the layoff, he periodically attempted to contact: Respondent's supervisors to inquire about employment, either by telephoning the Respondent or by driving out to properties managed by Respondent and physically trying to locate supervisors.

On one such occasion, Monteon passed Martin on Highway 65, flagged him down, and personally asked him for work. At that time, according to Monteon, Martin informed him that there was "no more work" for him and a co-worker named Juan Orona, that the Respondent had "turned over half the ranch." Monteon denied that Martin cold him he was not being recalled because of inferior performance, or that, living in Delano, as he did, he would not be rehired due to the inconvenient distance he lived from Respondent's work site. [10/] At that time also, Monteon gave Martin a bill for medical services which he fait that Respondent should process under the medical insurance plan it had for employees, as the services

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[8/] [continued]--availability of work and that it was not necessary for him to come out to Respondent's premises to check on the situation. I find that this testimony conflicts with that of the office manager, and is also contradicted by Monteon's conduct and that of fellow employee Lopez regarding re-employment. As such it indicates Martin's general lack of candor while testifying.

[9/] Monteon testified that he tried to call Martin five times after the layoff and went to the fields atleast once or twice a week

As will be more fully discussed below, the location of worker's residence is one of the considerations taken into account in the decision to re-employ him

were provided while Monteon was still in Respondent's employ.

Martin's testimony concerning this discussion places its date at about March 30, 1973. Martin did not counter any of Monteon's statements concerning it, and therefore those statements must be credited.

Nonetheless, Monteon continued to seek employment with Respondent. The final occasion when he attempted to obtain work there occurred in June, 1978. [11/] At that time, Monteon went out to an almond orchard where Respondent's crews were working, and spoke with Marcello. He told Marcello that he was looking for him to see whether Marcello would give him a job, since everyone was working. According to Monteon, Marcello told him- that there was no work for him, and took down his automobile license number, stating that Monteon should leave the premises "because he was from the union." [12/]

Marcello, in his testimony, stated that he had been instructed how to deal with the presence of Union organizers at work sites at a meeting attended by supervisors and representatives of Respondent as well as other agricultural employees. He had been told to note the presence of strangers, ask them why they were in the fields, and inform them that they had to obtain written permits from the Respondent's office to enter. Marcello, apparently perceiving that Monteon was present that day in order to organize Respondent's workers, testified that he told Monteon to go to the office. [13/]

B. The Testimony Of Margarito Lopez On Behalf Of The General Counsel.

Margarito Lopez was initially hired by Respondent in March, 1977, to work as an irrigator. In November of that year, pursuant to Respondent's seasonal requirements, he was laid off, along with more than 14 others in his job classification, including the Changing Party. Lopez returned to Respondent's employ in about;

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[11/] The General Counsel originally alleged that the refusal: to ire Monteon dated from June 3, 1973. An amendment to the , complaint was made at the hearing to conform this refusal date to proof, which, as noted earlier, was definitively determined to be March 30, 1978.

[12/] As noted above, Monteon testified that he nearly wore his Union button, and was wearing it when he had this particular discussion with Marcello.

[13/] Monteon denied that he was told by Marcello to go to the office on that occasion.

March, 1978, after contacting the Respondent concerning the availability of work. After working for a few days in the beginning of the season, in the crew of Field Foreman Fernando Cortez, Lopez was transferred to Marcello Mendoza's craw, where he remained until his separation from the Respondent in June, 1973.

Lopez testified that one afternoon during his tenure in the 1978 season he complained to Marcello that the workers should not have to use their own. transportation to go from one work site to another during the day, but that the Company should provide same. Lopez also told Marcello that Monteon had complained to the UFW the previous year about this same problem. Marcello, according to Lopez, responded that if he did not like the situation, he j should realize where Porfirio [Monteon] is with his unions, that Lopez should find another job/ and "go ahead and be part of the 'Porfirios.' Lopez also stated that in several conversations he would discuss the possibility of a raise with Marcello, and Marcello would say, in effect, that you first have to do your job, "you see 10 how the Porfirios are doing." Marcello failed to deny that any of the aforementioned actually occurred. As such, in the absence of conflicting evidence, Lopez' versions of these events must be credited.

At a meeting held one May morning in 1973 out in a field attended by all the crew members, Martin, according to Lopez told the assemblage that the UFW had won some recent "battles" wit growers on the coast, but that the union was not in the best interests of Respondent's employees: it would not fulfill its promises to the workers. Martin informed the group that he would try to obtain for employees certain benefits, including a health plan, a pension plan, vacations, and a possible wage increase. [14/]

Lopez said that he was discharged in June, 1973, by Marcello alone, who did not consult with his brother Martin about the termination, [15/] Marcello simply announced to Lopez that he no longer had work at the Respondent's.

Lopez impressed me as an exceedingly credible witness who continually emphasized that he was present at the hearing to

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[14/] Martin, when called to testify for Respondent, stated that he held a meeting with employees on May 29, 1973. The meeting Lasted two hours, during which Martin discussed the Union election on the coast and the benefits which Respondent's employees were Currently receiving. Martin also stated that he told employees that they had the rights to "take [the union] or refuse it.

[15/] Marcello however, testified that he did discuss lopez' termination with his brother, and that Martin made the ultimate decision.

tell only the truth. When asked repetitive questions by counsel, he reacted almost humorously, saying that he was telling the truth, that the answer was the same as it had been, before. Respondent devoted considerable attention to an attempt to demonstrate Lopez' bias as a result of his adverse reaction to his termination in June, 1973. Witnesses asserted that Lopez, following his discharge, stated to them that he was "going to get even." However, I am unable to conclude that his testimony was sufficiently colored by this attitude as it remained internally consistent and was corroborated in its essential particulars.

C. Respondent's Purported Justifications For Mot Rehiring j Monteon.

At various times throughout the hearing, Respondent presented several different reasons for not rehiring Monteon.

Martin Mendoza, called as an adverse witness by the General Counsel, explained Respondent's general personnel policies Unless there are extremely exigent circumstances (such as a worker engaging in serious breaches of safety rules while working), employees are usually given three warnings for separate acts, prompting Employer disciplinary action before they are terminated for a forth such incident. Respondent does not necessarily document the warning in each worker’s personnel life. Instead martin makes note of them in his “daily reminder”.

Respondent has no seniority system to speak of. When workers are laid off and subject to recall, various criteria, according to Martin, are utilized to determine which particular individuals will be recalled. Generally, work performance or "who does a better job" is the most important of these factors. A worker's versatility would also be considered: if that worker's skills were limited to those required solely for irrigation, he would not be chosen for rehire before a worker who possessed a broader range of skills. [16/] Yet another consideration for re-employment would be the location of the worker's residence. Most; of Respondent's operations are centered around the Terra Bella area.. At times, situations arise where workers have to be contacted before the work day begins. Since some do not possess telephones, supervisors and/or foremen would have to contact them in person, thus rendering their nearby residences more convenient for this purpose than those located father away.

Martin initially testified that when Monteon began

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16/ Martin testified that the alleged discriminatee, Monteon stated to him that he did not wish to be considered for any position other than irrigator. Monteon did not refuse this assertion.

working for Respondent, he "looked real good." Toward mid-season, however, he "slacked off," not showing up for work, or at times, reporting in an inebriated state. Nevertheless, as the season drew to a close, Monteon's work improved.

Martin amplified these assertions by stating that Monteon would take time off without notifying Respondent's office, contrary to Respondent's policy which permitted absences when notice was given. [17/] Martin also stated that he had seen Monteon "floating" on one occasion before work in the summer, red-faced, with eyes glossy. Martin admitted, however, that he could not tell if Monteon was drunk or hung over, and also neglected to state whether his work performance was affected that day, if at all. [18/]

Jim Cleland, Respondent's manager, [19/] stated that ha discussed the decision not to recall Monteon with Martin and Marge Ziegler, Respondent's office manager. Cleland noted that the decision was made because Monteon "did not have the qualifications he needed": Monteon was "strictly an irrigator,"" and "more versa-tile employees" were needed who could perform additional tasks. In addition, Cleland did not recall discussing that Monteon would not be rehired because of a poor work record, although he did state that he was not directly involved in the decision not to recall Monteon, but was only informed of the result.

Martin, recalled as a witness for Respondent, stated that the decision not to rehire Monteon was not made until March,

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[17/] Significantly, one of the occasions on which Monteon was absent from work was when he testified at the ALRB hearing in August, 1977. However, Martin testified that Monteon did telephone him following Monteon's appearance at the hearing, explaining his absence.

Martin further stated that should any employee have an unexplained absence, the incident would be noted in his "Daily Reminder." No such records were produced by Respondent to corroborate Martin's allegations in regard to Monteon' s attendance.

18/ At other points in his testimony, Martin referred to additional instances when Monteon was seen drinking, or offering others a drink, as if to case aspersions on Monteon's capabilities, attitudes or habits. Some of these instances took place while Monteon was not working. Neither Monteon nor any of the supervisors sated that the warning had been given him for drinking on the job. To the contrary, foreman Ramon Quesada, in whose crew. Monteon worked from time to time, stated that “he never saw Monteon in a condition where he couldn’t work”.

19/ Respondent admitted in his answer that Cleland was a supervisor within the meaning of the act.

1978. Prior to that time, he considered Monteon eligible for. recall for the 1978 season. On or about March 14 of that year, two workers, Margarito Lopez and Rafael Ruiz, allegedly reported to him that Monteon had appeared where they were working, had "insulted" them, and had threatened to call the immigration and employment offices." Martin testified that the incident was noted in a report he filed with office personnel. [20/] The report, however, was not produced at the hearing.

Workers Margarito Lopez and Rafael Gomez were also called as witnesses by Respondent to testify about this incident. Lopez said that during lunch one day, Monteon came by saying he wanted to talk with him and Gomez. Monteon told them that he had worked there in the previous season but that the Respondent did not want to rehire him. He also asked if the workers wanted to belong to the Union, that Respondent would treat the workers better if they were organized.

Lopez testified that when Monteon first arrived, he was not friendly, demanding that the workers identify themselves, while taking a pencil and paper from the trunk of his car. Lopez said that he and Gomez would not give Monteon their names- since they did not know why he wanted them. Lopez further acknowledged 'that he felt somewhat threatened by Monteon's presence, and utilized the Swede saw which Lopez had in his hand to demonstrate to Monteon that he was prepared to meet any potential physical threats.

Contrary to Respondent's assertion that Monteon had assaulted his former co-workers, Lopez clearly admitted that Monteon did not threaten them or want to fight. On the contrary, it was Lopez who opened his saw and made ready to defend himself when Monteon went to his car to obtain a pencil and paper. In addition, Lopez stated that he later told Martin that Monteon "smelled like he had been drinking," but was not drunk. Over the course of the conversation among the three workers, tensions became eased, and by its conclusion, the workers were on friendly terms, Monteon offering them a drink. [21/]

Gomez testified that he and Lopez were suckering on the day in March when Monteon arrived. According to Gomez, Monteon

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[20/] In its answer, Respondent specifically alleged that Monteon was not rehired "because he was abusive to his former coworkers in that he interfered with their rest periods, attempted to work while under the influence of intoxicating Liquors, was insulting, threatening, or did, on or about March 14, 1978, assault on the job his former co-workers . . ."

Martin stated that it was permissible for workers to drink beer during their lunchbreak.

stated that he wanted the names of all the workers on duty and the number of workers employed. He did not say why he wanted the names but mentioned that he had "seniority," that he wanted his job back, and would inform the Union and the immigration service about undocumented workers employed by Respondent. Gomez noted that this conversation was by no means friendly, and that he reported the incident to Martin. In addition, Gomez stated that the conversation did not take place during lunch time, but immediately following it, after the workers resumed working.22/

Martin testified on behalf of Respondent that it was the report of this particular incident that prompted him to discuss the situation with Marge Ziegler, and led to the ultimate decision not to rehire Monteon. Martin denied that Monteon's testimony at the prior hearing played any part in his decision: to the contrary, Monteon's testimony, he believed, had furthered Respondent's cause in the previous case.

Martin also recounted other "incidents" involving Monteon which he discussed with Ziegler which influenced his decision not to rehire him. One of these, occurring soon after the November layoff, concerned Monteon's appearing at Respondent's premises and telling the witness, Marcello and Foreman Quesada how things would improve if the Union was allowed to come in. At the time, Monteon allegedly offered the others a dring of whiskey, but since he was off work, Monteon was at liberty to indulge in such behavior.

Another "incident," which took place around the beginning of December, 1977, centered around a report by worker Samuel Cervantes that Monteon had appeared at a work site and informed Cervantes that he, Monteon, was "number one," or the most senior employee, and asked Cervantes how many workers were being employed at that time. Apparently Monteon also discussed the seniority issue later with Martin.

Significantly, although Martin stated that some of Monteon's shortcomings, such as his drinking and his "threats (discussed infra)" were noted in his Daily Reminder, or that certain incidents involving Monteon were recorded in his "personnel file," none of these records was produced at the hearing to corroborate Martin's assertions. As noted above, no records were produced by Respondent to document Monteon's alleged unexplained absences from work. Criticism of Monteon's work performance was not a result of Martin's first hand observations of Monteon's efforts, but was based on hearsay reports received from others.

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22/ I am unable to resolve this conflict between Gomez' and Lopez' testimony regarding the time of their discussion with

Martin stated that several workers had complained to their foremen that they did not wish to work with Monteon, However, the testimony of several witnesses, including Cervantes and Foreman Quesada, pointed to the conclusion that the reason they disliked working with Monteon was that he worked "too fast" for them, not giving them an adequate opportunity to rest or get a drink of water.

Martin noted further that Monteon had, on at least two occasions, "threatened" him. When asked to elaborate on these "threats," Martin testified that when Monteon told him in ; December that he had seniority over worker Cervantes, and should therefore be working, he had just attended a "laboral" [sic] meeting, was wearing a Union badge and insisted that Martin provide him with a seniority list. Should Martin fail to provide the list, Monteon would see to it that the supervisor would be "knocked down" from his job. Another of these so-called "threats" cook place when Monteon complained about the transporation system provided for the workers. Monteon, according to Martin, told him. that a supervisor in his position at Qiumarra Vineyards had "fallen" from his job, and that Monteon s-rated that if Martin did not do something about the transportation system, then he, Monteon, would "do. something about it."

Additional examples of "incidents" or problems which ,"were in [Martin's] mind as [he] evaluated [Monteon's] performance; as to whether he should be recalled" included, as Martin testified, the instances where Monteon complained about the method in which workers were transported from field to field, and the incident where Monteon stopped trucks from spraying pesticide in a grove where irrigators were working. [22a/]

An analysis of employment summaries gleaned from Respondent's payroll records demonstrates that although Martin is told Monteon that Respondent had "turned over half the ranch," the number of employees in peak periods remained roughly equivalent in the 1977 and 1978 seasons, [23/] although it appears that the. employee complement was enlarged significantly one month earlier, in 1977 than it was in the following year. The statistics submitted do not differentiate between "seasonal" and "regular" employees. By Respondent's own definition, however, the difference between these classes of employees was simply a matter of who was regained after the winter rains commenced, and irrigators were no longer needed en a regular basis. It may be inferred that the seasonal increase in the number of employees was due to the hiring

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22a/ These particular events were discussed in previous sections

23/ Averaging the number of employees in the 14 payroll periods between April 30 and November 18, one finds that approximately 33 employees per payroll period were employed by respondent in 1978 as opposed to an average of 33 in 1977.

of workers like Monteon who served only in the capacity of irrigators, as the respondent's need for such employees logically increased during the dry summer month. [24/]

Thus, the failure to hire Monteon could not be attributable to a general reduction in Respondent's work force, or to the contention that workers with skills limited to irrigation ; tasks were not hired in 1978. The records which were submitted, [24a/] combined with Martin's admission that only four or five ; irrigators were recalled during the 1978 season, give rise to the inference that significant numbers of workers were hired in 1978 who were not previously employed by Respondent.

## ANALYSIS AND CONCLUSIONS OF LAW

### I. Preliminary Statement

It is concluded that Respondent failed to rehire Porfirio Monteon for discriminatory reasons in contravention of Sections 1153(a) and (c) of the Act.

"To establish a ... violation of Section 1153 (c) -and (a) of the Act, the General Counsel is obliged to prove by a , preponderance of the evidence that the employee was engaged in union activity, that Respondent had knowledge of the employee's union activity, and that there was some connection or causal relationship between the union activity and the [conduct complained of]." Jackson & Parkins Rosa Company, 5 ALRB Mo. 20, p. 5 "(1979).

In the specific case involving a refusal to rehire the General Counsel must also demonstrate that the alleged discriminatee applied for work at a time when work was available, and that Respondent had a policy of recalling former employees as work became available. Prohoroff Poultry Farms, 5 ALRB Mo. 9 (1979).

### II. Monteon's Union And Other Protected Activities And Respondent's Knowledge Thereof

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[24/] This conclusion is further buttressed by Margin's ad-' mission that in April or May of 1973 workers who functioned solely as irrigators were recalled to work.

[24a/] At the hearing the carries were amenable to preparing a summary of Respondent's voluminous payroll records and submitting it after the hearing closed pursuant to stipulation. The documents which both parties marked as "General Counsel's Exhibit 7A" were conflicting and hence could not be admitted. The parties did agree, however to admit general Counsel's exhibit 78, Which contains the total number of employees working during each payroll period in 1977 and 1978 seasons.

Numerous examples of Monteon's "union" and ether protected concerted activities were demonstrated by the General Counsel. Monteon's wearing a UFW button to work [Republic Aviation Corp. v. N.L.R.B., 324 U.S. 793 (1945); see also Pennco, Inc.,.232 NLRB No.29(1977)], and openly espousing his pro-Union views ( in the presence of supervisors [see Mario Saikhon, 4 ALRB No. 72 j ;j(1978); Butte View Farms, 3 ALRB No. 50 (1977); Farah Manufacturing Co. , 202 NLRB 666, 82 LRRM 1623 (1973)], have been recognized; as "types of actions protected under Section 1152 of the Agricultural Labor Relations Act and under its counterpart, Section 7 of the National Labor Relations Act. His intervention in matters involving worker health and safety (such as pesticide incidents land the situation involving worker transportation) has, in analogous situations, been held to be protected, concerted "activity. N.L.R.B. v. Washington Aluminum, 370 U.S. 9, 50 LRRM 2235 (1962); 3 & P Motor Express, 230 NLRB No, 96 (1977). Arguably, the statements by Monteon that he would complain to the, Union about the transportation problem, and about his not being rehired despite his seniority, also constituted "Union activities ;recognizable under §§1152 and 1153 (c), as they might be construed 'as his attempts to resort to some sort of grievance procedure. of. First Steel Corp., 212 NLRB No. 32, 87 LRRM 1503 (1974); "Southwestern Bell Telephone, 212 NLRB No. 10, 87 LRRM 1446 (1974).,It insignificant also that Monteon insisted on seniority rights, even though Respondent had no seniority system. [24b/]

Employees have the right to engage in protected activities in the absence, as in the instant case, of a collective I bargaining representative. The particular activity concerned ,must be for "mutual aid and protection and over a matter as to which the employer has some control." Joanna Cotton Mills Co. v. N.L.R.B., 176 F.2d 749, 752-53 (C.A. 4, 1949). I specifically find that Monteon's actions regarding worker health and safety were for the "mutual aid and protection" of his fellow employees. The protections of the statute extend to the individual who, like Monteon, decides to act on behalf of his fellow workers [Salt River Valley water Users Association v. N.L.R.B., 206 F.2d 325' (C.A. 9, 1953), even where he has not received direct, personal

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[24b/] Seniority has become a widespread and fundamental concept in America not because employers necessarily need it or want it but because workers view it as tantamount to a property right. In a credit-oriented economic system where a worker's regular flow of paychecks may well be his only significant asset there is much truth in organized labor's position that the only security for the worker, whether man or woman, is in earned seniority. Friedman & Katz, Retroactive Seniority for the identifiable victim under title VII. . ., 28 N.Y.U Conf. On labor 263, 280 1978

authorization from them to do so. Transportation Lease Service,Inc. 232 NLRB No. 21 (1977). Thus, the fact of Monteon's engaging in union and protected concerted activity is well established by this record.

Knowledge of such activity has been stipulated to by this respondent. In addition Monteon's action in this regard took place, for the most part in the full view of respondent's supervisor's and agents

III. Respondent's Animus

A. Circumstantial Evidence.

This record is replete with overwhelming evidence of Respondent's Union animus. Such evidence provides ample support for the contention that Respondent's refusal to rehire Monteon was discriminatory and unlawfully motivated.

Initially, it should be noted that under the National Labor Relations Act, it is proper to rely on previous adjudication involving the same employer as proof of animus See Barnes and Noble Book Stores, 237 NRRM No". 196, 99"LRRM 1210 , (1978); Best Products Company, 236 NLRB No. 108, 93 LRRM 1398 (1978). No reason has been advanced, as doubtless there could be, why this rule should not be applied under our Act, In the previous case involving this Respondent, 4 ALRB No. 79, the Administrative Law Officer found that Respondent, via its supervisor Marcello Mendoza, demonstrated an anti-union attitude (Administrative Law Officer Decision, pp. 24, 25).

Ample circumstantial evidence of animus is apparent

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from the shifting reasons preferred by Respondent for its refusal to rehire Monteon. See Sacramento Nursery Growers, Inc., 3 ALRB No. 94 (1977); Kitayama Brothers Nursery, 4 ALRB No. 85 (1978). This conclusion is further supported by the fact that Respondent's purported justifications for its conduct did not withstand scrutiny, and appeared largely pretextual in nature. See Superior Farming, 5 ALRB No. 6 (1979).

When Monteon spoke with Martin at the end of March, 1978, he was told that Respondent had "turned over half the ranch," and there would be no work for him. Yet, Respondent's records indicated that roughly equivalent numbers of employees were hired in the 1978 season as were hired in 1977. Martin's assumptions that Monteon took unexcused or unexplained absences were vague, without reference to specific dates, and were uncorroborated by documentary evidence which Martin stated would necessarily record such improper conduct. Evidence of diminished probative force should be regarded with circumspection, particularly when it is within the capabilities of the party producing such evidence to provide other stronger arid more satisfactory proof. See Evidence Code §412; Superior Farming, 3 ALRB No. 35 (1977).

Likewise, repeated references through Respondent's witnesses to the Charging Party's consumption of alcohol were unduly vague, unsubstantiated, and often based on hearsay. I find that these attempts to besmirch Monteon's character and demonstrate his inability to perform his duties satisfactorily contrasted greatly with Monteon's physical dignity, as demonstrated at the hearing, and his able, dedicated work performance as attested by several witnesses. The principal complaint that Monteon's work prompted _was that he worked too hard and too fast, that he did not give his co-workers a chance to catch up, rest, or get a drink of water.

Respondent's testimony concerning Monteon's so-called "threats" to supervisors as a justification not to rehire him demonstrated that in reality Monteon's words in those specific situations did not constitute a prophecy of physical harm, and were not couched in abusive language. Rather, their general import was that if ; Martin did not enforce certain safety precautions or provide a seniority list, he might lose his job. It is apparent that in the , context in which these statements were uttered, Men teen was arguably engaging in protected activity (see discussion supra; . A protest arising from allegedly improper supervisory conduct furthers the “mutual aid and protection” of employees perticularly where the supervisors action imperil the safety of the workers. Dreis and Krump Manufacturing company. V. N.L.R.B 544 F.2d 320 P3 LRRN

> [F]lagrant conduct of an employee, even though the occurring in the course of activity, may justify disciplinary action on.

> the part of the employer. On the other hand, not every impropriety committed during such activity places the employee beyond the protective shield of the Act. The employee's right to engage in concerted activity may permit some leeway for impulsive behavior, which must be balanced against the employer's right to maintain order and respect, . . [N.L.R.B. v. Thor Power Tool Company, 351 F. 2d 584, 581, 60 LRRM 2237 (C.A. 7, 1965).]

I find that such a balance should, in the instant case be tipped favor of the alleged discriminatee.

Similarly, the rationale that Monteon should not be rehired because he "assaulted" some of Respondent's workers was largely pretextual in nature. As shown by the credited testimony of two employee witnesses, it was they, not. Monteon, who, on March 14, 1978, were prepared to counter his presence and his words with physical force. The sole "weapon" which Monteon had in his possession was a pencil and paper. See K. D. Lamp Division, 228 NLRB No. 194, 96 LRRM 1090 (1977), where it was held to be unlawful to refuse reinstatement to a striker who was mistakenly believed to be responsible for an alleged attack on a striker replacement. See also, generally, N.L.R.B. v. Burnup & Sims, Inc., 379 U.S. 21 (1964). While Respondent asserted that Monteon was drunk during the course of this incident, it was demonstrated by the testimony of Lopez and Gomez that Monteon was not drunk, but merely smelled like he had been drinking.

Further evidence of Respondent's animus is displayed in the statements of Marcello Mendoza. Although Respondent denied in its answer that Marcello was a supervisor within the meaning of the Act, in the prior case involving this Respondent, 3 ALRB No. 79 Marcello was found to be such. The National Labor Relations Board has asserted that it may take notice of "evidence introduced in an earlier case with respect to ... [an individual's] status as a management representative; and of [its] finding that the activities and statements of [that individual] are attributable co the Respondent." Standard Oil of California, 6 2 NLRB 449, 16 LRRM 133 (1945) Taking administrative notice of the fir-dines in 3 ALRB Me. 79, I find that Marcello was at the time of the events in question herein a supervisor within the meaning of Section 1140.4(j) of the Act, particularly in the absence of evidence that Marcello's duties had been altered between the time of the events involved in the first hearing and first and those with which this instant proceeding is concerned.

Notwithstanding the foregoing, independence evidence of Marcello’s status was preferred at the hearing, Marcello

admitted that he exercised independent judgment in the directing of work and the assignment of overtime. Marcello also possessed the j authority to terminate employees "on the spot" for flagrant conduct,: although he would, from time to time, discuss with Martin the termination of particular employees with whom Marcello had problems . j Accordingly, it is determined under these facts that Marcello was a I supervisor within the meaning of the Act. See Rod McClellan Company, 4 ALRB No. 22 (1978).

I specifically find that Marcello 's statements to Lopez in response to the latter 's complaints about worker transportation and his requests for a raise to the effect that Lopez should find another job if he did not like his present situation, and should realize "where Porfirio is with his unions" constituted an independent violation of Section 1153 (a) of the Act, In and of themselves, they demonstrate interference, restraint and coercion with the exercise of Lopez' Section 1152 rights. Butte View Farms, 3 ALRB No. 50 (1977); Barnes & Noble Book Stores, Inc., 233 NLRB 198, 97 LRRM 1176 (1977) [25/] Therefore, these statements, attributable to Respondent via Marcello, provide further fuel to the fires of Respondent's Union animus, and underscore the assertion that the refusal to rehire Monteon was unlawfully motivated.

Further evidence of Respondent's illegal intent may be inferred from the "suspicious circumstance" of Monteon 's assertion, which was uncontroverted, that he was never warned about his alleged deficiencies on the job. See Bacchus Farms , 4 ALRB No. 26 (1978); N.L.R.B. v. Seamprufe , Inc., 66 LRRM 2275 (C.A. 10, 1967). [26/]

B. Direct Evidence.

I In addition to the circumstantial evidence presented of Respondent's illegal intent, this case provided one of the rare instances where a supervisor makes admissions of unlawful motivation

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[25/] find that these incidents, albeit not alleged as violations of the Act by the General Counsel, were fully and fairly litigated by the parties, as Lopez was subject to cross-examination and Marcello was called to testify by Respondent, although he was net questioned concerning them. See Andarson Farms Company, 3 ALRB Mo. 67 (1977); Prohoroff Poultry Farms, 3 ALRB :-To. 37(1977)

[26/] I find, however, that indications of respondent's animus cannot be demonstrated from Martin's speech to employees in May 1978. Such speech constituted a permissible expression and opinion which contained no threat of refusal or force on which under section 1155 of the act, could not be cited as the evidence of an unfair labor practice.

in refusing to rehire an alleged discriminates. of Shattuck Denn Mining Corp. v. N.L.R.B., 362 F.2d 466, 470 (C.A. 9, 1965). As noted above, Martin openly stated that certain of Monteon's activities found to be protected were in his mind when he evaluated Monteon's performance and decided not to rehire him: to wit, Monteon's discussion with supervisors concerning the benefits of organization, and his participation in acts involving employees health and safety, such as his efforts to prevent workers from being ordered to perform their duties in groves recently sprayed with pesticide, and to correct what he felt was the unsafe manner 1 in which workers were transported from field to field. It has been | held that if unlawful motives contributed to some degree in the decision-to discriminate, that in and of itself is a sufficient basis for a finding of a violation of Section 1153 (c). 3. A. Mealy I Co. v. N.L.R.B., 453 F . 2d 314 (C.A. 10, 1970); see also Hemet Wholesale, 3 ALRB No. 47 (1977); S. Kuramura, Inc., 3 ALRB No. 49 (1977).

## IV. Conclusion

The record herein demonstrates that Respondent had a policy of recalling former employees to work, when it became available, after a layoff at the end of the previous season. It was also shown that work became available for irrigators, such as Monteon, in April and May of 1977. Monteon repeatedly sought work with Respondent after the layoff. Although it might be argued that he did not apply "at a time when work was available," it may be inferred, despite the. fact that Monteon visited Respondent's premise's in June, that he did not seek work in April or May, because of the March 30 conversation with Martin which would create the impression that Monteon's efforts in this direction would be futile. Given the overwhelming evidence of Respondent's illegal motivation, it is therefore determined that the refusal to rehire Porfirio Monteon for the 1978 season was discriminatory and in violation of Sections 1153 (a) and (c) of the Act. [27/]

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[27/] I am unable to conclude that the refusal to rehire Monteon was also a violation of Section 1153 (d) as pleaded by the General Counsel. Monteon's testimony at an ALRB hearing was only one event during a tenure marked by a multi-faceted participation in protected concerted activities. The appearance at the hearing was so sufficient removed in time from the refusal to rehire that the drawing of any inferences relating the two events would be difficult, if not impossible. ".notwithstanding the somewhat self serving statements by Martin that Monteon should net apologize for his testimony, that it in fact aided Respondent's case, the evidence failed to demonstrate that “but for” ?Monteon’s apperence at at the hearing he would have been rehired. Of S. Kuramura Inc. 5 ALRB No. 49(1977).

V. Respondent's Defense Of Laches

Respondent asserted as an affirmative defense that the complaint herein should be barred by laches. A case-handling log was submitted pursuant to stipulation which showed that following the filing of the charge herein on June 3, 1973, the General Counsel was informed on June 26 that Mr. Glade would represent Respondent, a meeting was arranged with Respondent's representatives on July 13, witnesses were interviewed on July 20, and attempts were made to contact other witnesses in August. Nothing further transpired in the investigation until November 14, following which the Charging Party was reinterviewed on November 16. Glade contacted the ALRB on November 27, and a complaint was issued on December 14.

I do not find the delay of six months between the initial filing of the charge to the issuance of the complaint to be inordinate, particularly in light of the cases which discuss the doctrine of laches in the context of National Labor Relations Board proceedings. See, e.g., Highland Park Manufacturing Company, 84 NLRB No. 36, 24 LRRM 1341 (1949) (complaint issued two years after filing of charge); N.L.R.B. v. F. K. Rutter-Rex Manufacturing Company, 396 U.S. 258, 72 LRRM 2831 (1969) (four-year interval between Board decision and the filing of a back pay specification); Southland 'Manufacturing Company, 475 F. 2d 414., 82 LRRM 2897 (C.A.D.C. 1972) (.four-year period between Board's filing of petition for enforcement and issuance of a back pay specification). In addition, although Respondent asserted that it had been prejudiced by the delay no evidentiary showing was made on this point. To the contrary, the witnesses called by Respondent were in a position to refute General Counsel's contentions, being precipient to the events to which General- Counsel's witnesses testified.

I further find, in accordance with relevant, well established National Labor Relations Act precedent (Agricultural Labor Relations Act Section 1148), that the doctrine of laches has no applicability in ALRB proceedings. Labors v. N.L.R.B., 54 LRRM 2259 (C.A. 5, 1963)". . .[t]he Board is not required to place the consequences of its own delay, even if inordinate, upon wronged employees to the benefit of wrongdoing employers." N. L . R. B . v. p . H. RuttsrRex Manufacturing Company, supra; N.L.R.B. v. Katz, 269 U. S 736, 743, n. 16, 50 LRRM 2177 (1962); Bryant Chucking Grinder Company v. N.L.R.B., 67 LRRM 2017 (C.A. 2, 1967).

## RECOMMENDED ORDER

It is hereby ordered by the Agricultural Labor Relations Boards that respondent , Golden valley Farming its officers, agents, successors and assigns, shall:

1. Cease and desist from:

a. Discouraging membership of any of its employees the United Farm Workers of America, AFL-CIO, or any other labor organization, by refusing to rehire, or in any other manner discriminating against employees with respect to their hire or tenure of ; employment or any other term or condition of employment.

b. Discouraging participation in protected, concerted activities by any of its employees, particularly in matters involving worker health and safety, by discriminating against them in the manner set forth in Paragraph 1(a).

c. Threatening employees with loss of employment for participation in protected concerted activities. [28/]

d. In any other manner interfering with, retraining or coercing employees in the exercise of those rights guaranteed them by Section 1152 of the Act.

2. Take the following affirmative actions which will effectuate the policies of the Act.

a. Offer to Porfirio Monteon immediate and full rein statement to his former or substantially equivalent job without prejudice to his seniority or other rights and privileges, and make him whole for any losses he has suffered as a result of his being refused re-employment pursuant to the formula used in Sunnyside Nurseries, Inc., 3 ALRB Mo. 42 (1977), as modified, and made applicable to cases of refusing to rehire in Kawano, Inc., 4 ALRB Mo. 104 (1978).

b. Preserve and make available to the Board or its agents, upon request, for examination and copying, all payroll records, social security payment records, time cards, personnel records and reports, and other records necessary to determine the back pay due the employee named above.

c. Sign the Notice to Employees attached hereto which, after translation into Spanish and other appropriate languages by the Regional Director, shall be provided by Respondent in sufficient numbers in each language for the purposes set forth.

d. Within 30 days from receipt of this Order, mail a copy of the Notice in appropriate languages to each of the employees on the current payroll, as well as to all of its 19"7 and 1973 peak-season employees.

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[28]/ I find that this portion of the remedial order is warranted base on evidence outlined above regarding supervisor. Marcello Mendoza’s statements to employee Margarito Lopez, which were determined to be a violation of section 1153a.

e. Post copies of the attached Notice in. all appropriate languages in conspicuous places on its property, including places where notices to employees are usually posted, for a 60-day period to be determined by the Regional Director. Respondent shall exercise due care to replace any copy or copies of the Notice which may be altered, defaced or removed.

f. Permit an agent of the Board to distribute and read this Notice in all appropriate languages to its employees assembled on Company time and property, at times and places to be determined by the Regional Director. Following the reading, the Board agent shall be given the opportunity, outside the presence of supervisors and management, to answer any questions the employees may have concerning the Notice or employees' rights under the Act. The Regional Director shall determine a reasonable rate of compensation to be paid by Respondent to all non-hourly wage employees to compensate them for time lost at this reading and the question-and-answer period.

g. Notify the Regional Director in writing, within 30 days from the date of the receipt of this Order, what steps have been taken to comply with it. Upon request of the Regional Director, Respondent shall notify him periodically thereafter in writing what further steps have been taken in compliance with this Order.

Dated: May 20, 1979.

AGRICULTURAL LABOR RELATIONS BOARD

By: _____
Matthew Goldberg
Administrative Law Officer

NOTICE TO EMPLOYEES

After a hearing in which all parties presented evidence, the Agricultural Labor Relations Board has found that we have engaged in violations of the Agricultural Later Relations Act, and I has ordered us to notify our employees that we will respect their rights under the Act in the future. Therefore, we are new telling each of you:

The Agricultural Labor Relations Act is a law that gives I 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 net to do any of these things.

Because you have these rights, we promise that we will not do anything else in the future that forces you to do, or stops you from doing,, any of the things listed above; especially we will not discharge, lay off or refuse to rehire any of you because you are members of or support the UFW and/or engage in the protected activities listed above.

The Agricultural Labor Relations Beard has found that we discriminatorily refused to rehire Porfirio Monteon because he supported the UFW and engaged in protected activities; therefore, we will offer Porfirio Monteon full reinstatement to his former or substantially equivalent job without prejudice to his seniority or other rights and privileges, and we will pay him for any losses he may have suffered as a result of his being refused re-employment.

Dated:

GOLDEN VALLEY FARMING

By: _____
Representative Title

THIS IS AN OFFICIAL NOTICE OF THE AGRICULTURAL LABOR RELATION BOARD, AN AGENCY OF THE STATE OF CALIFORNIA.
DO NOT REMOVE OR MULTILATE.