

STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:                     )  
   )  
Regular Board Meeting                 )  
\_\_\_\_\_   )

BOARD MEETING

Location:                                 ALRB Hearing and Conference Room  
   1325 J Street, Suite 1900  
   Sacramento, CA 95414

Wednesday, October 30, 2024

Reported by:  
Martha Nelson, CERT

APPEARANCES

BOARD MEMBERS

Victoria Hassid, Chair

Barry Broad

Ralph Lightstone

Cinthia N. Flores

STAFF

Santiago Avila-Gomez, Executive Secretary

Julia L. Montgomery, General Counsel

Scott Inciardi, Board Counsel

Michaela Paugh

Jessica Arciniega, Regional Director

PANELISTS

Christy Getz, UC Berkeley College of Natural Resources

Peter O'Driscoll, Equitable Food Initiative

Erik Nicholson, Pandion Strategy

Ernie Farley, GoodFarms

SPANISH INTERPRETER

Silvana Garetz

APPEARANCESPUBLIC COMMENT

Amalia Lonnel, GoodFarms

Matthew Allen, Western Growers Association

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Moderator and Presenter:

Christy Getz, UC Berkeley

Presenters:

Ernie Farley, GoodFarms

Peter O'Driscoll, Executive Director of EFI

Erik Nicholson, Pandion Strategy

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1 meeting. And even if you are able to hear me now, we ask  
2 that you select your preferred language, either English or  
3 Spanish, in the Zoom application at the bottom of your  
4 screen. This will ensure you are able to fully hear the  
5 audio of today's proceedings.

6 And Santiago, can you relay that in Spanish?

7 (Instructions are given in Spanish)

8 CHAIR HASSID: Thank you, Santiago, appreciate  
9 that.

10 Okay, next I will call the roll.

11 Board Member Broad?

12 BOARD MEMBER BROAD: Present.

13 CHAIR HASSID: Board Member Flores?

14 BOARD MEMBER FLORES: Present.

15 CHAIR HASSID: Board Member Hall is not here  
16 today.

17 Board Member Lightstone?

18 BOARD MEMBER LIGHTSTONE: Present.

19 CHAIR HASSID: Board Members, we have a quorum.

20 Also present from our staff today is our  
21 Executive Secretary, as you heard, Santiago Avila-Gomez,  
22 who is providing technical support.

23 Okay, our next -- our first agenda item is to  
24 approve the meeting minutes from October 2nd. May I have a  
25 motion?

1 BOARD MEMBER BROAD: So moved.

2 CHAIR HASSID: Thank you. May I have a second?

3 BOARD MEMBER FLORES: Second.

4 CHAIR HASSID: Thank you, Member Flores.

5 Board Member Lightstone, do you --

6 BOARD MEMBER LIGHTSTONE: Aye.

7 CHAIR HASSID: I also vote to approve. The  
8 meetings from October 2nd are approved.

9 Next, we have our Chair's Report. I have a  
10 couple items.

11 One, I want to acknowledge, since our last  
12 meeting last Friday, the state honored Larry Itlliong Day, a  
13 Filipino labor leader who was very active in the West Coast  
14 labor movement, and also very instrumental in working with  
15 United Farm Workers and other groups to help establish our  
16 Act in our agency and was very active. I want to  
17 commemorate that.

18 Next, we have a two-step process. We added,  
19 within the ten-day notice period, an item to our agenda  
20 regarding a proposal to open up a new office in Santa  
21 Maria. So first, the Board will need to vote to affirm the  
22 addition so it's a badly key related requirement and then  
23 we'll discuss the actual proposal, and the Board will vote  
24 on that.

25 So first, in order to get into this discussion,

1 may I have a motion to hear the item.

2 BOARD MEMBER BROAD: I move that we hear the  
3 item.

4 CHAIR HASSID: Okay.

5 BOARD MEMBER LIGHTSTONE: Second.

6 BOARD MEMBER BROAD: -- on the office in Santa  
7 Maria.

8 CHAIR HASSID: Thank you Member Lightstone  
9 seconded.

10 Member Flores, do you -- how do you vote, yea or  
11 nay?

12 BOARD MEMBER FLORES: Aye.

13 CHAIR HASSID: I also vote. Thank you. So,  
14 we're able to hear the item now.

15 And I'll turn it to over to our General Counsel,  
16 Julie Montgomery, to discuss the proposal.

17 MS. MONTGOMERY: Good morning, members of the  
18 Board and Chair. Let's see. So the proposal that we have  
19 before you today is to establish an office in Santa Maria.

20 And just to give you a little background about  
21 how this came about and why we're making this proposal, we  
22 started seeing an increase in activity in the farmworker  
23 community with a lot of protected activity happening in  
24 various commodities in that northern Santa Barbara  
25 County/Santa Maria area several years ago, and we saw an

1 increase in charge filings.

2           And then in early 2022, so almost two years ago,  
3 we made the decision, the GC Program made the decision to  
4 house an attorney, Yesenia Pulido, in Santa Maria. And she  
5 was originally going to go to the Salinas office. But when  
6 we, we realized, oh, she's already in Santa Maria and there  
7 was so much activity going on there, it just it just made  
8 sense to have her work out of Santa Maria and continue in  
9 that area.

10           And so her presence has continued to increase the  
11 charge filings and settlements in that area, and has  
12 provided a lot of support for our cases over there. And  
13 she has reported to various nonprofit offices to do office  
14 hours so that she's there on a regular basis, both at CAUSE  
15 and MICOP, which are two nonprofits in the area that serve  
16 farmworkers. And she's just been there as a resource to  
17 meet with workers if they have questions or needs, and also  
18 to help with the various case matters, some of which are  
19 assigned to her, and others are which are assigned to other  
20 ALRB staff. And she he provides support for them, just if  
21 they need signatures on documents or to gather information  
22 and evidence, et cetera. So it's been a huge help to have  
23 her in that area.

24           And at the same time now we're starting off on a  
25 Rural Strategic Engagement Program, which I know we talked

1 about previously, which is a project, a limited-term  
2 project where we are hiring additional staff with some  
3 funds that the Department of Finance has granted to us for  
4 this purpose to help with collaboration with our other  
5 state partners at the Labor Commissioner, Cal/OSHA, EDD.  
6 LWDA. And there have been regular wage clinics that the  
7 Labor Commissioner has been holding in Santa Maria, which  
8 has also increased participation by the community in the  
9 state processes. And so we've been collaborating more with  
10 these groups.

11           And as part of those efforts, I know the Labor  
12 Commissioner has also expressed an interest in trying to  
13 find a presence or establish more of a presence in that  
14 area. And as part of that program, we do have some  
15 positions that we want to place in Santa Maria, which  
16 include a field examiner and a senior legal typist, which  
17 is like, you know, an administrative support position for  
18 those who might not be familiar with that. And so then  
19 that would mean we would have three staff working in Santa  
20 Maria, which will now necessitate an office space.

21           And it will also be really helpful for Yesenia  
22 Pulido to have a regular office space to go to and work out  
23 of together with the other staff at the ALRB that we will  
24 place there on this project.

25           So in looking around at different office space

1 options, we realized that there's a real lack of  
2 opportunity and space in this area. And we really, because  
3 this is a limited-term project, we need to find somewhere  
4 we can get in quickly and sublease rather than start on a  
5 whole process to do a long -- well, we can't do a long-term  
6 lease because of the limited nature of the project, but  
7 also just the Department of General Services process takes  
8 a very long time. And this project really needs to be up  
9 and running ASAP because it is limited term.

10           So that's why we need to get in somewhere quickly  
11 where we can establish an office, hire staff, and get going  
12 on this project. So that's part of the reasoning behind  
13 what's in this proposal.

14           So we did find available office space that's very  
15 centrally located in Santa Maria on Broadway, which is the  
16 main boulevard going through Santa Maria, if any of you are  
17 familiar with that area. And it is an office space that  
18 we're planning to sublease, or this is the proposal, is to  
19 sublease from CAUSE, where we've been having office hours  
20 regularly and Yesinia Pulido has been going there regularly  
21 already.

22           But this would be subleasing a small amount of  
23 space, which would basically just be one office and a  
24 cubicle area, reception area, for our staff that they would  
25 share. And then we would have access to a conference room

1 and then the general space like the, you know, restrooms,  
2 coffee room, et cetera, break room.

3 And we've been able to work it out with them to  
4 be able to start this lease within, you know, this next  
5 month if it's approved. And it will be on a -- it can be  
6 terminated on a 30-day notice basis if there's a problem or  
7 it's not working out for one reason or another. But this  
8 is a way for us to get in quickly and be somewhere  
9 centrally located where we've already been showing up and  
10 having a presence, so it really makes sense.

11 And we will also be putting a lot of safeguards  
12 in place to make sure that there's a clear -- as we have  
13 been thus far, but even more so now, you know, that we're  
14 leasing the space, we're going to have these safeguards to  
15 make sure that we're very clearly separated from CAUSE so  
16 that it's clear with signage and entrances and everything  
17 that, okay, this is ALRB over here and we're not affiliated  
18 with CAUSE, We're separate from them, so that there's no  
19 confusion there. And I believe, you know, CAUSE has at  
20 least as much interest in that as we do and is to maintain  
21 that separation.

22 And also, if there do end up being cases, as has  
23 happened in the past, where CAUSE might be either a party  
24 or a witness, we will firewall those or at least not -- we  
25 would not assign those to the local Santa Maria staff. We

1 will have those assigned to people at a different office  
2 just to make absolutely sure that there is that separation  
3 and there isn't any appearance of any impropriety there.

4           So that is what the proposal is, it's to get in  
5 and sublease the space with CAUSE. And we are able to do  
6 it, you know, within our authority with DGS or Finance or  
7 whoever it is that gives us authority to enter into  
8 contracts.

9           So if there's any questions, I can answer them.  
10 Otherwise, I guess that's pretty much -- hopefully I  
11 remembered everything. I think that's it.

12           CHAIR HASSID: That sounds great.

13           Do any of my colleagues have any questions?

14 Okay.

15           And just a note, I really appreciate the General  
16 Counsel and our administrative staff, Dalton Weber, as well  
17 as Regional Director Jessica Arciniega and our staff member  
18 there. I think this is a really great opportunity. It's a  
19 way where we can serve the public much better. And it  
20 really follows this philosophy that we've been trying to  
21 implement across the Board, literally and figuratively, to  
22 meet workers where they're at. And I think it's a great  
23 example of our ability to be nimble and kind of navigate  
24 some of the bureaucracy pretty well. So huge kudos to the  
25 GC team, the Regional Directors, the Regional Office team,

1 and then also Dalton, as well, for the work that he did.

2 I strongly agree with us opening an office there.  
3 And not seeing any other questions or comments.

4 BOARD MEMBER LIGHTSTONE: Let me just add one  
5 comment. I think that the General Counsel's outline of  
6 this caution she's taking are well taken.

7 CHAIR HASSID: Yes, yes, yes. I think we've kind  
8 of talked through a lot of making sure we have appropriate  
9 safeguards in place, but it's a lack of -- there's quite a  
10 lack of space in Santa Maria generally, and certainly state  
11 office buildings, so it was great that we were able to find  
12 the space that worked within, so -- and it was available.

13 And with that, I will make a motion that we  
14 approve of the -- or authorize General Counsel to open this  
15 new office in Santa Maria. May I have a second?

16 BOARD MEMBER BRAD: Second.

17 CHAIR HASSID: Thank you, Board Member Broad.

18 CHAIR HASSID: Board Member Flores, how do you  
19 vote?

20 BOARD MEMBER FLORES: Aye.

21 CHAIR HASSID: Board Member Lightstone, how do  
22 you vote?

23 BOARD MEMBER LIGHTSTONE: Aye.

24 CHAIR HASSID: Aye as well. And so there's  
25 approval to open the office. Thank you very much.

1           And then my last item in the Chair's report is  
2 just a note that this year's farmworker breakfast will be  
3 held on December 6th, and we will have several staff from  
4 several offices going. And if any Board members wish or  
5 counsel wish to participate just let me know and I'll  
6 connect you, or reach out directly to Daniella Ramirez.

7           BOARD MEMBER LIGHTSTONE: Is that the 5th or the  
8 6th?

9           CHAIR HASSID: The 6th.

10          BOARD MEMBER LIGHTSTONE: The 6th.

11          CHAIR HASSID: Yeah. Okay, our next agenda  
12 item -- that concludes the Chair's Report.

13                 The next agenda item is our Executive Officer's  
14 Report on Elections, Unfair Labor Practice, Complaints and  
15 Hearings, presented by our Executive Officer, Santiago  
16 Avila-Gomez.

17                 EXECUTIVE SECRETARY AVILA-GOMEZ: Good morning  
18 Chair Hassid, again, and members of the Board. I'm going  
19 to be speaking a little bit slower. I know our interpreter  
20 is doing a terrific job keeping up. Just as a reminder for  
21 folks to modulate your voice speed to help her.

22                 Turning to the report itself, it's not yet posted  
23 to the website, it will be later this afternoon.  
24 There are two official reporting items and then two that  
25 I'll mention.

1           So the first is the complaint settled in Foley  
2 Family Farms, and that case number is 2023-CE-033-SAL. The  
3 General Counsel filed its motion to take off calendar due  
4 to settlement, and that was filed on October 22nd. So that  
5 matter is now taken off calendar, and it involved a  
6 complaint filed in Sonoma -- or I'm sorry, filed against  
7 Foley Family Farms LLC which grows grapes in Sonoma County,  
8 and that complaint had issued on August 2nd of this year.

9           Next, decisions issued. There were no  
10 administrative orders issued. There was, however, a  
11 decision issued in DMB Packing Corp to invest in DiMare  
12 Company, and that decision is 2024, and then the citation  
13 is 50 ALRB No. 2, case number is 2023-RM-001-VIS. There  
14 was certification of the labor organization issued on  
15 October 23rd and it had been set -- objections had been  
16 filed by the employer. The Board had set it for objections  
17 hearing, an IHE decision issued, and the employer then  
18 filed exceptions to the decision, which the Board  
19 considered. And ultimately, the Board dismissed the  
20 exceptions to the decision and overruled the objections to  
21 the certification. So that matter, as of right now, is  
22 final.

23           The next two items relate to complaints. We  
24 don't yet have filings to take off calendar. However, for  
25 both of the matters, the General Counsel has indicated that

1 they will do so shortly because they have entered into ---  
2 parties have entered into settlement.

3 The first is J&J Berry Farms LLC and California  
4 Giant, Inc., and that matter number is 2022-CE-018-SAL, et  
5 al. We were advised on October 22nd that they have  
6 settled.

7 And then Norman's Nursery, Inc., that case number  
8 is 2022-CE-010-VIS, we heard from the General Counsel on  
9 October 28th that that matter is settled. So we're waiting  
10 for the motions to take off calendar, but otherwise appear  
11 to have settled.

12 That concludes my report. Happy to answer any  
13 questions about it.

14 CHAIR HASSID: Thank you, Santiago. And thank  
15 you to our acting ALJs for helping get these to settlement.  
16 Appreciate that.

17 Next, we will have our Litigation Report with  
18 Board Counsel Scott Inciardi.

19 Scott?

20 MR. INCIARDI: Good morning, Chair Hassid and  
21 members of the Board. This will be the Litigation Report  
22 on litigation matters involved in the Board.

23 I'm going to start with Case Number BCV-24-101649  
24 in the Kern County Superior Court. This is Wonderful  
25 Nurseries, LLC versus ALRB et al. This is Wonderful

1 Nurseries' petition for Writ of Mandate and complaint.

2           On October 3rd, 2024, the ALRB filed an answer to  
3 the complaint. On October 28th, 2024, the parties filed a  
4 Joint Case Management Conference Statement in the case, and  
5 a case management conference is scheduled to take place on  
6 November 12th, 2024.

7           The next matter is Case Numbers F088632 and  
8 F088639. This is ALRB versus Superior Court. Consolidated  
9 petitions for Writ of Mandate filed by the ALRB and United  
10 Farm Workers of America challenging the Superior Court's  
11 denial of the ALRB's demurrers to the complaint in the Kern  
12 County matter.

13           On October 24th, 2024, the court, on its own  
14 motion, ordered the petitions for Writ of Mandate filed by  
15 the ALRB and UFW consolidated and ordered Wonderful  
16 Nurseries to file a response to the petitions within 30  
17 days, which would be Monday, November 25th, 2024. The  
18 replies of the ALRB and UFW would be due 30 days after the  
19 filing of the response.

20           The final matter is Case Numbers F088515 and  
21 F088520. This is Wonderful Nurseries LLC versus ALRB  
22 consolidated appeals filed by the ALRB and United Farm  
23 Workers appealing the Kern County Superior Court's order  
24 granting preliminary injunction.

25           On September 23rd, 2024, the court ordered the

1 appeals of the ALRB and UFW consolidated. Wonderful filed  
2 its opposition to the petitions for Writ of Supersedeas on  
3 October 7th, 2024. And on October 24th, 2024, the  
4 Appellate Court issued the Writ of Supersedeas staying the  
5 preliminary injunction ordered by the Superior Court  
6 pending the appeal.

7 That concludes my litigation report. Thank you.

8 CHAIR HASSID: Thank you very much, Scott.

9 Next (indiscernible)?

10 BOARD MEMBER BROAD: So is the effect of the  
11 granting of that writ that the hearing will resume?

12 CHAIR HASSID: Yes.

13 BOARD MEMBER BROAD: Okay.

14 CHAIR HASSID: As will the MMC proceedings.

15 BOARD MEMBER BROAD: Okay.

16 CHAIR HASSID: Next, we have our General  
17 Counsel's Report with Julie Montgomery.

18 Julie?

19 MS. MONTGOMERY: I have a few settlements to  
20 report on, and then I'll just give you a little highlight  
21 of one outreach event.

22 The first settlement is out of Region 2 in the  
23 Visalia area. And in that case, this was a pre-complaint  
24 settlement where three dairy workers in Hanford filed  
25 charges on March 28th of this year, alleging that they

1 filed a BOFE claim, that's the Bureau of Field Enforcement  
2 with the Labor Commissioners -- or with the Division of  
3 Labor Standards Enforcement, rather, regarding systemic  
4 wage theft, and a Cal/OSHA complaint. And they requested  
5 their personnel files and pay records and they notified the  
6 dairy that they did file these claims.

7 And then they were terminated -- their pay was  
8 reduced a few months later, and then they were terminated a  
9 few months after that, which was in October of 2023,  
10 without a bonus. And so they alleged that that was in  
11 retaliation for their participation in these processes.

12 And the parties reached a settlement agreement on  
13 October 1st of this year. However, the dairy did close  
14 during, you know, the interim period, so the remedy only  
15 includes back pay to one worker to make him whole for lost  
16 wages, which is like \$61.00, and then there will be  
17 mailings. But other than that, we can't do the standard  
18 noticing remedies as there's no workforce left to notice on  
19 that one.

20 We also settled a charge against Bagdasarian  
21 Services, LLC, which is in the Coachella Valley. And in  
22 that case, an irrigation specialist was working in citrus  
23 and filed a charge in March of 2023, alleging that he was  
24 terminated that same month for complaining with coworkers a  
25 few days prior about a change in workplace cell phone

1 policy. In fact, it was the day prior to being fired that  
2 he had complained.

3 The parties reached an agreement on October 18th  
4 of this year, and it includes standard noticing and \$22,345  
5 in back pay and \$1,000 payment in lieu of reinstatement to  
6 charging party as charging party's position was eliminated.

7 We also reached a settlement involving -- with  
8 Foley Farms, which is a wine grape grower in Sonoma County.  
9 And that charge was filed by North Bay Jobs with Justice,  
10 which is a nonprofit organization in that area. And they  
11 filed their charge in September of 2023, alleging that the  
12 FLC owner that Foley had contracted with retaliated against  
13 a crew of eight workers who were picking wine grapes after  
14 they asked for a \$1.00 raise and had started to take sick  
15 days, their three paid sick days.

16 The FLC owner had requested that the foreman, you  
17 know -- well, they discouraged workers from taking sick  
18 days, first of all, and then also was requiring the foreman  
19 to take extra measures against these workers to ensure that  
20 they were actually sick and staying home, which they hadn't  
21 done with other workers who hadn't engaged in protected  
22 activity. And despite being assured work through harvest,  
23 the crews were terminated in August of 2023.

24 The General Counsel found sufficient evidence  
25 that a violation occurred and filed a complaint on August

1 2nd. The parties reached an agreement on October 24th this  
2 year, so a couple months after the complaint was filed, and  
3 it includes standard noticing terms, supervisor training,  
4 and \$17,945 in back pay for the eight workers. And  
5 reinstatement was not part of the agreement as the workers  
6 were offered their jobs back shortly after being  
7 terminated.

8 So that's it for settlements.

9 And then just real quick on outreach, we  
10 participated, we had staff participating in a community  
11 meeting with the Central Coast Alliance United for  
12 Sustainable Economy, CAUSE, in collaboration with  
13 Department of Pesticide Regulation, the City of Santa  
14 Maria. And I believe the Agricultural Commissioner and  
15 Office of Environmental Health Hazard Assessment was also  
16 involved. And we had our attorney, Yesenia Pulido, and our  
17 outreach specialist, Noemi Gregorio, attending these  
18 events.

19 The first day involved a community meeting where  
20 workers shared testimony about their working conditions,  
21 followed by a food distribution and traditional dance. And  
22 our staff did a presentation to workers about the ALRB.

23 The second day, they participated in what they  
24 called a toxic tour along with the team at the -- you know,  
25 with the different groups I mentioned. And the tour was

1 guided by youth volunteers at CAUSE. And the tour included  
2 seeing a packing plant, tomato greenhouse, and schools  
3 surrounded by agriculture. Students shared testimony about  
4 the dangers and concerns about pesticide use. And they  
5 also visited some school sites that were near fields. And  
6 workers shared stories of working in a plant and some  
7 experiences they had where they faced retaliation and how  
8 the ALRB helped with their case.

9 So that pretty much concludes my report, and I'm  
10 happy to answer any questions.

11 CHAIR HASSID: Thank you very much, and thank you  
12 to the staff. Interesting to hear about the Foley Farms  
13 case where workers were discouraged from taking sick leave.  
14 I fear that that happens more often than not, so it's  
15 reassuring, and I think that's a really important, maybe  
16 something we could highlight to help raise awareness. I'd  
17 love to hear more about the noticing of that, when that  
18 noticing may be. But yeah, great.

19 Do my colleagues have any questions or comments?  
20 Okay.

21 We do not have an Administrative Services report  
22 or Legislative Report today, so our next agenda item is an  
23 update from our Regulations Subcommittee. And I will turn  
24 it over to Board Member Broad.

25 BOARD MEMBER BROAD: Good morning, members and

1 members of the public. You have before you our report and  
2 a proposed recommendation to take action today. I want to  
3 point out a couple of things, and then I'll just go over  
4 the changes that we recommend.

5           The general rule is that parties need to comment  
6 on only the changes in the proposal. They're not really  
7 supposed to go back to prior issues that were resolved by  
8 the Board and not changed the last time. However, we have  
9 decided in this iteration and our prior report to address  
10 pretty much every issue that the parties raised, regardless  
11 of whether it was an issue that, you know, shouldn't be  
12 raised earlier because we want to be open, transparent, and  
13 responsive to everyone's concerns.

14           That said, we actually are only recommending two  
15 small changes in the draft. And let me go over those  
16 quickly. They're substantive but not major changes, and I  
17 don't doubt that they will be controversial, but you never  
18 does.

19           So the first one is a proposal to change  
20 regulation to proposed Regulation 20391(a)(1) on service of  
21 a petition on an agricultural employer. That provision  
22 allows, when personal service of the employer itself, its  
23 officers, cannot be made, cannot be accomplished to, in  
24 certain circumstances, serve it on the supervisor of the  
25 workers that are covered by the petition.

1           We had -- one of the parties pointed out that,  
2 and this was an error on our part because we had actually  
3 proposed it correctly in our Statement of Reason but had  
4 the wrong language in the actual regulation language  
5 itself, and in the last sentence it says that, "If a party  
6 serves the petition on the supervisor, it still has to  
7 email and/or use -- and use a courier to deliver it to the  
8 employer," and that should not be "and," it should be "or,"  
9 so that they can serve it by email or notify the employer  
10 by email of the service or by personal. So that's the  
11 first change, changing the "and" to an "or."

12           And then the second one, which is in section  
13 regulation 20391(a)(4), merely provides that when the  
14 staff, as is required by the regulation, provides a notice  
15 to workers of the fact that a petition has been filed and  
16 is under investigation, that that, a copy of that notice,  
17 needs to be given, provided to the union that filed the  
18 petition. Obviously, the employer is posting it, so it has  
19 a copy of the notice already. So that's the second change,  
20 really giving a copy of the notice to the union as part of  
21 that process.

22           So those are the two changes that we are  
23 recommending. Otherwise, the regulations that we're  
24 proposing are unchanged except for those two changes, and  
25 that we're also recommending that we notice those for the

1 minimum period of 15 days.

2           So that, and with that, I guess we'll entertain  
3 any questions folks have and may be raised by the public.

4           CHAIR HASSID: Do any of my colleagues have any  
5 questions? All right.

6           And then, Santiago, can you let us know, do any  
7 members of the public or staff have any questions?

8           EXECUTIVE SECRETARY AVILA-GOMEZ: I don't see any  
9 messages have been received prior to the meeting, so I'll  
10 call out now to members of the public and staff to raise  
11 their hand using the Zoom feature or to go off mute and  
12 indicate that they would like to make public comment.

13           CHAIR HASSID: Cool.

14           EXECUTIVE SECRETARY AVILA-GOMEZ: It doesn't look  
15 like anyone has any intent to speak at this time.

16           CHAIR HASSID: Okay. Okay, great.

17           I make a motion to approve the changes proposed  
18 in the report and move forward with the rulemaking.

19           BOARD MEMBER BROAD: And the 15-day notice.

20           CHAIR HASSID: And the 15-day notice period.

21           BOARD MEMBER BROAD: I'll second that.

22           CHAIR HASSID: Thank you.

23           Board Member Flores?

24           BOARD MEMBER FLORES: (Off mic.)

25           CHAIR HASSID: Board Member Lightstone?

1 BOARD MEMBER LIGHTSTONE: Aye.

2 CHAIR HASSID: Okay. All right, so carry forward  
3 and hopefully we can get this thing off to OAL.

4 BOARD MEMBER BROAD: Yeah, let me just make this  
5 point. We will, I think -- I think the intention of the  
6 Subcommittee will be at this point in the process that the  
7 comments, we're only going to entertain comments that deal  
8 with the two changes that we're proposing here. We're not  
9 going to be quite so liberal since we've been very liberal  
10 so far. We're not going to -- you know, general issues  
11 that are raised that aren't having anything to do with  
12 those two changes, we won't -- we simply will not respond  
13 to. So I just want to make that clear to everyone.  
14 Appreciate that.

15 CHAIR HASSID: And thank you for all your work on  
16 that, and to the Counsels.

17 BOARD MEMBER LIGHTSTONE: And thanks to Board  
18 counsel for --

19 CHAIR HASSID: Yes.

20 BOARD MEMBER LIGHTSTONE: Yeah. Thaks.

21 CHAIR HASSID: Okay, next, we have an  
22 informational panel today. And I will turn over to our  
23 staff member Michaela in just a moment.

24 So this is a panel on agricultural industry  
25 certification and there will be a roundtable discussion.

1 This is a topic that I have long been interested in as  
2 there are -- I think most of us are familiar with some like  
3 fair trade certifications or the organic California  
4 Certified Organic certification. But there are several  
5 that also include a component to have higher labor  
6 practices. And so we wanted to have a larger discussion on  
7 that and learn more and we have several guests with us  
8 today.

9 And I will turn it over to Michaela.

10 MS. PAUGH: Yes. Good morning, everyone, members  
11 of the Board and public and ALRB staff. Thank you so much  
12 for joining us. I'm going to start by introducing our --  
13 one of our panel presenters and moderator Christy Getz.  
14 Christy Getz is an Associate Professor of Cooperative  
15 Extension and Food Systems in the Department of  
16 Environmental Science Policy and Management at UC Berkeley.

17 Trained as a sociologist, her Applied Research  
18 and Extension Program focuses on the political economy of  
19 food and agriculture with a focus on farm labor, the small  
20 farm sector, agricultural governance, and sustainability.  
21 Her current research projects include an assessment of  
22 cannabis regulations effects on California communities, a  
23 study of farmworker health and health care access in  
24 California, and an evaluation of California's Farm to  
25 School Incubator Grant Program. Christy also chairs the UC

1 A&R's California Communities and Food Systems Program team.

2 Christy, I'll turn it over to you and you should  
3 be able to share your screen.

4 MS. GETZ: Great. Thank you so much. Let me see  
5 if I can share this. All right, can you all see the  
6 slideshow?

7 BOARD MEMBER BROAD: Yes.

8 CHAIR HASSID: Yes, we can. Thank you.

9 MS. GETZ: Fabulous. Great. Well, thank you so  
10 much, Michaela and the rest of the Board, for inviting me  
11 to join you. As Michaela mentioned, my primary role today  
12 will be as a moderator for our panel. And just to start,  
13 I'd like to provide a little bit of context for our  
14 discussion, sharing some of the questions that colleagues  
15 and I have been contemplating and researching on and off  
16 for about 20 years.

17 So these larger questions are, first of all, what  
18 is the landscape of U.S. market-based voluntary  
19 certification initiatives that address labor issues in the  
20 U.S. agricultural sector? What is the potential of these  
21 initiatives to ensure labor rights and increase social  
22 sustainability in agriculture? And how do market-based  
23 initiatives intersect with non-market strategies to  
24 ensure -- that aim to improve labor conditions? And  
25 finally, what can we learn from in-depth, site-based

1 research on these initiatives?

2           And so today, our deep dive is going to be into  
3 the Equitable Food Initiative. And I'm thrilled to have  
4 three fabulous panelists who you'll meet soon on this  
5 panel. But just as kind of an intro, I wanted to touch  
6 base on question number one, which is just to give a little  
7 bit of a background on the landscape from my perspective on  
8 market-based certification initiatives. And then just  
9 briefly talk a little bit about some in-depth work with  
10 colleagues that I've done into EFI, which is short for  
11 Equitable Food Initiative.

12           So I wanted to start thinking about these  
13 questions back in 2001, not long after the National Organic  
14 Program failed to incorporate social standards, with the  
15 USDA basically telling farm labor advocates that social  
16 dimensions of organic agriculture were not in their  
17 purview. And so I think this was really an opening for  
18 some (indiscernible) initiatives to emerge that would, in  
19 fact, incorporate social dimensions. And as researchers,  
20 we thought it was worth understanding and evaluating some  
21 of these initiatives.

22           And going back to the early 2000s, we found that  
23 these national initiatives seemed to struggle with some --  
24 a few key challenges. One of those was a number of these  
25 initiatives were trying to simultaneously hold issues

1 facing farm labor and issues facing small farmers in the  
2 same space. And what we found early on is that, for the  
3 most part, the farm labor issues were kind of subsumed by  
4 the small farm issues. And that kind of simultaneously  
5 holding those together was quite challenging.

6           Similarly, in governance structures of these  
7 initiatives, labor seemed to take short thrift to some of  
8 the small farm and farm advocacy groups. One notable  
9 exception early on to this was the Agricultural Justice  
10 Project, which is a very high-bar niche initiative. And  
11 they unrolled a -- sorry, they basically developed a Food  
12 Justice Certified label, and they were able to achieve  
13 meaningful labor representation. But again, it's a very  
14 niche initiative. It's been in place now. It's still  
15 around for about 25 years. And they, at this point, have  
16 certified five farms in the United States, one in  
17 California.

18           So fast forward to about 2011. Three initiatives  
19 emerged at that time that began to interpret the dimensions  
20 of U.S. agriculture in a more comprehensive way,  
21 incorporating the mainstream ag sector. And those are Fair  
22 Trade USA, the Fair Food Program, and the Equitable Food  
23 Initiative. And all three of those had, had and have, very  
24 strong rights-based language and a commitment to centering  
25 social sustainability. And while each has very, very

1 different -- each has a distinct focus, a very distinct  
2 context, and a very distinct theory of change, all  
3 explicitly recognize the need to target or engage  
4 retailers, sort of moving beyond the grower versus worker  
5 dichotomy.

6           And so fast forward to 2024, and these three  
7 initiatives are still, in my purview, the primary  
8 certification initiatives in the United States focusing on  
9 the labor-intensive produce sector. And so I just want to  
10 give a very brief overview of these just to give a context  
11 for where EFI is situated.

12           Fair Trade USA has a Fair Trade Certified label.  
13 It was founded in 1998, it expanded into the produce sector  
14 internationally in 2004, and it certified its first U.S.-  
15 based farm in 2011. And while it has strong rights-based  
16 language, really the central focus of Fair Trade USA  
17 certification, even here in the United States, is on the  
18 premium-based funding of community development projects,  
19 and that's really its central focus. Currently, Fair Trade  
20 USA has seven certified U.S. producers in the produce  
21 sector, six of which are located in California.

22           The other one I want to mention is the Fair Food  
23 Program, which also kind of came on the scene in 2011, when  
24 the Coalition for Immokalee Workers, a worker-based human  
25 rights organization, launched the Fair Food Program, and

1 later its Fair Food Consumer Power Worker Certified label,  
2 with an initial focus on eradicating what they called  
3 modern-day slavery in Florida, on Florida tomato farms.  
4 And while they have expanded beyond Florida and beyond  
5 tomatoes, their focus is really in the eastern United  
6 States and the southeast. And they only have one farm  
7 certified in California, which is actually in cut flowers.

8           And then finally, as we're going to learn more  
9 about today, the Equitable Food Initiative in 2011 launched  
10 its Responsibly Grown Farmworker Assured label, and  
11 Program. They do more than just certification. And  
12 currently they have -- Peter, you can correct me if I'm  
13 wrong on this -- I think 25 U.S.-based producers certified  
14 in the produce sector, mostly on the West Coast, with 9 in  
15 California.

16           EFI is unique in that it emerged from the labor  
17 movement and was co-founded by union leaders, and has  
18 maintained deep and meaningful engagement with farm labor  
19 groups, including ongoing representation from the three  
20 largest farmworker unions in the United States. Colleagues  
21 and I, Ron Stochlic and Maria Echaveste, were fortunate to  
22 receive funding from the Berkeley Food Institute and the  
23 Packard Foundation about seven years ago to conduct  
24 research on EFI certified farms. So I just wanted to share  
25 a few quick reflections of the work (indiscernible).

1           So we were able to conduct focus groups with more  
2 than 80 farmworkers, and interviews with a wide variety of  
3 stakeholders in EFI certified supply chains over a period  
4 of about a year. And I think the most notable finding for  
5 us was the importance of culture change on farms. And that  
6 was really somewhat surprising to us. But particularly the  
7 importance of this for women and indigenous workers, we  
8 noticed a marked shift in gender dynamics on these farms,  
9 marked decline in sexual harassment, a decrease in toxic  
10 language and toxic communication.

11           And other just reflections, we were impressed by  
12 meaningful attention to ethical treatment of guest workers,  
13 a decrease in the culture of fear on the workplace, and a  
14 real recognition on the parts of both workers and managers  
15 that farms function much better with collaborative team-  
16 based problem solving and communication.

17           And this is just a photo of a leadership team,  
18 which is a cornerstone of the EFI Program. It's a worker  
19 management team that does problem solving, and it's been  
20 really interesting to learn about how these leadership  
21 teams function in the farm context.

22           So without further ado, I'm going to turn this  
23 back to Michaela to introduce our panel, and then we'll  
24 hear directly from them.

25           MS. PAUGH: Yes, thank you, Christy, so much for

1 your introductory remarks.

2           So I'll start by introducing our panel members.  
3 I'm going to start with Ernie Farley. Ernie has worked in  
4 the berry industry in California and Mexico since earning a  
5 degree from UC Davis and joined A&W over 15 years ago.  
6 Ernie brings a vast knowledge of the retail environment as  
7 well as extensive networks within the grower-shipper  
8 community. Ernie currently owns and operates GoodFarms,  
9 which has farms throughout the state of California, and  
10 which the Board had the chance to visit, which was pretty  
11 amazing.

12           Next, I'll introduce Erik Nicholson. Erik  
13 Nicholson has spent his life working in support of  
14 farmworkers. He is the founding partner of Pandian  
15 Strategy, a consultancy focused on creating worker-centered  
16 solutions for agriculture. Erik is the interim executive  
17 director of the nonprofit Semillero de Ideas, which centers  
18 farmworkers as the driver of much-needed innovation in  
19 agriculture.

20           Erik worked 18 years with the United Farm Workers  
21 and prior to that, 12 years with PCUN, a farmworker union  
22 in Oregon. During his tenure with the UFW, he led four  
23 successful union campaigns at farms in Oregon and  
24 Washington State. He also co-founded Cierito, a nonprofit  
25 dedicated to the identification, training, and dispatch of

1 agricultural guest workers in an ethical and transparent  
2 manner.

3           Finally, I'd like to introduce Peter O'Driscoll.  
4 Peter is the executive director of the Equitable Food  
5 Initiative, a nonprofit skill-building and certification  
6 organization that improves working conditions, pest  
7 management, and food safety in the fresh produce industry.  
8 EFI works with major buyers, suppliers, workers, and  
9 consumer groups to provide greater assurance regarding  
10 supply chain conditions while generating measurable value  
11 for all stakeholders.

12           Thank you so much to all of our panelists for  
13 being here today. I'm really excited to hear about our  
14 discussion.

15           Christy, I'll pass it back over to you to kind of  
16 start things off.

17           MS. GETZ: Great. Thank you so much. So I think  
18 we're going to start off with Peter presenting some history  
19 and context of what EFI has been up to and their approach.

20           MR. O'DRISCOLL: Thanks, Christy and Michaela,  
21 and good morning to the Board members and other attendees.

22           Chair Hassid, you may remember, we had a good  
23 conversation about a year ago about EFI, so it's a pleasure  
24 to follow up here.

25           I'm going to share my screen and give a brief

1 overview of EFI, but I hope that as much as possible, this  
2 can be a conversation with our colleagues. Erik Nicholson  
3 was the first chair of the Board of EFI, and Ernie Farley  
4 is the current chair of the Board. So I think we're  
5 looking forward to your questions and comments. I'm just  
6 going to give you now the background.

7 Let me know if you can see my screen.

8 CHAIR HASSID: Yes, we can.

9 BOARD MEMBER LIGHTSTONE: We can see it.

10 MR. O'DRISCOLL: Excellent. Thank you.

11 So EFI was founded, as mentioned, actually going  
12 back to about 2008 through a series of what we call strange  
13 bedfellow conversations among unlikely participants from  
14 across the industry and began to actually operate its  
15 programs in about 2011, as Christy mentioned. The goal was  
16 to really improve wages and working conditions throughout  
17 the fresh produce industry.

18 We were looking at a landscape that I'm sure is  
19 very familiar to all of you. The labor shortage is a huge  
20 issue, not only in California, but throughout the United  
21 States and Mexico. It's led to increased dependence on H-  
22 2A guest worker programs and so forth, and many employers  
23 are particularly concerned about the rising cost of labor  
24 and the threat to the domestic industry on the basis of  
25 imports.

1           As Christy also mentioned, a huge factor in this  
2 industry is retail consolidation concentration among the  
3 largest retailers. The impact of that phenomenon is, of  
4 course, downward price pressure on the supplier, and the  
5 only place they have to go is to wages. And so there's an  
6 inherent or increasing tension as suppliers get a smaller  
7 and smaller share of the food dollar from the retail  
8 sector.

9           On the other hand, though, the retail sector has  
10 its own concerns, principally continuity of supply. The  
11 concern for them is, are we going to have enough of the  
12 produce we want on the shelves when we want it? They  
13 recognize that there are multiple threats to that,  
14 including labor violations and the recognition that they  
15 have responsibility for supply chain conditions. Food  
16 safety is a huge concern, which is one of the reasons EFI  
17 began with a focus on engaging the workforce in reducing  
18 risks to foodborne illness.

19           But obviously, if they're concerned about long-  
20 term continuity of supply, the viability of the produce  
21 industry in this country is a major concern. How long can  
22 growers stay in business, given the price pressures and  
23 other factors?

24           At the same time, and again, as Christy  
25 referenced, there's been a growing consumer demand for more

1 transparency. With the rise in reporting on labor  
2 violations, human trafficking and so forth, consumers at  
3 least express an interest in knowing more about the  
4 conditions in which their food was produced.

5           And last, but by no means least, given the labor  
6 shortage, there's an understandable boom in investment in  
7 mechanization, automation and other forms of agricultural  
8 technology. Our position on that is that we will never  
9 replace labor in the fields with robots. The best approach  
10 to ag tech is to make sure that we can professionalize and  
11 upskill the existing farm labor force so that we can  
12 maximize the benefits of any digital or automation advances  
13 in the sector.

14           For EFI, the question was always not just how do  
15 we make things better for the workers, but how do we drive  
16 systemic change that is sustainable because it is  
17 responsive to the interests of all the key stakeholders?  
18 So what you see here is a recognition that each of the four  
19 major stakeholder groups has their own interests. EFI's  
20 goal is not to get them together to agree on everything.  
21 As you can see from this Venn diagram, we accept from the  
22 start that they will disagree about most things, and that's  
23 okay. The question is, can we identify areas in which  
24 their interests actually align and work out of that space?

25           So the premise of EFI from the beginning was if

1 we could train and incentivize workers to minimize labor  
2 violations, to address food safety risks at the point of  
3 production, we would create a higher value product for  
4 their employer. We could generate some or return some of  
5 that additional value to the worker. We would be meeting  
6 the needs of the retail sector for supply chain  
7 sustainability and transparency, and thereby offering the  
8 consumer a product that met their supposed demand for  
9 greater transparency and ethical production.

10           And we set out to build a program that could  
11 accomplish those goals. It began with the strange  
12 bedfellow dialogue that I referenced, and I hope that Ernie  
13 and Erik will share some of their experiences from those  
14 early years of trust-building disagreement that led to the  
15 foundation of the program. We've tried to sustain the  
16 program throughout on the basis of ongoing interest-based  
17 dialogue. Conditions change over time. Interests may  
18 change over time. The Board of EFI continues to represent  
19 that combined multi-stakeholder approach, and the work of  
20 the Board is to maintain that interest alignment.

21           And perhaps most importantly, all of the work  
22 that we do is predicated on the understanding that workers  
23 are skilled professionals, and that the more we can  
24 document and enhance the skills they bring to this work,  
25 the more likely we are to find sustainable solutions in the

1 long term.

2           The first program that we tried, and again,  
3 Christy gave you that background, was a certification  
4 program, and you see the Responsibly Grown, Farmworker  
5 Assured Label. The basis of that was, first of all, what  
6 we considered to be the most rigorous standards in the  
7 industry. Erik and Ernie can speak to you about the three-  
8 year negotiation process among those stakeholder groups  
9 that it took to agree on the wording of labor, food safety,  
10 and integrated pest management standards.

11           Second, as Christy also referenced, the core of  
12 the program is the formation/training of a worker-manager  
13 leadership team. We provide them with foundational skills  
14 in communication and problem solving, and initially we set  
15 them up to bring their farms into compliance with our  
16 standards. Over time, we've learned that the skills that  
17 they have and the trust that they've established can be  
18 applied to the resolution of business problems as well as  
19 standards compliance, and that in turn has increased the  
20 value proposition, if you will, to employers.

21           The results of that training would be a third-  
22 party audit, eventually leading to certification that would  
23 allow the grower to use the Responsibly Grown label on  
24 their product. And most importantly, given the limitations  
25 of audits, we're all familiar with the limitations of

1 audits, which are essentially a snapshot of conditions on  
2 the day the auditor arrived, the goal was that this  
3 leadership team would continue to function throughout the  
4 year between the initial audit, the verification audits,  
5 such that as and when problems arise, and they will, EFI is  
6 not a guarantee of perfection. We expect things to go  
7 wrong on our farms, and they do.

8           The question is: Have we created a culture on the  
9 farms in which workers feel empowered and safe to raise  
10 their hands when they see violations or noncompliances with  
11 the standards such that the leadership team can employ its  
12 skills to resolve and address those concerns?

13           As of now, over the last ten years since we first  
14 certified in 2014, we're working on 53 operations in four  
15 countries, Canada, the US, Mexico, and Peru. There are  
16 another 11 farms that we hope to certify over the next six  
17 to eight months. There are more than 50,000 workers on  
18 farms with trained and certified EFI leadership teams  
19 across those four countries.

20           And as Christy referenced, one component of our  
21 program is a retail-paid certification -- excuse me, a  
22 retail-paid worker bonus. So, Costco and Whole Foods are  
23 the largest retailers that participate and pay a premium  
24 that ranges from one to four cents per pound, depending on  
25 a commodity; 87 percent of that additional premium payment

1 goes right back into the pockets of workers, 3 percent  
2 stays with the employer for administrative costs, and 10  
3 pec comes back to EFI as our licensing fee for the use of  
4 the label, which in turn funds the expansion of our  
5 program.

6 We can talk a lot, as much as you want, about the  
7 certification, but I do want to simply point out to you  
8 that part of our evolution has been the recognition that  
9 certification programs, whether ours or some of the others  
10 that Christy mentioned, in our wildest dreams will perhaps  
11 reach the top ten percent of the produce supply chain.

12 And the question that has been asked of us from  
13 day one is, well, what are you doing to address labor  
14 violations and challenges throughout the other 90 percent  
15 of the supply chain? For California, that's hundreds of  
16 thousands of farmers who will never have access either to a  
17 legally binding collective bargaining contract or a  
18 certification program. And so, over the past six or so  
19 years, we've been trying to diversify programs that begin  
20 to address the rest of the industry.

21 I'll talk in a moment about the Ethical Charter  
22 Implementation Program, but EFI has taken some of the  
23 training that we use with leadership teams and turned it  
24 into mass market seminars and workshops and online courses  
25 that introduce any employer anywhere in the industry to

1 some of the concepts of workforce engagement, continuous  
2 improvement, labor management collaboration, and so forth.  
3 We train trainers who are employed by employers to bring  
4 some of those concepts into their employment, into their  
5 workplace, regardless of whether they're EFI certified or  
6 not. We certify, obviously.

7           And in the state of California, in collaboration  
8 with the California Workforce Development Board, several  
9 other state agencies, and a multi-stakeholder collaboration  
10 of employers and worker organizations, we're in the process  
11 of floating now a formal credentialing program to recognize  
12 farmworker skills that we think will be a big part of the  
13 long-term future of the industry.

14           I referenced there the Ethical Charter  
15 Implementation Program. And I'll briefly say that this is  
16 a collaboration with six of the largest buyers in the  
17 industry, along with a number of suppliers, many of them  
18 based in California, which is an effort to recognize that  
19 the supply chain challenges throughout the industry are  
20 significant. Many of you will be familiar with a report in  
21 the *L.A. Times* ten years ago about labor exploitation in  
22 Mexico. It led the produce industry in 2018 to publish a  
23 document called the Ethical Charter on Responsible Labor  
24 Practices. I'd encourage you to look at that document,  
25 [ethicalcharter.com](http://ethicalcharter.com), and to see the commitments that the

1 industry at the retail and supplier level made to labor  
2 rights and worker protections.

3           EFI decided that we wanted to challenge the  
4 industry to go beyond written promises to formal  
5 implementation, and so we piloted a series of strategies  
6 starting in 2021 that might go beyond simple endorsement of  
7 that Charter towards meaningful implementation. Last year,  
8 we introduced the Ethical Charter Implementation Program,  
9 and a year in, we now have 261 produce companies who have  
10 subscribed to a continuous improvement capacity building  
11 program, and six major buyers who are now expecting their  
12 suppliers to report regularly on the measures they are  
13 taking to strengthen labor management systems at field  
14 level throughout their supply chain.

15           That program, the Ethical Charter Implementation  
16 Program, as I say, integrates the participation of major,  
17 major buyers who are proudly now reporting to their  
18 customers their participation in the program. We are  
19 coordinating closely with the International Fresh Produce  
20 Association because they are the owners of the Ethical  
21 Charter, and we hope to expand this program in the coming  
22 year to include not only farm labor contractors, but also  
23 workers themselves. We hope to create a worker portal  
24 where workers can learn about the protections that they are  
25 offered by the Ethical Charter and assess the degree to

1 which their employers are implementing the required  
2 management systems.

3           And then finally, as I mentioned, we have been  
4 piloting for the last several years a program in the state  
5 of California that is designed to achieve a formal  
6 farmworker credentialing system to be recognized not only  
7 by the state, but also by private industry. We're in the  
8 process of documenting agricultural skills, building  
9 another multi-stakeholder collaboration among state  
10 agencies, employer groups, worker organizations, and so  
11 forth, such that we can agree on a common approach to  
12 curricula and assessment processes that will result in  
13 formal credentials for the agricultural workforce.

14           I just want to end now by referencing, as has  
15 been said by a couple of you, that this past month, several  
16 members of the Board and staff from ALRB were able to  
17 interact with a leadership team and employers at a  
18 GoodFarms location in Oxnard, California. And, you know,  
19 for someone like me to come along and talk about the impact  
20 of EFI I think is much less powerful than to hear from the  
21 colleagues who actually had a chance to listen and talk to  
22 workers themselves. So I hope at some point in this,  
23 perhaps after we've heard from Erik and Ernie, I'd really  
24 appreciate it if the Board members who were present for  
25 that trip would share some of their reflections on what

1 they heard from workers.

2           And with that, I will stop. Apologies for going  
3 on for too long, but I hope you can hear now from Erik and  
4 Ernie.

5           MS. GETZ: Great. Thank you so much, Peter.

6           So I have some questions that I would love Ernie  
7 and Erik and you, Peter, as well, to weigh in on, unless  
8 Ernie or Erik, you have anything you'd like to say first,  
9 or should I dive into my questions?

10           MR. NICHOLSON: Go ahead with your questions,  
11 Christy.

12           MS. GETZ: So, Erik, I'd like to start with you.  
13 Going back to sort of the origins of the Equitable Food  
14 Initiative, back when you were wearing the UFW hat, I'm  
15 wondering if you could talk about back then sort of what  
16 was the motivation for the union sector to engage or engage  
17 in this type of initiative?

18           MR. NICHOLSON: Well, I would say that, just on  
19 the record, I am not speaking for the UFW. I have been  
20 working with them for 18 years, but 4 years out on my own,  
21 so the opinions I'm offering are my own.

22           We wanted to do more by farmworkers. I don't see  
23 this as any different than the historic struggle that the  
24 Union has fought for overtime for all farmworkers, for heat  
25 stress regulations for all farmworkers, smoke protections

1 up here where I am in the Pacific Northwest. And  
2 recognizing the trends that Peter spoke of, where from our  
3 perspective, the retailers or consumer-facing brands are  
4 some of the most powerful, if not most powerful entities in  
5 our industry. And watching with increasing dismay how they  
6 were unilaterally and continue to unilaterally decrease  
7 prices they're paying to growers, that when we then go in,  
8 and in my own experience in collective bargaining, the pie  
9 that we have to negotiate around diminishes.

10           And the whole point of our historic struggle in  
11 the union-to-union movements, be it FLOC or PCUN or the  
12 UFW, has been to increase wages and working conditions so,  
13 ideally, all boats rise. I think that coupled with  
14 recognition that the market, with a capital M, is punitive  
15 towards those employers, those agricultural employers that  
16 do better.

17           And it's really easy to go out into the fields  
18 and talk to growers who will tell you that the social  
19 compliance folks, you pick the retailers, there's five that  
20 are now responsible for over 50 percent of all the food we  
21 buy in the U.S., come give them a pat on carbon reduction,  
22 good work with solar, getting rid of plastics or, you know,  
23 having, you know, a union contract that provides paid  
24 medical and vacation, that's awesome.

25           And then when the purchase order is issued, it

1 goes to the bottom feeder that's doing none of this, that's  
2 openly flaunting wage and hour law with impunity, using  
3 some FLC that's engaged even more egregious behavior. And  
4 all of us are left wondering, well, if this is so great,  
5 why aren't the purchase orders lining up?

6           And then lastly, increased, you know, demand from  
7 consumers of wanting to know what to buy. You know, the  
8 movement I'm probably part of the Union was born of telling  
9 workers what -- or I'm sorry, consumers what not to buy,  
10 the boycotts. And that has really shifted to people really  
11 want to align their purchasing with values that have been  
12 implemented all the way down to the farmworker level.

13           And so I'd say those were the three trends that,  
14 from my perspective, gave birth to the EFI and the unions  
15 at the time coming together to help make it happen.

16           MS. GETZ: Great. Thank you so much.

17           So I'd like to shift over to you, Ernie, now.  
18 You know, also kind of going back to the early days of EFI,  
19 as a grower, could you talk about your perspective on this  
20 and sort of also what you kind of see now as the hook for  
21 growers to get involved in this initiative?

22           MR. FARLEY: Yeah, certainly. Thank you to you  
23 and to the Board, et cetera, for your time and your  
24 interest.

25           Yeah, you know, originally, and because, you

1 know, as I say, during our Board meetings at EFI, I am a  
2 capitalist pig, you know, I have to call, you know, it fair  
3 that we're there for self-interest. And a lot of the  
4 really strong work that I think the UFW and PCUN and FLOC  
5 and the other, and PAN and everybody else did was bringing  
6 those retail customers to the table. But then me as a  
7 grower went like, oh, gee, you know, this is a little more  
8 of a safe zone and an interest in mind because that, you  
9 know, that is my or our customer.

10           And that really did sort of change the view with  
11 me and my business partners and our teams, you know, like  
12 that we needed to take some risk to get involved because  
13 there was something -- there were people that were thinking  
14 differently. And, you know, credit goes to those, to that  
15 group, that they were really thinking differently. And it  
16 has been/it is a lot of hard work because the organizations  
17 that we're referring to are massive organizations, you  
18 know, some of them larger than the U.S. military. And  
19 getting them to change is difficult, not necessarily from  
20 the like they don't want to change, it's just difficult to  
21 change humongous organizations and get, you know, things  
22 moving, et cetera.

23           And I, you know, I guess I know we're going to  
24 talk about a bunch of stuff, but I think a lot of it, too,  
25 was a -- once that thing got created, there was a lot of

1 culture change amongst our organizations that involved a  
2 lot of moving -- removing bricks from a wall. I think all  
3 of us from our point of view, as well as the NGOs' and  
4 unions' point of view, we all had perceptions of who the  
5 other was. And it took a lot of time, a lot of risk and  
6 bravery from all the organizations to pull those bricks  
7 down and go to that middle part that Peter was talking  
8 about where you can create change.

9           One of the founders -- founding, you know, Yodas,  
10 if you will, of EFI was a gentleman, Jeff Lyons, who's  
11 retired now, he was an executive vice president at Costco,  
12 and he always used to tell us, you know, to be right is  
13 easy. You know, all of the things that we all feel in our  
14 heart are important, that is true. But then to create  
15 change is very difficult. And I think EFI has become a  
16 really good tool to begin that work of grabbing the shovel  
17 and creating the change. We all agree, farmworkers deserve  
18 more money. Okay, well now what; right?

19           So that's where we really see EFI being a  
20 wonderful tool to begin those really difficult processes of  
21 creating the change.

22           MS. GETZ: Thank you. And I'd like to follow up,  
23 when thinking about change and culture change, I wonder if  
24 you could talk a little bit about kind of bringing this  
25 down to the micro level, like what did that change look

1 like on like one of your farms? Like what was that process  
2 like of shifting the culture?

3 MR. FARLEY: Yeah, changing culture, yeah, like  
4 I wish -- if there was a process, boy, then I think I'd be  
5 a billionaire.

6 The changing culture is just an incredibly  
7 difficult, arduous slog of building trust, that we call it  
8 the ability to raise a hand. Like if we can get people to  
9 be able to say, I have empowered myself to be able to raise  
10 a hand and say something positive or negative, then you can  
11 begin the path of changing things.

12 But it's really that it's really hard, but it's  
13 that changing the -- it's just, you know, I'm sorry, but  
14 it's just a lot, a lot of work of building a trust with  
15 everyone that says -- for instance, just for instance,  
16 Peter points out, we don't call our leadership teams  
17 leadership teams. Gee, why? Well, because when we did,  
18 then everybody thought, well, that means I'm a leader,  
19 right? And then we had all of this problem with everybody.  
20 Well, I'm the leader. Well, you're the leader. So we  
21 changed them to call them continuous process improvement  
22 teams, right?

23 Well, that's sort of a little example of the way  
24 you -- you know, it's changing of like, look, look, we're  
25 not here to be a leader. You are a leader, but it's really

1 for us to continually change the processes to improve them.

2 So anyway, I'm not giving you an answer really  
3 that you probably want to hear, but --

4 MS. GETZ: No, it's good. I mean, it's a lot,  
5 and a lot of on the ground shifting things, so appreciate  
6 it.

7 MR. NICHOLSON: I'd like to take a stab at it, if  
8 it's okay?

9 MS. GETZ: Please.

10 MR. NICHOLSON: So I think one of the things, the  
11 key things, we did is we changed the nature of the job;  
12 right? And so just riffing off of I've had the pleasure of  
13 being on Ernie's farm many, many times and that in the  
14 early days, workers would show up in the job that they were  
15 doing was to pick as many berries as quickly as possible to  
16 maximize the day's return, and that was the job.

17 And so with the EFI, we said, actually, we're  
18 proposing a different job. Your job is to produce a safer,  
19 more justly grown strawberry for Costco consumers. And  
20 that includes you assuming, as a worker, responsibility for  
21 ensuring the berries you pick are not in proximity to deer  
22 poop or other food safety risks. That also means the  
23 worker then needs to assume the knowledge and the  
24 responsibility to understand what those risks are, as Ernie  
25 says, call them out. And then the workers rightly said,

1 okay, if that's what you want, what's in it for me?  
2 Because I'm not doing this for the same money of just  
3 picking strawberries, right, because I already got that  
4 deal.

5           And that's where we kind of, as Ernie talked  
6 about, then went to Costco and said, okay, if you want a  
7 safer, more justly produced berry, that is possible. But  
8 there needs to be an ROI for the workers and an ROI for the  
9 producers who are going to assume that cost. Otherwise,  
10 this is a fool's errand.

11           And I think that is still the culture change that  
12 is underway, because if you look at the amazing work Ernie  
13 and other EFI certified growers have done on their farms,  
14 it is truly amazing. Yet when those workers go back into  
15 their communities, it's somewhat bipolar because their  
16 family members, other community members who do not have --  
17 who have not had the experience of working at EFI-certified  
18 farms, saying you're a fool. Don't do that. Keep your  
19 head down. Shut up. Pick everything you can. Put some  
20 stones in there. Get the -- I mean, everybody knows the  
21 game of how you how you maximize your return on picking  
22 piece rate; right?

23           And so we still have that that dynamic of not --  
24 culture shift can happen at farms. And I think EFI has  
25 done some amazing things. We still have work to do as a

1 community, as an industry to get there.

2 MS. GETZ: Fabulous. I'm curious if you could  
3 maybe talk to us, this is open to any of you three, of the  
4 mechanism for growth in EFI in terms of the certification  
5 program? Is it is it that retailers are onboard and  
6 they're kind of recruiting their growers into the program,  
7 or are you recruiting growers directly, or could you talk a  
8 little bit about how you're bringing partners on board as  
9 you continue to grow?

10 MR. INCIARDI: So let me take a first stab at  
11 that and say that I think there are limits to growth, and  
12 that's a very real thing. I don't think any of us is here  
13 to tell you that certification is, you know, the panacea or  
14 the -- you know, what everybody should be focused on. And  
15 the limits to growth are, for example, I reference the work  
16 that Costco and Whole Foods and some other retailers or  
17 major buyers do to pay that additional return on investment  
18 to growers and to workers. But there are plenty of large  
19 retailers that don't pay that premium and that limits the  
20 incentive for new certification.

21 Certification is hard. You've heard Ernie talk  
22 about, you know, how hard culture changes and EFI. You  
23 know, there's other labels you can slap on your product  
24 that don't require training and workforce, you know,  
25 worker-manager collaboration and other things. So there

1 are some real structural limits to expanding.

2           So we continue to grow, I think, in large measure  
3 because, you know, less and less because growers see, you  
4 know, an economic advantage to getting certified and more  
5 and more because in a tight labor market where the  
6 challenge of attracting scarce workers is growing, the  
7 culture change argument actually becomes maybe more and  
8 more important. You know, we've got folks who are coming  
9 to us because they recognize that the status quo doesn't  
10 work and they're looking for new models.

11           MS. GETZ: Right.

12           MR. FARLEY: Yeah. Can I add something to that?  
13 I think some of it, EFI and now the ESIP Programs have  
14 created, and some of the other certification programs, have  
15 created some tools to begin that change from the word  
16 farmworker to agricultural professional. And I think a lot  
17 of what's happened is, post COVID, a lot of the very, very  
18 large food buying organizations had some real eyeopeners  
19 about the surety of the supply chain and they've begun to  
20 realize they need to understand from a deeper perspective  
21 their supply chains, and one of the main things being  
22 agricultural labor in their supply chain.

23           So I think the growth of these programs has  
24 started to come from the buying side realizing, hey, one  
25 thing that we can see is we can draw a direct line from

1 somebody who's trying to be progressive in their  
2 relationship with everyone in the food chain and the  
3 ability for them to deliver safe, consistent food, which is  
4 a really, really important part of, you know, my business  
5 because I own a really huge grocery store chain or food  
6 service chain.

7 MS. GETZ: Right. Thank you.

8 So I'm going to ask you guys a question, which  
9 is, in theory, certification, EFI certification and  
10 collective bargaining are compatible, as you -- it's a  
11 central component of your of your social standards is the  
12 right to collective bargaining. Question: Why do we  
13 (indiscernible) unionized EFI farms and do you anticipate  
14 that there could be a unionized EFI farm, one day? And  
15 that's to anybody, any of the three of you.

16 MR. FARLEY: I can take it, I don't know, if  
17 those guys don't want to.

18 The answer is, yes, I think there will be. I  
19 kind of in some ways say, yeah, sure, whatever, yeah.

20 I've managed farms that have had, you know,  
21 collective bargaining units and I've managed farms that  
22 that don't. I think, where I have learned is, you know,  
23 just like, you know, everyone has a different way they want  
24 to run their life, and I just think one of the things we  
25 need to look is the perspective of, you know, not all

1 farmworkers necessarily want a collective bargaining unit  
2 speaking for them. So this is just a -- and that's not a  
3 bad thing. Collective bargaining units aren't a bad thing.  
4 Either is EFI. It's just another tool for individuals to  
5 say they'd like to use to empower themselves in their  
6 workplace.

7           So, yeah, I mean, yeah, sure, there could be  
8 either. I think the bottom line is, it's a tool to create  
9 a situation where a farmworker can empower themselves in  
10 the workplace, amongst a lot of things. So whether it's a  
11 collective bargaining unit or whether it's a certification,  
12 I do think it's a good thing to have different products  
13 because there are so many people out there that have so  
14 many different opinions and it's good to have those  
15 products that will work for different personalities.

16           MR. O'DRISCOLL: Excuse me, if I can just add to  
17 that?

18           It was my honor to be invited to speak at the  
19 United Farm Workers Convention in Bakersfield last month  
20 about EFI and to update their membership at UFW.  
21 Obviously, as Erik mentioned, it was instrumental in  
22 founding EFI and I provided an update on some of the same  
23 programs we've discussed today. And the first line of my  
24 presentation was that there is no stronger form of legal  
25 protection for worker rights than a collective bargaining

1 contract. You know, that's the easy thing to say. You  
2 know, it's not a controversial thing to say.

3 But, you know, as to the future of unionization  
4 on EFI farms, I don't know because our reality, and this  
5 probably won't surprise anybody on this call, is that some  
6 of the challenges that I deal with come from the grower  
7 community who openly call EFI a Trojan horse for  
8 unionization. Some of them come from the left who deride  
9 EFI as fairwashing or as a union avoidance strategy. So  
10 where you stand depends on where you sit. It's not hard to  
11 understand why different people take whatever perspective  
12 they take.

13 I go back to what Ernie said, I'm old enough,  
14 I've been working with landless agricultural workers since  
15 1987 in Central America where they were displaced by a  
16 civil war. I want results for those workers.  
17 Certification is a means to an end. Collective bargaining  
18 is a means to an end. I'm interested in the end and I'm  
19 interested in accelerating any and all strategies that  
20 achieve the end of dignified working conditions, fair  
21 wages, and respect for the skill involved in agricultural  
22 work.

23 MS. GETZ: Wonderful. And I think that is a  
24 perfect place to wrap up our internal discussion here and  
25 open it up. We have a few minutes left for the Board or

1 the public to chime in with any questions of your own. And  
2 also, I welcome any reflections on the Board's visit  
3 (indiscernible), so opening it up.

4 CHAIR HASSID: Well, thank you so much, Christy.  
5 And thank you to our panelists.

6 I see, Cinthia, you raised your hand, so go  
7 ahead.

8 BOARD MEMBER FLORES: I want to say thank you  
9 very much for taking the time for this dynamic presentation  
10 and conversation. I also want to say thank you so much for  
11 having and inviting us on (indiscernible) a month ago.  
12 (indiscernible) visit and learned quite a bit about EFI.

13 And to the question that was posed to the  
14 attendees of this forum, I think in communicating and kind  
15 of just talking with some of the workers that were present,  
16 there was a clear distinction in terms of, I think, the way  
17 that they expressed themselves, not only about the benefits  
18 that they were receiving vis-a-vis the training, in terms  
19 of their accumulative work experience, but how those  
20 leadership skills also translated to other parts of their  
21 lives, including kind of participation in their community,  
22 right, taking on leadership roles in civil society. And so  
23 that was something that was quite -- it was very impactful  
24 to hear, and so I'll say that.

25 I guess, I do have a question, just thinking

1 about the kind of strategies that are being used to educate  
2 consumers about EFI and communicating or tracking the  
3 impact that EFI is having at large. And so how to  
4 effectively communicate some of the changes or impact that  
5 people are having in communicating that, what are the  
6 strategies that are being employed?

7 MR. O'DRISCOLL: I'll just quickly say, we have a  
8 fabulous marketing team. EFI is small but mighty. I wish  
9 there were more folks on that team. But I think they've  
10 done a really, really good job of communicating, you know,  
11 language that I never used to use in my professional career  
12 around value propositions to different stakeholders.

13 But I also want to just say, I don't think EFI is  
14 primarily focused for all that we have a consumer-facing  
15 label. I don't think we see consumers as the engine of  
16 change in the near term. Consumers will all say, 70, 80,  
17 90 percent of them, yes, I'd happily pay a dollar more for  
18 a clamshell of strawberries if I knew that the workers were  
19 treated better. That doesn't translate at the cash  
20 register. And there's plenty of evidence to that effect.

21 So I don't -- you know, as important as it is to  
22 educate consumers, I think the real opportunity that we  
23 have is educating the merchants, the buyers at these large  
24 retail companies and kind of, to Erik's point, integrating  
25 into their procurement decisions, labor as a factor; right?

1 Merchants buy on the basis of price, quality, and  
2 continuity of supply. Now, more and more, they have to  
3 look at food safety because recalls are expensive. We want  
4 labor to be one of those factors. And in fact, the Ethical  
5 Charter Implementation Program is all about essentially  
6 ranking suppliers based on the degree to which they can  
7 demonstrate engagement with the principles of the Ethical  
8 Charter.

9           So as important as it is to tell stories, and  
10 again, I hope you'll look at equitablefood.org., I think  
11 there's some great material on there, there are some  
12 fabulous videos of farmworkers that have actually gone  
13 viral, who ever thought that you could get a viral video of  
14 farmworkers discussing their work? But my colleagues have  
15 achieved that.

16           But I think the locus of change, and going back  
17 to Erik's point from the very beginning, is how do you  
18 change retail buying behavior?

19           CHAIR HASSID: Thank you.

20           BOARD MEMBER BROAD: So I actually, in an earlier  
21 part of my career, worked on this issue internationally  
22 regarding slavery and human trafficking and supply chains.  
23 And certification is a very complicated and difficult  
24 proposition. And you alluded to one of the problems, which  
25 is you've got low-rent producers, and you can also have

1 low-rent certifiers, and they will emerge to give people  
2 cover. So I recognize how complex and difficult this is  
3 and I really applaud you for, you know, what you're doing.

4           The conclusion I reached is that private sector  
5 solutions to this can only go so far, and that there  
6 probably needs to be a role for government at some level to  
7 make sure, in some way, to guarantee that the standards  
8 that are being demanded don't go below a certain level. In  
9 other words, that you're not in competition with another  
10 certifier that will simply certify just about anybody that  
11 is breathing. And that is certainly what's happened in the  
12 international space. And so, and I'm sure, you know, and  
13 you alluded to it and I'm sure you're familiar with it,  
14 so -- and I've thought about it.

15           So what do you think is the role for government?  
16 We're government, and we're obviously concerned with that.  
17 And I wonder how you all feel about that.

18           MR. NICHOLSON: I'll take that one. I agree with  
19 you in theory. I think I would just go back to Ernie's  
20 comment, it's easy to be right. I'm still waiting for  
21 government to be impactful. There are situations where  
22 that's happening more regularly. But shoot, all we've got  
23 to look to is California and the first heat stress  
24 regarding; right? And we fought mightily to get that  
25 passed, only for it not to be enforced. And that's been

1 our legacy over and over and over again, where we work, you  
2 know, and do as much as we can, moving heaven and earth to  
3 get the government to take action and implement, you know,  
4 rules, policies, laws, only for enforcement to fall apart.

5 And so I think there's not a silver bullet. It  
6 would be wonderful if government was much more out there  
7 and engaged, but we can't wait. And I think that's kind of  
8 the urgency coming from the labor movement that we brought  
9 to this effort is that, okay, in the interim, what are we  
10 going to do?

11 So EPA has repeatedly refused to implement  
12 measures to protect pesticide applicators, implementing,  
13 you know, things that we've done in California  
14 cholinesterase testing and implementation of closed systems  
15 for high-tox pesticides. We have that in our ranks.

16 And so what we've done is we've gone to the  
17 retailers and said, just as Ernie and Peter said, okay, if  
18 sugar content is so important, if the size of the fruit is  
19 so important, the color is so important, that's wonderful.  
20 So should be taken in consideration labor standards. And  
21 if we can get companies like Walmart and Kroger and  
22 Albertsons to implement and hold them accountable to the  
23 market, it's not just a fine that becomes part of the cost  
24 of doing business, but it's your ability to keep that  
25 purchase order intact or not. That's real power.

1           So I think we really need to have the momentum of  
2 government truly engaging and truly holding industry  
3 accountable and the retailers in both their works and  
4 progress.

5           BOARD MEMBER BROAD: Well, so let me ask you a  
6 follow-up question. Do you think then that there is a role  
7 for government, and this would have to be done with  
8 legislation, but there is a role for government to create  
9 standards for certifying organizations by way of  
10 legislation or regulation?

11           MR. O'DRISCOLL: I'll just say that, you probably  
12 know this, those kind of harmonization efforts exist at the  
13 industry level, less so at the government level.

14           Let me take another whack at this. I think there  
15 is a role for government. It's been my pleasure to speak  
16 with several fairly high-ranking, whose names I will not  
17 divulge, at both the federal level and the California state  
18 government level about the challenge. And what they tell  
19 me consistently is that they simply don't have the budget  
20 for the kind of enforcement that they would like to do.

21           And if there is a solution, and I'm not here to  
22 tell you what it is, you're much more skilled and  
23 experienced in this area than I am, but I do think it's  
24 bringing government to the table; right? I think what we  
25 have done well is create the multi-stakeholder dialogue

1 space, not because we're the smartest people in the room,  
2 I think we probably demonstrated to you already today that  
3 we're not the smartest people in the room, but because if  
4 we can get the right people in the room and facilitate the  
5 kind of conversation that needs to happen, together, we  
6 could figure out a role for government in this space that  
7 maximizes impact.

8 I don't know immediately what that is. I doubt  
9 that it's a government regulation of certifications, but  
10 that's just an immediate gut reaction. But that doesn't  
11 mean that there isn't a way to coordinate enforcement  
12 efforts with certification efforts. And I very much hope  
13 that we can build that space where government's at the  
14 table with the major buyers, the consumer groups, the  
15 employer groups, and the unions to figure out what that  
16 might be in this landscape.

17 CHAIR HASSID: Thank you. And I understand from  
18 Santiago that another member of the public, Amalia, has  
19 their hand raised to speak.

20 MS. LOMMEL: Members, hi. I would like to  
21 introduce myself. My name is Amalia, and I have the  
22 pleasure of working on the farms with Ernie Farley.

23 And just to answer the question about auditing  
24 that was raised a few minutes ago, I would just like to say  
25 that within the EFI projects, standards and so forth,

1 there's a lot of education towards the entire workforce.  
2 So there's 40 hours of education for the process  
3 improvement team. But in addition to that, all of the  
4 farmworkers are aware of their rights and their  
5 responsibilities and also the items that pertain to them  
6 and their safety.

7           Like Ernie said before, people are empowered to  
8 raise their hand when something doesn't look right. And  
9 the only reason they know that something doesn't look right  
10 is because they've received the training and the education  
11 and the understanding of what all of those rights and what  
12 EFI is.

13           As far as auditing is concerned, these  
14 farmworkers, they don't wait for an audit to happen once a  
15 year. They become their own auditors. Because it is a  
16 farmworker-led initiative, a farmworker-led program, where  
17 they are empowered, they empower themselves, like Ernie  
18 said, to raise their hand and say, you know what, there was  
19 a spray that happened in that field, and now my supervisor  
20 is telling me that I need to go in there and harvest  
21 tomatoes, strawberries, cucumbers, whatever it is, but I  
22 know that it's not safe because the interval time has not  
23 concluded. So those are the types of learnings that they  
24 have and the why behind everything.

25           So when somebody here mentioned about auditing,

1 my answer would be farmworkers lead the program and they  
2 audit their own program day to day.

3 Thank you.

4 CHAIR HASSID: Thank you. I had a couple of  
5 questions.

6 One, first off, just a comment, Ernie, really  
7 appreciated your comments about the challenge of culture  
8 change and your desire to maybe come up with that billion-  
9 dollar idea. I think there would be many people that would  
10 want to learn more about that and how to make it more  
11 effective.

12 One of my questions is, have you found, and this  
13 is mainly directed to Ernie, but anyone can answer, have  
14 you found that the EFI certification has served as a good  
15 recruitment tool for your workforce, and have you heard  
16 about that one way or another? I'm interested if --

17 MR. FARLEY: Yes, it has, and those are really  
18 hard to quantify. You know, it's almost more of a  
19 qualifying answer but we have seen that.

20 And what it's also really helped us is a much  
21 more diverse group of people are coming to want to work at  
22 our farms because we're finding, you know, the word out on  
23 the street, I'm teasing, maybe, is that, you know, it's a  
24 much safer, it's a much more -- it's a better place to  
25 work, A, for financial opportunity, and B, for your own

1 safety and your own personal growth, again, because EFI  
2 creates situations for people to empower themselves.

3 So, yeah, we are finally at that situation where  
4 we find that our recruitment and the people staying is  
5 much, much higher. And it takes a while, but it does work.

6 CHAIR HASSID: One of my other questions is how,  
7 in all of your experience, how have you found engaging kind  
8 of your frontline management, particularly supervisors,  
9 whether it's food safety? Because we have found --

10 MR. FARLEY: So --

11 THE COURT: -- that's like a really critical  
12 piece here.

13 MR. FARLEY: Yeah. So Nicholson's going to try  
14 to say this, but I'll say it already, is I will admit, like  
15 he and I used to fight a lot, when we first started working  
16 to try to do this, sadly, we lost about 80 percent of those  
17 people. I mean, that was a long time ago, but we did. And  
18 that's not an indictment of anything other than ourselves.  
19 But, yeah, it is really hard to do. And it's a process  
20 that -- you know, I mean, again, this was 12 years ago, and  
21 I'm sure things have changed. But, yeah, yeah.

22 I mean, I don't know if Nicholson has the same  
23 comment, but, yeah, that's super hard.

24 MR. NICHOLSON: I think you nailed it. There's  
25 two, to me, existential challenges that we have in the

1 industry. One is how do we deal with the retailers who are  
2 not willing to pay a just price to growers and, by  
3 extension, to workers?

4           And the other is frontline management. You talk  
5 about culture change, you know, I've got a bunch of books  
6 about organizational design and startup behind me, and I  
7 like to tease people like Ernie and say, why isn't a single  
8 one of them starting a business like a farm; right? I  
9 mean, some of the most antiquated, out-of-date structures  
10 and processes that one can imagine.

11           And so when you go to a farm and start inviting  
12 workers to share their thoughts and their opinions, like  
13 Amalia just said, that's not how supervisors have learned.  
14 They've learned to humiliate, belittle, physically, you  
15 know, or verbally intimidate or hurt people. That is the  
16 management structure of agriculture writ large; right?

17           And so until we redesign that position and find  
18 different people who have different inherent qualities,  
19 it's not a training issue, it's a job design issue that we  
20 need to be much more systematically about addressing. You  
21 know, the challenges, and I applaud Ernie for having the  
22 courage to purge 80 percent of his workforce -- I'm sorry,  
23 of his management. Many producers aren't willing to go  
24 there because they're terrified if not having their loyal  
25 field supervisors, they're going to lose control of the

1 farm.

2           And so I think being able to thread that needle  
3 is really one of the biggest challenges we have right now  
4 in agriculture outside of the retail consolidation issue,  
5 so great question.

6           MR. FARLEY: Yeah, I was going to say, good  
7 question. You got right to the one of the hearts of the  
8 matter.

9           CHAIR HASSID: We offer -- one of our remedies to  
10 offer supervisor training, and then I know our staff have  
11 done that on a volunteer basis, and I really encourage  
12 industry to take advantage of it. I know some of the  
13 local -- I've seen Western Center here at UC Davis also  
14 offers, you know, free frontline supervisor training after  
15 hours. I've seen that locally here in Woodland even. And  
16 just encourage folks to take advantage of that because I  
17 think that's going to be a really hard thing to accomplish.

18           Another question I had was of the pillars, the  
19 food safety, integrated pest management, and the labor  
20 relations piece, I appreciated what you said to Peter about  
21 how EFI, you know, you're not trying get any -- to change  
22 anyone's mind, just find those common areas of agreement.  
23 What was the hardest sector of those three things to find  
24 common areas of agreement?

25           MR. O'DRISCOLL: Oh, my goodness, where to

1 start? I mean, actually, I think that's probably more for  
2 Ernie and Erik because, in a sense, the negotiation of  
3 those standards was really the work that they did from  
4 their stakeholder positions.

5           So I think, yeah, Erik and Ernie, what do you  
6 think? I mean, there's such a long list, I don't know.  
7 And Ernie can tell you that some of our most contentious  
8 conversations come every time we try to update the  
9 standards; right? We're all constantly trying to make them  
10 more effective and rigorous and those interests clash and  
11 clash, so --

12           MR. FARLEY: For me, I think it was labor. And  
13 I'm not sure it was the substantive work as it was the  
14 relations because, sadly, our industry has generations of  
15 built up perceptions of each other that have created a lot  
16 of distrust on both sides of that view. And the work  
17 itself probably wasn't really that hard. It was much more  
18 of taking away the bricks to begin to trust each other of  
19 like, well, we do that. No, you don't or, well, that's  
20 actually a good idea.

21           I don't know, Erik, what your thought was, but  
22 there was just a lot of bad blood, if you will, that had to  
23 be removed.

24           MR. NICHOLSON: Well, no, I think, Ernie, you  
25 nailed it. It was getting, creating the space of

1 understanding the why about these behind the different  
2 positions; right? I mean, you know, at the UFW, I did a  
3 survey when I was in leadership of how many people came to  
4 the union to collaborate with growers, raise your hands;  
5 right? Not a single one of us. That's not why we come to  
6 labor. We come to fight the bad employers that are doing  
7 egregious things to the farmworker community that we care  
8 deeply about.

9           And so when we come across people like Ernie or  
10 others in the EFI, it's like, wait a minute, you look like  
11 them but you're acting and sounding very, very differently.  
12 And it took a lot of internal, as Ernie talked about,  
13 culture shift, me personally and with the organization to  
14 say, okay, the bottom feeders are there, we definitely got  
15 to deal with them and do what we got to do, but here's a  
16 different opportunity. And how can we recognize that these  
17 growers are not trying to get over on us, but they have a  
18 different perspective of the truth than we do by nature of  
19 our position in the industry.

20           And that to me has been one of the coolest things  
21 about the EFI Board is instead of having -- coming from a  
22 position that I, because I was an elected officer, know  
23 everything about ag and ag labor, I have my perspective  
24 based on my lived experience, Ernie has his, Jeff Lyons  
25 from Costco, the food safety people, and looked at how do

1 we integrate that into a synergistic approach that  
2 transcends the experience that each of us bring. That's  
3 the really cool space.

4 But getting to that space and getting out of the  
5 transactional positional regimens that we're really good at  
6 doing, we've got the binders, we know how to go out there,  
7 and you guys know that better than we do on the Board, and  
8 getting to that problem solving, creative inner space I  
9 think was the real challenge.

10 CHAIR HASSID: Jessica, you have your hand up.

11 MS. ARCINIEGA: I wanted to comment after your  
12 comment, Victoria, about the supervisor training, because I  
13 think it was more than six to seven years ago in Ventura  
14 County, we had an investigation of a charge at one of the  
15 GoodFarms locations and it was dismissed. And in the  
16 conversation with management and the executive team there  
17 about what we are investigating and what the law covers and  
18 what it doesn't cover, they became very interested and  
19 invited us to do a supervisor training to all of their  
20 supervisors because they found that the information was  
21 useful.

22 And we've had different communications with the  
23 grower entities that are part of GoodFarms throughout the  
24 Central Coast. And they've always been very kind, I guess,  
25 if you will, to take us up on the opportunity to do

1 voluntary supervisor training there. And I think that, you  
2 know, it speaks to the culture that exists from what I've  
3 seen. And that culture, you know, culture from the top  
4 definitely seeps down throughout the organization to  
5 frontline managers. And I think we see that, as this  
6 example, was a very positive, proactive one.

7           And oftentimes in our investigations, we see  
8 other cultures that do kind of reinforce, if you will, some  
9 of the negatives that have been spoken about of how the  
10 industry and culture views farmworkers and labor. So I  
11 just wanted to share that with you all.

12           And thank you for being some of the first that  
13 voluntarily brought us in to do those trainings. And I  
14 think it created a good working relationship as well.

15           MR. O'DRISCOLL: Jessica, can I just quickly  
16 follow up to say that Ernie introduced himself as a  
17 capitalist pig at the beginning of this conversation, and  
18 from his perspective, he would say that for the first 25  
19 years of my career, I came very much from the  
20 (indiscernible) perspective, so we were set up to argue.

21           The reason that I came to trust and respect Ernie  
22 and his colleagues was precisely because he never tried to  
23 tell us that things were perfect on his operation. He was  
24 willing to acknowledge where things weren't working and to  
25 get about the business of fixing them. And I think it's

1 that mentality that has enabled his operation to grow. But  
2 it's similar mentality that makes for a good candidate EFI  
3 certification.

4 CHAIR HASSID: I don't have any other questions.

5 I don't know, Santiago, if you're able to see if  
6 there's anyone else with a hand up or if there's any  
7 comments or questions?

8 EXECUTIVE SECRETARY AVILA-GOMEZ: Not at this  
9 time.

10 CHAIR HASSID: Well, my colleague Barry has a  
11 question.

12 BOARD MEMBER BROAD: Okay, how successful have  
13 you been in recruiting the industry trade, the ag industry  
14 trade associations like the Farm Bureau and so forth? Have  
15 they been willing to participate in this or send  
16 representatives or?

17 MR. FARLEY: Can I answer that just with a snarky  
18 comment, Peter? Peter has given his life over the last  
19 decade of years to try to and has stretched his hand out.  
20 And I'm not -- and this isn't -- it's not negative. But  
21 what really, really, really helps when those organizations  
22 is when Bob Huskey, the vice president of produce for  
23 Costco, is standing at a thing at our industry convention  
24 saying this is really important to me, then a lot of  
25 organizations and growers start to say, well, then it's

1 important to me, too.

2           So Peter is really tried to stick that hand out.  
3 And there's people in those organizations that have stuck  
4 their hand back to Peter. But what really changes it all  
5 is when Bob Huskey is standing in front of Peter, then all  
6 those organizations start going, you know, we're interested  
7 in being in the room now.

8           MR. O'DRISCOLL: Yeah, to state the obvious, that  
9 those associations are much more interested in what the  
10 retailers have to say than anything I could say.

11           But I'll also just say that the nature of a trade  
12 association is that its membership embraces the whole  
13 gamut, the whole spectrum of what Ernie would call the  
14 naughty employer, all the way to the best employer. And so  
15 the trade association typically isn't the best partner for  
16 us because their part of their job is to protect their less  
17 good and not just their best members.

18           So we have relationships, you know, on basis of  
19 the understanding that Ernie just referred to, but they're  
20 not really our change agents. They're not our multipliers.

21           CHAIR HASSID: Ralph, you mentioned, you had a  
22 comment.

23           BOARD MEMBER LIGHTSTONE: Well, I was going to  
24 say something else, but I want to thank you all for your  
25 presentation.

1           I want to second something Peter said. I  
2 remember many years ago, talking to a lobbyist for one of  
3 the agricultural trade association and said, "Why are you  
4 defending this, that and the other bad practices?" And he  
5 said, "We always run with the slowest horse on the track,"  
6 which I thought was a good metaphor for the problem you  
7 just outlined. So I just want to second that.

8           I do want to say that, putting on my consumer  
9 hat, I do the grocery shopping in my family and I have  
10 not -- I don't see in most supermarkets any visible --  
11 there's organic and non-organic and that's all I think I  
12 see, visibility. I know you guys are trying to market this  
13 but I don't think it's penetrated lots of the markets, so  
14 just --

15           MR. O'DRISCOLL: Oh, it hasn't. And to the  
16 point, I mean, Costco, which has been to Costco's eternal  
17 credit for over a decade, has been paying millions of  
18 dollars a year extra to get the label on their product.  
19 They've basically said, we don't -- we think that the label  
20 should only go on products from retailers who are paying  
21 that premium. So you'll find it in Costco. You'll find it  
22 in Whole Foods or a few smaller retailers. But some of the  
23 other places you may be shopping, you won't because they  
24 have not chosen to pay that premium.

25           But that's it. That's one of the challenges in

1 consumer marketing, as you say.

2 BOARD MEMBER LIGHTSTONE: Yeah. And my last  
3 question is just under the Agricultural Labor Relations Act  
4 itself from 1975, coming up on 50 years, that it, for  
5 purposes of labor relations, it disregards the farm labor  
6 contractors legal role as employer and makes the grower the  
7 employer for agricultural labor purposes.

8 I guess my question is just farm labor contracts  
9 are still cornerstone in California and the system. Do  
10 they have -- what's -- do you have any comments on their  
11 role and what they're doing with EFI?

12 MR. O'DRISCOLL: Wow. Well, do you have another  
13 hour? You know, I mean, maybe to respond to one of the  
14 earlier questions about contentious issues, right, joint  
15 employer responsibility was a huge issue in the negotiation  
16 of the standards; right? EFI did develop eventually a  
17 certification program for farm labor contractors. After  
18 much debate, we have exactly one certified farm labor  
19 contractor who can meet those standards.

20 FLCs are a reality. I think it's not likely that  
21 we're going to make a lot of progress in the FLC world  
22 through the certification mechanism. I'd love to be wrong  
23 about that. I think one of the strategies that we're  
24 pursuing through the Ethical Charter Implementation Program  
25 in the coming year is at least beginning to get FLCs to

1 report on their labor practices to employers who contract  
2 them. And this is not going to change the world and next  
3 year or two, but it's the beginning of generating  
4 transparency and visibility into the FLCs labor practices  
5 that over time, I hope we can strengthen that mechanism.

6 But it's a huge -- I mean, we could have a whole  
7 separate meeting on FLCs. I'm sure Erik, who has a lot of  
8 experience from the union perspective, would have a lot to  
9 say. And Ernie, who increasingly, right, has had, you  
10 know, is an employer who's had to look at that option as  
11 well. So it doesn't lend itself to a quick answer.

12 MR. FARLEY: But can I just add one thing, Peter,  
13 is I was very impressed with my brothers and sisters in the  
14 labor movement being, after much discussion, being open to  
15 talking about it in EFI. It was a lot of political capital  
16 in there with themselves and their organizations to say,  
17 okay, let's talk about it. So it was -- again, those are  
18 those trust building times that really moved me to see them  
19 say, because I got it, it's a big thing for them. And it  
20 was super cool for them to say, you know, okay, let's take  
21 some risk here. It was kudos to them.

22 CHAIR HASSID: Thank you all so much.

23 Christy, do you have any kind of closing thoughts  
24 or anything?

25 MS. GETZ: Well, I just want to thank everybody

1 here for this really amazing conversation. I've learned a  
2 lot. And I think this has been -- you know, we're talking  
3 about the role of government and the state and vis-a-vis  
4 the role of sort of these other kind of non-governmental  
5 initiatives. And I think these are the kind of  
6 conversations that move us closer to thinking about how we  
7 can work together. I think, you know, the state, as much  
8 as they have an enforcement role, also has an education  
9 role, which we all have as well.

10 And I think, anyway, for me, this is a really  
11 exciting conversation. And just thank you so much for  
12 inviting me. And I don't know if anybody from EFI wants to  
13 say any last thoughts.

14 MR. O'DRISCOLL: We really appreciate the  
15 invitation. Let's keep talking. Let's figure out how  
16 government gets a seat at the multi-stakeholder table.

17 MR. NICHOLSON: Thank you.

18 CHAIR HASSID: Thank you so much.

19 BOARD MEMBER LIGHTSTONE: Thank you. And thank  
20 you, Michaela, for coordinating everything.

21 Okay, we will now open it up for public comment  
22 on any part of the meeting. And I understand we do have  
23 someone in the queue.

24 So, Santiago, will you call on, I believe it's  
25 Matthew, Matthew Allen.

1 MR. ALLEN: Yes. Good almost afternoon, Chair  
2 and Board members. I'm Matthew Allen with Western Growers  
3 Association.

4 I'm rarely surprised anymore, but today I'm just  
5 a tad bit astounded, I'm afraid to say, on the action that  
6 was taken on item number three regarding the sublease from  
7 CAUSE. And I just would be remiss if I didn't make a brief  
8 comment to that.

9 I recognize that legal controls are being put  
10 into place regarding potential conflicts of interest, and  
11 those are absolutely necessary. But at the end of the day,  
12 that doesn't negate the very public perception that there's  
13 a continued concern of a lack of impartiality on behalf of  
14 the Board on matters that may become (indiscernible) all of  
15 you on a matter that could become pending.

16 So I just find this very troubling. And the fact  
17 that it, you know, wasn't agendized earlier on the agenda  
18 is also an issue of concern. So I raise that and something  
19 we're really concerned about.

20 CHAIR HASSID: Thank you, Matthew, for your  
21 comments. And I guess I, you know, maybe we can have some  
22 conversation, you, Julie, and I, further on to kind of talk  
23 through some of those concerns and see how we can best  
24 address that. I think it's definitely something we, not  
25 these concerns specifically, but --

1 MR. ALLEN: Yeah.

2 CHAIR HASSID: -- specific to you.

3 MR. ALLEN: And I really do appreciate that. I  
4 would just ask that. And sort of looking through that, you  
5 know, one could just imagine what the perception would be  
6 if there was a sublease at, say, a Western growers office  
7 or some other industry office or a grower office. It just,  
8 it lends itself to this concern. So I appreciate the  
9 ability to comment today.

10 CHAIR HASSID: Thank you, Matthew.

11 Any other comments in the queue?

12 EXECUTIVE SECRETARY AVILA-GOMEZ: None at this  
13 time.

14 CHAIR HASSID: Okay, with that, the Board will  
15 now recess into closed session. Thank you.

16 (The Board went into closed session  
17 from 11:59 a.m. until 12:48 p.m.)

18 CHAIR HASSID: Thank you, everyone. The Board  
19 has returned from closed session at 12:48.

20 Our next agenda item is announcements. Our next  
21 scheduled Board meeting is November 13th at 10:00 a.m.

22 And with that, we will now conclude the meeting.  
23 Thank you.

24 (The Board adjourned at 12:48 p.m.)

25

## CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of November, 2024.



MARTHA L. NELSON, CERT\*\*367

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MARTHA L. NELSON, CERT\*\*367

November 12, 2024