



Kriss Worthington

Councilmember, City of Berkeley, District 7

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CONSENT CALENDAR

February 12, 2008

To: Honorable Mayor and Members of the City Council
 From: Councilmember Kriss Worthington
 Subject: Enforcement Of Agricultural Workplace Safety Laws

RECOMMENDATION:

Send a letter to Governor Arnold Schwarzenegger asking existing agricultural workplace safety laws be strongly enforced.

BACKGROUND:

From United Farm Workers website - <http://www.ufwaction.org/campaign/eladio>:

Another farm worker death; another law not enforced.

E-mail the Gov. and ask him to make sure the laws are enforced.

Last May we told you about Eladio Hernandez, a 52-year-old farm worker who died of a heart attack while laboring in the sweltering heat in a San Joaquin Valley orchard. Eladio's story was especially horrendous because the company waited for almost 3 hours before calling for medical assistance. Even then the foreman just took Eladio and dropped him off near the sorting facility and left him. Other workers were the ones who called 911. Co-worker Rodrigo Gonzalez told us how **Eladio told workers, "I don't want to die."**

Thousands responded to our plea and sent e-mails to Cal OSHA demanding an investigation--which they did. OSHA's report found farm labor contractor YNT Harvesting in serious violation of several health and safety standards. The contractor was fined nearly \$26,000 stemming from the death. The report's findings reveal that YNT's thoughtless and careless disregard for these regulations lead to Hernandez's death. Some of the findings outlined in the report include:

"The field was located in a remote, isolated location and the employer failed to provide the crew boss proper equipment or a telephone communication system for contacting a doctor to avoid unnecessary delay in treatment. As a result, medical treatment was delayed and an employee of YNT Harvesting FLC died on 5/9/07."

"During the course of the investigation it was determined that the employer did not provide employees written emergency procedures, as required by law."

*"It was determined that employees were not acclimatized. Seasonal employees were working in elevated temperatures and the employer had not addressed the importance of acclimatization, as required by law." The OSHA investigation report detailed how the employer callously disregarded this legality by saying, **"it would be impossible to check each employee and determine if the worker needed an extra break just because certain new hires were not used to working in the heat."** She also stated that she could not monitor each individual employee because it would be discrimination to allow one employee more time for a break."*

More has to be done now to prevent tragedies like this from occurring once the season starts.

Please help farm workers by e-mailing Governor Schwarzenegger and telling him that farm workers need his help and his laws are not being enforced. The laws on the books are not the laws in the fields. Ask him to take action to prevent more farm worker deaths.

FINANCIAL IMPLICATIONS:

NONE

CONTACT PERSON:

Councilmember Kriss Worthington, 981-7170.

Attachments:

1. Proposed letter

February 13, 2008

Honorable Arnold Schwarzenegger
Governor of the State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger,

The Berkeley City Council strongly urges you to ensure that existing agricultural workplace safety laws are strongly enforced.

Despite having some of the strongest workplace safety laws for farm workers, the conditions in the fields are still very dangerous and those laws are sometimes not enforced.

This has led to several incidents when farm workers became injured while working on the job. It also led to the May 2007 death of Eladio Hernandez, a 52-year-old farm worker, who died of a heart attack while working in a San Joaquin Valley orchard. The State Division of Occupational Safety and Health (Cal OSHA) investigated the incident and found that the farm labor contractor, YNT Harvesting was in serious violation of several health and safety standards. The contractor was fined nearly \$ 26,000 for failure to follow state laws regarding workplace safety.

The report which discussed the incident included a number of findings which specified how YNT Harvesting did not follow the proper occupational safety standards. However, some of the problems such as the lack of a telephone or communication system to report problems; the lack of emergency procedures; or failing to address the importance of acclimatization are likely common in many other fields and orchards throughout California.

Agribusiness is a critical component of the state's economic engine. However often times the people who produce the food that we eat not only receive unjust wages but are also subjected to unsafe working conditions. Our state has recognized the important role that farm workers play in our economy and the need for them to be afforded the same rights that other workers receive. No employee should be deprived of a break or the right to medical access if they are injured on the job.

Please ensure that our existing laws regarding workplace safety continue to be enforced to prevent further deaths from occurring.

Thank you for your consideration.

