

Department of Industrial Relations
DIVISION OF INDUSTRIAL SAFETY

T R A N S C R I P T
of
P R O C E E D I N G S

PUBLIC HEARING - held in Salinas California, on
Thursday March 27, 1975, at 9:30 A.M.

R. Wilkins, Chief of the Division
Fred Hermes, Division Counsel.

Salinas, Calif. - March 27, 1975.

Minutes of Public Hearing for the purpose of receiving evidence, comments, arguments...relating to the use of the Short-Handled-Hoe by agriculture employees, a work operation that may be involved in back injuries.

Present were:

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Jose Campos	10423 McDougall Street	Castroville
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NOTE:

Due to inaudibility in parts of the tape, a few parts of this transcript were taken from notes of Fred Hermes; taken during the hearing. Such parts are indicated by (**) in the transcript.

APPEARANCES BEFORE DIVISION OF INDUSTRIAL SAFETY RE SHORT
HANDLED HOE - MARCH 27, 1975 - SALINAS, CALIFORNIA

1. Richard Nutter, Agricultural Commissioner,
Monterey County
2. Tom Merrill - Grower
3. T. Becerra - Field Foreman
4. Margarita Guerra - Field Worker
5. Jesus Bysterias - Field Worker
6. Julio Tuda - Field Foreman
7. Ken Sato - Thinning Supervisor
8. Ed McCandless - Freezer Representative
- 9. Sonny Rianda - Grower
10. Lawrence Porter - Grower
11. Mike Francioni - Grower
12. Neil Fanoie - California Sugar Beet Association
13. Evan Hushbeck - California Tomato Growers Assn.
14. R. V. Thornton - Grower-Shipper Vegetable Assn.

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF INDUSTRIAL SAFETY.

Public Hearing - Salinas, March 27, 1975, 9:30 A.M.

"Short-Handled-Hoe."

CHIEF WILKINS:

GOOD MORNING, the announced public hearing is now called to order.

I am Richard Wilkins, Chief of the Division of Industrial Safety, and with me is Fred Hermes, Division Counsel.

This is an informational public hearing pursuant to notices mailed to numerous individuals and groups, published in newspapers, and also released to the news media.

I would like to suggest that you enter your names and addresses on the attendance sheet at the front desk. This gives you the assurance of receiving further information regarding future action on the material under consideration at this hearing.

For a brief background; the original petition to prohibit the use of the short-handled-hoe was presented to the Division in September of 1972. Following three public hearings on March 6, 1973, May 1, 1973, and May 3, 1973, in San Francisco, El-Centro and Salinas, respectively, the then Safety Board, on July 13, 1973, denied the petition on grounds that the issue was not within the scope and purview of Section 3316 of Title 8, California Administrative Code. Upon review, the California Supreme Court, on January 13, 1975, concluded that the issue was within the purview of said Section, but the Court remanded the

case to the Division to make a final determination on the question of whether the short-handled-hoe is an "unsafe-hand-tool" under the proper legal standards.

I would like to briefly summarize the events following the Supreme Court decision and occasioned the scheduled hearings.

The Division, following the guidelines set forth in the Supreme Court's decision, decided that further intensive study of all aspects of the use and effects of the short-handled-hoe would be beneficial to all concerned. The Division has made an in-depth and thorough study of the whole record, and actively solicited information and comments from all concerned. As a result we received a large response to our efforts from numerous groups and individuals expressing divergent views on the matter, and many requesting further public hearings. We have therefore, scheduled two public hearings, one here for to-day, and the other in Salinas to be held on Thursday March 27, at 9:30 a.m. sharp, at Salinas City Hall, Council Chamber Rotunda, 200 Lincoln Ave.

Please note that the purpose of these hearings is to receive further information, comments, suggestions that would be helpful and relevant to the issue. You may make your presentation orally now, or present same in writing to me, here. Your presentation may be in the form of comments, suggestions, statistics, arguments, questions, answers or definitions, that you feel or would like the division to consider in making its final determination on the use of the short-handled-hoe. I would like to impress upon you that the decision will be based on the substance of the matter rather than the amount or cumulative evidence.

I therefore request that in cases where your views or evidence is in agreement with the views being expressed by others in this hearing you may state that you concur with the views expressed by that party rather than be repetitive. I believe it will be well to proceed in the following manner. Anyone wishing to make a presentation please raise your hand. Upon recognition by myself please come forth to the front microphone. Give your name and any organization you may represent or are associated with. You are required to do this every time you present any matter. As you know, we are recording the hearing. I would also mention that due to the fact there are numbers of people here who do not speak and understand english we will have a gentleman after each presentation briefly summarize for the benefit of the spanish speaking people here what the prior speaker has touched on.

1. MAURICE JOURDANE:

I am one of the attorneys for the farm workers who filed the petition to prohibit the use of the shorthandled hoe. I would just like to briefly summarize what's happened as I interpret the Supreme Court decision and also summarize a comment that was filed within the last week presenting further evidence on the use of the shorthandled hoe. The California Supreme Court has remanded this matter for determination of whether or not the shorthandled hoe is an unsafe hand tool as that term was defined by the Court. The Court said on remanding it that "If the shorthandled hoe is so designed so that it can be used by the worker only in a bent over posture that is dangerous to his health it could be found to be an unsafe hand tool." Now it is undisputed that the shorthandled hoe required the farm worker to work in a bent or stooped posture so the first question we get to is does that stooped posture cause injury to the farm worker? Until Monday of this week it was undisputed that it caused that injury. The Division had heard from eleven doctors, all of whom were either specialists in those problems or who had extensive experience in treating farm workers. The testimony of those doctors unanimously supported the following conclusions: 1. The use of the shorthandled hoe causes abnormal degeneration of the spine resulting in irreparable and permanent disability. You may recall that I believe it was Dr. Murphy talked about the 40 year old farm worker with the 70 year old back. That's the problem we're talking about. The testimony unanimously supported the conclusion that this happens to all farm workers using the shorthandled hoe over an extended period of time. 2. Their testimony supported the conclusion that this type of injury is rarely remediable, thus when this happens to the farm worker he is permanently disabled and totally disabled, and finally that the posture required when using the shorthandled hoe causes severe pain to the farm workers who have to use it. Now, as I said, until Monday there was no contraverting evidence.

On Monday you recall that Mr. Maltzman, the attorney for Bud Addle, Inc., contended that the medical evidence which had been presented was deficient and he said what the doctors did was jump a gap to look at the large numbers of back injuries that farm workers who use the shorthanded hoe have and they jumped to the conclusion that those injuries were caused by the shorthanded hoe. Well, I would say to look at the record that that is not the case. The doctors described in length and in detail exactly how the injury occurs and exactly the type of injury that occurs. They talked about the disc and they showed pictures of the disc and they talked about the ligaments and the muscles and showed pictures of them and there was no jumping of any conclusions. Mr. Maltzman also introduced in San Diego affidavits from a doctor in Palo Alto. One of the things the doctor said was that a study had been done of Eskimos and that it had been learned that the Eskimos suffered from a condition Spondylitis which is one of the injuries that the doctors testified earlier said was caused by the use of the shorthanded hoe. Well, the doctors without saying it, inference was made that Eskimos have this disorder. It is something inherited in Mexican-Americans. It is ironic that in opening here we have been hearing that stoop labor is OK for Mexican-Americans because they are built close to the ground. A senator said that a few years ago. At the last hearing it was talked about how it was OK for them to do stoop labor because they are small and agile people. Well, now it appears that not only can they do stoop labor because of their racial makeup, but they also have a higher incidence of back faults because of their racial makeup. I would suggest that whoever did that study and to Dr. Hewitt and to Mr. Maltzman that perhaps they should look at the life of the Eskimo and maybe they would find something in the life of the Eskimo that causes back fault and not the apparent racial defect that occurs. The other basic point made by (their were other points) Dr. Jewett or whatever his name was on the affidavit was that there has been no statistical studies to show that bending over all day caused injuries to the back. Well, I talked to the doctors about that and what they told me was statistical study was not needed - that it's common knowledge in the profession that bad posture is a known cause of back ailments and they referred me to a book by Dr. Rene Cartier called "The Low Back Pain Syndrom". The thesis of that book is that mere slouching is one of the primary causes of low back pain in our society and if you carried the mere bouch up to the totally bent position required by farm workers when using the shorthanded hoe, we don't need statistical surveys to show what that position does to the lower back. The same doctor said that to do such a survey would take maybe ten years and it would probably be impossible to itemize the shorthanded hoe as the cause anyway. The only decision the Division can come to in the light of the medical testimony it has heard is that a farm worker when working in the field for 8 to 10 hours a day with the

shorthanded hoe is ruining his back, anything else would be irrational. I think that that question is really not even before the judicial. As I read the Court decision, the Court accepted the fact that there are injuries caused and remands the matter to the Division to decide whether or not there is any practical alternative to the use of the shorthanded hoe. You may recall that the Court used the example of the hammer and that not every tool that causes some injury is an unsafe hand tool, that's a point of the labor code and what they said is that what you haven't looked at is whether there is any practical method of mitigating or preventing the injury we are talking about or any alternative to the use of the shorthanded hoe. Witnesses have conclusive evidence that there is. We have presented comments to the Division within the last couple of weeks that set out this evidence. The long handled hoe is used throughout the country except in the Salinas Valley. We have supplied the Division with responses from just about every state in the country and for just about every crop in the country. For every crop that is grown in Salinas or the Imperial Valley and every one of those statements said that they use the long handled hoe in those states. Now this written documentation is corroborated by many people who have presented affidavits that before coming to Salinas or the Imperial Valley they used the long handled hoe; in Texas in the Rio Grande Valley, in Mexico, Minnesota, all over this country. Now the only person I've heard yet to say that the shorthanded hoe is used in other parts of the country other than the Southwest are the same big companies that are in the Salinas Valley, Imperial Valley and parts of Mexico. There has only been one person who has said that the shorthanded hoe is used in other parts of the country in any great extent and that was Mr. Mallas(?) who is in this room. A couple of years ago and he said that we should go down around Gallon(sp) Texas, Florida, New Jersey and Minnesota and we'd see a lot of shorthanded hoes. Well, we checked in those areas and we provided the Division with documentation that that statement is erroneous. We provided a letter from Dr. Donald Brooks, Agricultural Economist from the University of Florida, and in that letter Dr. Brooks said that Florida produced large quantities of commercial peppers, eggplant, tomatoes, cucumber, squash, lettuce, corn and watermelon, and the shorthanded hoe was not used. We provided documentation from the American Crystal Sugar Company in Minnesota and the Red River Valley, a large sugar beet growing area, and they say that they have no need for the shorthanded hoe. They used to use it a long time ago but with the development of the modern germinating seed it is no longer necessary. We provided a letter from the Executive Director of the Minnesota Migrant Council who said that the long hoe is used on sugar beets in Minnesota and not the short hoe, and that the short hoe is in fact too slow and that they have been using the long hoe since 1956 & 1957. We provided a letter from an attorney in Texas, Mr. Harrington, who said that in the Rio Grande Valley they grow cabbage, tomatoes, carrots, citrus fruits, sugar cane, peppers and lettuce and the shorthanded hoe is rarely used, if ever, and everything is done with the long handled hoe.

Finally, just let me say something, we had a letter-affidavit from Mr. Gridley Hall, an attorney in New Jersey, and he told us that they do in fact use the shorthanded hoe in New Jersey and I think it's interesting what they use it for. They bring in workers to New Jersey from Puerto Rico on contract and if the worker works the entire season he gets his way paid back to Puerto Rico. Mr. Hall said that what happens is towards the end of the season the growers will put the Puerto Rican workers on the shorthanded hoe so they can't survive and they don't have to pay their way back to Puerto Rico. I think it's also interesting what they call the shorthanded hoe - it is called El brazo el diablo which means the arm of the devil. We also provided information from the hoe's manufacturers, True Temp Manufacturers of Ohio, who manufactures large quantities of both the long hoe and the short hoe. They told us they only ship the short hoe to California, the rest of the country is shipped the long hoes. They also told us that they quit making short hoes recently because they are afraid (unintelligible). We spoke to the Union of Ohio who told us that only 2% of their hoes are shorthanded hoes. We spoke to the Ames Company of Pennsylvania, the Division earlier had tried to get information from them, and they told us they manufacture about 7800 short hoes per year and those are sent primarily to California and that this is a very small percentage of the total production of hoes. Most of them are longhandled hoes. The record also contained a memo, I believe from you Mr. Wilkins, to Mr. White which indicated that the Maheny Co. of Sacramento sells approximately 2000 short hoes primarily to the Salinas area and 10,000 long hoes to other parts of the State and there is also a statement in that memo that the Colossal Co. of Stockton used to make special orders of short hoes but that number has been dropping in favor of the long hoe. It is clear that throughout this country from every source you look at growers feel that you can use the long handled hoe instead of the short one. One of the reasons they have been able to do this is because of the development and progress of precision planting. Many of the witnesses you have heard have said that when they used to plant lettuce it was very close together, they had to bend over because they had to remove the plants by hand - it wasn't that the short hoe did the job because you couldn't do it with the short hoe either, they had to actually pull them out by hand. Go by Castroville and you can see precision planted lettuce planted two to three inches apart and there is absolutely no reason that that lettuce can't be thinned to the 8 to 12 inches it needs to be thinned by the use of the long handled hoe. Throughout the country they use the long handled hoe. In a rare occasion where the root leads right into the plant maybe the worker will have to bend over, but when you are talking about 8 to 12 inches between the plants, the chances are that that plant is going to be somewhere in the middle and not right next to the plant. As to this precision planting, there has been some testimony that

it is not very far along. Well, that information is incorrect. We have provided the Division with a statement by many farm advisors from the University of California Agricultural Extension and I just want to relate a couple of those. One of them may be here and maybe even more than one. Mr. Norman Welch of Watsonville said that lettuce has not been planted by the manual method of seed planting for a long time but by precision planting which is by pellet. Mr. John Edmund, UC farm advisor here in Salinas, advised one of our people in San Francisco that all the lettuce in the Salinas Valley is now planted by the precision planting method and in fact the seed companies must pelletize the seeds in order to sell them. Mr. Invenahlsal(?) last week made a speech in Salinas entitled "Alternatives to the Shorthanded Hoe" and he talked about not only the long handled hoe, he talked about machines that do work that is usually done with the shorthanded hoe. The conclusion was that there are alternatives. He also provided the Division with information from the Palos Verdes Valley which is down in the Blythe area. Something is wrong with the soil in the Imperial Valley and they cannot use precision planting. I would suggest that in the Palos Verde Valley it is really desert, much more desert than in the Imperial Valley where they use precision planting and if they will modify their techniques a little bit they could do it. The problem really is how much is the grower willing to give up the expensive injuries caused by the shorthanded hoe. We are not saying it will be easy and there will have to be some changes and it will cost a little bit more money, what we are saying is that the injuries caused the farm workers outweighs those changes. I've just got a couple more things. It's not just the farm workers who have recognized the alternatives. On the day the Supreme Court decided to remand this issue Mr. Hubbard(?) spokesman for the Western Growers Assoc., made a statement to the LA Times Reporter which says "There are alternatives to the shorthanded hoe." A couple of years ago the Division worked with Mr. Manuelo Davis who was with the Central Coast Counties Development Corp. a co-op in the Salinas Valley, who told us of an experiment they had done with the use of both long and shorthanded hoes and they learned that once the workers got used to the long hoes they did a better job than they did with the short hoe since they didn't get so tired. Mr. Warren Weston, Manager of the Grower Harvest Co. in Modesto said that there had been very little use of the shorthanded hoe in the San Joaquin Valley for the last five or six years because of the development of precision planting. I know of at least four affidavits by labor contractors, one in Newman, one in Merced, one in San Luis Obispo County, and one from Patterson; all of those affidavits say that workers can do a better job than those persons using the long handled hoe in crops like tomatoes and sugar beets and workers do a better job because they don't get so tired and that they have labor contractors using the long hoe and had no complaints from growers. One grower, I just have to note here, Juan Galinas of Patterson, says that workers can do the most difficult weeding and thinning with the long handled hoe. Just to conclude, I would just like to say something, just from me. Five years ago I met about a block away from here with two gentlemen from the Division of Industrial Safety and I showed them a number of affidavits, one from a man named Sebastian Carmoni

and one from a man named Salicio De Argo and in those affidavits (they were both farm workers) they told of the pain they had suffered through the use of the shorthanded hoe and they told of no longer being able to stand or sit straight. They asked the Division to do something so that didn't happen to their children what had happened to them. Now it is five years later and both of those gentlemen like so many other 50 year old farm workers, are no longer able to work. They are both receiving Aid to the Totally Disabled. During those five years there have been countless hearings bearing on the use of the shorthanded hoe and the resulting pain and suffering and this has been analyzed and it has been proven beyond any doubt the existence of reasonable alternatives which has been documented in every court in the country. It's a new season in the Salinas Valley and the new plants are just starting to come up and thinning is going to start very soon and on behalf of the farm workers who have waited five years already and who have been doing this for fifty years or so I sincerely ask that (trails off - can't understand) Thank you.

2. RICHARD THORNTON - Growers and Shippers Association.

It is not our intention here today to rehash the hearings of a few years ago or of the hearing in San Diego. The evidence for consideration will be in the record. Mr. Jourdan made a few statements which I would like to comment on, however, He said that there is no evidence from other doctors to show that the shorthanded hoe does not per se injure a man's back. I think the record speaks for itself, I think you will find in the record ample evidence of other medical testimony which will contradict that evidence which Mr. Jourdan presented. I think you further realize that for every doctor to take that side you will find another doctor who will contradict that testimony. Mr. Jourdan also talked about other areas in the country. While other areas are pertinent, I don't think they are completely pertinent to this area or to Northern California. I don't know where he got his information about Texas and Florida. I have personally been in those fields in Texas and Florida and other areas through the Southwest and I can assure you that in the vegetable industry the shorthanded hoe is very much in evidence and is used in those areas. It is not used in the large citrus areas in Florida but in the vegetable areas, and the central part of the State the short handled hoe is being used. Another point that he mentioned was the Puerto Rican workers. I've read that contract and in fact participated at one time. That contract provides that all workers are to be transported back to their home at the expense of the grower. In fact, the money for their fare is deposited for the round trip and is there and whether the men finish the season or not they are transported home. The idea that the use of the shorthanded hoe is promoted so that they won't finish the season is ridiculous because they are transported home at the growers expense whether or not they finish the season. The only

time they are not transported home is when they skip - when they break the contract and disappear. We're going to present some experts here who will tell you why the short-handled hoe is being used and why it is necessary for the production of vegetables in this area. I must comment however, it does not seem that the shorthanded hoe is on trial here, so to speak. I think it is all of stoop labor. Unfortunately vegetables are grown close to the ground and there is only one way to harvest them and that is to get close to them. The long handled hoe, you will hear from experts, you will hear from growers who will tell you why it is used in the production of their various commodities, you will hear of the economic impact of this county the shorthanded hoe has taken away and you will hear from field workers who use it and I think perhaps that might be the best evidence - from the workers who use the shorthanded hoe. Also, we will have some growers here who will tell you in detail why the shorthanded hoe is necessary to production. You will hear of the impact from the Sugar Beet Association, California Tomato Growers Association and you will also hear from Mr. Horace Edlin, I think Mr. Jourdane quoted Mr. Edlin. I think Mr. Edlin's testimony might be the best evidence. I think you will find it a little bit different than that quoted by Mr. Jourdane. So without further ado and if it's OK with you gentlemen I would like some of our people to step forth and make their presentation.

Chief Wilkins

I would ask that the interpreter make a summary of this presentation.

3. RICHARD NUTTER - Monterey County Agriculture Commissioner:

My name is Richard Nutter. I am the Monterey County Agriculture Commissioner and I have a few words to say just on the general scope of special crop production of Monterey County. The County has 180,000 irrigatable acres, of this in excess of 100,000 acres is devoted to vegetable crops. The County is the leading vegetable producing county in the world and has a total value of over 400 million dollars. It is easy to see what an impact this has on local industry. There is more than a dozen crops in which the shorthanded hoe is used. It is true that there is precision planting going on in many of these cases, many of these crops, but in order for precision planting to be effective and sophisticated weed control materials to be effective you have to have the ideal climatic conditions and the ideal soil conditions. Even though Monterey County is the pace setter in sophisticated agriculture in the world and that many of the trends being developed here today are used in other parts of the world tomorrow we still have to depend upon the use of some of the more primitive implements in raising these crops. So the basis of my testimony here today is to inform you of the extent of our agricultur

and the need to continue with the use of the methods which we're using today. We have weed control materials and thinning agents, mechanical harvesting equipment is in the making. This equipment has reached a degree of sophistication where you can eliminate the use of the more primitive types of agricultural implements and we are looking in an area where it is more difficult than it was twenty years ago, to start to develop a chemical material with which to control weeds. It is almost impossible to get federal registration for the use of new herbicides. That accompanies at least 5 or 6 years of research and 4 or 5 million dollars trying to accomplish this use so what we are saying is that modern agriculture here in this terrific valley with which we are feeding a good portion of the nation in salad products, we want to use as many labor saving devices as we possibly can. We are concerned about the farm laborers and their working conditions. We have not developed along the lines of agricultural sophistication to the extent where we can eliminate all of the more primitive types of hand tools.

4. TOM MERRILL - Merrill Farms:

My name is Tom Merrill. I'm representing Merrill Farms. We operate in the Salinas Valley, we farm about 3,000 acres in the Salinas Valley and also have some acreage in Yuma, Arizona. Normally, we have about 400 people on our payroll throughout most of the year in various job categories, about 75 or 80 of these people regularly work with the shorthanded hoe. We have been able to increase our efficiency in precision planting and the use of herbicides but these herbicides and precision planting don't always work. We have some cases right now where we have several fields of sugar beets that were planted to stand. The herbicide was used in planting these crops in January. Now the crop is 2 or 3 inches high and unless we are able to weed that crop with a shorthanded hoe or shorthanded instrument of some kind we are going to have to disc the crops up because there is no other way we can save them. The herbicide didn't work. We barely have a viable stand there now because of the weather conditions. We also have some spinach crops that are in the same condition. The spinach is grown very thickly as you know and is not thinned, the herbicide we are using now is quite good and effective most of the time, but we do have certain places and certain fields that we are going to have to try to hoe or remove the weeds by hand with the shorthanded instrument and there is no way to do it without using a shorthanded hoe or instrument of some kind. Now whether it's a hoe or whether it's a knife or trowel, the work has to be done in a stoop in order to remove the weeds or we will lose the crop and if we lose the crop, incidentally, the herbicide we are using on the spinach is not being manufactured any more. OSHA closed the plant that was making the herbicide and there is not enough market for this herbicide because it was only being used on spinach currently and this herbicide will not be available to us next season unless there's a new plant built and there's not a market large enough to justify the expense of building a new plant. Now I estimate that in our farming operations one crop in five could be seriously damaged and one crop in ten would be

lost completely if we are not able to remove the weeds that are very close to the plant in the cases where precision planting and herbicides did not work. Normally the shorthanded hoe has been characterized as a thinning tool and it is that, but it is also used for transplanting and weeding and many things. You can't transplant with a shorthanded trowel or other instruments of similar nature and there are quite a few precision transplanting machines but transplanting machines have to be used when the ground is dry and cannot be used when the ground is wet because they are pulled by a tractor and you cannot get into the fields when there is any moisture at all. Now we transplant celery here in March and April and it is very unusual if we can get in the field with a tractor at that time because of the rain so this transplanting has to be done with a shorthanded instrument of some type. Most workers who transplant prefer to use the shorthanded hoe rather than some of the other instruments that are available to them. We think that our operation is typical of the Salinas Valley and we feel that without the use of the shorthanded hoe we feel that our total production would be reduced by about 1 to 15 percent. Now we think that our operation is somewhat typical and if you take this reduction of 10 to 14 percent across the whole breadth of the vegetable industry I think you will have a total loss of food crops of monumental proportions and shortages will result and obviously the cost of food will increase. Of the foreign people we normally have on our payroll we have looked back over our records and we had 9 or 10 compensational checks claims for back injuries in the last 2½ to 3 years. All of these claims were associated with lifting of some type, either a loader or a box of celery or box of lettuce - somebody was carrying something and slipped. None of these injuries were caused by or associated with the people that normally work with the shorthanded hoe. I would suggest that California would be put at a serious disadvantage if the use of this tool was outlawed in this State and I think that while efficiencies are improving that there are some cases when the herbicide and precision planting that Mr. Jourdan referred to just does not work. We planted a crop of celery in January and we had to plant it very thick because rains were such that very few of the plants came up but in certain places they are very thick and where they are very thick we are going to have to thin them with the shorthanded hoe or instrument of that type. Thank you very much.

Chief Wilkins

If you have factual information that will assist us in making a decision, that's what we are after. This is not a contest we are involved in here.

I would like to say something about the shorthanded hoe.

Chief Wilkins - Would you identify yourself please, sir?

5. PAUL ORGETTE -

Identification not clear (Filipino with heavy accent)

I am representing five groups. About 160 men. We have been talking too much about this shorthanded hoe but I don't think we can live without the shorthanded hoe. I am 65 years old now. Since I arrived in this country I use the shorthanded hoe. I worked first in the sugar beets, Spreckel Sugar Company. We got no complaint. I got 160 men that now work. They got no complaint for the short handled hoe. Because they are right in regard for this job. This backache that they have been talking about here I think it was a health problem not from shorthanded hoe. I am now supervisor of one of the companies in Salinas. I was taking care for the men years to years, 160 men, foremen, all shorthanded hoe. I never had any complaint. I don't have any problem with them I don't have any backache either. Even then if you have a backache maybe the person was born that way. He gets a backache in the city not even going to the fields. If you are born that way you are born that way. Before establishing my residence here in Salinas I've been going around from north and south of this country. In the Spring of 1919 we, mainly Filipinos, worked in Billings, Montana, sugar beets in Idaho and radishes in Pueblo, Colorado. We found that in those years we had been using the longhandled hoe. When we went over there we got rid of the longhandled hoe and got all shorthanded hoe. We found out the effectiveness of the shorthanded hoe because they do a better job than the longhanded hoe. You accomplish more work with the shorthanded hoe. The longhandled hoe is easy but if you are not used to it you get a backache because in regard to the position if you go this way you get a backache. You got to know how, and to tell you the truth there are many families who work for the companies who know how to thin the lettuce and to thin the beets and how to transplant the celery and everything, but they don't know how to use the shorthanded hoe. I'm representing 160 men. I know how to show the men how to use the shorthanded hoe and how to use the long handled hoe. (This is impossible. I can't understand a word of what this man says. Paul Oraget - his name?)

6. ANTONIO BORNO -

Good morning ladies and gentlemen. My name is Antonio and I'm a resident of California. I just want to say that this Filipino brother who just spoke before I did made a racial remark which I object very strenuously to and I think that every Mexican who is worth his salt should object also that Mexicans have a weak back and mind. That's a racist remark and who has made the growers wealthy. It's been the majority of the Mexican farmworkers. How would my Filipino brothers feel when they hear a remark that I heard from a racist individual that said all Filipinos have a tail 4 or 5 inches long. Another damn lie. Now I'm going to revert to my native tongue if I may because there are a lot of people in the audience that do not understand the language of the dollar so I'm going to speak in Spanish and I can also if you gentlemen so desire do my own translation.

Chief Wilkins - Do it in English first and then in Spanish.

Antonio - How about the record in Spanish, who's taking that?

I've been a farmworker up to the age of 27 and I found out that no matter how fast my reflexes were I could not earn sufficient money to support my family as they deserved it so I went in the contract business where I earned all the money that I was physically able to earn and then later on I became a landscape architect. I operated a nursery, I was the owner and manager of the nursery, so I've been through the mill. I started thinning beets in 1911 in Huntington Beach, Garden Grove, Buena Park and in 1919 I went to Provo, Utah to thin beets with the longhandled hoe so I know whereof I speak. And if any growers here are present I recommend they use the shorthandled hoe for thirty days and I can assure you and I can assure them that they would not want to look at a shorthandled hoe for the rest of their lives. Sure if people are used to using certain tools like the shorthandled hoe it is going to take about a week's time to develop new techniques and use the longhandled hoe and do just as good a job and maybe faster. I don't care how long you sit your back muscles by the 10-12 hour day cannot get used to it, they cannot revert back to their natural position because you are constantly bending, stooping, crawling on your hands and knees it's necessary to keep trying to rest and anybody that thins beets - you have six long rows, one mile long to the acre and anytime anybody wants to go all the way without bending up until he gets to the headland its almost impossible. I know, because I have a strong physique all my life even at my tender age I still am strong physically, maybe mentally weak, I am still stron. I would like to challenge some of these growers wrestle me or to thin against me. Now I am going to revert to my native tongue.

Now I would like to propose an objection. I was the one that made this statement to LaRosa that it was nice that all the growers testified first and then all the farm workers. I think it should be one and one. It's true we are not in competition but there is this great danger and it's been proven that they have done that elsewhere where we've had these meetings and then they take off and then they don't listen, and they don't give us the courtesy if that's the proper word to use. So, Sir, it's not a competition, it's just fairness and I know both of you gentlemen there, chairmen, are courteous and fair. Farmworkers are many and growers are few so there is no competition. It inflates my ego no end to hear all this applause. My head is so damn big I can't wear my hat once I leave here. But I'm not in favor of applause. I would please ask the audience to not become so emotional. I know they like what I say and you know why that is? Because it's the damn truth. Thank you very much.

7. JIMINO LUCEROS - Farm worker

When I started working in the Imperial Valley 30 years ago then from there I moved to Watsonville, Hollister, Salinas, Oregon, and I always use the short handled hoe for I say 20 years and then I start working in some companies like the I see myself as a Mexican that has because I feel good and I am glad to work in this field all my life. In San Joaquin Valley we try not to use the long handled hoe because with the long handled hoe you don't work straight you still have to work with your muscles you get tired and some plants it going to be hard to use long handled hoe because you have to get down and get the weeds around the plant. I guess some people hear about my age that can because I never had no complaint with doctor so about my back or something that hurt me. I'm a hard worker all my life so I don't think the long handled hoe is going to help too much with the workers. They going to be like lot of things crops I remember some of the crops you know we start to complain about it and they bring some different teams that we can't make money anymore, you know, fruit, peaches, prunes and a lot of things like that we used to bring my family and make money and then later they put some and then I don't find no jobs for my kids. I don't think it's going to help too much for the poor people. Later they going to find something that we gonna run out of work but work is slow for poor people like me, for my family.

8. ALDO JESUS LOS ALTOS -

My name is Aldo La Souza Los Altos. I've lived most of my life in either the Imperial Valley or Salinas. My mother is Mexican American and my father is Filipino. I would like to say after all the evidence is weighed, after all the evidence has been sifted and in the final analysis the heart of the matter is this: Will the health of the farm worker be subordinate to the wealth of the growers. But the fact remains the short handled hoe is the cause of disability.

9. JOSE PEREZ-of Salinas: (interpreted)

His main argument was that he has done work in Idaho, and various other states in the country, so he has worked since 1965 to 1974. He has worked under long handled hoe, and short handled hoe, both, and finds that there's no basic difference in the speed and accuracy of the work done. And what he finds, through his own experience is that the back injuries resulting from the "cortito", and the headaches, and the eyes become dirty, and then he went into describing how much pain there is in using the short handled hoe, and he called it a torture instrument, and the reason the people don't complain is because they know that they will be fired if they complain for using the short handled hoe, and as a result they have to support their families and this is why they don't complain. The fact is that you will never get accustomed to using the "cortito". Just like he says, you are bending down so much throughout the day, and one never gets accustomed to it. So that is basically what Perez said. Thank you very much.

10. FRANCES RIANDA - Growers - Alisal and area:

I am growing mainly beans, broccoli, celery, lettuce, sugar beets, cucumbers, and potatoes and onions. Each of these crops requires either spading or hand weeding of some sort. My views are very much the same as Tom Merrill's are, with regard to it. There aren't too many crops that use herbicides. Sometimes they work, sometimes they don't; what do we do? We do a lot of precision flying, but there's times when we have conditions where they have to plant it thicker, because of the weather, the freezes, etc. and then you have to thin these plants by hand, and that's where the short handled hoe is the instrument to use. I would like to give you an example of one of our crops which is onions. We plant onions on the bed, which is 18" to 24" across the top. It is six double rows of onions that are 2½" apart down the row, and 3½" apart the other way. If your herbicide does not work, we don't have as yet, a way to get across the top of the bed, because it almost all onions. So if your herbicide doesn't work, you have to reach in between these rows with a (unintelligible) instrument. With a long handled hoe there is no way you can do this without nicking the onions. Once you nick the onions, it is a cull and no longer usable. So it has to be something that you can work close to it and actually see the tool or the instrument you are using. If the short-handled hoe is banned from all crops then what is next?

You use a knife for cutting lettuce, you use something else which doesn't require the stooped over position, then there's no way to get away from that if you don't work close to what you are doing, you just can't do a good accurate job. Quality is so important on about everything you produce, naturally, if you don't have quality, you can't sell it, if you don't sell it, you can't stay in business, you can't pay the workers, you can't do anything else. I guess the fact that I'm trying to get across is that the job can't be properly done if you are not close enough to control your instrument, control your moves, or close enough to see the weed or the instrument to see what you have to do. So, if you eliminate the short-handled hoe, you will start wanting to eliminate a lot of other things, that could be possibly hazardous to your health. Even bending over to pick cucumbers - you grow cucumbers with a lot of hand labor - it's all row work. There's no other way to do it. You have to go along the ground to pick them. Now, I think its all relevant - it's not really the short handled hoe we're talking about, it's just everything that's going wrong in agriculture. We are always trying to find faster, better, easier, more economical ways to control weeds and transplant population in the fields. If these ways don't work like the book says it should work and you have these problems, then where are you going to turn next? That's one big question I've got in the future. Some of the alternatives would probably be to replace labor with capital and trying to work some other machines on some of these crops, mechanical harvester, mechanical thinning, mechanical everything. (several sentences here are unintelligible)....some of these crops, which are not adaptable to mechanization, which would also tend to lose crops and lower the quality of crops, and lessen production, so each of these three mentioned alternatives will have a dramatic economical effect. One is to reduce the number of jobs available - not only my farm operation, but other farm operations, I am sure, and reduce the supply of certain agricultural commodities available to the consumer, and that is going to cause higher prices in the market. And that affects each one of us, not just the people in the cities. And it is also going to reduce the production of the workers and the growers by continuing financial support of all the government and the work taxes, and everything else. So, in conclusion, I would contribute to the short handled hoe hearing that we are trying to make work as easy on the farm as you can, but you can't eliminate things you have to do at times.

Chief Wilkins - Gentleman in the blue sweater.

11. TRUJILLO - Farm worker

I would like everyone here to listen to my own experience and especially those farm workers that have been in my shoes. I have consistently worked for the past 24 years in the fields, and that is my experience and it has been a constant work in the fields for 24 years. I have worked for many companies around the different states and I believe that the short handled hoe is not beneficial to use than the long handled hoe, and I feel that you do just as much work or more. My experience that for 12 years I used the long handled hoe, and then I didn't know about the short handled hoe until I came to California and when I came to California I have been working the short handled hoe and I don't find any difference whatsoever and I don't find the difference in respect to using the short handled hoe being more beneficial in the sense of the work efficiency. And that is my experience. Now I belong to a cooperative and I am all for joining any organization or cause in which the banishment of the short handled hoe will be the push and the emphasis. Thank you - that is all I have to say.

12. LAWRENCE PORTER - grower

Good morning - I am L. Porter and I am in farm management in the King City area. I would like to talk a little about the alternatives to the short handled hoe, and the way we feel some of the problems we face can be handled some of the time -not necessarily all of the time, but a big portion of the time. We planted a number of crops, the early season crops this year, prior to a lot of preparation, and I will show you very graphically that we present a piece of perishable evidence, which is perishable, like I say. Many of the vegetable crops that we do grow in this...(unintelligible) ...And this, which I dug up this morning, is a piece of one of our fields of sugar beets, and this field was precision planted - planted with (?) seed. And it was also pelleted. The beets that are in these weeds are spaced out to about 2 or 3 inch spacing. Also, we use two herbicides on this piece of ground. There's a pre-plant herbicide, and a post emergence herbicide. There's herbicide damage on some of the leaves, but they just don't always work. Some weeds aren't susceptible to the herbicides that are available, and they will come through. Now the weeds in here are obviously extremely higher than the little sugar beets. The sugar beets that are in here are about an inch high and there just isn't any way that this can be thinned or weeded, standing back with a long handled hoe. You have to get down close to the ground; so the problem is, to be able to do this.

13. T. TERRY PITTS - Presented a letter into the record Marked Exhibit "A" (No. 77)

A very brief summary - the Monterey County Department of Public Health is concerned with the physical well-being of all the members of our community. We understand that much of the medical research is being conducted to learn the effect of long term use of the short handled hoe. Because of this, we support the abolition of the short handled hoe for field workers. Sincerely, Robert J. Bowersox, Director of Public Health, Monterey County.

14. JOSE DEFREDO - Farmworker:

I am Jose Dofredo. I have been in the United States for 30 years. 16 years I spent here in the Salinas Valley. The first time I started to work with the Salinas Valley Growers Exchange. All my life I am in the country working in the field, so I was working in the east and the far east, like in Wisconsin, and Minnesota, Detroit, and Michigan, and all over that part of the state. Even here, and Texas, Illinois, and New York, New Jersey, Pennsylvania, Ohio, all over there I work and I used the long handled hoe. So for many years I represent no organization - I am a free man. I represent all farm workers who are free. (Most of the remainder of his speech is impossible to interpret...basically, he says the short handled caused him much pain and he thinks it should be outlawed before it starts to effect the younger people like it has him)

15. JOHN INMAN -

I am John Inman. I would like to thank Mr. Jourdain, earlier, for referring to me as an expert. I wish I was that confident of my own abilities. Recently at a meeting here in Salinas I discussed alternatives to the short handled hoe, primarily from a technological standpoint, and reviewed some research which has been done in this and other areas. I understand that a taping of that discussion was introduced at the hearing in San Diego. I think that would fairly summarize my comments, assuming that the tape is as it was taped during the discussion. I was not aware at the time that the talk was being taped, although I had no objection, but I found it a little discourteous that it was not mentioned to me that it was being taped. Mr. Jourdain mentioned that I had said that precision planting was universal. I would point out that it is widely used, but it's not universal for some problems that were pointed out earlier. There are some other technological problems that tend to (?) with some of the alternatives. We seem to be able to put a man on the moon, but we don't quite have that kind of budget in terms of agriculture, to develop technological alternatives. In a recent

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letter I think the gentlemen of the agricultural engineering department of the University of California at Davis, discussed some of these and pointed out that in areas beyond the thinning process there are technical alternatives to practices that were being used which do involve stoop labor. So I think this is a consideration that must be looked at in terms of whether the hoe is being looked at, or are we looking at the physician. I am not a medical expert by any sense of the word, could I be in a position to evaluate that. But I think this should be taken into consideration. That in some of these things there are no technological alternatives available at this time through existing practices. Thank you.

16. BILL LASHLEY - Monterey County Social Worker, Disability Division.
My name is Bill Lashley. I am a social worker in the adult workers services of the Monterey County Department of Social Services. One of my assignments is the explaining of available services and the evaluating of (?) needs of all applicants to the Social Services Department of the supplemental social security income program. Being the only bi-lingual available to carry out this position, I receive and evaluate tapes of all Spanish sur-name applicants in the Salinas, Chualar, and Gonzales portion of the Salinas Valley. The supplemental social security income program accept two (?) - old age and disability. Focusing on the disability portion of the program, we held a meeting for farm laborers in the 40 - 60 age bracket who are applying for these benefits. During the course of the interview, I asked the nature of the client's disability, which precludes any further impairment. This is to ascertain the need for on-going medical care, therapy, or rehabilitative potential. Invariably the disability of the farm laborers is either a bad back and/or arthritis. It is my opinion that these disabilities, especially disabling back pain, can be directly attributed to the short handled hoe; to the use that they voluntarily use the short handled hoe, the preliminary pre-harvest tool of farm labor. If one is working full time at farm labor, he will be using the "cortito", running the risk of future permanent physical disability, and a need for a (?)lifetime.
17. N. MICHAEL RUCKA - Attorney with MORGAN, BECIZAY, HANMER, EZGAR, BLEDSOE & RUCKA
My name is Michael Rucka, and I am a partner in the law firm that specializes in the field of workers compensation claims and I am a Board certified specialist in the field of workers compensation in the State of California. Certified by the State Bar. I have previously testified at the last hearing

and I have also written a letter relative to my appearance today, which I was asked to offer into evidence. One of the things I would like to do today is to attempt to reduce the emotional level of the argument that was made, and try and concern ourselves with the practicality and facts involved with the use of the short handled hoe. Unfortunately, a number of my clients here in the audience, I say unfortunately, because I believe the use of the short handled hoe is the reason they are here. I have gathered from hearing some of the testimony today that there is an attempt to broaden the scope of these inquiries on the (not understandable)to the whole question. I would resist this attempt and direct this commission's inquiries back to the use of the short handled hoe only. The short handled hoe requires individuals to work in a very stooped over position. Of that, there can not be any question - at least none that the reasonable mind could entertain. There has been a number of statements made relative to the effect of working in that position. I understand that the San Diego testimony that was given medically, (several sentences totally unintelligible) I would like to speak directly to the issue as I did the last time I was here to the question of filing a case, solely for the use of the short handled hoe. I appointed (?) ...I believe that if one is going to be a good worker one does not place all of ones eggs in one basket, and specifically state that it is the short handled hoe which causes the disability. It is the inevitable bending and twisting activities which are the primary causes of production of arthritis, or the acceleration of arthritis. It is obvious that there are other activities besides the use fo the short handled hoe in which a worker is required to do bending and lifting, and twisting activities. However, it is also a known fact that in the field of agriculture work the use of the short handled hoe in Calif. requires a predominant amount of you the people, who work in agriculture work in California predominantly use the short handled hoe and therefore, if we accept the precept that the inevitable bending stooping, and lifting activities aggravates and accelerates production of arthritis, then we must conclude that any other work done with the short handled hoe is (?) to the spine. (more bad taping).....

I would like to make reference to a deposition which I took of a doctor who was often used by insurance companies attending agricultural companies in California. The doctor is Dr. James P. Evers (?) and the deposition was taken on the fourth day of March, 1975. It was takenAlmaden Vineyards.

That tape has a workmans compensation appeals board member. That report number is 5389 and 74 is the (?) ...code. Dr. Evers is a very honest doctor who does authorizedfor insurance companies. It is proper to understand the person I am going tothis deposition. I want you to understand that it was given in a very highly contested workmans compensation case in which the question at issue was whether the repetitive bending stooping, twisting, and lifting is one of the causitive roles in disability of the individual involved who is suffering. On page 13 of that deposition the following questions were asked:

Question: If the average individual who spent a lifetime of repetitive bending, twisting and lifting activities...and received ex-ray changes, which could be generically classified as arthritis - and by the way, arthritis is a generic term, as you will see through this deposition - is there any way we can determine which portion of the change is caused by aging, and which portions are the results of wear and tear on the spine?

Answer: No.

Question: Is there any way we can determine with some preciseness, whether the natural aging process of arthritis would be a lot simpler (?) Answer: No You can have sever ex-ray changes, and the patient can be absolutely ...(?)

(This portion of Mr. Rucka's statements are not intelligible, but Mr. Rucka has said he will try to furnish the information to this office....we will

send this portion as soon as we get it) ^{See Attachment} Mr. Rucka furnished the attached transcript of one of his cases from which he excerpted medical testimony concerning arthritis. He was unable to tell us exactly what parts. Marked EXHIBIT "D"

18. My name is Ken Sato. I am employed by the Inter Harvest Company, and my position with the company is manager of the thinning department, and as such, the short handled hoe is being extensively used in thinning of the various row crops - celery, lettuce, cauliflower, and sugar beets. And I might say some thinning, expecially of celery and lettuce is very delicate, and very precise, and an awfully extensive operation. And I feel that it can be properly accomplished only by the use of the short handled hoe. Going back over the job can substantially reduce your crop yeild. Now, to me, thinning is a job that requires the use of two hands - not two hands on a long handled hoe, but one hand to control the short hand, and the other hand free to pick the weeds from the plants.....and also to pick up the double plants. The double plants are never developed, normally, to make a marketable product. To perform this same function with the long handled hoe can be extremely damaging to plants, and this cuts, thereby making the plant unusable.

19. LENA SEGOVIA - former Field Worker -

I am Lena Segovia and I am a former field worker, disabled by the shorthanded hoe. I have an affidavit here from my doctor where I have been getting treatment off and on for the last 25 years. I would like to submit this right now. It is a statement from Dr. Guy Miller, Chiropractor here in Salinas. He just retired last year. Anyway I have worked all my life. I am a native Californian and my parents had to leave Los Angeles during the depression and we had to start working in the fields. I started thinning at the age of 13 with an uncle of mine that became a contractor and I had another uncle who became a contractor, Jose Lopez was his name. He was here in the Salinas Valley and Bakersfield. And we were 13 and 14 year olds working with the shorthandles. At that time they let us work 15 to 20 minutes bent over. We could stand up then and then bend over again. We went to school off and on. 14 years old and we were drop outs. Then in the war of 1941 the men, and the young men started going to war and the women had to do all the work. That was before they brought in the braceros. That was when they let us use for a little time only the long handled hoe. It took us about a week to get used to it. You have to work to one side, then you turn and work to the other side and this can hurt your back too for awhile but at least you can stand up when you get home. Then they started with the bracero program so our longhandled hoe was taken away from us and they told us if you can't do the job we have braceros that can do it. I can tell you these beet contractors I have worked with - I worked with (names various companies - not clear on tape). At the age of 25 after I got married and had my children my doctor told me that my back will not take any more of that bending over and thinning. They were all lettuce fields. Sure you can use the knife for thinning - not for thinning but for weeding - but they won't let you. They tell you either you bend over or you're out of a job. Some of these people who are migrants, they are afraid of complaining because they are afraid of being fired. We were afraid too when we were young. But after awhile we started learning a little bit of our rights. We started complaining. We were fired. We started driving from one place to another. Finally we got into the packing sheds. (Whole sentences unintelligible). Finally we couldn't take that work either because our backs were so far gone they just wouldn't take standing up 8 to 10 hours in the packing sheds. I myself have gone into working in the schools because that's the only job I can do. Either that or I would have to be under Social Security or Welfare. The growers right now have brought in some evidence here that they say are a row of weeds or something, I don't know what they were. If it would be permissible, I know it's not right, but a lot of us women who have worked in the fields cannot do our work at home now because our backs are weak. I could show you some evidence here but I think it would be kind of embarrassing. We could pull our slacks down and show you

our girdles. If they have evidence like that I am sure we could show you some other evidence worse than they could bring in here and I am sure that if you would teach the workers to use the long handles they could use them. They are intelligent enough to use the shorthanded. They are intelligent (tape blank). That's all I have to say. My husband is just as bad off as I am but he has to work so he couldn't come. I know a lot of people in Soledad where I have lived for 45 years that are disabled. We have a mayor that is disabled. Now he had to go to other kind of work and he's quite young. Thank you.

9. Jorge ? Farm worker

Name inaudible (The following is a translation done by a woman)

I want to beg your pardon especially to the women for some of the things I have to say. These things I have to say need to be said because they are of great consequence to people who have to work with the shorthanded hoe. About 3 years ago I started having difficulties because of the shorthanded hoe. It is a sensitive thing that is hard to talk about but it is important to talk about and especially important to me. It has affected my relations with my wife and caused problems at home. As the doctor said previously work with the shorthanded hoe does cause severe back problems. It has made me useless in many ways and has caused problems with my wife in many ways. The problem that I have has been experienced by many other people who work with the shorthanded hoe. I went to my doctor to see if he could help me. He tried to help me all that he could. He gave me some pills and they didn't work. So I went back to Mexico and I went to the doctor and I asked the doctor if he could help me and he said that he could help me and the first thing that he told me was to stop working with the shorthanded hoe. The doctor said he had seen 400 cases very similar to my case. He said it was directly caused by work with the shorthanded hoe. I would like to say that the shorthanded hoe is a crime. It is a crime to the workers in the fields and it has been a problem to me.

11. EVAN HUSHBECK - California Tomato Organization:

My name is Hushbeck of the California Tomato Growers. This organization is made up of growers throughout California raising and processing tomatoes. California has made continued growth and is currently rated in excess of 80% of all the processed tomatoes that are produced in the United States. In 1974 California raised 250,000 acres and anticipate upwards of 300,000 acres in 1975. Processing tomatoes is the number one row crop in California and produced approximately 6,000,000 tons in 1974 and had a one half billion dollar economic impact on the State of California. Great progress has been made in efficient agriculture practices toward tomato production and weed control through the use of herbicides. Great progress has also been made in the use of herbicides through trial and error and research. But we have obtained less than perfect results.

Herbicides are not consistent and their effectiveness varies according to weather, soil types and levels of application required to eliminate weeds. Tomatoes are one crop where certain herbicides are ineffective in eliminating certain weeds. For example nightshade is of the same plant family as the tomato and where it is necessary to eliminate nightshade without eliminating the tomato plant you cannot use herbicides hand labor is necessary (inaudible).

22. _____, Farm-worker.

He has had several years of experience working in the fields and has used both the short-hoe and the long-handled hoe. From such experience he associates his back problems and injuries to the use of the short-handled-hoe/

He stated that the same work can be done by using the long-handled hoe.

People come here in front of you to make presentation to you, they come up with papers and notes so that they don't have to forget what they have to say. I tell you, we do not need any notes or papers to remind us what we have to say to you, because we say it what we feel in our bodies, the pain

23. PEREZ - Farm worker

He has been working in the fields for more than twenty years and has used both the short-handled hoe and the long handled hoe. Presently he is working as a supervisor. He stated that from his experience in working in the fields and use of the instruments he asserts that short-handled hoe always caused back pain to me.

4. RAMIREZ - Farm worker from Mexico.

I have worked in Dorado and in San Jose, Mexico, and I have always used the long handled hoe. I am 34 years old and I have always worked with the longhandled hoe. I have been here in California for the past year and a half and I have been using the shorthanded hoe and I am hurting from using the shorthanded hoe and I have never had any problems with my back using the longhandled hoe. We know that the field workers who are speaking up for the shorthanded hoe are the ones who will be given the job of foreman because they are the ones who are always kissing up to the growers.

5. NEIL BINGHAM, Director of the California Beet Growers Association

This year there will be over 340,000 acres of sugar beets grown in California. The average yield is over 1,000,000 tons of sugar. This is sugar the American consumer needs otherwise we would have to pay to have it imported which would mean higher prices. In the last several years the beet industry has made a great deal of progress towards eliminating the necessity of using the shorthanded hoe. However, we have not yet achieved this goal. The herbicides we have found are not consistent with their performance. Perhaps under different conditions we get different results. This is mostly due to weather factors over which the growers have no control. Under the best conditions there are always some weaknesses and under unfavorable conditions there are always quite a few (inaudible). If a decent crop is to be raised these weeds have to be removed. Because some of the weeds are right next to the beet plant the only way to remove them is either by pulling them out by hand or with the shorthanded hoe. With the use of the longhandled hoe probably about half the time they would remove the beet along with the weed. In experiments conducted a few years ago it was shown that 17 weeds in 100 feet of row would reduce the crop by 8%. If you have 34 weeds in 100 feet of row the reduction in yield would be 15%. So it is clear that weeds have to be removed if a satisfactory crop is to be raised. Without the use of the shorthanded hoe the beet sugar produced in California would surely decline because of the loss caused by the weeds and because of poor stands and also because a certain number of acres would be abandoned. The beet sugar industry is vital to the economy of California. Many people would suffer if this industry was put into a straight jacket. The adverse effects would be felt all over the State not only by the growers, processors, truckers involved, the railroad people, most everybody. So therefore, if we are to keep a viable beet sugar industry in California let us use the shcrthanded hoe when conditions make it necessary.

Because you just don't have that accurate control like you do with the short handled hoe. To do the job right with the long handled hoe, it still would be necessary to bend over, stoop over, and use your fingers. You must, its necessary to physically, to bend over from the erect position and be in a proper position to use the short handled hoe. When I was in my younger days, and when I was using the short handled hoe and other hand tools, and I picked strawberries for a number of years I found that in picking strawberries and in farm work - it depends on the short handled hoe. (this is not verbatim - very difficult to understand) Field work is not easy work, I'll grant you, but it is not the hardest. Any normal healthy person - ... should have no problem or anything with the short handled hoe. (the rest of this tape is unintelligible)

**26. _____

He was foreman but now he is on social security disability and he doesn't like it at all. He is a hard worker. He has worked in many capacities in the fields. He has used the short handled hoe, worked in harvesting, in irrigations and other jobs. Stating from experience he can say that the short handled hoe is not required for the thinning and weeding operations in the growing of beets, onions, spinach and many other crops. Stating from his own experience to the effect that the detrimental effects of the short handled hoe are wide-spread and are not confined to the physical body only, but, go beyond. It affects a person's relationship with his wife and other members of the family, also relationships with friends.

27. RICHARD THORNTON - Growers-Shippers Vegetable Association:

(New tape starts in mid-sentence of a Mr. Thornton.)

...of an automobile agency who bends over most of the time trying to outlaw his wrench. The carpenter used the hammer, but do we outlaw his hammer because it calls for physical exertion? The carpet layer, or the linoleum layer - probably spend more of their time on their job than any on their knees all the time - do we outlaw his tools? The whole fact is that we have some testimony here that the bodies do degenerate, and this is an accepted fact - all bodies degenerate. Everybody as he gets a little older, he gets a little slower, because we all do. The mere fact that they are doing laborious work may aggravate it or it may not, but at any rate I think that the natural processes of the body are going to very, very much accelerate in comparison to the work. One mention was made by a Mr. Lashley, who is a social worker for the county of Monterey, in which he said in his opinion all the bad backs and arthritis of the 40 to 60 year old bracket was attributed to the short handled hoe. I am wondering how many of those people that he is talking about use the short handled hoe - what percentages of them. Certainly everyone who applies for aid in Monterey County is not a short handled hoe worker. Also, I didn't see anything about the medical qualifications of Mr. Lashley to substantiate that opinion. Mr. Rucka made several points. One was that he asked the growers to advise them of the cost of workers compensation has gone up. The answer was, of course it's gone up. It has gone up - everything has gone up. Name something that hasn't. We all experience the same thing. Maybe its...(?) maybe the cost of operations, but what hasn't gone up? Of course workman's compensation costs have gone up, as have fertilizer costs, costs of lia-

ability insurance, everything else. If, as Mr. Rucka suggested we remove the cause of putting the person in a position of bending, this has a tremendous ramifications, not only in agriculture, but in all industry. I am sure you people can appreciate that. If I might ...we have...we had an organization (?) with the Marsh-McClellan insurance agency, who handles quite a bit of the workmans compensation for the growers. I asked them to go back through their records of the previous year and come up with all the compensable accidents. For the year 1973 and 1974, the total number of employers insured in this area - this area alone - amounted to 21, and those employers employed approxiamtely 3000 farm workers. We had 239 total accidents among these 3000 farm workers in one year. Slips and falls - 45, falling objects - 39, lifting and packing - 48, miscellaneous - 48. And of the 239 we made them pull out every lifting and packing strain, every back injury, and we went over them quite carefully and we found that in all those 239 claims, that in all of the 48 involving backs, we found one that might have been attributed to the short handled hoe. It was not conclusive, but it could have been attributed to the continued use of the short handled hoe. This particular claim involved no lost time to the worker, and the total medical expense was \$78. And this is out of the 3000 employees and 21 companies of the previous year. We have had a very emotional morning. I think we have heard a lot of testimony pro and con. We have heard from a lot of farm workers - mostly of those favoring the abolition of the short handled hoe. We debated bringing in the number of workers. I think we could go on and on for three days, but I don't think those are the really pertinent facts - the number of people who have testified more meticulous facts - this is why we didn't bring it in. We think a lot of it was emotion. We hope we provided you with some factual substance and I would like to ask if the record is going to be kept open for any time in the future, or how much time in the future, for written comments.....

(Wilkins: The records will be closed the end of this day)

Alright, thank you very much for your courtesy, gentlemen. That's all we have to say, and we have no other appearances by the employers.

(Spanish speaker, being interpreted):

28. My name is Pedro Gonzalez, and I am a worker from Watsonville. I have worked with the short handled hoe for at least 22 years of my life. I am sorry - I have ovrked with the hoe at least 22 years of my life. Most of that work has been with the short handled hoe, and I have also worked with the long handled hoe. The difference is significant, because of the affect

that it has on the human being. Often times after working all day with the short handled hoe, one comes home without desire to eat, to bathse, to communicate, to socialize. One is exhausted from the use of the short handled hoe. On the contrary, the use of the short handled hoe permits one to lead a normal life, even after work. Those who say that the short handled hoe and the long handled hoe have no significant difference of the effect on the human body, do not know what they are talking about. They have never used either, or both. I have noticed that at least one foreman who had worked, claimed that there is no difference, between the short handled and the long handled hoe, or that there is one significant difference between the two hoes, and that is that you can't do the work with the long handled hoe that you can with the short handled hoe. That is simply not true. Inasmuch as I have worked for many years with both types of hoes, and inasmuch as I have had no problem at all removing those weeds that need to be thinned out, I know that it is not going to be a matter of using the short handled hoe, or bouncing up and down like a spring. I have experience in the use of the long handled hoe and it is not an impediment to performing a good job.began using the short handled hoe when he was young, and at that time he feels the effects mentally. Just because his body is growing and is adapting. On the other hand, the long term effects begin to set in when one reaches middle age. And the effect is that it has the consequence of deforming one's body. And look at mine. You cannot probably tell all that is within, but I can tell you that there's much damage, and since I began using the short handled hoe at the age of eleven, I have seen my body waste away. I ask that the short handled hoe be removed. There's no reason for it. It should be removed. Typically, the only reason the people permit themselves to be used, or to be forced to use the shrot handled hoe is because they find themselves in bad economic circumstances. And wehn you are in those circumstances, he finds that he has no leverage against the growers. If a grower notices that a man is exhausted, that his eyes are bloodshot at the end of the day, that his nose is bleeding, that the man's head is aching, the man is dirty - the worker is told not to return if he doesn't like, or can't use the short handled hoe. The problem is, however, that one is forced to - economically - use the short handled hoe to grovel and work, and until this is removed, the dignity of the human won't be restored.

29. THOMAS ALEGRO - Farmworker

My name is Tomas Allegro, and my residence is in Watsonville, and I would like to speak to you concerning the use of both hoes, and I speak from experience. I began using the long hoe in Texas in 1945, and I used it continuously until 1958. And I can speak to you quite frankly, that we never felt excessively ill, never felt really ill with the use of the long handled hoe in all the years of working there. Not until 1958, when I came to Soledad did I encounter the short handled hoe. Since (and this includes my wife and myself) since we had no alternative, but to use the short handled hoe if we were going to work in that type of work, that we were accustomed to, we went to work using the short handled hoe at the expense of great suffering and great sacrifice. It wasn't but at the end of one year that I had serious head damage, injury to my head, to my back nad to the entire structure of my body. That is me and my wife. Because when a man works in a bent position for eleven and twelve hours per day with his head down around his knees, tehre's no circulation, there's no opportunity for the blood to circulate. The bone structure is going to suffer likewise. That is an inhuman position. Human beings insist on subjecting other human beings to this type of work. And now I find that my body is wasted. It has been trashed. It is now junk. It has been junk for the past two years as a consequence of the short handled hoe. And not only I, but my wife. Both of us are only 58 years old. This is not an age for having a garbage body, but because of the literally spent lifetime on that short handled hoe, we have suffered physically, including to the extent of a coronary. And so I suggest to those growers, if they really are concerned with the jobs of the farm workers, if they really are concerned about their farm workers, that they reconsider their position on the hoe, that instead they listen to the farm workers and they remove that dismantling instrument. (a vulgar term, but it means it is a spine wrecker, and it is very strong language. The only less equivalent that I can think of is a dismantler, but it is a trasher, and it is a garbage maker, it is a junker of the human body.) There is no reason for the short handled hoe. The work can be done equally as well with the short as with the long handled hoe. There is no advantage - none - to the use of the short handled hoe. There is, however, significant damage to the human body. I beseech you of the board to remove the short handled hoe. Otherwise we will be condemning our youth as we have been condemned, to buy injuries, to buy disability, and we will continue to pay the cost. And so I ask that you recognize that we are human beings, and that we deserve recognition of our dignity as human beings.

And so in conclusion, let us understand that all those who are in favor of the use of the short handled hoe are those who have betrayed, those who sold out at the mere cost of a bone. Who have sold out their own people and who do not consider the humanness and the human suffering that these people have to suffer and endure and so I beseech the service once more to consider eliminating the short handled hoe and make use of the short handled hoe as it has abused our bodies, and throw them all into the fire. Thank you.

30. ERNESTO MANOS (Farmworker.

My name is Ernesto Manos, as I was saying, I don't have as much experience as alot of the workers who have spoken today, but I have worked in other places, and so I take a stand. I worked in construction. I worked in factories. And I also served time in Viet Nam. And I have never experienced anything so hard that affected my legs and my back so much as I had with the short handled hoe; in Viet Nam we had to carry more than fifty pounds of equipment every day. We got up at six in the morning and at times we marched until ten at night through thick brush, and I never felt as physically down here in my legs and back as much as working nine hours with the short handled hoe. And they say that the workers speak from much emotion. The reason why the workers speak from much emotion is they are the ones who are feeling this, they are the ones that have to suffer this. The workers are tired from sitting here five hours and considering the testimony of the workers. Yes, the workers are tired of suffering more than 20 years, some of them more than 30 years. (some portions garbled here) ...but we can stand up to a lot more. And we will continue to protest against these injustices against the workers as long as we must. I was also saying that the growers say there's no technology to replace the short handled hoe, yet they are aware of machinery that is being made to replace the lettuce crews. They made that machinery good, and they know that they are going to use it at their convenience. When the workers organize, when the workers trouble, that is when they are going to put that machinery in. At their convenience. But they won't accept a small change from the short handled hoe to a long handled hoe; They won't do it because it's not to their convenience, and because they see that they will lose money. But I say that if they have the technology to make that machinery, if they have the technology to put a man on the moon, if they have the technology that the government does to create weapons that can cause unlimited destruction, then certainly they can find the technology to replace the short handled hoe.

31. HEDALGO JESUS - Farmworker (Heran Asuz?)

My name is Heran Asuz (?) and I would like to direct a few questions to the people who have spoken before me. And I would like to ask Julio, who preceded me, the gentleman on the right - I would like to make a few statements to him. Have we not, in comparing the work we know what the working people don't want. We are talking about the reccomendability of the short handled hoe. The human consequence of suffering because of the use of the short handled hoe. And secondly, he has indicated that there is no difference between the use of the short handled hoe and the type of work - stooping work - that one has to do to cut lettuce. And if he does not know the work then let me show him, or let me tell him what the difference in the work is. By working with lettuce, every 15 minutes you go the one direction, and then you go back. Each time, you are arranging your body. You are walking. You are moving. The use of the short handled hoe, on the other hand, requires constant bending down and continuous bending, so that you are never up, except between rows. One remains in the bent position, holding to complete one's work. Secondly, I have worked for Mr. Merrill, who has testified today. I have worked for him and refer to a particular incident of 1952, to demonstrate a consideration for the worker. I cut my finger and he wanted me to sign a document that I would pay for the M.D. and that I would pay my own living expenses while recuperating. At that time, why did he not tell me that there was insurance to cover these types of accidents? Why did he not assure me that there was compensation? Why did he not assure me that something could tide me over until I could work again? If this is a hearing requesting our farm workers opinion with respect to the short handled hoe, don't consider the requests of the growers, and the foremen, and the others who walk around. Ask the workers who use it. And if they really find it is necessary for us to use the short handled hoe, then let us trade. Let us use the long handled hoe, and then let them use the short handled hoe, and then we can listen to their requests for the need and requirements to use the short handled hoe. We feel that the comments on the short handled hoe have been greatly appreciated by this board, especially in view of the way that all the otehr dealing, relationships, that growers have with farm workers. Let us take a look at the housing. Let us take a look at the housinghas for the farm workers. And we can find a great many single men who are housed with the use of only one bathroom. Now that is just an example, as the short handled hoe is an example of how the growers relate to the farm workers. In the abstract, that is, if the short handled hoe were a painting and we could put it up on the wall, the short handled hoe would not (inaudible) On the other hand, we are the ones who are using it, and it is an instrument

of destruction. It is not a good thing. We thank the commision for coming and now that you are here, we ask that you remove the use of the short handled hoe. We no longer want it . We know the extent of our back injuries. Believe the docotrs who have testified. They, the mechanics of the human body, know perfectly well what the source of our injuries are. And for those who testified that they really want to use the short handled hoe, let them use it.

(the rest of this tape is unintelligible)

****32. JOSE DIAZ - Farmworker:**

I stand before as a disabeled man, so is my son, all this because of the use of the short-handled-hoe. All this is brought upon us because of the economic necessity.

We should eliminate the short-handled so that the bodies of our children are not destroyed as ours are. Please do not force this economic abuse on us.

****33. FLORA - 21 year old female farmworker.**

I uzed the short-handled-hoe for six years, since I was 11 years old. It was necessary that all the family had to work to get us thru. At an early age because of the of short-handled-hoe I experienced back and leg pains. We were afraid to complain, because if we complained they fired us. All the family had to work. Our parents made us to go to work because we had to make enough for the family to get thru that is why we could not afford to complain. By the age of 14 I was almost disabeled yet kept on working, when now at 21 now I am disabbed and cannot work. You may be tired of hearing this sufferring over and over again. The fact of the matter is that it is true. Please consider the people and give them some thought.

****34. JOHN RADEBAUGH, M.D.**

I have had considerable experience in treating the farm workers. Five years ago I worked in New York state and treated farm workers. There the short-handled-hoe is not used. There were back problems among the workers. Then I moved to California.

and here also I treat and work with farmworkers. But the situation here is quite different, where the short-handled-hoe is used extensively. The back problems here are far greater than those I experienced or treated in New York.

There is a large increase in back problems and arthritis among the farm workers which is associated with the use of the short-handled-hoe.

Note- Dr. Radebaugh at this point produced a replica (model.) of the spine and went thru the process of explaining the anatomical structure of the vertebrae and inter-vertebral-discs and the effect of continuous bending and stress imposed on the intervertebral discs.

Continuous change and pressure and stress produces permanent injuries to the intervertebral discs. This is very dramatic in people of 40 years of age and older.

Abolish the short-handled-hoe

Ban the short-handled-hoe.

**35. JIM MADISCHI? - Attorney

He introduced three 3½ x 5" colored photographs and five 8 x 10" black and white photographs which were marked as EXHIBIT "C"

He indicated that the photographs show a foreman and his crew working in the fields thinning with the use of long-handled-hoe which shows that the work can be done by the use the long-handled-hoe.

**36. _____ Farm-worker.

He has worked as a farmworker in Arizona and many parts of California. He has worked in sugar-beets farming and many other crops. In Stanislaus County many crops are raised with the use of the long-handled-hoe. He has used both hoes, and from experience he stated that, with adequate training in the use of the long-handled-hoe, production will be far more than the use of the short-handled-hoe, because the use of the long-hoe is not as tiring as the short-hoe and it does not produce the pains experienced in the use of the short-hoe.

As to why farmworkers use the short-hoe, one because they have no choice, at all, because of economic necessity and if he refuses or complains of the use of the short-hoe, he is fired and also he is not given work later on.

He indicated that the use of short-handled-hoe produces many symptoms such as back pains and problems, fever, acid urine, kidney pains, arthirits.

The long-handled-hoe could be efficiently and adequately substituted for the short-handled-hoe.

**37. RICHARD B. THORNTON - Growers, Shippers Vegetable Association:

In your decision we request that you give a definition of the Short-handled-hoe.

**38. TORIS - Farmworker.

He stated that he had worked in Texas, Arkansas, Mississippi and many other states in the fields using the long handled hoe until he was 65 years. He could not remember ever having back pain. After the age of 65 he moved to California and got exposed to the short-handled-hoe. Thereafter I experienced pain by the use of the short-hoe.

I assure you the same work could be done by the use of Long-handled-hoe. There is a great incidence of injury from the use of the short-handled-hoe than from many other operations.

You have had enough evidence to convince you of the consequences of the use of the short-hoe. Please listen to those that are affected rather than those that are not affected physically.

**39. JOSE MORALIS - from Mexico 18 years old.

I came to the United States five years ago. and that is when first time I saw the short-handled-hoe. I looked at it and not listening what other said, I said that instrument cannot hurt me. But after using the short hoe for a few months it sure did change my mind, because it hurt so much that after work all I could do was take shower and go to bed. I have decided never to use the short-hoe again. I don't care if I am ridiculed by friends that I was not a man and afraid to use the short-hoe.

**40. BELTOIE -

I have been in Salinas for 21 years and I have used both the short-handled-hoe and the long-handled-hoe.

I didn't like the use of the short-handled-hoe because it gave me pain and eventually I had to change the work because of the pain I was suffering. I changed work to orchards to escape the use of the short-handled-hoe.

Now I am a college graduate and I do have association with many of the workers and I find that a great number of them are disabled. I do help many of them to file for benefits and claims. Many do not qualify for disability and are referred to welfare.

There are disabilities that are related to the use of the short-handled-hoe. The ills that come out of the use of the short-handled-hoe extend to other areas other than economic...

11. ALMA ROSA - Field worker:

My name is Alma Rosa and I would like to apologize to those that don't believe in what I'm going to say from my point of view. But I must say what I have to say to you since this is about the farm people but I am from Texas and I work there at a lot of jobs and I heard that in California there was a lot of jobs open in agriculture in the fields and I like working in the fields. I worked in Texas for three years with the longhandled hoe and then when I got here to California I was told that there was jobs in the fields like I was and that was reason I came to California because I like to work in the fields and the opportunities that was here. But then when I got to California and I saw the shorthandled hoe which I had not seen in Texas. I had only been exposed to the long handled hoe and I really thought it was cute, I really thought it was cute, and I told myself that this would be a lot easier since it was a lot shorter hoe and would be a lot easier to work with. But then when I had started working about two or three hours I started feeling first of all the blood started coming to my eyes and my eyes started to hurt and then the next thing my legs started to hurt after then it was my back and the pain was great. Today I am here asking you to outlaw the shorthandled hoe because the pain is too great. Thank you.

Chief Wilkins - Anyone else wishes to be heard.

12. HECTOR DELA ROSA - with the C.R.L.A.

My name is Hector Dela Rosa and I live in Soledad, California, my place of employment is California Rural Legal Assistance. I think you have heard and I have heard and I think all of us have heard sufficient testimony and I think more than anything else we are confronted here with a matter of conscience. Those who still value their conscience will see beyond any doubt is the resolve of just and humanitarian and necessary cause. Those who have doubts or have killed their conscience by the greed of economics will refuse and will continue to refuse no matter how many sufferings, no matter how many evidence and will continue to refuse to see. So we have two road here. I think you have a very tough decision. I think it is a very tough decision because on the one side you have economics and on the other the humanitarian, but it is your decision and before you make that decision I would hope and pray you will search your conscience real deep and after doing so come up with a decision. Thank you.

Chief Wilkins

Anyone else to be heard?

Translation of Hector DelaRosa's speech in Spanish.

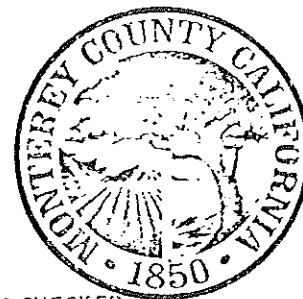
Hearing adjourned by Chief Wilkins at 2:05 p.m.

Exh A H

MONTEREY COUNTY

DEPARTMENT OF PUBLIC HEALTH AND MENTAL HEALTH SERVICES

☒ P.O. BOX 2137, 1270 NATIVIDAD ROAD, SALINAS, CALIFORNIA 93901, (408) 424-7627
☐ 1200 AGUAJITO ROAD, MONTEREY, CALIFORNIA 93940, (408) 373-0111
☐ COUNTY BUILDING, KING CITY, CALIFORNIA 93930



ROBERT J. BOWERSOX, M.D.
DIRECTOR

PLEASE REPLY TO ADDRESS CHECKED.

March 27, 1975

The Monterey County Health Department is concerned with the physical well-being of all members of our community. We understand that much medical research has been conducted regarding the effect of long term use of the short hoe. Because of this, we support the abolition of the short hoe for field workers.

Sincerely,

Robert J. Bowersox, M.D.
Director of Public Health

T. Terry Pitts
Administrative Assistant

TTP:sw

STATE OF CALIFORNIA

EXHIBIT 'B'

TELEPHONE 424-5491

GUY R. MILLER, D. C.

126 SANBORN ROAD

SALINAS, CALIF. 93901

Concern

March 25 / 74

Ms. - Delmar, Guy
1405, Monterey St
Solana Beach, Calif

FOR PROFESSIONAL SERVICES:

I have given Ms. Guy
treatment for a back
condition in lower
lumbar region - off and
on for the past 25 years

Guy R. Miller
3/25/74

EXHIBIT "C"

Public Hearing - Salinas 3/27/75

Three $3\frac{1}{2} \times 5$ " colored photographs
showing workers working in
the field using long-handled tools

Five - 8×10 " b & w photographs
also showing workers working
in the field using long-handled
tools

EXHIBIT 11

P
2/18

300 West Hedding Street
San Jose California 95110
(408) 298-4606

1185 North Main Street
Suite 21
Salinas, California 93901
(408) 424-0007

Cable Address "TRIAL"

MORGAN, BEAUZAY, HAMMER, EZGAR, BLEDSOE & RUCKA

ATTORNEYS AT LAW

Reply to: Salinas

February 12, 1975

Department of Industrial Relations
Division of Industrial Safety
455 Golden Gate Avenue
San Francisco, California

RE: THE SHORT HANDLED HOE

Gentlemen:


I am a lawyer who specializes in the field of industrial health and safety and, more particularly, in the field of worker's compensation. I am certified by the Bar Association of the State of California as a specialist in the field of worker's compensation. I have previously testified in the matter involving the short handled hoe and indicated that my first hand experience was that the use of the short handled hoe produced dilatorious changes in the spines of the individuals who are required to wield it. As I write this letter today, I am even more certain of that than I was at the time I testified. The evidence for support of this contention may be found by the number of filings before the Worker's Compensation Appeals Board for injuries to the spine or back caused by the repeated stress and strains of employment.

I believe that a check with the Salinas Office of the Worker's Compensation Appeals Board will reflect that there have been a substantial number of decisions and settlements based upon extensive disability ascribable to repeated bending and stooping activities. The Salinas Office of the Worker's Compensation Appeals Board, I believe, would be an excellent place for you to start should you be interested in amassing this information since substantial portion of the agricultural product which the short handled hoe is used in is to be found in the jurisdiction of that board.

In addition, I can give you the names of a number of doctors who have written reports and testified in worker's compensation matters as to the dilatorious effect of physical activity which require bending, stooping, and lifting such as is found with the use of the short handled hoe.

Needless to say, if there is anything that I can be of service to in this matter, please feel free to call upon me.

Yours very truly,

A handwritten signature in dark ink, appearing to read "N. Michael Rucka", written in a cursive style.

N. MICHAEL RUCKA

NMR/km

1 A May.

2 Q Now, if you have moderate to advanced arthritis, osteo-
3 arthritis, what would the effect be of a muscle strain? Would
4 that create more stress on the back or would it make no
5 difference?

6 A I think that would depend on the individual case. One
7 couldn't make a generalization.

8 Q All right. Now, let me see if I understand: Are you
9 saying in some cases it can have a marked effect on the indi-
10 vidual and in other cases it may have no effect?

11 A I see cases every week, and of this type, osteoarthritic
12 spine trauma imposed because of work injuries, and in many
13 the recovery is as quick and complete as in a twenty-year-old
14 without any evidence of osteoarthritis. On the other hand,
15 the perpetuation of symptoms, increase in discomfort is much
16 greater than one would expect from a trauma. As I indicated,
17 the explanation, the only reasonable explanation, seems to
18 be that the osteoarthritis preexisting with the trauma super-
19 imposed prolongs the discomfort, prolongs the disability,
20 prolongs the resolutional process.

21 Q Would it be the nature that if aggravated, that can pro-
22 duce a state of chronic discomfort in the back?

23 A Yes. I see cases like that.

24 Q Is there a distinction between osteoarthritis as a disease
25 process and the wear and tear that occurs to a back because
26 of repetitive bending, stooping, twisting or lifting?

27 A Yes, there is a difference.

28 Q Go ahead.

1 A Osteoarthritis in and of itself is a distinct arthropathy.
2 The dividing line between that and what one sees as the aging
3 process is very blurred. I don't think that one can draw
4 the line where one merges into the other, but the hypertrophic
5 changes particularly seen in vertebral bodies as opposed to
6 those in the intervertebral joints are probably a different
7 process.

8 Q Looking by x-ray, is it possible to distinguish which of
9 the changes have come about by wear and tear and which have
10 come about by the natural process of aging?

11 A No.

12 Q If we have an individual who has spent a lifetime in
13 repetitive bending, lifting, twisting activities and we see
14 his x-ray changes, which we generically classify as arthritis,
15 is there any way we can determine which portion of those
16 changes are the result of aging and which portion of the
17 changes are the result of wear and tear on the spine?

18 A No.

19 Q Is there any way we can determine with some preciseness
20 when the natural aging process of arthritis will give off
21 symptoms?

22 A No. You can have severe x-ray changes and the patient
23 be absolutely asymptomatic.

24 Q Would that also be true of somebody who has had a great
25 deal of wear and tear work activities on his back and still
26 have no symptoms? You follow what I'm saying?

27 A Well, are you asking can a patient, an individual, go
28 through life in a very strenuous occupation with regular

1 strenuous bending and twisting and have no symptoms?

2 Q Yes.

3 A That's correct. In fact, the majority of patients are
4 that way.

5 Q So that when we review the x-ray changes, there's no
6 way that we can discern, A, when an individual is going to
7 have disability or symptomatology; and B, whether the x-ray
8 changes are reflective of the natural aging process or the
9 work activities of wear and tear?

10 A You are talking about degenerative hypertrophic changes?

11 Q Yes.

12 A That's correct. One cannot tell whether it is due to
13 the wear and tear or whether it is due to the osteoarthritis
14 or if, in fact, those changes are symptomatic.

15 Q And in Mr. Lopez' case, the x-rays that were taken were
16 reflective of the existence of a moderate to severe degree of
17 arthritis?

18 A Osteoarthritis, correct.

19 Q And it is not possible in that instance to determine
20 whether the cause of that arthritis is the natural aging pro-
21 cess or whether it is the result of wear and tear?

22 A Could I add something onto that question?

23 Q Sure.

24 Can you answer that question and I will let you
25 explain.

26 A I will add on -- maybe we can get around to what we are
27 talking about -- just as a hypothetical, let us say that he
28 had the same degree of hypertrophic changes just prior to

1 the accident of -- what was it -- September '68?

2 Q Yes.

3 A -- and asymptomatic. Could one tell at that point whether
4 this was due to aging or repetitive trauma? Is that what
5 you are asking?

6 Q Not only at that point, at any point. What I'm saying
7 is: If you looked at the set of x-rays of Mr. Lopez' back --

8 A Yes.

9 Q -- it is not possible, if I understand you, to delineate
10 which of those changes have come about by way of aging and
11 which have come about by way of wear and tear to the back,
12 correct?

A Correct.

13 MR. SILVERMAN: Well, I'd like to interpose an
14 objection here.

15 MR. RUCKA: On what basis?

16 MR. SILVERMAN: On the basis we are referring to
17 changes.

18 MR. RUCKA: Arthritic changes.

19 MR. SILVERMAN: On his records, I think the medical
20 record supports the proposition there have been no changes
21 in the x-rays from '71 to the present time.

22 MR. RUCKA: I will let you discuss that with Dr.
23 Ludwig.

24 The question I have asked Dr. Ludwig: If you look
25 at these x-rays, can you determine which portion of the
26 arthritic changes, which have gone on at any point -- I don't
27 care whether it is now or twenty years ago -- are the result
28 of wear and tear and which are the result of natural aging?

1 The doctor has indicated that he could not.

2 Q (BY MR. RUCKA) Is that a fair statement, Doctor?

3 A Right.

4 Q All right. And when you see moderate to severe arthritis
5 in a spine in somebody who is age sixty-five, you make an
6 assumption that some of that is, in fact, due to aging,
7 correct, Doctor? A Correct.

8 Q You don't really know how much?

9 A Correct.

10 Q And beyond the statement that as one ages one is anti-
11 cipated to have some arthritic changes, it is impossible to
12 quantitate that? A Correct.

13 Q And when an individual such as Mr. Lopez has moderate
14 to severe arthritis, osteoarthritis in his spine, the amount
15 of increment of that arthritis would be difficult to assess
16 over a year, two-year or even over a five-year period, isn't
17 that true? A Correct.

18 Q Okay. And this comes about primarily because we really
19 don't again know how to quantitate the way arthritis develops?

20 A Correct.

21 Q Okay. And because, I think, as you have indicated, outside
22 of the hand there is really no way to measure increased
23 arthritis in a back? A Correct.

24 Q You have to assume that it is an ongoing process in the
25 sense of aging? A Yes.

26 Q Correct? A Yes.

27 Q And likewise it would be an ongoing process in the sense
28 of being produced by wear and tear if, in fact, the individu

1 was in an activity in which bending, lifting, twisting and
2 the like were required? A Correct.

3 Q Okay. Now, in your mind there is no question that
4 twenty-five percent of what Mr. Lopez is suffering from is
5 the residual of the 1968 injury?

6 A In my mind there is always a question.

7 Q Within the realm of medical probability, based upon your
8 four examinations of him, you are relatively certain that
9 twenty-five percent of his problem is the consequence of that
10 '68 injury?

11 A This was my best estimate.

12 Q Okay. And you are likewise rather certain that seventy-
13 five percent is the result of this arthritis that exists in
14 the back?

15 A Again, this is my best estimate.

16 Q Now, directing ourselves to the arthritis portion, are
17 you in a position to quantitate how much of that, if any,
18 is the consequence of his repetitive work activity?

19 A I don't think that anyone can say with any precision
20 how much of it is wear and tear, how much of it is the
21 natural process. I think you have to base that upon his
22 history, how it happened to him in terms of what his symptoms
23 are, in terms of what his work activities were, what his
24 physical capacities were, and based on the fact that again
25 there is no change with the exception of the last time I
26 had seen -- or --

27 Q This is between '72 and '74?

28 A When that picking up the bucket of grapes happened,

1 which seemed to be a temporary interim. When he stopped work
2 then the pain went back to the same level.

3 Based on all of that I think that it was an ongoing
4 process rather than wear and tear of the back.

5 Q But the ongoing process is an ongoing process that cannot
6 be separated out from wear and tear in terms of any way of
7 measurement, correct? A Correct.

8 Q Okay. So if we assume for a moment that you had, hypo-
9 thetically speaking again, an equal amount of arthritis
10 produced by wear and tear and an equal amount of arthritis
11 produced by natural aging process --

12 A By this you mean the changes, the hypertrophic changes,
13 not x-ray?

14 Q Yes. And you would not be able to tell which portion
15 of those was contributing to the disability? You'd have to
16 say if any was, in fact all of it was?

17 A I don't believe I follow you.

18 Q What I'm saying is: It is not possible to say that if,
19 assuming for a moment that the arthritis is contributing to
20 the disability, which portion of the arthritis it is that
21 is contributing to the disability? You can't say it is just
22 the natural aging process arthritis that is contributing to
23 disability versus the arthritis produced by way of wear and
24 tear? A Correct.

25 Q Okay. And the very nature of arthritis itself is a
26 wearing down of the bony portion of the articulating surfaces,
27 isn't that true?

28 A There's a degenerative process that affects the synovial

1 lining of the joint, a degenerative process that also affects
2 the pericapsular structures of the joint, and all of this,
3 the sum total, gives rise to the symptoms that it produces,
4 joint pains, stiffness.

5 Q And that comes about because, in effect, what is happening
6 is the synovium is worn and dried?

7 A Degenerative.

8 Q Okay. The synovium degenerates?

9 A Right.

10 Q And it does so because it becomes worn and dry?

11 A Well --

12 Q There is no fluid in there to keep it lubricated?

13 A At times the joint fluid itself is decreased. In almost
14 all cases there remains the normal joint lubrication. I
15 shouldn't say normal joint lubrication, but some joint
16 lubrication.

17 Q Otherwise you end up with somebody who --

18 A Fuses the joint and there is ankylosis.

19 Q Which is not the case here?

20 A Which is not the case here.

21 Q Once a vulnerable back has been compromised by way of
22 trauma superimposed upon the preexisting arthritis, the
23 moderately severe arthritis, can you assume that further
24 physical activities are going to have a synergistic effect
25 upon that back, or will it have no effect?

26 A Depends on the individual case.

27 Q So that in some individuals additional physical effort
28 will in effect have a synergistic effect upon the amount of

1 disability going from a small amount to a much larger amount,
2 and in others it will have no effect whatsoever?

3 A Correct.

4 Q Okay. Is there any way that we can measure which indi-
5 vidual it is that is going to react synergistically and which
6 will not react at all?

7 A No. I think it all depends upon his reporting of his
8 complaints and what he has.

9 Q Dr. Holmboe examined Mr. Lopez. Did you have an oppor-
10 tunity to review his report?

11 A No.

12 Q You didn't?

13 A I think I glanced at it.

14 Q He was of the opinion that there was no medication that
15 Mr. Lopez was currently on that was of any benefit. What
16 would you normally -- I think he referred in part to Dr.
17 Anderson's prescription of some type of a calcium.

18 A Yes. I believe in response to Dr. Holmboe's interpreta-
19 tion of the law then probably Anderson would be saying he
20 was giving him nutritives.

21 Q What kind of medication, if any, would be appropriate
22 for moderate to severe arthritis and --

23 A Aspirin.

24 Q Pardon?

25 A Aspirin. It is an excellent drug for that. It is an
26 analgesic. It does have specific effects as far as joints
27 are concerned. Aspirin or the aspirin derivative is an
28 excellent drug to control these cases.

1 Q What about something like Indocin, would that have been
2 of some benefit?

3 A I don't know. Indocin seems to be prescribed -- I have
4 used Indocin from time to time, and I don't think -- and I
5 think this is backed up by studies on Indocin like you have
6 in the medical letter, which is a standard unbiased review
7 of drugs by a group of eminent physicians rather than drug
8 manufacturers -- that Indocin has very little effect upon
9 osteoarthritis, and I think in the studies that have been
10 done, unbiased studies, that perhaps aspirin has done just
11 as well as a drug specifically for osteoarthritis such as
12 Indocin.

13 Q In terms of the application of aspirin, this is designed
14 to control what?

15 A Pain. There is some indication that aspirin controls
16 inflammatory reaction, and now even some indication that
17 aspirin acts as an anticoagulant. Believe it or not, it
18 is being used in some long-term studies of coronaries and
19 thrombophlebitis.

20 The main action of aspirin is its analgesic action.

21 Q You were not able to measure quantitatively the amount
22 of osteoarthritic increase that occurred between when you
23 first saw Mr. Lopez and when you last saw him; is that correct?

24 A Correct.

25 Q And that is again because of what we referred to in our
26 earlier discussion, the lack of ability to accurately or
27 adequately measure arthritis?

28 A Correct. What one measures are the effects.

1 Q One would assume, however, that the arthritis has, in
2 fact, increased, correct? The amount of arthritis has, in
3 fact, increased between '68 and '74?

4 A In Mr. Lopez?

5 Q Yes.

6 A No, I don't assume that. I assume that he -- that the
7 arthritic process is a continuous one.

8 Q That is what I am saying. A Yes.

9 Q And that as a continuous one it would produce more
10 arthritis in six years?

11 A One could anticipate that there may be possibly more
12 greater pain, greater stiffness and such.

13 Q Okay. And again, not being able to measure, which is
14 why we cannot tell which of the -- which portion of the change
15 would be ascribable solely to the natural progression and
16 solely to the wear and tear aspect of it?

17 A Not with any precision.

18 Q When you have arthritis that is produced by wear and
19 tear and you have arthritis which produces pain and you relieve
20 the wear and tear aspect of it, you then have -- and you have
21 in addition a factor that pain seems to be reduced, is that
22 a pretty fair indication that the arthritis that is there
23 is more the result of wear and tear than of age?

24 A No, I don't think so.

25 Q That is of no real import whatsoever?

26 A Yes, because I think -- let's just take an arthritic
27 condition, an osteoarthritis that progresses simply and
28 purely because of the underlying nature of the disease in

1 a little old lady that never engages in any strenuous physical
2 activity. Assuming that that is for the most part pure osteo-
3 arthritis uninfluenced by wear and tear, nonetheless as years
4 go on and she attempts to do something she will experience
5 increased pain and discomfort from it because of the mani-
6 festations of arthritis. When she stops, the discomfort will
7 go down again to a lower level simply because of the mani-
8 festation level. It isn't valid to say increased strenuous
9 activity causes increased symptoms and therefore it means
10 that it was caused by wear and tear versus the natural progress.

11 Q Okay. From the standpoint of aggravating -- let me
12 phrase the question this way: Therefore, from the standpoint
13 of aggravating the situation that the work or the physical
14 activity, be it work or any other source, is contraindicated
15 where you have extensive arthritis --

16 A Only --

17 Q -- is that a fair statement?

18 A I think that basically depends upon the patient's
19 response. It depends on his toleration of what his capacities
20 are.

21 Q I gather then the answer is yes, assuming --

22 (Discussion off the record.)

23 Q (BY MR. RUCKA) The radiation that was found in Mr.
24 Lopez' left lower extremity, was that on an anatomical dis-
25 tribution basis?

26 A This was a symptom, but there was no findings in terms
27 of sensory deficit or anatomic distribution, in fact, any
28 neurologic findings.

1 Q This did follow a dermatome distribution pattern?

2 A Not really a dermatome. This frequently occurs with
3 people with back pain. They frequently complain of radiation
4 down the legs and into the calf. It doesn't necessarily follow
5 any dermatome. That would have to be determined by a sensory
6 examination.

7 Q You have indicated earlier that you felt that Mr. Lopez'
8 condition was such that he could be considered to be disabled
9 as enumerated in Portion B of the guidelines?

10 A Correct.

11 Q And I gather that that conclusion of yours was predi-
12 cated upon his overall disability and not solely with respect
13 to the arthritis nor solely with respect to the '68 injury?

14 A Correct.

15 Q Okay. I think that's all I have at this time.

16 Doctor, assuming we get out of here in the next
17 twenty minutes or so, you will have set aside about an hour
18 and a half for us, plus whatever time you have taken to
19 review your records. Can you give us an indication of what
20 your bill will be?

21 A I usually charge \$100 an hour, so it would be \$150.

22 MR. SILVERMAN: I have no questions.

23 MR. RUCKA: So you have devoted an hour and fifteen
24 minutes. Thank you.

25 ---o0o---

26

27

28

1 STATE OF CALIFORNIA)
 2) SS
 3 COUNTY OF SANTA CLARA)

4 I, Leila S. Strand , a Notary Public in
 5 and for the county of Santa Clara , State of California,
 6 hereby certify that the witness in the foregoing deposition,
 7 named JAMES B. LUDWIG, M.D. , was duly sworn by
 8 me to tell the truth, the whole truth, and nothing but the
 9 truth in the within entitled cause; that said deposition
 10 was taken at the time and place therein named; that the
 11 testimony of said witness was reported by me, a Certified
 12 Shorthand Reporter and a disinterested person, to the best
 13 of my ability, and was thereafter transcribed into
 14 typewriting under my direction and supervision.

15 And I further certify that I am not of counsel or
 16 attorney for either or any of the parties to said deposition,
 17 nor in any way interested in the outcome of the cause named
 18 in said caption.

19 IN WITNESS WHEREOF, I have hereunto set my hand and
 20 affixed my seal of office, this _____ day of _____,
 21 19 .
 22
 23
 24
 25
 26
 27
 28