

# Rural Migration News

## Blog 208

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### Labor Standards Enforcement in California Agriculture

California has a third of US farm workers and state labor standards laws that provide more protection for farm workers than federal laws. An analysis of 787 state labor law compliance investigations of California farms between 2016 and 2019 found that three-fourths of the farms owed back wages to their employees, and that most did not pay the back wages that were assessed by 2019.

#### State Enforcement

California's Labor Commissioner heads the Division of Labor Standards Enforcement (DLSE) that enforces state labor laws, including compliance with the state's minimum wage of \$14 an hour in 2021 for employers with 25 or more workers. Of the almost 600 agricultural employers who were found to owe back wages between 2016 and 2019, only 275 paid the back wages that were owed, while 314 had outstanding balances to pay in 2019.

The average amount of back wages owed by farm employers with violations was \$16,500, but ranged from \$20 to \$643,000; the

median amount of back wages owed was \$4,500. The average amount owed by employers with an outstanding back wage balance was \$25,265, and the median amount still owed was \$7,750.

Forest Peterson of Stanford made a public records request for DLSE data, and received relatively complete data for FY16-17, 17-18, and 18-19. However, these data exclude information on private and district attorney lawsuits and other non-DLSE enforcement activities.

We analyzed 6,600 lines of DLSE agricultural violation data, with each line representing a violation. Some 4,800 violations or three-fourths were deemed closed, including 2,500 or 38 percent that had no back wages owed. The 4,100 agricultural violations that were found resulted in orders to pay \$9.8 million in back wages. Employers paid \$1.8 million or 19 percent of these back-wage assessments by June 2019.

#### Top Violators

The 11 California farm employ-ers with 75 or more violations

accounted for 19 percent of all violations and 10 percent of all back wages assessed. As of June 2019, these 11 violators paid 14 percent of their back wage assessments, below the 19 percent repayment rate of all employers.

Kingsburg Apple Packers (Kingsburg Orchards), a tree fruit grower with 7,500 acres, had the most violations, 251, most of which appear to involve packing plants; the NAICS code (115114) is for the postharvest handling of crops and the violations deal with waiting time and meal and rest periods. Kingsburg was assessed \$4,400 in back wages to its workers, but none were paid.

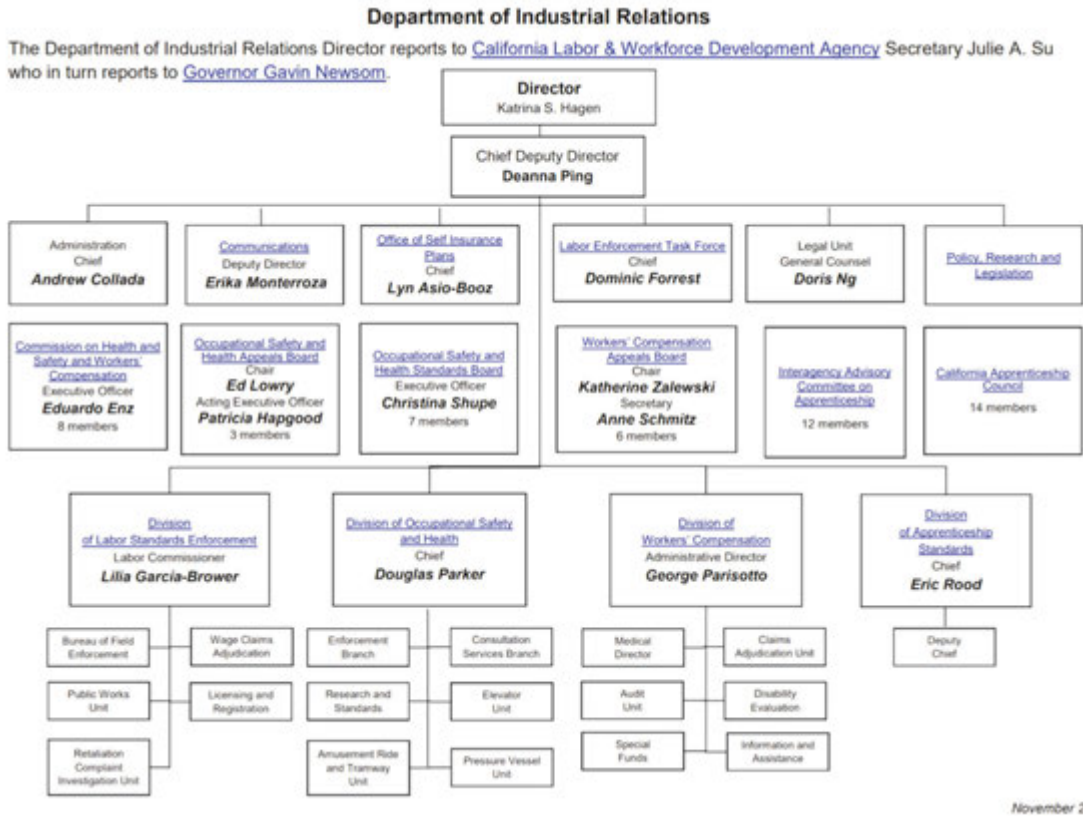
Ali Leafing in Selma, also NAICS code 115114 for postharvest handling, had 149 violations in summer 2016, with \$214,000 in back wages owed and \$2,800 paid. Many of the violations were for a failure to pay minimum wages, piece rate and record keeping violations, and failure to provide investigators with access to payroll records.

Esparza Enterprises, Inc, a farm labor contractor (FLC) in Bakersfield (115115), had 147 violations in 2015-16 for failure to pay minimum wages, waiting time, and overtime. Esparza provides workers to farms and warehouses, and is one of the 10 largest employers in Kern county. Esparza was assessed \$62,500 in back wages and paid \$30,800.

The 10 employers who owed at least \$150,000 in back wages owed a total of \$2.7 million, 28 percent of all back wages assessed, but paid only 1 percent of these back wages by June 2019.

Cecily M. Bruno in Burlingame was in NAICS 114119, non-mushroom food crops grown under cover, and was found to owe \$643,000

**DLSE is in the Department of Industrial Relations in the Labor and Workforce Agency**



Source: [https://www.dir.ca.gov/org\\_chart/org\\_chart.pdf](https://www.dir.ca.gov/org_chart/org_chart.pdf)

**11 California Farm Employers Accounted for 19% of Labor Law Violations and 10% of Back Wages Owed**

Name	Violations	Back Wages (\$)	Wages Paid (\$)	Share Paid
Kingsburg Apple Packers, Inc.	251	4,392	0	
Alli Leafing LLC	149	213,962	2,800	1%
Esparza Enterprises, Inc.	147	62,471	30,803	49%
E.E. Hall., Inc.	120	58,806	46,075	78%
AMB Ranch Management, Inc.	97	69,668	9,250	13%
M.G. LUNA, Inc.	94	77,073	2,880	4%
Michael Wolf Vineyard Services, Inc.	93	11,131	10,485	94%
Erika Guadalupe Vargas Pina	92	18,378	1,863	10%
Jose Guillermo Arreola	91	112,213	23,254	21%
David Ortega	75	245,743	13,536	6%
San Antonio Creek Vineyard Co.	75	105,987	0	0%
<b>Top 11</b>	<b>1,284</b>	<b>979,824</b>	<b>140,945</b>	<b>14%</b>
<b>Total</b>	<b>6,615</b>	<b>9,757,361</b>	<b>1,825,628</b>	<b>19%</b>
<b>Top 11 Share</b>	<b>19%</b>	<b>10%</b>	<b>8%</b>	

in back wages but paid none by June 2019. Francis Carrington (NAICS 1121, cattle ranching) of Whitmore was found to owe \$315,000 in 2018-19, and David Kunsik Ha (NAICS 111331, apples) was assessed \$300,000 in back wages. None of the top three violators is in areas with the largest shares of farmworker employment in the state.

**Commodities**

An analysis of violations by NAICS or commodity found 461 violations in investigations of 37 vineyard employers who owed \$525,000 in back wages, of which half had been paid by June 2019. The 10 vineyards with the most violations accounted for 41 percent of the violations and 82 percent of the back wages owed.

## The 10 Farm Employers Who Owed the Most Back Wages Paid 1% of What They Owed by 2019

Name	Violations	Back Wages (\$)	Wages Paid (\$)	Share Paid
Cecily M. Bruno	16	642,959	0	0%
Francis Carrington	7	314,488	0	0%
David Kunsik Ha	14	300,238	0	0%
David Ortega	75	245,743	13,536	6%
Phil Nyberg	6	241,648	0	0%
KC Vineyard Management	68	215,136	0	0%
Alli Leafing LLC	5	212,649	590	0%
Belcampo Farms LLC	5	212,649	590	0%
Blue Canna	6	175,239	0	0%
Saddlerock Ranch	42	152,745	0	0%
<b>Top 10</b>	<b>388</b>	<b>2,714,806</b>	<b>16,926</b>	<b>1%</b>
<b>Total</b>	<b>6,615</b>	<b>9,757,361</b>	<b>1,825,628</b>	<b>19%</b>
<b>Top 10 Share</b>	<b>6%</b>	<b>28%</b>	<b>1%</b>	

## 10 Vineyards Accounted for 40% of Violations and 82% of Back Wages Owed in Vineyards Between 2016 and 2019

Grapes (111332)	Violations	Back Wages (\$)	Wages Paid (\$)	Share Paid
Kyle Cameron Vineyards	44	117,881	1,911	2%
San Antonio Creek Vineyard Co.	75	105,987	0	0%
OCRW Inc.	3	45,516	45,516	100%
Lovett Vineyards, LLC	3	29,871	0	0%
Binderjit Singh Bains	16	27,728	0	0%
Grassini Family Vineyards, LLC	4	25,000	25,000	100%
Byington Winery & Vineyards	8	23,063	23,063	100%
Talley Farms	5	20,775	0	0%
Seven Hill LLC	15	17,688	12,716	72%
Somerset Vineyards	11	17,663	0	0%
<b>Top 10</b>	<b>184</b>	<b>431,173</b>	<b>108,206</b>	<b>25%</b>
<b>Total</b>	<b>461</b>	<b>525,454</b>	<b>158,041</b>	<b>52%</b>
<b>Top 10 Share</b>	<b>40%</b>	<b>82%</b>	<b>68%</b>	

## 10 dairies had 20% of dairy violations and owed 70% of the back wages assessed, 2016-19

Dairy (112120)	Violations	Back Wages (\$)	Wages Paid (\$)	Share Paid
Phil Nyberg	6	241,648	0	0%
Foster Dairy Farms	7	99,154	0	0%
Falvio Almeida Martins	10	44,667	39,900	89%
Frank Pinheiro Dairy	22	38,835	0	0%
B and E Dairy	7	38,429	0	0%
Joe Bertao	5	38,142	29,207	77%
Candido Borges	7	34,920	0	0%
Aukeman Farms	6	24,00	24,00	100%
Hilmar Holsteins, Inc.	3	22,428	0	0%
Frings Ranch, LP	12	19,802	5,400	27%
<b>Top 10</b>	<b>85</b>	<b>602,025</b>	<b>98,508</b>	<b>16%</b>
<b>Total</b>	<b>415</b>	<b>858,084</b>	<b>217,510</b>	<b>25%</b>
<b>Top 10 Share</b>	<b>20%</b>	<b>70%</b>	<b>45%</b>	

Kyle Cameron Vineyards paid only two percent of the \$118,000 in back wages owed by June 2019, while San Antonio Creek Vineyard did not pay any of the \$106,000 in back wages owed. Kyle Cameron was once deemed the youngest vineyard manager in California's wine country before being arrested in 2017 for bank robbery, the same year that the labor violations were found.

The 71 dairies investigated by DLSE owed \$858,000 in back wages to workers, but six of the top 10 dairies ranked by back wages owed had paid none by June 2019. All of the dairies investigated had at least one violation, and one had more than 20 violations.

California had 100 horse farms in NAICS 112920 in 2018 with average employment of 400, but DLSE found many violations of labor laws. All of the 22 horse farms investigated had at least one violation of state labor laws, including Beverly J. Miller of Lincoln, who had the most violations.

The California Equine Retirement Foundation (CERF) in San Jacinto in Southern California lost its non-profit status in 2017 and, after the DLSE investigation, animal control officers removed 40 retired racehorses from CERF in June 2019. Collectively, horse farms paid 10 percent of the back wages that were assessed, half of the 19 percent repayment rate.

## Farm Labor Contractors

There were 1,400 FLC establishments registered with UI authorities that employed an average 147,600 workers for average wages of \$500 a week in 2018. All of the 212 FLCs investigated by DLSE had at least one violation of state labor laws, including 38 that had one or two violations and two with over 100 violations, E. E. Hall (120) and Esparza Enterprises (147).

## All of Horse Farms Investigated had Violations of Labor Laws

Horse Farms (112920)	Violations	Back Wages (\$)	Wages Paid (\$)	Share Paid
Beverly J. Miller	22	132,033	0	0%
California Equine Retirement Foundation	16	38,902	0	0%
Eagle Oak Ranch, LLC	9	29,940	0	0%
Jamey Thomas	4	28,830	0	0%
Isola Stables, Inc.	5	25,126	0	0%
Silva Hoof Trimming	3	20,280	0	0%
E W C & Assoc. Inc.	5	16,722	0	0%
Monterey Bay Horsemanship & Therapeutic Center	4	14,00	14,000	100%
Cloudio Rubio	6	8,242	8,242	100%
Equine Spa and Wellness Center, Inc.	4	6,036	3,659	61%
Marilynn Feuerstein	4	5,928	0	0%
Freeman Racing Stable, LLC	4	5,480	5,480	100%
Gary Watt	6	1,326	1,326	100%
Horizons East, Inc.	3	1,272	1,272	100%
Amanda Winger-Wilso	3	1,122	500	45%
Barbara L. Boyle	14	0	0	
Charles A. Mills	5	0	0	
Cynthia A. Bergmann	4	0	0	
Peter Miller Racing Stable	7	0	0	
Silverhorne Sporthorse	2	0	0	
Sandhaven Farm LLC	5	0	0	
CSU Fresno Athletics	1	0	0	
<b>Totals</b>	<b>136</b>	<b>335,238</b>	<b>34,479</b>	<b>10%</b>

## 10 FLCs Accounted for a Third of FLC Violations and Over Half of Back Wages Owed

FLC (115115)	Violations	Back Wages (\$)	Wages Paid (\$)	Share Paid
Miguel Angel Tofalla Jr.	72	141,412	94,547	67%
Jose Guillermo Arreola	91	112,213	23,254	21%
Anatalia Gallegos	63	109,798	17,798	16%
M.G. LUNA, Inc.	94	77,073	2,880	4%
Esparza Enterprises, In.c	147	62,471	30,803	49%
E. E. Hall., Inc.	120	58,806	46,075	78%
Sun America Fruit & Vegetable Corporation	42	50,254	47,565	95%
Felicia Angelina Sandoval, an individual	1	50,062	0	0%
AMB Ranch Management, Inc.	43	42,936	4,044	9%
Joseph Remonda	42	39,323	0	0%
<b>Top 10</b>	<b>715</b>	<b>744,348</b>	<b>266,967</b>	<b>36%</b>
<b>Totals</b>	<b>2,087</b>	<b>1,399,939</b>	<b>592,844</b>	<b>42%</b>
<b>Top 10 Share</b>	<b>34%</b>	<b>53%</b>	<b>45%</b>	

FLCs had a total of 2,100 violations and owed \$1.4 million in back wages, of which almost \$600,000 or 42 percent was paid by June 2019. The top 10 FLC violators ranked by back wages accounted for 34 percent of FLC violations, 53 percent of the back wages owed, and 45 percent of the back wages paid.

Bakersfield-based Esparza Enterprises paid half of the \$62,000 in back wages assessed, while Kernman-based E.E. Hall paid almost 80 percent of the \$59,000 in back wages that were assessed. Stockton-based FLC Miguel Angel Tofalla Jr. owed \$141,000, the most back wages among FLCs, followed by FLC Jose Guillermo Arreola who owed \$112,000. The federal WHD agency, which enforces federal labor laws, found that FLC Manuel Quezada of Orland owed over \$130,000 in back wages, while DLSE found that Quezada owed \$6,000 in back wages.

## Perspective

California farm employers pay \$40 million a day in wages, making back wage assessments of \$10 million between 2016 and 2019 equivalent to one quarter of one day's wages. A small number of bad apple employers account for most of the violations found and the back wages owed in particular commodities, so that the 10 employers with the most violations accounted for half or more of all violations in vineyards or dairies.

Many of the farm employers with the most labor law violations appear to have gone of business. DLSE enforcement data suggest that most of the top labor law violators are not agricultural leaders who might explain their violations and encourage others to comply.

A comprehensive analysis of two decades of federal WHD violation data emphasizes few investigations, about 100 a month for the 100,000+ farms registered with unemployment insurance agencies throughout the US and 500,000+ that report labor expenses to the Census of Agriculture. The major source of back wages owed and civil money penalties assessed has been the H-2A guest worker program over the past five years. Federal data repeat the bad-apple story, that is, the five percent of employers with the most violations in a commodity or area account for half to three-fourths of all violations.

### Analysis of Federal WHD Data Emphasize H-2A Violations and bad-apple Employers

The image is a promotional graphic for a webinar. At the top left is the EPI Economic Policy Institute logo. The main title is "Actions the Biden administration and Congress can take to better protect farmworkers". Below the title, it says "Webinar Series: Panel Event". The event is scheduled for Wednesday, February 10, from 3 p.m. to 4:30 p.m. ET (12 p.m. to 1:30 p.m. PT). A central play button icon is overlaid on a video player. Six speakers are listed with their names and affiliations: Daniel Costa (Economic Policy Institute), David Weil (Heller School, Brandeis University), Philip Martin (University of California, Davis), Janice Fine (Center for Innovation in Worker Organization, Rutgers University), Zach Rutledge (UC Davis/Arizona State University), and Baldemar Velasquez (Farm Labor Organizing Committee). At the bottom, there is a "Watch on YouTube" button and social media links for economicpolicy on YouTube, Facebook, and Twitter, along with the website epi.org.

Source: <https://www.epi.org/event/actions-the-biden-administration-and-congress-can-take-to-prevent-wage-theft-and-improve-working-conditions-in-agriculture/>

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