

Exhibit 2: Memorandum of Understanding

1. The Division of Occupational Safety and Health (“Cal/OSHA”) is responsible for enforcement of occupational safety and health standards and has the power, jurisdiction, and supervision over every employment and place of employment to assure a safe working environment. Labor Code 142, 6307. Cal/OSHA has authority to initiate an investigation in response to a complaint by an employee or other person which alleges that the employment or place of employment is not safe. Labor Code 6309. To effectuate these responsibilities, Cal/OSHA conducts investigations and inspections as deemed necessary. Labor Code 6314.
2. The United Farm Workers (“UFW”) was founded in 1962 by Cesar Chavez and is the nation’s largest farm workers’ union. The UFW Foundation (“UFWF”), which is part of Cesar Chavez’s Farm Worker Movement, partners with the UFW and the Cesar Chavez Foundation to serve the needs of farm workers and other low-income individuals.
3. Cal/OSHA and UFW/F share a common interest in the robust enforcement of labor protections to prevent heat illness and death among agricultural workers. The purpose of this MOU is to promote that common interest by enhancing Cal/OSHA’s ability to enforce the Heat Illness Prevention Regulation (currently set forth at Title 8, Section 3395 of the California Code of Regulations) in agricultural work settings.
4. In the implementation of this MOU, Cal/OSHA is acting independently based upon its statutory authority to enforce occupational safety and health standards, and UFW/F are acting independently to fulfill their respective responsibilities; no entity is acting as an agent, or exercising the prerogatives, of the other.

Filing of MOU Complaints.

5. In situations in which UFW/F staff or volunteers observe a violation of the Heat Illness Prevention Regulation and believe that Cal/OSHA should be alerted to the violation, UFW/F will attempt to provide Cal/OSHA with at least the following information:
  - a. That farm workers have no or inadequate shade or water; or that a violation of the Heat Illness Prevention Regulation has otherwise occurred at an agricultural work site; or that a farm worker has suffered heat illness or death.
  - b. The name of the employer or employers, and a description of the reasons why UFW/F believe that to be the name of the employer or employers.
  - c. A description of the location of the work site, including the nearest address, landmark, or intersection.
  - d. The approximate number of farm workers visible to UFW/F at the work site.
  - e. The approximate temperature at the work site, and a description of the manner in which UFW/F determined the temperature.
  - f. The name, UFW/F affiliation, and phone number of any individuals who observed the violation.

6. A complaint containing the information set forth in subparagraphs (a) through (f) of the preceding paragraph will be deemed an “MOU Complaint” upon transmission by telephone, fax, or email to a Cal/OSHA District Office.<sup>1</sup> Cal/OSHA will respond to MOU Complaints pursuant to the procedures in the SEP. If such a complaint is sent to Cal/OSHA by email or fax, UFW/F should alert by telephone immediately the Cal/OSHA District Office to which the email or fax was sent.
7. In addition to the information required for an MOU Complaint, if circumstances permit, UFW/F will make a good faith effort to obtain and include in the complaint a copy or photograph of a pay stub of a farm worker on the work crew that is the subject of the complaint, the name of the supervisor of the work crew that is the subject of the complaint, and the employer or supervisor’s phone number. If circumstances permit, UFW/F may also attempt to obtain and include in the complaint contact information for one or more employees on the work crew that is the subject of the complaint, including the names, addresses, and phone numbers of any employees who observed or suffered the violation, as well as any name, address, or telephone number believed to be associated with the employer. A complaint need not contain the information described in this paragraph in order to be considered an MOU Complaint.
8. Cal/OSHA and UFW/F will hold at least one joint training session per year that addresses the foregoing requirements for filing an MOU Complaint. At Cal/OSHA’s discretion, the training session may also address the form, content, and procedures that Cal/OSHA deems most effective in enabling an investigation into the subject matter of a complaint. The training session may address any additional topics that Cal/OSHA and UFW/F deem appropriate.

Response to MOU Complaints.

9. As noted above, upon receipt of an MOU Complaint, Cal/OSHA will respond to that complaint pursuant to those procedures provided in the SEP. It is the intent of the parties to this MOU to improve their communications for purposes of more effective enforcement. To that end, Cal/OSHA will communicate with UFW regarding MOU complaints through its District Managers, whose names, work addresses and phone numbers are listed on Cal/OSHA’s website. UFW/F may use those contacts for follow up with Cal/OSHA offices around the state. The parties to this MOU will endeavor to keep these contacts current, as this is the contemplated point of contact between UFW/F and Cal/OSHA for purposes the exchange of information contemplated by this MOU. The parties agree that they will endeavor to make introductions so that UFW/F personnel are familiar with District Managers, and vice versa.
10. Consistent with the SEP, Cal/OSHA will attempt to conduct an on-site inspection in response to every MOU Complaint. In addition to those procedures contained in the SEP, Cal/OSHA will conduct an opening conference in person or by telephone with the employer, even if a physical inspection of the work site is not possible (as in cases where work activities at that location have ceased), so long as Cal/OSHA is able to locate the employer. Factors to be considered in determining whether an opening conference will be by telephone or in person include, but are not limited to, resources available to Cal/OSHA, location of the work, severity of the hazard, and nature of the complaint. If the opening conference is conducted in person, Cal/OSHA will

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<sup>1</sup>See <http://www.dir.ca.gov/dosh/DistrictOffices.htm>.

attempt to conduct the opening conference at the location where work is currently being performed.

11. If Cal/OSHA does not observe the violation reported in an MOU Complaint for any reason, including the agency's inability to locate an active work site corresponding to the information provided in the complaint, when Cal/OSHA can contact the employer Cal/OSHA will inquire of the employer whether the employer had any employees working at the time, date, and work site alleged in the complaint. If the employer indicates that it had no employees working at that time and place, Cal/OSHA may subpoena the employer's records to evaluate the accuracy of the information provided by the employer. District Managers shall not decide not to issue a subpoena without first consulting with Cal/OSHA's Legal Division. Cal/OSHA will communicate with UFW/F regarding MOU Complaints as contemplated under its statutory and regulatory framework applicable to procedures regarding complaints to Cal/OSHA. In addition, Cal/OSHA will endeavor to share with UFW/F its thoughts in general on what might make information provided by UFW/F to Cal/OSHA regarding complaints more useful and more likely to result in the issuance of citations. The parties also shall in good faith respond promptly to the other to facilitate information exchange.
12. Cal/OSHA may issue a citation based on the information obtained in the course of its investigation, including the information provided by UFW/F, in those cases in which it determines that there is legally sufficient evidence of a violative condition. In circumstances where an on-site inspection to document the violative condition is not possible, the Division may rely on evidence provided by UFW/F to support the issuance of a citation.
13. Cal/OSHA and UFW/F will hold at least one joint training session per year that addresses the foregoing requirements for responding to an MOU Complaint. This training session may be combined with the training session described in paragraph 8 of this MOU, or it may be held separately, as Cal/OSHA and UFW/F deem appropriate.

Distribution of this MOU.

14. UFW/F will distribute this MOU to all of their current staff, and will distribute the MOU to any staff who join UFW/F after the initial distribution.
15. Cal/OSHA will distribute this MOU to each of its current Regional Managers, District Managers, and CSHOs, and will distribute the MOU to any such staff who join Cal/OSHA after the initial distribution.
16. Email will be deemed a sufficient means of distribution of this MOU.

Ongoing Communication and Evaluation.

17. Cal/OSHA and UFW/F may meet periodically to review whether: this MOU has fulfilled the mutual objective of providing a more safe and healthful agricultural working environment; the parties can improve further their working relationship; or, the parties can improve ways to exchange the information contemplated by this MOU.