

**ETP Special Meeting  
May 11, 2009  
(Minutes in Verbatim Format)**

Meeting began at 12:25 p.m.

Brian McMahon: Please call the roll.

Sheryl Sheehan:

Barry Broad has recused himself from this project due to a conflict of interest and is not present for roll call today.

Greg Campbell – present

Bart Florence – present

Scott Gordon – present by conference call – Mr. Gordon participated by conference call from the Laborers Training School in Azusa, CA, as published in the Special Meeting Notice.

Brian McGowan - present

Janine Montoya – present – Ms. Montoya participated by conference call from Tri County Air Conditioning and Fireplaces in Newbury Park, CA, as published in the Special Meeting Notice.

Edward Rendon has recused himself from this project due to a conflict of interest and is not present today.

Janice Roberts – present

Sheryl Sheehan: Madame Chair, there are six members present; there is a quorum.

Also present is Brian McMahon, Executive Director, and Maureen Reilly, General Counsel.

Janice Roberts: Ms. Roberts thanked everyone for attending the meeting and thanked the Panel members present for the quorum. She apologized for not being able to attend the April 20 meeting. She was in Dallas, Texas and could not participate by conference call since she was out-of-state, and her meeting location had to be publicly accessible within California.

Brian McMahon: The Tomatek proposal was first presented at a regularly scheduled Panel meeting on March 27, 2009. The proposal was presented again, at a special meeting on April 20, 2009. Both times, it was held over due to loss or lack of a quorum. The quorum was lost because of conflict of interest.

This proposal is supported by Teamsters District Council No. 2, which is the signatory to the Collective Bargaining Agreement for the represented workers to be trained. The opposition has been from Teamsters District Council No. 7, which represents workers employed by an affiliate of Tomatek, located in Hollister. The proposal was also opposed by the Teamsters California State Council of Cannery and Food Processing Unions. As we understand, the cannery council is a labor association whose membership is comprised of several Union Locals in the San Joaquin Valley. The Cannery Council is promoting a model collective bargaining agreement for use by all members, called the California Processors Incorporated, or CPI. Employer-paid health benefits are a key term and condition of employment under the model CPI. District No. 2 is not a member of the Council, and chose not to follow the CPI in its recent labor negotiations with Tomatek. District No. 2 agreed to a different health benefits structure. The Employment Training Panel is created by statute and must operate within the scope and authority delegated by statute. Included in your packets today, is a brief outline of the key statutory elements of the program that has been prepared by Maureen Reilly, General Counsel, and is relevant to the issues raised in this project.

The only statutory or regulatory mandate this Panel has in regard to union activity, is to obtain the prior written approval of the signatory to the Collective Bargaining Agreement at the facility where training is occurring. In the current project for Tomatek, District No. 2 is the signatory; the statute does not require a consensus by all union affiliates or rivals; however, we can hope that all parties reach a resolution to this dispute in a venue more appropriate than the Employment Training Panel program.

The Tomatek project before us today, also has two unique characteristics: 1) the seasonal worker status of the majority of trainees; and 2) the location of the plant in a locality recognized by the ETP program as a high-unemployment area. The seasonal worker training program was created some two years ago, as part of ETP's Special Employment Training category (SET). Under this program, the Panel is authorized to waive the entire post-retention wage requirement, so long as wages increase by three percent, between the start of training and the end of retention. By policy, the Panel has not chosen to entirely waive the wage requirement, but rather to modify the post-retention wage for seasonal workers by up to 25 percent below the ETP minimum retraining wage. This is also very similar to the wage modification allowed under the High Unemployment Area (HUA) category. ETP has funded four other seasonal worker projects since the inception of the special program; three of the four seasonal worker projects had deep wage modifications. Tomatek would qualify for both seasonal wage modification, and the high-unemployment area wage modification. Either way, this is a modification of up to 25 percent below the ETP minimum re-trainee wage. This ETP minimum wage was based on data collected by the Employment Development Department's Labor Market Information Division to establish the unemployment rate. In fact, specifically for Tomatek and Fresno County, which now has an unemployment rate of 17 percent, this would be a post-retention wage of \$9.75. This is an eligible re-trainee wage with or without the inclusion of health benefits to establish that wage.

ETP does not require the employer to pay health benefits to be eligible for reimbursement of training costs. When it does, both benefits and salary are properly recorded as wages, which is consistent with the Federal Labor Code. ETP's statute does not cap the amount of wage benefits that may be included in the post-retention wage. The Panel usually caps this amount to what is needed for the occupations being trained, as compared to every employee in the company. It is also up to the company to determine which employees will participate in the ETP reimbursed training and, as appropriate, to make this selection in accordance with the terms and conditions of employment under a Collective Bargaining Agreement.

He said that it is important for the Panel to consider, particularly for a project located in a HUA and serving seasonal workers, the Panel's flexibility in setting an appropriate retraining wage that will allow for a project that builds the skills of an optimal number of seasonal workers.

#### Agenda/Minutes

Janice Roberts: Ms. Roberts asked for a motion to approve the Agenda and Minutes from the March 27 Panel meeting.

ACTION: Mr. Campbell moved and Ms. Montoya seconded approval of the Agenda and Minutes from the March 27, 2009 Panel meeting.

Motion carried, 6 – 0.

#### Motion to Delegate to Executive Director if the Quorum is Lost

Janice Roberts: Ms. Roberts asked for a motion to delegate to the Executive Director if the quorum is lost.

ACTION: Mr. Florence moved and Mr. McGowan seconded approval of the motion to delegate to the Executive Director if the quorum is lost.

Motion carried, 6 – 0.

#### April 20, 2009 Minutes

Janice Roberts: Ms. Roberts asked for a motion to approve the minutes from the April 20 special meeting.

ACTION: Mr. McGowan moved and Mr. Campbell seconded the approval of the April 20, 2009 minutes from the special meeting.

Motion carried, 6 – 0.

Barry Broad, Panel Chair, arrived at 12:33 p.m.

Robert Bonsall: May I address the Panel momentarily?

Brian McMahon: If it is relative to the project; we typically...

Brian McMahon: Okay.

Robert Bonsall: My name is Robert Bonsall. I am an attorney in Sacramento with the law firm of Beeson, Tayer & Bodine. I am not here at this time to address the review and action item, but rather, the motion that was just considered by the Panel. If I may briefly address that issue.

Janice Roberts: Is that the statement by Mr. McMahon?

Robert Bonsall: No it isn't.

Maureen Reilly: Is that the motion to delegate in the event of the loss of a quorum?

Robert Bonsall: Yes, it is.

Maureen Reilly: And has that motion been voted on, Madame Chair?

Janice Roberts: Yes, and it has been approved.

Maureen Reilly: I think you're too late, but you can make your comments.

Robert Bonsall: Thank you. As I mentioned, my name is Robert Bonsall, an attorney with the Sacramento law firm of Beeson, Tayer & Bodine. We've been representing labor organizations for about 75 years here in Northern California with offices in Oakland and Sacramento. We represent employees throughout the Central Valley, including Teamsters Joint Council No. 38; that represents 40,000 plus workers here in the Central Valley including Fresno, California.

The issue that the body was just addressing, and I thought that there might be a moment to address it before it was voted on, was whether there should be delegation of authority to the Executive Director to make a decision should a quorum be lost of this body. It is our position and belief that such a delegation of authority would be unlawful and illegal. It would depend upon a number of issues, such as whether the Panel regulations provide for the delegation of such authority, should the quorum be lost in this body. I have searched the Panel's rules and regulations and could find no such delegation of authority.

Unemployment Insurance Code Section 10205(e) specifically provides that "this Panel shall be authorized to adopt by regulation, procedures for the conduct of Panel business including the scheduling and conduct of meetings; the review of proposals; the disclosure of contracts between Panel members and parties in interest concerning particular proposals; contracts or cases before the Panel or staff; the awarding of contracts; the administration of contracts; and the payment of amounts due to contractors."

We believe that the statutory authority specifically provides that this body may act pursuant to regulations and this was not an appropriate resolution that has passed. In fact, I would think that it would clearly violate the Administrative Procedures Act.

Maureen Reilly: What was your name again?

Robert Bonsall: Robert Bonsall (spelled his last name). I'm with the law firm of Beeson, Tayer & Bodine.

Finally, 1) I don't see that the regulations do provide for this; 2) I do not believe that it complies with the statutory regulations that this body is bound to follow; and finally 3) I am quite certain that it does not even follow basic principals of Robert's Rules for the conduct of meetings such as this, to the extent that they apply. Robert's Rules expressly provides that when the Chair, in this case the Executive Director, should discern that there is a potential loss of quorum, if in fact it is lost, the Panel must either recess or adjourn as is appropriate.

So, with all due respect, I do believe that the motion that was passed is violative of Robert's Rules and it is not consistent with your own regulations, nor the statutory authority that you are operating under.

Janice Roberts: Well thank you Mr. Bonsall. I have been on this Panel for about five years and as far as I know, every meeting that has been held, has always made this delegation of authority. If there has been something that has been inappropriate in the past, I'm sure it would have been brought up before this time. We will take his comments into consideration, and asked if Ms. Reilly had any comments.

Maureen Reilly: Yes, I do. Thank you Robert; very interesting to hear your opinion in these regards. However, every administrative agency has implicit authority to adopt regulations as it may need to, in order to effect the purpose of the enabling law. We are not required to adopt regulations on internal procedures. We follow Robert's Rules of Order. You made a comment about "statutory regulations." You are confusing the statute, which is the enabling law; and the regulations which are adopted by the Panel.

Robert Bonsall: Yes, I understand there is a difference.

Maureen Reilly: Yes, good. You made some comments about basic principles and so forth. I would suggest if you have some comments about the authority of this Panel to make a delegation such as just made, and acted on, you're welcome to write me a letter.

Robert Bonsall: I will do so.

Maureen Reilly: All right, thank you.

Robert Bonsall: Thank you.

Scott Gordon: Madame Chair, I'd like to make a motion to deny the proposal.

Janice Roberts: Thank you Mr. Gordon, but we haven't gotten to that point yet, I'm sorry.

Scott Gordon: I can't make a motion?

Brian McMahon: Is there a second?

Janice Roberts: We haven't even heard the information yet, Mr. Gordon. Mr. Guzman will read the Neil Jones Food Company dba Tomatek proposal.

Barry Broad: Madame Chair, I arrived a few minutes late. I would like you to re-open the roll call and I would like to be recorded as a no vote on the motion.

Janice Roberts: What motion is that?

Barry Broad: The motion to delegate authority.

Janice Roberts: You'd like to re-open it? Is that something that we normally do? I don't know.

Barry Broad: You can, but you don't have to. I'm asking your indulgence. I didn't receive notice of the meeting, which may have been my fault, I may have not seen it. But I would like to be recorded as a no vote on the motion.

Maureen Reilly: Could I ask for a moment to talk to Mr. Broad?

Janice Roberts: Sure, let's adjourn for a short recess.

After speaking with Ms. Reilly, Mr. Broad recused himself and left the meeting.

Janice Roberts: Ms. Roberts introduced David Guzman, Chief of Operations and Audits, and asked him to present the Neil Jones Food Company dba Tomatek proposal.

David Guzman: Thank you. Panel Members, this is a proposal from Neil Jones Food Company dba Tomatek in the amount of \$850,332. Tomatek plans to train approximately 573 permanent and seasonal employees. The training project is supported by Teamsters District Council No. 2, Locals 388M representing both permanent and seasonal employees. Tomatek is a leading producer of industrial tomato products, fruit juice concentrates, private label products, and canned and pouch-packed food products. This is Tomatek's second ETP proposal. The success of baseline training and the active ETP agreement initiated one of the company's best seasons.

This proposal will enable Tomatek to offer training from April 2009 to June 2009, prior to the season. Training will focus primarily on frontline workers. The training plan will include both the seasonal and permanent staff. According to company representatives, the seasonal staff return rate is 95 percent. Tomatek has a training plan that includes computer skills; continuous improvement; hazardous material skills; and manufacturing skills. He noted that Tomatek is located in Fresno County and in the City of Firebaugh. Fresno County has a current unemployment rate of 17 percent, according to Labor Market Information. Firebaugh has an unemployment rate of 28.4 percent. Tomatek is eligible under Regulation 4429, as a HUA, and may receive a waiver of the ETP required minimum wage up to 25 percent below that minimum. Additionally, under seasonal worker Special Employment Training (SET) legislation, the similar waiver is also available.

This proposal was presented to the Panel at its regularly scheduled meeting on March 27, 2009 and again at a special meeting on April 20. Each time, the meeting was held over due to a loss of the quorum. In light of the past two proposals, the proposal was not heard, and staff would like to recommend that the project training be retroactive to the April 20 date, or a date that the Panel sets.

Finally, I would like to recommend that the Panel approve this project with any waivers it deems appropriate.

Let me introduce the following individuals who are present today on behalf of Neil Jones Foods dba Tomatek:

Rick Palmer, Plant Manager  
Hortencia Gabriel, Human Resources Manager  
Maria Escalante, Shop Steward  
Teresa Ayala, Shop Steward  
David Grabhorn, Vice President of Teamsters Joint Council No. 2  
Jose Ramirez, City Manager of Firebaugh

Rick Palmer: Thank you very much. I know it has been difficult to get everyone together. First and foremost, I'd like to thank the Panel and everyone for being here today, to thank those who are here in support of us that are present today, and even those supporting us that are not present today. On behalf of Tomatek, we really appreciate the opportunity to come back to the Panel for a third time. Neil Jones Foods Company has three separate entities: Tomatek in Firebaugh, and a separate facility in San Benito, whose workers are represented by a separate Teamsters Local. We also have another Teamsters Local with our Northwest Packing operation in Vancouver, Washington. He thanked the Panel for their time and asked if there were any questions.

Bart Florence: I have a couple of questions and referred to the March 27 Panel meeting minutes. I was not present at the March meeting.

The minutes state that many employees that have been laid off, came in for training. He said he didn't know whether the question should be directed to Mr. Palmer or to staff, as to the procedure with people who have been laid off and receiving training, as opposed to current employees receiving training.

Rick Palmer: What we normally do, is schedule training before the season begins. He said they were able to increase the amount of training they completed that year, and brought people in earlier and went through additional training.

Bart Florence: So you're bringing them in prior to the re-hiring and start-up process for the season?

Rick Palmer: That is the normal process, yes.

Bart Florence: There is a statement in the March 27 meeting minutes, that each of these employees now qualifies for medical, prescription drug, dental, vision, life insurance, and retirement benefits, as opposed to before; not because they had been laid off, or some other reason?

Rick Palmer: The employees that were brought in early received additional hours those years and qualified for benefits. He said they have 800 employees during peak season, and not all of them received ETP training.

Bart Florence: Okay.

Rick Palmer: There were approximately 32 employees.

Bart Florence: There was a concern raised by Teamsters Local 890, that the people listed in this training, instead of making \$13.00 per hour, they were making \$8.00. How would you address that?

Mr. Palmer: I believe what was being commented on in the minutes, is they recently negotiated a new union contract, which was ratified in December 2008. There was an entry-level rate that was negotiated at \$8.00 per hour for general labor coming in for the first 45 days of hire as a general laborer unskilled position. He said they have not yet used this position, but hope to do so this year. He said that is different from prior years, and he believed the statement in the minutes was referring to that.

Janice Roberts: Mr. Florence, I believe what they had said was those are the people that aren't actually under the contract. They are outside of the contract, is that correct?

Bart Florence: That is all the questions I have for now.

Janice Roberts: And I do have one question here. The one thing that came up, this would be retroactive back from April 20? I just want to make sure – the



Panel meeting where we did not have a quorum, is that what we are considering?

David Guzman: That's correct.

Janice Roberts: And the other consideration, is that based on your wages, we were going to modify the wages based on what Mr. McMahon wrote around the SET and HUA, back to \$9.75 and then health and benefits would not need to be included with that wage, is that correct?

Rick Palmer: I believe so, yes.

Brian McMahon: That is an option that we would present to you. It would give you greater flexibility to train more seasonal workers.

Rick Palmer: It would be very beneficial, yes.

Janice Roberts: Okay, very good. Alright, are there any other questions?

Scott Gordon: It is my understanding that you are currently in negotiations with your District Council, is that correct?

Rick Palmer: The Tomatek contract has been negotiated as of December 2008.

Scott Gordon: How long is the contract for?

Rick Palmer: Three years.

Janice Roberts: Ms. Montoya or Mr. Gordon, since you are not here, do you have any other questions?

Scott Gordon: I didn't hear the response. They are not currently in negotiations?

Rick Palmer: We began negotiations in October 2008 and the contract was ratified in December 2008.

Scott Gordon: Okay, so the answer would be no, you are not in negotiations.

Rick Palmer: That is correct.

Scott Gordon: My concern with this proposal is that it is being used as a political football and may create a precedent for future projects, which is why I'd like to make a motion that we deny the proposal.

Janice Roberts: All right, we're going to take a vote on it right now Mr. Gordon, so keep that thought. So with that, do I have a motion to approve?

Brian McMahon: We have more comments.

Janice Roberts: Oh, I'm sorry. Mr. Palmer, is your company now finished with your comments?

Greg Campbell: I'm not going to second it, but it seems like Mr. Gordon's motion probably is an order, so we should either dispense with it or not, correct? I don't want Mr. Gordon to feel like we are not paying attention to him, since he's not here in person.

Janine Montoya: I agree with Mr. Gordon, that this is being used as a political football. For that reason, I don't agree that we should stop the proposal. I think we need to vote in favor of it, for the reason that we are not in a position to be making decisions for unions, we're just trying to get money into the hands of employers and to employ people, particularly in this hard hit area which needs work desperately.

Scott Gordon: It goes deeper than that. What if, hypothetically, there is a strike and then people who stand on the strike line are being replaced even though workers are being trained. There is more to it; this is not cut and dried. I think everyone agrees ETP funds shouldn't be being used as a negotiating tool.

Brian McMahon: One point from a programmatic standpoint, Scott: in a situation like that, you probably wouldn't have the required letter of support for the project from the Union Local.

Brian McGowan: Madame Chair, I think we have an unresolved issue. There was a motion, and there was another Panel member who asked if we should take action on that motion. Have we decided or not, on whether we are going to address Mr. Gordon's motion?

Janice Roberts: I thought it was actually a motion to disapprove the proposal.

Brian McGowan: Yes, so I don't know, do we have to entertain that motion?

Brian McMahon: Counsel?

Maureen Reilly: May I speak? Without researching this now, I don't think the motion to vote for or against this proposal is ripe because we have not yet heard from the people who want to speak. We've only heard from an attorney, on a procedural point, in opposition. So, I don't think it's ripe.

Brian McGowan: Okay, fair enough.

Janice Roberts: We will open it up for other comments since there is a line forming.

Fritz Conle: My name is Fritz Conle and I am with Teamsters Local 890. First of all, I believe we need to consider that we are dealing with one company, Neil Jones Food Company. They do business in Firebaugh as Tomatek; they do business in Hollister as San Benito Foods; and they do business in Washington

State as Northwest Packing; but it is one company. This one company in Firebaugh has almost 900 employees, and out of those, approximately 70 to 75 have health care; the rest do not. In San Benito Foods in Hollister, under our contract up to now, just about all the employees except for the new-hires have health insurance. The company is proposing to eliminate health insurance for approximately 350 families.

That is our issue; we don't believe that the State of California should be subsidizing a company that is eliminating health care for employees. Not in 2009, when hopefully we are on the verge for actually getting health care for most everyone. They should not be eliminating health care benefits and the State of California shouldn't be helping them do it by granting those funds last year, and again this year.

As to the California Teamsters Cannery Council, those are union contracts that cover approximately 25,000 families, all of whom have health care. What we have is the State of California proposing to give money to their competitor, who is eliminating health care. Again, not what the State of California should be doing. The State of California should not be encouraging companies that are eliminating health care.

That is our issue; we've asked, we've just about begged and the federal mediator has asked the company to sit down in negotiations, see if we can work out some kind of a compromise that retains people's healthcare. Their response has been nothing has changed and we are not interested in meeting. That is the response they gave the federal mediator. They are likely to be on strike against this company this summer and the question is, will the State of California have given them \$850,000 ahead of time? One point, that is obviously a contentious issue, is perhaps this proposal should be handled in your regular meetings, not be telephone conferencing, and not by any other procedure in a face-to-face meeting which is scheduled I believe, for June 2009. By June hopefully, we would have an opportunity to sit down with Assembly Member Arambula and Assembly Member Caballero, who represent the people in Hollister and try to come to a resolution. If there were a resolution that provides for health care, I'd agree for you to give them all the funding you want. As long as they are in the process of eliminating health care for people, we sincerely do not believe the State of California should be subsidizing the money.

Janice Roberts: We don't subsidize health care. The \$850,000 is not money we give up front; it is money that they must earn during the training.

Fritz Conle: Well I believe part of this, the motion that is in the Agenda, is to give the money retroactively for training they have already completed; that is another question I am not clear on.

Janice Roberts: They will probably not receive any funds until after June 1 anyway, based on the time frame.

Brian McMahon: Relative to the amount of funding, this project was originally calendared for the March 27 meeting. At that point, it was recognized that the Panel had exhausted their funding for Fiscal Year (FY) 2008-09, and that all projects would be reduced by 50 percent. That motion is still in place, this project as approved today will be impacted by that 50 percent reduction; the restoration of funds will occur after the beginning of a new FY and after our analyst has assessed the process of training deployment during the next phase.

Fritz Conle: I understand where you are coming from, I understand Assembly Member Arambula's desire to get funding for a high-unemployment area, but I repeat; the State of California should not be giving any money to an employer who is cancelling people's medical insurance. Thank you.

Janine Montoya: I think it was Jan speaking, but having health insurance is not a requirement for ETP to give funding for training. You're kind of applying your standards to us, which doesn't make any sense to me. We do happen to be going through a very incredibly difficult time in our State economically, and many companies are eliminating health insurance because companies have to do what they have to do to survive, otherwise there are layoffs, which is much worse for California than just eliminating health insurance.

Janice Roberts: Thank you Janine. We have Robert Bonsall at the podium again.

Robert Bonsall: Yes, Robert Bonsall representing Teamsters Joint Council 38. Specifically, trying to address the application by Neil Jones Food Company or Tomatek in Fresno, California. We believe that the application contains serious and material misrepresentations of fact. I've learned something this morning that I was not aware of, and that is that this application is being considered on a separate, different standard. Specifically, Fresno County, so the \$13.00 an hour wage comes out to \$9.75.

I would point out to the Panel a couple of facts: a large percentage of the employees that are directly affected by the training program will be general laborers and under the Collective Bargaining Agreement that was just negotiated with the employer, the starting rate for such employees is \$8.00 per hour. I'm thoroughly familiar how a cannery operates because I have been negotiating the California Processors Inc. (CPI) contract for the past 12 years covering 25,000 workers. Many new workers will not work 30 days in the first season. Even if they do work the entire season, the Collective Bargaining Agreement expressly provides that as of January 1, 2009, after 30 days, those employees will receive \$8.50 per hour, well below the \$9.75 after one entire year on the job, the new employee beginning this year. So all the employees who are coming back from employment last year, will receive only \$9.00 per hour; .75 cents below the bare minimum that this Board can apply.

I think that it's incumbent on the Panel, when exercising your discretion for training monies, that a company not be targeted just because it is in a low employment area. It is crucial, that you exercise your discretion and spend your

limited resources in ways that will provide training for those that desperately need it. This is actually reaching as far as you possibly can, to allocate monies to an employer who is placing you in the unfortunate position of being the political football.

This is, in fact, a situation which is very difficult because no one doubts that the Fresno area has great needs for training resources, but it is true all over. This is not the only employer who is seeking limited and scarce resources. The Collective Bargaining Agreement shows that after two years on the job, any employee who is coming into this facility will receive \$9.80 per hour; one nickel over the bare minimum.

Our research, based on requests from information from you, would indicate that of the nearly 600 employees who receive training, a vast majority (approximately 85 percent) will not be at the \$13.00 minimum, which is the minimum that you can incorporate health care costs pursuant to CCR Section 4418(e). You may, in fact, incorporate health care costs to meet the \$13.00 per hour minimum, but that is not applicable in this case; it simply is not applicable. Even if you do not include the health care costs, and you go to 75 percent of the minimum wage, a vast majority of the employees who are receiving this training, as far as we understand the facts, would not qualify. The facts do not show that this application would satisfy the statutory purpose of identifying trainees earning \$9.75 per hour. Once again, that is the bare minimum.

Janice Roberts: Well Mr. Bonsall, as I mentioned earlier, employees coming in at \$8.00 per hour are not included in this contract. That was stated in our March 27 Panel meeting minutes. So with that, I'm going to pass it over to Ms. Reilly, because she does have some comments on your statement.

Maureen Reilly: I just don't want there to be confusion. I understand Robert, that you represent Teamsters Cannery Council and their model collective bargaining agreement.

Robert Bonsall: No, I do not. I have negotiated with the Teamsters Cannery Council, I don't represent them today.

Maureen Reilly: Okay, who do you represent?

Robert Bonsall: I represent Teamsters Joint Council.

Maureen Reilly: Which Joint Council?

Robert Bonsall: Joint Council 38.

Maureen Reilly: And are they signatory to the Collective Bargaining Agreement for the trainees at Tomatek?

Robert Bonsall: No, they are not.

Maureen Reilly: A large percentage of the employees are general laborers. I think you made that comment; but they are not the subject of this proposal, as our Chair just informed you.

The policy purpose behind the seasonal worker program, as articulated in the enabling law, is to reach workers who otherwise might not be able to participate because they fall below the ETP minimum wage, or because they cannot meet our normal retention requirements. So, the statute sets up exceptions for exactly the purpose you just stated, to reach the largest group of workers who ordinarily are not able to take part in structured training. We are working within our statutory framework in every one of our agreements. It is up to the employer, as always, who they do or do not enroll in the program. Among the group enrolled, some trainees will or will not meet the minimum wage requirement. If they do not, then we do not reimburse the cost of training. The wage issue plays out during the two-year term of the ETP agreement. We do not require that the employer pay health benefits.

Robert Bonslett: I understand that.

Maureen Reilly: We will consider the value of employer-paid health benefits to meet the ETP post-retention wage. In this case, it may be reduced by the Panel to the usual seasonal worker wage, which is the same as the usual high-unemployment area wage. This is \$9.75 per hour in Fresno County, with or without health benefits.

Brian McMahon: And I think you'd also be pleased to know that in FY 2008-09, the Panel approved almost 500 projects all over California. Large companies, small companies, with some companies using this high-unemployment area wage reduction. I think the Panel has been very effective in terms of spreading the funds out in a very equitable and effective way.

Robert Bonslett: That's all we are asking you to continue to do. Thank you.

Janice Roberts: Thank you. Yes, next person in line.

Fritz Conle: I sent an e-mail to Connie Reichert requesting an English/Spanish interpreter. I could interpret, if that is agreeable.

First Unidentified Employee of Neil Jones – Hollister Plant: My wife and I have worked at San Benito Foods for six years. If the company cancels our medical insurance, we will have to go to MediCal or to the County hospital.

Janice Roberts: I'm sorry we really would like to hear from the Tomatek group. The contract is not for the Hollister plant, so I am not sure that your comments are going to be applicable to our decision making process here.

First Unidentified Employee of Neil Jones – Hollister Plant: Please stop these funds, thank you.

Janice Roberts: Okay, very good. Thank you very much.

Second Unidentified Employee of Neil Jones – Hollister Plant: I have 15 years and my wife has 30 years working for the company. We have medical issues; my wife has diabetes and I have high blood pressure and high cholesterol.

Janice Roberts: Okay, just a minute now; we are not talking about health benefits here. I don't want to get into the health benefit business, which is not our business. It really has nothing to do with us, other than what Ms. Reilly had mentioned that it does benefit a company if they do not supply the minimum wage requirements. At this point, it's not relevant what kind of health benefits the company has. I thank you for taking the time in coming today.

Second Unidentified Employee of Neil Jones – Hollister Plant: I request that you stop funding for this company.

Janice Roberts: Okay, very good, thank you very much.

Les Spahnn: Madame Chair and members of the Panel, my name is Les Spahnn, I'm here today on behalf of Juan Arambula. He would have been here himself, but he is on the floor of the Assembly. Just very briefly, as I stated to you in a prior meeting, he is very supportive of this proposal, he requests that you approve the proposal as recommended by your staff, your staff has done a careful analysis according to your rules and regulations and the statutory requirements, and have found that this project meets all the requirements for an award of a contract. He has asked me to also point out that not only is this area in Firebaugh, which is an area he represents, an area of high-unemployment, but you are dealing with an extraordinary situation in an agriculture region of the state which is suffering high levels of unemployment not only due to the economic downturn, but also due to the loss of water for agricultural operations. Over 80,000 people have lost their jobs just because of the removal of acreage from production. This is very important, and he strongly urges your endorsement of this proposal, thank you.

David Grabhorn: Good afternoon, my name is David Grabhorn, and I am the Vice President of Teamsters District Council 2. We are the signatories to this contract and we do support and ask for approval of the training proposal. I think there has been some confusion, and that is the reason I want to repeat some of the things that I think I said in the first meeting, especially to those by telephone that don't seem to understand the issue.

This is Tomatek. Neil Jones Foods owns three corporations, one of which is Tomatek. We are here for Tomatek only. We are not here for the Teamsters in Vancouver, Washington at Northwest Packaging, which is also owned by Neil Jones Foods. Nor are we here for Hollister, San Benito Foods. The people who are here complaining, or asking that this proposal be denied because of their problems in Hollister at San Benito Foods, a sister corporation, is not the same company and not the same contract. This contract was negotiated, and we had no problem getting to the bargaining table. We were able to schedule within

reason when we asked to meet; and that contract was negotiated, completed and ratified overwhelmingly. It was an improvement over the previous contract and is only the third contract with this facility because it is a relatively new facility and much different in its operation than San Benito Foods, which uses metal cans to can things. There are no metal cans at Tomatek.

With regard to the rates of pay and health insurance, the people who have health insurance are those that work enough hours per year. In order to be able to work enough hours per year, you have to get enough training so that your skills will enable them to continue past the season, or begin before the season. For example, and we have negotiated higher wage classifications in Forklift, that is currently at an \$11.15 per-hour starting wage. From there, a person can be trained to move up to Forklift II which earns \$13.20 per hour, and then with further training in computers and the inventory control system, have the opportunity to move up and earn \$14.65 per hour. If they do not get the training at the end of the season, the person who only has the forklift level cannot stay because there are fewer people working, the ones with the most skill who have been trained on all three jobs, can stay.

In order for people to stay, in order to work more hours and therefore qualify for benefits including health benefits, they have to be trained. If we don't get this training grant, one of two things is going to happen. There is not going to be as many current employees trained to move up, in which case the company will have to hire skilled workers from outside and lay off current employees. If this happens, none of them will qualify for benefits because none of them will get the hours. All of the opportunities to be trained in this contract, require that the jobs be posted and that the employees be awarded the applications to be trained by seniority. That is the way unions operate, and we are very comfortable with this. We negotiated this contract in anticipation of training, and now we have an opportunity to do more training rather than less.

The political football has been created by those people who want to cloud this issue with problems of an antiquated plant elsewhere, which is struggling to survive. We have nothing to do with that plant; that is a sister local. We wish them the best, and we hope that they can get a good contract. Let us all hope that the contract isn't so good that the plant can't survive, because that's the problem over there. This isn't a mean employer that is trying to take away benefits; this is an employer that is struggling with an antiquated plant in another facility, and they will either make it or they won't, and they will either get a contract there or they won't; but that has nothing to do with Tomatek. With that, I'll say once again, we are asking that you vote to approve this motion.

Janice Roberts: Thank you very much.

Scott Gordon: Janice, I have a question of the speaker, can I ask a question?

David Grabhorn: I'm not sure who you are.



Scott Gordon: The Teamsters don't seem to have a problem with these other entities. Is Tomatek the issue?

David Grabhorn: I am a Teamster and we have no problem with Tomatek.

Scott Gordon: Okay, so who opposes this proposal?

David Grabhorn: There is a sister Local who represents a facility in Hollister in a sister corporation owned by the same parent corporation. They are in negotiations and they are having trouble in their negotiations in that other facility, and that was the trouble I was trying to describe, although I'm not first-hand because we don't represent those people; we represent only Tomatek.

Scott Gordon: Okay, well I thank you very much for the clarification.

David Grabhorn: Sure.

Janice Roberts: Thank you Mr. Grabhorn, and who do we have up next?

Jose Ramirez: Yes, hello Madame Chair and Panel members. My name is Jose Ramirez and I am the City Manager of the City of Firebaugh, and I'm also the Chairman of a group for all the city managers in our county. I'm not going to go into any elaborate conversation, only to say that in Fresno County, we have more than one city that benefits in terms of employment with Tomatek. Those cities, whether it is Huron, Mendota, Firebaugh or San Joaquin; those cities are in their forties in terms of the unemployment rate, and a lot of those individuals also work in Tomatek.

One of our main goals in our region, not just my city but in the cities of my colleagues to the north or south, is to work with Tomatek so we can have year-round employment. We've also created the Westside Institute of Technology, where we actually put in approximately \$50,000 of our own money, to create this institution so that we can work with not just Tomatek, but other corporations in the area so that we can try to minimize this high unemployment. We are doing very well in that regard, and we need all the money we can get. As Les Spahnn said, we are experiencing something out of the ordinary that other folks in the State are not part of, and we have a number of compound crisis's. If it's not the San Joaquin River restoration issues, chronic water issues, or the three-year drought that we have - it is just a number of compound issues.

Lastly, I'd just like to tell the Panel members that I appreciate you all making the effort to come out today, and I appreciate everyone that was here in the previous two meetings and that we urge you to vote yes in this regard.

Robert Bonsall: I spoke on this issue once before. Thank you. I just wanted to clarify one thing that is on the record. Teamsters District Council 2 is the labor organization that represents the employees at the Tomatek facility in Fresno, California. As I said once before, this is not necessarily just a dispute regarding outsiders in a sense of geographic limitations. I represent Teamsters Joint

Council 38. The geographical area of Teamsters Joint Council 38 is from the Tehachapi Mountains up to the Oregon border all throughout the Central Valley of California. Teamsters Joint Council 38 also has the same geographical area as the Teamsters Cannery Council, representing 25,000 cannery workers here in the Central Valley from as far North as Yuba City, to Fresno and further South. We don't see this as an issue necessarily of some labor organization in Hollister. This is in fact, covering a group of employees that are in the same industry, right here in California, so I wanted to clear that fact.

One final point, is the way in which people get trained in this industry. This employer has what is called a 1,600 hour requirement for full-time employment. That is when someone will attain health and welfare benefits. I understand that is not an issue for the body here, but I wanted the record clear that this employer has a 1,600 hour standard. That is not attained in one summer; I guarantee it. It is only by becoming a full-time employee that one will ever attain 1,600 hour status. I think I've summarized what I thought our position was regarding the workers in this industry who are getting trained and their ability to get that, so I wanted to clarify for the record.

Janice Roberts: Okay, thank you very much. We are aware of the 1,600 hour standard, by the way.

Please take another roll call to determine if there is still a quorum present.

Sheryl Sheehan: Greg Campbell – here; Bart Florence – here; Scott Gordon – here, Brian McGowan – here; Janine Montoya – here, Janice Roberts – here.

Janice Roberts: We have reached a quorum.

Sheryl Sheehan: There are six members present.

Janice Roberts: Very good. Are there any other comments that are associated with this proposal alone? Alright, so with that, do we have a motion to approve?

ACTION: Mr. Campbell moved and Janine Montoya seconded.

Motion carried 5 – 1 (Scott Gordon opposed the proposal).

Janice Roberts: Do we have any abstentions? There were none. With that, we have a quorum, and we have made an approval on this proposal. Is there anything else on the Agenda that we need to discuss?

Brian McMahon: There is another item, but first I think we are going to need to amend the motion to include the HUA wage waiver and the retroactive start date.

Greg Campbell: And the 50 percent reduction, correct?

Brian McMahon: No, that was a motion that was taken earlier.

Maureen Reilly: We can make another motion. Are Ms. Montoya and Mr. Gordon still present by conference call?

Ms. Montoya: Yes, I am.

Scott Gordon: Yes, I'm here.

Janice Roberts: There was some confusion. There were a couple of different addendums that I needed to include which I forgot to include, before I asked for the vote. One of them was during the Tomatek agreement when we talked about the wage for seasonal workers. Mr. Palmer said he would agree to that modified wage requirement, and also to have the ETP Agreement made retroactive to the April 20 meeting.

Maureen Reilly: That was the motion.

Janice Roberts: So those are the two that I needed to include, in order to grant this motion. So could I have another motion please?

ACTION: Mr. Campbell moved and Ms. Montoya seconded the motion.

Motion carried, 5 – 1 (Mr. Gordon opposed).

With that, we do have a quorum and the motion is approved.

Brian McMahon: The last item of business is to update the Panel members on ETP's involvement in the American Recovery and Reinvestment Act (ARRA) and also to update the Panel, in terms of some of the incentive concepts that we brought up all the way back in the February 2009 meeting. In terms of the additional ARRA funds up to \$490 million that are moving through the public workforce system, 85 percent of that goes to local Workforce Investment Boards, and the state retains 15 percent of that for discretionary funding. We have worked with the Labor and Workforce Development Agency to dedicate \$3 million of those 15 percent monies and to target those monies to a non-profit nursing skills program. With the current program, by statute, we are precluded from funding projects in the non-profit sector. There will be control language that will go into a budget bill through the May revise process, that would allow the Panel to receive funds from a non-employment training tax source and to apply flexibility as to how those funds would be spent. We intend to schedule a June Panel meeting. It is unclear at this point as to whether we will be hearing projects at that meeting, but we will bring a fairly developed proposal around the nursing program.

In addition to that, we have been part of a group through the State's Green Collar Jobs Council that is meeting with the State's Energy Commission on providing a program infrastructure to assist in allocating some of the ARRA funds that go to the Energy Commission under its State Energy Program and Energy Efficiency grant. At this point, we are discussing somewhere between \$5 to \$6 million that would again come to the Panel through language in the 2009-10 Budget Act that

would give it some flexibility in funding green projects. It is our belief at this point, that the Energy Commission would be most interested in targeting projects where we are directly building skill sets of workers in the Green Sector. Again, we'll bring a more developed proposal as to the structure that we would propose for spending those monies to the June 26 Panel meeting.

Also, we had discussed during the incentive conversation, some areas that we believe the program should look at extending some greater flexibility to, as part of an overall effort to make ETP more responsive to overall state revitalization efforts. This would involve some proposed regulation changes as well as some administrative actions. The first of those would be to increase the new-hire fixed fee rate so there is a greater incentive for entities to undertake new-hire projects; the second would be to look at our calculation as to how much the program spends on new-hire types of proposals. Right now, we have a complex formula for calculating the maximum amount that can be spent for new-hire trainees. We are going to propose a more streamlined, logical approach to that.

One of the other areas we are most concerned about is making sure that ETP is capable of participating particularly in ARRA funded public infrastructure projects and state bond related projects. One of the constraints that the program currently has is around ETP's requirement to establish a wage under the Special Employment Training Program; that is at the average state hourly wage which is in the mid \$23.00 per hour range. We'll be coming up with some ideas at the June Panel meeting that would allow flexibility to our existing critical proposal concept to provide some flexibility for workers in those types of projects where there is a wage eligibility issue.

Janice Roberts: Will this information be posted on the ETP website?

Brian McMahon: Yes, it will. The matrix that you have is just a break down of the different funding streams where various state agencies are receiving money.

Janice Roberts: Are there any other public comments? There were none. I'd like to entertain a motion to adjourn the meeting.

ACTION: Mr. McGowan moved and Mr. Campbell seconded.

Motion carried, 6 – 0.

The meeting concluded at 1:09 p.m.