

1245

International Brotherhood
Of Electrical Workers
Local 1245, AFL-CIO
February 1997
Vol. XLVI No. 2

UTILITY REPORTER

Wilson's Assault
on Overtime Pay
Page 8

Partnership on trial

PG&E's plan to consolidate shifts made Reprographics a proving ground for labor-management cooperation

Morale went through the floor in PG&E's Reprographics department last year when employees learned that management was looking at consolidating two shifts into one.

Swing shift Operator "A" Kevin Ong, for example, worried how he would care for his two kids if he suddenly found himself working days.

"I'm Mr. Mom during the days," said Ong, whose wife works day shift in Reprographics. If the shifts were consolidated, Ong said they would have to hire someone to watch the kids and ferry them to school.

The shift consolidation had all the

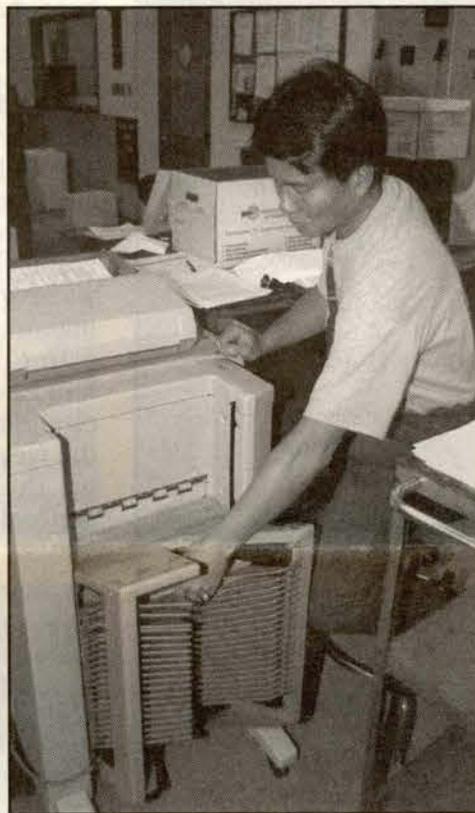
earmarks of a labor relations disaster, where ill-conceived restructuring breeds resentment and cynicism among employees. But something odd happened on the way to this fiasco. Something that caused management to shelve its consolidation plan. Something that persuaded employees to re-examine the way work gets done in Reprographics.

That "something" was partnership.

Tensions Between Shifts

Like most stories, this one has two sides.

Management did not propose shift consolidation just to make life miserable for employees. There were problems in Reprographics, and a lot of it had to do with the way the two shifts



Kevin Ong operating a xerox machine, one component of production at PG&E's Reprographics department.

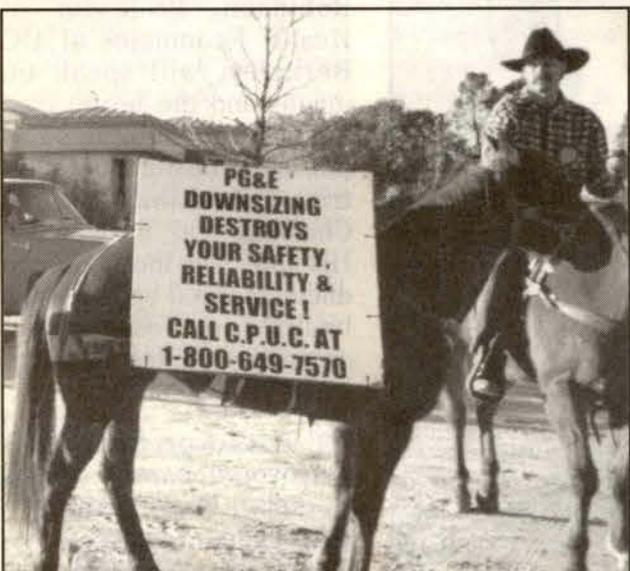
handed off work to each other. Tensions between the shifts—involving supervisory as well as bargaining unit employees—had slowed down pro-

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Practicing Partnership



First in a Series on
Labor-Management
Cooperation



In 1995, Ron Garcia rode in support of his fellow union members. Now he's the one who needs support.

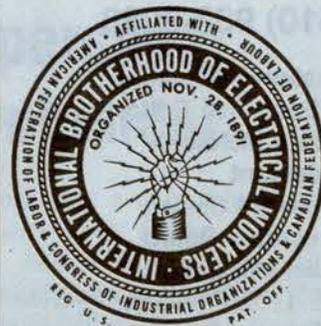
Members rally round 'electric horseman'

"A friend should bear his friend's infirmities." Or so Cassius observed in William Shakespeare's Julius Caesar. That's a pretty severe test for friendship, but in the life of lineman Ron Garcia five people have passed the test with flying colors.

A year ago, Garcia lost the use of both kidneys, a condition that makes him dependent on a dialysis machine to cleanse his blood. Typically, a person in Garcia's situation would have to wait two to four years for a donor kidney to become available.

But Garcia's situation is not typical. He has five friends who are willing to bear Garcia's infirmity as their own. Each has volun-

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CALENDAR

March 1
Ron Garcia Benefit
Atascadero, Ca.

March 22
PG&E Regional
Stewards Conferences
(Held Throughout System)

May 3-4
Advisory Council
Concord, Ca.



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Business Manager & Executive Editor

Jack McNally
President

Howard Stiefer
Executive Board

Jim McCauley
E. L. "Ed" Mallory
Debbie Mazzanti
Chris Habecker
Kathy F. Tindall
Michael J. Davis

Treasurer
Mike Brocchini

Communications Director
Eric Wolfe

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Workers here and abroad

Rolling the union on...

Workers Win Big: A federal jury in New York has awarded almost \$6 million to three women who suffered Repetitive Strain Injuries to their hands, wrists and arms while working on keyboards. The suit was brought against Digital Equipment Corp., manufacturer of the keyboards. According to the New York

Times this is the first time injured workers have won a court case against a computer equipment manufacturer, although there have been out-of-court settlements. An appeal is likely.

Dirty Tricks: The Frontier hotel-casino used a secret spy squad against striking Culinary Union workers, the unit's former head has charged. According to published reports, Wayne Legare, who ran the squad from 1991 to 1995, said the unit spied on strikers 24 hours a day. Legare said the squad engaged in "dirty tricks" on the strikers, including firing a large water gun at them, placing manure where they were eating and stealing their hand-held radio frequencies. Blackie Evans, head of the Nevada AFL-CIO, called on the Nevada attorney general's office to investigate.



"Workers wear work shoes and management types wear loafers. Do you think that means anything?"

APPOINTMENTS

PACIFIC GAS & ELECTRIC

G. O. Building Department Training Program
Vincent Almacen
Kevin Martinez
Gary Maschio

A/C TRANSIT

Negotiations Committee
Guy Greenwood
Dennis Hart
Lynne Morel

CITIZENS UTILITIES

Citizens Utilities Telecom Agreement Committee
Janice Baker
Sondra Lucero
Charles Stout

CONFERENCES AND CONVENTIONS

Congress of California Seniors 20th Annual Convention
Orv Owen
Don Hardie

Unit change

Unit 3711, Marin County, now meets on the second Wednesday of each month, effective February 1997. The meeting time and location remain the same. For further information, contact Business Rep. Larry Pierce at 707-578-7274

Dealing in the Union: Dealers at the Tropicana Casino in Atlantic City voted last month for representation by the Teamsters, according to the AFL-CIO.

Seoul Brothers: AFL-CIO Executive Vice President Linda Chavez-Thompson delivered a package of protest letters to the Korean labor attache during a demonstration Jan. 10 at the Korean Embassy. Passage of a new labor law severely restricting workers' rights provoked massive strikes in Korea during January.

Flood Relief: The AFL-CIO's Western area community services liaisons established food banks and offered assistance for families affected by the New Year's floods in northern California and Nevada. Workers from some of the construction locals in Sacramento volunteered to make repairs.

Living Wage: The St. Paul, Minn., City Council

voted to require businesses receiving \$100,000 or more in city aid to pay their workers the equivalent of at least 110% of the federal poverty level for a family of four—currently about \$8.25 an hour. Those providing basic health care would be required to pay only 100%. The measure still awaits the mayor's signature.

Ralphs' Strawberry Statement: Ralphs, the largest supermarket chain in California, has lent its support to the drive for basic rights for strawberry workers. A store executive signed the pledge supporting a living wage, clean drinking water and bathrooms, job security, health insurance and an end to abuses such as sexual harassment.

Strawberry March: The Strawberry Workers Campaign will stage a national march on April 13 in Watsonville to build support for strawberry workers. For more information, call 202-637-5280.

Health Care: James Robinson, Professor of Health Economics at UC Berkeley, will speak on unions and the health care industry on Feb. 18, 4:30 pm, at the Institute of Industrial Relations, 2521 Channing Way, in Berkeley. His talk will focus on the dilemma faced by unions as health care costs are increasingly shifted onto the backs of workers.

Lax Inspection: OSHA performed barely 24,000 workplace inspections in the year ended September 30, 1996, down 43.3% from two years earlier, Labor Notes reported.



The Technology, Skills and Market Subcommittee of the C&TS 94-53 Committee (PG&E) met recently at union headquarters in Walnut Creek. Representing the union on the subcommittee are (from left) Larry Smith, Sherrick Slattery, Larry Smith, and staff attorney Tom Dalzell.

Life at Work



"If there were any way I could keep you on I would have, Mom."



Using a transit, Dave officially determines that Bill's head is not level.



"While we are team players here, Purvis, it's not necessary to suit up."



"Good news...the union is negotiating to get us mileage money."

POINT OF VIEW

Change without purpose can be counterproductive

Jack McNally, IBEW 1245 Business Manager



Change is a fact of life, and nowhere is this more true than in the utility industry in the 1990s.

But this doesn't mean that all change is good. We make changes in order to adapt to the requirements of the world we live in, and in order to promote the values we hold. To change just for the sake of change serves no purpose, and can actually be counter-productive to our interests.

The utility industry used to be a bastion of stability. Then along came deregulation and competition. This new environment has been quite a shock to regulated utilities. They know that change is needed. The problem is, they're not always putting in the time and effort to figure out what kind of change is needed. They are simply instituting change for the sake of change.

As they go charging off into the brave new world of competition, utility managers need to be clear on what they value, and think about whether their actions serve those values. In this early phase of competition, I think it is already clear that customer service is the guiding value for any utility that hopes to be a going concern in the 21st Century. There's certainly a lot of rhetoric floating around these days about customer service, and there's a lot of commotion in the ranks of utility management. But is the commotion really serving the needs of the customers or is it just commotion for commotion's sake?

At some utilities shakeups of management now seem to be almost an on-going part of the op-

eration. The changes come with various labels, like reinventing, restructuring, and re-engineering. But as a practical matter, they all amount to the same thing: constant turmoil and upheaval in the workplace that leaves workers wondering from one month to the next who's in charge and who their next supervisor is going to be.

Delivering high quality gas and electric service is a complex business. Utility employees have done a pretty good job of it for many decades. It is absolutely true that the new competitive environment will require us to make changes. But those changes must serve to maintain or improve customer service. In many cases, labor-management committees are the best vehicles for identifying the changes that need to be made, and helping map out strategies that implement change without destroying the continuity of operations that the public expects and deserves.

Utilities have their names and reputations to protect. They shouldn't totally upset the applecart unless they're pretty damn sure they know how they're going to transport those apples in the future.

Union conducts joint meeting with tree contractors

Local 1245 members sat down for face-to-face talks last month with the three union contractors performing line clearance tree trimming for Pacific Gas and Electric.

Representatives from the contractors--Arbor Tree, Asplundh Tree and Davey Tree--met jointly with union workers at Local 1245's Walnut Creek headquarters.

"We have always wanted to do joint negotiations with the tree trimming contractors and we are happy that they have agreed to meet in a joint forum," said Local 1245 Business Manager Jack McNally.

Arbor, Asplundh and Davey perform the bulk of PG&E's line clearance work.

"The three tree trimming contracts have more similarities than differences," said Local 1245 Business Representative Landis Marttila. "There is certainly a mutual interest in making sure the wage/benefit packages are the same between

the three contractors."

The negotiating committee is composed of members who in many cases have worked for several different line clearance tree trimming contractors. "The expertise and historical knowledge they bring with them is an essential aspect of successfully amending an agreement," said Marttila.

Several tree trimming members on the committee serve double duty as union organizers. Al Haro, Pete Ely, Jeff Palm, Tony Taber, Mark Linley have all helped make contacts with Utility Tree employees in the current drive to organize that non-union company.

In other tree trimming news, the California Public Utilities Commission is getting ready to amend its general orders to require a minimum distance of 18 inches from all high voltage lines. More information on this issue is forthcoming in future issues of the Utility Reporter.



Union line clearance tree trimmers preparing to meet with contractors at a recent meeting in Walnut Creek are (above, from left): Tony Taber, Fred Serrano, Business Rep. Landis Marttila, Pete Ely, Travis Bundy, Mark Linley, Al Haro and Jeff Palm. At right, Ely and Marttila discuss strategy in the on-going drive to organize Utility Tree. (Photo: Eric Wolfe)



Remembering John Wilder

Long-time union staff member John Wilder died last month at age 79.

A native of San Francisco, Wilder witnessed the general strike in 1934 before going to sea as a young man. He hired on in PG&E's Steam Generation Department in 1949 and became a business representative for Local 1245 in 1958. He served as an assistant business manager for 11 years until his retirement in 1979.

"He worked hard to be sure that people got their rights under the labor agreement," said Business Manager Jack McNally, noting that Wilder worked as a business representative in San Jose Division and then East Bay.

Senior Assistant Business Manager Darrel Mitchell said Wilder was "well-respected and liked by both sides of the table." While interest-based and mutual gains bargaining have received a lot of attention re-



cently, Wilder was practicing his own style of "interest-based" resolutions to problems 25 years ago, Mitchell said.

"He's a guy people had a lot of respect for."

Wilder was a veteran of the Navy in World War II and served on the USS Crescent City.

He is survived by his wife, Elaine, of Pioneer, Ca., four children, 11 grandchildren and eight great-grandchildren.

Lassen MUD pact ratified

Members of Local 1245 employed by Lassen Municipal Utility District ratified a new five-year pact that provides wage increases of 3% a year.

The agreement improves stand-by pay from \$375 per week to \$400 per week during the first year, with additional improvements in succeeding years. The death benefit was doubled from

\$2500 to \$5000, the sick leave buy-back provision was raised from 20% to 25%.

Working foremen will be assured a wage spread of 10% over linemen before the calculation of the annual general wage increases.

Negotiating the agreement for the union were JoAnn Villalovos, John Deal, Paul Glau and Business Rep. Jack Osburn.

City of Redding agreement

A new agreement with the City of Redding provides wage increases and could provide an attractive retirement option if all other city employees agree to it as well.

The three-year pact covering Local 1245 members provides wage increases of 2.5% in the first year and 2.75% in the third year. The City also agreed to a retirement formula of 2% at age 55. But the retirement provision must be agreed to by all other city employees in

order for it to take effect.

If the retirement plan is rejected by other workers, Local 1245 members will be entitled to a 3.6% wage increase in the second year of the agreement.

In another provision, the City agreed to pay 100% of the costs for employees' arborist certification.

Negotiating the agreement for the union were John Roberts, Bob Sandoval, Joe Kropholler, Ray Thomas and Business Rep. Jack Osburn.

Practicing partnership at PG&E



Tim Abalayan, swing shift lead operator, speaks out at the January 94-53 Committee meeting. At right is union Business Rep. Debbie Mazzanti.

From PAGE ONE

duction on more than one occasion. Management's first solution was perhaps the most obvious one: if the two shifts can't coordinate, then consolidate them. Consolidation, the thinking went, would promote consistency, avoid hand-off issues, and remove the basis for the conflict between the shifts.

But the obvious solution is not always the smart one, and employees immediately spotted the problem with consolidation. An informal delegation of employees, three each from swing and day shifts, took their concerns to management. Swing shift Lead Operator Norm MacKenzie, a 38-year employee who attended the meeting, said their purpose was to convince management "why they needed the second shift."

Consolidation, the employees pointed out, would result in a mismatch between machines and personnel. During the day, the company would have more people than machines, while during the evening the machines would sit idle—hardly a formula for efficient deployment of resources. Employees were understandably concerned that consolidation would lead to the elimination of jobs, while forcing those who remained to work overtime when deadlines loomed.

One employee participating in this informal meeting with management was Kevin MacDonnell, a day-shift Operator "A" and a member of the official labor-management committee at Reprographics, one of the

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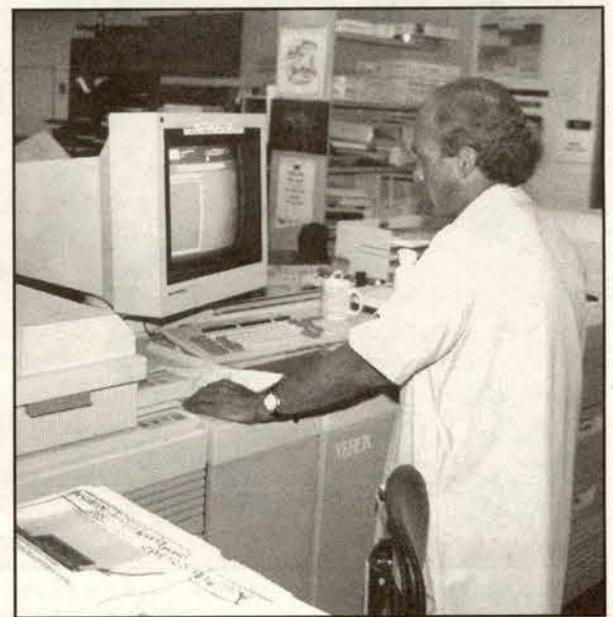
The real challenge facing the company, according to supervisor Mary Huber (left), is to improve efficiency, eliminate duplication of effort, and demonstrate that the department can be cost effective.



Participating in the January 94-53 Committee meeting are (above) union steward Lina Barrientos and (left) acting supervisor Bob Johnson.



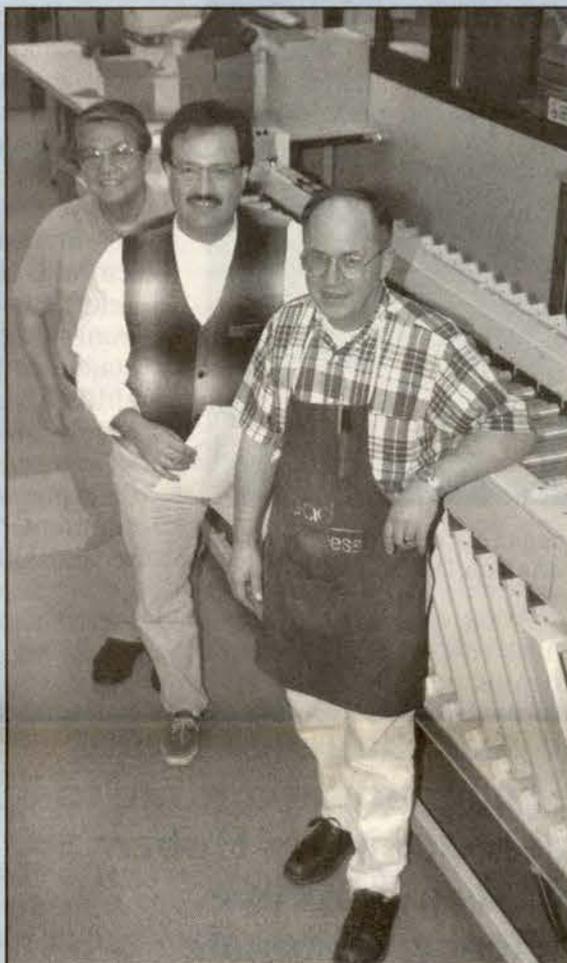
At work in the Reprographics Department of PG&E are (left) Forrest Ebert, (below) AllandeLucio, and (right) Tony Buendia.



Practicing partnership



Jun Silva, swing shift Operator "A"



Working day shift are (from left) Jesse Payad, Doug Medrano and Joe Guerrero.

"We've got the talent to do it. We've got the pressmen to do it. And with some additional training for this (Ryobi) press, I believe we could make this shop to fly."

Kevin MacKenzie

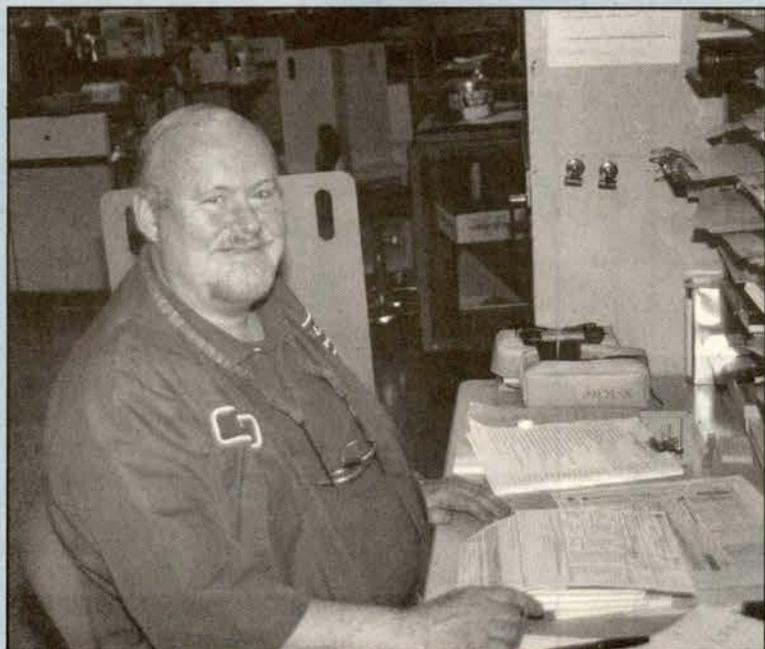
What is Reprographics?

Who: 36 in the bargaining unit positions, 3 management positions.

What: Reproduce wide variety of documents, mostly for PG&E but also for outside concerns.

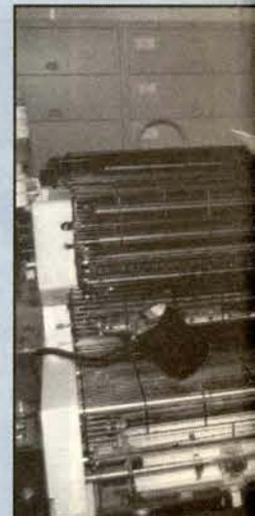
How: Production processes include xerox and offset printing, as well as binding.

Where: Located in basement of PG&E's 245 Market/77 Beale complex in downtown San Francisco.



"In the beginning (of the partnership) people didn't trust the relationship between the union and the company. I said, 'Hey, this is what you want. You don't want to be fighting each other. It's better to be working for the same cause.'"

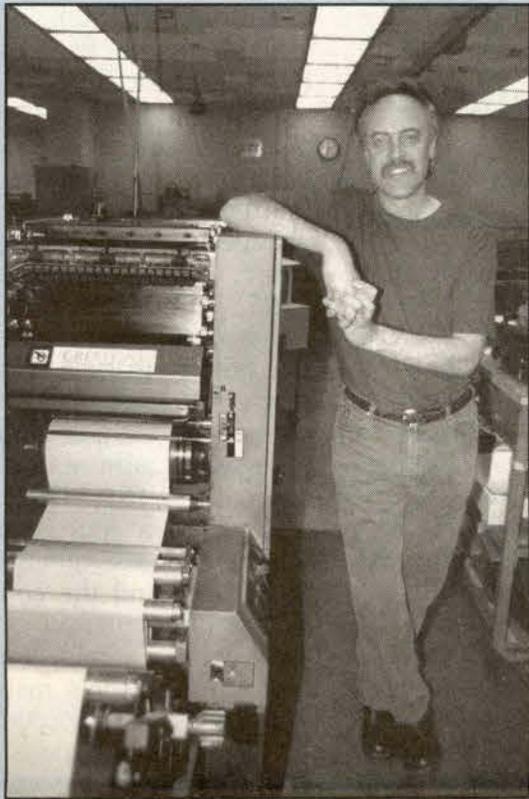
Norm MacKenzie



Steve Wong, swing

at PG&E

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From PAGE FIVE

many so-called "94-53" committees spawned by the PG&E-IBEW partnership. Up to this point, MacDonnell said, the 94-53 committee had only tackled "small issues." But now a big issue had descended upon the employees in Reprographics, "and we saw we needed this 94-53 committee to iron out this problem," MacDonnell said.

Upon the advice of Local 1245 Business Representative Lula Washington, the matter was referred to the 94-53 committee. And the Local 1245-PG&E partnership had a new problem on its plate.

Employees Had a Point

It didn't take management long to realize the employees had a point.

"It was brought out that consolidation wouldn't address the coordination issue," said Mary Huber, supervisor for both Reprographics and the Engineering Records Unit. The real challenge facing the company, Huber said, was to improve efficiency, eliminate duplication of effort, and demonstrate that the department could be cost effective.

Shift consolidation was recognized as a phony "solution" that would meet no one's needs. There had to be another way.

"We asked them: If we agree to address budget and communications issues between the shifts, could you hold off on this consolidation?" said Debbie Mazzanti, who became union Business Representative for Reprographics last October after Washington moved to an East Bay assignment. "Our commitment to them was we would help them look at the overbudget problem in every way we could have an impact," said Mazzanti.

Back from the Brink

Both sides seemed relieved to back away from the brink of a nasty confrontation and apply their energies instead to the very real and pressing issues facing Reprographics in the era of competition. According to MacDonnell, the 94-53 committee began tackling questions like: "How can we make the shop more efficient? How can we bring more work into the plant?"

Harnessing the energy of the 94-53 committee, it didn't take long for Reprographics to pull off a small but significant coup. In January, Reprographics won a commitment from PG&E to use Reprographics to print all of the company's business cards. Previously, this work went to an outside vendor.

"That was a milestone," said MacDonnell. "We were able to come together as a plant and acquire that account."

And MacDonnell thinks

that's just the beginning.

"There's serious talk about getting a Ryobi two-color press with the ability to do four-color process. That would expand our capability to pursue additional work," including PG&E brochures, he said.

MacDonnell acknowledges that it will take time for employees to adjust to the new reality at PG&E—a reality that includes competition from other energy providers and genuine concerns about job security.

But that new reality also includes a labor-management partnership that offers employees new possibilities for shaping and defining the work they do. And MacDonnell thinks his co-workers are up to the challenge.

"We've got the talent to do it. We've got the pressmen to do it. And with some additional training for this (Ryobi) press I believe we could make this shop to fly," he said.

A Process for Talking It Out

Does this partnership story have a happy ending? It's way too early to tell.

But that's the thing about the partnership. It doesn't guarantee competitive success for the company and it doesn't guarantee job security for employees. What it does offer is a *process* through which labor and management can voice their concerns, assert their interests, and work creatively to meet each other's needs to the greatest extent possible. In short, a process for talking it out.

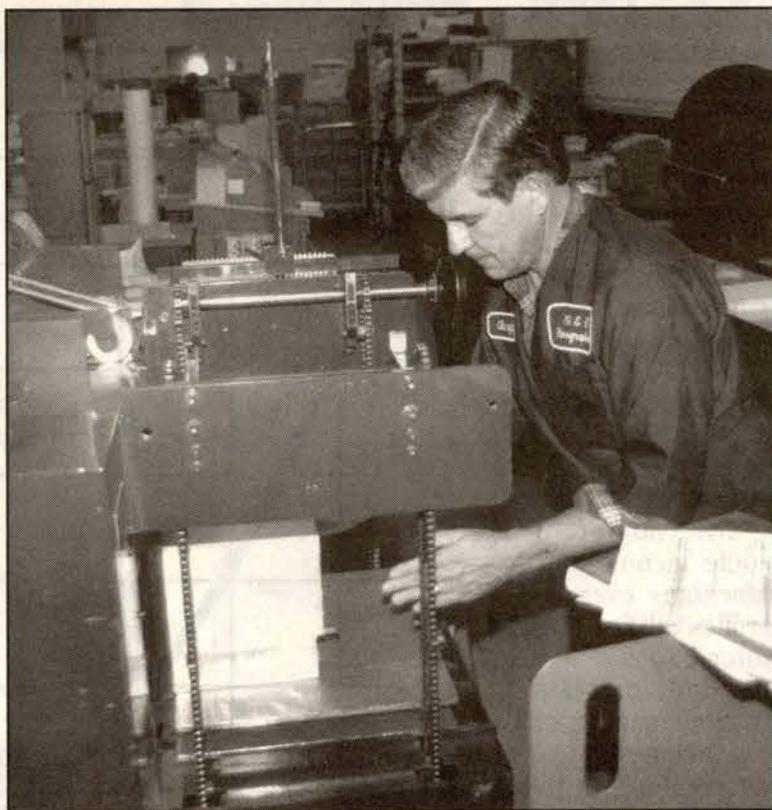
"In the beginning (of the partnership) people didn't trust the relationship between the union and the company," said MacKenzie, the veteran lead clerk. "I said, 'Hey, this is what you want. You don't want to be fighting each other. It's better to be working for the same cause.'"



Working at left is Mary McKay, swing shift Operator "A". At right, working the front desk are Monica Huey, Clerk D (left), and Leslie Burns, hiring hall Clerk D.



Shift Operator "A".



Angel Alvira, Operator "A" on swing shift.

Gov. Wilson renews assault on overtime pay

By Johan Klehs

Unless you make your living from stock dividends or executive bonuses, California Gov. Pete Wilson has big plans for you—plans you won't like very much.

Despite the "moderate" and "pro-family" images he has tried to cultivate, this governor has been more aggressive in attacking the 68% of the state's working families who earn less than \$40,000 per year than any governor in recent memory.

Wilson's repeated attempts to overturn California's long-standing overtime pay and prevailing wage rules are cases in point. In the last legislative session Wilson promoted legislation to do away with overtime pay for workers who put in more than eight hours a day on the job (AB 398, Aguiar, R-Chino). Rules requiring overtime pay after eight hours date back to 1918 in this state. Instead, Wilson wants businesses to be able to force employees to work 10, 12 or 14 hour days without paying overtime, except on hours worked in excess of 40 per week. In fact, under Wilson's plan employees could be compelled to work through the night without any boost in their hourly pay.

Despite the defeat in the state Senate of Wilson's legislation authorizing this change, Wilson's appointees on the Industrial Welfare Commission are going ahead and changing the rules anyway. If this is allowed to stand, one result will be lower family incomes for those breadwinners now earning overtime pay. Overtime pay is about the only type of "dividend" or "bonus" middle income working Californians ever see. Many families will find themselves forced to pay extra for extended childcare hours without seeing any increase in their weekly take home pay. Still others may be forced to choose between keeping their jobs and maintaining a normal home life. The effort to eliminate

Wilson wants businesses to be able to force employees to work 10, 12 or 14 hour days without paying overtime, except on hours worked in excess of 40 per week. In fact, under Wilson's plan employees could be compelled to work through the night without any boost in their hourly pay.

daily overtime rules is a direct assault on the pocketbooks and family life of this state's working middle class.

Prevailing wage rules are also under siege by the Wilson administration. By requiring bidders on public construction projects to pay decent wages, these rules ensure that public dollars will not be used as leverage to drive construction wages down to the lowest common denominator. Business and labor alike have supported these principles for some 60 years. As a result, skilled construction work is now one of very few blue collar careers left that offer a decent wage, around \$30,000 per year on aver-

age, and this type of work continues to support thousands of small businesses. As wages paid for public construction are earned and spent, they create public infrastructure as well as jobs, income and tax revenues that benefit the local community and the entire state.

Wilson's effort to sabotage meaningful prevailing wage protections is a blunder for many reasons. Comparative studies demonstrate that abandoning prevailing wages leads to a flight of the most skilled workers and to the loss of apprenticeship training programs. Highly skilled and well-trained workers, not surprisingly, also happen to be the most

cost efficient in performing their jobs. The net result in other states has been to raise public construction costs, and delay completion of projects. Other negative effects, such as more job injuries and dangerously shoddy workmanship, have also developed in states that have done away with prevailing wages.

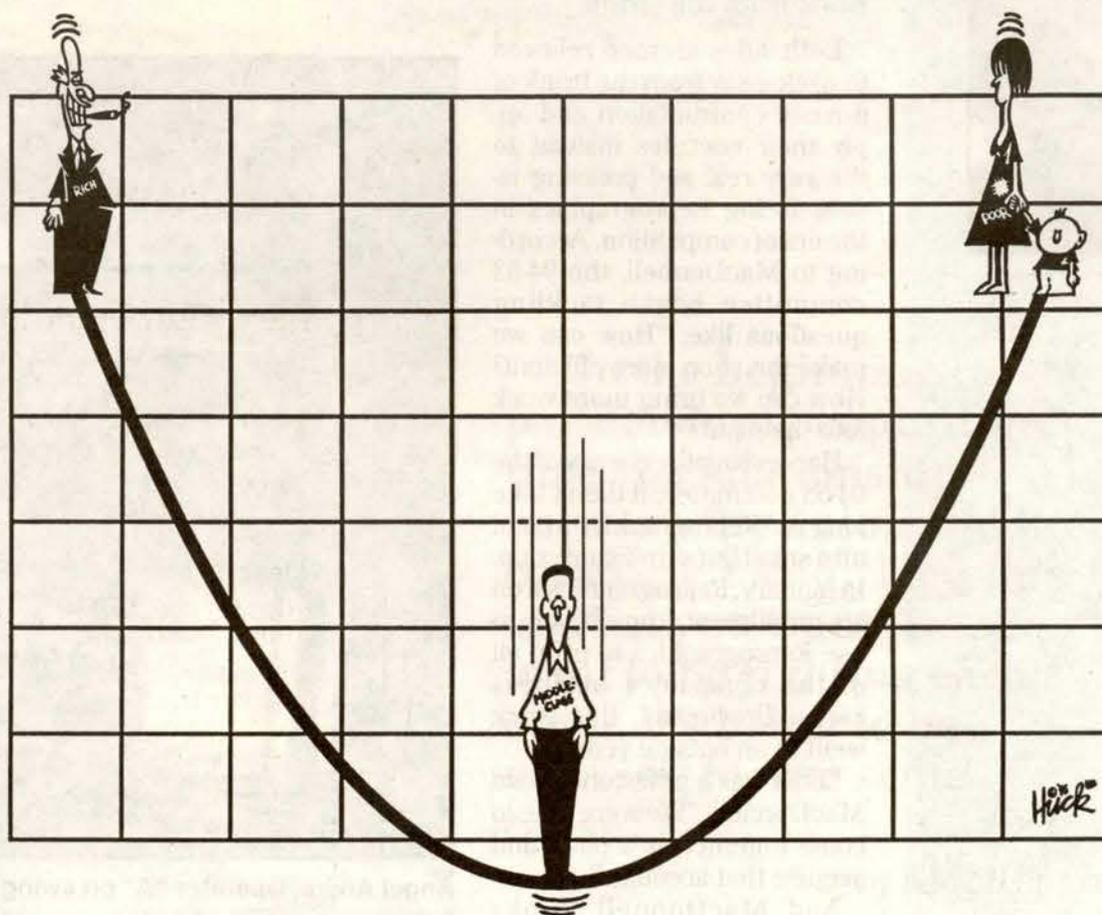
Wilson's plan will do nothing to alleviate the state's fiscal shortfall. Labor costs account for only 25% of most heavy construction projects. Even significant wage cuts will only shave small percentage amounts from the cost of public works projects. This will be more than offset by lost tax revenues, cost overruns, con-

struction delays, and higher costs to take care of injured workers who lack health insurance. In addition, there will be the hidden cost and danger of having public works projects built by ill-trained workers at bargain basement prices.

Wilson has been trying to gut the prevailing wage rules by any means available. He first tried to push sweeping changes through the Legislature. When that failed in 1995, Wilson next attempted to use his executive powers to rush regulatory changes through without proper study or compliance with administrative procedures. That effort was blocked by a court injunction. Having lost in both the Legislature and the courts, Wilson has turned once more to the administrative arena. At Wilson's instigation, the state Department of Industrial Relations recently approved new regulations changing the method of calculating prevailing wages. As with the overtime pay issue, the Governor's attempt to repeal prevailing wage rules by administrative fiat is certain to be challenged in court.

When the subject is welfare, Wilson lectures eloquently about the rewards of hard work. But when it comes to rewarding our state's working families, the Governor demands drastic wage concessions. Before the Governor expects others to value hard work, he should show some respect for it himself.

Johan Klehs served in the California State Assembly from 1982 to 1994, eight years as Chair of the Revenue and Taxation Committee. Elected to the State Board of Equalization in 1994, he chaired the tax and finance agency from 1995 to 1996 and is currently its Vice Chair. Klehs was one of the highest-ranking public officials to speak out against the planned PG&E downsizing of early 1995 and to support Local 1245's protests against layoffs.



Retirees discuss threats to livelihood

By Orv Owen

A special meeting for San Jose and East Bay Retiree Club members was held Jan. 30 at the Local 1245 headquarters in Walnut Creek for discussions on pensions, long-term care, Social Security and Medicare.

Turnout was excellent, an indication that retirees are concerned about the political developments that affect their lives.

All of these topics are extremely important to the quality of life of current and future senior citizens and retirees. With the current political activity and discussions being conducted in our nation's capitol, all active and retired Local 1245 members need to be actively involved in communicating their concerns and fears with their elected representatives and to ascertain their positions and activity on these issues.

Failure to contain health prices costs the government money...and us, too! Over the past year, the nation's elderly were hit with double-digit premium increases for Medicare supplemental insurance. About two-thirds of senior citizens carry supplemental insurance to help them pay the health care costs not covered by Medicare—deductibles and co-payments to doctors and hospi-

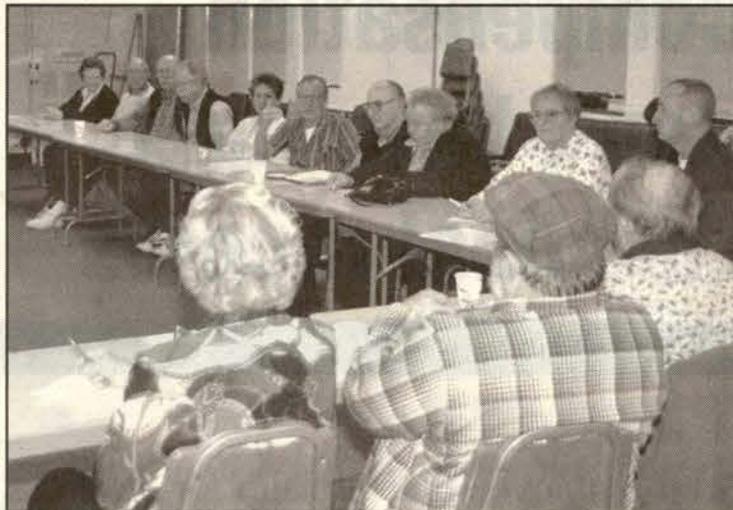
tals.

It is apparent to me that seniors cannot sit idly by and trust that their current quality of life and benefits earned over their working years will always be secured and protected. In our working years we banded together and organized to bring economic justice to the workplace and social justice to our nation. That need has not diminished in our retirement years.

Isn't it time for all of our

Local 1245 retirees to get active and join the union's Retirees Club? I believe it is. For more information, contact Local 1245 Office Manager Julie Rodriguez at 510-933-6060, Extension 208.

Keep the faith!



Retirees (above and below) tackled a range of issues at a special meeting co-chaired by Orv Owen and Don Hardie (left) in Walnut Creek last month. (Photos: Eric Wolfe)



IBEW
Local
1245



Retirees Corner

Retiree Club dates

East Bay Chapter:
Meets 2nd Thursday each month, 10 a.m., at Local 1245 headquarters, 3063 Citrus Circle, Walnut Creek, Ca.

San Jose Chapter:
Meets 1st Thursday each month, 10 a.m. at Local 332, 1870 Stone Ave., San Jose.

Doctor gets dose of his own medicine

Three doctors were trying to get through the pearly gates.

The first, a pediatrician, was warmly welcomed. The second, a cancer specialist, was similarly received.

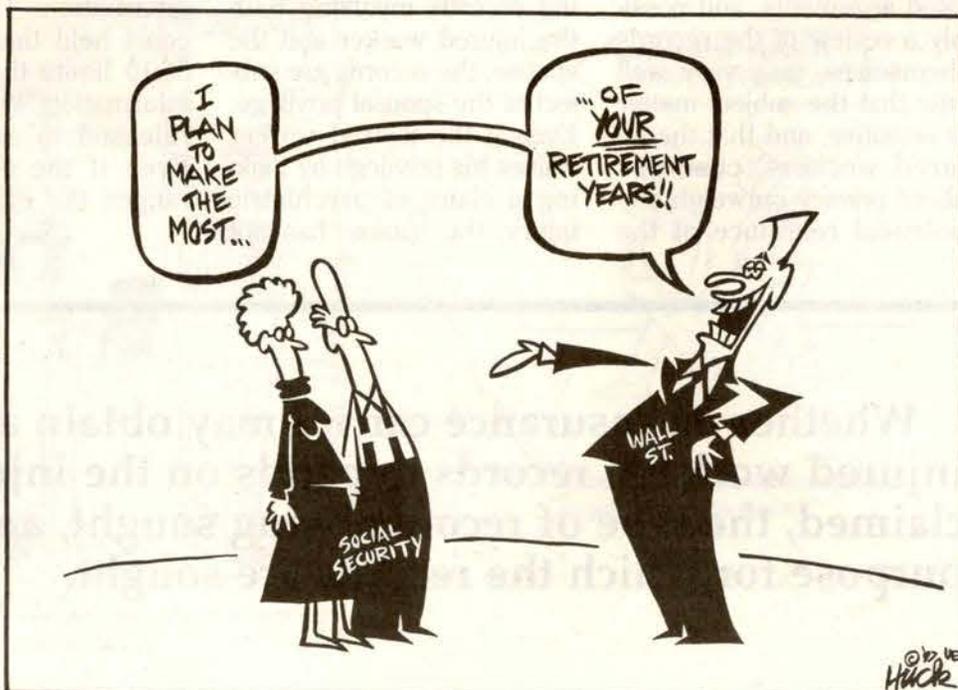
"What do you do?" St. Peter asked the third doctor.

"I work for an HMO," the doctor replied.

St. Peter tapped something into his computer, then looked up.

"Okay," he said, "you can come in, but you have to leave in three days."

News item: Wall Street brokers are among the chief lobbyists for the scheme to privatize Social Security.



Congratulations to the newly-retired!

The Local 1245 Retirees Club extends its congratulations to these recently-retired members of the union. We invited you to participate in a Retirees Club chapter in your area, or to start one in your area if there is none! Call Julie Rodriguez at 510-933-6060 Ext. 208.

Name	Residence	Yrs/Srvc.
Stanley Bennesen	Walnut Creek, CA	22
Bernard Blanckart	San Francisco, CA	28
Theodore Granton	San Rafael, CA	39
William Hatch	So. San Francisco, CA	12
Carl Kretzchmar	Fultondale, AL	41
Joseph Mifsud	Wilton, CA	26
Margaret Miller	Wichita Falls, TX	11



Workers' Compensation insurer doesn't have right to all your medical records

By Sharon K. Brady

When an injured employee files a claim for workers' compensation benefits, he is often told by the workers' compensation carrier that the carrier may obtain "all" personnel and medical records.

However, this is not correct, and many injured workers allow a workers' compensation carrier to obtain records it should not be getting.

In a workers' compensation case, as in a civil case, either side may obtain records which are relevant to the injury claimed, and "reasonably calculated to lead to discoverable evidence." Labor Code section 10626 specifically states that all parties to a case may have access to all medical records "relevant to the claims made and the issues pending in a proceeding before the Workers' Compensation Appeals Board."

Whether an insurance carrier may obtain an injured workers' records depends on the injury claimed, the type of records being sought, and the purpose for which the records are sought.

The carrier may obtain treatment records regarding the injury, of course. The carrier may also obtain treatment records for the "same" part of the body. For example, if a worker injures his left hand on the job, and previously injured his left wrist, the carrier will be allowed to obtain the records concerning his left wrist, since in workers' compensation cases any previous injuries to the left upper extremity may be examined.

The law is less clear when the records involve

treatment to a part of the body unrelated to the workers' compensation case, or are the records of a general practitioner. If the records involve only treatment unrelated to the injury, the injured worker may object to the records being sought. A judge would then issue a ruling, possibly after reviewing the records sought, as to whether the insurance carrier could obtain the records.

A more difficult problem is presented when the records are those of a general practitioner. These records frequently contain both relevant treatment records concerning the workers' compensation injury, and records which are unrelated to the case and potentially sensitive. The carrier may be entitled to part of the records, but not all. This happens frequently when the injured worker treats with a large health-maintenance organization, and sees many specialists and general practitioners over the course of several years. Unfortunately, it is the HMO's practice to turn over *all* of the injured workers' records to the carrier, except psychiatric records and those subject to privilege.

In such cases, the injured worker must object to the records being sought. If the records do not contain sensitive information, there may be no harm in releasing them to the workers

compensation carrier. However, if an injured worker who is represented by an attorney has concerns about certain records being sought, the worker should contact his attorney and specifically tell the attorney why he is concerned about the records being ordered. For example, if medical records from a general practitioner contain sensitive information unrelated to the workers' compensation case, the injured worker needs to let his attorney know the specific subject matter he is concerned about. An attorney cannot object if given only generic complaints, such as "they can't get those records," but if specifics are given, the attorney can object.

The Judge, after consideration of privacy and related arguments, and possibly a review of the records themselves, may very well rule that the subject matter is sensitive, and that the injured workers' concerns about privacy outweigh any potential relevance of the

records. An injured worker should contact his or her attorney if he knows records are being ordered, and be specific about why he is concerned the records are being ordered.

The law also limits the fashion in which an insurance carrier may obtain records. If the records are obtained by subpoena, the subpoena must conform with California court procedures, and be served on the injured worker, or his attorney if he is represented. If the injured worker signs a release for records, the release must specifically state the records being sought, the purpose for which they are sought, and the time for which the release is valid.

The release should also notify the worker that he has a right to a copy of the release, and the injured worker should be provided with a copy of the release if he asks.

Legislative Privilege

A medical provider may not release records which are otherwise the subject of legislative privilege. For example, Health & Safety Code section 110975 prohibits a treater from releasing HIV-related records. A treater who releases such records may be subjected to a lawsuit. A treater should also not release a patient's psychiatric records without a specific release for such records.

In addition, if the records sought are marital counseling records involving both the injured worker and the spouse, the records are subject to the spousal privilege. Even if the injured worker waives his privilege by making a claim of psychiatric injury, the spouse has not

waived his or her privilege. The records sought may have to be "purged" of all entries regarding the spouse's treatment if the spouse does not waive marital privilege. Personnel records and records of past lawsuits or criminal records are also subject to limitations. Under Evidence Code sections 1043 and 1045, a party may not obtain the personnel records of a law enforcement official without making a written motion. If the motion is objected to, the judge will hold a hearing on the issue.

In addition, the courts have held in civil cases that evidence of a party's past sexual conduct is usually not discoverable. The courts have held that because such records are highly prejudicial, and harass and intimidate the party involved, a high standard of relevance must be shown. While this issue has not been specifically addressed in workers' compensation cases, if a carrier attempted to obtain evidence concerning such past sexual conduct, the same arguments could be applied.

Recent case law has also limited the parties to which an evaluating physician may release medical records. In a recent case, psychiatrists evaluating on behalf of the employer released reports to the employer. The reports contained information about the employee's possible alcohol problem, and other highly personal information. The employee sued the doctors for releasing the information. The appellate court held that Civil Code 56.10 limits the amount of information which may be released to an employer. Even if the employer arranges the evaluation, the

See NEXT PAGE

Whether an insurance carrier may obtain an injured workers' records depends on the injury claimed, the type of records being sought, and the purpose for which the records are sought.

National campaign backs farmworkers

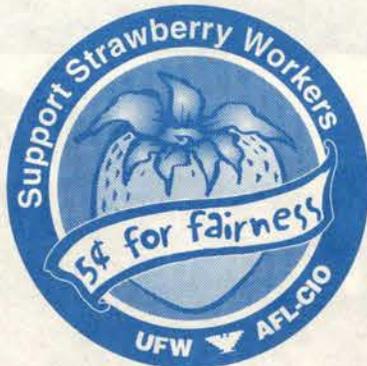
Strawberry solidarity forever

Labor, civil rights, religious and environmental groups have joined a national campaign to improve the lives of 20,000 California strawberry workers in one of the largest union drives in the United States.

Strawberry pickers are struggling for basic improvements. They receive poverty wages of about \$8,500 a season, and endure dirty drinking water and bathrooms, sexual harassment and arbitrary firings. Despite injuries related to extremely long days stooped over in fields treated with toxic pesticides, few workers have health insurance.

While the industry has flourished, the amount of each retail dollar spent on strawberries that goes to the worker has decreased from 17 cents in 1985 to 9 cents in 1995.

To improve their condition, workers are organizing with the United Farm Workers. For just 5 cents more per pint of berries, California's \$650 million-a-



year strawberry industry could boost workers' piece rate pay by at least 50%, according to the Institute for Rural Studies in Davis, Ca.

Individuals from more than 40 groups—including the NAACP, the National Organization for Women and the Sierra Club—have formed the National Strawberry Commission for Workers' Rights. Supporters include celebrities Danny Glover, Edward James Olmos, Carlos Santana and Linda Ronstadt.

UFW President Arturo Rodriguez, who succeeded the late Cesar Chavez, said that strawberry workers have tried to organize before. Workers voted over-

whelmingly for the UFW. But in each case the industry has crushed the efforts, plowing under crops and abandoning workers.

"Clearly, only public support will pressure the industry to bargain in good faith so workers can win union contracts after they vote for the UFW," Rodriguez said.

AFL-CIO President John J. Sweeney has pledged unprecedented resources for a massive joint campaign with the UFW.

"Even though strawberry workers are in California, this fight will be everywhere," Sweeney said. "It will be at thousands of supermarkets...It will be in the streets when necessary."

The campaign needs people willing to visit supermarkets and ask managers to support basic rights for strawberry workers, as well as people willing to distribute and sign pledges supporting the workers.

For more information, call the campaign office at 1-888-AFL-CIO or 202-637-5280.

Insurer doesn't have right to all records

From PAGE TEN

doctor may release to the employer a report of the employee's "functional limitations" only, and not detailed information concerning diagnosis, or other personal history.

The case has been sent back to the trial court for further proceedings. In addition, it should be noted that in the above case, the employee was applying for short-term disability benefits, and apparently did not have a workers' compensation case. The law may be different where the employee has a workers' compensation claim, or other litigation "proceeding." It should also be noted that the doctor is only barred from releasing a detailed report to the employer, but not the insurance carrier.

The law is not clear whether the carrier may then turn over the reports to the employer.

Certain highly-sensitive records may be held admissible in court and admitted into evidence at a workers' compensation hearing. However, even if they are admitted, the records may later be sealed by the judge at the request of a party. Normally, the records of a workers' compensation proceeding are open to the public. However, when the records are sealed, they are inaccessible to public view.

The issue of whether an insurance carrier is entitled to personnel or medical records is a complex one, and depends on the type of records being sought and the information in those records. If you have ques-

tions about what a workers' compensation carrier may obtain, or about workers' compensation benefits in general, contact the workers' compensation Information and Assistance unit nearest you. Or, contact the Law Offices of Mastagni, Holstedt & Chiurazzi; we will be more than happy to answer your questions.

Sharon Brady is an attorney with Mastagni, Holstedt & Chiurazzi.

"Making a false or fraudulent workers' compensation claim is a felony subject to up to 5 years in prison or a fine of \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment or fine."

Safety Matters

Inspect your personal protective equipment

The Local 1245 Safety Committee would like to remind you of the importance of wearing your personal protective equipment.

Such items as safety glasses and face shields are designed for prevention of possible eye and face injuries. Hard hats, gloves and steel toe cov-

ers play a vital role to ensure your safety.

When working around energized wires where the possibility of arcs or open flames exist, always wear suitable clothing such as 100% natural fiber clothing.

Be sure to inspect your personal protective equipment daily.

White House renews push for ergonomics protection

The Clinton administration has renewed its effort to set mandatory rules to protect workers from repetitive motion injuries.

The drive to enact a rule had been on hold due to budgetary restrictions imposed by Congress. However, those restrictions were lifted when the new budget went into effect last October.

Repetitive motion injuries account for a majority of all new workplace injuries. Hundreds of thousands of American workers, from construction workers to computer keyboard operators, are afflicted with these injuries

each year.

According to the Occupational Safety and Health Administration, the economic cost of repetitive stress injuries is about \$20 billion annually in workers' compensation payments. Total costs, including lost time, probably total around \$100 billion.

Last summer, Congressional Republicans attached an amendment to the budget bill that would have eliminated money for OSHA's ergonomic activities and barred the collection of information on the problem. The amendment was defeated after some Republicans joined Democrats in opposing it.



Members rally round 'electric horseman'

From PAGE ONE

teered to donate a kidney so that Garcia can free himself of the dialysis machine and resume a normal life as a father to his 12-year-old son and as a lineman working out of PG&E's Templeton yard.

Garcia calls them heros, and that's hardly an exaggeration. Removing a kidney is serious business, sometimes requiring the removal of one of the donor's ribs as well. The donor can expect to spend eight to 12 days in the hospital, and miss four to six weeks of work.

Rick Laguna, a Radiation Protection utility worker at Diablo Canyon Power Plant, is first in line to be the donor. Hearing him talk, it's clear he regards that as an honor.

"Ron's a good guy," says Laguna, who first met Garcia in 1981. Garcia's done a lot for others, Laguna says, and now "it's coming back his way, when he needs it most."

One of the things Garcia has done for others is put his body on the line in defense of his fellow union members. When PG&E was about to implement a new round of downsizing in early 1995, Garcia and his co-workers hit upon the idea of a horseback picketline to alert the public.

"You see a horse going down the middle of the street, people are going to notice," says Garcia, who was joined in the equestrian protest by Gregg Burk and Irwin Thomas, among others. Traveling through Paso Robles, Cambria, Morro Bay, and Atascadero, the electric horsemen drew widespread media coverage and helped turn public opinion against utility downsizing.

"They stopped the (lay-offs) and boy did we have a party," recalls Garcia. "We were screamin', yellin' and hollerin' in our yard."

Subhead

But now Garcia, one of 200,000 Americans with chronic kidney failure, is the one in need of help.

Laguna has already submitted to a couple of blood tests, and faces a third test in San Luis Obispo before undergoing a final battery of tests at the University of California Medical Center in San Francisco, where a dye will be injected into his kidney.

Laguna appears unfazed by the ordeal that awaits him if the tests prove him to be a suitable kidney donor. After all, he points out, people only need one kidney. "The other's a spare in my body. If I can live healthy

with one, I'd like to give Ron the other one."

It is obvious that Laguna is not alone in his feelings on this matter. If he proves to be an unsuitable donor, four other union brothers are waiting in line to take his place: Mike Domingues, John Laguna, and Dan Rhodes, all employed at Diablo Canyon Power Plant, and James Lloyd, who works out of San Francisco for PG&E General Construction.

Laguna and his co-workers may seem unconcerned about the potential sacrifice they are making, but Garcia is very concerned. In fact, Garcia is adamant that his donor not be subjected to any unnecessary hardship, including financial hardship. Although insurance will cover much of the medical costs incurred by donor and recipient, both men will in-

cur a variety of travel and related expenses as well as lost wages.

March 1st Fundraiser

A fundraiser has been scheduled for March 1 to help defray expenses for Garcia and his donor, and it is shaping up to be a celebration of huge proportions, with an afternoon barbecue and auction, a day-long raffle, and an evening dance with music performed by Just Country. Items to be raffled or auctioned include a side of beef, a 12-gauge shotgun, a chainsaw, an over-

night boar hunting permit for two on 2,000 acres of private property, and dozens more items.

The outpouring of support has clearly buoyed Garcia's spirits. And you can tell he deeply appreciates the friends and co-workers who have come to his aid.

"I think I have one of the best yards in the system to work with," he says. "These guys are great."

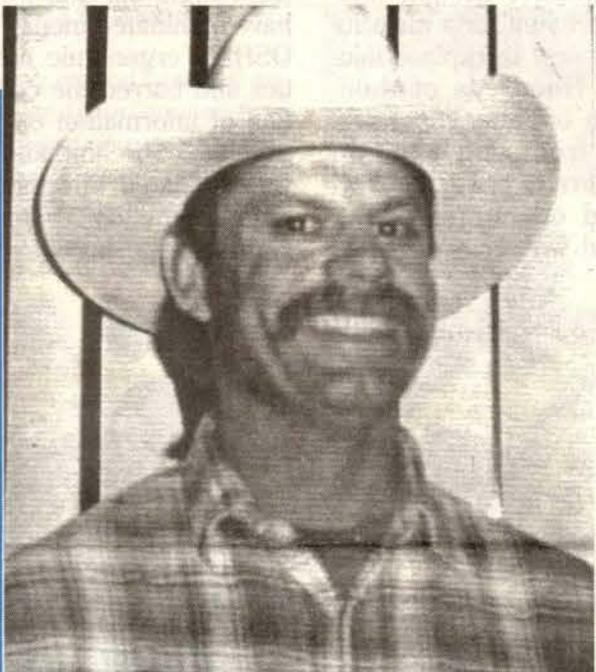
If all goes according to plan, he could receive a new kidney shortly after the fundraiser and begin his journey to recovery.



The electric lineman who rode to save jobs

When Ron Garcia took to a horse in early 1995 to publicize the problem of PG&E downsizing, newspapers and television stations in the San Luis Obispo area picked up the story.

"You see a horse going down the middle of the street, people are going to notice," said Garcia.



Ron Garcia

"Give the Gift of Life" Fundraiser

Saturday, March 1st

The Atascadero Armory

6105 Olmeda St., Atascadero

BBQ 1-5 p.m., Auction 3 p.m., Dance 5:30 p.m.

Call Rick or Lorie Laguna (805) 466-8106