

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT

LEGAL SECTION

45 Fremont Street, Suite 3220
San Francisco, CA 94105
(415) 975-2060H. THOMAS CADELL, JR., *Chief Counsel*

February 21, 1996

Linda Larson Usoz
Hopkins & Carley
150 Almaden Blvd.
San Jose, CA 95113-2089

Re: RAM Trucking, Inc., Case No. 32-17730/704

Dear Ms. Usoz:

I have reviewed your letter of February 13, 1996, wherein you ask that this office determine that the helpers, yard goats and miscellaneous employees of your client's firm are covered by IWC Order 14-80. We decline to make that determination.

Your client, RAM Trucking, Inc., is a licensed trucking company in California. According to your letter, 97% of RAM's business "is assisting in the harvest of tomatoes during the tomato harvest season." Based on these facts, you submit that the workers employed by your client who are not employed on farm premises and have nothing to do with harvesting farm products are covered under the provisions of Order 14-80.

Order 14-80 is an occupation order which covers individuals employed in, among other occupations, "transportation on the farm or to the first processing or distribution." There is nothing in that language which could reasonably be interpreted to include persons who are employed as mechanics, dispatchers and, least of all, office personnel¹ who are employed by a trucking firm. The work performed by the individuals who you contend should be subject to the agricultural order is simply too marginally connected with agriculture to be considered as an agricultural occupation.

The trucks which these workers deal with are not owned by the agricultural employer. Thus, the work they perform cannot be considered "maintenance of such farm and its tools and equipment."

¹See *Harris Feeding Co. v. Dept. of Industrial Relations* (1990) 224 Cal.App.3d 464, 475.

Linda Larson Usoz
February 21, 1996
Page 2

The obvious import of that language is to include within the definition of agricultural occupation any work done on the farm to maintain equipment owned by the farm.

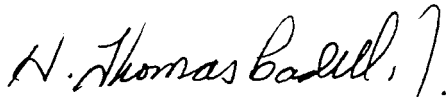
Order 9-90, on the other hand, is an industry order which covers:

any industry, business, or establishment operated for the purpose of conveying persons or property from one place to another whether by rail, highway, air, or water, and all operations and services in connection therewith; and also includes storing or warehousing of goods or property, and the **repairing, parking, rental, maintenance** or cleaning of vehicles.

This language covers the work you describe in your letter of February 13, 1996.

I hope this adequately addresses the issue you raised in your letter of February 13, 1995. Thank you for your continued interest in California labor law.

Yours truly,


H. THOMAS CADELL, JR.
Chief Counsel

c.c. Nance Steffen, Asst. Labor Commissioner
Brooke Nagle, DLC I, San Jose