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## Work complaints hang over plant

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SUMMARY: Alleged safety and pay violations may pose a bigger threat to Del Monte than arrests

Former workers on Wednesday, echoing federal investigative documents, described abysmal conditions at Fresh Del Monte Produce Inc., a giant North Portland food-processing plant where an immigration raid rounded up 167 workers the previous day.

Employees worked closely together in frigid temperatures wielding sharp knives, many without protective gear, investigators and former workers say. Some workers, they say, stood in pools of water without boots near submerged electrical cords. Many were forced to work up to 18 hours a shift without overtime pay.

"We were pressured to work long hours," said Antonia Rodriguez, a former plant employee, who left six months ago. "It was so cold. I couldn't take it anymore. I was coming home very tired and angry."

On Wednesday, Del Monte denied responsibility for any immigration violations stemming from this week's arrests or for alleged criminal conduct by managers of its staffing company, American Staffing Resources. "Fresh Del Monte does not employ this labor force," the company said in a statement.

Legal experts say, however, that the biggest threat to the global food giant may not be the immigration charges, but allegations of poor working conditions and improper pay.

On Wednesday, the Oregon Occupational Safety and Health Division said it had opened two separate investigations into safety practices at the 600-employee plant, both prompting on-site inspections in the last month.

While document fraud charges against employers are hard to prove, experts say, laws governing worker pay, safety and civil rights can apply equally to a staffing contractor and its client.

"The theory is that if I use an employment agency, then I'll somehow avoid liability," said Keith Cunningham-Parmeter, assistant law professor at Willamette University in Salem, who represented Del Monte workers in a class-action lawsuit that settled in August for \$400,000. "But it doesn't work that way."

U.S. immigration laws, experts say, are less stringent than laws governing pay, civil rights and safety. For one thing, state and federal workplace laws are blind to the legal status of employees, mostly to prevent employers from recruiting undocumented immigrants, subjecting a fearful workforce to lower wages and abusive conditions --and making conditions worse for all U.S. workers.

A Del Monte spokesman and American Staffing Resources officials could not be reached for comment Wednesday.

Federal officials have accused the two companies of conspiring to hire and employ undocumented workers. The accusations relate to the same plant, then known as Graziano Produce Co., where immigration authorities arrested 81 workers in a raid in 1999.

In its statement, Del Monte said it was advised it was not a target of the current immigration investigation and was cooperating with U.S. Immigration and Customs Enforcement agents.

While the company might not be directly accused of violating immigration laws, workers and documents from the immigration investigation paint a picture of a plant that was widely known to hire undocumented workers, work them

long hours for substandard pay and ignore safety complaints.

Rodriguez, 47, a legal resident who worked at Del Monte for two years, said Wednesday she left because she couldn't stand the conditions.

Rodriguez, who acknowledged most workers at the plant were undocumented, said she washed celery in a team of about 20 people in frigid temperatures with water on the floor, sometimes for 40 hours in two or three days. Turnover was so high, she said, that often only three of 20 members of her team would remain at the end of a week.

One day, she said, she worked from 7 a.m. to 8 p.m., then her supervisors told her to go to dinner and come right back. When Rodriguez refused, she was fired. But, she said, a manager called later that same week inviting her back.

Rodriguez said she never watched safety videos or had any safety training.

Managers did not provide any protective gear, she said. Instead, Rodriguez and other workers had to buy their own boots, plastic pants and cloth gloves. Some people bought them; others didn't, she said.

An affidavit filed by Immigration and Customs Enforcement in the plant roundup supported Rodriguez's account.

According to the affidavit, an ICE confidential informant hired at the plant saw about 3 inches of water covering the floor in the production area. Although workers were supposed to be provided boots, most wore soaked sneakers or shoes. He also saw submerged electrical extension cords, the affidavit says.

The informant told ICE agents that workers were not paid for the time it took to return equipment at the end of shifts, typically about 45 minutes.

The informant --who said he was paid \$7 a hour, below Oregon's minimum wage of \$7.80 --saw workers wielding large knives working near one another. He also told ICE agents that the employee bathrooms were often filthy and tagged with gang graffiti and, he reported, there was evidence of at least a dozen gang members among the Del Monte work force and drug dealing in the parking lot.

Immigration agents also interviewed a former manager-supervisor at the Del Monte plant, according to the affidavit. The manager, who left the plant in February 2006, said he heard various complaints from workers saying they were not paid for all the hours they worked. He told investigators that Del Monte refused to pay overtime.

The former manager said forklift operators were not certified or properly trained. Unqualified operators ran dangerous machinery near exposed electrical components, he said. On typical shifts, supervisors yelled at employees and threatened to fire them if they did not work harder, he said.

Rodriguez, the former worker, said most employees did not report poor conditions and long shifts to authorities for fear of losing their jobs.

"Most of them didn't have papers to work, so they had no choice; this is where they could find work," Rodriguez said. "It made me sad, because these people came here to work. The women had little kids at home to feed."

The former plant manager told investigators that managers employed by Del Monte on several occasions talked about a possible raid. If one occurred, the former manager said, Del Monte managers agreed they could claim ignorance and have American Staffing Resources "take the hit."

The raid has focused new attention on the growing staffing industry and its broad role in the nation's economy. It also has raised questions about who ultimately might be responsible for alleged immigration, work-safety and pay violations.

Federal employment laws would treat American Staffing and its client, Del Monte, as co-employers, attorneys say.

However, U.S. immigration laws allow businesses to rely on staffing firms to document that workers are in the country

legally, said Ed Lenz, senior vice president and general counsel of the American Staffing Association, a trade association.

Lenz said the sweep was not a reflection on the staffing industry, which employed 3 million workers and generated sales of \$72.3 billion last year, according to the association.

"Certainly, reputable businesses understand they can't use staffing companies as a shield to protect them from their obligations to the people assigned to them," Lenz said.

Cunningham-Parmeter, the Willamette professor, alleges agents staged the raid to retaliate against workers who filed a 2005 lawsuit alleging improper pay and unsafe conditions.

ICE spokeswoman Lorie Dankers said the professor's allegation "couldn't be further from the truth," noting that the investigation started with an April 2006 tip from a truck driver.

Wednesday afternoon, the parking lot at Del Monte was full, and the company appeared to be operating. Tuesday's bust even posed opportunities for the resourceful yet unemployed .

Michael Caruso showed up hoping to get a job as a forklift driver.

In the parking lot, Barbara Correa and her three children waited for her husband as he filled out an application. Correa said as legal immigrants from Mexico, she and her husband thought Tuesday's raid might open the doors for work.

Reporter Susan Goldsmith of The Oregonian contributed to this report.

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Graphic - The hiring process 2 photos and map

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