

Workers Try to Nail Down Back Pay

HUD Probing Alleged Violations at New Housing Project

By PAULA PARKER, Times Staff Writer

These are not good times for Mark Unterberg. The 28-year-old construction worker is facing eviction from his apartment for non-payment of rent. As he fights off bill collectors, anger and worry threaten to turn his dark, curly hair gray.

Until December, Unterberg and his friend Alan Samson worked as carpenters at Mariner's Cove, a 500-unit, federally subsidized apartment complex under construction on West Point Loma Boulevard, half a mile from Unterberg's Ocean Beach residence.

They were drawn to the project by the prospect of good wages at a time when unemployment was high and carpentry jobs hard to come by.

The U.S. Department of Labor guaranteed \$20.99-an-hour wages as part of the \$18-million project's construction financing arrangement. But Unterberg, Samson and several other carpenters who worked on Mariner's Cove were never paid at that rate by the subcontractor who hired them, Rainbow Construction Co. of Hemet.

On paper, Unterberg and Samson earned \$20.99 an hour and worked a 40-hour week.

In reality, however, they and seven other carpenters employed

by Rainbow were required to work far longer than they should have—anywhere from 10 to 30 hours or more a week in unreported overtime—in order to earn the weekly equivalent of that hourly wage, according to officials of the U.S. Department of Housing and Urban Development (HUD).

The carpenters, in written complaints filed at the office of Rep. Duncan L. Hunter (R-Coronado), accused Henry Rock, head of Rainbow Construction, of paying them anywhere from \$5 to \$15 below the federally guaranteed \$20.99 hourly wage and then falsifying payroll records so that they appeared to conform to HUD guidelines. In some cases, carpenters were listed as

laborers on Rainbow's pay sheets, moving them into a lower-paying classification so Rainbow could justify paying them below the guaranteed or "prevailing" wage, the workers said.

Not only was the pay not what it should have been, the carpenters said, but their paychecks from Rainbow frequently bounced and some never cleared the bank at all.

The Times has learned that as a result of complaints from Unterberg, Samson and other workers, HUD investigators and the U.S. attorney's office in San Diego are probing allegations of fraud by Rainbow and at least one other subcontractor at the Mariner's Cove site.

While constructed with private funds, the project is regulated by a federal labor law known as the Davis-Bacon Act that requires developers and contractors to follow predetermined wage guidelines. This is necessary because the federal government is guaranteeing most of an \$18-million construction loan to the developer. In return, low- and moderate-income occupants of 100 of the 500 units will receive federal rent subsidies under a HUD program called Section 8.

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Other San Diego County News

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"What is being investigated (are charges that) Rainbow misclassified employees, falsified the certified payrolls by under reporting the number of hours worked and misrepresenting what was actually paid" the construction workers, said Dan Oppermann, regional labor relations officer for HUD in San Francisco.

Oppermann said in a telephone interview that a total of at least \$67,000 is owed nine carpenters who were employed by Rainbow at the Mariner's Cove construction site late last year. A second subcontractor, Irri-Scape Construction Inc. of Escondido, owes \$43,000 to another group of construction workers who also worked at Mariner's Cove and were also shortchanged, he said.

Officials from Rainbow could not be reached for comment.

Oppermann said that two months ago, Rainbow paid HUD \$20,000 of the \$67,000 in back wages owed. But because Rainbow officials indicated they would appeal HUD's findings, Oppermann said, HUD has delayed distribution of that money to the workers.

A spokesman for Irri-Scape said that the \$43,000 it owes its workers has already been withheld by the general contractor for the Mariner's Cove project as part of a standard procedure whereby deposits are required of subcontractors as a safeguard against job performance problems. The spokesman declined to comment on the HUD allegations or to be identified.

Now, nearly three months after his Dec. 21 resignation from the Mariner's Cove job, and despite numerous complaints to HUD and other federal and state officials, Unterberg said he's still waiting for \$5,763 in restitution for bad checks and unpaid wages owed him by Rainbow. Samson was paid most of the money owed him but is waiting for a \$1,500 payment.

Both men said that HUD has repeatedly assured them that their complaints would be investigated and any pay owed them would be forthcoming. On several occasions, they said, HUD officials gave specific dates on which they could expect to receive their money.

But as far as Unterberg is concerned, it's still a case of "the check is in the mail."

"I'll believe it when I see it," he said when told by a reporter that Oppermann said late last week that the long-delayed checks—which represent only part of what the workers are owed—should arrive within days. "I want to have some hope but I've been let down so many times before that I'm trying not to get too hopeful."

Oppermann said HUD is well aware of the problems at the nearly completed Mariner's Cove project. So is Roland Camfield, an attorney for PBMC Inc., the general contractor overseeing construction at Mariner's Cove.

Although Rainbow and Irri-Scape are the targets of the HUD probe, federal officials say PBMC Inc. of Foster City, five miles south of San Francisco, has final responsibility for assuring that workers are paid in accordance with federal guidelines.

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Oppermann said the HUD investigation has determined that "there seemed to be no collusion on the part of PBMC to instruct Rainbow to falsify the payroll, or Irri-Scape, for that matter." However, federal investigators think there may be more subcontractors who may have violated the Davis-Bacon Act, and "there may be additional investigations opened," Oppermann said last Friday.

PBMC's attorney, Camfield, said in Los Angeles that his company "has absolutely nothing to hide" and is cooperating with HUD. "We've covered every rubber check (paid workers by the two subcontractors) that we know of," he said.

However, the matter appears far from settled.

Oppermann said HUD has received the \$20,000 that HUD investigators initially determined Rainbow owed the workers. But neither Rainbow nor PBMC has yet to forward an additional \$47,000 in wage shortages and bad checks that further investigation revealed the nine Rainbow workers were owed. Thirteen other carpenters worked for Rainbow at Mariner's Cove, but it is unclear whether they are owed money also, Oppermann said. HUD investigators are trying to reach them by mail and telephone to determine if they were underpaid.

In February, PBMC was given 30 days to pay the additional \$47,000, but the March 5 deadline has passed and the payment has yet to be made, Oppermann said.

Camfield said his client is waiting for HUD to make a

"final determination" of how many people were affected by the alleged payroll abuses and how much in back pay they are owed before it writes any more checks. "We want a final determination of what's owed by Rainbow to its employees for violations of the Davis-Bacon Act," Camfield said.

Camfield said PBMC is willing to pay the \$47,000, but if HUD's continuing investigation determines that much more is owed the workers, then PBMC must make a "business decision" on whether to pay up or appeal HUD's findings to a labor appeals board, which it is entitled to do under federal law.

But appeals could tie up the construction workers' payments for months. According to Samson, who is in touch with most of the Rainbow employees who filed complaints with Hunter's office, many of the men have given up hope of ever seeing their money.

Samson has written letter after letter to state and federal labor officials, politicians and news organizations pleading for action—not only for himself but also for his fellow workers.

But the delays, coupled with the mountain of debts that are piling up, explain why Samson has a bitter, weary look in his eye and Unterberg's hair is turning gray.

"I've had a 30-day notice posted on my door and I've had to beg my landlord to let me stay," Unterberg said. "My phone's been shut off twice and my power's been shut off." It was turned back on after he obtained one of several personal loans from friends and relatives.

Samson said he has begun to suspect that word of the complaints he raised about Rainbow and Mariner's Cove has reached other contractors and that he is being blacklisted for other construction jobs.

He has bought \$300 worth of law books trying to "figure out what our rights are and what we should do."

"The way the law reads, this should be a very simple matter," he said. "HUD takes care of it.

"HUD didn't take care of it."



LORI SHEPLER / Los Angeles Times

Carpenters Mark Unterberg, left, and Alan Samson helped build Mariner's Cove homes in background.

U.S. probes company's pay methods

Federal investigators are probing alleged irregularities in the way wages were paid by subcontractors during construction of a federally subsidized 500-unit apartment complex at Mariner's Cove.

Fred Stillions, public affairs specialist in Los Angeles for the U.S. Department of Housing and Urban Development, said the investigation

was begun after two carpenters complained that they were underpaid in violation of federal Labor Department policies while employed by Rainbow Construction Co., of Hemet.

The U.S. attorney's office also is looking into the matter.

Mark Unterberg and Alan Samson said they and other carpenters working for the company were paid from

\$5 to \$15 an hour below the federally guaranteed \$20.99 hourly wage. Also being investigated is the way payroll records were kept.

In connection with the probe, Rainbow has paid \$20,000 in back wages owed to workers, but according to Dan Oppermann, HUD regional labor relations officer in San Francisco, \$47,000 more is owed.

City Lights

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A Tree, A Rock, A Cloud

An internal memorandum issued by a landscape architect for the federal department of Housing and Urban Development (HUD) does not bode well for the Mariner's Cove housing development in Ocean Beach. Wedged between Interstate 8 and West Point Loma Boulevard, the government-financed project is almost completed, but for Robert H. Smith, proprietor of Irri-Scape Construction, the subcontractor who handled the landscaping, the job may be far from over.

The conclusion of the report, part of an extraordinary HUD investigation of the project, reads: "An extremely poor installation and inspection job has taken place on this project in regards to fine grading, irrigation, hardscape, and landscaping. For whatever reason, timely and knowledgeable installations and inspections as required by contract documents did not take place. Unfortunately, the HUD inspection system deficiencies produce similar results on many HUD projects."

The author of the report, Robert H. Shaw, a regional

landscape architect with HUD, finished his inspection a couple of weeks ago and turned in the document to a regional inspector general for HUD. Shaw had made his inspection of the site, which had been previously inspected and okayed by the regular HUD inspectors, in response to the

complaints of a pipefitter who is an employee of Irri-Scape Construction. (This worker asked that his name be withheld because he fears being blacklisted from future jobs.) "We built a slum down there," he says, referring to the project's landscaping, "and the only thing it needs now is the graffiti." The pipefitter first contacted HUD officials last November, and he says he had to withstand threats and intense harassment from other HUD inspectors and architects while he continued his complaints.

The report from Shaw seems to corroborate his points. It notes "illegal" splices in control wires, improper grading, shrub and tree holes too small and not containing required soil amendments, many broken and misdirected sprinkler heads, newly planted ground cover that was dead or dying, no fertilizer or soil amendments under much of the sod, a modification in a main pressure line by the contractor that completely changes the authorized design concept of the irrigation system, and recommends that all the sod be

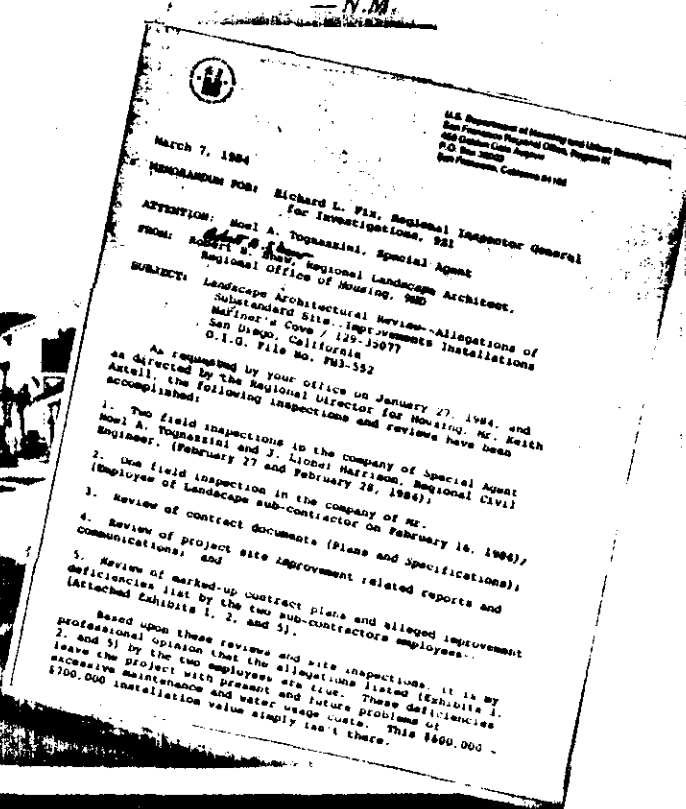
removed and replanted properly. It further recommends that "the entire [irrigation] system should be excavated circuit-by-circuit" and reinstalled according to specifications. Shaw concludes by writing, "It is my opinion that [the pipefitter] is a brave, knowledgeable and concerned worker. All of the allegations that he pointed out to me were found to be true. If allowed to remain as is, the landscaping and irrigation systems will present future risk to [HUD] in the form of increased water usage, excessive landscape and irrigation maintenance and repair costs."

The internal report hasn't reached subcontractor Robert Smith yet, but he says, "It's a bunch of unwarranted hearsay. Plenty of other inspectors have looked at it and said it's a good system. It's a politically motivated report. . . . That inspector just spot-checked a few areas." Smith, blames the report on "some disgruntled employees. . . . That job is one of the nicest in the area."

- N.M.



Mariner's Cove



HUD Charges Workers Were Cheated on Pay

By PAULA PARKER,
Times Staff Writer

Two officials of an Escondido landscaping firm were indicted Wednesday on 12 counts each, including charges of conspiracy to defraud the federal government, after a five-month probe of alleged construction worker underpayment at a federally subsidized apartment complex project in Point Loma.

U.S. Atty. Peter K. Nunez said officials of Irriscape Construction Inc. cheated workers, many of them illegal aliens, out of up to \$70,000 in wages after the firm became a subcontractor on the \$18.3-million Mariner's Cove complex, a nearly completed 500-unit low-income housing project at West Point Loma and Nimitz boulevards.

The Times first reported the investigation by Nunez's office and the U.S. Department of Housing and Urban Development (HUD) in a story last month.

Two former employees of another subcontractor, Rainbow Construction Co. of Hemet, told a reporter they and other workers had to work 10 to 30 hours of unpaid overtime a week and consequently earned far less than the \$20.99 an hour they should have been making.

HUD officials confirmed at the time that a probe of both Rainbow and Irriscape was in progress and that indictments might result. The FBI was also involved in the investigation along with the U.S. attorney's office and HUD's Inspector General office.

Other Probes

Nunez said federal investigators are conducting similar probes of other firms believed to be underpaying workers at San Diego construction sites where federal funds are involved. He said the probe involved "less than 10" contractors or subcontractors.

The Irriscape indictment names the firm's president and chief operating officer, Robert Henking Smith, 23, of Escondido; and foreman, Karl Lance Scott, 46, of El Cajon, as well as the company itself.

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PAY: 2 Officials of Firm Indicted

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Warrants for their arrests were issued Wednesday.

Authorities are attempting to contact Scott, and Smith has agreed to appear in court Friday for arraignment, Nunez said. If convicted on all counts, both men face prison terms of up to 15 years and \$25,000 in fines. The indictment is the first of its kind involving local wage fraud, Nunez said.

The federal government is involved in the investigation because the project, while built with private funds, is being financed through an arrangement in which HUD guaranteed most of the \$18-million construction loan to the developer, Lincoln Property Associates.

Because of the HUD guarantee, the project is regulated by a federal labor law known as the Davis-Bacon Act that requires developers and contractors to pay "prevailing" wages for work on the project.

'Fraudulent' Payroll

The indictment alleges that Irriscape "hired illegal aliens to work on the project, paid less than prevailing wages . . . and required other laborers who were paid prevailing wages to work 50 hours a week for 40 hours pay." Irriscape submitted "false and fraudulent payroll" documents, the government said.

"Irriscape further required these

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PAY: 2 Officials Indicted

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workers to agree to be paid their wages sometimes as long as two months after they had worked on the job. Those employees who complained about this arrangement were threatened with dismissal and were told that they would be replaced by workers who would work for less," the indictment said.

The indictment said Smith and Scott "obstructed and impeded" a HUD contract compliance officer who attempted to inspect the project to determine if federal laws were being followed by telling the illegals to leave the job site when the HUD inspector was to be there. The two also told other workers to tell the HUD officer they were being paid prevailing wages, the indictment said.

Nunez said Irriscape "did not comply and did not intend to comply" with the Davis-Bacon Act, and by developing a scheme that enabled them to pay lower wages, was able to outbid other subcontractors for the job. Irriscape had a \$500,000 contract to install landscaping and irrigation equipment at the site.

Firm, 2 officers cited for underpaying crew

By Bill Ott
Staff Writer

An Escondido company and two of its officers yesterday were accused of paying undocumented aliens below the prevailing wage scale for landscaping and irrigation work on an \$18 million, federally backed low-cost housing project in San Diego.

The charges are contained in a federal grand jury indictment returned against Irriscape Construction Inc. of Escondido; Robert Henking Smith, 29, the firm's president and chief operating officer, and Karl Lance Scott, 45, also known as Kip Scott of El Cajon, a foreman.

U.S. Attorney Peter K. Nunez said Irriscape Construction was hired to install landscaping and irrigation equipment by PBMC Inc., the prime contractor at the Mariner's Cove apartment project at West Point Loma and Nimitz boulevards in the Point Loma area. The prime contractor is not the target of the charges.

The indictment against the Escondido firm and its two officers carries charges of conspiracy to defraud the federal government, making false statements on payroll certifications and obstruction of inspectors from the Department of Housing and Urban Development.

Assistant U.S. Attorney Judith F. Hayes, who presented evidence to the grand jury, said all subcontractors were required to pay predetermined prevailing wages because the \$18 million loan to the developer, Lincoln Property Associates, was guaranteed by the Department of Housing and Urban Development.

The indictment alleges that Irriscape Construction hired aliens to work on the project at less than prevailing wages. It also is alleged that some of the laborers were required to work 50 hours a week for 40 hours' pay. In addition, some workers purportedly had to agree to wait as long as two months for their pay after

completing their work. Hayes said employees who complained were threatened with dismissal.

The indictment alleges that Irriscape submitted false statements to the federal government, certifying that workers had been paid prevailing wages. The two officers of Irriscape are accused of obstructing HUD by ordering underpaid workers to leave the job site when government inspectors arrived.

Nunez said the indictment is the result of a five-month investigation by the inspector general's office of HUD, the Department of Labor and the FBI.

He said Irriscape's subcontract was for about \$500,000. While it is difficult to pin down the exact savings the company realized by underpaying workers, the amount has been estimated at \$50,000 to \$70,000, Nunez said.

He added that Irriscape was able to underbid com-

petitors for the contract by wrongly cutting labor costs.

The investigation began after receipt of complaints about workers being underpaid in violation of federal labor policies, Nunez said. Some time ago, two carpenters complained that they had been paid from \$5 to \$15 below the federally guaranteed \$20.99 hourly rate they were supposed to be paid. That complaint was directed against a subcontractor from Hemet, who eventually paid \$20,000 in back wages owed to workers.

Nunez said investigators could not determine an exact number of undocumented aliens involved in charges against Irriscape because of turnover in the work force. He said some U.S. citizens also were involved in allegations of being underpaid. Nunez said work on the housing project began in December 1982 and is now virtually complete.

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S.D. Union

Diego, Thursday, April 5, 1984

Company charged with underpaying workers

By William Polk
Tribune Staff Writer

An Escondido landscaping business and two of its principals have been indicted on charges of fraud and violations of federal prevailing-wage standards on a government-backed, low-cost housing project.

Named in a 12-count indictment returned yesterday are Irriscape Construction Inc., located on Sunrise Mountain Drive in Escondido; company president and chief executive officer Robert Henking Smith, 29, also of Sunrise

Mountain Drive, and Karl Lance Scott, 45, of the 1000 block of Redwood Avenue, El Cajon.

The defendants are accused of underpaying their employees by \$50,000 to \$70,000 for work on the 500-unit Marina Cove apartment project at the intersection of West Point Loma and Nimitz boulevards in San Diego.

Irriscape was hired as a subcontractor on the \$18.3 million project and was assigned to install a landscaping and irrigation system under a \$500,000 contract.

U.S. Attorney Peter K. Nunez said Irriscape was hired

by the prime contractor on the project, P.B.M.C. Inc., which was not the focus of any government charges.

"Because the government guaranteed the \$18.3 million construction loan to the project's developer, Lincoln Property Associates," Nunez said, "all subcontractors were required to pay predetermined prevailing wages (for specific crafts and specialties)."

The indictment charges that Irriscape not only underpaid workers, but required some workers to work 50 hours for 40 hours' pay.

More Indictments On The Way, Says U.S. Atty.

By DAVID WHITWER

SAN DIEGO DAILY TRANSCRIPT Staff Writer

The first of a series of indictments against contractors working on federally financed projects was handed out Wednesday — and more may come.

The United States Atty.'s office here, after a five-month investigation, said the 12-count criminal indictment against Irriscape Construction of Escondido is the first of a "continuing probe into corruption in the construction industry on federally involved projects," according to a press release.

"There will be a series of these cases coming through in the next two months," said Judith Hayes, assistant U.S. Atty. "There are other cases this department is looking into. The Dept. of Labor is continuing the investigation."

The joint probe by the Inspector General for the Department of Housing and Urban Development (HUD) and the Labor Department is investigating "in the area of 10" contractors and subcontractors for prevailing wage violations, Hayes said.

Investigations Continue

Robert Smith, 29, of 1208 Sunrise Mountain Drive in Escondido, and Karl Scott, 45, of 1020 Redwood Ave., Apt. D-2, in El Cajon, principals of Irriscape, are alleged to have hired illegal aliens, paid less than prevailing wages and worked employees paid the prevailing wage 50 hours for 40 hours pay on the low-income, 500-unit Mariner's Cove Apartment Project.

The developers of the apartment project, Lincoln Property Associates, obtained a \$18,300,000 construction loan that was guaranteed by the Department of Housing and Urban Development. Contractors on federal projects are required to pay a predetermined prevailing wage rate under the Davis-Bacon Act.

Other offenses alleged of Irriscape, a landscape and irrigation subcontractor, include requiring workers to agree to be paid wages two months after they performed work, submitting false and fraudulent payroll certificates to the federal government and directing illegal aliens to leave the jobsite when compliance officers inspected the project.

The employees who complained about payment conditions were threatened with dismissal and were told they would be replaced by workers who would work for less, according to the indictment.

The Irriscape case is believed to involve between \$40,000 and \$70,000 in wages owed employees, she said.

Smith will appear voluntarily before U.S. Magistrate Harry McCue today at 10:30 a.m. for arraignment on the indictment. There is a bench warrant out for Scott's arrest.

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Indictments

(Continued from Page 1C)

Investigating the framing subcontractor, Rainbow Construction, and Henry Rock, the president of the firm, for not paying prevailing wages.

Eight carpenters have filed a mechanic's lien against the project for \$51,090.82 alleging nonpayment of wages.

In documents filed with U. S. Rep. Duncan Hunter, R-Coronado, the eight carpenters allege Henry Rock paid \$5 or \$10 an hour, altered time cards, threatened to fire workers who complained, paid from a checking account with insufficient funds and told one journeyman carpenter, "Don't forget, this is a HUD job. If anyone asks, you're making \$20.99 an hour," even though he was being paid \$6 an hour.

One carpenter claims his credit has been ruined. Another says he has been forced out of a house because of inability to pay rent.

The phone for Rainbow Construction in Nuevo, near

Riverside, has been disconnected.

P.B.M.C. Inc., a subsidiary of Lincoln Property Associates and the general contractor for the project, declined to comment about the indictment or investigation. "No comment. That is my orders and I won't give you my name either," said a man who answered the telephone.

Bob Hudson, an aide with Congressman Hunter's office, said, "We are pleased to see HUD and the U.S. Atty.'s office are taking these workers' complaints seriously now. The law requires contractors and subcontractors to pay certain wages on federal government jobs. It is time they are put on notice that they are going to follow the law or pay the penalties."

Each count of the 12-count indictment carries a possible maximum custody of five years. The possible maximum fine for each person is \$110,000, said Hayes.

Also, on the same Mariner's Cove project the Transcript has learned that the Labor Dept. is in-

S.D. TRANSCRIPT

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BEACON



APRIL 15, 1984

THE PENINSULA COMMUNITY NEWSPAPER

PL 3 NO. 29

All is not well at Mariner's Cove

by: Dorette Jackson

A highly controversial development of prime tideland in our community for "much needed" low-income housing, which not only has greatly contributed to an already congested traffic flow, has just recently been uncovered as an example of irresponsible fiscal disbursement of HUD funds. Mariner's Cove housing development, known in the trade as "The Sandcastle" (Pueblo Lot 212, Site 17) subsidized by the Department of Housing and Urban Development, is regulated by a federal labor law, known as the Davis-Bacon Act, which requires developers and contractors to pay "prevailing" wages for work on the project.

Job scarcity being what it is, a 500-unit project seemed to be a heaven-sent opportunity for skilled and unskilled construction workers alike. Prevailing wages for jobs such as a finish carpenter are \$20.99 per hour.

For almost a year, word has been bruited about that all was not well at Mariner's Cove. Workers were hired and fired almost continuously. Worker's wages, offered verbally, did not match wages received. HUD (the San Diego office) inspectors, requested to investigate alleged discrepancies in hiring practices, perfunctorily went on site to investigate the situation. Workers interviewed, with their job on the line, had

Thanks partly to the courage and integrity of two carpenters Alan Samson and Mark Unterberg, of the Rainbow Construction Company, HUD was contacted again in September of 1983, told of the violations and requested to send another inspector.

In March of this year, Alan who had contacted the L.A. Times, told the Beacon, "I'm tired of not getting results and I'm running out of patience and money to pay the bills. It's been rough, I'm feeling very much alone. I have no support, I'm stuck, they really let us down."

Rainbow Construction Company of Hemet, is now under investigation by the U.S. Attorney's office, the FBI and HUD's Inspector General's office.

At this printing, Fred Stillions from the HUD Los Angeles office, stated in a telephone interview, that over 50 complaints have been received, but only one third or so have been formal written statements. There seems to be a willingness on the part of PBMC, general contractor of the project, to pay up. HUD is anxious to pursue the claims and to proceed with payments to the workers, but HUD needs to present the bottom line to PBMC. Until all claims are filed, HUD is withholding the funds. Attorneys on both sides are hoping for a speedy and expeditious solution, reaching an equitable solution.

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Victims of the two contractors need to come forth, so as not to penalize the ones who already have, by delaying overdue payment. If any local residents, (and there are many), have questions on how to proceed with a valid deposition, they are urged to call Alan Samson at 229-0712. If necessary a meeting can be called to clarify positions or violations incurred. David Walker, from All Souls Episcopal Church, expressed concern and offered assistance.

Sufficient evidence has been uncovered to enable U.S. Attorney Nunez to hand down indictments on 12 counts to the Iriescape Construction Inc., who not only submitted a false and fraudulent payroll, but also hired illegal aliens, who had been told to run from the construction site if any "snoopers" showed up. U.S. Attorney Nunez stated that Iriescape did not comply and did not intend to comply.

Homes/Financial

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Alan Samson, left, and Mark Staroberg in front of the apartments they and others helped build, but didn't get fully paid for.

Subcontractors hit with charges

By Richard Spaulding

ONE SUBCONTRACTOR ON A city-federal apartment project here has been indicted for payroll irregularities and at least one other has been the subject of a five-month long federal investigation.

A federal grand jury handed down last month a 15-count indictment against Irricape Construction Inc. of Escondido and two of its officers for paying below the mandated wage, filing false payroll statements and obstructing inspectors from the Department of Housing and Urban Development.

Irricape, the landscape and irrigation contractor on the 300-unit Mariner's Cove apartment project on West Point Lane, Escondido, is also accused of hiring illegal aliens and making some of them agree to work as long as five months for their pay.

Another subcontractor on the project, Rainbow Construction Co. of Norco, has been under federal investigation since December. The company, which installed doors and cabinets at Mariner's Cove, has been accused by former employees of filing false payroll statements, harassing psychics and, finally, not paying them at all for work done.

Assistant U.S. Attorney Judith Hayes, who is directing the investigation here for HUD, declined to say whether the charges against Rainbow Construction or its owner, Henry Beck of Norco, have been presented to the federal grand jury.

Beck was unavailable for comment. Alan Samson, a carpenter, is one of some former employees of Rainbow Construction that have filed nearly 500,000 in claims with HUD against the company for wages not paid last November and December.

Samson, whose claims total \$1,155, also said he had been told by HUD officials three months ago that the general contractor on Mariner's Cove,

FBMC Inc. of Foster City, had agreed to honor all claims against Rainbow at full value, but wants HUD to indemnify it from any further claims. Samson said HUD has refused, tying up back wages badly needed by the former workers.

The point is crucial, Samson said, because several workers feel they lost at least another \$10,000 each in wages by not being able to finish the third and last phase of the project, having been forced to quit because they weren't being paid.

Samson also said that more is involved than just back and lost wages. Under federal law, he said, the employees are also due substantial penalty payments.

To that end, Samson said, he has filed a \$240,000 wage and penalty claim against FBMC's construction loan. And that claim, he added, does not include Rainbow's liabilities under state law. Together, he said, it *Please see SPARKLING, C-1*

By Kenneth R. Harney

Despite some confusion in the mortgage marketplace this spring about what makes economic sense — and what's desirable — for home buyers and refinancees, it's possible to come up with solid guidelines that should work for you.

Here are some savvy pieces of advice, distilled from conversations last week with a panel of four top national mortgage-market executives.

● Look hard for three-year adjustable loans in the coming 30 days that carry rates under 12 percent and come with prepayment or rate "caps." They are the poster child



choice for the best middle-of-the-road financing but this spring.

● Lock up the true "bargain, one-year adjustable" while they're hot. But avoid impetuosity like the plague. The wrong adjustable-rate mortgage in 1984 could put you on the street in 1985.

● Watch for the return of discounted 15- and 20-year fixed-rate mortgages. Some lenders and builders are gearing up programs to push fixed-rates later

this spring, like they pushed discount-adjustables last year. A 15.25 percent, fixed-rate loan — with no built-in balloon or balloon attached — could give you peace of mind, no matter where rates go in 1985.

● Modest income, first-time purchasers should put in phone calls to their local or state housing agencies to check on plans for possible start-ups of cut-rate, tax-exempt, home-buyer bond programs. Congress should be through with tax legislation in June that restructures single-family housing bonds. That, in turn, could mean a new wave of cut-rate home loans in the 10 percent range. *Please see HARNEY, C-1*

Guide offered for buyer, refinancee

Garden's snow has Aussie roots

By Allison Voss

Special to The Tribune

California is supposed to have weather to suit everyone all year-round. Theoretically, on a single weekend you could go surfing, camping in the desert or skiing.

Finding snow in summer, however, is sometimes a little difficult. Usually you can see it on San Geronimo and San Jacinto mountains, and at Quail Botanical Gardens. But if you are coming to Quail, don't bring your skis.

No sking down the hillside there. *Metaleuca linarifolia*, or Snow-in-Summer, is one of more



than 100 species of the genus *Metaleuca* that are native, with a few exceptions, to Australia. Quail has six species of *Metaleuca* in their collection.

The genus name comes from the Greek "metala," meaning black, and "leuca," meaning white, and refers to the black and white trunk of *M. linarifolia*.

Metaleuca are evergreen shrubs or trees with narrow,

leathery, sometimes needlelike, leaves. The stiffest flowers occur in heads or cylindrical spikes. Colors range from white through purple, with a vivid chartreuse thrown in. All species are attractive to nectar feeders.

Some *Metaleuca* are called bottle-brushes because of the shape of the flower heads, although the name is more commonly given to *Callistemon* (a related genus, also from Australia). After blooming they form decorative, woody seed capsules around the twigs and branches.

Metaleuca are excellent landscape materials for a dryish, Mediterranean-type climate. *Please see GARDEN, C-1*

Inside Homes

Some new books offer a variety subjects pertinent to people who live in compact spaces. PAGE C-7

There are a lot of happenings going on in the San Diego real-estate scene. Check it out. PAGE C-8

"Transactors" in Japan keep pace with U.S. in computer-age real-estate practices. PAGE C-10

Subcontractors hit with charges

By Richard Spaulding
Tribune Real Estate Editor

ONE SUBCONTRACTOR ON A city-federal apartment project here has been indicted for payroll irregularities, and at least one other has been the subject of a five-month long federal investigation.

A federal grand jury handed down last month a 12-count indictment against Irriscape Construction Inc. of Esccondido and two of its officers for paying below the mandated wage, filing false payroll statements and obstructing inspectors from the Department of Housing and Urban Development.

Irriscape, the landscape and irrigation contractor on the 800-unit Mariner's Cove apartment project on West Point Loma Boulevard, is also accused of hiring illegal aliens and making some of them agree to wait as long as two months for their pay.

Another subcontractor on the project, Rainbow Construction Co. of Nuevo, has been under federal investigation since December. The company, which installed doors and cabinets at Mariner's Cove, has been accused by former employees of filing false payroll statements, bouncing paychecks and, finally, not paying them at all for work done.

Assistant U.S. Attorney Judith Hayes, who is directing the investigation here for HUD, declined to say whether the charges against Rainbow Construction or its owner, Henry Rock of Hemet, have been presented to the federal grand jury.

Rock was unavailable for comment.

Alan Samson, a carpenter, is one of nine former employees of Rainbow Construction that have filed nearly \$80,000 in claims with HUD against the company for wages not paid last November and December.

Samson, whose claim totals \$11,535, also said he had been told by HUD officials three months ago that the general contractor on Mariner's Cove,

PBMC Inc. of Foster City, had agreed to honor all claims against Rainbow at full value, but wants HUD to indemnify it from any further claims. Samson said HUD has refused, tying up back wages badly needed by the former workers.

The point is crucial, Samson said, because several workers feel they lost at least another \$10,000 each in wages by not being able to finish the third and last phase of the project, having been forced to quit because they weren't being paid.

Samson also said that more is involved than just back and lost wages. Under federal law, he said, the employees are also due substantial penalty payments.

To that end, Samson said, he has filed a \$948,000 wage and penalty claim against PBMC's construction loan. And that claim, he added, does not include Rainbow's liabilities under state law. Together, he said, it

Please see SPALDING, C-4

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★Spaulding

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could run into "big bucks."

Mariner's Cove seemed like the perfect project, a marriage of city-leased land, federally backed financing and private development and management providing 500 badly needed apartment units, many for low- and middle-income families. It is located at the northeast corner of West Point Loma and Nimitz boulevards.

The general contractor on the project was PBMC of Foster City, a unit of Lincoln Property Co.

Financing for the project was provided by a Security Pacific National Bank loan of \$18.3 million with a low interest rate underwritten by the federal Department of Housing & Development (HUD).

Construction, which began last July, has been completed, and most of the units are occupied.

The problem is that Rain-

of 1983. Like most of the others, he finally quit Dec. 16. Johnston, 33, said he was "paid under the table" at \$5 an hour for his first week. The payment was by check, he said, and no withholding or taxes were taken out.

In his second week, Johnston said, Rock said he would have to take taxes out of his paycheck and to compensate would give Johnston a \$5 raise.

It wasn't until three weeks later that Johnston learned the prevailing wage for carpentry was a federally mandated \$20.99 an hour because it was a HUD job.

When he approached Rock, Johnston said he was told, "Sure, I'll pay it (the \$20.99) this week, but I can't use you next week."

"In other words," Johnston said, "I was fired." So Johnston said he continued to work for the lower wage.

The last good paycheck he got from Rock, Johnston

Rock always had an excuse, Specht said. Once it was because of a flat tire. Another time Rock said his barn burned down and all his records were lost. "He even showed us the newspaper clipping," Specht said.

The only reason he and the others stayed despite not being paid, Specht said, was because it was a HUD project and they believed their pay was guaranteed.

So far, Specht said, "my bank has been real mellow with me" and his landlord has been "super good."

The episode with Rock has been tough for Bill McColl, 42, who is married with two children. He has filed a 1981 claim with the state's Department of Labor Standards Enforcement for bounced paychecks and a \$3,380 claim with HUD for wages not paid. He worked for Rock from early September until Thanksgiving and was hired at the full wage of \$20.99 an hour.

'Rock would give us a check, but it wouldn't be any good. He would pay us on Friday and then ask us to hang on to it until Tuesday or Wednesday. But every time it rolled around, there wasn't any money anyway'

bow and owner Rock underbid the project badly, according to Mark Unterberg, one of the unpaid carpenters.

Unterberg said he was told by Rock that the job was bid on a piece-price basis, guessing it would cost a certain amount for each carpenter to put in each door. Under the federal Davis-Bacon Act, HUD has required a \$20.99 hourly wage for carpenters.

Unterberg said Rock set quotas that required many overtime hours, but then told him to only turn in a weekly 40-hour time card at \$20.99 an hour. If he didn't like the arrangement, Unterberg said, he was told he would be fired.

Other carpenters who have worked at Mariner's Cove have suffered the same fate. All are deeply in debt because they worked for Rainbow Construction Co. and believed in Rainbow's owner.

Don Johnston's story is typical of those who started to work for Rock in the fall

said, was for the final week of October. After that, he said, "Rock would give us a check, but it wouldn't be any good. He would pay us on Friday and then ask us to hang on to it until Tuesday or Wednesday. But every time it rolled around, there wasn't any money anyway."

"This was my first job for Henry and quite probably it'll be my last for Henry," Johnston said.

Karl Specht, 27, who said he started at \$12.50 a hour Sept. 8 and also quit Dec. 16, claims he is owed \$6,540 for work done on Mariner's Cove in November and December. He said when he found out about the HUD requirement of \$20.99 an hour he went to Rock and was told an increase in wage would mean an increase in production, but that any overtime wouldn't be paid.

"Things started going bad after Thanksgiving," Specht said. "It was always next week, next week, next week. Things were getting pretty shaky."

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'Industrywide Problem'

Contractor Fined \$10,000 Over Falsified Records

By BILL BURRIS

SAN DIEGO DAILY TRANSCRIPT Staff Writer

Irriscape Construction Inc. of Escondido has been fined \$10,000 and its president, Robert H. Smith, ordered to perform 200 hours of volunteer work for the City of Escondido for falsification of employee work records.

Smith had pleaded guilty to two counts of employee payroll records falsification, one as an individual and one as head of the corporation, in conjunction with the firm's role as a subcontractor on the 500-unit Mariner's Cove apartments project at West Point Loma and Nimitz Boulevards in San Diego.

He was sentenced by U.S. District Court Judge William B. Enright on Monday after plea bargaining in which other charges had been dismissed by the government.

The indictment in the case against Smith; Karl "Kip" Scott, the company's foreman on the project; and Irriscape Construction included charges of conspiracy to defraud the government, making false statements on payroll certificates and obstruction of inspectors from the U.S. Department of Housing and Urban Development during their investigation.

Scott has entered a guilty plea to one count of submission of false reports to the government and is to be sentenced Oct. 1.

Because the Mariner's Cove project is for low-income residents and is partially funded by federal funds through the Department of Housing and Urban Development, contractors and subcontractors on the project are required to pay prevailing wages to their employees.

Irriscape Construction Inc., which had a subcontract for installation of landscaping and irrigation equipment on the project, is one of several local firms that have been under investigation for alleged submission of false payroll reports to HUD

Judy Hayes, assistant U.S. attorney prosecuting the case, yesterday said the investigation has shown some employees on the project had been paid prevailing wages, some had been paid for 40 hours when they had worked significantly longer and some illegal aliens had been paid \$5 per hour.

She said Irriscape Construction, because of cash flow problems, had made some payroll payments to its employees a month late — after a "draw" on the contract had been received.

Miss Hayes declined comment on the on-going investigation or testimony that has been reported given to the federal grand jury in the case.

"Failing to pay prevailing wages on government-contract jobs is an industrywide problem," she said. "Our investigation is not on this one contract, but on several."

Miss Hayes said the investigation indicates some contractors on government-funded jobs bid low, assuming that they can cut wage costs by not paying prevailing wages after they win the contract. "That provides an unfair advantage over firms who prepare their estimate with prevailing-wage figures," she said.

Alan J. Samson, a former carpenter on the Mariner's Cove project for Rainbow Construction Co., said that firm had been paying some of its carpenters \$5 to \$10 per hour when the prevailing wage is \$20.99. Many of the checks issued also "bounced" because of insufficient funds, he said.

Samson said his complaints about the practice to the company resulted in his being paid prevailing wage for the hours he had worked — and in his being terminated from his job.

His complaints to HUD and San Diego area congressmen about violations of the Davis-Bacon Act on wages and other matters since last December are believed to have helped stimulate the government's investigation of the project — and of other government-funded construction projects in San Diego County.

Before Rep. Duncan Hunter and other officials began expressing an interest in complaints filed by employees on the Mariner's Cove project, the complaints received little attention.

"This will acknowledge that you filed one of the 3,535 claims presented to the San Diego office of the Labor Commissioner in 1983," James H. Curry, regional manager for the Division of Labor Standards Enforcement, wrote Samson last February.

"The three line deputies in this office are devoting all of the time and attention possible to your claim and others," his letter said. "A hearing will be scheduled before our one hearing officer as soon as possible."

Samson's inquiries to HUD and Congressman Hunter have raised questions on whether PBMC Inc. of Foster City, which has been low bidder on many HUD-financed construction projects, and related partnerships and affiliates have been intentionally underbidding on projects — with the intent of failing to pay prevailing wages as required by the Davis-Bacon Act.

Congressional "authorization sheets" filed with Hunter's office by employees on the Mariner's Cove project indicate they were given "quotas" which required excessive overtime to complete, there were lengthy delays before they were paid with non-sufficient-funds checks and that they were terminated when they inquired about prevailing wage requirements.

**SAN DIEGO COUNTY
DIGEST**

The owner of an Escondido landscaping company was ordered Monday to perform 200 hours of community service work for the City of Escondido as part of a sentence imposed for submitting false wage certificates to the U.S. government. Robert Henking Smith's firm, Irris-Cape Construction, was fined \$10,000 by U.S. District Court Judge William Enright. Smith, the firm, and its vice president, Lance Scott, 45, all pleaded guilty to submitting false declarations to the Department of Housing and Urban Development regarding employees' wages. Smith, 29, was placed on five years' probation. Scott will be sentenced Oct. 1. Smith and Scott wrote on wage certificates that their employees were paid \$18.75 an hour, the rate required if the work is for a federally subsidized project. Many

employees actually received \$5 an hour and no overtime. Smith's attorney, Dan Zeidman, stressed that the employees knew all that before they were hired. In an agreement with prosecutors, Smith agreed to pay \$43,000 in back wages to the workers. Smith also is a co-owner of R.H.S. Plant Growers of Escondido, a wholesale nursery business.

Metro briefs

Landscape firm fined

An Escondido landscaping firm has been fined \$10,000 and its president placed on five years probation for submitting false wage certifications on a government-backed, low-cost housing project in San Diego.

U.S. District Judge William B. Enright yesterday ordered Robert Henking Smith, 29, president of the Irri-Scape Construction Inc., to do 200 hours of community service for the city of Escondido.

An indictment returned in April accused the firm, Smith and a company foreman, Karl Lance Scott, of underpaying their employees between \$50,000 and \$70,000 for work on the 500-apartment Marina Cove project at West Point Loma and Nimitz boulevards. Smith and the company pleaded guilty.

Irri-Scape, a subcontractor on the \$18 million housing project, was assigned to install landscaping and an irrigation system under a \$500,000 contract. Because the government guaranteed the construction loan, all subcontractors were required to pay prevailing wages for specific crafts. Prosecutors said the company failed to pay prevailing wages and submitted false payroll certifications to the government.

Scott Sentenced To Four Months

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Irriscape Construction foreman Karl Lance Scott has been ordered to surrender for four months' imprisonment after admitting his role in work record falsifications.

The sentence was imposed by U.S. District Judge William Enright. Scott was given a 30-month sentence, but all but four months of it was suspended by the judge.

Scott also was ordered to spend five years on probation after his release from prison. He is to turn himself in to the court tomorrow.

He was named in an indictment against the company and its president, Robert H. Smith, which charged they had defrauded the government in a federally funded housing project.

Irriscape was a subcontractor on a 500-unit apartment complex at West Point Loma and Nimitz Boulevard in San Diego. As a low-income housing project, the work was partly funded by the Department of Housing and Urban Development.

Contractors and subcontractors were required to pay workers prevailing wages. Irriscape was charged with not paying overtime and for paying undocumented workers less than others.

Scott pleaded guilty to one charge of aiding and abetting the making of false statements. Smith pleaded guilty to two counts of falsifying employee payroll records and was ordered to perform 200 hours of volunteer work in Escondido.

The company was fined \$10,000.

Eleven other counts against Smith were dismissed by Assistant U.S. Atty. Judith Hayes. Those charges included conspiracy to defraud the U.S. government, eight counts of aiding and abetting false statements and two counts of obstruction of departmental proceedings.

S.D. DAILY
TRANSCRIPT

10/8/84

Contractor indicted in wage law case

By Laura L. Castro
Staff Writer

A former San Diego contractor was indicted by a federal grand jury yesterday on 15 counts of violating a federal prevailing-wage law.

The indictment of Alan Jay Bianco, owner of Bianco Welding in Oceanside, followed a yearlong investigation into alleged violations of the Davis-Bacon Act by nine San Diego area companies, assistant U.S. attorney Eve Birmingham revealed yesterday.

That investigation concluded that 256 construction workers are owed \$712,000 in wages from nine San Diego area companies, including Bianco Welding, all of which allegedly failed to pay prevailing wages on

federal construction projects, Birmingham said.

The Davis-Bacon Act requires payment of "prevailing" wages and fringe benefits to workers employed in the construction of federal government buildings or public works. Other laws incorporate the Davis-Bacon prevailing-wage requirement for federally assisted projects such as highways, airports, housing, hospitals and schools.

The U.S. attorney's office plans to file charges Monday against eight of the companies, including some company owners and foremen, Birmingham said.

"These people are being charged with filing false reports on the amount of money paid to workers.

They were not paying prevailing wages," she said, noting that the false statements constitute a felony under the U.S. code.

As a result of yesterday's indictment of Bianco, a warrant for his arrest will be issued Monday as well, she said. Bianco is now living in Illinois, she added.

Bianco, who was indicted on five counts of false statements and 10 counts of kickbacks, allegedly violated wage laws in 1983 when he worked as a subcontractor on a project that called for increasing security and hardening magazines containing explosives at Camp Pendleton.

Only Bianco of the nine companies has refused to settle the case without litigation, Birmingham said. Unlike

Bianco Welding, the other companies are expected to be charged with only one count of making false statements, she added.

The maximum penalty for false statements in reporting wages is a five-year prison sentence and/or a \$10,000 fine, the assistant U.S. attorney said. The maximum penalty for operating a kick-back scheme is a five year prison sentence and/or \$5,000 fine, she said. They also can be barred from bidding on other U.S. contracts for three years.

The amount of prevailing wages not paid by Bianco — \$8,392 — is the smallest single amount owed by any of the companies. The largest single amount, according to Birmingham, See Davis on Page E-2

Davis: Wage law violations alleged

Continued from E-1

is \$399,665 believed owed 86 employees who worked on a \$1.7 million project at Camp Pendleton, she said.

"In all the cases, except Bianco's, the contractors will be able to pay back the money owed to workers," Birmingham said. She said there is

not a problem with recovering the funds, because the federal agencies that contracted the projects withheld final payment on the contracts until the investigation was completed.

The Department of Labor's Office of the Inspector was the primary investigative agency into the wage law violations following complaints by several workers about the companies, Birmingham said. However, eventually the violations were investigated by the Department of Labor's Wage and Hour Division, the Federal Bureau of Investigation, the Naval Investigative Service, and the U.S. attorney's office, Birmingham said.

S.D. UNION

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East County firms accused of underpaying employees

By Jo Moreland
of The Daily Californian

The U.S. attorney's office is prosecuting three East County firms among nine area businesses accused of underpaying employees.

Two of the defendants are in El Cajon — Thomas Electric of 1154 N. Marshall Ave. and United Constructors of 702 Carlow Way. The third business is Hacienda Landscape of 3230 Kempf Ave. in Lemon Grove.

The nine construction firms are accused of paying employees less than the prevailing area wage on government contracts.

That violates the Bacon-Davis Act and gives violators a competitive edge in contract bidding, according to chief Assistant U.S. Attorney Peter Bowie.

"We found some that were not too far under the prevailing wage," said Bill Landreth, special agent with the Department of Labor, at a Monday press conference.

"But then we found some that were at the gross extremes."

He said the variation could be up to \$4 an hour, with more money possibly lost to employees, depending on their benefits. Workers were threatened to make them submit to

the low pay, investigators said.

A federal grand jury on Friday indicted Alan Jay Bianco of Bianco Welding of Oceanside on 15 counts of filing false payroll reports and taking kickbacks from public works employees.

Bianco has refused to make restitution. Bowie said the other firms have agreed to cooperate in restitution and the business officials will be surrendering themselves this week.

The government is seeking restitution of \$712,401 to 256 underpaid workers between 1982 and 1984.

Landreth said the 18-month investigation started after underpaid employees and contractors who lost bids complained.

Hacienda Landscape had a \$763,350 prime contract on Interstate 15 and a \$190,943 subcontract on Interstate 8, east of College Avenue to west of Fletcher Parkway.

Investigators said Hacienda is believed to have underpaid 86 employees \$137,577.

The federal agents said Thomas Electric, with a \$90,554 subcontract on the Golden Age Garden Apartments in San Diego, underpaid 10 employees \$21,411.

Company president Glenn Thomas also is charged with making a false report to the U.S. Department of Housing and Urban Development in certifying that the workers were paid prevailing wages in the San Diego area.

United Constructors had a \$162,000 subcontract on the Golden Age Public Housing Project, according to the investigators. They said the firm underpaid 18 employees \$24,940.

Landreth said the government intends to seek to bar all nine companies from bidding for three to five years on government contracts.

The other companies include RGR of Ramona, accused of underpaying 29 workers \$40,021 on the \$2,631,330 Montecito Village Apartments public housing project.

Baker Electrician and TWN, both of San Diego, are named as underpaying \$18,760 and \$28,780, respectively. Meredith-Worley Inc. of Vista, is accused of shortchanging employees \$399,665, and Rainbow Construction of Hemet, \$32,855.

Filing false payroll reports is punishable by up to five years in prison and a \$10,000 fine. Taking a kickback from an employee has a penalty of up to five years and \$5,000.

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U.S. cites contractors over low pay

Companies on federal jobs accused of not paying prevailing wages

By William Polk
Tribune Staff Writer

Ten people and five construction companies have been charged with violating a federal prevailing-wage law.

The law says wages prevailing in a region for a certain craft must be paid on federally funded construction jobs, Peter Bowie, chief assistant U.S. attorney, said yesterday at a news conference.

The defendants, the numbers of employees involved and the amounts the government said they were underpaid are:

● Herman Worley, Ralph Meredith, their Meredith-Worley Inc. of Vista and its foreman, Tom

Franklin; 86 employees underpaid a total of \$399,665 on a painting project at Camp Pendleton.

● Glenn Thomas, president, and his Thomas Electric in the 1100 block of North Marshall Avenue, El Cajon; 10 employees underpaid \$21,411 on a \$90,554 subcontract for work on the Golden Age Apartments on South 36th Street.

● Henry Rock, owner of Rainbow Constructors, which was not charged, of Hemet; eight employees underpaid \$32,855 on a \$525,584 subcontract for carpentry on the Mariner's Cove housing project at Nimitz and West Point Loma boulevards.

● Ramon Aguilar, a partner in uncharged Hacienda Landscape of Lemon Grove; 86 employees

underpaid \$137,577 on a \$763,350 prime contract on Interstate 15 landscaping in Miramar and Poway and on a \$190,943 subcontract on Interstate 8 from east of College Avenue to west of Fletcher Parkway.

● William Baker, former owner of uncharged Baker Electrician in the 5500 block of University Avenue; three employees underpaid \$18,760 on a \$99,850 subcontract on the \$1.5 million Cerro Pueblo housing project on Clairemont Drive.

● Michael Good, president, and Donald Buss, foreman, and RGR of Ramona; 29 workers underpaid \$40,021 on the \$2.6 million Montecito Village Apartments public housing project in Ramona.

Please see *WAGES, B-8*

★ Wages

Continued From B-1

● United Constructors in the 700 block of Carlow Way, El Cajon; 18 employees underpaid \$24,940 on a \$162,000 subcontract on the Golden Age Public Housing Project.

● TWN of San Diego; 10 employees underpaid \$28,780 on a \$129,037 contract for electrical remodeling at the Marine Corps Recruit Depot.

● The principal of another company, Alan Jay Bianco of Bianco Welding in Oceanside, was indicted Friday on five counts of falsely claiming compliance with the law and 10 counts of soliciting kickbacks in exchange for jobs reinforcing ammunition magazines and constructing security installations at Camp Pendleton.

Assistant U.S. Attorney Eve D. Bermingham said the government is

seeking \$712,401 to disburse to 256 workers in the San Diego area. She said all the contractors except Bianco, who is in Illinois, have agreed to pay.

Bermingham said the charges stem from an 18-month investigation into violations between 1982 and 1984.

Bowie said the investigation was made by the Department of Labor, the Department of Housing and Urban Development and the Naval Investigative Service.

The investigation was triggered by complaints from defendants' competitors and by employees' reports of threats of blackballing if they complained, said Bill Landreth, an agent in the inspector general's office of the Department of Labor.

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9 Contractor Firms Accused Of False Payroll Reporting

By BILL BURRIS

S. Diego Daily Transcript Real Estate Editor

U.S. Attorney Peter K. Nunez' office has filed criminal charges against nine contractor firms and their principals for alleged falsification of federal payroll reports and failure to pay "prevailing wages" as required by the Davis-Bacon Act on federally funded construction projects in San Diego County.

Assistant U.S. Attorney Eve Bermingham said the government is seeking restitution of \$712,401 to disburse to 256 underpaid workers on the projects and said filing of complaints in the cases were intentionally lumped together to call public attention to the practice.

"The workers are not the only victims," she said. "Perhaps hurt the most are honest contractors who are finding themselves unable to compete against others who are bidding low with the intent of not paying the prevailing wage as required."

Ms. Bermingham said the government also suffers from such action because employees hired at substandard wages often do not provide the same quality job as those who would be employed at the higher wage rate mandated by the federal law.

"We want local contractors to realize that the government is not going to tolerate this type of behavior," she said. "More contractors will be charged as on-going investigations are concluded."

Alan Jay Bianco of Bianco Welding in Oceanside, a principal in one of the companies, was in-

dicted by the federal grand jury last Friday on five counts of filing false payroll reports and 10 counts of taking kickbacks from public works' employees.

Bianco had held a government contract for hardening of explosives magazines and to increase security at the U.S. Marine Corps base at Camp Pendleton. Each of the five counts of filing of false payroll reports with which he is charged carries a maximum penalty of five years in prison and up to a \$10,000 fine. Each of the 10 counts of taking kickbacks carries a maximum penalty of five years and a maximum fine of \$10,000.

Bianco now is reported to have closed his business and to be living in another state — but to be represented by an Oceanside attorney in the case.

Other contractor firms and their principals charged — all of whom have agreed to plead guilty to a single count of filing false payroll reports in plea bargaining with the U.S. Attorney's office — include:

Meredith-Worley Inc. of Vista; its two principals, Ralph Meredith and Herman Worley; and one of its foremen, Tom Franklin, were accused of shortchanging 86 employees by \$399,665. It had a \$1.7 million contract for painting of various buildings at Camp Pendleton.

Thomas Electric of El Cajon was accused of underpaying 10 of its employees \$21,411 for work on the Golden Age Garden Apartments project at 740 S. 36th St., San Diego. Glenn Thomas, president, also was charged with making a

(Continued on Page 3B)

Contractors—

(Continued from Page 1B)

false report to the U.S. Department of Housing and Urban Development.

United Constructors of El Cajon, which also had a subcontract on the Golden Age Garden Apartments, was accused of underpaying 18 employees \$24,940.

Rainbow Construction owner Henry Rock of Hemet, a subcontractor for carpentry work on the Mariner's Cove project at Nimitz Boulevard and W. Point Loma Boulevard in San Diego, was accused of underpaying eight employees \$32,855.

He was arraigned yesterday afternoon before U.S. Magistrate Edward Infante, who appointed Attorney Ezekiel Cortez of Public Defenders of San Diego to represent him. Infante ordered Rock to enter a plea to his charges at 9 a.m. Feb. 11 before U.S. Senior District Court Judge Howard B. Turrentine.

Hacienda Landscape of Lemon Grove and Ramon Aguilar, one of its partners, were accused of underpaying \$137,577 to 86 employees in conjunction with that company's prime contract on Interstate 15 in the Miramar and Poway areas and a \$190,943 subcontract on Interstate 8 east of College Avenue to west of Fletcher Parkway.

William Baker, former owner of Baker Electrician on University Avenue in San Diego, was accused of underpaying \$18,760 to three employees in conjunction with a \$99,850 electrical subcontract on the \$1.5 million Cerro Pueblo housing project for low-income elderly people at 2825-45 Clairemont Dr., San Diego.

2-5-85

RGR of Ramona; its president, Mike Good; and its foreman, Don Buss, were accused of underpayment of \$40,021 to 29 workers on the \$2,631,330 Montecito Village Apartments public housing project at 1464 Montecito Road, Ramona, which was financed by the federal Department of Housing and Urban Development.

TWN was accused of underpaying \$28,780 to 10 of its employees in conjunction with its work on a \$129,037 Navy contract for electrical remodeling at the Marine Corps Recruit Depot in San Diego.

Several different times have been established for the company officials and other individuals charged to enter pleas — in conjunction with their plea bargaining — in the federal court.

Ms. Bermingham said the charges were filed following an investigation by offices of the Inspectors General of the Department of Labor and Department of Housing and Urban Development and the Labor Department's Wage and Hour Division. Assistance was provided by the FBI and Naval Investigative Service.

The Davis-Bacon Act requires that construction workers on federally financed or assisted jobs be paid prevailing area wages. The Labor Department sets the prevailing rates and is charged with monitoring compliance by contractors.

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9 Companies Accused of Underpaying Employees

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LA. TIMES
2-5-85

By BILL RITTER,
San Diego County Business Editor

Federal authorities on Monday accused nine firms and individuals of violating "prevailing wage" laws by underpaying workers at several local construction projects over a two-year period.

The firms are believed to have underpaid 256 workers a total of \$712,401 when they worked on federally contracted projects in San Diego in 1982 and 1983, according to Assistant U.S. Atty. Eve Bermingham, who coordinated the yearlong investigation.

Eight of the firms were based in San Diego at the time of the violations, she said.

Each of the companies faces one criminal charge of making a false statement to a federal department or agency, which carries a maximum prison sentence of five years and a fine of up to \$10,000.

In addition, the owner of one of the companies, Alan Jay Bianco of Bianco Welding in Oceanside, was indicted by a federal grand jury Friday on 15 charges of filing false payroll reports and taking kick-backs from public works employees.

The charges are local prosecutors' attempts to enforce the Davis-Bacon Act, passed by Congress in 1931 to guarantee that workers on federally contracted projects are paid the prevailing wage in that particular area.

The legal action is not only designed to penalize offenders and recover wages, but also to protect honest contractors from losing jobs because they pay legal wages.

"We're (also) concerned about the legitimate contractors who bid using prevailing wages and always lose out to the guy who bids low,"

Please see ACCUSED, Page 2B

ACCUSED:

Continued from Page 2A

said Bermingham. "Some contractors don't even bid anymore because they know they're going to get low-balled."

The firms had stated in documents to the Department of Labor that they were paying the prevailing wage to their workers. Instead, authorities contend, the firms

pocketed the difference.

In addition to Bianco Welding, the named firms were Meredith-Worley Inc. of Vista, Thomas Electric of El Cajon, United Constructors of El Cajon, Rainbow Construction of Hemet, Hacienda Landscape of Lemon Grove, Baker Electrician of San Diego, RGR of Ramona and TWN of San Diego.

The contracts included work on San Diego freeways, low-income housing and military facilities.

Pay: 8 firms are charged with substandard wages in county

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employees were being paid only slightly below the prevailing rate. In some cases, however, he said, the underpayments amounted to \$3 to \$4 per hour below the rate.

A Department of Labor official said the government will seek to have the firms named in the complaint prohibited from bidding on government contracts for three to five years.

Named in the complaints filed yesterday are:

● Meredith-Worley Inc. of Vista, its two major principals, Ralph Meredith and Herman Worley, and a foreman, Tom Franklin.

The company had a \$1.7-million contract to paint buildings at Camp Pendleton. The Department of Labor determined that 86 employees were underpaid \$399,665.

● Thomas Electric of El Cajon, charged in connection with its \$90,554 subcontract work on the Golden Age Garden Apartments, 740 S. 36th St., San Diego. Ten employees were allegedly underpaid \$21,411.

The firm's president, Glenn Thomas, also is charged with making a false report to the Department of Housing and Urban Development regarding the wages.

● United Constructors of El Cajon, involved in a \$162,000 subcontract on the Golden Age housing project, accused of underpaying 18 employees \$24,940.

● Henry Rock, owner of Rainbow Construction of Hemet, involved in a \$525,584 subcontract on the Mariner's Cove federally sponsored housing

project at Nimitz Boulevard and W. Point Loma Boulevard, charged with underpaying eight workers \$32,855.

● Ramon Aguilar, a principal in Hacienda Landscape of Lemon Grove, accused of underpaying 86 employees \$137,577. The firm had a \$763,350 prime contract on Freeway I-15 in the Miramar and Poway areas and a \$190,943 subcontract on Freeway I-8 east of College Avenue to west of Fletcher Parkway.

● William Baker, former owner of Baker Electrician, 5570 University Ave., charged in connection with a \$99,850 electrical subcontract on the \$1.5 million Cerro Pueblo low-income housing project for the elderly at 2825-45 Clairemont Dr. Three employees were allegedly underpaid \$40,021.

● RGR of Ramona, its president, Mike Good, and foreman, Don Buss, accused of underpaying 29 workers \$40,021. Charges involve work on the \$2.6 million Montecito Village Apartments public housing project at 1464 Montecito Road, Ramona. The project was financed by HUD.

● TWN of San Diego, in connection with a \$129,037 Navy contract for electrical work at the Marine Corps Recruit Depot. Ten employees were allegedly underpaid \$28,780.

The companies and individuals named in the complaint are charged with falsely telling the federal government that they were paying prevailing wages. The maximum penalty for false statements in reporting wages is a five-year prison sentence and a \$10,000 fine.

Assistant U.S. Attorney Eve D. Bermingham said yesterday that the

majority of firms and individuals charged have agreed to pay the back wages owed.

It will be up the judge involved to decide whether the firms and officers will still face criminal penalties even if they repay the wages owed the employees, Bermingham said.

Bowie said the charges follow an investigation by the Offices of the Inspectors General of the departments of Labor and Housing and Urban Development, with assistance from the Federal Bureau of Investigation and Naval Investigative Service.

William Landreth, an agent with the Office of Inspector General for the Department of Labor, said at the press conference that in fiscal year 1984 a total of 1,280 employees in Southern California were involved in underpayment of \$1.7 million on their wages.

Bowie said authorities are concerned not only about protecting employees but honest contractors as well — those who are precluded from winning government contracts because of low bidding by those who do not intend to pay prevailing wages.

Bianco, the Oceanside welding company owner named in Friday's indictment, is to be returned here soon from Illinois to face charges of inducing kickbacks from five of his former employees and for making false statements about the payment of some of his workers in 1983.

Bermingham said the kickbacks involve threats of loss of employment if part of the wages paid were not turned over.

8 firms face substandard pay charges

By Bill Ott
Staff Writer

The U.S. Attorney's Office yesterday charged that eight companies paid substandard wages to workers on federally funded construction projects in San Diego County.

Yesterday's criminal complaints followed a grand jury indictment returned Friday against Alan Jay Bianco, owner of Bianco Welding in Oceanside.

Chief Assistant U.S. Attorney Peter W. Bowie said at a press conference that yesterday's complaints and Friday's indictment allege that 256 construction workers are owed \$712,000 in connection with employment at the firms.

The firms are charged with violating the Davis-Bacon Act, which requires that workers on federal projects be paid at the prevailing rate of the local area.

Bowie said that in most cases the

See PAY on Page B-2

S.D. UNION - 2/5/85

9 Companies Accused of Underpaying Employees

By **BILL RITTER**,
San Diego County Business Editor

Federal authorities on Monday accused nine firms and individuals of violating "prevailing wage" laws by underpaying workers at several local construction projects over a two-year period.

The firms are believed to have underpaid 256 workers a total of \$712,401 when they worked on federally contracted projects in San Diego in 1982 and 1983, according to Assistant U.S. Atty. Eve Birmingham, who coordinated the yearlong investigation.

Eight of the firms were based in San Diego at the time of the violations, she said.

Each of the companies faces one criminal charge of making a false statement to a federal department or agency, which carries a maximum prison sentence of five years and a fine of up to \$10,000.

In addition, the owner of one of the companies, Alan Jay Bianco of Bianco Welding in Oceanside, was indicted by a federal grand jury Friday on 15 charges of filing false payroll reports and taking kickbacks from public works employees.

The charges are local prosecutors' attempts to enforce the Davis-Bacon Act, passed by Congress in 1931 to guarantee that workers on federally contracted projects are paid the prevailing wage in that particular area.

The legal action is not only designed to penalize offenders and recover wages, but also to protect honest contractors from losing jobs because they pay legal wages.

"We're (also) concerned about the legitimate contractors who bid using prevailing wages and always lose out to the guy who bids low."

Please see **ACCUSED**, Page 2B

ACCUSED:

Continued from Page 2A
said Birmingham. "Some contractors don't even bid anymore because they know they're going to get low-balled."

The firms had stated in documents to the Department of Labor that they were paying the prevailing wage to their workers. Instead, authorities contend, the firms

pocketed the difference.

In addition to Bianco Welding, the named firms were Meredith-Worley Inc. of Vista, Thomas Electric of El Cajon, United Constructors of El Cajon, Rainbow Construction of Hemet, Hacienda Landscape of Lemon Grove, Baker Electrician of San Diego, RGR of Ramona and TWN of San Diego.

The contracts included work on San Diego freeways, low-income housing and military facilities.

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(Note: this is same as #23 - 4/9/95)

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~~S.D. UNION~~

Penalty imposed in wages case

By Bill Ott
Staff Writer

The former owner of a small firm that paid substandard wages on a subcontract for electrical work at a federally funded housing project here was ordered yesterday to make restitution to three underpaid workers, was fined \$1,000 and placed on probation for three years.

U.S. District Court Judge Leland C. Nielsen imposed the penalty on William Baker, former owner of Baker Electrician.

Baker, now employed by another firm, pleaded guilty to making a false statement in certifying to federal authorities in 1982 that he was paying his workers prevailing rates of the community. In entering his plea, he voluntarily agreed to being barred from bidding on any government projects during his probation.

The criminal complaint on the false statement alleged that he underpaid three workers \$18,760 in con-

nection with a \$99,850 subcontract on the \$1.5 million Cerro Pueblo low-income housing project for the elderly at 2825-45 Clairemont Drive.

The Davis-Baker Act requires that workers on federally funded projects be paid at the prevailing rates of the local area involved.

Baker's attorney, Warren Williamson, told the court that \$21,000, representing the last payment on his former subcontract, has been withheld by the government and is sufficient to make restitution on the pay owed to the three employees.

Baker is among nine firms and individuals charged with making false statements in connection with the requirement to pay prevailing rates on federally funded projects.

In other developments yesterday, guilty pleas to false statement allegations were entered by Glenn Thomas, president of Thomas Elec-

tric in El Cajon, and by the firm itself.

Thomas and his firm were charged in connection with a \$99,554 subcontract on the Golden Age Garden Apartments, 740 S. 36th St., San Diego. Ten employees were allegedly underpaid \$21,411.

Attorney Ray Zvetina, representing Thomas, said his firm is a small, non-union shop and his bid for the work was based on non-union pay scales.

Thomas and his firm entered pleas under an agreement in which the government will file no additional charges in connection with the incident. Thomas also agreed to be barred from bidding on government work and to make restitution to employees.

He and his firm are scheduled to be sentenced on April 1.

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SAN DIEGO COUNTY
DIGEST

Two executives of East County construction firms pleaded guilty Monday to submitting false statements regarding underpayment to their workers on federally funded projects. Glenn Thomas, president of Thomas Electric of El Cajon, pleaded guilty to making a false report to the U.S. Department of Housing and Urban Development. U.S. District Judge Leland Nielsen set sentencing for April 1 for Thomas, who could be ordered to repay 10 workers the \$21,411 they were underpaid. Ramon Aguilar, identified by Assistant U.S. Atty. Eve Bermingham as a partner in Hacienda Landscape of Lemon Grove, pleaded guilty to making false statements to the U.S. Department of Labor. Aguilar underpaid 86 workers \$137,577 for work they did on Interstate 8 in the East County. He also will be sentenced in April. The firms were among nine companies charged last week with not paying their workers the prevailing wages of the local community—a requirement of the Davis-Bacon Act for federally funded projects. A third executive, William Baker of Baker Electrician of San Diego pleaded guilty Monday to making false statements in the underpayment of \$18,760 to three employees.

2-12-85

Firm fined, will make restitution for underpaying workers

One of eight area firms accused of underpaying workers on federally funded construction projects was fined \$2,500 yesterday and ordered to make restitution to the workers.

U.S. District Judge Judith N. Keep imposed the penalty on Cartel Construction, doing business as United Constructors of El Cajon.

The firm, accused of violating the federal Davis-Bacon Act, which requires that workers on federal projects be paid at the prevailing rate of the local area, pleaded guilty to making a false statement about the wages being paid.

United Constructors performed work under a \$162,000 subcontract on

the Golden Age Garden Apartments at 740 S. 36th St., in San Diego. It was accused of underpaying 18 workers about \$24,000.

Attorney Peter J. Hughes, representing the company, said \$25,000 already is on deposit to cover restitution. The amount of actual restitution is to be determined by the Department of Labor.

on government jobs for three years. Hughes told the court the 1982 incident was the firm's first venture in government contracting. The company, he said, actually lost \$52,000 on the job.

Guilty pleas also have been entered on behalf of at least three other firms, now awaiting sentencing.

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Company pleads guilty to worker underpayment

An El Cajon construction company pleaded guilty Monday to underpaying workers on a federally funded housing project, and was barred from working on government projects for the next three years.

The guilty plea came from attorney Peter Hughes, who represented United Constructors of 702 Carlow Way, which is owned by Cartell Construction Inc.

The firm's president, Armando Doblado of Spring Valley, authorized the guilty plea, according to Assistant U.S. Attorney Eve Birmingham.

U.S. District Court Judge Leland Nielsen fined the firm \$2,500, suspended an additional \$7,500 fine and ordered the firm to repay its workers, under the conditions of three years' probation.

United Constructors was accused of underpaying 18 employees \$24,940 to work on the Golden Age Public Housing Project in San Diego in July 1982. The firm was one of nine other companies in the county charged with violations of the Davis-Bacon Act on Feb. 4.

"They had never been on a federal contract before," Hughes told the judge.

The Davis-Bacon Act mandates that federally funded project workers be paid the "prevailing wages" of the local community.

"The prevailing wage was translated into piecework. It would have been almost the prevailing wage," Hughes said. "There weren't any kickbacks."

Birmingham said afterwards only the firm itself was

statement to the U.S. Department of Labor regarding underpayments of \$137,577 to 86 workers on freeway contracts on Interstate 8 in El Cajon and Interstate 15 near Poway.

Thomas and Aguilar will be sentenced on April 1 and April 22.

Owners of Meredith-Worley Inc. of Vista will be sentenced May 6 for underpayments to 86 workers on Camp Pendleton painting projects.

Baker Electrician of San Diego and former owner William Baker was fined \$1,000 last month and ordered to make restitution to three employees allegedly cheated out of \$18,760 on a Clairemont low-income housing project. The firm was also barred from future government work for three years.

charged and not its executives because the project was its first federal project and thus officials were inexperienced in determining the wages. She said this was not an aggravated case.

United Constructors worked on a low-income housing project for the elderly.

Two executives from other East County firms similarly charged pleaded guilty last month.

Glenn Thomas, president of Thomas Electric in El Cajon, pleaded guilty to making a false report to the Housing and Urban Development Department regarding \$21,411 in underpayments to 10 employees on a federal housing project.

Ramon Aguilar, a partner in Hacienda Landscape in Lemon Grove, pleaded guilty to making a false

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SAN DIEGO COUNTY
DIGEST

An El Cajon construction company pleaded guilty Monday to underpaying workers on a federally funded housing project and was barred from working on government projects for the next three years. The guilty plea came from attorney Peter Hughes, who represented United Constructors. The firm's president, Armando Doblado, of Spring Valley, authorized the guilty plea, according to Assistant U.S. Attorney Eve Birmingham. U.S. District Court Judge Leland Nielsen fined the firm \$2,500, suspended an additional \$7,500 fine, and ordered the firm to repay 18 workers \$24,940 for work on the Golden Age Public Housing Project in San Diego in July, 1982. The firm was charged with violations of the Davis-Bacon Act, which mandates that federally funded project workers be paid the "prevailing wages" of the local community.

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"They had never been on a federal contract before," Hughes told the judge.

The Davis-Bacon Act mandates that federally funded project workers be paid the "prevailing wages" of the local community.

"The prevailing wage was translated into piecework. It would have been almost the prevailing wage," Hughes said. "There was no exploitation of the people doing the work. There weren't any kickbacks."

Bermingham said afterwards only the firm itself was

charged and not its executives because the project was its first federal project and thus officials were inexperienced in determining the wages. She said this was not an aggravated case.

United Constructors worked on a low-income housing project for the elderly.

Two executives from other East County firms similarly charged pleaded guilty last month.

Glenn Thomas, president of Thomas Electric in El Cajon, pleaded guilty to making a false report to the Housing and Urban Development Department regarding \$21,411 in underpayments to 10 employees on a federal housing project.

Ramon Aguilar, a partner in Hacienda Landscape in Lemon Grove, pleaded guilty to making a false

statement to the U.S. Department of Labor regarding underpayments of \$137,577 to 86 workers on freeway contracts on Interstate 8 in El Cajon and Interstate 15 near Poway.

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(Note: this page is same as #29 - A19185)

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DAILY CALIF 3/2-85

SAN DIEGO COUNTY DIGEST

San Diego

Henry Rock, who was accused in 1984 of violating federal wage guidelines while his company worked on an \$18-million federally funded construction project, Monday was placed on five years' probation and ordered not to bid on federal contracts for three years.

Rock, who heads the Rainbow Construction Co., was also given two years by U.S. District Judge William Enright to settle a pay dispute with PBMC Inc., the prime contractor on the project.

Carpenters who worked on Mariner's Cove, a 500-unit federally subsidized apartment complex, were guaranteed wages of \$20.99 an hour by the U.S. Department of Labor. However, some carpenters were paid anywhere from \$5.99 to \$15.99 an hour by Rock. Rock was ordered to make \$32,000 in restitution to the underpaid workers.

In court, Rock produced a document showing that he had paid the money through PBMC, a Northern California construction company. Attorneys for PBMC disputed the document, and Enright gave Rock and PBMC officials two years to settle the dispute. Enright ruled that, if Rock has made restitution, he will have to pay a \$10,000 fine. If PBMC can prove that restitution has not been made, Rock will be forced to pay the \$32,000.

L.A. TIMES

4-16-85

THE BEACON

PENINSULA COMMUNITY NEWSPAPER

Ocean Beach
Point Loma
Sports Arena Area
Midway
Loma Portal

VOL. 4 NO. 7

APRIL 16, 1985

NEWSFLASHES

MARINER'S COVE CONTRACTOR SENTENCED

Henry Rock, head of Rainbow Construction Company and a subcontractor at the Mariner's Cove complex on West Point Loma Boulevard, was placed on five year's probation Monday and ordered not to bid on federal contracts for three years by U.S. District Judge Howard B. Turrentine. He was also ordered to make \$32,000 in restitution to underpaid workers.

Financing arrangements with the U.S. Department of Labor provided for prevailing wage rates for carpenters, which in this case should have been \$20.99 an hour. However, some carpenters have testified that they were paid from \$5.00 to \$15.00 per hour less.

Rock was given two years to settle a pay dispute with PBMC Inc., the prime contractor. Rock contends that he has made restitution through PBMC, an assertion disputed by the prime contractor's attorneys.

Turrentine ruled that if Rock has made restitution, he will only have to pay a \$10,000 fine. If PBMC can prove that restitution has not been made, Rock will have to pay the entire \$32,000.

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Judge 'Defers' Fine For Henry Rock

Rainbow Construction Co. owner Henry Rock, who pleaded guilty to a single count of making a false statement on prevailing wage reports in conjunction with his subcontract on the 500-unit Mariner's Cove apartments project in San Diego, has been placed on five years probation and forbidden to engage in government contracting for three years.

Senior U.S. District Court Judge Howard B. Turrentine — not wishing to interfere with possible civil litigation between PBMC Inc. of Foster City, general contractor on the project, and Rock — deferred for up to two years a possible \$10,000 fine for Rock.

Assistant U.S. Attorney Eve Birmingham said more than \$32,000 which Rock owed his employees for their work in installing doors and cabinets at Mariner's Cove has been deposited by PBMC Inc. with the U.S. Department of Labor for payment to the workers.

Turrentine's order, she said, will require Rock to pay a \$10,000 fine unless he is sued in a civil action by PBMC and ordered by a court or by the Department of Labor to make restitution of the \$32,000.

The federal probation office is to follow the case to insure that the judge's order is kept.

The Mariner's Cove project at Point Loma and Nimitz Boulevards combined city-leased land, federally backed financing and private development of 500 apartment units, a portion of which are reserved for low and middle-income occupants.

Because federal funding was used, contractors were required to pay prevailing (union-scale) wages. Several subcontractors on the project, however, were accused of paying lower wages and, in some cases, of hiring illegal aliens.

Some of Rock's employees said his firm had bid too low on the project, had issued payroll checks that bounced then had stopped issuing checks for work performed.

BILL BURRIS - R.E. EDITOR