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pesticides.

Research conducted by the Northwest Forest Worker Center out of its Medford office indicates many workers don't have adequate training or safety gear, and that they are often subject to abuses such as working under pressure to move dangerously fast for long hours without rest breaks, fear of retaliation for reporting injuries and wage theft.

Much of their work is taxpayer-funded, occurring under government contracts on public lands, such as in Ponce-Leon's case.

During a Feb. 5 Environmental Justice Task Force meeting in Salem, top state industry regulators, OSHA Administrator Michael Wood and Bureau of Labor and Industry Administrator Brad Avakian, joined an ongoing discussion on issues facing forestry and farmworkers that was brought to policymakers by advocates and workers. They were there to provide the task force with insight into what their agencies do.

They both explained while it's not their job to determine whether someone is in the country legally, it is their responsibility to ensure that all people employed in the state are treated lawfully.

But fear of retaliation makes proving some cases in forests and on farms a challenge, they agreed. Their agencies often rely on employee cooperation when they are building a case and on complaints from workers to point them in the direction of employers who are breaking the law.

While OSHA inspects for safety and health violations, BOLI enforces wage and hour violations, such as wage theft and denied rest breaks. While about 73 percent of reforestation worksite inspections by OSHA are unrelated to a complaint or injury, BOLI's enforcement is almost entirely complaint driven.

Avakian told the task force that about 15 years ago, BOLI had 14 staff dedicated to farm labor. They were out in the fields and labor housing, building relationships with immigrant farmworkers.

"We really had boots on the ground in respect to seeing what the conditions were like for workers," he said. "Through budget cuts that occurred a decade ago - we really have one person (dedicated to farms) for the entire state of Oregon right now."

He said he needs workers to report abuses to BOLI so he can file a Commissioner's Complaint, which would launch a civil rights investigation, but it's employer specific.

BOLI received 64 wage claims from the reforestation sector between 2010 and 2015 - and 111 allegations of wage violations other than unpaid wages, such as failure to provide meal and rest periods. During that same period, however, there were only three retaliation cases filed with BOLI.

The state OSHA inspector who investigated Ponce-Leon's death determined it could have resulted from a chainsaw kickback caused by any one of a number of incomplete cuts on limbs, brush and trees in his work area.

He noted other employees on the jobsite weren't cutting trees safely either, and the supervisor hadn't seemed to notice or take any corrective action.

Ultimately, OSHA cited Ponce-Leon's



A reforestation worker carries a piece of wood away from a controlled burn on private forest land that's part of the Collaboration Conservation Partnership Initiative across Southern Oregon and Northern California.

PHOTO COURTESY OF LOMAKATSI RESTORATION PROJECT



A Lomakatsi employee thins trees with a chainsaw in the Ashland Watershed.

employer, Cutting Edge Forestry Inc., for five violations at the conclusion of its investigation. Two were for not training him, which likely contributed to his death.

This month in Salem, legislators are determining whether or not to increase the state's damages cap of \$500,000 in wrongful death lawsuits.

Cutting Edge Forestry got off easy. There was no lawsuit, and it was charged \$510 in fines.

"Our penalties are the lowest penalties for a first-time violation in the country," said OSHA Administrator Michael Wood. "That's sort of a trade off against our high enforcement presence."

He said jobsites are more likely to be inspected in Oregon than in any other state,

with 3 percent of all jobsites inspected each year.

Jeff Nelson owns Cutting Edge Forestry, which was subcontracted with his brother Scott Nelson's company, Summitt Forests Inc., on the project Ponce-Leon was working on when he died. Workers for both companies were onsite that day.

In his field notes, the OSHA inspector indicated none of the workers on site were familiar with Division 7 rules - the state laws governing safe forestry activities.

Summitt Forests was also fined for violations related to Ponce-Leon's training, but also for violations cited for its employees' failure to fall trees safely at the same site, for a total of \$1,035 in penalties.

According to InsideGov, Summitt Forests has won government contracts worth \$82.7 million since 2000, and Cutting Edge's government contracts during the same period were worth \$24.6 million.

Advocates working on behalf of reforestation workers, as well as current and former forestry workers, told Street Roots they think government penalties issued to contractors who break the law are too low and equate to a slap on the wrist.

Wood said the size of the employer is one of the biggest factors in determining the size of OSHA's fine.

"Our penalties are designed to motivate employers, and it takes a lower penalty to motivate a mom and pop operation than it does a larger corporation. We would look at the severity of the potential outcomes and we'd look at the probability of injury. We also would take into account the employer's good faith effort to comply," he said.

OSHA Statewide Safety Enforcement Manger Gary Beck explained fines are predetermined by administrative rules, and if the employer has less than 25 employees, penalties can be reduced by 60 percent.

But some contractors pay their

employees under the table, so it isn't always clear how many employees they have.

Wood said while many of the fines may start low, they increase steeply when there is a repeat violation.

Street Roots reviewed all OSHA inspections of reforestation worksites and sawmills, another forestry sector that employs many immigrant workers, that were conducted over the past five years.

Among all the inspections, there were only three examples of repeat violations cited: two at Eugene-based Goshen Inc.'s Junction City sawmill and one at Goshen Forest Products LLC in Eugene.

In 2010, OSHA fined Goshen Inc.'s sawmill \$275 when an inspector observed employees failing to properly shut down equipment before performing repairs. In 2013, it was fined less, \$240, for what was categorized as a repeat of this violation. The other repeat violation, for failing to have safe guards to protect workers from hazardous machinery, went up from \$100 in 2010 to \$240 in 2013.

At Goshen Forest Products, a fine for failing to protect workers from sprocket wheels and chains went up from \$125 in 2009 to \$600 in 2011. Over the past five years, 5

percent of the state's 284 reforestation employers listed with Oregon Employment Department were inspected each year.

Some of the inspections were not of active worksites, but of the company's office and equipment storage.

The median fine for a category-serious violation, which is violation that could result in a serious injury, was \$100 among reforestation contractors. For sawmills, the median of 325 citations for "serious" violations was \$150. In some cases fines

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MICHAEL WOOD
OSHA ADMINISTRATOR

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