

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

**Board Conference Room
915 Capitol Mall, 3rd Floor
Sacramento, CA 95814**

May 28, 2003

Time: 2:00 p.m.
Members Present: Chairwoman Shiroma, Board Members Barrios and Rivera
(Member Rivera present via telephone)
Staff Present: Executive Secretary Barbosa, Board Counsels Wender,
Heyck and Murray, Analyst Massie; Law Student Interns
Autumn Gonzales, Ben Nicholson, Colleen Van Egmond and
Diana Castillo.
Staff Absent: Board Counsel Levy
Others Present:

OPEN SESSION

1. APPROVAL OF MINUTES

The Board voted 3-0 to approve the Board meeting minutes from May 21, 2003, subject to selected changes.

2. BOARD MEMBER COMMENT

None.

3. PUBLIC COMMENT

None.

4. ANNOUNCEMENTS

Farmworker Appreciation Day is scheduled for Thursday, May 29, 2003 in Mecca.

Farm Labor Contractor Training at College of the Desert in Palm Desert is scheduled for May 31, 2003.

Chairwoman Shiroma met with the Food and Agriculture Commission on May 28, 2003.

Chairwoman Shiroma met with the California Grape and Tree Fruit League on May 27, 2003.

Board Counsel Heyck made a presentation on the mandatory mediation law and the Board's regulations to the North Kern County Employer Advisory Council on May 21, 2003.

5. WEEKLY STATUS REPORT ON ELECTIONS, UNFAIR LABOR PRACTICE COMPLAINTS, HEARINGS AND COURT LITIGATION:

ELECTION REPORT:

NOTICE OF INTENT TO TAKE ACCESS AND NOTICE OF INTENT TO ORGANIZE:

None.

PENDING ELECTION MATTERS:

Milky Way Dairy, 02-RC-2-VI

The Investigative Hearing Examiner issued her decision on challenged ballots on May 20, 2003. Exceptions, if any, are due June 2, 2003. The reply is due June 12, 2003.

Gallo Vineyards, Inc., 03-RD-1-SAL

A petition to decertify the UFW was filed at Gallo Vineyards, Inc. on March 6, 2003. The election was held on March 13, 2003, however the ballots were impounded pending investigation of unfair labor practice (ULP) charges filed by the incumbent union.

On April 14, 2003, the General Counsel issued a complaint with respect to one of the charges (03-CE-9-SAL) and dismissed the other two (03-CE-10 & 11-SAL). The UFW has requested a review of the dismissal of the CE-10 case. Currently, the matter is pending resolution of this request as well as of the CE-9 Complaint.

A hearing is currently scheduled for June 9, 2003 regarding charge 03-CE-9-SAL.

Countryside Mushrooms, Inc., 03-RC-1-SAL

On May 16, 2003 the UFW filed a representation petition with the Salinas Regional Office seeking to represent the agricultural employees of Countryside Mushrooms, Inc. The employer is based in Gilroy and has approximately 70 employees. The election was held on Friday, May 23, 2003 with the following results:

UFW	28
No Union	14
Unresolved CBs	15
Total	57

The number of unresolved challenged ballots is sufficient to affect the outcome of the election. The regional director will now proceed to investigate the challenges and issue a report forthwith. Election objections, if any, are due June 2, 2003.

COMPLAINT REPORT

None.

PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED

U.S. Abalone, 01-CE-59-SAL

The pre-hearing conference is set for November 18, 2003.

The hearing is set for December 2, 2003.

NEW CASES SET FOR HEARING

None.

HEARINGS IN PROGRESS:

None.

SEVEN CASES ON CALENDAR

Gallo Vineyards, Inc., 03-CE-9-SAL

The pre-hearing conference is set for June 9, 2003.

The hearing is set for June 23, 2003.

Northend Equipment Inc., 02-CE-48-EC

The pre-hearing conference is set for June 17, 2003.

The hearing is set for June 24, 2003.

Fresh Pic Harvest, 01-CE-52-EC(R)

The pre-hearing conference is set for July 15, 2003.

The hearing is set for August 5, 2003.

Sierra Packing Co., Inc., 02-CE-40-EC.

The pre-hearing conference is set for September 16, 2003.

The hearing is set for September 30, 2003.

Sun City Growers, 02-CE-53-EC(R)

The pre-hearing conference is set for October 15, 2003.

The hearing is set for October 28, 2003.

Coastal Berry of California,

Farm Workers' Committee, 01-CL-3-SAL

The pre-hearing conference is set for November 6, 2003.

The hearing is set for November 20, 2003.

US Abalone, 01-CE-59-SAL

The pre-hearing conference is set for November 18, 2003.

The hearing is set for December 2, 2003.

TWO CASES PENDING ALJ/IHE DECISION:

Rivera Vineyard, 01-CE-317-EC(R)

The hearing closed on March 31, 2003. The post-hearing briefs were received May 16, 2003. The matter is pending the ALJ's decision.

UFW (L.E. Cooke), 00-CL-1-VI

The hearing closed on April 7, 2003. The matter is pending the filing of post hearing briefs which are due June 4, 2003.

ONE CASE PENDING EXCEPTIONS/REPLY

Milky Way Dairy, 02-RC-2-VI

Exceptions are due June 2, 2003.

Reply is due June 12, 2003.

CASES SETTLED OR RESOLVED

American Taki, Inc., 01-CE-49-SAL

The Regional Director withdrew the complaint and closed the case.

Respondent has fully complied with the terms and conditions of the informal settlement agreement.

COMPLIANCE CASES CLOSED

None.

NEW CASES TRANSFERRED TO BOARD FOR DECISION

None.

BOARD DECISIONS

None

REQUESTS UNDER MANDATORY MEDIATION AND CONCILIATION LAW

The Hess Collection Winery, Request for Mediation, Case No. 2003-MMC-01:

On May 21, 2003, the Board issued its order directing the parties to mandatory mediation and conciliation. On May 28, 2003, the California State Mediation & Conciliation Service issued its list of mediators to the parties. The matter is pending selection of a mediator by the parties.

COURT LITIGATION

McCaffrey Goldner Roses, F041479

The matter is now pending oral argument or a decision by the court.

Western Growers Association, et al., 03AS00987

The summons and complaint were served on Board Members and the Executive Secretary on February 25, 2003. A motion to intervene filed by the United Farm Workers of America, AFL-CIO and the United Food and Commercial Workers Union, Fresh Fruit & Vegetable Workers, Local 1096 was granted on April 10, 2003. On May 9, 2003, the intervening unions (the UFW and the UFCW) filed a motion for judgment on the pleadings or to dismiss. This motion generally raised the same issues as the demurrer filed by the Attorney General on behalf of the Board. On May 13, 2003, the plaintiffs in the lawsuit filed a demurrer to the intervener's complaint in intervention. The two demurrers and the motion for judgment on the pleadings are set for hearing before the court on June 24, 2003.

Pictsweet Mushroom Farms, B166260

The employer filed a petition for writ of review with the Second Appellate District Court, Division Six, seeking review of the Board's decision in Pictsweet Mushroom Farms, 29 ALRB No. 1. Counsel Murray reported that the Petitioner's opening brief is due July 14, 2003 with the Board's Response brief is due on September 27, 2003. If Petitioner wishes to file a Reply brief, it will be due October 28, 2003.

6. BUDGET AND ADMINISTRATION

(a) Information Technology and Web Site Development Project

Analyst Massie asked all Board Members and staff who have laptop computers to send the identification numbers from their machines to her. She is in the process of inventorying computer equipment.

(b) Regulations

Board Counsel Heyck reported that the proposed amendments to the Conflict of Interest Code regulations, which the Board approved on May 21, 2003, were filed with the Fair Political Practices Commission on May 27, 2003.

Board Counsel Wender reported on the status of the request to Senator Gloria Romero for a written opinion from the Legislative Counsel concerning whether SB 1198 (the Agricultural Employee Relief Fund or AERF) is subject to a broader interpretation than reflected in the adopted implementing regulations. Senator Romero's office has forwarded the request to the Legislative Counsel.

(c) Budget

The Senate budget hearing was held May 21, 2003 at 9:00 a.m.

The Assembly budget hearing was held May 22, 2003 at 10:00 a.m.

Neither hearing raised any budgetary issues involving the ALRB.

(d) Policies and Procedures

Board Member Barrios circulated an updated spreadsheet showing the progress of draft internal policies and procedures. The Board approved a memo to General Counsel Turner

regarding the external complaint procedure for regional office employees.

Board Secretary Perez reported on a building security meeting that she attended on May 22, 2003. She will provide the Department of General Services with a diagram with the names and office numbers of ALRB employees.

(e) Labor and Workforce Development Agency

Board Member Barrios circulated a summary of the most recent meeting on case management/case tracking. The Board discussed goals and needs for the case management/case tracking system.

The Board discussed the next steps involved in the memorandum of understanding with the Employment Development Department (EDD) for loaned employees.

Chairwoman Shiroma reported that Herb Shultz will now be the acting Secretary of the Labor and Workforce Development Agency.

(f) Strategic Plan

Chairwoman Shiroma will circulate a draft updated strategic plan shortly.

(g) Annual Report

None.

7. OUTREACH PROJECT

(a) Novela

None.

(b) Brochures

None.

8. LEGISLATION:

Board Counsel Wender reported on the following pending legislation:

Senate Bill 75 (Burton)--Agricultural Labor Relations

This bill would require the Board, by July 1, 2004, to compile a list of all certified labor organizations that have not obtained a

collective bargaining agreement with the employer of the agricultural employees represented by the labor organization and to post the list, along with specified information, on the board's Web site. This bill would further require the board, by July 1, 2004, to advise each labor organization on the list and each respective employer of their rights and responsibilities under those provisions of the Labor Code providing for mandatory mediation to achieve a collective bargaining agreement.

On May 22, 2003, the bill passed out of the Assembly Committee on Labor and Employment and was re-referred to the Committee on Appropriations. The bill is set for hearing May 29, 2003.

State Constitutional Amendment 1 (Burton)—Access to government information

This measure would provide that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. It would provide that, except as otherwise provided in the California Constitution, the people have a right to attend, observe, and be heard in the meetings of elected and appointed public bodies, and to inspect and obtain copies of records made or received in connection with the official business of any public body, agency, officer, or employee, or anyone acting on behalf of a public body, agency, officer, or employee.

This measure also would provide that nothing in its provisions supersedes the right to privacy guaranteed by the California Constitution, or limits the ability of the Legislature to provide by statute, or the Judicial Council to provide by rule not inconsistent with statute, for the protection of personal privacy.

On May 27, 2003, the measure was read second time, amended, and re-referred to Committee on Appropriations. The amendment specified that bill would not supersede or modify any provision of the California Constitution, including the guarantee of due process and equal protection.

Board Counsel Wender reported that there were no changes in the following pending legislation:

- Senate Bill 796 (Dunn)—Employment
- Assembly Bill 1722 (Committee on Labor and Employment)—Agricultural Labor Relations Board

- Assembly Bill 556 (Strickland)—State Boards and Commissions: salaries: suspension
- Senate Bill X1 1 (Poochigian)—State Economy: Suspension of Statutes

9. PERSONNEL

None.

10. COMPLIANCE

None.

11. FUTURE AGENDA REVIEW

None.

12. PUBLIC MEETING ADJOURNED AT: 3:45 p.m.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION