

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

July 2, 2003

Time: 10:00 a.m.
Members Present: Chairwoman Shiroma, Board Members Barrios and Rivera
Staff Present: Executive Secretary Barbosa , Board Counsels Wender, Heyck and Murray, Analyst Massie, Law Student Interns Colleen Van Egmond, Ben Nicholson and Autumn Gonzales.
Staff Absent:
Others Present:

OPEN SESSION

1. APPROVAL OF MINUTES

The Board voted 3-0 to approve the Board meeting minutes from June 25, 2003.

2. BOARD MEMBER COMMENT

None.

3. PUBLIC COMMENT

None.

4. ANNOUNCEMENTS

There will be a memorial service for Enrique Gastelum on Wednesday, July 2, 2003 at Hems Brothers Mortuary in El Centro at 1975 S. 4th Street, from 6 p.m. to 8 p.m. Mr. Gastelum was with the ALRB for over twenty years.

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. Both the employer and petitioner filed exceptions to her decision on June 2, 2003. The reply from the employer was received on June 12, 2003. No reply was received from the petitioner. The matter is pending before the Board on decision.

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.

The hearing on charge 03-CE-9-SAL is still in progress and will conclude on July 3, 2003.

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 unresolved challenged ballots were sufficient to affect the results of the election so the RD investigated the challenges. The regional director issued his report on challenged ballots on July 1, 2003. The RD sustained 14 challenges and resolved 1 challenge (i.e., RD unable to determine whether the work performed by one employee was agricultural or non-agricultural and therefore recommend that this issue be resolved by a hearing on the matter should his ballot be outcome determinative). Exceptions are due July 9, 2003. Neither party filed election objections so the final tally will determine whether the UFW or No Union choice obtained a majority vote.

Inland Empire CA Ranch DBA Costa Dairy Farms, 03-RC-1-VI

On June 18, 2003 the UFCW filed a representation petition with the Visalia Regional Office seeking to represent the agricultural employees of Inland Empire CA Ranch DBA Costa Dairy Farms. The employer is a dairy based in Wasco and has approximately 40 employees. The election was held on June 25, 2003 with the following results:

UFCW	24
No Union	13
Unresolved CBs	2
Total	39

Election objections, if any, are due July 2, 2003.

COMPLAINT REPORT

None.

PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED

None.

NEW CASES SET FOR HEARING

None.

HEARINGS IN PROGRESS:

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

The hearing commenced on June 23, 2003 and is anticipated to end on July 3, 2003.

FIVE CASES ON CALENDAR

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.

Maria G. Duran, Farm Labor Contractor, 01-CE-606-EC(R)

The pre-hearing conference is set for November 17, 2003.
The hearing is set for December 9, 2003.

ONE CASE PENDING ALJ DECISION:

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

The hearing closed on April 7, 2003. The post hearing briefs were received June 4, 2003. The matter is pending the ALJ's decision.

NO ALJ/IHE DECISIONS HAVE ISSUED

ONE CASE PENDING EXCEPTIONS OR REPLY:

Rivera Vineyards et al., 01-CE-317-EC(R)

Exceptions due July 14, 2003.

Reply briefs due July 28, 2003.

CASES SETTLED OR RESOLVED

Fresh Pic Harvest, LLC et al., 01-CE-52-EC(R)

Regional Director withdrew the complaint.

Gilbert Gomez et al., 01-CE214-EC(R)

The Regional Director closed the case as the respondent complied with all the provisions of the bilateral settlement agreement. The case involved the discharge of 12 employees who were fired because of their participation in protected concerted activities. All twelve were reinstated and together received \$6,624.

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 (CSMCS) issued its list of mediators to the parties. On June 6, 2003 the parties informed the CSMCS that they had selected a mediator.

COURT LITIGATION

McCaffrey Goldner Roses, F041479

On June 12, 2003 the court summarily denied the petition for review. The petitioner did not seek review of this ruling and the litigation has now been concluded. The case was released for compliance on July 1, 2003.

Western Growers Association, et al., 03AS00987

The plaintiffs will be appearing ex parte on July 2, 2003 at 1:45 in Department 54 to ask for shortened time on a motion for reconsideration of the demurrer ruling. They will ask that a hearing on the reconsideration motion be set for July 10, 2003, with the ALRB's opposition due July 8, 2003 and no reply.

6. BUDGET AND ADMINISTRATION

(a) **Information Technology:**

Analyst Massie will be conducting an inventory of the agency's computer equipment for purposes of the operational recovery plan.

(b) **Regulations:**

The Board discussed several suggested changes that the Fair Political Practices Commission has made in reviewing the ALRB's proposed amendments to the agency's conflict of interest code.

Board Member Rivera reported that the 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 is still pending.

(c) **Budget:**

The Board discussed the most recent announcements concerning the State budget crisis.

Carrie Nevans will meet with the General Counsel staff and the Board on July 2, 2003 at 2:30 p.m. to work on follow-up budget matters.

- (d) **Policies and Procedures:**
Board Member Barrios gave an update on the agency's revised operational recovery plan.
- (e) **Labor and Workforce Development Agency:**
Board Member Barrios gave an update on the case tracking system.
- (f) **Strategic Plan:**
No new updates.
- (g) **Board Visit to Visalia and Salinas:**
The Board is postponing its visit to the Visalia regional office as staff is involved with significant organizational activity in the region. The Board discussed a visit to the Salinas regional office on August 11 and 12, 2003.
- (h) **Regional Directors' Quarterly Meeting:**
Will be held at 10:00 a.m. on July 16, 2003 by teleconference.

7. OUTREACH PROJECT

- (a) **Novela**
No new activity.
- (b) **Brochures**
No new activity.

8. LEGISLATION:

Board Counsel Wender reported on the following pending legislation:

SB 796 (Dunn) Employment:

Under existing law, the Labor and Workforce Development Agency and its departments, divisions, commissions, boards, agencies, or employees may assess and collect penalties for violations of the Labor Code. This bill would allow aggrieved employees to bring civil actions to recover these penalties, if the agency or its departments, divisions, commissions, boards, agencies, or employees do not do so. The penalties collected in these actions would be distributed 50% to the General Fund, 25% to the agency for education, to be available for expenditure upon

appropriation by the Legislature, and 25% to the aggrieved employee, except that if the person does not employ one or more persons, the penalties would be distributed 50% to the General Fund and 50% to the agency. In addition, the aggrieved employee would be authorized to recover attorney's fees and costs. For any violation of the code for which no civil penalty is otherwise established, the bill would establish a civil penalty.

On June 26, 2003 the bill was passed by the Judicial Committee and re-referred to the Labor and Employment Committee. A hearing is set for July 9, 2003 before the Labor and Employment Committee.

S.C.A. 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 June 30, 2003 the measure was read and adopted by the Senate (34-0). The measure passed to the Assembly.

S.B. 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 June 26, the matter was set for hearing on July 2, 2003 before the Assembly Committee on Appropriations.

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

- Assembly Bill 1722 (Committee on Labor and Employment)—Agricultural Labor Relations Board
- Assembly Bill 556 (Strickland)—State Boards and Commissions: salaries: suspension

9. PERSONNEL

None.

10. COMPLIANCE

Executive Secretary Barbosa reported that the backpay specifications in the Hess Collection matter is pending before the General Counsel.

11. FUTURE AGENDA REVIEW

During the week of July 14, 2003, the Board's regular public meeting will be held on Tuesday, July 15 at 10:00 a.m.

12. PUBLIC MEETING ADJOURNED AT: 11:15 a.m.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION.

THE BOARD RECONVENED IN OPEN SESSION AT 2:30 P.M.

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Staff Present: Executive Secretary Barbosa, Deputy General Counsel
Sobel, Finance Officers Davis and Nevans

OPEN SESSION

BUDGET:

The Board discussed end of year budget matters.

PUBLIC MEETING ADJOURNED AT: 3:30 P.M.