

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

July 15, 2003

Time: 1:30 p.m.
Members Present: Chairwoman Shiroma, Board Members Barrios and Rivera
Staff Present: Executive Secretary Barbosa, Board Counsel Heyck, Analyst
Massie.
Staff Absent: Board Counsels Wender and Murray.
Others Present:

OPEN SESSION

1. APPROVAL OF MINUTES

The Board voted 3-0 to approve the Board meeting minutes from July 9, 2003.

2. BOARD MEMBER COMMENT

None.

3. PUBLIC COMMENT

None.

4. ANNOUNCEMENTS

None.

**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 employer filed its reply on June 12, 2003. No reply was received from the petitioner. The matter is pending before the Board.

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 General Counsel overturned the dismissal of the CE-10 case. Currently, the matter is pending resolution of the CE-9 Complaint.

The hearing on charge 03-CE-9-SAL ended on Thursday, July 3, 2003. The matter is pending receipt of the transcripts and submission of post-hearing briefs.

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. Neither party filed

election exceptions to his report so the Regional Director issued a final tally of ballots on July 10, 2003. Since the tally revealed that the UFW received a majority of the valid ballots cast and since neither party timely filed objections to the election, the Executive Secretary issued a certification of representative on July 11, 2003.

Garroutte Farms, 03-NA-3-SAL, 03-NO-3-SAL and 03-RC-2-SAL
The UFW filed a representation petition with the Salinas Regional Office on July 8, 2003 seeking to represent the agricultural employees of Garroutte Farms. The employer, who is located in Watsonville and grows strawberries, has approximately 300 employees. The election is scheduled on July 15, 2003 from 7:00 a.m. to 6:00 p.m.

COMPLAINT REPORT – The El Centro Regional Office issued two complaints:

Rancho Ramona Dairy, 02-CE-22-EC(R)
Employer allegedly failed to assign work to an employee because he engaged in protected concerted activity by speaking with union agents. The complaint issued on July 10, 2003.

Rancho Ramona Dairy, 02-CE-23-EC(R)
Employer allegedly ceased providing employee with training because he engaged in protected concerted activity (i.e., he requested a 10 minute rest period after four hours and threatened to file complaint with the Labor Commissioner if his request was not complied with). The complaint issued on July 10, 2003.

PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED
None.

NEW CASES SET FOR HEARING
None.

HEARINGS IN PROGRESS:
None.

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.

TO CASES 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.

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

The hearing closed on July 3, 2003 and the matter is pending receipt of the transcripts and the parties' post hearing briefs.

NO ALJ/IHE DECISIONS HAVE ISSUED

ONE CASE PENDING EXCEPTIONS OR REPLY:

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

Exceptions filed July 14, 2003.

Reply briefs due July 28, 2003.

Pending transfer to the Board.

CASES SETTLED OR RESOLVED

None.

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.

Pictsweet Mushroom Farms, Request for Mediation,
Case No. 2003-MMC-02:

On July 7, 2003 the Board received a petition for mediation from the UFW concerning Pictsweet Mushroom Farms. The Employer's response was received on July 9, 2003. On July 11, 2003 the Board requested briefing on the following novel issue:

Whether a certified labor organization's request for mandatory mediation with a successor employer under Labor Code section 1164 precluded from meeting the requirement in Labor Code section 1164.11, subdivision (c), that 'the parties have not previously had a binding contract between them' where the certified labor organization had a contract with the predecessor employer but not with the present employer, who succeeded to the bargaining obligations.

On July 14, 2003 the Board granted the employer's request for a one-week extension of time to file briefs. The briefs are now due on July 25, 2003.

COURT LITIGATION

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 were held on June 24, 2003. The court rejected the Board's argument on jurisdiction but agreed with its argument that the matter is not ripe for adjudication. Based on his rulings, the judge stated his intention to dismiss the complaint with leave to file amended complaint within 14 days after a completed mediation process resulting in an imposed contract, i.e., after the Board issues an order on an appeal from a mediator's report fixing the terms of a contract. In the first mediation case (Hess Collection Winery), the parties have selected a mediator, but no mediation sessions have yet taken place. Consequently, it will be at least several months before the case could be ripe under the judge's stated standard. On July 2, the Superior Court heard the plaintiffs' ex parte request to shorten time to file a motion for reconsideration of the judge's ruling of June 24. The request technically was granted, but the hearing on the motion for reconsideration was set for August 1, well beyond the date sought by the plaintiffs

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. The Petitioner's opening brief was received on July 15, 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**

Analyst Massie reported that she attended a presentation on Adobe 6.0 and learned that PDF is an approved format for archiving documents. The Board discussed requiring a standard format for all ALRB documents and requested that Executive Secretary Barbosa organize the completion of a style manual for each office in the agency.
- (b) **Regulations**

Board Counsel Heyck will circulate revisions to the Conflict of Interest Code to affected Regional Office staff.
- (c) **Budget**

The Board discussed Budget Letter 0-319 and the implementation of a 10% reduction plan.
- (d) **Policies and Procedures**

Board Member Barrios reported that the completed Operational Recovery Plan will be filed with the Department of Finance on July 15, 2003. The IT Security Policy and the Workgroup Computing Policy still need to be completed.
- (e) **Labor and Workforce Development Agency**

Board Member Barrios reported on the Case Tracking/Case Management Committee meeting which was held on July 15, 2003. The committee will email future meeting minutes to Board Members, the General Counsel and Deputy General Counsel. Ms. Barrios circulated proposed case management system process diagrams.
- (f) **Strategic Plan**

None.
- (g) **Annual Report**

Analyst Massie will contact DIR Deputy Director of Communications, Janet Coffman for an update on the status of the printing of the annual report.

7. OUTREACH PROJECT

- (a) **Novela**

Executive Director Barbosa circulated the English translation of the novela. The novela will now be sent to the ad hoc advisory committee for two weeks of final review.

(b) **Brochures**
None.

8. LEGISLATION:
No report.

9. PERSONNEL
None.

10. COMPLIANCE
The Board will review the Quarterly Compliance Report that was circulated on July 9, 2003 in preparation for the Regional Directors' meeting on July 16, 2003.

11. FUTURE AGENDA REVIEW
Add "ALRB Forms" to next week's agenda.

12. PUBLIC MEETING ADJOURNED AT: 3:00 p.m.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION