

**STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD**

**BOARD MEETING MINUTES**

**Board Conference Room  
915 Capitol Mall, 3<sup>rd</sup> Floor  
Sacramento, CA 95814**

**February 2, 2011**

Time: 10:00 a.m.  
Members Present: Members Shiroma, Rivera-Hernandez and Migden  
General Counsel: General Counsel Michael Lee  
Staff Present: Executive Secretary Barbosa; Board Counsel Heyck and Wender;  
Analyst Massie; Administrative Law Judge Soble; Business Services  
Officer Winston; and Accounting Officer Davis

**OPEN SESSION**

- 1. Approval of Minutes:** The Board minutes for January 19, 2011, were approved 3-0.
- 2. Public Comments:** None.
- 3. Acting Chair's Report:** The Department of Finance (DOF) issued a Budget Letter regarding Spring Finance Letters stating that all augmentation requests must be mission critical and offset by other reductions. The ALRB does not intend to submit a budget augmentation. DOF also issued a budget letter regarding the Governor's Executive Order requiring a 50% reduction in cell phone users. Board Member Rivera-Hernandez will work with General Counsel Michael Lee and staff to comply with the directive by the March deadline. The Board is aware of statements in the media and from other state employees regarding the possible reorganization and consolidation of boards and departments within Labor and Workforce Development Agency. We will continue to keep staff informed as we learn more. The Board was informed that we have used all current year funds allocated for interpreter services at administrative hearings and expect several additional hearings this year. The Board voted 3-0 to revise the current three-year certified interpreter contract to a one-year contract for \$20,000.
- 4. General Counsel Report:** Six new unfair labor practice charges have been filed in the Visalia Regional Office. A Notice of Intent to Take Access and a Notice of Intent to Organize have been filed in the Salinas Regional Office. A Petition for

Certification is expected to be filed today in Salinas. Staff are developing plans to reduce cell phones in the regions. The lessor in El Centro is willing to extend the lease on a month-to-month basis with a 5 percent increase in monthly rent. Ace Tomato Company and San Joaquin Tomato Growers specifications are expected to issue in February.

**5. Executive Officer Report:**

**ELECTION REPORT**

**NOTICE OF INTENT TO TAKE ACCESS (NA) AND NOTICE OF INTENT TO ORGANIZE (NO):**

The UFW filed an NA at California Florida Planet Company on February 1, 2011. According to its website, the California Florida Plant Company, L.P., is a supplier of top-quality plants, lab services, and advanced propagation and horticultural technologies to the floral industry worldwide.

**PENDING ELECTION MATTERS:**

**Kawahara Nursery, Inc., 2010-RC-001-SAL**

On January 12, 2010, the UFW filed a representation petition with the Salinas Regional Office seeking to represent the agricultural employees of Kawahara Nursery, Inc. The employer is a nursery located in Morgan Hill, San Lorenzo and Gilroy with 173 employees. An election was held on January 19, 2010, with the following results:

UFW	70
No Union	68
Unresolved Challenged Ballots	<u>28</u>
Total	166

The unresolved challenged ballots are outcome determinative and were investigated by the Salinas Regional Office. The UFW filed objections to the election on January 26, 2010. On March 29, 2010, the Regional Director issued his report on challenged ballots. The Employer filed exceptions to the Regional Director's report on April 9, 2010. On June 10, 2010, the Board issued its Decision and Order on challenged ballots setting various matters for hearing. Also on June 10, 2010, the Executive Secretary scheduled an investigative hearing for July 26, 2010. A pre-hearing conference was held on July 16, 2010. The hearing that was scheduled for July 26, 2010, was taken off calendar on July 23, 2010 for lack of a State budget. On September 9, 2010, the Executive Secretary scheduled a prehearing conference in this matter for September 16, 2010. On September 21, 2010, the investigative hearing examiner issued his prehearing report. At the hearing both parties objected to the use of videoconference technology to conduct this hearing. Both agree that such

technology is not feasible as the hearing may involve up to twenty percipient witnesses. The investigative hearing was held December 13-17, 2010. Post-hearing briefs are due February 7, 2011. The parties have filed a joint motion for an extension of time to file post-hearing briefs to February 28, 2011. A ruling by the Executive Secretary is pending.

**South Lakes Dairy Farm, 2010-RC-002-VIS**

On July 12, 2010, UFCW Union, Local 5, filed a representation petition with the Visalia Regional Office seeking to represent the agricultural employees of South Lakes Dairy Farm. The employer is a dairy located in Pixley CA with approximately 40 employees. An election was held on July 19, 2010, with the following results:

UFCW	23
No Union	26
Unresolved Challenged Ballots	<u>9</u>
Total	58

As the number of unresolved challenged ballots is sufficient to affect the outcome of the election, the Regional Director will investigate the challenges and issue his report on the challenged ballots. Objections to the election were due July 26, 2010. Neither party filed objections to the election. The Regional Director issued his report on challenged ballots on October 25, 2010. Exceptions to the report were filed November 4, 2010. . The Board issued its decision on challenged ballots on December 17, 2011. A second prehearing conference is scheduled for February 23, 2011. The hearing is scheduled for March 1-4, 2011.

**Nurserymen's Exchange, Inc., 2010-RC-003-SAL**

On July 26, 2010, the UFW filed a representation petition with the Salinas Regional Office seeking to represent the agricultural employees of Nurseryman's Exchange, Inc. The employer is a nursery located in Half Moon Bay with approximately 200 employees. An election was held on August 2, 2010, with the following results:

UFW	3
No Union	58
Unresolved Challenged Ballots	<u>107</u>
Total	168

As the number of unresolved challenged ballots is sufficient to affect the outcome of the election, the Regional Director will be investigating the challenges and issuing a report on challenged ballots. The Employer filed objections to the election on August 9, 2010. The Regional Director's report on challenged ballots issued October 7, 2010. Exceptions to the report were received November 17, 2010. The Board issued its decision on challenged ballots on December 17, 2011. The employer filed a motion for reconsideration on December 27, 2010. The motion was denied on

January 7, 2011. The resolved challenged ballots were opened and counted on January 12, 2011 and the Regional Director issued a final tally of ballots with the following results:

UFW	90
No Union	64
Unresolved Challenged Ballots	<u>13</u>
Total	167

The UFW having now obtained a majority vote, the Executive Secretary will proceed with the screening of the Employer's election objections.

**D'Arrigo Bros. of California, 2010-RD-003-SAL**

On November 2, 2010, agricultural employee Alvaro Santos filed a decertification petition with the Salinas Regional Office seeking the ouster of the incumbent representative UFW at D'Arrigo Bros. of California. The employer is located in Monterey and Imperial Counties and has 1,665 employees. An election was held on November 17, 2010, in Spreckles, Gonzalez and Calipatria CA. The regional director impounded the ballots pending investigation of an unfair labor practice charge filed by the incumbent union UFW. The UFW filed objections to the election on November 24, 2010. The underlying charges remain under investigation.

**Sun World, 2010-UC-1-VIS**

The UFW filed a unit clarification petition involving Sun World and a number of other entities on September 14, 2010. The employer requested and was granted an extension of time to file its response to the petition by November 12, 2010. The UFW was granted an extension through December 15, 2010 to respond to the region's request for information. The union's response was received on December 15, 2010. The Regional Director has granted the Employer an extension February 1, 2011, to file a further response. The matter is under investigation and pending decision by the Regional Director.

**COMPLAINT REPORT**

**COMPLAINTS ISSUED**

None.

**PREHEARING, HEARING OR SETTLEMENT CONFERENCES SCHEDULED:**

**Martin Hein Ranch Company, 2009-CE-021-VIS**

Prehearing conference January 18, 2011

Hearing February 10 & 11, 2011

**South Lakes Dairy Farms, 2010-RC-002-VIS**

Hearing March 1-4, 2011

**Lassen Dairy, Inc., 07-CE-37-VI**

Prehearing conference February 15, 2011

Hearing March 1, 2011

**United Farm Workers, 2007-CL-05-SAL**

Prehearing conference March 15, 2011

Hearing April 5, 2011

**HEARINGS IN PROGRESS**

None.

**CASES PENDING ALJ/IHE DECISION:**

**Kawahara Nursery, Inc., 2010-RC-001-SAL**

Hearing held December 13-17, 2010

Post-hearing briefs are due February 7, 2011

**ALJ/IHE DECISIONS ISSUED:**

None.

**CASES PENDING EXCEPTIONS OR REPLY:**

None.

**CASES PENDING BOARD DECISION OR ACTION:**

None.

**CASES SETTLED OR RESOLVED:**

None.

**COMPLIANCE CASES CLOSED:**

**CASES TRANSFERRED TO BOARD FOR DECISION:**

None.

**BOARD DECISIONS:**

None.

**REQUESTS UNDER MANDATORY MEDIATION AND CONCILIATION  
LAW:**

None.

## **COURT LITIGATION:**

Nothing new.

## **MISCELLANEOUS:**

Nothing new.

### **6. Special Projects**

- a. Information Technology Committee: Update/Case Tracking System Policy – The Information Technology Committee met on February 1, 2011, to review and prioritize projects to be completed by June 30, 2011. Work will begin on the Remedies chapter of the Case Management Reporting Manual. The manual will be sent to the Regional Directors for review. An all employees meeting conducted by video conference will be scheduled in the near future to demonstrate the case management system. The Information Technology Cost Analysis Report was submitted to the California Technology Agency on February 1, 2011. The legal search engine on the ALRB website has been repaired and an announcement will be posted on the website.
- b. Policy Committee Report: Member Rivera-Hernandez noticed some policies are missing and is working to remedy the situation.
- c. Compliance: Member Rivera-Hernandez informed Labor and Workforce Development Agency Secretary Morgenstern of two legislative proposals to improve compliance: (1) amending the Unemployment Insurance Code section 1095 to facilitate provision of employee and employer information from the Employment Development Department; and (2) amending ALRA section 1140.4, subdivision (b) to provide for familial voter eligibility exclusions. Secretary Morgenstern had no issues with either proposal. Ben Ebbink, Chief Consultant for the Assembly Committee on Labor and Employment, has been in contact regarding some questions regarding the proposals.
- d. Master Calendar: The Executive Secretary reported progress on reports due.

### **7. Legislation** – Nothing new to report.

### **8. Personnel** – A response/inquiry from Department of Personnel Administration regarding the Staff Counsel 4 classification has been received.

## **9. Roundtable**

The 22<sup>nd</sup> Annual Center for Collaborative Solutions Labor Management Conference is scheduled for March 23-24, 2011 in Anaheim, CA

A Legislative Reception hosted by the California Farm Bureau Federation and Western Growers Association will be held on Tuesday, March 15, 2011, from 5:30 p.m. to 7:30 p.m. at the Tsakopoulos Library Galleria, 828 I Street, Sacramento.

The public meeting adjourned at 11:50 a.m.

**WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION.**