

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

June 17, 2003

Time: 1:30 p.m.
Members Present: Chairwoman Shiroma, Board Members Barrios. Member Rivera present via telephone.
Staff Present: Board Counsels Wender, Heyck and Murray, Analyst Massie; Law Student Interns Colleen Van Egmond and Diana Castillo.
Staff Absent: Executive Secretary Barbosa
Others Present:

OPEN SESSION

1. APPROVAL OF MINUTES

The Board voted 3-0 to approve the Board meeting minutes from June 4, 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 reply from the employer was received on June 12, 2003. No reply was received from the petitioner.

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). A hearing is currently scheduled for June 23, 2003 regarding charge 03-CE-9-SAL, but we are expecting a motion for continuance to be filed because the General Counsel overturned the dismissal of a related charge (03-CE-10-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, were due June 2, 2003. The employer confirmed that they will not be filing objections. The matter is now pending the Regional Director's challenged ballot report.

COMPLAINT REPORT

None.

PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED

None.

NEW CASES SET FOR HEARING

None.

HEARINGS IN PROGRESS:

None.

SIX CASES ON CALENDAR

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

The pre-hearing conference was held June 9, 2003.

The hearing is set for June 23, 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 post hearing briefs were received June 4, 2003. The matter is pending the ALJ's decision.

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.

COURT LITIGATION

McCaffrey Goldner Roses, F041479

On June 12, 2003 the court sent email notification that the petition for review had been summarily denied.

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:**
A Security Self Assessment Survey is due on June 30, 2003. Program Services Officer Winston will complete the necessary paper work. The Board discussed replacing computers for Board support staff.

(b) **Regulations:**
Board Counsel Heyck reported that the Fair Political Practices Commission is in the process of 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 possible end of the year expenditures.

(d) **Policies and Procedures:**

The Board asked the Policies and Procedures Committee to look into whether the ALRB needs an Information Technology Security Policy.

- (e) **Labor and Workforce Development Agency:**
The Board discussed information needed from Program Services Officer Winston for the feasibility study on the case management and case tracking system.

The Board discussed the draft response to the General Counsel's memo regarding case statistics.

- (f) **Strategic Plan**
The Board discussed the revised strategic plan. Chairwoman Shiroma will arrange a meeting with General Counsel Turner and Deputy General Counsel Sobel regarding the revised strategic plan.

- (g) **Annual Report**
The Board asked Board Counsel Heyck to ask DIR Deputy Director of Communication, Janet Coffman for an estimated completion date for the annual report print job.

7. OUTREACH PROJECT

- (a) **Novela**
None.

- (b) **Brochures**
None.

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.

A hearing on the bill was scheduled for June 25, 2003 in 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 11, 2003 the matter was set for hearing on June 16, 2003. On June 16, 2003 the hearing was postponed by committee. The matter was set for hearing on June 19, 2003.

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

- Senate Bill 75 (Burton)--Agricultural Labor Relations

9. PERSONNEL

None.

10. COMPLIANCE

None.

11. FUTURE AGENDA REVIEW

None.

12. PUBLIC MEETING ADJOURNED AT: 2:40 p.m.

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION