

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

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

June 25, 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, Law Student Ben Nicholson.
Staff Absent: Analyst Massie
Others Present:

OPEN SESSION

1. APPROVAL OF MINUTES

The Board voted 3-0 to approve the Board meeting minutes from June 17, 2003.

2. BOARD MEMBER COMMENT

None.

3. PUBLIC COMMENT

None.

4. ANNOUNCEMENTS

Executive Secretary Barbosa announced that the ALRB received an award for achieving excellence in financial reporting for the fiscal year ending June 30, 2002 from the Controller's office.

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 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 commenced on June 23, 2003 and is still in progress.

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. The Regional Director anticipates issuing his report no later than Tuesday, July 1, 2003.

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 is scheduled for Wednesday, June 23, 2003 from 3:00 pm to 7:00 p.m.

COMPLAINT REPORT

None.

PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED

None.

NEW CASES SET FOR HEARING

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.

HEARINGS IN PROGRESS:

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

The hearing commenced on June 23, 2003 and is still in progress.

SIX CASES ON CALENDAR

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.

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.

ONE CASE PENDING EXCEPTIONS/REPLY:

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

The ALJ decision issued on June 6, 2003. The parties' exceptions are due on July 14, 2003. The UFW made a request to file exceptions on behalf of the charging party, which the Executive Secretary denied on June 25, 2003.

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

On June 23, Superior Court Judge Jeffrey Gunther issued a tentative ruling in which he overruled the ALRB's demurrer to the complaint to the extent that it argued that the Superior Court did not have jurisdiction to hear the matter, and sustained the demurrer to the extent that it argued that the matter was not yet ripe for review. The parties sought a hearing on the tentative ruling. In that hearing, which took place on June 24, the judge affirmed his tentative rulings, but clarified that he did not believe that the matter would be ripe until a mediation under the law had concluded. Therefore, the judge ordered that the plaintiffs could amend its complaint within 14 days after the ALRB issues an order on appeal from a mediator's report fixing the terms of a contract. The judge will reduce his amended ruling to writing. At the same time he will address the propriety, in light of ruling on ripeness, of a motion for a preliminary injunction that was filed by the plaintiffs on June 20.

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.

Arthur Saikhon, CO-0450

On June 24, 2003, Regional Attorney, Cardenas appeared in Imperial Valley Superior Court and he obtained a court order and judgment of enforcement of the Board's orders in the case. Collection of the amount owed and compliance with the Board orders will be pursued.

6. BUDGET AND ADMINISTRATION

- (a) **Information Technology and Web Site Development Project:**
No report.

- (b) **Regulations:**
The Board discussed some suggestions made by Fair Political Practices Commission staff 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 should be completed shortly.

- (c) **Budget** – The Board discussed a draft of the Budget Change Proposal Concept Paper.

- (d) **Policies and Procedures:**
The Board previously asked the Policies and Procedures Committee to look into whether the ALRB needs an Information Technology Security Policy. At Board Member Barrios' request, the Board will ask Labor Agency Staff with technical expertise to review the draft Information Technology Security Policy when it has been prepared. The Board will also ask Analyst Massie to assist with drafting the policy.

Board Member Barrios reported that the agency's revised Operational Recovery Policy is due on July 15, 2003.

- (e) **Labor and Workforce Development Agency:**
Board Member Barrios gave an update on the status of the feasibility study on the case management and case tracking system. Member Barrios asked the Board to have Analyst Massie attend future meetings on the feasibility study. The Board also discussed required guidelines that must be met when an agency implements any sort of new information technology system.

Board Member Rivera circulated a memo summarizing the work of the Lead Referral Workgroup along with a proposed interagency referral form.

- (f) **Strategic Plan**
The Board discussed the revised strategic plan. The Board will arrange to meet with General Counsel Turner and Deputy General Counsel Sobel regarding the revised strategic plan.
- (g) **Annual Report**
No new activity.
- (h) **Board Visit to Salinas and Visalia**
The Board discussed possible visits to the Visalia Regional Office July 15-16, 2003 and to Salinas Regional Office on August 12-13, 2003.
- (i) **Regional Directors' Quarterly Meeting**
The Board discussed the proposed agenda for the Regional Directors' Quarterly Meeting that will be held by telephone conference on July 16, 2003 at 11:00 a.m.

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.

On June 19, 2003 the bill was re-referred to Judicial Committee and the Labor and Employment Committee. The bill was set for hearing before the Judicial Committee on June 26, 2003.

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 24, 2003 the Senate Appropriations Committee voted to adopt the matter as amended.

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

Executive Secretary Barbosa reported that he had received an inquiry from an EDD employee interested in filling one of the loaned positions.

- 10. COMPLIANCE**
The draft fact sheet for backpay specifications was circulated and discussed by the Board.
- 11. FUTURE AGENDA REVIEW**
None.
- 12. PUBLIC MEETING ADJOURNED AT: 11:50 a.m.**

WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION