

**STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD**

**BOARD MEETING MINUTES**

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

**October 1, 2003**

Time: 10:08 a.m.  
Members present: Chairwoman Shiroma, Board Members Barrios and Rivera  
Staff Present: Board Counsels Wender, Murray and Heyck; Executive Secretary  
Barbosa; Assistant Executive Secretary Fong, Analyst Massie  
Staff Absent: None.

**OPEN SESSION**

**1. Approval Of Minutes**

The Board's minutes for September 24, 2003 were approved 3-0.

**2. Board Member Comment**

None.

**3. Public Comment**

None.

**4. Announcements**

- (a) The United Way Second Annual Women in Philanthropy Luncheon will be on Friday, October 17, 2003 from 11:30am - 1:30pm.
- (b) The Alzheimer's Association holds Memory Walks throughout northern California to increase awareness about Alzheimer's and to support Alzheimer's research. The Sacramento Memory Walk will be held on Saturday, October 4, 2003, at California State University, Sacramento.

## **5. Weekly Status Report On Elections, Unfair Labor Practice Complaints, Hearings And Court Litigation**

### **ELECTION REPORT**

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

No new NAs or NOs filed.

#### **PENDING ELECTION MATTERS:**

##### **Richard's Grove & Saralee's Vineyard, 03-RD-4-SAL**

The Salinas Regional Director issued a letter announcing his decision to block the decertification election, based on a complaint issued September 9, alleging various unlawful unilateral changes. Both the petitioner, Victoriano Velazquez, and the employer filed a request for review on September 29, 2003, of the Regional Director's decision to block the election. The matter is now pending Board review.

##### **Milky Way Dairy, 02-RC-2-VI**

The Board issued its decision on challenged ballots on September 3, 2003. The petitioner filed a motion for reconsideration on September 9, 2003. The Executive Secretary, on his own motion, re-served the Board's decision as counsel for the Petitioner was not served with the decision. On September 26, 2003, the Board denied reconsideration of the order, as the motion contained arguments already considered and rejected by the Board. The Regional Director has contacted the parties and the opening and counting of the ballots will take place on Friday, October 3, 2003 at 2:00 p.m.

##### **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. Post-hearing briefs were received September 22, 2003.

### **COMPLAINT REPORT**

None.

**PREHEARING OR SETTLEMENT CONFERENCES SCHEDULED**

None.

**NEW CASES SET FOR HEARING:**

None.

**CASES ON CALENDAR:**

**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.

**Rancho Ramona Dairy, 02-CE-5-EC(R)**

The pre-hearing conference is set for November 19, 2003.

The hearing is set for December 8, 2003.

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

The pre-hearing conference is set for January 14, 2004.

The hearing is set for February 4, 2004.

**CASE PENDING ALJ DECISION:**

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

The hearing closed on July 3, 2003. Post-hearing briefs were received September 22, 2003.

**ALJ/IHE DECISIONS ISSUED:**

None.

**CASE PENDING EXCEPTIONS AND/OR REPLY:**

None.

**CASES SETTLED OR RESOLVED:**

None.

**COMPLIANCE CASES CLOSED:**

None.

**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. On September 26, 2003, the mediator issued his report fixing the terms of a contract between Hess and the United Food & Commercial Workers, Local 1096. The deadline for requesting Board review is October 6, 2003.

**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 Board issued a decision on the petition for mandatory mediation on August 1, 2003. On September 23, 2003, the Board received a copy of a letter from the UFW attorney to the assigned mediator regarding the mediator's previous request of the parties that they acknowledge his immunity from being sued for his role in the process. Since there is no request pending from the mediator to the Board, there is nothing for the Board to act on at this time. The mediation between the parties commenced on Monday, September 29, 2003 with neutral Mr. Bill Rule.

## **COURT LITIGATION:**

### **Western Growers Association, et al., 03AS00987**

On Friday, August 22, the plaintiffs filed a petition for writ of mandate in the Court of Appeal, Third Appellate District, seeking to overturn a ruling by the Superior Court that the matter is not yet ripe for adjudication. The Superior Court ruled that the matter would not be ripe until the Board issues a decision fixing the terms of a collective bargaining agreement. A decision was made not to file an optional preliminary response to the petition for writ of mandate. The Court of Appeal has asked the real parties in interest to file an opposition addressing whether the superior court has subject matter jurisdiction over the matter. The deadline for filing the opposition has been extended to October 15, 2003. This lawsuit, which challenges the constitutionality of the new mandatory mediation and conciliation law (SB 1156 and AB 2596, codified as Labor Code sections 1164 to 1164.14), was filed on February 24, 2002 in the Sacramento County Superior Court.

### **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 was sent overnight on September 28, 2003. If the Petitioner wishes to file a reply brief, it will be due October 29, 2003.

## **6. Budget And Administration.**

### (a) Information Technology:

- (1) Capital Datacorp contract for FY 2003/2004. The Board approved the contract renewal.
- (2) Chief Information Officer designation: The Board appointed Lorna Fong as the ALRB CIO.

### (b) Regulations

- (1) Proposed Amendments to Conflict of Interest Code: no new information received from the Secretary of State's Office.
- (2) Agricultural Employees Relief Fund (AERF) – Draft amendments to the AERF and decertification regulations, Notice of Proposed Regulatory Action, Initial Statement of Reasons. The Board expects to initiate the formal rulemaking process on October 17, 2003, with the publication of a Notice of Proposed Regulatory Action.

### (c) Budget:

- (1) Department of Finance Budget Letter 03-37: questionnaire response is due October 7, 2003.
- (2) Department of Finance, Audit Memo No. 04-01 reminded all agencies of the Financial Integrity and State Manager's Accountability Act (FISMA) biennial report due December 31, 2003, per State Administrative Manual section 20060 and Government Code section 13400 et seq.

### (d) Policies and Procedures:

- (1) Bilingual Services Policy: final version of the implementation plan and policy approved by the Board.
- (2) Policy and Procedures Committee Update:
  - 6.d.2.1. Information Practices Act Policy: distributed draft policy; will review by October 15, 2003.
  - 6.d.2.2. Workgroup Computing Policy: final version of the policy approved by Board.
  - 6.d.2.3. Credit/Charge Card Use Policy: no action yet.

### (e) Labor and Workforce Development Agency

- (1) Case Tracking System: distributed draft of the Feasibility Study Report. Comments are due October 3, 2003.
- (2) Chief Counsel Meeting: the meeting is scheduled October 1, 2003. Included in the discussion will be labor law highlights, as well as eligibility of undocumented workers for benefits/protections.

(f) Strategic Plan: final draft reviewed and approved by the Board. The Policies and Procedures Committee will discuss format for distribution.

(g) Annual Report:

(1) FY 2002/2003 report: no update; complete draft by October 31, 2003.

(h) Manuals

(1) Procedures Manual: in progress.

(2) Style Manual: in progress.

(i) Forms

(1) The revised employee rights form and decertification notice will be shared with the Regional Directors for comment.

**7. Outreach Projects**

(a) Novella: no change.

(b) Brochures: work continues on obtaining copies in time for the Farmworkers' Breakfast in December 2003.

**8. Legislation:** None.

**9. Personnel:** None.

**10. Compliance:** None.

**11. Future Agenda Review**

(a) Budget: library costs

The public meeting adjourned at 12:15 pm

**WHEREUPON THE BOARD ENTERED INTO CLOSED SESSION**