

**STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD**

**BOARD MEETING MINUTES**

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

**January 19, 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, Robinson and Wender; ALJ Soble; Analyst Massie

**OPEN SESSION**

1. **Approval of Minutes:** The Board minutes for January 5, 2011, were approved 3-0.
2. **Public Comments:** None.
3. **Acting Chair Report:** Governor Brown ordered that all State agency secretaries and department directors, in consultation with the Department of Finance to review all authorized cell phone and smart phone procurement and related phone, data, internet and other usage plans and identify and implement, by June 1, 2011, cuts sufficient to meet or exceed a 50 percent reduction in the number of cell phones and smart phones for which the State is currently responsible. The ALRB will evaluate usage and propose appropriate reductions. The ALRB received a letter from Agency dated January 12, 2011, acknowledging the budget issues the ALRB is facing, confirming that the ALRB does not plan to fill vacancies at this time, and acknowledging a shortfall will result should additional board member vacancies be filled.

Board Member Rivera-Hernandez reported that on January 11, 2011, General Counsel Lee, Assistant General Counsel Blanco, Staff Counsel Joe Wender and herself met with representatives from the Employment Development Department (EDD) including Acting Director Pam Harris, Steve Saxton, Chief, Labor Market Information Division and Spencer Wong, Chief, Fed-State Cooperative Programs Section to discuss the potential for EDD to assist the ALRB with gathering data that would improve the calculation of makewhole awards.

**4. General Counsel Report:** General Counsel Lee reported that three of the oldest charges have been resolved and four other charges still pending will be resolved within next 3-4 weeks.

**5. Executive Officer Report:**

**ELECTION REPORT**

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

No NA's or NO's were filed during this reporting period.

**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.

**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. The hearing is scheduled for March 1-4, 2011.

**Nurseryman'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 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

**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:**

**Grower's Choice, 2010-CE-032-VIS**

The Visalia Regional Director issued a closing letter as all the terms and conditions of the bilateral settlement agreement had been satisfactorily met.

**COMPLIANCE CASES CLOSED:**

None.

**CASES TRANSFERRED TO BOARD FOR DECISION:**

None.

**BOARD DECISIONS:**

None.

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

None.

**COURT LITIGATION:**

None.

**MISCELLANEOUS:**

None.

## 6. Special Projects

- a. Information Technology Committee: Update/Case Tracking System Policy – The committee met on January 13 to review the Case Management Reporting Manual and Complaint Reporting Flow Chart to make sure the procedures outlined comply with our regulations and are thorough. The group examined more efficient methods for transmitting documents. A meeting will be set to review these procedures with the regions. Steve Guida has compiled a list of the scope and priority of work to be completed by June 30, 2011. From January 12, 2011, to Thursday, January 13, 2011, AT&T deactivated the internet service of the Agricultural Labor Relations Board at the direction of a marketing representative. Jennifer Casho, Senior Account Manager for the AT&T California Account Team, has been contacted to investigate why this occurred and how this situation can be prevented in the future.
- b. Policy Committee Report: Member Rivera-Hernandez continues work on standardizing and indexing all revised personnel policies.
- c. Compliance: The Board discussed several ideas for potential legislation that would amend the Agricultural Labor Relations Act (ALRA), and improve compliance. The Board will inform the Labor and Workforce Development Agency of two proposals including (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.
- d. Master Calendar: The Executive Secretary reported progress on reports due.

**7. Legislation** – Labor and Workforce Development Agency requested a list of legislation that we are tracking. The Labor Agency was informed that we were tracking only one bill, SB 104 (Steinberg), a new card check bill introduced on January 12, 2011.

**8. Personnel** – Nothing new.

**9. Roundtable** – Nothing new.

The public meeting adjourned at 11:55 a.m.